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COMMITTEE HEARING - ENVIRONMENT AND PUBLIC RESOURCES - 56TH NEVADA ASSEMBLY SESSION

MARCH 3, 1971 GUESTS:

Assemblyman Hilbrecht - Sponsor

David L. Calkins - Regional Air Pollution Control Director of Region Nine of the Air Pollution Control Office, Environmental Protection Agency

Daisy Talvitie - League of Women Voters and Air Pollution Task Force

W. H. Winn - General Manager of Kennecott Copper Corporation, Nevada Mines Division

Howard Gray - Reno Attorney representing Kennecott Copper Corporation and Nevada Mining Association

Jerry Halk - Anaconda Company at Weed Heights

Robert F. Guinn - Managing Director of the Nevada Motor Transport Association

Thorne Butler - Nevada State Board of Health and the Clark County Air Pollution Hearing Board

Otto Ravenholt, M.D. - Chief Health Officer, Clark County Health District

Virgil Anderson - AAA

Terry Stumph - Clark County Health District

George Worts - Carson City Chapter of Nevada Society of Professional Engineers

Dallas Pearson - Nevada Tuberculosis and Health Asscciation

Terry Jones - Attorney for the Clark County Health District

John Montgomery - Washoe County High School Students to Oppose Pollution

Mike Toone - Chairman for Committee on Pollution for the Nevada Wildlife Federatio

Heber Hardy - Public Service Commission

Ray Nisely - Representing himself

Paul Gemmill - Nevada Mining Association

NEVADA ASSEMBLY SESSION - MARCH 3, 1971

PRESENT: Homer, Getto, Ronzone, Bryan, Dini, Fry, Olsen, Swackhamer, & Lowman

ABSENT: None

GUESTS: See attached list.

Chairman Homer called the hearing to order at 8:10 A.M. for the purpose of hearing testimony of both proponents and opponents of Assembly Bill 392, an act "relating to air pollution; providing for its prevention, abatement and control; creating the state board of environmental protection and providing its powers and duties; providing penalties; and providing other matters properly relating thereto."

Chairman Homer:
This is on Assembly Bill 392. This is the Assembly Environment and Public Resources Committee. We have a quorum so we will get started because we want everyone to have a chance to be heard. It is impossible for us to hold our meetings together with the Senate Committee because of time schedules. It will be having hearings also, and it is through this recorded testimony that we will get together at a later date on the issues. We have at least two hours for this meeting we will try to see that both sides are heard equally. Please be as brief as possible, we don't want to cut anyone off, but everybody must have an equal chance. So with that introduction, I would like to call upon the sponsor of this bill, Assemblyman Ty Hilbrecht, to give us some opening remarks.

Hilbrecht: Thank you, Mr. Chairman, members of the Committee; my name is Assemblyman Norman Ty Hilbrecht. I am one of the sponsors of the bill. Mr. Chairman, I am pleased to say that I believe many of the other members of your Committee are also co-sponsors along with me on the measure. My function this morning is not going to be to examine the bill in great detail but rather to give you a broad brush indication of what I believe the correct purpose of the measure is because, I believe that already, without benefit of hearing, the press has tried the bill in newspapers and the various media and frequently I think has come up with conclusions that are at least in part erroneous.

I should begin by saying that this measure is the result of a study and work by an ad hoc committee task force committee on air pollution on the Open Spaces Counsel in cooperation with the League of Women Voters, the Sierra Club and a number of other entities which I will not identify but whose presence, I am sure, will become apparent as this hearing goes on. I was privileged to be one of several Legislators who worked with this committee from its inception and for that reason, have a pretty good idea of what the purpose of this measure is. I was chairman of the committee in 1967 which was charged in the Assembly with the responsibility of the present Air Pollution Control Act. At that time, and several of you on this committee served on that committee, we felt that we had taken a giant step forward and I believe we did. At that time, of course, the public was not alarmed as they presently are, about the quality of our air and therefore, those of you who attended those hearings will recall it resolved itself largely into a tug-of-war between a few highly motivated, public spirited, but in the minds of many committee members, public health oriented officials on one hand and a great number of Nevada's basic industrial captains on the other.

The result of these hearings was a bill which has proved itself in certain areas to be seriously deficient and certainly cast against the model of the Federal Statutes in the area now leaves Nevada woefully inadequate in the field of providing the framework for effective air pollution control. I want to emphasize one word - the key word is Framework. A. B. 392 simply provides the skeleton upon which an aggressive and hopefully effective and fair air pollution control agency, which is established by the bill, will fill in the flesh, and the flesh will, of course, be reasonable regulations dedicated to the public interest in cleaning the air in the State of Nevada.

I believe that, for that reason, much of the publicity which has characterized this measure is being unduly stringent or idealistic is illfounded because certainly it is very difficult to charge a piece of legislation which only attempts to provide the vehicle for the decision making process and the enforcement processes in the area of air pollution with being too stringent. It would perhaps be correct to charge it with being a more efficient and effective method of accomplishing the result it purports or attempts to accomplish - namely a provision for the adoption for appropriate regulation in the field of air quality control throughout the State of Nevada. I believe that I can emphasize what I am trying to say by using the word framework or skeleton only. By calling your attention to various provisions in the Act that I believe make the act a very strong and one deserving of your consideration.

One is the extent to which, commencing with Section 29 of the Act, we attempt to bring in and get involved the existing entities of government at the local, county and inter-local level. The object, therefore, is not to set up a State Master Agency or group of moguls or czars in the field of air pollution, but rather to establish a uniform minimum state set of regulations, which hopefully will then be enacted into local ordinance and regulation by effective local entities at the county level, at the district health department level, and by the various cities and other local government entities. I believe that this is a sensible way to deal with the problem. I believe it's a way that makes the act an acceptable alternative and a desirable alternative to uniform Federal intervention. At the same time, I would caution that, while local governments are given the authority in the act to administer such a program, it must not only adopt regulations or standards equal or superior to those established by the State Agency, but also must demonstrate to the State Agency that it has enforcement capability adequate to enforce its regulations.

I feel that this is key, and in your consideration of this measure, I am sure you may as I have discovered, you consider some changes in those sections - roughly 29 through 33, dealing with local government entities; because I believe the language in certain areas needs to be cleared up and that is, unfortanately, I suppose, the job of you on this committee. We have labored over it. This amounts to our fourth effort in the area. Another item I would like to call to your attention is the composition of the board. The way the Act is drafted, we do not adopt any existing state entity as the Air Pollution Control Board. Rather, we set up, in a series of what we feel are probably the most stringent conflicts of interest provisions presently existing in a scheme of state law; the composition of a board of seven men which is to operate on two levels. That is the regulation making level - the rule-making level and secondly, later on, in the judicative area, the decision making area with respect to specific violations in the process of enforcing those regulations.

This entity, you will note in reading the bill, is attached for logistic purposes only to the State Department of Health, Welfare and Rehabilitation. Thus we are not establishing a new agency of government, we are simply establishing a board of experts to deal in this particular area and requiring and mandating the State Health Agencies, which have in their budgets, the money set aside already for air pollution enforcement.

The responsibility of providing both the physical facilities, the clerical staffing, and enforcement officials. I mentioned before about the participation of local government. You will notice that the State entity has, at its disposal, all of the various agencies of state government in terms of policing the act. I believe this is both an economy of effort and a desirable facit from the standpoint of getting correct enforcement. For example, it is conceivable to me that in some areas, the Fish and Game Department would be the appropriate entity of State government, to which the board should issue a regulation and ask that it be enforced in a particular zone or area. Quite obviously, in many areas, it will be the State Health Department and in other areas, various other entities of State government. So that we don't plan on encumbering either the budget processes of the State, or the personnel departments with a vast police force to enforce this, but rather to utilize existing entities within the State framework of government.

Finally, I would like to discuss a few criticisms that I have read and one that I feel is most unfair, and I think you should focus your attention on it because it is one in which we are all pollutors. I recall reading in the last Sunday Reno Gazette an editorial rather critical of this measure branding, I think, of being somewhat idealistic and also suggesting that Nevada's fledgling and sparcely scattered industry would be seriously interferred with by a measure such as this. At the same time, of course, the editorial pointed out that the most serious problem in air pollution has to do with that, that we all contribute to, and that is our motor vehicles, and suggested the bill did nothing in this area.

I would simply call this committee's attention to Section 28 of the act, which has perhaps the most stringent kind of motor vehicle enforcement conceivable. The reprisal being that the registration of the vehicle could be revoked if appropriate air pollution devices were removed from the vehicle or established to be non-functional under appropriate regulations. So, I submit that that just isn't so. I think perhaps we are forgetting when we talk about the smokestacks of Nevada, which indeed are sprinkled sparcely, that the basic industry of Nevada is still tourism and resorts and blue skies. For that reason, I suggest that perhaps Nevada's basic industry is in danger if we do not enact legislation such as this. Thank you.

Dini: Is there to be special funding for the authority created by the Health Department?

Hilbrecht: Mr. Chairman, Mr. Dini, we have been in the process of trying to work out a correct fiscal note for this measure. As a matter of fact, we had what we thought was an appropriate one before the bill was even introduced but, because of the fact that we didn't have available all of the funds that were earmarked for this purpose within the present Health, Welfare and Rehabilitation budget, and because of the fact that there was some conflict with local authorities as to generating projected costs, we substituted a fiscal note no. when the bill was introduced for the purpose of the policy that this committee is considering. There will be a fiscal note provided. I hesitate to tell you what the amount of money will be but there will be people following me who can give you that information. I say I hesitate, because I have seen at least 3 sets of numbers. They are not widely divergent but I would rather have the experts tell you.

Lowman: What type of people do you anticipate in view of the prohibitions on the type of people to be assigned or appointed to the board? What are some types of people who could be assigned?

Hilbrecht: Mr. Chairman, Mr. Lowman, the purpose of the act is clearly to not provide what has been called an industry bill of rights - that it is not to stack the committee with people actually engaged on a current ongoing basis with industries that could be identified as polluters. However, I can't think, in view of the Governor's responsibility in both maintaining industrial and economic structure of the State and at the same time appointing the board, that you might not find on the board a number of people who formerly were involved and understand the problems of industry but at this point do not qualify under the prohibitions of the Act by virtue of the fact that they are not in management, major stockholders of a pollutor nor are they counsel or representatives of a pollutant source. I should think that you would have a large cross-section of the public at large but I am certainly sure that the governor, any governor, in responsibly appointing a board would see to it that people aware of industry's problems were also on the board.

Lowman: I have two or three questions, Mr. Chairman, if you will, under Section 11, sub-paragraph 5. Is it necessary to restrict the reasons for which a governor could remove a person from the board? This would indicate only if he is guilty of malfeasance, or neglect of duties. It seems to me that if it is going to be a Governor appointed board, you are unduly tying the hands of the Governor if he wants to get rid of somebody.

Hilbrecht: Mr. Lowman, I don't have any great pride of authorship in this limitation. I feel, for example, that a governor should be responsible for his appointees every minute that they serve in office and, if their policy does not coincide with his, I presume he should be able to replace them. But it was felt, and I want to emphasize again that we are a product of a group of people as you know, Zel, and there are good and sufficient reasons for having this in here and I am sure other proponents will discuss that.

Lowman: How did you arrive at the figure of $40 a day? Now I assume that this is not meant to be full time pay but that the $40 a day if for when they move around from place to place on duties of this type. Why $40?

Hilbrecht: Mr. Lowman, that was picked because it was felt that these people should draw the same salary as legislators and this is what legislators draw.

Lowman: It appears to me in Section 7 that by requiring the various state departments to provide personnel support, you have in fact made this a super-agency, so that if the highway department, for example, were engaged in an emergency or even a heavy load period of the year, this agency could still come in and demand assistance and get it no matter what the priorities were in the highway department.

Hilbrecht: Mr. Lowman, I'm sure that the intent was to require every entity of government along the line of, for instance, in the companion measure having to do with impact reporting, to become conscious of environmental problems and to give it a very high priority. I suspect that exact high priority given to the highway department, for example, between clearing the road between Carson City and Reno on a snowy day and in enforcing an air pollution regulation would probably be rather self-evident and I suggest that their principal job in scraping the snow off the road would take precedent however. However, once again, as you quite succinctly pointed out, if the governor were a clean air "nut" I suspect that they might be diverted to this. I believe the policy of the administration is going to be very important as to how this works. I think it is dependent upon that. However, I wish, Mr. Lowman, that you would ask Mr. Frank Young, who I believe will testify as a proponent, as he is more experienced in the management area and he feels that this is a sound concept.

Getto: In regard to the last question that Zel asked, as I read this, this could have a very definite affect on the budget of every department of the State. In other words, if the means are not provided for every department, they will be sort of handicapped, and I mean how effective can they be unless they are taken care of budgetwise?

Hilbrecht: Mr. Getto, I think we are really in an area where it really is impossible to predict with any kind of precision how much it is going to cost. I suggest, however, that if the highway patrol had some standards to enforce and they got behind a smoking vehicle, that they could just as easily enforce those regulations as they could enforce the speeding regulations or the intoxication statutes of the State and I think you would find that probably the additional cost would not be that great. There undoubtedly will be some. Those matters are included in the fiscal note data.

Dini: Regarding Section 11, line 42, "membership of the Board shall fairly reflect the population of the State." Don't you think that trying to do it that way, that certain areas that have certain industrial problems, mining or agriculture, will then be denied membership on the board?

Hilbrecht: Mr. Chairman, Mr. Dini, you ask me for the first time a question on which I am expert. Believe me, this is the law of the land. And if we have an entity in the State with quasi-legislative authority such as this one, we could constitute them in no other way. This is what the Supreme Court has told us we have to do.

Swackhamer: In section 24, you give the right to judicial review on granting a denial of the variance but we've got a clause in here that the denial may be reversed only by the court who is arbitrary and capricious. Don't you leave out a finding of fact that it should have been granted or denied?

Hilbrecht: This language is taken from the Federal Administrative Procedure Act. The idea is we were trying to avoid the de novo situation in all places in this act except where penalties were actually exacted where, of oourse, there is a full de novo review of everything.

Lowman: What does de novo mean?

Hilbrecht: That means a new trial where you begin at scratch in the district court when you are entering judicial review. This is judicial review of an administrative procedure and the standard, I believe, if you examine the Federal Administrative Procedure Act and candidly bill our own 233B is limited to abuses of discretion by virtue of being arbitrary and capricious. Now, that includes ignoring persuasive quanta of evidence which overwhelm, for example, other evidence upon which the entity or the Board made determination. In other words, you can't under arbitrary and capricious, I do not believe you could reject a clear preponderance of the credible evidence. Thank you, Mr. Chairman and members of the Committee.

Mr. Calkins then gave his testimony (See Attachment to minutes)
Questions as follows:
Dini: This Federal Air Quality Control Region - does the State petition to get into that or is it automatically done because of the problems created in the area?

Calkins: In the past, the Federal Government, to begin with, named certain areas within the country that would be designated with boundaries around to be air quality control regions. Las Vegas was one for the Nevada area. As these were designated, the next procedure was states coming in and asking for additional areas in their State to be designated and former Governor Laxalt requested this in the Reno area and this was designated last year. However, on the first of this year, the new Federal Law went into effect, which said any area not designated by March 31st through a request from the State or through action of the Federal Government, whatever was left within the State fell into a kind of catch-all air quality control region with equal status as the other regions. But that rather than continue this process of designating regions to get on with getting involved with the implementation program. The new law moved it to a statewide approach rather than individually doing one region at a time, the statewide law will cover the entire state. All three are air quality control regions. So, therefore, with your two major areas designated and no further requests to subdivide what is left of the State and no real particular reason to divide, what remains, I think, there are only 70,000 people left in that area. That will fall as the third of the intra-Nevada air quality control region and will be under the same requirements as the two previously designated ones.

Swackhamer: Mr. Calkins, these divisions you have alluded to, in the present act, are they in conflict with the Federal Statutues or with Federal regulations?

Calkins: Yes, there are fifteen areas that the new Federal Law said were given to the Federal Government to carry out but could delegate to the states. The states had this power in their neighboring legislation and these fifteen areas from a legal standpoint were evaluated not just for Nevada but the same fifteen points for all the states and, I might add, that there was not single state in the nation that had all fifteen correct.

(Calkins cont.) This was evaluated against Federal law and I evaluated it against the present law and this proposed A.B. 392 and on ten of the points, the present law as evaluated by our legal people was inadequate and, if it was not changed by the time the state plan was submitted, by January of next year, these powers would fall back on the Federal Government in these particular deficient areas until the state passed enabling legislation.

Swackhamer: Then it is reasonably sure that these standards won't be changed between now and the first of July?

Calkins: No, these are set. There will be no changes in these. These are what we are living with now. There will be no problem there. And once again, the plan is approvable in portions so if in this session the final bill came out with say - 12 or 13 of these 15 points - as acceptable but there were a couple of deficient areas still, it would only be these couple of areas that the Federal Government would therefore have to promulgate the requirements. They would not give the areas a task force.

Lowman: This analysis was done in your office or in Washington?

Calkins: The analysis of the present law was done in our technical section down in Durum, of all the States. The analysis of A.B. 392 was done in our office as we only got the bill on Friday.

Lowman: I presume that your analysis has the effect and the sanction of the department.

Calkins: What I will do when we get the final version of the analysis, it will be sent immediately to Durum or phoned to them and we will explain the situation and have them do an analysis and hopefully provide you with the information on how well the final bill you vote on meets up with it. I am reasonably confident that my analysis is quite close to what the people in Durum would have come up with on it. It is not that difficult to decide what is adequate or not.

Lowman: I assume that, if we do not meet all the requirements according to your office, an appeal to the national office on this is made.

Calkins: Oh yes, we'll see the analysis of the entire plan will be done at the national headquarters--the implementation plan. Our office in San Francisco is to work with the states in developing the plan and, of course, we are judged as to how good of a plan we can come up with the state to submit but the actual analysis and approval is done during a four month period starting next January when the plan is due and at the end of that time either we approve the plan back there or they approve it based on the legal authorities and all the other requirements within the implementation plan or certain sections are not approvable or not delegated to the states and the Federal Government will therefore spend two months looking at the plan.

Lowman: I would like to ask you to run those penalties by again. When you talk about withdrawing the Federal funds, are you talking about funds that are allocated nationally to this type of operation or are you talking about other federal funds?

Calkins: We are talking about the Air Pollution Control support to the State which also is involved with the local agencies too, of course. If the plan was completely unacceptable, we could not fund it. If there are certain portions of the plan as it is now being interpreted, say two or three points could not be approved, because it was not in the neighboring legislation, whatever it cost the Federal Government to go ahead and promulgate that section that would normally be done or carried out by the states would probably subtract it from the program grant and it is conceivable that the entire grant could be cancelled. This would be a policy decision.

Lowman: If the entire grant were cancelled, what would happen then? Would there still be requirements in the Federal Law?

Calkins: Oh yes, the Federal law would stand. It is just that the money would not be available for the state programs to carry it out. This is the event that I think we all want to prohibit, because it is not gaining for any of us but under the law, once again the law has been written so tight this time compared to the previous Federal laws, where there were extensions and ways of getting around certain aspects that we don't have any choice under the law legally to do anything but drop the funds if the plan is wholly unacceptable.

Bryan: You indicated that the present law was deficient in ten out of the fifteen areas required. With respect to the five remaining areas. Are they included in A.B. 392?

Calkins: Yes, we cross-checked that. They are included in the new law.

Homer: We have another five minutes to go on proponents. I wonder if Assemblyman Frank Young would use those five minutes.

Frank Young: Mr. Chairman, I think in view of some of the other people who are here to testify for this bill, I will yield my time.

Talvitie: I am Daisy Talvitie from Las Vegas. I represent the League of Women Voters of Nevada and the Air Pollution Task Force on bill drafting as I was the Chairman of the ad hoc committee, representatives of various civic organizations and legislators, that was responsible for drafting the bill that we are considering this morning.

I can't state too strongly how much we feel that this bill must be adopted. We feel that Nevadans want to take care of their own job and we don't want Federal enforcement in our area if we can possibly avoid it. We want to do the job ourselves. We feel that our industries and our local citizens other then the people in industry will all be better off if we are dealing with it through our local and state agencies.

I won't cover the framework of the bill since the time is so limited and quite a bit of it has already been covered. I would like to stress what we think is the importance of the environmental protection board. This is the new trend throughout the nation to separate environmental controls from health boards. There are several reasons for it.

Health Boards are normally oriented to health matters of the environment. It is much more than a health matter. We feel that we need a board of many different types of people on the board. I would like to point out a drafting error that occurred in the make-up of the board. It had been our committees' recommendation that that particular section, 11.2, which Mr. Lowman was asking about this morning, incidentally, as to the make-up. We had selected the wording of the Virginia law as our recommendation and our recommendation had been that this read "no officer, employee, major stockholder, consultant, or counsel of any industry or any political subdivision that would be substantially affected by decisions of the board shall be appointed a member of the board". I believe this answers some of your questions, Mr. Lowman, in that it does open the door to people who are not directly in conflict with the board. It was our intent that this be a no conflict of interest. We did not intend that no businessman in the state should be allowed to serve.

Another area which I would like to point to is Sec. 29B. At the time we wrote this section, where it says every county in the state that is a part of a Federal control region, shall have a program. We only had six counties in this state that fell under that provision. With the passage of the new Federal law, all of the counties of the state would fall under it so some modification there will have to be implied. We wanted counties of 100,000 or more to definitely be required to keep their programs in operation. We wanted other counties to have a choice in how it was approached They could either establish a program themselves or they could rely upon contracts with other counties or with the state so that wording will have to have some slight change in it in order to take care of the change in Federal Law.

Section 28, Paragraph 3, also has, what we believe to be a bill drafter error. Section 28, paragraph 1, relates to the ability to require devices on automobiles. Paragraph 2 relates to visibility standards, control of automobile emissions. Automobile pollution control devices are not related to the visible standards, they are related to the invisible standards. So, therefore, in paragraph 3, should read, "Should any pollution control equipment required pursuant to subsection one be removed, rendered inoperative, or other." And I believe that will correct the problem because subsection 3 should relate back to one instead of back to two.

An additional problem of course, lies in Section 33.2. It was the intent of our committee that presently existing local programs should remain in existence. Some additional wording, I believe, may be neededhere. We recommend that a section be added that assures that present state and local regulations remain in effect. We would not want to inadvertently cancel those out. A great deal of time has gone into adopting them. Until such time as state or local boards make changes in those regulations under the established procedures, of course. We also believe that a section or an amendment might be used to assure that existing structures, local district health departments and hearing boards are maintained. That we don't have to go back through all the local ordinance procedure for establishing those, and that presently established enforcement orders and compliance schedules remain in effect. Down in Clark County, most of the industries have already worked out with the local hearing board their compliance schedule. We want to be sure that those remain in effect and that we don't have to redo months and months of work. I believe that those are the areas of concern to us where we still think there is a little corrective work to be done. The League and the Task Force are solidly behind this bill. We think it is of the utmost importance.

Swackhamer: In Section 19, at the top of page 7, subsection 3, I think that could possibly be an error in drafting too. "Any failure of the board or its staff to issue a rule, regulation or order to prohibit any act does not relieve the person so operating from any legal responsibility for the construction, operation or existence of the source of air contaminant." In other words, an operator would have to comply with an order that has never been issued.

Talvitie: I think that the purpose of this particular section (I think one of our attorneys could explain it somewhat better that I could) but the purpose of that is if during the process of construction, that fact that you have not issued a stop order, any failure of the board or the staff to issue rules, regulations or orders to prohibit any act does not relieve the person i.e. the person constructing and the person operating an industry from responsibility for the actions that he is taking. In other words, the wording may not be quite clear but our purpose is to make sure that the fact that you did not issue a stop order does not relieve the industry from meeting their responsibilities. This, I believe, is the purpose of that particular section because you see we are not giving any right whatsoever of specification. If you will notice, this is a key point.

Our permit to the industry puts the responsibility squarely on the industry to do their own design. The agency may review it but the agency does not stamp approval on it. It reviews it but if it finds it deficient, it may issue a stop order. Now, if they have not issued a stop order but then somewhere along the way the industry fails to do that which it is necessary for it to do, they are not relieved of any of the responsibility.

Swackhamer: If the fact that they don't issue a stop order doesn't relieve the industry, shouldn't there be some language in there so that the board is required to issue a co-order so that the industries would know where they stand? It seems to me that this is putting an awful load on the person who is trying to build an industrial plant because he would never know where he stands.

Talvitie: The biggest argument with industry is always that they positively do not want the agencies specifying anything for them or coming up with the design. And I think the industry people in the room will probably verify the fact that they want to be able to have their responsibility for the design of their equipment and to take care of their problems. Also, I haven't talked to any agency who wants to sit down and draw specifications and plans and exact designs. They want to be able to review that which the industry itself designs and to make a determination whether or not it is deficient. And if it is deficient, they may issue a stop order. But also you have to remember that throughout a process of construction and at the very end, industry must face the fact that when that thing goes into operation, it has to meet those regulations. And so, if throughout the responsibility is on their shoulders, you can issue a stop order when you find it deficient. No time are they ever relieved of the responsibility of actually coming up with something that is going to meet the regulations. This was our purpose in our drafting. The purpose of having an operating permit at the end was in order to be sure that we could require a demonstration that they were in compliance. The details of any such plan would be through regulations after public hearing. In other words, this is enabling legislation. The board will then adopt the regulations and industry will certainly have an opportunity at that time to speak to the specifics of how this

would be carried out because this is an enabling thing. It tells us what they are allowed to do and then the details of it will come in the adoption of regulations after public hearings.

W. H. Winn: (See attached testimony)

This concludes my remarks about the law itself but I would just like to go aside from the bill a moment and take this opportunity to suggest to the committee that one of the most important jobs that you will do here in connection with this bill is the provision for a good administration and for funding. As you have already heard from Mr. Calkins, there is a lot of responsibility that goes along with complying with the federal statute that the state must accept and just the provision of the compliance plan. In addition to that, the federal statute requires that the state agency be prepared to monitor and enforce the air quality regulations and this is a big job and it will require a lot of well-trained personnel and I urge that as you consider passage of this bill that you also currently consider how the administration is going to be accomplished. Specifically, for example, I can't find any connection in this bill to the Board of Health. I don't see any connection there. Assemblyman Hilbrecht mentioned that there was a connection. I don't see it in there. I don't see that you are going to be able to borrow personnel from other organizations to accomplish what has to be done. I think you have to have a good group of administrators, and technicians and I think they have to have money. Thank you.

Attorney Howard Gray: Mr. Chairman, members of the committee, my name is Howard Gray. I am a practicing lawyer in Reno, Nevada. I am here today representing Kennecott Copper Corporation as well as the Nevada Mining Association. I assure you my presentation is going to be very short. I urge upon this committee to give sincere consideration to adding to the present act as it is finished. What is Section 445.525 of the present code? The section is the section that has been called the Bill of Rights of Industry. And it may well be in this day and age with the controls that we are having placed upon us. This section would read, deleting the reference to the other sections of this act which would not be part of this resolution, in adopting rules and regulations, the Board "shall take into consideration all of the facts and circumstances bearing upon the reasonableness of the emission of air contaminants involved, including but not limited to: 1. The character and degree of injury to or interference with health and property or the reasonable use and enjoyment of property or conduct of business; 2. The social and economic value of the source of air contaminants; 3. The technical practicability and economic reasonableness of reducing or eliminating the emission of air contaminants from such source; 4. The location involved, the density of population, the atmospheric condition, the relationship of the emissions to the general air pollution conditions of the area; 5. The cost and effectiveness of control equipment available; and 6. Efforts previously made and the equipment previously installed to control or decrease such emissions."

I point out that the adoption of this would put into the statutes guidelines to guide the Board in arriving at its conclusion. As the statute now stands, there is no guideline. I can't even find the words "reasonable regulations" in the statute. There is going to be many issues brought up enforcing this act but it is going to take some consideration of the entire economic picture. I urge very sincerely that you give consideration to the intention of that. I point out that in reading Section 40, it sets out $10,000 a day penalty for the breach of this statute by anyone other than one who breaches the trust and makes available to others the confidential information. That person is only guilty of a misdemeanor and that person is only subject to a fine of $500. Divulging of secret information of the manufacturer or operator is of high economic value. It is nothing lightly

to be tossed around and I make the suggestion that if the one who is breaching his trust on the confidential information is guilty of misdemeanor then that should be the record for all.

There are several cases in the statute where the words "due notice" and "public hearing" are referred to but there is no period of the notice whether it is 20-day notice or 30-day notice or 60-day notice is something that is not expressly left to the Board that I can find. Also, the public hearing. You find the public hearing referred to a good many times in the act and what is meant by this public hearing? Is it going to be a hearing where everyone comes in and tells their story and expresses their opinion? It is facts that the Board needs. Those facts should be given by witnesses under oath. There is no use wasting your time listening to a lot of conversation when there is no real authority behind it. On top of that, the privilege of cross-examination should be available in this public hearing. If the public hearing is going to produce facts, I think we have to get back to the fundamentals of the law and the fundamental methods of getting facts for our decisions. The act refers in three instances to the Nevada Administrative Procedures Act. This is NRS Chapter 233B of the present code. Frankly, I think some paper and a little ink could be saved if you cut out two of the references and change one word in Section 40, Subsection 5. The proposed bill at the present time reads "Any person aggrieved by an order issued persuant to this section is entitled to the review provisions of the Nevada Administrative Procedures Act, NRS Chapter 233B." You take that word "section" cut so that it would read "Any person aggreived by an order issued persuant to this statute or this chapter is entitled to the review provisions..." you cover the entire picture and you have some protection against capricious conduct on the part of the Board.

In Section 25, Subsection 2, the bill proposes judicial review may be had at the granting or denial of a variance. As in other contested cases the denial may be reversed by the court only if such denial was arbitrary or capricious and I have written here that I would suggest to be added to that "or was not supported by substantial evidence". Gentlemen, there is no doubt but what you are in a very important position and you have a tremendous responsibility, but if the Board is going to be created to carry out the will of the people, I suggest that the members of the Board, however that Board is constituted, should be given distinct guidelines. The legislators of the various states including our own and including the Congress of the United States have passed in many instances terrific authority on to individuals in various phases of government without guidelines. The United States spent several millions of dollars to make a study of the public land laws of the United States. As a matter of fact, a great share of that labor was caused by giving the Secretary of the Interior unlimited authority. That's all I have to say, gentlemen.

Swackhamer: Have you cross-checked these deficiencies? You are talking about the Bill of Rights of Industry and recommend it being put back into the statute. Is the having of that Bill of Rights of Industry in the old statute one of the deficiencies or did you check out with these other people on that?

Gray: I didn't check out with anybody on that.

Jerry Halk: I am Jerry Halk with the Anaconda Company at Weed Heights. Our company like all of you here is concerned with the air quality of the State and wants to see A.B. 392 in final form to be effective and workable. With this in mind, we have just a few suggestions.

Referring to Paragraph 2 of Section 11 concerning the composition of the proposed State Board of Environmental Protection. Industry has directed and will continue

to direct money and effort into research to prevent emissions detremental to air quality. The men involved in this research and development and implementation are dedicated to maintaining a desirable environmental standard. We believe that the Governor of the State should have the option of appointing such men from industry to this board. Some of the best informed men in the environmental field are specialists who at some time or other have acted as consultants to industry. But again, the provision in paragraph 2 would prohibit the appointment of such men to the board. Considering the mining industry alone, we feel the Bureau of Mines would be an excellent source of talent for this board but the present wording would prevent the Governor from availing the State of this talent. To have the membership of the Board fairly reflect the population distribution of the State and also to have a Board composed of people that demonstrated knowledge and interest in environmental matters, we sincerely believe the membership restrictions in paragraph 2 should be reconsidered. Thank you all for the opportunity to talk to you.

Bryan: I presume that you would be willing to accept the proposed changes to Section 11 proposed by Mr. Winn -- not more than two officers or employees?

Gray: I think that would be entirely satisfactory.

Robert F. Guinn: Mr. Chairman, members of the Committee, my name is Robert F. Guinn, Managing Director of the Nevada Motor Transport Association. I don't want to be construed as an opponent of the bill because I think something has to be done to comply with the requirments of the 1970 Clean Air Act. I would like to offer you our observations on several portions of the bill. I would like to join in the comments that have been offered so far by industry representatives concerning the composition of the board. I think that it is important that we have some balance on the board and I would think that the amendment suggested by Mr. Winn would certainly be satisfactory to any interest I represent.

I would like to call the committee's attention to the language on Page 4, Section 22, which is subparagraph 19 of Section 13 outlining the duties or the obligations of the administrative agency whatever that turns out to be. "Require the installation of exhaust control devices on motor vehicles." Now, I think what we are talking about is granting to the board the right to order the installation of emission control devices on older vehicles. The only thing I want to say to you about that is that the State of California has been trying to develop some method of retro-fitting old vehicles since 1965 and have been unable to come up with a satisfactory arrangement. At the present time, they have commissioned a study of this problem. A report is due to the Legislature on July 1 of this year. An interim report was published by the agency making the study in February indicating that the problem of trying to retro-fit older vehicles with emission control devices is hardly worth the tremendous economic cost that is involved. They have a law over there that says that after two devices have been approved by the air pollution control agency, that they can order the installation of these devices as the vehicles changed hands but not a massive installation of these. In a sense, I am suggesting to you that if you really want to legislate in this field, then you ought to have a specific piece of legislation and let the Legislature spell out what is to be done. Perhaps something on the California basis. I am not trying to prejudge what a board would do but I am apprehensive of giving a board the authority to require 300,000 to 400,000 vehicles in this state to be retro-fitted. California law sets a ceiling of $65 on the cost of the device. You are talking about millions of dollars that might be involved. So I really suggest that you eliminate that subsection and if you want to legislate in that field, then be specific. Now again, in view of the fact that since the only device that we have, incidentally, in the emission control field now that is practical on a retro-fitting basis is crankcase emissions. Now, we have had those required by Federal law since

1965 and these older vehicles are gradually being phased out of the picture. This interim report that I referred to indicates that the tremendous cost involved would not be worthwhile in view of the unlimited affect that this would have on educing smog emissions from motor vehicles.

Loman: Is there a question in your mind concerning where the regulation of auto emission devices should be located? Do you feel that regulation would be as affective under a board of this type as it would be under an existing Department of Motor Vehicles?

Guinn: In view of the requirements of the 1970 Clean Air Act, it seems to me that with respect to setting the standards for emissions--parts per million of hydro carbo carbons and the opacity of smoke from vehicles--the standards should probably be set by this governing agency. This is practical. When you start to talk about enforcement, however, we are getting into another field and I would like to comment on Section 28 with respect to this very problem.

Let me say that I think that there is a deficiency in this language in subsection 1 where it would limit the authority of the board to air contaminants for internal combustion engines. I want to point out to you that within the next year or so, there is going to be a trend for a turbine-type engine on heavy-duty commercial vehicles--gas turbines. They are on the way and I think it would not be identified as an internal combustion engine. I think there should probably be something in here so that if and when the Federal Government sets standards on that type of equipment, we would have the right to do so here. I want to call your attention to Section 2, though. I read Section 1 to say that this regulatory agency would have the right to control emissions and air contaminants from engines--stationary motors, motor vehicles or otherwise. I think then that they would have the right to set forth in Section 2 in the first sentence with respect to visibility--we are talking about the color of the smoke that comes out--Section 2 goes further and I think it is worthwhile pointing out what that language really does and what the affect is. The board will establish visibility standards for the control of emissions of air contaminants from motor vehicles and upon the effective date of such regulations, all boards of county commissioners and the governing boards of all incorporate cities and incorporate towns shall enact, and it is their mandatory duty to do so, ordinances incorporating the substances of such regulation and making it unlawful to violate provisions of such ordinances. I am sure the intent of this is to cover a problem we have now in enforcing visibility standards. At the moment, the present law places the full responsibility in the state or county air pollution control agency and it is primarily aimed at discoloration and smoke from diesel powered units and to a certain extent from automobiles. The present Board of Health standards call for no visible emission from automobiles. That means you can't see anything from gasoline engines. Then it sets a standard for opacity or comparison with the Ringelmann chart. This is a device you hold up and judge the color of the smoke coming out of the stack and from the tailpipe of a motor vehicle as against the chart. It is a judgement thing. What would happen if you carried this out? Every city and every county would be involved in using its police powers in citing people for violation of this section on visibility and they would be cited into the police court and handled just as they would a traffic violation. I can vision a situation of , first of all, a heavy duty commercial vehicle that, let's say, left San Francisco in perfect operating condition and when it hit the state line had started to malfunction. It would be subject to a citation in every county and every city that it traversed. I doubt that we ought to set up such a situation. I also want to point out to you that there is a certain training required in using these judgement devices as a means of determining whether a vehicle

is in violation of smoke emission standards. There are cases where there actually were some tests made by smoke meters showing the opacity of the smoke as it came out of the stack. The Federal Government, since January 1, 1970, requires the manufacturer to produce a vehicle that will not have smoke greater than 20% opacity at approximately sea level. Trained observers using these devices looking at a four-inch stack, there was one case where a 6% opacity was rated as Ringelmann No. 1 and the highest rating, 16% opacity, was rated as Ringelmann No. 1. Yet the equivalency of Ringelmann No. 1 is 20%. I am saying, then, that these observers would have cited every one of these observations at being Ringelmann No. 1 and yet they would have been within the 20% opacity which is a comparative value and would have been in compliance with the federal regulation. On a three-inch stack, they got down as low as 4% opacity as a Ringlemann No. 1 and the highest reading they got on a Ringelmann No. 1 was 10%. What I am trying to say to you is that the people who use these need some training and so it seems to me again that if we want to start citing people for violation of these things and imposing a penalty as we do in a traffic citation, as is the system in California and in some of the other states, then I would suggest that we place that authority in the hands of the State Highway Patrol and not delegate it to untrained personnel throughout the State. I will point out to you that the Clark County City Commissioners recently considered an ordinance to adopt emission standards on smoke and decided that it was an area that they did not want to get into.

On Page 9, Section 29, Subparagraph 5, I would suggest that the committee take a good look at a provision here that would permit a city, especially in this state, to set up its own air pollution control program. It seems to me that with the state and the county and the regions that we've got enough overlapping and I am particularily concerned that if anything of that nature is done then we provide for uniformity as far as the operation of motor vehicles.

I have some reservations on the part of our industry about Section 38 which is limiting the scope of the board's authority. Section 445.575 of the present law does set some time limits and it also provides for a trial de novo. I know that the proponents of this legislation are not happy about the trial de novo situation. I want to say to you that involving some of the smaller people who get confronted in administrative proceedings before boards and are not aware of the implication, do not have the proper legal counsel, and so on, and then are confronted with something that might determine whether they stay in business or not. I think they are entitled to a second chance.

With respect to Section 40, I would like to point out to the committee that this is the first time to the best of my knowledge where we are proposing to give a state agency the right to levy administrative fines prior to the time a person has been judged guilty of a violation by a court. It is a rather radical departure from practice in the State and I would hope that the committee would take a good look at that before they proceed with it. They've even got a system of administrative fines for lesser violations. I have no idea what a lesser violation is. I do want to second Mr. Gray's recommendations that you add to this the provisions of 445.525 which has been described as industry's Bill of Rights. Mr. Gray has read it. Let me close, if I might, by putting this thing in prospective and saying suppose we amend this law, if this is what is wanted, that we eliminate these provisions. Suppose we make the law read that the board, in adopting its rules and regulations, shall have no responsibility as to whether they are reasonable or not. That they shall not take into consideration the social and economic value of the source of air contaminants. That they shall not take into consideration the technical practicability and economic reasonableness of reducing or eliminating emissions or air contaminants for such source, or the cost of effectance of control

equipment available and efforts made on equipment previously installed to control them. Suppose we put them in here that they should not do that? In effect, this is what we are doing. It seems to me that we need a guideline in here. A standard that , first of all, is going to place some responsibility on this agent to make sure that they act within these standards or it gives the aggreived person a right to get into court. This is what we have done in one particular case. The proponents of this legislation are not exactly happy with that situation.

Thorne Butler: See attachment.

Swackhamer: Is there any sort of a provision the board has to get funds for the administration of this?

Butler: Yes, it is a type of grant money. In fact, in the current budget for the State, I believe that we are anticipating to receive a $30,000 grant in a matching situation with the Federal Government. In this situation, it is a 2 to 1 matching because matching is tied partly to project and partly to program and we are somewhat in the program phase because there have been previous grant monies. If we design new projects, we can go then back with new applications for more funds and in a larger portion of the Federal contribution to that program.

Dr. Otto Ravenholt: First, I would like, if I may Mr. Chairman, to just read the letter from our chairman to yourself which bears on the subject and then a brief statement of my own.

"Some four years ago, the Nevada Legislature enacted its first law dealing comprehensively with air pollution and control. The Clark County District Health Department was subsequently designated control agency for Clark County. As a result, the District Board of Health enacted regulations governing air contamination and inaugurated its control program. Two years ago, the District Board of Health advocated enactment of legislation to strengthen the program by dealing with problems of automobile emissions and prior permit review. At that time, an Assembly committee rejected the proposals and urged the district to gain the maximum progress under the existing laws. Within our abilities, we have sought to do this. During the past year, we have engaged an enbroadened enforcement program aimed at reducing emissions from plant sources. Every major industrial pollutor and source in Clark County has appeared before our hearing board and has agreed to a compliance schedule. In terms of dollar figures, these industries have agreed to install additional equipment costing in excess of ten million dollars. From every aspect, they appear to be following the mandates from the District Air Pollution Control Hearing Board. We have strengthened our regulations to provide more stringent controls in an effort to protect the Clark County Airshed. We have expanded our enforcement and monitoring staff. We have carried out programs to limit particular pollution from land clearing operations and open burning. We have enacted the first sanitary land dump operations. But in honesty, we must admit that we are ignoring more than 80% of the tonnage of pollutants now being emitted into the Clark County Airshed due to the lack of appropriate enforcement powers. For this reason, we urge you to enact legislation to insure that the smog control devices are retained and properly maintained on motor vehicles. Presently, many automobile owners remove or fail to maintain these devices. We support provisions which would allow us to streamline our enforcement procedures. The present notice of violation stipulated in existing law prevents us from taking immediate action against known sources. As a result, we must often wait for more than ten days while awaiting a reply and even then our efforts often require weeks or even months to obtain compliance with regulations. I am speaking here not of the major fixed sources, those we have made, I think, very substantial progress with, but

rather of smaller sources where the 10-day issue is a real problem. The prior permit system has an equal application in Clark County where we have spent years attempting to bring existing sources into compliance. Presently, we can only move once a source has begun to violate regulations. You might note that there is a proposal to construct a 2,000 megawatt coal fired steam plant in an area within miles of the Las Vegas valley. Without prior review powers, we may well find ourselves in a position of being forced to take enforcement action against this source only after the massive air pollution has been added to an already overly contaminated air in the environment of Las Vegas. We endorse the enactment of Assembly Bill 392 if it is modified to clearly provide for the District Board of Health to continue its local air pollution control authority with power to adopt and enforce local standards and regulations and to appoint a local hearing board as now provided for by statute."

See attachment for Dr. Ravenholt's testimony.

Virgil Anderson: My name Virgil Anderson and I represent AAA. My comments relate to some of the things that Mr. Guinn has touched on previously in his testimony. We are in favor, of course, of the concept here but there are features of the bill that so far as Motor Vehicles is concerned that we feel are particularily onerous. One of these, of course, is the required after-market installation of exhaust control devices. We think that the legislators should seriously look at this potential. I know my own personal knowledge of after-market devices that have been suggested in California that have a price range of up to $150 and a potential cost of about $50 a year to maintain so we would recommend that either this feature of the bill be eliminated or perhaps authorize the board if they wish to go ahead and test such devices but report back to the legislature and you retain the final authority to install such devices on used motor vehicles.

The other comment that I have relates to confusion of penalties in here that motor vehicles seem to be subject to some of the administrative penalties that perhaps are more properly applicable to more stationary sources. We would like to recommend that the committee in the legislature look at the possibility of enactment of a provision into the Nevada Motor Vehicle laws that would state simply and in effect that the devices that are now required by Federal law starting back in 1963 be maintained by the automobile owner and that they be required to be kept in operable condition. This would then place a provision in the law that could be readily enforced by the Highway Patrol and by police departments that are properly concerned with the operation of motor vehicles. Those are my only two comments and suggestions that I have, Mr. Chairman.

Getto: You have addressed specifically to the after-market devices and I have heard testimony that these devices are not practical and pose a tremendous problem as far as enforcement. This is mainly because they handicap the operation of the vehicle. Most people take them off and throw them away.

Anderson: That is very true, Mr. Getto. That was the experience down in California particularly with the crankcase devices because if the engine is not particularly designed for that type of equipment, it does cause operational problems. It was a severe public relations problem. As a matter of fact, I think it did more to set back the Motor Vehicle's air pollution program in California than anything else by attempting to retro-fit the older model motor vehicles.

Getto: Would you favor then, instead of a strict enforcement in this line, possibly some sort of subsidy to remove the older cars from the roads?

Anderson: We don't have a particular policy on that. I think that normal attrition will take care of that rather rapidly, Mr. Getto. The crankcase device has been

installed by Federal law since 1963 so I would estimate that 80% of your vehicle population in Nevada over the intervening period of eight years now has crankcase devices. The exhaust control devices have been on nationally since 1968 so you can roughly say that 30% have them. So you are having a natural attrition so I think that in a few years, and this is not my opinion but some of the scientists that are experts in air pollution, motor vehicle sources of air pollution are a diminishing problem.

Getto: I understand this natural attrition, but is there a way of speeding it up?

Anderson: This could be done but it would be very costly. There are a number of the older transportation-type cars that would have to be caught up. There would have to be some sort of compensation. I don't know really how costly that would be but it would cost some money.

Bryan: What is the policy or position the Association has had for taking affirmative action to meet the problem of pollution emitted from automobiles?

Anderson: We have supported the device requirements. And, for example, the new Federal Clean Air Act for 1970 which does establish very strict standards that automobile manufacturers must meet by 1975. We think that the burden properly belongs on the manufacturer of the product to design and engineer the vehicle to meet this problem.

Bryan: How about if an air pollution control might be factory installed?

Anderson: That has been a problem. One of the potential methods of doing it was by inspection by the Highway Patrol. Another type of enforcement to insure that it will be carried out properly is through an inspection program. This type of an inspection is more than the typical safety inspection that has been suggested for the normal safety equipment on automobiles. You have to have special equipment to take a sampling of the exhaust. There are also elements of a mandatory tuneup in this type of an enforcement program because some of these systems do not operate properly unless the vehicle is properly tuned.

Bryan: So AAA does support this type of program.

Anderson: Yes, we do.

Homer: I would like to mention at this time in attending the League of Women Voters' air quality conference in Las Vegas a few weeks ago that a member of the automotive industry testified that the 1971 cars meet the deadline of 1975 already and it eliminated 90% of emission pollutants but it is the older cars that are still going to cause the trouble and prevent the industry as a whole of meeting this 1975 requirement. So this retro-fitting is an important subject there and the solution to this part of the problem will determine whether or not the 1975 Federal requirements are met.

Terry Stumph: See Attached.

George Worts: My name is George Worts. I represent the Carson City Chapter of the Nevada Society of Professional Engineers. We are largely here to indicate our favorable reception to A.B. 392. We have been able to get through an air pollution ordinance here in Carson City and so we are naturally quite interested in seeing that this bill gets through the Legislature. We have one question, perhaps more than a comment on Page 3, Section 11, Subsection 8, which reads "In addition

to the other duties of the board delineated in Section 2 to 40, inclusive, of this act, the board shall, during the fiscal years 1971-1972 and 1972-1973, undertake comprehensive planning and develop proposed legislation for its assumption of authority to be imposed by subsequent legislative action over water pollution and solid waste disposal and management." We are wondering whether the area of the board was to be expanded to include all three items. Our only comment would be that it looks like a large enough job handling air pollution alone without getting into the areas of water pollution and waste disposal management. That is the extent of our comments.

Dallas Pearson: Dr. Homer, Members of the Committee, my name is Dallas Pearson. I live in Sparks. I represent the Nevada Tuberculosis and Health Association. I want to speak in favor of the bill. Specifically, in Section 13, Number 5, it has been suggested that on the establishment of air quality standards that the Federal standards be adopted and I think that you might want to look at that very carefully because the Federal standards across the board, they are designed for perhaps places that are much heavier in population than our State and the open spaces that we have. Much of the State already complies well below the Federal level and this would allow certain portions of the State to have pollution to the extent that it would increase up to this level without anything allowed to be done about it and I think that you ought to consider this. We believe that the philosophy and intent of this bill is good and that public support is well behind this bill and I think that public support is with you and we encourage you to give a "do pass" to this bill.

Terry Jones: I'm Terry Jones. I am the attorney for the Clark County Health District and I just want to emphasize a point which has already been made a couple of times but I think it is of such importance that it is imperative that it be repeated. At the time of the last meeting of the Clark County District Board of Health, we hadn't had an opportunity to review the bill very carefully and at that time we believed that it would not affect the present apparatus of our air pollution control program in Clark County and I believe that is the basic intention of the bill because, of course, the Clark County Health District does have an effective energetic program led by Terry Stumph. An enormous effort has been spent in obtaining compliance orders from the plants in Henderson and in adopting extensive local regulations, and so forth.

Section 33, Subsection 2, does state that local authorities may continue their existing programs but Section 41 of the act then is a blanket repealer which does away with the statutory authority upon which those existing programs rest. Under the existing statutes, for instance, local authorities have the rights of subpoena, to hold hearings, to promulgate regulations, to issue cease and desist orders, to seek appropriate injunctive relief in the court, and so forth. The repealer in Section 41, being as broad as it is, does away with that authority as well as the composition standards and authority of the local hearing boards. Our concern is that while the intent is to continue the programs we now have, Section 41 will knock the props out from under those programs and leave the Clark County Health District, like Joshua's wheel, way up in the middle of the air. Others have mentioned this point as I said, I do want to emphasize it and if I can make no other point by my remarks, it is that there is a potential conflict between Section 33, Subsection 2 and Section 41. We have suggested specific corrections which may cure this defect. We in the Health District feel it is a good bill and I hope my remarks don't leave any impression to the contrary. It is merely to emphasize the imperative necessity for re-establishing and maintaining the authority for the local boards.

Bryan: In regard to the proposed amendment that Terry read, assuming that a conflict should develop at some future time between the action the State and local board

should take, I presume that you would have no objections to the State boards action if it were more stringent?

Jones: Of course not. That is what we thought the situation was with the bill. We understand that the State agency is to be supreme. We had no quarrel with that. It is merely that we are concerned that in the interim period if we have to go to all of the governmental entities making up the Clark County Health District and obtain ordinances from all of them to continue our existing programs and our existing authority, it would be a tremendous job and if it can be cured in the act itself, it would save a lot of effort and time. We want it clear that our existing apparatus will remain in effect during this interim period unless superceded by State action.

Getto: You believe then that local boards should have the power to adopt more stringent restrictions than the State?

Jones: I wouldn't say that that was my belief. It was my understanding that local authorities could enact regulations as strict or stricter than the State but subject at all times to the over-riding authority of the State agency.

John Montgomery: My name is John Montgomery. I am from Reno and I represent the Washoe County High School Students to Oppose Pollution. This is an organization that is throughout the five high schools in the Reno area. We generally believe that Nevada will have air pollution regulations similar to that put forth in A.B. 392. There are two ways we can get this, I believe. We can either get this by the Federal Government coming in and setting up their system or we can get it through a bill like A.B. 392. This has to be done in this session if we wish Nevada to do this. Otherwise, not complying with the Federal laws--Clean Air Acts specifically--we will have the Federal Government to set up our system.

So, why not let the Federal Government do it all? There are a few advantages that are going to accrue from A.B. 392 that we wouldn't necessarily get from a Federal Government program. First of all, is the time element. If we allow the Federal Government under the Environmental Protection Agency to establish a system for us, it is going to probably (I don't have any specific figures but we have a representative here from the Federal Government that can undoubtedly tell you) but I am sure it is going to take you somewhat longer than it would to set up the board that is provided for in A.B. 392.

The problem of air pollution is steadily growing and worsening and it is going to continue to grow unless something is done and we believe that it should be done now. Of course, I am sure that we can all agree that air pollution is a hazard to our health and a detriment to our economy. Of course, Nevada does not have the great problem that, for instance, some state like California has; yet, potentially, it is there and if we don't want to allow the situation to get any worse, we are going to have to do something and do it fairly soon. There is no better time than the present to take any action. The Board of Environmental Protection that is going to be created by A.B. 392, I think, would begin to work a great deal sooner than if the Federal Government were to set up this program.

A second point I would like to bring out is that here in Nevada, we are going to be nearer to the problem. Now, I am not saying that the Federal Government is going to swoop down and establish arbitrary regulations but this bill was established by Nevada, and I would like to thank the League of Women Voters and the Nevada Open Spaces Council and the Legislators that have done a great deal of work on this bill, but it was developed by Nevadans with Nevada in mind and you are going to have representatives of the Nevada public serving on its board. I think it is going to reflect the concerned public very well. I believe it is going to

be a generally manageable agency. I don't think that it is going to be so unmanageable, so bureaucratic that you are going to have great delay in the workings of it. I think by establishing it under the State Government rather than having the Federal Government establish it you are going to get a better agency that is going to respond to Nevadans better. What I mean is that it is, for instance, going to provide for a quicker review of requests for variances and things like this.

Now, going along with this, I would like to bring up my third point and this is that this board is going to establish a coordinated control for pollution. It is going to be coordinated in two ways. First, it is going to coordinate not only control regulations that combat air pollution, but also, those measures to control water pollution and solid waste disposal problems. These are all related, of course, and this is what is good about a coordinated agency. For instance, if you have a solid waste problem, though you may burn the solid waste and get rid of your land fill problem, you are going to have an air pollution problem. The second way it would coordinate, I think this would coordinate the efforts of the cities and the state agencies that are now concerned with this problem. I support the recommendation that municipalities and any agencies we have now be allowed to keep their pollution regulations and their programs that they have going now. That this would be included in this bill. Possibly, this managing, this coordination of control will eliminate some overlapping, provide for quicker enforcement, and provide for elimination of possible some wasted funds. You might think that along with this State control necessarily goes a lack of funds and a lack of personnel. This is not true because if you establish the system under A.B. 392, there is an immense manpower pool and an immense reservoir of Federal funds that we can draw on. If we don't establish it now in this session, we can't do this. But as of now, we can obtain grants for control programs, grants for maintaining our programs, grants for training personnel. There are also surveying control needs and even for just demonstrating the efficiency of control methods. In fact, up to 60% of the cost of operating a regional system can be provided by the Federal Government. So, all this would be lost if we don't establish this here and now.

Some testimony we have heard today, for instance, concerning Section 11.2, was urging that representatives of industry be required to serve on the board. The justification of this assertion was that the departments that now exist are doing quite well and they all have representatives of business. Yet, if they are doing that well, we wouldn't have the problem we have now. We wouldn't have to consider a bill like A.B. 392. I urge that 11.2 remain as it is with the recomendations that the League of Women Voters put forth.

Also, we heard testimony concerning the Bill of Rights of industry. This, of course, would undermine almost everything that this bill attempts to control. I don't think that should be re-established. I think the bill as it is is a fairly good bill and I urge, on behalf of the Washoe County Students to Oppose Pollution, that this bill be adopted and be sent out of committee with a "do pass" recommendation.

Homer: I would like you to know, Mr. Montgomery, that this committee appreciates the interest taken by the young people. This is going to be your problem before very long and we certainly appreciate that you are knowledgeable in it.

Mike Toone: I'm Mike Toone. I am the chairman for the Committee on Pollution for the Nevada Wildlife Federation. After reviewing and discussing A.B. 392, the Nevada Wildlife Federation would like to go on record as recommending a "do pass" vote; that we feel that this bill is liberal enough not to create any hardships and yet strong enough to get the job done. We would also like to see a bill passed that is tailored to Nevada's needs such as this one. We do concur with Mrs. Talvitie's recommendations on Section 11, Item 2, and also Section 28, Item 3.

Heber Hardy: My name is Heber Hardy. I am a member of the Public Service Commission. Chairman Clark was here earlier but had to be excused. We would only raise about two questions without either going on record as opposing or being proponents of this particular bill.

Under Section 7, we are concerned with the technical support which could be required of the Public Service Commission as well as other state agencies and we would raise questions as to the criteria as to when they could be required to, say, take an engineer from our commission. It also points out that expenses shall be provided by the Public Service Commission. We are quite concerned about having to provide engineers or other technical personnel without some criteria as to when and under what circumstances they shall be used and who controls them while they are being used by this particular board.

Also, another question. It appears in Section 7 that the control officer is being designated by the board. I think that is very vague. Does it mean they can hire somebody or does it mean members of the board themselves are being designated to operate in that function because, certainly, under Subsection 22, Section 12, on Page 4, a tremendous amount of power is given to the control officer. We would simply raise the question as to that much power being given to an individual. There possibly should be greater criterion set forth in the bill as to qualifications, other things mentioned in the bill which would legislate control to that officer rather than just blanket power being given to the board in selecting that person and designating his duties and salary and everything else. We think there should be questions raised as to that perticular person.

Ray Nisley: Mr. Chairman, I am Ray Nisley, representing myself. There are a couple of technical things which I think should be brought to the committee's attention.

On Page 1, Line 9, the use of the word "all" I think is an error. I believe that the intent is "best" because if there are many devices available for certain acts, certainly you don't want to force them all to be used. You want the best of them used.

On Page 3, Section 11, Subsection 7, I would like to point out what you are, in effect, doing if you pass this bill is that these departments are all subject to very tight budgeting. Their budgets have been reviewed by the Budget Commissioner and gone over very carefully by the money committees in both houses and yet, if you pass this bill, you are, in effect, making an appropriation of their funds for the purpose of this act. This is certainly an extreme departure from anything the Legislature has ever done in the years before. I would urge that you fund this act separately and not invade the budgets of each and every one of these departments to an extent unknown and to an extent beyond their control. I think that this is an unwarrented invasion. I believe the bill could be made into a good bill that everyone can support and live with. I think it is overdue.

I would also like to urge that you not give subdivisions of government superior powers to those which the State is limiting itself. If you do, you will create a hodgepodge across the State that you will have to examine local ordinances in each and every county and state before you know if you are in compliance with the act. If the cities and counties are to get into this field, then it should only be to the extent of the powers that are inside this act.

Getto: Ray, you brought out what I was fearful of this morning when I asked the question about Subsection 7 of Section 11 as far as the funding is concerned. I think this is like a gray area. You can't put your finger on it and where are you going to fund it. What would you think of funding the department or the committee that is set up with funds that would repay. In other words, doing the same thing

that Subsection 7 does but instead of the last section "shall be paid from the funds of the particular office" shall be paid from the department to the different departments on the committee. In other words, using, for example, the people in the Fish and Game Department. Instead of hiring people to supercede to do new work that they can do, because they are specialists in their field and if they do need additional people but then having it funded from this superagency.

Nisley: I think this is a very wise provision. Certainly it would be foolish to not make these technical people available. However, it should be done within the limit of funds available for this purpose and the agency's funds should be the one responsible for the payment.

Bryan: Any objection to the local level having more power really wasn't the thrust of my question to Mr. Jones, the Counselor for the Clark County Health District. Do you have any objection to the local level having the power to pass more restrictive requirements--not necessarily more power within the framework of the power? The State may reach one conclusion and the local level may reach a different conclusion as to the level of restriction imposed in a particular area.

Nisley: Yes, I think this is wrong. I think you give the powers of the subdivisions of government the powers that the State is giving the board and not create a chaotic situation. If the level agencies may supercede the powers here then, we are a highly mobile people today, and every time you cross a city or county line, you may be operating under some unknown condition. Are you going to the County Recorder to find out what act you are governed by there because certainly, no one can be expected to know all the rules and regulations that each and every county has.

Bryan: What is the situation under the present law?

Nisley: I have no brief to the present law. I didn't think it was sufficient when we passed it.

Bryan: The point being that right now the local level has the power to enact different air pollution control ordinances which might differ from county to county or from city to city.

Nisley: I don't think the present act was set up with any idea that it would be severely opposed. I thought it was wrong and I don't think we should compound the wrong in this act.

Paul Gemmill: Mr. Chairman, members of the committee. I had a complete statement prepared but over half of it has been well covered and I am not going to burden you with repeating. I had a comment on the blanket authority which the bill seems to be passing down to the local authorities with a definite directive that they are forced to put in affect what you tell them to. That has already been mentioned so I only have a brief statement here. This pertains to a sort of general philosophy.

It is vital to realize that permissible emission of contaminants has to vary with the location and population density. I cite a situation which graphically illustrates my point. In raising beef cattle for market, cattle feeding lots, stock yards and so forth are here to stay if we want to eat beef and they have objectionable odors for those persons not regularly occupied and acclimated to the business. In recent years, stockyards have migrated from areas of heavy population to outlying areas. I recently passed by a large feed lot in the Imperial Valley of California where this activity has migrated into low population density of farm land. Their feed can be grown the year around however, the odor had migrated from feed lots and one makes a living from feed lots and puts up with the odor and being accustomed with

the smell probably doesn't notice it, as well as to other less inclined ecological factors. My point is that the bill and hopefully any federal legislation should certainly consider broad variations in ecological requirements with respect to local population density, occupation and preferences. Furthermore, imposition of penalties should certainly vary with the degree of potential harm arrising from a violation.

Returning to the bill in question, in Section 40 imposing a $10,000 penalty per day for each day of violation applicable without any prior notice can hardly be taken seriously. The cement plant at Fernley demonstrated the effectiveness of local controls under existing law—didn't need any new law at all—when an intolerable emission of dust from its plant developed. Of course, a reasonable preview of expansion plans in that instance would have been beneficial to both plant and community. The Nevada Cement Plant created a problem that we wouldn't have to have any new law to correct. The local community just found it intolerable and they went right to the courts with it.

Dini: Doesn't this indicate the cumbersomeness of the present law of getting to the point of a job?

Gemmill: I would suggest that certainly with the Federal law being imposed on us, we have no alternative but to comply and I am sure that this bill properly altered will be the bill that we need. However, I simply want to put this one very important factor into the equation that there is a lot of difference between having a plant out in the remote section and the example I cited, if you had a feed lot in the middle of Las Vegas, it wouldn't be there very long but it might get moved up to Lincoln County or something like that.

Ravenholt: Mr. Chairman, I would just like to add one comment on the point that local regulations or standards being permitted to be more restrictive than State. The basic theory of State standards and all regulatory workers would set a minimum across the State but since it doesn't make good sense to have the same restraints apply in the least populated, the least dense or the least inhabited parts of the State as one needs to maintain the quality in a valley such as Las Vegas Valley. I think the option for the local standard to be more restrictive is essential both to accomplishing the purpose and to avoiding the cost of that same standard being applied across the State as a whole. Therefore, I think in many things we do have to be more restrictive in a particular area where population is more dense and where the problem is more difficult to control. It would be much more expensive if that same standard had to be applied across the entire state.

Winn: I think this particular question might be clarified for you if we start to speak about air quality standards and emission standards. I really believe that we must have the same air quality standards all over the state. I think if we only meet the Federal law, we will have general statewide air quality standards. But the standards that won't be the same all over the State are the emission standards that are necessary to meet those air quality standards and those would vary from place to place throughout the State. It is the air quality standards that should be the same. There are no second class citizens, everybody is entitled to good air to breathe and to live in and it is all the same. The point that I made today, of course, was that when the air quality standards are established and they should be the same all over the State, then the pollutor, the emittor, should only be required to reduce his emission by the amount necessary to meet the air quality standards and not go beyond them. I can think of a reason for an air quality standard to be more difficult in one part of the State than another. As a matter of fact, in the State of Texas, each county may have its own air quality standards. For example, it might be appropriate for the area around

Lake Tahoe to have a more difficult or a better air quality standard than the rest of the state because we just think of that area as being better. But, again, I must emphasize that people can turn around and say there are no second class citizens, everybody is entitled to just as good air. I personally would recommend that the air quality standards for the State be the same all over the State. I think there are less problems that you can get into that way.

Daisy Talvitie: I have been trying to take notes all morning on various proposed amendments. I would like to point out to you some dangers of one or two of the things specifically that were brought up. It was suggested, for instance, that water vapor should not be included in the definition and should have an exemption. The definition that is in our State law is already in existance in the State regulations. You could be weakening something we have already done if you exempted water vapor in the process of the State law. This in one thing. For another thing, there is a definite reason for not exempting water vapor. There are instances where water vapor can become a definite problem. For instance, if a source is close to a major highway and you have an inversion, you can get a build-up of water vapor right down over the highway where you get many major traffic accidents and this has already happened in some areas of the country where water vapor has been responsible for that. Also, water vapor in combination with other things in the atmosphere. As for instance, water vapor and sulpher dioxide together in the atmosphere. You can get a change in the atmosphere to where it converts to sulpheric acid mist which becomes a definite problem. I would like to point out that the definition is a very broad definition and it only gives you the ability to deal with the problem. It does not necessarily mean that you are actually going to take an action against water vapor. If it is water vapor in a situation where it is beneficial for you to have the water vapor in the air, you won't take any action on it. What we have done with this under our State regulations now the definition does not exempt water vapor but we have exempted water vapor under our regulations at the present time except that the industry must establish that the emission actually is water vapor and not a combination of some kind. It would be very bad to exempt it in the law. Let's have the ability to deal with it if we ever have to and recognize that this will be dealt with through regulation where all of these gentlemen will again have an opportunity to appear before the board in the adoption of the regulation to where we can fit it to the particular problem with which we are dealing. I myself would object to the deletion of the ability of the State to develop more stringent ambiant air standards. In the first place, the Federal Government will be developing air quality standards only for specific contaminants or pollutants. There may be others which will not be established federally which we in this State may feel that we have to deal with. So to delete that authority, I think it would be very difficult, it would be very bad. We might have a situation where we need the authority. Again, it is all subject to regulations and public hearings so I would see no reason for deleting it. Also, I would have very strong objections to reinserting the Bill of Rights of industry into this bill.

This concluded the hearing of testimony of Assembly Bill 392 in the Committee on Environment and Public Resources. It was adjourned at 11:15 A.M.

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STATEMENT OF DAVID L. CALKINS BEFORE NEVADA STATE ASSEMBLY COMMITTEE HEARING ON PROPOSED AIR POLLUTION CONTROL LAW (AB 392 and SB 275)

Mr. Chairman, Ladies and Gentlemen, my name is David Calkins. I am the Regional Air Pollution Control Director for Region Nine of the Air Pollution Control Office, Enviromental Protection Agency, located at 50 Fulton Street, San Francisco, California. Region Nine includes the States of Arizona, California, Hawaii and Nevada.

The purpose of my presentation today is to provide information on the recently enacted 1970 Amendments to the Federal Clean Air Act, and their relationship to present and proposed air pollution control laws in the State of Nevada. Recently, Administrator William D. Ruckelshaus of the Environmental Protection Agency wrote Governor O'Callaghan regarding the provisions of the new Federal Act. My office is presently in the process of evaluating the existing legislation of each of our respective States to assess compliance with the new Federal requirements. This evaluation is being sent to each State's legislative leaders this week. It is important that these changes in legal authorities be enacted during this session, as failure of a State to submit an approval implementation plan in January, 1972, will result in elimination of future Federal funding of State and local air pollution control programs.

On January 30, 1971, primary and secondary National ambient air quality standards were proposed for six common classes of air pollution: particulate matter, sulfur oxides, carbon monoxide, photochemical oxidants, nitrogen oxides, and hydrocarbons. Primary standards protect against endangerment to human health, and secondary standards protect against effects to soil, water, vegetation, materials, animals, visibility, and personal comfort. Within 90 days, the final standards will be promulgated.

Under the 1970 amendments, the States will continue to have primary responsibility for devising regulatory and enforcement procedures to achieve the necessary improvements in air quality. This is work that must begin at once; it must reflect the kind of social and political decisions that are inherent in reforms of this magnitude.

The States will have to consider such things as land-use projections, which heretofore have been left almost exclusively in the domain of city and county governments. There will be a need for States to develop detailed plans for emergency action, so that the health of our citizens need no longer be endangered by the whimsical playing of the forces of Nature and the inadequacy of past pollution-control programming. The State implementation plans must consider the need for regulation of pollution from motor vehicles in the hands of the public together with fuel storage and handling. In some cases, there may very well be a need for the restriction of motor vehicle traffic, increased parking fees in downtown areas, road fees and franchise taxes designed to make us use our automobiles more efficiently.

State implementation plans are to be judged chiefly on their ability to achieve the national standards within the time frames prescribed by law, and when a State plan is partly or wholly unsatisfactory the Federal Government will have no alternative under the new law -- given the four-month review allowed by law -- but to prescribe for that State the remedies that seem to us to be most likely to assure steady progress toward attainment of the standards.

You can see that the States will be called upon to make a relatively heavy commitment of resources in order to do all the things that must be done. Legislative and other remedies may need to be devised.

This is the area of prime importance to each of you today -- unless the present Nevada law is strengthened now, the required implementation plan submitted by the State cannot be approved under the Federal law. The Clean Air Act places primary responsibility to control air pollution upon the State air pollution control agency. In order to assist the States to meet their responsibilities under this law, we will be providing increased financial and technical assistance to them. We are in the process of adding three persons to our staff whose primary responsibility will be to assist the States in developing the implementation plan.

Once again, if the resultant plan is rejected, we will be required to intervene and provide the implementation plan, and see that it is executed.

There are fifteen specific provisions that were covered in our evaluation of existing laws for legal authority in air pollution control in the State of Nevada. Ten of these items were deemed either needed improvements, unacceptable, or had no express provisions in the present enabling legislation, Chapter 445, NRS, Sections 2-40. It is these provisions that I would like to compare with the proposed AB 392. Let me make it clear, however, that this evaluation is strictly the interpretation of the existing and proposed laws by the Air Pollution Control Office and final decisions on each provision rests with the State Attorney General's office.

1. Broad policy or definition of air pollution consistent with the Clean Air Act, as amended, to protect and enhance air quality. This essential provision was not expressly provided for in the current law. The proposed law is adequate in that it provides in Section 5 for protection and enhancement of existing air quality.

2. Authority to require information relevant to air pollution control including authority to require periodic reports of emission information.

Authority to require emission information is lacking in the present law. This authority is quite clear in subsections of Section 13 of the proposed law.

3. Authority to provide that emission reports be available for public inspection. Section 38 of the present law does not require emission data related to production be public record. Section 110, subsection (a) (2) (F) of the Federal law requires that such emission data be made available to the public. This is a point where the proposed law also appears lacking. Section 35, subsection 2(b) does not allow identification of the source of emissions be made public. Unless such a provision is added, the authority to delegate the State the Federal enforcement provisions under the 1970 Amendments to the Clean Air Act will not be approvable.

4. Authority to require installation of equipment by owner or operator of stationary sources to monitor emissions and to conduct source tests. This provision, not expressly provided in the present law, is contained in Section 19, subsection (a) (5).

5. Authority to prevent construction or modification of new sources including prior review of location and compliance with appropriate rules and regulations. This is basically a permit to construct system, and was not provided for in the present law. Section 13, subsection 13 of the proposed law requires registration of air pollution sources, and subsection 15 does likewise for new sources.

6. Authority to implement emergency action comparable to section 303 of the Clean Air Act, as amended. The present law has no express provisions for emergency actions. Section 34 of the proposed law provides for the control officer to take immediate action during air pollution emergencies and

appears to me to be one of the better provisions for emergency actions that I have seen in legislation.

7. Authority (to the extent necessary to achieve and maintain National air quality standards) to adopt land use and transportation controls. This is an authority that is lacking in all but one or two States in the nation at the present time with respect to air pollution control. Yet, it is one of the most essential provisions for dealing with environmental problems during the next decade. Section 37 appears to meet some of the requirements of such a provision. It might be preferable, however, to spell out more specifically what powers the State or local air pollution control officer has in such decisions. Perhaps an environmental impact statement should be required on certain size projects or those particularly affecting the surrounding environment. Such statements are required on all Federal projects. Some mention of transportation controls would also be desirable. Subsection 7 of Section 11 does provide input from State planning and transportation agencies, and thus strengthens these legal authorities.

8. Authority (to the extent necessary and practicable) for periodic inspection and testing of motor vehicles to enforce compliance with applicable emission standards. Not expressly provided for in the present legislation, this provision is implied in subsections 1 and 3 of Section 28 of the proposed law. A statewide motor vehicle inspection system will not be required in the implementation plan until the Administrator of the Environmental Protection Agency determines that a practicable testing system is available. Authority for periodic inspection and testing should, however, be available to the State for whenever such a testing system is developed.

9. Authority to issue appropriate orders to compel compliance with regulations. The present law has needed improvements to this provision,

which is contained in Section 29. This provision does not allow an immediate order of statement issued to the violator. Section 26 of the proposed bill provides for issuing such statement orders.

10. Provisions for adequate civil or criminal penalties. Section 40 of the present law needs improvement as it merely makes the violator guilty of a misdemeanor, whose penalties are inadequate. Section 40 of AB 392 makes the violator guilty of a civil offense and spells out the penalties.

I would also like to mention an area of AB 392 that should be clarified to be consistent with the 1970 Federal amendments. Section 29 deals with the authority to form county and city air pollution control programs within and outside of air quality control regions. Under the 1970 Amendments, all areas of the State will be within an air quality control region. Federal air quality control regions were established during 1970 in the 5-county Northwest Nevada intrastate area and an interstate region covering Clark County, and two counties in Arizona. The remainder of the State will automatically become the third air quality control region on March 31, 1970. Additional subdivision of this area is possible at a later date if requested by the Governor and approved by the EPA Administrator. Thus, Section 29 as now written could be interpreted as requiring all counties in the State to establish air pollution control programs within two years. This should probably be made specific to particular areas of the State.

I cannot emphasize too strongly the importance of passing this or similar enabling legislation. Legal authority is the prime factor in approving implementation plans. The new Federal legislation has set very tight time-tables to accomplish very significant objectives in air pollution control. There are <u>no</u> provisions for extensions in submitting implementation plans on primary standards, as often occurred in previous Federal legislation.

Either the State submits a workable implementation plan or the Federal Government takes over and implements one. If we fail to develop a suitable implementation plan by next January in Nevada, I and my staff will have personally failed as well as the State. If these deadlines are not met by the States, it is very possible that Federal matching grants, which will be possible at up to 3 to 1 ratio under the new Act, will be withdrawn.

Once again, it is my sincere desire that a law such as AB 392 be enacted during this session of the Nevada legislature. My staff and I have an open offer to provide assistance in seeing that such a law be passed. Furthermore, we intend to continue to work very closely with State and local air pollution control programs to see that a workable implementation plan is developed.

Thank you for the opportunity to speak at this hearing.

TESTIMONY - S.B. 275 AND A.B. 392

W. H. WINN, GENERAL MANAGER
KENNECOTT COPPER CORPORATION
NEVADA MINES DIVISION
McGILL, NEVADA

Perhaps, to provide a frame of reference for my testimony concerning this proposed legislation, I should begin by saying that, for several reasons, amendments to our present air pollution law are needed. With some changes, this bill could provide the needed amendments and with those changes, which I will review in detail in a moment, I would urge passage of the bill.

I should also make it clear that I fully understand that the will of our citizens of Nevada and of our entire country has been forcefully expressed concerning a requirement for clean air. I personally, together with my company, agree with this thinking and take the position that clean air will be a reality in a reasonable length of time.

If I may, I will summarize the purpose of my remarks before I begin. As this committee considers proposed legislation concerning air pollution, it should be determined to achieve results which will assure protection of the air quality in Nevada. However, you gentlemen must be equally determined to achieve this with the smallest possible adverse impact on the industries and local governments of the state. After the problem of clean air has been solved and perhaps forgotten, you will still be facing the equally important problem of Nevada's narrow tax base. The only change will be that the need for revenue will be greater than it is now and more difficult to come by.

With this introduction, I should like to review possible changes to this bill as listed on the material provided.

Section 2.2

This section appears too broad. The expression "all available methods" applied universally could result in much more stringent regulations being applied than are actually needed. The wording "as may be necessary to achieve Section 2.1 above" should be added. This requires that regulations shall be applied for the purposes of the act, and not regulation for regulations' sake.

Section 4

A change would clarify the meaning. Water vapor and carbon dioxide are components of the atmosphere and are generally excluded from the classification of air contaminants. Water vapor is discharged from cooling towers, irrigated fields, etc., and carbon dioxide comes from people and animals and the combustion of carbonaceous fuels in power plants, automobiles, etc. The harmless carbon dioxide, of course, should not be confused with the poisonous carbon monoxide.

Section 11.2

I strongly object to this section. I realize its purpose is to deal with the allegation by various conservation groups and governmental agencies that some states have ineffective air control boards because they are predominantly made up of members of industry. This thinking is fallacious and abundant proof is available around us. There are innumerable members of industry on boards and commissions in Nevada,

and the record will clearly show that they are conscientious toward their assignments and completely responsive to their duties of carrying out the wishes of the Legislature.

Be that as it may, this particular board cannot afford to be deprived of much of the expertise that is available in the field of air pollution control. I'm sure you are aware that almost everyone is on the "bandwagon" and can answer lots of questions about air pollution. A close examination will show that what often exists is pseudo knowledge mixed with emotion. Such will not help this board. If it is to accomplish the extremely difficult job of complying with the responsibilities connected with the federal air pollution law, the board will need all of the real know-how it can possibly assemble.

As a minimum, I strongly recommend that there be provision for at least a minority of industry and local governments on the board.

Section 13.5

I suggest that wording be added to automatically adopt federal air quality standards. The purpose is to simplify administration of the law as the setting of air quality standards is always a tedious and rather painful process. Some people are never satisfied that the regulations are strict enough - whatever they are. Likewise, there are those that always think they are too strict. I believe if you will review the proposed federal standards you will find that they will well serve the purpose of providing clean air.

Section 13.12

I have proposed that two ideas be added to this section on emission controls. The first, which requires the highest practical emission controls on new sources is, I believe, necessary to comply with federal regulations.

The second addition requires careful consideration before any emission control regulation for an existing source is exercised which reduces emission more than necessary to achieve the adopted air quality standards. This type of limitation is extremely important to protect those being regulated from "overkill" which would result in a financial hardship being imposed. The proposed wording does not prohibit such regulation but requires careful consideration and balancing of benefits with costs. In this case, the first consideration is given to the source, as it should be.

Section 13.14

This section as written seems to prohibit everything and perhaps some wording has been left out. It can be clarified by adding the words "without the possession of a valid operating permit issued by the board."

Section 13.20

It is my feeling that this section should be eliminated altogether since it is extremely vague in definition. It would be next to impossible for administrators to fairly determine what is "unreasonable" and what is "undue."

Section 24.1.(b)

Wording is added here for clarification and insures that costs of operation of control devices or process be considered.

Section 39

I have assumed that the purpose of this section is to specifically provide that compliance with this air pollution statute does not prohibit individual suits for damages. Such wording is unnecessary. I would recommend that it be omitted.

If it is retained, it should certainly contain the same modifying language contained in the federal air pollution law on citizen suits, which allows a suit to be filed only after 60 days notice to the board and to the alleged violator.

Section 40

The penalty section has a rather strict penalty to be applied to everyone. If applied to a small business man or farmer, he could be financially ruined. Consideration should be given to reducing the penalty to meet the degree of violation. Also, there should be wording added to prohibit applying a penalty without notice of violation. If a penalty is to be corrective rather than punitive, such notice is necessary. Again borrowing wording from the federal law, "a notice of 30 days should be provided."

Apart from the bill being considered, I should like to take this opportunity to remind the committee that administration of any air pollution law will require a competent staff backed up with adequate funding. To meet the requirements that the Federal Clean Air Act imposes on the state will be difficult under the very best conditions. I hope you gentlemen will assume the responsibility of assuring that adequate funding is forthcoming.

Thank you.

W. H. Winn
General Manager
Kennecott Copper Corporation
Nevada Mines Division
McGill, Nevada

Sec. 2.

2.

(a) Require the use of all available methods to prevent, reduce or control air pollution throughout the State of Nevada[:]; *as may be necessary to achieve Sec. 2.1 above.*

Sec. 4. "Air contaminant" means any substance discharged into the atmosphere[.] *except water vapor and carbon dioxide.*

Sec. 11.

2. The members are to possess demonstrated knowledge and interest in environmental matters. [No officer,] *Not more than two officers,* [employee,] *employees,* major [stockholder,] *stockholders,* [consultant,] *consultants,* or counsel of any industry or *more than one member of* any political subdivision of this state shall be appointed a member of the board. Membership of the board shall fairly reflect the population distribution of the state.

Sec. 13.

5. Establish air quality standards[.] *as required and adopt Federal air quality standards when provided.*

12. Establish such emission control requirements as may be necessary to prevent, abate or control air pollution.

The state board shall require emission standards for each new source of air pollution. These standards shall reflect the degree of emission limitation achievable through the application of the best system of emission reduction which, taking into account the cost of achieving such reduction, the board determines has been adequately demonstrated.

The term "new source" means any stationary source, the construction or modification of which is commenced after the adoption of this statute.

Emission control plans applied to an existing source shall be limited to those required to achieve established air quality standards. The board may consider application of emission standards beyond those required to

1) To establish such emission standards will not produce a hardship without equal or greater benefits to the public.

2) In determining benefits, the board shall consider first the source involved and, second, the public.

14. Prohibit as specifically provided in sections 19 and 20 of this act and as generally provided in sections 2 to 40, inclusive, of this act, the installation, alteration or establishment of any equipment, device or other article capable of causing air pollution[.] *without possession of a valid operating permit issued by the board.*

[20. Require elimination of devices or practices which cannot be reasonably allowed without generation of undue amounts of air contaminants.]

Sec. 24.

1.

(b) If the variance is granted because compliance with applicable regulations will require measures which, because of extent or *original* cost, *or operating cost,* must be spread over a period of time, the variance shall be granted only for the requisite period as determined by the board, and shall specify the time when the successive steps are to be taken.

Sec. 39. Nothing in sections 2 to 38, inclusive, of this act, shall be construed to abridge, limit, impair, create, enlarge or otherwise affect substantively or procedurally the right of any persons to [damages or other] relief [on account of injury to persons or property] and to maintain any action or other appropriate proceeding therefore in the courts of this state or the courts of the United States on a tort claim against the United States or a federal agency as authorized by federal statutes[.] *except that civil action shall not begin until 60 days after notice has been given to the board and to the alleged violator as to the nature of the violation.*

Sec. 40. 1. Any person who violates, *after 30 days notice from the board of the nature of a violation,* any provision of sections 2 to 40, inclusive, of this act, or any rule or regulation in force pursuant thereto, other than section 35 on confidential information, is guilty of a civil offense and shall pay an administrative fine levied by the board of not more than $10,000. Each

March 2, 1971

The Honorable John Homer
Chairman, Committee on Environment and Public Resources
Nevada State Assembly

RE: Assembly Bill #392

STATEMENT

My name is Thorne J. Butler, residing at 301 Parkway E., Las Vegas, Nevada, 89106. Currently I am a member of the Nevada State Board of Health and the Clark County Air Pollution Hearing Board.

The State Board of Health has taken several forward positions in coming to grips with environmental problems and in particular in air pollution by adopting a strict set of state air pollution control regulations in November 1970. The Board believes that Nevada should and must do the job of air pollution control and abatement rather than permit Federal pre-emption. Believing that the prevention and abatement of air pollution involves health, esthetic, and economic values; and knowing the requirements of the Federal 1970 Clean Air Amendments; the State Board of Health strongly endorses the basic statutory provisions of this proposed new air pollution law for Nevada.

I should like to make a few brief comments on the environmental protection agency and whether adequate provisions have been spelled out to assure continuance of established air pollution agencies and regulations currently operating at the State and in Washoe and Clark Counties. Certainly representatives of various agencies will discuss some of apparent duplications and re-wordings that need correction.

With respect to current programs in existance, Section 33 intends to assure continuance of such activities. The languarge is not clear nor definite in this respect. Probably Section 29, paragraph 1 could be eliminated when the language of Section 33 is better clarified.

While I philosophically accept the concept of an environmental protection agency, the creation of a new agency and associated bureacracy does not appear needed at this time. The Division of Health and its Bureau of Environmental Health is being boostered with money and staff to better handle ecological responsibilities.

A new agency will be sluggish in moving forward because of the inherent problems of developing programs, educating its board, finding staff and creating regulations. In order to meet the provisions of the 1970 Clean Air Act, it seems that only an ongoing program could even begin to stay within the required time table for state-wide compliance.

One could criticize the Division of Health for not having moved more rapidly in dealing with environmental pollution problems in the State. I believe, however, that with a very limited staff and inadequate financing an exemplatory job has been done in the Lake Tahoe area and in developing several water pollution standards for the State. The current air pollution regulations were already mentioned. With increases in staff and money, the development of programs in air pollution and solid waste management will begin to show their effect.

I should like to solicit your support in asking for funding in the current budget for a position in the Bureau of Environmental Health for a person to handle full-time the pollution responsibilies of the Division of Health. To properly recruit a technically skilled and administratively experienced person, the position will need approximately $19,000/year. This small addition to the current Health Division Budget, in my opinion, should do much in aiding and advancing an effective program in environmental control.

In summary, I strongly urge the adoption of this new air pollution law. While a few revisions and alterations are needed, the basic structure will give the State the legal base to assure clean air for Nevada.

Thank you for permitting me to speak today.

Yours sincerely,

Thorne J. Butler, M.D.
State Board of Health

STATEMENT OF OTTO RAVENHOLT, M.D.
CHIEF HEALTH OFFICER, CLARK COUNTY HEALTH DISTRICT
before the
COMMITTEE ON ENVIRONMENT AND PUBLIC RESOURCES
on
ASSEMBLY BILL 392
MARCH 3, 1971

I would like to testify to the District Health Department's support in principle of provisions of Assembly Bill 392 which would greatly enhance the enforcement capability of air pollution control agencies at both a state and local level.

We believe Clark County has a vigorous air pollution control program which is attempting to cope with a serious air pollution problem caused by a variety of mobile and stationary sources. Nevertheless, we find ourselves handicapped in attempting to control pollution from automobiles. We lack authority to apply speedy sanctions to offending stationary sources. Preventive action under existing legislation is non-existent.

Equally important, the viability of our federal grant, which supports 50 percent of our program, may well hinge on the question of whether the Legislature follows the mandates of the 1970 amendments to the Federal Clean Air Act by granting state and local agencies the powers needed to develop approvable implementation plans.

Revenue sources notwithstanding, as chief health officer of the Clark County District Health Department, I must first look to the question of the impact of present and anticipated degradation of our airshed upon public health.

The data available on this question is disturbing. You have been given three charts which describe the degree of air pollution in Clark County. Figure One shows the level of particulate matter, commonly thought of as dust, found in the air over three cities in Clark County, Boulder City, Las Vegas and North Las Vegas.

Also shown on Figure One is a line denoting the proposed National Air Quality Standard. This is the level considered safe by scientific authorities in this field from a health standpoint.

You might note that the level of this contaminant in Las Vegas and North Las Vegas exceeds the proposed standard substantially. Under federal legislation, each state must develop an acceptable plan for achieving and maintaining National Air Quality Standards.

Figure Two illustrates the degree of photochemical smog, commonly known as Los Angeles type smog, found in the Las Vegas Valley. You may observe that the proposed National Air quality standard is frequently exceeded.

Any oxidant level above the proposed standard is associated with eye irritation. As the oxidant levels exceed the proposed standard by increasing degrees, effects on the human respiratory system become more apparent.

Figure Three shows the number of hours that oxidant levels exceeded the proposed standard during 1969 and 1970. Clearly, the incidence of excess of photochemical smog in the Las Vegas Valley increased significantly from 1969 to 1970.

This analysis of air pollution levels in Clark County should rightfully cause serious concern, both because of its ramifications in relation to public health and because we have a mandate to enhance the air resources of Clark County.

We will continue to exhaust the limited powers granted to us by existing statutes but can look only to the legislature to provide adequate support for our efforts to resolve the increasing air pollution problems of Clark County.

We believe we need additional enabling authority which provisions of Assembly Bill 392 could provide. However. its value to us in our local air pollution control program depends upon it being modified to clearly provide for the District Board of Health to continue as local air pollution control authority with power to adopt and enforce local standards and regulations and to appoint local Hearing Board as now provided for by statute.

Our air pollution control director, Mr. Terry Stumph, will speak to specific provisions of this measure and some refinements which we feel to be essential in defining the role of local agencies within the state air pollution control program.

STATEMENT OF TERRY L. STUMPH
before the
COMMITTEE ON ENVIRONMENT AND PUBLIC RESOURCES
on
ASSEMBLY BILL 392

MARCH 3, 1971

MR. CHAIRMAN: THIS BILL CONTAINS MEASURES WHICH SHOULD ENABLE AIR POLLUTION CONTROL PROGRAMS IN NEVADA TO OPERATE AT GREATLY INCREASED EFFECTIVENESS. PRESENT ENFORCEMENT EFFORTS ARE CUMBERSOME BECAUSE OF THE MECHANISM PRESCRIBED BY EXISTING LEGISLATION. CURRENT PENALTIES ARE NOT SUFFICIENT TO DISCOURAGE VIOLATIONS AND ARE DIFFICULT TO ASSESS. THE PRESENT STATUTE ON AIR POLLUTION IS VAGUE IN MANY KEY AREAS. A LEGAL CHALLENGE OF EXISTING CONTROL REGULATIONS IS PRESENTLY BEING MADE BY THE KENNECOTT CORPORATION ON THE BASIS OF INADEQUACIES IN THE ENABLING STATUTES.

ASSEMBLY BILL 392 REMOVES MOST OF THESE DEFICIENCIES AND PROVIDES THE BASIC STRUCTURE FOR THE CONDUCT OF TRULY EFFECTIVE AIR POLLUTION CONTROL PROGRAMS.

IN CLARK COUNTY, FOR INSTANCE, THERE ARE NUMEROUS SOURCES OF AIR POLLUTION WHICH ARE BEYOND THE REACH OF ENFORCEMENT EFFORTS BECAUSE THE HEALTH DEPARTMENT MUST WAIT TEN DAYS AFTER ISSUING A NOTICE OF VIOLATION BEFORE TAKING FURTHER ACTION. FOR INTERMITTENT OPERATIONS SUCH AS GRADING AND CLEARING OF LAND, WHICH CAN PRODUCE HUGE QUANTITIES OF DUST, A TEN-DAY WAITING PERIOD NULLIFIES THE EFFECTIVENESS OF ANY CONTROL EFFORT. THE PROPOSED LEGISLATION, IN CONTRAST, ALLOWS THE CONTROL OFFICER TO ORDER IMMEDIATE CORRECTIVE ACTION OF SUCH DAY-TO-DAY ACTIVITIES, AND HIS ORDER, ONCE MADE, CAN ONLY BE

OVERTURNED UPON SUCCESSFUL APPEAL TO THE HEARING BOARD.

ANOTHER FEATURE OF THE BILL DESERVING COMMENT IS THAT PROVISION ALLOWING THE AGENCY TO REVIEW PLANS AND SPECIFICATIONS OF NEW SOURCE CONSTRUCTION. A SOURCE OF AIR POLLUTION ONCE BUILT IS EXTREMELY DIFFICULT TO CORRECT, AND THE DELAYING TACTICS AVAILABLE TO AN OFFENDER ARE NUMEROUS. PREVENTIVE ACTION IS THE MOST EFFECTIVE WAY TO ENSURE COMPLIANCE WITH AIR POLLUTION CONTROL REGULATIONS. THIS BILL ALLOWS THE AGENCY TO PREVENT NEW SOURCES FROM BEING CONSTRUCTED UNLESS APPROPRIATE CONTROL MEASURES ARE INCLUDED IN THE PLANT DESIGN.

SECTION 28 OF THE BILL PROVIDES FOR CONTROL, TO THE EXTENT THAT FEDERAL LAW WILL ALLOW, OF EMISSIONS FROM INTERNAL COMBUSTION ENGINES, PRINCIPALLY THE AUTOMOBILE. AS POLLUTION CONTROL DEVICES ARE MADE AVAILABLE IN THE NEXT FEW YEARS, THIS STATE MAY WANT TO REQUIRE INSTALLATION OF SUCH DEVICES ON EXISTING MOTOR VEHICLES. THIS BILL ALLOWS FOR SUCH A REQUIREMENT. EQUALLY IMPORTANT AS INSTALLING CONTROL DEVICES IS THEIR ADEQUATE MAINTENANCE. STATE OR LOCAL AGENCIES MAY WANT TO ESTABLISH AN INSPECTION SYSTEM WHEREBY EACH MOTOR VEHICLE IS PERIODICALLY INSPECTED FOR EMISSION CONTROL. THIS BILL ALLOWS FOR CREATION OF SUCH AN INSPECTION SYSTEM SHOULD IT BE DEEMED FEASIBLE AND DESIRABLE.

DESPITE ITS MERITS, THE LANGUAGE OF THE BILL LEAVES SOME QUESTIONS THAT SHOULD BE RESOLVED. THE DISTRICT HEALTH DEPARTMENT IN CLARK COUNTY HAS ENJOYED SOME SUCCESS IN OBTAINING COMPLIANCE SCHEDULES FROM ITS MAJOR INDUSTRIAL SOURCES. IT IS MY UNDERSTANDING THAT

THE SPONSORS OF THIS BILL HAD NOT INTENDED TO INHIBIT THE EFFORTS BEING MADE IN CLARK COUNTY BUT ONLY TO ENHANCE THEM. THE LANGUAGE OF THE BILL, HOWEVER, DOES NOT APPEAR TO GIVE THE DISTRICT HEALTH DEPARTMENT NOR ANY LOCAL PROGRAM NECESSARY AUTHORITY TO RETAIN THEIR PRESENT STATUS. SECTION 41 OF THE BILL REPEALS THE CURRENT STATUTES THAT ENABLE LOCAL PROGRAMS TO FUNCTION, AND I AM NOT SURE THAT OTHER SECTIONS OF THE BILL FULLY RESTORE THOSE POWERS. SECTIONS 29 AND 33 IMPLY THAT STRONG LOCAL PROGRAMS ARE NOT ONLY ALLOWED BUT ENCOURAGED. ASSUMING THIS IS CORRECT, CERTAIN AMENDMENTS ARE NEEDED TO ENABLE LOCAL PROGRAMS TO BENEFIT FROM THE EXPANDED POWERS GRANTED TO THE STATE AGENCY.

1. THE DEFINITION OF "BOARD" SHOULD BE BROADENED TO INCLUDE THE GOVERNING BODY OF ANY COUNTY, CITY, OR HEALTH DISTRICT. ANOTHER APPROACH IS TO SPELL OUT THE POWERS GRANTED TO LOCAL AGENCIES BY ADDING A NEW SECTION.
2. A SEPARATE PROVISION IS NEEDED TO PROVIDE FOR LOCAL HEARING BOARDS IN A MANNER DONE BY EXISTING STATUTE.
3. PROVISION SHOULD BE MADE TO VALIDATE CONTROL REGULATIONS AND ABATEMENT ACTIONS PURSUANT TO EXISTING STATUTE. THIS WILL PREVENT THE STATE AND LOCAL AGENCIES FROM HAVING TO IMMEDIATELY RE-ADOPT EXISTING REGULATIONS AND REAFFIRM HARD-WON COMPLIANCE SCHEDULES.

IF THESE MODIFICATIONS ARE ACCEPTED, THE DISTRICT HEALTH DEPARTMENT OF CLARK COUNTY CAN BE ASSURED OF CONTINUED AND ENHANCED OPERATION OF ITS AIR POLLUTION CONTROL PROGRAM. IN THIS ENDEAVOR, WE SUPPORT THE CHANGES BEING PROPOSED IN THIS BILL.

SUGGESTED MODIFICATIONS TO ASSEMBLY BILL 392

Section 17.

1. The State Board of Environmental Protection shall serve also as the hearing board whenever an administrative hearing is required under Section 2 to 40, inclusive, of this act. The governing Body of any County, City or Health District authorized to operate an air pollution control program under this Act may appoint an air pollution control hearing board. Hearing Board proceedings are governed by the Nevada Administrative Procedure Act (chapter 233B of NRS) as it relates to contested cases, except as otherwise provided in this section, and may be reviewed as provided in chapter 233B of NRS.

2. (Same)

3. (Same)

4. Five members of the State Board of Environmental Protection must be present to hold a hearing, and four must concur in any affirmative administrative or hearing decision.

5. The air pollution control hearing board appointed by a County, City or Health District shall consist of five members who are not employees of the State or any political subdivision of the State. One member of the hearing board shall be an attorney admitted to practice law in Nevada and one member shall be a professional engineer registered in Nevada. Two shall be appointed for a term of one year, two shall be appointed for a term of two years and one shall be appointed for a term of three years. Each succeeding term shall be for a period of three years.

Section 29.

1. The District Board of Health, County Board of Health or Board of County Commissioners in each county of this State which has a population of 100,000 or more, as determined by the last preceding national census of the Bureau of the Census of the United States Department of Commerce, shall establish an air pollution control program within two years after the effective date of this act, and administer such program within its jurisdiction unless superseded.

2. (2a and 2b of Sec. 29) existing version.

3. Such board shall be designated as the air pollution control agency of the county for purposes of this act

4. and the Federal Act insofar as it pertains to local programs and is authorized to take all action necessary or appropriate to secure for itself the benefits of the Federal Act.

Section 29.(Continued)

5. Powers and responsibilities enumerated in Sections 13, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 34, 35, 36, and 40 shall be binding on and inure to the benefit of local air pollution control authorities within their jurisdiction.

6. The local air pollution control board shall carry out all provisions of Section 14 of this act with the exception that notices of public hearings shall be given in newspapers throughout its jurisdiction, once a week for three weeks, which notice shall among other items specify with particularity the reasons for the proposed rules or regulations and provide other informative details. Such rules or regulations may be more restrictive than those adopted by the State Board of Environmental Protection.

7. A county whose population is less than 100,000 or any city located within any county may meet the requirements of this section for administration and enforcement through cooperative or interlocal agreement with one or more other counties, or through agreement with the state.

Section 33.

1. (Same)

2. A county (or) city or Health District which has an air pollution control program in operation on the effective date of this act may continue its program if within 1 year after the effective date of this act the program is approved as adequate by the board. Such approval shall be deemed granted unless the board specifically disapproves the program after a public hearing. Nothing in this Act is to be construed as invalidating any rule, regulation, enforcement action, variance, permit, cease and desist order, compliance schedule, or any other legal action taken by any existing air pollution control authority on or before the effective date of this act unless it is specifically repealed, superseded or disapproved, adopted or conducted pursuant to existing NRS 445,400 through NRS 445.595, inclusive, unless a such change be made pursuant to Section 14 of this act.

Written testimony

March 3, 1971

Assembly hearing A.B. 392

I am a concerned ditizen of Nevada - Reno. I feel we must begin the great task of controlling our air pollution-- NOW.

This bill A.B. 392, I believe, is a good beginning to meet this responsibility.

I believe in states rights and the responsibility of the state to govern itself. This bill provides Nevada with the right and responsibility to:

1. Establish air quality standards (pg. 4 31)
2. Provide public hearings prior to adoption of plans (pg.4 31)
3. Set standards to protect health and to protect public welfare. (pg. 3 41)
4. Set up a state board of environmental protection with fair representation. (pg. 2 38)
5. It gives those who violate any pollution regulations a time table to get there "house" inorder. (Variances are available) (pg. 7 29)

It is a fact that car exhaust is our main polluter in Nevada and this bill specifies the board the right to:

1. Provide installation of exhaust control devices on motor vehicles (pg 4 19)
2. Establish visibility standards for the control of the emissions of air contaminants from Motor Vehicles. (pg. 9)

This specifically gives the county and local government the right to control this most important problem of air pollution -- the automoblile.

I feel the most important industry in Nevada is at stake-- Tourism. If we can start now by taking strong actions toward protecting our environment then we have a chance to prosper with tourism. But if we don't protect ourselves and let a few ruin our environment then we won't have a chance to intice vistors to our scenic views, blue skies, or clear waters of Nevada.

Please give the state of Nevada a strong-well organized board that will fairly represent all sides to make this a great place to live and visit.

Thank you,

Sincerely,

Mrs. David Bianchi

Mrs. David Bianchi
13293 Mt. Hood
Reno, Nv. 972-8588

FIGURE 3

NUMBER OF HOURS THAT TOTAL OXIDANT LEVELS IN CLARK COUNTY EXCEEDED THE PROPOSED NATIONAL AIR QUALITY STANDARD

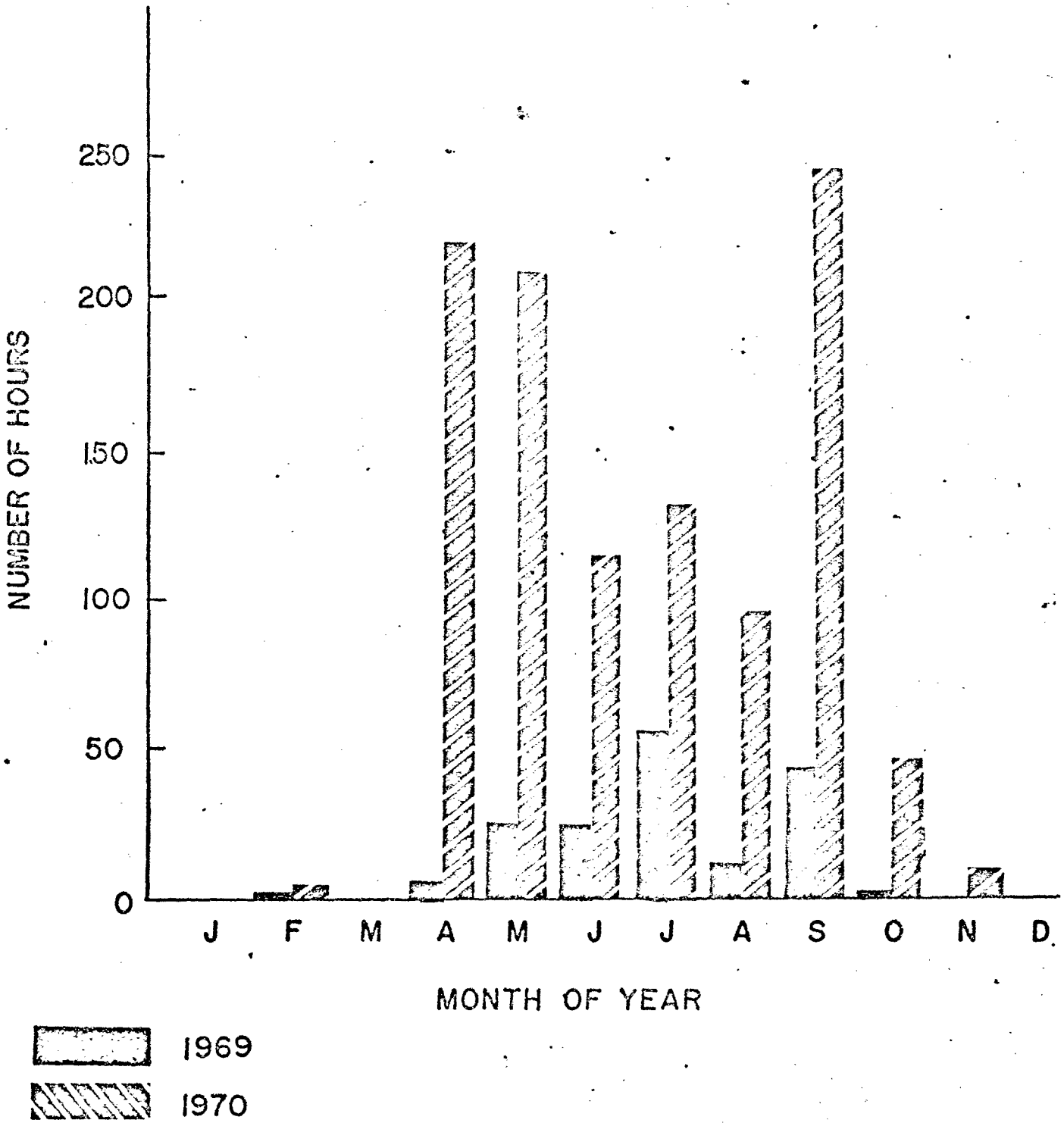


FIGURE I

ANNUAL AVERAGE LEVELS OF SUSPENDED PARTICULATE MATTER IN CLARK COUNTY

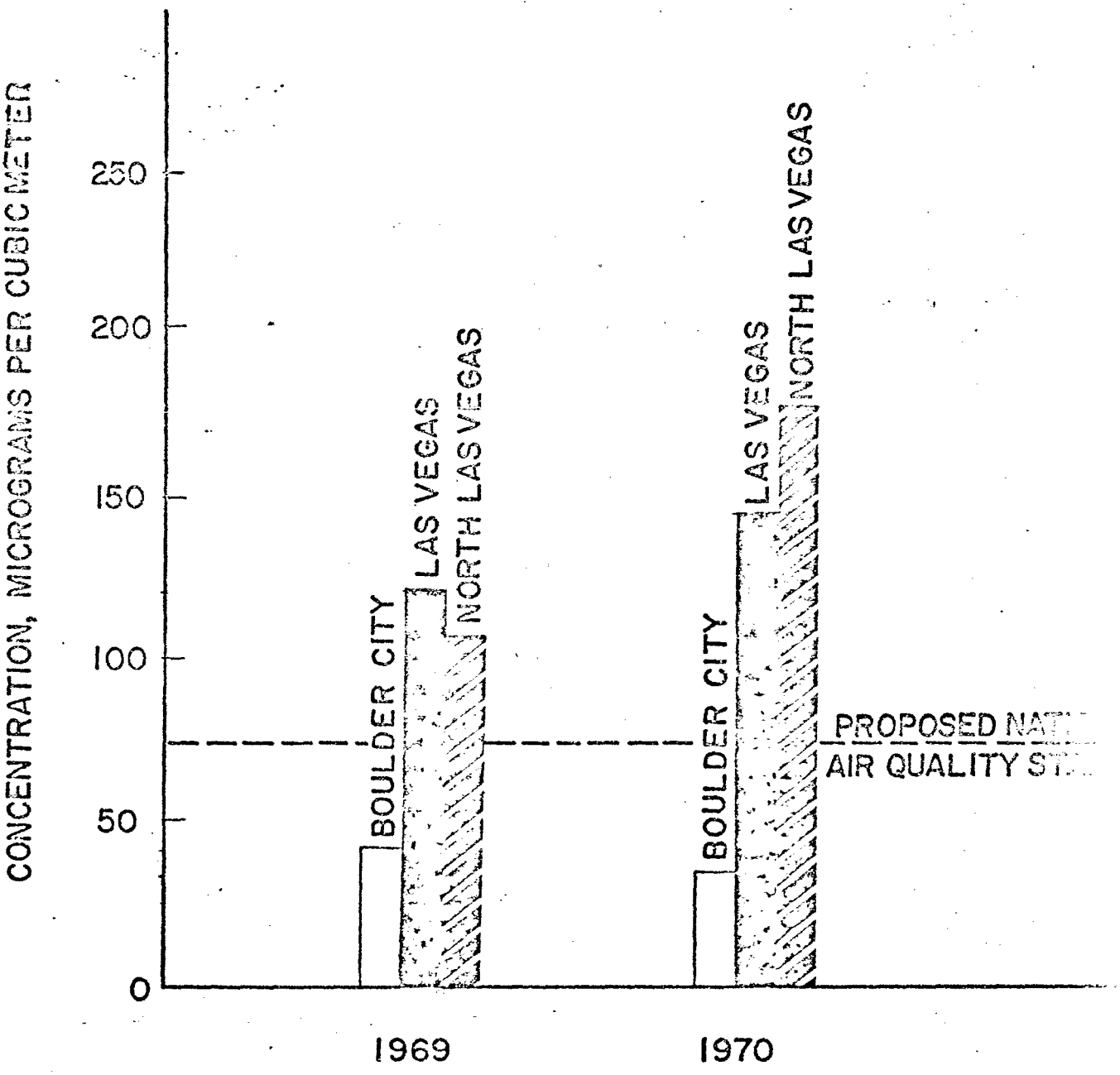
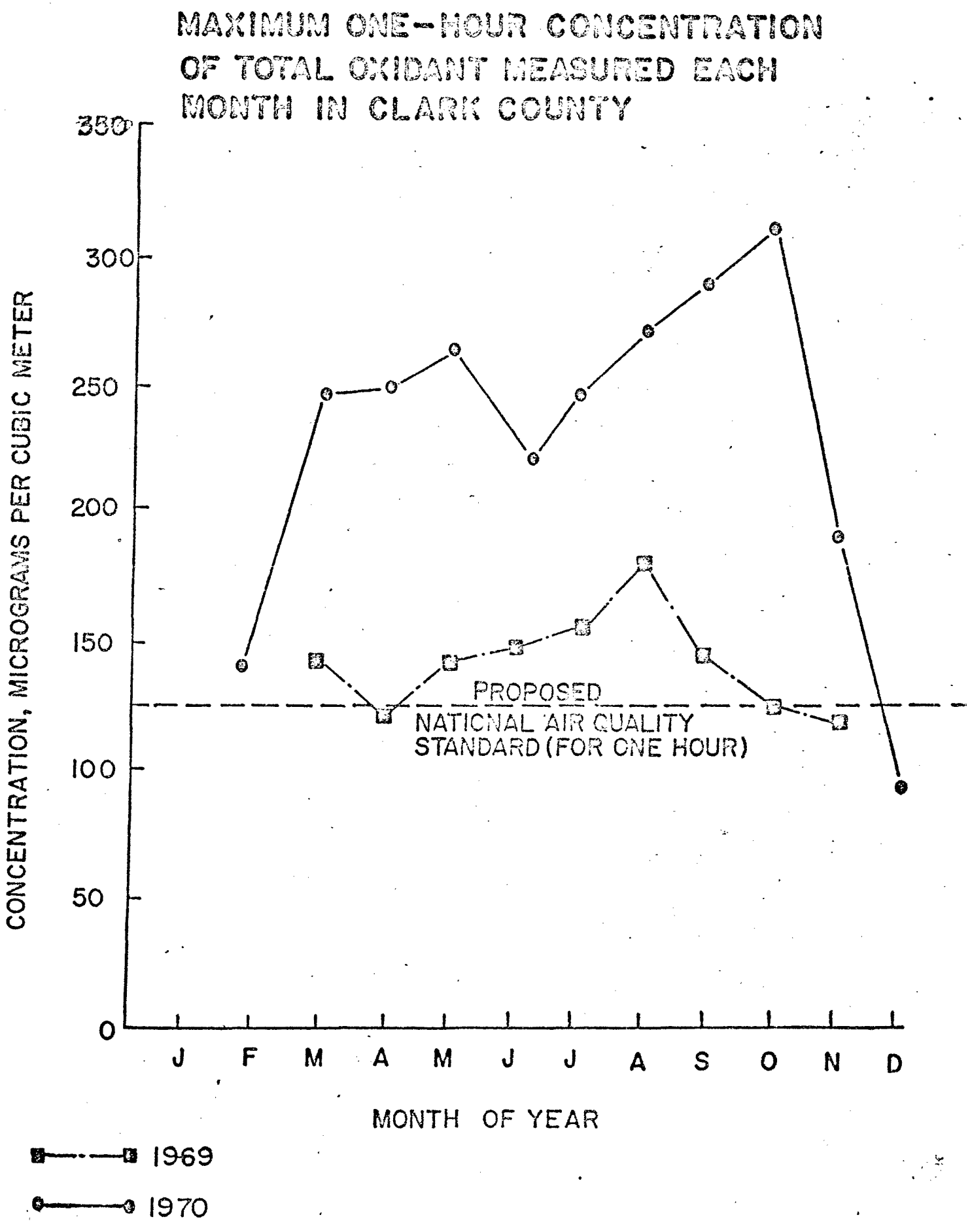


FIGURE 2


MAXIMUM ONE-HOUR CONCENTRATION OF TOTAL OXIDANT MEASURED EACH MONTH IN CLARK COUNTY
CONCENTRATION, MICROGRAMS PER CUBIC METER
350
300
250
200
150
100
50
0
PROPOSED
NATICNAL AIR QUALITY
STANDARD (FOR ONE HOUR)
J F M A M J J A S O N D
MONTH OF YEAR
1969
1970