UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

December 3, 2003

OFFICE OF THE REGIONAL ADMINISTRATOR

Honorable Dr. Clinton M. Pattea, President
Fort McDowell Yavapai Nation Council
P.O. Box 17779
Fountain Hills, Arizona 85269

Dear President Pattea:

Thank you for your July 14, 2003, letter submitting the Fort McDowell Yavapai Nation's recommendation on the air quality designation for the 8-hour national health-based standard for ground-level ozone, a major constituent of smog.

As background, the U.S. Environmental Protection Agency (EPA) is obligated by the Clean Air Act (CAA) to designate air quality for all areas of the United States, including Indian country. It is EPA's responsibility under Section 107 (d)(1) of the CAA to determine if the population within a given jurisdiction is exposed to unhealthy levels of specific air pollutants, in this case ground-level ozone. We implement this responsibility by identifying the areas that experience the unhealthy air and any nearby area that is contributing to the air quality problem.

The CAA defines a nonattainment area as any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant. EPA guidance indicates that the larger of the Consolidated Metropolitan Statistical Area (CMSA), Metropolitan Statistical Area (MSA), or the 1-hour ozone nonattainment area should be used as the presumptive boundary for 8-hour ozone nonattainment areas.

For the Fort McDowell Reservation, we have reviewed your recommendation regarding the 8-hour ozone designation, and this letter is to inform you that, at this point in time, EPA does not intend to implement your recommendation, and will, instead, include the geographic area covered by your recommendation as part of the surrounding nonattainment area not meeting the 8-hour ozone health standard. This determination regarding attainment status will not be made final until at least 120 days from today, as is required by Section 107(d)(1) of the CAA.

In making this determination regarding air quality in your area, we reviewed a number of factors, including ambient air monitoring data, modeled air pollution levels, patterns of pollution transport, and meteorology. Because ozone is a regional pollutant, high levels of ozone can be widespread, and will often affect areas far from urban centers and pollution sources. For the Fort McDowell Reservation, representative monitoring data from several stations in the area indicate that ozone concentrations at the Reservation likely exceed the 8-hour standard.

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EPA has been tracking more recent 2003 ozone monitoring data, and is continuing to review information regarding ozone concentrations in and near your area. If further review of the data supports a change to EPA's preliminary designation conveyed to you today, EPA will coordinate closely with you to determine the appropriate course of action. If you wish to provide additional information about the area in question, please provide this information by February 6, 2004, so that we can continue to work with you as we move forward to make final designations by April 15, 2004.

EPA is committed to giving tribal leaders the opportunity for consultation. Consistent with Executive Orders and EPA policy, we want to make tribes aware of EPA actions, even if they have not participated in the designations process. Accordingly, we sent a letter on October 29, 2003, to update you about the designations process and to invite consultation with you.

We are encouraged to see tribal participation in the national designations process for the 8-hour ozone standard, and we look forward to a continued dialogue as we finalize the designations. We will review any future supporting information you wish to submit on these recommendations, keeping in mind that EPA will promulgate designations by April 15, 2004. If you have any questions, please do not hesitate to contact me, or contact Steven Barhite, Chief of the Air Planning Office, at 415-972-3980.

Sincerely,

Wayne Nastri
Regional Administrator

cc: Harrilene Yazzie, Environmental Program