Air Division 2

August 19, 2003

Daniel J. Tucker
Chairman

Joseph Sandoval
Vice Chairman

Sharon Beasley
Secretary

Glenn Quiroga
Treasurer

Hank Murphy
Council Member

Pilar T.A. Pettiford
Council Member

Nubia Ruiz
Council Member

Wayne Nastri, Regional Administrator
U.S. Environmental Protection Agency, 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 Sycuan Band of the Kumeyaay Nation

Dear Mr. Nastri:

The Sycuan Band of the Kumeyaay Nation is a federally recognized Native American tribe. Since 1876, the Sycuan Indians, a Band of the Kumeyaay Nation, has survived on a diminutive one square mile reservation, most of which is a steep, uninhabitable mountainside (designated as rural lands).

The Tribe's recent success in economic and social development has permitted the tribe to create jobs and improve the standard of living for its tribal members as well as other Californians.

This letter is a formal response to the August 2, 2000 letter from Ms. Amy K. Zimpfer, Acting Director, Air Division, The United States Environmental Protection Agency (USEPA), and Region IX, addressed to "Tribal Leader." Designating areas as non-attainment under the new 8-hour ozone National Ambient Air Quality Standards (NAAQS) in Indian Country.

After reviewing several notations from USEPA regarding the above via internet research. Sycuan has concluded, the USEPA has predetermined that Sycuan Band would be included in the neighboring "Metropolitan Statistical Areas" (MSAs) or Consolidated MSAs (CMSAs) profile, i.e. having an urban designation.

Additionally, after reviewing the agency's internet posted GIS map regarding compliance with PM_{10}, $PM_{2.5}$ and ozone. The agency apparently has consolidated Indian Country under an umbrella (throughout the United States) with their associated neighboring states and/or county governments; it appears these governmental authorities have some statistical data on "their respective areas".

However, they lack specifics about Indian tribal lands. To the best of Sycuan's knowledge San Diego County has not taken any nearby ambient readings which relate to the boarding properties lines of Sycuan Band's reservation, nor was it advised of such actions if this was in fact conducted.

Thus, this leads into questionable good faith practices in government to government relations where environmental justice is a concern.

As the Sycuan 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

5459 Sycuan Road • El Cajon, California 92019 • 619.445.2613 • Fax 619.445.1927 • www.sycuan.com

government-to-government relations through practical and responsible consultation.

In the absence of consultation, planning, and prioritizing of air quality monitoring by the USEPA with the Sycuan Band, is requested, since we do not have a formal air program at this time, either through the USEPA or any other organization. However, Sycuan does have a General Assistance Program (GAP) grant, which is used for capacity building. Thus, Sycuan does not have the requisite three (3) years of air quality monitoring data to warrant any designation other than attainment/unclassifiable.

As with any governmental agency preparing to develop a comprehensive program, it requires adequate time and the necessary funding. As Sycuan is currently under its first year under a GAP program, it has not had the opportunity to receive a waiver for the agencies review process per 40 CFR 31.36 et. seq., so that the agency can provided additional funding outside of capacity building i.e. air quality control. Sycuan looks forward to such a consideration.

The Sycuan Band acknowledges 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 Southern California, federal funding of programs is inadequate.

Thus, we would like the USEPA to share its knowledge and experience regarding what it foresees as Sycuan'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 Sycuan Band's reservation and to protect the health and well-being of our tribal members, visitors, patrons, and neighbors of Sycuan.

Sincerely,

M. Anthony Collins, Ph.D.
Environmental Manager

Roger D. Simpson, P.E.
Director of Community Development

Cc:

Tribal Council
Willie Tucker, Sr.