

**MINUTES OF THE MEETING
OF THE
LEGISLATIVE COMMISSION'S SUBCOMMITTEE
ON AIR QUALITY PROGRAMS
IN CLARK COUNTY
(Senate Bill 432; Chapter 529, *Statutes of Nevada 1999*)
February 14, 2000
Las Vegas, Nevada**

The third meeting of the Legislative Commission's Subcommittee on Air Quality Programs in Clark County (S.B. 432) was held on February 14, 2000, at 1:30 p.m., in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. This meeting was videoconferenced to Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Pages 2 through 3 contain the "Meeting Notice and Agenda."

SUBCOMMITTEE MEMBERS PRESENT:

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

OTHERS PRESENT:

Richard B. Holmes, Chairman, Advisory Committee, and Assistant County Manager, Clark County

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Donald O. Williams, Chief Principal Research Analyst
David S. Ziegler, Principal Research Analyst
Eileen G. O'Grady, Principal Deputy Legislative Counsel
Edward A. Johnson II, Deputy Legislative Counsel
Maureen Kirkman, Senior Research Secretary
Debby Richards, Manager of Office Services, Research Division

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, February 14, 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 Subcommittee may be attending the meeting, and other persons may observe the meeting and provide testimony, through a simultaneous videoconference conducted at the following location:

Legislative Building
Room 3138
401 South Carson Street
Carson City, Nevada

If you cannot attend the meeting, you can listen to it live over the Internet. The address for the legislative website is <http://www.leg.state.nv.us>. For audio broadcasts, click on the link "Listen to Meetings Live on the Internet."

A G E N D A

- I. Opening Remarks
Senator Jon C. Porter, Chairman
- *II. Approval of Minutes of the November 22, 1999, Meeting
- *III. Clark County Concerned Citizens' Presentations on Air Quality Concerns and Issues (Invited Citizen Groups and Individuals)

Jim Sohns, President
Nevada Car Owners Association

Elizabeth Gilmartin

Wilbert L. Townsend, President
Nevada Public Health Association

Sandra Barna

Ken Mahal, President
Nevada Seniors Coalition

Robert W. Hall, Director
Nevada Environmental Coalition

Joseph L. Lenoir
- *IV. State and Local Agency Presentations on Recent Air Quality Activities

Erin Kenny, Commissioner
Clark County Board of Commissioners

Jim Parsons, Program Manager, Vehicle Emissions Control Section
Motor Vehicles Branch, Nevada's Department of Motor Vehicles and Public Safety

Tom Stephens, Director
Nevada's Department of Transportation

Jacob Snow, General Manager
Clark County Regional Transportation Commission

Jolaine Johnson, Deputy Administrator, Division of Environmental Protection
State of Nevada Department of Conservation and Natural Resources

Michael Naylor, Air Pollution Control Officer
Clark County Health District

Richard B. Holmes, Assistant County Manager
Office of the County Manager, Clark County

Russell Roberts, Assistant Planning Manager, Air Quality Team
Clark County Department of Comprehensive Planning

V. Presentation from Industry Representative
Ed Lubbers, Industry Representative

*VI. 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

*VII. Discussion of Future Duties of the Advisory Committee to the S.B. 432 Legislative Subcommittee

*VIII. Schedule for Future Meetings and Directions to Staff

IX. Public Testimony

X. Adjournment

*Denotes items on which the Legislative 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, 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.

OPENING REMARKS

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Senator Jon C. Porter, Sr.

Senator Jon C. Porter, Sr., called the meeting to order and asked the secretary to call roll. He explained that the subcommittee's purpose is to develop recommendations that will improve the air quality in southern Nevada.

He commented on:

- A graphic, titled "Working Together for a Pollution Solution," which was prepared by Clark County's Department of Comprehensive Planning (Exhibit A). This document illustrates the current organizational structure of federal, state, and local government entities involved with efforts to improve air quality in southern Nevada.
- The need for the subcommittee to review the structure (in Exhibit A) and recommend changes so those agencies can be more responsive and better manage the air quality in southern Nevada.

- The effort by the subcommittee's consultant to develop technical solutions for southern Nevada's air quality situation so that after the state implementation plan is committed, they will have ways to monitor and measure the community's success.

Continuing, Senator Porter advised that Governor Kenny E. Guinn has assured him that the state will do its part in contributing to air quality solutions in the Las Vegas valley. The Governor indicated that he is committed to:

1. Requiring all state contractors to use clean diesel fuel.
2. Identifying all state-owned parcels of disturbed vacant land and stabilizing them.
3. Stabilizing the PM-10 emissions on all state transportation and other construction projects.
4. Working with Clark County to personally deliver the state's implementation plan to the United States Environmental Protection Agency (EPA) and request an expedited and favorable review.

Additionally, Senator Porter commented that:

- He and Governor Guinn agree that the private sector cannot be asked to take action that will improve the air quality in southern Nevada if government does not take a leadership role. He further mentioned that his colleagues serving on this subcommittee are committed to taking that leadership position.
- At the subcommittee's last meeting, it was suggested that its Advisory Committee have a limited role in working with the consultant (ENVIRON International Corporation). The Advisory Committee is made up of people who contribute to southern Nevada air quality problems and, therefore, they should be part of the solution.
- The solution to the air quality problem should be based on the inclusion of everyone who has been affected by it, and ideas for methods of controlling pollutants should come from the people in those industries who helped create these problems.

Members of the Advisory Committee have assured him that they are working together and have solutions. Additionally, they are ready to accept responsibility for the health of the community and will be included in the process.

APPROVAL OF MINUTES OF THE NOVEMBER 22, 1999, MEETING

ASSEMBLYMAN BACHE MOVED TO APPROVE THE MINUTES OF THE NOVEMBER 22, 1999, MEETING WHICH WAS HELD IN LAS VEGAS, NEVADA. ASSEMBLYMAN PARKS SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY. (SENATORS JAMES AND TITUS WERE ABSENT FROM THE ROOM AT THE TIME OF THE VOTE.)

CLARK COUNTY CONCERNED CITIZENS' PRESENTATIONS ON AIR QUALITY CONCERNS AND ISSUES (INVITED CITIZEN GROUPS AND INDIVIDUALS)

Jim Sohns

Jim Sohns, President of the Nevada Car Owners Association, Las Vegas, appeared before the subcommittee and advised he was testifying on behalf of Robert W. Hall, Director of the Nevada Environmental Coalition.

During his presentation, Mr. Sohns advised that:

- Stationary source emissions release more contaminants into the air than motor vehicles.

- The policies and practices of the Air Pollution Control Division of the Clark County Health District (CCHD) concern him;
- Clark County's air quality program is not being managed properly and should be administered by the State of Nevada;
- Certain investors appear to be benefiting financially from the rapid population growth in southern Nevada; and
- Many real estate developers in southern Nevada do not have the proper licenses and permits intended to control air pollution.

Mr. Sohns reviewed his handout (Exhibit B), which is a compilation of information regarding the following items:

- A proposed study of emissions in the Las Vegas Valley by the Desert Research Institute University and Community College System of Nevada;
- Airport pollution;
- Growth;
- Diesel pollution;
- Methyl tertiary butyl ether (MTBE)/Ethanol;
- Motor vehicle emissions;
- Restaurant pollution; and
- Visible haze.

Concluding his remarks, Mr. Sohns offered the following solutions to his concerns about air quality in southern Nevada:

- Replace certain employees of the Clark County Health District; and
- Obtain accurate emissions inventories.

Elizabeth Gilmartin

Elizabeth Gilmartin, Supervisor, New Source Review (NSR) Air Pollution Control Division (APCD) Clark County Health District, Las Vegas, and a whistle-blower, referenced the following items, which appear in Exhibit C:

1. A letter dated April 30, 1999, from the Occupational Safety and Health Administration, United States Department of Labor (OSHA).
2. A "Decision & Order" issued on January 18, 2000, by Stuart A. Levin, Administrative Law Judge, Department of Labor, regarding *David F. Hoch v. Clark County Health District* (Case No. 1998-CAA-12).
3. A document from an OSHA investigator who reviewed her case.
4. A memorandum to the members of the Internal Collaborative Committee.

Please see Exhibit C for the details of these documents.

Ms. Gilmartin further commented on:

- Harassment issues concerning herself and a former employee of the Air Pollution Control Division, Wilbert L. Townsend, President of the Nevada Public Health Association;
- Her own health concerns due to the aggravated stress of being a whistle-blower; and
- Inaccuracies in emission inventories prepared by the Offset Program.

Additionally, she mentioned as a result of the EPA presence, external and internal collaborative efforts have been developed.

Ms. Gilmartin related her concerns and opinions as follows:

- In her position, she inherited permits that were incorrect, incomplete, and inadequate;
- Sixty permits were issued in prior years compared to approximately 562 in 1999;
- While approval was received from the EPA to improve the permit process, applications greatly exceed the manpower available;
- There is inequity/discrimination in the permit process concerning larger versus smaller companies;
- Vehicle air pollution control regulations are changed often making it difficult to deal with the work load;
- Under current air pollution management, the APCD employees cannot do their job; and
- The APCD does not have the structure in place to be able to issue effective permits, to demonstrate compliance with those permits, and provide justifiable numbers to other entities that need them.

Senator Titus stated that input from citizens in Clark County is an important component of this study.

Further, Ms. Titus commended Ms. Gilmartin for her willingness to testify as an employee who is a whistle-blower, and noted that there are federal and state laws to protect people who testify before Nevada's Legislature, presenting what they believe to be true and to help with public policy.

Senator Porter advised that Nevada's Legislative Counsel Bureau staff and ENVIRON International Corporation are reviewing all information provided and he assured Ms. Gilmartin that she has protection under the Federal Clean Air Act with her testimony.

Wilbert L. Townsend

Wilbert L. Townsend, President of the Nevada Public Health Association, Las Vegas, provided a written commentary (Exhibit D) in respect to his perspective on air quality while employed by the Air Pollution Control Division of the CCHD concerning:

- Management qualifications;
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- Management philosophy;
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- Management interaction with companies seeking permits;
- Management interaction with staff;

- Emissions mitigation obligation program; and
- Enforcement.

Please see Exhibit D for details of Mr. Townsend's remarks.

Sandra Barna

Sandra Barna, a resident of North Las Vegas, testified concerning:

Her health status since moving to Las Vegas; and

A packet containing numerous documents relating to violations of dust control permits for property near her residence in North Las Vegas, Nevada (Exhibit E).

In her opinion, there is an inability to implement regulations and have manpower for the following reasons:

- Enforcement officers state that they are attending to too many other tasks, rather than working in the field; and
- Mr. Naylor stated at an open meeting during the summer of 1999 that it would take two and one-half years for the Clark County Health District to inspect an entire county.

Additionally, Ms. Barna stated that:

- Activities on certain properties belonging to Ian Ross, Clark County Health District, are in violation of dust restrictions;
- The Health District is self-policing; there are no checks and balances;
- Many of the staff at the CCHD are either intimidated or forced to work in a hostile work environment;
- Qualified personnel, especially an environmental attorney, are needed to administer the APCD; and
- The *Las Vegas Review-Journal* reported citations of 60 "violations" in one year.

Senator Porter interjected:

- The subcommittee has received a consistent message and serious concerns have been raised regarding the Clark County Health District;
- The subcommittee is concerned about allegations raised by Health District employees;
- Employees of state and local government should not feel threatened by their employers or their supervisors for reporting violations of ordinances; and
- It appears that the Clark County Health District has two choices:
 1. Address internally the concerns raised, particularly those of employee harassment and the perceived conflict of interest of management/employees; or
 2. Wait for the 2001 Session of Nevada's Legislature to act on the subcommittee's recommendations. However, Senator Porter recommended that the Health District take immediate action itself.

- The subcommittee will continue to monitor these concerns, and if necessary, direct the appropriate state and local authorities to investigate and take action against any person who has violated the public trust;
- Representatives of the Clark County District Attorney's Office were asked to monitor this subject; and
- All state and local agencies should be advised that the subcommittee would take this matter seriously.

Senator James commended members of the public and employees of the Clark County Health District who appeared before the subcommittee.

Joseph L. Lenoir

Joseph L. Lenoir, a resident of Las Vegas, cited *Nevada Revised Statutes* (NRS) 445B.115 "Air pollution defined." He commented that the APCD was delegated to be the authority to uphold state law.

Continuing his presentation, Mr. Lenoir expressed the following concerns and opinions regarding:

- Upper management at the Health District does not effectively enforce state laws or the rules and ordinances of the APCD pertaining to air quality control for Clark County;
- In March 1997, the EPA had no scientific data to support more extensive air quality standards as Clark County Commissioner Yvonne Atkinson Gates had charged;
- Clark County is not in compliance with current air quality standards;
- A March 17, 1999, Ride Share Program issue voiced by Mr. Naylor;
- Certain vehicles would be repaired to meet emission standards with state funding at an estimated \$3.5 million each year;
- Michael Naylor, APCD Officer, CCHD, has proposed to install monitors and television cameras at certain intersections in Clark County to measure vehicle emissions;
- Las Vegas Beltway Project costs;
- Comments by Mr. Naylor in regard to obtaining dust mitigation permits;
- Articles in the *Las Vegas Review-Journal* regarding disgust with air quality "conditions" in the Las Vegas Valley;
- An indirect pollution source resolution proposed by Mr. Naylor;
- Members of the Health District stating they had staff problems; and
- The accountability of the Offset Program.

Further discussion ensued between Senator Titus and Mr. Lenoir concerning the Offset Program in regard to:

- Paying off sanctions;
- Offset credits being equivalent to legal tender, which could be used inappropriately; and
- Double-billing the county. Businesses may receive payment and offset credits from Clark County for paving

roads to control dust.

Additionally Mr. Lenoir commented on:

- Mr. Ross, an attorney for the Health District who helped write and orchestrate these regulations that the APCD must adhere to concerning air pollution.
- The Offset Program by the State Environmental Commission.

Ken Mahal

Ken Mahal, President of the Nevada Seniors Coalition, Las Vegas, stated his organization's motto is "A better quality of life for seniors, their children and grandchildren."

In his handout (Exhibit F) he discusses:

- His background;
- Development issues;
- Air quality issues; and
- Health concerns of citizens.

Additionally, he mentioned issues regarding:

- The Clark County Health District's reorganization;
- Field site inspections;
- Lack of accountability;
- Trust/or lack of concerning the Health District;
- Cancelled meetings of the Health District; and
- Nonenforcement of pollution requirements by the Health District.

In conclusion, Mr. Mahal stated he strongly objects to how the Health Board is being managed by specific employees.

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STATE AND LOCAL AGENCY PRESENTATIONS
ON RECENT AIR QUALITY ACTIVITIES

Erin Kenny

Erin Kenny, Commissioner, Clark County Board of Commissioners, was not able to attend this meeting and was represented by Richard B. Holmes, Assistant County Manager, Clark County. Mr. Holmes testimony appears on page 19 of these minutes.

Jim Parsons

Jim Parsons, Program Manager, Vehicle Emissions Control Section, Nevada's Department of Motor Vehicles and Public Safety (DMV&PS), provided the following statistics from July 1999 are:

- Roadside Inspections - Of 751 diesel trucks inspected, 78 citations were issued (at those sights); and
- Field Fleet Inspections Requested - Of 733 trucks tested, 69 had failed (18 of those vehicles were repaired; one company refused to have its vehicles tested).
- Two officers with “MARK” vehicles had 285 visual sightings of trucks. None of the 19 vehicles tested failed the 70 percent opacity standard.

Tom Stephens

Tom Stephens, Director of Nevada’s Department of Transportation (NDOT), stated that if Clark County does not conform to federal air quality requirements, a penalty or limitation would be placed on expendable highway funds. He further noted:

- They would probably not be able to use state money on any projects;
- The most important project in southern Nevada is the widening of U.S. 95, which will assist in reducing air pollution; and
- NDOT is committed to setting an example in terms of the way it handles the PM-10 dust particulate matter.

In conclusion, Mr. Stephens advised that the Governor is supportive of all the transportation and air quality programs in Clark County, and NDOT wants to set a positive example.

Jolaine Johnson

Jolaine Johnson, Deputy Administrator, Division of Environmental Protection (NDEP), State Department of Conservation and Natural Resources, presented a brief update of program changes occurring in her agency concerning air quality in Clark County. Ms. Johnson stated that the NDEP is:

- Committed to assist Clark County to prepare the carbon monoxide attainment State Implementation Plan (SIP) and obtain the standards for air quality in Las Vegas; and
- Proposing changes to the fleet program concerning alternative fuel.

According to Ms. Johnson, significant issues related to alternative fuel vehicles, such as expense and infrastructure, make it difficult to travel outside of Las Vegas.

Ms. Johnson provided the subcommittee with a handout titled “Form Petitioning the State Environmental Commission for Adoption, Filing Amendments or Repeal of Commission Regulations” (Exhibit G). In the document, the NDEP proposes to add the following items to the state’s alternative fuel program:

- The definition of ultra low-emission vehicles; and
- Certain ultra low-emission vehicles as they qualify as an alternative fuel vehicle.

Continuing, Ms. Johnson reviewed a document titled “Proposed Amendment Affected Sections Only – Nevada Administrative Code Chapter 486A – Fleets: Use of alternative Fuels.” She discussed certain changes to these regulations regarding ultra low-emission vehicles. Please see Exhibit G for additional details.

Additionally, Ms. Johnson discussed *Nevada Administrative Code* (NAC) 486A.160 (1-3), “Acquisition of or conversion of vehicles to alternative fuel vehicles.” Among other things, this section of NAC:

- Contains the schedule for attainment of alternative fuel; and
- Provides for adding ultra low-emission vehicles to be included as an alternative fuel vehicle to withstand the opportunity set for fleet owners to purchase vehicles that will meet the lower emission plan.

Mr. Johnson also addressed the schedule for attainment for alternative fuel vehicles. She advised the subcommittee that:

- In Fiscal Year 2000, and each year thereafter, fleets must meet the criteria for purchasing 90 percent of the vehicles (purchased in one year) as alternative fuel vehicles;
- Although fleet owners have requested a 75 percent requirement, the schedule will remain the same; and
- The staff of NDEP is prepared to address issues regarding carbon monoxide SIP.

Senator Titus stated her opinion that it may be necessary for Nevada's Legislature to amend the NRS and authorize the State of Nevada to administer certain programs for which the CCHD currently is responsible.

Ms. Johnson explained that the air quality in Clark County has improved dramatically during the last 10 to 15 years despite the area's incredible growth rate. She asked the committee to consider this information when making decisions about the responsibilities of the Clark County Health District.

Additionally, Ms. Johnson noted that although her agency is willing to manage Clark County's air pollution control program, it supports the administration of such a plan at the local level.

Michael Naylor

Michael Naylor, Director of the Air Quality Division of the Clark County Health District, began his comments by stating the purpose of Senate Bill 432 is to improve the air quality in Clark County. Additionally, he mentioned that:

- Stationary sources of air pollution which are industrial facilities and gravel plants are a small part of the carbon monoxide and particulate matter problem. The EPA has advised the Clark County Health District that the level of these pollutants must be reduced.
- The division:
 1. Regulates gasoline.
 2. Imposes requirements for oxygenating gasoline in the winter months and for cleaner burning gasoline.
 3. Borrows from southern California's cleaner gasoline rules, minus the methyl tertiary butyl ether-8 and ethanol requirement, and there is no one with a cleaner burning fuel mandated anywhere in the United States during the winter months.

Mr. Naylor stated there have been questions and/or issues raised about:

- The inventory of stationary sources and noted that the EPA reviews all of the District's calculations;
- His assistant and himself making politically connected decisions; and
- Honesty and ethics.

Further, he mentioned that the Clark County Health District:

- Has internal whistle-blower provisions;
- Does not harass whistle-blowers;
- Cannot tell its employees what they can or cannot say. They are free to speak their minds;
- Is compassionate to the public; and
- Have had “honest” disagreements with certain employees.

Senator Porter stated that the subcommittee’s consultant would be asked to review the information. He advised Mr. Naylor that he would be given adequate time to present his response to the subcommittee and consultant. The subcommittee will direct the consultant working with Mr. Naylor and the individuals who made a presentation to ensure proper information is presented to the subcommittee in the future.

Continuing, Mr. Naylor referred to information in his handout, titled “Presentation Recent Air Quality Activities Update from Clark County Health District” (Exhibit H) relating to PM-10 year-end statistics. He noted that:

- The Health District is making progress on PM-10 and improving regulations on construction activity;
- The Clark County Board of Health plans to implement enforceable PM-10 regulations; and
- Additional dust rules are being considered for adoption.

In conclusion, concerning dust penalties, Mr. Naylor advised that:

- Similar agencies in other cities or counties still handle dust at a few hundred dollars a ton while Clark County’s dust penalties are at \$2,000 a ton.
- 1999 was a banner year on enforcement for dust cases/penalties;

The committee asked Mr. Naylor about the composition of PM-10, its adverse health effects, and how its level in Clark County compares to other cities. Mr. Naylor responded by pointing out that there is a chart within Exhibit H that reflects the average composition of PM-10.

In conclusion, the subcommittee asked Mr. Naylor about the chart in Exhibit H referencing the future level of dust in Clark County being 5.6 percent.

Mr. Naylor told the subcommittee the Clark County Department of Comprehensive Planning is preparing a breakdown of percentages.

Richard B. Holmes

Richard B. Holmes, Assistant County Manager, Clark County, provided the subcommittee with the following documents:

1. “Environmental Advisory Committee – Public Communication Sub-Committee”; and
2. “Resolution of the Clark County Board of County Commissioners Establishing the Environmental Advisory Committee.”

Please see Exhibit I for additional details.

During his presentation, Mr. Homes discussed the:

- Roles and responsibilities of the Clark County Board of Commissioners concerning the development of air quality implementation plans for the Las Vegas Valley; and
- Activities of the Clark County Board of Commissioners' Environmental Advisory Committee. Among other things, the Environmental Advisory Committee has reviewed ways in which to develop a clear and consistent public message concerning air quality.

Jacob Snow

Jacob Snow, General Manager of the Clark County Regional Transportation Commission (RTC), advised that the RTC:

- Has been a leader in alternative fuel fleets;
- Fuels all of its 120 transit vehicles with compressed natural gas;
- Fuels its bus system with clean burning diesel;
- Is in the process, in cooperation with the Clark County Health District, of testing the cleanest burning diesel fuel available;
- Has made a decision to begin transitioning to compressed natural gas in its fixed route bus fleet and to procure seven of those buses;
- Has the infrastructure for compressed natural gas and is evaluating alternative liquefied natural gas as well; and
- Operates the CATMAT transportation program which consists of 1,000 participants who are either involved in a car pool, a van pool or ride the bus to work. The RTC's goal for 2000 is to increase participation from 1,000 to 10,000 participants and reduce the number of single occupancy vehicles traveling in the Las Vegas Valley.

Additionally, Mr. Snow referenced the following handouts:

- "Regional Transportation Commission – 2000–2002 TIP Financial Overview";
- "Air Quality – Transportation"; and
- Section 93.126, "Exempt Projects."

Please see Exhibit J for details. While reviewing Exhibit J, Mr. Snow discussed:

- Transportation projects/bids in Clark County; and
- Costs to complete projects.

Russell Roberts

Russell Roberts, Assistant Planning Manager, Air Quality Team, Clark County, Nevada's Department of Comprehensive Planning, commented on existing air quality programs in Clark County and expressed support for S.B. 432.

Please see Exhibit J for details.

Continuing, Mr. Roberts referenced his handout, which consists of: (1) schedules relating to Clark County's PM-10 SIP Revision and Carbon Monoxide Plan Revision; and (2) correspondence between John L. Schlegel, Director of the Clark County Department of Comprehensive Planning, and David Howenkamp, Director, Air Division, United States Environmental Protection Agency, Region IX, concerning Clark County's Carbon Monoxide SIP. Please see Exhibit K for complete details of these documents. Further discussion ensued between the committee members and Mr. Roberts concerning:

- Their relationship with the Environmental Protection Agency;
- The language and requirements of the Federal Clean Air Act;
- The overall lack of CO emission inventories in Clark County;
- The development of new inventory for PM-10 in Clark County;
- Commitment and policies of elected officials;
- Implementation of a diesel program in Clark County; and
- Issues relating to the national air quality standards.

PRESENTATION FROM INDUSTRY REPRESENTATIVE

Ed Lubbers

Ed Lubbers, Industry Representative, spoke on behalf of a coalition of construction businesses in response to concerns regarding the PM-10 issues. Mr. Lubbers stated their goals are to:

- Educate the construction industry as to the PM-10 problem;
- Submit a proposal by March 31, 2000, primarily in regards to vacant disturbed land particularly relating to construction activities; and
- Take action to address future dust in the valley.

Mr. Lubbers made the following comments:

1. If a person is part of the air quality problem in the Las Vegas Valley, they have to be part of the solution.
2. Vacant disturbed land is valley-wide and it affects landowners and developers.
3. All landowners planning to build a home will have to follow the same rules as developers.
4. Landowners in the valley will have implications and costs that do not exist in other parts of the country.
5. It will be a duty to take affirmative action to control PM-10 emissions whether or not a person is doing anything on his land at the time.
6. There will be a duty to anticipate and prevent trespassers from entering someone's land.
7. There will be a duty to pave or treat vacant land being used for any purpose.

Continuing, Mr. Lubbers stated that in the Las Vegas Valley:

- Air quality monitoring stations must produce attainment results;
- Those persons who take action to control dust on their land should not have to see their neighbors doing nothing to address dust problems;
- Windy days are the primary source of air pollution in the valley. A natural event action plan must be developed with detailed measures to be taken for those days;
- Public education is important in addressing the air pollution problems;
- The coalition intends to work with the Clark County Department of Comprehensive Planning, the Health District and whoever else is involved to reach attainment on the dust control issue; and
- Water is the solution to controlling dust pollution and the ability to water will withstand the type of wind dusts that create this problem.

In response to questions by the subcommittee, Mr. Lubbers explained that dust can be controlled at a construction site if a developer grades the minimal amount of land immediately needed, sufficiently waters it in a timely manner, and places access barriers on the property. He further noted the importance of a developer adequately watering or chemically stabilizing a mass-grading project.

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

David R. Souten

David R. Souten, Principal Partner, ENVIRON International Corporation (ENVIRON), stated that his organization is addressing the following issues:

1. The PM 2.5 and the composition of the particulate matter.
2. An evolving PM 2.5 standard which the EPA will be developing over the next few years.

Mr. Souten referenced:

- A revised ozone standard being developed by the EPA; and
- The effectiveness of the National Regional Haze Program.

He further referenced ENVIRON's study team members and discussed the overall objectives in their work, which are supported by tasks developed for principally technical tasks:

1. Identification and evaluation of current programs and program efficiency;
2. Identification of additional control programs;
3. Evaluation of current and future funding requirements; and
4. Development and implementation roles and responsibilities as well as recommendations and actions by the Legislature and Subcommittee.

Concerning ENVIRON's schedule, Mr. Souten noted that:

- Draft reports for Task 1 (“Identification and Evaluation of Current Programs and Program Efficiency”) and Task 2 (“Identification of Additional Control Program”) will be completed in April 2000;
- In May 2000, draft reports for Task 3 (“Current and Future Funding Requirements”) and Task 4 (“Development and Implementation Roles and Responsibilities”) will be finalized;
- An overall draft report of Tasks 1 through 4 is due to the subcommittee in June 2000; and
- A final report is due to the subcommittee in September 2000 and the organization will make a presentation to the Nevada Legislature during the 2001 Legislative Session.

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**DISCUSSION OF FUTURE DUTIES OF THE ADVISORY COMMITTEE
TO THE S.B. 432 LEGISLATIVE SUBCOMMITTEE**

Senator Porter noted that ENVIRON has been directed to consider any input it receives from the subcommittee’s Advisory Committee to ensure that the best information analysis possible is achieved for this study.

Additionally, Senator Porter mentioned that:

- He asked each member of the Advisory Committee to review the consultant’s reports and submit their comments to the consultant within two weeks of receiving the report;
- The consultant will advise the subcommittee and Advisory Committee members of any revisions to the date that the draft reports will be made available;
- The consultant, under the direction of the subcommittee, is not to promote a consensus process;
- He asked Mr. Holmes, Chairman of the Advisory Committee, to consider, if necessary, scheduling appropriate meetings to meet with the consultant to discuss the four draft reports and other matters that would be of assistance to the consulting firm. If such a meeting is scheduled, he asked for the opportunity to approve the agenda in advance;
- He additionally asked the subcommittee for the concurrence of the direction of the Advisory Committee to provide their input to the consultant in a timely basis; and
- He received agreement of the Chairman of the Advisory Committee to work within those four tasks.

SCHEDULE FOR FUTURE MEETINGS AND DIRECTIONS TO STAFF

The Subcommittee scheduled its fourth and fifth meetings to be held on April 17, 2000, at 1:30 p.m., and July 10, 2000, at 9:30 a.m., respectively. Both hearings will be held in Las Vegas and videoconferenced to Carson City.

PUBLIC TESTIMONY

Margaret Pierce

Margaret Pierce, member of the Sierra Club, Las Vegas, stated that she supports the whistle-blowers, who testified during this meeting, and asked that their allegations be investigated.

Charlie Peters

Charlie Peters, Clean Air Performance Professionals, California, provided the subcommittee with excerpts from two issues of *Hemmings Motor News*, which relate to methyl tertiary-butyl ether. Please see Exhibit M for details.

During his presentation, Mr. Peters discussed the following items:

- An executive order issued by California Governor Gray Davis to remove methyl tertiary butyl ether from gasoline in that state by December 31, 2002;
- Groundwater contamination; and
- Smog checks.

Wanda McClenathan

Wanda McClenathan of southern Nevada, stated her opinion concerning:

- The affairs of federal, state, and county government agencies;
- Laws governing those agencies and citizens;
- Government parameters and the protection of freedom; and
- Man's place in government.

Tod Story

Tod Story appeared before the subcommittee on behalf of United States Congresswoman Shelley Berkley (D-Nevada). Mr. Story reviewed Congresswoman Berkley's prepared remarks, which summarize her efforts to improve the air quality in southern Nevada. Please see Exhibit N for complete details

Ken Mahal

Ken Mahal, previously identified on page 12 of these minutes, spoke on behalf of Dr. Larry Folsom. Mr. Mahal mentioned: among other things, issues relating to Clark County's problems with, budget shortfalls, debt, transportation and water.

Juanita Clark

Juanita Clark, a board member of Charleston Neighborhood Preservation, Corporation, expressed concern about the effect that:

- Airplanes and jets at McCarran International Airport and the North Las Vegas Air Terminal have on southern Nevada's air quality; and
- Nitrogen dioxide and ozone 3 have on the quality of life in southern Nevada.

Ms. Clark reviewed a handout titled "The Effect on Life, Especially Children of Nitrogen Dioxide and Ozone 3," dated October 1999.

Please see Exhibit O for additional details.

In conclusion, Ms. Clark emphasized her opinion of the need to publicize that the quality of life is diminishing and there are dangerous levels of air pollution in southern Nevada.

Richard Nelson

Richard Nelson, a whistle blower, opened his presentation by mentioning his background in working for the Clark County Air Pollution Control Division. He expressed his concerns regarding:

- Mr. Naylor's commentary regarding internal whistle-blowing;
- Planning permits and emissions inventory; and
- Costs to the taxpayers for failures by the APCD.

In conclusion, a brief discussion ensued about the possibility of the Desert Research Institute, University and Community College System of Nevada, conducting an emissions inventory in Clark County.

David Wignall

David Wignall, Clark County Health District, offered his assistance to the subcommittee during this study.

Joseph L. Lenoir

Mr. Lenoir, previously identified on page 11 of these minutes, presented some additional concerns regarding the APCD and air quality in Clark County.

Jim Sohns

Jim Sohns, previously mentioned on page 8, brought to the subcommittee's attention the memorandums in his packet (Exhibit B) concerning Harold Glasser, Air Pollution Control Enforcement Supervisor; Michael Naylor; previously mentioned on page 15; and Michael Sword, Assistant Director of the Air Pollution Control Division, for review.

ADJOURNMENT

There being no further business, the meeting was adjourned at 6:30 p.m.

Respectfully submitted,

Maureen C. Kirkman
Senior Research Secretary

Donald O. Williams
Chief Principal Research Analyst

APPROVED BY:

Senator Jon C. Porter, Sr.
Chairman

Date: _____

LIST OF EXHIBITS

Exhibit A is an undated graphic provided by Senator Jon C. Porter, Sr., titled “Working Together for a Pollution Solution.”

Exhibit B is an undated spiral-bound notebook provided by Jim Sohns, President of the Nevada Car Owners Association, Las Vegas, titled “What’s Not the Problem: Our Cars,” which includes a compilation of environmental data.

Exhibit C is a packet of information provided by Elizabeth Gilmartin, Supervisor, New Source Review...Las Vegas, referencing a compilation of information including:

1. A letter from the United States Department of Labor, Occupational Safety and Health Administration (OSHA), dated April 30, 1999;
2. An undated “Decision & Order”;
3. An undated OSHA document; and
4. Memorandum to members of the Internal Collaborative Effort, dated April 5, 1999.

Exhibit D is a document dated February 14, 2000, and titled “Air Quality Issues and Concerns,” which was provided by Wilbert L. Townsend, President of the Nevada Public Health Association.

Exhibit E is a packet provided by Sandra Barna, a resident of North Las Vegas, containing numerous documents concerning violations of dust control permits.

Exhibit F contains the presentation of Ken Mahal, President of the Nevada Seniors Coalition, Las Vegas.

Exhibit G, which was provided by Jolaine Johnson, Deputy Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources, contains the following documents:

1. “Form for Petitioning the State Environmental Commission for Adoption, Filing Amendments or Repeal of Commission Regulations,” dated February 11, 2000. This item: (a) addresses the criteria for designating a fuel as an alternative fuel; and (b) allows ultra low-emission, or cleaner, vehicles for compliance in addition to alternative fuel vehicles; and
2. “Proposed Amendments – Affected Sections Only – Nevada Administrative Code – Chapter 486A – Fleets: Use of Alternative Fuels.”

Exhibit H is a handout, titled “Presentation on Recent air Quality Activities from Clark County Health District Air Quality Division,” which was provided by Michael Naylor, Air Pollution Control Officer, Clark County Health District.

Exhibit I, provided by Richard B. Holmes, Assistant County Manager, Clark County, consists of the following documents:

1. “Environmental Advisory Committee – Public Communication Sub-Committee”; and
2. “Resolution of the Clark County Board of County Commissioners Establishing the Environmental Advisory Committee.”

Exhibit J, provided by Jacob Snow, General Manager of the Clark County Regional Transportation Commission,

consists of the following documents:

1. “Regional Transportation Commission 2000–2002 TIP Financial Overview”;
2. “Air Quality – Transportation”; and
3. Section 93.126, “Exempt Projects,” of the highway and transit projects.

Exhibit K, provided by Russell Roberts, Assistant Planning Manager, Air Quality Team, Clark County Department of Comprehensive Planning, consists of the following documents:

1. “PM-10 State Implementation Plan (SIP) Revision – Draft Development Schedule (1/14/00)”;
2. “Carbon Monoxide Plan Revision Schedule”;
3. A letter dated February 3, 2000, to Mr. David Howenkamp, Director, U.S. EPA Region IX, Air Division, from John L. Schlegal, Director of the Clark County Department of Comprehensive Planning, in reference to “Clark County Response to the January 19, 2000, Letter on the CO SIP”; and
4. A letter dated January 19, 2000, to John Schlegal, Director, Clark County Department of Comprehensive Planning, from David Howenkamp, Director, Air Division, United States Environmental Protection Agency, Region IX, relating to Clark County’s Carbon Monoxide SIP.

Exhibit L is a handout titled “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 SB 432”, dated February 14, 2000, presented by David Souten of ENVIRON International Corporation.

Exhibit M, provided by Charlie Peters, Clean Air Performance Professionals, California, consists of the following excerpts from *Hemmings Motor News*, relating to methyl tertiary-butyl ether:

1. “The Good, The Bad and the Ugly,” January 2000; and
2. “Methyl tertiary butyl ether on ‘60 Minutes’,” March 2000.

Exhibit N, provided by Tod Story of Congresswoman Shelley Berkley’s (D-Nevada) office, contains the following documents:

1. A presentation titled “Congresswoman Shelley Berkley’s (NV-1) – Testimony on Air Quality Issues in Clark County – February 14, 2000.”
2. A letter dated February 11, 2000, to President William J. Clinton from Shelley Berkley, Member of Congress, requesting the Clinton Administration to take a leadership role with federal agencies in southern Nevada to reduce air pollution and improve air quality.
3. A letter dated February 11, 2000, to The Honorable Rodney E. Slater, Secretary, Department of Transportation, from Shelley Berkley, Member of Congress, requesting the United States Department of Transportation to assist southern Nevada in reducing air pollution and improving air quality; and
4. A letter dated February 11, 2000, to Administrator Carol M. Browner, U.S. Environmental Protection Agency, from Shelley Berkley, Member of Congress, requesting the United States Environmental Protection Agency to assist southern Nevada in reducing air pollution and improving air quality.

Exhibit O is a handout, titled: The Effect on Life, Especially Children of Nitrogen Dioxide and Ozone 3,” dated October 1999, which was provided by Juanita Clark, a board member of Charleston Neighborhood Preservation, Corporation, Las Vegas.

Exhibit P 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.