

**MEMORANDUM**

**DATE:** January 6, 2004

**TO:** Nevada County Board of Supervisors

**FROM:** Gretchen Bennett, Air Pollution Control Officer

**SUBJECT:** Request for Support to Designate Western Nevada County as a Separate Federal Ozone Nonattainment Area

In a December 3, 2003 letter to Governor Schwarzenegger, the U.S. Environmental Protection Agency proposed including the western Nevada County 8-hour ozone federal nonattainment area as part of the Sacramento Regional nonattainment area. EPA made this proposal although the State Air Resources Board recommended that western Nevada County be considered as a separate nonattainment area from its upwind areas of the Sacramento and San Francisco Bay Area. EPA is allowing comments on this proposal until February 6, 2004.

The District is currently working with the California Air Resources Board and the Nevada County Transportation Commission to draft a technical response to EPA, supporting the State's recommendation to keep western Nevada County as a separate nonattainment area. Two key points that will be used in the response are:

- 1) The State Air Resources Board developed its recommendations for nonattainment boundaries based on, and consistent with, criteria promulgated by EPA. One of the key points of the EPA's criteria is that nonattainment areas should be located within current Consolidated Metropolitan Statistical Areas and should be the same as the current federal 1-hour ozone nonattainment area. The State recommendation is consistent with this criteria and their recommendation also recognizes Federal standards and existing Air Basin boundaries, Regional Transportation Planning boundaries, and County boundaries.
- 2) EPA argues that Nevada County should be included with the Sacramento Region because it has "violating monitors", coupled with low population and emissions, as compared with the upwind counties. What EPA fails to recognize is that violations of the 8-hour ozone standard in Nevada County occur much less frequently (only when meteorological conditions provide transport from Sacramento into the foothill region) and the level of the violations are lower than those in the Sacramento Region.

While the exact burdens of nonattainment designation are not completely clear since EPA has not yet issued their guidance on how to implement the federal 8-hour ozone standard, and the Sacramento Region has not yet decided their classification (moderate or serious), we believe that it is important to make the case for separate boundaries to avoid unnecessary regulatory burdens on local businesses and residents.

If western Nevada County is included in the Sacramento Region federal ozone nonattainment area, there will certainly be pressure to develop and implement more stringent regulations to control a myriad of ozone precursor sources. Nevada County's upwind neighbors currently have developed regulations for almost 100 source categories in response to the federal one-hour ozone standard. Some of the many source categories are auto refinishing, graphic arts, bakeries, coffee roasters, boilers, solvent cleaners and degreasers, residential water heaters, wineries, landfill emissions, residential wood combustion, etc. In addition, new sources could be deterred from opening business in Nevada County in order to avoid burdensome controls.

Transportation conformity issues would likely become much more profound if Nevada County is included in the Sacramento Region. All conformity analyses would be required to have approval of the five other counties involved in the nonattainment area and a more exhaustive conformity analyses would be required for every regionally significant transportation project in western Nevada County.

The District respectfully requests that Nevada County support the District in persuading EPA to designate western Nevada County as a separate federal 8-hour ozone nonattainment area so that the District can pursue local controls commensurate with western Nevada County's contribution.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105-3901

December 3, 2003

OFFICE OF THE  
REGIONAL ADMINISTRATOR

Honorable Arnold Schwarzenegger  
Governor of California  
State Capitol Building  
Sacramento, California 95814

Dear Governor Schwarzenegger:

We appreciate California's recommendations on 8-hour ozone air quality designations, made by the State earlier this year. This is an important step in providing citizens of California with information on air pollution levels where they live and work. The purpose of this letter is to inform you that although we agree largely with California's 8-hour ozone boundary recommendations, we currently intend to modify some of the recommendations, in making our final designations in April 2004. We are willing, however, to review any additional information you have that might impact our final decision. We currently disagree with California's recommendation to separate mountain counties (Nevada, Amador, Calaveras, Tuolumne and Mariposa Counties) from the upwind Sacramento and San Joaquin Valley nonattainment areas, the recommendation to split the Western Mojave Desert nonattainment area, and the recommendation to designate as attainment the San Francisco Bay Area and Yuba City areas, considering 2003 air monitoring data we received after California's July, 2003 recommendation (see enclosed). Also, please note that EPA will address designations of Indian country lands through a concurrent process with the Tribes in California.

Levels of ground-level ozone, a major constituent of smog, have improved significantly since the Clean Air Act (CAA) was amended in 1990, at which time 135 areas were designated as not attaining the 1-hour ozone standard. Since that time nearly half those areas (67) have cleaned up their air to meet the 1-hour ozone standard and have been redesignated as attaining that standard. However, many areas have still not met the less stringent 1-hour ozone standard and, in 1997, the United States Environmental Protection Agency (EPA) promulgated a more stringent 8-hour ozone national ambient air quality standard. Thus, much work remains to be done. Under the CAA, EPA is required to promulgate designations for new or revised standards, such as the 8-hour ozone standard. Earlier this year, after several public interest groups filed a lawsuit claiming EPA had not met the statutory deadline for designating areas for the 8-hour ozone standard, we entered into a consent decree that requires us to promulgate designations by April 15, 2004.

We have reviewed the State's letter of July 15, 2003, submitting recommendations on air quality designations for the 8-hour ozone standard, as well as the Air Resources Board's Staff Report ("Recommended Area Designations for the Federal Eight-Hour Ozone Standard") from March 2000. Consistent with section 107(d)(1) of the CAA, this letter is to inform you that,

based upon the information submitted, and in the absence of additional substantiation for the State's recommendations, EPA intends to make modifications to California's recommended designations and boundaries.

The CAA defines a nonattainment area as "any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant." (CAA §107(d)(1)) EPA guidance indicates that California should use the larger of the Consolidated Metropolitan Statistical Area (CMSA), Metropolitan Statistical Area (MSA), or the 1-hour ozone nonattainment area as the presumptive boundary for 8-hour ozone nonattainment areas. The guidance provides 11 factors that California should consider in determining whether to modify the presumptive boundaries. We have reviewed California's information supporting either expanding or contracting the presumptive nonattainment areas. The enclosure to this letter provides a table in which EPA identifies the counties (and any parts thereof) that should be included in each nonattainment area. We also provide a written summary of our reasoning for modifying California's recommendations, explaining why we believe the recommendation is not consistent with the statutory definition of a nonattainment area in light of the 11 factors provided in our guidance.

EPA believes that breathing unhealthy levels of ozone and ozone transport is a serious regional air pollution problem. Except in very limited circumstances, such as unusually large counties, or portions of a county lying in a different airshed due to a geographical feature such as a mountain range, designating a partial county as nonattainment would not reflect the area that is either experiencing a violation of the ambient air quality standard or contributing to a violation of the air quality standard in a nearby area. Therefore, absent a convincing rationale that the excluded portion of the county is neither experiencing a violation nor contributing to a violation in a nearby area, designating the full county as nonattainment is the appropriate designation. California's recommendation and supporting material include a number of partial counties as nonattainment. We believe that your submittal generally presents a convincing case that the excluded portions of counties are not experiencing violations of the air quality standard, are not contributing to violations of the air quality standard in nearby areas, and/or are separated by a geographical feature.

EPA has been tracking 2003 ozone monitoring data and its impact on areas' preliminary 2001-2003 design values. Where preliminary 2001-2003 ozone monitoring data indicates that an area's attainment status will differ from California's recommendation based on 2000-2002 monitoring data, the enclosure indicates where EPA intends to modify the State's designation recommendation. EPA will continue to closely review monitoring data for additional differences that may occur throughout the remainder of the 2003 ozone season or as a result of data handling procedures to determine if it might affect the State's recommended designations. It is critical for California to expedite submittal of 2003 monitoring data to EPA so that air quality designations and classifications for the 8-hour ozone standard will accurately reflect the State's air quality.

If you would like to provide additional information about the areas in question, please

provide this information by February 6, 2004. Also, please submit your final 2003 8-hour ozone monitoring data into the Air Quality System as quickly as possible, if it has not already been done. In addition, please submit the 8-hour and 1-hour design values and the average expected 1-hour exceedance rate to John Kennedy, Technical Support Office Chief (415-947-4129), by official letter by December 17, 2003 to advance the designations and classifications process.

We look forward to a continued dialog with California as we work to finalize the designations for the 8-hour ozone standard. We appreciate your efforts and will review any future supporting information California wishes to submit on these recommendations. If you have any questions, please do not hesitate to contact Steven Barhite, Air Planning Office Chief, at (415) 972-3980.

Sincerely,



Wayne Nasti  
Regional Administrator

Enclosure

cc: Alan Lloyd, ARB  
Catherine Witherspoon, ARB  
Stew Wilson, CAPCOA

## Enclosure

The following table identifies the individual areas and counties comprising those areas within California that EPA intends to designate as nonattainment. Following the table is a description of those areas where EPA intends to modify the California recommendation as well as the basis for the modification. EPA intends to designate as attainment/unclassifiable all California counties (or parts thereof) not identified in the table below.

Area	California Recommended Nonattainment Counties	EPA Intended Nonattainment Counties (modifications in bold)
South Coast Air Basin (Los Angeles)	Los Angeles (South Coast Air Basin portion which includes Santa Catalina and San Clemente Islands), Orange, San Bernardino (South Coast Air Basin portion), Riverside (South Coast Air Basin portion)	Los Angeles (South Coast Air Basin portion which includes Santa Catalina and San Clemente Islands), Orange, San Bernardino (South Coast Air Basin portion), Riverside (South Coast Air Basin portion)
San Joaquin Valley	San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare, Kern (San Joaquin Air Basin portion)	San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare, Kern (San Joaquin Air Basin portion), <b>Amador, Calaveras, Tuolumne, Mariposa</b>
Sacramento Region	Sacramento, Yolo, Solano (Sacramento Valley Air Basin portion), El Dorado (Sacramento Valley Air Basin portion), Placer (Sacramento Valley Air Basin portion)	Sacramento, Yolo, Solano (Sacramento Valley Air Basin portion), El Dorado (Sacramento Valley Air Basin portion), Placer (Sacramento Valley Air Basin portion), <b>Nevada (Sacramento Valley Air Basin portion)</b>
Western Mojave Desert (San Bernardino part county and Los Angeles part county)	San Bernardino (Mojave Desert Air Basin portion)	San Bernardino (Mojave Desert Air Basin portion), <b>Los Angeles (Antelope Valley portion aka Mojave Desert Air Basin portion)</b>
Coachella Valley (Riverside part county)	Riverside (Salton Sea Air Basin portion)	Riverside (Salton Sea Air Basin portion)
Ventura County	Ventura	Ventura

Eastern Kern County	Kern (Eastern Kern aka Mojave Desert Air Basin portion)	Kern (Eastern Kern aka Mojave Desert Air Basin portion)
San Diego County	San Diego	San Diego
Antelope Valley	Los Angeles (Antelope Valley portion aka Mojave Desert Air Basin portion)	(Included in Western Mojave Desert)
Imperial County	Imperial	Imperial
Western Nevada County	Nevada (Sacramento Valley Air Basin portion)	(Included in Sacramento Region)
Central Mountain Counties	Amador, Calaveras	(Included in San Joaquin Valley)
Southern Mountain Counties	Tuolumne, Mariposa	(Included in San Joaquin Valley)
Chico (Butte County)	Butte	Chico (Butte County)
San Francisco Bay Area	(Not recommended: clean 2000-2002 violating 2001-2003)	<b>San Francisco, Marin, southern Sonoma (San Francisco Bay Air Basin portion), Napa, western Solano (San Francisco Bay Air Basin portion), Contra Costa, Alameda, Santa Clara, San Mateo</b>
Yuba City	(Not recommended: clean 2000-2002 violating 2001-2003)	<b>Sutter, Yuba</b>

### Mountain Counties

The State recommended a separate nonattainment areas for Nevada County. We intend to add Nevada County to the Sacramento Region nonattainment area. The State recommended separate nonattainment areas for Amador and Calaveras Counties (Central Mountain Counties), and Tuolumne and Mariposa Counties (Southern Mountain Counties). We intend to add Amador, Calaveras, Tuolumne, and Mariposa Counties to the San Joaquin Valley nonattainment area. While these counties are outside of the presumptive boundary, the counties have violating monitors. The mountain counties have low population and emissions compared to the upwind nonattainment areas, and appear to be part of the Sacramento and San Joaquin Valley airsheds. A regional approach therefore appears to be best suited to addressing the air quality of both the upwind San Joaquin Valley and Sacramento Region nonattainment areas, and the downwind

mountain counties. We welcome any information that will support the State's recommendation. As stated elsewhere, this information needs to address the 11 factors in our guidance.

### **Western Mojave Desert**

The State recommended splitting northeastern Los Angeles (Antelope Valley) and western San Bernardino Counties into separate nonattainment areas. We intend to modify the State's recommendation because we believe this region should continue to be treated as one nonattainment area. The State provided no justification for this split. The areas clearly constitute a single airshed and the designation should reflect this.

### **San Francisco Bay Area**

The State recommended attainment for the San Francisco Bay Area based on air quality data from 2000-2002. Our evaluation shows that, when considering 2001-2003 monitoring data, this area now contains a violating monitor. Therefore, we intend to modify the State's recommendation, as shown in the table above.

The presumptive nonattainment area is the entire CMSA. Given the topographic characteristics along the coast, we believe that north Sonoma County and Santa Cruz County are not part of the San Francisco Bay Area airshed. We therefore do not intend to designate as nonattainment the north Sonoma portion of Sonoma County and Santa Cruz County. We exclude eastern Solano County from the San Francisco Bay Area nonattainment area, because we agree with California's recommendation that eastern Solano County is part of the Sacramento Region airshed. We will therefore designate eastern Solano County nonattainment along with the Sacramento Region nonattainment area. It is important for California to expedite submittal of 2003 monitoring data in order to accurately reflect the air quality in this area because it is critical to the designation and classification process.

### **Yuba City**

The State recommended that this area be attainment. Considering 2001-2003 monitoring data, this area now contains a violating monitor. We intend to designate the entire MSA nonattainment. It is important for California to expedite submittal of 2003 monitoring data in order to accurately reflect the air quality in this area because it is critical to the designation and classification process.

# COUNTY OF NEVADA

STATE OF CALIFORNIA

950 Maidu Avenue • Nevada City • California 95959-8617

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January 6, 2004

US EPA, Region IX  
Attn: Wayne Nastri, Regional Administrator  
75 Hawthorne Street  
San Francisco, California 94105-3901

**DRAFT**

Dear Mr. Nastri:

At our regular meeting today, the Nevada County Board of Supervisors voted --- to request the Environmental Protection Agency designate western Nevada County as a separate nonattainment area for the federal 8-hour ozone air standards.

In your December 3, 2003 letter to Governor Schwarzenegger, you indicated that EPA was proposing to include western Nevada County as part of the Sacramento Region 8-hour ozone nonattainment area, despite the State's recommendation that western Nevada County be a separate nonattainment area for the federal 8-hour ozone air standards.

At this time, Nevada County is transmitting the following preliminary information to support the State's recommendation. Our local air district, Northern Sierra Air Quality Management District will submit a formal request by the February 6, 2003 comment period discussed in EPA's letter.

EPA maintains that the State's recommendation to designate western Nevada County as a separate nonattainment area was inconsistent with EPA's Boundary Guidance. Nevada County and NSAQMD believe that not only was the State consistent with the guidance, but EPA's proposal is **inconsistent** with their own guidance.

From a technical standpoint, western Nevada County is clearly distinct from the Sacramento Regional area. The data make a compelling case:

- Western Nevada County is in a separate air basin from the Sacramento Region.
- The State recognizes that western Nevada County is overwhelmingly impacted by transport of ozone and ozone precursors from the Sacramento Region and the San Francisco Bay Area.
- Applying 'upwind' and likely more restrictive regulations on 'downwind' Nevada County will not assist in Nevada County reaching attainment.
- Local emissions in western Nevada County are not sufficient to cause violations of the federal standard.
- Nevada County has an existing framework (Mountain Counties Air Basin and Northern Sierra Air Quality Management District) for development and implementation of local control measures.
- Nevada County, in cooperation with their local air district, plans to develop and implement appropriate control strategies to reduce emissions commensurate with their contribution.

- Nevada County's local air district has and will continue to provide a public outreach program to the residents of Nevada County informing them of poor air quality episodes and how to reduce emissions locally.
- Ozone levels are markedly different in Nevada County than levels in the Sacramento Region, and western Nevada County is NOT in violation of the federal one hour ozone standard as is the Sacramento Region.
- Western Nevada County is not included in the Sacramento Region's current federal one-hour ozone nonattainment area.
- Western Nevada County is not included in any portion of the Sacramento Valley Air Basin - as was stated in EPA's letter.
- Western Nevada County is not included in any portion of the Sacramento Region's Metropolitan Statistical Area.
- There are no major population centers in western Nevada County; the only two towns have a combined population of 13,923, the entire western county has a population of less than 80,000. The Sacramento Region has almost 2 million.
- Nevada County has a separate transportation commission with an existing transportation demand model and other technical tools specific to Nevada County.
- Growth projections in Nevada County are not similar to the Sacramento Regional area.
- The meteorology and topography between the two areas is vastly different.
- Traffic volume between Western Nevada County and the Sacramento Regional area is minimal and is less than the traffic volume shared within the county.

EPA's proposed one-size-fits-all approach will result in an excessive administrative burden on Nevada County's local government, while reducing its decision-making authority. EPA's proposed approach may actually hinder Nevada County's progress in developing and administering local, appropriate and effective controls.

Nevada County currently has a local air district and local transportation commission that are working to develop and implement appropriate control measures to reduce local emissions, without creating any unnecessary burdens on residents or local business. Nevada County does not want to see unnecessary "upwind" solutions applied to "downwind" areas.

The Board of Supervisors respectfully requests that the Environmental Protection Agency carefully reconsider its proposal to include western Nevada County in the Sacramento Region non-attainment area, and designate western Nevada County as a separate non-attainment area. We believe this is the most effective way to reduce ozone emissions in our region.

Sincerely,

XXXXXX, Chair  
Nevada County Board of Supervisors

cc: California Air Resources Board  
Governor Arnold Schwarzenegger  
Northern Sierra Air Quality Management District  
U.S. Senator Barbara Boxer  
U.S. Senator Dianne Feinstein  
U.S. Congressman John Doolittle  
State Senator Sam Anestad  
State Assemblyman Rick Keene

# COUNTY OF NEVADA

STATE OF CALIFORNIA

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January 6, 2004

<Name>  
<Title>  
<Address >  
<City, State, Zip>

**DRAFT**

Dear <Name>:

**Re: Proposal to include Nevada County as part of the Sacramento Region 8 ozone non-attainment area.**

At its regular meeting today, the Board of Supervisors voted ---- to request your assistance in persuading the U.S. Environmental Protection Agency (EPA) to designate western Nevada County as a separate 8-hour ozone nonattainment area.

In a December 3, 2003 letter to Governor Schwarzenegger (attached), the EPA proposed including western Nevada County as part of the Sacramento Region 8-hour ozone nonattainment area in a regional, one-size-fits-all approach. This proposal by EPA is in opposition to the State Air Resources Board's recommendation that western Nevada County be a separate nonattainment area due to (among other plentiful reasons) it being in a separate air basin and previous designation for the Sacramento Region as a one hour ozone nonattainment area. The U.S. EPA has requested that any comments concerning their proposal be submitted to their office **no later than February 6, 2003.**

Nevada County regularly exceeds the federal 8-hour ozone health based air quality standards due to overwhelming transport of ozone and its precursors from the Sacramento Region and San Francisco Bay Area. Regardless of the transport issue, Nevada County intends to develop and implement locally adopted and appropriate control measures to fulfill federal requirements and protect the local residents' health. However, if western Nevada County is included with the Sacramento Region as a nonattainment area, Nevada County will be required to implement "upwind" and unnecessary solutions in a "downwind" area.

Letter to: Representatives - Draft  
Re: Ozone Non-attainment  
Date: January 6, 2004  
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Attached is Nevada County's preliminary response to EPA requesting that western Nevada County be designated as a separate nonattainment area. In order to avoid unnecessary regulatory burdens being placed upon the residents and business community of western Nevada County, the Board of Supervisors respectfully requests your support in Nevada County's endeavor. We would appreciate working with you and your staff to finalize comments to EPA and persuade them to adopt a more reasonable and appropriate response.

Sincerely,

XXXX, Chair  
Nevada County Board of Supervisors

Letters to:

The Hon. Senator Dianne Feinstein  
One Post Street Suite 2450  
San Francisco

The Hon. Senator Barbara Boxer  
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San Francisco, CA 94111

The Hon. Congressman John Doolittle  
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