Asamblea de Poder Popular de Gonzales; (b) (6) Privacy [redacted] Complainants, v. Salinas Valley Solid Waste Authority, Respondents.	**COMPLAINT UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. §2000d 40 C.F.R, Part 7** **ADDENDUM TO COMPLAINT (NEW FACTS AND CAUSES OF ACTIONS)**

1. INTRODUCTION / SUMMARY

Complainants Asamblea de Poder Popular de Gonzales ("Asamblea") and [redacted] (b) (6) Privacy [redacted] filed a civil rights complaint under Title VI and its implementing regulations[1] on February 28, 2012 regarding discrimination against Latinos/Hispanics ("Latinos") and Spanish speakers based on race, national origin, and ethnic group identification by the Salinas Valley Solid Waste Authority (SVSWA), in its actions as lead agency in the selection and environmental review process of the Plasco "plasma arc gasification" incinerator project being proposed for Gonzales, California. The Salinas Valley Solid Waste Authority issued a Response on March 9, 2012.

Significant new facts have occurred or come to light since the filing of the original Complaint on February 28, 2012. A multitude of new discriminatory actions have been taken by SVSWA, and further, a number of inappropriate actions by SVSWA have come to light through documents obtained by means of a Public Records Act request, which provide further evidence of a pattern by the SVSWA of actions and attitudes that have discriminatory impact and/or constitute intentional discrimination. The SVSWA Response of March 9, 2012 itself also evinces this pattern. For instance, new information shows that SVSWA is improperly colluding with Plasco, and that SVSWA is advocating for the Plasco project in a manner that is improper for a lead agency that is currently conducting a CEQA environmental review process on a proposed project to assess its potential environmental and health impacts. For instance, SVSWA has

[1] Title VI of the Civil Rights Act of 1964 provides: "No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. §2000d. Its implementing regulations are contained in 40 C.F.R. Part 7.

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advocated for special intervention from the California Governor's Office for the Plasco project, and collaborated with Plasco to craft special "carve out" legislation to exempt Plasco from current environmental standards regarding Renewable Portfolio Standard eligibility. Further, Complainants were shocked that SVSWA had a meeting with Plasco, in which they shared "background on the more vocal residents" and "explored how/if they could be redirected." SVSWA has also engaged in intimidation that affected Latinos and Spanish speakers at the February 28, 2012 scoping meeting, and further acts of language discrimination.

Complainant hereby submits this Addendum to the Complaint for the purpose of (1) updating the Complaint with new facts, and (2) adding new causes of action to the Complaint based on new facts and recent actions that have had a discriminatory and disparate impact and constitute intentional discrimination against Latino and Spanish-speaking residents.

This Addendum adds the following sections to "Section V. Facts" of the Complaint:

- I. February 28, 2012 scoping meeting, which included intimidation of residents and acts of language discrimination
- J. SVSWA refusal to have a third scoping meeting, despite its prior representations
- K. SVSWA Response of March 9, 2012 to the Complaint, which contains errors, misrepresentations, omissions, and false claims, and shows SVSWA's intentionality with regard to the acts of language discrimination
- L. SVSWA Advocacy with California Governor's Office for intervention that would allow Plasco to circumvent existing legal and environmental standards related to Renewable Portfolio Standard eligibility
- M. SVSWA and Plasco collusion on drafting proposed special legislation for Plasco to exempt it from existing standards on renewable energy and waste disposal; and
- N. SVSWA actions, alone and with Plasco, that intimidated, discouraged and/or suppressed residents from public participation, particularly Latinos, Spanish speakers and "vocal residents"

This Addendum adds the following NEW CAUSES OF ACTION to "Section VI. Argument" of the Complaint:

CAUSE OF ACTION D. SVSWA has put the environment and health of Latinos in Gonzales at risk because it violated its duty to conduct an objective environmental impact review on the Plasco project that meets CEQA standards, by (1) advocating improperly on behalf of the project by seeking special intervention from the Governor's Office to "override" a state agency decision considered disadvantageous to the project (denial of eligibility for Renewables Portfolio Standards designation); (2) colluding improperly with Plasco to draft proposed special "carve out" legislation that would exempt the project from existing environmental standards on renewable energy and waste disposal; (3) engaging in actions, alone and with Plasco, that intimidated, discouraged and/or suppressed residents from public participation, particularly Latinos, Spanish speakers and "vocal residents"; and (4) providing or facilitating misinformation or omitting material information about the project, including failing to disclose material facts about its technology, and (5) failing to accurately record objections to the project.

CAUSE OF ACTION E. SVSWA has violated the right of Latinos in Gonzales to equal participation in a proper CEQA process, as well as their Constitutional right to freedom of expression, by: (1) making the completion of a proper, good faith CEQA public consultation impossible by irreparably tainting the EIR process and destroying the public trust through the acts outlined in Cause of Act D; and (2) engaging in specific discriminatory acts against Latino and Spanish speakers, including: violations of state and federal standards on language access through willful failure to provide adequate interpretation services and refusal to translate key documents necessary for participation of limited English proficient residents of Gonzales; willful failure to comprehend or properly record comments in Spanish; flaws in the February 22, 2012 scoping that led to walk out of most Latino participants; acts that intimidated residents February 28, 2012

scoping meeting, particularly Latinos and Spanish speakers; discriminatory application of rules in prohibiting Latino resident from speaking in English and Spanish at the February 28 scoping meeting.

CAUSE OF ACTION F. SVSWA's improper actions caused other harm to Latinos in Gonzales, including creating burdens on time and energy, financial costs, and emotional distress.

Thus SVSWA's actions had and continue to have discriminatory impact on Latinos and Spanish speakers, as well as constitute intentional discrimination against them — both grounds for Title VI action.

2. NEW FACTS

This Addendum adds the following section (I to N) to Facts in Section V of the Complaint.

I. February 28, 2012 scoping meeting, which included acts of intimidation and language discrimination

At the February 28, 2012 scoping meeting, there were new acts of discrimination by SVSWA including:

- While SVSWA provided translation between English and Spanish of the February 28th scoping meeting through consecutive interpretation, the translation was faulty. In particular, at least four persons making comments during the scoping meeting complained during their comments that the translation of Spanish comments into English was not accurate;[2]

[2] For instance, the official transcript of the February 28, 2012 scoping meeting records objections by community members about inaccuracies in the translation: (b) (6) ("That's not what I said. I said..." p. 22 line 18); (b) (6) Privacy : "I'm sorry you didn't interpret that last part properly...Can you restate that...", p. 25, line 9-13, and later, with regard to the translation for another speaker, she said, "There was an error. I noticed an error in the interpretation..." p. 44, line 6); Naomi Onaga ("I'm going to make a correction to the translation... But can I have it in the record that the translation is not exact. It is probably impossible, but it is not. So I have heard other

- SVSWA prohibited, in a clearly discriminatory manner, a bilingual Latino resident of (b) (6) Privacy from speaking in English and Spanish to do his own translation, when a non-Latina non-resident had been allowed to do so. (b) (6) Privacy had stated he wanted to express how he felt in his native languages, and that he would do his own translations because he felt the SVSWA translations were inaccurate, but the facilitator prohibited this, telling him that he must speak in either English or Spanish. The facilitator told him, "We're going to have the same rules for everybody. So if you would like to speak, you pick the language that you want to speak in".[3] However, earlier in the same meeting a non-Latina person who is not a resident of Gonzales had been allowed to speak in English and Spanish (she had also asked to do so because she felt the SVSWA translation was inaccurate).[4]
- Various residents felt that SVSWA was using intimidation against residents at the scoping meeting. For instance, many residents felt that the facilitator of the February 28, 2012 scoping meeting (Candace Ingram) acted in a hostile and/or intimidating manner to (b) (6) Privacy, describing her as "rude" and "confrontational", and that she "got in [his] face" and "invading his personal space, trying to intimidate him into not talking".[5] Many residents also felt that there was intimidation of residents at the meeting, because of unnecessary police presence at the meeting, in a community where many residents are

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things said earlier that were not exactly what the comments were…" (p. 40, line 2-16). (b) (6) , "They're lost in translation, and point being delivered --" (implying passion expressed was being lost) See Annex B2. Transcript of February 28, 2012 scoping meeting. See Annex B.2. Transcript of February 28, 2012 Scoping Meeting for Plasco Salinas Valley Project, March 9, 2012.

[3] Transcript of February 28, 2012 scoping meeting, page 46, lines 17-19.

[4] See Transcript of February 28, 2012 scoping meeting, page 39 line 13, to page 40 line 8, in which Naomi Onaga asks to do her own translations because the SVSWA interpretation is not accurate, and the facilitator approves her doing so. See also Annex A.3 Declaration of (b) (6) Privacy of July 18, 2012 at para. 14, and Annex A.5 Declaration of (b) (6) of July 10, 2012, para. 6 to 8.

[5] "The moderator was very rude to (b) (6) Privacy and kept telling him to shut up." See Declaration of (b) (6) of July 10, 2012 at para. 10. "At one point, the moderator got in someone's face because he was trying to translate his own comments. She was invading his space, trying to intimidate him into not talking." See Annex A.1 Declaration of (b) (6) Privacy of August 16, 2012, para. 11. "Also, the same facilitator was present and was ruder to the Gonzales residents than at the first meeting. She kept giving us vocal members of the Gonzales community the evil eye. She was particularly confrontational with one resident, (b) (6) Privacy, who was trying to translate his own comments into both English and Spanish…" Declaration of (b) (6) Privacy, para. 14.

immigrants and have a high fear of the police.[6] At least one resident felt the facilitator was hostile (rude) to Latinos[7], and at least one resident felt the facilitator was hostile to "vocal members of the Gonzales community".[8]

- At the February 28, 2012 scoping meeting, the SVSWA continued to fail to provide Spanish translations of key documents that were required for Spanish speakers to be able to participate fully in the scoping meeting (in particular, the Notice of Preparation and the Initial Study), despite the fact that Gonzales residents had requested translation at the February 22, 2012 scoping meeting and earlier, and made clear that they consider the lack of translation of these documents discriminatory.[9]

J. SVSWA refusal to hold a third scoping meeting, despite its prior representations

At the February 22, 2012 scoping meeting, in response to demands by residents to cancel that scoping meeting because of inadequate translation and other flaws, SVSWA officials repeatedly said they would go ahead with that meeting, but that there would be a second scoping meeting on Tuesday February 28, 2012, and that they could schedule a third meeting.[10] In fact, when Spanish speakers started walking out of the February 22, 2012 scoping meeting, the

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[6] See for instance, the comment of (b) (6) a and (b) (6) Privacy "I also didn't like the number of police that were present at the meeting. It was as if the Authority expected us to cause trouble when all we wanted to do was to be able to understand and participate in the process. This seemed like a tactic of intimidation." Declaration of (b) of July 10, 2012 at para. 12. (b) (6) Privacy commented at the scoping meeting itself: "My name is (b) . And I have gone to all of the meetings and I have not seen police presence. I do not understand (6)y you need to have police presence. I don't understand. Are we causing any damage or harm? I don't understand that." Transcript of February 28, 2012 scoping meeting, page 53, lines 4 to 8.

[7] See Annex A.5 Declaration of (b) (6) a. See also Annex A.2. Declaration o (b) (6) Privacy a.

[8] "[T]he same facilitator was present and was ruder to the Gonzales residents than at the first meeting. She kept giving us vocal members of the Gonzales community the evil eye." Declaration of (b) (6) , para. 14.

[9] See for instance, (b) (6) a, President of Asamblea de Poder Popular de Gonzales, statement at the February 22, 2012 scoping meeting that Asamblea was requesting cancellation of the scoping meeting for reasons including lack of translation of documents: "We feel there is discrimination because the report is not written in Spanish when we have a Spanish-speaking community here." (See Annex B.1. Transcript of the February 22, 2012 scoping meeting, page 10 line 9-11.)

[10] Candace Ingram, the facilitator contracted by SVSWA for scoping meetings, repeatedly responded to objections about the translation by saying there will be other meeting(s) (see for instance, page 11 line 15, Transcript of February 22, 2012 scoping meeting). Patrick Mathews, General Manager/CAO of SVSWA, stated in response to criticisms about translations at the February 22, 2012 meeting: "But again, I'd like to say, if necessary we will hold a third meeting if we don't get everybody's voice heard." (Transcript of February 22, 2012, page 16 lines 24 to page 17 line 1.) He repeats a similar statement on page 25 line 22 to page 26 line 4.

facilitator asked the interpreter to "please let people know we will have another meeting next Tuesday and we will also schedule an additional meeting if we need."[11] SVSWA General Manager/CAO Patrick Mathews, when apologizing for not providing enough headsets, promised to have enough headsets at the meeting of February 28, "And if necessary, we will hold a third meeting to hear everybody's voice."[12]

Many Gonzales residents thus believed that the SVSWA would hold a third scoping meeting. However, at the end of the second scoping meeting of February 28, 2012, when some residents inquired about when the third meeting would be, the facilitator said that there would not be a third meeting. This caused anger among the residents, because they were clearly expecting a third meeting, and there were multiple residents who had wanted to comment at the third meeting.[13]

K. SVSWA March 9, 2012 Response to the Complaint, which contains errors, misrepresentations, omissions, and false claims, and shows SVSWA's intentionality with regard to the acts of language discrimination

On March 9, 2012, the SVSWA issued a Response to the Complaint and a "Bullet Point Summary" of the Response.[14] The Response contains further evidence of acts, omissions, and

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[11] Transcript of February 28 scoping meeting, lines 8-11.

[12] "And again, I am going to apologize for not having enough headsets. Like I said, we did go out and purchase our own set of 50. We didn't realize there would be that many people, and we promise at the next meeting on the 28th we have additional sets available if there are meetings beyond the 50 we brought.[sic] And, if necessary, we will hold a third meeting to make sure that we hear everybody's voice." Transcript of February 22, 2012 scoping meeting, page 25 line 22 to page 26 line 4.

[13] See for instance the comments of a "Male Speaker" whose comments are reflected in the transcript: "At the last meeting publicly you said that we're going to have two more meetings after last week's. This is one. We have one more. And you are talking about courtesy and respect. And I suggest you do like you said you are going to do and have one more meeting so the public can express itself. Otherwise, you are going back on your statement and making this whole thing a joke so you can control the microphone. I don't think that is appropriate." See the Transcript of February 28, 2012 scoping meeting, page 55, line 19 to 25. See also Declaration (b) (6) "A lot of people were frustrated and upset that [February 28] meeting took so long and wanted to comment at a third meeting that was promised at the February 22nd meeting. But when asked when the third promised meeting would take place, the moderator aid that there wouldn't be one." Declaration o (b) (6) Privacy, para. 15.

[14] Annex C.1 "Response to Complaint of Asamblea de Poder Popular de Gonzales" dated March 9, 2012, and printed on the letterhead of the Law Offices of Thomas M. Bruen, SVSWA's General Counsel, and its "Bullet Point Summary". Both documents together comprise the response (answer) of SVSWA to the Complaint. Note that the copy of the Response that Complainants received was addressed to the USEPA and the U.S. Department of Agriculture, and not to California agencies, as is this Addendum and the original complaint at issue. This is because

attitudes of the SVSWA that violate Title VI, including (1) clear errors, misrepresentations and/or omissions regarding the opposition to the project, which is consistent with a pattern of seeking to minimize or discredit objections to the Project; (2) SVSWA's view on translation requirements, including its conclusion that it has no obligation to translate CEQA documents, and that it provided adequate interpretation at the scoping meetings, which shows intentionality with regard to the acts of language discrimination; and (3) False claims that SVSWA will not decide whether it supports the project until the environmental impact is known (which are belied by SVSWA's advocacy for the Plasco project with the California Governor's office and its collusion with Plasco, to be detailed in Sections L and M below).

(1) Errors, misrepresentations and/or omissions regarding opposition to the project

SVSWA's Response of March 9, 2012 contains multiple errors, misrepresentations and/or omissions, including:

Erroneous characterizations of the opponents to the project. First, the SVSWA Response contains some bizarre mischaracterizations about the persons and groups that oppose the project. It characterizes Asamblea members and other critics of the project as "local organizers" of Greenaction, a completely different nonprofit organization.[15] While Greenaction and Asamblea both oppose the Plasco project and the procedure being utilized by SVSWA to push it through, the two are completely separate organizations and no members of Asamblea are "Greenaction organizers".[16] This was considered offensive by the Asamblea president, who stated, "Do they think we can't think or act for ourselves?"[17]

Complainants also filed a federal civil rights complaint at the same time as the state complaint (with the USEPA and US DAG.) The state and federal complaints were identical except that the first was filed with California agencies under Cal. Gov. Code Section 11135, and the second was filed with federal agencies under Title VI of the Civil Rights Act of 1964 (Title VI and Cal. Gov. Code Section 11135 are virtually identical.) Thus Complainants treat SVSWA's Response of March 9, 2012 as its reply to both the state and federal complaints.

[15] See for instance, SVSWA Bullet Point Summary of Response of March 9, 2012, page 2, which refers to "GreenAction of San Francisco and their local organizers from the Asamblea de Poder Popular de Gonzales" SVSWA Bullet Point Summary of Response of March 9, 2012, page 2.

[16] Asamblea is a non-profit community association in Gonzales, founded in 2006 to promote the well being of the community, including protecting community health and environmental justice. This information is contained in the Complaint. Greenaction is a 501(c)(3) non-profit organization based in San Francisco founded in 1997, whose mission is to " www.greenaction.org. It is standard practice for civic organizations to collaborate together, and this is

The SVSWA Response also seems to broadly refer to other persons who are perceived to be raising questions about the Plasco project as "Greenaction organizers".[18] This shows either a complete and utter ignorance about the Gonzales community and community groups, or, evinces a purposeful misrepresentation to try to present the opposition as being limited to one group that is not based in Gonzales.

Minimization of and failure to disclose objections raised to the project. The SVSWA Response also clearly mischaracterizes the walkout by approximately 100 out of 120 residents from the February 22, 2012 scoping meeting. The Response states:

> The February 22, 2012 scoping sessions started around 6:30pm at the Gonzales High School Gymnasium.... Approximately 20 to 30 minutes into the scoping session, and **without any prior notice**, a large number of people in the audience stood up in mass and left the room... (Emphasis added).[19]

This characterization is patently false. It is disingenuous for SVSWA to state that the residents who left the scoping meeting in mass did so "without any prior notice", as there were varied objections voiced before and during the meeting, with multiple requests for cancellation, at the meeting and before the meeting, including: a letter sent on February 15, 2012 requesting cancellation (which SVSWA responded to, to deny the request), a protest before the February 22 meeting (which SVSWA witnessed), a public request by the president of Asamblea at the start of the meeting to cancel it (which SVSWA denied), and multiple heated exchanges during the

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encouraged as democratic, but this is never considered to affect the identity of the different organizations. Greenaction's mission includes work to provide technical assistance to communities that are engaged in environmental justice campaigns; Greenaction assisted Asamblea draft the original Complaint; an attorney on its staff (Naomi Onaga) assisted in preparing this Addendum.

[17] See Declaration of (b) (6) Privacy, "It also bothers us that the Authority called the members of Asamblea "local organizers of Greenaction", because we are an independent organization. Do they think that we can't think or act for ourselves?" Declaration of (b) (6) Privacy, para. 10.

[18] The SVSWA Response states that after the walkout occurred at the February 22, 2012 scoping meeting, "Organizers from the group GreenAction out of San Francisco remained at the meeting, and when Speakers no longer in attendance were announced, they announced, 'they left the meeting in protest'". But in reality, only one Greenaction staff stayed in the meeting (Bradley Angel), and according to the official transcript, the persons who stated that a speaker being called had left the meeting were almost always female (primarily (b) (6) Privacy, who is not a Greenaction organizer or member). See Transcript of February 22, 2012 scoping meeting.

[19] SVSWA Response of March 9, 2012, page 4.

meeting about the inadequacies of translation (including that there were not enough translation headsets, and that SVSWA at first promised to do consecutive interpretation so that headsets would not be required to hear the translation, but later refused).[20] It is after all this that participants started walking out in mass.[21] That Patrick Mathews, General Manager and Chief Administrative Officer of SVSWA, and Candace Ingram, the meeting facilitator (who was bilingual in Spanish and English) were present in the February 22 meeting and witnessed and participated in the exchanges, is recorded in the official transcript.[22] Thus it is disingenuous for SVSWA to claim that the walkout occurred "without prior notice".

Mischaracterization of the Complaint. The SVSWA Response also mischaracterizes the allegations made in the original Complaint. Instead of recognizing and addressing all the points raised, SVSWA's Response says that the Complaint has "two principal allegations"[23] (when in fact it has numerous allegations, grouped into 3 causes of action) and then conveniently omits mention of the other allegations and fails to respond to them. In particular, the Response omits all allegations related to the second cause of action, on improper action by SVSWA including providing and facilitating misinformation, failing to adequately consider or intentionally ignoring negative information about the project, exercising bias in favor of Plasco, and failure to properly

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[20] Asamblea de Poder Popular de Gonzales and Greenaction sent a letter via email to the SVSWA on February 15, 2012 to ask for cancellation of the February 22, 2012 scoping meeting, because of faulty notice and the fact that it conflicted with religious observances for the start of Lent. SVSWA responded, refusing to cancel the meeting. At the beginning of the scoping meeting, there was a protest outside of the doors of the gym, in which approximately 60 persons participated. At the start of the scoping meeting, Asamblea made a public statement requesting cancellation of the meeting, due to lack of equal notice and because it conflicted with Ash Wednesday, but also, because upon arrival at the meeting, it observed there were insufficient number of translation headsets, and the documents for discussion were not translated into Spanish. Transcript of February 22, 2012 scoping meeting, p. 7-8, p. 10. SVSWA still refused to cancel the meeting, but the facilitator stated that consecutive interpretation would be provided (so that persons without headsets could hear the translation). (See instructions by facilitator for "Marta" the interpreter (Marta Granados is identified on page 2 of the transcript as the certified Spanish Interpreter) to do consecutive translations, Transcript of February 22, 2012 p. 8 line 24 top. 9 line 4). However, when the presentations started, they were given only in English, and consecutive translation was not provided. When participants requested consecutive translation, SVSWA refused, upon which there were vociferous protests by community members (see Transcript of February 22, 2012 scoping meeting, p. 27 line 4 to 14; p. 29 to 31.)

[21] The Transcript states for instance, that it is after all these arguments, and after Patrick Mathews' presentation, an "Unknown Female Speaker" said "People are leaving because they can't understand what Mr. Mathews said. What is the purpose of them being here?" Transcript of February 22, 2012 scoping meeting, line 29 line 2-4.

[22] See Transcript of February 22, 2012 scoping meeting, p. 7 to 14, p. 8 line 24 top. 9 line 4; p. 17 line 18 et seq.; p. 27 line 4 to 9; p. 29 to 31.

[23] The Response document says that the Complaint has two allegations. The Bullet Point Summary submitted by SVSWA says that there are 4 main allegations. Both are inaccurate, because the Complaint has many more allegations.

record objections in the public record.[24]

These misrepresentations, on the nature, source and extent of the criticisms of the project that are raised in this Addendum, are consistent with the SVSWA's pattern of engaging in misinformation, including seeking to minimize objections to the Plasco project, and failing to record and report them properly. The Complaint identified this as one of the types of improper actions that SVSWA utilized in order to seek approval of the Plasco project,[25] and SVSWA's March 9 Response itself serves as additional evidence of this.

(2) SVSWA's view on translation requirements, including its conclusion that it has no obligation to translate CEQA documents, and that it provided adequate interpretation at the scoping meetings, shows that SVSWA's acts of language discrimination were intentional

The Complaint alleged that SVSWA discriminated against Spanish speakers and failed to assure equal opportunity of participation through its failure and/or refusal to provide adequate notice, translation of documents, and interpretation in relation to the scoping meetings held to discuss the Notice of Preparation and Initial Study on the Plasco project.[26]

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[24] The complaint filed on February 28, 2012 was a 48-page document, with a detailed series of allegations, which were organized around three major causes of action, with multiple allegations each. The first cause of action related to the decision to choose Johnson Canyon as the site of the proposed Plasco project, without adequate notice to the community, adequate consideration of the health and environmental effects and without providing residents and the public meaningful opportunities for public input into the decision. The second cause of action related to improper actions by SVSWA to assure selection of the Plasco project, including systematic limitation of public notification and comment, providing and facilitating misinformation, failing to adequately consider or intentionally ignoring negative information, exercising bias in favor of Plasco, etc. The third cause of action related to the use by SVSWA of discriminatory procedures, including language discrimination, unequal notice, and failure to translate the environmental review documents. The content of the Response and the Bullet Point response focus exclusively on the dispute about adequacy of translation of notices, documents, meeting proceedings, and, on part of the allegations about the selection of Johnson Canyon Landfill as the preliminary site for the project. (Bullet Point Summary of Response).

[25] For instance, the Complaint noted that the minutes of the January 20, 2011 meeting of the SVSWA Board (in which the Plasco project was selected to proceed to the EIR phase) failed to record any notes about the substance of critiques on the project, despite the fact that detailed technical critiques were submitted, as well as a list of misrepresentations by SVSWA. See Complaint, footnote 79 and accompanying text.

[26] The Complaint for instance addressed the inadequacy of interpretation services at the February 22, 2012 scoping meeting, its refusal to translate key documents required to participate in the CEQA process, by failing to provide Spanish translations of key information, failure to make the SVSWA website accessible in Spanish, failing to provide adequate interpretation in Spanish at key public meetings, failing to institute procedures that would allow for genuine participation of Latinos and Spanish speakers, by assuring comments can be received in Spanish, and failing to provide equal notice and equal opportunity for Spanish speakers to participate in public comment process. (See Complaint, Section VI.C.)

In its Response, SVSWA argues that it provided "ample opportunity for comment" to all members of the public on the Notice of Preparation and Initial Study[27], and argues the notice and interpretation services it provided were adequate. SVSWA also states clearly that it does not believe it has any responsibility to translate CEQA documents into Spanish and does not plan to do so, because it believes the California Dymally-Alatorre Act does not require translation of documents in this context; it knows of no other federal or state law that requires translation; because it believes no city in Monterey County does so; it considers translation of complex documents too burdensome; and it states Asamblea should have the resources to do its own translations, because it was able to submit a complex, well-organized civil rights complaint.

SVSWA's Response thus elucidates SVSWA's view on its level of responsibility for providing language access for notice and interpretation at the scoping meetings, and establishes that SVSWA's actions and omissions with regard to language access can be taken as intentional acts.

(Complainants believe that SVSWA errs because federal and state requirements on language access for limited English proficient persons have a much higher standard, and SVSWA has engaged in intentional acts that caused disparate impact and constitute intentional discrimination against Latinos and Spanish speakers, many of whom are foreign-born. This is discussed in Cause of Action E.2.)

(3) False claims that SVSWA will not decide whether it supports the project until the environmental impact is known

The SVSWA Response repeatedly states that no decision has been made to proceed with the Plasco project, and that the decision will be made by the SVSWA Board based on the information in the EIR and public comment. The "Bullet Point Summary" of the SVSWA Response states, "No decision has been made by the Authority to approve the Plasco project or to locate it at Johnson Canyon landfill as opposed to another location...The point of the EIR is

[27] SVSWA Response, page 4.

precisely to study claims that the Project will have harmful environmental effects. The EIR will contain scientific studies by independent consultants of any alleged environmental effects from the Plasco project and will propose feasible mitigation measures including emission controls.[28]

Similarly, the March 9, 2012 SVSWA Response states that "The Board will base its decision [on the location of the Project] on the information provided in the EIR, including its alternative analysis, as well as public comments on the EIR." It also states, "The EIR process is designed to present the public with a scientific and objective discussion of the analysis of potential impacts, possible feasible mitigation measures, and of any significant an unavoidable adverse impacts...Ultimately, the Authority Board will have to consider the EIR, hear public comment on the EIR and the Project, and weigh all aspects of the Project including any environmental impacts and its economics. We cannot predict what decision the Authority Board will make at the end of the EIR process, and the Authority has not made any commitments to proceed with the Project".[29]

These claims by SVSWA that it has not yet made a decision on the Plasco project are belied by its actions, including clear advocacy by SVSWA with the California Governor's office to request intervention to allow the Plasco project to circumvent existing law that defines eligibility for Renewable Portfolio Standards designation, which has an impact on the financial viability of the project, and applicability of certain state requirements. Though SVSWA Board may not have given an official approval of the project, SVSWA makes clear that it has invested in the Plasco project, wants it to succeed, and has taken numerous affirmative and improper actions to try to win approval of the project. These will be discussed further in Section L below.

L. SVSWA Advocacy with California Governor's Office for intervention that would allow Plasco to circumvent existing legal and environmental standards related to Renewable Portfolio Standard eligibility

[28] SVSWA, Bullet Point Summary of Response of the Salinas Valley Solid Waste Authority to Allegations of Asamblea de Poder Popular de Gonzales et al, March 9, 2012, page 2.
[29] SVSWA Response page 5-6.

SVSWA acted to seek to win support from other government agencies for the Plasco project, including asking for intervention outside of existing legal processes. In particular, in May 2012, SVSWA petitioned the California Governor to "override" a decision of a state agency that SVSWA felt would be disadvantageous to the Plasco project.

Specifically, on May 25, 2012, SVSWA sent a letter to California Governor Jerry Brown[30] that requested his office override a May 23, 2012 decision by the California Department of Resources Recycling and Recovery (CalRecycle) that the Plasco project does not meet the statutory definition of "gasification" in Public Resources Code §40117, which would make it ineligible for certification under the California Renewable Portfolio Standard (RPS).[31] Such certification is important to energy companies because it makes a project eligible to receive government funding, and more attractive to private funders, since California has a law that at least 33% of its energy must be generated from facilities that are certified under the RPS.[32]

Plasco had submitted an application to CalRecycle to be considered a "gasification" technology under PRC §40117, and thus eligible to qualify for the Renewables Portfolio Standard. PRC §40117, among other requirements, requires that a qualifying "gasification" technology produce "no discharges or air contaminants or emissions". PRC Section 40117, subsections (a). But the Plasco project would have discharges, air contaminants and emissions,

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[30] Annex D.1. Letter from Patrick Mathews to Governor's Office, May 25, 2012 (imploring that Governor "override" the CalRecycle decision)

[31] Electrical generation produced by a facility that "converts" municipal solid waste is eligible for the Renewable Portfolio Standard if it meets criteria contained in California Public Resources Code §25741 subdivision (b)(3), which is mirrored in Public Resources Code §40117. PRC §40117 provides the definition of "gasification"; if a project or facility qualifies as gasification under this provision, it is eligible for the Renewables Portfolio Standard. The determination of whether a project or facility qualifies as "gasification" under Public Resources §40117 is implemented by the California Department of Resources Recycling and Recovery (CalRecycle). California Energy Commission, Renewables Portfolio Standard Eligibility (Fifth Edition), May 2012 pages 28-29 (available on the CEC website)

[32] California has a Renewables Portfolio Standard (RPS) that was initiated by the California Senate in 2002, and has been expanded subsequently through various legislative action, recommendations, and executive orders. These laws require retail sellers of electricity and local publicly owned electric utilities to increase the amount of renewable energy they procure each year until 33 percent of their retail sales are served with eligible renewable energy resources by December 31, 2020. Many of these eligible renewable energy resources may qualify for funding under the Renewable Energy Program. Under these laws, the Energy Commission is generally charged with certifying eligible renewable energy resources that may be used to satisfy their RPS procurement requirements. California Energy Commission, Renewable Energy Program Overall Program Guidebook, p. 1-2. (available on the CEC website) But for projects that converts municipal solid waste, CalRecycle determines whether it meets the definition of gasification, see id.

which make it ineligible for RPS eligibility as a "gasification" technology.[33] Yet on November 23, 2010, CalRecycle sent a letter to Plasco with a preliminary opinion that based on the project description submitted, and its interpretation of PRC §40117, the project qualifies as a gasification project for reasons including that the project "produces no air, water or hazardous discharges *in excess of standards*".[34] This shocked and outraged environmental and environmental justice groups, who threatened legal action because the interpretation by CalRecycle of PRC 40117 was incorrect and constituted an underground regulation that subverted legislative intent, because it departed from the text and legislative history of the statute, which had deliberately set permissible environmental standard at zero emissions.[35]

CalRecycle, in its May 23, 2012 letter, stated that based on review of Plasco's initial request and project description, its November 2010 letter, and the relevant statutes and regulations, CalRecycle has determined that "the conclusion that the proposed Salinas Valley project would be considered a gasification facility is not supported by the statutory definition of 'gasification' in Public Resources Code Section 40117", because "[i]n addition to relying on language not found in the statute (e.g. the language regarding air or water discharges 'in excess of standards'), the November 2010 letter also makes premature conclusions regarding a number of other requirements in the definition of gasification."[36]

On May 25, 2012, two days after the issuance of this letter to Plasco by CalRecycle, the SVSWA sent an urgent request to the Governor, expressing deep concern over the letter sent to "our conversion technology vendor, Plasco Energy", which communicated this "unannounced action by CalRecycle", and urging him to "override the CalRecycle decision".[37]

In the letter, Patrick Mathews, SVSWA General Manager and Chief Administrative Officer elaborates on SVSWA's support, investment and aspirations for the Plasco project, and appeals for the Governor to intervene:

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[33] The Initial Study recognizes that it would emit toxic air contaminants from flare and gas engine generators (page 2-4), generate diesel particulate matter (page 2-4), generate greenhouse gases (page 2-11), emit airborne pollutants and other waste products that could contain hazardous chemicals (page 2-14).

[34] See Annex D.2. Letter from Elliot Block, Chief Counsel of CalRecycle, to Alasdair McLean, Vice President, Strategic Initiatives of Plasco, of November 23, 2010, at page 3.

[35] Annex D.5 Joint letter from 6 organizations to CalRecycle regarding "Notification of Intention to File Petition Regarding Underground Regulation", January 23, 2012. See also Annex D.4 Joint letter from 14 organizations to California Natural Resources Agency regarding "CalRecycle violation of state law on gasification", April 14, 2011.

[36] Annex D.3. Letter from CalRecycle to Plasco of May 23, 2012, denying that proposed project would meet statutory definition of gasification facility.

[37] Annex D.1. Letter from SVSWA to California Governor Jerry Brown, May 25, 2012, page 1 and 2.

"The Plasco/Salinas Valley project is intended to support many of California's major environmental and economic development objectives (as well as our own)... The SVSWA has made a significant investment of public funds and 7 years of dedicated work by elected officials, staff and consultants to follow the path laid by CalRecycle and their predecessor agency, in order to find an integrated solution to end our future dependence on landfills.... This action by CalRecycle is contradictory and impactful to our efforts and sends a very disconcerting message to the very businesses we are all collectively trying to attract to our State.... This action by CalRecycle may have dramatic repercussions on a potential multibillion dollar industry that is seeking a clear path forward in California. In addition, this action will set back the Salinas Valley Waste Authority's 7-year vision to create a permanent non-landfill based waste management system we hope would be a model for other agencies in California... We implore your office to override CalRecycle's [decision], and to take whatever immediate steps are available to create a more open and consensus building process to support sustainable waste management practices and avoid the loss of another company interested in doing business in our California community." [38]

The letter included attachments related to the CalRecycle decision, as well as the Economic Impact Analysis "so that [the Governor] can also see the value and economic growth opportunities this project would bring to our low-income community."[39] Eight days later, on June 1, 2012, Governor's aide Nancy McFadden sent a letter on letterhead of Governor to Alasdair McLean, Vice President of Strategic Initiatives for the Plasco Energy Group, stating that:

"...the Governor's Office will be supportive of legislation during the current session to allow Plasco's project to proceed on a pilot basis and be considered an eligible renewable energy

[38] Letter from SVSWA to California Governor Jerry Brown, May 25, 2012, page 2.
[39] Annex D.1 Letter from SVSWA to California Governor Jerry Brown, May 25, 2012, page 2. The other attachments are: CalRecycle Opinion Letter re: Plasco/Salinas Valley Project, 11/23/2012; CEC RPS Pre-Certification, 1/18/2011; California Legislative Letter of Support, 3/9/2011; CalRecycle Opposition Letter, 5/23/2012; Opposition Letter regarding CalRecycle Opinion, 1/23/2012.

resource under state law." The letter also had a handwritten note reading, "We can make this work. Thanks." [40]

On at least June 4 to 6, 2012, SVSWA and Plasco started to discuss draft texts for special "carve out" legislation that would exempt Plasco from the existing standards for RPS (detailed further in the Section M below.)

On June 11, 2012, Asamblea de Poder Popular de Gonzales heard through legislative contacts that the Governor's office had launched a campaign in the California Assembly to put pressure on members of the House and Senate to pass special legislation that would allow the Plasco project to operate as a pilot project.

For many Asamblea members, and many others in Gonzales, the effect of this information was destruction of the public trust. For instance, (b) (6) Privacy [redacted] states, "I am shocked that SVSWA is supporting such a company. We were totally outraged when we heard that SVSWA sent a letter to the Governor asking him to support Plasco, before the environmental impact review has even been completed. It totally destroyed any trust I had in SVSWA....I don't trust that Plasco and SVSWA will tell us the truth and protect us if this project gets built in Gonzales, because both have told us lies."[41]

She also states that many Asamblea members were very affected by these acts. Many felt confirmed in their belief that SVSWA was supporting Plasco, and had no interest in honestly examining any environmental impacts, because the decisions had already been made by governmental authorities, regardless of public comment and regardless of environmental impact: "Many of the Asamblea members also felt completely demoralized by this news. We felt like they really don't care what we say, or what risks the technology might have and what could happen to us and our children, and they really had no intention to listen to what we had to say in the scoping meetings, because they decision had already been made. [42]

M. SVSWA and Plasco collusion on drafting proposed special legislation for Plasco to exempt it from existing standards on renewable energy and waste disposal

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[40] Annex D.6. Letter from Nancy McFadden on letterhead of the Office of the Governor to Alasdair McLean, Vice President, Strategic Initiatives of Plasco Energy Group, June 1, 2002.
[41] Declaration of (b) (6) Privacy [redacted], para. 14 and 15.
[42] Declaration of (b) (6) Privacy [redacted], para. 14.

As stated above, on June 1, 2012, Alasdair McLean of Plasco sent an email to Patrick Mathews to transmit a copy of the letter from Nancy McFadden, who he described as the "Executive Secretary to Governor Jerry Brown regarding the proposed Salinas Valley Project." In his email, Alasdair McLean wrote, "Hi Patrick, Please don't share this quite yet. I'm not clear on whether public knowledge of this is good or bad."[43] This was referring to Nancy McFadden's letter that stated that "the governor's office will be supportive of legislation during the current session to allow Plasco's project to proceed on a pilot basis and be considered an eligible renewable energy resource under state law."[44]

Subsequently, Alasdair McLean and Patrick Mathews started collaborating on drafts of proposed language for special legislation that would allow the Plasco project to be included in the Renewables Portfolio Standards (RPS). This is documented in emails obtained through a Public Records Act request:

Alasdair McLean emailed Patrick Mathews on June 4, 2012 11:54 am, stating, "Patrick, The proposed language to include the project in the RPS is as follows: 'A facility engaged in thermal conversion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Monterey County and received approval after a public procurement process from the Salinas Valley Solid Waste Authority prior to March 1, 2011 to proceed with review under the California Environmental Quality Act.' " He asks, "Any concerns about this?"[45]

In the same email, Alasdair McLean also noted that this language addresses the RPS credit, but does not address the solid waste permitting issues (the loss of "gasification" status under California may have also led to loss of status as a nondisposal project, which would require amendment to the county siting element in a process that could take up to 18 months of debate in each city council.)[46]

He concludes the email with "Do you have time to discuss this today?"[47]

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[43] See Annex E.1. Email from Alasdair McLean of Plasco Energy Group, to Patrick Mathews of SVSWA, of June 1, 2012, 2:45pm ("Please don't share this quite yet...")
[44] Annex D.6 Nancy McFadden from Governor's Office letter to Alasdair McLean of Plasco, June 4, 2012.
[45] Annex E.2. Email from Alasdair McLean (V.P. of Strategic Initiatives of Plasco Energy Group) to Patrick Mathews (General Manager/CAO of SVSWA) on June 4, 2012, 11:54AM, ("Patrick, The proposed language to include the project in RPS is as follows..."
[46] Annex E.2.
[47] Annex E.2.

About 30 minutes later, Alasdair McLean sent Patrick Mathews a revised proposal for language that would also address the waste disposal issue (it added a sentence which provided, "For the purposes of this section, the municipal solid waste consumed in the conversion process shall not be considered 'disposal' pursuant to Public Resources Code Section 40120.1...") and asked "Hi Patrick, How about this language?"[48]

Patrick Mathews clearly engages with Alasdair McLean in this discussion – he responds with two emails to schedule a time to discuss with him, and says he needs to review some applicable code sections before he gives feedback.[49]

On June 6, 2012, they exchanged another revised draft, which reads:

> "A facility engaged in the thermal conversion of municipal and solid waste shall not be considered an eligible renewable resource unless it is located in Monterey County and received approval to proceed with environmental review under the California Environmental Quality Act from the Salinas Valley Solid Waste Authority prior to March 1, 2011. For the purposes of this section, the municipal solid waste consumed in the conversion process shall not be considered "disposal" pursuant to Public Resources Code Section 40120.1, but will not be eligible for diversion credit as defined in Section 40124 of the Public Resources Code." [50]

Note that all the drafts exchanged are worded in a way that would provide a special exemption for the Plasco project to be considered an eligible renewable resource, and would <u>prohibit all other projects engaged in thermal conversion of municipal and solid waste from being considered an eligible renewable resource</u>: the texts provide that "A facility engaged in the thermal conversion of municipal and solid waste *shall not be considered an eligible renewable resource unless*" it meets a standard that only the Plasco project can meet (it is located in Monterey County, and received approval to proceed with the CEQA EIR process from SVSWA prior to March 1, 2011. Emphasis added.)

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[48] Annex E.3 Letter from Alasdair McLean, to Patrick Mathews, of June 4, 2012, 12:26pm. ("Hi Patrick, How about this language?..."

[49] See Annex E.4, Email from Patrick Mathews, SVSWA to Alasdair McLean, June 4, 2012, 17:09:56pm ("Alasdair, I am tied up right now, but will be free by 3:15 pst..." ; Annex E.5. Email from Patrick Mathews to Alasdair McLean on June 5, 2012, 7:45pm ("Alasdair, I'm very sorry for missing our call...")

[50] See Annex E.6, Email from Alasdair McLean of Plasco to Patrick Mathews of SVSWA, June 6, 2012, 9:39am ("A facility engaged in the thermal conversion of municipal solid waste shall not be considered an eligible renewable resources unless it is located in Monterey County and..."

As noted above, a week later, on June 11, 2012, Asamblea heard through legislative contacts that the Governor's office had launched a campaign in the California Assembly to put pressure on members of the House and Senate to pass special legislation that would allow the Plasco project to operate as a pilot project, that exempts it from current state standards so that it would qualify for the Renewables Energy Portfolio.

N. SVSWA actions, alone and with Plasco, that intimidated, discouraged and/or suppressed residents from public participation, particularly Latinos, Spanish speakers and "vocal residents"

As discussed above, various residents felt intimidated by the SVSWA at the February 28, 2012 scoping meeting because of the police presence and a hostile facilitator.[51]

The feeling among community members that there was a pattern of intimidation against opponents of the Plasco project was deepened when a shocking email uncovered through the Public Records Act request revealed that SVSWA was clearly strategizing with Plasco on how to identify, target and reduce resistance from vocal community members: On March 9, 2012, Susan Warner, Diversion Manager of the SVSWA, sent an email to Randy van der Starren (Project Development Manager with Plasco Energy Group[52]), with regard to a meeting with "Kristina" (who is probably Kristina Chavez Wyatt (also Kristina Wyatt), Public Relations Consultant with Plasco Energy Group[53]) and someone named "Candace."[54] The email states:

"Good Day Randy,

Kristina, Candace and I had a good meeting yesterday. Kristina provided Candace with background on the more vocal individuals we have encountered, and we explored how/if

[51] See Section I.

[52] Randy van der Starren is listed on Linked In as Project Development Manager with Plasco Energy Group since November 2011 to present, as at http://ca.linkedin.com/pub/randy-van-der-starren/4/93/911, accessed August 10, 2012.

[53] Kristina Wyatt is listed on Linked In as a Community Relations Consultant with Plasco Energy Group since March 2009, http://www.linkedin.com/pub/kristina-wyatt/6/357/9b8, last accessed August 10, 2012, and is listed in numerous public communications and news articles as a public relations contact for Plasco.

[54] This may be Candace Ingram, who facilitated the scoping meetings, and according to the SVSWA "Plasco Project Task Lists" may be assigned to conduct stakeholder meetings. That document lists "Ingram" as one of the persons assigned to "Conduct 15 interviews with Stakeholders" Line 3.2.a of SVSWA's Salinas Valley Solid Waste Authority – Plasco Salinas Valley Project EIR Task List. (Annex E.8)

they could be redirected. Candace will cease forward momentum and await direction to continue with the stakeholder meetings..." *Email from Susan Warner (Diversion Manager of SVSWA) to Randy van der Starren (Project Development Manager of Plasco Energy Group), March 9, 2012.*[55]

This email shows that SVSWA strategized with Plasco on how to reduce opposition to the project, including on identifying and trying to put pressure to "redirect" the "more vocal residents".

While SVSWA is not responsible for actions taken purely by Plasco, Plasco's actions are relevant to understanding the context in which intimidation by SVSWA was taking place, and the intent of SVSWA for its actions, and the impact that SVSWA actions had on residents.

Gonzales residents alleged as early as November 2011 that Plasco was engaged in monitoring, harassment and intimidation of Gonzales residents who oppose the project, including attempting to compromise their work and volunteer activities.

Among the actions reported by Asamblea members who have felt that they have been monitored, harassed and intimidated by Plasco are:

- (b) (6) Privacy, a prominent member of Asamblea, states that Kristina Wyatt, the Plasco public relations officer, was monitoring her correspondences, and attempted to get her fired or at least get her in trouble with her boss for sending an email in opposition of the Plasco project. She was called in by her supervisor, who told her that she had received a complaint that (b) (6) Privacy had sent an email from her work regarding the Plasco project.[56] She did not get fired, but she had to meet with multiple supervisors on this, which she found stressful. She found out the complaint had come from Kristina Chavez Wyatt, who is an outreach consultant with Plasco.

[55] Annex E.7. Email from Susan Warner (Diversion Manager of SVSWA) to Randy van der Starren (Project Development Manager of Plasco Energy Group), March 9, 2012

[56] See Declaration of (b) (6) Privacy, para. 11.

Roberta believes that "the SVSWA and Plasco are both trying to intimidate people so they could push this project onto our community."[57]

- A few days after (b) (6) Privacy incident, another active member of Asamblea (b) (6) Pri had a similar incident at her work. (b) (6) never found out where the complaint came from. (b) (6) Privacy left Asamblea because they were afraid of retaliation if were perceived as opposing the Plasco project.[58]

The impact on residents of SVSWA intimidation at the February 28, 2012 scoping meeting, and the revelation that SVSWA was colluding with Plasco to discuss and strategize on "vocal residents", was very deep because of the context of intimidation that had already been set up by Plasco. For instance, (b) (6) Privacy felt that the fact that SVSWA and Plasco were collaborating in this way was "totally shocking" and "really scary".[59]

3. NEW CAUSES OF ACTION

This Addendums add three new causes of action (D, E, and F) to Section VI. Arguments of the Complaint.

D. SVSWA has put the environment and health of Latinos in Gonzales at risk because it violated its duty to conduct an objective, independent environmental impact review on the Plasco project that meets CEQA standards, by actions including: (1) advocating improperly on behalf of the project by seeking special intervention from the Governor's Office to "override" a state agency decision considered disadvantageous to the project (denial of eligibility for Renewables Portfolio Standards designation); (2) colluding improperly with Plasco to draft proposed special "carve out" legislation that would exempt the project from existing environmental standards on renewable energy and waste

[57] Declaration of (b) (6) Privacy, para. 12.
[58] Declaration of (b) (6) Privacy para. 13, and Declaration of Maria Perea, para. 7.
[59] Declaration of (b) (6) Privacy, para. 12.

disposal; (3) engaging in actions, alone and with Plasco, that intimidated, discouraged and/or suppressed residents from public participation, particularly Latinos, Spanish speakers and "vocal residents"; (4) providing or facilitating misinformation or omitting material information about the project, including failing to disclose material facts about its technology, and failing to accurately record objections to the project.

SVSWA violated its duties under the California Environmental Quality Act (CEQA) as the lead agency charged with completing an objective, independent environmental impact report (EIR) and related preparatory and review processes on the Plasco project prior to taking action on it, for the purpose of protecting the environment and people of California. This put the environment and health of people in Gonzales and the Salinas Valley, particularly Latinos in the Gonzales area, at risk. This is because a failure to conduct a proper environmental impact review could result in approval of a project that otherwise would not have been approved, had all potential risks and public concerns been identified and evaluated in a proper CEQA process.

The following sections provide an overview of CEQA requirements for lead agencies, and outlines some of the ways in which SVSWA has violated these requirements.

Duties of the lead agency under the California Environmental Quality Act

The legislative intent of the California Environmental Quality Act (CEQA) is to protect the environment and people of California.[60] The basic purposes of CEQA are to inform governmental decision makers and the public about potential, significant environmental effects of proposed activities; identify the way that environmental damage can be avoided or significantly reduced; prevent significant, avoidable damage to the environment; and disclose to

[60] Legislative intent of CEQA includes for instance to "[d]evelop and maintain a high-quality environment now and in the future, and take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state" and to "[t]ake all action necessary to provide the people of this state with clean air and water, enjoyment of aesthetic, natural, scenic and historic environmental qualities, and freedom from excessive noise". See Pub. Res. Code §21001(a) and (b).

the public the reasons why a governmental agency approved the project.[61] California courts have pronounced that CEQA was intended to be interpreted in such manner as to afford the fullest possible protection to the environment.within the reasonable scope of the statutory language. (*Friends of Mammoth v. Board of Supervisors*[62]) *Bozung v. LAFCO* established that the purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind.[63]

To achieve its purposes, CEQA requires the analysis of the environmental impact of proposed projects before their approval, through the preparation and review of environmental impact reports, when there is substantial evidence that a proposed project may have a significant effect on the environment.[64] Further, an EIR is statutorily mandated for certain types of projects, including projects involving municipal burning of wastes, hazardous waste, or refuse-derived fuel. [65]

The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.[66] The EIR requirement is the heart of CEQA. *County of Inyo v. Yorty*.[67] Further, the EIR serves not only to protect the environment but also to demonstrate to the public that it is being protected. *County of Inyo v. Yorty*.[68] Similarly, *People ex rel. Department of Public Works v. Bosio* held that the EIR should demonstrate to an

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[61] State CEQA Guidelines §15002(a)(1). The CEQA statute establishes in its Section 21083 that the CEQA guidelines shall establish the objectives and criteria for the evaluation of projects and the preparation of the environmental impact report, and the determination of whether a proposed project may have a "significant effect on the environment". Pub. Res. Code §21083(a) and (b).
[62] *Friends of Mammoth v. Board of Supervisors*, 8 Cal. 3d 247; CEQA Section 15003(f))
[63] *Bozung v. LAFCO* (1975) 13 Cal.3d 263 (Integrated into CEQA Policy as CEQA Section 15003(g)).
[64] See CEQA §21002. "An environmental impact report is an information document which, when its preparation is required by this division, shall be considered by every public agency prior to its approval or disapproval of a project." CEQA §21061. An environmental impact report is required when "there is substantial evidence, in light of the whole record before the lead agency, that a project may have a significant effect on the environment". CEQA §21082(d).
[65] CEQA §21151.1(a)(1)(A).
[66] CEQA §21061
[67] *County of Inyo v. Yorty*, 32 Cal. App. 3d 795; CEQA Section 15003(a)).
[68] *County of Inyo v. Yorty*, 32 Cal. App. 3d 795; integrated into CEQA Policies as CEQA Section 15003(b)

apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.[69]

The environmental review process is organized by the lead agency of a project. The lead agency for a project is "the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment."[70] The responsibilities of the lead agency includes to: "determine whether a project may have a significant effect on the environment based on substantial evidence in light of the whole record" (in order to determine whether an environmental statement is required) [71]; "considering the effects, both individual and collective, of all activities involved in a project"[72]; "Independently review and analyze any report or declaration required by [CEQA]." [73]

Section 15004 on the timing of the EIR (as well as other provisions) makes clear that the lead agency must consider the environmental impact report before approval of a project subject to CEQA, with approval being defined in Section 15352(a).[74] Under Section 15352(a), "approval" is defined as "the decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by any person." [75]

Further, Section 15004 further clarifies that this also comprehends action that is not limited to solely to procedural process to adopt an official statement of "approval" of a project. Section 15004 provides in its section B that "To implement the above principles, public agencies shall not undertake actions concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of

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[69] *People ex rel. Department of Public Works v. Bosio*, 47 Cal. App. 3d 495; integrated into CEQA Policy as CEQA Section 15003(d)

[70] CEQA Section 21067. CEQA Guidelines Section 15050 and 15051 also produce additional guidelines on how to determine the lead agency.

[71] CEQA §21082.2(a)

[72] CEQA §21002(d).

[73] CEQA §21082.1

[74] Section 15004 regarding the "Time of Preparation" of the EIR states, "Before granting any approval of a project subject to CEQA, every Lead Agency or Responsible Agency shall consider a final EIR... (See: The definition of "approval" in Section 15352.)" Section 15004(a). This is also clear from definition of environmental impact report itself: "An environmental impact report is an information document which, when its preparation is required by this division, shall be considered by every public agency prior to its approval or disapproval of a project." CEQA §21061. CEQA §21002.

[75] CEQA 15325(a)

CEQA compliance. For example, agencies shall not:...take any action which gives impetus to a planned or foreseeable project in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project. (emphasis added)[76]

Public participation is an essential part of the CEQA process.[77] Under CEQA, an agency must solicit and respond to comments from the public and other agencies concerned with the project."[78] CEQA Guidelines provide that "Each public agency should include provisions in its CEQA procedures for wide public involvement, formal and informal, consistent with its existing activities and procedures, in order to receive and evaluate public reactions to environmental issues related to the agency's activities.[79]

Public participation also includes access to information and documents that are useful to understand the project. CEQA provides that, "Documents prepared pursuant to this division be organized and written in a manner that will be meaningful and useful to decision makers and to the public."[80] The EIR must show adequacy, completeness, and good-faith effort at full disclosure, and it must be sufficient as an informational document.[81]

Once drafted, the environment impact report must be reviewed. The purpose of the review includes "(a) Sharing expertise, (b) Disclosing agency analyses; (c) Checking for accuracy; (d) Detecting omissions; (e) Discovering public concerns; and (f) Soliciting counter proposals."[82]

The subsections below give information on violations of CEQA duties by SVSWA

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[76] (Section 15004(b)(2) and its subsection (B))

[77] "Public Involvement. Under CEQA, an agency must solicit and respond to comments from the public and other agencies concerned with the project." CEQA Guidelines Section 15002(j). "Public participation is an essential part of the CEQA process. Each public agency should include provisions in its CEQA procedures for wide public involvement, formal and informal, consistent with its existing activities and procedures, in order to receive and evaluate public reactions to environmental issues related to the agency's activities. Such procedures should include, whenever possible, making environmental information available in electronic format on the Internet, on a web site maintained or utilized by the public agency." CEQA Guidelines 15201.

[78] CEQA Guidelines Section 15002(j).

[79] CEQA Guidelines 15201.

[80] CEQA 21003(b).

[81] *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692) CEQA 15003(i)

[82] CEQA Guidelines 15200.

related to the new facts presented in Sections I to N *supra*, which have had discriminatory and disparate impact and constitute intentional discrimination against Latinos and Spanish speakers in Gonzales, and give rise to new causes of action under Title VI. Note there are other actions by SVSWA that were detailed in the original complaint that constitute violations of duties under CEQA and Title VI.

(1) SVSWA violated CEQA by advocating improperly on behalf of the Plasco project even before the EIR was completed, by seeking special intervention by the Governor's Office to "overturn" a state agency decision that it considered disadvantageous to the project (the CalRecycle decision that the Plasco project did not qualify for the Renewables Portfolio Standards)

In May 2012, SVSWA "implore[d]" the Governor's office to "override" a state agency decision that they considered disadvantageous to the project, namely, the CalRecycle decision that the Plasco project would not qualify as "gasification" that would make it eligible for the Renewables Standards Portfolio. See Section L *supra*.

This type of advocacy on behalf of a proposed project, by the lead agency conducting an ongoing CEQA environmental review on that project, is completely improper. As discussed above, CEQA requires that the lead agency prepare an environmental impact report and consider it fully, "prior to its approval or disapproval of a project". [83] And under Section 15352(a), "approval" is defined as "the decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by any person." [84]

Here, SVSWA clearly has committed to a "definite course of action" to support and push through the Plasco project: the letter to the Governor's Office makes clear that SVSWA, despite the fact that the environmental impact review process required under California law is not yet complete, has already made a decision that the Plasco project is "sustainable" and supports

[83] An environmental impact report is "an information document which, when its preparation is required by this division, shall be considered by every public agency prior to its approval or disapproval of a project. Pub. Res. Code (CEQA) §21061.
[84] CEQA 15325(a)

"California's major environmental and economic objectives", and would be a "model for other agencies in California"; that SVSWA has invested in it, and is trying to attract Plasco and other businesses like it to California; and that CalRecycle's decision, which it considered unfavorable to Plasco, may have "dramatic repercussions on a potential multibillion dollar industry that is seeking a clear path forward in California", as well as "set back" SVSWA's "seven-year vision". See Annex D.1 and Sections L *supra.*

Based on these justifications, SVSWA "implore[s]" that the Governor's Office "override" the CalRecycle decision, and to "take whatever immediate steps are available to create a more open and consensus building process to support sustainable waste management practices and avoid the loss of another company interested in doing business in our California community." See Annex D.1. and Section L *supra.*

That a lead agency, prior to completing the environmental review process, has arrived to such conclusions (including that the Plasco project represented a "sustainable waste management practice"), committed to such a course of action (including trying to attract businesses like Plasco to the state), and engaged in advocacy for the project with other governmental entities (to the extent that it even advocated for overturning a decision by a state agency with the responsibility of interpreting environmental standards, because it considered the decision disadvantageous), directly violates the legislative intent and purpose of CEQA. CEQA was adopted precisely to preclude this type of action. SVSWA's duty is to seek the opinion of government agencies (and the public) on the project, in order to determine its environmental impact, rather than resisting those opinions and trying to circumvent the legal opinion of a state agency with authority to rule on whether the project meets environmental standards.

The letter to the Governor demonstrates SVSWA is vastly more interested in protecting the interest of Plasco, the "multibillion dollar industry" and the "vision" and "investment" of SVSWA, rather than complying with its CEQA duties to independently analyze environmental impacts to protect environment and people. The SVSWA attached an Economic Impact Analysis of the Plasco project to the letter; it of course did not attach the Environmental Impact Analysis

because it had not been completed, and it also did not attach the Initial Study, which was completed in February 2012 and gives a preliminary assessment of the environmental impact of the project, which included information that the project would have toxic emissions and greenhouse gases, all of which is directly relevant to the CalRecycle decision on whether the project qualifies as "gasification" eligible for the Renewables Standard Portfolio.

Eight days after SVSWA's intervention, on June 1, 2012, Nancy McFadden of the Governor's Office sent a letter to Plasco stating that the Governor's Office would be supportive of special legislation to allow Plasco's project to proceed on a pilot basis and be considered an eligible renewable energy resource under state law."[85] SVSWA and Plasco were aware that this type of intervention by the Governor's office might raise public alarm. Alasdair McLean, in sending a copy of Nancy McFadden's letter to Patrick Mathews, wrote, "Hi Patrick, Please don't share this quite yet. I'm not clear on whether public knowledge of this is good or bad."[86] Indeed, the impact of the coming to light of these emails (which were obtained through a Public Records Act request) was to further destroy the public trust. See Section L *supra*.

<u>(2) SVSWA colluded with Plasco to draft proposed special legislation that would exempt the Plasco project from existing environmental standards on renewable energy and waste disposal, and bar others from the RPS</u>

After Nancy McFadden's letter of June 1, 2012, Plasco and SVSWA started to discuss drafts texts for proposed special legislation to allow the Plasco project to be eligible for the Renewables Portfolio Standard. Astoundingly, the draft texts that they exchanged proposed to *exempt the Plasco project to allow it to be eligible for the RPS*, and further, would *bar other competing thermal conversion technologies* from eligible for the RPS.[87]

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[85] See Section M supra, and Nancy McFadden's letter (Annex E.6).

[86] Annex D.4. Email from Alasdair McLean of Plasco Energy Group, to Patrick Mathews of SVSWA, of June 1, 2012.

[87] These draft texts provides that "A facility engaged in the thermal conversion of municipal and solid waste *shall not be considered an eligible renewable resource unless*" it meets a standard that only the Plasco project can meet (that it is located in Monterey County, and received approval to proceed with the CEQA EIR process from SVSWA prior to March 1, 2011). See Section M.

This shows further violation of CEQA intent and purpose. CEQA requires that if environmental impacts are found, the lead agency must consider all feasible alternatives and mitigation measures.[88] As noted above, Section 15004(B) provides that public agencies "shall not undertake actions concerning the proposed public project that would have a significant adverse effect or *limit the choice of alternatives* or mitigation measures, before completion of CEQA compliance. For example, agencies shall not:...take any action which gives impetus to a planned or foreseeable project in a manner that *forecloses alternatives* or mitigation measures that would ordinarily be part of CEQA review of that public project." (emphasis added)[89]

SVSWA, in violation of Section 15004(b), were clearly colluding with Plasco in a manner that would limit, and possibly foreclose, other alternatives, because it was seeking special legislation that would not just exempt Plasco from existing requirements, but would also bar other competing thermal technologies from the RPS.

Further, the draft text also sought to exempt the Plasco project from certain waste disposal requirements. As discussed in Section L Facts, Alasdair McLean was concerned that the determination by CalRecycle that the Plasco project does not qualify as "gasification" also meant that it lost its "nondisposal" status, which would require a major change in the Monterey County Siting Element, and cause delays for the project. Thus he exchanged draft text for proposed legislation, that included a phrase that "the municipal solid waste consumed in the conversion process shall not be considered 'disposal' pursuant to Public Resources Code Section 40120.1", in order to circumvent these requirements. (See Section M supra.)

This again is in contravention of CEQA's intent and objective of protecting the environment and people, by having the lead agency conduct a transparent, objective and neutral assessment of environmental impact before action on a project. As noted above, CEQA was intended to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.[90] It is utterly improper for the

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[88] See for instance, Section 15126.6.
[89] Section 15004(b)(2) and its subsection (B)
[90] Friends of Mammoth v. Board of Supervisors, 8 Cal. 3d 247; CEQA Section 15003(f))

lead agency to, instead of assessing if a proposed project meets existing standards for protection of environment and people, be strategizing with the applicant company on how to erode and circumvent those standards.

(3) SVSWA engaged in actions, alone and with Plasco, that intimidated, discouraged and/or suppressed residents from public participation, particularly Latinos, Spanish speakers and "vocal residents"

CEQA requires that lead agencies solicit and respond to comments the public[91] and make provisions for "wide public involvement, formal and informal… in order to receive and evaluate public reactions to the environmental issues related to the agency's activities."[92]

SVSWA violated these duties by acting on its own, and colluding with Plasco, to intimidate, discourage, and/or seek to suppress residents from participating in public comment processes, particularly those who were Latino, and those who were considered "vocal".

SVSWA engaged in actions that intimidated, discouraged, and/or suppressed residents at the February 28, 2012 scoping meeting, particularly Latinos, Spanish speakers and vocal residents

SVSWA acts intimidated, discouraged and/or suppressed persons from participating in public consultation processes to the project at the February 28, 2012 scoping meeting. As noted above, residents felt that the facilitator (Candace Ingram) was "rude" (generally, and to Latinos, and to vocal residents), a Latino resident was especially intimidated and treated with discrimination for seeking to speak in English and Spanish, and residents felt intimidated because of police presence, which has a deep impact on a predominantly Latino, Spanish speaking immigrant community where many people have a fear of the police. See Section I *supra,* and Declarations of (b) (6) P i, (b) (6) Privacy, (b) (6) P i (b) (6) Privacy. (Note also that (b) (6) Privacy of Asamblea, stated that the police presence at the February 28, 2012 scoping meeting was intimidating and shocking for many people, because they already felt

[91] CEQA Guidelines Section 15002(j).
[92] CEQA Guidelines 15201.

threatened because they had already been subjected to efforts to target and intimidate persons that openly criticized the Plasco project. See more on intimidation by Plasco below.[93])

SVSWA also discouraged participation in the scoping period by Latino and Spanish speaking residents by acts of language discrimination which violated federal and state requirements for translation. This will be discussed further in Cause of Action E, and is discussed in detail in Annex C.2 Federal and California Requirements on Language Access and SVSWA's Failure To Meet These Requirements.

Collusion by SVSWA with Plasco to monitor, discourage and/or seek to suppress opposition to the project

In addition to its actions at the February 28 scoping meeting that intimidated, discouraged and suppressed residents, SVSWA also acted in collusion with Plasco to monitor, discourage and/or seek to suppress opposition to the project. As noted in Section N supra, an email obtained through a Public Records Act request showed that SVSWA and Plasco met and shared "background" on "the more vocal residents" on at least one occasion (March 8, 2012) in order to strategize on how to pressure them to not oppose the Plasco project ("redirect" them). The meeting was between Susan Warner of SVSWA, a person named "Candace"[94] and "Kristina", who is probably Kristina Chavez Wyatt, Public Relations Consultant with Plasco Energy Group. See Section N *supra.*

These actions, in themselves, violated SVSWA's CEQA duties by contravening its obligation to facilitate broad public participation, and review and analyze public comments as part of the environmental review process.

Further, the *public revelation* of these actions had the impact of further intimidating residents, particularly Latinos, and discouraging them from participation in CEQA processes.

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[93] Declaration of (b) (6) Privacy, para. 6.

[94] This may be Candace Ingram, who facilitated the scoping meetings, and according to the SVSWA "Plasco Project Task Lists" may be assigned to conduct stakeholder meetings. That document lists "Ingram" as one of the persons assigned to "Conduct 15 interviews with Stakeholders" Line 3.2.a of SVSWA's Salinas Valley Solid Waste Authority – Plasco Salinas Valley Project EIR Task List. (Annex E.8)

The impact of the revelation that SVSWA and Plasco had met to discuss the background of the more vocal residents and how to "redirect" them, was very deep for members of Asamblea because it occurred in a context where they were already feeling intimidated by Plasco. For instance, (b) (6) Privacy, who was subjected to intimidation by Plasco that was directed at her employment in August 2011, felt that the fact that SVSWA and Plasco were collaborating in this way was "totally shocking" and "really scary".[95] This was particularly so because the Plasco representative participating in the March 8 meeting to share "background" and discuss how to "redirect" vocal residents, is most likely Kristina Wyatt (aka Kristina Chavez Wyatt), who (b) (6) Privacy believes was responsible for the August 2011 incident.[96]

Fear of retaliation for criticizing the Plasco project had already had concrete effect on Asamblea -- at least two persons in Asamblea had left the organization because they had also been subjected to intimidation directed at their employment, around the same time as (b) (6) Privacy (though in their cases, they were not able to identify the specific source.)[97] Awareness that SVSWA and Plasco colluded on a strategy to identify, share background on, and "redirect" opponents discouraged Asamblea members, and probably other members of the public, from full and free participation in CEQA public comment processes.

All this goes squarely against SVSWA's duties as CEQA lead agency to provide for wide public involvement in order to receive and evaluate public comments and reaction.

<u>(4) SVSWA provided or facilitated misinformation or omitted material information about the project, including failing to disclose material facts about its technology, and failing to accurately record objections to the project</u>

The Complaint of February 28, 2012 had already noted improper actions by SVSWA in its Cause of Action B, including that it provided or facilitated misinformation about the project,

[95] Declaration of (b) (6) Privacy para. 12.
[96] See Section N supra, and Declaration of (b) (6) Privacy, para. 12.
[97] See Section N. supra and Declaration of (b) (6) Privacy (para. 13) and Declaration o (b) (6) Privacy (para. 7).

including omitting material information: Section B.2.a discussed "Misinformation about that the Plasco plasma arc gasification project is based on a technology that does not involve combustion, and does not produce toxic emissions"; Section B.2.b discussed "Failure by SVSWA to disclose environmental exceedences by Plasco at its test facility", and Section B.2.c. discussed "Misrepresentation about the potential of Plasco to generate electricity, and thus to qualify as a conversion technology".

These misrepresentations and material omissions violated the general CEQA duties for a lead agency to facilitate the discovery and disclosure of the potential environmental impact of a project.

Further, such misrepresentations and material omissions impaired meaningful evaluation and public comment on the project. CEQA contains duties for good faith disclosure and clarity of information to decision makers and the public – for instance, documents prepared under CEQA must be "organized and written in a manner that will be meaningful and useful to decision makers and to the public."[98] But information issued by SVSWA have consistently been misleading, for instance, general descriptions of the project fail to make clear the material fact that the project involves a combustion technology that would have toxic emissions (because waste is turned into gas, and then the gas is burned, but descriptions of the project emphasize the waste is turned into gas, but omit to make clear that the gas is burned, and has toxic emissions). As part of this, SVSWA publicly represented that there would be no emission stacks for many months, until finally admitting there would be two stacks. (See for instance Declaration of (b) (6) Priv [redacted] para. 10.)

All this restricted the ability of community members to understand the true nature of the project[99], and therefore meaningfully in the CEQA process. (b) (6) P I [redacted] states that SVSWA "has done nothing to make sure people really understand what is being proposed". [100]

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[98] CEQA 21003(b).

[99] (b) (6) Privacy stated that both SVSWA has produced misinformation (for instance, SVSWA first said there would be no emission stacks at the first large public meeting in March 2011, but finally admitted in October 2011 that there would be two stacks, and has made claims about the energy generation of the project that does not seem to match the data from information on the Plasco facility in Canada. Declaration of (b) (6) [redacted], para. 10.

[100] See Declaration of (b) (6) [redacted], para. 10.

Failure to provide accurate information, and the lack of translation of documents by SVSWA also made community members more vulnerable to misrepresentations by Plasco representatives. For instance, (b) (6) Privacy stated that she has attended presentations about the project that were made by "Beatriz", a Plasco representative, to Spanish speakers, in which Beatriz told people that the flare stacks emit "purified air" that would be good for residents (which is belied by information in the SVSWA's Initial Study which admits that the emissions would include toxics and greenhouse gases).[101] If SVSWA had translated the initial study, Spanish speaking residents of Gonzales would have access to more information, which is the purpose of CEQA.

(5) SVSWA has failed to accurately record public comments in the record, particularly from Spanish speakers, and from critics of the project.

Further, SVSWA has failed to accurately record public comments in the record, particularly from Spanish speakers and from critics of the project. At the February 22, 2012 scoping meeting, SVSWA did not provide adequate interpretation services, and the SVSWA official that was supposed to be receiving the comments (Patrick Mathews, General Manager/CAO) did not speak Spanish but made no attempt to take an interpretation headset to be able to understand Spanish comments, and the transcriptionist who was taking minutes also did not speak Spanish but was not given a translation headset. (See Section I in the Complaint.) At the February 28, 2012 scoping meeting, many residents complained that the translation was faulty, and the Spanish comments were thus not understood or accurately reflected in the record. (See Section H supra.).

SVSWA also mischaracterized the nature and extent of opposition to the project in its March 9, 2012 response, including that mischaracterizing the opponents to the Plasco project, including referring to members of Asamblea and other individuals "Greenaction organizers", mischaracterizing the objections that led to the walkout at the February 22 scoping meeting; and

[101] See Declaration of (b) (6) Privacy.

mischaracterizations and key omissions in the facts and allegations in the Complaint. See Section K *supra*.

The Complaint had already discussed the failure by SVSWA to record the objections made to the project in the minutes of the January 2011 SVSWA board meeting, at which the Plasco project was selected to proceed to the environmental review stage.

Therefore the SVSWA, through all these acts -- advocating before the Governor's office for the Plasco project; colluding with Plasco to draft proposed special legislation; intimidating, discouraging, and/or suppressing residents from public participation, and facilitating misinformation and omitting material facts – has violated its CEQA duties.

The purpose of the environmental review requirements in CEQA are to protect the environment and the public; as *Bozung v. LAFCO* held, CEQA procedures should not just generate paper, but compel government at all levels to make decisions with environmental consequences in mind.[102] The lead agency must actually genuinely collect and consider information objectively to make an analysis, yet SVSWA is clearly going through the motions of conducting an environmental impact review, without genuinely being open to information and analysis of the project: it is already invested in and committed to the Plasco project, is advocating for it, including seeking to erode or circumvent existing environmental standards for it, and acting and/or colluding to suppress criticisms and public comment, in particular from Spanish speakers. These acts are consistent with a pattern of bias, misrepresentation, and minimization of objections in favor of the Plasco project that was described in the Complaint.

That SVSWA is not fulfilling its duty as lead agency in this process puts the environment and people of Gonzales at risk, which disproportionately affects Latino and Spanish speakers.

E. SVSWA has violated the right of Latinos in Gonzales to equal participation in a proper

[102] *Bozung v. LAFCO* (1975) 13 Cal.3d 263 (Integrated into CEQA Policy as CEQA Section 15003(g)).

CEQA process, which has also violated their Constitutional right to freedom of expression, by: (1) making the completion of a proper, good faith CEQA public consultation impossible by irreparably tainting the EIR process and destroying the public trust through the actions described in Cause of Action D; and (2) discriminating against Latinos and Spanish speakers through: violations of state and federal standards on language access by willful failure to provide adequate interpretation services and refusal to translate key documents necessary for participation of limited English proficient residents of Gonzales; willful failure to comprehend or properly record comments in Spanish; flaws in the February 22, 2012 scoping that led to walk out of most Latino participants; acts that intimidated residents at the February 28, 2012 scoping meeting; discriminatory application of rules in prohibiting Latino resident from speaking in English and Spanish at the February 28 meeting.

(1) SVSWA actions made the completion of a proper, good faith CEQA public consultation impossible by irreparably tainting the EIR process and destroying the public trust through the reasons stated in Cause of Action D (including improper advocacy for the project; collusion with Plasco; intimidation, discouragement and/or suppression of residents from participation, particularly of Latinos; facilitation of misinformation and withholding of material information; ignoring or failing to accurately record objections to project, etc)

The acts described in Cause of Action D were so shocking that they irreparably tainted the CEQA process, and destroyed the public trust. For instance, upon the revelation that the SVSWA was advocating before the Governor's Office for the Plasco project, and colluding with Plasco to draft proposed special legislation to exempt the project from existing environmental standards on renewable energy and waste disposal, members of Asamblea were shocked and outraged, and felt all trust that SVSWA would do an objective analysis or protect the public had been destroyed. Asamblea members also felt demoralized and that SVSWA had no intention to listen to any of their comments or act to protect the environment and public, because it had

already made its decision in favor of Plasco and its project. See Section L *supra*, and Declaration of (b) (6) Privacy para. 14. Complainants and many others were shocked that SVSWA and Plasco had met to share background and strategize to "redirect" residents who were "vocal".

CEQA requires that the EIR must show adequacy, completeness, and good-faith effort at full disclosure, and it must be sufficient as an informational document.[103] This has now been made impossible because of SVSWA acts that have irreparably tainted the process and its independence and objectivity, and skewed public participation, which irreparably subvert the EIR by damaging its content (the scoping process determines the content and scope of the EIR) and failing to meet the procedural requirements for broad public participation. The EIR is the heart of the CEQA process *(County of Inyo v. Yorty*[104]*)*; SVSWA has made proper completion of the CEQA process impossible, and therefore denied the right to participation of Latinos and Spanish speakers in Gonzales in a proper CEQA process.

(2) SVSWA engaged in specific discriminatory acts against Latino and Spanish speakers, which excluded them from equal participation in the CEQA process, including: violations of state and federal standards on language access, through willful failure to provide adequate interpretation services and refusal to translate key documents necessary for participation of limited English proficient residents of Gonzales; willful failure to comprehend or properly record comments in Spanish; flaws in the February 22, 2012 scoping that led to walk out of most Latino participants; acts that intimidated residents at the February 28, 2012 scoping meeting, especially Latinos and Spanish speakers; discriminatory application of rules in prohibiting Latino resident from speaking in English and Spanish at the February 28 meeting

SVSWA also engaged in specific discriminatory acts that resulted in exclusion of Latino and Spanish speakers from equal participation in the CEQA process. Some of these acts have already referenced in Cause of Action D, but are also relevant here. Some acts were also

[103] *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692) CEQA 15003(i)
[104] *County of Inyo v. Yorty*, 32 Cal. App. 3d 795; CEQA Section 15003(a)).

described in the Complaint. These acts include:

SVSWA has violated state and federal requirements for language access by willfully failing to provide adequate interpretation services and refusing to translate key documents necessary for participation of limited English proficient residents of Gonzales

SVSWA makes clear in its March 9, 2012 that it believes it provided adequate notice and translation services for the scoping meetings of February 22 and 28, 2012, and it has no obligation to translate documents necessary for participation in the CEQA process.

SVSWA thus apparently considers, for instance, that it provided sufficient and "ample opportunity" for Spanish speakers to comment at the scoping meetings of February 22 and 28, 2012, even though those meetings were marred by severe flaws in language access including that:

- At the February 22, 2012 meeting, many Spanish speakers did not understand the proceedings (because there were insufficient headsets to hear the simultaneous interpretation, and the SVSWA refused to provide consecutive translation), no Spanish translations were provided of the documents which were to be the focus of the CEQA Scoping Period on which the public was invited to comment; Patrick Mathews, the General Manager/CAO of SVSWA who was supposed to be listening to the comments as well as the transcriptionist did not speak Spanish but intentionally did not take interpretation headsets even when they were available; and approximately 80% of the participants walked out in protest because of the disputes about the translation;
- At the February 28, 2012 meeting, the interpretation contained many errors, there was discriminatory application of a policy of prohibiting bilingual speakers from speaking in both languages, and residents reported feeling intimidated and discouraged from participating.

SVSWA errs that it provided adequate and ample opportunity. Requirements under the Title VI of the Civil Rights Act; California Government Code Section 11135, federal Executive Order 13166 on "Improving Access to Services for Persons with Limited English Proficiency"), Department of Justice "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibitions Against National Origin Discrimination Affecting Limited English Proficient Persons"; the California Dymally-Alatorre Bilingual Services Act, and public participation requirements in the California Environmental Quality Act, set much higher standards for language access. CEQA has robust public participation requirements, and requires the provision of information and "meaningful and useful" documents to the public,[105] and in a heavily Spanish speaking community such as Gonzales, translation of key documents are required.

For instance, Executive Order 13166 and DOJ Guidance require "meaningful access" by limited English proficient persons to programs, activities and services offered by recipients of federal funding (such as SVSWA), including quality interpretation services, and translation of "vital documents." The California Dymally-Alatorre Bilingual Services Act, which sets standards on bilingual access for state and local agencies, including that interpretation services are required when a local agency serves a "substantial number of non-English speaking people", in activities involving public safety or protection, implementing public programs, managing resources of facilities, and holding public hearings. Title VI and California Government Code Section 11135 require non-discrimination and equality of access. For a detailed analysis of the application of these standards to SVSWA actions, see Annex C.2. Federal and State Requirement on Language Access, and SVSWA's Failure to Meet These Requirements.

SVSWA willfully failed to comprehend and properly record comments in Spanish

As discussed in the Complaint Facts Section H and referenced in Cause of Action D Section 4, at the February 22, 2012 scoping meetings, SVSWA General Manager/CAO Patrick Mathews who did not speak Spanish, made no effort to take a translation headset, even before

[105] CEQA Section 21003(b).

they ran out.

The transcriptionist did not speak Spanish but was not given an interpretation headset. This led to the transcript failing to properly record comments and objections in Spanish, and instead containing merely a general description such as "Whereupon a lot of yelling going on...".[106]

At the February 28, 2012 scoping meeting, faulty translation also led to inaccurate recording of Spanish comments in the record.

This also violates state and federal standards for language access by limited English proficient persons to government services and activities. See also Annex C.2. Federal and State Requirement on Language Access, and SVSWA's Failure to Meet These Requirements.

Hostility and intimidation at the February 28, 2012 scoping meeting

As discussed in Cause of Action D and in Facts Section I supra, residents felt intimidated at the February 28, 2012 scoping meeting, because of police presence, which heavily impacts Latinos and Spanish speakers, many of whom are immigrants and have a fear of the police, and because of a hostile facilitator.

These acts constituted discrimination and caused discriminatory impact that violated Title VI rights and protections, including equal opportunity to participate, and protections for language access. The acts of intimidation, particularly against Spanish speakers who were seeking the right to equal participation including by insisting on language access, constitute violations of Section 7.100 of the USEPA's implementing regulations for Title VI, which provides that recipients of USEPA assistance should not "intimidate, threaten, coerce or discriminate against any individual or group, either: (a) For the purpose of interfering with any right or privilege guaranteed by the Acts or this part..." (49 FR 1659, January 12, 1984, Section 7.100) USDA Title VI regulations also prohibit intimidation in its Section 15.7. (7 CFR Subtitle A (1-1-11 Edition), Section 15.7.

[106] Transcript of February 22, 2012 scoping meeting, page 8 line 19.

Discriminatory application of rules in prohibiting Latino resident from speaking in English and Spanish

At the February 28, 2012 scoping meeting, a Latino resident of Gonzales ((b) (6) Privacy) was prohibited, in a discriminatory manner, in speaking in English and Spanish to do his own translations, even though he requested to do so because he felt the interpretation was inaccurate. He was told by the facilitator that he could not do his own translations, because "We're going to have the same rules for everybody" and so he had to pick one language to speak in.[107] However, a non-Latina woman, not resident of Gonzales, had been allowed earlier in the meeting to do her own translation. The facilitator was very hostile to him, got "in his face"; many witnesses felt she was trying to intimidate him. This violated his right to freedom from discrimination and right to freedom of expression; it also had the impact of making other residents feel that SVSWA was applying rules in a discriminatory and/or arbitrary manner.[108] See Section I *supra*.

Flaws leading to walkout from the February 22 scoping meeting, and cancellation of the expected third scoping meeting, which denied many Latino residents the opportunity to participate

As discussed in the Complaint, flaws in notification, inadequate interpretation, lack of translation of the documents, and conflict with Ash Wednesday at the February 22, 2012 scoping meeting, led to protests against the meeting and a walkout of approximately 80% of the attendees from the meeting. Most of the persons that walked out were Latino and Spanish speaking. Even many of the persons that stayed at the meeting refused to comment because they were angry at

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[107] Transcript of February 28, 2012 scoping meeting, page 46 line 17-18.

[108] (b) (6) for instance states, "What bothered me the most was that the moderator prohibited (b) (6) Privacy from translating his own comments, but she let a woman, who was not Latina but who also complained the translation was not true to what was said in Spanish, translate her own comments into English and Spanish… All of this infuriated me because it shows that the Authority was conducting these meetings without rhyme or reason, making and changing the rules of the process they created as they pleased, and discriminating against whom they chose." Declaration of (b) (6), paragraphs 11 and 13.

how the Spanish speakers had been treated.[109] This denied the right of participants, particularly of Latinos and Spanish speakers, to equal participation in that meeting (see Section H in Facts of Complaint)

During the controversy about inadequate translation at the February 22 scoping meeting, SVSWA made representations that led many residents to believe that there would be a third scoping meeting (in response to requests to cancel the meeting because of the inadequacy of translations, SVSWA repeatedly stated that it would not cancel the February 22 meeting, but a third scoping meeting would be held if necessary.) Thus many persons expected SVSWA to hold a third scoping meeting, but at the end of the second scoping meeting of February 28, SVSWA suddenly said that there would be no third scoping meeting. This is so even though there were angry objections by residents that SVSWA decided there would be no third scoping meeting, despite its promises to hold one "if necessary". This denied multiple residents the opportunity to comment, because they were expecting to do so at the third scoping meeting. See Section J *supra*, and Declaration of (b) (6) Pi.

For all these reasons, SVSWA actions resulted in irreparable tainting of the CEQA process, destruction of public trust, and discouragement of public participation, which have all of which have made the completion of a proper public consultation process, and thus completion of a proper EIR, impossible. SVSWA has also engaged in specific discrimination and exclusion of Latinos and Spanish speakers through language discrimination, and unequal application of rules.

SVSWA acts have thus robbed Gonzales residents, who are predominantly Latino and Spanish speakers, of equal opportunity to participate in a proper CEQA process on the Plasco project, as well as violated their Constitutional right to freedom of expression.

These improper actions have impeded full and free participation of community members, particularly Latino Spanish speakers in the CEQA process. All this, combined with the additional

[109] See for instance, Declaration of (b) (6) Privacy, para. 11, and Transcript of February 22, 2012 scoping meeting.

tainting of the process and destruction of public trust from the coming to light of advocacy with the Governor's office, collusion with Plasco on special legislation, and monitoring/intimidation of residents, has had the impact of discouraging participation generally.

F. SVSWA's Improper Actions Caused Other Harm to Gonzales Residents and Asamblea Members, Including Creating Burdens on Time and Energy, Financial Costs, and Emotional Distress

SVSWA's improper actions also caused other harm to Gonzales residents and Asamblea members, including creating emotional distress, burdens on time and energy, and financial costs.

SVSWA actions have caused emotional distress for residents, who worry about the environmental and health impacts of the project. The misrepresentation and omission of material information by SVSWA, advocacy by SVSWA on behalf of Plasco, collusion with Plasco, and intimidation against residents, exclusion of Spanish speakers, and all other acts that have destroyed the public trust that SVSWA is honestly trying to do its duty to objectively assess the environmental and health impacts of the project in order to protect the public, have heightened these fears. Such anxiety should not exist in a proper CEQA process -- one of the purposes of CEQA is to "demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action"[110] and to "demonstrate to the public that it is being protected".[111] SVSWA cannot demonstrate this, because it is not in fact taking steps to analyze and consider the ecological implications of its actions, as is required by CEQA.

These inappropriate actions of SVSWA created a burden on Gonzales residents and members of Asamblea, because they had to expend time and money to address them (by searching for the correct information, seeking to correct misrepresentations, taking time off from work and traveling to the State Capitol in Sacramento to meet with the Governor's office to oppose special legislation requested by SVSWA, holding community meetings and organizing protests, etc.) For instance, for Asamblea, the cost of helping reimburse Roberta Ruiz-Camacho

[110] CEQA Section 15003(d), citing *People ex rel. Department of Public Works v. Bosio*, 47 Cal. App. 3d 495.
[111] CEQA Section 15003(b), citing *County of Inyo v. Yorty*, 32 Cal. App. 3d 795.

for travel costs to Sacramento to meet with officials at the Governor's office was $95, a considerable burden when its total annual budget is less than $1500.[112]

Asamblea members also feel stress and emotional distress because of the demands of having to try respond to the discriminatory and inappropriate actions by SVSWA. (b) (6) Privacy [redacted] for instance states that she has a lot of stress in having to deal with this, and sometimes has trouble sleeping or wakes up at night worrying about the project.[113]

Discrimination, especially racial and ethnic discrimination, also always causes emotional distress. See for instance, Declaration of (b) (6) Privacy para. 9, "As Latinos and Latinas, we have felt hurt by the discrimination against us…"

CONCLUSION

As evidenced by their most recent actions combined with the actions that triggered the filing of the original civil rights complaint, SVSWA has shown its clear bias and actions in favor of the Plasco project, and improper conduct to advocate for the Plasco project and collude with Plasco. It has also engaged in acts that constituted language discrimination, intimidation, and exclusion of Latinos and Spanish speakers from participation processes, many of whom are foreign born. The present CEQA process has been irreparably subverted and flawed and public trust destroyed, so that it is impossible at this stage to complete an Environmental Impact Review process according to CEQA requirements and federal and state civil rights protections. This has denied the residents of Gonzales the opportunity to participate in a proper CEQA process (which also violates their right to freedom of expression), and has put the health and environment of Gonzales residents at risk, because it could result in approval of a project that otherwise would not have been approved, had all potential risks and public concerns been identified and evaluated in a proper CEQA process. The improper actions by SVSWA have also had other impacts including emotional distress, and burdens on time and financial resources.

All of these constitute disparate impact and intentional discrimination against Latinos and

[112] See Declaration of (b) (6) Privacy para. 9 and Declaration of (b) (6) Privacy para. 15.

Spanish speakers in Gonzales in violation of California Government Code §11135 and Title VI.

REQUESTED REMEDIES:

Complainant requests that the USEPA conduct a comprehensive investigation to determine whether the Salinas Valley Solid Waste Authority violated Title VI and its implementing regulations due to the violations and discriminatory actions described in this complaint.

In order to provide effective remedies for the discrimination set forth in this Complaint, the USEPA should require as a condition of continuing to provide state financial assistance to the SVSWA that the Authority:

(1) Immediately cease the CEQA review of the Plasco proposal that was selected through improper procedures, and is currently being conducted in a discriminatory and biased manner, including the EIR process that Gonzales residents are being systematically excluded from;

(2) Reverse its decision of January 20, 2011 to select the Plasco plasma gasification project, and begin the entire "Conversion Technology" review process from the beginning with full opportunities for meaningful participation of all residents;

(3) Require that all Gonzales and Salinas Valley residents receive equal and adequate notice, in English and Spanish, for all future meetings on any waste disposal, waste management and/or waste treatment projects being considered, reviewed or evaluated by the SVSWA, including but not limited to the proposed Plasco Plasma Gasification project; this includes meetings of the SVSWA Board at which the Plasco proposal, or any other discussion affecting Gonzales, will be discussed. Residents who request it should also receive the agenda and documents for discussion for these meetings;

(4) Cease language discrimination by:

a. Translating into Spanish all key documents related to "conversion technologies" that would affect Gonzales and all communities in the Salinas Valley, or any other issue that affects Gonzales or other Latino, Spanish-speaking communities in the SVSWA jurisdiction. Key documents include at a minimum, but are not limited to, notices of public meetings, Notices of Preparation, Initial

Studies, Draft and Final Environmental Impact Reports, notices and agendas for meetings of the SVSWA Board and the documents to be discussed in those meetings, SVSWA minutes, and other relevant documents from other bodies that are critical for meaningful participation by Spanish speakers;

b. For any official comment period, assure that Spanish speakers have equal time to submit comments as English speakers;

c. The SVSWA should provide the English and Spanish versions of documents on the same date, including, but not limited to, notices and key documents required to be able to participate in public comment processes, in order to ensure equal and non-discriminatory opportunities for public participation;

d. Translate the SVSWA website into Spanish through qualified professional translators (not automated web translators), or at a minimum, provide navigation tools for Spanish speakers to be able to find the Spanish documents on the website. During the period that this has not been completed, SVSWA should provide a Spanish speaking contact to the community, through which residents can ask for Spanish copies of documents and other information.

e. Provide simultaneous translation between English and Spanish for all participants in public meetings that are open to public participation and comment on the Plasco proposal (and other projects that will affect Gonzales and the Salinas Valley), including relevant scoping meetings, meetings of the SVSWA Board, and other meetings. This should assure both that Spanish speakers can understand English, and English speakers can understand Spanish;

f. Ensure that the comments made by the public, in both English and Spanish, through comment periods, public meetings of the SVSWA and other relevant bodies, are recorded adequately and faithfully, so that it serves as a meaningful and accurate record of the comments;

g. Taking any other steps necessary to end language discrimination against Spanish speakers, including integrating the cost of Spanish / English translation and interpretation into the budget for the preparation Environmental Impact Reports, as well as for other relevant SVSWA activities;

(5) Cease siting waste management and other polluting facilities in a discriminatory fashion that disproportionately affect communities of color and immigrants, such as Gonzales.

(6) Respect environmental justice principles, and develop and implement, in consultation with communities within the SVSWA jurisdiction, a SVSWA Environmental Justice Policy that assures compliance with state and federal civil rights laws and environmental justice principles, and includes procedures that remedy the discriminatory acts and omissions set forth in this complaint;

(7) Assure full compliance with the Brown Act in providing transparency in proceedings, notification, and copies of documents.

(8) Provide complainants with copies of all correspondence to or from the SVSWA throughout the course of the investigation, deliberation and disposition of this Complaint.

Respectfully submitted,

(b) (6) Privacy

(b) (6) Privacy

(b) (6) Privacy

(b) (6) Privacy

DATE: September 7, 2012

LIST OF ANNEXES

ANNEX A. DECLARATIONS

A.1. Declaration of (b) (6) Privacy

A.2. Declaration of (b) (6) Privacy (English translation and Spanish original)

A.3. Declaration of (b) (6) Pi

A.4. Declaration of (b) (6) Privacy

A.5. Declaration of (b) (6) Privacy (English translation and Spanish original)

A.6. Declaration of (b) (6) Privacy

ANNEX B. TRANSCRIPTS OF SCOPING MEETINGS

B.1. Transcript of February 22, 2012 scoping meeting (condensed format)

B.2. Transcript of February 28, 2012 scoping meeting (condensed format)

ANNEX. C. SVSWA RESPONSE OF MARCH 9 TO COMPLAINT & COMPLAINANT REPLY ON FEDERAL AND STATE REQUIREMENTS ON LANGUAGE ACCESS

C.1. SVSWA's Response to Complaint, and its Bullet Point Summary, dated March 9, 2012

C.2. Federal and California requirements on language access, and SVSWA's failure to meet these requirements

ANNEX D. CORRESPONDENCE BETWEEN SVSWA, GOVERNOR'S OFFICE, PLASCO AND COMMUNITY GROUPS REGARDING CALRECYCLE DECISION AFFECTING RPS CERTIFICATION FOR PLASCO

D.1. Letter from Patrick Mathews to Governor's Office, May 25, 2012 (imploring that Governor "override" the CalRecycle decision) (attachments not included)

D.2. Letter from CalRecycle to Plasco of November 23, 2010 (informing of preliminary approval as "gasification" eligible for Renewable Portfolio Standards certification)

D.3. Letter from CalRecycle to Plasco of May 23, 2012 (denying classification of Plasco project as "gasification", which would make it ineligible for the Renewable Portfolio Standards certification)

D.4. Joint letter from 14 organizations to California Natural Resources Agency regarding "CalRecycle violation of state law on gasification", April 14, 2011.

D.5. Joint letter from 6 organizations to CalRecycle regarding "Notification of Intention to File Petition Regarding Underground Regulation", January 23, 2012.

D.6. Letter from Nancy McFadden of California Governor's Office to Alisdair McLean of Plasco, June 1, 2012

ANNEX E. SELECTED EMAILS OBTAINED THROUGH PUBLIC RECORD ACT REQUEST, BETWEEN SVSWA, PLASCO AND GOVERNOR'S OFFICE BETWEEN JANUARY AND JUNE 2012

E.1. Email from Alisdair McLean of Plasco Energy Group, to Patrick Mathews of SVSWA, of June 1, 2012, 2:45pm ("Please don't share this quite yet...")

E.2. Email from Alisdair McLean (V.P. of Strategic Initiatives of Plasco Energy Group) to Patrick Mathews (General Manager/CAO of SVSWA) on June 4, 2012, 11:54AM, on proposed special "Carve Out" legislation to make Plasco project eligible for Renewables Portfolio Standard ("Patrick, The proposed language to include the project in RPS is as follows..."

E.3. Email from Alisdair McLean (V.P. of Strategic Initiatives of Plasco Energy Group) to Patrick Mathews (General Manager/CAO of SVSWA) on June 4, 2012, 12:26 PM, sending revised proposal on special "carve out" legislation, with an additional sentence to address waste disposal issues ("Hi Patrick, How about this language?...")

E.4. Email from Patrick Mathews, SVSWA to Alisdair McLean, June 4, 2012, 17:09:56pm ("Alasdair, I am tied up right now, but will be free by 3:15 pst..."

E.5. Email from Patrick Mathews to Alasdair McLean on June 5, 2012, 7:45pm ("Alasdair, I'm very sorry for missing our call...")

E.6, Email from Alasdair McLean of Plasco to Patrick Mathews of SVSWA, June 6, 2012, 9:39am ("A facility engaged in the thermal conversion of municipal solid waste shall not be considered an eligible renewable resources unless it is located in Monterey County and..."

E.7. Email from Susan Warner (Diversion Manager of SVSWA) to Randy van der Starren (Project Development Manager of Plasco Energy Group), March 9, 2012 ("Good Day Randy, Kristina, Candace and I had a good meeting yesterday...."

E.8. SVSWA, *Salinas Valley Solid Waste Authority – Plasco Salinas Valley Project EIR Task List*, January 2012.

Asamblea de Poder Popular de Gonzales;
(b) (6) Privacy [redacted]

Complainants,

v.

Salinas Valley Solid Waste Authority,

Respondents.

COMPLAINT UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. Section 2000d 40 C.F.R. Part 7

ADDENDUM TO COMPLAINT (NEW FACTS AND CAUSES OF ACTION)

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ANNEX A

Declarations

ANNEX A.1

Declaration of (b) (6) Privacy

I, (b) (6) Privacy declare under the penalty of perjury under the laws of the State of California and the United States that the following is true and correct:

1. (b) (6) Privacy

2. I am an active member of Asamblea de Poder Popular de Gonzales and I was present at the scoping sessions held by Salinas Valley Solid Waste Authority on February 22, 2012 and February 28, 2012. I was there to speak as a resident of Gonzales about my concerns regarding the Plasco waste facility they are planning to put in Gonzales. I was unhappy that they were planning to place the new site in Gonzales since Gonzales already has the only other SVSWA waste dump. I was also mad about the way SVSWA tried to exclude the Latino community in this process.

3. I was also unhappy with what I felt was deliberate attempt by Plasco and certain members of SVSWA to deceive the SVSWA board and community about the facts of the project. Early last year they said in a public meeting, that the Plasco plant would not have any emission stacks, earlier this year they finally confirmed that there would be two smoke stacks. Also, they claim that energy will be produced, yet Plasco's plant in Canada has yet to generate any real energy.

4. On February 15, 2012 I submitted a letter to SVSWA, on behalf of Asamblea, requesting that the scoping meeting scheduled for February 22, 2012 be cancelled for several reasons. First of all, we did not think that the meeting should be held due to uneven notice to the Spanish-speaking residents of Gonzales, since the first Spanish notice did not list the February 22 meeting which meant that some Spanish speakers didn't have the same time to make arrangements to come to the meeting as the English-speaking residents, or didn't find out about the February 22 meeting at all. Second, we wanted it cancelled because that meeting was scheduled on Ash Wednesday, a night when religious people, which most of the Gonzales' Latino residents are, go to church services. And finally, we requested cancellation because Plasco had much more advance notice than the community, and the community should have been told about the meetings at the same time.

5. Since SVSWA refused to cancel the meeting, I was one of about 60 people that participated in the protest organized by Asamblea that took place one hour before the February 22, 2012 meeting, at the same location of the meeting.

6. When the meeting was starting, Asamblea's president, (b) (6) Privacy asked again that the meeting be cancelled for the previous stated reasons, but now especially after we discovered that SVSWA did not have enough translation headsets available for everyone, and also the documents we were supposed to discuss were not in Spanish. We knew a lot of people would not be able to understand what was being said in English. Not only did they not have enough headsets, but some of the headsets that they had available did not work. Still, the facilitator said they would not cancel the meeting, even with the headset problem.

7. We also complained because we didn't think that they even planned to translate our

Spanish comments into English because none of the people who were presenters or the transcriptionist of the meeting had headsets. Patrick Matthews admitted he didn't speak Spanish, but he didn't even take a translation headset when they were still available! He said he was sorry for running out of headsets, but it felt like they were pretending that they would listen to our concerns when they really had no intention to listen to what we had to say.

8. After that the moderator said that they would translate back and forth between English and Spanish instead of using the headsets. But then, they began the presentations and no one was translating what was said in English into Spanish. I was very confused because I kept thinking that they would start translating soon, but they didn't. I overheard people talking in Spanish saying that they couldn't understand what was being said.

9. A lot of us started to get really frustrated that SVSWA was not doing what they promised and started to complain. Then the moderator told us that they would not translate because it would take too much time.

10. I got so mad that I didn't even want to be there anymore. Then almost all of us Gonzales residents got up and left in protest. I didn't want to leave since I wanted to listen to them and speak. I still left because there would be no point to comment if we couldn't understand what was said.

11. At the next meeting, on February 28, 2012, meeting, SVSWA had a person translating into Spanish what was said in English during the meeting, but I heard several people say in their comments that the translation SVSWA was doing into English was not accurate. At one point, the moderator got in someone's face because he was trying to translate his own comments. She was invading his space, trying to intimidate him into not talking.

12. I think the SVSWA and Plasco are both trying to intimidate people so they could push this project onto our community. I was totally shocked when I heard about the emails that Greenaction obtained through a Public Records Act request, showing that SVSWA and Plasco met to discuss how to "redirect" the vocal residents of Gonzales. But I guess I am not totally surprised. There was a "Kristina" in that meeting, and I think it is Kristina Chavez Wyatt, who does outreach for Plasco. The email says Kristina and others shared background on the "more vocal residents". It is really scary, because Plasco had already tried to intimidate me last year, and it was Kristina Chavez Wyatt. After I heard about the Plasco project, I was very concerned, and started getting involved in organizing the community to ask questions about it. In August 2011, (b) (6) Privacy [redacted] I think she was trying to get me fired, or at least get me in trouble. I had to go meet with my supervisor; I didn't end up getting fired but it was very stressful; I didn't end up getting fired but it was very stressful.

13. The same kind of thing happened to another Asamblea member, [redacted] She was an active member of Asamblea and someone sent a complaint about her to her boss, about her work

with Asamblea on the Plasco project. They never told her who had sent it, but I think it was Plasco, because it happened just a few days after it happened to me. (b) (6) Privacy ended up quitting Asamblea because they were scared and didn't want to risk losing their jobs. And I know Kristina Wyatt also was pressuring (b) (6) Privacy telling her she was not doing her job as Chamber of Commerce president because she was critical of Plasco. Now some people are afraid to participate in Asamblea if they are also members of another group, because they are being made to feel like that is not okay. This has never happened before in our community, which is so small and most people are part of so many things. We do not want a company like that at all in our community, that doesn't care if it tears apart our community. And they have been really rude and condescending to us. One of our members told us that she was at a meeting in which Beatriz who works for Plasco called us "ignorant Mexicans that need education" ("mexicanos ignorantes que necesitan educación".)

14. I am shocked that SVSWA is supporting such a company. We were totally outraged when we heard that SVSWA sent a letter to the Governor asking him to support Plasco, before the environmental impact review has even been completed. It totally destroyed any trust I had in the SVSWA. Many of the Asamblea members also felt completely demoralized by this news. We felt like they really don't care what we say, or what risks the technology might have and what could happen to us and our children, and they really had no intention to listen to what we had to say in the scoping meetings, because the decision had already been made. A lot of people just felt like giving up. I went to Sacramento on behalf of Asamblea to have a meeting with people from the Governor's office to tell them about how we felt and what has been happening here, and some people felt better after that, but no one of know what will happen.

15. I don't trust that Plasco and SVSWA will tell us the truth and protect us if this project gets built in Gonzales, because both have told us lies. That is why I continue to work with Asamblea on this, because I have children and grandchildren and I am worried about them. I do it even though this whole process takes a lot of my time and effort, and is very stressful to me because I work full time and so have to get up really early in the morning or work till late at night, to do meeting, answer emails, organize events, writing letters, do press interviews, and other things. Sometime I have trouble sleeping or I wake up worrying about what Plasco or SVSWA will do today. I know this is hard for the others too. This is also costing Asamblea money, and me too, for instance, when (b) (6) Privacy

(b) (6) Privacy

8/16/12

Date

ANNEX A.2

English translation of
Declaration of (b) (6) Privacy

(b) (6) Privacy, declare under the penalty of perjury according to the laws of the State of California and the United States, that the following is true and correct:

1. (b) (6) Privacy [redacted], which is 4 minutes from Gonzales, California.

2. (b) (6) Privacy [redacted] Asamblea de Poder Popular de Gonzales. Asamblea is community association of Gonzales, which was founded in 2006. We advocate for the well-being of the community, including to protect health and environmental justice.

3. Asamblea is one of the complainants in the complaint that was filed against the Salinas Valley Solid Waste Authority on February 28, 2012, for discriminatory acts against latinos and latinas and Spanish speakers of Gonzales.

4. For us, the meeting of February 22, 2012 that the Authority organized was very unjust and was a lack of respect for latinos and latinas. From before the meeting, Asamblea had requested that they cancel the meeting because the notices in Spanish had errors, and even though they say they sent a correction, it arrived very late, in any case the meeting of February 22 was the same day as Ash Wednesday. Also there were no translations of the document into Spanish, and without these we could not participate well. Further, when we arrived to the meeting, we saw that there were not enough headsets for translation. Because of all this, I got up at the beginning of the meeting, and requested that the meeting be cancelled. Other people also complained. They refused to cancel the meeting, and continued with the meeting even though many people couldn't understand, which was really a lack of respect. The Authority said that they were going to do an oral translation of everything, so that everyone could hear, but then they refused to do it. And it was clear that they were not going to hear what we said, because the director of the Authority did not speak Spanish but did not even try to take a headset, and neither did the transcriptionist. So it was clear that it wasn't worth talking. Most of the people left in protest.

5. In the meeting of February 28, 2012, they let an interpreter interpret between English and Spanish, without need for headsets. But many of the bilingual people complained that there were many errors in the translation. And again, they did not give us translation in Spanish of the documents to discuss, like the initial study. I speak some English, but I can't read technical documents in English, so I need a Spanish translation.

What also angers us, was that this whole process has been very ugly. In the meeting of February 28, 2012, the moderator was very rude with us, especially with a man named (b) (6) Privacy. And there was a lot of police, and many people felt intimidated. This was really shocking to many of us, especially because we had already felt threatened. There had already been various efforts to intimidate our members who publicly criticized the Plasco project. (b) (6) Privacy had problems in her work, because Kristina Wyatt of Plasco had sent a complaint to her work. At the same time, I think in the same week, the same thing happened to another member of Asamblea (b) (6) Pri, (b) (6) Privacy left Asamblea in the end because they were afraid. I don't know if the same thing happened to me, but around the same time, the director of Migrant Parents Committee (Comité de Padres Migrantes), of which I am a member, asked me what was happening with Asamblea and the Plasco project.

There are many lies that are told about the Plasco project. For instance, I have been in at least 3 meetings this year, in which Beatriz from Plasco made presentations about the project. In each of them, she says something different. Before, Plasco said that there would be no chimneys. But now they say yes [there will be chimneys]. I have heard Beatriz tell people in her presentations, that the chimneys are not dangerous, because they emit "purified air" that is good for the community. But this is not true – I heard that the initial study that was distributed in the meetings of February 22 and 28, 2012 admitted that the project would produce toxic emissions. When I asked questions about what she said, Beatriz would get mad. One she accused us of intimidating her, because we asked questions! So she is always saying lies. For us Spanish speakers, it is more difficult for to know the truth and combat the lies, because the Authority does not give us information in Spanish, even if we requested the documents many times. For instance, if the initial study was translated in Spanish, the Spanish speakers could read it and would know more, and will understand the lies that Beatriz says. But my bilingual friends tell me that even the information in English from the Authority is often not consistent or correct.

We have a lot of stress and worry because of all this. We do not trust that the Authority will tell us the truth on the health risks of the project. We were shocked that the Authority asked the governor try to help the project, before the environmental impact report was completed. And we were shocked that emails came out that show that the Authority and Plasco collaborated in many things.

Having to always be seeking information about the project, informing other people, and mobilizing to protest the lies and injustices, costs us a lot of time and energy. And as latinos and latinas, we feel very hurt by the discrimination against us. All this has also cost us money. For example, to

(b) (6) Privacy [redacted] and we are paying for posters, flyers, meetings, and other things. We are a small voluntary organization, and our budget is less than $1500, so to work on the Plasco project prevents us from doing other things.

10. It also bothers us that the Authority called the members the Asamblea "local organizers of Greenaction", because we are an independent organization. Do they think that we can't think and act for ourselves?

Executive in Gonzales, California, on

(b) (6) Privacy [redacted]

8-16-12

Date

I, Naomi Onaga, certify that I am competent to translate from Spanish to English, and the foregoing is a true and complete translation of the original document.

Executed in San Francisco, CA

Naomi Onaga

Naomi Onaga

8/31/12

Date

Declaración de (b) (6) Privacy

(b) (6) Privacy declaro bajo la pena de perjurio según las leyes del Estado de rnia y de los Estados Unidos, que el siguiente es verdadero y correcto:

(b) (6) Privacy [redacted],

(b) (6) Privacy [redacted] Asamblea de Poder Popular de Gonzales. Asamblea es una asociación comunitaria de Gonzales, que fue fundada en 2006. Nosotros impulsamos para el bienestar de la comunidad, inclusive por proteger a la salud y justicia medioambiental.

La Asamblea es uno de los quejantes en la querella que fue colocado contra la Autoridad de Desechos Sólidos de la Valle de Salinas el 28 de febrero de 2012, por actos de discriminación contra los latinos y las latinas y hispanohablantes en Gonzales.

Para nosotros, la reunión de 22 de febrero de 2012 que organizó la Autoridad fue muy injusta y fue una falta de respecto para los latinos y latinas. Desde antes de la reunion, Asamblea habia pedido que cancelen la reunion porque los avisos en español tuvieron errores, y aunque dicen que enviaron una correción, ésta llegó muy tarde, y de todas formas la reunion de 22 de febrero era el mismo dia que el miercoles de cenizas. Tambien no habian traducciones los documentos a español, y sin estos no pudimos participar bien. Además, cuando llegamos a la reunion, vimos que no hubieron suficientes audífonos de traducción. Por todo eso, yo me levanté al inicio de la reunion, y pedí que cancelara la reunion. Otra gente tambien se quejó. Negaron cancelar a la reunion, y seguiron con la reunion aunque mucha gente no podian entender, que realmente es una falta de respeto. La Autoridad dijo que iban a dar una traducción oral de todo, para que todos puedan escuchar, pero luego lo negaron hacer. Y fue claro que no iban a oir lo que queriamos decir, porque el director de la Autoridad no hablaba español pero ni intentó agarrar un audifono, y la transcripcionista tampoco. Asi que fue claro que no valia pena hablar. La gran parte de la gente salió en protesta.

En la reunion de 28 de febrero de 2012, dejaron que un interprete traduzca entre ingles y español, sin necesitar audifonos. Pero muchos de las personas bilingues quejaron que hubieron muchos errores en la traducción. Y otra vez, no nos dio traducciones en español de los documentos para discutir, como el estudio inicial. Yo hablo algo de ingles, pero no puedo leer documentos técnicos en ingles, asi que necesito una traducción en español.

Lo que nos enoja tambien, es que todo este proceso a sido muy feo. En la reunion de 28 de febrero de 2012, la moderadora fue muy grosera con nosotros, especialmente con un señor que se llama (b) (6) Privacy [redacted]. Y hubo

mucha policia, y mucha gente se sintia intimidada. Todo esto chocó mucho a nosotros, especialmente porque ya hemos sintido amenazados. Ya han habido varios esfuerzos para intimidar nuestros miembros quienes criticaban publicamente al proyecto de Plasco. (b) (6) Privacy [redacted] se cayó en problemas a su trabajo, porque Kristina Wyatt de Plasco habia enviado una queja a su trabajo. Al mismo tiempo, creo que dentro de la misma semana, el mismo pasó a otra miembra de Asamblea (b) (6) [redacted], (b) (6) Privacy [redacted] al final dejaron de Asamblea porque tenian miedo. No se si el mismo pasó a mi, pero alrededor de la misma época, la directora de programa del Comité de Padres Migrantes, del cual yo soy miembra, me preguntó que estaba pasando con Asamblea y el proyecto Plasco.

7. Hay muchas mentiras que son dichos sobre el proyecto de Plasco. Por ejemplo, yo he estado en por lo menos 3 reuniones este año, en las cuales Beatriz de Plasco hizo presentaciones sobre el proyecto. En cada una, dice algo diferente. Antes, Plasco decia que no habran chimeneas. Pero ahora dice que si. He oído a Beatriz decir dentro de sus presentaciones, que las chimeneas no son peligrosas, porque emiten "aire purificado" que es buena para la comunidad. Pero esto no es la verdad – oí que el estudio inicial que fue distribuido a las reuniones del 22 y 28 de febrero de 2012, reconoció que el proyecto producirá emisiones toxicas. Quando hice preguntas sobre lo que decia, Beatriz se molestaba. Una vez ella nos acusó de la intimidar, porque la hacemos preguntas! Asi que ella siempre dice mentiras. A nosotros hispanohablantes, se nos hace más dificil saber la verdad y combatir las mentiras, porque la Autoridad no nos da la información en español, aunque hemos pedidos los documentos muchas veces. Por ejemplo, si el estudio inicial fuera en español, los hispanohablantes poderian leerlo y saberian más, y entenderán las mentiras que Beatriz dice. Pero mis compañeros bilingues me dicen que aun la información en ingles de la Autoridad muchas veces no es consistente o correcto.

8. Nosotros tenemos mucho estres y preocupación a causa de todo esto. No nos confiamos que la Autoridad nos dirá la verdad sobre los riesgos de salud del proyecto. Fuimos chocados que la Autoridad pidió al gobernador que apoye el proyecto, antes que el informe de impacto medioambiental sea completado. Y fuimos chocados que han surgido correos electronicos que demuestra que la Autoridad y Plasco colaboraron en muchas cosas.

9. Tener que intentar siempre de conseguir información sobre el proyecto, informar a otra gente, y mobilizar para protestar las mentiras y injusticias, nos cuesta mucho tiempo y energia. Y como latinos y Latinas, nos sentimos muy lastimos por la discriminación en contra de nosotros. Tambien todo esto nos ha costado dinero. Por ejemplo, para enviar (b) (6) Privacy [redacted]. Somos una organizacion pequeña voluntaria, y nuestro presupuesto es

menos que $1500.00, asi que trabajar sobre el proyecto Plasco, nos previene de hacer otras cosas.

10. Tambien nos molesta que la Autoridad ha llamado a los miembros de Asamblea "promotores locales de Greenaction", porque somos una organización independiente. Piensan que no podemos pensar y actuar por nosotros mismos?

Firmado en Gonzales, California el

(b) (6) Privacy

8-16-12

Fecha

ANNEX A.3

Declaration of (b) (6) Privacy

[redacted] declare under the penalty of perjury under the laws of the State of rnia and the United States that the following is true and correct:

(b) (6) Privacy [redacted].

I went to the scoping sessions held by Salinas Valley Solid Waste Authority on February 22 and 28, 2012. I went because I was upset about the way that SVSWA had been behaving in pushing the Plasco project. I think that SVSWA is in collusion with Plasco, that they hide the truth about the safety of plasma arc technology, issue misleading information, and that they have done things that discriminate against Latinos in order to reduce community participation.

I arrived early to the February 22 scoping meeting to protest that the meeting was still being held even though SVSWA received several requests to cancel it from the Gonzales community. We requested cancellation of the scoping meeting since SVSWA's Spanish-language notice did not including one of the scoping session dates, the documents to be discussed had not been translated into Spanish, and the fact that the February 22 scoping meeting was scheduled for Ash Wednesday, all of which reduced community participation. I know that were at least about 7 or 8 persons at the protest, out of approximately 60 persons at the protest, that could not stay for the meeting because they had to go to church. I feel these things were deliberately done to limit public participation of the Latino residents of Gonzales since most of them are Catholic.

Once inside I went to sign up to speak, and the sign in sheet was at a table where Plasco had the proposed project information, brochures, and Initial Report. The Initial Report was only in English, and I saw that most of the people coming in were monolingual Spanish-speakers or who speak Spanish primarily. I could not understand how they were supposed to comment on the project without first being able to understand the nature of what Plasco is planning to build in Gonzales.

I saw people grabbing translation headsets that were provided by SVSWA, but I noticed that Patrick Matthews and the transcriptionist, who don't speak Spanish, were not wearing headsets, and I wondered if they even planned to hear or record the Spanish speakers comments. By the time I sat down I noticed a woman sharing a headset with her daughter, trying to hear out of one earphone. When I suggested they get another headset, the woman told me that they had run out. Then I saw a small child playing with a headset, so I asked his mother if we could give it to the woman or her daughter and she told me that that headset was broken.

Running out of headsets was a huge problem that SVSWA refused to deal with as they kept pushing the meeting forward, even though they knew most of the people there could not understand or participate without the headsets. Even people that were bilingual, but who were not fluent in English, needed the headsets since the

information discussed was unfamiliar to them or very technical.

7. At the start of the meeting, one of the community leaders, (b) (6) Privacy, requested again that the meeting be cancelled since now a lot of Spanish speakers wouldn't even be able to understand in English. We were told by the facilitator, who was very short with the residents, that the meeting would continue ahead as scheduled, but that verbal translation would be provided, so everyone could hear even without the headsets.

8. But then they didn't translate except through the headsets, and finally the majority of the residents present, a lot of who didn't even know what was being said in English, got up and started to leave in protest.

9. I didn't leave because I wanted to know what else they would be said at the meeting. When I was called, I refused to make my comments on the project as a form of protest, but I really wanted to bring up the misleading information that SVSWA had been putting out about the project.

10. For example, at the first "public meeting" on March 8, 2011, the SVSWA said the Plasco plant would have no stacks, but when I met with Susan Warner from SVSWA late last year, I believe in October 2011, she finally told me there would be two stacks. Also, SVSWA keeps saying that this plant will generate 1 mg of power per ton of garbage, but the data from the Plasco facility in Canada regarding the actual "energy" that it produced does not match SVSWA's claims. When I confronted Susan that the information given to the public is totally misleading and the numbers are way off, she said something about how with all technology, there are adjustments and changes all the time, which didn't really address the fact that the figures given were misleading and that SVSWA has done nothing to make sure people understand what is really being proposed to be built in Gonzales.

11. I'm also mad about this project, because I think they are monitoring, and trying to pressure and intimidate community leaders to get it passed. For example, during an SVSWA meeting, I found out that Kristina Wyatt from Plasco had (b) (6) Privacy [redacted].

12. I got the feeling that Kristina was monitoring me as well when, following the same SVSWA meeting, we got into a heated argument because she was trying to pressure me to meet with Plasco's Senior V.P., Alisdair McLean (b) (6) Privacy [redacted] and she accused me of being unfair to Plasco because I oppose the project. I reminded her that the Chamber has extended Plasco the same benefits as all other Chamber members and I asked her not to confuse my personal position on Plasco with my volunteer position as (b) (6) Privacy [redacted] She then mentioned something that I had just communicated to a contact via the Chamber's e-mail. It struck me, and shocked

me. I remember going home wondering how she would know that. I switched to my personal e-mail for Plasco communications after that.

13. At the next meeting, on February 28, 2012, SVSWA arranged for consecutive translation into Spanish and English. Still this meeting was not without controversy. I made my comments at the meeting, including questioning the accuracy of the numbers that SVSWA and Plasco were giving about the amount of garbage that would be diverted. I had to correct the translator about this, because the translation was not correct. I also noticed the translation of most of the Spanish-speakers' comments were not translated correctly; the meaning was lost in the translation.

14. Also, the same facilitator was present and was ruder to the Gonzales residents than at the first meeting. She kept giving us vocal members of the Gonzales community the evil eye. She was particularly confrontational with one resident, (b) (6) Privacy, who was trying to translate his own comments into both English and Spanish. She kept refusing to let him translate even though Naomi Onaga, who commented earlier that evening had translated her own comments into both languages. She is not a Gonzales resident and she is not Latina. This was also after about four other residents complained that the translations were inaccurate!

15. I feel like SVSWA didn't give the residents enough time to comment, after they took 20 minutes to do presentations, they only wanted to give us three minutes to speak, even though there were a lot of people at that second meeting that couldn't speak at the first meeting. So they were rushing us instead. A lot of people were frustrated and upset that the meeting took so long and wanted to comment at a third meeting that was promised at the February 22nd meeting. But when asked when the third promised meeting would take place, the moderator said that there wouldn't be one.

Executed in Gonzales, California

(b) (6) Privacy

7-18-12

Date

ANNEX A.4

Declaration of (b) (6) Privacy

[redacted] declare under the penalty of perjury under the laws of the State of California that the following is true and correct:

1. (b) (6) Privacy [redacted],

2. I went to the "Scoping Meetings" held by Salinas Valley Solid Waste Authority on February 22, and February 28, 2012 about their proposed Plasco project at the Johnson Canyon Landfill in Gonzales, CA. I attended because I wanted to comment that I did not like the idea of having another waste facility placed close to my home because I was worried about the dangers of this type of technology.

3. More than 120 persons were there at the beginning of the February 22, 2012 meeting, most of them Gonzales' residents. Every seat was filled, and some people were standing on the aisles or sitting on the bleachers off to the side.

4. Most of the public at the meeting were Latinos, and some only spoke Spanish.

5. The SVSWA said they would have translation at the meetings, but they didn't have enough translation headsets for all the people there, and some of the headsets they gave out didn't even work. A lot of people that wanted headsets did not get one, so they couldn't understand the presentations that were all in English. Because the information was so complicated, unless you spoke English well, you needed the headset to understand. So even people that can converse in English still wanted headsets.

6. I saw that Patrick Matthews, the director of the SVSWA, was there when there were still headsets available, but he did not take one. The transcriptionist did not take a headset either, and I don't think either of them speaks Spanish. This really upset me because how were they going to understand the comments that were made in Spanish without a headset?

7. Before the meeting began, I witnessed (b) (6) Privacy [redacted] Asamblea, stand up and address SVSWA organizers to demand that the meeting be cancelled because a lot of people that wanted to participate would not be able to understand without a translation headset, because of defective notice of the meeting given to Spanish speakers, the documents were not translated into Spanish, and because the meeting was held on Ash Wednesday.

8. I heard Mr. Matthews say he was sorry for running out of headsets and offered to hold a third meeting for the people who couldn't understand. Also the facilitator said that the translator would translate consecutively so that

the people that did not have a translation headset could understand.

9. When the meeting finally started, they did not do the consecutive translation into Spanish, so the people without headsets could not understand. An elderly lady sitting next to me kept asking me what they were saying because she could not understand them in English.

10. When we complained that they were not translating like they promised, they told us they would not translate because it was going to take too long.

11. Then most of the residents got so mad that they left to protest, but I stayed at the meeting to see what happened. I had filled out a "speaker card" to comment, but I was so angry that when I got called to speak I did not make my prepared comments and instead stated that I refused to comment because the meeting was being conducted illegally, without translation.

12. I don't think any translation was made from Spanish to English and I don't think any person made comments in Spanish.

13. At the February 28, 2012 meeting, SVSWA did not try to give us headsets. Instead, they had a person translate into Spanish what was being said into English right after it was said. The same person translated the comments of Spanish speakers into English.

14. I remember at least 3 people who said during the middle of their comments that the translation was not accurate. I specifically remember that when [redacted] was complaining that the translator was not translating what he was saying correctly, the SVSWA moderator was trying to get him to stop talking as he was trying to translate his comments himself. I thought that she was trying to intimidate him.

15. I am furious that the SVSWA didn't care that the Latinos couldn't understand what was said in English when there was no translation, that they translated our comments in Spanish wrong, and that they didn't care to hear what we had to say. That is why I filed the civil rights lawsuit.

Executed at Gonzales, California on

(b) (6) Privacy [redacted]

8/7/12

Date

ANNEX A.5

ENGLISH TRANSLATION OF
Declaration of (b) (6) Privacy

[redacted] declare under the penalty of perjury under the laws of the State of rnia that the following is true and correct:

(b) (6) Privacy [redacted]

I attended both of the public meetings held by Salinas Valley Solid Waste Authority on February 22, 2012 and February 28, 2012 because I had concerns about the safety of the new technology of a gasification plant that Plasco is proposing to build near my home in Gonzales.

I participated in a protest held before the February 22nd meeting because I did not think that the meeting should be held on the holy day of Ash Wednesday since a lot of people that wanted to go to the meeting, could not because they would have to go to church.

I understand almost no English, and my native tongue is Spanish. So when I entered into the meeting area, I took one of the translation headphones that SVSWA made available. I noticed soon after that the headphones ran out that a lot of people that needed them didn't get one. The majority of the people present were Latinos who spoke Spanish, some of whom only speak Spanish.

The residents began to complain that without the headphones they would not be able to understand, and asked again that the meeting be cancelled, especially now that many people could not participate. The moderator kept telling the residents to stop talking because it was not the time for comments, and over their objections, insisted that the meeting would go forward as planned. She said the discussion would be translated from English to Spanish and vice versa.

I saw people trying to share headsets with others that did not have headsets, but you could tell that they could not hear well. We grew even more impatient when Patrick Matthew's presentation, which was in English and was not translated into Spanish for those without headsets. When they tried to move on to the next presenter, and without consecutive translation, I told my neighbors that we should leave since without translation we would not be able to understand, and therefore we were not going to participate in the meeting nor comment on it.

At that moment, about 90% of the people in attendance and I left in protest, frustrated by what was evidently a process that was completely controlled and predetermined by the Authority, designed to exclude the participation of the Latino residents of Gonzales.

The moderator was very rude to the Latinos. It was obvious that she was not acting

impartially and that she was on Authority's side, since she kept trying to continue with the meeting even though we Latinos did not understand. She also kept hurrying us, telling us there was no time for translation.

9. At the February 28th meeting, the Authority provided an interpreter for English and Spanish. We made our comments in Spanish through a microphone while the interpreter translated them into English. Several people that understood both languages stated that she was not translating them correctly.

10. I remember that (b) (6) Privacy tried to translate his own comments from English into Spanish and the same moderator from the February 22nd meeting got confrontational and told him that he could not translate his own comments because that's why there was an interpreter. The moderator was very rude, and kept telling him to shut up.

11. What bothered me the most was that the moderator prohibited (b) (6) Privacy from translating his own comments, but she let a woman, who was not Latina but who also complained the translation was not true to what was said in Spanish, translate her own comments into English and Spanish.

12. I also didn't like the number of police that were present at the meeting. It was as if the Authority expected us to cause trouble when all we wanted to do was to be able to understand and participate in the process. This seemed like a tactic of intimidation.

13. All of this infuriated me because it shows that the Authority was conducting these meetings without rhyme or reason, making and changing the rules of the process they created as they pleased, and discriminating against whom they chose. It is for all these reasons that I joined other residents to file a complaint against the Authority for violating the rights of the Latinos of Gonzales.

Executed in Gonzales, California on

[Handwritten: 07-10-12]

Date

[Signature]

Signature

(b) (6) Privacy

Print Name

CERTIFICATION OF TRANSLATOR

I, Beatriz E. Collazo, declare under penalty of perjury that I am competent to translate from Spanish into English, and that the foregoing is a true and complete translation of the original document.

Executed in San Francisco, CA

Beatriz E. Collazo

8/10/2012
Date

Declaración de (b) (6) Privacy

[redacted] declaro bajo penalidad de perjurio bajo las leyes del estado de California y los Estados Unidos que lo que sigue es verdadero y correcto:

1. (b) (6) Privacy [redacted],

2. Yo fuí a ambas reuniones públicas que auspició la Autoridad de Desperdicios Sólidos de Salinas Valley, en el 22 y el 28 de Febrero del 2012, porque tenía dudas acerca de la seguridad de la nueva tecnología de la planta de gasificación que Placo propone construír al lado de mi hogar en Gonzales.

3. Yo participé en la protesta que hubo antes de la reunión del 22 de Febrero demandando que cancelaran la reunión porque no pensé que debían tenerla en el día santo de Miércoles de Ceniza, ya que muchas personas que querían asistir a la reunión no pudieron ir porque les confligía con su responsabilidad de ir a la iglesia.

4. Yo casi no endiendo Inglés y mi idioma principal es el Español. Así que cuando entré al area de la reunión, tomé uno de los audífonos de traducción que la Autoridad había echo disponibles. Al rato me dí cuenta que se habían acabado los audífonos y que muchas personas que los necesitaban, no pudieron tomar uno. La majoría de las personas presentes en la reunión eran Latinos que hablan Español, algunos de los cuales sólo hablan Español.

5. Los residentes se empezaron a quejar de que sin audífonos no podrían entender y pidieron de nuevo que se cancelara la reunión ya que mucha gente no podría participar. La moderadora le segía diciendo a la gente que dejaran de hablar porque ese no era el tiempo para comentarios, y sobre las objeciones de los residentes, insistió en que iba a seguir la reunión en pie. Ella dijo que la discusión sería traducida de Inglés a Español y vice versa.

6. Ví gente tratando de compartir sus audífonos con otros que no tenían, pero se veía que no podían oír bien. Nos seguimos impacientando, y más despues de la presentación de Patrick Matthews, que fué en Inglés y no fué traducida al Español para los que no tenían audífonos. Cuando trataron de seguir con el próximo presentador, y sin traducción consecutiva, le dije a mis vecinos que nos fueramos, ya que sin traducción no los íbamos a entender y por ende no íbamos a poder participar en la reunión ni comentar sobre ella.

7. En ese momento, como el 90% de los que estábamos presentes nos fuimos en protesta, frustrados por lo que evidentemente era un proceso completamente controlado y predeterminado por la Autoridad, diseñado para excluír la participación de los residentes Latinos de Gonzales.

8. La moderadora fué muy grocera con los Latinos. Era muy obvio que ella no era imparcial y que estaba del lado de la Autoridad, ya que continuamente trató de seguir con la reunion aunque no entendieran los Latinos. También se pasó apurándonos, diciendo que no había tiempo para las traducciones.

9. En la reunión del 28 de Febrero, la Autoridad proveyó una interprete para Inglés y Español. Hicimos los comentarios en Español por un micrófono mientras la intérprete los traducía al Inglés. Varias personas que en tendían ambos idiomas dijeron que ella no estaba traduciendo correctamente.

10. Recuerdo que (b) (6) Privacy trató de traducer sus propios comentarios de Inglés a Español y la misma moderadora de la reunión del 22 de Febrero, se le cuadró y le dijo que él mismo no podia traducer sus comentarios y que para eso estaba traductor . Lamoderadora fué muy grocera y lo seguía mandando a callar.

11. Lo másque me molestó es que la modera dora le prohibió al (b) (6) Privacy que tradujera sus propios comentarios, pero ella dejó a una dama, que no era Latina pero que también se quejó que la traducción no era leal a lo dicho en Español, tradujera sus propios comentarios a Inglés y a Español.

12. También me estuvo malo la cantidad de policía que estaba presente. Era comosila Autoridad esperaba que nosotros fuéramos a causar problemas cuando lo único que queríamos era poder entender y participar en el proceso. Eso parecía táctica de intimidación.

13. Todoesto me enfureció por que demuestra que la Autoridad estaba conduciendo esas reuniones sin ton ni son, haciendo y cambiando las reglas como les parecía, y discriminando en contra a quien les parecía. Por todas estas razones es que me unícon otros residents para poner una que rella en contra de la Autoridad por violar los derechos de los Latinos de Gonzales.

Ejecutado enGonzales, California en el

07-10-12
Fecha

(b) (6) Privacy

ANNEX A-6

Declaration of (b) (6) Privacy [redacted]

[redacted] declare under the penalty of perjury under the laws of the of California and the United States that the following is true and correct:

(b) (6) Privacy [redacted]

I have been a resident of Gonzales since 1960, back when we had good drinking water and when we didn't have to worry about toxic chemicals being released into our air and water.

I am very involved in my community and I go to all the public hearings, sessions, and meetings that I hear about that discuss things that affect Gonzales. So I was present at both of the Scoping Meetings held by the Salinas Valley Solid Waste Authority on February 22, 2012 and February 28, 2012 to comment on the proposed Plasco waste plant that they want to build a few miles away from my home.

I was upset that they were trying to place the Plasco project in Gonzales since we are already have a landfill that is taking all the trash from surrounding areas. Also, I am really worried about the health effects that this Plasco plant can have on our resident's health. I worry about the women and their babies, and that the pollution we allow to come into Gonzales can cause them cancer and birth defects. I worry for all the people that like me can't afford to move somewhere else to get away from the health risks of having all that trash nearby, contaminating our water and our air.

I wanted the February 22nd meeting cancelled or re-scheduled because it was scheduled for Ash Wednesday. I am retired so I went to church that morning, but most of Gonzales residents work and had to go to the evening service, and I didn't think it was right that they had to choose between church and their civic duty. I think they did this on purpose to not have people there to give their comments or objections.

I only found out about the meetings through my neighbors and other community residents. Once we complained that people didn't know about the meetings, the SVSWA started advertising it. I thought it was really important that people knew about SVSWA's plans, so I told everyone and brought a lot of people to the meeting, most of them Spanish-speaking who don't understand English well.

At the February 22 meeting, SVSWA did not have enough translation headsets for all the people that needed one. When I got there they were all taken! We complained because the people that came with me, and a lot of other Gonzales residents, would not understand the presentations if they

didn't get translation. But SVSWA did not want to cancel and said the meeting would go on no matter what.

8. Then they began the presentations in English with no translation for the people without headsets. I was really getting mad because a lot of Latinos, people that made the time to come, couldn't understand what was being said and it was important that they knew what SVSWA wanted to put near their homes.

9. I think that SVSWA didn't care that the Latinos, the majority of the people present, couldn't understand, so people started to walk out in protest. I walked out too since the people I brought couldn't understand. I was mad and frustrated because I got people to come and be involved because this project would affect them, and then the SVSWA didn't let them participate. I felt bad for the Latinos that couldn't understand and I was embarrassed that I made them come for that.

10. Because I left the February 22 meeting, I didn't comment like I had planned.

11. I also attended the February 28 meeting. They had translation at this meeting that everyone could hear, without headsets. There was a lot more opposition to the project at this meeting now that the Spanish speakers could understand and comment. I didn't comment at this meeting either because other residents voiced my concerns and because I didn't think that my comments would be recorded properly since I heard a lot of people complain that their comments were not being translated correctly.

Executed in Gonzales, California

(b) (6) Privacy

[redacted]

08-08-2012
Date

ANNEX B

Transcripts of Scoping Meetings

ANNEX B.1 TRANSCRIPT OF FEB 22, 2012 SCOPING MEETING

PLASCO SALINAS VALLEY PROJECT
ENVIRONMENTAL IMPACT REPORT
PUBLIC EIR SCOPING MEETING

DATE: Wednesday, February 22, 2012
TIME: 6:35 P.M.
PLACE: 501 Fifth Street
Gonzales, California 93926
REPORTER: Lisa R. Maker
CSR License No. 7531

TRI-COUNTY COURT REPORTING
343 Cayuga Street
Salinas, California 93901
(831) 757-6789

PUBLIC SPEAKERS

PAGE
(b) (6) Privacy
40
BRADLEY ANGEL 43
(b) (6) Priv
60

APPEARANCES

CANDACE INGRAM, Facilitator.
PATRICK MATHEWS, General Manager and SUSAN WARNER, DIVERSION MANAGER for SALINAS VALLEY SOLID WASTE AUTHORITY.
PAUL MILLER, Senior Project Manager, ESA, CENTRAL VALLEY/SIERRA REGION.
MARTA GRANADOS, Certified Spanish Interpreter for FAST SERVICES.

-oOo-

GONZALES, CALIFORNIA FEBRUARY 22, 2012
6:35 P.M.

PROCEEDINGS

MS. INGRAM: Thank you very much for coming this evening. My name is Candice Ingram, and I am the facilitator for tonight's meeting.

Is everyone ready? Thank you. I'm working with a group that is preparing a written review and a report about the proposed Plasco project. The report will be a document called an Environmental Impact Report, also called an EIR that will be available for everyone to review.

The purpose of the EIR is to provide written information so that everyone in the public and the Authority, the Salinas Valley Solid Waste Authority, can look at the information and have information about any potential effect that the proposed Plasco, Plasma Arc Gasification project may have on the environment.

The purpose of tonight's meeting is to hear public comments about what is called the Scope of the Environmental Review, as well as any comments about project alternatives that might be included in an environmental review of the proposed project.

At this meeting that we would like to have your

1 comments about what you think needs to be reviewed in
2 the Environmental Impact Report. The purpose of this
3 meeting tonight is not the place to talk about whether
4 you like or don't like the project. The purpose of
5 tonight's meeting is to get public comments about what
6 needs to be in the Environmental Impact Report, what
7 needs to be reviewed in that report.
8 For example, you might want to know whether
9 anything about the proposed project might affect health,
10 or you might want to know how much traffic there might
11 be. That's the kind of comment that we need to hear
12 this evening. But, again, to say I like it or I don't
13 like it does not have anything to do with the
14 Environmental Impact Report.
15 The EIR, the Environmental Impact Report, is
16 required to be prepared by state law and it's under the
17 law in California called California Environmental
18 Equality Act or also called CEQA. The purpose of the
19 EIR is to provide information for the public and those
20 who will be making the decisions about the potential
21 environmental impacts of a proposed project.
22 It is important to know that an EIR must be
23 prepared before any decisions are made about whether to
24 approve or not approve the project being proposed by
25 Plasco. Doing an EIR provides information and is

1 required by law. It does not make a decision about
2 whether to approve the project. That decision will be
3 up to the Salinas Valley Solid Waste Authority Board of
4 Directors at sometime in the future.
5 Pardon me? Am I doing all right? Thank you.
6 Tonight's meeting -- tonight's meeting will
7 start with some comments by the Salinas Valley Solid
8 Waste Authority. And then the firm that is writing the
9 report will also make some comments. We will then spend
10 most of our time together tonight listening to comments
11 from you, from the public, about what you would like to
12 see included in the EIR.
13 We are taping this meeting and we also have a
14 person taking notes to help assure that all the comments
15 are noted. Because this is not our facility and because
16 the school staff does need to get in and clean this
17 building, our meeting needs to end tonight by
18 9:00 o'clock. We need to be out of this room by
19 9:00 o'clock. There is another meeting scheduled next
20 Tuesday night, the same thing that is going on tonight.
21 So if someone doesn't get to speak tonight, please come
22 again next week. But we hope that we will get through
23 all the comments tonight.
24 There are several informational materials that
25 are available this evening. They're located on the

1 table --
2 UNKNOWN FEMALE SPEAKER: Excuse me, this
3 meeting needs to be canceled right now. You don't have
4 enough -- enough headphone sets for all of your
5 Spanish-speaking people here.
6 MS. INGRAM: Is there anyone this evening.
7 (Whereupon Spanish is being spoken.)
8 UNKNOWN MALE SPEAKER: English-speakers need
9 it, too. Like, does your Board have headsets?
10 MS. INGRAM: We have them.
11 Ladies and gentlemen. Ladies and gentlemen,
12 thank you very much. We have a translator here. I know
13 that each of us can help one another. If someone needs
14 help in understanding --
15 UNKNOWN FEMALE SPEAKER: They're supposed to
16 provide interpretation.
17 MS. INGRAM: We have a translator --
18 UNKNOWN FEMALE SPEAKER: You don't have enough
19 headphones for everybody here.
20 MS. INGRAM: Okay. I'm going to go ahead with
21 the meeting. I noted your objection.
22 UNKNOWN FEMALE SPEAKER: Excuse me. How can
23 they participate in the process?
24 MS. INGRAM: I would like to ask you -- I would
25 like you to ask anyone understanding either in English

1 or in Spanish. There are informational materials --
2 UNKNOWN MALE SPEAKER: You can't do this. They
3 are --
4 MS. INGRAM: They are located -- so you can
5 translate for the others. Can you translate?
6 UNKNOWN FEMALE SPEAKER: Okay.
7 MS. INGRAM: Thank you.
8 UNKNOWN FEMALE SPEAKER: I have a question
9 Patrick Mathews.
10 MS. INGRAM: I'm sorry. We're not doing that
11 right now.
12 UNKNOWN FEMALE SPEAKER: You're coming here to
13 expect this is a meeting and the truth in it.
14 MR. MATHEWS: You want me to make my comments,
15 no.
16 MS. INGRAM: We are giving Marta the
17 opportunity right now to explain to the people in the
18 room what is going to be said. Thank you very much.
19 (Whereupon a lot of yelling going on.)
20 MS. INGRAM: Ladies and gentlemen, ladies and
21 gentlemen. Please give Marta the opportunity.
22 THE REPORTER: I don't take it down in Spanish
23 either, I don't understand Spanish so --
24 MS. INGRAM: Okay. Marta, will you please do
25 two things: One is, if a Spanish speaker says

1 something, would you please tell people who speak
2 English what the speaker said. And if someone speaks
3 English, would you please tell the Spanish speaker what
4 they say. Thank you.
5 THE INTERPRETER: The lady who is by the
6 microphone right now wants a few minutes to say a few
7 words. And she started by saying that there are four
8 reasons why this meeting cannot take place. And that's
9 where we left off.
10 MS. INGRAM: Okay. I appreciate that you want
11 to do that; not at this point in time. We have received
12 a letter which outlines or has stated the reasons why
13 you believe that this meeting should not take place, so
14 that has already been noted.
15 UNKNOWN FEMALE SPEAKER: Everyone needs to know
16 that. She needs to say in both.
17 MS. INGRAM: Thank you. Thank you very much.
18 UNKNOWN FEMALE SPEAKER: And she needs to
19 interpret with both languages.
20 MS. INGRAM: We have already received a
21 letter --
22 UNKNOWN FEMALE SPEAKER: She didn't voice the
23 objection in both languages. I'm so sorry, but that's a
24 fact.
25 UNKNOWN FEMALE SPEAKER: She needs to do both

1 languages, English and Spanish.
2 MS. INGRAM: Thank you very much.
3 THE INTERPRETER: Keep reminding me if we don't
4 do it in both languages.
5 UNKNOWN FEMALE SPEAKER: All I want to do is
6 give my reasons and I would like you to -- for you to
7 listen to my reasons. One of the reasons is there are
8 not enough headsets for the translation from English to
9 Spanish and Spanish to English. We feel there's a
10 discrimination because the report is not written in
11 Spanish when we have a Spanish-speaking community here.
12 Also, today is a day that is celebrated by many
13 people because it is Ash Wednesday and many people are
14 in church and could not attend this meeting. And if you
15 want this information to be admitted by everyone, then
16 the entire community should be invited. That is the
17 reason that we would like this meeting to be canceled.
18 And the meeting was also -- and the meeting was also not
19 in Spanish. And one of the meetings was -- one of the
20 meeting dates was omitted.
21 And just as you want us to hear your
22 information, we also want you to hear how we feel.
23 My name is Maria Perea, President of the
24 Gonzales Assembly. Gracias.
25 MS. INGRAM: Thank you.

1 (b) (6): I'd like to ask Mr. Mathews if he
2 speaks Spanish.
3 MS. INGRAM: Thank you for your question but
4 we're going to move on with the meeting.
5 (b) (6): Do you speak Spanish,
6 Mr. Mathews? Because if you don't speak Spanish, I
7 suggest that you put on a headset.
8 MR. ANGEL: He can't because there's no
9 headsets.
10 MS. INGRAM: Thank you very much.
11 MR. ANGEL: Excuse me, my name is Bradley Angel
12 and I'd like to know how you are going to -- excuse
13 me -- I would like to know how you're going to proceed
14 without enough headsets for the community.
15 MS. INGRAM: There will be another meeting next
16 Tuesday.
17 MR. ANGEL: No, no. You cannot legally do
18 that.
19 MS. INGRAM: We have -- we have Marta here who
20 can translate from Spanish and English.
21 MR. ANGEL: So in other words, even less people
22 will get to speak tonight?
23 MS. INGRAM: If we keep talking now and not
24 moving on --
25 MR. ANGEL: No, but if you even did this

1 right -- no, no. We have to do it. So you're saying,
2 just for the record, I want to be real clear, because I
3 assure you we're going to sue.
4 So just to be clear, the Salinas Valley Solid
5 Waste Authority is going to proceed with the meeting
6 where most people are mono-lingual Spanish-speaking
7 without enough headsets for the people to understand,
8 and it appears that several people are sitting in front
9 to take the testimony also do not have headsets.
10 Just to be clear, because that is something
11 called racial discrimination.
12 MS. INGRAM: Thank you for your comments.
13 MR. ANGEL: And it's illegal under state and
14 federal law.
15 MS. INGRAM: Thank you for your comments.
16 We're going to proceed.
17 Ladies and gentlemen, let's extend some
18 courtesy to one another.
19 (b) (6) That would include headsets for
20 the community.
21 MS. INGRAM: So going back to tonight's
22 meeting, there is material at the back of the room, you
23 are more than welcome to take copies of that material.
24 There is a card that you can fill out if you would like
25 to speak tonight or like to be added to receive

1 information in the future. There is also a card
2 available --
3 UNKNOWN MALE SPEAKER: Excuse me -- excuse
4 me -- Does she understand Spanish?
5 MS. INGRAM: There is -- thank you.
6 UNKNOWN MALE SPEAKER: Is she recording
7 everything in Spanish?
8 MS. INGRAM: Let's extend courtesy and we are
9 going to proceed.
10 UNKNOWN MALE SPEAKER: Does she understand,
11 answer the question?
12 UNKNOWN FEMALE SPEAKER: The courtesy should be
13 to what people are saying.
14 MS. INGRAM: The reporter is recording
15 everybody verbally and through the reporter here it will
16 be translated. It will be understood in both Spanish
17 and English.
18 UNKNOWN MALE SPEAKER: How is she going to
19 translate if she doesn't understand --
20 MS. INGRAM: They are cards available so that
21 you can submit written comments if you chose to.
22 (b) (6) How does she transcribe if she
23 doesn't speak Spanish?
24 MS. INGRAM: Ladies and gentlemen.
25 UNKNOWN MALE SPEAKER: How is she going to

1 transcribe the hearing?
2 MS. INGRAM: Ladies and gentlemen, please,
3 let's extend a courtesy to one another at this time.
4 UNKNOWN FEMALE SPEAKER: But this is very
5 important.
6 UNKNOWN FEMALE SPEAKER: It needs to be
7 cancelled.
8 MS. INGRAM: There is also cards available so
9 you can submit written comments instead of speaking
10 tonight. Those comments need to be in by March 7th.
11 And if you think of comments you'd like to make after
12 tonight's meeting, you can certainly use those cards to
13 submit those comments or you can simply send a letter or
14 the note to the authority with your comments.
15 UNKNOWN MALE SPEAKER: Can you explain how the
16 transcript will reflect Spanish-speaking testimony?
17 MS. INGRAM: We will be courtesy to one
18 another --
19 (b) (6) You are not answering the
20 question.
21 MS. INGRAM: We also have comments to other
22 documents about the environmental review process. The
23 first is called The Notes of Preparation. The second is
24 called an initial study that provides additional
25 information about what is currently expected to be

1 reviewed in the Environmental Impact Report. Again, you
2 are more than welcome to take any of these materials
3 with you.
4 Plasco, which is the company that is proposing
5 the project, will not be making a presentation this
6 evening. There are materials available from Plasco and
7 there are people from Plasco, which is the applicant.
8 They -- if you wish to speak to them after the meeting,
9 they are located in the back of the room.
10 The purpose of this meeting is for you, the
11 public, to have an opportunity to present comments about
12 what you would like to have reviewed in the EIR. Your
13 comments can be spoken and they can also be in writing.
14 If you wish to speak tonight, it can help move things
15 more quickly if you would fill out a card, a yellow
16 card. That would also help us spell people's names
17 correctly.
18 If you prefer not to speak tonight, but want to
19 make comments, there are comment cards available on the
20 table and you can simply mail them to the Salinas Valley
21 Solid Waste Authority. Those comments will then be
22 given to the EIR consultants who are preparing the
23 Environmental Impact Report. Again, please be courtesy
24 to other people by listening and by not interrupting
25 speakers or presenters.

1 Anyone who wants a chance to speak will have an
2 opportunity to do so. Please limit your comments to
3 three minutes so that everyone has an opportunity to
4 speak. Again, you can speak this evening or you can
5 submit your written comments to the Authority. You can
6 use the comments to submit -- I'm sorry -- you can use
7 the cards to submit your comments or you can write a
8 letter.
9 I'd like to now introduce two people who will
10 provide a little bit of information before we begin the
11 public comments. The first is Patrick Mathews. He is
12 the general manager of the Salinas Valley Solid Waste
13 Authority, and I'd also like to present Paul Miller, who
14 is the lead consultant from the firm called ESA, that is
15 preparing the Environmental Impact Report.
16 Each of -- both Mr. Mathews and Mr. Miller have
17 a short presentation and we will start with Mr. Mathews.
18 MR. MATHEWS: Well, first off, I would like to
19 apologize for us not having enough headsets, it was not
20 our intention. We went out and purchased our own sets.
21 Please, we need to have respect tonight. I understand
22 this is difficult for people and we're all a little
23 strained over the whole process.
24 But, again, I'd like to say, if necessary, we
25 will hold a third meeting if we don't get everybody's

1 voice heard. Our intent is not to exclude anybody, not
2 to downplay anybody's voice or comments. Those are very
3 important. This is a process that involves the entire
4 community.
5 This is not the Authority's project. This is
6 not Plasco's project, this is a community project. So
7 with that, I'm going to start with the help -- I'm going
8 to start with a just a few simple words. This is what
9 we deal with every day. We deal with garbage, the
10 garbage that all of us, everyone in this room throws
11 away in the community, and while we do an excellent job
12 of recycling, we have the highest recycling rate as a
13 community in Monterey County.
14 We still have to deal with tens, if not
15 hundreds of thousands of tons of garbage every day that
16 goes to the landfill. That has to go somewhere. It has
17 to go to a landfill. And we manage our garage in our
18 community as a responsible community should be doing and
19 not sending our garbage to someone else.
20 Next slide, please.
21 Tonight the proposed project is very simple.
22 We're looking very diligently, and we have been for
23 many, many years at alternatives. Is there a better way
24 for us to deal with the garbage, the tens of thousands
25 of tons of garbage that we throw away every single day

1 that we can't recycle? And the answer is: We have
2 looked long and hard at many, many projects, but
3 tonight, the one we're specifically looking at is the
4 Plasco Plasma Arc Gasification System.
5 Quite simply, this is a process that takes
6 garbage, heats it up to a very high heat, it does not
7 burn it, it heats it in a closed environment to create
8 fuel. That fuel can then be used in a common electrical
9 generating equipment to make electricity. In addition
10 to that, the project also produces other by-products
11 that can be used such as aggregates for construction and
12 concrete manufacturing, produces clean water that is
13 recovered out of the garbage, sulfurs, salts, among
14 other things that are recovered through this process.
15 This process, along with all the other programs
16 that are run by the authority throughout the Salinas
17 Valley will hopefully eventually end our dependence on
18 landfills.
19 Next slide, please.
20 So as I said earlier, this community, we are
21 doing an excellent job. We are at the high-end of the
22 recycling levels across the State of California. But we
23 still have 28 percent of the garbage that we create in
24 this community that has to go to a landfill. There's
25 got to be a better way.

1 Right now the authority owns four landfills.
2 Three of those landfills have now been closed and we
3 have to spend, by state law, three million dollars a
4 year to cover the cost of just managing and maintaining
5 closed landfills for a minimum 30 years.
6 We have another landfill, Johnson Canyon, the
7 one we're talking about tonight, that also will
8 eventually be closed and will require hundreds of
9 thousands if millions of dollars to close it and
10 maintain for decades.
11 So what drives the Authority to look at these
12 alternatives is simply landfills are not a long-term
13 solution for all the garbage that all of us, every one
14 in this room, throws away every single day. We have to
15 find something that -- next slide, please.
16 So we refer to these types of projects. Across
17 the country they're referred to as conversion
18 technologies. What that means are a process. A plant
19 that can take garbage and convert it into something else
20 useful instead of just burying it in a very large
21 expensive hole for eternity. That garbage at Johnson
22 Canyon, the garbage at the Marina landfill in Marina,
23 that garbage will be there for hundreds and thousands of
24 years. It just will not go away. It will be there.
25 We've lost that land. It can never be put back into

1 production. It has very little value going forward, and
2 that's the reason why we look at these technologies.
3 So what can these technologies bring? Well,
4 we'll find out in the CEQA process so we have a clear
5 understanding what they can do.
6 One is obviously less trash to landfills.
7 These are referred to as Clean Technologies. People may
8 not agree with that, but by state law, they are
9 considered to be technologies that provide new jobs.
10 Far more jobs than burying garbage in landfills.
11 Recycling and a project like this can create
12 more jobs. It can also attract other technologies.
13 Industries that want to move into green technology are
14 attracted to communities that have a green imagine. So
15 these have the potential benefit. I say "potential,"
16 because, again, studies we're talking about tonight will
17 answer all of our questions, ours as well as yours.
18 Also increases the need for local supplies and
19 services. Whenever there is a big production or big
20 plant that's built for whatever the reason may be, the
21 benefit to the community is much larger than what we all
22 realize, because the workers there buy food. The plant
23 operators buy supplies and services. So we look at
24 these projects not just as an alternative to landfill
25 but also as a possible economic benefit for the

1 community. We wouldn't look at them if they didn't have
2 those benefits.
3 And, of course, this specific project can
4 produce electricity, which as you know, our national
5 level is a very big topic that we're talking about, how
6 to produce our own energy and not rely on imported oil
7 from other countries. And, of course, this project has
8 a particular, along with other projects, that are also
9 designed to recover materials that are in the garbage
10 that still have value.
11 And then finally, I think, really the most
12 important reason for this EIR is to answer the question:
13 Is this technology, is Plasco's proposal or any proposal
14 that we may look at in the future, does this project
15 impact our community, our health and our environment, in
16 a greater way than the community landfill does? That is
17 really the very simple question we need to answer.
18 And to do that, we need to have factual
19 information. We need to have a document that gives us
20 all of those answers. And as I've said, I'll stay here
21 for all of you here for the benefit you haven't heard me
22 say this before, very simply, if this project shows that
23 it creates more impact to the environment, to our
24 community, and poses dangers, we will not do it.
25 But we need this document to help us make that

1 So we're trying to look out for your best
2 interest to find another way to do it. I'll tell you
3 again, right here, if this doesn't pan out, if this
4 project shows that it can have detrimental effects to
5 the community, we're not going to do it. But we're not
6 going to make that decision until we have an
7 environmental document that answers all of our
8 questions, all of your questions, all of the elected
9 officials questions are involved in the process.
10 Next slide, please.
11 I'll just go over these last two slides
12 quickly. I do want to leave as much time as possible
13 for the public comment. But just to let you know, this
14 process has been going on with the Authority for well
15 over five years. We hold our meetings here in the City
16 of Gonzales. We don't typically hold them anyplace
17 else. Occasionally in Salinas. But most of our
18 meetings are here.
19 We've been discussing these alternatives to
20 landfills for well over five years. So this isn't a
21 simple decision that's made on the fly. This was a
22 decision that was made after long, long deliberation, a
23 lot of study and a lot of engineering review of all of
24 the different types of technologies that exist out
25 there.

1 decision. We're not going to make it on emotion. We're
2 not going to make it on supposition. We're going to
3 make it based on facts.
4 And what we need from you tonight, what we're
5 asking for all of you to do tonight, is to step up and
6 say what you're concerned about that we need to study to
7 make sure we address those concerns. And if we can't
8 address them in the document, the ESA can't find a
9 resolution to an impact that people are concerned about,
10 the project won't go forward.
11 We'll continue landfilling until there's
12 another alternative that comes down the line that offers
13 a better solution.
14 But this is, in our opinion right now, the best
15 option we have to look at today. There may be something
16 new tomorrow, but today, this is, in our opinion,
17 something that is worth looking at as a community. And
18 when I say that, I'm saying we're looking at this as a
19 community. This isn't the Authority telling you we're
20 going to do this and we're going to shove it down your
21 throat. We have a landfill up there that we would all
22 like to see closed, that we'd like to see the end of
23 garbage. But until all of us collectively figure out
24 how to not produce trash, someone has to deal with that
25 trash. And, unfortunately, that's us.

1 We've looked at various technologies, including
2 the Plasco technology. Our elected officials have
3 visited some of these plants, talked to community
4 members, people that live in the community, as well as
5 officials that work in those communities to find out are
6 they acceptable.
7 And, again, the answer we received during those
8 visits to communities that have projects like this in
9 them is that they have been accepted and they have been
10 able to work within the environmental regulations that
11 are created or demanded by communities where those
12 projects are. And we'll demand nothing less from Plasco
13 if this project was successful.
14 They have to comply with very strict standards
15 and very strict regulations.
16 Slide, please.
17 And then finally, my closing slide is just
18 simply to say: One of the things that we have been
19 working on for many, many years now is to look at the
20 Johnson Canyon facility, not as a future landfill, but
21 as a future resource recovery operation. That means
22 affiliate that is designed around recovering materials
23 out of the waste stream that we can reuse. We currently
24 do composting or work with our adjacent partners in
25 composting projects.

1 We work on food waste processing with the
2 fertilizer company across the street from the landfill.
3 We do a lot of recycling and recovery at the landfill
4 base, things that don't make it into the recycling
5 system. But our contract operator for the landfill will
6 go in and remove items that show up in the landfill
7 before they're buried.
8 So there's already an active process going up
9 there to help keep garbage out of the landfill that
10 people don't recycle or that haven't taken advantage of
11 all the programs.
12 But the goal of the management part is to
13 simply continue to grow on that process, to make this a
14 very green community, to increase the amount of
15 materials we recycle and really to expand the operation
16 to include as many private partners from this area and
17 abroad that we can. And there are a number of companies
18 that we work with right here in the Salinas Valley that
19 are part of our system.
20 So with that, I'm going to turn this over to
21 Mr. Miller to give you a little overview of the CEQA
22 process. And, again, I want to apologize for not having
23 enough headsets. Like I said, we did go out and
24 purchase our own set of 50. We didn't realize there
25 would be that many people, and we promise at the next

1 meeting on the 28th we have additional sets available if
2 there are meetings beyond the 50 that we brought. And,
3 if necessary, we will hold a third meeting to make sure
4 that we hear everybody's voice.
5 But I want to encourage all of you, whether you
6 speak tonight or not, follow the process, participate,
7 and don't hesitate to send in your comments or call our
8 office if you have questions. We're here to help you.
9 We're here to educate you. We're here to make sure that
10 the process is open and transparent as we possibly can.
11 Mr. Miller. Thank you.
12 MR. MILLER: Okay. Thank you.
13 Paul Miller with the Environmental Science
14 Associates, or ESA. Our company has been preparing --
15 we're a California-based company. We've been preparing
16 EIRs in California for about 40 years now. We have
17 approximately 300 people on staff that look at air
18 quality, water quality, all of the issues that go into
19 the environmental impact reports to make sure we do the
20 best job on this project.
21 We've also added a couple other sub-consultant
22 firms, ESC Planning from Monterey, and also SCS
23 Engineers, which are experts in all sorts of topics
24 related to landfill gas analysis.
25 So those groups will be helping us preparing

1 the EIR. The project location is two-and-a-half miles
2 northeast of Gonzales.
3 Next slide. Shown here. Next slide.
4 [redacted] (b) (6) Excuse me. She asked me to keep
5 her on task, so I'm going to do that. And that is that,
6 Patrick Mathews spoke. There's a lot of people here
7 that don't have any headsets that -- and it wasn't
8 interpreted and now you're going through a set of slides
9 and you're switching slides.
10 Again, there are a lot of people in the
11 audience that only speak Spanish and they're just
12 watching you speak and slides are going through but they
13 have no opportunity -- it's not being translated as was
14 promised. So I'll take a step back and it kind of needs
15 to go back to Mr. Mathews.
16 MS. INGRAM: Excuse me one minute.
17 UNKNOWN MALE SPEAKER: You're taking too much
18 time.
19 MS. INGRAM: So I apologize to anyone this
20 evening that does not have a headphone set, that means
21 the headphone set. We have many people in this room
22 this evening. We are going forward with the meeting.
23 We will have another meeting next week.
24 UNKNOWN MALE SPEAKER: This is illegal.
25 MS. INGRAM: And we will have a third meeting,

1 if we need to do that.
2 UNKNOWN MALE SPEAKER: This is illegal.
3 UNKNOWN FEMALE SPEAKER: They can't understand
4 you're apologizing because they don't have headsets.
5 UNKNOWN MALE SPEAKER: Illegal. You're
6 breaking the law.
7 UNKNOWN MALE SPEAKER: Keep going. You're
8 breaking the law.
9 MR. MILLER: Okay. This next slide.
10 MS. INGRAM: Excuse me one minute. I would
11 like to ask Marta to please translate for anyone who
12 does not have a headset when I just spoke. But then we
13 will go forward with the meeting as we're doing right
14 now.
15 MR. MILLER: Topographic material, these
16 materials are in the initial study and we're presenting
17 them today. The landfill is northeast of the city as
18 shown in the red outline there on the finger.
19 Next slide.
20 The key parts of the project description,
21 Patrick Mathews went through that very well was that is
22 the term, "the garbage," the garbage that is not
23 recycled into a gas that can be used to create
24 electricity and also co-products that can help with the
25 materials. This is the picture of a facility that is

1 built in Ottawa, Canada, and the project is the --
2 UNKNOWN FEMALE SPEAKER: People are leaving
3 because they can't understand what Mr. Mathews said.
4 What is the purpose of them being here?
5 MR. MATHEWS: It pertains to --
6 MS. INGRAM: Excuse me --
7 UNKNOWN MALE SPEAKER: This is a joke.
8 MS. INGRAM: --[redacted], would you please let
9 people know we will have another meeting next Tuesday
10 and we will also schedule an additional meeting if we
11 need.
12 UNKNOWN MALE SPEAKER: You have to give proper
13 notice. Start all over again.
14 UNKNOWN FEMALE SPEAKER: I understand. But you
15 don't seem to understand these people work. They make
16 it a point to come to this meeting and next week they
17 might have to go late. I'm sorry.
18 MS. INGRAM: Thank you. And I hope we see you
19 next week at the meeting.
20 MR. MILLER: As I was saying before I was
21 interrupted by the other speakers, we have the Plasco
22 facility, which has been operated as a commercial scale
23 facility, desecration facility in Ottawa and they have
24 now been permitted as a commercial facility to begin
25 operations in Ottawa.

1 Next slide.
2 Also it's part of the initial study flow chart
3 translated into English and Spanish, are the parts of
4 the process where we have recycled materials coming in
5 through their converter. This is converted into
6 residual materials and also gas. The gas is clean.
7 It's not an incineration project. It's a gas plasma --
8 arc gasification.
9 The plasma arc portion of the project is to
10 clean up the gas so that the electricity is a cleaner
11 form of electricity.
12 MS. INGRAM: Excuse me. Ladies and gentlemen,
13 if are you leaving the meeting, please do so quietly so
14 that other people who are in the room can hear the
15 information. We'll wait one minute so that those who
16 need to leave can do so.
17 MR. ANGEL: People are leaving -- excuse me --
18 people are leaving not because -- people are not
19 leaving -- my name is -- my name is Bradley Angel.
20 MS. INGRAM: It is not the time to comment
21 to --
22 MR. ANGEL: No, people are not leaving because
23 they have to. They are leaving because you've insulted
24 them. They do not understand the proceedings. They
25 were not given equal notice. The transcriber, and it's

1 nothing personal at all, she's doing her job.
2 MS. INGRAM: This is not the --
3 MR. ANGEL: This whole thing is inappropriate.
4 For the record --
5 MS. INGRAM: Mr. Angel, this is not the
6 appropriate time.
7 MR. ANGEL: Don't tell me what is appropriate.
8 The community just got up and walked out.
9 MS. INGRAM: Stop it, please.
10 MR. ANGEL: No, I'm not going to stop. I want
11 this in the transcript. No, I'm not and --
12 MS. INGRAM: There will be a chance --
13 UNKNOWN FEMALE SPEAKER: This is part of the
14 record.
15 MR. ANGEL: There's no chance with -- this is
16 part of the record, I want to make sure --
17 MS. INGRAM: Please --
18 MR. ANGEL: -- I am -- that the transcriber --
19 MS. INGRAM: Please, be courteous.
20 MR. ANGEL: -- it is acknowledged in the record
21 that the transcriber is not able to understand any
22 Spanish testimony.
23 MS. INGRAM: Thank you for your comment. There
24 are --
25 MR. ANGEL: I also want to point out that

1 Mr. Mathews' comments were not translated for the many
2 people who did not have headsets.
3 MS. INGRAM: Mr. Angel, we are moving on,
4 please --
5 MR. ANGEL: Lastly, I need to point out that
6 Spanish speakers were given half the notice of English
7 speakers and that is racism.
8 MS. INGRAM: Stop. Stop. Thank you for your
9 comments.
10 Paul Miller, back to you. You might want to go
11 back in a minute where --
12 UNKNOWN FEMALE SPEAKER: Can you translate what
13 he just said?
14 MR. MILLER: Let's go to the next slide. The
15 next slide.
16 And now, the facility layout has been
17 identified on the project site, which is in the initial
18 study. It's also on the board in the back of the room
19 so you can see where the site would be at the facility.
20 The next slide.
21 Drainage plan is also translated in Spanish for
22 the people who want to look at the drainage plant. Back
23 there we also have Bill available to help create that
24 drainage plant on the side.
25 Next slide.

1 Other key things about the project description
2 that you may want to know or that the project will take
3 approximately 18 months for the construction to occur.
4 The project will be proposed to operate over a 20-year
5 period and it could potentially operate for 30 years.
6 Next slide.
7 The purpose of the CEQA, which is the state law
8 is so that public agencies will identify -- can identify
9 the significant environmental impact, other projects,
10 and to mitigate those significant effects wherever is
11 feasible to do so.
12 Next slide.
13 Other purposes and objectives of CEQA are
14 required to public agencies to inform the
15 decision-makers and the public about the potential
16 significant environmental effects and proposed
17 activities to identify ways to reduce the environmental
18 damage. To prevent environmental damage by requiring
19 implementation of feasible alternatives or mitigation
20 measures, and to disclose to the public the reasons for
21 agencies' approval if they have approval of a project
22 with significant effects.
23 The reason to have EIR is when there's
24 substantial evidence, there could be significant effects
25 in the initial study that we did for this project,

1 identifies those potential effects and that's why the
2 project is going forward with an environmental impact to
3 review those effects in detail.
4 Next slide.
5 Right now we're all in the scoping process at
6 the very beginning of the process to get comments from
7 the public at this meeting. We're also having agency
8 meetings to get comments. Then there will be a draft
9 EIR that is prepared that will be released to the public
10 for a 45-day review period. That will be followed by a
11 final EIR, the response to public comments.
12 Next slide.
13 The scoping process, we're here, the notice of
14 preparation was put out February 7th. There is a 30-day
15 comment period which ends March 7th. And your comments,
16 we can receive those tonight or next week or we can
17 receive written comments up until March 7th.
18 Next slide.
19 The environmental -- the initial study
20 determined that the EIR would look at the following
21 topics. Aesthetics, greenhouse gases, biology; they're
22 all listed here and there's more detail in the initial
23 study about those topics.
24 The purpose of the meeting is to give the
25 agency the opportunity to get input of the public and

1 government agencies, that's why we're here tonight. The
2 comments we'd like to hear are potential effects that
3 you want to make sure are covered in the document.
4 Mitigation measures that you think are
5 appropriate for this type of a project. And
6 alternatives that you free are appropriate as an
7 alternative to the Plasco project.
8 As a comment, this is also outlined in the
9 initial study. Verbal comments tonight, we have got a
10 court reporter taking the comments. Comment cards to,
11 letters are on the back table. And we have a sign-in
12 list if you want to be notified of future meetings.
13 Then, there will be a draft EIR 45-day comment
14 period. A future public hearing will cover the draft
15 EIR and also the final EIR, so there will be other
16 meetings to comment on the project. Comments are due by
17 March 7th. This slide shows you where to mail those
18 comments. They can also be faxed or sent by E-mail.
19 And at this time -- next slide. Next slide.
20 And now it's time for the public comments.
21 These are the items that you would like to make sure are
22 addressed in the Environmental Impact Report. We've got
23 several speaker cards up here already that will help us
24 order to give comments tonight. There's a limit of
25 three minutes per speaker. And the minutes cannot be

1 allocated to other speakers. We would like to have
2 everybody to have the opportunity to speak tonight as
3 possible.
4 With that, I'll turn it back to Candice.
5 MS. INGRAM: Thank you. Okay.
6 You are not required to fill out a speaker
7 card, but it would help us to move through the comments
8 if you do wish to fill one out. And if you do have a
9 card that you've not yet given to me and would you like
10 to do that, that would be fine to do it now.
11 I'm going to call the names of the speakers
12 that I have on the cards available right now so that we
13 can keep the meeting moving. When it's your turn to
14 speak, please come to the microphone right here. If you
15 want to provide your name and address, that's fine.
16 It's not required. It simply helps us assure that we
17 have the correct name for the speaker.
18 When you speak, please tell us what you would
19 like to have addressed in the Environmental Impact
20 Report. Thank you. And this is just a quick reminder
21 that this meeting is really not the place to discuss
22 whether you like the project or you don't like the
23 project.
24 Opportunity for you to express that opinion can
25 be made in writing, if you'd like, or there will be

other meetings where you'll have an opportunity to say that. But what we need to know tonight is what do you think needs to be included in the Environmental Impact Report, what information needs to be included.

The first speaker that I have is (b) (6) Privacy.

(b) (6) Privacy Good evening, my name is (b) (6) Privacy. Buenos noches, mi nombre es (b) (6) Privacy.

I'm CEO for the Monterey/Santa Cruz building construction trades council representing 17 building construction trades unions, with 22 affiliates in the Monterey Bay area. We represent approximately 3,600 members that work within the Monterey Bay area.

We're here this evening in support of the process. We have concerns. We will write a letter, but our main concerns are in regards to the people, the families of the Salinas Valley community, especially the children. We don't want any effects beyond standards set by the state or regional bodies which would effect the people of our community. We're also concerned with the tremendous resources within the Valley.

The agricultural resources, we want to be sure that there are no detrimental effects on land, water, or air that would have significant impacts. And, again, we want those within the standards of the state of regional

bodies. We're especially concerned about traffic, dust control or so. And last but not least, we know that environmental impact reports are specifically a lot of times for environmental reasons, but there are -- there is an area in a report where economic effects can be studied.

I don't know if that's actually a statement of overriding considerations at the end of the EIR. But, again, we'll get you a letter on that. And we look at this as an excellent opportunity for our region, the jobs being provided and such. We want quality jobs for the people. We want jobs with decent wages, benefits. People can have good working conditions and grievance procedures and such.

So, again, this has a great amount of potential, but without doing this EIR, we'll never know whether this project can come to fruition or not. So, again, we're here in support of the process. We do have concerns. I've expressed some of those this evening. We'll write a letter.

Thank you very much.

MS. INGRAM: Thank you for your comment.

The next speaker, Ms. Onaga, Naomi Onaga. The next speaker, Naomi Onaga.

The next speaker, (b) (6) Privacy.

(b) (6) Privacy She walked out, so did Naomi.

MS. INGRAM: Thank you.

Next speaker -- thank you -- (b) (6) Privacy.

(b) (6) Privacy She also left in protest.

MS. INGRAM: Thank you.

The next speaker (b) (6) Privacy.

(b) (6) Privacy: I had prepared comments for this evening, but seeing as this meeting was being conducted illegally, I refuse to comment.

MS. INGRAM: Thank you.

Next speaker (b) (6).

(b) (6) I believe he walked out in protest.

MS. INGRAM: Thank you.

Next speaker (b) (6) Privacy (b) (6) Privacy?

Next speaker --

(b) (6) Privacy: She left in protest.

MS. INGRAM: Next speaker (b) (6) Privacy (phonetic).

UNKNOWN FEMALE SPEAKER: She left.

MS. BONETTI: She left in protest as well.

MS. INGRAM: Thank you.

(b) (6) Privacy.

(b) (6) Privacy Good evening. I will also reserve

my comment for another occasion, and being that most of our audience here left tonight in protest. Thank you.

MS. INGRAM: Thank you.

(b) (6) Privacy

Left in protest.

MS. INGRAM: Thank you.

(b) (6) Privacy

My name is (b) (6) Privacy and I have lived here in Gonzales for 50 years. And I'm going to go ahead and say what I wanted to originally say because the first speaker did not follow your direction and he did not specify about what he wanted in the Environmental Impact Report, and he gave his personal concerns and for his company concerns and employee concerns and he thought it was a great plan.

So I'm going to go ahead and speak and he was not interrupted. So I'm going to go ahead and say what I intended to say along with my questions for the Environmental Impact Report.

My first concern is -- or my question that I would like included in the EI -- Environmental Impact Report -- is how many emission violations did Plasco have in their plants in Canada and what percentage and frequency of emissions violations did Plasco violate? How many violations did they have? I want to know

1 specifically.
2 I think we need to know about what chemicals
3 were violated; and was it air, was it water, was it
4 solid matter? What specifically are the violations and
5 in detail.
6 I also would like to know -- I was told -- I
7 went to the boards over here to the left and was -- was
8 shown -- I was shown this picture, the picture of the
9 landfill that I picked up the pamphlet, and I was told
10 that natural landfill emits gases. And so it's
11 already -- in other words, gases are already being
12 emitted.
13 I would like to know -- I would like a
14 percentage comparison as to gas -- oh, no, that sign
15 wasn't held up with your first speaker.
16 MS. INGRAM: Yes, it was.
17 (b) (6) Privacy It was? Okay. I would like a
18 percentage, I would like to know how much -- how much
19 percentage of gasage or tonnage or whatever it is
20 classify by as compared to this gas emission machine
21 that's coming.
22 I would also like to know -- we're talking
23 about tens of hundreds of thousands of pounds of garbage
24 according to the man from the Solid Waste Authority and
25 that's a quote that I give and I think it's time for

1 another area of the Valley to take on -- we've done our
2 part. We've had our landfill -- if our landfill is
3 almost full at capacity, it's time for another area in
4 the Valley to take their turn and build another
5 landfill.
6 Or deal my -- another thing that I --
7 alternative, you wanted an alternative; recycling. I
8 would like to have more included in recycling.
9 MS. INGRAM: Can you finish your summary?
10 (b) (6) Privacy Sure, I can finish. Even though
11 the previous first man was not asked to finish. I would
12 also like to say that we all know that matter turns to
13 matter. It does not disappear. So whatever matter that
14 is put into that plant is going to be emitted and it's
15 not going to disappear.
16 And, in my opinion, nothing is okay. We need
17 to just put this issue to rest.
18 MS. INGRAM: Thank you for your comments.
19 The next speaker that I have listed, I
20 believe -- I -- I'm sorry -- I cannot read the
21 handwriting very well. I believe it may be a (b) (6) Privacy
22 (b) (6) Privacy, perhaps.
23 (b) (6) Privacy Oh, she left in protest.
24 MS. INGRAM: Okay. (b) (6) .
25 (b) (6) Privacy.

1 UNKNOWN FEMALE SPEAKER: He left in protest.
2 MS. INGRAM: (b) (6) Privacy.
3 (b) (6) Privacy I believe she left in protest as
4 well.
5 MS. INGRAM: Thank you.
6 (b) (6) Privacy.
7 UNKNOWN FEMALE SPEAKER: He left in protest.
8 MS. INGRAM: Roberta Camacho.
9 (b) (6) Privacy Oh, she left in protest as well.
10 MS. INGRAM: I'm not sure, is it
11 (b) (6) Privacy ?
12 UNKNOWN FEMALE SPEAKER: He left.
13 (b) (6) Privacy Also left in protest.
14 MS. INGRAM: Bradley Angel.
15 MR. ANGEL: My name is Bradley Angel, I'm the
16 executive director of the Green Action for Health and
17 Environmental Justice. I'm here on behalf of
18 constituents in Gonzales and the Salinas Valley. I
19 refuse to submit any testimony tonight in this mockery
20 of a scoping meeting. The notice was illegal. The
21 notice was discriminatory. You're violating the rules
22 that you've made up as you've gone along tonight. This
23 is just the latest insult of a pattern and practice of
24 trying to push this project through on the people of
25 Gonzales by systematically excluding them from the

1 process. And you're not going to get away with it.
2 MS. INGRAM: Thank you for your comment.
3 The next speaker, (b) (6) Privacy.
4 (b) (6) Privacy Left in protest.
5 MS. INGRAM: (b) (6) (phonetic).
6 (b) (6) Privacy Also left in protest.
7 MS. INGRAM: (b) (6) Privacy (phonetic).
8 (b) (6) Privacy Yeah, she walked out in protest
9 as well.
10 MS. INGRAM: (b) (6) Privacy .
11 UNKNOWN FEMALE SPEAKER: He walked out in
12 protest.
13 (b) (6) Privacy He walked out in protest.
14 MS. INGRAM: (b) (6) Privacy (phonetic).
15 UNKNOWN FEMALE SPEAKER: She left in protest.
16 (b) (6) Privacy She walked out in protest as
17 well.
18 MS. INGRAM: (b) (6) Privacy (phonetic).
19 UNKNOWN FEMALE SPEAKER: She walked out.
20 (b) (6) Privacy I'm pretty sure -- yeah, she
21 walked out protesting as well.
22 MS. INGRAM: (b) (6) Privacy .
23 (b) (6) Privacy Also walked out in protest.
24 MS. INGRAM: Thank you.
25 (b) (6) Privacy .

1 UNKNOWN FEMALE SPEAKER: Walked out.
2 (b) (6) Privacy: Walked out in protest.
3 MS. INGRAM: (b) (6) Privacy.
4 (b) (6) Privacy walked out in protest.
5 MS. INGRAM: Thank you.
6 (b) (6) Privacy.
7 (b) (6) Privacy Walked out in protest.
8 MS. INGRAM: (b) (6) Privacy.
[redacted], grew up in Gonzales.
10 (b) (6) Privacy. One question I wanted to ask is, Santa
11 Clara County is bringing 80 percent of their trash into
12 Gonzales and Gonzales only has 5 percent of the trash
13 coming to Gonzales. I want to know if the dump's going
14 to expand more and if Santa Clara is still going to be
15 bringing trash over here. And if the Solid Waste
16 Authority is still going to be bringing in other cities
17 or other counties.
18 Too, I'd like to know about the fire
19 department. If the fire department is going to be
20 upgraded and who's going to handle a mishap that goes on
21 up there if there is a going to be a fire explosion up
22 there.
23 And another question: Jobs. I want to make
24 sure Plasco told us that it was going to be 35 permanent
25 jobs and I believe 86 jobs to build the facility. So --

1 and after the facility is built, they said the 89 jobs
2 or 86 jobs is going to be gone. It's going to leave 35
3 jobs. So I just want to make sure they get the correct
4 numbers right on there.
5 Because -- because they had a consultant come
6 in and said there was going to be over a thousand jobs
7 that were going to be coming in and they weren't true
8 facts, they were based on another city.
9 Too, I'd like to know about the incinerator, if
10 it's going to -- about the environmental impacts, is it
11 going to contaminate our fields, our lettuce or produce?
12 And I'd like to know why Los Angeles, Sacramento,
13 Alameda, San Jose, Santa Cruz Counties turned down the
14 same type of facilities.
15 I guess that's all I got.
16 UNKNOWN FEMALE SPEAKER: I think Antioch, too.
17 And Pittsburg.
18 (b) (6) Privacy Oh, and Antioch, too. And
19 Pittsburg.
20 MS. INGRAM: Thank you for your comments.
21 Next speaker, (b) (6).
22 (b) (6) Walked out in protest.
23 MS. INGRAM: (b) (6) Privacy.
24 (b) (6) Privacy walked out in protest.
25 MS. INGRAM: Thank you.

1 (b) (6) Privacy
[redacted]
[redacted] also walked out in
4 protest.
5 MS. INGRAM: (b) (6) Privacy.
[redacted] My name is (b) (6) Privacy and I
7 have been participating in coming to these meetings for,
8 I think, going on for three years now. And from the
9 onset, I've noticed that there has been a lack of
10 transparency for the public. And Mr. Mathews earlier
11 stated that these meetings have been held and they've
12 been holding meetings in Gonzales.
13 I've attended meetings and there has been a
14 failure to properly post on the agenda the purpose of
15 the meeting. There have been acronyms used. And, for
16 example, there was a presentation given by the three --
17 at that point, they were the three companies that were
18 being looked at. Erbisor was one of them. Plasco was
19 one of them. Yet, it wasn't even properly agendized
20 that that's what was going to be happening in that
21 particular meeting.
22 So how can the public be expected to partake in
23 the process if they're -- if they're not even aware of
24 what's happening in their own community.
25 Mr. Mathews, you stated that this was a

1 community project. For the residence, as you can see,
2 the majority of the community that was able to make it
3 here tonight has walked out on you because you also said
4 you didn't want to exclude anybody -- those were your
5 words -- from their ability to -- to participate, yet
6 you, yourself, admit that you didn't make enough of an
7 effort to supply headsets when you know full and well
8 the majority of the community here is Spanish-speaking
9 and you know that they have protested.
10 You have repeatedly stated out in the meeting
11 and to the community, that their -- that the majority --
12 there really aren't too many people that are against
13 this project. Yet, the agricultural community has come
14 out against this project. A viable alternative is the
15 Marina landfill. Another viable alternative is
16 recycling, reuse compost. I've been to and attended
17 Marina meetings and they, themself, have -- they did a
18 collective laugh when it was brought up that the Solid
19 Waste Authority was looking at bringing in a -- an
20 incinerary into this Valley.
21 Now, I think it's important that you ask the
22 question and you look at the impact that releasing these
23 nano-toxins, these heavy metals into the environmental,
24 which it was stated earlier by a local farmer that was
25 below -- the way the Marina air comes in, things that go

1 up into the environment because, you know, you're
2 talking about a -- about coming away from a landfill
3 where you're burying garbage.
4 But now you're talking about putting it into
5 the atmosphere. So it becomes a landfill in the sky, as
6 opposed to one where you're burying it. And I don't
7 know how that gets away from the problem.
8 Now, it's been stated by Plasco that there is
9 zero emissions. It's been stated, falsely stated zero
10 emissions that they would take tons of garbage, bring it
11 into this facility, heat them, burn them, turn it into
12 electricity, yet that would be asking us to believe that
13 they somehow have created their own black hole where you
14 take all of these tons of garbage into this facility and
15 it goes no where. Are -- do you seriously expect that
16 the residence of this community, the landowners, the
17 business, you know, that we're that ignorant to believe
18 that you're going to be taking -- heating, turning it
19 into carbon monoxide and that it's not going anywhere.
20 It's not going to impact the schools around here, which
21 are in very close proximity. There are houses out there
22 in the community. There is cattle.
23 So I ask the question of you to seriously look
24 at and I would like to know the envir- -- not only the
25 environmental impact, but the economic impact that that

1 After they left -- again, after they left, they took the
2 Superfund. The Superfund from the Environmental Impact
3 Report, the Superfund to clean up the mess they made.
4 The water was -- all the water underground was
5 contaminated. Where they used to dumb over there in
6 Crazy Canyon or Crazy Horse Canyon dump, there was a
7 family by the name of Plesue (phonetic). That family
8 suffered the consequences from the stuff that the
9 Firestone Company was throwing there. They got cancer.
10 They got everything. That is my thing that the safety
11 of this community, the safety of our agriculture, that
12 is my question.
13 Also, I know what it is to go through this --
14 what toxic waste can do. I'm a victim of it. Not
15 through a company or whatever, but in the military. I
16 have diabetes and I got cancer and I'm practically not
17 doing too well.
18 But that is my concern. It's not for me, it's
19 for the future of our kids, for the future of this
20 community and for everything. So I'm just asking,
21 please do a quality Environmental Impact Report. Don't
22 BS us.
23 Thank you.
24 MS. INGRAM: Thank you for your comments.
25 (b) (6) Privacy How many projects has your company

1 will have on the effect of cattle, on livestock, on the
2 agriculture, on the water, on the environment and on
3 anybody's here ability to sell their product or be able
4 to even sell their home in the future or bring anyone
5 else.
6 And who is going to deal with the health
7 problems that result in this community from birth
8 defects, from an affected community where basically you
9 want to dump garbage and now burn it.
10 Thank you.
11 MS. INGRAM: Thank you. Thank you very much.
12 Next speaker (b) (6) Privacy.
13 UNKNOWN FEMALE SPEAKER: She left.
14 MS. INGRAM: (b) (6) Privacy
[redacted] My name is -- excuse me --
16 (b) (6) Privacy, I've been in Gonzales since 1954. My main
17 question is: How neutral is -- are the people that are
18 doing the environmental report? Are they going to be
19 bias, or whatever? Are they going to be straight?
20 Because I worked for a company, Firestone Tire and
21 Rubber Company, which is now about four miles south of
22 Abbott Street. It closed down in 1980.
23 They came down with the same thing of economic,
24 safety, and the whole works. In 1980 they closed. They
25 opened up in 1962. I worked there 15 years until 1980.

1 turned down? That's my question.
2 (b) (6) Privacy I'm sorry. I missed --
3 (b) (6) Privacy How many projects have they turned
4 down? They have said no too.
5 MS. INGRAM: Thank you.
6 Next speaker, is it (b) (6) Privacy
[redacted] She left in protest.
8 MS. INGRAM: (b) (6) Privacy
[redacted] She also left in protest.
10 MS. INGRAM: (b) (6) Privacy
[redacted] Oh, you're here. She came back.
12 (b) (6) Privacy I'm really sorry for that the
13 Spanish-speaking people are not present. Our main
14 concern here for the people of Gonzales is they felt
15 that they were being brought about by this project.
16 There is so many information that we have been provided,
17 this project is one that can seriously cause illness or
18 will effect the health of this community.
19 And I have been attended several meetings and
20 all the information that has been given to us by Plasco
21 has been the same information over and over. What I
22 would like to get is information that is clear since I
23 understand that this project has been refused in other
24 communities.
25 And I would like to ask the Authority, that you

1 take into consideration that Gonzales is a peaceful
2 town, that we're a town that accepts people who come to
3 us and all we want is that our children's health be
4 protected, and the health of the community, also the
5 senior citizens. Because I understand that in the
6 future, it may effect other people by causing cancers,
7 by even illnesses because I know the smoke that's coming
8 out of this plant will stay here and will effect those
9 of us who live here in Gonzales.
10 I'm one of several that will be participating
11 in a survey that will take place in Gonzales. And then
12 the result of the survey will be given to our
13 politicians at this decision and this is a -- what we're
14 going to be stating, that we are against this project
15 because we have certain fears. Gracias.
16 MS. INGRAM: No --
17 (b) (6) Privacy Well, since my time is limited, I
18 will provide more information later on. I feel our
19 community is lacking a lot of information. Because
20 since we'll be participating in the agenda, I do not
21 believe they will be in agreement with this project.
22 And all this information that we will be
23 collecting will be taken to our politicians at this
24 time. Gracias.
25 MS. INGRAM: Thank you very much.

1 Next speaker is, (b) (6) Privacy
[redacted] I've
3 a long history here in Gonzales, a number of generations
4 going back before the turn of the Century, and I'm
5 talking about the 1800s and directly related to the
6 local dumps here in the Salinas Valley; i.e., the
7 garbage coming out of Gonzales back in the day when they
8 used to put it along the Salinas river. My grandfather,
9 turn of the Century after coming back from World War I,
10 was working there dealing with dump and the garbage
11 coming from the local residence.
12 (b) (6) Privacy [redacted]
[redacted] Prior to that, he was a constable here
15 and he had the keys to the dump and he was monitoring
16 and operating the dump at certain hours for people in
17 the community to come and dump stuff. And so there are
18 a lot of local folks. They learned the hard way about
19 recycling during the depression days, so allowed for
20 community people to come in and do some salvage work and
21 take things out and fix things and then give it away to
22 local community people that were in need. Such as at
23 Christmas time, the fire department guys got together
24 and did gifts and stuff for the more needy communities.
25 And I just have a lot of ideas about what you guys can

1 do and try to do better and I know it's about what do we
2 want to reflect on this EIR.
3 MS. INGRAM: Correct.
4 (b) (6) Privacy I would like to see what -- what
5 you can come up with, what if you dissolve the Salinas
6 Valley Solid Waste Authority, do a study on that, and
7 put it together with the landfill in Marina and do
8 something together, that should be part of the study
9 right off the bat.
10 UNKNOWN FEMALE SPEAKER: We can't hear you.
11 What is your last point?
12 (b) (6) Privacy You can't hear me?
13 UNKNOWN FEMALE SPEAKER: No.
14 (b) (6) Privacy Is this off?
15 UNKNOWN FEMALE SPEAKER: The last point.
16 (b) (6) Privacy The last point -- okay. The
17 last point, I would like to see this Solid Waste
18 Authority join up with the Marina landfill and see what
19 the impact of that could be for the larger community.
20 Mr. Mathews said how our community and our community and
21 made it sound really nice and I got inspired by his
22 thinking behind there and what he meant. I was hoping
23 he would mean to say. But still, when we hear that
24 garbage is coming from other cities, other
25 municipalities, it's no longer ours. It belongs to

1 other communities and they're finding a way to dump it.
2 Now, I know financially a business such as the
3 Solid Waste Authority or anybody else whether it be
4 McDonald's or anybody, has challenges on how to stay
5 alive financially, which means you have to find a way to
6 make your money. And if the landfills get filled up, I
7 understand we had three now we only got one, if they
8 fill out then you're out of business.
9 So this is a great way to stay in business, to
10 keep downsizing a product to a point where you can keep
11 then keep bringing in profit. That profit comes from
12 other cities not from Gonzales. If we had to deal with
13 our garbage such as our ancestors did hundreds of years
14 ago today, we would not be having those problems,
15 because we recycled a lot stuff.
16 I see you guys all have plastic sitting in
17 front of you, those bottles, and I see commercials on TV
18 how those things go around the world a number of time.
19 We have so much problem with the education that we
20 ourself cause the problem for -- and folks of that
21 background I would say that maybe we have a gallon here,
22 maybe everybody in the community can have a drink of
23 water instead of everybody having to have plastic.
24 I think it's one of the biggest things in your
25 face that I get, but your challenge that you're having

1 with our community, with this community in particular,
2 Gonzales is that we're known as the salad bowl of the
3 world. We don't want to be known as the garbage center
4 of the world, the garbage capitol of the world.
5 And we don't want that name to change and this
6 will happen with the centralized garbage dump.
7 MS. INGRAM: Thank you.
8 (b) (6) Privacy Everything is being said
9 regarding to toxicity and possible contamination to our
10 environment. It's all real. People here live it every
11 day. What are we going to do with the emergency
12 response teams, who is going to be trained to do that.
13 Is the fire department going to do that? I know our
14 local volunteers have a good heart but are they trained.
15 MS. INGRAM: Thank you.
16 MR. MARTINEZ: And I can go on and on and I
17 know you're trying to get me off the microphone. A lot
18 of people who were here who did want to say something
19 aren't here, so I'm hoping in their absence maybe you'll
20 allow me a few more comments because --
21 MS. INGRAM: You can come back again at the
22 next meeting, next Tuesday, or I would advise you of
23 your limited time.
24 (b) (6) Privacy Thank you. I will be back.
25 MS. INGRAM: Thank you.

1 The next speaker is (b) (6) Privacy Is that
2 correct? Sorry.
3 (b) (6) Privacy That's okay. I think -- and I'm
4 not speaking for everybody outside or who left, but --
5 UNKNOWN FEMALE SPEAKER: We can't hear you.
6 (b) (6) Privacy It's so low. Sorry. Can you hear
7 me now?
8 UNKNOWN MALE SPEAKER: Yes.
9 UNKNOWN FEMALE SPEAKER: Yes.
10 (b) (6) Privacy Thank you. I think the frustration
11 that you guys have seen is that I've been to four
12 meetings and every meeting it's never time for comments
13 opposing the project. I think that's why a lot of
14 people walk out. That it seems like every meeting, this
15 is not the meeting that you're going to say, this is not
16 what we want or, you know, that type of comments. So
17 that's one thing.
18 The second thing is, I'm not sure how the
19 studies are going to go if there really is no plant in
20 the U.S. I mean, we would be the first in the United
21 States. How did our little town in the middle of no
22 where get so lucky? And I think that's really why we're
23 all kind of just really terrified.
24 Just like the racking that's going on right
25 now, there were studies done and it was supposed to be

1 safe. Now there's people being able to light their
2 faucet water on fire in the Midwest. I mean, we don't
3 want to be that town. We want this to be somewhere else
4 where the community is maybe is bigger or whether, you
5 know, somebody else go first.
6 I think that's kind of what I'm speaking for
7 everybody else. At least our family and neighborhood,
8 that's kind of, we don't want to be the guinea pigs
9 basically. So I mean, I guess just for -- for a
10 meeting, maybe you guys can have a meeting where people
11 can just vent and say -- you know, the average people
12 that I speak to, they do not want this in our town.
13 Reports or, you know, studies or not, we don't
14 want it here and I know this is not the place for this.
15 But it gets really frustrating to keep coming to the
16 meetings and keep coming to the meetings and it's never
17 the place for it. So that's, just again, my opinion and
18 our family. So, you know, that's kind of what we want
19 to say.
20 Thank you.
21 MS. INGRAM: Thank you very much for that
22 comment. Was it (b) (6) Privac
[redacted] Yes, (b) (6) Privacy
24 MS. INGRAM: Sorry.
25 (b) (6) Privacy That's okay.

1 MS. INGRAM: Next speaker, (b) (6) Privac [redacted]
2 (b) (6) Privacy My name is (b) (6) Privacy, I'm a local
3 consultant and also a resident of the City of Gonzales.
4 A couple of things to touch on here.
5 One, I noticed on the scoping handout here,
6 they're addressing hydrology and water quality. I'd
7 like the consultants to -- I'm sure they will -- but I
8 just want to make it a point to look into the new MPDS
9 requirements for Monterey County and for this Central
10 Coast region and make sure they address that because
11 there is a large watershed that drains down in Johnson
12 Canyon, and goes down and ends up in a park where I
13 live. And I want to make sure that water is clean.
14 Second is, I'd like the EIR to look into new
15 technologies to really monitor the water quality, the
16 emissions that are coming from these plants. And is
17 there technology out there to actually measure these
18 real fine particles that are going to be emitted. I'd
19 like the EIR to address that.
20 Thank you.
21 MS. INGRAM: Thank you for that comment or
22 those comments.
23 (b) (6) Privacy
[redacted] This is the second time that I
25 attended a meeting, every time I go to the meeting I get

more confused with the information you're providing us. And I work close by where I can see the Marina landfill and I think you can do something like our Marina, but do it another area. In San Bonito County, there's a lot of land, just empty land.

And also -- and can you take a look at the Marina landfill and what they're doing there with the recycling and how they take the trees and make them into what can be used as fertilizers for gardens. And everything is burned has to go somewhere, so you're lying to us because there are contamination.

And I'm totally in disagreement with this project. How many projects are there in this country, projects like the one you're thinking about having here?

I'm sorry -- how many projects are there in this country, the project like the one you want to have here? Is there anybody that can answer that, how many are there?

(b) (6) Privacy Me, zero.

(b) (6) Privacy So this meeting is to provide information. When you don't answer questions that's when we get more confused. Because I don't really think that you think we write down our concerns.

Why have you chosen this town to do this? My time is up, so I don't want the last lady to gas me.

MS. INGRAM: Thank you very much. I'm at the end of the speaker cards. Is there anyone else who wishes to speak this evening that has not had a chance to speak yet?

You had a chance to speak.

Is there anyone else that has not had a chance to speak that would like to speak this evening?

I do not want to start a round of a bunch of comments all over again. So because there are many people here at this meeting who came for the information, would you see me after the meeting. And we will record your comment or you can send it in writing.

Anyone else that would like to speak to what needs to be in the environmental Impact Report this evening?

Okay.

UNKNOWN MALE SPEAKER: I didn't speak because of using the minutes.

MS. INGRAM: Okay. I'm going to make an exception. I -- yes, you have a question, please, let's have an agreement that whatever the question is we're not going to get into a long conversation.

Is that acceptable?

(b) (6) Privacy Yes, it is.

MS. INGRAM: Thank you.

(b) (6) Privacy My -- for the -- for the record, I would like -- I am concerned about the credibility of the process. Not so much the process, but the credibility of the process. In other words, the stuff that was asked of today that we want and are concerns to be included in the ERA (sic) as was requested, a lot of us might -- for you might think that a lot us are just regurgitating the same old thing over and over. There's a hundred people, they all have their concerns but you are getting paid to do this, so you're going to stand there and do this and record it and do this.

That's all great, you're doing a good job trying to keep up. I see what you're doing. My concern is that, all that stuff that had been said and those concerns that were brought to the meeting today, how are we going to be sure that in the long run when we forget exactly what the heck we were talking about, that those things were answered.

In other words, you took the time and gave us the opportunity, but then, how do I know that what these folks had brought to the attention of the stenographer and for public record, were actually answered. So in other words, before those changes and the documents are altered to limit the scope of response to the concerns of the public for the ERA.

I would like to have the raw material so that when the ERA is actually prepared, that we look at what was said today, look at what you guys are responding to, and say, Oh, great, all these concerns are reflected in the ERA.

What we don't want is to say, Well, the gentleman who got up and left, he had comments or my comments and stuff, they weren't addressed at all. You're just -- and I came with a negative attitude to begin with, because I just don't like Gonzales to change to the garbage bowl of the world.

But what I was hoping we could do is, is work together with the community and see what other alternatives exist out there. And so I brought up a few ideas. But there's a lot more. You said there'd be more meetings. I'll be better prepared next time. I just found out about the meeting yesterday when I got a phone call.

As I mentioned to you folks outside, you know, respectfully, to let you know that. And there is a lot of stuff I did found out on the water flows, et cetera, and the drainage and how it all comes down. We've had floods coming off the hillside into the brand new houses right here off Fano Lane, so there's is a history of that whole community has already gone through this.

1 That's why there is a gully there. That's why the
2 drains are there because of those situations.
3 Now, you're going to have a whole lot of
4 blacktop and roofing coming right into that canyon that
5 ends before it even gets into Iverson. And that's a big
6 concern and other stuff. And the water that actually
7 drains in there, what -- how -- and it goes somewhere.
8 MS. INGRAM: Thank you.
9 (b) (6) Privacy It's going to run off contaminated
10 or is it going to be cleaned or processed somehow so
11 that we're more sure that we're not contaminating our
12 beautiful Valley.
13 Thank you very much.
14 MS. INGRAM: Thank you very much.
15 The process tonight, again, just a reminder,
16 that what we are talking about tonight, the purpose of
17 tonight's meeting is what needs to be addressed in the
18 EIR. And I have heard you as I'm sure that the
19 representative from the Authority has heard the
20 community say that they would like other opportunities
21 to talk about the project, to express concerns,
22 questions, et cetera.
23 But, again, tonight's meeting is very specific
24 and it is a process that is required by law. So there
25 will be additional meetings on this process for the EIR.

1 The next one will be next Tuesday night at 6:30
2 here. We will find more headsets for the next meeting.
3 And as to additional meetings to address some of the
4 other comments, I'm quite sure that we'll have a
5 discussion about that, but that is not why Paul is here
6 and that is not why I am here at this point.
7 So thank you for your comments. And I did
8 hear -- I did hear what you said.
9 Short comments.
10 (b) (6) Privacy Yes, short comments.
11 MS. INGRAM: Is there anybody else that wants
12 to speak that has not had an opportunity to speak this
13 evening? Okay. This is going to be a short comment.
14 (b) (6) Privacy Okay. Okay. I just wanted to
15 say that whoever told that there wasn't going to be no
16 stack and no emissions by Plasco and the Solid Waste
17 Authority, I just want to make sure that that is there
18 going to be a stack and is there going to be emissions
19 and how big is that stack going to be?
20 And we were also told that a valve busted up
21 there and they fixed the problem, that's never going to
22 happen again. But that they were guaranteeing that it
23 wasn't going to happen. But I know that would be a lie.
24 That's like guaranteeing a car is not going to break
25 down. So I just wanted to ask those questions.

1 And another question is: How many mishaps they
2 had over there in Canada and why was it shut down and
3 how many times was it shut down.
4 That's it.
5 MS. INGRAM: Thank you very much.
6 Again, I would like to remind you that if you
7 have comments, other comments, please come next Tuesday.
8 If you cannot come next Tuesday, please submit your
9 comments in writing to the Authority by March 7th if you
10 want the comments that you are asking about considered
11 in the EIR.
12 Remember when Paul was talking earlier, he said
13 there's a time period to collect these comments so that
14 they can begin the preparation of the EIR. That date is
15 March 7th.
16 Any other comments tonight from anyone that has
17 not had a chance to address what you would like to see
18 in the EIR?
19 Then, I'm going to thank you very, very much
20 for coming this evening. I have reminded you that you
21 do have an opportunity to submit additional comments.
22 There are cards in the back of the room where you can
23 provide your comments and mail them directly to the
24 Authority. They will be given to Paul, who is the
25 Environmental Impact Report consultant.

1 The next step will be after the meeting, after
2 we finish these meetings, the next step will be that the
3 Environmental Impact Report consultants will prepare a
4 draft EIR, not a final document, but a document that
5 will come forward again. There will be another public
6 meeting. You will have an opportunity to comment on the
7 information that is in the EIR at that time.
8 If you have any questions about the proposed
9 project or the process, would you please let the Salinas
10 Valley Solid Waste Authority know. Information on how
11 to reach the Authority is on the table by the door so
12 you can -- you will have their addresses or what their
13 phone number is.
14 I want to thank you again very much for coming
15 this evening. I may see some of you next time on
16 Tuesday at the next meeting. And I wish you all a good
17 night.
18 (Whereupon proceedings adjourned at 8:18.)
19
20 --o0o--
21
22
23
24
25

1 STATE OF CALIFORNIA)
) ss.
2 COUNTY OF MONTEREY)

3

4 I, LISA R. MAKER, Certified Shorthand Reporter of
5 the County of Monterey, State of California, do hereby
6 certify that the foregoing pages, 1 through 69, comprise
7 a full, true and correct transcription of my
8 stenographic notes in the aforementioned case of the
9 proceedings held on February 22, 2012.
10
11
12
13 Dated this 9th day of March, 2012.
14
15
16 _____
17 LISA R. MAKER, CSR 7631
18
19
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21
22
23
24
25

ANNEX B.2 TRANSCRIPT OF FEB 28, 2012 SCOPING MEETING

PLASCO SALINAS VALLEY PROJECT

ENVIRONMENTAL IMPACT REPORT

PUBLIC EIR SCOPING MEETING

DATE: Tuesday, February 28, 2012

TIME: 5:41 p.m.

PLACE: 531 Fifth Street
Gonzales, California

REPORTER: Robin S. Riviello, CSR, RPR.
License No. 11491

APPEARANCES

CANDACE INGRAM, Facilitator

PATRICK MATHEWS, General Manager, and SUSAN WARNER, Diversion Manager, for SALINAS VALLEY SOLID WASTE AUTHORITY

PAUL MILLER, Senior Project Manager, ESA, CENTRAL VALLEY/SIERRA REGION

JERSAHID LOPEZ, Certified Spanish Interpreter for FAST SERVICES

PUBLIC SPEAKERS

(b) (6) Privacy

[redacted]

Bradley Angel

(b) (6) Privacy

[redacted]

Naomi Onaga

(b) (6) Privacy

[redacted]

THE FACILITATOR: Good evening, everyone.

Would you please turn off your cell phones during the meeting. If everyone would be kind enough to take your seat, we'll get started with the meeting.

For tonight's meeting the translator will translate the English to Spanish and Spanish to English. We will be saying a few sentences in one language or the other, and then saying the sentences again in the other language.

All of this meeting will be translated, so no one is wearing headsets this evening.

My colleague is Jersahid Lopez. He will be doing the translating.

We will stay here tonight until everyone has a chance to speak, so please wait your turn to speak.

We had a meeting last week, and in that meeting there were some interruptions. I want you to know that it is not acceptable to interrupt people this evening.

So welcome to everyone, and thank you very much for coming here tonight.

My name is Candace Ingram, and I'm a facilitator for the meeting tonight.

I am working with the group that is preparing a written review and report about the proposed Plasco project.

1 The report will be a document that is called an
2 environmental impact report, also known as an EIR.
3 When the report is complete, it will then be
4 available for everyone to review, all of the public to
5 review.
6 The purpose of the EIR is to provide written
7 information so that the public and so that the Salinas
8 Valley Solid Waste Authority can look at the information
9 and determine whether there are potential environmental
10 effects from the proposed Plasco plasma arc gasification
11 project.
12 Two people will be speaking this evening, also
13 presenting some information with me. The first will be
14 Patrick Mathews, who is the general manager for the
15 Salinas Valley Solid Waste Authority.
16 We'd like to also introduce someone you may
17 know, Susan Warner, who is the project manager.
18 And from the environmental consulting team, the
19 team that is writing and preparing the environmental
20 review, is Paul Miller.
21 The purpose of tonight's meeting is to obtain
22 public comments about the scope of the environmental
23 review as well as potential project alternatives that
24 might be included in the environmental review or the
25 EIR. This means that in tonight's meeting we would like

1 to have your comments about what you think needs to be
2 reviewed or analyzed, looked at, in the EIR.
3 For example, you may want to know whether
4 anything in the proposed Plasco project might affect
5 health. Or perhaps you want to know if there is going
6 to be a lot of traffic.
7 An EIR is a document that is required to be
8 prepared by state law. Specifically the law is called
9 the California Environmental Quality Act. Sometimes
10 people call it CEQA.
11 The purpose of the EIR is to provide
12 information for the public and anyone who will be making
13 a decision about the proposed project, which in this
14 case will be about any potential environmental impacts
15 from the proposed project.
16 It is important to know that an EIR must be
17 prepared before any kind of decision can be made about
18 whether or not to approve the project that is being
19 proposed by Plasco.
20 Doing an EIR provides information that is
21 required by law. It does not make a decision about
22 whether to approve the project. That decision will be
23 up to the Salinas Valley Solid Waste Authority's board
24 of directors at some time in the future.
25 Tonight's hearing will start with some comments

1 by the Salinas Valley Solid Waste Authority, and then
2 the consultant for the EIR will provide some information
3 about what the proposed Plasco project is and what an
4 EIR will do and what items are currently scheduled to be
5 reviewed in the EIR.
6 We will then spend most of our time hearing
7 comments from you and listening to what you have to say.
8 We're taping this meeting and also have a
9 person who is taking notes and will be taking notes over
10 there when you begin your comments so that all the
11 public comments are noted.
12 There are also several informational materials
13 available this evening. They are on the table in the
14 back of the room when you first came in the room.
15 The materials include an agenda for this
16 meeting to show you what we will be doing. There is
17 also a card that you can fill out if you would like to
18 speak tonight. And there is a sign-in list if you would
19 like to receive information in the future, such as when
20 further meetings will be held.
21 There is also a card available so that you can
22 send in your written comments if you don't want to speak
23 tonight. You can use this card before March 22 if you
24 think of other comments that you forget to talk about
25 tonight. Please know that the comment period has been

1 extended. It was originally March 7. It is now
2 extended until March 22, which means that you have until
3 March 22 to submit your comments.
4 We also have copies of two other documents
5 about the environmental review process. The first is
6 called a Notice of Preparation, which gives information
7 to let people know that an EIR is being prepared about
8 the Plasco project. And it gives you information about
9 how to submit your comments and what the proposed Plasco
10 project is.
11 We also have a document called an Initial
12 Study, which provides more information about what is
13 currently expected to be reviewed in the environmental
14 impact report.
15 You are welcome to take any of those materials
16 you would like to take with you.
17 Plasco, which is the company proposing the
18 project, will not be making a presentation tonight.
19 There are materials available from Plasco. There are
20 people here in the back of the room from Plasco. So if
21 you have questions specifically for Plasco after the
22 meeting, you are more than welcome to go and talk with
23 them.
24 The purpose of the meeting tonight is for you,
25 the public, to have an opportunity to present comments

1 about what you would like to have reviewed in the EIR.
2 Your comments can be spoken and they can also be in
3 writing.
4 If you wish to speak tonight, it would help us
5 to move the meeting quickly if you would fill out a card
6 and give it to me; but you do not have to fill out a
7 card to speak.
8 If you prefer not to speak tonight but want to
9 make a comment, you can write your comment and send it
10 to the Salinas Valley Solid Waste Authority. Those
11 comments will be given to the EIR consultants that are
12 preparing the EIR.
13 Again, please tonight be courteous to other
14 people listening to our speakers; not interrupting
15 speakers or presenters. And everyone who wants to speak
16 tonight will have a chance to speak.
17 We will stay here tonight until everyone has
18 had a chance to speak. We'll ask you to please limit
19 your comments to three minutes so everyone can have an
20 opportunity to speak.
21 Before we start the public comments, I would
22 like to turn to Patrick Mathews, who is the general
23 manager for the Salinas Valley Solid Waste Authority,
24 and ask him to give a few comments.
25 MR. MATHEWS: Thank you, Candace.

1 Welcome. Thank you all for coming out tonight.
2 I know this is a cold night and people don't like to
3 spend their evenings in long meetings, but it is a very
4 important meeting so that we can hear your voice.
5 The picture on the screen is a picture of what
6 the Solid Waste Authority deals with every single day.
7 This is a picture of garbage that we create in
8 our community and garbage that is created in the
9 communities all over the country. And it is just like
10 this.
11 Managing garbage is a difficult process. The
12 Authority has been looking at other ways to deal with
13 our garbage other than putting it into landfills.
14 What the Authority is doing is to look at more
15 creative ways to find ways to use the garbage we throw
16 away instead of throwing it away.
17 Today we're talking about one of those ideas
18 and that is the Plasco plasma arc gasification project
19 that turns our garbage into fuel; turns refuse, our
20 garbage, into fuel. That gas, called syngas, can be
21 used to run engines and make electricity.
22 The Plasco project can also produce other
23 valuable products that can be recycled.
24 After processing waste, there is very little
25 left that needs to go back into a landfill.

1 Today our community recycles over 68 percent of
2 the garbage that we create. That is an older slide. It
3 only says 65. That was last year.
4 We also believe there are other materials in
5 our waste stream that can be recycled into the programs
6 we already have in our community.
7 But at the end of the day there is still waste
8 that needs to be managed.
9 And today that waste goes into Johnson Canyon
10 landfill located two and a half miles east of the City
11 of Gonzales.
12 We refer to these technologies like Plasco's as
13 conversion technologies.
14 The proposed project is designed to send less
15 trash to the landfill, provide more jobs and technology
16 construction, hopefully to attract other green
17 businesses, increase the need for local services and
18 supplies, produce energy from the garbage we throw away
19 instead of burying it in a large landfill, hopefully
20 lower the impact of landfilling by using a technology
21 that has less impact, and reduce the long-term cost of
22 caring for old landfills after they have been closed.
23 The very basic reason for doing this
24 environmental impact study is to compare Plasco's
25 technology against landfilling to see which one produces

1 less impact to the environment and our community.
2 The process to select this specific technology
3 has taken over five years.
4 The process is conducted by a committee of the
5 Authority and a number of well-respected consultants.
6 We have studied many qualified proposals and reviewed
7 those proposals at great length.
8 Our staff and elected officials also visited
9 similar facilities in Europe and Asia to find out how
10 those facilities worked in those communities.
11 We also interviewed community leaders at those
12 places where these technologies are being used.
13 The Johnson Canyon landfill, we want to turn
14 that landfill into a resource park and make it something
15 more valuable for the community than a landfill. So the
16 purpose of the management park is to increase the
17 environmental awareness, to keep waste out of the
18 landfill at a rate of at least 75 percent or higher, to
19 separate, recycle, and reuse material, to compost our
20 yard waste and wood waste into new products that can be
21 used in the community and our agricultural businesses,
22 and to take the waste we can't recycle and turn it into
23 useful energy.
24 The resource management park would also
25 increase training, green job opportunities, and public

education. And finally, to improve public and private partnerships that can bring added economic benefits to our community.

As I conclude my remarks tonight, I want to again thank you all for coming and to remember this is a process where we look at the technology to see if it is better or worse than to continue landfilling the waste we produce in our community.

Those conclude my remarks. I will be turning the presentation over to Paul Miller from ESA, who is the consultant hired by the Authority to conduct the environmental impact study that will answer the questions that you have and that we have about the technology being proposed.

Thank you.

MR. MILLER: The company I am with is Environmental Science Associates, or ESA. It is a firm that has been preparing environmental impact reports for more than 40 years.

Our firm has a staff of over 300 specialists in all areas of environmental analysis.

We will be assisted in our analysis by SCS Engineers and also EMC Planning, a firm based in Monterey.

I will now provide an overview of the project.

The project is located about 2.5 miles east of Gonzales on vacant land at the Johnson Canyon landfill property.

The Initial Study included two figures of the location. The first is a regional location of the project. Also there is a figure in the Initial Study of the topographic map that shows the project footprint location. The facility will process material that -- residual materials after recycling of the garbage.

The EIR will review a plant with three modules capable of processing 390 tons per day of residual material.

The EIR will also analyze co-products and residual solids and water left over from the process.

This photograph is the commercial scale demonstration facility that Plasco has operated in Ottawa, Canada.

The Initial Study also included a project process flowchart shown here.

Post-recycled waste enters the plant. It is then converted to a gas. The gas is processed and goes to the engine generators to make electricity.

There are residual solids and liquids from the process, and the EIR will analyze those materials.

This figure shows the layout of the facility on

the currently vacant land next to the Johnson Canyon landfill.

All three modules are shown on this figure.

Trucks will go through the landfill scale and enter and exit the roads at the bottom of this figure.

The final figure from the Initial Study shown here is the elements of the drainage plan.

This identifies features to control storm water and processed water from the facility.

It is estimated that the project construction will take approximately 18 months. The project is proposed to operate over a 20-year period or longer. The plant would be capable of processing waste in excess of 30 years.

We're here tonight for purposes of CEQA. And CEQA requires public agencies to identify the significant effects on the environment of projects.

This slide shows the objectives of CEQA. It requires public agencies to inform decision-makers and the public of environmental effects of proposed projects.

Also very important, CEQA requires agencies to identify ways to avoid or reduce environmental damage and to prevent damage by requiring implementation of feasible alternatives or mitigation measures.

A decision has been made already to prepare an EIR. The EIR is detailed information that analyzes the project impacts. For example, the EIR will include a health risk assessment to assess potential health impacts. This slide shows where we are in the process now. The first phase is scoping, which is our meeting tonight. Future documents will include the draft EIR and a final EIR. This slide shows some of the key elements of scoping and the draft and final EIR.

The Initial Study looked at 16 environmental factors and determined that 13 of those categories should be reviewed in the EIR. Scoping provides the Salinas Valley Solid Waste Authority the opportunity to gain input from the public and government agencies. This is your opportunity to help assist in determining the scope and content of the EIR. It would be helpful for you to comment on potential significant effects, potential mitigation measures, and also alternatives to the project.

We're getting close to taking public comments now. And you can comment through verbal statements tonight or, as Candy went through the list of ways, you could send in written comments which are identified in the Notice of Preparation and also in the slide handout we have here tonight. The comment period has been

1 extended to March 22 to receive your comments.
2 This slide shows the way that you can send in
3 written comments to Susan Warner. And it also includes
4 a phone number if you want to fax in comments, and also
5 an e-mail address.
6 This is the last slide.
7 So it is now time for public comments. And it
8 is time for you to address items in the environmental
9 impact report.
10 We would appreciate it if you would fill out a
11 speaker card to help identify speakers, but that is
12 optional.
13 We will have three minutes for each of the
14 speakers plus the time it takes for interpretation of
15 each speaker. Thank you very much.
16 THE FACILITATOR: As Paul said, you are not
17 required to fill out a speaker card to speak this
18 evening. But if you have one and would like to give it
19 to me right now, that would be helpful.
20 I will call the names of the speakers that I
21 have so we can keep the meeting moving and give everyone
22 an opportunity to speak.
23 When it is your turn to speak, please come to
24 the microphone here. You can give us your name or your
25 address if you wish, but you are not required to do

1 that. It simply helps us assure that we are calling the
2 right name.
3 When you speak, please say what you would like
4 to have addressed in the EIR.
5 So the first speaker that I have a card for is
6 (b) (6) Privacy.
7 (b) (6) Privacy
[redacted] f Asamblea de Poder
9 Popular, and I have some important things I would like
10 addressed tonight.
11 One of the things that I want to mention is
12 that you mentioned that you visited leaders in this
13 community. And congratulations. Why is it that in this
14 community none of the community leaders were interviewed
15 so we can give you our point of view?
16 Even now that we're in the middle of the
17 process, you have not contacted us in the community.
18 And you don't you know who we are. And we're the
19 leaders of this community, and what we want is what is
20 good for the city and all people.
21 And the second point is in the description of
22 the project. They say that in the last point, that
23 there will be some sub-products and some construction
24 materials.
25 The question is, they say that they are going

1 to send what is left, and that concerns me. Where are
2 you going to send them? So please, put that in
3 highlights in red.
4 Just one more thing. Is this going to create
5 contamination? Thank you.
6 THE FACILITATOR: (b) (6) Privacy
7 MS. MORENO: My name is (b) (6) Privacy I'm a
8 mother and Gonzales resident. I'm here along with
9 members of Asamblea de Poder Popular Gonzales, a
10 Gonzales community group. Asamblea, together with
11 Gonzales residents, have today filed complaints with the
12 State of California and the United States Environmental
13 Protection Agency charging the Salinas Valley Solid
14 Waste Authority with violating the civil rights of
15 Latinos and Spanish-speaking residents of Gonzales
16 regarding your intent to have a plasma arc incinerator
17 facility built in our community.
18 We filed these complaints under California
19 Government Code 11135 and Title 6 of the United States
20 Civil Rights Act.
21 These state and federal civil rights laws
22 prohibit government agencies that receive state or
23 federal funding from discriminating against Latinos and
24 Spanish speaking people based on race, national origin,
25 and ethnic group identification.

1 The SVSWA has taken actions and made decisions
2 that will have and are having a discriminatory impact
3 against Latinos and Spanish speakers.
4 Gonzales is a predominantly Latino town with a
5 high proportion of monolingual Spanish speakers and
6 limited English speakers and foreign born residents.
7 You have denied our rights to fully participate
8 in this process that affects our lives, and you have
9 illegally violated our civil rights in many ways,
10 including, number one, selecting Gonzales for the site
11 of a new garbage plant without adequate notice to or
12 consultation with the residents.
13 You failed to properly notify Gonzales
14 residents about opportunity for comment on this project,
15 even though it is our town and even though over 100
16 residents requested notice in writing over one year ago.
17 You gave Spanish speaking residents less notice
18 about the scoping meetings than you gave English
19 speakers.
20 You used untrue statements in an attempt to
21 gain support among the SVSWA board and the public for
22 the plasma arc project.
23 For example, SVSWA claims there would be no
24 stacks or flares, but Plasco has admitted there would be
25 two flares.

1 At your staff presentation in January 2011 your
2 speakers made untrue claims that nothing comes out of
3 these technologies, that there are no hazardous
4 emissions, and that Plasco generates twice as much
5 energy as the competing companies, and none of these
6 claims are true.
7 You want to have Plasco build a plasma arc
8 plant here that would emit pollution into our air,
9 threaten the ground water we drink, and threaten the
10 agricultural economy that provides many jobs for our
11 community.
12 You failed to provide enough adequate
13 translation or enough headsets at the February 22
14 scoping meeting, and you failed to translate the key
15 documents for the CEQA project into Spanish, the
16 document called the Initial Study. Not one sentence of
17 the 56-page document was translated, and that means our
18 Spanish speaking community is unable to truly
19 participate in this process.
20 In conclusion, the people of Gonzales deserve
21 justice and we will get justice and we'll protect our
22 health and our community. We demand an end to this
23 Plasco project and an end to the environmental racism of
24 the Salinas Valley Solid Waste Authority. And please
25 place these civil rights complaints into the record for

1 every ton that it processed, but in two years it
2 produced under three megawatts after processing over
3 6,000 tons.
4 I would like to see your study inform of the
5 real and natural power that it is able to generate.
6 The Johnson landfill currently is permitted for
7 265 vehicles per day. That is over 1,500 tons. Current
8 plans for the Plasco arc facility include two 32-foot
9 stacks, but the brochure shows five. So how many more
10 trucks will be added to your current permit when the
11 Plasco facility operates at full capacity? Will the
12 secondary truck route then be used? That is Fifth
13 Street to Johnson. The primary is Alta to Old Stage to
14 Handley, Iverson and to Johnson. I'd like to see you
15 study the effects of the added vehicles by way of toxic
16 diesel exhaust and other contaminants. Our schools and
17 neighborhoods are directly in the path of both routes.
18 How did you test plasma arc? It doesn't exist.
19 There is no commercial plasma arc facility in the world.
20 In the absence of scientific consensus, the burden of
21 proof that it is not harmful falls upon --
22 THE FACILITATOR: You can submit the rest of
23 your comments in writing. That will be as same as
24 speaking.
25 The person recording this and keeping the notes

1 the scoping meeting.
2 THE FACILITATOR: Next speaker is (b) (6) Privacy.
3 (b) (6) Privacy Good evening.
4 Your facility in Ottawa is permitted to receive
5 75 tons of garbage a day. After more than three years
6 in operation, this is a summary of its performance.
7 This is on your website, Plasco's website.
8 It accepted 12,000 tons but processed only half
9 of that, about 6,000. This created over 2,000 tons of
10 converted ash which went to landfill, 515 of toxic ash,
11 which went to a special landfill. 373 tons of slag also
12 went to landfill.
13 This created -- 3,200 of the over 6,000 tons
14 processed ended up in landfill. Overall 72 percent of
15 the waste that Plasco received ended up in the landfill.
16 Could your study confirm the fact the Plasco
17 facility will divert garbage from a landfill?
18 That is not what I said. I said, can your
19 study confirm that the Plasco facility will actually
20 divert garbage, according to these numbers?
21 It generated 11 million liters of dirty water
22 which went to the sewer system. Will the quality of
23 water be tested before it is released into the sewer
24 system in the Johnson Canyon landfill?
25 It claimed to produce one megawatt of power for

1 on this has asked that when you speak, that you please
2 not hold your papers in front of you. Please hold it
3 down a little bit to make sure that it gets into the
4 microphone.
5 Next speaker is (b) (6) Privacy
6 (b) (6) Privacy I'd like to thank the translator
7 and transcriber for being here tonight and doing their
8 work.
9 My concern is in what I believe to be a bias by
10 the Salinas Solid Waste Authority as the lead agency in
11 conducting the scoping meetings, EIR, the CEQA process,
12 because they have shown a bias towards putting
13 information out to the public, the Spanish speaking
14 community and the community at large, which includes
15 businesses, ag, and residents in the City of Gonzales
16 and in the valley.
17 Today there was a meeting that was held, and it
18 was a scoping meeting, part of the EIR process. And it
19 was held at the Solid Waste Authority's building in
20 Salinas at 1:30 this afternoon. Now, permission was
21 requested to attend this meeting to Mrs. Warner. Mrs.
22 Warner denied that, stating that it was meeting that was
23 specifically for governmental agencies, yet I know
24 Plasco representatives were at this meeting, did give a
25 presentation, were allowed to attend the meeting. I

1 think it is very important for -- I ask this be
2 evaluated because a project such as this can bring great
3 risk to a community. If governmental agencies are
4 present at a meeting and have very important questions
5 to ask and concerns to put out there, residents at large
6 and those interested in the process, especially the
7 bilingual community, which I don't think this was put
8 into Spanish, have every right to that information.
9 I'm sorry you didn't interpret that last part
10 properly, which was they have the right to hear the
11 questions that are presented by governmental
12 representatives.
13 Can you restate that.
14 Tonight Mr. Mathews gave a presentation as he
15 did at the last CEQA meeting. Between Mr. Mathews and
16 Mr. Miller, they gave about a 40-minute presentation.
17 And there was -- I saw information in that, as an
18 example, that I thought was not accurate. And just two
19 examples here.
20 Mr. Mathews brought up a resource park, and
21 that is not in the study included in the EIR.
22 Another thing -- well, he said the purpose of
23 the EIR is to evaluate Plasco versus the landfill, yet I
24 believe the process and purpose is to evaluate Plasco,
25 not the landfill.

1 I have some questions.
2 Mr. Mathews showed us a presentation that there
3 were -- I believe 28 percent was going to go through the
4 gasification plasma arc process. And I'd like to know
5 how Plasco plans to sort through this remaining garbage
6 to ensure that there is no hazardous materials or put
7 through and put through heating or combustible process.
8 Thank you.
9 THE FACILITATOR: I will remind you if you do
10 not speak tonight or have enough time tonight to speak,
11 please submit your comments in writing.
12 The next speaker is (b) (6) Privacy.
13 [redacted] I am a member of the Asamblea de
14 Poder Popular Gonzales, and our mission is to work for
15 the better and health and well-being of our community,
16 the farm workers and their families and the community
17 where we live.
18 When we first heard about this proposed project
19 back in March 2011, immediately our group decided that
20 we would do what we can to stop the project from
21 continuing.
22 With this health impact study, will there be a
23 study for about ten years? Because we won't know what
24 will come out of this for about that time or that comes
25 out until probably then. As you see here, a lot of our

1 majority of the people that are here are Spanish
2 speakers. And when we ask about meetings that are held
3 here in Gonzales, our answer was always they are in the
4 newspaper, they are published in the newspaper. And
5 most of our people don't speak English or don't read
6 English, so they wouldn't know about a meeting that was
7 happening in town.
8 And lastly, the gentleman asked about an
9 alternative. I say take it out to a desert or someplace
10 where it won't harm anybody. Thank you.
11 THE FACILITATOR: I will ask, please, so there
12 is plenty of time for everyone to speak, please let's
13 not make noises. Let's just let everybody have the
14 courtesy of speaking and we'll be done.
15 The next speaker is (b) (6) Privacy.
[redacted] I want to talk about the farming
17 aspect, about the soil or water getting contaminated or
18 the food that is grown here. Because you notice this is
19 farming country here. I got family that is in the farm
20 business. I have family that is in the labor contract
21 business. And my family has a ranch here too in town.
22 So I'm real concerned about the emissions landing on the
23 produce, the ground water if it rains. And that stuff
24 goes up but it needs to come down, so I figure if that
25 happens -- and you got the problem with the E coli and

1 stuff, so we put another thing onto the plants there.
2 We lose jobs. Will farms be closing down?
3 Stuff like that. I want that looked into.
4 Back in 2007 the City signed a memorandum of
5 understanding between the Solid Waste Authority and City
6 of Gonzales. On here it says the City is not to impose
7 any expansion or permitting the Johnson Canon landfill.
8 So my question here is how big is the landfill going to
9 get since you signed this contract with the Solid Waste
10 Authority back in 2007.
11 On here this says here, too, that the Authority
12 shall pay the City of Gonzales $20,833 per month. My
13 question is, is that going to go any higher?
14 Next question is -- it says on here the City
15 has the right to purchase electricity from the Solid
16 Waste Authority to dump there or whatever Plasco is
17 building. My question is, is our utility bills going to
18 go up? Because we pay PG&E now, so that is one. If
19 they do this, I believe they are going to pay Plasco and
20 Solid Waste Authority, so there is three that you got to
21 pay. So I'm wondering if our bill is going to go up.
22 And I wanted to find out if a valve busted up
23 there and a fire happened up there, and the landfill
24 started on fire, would our fire people be capable of
25 handling that, or do we have to get different fire

1 department to handle that?
2 And another thing is, you know, Plasco and
3 Solid Waste talk about emissions and stacks, and they
4 say there wasn't going to be any emissions. Well, there
5 was a stack and there is emissions. And the two visits
6 with the company like that that lies to you should not
7 -- once a company lies to you, they lie to you. That is
8 all I got to say.
9 THE FACILITATOR: Thank you.
10 Next speaker is Bradley Angel.
11 MR. ANGEL: My name is Bradley Angel.
12 I'm the director of Green Action for health and
13 environmental justice.
14 The EIR should address the bias and
15 misinformation and omissions of fact by the Salinas
16 Valley Waste Authority.
17 It should address the racial discrimination in
18 the process.
19 You claim this is a public process, but this
20 afternoon you prevented the public from attending a
21 scoping meeting run by an agency paid for with tax
22 dollars and attended by agencies paid for with tax
23 dollars.
24 The Initial Study has many defects that need to
25 be corrected and addressed. Very importantly, the

1 Initial Study, 56 pages, is entirely in English.
2 That is a disgraceful act in a community with
3 so many Spanish speakers.
4 We are shocked that your study claims there are
5 no potential impacts on agriculture.
6 You know very well that Plasco's facility would
7 have air emissions, and you know very well that in
8 Canada they violated emission standards.
9 There is clearly a threat to the food we eat,
10 to the agricultural industry, and the jobs in this
11 community. And it is ridiculous that you didn't include
12 that.
13 The project's description fails to mention that
14 there would be stacks emitting pollution from this
15 facility.
16 In fact, Mr. Mathews of the Waste Authority for
17 a year now has attacked us for pointing out that there
18 would be stacks. And indeed, Plasco admits there would
19 be two stacks. They finally admitted.
20 Why was this information withheld? Why isn't
21 it in your Initial Study and project description? I
22 know why. Because you are not telling the truth to the
23 public.
24 Why in your project description don't you admit
25 that Gonzales generates only about four percent, if

1 that, of the waste that would go to the Plasco facility?
2 Four percent.
3 The project description and study fails to
4 mention that the syngas would be burned, incinerated,
5 yet that is an essential part of the process.
6 You left it out of the process flowchart you
7 showed during your one-hour presentation at the start of
8 this meeting.
9 You claim that Plasco would generate all this
10 electricity, but you know Plasco has been unable to
11 generate a lot of electricity. So why do you make these
12 false claims?
13 I need to point out that in Plasco's display in
14 the back, 95 percent of the pictures of the stack is cut
15 out of the picture.
16 A few last comments. The EIR must evaluate
17 whether the Waste Authority due to its bias and putting
18 out incorrect information can be trusted to do a real
19 EIR or regulate and oversee a facility like Plasco.
20 I need to point out I have been told to stop,
21 but I timed my presentation this afternoon and it was
22 less than three minutes. And I should not be penalized.
23 The translator is doing as good a job as he can do, but
24 I should not be penalized. I have a few last seconds,
25 if I can finish. I will be quick.

1 The EIR should --
2 THE FACILITATOR: I'm going to stop you because
3 I stopped everyone else. We have hit the three-minute
4 mark. We have allowed --
5 MR. ANGEL: I want this --
6 THE FACILITATOR: Mr. Angel, don't do this.
7 MR. ANGEL: I want to point out I didn't get
8 enough time.
9 THE FACILITATOR: Please don't do this. Thank
10 you.
11 At the beginning of the meeting I requested
12 that we treat each other with courtesy. We need to do
13 that. And courtesy includes allowing each person three
14 minutes to speak, which we're doing. Courtesy also
15 means that we do not yell out when someone else is
16 talking, and that we respect one another. And in this
17 process I will ask you to please do that, or I will ask
18 you to leave. Everyone deserves the same respect.
19 The next speaker is (b) (6) Privacy.
20 Thank you.
21 (b) (6) Privacy [redacted], and I
22 have a few questions for you.
23 If this project is so good, why isn't this
24 project in other counties? How many other projects are
25 there, if it is so good.

1 The second question here is it is so close. It
2 is almost going to be in our house. So I don't know if
3 that is good or bad, but how many counties are they
4 going to be bringing garbage into this place?
5 My last question is about the garbage. I just
6 don't think they're going to be able to process all that
7 garbage the same day, so that same garbage is going to
8 contaminate the area and create pollution. All the
9 garbage is going to be stuck there.
10 Thank you.
11 THE FACILITATOR: Ladies and gentlemen, please.
12 Next speaker is -- all I have, the name is
13 (b) (6) Privacy
[redacted], and I just have one
15 thing to say. We are not about that technology. We
16 know that the impact is going to be great. So the
17 reason why we're thinking that, because it is so near to
18 a school. So why not have it somewhere far away, like
19 in a desert? Because this is reserved protected by the
20 government and by the state government, and what about
21 our protection here in this valley?
22 On top of that, they are bringing garbage all
23 the way down from Oakland, so there is no reason why we
24 should be bringing so much pollution.
25 This affects the rich and poor, but you don't

1 have to increase the revenue in your bank by putting
2 danger to the community's health.
3 Thank you.
4 THE FACILITATOR: Next speaker -- please don't
5 do this.
6 Thank you.
7 Next speaker is (b) (6) Privacy.
8 (b) (6) Privacy Hello. Good evening. My name is
9 (b) (6) Privacy I'm a resident in Gonzales. I wasn't
10 aware of what was going on here in Gonzales. And this
11 is like the first time being in the meeting. I read all
12 this and I got all my family and also a town in Mexico
13 where all my family lives here. And most of our family,
14 like myself, personally, I got like allergies. And I
15 don't know if all this is going to affect us, especially
16 because lots of people, we go up and run and all that.
17 Not only that, harvesting, like the ag, all the food
18 that we eat.
19 Other thing, they were saying, like they were
20 saying why this plant, why you don't put it in the
21 desert or where there is no houses or, for example, town
22 or ag or lifestyle. Why is that? I believe it is
23 because of money, because that way if you send it like
24 somewhere far, you guys have to spend more money on
25 diesel trucks. And as well, who wants to go work so

1 far. But you are not thinking about the community or
2 somewhere else, you know, where there is no houses, like
3 what I'm saying.
4 I'm not too sure about this, but I think that
5 one, you guys haven't -- Ottawa, Canada, there is people
6 that complain about health problems, but you guys don't
7 say this in the community. Not only that, I don't know
8 if there is only three in the whole world, like Spain or
9 Asia, and the one in Canada. I think this is going to
10 be the first one in the United States, but I'm not too
11 sure. I read a little bit of research.
12 That is all I think I got to say. Thank you.
13 THE FACILITATOR: Thank you.
14 Next speaker is (b) (6) Privacy.
15 She is coming.
16 (b) (6) Privacy (b) (6) Privacy and I got
17 same questions. I was on the computer for a minute.
18 Thank you.
19 THE FACILITATOR: Thank you. Next speaker is
20 (b) (6) Privacy.
21 (b) (6) Privacy
[redacted] I had three questions, but I heard two of my
23 questions asked by my fellow residents, so I'm just
24 going to ask one question.
25 Last meeting they had, I saw the pictures that

1 they had in the back. And I made comments to the
2 gentleman that was showing them about a chimney that was
3 in the pictures, so he removed it and said no. So that
4 is my question. Is Plasco going to have a chimney?
5 The question was about how many of the cities
6 are bringing garbage to this canyon. And that was all
7 the questions.
8 THE FACILITATOR: Thank you.
9 Next speaker is (b) (6) Privacy.
10 (b) (6) Privacy No.
11 THE FACILITATOR: (b) (6) Privacy.
12 (b) (6) Privacy Good evening. My name i (b) (6) Privacy
[redacted] I have three questions. I would like to know
14 where you come from, because if they live here, they
15 wouldn't want it because it is so much pollution.
16 Second question is that here everything is
17 about agricultural, so Plasco is going to affect all of
18 us. So it is going to affect all the people that are
19 eating the vegetables.
20 The third question is why in a small town, why
21 here? If Gonzales is so small, why not put it in a
22 large city? You said you have one in Canada. But that
23 is five or six times larger than Gonzales. So why,
24 Plasco, here? Why not somewhere that is not a small
25 place?

1 THE FACILITATOR: Thank you.
2 Next speaker is (b) (6) Privacy.
3 Not here.
4 THE FACILITATOR: Next speaker is (b) (6) Privacy
5 (b) (6)
6 (b) (6): Good evening. My name is (b) (6) Pri
7 (b) (6) and I have a question. They said they were
8 going to burn that garbage, but they also said here that
9 this garbage is going to stay here either way. So what
10 is the solution?
11 They think that this project is going to
12 generate work. The project is going to take 18 months,
13 so then how many people are going to be benefitting from
14 this project and what happens to them afterwards?
15 I have one question. Why here? Why only one
16 place here? Most people are Latinos. Most people work
17 in the field harvesting the food that we consume. My
18 proposal is why not go to Carmel.
19 Another question, here we may get some
20 illnesses, and is Plasco going to pay for insurance for
21 the people that may be affected here? That is all.
22 Thank you.
23 THE FACILITATOR: The next speaker is Naomi
24 Onaga.
25 MS. ONAGA: My name is Naomi, and I'm an

1 attorney with Green Action.
2 I am going to read a paragraph that Bradley
3 Angel was not able to read earlier.
4 The SVSWA cannot be trusted to regulate a
5 facility like Plasco.
6 At the January 20, 2011, meeting, at your staff
7 presentation one of your presenters claimed that nothing
8 hazardous comes out.
9 Another presenter claimed there would be no
10 emissions.
11 And your consultant from EDR made the statement
12 that Plasco can generate twice as much energy as
13 competitors.
14 All these statements are false, and you knew it
15 but did not correct them.
16 So I'm going to ask four questions relating to
17 the EIR, and they relate to whether if the Plasco
18 project is implemented, they would violate the Salinas
19 Valley Waste Authority policies and goals, whether they
20 violate civil rights laws, whether they violate
21 governmental transparency laws, and what this may cost
22 the Salinas Valley Waste Authority, the City of
23 Gonzales, the County of Monterey, and whatever cities
24 are in the Salinas Valley Waste Authority for cost of
25 litigation that may ensue.

1 My first question is --
2 I'm going to make a correction to the
3 translation. It is how much will it cost.
4 My first question is, would the Plasco project,
5 if implemented, conform to the long-term waste plan
6 adopted by the Salinas Valley Waste Authority Board in
7 2006, because from my understanding, they chose a
8 non-combustion technology and a conversion technology is
9 a priority for their plant to manage waste and reduce
10 landfill.
11 So that is the question that I think the EIR
12 should explore.
13 Can I ask a procedural question? Can I
14 actually do my own translation? No lack of respect to
15 the translator, but it is not complete and it is a very
16 technical issue. So I don't blame him, but it is not
17 exactly the question that I asked.
18 THE FACILITATOR: I understand that. I'm sure
19 you will be submitting your comments in writing.
20 Correct?
21 MS. ONAGA: Yes.
22 THE FACILITATOR: Okay.
23 MS. ONAGA: But can I have in the record that
24 the translation is not exact. It is probably
25 impossible, but it is not. So I have heard other things

1 said earlier that were not exactly what the comments
2 were.
3 THE FACILITATOR: All right.
4 Please keep track of the English time. And she
5 will do her own translation in Spanish, but I would like
6 to ask, please, that you monitor the Spanish
7 translation, and that if there is a question or concern
8 about it, that you bring it to my attention.
9 MS. ONAGA: Now, my second question is has the
10 Salinas Valley Solid Waste Authority violated and would
11 it violate further civil rights laws if the Plasco
12 project is further pursued. And I ask that given that
13 there is state and federal civil rights law that
14 prohibit discrimination based on race, color, national
15 origin, ethnic identification.
16 THE FACILITATOR: We've been keeping track with
17 each speaker of the time in whatever language, whether
18 English or Spanish, and so I will have to ask you to
19 stop.
20 MS. ONAGA: When I asked my procedural
21 question --
22 THE FACILITATOR: Yes. The time was stopped
23 when you asked the procedural question. So I would
24 suggest that at this point if there are any speakers
25 that -- again, if there are any speakers that have not

1 had a chance to complete what they were saying during
2 their time, or if you think of comments now or later,
3 you still have an opportunity to submit comments in
4 writing. So please do that.
5 We'll translate that.
6 MS. ONAGA: Should I translate the little bit
7 that I said?
8 THE FACILITATOR: Go ahead.
9 Thank you.
10 Let's get through the speakers.
11 (b) (6) Privacy I notice that you have like
12 somebody taking notes over on the side, I believe, with
13 your consulting firm. Can I ask you what you do with
14 those notes and who is checking, because there are times
15 -- again, this is nothing against the lady, but anyway,
16 there are times I have noticed speakers have made
17 comments but she doesn't necessarily always put it down.
18 What is the purpose of the notes on the side? What do
19 you do with them? How will they affect the record, and
20 how can you be sure of their accuracy?
21 MR. MILLER: This is one of the note takers we
22 have taking notes right now. And it is a person
23 standing up and she is taking what she feels are key
24 notes. And it just is another -- the court reporter's
25 notes is what we will look at. But this is something

1 that she can process more quickly. After the last
2 meeting we got her notes processed in a day and sent
3 them to ESA to remind us what happened in the meeting.
4 It us just -- it is nothing official. The official
5 court reporter is what we are really looking at for
6 notes. It is another thing to keep our team thinking
7 and to help us get the notes.
8 THE FACILITATOR: Next speaker is (b) (6) Privacy
9 [redacted]
10 [redacted] I hope you hear me well. I live here in one of
11 the residences here in Gonzales. I live here with my
12 family locally and with my neighbors.
13 I'm concerned about this project, the Plasco
14 project, because at this presentation they make it look
15 beautiful, but at the same time we have somebody else
16 here that is telling us the opposite. So which is the
17 truth? Who is saying the truth? Who is to say the
18 truth?
19 I have three questions and one proposal. I
20 would not want for anyone to leave until they listen to
21 this.
22 My first question is if in 200 miles around, in
23 a 200-mile radius if there is another project like
24 Plasco or similar to Plasco. And for that, the
25 gentleman's name that was the person in charge of

1 presenting this project or doing the report, if he has
2 ever known a report, an environmental impact report,
3 similar in 200 miles around this area.
4 Second question is why Gonzales? Why was
5 Gonzales chosen to establish a project here? We know
6 Gonzales is a place where we grow produce, vegetables
7 that we consume everywhere, free from pollution. So why
8 Gonzales when this project was refused in cities like
9 Carmel, Los Angeles, and Monterey?
10 The third question I will omit because it has
11 been already mentioned before. So I'm going to move on
12 to the proposal that I mentioned at the beginning.
13 My proposal is that since many people around
14 here are not aware of all the details of the project,
15 why not have the meeting with people from Plasco where
16 they will explain to the people -- the people in charge
17 of comprising this report with an environmental impact,
18 explain it to the residents of this community as soon as
19 possible.
20 That is all. Thank you.
21 THE FACILITATOR: Thank you.
22 (b) (6) Privacy There was an error. I noticed an
23 error in the interpretation. When the gentleman wanted
24 to know if there has been a similar project, and because
25 she is doing the English, I believe he pointed out

1 whether or not there has been a similar situation in
2 which there was within a 200-mile radius, a situation
3 where there was another landfill. And I think that that
4 was not interpreted properly. And that is important,
5 because --
6 THE INTERPRETER: That is exactly what I said.
7 I said 200-mile radius; has there been another situation
8 in a 200-mile radius.
9 (b) (6) Privacy Two landfills, which was
10 important that he said. I didn't hear you say that
11 part.
12 THE FACILITATOR: I'm sorry. Clarify again.
13 (b) (6) Privacy The part that I believe was
14 omitted was if there was a similar project within a
15 200-mile radius that had two landfills.
16 THE FACILITATOR: I did not hear the two
17 landfills either.
18 THE INTERPRETER: I don't have that in my
19 notes.
20 THE FACILITATOR: You can submit that
21 separately. The next speaker is (b) (6) Privacy.
22 [redacted] and I'm
23 going to do my best to do my three minutes in English as
24 much as I can, or in Spanish, and then do rest in
25 English. I don't think I will need the translator if

you don't mind, because this is time consuming. I haven't really started my time.

THE FACILITATOR: You have started your time.

(b) (6) Privacy As far as I'm concerned, I have not. So I'm going to take that time as I see it.

Okay, the first thing I want to say is the garbage is the problem that we have.

THE FACILITATOR: (b) (6) Privacy, I speak Spanish. I'm going to ask you to say it in Spanish or in English.

(b) (6) Privacy I want to say it in my native language.

THE FACILITATOR: (b) (6) Privacy, please.

(Multiple voices.)

(b) (6) Privacy Allow me to do that, and then we'll get along. Thank you.

THE FACILITATOR: (b) (6) Privacy, wait a minute. Wait a minute. Let's agree. If you want to speak in Spanish, that is fine. But you also need to translate into English exactly what you say in Spanish. And it is going to be within three minutes in English -- I mean, I'm sorry, in Spanish. Three minutes. So if you would like to say it in Spanish, then we'll have it translated into English.

You speak in Spanish and we will have to

translate it into English.

THE WITNESS: I will translate it my way in my time because it is my --

THE FACILITATOR: I cannot let you do that.

(b) (6) Privacy How are you going to stop me?

THE FACILITATOR: I'm in charge of this meeting. And so you may speak. You may make your comments either in Spanish or make them in English, and we'll translate to the other language.

(b) (6) Privacy That is your time, not mine. You can do whatever you like on yours. That is fine. I want to express a passion I feel.

THE FACILITATOR: (b) (6) Privacy, I will ask you to stop speaking then.

(b) (6) Privacy They're lost in translation, and points being delivered --

THE FACILITATOR: We're going to have the same rules for everybody. So if you would like to speak, you pick the language that you want to speak in. Please. Stop. Stop.

Please decide if you would like to speak in Spanish or English.

(b) (6) Privacy You are taking more than three minutes to have that discussion.

THE FACILITATOR: I asked at the beginning --

and I'm in charge of this meeting. I asked at the beginning of the meeting that we treat each other with courtesy. I'm attempting to do that. I would like to ask you to stop speaking or we will end the meeting.

(Multiple voices.)

(b) (6) Privacy I will do the rest in Spanish, and he can translate --

THE FACILITATOR(b) (6) Privacy I'm leading the meeting. Stop. You need to stop that. You are discourteous. Right now we do not --

(Multiple voices.)

THE FACILITATOR: Ladies and gentlemen --

(b) (6) Privacy I will do my presentation in English and Spanish, and I will give them time to do their translation in English. And I will try to do the best I can to be passionate about my point. So let's get back to business here.

THE FACILITATOR: Thank you.

(b) (6) Privacy It is very important in a public forum for the public to have the right to say how they feel. So it is really shameful what has happened in this community. It is shameful, the way that the public is treated. And then for a speaker to be critical -- to be arrested for speaking about the well-being of one's community, that is worse than the battles we fought in

Europe and with the Japanese and other people that we fought for the oppression of their own. Here we're doing the same thing. I think that is a total disgrace.

THE FACILITATOR: Okay. Any other comments?

(b) (6) Privacy I will get to the point. This organization, Salinas Valley Solid Waste Authority -- you can do that in Spanish. That is fine.

The Solid Waste Authority is pretty much close to bankruptcy and running out of business.

Please, go ahead.

And I say that because this is the last landfill you have in order to justify your existence.

That is my point. That is a loose translation.

So now, you are bringing in garbage from other places, including Santa Clara County, to create an issue of -- we deliver here four percent of the total garbage, but now other cities are going to bring it to Gonzales. That is the issue. So now you're creating an issue that we're going to need something like Plasco in order to maintain our problem, or to control our problem.

And correction on that. I don't believe I said Santa Cruz. I said Santa Clara. If I did, I apologize. I meant Santa Clara. You said Santa Cruz.

I believe if this EIR would do a study on the cost-effectiveness of consolidating the Salinas Valley

1 Solid Waste Authority, along with the Monterey Regional
2 Waste Authority, which is located in Marina, and
3 consolidate the two and just use that for all these
4 locally, we won't be bringing in from other areas,
5 thereby avoiding this crisis that we're presented with
6 and the need to have potentially toxic environment into
7 our neighborhood. We don't want to be known as the
8 garbage capital of the world. I'm perfectly happy with
9 the salad bowl of the world.
10 And the big issue I think we have today with
11 this particular matter is our elected officials. It is
12 tough -- Salinas representation, when you include the
13 supervisors and the City Council lives there, and they
14 don't want it in the City of Salinas. In the City of
15 Gonzales, who was possibly putting out misleading
16 information such as the public has been told thus far, I
17 can see them wanting to say it's a good idea, but we do
18 have a problem with elected officials allowing this to
19 take place and to continue.
20 And the last comment is the amount of traffic
21 on the highway. We have all these young kids on the
22 highways and people on their way to work, coming back
23 from school, and all these vehicles coming down to
24 Gonzales from outside the area. And the challenges and
25 the issues that they are going to create with all the

1 gas and hazardous driving conditions coming this way,
2 wouldn't it in fact be safer if you just took it to
3 Marina and focus on that geographic area. Thank you.
4 THE FACILITATOR: The next speaker i(b) (6) Privacy.
5 [redacted]
6 and I'm a resident of the City of Gonzales for 25 years.
7 And I come from my country of Mexico, and I'm here to
8 tell you that I came here to improve my life and my
9 future. And in this city my children were born.
10 I will be brief. I will end this because some
11 people are already leaving and because they are tired
12 and they need to go to work tomorrow. I want to tell
13 you that I'm happy living here in the valley of Salinas.
14 It is a beautiful valley, and I have lived here for most
15 of my life, working in agricultural. I think that there
16 are many opportunities in this country. And like I told
17 you, my children were born here, and I want them to have
18 a future. I have been working since I was a child, and
19 this country provides a lot of opportunities, especially
20 to those that work for them.
21 Some of you might not think that Plasco is here
22 to make money in Gonzales, but the Authority should
23 consider and think that maybe the residents who live
24 here might just exactly go to another place, or perhaps
25 to their country, because many of us have illnesses.

1 The City of Gonzales is going to make more
2 money than what is the everyday problem that damages our
3 agriculture. And the valley of Salinas is very rich in
4 agriculture. However, a lot of people are going to lose
5 their work because the produce is not going to be able
6 to continue, especially in our country. Not just this
7 country, because the produce is exported to another
8 country, and one of the things that you need to know is
9 that they check the produce when it arrives.
10 The City of Gonzales is a large productive
11 place for children to grow and enjoy the parks and
12 places of recreation. On the contrary, Gonzales will be
13 a city that instead of having gains will have a loss
14 here.
15 THE FACILITATOR: Last speaker.(b) (6) Privacy.
16 (b) (6) Privacy I will be quick. My question is to
17 Paul Miller. How do you study something that doesn't
18 exist in the U.S? I'm not sure where you are testing
19 the soil or the air or the water.
20 My other question is who is the Salinas Valley
21 board that took a vote, and why are they not here?
22 They voted. They took it upon themselves to
23 bring garbage to our town, but they have not been to any
24 of the meetings, except for maybe Mrs. Warner and the
25 lead here.

1 I'm not sure why they are not here. They need
2 to know what they have created.
3 My other question is I guess I would like to
4 know why the projects were turned down in other
5 counties. One of the most current one, I guess, Pajaro
6 turned it down. Or I don't know if the report came back
7 that it was just not going to happen.
8 And I guess my last question -- I guess an
9 alternative would be for every town to deal with their
10 own garbage. The other would be Fort Ord. I drive
11 there every morning to work. And it is huge. There is
12 a lot of room to put a new plant. Or, and I hate to say
13 this, but Marina. I guess that is it. Thank you.
14 THE FACILITATOR: So thank you again very much
15 for coming tonight. I would remind you that the reason
16 for this particular meeting was to get comments about
17 things that need to be looked at in the environmental
18 impact report. If you have further comments that you
19 would like to submit, you have until March 22 to submit
20 your comments. You can mail them. You can fax them.
21 You can take them to the Authority's office in Salinas.
22 And there are comment cards available at the table in
23 the back if you would like to take one.
24 I will come back for another speaker. Do you
25 want to speak this evening? Are you asking to speak?

1 Was there anyone else that did not turn in a
2 card that wants to speak?
3 (b) (6) Privacy Good evening. My name i(b) (6) Privacy
[redacted]. And I have gone to all of the meetings and I
5 have not seen police presence. I do not understand why
6 you need to have police presence. I don't understand.
7 Are we causing any damage or any harm? I don't
8 understand that.
9 One of the things I notice is that when we
10 clap, you get mad. So it only takes one minute. So you
11 are asking us to show you respect. Then you need to
12 show us both respect.
13 UNKNOWN MALE SPEAKER: Good evening. I'm a
14 member of the group. The reason that an interpreter is
15 here at the meetings, and I know that this meeting is
16 longer than expected because it has to be translated
17 from English to Spanish, and I want to know for the next
18 meeting if you can bring headsets back because they stay
19 too long and people get tired. And I understand. I
20 just wonder if you can bring the headsets.
21 I have a concern that you said that Plasco is
22 bringing 40 people to work in the plant. You are
23 bringing 40 what, engineers or what kind of workers are
24 they? Think about the losses of farm jobs, for example.
25 They have to close, what about the people that work in

1 the farms? And you are going to gain 40, but you might
2 lose 200 farm workers in Gonzales. So you are bringing
3 40 that are coming from out of Gonzales and losing 200
4 from Gonzales, so think about it. You are bringing
5 engineers, but what about companies like the company
6 that we built? They are not going to close the company.
7 They are going to have to close and close the farms
8 here.
9 I have been here for about 20 years. I own my
10 own home. So what happens if this company comes in and
11 brings pollution and property values are going down? No
12 one is going to want to come in and buy in this town.
13 And are we going to be compensated for the decrease in
14 our house values? Is that how that is going to work?
15 If that is, it doesn't work. What is going to happen to
16 our home values?
17 And my last concern has to do with when it is
18 going to work to build Plasco, that is going to need
19 water to do the building. So I don't know what is going
20 to happen. How are they going to use that water? And
21 once it is completed, they said the water is going to be
22 used for irrigation. I don't know what -- if they don't
23 use it for irrigation, and it comes out to Gonzales --
24 there is an outlet behind my house. What is going to
25 happen with it?

1 So I'm going to put it on the table, all the
2 facts that will affect Gonzales.
3 THE FACILITATOR: Thank you.
4 The next step will be that the EIR consultant
5 will prepare a draft environmental impact report. When
6 that document is ready, there will be another public
7 meeting so that you can comment on the information in
8 the EIR.
9 The EIR will take a number of months to
10 prepare. So I'm letting you know now that ahead of
11 time. And it will answer many of the questions that you
12 have brought up at the last meeting, as well as
13 tonight's meeting.
14 FEMALE VOICE: You said you were going to have
15 a third meeting. When is that going to happen?
16 THE FACILITATOR: Instead of a third meeting,
17 what we did is combined Spanish and English this
18 evening.
19 MALE VOICE: At the last meeting publicly you
20 said we're going to have two more meetings after last
21 week's. This is one. We have one more. And you are
22 talking about courtesy and respect. And I suggest you
23 do like you said you are going to do and have one more
24 meeting so the public can express itself. Otherwise,
25 you are going back on your statement and making this

1 whole thing a joke so you can control the microphone. I
2 don't think that is appropriate.
3 THE FACILITATOR: I apologize if I misspoke in
4 the last meeting. What I understood at that time was
5 that we had two scheduled meetings. We had one
6 scheduled on February 22. We had one scheduled on
7 February 28.
8 If you have any questions about the proposed
9 Plasco project or the process, please contact the
10 Salinas Valley Solid Waste Authority. Information on
11 how to reach the Authority is on the materials that are
12 available where you came in tonight. Thank you for
13 coming to this meeting, and good night. Thank you,
14 again.
15
16 (End of proceedings, 9:41 p.m.)
17
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25

CERTIFICATE

I, ROBIN E. RIVIELLO, a Certified Shorthand Reporter in and for the State of California, hereby certify that the foregoing is a full, true, and correct transcript of the proceedings to the best of my ability.

DATE: March 9, 2012

ROBIN E. RIVIELLO, CSR, RPR
License No. 11694

ANNEX C

C.1. SVSWA Response of March 9, 2012

C.2. Federal and California translation requirements applicable to CEQA review of the Plasco project, and SVSWA's failure to meet these requirements

ANNEX C.1

Bullet Point Summary of Response of Salinas Valley Solid Waste Authority to Allegations of Asamblea de Poder Popular de Gonzales et al
March 9, 2012

First Allegation:

- The Authority discriminated against Spanish speaking residents of Gonzales in sending out 1,750 notices in English and Spanish of two meetings at the Gonzales High School Gymnasium to receive public input on the upcoming Environmental Impact Report for the proposed Plasco waste to energy conversion project. The notices were for meetings on February 22 and 28th, but the part of the notice in Spanish omitted the date of the February 28th meeting.

Response:

a) The error was inadvertent. The Authority mailed out notices showing both dates in English and Spanish on February 13th to all 2,922 addresses in 93926 Zip Code area (which covers the City of Gonzales and surrounding areas). The dates of the meetings were published in local newspapers and announced on local radio and television stations in English and Spanish, and announced at both the Authority and Gonzales City Council meetings in February. The Authority's website also published notices of the meeting in English and Spanish.

b) The meetings were well attended. 67 members of the public attended the meeting onFebruary 22. 85 people attended the meeting on the 28th.

c) Written comments may also be received in English or Spanish through March 22, 2012.

Second Allegation:

- The Authority also discriminated against Spanish speaking residents of Gonzales by having inadequate English / Spanish translation services at the February 22nd meeting.

Response:

a) The Authority provided English to Spanish and Spanish to English translation at both meetings. At the meeting on the 22nd the Authority used its wireless headset system and provided 50 headsets for the public. Many headsets were taken by people who did not use them, and some children were seen playing with them, causing a shortage of headsets. At the meeting on the 28th the Authority has its translator perform translation using the public address system.

b) Verbal comments in Spanish were received at both meetings and were translated. All written comments will be translated.

Third Allegation:

- The Authority has already selected the Plasco project for the Johnson Canyon landfill, which will cause harmful health effects, to discriminate against Latinos in the Gonzales area.

Response:

a) No decision has been made by the Authority to approve the Plasco project or to locate it at the Johnson Canyon landfill as opposed to another location. Because the Plasco project would convert part of the waste going to the Johnson Canyon landfill to electric energy, the Johnson Canyon was a logical location to choose for initial environmental review.

b) The point of the EIR is precisely to study claims that the Project will have harmful envronmental effects. The EIR will contain scientific studies by independent consultants of any alleged environmental effects from the Plasco project and will propose feasible mitigation measures including emission controls. Yet GreenAction of San Francisco and their local organizers from the Asamblea de Poder Popular de Gonzales want to stop the EIR so the truth will not be known. The Authority believes the better view is to study the technology first, then decide.

Fourth Allegation:

- The environmental impact report and all relate documents must be translated into Spanish.

Response:

- The translation of lengthy environmental and technical studies into Spanish would be very expensive and time consuming, and it is difficult to also provide accurate translations of technical documents such as an EIR. It is not required by law. Neither the State of California, Monterey County nor the cities in the County publish EIRs and other legal documents in Spanish.

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March 9, 2012

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RE: Response to Complaint of Asamblea de Poder Popular de Gonzales

Dear Sirs,

I am General Counsel to the Salinas Valley Solid Waste Authority ("Authority"). I am writing to provide a preliminary response to the purported complaint of "Asamblea de Poder Popular de Gonzales," (b) (6) Privacy [redacted] against the Authority, dated February 28, 2012.

The Authority categorically denies the allegations of the complaint, and disputes its factual allegations, almost all of which are inaccurate, misleading or only provide a portion of the relevant information. In summary, the complaint contains two principal allegations:

First, the complaint alleges that the Authority discriminated against Spanish speaking residents of the Gonzales area as a result of the Authority's noticing and conducting two "scoping sessions" held by the Authority in the City of Gonzales on February 22 and 28, 2012, which were held to give members of the public an opportunity to testify on the scope of the environmental review and to state their environmental concerns about a Plasco waste to energy conversion facility tentatively proposed - for California Environmental Quality Act (CEQA)[1] analysis purposes - to be located at the Johnson Canyon Landfill, in the unincorporated area of Monterey County near the City of Gonzales (the "Project").

1 California Environmental Quality Act, California Public Resources Code section 21000 et seq.

Second, the complaint alleges that the Authority has "selected" the Johnson Canyon Landfill as the site for the Project without adequate consideration of residents, and that the project will cause air pollution and will have a disproportionate adverse impact on Latinos in Gonzales.

The complaint asks that the Department of Agriculture and US EPA order the Authority to cease its CEQA review of the Project and reverse its alleged "selection" of this Project for environmental review. The complaint also asks that the Authority be ordered to translate all relevant CEQA documents and proceedings into Spanish and requests several other procedural remedies.

I am enclosing a copy of the complaint for your ease of reference.

On behalf of the Authority, I am proving the following preliminary responses. The Authority reserves the right to supplement these responses and to provide additional information should that be requested or should the Authority deem it appropriate.

1. <u>The Authority Has Provided Ample Opportunity For Comment By All Members of the Public on the Notice of Preparation and Initial Study for the Project.</u>

On February 22 and 28, 2012, the Authority conducted scoping sessions in the City of Gonzales for members of the public, so that they could provide comment on the proposed Plasco waste to energy conversion facility which is proposed for CEQA analysis purposes to be located at the Johnson Canyon Landfill. Although CEQA does not generally require that the Authority, as lead agency for the Project under CEQA, hold any public scoping sessions prior to preparation of an environmental impact report (EIR) for the Project, the Authority made the determination to hold two such public sessions to provide the Authority with information on the questions and concerns of the public concerning potential environmental impacts of the Project. The purpose of the scoping sessions is to allow the Authority to consider and address these questions and concerns in the EIR. These public scoping sessions are an adjunct to the legally required process of allowing the public to submit written comments on the Notice of Preparation of the EIR and Initial Study.

On February 3, 2012, the Authority included notices of these scoping sessions in English and Spanish in utility bill mailings to approximately 1,750 addresses in and around the City of Gonzales. The notices informed recipients of the date, time and location of the two scoping sessions in Gonzales on February 22 and 28, but as the complainants correctly state, the Spanish translation of the notice inadvertently omitted the February 22nd date. (A copy of this notice is attached as Exhibit A.)

On February 7, 2012, the Authority delivered its Notice of Preparation and Initial Study (NOP) for the Project to the State CEQA Clearinghouse and also posted these documents on the Authority website. The Authority website has a Spanish translation feature, which translates portions of the website from English into Spanish, but typically does not translate linked documents. The NOP was also posted on the City of Gonzales website the following day, February 8, 2012.

On February 9, 2012, the City of Gonzales hosted a CEQA workshop in the City's Council chambers at which the City's Community Development Director, described the EIR process to members of the public attending. This workshop was conducted in English with translations from English into Spanish available. The City and Authority shared in the costs of providing the translator. The times, dates and location of the two scoping sessions were announced at this meeting.

On February 10, 2012 the Authority issued a press release to local radio, television and newspapers announcing the time, dates and locations of the two scoping sessions.

On February 13, 2012, a direct mailing of a notice, in both English and Spanish was sent by the Authority to 2,922 addresses in the 93926 Zip code, which is the Zip code for the City of Gonzales and surrounding area. The notices announced the Authority's two CEQA scoping sessions for the Project on February 22 and 28. (A copy of this notice is attached as Exhibit B.)

On February 15, 2012, a notice was published in the Gonzales Tribune, the local newspaper, announcing the time, dates and locations of the two scoping sessions.

A February 16, 2012 announcement of the two scoping sessions was made at the Authority's Board meeting held in downtown Gonzales in the City Hall Chambers. The Authority's Board meeting was translated from English into Spanish using a wireless headset system and a local translation service.

On February 21, 2012, Authority staff gave a television interview providing details on the time, dates and locations of the two Gonzales scoping sessions to Adrianna Sutton of Univision 67, the local Spanish television station. The information about the meeting aired as part of the evening news. The television interview can be viewed at their website: http://www.ksmstv.com/noticia/2012/02/21/340827-reunion-desperdicios.html

On February 21, 2012, the details for the two scoping sessions were also announced at the Gonzales City Council meeting.

The February 22, 2012 scoping session started at 6:30 p.m. at the Gonzales High School Gymnasium. The meeting was well attended, with approximately 67 members of the public seated when the meeting started. The Authority arranged to provide wireless English to Spanish translation and Spanish to English translation using an interpreter. The Authority had 50 wireless headsets available. All headsets were taken, and it was observed that not all headsets taken were actually used and in some cases kids were seen playing with the units. Approximately 20 to 30 minutes into the scoping session, and without any prior notice, a large number of people in the audience stood up in mass and left the room. Organizers from the group GreenAction out of San Francisco remained at the meeting and when Speakers no longer in attendance were announced, they responded "they left the meeting in protest". Several Spanish speaking individuals commented on the Project during the meeting, and their comments were translated into English and transcribed by the court reporter in attendance. Twenty nine individuals had completed Speaker Cards, but were not present when their names were announced to approach the microphone.

The February 28, 2012 scoping session also started at 6:30 pm at the Gonzales High School Gymnasium. The meeting was also well attended, with approximately 85 members of the public seated when the meeting started. At this meeting the Authority dispensed with the use of headsets and used an interpreter to translate English into Spanish and Spanish into English. Again, at this scoping session several Spanish speaking individuals commented on the Project during the meeting, and their comments were translated into English and transcribed by the certified short hand reporter in attendance. The Authority also received 10 of the total 17 written comments in Spanish from both meetings, which have been translated into English.

The Authority has extended the period to receive written comments on the NOP to March 22, 2012.

In conclusion, the Authority believes that it has provided substantial public notice in both English and Spanish of the scoping sessions on February 22 and 28, 2012. Both of these meetings were well attended, and Spanish speaking members of the audience were given the opportunity to provide comment in Spanish on the Project. There was no effort on the part of the Authority to discriminate against any Spanish speaking members of the public, or anyone else.

2. <u>The Authority Is Conducting A Full Environmental Review Of The Project Through The CEQA EIR Process And Has Not Made Any Determination Whether To Proceed With The Project, Or On The Final Location Of The Project.</u>

The Complaint is replete with assertions or innuendo to the effect that the Authority has approved or selected the Plasco as a waste conversion to energy facility project, and that it has

elected to site the facility at the Johnson Canyon Landfill to discriminate against Latinos in Gonzales. This charge is patently false and, in my opinion, deliberately inflammatory.

In order to prepare a comprehensive EIR and follow the legally mandated CEQA public review process in California, a well-defined project description is an essential legal component of any EIR. This requires that a project be proposed in sufficient detail, including its proposed primary location, to accurately describe the proposal and enable the environmental review process to move forward. However, the preparation of a project description, for purposes of preparing the Notice of Preparation and Initial Study and for inclusion in an EIR, is not an approval or selection of the Project itself. Rather, it is the start of a lengthy public process which might, or might not, result in approval of the Project by the Authority Board, and which might, or might not, result in approval of the Project for location at the Johnson Canyon Landfill.

It should be mentioned that the designation of the Johnson Canyon Landfill for primary proposed location of the Project was not dictated by the demographics of the Gonzales area. It is true that the Gonzales has a large percentage of Latino residents, but this is also true of the entire area served by the Salinas Valley Solid Waste Authority—which consists of the cities of Salinas, Greenfield, Gonzales, King City and Soledad and the eastern unincorporated areas of Monterey County in the Salinas Valley. Rather, the Johnson Canyon Landfill was the proposed primary site for the Project because it is the only active landfill in the Authority's area and the property is owned and operated by the Authority. Therefore the Authority has control over the site for this facility, and it is already the location of an operating landfill which has been at this location for over 40 years. The proposed Project is designed to convert post-recycled waste residue (otherwise destined for landfilling at the Johnson Canyon Landfill) to a gaseous fuel (syngas) that will in turn be used run conventional electrical generation system to produce electricity,. Therefore, the selection of the Johnson Canyon Landfill as the proposed primary CEQA study area of this facility was based on the existing location of the Johnson Canyon Landfill and not its proximity to the City of Gonzales or any particular demographic.

The EIR for the Project is expected to consider alternative locations other than the Johnson Canyon landfill, and to analyze the comparative environmental impacts of these alternative locations. It will be up to the Authority Board, if it determines to approve the Project, to also assess whether the Johnson Canyon landfill will be the location of the Project. The Board will base its decision on the information provided in the EIR, including its alternatives analysis, as well as public comments on the EIR.

Finally, with respect to the complainants' allegations that the Project could have potential significant adverse environmental impacts, the purpose of the CEQA EIR process is precisely to

determine if there are any such impacts and how those impacts may be mitigated. The EIR process is designed to present the public with a scientific and objective discussion of the analysis

of potential impacts, possible feasible mitigation measures, and of any significant and unavoidable adverse impacts. While we believe many of the claims of complainants and their sister organization GreenAction (whose attorney we are informed drafted the complaint) are unfounded, the point is that the EIR process will study these concerns and provide scientific analysis of the environmental impacts of the Project.

Ultimately, the Authority Board will have to consider the EIR, hear public comment on the EIR and the Project, and weigh all aspects of the Project including any environmental impacts and its economics. We cannot predict what decision the Authority Board will make at the end of this EIR process, and the Authority has not made any commitments to proceed with the Project.

3. The Authority Is Not Required To Translate All CEQA Documents Into Spanish.

California is a state with many Spanish speaking residents. We know of no law or regulation which requires that public documents, especially those that are technical in nature such as an EIR, be translated from English into Spanish. We are aware of the requirements of the Dymally Alatorre Bilingual Services Act, which in certain circumstances requires the translation of documents notifying California residents of the availability of essential public services, but we believe this law does not require the translation of CEQA documents for the Project under environmental review.

We have checked with other public agencies in Monterey County, including the County government and cities within the County, and we know of no agency that translates CEQA notices of preparation, initial studies, environmental impact reports and similar technical documents from English into Spanish. This would represent a significant burden for the Authority and any local government, both in terms of time consumption and the cost of translation. Rendering accurate translations of such large and technical documents would also pose a significant challenge. The Authority has and will continue to provide translations of notices and basic outreach information, as well as provide meeting translation services.

As an example, recent revisions to storm water regulations introduced by the Central Coast Regional Water Quality Control board will have a tremendous financial impact to the primarily Latino residents of the Salinas Valley, yet these State run hearings in the City of Salinas were not translated into Spanish. Therefore, if it is proposed that California mandate such translation requirements on local government, then we submit this is a matter for decision by the State legislature. Certainly, the fact that the complainants have each signed 48 page complaints,

in English, and all of it well written and organized, suggests that the complainants have resources available to them to translate and understand complex documents.

4. Conclusion.

For the foregoing reasons, we submit that no action should be taken on the complaints, and that they should be dismissed. Please let us know if you would like us to provide you with further information.

Sincerely,

Thomas M. Bruen

TMB:jlm

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Members of the Board of the Salinas Valley Solid Waste Authority
City Managers, City Council members, Cities of Greenfield, Gonzales, King City, Salinas, Soledad
Members, Monterey County Board of Supervisors
Anthony Cannella, State Senator
Luis Alejo, State Assemblyman
John Laird, Secretary, California Natural Resources Agency

ANNEX C.2.

Federal and California Requirements on Language Access and SVSWA's Failure to Meet These Requirements

The Complaint, and this Addendum to which this document serves as an annex, allege that Salinas Valley Solid Waste Authority (SVSWA) violated Title VI and California Government Code §11135 because it engaged in acts that had disparate impact and constituted intentional discrimination against Latinos and Spanish speakers, including language discrimination that denied Latinos and foreign born Spanish speakers equal opportunity of participation, due to the following:

- SVSWA did not provide equal notice of the scoping meetings of February 2012 in Spanish, because one of the meetings was omitted in the Spanish notice
- SVSWA refused to translate the CEQA Notice of Preparation and Initial Study documents, which were the subject of comment during the scoping period, and thus made meaningful participation by Spanish speakers impossible
- At the February 22, 2012 scoping meeting, SVSWA did not provide enough interpretation headsets, but refused to cancel the meeting despite repeated requests before and during the meeting, saying consecutive translation would be provided (which allows people to hear the translation without need for headsets), but subsequently refused to provide consecutive translation
- At the February 22, 2012 scoping meeting, SVSWA official(s) who were supposed to be receiving public comments clearly did not intend to listen to Spanish comments, because they did not speak Spanish and made no effort to take interpretation headsets, even before they ran out
- At the February 22, 2012 scoping meeting, the transcriptionist did not speak Spanish but was not given a translation headset, and did not fully and accurately record comments in Spanish
- At the February 28, 2012 scoping meeting, the translation was faulty and inadequate, and at least four bilingual Spanish-English speakers complained that their comments were not being translated correctly, and therefore they were not accurately recorded;

- At the February 28, 2012 scoping meeting, a bilingual Latino resident of Gonzales was prohibited from speaking in English and Spanish, being told that this was against the rules and the same rules would be applied to everyone. However, during the same meeting, a non-Latino person had been allowed to speak in both languages.

In its Response of March 9, 2012[1], SVSWA argues that it provided "ample opportunity" for Spanish speakers to participate in the CEQA process, because it provided adequate notice in Spanish, its website has a Spanish translation feature, it provided adequate interpretation services at the February 22, 2012 scoping meeting, and that it does not have the obligation to translate documents into Spanish, including because: SVSWA considers that the Dymally-Alatorre Act does not require it; it knows of no other federal or state law that requires translation; because it believes no city in Monterey County does so; it considers translation of complex documents too burdensome; and it states Asamblea should have the resources to do its own translations, because it was able to submit a complex, well-organized civil rights complaint.

SVSWA errs, because: (1) Title VI and Cal. Gov. Code §11135 prohibit discrimination based on race and national origin, and these laws require translations to assure equal access of limited English proficient persons to services, information and opportunities for public participation; (2) CEQA requires public information and participation, and in a heavily Spanish speaking community, this requires adequate notice, translation and interpretation; (3) federal law and guidance (Executive Order 13166 and Department of Justice Guidance, on language access for limited English proficient persons) require translation that assures "meaningful participation" of limited English proficient persons, including translation of "vital documents"; and (4) the Dymally-Alatorre Act provides standards for when translations are required by state and local agencies.

SVSWA has repeatedly violated these requirements.

1. Title VI and Cal. Gov. Code §11135 prohibit discrimination based on race and national origin, and requires translations to assure equal access of limited English proficient persons to services, information and opportunities for public participation

[1] See Response of Salinas Valley Solid Waste Authority to Allegations of Asamblea de Poder Popular de Gonzales of March 9, 2012, and its Bullet Point Summary.

Title VI and California Government Code §11135 prohibit recipients of federal and state funding or assistance, such as SVSWA, from discrimination based on race and national origin. For limited English proficient persons, this requires language access, including translation of notices, documents, and proceedings, to assure equal access to services, benefits and opportunities to participate in public proceedings.

As will be discussed below, the California Environmental Quality Act has robust requirements for public participation, including "wide public involvement." In a community such as Gonzales with a very high proportion of Spanish speakers, **Spanish translation is required to meet CEQA public participation requirements**. In addition, in the implementation of CEQA and other activities and duties, SVSWA must also assure **equal access** to public participation in order to comply with Title VI and Cal. Gov. Code §11135. See Section 2 infra.

SVSWA's responsibilities in the CEQA process, and in all its activities, must comply with Executive Order 13166 and Department of Justice Guidance on how to assure language access in order to comply with Title VI. See Section 3 infra.

The California Dymally-Alatorre Bilingual Services Act contains provisions on when translations are required when state or local agencies serve populations with substantial number of non-English speakers. Section 4 infra. The application of the Dymally-Alatorre Act to SVSWA's activities must also be interpreted in the light of Title VI and Cal. Gov. Code §11135, to assure non-discrimination and equal access for limited English proficient persons.

2. CEQA requires public information and participation as part of the EIR process, and this requires translation of CEQA documents into Spanish in a predominantly Spanish-speaking community like Gonzales

The legislative intent of the California Environmental Quality Act (CEQA) is to protect the environment and people of California.[2] To achieve its purposes,[3] CEQA requires the analysis

[2] Legislative intent of CEQA includes for instance to "[d]evelop and maintain a high-quality environment now and in the future, and take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state" and to "[t]ake all action necessary to provide the people of this state with clean air and water, enjoyment of aesthetic, natural, scenic and historic environmental qualities, and freedom from excessive noise". See Pub. Res. Code §21001(a) and (b).

[3] The basic purposes of CEQA are to inform governmental decision makers and the public about potential, significant environmental effects of proposed activities; identify the way that environmental damage can be avoided or significantly reduced; prevent significant, avoidable damage to the environment; and disclose to the public the reasons why a governmental agency approved the project. State CEQA Guidelines §15002(a)(1). The CEQA statute

of the environmental impact of proposed projects before their approval.[4] Public participation is an "essential part of the CEQA process"[5], and CEQA and its guidelines contain robust public participation and information requirements for the environmental review process. Under CEQA, the lead agency that is conducting the environmental review process has responsibilities including to:

- "include provisions in its CEQA procedures for wide public involvement, formal and informal, consistent with its existing activities and procedures"[6],
- such provisions should, whenever possible, make information available on a website maintained or utilized by the agency[7],
- "solicit and respond to comments from the public"[8],
- "receive and evaluate public reactions to environmental issues related to the agency's activities"[9],
- "provide meaningful and useful" documents to the public[10],
- "Discovering public concerns" during the review of the EIR (as well as disclosing agency analyses, checking for accuracy and omissions, and soliciting counter proposals)[11], and
- demonstrate to the public that it has analyzed and considered the ecological

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establishes in its Section 21083 that the CEQA guidelines shall establish the objectives and criteria for the evaluation of projects and the preparation of the environmental impact report, and the determination of whether a proposed project may have a "significant effect on the environment". Pub. Res. Code §21083(a) and (b). See also CEQA Section 15003(f).

[4] See CEQA §21002. "An environmental impact report is an information document which, when its preparation is required by this division, shall be considered by every public agency prior to its approval or disapproval of a project." CEQA §21061. An environmental impact report is required when "there is substantial evidence, in light of the whole record before the lead agency, that a project may have a significant effect on the environment". CEQA §21082(d). An EIR is also statutorily mandated for certain types of projects, including projects involving municipal burning of wastes, hazardous waste, or refuse-derived fuel. CEQA §21151.1(a)(1)(A).

[5] "Public Involvement. Under CEQA, an agency must solicit and respond to comments from the public and other agencies concerned with the project." CEQA Guidelines Section 15002(j). "Public participation is an essential part of the CEQA process. Each public agency should include provisions in its CEQA procedures for wide public involvement, formal and informal, consistent with its existing activities and procedures, in order to receive and evaluate public reactions to environmental issues related to the agency's activities. Such procedures should include, whenever possible, making environmental information available in electronic format on the Internet, on a web site maintained or utilized by the public agency." CEQA Guidelines 15201.

[6] CEQA Guidelines 15201.

[7] CEQA Guidelines 15201.

[8] CEQA Guidelines Section 15002(j).

[9] CEQA Guidelines 15201.

[10] CEQA 21003(b).

[11] CEQA Guidelines 15200.

implications of its action[12], and that the public's health is being protected[13].

It is clear that for a community with a significant number of limited English speaking persons (LEP's), it is impossible for a lead agency to conduct a proper public consultation process with "wide public involvement" which meets CEQA requirements, unless it provides translations notices and key documents as well as adequate interpretations in public meetings. This is especially true when dealing with technical matters such as those evaluated during a CEQA process – even non-English speakers who have a fairly high level of conversational ability in English require translations of written documents in order to participate in a public process.

Gonzales has a very high proportion of Latinos and Spanish speakers, many of whom are limited English proficient persons; the proportion of limited English Spanish speakers are higher among the foreign born: approximately 88.1 percent of residents are Latino/Hispanic ("Latino"), and 74.6 percent speak Spanish at home; of the Spanish speakers, approximately 54.5 percent spoke English less than "very well" and 25.8 percent did not speak English at all. Approximately 39.1 percent of residents are foreign born, of whom 95 percent are Spanish speakers; of the foreign-born Spanish speakers, 89.8 percent speak English "less than very well" and 47.2 percent speak English "not at all".[14]

In a community such as Gonzales, SVSWA cannot comply with CEQA requirements on public participation, including to assure "wide public involvement", solicitation of public comments, the provision of "meaningful and useful" documents to the public, etc., without providing Spanish translation of documents and proceedings. Further, SVSWA cannot meet Title VI and Cal. Gov. Code §11135 requirements on non-discrimination during its implementation of its CEQA duties, unless it provides Spanish translations that assure equal access and opportunity for participation of limited English speakers in CEQA processes.

Unfortunately, SVSWA has refused to provide adequate translations, despite repeated requests and complaints by residents. This has severely impaired the ability of limited English proficient persons to participate in CEQA processes, especially for Latinos and foreign-born, and

[12] People ex rel. Department of Public Works v. Bosio, 47 Cal. App. 3d 495; integrated into CEQA Policy as CEQA Section 15003(d)
[13] County of Inyo v. Yorty, 32 Cal. App. 3d 795; integrated into CEQA Policies as CEQA Section 15003(b)
[14] Data from U.S. Census 2010, 2006-2010 American Community Survey 5-year estimates. See Complaint Section V.A. The Community.

thus violates Title VI and Cal. Gov. Code §11135 protections against discrimination based on race and nationality. Limited English proficient persons were unable to participate in the scoping process which took place in early 2012 to solicit public comment on the scope of the environmental impact report, because such participation required reading and commenting on the Initial Study, which SVSWA refused to translate into Spanish. The equal participation of limited English proficient persons was also severely impaired by defects in the interpretation services at the scoping meetings of February 22 and 28, 2012 (insufficient headsets at the February 22 meeting, and refusal of SVSWA to provide consecutive translation, despite initial promises to do so, which led to walkout by most residents; errors in the February 28 scoping meeting, which led to failure to accurately record Spanish comments into the record.)

SVSWA also violated its CEQA duties to "receive and evaluate public reactions to environmental issues related to the agency's activities", and engaged in intentional discrimination, because SVSWA General Manager/CAO Patrick Mathews, who was ostensibly at the scoping meeting to receive comments, did not make efforts to take an interpretation headset to be able to understand Spanish comments at the February 22 scoping meeting, and, at the February 22 and 28 meetings. Further, Spanish comments were not accurately reflected into the record because the transcriptionist did not speak Spanish but was not given an interpretation headset at the February 22 meeting, and there were many errors in the translation at the February 28 scoping meeting.

2. Title VI, Executive Order 13166 and its Federal Guidance require "meaningful access" by limited English proficient persons

Federal law and guidance clarify SVSWA's obligation under Title VI on providing access by limited English speakers to its activities and services (including leading the CEQA process) are clarified by federal law. As a recipient of federal funding, SVSWA is subject to Title VI, Executive Order 13166 on "Improving Access to Services for Persons with Limited English Proficiency", and Department of Justice's "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibitions Against National Origin Discrimination Affecting Limited English Proficient Persons."

Title VI, Executive Order 13166, and the Department of Justice Guidance require that recipients of federal assistance not discriminate on basis of national origin, and clarify that this

requires **"meaningful access" by limited English proficient persons** to programs, activities and services offered by recipients, including **translation of "vital documents".**

Executive Order 13166 and DOJ Guidance document provides clarity on translation requirements under Title VI

Title VI prohibits discrimination based on race, color, or national origin, by a recipient of federal funding.

On August 11, 2000, President Clinton issued Executive Order 13166 on "Improving Access to Services for Persons with Limited English Proficiency" for the purpose of ensuring that federal agencies, and recipients of federal funding, provide "meaningful access" to their programs and activities, and services to persons limited in their English proficiency because of their national origin.[15]

For recipients of federal funding, the Executive Order mandates that they must "take reasonable steps to assure meaningful access to their programs and activities by Limited English Proficiency persons", in accordance with the Department of Justice guidance document that was issued on the topic. The DOJ guidance document "sets forth the compliance standards that recipients must follow to ensure that the programs and activities they normally provide in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of Title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations." [16]

The Guidance provides that recipients of federal funding have "an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important government services"[17] and requires them to "take reasonable steps to ensure meaningful access to their programs and activities by LEP persons."[18] What constitutes "reasonable steps to ensure meaningful access" is a flexible and fact-based standard, but requires that recipients conduct an assessment of language needs using a "four-factor analysis", and based on this, develop an implementation plan to address those needs.[19]

In the "four-factor analysis", recipients should examine: (1) The number or proportion of

[15]Executive Order 13166 of August 11, 2000 (reprinted at 65 FR 50123), para 1 and section 1.
[16] Executive Order 13166 of August 11, 2000 (reprinted at 65 FR 50123), Section 1.
[17] DOJ Recipient LEP Guidance, 67 FR 41457.
[18] DOJ Recipient LEP Guidance, 67 FR 41459.
[19] DOJ Recipient LEP Guidance, 67 FR 41464.

LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and, (4) the resources available to the grantee/recipient and costs.[20] The Guidance document provides some clarifications on how a recipient should conduct the four-factor analysis.

Further, the Guidance also requires that documents be translated if they are "vital".[21] Whether or not a document is "vital" may depend on the "importance of the program, information, encounter or service involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner."[22] And the "extent of the recipient's obligation to provide written translations of documents should be determined by the recipient on a case-by-case basis, looking at the totality of the circumstances in light of the four-factor analysis."[23]

The Guidance also sets out a "Safe Harbor", which gives examples of what would be considered strong evidence of compliance. For instance, a DOJ recipient is likely to be in compliance, if it provides written translation of vital documents for each eligible language group that constitutes 5 percent, or 1000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered.[24]

The Guidelines also emphasizes the importance of the quality of translations[25] and of selecting appropriate interpreters.

After a recipient completes the four-factor analysis, it should develop an implementation plan to address the identified needs. The Guidelines suggest that entities with significant contact with LEP persons, such as community groups and groups working with new immigrants, can be helpful in providing important input in the development of a plan.[26]

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[20] DOJ Recipient Guidance on LEPs, in Part V (How Does a Recipient Determine the Extent of Its Obligation To Provide LEP Services?), 67 FR 41459.
[21] *Id* at Part VI (Selecting Language Assistance Services).
[22] DOJ Recipient Guidance on LEPs, 67 FR 41463
[23] DOJ Recipient Guidance on LEPs, 67 FR 41463
[24] DOJ Recipient Guidelines on LEPs, 67 FR 41464. The Safe Harbor section also provides in its subsection (b): "If there are fewer than 50 persons in a language group that reaches the five percentage trigger in (a), the recipient does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost." 67 FR 41464.
[25] "Regardless of the type of language services provided, quality and accuracy of those services can be critical in order to avoid serious consequences to the LEP person and to the recipient." DOJ Recipient Guidance on LEPs, 67 FR 41461, in Part IV, "Selecting Language Assistance Services"
[26] DOJ Recipient Guidance on LEPs, in Part V (How Does a Recipient Determine the Extent of Its Obligation To

SVSWA failed to meet the requirements of Executive Order 13166 and DOJ Guidance

Under Title VI, Executive Order 13166, and DOJ Guidance, SVSWA has the obligation to provide "meaningful access" to LEP persons to their activities and services, including their activities as lead agency in the CEQA environmental review process on the Plasco project.[27]. Under the four-factor analysis, it is clear that SVSWA has a high obligation to provide interpretation and translations of documents in order to provide such "meaningful access", particularly in the context of the CEQA and EIR process:

Factor 1. Number or Proportion of LEP Persons Served or Encountered in the Eligible Services Population. The number and proportion of LEPs set by the DOJ Guidance as a "Safe Harbor" is **5% or 1000 people (whichever is less) of the population likely to be served, or likely to be affected or encountered.** Gonzales has approximately 8187 residents, with 74.6 percent speaking Spanish at home (approx. 6108 persons), 40.6 percent being Spanish speakers who spoke English less than "very well" (approx. 3324 persons), and 19.2% being Spanish speakers who did not speak English at all (approx. 1572 persons).[28] 39.1 percent of the residents at Gonzales are foreign born (approx. 3201 persons), and of these, 89.8 percent speak Spanish less than "very well" (approx. 2875 persons), and 47.2 percent speak English "not at all" (approx. 1511 persons).[29]

Factor 2. Frequency of Contact with LEP persons. Residents of Gonzales are in constant contact with the waste management activities of SVSWA because the landfill is only a few miles from their homes and school, and during the CEQA process, in which public outreach and

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Provide LEP Services?), 67 FR 41459.

[27] The SVSWA is a joint-powers agency made up of several local governments within Monterey County (the cities of Gonzales, Greenfield, King City, Salinas, and Soledad) as well as the eastern half of the unincorporated Monterey county; it is responsible for managing waste disposal, "in an environmentally sound and cost-effective manner." (SVSWA website). SVSWA receives funding from the Department of Agriculture and technical assistance from the U.S. Environmental Protection Agency. (See Complaint, Exhibit 1.) One of the activities of the SVSWA over the last several years has been to explore "Conversion Technologies" as an alternatives to landfills, and to "transition Johnson Canyon Landfill into a Resource Management Park". (SVSWA website. See Complaint Section V.B. and B.D. It is through this process that the SVSWA Board selected the Plasco project to proceed to the CEQA environmental impact review stage. SVSWA is serving as the lead agency that coordinates the CEQA environmental review process, whose purpose is to protect the environment and the public, whose procedures require public information and consultation. CEQA Statute and Guidelines. See Addendum to Complaint, Cause of Action D.

[28] From U.S. Census, and American Community Surveys. See Complaint, Section V.A. The Community, footnotes 8 to 14.

[29] See Complaint, Section V.A., The Community. In Monterey County as a whole, 44.8 percent speak Spanish at home, and of these, 24.9 percent speak English less than "very well". Of the foreign born persons in Monterey County, 63% were Spanish speakers who speak English less than "very well" and 25% speak English "not all".

consultation is required, the contact required between residents and SVSWA officials is very high.

Factor 3. Nature and Importance of the Program, Activity, or Service. The DOJ Guidance provides that recipients must evaluate the nature and importance of the activity in question. One analysis that recipients can use to analyze factor 3, is "whether denial or delay of access to services or information could have serious or even life-threatening implications for the LEP individual."[30]

Complainants and other Gonzales residents are extremely concerned about the evaluation and decision on the Plasco project, because it is critical for the health and safety of Gonzales residents and their environment (the Initial Study for instance recognized that the project, if approved, would produce toxic emissions and greenhouse gases and would be likely to affect air and water quality.) The CEQA process is designed to protect the environment and people through a rigorous process of environmental impact review for proposed project, which builds in public participation and scrutiny. It is impossible for Spanish speaking residents to have meaningful access to participation in the CEQA process, which requires understanding and comment on specific environmental review documents, unless these key documents are translated (which include public notices, Notice of Preparation, the Initial Study, and the draft and final EIR – these are vital documents), and there is adequate, quality interpretation for public meetings. Lack of translation of written documents and adequate interpretation makes meaningful public participation by most persons in Gonzales impossible, and could lead to improper approval of the project, which could have serious and perhaps even life-threatening implications for residents, many of whom are LEP individuals.

Factor 4. Resource Available to the Recipient and Costs. The SVSWA has access to resources to pay for the translations, because it has a financial agreement with Plasco to cover the costs of the EIR process.[31]

Thus based on the four-factor analysis, SVSWA clearly has a very high obligation to provide adequate, quality interpretation, and translation of vital documents. This was not met at

[30] DOJ Recipient Guidance on LEPs, 67 FR 41460, section (3) on "The Nature and Importance of the Program, Activity or Service Provided by the Program"

[31] Financial Agreement between SVSWA and Plasco of September 15, 2011, for Plasco to reimburse SVSWA for costs of the EIR.

the February 22, 2012 because translation headsets ran out, and SVSWA refused to allow for consecutive translation, nor at the February 28 scoping meeting, because of faulty translations, defects in the Spanish public notice, and the refusal to translate the Notice of Preparation and the Initial Study.

Note that the DOJ Guidance also states that recipients, in order to determine the breadth and scope of language services needed, should examine prior experiences with their LEP encounters[32]; and that community organizations and groups working with new immigrants can be helpful in developing an implementation plan to meet those needs[33]. Here also SVSWA has failed – it received repeated information prior to and during the February 22 scoping meeting from Asamblea (a community group, with many immigrant members) that many residents were monolingual or primarily Spanish speaking and required adequate interpretation and translation of the environmental review documents. Yet SVSWA refused in the February 22 meeting to provide consecutive translation when it could easily have done so, and it failed to provide quality translation at the February 28, 2012 scoping meeting. Further, SVSWA's prior experience at the February 22, 2012 scoping meeting, in which community members expressed outrage about the lack of translation of documents, and the inadequacy of interpretation (including requests for cancellation prior to the meeting, vociferous protests during the meeting, and a walkout by the community) should have informed the SVSWA's decision on what translations services were necessary for the February 28, 2012 scoping meeting. Yet at the February 28 scoping meeting, SVSWA still did not provide the translation of the Notice of Preparation or the Initial Study, and the interpretation services were again inadequate.

Further, as noted above, assuring "meaningful access" to LEP persons to the CEQA public participation process must also require that comments made by Spanish speakers must be heard and accurately put into the record by SVSWA officials. Yet SVSWA officials who were supposed to be receiving public comment at the February 22, 2012 scoping meeting and the transcriptionist recording the proceedings, were equipped only to receive comments in English, because they did not speak Spanish, and did not take translation headsets (even before they ran out.) At the February 28, 2012 scoping meeting, residents complained that the comments in

[32] DOJ Recipient Guidance on LEPs, 67 FR 41460, in continuation of section (1) on "The Number of Proportion of LEP Persons Served or Encountered in the Eligible Service Population"
[33] DOJ Recipient Guidance on LEPs, in Part V (How Does a Recipient Determine the Extent of Its Obligation To Provide LEP Services?), 67 FR 41459.

Spanish were not going to be accurately reflected in the record, because the quality of the translation was bad. The DOJ Guidance recognizes that quality and accuracy of translation services can "be critical in order to avoid serious consequences to the LEP person and to the recipient", and emphasizes the importance of assuring quality of translations, for instance by providing a team of interpreters during long meetings [professional practice is for interpreters to switch every 30 to 60 minutes], so that interpreters can take breaks in order to avoid mistakes due to fatigue.[34] At both the February 22 and 28 scoping meetings, SVSWA provided only one interpreter.

3. California's Dymally-Alatorre Bilingual Services Act requires the translation of services for limited English proficiency persons

California's Dymally-Alatorre Bilingual Services Action ("Dymally-Alatorre Act")[35] sets standards for translation services required from state and local agencies, and SVSWA did not meet these standards.

Requirements of the Dymally-Alattorre Act

. The Dymally-Alatorre Act declares that "the effective maintenance and development of a free and democratic society depends on the right and ability of its citizens to communicate with their government and the right and ability of the government to communicate with them."[36] Thus the intent of the Dymally-Alatorre Act is to "provide for communication between all levels of government in this state and the people of this state who are precluded from utilizing public services because of language barriers."[37]

The Act specifies that for purposes of the Act ("this chapter"), furnishing information or rendering of services includes but is not limited to: "providing public safety, protection or prevention", administering state benefits, "implementing public programs", "managing public resources or facilities", and "holding public hearings."[38]

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[34] DOJ Recipient Guidance on LEPs, 67 FR 41461, in Part IV, "Selecting Language Assistance Services"
[35] Dymally-Alattore Bilingual Services Act, Cal. Gov. Code §7295.4
[36] Cal Gov. Code §7291.
[37] Cal. Gov. Code §7291.
[38] Cal. Gov. Code §7292(b).

The Act requires that "a local agency serving a substantial number of non-English speaking people, shall employ a sufficient number of qualified bilingual persons in public contact positions or as interpreters to assist those in such positions, to ensure provision of information and services in the language of the non-English speaking person."[39]

The Act provides that for (local and state) agencies, "Any written materials explaining services available to the public shall be translated into any non-English language spoken by a substantial number of the public served by the agency."[40]

The Act does not speak explicitly on other circumstances in which local agencies are required to provide written information, but it could be inferred that written translations are required when necessary to provide for effective communication with the public[41], and in particular, they are necessary when providing information or rendering services related to issues including public safety, protection or prevention, implementing public programs, managing public resources or facilities, holding public hearings, etc.

The Act leaves the determination of what constitutes a "substantial number of non-English speaking people" and a "sufficient number" of qualified bilingual persons at the discretion of the local agency.[42] However, the Act specifies that for state agencies, it provides that a "substantial number of non-English speaking people" is met when there are limited English speakers that comprise 5 percent or more of the people served by any local office or facility of a state agency,[43] and "sufficient number of qualified bilingual persons" is specified as the number required to provide the same level of services to non-English speaking persons as is available to English speaking persons seeking those services." [44]

The Act requires that these provisions be "implemented to the extent that local, state or federal funds are available, and to the extent permissible under federal laws..."[45]

SVSWA did not meet the standards of the Dymally-Alatorre Act

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[39] Cal. Gov. Code §7293.
[40] Cal. Gov. Code §7295.
[41] "The overall intent of the Act is to "provide for effective communication between **all levels of government in this state** and the people of this state who are precluded from utilizing public services because of language barriers", Cal. Gov. Code §7291.
[42] Cal. Gov. Code §7293.
[43] Cal. Gov. Code §7296.2.
[44] Cal. Gov. Code §7296.4
[45] Cal. Gov. Code §7299.

In the case of the CEQA process on the Plasco project, Gonzales certainly meets the standard of having "a substantial number of non-English speaking people" required under the Act.[46] The specified state standard for the Dymally-Alatorre Act is 5 percent or more of the people served, and as noted above, the federal standard safe harbor is 5 percent or 1000 persons. In Gonzales, an estimated 54.5 percent of total residents speak English less than "very well" and 25.8 speak did not speak English at all; of the foreign born (who are approximately 39.1 percent of total residents), 89.8 percent speak English "less than very well" and 47.2 percent speak English "not at all".[47]

SVSWA's responsibilities, including as lead agency in the CEQA process on the Plasco project[48], fall within the "services" that are covered by the Dymally-Alatorre Act because they involve "providing public safety, protection or prevention", "implementing public programs", "managing public resources or facilities", and "holding public hearings."[49]

Under the Dymally-Alatorre Act, SVSWA had multiple duties. It was required to employ sufficient interpreters to ensure provision of equal level of services to non-English speakers in undertaking its duties, including at the February 22 and 28, 2012 scoping meetings. While the Dymally-Alatorre allows discretion in the determination of what constitutes "sufficient," Complainants consider that there were insufficient interpreters at the February 22 and 28, 2012 scoping meetings, because SVSWA only provided one interpreter at each scoping meeting, when professional practice is to provide a team of interpreters for long meetings, as interpretation is a highly demanding exercise and interpreters need take breaks 30 to 60 minutes at a time in order to avoid mental fatigue and resulting errors. As noted above, federal guidance recognizes this, and SVSWA must comply with federal rules because it receives federal funding. Indeed, at the February 28, 2012 scoping meeting, at least 4 bilingual participants complained that the

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[46] In Gonzales, according to Census information, approximately 88% of the residents of Gonzales are Latinos, of whom 74.6% speak Spanish at home, close to 55% speak English less than "very well", and over 25% are monolingual in Spanish. See Complaint, V.A. The Community.

[47] Data from U.S. Census 2010, 2006-2010 American Community Survey 5-year estimates. See Complaint Section V.A. The Community.

[48] As noted above, SVSWA is the entity charged with managing waste in Gonzales (and other cities part of the joint agreement that forms SVSWA), which impacts public safety and protection, managing public resources and facilities (SVSWA for instance owns and operates landfills); its CEQA responsibilities in the Plasco projet environmental review process include managing waste including when it serves as lead agency in a CEQA process, include responsibilities to protect the environment and the public, assure public participation, including to solicit and respond to public comments, provide for wide public involvement, receive and evaluate public reactions, discover public concerns, and demonstrate to the public that it is being protected.

[49] Cal. Gov. Code §7292(b).

translation was not accurate; the exact volumes of errors that were made in the translation of monolingual Spanish speakers is unknown.

Further, SVSWA did not adequately fulfill its duty under the Dymally-Alatorre Act to provide translations of written notices in Spanish services[50], because the Spanish notice of the scoping meetings omitted one of the scoping meetings resulting in English speakers being told of two meetings but Spanish speakers initially being informed of only one scoping meeting, and because the Notice of Preparation that informed the public of the initiation of the environmental review process was also not translated into Spanish.

With regard to translation of written documents such as the Initial Study, Complainants consider that in order to comply with the intent of the Act to provide for effective communication with the public[51], especially for activities involving public safety, protection or prevention, implementing public programs, and managing public resources or facilities, SVSWA must translate key documents necessary for limited English proficient persons to be able to equally participate in CEQA public consultation processes, and other SVSWA processes and activities.

A claim of lack of resources cannot excuse the SVSWA from its obligations, because it has obligations under CEQA and federal and state protections against discrimination to assure equal participation of Spanish speakers, and also, because SVSWA has a financial agreement with Plasco to pay of the costs of the EIR process. The cost of translation should have been budgeted into the cost of the EIR from the beginning.

5. SVSWA's other arguments that it has provided adequate translations are without merit

In its Response of March 9, 2012, SVSWA puts forth additional arguments to claim that it provided "ample opportunity for comment" on the notice of preparation and initial study, including that it provided adequate notice and adequate interpretation services at the scoping meetings. These are without merit. Some of these arguments, and Complainant's response, are:

- *The scoping sessions were not required by CEQA.* Complainants' response: When SVSWA undertakes to conduct scoping sessions, it has the obligation to not

[50] Cal. Gov. Code §7295.

[51] "The overall intent of the Act is to "provide for effective communication between **all levels of government in this state** and the people of this state who are precluded from utilizing public services because of language barriers", Cal. Gov. Code §7291.

discriminate, and assure equal access by limited English persons.

- *Headsets ran out at the February 22, 2012 scoping meetings because people that did not need them took them, and children were playing with them.* Complainants' Response: The headsets did not run out because people that did not need them took them, or because children were playing with them – they ran out simply because there were not enough headsets for the Spanish speakers. SVSWA stated they provide 50 headsets; there were approximately 120 persons at the meeting, many of them being Spanish speakers. Even Spanish speakers that are conversational in English need interpretation to be able to participate meaningfully in discussions. Also, English speakers who do not speak Spanish fluently also needed headsets. According to community members, if any children were playing with headsets, it is because some headsets did not work, and had been put aside. In fact, SVSWA General Manager/CAO Patrick Mathews apologized to participants twice during the scoping meeting that there were not enough headsets[52]; this contradicts SVSWA's claim its March 9 response that the lack of headsets were due to participants taking headsets they did not need, or giving them to their children.
- *The SVSWA provided adequate notice and information on its website, which has a Spanish translation feature.* Complainants: This translation feature is through an automated online translator (Microsoft/Bing/Babelfish Translator). It is recognized in the translation field that automated translators, particularly online ones, never do a very good job, and often yield bizarre results. (For instance, when the site was accessed in February and March 2012, "Link to Environmental Review" was translated into Spanish as the equivalent of "Coupling of Environmental Review", which is meaningless in Spanish and English.) Further, the entire interface for the website is not accessible to Spanish speakers (the main menu is never translated into Spanish, so it is difficult for Spanish speakers to navigate), and, documents for download from the site are not translated.
- *Translation of the EIR documents would be expensive, time consuming and difficult to*

[52] "Well, first office, I would like to apologize for not us not having enough headsets..." Transcript of February 22, 2012 scoping meeting, page 16 line 18-20. "...And, again, I want to apologize for not having enough headsets. Like I said, we did go out and purchase our own set of 50. We didn't realize that there would be that many people..." Transcript of February 22, 2012 scoping meeting, page 25 lines 22-25.

provide accurate translations because they are very technical. Complainants' response: Recipients of federal and state funds have an obligation to provide equal access to their activities and services to non-English speakers, even when expensive, time consuming and difficult. In fact, the fact that they are technical increases the need for translation, because even persons who are conversational in English would not be able to understand the documents without translation into their native language. While some balancing is allowed to account for resource constraints, the interest for limited English persons here is great, and SVSWA in this instance has access to resources to fund translations for CEQA review, because it has a financial agreement with Plasco to fund the EIR process.

- *State of California, Monterey County nor other Cities in the County publish EIRs and other legal documents in Spanish.* Complainants' Response: Under federal law, obligation to translate must be determined by a fact-specific analysis using the four-factors. SVSWA must provide translations of documents to meet non-discrimination requirements in Cal. Gov. Code §11135, meet CEQA requirements for wide public participation, and comply with the intent of the Dymally-Alatorre Bilingual Services Act. The fact that other government entities have not provided translations in certain situations in the past does not mean that this is not required for SVSWA in the CEQA process for the Plasco project. And it is possible that other municipalities are also in violation of state and federal law, which does not excuse SVSWA from doing the same.
- SVSWA: *Defects in the Spanish notice for the February 22 scoping meeting (in Spanish version of the notices sent out in February 3, one of the two scoping meetings was omitted) mailing were not important, because they were inadvertent errors, the SVSWA conducted other outreach activities, and because the meeting was well-attended.* Complainants' response: Any actions that result in discriminatory and disparate impact are prohibited by non-discrimination protections. Of the seven other outreach activities mentioned to attempt to demonstrate broad public outreach[53], only

[53] February 9 workshop at City Council Chambers, February 10 press release, February 13 direct mailing in English and Spanish, February 15 notice in Gonzales Tribune, February 16 announcement in City Hall Chambers, February 21 television interview to Spanish station, February 21 announcement at Gonzales City Council meeting. See SVSWA Response, page 2-3.

two had clear Spanish content directed at a broad audience (three activities for instance were events in City Council Chambers or City Council meeting which have little public impact). The fact that SVSWA says 67 persons attended the February 22 meeting (Complainants believe there were approximately 120) and 85 persons attended the February 28 meeting, does not mean that there were other people that were not informed and were not able to come.

- SVSWA: *Complainants must have resources to translate and understand documents on their own, because they signed a well-organized 48-page complaint in English.* Complainants' response: SVSWA's assertion is irrelevant, because it has a legal public responsibility under CEQA and state and federal law to assure access public participation, including equal access to Spanish speakers. It is improper for SVSWA to attempt to shift the responsibility of providing language access to the public.[54] It is also ludicrous to assume that Complainants have resources just because they asserted their right to justice in response to violations of their rights -- Asamblea has an annual budget of less than $1500 per year. Even if Asamblea were able to do its own translations, SVSWA has an obligation to make its documents accessible to the many other Spanish speakers outside of Complainants.

SVSWA's arguments are without merit, and rather show the intentionality of SVSWA's failures in providing language access, the insensitivity of SVSWA toward limited English speaking populations, and lack of expertise and professionalism of SVSWA on how to provide adequate translation services.

[54] Note that while DOJ Recipient LEP Guidelines mentions that a recipient of federal funding might consider to sharing costs of translation with other entities including non-profit organizations, this must be negotiated and consensual, and part of a larger rational plan for SVSWA to meet its obligations in good faith. The Guidelines emphasize that there are also questions about the appropriateness of asking persons receiving services from the recipient to provide their own translators, and emphasizes the recipients should aim to ensure translation services free of cost to the public.

ANNEX D

Correspondence Between SVSWA, Governor's Office, Plasco and Community Groups Regarding Calrecycle Decision Affecting RPS Certification for Plasco

ANNEX D.1

SALINAS VALLEY
SOLID WASTE AUTHORITY
"Working for a Future Without Landfills..."

May 25, 2012

Honorable Governor Jerry Brown
c/o State Capitol, Suite 1173
Sacramento, California 95814

Subject: CalRecycle Letter Rescinding Legal Opinion Regarding Plasco Energy Eligibility for Renewable Portfolio Standards

Dear Governor Brown,

The Salinas Valley Solid Waste Authority (SVSWA) was informed on Wednesday, May 23, 2012, by our conversion technology vendor, Plasco Energy, that the Director for CalRecycle has issued a letter rescinding her agency's November 23, 2010, legal opinion that the Plasco/Salinas Valley gasification project is a qualifying renewable energy project in the State of California. We are deeply concerned over this unannounced action by CalRecycle and the long range implications it has for both our project and all businesses considering similar projects in California.

Our agency and Plasco Energy have relied extensively on CalRecycle's ruling and the California Energy Commission's (CEC) Renewable Portfolio Standard certification, as well as CalRecycle's historic promotion and advancement of conversion technologies, to move this critical energy and solid waste management project forward. The Plasco/Salinas Valley project is intended to support many of California's major environmental and economic objectives (as well as our own) to develop new sources of energy, create green sector jobs, end our unsustainable dependence on landfills, and create a more business friendly environment for economic development. We also understand that your office had previously contacted Plasco representatives directly to offer your support for their desire to do business in California

The SVSWA has made a significant investment of public funds and 7 years of dedicated work by elected officials, staff and consultants to follow the path laid by CalRecycle and their predecessor agency, in order to find an integrated solution to end our future dependence on unsustainable landfills. In short, our agency is trying to do something about the very problems we have all collectively been debating for the last two decades. This action by CalRecycle is contradictory and impactful to our efforts and sends a very disconcerting message to the very businesses we are all collectively trying to attract to our State.

For your background, we have attached a few reference documents related to this issue: CalRecycle's original opinion letter, CEC Renewable Energy Portfolio (RPS) pre-certification issued to Plasco, and a letter from various legislators commending Natural Resources and CalRecycle's actions in support of the Plasco

www.svswa.org
PO Box 2159, Salinas CA 93902-2159 • 128 Sun Street, Ste. 101, Salinas CA 93901
tel. (831) 775-3000 • fax (831) 755-1322

project. We have also included a copy of the rescission letter from CalRecycle along with the creatively crafted opposition letter threatening administrative action against CalRecycle for issuance of their 2010 opinion.

This action by CalRecycle may have dramatic repercussions on a potential multibillion dollar industry that is seeking a clear path forward in California. In addition, this action will set back the Salinas Valley Solid Waste Authority's 7-year vision to create a permanent non-landfill based waste management system we hope would be a model for other agencies in California. We have attached a copy of the Economic Impact Analysis for this project so you can also see the value and economic growth opportunities this project would bring to our low-income community.

Our agency has been regularly asked to present our non-landfill based waste management vision to industry groups, jurisdictions and energy leaders across the State, U.S. and even across our boarders. We have found that there is an incredible interest and support for what we are doing both in and outside the State. We have and continue to promote the development of these new ideas and waste management philosophies coming from our California models of sustainable waste management. We implore your office to override CalRecycle's rescission and to take whatever immediate steps are available to create a more open and consensus building process to support sustainable waste management practices and avoid the loss of another company interested in doing business in our California community. There is no one perfect solution to our long range waste issues, but there are integrated solutions right at our finger tips to solve this problem today, but only if open minds are at the table. We appreciate your consideration of our dilemma and any support or leadership you may lend to this situation.

Yours truly,

R. Patrick Mathews
General Manager/Chief Administrative Officer
Salinas Valley Solid Waste Authority
128 Sun Street, Suite 101
Salinas, CA 93901
(831) 775-3000
patrickm@svswa.org

Attachments: CalRecycle Opinion Letter re: Plasco/Salinas Valley Project, 11/23/2012
CEC RPS Pre-Certification, 1/18/2011
California Legislative Letter of Support, 3/9/2011
SVSWA Economic Analysis for Plasco Project, 10/2011
CalRecycle Rescission Letter, 5/23/2012
Opposition Letter regarding CalRecycle Opinion, 1/23/2012

Copy to: Cliff Rechtschaffen, Office of Governor Jerry Brown
Martha Guzman, Office of Governor Jerry Brown
Caroll Mortensen, Director, Calrcycle
Assembly Speaker John A. Perez
Senate President pro Tem Darrell Steinberg
Commissioners, California Energy Commission
Secretary John Laird, Natural Resources Agency
Julia Levin, Deputy Secretary Natural Resources Agency

ANNEX D.2

CalRecycle

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

801 K STREET, MS 19-01, SACRAMENTO, CALIFORNIA 95814 • (916) 322-4027 • WWW.CALRECYCLE.CA.GOV

November 23, 2010

Alisdair McLean
VP, Strategic Initiatives
Plasco Energy Group
1000 Innovation Drive, Suite 400
Ottawa, Ontario, K2K 3E7

Re: Regulatory Status of Proposed Salinas Valley Project

Dear Mr. McLean:

You have requested that we confirm the Department of Resources Recycling and Recovery's (CalRecycle) role in RPS certification and whether or not your company's proposed Salinas Valley project would meet the definition of "gasification" in our statutes (which parallel the definition of "conversion" under the RPS statutes). Regarding the first question, although it is our understanding that the California Energy Commission (CEC) guidelines look to CalRecycle's classification of a facility as a type of gasification to confirm RPS eligibility as conversion, you will need to gain express confirmation from the CEC regarding RPS certification, as these are requirements within their authority. We can however offer guidance on whether or not your proposed project, as described, would meet our definition of gasification.

Proposed Facility

You have described the proposed facility as follows:

> The Plasco Conversion System is a non-incineration technology that will convert more than 98% of the waste it processes into green power and other marketable co-products. The Plasco Conversion System recycles heat from the process to gasify the waste and then uses the unique characteristics of plasma to refine the gaseous products into a clean, consistent synthetic fuel gas (PlascoSyngas).
>
> MSW Trucks will enter the site, and be weighed and directed to the MSW receiving floor. MSW will be deposited into a receiving pit that will be fully enclosed; the building doors will be kept closed during normal operation. The MSW storage facility will be designed for a minimum of 5 days of storage (2 days of "as received" waste and 3 days of shredded waste).The waste is sorted, screened and fed to the pre-shredder(s) through the use of an operator controlled overhead traveling crane with grapple. Once shredded the material travels on a conveyor underneath the ferrous separation unit(s). The ferrous material is discharged into a bin. The remaining waste is discharged onto a vibrating screen/trommel. Material that meets the 2" minus criteria moves forward to non-ferrous

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separation. Material that is oversized is discharged onto a separate conveyor. Inerts are removed from the oversized waste prior to conveying it to the re-shredder(s). 2" minus waste is discharged on a conveyor which combines with the previously screened 2" minus waste. The combined feed is now sent through the non-ferrous separation unit(s). Non-ferrous material is discharged into a bin. The waste is now prepared to be used as fuel in downstream processes. The inert material, including glass, is removed from the waste stream using a density separation technique. Plasco will look for beneficial use of the inert stream as clean fill or in the recyclable concrete market. Inert material diverted during the front-end processing that can't be put to beneficial use would be considered unacceptable waste. Additional front-end diversion of recyclables is possible.

In the Conversion Chamber the MSW is converted into a raw, unrefined syngas. The energy required for the conversion comes from recycled heat; there is no plasma torch in this chamber. Sub-stoichiometric air that is heated by the syngas leaving the refining chamber is introduced to the waste pile in the converter through a perforated, stepped floor. The resulting gases flow into the Refining Chamber above the Conversion Chamber. In the Refining Chamber, the raw syngas is refined to the quality and consistency required by the gas engines. It is here that Plasco takes advantage of the benefits of plasma: intense, controllable heat and the catalytic affect of the ionic plasma plume. As the gas passes through the plasma cloud, the long chain molecules are "cracked" into their elemental components such as H, C, O, H2 (hydrogen). CO (carbon monoxide) and other simple molecules are formed as the gas is refined in this chamber – it isthe H2 and CO which give the gas its fuel value. The hot, refined syngas that leaves the refining chamber passes through a heat exchanger, otherwise known as the recuperator, which cools the syngas and heats the process air that will drive the conversion in the main chamber of the converter.

The Heat Recovery Steam Generator further cools the syngas to a temperature acceptable to downstream equipment. The heat from the syngas will be used to create additional electricity through a steam turbine (combined cycle operation). The syngas is further cooled in a process quench vessel. Particulate and other contaminants are removed from the gas stream in a variable throat Venturi scrubber. The water droplets are separated from the gas in a cyclone separator with the main liquid stream recirculating back to the Venturi and a particulate slurry flowing to the on-site water treatment system. After the wet scrubbing system the syngas passes through the HCl scrubber. It removes hydrochloric acid from the syngas, condenses excess moisture from the syngas and produces salty water that is sent to the on-site water treatment system. Syngas from the HCl scrubber is fed into the hydrogen sulfide removal system. Hydrogen sulfide is scrubbed out of the syngas. Any trace particulate that passes through the wet scrubbing system is removed in the particulate polishing filter, utilizing bag or cartridge filters. The carbon polishing bed is used for final polishing of the syngas, and it removes residual mercury or any dioxins or furans that were not removed in the wet scrubbing system by absorption into activated carbon granules. The Syngas Storage tank is used to blend syngas production to further improve the consistency of the syngas.

Syngas from the storage tank will flow to 2 MW General Electric (GE) Jenbacher Gas Engine Generators. The Jenbacher engines are characterized by durability, especially high efficiencies, low emissions and high reliability. The engines operate at 38% efficiency on the syngas produced by the system, which is more than what is possible with steam turbines.

Classification and Regulation of Process and Sites

The proposed project, as described, appears to meet the definition of Gasification:

> Public Resources Code 40117. "Gasification" means a technology that uses a noncombustion thermal process to convert solid waste to a clean burning fuel for the purpose of generating electricity, and that, at minimum, meets all of the following criteria:
>
> (a) The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.
> (b) The technology produces no discharges of air contaminants or emissions, including greenhouse gases, as defined in subdivision (g) of Section 42801.1 of the Health and Safety Code.
> (c) The technology produces no discharges to surface or groundwaters of the state.
> (d) The technology produces no hazardous waste.
> (e) To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process and the owner or operator of the facility certifies that those materials will be recycled or composted.
> (f) The facility where the technology is used is in compliance with all applicable laws, regulations, and ordinances.
> (g) The facility certifies to the board that any local agency sending solid waste to the facility is in compliance with this division and has reduced, recycled, or composted solid waste to the maximum extent feasible, and the board makes a finding that the local agency has diverted at least 30 percent of all solid waste through source reduction, recycling, and composting.

The project, as described, will use a noncombustion thermal process to convert solid waste to a clean burning fuel for the purposes of generating electricity; uses air/oxygen only to maintain ambient temperature; produces no air, water, or hazardous discharges in excess of standards; the processing removes recyclable materials from the waste stream to the maximum extent feasible (while the described process doesn't remove green waste from the MSW stream, the Salinas Valley Solid Waste Authority members (it is the local agencies within the Authority that will be using the facility) already have diversion programs that include curbside programs for separation of recyclables and green waste compostable materials from the solid waste stream so that marketable material will have been separated prior to receipt by the facility; and, they all have a diversion rate above 30 percent.

Conclusion

Based upon the above, the proposed Plasco project, as described, would be considered a gasification facility that would require a solid waste facility permit to operate.

I hope that the foregoing provides the clarity you were requesting. Please feel free to contact me at (916) 341-6080 if you have any further questions.

Sincerely

Elliot W. Block

Elliot Block

Chief Counsel

cc: Mark DeBie, Michael Bledsoe

ANNEX D.3

Natural Resources Agency

Edmund G. Brown, Jr., Governor

CalRecycle

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • WWW.CALRECYCLE.CA.GOV • (916) 322-4027

P.O. BOX 4025, SACRAMENTO, CALIFORNIA 95812

May 23, 2012

Alisdair McLean
VP, Strategic Initiatives
Plasco Energy Group
1000 Innovation Drive, Suite 400
Ottawa, Ontario, K2K 3E7

Re: Proposed Salinas Valley Project

Dear Mr. McLean:

In November 2010, CalRecycle sent you a letter regarding the "Regulatory Status of Proposed Salinas Valley Project." I have reviewed your initial request and project description, the November 2010 letter, and the relevant statutes and regulations. Based upon this review and my understanding of the Legislature's intent, I have determined that the conclusion that the proposed Salinas Valley project would be considered a gasification facility is not supported by the statutory definition of "gasification" in Public Resources Code §40117. In addition to relying on language not found in the statute (e.g. the language regarding air or water discharges "in excess of standards") the November 2010 letter also makes premature conclusions regarding a number of other requirements in the definition of gasification.

Thus, based upon the description of the proposed Salinas Valley project we have seen so far, we cannot conclude that the project would meet the statutory definition of a gasification facility. However, as the development of the facility continues and more information becomes available it will be more apparent where your facility will fall within CalRecycle's permitting system. This information is needed to ensure that the solid waste facility permit is commensurate with the operations of the facility.

The November 2010 letter was written in response to your request for guidance regarding the statutory definition of "gasification" in Public Resources Code §40117. As noted in the letter, it was not an approval itself, nor did it bind or restrict our review of any solid waste facility permit application that might be submitted to the Department. I look forward to working with you as your project moves forward. Please feel free to contact me or my staff if you have any questions, or need any additional information.

Sincerely,

Caroll Mortensen

Caroll Mortensen
Director

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ANNEX D.4

Breathe California
California Resource Recovery Association
Californians Against Waste
Center for Biological Diversity
Center for Energy Efficiency and Renewable Technologies
Clean Power Campaign
Global Alliance for Incinerator Alternatives
Greenaction for Health and Environmental Justice
Natural Resources Defense Council
Northern California Recycling Association
Planning and Conservation League
Sierra Club California
Union of Concerned Scientists

April 14, 2011

Secretary John Laird
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Re: CalRecycle violation of state law on gasification

Dear Secretary Laird,

We are writing to urge the Natural Resources Agency and CalRecycle to rescind CalRecycle's November 23, 2010 letter on the regulatory status of the proposed Plasco Salinas Valley project and issue a new letter clarifying that CalRecycle will interpret the PRC 40117 accurately, as described below. Further and equally as important, we request that the Natural Resources Agency and CalRecycle urge the California Energy Commission (CEC) to rescind its Renewables Portfolio Standard (RPS) eligibility pre-certification for this facility.

As you know, while over the last decade there have been a number of failed attempts in the legislature to weaken California's strong regulations on gasification, the legislature has upheld these protections for California's natural resources. Nevertheless, CalRecycle recently sent a letter, inconsistent with statute and not supported by the evidence, stating that a proposed waste-to-energy facility in Salinas meets the definition of "gasification," despite the fact that the proposed facility would not meet the environmental protections that were intentionally included in the definition of gasification and solid waste conversion when these definitions were drafted by the legislature. This interpretation of the definition of gasification is clearly contradictory to the letter and spirit of the statute and needs to be withdrawn posthaste.

The letter from CalRecycle to Plasco Energy Group, dated November 23, 2010, indicates that a determination was made that a proposed municipal solid waste gasification facility in the Salinas Valley Solid Waste Authority (SVWMA) in Monterey County would meet the definition of gasification, found in Public Resource Code 40117. *Remarkably, the letter substantively changed sections of PRC 40117:*

1. Section B of the definition states "The technology produces no discharges of air contaminants or emissions, including greenhouse gases, as defined in subdivision (g) of Section 42801.1 of the Health and Safety Code." However, CalRecycle's letter interprets this language as "produces no air, water, or hazardous discharges **in excess of**

standards." (emphasis added) This is markedly different from PRC 40117, and while the code is clear about "no emissions," CalRecycle's interpretation is not only weaker but vague about "standards," and ignores and violates the actual language of the law.

2. Section E of the definition states "To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process and the owner and operator of the facility certifies that those materials will be recycled and composted." In contrast, CalRecycle's interpretation of this language is that rather than the "technology" removing recyclable and compostable material, the "processing" removes recyclables. In addition the letter goes on to say that rather than actually removing recyclables or compostables, the existing curbside recycling programs are adequate.

3. The opening of PRC 40117 states "Gasification means a technology that uses a noncombustion thermal process to convert solid waste to a clean burning fuel for the purpose of generating electricity..." CalRecycle's letter includes excerpts from Plasco documents describing the following: "Syngas from the storage tank will flow to 2 MW General Electric (GE) Jenbacher Gas Engine Generators." Burning the gas in a generator is a combustion process. It appears that CalRecycle, for reasons that are not clear to us, is not considering this combustion to be a step in the process. It would be contradictory to consider, as CalRecyle apparently does, that this step in the process, which happens at the same site, is not part of the technology, while existing curbside collection programs (which are neither on site, nor under the supervision of the facility) are classified as close enough to the project to qualify the "technology" as removing all recyclable materials and marketable green waste compostable materials. Moreover, nothing in the project description indicates that the technology does not use at least some combustion in the actual gasification process.

Based on the determination in this letter, the CEC issued a pre-certification of a proposed facility for RPS eligibility on January 18, 2011, even though, based on the language in the RPS code (PUC 399.12 (c)(2) and PRC 25741 (b)(3)), these facilities would not meet the requirements to be considered RPS-eligible. If this were allowed to stand, we would expect to see many more proposals for pre-qualifying for RPS eligibility based on a grossly incorrect analysis of the law that would not likely withstand legal scrutiny. We see this effort by the CEC as a significant misinterpretation of the RPS code in PRC 25741 (b)(3) which has the same definition as PRC 40117 referred to above. The financing and development of facilities based on the assumption that they would qualify for state subsidies or RPS eligibility for which they are not genuinely eligible would undermine California's recycling, composting and waste prevention goals and cause pollution, especially in environmental justice communities, among other consequences. Furthermore, providing CEC pre-qualification without clear statutory backing will likely create questions and uncertainty among those looking to invest in this type of technology.

CalRecycle's letter and the CEC's RPS pre-certification that followed appear to provide inappropriate official state support for this project and others like it. Whatever the potential for this technology in the future, the project is opposed by community members in the proposed host community of Gonzales and in the jurisdictions in the SVWMA. Plasco has had dozens of emissions exceedances at its test facility near Ottawa, Canada, among other operating setbacks. Furthermore, Ontario, the province in which the facility is located, does not consider this technology as a renewable technology under their overall renewables program.

Gasification, pyrolysis, and plasma are staged incinerators. The incineration process happens in two stages: in the first stage, materials are heated to produce gases, and in the second stage the gases are combusted, releasing emissions, including toxic contaminants, into the air. While this technology may indeed be different in some manner than the more traditional burning of solid waste, it is clear that gasification, pyrolysis and plasma are types of incineration. This is further evidenced by the fact that they are already considered incineration by the European Union.

These types of facilities have risks for California, including:

Toxic Emissions: High-heat conversion technologies have been shown to release dioxins, mercury, lead, carbon dioxide, and other harmful pollutants into the air, soil and water. Studies have shown dioxins created in plasma[i], pyrolysis[ii] and gasification[iii] incinerators.

Environmental justice: Proposals for gasification, pyrolysis and plasma facilities, like older incinerators and landfills, have predominantly been in low income, communities of color, and new proposals would doubtlessly result in more polluting facilities in communities of color and low income communities.

Undermining recycling, composting and waste prevention: Recycling is a robust industrial sector and provides 85,000 Californian jobs. New waste disposal facilities would threaten some of these recycling industries by undermining our commitment to waste prevention, recycling and composting and subsidizing waste disposal technologies that squanders California's resources.

Undermining job creation potential of recycling: These facilities need the same materials that many communities currently recycle. The statewide job growth potential for higher recycling is significant, but gasification and related technologies provide 1/10th the number of jobs.

Creating unnecessary competition for the burgeoning renewable energy industry: Should these facilities end up generating electricity that is eligible for RPS credit, they would in effect be competing with potential and actual solar and wind energy facilities. It would be one thing to have these facilities generate electricity that might displace fossil fuels; however, by receiving RPS credit, they would be displacing cleaner solar, wind and other clean energy resources, which would be counter-productive to the goal of helping to grow renewable energy industries in our state.

We urge the Natural Resources Agency and CalRecycle to rescind CalRecycle's November 23, 2010 letter on the regulatory status of the Proposed Salinas Valley project and issue a new letter clarifying that CalRecycle will interpret the PRC 40117 accurately. Further, we request that you urge the CEC to rescind its RPS pre-certification for this facility.

Sincerely,

Andy Katz, *Government Relations Director*
Breathe California

Julie Muir, *President*
California Resource Recovery Association

Nick Lapis, *Legislative Coordinator*
Californians Against Waste

Brian Nowicki, *California Climate Policy Director*
Center for Biological Diversity

V. John White, *Executive Director*
John Shears, *Research Coordinator*
Center for Energy Efficiency and Renewable Technologies

Saúl Acosta Gómez, *Political Director*
Clean Power Campaign

Monica Wilson, *U.S. and Canada Program Director*
Global Alliance for Incinerator Alternatives

Bradley Angel, *Executive Director*
Greenaction for Health and Environmental Justice

Darby Hoover, *Senior Resource Specialist*
Natural Resources Defense Council

John Moore, *Zero Waste Advocacy Committee Chair*
Northern California Recycling Association

Jena Price, Legislative Director
Planning and Conservation League

Bill Magavern, *Director*
Sierra Club California

Dan Kalb, CA Policy Manager
Union of Concerned Scientists

CC: Senate President pro Tem Darrell Steinberg
Assembly Speaker John A. Pérez
Senator Joe Simitian
Assembly Member Wesley Chesbro
Commissioners, California Energy Commission
Mark Leary, Acting Director, CalRecycle
Julia Levin, Deputy Secretary for Climate Change, Resources Agency
Cliff Rechtschaffen, Office of Governor Jerry Brown
Ken Alex, Office of Governor Jerry Brown
Gareth Elliott, Legislative Affairs Secretary, Office of Governor Jerry Brown

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[i] Hee-Chul Yang. Characteristics of dioxins and metals emission from radwaste plasma arc melter system. *Chemosphere* 57 (2004) 421-428.
[ii] Mohr K. et al. Behaviour of PCDD/F under pyrolysis conditions, *Chemosphere* 34 (1997).
[iii] Press release from the district administration of Karlsruhe (Regierungspräsidium Karlsruhe), November 5, 1999.

ANNEX D.5

Asamblea Poder Popular de Gonzales
California Resource Recovery Association
Californians Against Waste
Center for Biological Diversity
Global Alliance for Incinerator Alternatives
Greenaction for Health and Environmental Justice

January 23, 2012

Caroll Mortensen, Director
California Department of Resources Recycling and Recovery (CalRecycle)
1001 I St.
Sacramento, CA 95814

Re: Notification of Intention to File Petition Regarding Underground Regulation

Dear Director Mortensen,

We are writing to provide notice that CalRecycle has issued an underground regulation and we intend to file a petition pursuant to Section 260 of Title 1, Chapter 2 of the California Code of Regulations. CalRecycle's November 23, 2010 letter on the regulatory status of the proposed Plasco Salinas Valley project constitutes a regulation and the Administrative Procedures Act was not followed in the adoption of this regulation. We will be filing the petition after 30 days of receipt of this letter unless the underground regulation is rescinded and clarification is given that CalRecycle is intending to enforce its longstanding standards on the interpretation of Public Resources Code §40117.

Government Code §11342.600 clearly states that a "regulation means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure."

CalRecycle's November 23, 2010 letter to Plasco marks a clear revision to a well-established interpretation of the law enforced and administered by CalRecycle.

PRC §40117(b) states that "the technology produces no discharges of air contaminants or emissions, including greenhouse gases, as defined in subdivision (g) of Section 42801.1 of the Health and Safety Code." CalRecycle's letter substantially modifies and reinterprets the meaning and intent of this language, by saying "produces no air, water, or hazardous discharges ***in excess of standards***" (emphasis added). The addition of substantive language is not only inconsistent with the statute but is also not in line with previous CalRecycle interpretations of this statute which have always considered "no discharges or emissions" to mean zero discharges or emissions.

One example of this previous interpretation of the statute can be found in a letter to the legislature dated April 15, 2010 from CalRecycle, the Air Resources Board, and the California

Energy Commission. This letter was written to the legislature in support of AB 222, a bill seeking to change this statutory provision, and clearly states "AB 222 … would achieve this by removing current statutory restrictions that require thermal conversion projects to have zero emissions, a standard required of no other energy generation technology or manufacturing process in the State and one that effectively precludes any municipal solid waste (MSW) conversion technology from qualifying for California's Renewables Portfolio Standard (RPS)."

When the proposed legislation failed, it appears that CalRecycle took it upon itself to modify the perceived deficiency in statute by claiming a new interpretation of the same statute. The Administrative Procedures Act was not followed in adopting this new regulation, nor could it have been because it clearly was outside the scope of CalRecycle's statutory authority. We ask that you rescind this underground regulation and continue to enforce the statute the way it had been previously enforced.

Sincerely,

(b) (6) Privacy [redacted]
Asamblea Poder Popular de Gonzales

Tracie Onstad Bills, *President*
California Resource Recovery Association

Mark Murray, Executive Director
Californians Against Waste

Brian Nowicki, *California Climate Policy Director*
Center for Biological Diversity

Monica Wilson, *U.S. and Canada Program Director*
Global Alliance for Incinerator Alternatives

Bradley Angel, *Executive Director*
Greenaction for Health and Environmental Justice

CC: Senate President pro Tem Darrell Steinberg
Assembly Speaker John A. Pérez
Secretary John Laird, Natural Resources Agency
Commissioners, California Energy Commission
Cliff Rechtschaffen, Office of Governor Jerry Brown
Martha Guzman, Office of Governor Jerry Brown
Julia Levin, Deputy Secretary for Climate Change, Resources Agency

ANNEX D.6

OFFICE OF THE GOVERNOR

June 1, 2012

Alisdair McLean
Vice President, Strategic Initiatives
Plasco Energy Group
1000 Innovative Drive, Suite 400
Ottawa, Ontario, K2K3E7

Re: Proposed Salinas Valley Project

Dear Mr. McLean:

As you know, the Department of Resources Recovery and Recycling recently sent you a letter concluding that, as proposed, the Salinas Valley project does not meet the criteria under California Public Resources Code section 40117 for a gasification facility. Nonetheless, we believe there is value in facilitating the commercial deployment of waste to energy technologies in California, and Plasco's proposed plasma gasification facility in particular.

Toward this end, the Governor's Office will be supportive of legislation during the current session to allow Plasco's project to proceed on a pilot basis and be considered an eligible renewable energy resource under state law. In addition, we fully support CalRecycle's efforts to develop alternative policies regarding waste to energy in California, including developing a technology-neutral, feedstock-based performance standard that could eventually be used in place of the definition of gasification for determining RPS eligibility.

Sincerely,

Nancy McFadden

We can make this work. Thanks.

ANNEX E.

Selected Emails Obtained Through Public Record Act Request, Between SVSWA, Plasco and Governor's Office for Period Between January and June 2012

ANNEX E.1

Thomas Bruen

From: Alisdair McLean [amclean@plascoenergygroup.com]
Sent: Friday, June 01, 2012 2:45 PM
To: Patrick Mathews
Cc: Mary Reklitis
Subject: FW: Letter
Attachments: NEM Plasco 6.1.12.pdf

Hi Patrick,
Please don't share this quite yet. I'm not clear on whether public knowledge of this is good or bad.

Cheers, Alisdair

Alisdair McLean, P.Eng | Sr VP Business Development
Plasco Energy Group Inc.

+1.613.591.9438 x1226 (office)
+1.613.864.4389 (mobile)
+1.613.591.9442 (fax)

Please visit us at: www.plascoenergygroup.com

From: Jamie Callahan [mailto:Jamie.Callahan@GOV.CA.GOV]
Sent: Friday, June 01, 2012 4:42 PM
To: Alisdair McLean
Cc: Mary Reklitis
Subject: Letter

Mr. McLean, Please find the attached letter from Nancy McFadden, Executive Secretary to Governor Jerry Brown regarding the proposed Salinas Valley Project.

Best,
Jamie

Jamie Callahan
Special Assistant to Executive Secretary Nancy McFadden
Office Governor Edmund G. Brown Jr.
916-445-0796

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ANNEX E.1 Cont.
(Attachment to email)

OFFICE OF THE GOVERNOR

June 1, 2012

Alisdair McLean
Vice President, Strategic Initiatives
Plasco Energy Group
1000 Innovative Drive, Suite 400
Ottawa, Ontario, K2K3E7

Re: Proposed Salinas Valley Project

Dear Mr. McLean:

As you know, the Department of Resources Recovery and Recycling recently sent you a letter concluding that, as proposed, the Salinas Valley project does not meet the criteria under California Public Resources Code section 40117 for a gasification facility. Nonetheless, we believe there is value in facilitating the commercial deployment of waste to energy technologies in California, and Plasco's proposed plasma gasification facility in particular.

Toward this end, the Governor's Office will be supportive of legislation during the current session to allow Plasco's project to proceed on a pilot basis and be considered an eligible renewable energy resource under state law. In addition, we fully support CalRecycle's efforts to develop alternative policies regarding waste to energy in California, including developing a technology-neutral, feedstock-based performance standard that could eventually be used in place of the definition of gasification for determining RPS eligibility.

Sincerely,

Nancy McFadden

We can make this work. Thanks.

ANNEX E.2

Thomas Bruen

From: Alisdair McLean [amclean@plascoenergygroup.com]
Sent: Monday, June 04, 2012 11:54 AM
To: Patrick Mathews
Cc: Ed Manning; Edmond Chiasson; Mary Reklitis
Subject: Salinas Valley Carve Out: County Siting Element?

Patrick,
The proposed language to include the project in the RPS is as follows:

A facility engaged in the thermal conversion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Monterey County and received approval after a public procurement process from the Salinas Valley Solid Waste Authority prior to March 1, 2011 to proceed with review under the California Environmental Quality Act.

Any concerns about this?

This addresses the RPS credit, but it does not address the solid waste permitting issues. Since the project lost the "gasification" definition, I think it also loses the nondisposal status of the project too. That means the County Siting Element needs to be amended, which requires a double majority process that could take as long as 18 months with debate in each city's council chambers. Do you have time to discuss this today?

Cheers, Alisdair

Alisdair McLean, P.Eng | Sr VP Business Development
Plasco Energy Group Inc.

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ANNEX E.3

Thomas Bruen

From: Alisdair McLean [amclean@plascoenergygroup.com]
Sent: Monday, June 04, 2012 12:26 PM
To: Patrick Mathews
Cc: Alisdair McLean; Mary Reklitis
Subject: RE: Salinas Valley Carve Out: County Siting Element?

Hi Patrick,
How about this language?

A facility engaged in the thermal conversion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Monterey County and received approval after a public procurement process from the Salinas Valley Solid Waste Authority prior to March 1, 2011 and has released a Notice of Preparation under CEQA prior to April 1, 2012. For the purposes of this section, the municipal solid waste consumed in the conversion process shall not be considered "disposal" pursuant to Public Resources Code Section 40120.1 but will not be eligible for diversion credit as defined in Section 40124 of the Public Resources Code.

Cheers, Alisdair

Alisdair McLean, P.Eng | Sr VP Business Development
Plasco Energy Group Inc.

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+1.613.864.4389 (mobile)
+1.613.591.9442 (fax)

Please visit us at: www.plascoenergygroup.com

From: Alisdair McLean
Sent: Monday, June 04, 2012 2:54 PM
To: 'Patrick Mathews'
Cc: 'Ed Manning'; Edmond Chiasson; Mary Reklitis
Subject: Salinas Valley Carve Out: County Siting Element?

Patrick,
The proposed language to include the project in the RPS is as follows:

A facility engaged in the thermal conversion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Monterey County and received approval after a public procurement process from the Salinas Valley Solid Waste Authority prior to March 1, 2011 to proceed with review under the California Environmental Quality Act.

Any concerns about this?

This addresses the RPS credit, but it does not address the solid waste permitting issues. Since the project lost the "gasification" definition, I think it also loses the nondisposal status of the project too. That means the County Siting Element needs to be amended, which requires a double majority process that could take as long as 18 months with debate in each city's council chambers. Do you have time to discuss this today?

Cheers, Alisdair

ANNEX E.4 + E.5

Thomas Bruen

From: Patrick Mathews [patrickm@svswa.org]
Sent: Tuesday, June 05, 2012 7:45 PM
To: Alisdair McLean
Subject: Re: Salinas Valley Carve Out: County Siting Element?

ANNEX E.5

Alisdair, I'm very sorry for missing our call. I got distracted on other business. Can we discuss the carve out language tomorrow? P

From Patrick Mathews

On Jun 4, 2012, at 2:15 PM, "Alisdair McLean" <amclean@plascoenergygroup.com> wrote:

Right. Thanks for having a look.
Cheers, Alisdair

From: Patrick Mathews
To: Alisdair McLean
Cc: Mary Reklitis
Sent: Mon Jun 04 17:09:56 2012
Subject: RE: Salinas Valley Carve Out: County Siting Element?

ANNEX E.4

Alisdair, I am tied up right now, but will be free by 3:15 pst. I need to review the applicable code sections before I can give you any feedback, but this looks similar to the Stanislaus carve out. Is that the template language you started with? P-

Patrick Mathews, General Manager/CAO
Salinas Valley Solid Waste Authority
128 Sun Street, Salinas, CA 93901
Mail: P.O Box 2159, Salinas, CA 93902
Ph: (831) 775-3000
Fax: (831) 755-1322
<image001.png><image002.jpg><image003.png>

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From: Alisdair McLean [mailto:amclean@plascoenergygroup.com]
Sent: Monday, June 04, 2012 12:26 PM
To: Patrick Mathews
Cc: Alisdair McLean; Mary Reklitis
Subject: RE: Salinas Valley Carve Out: County Siting Element?

(same as annex E.3)

Hi Patrick,
How about this language?

A facility engaged in the thermal conversion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Monterey County and received approval after a public procurement process from the Salinas Valley Solid Waste Authority prior to March 1, 2011 and has released a Notice of Preparation under CEQA prior to April 1, 2012. For the purposes of this section, the municipal solid waste consumed in the conversion process shall not be considered "disposal" pursuant to Public Resources Code Section 40120.1 but will not be eligible for diversion credit as defined in Section 40124 of the Public Resources Code.

Cheers, Alisdair

Alisdair McLean, P.Eng | Sr VP Business Development
Plasco Energy Group Inc.

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+1.613.591.9442 (fax)

Please visit us at: www.plascoenergygroup.com

From: Alisdair McLean
Sent: Monday, June 04, 2012 2:54 PM
To: 'Patrick Mathews'
Cc: 'Ed Manning'; Edmond Chiasson; Mary Reklitis
Subject: Salinas Valley Carve Out: County Siting Element?

Same as Annex E.2 (but time stamp is different because of difference in time zone for email sent and time received

Patrick,
The proposed language to include the project in the RPS is as follows:

A facility engaged in the thermal conversion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Monterey County and received approval after a public procurement process from the Salinas Valley Solid Waste Authority prior to March 1, 2011 to proceed with review under the California Environmental Quality Act.

Any concerns about this?

This addresses the RPS credit, but it does not address the solid waste permitting issues. Since the project lost the "gasification" definition, I think it also loses the nondisposal status of the project too. That means the County Siting Element needs to be amended, which requires a double majority process that could take as long as 18 months with debate in each city's council chambers. Do you have time to discuss this today?

Cheers, Alisdair

Alisdair McLean, P.Eng | Sr VP Business Development
Plasco Energy Group Inc.

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+1.613.864.4389 (mobile)

ANNEX E6

Thomas Bruen

From:	Alisdair McLean [amclean@plascoenergygroup.com]
Sent:	Wednesday, June 06, 2012 9:39 AM
To:	Patrick Mathews
Cc:	Mary Reklitis
Subject:	RE: Salinas Valley Carve Out: County Siting Element?

A facility engaged in the thermal conversion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Monterey County and received approval to proceed with environmental review under the California Environmental Quality Act from the Salinas Valley Solid Waste Authority prior to March 1, 2011. For the purposes of this section, the municipal solid waste consumed in the conversion process shall not be considered "disposal" pursuant to Public Resources Code Section 40120.1 but will not be eligible for diversion credit as defined in Section 40124 of the Public Resources Code.

Cheers, Alisdair

Alisdair McLean, P.Eng | Sr VP Business Development
Plasco Energy Group Inc.

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ANNEX E.7

Jennifer Metas

From: Susan Warner <susanw@svswa.org>
Sent: Friday, March 09, 2012 4:49 PM
To: Randy van der Starren
Subject: Plasco Salinas Valley - Public Outreach

Good Day Randy,

Kristina, Candace and I had a good meeting yesterday. Kristina provide Candace with background on the more vocal individuals we have encountered and we explored how/if they could be redirected. Candace will cease forward momentum and await direction to continue with the stakeholder meetings.

I know you had a discussion with Paul yesterday too. It appears a logical stopping point would be to collect all the responses to the NOP received at March 22, and add them to the comments contained in the 3 meeting transcripts. Beyond that, there will be legal costs and the $1200 for the postcard mailing which should be finished Monday.

Here is Paul's estimate for ESA and subs:

Actual/Projections	Actual Oct	Actual Nov	Actual Dec	Projections January	Projections February
Total Contract	$ 544,500.00	$544,500.00	$544,500.00	$544,500.00	$544,500.00
Current Invoice	$ 4,109.19	$ 23,802.50	$ 18,015.89	$ 24,000.00	$ 35,000.00
% this invoice	0.8%	4.4%	3.3%	4.4%	6.4%
Total Invoices	$ 4,109.19	$ 27,911.69	$ 45,927.58	$ 69,927.58	$104,927.58
Remaining Contract		$516,588.31	$498,572.42	$474,572.42	$439,572.42
Total %	0.8%	5.1%	8.4%	12.8%	19.3%

I can finish December once I have one last invoice.

Thank you,

Susan Warner
Diversion Manager
Salinas Valley Solid Waste Authority
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Salinas Valley Solid Waste Authority - Plasco Salinas Valley Project EIR Task List

Month of: January 2012

					ESA								Scott Gordon			
Line	Task	Title	Progress	Producer	Hours Estimate	Sub Hours Estimate	Current Hours	Cumulative Hours	Budget	Current Billing	Cumulative Billing	Budget Remaining	Budget	Current Billing	Cumulative Billing	Budget Remaining
1		RFP Review and Selection of Consultant														
2		RFP Review, and Selection of Consultant		S Gordon									$15,000.00	$0.00	$11,300.00	$3,700.00
3		Selection of EIR Consultant		HDR												
4		Selection of EIR Consultant		Farrell												
5		Total for Task											$15,000.00	$0.00	$11,300.00	$3,700.00
6																
7																
8																
9																
10	1	Administration & Project Management		ESA/SVSWA	24				$3,876.00							
11																
12	1.1	Planning meeting to discuss tasks required for the EIR and to outline procedures and responsibilities of the consultant and the Authority as Lead Agency in the environmental document process from preparing the Initial Study through the Notice of Determination (NOD)		All												
13	1.1.a	Brief weekly project management meeting by phone	Project conference calls on January 6, 16, 24 and 30. Public Outreach conference calls on January 4 and 18. Updates to portions of ESA shared website.	SWSWA ESA Plasco	45	24			$12,357.00							
14		General and administrative (conference calls, follow-up communications, routine emails and correspondence re EIR)	Public Records Request response to Bradley Angel.	S Gordon									$14,500.00	$275.00	$275.00	$14,225.00
15		Total for Task			69	24	21.33	60.00	$16,233.00	$3,501.37	$9,203.66	$7,029.34	$14,500.00	$275.00	$275.00	$14,225.00
16																
17																
18																
19																
20	2	Prepare Initial Study	Final draft routed for review.	ESA	90			22.50	$11,750.00							
21	2.1	Prepare Initial Study to better define the scope of the EIR and potentially reduce the number of environmental issue areas analyzed in the EIR to include:		ESA												
22	2.2	Initial Study to include: environmental setting, potential environmental impacts and brief explanations to support findings, mitigation measures for any significant effects, consistency with plans and policies and names of parties responsible for preparation.		ESA												
23	2.3	Submit Initial Study for review and comment.		ESA												
24		Review and comment		SVSWA Plasco												
25		Legal Review	Initial review , editing, discussion of Environmental Justice analysis	S Gordon									$4,000.00	$750.00	$750.00	
26																
27	2.4	Finalize Initial Study.		ESA												
28		Total for Task			90	0	7.25	81.25	$11,750.00	$1,196.25	$11,255.15	$494.85	$4,000.00	$750.00	$750.00	$3,250.00
29																
30																
31	3	Notice of Preparation (NOP)	Final draft routed for review.	ESA	8				$1,240.00							
32	3.1	Prepare Purpose and Needs Statement and Project Objectives.		ESA												
33	3.2	Prepare and submit a draft Notice of Preparation (NOP). Prepare final NOP with Authority comments and input (combines with Initial Study)		ESA	12				$2,290.00							
34		Review of Draft NOP														

ANNEX E.8 (Sep. 2)

					ESA								Scott Gordon			
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35		Legal Review	Initial review, editing.	S Gordon									$22,000.00	$100.00	$100.00	
36																
37		Finalize NOP		ESA												
38																
39		NOP and Initial Study 30-day Public														
40	3.2.a	Conduct 15 interviews with Stakeholders		ESA EMC Ingram Plasco	8	31			$7,006.00							
41	3.3	Prepare for and conduct two Public Scoping Meetings with responsible agencies/trustee agencies/stakeholders and community.	Bulk mailing of notices to 93926 zip codes and utility bill inserts.	ESA EMC Ingram Plasco SVSWA	28	39			$13,525.00							
42	3.4	Prepare for and participate in a Public Scoping Meeting with regulatory agencies such as CalRecycle, Monterey Bay Unified Air Pollution Control District, Regional Water Quality Control Board, County of Monterey Planning and Environmental Health Departments, Fish and Game, US Fish and Wildlife, Army Corp, Co. Water Resources Agency, Gonzales Fire, County Fire, GUSD.		ESA EMC Ingram Plasco SVSWA	24	22			$7,658.00							
43		Prepare Summary of Responses to NOP														
44		Other Meetings as Requested														
45		Total for Task			80	92	75.40	80.28	$31,719.00	$10,700.29	$11,582.21	$20,136.79	$22,000.00	$100.00	$100.00	$21,900.00
46																
47																
48	4	Technical Studies and Investigation		ESA												
49	4.1	Undertake an environmental analysis of the technical aspects of proposed project, including review of available technical studies in the literature and investigation as necessary, incorporating discussions with, and information received from regulators, Plasco technical representatives, the Authority and publicly available sources to cover all environmental review aspects of the project described within this RFP. This will include, but not be limited to studies of plant emissions (air, land and water), impacts to the site and surrounding areas, noise, biological, environmental justice, and traffic. The project applicant shall prepare or cause to have prepared technical studies and investigation relative to its proposed conversion technology being evaluated in the EIR.														
50	4.1.a	Team Site Reconnaissance		ESA EMC	40	15			$8,810.00							
51	4.1.b	Air Quality Studies		SCS		236			$59,617.00							
52		Review air quality information provided through information and data and studies formulated by Plasco		HDR		36										
53																
54		Legal Review		S Gordon									$15,000.00			
55		Total for Task			40	287	0.50	75.45	$47,427.00	$87.50	$11,903.75	$35,523.25	$15,000.00	$0.00	$0.00	$15,000.00
56																
57																
58	5	Preparation of the EIR Document														
59	5.1	Prepare Screen Check #1 ADEIR to allow internal review, comments, and questions.		ESA	40				$3,950.00							

					ESA								Scott Gordon			
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60																
61	5.1.a	Project Description	SCS provided comments on Project Description. Comments not incorporated into Draft Initial Study.	Plasco ESA SCS	72	56			$19,939.00							
62		Review of Project Description utilizing background information, data, calculations and a mass and energy		HDR		26										
63																
64	5.1a	Municipal Solid Waste Handling														
65		Receiving Area - Operations; haz waste recognition handling and load check		Plasco												
66		SOP and Training - Manual of Procedures or Equivalent		Plasco												
67		Storage area - Manual of Procedures or Equivalent		Plasco												
68		Review of facility general arrangement, including receiving area for operations, load check and hazardous waste check, and handling procedures		HDR		18										
69																
70	5.1a	Electricity Production														
71		GE Jenbacher - specs and details	Preliminary Technical Description received 12/9/11 from Clements. Forwarded by HDR.	Plasco												
72		Verifiable output from other units or bench scale	HDR reviewed Technical Description and prepared questions for Plasco.	HDR		24	13.00	13.00		$3,017.30	$3,017.30					
73		Verification from literature or GE		ESA												
74																
75	5.1a	PG&E Interconnect														
76		Obtain requirements from PG&E		Plasco												
77		Verify from PG&E		ESA												
78																
79		Assumptions and specifications for power		Plasco												
80		delivery														
81																
82		Review Plasco assumptions for power specifications to PG&E	HDR reviewed Clements Environmental memo regarding Power Delivery.	HDR		26										
83		Verify assumptions and specs		ESA												
84																
85	5.1a	Products other than energy		Plasco												
86		Verify water reclamation as claimed		ESA												
87		Verify RWQCB standards will be met		ESA												
88																
89		Vitrified slag - provide test data		Plasco												
90		Verification with applicable standards		ESA												
91		End Users for slag - Provide uses		Plasco												
92		Verification of applicable uses		ESA												
93																
94		Metals-Provide basis for estimates		Plasco												
95		Verification of estimates		ESA												
96		End Users-Provide basis for estimates		Plasco												
97		Verify estimates		ESA												
98																
99		Other recyclables/Inerts-Provide MRF details and expected recovery percentages		Plasco												
100																
101		Review co products produced by project from Plasco information including vitrified slag, metals and other recyclables/Inerts and their potential end users.		HDR		18										
102																
103		Infrastructure		Plasco												

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104		Verification from manufacturer and ensure compliant with regulatory agency guidelines/mandates		ESA												
105																
106		Project Life		Plasco												
107		Verification		ESA												
108																
109		Construction Schedule		Plasco												
110		Use schedule to assess construction impacts		ESA												
111		Site Plan		Plasco												
112		Verify assumptions		ESA												
113																
114		Appendix A - Module Plant Layout		Plasco												
115		Verify assumptions; review relevant source data for accuracy		ESA												
116																
117	5.1.b	Land use and Planning		ESA EMC	2	27			$3,657.00							
118																
119	5.1.c	Aesthetics		ESA EMC	2	30			$3,069.00							
120		Architectural Features		Plasco												
121		In conjunction with SVSWA, County and City work to create a look for the facility that will blend in with surrounding terrain and natural setting. Provide visual impact analysis.		Plasco												
122																
123		Floor Plans														
124		Builder's level of detail Plans and Specs. All enclosed areas of the building including Administration, control room and maintenance areas will be Silver Certified according to LEED standards.		Plasco												
125																
126		Review of project in terms of LEED Standards		HDR		14										
127		LEED Certification evaluation		ESA												
128																
129		Elevation Drawings/Materials														
130		Elevations & Plan View; material board		Plasco												
131																
132		2010 California Building Code adherence		Plasco												
133		Compliance		County												
134																
135	5.1.d	Biological Resources		ESA EMC	12	76			$14,977.00							
136		Endangered Species		Plasco												
137		UC Davis Lab and Urbaser Biological Study		Urbaser												
138																
139	5.1.e	Air Quality		Plasco												
140		GHG Impact		Plasco												
141		Health Risk Analysis		Plasco												
142		Wind assumptions analysis		Plasco												
143																
144		Short Term - Schedule and activities		Plasco												
145		Long Term - Operational Impacts		Plasco												
146		Emissions - Provide all data, calculations and analysis		Plasco												
147																
148		Traffic emissions data, calcs and analysis		Plasco												
149																
150		Verification of Air Quality Analysis		ESA	88				$11,400.00							
151																
152	5.1.f	Noise														
153		Noise Study		Plasco												