

**MINUTES OF THE MEETING
OF THE
LEGISLATIVE COMMISSION'S SUBCOMMITTEE ON AIR QUALITY
PROGRAMS IN CLARK COUNTY
Senate Bill 432 (Chapter 529, Nevada Revised Statutes 1999)
June 5, 2000**

The fourth meeting of the Legislative Commission's Subcommittee on Air Quality Programs in Clark County (Senate Bill 432; Chapter 529, *Statutes of Nevada 1999*) 1999-2000 interim was held on Monday, June 5, 2000, at 1:30 p.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada, and video conferenced to the Legislative Building, Room 2135, 401 South Carson Street, Carson City, Nevada. Pages 2 and 3 contain the "Meeting Notice and Agenda."

SUBCOMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Jon C. Porter, Sr., Chairman
Senator Mark A. James
Senator Dina Titus
Assemblyman Douglas A. Bache
Assemblyman Bob Beers
Assemblyman David R. Parks

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Donald O. Williams, Chief Principal Research Analyst
Eileen G. O'Grady, Principal Deputy Legislative Counsel
Edward A. Johnson II, Deputy Legislative Counsel
Maureen Kirkman, Senior Research Secretary

MEETING NOTICE AND AGENDA

Name of Organization: Legislative Commission's Subcommittee on Air Quality Programs in Clark County
(Senate Bill 432; Chapter 529, *Statutes of Nevada 1999*)

Date and Time of Meeting: Monday, June 5, 2000
1:30 p.m.

Place of Meeting: Grant Sawyer State Office Building
Room 4401
555 East Washington Avenue
Las Vegas, Nevada

Note: Some members of the committee may be attending the meeting, and other persons may observe the meeting and provide testimony, through a simultaneous video conference conducted at the following location:

Legislative Building
Room 2135
401 South Carson Street
Carson City, Nevada

A G E N D A

- I. Opening Remarks
Senator Jon C. Porter, Sr., Chairman
 - *II. Approval of Minutes of the February 14, 2000, Meeting
 - III. Staff Overview of S.B. 432 Subcommittee Activities and Projected Timeline
Donald O. Williams, Chief Principal Research Analyst
Research Division, Legislative Counsel Bureau
 - IV. Air Quality Study Progress Report from ENVIRON International Corporation, Contracted Consultant to the S.B. 432 Subcommittee
David R. Souten, Principal Partner
ENVIRON International Corporation
 - V. Comments Regarding S.B. 432 Air Quality Study, by the Chairman and Members of the Advisory Committee to the S.B. 432 Subcommittee
Richard B. Holmes, Advisory Committee Chairman
 - VI. Schedule for Future Meetings and Directions to Staff
 - VII. Public Testimony
 - VIII. Adjournment
- *Denotes items on which the Subcommittee may take action.

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Research Division of the Legislative Counsel Bureau, in writing, at the Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747, or call Maureen Kirkman at 775/684-6825 as soon as possible.

Notice of this meeting was posted in the following Carson City, Nevada, locations: Blasdel Building, 209 East Musser Street; Capitol Press Corps, Basement, Capitol Building; City Hall, 201 North Carson Street; Legislative Building, 401 South Carson Street; and Nevada State Library, 100 Stewart Street. Notice of this meeting was faxed for posting to the following Las Vegas, Nevada, locations: Clark County Office, 500 South Grand Central Parkway; and Grant Sawyer State Office Building, 555 East Washington Avenue.

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OPENING REMARKS AND INTRODUCTIONS

Chairman Jon C. Porter, Sr. called the meeting to order at 1:40 p.m. All members were present.

Chairman Porter announced that at this meeting the committee will hear a draft report presented by ENVIRON International Corporation, the consultant contracted by the Senate Bill 432 Subcommittee. He stated this interim study has changed into an investigation in many respects because local agencies charged with responsibility in regards to air quality are failing to meet some of their obligations. Chairman Porter noted the citizens of Nevada have a right

to expect accountability and responsibility from the government and this Subcommittee will help to achieve that.

Chairman Porter related the draft report presented by ENVIRON found the air quality agencies of Nevada to be seriously deficient in:

Compliance;

Enforcement; and

Staff management.

He continued by explaining without strong compliance, enforcement, and leadership programs, improved air quality is not possible.

Chairman Porter noted ENVIRON also found the air quality Agencies to be below average in:

Staffing;

Relationships with the State of Nevada;

Relationships with the Environmental Protection Agency (EPA); and

Their public outreach program.

Chairman Porter made reference to the Draft Report, Task 1, (Exhibit A). He stated ENVIRON is concerned that Clark County is not receiving the appropriate amount of federal funds for air quality and with the Federal Government managing 80 percent of the vacant land in Clark County, there is no reason for Nevada not to receive adequate federal funding. He expressed concern for public health, safety, welfare, and our economy and providing southern Nevada with a safe, clean and healthy environment. He continued that the health and safety of our residents as well as federal funding for transportation are at stake.

Chairman Porter asked how does the state ensure the health and safety of the citizens of southern Nevada? He stated he was a firm believer that government closest to the people best serves the people. There are a lot of specific recommendations for solutions in the ENVIRON report. This problem has been growing for years, and unfortunately it took a bill like his, (S.B. 432) and EPA actions to force local governments to act. Much like his bill that created the Southern Nevada Strategic Planning Authority (SNSPA), all the local governments must work together to ensure a successful air quality program. Chairman Porter stated the SNSPA has been extremely successful, and he expects the same from the air quality management program. He had also witnessed in the last few months' efforts by the community and by the staff and elected officials of local governments to address these issues. The report by ENVIRON is certainly a good start and provides a good framework for discussion.

ENVIRON's proposed governing board does not include all of the cities within the air shed. The report has some plusses and some minuses, he said, and that is why local governments have one final opportunity to solve this

problem. Chairman Porter required a 60-day plan for getting this job done in Southern Nevada and he expects nothing less than the best.

First and foremost, Chairman Porter stated the District Board of Health and Clark County Comprehensive Planning Department should continue their work with the community toward the completion of the State Implementation Plan (SIP). There are strict federal deadlines and nothing should interfere with the successful completion of the SIP.

Second, he challenged the local governments, the county and all of the cities within the air shed to propose an alternative organizational structure to be presented for discussion at the next meeting of the Subcommittee. He requested the local government take into account the general characteristics of successful air quality agencies as outlined by ENVIRON. Chairman Porter noted they provided an excellent template. Local governments have the ability through inter-local agreements to establish such a regional agency. The ENVIRON Report suggests that a new agency would require a 15 percent funding increase. However, they suggest that southern Nevada is effective in funding and budget except for the fact that Nevada is not getting its fair share of federal dollars. Chairman Porter noted that given the seriously deficient ratings southern Nevada has received for management and administration and compliance and enforcement, that southern Nevada could easily recapture that 15 percent through improvements. He challenged the local governments to show that they could do it.

Chairman Porter stated that he expects a report from the local governments regarding a proposed structure for a new, combined air quality management plan. This Subcommittee will receive that proposal and comment on it. At the meeting following that, he expects local governments to provide an implementation plan showing how it's going to work, how the transition will take place, and whether or not any legislation will be needed.

S.B. 432 requires that any proposed legislation be drafted and sent to the Legislative Counsel Bureau by October 15, 2000. So, at the next meeting local governments must show the Subcommittee the process and personnel and at the following meeting, the local government will show the Subcommittee how the transition will be implemented. If the local governments do not make this a priority and do not agree on a plan by the next meeting Chairman Porter guaranteed that the Subcommittee would do it for the agencies. The Subcommittee will create the new structure and tell the agencies how it will be implemented. This issue is critical and leadership must be shown to get the job done.

Chairman Porter referred to the ENVIRON report where it is mentioned a number of methods to reduce visible haze, particulate matter (PM-10), and carbon monoxide. He mentioned that the agencies working on the SIP are incorporating the suggestions that make sense for the local community and that the business community is working with them; and the Subcommittee applauds all of the cooperation that has taken place. What is missing is the leadership from the government: Federal, State and Local. The Regional Transportation Committee (RTC) has a program called CATMATCH that encourages local residents to get out of their cars and take the bus. They work with employers to provide incentives to their employees. As one of the largest employers in Southern Nevada why has the government not been one of the first to sign up for this program? Southern Nevada is trying to encourage businesses to promote telecommuting and alternative work schedules yet the government has not implemented any of those ideas.

Chairman Porter explained that if the State of Nevada wants business to be innovative, the state would need to lead the way. He expressed his congratulations to the agencies that are doing that and where it is not happening to the fullest extent possible, shame on the state. Government should be leading the community in innovative air quality solutions, not just regulating others. Chairman Porter asked if there were any questions from members of local governments before continuing with items on the agenda.

APPROVAL OF THE MINUTES OF THE FEBRUARY 14, 2000, MEETING

ASSEMBLYMAN BACHE MOVED FOR APPROVAL OF THE MINUTES OF THE SUBCOMMITTEE'S MEETINGS HELD ON FEBRUARY 14, 2000, IN LAS VEGAS, NEVADA. ASSEMBLYMAN PARKS SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

STAFF OVERVIEW OF S.B. 432 SUBCOMMITTEE ACTIVITIES AND PROJECTED TIME LINE

Donald O. Williams

Donald O. Williams, Chief Principal Research Analyst, Research Division, Legislative Counsel Bureau (LCB), Carson City, noted that at the Subcommittee's February 14, 2000, meeting individual citizens and representatives of citizen groups presented some serious concerns regarding the operations of existing air quality programs in Clark County, particularly those programs administered by the Clark County Health District. Subsequent to the February meeting, the Subcommittee members and the Subcommittee staff received additional information from many of those same citizens at the direction of the Chairman, the information has been forwarded to the Subcommittee's consultant, ENVIRON International Corporation, for its consideration.

On May 2, 2000, the Legislative Counsel Bureau and the members of this Subcommittee received a copy of a memorandum dated April 18, 2000, from Dr. Donald Kwalick, Chief Health Officer of the Clark County Health District. The memo was a response to various allegations raised by citizens at the February meeting and addressed the following issues:

- Does the Health District's Air Quality Division make permitting and enforcement decisions based on politics or personal relationships?
- Has the Health District's Air Quality Division retaliated against Air Quality personnel and what is the basis for its allegations?
- Does the Attorney for the Health District's Air Quality Division have a conflict of interest?
- Do key Health District Officials have a financial conflict of interest?
- Is the quality of the air in the Las Vegas Valley deteriorating?
- What is the role of the Emissions Inventory?
- How accurate are the estimates provided by the Health District?
- Does the emissions reduction credit card payment allow companies to pay to pollute and has it been mismanaged?
- What are the adverse affects of particulate matter? (Response to Assemblyman Beer's question at the previous meeting.)

Mr. Williams reiterated that the memorandum provided by the Health District presented information to address the various allegations or to answer questions raised at the previous meeting. The document may allow members and citizens to determine if the Health District has adequately addressed those issues.

Mr. Williams continued to discuss the activities of the February meeting by stating Chairman Porter asked the individual members of the Advisory Committee to assist in reviewing four Draft Task Reports (Exhibits A through D) from the consultant. Mr. Williams then described the process used to distribute and review the four Draft Task Reports. In conclusion, Mr. Williams noted the future deadlines for the Subcommittee:

- S.B. 432 requires that the consultant submit the draft report on or before June 30, 2000;
- The next meeting of the Subcommittee is scheduled for July 10, 2000, to consider that report;
- If the Subcommittee has changes for the consultant the consultant has to submit a final draft report on or before September 29, 2000; and
- S.B. 432 establishes a deadline of October 15, 2000 for the Subcommittee to complete its review of the consultant's work.

Chairman Porter requested that the plan considered by Clark County Commission member Erin Kenny, regarding Task Report 4 and organization be considered as an option for a solution.

**AIR QUALITY STUDY PROGRESS PREORT FROM ENVIRON
INTERNATIONAL CORPORATION, CONTRACTED CONSULTANT
TO THE S.B. 432 SUBCOMMITTEE**

David R. Souten

David R. Souten, Principal Partner, ENVIRON International Corporation, introduced Jim Lyons, Earl Withycombe, and Dave Calkins as key contributors to the writing of the draft task reports (Exhibits A through D). He presented a summary of study objectives pursued (Exhibit E):

1. What is the current state of the air quality? What is the information availability? What regulates overall operations of other agencies with responsibility related to air pollution in Clark County?
2. What does the future look like based on current air quality information?
3. What type of controls or other activities might serve the citizens through cleaner air quality?
4. Are the air pollution programs adequately funded to do the job if more resources needed? Are the revenue sources currently under utilized that would provide that additional funding? Are the right agencies doing the right things? Is there a better way to manage the air pollution solutions in Clark County?

Mr. Souten noted the qualifications of the staff at ENVIRON stating that several employees of ENVIRON had previously worked with the United States EPA, the California Air Resources Board, the various air pollution control districts, the U.S. Navy Engineering Group and extensive consulting experience over the span of many years totaling about 120 man years of air pollution experience among the key authors of the reports. He stated it was necessary to reveal the experience that will be doing the subjective analysis of the objective material because the study requires extensive experience.

Mr. Souten stated ENVIRON has completed four draft reports and he encouraged comments. He added that an Executive Summary of those reports, including specific recommendations to the Legislative Subcommittee will be submitted at the end of June 2000 and work will be finalized after comments from the Subcommittee are received in summer or early fall. While taking into account the comments received by the Subcommittee in the final report ENVIRON will not change the factual nature of the report, as it provides a factual basis for decisions, political or otherwise, that might be made by this Subcommittee.

Mr. Souten provided the Subcommittee, pursuant to S.B. 432, with a presentation on a overview of ENVIRON's study of air quality programs in Clark County; (Exhibit E) which included the following points, among others:

What Issues Did We Identity?

- Considerable inter and intra-agency conflict, especially within the Health District and between the Health District and Comprehensive Planning.
- Roles, responsibility, and authority between these two agencies are not optimal.
- RTC functions effectively in providing air pollution related transportation information to other regulatory agencies, and is a major stakeholder in SIP submittal and approval by the U.S. Environmental Protection Agency.
- Air quality monitoring is improving, but additional improvements are needed.

- Research products are generally good, but poorly coordinated among agencies, resulting in lack of long-term focus and efficient use of funds.
- Enforcement of existing programs is improving but needs more improvement.
- Emissions inventories, which are critical to proper decision-making, need to be much improved and organized.
- Public outreach of air pollution program information needs to be improved.
- The area is in non-attainment status for carbon monoxide (CO) and particulate matter (PM-10).
- Is very likely exceeding also the proposed standard for ozone.
- Air quality plans for CO, PM-10, and ozone need to be much better done than in the past.
- Significant improvements have occurred in the ambient levels of CO.
- Inadequate data to either support or dispel public perception of deteriorating visibility (increased regional haze.)
- Past population projections have been inconsistent and poorly reconciled. This had major impact on planning uncertainties. This seems to have been just recently resolved.
- Many regulations limiting air pollution emissions, in effect elsewhere in the United States, could be effectively used in the Las Vegas region.
- Resources for air pollution management in Clark County are lower than desirable, especially when compared to agencies elsewhere with similar challenges.
- Additional financial resource opportunities exist, in line with similar allocations in other U.S. areas.

He reiterated the desire of ENVIRON to have as much factual input as possible during this process of gathering information.

What do We Recommend?

- Improved monitoring.
- Improved emissions inventories.
- Improved public accessibility to air pollution program data.
- Better process for timely development of State Implementation Plans.
- Better, more comprehensive evaluation of the need for, and nature of, additional emissions reduction measures (through air quality management plans), especially for ozone, PM, and regional haze.
- Improved research coordination and resource use.
- Better, more consistent enforcement of existing regulations.
- Retention of RTC as it is now constituted.
- Elimination of Health District's Air Quality Division.

- Elimination of Comprehensive Planning's air management functions.
- Consolidation of air pollution programs through the formation of a single-purpose agency for air quality program management.

He notes that the recommendations provided are also contained in some form in Task 2 (Exhibit B), Task 3 (Exhibit C) and Task 4 (Exhibit D). Task 2 has additional control measure recommendation that ENVIRON believes are important to be considered in air quality managing. Task 3 is the issue dealing with resources available. Task 4 deals with the organizational structure of ENVIRON's recommendation. Mr. Souten made a reference to "Draft Report Summaries, Tasks 1-4, Study of Air Quality Programs in Clark County, Nevada" (Exhibit F).

In response to a question by Senator Titus, Mr. Souten explained in the construction of the single purpose agency there would be a significant role for the state both from the standpoint state agencies having representation on that board as well as having the Governor and State Legislature appoint members of the board. This is how other states that have effective air quality programs involving the different governmental agencies.

Chairman Porter asked if a portion of the fines/penalties to be given to the Clark County School District be used to improve air quality via their equipment. Mr. Souten stated, with respect to the schools, ENVIRON recommended that such money be focused in those areas that have an air pollution or environmental role. For instance funds could be used for alternative fuel buses, which would reduce particulate and noxious level from diesel buses and eliminate exposure of children to diesel exhaust. Those funds would also be used for public education augmenting environmental awareness programs within the school system.

COMMENTS REGARDING S.B. 432 AIR QUALITY STUDY, BY THE CHAIRMAN AND MEMBERS OF THE ADVISORY COMMITTEE TO THE S.B. 432 SUBCOMMITTEE

Richard B. Holmes

Richard B. Holmes, S.B. 432 Advisory Committee Chairman, stated there had been no recent meetings of the Advisory Committee, however, all members had received Task 1 and individual comments have been generated and sent back to the LCB. Speaking on behalf of Clark County, he said they have not yet had time to fully comprehend the report and make comments on it but will do so in the allotted two week time period.

In response to a question from Senator Titus, Mr. Souten explained the scope of ENVIRON's consulting contract would not include making decisions on which environmental programs are more important than others in the state. ENVIRON's recommendation was principally that the air quality program could be adequately funded with existing financial structures if the penalty fees and costs associated with the services provided were brought more in line with existing programs elsewhere in the country, i.e., more revenue generated by the existing programs that would likely pay for the additional 15 percent increase we saw in funding for the new agency to carry out the functions previously identified.

Senator Titus requested Mr. Williams to explain the sources and uses of Clark County's money for the air quality programs. Mr. Williams noted he would research the requested information.

Chairman Porter reiterated the state should increase its enforcement of inspections of on road vehicles. Mr. Souten explained ENVIRON suggested that the existing "I" and "M" (Inspection and Maintenance Program to control motor vehicle emissions) probe inspection maintenance program for on road vehicles could be enhanced to become more aggressive and have the effect of both increasing revenue and reducing emissions. In its current structure, it is a decentralized program, which means it is less effective by normal criteria in emission reduction than those programs called centralized which test automobiles in a central location and have them repaired elsewhere. ENVIRON also recommended that there be a careful evaluation of the violation of existing registration that takes place. Both state and local enforcement officials could more diligently track unregistered vehicles especially those, which are high polluters and remove those automobiles from operation.

Senator James asked Mr. Souten to describe the difference in functioning between a centralized versus decentralized

inspection maintenance program. Mr. Souten explained that the inspection maintenance program evaluation was one of 40 control measures that ENVIRON evaluated for all pollutants involved in particulate matter: hydrocarbons, oxides, nitrogen and carbon monoxides. In a centralized I and M program, the inspection is done at a specialized location that has specialized equipment and the individual will only have to drive into one of several centralized locations rather than to individual service stations that are authorized to carry out inspections and repair program. The concept being:

1. The inspection taking place at a centralized facility that is well equipped and it is expected the likelihood of a high quality inspection process will be enhanced both because of the equipment and the training.
2. Since the repair is not done at the same facility, there is assumed objectivity associated with the repair to pass the test but rather to correct the deficiency in the automobile, which will produce emission reductions.

The result of that according to the EPA, as well as the California Air Resources Board and other agencies that have such a program that there is a substantial difference increase in the emission reduction in a centralized inspection maintenance program as opposed to a decentralized program.

In response to a question posed by Senator James, Mr. James Lyons, Sierra Research, explained that contractors run the centralized programs. There are two types of tests that were described in the ENVIRON report:

1. Two speed idle test-quicker but less effective, involves a probe inserted into the tailpipe of the vehicle measuring emissions during a low idle and again at a high idle.
2. Loaded Mode Testing-much more effective for reducing noxious emissions involves the use of dynamometers, which work like a treadmill for the automobile.

Mr. Lyons acknowledged the centralized program in Phoenix, Arizona is being run successfully without vast amounts of waiting time and other consumer problems.

In response to the question by Chairman Porter, Mr. Souten noted Nevada is late in planning and assembling state implementation plans but the deadline might be met for carbon monoxide. In the case of particulate matter, there are several recommendations in ENVIRON's report concerning the type and cost of controls. That would take a substantial commitment to investigate the complexity and develop a program on time.

Chairman Porter asked what would happen if the county did not meet the deadlines. Mr. Souten responded by stating the county would be in non-conformity and federal funding would be withheld for highway projects. He continued by explaining the county would have a Federal Implementation Plan (FIP), which is prepared by the EPA as opposed to state implementation plan, which the county is in the process of preparing. The SIP is one that is derived from local and state authority and actions. A federal implementation plan is carried out when local and state agencies do not fulfill that responsibility and the Federal Government develops a FIP. Mr. Souten strongly recommended the state implementation plan

Chairman Porter asked if there are any steps, as a committee, to help in the short time period. Mr. Souten suggested the local agencies offer a plan in response to ENVIRON's report in the organizational sense to have a more effective program in the long term. Chairman Porter questioned if the state EPA should be taking the responsibility to make sure the local governments are actually answering the concerns of the Federal Government. Mr. Souten explained that typically it is the state's responsibility to submit the SIP, that responsibility and the organization is typically delegated to different jurisdictions as it has been in this case. Elsewhere in the country the state takes major actions when local jurisdictions begin to falter in their implementation plan development. He continued by stating the Subcommittee can presumably to encourage action on the part of local governments and the state to move forward.

David Calkins, in response to the question posed previously by Chairman Porter explained the disadvantages of a federal plan. The Subcommittee's actions should be to get a good PM-10 plan in place. The local agencies that had been spoken to by Mr. Calkins were well aware of the problem of the sanctions and they know they must get a plan in and approved, at least in concept by the end of the year or they will be sanctioned by the Federal Government and lean towards a FIP. The carbon monoxide plan appears to be able to meet the requirements and informal discussions with the EPA has indicated that as well but the agencies must formally turn the plan.

Chairman Porter asked Mr. Calkins, with his background with the EPA, what type of time frame would be required to review such a plan. Mr. Calkins explained the EPA has 90 days to make a completeness finding to either tell the state it has done all of the right things, as it may not be an approvable plan. When that is found, then the lapse of conformity does not continue. The EPA has approximately another six months to review the plan and make a final decision to propose to disapprove or approve the plan. If there is a missing regulation, the EPA may propose a substitute regulation to fill the gap until the state can completely finish it. In response to a question by Chairman Porter, Mr. Calkins noted that the window of time, 90 days or six months is after the December 31, 2000, date.

Daryl Capurro

Daryl Capurro, Nevada Motor Transport Association, stated at the request of Department of Motor Vehicles and Public Safety (DMV/PS), the Nevada State Legislature reduced the fee from emission testing from \$6 to \$5 in part because the monies collected were not being used. Part of that fund was used for issues pertaining to Lake Tahoe. It is our opinion that the money that goes into the fund should be used for exactly the purposes it was intended, to improve air quality throughout the state.

The biggest problems with regard to air quality is in the Clark County area and those should be addressed the DMV/PS in their efforts with respect to heavy duty diesel testing (Exhibit G). Nevada was one of the first states to adopt a comprehensive on highway diesel testing program. These standards are being used as the federal standards for the country. The program that is currently being used is a random on highway test procedure. There is also fleet testing where the company requests the testing to be done, testing at waste stations, and the surface street program in Clark County.

The issue of some of the pollutant areas we are dealing with was somewhat confusing because of the situation with the EPA 2.5 micron particulate standard which was challenged in court. It was indicated by the courts that the EPA exceeded its legislative authority. That question has now been referred to and accepted by the U.S. Supreme Court. The Supreme Court expanded the case to look at the issues of whether or not standards should be set taking into account both good science and cost benefit with respect to the type of standards. The decision should be out in the fall and Mr. Capurro hopes in time for the Legislature to study what impact that will have. In the meantime the EPA has directed the states to continue to monitor and to provide information relative to the 2.5-micron particulate standard and to prepare for the change in the ozone test procedure. The sulfur standard in fuel must be reduced and it must be a national requirement. Nevada needs to stand behind the EPA and adopt a one-fuel standard that addresses clean air that applies everywhere.

Tom Stephens

Tom Stephens, Director, Nevada's Department of Transportation (NDOT), emphasized:

- His views of the Task 2 Report concerning windy day problems and the cost for air quality resolution as noted in that report;
- The committee's need to take a closer look at the Task 2 Report concerning programs;
- The Regional Transportation Commission (RTC) works well as was validated by ENVIRON; and
- NDOT is very involved in working with RTC.

Jessica Hodge

Jessica Hodge, Citizen Alert, presented testimony concerning air quality in Clark County as a member of the S.B. 432 Advisory Committee.

Chairman Porter explained the Subcommittee in counsel with members of the public would look very closely at any suggestions that are made. Direction has been given to local governments to provide possible solutions. To clarify, Chairman Porter explained that the recommendations and suggestions from the local governments to the

Subcommittee are just that. If the Subcommittee decides to go in a different direction, it will. If the local governments are not following through with the desires of the Subcommittee and they are not meeting the needs of the report, then the Subcommittee will take whatever steps are necessary to ensure the needs of the report are met.

Mike Naylor

Mike Naylor, Director, Air Quality Division of Clark County Health District, offered a brief update on the public hearing process. The Board of Health has begun public hearings on five regulations which include Section 90, the rules for vacant lots and open areas, Section 91, the rules for unpaved roads, alleys and easements, Section 92, the rules on unpaved parking lots, Section 93, the rule that addresses the shoulders on paved roads and street sweeping equipment and Section 94, the rule on permitting and control for construction activity. At the last Board of Health meeting, in late May, staff advised the Board that there are still some outstanding issues and a lack of consensus on some of the language and the Board agreed to continue the hearing until June 22, 2000. With the lead of the Department of Comprehensive Planning there have been stakeholder meetings twice a week for the last two weeks. There will be another meeting June 6, 2000, and June 7, 2000. The Board plans on presenting an update of all of the proposals to the public at a workshop on June 12, 2000. All the proposals will be in a final state and ready for consideration of adoption and the actual hearing by the board would be Thursday, June 22, 2000. Mr. Naylor anticipated the Board would adopt the complete package and that the County would be on time with the submittal of the PM-10 state implementation plan.

In response to a question by Senator Titus, Mr. Naylor stated Section 90 applies to vacant lots and open areas and that rule would apply to Bureau of Land Management (BLM) property as well as Section 91, dealing with unpaved roads would apply. Senator Titus questioned whether BLM would have to fence all its land. Mr. Naylor explained only where there is vehicular access. He continued by explaining typically vehicle access is what causes the disturbance of the land and these rules would apply to areas that had been disturbed and are sources of wind blown dust. Only 16 percent of all vacant land is considered unstable and require stabilization (application of water or other non-toxic dust suppressants) and possible fencing.

Senator Titus questioned the safety of the nontoxic dust suppressants. Mr. Naylor disclosed there would be guideline sheet on the proper use/application of dust suppressants to avoid the issue of water contamination.

Russell Roberts

Russell Roberts, Comprehensive Planning, Las Vegas, in response to Senator Titus's question earlier to Mr. Williams about the air pollution fund stated that S.B. 511, (Chapter 532, *Statutes of Nevada, 1999*, revises provisions relating to expenditures for air quality) was the Senate bill that removed about 3.2 million from the excess reserve fund and sent it to Lake Tahoe environmental programs. Since the money was excess, it was assumed there would be a minimal, if any, impact on local air quality programs. In addition there are at least \$1.5 million in excess reserve fund requests from Clark County. The money is used to pay for most of the fieldwork of all the air quality plans. It is a critical part of the ongoing planning efforts. Even with the \$3.2 million that has gone to Lake Tahoe, there is still money available to Clark County. It is an easy source of funds to offset some of the increased costs that are anticipated.

Mr. Roberts clarified there are two different uses for the same fund; it established a program of submitting \$1 of the \$5 collected to each of the counties. Clark County takes \$1 and divides it 60 percent between the health districts air quality program and 40 percent to fund part of the air quality team in terms of the full time employee positions. That does not expend all of the money. The \$5 fee funds the administration of DMV/PS's program. Any money left over would be available for that basic grant and on a request basis for use by Clark or Washoe County. With that advent of S.B. 511 a number of state agencies that do environmental work in the Lake Tahoe Basin would also have access to the fund.

In response to a question by Senator Titus, Mr. Naylor explained the most recent money used from the fund was for regional haze work where Desert Research, Institute University of Nevada, Reno, was hired to set up nephelometers as a way of measuring regional haze and visibility and to measure how that changes over different time periods of the year and the influence of out-of-county sources, i.e., Southern California. There is a proposal to do in use emissions testing for heavy-duty diesels as they pass through the weigh station by putting emission monitors at the height of the truck exhaust stacks. Senator Titus asked about the process to get the funding and if there were problems with the

review process of the grants. Mr. Naylor stated the problems he notices are:

1. The effect of the drawdowns on the fund for example the use of money for Lake Tahoe as well as the other state agencies,
2. There is not a sunset clause and his concern is that there is no priority for the local air quality programs either in Clark or Washoe County for those funds. Over time given DMV/PS's direct cost, there will be an increase over time and little money will remain in the fund.

Chairman Porter asked if any local agencies requests for funds have been denied. Mr. Naylor confirmed some agencies have been refused money. These are state funds derived from the \$5 smog check fee that the DMV/PS collects to pay for the administration of the smog check program. Anything left over is available for use by Clark and Washoe County. The request for funds is made to the Interim Finance Committee typically through the DMV/PS, and the State Environmental Commission also reviews the applications. The State Inspection and Maintenance Review Committee reviews all of the applications and determines which are approved.

Senator James inquired if the request was denied due to the controversial centralized testing plan. Mr. Naylor understood that the Legislature clearly indicated that it did not want centralized loaded mode testing in the State of Nevada. The denial was not because the money was being used at Lake Tahoe.

Chairman Porter stated that while the Subcommittee is being critical of other agencies it was also being critical of the role of the State. This is an area that must be capturing and returning dollars, as much as possible, to the southern Nevada area as this unfolds and we move into to the next legislative session.

Jim Parsons

Jim Parsons, Emission Control Program Manager, DMV/PS, referenced his memorandum to Donald O. Williams, Chief Principal Research Analyst, dated June 2, 2000 (Exhibit G), which encompasses all of the diesel activities that are done in both Clark and Washoe Counties with a statewide total. Clark County's surface road enforcement, reported over 4000 vehicles were observed with approximately a 34 percent failure rate (noncompliance rate). He noted some of the numbers on Exhibit G do not total correctly and a revised handout will be made available. Chairman Porter asked if Mr. Parsons were to evaluate the effectiveness of the program today, what would the outcome be. Mr. Parson stated the percentage of noncompliance would indicate a need for the program.

SCHEDULE FOR FUTURE MEETINGS AND DIRECTIONS TO STAFF

Chairman Porter noted the tentative date for the next meeting, will be July 10, 2000 at 9:30 a.m. The primary location will be in Las Vegas at the Grant Sawyer Office Building.

PUBLIC TESTIMONY

Robert W. Hall

Robert W. Hall, Nevada Environmental Coalition, provided the members with a copy of a legal document regarding the Federal Bureau of Land Management's alleged failure to comply with the Federal Clean Air Act (Exhibit H). Mr. Hall stated that ENVIRON's draft report was a good start and commended the Legislature in its leadership in enacting the legislation that created the Subcommittee and thanked the professional staff for their courtesy and cooperation with interested members of the public. The problems he found with the reports include:

- Truth is in the details and there are no details.
- The public should not be considered stakeholders, but rather taxpayers.
- Vocal minority represents more than a minority of the people.
- The selection of board members. It is a complex issue and the appointees must be knowledgeable on the

issues.

- Legal counsel should be separate from the legal counsel of the enforcement branch.
- Data credibility – It is Mr. Hall’s opinion that the data from Clark County sources is not credible. Both collecting and use of the data are important issues.
- Emissions monitoring - The report assumes that the “cat will continue to watch the canary” regarding monitoring. It must be separated to instill confidence in the monitoring.
- Revenues - The report assumes that the current revenue stream is lawfully derived pursuant to the Nevada constitutional constraints, “revenue in any form has to go through both houses of the Legislature by a two thirds vote.” Revenue is being collected and never seeing the light of day.
- Public Relations – The public is being left out.
- Federal Agency Liaison – Suggesting the liaison must have more knowledge and conservative legal knowledge about the regulations than anyone in the EPA.
- General Conformity – It has never been done before so the county is not in a lapses it has never been in compliance.
- Local Offset Credit Program – This needs to go to a Grand Jury.
- Retaining professional staff – Must withstand political pressures.
- Deadlines – Will not be met at the rate the County is going.
- BLM Land – Has no conformity and risking bankruptcy on all of the operations located on BLM land.
- Water does suppress dust but if the land was not bulldozed you would have less problems with dust.

Ken Mahal

Ken Mahal, Nevada Seniors Coalition, explained that he and 50 percent of the senior population are victims of the air quality environment in southern Nevada. He does not have much hope that the air quality in the Las Vegas Valley will improve unless drastic requirements are in place to operate. Mr. Mahal quoted “regulations are a politically compromised minimum” and stated the regulations are not nearly as tough as they should be if done properly. Many times the regulations are minimums. He concurred with Mr. Hall’s comments that an inventory of the facts as they exist must be compiled. Suggested criteria for improved air quality:

1. Establish an independent organization to research all of the facts. This may be answerable to a Grand Jury
2. Start a Clark County air quality control authority, appointed the first time and then elected the second time. Limited the workload with only one committee per person.
3. Concluding, he added that two major problems in Southern Nevada are PM-10 dust combined with diesel particulates. That is what is settling in the lungs of the community.

Laird Noble Sanders

Laird Noble Sanders, Owner, Lake Mead Boat Storage, located in a horseshoe of land called The Old Three Kids Mine, offered testimony. He noted that the land that surrounds is composed of private land owned by The Old Three Kids Enterprises, the BLM and Federal Bureau of Reclamation (BOR). The mine was used during World War II for manganese used in bombs and airplanes. The tailings (including high levels of manganese, arsenic, lead and diesel fuel) were left on the property and allowed to blow off from the south west of the property when the winds blow.

This dust gets into the storage facility owned by Mr. Sanders and into the property stored there, i.e., boats and other personal belongings. On April 9, a letter was sent to The Old Three Kids Enterprises, BLM and BOR, with photographs stating the necessity for a long-term mitigation strategy to prevent dust from blowing from that property on to Mr. Sander's property. April 19 another letter was sent with a videotape of the fugitive dust during high winds, a directive to do a water suppressant or to make sure that the dust does not blow around.

Over a year later, the property was watered only once and The Old Three Kids Mine did it. Mr. Sanders stated a few weeks ago the Clark County Air Quality Control sent out a corrective order but it was only directed to The Three Kids Mine and not to BLM or BOR. When asked why BLM and BOR were not on the corrective order, the officer from Clark County Air Quality Control said he did not realize those entities were part of the problem. The officer also stated with the current regulations The Three Kids Mine could appeal the order and win since the regulations are so weak. Mr. Sanders noted that if the dust problem were not corrected in some way, it would cost him current and future business at his storage facility.

James M. Sohns

James M. Sohns, President, Nevada Car Owners Association, Las Vegas, stated that ENVIRON's report is a "nice start but there is still a long way to go." There are no emissions inventories for the airports, Nevada Power, other industries; the idea of blaming the automobiles is unacceptable. Numerous agencies in the Las Vegas Valley have promoted diesel fuel as an alternative fuel however the California Air Resources Board is meeting to discuss a ban the purchasing of new diesel buses or trucks in Los Angeles, California. An environmental group is prepared to sue the Los Angeles Transit Authority if they purchase diesel-powered vehicles rather than purchasing alternative fuel vehicles. The California Attorney General sued four major grocery chains in California and won because the trucks used for transporting items were major polluters. Diesel is a problem and must be taken care of. Mr. Sohns stated he has little faith in the current air quality program in southern Nevada and centralized testing would do little to help the situation (Exhibit I).

Sandra Barna

Sandra Barna, Coalition for Clean Air, thanked the Subcommittee for hearing complaints. The interest of the coalition is to safeguard the health of the community in the Las Vegas Valley and the state. Ms. Barna's concerns are as follows:

1. The need to have a Federal Grand Jury probe.
2. Start an internal audit as well as a physical audit of all the aggregate companies, stationary sources, public utilities companies by an outside entity which is a non-political and non-financial group of technical engineers to come in and over see this data. The documents submitted by the whistle blowers are factual documents of non-compliance.
3. Stopping the non-compliance polluters in the Las Vegas Valley.
4. Follow through with efforts to make the Las Vegas Valley free of dirt, dust, and carbon monoxide so the members of the community can be healthy and live to enjoy the Las Vegas Valley.

Wilbert L. Townsend

Wilbert Townsend, CIH/MPH/MBA, President, Nevada Public Health Association, stated for the record his testimony would be that of a private citizen and to rebut testimony given at a previous meeting. Mr. Townsend noted he had recently left the Clark County Health District, February 28, 2000, where he worked in the Air Pollution Control Division, which is currently known as Air Quality Division. Mr. Townsend continued by explaining that the inconsistency in emissions discovered at the Health Department has questionable ethics behind it and must be investigated. When the internal procedures to deal with the problem did not work, Mr. Townsend notified the Health Officer of the discovery in order to improve the air quality in the Las Vegas Valley. (Exhibit J)

Juanita Clark

Juanita Clark, Charleston Neighborhood Preservation, Las Vegas, requested that the Subcommittee focus on enforcing the laws that are presently on the books and the health of the community. Noting that the Charleston Neighborhood Preservation represents 13,800 households, she stated that environmental crimes against the citizens of Southern Nevada must be addressed.

ADJOURNMENT

CHAIRMAN PORTER MOVED THAT THE MEETING BE ADJOURNED. SENATOR TITUS SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

There being no further business to come before the Subcommittee, Chairman Porter adjourned the meeting at 4:40 p.m.

Respectfully submitted,

Bonnie Borda Hoffecker
Research Secretary

Donald O. Williams
Chief Principal Research Analyst

APPROVED BY:

Senator Jon C. Porter, Sr., Chairman

Date: _____

LIST OF EXHIBITS

Exhibit A is a Draft Report, Study of Air Quality Programs in Clark County, Nevada, Pursuant to Senate Bill 432 (Chapter 529, *Statutes of Nevada 1999*), Task 1: Assessment of Current and Future Air Quality in Clark County Nevada. Provided by ENVIRON International Corporation, May 5, 2000.

Exhibit B is a Draft Report, Study of Air Quality Programs in Clark County, Nevada, Pursuant to Senate Bill 432 (Chapter 529, *Statutes of Nevada 1999*), Task 2: Identification And Evaluation of Potential Future Air Pollution Control Measures For Clark County. Provided by ENVIRON International Corporation, May 23, 2000.

Exhibit C is a Draft Report, Study of Air Quality Programs in Clark County, Nevada, Pursuant to Senate Bill 432 (Chapter 529, *Statutes of Nevada 1999*), Task 3: Current and Future Funding Requirements for Air Quality Programs Clark County Nevada. Provided by ENVIRON International Corporation, May 23, 2000.

Exhibit D is a Draft Report, Study of Air Quality Programs in Clark County, Nevada, Pursuant to Senate Bill 432 (Chapter 529, *Statutes of Nevada 1999*), Task 4: Governmental Roles and Responsibilities for Air Quality Programs Clark County Nevada. Provided by ENVIRON International Corporation, May 24, 2000.

Exhibit E is a Presentation to the Legislative Subcommittee on Air Quality Programs in Clark County to Conduct a Study and Prepare a Report of Air Quality Programs in Clark County, Nevada, Pursuant to S.B. 432, Presented by David Souten, Principal Partner, ENVIRON International Corporation, June 5, 2000.

Exhibit F is the Draft Report Summaries, Tasks 1-4, Study of Air Quality Programs in Clark County, Nevada. Presented by ENVIRON International Corporation, June 5, 2000.

Exhibit G is a memorandum dated June 2, 2000, from Jim Parsons, Emission Control Program Manager, Department of Motor Vehicles and Public Safety, regarding Heavy Duty Diesel Report.

Exhibit I is a copy of the testimony provided by Mr. James M. Sohns, President, Southern Nevada Car Owners Association, Inc.

Exhibit J is a copy of the testimony provided by Mr. Wilbert L. Townsend, President, Nevada Public Health Association.

Exhibit H is a copy of a plaintiff's motion for Summary Judgment (Robert W. Hall v. United States Department of Interior, submitted on June 5, 2000) presented by Mr. Robert W. Hall, Nevada Environmental Coalition.

Exhibit K is the "Attendance Record" for this meeting.

Copies of the materials distributed in the meeting are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the library at (775) 684-6827.