



**MINUTES OF THE MEETING OF THE
THE LEGISLATIVE COMMISSION'S
SUBCOMMITTEE ON AIR QUALITY PROGRAMS
IN CLARK COUNTY**

(Senate Bill 432; Chapter 529, *Statutes of Nevada 1999*)

October 4, 1999

Las Vegas, Nevada

The first meeting of the Legislative Commission's Subcommittee on Air Quality Programs in Clark County (Senate Bill 432, Chapter 529, *Statutes of Nevada 1999*) was held on Monday, October 4, 1999, at 1:40 p.m., in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. This meeting was video conferenced to Room 3138 of the Legislative Building, 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, Chairman

Senator Dina Titus

Senator Mark A. James

Assemblyman Douglas A. Bache

Assemblyman David R. Parks

Assemblyman Bob Beers

ADVISORY COMMITTEE MEMBERS ALSO PRESENT IN LAS VEGAS:

Richard B. Holmes, Assistant County Manager, Clark County, Chairman

Terri Barber, Southern Nevada Home Builders Association

Georgie Cody, Nevada Motor Transport Association

Steven D. Hill, ABC of Southern Nevada

Jolaine Johnson, Deputy Administrator, Office of Air, Mining, and Water Programs, State Department of Conservation and Natural Resources

Berlyn Miller, Nevada Contractors Association

Michael Naylor, Air Pollution Control Division, Clark County District Board of Health

Jim Parsons, Nevada's Department of Motor Vehicles and Public Safety

Jesse Paulk, Associated General Contractors

Jacob Snow, General Manager, Regional Transportation Commission of Clark County

Kent Cooper, Chief of Programming, Nevada's Department of Transportation (NDOT) (In attendance on behalf of Tom Stephens, Director of NDOT)

Jan Villaire, Assistant Director, Environmental Services, Clark County School District

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT IN LAS VEGAS:

Donald O. Williams, Chief Principal Research Analyst

Linda Chandler Law, Senior Research Secretary

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT IN CARSON CITY:

David S. Ziegler, Principal Research Analyst

Brenda J. Erdoes, Legislative Counsel

Edward A. Johnson II, Deputy Legislative Counsel

All place names mentioned in these minutes are in Nevada unless otherwise noted.

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, October 4, 1999

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 video conference conducted at the following location:

Legislative Building

Room 3138

401 South Carson Street

Carson City, Nevada

AGENDA

I. Opening Remarks and Introductions

Senator Jon C. Porter, Chairman

*II. Staff Overview of Senate Bill 432, Interim Study Budget, and Projected Time Line

Donald O. Williams, Chief Principal Research Analyst

Research Division, Legislative Counsel Bureau

*III. Review of Current and Future Air Quality Programs in Nevada and Clark County

Jolaine Johnson, Deputy Administrator, Division of Environmental Protection

State Department of Conservation and Natural Resources

Jim Parsons, Program Manager, Vehicle Emissions Control Section

Motor Vehicles Branch, Department of Motor Vehicles and Public Safety

Michael Naylor, Air Pollution Control Officer

Clark County Health District

Jacob Snow, General Manager

Clark County Regional Transportation Commission

Russell Roberts, Assistant Planning Manager, Air Quality Team

Clark County Department of Comprehensive Planning

*IV. Discussion of Use of S.B. 432 Appropriation for Inspection of Heavy-Duty Diesel Powered Vehicles, and Directions to Department of Motor Vehicles and Public Safety

Jim Parsons, Program Manager, Vehicle Emissions Control Section

Motor Vehicles Branch, Department of Motor Vehicles and Public Safety

*V. Discussion of the S.B. 432 Study of Air Quality in Clark County, and Recommendations from the Advisory Committee to the S.B. 432 Legislative Subcommittee

Richard B. Holmes, Chairman

Advisory Committee to the S.B. 432 Legislative Subcommittee

*A. Scope of Study

*B. Criteria for Selection of Consultant

*C. Consultant Selection Process

*D. Approval of Request for Proposals

*VI. Discussion of the Function of the Advisory Committee to the S.B. 432 Legislative Subcommittee

*A. Purpose, Mission, and Role of Advisory Committee

*B. Directions to Advisory Committee

*VII. Schedule for Future Meetings and Directions to Staff

VIII. Public Testimony

IX. 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, at 401 South Carson Street, Carson City, Nevada 89701-4747, or call Linda Chandler Law, at (775) 687-6825, 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 AND INTRODUCTIONS

Senator Jon C. Porter

Senator Jon C. Porter, Chairman, provided a brief history of Senate Bill 432 and noted that this subcommittee, in addition to other on-going committees, follows up on many of the recommendations made by Senator Titus and by the "Strategic Plan to Address Growth in Southern Nevada." This subcommittee will:

- Compliment and parallel those other projects;
- Address and discuss the on-going challenge to improve air quality in southern Nevada and to adapt to increasingly tighter federal regulations; and
- Select a consultant to conduct a study of and prepare a report on this complex and technical issue, and to make

recommendations to the 2001 Legislative Session regarding the structure and direction of air quality programs in Clark County.

He explained the citizens of Nevada are demanding and are entitled to healthful air quality. The state needs to ensure that it and its political subdivisions are in compliance with federal standards. Time constraints for this study and attainment of the federal requirements are pressing. Therefore, an advisory committee has been meeting to aid the subcommittee in its tasks.

Following roll call, Senator Porter introduced the legislative members of the subcommittee; Rick Holmes, chairman of the advisory committee, who later in the proceedings introduced members of that group; and staff. Further, he noted that the purpose of the bill is:

- To increase awareness among elected officials, stakeholders, and the public of this significant, quality-of-life issue that must be effectively addressed on a local basis; and
- To create a high-level forum for the discussion of the issues and possible solutions, thereby providing a mechanism for reaching consensus and improving the process of identifying those possible solutions.

The bill also:

- Acknowledges that existing programs are still valuable and should be made more effective by identifying opportunities for increasing efficiencies, i.e., improving heavy duty diesel inspection programs;
- Recognizes the importance of motor vehicles as contributors to air quality degradation in Clark County by requiring that currently undefined programs for clean fuels and smog checks for vehicles be identified and the benefits and costs quantified; and
- Requires that local air quality regulatory and planning structures be reviewed and that recommendations be made to ensure adequate funding levels for the implementation of effective structures and methods to deal with air quality issues.

STAFF OVERVIEW OF SENATE BILL 432, INTERIM STUDY BUDGET,

AND PROJECTED TIME LINE

Donald O. Williams

Donald O. Williams, Chief Principal Research Analyst, Research Division, Legislative Counsel Bureau (LCB), provided a "Staff Overview of Senate Bill 432." His complete remarks are attached as Exhibit A.

Mr. Williams, referring to S. B. 432:

- Explained the makeup of the subcommittee and its advisory committee; the scope and responsibilities of the subcommittee, relative to the independent consultant; the time constraints set forth in the measure; the involvement of the Department of Motor Vehicles and Public Safety (DMV&PS) in roadside testing of vehicles in Clark County; and the appropriation allocations for this subcommittee, the consultant, and the testing program.
- Noted that the advisory committee met on September 14 and 24, 1999, to develop the criteria and other elements for the Request for Proposals (RFP) that are to be sent to prospective consultants. The draft RFP, titled "Request for Proposals for a Consultant to Conduct a Study and Prepare a Report of Air Quality Programs in Clark County, Nevada," is attached as Exhibit B.
- Discussed the time line that will be used by the LCB staff for review of the RFPs received from prospective consultants, and the submission of qualifying proposals to the advisory committee and, ultimately, the presentation of the top three proposals to the subcommittee by November 22, 1999.
- Described the completion and signing of the contract and noted that the anticipated start date for the consultant is December 15, 1999.
- Outlined the benchmarks and time frames that are required for the selected consultant's study reports and revisions, which are to be submitted to the subcommittee in a manner that will allow on-time completion of the subcommittee's work prior to the 2001 Legislative Session.

Mr. Williams concluded that various anticipated time lines and responsibilities may be amended or clarified by subcommittee action, which may follow the presentations and discussions of items appearing later on the agenda for this meeting.

REVIEW OF CURRENT AND FUTURE AIR QUALITY PROGRAMS

IN NEVADA AND CLARK COUNTY

Jolaine Johnson

Jolaine Johnson, Deputy Administrator, Nevada's Division of Environmental Protection (NDEP), State Department of Conservation and Natural Resources, provided written testimony, titled "Roles and Responsibilities Related to Air Quality in Nevada." See Exhibit C.

Ms. Johnson referenced applicable statutory provisions and described:

- The duties and responsibilities of the division as they relate to the State Environmental Commission (SEC); specific county authorities; mobile source emission controls; and government fleets' use of alternative fuels;
- Relevant air quality issues, including electric generation facilities; motor vehicle inspection and maintenance (I/M) programs; regional haze regulations; and alternative fuels;
- Interagency activities;
- Current NDEP programs; and
- Current NDEP funding sources.

After completing an overview of NDEP and SEC statutory authority, Ms. Johnson further described various air quality issues as they relate to state and county programs, including:

- The state maintains control over facilities that produce steam from burning fossil fuels, including the Mohave Generating Station near Laughlin that is an old facility with outdated technology, at which emissions are very high. That facility has been the subject of various lawsuits in the last few years due to visibility impairment problems in the Grand Canyon region. Recently, a settlement was reached that will require substantial controls to be placed at the facility over the next several years.

- The motor vehicle I/M program, including smog checks, which has been a difficult program to coordinate between agencies. In 1994, the state was to implement the I/M 240 program, which enhanced the then existing program; however, due to the substantial commercial and public impacts, the United States Environmental Protection Agency (EPA) was convinced to accept another program that was easier to implement. The present need for additional controls to comply with federal standards, however, has made it necessary to revisit the I/M 240 program.
- The Grand Canyon Visibility Transport Commission (GCVTC) and the regional haze regulations, which were recently finalized, require states to address visibility impairment in Class I areas, including the Grand Canyon and several other parks in the Southwest. In Nevada, the Jarbidge Wilderness Area also falls under that classification. Complying with the new regulations will require Nevada to dedicate significant resources to improve visibility and institute control measures necessary to prevent further degradation of visibility in those areas. It will also require a significant level of cooperation and coordination between states. Many of the surrounding states are pressuring Nevada to begin work as soon as possible, ahead of mandated deadlines. Most of the stakeholders in this state, however, support the delay of implementation until such time as more significant community health issues have been dealt with.

Answering a question from Senator James, Ms. Johnson noted that many interests are anxious to begin the programs suggested by the GCVTC's five-year study of the Grand Canyon plateau area; however, former Governor Robert J. Miller was reluctant to participate in those programs until other matters were resolved. She said that most stakeholders share that reluctance.

- Alternative fuels programs, on which there are some differences among the federal, state, and local viewpoints. Whereas, *Nevada Revised Statutes* (NRS) require state programs to allow petroleum-based fuels, so long as they produce less emissions than standard fuels, the federal requirements are based on the desire to generally reduce the use of petroleum-based products.

Ms. Johnson identified six interagency air quality activities in Clark County and summarized six NDEP air pollution control programs. In conclusion, she stated that for Fiscal Year (FY) 2000, NDEP funding sources for programs include: \$1.8 million, from stationary-source permitting; \$680,000, from federal grants; and \$434,000, from I/M fees transferred from the DMV&PS. Those sums, collectively, make up the agency's \$2,914,000 air pollution control budget.

Responding to remarks from Senator Titus, Ms. Johnson explained that during the 1999 Session, certain funds from smog check fees were diverted from southern Nevada programs to combat air pollution in the Lake Tahoe Basin. A \$5 fee collected through the smog check program goes to the DMV&PS to fund I/M and air pollution control programs throughout the state, primarily in certain areas of Clark and Washoe Counties. Of that \$5, \$1 goes back to the county where the fee was generated to support county air pollution control programs. Historically, the balance of the fee was used to establish a backup fund for specific air pollution control grants, which was available to anyone interested in air pollution control. An advisory committee, which was part of the I/M program, reviewed grant applications made under that fund and forwarded them to the director of the DMV&PS for final selection, then on to the administrator of NDEP for approval. Legislation passed in 1999 effectively splits that \$4 up to help fund additional programs.

Russell Roberts

Russell Roberts, Clark County Department of Comprehensive Planning (CCDCP), at the request of Senator Porter, supplemented Ms. Johnson's remarks by clarifying that the \$1 per car fee, which was received from smog check inspections annually upon making application, generated about \$750,000 for Clark County. That revenue was split 40 percent to 60 percent between the CCDCP and the Clark County Health Department. Three CCDCP positions were funded with that money, including the alternative fuels program coordinator position. The CCDCP also applies annually, through DMV&PS and the SEC grants, for special funding from the Interim Finance Committee (IFC), which generated another \$750,000 recently for field studies critical to defining current and future issues. Therefore, smog check fees have provided an important source of money, approximately \$1.5 million to Clark County either from the \$1 county amount or from the \$4 special grants portion.

At this time, Senator Porter requested that Rick Holmes, chairman of the subcommittee's advisory committee, introduce the members present. Mr. Holmes also thanked those people for their involvement and complimented them on their knowledge of air quality issues, which had helped the advisory committee to begin its work immediately.

Jim Parsons

Jim Parsons, Program Manager, Vehicle Emissions Control Section, Motor Vehicles Branch, DMV&PS, provided testimony, titled "Overview of the State Emission Control Program." See Exhibit D for his written remarks. Mr. Parsons outlined the:

- Establishment of Nevada's first efforts to control emissions from motor vehicles in 1971;
- First I/M program instituted in 1973, which charged the SEC with setting standards and criteria and the DMV with administering the program;
- Initial pilot I/M programs, in Clark County in 1974 and in Washoe County in 1978;
- Delay of the expansion of those programs by the Legislature, from 1979 to 1981 and then to 1983, and the subsequent threat of sanctions against the state by the federal EPA;
- Passage of Assembly Bill 677 by the 1983 Legislature (Chapter 510, *Statutes of Nevada 1983*), which established

the basic emission control program that is still used in counties with a population of more than 100,000;

- •Adoption and enforcement of regulations prescribing standards and licensing and procedural requirements for inspection stations, inspectors, and diagnostic equipment;
- •Provisions for obtaining a waiver from the emission compliance requirements; and
- •Consumer protection, inspector training, and inspection oversight components of the program.

Mr. Parsons also discussed remote sensing projects, funded by fees collected for emission certificates and inspector and station licensing, that have been and will be conducted to evaluate test equipment and determine the procedures to be used when identifying gross polluting vehicles.

Responding to a question from Assemblyman Parks, Mr. Parsons said he would provide a report to the members on the number of waivers granted in Clark and Washoe Counties over the past six months. Recently, approximately four to five waivers have been granted per month, a relatively limited number. There is a presumption, however, that it is relatively common for some owners to evade testing, by registering vehicles in areas exempt from inspection. Also, many vehicles that have out-of-state or expired license plates, and some that are unlicensed, are being driven in Nevada. While the staff does investigate reports of such vehicles, the impact and magnitude of the problem is unknown. It is also difficult to ensure that new Nevada residents register cars and have them inspected in a timely manner, rather than waiting until license plates from other states expire.

Michael Naylor

Michael Naylor, Director of the Air Pollution Control Division (APCD), Clark County Health District (CCHD), provided a series of overhead projections that illustrated statistical information on "Air Quality Issues in the Las Vegas Valley." See Exhibit E. He also used a document titled "What Does the Air Pollution Control Division Do" (see Exhibit F) to explain his office's activities.

Mr. Naylor introduced Ms. Jan Villaire, Assistant Director of Environmental Services for the Clark County School District. He noted that, over the past two years, the CCHD has been involved in a cooperative arrangement with the school district that has included the use of California reformulated gasoline as a means of reaching compliance with the state alternate fuels rule; however, even reformulated fuel will not meet the rules proposed by the United States Department of Energy.

Referring to Exhibit E, Mr. Naylor described:

- •The air quality monitoring sites in the Las Vegas Valley, which are tied electronically to the CCHD, that enable the collection of information that is distributed to the public. He noted that in early 2000 that data will be available on line on the CCHD web site;
- •The conditions that increase air pollution readings during periods of thermal inversion, which can exacerbate levels of haze, carbon monoxide (CO), and particulate matter;
- •Visual air quality trends, as represented by the number of days when visibility was less than 10 miles and more than 50 miles;
- •Annual exceedance of the EPA standard for CO at the corner of East Charleston and Sunrise Acres in Las Vegas; and
- •Average, valley-wide levels of particulate matter (PM-10) and exceedance episodes for PM10, both valley-wide and by specific localities. He noted that to date in 1999, there have been 19 days of exceedance, and three months remain in the data collection period. That means that air quality, as gauged by exceedance days, will be poorer this year than in the past two years.

Going on to Exhibit F, Mr. Naylor explained that the duties of the APCD are similar to those of the NDEP and the SEC, i.e., the regulation of emissions from industrial and commercial sources of air pollution, including the monitoring of:

- •Opacity limits on visible emissions;
- •Oxygenate content in gasoline (highest level in nation);
- •Cleaner burning gasoline (lowest sulfur and aromatic hydrocarbon levels in nation) beginning November 19, 1999;
- •Sulfur content in diesel fuels;
- •Prohibition of planting of certain vegetation, including olive and mulberry trees;
- •Dust control, by the issuance of permits for construction and other activities;

- •Best available control technology, to allow compliance with emission performance standards that are modeled after federal rules; and
- •Emission reduction credit programs. New sources must acquire credits to ensure air pollution is not exacerbated. This is commonly done by paving existing gravel roads, which can result in credits being issued for emissions of CO and nitrogen oxides.

The APCD also focuses on:

- •Enforcement and compliance. More than \$400,000 in penalties has been assessed this year, primarily for violations of fugitive dust rules;
- •Preconstruction review for industrial and commercial sources; and
- •Continuous monitoring of air quality components.

Mr. Naylor also briefly touched on:

- •Regulations that are being considered;
- •The rulemaking authority of the District Board of Health;
- •Relationships with other agencies;
- •Funding sources; and
- •Staff increases.

Programs of the APCD contribute to improving air quality and reaching attainment by:

- •Decreasing PM-10 emission levels generated by man-made sources;

- Reducing CO emissions to move toward attainment of federal standards; and
- Monitoring visibility impairment in the urban area, although poor visibility is not directly associated with adverse health effects. He noted that it is estimated more diesel fuel is used off-road than on-road, and unburned diesel fuel does decrease overall visibility in the valley.

Responding to questions from the panel, Mr. Naylor said that:

- When emission limits are exceeded, a notice of violation is issued, a penalty is assessed, and the proceeds are forwarded to the school district when they are collected. Those violations can stem from instances of inadequate dust abatement on construction sites or improper asbestos abatement procedures, for example. Such penalties and outcomes are public record and have a current collection rate of about 99 percent. Anyone wishing to track these penalties can be added to the APCD mailing list.
- Jetliners and fuels used at McCarran Airport must meet federal EPA emission standards. Though he was unsure of the aggregate amount of jet fuel used at the two valley airports, in his view, those emissions would only contribute 3 percent to 4 percent of total emissions from fuel combustion, not a statistically significant amount.
- Between 1996 and 1998, the APCD was behind in its assessment collections; however, it is current now, except for those cases that are in dispute. The current assessment system has been improved and is in compliance with auditors' recommendations.
- It is believed that unburned fuel particles are the primary cause of haze, and two-thirds of those unburned particles are generated from diesel-fueled vehicles and equipment, on and off road. Fuel injection systems are being improved, and older trucks and construction equipment pose the biggest pollution potential.
- The roadside testing program, funded by \$100,000 from S.B. 432, will help to identify trucks with unclean emissions.
- A smog check program was proposed for off-road diesel equipment during the 1999 Session; however, those provisions were watered down due to a general lack of experience on the part of agencies to regulate off-road vehicles. The APCD was reluctant to be the first to do so without the rules being spelled out ahead of time. Also, the trucking companies objected to the program. There are no related federal EPA standards; therefore, few states have become involved in regulating off-road diesel uses.
- Because the Las Vegas Valley is experiencing such a high rate of growth, it is more important for off-road diesel construction equipment to come under some sort of emission control regulation that will be workable.
- The charts do not reflect readings for July and August because that is the time during which the measuring and

recording equipment is sent to Fort Collins, Colorado, for annual inspection and rebuilding.

- •The water district has not routinely indicated the need to reduce water use for dust control.
- •Xeriscape techniques generally require gravel or a crust of some sort on improved property and do not, therefore, add to the airborne dust levels.
- •Most dust is from active construction sites, where sufficient watering is not being done, and from undeveloped but disturbed desert lands.

Mr. Parsons discussed puff limiters that restrict the amount of uncombusted fuels discharged from diesel trucks and equipment. He noted that new and properly adjusted diesel vehicles give off little uncombusted fuel (the black smoke discharged from exhaust stacks); however, some operators tamper with the settings of the limiters in an attempt to produce more horsepower, and that defeats the environmental benefit of the puff limiters. Some tampering also occurs when operators try to adjust governors that control fuel flow.

Jacob Snow

Jacob Snow, General Manager, Clark County Regional Transportation Commission (RTC), noted that over the past 18 months he has worked on a nationwide EPA task force to develop a program to retrofit aircraft engines that, in accordance with the Kyoto Protocols (the international environmental accord), may cut emissions from aircraft in half. He also provided materials (see Exhibit G) that describe the RTC's primary responsibilities as urbanized Clark County's metropolitan planning organization (MPO), which must:

- •Forecast regional travel demand, based on population and employment estimates;
- •Develop short- and long-range transportation plans; and
- •Ensure that transportation plans conform to the state implementation plan (SIP), with reference to the regional transportation plan (RTP) and the transportation improvement program (TIP).

Mr. Snow illustrated and discussed the RTC's involvement in air quality issues in the Las Vegas Valley, including its contracting with the University of Nevada, Las Vegas (UNLV), specifically the Center for Business and Economic Resources, to assess a motor vehicle emissions budget over the next 20 years. He explained that Clark County administration (the CCDCP) has direct responsibility for short- and long-range planning and regulating the SIP; the health district is charged with enforcement of provisions and regulations; and the RTC is responsible for ensuring conformity. Conformity is an evaluation process, rooted in travel forecast modeling and carried out by the MPO, to

ensure that transportation and supporting infrastructure activities do not worsen air quality or interfere with the purpose of the SIP, which is to meet the National Ambient Air Quality Standards (NAAQS). The conformity process includes the following three components: (1) modeling, based on travel demand, emissions, or dispersion of emissions; (2) emissions budgeting; and (3) regional emissions analysis.

He explained that the amount of carbon monoxide (CO) that can be produced in the Las Vegas Valley in the year 2020 cannot surpass 474 tons per day without exceeding the NAAQS now set for those emissions. Accordingly, the level of allowable CO emissions has been established and that budget is finite. It is estimated that CO emissions for the year 2000 will be about 316 tons per day in Clark County. Therefore, in the meantime, it is imperative to accurately gauge and estimate the increasing pressures involved in maintaining programs that will sustain emissions levels that are less than those forecasted in the long-range air quality budget portion of the SIP.

When emission levels in short-term plans exceed federal standards, as was the case in Atlanta, Georgia, the use of federal funds for transportation projects is curtailed and lawsuits follow. In that case, Atlanta well exceeded the established standards, and the court issued findings that precluded the use of federal and local money for regional construction projects. The ramifications of that case are being felt nationwide, and could be applicable to Clark County. Although Clark County has come close to the maximum allowable levels, it has not exceeded the cap. Cleaner burning and alternative fuels have helped Clark County to remain compliant. Effectively, however, there is no "free air" in the Las Vegas Valley. The next steps in maintaining acceptable levels are controversial and expensive options, e.g., enhanced I/M programs, and often show mixed results.

As the county's MPO, the RTC must ensure that transportation planning processes are continuing, cooperative, and comprehensive; all modes are considered during plan development; plans support community development and environmental and social goals; and plans must result in an integrated system that supports intermodal transportation, an efficient network, and the economic movement of persons and goods.

In addition, the RTC must include within its boundary at least the areas of nonattainment, within which no federal funds may be used for projects that increase the capacity for single occupant vehicle (SOV) travel unless the project results from a congestion management system (CMS).

In nonattainment areas:

- The TIP shall give priority to eligible transportation control measures identified in the SIP.

- •The MPO shall not approve any transportation plan and/or program that does not conform to the SIP.
- •When a TIP is amended (either by adding or deleting projects) a new conformity determination is required.
- •In any event, a conformity determination is required every three years.

If the RTP does not meet the conformity requirements, transportation officials can attempt to either:

- •Modify the RTP to offset expected emissions;
- •Modify the SIP by implementing an enhanced I/M program; or
- •Reduce the daily number of vehicle trips in the Las Vegas Valley by increasing occupancy or shifting single-occupancy vehicle (SOV) toward a mode with higher occupancy.

If conformity is not obtained, no new projects may advance until a new determination for the RTP or the TIP can be made. On January 13, 2000, the TIP for the Las Vegas Valley will expire, and the RTP will expire by January of 2001; however, it is anticipated that a new conformity determination will be completed by January 2000.

Mr. Snow concluded that the challenges facing the RTC for future conformity determinations include:

- •Population growth -- Integrating land use patterns with higher densities that can be served by mass transit is a primary goal;
- •Increasing travel demand;
- •Increasing vehicle miles traveled (VMT) -- Currently in Clark County there are about 22 million vehicular miles traveled (VMT) annually. It is estimated that in 2020, VMT will be about 57 million miles, and approximately 90 percent of CO emissions come from tail pipes; and
- •Prevailing travel behavior, which is based on SOV travel -- The public bus system is being improved and expanded from 300 buses per day to 600 buses per day, and a fixed guideway system is being discussed for the casino corridor that would save about 3 percent of the CO budget.

During Mr. Snow's testimony, he responded to various questions from the panel and, in addition, concluded that:

- Regional planning and development in the West have not traditionally been tied to growth philosophies that combine and consider air quality, land use planning, and transportation needs concurrently. If those needs could be tied together, definite benefits would be derived.
- Las Vegas has been successful in balancing environmental concerns with economic concerns because it has a good environment and an excellent transportation infrastructure.
- As older engines, which contribute heavily to CO emissions in the Las Vegas Valley, are replaced with new ones through fleet attrition, the resultant emissions savings will offset some of the pressures of growth in the area.

Russell Roberts

Russell Roberts, Assistant Planning Manager, Air Quality Team, Clark County Department of Comprehensive Planning, supplemented Mr. Snow's comments by explaining that the budget for emissions is developed by the county using a federal EPA model. Although the calculation variables that are used in the model are generated locally, there is a level of difficulty in merging the two federal mandates, i.e., air quality plans and transportation plans.

He also noted that, historically, an air quality planner was only concerned with, and gauged his success on, implementing a plan that resulted in attainment of relevant air quality standards. Today, however, because of the federal transportation conformity requirements that are part of the 1990 Clean Air Act (CAA) amendments and the Federal Highway Administration (FHWA) regulations, it is necessary to show not only attainment but also how a 20-year forecasted emissions budget will be achieved. Therefore, it is possible to have a successful air quality plan, but the emission budget is not high enough for RTC's needs based on projected increases in VMT and increases in the number of vehicles and other growth demands. When that complication exists, the process is somewhat reversed and the RTC forecast requirements drive the amendment of the current air quality plan. In some circumstances, it is not possible to make those two purposes correspond.

Mr. Snow, RTC, responding to additional questions from members noted that:

- In 1990, the average commute time in the Las Vegas Valley was 16 minutes;
- By 1999, the average commute time had increased to 34 minutes; and

- It is estimated that in 2020, the average time will increase to approximately twice the 1999 level.

Congestion will become a major problem if new roads are not built and new modes of transit are not adopted. More efficient infrastructure projects, i.e., moving surface traffic onto freeway or beltway systems, are given the benefit of emissions credits. Disbursing traffic away from the urban center theoretically decreases CO levels in locations that have been problematic historically.

Mr. Roberts continued, and in response to various questions explained that:

- Even though the level of emissions generated by vehicles may increase over time, that does not mean there will necessarily be a violation of the NAAQS for a pollutant at any location in the county at any one time.
- Because of the application of the control measures contained in the SIP, e.g., cleaner burning fuels, though the regionwide overall inventory also may increase over time, generally or at any specific location, the impact of CO emissions can be less. That may not be true, however, of other pollutants.

Mr. Roberts also described and discussed the current air quality issues in the Las Vegas Valley, referring to definitions and statistics depicted in three pie charts and a narrative, titled "Air Quality Issues in Clark County, A Discussion of Current and Future Issues and the Role of the Dept. of Comprehensive Planning" (see Exhibit H). He noted that the department is funded by local general funds and state grants from smog check program fees.

The Department of Comprehensive Planning's role is to:

- Develop clean air plans, commonly called SIPs;
- Conduct studies to determine the nature and origins of problem pollutants and effective means of control; and
- Work closely with the county health district, local governments, and various public agencies (including the NDEP and the EPA) to gather information that will ensure the creation of air quality programs that are successful and meet the criteria of the federal CAA.

Two pollutants pose immediate problems. They are:

- Carbon monoxide, 87 percent of which comes from on-road mobile sources (vehicles). The clean air plan, which was adopted by the Clark County Board of Commissioners on September 21, 1999, and recently submitted to the EPA, focuses on mobile sources and transportation control measures. Although the clean air plan was due May 3, 1999, the department and the county chose to file a more complete and attainable plan subsequent to that date. It is unlikely sanctions will be imposed relative to that plan. Approval of the plan is critical to the RTC, which is depending on the acceptance of the budget within the plan to initiate its new TIP in January 2000.
- Inhalable particulate matter 10 microns in diameter or less (PM-10)
 , which comes mostly from dust blowing off land that has been disturbed by development that is currently under construction. The deadline for attainment, as identified in the clean air plan submitted in August 1997, is projected to be December 31, 2001. That plan did not include a demonstration of attainment of the 24-hour standard and will, therefore, eventually be disapproved. As a result, offset sanctions may take effect in June 2001, and highway fund sanctions may occur in January 2002.

During discussion of these pollutants, Mr. Roberts also explained, referring to Exhibit H, that the statistics reflected in the pie charts are controversial and some people contend they are inaccurate. The overall size of the pie, the size of the slices, how and why the relative size and makeup change over time, and the calculation methods and inputs are all subject to a lack of consensus and support.

Senator Porter agreed and noted that over time he and others have received complaints about the accuracy of emission statistics. In his view, it will be interesting to see the results of the independent consultant and how the data relate to the information currently available.

Mr. Roberts contended that if containment of PM-10 is not addressed through effective control measures, the standard will never be achieved. Both the CO and the PM-10 programs are costly and difficult to implement. Given the magnitude of control programs, which are not yet established, it is likely that another extension of time for compliance will be requested from EPA. The approval of such an extension is not automatic and would require the completion of a plan that demonstrates how Clark County will attain that PM-10 standard.

He also noted that there are provisions in the federal CAA that recognize the influence of natural events that may contribute to high levels of PM-10; however, that is another contentious issue. Although it is true that wind blowing across the desert contributes to this pollutant, it is also true that in areas where monitors are set to record only the effect of the desert in a natural state, there are elevated concentrations but they do not exceed the standard. Where monitors include areas of disturbed vacant land and construction and other contributors, the standard is exceeded.

The attainment plan will address only those sources that can be controlled, which are mostly manmade; however, it will also include the potential plans for controlling the significant influence of the dry lake beds near Boulder City. That natural anomaly will complicate the task of demonstrating attainment.

Disapproval of the August 1997 plan will cause scrutiny of how the RTC plans to develop its 2000 TIP -- absent a viable PM-10 plan. Some short-term strategies are being considered that will enable the use of the 2000 TIP, but in the long run, those strategies may complicate the issue of cleaning up the air and moving forward with future transportation plans. The department is proceeding with a 2000 PM-10 plan, which should be largely completed by the end of 1999 and effective by mid-2000, that would include an adequate PM-10 emission budget for RTC's use by late 2000.

Mr. Roberts explained that the first PM-10 pie chart reflects the pollutant makeup under relatively calm wind conditions and the second chart demonstrates the daily inventory of pollutants during a 40-mile-per-hour (high) wind gust episode. (See Exhibit H.)

Future air quality issues will include ozone and inhalable particulates less than 2.5 microns in diameter (PM2.5). However, due to a successful lawsuit filed by the American Trucking Association, the establishment of standards for these pollutants has been held in abeyance. The EPA is continuing to pursue this issue in court and, ultimately, Clark County will be affected. Eventually, clean air plans will be necessary in Clark County for both those pollutants, both of which come primarily from the combustion of fuels. Mobile source strategies, therefore, become even more critical and the cost-benefit ratios of available technologies and methods must be assessed.

Mr. Roberts outlined "big picture" issues, including:

- How a lack of understanding of air quality issues is hindering progress, due to discussions being inordinately polarized;
- Why we are reaching the limits of technological fixes that are easily achieved and inexpensive;
- How to address the regulatory overlap of governmental agencies that fosters continued misunderstanding of local air quality situations and complicates the development of air quality plans; and
- How to overcome the public perception among some that existing programs do not work and new programs are questionable.

He concluded that, as the department that has a responsibility to oversee other agencies' work but no authority to ensure

information is submitted in a timely manner, he is acutely aware of weakness in the current system. It may be helpful to have information generated by a neutral third party.

In answer to questions from the members, Mr. Roberts noted that:

- There is a desire to reduce diesel emissions in the valley. Achieving that, however, is not simple. In fact, the DMV&PS has not been funded sufficiently to implement existing programs authorized under state law to regulate diesel vehicles. The money budgeted in S.B. 432 will assist that department in implementing the diesel inspection program, assess its effectiveness, and determine if a newer program is needed.
- Addressing the big picture issues is included in the scope of S.B. 432

DISCUSSION OF USE OF S.B. 432 APPROPRIATION FOR INSPECTION OF HEAVY-DUTY DIESEL POWERED VEHICLES, AND DIRECTIONS TO DEPARTMENT OF MOTOR VEHICLES AND PUBLIC SAFETY

Jim Parsons

Jim Parsons returned to discuss the status of and implementation schedule for the DMV&PS Heavy Duty Diesel Vehicle Inspection Program. His remarks are attached as Exhibit I and are dated October 4, 1999.

He explained:

- S.B. 432 appropriated \$100,000 for the inspection program that enhances the department's current roadside and fleet inspections of diesel vehicles;
- The testing equipment necessary to implement the program will be ready for use by mid-November 1999;
- December 1, 1999, has been tentatively set as the date on which the surface street inspection and enforcement

phase will begin; and

- •The media has been contacted to provide the public and industry with information about and notification of the program.

Results will be provided monthly by the DMV&PS to various air quality planning agencies at the state and county level. The reports will contain, at a minimum:

- •The number of vehicles inspected;
- •The failure rate;
- •The average opacity reading of failed vehicles;
- •Failures as a result of emission device tampering;
- •Information regarding local fleet failures versus interstate fleet failures;
- •Number of citations issued;
- •Number of vehicles repaired as a result of the program; and
- •The average repair cost.

Mr. Parsons noted that, since the beginning of this fiscal year, the DMV&PS has increased its inspection of diesel vehicles at fleet sites and only one fleet refused to be tested. Since July 1, 1999, 490 vehicles have been tested, 53 of which failed. Roadside inspectors have tested 220 vehicles, and 18 citations have been issued.

Chairman Porter requested that Mr. Parsons be present at future meetings of the subcommittee and that he prepare a summary of the program for presentation at the 2001 Session.

DISCUSSION OF THE S.B. 432 STUDY OF AIR QUALITY IN CLARK COUNTY, AND

RECOMMENDATIONS FROM THE ADVISORY COMMITTEE TO THE S.B. 432 LEGISLATIVE SUBCOMMITTEE

Richard B. Holmes

Richard B. Holmes, Chairman, Advisory Committee to the S.B. 432 Legislative Subcommittee, discussed the advisory committee's makeup and its purpose in assisting the subcommittee. He recognized members of the advisory committee who were in attendance at this meeting.

He noted that the advisory committee has met twice, on September 14 and 24, 1999. The product of those meetings was a draft Request for Proposals, titled "Request for Proposals for a Consultant to Conduct a Study and Prepare a Report of Air Quality Programs in Clark County, Nevada," (see Exhibit B) that was accompanied by a list of "Related Questions" (see Exhibit J). He reviewed the draft RFP and noted that the document reflects a collaboration of all the members of the advisory committee and staff. He noted that S.B. 432 is very specific about the requirements of the contract. The questions posed in Exhibit J were developed during discussions at the meetings and include technical, institutional, and financial questions to be answered by the respondents.

Mr. Holmes said that, once the draft RFP is approved by the subcommittee, the document will be finalized and sent out to prospective respondents in early October, with proposals to be submitted in about 30 days. An initial screening will be done by LCB staff to ensure the responsiveness of the proposals and then the proposals will be reviewed by the advisory committee in mid-November. Using the selection criteria and evaluation system, the advisory committee will make its recommendations to the subcommittee at its next meeting, scheduled for November 22, 1999. At that time the subcommittee will select a consultant to proceed with the study.

Senator Porter proposed that the suggested review for responsiveness by the LCB staff be included in the final RFP. Mr. Williams noted that LCB staff would provide that review but that staff would not be involved in the final ranking of the respondents. Senator Porter further suggested that Assemblyman Parks act as a liaison between the subcommittee and the advisory committee during deliberations on the responses to the RFP.

ASSEMBLYMAN BACHE MOVED TO ADOPT THE SCOPE OF STUDY, CRITERIA FOR SELECTION OF CONSULTANT, AND CONSULTANT SELECTION PROCESS, AS PROPOSED IN THE DRAFT REQUEST FOR PROPOSAL DEVELOPED BY THE ADVISORY COMMITTEE, INCLUDING CHAIRMAN PORTER'S SUGGESTION FOR LCB REVIEW FOR RESPONSIVENESS AND MR. PARKS' PARTICIPATION AS A LIAISON.

SENATOR JAMES SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

A brief discussion ensued regarding the use of a facilitator and public outreach; however, the consensus of the group was to limit the scope of the consultant to the narrow confines clearly required in the enabling legislation and that a facilitator was not necessary. Mr. Holmes noted that it appeared the advisory committee members were professional in their approach and, thus far, had worked together well and efficiently.

Mr. Williams noted that at the advisory committee meeting on September 24, 1999, it was suggested that, out of approximately \$386,000 available for the contract, some money should be set aside for things not covered by the primary consultant. The advisory committee proposed that the contingency fund might be set at about \$20,000. No official recommendation was forthcoming.

SENATOR TITUS MOVED TO ELIMINATE THE NEED TO REREFER ANY CHANGES MADE BY THE LCB IN ITS REVIEW OF THE DRAFT AND PREPARATION OF THE FINAL RFP TO THE SUBCOMMITTEE OR ADVISORY COMMITTEE FOR APPROVAL.

ASSEMBLYMAN BACHE SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

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

Following a discussion of the future purpose, mission, and role of the advisory committee, it was decided that there is no need to micromanage the consultant's work on the study. Senator Porter requested, however, that the members of the advisory committee:

- •Remain informed about the activities of the subcommittee and the consultant and be involved in public outreach and cooperation with the subcommittee throughout the process; and
- •Be prepared to meet upon call of the chair at any time a review of the consultant's progress or work product is deemed necessary.

Senator Porter noted that Mr. Holmes would be privy to the reports of the consultant as they are received by the subcommittee, and will be expected to comment on those reports during meetings of the full subcommittee.

ASSEMBLYMAN PARKS MOVED TO APPROVE THE FOREGOING DIRECTIONS TO MR. HOLMES AND THE MEMBERS OF THE ADVISORY COMMITTEE.

SENATOR TITUS SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

SCHEDULE FOR FUTURE MEETINGS AND DIRECTIONS TO STAFF

Senator Porter restated that the next meeting of the subcommittee is tentatively scheduled for Monday, November 22, 1999. Other meetings in 2000 will be considered on or near February 23, May 15, July 24, and October 9, 2000. Those dates may change, however.

ASSEMBLYMAN BACHE MOVED THAT THE NEXT MEETING BE HELD ON MONDAY, NOVEMBER 22, 1999.

ASSEMBLYMAN PARKS SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

PUBLIC TESTIMONY

No public testimony was offered at this meeting.

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

ADJOURNMENT

There being no further business, the meeting was adjourned at 4:20 p.m.

Respectfully submitted,

Linda Chandler Law

Senior Research Secretary

Donald O. Williams

Chief Principal Research Analyst

APPROVED ON NOVEMBER 22, 1999, BY:

Senator Jon C. Porter, Chairman

LIST OF EXHIBITS

Exhibit A is a document titled "Staff Overview of Senate Bill 432," presented by Donald O. Williams, Chief Principal Research Analyst, Research Division, Legislative Counsel Bureau.

Exhibit B is the draft Request for Proposals, titled "Request for Proposals for a Consultant to Conduct a Study and Prepare a Report of Air Quality Programs in Clark County, Nevada," referred to by Mr. Williams.

Exhibit C is the written testimony of Jolaine Johnson, Deputy Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources, titled "Roles and Responsibilities Related to Air Quality in Nevada."

Exhibit D is the written testimony of Jim Parsons, Program Manager, Vehicle Emissions Control Section, Motor Vehicles Branch, DMV&PS, titled "Overview of the State Emission Control Program."

Exhibit E includes a series of overhead projections that illustrated statistical information on "Air Quality Issues in the Las Vegas Valley" provided by Michael Naylor, Director of the Air Pollution Control Division, Clark County Health District.

Exhibit F is a document titled "What Does the Air Pollution Control Division Do" also provided by Mr. Naylor.

Exhibit G, submitted by Jacob Snow, General Manager, Clark County Regional Transportation Commission (RTC), includes materials that describe the RTC's primary responsibilities.

Exhibit H includes definitions and statistics depicted in three pie charts and a narrative, titled "Air Quality Issues in Clark County, A Discussion of Current and Future Issues and the Role of the Dept. of Comprehensive Planning," presented by Russell Roberts of the Clark County Department of Comprehensive Planning.

Exhibit I is a copy of the written remarks of Jim Parsons, dated October 4, 1999, which outline the DMV&PS Heavy Duty Diesel Vehicle Inspection Program.

Exhibit J is a list of questions, dated September 27, 1999, that were developed by the Advisory Committee to the Subcommittee on Air Quality Programs in Clark County, which accompanied the RFP referred to in Exhibit B, and submitted by Richard B. Holmes, Chairman.

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.