

CLARK COUNTY AIR QUALITY FORUM

MINUTES

March 11, 2008
10:30 – 12:00 a.m.

RTC, Room 296
600 S. Grand Central Parkway
Las Vegas, NV

1. Welcome and Introductions – Sig Jaunarajs, NDEP

Mr. Jaunarajs informed the Air Quality Forum that Mr. Elges was unable to make the meeting.

The meeting was attended by:

Adele Malone, NDEP
Al Leskys, DAQEM
Chris Murphy, Nellis AFB
Shimi Mathew, Nellis AFB
Vic Dugan, Exxon Mobil
Shannon Rudolph, NDoA
Dylan Shaver, Nevada Petroleum Marketers Assn.
Rodney Langston, DAQEM
Karina O'Connor, USEPA
Brenda Pohlmann, City of Henderson
Jan Schweetzel, City of North Las Vegas
Cleveland Dudley, NDOT
Russell Merle, DAQEM
Deborah Hart, DAQEM
Dawn Leaper, DAQEM
Dennis Ransel, DAQEM
Robert Tekniepe, DAQEM
Tina Gingras, DAQEM
David Booher, RTC
Jerry Duke, RTC
Vickie Gatrell, NDEP
Siq Jaunarajs, NDEP

2. Clark County Ozone Programs Update – John Koswan, DAQEM

Mr. Koswan informed the Forum that Clark County had meet with EPA Region 9 in February. They discussed with Region 9 the Wildfire demonstration package and the draft zone early progress plan. Mr. Koswan did state that the reason they submitted

the draft ozone early progress plan was because they were trying to establish a transportation conformity budget and define the vehicle for doing that.

Mr. Koswan did state that Clark County was in compliance for the ozone standard in 2004, 2005 and 2006 data. They requested a clean data finding from EPA, thinking they could submit a maintenance plan and obtain the 2004, 2005 and 2006 levels. In 2007 they went back out of attainment for ozone and were unable to submit the maintenance plan. In working with Region 9 they came up with the early progress plan.

Clark County submitted the wildfire exemption package under the new exceptional events rule, which is less than a year old. Clark County is the first to submit a demonstration packages for wildfire exemption package for ozone. Headquarters didn't provide the Regions with any guidelines on how to review the demonstration packages or what the contents should be. Regions have formed a work group to take a look how the packages we be handled and provide consistency.

Mr. Koswan did state they talked about classification with Region 9 and that EPA is looking at coming out with a replacement rule. Region 9 thinks that Clark County would be classified as marginal based on having clean data for 2004, 2005 and 2006. The requirements for a marginal classification would be about the same as for the attainment SIP for that classification. Clark County has been working with sub part 1 attainment SIP and maintenance plan.

Mr. Koswan did state the Clark County is on schedule for the ozone NAAQS.

3. Green House Gas/Climate Change – Sig Jaunarajs, NDEP

Mr. Jaunarajs submitted a power point presentation on Recent Developments in Greenhouse Gas Regulation and Climate Change in Nevada (*see attachment*).

Questions asked by the attendees:

1. Will Nevada be using a separate registry? Mr. Jaunarajs answered no will be using the climate registry.
2. Will the Emissions Inventory you're developing be used only for power generation? Mr. Jaunarajs answered no it will be for all sectors of the economy.
3. How are you going about doing your inventory report? Are you contracting it? Mr. Jaunarajs answered no, it is being done in house.
4. Are you still going to have a total by the state? Mr. Jaunarajs answered yes it will be done by state not county.

4. Clean Air Mercury Rule (CAMR) – Adele Malone, NDEP

Ms. Malone gave a brief history on the Clean Air Mercury Rule (CAMR) on how the rule was established. It established a cap on emissions from Electric Generating

Units (EGU's) for each state and a national cap. There was a cap for the years 2010-2018 and a reduction from 2018 onward.

Each state was required to submit a plan on how they were going to meet their mercury budget. Nevada developed a plan that was based on the national cap and trade program. States were allowed a certain flexibility in how they would allocate the mercury allowances they were given. We submitted our plan in November 2006, it was submitted on time. After the plan was submitted there were extensive discussions with EPA. EPA found problems with our state plan. The State tried to resolve the problems with EPA and was unable to. The State felt very strongly that it had a good allocation methodology that reduced emissions more than what the EPA cap and trade program would.

In December of 2007, EPA acted on the submittal and proposed to disapprove Nevada's CAMR State Plan. The disapproval was based on two major issues. The States method for dealing out mercury allowances didn't comply with the timing requirement of federal law and created restrictions with the federal cap and trade program. Those restrictions interfered with the viability of the cap and trade program. There was a 60 day comment period which got extended. NDEP was in the process of drafting a response to EPA's proposed disapproval of the State's plan.

When the CAMR rule was promulgated in 2005, it was challenged and being heard in D.C. Circuit Court. The decision on the challenge to the federal CAMR came out on February 8th of this year. The court decision vacated the federal CAMR plan, but offered a period for anyone to appeal their decision. This threw EPA's proposed action to disapprove Nevada's plan into limbo. Nevada sent a letter to EPA asking for an open ended comment period on their proposed disapproval of our State plan. EPA didn't want to do that so they sent a letter back stating that if the court decision to vacate the federal CAMR plan became final, then EPA couldn't finalize their proposed action on the State's plan. If the decision was reversed, they would reopen the comment period on the Nevada State Plan.

National Association for Clean Air Agencies held a conference call with the states. Each state was asked what are you going to do now that there is no federal rule? Most of the states said they intended to go forward with their own state program to limit the mercury emissions. That is most likely what Nevada will do.

Questions asked by the attendees:

1. Do you have any monitoring rules in place? Ms Malone answered I'm not positive but I would say no.
5. Recent Proposed SIP Changes Pursuant to Section 110(k)(6) – Adele Malone, NDEP

Ms. Malone explained the breakdown of Section 110(k)(6). Section 110 deals with State Implementation Plans (SIP) for the attainment of the National Ambient Air Quality Standards. Subsection (k) of 110 deals with how EPA acts on SIP provisions, (6) deal's with EPA authority to correct actions that they took on SIP's.

Section 110(k)(6) of the Clean Air Act allows EPA to declare that they made a mistake when they acted on a SIP and they can correct that mistake, and the states don't have to take any actions.

There have been two recent instances where EPA has used this authority in Nevada; one was in December of 2006. They proposed to remove an excess emissions provision from Nevada's SIP. When they proposed to do that it became a unilateral EPA action, although it is subject to public comment and EPA has to respond the public comments. Nevada took exception to their use of this way of removing the excess emissions provision. NDEP didn't feel that the provision had been approved in error. It went through an extensive public participation and comment period, and NDEP felt that EPA had made an aware and conscious decision to approve the provision. The excess emissions provision was approved back in 1972 and resubmitted and approved again in 1978.

That proposed rule still hasn't gone final. The issue is now a national issue regarding EPA's position on excess emissions. The FR notice proposing to remove Nevada's provisions is on hold until the national discussion picks up again.

In January of this year, EPA proposed to make use of the 110(k)(6) provision again. EPA didn't discuss this with NDEP or Clark County, whom it would affect. What that FR proposed was to approve the redesignation from nonattainment to attainment for CO for Truckee Meadows in Washoe County. Part of the redesignation required the Truckee Meadows inspection and maintenance (I/M) SIP for motor vehicles to be updated. NDEP updated the Nevada Administrative Code (NAC) and Nevada Revised Statutes (NRS), the regulations and law that comprise the inspection and maintenance program. EPA was proposed to remove a certain regulation from Clark County I/M SIP using the 110(k)(6) provision. After discussion between EPA and NDEP, EPA agreed to redesignate Truckee Meadows as attainment and deal separately with Clark County's I/M SIP.

What EPA proposed to remove from the Clark County I/M SIP was the section that deals with motor vehicles on federal facilities. EPA said it violated sovereign immunity for federal facilities. EPA felt that it had been an error to approve this particular NAC into the Clark County I/M SIP. NDEP asked EPA for the letter from the Department of Justice that said there was a problem with EPA's federal facility rules. What the issue actually was is that states couldn't be stricter with federal facilities that they are with nongovernmental entities. EPA's lawyers went through Nevada's I/M provisions and determined that there were not problems with the NAC they were going to remove from Clark County's SIP. However, there was one section in the I/M program regulations that were slightly stricter on federal facilities than on nongovernmental entities. That was on the waiver provisions that allows for an owner to have a waiver if they have spent a certain amount of money in trying to fix their vehicle and it still doesn't pass the smog check. This wasn't allowed for federal facilities. EPA stated that if this provision was fixed that they would approve the program and not use the error authority and not take it out of the Clark County SIP. NDEP has agreed to revise the NACs.

NDEP feels that EPA has used the 110(k)(6) authority inappropriately recently and cautioned people to be aware of EPA's use of this authority in the future.

6. Public Input/Discussion

There was no public input.

Items of Interest for Future Meetings

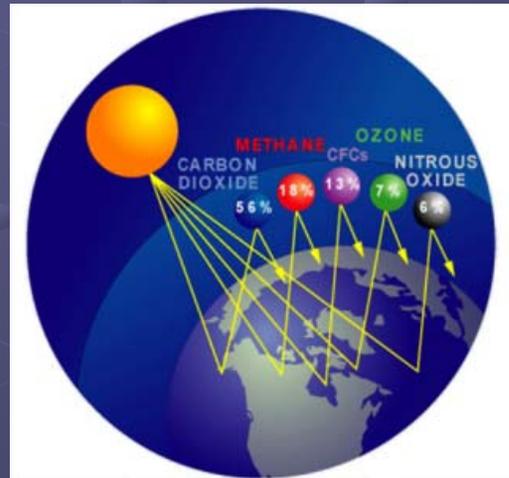
Greenhouse Gas Regulation;
Regional haze SIP;
Diesel retrofit (national/state programs);
Ozone plan update; and
Grant for the school buses.

7. Wrap Up/Questions

Next Meeting – Tuesday, July 8, 2008

Attachment 1

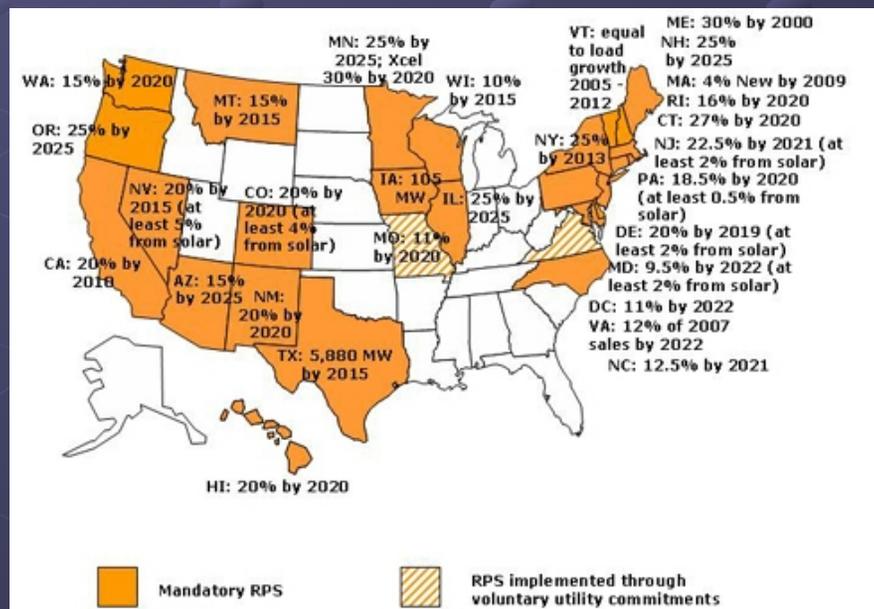
Recent Developments in Greenhouse Gas Regulation and Climate Change in Nevada



Clark County Air Quality Forum
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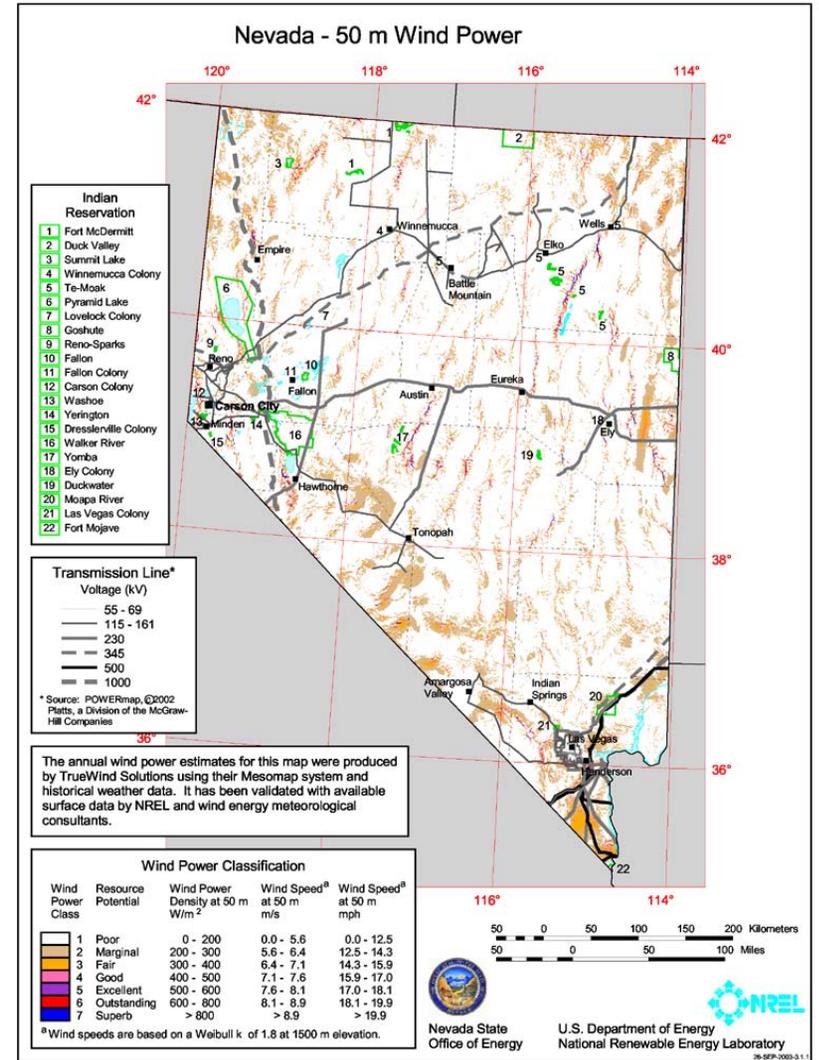
Nevada's Renewable Portfolio Standard

- Initiated during 1997 Legislative Session
- Updates in subsequent years now require 20% of NV's electricity come from renewable sources by 2015
- NV recognized as a leader in the area of renewable power





Nevada Solar One, Clark County, NV



Ormat Geothermal Plant, Churchill County, NV

Nevada Wind Power Potential

Governor's Climate Change Advisory Committee



- 12 appointed members representing government and industry
- Tasked with proposing ways to reduce GHGs and use renewable energy
- Final report and recommendations due to Governor by May 31, 2008
- <http://gov.state.nv.us/climate/>

Committee members visit
Nevada Solar One in Boulder City



Nevada's Involvement in Regional GHG Efforts

Western Climate Initiative



- The WCI was launched by the Governors of AZ, CA, NM, OR, & WA as a regional effort to reduce GHGs
- Adopted a goal of an aggregate reduction of 15% below 2005 GHG levels by 2020
- Will announce plans (August 2008) for a market-based program (Cap and Trade Program) to achieve goals
- Nevada has Observer Member status in WCI along with several other western states



SB 422 – Nevada’s GHG Reporting Requirement for Power Plants

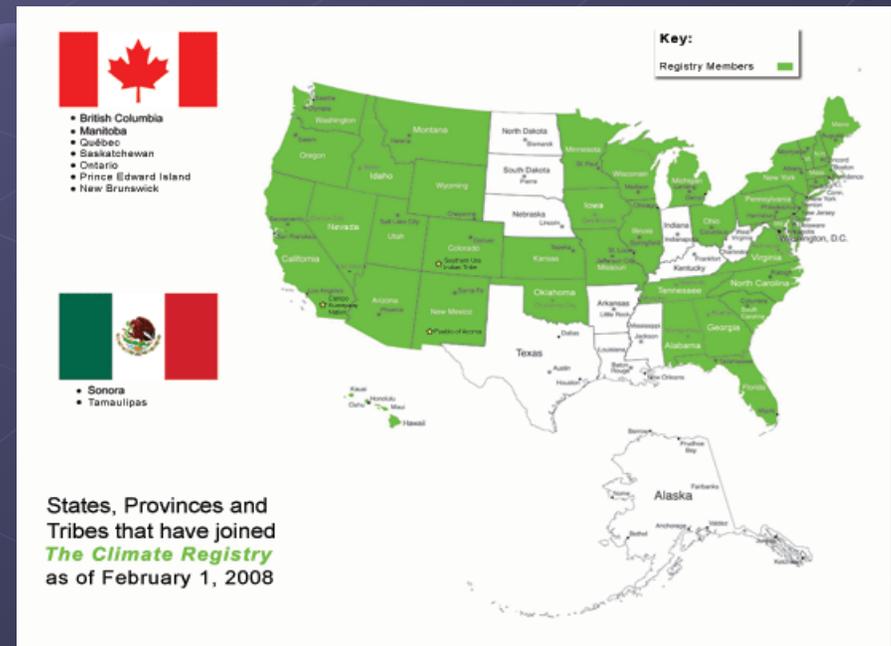
- Requires GHGs from “affected units” to be reported annually to a GHG registry
- Affected units are those units that produce > 5 MW electricity for sale and emit GHGs (renewable fuel units excluded)
- Also requires NDEP to issue a statewide GHG emissions inventory (first report by Dec 31, 2008 and at least every 4 years thereafter)
- Regulations for these requirements being drafted



Nevada's Participation in The Climate Registry (TCR)



- TCR is a collaboration among states to develop a common GHG reporting system
- Aims to provide accurate, complete, consistent, transparent and verified GHG emissions data from reporters
- TCR is positioned to support state, regional and national GHG reduction programs



Local Climate Change Initiatives

- Clark County **Eco-County Initiative**
- Mayors of Reno, Sparks, Las Vegas, and Henderson, have signed on to a U.S. Conference of Mayor's Climate Protection Agreement



- Las Vegas and other cities are joining ICLEI (International Council for Local Environmental Initiatives)



Future Direction on Climate Change and GHG Regulation

● At the State level

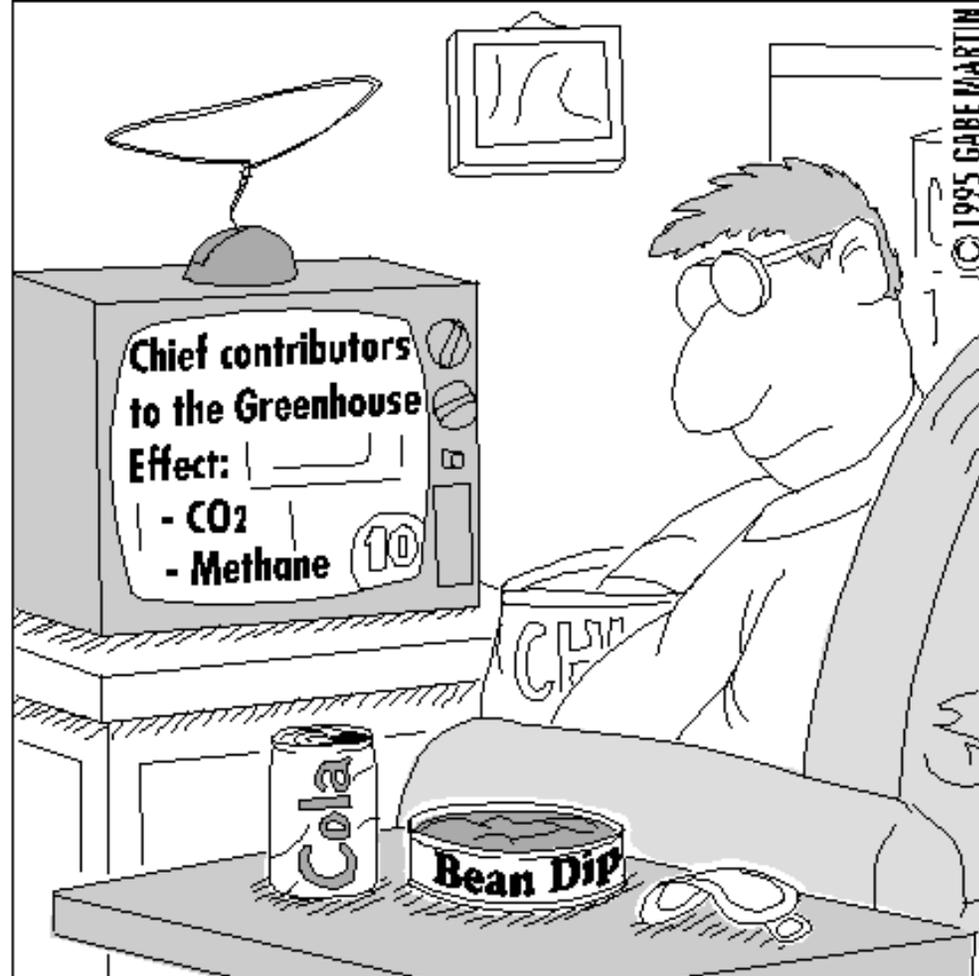
- ✓ Report from Governor's Climate Change Advisory Committee in May
- ✓ 2009 Legislative Session

● At the Federal level

- ✓ New EPA rules for GHG emissions inventory
- ✓ Don't expect Congress to act on GHG legislation until new administration takes office
- ✓ Do expect new President to set the tone for future GHG initiatives

The
BORDERLINE

By Gabe Martin



<http://www.cts.com/~borderln/>

Suddenly, Bob realizes that he's "part of the problem".