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

OFFICE OF THE
REGIONAL ADMINISTRATOR

July 28, 2004

Howard I. Fox
Earthjustice
1625 Massachusetts Ave., N.W., Suite 702
Washington, D.C. 20036-2212

Jonathan F. Lewis
Clean Air Task Force
18 Tremont Street, Suite 530
Boston, MA 02108

Dear Mr. Fox and Mr. Lewis:

This letter is in response to the July 19, 2004 phone conversation with you and others, held with representatives of the U.S. Environmental Protection Agency's Region 9 office, the Office of Air and Radiation and the Office of General Counsel, and the U.S. Department of Justice. During that call, EPA staff responded to questions from your groups and others regarding EPA's deferral of the effective date for the Las Vegas 8-hour ozone nonattainment area. *See* 69 FR 34076 (June 18, 2004). I understand that one particular concern raised on the call was that the new September 13, 2004 effective date for the Las Vegas 8-hour ozone nonattainment area designation not be deferred further. This letter is to assure you that EPA does not intend to extend the deferral beyond that date.

As you know, if EPA takes no further action, the 8-hour ozone nonattainment designation for the Las Vegas nonattainment area will be effective on September 13, 2004, and will include all of Clark County, Nevada. EPA will not take further action unless we find that the State or Tribes have submitted an analysis demonstrating that an alternate nonattainment boundary is justified. In letters to the State and Tribes dated July 14 and 15, respectively, we asked that boundary recommendations and supporting information be provided to us by July 30, 2004. Region 9 has provided you with electronic copies of these and other letters related to the Las Vegas 8-hour ozone nonattainment area. In addition, EPA is posting these letters on the internet at: http://www.epa.gov/ozonedesignations/ and is placing the letters in the air docket for the ozone designations rule (OAR-2003-0083).

We have confirmed with the State and Clark County that the State will submit a nonattainment area boundary recommendation and supporting information by August 4, 2004. We have already received materials from the one tribe that has expressed an interest in commenting on the boundary of the nonattainment area. This tribe, the Moapa Band of Paiutes, has indicated that they will provide further information by July 30, 2004. We will post any recommendations and supporting information submitted by the State or Tribes on the website identified above.

Given the progress and commitments made by the Tribes and State, we are likewise committed to timely action on these submittals and will take any appropriate action before

September 13, 2004. I have discussed this matter with Jeffrey Holmstead, Assistant Administrator for the Office of Air and Radiation, and he agrees that whether or not we take further action regarding the Las Vegas 8-hour ozone nonattainment area boundary, we do not intend to further defer the nonattainment area's September 13, 2004 effective date.

If you have any questions or concerns on this matter, please do not hesitate to contact me, or have your staff contact Amy Zimpfer (415-947-4146) at our Region 9 Air Division Office.

Sincerely,

Wayne Nastri
Regional Administrator

cc: Philbert Swain, Moapa Band of Paiutes
Calvin Myers, Moapa Band of Paiutes
Alfreda Mitre, Las Vegas Paiutes
Kenny Anderson, Las Vegas Paiutes
Atef Elzeftawy, Las Vegas Paiutes
Nora McDowell, Fort Mojave Tribe
Africa Dorame, Fort Mojave Tribe
Allen Biaggi, NDEP
Christine Robinson, Clark County DAQM