Campo Band of Mission Indians

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Mr. 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 Campo Indian Reservation.

Dear Mr. Nastri:

As the Chairman of the Campo Band of Mission Indians I am writing in response to the August 2, 2000 letter from Amy K. Zimpfer, Acting Director, Air Division, U.S. E.P.A., Region IX, addressed to "Tribal Leader." In her letter, Ms. Zimpfer 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). Attached to that letter were two (2) documents entitled "Guidance on 8-hour Ozone Designations for Indian Tribes" (referenced herein as "Guidance for Indian Tribes") and "Boundary Guidance on Air Quality Designations for the 8-hour Ozone NAAQS" (referenced herein as "Boundary Guidance").

The August 2, 2000 letter informed the Campo Band that a preliminary review of air monitoring data indicated that the Campo Indian Reservation is located within a Metropolitan Statistical Area (MSA) where a violation of the 8-hour ozone NAAQS has been measured. The letter also stated that, as a consequence, the surrounding area, as well as the Campo Reservation, may be designated non-attainment. The U.S. E.P.A. invited the Campo Band to recommend a designation within a very short timeframe (by September 30, 2000) and expressed the U.S. E.P.A.'s understanding that it needs to consult with tribal governments. According to the letter, that consultation was to take place before and during the subsequent 120-day discussion and comment period required before the U.S. E.P.A. can make final designations.

Before responding to the U.S. E.P.A.'s suggestion that tribes within non-attainment MSAs demonstrate or justify why the specified 11 mitigating factors should result in an attainment/unclassifiable designation. The first of the 11 factors articulates why designation according to MSAs is an inappropriate principle to apply to the Campo Reservation. First and foremost, the Campo 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 Metropolitan Statistical Areas (MSAs) or Consolidated MSAs (C/MSAs). It appears then that the

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U.S. E.P.A. itself made its own determination that Campo Reservation would be included in the neighboring and surrounding MSA.

The Campo Band understands from the "Guidance for Indian Tribes" that the U.S. E.P.A. chose to use the Office of Management and Budget's (OMB) MSAs and C/MSAs, though U.S. E.P.A. representatives have intimated 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 Campo Reservation is involved because the Campo Band is **neither** socially nor economically integrated into the surrounding MSA and because of the historical absence of equity and fairness in the Campo Band's dealings with the state and local governments. Thus, the exterior jurisdictional boundaries of the Campo Reservation shall be the boundaries for the Campo Band's 8-hour ozone designation.

From discussions and correspondence since the August 2, 2000 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 nation of the Campo Band of Mission Indians 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 look forward to welcoming you to the Campo Reservation so that you can see and appreciate the conditions and absence of major emissions sources on the Reservation and the presence of emissions sources and the encroachment of surrounding local governments and developments within their jurisdictions contributing to the transport issues that have created a growing concern among members of the Campo Band and residents, visitors and patrons of the Campo Indian Reservation.

We appreciate the extension of time to recommend a designation for the Campo Reservation. While we understand the urgency of this matter, we trust that you will understand why our recommendation found later in this letter is only a preliminary one.

The Campo Band calls upon the U.S. E.P.A. to recognize and effectively communicate in its final designation for the Campo Reservation that the limited designation options fail to appropriately distinguish areas adversely impacted by unhealthful emissions sources located in surrounding areas from those areas adversely impacted by unhealthful emissions sources located within. While the Campo Band shares the federal government's concern for the health and well-being within the Campo Reservation, a non-attainment designation does not effectively convey information about the conditions occurring within the Campo Reservation without appearing to also lay the responsibility for such conditions with the governmental entity with jurisdiction over that area, namely the County of San Diego.

Alarmed by the short timeframe in which to respond to the August 2, 2000 correspondence, the Campo Band, together with other tribes, organized tribal meetings and requested informational meetings with the U.S. E.P.A. While the presence and participation of representatives of the Air Division of the U.S. E.P.A. in these meetings is greatly appreciated, it deserves repeating that the process was initiated by the affected tribes who once again had to remind the U.S. E.P.A. of its responsibility to actually meet and confer with tribes. We appreciate the candid discussions of the U.S. E.P.A.'s failings in this endeavor and wish to acknowledge that representatives of the U.S. E.P.A. have taken responsibility and extended apologies for the federal government's failure to begin consulting with tribes as early as three (3) years prior to the August 2, 2000 letter when the federal government began its consultation process with the states. The Campo 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.

Most recently, Tribes in attendance at the Regional Tribal Operations Committee meeting on July 30, 2003 hosted by the Yurok Tribe in Klamath, California were informed by U.S. E.P.A. officials that the U.S. E.P.A. would not be fulfilling its obligation to consult with the Campo Band on this issue unless we send a letter stating that the Campo Band does not agree with the designations for the 8-hour ozone NAAQS. In the absence of consultation, planning, and prioritizing of air quality monitoring by the U.S. E.P.A. with the Campo Band—as evidenced by that agency's denial of an air grant proposal to the Tribe for the current fiscal year. Further, the requisite three (3) years of air quality monitoring data have not been collected on the Campo Indian Reservation. Thus there exists no evidence to warrant any designation other than attainment/unclassifiable. Thus, the Campo Band urges the U.S. E.P.A. to designate the Campo Indian Reservation as **attainment/unclassifiable**.

The Campo Band's effort in the past to conduct an air monitoring program is evidence that the quality of the air within the exterior boundaries of the Campo Indian Reservation is of utmost importance to the Tribe. The Campo Band plans to re-apply for air program funding and hopes to learn more about the technical, financial and organizational requirements for re-establishing an air program, especially an air quality monitoring program, through the future consultation process with the U.S. E.P.A.

In the event that the U.S. E.P.A. decides not to modify its approach to tribal 8-hour ozone designations and impose a non-attainment designation based upon the surrounding C/MSA, the Campo Band provides the U.S. E.P.A. with the following discussion of the 11 mitigating factors for the U.S. E.P.A.'s serious and thoughtful consideration regarding why the Campo Indian Reservation should be designated attainment/unclassifiable.

1) Emissions and air quality in adjacent areas (including adjacent C/MSAs);

2) Population density and degree of urbanization including commercial development in Indian Country (e.g., shows a significant difference from surrounding areas);

3) Monitoring data representing ozone concentrations in local areas and larger areas (i.e., urban or regional scale);

4) Location of emission sources (emission sources and nearby receptors should generally be included in the same non-attainment area);

5) Traffic and commuting patterns;

6) Expected growth (including extent, pattern and rate of growth);

7) Meteorology (weather/transport patterns);

8) Geography/topography (e.g., mountain ranges or other air basin boundaries);

9) Jurisdictional boundaries (e.g., counties, air districts, existing 1-hour non-attainment areas, reservations, etc.);

10) Level of control of emission sources; and

11) Regional emission reductions impacts (e.g., NOx SIP call or other enforceable regional strategies).

We strongly encourage the U.S. E.P.A. to formulate a central contacts database so that the various programs, divisions, and offices of the U.S. E.P.A. will have correct contact information available at all times. Accordingly, we should develop a system to periodically update that database. We suggest that the database include at least the following information:

Description of Data	Data
Name, address, and phone number of Tribe or Indian Organization	
Name of Reservation	
Name of Tribal Chairperson, Spokesperson, President, etc. or Indian Organization Chairperson	
Name of daily governance body, i.e., Tribal Council, Executive Committee,	

Business Committee, Board, etc	
Schedule of meetings of the above daily governance body	
Name and contact information to request to be added to agenda for meetings of the daily governance body	
Name of governing body for the tribe, i.e., General Council, General Membership, Tribal Council, etc.	
Schedule of meetings of the governing body for the tribe	
Name and contact information to request to be added to agenda for meetings of the governing body for the tribe	
Name of environmental departments, if any	
Names, addresses, phone numbers, titles, and environmental program responsibilities for environmental staff	

We look forward to the U.S. E.P.A.'s consultation with us in the near future on the 8-hour ozone designation. We also look forward to the U.S. E.P.A.'s improved future consultation with regard to other environmental programs and requirements. We hope that the information and suggestions contained in this letter are seriously considered by the U.S. E.P.A. so that the mistakes, oversights, and resulting distrust experienced in this designation process become relegated to history.

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 U.S. E.P.A. has numerous other regulatory decisions and programs to implement. Thus, we will make ourselves available for consultations with the U.S. E.P.A. 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 U.S. E.P.A. to share its knowledge and experience regarding what it foresees as the Campo 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 Campo Indian Reservation as we continue in our efforts to ensure the health and well-being of our Tribal members, residents, visitors, patrons, and neighbors of the Campo Indian Reservation.

Sincerely,
Ralph Goff, Chairman
Campo Band of Mission Indians

cc: Jack Broadbent, Air Division Director R9

Clancy Tenley
Manager, Indian Programs Office

Gary Lance
Project Officer – California