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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: Friday, October 13, 2000
1 p.m.

Place of Meeting: Grant Sawyer State Office Building
Room 4412 - A, B, and C adjoined
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 web site 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, Sr., Chairman
- *II. Approval of Minutes of the September 18, 2000, Meeting
- III. Public Testimony
- *IV. Presentation of "Final Report, Study of Air Quality Programs in Clark County, Nevada, Pursuant to Senate Bill 432 (Chapter 529, *Statutes of Nevada 1999*)," Dated September 29, 2000, by ENVIRON International Corporation, Contracted Consultant to the S.B. 432 Subcommittee
David R. Souten, Principal Partner
ENVIRON International Corporation
- *V. Presentation of Report and Recommendations From Department of Motor Vehicles and Public Safety (DMV&PS) Regarding Its Implementation of the Provisions of S.B. 432 Relating to the Control of Emissions From Motor Vehicles, Including Heavy Duty Diesel Vehicles in Clark County

Jim Parsons, Administrator, Management Services and Programs, DMV&PS

Russ Benzler, Administrator, Compliance and Enforcement Division, DMV&PS

*VI. Presentation of Proposed Recommendation for a More Effective State Role in Overseeing Local Air Quality Programs in Clark County

Allen Biaggi, Administrator, Nevada's Division of Environmental Protection

Phil Speight, City Manager, City of Henderson, Nevada
Chairman, Technical Committee, Southern Nevada Regional Planning Coalition (SNRPC)

*VII. Report From Local Governments in Clark County on Their Proposal to Restructure Existing Air Quality Programs in the County (In Response to S.B. 432 Subcommittee Chairman's Directive of June 5, 2000)

Phil Speight, City Manager, City of Henderson, Nevada
Chairman, Technical Committee, SNRPC

*VIII. Comments Regarding S.B. 432 Air Quality Study, by the Chairman and Members of the Advisory Committee to the S.B. 432 Subcommittee

Richard B. Holmes, Advisory Committee Chairman

*IX. Work Session - Subcommittee Discussion and Action on Final Recommendations to the 71st Session of the Nevada Legislature

Note: During this portion of the meeting, the subcommittee members will discuss and take final action on certain recommendations proposed at this and other meetings held during the 1999-2000 legislative interim. These proposals are outlined in a document from which the members will be working when determining final recommendations. A copy of this "Work Session Document" may be obtained from Maureen C. Kirkman, Senior Research Secretary, Research Division, Legislative Counsel Bureau, Carson City; telephone: (775) 684-6825 (toll-free from Las Vegas: 384-2225; toll-free from other areas of Nevada: 1-800-992-0973) or by connecting to the web page for the Legislative Commission's Subcommittee on Air Quality Programs in Clark County at [/Interim/Studies/Air](#).

X. Directions to Staff

XI. Additional Public Testimony

XII. Adjournment

*Denotes items on which the subcommittee may take action.

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

WORK SESSION DOCUMENT

October 13, 2000

**LEGISLATIVE COMMISSION'S SUBCOMMITTEE ON AIR QUALITY PROGRAMS IN CLARK COUNTY
(Senate Bill 432 [Chapter 529, Statutes of Nevada 1999])**

At the direction of the Chairman of the S.B. 432 Subcommittee, the subcommittee's staff prepared this "Work Session Document." It contains a summary of most of the major recommendations that have been presented in public hearings and correspondence during the course of the study. Organized by topic headings, it is designed as a working document to assist the members of the subcommittee in making decisions during the work session. The primary recommendations contained in this document are those presented in the "Final Report, Study of Air Quality Programs in Clark County, Nevada, Pursuant to Senate Bill 432 (Chapter 529, *Statutes of Nevada 1999*)," dated September 29, 2000, submitted by ENVIRON International Corporation, the consultant hired by the subcommittee to conduct a study of the air quality in Clark County.

The possible recommendations listed in this document do not necessarily have the support or opposition of the subcommittee. These proposals are simply compiled and organized so that the members may review them to decide if they should be adopted, changed, rejected, or further considered. The source of each recommendation is noted in parentheses. Any recommendations adopted by the subcommittee will be submitted to the Legislative Commission for consideration. The recommendations will be highlighted in the subcommittee's report, and any recommendations for legislation will be included in the report as bill draft requests (BDRs). The report will be made to the 2001 Session of the Nevada Legislature.

Under the provisions of S.B. 432, recommendations for legislation proposed by the subcommittee must be approved by a majority vote of the Senators on the committee and a majority vote of the Assembly members on the subcommittee. Subsection 3 of *Nevada Revised Statutes (NRS) 218.2429* provides that a legislative committee created by the Legislature to conduct an interim study may request the drafting of not more than ten legislative measures, which relate to matters within the scope of the study, before the commencement of a regular legislative session.

RECOMMENDATIONS CONCERNING GOVERNMENTAL ROLES AND RESPONSIBILITIES

Local Governmental Roles and Responsibilities in Clark County

1. **Draft and enact legislation to establish a single, accountable air pollution control authority in Clark County. The authority would be responsible for air pollution-related functions including compliance, data management, laboratory, planning, public outreach, and research.**
 - a. **Membership. The board of the authority would have an odd number of nine or fewer members, serving staggered terms of two to four years, and would elect its own chairperson. A majority of the board would be state or local elected officials. The composition of the board (as suggested by ENVIRON, but with clarifications and modifications provided by subcommittee staff) is:**
 - **Two members who are elected officials of cities in Clark County, selected on a rotating basis by the city councils of the three largest cities in Clark County;**
 - **One member who is the chair of the Clark County Board of Commissioners;**
 - **The administrator of Nevada's Division of Environmental Protection (NDEP) or his designee;**
 - **One member who is an elected official and a member of the Regional Transportation Commission of Clark County (RTC), selected by the RTC;**
 - **One member with experience in air pollution control or environmental management who is a resident of Clark County, appointed by the Legislative Commission;**
 - **One member representing the public who is a resident of Clark County, appointed by the Governor; and**

- **Two members who are residents of Clark County, representing regulated categories of industry or business, appointed by the Governor.**

(ENVIRON, pp. 1-14; 5-1; 5-28 to 5-34)

- Staff.** The authority would be administered by an executive director, selected through a national recruiting effort and serving at the pleasure of the board. The authority would have a full-time, in-house staff counsel. (ENVIRON, pp. 1-14; 5-1; 5-33; *see also* suggested organization chart at pp. 1-15 and 5-32)
- Hearing Board.** A seven-member hearing board, similar to the one in existence today, would report to the board of the local air quality authority and consider abatement orders, appeals, permit revocations, and variances. One member of the hearing board would be required to be a medical doctor. (ENVIRON, p. 5-34) This recommendation would be implemented by amending the statutes governing the creation, membership, and terms of such local hearing boards in any county with a population of 400,000 or more.

2. Include a statement in the subcommittee's final report recommending the following actions if a new local air quality agency is established in Clark County:

- A professional management consultant be employed to orchestrate the actual organizational setup of the new agency, as well as such employee issues as continuing health insurance coverage and achieving salary parity.** (ENVIRON, p. 5-1) The consultant should also propose a three-to-five year budget plan. (ENVIRON, p. 5-35)
- Clark County's air pollution control board established under existing statutes and the Clark County Code should be terminated when the new agency is established.** (ENVIRON, p. 5-29) Moreover, the statement should recommend that the new agency include a combination of the current split responsibilities of the Clark County Health District's Air Quality Division and Clark County's air quality team in the Department of Comprehensive Planning. (ENVIRON, p. 5-31)
- The new agency should facilitate the following matters** (ENVIRON, p. 1-15):
 - **Improved working conditions for air management professionals;**
 - **Improved equity in salaries;**
 - **Improved communications, public access to data, and public outreach; and**
 - **Improved training of technical and support staff.**

(ENVIRON, see discussion at pp. 1-5, 5-37, and 5-43)

3. *(Alternative to all or part of Recommendation 1)* Include a statement in the subcommittee's final report directing local governmental agencies in Clark County (Clark County Board of Commissioners, Clark County Board of Health, City of Boulder City, City of Henderson, City of Las Vegas, City of North Las Vegas, City of Mesquite, and the RTC of Clark County) to continue to work with the Southern Nevada Regional Planning Coalition (SNRPC) and follow through on interlocal agreements to restructure existing air quality programs and submit, for introduction in the 2001 Legislative Session, a detailed proposal for legislation to create a new regional air quality authority ("The Southern Nevada Air Quality Management Authority"). Further direct these local governmental agencies to consider the various recommendations made in Chapter 5, "Governmental Roles and Responsibilities for Air Quality Programs in Clark County, Nevada," of the Final Report submitted by ENVIRON International Corporation on September 29, 2000.

Draft and enact legislation to implement the local governments' proposal to restructure the air quality

programs in Clark County in accordance with the work of the SNRPC and the interlocal agreements.

(This recommendation is based on Clark County local governments' response to directions given by Senator Jon C. Porter, Sr., S.B. 432 Subcommittee Chairman, at the subcommittee meeting on June 5, 2000; details of work in progress on local governments' proposal submitted by SNRPC representatives at subcommittee meetings on July 10, August 7, and September 18, 2000)

State Roles and Responsibilities

4. Urge, by letter, the Governor to enhance the role of the State of Nevada in assuring the timely submittal of air quality plans to the United States Environmental Protection Agency (USEPA) (based on recommendations by ENVIRON, pp. 1-15 and 5-38), as follows:
 - The State of Nevada, including NDEP and the Department of Motor Vehicles and Public Safety (DMV&PS), should provide increased oversight and technical assistance to the local air quality agencies in Clark County. (ENVIRON, p. 5-38)
 - The NDEP and the DMV&PS should continue to work together on inspection and maintenance (I/M) programs for motor vehicles, and should be accountable for the emission reduction goals set in the State Implementation Plan (SIP). The NDEP should take the lead on monitoring program effectiveness and initiating necessary changes. The DMV&PS should continue to administer and enforce the I/M program, provide data and information, comment on proposed SIP revisions affecting I/M, and suggest design changes. (ENVIRON, p. 5-39)
5. Draft and enact legislation to require the following:
 - That the State Department of Conservation and Natural Resources (SDCNR)/NDEP: (1) be actively involved in developing, reviewing, and approving SIP revisions; (2) monitor the timetable for major federal Clean Air Act (CAA) requirements and Clark County's progress on them; (3) be a party to SIP development to the extent that state control measures are part of the SIP's control strategy; and (4) comment on draft SIP revisions and testify before the board of the recommended single agency during the adoption process. (Based on recommendation by ENVIRON, pp. 5-38 and 5-39)
 - That the State Environmental Commission: (1) serve as the formal decision-making body, acting on staff reviews and recommendations; (2) formally approve SIP revisions for submittal to USEPA; and (3) have the authority to remand SIP revisions to the local air quality authority in Clark County for revisions. (Based on recommendation by ENVIRON, p. 5-39)
6. Draft and enact legislation amending Chapter 445B of NRS to require SDCNR/NDEP to conduct a biennial evaluation of air quality programs in Clark County. The audit may be conducted by an independent contractor selected by SDCNR/NDEP through a request for proposals (RFP) process and would include a detailed evaluation of the county's ambient air monitoring, permitting, compliance, enforcement, and planning programs. The legislation would require that SDCNR/NDEP, in consultation with the USEPA and the local air quality agency in Clark County, develop specific evaluation and adequacy criteria to be used by the contractor to ensure a consistent and comprehensive review.

The legislation would amend NRS 445B.520 to require the State Environmental Commission to establish criteria for evaluating the adequacy of local air quality programs and make a formal adequacy determination based on the results of the audit. Should inadequacies be found, the Commission would be required to establish the corrective measures that need to be taken. In addition, the legislation would require that a report containing the contractor's original report including any issues identified, the adequacy determination, corrective measures, and time lines, as necessary, be prepared by the Commission (SDCNR/NDEP) and provided to the Legislature.

(Allen Biaggi, NDEP, September 18, 2000)

7. *(Alternative to all or part of Recommendation 6)* Draft and enact legislation to require any local air quality agency authorized in a county with a population of 400,000 or more to complete a biennial audit and submit the audit report to the Legislature. (Based on comments and suggestions made by Senators Mark A. James and Jon C. Porter, Sr., September 18, 2000)
8. Include a statement in the final report recommending the creation of an Air Quality Forum and NDEP participation in any advisory committees created by the local air quality agency in Clark County.
- An Air Quality Forum, modeled after the Lake Mead Water Quality Forum, would be created to address air quality issues, coordinate research efforts, and share air quality information within the region. The forum, led by NDEP, would consist of representatives of the Clark County Board of Commissioners; Clark County Board of Health; the Cities of Boulder City, Henderson, Las Vegas, North Las Vegas, and Mesquite; Nevada's Department of Transportation (NDOT); the RTC; the DMV&PS; the State Department of Agriculture; USEPA; the University and Community College System of Nevada; and the public. This forum would be created and begin meeting immediately after the end of the 2001 Legislative Session. Meetings would be held at least quarterly.
 - If the local air quality agency in Clark County establishes technical or other advisory committees to provide support to the agency, a NDEP staff member should participate on those committees, as appropriate.

(Allen Biaggi, NDEP, September 18, 2000)

Federal Relationship

9. Include a statement in the subcommittee's final report recommending improving the relationships between Clark County's air pollution control program and the USEPA (ENVIRON, p. 1-15) as follows:
- The organization of the local air quality agency in Clark County should include a federal/state liaison officer. (ENVIRON, p. 5-33)
 - Regular meetings between staff of the local air quality agency in Clark County and the USEPA, Region 9, should continue, in order to minimize policy disagreements, solicit timely federal comments, and obtain federal technical assistance. (ENVIRON, p. 5-42)
10. Urge, by resolution, that Congress require the federal Bureau of Land Management, the United States Department of the Interior (BLM) and USEPA to work more closely to assure that the BLM addresses state and county regulations contained in the various SIPs. Congress should also require BLM to clearly identify the air quality impacts in the environmental impact statements concerning proposed land sales. (Based on recommendation by ENVIRON, p. 5-42)

Furthermore, include a statement in the subcommittee's final report recommending that BLM should be represented on any local air quality agency's technical advisory committee. (ENVIRON, p. 5-43)

RECOMMENDATIONS CONCERNING FUNDING REQUIREMENTS FOR AIR QUALITY PROGRAMS IN CLARK COUNTY

11. Include a statement in the subcommittee's final report recommending that enforcement penalties be increased to a level closer to the norm in other large and growing local air pollution programs. (ENVIRON, p. 1-13)
12. Urge, by resolution, the local air quality agency in Clark County, or the proposed Air Quality Forum (see Recommendation 8), to study additional revenue sources for air quality programs in Clark County.

(Based on recommendations by ENVIRON, p.1-13)

**RECOMMENDATIONS CONCERNING STATE INCENTIVES
FOR ALTERNATIVE FUELS**

13. Draft and enact legislation to establish an Arizona-style program of providing incentives for the sale and use of alternative fuels. Two possible legislative options, both including the creation of a “Clean Air Fund,” are presented in the attached document, “Alternative Fuel Incentives: Options for Nevada,” dated October 2000, by James M. Brandmueller, Ph.D., Transportation Projects Manager, Nevada State Energy Office. (James Brandmueller, Nevada State Energy Office, October 2, 2000; in response to request from S.B. 432 Subcommittee on September 18, 2000)

14. (Alternative to all or part of Recommendation 13) Draft and enact legislation to accomplish the following:

- **Limit the State of Nevada’s list of alternative fuels to those recognized by the USEPA;**
- **Provide state agencies with the additional funds necessary to purchase alternative fuel vehicles and fueling facilities;**
- **Eliminate Nevada’s fuel tax on natural gas and liquefied petroleum gas (LPG); and**
- **Allow Clark and Washoe Counties to exempt alternative fuel vehicles from all privilege taxes.**

(Jay Taylor, Southwest Gas Corporation, July 10, 2000)

MISCELLANEOUS RECOMMENDATIONS

15. Direct, by resolution, the local air quality agency in Clark County to review and consider implementing the recommendations in ENVIRON’s final report, particularly those recommendations addressing the following topics:

- **Air Pollution Emission Inventories;**

- **Air Quality Monitoring;**
- **Control Measure Needs Assessment;**
- **Emission Reductions Credit (ERC) Program;**
- **Enforcement of Regulations;**
- **Fugitive Dust Rules; and**
- **Research Coordination and Priorities.**

Request the agency to submit a report to the 2003 Legislative Session on how it has addressed these recommendations. (Based on various recommendations by ENVIRON)

16. Direct, by letter or resolution, the appropriate federal (USEPA), state (NDEP or the Legislative Auditor), or local (governing bodies of local governments in Clark County) agencies to initiate an independent audit of the ERC Program operated by the Air Quality Division of the Clark County Health District. (Based on information or recommendations by various persons testifying before S.B. 432 Subcommittee, including, among others, Robert W. Hall, Nevada Environmental Coalition, August 7, 2000; also based on recommendation in report, dated September 20, 2000, from Joel Moskowitz, Investigator, Clark County District Attorney's Office [copy attached])

17. Draft and enact legislation to amend the provisions of Chapter 445B of NRS to specifically authorize, or to specifically prohibit, the establishment and operation of an ERC program and the assessment of any accompanying fees by a local air pollution control agency. (Based on information or recommendations by various persons testifying before S.B. 432 Subcommittee, including, among others, Robert W. Hall, Nevada Environmental Coalition, August 7, 2000; comments and suggestions from Senator Dina Titus and other members of the S.B. 432 Subcommittee; and a legal opinion, dated October 6, 2000, from Eileen G. O'Grady, Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau, [copy attached])

18. Draft and enact legislation to extend the existing statutory whistleblower protection, which is now provided only to state employees (NRS 281.611 to 281.671), to local government employees. This legislation would provide that no retaliatory action may be taken against such an employee for reporting improper governmental action. (Based on comments or suggestions from Senators Porter and Titus, and other members of the S.B. 432 Subcommittee)

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