MORONGO
BAND OF
MISSION
INDIANS

A SOVEREIGN NATION

August 14, 2003

Wayne Nastri, Regional Administrator
U.S. Environmental Protection Agency (EPA), Region IX
75 Hawthorne Street (ORA-1)
San Francisco, California 94105-3901

Re: 8-Hour Ozone Designation under the National Ambient Air Quality Standards (NAAQS) for the Morongo Band of Mission Indians

Dear Mr. Nastri:

I am writing to you on behalf of the Morongo Band of Mission Indians (hereinafter "Morongo Band" or "Tribe"), a federally-recognized Indian Tribe whose reservation is located in Riverside County, California. Please consider this letter as the Tribe's comments on the 8-hour Ozone Designation for the Morongo Band of Mission Indians. Specifically this letter is in response to the August 2, 2000 letter from Amy K. Zimpfer, Acting Director, Air Division, U.S. EPA, Region IX, addressed to "Tribal Leader" (hereinafter "Zimpfer letter") which invited participation from tribes in the process of designating areas as non-attainment under the new 8-hour ozone National Ambient Air Quality Standards (NAAQS). Because of a change in staffing and a delay in filling a position vacancy within the Morongo Band, that letter was not responded to promptly. Although we understand that the comment period closed on July 31, 2003, the Morongo Band would appreciate your accepting these comments at this time.

The Zimpfer letter informed the Morongo Band that it appeared from a preliminary review of air monitoring data that the Morongo Band is located within a Metropolitan Statistical Area (MSA) where a violation of the 8-hour ozone NAAQS has been measured. The letter went on to say that, as a consequence, the Morongo Indian Reservation and the surrounding area may be designated non-attainment.

The Morongo Band does not agree with the designations for the 8-hour ozone NAAQS for the Morongo Reservation. Although Morongo has an Air Quality Monitoring Plan, an Air Pollutant Emissions Inventory, and a General Assistance Program (GAP) grant, the Morongo Band does not have the requisite three (3) years of air quality monitoring data to warrant any designation other than attainment/unclassifiable. For these reasons, the Morongo Band requests that the EPA to designate the Morongo Band as attainment/unclassifiable.

Before going on, we are compelled to comment that a designation according to MSAs is an inappropriate principle to apply to the Morongo Band. First and foremost, the Morongo Band understands from page four (4) of the "Guidance for Indian Tribes" that the "Boundary Guidance" encourages states and tribes to base attainment and non-attainment boundaries on

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MSAs or Consolidated MSAs (C/MSAs). It appears then that the EPA itself made its own determination that the Morongo Band would be included in the neighboring and surrounding MSA. We do not agree with this determination.

The Morongo Band understands from the "Guidance for Indian Tribes" that the EPA chose to use the Office of Management and Budget's (OMB) MSAs and C/MSAs, though EPA representatives have suggested that they were directed to use MSAs and C/MSAs, because of the social and economic integration of such areas and to encourage coordinated efforts. Such principles do not readily apply where the Morongo Band is involved because the Morongo Band is neither socially nor economically integrated into the surrounding MSA and because of the historical absence of equity and fairness in the Morongo Band's dealings with the state and local governments. Thus, the exterior jurisdictional boundaries of the Morongo Indian Reservation would be the boundaries for the Morongo Band's 8-hour ozone designation.

From discussions and correspondence since the Zimpfer letter, we understand that the EPA is designing a new approach that is more respectful of tribal sovereignty and the government-to-government relationship between the sovereign Morongo Band and the government of the United States of America, and is demonstrative of the trust relationship and obligations that the United States government strives to honor with integrity. We look forward to such consultation and to welcoming you to the Morongo Indian Reservation so that you can see and appreciate the conditions and absence of major emissions sources on the Morongo Indian Reservation and the presence of emissions sources and the encroachment of surrounding local governments and developments within their jurisdictions contributing to the issues that have created a growing concern among members of the Morongo Band and residents, visitors and patrons of the Morongo Band.

The Morongo Band requests that the EPA, in its final designation for the Morongo Reservation, recognize that the limited options for designation fail to appropriately distinguish areas adversely impacted by unhealthful emissions sources in surrounding areas from those areas located within the exterior boundaries of the Reservation. While the Morongo Band certainly shares the federal government's concern for health and well-being of people within the Morongo Reservation, a non-attainment designation does not effectively convey information about the conditions occurring within the Reservation but instead appears to lay the responsibility for such conditions with the Tribe. Nonetheless, the Morongo Band will continue to exercise its sovereignty and demand that the U.S. government take steps consistent with its trust responsibility and its commitment to government-to-government relations through consultation.

The quality of the air that our members, our children and our grandchildren breathe is critical to the Morongo Band. The Band has been accustomed to very clean and high quality air. We understand now, however, that the activities of surrounding local governments and enterprises within their jurisdictions, combined with the characteristics of our air shed, have caused unhealthful air conditions in violation of the 8-hour ozone National Ambient Air Quality Standards that occurs within the neighboring/surrounding Metropolitan (CMSA or MSA and may also have significant unhealthful effects upon the members of the Morongo Band.

We are hopeful that we can engage in detailed discussions regarding the short and long-term planning necessary for our own environmental programs and responses to federal environmental programs. We anticipate that the EPA has numerous other regulatory decisions and programs to implement. Thus, we will make ourselves available for consultations with the EPA in order to prioritize our environmental programs and put together short and long-term development plans for our environmental department.

We see the need for consultation regarding technical assistance and planning and administrative assistance. As is often the case in Indian Country, and especially for Tribes in California, federal funding of programs is inadequate. Thus, we would like the EPA to share its knowledge and experience regarding what it foresees as the Morongo Band's needs for future resources, whether it be in the form of equipment, personnel, training, professional services, etc.

We look forward to working with you to protect the quality of air on the Morongo Indian Reservation and to protect the health and well-being of members of the Morongo Band and residents, visitors, patrons, and neighbors of the Morongo Indian Reservation.

Sincerely yours,

Claudia Steiding

Claudia Steiding
Morongo Band of Mission Indians
Environmental Programs Manager

cc: Allen Parker, Morongo Band of Mission Indians CAO
Jack Broadbent, Air Division Director R9
Clancy Tenley, Manager, Indian Programs Office
Gary Lance, Project Officer – California