APPENDIX P

Documentation on Comments Received on the March 2001 Draft PM_{10} State Implementation Plan and the Responses to the Comments

Appendix P: Documentation on Comments Received on the March 2001 Draft PM_{10} State Implementation Plan and the Responses to the Comments

Introduction

The Draft PM_{10} State Implementation Plan for Clark County, dated March 2001, was submitted to the Clark County Board of County Commissioners at their regularly scheduled meeting on March 6, 2001. On that date the Board received the document for consideration, opened a 42 day public comment period, and set a public hearing for April 17, 2001 in conjunction with the regularly scheduled Board of County Commissioners meeting. This Appendix provides documentation of the comments received during the public comment period and at the public hearing that was held in the Clark County Commission Chambers on April 17, 2001.

The list below identifies the comments received and the sequence in which they are presented in this appendix. For each set of comments the comment items are numbered in the left-hand column. The responses to these comments immediately follow, and are numbered in the same sequence as the comments.

Sequence of Comments Received and the Responses

Testimony at Public Hearing on April 17, 2001:

Barbara Roth, Sierra Club – Written comments provided

Robert Hall, NEC – Written comments provided

Mike Neuhauser, Concerned Citizen

Don Dayton, OHV

Written Comments Received by U.S. Mail, Email, or Hand Delivered:

Sierra Club Letter, National, April 17

Sierra Club Letter, So. Nv. Group, April 17

Robert Hall Letter, April 16

BLM Letter, April 16

Sequence of Comments Received and the Responses (continued)

Written Comments Received by U.S. Mail, Email, or Hand Delivered:

Bruce Waggoner Letter, April 13

Jeff van Ee Letter, April 16

Paul Fransioli Letter, April 15

David Buesch e-mail, April 17

Al Perino fax, March 29

Diane Fennell e-mail, March 29

Off Highway Vehicle (OHV) Group, 6 letters/e-mails:

Blake Monk Letter, April 16
Jim Mansfield e-mail, March 28
Rodney Howe e-mail, March 28
Karl Rosell e-mail, March 28
Cody Freeman e-mail, April 16
Greg Boyer e-mail, April 2

Letters from the Cities of Henderson, Las Vegas and North Las Vegas

RTC Resolution

PM_{10} SIP Comments from 4/17/01 BCC Public Hearing -- Close Public Comment Period

Speaker #1: Barbara Roth, Sierra Club

Recognized the efforts made by the Comprehensive Planning Dept. in developing the PM_{10} SIP (Plan); however, she submitted a document that detailed what she considers significant concerns.

1 1. The Plan fails to meet the important requirements of the Clean Air Act, especially in terms of implementing regulations with EPA guidance.

2 2. The Plan will not or should not be approved in its current form.

3 3. Comp. Planning staff is urged to revise the Plan in light of public health-based protections guaranteed under the Clean Air Act.

4 4. Per Center of Disease Control statistics, Nevada ranks #1 for asthma.

5 5. See the document she submitted for full, detailed comments.

Speaker #2: Robert Hall, Nevada Environmental Coalition

Submitted a 33-page document listing concerns with the Plan.

6 1. The Plan, as well as current enforcement efforts, fails to comply with laws established by the Clean Air Act. His main objection is that the Plan cannot be enforced.

7 2. MSMs are not currently being enforced; the CCHD is in organizational disarray and understaffed; financial, organizational, and personnel problems currently experienced by the CCHD will not allow the Plan to work.

8 3. In reference to the pie charts used by Carrie during the introductory presentation, the numbers used can't be complied with; furthermore, the numbers are distorted and inaccurate (he notes 50 exceedances in 1996 which differs from the numbers used in the Plan).

9 4. The Plan admits it cannot reach attainment by 2001, and he believes that it is unrealistic to count on another extension because there are no legal grounds for obtaining one. The Plan fails to include any laws or measures that would enable the EPA Region IX to grant an extension for another 5 years (he notes that the EPA has been granting unlawful extensions since 1999).

10 5. The numbers used in the Plan must be justifiable, quantifiable, and real, and he believes that they are not based on accurate, reliable, and truthful monitoring methods. He claims that certain local monitors are deliberately shut down when dust events in those areas are

expected to reach exceedance levels. If this is true, then enforcement is not possible. The public needs to have confidence in the monitoring and enforcement process, and it does not.

11 6. The Nevada Environmental Coalition plans to file an appeal in the 9th District Court of Appeals to require enforcement of current laws and regulations regarding air quality standards.

Speaker #3: Mike Neuhauser, concerned citizen (5-year resident)

12 1. He perceives the Plan's intent to be the performance of corrective measures before the Plan is actually and officially approved. He references the 1991 approved Plan's stated goal of implementing RACMs and RACTs. The new Plan does not reference the 1991 corrective measures and whether or not they were implemented and enforced. A follow-up review of the 1991 Plan's measures would be helpful in taking advantage of lessons learned (successes and failures) that could be incorporated in the new Plan.

13 2. The Plan indicates that attainment was not possible from 1991 to 1997 since solutions were not available. He sees this as in internal inconsistency with the new Plan which needs to adequately discuss what solutions exist now that did not exist in 1997. The new Plan should therefore demonstrate that new solutions are available now that weren't available then and also demonstrate more effectively that they can work in terms of reaching attainment (this could be a part of the "lessons learned from 1991 - 1997" argument).

14 3. The Plan suggests that nearby sources (the 5 outlying area monitors: Craig, E. Flamingo, Pittman, Green Valley, and J. D. Smith) are the cause of violating the 24-hour national health standard. The immediate sources that impact these nearby sources are the root causes of exceedance at these areas and they need to be taken into account and adequately addressed in terms of proposing solutions to rectify the situation. The Plan does not address why it will take 5.5 more years to rectify immediate source contributors that affect the 5 nearby sources.

15 4. He notes that Chapter 7 of the Plan only addresses the broad picture in terms of attainment in 2006. Dealing with the "immediate sources and root causes" noted above could result in earlier compliance, but he could not find a discussion along these lines in the Plan.

16 5. The Plan indicates a current total of 7 employees for enforcement efforts and 3 more to be hired and trained for a total of 10 (discussed in Chapter 7 of the Plan as one of the reasons why attainment cannot be reached until 2006). He poses the possibility of hiring 13 additional enforcement employees instead of the proposed 3 to achieve attainment sooner. He notes that Chapter 7 lists two reasons for the 2006 attainment date: 1)

17 personnel/staffing limitations, and 2) budget limitations. The new Plan does not contain an adequate discussion of the budget constraints that affect the 2006 attainment date. He

thinks the Plan should look at other, lesser priorities in the general air quality budget that could be shifted to the goal of attainment prior to 2006. Budget dollars need to be prioritized and allocated appropriately in relevance to air quality concerns, and the main concern right now is PM_{10} attainment. He argued that there would be more concerned citizens would support attainment measures if they were better educated about the issues at stake. For example, they would probably support priority shifts that would facilitate earlier attainment of the Plan (for example, fewer parks for better air quality).

18 6. The Plan shows hourly concentrations for one day only for the 5 outlying sites which implies that a correlation has been made between high concentration periods and some cause of the same. The Plan does not indicate if these correlations are based on and adequate sampling and evaluation of other days (besides the one listed). This research needs to be documented in the Plan and related to the "root causes" (immediate causes) of exceedances at these source areas. This information would help obtain approval of the Plan.

19 7. When he contacted the CCHD, he was told that air quality compliance depended on citizen participation in corrective measures and compliance with regulations. The Plan does not address what individual citizens must each do to help reach attainment along these lines. He notes that 80 percent of air quality problems are caused by 20 percent of the concerns addressed in the Plan, none of which include the actions/behavior of individual citizens. He suggests that adequate publicity and public education must be considered as important supplementary control measures for attainment.

20 8. The bad health effects and health risks of PM_{10} are cumulative and, in his opinion, exceed the risks of exposure to radioactivity from nuclear waste. However, more attention is given to the latter.

21 9. The Plan indicates PM_{10} - efficient sweepers but does not indicate how our present fleet of sweepers compares to those which are PM_{10} - efficient in terms of reducing dust pollution.

22 10. He notes that the Plan generally addresses what fines and penalties should be implemented for local entities and individuals who fail to comply with air quality regulations. However, these fines and penalties are not adequately justified in terms of non-attainment: they are not severe enough to ensure compliance. Overall, the fines and penalties are far too modest, and the Plan should therefore justify this lack of severity.

Speaker #4: Don Dayton, concerned citizen, SNORE member, MSHCP I & M Committee member (resident since 1957)

23 1. He has seen a remarkable improvement in air quality over the last 30 years, especially where dust is concerned. His main concern is with the Nellis Dunes area which has been classified as part of the non-attainment area. Clark County intends to prohibit all off-road activity in this area, but the Nellis Dunes constitute the only open area (totally non-

restricted) in Clark County for OHV activities. All other areas where OHV activities are permitted have numerous restrictions. The BLM has stated they will not close the Dunes to casual OHV use, but Clark County has stated that they will. He believes such a closure is unenforceable and unrealistic in terms of the overall dust emissions from this source. Furthermore, if this area is closed to OHV use, OHV enthusiasts will just move to another area (OHV activity will not cease, just relocate), and this could cause even greater negative impacts to environmentally sensitive areas (including deleterious impacts to native species) than the dust created by OHV use at the Dunes. Therefore, he believes the Dunes is a relatively benign area for OHV use; overall, OHV activity at the Dunes does not constitute a large problem as a dust-producer because the prevailing winds at this site blow south to southeast out of the valley.

24 2. The BLM has stated they intend to outlaw OHV racing on BLM land. The 32nd SNORE 250 has already been scheduled for later this year. He believes that a once-a-year race event produces considerably less dust than other unlimited OHV activity during the other 364 days of the year. He states that the boundaries of the non-attainment area strictly conform to the boundaries of the hydrographic basin in this area. He believes there is no scientific evidence to support the claim that the Dunes are a site-specific dust source worthy of the stringent measures being proposed, and he suggests that the non-attainment boundary be redrawn to exclude the Nellis Dunes area. This measure would resolve a lot of problems and concerns that OHV users have with the Plan.

25 3. He also noted that diesel smoke and rubber dust are PM_{10} pollutants that have cumulative bad health effects; desert dust, which is water soluble, is not hazardous overall and does not pose cumulative health risks.

Compiled by Annie McCall, Clark County Comprehensive Planning Department, 4/23/01

Response to comments received at the BCC Public Hearing on April 17, 2001

Speaker #1: Barbara Roth, Sierra Club

1. Comment noted.

2. Comment noted.

3. Comment noted.

4. Comment noted.

5. Written comments submitted by Ms Roth for the Sierra Club at the public hearing, and responses to those comments, are provided in this Appendix.

Speaker #2: Robert Hall, Nevada Environmental Coalition

6. Comment noted.

7. Comment noted.

8. Comment noted.

9. Comment noted.

10. Comment noted.

11. Comment noted. Mr. Hall submitted a written document that addresses the above comments in detail. These comments and responses are included in this Appendix.

Speaker #3: Mike Neuhauser, concerned citizen

12. Control measure requirements adopted by the Clark County Health District as part of the Air Quality Regulations (AQRs) became effective on January 1, 2001. The 1991 Plan referenced by Mr. Neuhauser was withdrawn by the Board of County Commissioners in December 2000. The SIP does provide for the implementation of BACM/RACM as addressed in Chapter 4.

13. New AQRs to control emissions of PM_{10} were developed over the past two years and have been adopted by the Clark County Health District. The control measure development process is addressed in the SIP, Appendix F, and the rules implemented for dust control are provided in the Appendix G. Some control measures for some PM10 sources were enforced prior to 1997. Using 1997 through 1999 as the time period for determination of

design values ensures all previous control measures were reflected in the monitored data. This information has been provided in Appendix A of the SIP.

14. The areas around the five monitoring sites are representative of conditions found the Las Vegas Valley. Control measures were developed to control emissions from the sources near those monitors as well as similar sources in other areas. A detailed explanation of the use of representative sites is provided in Appendix K of the SIP. The basis for the need of an extension is provided in Chapter 7 of the SIP.

15. Chapter 7 provides the Most Stringent Measure analysis required by the Clean Air Act (CAA) as a condition for requesting an extension of time to attain the PM_{10} standard. An extension for attainment to 2006 is necessary due to the fact that the standard cannot be met any sooner even though the measures implemented were shown to satisfy the most stringent measure test.

16. The Health District committed to hire 15 additional staff to implement and enforce the new Air Quality Regulations 90, 91,92, 93, and 94. This commitment is described in the SIP, Section 4.8.1. The hiring and training of these personnel is currently in process and their impact on air quality regulation enforcement will be increasing throughout the year as their numbers and experience increase. Attempting to hire more personnel than those committed to would not expedite attainment due to the extended time required to secure additional funding, complete the hiring process, and provide training.

17. Comment noted. Significant additional resources are being allocated to the dust control program in a carefully planned manner that considers both the availability of resources as well as the need to attain the air quality standards.

18. The methodology used to identify the design days and to accomplish the roll-back modeling follows the accepted EPA criteria and was developed in close coordination with the modeling experts at EPA Region IX. Design day determination is detailed in Appendix A of the SIP and Roll-back modeling methodology is detailed in Appendix K. The root causes for high concentrations are identified through the emission inventories as described in Chapter 3, and the impact of the control measures applied to significant sources is demonstrated through the attainment demonstration described in Chapter 5.

19. Noted. Public outreach to provide information to the public about air quality programs is a continuing effort by several agencies in Clark County

including the Regional Transportation Commission, the Health District, and Clark County. Efforts to improve such programs are ongoing.

20. Comment noted.

21. The SIP requires that all new sweepers acquired must meet the PM_{10} efficient sweeper criteria. However, most of the sweepers currently in use do meet the efficient sweeper criteria. The current publicly-owned street sweeper fleets are documented in Appendix J of the SIP.

22. The fine structure for air quality/dust violations in the Las Vegas Valley are currently the most stringent in the nation. The Health District Air Quality Regulations establish the fine structure and processes.

Speaker #4: Don Dayton, SNORE member, MSHCP I&M Committee member

23. Mr. Dayton's concerns for Off Highway Vehicle activities are noted. An OHV Working Group of interested individuals, groups, and stakeholders was initiated in April 2001 to address these issues and seek workable solutions.

24. Comment noted. See response to comment number 23.

25. Comment noted.

SIERRA CLUB
FOUNDED 1892

April 17, 2001

VIA FACSIMILE AND ELECTRONIC MAIL

Catherine MacDougall
Air Quality Planning Team
Department of Comprehensive Planning
500 S. Grand Central Parkway, Suite 3012
Las Vegas, NV 89144-1741

Re: Draft PM-10 State ImplementationPlan

Dear Ms. MacDougall:

The Sierra Club, its Toiyabe Chapter, Southern Nevada Group and members who live, work and travel in the Clark County region submit the attached comments on the Clark County Nevada Draft PM-10 State Implementation Plan.

If you would like to discuss these comments further, please contact me at 415-977-5725 or e-mail me at joanne.spalding@sierraclub.org.

Very Truly Your,

Joanne Spalding
Staff Attorney

RESOURCE SYSTEMS GROUP INCORPORATED

REVIEW OF CLARK COUNTY, NEVADA DRAFT PM-10 STATE IMPLEMENTATION PLAN

Prepared by:

Brian R. Grady, Project Associate

APRIL 2001

331 Olcott Drive, White River Junction, Vermont 05001

EXECUTIVE SUMMARY

This report critiques the March 2001 Draft PM-10 State Implementation Plan (SIP) conducted by the Clark County Department of Comprehensive Planning Air Quality Team, the area-wide air quality planning agency for Clark County including the City of Las Vegas.

Serious technical deficiencies are present in the State Implementation Plan documentation. The Air Quality Team (AQT) has failed to use commonly accepted practices in the field, and instead has used practices that are not consistent with EPA requirements. These technical deficiencies seriously undermine the credibility of the emissions inventories and resulting mobile source emission budgets reported in the Draft PM-10 SIP dated March 2001.

Our review has focused on the on-road mobile source emissions analysis including: paved road dust, unpaved road dust, vehicular sulfate particulate matter, tire wear, brake wear, and exhaust (PM-10, NOx, and SOx). We have identified errors and deficiencies in each stage of the on-road mobile source emissions analysis. Errors are present in the calculation of paved and unpaved road dust emission factors using the AP-42 emission factor equations. The emission inventory contributions from paved and unpaved road dust are also incorrect. Finally, the PART5 and MOBILE5b modeling is inadequate, invalidating the emission factors and resulting total emissions.

Six major errors and inconsistencies in the 1998 emission inventory analysis have been identified.

- The Air Quality Team has overestimated the PM-10 emissions from paved road dust by using the wrong Environmental Protection Agency (EPA) default silt loading for freeways and interstates.
- The Air Quality Team has underestimated the PM-10 emissions from unpaved road dust by using a surface material moisture content value that is discouraged by the EPA.
- A serious error in the calculation of the 1998 paved road dust emissions contribution has been identified. When corrected, the total emissions from paved road dust increase by 8 percent.
- The emissions inventory developed for unpaved road dust is discredited, as the methodology described in the documentation is not consistent with the data provided in Appendix B of the SIP. Arbitrary ADT (average daily traffic) values were used instead of average ADT values.
- The PART5 and MOBILE5b derived emission factors used in the emission inventory analysis are invalid as the VMT mix assumed for each modeling effort are totally inconsistent.
- The MOBILE5b and PART5 modeling used only 4 different vehicle speed inputs. However, the RTC travel demand model has 11 different facility type congested speeds. Total regional vehicular emissions are underestimated by 13 percent when only 4 input vehicle speeds are used.

The emission inventories developed for 2001 and 2006 are based on the same methodology used to estimate the 1998 PM-10 emissions inventory. Many of the errors identified in the 1998 inventory analysis have likely been repeated in the estimation of future year inventories. This is significant because the mobile source emission budgets used during the conformity determination process are derived from the 2001 and 2006 inventories estimated in the SIP. Unless these errors are corrected, the credibility of the emission inventories and resulting emissions budgets reported in the SIP is questionable.

ERROR IN PAVED ROAD DUST EMISSION FACTOR ANALYSIS

The Air Quality Team has incorrectly calculated the PM-10 emissions from paved roads by using the wrong Environmental Protection Agency (EPA) default silt loading for freeways and interstates.

1 The "Source Activity Levels" section of Appendix B of the Draft PM-10 SIP describes the silt loadings used in the paved road dust emissions analysis.

> In the fall of 1999, road surface silt loading measurements were conducted by Dames & Moore. Dames & Moore used the method prescribed in AP-42, Appendix C.1. Dames & Moore did not complete any measurements on freeways. For freeways the U. S. EPA default value of 0.02 g/m2 was used. The silt loading measurements are presented in Table B-17.

Section 13.2.1.3 of the Compilation of Air Pollutant Emission Factors AP-42, Fifth Edition, Volume I: *Stationary Point and Area Sources* provides clear guidance on the default silt loadings to be used for freeways and interstates.

> Limited access roadways pose several logistical difficulties in terms of surface sampling, and few sL data are available for such roads. Nevertheless, the available data do not suggest great variation in sL for limited access roadways for one part of the country to another. For annual conditions, a default value of 0.015 g/m^2 is recommended for limited access roadways. Even fewer of the available data correspond to worst-case situations, and elevated loadings are observed to be quickly depleted because of high traffic speeds and high ADT rates.

Therefore, the correct EPA default silt loading to be used for freeways and interstates is 0.015 g/m^2. The quantity of dust emissions from vehicle traffic on a paved road is estimated using the following AP-42 empirical expression:

$$E = 7.3 \times ((sL/2)^{0.65}) \times ((W/3)^{1.5})$$

Where:

E = particulate emission factor (g/VMT)

sL = road surface silt loading (g/m^2)

W = mean vehicle weight (tons)

Table 1 shows the paved road dust emission factors and resulting 1998 total emissions using the EPA default silt loading as well as the incorrect silt loading used by the Air Quality Team for freeways and interstates.

Table 1: Total Paved Road Dust Emissions from Freeways and Interstates (1998)

Scenario	Silt Loading (g/m^2)	Paved Road Dust Emission Factor (g/VMT)	Freeways (tons/yr)	Interstates (tons/yr)	Total (tons/yr)
EPA Default	0.015	0.30	174.4	551.3	725.7
AQT Value	0.020	0.37	212.7	672.4	884.9

The difference between the EPA default limited access roadway silt loading and the silt loading value used by the Air Quality Team to model dust emissions from freeways and interstates is small (0.005 g/m^2). However, resulting total paved road dust emissions from freeways and interstates are overestimated by 22 percent when the higher silt loading value is used. To avoid this overestimation, the correct EPA default silt loading of 0.015 g/m^2 should be used in the paved road dust emissions analysis.

ERROR IN UNPAVED ROAD DUST EMISSION FACTOR ANALYSIS

The Air Quality Team has incorrectly calculated the PM-10 emissions from unpaved roads by using a surface material moisture content value that is discouraged by the EPA.

2 The "PM-10 Emission Factors" section of Appendix B of the Draft PM-10 SIP includes a discussion of the surface material moisture content used in the unpaved road dust emissions analysis.

> The surface material moisture content was not directly measured for any of the design days. As Las Vegas has an average rainfall of less than ten inches per year and average daily high temperatures exceed 80° Fahrenheit, it is reasonable to assume that uncontrolled unpaved roads would have low moisture contents. The range for moisture contents from AP-42 is 0.03 to 20 percent with 0.2 percent presented as a dry, worst-case condition. For the emission inventories, the dry, worst-case condition default of 0.2 percent was used.

Section 13.2.2.2 of the Compilation of Air Pollutant Emission Factors AP-42, Fifth Edition, Volume I: *Stationary Point and Area Sources* provides guidance on the use of default correction parameter values.

> In the event that site-specific values for correction parameters cannot be obtained, the default values may be used... Because of significant differences found between different types of road surfaces and between different areas of the country, use of the default moisture content value of 0.2 percent for dry conditions is discouraged. The quality rating should be downgraded two letters when the default moisture content value is used.

The AP-42 equation for calculating PM-10 emissions from unpaved road dust is:

$$E = 2.6 \times ((s/12)^{0.8}) \times ((W/3)^{0.4}) / ((M/0.2)^{0.3})$$

Where:

E = particulate emission factor (lbs/VMT)

s = surface material silt content (%)

W = mean vehicle weight (tons)

M = surface material moisture content (%)

The documentation in the Draft PM-10 SIP incorrectly states that a surface material moisture content value of 0.2 percent is presented in AP-42 as a dry, worst-case condition. This is not the case. The moisture content of 0.2 percent is presented as the default value.

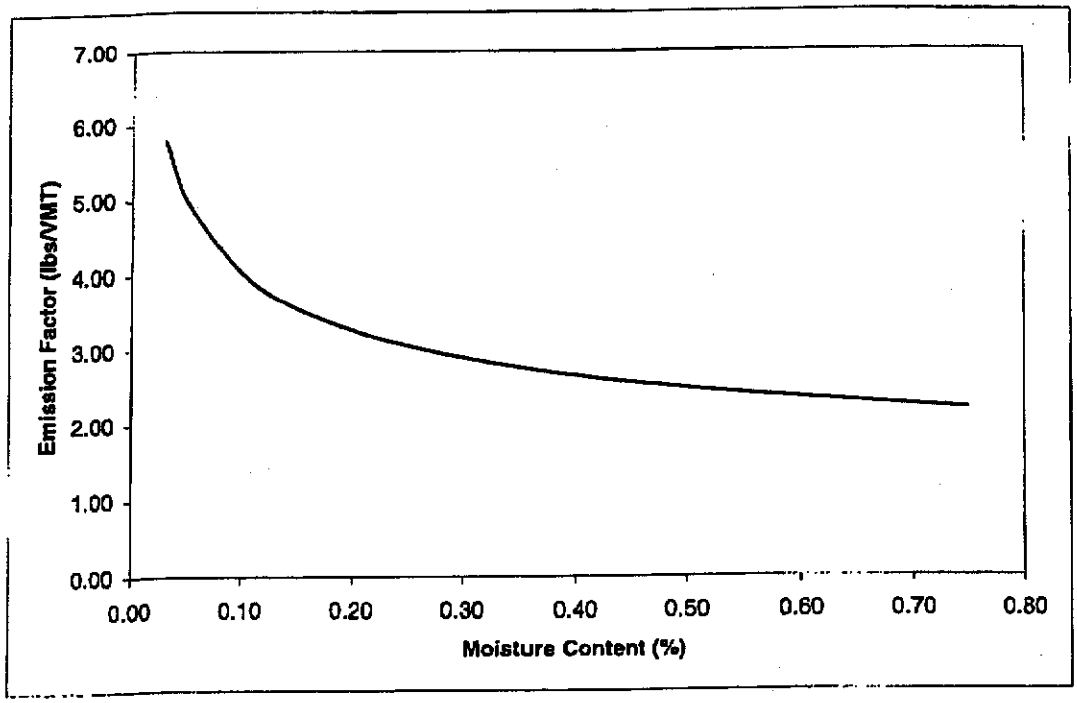
> It is emphasized that the moisture content to be used in Equation 2 – M_{DRY} – must reference dry, worst-case conditions. In the absence of the appropriate site-specific information, the default value of 0.2 percent should be used in Equation 2.

First, Equation 2 was not used in the unpaved road dust emissions analysis. Equation 2 is different equation than the one presented above. It includes an assumption that annual average emissions are inversely proportional to the number of days with measurable precipitation. Furthermore, the range of moisture content values from AP-42 is 0.03 to 20 percent. Using a moisture content value of 0.2 percent eliminates the denominator from the equation. A value less than 0.2 percent results in a higher particulate emission factor. Therefore, a moisture content value of 0.03 percent actually produces the highest emission factor (dry, worst-case condition). Table 2 contains particulate emission factors for varying moisture content values. Figure 1 is a plot of the data in Table 2.

Table 2: Emission Factors From Unpaved Roads With Varying Moisture Content Values

Surface Material Moisture Content (%)	Particulate Emission Factor (lbs/VMT)
0.03	5.78
0.05	4.96
0.10	4.03
0.15	3.57
0.20	3.27
0.25	3.06
0.30	2.90
0.35	2.77
0.40	2.66
0.45	2.57
0.50	2.49
0.55	2.42
0.60	2.35

Figure 1: Particulate Emission Factor versus Surface Material Moisture Content



Again, the variation in the surface material moisture content seems insignificant. However, the total particulate emissions from unpaved roads changes dramatically when a different emission factor is used in the analysis. Table 3 shows 1998 total particulate emissions from unpaved road dust when moisture contents of 0.1 and 0.2 percent are assumed.

Table 3: Total Unpaved Road Dust Emissions (1998)

Scenario	Moisture Content (%)	Paved Road Dust Emission Factor (lbs/VMT)	Total Emissions (tons/yr)
Alternative Assumption	0.1	4.03	18,674
AQT Value	0.2	3.27	15,156

Total unpaved road dust emissions are very sensitive to the surface material moisture content assumed. Reducing the moisture content to 0.10 percent increased the emission factor to 4.03 lbs/VMT resulting in a 23 percent increase in total emissions. The surface material silt content (s) was directly measured and a value of 16 percent was used in the SIP unpaved road dust emissions analysis. The surface material moisture content (M) should also be measured directly to guarantee more accurate unpaved road dust emission results. The resulting emissions from unpaved road dust will vary when the measured site-specific surface material moisture content is used in the analysis.

INCORRECTLY CALCULATED PAVED ROAD DUST EMISSIONS INVENTORY

An error in the calculation of the 1998 paved road dust emissions inventory has been identified. When corrected, the total emissions from paved road dust increase by 8 percent.

3 Table B-71 in Appendix B of the Draft PM-10 SIP contains the 1998 paved road dust emissions inventory. The same information is presented here in Table 4.

Table 4: Paved Road Dust Emissions Reported in Table B-71 of the SIP

Roadway Category	1998 Daily VMT	Emission Factor (grams/mile)	PM-10 Emissions (tons/yr)
Ext. Connector	834249.5	2.93	983.5
Freeway Ramps	95304.2	4.22	161.8
Minor Arterial	10051686.6	4.77	17361.2
Major Arterial	2499334.9	2.93	2193.8
Ramps	296993.4	4.22	504.3
Interstate	4567626	0.37	672.4
Freeway	1445086.8	0.37	212.7
Collector	3621570	4.22	5854.5
Local	2462719.4	6.57	5749
Intrazonal Trips	74000.7	6.57	195.6
Public Transit	63632.7	6.57	168.2
Total	**26,012,204.2**		**34,056.9**

To calculate the PM-10 emissions, the daily VMT is multiplied by the emission factor, and the result is converted from grams/day to tons/year. The reported emissions for minor and major arterials, collectors, and locals are incorrect. Table 5 contains the corrected PM-10 paved road dust emissions.

Table 5: Corrected Paved Road Dust Emissions

Roadway Category	1998 Daily VMT	Emission Factor (grams/mile)	Reported PM-10 Emissions (tons/yr)	Corrected PM-10 Emissions (tons/yr)
Ext. Connector	834249.5	2.93	983.5	983.5
Freeway Ramps	95304.2	4.22	161.8	161.8
Minor Arterial	10051686.6	4.77	17361.2	***19291.0***
Major Arterial	2499334.9	2.93	2193.8	***2946.4***
Ramps	296993.4	4.22	504.3	504.3
Interstate	4567626	0.37	672.4	672.4
Freeway	1445086.8	0.37	212.7	212.7
Collector	3621570	4.22	5854.5	***6149.0***
Local	2462719.4	6.57	5749.0	***6509.9***
Intrazonal Trips	74000.7	6.57	195.6	195.6
Public Transit	63632.7	6.57	168.2	168.2
Total	**26,012,204.2**		**34,056.9**	**37,804.8**

We have only reviewed the Draft SIP documentation posted on the Clark County website, therefore it is difficult to identify the source of this miscalculation. However, this multiplication error results in an 8 percent underestimation of PM-10 emissions from paved road dust. When corrected, dust emissions from paved roads increases to 37,804 tons/year.

DISCREPANCY IN UNPAVED ROAD DUST EMISSIONS INVENTORY

The emissions inventory developed for unpaved road dust is discredited, as the methodology described in the documentation is not consistent with the data provided in Appendix B of the
4 Draft PM-10 SIP.

The "Source Activity Levels" section of Appendix B of the Draft PM-10 SIP describes the methodology developed to estimate the total unpaved road dust emissions.

> Vehicle counts were completed for representative roads and a model was used to predict traffic counts on the other roads. The results of the model produced ADT classes as follows:
>
> Class 1 - Estimated 1 - 50 ADT;
> Class 2 - Estimated 51 - 100 ADT;
> Class 3 - Estimated 101 - 150 ADT;
> Class 4 - Estimated 151 and above.
>
> The average of each range of the first three classifications (25, 75, and 125) was used for the ADT for unpaved roads in those classes. For Class 4, 151 ADT was assumed as there was no way to know the upper limit of this classification.

Table B-73 in Appendix B of the Draft PM-10 SIP presents the PM-10 emission inventory results for unpaved roads. The same information is presented here in Table 6.

Table 6: Unpaved Road Dust Emissions Reported in Table B-73 of the SIP

ADT Range	Unpaved Road (miles)	PM-10 Emissions (tons/yr)
X > 150 ADT	64	9,905
125 ≤ x ≤ 150 ADT	7	557
100 ≤ x ≤ 125 ADT	12	715
75 ≤ x ≤ 100 ADT	20	935
50 ≤ x ≤ 75 ADT	13	420
x < 50 ADT	147	2,624
Total	**263**	**15,156**

The first inconsistency in the unpaved roads emission inventory is immediately apparent. Emissions for 6 ADT (average daily traffic) classes have been calculated and presented in Table B-73. The documentation indicates that emissions were calculated for **only** 4 ADT classes. Furthermore, the ADT used in the emissions calculation for each ADT class is **not** the average of the ADT range reported in Table B-73. The documentation indicates that the average of the ADT range was used for each unpaved road class. For the upper and lower ADT road classes, 49 and 151 vehicles per day were reportedly assumed. The sample calculation below will illustrate the discrepancy.

Particulate emissions from unpaved roads with greater than 150 ADT are calculated by multiplying the ADT, the miles of unpaved road, the unpaved road emission factor, and the number of days in a year. The result is divided by 2000 to convert pounds to tons.

$$\text{Emissions (tons/yr)} = \text{ADT} \times \text{Miles of Unpaved Road} \times \text{Emission Factor} \times \text{Days in a year}$$

$$\text{Emissions (tons/yr)} = (151 \text{ vehicles/day}) \times (64 \text{ miles}) \times (3.27 \text{ lbs/VMT}) \times (365 \text{ days/yr}) / 2000$$

$$\text{Emissions (tons/yr)} = 5{,}767$$

The calculated value of 5,767 tons/year does not equal the reported value of 9,905 tons/year. To produce an emission rate of 9,905 tons/year, the ADT must equal 259 vehicles/day for this unpaved road class. The documentation indicates that an ADT value of 151 vehicles/day was assumed for this road class. Table 7 shows the ADT discrepancies for each unpaved road class.

Table 7: Average ADT versus Actual ADT used in Emissions Analysis

ADT Range (vehicles/day)	Average ADT Methodology (vehicles/day)	Actual ADT (vehicles/day)
$x > 150$ ADT	151	259
$125 \leq x \leq 150$ ADT	137.5	133
$100 \leq x \leq 125$ ADT	112.5	100
$75 \leq x \leq 100$ ADT	87.5	78
$50 \leq x \leq 75$ ADT	62.5	54
$x < 50$ ADT	49	30

ADT values of 259, 133, 100, 78, 54, and 30 vehicles/day are completely arbitrary. Using the average ADT for each unpaved road class is a reasonable methodology. Although this is the method outlined in the documentation, it was not actually implemented. When the average ADT values reported in Table 7 are used, the total emissions are drastically reduced. Table 8 recalculates total particulate emissions from unpaved road dust using the average ADT for each unpaved road class.

Table 8: Unpaved Road Dust Emissions using Average ADT

ADT Range (vehicles/day)	SIP ADT (vehicles/day)	Reported PM-10 Emissions (tons/yr)	Average ADT (vehicles/day)	Corrected PM-10 Emissions (tons/yr)
x > 150 ADT	259	9,905	151	5,767
125 ≤ x ≤ 150 ADT	133	557	137.5	574
100 ≤ x ≤ 125 ADT	100	715	112.5	806
75 ≤ x ≤ 100 ADT	78	935	87.5	1,044
50 ≤ x ≤ 75 ADT	54	420	62.5	485
x < 50 ADT	30	2,624	49	4,299
Total		**15,156**		**12,975**

Total particulate emissions from unpaved road dust are reduced to 12,975 tons/year when the average ADT for each unpaved road class is used (per the methodology described in the SIP documentation). This represents a 17 percent reduction in total unpaved road dust emissions. Using average ADT values in the calculation of unpaved road dust emissions is a reasonable and justifiable methodology. The unpaved road dust emissions inventory should be recalculated using average ADT values for each unpaved road class.

DISCREPANCY BETWEEN VMT MIX USED IN EMISSIONS MODELING

The PART5 and MOBILE5b derived emission factors used in the emission inventory analysis are invalid as the VMT mix assumed for each modeling effort are totally inconsistent.

5 The PART5 modeling conducted by the Air Quality Team used the 1998 default EPA VMT mix. However, the MOBILE5b modeling used an area-specific Las Vegas VMT mix that is completely different than the default VMT mix assumed in PART5. Table 9 shows the VMT mix used for the MOBILE5b and PART5 modeling.

Table 9: VMT Mix Used in MOBILE5b and PART5 Emission Factor Modeling

MOBILE5b	LDGV	LDGT1	LDGT2	HDGV	MC	LDDV	LDDT	HDDV
Las Vegas Area -Specific	0.735	0.123	0.067	0.012	0.010	0.019	0.007	0.027

PART5	LDGV	LDGT1	LDGT2	HDGV	MC	LDDV	LDDT	2BHDDV	LHDDV	MHDDV	HHDDV	BUSES
1998 EPA Default	0.6203	0.1864	0.0849	0.0309	0.0066	0.0019	0.0011	0.0123	0.0013	0.0157	0.0354	0.0032

LDGV = light-duty gasoline vehicles

LDGT1 = light-duty gasoline trucks, I

LDGT2 = light-duty gasoline trucks, II

HDGV = heavy-duty gasoline trucks

MC = motorcycles

LDDV = light-duty diesel vehicles

LDDT = light-duty diesel trucks

2BHDDV = class 2B heavy-duty diesel vehicles

LHDDV = light heavy-duty diesel vehicles

MHDDV = medium heavy-duty diesel vehicles

HHDDV = heavy heavy-duty diesel vehicles

BUSES = buses

HDDV = 2BHDDV + LHDDV + MHDDV + HHDDV + BUSES

EPA guidance on the use of VMT mix is quite clear. Section 2.2.2.3 of the MOBILE5 User's Guide states:

> For SIP highway vehicle emission inventory development, EPA generally expects States to develop and use their own specific estimates of VMT by vehicle type. In such cases, VMT fractions based on those estimates of VMT by vehicle type should be calculated and used here as input. A VMT mix used as input should reflect the year for which emission factors are being calculated.

Section 2.2.2.6 of the MOBILE5 User's Guide continues:

> States are generally required to develop estimates of VMT by vehicle type for use in construction of highway vehicle emission inventories for CAA-mandated and SIP-related purposes.

Using two distinct and drastically different VMT mixes for PART5 and MOBILE5b modeling is at the very least inconsistent, and is also completely inappropriate. If the local Las Vegas area-specific VMT mix is correct, it should also be used as a local input in the PART5 modeling. Different PART5 emission factors will be generated when the area-specific Las Vegas VMT mix is used.

The EPA default VMT mix in PART5 and MOBILE5b is based on national averages and changes over time (calendar years). There are three main trends driving the shifts in VMT. The first is the shift in sales from light duty passenger cars to light duty trucks. The next two have to due with the dieselization of trucks in general. Light duty diesel trucks are increasing in sales over time as compared to light duty gasoline trucks. The same trend can be seen even more noticeably, with heavy-duty diesel trucks replacing heavy-duty gasoline trucks. Therefore, VMT mix does and should change over time.

In the most recent conformity determination analysis submitted by the Regional Transportation Commission of Southern Nevada, the local Las Vegas VMT mix in Table 9 was held constant for all future analysis years in the MOBILE5b modeling. Therefore, the VMT mix has likely been held constant in the NOx MOBILE5b modeling conducted as part of this Draft PM-10 SIP. Assuming an unchanging VMT mix for 1998, 2001, and 2006 is a misapplication of the MOBILE model and should be corrected if the mistake was made in the PM-10 SIP modeling as well.

INADEQUACIES IN THE MOBILE5B NITROGEN OXIDE MODELING

The MOBILE5b modeling generated only 4 different speed class NOx emission factors. However, the RTC travel demand model has 11 distinct facility types, with 11 different facility type congested speed classes. The most recent RTC conformity determination analysis developed emission factors for all 11 congested speeds. To retain consistent methodology, the emission inventories should also be developed with 11 speed classes. Furthermore, total NOx emissions are underestimated by 13 percent when only 4 vehicle speeds are input to the MOBILE model.

6

Table B-52 in Appendix B of the Draft PM-10 SIP contains the NOx emission factors used to develop the 1998 vehicular NOx emission inventories. The same information is reported here in Table 10.

Table 10: NOx MOBILE5b Emission Factors Reported in Table B-52 of the SIP

Vehicle Speed (mph)	1998 NOx Winter Emission Factor (grams/mile)
19.6	1.95
29.6	1.99
39.6	2.04
49.6	2.22

The Regional Transportation Commission calculates congested model speed using the Bureau of Public Roads (BPR) Capacity Restraint Formula below:

$$\text{Congested Speed} = \text{Free-Flow Speed} / (1.0 + 0.8 \times (\text{Volume/Capacity})^4)$$

Using the 1998 daily VMT figures provided in the Draft PM-10 SIP, we have calculated congested model speeds for each facility type in the RTC travel demand model. MOBILE5b was then run using the 11 different facility type congested speeds as input to produce 1998 winter NOx emission factors for each facility. Emissions by facility type and total regional NOx emissions are subsequently calculated. Table 11 contains the results of this analysis.

Table 11: NOx Emissions Factors for all 11 RTC Congested Speed Classes

Facility Type	1998 Daily VMT	Capacity	Free-Flow Speed (mph)	Congested Speed (mph)	NOx Emission Factor (g/mi)	Total Emissions (tons/yr)
Intrazonal Trips	74000.7	-	10	10.0	2.22	66.0
Public Transit	63632.7	-	13.5	13.5	2.12	54.2
Local	2462719.4	9366559	15	14.9	2.09	2067.9
Ramps	296993.4	626107	25	24.0	2.04	243.4
Collector	3621570	10098930	30	29.6	2.06	3001.7
Freeway Ramps	95304.2	129985	35	28.4	2.06	78.8
Minor Arterial	10051686.6	19788340	35	33.2	2.08	8395.8
Major Arterial	2499334.9	4575665	45	42.0	2.13	2141.9
Freeway	1445086.8	4046779	55	54.3	2.66	1547.7
Interstate	4567626	7775002	60	54.8	2.70	4963.8
Ext. Connector	834249.5	2913300	65	64.7	3.54	1187.9
					TOTAL	**23,749.1**

Facility type congested model speeds range from 10.0 to 64.7 miles per hour. The highest vehicle speed in the SIP modeling is only 49.6 miles per hour. Freeways, interstates, and external connectors all have congested speeds in excess of 49.6 miles per hour. Vehicle speed is a very important input to the MOBILE model because pollutant emissions vary significantly by speed. In general, slow-moving vehicles produce more pollution than moderate-speed vehicles, e.g. 35 m.p.h. However, emission rates increase again with higher speeds above 55 mph. Therefore, emissions from the three high-speed facilities are being underestimated by only using vehicle speed inputs of 19.6, 29.6, 39.6, and 49.6 miles per hour. Figure 2 is a typical NOx emission profile that shows how the MOBILE5b model generated NOx emission factors are very sensitive to average vehicle speed.

Figure 2: Typical NOx Emission Profile

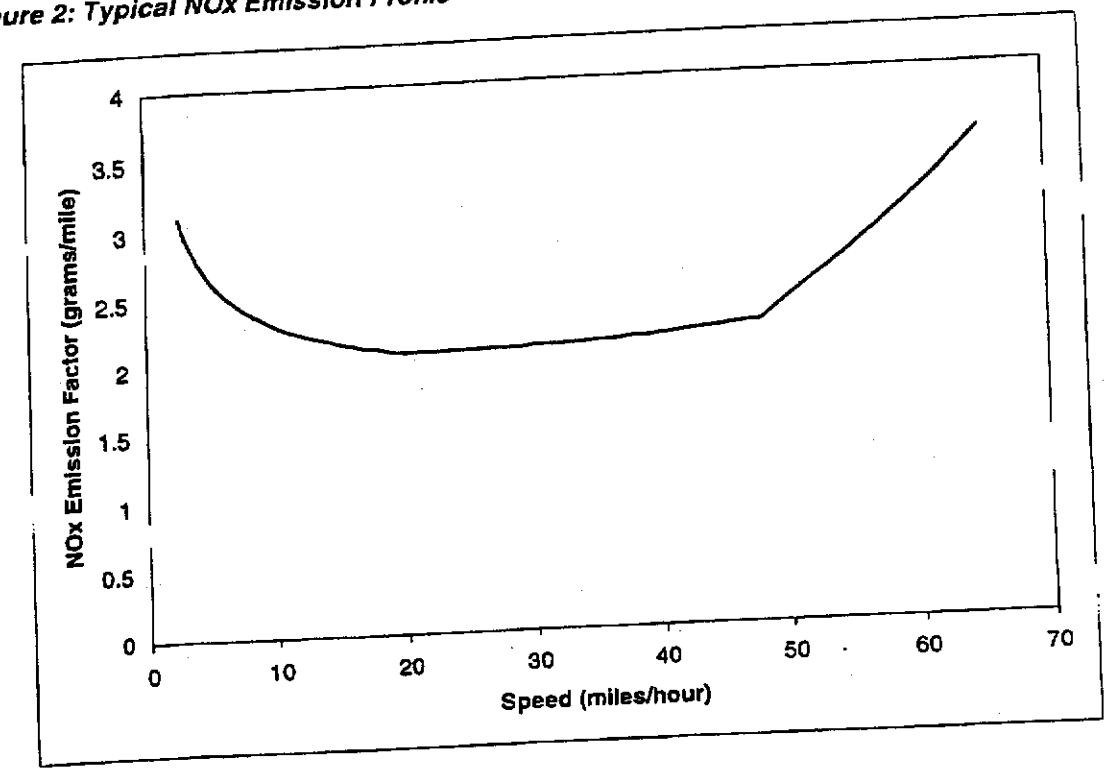


Table B-74 in Appendix B of the Draft PM-10 SIP shows 1998 NOx vehicle exhaust emissions to be 20,951 tons/year. We have demonstrated that using each of the facility type congested speeds from the RTC travel demand model results in total regional vehicular NOx emissions equal to 23,749 tons/year. Consolidating the 11 facility types in the RTC travel demand model into only 4 different speed classes at 10 mile per hour increments results in a 13 percent underestimation of total regional NOx vehicle emissions.

INADEQUACIES IN THE PART5 MODELING

Similar to the MOBILE5b modeling, only 4 different speed class emission factors were generated by the PART5 modeling. However, the RTC travel demand model has 11 distinct facility types, with 11 different congested speed classes. To retain consistent methodology, the
7 emission inventories should also be developed with 11 speed classes. We have demonstrated that NOx emissions have been underestimated by using only 19.6, 29.6, 39.6, and 49.6 mile per hour vehicle speeds as input to the MOBILE model. Using only 4 vehicle speeds as input to the PART5 model has likely underestimated total particulate emissions as well.

In addition, freeways and interstates have been omitted from the PART5 modeling. Table B-55 in Appendix B of the Draft PM-10 SIP contains the PART5 modeling output.

The first section of the output contains emission factors resulting from a 19.6 mile per hour vehicle speed and a paved road silt loading value of 1.69 g/m². Table B-17 in Appendix B contains the paved road silt loading measurements by facility type. Locals, intrazonals, and public transit facility types have silt loadings of 1.70 g/m². Therefore, locals, intrazonals, and public transit are being assumed to operate at 19.6 miles per hour with a 1.69 g/m² measured silt loading. From Table 11 in the previous section, the actual congested speeds are 14.9, 10.0, and 13.5 miles per hour for these facility types respectively. These speeds are well below the 19.6 mile per hour speed input to PART5.

The next section of the output contains emission factors resulting from a 29.6 mile per hour vehicle speed and a paved road silt loading value of 0.86 g/m². Silt loadings of 0.86 g/m² are reported for freeway ramps, ramps, and collectors. Therefore, freeway ramps, ramps, and collectors are being assumed to operate at 29.6 miles per hour. The actual congested speeds for these facilities are 28.4, 24.0, and 29.6. It is simply coincidence that the collector congested speed is equal to the 29.6 mile per hour vehicle speed input to PART5.

The following section of the output in Table B-55 contains emission factors resulting from a 39.6 mile per hour vehicle speed and a paved road silt loading value of 1.04 g/m². A silt loading of 1.04 g/m² is reported for minor arterials only. Therefore, minor arterials are being assumed to operate at 39.6 miles per hour. The actual congested speed for this facility is 33.2 miles per hour. This speed is 6.4 mph below the 39.6 input into the emissions model.

The last section of the output contains emission factors resulting from a 49.6 mile per hour vehicle speed and a paved road silt loading value of 0.49 g/m². Silt loadings of 0.49 g/m² are reported for external connectors and major arterials. Therefore, these two facilities are being assumed to operate at 49.6 miles per hour. The actual congested speeds for these facilities are 64.7 and 42.0 miles per hour respectively. Using a speed of 49.6 miles per hour does not make sense for these two facilities.

Of serious concern is the fact that freeways and interstates appear to have been excluded from the PART5 modeling. The silt loading reported in Table B-17 for these two facilities is 0.02 g/m². However, this particular silt loading value does not appear in the PART5 output provided in Table B-55. If these two facilities have indeed been omitted from the analysis, the reported particulate emissions are completely invalid.

Consolidating the 11 different facility types in the RTC travel demand model into 4 speed classes generated only 4 sets of PART5 emission factors for vehicle exhaust, vehicle brake wear, vehicle tire wear and sulfate particulate matter. However, the emission factors did not vary among the different speeds, so a single set of emission factors were multiplied by the region-wide VMT to calculate the total PM-10 emissions. The emission factors will vary when 11 facility type congested speeds are input into the PART5 model. The emission factors will then need to be multiplied by the facility type VMT to correctly calculate total PM-10 emissions.

FUTURE YEAR INVENTORIES & MOBILE SOURCE EMISSION BUDGETS

The errors identified above pertain to the 1998 PM-10 emissions inventory analysis. In the Draft PM-10 SIP, emission inventories for 2001 and 2006 are also developed. For the 2001 and 2006 emission inventories, only the final reported values are provided in the documentation on the Clark County website. However, the same methodology that was used to develop the 1998 emissions inventory was applied in developing the two future year inventories. Therefore, it is likely the errors and discrepancies identified in the 1998 emissions inventory are present in the 2001 and 2006 analysis as well.

8

An error in the paved road dust emissions calculation resulted in an 8 percent underestimation of 1998 paved road dust emissions. It is unlikely that an error of this nature would have been identified and/or corrected in the future year inventories.

Unpaved road dust emissions are based on arbitrary ADT values, and have likely been carried through into the 2001 and 2006 analysis. In addition, the documentation indicates that 2001 and 2006 unpaved road dust emissions were calculated by multiplying the 1998 unpaved road dust emission rate by the VMT growth on local roads between 1998 and the two future analysis years. Therefore, if the 1998 unpaved road dust emissions have been under- or overestimated, the error has likely propagated into the future inventories as well.

MOBILE5b and PART5 model outputs were only provided for the 1998 PM-10 emissions inventory analysis. Only the emission factors used in 2001 and 2006 have been included in the documentation on the Clark County website. However, the modeling errors in the 1998 inventory analysis are likely present in the 2001 and 2006 particulate emissions modeling. First, the discrepancy between the VMT mix used in MOBILE5b and the VMT mix used in PART5 is presumably still present. Second, using only 4 vehicle speed inputs instead of the eleven facility type congested speeds from the RTC travel demand model underestimates total emissions. In addition, the vehicle speeds used in the SIP modeling (19.6, 29.6, 39.6 and 49.6 mph) do not capture all the actual facility type congested speeds in the RTC travel demand model. Specifically, high-speed facilities such as freeways and interstates have congested speeds well in excess of 49.6 miles per hour.

The mobile source emissions budgets developed for 2001 and 2006 are based on the calculated emissions inventories for those years. Whether the 2001 and 2006 mobile source emissions budgets are too low or too high is difficult to determine. We have presented a number of errors and discrepancies, which have resulted in both the underestimation and overestimation of certain PM-10 emissions. However, we have identified serious deficiencies in each aspect of the on-road mobile source emissions analysis. These deficiencies seriously undermine the credibility of the reported mobile source emission budgets for 2001 and 2006.

CONCLUSIONS

Serious technical deficiencies are present in the State Implementation Plan documentation. The Air Quality Team (AQT) has failed to use commonly accepted practices in the field, and instead has used practices that are not consistent with EPA requirements. These technical deficiencies seriously undermine the credibility of the emissions inventories and resulting mobile source emissions budgets reported in the Draft PM-10 SIP dated March 2001.

Our review has focused on the on-road mobile source emissions analysis including: paved road dust, unpaved road dust, vehicular sulfate particulate matter, tire wear, brake wear, and exhaust (PM-10, NOx, and SOx). We have identified errors and deficiencies in each stage of the on-road mobile source emissions analysis. Errors are present in the calculation of paved and unpaved road dust emission factors using the AP-42 emission factor equations. The emission inventory contributions from paved and unpaved road dust are also incorrect. Finally, the PART5 and MOBILE5b modeling is inadequate, invalidating the emission factors and resulting total emissions.

Six major errors and inconsistencies in the 1998 emission inventory analysis were identified.

- The Air Quality Team has overestimated the PM-10 emissions from paved road dust by using the wrong Environmental Protection Agency (EPA) default silt loading for freeways and interstates.
- The Air Quality Team has underestimated the PM-10 emissions from unpaved road dust by using a surface material moisture content value that is discouraged by the EPA.
- An error in the calculation of the 1998 paved road dust emissions contribution has been identified. When corrected, the total emissions from paved road dust increase by 8 percent.
- The emissions inventory developed for unpaved road dust is discredited, as the methodology described in the documentation is not consistent with the data provided in Appendix B of the SIP. Arbitrary ADT (average daily traffic) values were used instead of average ADT values.
- The PART5 and MOBILE5b derived emission factors used in the emission inventory analysis are invalid as the VMT mixes assumed for each modeling effort are totally inconsistent.
- The MOBILE5b and PART5 modeling used only 4 different vehicle speed inputs. However, the RTC travel demand model has 11 different facility type congested speed classes. Total regional vehicular emissions are underestimated when only 4 input vehicle speeds are used.

The emission inventories developed for 2001 and 2006 are based on the same methodology used to estimate the 1998 PM-10 emissions inventory. Many of the errors identified in the 1998 inventory have likely been repeated in the estimation of future year inventories. Finally, the mobile source emission budgets used during the conformity determination process are derived from the 2001 and 2006 inventories estimated in the SIP. Unless these errors are corrected, the credibility of the emission inventories and resulting emissions budgets reported in the SIP is questionable.

Response to comments received in letter from Ms. Joanne Spaulding, Staff Attorney, Sierra Club dated April 17, 2001:

1. Staff agrees that the EPA default value for silt loading on freeways is 0.015 g/m^2 when carried out three places after the decimal. All of the silt loading values used in preparing the paved road dust emission estimates were carried out two places after the decimal. The value 0.015 was rounded to two decimal places accordingly and is reported as 0.02. This methodology does not minimize the impact of a potentially significant source. When evaluating the significance of using values carried out two versus three places after the decimal, the staff reviewed the change versus the overall inventory. The net change of 159.2 tons per year is less than one-tenth of one percent of the annual nonattainment area and valley-wide inventories.

2. Staff agrees that the text in Appendix B may be misleading regarding the use of 0.2 percent for the moisture content of unpaved road dust. The text should acknowledge the use of watering and dust suppressants that are widely used in the Las Vegas Valley. These measures increase the moisture content of unpaved roads. The text now reads:

   "The surface material moisture content was not directly measured for any of the design days. As Las Vegas has an average annual rainfall of less than ten inches per year and average daily high temperatures exceed 80° Fahrenheit, it is reasonable to assume that uncontrolled unpaved roads would have low moisture contents. Rainfall, watering, and the application of salts such as magnesium chloride increase the moisture content. Therefore the moisture content of unpaved roads is likely to vary widely within the nonattainment area. The range of moisture contents from AP-42 is 0.03 to 20 percent, with 0.2 percent presented as the default when site-specific parameters are not known. Given the wide variability of moisture content values and the lack of site-specific data, the EPA default value of 0.2 percent was used."

3. The daily VMT reported in the second column of Table B-71 are the total number of miles modeled by the Regional Transportation Commission of Clark County. The number of miles used for calculating paved road dust emissions for roads with improved shoulders is the total VMT minus the vehicle miles traveled on roadways without improved shoulders. Therefore the daily vehicle miles used to calculate the emissions from roads with improved shoulders are those presented in the second column except as follows: minor arterial – 9,046,183.8; major arterial – 1,860,974; collector – 3,448,080.9; and local – 2,174,841. This methodology was properly footnoted for similar tables that appear in the SIP. The staff apologies for the oversight and Table B-71 will be properly footnoted as well. As shown in Table B-71, including VMT on roadways without improved shoulders increases the overall emissions. As calculated in the comment, 34,804.8 tons per year would be emitted if all VMT were on roadways with

improved shoulders. As depicted in Table B-71, 44,723.1 tons per year of emissions are predicted when paved roads without improved shoulders are used.

4. The description of the source activity levels quoted in the comment only applies to the unpaved roads under the jurisdiction of the Clark County Public Works Department. The description of the activity levels for unpaved roads includes a description of the methodologies used by the cities of Las Vegas, North Las Vegas, and Henderson. The methodologies differ. The six ADT classes were developed using data from all the entities within the nonattainment area and do not correspond directly to the Clark County Public Works classifications. The Clark County Public Works classifications were included within the six. The staff used all of the available data from each of the entities to calculate the unpaved road activity levels. The averaging methodology described in the comment is less accurate than using the actual data from each entity.

5. The PART5 and MOBILE5b models have been rerun using VMT mix data gathered between 1996 and 1998. Insufficient data was collected to accurately describe the VMT mix for only Clark County, so the state-wide VMT mix data was used. The statewide data includes data collected within Clark County. The five categories of heavy-duty diesel vehicles used in the PART5 model were not recorded so the EPA defaults were used for these categories. The appropriate language in the SIP has been modified to reflect this change.

   The staff has noted the national trends in VMT mix. Due to the heavy influx of vehicles from other states into the Las Vegas Valley, trend analysis and predictions for the area have not been successful. When comparing the 1998 VMT mix data for the state of Nevada with the national trends predicted in the defaults of the PART5 model, the Nevada data indicates the 1998 VMT mix is already ahead of the national trend with the exception of the increase in diesel trucks. The 1998 data for Nevada has almost 40 percent of the VMT mix in light-duty gasoline trucks as compared to the national estimate in 2006 of about 30 percent. The Nevada VMT mix has only 54 percent light-duty gasoline vehicles while the national trend predicted in the model is down to only about 60 percent by 2006. Although staff recognizes that VMT mix will change in future years, the local trends are in some cases already ahead of the national trends. For this reason, the 1998 vehicle mix data was used to project future years in the SIP. When reasonable further progress reports are completed, VMT mix data for the previous year will be used to update the inventory. Per the SIP commitment, if updated inventories show a change, the SIP will be modified - including the mobile source emissions budget if necessary.

6. The MOBILE5b model has been rerun using the following congested speed classes: 10.0, 13.5, 14.9, 24.0, 28.4, 29.6, 33.2, 42.0, 54.3, 54.8, and 64.7 miles per hour (mph). The 1998 inventories have been amended to reflect the changes in the modeling.

7. The PART5 model has been rerun using 11 congested speed classes and the appropriate silt loading by classification. It should be noted that the PART5 model prints the following warning when speeds greater than 55 mph are entered: "WARNING: 64.70 is too great a speed. The speed has been reset to 55 miles/hour." The 1998 inventories have been amended to reflect the changes in the modeling.

8. The 2001, 2003, and 2006 emission inventories were calculated using the same methodology as the 1998 base year inventory. The paved road dust and unpaved road dust emissions were not changed for the reasons discussed in responses 1 through 4 above. The PART5 and MOBILE5b models were rerun as described in responses 5 through 7.

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RE: Comments regarding Draft PM-10 State Implementation Plan for Clark County

Dear Ms. MacDougall:

Thank you for the opportunity to comment on the Draft PM-10 State Implementation Plan for Clark County ("Las Vegas Valley Plan" or "Plan"). We recognize the efforts made by the Clark County Department of Comprehensive Planning ("CCDCP") in researching and drafting the Plan. However, for the reasons discussed below, significant questions about the Plan remain that must be addressed before the Plan is finalized. In addition, the Plan fails to meet important requirements of the Clean Air Act ("CAA" or "Act"), implementing regulations, and EPA guidance. As a result, we do not believe the Plan may legally be approved in its current form. We therefore urge CCDCP to revise the Plan in response to our comments to ensure that the citizens of the Las Vegas Valley nonattainment area receive the full benefit of the public-health based protections guaranteed to them under the Act.

I. GENERAL COMMENTS

A. Title of Document

1 Since the Plan was drafted to address the PM-10 pollution problem in the Las Vegas Valley nonattainment area and not Clark County as a whole, we believe a more accurate title for the Plan would be "PM-10 State Implementation Plan for the Las Vegas Valley Nonattainment Area."

B. Citation to Authority and Guidance

In many instances Plan provides appropriate citation to authority such as sections of the
2 Clean Air Act, implementing regulations, and EPA guidance. However, in many other instances it does not. It is important for the Plan to provide appropriate citations for any references to legal authority or EPA guidance, including specific page and section numbers, to ensure that the public is given an adequate opportunity to review these requirements and assess the Plan's compliance with them.

II. CHAPTER 2: AIR QUALITY MONITORING FOR PARTICULATE MATTER

A. Failure to Provide for Appropriate Monitoring Network

The Plan does not provide for the establishment and operation of an appropriate
3 monitoring network that is adequate to characterize the extent and severity of the PM-10 problem in the Las Vegas Valley, as required by CAA § 110(a)(2)(B)(i). First, the network contains no monitoring stations within the nonattainment area that are outside the BLM Disposal Area. Thus, the monitoring network does not characterize the PM-10 problem *at all* with respect to two-thirds of the nonattainment area. Indeed, the entire Plan seems to have been drafted on the unverified assumption that there is no PM-10 problem outside the BLM Disposal Area. This assumption is apparently based on the observation that most of the population – and therefore most of the PM-10 generating activity – occurs within the BLM Disposal boundary. However, the Plan fails to consider the possibility that recreation or other activities outside the BLM Disposal Area boundary may produce unhealthful levels of PM-10, or that PM-10 may be transported across the boundary in concentrations that exceed the NAAQS. Without monitoring, it is impossible to know whether and to what extent either scenario occurs. Hundreds of thousands of people visit the federal land surrounding the Disposal Area every year. They are entitled to the same level of air quality outside the boundaries of the BLM Disposal Area as within.

Second, the Plan's commitment to conduct a PM-10 saturation study beginning in 2004
4 constitutes an acknowledgement that the current monitoring network is inadequate. The Plan states that the focus of the saturation study will be on neighborhood impacts of major sources, particulate concentrations in geographic locations not covered by the current monitoring network, and inter-basin intra-basin transport during high wind events. CCDCP has had more than enough time to assess the adequacy of its network and address these important issues. The Plan will not comply with the Act's monitoring requirements until this work is done. In any event, there is simply no reason to put off this work until 2004; this protracted deadline precludes any attempt to address the deficiencies until it is too late.

B. Need for More Information About Meteorological Data and Relationship to Wind Erosion

Section 2.3.2 discusses the meteorology of the valley. It states: "Meteorology is an
5 important factor" in excess PM10 concentrations. Yet no detailed presentation is made to discuss this. For instance the high speed wind roses, which produce the surface erosion of

material, are not included. The fugitive dust problem cannot be addressed if the magnitude and direction of these winds are not known. Wind roses for wind speeds above 10 mph, 15 mph, and 20 mph should be generated and included in the Plan. These data should then be factored into the control strategies for meeting attainment. The Plan is silent on the details of where high winds are producing the erosion problems. These data would shed light on the importance of the non-BLM Disposal Area, accounting for about two thirds of the land area in the valley, which was ignored in the SIP analysis.

It is not clear which meteorological data were used in the Plan and how. The Plan
6 apparently used the 1999 meteorological data in the analysis leading to attainment. No discussion was included to illustrate that this was a typical year and representative of the valley. A detailed discussion of "representativeness" of this meteorological data is necessary to instill confidence in the Plan as being adequate for showing attainment. Section 3.4.1 implies that the 1998 meteorological data were used for the emissions inventory. The wind roses presented in Section 2.3.2.1 used 1997, 1998 and 1999 meteorological data. Which meteorological data were used for the various analyses and why each year was selected needs to be clarified in the Plan. Reasons for using these years needs to be detailed and the representativeness of these meteorological data sets must be established by comparison to a longer period of climatological data.

The Plan uses the terms "upwind" and "downwind" but these concepts are not well-
7 defined. Since the Plan concludes that the majority of fugitive dust is wind blown, then these concepts should be defined in terms of the high wind conditions. The high-speed wind roses as discussed above should be used in this definition. It appears that the Plan defines upwind as the prevailing wind direction. The prevailing wind direction appears to be the direction with the highest frequency of occurrence. This approach is not adequate for this type of analysis. A much more refined analysis is required for wind blown emissions.[1] Using the upwind/downwind concept as defined in the Plan as part of Appendix K to calculate the Rollback Model puts the entire concept of attainment in question.

III. CHAPTER 3: PM-10 EMISSION INVENTORIES

A. Inventory Must Include All Sources of PM-10 in the Nonattainment Area

As a preliminary matter, we disagree with the statement on page 3-1 that the only PM-10
8 emissions sources that must be included in the inventory are those that contribute "significantly" to an annual or 24-hour violation of the NAAQS. Section 172(c)(3) of the Act requires that nonattainment SIPs include a comprehensive, accurate, current inventory of actual emissions from *all* sources of the relevant pollutant in the entire nonattainment area. The Plan cites to the Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 for the proposition that only significant sources need be included but fails to provide a specific page number or other pinpoint reference. Having reviewed this guidance, we fail to see how it supports this notion. The significance thresholds that the Plan appears to

[1] This use of such a poorly defined upwind/downwind concept is not an acceptable basis for rejecting upwind/downwind monitoring of construction sites as a control measure in section 4.3.3 of the Plan.

cite apply to whether EPA will allow inventoried emissions sources or source categories to be exempt from control measures,[2] not whether those sources may be excluded from the inventory in the first instance.

9 While the Plan's emissions inventory appears to include at least some "insignificant" source categories, it is unclear whether the inventory includes all of these sources. In Chapter 4, the Plan states that agricultural emissions are an insignificant source of PM-10. However, nowhere in Chapter 3 does the Plan even discuss such emissions. If emissions from agricultural sources are a source of PM-10 in the Las Vegas Valley, whether significant or insignificant, these emissions must be included in the inventory.

B. Need for Additional Studies Demonstrates that Inventory Is Inadequate

10 The Plan acknowledges that "significant uncertainty" remains with respect to the emissions inventory. Indeed, so much uncertainty remains that CCDCP contemplates no fewer than four additional studies to improve existing emissions inventories. With so much uncertainty, we fail to see how the Plan can claim to include a "comprehensive, accurate, current inventory," make valid assessments about the relative contributions of the various sources of PM-10, or demonstrate attainment of the annual standard by the end of this year with any degree of confidence.

C. The Plan Should Provide a Detailed Inventory of Disturbed Areas

11 A particular area of uncertainty appears to be the inventory of disturbed areas in the Las Vegas Valley nonattainment area. The Plan does not appear to include a list of the exposed, disturbed areas that are contributing to the fugitive dust problem. Without such a list, the portion of the inventory attributed to these lands is necessarily inadequate, and the fugitive dust problem from these areas cannot be addressed. The list should contain the exact location of the exposed area, the size of the area, an estimate of the soil type and soil moisture, and its potential for blowing dust (i.e., how active the area is, whether a surface crust has had a chance to develop, whether that crust has been broken and how often, etc.).

D. Failure to Make Attainment Demonstration for Entire Nonattainment Area

12 In Section 3.3 a discussion of the attainment demonstration area is conducted. The total nonattainment area is listed as being 960,000 acres. Yet the demonstration is given only for the BLM Disposal Area, which is less than a third of the nonattainment area - 303,776 acres. The Plan claims that the attainment demonstration can be made for a smaller area than the nonattainment area if there are compelling reasons to do so, but the Plan fails to mention what those reasons are or whether they have been met here. No discussion is given as to how addressing the BLM Disposal Area will also bring the total valley into attainment. No discussion of measurements in the "outer valley" areas is given to illustrate the level of air quality. There is not any discussion of the types of activities in this "outer area," as to whether off-roading is

[2] As discussed later in these comments, we do not believe EPA may legally exempt so-called "insignificant" sources from the Act's best available control measure requirement.

occurring, or what other activities may be conducted there. The types of soils, vegetative cover, and potential for erosion do not appear to be discussed. The connection of addressing only the BLM Disposal Area as a solution to the entire valley is not presented. Thus, the Plan fails to demonstrate attainment of the annual PM-10 standard and to make the showings necessary to obtain an extension of the attainment date for the 24-hour standard because the Plan relies on only a portion of the nonattainment area for these demonstrations without providing justification for doing so.[3]

E. Emission Factors Are Questionable

13 Sections 3.4.4, 3.6.2 and 4.8.2.5 discuss the wind tunnel studies conducted to develop an emission factor for Native Desert and Disturbed Areas. A detailed presentation of these studies needs to be included in the SIP since wind tunnel studies have some severe limitations. Unless the wind tunnel is specially constructed to account for thermal turbulence, it can only induce mechanical turbulence. In the desert environment, thermal turbulence is probably the dominant influence in creating wind blown emissions. Not only must the validity of the emission factors be questioned, but it was never shown that these emission factors developed in the wind tunnel were accepted by EPA. Using non-EPA accepted emission factors in the SIP, especially for such an important calculation, should not be acceptable to EPA and should be grounds for disapproval of the SIP.

F. Emission Projections Do Not Support Attainment Demonstration

14 The Plan acknowledges that population continues to grow, and construction continues to increase, yet it claims that the Las Vegas Valley will attain the annual standard at the end of the year based on a decrease in emissions. We fail to see how the Plan can equate increased population and construction with the reductions necessary to meet the annual standard at the end of this year.

IV. CHAPTER 4: PM-10 CONTROL MEASURES

A. Improper Exclusion of So-Called "Insignificant" Source Categories from BACM

15 The Plan improperly fails to identify, develop, and implement BACM, including most stringent measures, for so-called "insignificant" source categories including stationary point sources (such as sand & gravel operations); stationary area sources (such as residential wood combustion and charbroiling); nonroad mobile sources; and onroad mobile sources such as vehicular sulfate PM, vehicular tire wear, vehicular break wear, and vehicular exhaust. The Act requires that serious area PM-10 plans include provisions to assure that best available control measures, including best available control technology, will be implemented by the relevant deadline on *all* sources of PM-10. CAA § 189(b)(1)(B). There is no exception to this explicit

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[3] The Plan states on page 3-8 that "all measured violations of the NAAQS occurred within the BLM disposal area." This statement is misleading, however, because no monitoring stations are stationed within the nonattainment area but outside the BLM Disposal Area.

mandate for source categories deemed to be "insignificant."[4] Thus, the Plan fails to comply with the BACM requirement for these categories.

16 Moreover, we disagree that emissions from vehicular exhaust can be considered "insignificant" even according to EPA's de minimis criteria. EPA's BACM guidance states that "BACM are required for all source categories for which the State cannot *conclusively* demonstrate that their impact is de minimis." 59 Fed. Reg. 41998, 42012 (emphasis added). The Plan's claim that motor vehicle emissions are "de minimis" is directly contradicted by chemical mass balance (CMB) receptor modeling conducted by the Desert Research Institute (DRI), which demonstrated that motor vehicle exhaust accounts for 3 to 9 percent of total PM-10 emissions in the Las Vegas Valley.

The Plan fails to provide an adequate justification for rejecting this data. The Plan compares the DRI study to the micro-inventory assessment and then disregards the former based on the micro-inventory, therefore concluding that the motor vehicle contribution was insignificant. This approach has two flaws: (1) the comparison between the micro-inventory and the valley wide inventories is not made, and it is therefore not shown that the micro-inventory is the correct approach; and (2) the DRI study is deemed incorrect based on the unjustified micro-inventory. Thus, the conclusion of deeming the motor vehicle contribution as insignificant, on a valley wide basis, is not justified.

The Plan's justification that the CMB receptor modeling "did not evaluate PM-10 levels for an exceedance" simply begs the question of why this fact invalidates the source impact calculated by this modeling. And the Plan's rejection of this modeling with respect to motor vehicle exhaust contradicts its embrace of the CMB results with respect to emissions from secondary and condensable particulate formation and fugitive dust. In short, the Plan fails to demonstrate at all, much less conclusively, that vehicular exhaust emissions fall below EPA's de minimis thresholds. Thus, this source must be included in the Plan's BACM analysis even if these thresholds can withstand legal scrutiny.

The exemption of motor vehicle emissions from any additional control measures whatsoever is particularly indefensible. There can be no dispute that combustion sources, including primarily gasoline and diesel engine exhaust, are a dominant source of particles in the PM-2.5 range. Studies show that these "fine" particles are the most hazardous to human health because they can penetrate deep in the lungs. PM-2.5 has been linked to lung cancer, deaths from heart and respiratory disorders, asthma attacks, allergies and difficulties in fighting off infections, such as bronchitis. Emissions from diesel-fueled engines include more than 40

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[4] The Ninth Circuit Court of Appeals recently upheld EPA's approval of a moderate area PM-10 federal implementation plan that exempted "de minimis" sources from reasonably available control measures. *Ober v. Whitman*, ___ F.3d ___, 2001 WL 282443 (March 23, 2001). In holding that the exemption was allowable in that instance, the court relied heavily on the use of flexible standards such as "reasonably available" in the moderate area planning requirements, and concluded that such terms allowed for the "exercise of agency judgment." *Id.* at *6. However, the court implicitly recognized that more rigid statutory language would not allow for application of a de minimis exemption. *Id.* Thus, the *Ober* holding does not apply to the more rigid statutory language of the serious area PM-10 control measure requirements, which mandate the application of "*best* available control measures," CAA § 189(b)(1)(B) (emphasis added), and the inclusion of "most stringent measures" in plans for areas seeking an extension of the attainment deadline, CAA § 188(e).

substances that are listed by the U.S. EPA as hazardous air pollutants including potential cancer-causing substances such as arsenic, benzene, formaldehyde, nickel, and polycyclic aromatic hydrocarbons. The local air management district in the Los Angeles basin estimated that diesel pollution accounts for 71% of the cancer risk from air pollution. PM-2.5 is also the primary cause of the brown haze that hangs over the Las Vegas Valley on fall and winter days. The Las Vegas Valley will undoubtedly violate the new PM-2.5 standard once this standard is implemented. The State of Nevada and CCDCP should not delay any further in addressing the serious public health hazards posed by this form of pollution by, for example, adopting effective transportation control measures, requiring emissions testing of heavy duty diesel vehicles, and mandating the use of cleaner burning diesel fuel.

17 The exemption of stationary sources from controls is also inappropriate, even assuming that EPA's de minimis thresholds are valid. The Plan acknowledges that stationary source emissions "came close to" EPA thresholds for presumed significance, and provides no assurance that emissions from this source category will not increase above the significance threshold. The Plan speculates hopefully that declining rates of population growth and construction activity will decrease activity levels in the sand/gravel operations and asphalt concrete manufacturing categories but fails to demonstrate to what extent these declining rates of growth will translate into reduced emissions. The Plan also asserts that to the extent other stationary source categories grow in proportion to overall population, BACT and LAER control technology requirements will ensure that emissions remain at de minimis levels, but again the Plan fails to provide any documentation or analysis to support this assertion. And the exclusion of stationary area sources such as sand/gravel operations from the list of "significant" sources appears to be inconsistent with findings that elevated PM-10 concentrations were associated in part with industrial processes such as sand/gravel operations (see page 4-8.). Since the Plan fails to conclusively demonstrate that stationary point sources will remain insignificant in the future, it must adopt a BACT requirement for all stationary point sources. At a minimum, this should be a committed contingency measure.

18 Finally, the Plan states that emissions from agricultural operations are insignificant but fails to provide any estimates on the relative contribution from these sources is (indeed, as discussed above, agricultural emissions are omitted from the inventory altogether).

B. Failure to Identify and Evaluate All Potential BACM for Inclusion in Plan

For the reasons discussed below, the Plan fails to identify and evaluate all potential BACM for the "significant" source categories because it either omits consideration of BACM-level measures altogether or improperly rejects measures as potential BACM without providing a reasoned justification.

1. Disturbed Vacant Land

19 The Plan improperly rejects dust mitigation plans for vacant parcels greater than ten acres as a potential BACM for disturbed vacant land, despite the Plan's acknowledgement that such plans would be "an effective method for enforcing vacant land regulations." It is unclear on

what basis the Plan rejects this measure as potential BACM.[5] Regardless of the reason, the plan fails to provide a reasoned justification based on either technological or economic feasibility. The only rationale the Plan provides relates to the potential economic and administrative burden imposed on the Air Quality Division ("AQD") of the Clark County Health District in reviewing and enforcing the plans, not on the feasibility of implementing the measure itself. The claim that such dust mitigation plans are technologically infeasible cannot withstand scrutiny, especially in light of the fact that the Plan contemplates that AQD will contact large property owners individually for voluntary development of these plans. Any claim that a measure is economically infeasible must be accompanied by documentation estimating the measure's "capital costs, annualized costs, and cost effectiveness," which the Plan fails to provide for this measure. 59 Fed. Reg. at 42013. Moreover, the economic feasibility analysis should focus on the costs associated with the measure itself. *See* 59 Fed. Reg. at 42013. Whether a state or local enforcement agency is willing to commit the appropriate resources to enforce the measure is not a proper consideration; otherwise, state and local governments could simply refuse to fund enforcement efforts, and the BACM requirement would be meaningless.

2. Construction Activities

20 The Plan improperly rejects upwind/downwind monitoring at construction sites as a potential BACM for construction activities. Again, it is unclear whether this measure was considered technologically infeasible or economically infeasible[6]; regardless, the Plan fails to justify either claim. The Plan's rejection of the measure appears to be largely based on the claim that AQD does not have the staff or facilities to weigh and evaluate monitoring samples, and that the delay in getting certified sample weights could allow high PM-10 emissions to occur over extended periods before enforcement action was taken. This reasoning is flawed for at least three reasons: (1) a potential BACM measure may not be rejected simply because a local enforcement agency does not want to commit the resources to implement it; (2) a slight delay in obtaining results is no reason to reject a measure and forego having the monitoring data at all; and (3) the Plan could require the contractors themselves to have the samples weighed within a certain time frame, or alternatively, it could require that contractors use real-time monitors. Such monitors could provide current, reliable data directly to AQD, significantly reducing the burden on enforcement staff.

The Plan claims that another "concern" with this measure "relates to the difficulty of ensuring that monitoring cycles correspond with peak construction activity cycles." Again, this "concern" would be alleviated by requiring the continuous use of real-time monitors and in any event is not a reason to simply reject the measure outright. Finally, the Plan asserts that compliance with this control standard might result in less emission reduction than compliance with other control standards that have proven to be technologically feasible, such as a 20 percent opacity limit. Of course, there is no reason why both standards could not be used.

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[5] Table 4-3 states that the measure was rejected as "not practicable." We note that "practicability" is not the standard for accepting or rejecting potential BACM. *See* 59 Fed. Reg. 41998, 42012-14.

[6] Table 4-5 states that this measure is also "not practicable."

21 In its review of dust control practices for construction activities, the Plan appears only to have looked to other regulatory districts for potential BACM. However, the surface mining industry has many good dust control techniques that were not considered in this review. For example, one such technique is the use of sprayers on front-end loaders to reduce dust from loading activities. This measure, and any other applicable measures used by the surface mining industry, should be evaluated as BACM.

3. Paved Roads

22 The Plan fails to consider transportation control measures ("TCM") as potential BACM for paved road dust. EPA stated with respect to the Maricopa County, Arizona serious area PM-10 plan (MAG Plan) that "TCM's can reduce PM-10 emissions in both the on-road motor vehicle exhaust and paved road dust source categories by reducing vehicle miles traveled (VMT) and vehicle trips." 65 Fed. Reg. 19964, 19973. The MAG plan identified numerous TCM's for consideration, including the CAA § 108(f) measures, which the Las Vegas Valley Plan fails to consider as potential BACM for paved road dust. These measures are listed in the "Draft Comprehensive List of Measures for Particulate Matter and Carbon Monoxide" set forth in Table 5-2 of the MAG plan. CCDCP must evaluate these available measures for inclusion in the Plan to control fugitive dust from paved roads. *See* 59 Fed. Reg. at 42013.

4. Unpaved Roads

23 The Plan improperly rejects measures to reduce traffic and control speed on public and private unpaved roads as a potential BACM without sufficient justification. The Plan claims that the measure cannot be effectively enforced. However, speed control on public and private unpaved roads can be effectively enforced through the use of remote radar, photo-radar, or speed bumps. In any event, possible questions about enforceability do not justify outright elimination of a measure as potential BACM.

24 The Plan also fails to provide an adequate justification for rejecting the paving of unpaved haul roads for construction sites as potential BACM. The Plan indicates that this measure is "not technologically feasible" and contends that removing the paving and storing of used paving materials would generate additional emissions of PM-10. However, the Plan fails to calculate whether these incidental emissions would exceed the benefits from the measure. The Plan also fails to analyze whether existing control measures could be used to mitigate emissions associated with these activities.

C. Failure to Provide for Implementation of BACM or Provide Reasoned Justification for Rejection

25 EPA guidance requires that serious PM-10 nonattainment area SIPs provide for the implementation of all BACM on each "significant"[7] source or provide a reasoned justification for rejecting any potential BACM based on technological or economic infeasibility. 59 Fed.

[7] As discussed above, we dispute that serious area PM-10 plans may exempt "insignificant" sources from BACM-level controls.

Reg. at 42012-14. As discussed above, the Plan fails to follow that guidance with respect to (1) dust mitigation plans for large vacant parcels; (2) upwind/downwind monitoring at construction sites; (3) traffic/speed control on public and private unpaved roads; and (4) paving of unpaved haul roads. The Plan also fails to provide reasoned justifications for rejection of the measures identified below, or fails to adequately provide for their implementation.

1. Disturbed Vacant Land

26 The Plan fails to provide for the implementation of windbreaks for disturbed vacant land. Constructing windbreaks was found to be technically feasible and cost-effective as a control measure for disturbed vacant land. However, the Plan does not provide for implementation of this measure as anything other than an "optional" measure. Simply listing a control measure as "optional" obviously does not provide for the implementation of that measure as committed BACM.

2. Unpaved Parking Lots

27 The Plan fails to provide a reasoned justification for rejection of the prohibition on construction of new unpaved parking lots as BACM. The failure to implement this measure is apparently based on stakeholder discussions in which concern was expressed that requiring paved parking lots for rural public facilities such as trailheads and campgrounds, etc. would conflict with the rural nature of these facilities. This is not a reasoned justification based on technological or economic infeasibility. Moreover, the Plan devotes no discussion to whether any new trailheads or campgrounds are even contemplated in the Las Vegas Valley nonattainment area, and if so, whether these facilities could simply be exempted from a general requirement that all new parking lots be paved.

3. Construction Activities

28 The Plan fails to provide a reasoned justification for rejecting the prevention of visible emissions from crossing the property line as BACM for construction activities. The Plan reasons that this requirement may result in a no-visible-emissions standard for public works agencies and contractors working on road construction projects in close proximity to property lines. The Plan fails to indicate why this is infeasible or to explore ways that such a standard could be implemented for activities that are farther from the property line. The Plan's alternative rejection of the measure on the basis that it would provide no air quality benefits with respect to construction projects on large sections of land fails to consider the benefits it might provide when implemented on smaller sections of land.

29 The Plan also fails to provide a reasoned justification for rejecting a limitation on the acreage that can be graded and disturbed at any one time as construction activity BACM. The Plan simply summarizes the arguments of the measure's opponents without any analysis as to whether those arguments support a finding that the measure is technologically or economically infeasible.

30 The Plan's construction site threshold for dust control permits fails to provide a BACM level of control. The Plan notes that Maricopa County has set the BACM standard for such permits at one-tenth of an acre, while Clark County only requires dust control permits for construction sites of one-quarter of an acre or larger. The Plan claims that reducing the construction site size threshold for requiring permits to one-tenth of an acre would provide no air quality benefits, but fails to provide any data or analysis to support this assertion.

4. Paved Roads

31 The Plan fails to provide a reasoned justification for failing to implement the use of vacuum-type crack seal equipment as BACM for paved roads. The Plan does not contend that this measure is technologically or economically infeasible, but merely states that the current technology needs "modification and/or improvement." In fact, a survey of entities and companies using this type of equipment showed that only minor modifications were needed to make the equipment effective at reducing PM-10 emissions in the crack-sealing process. (see Appendix J).

32 The Plan fails to adequately provide for the implementation of the "routine sweeping/cleaning of paved roads" measure. First, to constitute a BACM level of control, this measure must require "frequent" rather than merely "routine" sweeping and cleaning of paved roads. The greatest emissions reduction benefit from this measure is only realized if sweepers are used on a frequent basis, especially on roads with high silt loadings or significant visible emissions. "Routine" sweeping might not be frequent enough to realize these benefits. Second, the programs established by local public works for street sweeping that are described in Appendix J do not provide commitments that these programs will be adhered to at all, much less do they provide assurances that sweeping will be conducted with the frequency necessary to meet a BACM level of control. These commitments need to be strengthened and formalized before the Plan can be said to provide for the implementation of this measure at a BACM level of control.

D. Failure to Implement All BACM "As Soon As Possible"

33 PM-10 nonattainment areas must implement BACM within four years after reclassification to serious. CAA § 189(b)(1)(B). For the Las Vegas Valley, this deadline was February 8, 1997. Where a state fails to meet an absolute deadline set by Congress under the Clean Air Act, the new deadline is "as soon as possible." *See Delaney v. EPA*, 898 F.2d 687, 691 (9th Cir. 1990). The deadline for stabilization of unpaved shoulders and medians is not until December 31, 2006. To meet the requirement of CAA § 189(b)(1)(B), the Plan must implement this measure immediately or demonstrate why this is not possible.

E. Failure to Consider Partial Implementation of Rejected Measures

34 As stated above, the Plan fails to provide a reasoned justification for the rejecting various measures as BACM. But even assuming that the full implementation of these measures would be infeasible, the Plan cannot simply restrict its analysis to simple acceptance or rejection of each measure. Rather, it must consider implementing measures on a more limited basis or over a

more extended period of time. 59 Fed. Reg. at 42013. The Plan fails to do this with respect to any of the rejected measures.

F. Rule Effectiveness Default Value of 80 Percent Is Unrealistic and Unsupported

35 The Plan fails to provide any evidence supporting its standard rule effectiveness default value of 80 percent. To assume such a high rate of compliance is unjustified in light of admitted past failures of AQD to adequately enforce dust control rules and the continuing failure of the Las Vegas Valley to attain the PM-10 NAAQS. We note that Maricopa County undertook a study in connection with the MAG Plan in which it found a compliance rate with fugitive dust rules of approximately 66%. We believe this figure is more realistic in the absence of any studies or other information regarding the actual compliance rate in the Las Vegas Valley.

G. Failure to Include an Adequate Description of Enforcement Methods

36 Section 110(a)(2)(C) of the Act requires SIPs to include a program to provide for the enforcement of SIP measures. The implementing regulation for this section, 40 C.F.R. § 51.111(a), requires control strategies to include a description of enforcement methods including (1) procedures for monitoring compliance with each of the selected control measures, (2) procedures for handling violations, and (3) the designation of the agency responsible for this enforcement. The Plan generally describes the local air quality regulations through which the various control measures are identified, and indicates that AQD will be the enforcing agency. But the Plan fails to provide a description of compliance and enforcement methods such as inspection strategies and penalty policies, other than to say that the AQD will "identify and prioritize areas for inspection."[8] Thus, the Plan does not meet the requirements of CAA § 110(a)(2)(C) and 40 C.F.R. § 51.280

H. Failure to Provide Necessary Assurances of Adequate Personnel and Funding

37 Section 110(a)(2)(E)(i) of the Act requires that an implementation plan provide necessary assurances that the state or general purpose local government will have adequate personnel, funding and authority under state law to carry out the plan. Requirements for resources are further defined in 40 C.F.R. § 51.280. This regulation states that "[e]ach plan must include a description of the resources available to the State and local agencies at the date of submission of the plan and of any additional resources needed to carry out the plan during the 5-year period following its submission. The description must include projections of the extent to which resources will be required at 1-, 3-, and 5-year intervals."

We are encouraged by the Clark County District Board of Health's commitment to hire 15 additional staff to implement and enforce the control measures identified in the Plan. However, we note that the Plan only estimates the costs of enforcement for fiscal year 2000/2001 (in the amount of $780,000) and does not project future costs as required by 40 C.F.R. § 51.280.

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[8] The July 11, 2000 Workplan for PM10 Resources Commitment contained in Appendix H indicates that the Clark County District Board of Health intended to generate an inspection plan of action by August 25, 2000 and have draft standard operating procedures in place by December 2000. It is unclear whether either of these items have been completed.

We also note that the Plan only identifies "targeted" funding sources for these additional costs (a dust control permit fee, redirected funding from the PM-10 Emission Control Research Account, and increased funding from the Clark County general fund). The Plan does not assure that these funding sources are actually available for 2000/2001 or indicate whether they will continue to be available in the future. Thus, the Plan fails to provide adequate assurances of personnel and funding as required by CAA § 110(a)(2)(E)(i) and 40 C.F.R. § 51.280.

I. Failure to Provide Assurances of State Responsibility for Ensuring Adequate Implementation

38 Section 110(a)(2)(E)(iii) of the Act requires implementation plans to include necessary assurances that where a state has relied on a local or regional government, agency or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of the provision. The Plan fails to provide these assurances.

J. Failure to Provide for Implementation of Contingency Measures

39 Section 172(c)(9) of the Act requires implementation plans to provide for the implementation of contingency measures to be undertaken if an area fails to make reasonable further progress towards attainment or to attain the relevant air quality standard by the applicable deadline. The measures must "take effect without further action by the State, or the Administrator." *Id.* EPA interprets this requirement to be that no further rulemaking actions would be needed to implement the contingency measures. 59 Fed. Reg. at 42015. According to the EPA, contingency measures should provide the emission reductions equivalent to one year's average increment of RFP. *Id.*

The "contingency measures" identified in the Plan fail to meet these requirements for two reasons. First, the measures will require further rulemaking before they will ever take effect. Indeed, the only commitment made with respect to the measures identified in the Plan is that the District Board of Health will "evaluate" the measures for "an assessment of suitability."[9] There is no assurance that these measures will ever be adopted, much less implemented, if the Las Vegas Valley fails to make reasonable further progress or attain the PM-10 annual and 24-hour standards. Second, the Plan fails to provide *any* estimates of emission reductions from the contingency measures, much less does it show that those reductions are equivalent to one year's average increment of RFP. Thus, the Plan fails to provide for the implementation of contingency measures as required under CAA § 172(c)(9).

V. CHAPTER 5: DEMONSTRATION OF ATTAINMENT OF PM-10 NATIONAL AMBIENT AIR QUALITY STANDARDS

40 The Plan fails to demonstrate that the Las Vegas Valley will attain the annual standard by December 31, 2001. The attainment demonstration is inadequate because the demonstration is made only for the BLM Disposal Area, and not for the nonattainment area as a whole. Even

[9] The statement to the left of the text in section 4.6.3, that "Contingency Measures Have Been Adopted by the Clark County Health District Board of Health," is misleading. These measures have not been adopted as committed measures by the District Board of Health, but simply identified for further evaluation.

within the Disposal Area, the Plan's attainment demonstration is based on an inadequate monitoring network and incomplete emissions inventories. With so much uncertainty regarding the extent, severity, and sources of the PM-10 problem in the Las Vegas Valley, we fail to see how the Plan can demonstrate that the annual standard will be attained by December 31, 2001 with any degree of confidence.

41 We note that the SIP appears to be reliant on the building of facilities on vacant land to reduce emissions from these sources. Emission estimates are based on 1998-2001 development. CCDCP should know by now if this development has, or is, taking place. This information should be contained in the Plan.

VI. CHAPTER 6: MOST STRINGENT MEASURE ANALYSIS

42 Since the Plan seeks an extension of the attainment deadline for the 24-hour standard, it must demonstrate that it includes the "most stringent measures that are included in the implementation plan of any State or are achieved in practice in any State, and can feasibly be implemented in the area." CAA § 188(e). The plain language of the Act and preliminary EPA guidance interpreting this provision make clear that the only basis for rejecting a most stringent measure is that it "cannot feasibly be implemented in the area." 65 Fed. Reg. 19964, 19968; *see id.* As discussed below, the Plan improperly rejects various MSM without demonstrating that they cannot be feasibly implemented in the Las Vegas Valley nonattainment area. As a result, the MSM analysis results in no more controls and no more emission reductions in the area than result from the implementation of BACM. This directly contradicts the Act's strategy of offsetting longer attainment time frames with more stringent control requirements and fails to ensure attainment of the 24-hour standard "as expeditiously as practicable." *See* 65 Fed. Reg. at 19968.

A. Failure to Include Most Stringent Measures for Disturbed Vacant Lands

43 The Plan improperly rejects the more stringent Maricopa County size threshold of 4,300 feet for stabilization of disturbed open areas and vacant lots disturbed by vehicle traffic, and for weed abatement by discing or blading, without showing that adopting the lower threshold in the Las Vegas Valley would be infeasible.

44 The Plan also rejects the South Coast Air Quality Management District ("South Coast") standard of no visible emissions over a property line when wind speeds are 25 miles per hour or less as an MSM for this source category without a proper demonstration that using this standard would be infeasible in all instances. The Plan claims that the standard would be technologically infeasible for dust-producing activities that occur next to a property line but does not evaluate the standard for activities near the property line, yet far enough away that the standard could feasibly be met. We note that there is no reason this standard could not be applied in conjunction with the surface stabilization standards and test methods in the Clark County rules; thus, the Plan's conclusion that the Clark County rules provide greater air quality benefits than the South Coast no-visible-emission standard is not a basis for rejecting the South Coast standard when the two requirements used in conjunction with each other would provide even greater air quality benefits.

B. Failure to Include Most Stringent Measures for Unpaved Parking Lots

45 The Plan improperly rejects the South Coast standard of no visible emissions over a property line when wind speeds are 25 miles per hour or less as an MSM for unpaved parking lots for the reasons discussed above.

C. Failure to Include Most Stringent Measures for Construction Activities

1. Site Specific Dust Control Plan and Permit Requirements

46 As discussed above, the Plan improperly rejects the more stringent Maricopa County size threshold of one-tenth of an acre for obtaining a dust control permit without demonstrating that adopting the lower threshold in the Las Vegas Valley would be infeasible. In addition, the Plan notes that "elements of the Maricopa dust control plan process are more stringent that the Clark County dust control permit/dust mitigation plan program" without adopting those more stringent elements or demonstrating that they are infeasible. We disagree with CCPCD (and with EPA) that for purposes of an MSM analysis, the impact of the overall control strategy on emissions in a source category can be compared against the impact of the overall control strategy on the source category in other areas, and that individual measures within the source category need not be compared. *See* 65 Fed. Reg. at 19969. This approach does not comport with the Act or previous EPA guidance.

First, this interpretation violates the plain language and purpose of the Act. The Act clearly requires the inclusion of the "most stringent *measures*" in the plan of an area seeking an attainment date extension, and does not allow a state or local government to settle for the most stringent overall control *strategy*. This makes sense, since the overall control strategy of a comparison area may achieve less in emission reductions than the overall strategy of the nonattainment area under consideration, but the comparison area's implementation plan could contain specific measures which, when added to the nonattainment area's strategy, would result in even further reductions. EPA's proposed approach invites states and local governments to arbitrarily incorporate less stringent measures into an otherwise more stringent "control strategy" to avoid having to adopt other, more stringent measures in place in other areas. It also violates the Act's requirement that serious areas seeking an extension of the attainment deadline demonstrate attainment by the most expeditious date practicable, because the approach allows states to reject feasible measures that would hasten attainment.

Second, EPA's interpretation represents a departure from prior EPA guidance for which the agency has failed to provide a rational explanation. EPA has long interpreted the Act as making a clear distinction between control measures on the one hand, and the permits or rules through which those measures are implemented on the other. *See* 57 Fed. Reg. 13498, 13541 ("When the process of determining RACM for an area is completed, the individual control measures should then be converted into a legally enforceable vehicle (e.g., a regulation or permit program) . . . .")

Thus, the Plan's MSM analysis must focus on the stringency of the individual measures identified from comparison areas, and cannot compare the stringency of overall control strategies. This comment applies to any aspect of the Plan's MSM analysis where the Plan is comparing the relative stringency of overall control strategies rather than individual measures.

2. Visible Emission Limits

47 The Plan acknowledges that the South Coast's 100-foot limit on dust plume length is "clearly" more stringent than the 100-yard requirement contained in the Clark County control measure, then inexplicably rejects it on the basis that the Clark County 20 percent opacity requirement is of equal or greater stringency as the South Coast requirement and provides "better air quality benefits." The Plan fails to provide any evidence for this conclusion, or to explain why the two standards could not be used in conjunction with one another to achieve even greater reductions in PM-10.

3. Control Measures for Track Out Prevention

48 The Plan should adopt a specific prohibition on the use of dry rotary brushes, blower devices, and other similar equipment to clean up track out. The Plan rejects this prohibition as "not necessary" because it claims that these types of equipment could not be used without violating the 20 percent opacity standard for visible emissions. But if this is true, there is no reason not to include the specific prohibition in the Plan to make clear that such devices may not be used.

4. Control Measures for Stockpiles

49 The Maricopa County rules for stabilizing stockpiles appear to be more stringent in that they require either covering open storage piles or constructing wind barriers for all stockpiles, whereas the Clark County rule only requires this for certain soil types. The Plan must adopt any more rigorous stabilization standards that are included in the Maricopa County program (or any other program) or demonstrate that they are infeasible.

5. Control Measures for Cut and Fill Operations

50 The Plan must include the more rigorous plume length limit from South Coast Rule 403 or demonstrate that it is infeasible.

D. Failure to Include Most Stringent Measures for Paved Roads

51 To meet the MSM requirement, the Plan must include the clearly more stringent shoulder-paving measures adopted by the South Coast, which require the paving of 4 foot shoulders for paved roads with an annual average ADT of ≥ 500, and the paving of 8 foot shoulders for paved roads with an annual average ADT of ≥ 3000. Otherwise, the Plan must demonstrate that these measures are infeasible.

52 It is unclear how Clark County can contend that its programs for the cleanup of silt loading on paved roads are of equivalent stringency to those in other areas when Maricopa County has a requirement to clean up silt deposits within a specific time period (within 24 hours of discovery or prior to resumption of traffic on pavement), and Clark County does not. The Plan must include this clearly most stringent measure or demonstrate that it is infeasible.

53 Finally, the Plan is incorrect that Clark County's program for stabilizing existing roads is as stringent as the most stringent measure achieved in practice in any State, because the City of Phoenix has made a commitment to pave all unpaved roads regardless of ADT. The Plan must include this measure or demonstrate why it is infeasible.

VII. CHAPTER 7 – REQUEST FOR EXTENSION OF THE ATTAINMENT DATE FOR PM_{10}

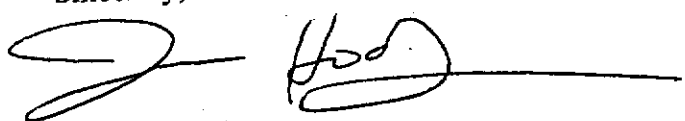
54 We disagree that the Plan meets the requirements for an extension of the attainment date for the 24-hour PM-10 standard. First, the Plan fails to demonstrate that attainment by the deadline of 2001 is impracticable. The Plan rejects numerous BACM measures without sufficient justification and exempts so-called "insignificant" sources from any additional control measures whatsoever, even sources estimated to account for 3 to 9 percent of total PM-10 emissions in the Las Vegas Valley. The Las Vegas Valley might have been able to attain the 24-hour standard by the deadline had it implemented the rejected BACM and adopted BACM for insignificant sources. In any event, the Plan fails to demonstrate otherwise. Thus, the Plan fails to demonstrate that attainment of the 24-hour standard by December 31, 2001 is impracticable.

55 Second, as discussed in the comments to Chapter 6 above, the Plan fails to include the most stringent measures that are included in the implementation plan of any state or are achieved in practice in any state and that can feasibly be implemented in the Las Vegas Valley. The Plan improperly rejects numerous most stringent measures without any demonstration that they are infeasible.

56 Third and finally, the Plan fails to demonstrate attainment by the most expeditious alternative date practicable. If the Plan included the various MSM's rejected without adequate justification, included all BACM for both significant and insignificant source categories, and fully implemented the measure to stabilize unpaved shoulders on paved roads on a more expeditious basis, the Las Vegas Valley might be able to attain the 24-hour PM-10 standard by December 31, 2003. Again, the Plan fails to demonstrate otherwise. For these reasons, the Plan fails to meet the requirements of CAA § 188(2)(e) for an extension of the attainment deadline.

Please feel free to contact me at (702) 732-7750 if you have any questions regarding the above comments.

Sincerely,



Jessica Hodge

Response to comments received in letter from Jessica Hodge, Southern Nevada Group of the Sierra Club, dated April 17, 2001:

1. Comment Noted. There are a number of different titles that would be appropriate for the SIP in addition to the one we used and the one recommended by the Sierra Club. We believe, however, that to change the title of the SIP at this time would only serve to create confusion. We will consider the recommended title for future documents.

2. Comment noted.

3. As referenced in the SIP, Section 2.2, the Clark County Health District operates a particulate matter monitoring network in accordance with the Code of Federal Regulations (CFR), Title 40, Part 58. The network is extensive, currently including seventeen PM_{10} air quality monitoring stations within the nonattainment area and outlying areas. The network adheres to the federal monitoring objectives and monitoring site criteria. Annual Air Monitoring Network Review Reports are submitted by the Health District to the U.S. EPA as required by 40 CFR 58.20(d). These annual reports provide a comprehensive review of the network including a site-by-site assessment of the adequacy of the network with respect to U.S. EPA siting criteria. The focus of the network does fall within the BLM disposal area, as it is the area of greatest concern due to the concentration of the Valley's population and the influence of anthropogenic activities. The network has evolved over the years and continues to change as new monitors are added and others relocated to better meet siting criteria, particularly as it relates to population growth in the area. As an example, the network of PM_{10} sites has grown from nine in 1995 to the present 18. The Frias PM_{10} site was operated for several years at a location outside the BLM boundary but within the nonattainment area (the site was in the south side of the valley west of I-15). From 1988 through 1994 the site never recorded an exceedance of either the annual or 24-hour standard. The site was closed in 1995 and was replaced with a new neighborhood site located at Paul Meyer Park on the west side of the valley.

   We agree that the thousands of visitors to the outlying federal lands are entitled to clean air and they are supported by the fact that the dust control measures established in the Air Quality Regulations 90 through 94 are applicable to all of the nonattainment area, not just the BLM boundary.

4. The commitment to conduct a PM_{10} saturation study is described in the SIP, Section 4.8.2.2. As stated, the focus of the study will be on neighborhood impacts of major sources, particulate concentrations in geographic locations not well covered by the current monitoring network due to growth, and on inter-basin intra-basin transport during high wind

events. The reason stated for the study to be conducted in later years (2003 to 2006), rather than now, is to measure the impact of growth in future years. The last sentence of the last paragraph of Section 2.1 that indicates the study will be used to carry out an adequacy review of the existing air quality network is perhaps misleading in that the stated focus of the study is to evaluate the impact of growth in the future, not to evaluate the adequacy of the network today. This sentence will be updated to reflect the stated purpose of the saturation study.

5. Windroses showing wind speed and directions for 1997, 1998, and 1999 are provided in the SIP, Figures 2-4, 2-5, and 2-6 respectively. Additional wind roses depicting high wind conditions for the same years are being added to the SIP as Figures 2-12 through 2-14. The wind roses demonstrate that the predominant wind directions are generally the same over the years. The control measures that have been implemented are designed to control particulate emissions regardless of wind speed or direction.

6. The design value determination was accomplished in accordance with U.S. EPA guidelines (PM_{10} Sip Guideline, EPA-450-2-86-001; U.S. EPA: Research Triangle Park, June, 1987) and is described in detail in Appendix A. The years of 1997-1999 were evaluated to determine the average annual design value and the 24-hour design values. Appendix B clearly describes the methodologies used to develop the base year 1998 Valley-Wide emissions inventory, the 24-hour Valley-Wide emissions inventory, and the five micro-scale inventories. Meteorological data used to develop the inventory including wind speed analyses are presented Appendix B.

7. Webster's defines upwind as being in the direction from which the wind is blowing, and downwind as in the direction the wind is blowing. Appendix K addresses the Jean background site as being upwind from the Las Vegas Valley in accordance with U.S. EPA criteria for a background site. Beyond that, the SIP does not employ an upwind/downwind concept. As noted in response to Comment 5 above, the control measures implemented are not dependent on wind direction, but instead are designed to control emissions regardless of wind direction.

8. As stated in the first paragraph of Section 3.1, "The first step in determining the magnitude of the contribution of various sources of PM_{10} is to develop base line inventories of emissions." The text following that sentence addresses the wide variety of sources contributing to ambient concentrations of PM_{10} in the Las Vegas Valley, including significant and insignificant sources. Appendix B provides the emission inventory methodologies, emission factors, and emission estimates for all identified sources, significant and insignificant. A comprehensive list of potential

sources and a discussion of those not identified within the nonattainment area is also presented in Appendix B. A list of the source categories and their designation as significant or insignificant contributors to exceedances of the annual and 24-hour standards is shown in Table 4-1. The SIP thus does include a comprehensive, accurate, current inventory of actual emissions from all sources of PM_{10} in the nonattainment area. Staff does agree that significance determinations are used to designate sources for control measures not for inclusion in the emission inventory.

9. Farming operations are addressed in Appendix B in the paragraph on Stationary Area Sources, page B-4. Farming operations are not present in the nonattainment area at any measurable level, as farming is generally economically infeasible in the area.

10. The SIP reference that addresses uncertainty is in Section 3.6, and rather than acknowledging that "significant uncertainty" remains, it actually says that "there are a few data points where despite the effort that was made (to determine the emissions levels as accurately as possible) significant relative uncertainty remains. Much of the uncertainty lies with the dynamic nature of the sources. The source parameters change on a regular basis, necessitating continual updates." The commitments made to improve emission inventories will fulfill the stated need to do updates to the emission inventories. These commitments to not invalidate the accuracy or completeness of the inventories accomplished for the SIP. In terms of achieving the annual PM_{10} standard, the monitored data since 1999 has shown attainment of the standard, and it is anticipated that by the end of 2001 the monitored data will support the attainment demonstration presented in the SIP.

11. Appendix C provides detailed documentation of the development of the Valley-wide PM_{10} emissions inventory of vacant lands. The reports contained in Appendix C document the work accomplished by the Civil and Environmental Engineering Department, University of Nevada Las Vegas (UNLV) to develop vacant land emission factors, to identify and classify vacant lands, and to establish valley-wide PM_{10} emissions from vacant lands. Maps and parcels evaluated are provided in the UNLV reports.

12. Chapter 3, section 3.3 does address reasons why the attainment demonstration is made for the area within the BLM disposal boundary in lieu of the entire nonattainment area. Appendix B describes the land uses and the classification of vacant land in the nonattainment area, including the vacant land within the BLM disposal boundary. Table B-1 summarizes the vacant land classification for the nonattainment area. Appendix E provides specific reasons for limiting the attainment demonstration to the BLM disposal area. Included among these reasons is the fact that over 99

percent of the population within the nonattainment area are within the BLM disposal area, over 90 percent of the VMT within the nonattainment area are also within the BLM disposal area, and all man-made emissions of PM_{10} except one major stationary source, a small percentage of unpaved road dust, and a small percentage of paved road dust are within the BLM disposal area. The implemented dust control measures apply to the entire area, not just the BLM disposal area. Controlling the sources, regardless of location, will bring the entire nonattainment area into attainment, as there are no source categories in the nonattainment area that are not subject to controls. Demonstrating attainment for the BLM disposal area acknowledges vacant land as significant sources and increases the role of other sources that are dwarfed by the nonattainment area inventory. This approach is more health protective providing greater control of anthropogenic sources.

13. Appendix C provides complete documentation of the wind tunnel studies conducted to develop emission factors for vacant lands. The results of these studies were provided to EPA for review and approval. As stated in the Preamble to AP-42, the use of locally determined emission factors, when available, is preferred.

14. For calendar years 1999, 2000, and to date in 2001, all PM_{10} monitoring sites are within the annual standard of 50 $\mu g/m^3$. Since new control measures (Air Quality Regulations 90 through 94) have been adopted and implemented to improve control of fugitive dust emissions, and with enforcement activities increasing due to the addition of new AQD enforcement staff during 2001, we anticipate that three consecutive years with no exceedances of the annual standard will be achieved at the end of 2001.

15. We followed U.S. EPA guidance in not identifying, developing and implementing BACM for sources identified as insignificant contributors to exceedances of the National Ambient Air Quality Standards (NAAQS). In U.S. EPA's 1994 Federal Register notice setting forth guidance for PM_{10} serious nonattainment area plans (see 59 FR 41998), U.S. EPA points out that Congress does not expressly prohibit a de minimis exemption for BACM requirements nor does Congress use the word "all" in conjunction with BACM requirements. Although U.S. EPA notes that it is reasonable to conclude that Congress intended a greater level of stringency to apply to areas that implement BACM, the stringency goes to the performance of the controls not the applicability of the controls (see FR 59 42010-11). Thus, under the Chevron test, U.S. EPA is authorized to limit the applicability of BACM to those source categories which "contribute significantly" to violations of the NAAQS.

16. Appendix B provides details on the design year 1998 emission inventory development. Vehicle exhaust emissions were calculated using the emission rates and vehicle miles traveled data as detailed in Appendix B, and the valley-wide/BLM disposal area results are summarized in Table B-94. Table B-95 shows the calculated vehicular exhaust emissions of 357 tons per year against the total PM_{10} emissions of 171,755 tons per year, which is approximately 0.21 percent of the total. Table 4-17 shows that this equates to 0.08 $\mu g/m^3$ contribution to the base year 1998 emissions. For the 24-hour standard, Table B-99 shows the calculated 24-hour valley-wide emissions inventory for vehicle exhaust to be 0.98 tons per day, which is approximately 0.11 percent of the total 932 tons per day. Table 4-16 shows the equivalent contribution in $\mu g/m^3$ to be 0.28.

The chemical mass balance (CMB) receptor modeling conducted by the Desert Research Institute (DRI) is addressed in Section 4.2.1. The discussion on page 4-10 points out that the source apportionment studies did not evaluate an exceedance of either the annual or 24-hour standard. The study, therefore, could not determine the contribution of motor vehicle exhaust to an exceedance episode. As noted on Page 4-5, paragraph 1, the study did conclude that "Local fugitive dust sources, typically less than two kilometers from the receptor, are the driving force behind concentrations measured by the monitors." The emission inventories presented in Chapter 3 and Appendix B, and the modeling process described in Appendix K do determine motor vehicle exhaust to be an insignificant source.

U.S. EPA has established guidelines where it will generally presume the contribution to nonattainment of any source category to be de minimis if the source category causes a PM_{10} impact in the area of less than 5 $\mu g/m^3$ for a 24-hour average, and less than 1 $\mu g/m^3$ annual mean concentration (see 59 FR 41998). In Chapter 5, Tables 5-1 through 5-8 demonstrate the modeling results for the attainment year of 2001. In Tables 5-1 and 5-2 the vehicular contribution to the annual 2001 design concentration is less than the 1 $\mu g/m^3$ guideline. Tables 5-3 through 5-8 demonstrate the 2001 24-hour concentrations in the BLM disposal area and at the five micro-scale sites. In all cases the vehicle PM_{10} concentration is well under the 5 $\mu g/m^3$ criteria with the concentrations ranging from a low of 0.55 $\mu g/m^3$ to a high of 1.64 $\mu g/m^3$.

Section 4.6.2.1 further addresses motor vehicle exhaust as an insignificant PM_{10} source, and describes programs implemented and considered for future implementation that will maintain motor vehicle exhaust at a de minimis level. These measures do include cleaner burning fuels, voluntary transportation control measures, vehicle inspection programs, and others.

Regarding the concerns expressed about $PM_{2.5}$, the PM_{10} standard is the present enforceable standard of the NAAQS. The $PM_{2.5}$ standard has not been fully promulgated. However, Clark County Air Quality Division has monitors located at five (5) sites (J. D. Smith, East Charleston, Jean, Apex and Green Valley) that have been operating since 1999. An analysis of the data from these sites, which are utilizing Federal Reference Method-FRM type monitors/continuous, indicates that there have not been any violations of the $PM_{2.5}$ annual standard (15 $\mu g/m^3$) or the 24-hour standard (65 $\mu g/m^3$) within the PM_{10} nonattainment area.

17. The same U.S. EPA guidelines described above for determining de minis source categories apply to stationary sources. Appendix B gives the details of the emissions inventory development process for stationary sources. Tables 4-16 and 4-17 display the contributions of stationary sources to the 24-hour and annual NAAQS respectively for the base year 1998. The contribution to the 24-hour valley-wide NAAQS for all stationary sources, including sand & gravel operations and asphalt concrete manufacture, totaled 2.22 $\mu g/m^3$ against the de minimis threshold of 5.0 $\mu g/m^3$. The range of contributions at the five micro-inventory sites is from 0.08 $\mu g/m^3$ to 3.74 $\mu g/m^3$. The annual valley-wide contribution for all stationary sources was 0.54 $\mu g/m^3$ as compared to the threshold of 1.0 $\mu g/m^3$ and the annual contribution at the J.D. Smith site is 0.05 $\mu g/m^3$.

    Section 4.6.1.1 discusses the stationary sources contribution to the 24-hour NAAQS and addresses controls in place that will ensure those sources remain de minimis in the future. Section 4.6.2.2 provides a similar discussion of the stationary sources as they relate to the annual standard. Chapter 5 presents the results of the attainment demonstration modeling. As shown in Table 5-1, the stationary point source impact on the design concentration for attainment of the annual standard in 2001 is 0.26 $\mu g/m^3$. In Table 5-3, stationary point sources contribute 1.24 $\mu g/m^3$ to the total 2001 24-hour BLM disposal area design concentration. The impact on 24-hour design concentrations at the five micro-scale sites ranges from 0.13 $\mu g/m^3$ to 3.68 $\mu g/m^3$. All of these concentrations are below the U.S. EPA guidelines for determining de minimis sources.

18. Comment noted. The response provided in paragraph 9 applies.

19. The quotation cited is taken out of context and was meant to apply to landowners responsible for managing very large land holdings. The statement in Section 4.4.2 (Page 4-26) of the SIP was not intended to suggest that dust mitigation plans for individual parcels was either technologically feasible or cost effective. These are discussed in Section 4.3.1 (Page 4-13) of the SIP. Clark County does not believe that requiring dust mitigation plans for individual parcels will provide any emissions benefits. Soil disturbance will result from surveying of stabilized parcels in

order to certify that the parcel is in conformance with the AQR. When these disturbances are taken into account, the requirement could result in an increase in emissions rather than a decrease. As noted, a cost effectiveness assessment was omitted from Section 4.3.1. This is provided below and Page 4-13 of the SIP has been amended to include the results:

There are approximately 4900 parcels of land within the BLM Disposal Area Boundary that are equal to or greater than 10 acres in size. These can be grouped as 10 acre parcels (2110), 15 acre parcels (1469), 25 acre parcels (873), 50 acre parcels (337), and 100 acre or larger parcels (145). Costs for developing dust mitigation plans are estimated to be at a minimum $500 each, with an additional minimum cost of $50 per acre for each acre over 10 acres. Therefore, the total first year and annual cost of compliance comes to $4,815,500 for the affected property owners in the BLM Disposal Area. When land outside the Disposal Boundary is considered, the total cost would be much higher.

Review of these dust mitigation plans, including field visits, could occur at an estimated average rate of 4 to 5 plans per day per enforcement officer. To handle all 4,900 parcels would require 4 additional enforcement officer positions for the first year and an estimated 2 positions on recurring annual bias, with a declining trend if vacant properties are developed. Administrative support staff for handling applications, scheduling, correspondence, and filing is estimated to be 3 full time equivalent (FTE) positions with a declining trend to one FTE potential if vacant properties are developed. Assumed cost per each enforcement officer is $60,000 per year and cost for each administrative FTE is $36,000. Total AQD cost for enforcing a dust mitigation plan requirement for vacant parcels comes to $340,000 for the first year. Total compliance and enforcement cost to implement this program would therefore come to $5,155,500.

Estimates of compliance cost for controlling emissions from disturbed vacant land on an annual basis are set forth in Section 4.5.3.1.6 of the SIP. The low-end cost estimate is $6,933,504 for compliance and the high-end cost is estimated to be $26,072,540. Adding the approximately $5 million additional cost of the dust mitigation plan requirement increases the low end cost estimate by approximately 74% and increases the high end cost estimate by approximately 20% for no emissions reductions.

In response to these comments, Clark County is proposing to amend Section 90 of the AQR to require that large land owners with a cumulative acreage of 10,000 acres or greater of open area or vacant land be required to submit a dust mitigation plan. This commitment is discussed in Section 4.8.2.9 of the SIP. The text of Section 4.4.2 of the SIP has been amended to reflect this commitment.

20. Table 4-5 should list this measure as "technologically infeasible" rather than "not practicable." This has been corrected in the revised SIP. The discussion on Page 4-15 has also been amended to more clearly state the basis for finding that this measure is not technologically feasible with less emphasis on the practicality of the control measure. The inability to appropriately locate the monitoring array makes this control measure technologically infeasible. This is due to the variable wind direction in the Las Vegas Valley and the mobile nature of emissions sources on a construction site. As noted in the discussion in Chapter 2, wind directions frequently shift in the Las Vegas Valley. This means that correct position of an upwind/downwind monitoring array at the site boundary may vary throughout the day, making the measured results unreliable. The mobile nature of construction emissions sources such as earthmovers and graders also make it impossible to correctly locate a monitoring array at the site boundary. Accurate and repeatable measurements from a fixed site boundary monitoring array for construction activities are therefore not possible.

21. As noted in the discussion under Section 4.3 of the SIP, extensive research was conducted to identify potential control measures, including U. S. EPA guidance documents, the BACM and MSM analyses prepared for the Maricopa County Serious Area PM_{10} SIP, and the U. S. EPA RACT/BACT/LAER Clearinghouse. Use of sprayers and misters utilized in the mining industry were noted as possible control devices for construction equipment. As noted in Table 4-9 of the SIP, field research was conducted to evaluate the potential control effectiveness of these devices. The results were disappointing, with only a 50% reduction in emissions achieved under moderate wind conditions and a declining efficiency as wind speeds increased. The best management practices implemented in this SIP achieve significantly higher emission reductions.

22. Transportation Control Measures (TCMs) have already been implemented by the Clark County Regional Transportation Commission. The implemented measures include employer based commuter incentive programs, telecommuting and area wide ridesharing programs. As programs with voluntary participation, emission reductions are not utilized in the attainment determinations.

23. The infeasibility of enforcing a very low speed limit on unpaved roads on a valley-wide basis as discussed in Section 4.3.5 of the SIP make this control measure technologically infeasible. During the extensive public workshop process, staff did not receive any indication that the public would voluntarily comply with low speed limits on these roads. Because compliance cannot be achieved, emission reductions will not occur, making this control measure technologically infeasible as set forth in

Section 4.3.5 and Table 4-7. The text in Section 4.3.5 has been amended to more clearly articulate these issues.

24. The basis for finding that paving of unpaved haul roads is technologically infeasible is detailed in Section 4.3.5 of the SIP. Where adverse environmental impacts from a control measure are clearly identified and alternative control measure are implemented that avoid these impacts, staff does not believe that a quantitative analysis is required to find that this measure is technologically infeasible. Where haul roads are paved and then removed, all requirements for construction activities would be required. It should be noted that the emissions would only be reduced by approximately 34 percent in 2001, whereas they will be reduced by 100 percent by not implementing this infeasible control measure.

25. Comment noted. The previous paragraphs address the issues regarding implementation of BACM on each significant source, and the following paragraphs address the reasoned justifications for rejecting the measures identified.

26. As discussed in Section 4.4.2.2, use of windbreaks are not as effective as other stabilization methods as a standalone control measure because of the difficulty in determining the correct placement and orientation on a site to achieve effective control. The placement of windbreaks in terms of both orientation and spacing; as well as the height of the windbreak, and the erodibility of the surface to be protected, is critical if windbreaks are to be employed effectively in controlling dust. The Clark County regulation allows use of windbreaks as a stabilization measure where the applicant can show to the satisfaction of the Control Officer and Region IX Administrator that employment of windbreaks will provide a level of control equivalent to other BACM for approved for open areas and disturbed vacant land.

27. Comments noted. Clark County is amending AQR Section 92 to address the unpaved parking lots. Proposed rule language addressed in AQR Section 92.2.1.1 states that no unpaved parking lots may be constructed except in the instance of where rural parking lots where public facilities, trailheads, campgrounds, and similar facilities are concerned. In this instance, the unpaved lot is stabilized in accordance with Subsection 92.2.1.2 (b) through (d).

28. Comments noted. Clark County is amending AQR Section 94 to include the 100-foot limit on dust plume, both horizontally and vertically from point of origin and the plume may not cross a property line concerning emissions from construction activities, handling, storage of any material (AQR Section 94.5.4 and Section 94 Handbook). Whether, Public Works,

or Highway Construction, the source of the construction activity is not a factor in not adhering to the AQR.

29. The fact that opponents of a control measure presented a valid reasoned justification that the measure was infeasible in the Las Vegas Valley does not invalidate the justification. Rather, it validates the fact that Clark County followed an open public process in developing the SIP. Staff did review dust control plans filed with the AQD and determined that the arguments were valid. Members of the PM Research Advisory Committee with experience in the construction industry also substantiated these the concerns set forth in Section 4.4.2.3 of the SIP.

30. Clark County permit thresholds contain additional requirements that may trigger the permit requirement for a smaller site. For example, trenching 100 feet to install utilities on a 4,200 square foot zero lot line parcel would require a dust control permit under Clark County AQR Section 94 but not under Maricopa County Rule 310. Maricopa County's acreage threshold is lower for requiring a dust control permit, but Clark County does not have a threshold for implementing BACM. The acreage threshold for requiring dust control permits was not determined to be a significant factor in our assessment of the effectiveness of the Clark County AQR. The difference in size between 4,300 square feet and 5,000 square feet is also not significant. Therefore, the overall stringency and benefits of the Clark County program equals the Maricopa program for small sites.

31. Comments noted. Clark County is amending and inserting new sections to AQR Section 93. This insertion will provide for a Crack Seal Equipment requirement(s) to read as such: *After adoption of this Subsection, and Owner and/or Operator which utilizes crack seal equipment shall acquire or contract to acquire only vacuum type crack seal equipment (Section 93.2.3).*

32. In regards to the term "routine sweeping" as used in the SIP, we use the term routine to mean the habitual, repeated performance of an established procedure. A requirement for street sweeping is established by the Municipal Stormwater Permit for the Las Vegas Valley, NV0021911, issued by the Nevada Division of Environmental Protection pursuant to NAC 445A.236, dated June 16, 1997. This permit applies to all local entities, and establishes best management practices (BMP) that must be implemented and monitored as a condition of the permit. The BMP include urban street sweeping at a frequency of every 5 to 10 days. Information concerning the stormwater permit has been added to Appendix J.

33. The commitment to stabilize unpaved shoulders is described in Section 4.8.3.2. $25 million of CMAQ funds are committed for the SIP

commitments for stabilizing unpaved shoulders and paving unpaved roads through 2003. Additional CMAQ funds will be committed to complete all projects on each entity's plan for stabilizing shoulders and paving unpaved roads by the end of 2006. It is not economically feasible to complete the projects before that time due to lack of available funding.

34. Partial implementation of control measures has been implemented throughout the plan where feasible. Two examples are the use of speed limits on construction sites as a best management practices even though the measure is not feasible to implement on public roads and use of windbreaks as an alternative control measure for construction activities, subject to approval by the Control Officer.

35. Comments noted. Clark County used U. S. EPA guidance in determining the rule effectiveness in the SIP and we believe this guidance to be sound based on current research and available technologies. Further, as noted in Appendix L of the SIP: *Rule effectiveness is used to denote the rate of compliance with a rule. The U. S. EPA default value for rule effectiveness is 80 percent (Rule Effectiveness Guidance: Integration of Inventory, Compliance, and Assessment Applications,* EPA 452/R-94-001, January 1994), *although areas also have the option to derive local category-specific rule effectiveness factors based the following criteria:*

- *the nature of the regulation;*
- *the nature of the compliance procedures;*
- *the performance of the source in maintaining compliance over time; and*
- *the performance of the implementing agency in assuring compliance.*

The ability to enforce a rule adequately is considered when estimating rule effectiveness. It is estimated that 15 additional enforcement staff members will be required to adequately enforce the new rules adopted as control measures for the PM_{10} SIP (see Chapter 4 of SIP). The District Board of Health has committed to hiring this staff and efforts are underway to hire and train these personnel. It is anticipated that all additional staff members will be in place by January 1, 2002. Because not all-new staff will be in place by January 1, 2001, rule effectiveness during 2001 has been lowered. The overall control measure reduction for 2001 has been calculated separately from 2006 when all staff members will be in place and rule effectiveness will be estimated at 80 percent.

36. Comment noted. Additional information regarding monitoring compliance, violations, enforcement, and inspection strategies have been added to Chapter 4 and to Appendix L. The State of Nevada program for the control of air pollution is established in Chapter 445B of the Nevada Revised Statutes (NRS). NRS 445B.100 states that it is the public policy

of the State of Nevada and the purpose of NRS 445B.100 to 445B.640, inclusive, to achieve and maintain levels of air quality which will protect human health and safety. NRS 445B.500 delegates the authority to the District Board of Health of Clark County to establish a program for the control of air pollution and administer the program within its jurisdiction. The District Board of Health of Clark County adopted Air Quality Regulation, Section 2 designating the Board of Health as the Air Pollution Control Board of Clark County and the incorporated cities in Clark County. It establishes the Board's authority to establish such emission control requirements as may be necessary to prevent, abate, or control air pollution, to establish procedures and compliance schedules to enforce those regulations, to levy penalties and to seek criminal fines against violators. Appendix L provides additional details on dust control enforcement programs.

37. Comment noted. Resource requirements and identification of the resources available to carry out the plan requirements for the next five fiscal years has been added to chapter 4.

38. Comment noted. Appropriate text has been added to chapter 4 that describes the necessary assurances that where the State has relied on a local or regional government to implement provisions of a plan, that the State has the responsibility for ensuring adequate implementation. Assurances for this requirement is satisfied through NRS 445B.520 which allows the State Environmental Commission to supersede a County's program in instances when the Commission determines that a local air quality program is inadequate.

39. The entire set of contingency measures provided in Section 4.6.3 will be automatically implemented if Clark County fails to meet the projected 2003 emissions reduction milestone. The emissions reduction benefit from these measures is 1,373 tons, which exceeds the 19.07 TPY emission reduction increment.

40. The attainment demonstration that is referenced in SIP Chapter 5 for the entire nonattainment area contains a misuse of the word "entire". The word "entire" will be removed from this Chapter since the attainment demonstration is specifically for the BLM Disposal portion of the nonattainment area. Micro-inventories from the five sites discussed in this SIP are the typical type of site, and are representative of the typical conditions and sources that lead to high levels of PM_{10} in the BLM Disposal area. The NAAQS, are health based standards, and the BLM Disposal area evaluated in the SIP contains the majority of the population where monitoring would be applicable and required per EPA guidance (CFR40, Part 58). EPA Region IX has approved the use of the BLM Disposal area for the attainment demonstration and emission inventories.

The Monitoring Network meets all criteria of the Code of Federal Regulations, Title 40, Part 58. At a population of one million or more, Clark County is required to have 6-8 NAMS monitoring systems. Presently, within the BLM Disposal area and the nonattainment area there are 18 PM_{10} sites. Please see item #3 of responses for further clarification.

41. Quantities of vacant land change continuously within the BLM disposal area. It would be infeasible to continually change the acreage affected by development on a weekly basis. Therefore, as allowed with preparing emission inventories an estimation figure is allowed in determining available vacant lands in future inventories. The design values are based on 1998 inventory data and estimated into future years.

42. Comments noted. Clark County strictly followed the guidance provided for MSM referenced in the Federal Register, Volume 65, Number 72 dated April 13, 2000. Further, other areas with similar conditions to that of Clark County were evaluated for control measures for BACM and MSM. With all commitments, controls in place it would be infeasible to reach attainment of the 24-hour standard before 2006.

43. As discussed in Chapter 6, the 5000 square foot threshold requirement for stabilization of disturbed open areas and vacant lots was established for enforcement personnel and land owners to easily estimate areas 50 feet by 100 feet in the field that require stabilization. An analysis of the Maricopa County threshold of 4300 square feet, which equates to "0.1 acre", was performed by query of Clark County Assessor Databases. The query results found that vacant land parcels contained in parcels less than 5000 square feet made up less than one percent of the vacant land contained in the BLM disposal boundary. It would be technologically infeasible and would provide no additional environmental benefit to adopt the threshold utilized by Maricopa County standard.

44. Revised AQR Section 92 rule language addressing Dust Over Property Lines is moving forward through the rule process. Further, there was no threshold for wind speed included, as in the South Coast Air Quality Management District standard which gave a threshold of 25 miles per hour or less. We believe that this addition to Section 92 rule referenced in the revised rule language for the SIP (92.2.1.4 Prohibition of Dust Over Property Line) results in a more stringent measure than the "South Coast Rule."

45. See comment 44 above. The rule applies to all vacant land parcels regardless of the land use. Further, revised rule language proposed for AQR Section 92.2.1.1 states that no unpaved parking lots may be constructed except in the instance of where rural parking lots where public

facilities, trailheads, campgrounds, and similar facilities are concerned. In this instance, the unpaved lot is stabilized in accordance with Subsection 92.2.1.2 (b) through (d).

46. Clark County control measures contain additional requirements that may trigger the permit requirement for a smaller site. Further, applicants for dust permits must provide information on dust-producing activities and the proposed control measures. If a construction operator engages in a dust-producing activity that is not covered by their approved permit, he or she will be in violation of the AQR Section 94 Rule. The Section 94 Handbook outlines requirements for construction activities in abating dust and site specific Dust Mitigation plans for larger projects (AQR Section 90.2.1.3) which provides for soil specific control measures. Maricopa's action threshold is more stringent for obtaining a dust permit but Clark County does not have a threshold for implementing BACM. Therefore, the overall stringency and benefits of the Clark County programs equals the Maricopa program for small sites and exceed the Maricopa program for larger projects. As stated in the SIP, Chapter 6, the control measures for all types of construction activities addressed in the Section 94 Handbook exceed any other set of control measure requirements in terms of comprehensiveness, effectiveness, and stringency. The threshold for minimum parcel size for permitting was not the primary concern in the analysis of health effects and the resultant control measures adopted.

    Clark County complied with the methodology mandated for MSM analysis and followed the most recent EPA guidance for the MSM analysis as referenced in the Federal Register, Volume 65, Number 72 dated April 13, 2000. This method is a reasonable and feasible way to ensure that the best science and technologies available are economically and technologically feasible within the area of interest evaluated. This Sierra Club comment relates to EPA guidance and methodology that was used in the MSM analysis, and is not within the scope of the SIP.

47. Comments noted. As recommended, Clark County has drafted language to amend AQR Section 92 and Section 94 to include the 100 foot limit on dust plume, both horizontally and vertically from point of origin and the plume may not cross a property line (AQR Section 92.2.1.4 and Section 94.5.4).

48. Comments noted. As recommended, Clark County is amending AQR Section 93 and Section 94 to include an Equipment Prohibition, on the use of dry rotary brushes, blower devices and similar equipment (proposed AQR Section 93.2.2 and Section 94.5.9).

49. Comments noted. As recommended, Clark County has drafted language to amend AQR Section 94 to include the 100-foot limit on dust plume, both

horizontally and vertically from point of origin and the plume may not cross a property line concerning emissions from stockpiles, storage piles (proposed AQR Section 94.5.4).

50. Comments noted. As recommended, Clark County has drafted language to amend AQR Section 92 and Section 94 to include the 100 foot limit on dust plume, both horizontally and vertically from point of origin and the plume may not cross a property line for cut and fill operations (proposed AQR Section 92.2.1.4 and Section 94.5.4).

51. Comments noted. As recommended, Clark County has drafted language to amend AQR Section 93 with a new Section 93.2.1.2 to address new, existing, modified paved roads on which vehicular traffic is equal to or greater than 3,000 vehicles per day, to be constructed with a paved travel section, and eight (8) feet of stabilized shoulder adjacent to the paved travel section.

52. As discussed in Section 4.5.2.4.3, Clark County has developed an extensive flood control system to minimize property damage and the deposition of materials on roadways caused by storm events. Major storm events do occur, however, causing extensive damage and deposition of material on roadways. It is not technologically feasible for cleanup of major storm events to be completed within 24 hours in all situations due to the extent of damage experienced. All entities do have plans in place that call for immediate response to storm events driven by public safety needs as well as the need to remove deposited materials. We believe the measures in place are as stringent as any others for appropriate and effective response to severe storm events and resultant damages such as are experienced in the Las Vegas Valley.

53. Comments noted. Clark County has a commitment from the jurisdictions within the nonattainment area to pave all roads within the nonattainment area with 150 or greater vehicle trips per day or upon discovery within the next 3 years (2003). The City of Las Vegas, has committed to pave all of their unpaved roads and meets the MSM requirement as specified in the guidance posted in the Federal Register, Volume 65, Number 72 dated April 13, 2000.

54. We do believe that the SIP meets the requirements for an extension of the attainment date for the 24-hour standard and have already addressed the comments made concerning the demonstration of impracticability in Chapter 5 (see comment response 40), and the exemption of insignificant sources from additional controls (see comment responses 16 and 17).

55. We believe the SIP does satisfy the most stringent measure test as provided in Chapter 6, and as addressed in the responses to the Chapter 6 comments in items numbered 42 through 53 above.

56. The plan does demonstrate attainment of the 24-hour standard in the most expeditious manner. Attainment of the 24-hour standard in 2001 is shown to be impracticable in Chapter 5. The control measures that will be implemented by the end of 2003 will reduce emissions below the 24-hour NAAQS, thereby enabling the required three years (2004 to 2006) with emissions below the standard to demonstrate attainment.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY &
CLARK COUNTY HEALTH DISTRICT,
CLARK COUNTY NEVADA
..... x

In the Matter of:

NEVADA ENVIRONMENTAL COALITION INC.'s
Comments re: Draft Particulate Matter Air Quality
Implementation Plan, Las Vegas Valley Non-attainment
Area, Clark County Nevada, March 2001;
Certificate of Service.
..... x

CLARK COUNTY/EPA COMMENTS AND EPA PETITION FOR ADMINISTRATIVE ACTION SUBMITTED ON BEHALF OF THE NEVADA ENVIRONMENTAL COALITION, INC. AND ROBERT W. HALL

INTRODUCTION

1 Petitioner Robert W. Hall, as an individual and in his capacity as president of the Nevada Environmental Coalition, Inc. (hereinafter "Petitioner"), hereby submits the following Clark County Department of Comprehensive Planning ("CCDCP")/U.S. Environmental Protection Agency ("EPA") combined, comment submittal. This combined comment document is filed as comment for the State Implementation Plan ("SIP") submittal described herein, without prejudice if filed during a noticed comment period or earlier than a noticed comment period. **The submittal is also an EPA petition for administrative action for a Federal Implementation Plan ("FIP")** (hereinafter "Petition"). This Petition is submitted to both Clark County and the EPA in opposition to the adoption of the particulate matter 10 microns or less (PM_{10}) State Implementation Plan, hereinafter "Plan" for the Las Vegas Valley non-attainment area in Clark County, Nevada. The Plan is dated March 2001 with a public notice date of March 6, 2001.

In submitting the instant petition, Petitioner does not waive any right. This Petition is submitted without prejudice to any of the Petitioner's rights.

The Nevada Environmental Coalition, Inc. ("NEC") is a research and advocacy, public service and oversight organization that specializes in Clark County environmental issues. NEC's supporting organizations and NEC associates live, work, pay taxes, and breathe the air in Clark County Nevada where the NEC is located.

GENERAL

2 Petitioner has attended some public information meetings. The Clark County Department of Comprehensive Planning held two public workshops in connection with the Draft PM_{10} Plan. Petitioner herein attended the March 27, 2001 workshop. He has consulted and coordinated with the key executives and staff persons whenever necessary in order to clarify and receive issues raised in the draft PM_{10} SIP. Petitioner has read the documents provided to the public and has asked for clarification, more information and answers to questions whenever necessary. For the most part, Clark County personnel who were contacted were pleasant, courteous and professional. They returned calls when necessary. They were prompt with the information they had and were generally quite cordial in discussing the issues despite knowing that the petitioner has not been a champion of Clark County's environmental policies. The petitioner has always believed that many if not most, key Clark County officials are well educated, extremely competent, knowledgeable and hard working. Petitioner's issue is and always has been not so much with the professional staff as with the political leadership and the political climate surrounding their work. Even where the differences are sharp and serious, petitioner believes that had the leadership and political climate been different, the other differences may have disappeared entirely.

To be very specific, Clark County's runaway, unrestricted growth policies cannot be reconciled with the National Ambient Air Quality Standards (NAAQS) and reasonable further progress toward clean air attainment. They are irreconcilable. Clark County has burned its environmental candle at both ends for the thirty years since the Clean Air Act was first promulgated. Clark County is broken. Its political structure is so decentralized, it is doubtful that a real solution is on the horizon. Clark County needs motivation. It is time that Clark County Nevada paid a heavy price for its transgressions.

OBJECTIONS

1. **Public notice and involvement.** Petitioner requested an opportunity for "notice and an opportunity to attend all meetings involving any federal, state or local agency operating in Clark County Nevada where the public and/or environmental organizations such as the NEC, are entitled by law to notice and the right to attend." See telefax message to Larry Biland from Robert W. Hall dated November 4, 1999. The November 4 communication is but one of many such requests Petitioner and the NEC have made to the EPA. The EPA never responded in writing to that request or any similar request.

2. **Secret meetings.** The EPA meets regularly with Nevada local and state agencies without prior notice of any kind to the public including the Petitioner. The EPA routinely denies access to meetings where the Petitioner and the NEC had and have a lawful right to attend. Most of the content of these meetings is informational and simply brings those attending up to date with EPA policies and programs. The EPA has failed or refused to make any attempt to separate the "deliberative process" from the informational process as a part of the agency's public involvement duties. Petitioner objects and Petitions the issue of the EPA's pattern of holding secret meetings and withholding information from the public. The "public" includes the environmentally focused, public service organizations and individuals of Nevada.

3. **EPA bias.** For the reasons given herein, the EPA has shown a bias that is not in the public interest. If at any time the Petitioner or the NEC are in error or have a misconception concerning any EPA policy or program, the fault lies squarely with the EPA. The EPA must assume the responsibility for its own refusal to bring sunshine to its proceedings without bias.

4. **Administrative record.** Petitioner requests that the EPA serve a complete, certified copy of the Administrative Record in this PM10 State Implementation Plan ("SIP") proceeding on the Petitioner without delay. This request includes certified copies of all of the documents that the EPA has used to date and intends to rely upon in this SIP administrative process, or in any subsequent judicial process. This demand includes but is not limited to electronic communications such as telefax and email messages. Petitioner also requests that the EPA make a certified disclosure to the Petitioner of a list of all meetings, telephone conferences along with a list of all documents and correspondence produced by the EPA regarding any air pollution issue or activity involving the EPA and Nevada local and state agencies for the last three years.[1]

5. **Repair the damage.** Petitioner requests that the EPA put any review of the instant PM-10 SIP submission on hold until and unless all of the damage resulting the secret meetings Region IX has held with Clark County and State of Nevada agencies is repaired in accordance with all the applicable "sunshine," public involvement and disclosure laws. This issue raises the question of a strong EPA bias and conflict of interest in favor of Clark County's environmental scofflaw policies in opposition to public health and safety. For that reason and the reasons provided herein, the EPA has a substantial conflict of interest and bias against the public interest in this particular proceeding. We allege that at least in its relationship with Nevada, EPA Region IX is a federal agency that has become so politicized that it no longer operates according to law or in the public interest. The EPA has operated with a regulatory bias and with secret meetings that exclude everyone who does not agree with Region IX's politicized policies and undeclared conflicts of interest.

6. **Ignored information requests.** On May 19, 2000 we sent a telefax message to Nina Spiegelman, Chief of the ORC Branch, Region IX, requesting "all State of Nevada Notices of Violation (NOV's) filed by your section in the last twelve months and in the future, involving any issue or against any source of air or water pollution in Clark County, Hydrographic Basin 212, the Las Vegas Valley." We finally received a telephone call response to that request. The response was that we should monitor the Department of Justice ("DOJ") Web site. The information on the DOJ Web site is legally insufficient and an evasive answer to our request. We again request EPA compliance with the May 19, 2000 request which was a request for copies of the Notice of Violation ("NOV") documents that are on file from past filings, and

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[1] Petitioner is willing to download documents from Web sites if and only if the EPA certifies that the documents on the Web sites are the same documents, the same draft and the same version of documents the EPA has relied upon in its administration of the Clean Air Act in Clark County. Our concern is that the Web site document may not be the same as the document the EPA relied upon.

documents that are on file from past filings, and as they are filed in the future. We needed the information then and we need it now in order to prepare this and similar documents. We are willing to coordinate with a list provided by the EPA to affirm the documents that we already have in order to avoid duplication. We request that the NEC be placed on the service list for all NOV actions. We request that all EPA action to process or approve the instant Plan be suspended until sixty-days after service on the Petitioner herein of all the Notices of Violation the EPA has filed to date in Clark County, Nevada. This suspension of review is requested in order to provide time to revise and file a revision to the instant document. Once again, the EPA is causing its own administrative problems.

7. **Monitoring misrepresentation.** Clark County Health District ("CCHD") has manipulated monitoring sites and data in order to show improvement in PM_{10} concentrations, cover stories and press releases notwithstanding. Both Clark County and the EPA have failed or refused to make a full disclosure of this important issue to the public. The withholding of a full disclosure of the information involving this key issue suggests that Clark County and the EPA have conspired against the language, spirit and intent of local, state and federal sunshine and open meeting laws. The result desired by Clark County is to reach a paper-only attainment for PM_{10} National Ambient Air Quality Standards ("NAAQS"). The Draft PM_{10} Plan proposes to delay clean air "attainment" for an additional five years for a total of more than fifteen years since Congress promulgated the 1990 amendments to the Clean Air Act. We allege that the EPA will approve almost anything and overlook almost anything in order to avoid the implementation of a Federal Implementation Plan ("FIP").

8. **Inappropriate modeling.** Clark County data are manipulated by the cross use of inappropriate modeling and the inappropriate mixing and matching of data. The information presented to the public concerning the methods used and the decisions made regarding the
3 use of specific air pollution models and data is misleading, vague and ambiguous. The most important information that was **not** provided to the public is a full explanation of the alternatives available to those who developed the emissions budgets and the likely outcome of each of the alternatives along with the reasoning behind the final choices.

9. **Roll-back misrepresentation.** The so-called "roll-back" modeling approach misrepresents as does Clark County's attempt to reduce the non-attainment area to the boundaries of the BLM Disposal Area. The attempt is nothing more than an evasion of the language, spirit and
4 intent of the Clean Air Act. The "roll back" is a blatant, foul attempt at evasion of the National Ambient Air Quality Standards ("NAAQS") and reasonable further progress toward clean air attainment.[2]

10. **Monitoring site misrepresentation.** The Plan focuses on a narrow set of data involving primarily one of the newest monitoring sites. After testing, processing and massaging the
5 data available, Clark County has concluded that PM_{10} concentrations will be reduced despite

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[2] Petitioner is well aware of the legal difference between the words avoid and evade. Petitioner believes that the "roll back" plan is nothing more than a proposal to evade the Clean Air Act. Petitioner does not believe that Clark County would have proposed the "roll back" without prior consultation with EPA officials. These are very serious issues.

runaway, unrestricted, extraordinary valley growth. The Plan fails to present real, credible, quantifiable, replicable data to support that conclusion.

11. **Legally insufficient database.** The emissions database is not reasonably complete, it is not reasonably accurate, it is not current and the inaccuracies and omissions are substantive. This is not an objection about unreasonable accuracy. This is an objection over the fact that
6 data readily available to the County was not included in the database. Some of the omitted sources are not substantial sources of PM_{10} but some are. Our comments include numerous instances and examples of substantive errors or emissions in the database, most of which cause the conclusions of the Plan to fail.

12. **Emissions inventory misrepresentation.** Petitioner objects to the use of any 1998 inventory as the basis for any other data base or inventory. A 1998 inventory does not include the construction or planned construction of modifications or new sources of PM-10 air pollution. Additionally, the County's attempt to utilize previous emission inventories,
7 then inflate the numbers to a preposterous level only to reduce them in a "reasonable further progress" demonstration is preposterous. The required reductions do not reduce emissions anywhere except on paper. Even those "reductions" do not result in emissions below the 1996 levels when a record number of exceedances (50) were reported in the Valley.

13. **ENVIRON Report.** Petitioner objects to the failure of the Plan to consider the findings and the recommendations of the Nevada Legislature's S.B. 432 subcommittee ENVIRON report which Petitioner has adopted herein by reference, *infra*. That report questions the judgment, competence, integrity and credibility of the Clark County Health District's Air Quality Division ("AQD")(formerly Air Pollution Control Division or APCD). It is well known that
8 the County claims it is moving to make some of the changes recommended in the ENVIRON report which may eventually eliminate the AQD. The political oversight in Clark County has no intention of making substantive changes. There is no evidence that the elected officials are about to do anything other than conduct business as usual with an all elected official board. The ENVIRON report recommends changes in administrative personnel that are overdue.

14. **Missing conformity determinations.** Petitioner objects to the fact that the County and the EPA are attempting to approve a PM_{10} SIP without credible emissions budgets and without first requiring valley federal agency conformity determinations.[3] Without valley federal agency conformity determinations, Clark County has no data and no way to know the extent
9 of the valley's federal agency activities that directly or indirectly cause air pollution. See the CAAA §§ 176(c), 40 CFR § 51.850, *et seq.* and 40 CFR § 93.150, *et seq.* and 69 FR 18911-18918, April 10, 2000, Transportation Conformity Amendment: Deletion of Grace Period, Final Rule at 18912-18913. Both the County and the EPA have failed in their oversight and agency coordination responsibilities.

15. **Missing Federal Implementation Plan.** Petitioner objects to the failure of the EPA to implement the only remedy lawfully available to the EPA, a Federal Implementation Plan

[3] PM_{10} conformity determinations means the total of ongoing, non-exempt, non-de minimis, activities that cause air pollution initially, and as amended from time to time on a project by project basis.

(FIP). Nevada's own legislative ENVIRON report makes it clear that anything coming from the AQD is suspect. The Plan relies upon AQD's monitoring and other made-up numbers.
10 For the reasons given herein, the instant Plan is legally insufficient and may not lawfully be approved. The EPA has enough experience from the litigation surrounding the Phoenix, Arizona Federal Implementation Plan ("FIP") to know what the statutes require and simply ignores the requirements.

16. **SIP Plan relaxations.** Petitioner objects to the Draft PM_{10} Plan's violations of the Clean Air Act regarding the relaxation of prior approved Plan requirements. Section 116 of the CAA expressly forbids the relaxation of previously approved Plan requirements. In the instant Plan, the County proposes to relax the boundary and corresponding emissions inventory of
11 the non-attainment area, the requirement for Lowest Achievable Emission Rate (LAER), and the requirement for federally enforceable offsetting emission reductions for particulate matter. The Draft PM10 Plan is not proposing to achieve reasonable further progress, it is proposing to simply change the rules on paper in the best tradition of a bureaucratic shell game.

17. **Wind-speed evasions.** Petitioner objects to the narrowed scope of the Plan. According to the County, exceedances occur primarily when there are windy conditions, especially those windy conditions when wind-speed exceeds 35-40 miles per hour. Every hydrographic basin in the County has periods of time when the wind-speed exceeds this magic threshold as determined by Clark County. By not monitoring the air in the other hydrographic basins, or
12 by concealing the exceedances in the few airsheds where monitoring is conducted, the County misrepresents the attainment status of those airsheds. By the County's own data, every air shed in the County should be re-classified as a PM_{10} non-attainment area. The entire Plan must be re-fabricated to address the non-attainment status of the entire county, and not the reduced BLM disposal area as proposed in the Plan.

18. **Clark Air Act evasions.** In its wisdom, the EPA allows local jurisdictions to implement the CAA from the bottom up rather than from the top down. That is a very efficient way of defeating the intent of Congress when it promulgated the CAA. Clark County does not go too far up the regulatory ladder so that it does not have to face a lawful emission inventory and conformity determination process. That way, Clark County is able to ignore air pollution limits since the EPA has no way of knowing what the non-attainment, attainment or unclassified air pollution area emission inventory totals really are. If the EPA is trying to comply with the language, spirit and intent of the CAA, working from the bottom up is a fundamental error. If, on the other hand, the intent is to ignore the CAA, current Clark County/EPA strategy is brilliant. Each jurisdiction goes through the motions of compliance. No one knows the difference since the final steps including an approved, CAA 1990 amendments SIP, lawful emissions inventories and conformity determinations are never completed. That is the Clark County thirty year, scofflaw success story. A local agency with this track record should be out of business instead of administering any Clean Air Act program. The way to put the local agency out of business is through a Federal Implementation Plan ("FIP").

STATUTORY AND HISTORICAL REVIEW

The Clean Air Act and Amendments (CAAA), 42 U.S.C. 7401-7671q, CAAA § 101 *et seq.*, implemented health based standards for limiting the concentration of air pollutants in the ambient air. Particulate Matter (PM_{10}) is one of those air pollutants. A standard was adopted for PM_{10}. The standard for PM_{10} pursuant to the National Ambient Air Quality Standards (NAAQS), is an average of 150 micrograms per cubic meter ($\mu g/m^3$) based upon any continuous 24 hour period of time. This is referred to as the 24-hour standard. The annual standard is 50 $\mu g/m^3$. Clark County reports monitoring values that routinely exceed both standards.

Ambient air monitoring instruments measure the concentration of a particular pollutant in the ambient air and are subject to mathematical calculations prior to reporting. If a monitor measures, and the reporting agency actually reports a concentration of a particular pollutant in excess of the standard correlated to various statistics, the Governor of a state can petition EPA to have the area classified as a non-attainment area pursuant to §107(d)[4] of the CAAA.

Depending upon the severity of the concentration air pollution exceedances in a non-attainment area, EPA further classifies the area as a moderate or serious non-attainment area. State or local governments are allowed a period of time in order to attain compliance with the NAAQS [§188]. According to §188 (c) (2), "For a Serious Area, the attainment date shall be as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the area's designation as non-attainment, except that, for areas designated non-attainment for PM_{10} under section 107(d)(4), the date shall not extend beyond December 31, 2001." The Las Vegas Valley was declared a non-attainment area and this regulation applies.

13 Additionally, the NEC has provided evidence that the previous SIP (1979), as amended) requirements have not been complied with or enforced in Clark County by the AQD or the EPA. SIP requirements for LAER and federally enforceable offsetting emission reductions (SIP §15.14) have *never* been implemented, enforced, or complied with in Clark County.

Nevertheless, according to the instant Plan (Section 1.1) "Since attainment of the 24-hour PM_{10} NAAQS with the Las Vegas Valley is not feasible by 2001, this document includes a formal request to the U. S. EPA for a five-year extension of the 24-hour NAAQS attainment date from 2001 to 2006." The granting of an unlawful extension of time is an evasion of the statutes
14 promulgated by Congress. Knowing and willful evasions of the law are not in the job description of any federal, state or local official. Legally insufficient extensions of time to comply invite litigation.

CAAA Section 188 (e) governs the extension process. There are several criteria that must be met before an extension can be granted. For example, "the Administrator may extend the attainment date for a Serious Area beyond the date specified under subsection (c), if attainment by the date established under subsection (c) would be impracticable, the State has complied with all requirements and commitments pertaining to that area in the implementation plan, and the State demonstrates to the satisfaction of the Administrator that the plan for that area

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[4] All subsequent statute citations are to CAA citations unless otherwise noted.

includes the most stringent measures that are included in the implementation plan of any State or are achieved in practice in any State, and can feasibly be implemented in the area." Later, in the same CAAA section, "The Administrator may not approve an extension until the State submits an attainment demonstration for the area. The Administrator may grant at most one such extension for an area, of no more than 5 years."

Petitioner objects to the EPA granting any extension for attainment of the NAAQS or reasonable further progress in Clark County for the reasons given herein.

The County waited until late in the year 2000 to develop a plan that was designed solely for the purpose of obtaining another five year extension of time to comply with the Clean Air Act. The proposed Plan is not a serious attempt to convince any but the very gullible that the
15 County has any hope of reaching clean air attainment. Presenting a plan more than 10 years late is evidence of Clean Air Act evasion. The plan submitted is not a legally sufficient justification for determining whether attainment is practicable or impracticable in the County. By analogy, the extension of time rubber band stretched to its limit and snapped a long time ago. The only lawful alternative left is a Federal Implementation Plan ("FIP"). A Clark County FIP is long past due.

Clark County's record is thirty years Clean Air Act disdain. As we have discussed, Clark County had a SIP with requirements for LAER and federally enforceable offsetting emission reductions. Despite that requirement, LAER requirements were never implemented, enforced, or complied with. That alone is reason to require a Federal Implementation Plan ("FIP"). The EPA may not lawfully ignore Clark County's repeated patterns of Clean Air Act evasion.

Normally, LAER means the "lowest achievable emission rate." To the jaundiced, Clark County's definition is "least achievable emission reduction." As but one example, Clark County issued an Authority to Construct ("ATC") permit without public notice or hearing to James Hardie Gypsum. LAER was required by the AQD SIP regulations. AQD responded by allowing a control scheme of using only 0.5% moisture over the crushers and screens in the processing plant. Since native desert soil in the Las Vegas area has a nominal 0.45% inherent moisture level, AQD essentially provided the source with their "no control equals LAER" mandate. Emissions are not quantified at this source. Instead, emissions are calculated as though LAER was applied. By this means, another source has escaped AQD's control requirements. The reality is no control with AQD sanction. See Conditions B29 and B30 of the proposed Part 70 permit for JH Gypsum for the reference documentation. It used to be that AQD required a minimum of 1.5% moisture in the permit language. That would meet BACT. With 0.5% moisture, AQD went a step further and did not even meet its own BACT requirement, much less LAER.

Another reason why the granting of the requested extension of time, and eventual approval of the Plan, is unlawful is found in the CAA, Section 116. This section states in part, "...if an emission standard or limitation is in effect under an applicable implementation plan or
16 under Section 111 or 112, such State or political subdivision may not adopt or enforce any emission standard or limitation which is less stringent than the standard or limitation under such

plan or section." The proposed SIP is replete with relaxed requirements as compared to the previous SIP. For that reason, it is legally insufficient. Among these relaxed requirements are:

- There is no prohibition of the establishment of a Class III area in Clark County. That requirement is mandated in the 1979 SIP.

- Stationary Source requirements for LAER on "significant" (as defined in the 1979 SIP) sources of particulate matter (at the time, the SIP referred to Total Suspended Particulate of which PM-10 is a subset).

- Federally enforceable offsetting emission reductions.

- The designation of the non-attainment area, which has been reduced in size from the entire hydrographic basin in the existing SIP to the "BLM Disposal Area" in the proposed plan.

The EPA has been under pressure from the NEC to implement a Federal Implementation Plan (FIP) as required by the CAAA. The EPA has resisted that statutory requirement for political and administrative reasons. The EPA has been under heavy political pressure in general to approve the PM_{10} SIP submittal. There is a concern that quality, credibility, conformity, and legal sufficient compliance are not major EPA considerations. Just speed.

During 1999, a high level delegation from the EPA met with Clark County Health District officials and members of the Las Vegas environmental community. During those meetings, EPA heard credible testimony from those who had first-hand knowledge of the facts and allegations, some of which the NEC is repeating herein. Officials of the CCHD's Air Pollution Control Division (APCD) either admitted the allegations or remained silent when allegations were made. Several of those administrators have since resigned, but the replacements, particularly those who come from environmental consulting firms have a mindset that is not any better than those they replaced.

The allegations herein are not new to Clark County or the EPA. The allegations have never been refuted with any credible evidence. Clark County's own auditors have admitted that key documents have gone missing. Robert W. Hall, NEC's president, offered the Clark County Board of Health copies of some of their own data and documents that were protected from administrative destruction by whistleblowers and others. The Board simply sat in stunned silence. They were not about to accept the offer of their own documents which they happily thought were destroyed.

The NEC has offered witnesses and documents to back up its allegations. The Nevada Legislature's S.B. 432 subcommittee's contractor ENVIRON begged off when it came to witnesses and evidence on the basis of too little time, no money and no authority to report on more than the broad issues. Local, state and federal official including law enforcement officials who have had anything to do with the Clark County Health District's malfeasance know the allegations are true.

APCD has not implemented or enforced in good faith, its approved State Implementation Plan (SIP) for New Source Review as required by §173 of the CAAA. Stationary Source compliance with the emissions control requirement of Lowest Achievable Emission Rate (LAER) as required by §173(a)(2) and the 1979 (as amended) Clark County NSR SIP are routinely evaded by air pollution sources with the full knowledge and assistance of the AQD.

The requirement for federally enforceable offsetting emissions reductions found in §173(a)(1)(A). This requirement is routinely evaded by misrepresented and unlawful local road paving and tree planting schemes. The local offset credits are allegedly earned by reducing air
17 pollution. There is no credible evidence that air pollution is reduced beyond *de minimis* amounts by either scheme. To the extent that there is no evidence that air pollution is reduced beyond *de minimis amounts*, the sale of the local credits to those who want to pollute adds to the PM_{10} problem in the non-attainment and management areas of Clark County. That does not help attain the NAAQS or reasonable further progress to clean air attainment.

Many examples of regulatory non-compliance exist for which neither EPA or the CCHD has taken enforcement action. Another example is Nevada Power's Clark Station where modifications were implemented without enforcement.

It is well known and documented that CCHD has not taken enforcement action against favored sources unless the EPA initiates a rare Notice of Violation (NOV) action. ENVIRON, the consultant hired by the State of Nevada's SB-432 subcommittee summed it up when they made the following statement (p. 2-112) in their March 2001 Draft Final Report. "Perhaps the gravest deficiency in the control of air pollutant emissions from stationary sources in Clark County lies in the enforcement of regulations and permit conditions applicable to these emissions from existing facilities." As a result of the unwillingness of the CCHD to perform the duties that it is paid by the EPA to perform and pressure from the NEC, the EPA finally stepped in and issued several Notices of Violation to Clark County stationary air pollution sources.

On information and belief, the AQD has never required stationary sources to comply with LAER or federally enforceable offsetting emissions reductions. Evidence lies in the Notices of Violation (NOVs) the EPA has filed in Clark County over the last five years. Approximately fifteen NOVs have begun to deal with the non-compliance issues with LAER and federally enforceable offsetting emission reductions.

There is another ENVIRON report statement of interest in this SIP proceeding at p. 2-113, "In the majority of these cases, the Health District was either aware of the violations or abetted in their commission by advising facilities to ignore federal requirements." That is not an NEC statement. The statement was published in the Final report by the Nevada Legislature's own consultants and the Legislature accepted the report.

Clark County still has not met the attainment criteria for PM_{10}. There is absolutely no political will to control air pollution, other than to manipulate numbers on paper in attempt to
18 give the illusion that Clark County can meet the NAAQS. Clark County has never paid a penalty for not complying with the NAAQS. Clark County has proven there is absolutely no incentive to comply with any federal law.

Clark County is relying upon the EPA for extensions of time that discussions with the EPA indicate will be granted. Compliance with the Clean Air Act is not primary consideration for Clark County of the EPA. Petitioner will work with those whose integrity is intact in order to
19 reach clean air attainment. To the extent that Clark County continues business as usual, they and the EPA are in for a fight.

STATUTORY AND ADMINISTRATIVE ISSUES

The EPA is violating its non-discretionary duty under CAA § 110(c)(1) to promulgate a Clark County Federal Implementation Plan (FIP) in Clark County for the following reasons.

Nevada has failed to submit either a legally sufficient PM_{10} or a CO SIP by the statutory deadlines. The EPA has yet to approve either SIP by its statutory deadline.

EPA has failed to promulgate a PM_{10} or a CO FIP.

There is no timely, valid, approved Nevada SIP that meets the CAA 1990 amendments.

There has never been a timely, lawful, approved transportation or general conformity determination in Nevada for two reasons. First, transportation and general conformity determinations must conform to a lawful, approved, CAA 1990 amendments SIP. Nevada does not have an approved 1990 amendments SIP. Second, all certifications that purport to conform to a SIP that does not exist misrepresent by definition.[5]

EPA has failed in its non-discretionary duty to timely and promptly notify Nevada that all statutory extensions of time to comply with the 1990 amendments to the Clean Air Act have expired.

EPA has failed in its non-discretionary duty to timely and promptly take the enforcement actions required by the CAA when the EPA granted extensions of time to Nevada to comply no longer have a statutory basis in law.

The EPA has failed in its non-discretionary duty to timely and promptly rescind or withhold all sub-SIP CAA authority granted to Clark County Nevada or its subdivisions until the higher CAA authority (SIPs and conformity determinations) were approved first. The EPA has unlawfully reversed the sequence of the Clean Air Act's mandatory requirements.

The EPA has failed in its non-discretionary duty to timely and promptly stop state and local government executives from seizing and exercising CAA powers they do not have by law.

The EPA has failed in its non-discretionary duty to timely and promptly stop the flow of EPA money to scofflaw Nevada state and local governmental organizations. This applies to

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[5] Document after document purports to conform to the "approved" SIP. They do not name the "approved" SIP. They do not dare. There is no CAA, 1990 amendments "approved" SIP. The only SIP that was ever approved is a 1979 SIP that does not permit Clark County to approve any of the PM_{10} emitting air pollution sources it has approved. The entire process misrepresents.

governmental organizations whose executives have seized CAA powers they do not have by law or who have misrepresented CAA certifications of compliance to a CAA 1990 amendments SIP that does not exist.

The EPA has failed in its non-discretionary duty to timely and promptly inform, advise and coordinate with other federal agencies regarding their statutory duties pursuant to CAA § 176(c) in situations where there is no CAA 1990 amendments SIP.

CONFORMITY

40 CFR 93.105 and § 93.105(e). The Plan lacks evidence that it was developed through consultation with the federal agencies operating in the Las Vegas Valley. These agencies include but are not limited to the Department of Interior's Bureau of Land Management (BLM),
20 the Department of Transportation's Federal Highway Administration (FHWA) and the Federal Aviation Administration (FAA).

Federal agencies are required by law to do conformity determinations effective on the date(s) Hydrographic Basin 212 (the Las Vegas Valley) was subject to a finding of serious non-attainment. In this instance, that would be the date the area was designated a serious non-
21 attainment area for Particulate Matter (PM_{10}).[6] There is no evidence of federal agency-by-agency conformity determinations in the draft SIP submittal. There is no evidence that federal agencies have ever determined their total Particulate Matter emissions from their valley, non-attainment area activities.

There is a valid, 1979 SIP for Nevada. The 1979 SIP does not conform to the 1990 Clean Air Act Amendments (CAA). There are no 1979 SIP emissions budgets. Federal agencies are required by the CAA to total all of their valley activity air pollution from ongoing projects from the date the valley was designated as a PM_{10} non-attainment area. Thereafter, they are required
22 to amend the conformity determination as projects with more than de minimis PM_{10} air pollution are added. See the CAAA §§ 176(c), 40 CFR § 51.850, *et seq.* and 40 CFR § 93.150, *et seq.* and 69 FR 18911-18918, April 10, 2000, Transportation conformity Amendment: Deletion of Grace Period, Final Rule at 18912-18913. See also Sierra Club v. EPA, *et al.*, 129 F.3d 137 (D.C. Cir. 1997).

The purpose of conformity determinations is to determine the total emissions data available to the local and state agencies responsible for SIP, emissions budget and conformity compliance. Conformity determinations are an important link to any SIP process. That information is missing from the Plan. Clark County has long preferred to operate in a regulatory vacuum because it was easier to control if no one knew what was going on. The last thing Clark County wanted to see was accurate air pollution emissions totals. Neglecting to total air pollution emissions data has served land speculators and the construction industry well for thirty
23 years. This is the means that Clark County used to hide that air pollution truth from the public and the EPA. Clark County is now caught in a web of its own making. The EPA is now caught

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[6] Hydrographic Area 212 was designated as moderate non-attainment for Particulate Matter (PM-10) on November 15, 1990.

in that web by not having the good sense to stay away it from the outset. The large, conformity emissions data gap renders the Plan legally insufficient for any lawful purpose.

Federal agencies operating in the Las Vegas valley have completed several "little-piece,"
24 valley, federal agency environmental assessments (EAs). "Little piece" EAs report PM_{10} and other air pollution on an EA by EA, project by project basis. The totals from these "little piece" EAs is never totaled, they don't dare. The totals from all valley EAs are not a part of any federal agency conformity determination. That is the reason these data are not in the Plan.

The facts of this issue provide evidence that Clark County has not been consulting and coordinating with federal agencies that are operating in the Las Vegas Valley. There is no evidence in the Plan that Clark County received, and anyone actually read all of the federal agency data that is available, in any coordination process. There is a lack of evidence in the
25 Plan, of conformity data from the FHWA, BLM, FAA or any other federal agency that operates within the Valley. The reason for conformity determinations (which are years past due) is to provide local agencies with exactly the information they are now missing . Clark County needs these data in order to prepare a legally sufficient draft SIP proposal.

The County made a serious error in failing or refusing to coordinate and regulate federal agency air pollution emissions. The County's failure is cause to facially reject the instant PM_{10} SIP submission out of hand.

MONITORING

The NEC has observed irregularities in the monitoring schemes of the APCD. According to 40 CFR §58, Appendix D: "The network of stations that comprise the State/Local Air Monitoring System (SLAMS) should be designed to meet a minimum of six basic monitoring objectives. These basic monitoring objectives are:

1. To determine highest concentrations expected to occur in the area covered by the network.

2. To determine representative concentrations in areas of high population density.

3. To determine the impact on ambient pollution levels of significant sources or source categories.

4. To determine general background concentration levels.

5. To determine the extent of regional pollutant transport among populated areas; and in support of secondary standards.

6. To determine the welfare-related impacts in more rural and remote areas such as visibility impairment and effects on vegetation.

The Clark County National Air Monitoring System/State/Local Air Monitoring System (NAMS/SLAMS) monitoring network fails to meet the six basic objectives as established by

federal regulations. The network does not determine the highest expected concentrations of a pollutant. This designed failure is accomplished by the CCHD when they have manipulated the
26 monitoring heights, site locations, and calibration and maintenance schedules, and data manipulation and reporting of the monitoring equipment. One way the CCHD has avoided reporting real exceedances of the NAAQS has been to locate the monitors upwind of expected high impact areas, according to prevailing wind conditions. Another method CCHD utilizes to underreport pollutant concentrations is to carefully watch the monitoring data from its telemetered measurements. When an exceedance appears imminent, CCHD sends a technician out to the site to take the offending monitor out of service for maintenance or calibration. Another smooth tactic is to place the monitor's upper range at an artificially low level and then not report or average the true values in the 24-hour calculation. For example, with PM_{10}, the high range is set at 500 but the readings that exceed 500 are defaulted down to the upper range limit of 500, thereby skewing the daily average low. Negative values on the records must only mean that AQD purposely "calibrates" the monitor to read lower than actual, but apparently within EPA limits. These examples are knowing and willful evasions of federal law.

Clark County has permitted air pollution sources in industrial areas of the county that have no NAAQS designations. Some of these areas are labeled "unclassified" while other areas are claimed to be attainment areas. By manipulating area designations, Clark County has evaded the language, spirit and intent of the CAA in order to avoid air pollution controls on new industry. By avoiding air pollution controls, politically favored land speculators are able to attract an element of industry that is interested in as little air pollution control as possible.

The APEX Valley (an airshed within Clark County) is claimed to be an attainment area. That is what the public and the EPA are told. Clark County is supposed to conduct its permitting process based upon the attainment status for all criteria pollutants. The reality is that Clark County conceals the truth regarding ambient air concentrations.

As one example, a monitor in the APEX Valley in 1995 recorded 11 exceedances of the 24 hour NAAQS for PM_{10} within a thirty-nine day period. Clark County ignores the data. More recently, when their monitor values approach an exceedance event, technicians take the instrument of the line. With no instrument, there is no exceedance. This evasion of law is conducted under the guise of calibration and routine maintenance.

Evidence of this practice may be found in the applications for new power plants in the APEX valley. Applicants are required to conduct modeling. The applications admit that CCHD monitoring data is missing for periods of time. Numbers were substituted for the missing data. The missing data represents those periods of time when an exceedance would have been recorded if CCHD had no gone into a timely (for sources of air pollution) preventative calibration and maintenance mode.

The monitoring deficiency affects the pre-construction monitoring program. APEX permits are based on false data that result in relaxed Prevention of Significant Deterioration (PSD) requirements. The AQD joke is that these areas are known as Promotion of Significant Deterioration areas. CCHD knows that these practices are an easy way to reach attainment so the corruption of their own employees continues.

In the meantime, the APEX air pollution flows downhill, down I-15 during calm mornings into the lowest areas in the valley. They are North Las Vegas, the City of Las Vegas, the Las Vegas strip and on to Henderson. When the wind shifts, the air pollution pollutes the lungs of the American Indian tribe at Moapa and then pollutes the Grand Canyon and Zion National Parks. That is not Clark County's problem.

OVERALL LACK OF PERIODIC MONITORING

A basic tenet of Clean Air Compliance involved permit development. That is especially true for so-called "synthetic minor" sources. Permits must require sufficient monitoring and record keeping to provide a reasonable assurance that the permitted facility is in compliance with lawful requirements. Unfortunately, sufficient periodic monitoring is absent from most AQD draft permits. In situations where the applicable requirement fails to mention a particular type of periodic monitoring, periodic monitoring is missing from the draft permit altogether. AQD Technical Support Documents (TSDs) routinely fail to note that an initial source test was not complete as of the date of public notice submittal. When a draft permit mentions a particular limitation that applies to the facility, AQD proposed permits do not routinely include a description of exactly how the facility is required to monitor compliance. When monitoring is required, AQD draft permits routinely fail to mention additional record keeping or reporting requirements. AQD draft permits are often vague about permit requirements for particular types of information that must be submitted to AQD.

The requirement for periodic monitoring is rooted in CAA §504, which requires that permits contain "conditions as are necessary to assure compliance." When sources attempt to gain a "synthetic minor" permit, in order to avoid a part 70 permit, proof of the source's non-major status must assure compliance. Permits proposed by the AQD routinely fail to require credible, replicable and quantifiable evidence of required monitoring that would help assure the public and the EPA that the source is non-major. Since there is no evidence that a particular source is actually a "synthetic minor" source as of the date of an application or as of the date of a public notice, proposed permits that do not include monitoring is legally insufficient.

40 CFR Part 70 adds detail to this requirement. 40 CFR §70.6 requires "monitoring sufficient to yield reliable data from the relevant time periods that are representative of the source's compliance." The regulation also requires all Part 70 permits to contain "testing, monitoring, reporting, and record keeping requirements sufficient to assure compliance with the terms and conditions of the permit. "EPA's Periodic Monitoring Guidance dated September 15, 1998 ("PMG") explains that [i]t has been and continues to be the Agency's view that sources are under an obligation to comply with permit limits.., at all times." Furthermore, EPA provides that:

[P]eriodic monitoring is required when the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit. Clearly, when an applicable requirement imposes a one-time testing requirement, periodic monitoring is not satisfied, and additional monitoring must be required consistent with sections 70.6(a)(3) or 71.6(a)(3). In addition, additional periodic monitoring may be necessary in cases

where some monitoring exists in the applicable requirement, but such monitoring does not provide the necessary assurance of compliance. Further, if an applicable requirement lacks monitoring or testing, periodic monitoring is not satisfied unless the unit is an insignificant emissions unit (IEU) for which no additional monitoring may be necessary.

PMG at 6-7.

AQD does not routinely enforce these permit requirements. This lack of adequate periodic monitoring is a substantive and significant issue that should result in denial of the proposed permits or the imposition of significant conditions thereon. 40 CFR Part 70 requires periodic monitoring sufficient to demonstrate compliance with permit requirements. The Clark County District Board of Health and the EPA have failed to review AQD's regulatory performance according to the oversight warnings contained in the USEPA's Consolidated Report on OECA's Oversight of Regional and State Air Enforcement Programs, Office of the Inspector General Report, E1GAE7-03-0045-8100244, September 25, 1998. Therefore, AQD must deny all such permits or hold an adjudication public hearing on this issue. Clark County does not deny or hold an adjudication hearing on the permits. That is sufficient reason to find that this Plan submission is not complete and should not be approved.

CAA § 116

27 Petitioner requests that the EPA disallow any provision of the proposed SIP that is less stringent than the existing SIP. Among those relaxed regulations are the AQD's regulations in Section 12 that are less stringent for LAER and federally enforceable offsetting emission reductions than the corresponding regulations of Section 15 of the 1979 SIP. Petitioner requests a "side-by-side" comparison of each control measure in the proposed SIP with the existing SIP. Petitioner requests a copy of whatever each agency claims is the existing SIP.

REASONABLE FURTHER PROGRESS

Petitioner requests a clear, unambiguous, written demonstration of how the Plan complies with the requirement for Reasonable Further Progress. Chapter 5 of the proposed Plan defers a discussion and report until the year 2003. For this reason, among many others, the Plan is legally insufficient and must be rejected. Specifically, Table 3-1 in the 1997 SIP submittal indicated,
28 with Clark County Commission approval, that annual valley emissions were 87,261 tons in 1995. There were numerous exceedances reported in 1995. Petitioner requests a demonstration that shows clearly the proposed attainment inventory and how that value correlates to the 1997 SIP submittal. According to Section 5.6 of the instant Plan, "... the control measures result in daily emissions of ... 199.46 tons ... 2006 respectively." That works out to 72,802.9 tons in 2006, based on a 365 day year. That value is also a value projected for the "new" non-attainment area listed as the BLM disposal area. The record shows that 50 exceedances were reported in 1996, which would have emissions not far from the inventory reported for 1995. Consequently, attainment of the NAAQS is not demonstrated by a minor reduction, on paper only, to the level of 72,802.9 tons. When the valley's runaway growth since 1995 are added to the equation, the data projections are not real, credible or quantifiable.

THE CCHD IS IN DISARRAY

So much money has gone to (1) attorneys to defend an increasing number of whistleblower and air pollution source suits and (2) salaries, benefits and pensions the CCHD is having financial problems. Spending and future obligations are over budget. Current personnel
29 levels are low and morale is low. The state legislature is now in a debate over funding, the emissions reduction credit or local offset program audit and a reorganization plan. CCHD does not have the personnel or the expertise to enforce SIP requirements. No one knows what the reorganization plan will be or where the money to run the new organization will come from. CCHD cannot demonstrate that it is qualified to enforce its SIP requirements. Nevada's governmental structure is too decentralized to cope with the problem. The State of Nevada is ordering an emissions reduction credit (ERC) audit that Clark County does not want. This is not an organization the EPA should support without a careful investigation.

CLEAN AIR ACT SIXTY DAY NOTICE

This comment document is also an addendum to Petitioner's prior sixty-day notices of intent to sue following section 304 of the Clean Air Act, 42 U.S.C. § 7604, and related regulations 40 C.F.R. Parts 54 and 70. This comment document notices the NEC's and Hall's intention to bring a civil action against the U.S. Environmental Protection Agency ("EPA"), the State of Nevada ("State"), the Clark County Commission ("CCC"), the Clark County District Board of Health ("CCHD") and its Air Quality Division ("AQD").

Regulator negligence and malfeasance has left Clark County citizens without the protections ordinarily afforded by approved SIPs. The only way citizens have a way to ensure that actions within polluted areas will not further degrade those areas is by legally sufficient SIPs that are not misleading. The lack of approved SIPs undercuts the CAA's conformity provisions. As we have noted, no federal agency operating in Clark County has ever completed a legally sufficient transportation or general conformity determination. Even if conformity determinations were completed, they could not conform to CAA 1990 amendment SIPs that do not exist. Each Clark County certification of compliance with any SIP that Clark County has ever made is misleading to the EPA, other federal agencies and the citizens who live in or visit the Las Vegas non-attainment area. The most important misrepresentation is that there is compliance in the Las Vegas Valley anywhere when there are no conformity determinations. We ask, conformity to what? The EPA has allowed never-ending misrepresentations to continue beyond all statutory boundaries.

In full recognition of this regulatory void, valley promoters of air pollution sources such as the one described herein have cynically championed projects that violate the NAAQS . Legally sufficient SIPs in the Las Vegas Valley serious non-attainment area would have prevented violations of the NAAQS. No legally sufficient SIP would permit the current levels of air pollution emitted by valley sources of air pollution.

ALLEGATIONS OF THE PETITION

The petitioner alleges the following acts or omissions of Clark County regarding the Plan and a corresponding pattern of evasion of the following Clean Air Act statutes.

30 • A failure to implement enforceable emission limitations pursuant to §110(a)(2)(A) and §172(c)(1) and (5).

31 • A failure to perform adequate and appropriate monitoring pursuant to §110(a)(2)(B) and §172(2).

32 • A failure of enforcement pursuant to §110(a)(2)(C).

33 • A failure to recruit, retain and manage adequate, qualified personnel pursuant to §110(a)(2)(E).

34 • A failure to establish and maintain a credible emissions inventory including monitored emissions, and potential emissions pursuant to §110(a)(2)(F), §172(c)(3), and (4).

35 • A failure to implement applicable stationary source requirements for non-attainment areas pursuant to §110(a)(2)(I).

36 • A failure to provide credible, believable air quality modeling and data pursuant to §110(a)(2)(K).

The petitioner alleges the following acts or omissions of Clark County regarding the Plan and a corresponding pattern of evasion of the following additional Code of Federal Regulations excerpts.

37 • 40 CFR § 51.112(a). The demonstration of adequacy in the Plan including the measures, rules and regulations contained in it, are not adequate to provide for the timely attainment and maintenance of the national standard that it implements.

38 • 40 CFR § 51.112(a)(1)(2). There is no demonstration in the information provided to the public that the air quality models used, the data bases, and the other requirements specified in Appendix W of this part (Guideline for Air Quality Models) were met. To the extent that an air quality model was inappropriate, there is no demonstration that any case-by-case modification or substitution was made with the written approval of the Administrator. Where a modification or substitution was made (if any), there is no demonstration that the required notice and opportunity for public comment was made under the procedures set forth in §51.102. There is no adequate, plain English disclosure in the Plan for the public to determine compliance with applicable demonstration of adequacy laws.[7]

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[7] A checklist table showing PM_{10} compliance with each section of the applicable laws would have been helpful to those drafting the Plan and to those who comment under the tight schedule of only ~thirty-days prior notice. The EPA uses this type of checklist for determining the adequacy of the Plan.

39 • 40 CFR § 51.115(c). There is no adequate plain English disclosure in the Plan for the public to determine compliance with Appendix C to Part 58 of this chapter.

A DETAILED ANALYSIS OF THE PLAN'S DEFICIENCIES AND OMISSIONS

A failure to implement enforceable emission limitations pursuant to CAAA §110(a)(2)(A) and §172(c)(1) and (5).

According to Section 4.5 of the Plan, several control measures have been implemented for attainment of the 24-hour NAAQS. These control measures are listed within Sections 4.5.2.1 through 4.5.2.6. According to Section 4.5.2.1 "Control Measures for Disturbed Vacant Lands (24-hour Standard)", "All requirements became effective on January 1, 2001." However, as of the date of this submittal, no violations were issued to the violators of the implemented requirements. That is an indication of two extremes, both of which are logical in the case of Clark County. First, the lack of enforcement of these relaxed requirements indicates that the priority of enforcement continues to remain low at the CCHD. Secondly, this indicates that the control requirements are essentially meaningless and useless since there have been no violations and the County delayed the implementation date until 2001. By delaying the implementation date of the requirements, the County provides evidence that it has no interest in enforcing requirements or reaching attainment of the 24-hour NAAQS. The demonstrated lack of effort on the part of the County cannot justify a 5-year extension since attainment is not "practicable by 2001". According to a reference item #16, Michael H. Naylor is used as a reference as if he was credible expert. Michael H. Naylor has resigned. The supporting documents herein provide ample evidence that Clark County's confidence in his information is misplaced.

Section 4.5.2.2.1 relates to implemented control measures for unpaved parking lots. The section is not worth the paper it has wasted since the County has not shown that unpaved parking lots are a significant source of particulate matter. Additionally, the lack of attainment priority is seen by the County's delay to July 1, 2001 to implement these meaningless rules. This section is obviously out of place in a section labeled as "PM_{10} Implemented Control Measures".

Section 4.5.2.3.1 relates to implemented control measures for construction activities. Again, the County has shown its lack of good faith by waiting until January 1, 2001 to implement these useless regulations. The Section 90 Series of Regulations mistakes volumes of paper for meaningful controls. Placing a fence around a vacant disturbed property site may stop motorcycles; but, it doesn't stop the bulldozers and graders from releasing serious amounts of PM_{10}. This section shows that Best Available Control Measures ("BACM") have not been implemented to date. No violations have been recorded since the so-called "implementation" date of January 1, 2001.

Section 4.5.2.4 relates to implemented control measures for paved road dust. Again, these requirements did not take effect until Jan. 1, 2001 further signifying the County's lack of attainment priority. No violations of these regulations were recorded since that time. It is obvious that paved road dust is not a significant source of PM_{10} that Clark County intends to control.

Section 4.5.2.5 relates to implemented control measures for unpaved roads. Again, the County has delayed implementation of this until June 1, 2003. Enforcement and implementation of regulations delayed until 2001 or 2003 explain why the 24-hour NAAQS are "impracticable" and cannot be met by 2001. For years, the AQD has been giving away cash in the form of Emission Reduction Credits ("ERCs") to companies who are paid to pave the roads with the highest traffic counts. This section is useless since roads with meaningful traffic are already paved. The SIP clearly does not place a prohibition on new unpaved roads that must be controlled in order to demonstrate further reasonable progress.

Section 4.5.2.6 relates to implemented control measures for Race Tracks. The requirements for these control measures are listed as becoming effective on Jan. 1, 2001. At first we thought this section was a joke since the County is prioritizing emission reductions on this air pollution category while relaxing the requirements on the politically well connected sand and gravel companies. The control of emissions from sand and gravel companies is ignored in the control requirements section of the Plan.

Evading lawful requirements until 2001 doesn't fit the requirements of §172(c)(1), which states in part, "Such plan provisions shall provide for the implementation of all reasonably available control measures as **expeditiously** as practicable." Untimely or delayed implementation of regulatory requirements do not contribute to a credible emissions inventory. Nor does it contribute to confidence that the 24-hour NAAQS will be attained.

Although a §172(c)(5) permit program is in place, Clark County has not had a notable compliance history. The pattern has continued unabated.

The Legislature's Environ report states on p. 2-113, "**In the majority of these cases, the Health District was either aware of the violations or abetted in their commission by advising facilities to ignore federal requirements.**" That is one way to describe an enforcement agency that is working both sides of the enforcement street. That also speaks to the issue of credibility. Again, these are comments from the Nevada Legislature's consultants.

Those who were aware of the violations or who abetted in their commission have not been the subject of an investigation or disciplinary action. No one has ever been terminated for lying to the EPA or to the public. No one who is responsible for evading environmental laws has ever been terminated. No one has been prosecuted. The message to these people is that they are doing what their political leadership wants them to do.

All the while, CCHD has taken numerous actions and has spent considerable amounts of money attempting to save their own reputations while trashing the reputations of several whistleblowers. The whistleblowers simply wanted CCHD to do what the law requires. They have assisted in our effort to reach regulatory compliance. The EPA has turned its back on the whistleblowers and in that process, has whitewashed CCHD's malfeasance and corruption. In one instance an EPA official provided information on a whistleblower to Clark County officials. On information and belief, the untimely death of another whistleblower was at least partly the result of Clark County's harassment.

Section 4.6 relates to insignificant source categories as "based primarily on the J. D. Smith annual inventory." The J. D. Smith monitoring site is new as of 1998, and obviously did not record any of the 50 exceedances that were reported in 1996. This section indicates "Lowest Achievable Emission Reductions ("LAER") that are required for all major sources which have been constructed or modified after September 26, 1996." According to Section 15.14 of the earlier SIP, significant stationary sources of particulate matter were required to implement LAER since 1979. Clark County never enforced the 1979 SIP and they have no intention of enforcing this proposed SIP.

If EPA approves this Plan, the EPA will simply aid and abet evasions of the Clean Air Act. The EPA will support the premise that integrity in the regulatory process is not valued.

A failure of appropriate monitoring pursuant to §110(a)(2)(B) and CAAA §172(b)(2).

Figure 2-1 in Section 2 of the Plan illustrates the problem with the AQD monitoring network. According to the plan, "24-hour Exceedances are Associated with High Winds". Yet Figure 2-1 shows the monitors are primarily located inside the Las Vegas Valley. All areas of Clark County have high winds, and according to the submittal, would be expected to have exceedances on these windy days. The Plan is inadequate because the monitoring network is not representative of the entire county, and the plan does not address the non-attainment status of outlying areas. APEX is a good example where there is a monitor, but it does not report exceedances when the County takes the monitor off line. The NEC has noted that AQD routinely takes the monitor off line when the wind is blowing at high rates of speed. County plans seems to explain why such action occurs since the County also claims that APEX is an attainment area.

At Section 2.4.1.1 "There were 43 exceedance days at these five air quality monitoring sites over the three-year period from January 1, 1997 through December 31, 1999." The County conveniently dropped the 50 exceedances reported in 1996 from the list.

There is substantial evidence that the monitors are placed upwind, or far away, from the prevailing wind drainage paths of the largest listed PM-10 sources. One example is CCHD's failure to place a monitor in close proximity and in the immediate proximity of the Lone Mountain Community Pit, sand and gravel sites. These sand and gravel sites are some of the most politically well connected sites in the valley. They remain essentially without monitoring. The closest PM_{10} monitors for these sand and gravel sites are miles away or are upwind of the prevailing wind drainage paths of the site.

40 CFR Part 58 indicates that monitors should be placed in areas where one would expect to find the highest ambient pollutant concentrations. Clark County does not want to report the violations of the NAAQS near Lone Mountain, nor do they want to report the violations at APEX, an area schedule for substantially more development that is controlled by the politically well-connected.

In most instances, there is no implementation or enforcement of §173 BACT or LAER as required by the only approved SIP, the 1979 SIP as amended in 1981/82/99[8]. The EPA is aware of the sources that have no lawful permits. The EPA is aware of the sources that operate with APCD sham permits. The NEC has served numerous comment and administrative protest documents on the EPA. In some cases, the EPA has filed Notices of Violation (NOVs). In other instances nothing was done. Two major sources of air pollution, Nevada Power's Reid-Gardner Plant at Hidden Valley and the Mohave Generating Station in Laughlin put out so much air pollution including PM_{10}, that the sources regularly pollute the Las Vegas non-attainment area air in the still of early morning and on days when there is little wind, despite being beyond the 25 mile regulatory limit.

A failure to recruit and retain adequate personnel pursuant to CAAA §110(a)(2)(E)

The Plan does not address the issue of recruiting and retaining adequate, competent, well educated personnel who still have their integrity intact. According to p. 5-27 of the ENVIRON Report, the "Staff Management" of the local air program received a rating of 1.91, which ENVIRON described as "Seriously Deficient." From pp. 1-2 of the ENVIRON Report, "Significant organizational improvements are needed to effect a long term, productive, air quality program that has the public trust." In fact, ENVIRON goes on to say on pp. 1-4, "Air quality plans for attaining and maintaining the NAAQS for PM-10, CO, and ozone (due to the new standard) need to be done much better than in the past." One of their recommendations supporting their statement is found on pp. 1-5, "Elimination of Air Quality Division of the County Health District (and) elimination (sic) of Clark County Department of Comprehensive Planning's air management functions." In other words, the consultant for the State of Nevada recommends disbanding the division now in charge of the local air enforcement program in Clark County. The instant Plan depends upon AQD enforcement. Regardless of what any new entity might be called, it will be staffed by many of the same players. The lack of commitment and enforcement will remain. The political message will not change.

It is a fact that the EPA approved a §173 NSR SIP. That SIP was approved in 1979 and was amended in 1981, 1982 and 1999. The 1999 SIP amendments are less stringent than earlier SIP regulations, EPA and CCHD disclaimers notwithstanding. With the ambient air PM_{10} monitors placed upwind of the points of highest pollutant impact, the true non-attainment status of the valley is not in the PM-10 SIP submittal. APCD has done everything possible to understate the air pollution truth. The issue is PM_{10} emissions concentrations vs. reported emissions concentrations. The issue is top management leadership and integrity.

CCHD is tasked with the implementation, including monitoring and enforcement, of this Plan. In p. 11 comments dated June 19, 2000 that responded to ENVIRON Report findings that were critical of the management of the Clark County air program, the Department of Comprehensive Planning stated, "Finally, the report involves a lot of discussion about what an agency needs to be effective. The key, which should have been emphasized more, is knowledgeable, experienced and dedicated staff that are competently managed. Changing

[8] Subject to a pending Ninth Circuit Court of Appeals decision initiated by the Petitioner.

structure, adding funds or giving the state agencies a larger role will all be for naught if this central issue is not addressed comprehensively." Amen.

A failure of correlation of emissions inventory including monitored emissions, and potential emissions CAAA §110(a)(2)(F), §172(c)(3) and (4).

The Las Vegas Valley is a serious non-attainment area and has several significant sources of PM_{10}. Significant PM_{10} sources have regularly appeared in AQD inventories indicating source annual emissions of PM_{10} that exceed 100 tons each. The Plan identifies few major sources, out of several, that have over 100 tons of PM_{10} per year. This under reporting is a misrepresentation of PM_{10} emissions in the non-attainment area. The under-reportings were accomplished as a result of AQD's issuance of "synthetic minor" permits.

The Plan's requirements regarding potential emissions are missing. It is a common AQD practice write permits with huge Potential to Emit limits, and then let the source claim much smaller actual emissions as a means of avoiding fees. The more important number is the Potential to Emit number since that number is more representative of actual emissions as opposed to fee paid emissions. AQD has written ERCs' for stationary source shutdowns that far exceed the sources reported actual emissions. In the process, the AQD has allowed major sources to evade the federal offsetting emission reduction requirements. By evading this important requirement, the County has failed to show "reasonable further progress" for thirty years. Reasonable further progress requirements are basic (CAA §172(c)(2)) to any approveable SIP, but are ignored in this submittal. The amount of emission reductions claimed in the Plan do not reduce the actual emissions below the 1996 year emissions. There were 50 exceedances reported by the CCHD in 1996 alone.

Another serious omission involves the use of an old 1998 emissions inventory. A 1998 emissions inventory does not include sources of air pollution modified, constructed or planned since 1998. One such substantial source of air pollution is El Dorado Energy, a major source of PM_{10} air pollution within the 25 mile nonattainment area limit. There are a number of projects planned for the APEX and other nearby areas that are not in the emissions budget. The missing projects include but are not limited to a 580 MW Southern Electric power plan, a 1100 MW Duke Energy power plant, a Nevada Power Harry Allen Station addition of several more units to their existing one unit, and a Las Vegas cogeneration power plant in North Las Vegas. Las Vegas cogeneration already has received approval for four more units in addition to the one they already have.

Petitioner has reason to believe that the CCHD knows about many more such sources of air pollution. CCHD has knowingly and willfully permitted these sources by slipping them in with improper designations as minor sources without public notice or hearing. We estimate that the air pollution from all such projects (listed and not listed), goes well beyond the approximately 2,000 tons per year of PM_{10} that the plan suggests. The Eldorado Energy plant was the recipient of bogus tree planting credits (the twig in a can that sleeps during the winter scam)[9]. Nothing is as it seems in Clark County. The EPA should not accept the Plan data

[9] See the NEC Report on Clark County's District Board of Health, Revision V, dated December 9, 1999.

without an inventory of all of the air pollution sources in the valley along with the Potential to Emit data for each source. The Clean Air Act does not support the issuance of a SIP to a jurisdiction that picks and chooses the sources it wants to include or leave out of the Plan. The CAA does not support the inclusion of misleading data in a Plan in order to give the public and the EPA a false impression of a source's actual air pollution. The data reported in the Plan are data that came from a discredited AQD administration. There is no data in the Plan that are free the prior administration's contamination. The prior administration's creative data are not real.

The CAA requires that all non-attainment areas prepare a base year inventory that is comprehensive, accurate, and current with respect to actual emissions. This document makes it clear that the 1998 inventory was not comprehensive, accurate, and current with respect to actual emissions. Since the 1998 inventory is not credible, a 2006 inventory extrapolated from the 1998 inventory is not comprehensive, accurate, and current with respect to actual emissions. We have also pointed out that the point source inventory data are not accurate for the reasons given herein. Consequently, any attempt to claim that reasonable further progress is being made in Clark County is based on false data. The plan is an attempt to grossly inflate the PM_{10} data in order to show on paper only, a reduction to the existing levels. Unfortunately, the existing levels resulted in 50 exceedances in 1996 alone, and the emissions have gone up since then. Clark County must reduce the actual emissions to levels far below those in 1996. Clark County's political plans are diametrically opposed to the data in the Plan and for that reason, the Plan is a knowing, willful misrepresentation not only against the EPA, but against its own people.

There is no explanation as to how the data was extrapolated to show attainment in 2006. The Plan is sheer magic and puffery. There is no clear and unambiguous statement advising the EPA or the public where the data came from, or the formula used to adjust or manipulate the data from year to year.

The few stationary point sources that are identified are listed with PM-10 emissions inventories that are not credible. The Plan lists source emissions that decreased since the 1997 inventory at a time when the population in the valley was growing rapidly. There is no information as to what equipment was installed or when it was installed. There are references that LAER and BACT will be required, but there is no information as to how the sources will comply with LAER or BACT. The EPA must require that the Plan list specific requirements (such as baghouses, paved haul roads, etc.) that must be complied with at each stationary source in order to comply with BACT/LAER. In coordination with Clark County, the EPA did not request this information for all sources. With no request from the EPA, Clark County keeps on misrepresenting compliance.

Noticeably absent from the Plan are listings for major utility sources. These large sources of PM_{10} are often forced to operate at or near full capacity in order to meet the electrical demands of the growing Las Vegas marketplace. Despite this robust and booming electrical demand, AQD emission inventories PM_{10} fail to include the corresponding emissions. Emissions from Nevada Power large fossil fuel fired combustion units are almost non-existent. None of these emissions data are in the Plan. The list of sources is not complete or credible.

According to §110(a)(2)(F)(iii), "the Plan must have correlation of such reports by the State agency with any emission limitations or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection."

The Nevada Environmental Coalition, and others including the press, have tried for years to get accurate, up-to-date emissions inventory and their correlations to statutory and permitted emission limits from the AQD. The AQD has not provided and cannot provide a credible, accurate, up-to-date emissions inventory along with the correlated emissions limits. The AQD admits its inventory is in disarray. The CCHD resists providing public information by charging as much as possible for the information that is available. In the meantime, AQD helps major sources evade the requirement to apply for a part 70 permit by claiming the source is non-major. They even have a new evasion language. The new term is "synthetic" minor.

Petitioner has made it clear that he can prove that AQD does not comply with federal inventory regulations. The reason that the AQD cannot provide a credible emissions inventory is that they have made up numbers for so long they are tripping over their own data and can no longer creatively adjust the numbers without public oversight organizations catching on. They are in a box of their own making.

According to CAA §172(c)(3), "Such plan provisions shall include a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area...."

The 1997 inventory is the APCD inventory where their goal was "10% perfection" or accuracy (90% imperfection or inaccuracy). An inventory that seeks 10% accuracy is not credible, comprehensive, or current. It is also not real. The 1998 inventory the Plan relies upon cannot claim 10% accuracy. AQD cannot substantiate any of their numbers with credible data that would hold up in a court of law. AQD is certainly heading for an opportunity to try. They will likely take a far too patient EPA with them.

The methodology for using a "proportional Roll-Back" model is not provided. Data from the CO SIP submittal indicated that a "roll-back" model was not an appropriate or accurate tool. An invalid model, combined with invalid monitoring and emission inventories is all the Plan uses to promote continued growth at all costs.

It is well known that Clark County has established temporary test sites over the years and knows the areas where PM-10 monitoring results in the highest readings. A full disclosure concerning that information was not provided to the public or to the EPA.

Designations of computer models provided to the public are vague and ambiguous. Clear references as to where the public might find the computer models used in order to determine the emissions budget are missing. The use of particular models and particular versions of models used is not justified in the information provided. Choosing only a small area of the Las Vegas Valley showing a decline in selected emissions, is not representative of the valley non-attainment area according to the SIP's own population and VMT (vehicle miles traveled) data. More important, from a common sense point of view, the emissions data report is absurd. Clark

County takes the position in this report that it may more than double the population and VMT in the valley and decrease PM_{10} concentrations along the way. The only way that could happen is to close down all forms of transportation, block all interstate highways and then require the public to ride bicycles. At the current rate of growth, they may have to include a smoking ban and curtail all other activities that create PM_{10} as well.

The truth is that Clark County has to slow down its issuance of building and dust control permits. Clark County has to slow down its runaway growth policy or it will never meet PM_{10} standards or any other air pollution standard. Clark County refuses to face the obvious and for that reason alone, the EPA should not approve this PM_{10} SIP. Clark County would rather give up every federal dollar than slow down growth. The State of Nevada is slowly waking up to the obvious and is in the early stages of panic.

A failure of implementation of applicable stationary source requirements for non-attainment areas pursuant to §110(a)(2)(I)

The County and the Plan have long ignored the true role of stationary sources in the non-attainment area. The reason is simple. The sources are politically well connected and the County wants to protect the wealth that is created from the development industry. The controls required by New Source Review (NSR) or New Source Performance Standards (NSPS) have not been implemented as we have discussed previously. So called grand fathered sources are required to implement BACT/BACM/LAER, but have not. In the interim, the benefits of applying controls are taken on paper. It is the reality and credibility of achieving the BACT paper numbers that is missing. In Clark County, BACT controls are not permanent control measures. Control measures taken at stationary sources such as sand and gravel sources are only temporary controls consisting of the application of moisture. When the moisture dries, particulate matter is free to blow throughout the valley – and it does. Permanent controls such as baghouses with the stabilization of the baghouse fines must be required before clean air attainment is realized in Clark County. CCHD has taken the alternative route, that of manipulating the data.

Our claims are confirmed by the EPA's 1996 Re-evaluation of the Clark County Air Quality Program. Our allegations are supported by EPA's issuance of several notices of violation (NOVs). Our allegations are reinforced by the ENVIRON report which we have cited previously. The Plan cannot be approved without aiding and abetting Clean Air Act evasion. The County is lying to federal officers in order to obtain federal money.

A failure of believable air quality modeling and data, §110(a)(2)(K)

The SIP submittal indicates that attainment can be reached, if only on paper, in the year 2006. No credible emission rate that corresponds with that Plan attainment goal. Percentages and percentage reductions are used in the Plan. There are no supporting emission rate data. The truth is they do not have a clue as to how to reach attainment. Earlier SIP submittals were not approved, attainment was not reached, and the prior plans were withdrawn. The control measures described in withdrawn plans were never implemented. The proposed control measures in the instant plan have not been implemented. The Plan fails to correlate the data with the previous budgets that have failed to reach attainment.

Clark County has had a plan all along that will work. The plan is to allow AQD to continue air pollution monitoring. All one has to do is have a very positive attitude along with the power to report whatever emissions data are needed to reach attainment. Whenever there is an imminent exceedance, simply take the monitor off line and call it a "calibration" or a "planned maintenance" event. These are tried and proved CCHD methods of evading the Clean Air Act compliance. Under this scenario, results are guaranteed. APCD's plan is to reach attainment by keeping a careful eye on monitors and take them out of service when an exceedance is imminent. The only way the plan can fail is if the wrong person goes on vacation.

Executive Order 13045: Petitioner requests that the EPA comply with Executive Order
40 13045 re: Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). The promulgation of a regulation involving a serious PM-10 attainment area is "economically significant" as defined under Executive Order 12866. Particulate Matter involves a health and safety risk that has a disproportionate effect on the children living in all the non-attainment areas of Clark County, designated or not. Any regulation involving a PM_{10} SIP in a serious non-attainment area meets both criteria. The Agency must evaluate the environmental health or safety effects of the planned rule on children in the areas with highest PM_{10} concentrations, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. One of several alternatives that must be considered under the totality of the circumstances that exist in the Las Vegas Valley is the statutory requirement for a Federal Implementation Plan (FIP).

Executive Order 12898: Petitioner requests that the EPA consider the adverse health effect impacts the promulgation of a regulation approving a PM_{10} SIP will have on minority and low income populations who are disproportionately represented in the County's non-attainment areas, designated or not. Petitioner requests that the EPA consider the disproportionate
41 economic impact on such a population where the submitted PM_{10} SIP proposes an inverse relationship between valley growth and Particulate Matter emissions. Minority and low income populations who are disproportionately represented in the non-attainment areas generally live in the lowest areas of the valley by altitude where PM_{10} tends to collect. To the extent that the theory behind the assumptions made in the PM_{10} SIP submission is in error, minority and low income populations will be heavily impacted.

SUPPORTING DOCUMENTATION

The following documents are made a part hereof and are adopted herein for all purposes. One of the purposes of adopting documents by reference is to substantiate the allegations herein.

Legal Actions:

1. Southern Nevada Home Builders Association; American West Homes, Incorporated; Falcon Development Corporation; Lewis Homes of Nevada, and Longford Homes of Nevada, Inc., v. Clark County Health District, Case No. A321782 dated July 30, 1993.

2. Vosburg Equipment and Quality Sand & Gravel v. Clark County Health District, Case No. A403414 dated May 18, 1998.

Ninth Circuit Appeals:

3. Hall v. EPA, No. 99-16153, Judicial Review re: Del Webb land exchange. Ninth Circuit Court of Appeals (fully briefed).

4. Hall v. EPA, No. 99-70853, Judicial Review re: EPA approval of Rules 0, 12 and 58. Ninth Circuit Court of Appeals (fully briefed).

5. Hall v. EPA, No. 00-70257, Judicial Review re: Clean Air Act Operating Permit Program, Pacific Coast Building Products, Inc. (PABCO). Ninth Circuit Court of Appeals (fully briefed).

6. Hall v. EPA, No. 00-71676, Judicial Review re: EPA finding of CO emissions budgets for transportation adequacy. Ninth Circuit Court of Appeals (opening brief filed).

7. Hall v. Abbey, No. 01-15157, Judicial Review re: Resource Management Plan (RMP). Ninth Circuit Court of Appeals (fully briefed). See www.necnev.org.

Department of Interior, Interior Board of Land Appeals:

8. IBLA 98-108, 98-102 (149 IBLA 130-149) re: EA NV-053-97-046, Diamond Construction Company Material Sale Contract; American Sand and Gravel, L.L.C., Material Sale Contract (Lone Mountain Community Pit).

9. IBLA 2000-45 re: Hall v. Babbitt (CV-S-99-0792-PMP), Lone Mountain Pit (Las Vegas Paving) (fully briefed).

Comment/Administrative Protests:

10. Comments and Objections Re: Pacific Coast Building Products, Inc. (PABCO), Issuance of a Part 70 Operating Permit to January 24, 1999, Revised, Exhibits "A" & "B"; Certificate of Service, all dated February 22, 1999.

11. Petition Objecting to PABCO Gypsum, a Division of Pacific Coast Building Products, Inc., Issuance of a Part 70 Operating Permit A00011 May 13, 1999; Exhibits "A" & "B"; Certificate of Service all dated June 5, 1999.

12. Post-Hearing Addendum to Comments and Objections Re: Pacific Coast Building Products, Inc. (PABCO), Issuance of a Part 70 Operating Permit to January 24, 1999, Certificate of Service, February 22, 1999, dated April 23, 1999.

13. Comments and Petition Re: Disposal Urban Maintenance Processing Co. (DUMPCO), Issuance of an Authority to Construct to March 7, 1999; Exhibits "A" & "B"; Certificate of Service, all dated April 6, 1999.

14. Comment Addendum Re: Comments and Petition Re: Disposal Urban Maintenance Processing Co. (DUMPCO), Issuance of an Authority to Construct to March 7, 1999; Exhibits "A" & "B"; Certificate of Service, all dated April 6, 1999, dated April 26, 1999.

15. Comments and Administrative Petition Re: Nevada Ready Mix (NRM), Issuance of an Authority to Construct/Operating Permit to Dated April 4, 1999; Exhibits "A" - "K"; and Certificate of Service, all dated April 27, 1999.

16. Post-Hearing Addendum to Comments and Administrative Petition Re: Nevada Ready Mix (NRM), Issuance of an Authority to Construct/Operating Permit, dated April 4, 1999 and Certificate of Service.

17. Administrative Petition Re: Proposed Nevada SIP Amendment Adding New Sections 0 and 12 and Repealing Section 15 of the Air Pollution Control Division Regulations; Certificate of Service, all dated April 13, 1999.

18. Comments and Administrative Petition Re: Chemical Lime Company (CLC), Issuance of an Authority to Construct/Operating Permit , April 18, 1999; Exhibits "A" - "F"; and Certificate of Service, all dated May 17, 1999.

19. Amended Request for an Appeal and a Declaratory Order Re: Capital Cabinets Corporation, Issuance of an Authority to Construct/Operating Permit to, June 23, 1999; Exhibits A, B, & C; and Certificate of Service all dated August 16, 1999.

20. Comments and Administrative Protest re: Proposed Issuance of an Authority to Construct and Operating Permit to Southern Nevada Liteweight, January 9, 2000.

21. Comments re: Las Vegas Convention and Visitors Authority (Cashman Center & 3159 Paradise Road, Issuance of Authority to Construct dated January 16 and 23, 2000.

22. Comments and Administrative Protest re: Simplot Silica Products (SIMPLOT), Issuance of a Part 70 Operating Permit, October 1,1999. (EPA Notice of Violation issued September 24, 1999).

23. Comments and Administrative Protest re: Royal Cement, Issuance of an Authority to Construct/Operating Permit, January 9, 2000.

24. Comments and 40 CFR § 70.8(d) Administrative Complaint re: Kerr McGee Chemical LLC, Issuance of an Authority to Construct/Operating Permit, dated February 10, 2001.

25. First Revised Comments and EPA Petition for Administrative Action re: Mirant Las Vegas, LLC, Issuance of an Authority to Construct, February 17 & 21, 2001, dated March 20, 2001.

26. Comments and EPA Petition for Administrative Action Re: Duke Energy Moapa LLC, Issuance of an Authority to Construct, February 18, 2001, dated March 20, 2001.

Clean Air Act Sixty Day Notice to Sue:

27. Revised (05-05-99) Clean Air Act 42 U.S.C. §7604(b), 40 C.F.R. §54.3 (1994) sixty-day certified mail notice of suit & notice of service all dated May 5, 1999.[10]

Reports:

28. USEPA Enforcement Alert, Office of Enforcement and Compliance Assurance (2201A), Volume 2, Number 1, Office of Regulatory Enforcement, EPA-300-N-99-002 dated January, 1999.

29. NEC Report on Clark County's District Board of Health - Revision V, dated December 9, 1998. See www.necnev.org.

30. ENVIRON Draft Final Report, "Study of Air Quality Programs in Clark County Nevada, dated June 23, 2000. See www.necnev.org.

Federal Register:

31. 69 FR 18911-18918, April 10, 2000. Transportation Conformity Amendment: Deletion of Grace Period, Final Rule.

Statute:

32. 167 F.3d 641, Environmental Defense Fund v. Environmental Protection Agency, dated March 2, 1999.

Code of Federal Regulations:

33. EPA 40 CFR Part 52 Final Rule Making a Finding of Failure to Submit a Required State Implementation Plan for Particulate Matter; Nevada--Las Vegas Valley dated August 31,1999.

Miscellaneous:

34. Clark County Applicable State Implementation Plan Action Log updated July 19, 1996.

The above-named documents were previously served upon those named therein. Clark County officials and EPA officials both received service. The documents are also available upon request. Several of the documents listed above are available on the NEC Web site as noted.

The statements made herein are also supported by this Draft Particulate Matter (PM-10) State Implementation Plan (SIP) dated March 2001, the documents referenced therein, the documents served upon the NEC by Clark County Comprehensive Planning as supporting documents to the draft SIP submittal, and the documents referenced herein by the Petitioner.

RELIEF SOUGHT

[10] Most of the comment/protest documents listed also included a Clean Air Act § 304, 42 U.S.C. § 7604 sixty-day notice of intent to due.

Petitioner requests that the Clark County Commission disapprove the Plan for inclusion into the Nevada SIP. The Plan misrepresents and is not a Plan that the EPA could seriously consider. A credible Plan must be submitted in its place. Should the Clark County Commission approve the Plan, Petitioner requests that the EPA not accept the Plan as complete, and not approve the Plan.

Petitioner claims all of his rights including but not limited to those found at 42 USC § 7607, CAA § 307. §307(h) requires "...a reasonable period for public participation of at least 30 days...." The public was not given **reasonable** time to consider the Plan. Petitioner regrets that with more time, a more polished and complete presentation would result.

The Plan submitted in 1997 by the Clark County Commission failed, and was eventually withdrawn. The instant Plan is worse than the 1997 submittal. Not only are the deficiencies of the earlier Plan still evident, new deficiencies were added that are much worse. The County Commission has ignored all prior NEC allegations. The County recently had to withdraw all prior PM10 SIP submittals after the NEC's claims were confirmed in the process of evaluating the threat of a Sierra Club lawsuit. This Plan is nothing but a waste of good paper.

In the few days available, Petitioner and its supporting thin green line have discovered gross deficiencies in the Plan. With more time, many more would be revealed. The deficiencies must be corrected. They cannot be corrected until the emissions inventory is credible and is fairly presented with integrity.

It is the opinion of the Petitioner that two events must occur or the State of Nevada is going to lose not only Federal Highway funding, but BLM, FAA and other federal funding and cooperation in the very near future.

The first event that must occur is additional change in key AQD and CCHD personnel. The composition of the Clark County Health District Board must change. It is obvious that without serious change, Clark County will never submit a credible plan. The issue is integrity. CCHD has executives that have been working both sides of the street. The current board and management simply did not have the engineering and business skills to deal with a very slick crew. They do not know how to get out of the abyss they have created assuming for the sake of discussion, they wanted to cause a meaningful change to occur. CCHD does not have leadership at the top that has any intention, particularly with monitoring, enforcement and emissions inventories, of getting the job done. It is past the time when key personnel should been transferred pending a full and fair investigation.

The second event that must occur is that Clark County must recognize that it cannot continue to encourage large numbers of people to come to the valley. The valley must implement a moratorium on building and dust permits in order to slow down the runaway growth that also causes PM_{10} and other types of serious air pollution.

The Plan's air pollution emissions to reach attainment do not add up. AQD cannot hold a lid on this mess any longer. Those involved are nervous. They realize what they are doing is

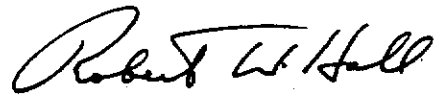
wrong. More and more people are volunteering information and the workers are refusing to take the routine risks. Clark County has burned its candle at both ends for far too long. The day of reckoning has arrived. The days of runaway growth and disregard for the health and safety of Clark County citizens are over. Procrastination will not solve the problem this time. Clark County has run out of time.

Petitioner further requests full EPA compliance with the language, spirit and intent of the Clean Air Act §113, 42 U.S.C. § 7413, Federal Enforcement, and §116 Retention of State Authority. Over the last three years, Petitioner has provided both the EPA Administrator and the Region IX Administrator with credible information that Clark County's violations of the Clean Air Act "are so widespread that such violations appear to result from a failure of the State in which the plan or permit program applies to enforce the plan or permit program effectively." Approving a relaxed SIP contrary to §116, would serve no purpose other than to aid and abet continuing violations.

Petitioner requests that the EPA implement a Federal Implementation Plan (FIP) pursuant to §110(c)(1), and apply Sanctions §110(m) pursuant to §179(a), supra, without further delay. That means now, not months or years from now. Clark County has met all of the requirements for a FIP many times over. The public health and safety is held hostage while bureaucrats procrastinate.

In making this request in our own interest, we also honor those who have lost their lives or whose quality of life has declined as a proximate result of the acts of a few. We especially honor the memory of Elizabeth Gilmartin. May she rest in peace.

Respectfully submitted,



Robert W. Hall, as an Individual and as President
Nevada Environmental Coalition, Inc.
10720 Button Willow Drive
Las Vegas, Nevada
(702) 360-3118

Dated: April 16, 2001

CERTIFICATE OF SERVICE

I certify that a copy of the attached Clark County Draft PM10 SIP comments, petition and administrative complaint were served by first class U.S. Mail on the persons listed below on April 17, 2001.

Robert W. Hall

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Response to comments received in letter from Robert Hall dated April 16, 2001

1. As noted in this opening paragraph, the subject document is a comment submittal to the Clark County Department of Comprehensive Planning (CCDCP) on the SIP and an U. S. EPA petition for administrative action for a Federal Implementation Plan (FIP). The CCDCP has limited comment responses to those comments that are applicable to the SIP. Comments applicable to the U. S. EPA petition for administrative action for a Federal Implementation Plan are not germane to this SIP and the CCDCP has not provided responses to these comments.

2. We appreciate your comments regarding Clark County personnel.

3. Staff is unaware of any inappropriate modeling or inappropriate data used in preparation of the SIP. Effort has been made to provide clearly communicated, detailed, and compete data as well as modeling analysis. There is no requirement in the CAA or applicable federal regulations to provide assessments of alternative methods for selecting emission inventory data, for calculating emissions inventories, or selecting the modeling protocol used to demonstrate attainment. Rather, the U. S. EPA requires the use of best available data and use of a modeling and attainment demonstration approach that complies with U. S. EPA guidance on modeling. Staff has reviewed several alternatives for modeling as described in Appendix K of the SIP. The modeling method used is clearly the test method for airsheds impacted largely by fugitive dust.

4. Roll-back modeling is an accepted method of modeling for PM_{10} attainment demonstrations and has also been utilized in PM_{10} SIPs prepared by Maricopa County (approved by U. S. EPA), the South Coast Air Quality Management District, and the San Joaquin Valley Unified Air Pollution Control District. As noted in Appendix K, CMB receptor models and dispersion models have limitations when identifying sources and impacts of fugitive dust.

5. In developing the SIP, the CCDCP reviewed the most recent three years of available data from the NAAMS/SLAMS monitoring network for Clark County. This is the data set that U. S. EPA requires be used for developing a SIP. Where violations of the annual or 24-hour PM_{10} NAAQS occurred, detailed microinventories of sources impacting these monitoring sites were prepared. The U. S. EPA reviews the NAAMS/SLAMS monitoring network annually for compliance with federal requirements. Current and projected growth has been accounted for in future year inventories and the attainment demonstration. Therefore, staff believes that PM_{10} concentrations will be reduced as set forth in the SIP.

6. The emissions inventory was completed in accordance with U. S. EPA guidance. The inventory has been reviewed by U. S. EPA and quality assured by an independent contractor. Given the thousands of pieces of data and calculations

made to complete the inventories, it is possible some errors may be present. However, any errors that are present are inadvertent. Specific errors brought to the attention of the staff will be corrected quickly. Staff believes the current inventory is accurate, complete, and without bias.

7. Selection of an appropriate base year and development of an inventory based on that year is a mandatory requirement for a PM_{10} SIP. The 1998 base year was selected for this SIP in consultation with U. S. EPA staff. The 1997-1999 three-year period was used for the basis of the SIP as a clear delineator from previously adopted control measures.

8. The ENVIRON Report was prepared for the Nevada Legislature's S.B. 432 subcommittee and was not a review of the PM_{10} SIP. The ENVIRON Report is not a comment on the SIP and not germane to this document.

9. This SIP has not yet been submitted to U. S. EPA for approval and is not being considered by U. S. EPA for approval at this time. Approval of conformity emission budgets is based on a submitted SIP that has been deemed complete by the U. S. EPA. These requirements are set forth in 40 CFR 93.105 et. seq., titled *Determining Conformity of Federal Actions to State or Federal Implementation Plans.*

   The emission inventories contained in the SIP include federal sources of emissions. The sources of data from federal agencies are presented in Appendix B of the SIP. Of particular interest is the data provided by Nellis Air Force Base prepared specifically for the SIP.

10. The NAAMS/SLAMS monitoring network, which is operated by AQD, is reviewed annually by the U. S. EPA under the grant program that funds operation of the monitoring network. The SIP is required to use data from this monitoring network. The applicability of the ENVIRON report and the accuracy of the SIP are described in response to comments 8 and 6 respectively.

11. Staff concurs that Section 116 of the CAA forbids the relaxation of requirements contained in an approved plan. Staff is unaware of any control measures for non-de minimis sources that have been relaxed under the provisions of this SIP.

    This SIP does not amend the nonattainment area boundary. A revision of the nonattainment boundary would have to be made by U. S. EPA. U. S. EPA guidance on modeling and attainment demonstrations allows the use of a modeling domain that is a subset of the nonattainment area. The modeling domain for this SIP was determined after extensive consultation with U. S. EPA staff. The basis for the modeling demonstration is presented in Chapter 3 and Appendix E. of the SIP.

12. In addition to maintaining an extensive NAAMS/SLAMS monitoring network in Hydrographic Basin 212 (the PM_{10} nonattainment area), the Clark County NAAMS/SLAMS monitoring network includes background PM_{10} monitors in Apex Valley (Apex), Ivanpah Valley (Jean), and Eldorado Valley (Boulder City). There is presently no basis to conclude that other air basins in Clark County outside of Hydrographic Basin 212 are out of compliance with the PM_{10} NAAQS.

13. The 1979 SIP was for the Total Suspended Particulate (TSP) standard, not the PM_{10} standard. Because TSP is a different pollutant from PM_{10}, provisions contained in the 1979 SIP are not applicable to a PM_{10} SIP.

As noted in the response to Comment 11, staff is unaware of any control measure for a significant source of PM_{10} that has been relaxed under the provisions of this SIP. This SIP includes commitments to significantly improve the existing enforcement program to enforce the new control requirements adopted as a part of this SIP (AQR Sections 90-94). These commitments are set forth in Chapter 4 of the SIP and described in detail in Appendix L.

14. As noted in the response to Comment 13, Clark County notes that under the provisions of this SIP, the control measures adopted as part of this SIP will be adequately enforced. Chapter 7 of the SIP provides an overview of the extension request, sets forth the CAA criteria that must be met for an extension request to be granted, provides detailed information on why attainment at an earlier date is impracticable, and describes how Clark County meets all of the criteria necessary for having the five-year extension granted. Therefore, Clark County believes that the approval of the requested extension is entirely appropriate.

15 In early 1998, the CCHD PM Research Advisory Committee, together with AQD and CCDCP staffs began working with the CCHD Board of Health in commissioning and overseeing research work to develop more effective PM_{10} control measures. The CCDCP and AQD staffs began work on developing an enhanced PM_{10} regulatory program in 1999, based in part on this research. The CCDCP and AQD staffs began holding public workshops on more stringent and effective air quality regulations in September, 1999, and went on to hold a total of 20 workshops between September, 1999 and November, 2000. During the 1998 through 2000 timeframe, CCDCP staff were also updating and enhancing the PM_{10} emission inventories. The CCDCP also contracted with outside consultants to assist in this effort. The RTC assisted the CCDCP SIP development effort through a contract with DRI to assist in the development of better-paved road emission factors. These efforts are documented in Chapter 4 and in Appendices C, D, and F.

The control measures and SIP commitments set forth in Chapter 4 and the MSM analysis supporting these measures and commitments in Chapter 6 do provide a solid basis for attaining the PM_{10} NAAQS.

This SIP is based on legally adequate emissions inventories; a robust and comprehensive set of control measures and commitments; and a scientifically sound demonstration of attainment as required by the Clean Air Act and U. S. EPA requirements and regulations. Therefore, this SIP is legally sufficient.

16. TSP is a different pollutant from PM_{10} and provisions contained in a TSP SIP are not applicable to a PM_{10} SIP. The 1979 SIP was a TSP SIP, not a PM_{10} SIP.

As noted in the response to Comment 11, this SIP does not amend the nonattainment area boundary. U. S. EPA guidance on modeling and attainment demonstrations allows the use of a modeling domain that is a subset of the nonattainment area. The modeling domain for this SIP was determined after extensive consultation with U. S. EPA staff. The basis of the determination is presented in Chapter 3 and Appendix E of the SIP.

17. The federally enforceable reduction credit program set forth in AQR Section 58 complies with the provisions of Section 173(a)(1)(A) of the CAA. The local offset credit program is a separate program not used as part of the attainment demonstration in the SIP.

18. Attainment criteria and the attainment demonstration are discussed at length in the SIP document. Staff notes that having a population of over 1.2 million sited in a desert community with associated low levels of precipitation and high winds makes achieving attainment of the NAAQS for particulate matter a serious challenge to the community. However, the very robust control measures and commitments contained in this SIP will be more than adequate to meet this challenge. As detailed in Chapter 6, the Clark County program compares very favorably with the programs put forward in other areas within the United States. The South Coast Air Quality Management District program has allowed that agency to move forward with a redesignation request and PM_{10} maintenance plan for the Coachella Valley, another desert community with low levels of precipitation and high winds. The SIP compares favorably with the South Coast program.

The stringent regulatory program for area sources adopted by the CCHD Board of Health and included as part of this SIP demonstrates a strong political will to control air pollution by that Board. The adoption of the many commitments contained in this SIP by the Clark County Board of Commissioners demonstrates the commitment of elected officials to control air pollution in the Las Vegas Valley.

19. Staff is encouraged when members of the public indicate an interest in participating in the public process and looks forward to working with these individuals to improve air quality.

20. CCDCP and AQD staffs have worked closely with the BLM in the development of this SIP. The CCDCP and RTC staffs have worked closely with the FHWA in the development of this SIP. Emission reports from Nellis Air Force Base and the airports under the jurisdiction of the FAA are documented in Appendix B.

21. As noted in earlier comment responses, conformity budgets are determined after emission budgets have been established in the applicable SIP.

Federal agencies are not responsible for jointly preparing a cumulative all-federal source particulate emissions inventory. Requirements for conformity budgets are set forth in 40 CFR 93.105 et seq.

22. As noted in the response to Comment 16, provisions of the 1979 TSP SIP are not applicable to the CAA planning requirements for the PM_{10} NAAQS.

As noted in the response to Comment 21 and earlier responses, conformity budgets are determined after emissions budgets have been established in the applicable SIP in conformance with 40 CFR 93.105 et seq.

23. The requirements of 40 CFR 93.105 et. seq. do not require development of a "conformity emissions budget" prior to the establishment of a SIP emissions budget.

24. Clark County does not currently have a PM_{10} emissions budget. Therefore, Environmental Assessments (EAs) prepared by federal agencies are not evaluated under a PM_{10} conformity budget.

25. Staff has reviewed applicable EAs and included data in the SIP as appropriate. For example, the emission projections for F-22 aircraft at Nellis Air Base came from the EA prepared by the U. S. Air Force. Data included in Appendix B came from applicable EAs.

With regard to the requirements for "conformity data," please see the response to Comments 9, 20, and 21.

26. As referenced in the SIP, Section 2.2, the Clark County Health District Air Quality Division operates a particulate monitoring network for PM_{10} and $PM_{2.5}$ in accordance with the Code of Federal Regulations (CFR), Title 40, Part 58. Further, SLAMS/NAMS/PAMS Network Review Guidance document EPA-454/R-98-003 dated March, 1998 requires annual evaluation of the monitoring network in report form and subsequent submission to EPA for review. CFR 40, Part 48 outlines the reporting and preparation requirements for the annual report. The main focus (annual network review) of these reports is designed to document that the network continues to comply with the U.S. EPA siting and operational criteria and the six basic ambient air monitoring objectives. The most recent annual reports prepared by AQD were submitted to the U. S.EPA in July of 2000.

These reports are titled *Particulate Matter Monitoring Network Description* and *Air Monitoring Network, 1999–2000* and are available from the AQD of the Clark County Health District.

27. As discussed in response to Comments 13 and 16, the provisions of the 1979 SIP are not applicable to PM_{10}. Staff has not identified any control measures that have been relaxed in this SIP for any significant source of PM_{10} from any previous requirement.

28. The emission inventories contained in this SIP have been significantly refined and made more comprehensive than inventories that were contained in the withdrawn 1997 SIP. In addition, the inventories in the two SIPs cover different time periods. Emissions in the inventory of one SIP cannot be directly compared to those in the other. This is particularly true when evaluating the reductions needed for attaining the NAAQS. The first reasonable further progress report will be completed in 2001. See responses to Comment 6 regarding the emission inventories in the SIP.

29. Several of the issues raised in this comment, including a state audit of the emissions credit program, a reorganization plan, and the decentralization of Nevada State government, go beyond the scope of this SIP.

30. Section 110(a)(2)(A) of the CAA requires the SIP to contain enforceable emission limits and control measures. A comprehensive set of control measures and commitments are set forth in Chapter 4. Chapter 6 establishes that these measures are at least as stringent as any other measures implemented in the country with regard to the affected source categories. Chapter 5 sets enforceable emission budgets for future conformity planning.

Section 172(c)(1) of the CAA relates to implementation of RACM for moderate nonattainment areas. This section is supplemented by CAA BACM requirements for serious nonattainment areas.

Section 172(c)(5) of the CAA relates to permitting requirements for major sources in nonattainment areas. Section 12 of the AQR complies with this provision of the CAA. This is discussed in Section 4.6.1.1 of the SIP.

As set forth in Chapter 4, the County is initially emphasizing education over the issuance of violations. Moreover, the regulations allow 30 days for compliance after the initial discovery of noncompliance. The emission reductions taken for this control measure also account for a limited initial compliance as set forth in Chapter 4 of the SIP. The ramp-up of enforcement throughout 2001 is discussed in Appendix L of the SIP.

The comment regarding Mr. Naylor is noted.

Staff notes that the regulation for unpaved parking lots became effective on June 22, 2000 and construction of new unpaved parking lots that did not comply with the stabilization requirements set forth in the rule were prohibited.

Subsection 91.2.1.2 of the AQR expressly prohibits construction of new unpaved roads in public thoroughfares. This requirement became effective on June 22, 2000 and is discussed in Section 6.3.5.1 of the SIP

Not including sand and gravel operations in the control measures section of the plan is entirely appropriate because the cumulative emissions from these sources constitute a de minims source category. However, as noted in the discussion on de minimis sources, sand and gravel operations are subject to BACT and LAER controls under AQR Section 12 in compliance with CAA Section 172(c)(5).

Implementation of regulatory requirements have not been unnecessarily delayed or implemented in an untimely manor.

J. D. Smith is the only site that experienced a violation of the annual PM10 NAAQS during the last three years. As noted in the SIP, this why the J. D. Smith site was used for the attainment demonstration of the annual plan.

AQR Regulations 90 through 94 were adopted in June 2000 and are now being enforced. The control measures adopted in the SIP are as stringent as any control measures in the United States. The vacant land control measures and construction activity requirements are proven methods for reducing emissions of fugitive dust. Racetracks were addressed in the SIP because this source category is significant for the 24-hour NAAQS.

Control measures and adopted regulations must be implemented through the public workshop and hearing process. Once regulations are adopted, the regulated community must be allowed an opportunity to fully comply with the requirements in the regulations. Providing for public input and regulated community compliance are necessary steps that result in greater overall control measure implementation and emission reductions.

Promulgating regulations with requirements that ultimately cannot be met by the regulated community is futile. Conversely, not moving forward with requirements to control sources of fugitive dust will not provide a clean environment. The requirements for paving unpaved roads were designed to reach the goal of paving high ADT roads within the earliest practically achievable timeframe.

As explained in Section 4.5.2.5 of the SIP, public agencies cannot obtain funding to implement these control measures in an accelerated time frame. Certain other control measures such as stabilizing unpaved shoulders of paved roads also cannot be implemented on an accelerated time frame due to funding issues.

Staff recognized that LAER for some pollutants were required in 1979. LAER is required for all pollutants in 1996.

31. As detailed throughout the plan and appendices, the interaction of high winds and soil disturbances caused by anthropogenic activities is a primary cause of these exceedances.

The 1997 to 1999 time period was used to evaluate the nonattainment area because the data was recent and the monitored data reflected controls that were already in place.

Siting a monitor next to a large point source would not comply with NAMS/ SLAMS siting criteria. Therefore, monitors are not located near large point sources.

32. Staff notes that no PM_{10} SIP has been approved for Clark County. BACT and LAER are required for stationary sources as described in Chapter 4 of the SIP. Air quality models indicate PM_{10} impacts are largely from sources within two kilometers. Therefore, impacts from nearby sources were evaluated.

33. Section 4.8.1 of the SIP outlines the commitment to hire the additional staff necessary for the enhanced enforcement effort put forward in this SIP. Commentator has previously noted that Clark County personnel are "well educated, extremely competent, knowledgeable, and hard working."

34. "Synthetic minor" status is a permitting option for those sources whose potential to emit is greater than 100 tons, but whose actual emissions are lower. A facility cannot emit 100 tons or more and become a "synthetic minor."

Stationary source actual emissions were included in the SIP per U. S. EPA guidance on rollback modeling.

Reasonable further progress reports will be submitted to the EPA in 2001, 2003 and 2006 as set forth in Chapters 4 and 5. A discussion of reasonable further progress and reasonable further progress milestones is provided in Section 5.6 of the SIP.

Inventories in the reasonable further progress reports will include sources that are modified, constructed, or planned since 1998.

Clark County believes the stationary source inventory is complete. It has been quality assured by an independent contractor.

The response to Comment 6 explains the basis for the 1998 base year inventory.

The methods used to extrapolate future year emissions and reductions are summarized in Chapter 5 of the SIP and details are provided in Appendices E and L. The demonstration of attainment is detailed in Chapter 5 and Appendix K.

Major utility sources that are outside the nonattainment boundary are not required to be evaluated in this SIP. Including these sources would not enhance the accuracy of the modeling or attainment demonstration contained in the SIP, and may minimize the impacts of local sources that have a greater impact.

As noted in the response to Comment 6, the emission inventories contained in the SIP are as accurate as possible and comply with the requirements of CAA Section 172(c)(3).

The rollback approach used is detailed in Appendix K. Although the rollback approach is not an appropriate tool for CO, it is for PM_{10}. CMB receptor models and dispersion models have limitations when identifying sources and impacts of fugitive dust. See also our response to Comment 18 regarding the nonattainment boundary.

Please see the response to Comment 11 with regard to the attainment demonstration area.

35. The issue of stationary sources and grandfathered stationary sources is addressed in Section 4.6.1.1 of the SIP. The only major stationary source of PM_{10} without BACT is currently under review. Stationary sources are audited and emission tests are conducted to confirm emission rates.

36. The emission rates and emission reductions contained in the plan are based on sound science, including work that was done locally on an as needed basis. The results of the emission inventory development work are presented in this SIP. These results include major enhancements over inventories contained in earlier SIP submittals. Therefore, inventories contained in this SIP are not comparable to previous SIP documents and should not be expected to correlate with previous documents.

    Please see our response to Comment 26 regarding the ambient monitoring networks.

37. Please see our response to Comments 15 and 18 regarding the emission inventories.

38. Information on rollback modeling is contained in Chapter 5 and Appendix K of the SIP.

39. Our response to Comment 26 addresses the ambient monitoring.

40. An extensive evaluation of the control measures contained in this SIP is set forth in Chapters 4 and 6.

41. The relationships between high concentrations of PM_{10} and concentrations of minority and low-income populations are not clear. The programs put forward in this PM_{10} SIP will benefit the health of all population groups in the Las Vegas Valley.

UNITED STATES DEPARTMENT of the INTERIOR
BUREAU OF LAND MANAGEMENT
Las Vegas Field Office
4765 Vegas Drive
Las Vegas, Nevada 89108

In Reply Refer To:
1610
(NV-050)

April 16, 2001

Catherine MacDougall, Senior Planner
Clark County Comprehensive Planning
Environmental Planning Division
500 S. Grand Central Parkway, Suite 3012
Las Vegas, NV 89155-1741

Dear Ms. MacDougall:

Thank you for the opportunity to comment on the State Implementation Plan for PM10

1 The first general concern we have is the name given to the area that will be used to demonstrate attainment. We feel calling this area the BLM Disposal Area is inappropriate when you look at the history behind this Congressionally designated disposal area. When ex Representative Bilbray formed the Public Land Task Force, all interests were at the table to decide what would be the maximum build out area for the Las Vegas Valley. The BLM acted on the various public requests and ensured the map that went to Congress would be the same in both the bill and the Las Vegas Resource Management Plan. Congress as we know made a change to this boundary and amended the boundary depicted in the Las Vegas Resource Management Plan. We feel this is a boundary defined by the public and should be called the Las Vegas Valley disposal area to be consistent with the BLM planning documents.

2 We estimate that 14% or less of the land in the demonstration area is managed by the BLM, with the vast majority already in private or City and County owned.

3 Figure 2-1 does not reflect the land around Railroad Pass and south that is in a disposal area specifically for the Goodfellow exchange. See Map.

4 Page 2-5 has a typo in the year of the legislation, change to 1998.

5 The statement is made, on page 2-5, that the boundary of the disposal area may only be changed by another act of Congress. Although we believe this is the case, a solicitors opinion would be appropriate for guidance.

6 It would be very helpful to break down the acres associated with each source of PM10 as identified in tables 3-1, 3-2, 3-3 and 3-5.

7 Based on Figure 2-1, there are no monitoring sites outside the Las Vegas Valley disposal area that are within the non-attainment area. Based on a comparison of tables 3-1 and 3-3, 48+ percent of the Annual Non-attainment emissions are located outside the Las Vegas Valley disposal area. How can you be sure exceedences do not occur in this area?

8 We feel you should explain why the 24 hour emissions table shows 0 for Native Desert Fugitive Dust, when the annual emissions are 80,400 tons per year.

9 The emission projections section states an increase in emissions is anticipated. It seems that as more and more acres are developed the emissions should eventually be reduced significantly. We suggest you project out 10 years the reduction in PM10 based simply on land development. An explanation of tables 3-3 and 3-8 would be appropriate, because the emissions show a decrease from 1998 and 2001. Please explain whether it is an increase or a decrease.

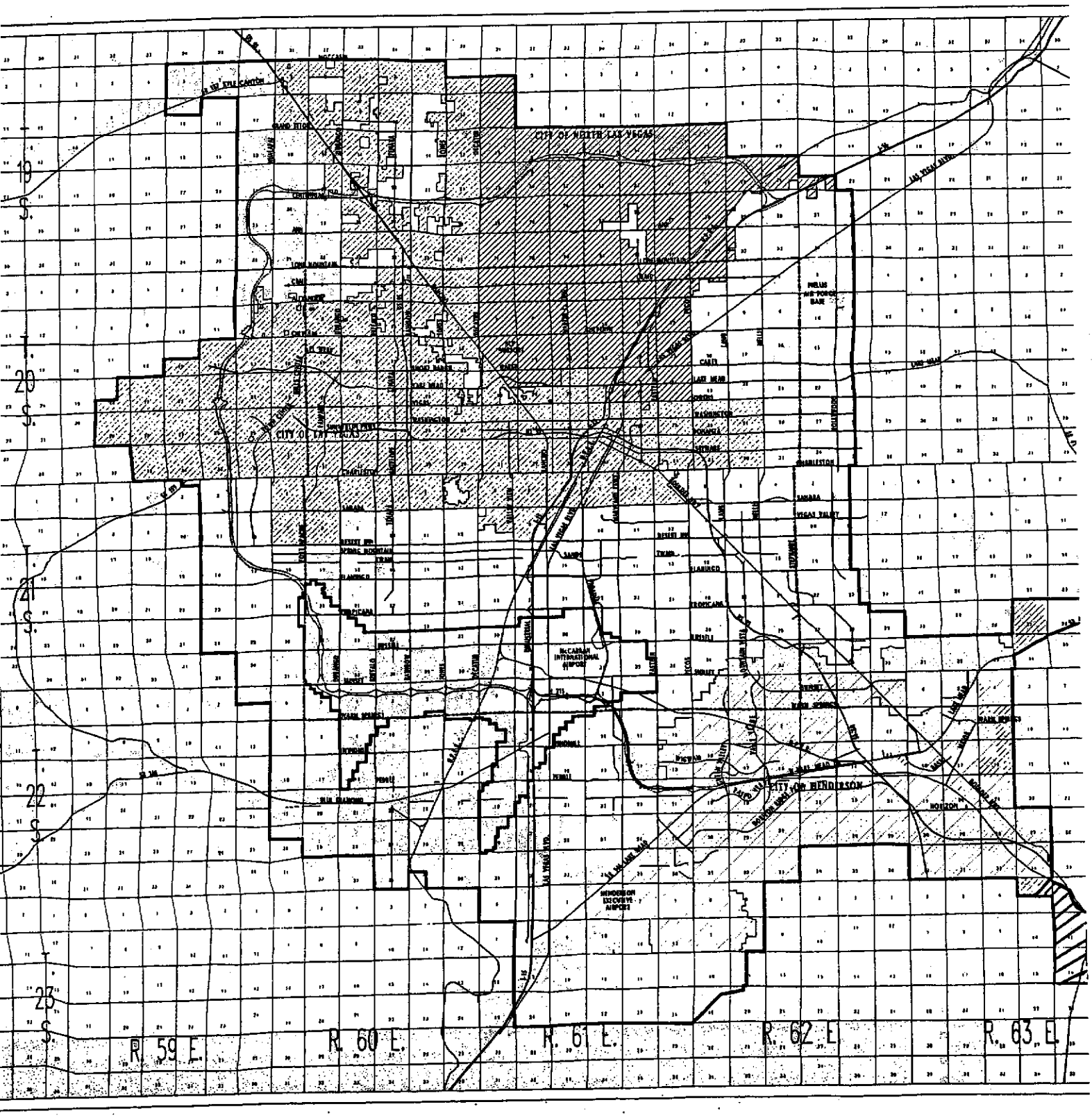
10 The Nellis Dunes area is a critical site for recreation opportunities close to Las Vegas. If there is any way possible to include use of this area for casual recreation, we feel it will provide support from the public for the SIP. During the development of the Las Vegas Resource Management Plan, many discussions were held on what to do with the Nellis Dunes area. We all decided to keep the area open to off road vehicle use. If there is data that shows an exceedance occurred based on monitoring of the Nellis Dunes area, then we have little choice on what to do with the area. If this area is closed all agencies will hear from the public. Also, if the public does not have access to this area they will disperse into other possibly sensitive areas. We suggest an open dialog with EPA to see if there is some way to ensure casual use for the growing Las Vegas population close to town.

If you have any questions on our comments, please contact Jeffrey G. Steinmetz at 647-5097 or Jack Norman at 647-5016.

Sincerely,

Angie C. Lara

for Mark T. Morse
Field Manager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CITY OF LAS VEGAS
CITY OF HENDERSON
McCARRAN INTERNATIONAL AIRPORT
NELLIS AIR FORCE BASE
HENDERSON EXECUTIVE AIRPORT

Response to comments in letter from Mark Morse, Field Manager, Bureau of Land Management (BLM), dated April 16, 2001:

1. We described the term "BLM disposal area" as used in the SIP in Section 3.3 which states in part that it is a "boundary within the Las Vegas Valley that identifies federally owned land that is available for purchase, trade, or lease by public or private interests." We further state that the BLM disposal area is also referred to in the document as "valley-wide area" (see page 3-8). The boundary is shown in Figure 1-1. Although the terms "BLM disposal area" or "BLM disposal boundary" may not be consistent with the terms used in the BLM planning documents, we feel they are reasonably defined and understandable as used in the SIP. Therefore, we do not feel the extensive revisions to the SIP document that would be required to change the terminology are warranted. We will consider incorporating terms that are compatible with BLM planning documents in future air quality plans.

2. Comment noted. We agree with the estimate that currently less than 14 percent of the land in the attainment demonstration area is managed by the BLM.

3. Comment noted. The disposal area for the Goodfellow exchange is outside the nonattainment area. Therefore it is not specifically identified in Figure 2-1.

4. Comment noted. The date has been corrected in the SIP.

5. Comment noted.

6. The calculations and methodologies for the emissions inventories are addressed in Appendix B of the SIP. Table B-1 on page B-8 identifies the acres for the vacant land classifications within the nonattainment area as well as within the disposal area.

7. Section 3.3 discusses the attainment demonstration area and provides the compelling reasons for using the disposal boundary versus the entire nonattainment area for the attainment demonstration. The monitoring network employed by the Clark County Health District complies with EPA criteria. It is designed to monitor ambient air to determine potential impacts on the health of citizens primarily through neighborhood monitoring sites. In preparation of the SIP, Clark County reviewed data from a monitoring site within the nonattainment area and outside the disposal area, the Fias site. The Clark County Health District relocated this site prior to 1997. The concentrations measured at the site were well below the concentrations measured within the disposal area. No exceedances of the 24-hour or annual National Ambient Air Quality

Standards (NAAQS) were measured. There are also sites appropriately located outside the nonattainment boundary to measure natural background and transport of pollutants.

8. Appendix B provides the emission inventory methodologies. On page B-35 the paragraph titled Native Desert Fugitive Dust addresses the emissions methodology for the 1998 24-hour emissions inventory for the design day, December 21, 1998 for that source. It states "Fugitive dust emissions from undisturbed native desert occur when average hourly wind speeds exceed 25 mph. Average hourly wind speeds did not reach 25 mph on December 21, 1998. Therefore, the activity level for this category was set to zero."

9. The first paragraph in Section 3.5, 2001 EMISSIONS PROJECTIONS addresses anticipated emissions increases due to population growth. Population growth impacts some but not all sources. The other factors affecting emissions increases and decreases are addressed in the remaining paragraphs in Section 3.5. Table 3-8 does show a decline in total emissions from Table 3-3 (172,171 tons/year to 170,829 tons/year). However, within the four source groupings listed, two showed increases (Nonroad and Onroad Mobile Sources), one showed a decrease (Stationary Sources), and one remained unchanged (Stationary Point Sources). The emission inventories are addressed in detail in Appendix B, and the inventory projections methodology and calculations are detailed in Appendix E.

10. A working group has been established to address issues relating to off-road vehicle use. Participants will include off-highway vehicle enthusiasts, BLM, CCDCP, Clark County Health District, and other interested parties. The purpose of this group is to preserve this traditional Southern Nevada sport while adhering to all requirements of Section 90 of the Clark County Health District Air Quality Regulations.

Date: April 13, 2001

To: Catherine MacDougall
Air Quality Planning Team
Department of Comprehensive Planning
Clark County Government Center
500 S. Grand Central Parkway, Suite 3012
Las Vegas, NV 89144-1741
tel: (702) 455-4181 fax: (702) 385-8940

From: Bruce Waggoner
2196 E. Ford Avenue [APN 177-14-701-023]
Las Vegas, NV 89123
tel: (702) 896-1858 (w)

Re: Draft PM10 State Implementation Plan Comments

Please accept the following comments regarding the draft PM10 State Implementation Plan which is scheduled for a public hearing on April 17, 2001.

My family and I have lived over 7 years at the above location, which is near I-215 and Eastern Avenue in the south part of the Las Vegas Valley. We are located in a Rural Preservation Neighborhood (RPN) (defined by Nevada state law) which is limited to 2 houses per acre maximum, allows keeping of horses, and is rural in character. There are no paved roads within most of our neighborhood. About 75% of our neighborhood is undeveloped at present, with more than 80% of the undeveloped land belonging to the federal Bureau of Land Management (BLM). The soil in our neighborhood is packed dust, which turns into a fine powder when disturbed.

In the past 7 years, our neighborhood has been surrounded with tens of thousands of houses and apartments, plus the associated schools, shopping centers, and so forth which go along with such development. We have transitioned from a remote area on the edge of town to a small rural neighborhood surrounded by a big city. With all of this development has come a ten-fold increase in traffic on the dirt and gravel roads through our neighborhood, as people seek to shave a few seconds off of their travel time. There has also been a marked increase in the number of off-road vehicles using our neighborhood for recreational purposes, including intentional (i.e. recreational) racing, sliding, and spinning along the nice wide and flat gravel roads which Clark County maintains. All of these non-residential activities are raising huge amounts of dust. We therefore consider ourselves to be dust experts.

After reviewing the draft PM10 study, let me add the following comments for further consideration:

1) We live very close to the Star Nursery at Ford and Eastern. They hire an outside service to clean their parking lot several times a week. A small truck-mounted contraption just drives around the parking lot (which, being a plant nursery, has lots of dirt on the ground from plant containers, leaking bags, tire tracks, etc.) and blows the dirt straight up into the air. There is a visible column of dust going straight up, much like a naturally occurring dust devil. Use of such equipment must be discontinued within populated areas of Clark County because it is rather obviously spewing large amounts of PM10 dust particles into the air. The parking lot gets clean, and the air gets dirty. I'm sure this problem is not limited to Star Nursery operations. I'm only using them to illustrate the point.

2) At construction sites, it is common practice to use undeveloped land adjacent to the construction site for storage of materials, getting to/from and around the site, and so forth. Visit just about any construction site in town and you will find significant damage to the soils and vegetation around the site. I mention this because any regulations you create which are geared toward stabilizing soils at a construction site must also address the adverse impacts on adjacent undeveloped parcels caused by the construction activity.

3) The draft plan briefly mentions concerns which some vacant property owners have expressed in regards to the difficulties involved in fencing off one's own property to protect it from the illegal activities (off-road vehicles and dumping) of others, but does not in any way address these difficulties. My wife and I purchased two 1.25 acre parcels adjacent to our residence from the BLM at a land auction held in June 2000. Both parcels suffered from years of illegal dumping (which the BLM would not clean up) and off-road activities, which raised significant amounts of dust and endangered us and our children. We subsequently discovered that it would take 2-3 months of paperwork to fence off these parcels in the proper manner, assuming that we could get written permission from the BLM to do so (where our property adjoined theirs), and that once the fences were installed, doing our part to reduce dust pollution, we would be taxed every year on the estimated value of the fences, even if they are just temporary dust control fences. See my letter dated 03/14/01 (attached) to Lewis Wallenmeyer of the Clark County Health District Air Quality Division (AQD). The draft PM10 plan will look much better in the eyes of the federal government if they see solid evidence that Clark County will encourage construction of temporary perimeter fences rather than actively discourage such activities, as is being done at present.

4) Clark County recently approved Schofield Middle School to be constructed in the middle of our dirt road neighborhood, scheduled to open in August 2001. Clark County has been uncooperative when it comes to closing off dirt roads in our
4 neighborhood to school related cut-through traffic. In fact I can quote Herb Arnold, Clark County's Chief of Traffic Engineering, as stating that anybody can drive on the dirt roads through our neighborhood, and that Clark County has no intention of controlling such traffic in any way. It is anticipated that there will be 1,000 to 2,000 vehicle trips to and from the school each school day, and the resulting traffic congestion on the only paved road (Spencer) will literally force people to drive on our neighborhood's dirt roads instead. Additionally, the roads around the school are only being paved half-width, which means that a lot of vehicles will be parking and/or driving on the unpaved "other side" of the road, again generating significant amounts of dust. It is difficult to believe that Clark County is serious about reducing PM10 dust emissions given their behavior and attitudes in this particular case within our neighborhood. There needs to be action related to paving roads and shoulders which see a lot of traffic, and Clark County needs to work towards routing traffic AWAY from dirt roads, not onto them.

5) Herb Arnold (just mentioned above) also told me that the few county maintained gravel roads in our neighborhood, when paved in the next 3(?) years, will be 24' wide, plus a 4' paved shoulder on each side. The paved shoulders make some sense from a dust
5 standpoint, as vehicles do stir up dust as they move along, but we are a 25mph residential area, not a 65mph highway (yet). Our concern is that 4' wide shoulders will create a 32' wide paved area which will invite even higher cut-through traffic speeds than the 40-50mph speeds which are common now. For 25mph residential streets, I believe that 2' wide shoulders will provide a reasonable compromise between the conflicting requirements for dust control (a health issue) and traffic safety (also a health issue). Most people don't pay attention to speed limit signs around here, especially those people taking shortcuts, because speed limit enforcement is almost nonexistent. Fixing one problem by significantly worsening another one is not good public policy. It is also worth noting that the section of Spencer between Ford and Pebble (1/4 mile), a 35mph arterial street related to the new school construction, was just paved within the last month to a total width of 24', WITH NO PAVING ON THE SHOULDERS.

6) I found section 4.3.5 "Unpaved Roads" of the draft PM10 study to be both amusing and sad. It states in part that "The measure
6 to reduce traffic (and/or) control speed is not feasible on public and private unpaved roads because the measure cannot be effectively enforced." That is an accurate assessment of the importance Clark County currently places on many federal, state, and local environmental, health, and zoning regulations (i.e. none). Furthermore, the report states "Having law enforcement

officers chase violators on these unpaved roads could be dangerous and would result in additional dust-producing trips on unpaved roads...". See also table 4-7 of the report. Clark County is apparently indicating that it's OK for people to take high speed (unsafe) short-cuts on the dirt and gravel roads in our neighborhood, but that it's not OK to have police officers attempt to curtail this unsafe behavior. A ludicrous statement.

7) The 20 acres (approx.) of vacant land immediately south of my house, most of which is owned by the federal BLM, is quite hilly in spots (unusual terrain here in the mostly flat Las Vegas 7 Valley). In fact, the terrain is ideal for dirt bikes, ATV's, and four wheel drive vehicle recreational purposes, except for the fact that it's located adjacent to 4 residences in our neighborhood. Because of its appeal to the off-road crowd, and the heavy use that results, there is virtually no vegetation left in many areas, and the soil is chewed up into a talcum powder consistency. In addition to the huge clouds of dust which are generated while these people are out there having a good time (at our expense), large clouds of dust blow off that property whenever a good wind comes along, as happens frequently here in the desert. The BLM has posted "no vehicles allowed" signs around the perimeter of this property, but reportedly only has 2 rangers assigned to all of Clark County, from Laughlin to Mesquite and points beyond, and they have never enforced the law on any lands within our neighborhood.

8) Clark County has an ordinance prohibiting off-road vehicle use within 1000' of any business or residence, in theory demonstrating their desire to reduce dust emissions (and noise). However, in practice, this ordinance is almost universally 8 ignored by the Las Vegas Metropolitan Police Department (LVMPD). Whenever somebody starts causing us problems of this sort, we first dial the police department's non-emergency number, because this is not a life threatening situation. It frequently takes 5-10 minutes to get through to a police dispatcher, because there is a lot of crime going on in the Las Vegas Valley. Apparently many of the police dispatchers don't see anything wrong with this kind of behavior, because they give me a hard time, or take a report and "broadcast it", which is their way of saying maybe they will get around to it some day. On the few occasions where a police officer does show up, they frequently just drive by on Pebble road and do nothing at all, just to be able to say that they "responded" to the call. Only in about 1 of 10 cases does an officer show up in a timely manner (within 20 minutes) AND chase away the offending party. My neighbors all tell me of similar experiences. Lewis Wallenmeyer of Clark County's Health District, who is evidently in charge of enforcing the new dust emission regulations, apparently believes that calling the police to enforce the existing off-road vehicle law is a useful tool in reducing dust emissions. Our real-life experiences tell us clearly that such is not the case. There have been recent cases where 4-wheel drive vehicles have been stuck out there for over

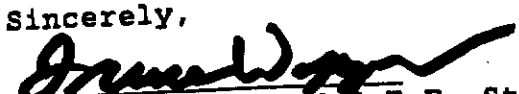
an hour, yet the police never show up. The police department has lots of criminals and car accidents to chase around here, and they do not have any time or desire to enforce dust regulations.

9) It will be IMPOSSIBLE for Clark County to attain the EPA's PM10 dust emission goals without complete cooperation from the federal Bureau of Land Management, the largest owner of vacant land in the Las Vegas Valley. Mention is made in the draft PM10 study of problems enforcing fencing and dust stabilization regulations for absentee landowners. Well, to be honest, the BLM is the biggest absentee landowner we have. I have repeatedly complained to the local BLM field office about dumping and off-road vehicle traffic on BLM land in our neighborhood. The best response I've been able to get, after months of complaining, was the posting of "no vehicles allowed" signs around the perimeter of the BLM property south of my residence (mentioned above). These signs keep out some people, but much of the off-road crowd pays little attention to the signs. Day after day I see dirt bikes drive right past the signs (within 2-3'). When I go out there to tell these people that they aren't allowed to be there, they almost always say "I didn't see the sign". They usually leave when I pretend to start calling the police, but they often come back within a week and do it all over again. This also illustrates the lawless nature of life here in Nevada. A whole lot of people, including Clark County and police officials, just don't care much about dust problems. The only good thing the signs have done is that now, instead of spending hours out there raising dust and noise, most bikers leave after 5-10 minutes of fun, because they know that it takes longer than that to reach a police dispatcher and have an officer respond. I've heard it said that Clark County is unable to fine any state or federal agency for violating Clark County regulations, and that the BLM doesn't have any money appropriated to fencing off their vacant parcels. The BLM's attitude needs to change dramatically or this PM10 dust problem is not going to go away. The BLM has started auctioning off some of the parcels in our neighborhood, but the minimum auction prices are so high that most of the parcels are going unsold, so the BLM also needs to adjust its auction procedures if land disposition, instead of fencing and soil stabilization, is their intended way out of this mess.

9

Thank you for reviewing this long letter. PM10 dust emissions are a very important topic for our neighborhood, and there are a lot of pertinent issues which need to be discussed. Please let me know if you have any questions.

Sincerely,



Bruce Waggoner, M.S.E.E. Stanford 1979

(see also 1 page attachment)

(reference copy)

March 14, 2001

Lewis Wallenmeyer
Clark County Health District AQD
P.O. Box 3902
Las Vegas, NV 89127
(702) 383-1276

This is kind of an addendum to my letter to you dated 03/13/01.

In June 2000 my wife and I purchased two 1.25 acre parcels at the BLM land auction, in an effort to keep vehicular traffic away from the sides of our house, keep the dust down, and reduce trash dumping in the area.

We subsequently discovered that Clark County has erected a number of barriers (no pun) to fencing off ones own property in order to curb the illegal off-road and dumping activities of others:

1) You cannot legally erect a fence without a building permit.
2) You cannot obtain a building permit without an assessor's parcel number.
3) It takes several months to obtain an assessor's parcel number (because they are so backlogged).
4) You cannot erect a perimeter fence without written permission from the adjacent landowner(s), which in our neighborhood usually includes the federal BLM (a very big bureaucracy).
5) Once you have constructed a fence, Clark County starts taxing you on its estimated value.

It seems very unfair to be strictly regulating and taxing people who are trying to fix the dust emission problems here in the Las Vegas Valley, while allowing those who are causing the problems in the first place to go unpunished.

By this letter I am asking you to introduce an ordinance to amend the Clark County Code in such a way that TEMPORARY fences erected primarily to curb illegal dumping and off-road vehicle damage do not require a building permit and all associated hassles. The key word here is TEMPORARY. Obviously a masonry block wall would not qualify. Things like 4' wire and chain link fences would qualify. Exactly where to draw the line I will leave to the experts within Clark County. If somebody erects a 4' tall temporary fence in the wrong location, it's a relatively simple matter to tear it down or move it using Clark County's "public response" type enforcement efforts.

I believe that the powers that be in Clark County are much more likely to listen to YOUR request, as opposed to mine, in the interest of reducing dust emissions and keeping the EPA happy. Please give me a call (at work) if I can be of help in any way.

Sincerely,

Bruce Waggoner, 2196 E. Ford Avenue, Las Vegas, NV 89123
(702) 896-1858 (w)

Date: April 16, 2001

To: Catherine MacDougall
Air Quality Planning Team
Department of Comprehensive Planning
Clark County Government Center
500 S. Grand Central Parkway, Suite 3012
Las Vegas, NV 89144-1741
tel: (702) 455-4181 fax: (702) 385-8940

From: Bruce Waggoner
2196 E. Ford Avenue [APN 177-14-701-023]
Las Vegas, NV 89123
tel: (702) 896-1858 (w)

Re: Additional Draft PM10 State Implementation Plan Comment

Please accept the following additional comment which I left out of my letter to you dated 04/13/01:

10) Clark County and/or the State of Nevada must demonstrate soil stabilization on their own vacant lands before they can expect compliance with the new dust control regulations from private citizens and the Bureau of Land Management (BLM). The specific example I notice on a daily basis are the lands around the interchange of Warm Springs and I-215. This interchange was constructed 3-4(?) years ago, and was partially landscaped about 2 years ago, but there are still large areas of plain dirt from which dust blows whenever a good wind storm comes along. Some parcels near this interchange are privately owned, but others are undoubtedly under public control. You can't expect compliance from private citizens when you are contributing to the dust problem in a significant way yourselves.

10

See you at the meeting tomorrow...

Sincerely,

Bruce Waggoner, M.S.E.E. Stanford 1979

Response to comments in letter from Bruce Waggoner, Private Citizen, dated April 13, 2001:

1. State, City, and local governments and private businesses are required to adhere to Clark County Health District Air Quality Regulations (AQRs) Section 93 regarding street-sweeping equipment requirements and procedures. If a citizen observes excessive dust, he may call the Clark County Air Quality Division Enforcement Section for dust control at (702) 383-1276.

2. Bulk Material Storage and general operations at construction sites are controlled under AQR Section 94 and the Handbook for Construction Activities. If a citizen observes excessive dust, he should call the Clark County Air Quality Division Enforcement Section for dust control at (702) 383-1276.

3. Control of fugitive dust from vacant land is regulated in AQR Section 90. Options for landowners are detailed in that regulation. Fencing is an appropriate methodology for preventing access to private/commercial vacant land. If a citizen observes excessive dust from activity on a vacant land area, he should call the Clark County Air Quality Division Enforcement Section for dust control (702-383-1276).

4. The SIP has a commitment to not allow any new unpaved roads in developing areas. Further, roads with 150 ADT or more will be paved within the next three years or upon discovery. If a citizen observes excessive dust from unpaved roads, he may call the Clark County Air Quality Division Enforcement Section for dust control at (702) 383-1276.

5. The standard for road improvements-shoulder-paving specifications has been established in Section 91 of the AQR. These new requirements were implemented as part of the control measures adopted for the SIP. Staff observations concerning the shoulder width of less than four feet on roads in the nonattainment area have been determined to not be sufficient to prevent track-out onto paved roads.

   All roads within Clark County with 150 or greater ADT will be improved with four-foot shoulders within the next three years and should increase from the present 24' width to the completed 32' within the time frame mentioned. This is a SIP commitment.

6. Clark County is not advocating excessive speed and other unsafe driving practices on the unpaved roads in the County. Dust enforcement officers will take prompt action with offenders in areas reported as problematic. Law Enforcement Officers take every precaution in pursuing speed offenders in

any road scenario. It is recommended that if offenders are observed, the local police and/or the Clark County Health District Air Quality Division be contacted for action (702-383-1276).

7. Off-highway vehicle activities are prohibited in Clark County within the nonattainment area under Section 90 of the AQRs. If activity is occurring in land areas of private owners, they are required to post and prevent access to the property in accordance with Section 90. If a citizen observes excessive dust from BLM or private owned land, he may call the Clark County Air Quality Division Enforcement Section for dust control at (702)-383-1276.

8. Police Department procedures are not germane to the SIP. However, if a citizen observes excessive dust from disturbed vacant land (ownership of the land is not a factor in allowing dust producing activities), a call to the Clark County Air Quality Division Enforcement Section for dust control is in order (702-383-1276).

9. Off-highway activity on BLM land is prohibited. Clark County is working with BLM on methodologies deemed appropriate to solve the dust problems experienced on this federal land. These methodologies could include but are limited to fencing, berms, and soil stabilization procedures. Signage is included in this ongoing effort to stop dust-producing activities on these lands.

10. Clark County requires all private and public entities to stabilize their disturbed vacant lands that are in excess of 5,000 square feet (Section 90 of the AQRs). Control methods include the prevention of motor vehicle access by fencing and berms, and stabilizing disturbed surfaces by soil stabilization methods. If a citizen observes excessive dust from disturbed vacant land (ownership of the land is not a factor in allowing dust producing activities), he should call the Clark County Air Quality Division Enforcement Section for dust control at (702) 383-1276.

2092 Heritage Oaks
Las Vegas, NV 89119
April 16, 2001

Catherine MacDougall,
Department of Comprehensive Planning
Environmental Planning Division
500 S. Grand Central Parkway
Suite 3012
Las Vegas, NV 89155-1741

SUBJECT: Review of Clark County's Draft PM_{10} State Implementation Plan for Clark County

The draft is voluminous. It represents an improvement from earlier submissions to the EPA, but there are some problems with this draft that I would like to see corrected.

General Comments

1. The assumption throughout much of the document appears to be that an attainment date of 2006 is a "done deal". The presumption is that the request for an extension to this date will be
1 approved. I believe a better explanation, than that provided in Chapter 7, needs to be provided why 2006 was selected for attainment and not some other year.

Clark County has had years to work towards the attainment of federal air quality standards. The recent, increased focus by Clark County on our longstanding air pollution problems and increased commitment of resources should have come earlier.

An earlier draft SIP document submission provided documentation that the number of acres of disturbed vacant land, on an annual basis, has been increasing over the years with no limit in sight, and there appeared little that could be done to improve our air quality in light of the growth that we have been experiencing in our desert community. Now, we see that there are a number of measures that can be taken to reducing PM_{10} emissions, but the measures are being offered at a late stage and with some assurances that they will work - but no guarantees.

Since this request for an extension is significant, I recommend that the discussion be moved to the front of the document with an increased focus on our commitments to try to meet this standard expeditiously. Many of the proposed control measures will be implemented relatively soon. Some may be implemented sooner with increased funding, or if existing measures prove to be inadequate in making sufficient yearly progress in reducing PM_{10} levels. A timetable, or table, in the document may be useful in presenting the bigger picture. We need to better understand why the maximum-allowable deadline in meeting our PM_{10} standard is being sought after so many years and so many other failed attempts to meet health-based air quality standards have passed.

2. Increased resources by local government agencies will be required to implement some of the
2 measures described in the draft. Efforts are underway to reorganize the Air Pollution Control District with a portion of Clark County's Department of Comprehensive Planning. The new

agency will presumably be tied to the Regional Planning Coalition. While commitments to increase resources are provided later in the document, there is still some doubt whether the necessary resources will be committed by local and state governments. This needs to be addressed in the submission to EPA to highlight the degree in which these commitments are being honored. The important "commitments" section of this document needs to be moved forward in the document.

3. Several sources of PM_{10} have not received adequate review and discussion in this draft.

Sand and gravel operations have been observed during windy days to contribute significant off-site emissions. While these may be required to use "BACT", it appears that they may not be
3 effectively, consistently employing those measures. Moisture content of standing piles of material may be allowed to decrease to the point where significant, observable plumes of material can be seen leaving the site. Depending on the spatial and temporal scales used, these sources of PM_{10} can vary from being significant to insignificant. From personal observations and my read of the data provided in the SIP submission, more needs to be done to control these sources.

Emissions from motor vehicles, in particular diesel vehicles, have been addressed in this document. Statements are made that current and projected federal and local programs are
4 sufficient to deal with these sources. This creates the impression that no changes are required and that no new improvements can be made in emissions from these sources, but this is not the case. Assembly Bill No. 284 was introduced in the 2001 Nevada Legislature on behalf of Clark County to provide additional measures to deal with diesel vehicles and visible urban haze in our large counties in Nevada. An inspection/maintenance program for diesel vehicles is promoted. While this is not law today, and may never become law, the draft SIP should acknowledge that additional control measures are warranted in this area and that Clark County is trying to implement them.

4. Descriptions of control measures that were implemented primarily for attainment of carbon monoxide standards should be deleted to reduce the length of this SIP submission and to maintain
5 focus on achievement of the PM_{10} standard. For example, on page 4-111 implementation of a lower Reid Vapor Pressure is relatively unimportant for attainment of the PM_{10} standard.

5. Adding to the previous comment, but focusing more on PM_{10} control measures, the narrative on pages 4-112-113 concerning implementation of tighter federal diesel standards in 2007 should
6 be deleted. It adds little to the discussion of how we are trying to attain PM_{10} standards - which is the primary focus of this document. Granted, this discussion may be useful in helping demonstrate how we will continue to meet the standards for years after the projected date of attainment, but there has been little discussion of this issue anywhere else in the document.

6. Narrative on page 4-110 covers existing regulations related to visible emissions from both gasoline and diesel-powered vehicles. My reaction is that this is all well and good to cite existing
7 regulations, but the real issue is how effective are they in dealing with our PM_{10} program? How well are they being implemented and enforced? One could make the case that the same evaluations of control measures discussed in detail in earlier sections of the document could be applied to these listed, existing control measures. For example, what is the "rule penetration" and "rule effectiveness"? My impression is that for this particular control measure listed this

regulation reads well but needs more effective implementation and enforcement.

7. On an editorial note, there are many examples of where a series of nouns are used as an
8 adjective, in those cases hyphens should be used where appropriate. For example, "base year emission inventories".

Specific Comments

8. Page 3-20, "A monorail project along Las Vegas Boulevard and the addition of express buses
9 for tourists will partially offset the expected growth in VMT from additional residents", but this will have little impact on PM_{10} according to the draft document. Motor vehicle emissions are reported to be relatively minor contributors to our PM_{10} problem. I suggest deleting this sentence.

9. Page 3-20, "The rate of growth of VMT for local roads within the BLM disposal area is
10 slightly lower than the population growth for the Las Vegas Valley for the same time period." This belies past reports from the Regional Transportation Commission that show VMT increasing at a faster rate than our population growth.

11 10. Page 4-1, "affect" in the last sentence of the first paragraph should be "effect".

11. Page 4-6, Despite efforts to characterize motor vehicle exhaust as being an insignificant component of our PM_{10} problem, e.g. Table 4-1, the following sentence seems to belie those
12 statements: "Motor vehicle exhaust during stagnant conditions in the winter months is likely impacting the East Charleston site to a greater degree relative to the Craig Road site." Simply reporting the differences in mass between the two stations and attributing that difference to motor vehicle exhaust provides insufficient evidence that motor vehicle exhaust is responsible for the difference especially when much of the document seeks to dismiss motor vehicle exhaust as a significant contributor to our PM_{10} problem.

12. "Elevated PM_{10} concentrations were found to be associated with . . . sand/gravel operations .
13 . .." This statement appears to contradicts earlier attempts to dismiss sand/gravel operations as significant sources to be considered in this PM_{10} SIP submission.

13. Page 4-11, "Clark County will conduct a PM_{10} saturation study to further evaluate the potential impacts of stationary sources." What is a "saturation study"? (It is explained to some
14 degree later in the document, but it is first introduced earlier in the document with inadequate explanation.) This declaration seems to address the issues in my previous two comments that the contributions of motor vehicle exhaust and sand/gravel operations are not as well understood as some may think, or they are underweighted.

14.. "Having law enforcement officers chase violators on these unpaved roads could be dangerous and would result in additional dust-producing vehicle trips on unpaved roads,
15 undermining the objective of the control measure." This appears to be a weak excuse. Simply stationing a law enforcement at a problematic spot at problematic times could be beneficial especially if a number of complaints were being registered for the area.

16 15. Page 4-30, "fugitive dust of construction sites" in the first sentence should be changed to

include "from".

16. Page 4-34, "The infeasibility of obtaining the funding necessary for this paving program in a
17 shorter time period is a factor that prevents Clark County from demonstrating attainment of the 24-hour standard before 2006. This is a weak excuse since this contributing source is probably small in comparison to other sources of PM_{10}.

17. Page 4-44, Change the sentence beginning with "an analysis of" to: "An analysis of Clark
18 County Assessor Records (See Appendix L" determined that less than one percent of vacant land parcels within the BLM disposal boundary were smaller than 5,000 square feet."

19 18. Page 4-57, Include a comma in the last line between "use" and "yet".

16. Page 4-67, ". . . it was found that most of the equipment already in use was in compliance . .
20 . with this regulation [PM_{10} certified street sweepers]." This is hard for me to believe because I have recently witnessed some impressive plumes from street sweepers on the highway. Perhaps they were not being maintained or operated correctly?

17. Page 4-105, The emission credit program in which "reductions of one pollutant can be used to offset a different and sometimes unrelated pollutant" seems to me to be fundamentally flawed.
21 Citing such a program in a document that is intended to focus on how we will achieve attainment for the PM_{10} standards which we have been violating for years seems to me to be a bad idea.

18. Page 4-106, refers to the construction or modification of fossil-fuel-powered electricity
22 generation plants in Hydrographic Basin 212 and the city limits of Boulder City. My understanding is that Boulder City is opting out of this air pollution control district.

23 At the end of this page, there appears to be missing sentences. The first sentence under 4.6.1.2 is confusing.

19. Page 4-107, emissions from McCarran will decline in 2006 due to aircraft gate electrification
24 and use of newer, lower-emission aircraft at the facility." Show me the data. This seems to be at odds with the projected expansion of the airport.

20. Page 4-116, the discussion of contingency measures is out of context. It needs further
25 explanation. When and how will the measures be implemented? The summary sentence to the right indicates they have been adopted; yet, the text explains the will only be evaluated.

21. Page 4-121, the first sentence in the second paragraph should be modified by changing
26 "Cost" to "Costs" and "is" to "are".

I trust my comments will be of help in your completion of this difficult task.

Sincerely,

J. Jeffrey van Ee

Jeff van Ee

Response to comments received in letter from Jeff van Ee dated April 16, 2001:

1. Chapter 7 provides an overview of the extension request, sets forth the CAA criteria that must be met for an extension request to be granted, provides detailed information on why attainment at an earlier date is impracticable, and describes how Clark County meets all of the criteria necessary for having the five year extension granted. Staff therefore does not agree that a better explanation is needed for requesting the 5-year extension of the attainment date.

   Having a population of over 1.2 million sited in a desert community with associated low levels of precipitation and high winds makes achieving attainment of the NAAQS for particulate matter a serious challenge to the community. Staff believes that attempting to "fine tune" the attainment demonstration to show attainment of the NAAQS at an earlier date would put Clark County at risk of failing to achieve the advanced attainment date and would not facilitate more rapid attainment of clean air or the NAAQS.

2. Discussion of creating a new air quality management authority is beyond the scope if this SIP. Should a new air quality management authority be created the enabling legislation and/or inter-local agreements will have to address the issue of funding commitments set forth in this SIP. Staff does not concur that the discussion of funding commitments should be moved further forward in the SIP document.

3. Commentator cites personal observations of observable plumes of material leaving sand and gravel processing sites as evidence that BACT is not being effectively employed and states that the impacts of such operations may range from "significant to insignificant." Staff concurs that the observations cited may indicate failure to properly employ BACT. Failure to effectively employ BACT as required in permit conditions is an AQD enforcement issue. Chapter 4 of the SIP documents significant enhancements to the AQD enforcement program that will effectively address the situations described by the Commentator.

4. Staff does not agree that the SIP should acknowledge that additional control measures are warranted for de minimis sources of PM10 emissions. Staff also notes that Clark County does not have the authority to obligate the State of Nevada to adopt the control measures contained in Assembly Bill No. 284 by including them in the SIP.

5. Carbon monoxide control measures were included in the SIP for completeness. Staff notes that these control measures are applied to de minimis sources and no emission reductions are taken in the attainment demonstration for these sources.

6. Staff agrees with the commentator that the discussion of new federal diesel standards that take effect in 2007 will not impact attainment of the NAAQS by the proposed attainment deadline of 2006. Addressing these control measures is

therefore not a required element of the SIP document. However, as noted by the commentator, this discussion does provide some assurance that Clark County will continue to meet the NAAQS after 2006. Staff has therefore not deleted this discussion. A detailed assessment of measures for maintaining attainment of the standard beyond 2006 will be made when developing a PM10 Maintenance Plan after the 24-hour PM10 NAAQS has been achieved.

7. As detailed in Section 4.6 of the SIP, emissions from gasoline and diesel-powered vehicles constitute de minimis sources of emissions in the Las Vegas Valley. Even very large emission reductions from these control measures would therefore have only minimal impacts on the Valley's PM_{10} concentrations. In view of this situation, staff does not believe that additional analysis of the rule penetration and rule effectiveness for these existing control measures is warranted.

8. Staff concurs and changes have been made where noted.

9. Staff included discussion of minor emission reductions and offsets for de minimis sources of PM_{10} at the request of U.S. EPA staff in order to provide additional documentation that these source categories would remain at the de minimis levels through the year 2006 as projected.

10. The VMT projections used in this SIP were developed by the Regional Commission using the Tranplan model and incorporating all approved and projected projects within Clark County. This information is provided in Appendix E, Pages E-12 and E-13. VMT projections from the Tranplan model are summarized in Table E-14.

11. "Effect" has been substituted for "affect."

12. The basis for attributing a higher percentage of motor vehicle emissions to the East Charleston measurements was chemical speciation of the East Charleston and Craig Road samples. This is noted in Paragraph 4 on Page 4-6. It is important to note that the concentrations under discussion at both sites in Paragraph 3 are very low. The fact that motor vehicle exhaust has a greater impact at one site than another at low concentrations in no way undermines the premise that motor vehicle exhaust is a de minimis contributor to PM_{10} concentrations that violate the NAAQS.

13. Several points warrant attention regarding this comment. The statement cited is a statement that addresses a number of sources. The DRI study, which is the source of the cited statement, was not able to analyze any concentrations that exceeded the NAAQS. This factor limits the value of this study in determining source significance. Another issue relates to the third comment addressed in this letter. It is not known if the sand and gravel operation referenced in the DRI study properly employed BACT on the days that samples were taken for this

study. The comprehensive micro-inventory analysis detailed on Page 4-11 of the SIP provides the best available assessment of the impacts of sand and gravel operations on PM_{10} concentrations. Therefore, staff does not believe that the statement cited on Page 4-8 invalidates the conclusion that sand and gravel operations are de minimis contributors to violations of the PM_{10} NAAQS.

14. The sentence that introduces the term "saturation study" provides a reference to 4.8.2 that details the study. Clark County's commitment to conduct further research to improve our understanding of the contributions from motor vehicle exhaust, sand/gravel operations, and other sources to PM_{10} exceedances should not be construed as evidence that the current assessments of contributions from these sources are inaccurate or invalid.

15. Staff does not concur that low speed limits for dust control can be effectively enforced on unpaved roads on a valley-wide basis and does not believe that the public will voluntarily comply with low speed limits on these roads. Because compliance cannot be achieved, emission reductions will not occur, making this control measure technologically infeasible as set forth on Page 4-17 and Table 4-7.

16. This editorial correction has been made.

17. As noted in the passage cited, "the infeasibility of obtaining the funding for this paving program is a factor that prevents Clark County from demonstrating attainment of the 24-hour standard before 2006" [emphasis added]. This is one control measure that cannot be implemented on a more rapid schedule due to limits on funding available to public agencies. Another control measure which is required for demonstrating attainment of the PM_{10} NAAQS is the paving and/or stabilization of unpaved shoulders of paved roads. As discussed in Section 4.5.2.4 this control measure cannot be completely implemented until the year 2006.

18. The suggested editorial change has been noted. However, the intent of the text on Page 4-44 is to convey that less than one percent of the vacant land area is contained in parcels less than 5,000 square feet. As described on Page L-8 of Appendix L, all vacant land parcels within the BLM disposal boundary were queried to develop this information.

19. This editorial correction has been made.

20. With regards to observations of "impressive plumes" from street sweeping equipment, three issues should be noted. First, as noted on Page 4-67 of the SIP, not all of the street sweeping equipment operated in Clark County is Certified PM_{10}-efficient. Second, PM_{10}-efficient equipment may sometimes be operated or maintained incorrectly, resulting in excessive dust emissions generated by the equipment. Third, when used to pick up very heavy silt

loadings, such as those which occur after a storm event, even Certified PM_{10}-efficient equipment that is properly maintained and operated may produce significant dust plumes. This is due to limitations of the equipment rather than improper maintenance or operation of the equipment.

With regards to the first issue, the requirements of AQR Section 93 will result in the elimination of all street sweeping equipment that does not meet the PM_{10}-efficient certification standards through attrition. The second issue is being addressed through the AQD enforcement program. AQD enforcement staff work with operators of street sweeping equipment on a regular basis to insure that street sweeping equipment is properly operated and maintained. With regards to the third issue, public agencies and other equipment operators minimize the issue of very heavy silt loadings that may occur from exceptional events by using skip loaders and other types of equipment to reduce the silt loadings prior to sweeping.

21. As set forth on Page 4-105 of the SIP, staff is aware of the issues related to the minor source emission reduction credits program. Emission credits or reductions from this program were therefore not utilized in developing either the emissions inventory or the attainment demonstration contained in this SIP. The discussion of the minor source emission reduction credits program was included on Page 4-105 to inform the reader that issues related to the emission reduction credits program are not applicable to this PM_{10} SIP.

22. This issue is presently beyond the scope of this SIP.

23. The first sentence under 4.6.1.2 is somewhat lengthy and complex, but reads correctly. The second sentence was inadvertently truncated when the document was reformatted and should read as follows: "Of these source categories, only two contribute more than 0.03 ug/m3 to the 1998 base year 24-hour design value."
This correct language has been incorporated in the revised document.

24. This data can be found in the report titled *PM-10 Emissions Inventory, McCarran International Airport, North Las Vegas Airport, Henderson Executive Airport* by Ricondo & Associates, dated February 2000. This report can be obtained from the Clark County Department of Aviation.

25. The text in the summary sentence has been revised to better characterize the action taken by the Clark County Health District Board of Health. Additional text has been added to this section to clarify when the measures will be considered for adoption.

26. These editorial corrections have been made.

April 15, 2001

Ms. Catherine MacDougall
Clark County Department of Comprehensive Planning
Suite 3012
500 S. Grand Central Parkway
Las Vegas, NV 89155

Dear Ms. MacDougall,

I have reviewed the Draft PM_{10} State Implementation Plan for Clark County, and wish to submit the few comments contained in this letter. As you know, I am professionally employed as an air quality meteorologist and have been a member of the Clark County Health District's Particulate Matter Research Advisory Committee since its inception. But I am writing these comments as an interested private citizen. 1

I want to sincerely compliment the Department of Comprehensive Planning staff for developing this Plan and preparing the document. I also hope I am speaking for other members of the local regulated community when I compliment both the Department of Comprehensive Planning and the Health District's Air Quality Division staff on the excellent efforts at involving the community in the public workshops on the development of the most appropriate dust control strategies and new rules intended to implement the plans to reach attainment.

Please consider the following two specific comments on the Plan when preparing the final version.

1. On top of page 3-17 (Section 3.4.4), a sentence on wind tunnel studies includes the statement that a wind tunnel speed of 25 mph (miles per hour) was the minimum needed to observe steady emissions from native desert. Please clarify if this is the actual wind speed in the tunnel, or if it is a calculated speed at a nominal wind measurement height, such as 7 or 10 meters above ground level. This could make a difference in the identifying occasions when steady emissions might occur from native desert land. 2
2. Page 4-18 (section 4.4) contains discussions of the County particulate matter research advisory committee. Please consider mentioning that one important driving force behind the investigations pursued by the committee was to identify effective emission control methods that could be productively adopted in this area where water is not only a valuable resource, but may not be the most effective control method for certain soil types and material handling activities. 3

Sincerely,

Paul M Fransioli

Paul M. Fransioli, CCM, QEP
Certified Consulting Meteorologist
Qualified Environmental Professional
1112 Pagosa Way
Las Vegas, Nevada 89128

Response to comments in letter from Paul Fransioli dated April 15, 2001:

1. Staff appreciates the comments.

2. The wind tunnel speeds are calculated speeds based on wind speed measurements at ten meters above ground. This information is detailed in Appendix C, Section III. Additional text has been added to page 3-17 for clarification as follows:

   "...wind tunnel until winds speeds reached 25 mph (as measured at ten meters above ground)."

3. We agree with the commentator that one important driving force behind the investigations pursued by the Advisory Committee was to identify effective emission control methods that could be productively adopted in this area where water is not only a valuable resource, but may not be the most effective control method for certain soil types and material handling activities. However, we have not added additional text to Section 4-4 because we believe this section needs to be focused on the process used to evaluate control measures.

From: David Buesch <dbuesch@intermind.net>
To: Catherine MacDougall <CMacDoug@co.clark.nv.us>
Date: 4/17/01 11:32PM
Subject: Comments on Draft PM10 SIP

Catherine,

Thank you for returning my phone call this afternoon and listening to some of my thoughts on the Draft PM10 SIP. Below is the full text of my comment, and I have attached a Word document of the same letter. I hope you will be able to include these comments in your compilation.

I hope all goes well.

David Buesch
6050 W. Brooks Ave.
Las Vegas, NV 89108
Phone: 702-658-4094
E-mail: dbuesch@intermind.net

Catherine MacDougall
CMacDoug@co.clark.nv.us
Air Quality Planing Team, Department of Comprehensive Planning
500 S. Grand Central Pkwy, Suite 3012
Las Vegas, NV 89144-1741
Phone: 702-455-4181

Subject: Comments on the Draft PM10 State Implementation Plan for Clark County

1

I am a geologist by training and most of my research has been conducted in the southwestern deserts of the US. Much of my training has been on sediment transport, so I have a good appreciation for sources of particles, what it takes to make them move, and the types and amounts of data that it takes to document a variety of conditions. I am also a resident of the Las Vegas valley who is very concerned about the air quality and water issues in this valley. I was raised in southern California and have seen bad air quality (both poor visibility and unhealthful composition of the air).

I have lived in Las Vegas since 1992 and have watched the air quality degrade while the valley engages in run amuck development (of which many are very boastful) and there is precious little begin done about air quality and water usage. I freely acknowledge and applaud the effort that Air Quality Planning Team is attempting to put in place the Draft PM10 State Implementation Plan (SIP) for Clark County (and similar measures for CO and Ozone). I commend most of the Draft PM10 SIP and the supporting Handbook on regulations, tests, and variances. I also support the various agencies and organizations involved with water usage as they try to educate the public on wise ways to use water more wisely. The bottom line is that southern Nevada and the Las Vegas valley is in a desert with significant air quality issues (notably PM10), and it is running out of water with not vary many viable options

to get more water.

There is a fundamental relation between the amount of development (i.e., disruption of the natural soil and vegetation), the amount of dust generated on a given day, and the amount of water needed for dust control. The PM10 SIP and the Handbooks discuss alternative and supportive methods to control fugitive dust in a variety of situations (and many of these techniques work well within a reasonable scope). However, minimization of fugitive dust boils down to two basic conditions: 1) the natural vegetative cover and soils, which have developed over thousands of years, are the best for minimizing the amount of dust released into the air, and 2) water can be sprayed on areas of disrupted soil. The linkage of dust, water, and development can not be avoided.

The one variable of the three that can be (and must be) controlled, but it is also the most difficult one politically, is to link the amount of development in the valley to attainment of air quality and water availability limitations. I understand that the Draft PM10 SIP discusses the strict control of standards and implementation of penalties for those who have permits but do not comply with the laws (bravo!). However, without the ability to limit new permits during periods of noncompliance of the EPA air quality standards, it is not clear to me how compliance can be attained. I am quite sure that many will say that it is not within the jurisdiction of the Air Quality Planning Committee, the County, the SIP, State, or the Federal government to regulate the amount and type of development. However, when there are clear implications (if not down-right connections) that by not restricting growth (i.e., big bucks for a few developers) the air and water quality will be jeopardized, then I believe that any one of the governments (or their agencies) must stand up for the population. This is primarily a Health and Safety issue for the population of the Las Vegas valley and surrounding areas, it is not the time to acquiesce and just let development run rampant.

I believe that the Draft PM10 SIP document shows the Air Quality Planning Team has done a lot of homework, laid down many viable testing techniques to determine (potential) fugitive dust producing conditions, and proposed a reasonable implementation plan. The Draft PM10 SIP contains lots of tests, documentation, limitations, rules (by the way I am not convinced that signs do much for suppression of fugitive dust), and noncompliance fines. However, if I were an EPA examiner, I would not be convinced that the Draft PM10 SIP really addresses the fundamental source of the PM10 problem, and that is the noncontrolled disruption of the desert surface. Without a strict regulation of disrupted areas, the only alternative is to use lots of water for dust suppression. The Draft PM10 SIP acknowledges that water is a precious commodity in the desert, and goes out of its way to detail how water can be used judiciously. The tripartite connection of abundant areas of dirt that can be disrupted, minimal amounts of water to spare on fugitive dust control, and uncontrolled development is a pretty simple relation. A workable formula will take strong leadership in the County and State to wrestle with the solution that is obvious to many of us. In lieu of "local" control, the Federal government through the EPA might

be forced to take action, and all for the health of the locals. I think it would be a great shame if the air-quality (and water) issues of the Las Vegas valley came down to looking to the Federal government to impose a solution. In the long run, with or without the Federal governments intervention, the County and State are going to have to face up to the developers, so why not start now before the air and water quality issues become acute.

Thank you for considering my comments.

David Buesch
6050 W. Brooks Ave.
Las Vegas, NV 89108
Phone: 702-658-4094

Response to comments in letter (e-mail) from David Buesch dated April 17, 2001:

Clark County appreciates your positive comments and support for the SIP.

Recognizing that water is a limited resource within the nonattainment area, Clark County Air Quality Regulations (AQRs) and the control measures adopted as part of the SIP emphasize the minimization of water usage for dust control when better or equivalent technology exists and it is economically feasible. Advisory notices have been incorporated into the appropriate AQRs. Further questions regarding water conservation should be directed to the Southern Nevada Water Authority (SNWA).

Regulating development and the issuance of permits during non-compliance periods in the nonattainment area is economically infeasible. For the most part, growth will occur. Preventing access to undeveloped areas and stabilizing soils of those areas would be the other options or courses of action. This would be at the expense of individual land developers/owners. As a result, these actions would likely result in court legal actions as "Takings." Regulating development/ growth in non-compliance periods in the nonattainment area is not within the scope of the SIP.

03/29/2001 08:14

FAX - 375-5940

CAROL:

I WAS AT YOUR MEETING TUESDAY MARCH 27 TH 2001. WHAT I DONT UNDERSTAND IS WHY ARE ALL OF THE GOVERNMENT S FIGHTING EACH OTHER. BLM GRAZING,BLM REC., CLARK CO., CITY OF LAS VEGAS, HENDERSON, AND NOW BOLDER CITY.

1 KNOW ONE HAS A PLAN THE ONLY THING THAT I CAN SEE IS YOU WANT TO USE ALL OF OUR RESOURCES MAMLEY WATER. HAVENT YOU HERD WE ARE RUNNING OUT OF WATER.

IN SLONE NEVADA THER IS A ROAD CALLED THE HALL RD. TRUCKS HALL ROCK AND GRAVEL .IT IS A DIRT ROAD . IT IS INSIDE OF YOUR CONTAINMENT AREA'S THEY AT YOUR ORDERS WATER THE ROAD 8 TO 10 HR. A DAY.

THERR WATER TRUCK HOLDS 2000 GALLONS OF WATER. THEY FILL IT 4 TIMES A DAY. MY HOUSE USES 1000 GALLONS A MONTH.

WHAT THEY USE IN 1 DAY WOULD TAKE CARE OF MY HOUSE FOR 8 MONTHS.

NOW WHAT WOULD YOU RATHER LIVE WITH (OR DIE) DUST (WHICH WONT KILL YOU) OR NO WATER(WHICH WILL KILL YOU).

THANK YOU FOR YOUR TIME
AL PERINO (S.N.O.R.E.

Response to comments in letter from Al Perino dated March 29, 2001:

Clark County Air Quality Regulation(s) and control measures adopted as part of the SIP emphasize the minimization of water usage for dust control when better or equivalent technology exists and is economically feasible. Advisory notices have been incorporated into the Clark County Health District, Air Quality Regulations (AQRs).

Approximately 7,000 gallons per person/per household/per month is used at a minimum (average residential use for one year is 1 acre foot = 326, 000 gallons used for family of four) within Clark County.[1] Further questions regarding water conservation should be directed to the Southern Nevada Water Authority (SNWA).

[1] Tom Maher, Southern Nevada Water Authority (SNWA) and Carrie White, Clark County Department of Comprehensive Planning (CCDCP) April 2001.

Catherine MacDougall - air pm10 Public Hearing

From: Dianne M Fennell <lady-di-real@juno.com>
To: <CMacDoug@ccgwgate.co.clark.nv.us>
Date: 3/29/01 6:40 PM
Subject: air pm10 Public Hearing

Questions, written comments, or recommendations concerning the Draft PM10 Plan can be addressed to:

1 I live in Henderson the area is zoned RS1, the area has homes built on half and 1+ acres. I have noted within our area approximately 6 residential home owners who own or operate semi trucks within their residential area. Several owners drive their semi trucks with and without loads to work and home daily. The same Semi Owners park their semi's on their residential property. I should note the area I live in most homes exceed $200,000. in value and are located in section 4. I am sure our is not the only area where similar semi traffic occurs.

I question future effects on all of our area regarding PT 10.

Response to comments in letter (e-mail) from Dianne M. Fennell dated March 29, 2001:

Comments received regarding the operation, parking, and general use of heavy-duty vehicles within residential areas are not germane to the SIP. For guidance, questions and/or concerns, please contact Mr. Jim Foreman, Clark County Public Response Office, Las Vegas, Nevada at 702-455-4191.

April, 16 2001

John Schlegel
Comprehensive Planning
500 S Grand Central Pky
Po Box 551741
Las Vegas NV 89115-1741

Dear Team;

I am writing in response to the new Air Quality Regulations that I and the others in are committee have some concerns about.

I would first like to give you a little History of the las Vegas Valley. I have been living in Southern Nevada for 33 years and 30 years ago I remember when we were going home in are van and was stoped at Cheyenne and Rancho Because of a dust storm that was so bad that we could not see where we were going. Which was caused by Mother Nature thats what happens when you move to a desert where the dust blows.

The other day I attended one of your Air Quality work shops and they said that Motor Vehicles were a main contributor of the dust problem in the valley. Which I would have to say your wrong they are a small problem and very small one at that. They also said that there had to be 150 vehicles per day on a road to be in violation of the law. The last time I seen OHVers out playing there was not 150 vehicles on one road or trail. I also asked for the definition of a road or trail and could not get an answer so how can a person evaluate your plan with out it. The other thing is why are you going by the Hydrographic Basin 212 for Air Quality and not just one for Air Quality ? One reason why I ask this is because it goes right threw a natural sand dunes that is formed because of wind and dust. Which at any given day even when it is windy you don't see much dust coming from this area even with OHVers playing on it. Just so you know this is the only OHV open area in Southern Nevada which OHV is the 11th biggest Industry in the State. It also goes two mountain ranges over in the Sheep Mtn Range why the dust will not go threw mountains. What I am saying is you need to have a map just for the urban area only and not the rural areas. The rural is not a problem for the community and should be exempt. My suggestion is we make OHV as a trail and nellis dunes and any thing north of the mountain range north exempt also anything north of Kyle canyon road and south west of Sloan exempt.

Blake Monk
Southern Nevada Regional Trails Partnership
P.O. Box 34445
Las Vegas NV 89128

Response to comments in letter from Blake Monk, Director, Nevada Four Wheelers Association – not dated:

The largest contributor of PM_{10} in Clark County is fugitive dust from disturbed vacant land. Disturbed vacant land is largely attributed to motor vehicle activity on vacant land parcels. Motor vehicles disturb the native desert crustal surfaces, thus resulting in increased fugitive dust emissions from the disturbed area.

Off-highway vehicle (OHV) use on vacant land that has not been stabilized for vehicle use has been prohibited in Hydrographic Basin 212 under Section 90 of the Clark County Health District Air Quality Regulations (AQRs). Recognizing the importance of preserving a traditional Southern Nevada sport, CCDCP has formed an Off-Road Enthusiast/Off-Highway Vehicle working group made up of the sport's participants, BLM, AQD, and staff from CCDCP. This working group is moving forward to preserve the sport while meeting the requirements of Section 90 and attaining the PM_{10} NAAQS in Hydrographic Basin 212.

Catherine MacDougall - Dust Control Meeting

From: <JLMCMS@aol.com>
To: <cmacdoug@ccgwgate.co.clark.nv.us>
Date: 3/28/01 8:26 AM
Subject: Dust Control Meeting
CC: <editor@go-desert.com>, <Snore#1@go-dezert.com>

I am writing in reference to use of public lands for OHV use. I would like to express my concern of the possibility that OHVs will be banned from the California and Nevada deserts.
Especially organized Events from Organizers such as Snore, Score, MDR, etc... I have been in off-road racing for the past 12 years in these deserts and with these organizations. It is my perception that every one of these promoters make constant efforts to educate both the racers and the spectators on proper conduct in the Desert. The people who commit to racing love their sport and the Desert. They too are the first to reprimand and/or attempt to educate any & all violators they encounter, not to mention they pack out others trash when possible. Some even recently have participated in organized desert cleanups. (Organized by the Off-Road Community)

There are specific rules when racing that are designed to minimize the impact of the desert. From designated spectator areas to the area of the course you are allowed to go if disabled. In 12 years of racing I have yet to see these rules violated in these deserts.

The Promoters go to great lengths to coordinate with the various authorities to plan a race. For example, Dust was a concern for the race for this weekend. It is my understanding that a dust suppressant has been used to help with this problem. Also, the promoters often have guest speakers from these organizations at the drivers meetings to voice their concerns and help educate the participants & their crews. These representatives are always greeted with the utmost respect and listened to intently by all. At the end of the event they are often at the awards ceremony with praise of the behavior of participants, spectators, volunteers and promoters and comment on the success of the event.

Please consider the views I have posted, I am just one of the numerous people who truly respect and love the desert and enjoy it thru the sport of organized off-road racing. I cringe when I see it being abused, as, I'm sure, members of other organizations do. I personally make every attempt, when possible, when in the desert to pick up & pack out some trash I come across. (I am not alone)

Please don't close the desert to OHVs.

Thank you for your time and consideration, Please call with Questions (916) 439-3900

Jim Mansfield
JLM Construction

Response to comments in letter (e-mail) from Jim Mansfield dated March 28, 2001:

Off-highway vehicle (OHV) use on vacant land that has not been stabilized for vehicle use has been prohibited in Hydrographic Basin 212 under Section 90 of the Clark County Health District Air Quality Regulations (AQRs). Recognizing the importance of preserving a traditional Southern Nevada sport, CCDCP has formed an Off-Road Enthusiast/Off-Highway Vehicle working group made up of the sport's participants, BLM, AQD, and staff from CCDCP. This working group is moving forward to preserve the sport while meeting the requirements of Section 90 and attaining the PM_{10} NAAQS in Hydrographic Basin 212.

Catherine MacDougall - Dust Control Regs.

From: Rodney Howe <Jill.Rodney@worldnet.att.net>
To: <cmacdoug@ccgwgate.co.clark.nv.us>
Date: 3/28/01 4:09 PM
Subject: Dust Control Regs.

To Whom it may concern,
I would like to take this opportunity to thank Clark County for allowing adequate time for public comment on this important issue.
I would like to encourage Clark County to take into consideration the impact any new regulations will have on OHV use. Many
working families enjoy this legitimate sport as a way to spend quality time together while enjoying our beautiful desert. Furthermore,
the sport of off road racing enjoys a long heritage in this area and continues to generate many jobs and tax revenue from this large industry. In closing, I would like to point out that one size does not fit all in regards to this issue! I would like to see a responsible
management plan implemented that finds common ground that we all can agree on.

Thank You,
Rodney G. Howe

Response to comments in letter (e-mail) from Rodney G. Howe dated March 28, 2001:

Clark County appreciates your positive comments and support on the posting and the adequate public comment period allowed for the SIP.

Off-highway vehicle (OHV) use on vacant land that has not been stabilized for vehicle use has been prohibited in Hydrographic Basin 212 under Section 90 of the Clark County Health District Air Quality Regulations (AQRs). Recognizing the importance of preserving a traditional Southern Nevada sport, CCDCP has formed an Off-Road Enthusiast/Off-Highway Vehicle working group made up of the sport's participants, BLM, AQD, and staff from CCDCP. This working group is moving forward to preserve the sport while meeting the requirements of Section 90 and attaining the PM_{10} NAAQS in Hydrographic Basin 212.

Catherine MacDougall - offroading

From: Karl Rosell <Karl@Rosell.net>
To: <cmacdoug@ccgwgate.co.clark.nv.us>
Date: 3/28/01 8:32 PM
Subject: offroading

Sir,
Is it a crime to off road?

I think it is a crime to not let the PUPLIC know what you are planning to do!

I understand that the last meeting , the one that had it's date changed way too often , so no one could apear , was to outlaw
off roading in the valley .

There is far more pressing problems you people need to take care of!

Just leave this one alone!

Mr. Karl S. Rosell

Response to comments in letter (e-mail) from Karl S. Rosell dated March 28, 2001:

Two public workshops were held in addition to the required public hearing to solicit comments from the public regarding the SIP. Clark County Department of Comprehensive Planning and Clark County Health District, Air Quality Division has complied with all requirements of the Nevada Open Meeting Law (NRS Chapter 241) in the timely postings of all meetings, Workshops, and Public Hearings regarding the SIP process. Changing of dates for the proceedings must comply with NRS 241 guidance with proper postings, allowing three full working days' prior notice of meeting date.

Off-highway vehicle (OHV) use on vacant land that has not been stabilized for vehicle use has been prohibited in Hydrographic Basin 212 under Section 90 of the Clark County Health District Air Quality Regulations (AQRs). Recognizing the importance of preserving a traditional Southern Nevada sport, CCDCP has formed an Off-Road Enthusiast/Off-Highway Vehicle working group made up of the sport's participants, BLM, AQD, and staff from CCDCP. This working group is moving forward to preserve the sport while meeting the requirements of Section 90 and attaining the PM_{10} NAAQS in Hydrographic Basin 212.

Catherine MacDougall - (no subject)

From: <ProRacer119xKTM@aol.com>
To: <CMacDoug@ccgwgate.co.clark.nv.us>
Date: 4/16/01 6:00 PM
Subject: (no subject)

On the dust control plan you asked for every one's but the off roaders input . the pm-10 plan will affect the nellis dunes ohv area the only place in the southern part of the state of Nevada set aside for ohv use. Sunday 4-15-01 and Monday 4-16-01 we had unheathful days of pm-10 because the jet stream carried it from Asia. how do we control that. pm-10 from Las Vegas ground is not harmful it you. we need the EPA to wake up and see we live in the desert cody freeman las vegas nv.

Response to comments in letter (e-mail) from Cody Freeman of ProRacer119xKTM dated April 16, 2001:

Two public workshops were held in addition to the required public hearing to solicit comments from the public regarding the SIP. Clark County Department of Comprehensive Planning and Clark County Health District Air Quality Division has complied with all requirements of the Nevada Open Meeting Law (NRS Chapter 241) in the timely postings of all meetings, Workshops, and Public Hearings regarding the SIP process.

Off-highway vehicle (OHV) use on vacant land that has not been stabilized for vehicle use has been prohibited in Hydrographic Basin 212 under Section 90 of the Clark County Health District Air Quality Regulations (AQRs). Recognizing the importance of preserving a traditional Southern Nevada sport, CCDCP has formed an Off-Road Enthusiast / Off-Highway Vehicle working group made up of the sport's participants, BLM, AQD, and staff from CCDCP. This working group is moving forward to preserve the sport while meeting the requirements of Section 90 and attaining the PM_{10} NAAQS in Hydrographic Basin 212.

Catherine MacDougall - Please Im baging you!

From: Greg Boyer <gboyer@asburyusa.net>
To: <cmacdoug@ccgwgate.co.clark.nv.us>
Date: 4/2/01 4:09 PM
Subject: Please Im baging you!

Hello my name is Greg Boyer and im 18 years old. My dad Rick Boyer has been racing all of my life. Growing up I have been going to his races and helping him and watch my dad do what he loves to do, racing off road race cars. Finally im old enough to ride with him and start driving, I have been waiting for this moment my whole life. This last weekend at the SNORE Buffalo Bills 400 was the first time in my life I get to ride with my dad, plus it was the first race for our new race car my dad and I built. Now that im at the time in my life I have been waiting for my whole life, my dreams are going be destroyed. The problems BLM is giving us and these new rules or laws about dust control and shutting down the desert is going to ruin my whole life, I will have no reason to live anymore, my dreams will not come into a reality. My life will be over and done with if there is no off road racing. Im bagging you please keep my sport together so I can keep my life together. There is so many people out there that is just like me and have these same feelings. We don't do any harm to anything out there. And it just another sport that is a great sport and it shouldn't be disrupted. Again please save my sport and keep it going for me, for everyone out there. Please go to this website and look around, you will learn about the sport. www.go-desert.com I would appreciate it so much if you would email me back. Thanks...
Sincerely,
Greg Boyer

Response to comments in letter (e-mail) from Greg Boyer dated April 2, 2001:

Off-highway vehicle (OHV) use on vacant land that has not been stabilized for vehicle use has been prohibited in Hydrographic Basin 212 under Section 90 of the Clark County Health District Air Quality Regulations (AQRs). Recognizing the importance of preserving a traditional Southern Nevada sport, CCDCP has formed an Off-Road Enthusiast/Off-Highway Vehicle working group made up of the sport's participants, BLM, AQD, and staff from CCDCP. This working group is moving forward to preserve the sport while meeting the requirements of Section 90 and attaining the PM_{10} NAAQS in Hydrographic Basin 212.

April 18, 2001

Ms. Catherine MacDougall, Senior Planner
Department of Comprehensive Planning
Environmental Planning Division
500 S. Grand Central Parkway, Suite 3012
Las Vegas, NV 89155-1741

Re: Draft PM_{10}.State Implementation Plan for Clark County

Dear Ms. MacDougall:

Thank you for the opportunity to review the draft PM_{10}.SIP. The City of Henderson concurs with the control strategies that have been presented in the document, and also concurs that with the implementation of these strategies. The annual standard can be met by 2001. The City of Henderson also concurs with the request for the 5-year extension of the 24-hour standard until 2006.

The Henderson City Council adopted a resolution supporting the PM_{10}.SIP on April 17, 2001. (A copy of the Resolution is attached)

Please contact Sue Goldade, AICP, Principal Planner at (702) 565-2474 with any questions or concerns.

Sincerely,

Mary Kay Peck, AICP
Director of Community Development
MKP/so

CITY HALL • 240 WATER STREET • HENDERSON, NV • 89015
702-565-2323

HENDERSON CITY COUNCIL
AGENDA ITEM

NEW BUSINESS

Date: April 17, 2001

NB -26

SUBJECT	Resolution No._____ in support of Clark County's PM_{10} State Implementation Plan
PETITIONER	Phil Speight, City Manager
RECOMMENDATION	Adopt Resolution

FISCAL IMPACT:

[x] No Impact [ ] Budget funds available [ ] Augmentation required

Funding Source, Amount, and Account Number(s) to be charged: N/A

BACKGROUND / DISCUSSION / ALTERNATIVES:

Clark County has been designated by the Governor to be the lead agency responsible for air quality and planning in the Las Vegas Valley. Pursuant to federal regulations, the lead agency for air quality is responsible for the preparation of a State Implementation Plan. This resolution relates to the PM_{10} State Implementation Plan as presented before the Southern Nevada Regional Planning Coalition (SNRPC) Board for review. At the request of the SNRPC Board each member is seeking a resolution of support from its respective governing body.

RECOMMENDED MOTION: I move to adopt Resolution No.___ in support of Clark County's PM_{10} State Implementation Plan.

for Philip D. Speight
City Manager

for Shauna Hughes
City Attorney

Steve Hanson
Finance Director

RESOLUTION NO._____
(Clark County's PM_{10} State Implementation Plan)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HENDERSON, NEVADA. IN SUPPORT OF CLARK COUNTY'S PM10 STATE IMPLEMENTATION PLAN.

WHEREAS, significant progress has been made to improve air quality; however, the Las Vegas Valley continues to exceed the national ambient air quality standard for particulate matter (PM_{10}), and was reclassified as "serious non-attainment" by the United States Environmental Protection Agency; and

WHEREAS, the 1990 Clean Air Act Amendments and noticing in the federal register require the preparation and submittal of a State Implementation Plan which addresses the PM_{10} pollution; and

WHEREAS, the Clark County Board of Commissioners has been designated by the Governor of the State of Nevada as the lead agency responsible for air quality planning for the Las Vegas Valley; and

WHEREAS, development and the use of motor vehicles on the Las Vegas Valley's roadways contribute to PM_{10} emissions; and

WHEREAS, it is the policy of the City of Henderson to protect the health and welfare of its residents; and

WHEREAS, the PM_{10} State Implementation Plan contains an adequate emission budget that will allow for positive conformity determinations to be made while allowing for improvements in PM_{10} levels for the purpose of attaining the national PM_{10} standard in an expeditious manner.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Henderson, Nevada:

SECTION 1: The Council is in support of Clark County's PM_{10} State Implementation Plan.

END OF RESOLUTION

Response to comments in letter from Mary Kay Peck, Director of Community Development, City of Henderson, Nevada dated April 18, 2001:

The Clark County Department of Comprehensive Planning thanks the City of Henderson, Nevada for its support of the SIP.

March 22, 2001

Dale W. Askew, County Manager
Clark County Manager's Office
Clark County Government Center
500 South Grand Central Parkway
Las Vegas, Nevada 89155-1111

Dear Mr. Askew:

This letter is sent in support of Clark County's preparation and submittal of the State Implementation Plan that addresses the particulate matter (PM_{10}) pollution.

Significant progress has been made to improve local air quality; however, the Las Vegas Valley continues to exceed the national ambient air quality standard for PM_{10}, and the valley was reclassified as "serious non-attainment" by the U.S. Environmental Protection Agency.

The PM_{10} State Implementation Plan contains an adequate emission budget that will allow positive conformity determinations to be made while also allowing improvements in PM_{10} air quality for the purpose of attaining the national PM_{10} standard in an expeditious manner.

If I can be of further assistance in this matter, please feel free to contact me.

Sincerely yours,

Virginia Valentine
City Manger

CITY OF LAS VEGAS
400 STEWART AVENUE
AS VEGAS, NEVADA 89101

VOICE 702.229.6011
TDD 702.386.9108
www.ci.las-vegas.nv.us

Response to comments in letter from Virginia Valentine, City Manager, City of Las Vegas, Nevada dated March 22, 2001:

The Clark County Department of Comprehensive Planning wishes to thank the City of Las Vegas, Nevada for its support of the SIP.

CITY OF
NORTH LAS VEGAS

Your Community of Choice

City of North Las Vegas
2266 Civic Center Drive • North Las Vegas, Nevada 89030-6316
Telephone: (702) 633-1537 • Fax: (702) 649-9316
www.cityofnorthlasvegas.com

April 12, 2001

Dale W. Askew, County Manager
Clark County Manager's Office
Clark County Government Center
500 South Grand Central Parkway
Las Vegas, Nevada 89155-1111

Dear Mr. Askew:

Thank you, for the opportunity to comment on the PM_{10} State Implementation Plan (PM10 SIP) prepared by the Clark County Department of Comprehensive Planning (CCDCP). The City of North Las Vegas appreciates the extensive work that has gone into the preparation of this document by your staff and the cooperative approach employed by the CCDCP in developing this plan. The plan is very comprehensive and provides a detailed assessment of the PM_{10} problem in the Las Vegas Valley.

The PM_{10} emissions inventory provided in this SIP significantly improves on previous PM10 emission inventories prepared for the Las Vegas Valley. The City of North Las Vegas recognizes the need for further enhancements to the PM_{10} emissions inventory that are committed to in this PM_{10} SIP and is committed to assisting the CCDCP in making these enhancements.

Although the regulatory program and SIP commitments contained in this plan are extensive and costly, City of North Las Vegas believes that this is a balanced regulatory program that is necessary to achieve the federal national ambient air quality standards. The attainment demonstration, best available control measure analysis, and most stringent measure analysis does a good job of justifying the regulatory program and the additional SIP commitments set forth in the Plan.

If I can be of further assistance in this matter, please feel free to contact me.

Sincerely,

Kurt Fritsch
City Manager

Response to comments in letter from Kurt Fritsch, City Manager, City of North Las Vegas, Nevada dated April 12, 2001:

The Clark County Department of Comprehensive Planning appreciates the comments of the City of North Las Vegas, Nevada, and thanks them for their support of the SIP.

REGIONAL TRANSPORTATION COMMISSION
RTC
OF SOUTHERN NEVADA
600 S. Grand Central Parkway, Suite 350 • Las Vegas, Nevada 89106-4512 • 702-676-1500 • Fax: 702-676-1518

RESOLUTION # 194
IN SUPPORT OF CLARK COUNTY'S PM_{10} STATE IMPLEMENTATION PLAN

WHEREAS, significant progress has been made to improve air quality; however, the Las Vegas Valley continues to exceed the national ambient air quality standard for particulate matter (PM_{10}), and was reclassified as "serious non-attainment" by the U.S. Environmental Protection Agency; and

WHEREAS, the 1990 Clean Air Act Amendments and noticing in the federal register require the preparation and submittal of a State Implementation Plan which addresses the PM_{10} pollution; and

WHEREAS, the Clark County Board of Commissioners has been designated by the Governor of the State of Nevada as the lead agency responsible for air quality planning for the Las Vegas Valley; and

WHEREAS, the use of motor vehicles on the Valley's roadways contribute to PM_{10} emissions; and

WHEREAS, the Regional Transportation Commission of Southern Nevada, as the designate Metropolitan Planning Organization, has the obligation to prepare long-range transportation plans and transportation improvement programs and has the responsibility to make positive air quality conformity determinations on these plans and programs; and

WHEREAS, the PM_{10} State Implementation Plan contains an adequate emission budget that will allow for positive conformity determinations to be made while allowing for improvements in PM_{10} air quality for the purpose of attaining the national PM_{10} standard in a expeditious manner.

NOW, THEREFORE, BE IT RESOLVED that the Regional Transportation Commission of Southern Nevada supports the adoption of the PM_{10} State Implementation Plan for Clark County.

PASSED, ADOPTED AND APPROVED this 12 day of April 2001.

REGIONAL TRANSPORTATION COMMISSION
OF SOUTHERN NEVADA

By B. Woodbury

Bruce L. Woodbury, Chairman

Attest: Lora Mulkern

Response to Resolution #194 from the Regional Transportation Commission dated April 12, 2001:

Clark County appreciates the resolution in support of the SIP.