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January 21, 2011

Jared Blumenfeld, Regional Administrator
USEPA Region 9
75 Hawthorne Street
San Francisco, CA 94105-3901

Subject: Promulgation of the New One-hour Nitrogen Dioxide National Ambient Air Quality Standard

Dear Mr. Blumenfeld,

This letter is being submitted on behalf of the Lytton Rancheria of California, a federally-recognized tribe and sovereign government. Thank you for the opportunity to respond to the one-hour nitrogen dioxide (NO₂) National Ambient Air Quality Standard (NAAQS) and associated designation of the attainment status of the air quality of the Tribe's Reservation.

Following the passage of the Rancheria Act (the Act of August 18, 1958, PL. 85-671, 72 Stat. 619), the federal government terminated the Lytton Rancheria and distributed the tribal trust lands, which were located within the Alexander Valley, to individual members of the Lytton Rancheria. The Rancheria Act and distribution plan called for the federal government to provide certain improvements to the properties to make them habitable for the individuals to whom the property was distributed. The federal government failed to meet these obligations, however, and the Lytton Rancheria was restored as a tribe in 1991 through a stipulated judgment which acknowledged that the tribe was never legally terminated. Thereafter, the Lytton Rancheria was again listed in the Federal Register as an Indian entity which is recognized and eligible to receive services from the United States Bureau of Indian Affairs. Since then, the Tribe has obtained trust land in San Pablo, California, and has attempted to secure land to re-establish a unified community in Sonoma County. The Tribe's existing casino (San Pablo Lytton Casino) has provided a consistent revenue stream that has improved the socioeconomic status of both the Tribe and the City of San Pablo, allowing for the development of programs and distributions that have resulted in reduced poverty and unemployment. Despite these gains, the Tribe strives to maintain secure revenue sources to fund the Tribal Government. Management and protection of the land and its natural resources, as well as providing social services to Tribal members, are essential functions of Tribal government.

Jared Blumenfeld

Re: Promulgation of the New One-hour Nitrogen Dioxide NAAQS

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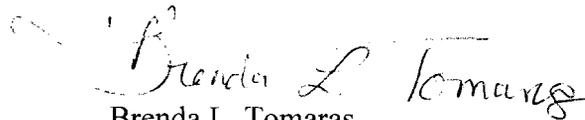
The Tribe believes that the new one-hour NO₂ standard, and an associated non-attainment designation would be an unnecessary regulatory burden that would cause undue hardship on the Tribe. Setting the standard and designating an attainment status, which is tied directly to transportation, could reduce the Tribes ability to diversify by restricting future growth which is tied to the increase in transportation and subsequent NO₂ emissions. These restrictions would be placed on the expansion of Tribal housing, tribal government operations, and commercial operations that fund the other Tribal endeavors due to the associated increase in NO₂ emissions that would be related to expanded operations. These limitations would impact the ability of the Tribe to exercise sovereignty on its Reservation due to the restrictions on transportation emissions that would be in effect outside and surrounding Reservation boundaries. While the Tribe understands that during the near-term, the air basin surrounding the Tribal reservation will be classified as "unclassifiable" in relation to the newly established one-hour NO₂ standard, the Tribe is concerned with the future attainment status of the air basin surrounding Reservation boundaries. Any designation of "non-attainment" of an air basin surrounding the Tribal reservation would severely restrict the Tribe's ability to expand housing and commercial developments to meet future needs of the Tribe.

Regardless of Tribal endeavors, the Tribe also feels designation of "non-attainment" status for air basins anywhere in the State will cause undue hardship to any business attempting to expand and develop job opportunities. Based on the current economic status of the Country, the Federal government should be implementing policies to increase business opportunities and promote job creation. The Tribe feels that for both our endeavors and for those of any business in California and the Country, the growth restrictions that would occur as a result of future designations of non-attainment areas for the one-hour NO₂ standard will prevent improvement of the economic status of Country, which also has a direct correlation to public health.

Thank you for this opportunity and we hope our comments are taken into serious consideration when implementing the requirements of the Clean Air Act and subsequent designation of attainment status of air basins surrounding our Reservation.

Very Truly Yours,

TOMARAS & OGAS, LLP

A handwritten signature in cursive script that reads "Brenda L. Tomaras". The signature is written in black ink and is positioned above the printed name and title.

Brenda L. Tomaras

Attorneys for Lytton Rancheria of California