

# **Appendix H**

## **Public Comments and Responses**

- 1. Chemical Lime Company (CLC)  
– Mr. Ed Berry Comments with  
DAQEM Responses**
- 2. Sierra Club, Southern Nevada  
Group – Ms. Jennifer Anderson  
Comments with DAQEM  
Responses**
- 3. Nevada Environmental Coalition  
(NEC) – Mr. Robert Hall  
Comments with DAQEM  
Responses**

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# **Public Comments and Responses**

- 1. Chemical Lime Company (CLC)  
– Mr. Ed Berry Comments with  
DAQEM Responses**

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Note: DAQEM Responses to Ed Berry, Chemical Lime Company Comments are incorporated within this document.

**From:** <Ed.Barry@chemicallime.com>  
**To:** <merle@Co.Clark.NV.US>  
**Date:** 3/14/2005 10:29:47 AM  
**Subject:** Public Comments - NEAP

Russell,

CLC appreciates the opportunity to comment on the NEAP and your consideration on this matter. Attached is our comments, should you have any questions, please let me know.

(See attached file: 105707.NEAP.Comments.doc)

Sincerely,

Ed Barry  
Western Environmental Manager  
Chemical Lime Company, Scottsdale, AZ.  
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**CC:** [Ed.Banfield@chemicallime.com](mailto:Ed.Banfield@chemicallime.com)  
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# CHEMICAL LIME COMPANY

## COMMENTS ON NATURAL EVENTS ACTION PLAN FOR HIGH-WIND EVENTS

### CLARK COUNTY, NEVADA (January 2005 Draft)

Pursuant to the Notice of Public Hearing issued by the Clark County Department of Air Quality and Environmental Management (DAQEM), Chemical Lime Company (CLC) hereby submits its written comments on the Natural Events Action Plan for High-Wind Events, Clark County, Nevada (January 2005 Draft) (NEAP). CLC owns and operates the Apex Lime Plant, which is located in the Apex Valley. The Apex Valley is one of the areas that would be subject to the provisions of the NEAP.

1. NEAP (pp. 3-4). DAQEM states at page 3 that “protection of the public health is the highest priority and the foundation of this document.” Yet, at page 4 of the NEAP, DAQEM states that “[t]he main purpose of this dust control is to protect the health of the workers within [the Apex Valley] area and to ensure that the Apex Valley does not contribute to regional haze transport to the Grand Canyon.” It appears to CLC that the statements given at pages 3 and 4, when read together, create confusion. Specifically, while it seems clear that protection of the public health is the underlying policy of the Clean Air Act, the protection of workers, while certainly an appropriate goal in itself, is one which is the focus of other federal programs, including those administered by the Occupational Safety & Health Administration and the Mine Safety & Health Administration. Also, to state that the “main purpose” of dust control is to prevent regional haze transport to the Grand Canyon undermines the characterization of the protection of the public health as being the “highest priority.” Regional haze is a public welfare issue, not a public health issue. Consequently, characterizing the need to prevent dust from the Apex Valley to contribute to regional haze as the “main purpose” of dust control misstates what actually is the “highest priority” of the NEAP – the public health. The statement at page 4 should be modified in order that there is no confusion as to the “main purpose” of the NEAP.

**DAQEM Response 1: Protection of the public health is the foundation of the NEAP. Whether it is the Las Vegas Valley or the Apex Valley, the highest priority of the NEAP is to protect public health. It does not matter that people do not live, as in residences, in the Apex Valley; there are workers at the industrial facilities that need protection. Regional Haze (consisting of fine particulate matter, precursors to Ozone formation and other constituents) is not only a “public welfare issue,” it is a public health issue. Clark County feels that the statement at page 4 of the NEAP main document is appropriate as written, with respect to the “main purpose,” of the NEAP. The NEAP does contain a statement about the purpose of Air Quality Regulations (AQR’s). The reader may have confused the specific purpose of the AQR’s with the purpose of the NEAP, however; both the NEAP and the AQR’s are designed to protect public health.**

2. NEAP (p. 10). The NEAP identifies different degrees of advisories that may be issued in the event of a dust event. These include, but may not necessarily be limited to, an event which is “imminent, currently taking place, or has reached hazardous levels.” The NEAP does not address the expectations or recommendations of DAQEM relative to steps to be taken by affected parties, including the regulated community, in response to the specific type of advisory being issued. If this is because the NEAP is not intended to create new requirements, the NEAP should make that clear. Moreover, under AQR Section 70 and provisions of many air quality permits, a permittee is required to implement an emergency plan or standby plan in the event that an “emergency episode” is declared. The NEAP does not address the relationship between an “emergency episode” and a dust event advisory. To avoid confusion, the NEAP should describe the relationship between an emergency episode and advisories issued under the NEAP.

**DAQEM Response 2: The NEAP document is not an added/extra requirement for stationary sources with respect to their existing operating permits. The NEAP clearly explains in the Dust Advisories, or Alerts what is required with respect to dust control, in the event of a high-wind event. There is no connection between an “Emergency Episode,” Emergency Plan or Standby Plan as required in Clark County AQR Section 70 permit requirements with respect to the DAQEM Air Quality Advisories. The advisories let active dust permit holders and stationary sources know that there is a potential for High-Winds which may raise/re-entrain dust on their properties 12-24 hours prior to an event. This enables stationary sources to take any action consistent with their Permits.**

3. NEAP (p. 25). Section 4 of the NEAP states that during a dust event, compliance officers will be dispatched to the field to survey for violating sites. In addition, violations observed by such compliance officers may result in a Corrective Action Order, which may lead to a Notice of Violation. Because the NEAP is dealing with natural events, not man-made events, it should provide that where a source has implemented its emergency plan when required to do so, that source would have an affirmative defense in the event a fugitive dust violation is observed.

**DAQEM Response 3: DAQEM believes that the Clark County NEAP enforcement/compliance activities are justified concerning any Correction Action Order which could result in a Notice of Violation issuance as a result of dust violations. The facilities must adhere to their permits and shut down if necessary, if dust as a result of their process or operation becomes uncontrollable. All cases are handled individually, with respect to adherence to permit conditions and the air quality dust regulations (AQR’s).**

4. NEAP (p. 29). As stated in the NEAP at pages 2-3, a NEAP should be developed in conjunction with stakeholders affected by the plan. Stakeholders who were given the opportunity to participate in the development of the Clark County NEAP are listed at pages v and 29 of the NEAP. It is striking that representatives of regulated industry do not appear on either list. The lack of having regulated industry participate in the development of the NEAP is a significant shortcoming. Regulated industry clearly is affected by the provisions of the NEAP, and the opportunity to offer input only after the document has been prepared renders its

participation much less effective than it otherwise would have been.

**DAQEM Response 4: The Clark County Natural Events Action Plan (NEAP) External Stakeholder Committee who assisted in the development of the NEAP, consisted of three municipalities (Las Vegas, North Las Vegas, and Henderson), Environmental Group membership, the Clark County Health District , the Clark County School District and the Southern Nevada Home Builders Association (SNHBA). Clark County used a broad based coalition as recommended in the Natural Events Policy guidance to develop this NEAP.**

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# **Public Comments and Responses**

- 2. Sierra Club, Southern Nevada  
Group – Ms. Jennifer Anderson  
Comments with DAQEM  
Responses**

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Note: DAQEM Responses to Sierra Club Comments are incorporated within this document.

Southern Nevada Group PO 19777 Las Vegas NV 89132

March 15, 2005

Russell S. Merle, Jr.  
Senior Air Quality Planner  
Clark County Department of Air Quality & Environmental Management  
500 S. Grand Central Parkway, 1st Floor  
Las Vegas, NV 89155-5210

RE: Natural Events Action Plan for High-Wind Events, Clark County, Nevada, January 2005 Draft

Dear Mr. Merle:

Thank you for the opportunity to review and comment on the January 2005 Draft of the Natural Events Action Plan for High-Wind Events, Clark County, Nevada (NEAP). In brief, the Sierra Club fully supports Sections 2 and 3 of the NEAP providing for public education and outreach activities, public notification of high-wind events, and an air quality advisory program. DAQEM should be commended for taking these measures to address a significant public health problem in the Las Vegas and Apex Valleys.

The Sierra Club strongly disagrees, however, that the U.S. Environmental Protection Agency (EPA) can or should excuse exceedances of the national ambient air quality standards (NAAQS) for PM-10 when those exceedances are caused by emissions from human-disturbed soil in the presence of high winds. Exceedances of the PM-10 NAAQS during high winds are in no sense "natural events." While the high winds may be natural events, the presence of dust is certainly not a natural event: it is caused by human activity.

We remain convinced that the Clark County Department of Air Quality & Environmental Management (DAQEM) should focus on its public education, outreach, and notification goals; on strict enforcement of existing air quality regulations; and on enhancing the strength and effectiveness of control measures, rather than on trying to avoid responsibility for PM-10 exceedances that are due to human activity. In this manner, DAQEM would best protect public health, which should remain the highest priority according to the U.S. EPA Natural Events Policy (1996) (Natural Events Policy or NEP). NEP at 3. Our specific comments are set forth in more detail below.

#### Introduction to Clark County's Responses to Sierra Club Comments

The Clark County NEAP document focuses on public education, outreach, and notification; strict enforcement of existing air quality regulations; and enhancing the effectiveness of control measures through the programs set forth in the plan. The BACM, which make up the foundation for the plan are innovative, proactive, site specific, soil specific, activity specific, and based on scientific studies. Clark County implemented the most effective air regulatory program for controlling dust driven PM<sub>10</sub> emissions of anywhere to date.

Many studies conducted around the world document high winds can and do overwhelm undisturbed native desert to generate PM<sub>10</sub> emissions. The wind speed threshold, at which winds will overwhelm native desert areas to generate massive PM<sub>10</sub> emissions, varies, depending upon the type of condition and type of native desert soils. In order to correctly calculate PM<sub>10</sub> emissions from native soils, soils disturbed by anthropogenic activities, and soils stabilized with BACM, Clark County contracted with UNLV to conduct a series of wind tunnel test to establish the correct

emission factors and wind speed thresholds for the Las Vegas Valley (*Estimation of Valley-Wide PM<sub>10</sub> emissions using UNLV 1995 wind tunnel-derived emission factors, 1998-1999 emission factors, revised vacant land classifications, and GIS-based mapping of vacant lands*, - Draft Final Report, David James, et al., Civil and Environmental Engineering Department, University of Nevada Las Vegas, dated September 12, 2000). Summary tables and specific methodology applied to the UNLV data to determine emission rates for native, disturbed, and stabilized soils are set forth in Appendix B on Pages B-49 through B-57. The UNLV work also demonstrated that high winds can and do overwhelm even the most effective BACM and cause emissions from controlled anthropogenic sources. Scientific studies demonstrate that the wind speeds required to overwhelm BACM are higher than the wind speeds required to overwhelm native desert. This is fortunate since anthropogenic activities typically occur in close proximity to human receptors.

## EXECUTIVE SUMMARY and Section 1: INTRODUCTION

### Purpose of NEAP

While the Sierra Club does not agree that EPA may discount exceedances, the NEAP should at least make clear to the public up front that one of the main purposes of the document is to allow the discounting of exceedances for purposes of demonstrating attainment of the 24-hour PM-10 NAAQS. This purpose is not clearly mentioned, however, in either the Executive Summary or the Introduction. The only hint is a vague statement in the Introduction that “[t]he advisory and education program is the major element of the NEAP that enables DAQEM to *justify an exceedance*, which overwhelmed BACM.” NEAP at 3 (emphasis added). If DAQEM believes it may legitimately seek to discount exceedances of health-based pollution standards, it should be candid with the public about what it is attempting to accomplish.

**DAQEM Response 1:** The main purpose of the Clark County NEAP is to protect public health. In order to justify exceedances of the NAAQS for PM attributed to Natural Events (e.g. High Winds); the department must put in place a health protective program. As part of this health protective program, DAQEM gives advisories to the public that a high-wind event is imminent or occurring so that individuals may make well-informed decisions concerning their health. DAQEM developed the NEAP consistent with protecting the public health and with the requirements of the U.S. EPA Natural Events Policy (NEP).

### SIP Revision

The public education and notification portions of the NEAP should be adopted as revisions to the PM-10 SIP rather than as a stand-alone document. This will give them legal status and ensure they are enforceable. While the Sierra Club has every confidence that the current DAQEM administration is committed to the programs set forth in the NEAP, in the absence of a SIP revision, there are no guarantees that later administrations will demonstrate the same level of commitment.

**DAQEM Response 2:** Using “*The living document approach*,” the DAQEM will improve the NEAP as technologies become available or methodologies improve. Making any changes to the document as a SIP revision is a very long and drawn out process. The U.S. EPA Natural Event Policy (NEP) does not mandate that air agencies who adopt programs for public education and notification as part of a NEAP to process these improvements as SIP revisions. DAQEM remains committed to educating and protecting the public health as stated in the NEAP. If DAQEM does not remain committed to carrying out the policies, procedures and requirements of the NEAP, the U.S. EPA will reject the NEAP justification submittal packages.

### Failure to Include Mitigating Measures and Pilot Tests

Based on the dangerously high 24-hour PM-10 levels documented in Appendix F, there can be no question that much more is needed to control PM-10 emissions at the affected monitoring sites, and to protect public health. Nevertheless, the NEAP contains no commitments to “identify, study, and implement practical mitigating measures,” nor does it “include commitments to conduct pilot tests of

new emission reduction techniques" as called for under the Natural Events Policy. NEP at 8. More must be done to bring this serious threat to public health under control.

**DAQEM Response 3:** The federally approved Clark County PM<sub>10</sub> State Implementation Plan (SIP) contains commitments to improve BACM as new technologies and methodologies become available. The PM<sub>10</sub> SIP forms the basis of NEAP BACM analysis contained in Section 4 of the NEAP. Specifically, the PM<sub>10</sub> SIP states at Page 4-61:

*"In order to facilitate rule implementation and encourage development of improved methods of dust control for construction activities, the AQD has committed to reviewing and, as appropriate, updating the Section 94 Handbook every six months."*

Specific examples of Clark County's ongoing evolution and improvement of Clark County's BACM include new requirements for soil testing, wind fencing for small lots, and prohibitions on the use of earthen curb ramps. These enhancements went beyond specific commitments contained in the federally approved Clark County PM<sub>10</sub> SIP. DAQEM will continue to pursue additional enhancements as appropriate.

## Section 2: PUBLIC EDUCATION AND OUTREACH PROGRAM

### Micrometers v. Microns

The alternative references to "micrometers" and "microns" would be confusing to the average person. The NEAP should adopt one term for the unit of measure, define it, and use it consistently.

**DAQEM Response 4:** DAQEM removed all references to "micrometer" throughout the document. The NEAP contains the definition of "micron" and uses that unit of measure throughout the document consistently.

### Recommended Actions to Reduce Exposure

Public education and outreach materials should clarify that the recommendation to keep windows and doors closed and air conditioners running on recirculate applies to both homes and vehicles. These materials should also recommend that during high wind events, people should consider wearing a painter's or surgical mask if they must be outdoors, and avoid activities that will add to pollutants and irritants in the air, both indoors and out, such as vacuuming, burning anything indoors, mowing lawns, and using outdoor barbecues.

**DAQEM Response 5:** Comments noted.

### Public Education Materials (Appendix C)

Generally applicable comments to public education materials:

- Premature death should be listed as one of the potential hazards of high PM-10 concentrations in any literature developed by DAQEM regarding the health effects of PM-10 pollution.

**DAQEM Response 6:** DAQEM finds that the reference to "Premature Death" is inappropriate. The NEAP presents general information to the public, and does not provide specific diagnosis to any individual for any case.

- As discussed more fully elsewhere in these comments, there is no evidence that fugitive dust from native, undisturbed desert contributes in any significant way to exceedances of the 24-hour PM-10 standard in the Las Vegas or Apex Valleys. It is therefore misleading to suggest to

the public that exceedances of the standard are “natural” and that nothing can be done to avoid them.

**DAQEM Response 7:** Based on several peer-reviewed scientific studies and current studies in progress, native desert and disturbed vacant land stabilized with BACM, high winds exceeding twenty-five (25) miles-per-hour (PM<sub>10</sub> SIP) overwhelm BACM. See *Estimation of Valley-Wide PM<sub>10</sub> emissions using UNLV 1995 wind tunnel-derived emission factors, 1998-1999 emission factors, revised vacant land classifications, and GIS-based mapping of vacant lands*, - Draft Final Report, David James, et al., Civil and Environmental Engineering Department, University of Nevada Las Vegas, dated September 12, 2000 and Appendix B, Pages B-49 through B-57. Note that the emission rates for stabilized soils are compiled from UNLV data from wind tunnel test on soils stabilized with various dust suppressants and water.

Specific comment regarding the “Air Quality Questions and Answers - Particulate Matter Fact Sheet”:

- The Fact Sheet inaccurately states that “Clark County complies with current EPA ozone standards.”

**DAQEM Response 8:** DAQEM updated the fact sheet with the current status of Clark County areas designated as “Basic Non-attainment for Ozone.”

#### Direct Link to Information from DAQEM Web Site

The main page of the DAQEM web site should contain a direct link to information about high-wind events (including air quality alerts), associated high PM-10 levels, health effects, and actions to reduce or mitigate exposure, at least during the months that high wind events may be expected.

**DAQEM Response 9:** DAQEM updated the website to include an advisory and forecast element applicable to each pollutant of concern.

### Section 3: PUBLIC NOTIFICATION AND AIR QUALITY ADVISORY PROGRAM

#### Medical Advisory Committee

It is unclear from the NEAP how MAC members are chosen, by whom, and based on what criteria.

**DAQEM Response 10:** DAQEM includes information about the MAC in the main document on page 10, and in more detail in Appendix C.

#### The Public Notification Process

The NEAP needs to more fully explain how the “notification system to contact at-risk populations” works. The NEAP should contain information about how notifications are to be sent; who is responsible for issuing the notifications and maintaining the contact list; and how the members of the contact list are identified. Based on the description given, DAQEM apparently needs to reach out more to seniors with its notification system. For example, DAQEM should send notifications to senior community centers, assisted living facilities, and other places that serve seniors. In addition, DAQEM should allow individuals, companies, and organizations to request to be notified via fax or e-mail any time DAQEM issues a High-Wind Air Quality Notification.

**DAQEM Response 11:** The NEAP provides for early warning to the community of high-wind events that may cause increased amounts of dust pollution in the air. The NEAP program also provides early warning to and also directs permitted sources (construction sites) to restrict or curtail activities during high-wind events. Construction site operators and Stationary Sources receive

notice via Fax and email to inspect their sites and employ the Best Available Control Measures (BACM) to stabilize all disturbed soils on their site to reduce blowing dust. The DAQEM Compliance Manager is designated to initiate the fax, in his absence, the DAQEM Compliance Supervisor initiates the issuance of the Fax.

The DAQEM Public Information and Education Coordinator (PIEC), or designee, issues a high-wind air quality Advisory, or high-wind air quality Alert. The Clark County PIEC also issues a prepared public health advisory or public health alert to the media. DAQEM's notification system contacts at-risk populations at locations including, but not limited to the Clark County School District, Clark County Health District, Clark County Parks and Recreation, Local Municipalities (cities of Henderson, Las Vegas, North Las Vegas) and the local media.

DAQEM recently established the air quality forecasting service on the departmental website in which interested members of the public can view present and future air quality forecast information. This webpage enables informed decisions to be made, with respect to any outside activity that made be planned in the near future (5-day window). The website address is: [http://www.co.clark.nv.us/air\\_quality/full\\_forecast.htm](http://www.co.clark.nv.us/air_quality/full_forecast.htm). Lastly, local residents also can receive air quality advisories via pagers or e-mail via Clark County's free [Direct Connect service](http://www.accessclarkcounty.com/Public_communications/Listserv/Direct_Connect_signup.htm) ([http://www.accessclarkcounty.com/Public\\_communications/Listserv/Direct\\_Connect\\_signup.htm](http://www.accessclarkcounty.com/Public_communications/Listserv/Direct_Connect_signup.htm)).

The Public Notification Process contained in the NEAP is comprehensive. DAQEM remains committed to improving the process as new technologies are available and as better information are available. DAQEM will participate with any municipality, organization or team member to improve their individual notification process.

#### Section 4: BEST AVAILABLE CONTROL MEASURES (BACM) Sources of Windblown Dust

The NEAP states that "dust is common in undisturbed areas throughout the west," but provides no support for this statement. The NEAP also lists as a "major source" of PM-10 in Clark County "[u]ndisturbed desert areas overwhelmed by high winds." On the contrary, however, it is widely understood that mature, undisturbed desert does *not* produce elevated dust concentrations, even in high winds. In the absence of human-disturbed soil, the Las Vegas Valley likely would not experience exceedances of the 24-hour PM-10 standard except in rare circumstances. As DAQEM has previously stated in newspaper advertisements, "[c]ontrary to popular belief, desert air is not naturally dusty. In fact, it can be some of the cleanest, healthiest air on earth." Moreover, the PM-10 emissions inventories in the PM-10 State Implementation Plan for Clark County clearly indicate that native desert fugitive dust does not contribute significantly to exceedances of the 24-hour PM-10 standard in Clark County.

DAQEM Response 12: See response number 7 above.

#### Enhancing the Effectiveness of BACM

DAQEM needs to look more closely and comprehensively at the factors that are causing the Las Vegas and Apex Valleys to violate the 24-hour PM-10 NAAQS during high-wind events, particularly in light of the findings of the Clark County Growth Task Force. More specifically, DAQEM and Clark County need to consider whether too much acreage is being developed all at once, and whether growth can be guided in a manner that is consistent with maintaining air quality. In addition, DAQEM should evaluate whether other measures beyond the BACM incorporated into current air quality regulations would provide greater emission control. At a minimum, all earth moving should cease during high-wind events.

DAQEM Response 13: Growth control, as evaluated by the Clark County Growth Task Force, falls outside the purview of the Clean Air Act. Clark County BACM requires that earthmoving operations

cease during high wind conditions. Limiting the amount of land under grading operations on project-by-project bases was evaluated as a potential control measure in the PM<sub>10</sub> SIP and rejected as infeasible. See the Clark County PM<sub>10</sub> SIP Chapter 4, Page 4-31 and Appendix P responses to comments for details. The control measures selected and incorporated into the PM<sub>10</sub> SIP not only represent BACM, but Most Stringent Measures (MSM).

#### Enforcement and Compliance

Compliance officers should be required to issue a Corrective Action Order, and Notice of Violation if appropriate action is not taken, in response to violations associated with high wind events. Fines for violations during high wind events should be enhanced.

**DAQEM Response 14:** DAQEM Compliance Officers proactively perform enhanced enforcement activity both prior to a forecasted high-wind event and during the event consistent with department standard operating procedures and the Clark County Air Quality Regulations (AQR's) Section 90 series dust regulations. Clark County agrees that a violator should receive an NOV when they do not comply with a CAO. See Response 21 below for additional information on Clark County standard operating procedures.

#### Section 5: CONTENTS OF JUSTIFICATION PACKAGES FOR EXEMPTION Legality of Policy

The Sierra Club does not agree that EPA may legally discount the 24-hour PM-10 NAAQS exceedances recorded on October 29, 2003; October 30, 2003; April 28, 2004; and May 11, 2004. The authorities upon which the EPA relies to justify its Natural Events Policy do not support its position in this regard. Appendix K to 40 C.F.R. Pt. 50 § 2.4 provides that EPA may discount air quality data that are attributable to an "exceptional event." An "exceptional event" is defined as "an uncontrollable event caused by natural sources of particulate matter or an event that is not expected to recur at a given location." *Id.* Section 188(f) of the Clean Air Act (42 U.S.C. § 7513(f)) states that EPA "may, on a case-by-case basis, waive any requirement applicable to any Serious Area under this subpart where the [EPA] Administrator determines that anthropogenic sources of PM-10 do not contribute significantly to the violation of the PM-10 standard in the area."

**DAQEM Response 15:** DAQEM developed the Clark County NEAP in accordance with guidelines set forth in the May 30, 1996, U.S. EPA Natural Events Policy (NEP). The justification submittal packages, as concurred with by U.S. EPA, Region IX, adequately demonstrate that exceedances experienced on the dates submitted are due to high-winds, and meet the requirements of a Natural Event as defined in the policy.

Neither provision authorizes EPA to discount exceedances caused by emissions from human-disturbed soil, even where those emissions are amplified by high winds. In particular, the EPA would have no legal basis on which to redesignate the Las Vegas Valley to "attainment," or the fail to designate the Apex Valley to "nonattainment," based on the discounting of exceedances that are associated with anthropogenic activity.

**DAQEM Response 16:** Comment noted.

#### Evidence of Significant Contribution from Undisturbed Native Desert

The justification packages made available to the Sierra Club for the October 29, 2003; October 30, 2003; April 28, 2004; and May 11, 2004 exceedances make reference to the recent drought in Southern Nevada and state that "[w]ind gusts exceeding the 25-mile per hour threshold . . . overwhelmed the native desert environment and stabilized vacant lands." There is no evidence, however, that dust entrained from undisturbed desert surfaces significantly contributed to these exceedances. In fact, all evidence is to the contrary. The events documented are regional events of sustained high winds. Despite the regional nature of the wind events, the PM-10 concentrations are

highly non-uniform across the area. At any given time, PM-10 readings from different monitoring sites often vary significantly. This spatial heterogeneity of PM-10 concentrations makes it very unlikely that the main dust source is the undisturbed desert around Las Vegas. Such a source would be unlikely in any event for the reasons discussed above, *i.e.*, because of the presence of an armoring crust and state of particle deflation of undisturbed desert surfaces.

**DAQEM Response 17:** As noted in the introduction to Clark County responses above, UNLV empirically derived wind speed thresholds utilized in the NEAP. . See *Estimation of Valley-Wide PM<sub>10</sub> emissions using UNLV 1995 wind tunnel-derived emission factors, 1998-1999 emission factors, revised vacant land classifications, and GIS-based mapping of vacant lands*, - Draft Final Report, David James, et al., Civil and Environmental Engineering Department, University of Nevada Las Vegas, dated September 12, 2000 and Appendix B, Pages B-49 through B-57. Note that the emission rates for stabilized soils are compiled from UNLV data from wind tunnel tests on soils stabilized with various dust suppressants and water.

Moreover, reliance on the drought as a factor in the PM-10 exceedances is a red herring. Low soil moisture will not affect emissions from mature, undisturbed desert surfaces. However, low soil moisture will certainly affect emissions from surfaces disturbed by human activities. The references in the justification packages to high winds “overwhelm[ing] the native desert environment” are unsupported and should be removed.

**DAQEM Response 18:** See comment number 7 above.

#### Failure to Demonstrate BACM Compliance

The Natural Events Policy provides that “BACM must be implemented at contributing anthropogenic sources of dust in order for PM-10 NAAQS exceedances to be treated as due to uncontrollable natural events under this policy.” NEP at 5. In its justification submittal packages, DAQEM “must document that BACM were required for . . . [contributing anthropogenic dust] sources, and the sources were in compliance at the time of the high-wind event.” NEP at 9. DAQEM has failed to comply with this requirement in a number of ways.

First, the initial step, to identify the localized areas of anthropogenically disturbed surface areas contributing to the exceedances, has not even been taken. The justification packages for all four events indicate that the BACM applicable to the exceedance sites “require stabilization of open areas and disturbed vacant lands; stabilization of unpaved roads; stabilization of unpaved parking lots; stabilization of paved road unpaved shoulders; and use of soil specific best management practices for construction activities.” The packages fail to identify, however, what open areas, disturbed vacant lands, unpaved roads, unpaved parking lots, paved road unpaved shoulders, and construction activities exist in the area of the exceedance site(s). DAQEM cannot possibly demonstrate compliance with BACM during a high wind event if it does not identify the sources contributing to the exceedance.

**DAQEM Response 19:** Clark County systematically identifies and inspects all areas and potential areas of anthropogenically-disturbed surfaces throughout the year. In 2004, DAQEM compliance staff conducted 1,414 inspections of vacant land, 5,126 inspections of construction sites, and 1,486 inspections of other sources. The department issued 2,878 corrective action orders (CAO) and 415 notices of violation (NOV). These NOV resulted in the assessment of \$1,300,000.00 in fines. Over time, violators in the community realized failure to comply with Clark County dust control regulations is not a good business decision. As set forth in the NEAP, in the hours leading up to a high-wind event, DAQEM staff conducts extensive inspections to ensure the employment of BACM. In addition, during the event, DAQEM staff document that uncontrolled anthropogenic sources are not significantly affecting monitoring sites that are measuring high PM<sub>10</sub> concentrations. Submittal of formal microscale emissions inventories are not required documentation under the NEP. In the rare instance where an uncontrolled anthropogenic source causes an exceedance during an high-wind event, Clark County does not request the U.S. EPA to

flag the data as a natural event. Such an event occurred on January 10, 2002; the Joe Neil monitoring site recorded a PM<sub>10</sub> exceedance. DAQEM staff determined that an uncontrolled soil remediation site caused of the recorded high concentrations and did not request the U.S. EPA to flag the data as a natural event

Second, the packages fail to demonstrate that all known sources were in compliance with BACM at the time of the high wind events. Numerous construction sites failed to receive the faxed advisory. There is no evidence that areas other than active construction sites were inspected. The NEAP contains no description of the specific BACM in place at known source areas surrounding the exceedance sites, or of the inspection and compliance histories of these areas.

**DAQEM Response 20:** The fax advisory advises stationary sources and construction sites of an imminent high-wind event. The fax advisory also serves as a strong reminder that inspection of their sites will occur in the next few hours. As noted in Response 19, DAQEM systematically inspects all sources to ensure employment of BACM. The natural event justification submittal packages contain documentation that inspections of other sources, such as vacant lots, occurred at the time of the event. The specific BACM applicable to each source type are set forth in the Clark County PM<sub>10</sub> SIP (Appendix F, Air Quality Regulations and Section 94 Handbook) and are referenced in the NEAP {Appendix D, Clark County Department of Air Quality and Environmental Management - Air Quality Regulations (AQRs)}.

In fact, by DAQEM's own admission, a number of construction sites were *not* in compliance during the four high-wind events. Specifically, DAQEM issued six corrective action orders (CAO) and one notice of violation (NOV) in response to the October 29, 2003 event; nine CAO's and three NOV's in response to the October 30, 2003 event; fifteen CAO's and three NOV's in response to the April 28, 2004 event; and fifteen CAO's and three NOV's in response to the May 11, 2004 event. It is difficult to understand how DAQEM can claim that all contributing anthropogenic dust sources were in compliance with BACM in view of these acknowledged violations.

**DAQEM Response 21:** The intent of the CAO is to bring a site into compliance with BACM for high-wind conditions. If sites do not comply, or if DAQEM staff observes a violation of the performance standards set forth in the Clark County Air Quality Regulations, DAQEM issues an NOV. It is widely recognized and accepted that it is impossible to achieve 100 percent compliance with a regulation. The U.S. EPA uses the term "rule effectiveness" to describe the rate of compliance with a rule. When calculating the emission reductions achieved by a rule, the U.S. EPA uses a default "rule effectiveness" value of 80 percent unless an agency can justify using a higher percentage. Clark County believes the U.S. EPA did not intend that an agency achieve 100 percent rule effectiveness in order to implement a NEAP. Rather, the NEP requires the effective implementation of BACM. Clark County accepts the U.S. EPA's 80 percent default rule effectiveness value for development of PM<sub>10</sub> SIP emissions inventories, but strives to achieve 100 percent control during high wind conditions. In order to achieve the highest possible compliance rate under adverse wind conditions, Clark County issues advisory notices to permit holders in advance of the event and inspects 100 percent of all permitted sources. Although the issuance of some CAOs and NOVs in the hours leading up to and during a natural event show that 100 percent compliance is not achieved, the small numbers of violations issued demonstrate that Clark County's compliance program achieves a rule effectiveness rate that exceeds the U.S. EPA default assumptions during a natural event.

Finally, the NEAP indicates that DAQEM received dust complaints during the high-wind events, and that these complaints were "addressed," but fails to indicate what the nature of the complaints were, whether they were substantiated, and how they were "addressed." In sum, the justification submittal packages fall far short of demonstrating that contributing anthropogenic sources were in compliance with BACM at the time of the high-wind events in question.

**DAQEM Response 22:** The DAQEM compliance staff systematically investigates complaints during high-wind events. In many instances, DAQEM cannot trace a complaint or high ambient concentrations to any particular source. In those instances that DAQEM does find a violation of the air quality regulations or traces high ambient concentrations to any particular source, DAQEM issues an NOV. In addition, DAQEM enforcement staff will use the contracted water truck service to abate a violating site (See Appendix E for greater detail).

#### Failure to Make Documentation of Natural Events Available to Public for Review

The Policy provides that DAQEM “should . . . make the documentation of natural events and their impact on measured air quality available to the public for review.” NEP at 9. Presumably, this is to occur prior to forwarding the documentation to EPA for concurrence that a natural event was involved. That was not done with respect to the four submittals. While the monitoring data were apparently available to the public, supporting documentation was not. Moreover, only the October 29, 2003 justification submittal package was attached to the NEAP currently under review.

**DAQEM Response 23:** See page number 28, Section 5 (CONTENTS OF JUSTIFICATION PACKAGES FOR EXEMPTION) of the main document for the procedure for public review of justification submittal packages. The justification submittal packages adequately demonstrate that high-winds cause the exceedances experienced on the dates submitted (Newspaper documentation and photos included in submittal) and meet the requirements of a Natural Event as defined in the policy. To satisfy the request of the Sierra Club, on March 1, 2005, DAQEM posted on the departmental website ([www.accessclarkcounty.com](http://www.accessclarkcounty.com)) the four High-Wind Event Justification Submittal Packages (October 29, 2003, October 30, 2003, April 28, 2004 and May 11, 2004). DAQEM also provided the packages to the stakeholder committee for review in the October 2004 draft version of the NEAP document.

#### Section 6: STAKEHOLDER AGREEMENTS

The NEAP should clarify that the Sierra Club’s support for the NEAP is qualified as explained in these comments.

**DAQEM Response 24:** DAQEM amended Section 6 Stakeholder Agreements to reflect the Sierra Club position, with respect to its limited support of the NEAP.

#### Section 7: PUBLIC REVIEW AND COMMENTS

##### Public Review

The statement that “DAQEM incorporated the comments and suggestions from the stakeholder committee” is not strictly accurate, since the Sierra Club made numerous comments and suggestions regarding an earlier draft of the NEAP that are not included in the current draft.

**DAQEM Response 25:** Based on stakeholder committee member comments, DAQEM made many changes to the document early on and throughout the development process.

Appendix H to the NEAP, which describes the public review process for high-wind event justification submittal packages, was not made available to the public for the entire thirty-day public comment period. The Sierra Club did not receive a copy of Appendix H until March 2, 2005. As of March 15, 2005, the date of the public hearing, Appendix H still had not been posted to the DAQEM web site.

**DAQEM Response 26:** DAQEM will comply with the procedure set forth in Section 5 (CONTENTS OF JUSTIFICATION PACKAGES FOR EXEMPTION) of the main document for public review of the justification submittal packages.

Regarding this public review process, DAQEM should make clear that it will accept *and consider* written comments on justification submittal packages. In addition, DAQEM should respond to any comments in writing before forwarding the packages to EPA.

**DAQEM Response 27:** See page 28, Section 5 (CONTENTS OF JUSTIFICATION PACKAGES FOR EXEMPTION) of the main document for the procedure for public review of justification submittal packages.

Thank you for your consideration of these comments. Should you have any questions, please feel free to contact me at (702) 496-6655 or [jennifer.anderson@cmail.nevada.edu](mailto:jennifer.anderson@cmail.nevada.edu) .

Sincerely,

Jennifer B. Anderson  
Air Quality Chair - Sierra Club  
Southern Nevada Group

# **Public Comments and Responses**

## **3. Nevada Environmental Coalition (NEC) – Mr. Robert Hall Comments with DAQEM Responses**

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**Note: DAQEM Responses to the Nevada Environmental Coalition (NEC) comments are incorporated within this document and start on page 3 after "COMMENTS AND OBJECTIONS"**

c/o Robert W. Hall, President  
10720 Button Willow Drive  
Las Vegas, Nevada 89134  
702-360-3118  
FAX: 702-360-3119

# Nevada Environmental Coalition, Inc.

March 15, 2005

Clark County Board of Commissioners  
Clark County Commission Chambers  
500 South Grand Central Parkway  
Las Vegas, Nevada

Adverse Comments regarding the March 15, 2005 Clark County Board of Commissioners Public Hearing re: the proposed adoption of the Clark County, January 2005 Draft Natural Events Action Plan for High-Wind Events ("NEAP" or "Plan").

To the Commission:

The petitioners request that this comment/objection letter be made a part of the minutes of the above named hearing and that the record shall include petitioners' instant comment/objection document and not simply a summary. The Nevada Environmental Coalition, Inc. and Robert W. Hall as an individual comment and object as follows:

## ANALYSIS

The January 2005 Draft Natural Events Action Plan for High-Wind Events ("NEAP") is misleading, legally insufficient and unreasonable for the citizens of the Las Vegas Valley. The plan is legally, morally and ethically indefensible. The plan if adopted would set aside the language, spirit and intent of Congress in adopting the National Environmental Policy Act ("NEPA") and the Clean Air Act ("CAA").

The proposed Plan relies in part on a May 30, 1996 "US EPA Natural Events Policy Memo." According to fn. 1, p. 1 of the memorandum, "This document contains EPA policy and, therefore, does not establish or affect legal rights or obligations. It does not establish a binding norm and it is not finally determinative of the issues addressed. In applying this policy in any particular case, the EPA will consider its applicability to the specific facts of that case, the underlying validity of the interpretations set forth in this memorandum, and any other relevant considerations, including any that may be required under applicable law and regulations." Well said since the statement makes it clear that the memorandum is not legally sufficient justification for any lawful purpose herein. The memo is the opinion of one or more persons employed by the EPA. Memos do not set aside or lawfully substitute for acts of Congress.

The memorandum does cite CAA §§ 107(d)(3), 188(f) and 40 C.F.R. Part 50, Appendix K, Section 2.4. Id. 2. CAA §§ 107(d)(3) provides that the EPA Administrator ("Administrator") with authority

to redesignate a nonattainment area under the stringent requirements if the sections requirements at (E). CAA § 188(f) provides the EPA Administrator ("Administrator") with authority to waive any "requirement applicable to any Serious Area under this where the Administrator determines that anthropogenic<sup>1</sup> sources of PM<sub>10</sub> do not contribute significantly to the violation of the PM-10 standard in the area. The Administrator may also waive a specific date for attainment of the standard where the Administrator determines that nonanthropogenic sources of PM-10 contribute significantly to the violation of the PM-10 standard in the area." The memorandum dismisses 40 C.F.R. Part 50, Appendix K with the statement that "the data exclusion policy contained in Appendix K and the procedures described in the exceptional events guideline no longer apply" despite the fact that the policy is still a part of the Code of Federal Regulations. Section 2.4 of 40 C.F.R. Part 50, Appendix K provides in part provides the definition that "an exceptional event is an uncontrollable event caused by natural sources of particulate matter or an event that is not expected to recur at a given location." Id. 2-3. The memorandum Description of Policy includes the phrase "natural events" in connection with CAA § 107(d)(3) and "uncontrollable natural events" from Section 2.4 of 40 C.F.R. Part 50, Appendix K despite the statement that "the data exclusion policy contained in Appendix K and the procedures described in the exceptional events guideline no longer apply." Id. 3.

"The guiding principles followed in developing this policy" are in part "1. Protection of public health is the highest priority of Federal, State, and local air pollution control agencies." Id. 3. The memorandum includes volcanic and seismic activities which are not at issue herein. Wildfires including those that are "unwanted fires, not designated or managed as prescribed fires, and requiring appropriate suppression action by the wildlands manager." More clarification regarding wildfires was left unsettled. Id. 4-5.

The memorandum's definition of "High Winds" includes "Ambient PM-10 concentrations due to dust raised by unusually high winds will be treated as due to uncontrollable natural events under the following conditions: (1) the dust originated from nonanthropogenic sources, or (2) the dust originated from anthropogenic sources controlled with best available control measures (BACM)." The memorandum states in part that "[t]he EPA anticipates that FMP will achieve an acceptable balance between forest health and public health concerns." One of the means that the EPA suggests be used is that of "publicly announcing forecasts of likely smoke conditions in communities impacted by ongoing fires. Since FMP will treat fire as a natural ecological process, the impact of wildland fires on air quality and regional haze is expected to increase in the future." Id. 7.

References to the Department of Air Quality and Environmental Management ("DAQEM") may include its predecessor agency, the Clark County Health District depending upon the time frame. Petitioners' objections to the NEAP are taken on the basis of (1) the NEAP documentation, (2) the June 30, 2002 audit of the Audit Department, Department of Air Quality and Environmental Management Local Road Paving Credit Program, (2) the 2001 Environ Report commissioned by the Nevada Legislature, (4) the thirty-three pounds of comments and documentation filed by the Petitioners with DAQEM, its predecessor agency, the State of Nevada and the Ninth Circuit Court of Appeals regarding the latest PM-10 SIP judicial review and (5) the data and documentation available on the [www.necnev.org](http://www.necnev.org) Web site. All of this information is relevant regarding Clark County and DAQEM's credibility.

<sup>1</sup>Caused or produced by humans.

<sup>2</sup> Fire management plans.

## **COMMENTS AND OBJECTIONS**

1. It is a fact that despite its best efforts, Clark County has not had a finally approved, **PM-10** State Implementation Plan ("SIP") since the **EPA** approved 1979/81 SIP. The pending, preliminarily approved **PM-10** SIP **submittal** is in effect but it is also subject to pending Ninth Circuit Court of Appeals judicial review.

**DAQEM Response 1:** The U.S. Environmental Protection Agency (U.S. EPA) approved the June 2001 **PM<sub>10</sub>** State Implementation Plan (SIP) for Clark County on May 3, 2004 and published the Federal Register on June 9, 2004 (Volume 69, Number 111).

2. It is a fact that until its most recent 2001 **PM-10** SIP submittal, the Clark County Commission "'withdrew'" all of its prior SIP **submittals** as a means of evading dilatory Clean Air Act ("CAA") sanctions.

**DAQEM Response 2:** The County withdrew all previous **PM<sub>10</sub>** SIP's and addenda ( November 5, 1991 **PM<sub>10</sub>** SIP, Revised **PM<sub>10</sub>** SIP December 6, 1994, January 1995 Addendum to 1991 **PM<sub>10</sub>** SIP, August 1997 **PM<sub>10</sub>** SIP) prior to the submission of the June 2001 **PM<sub>10</sub>** State Implementation Plan (SIP) for Clark County (Federally approved, see DAQEM Response 1 above). All other **PM<sub>10</sub>** plans and addenda submitted prior to the June 2001 SIP failed to demonstrate attainment of the National Ambient Air Quality Standards for **PM<sub>10</sub>**.

3. Regarding NEAP, the County may lawfully rely only on applicable statutes and lawfully approved federal regulations ("**CFRs**"), not EPA memoranda, if it is to avoid considerable administrative and financial risk.

**DAQEM Response 3:** The DAQEM developed the NEAP based on the May 30, 1996, U.S. EPA Natural Events Policy (NEP).

4. Admissions of anthropogenic events turned by EPA memorandum into bureaucratic claims of **nonanthropogenic** actions are not a sound legal or administrative basis for reaching clean air quality attainment much less enforcement.

**DAQEM Response 4:** DAQEM appreciates the comments from the NEC; however, the comments do not contain sufficient detail or information to enable the DAQEM to respond appropriately.

5. High winds are nonanthropogenic events in the Southern Nevada desert and have been so since the beginning of time.

**DAQEM Response 5:** DAQEM concurs with this comment and agree that high-wind events are **nonanthropogenic** in Southern Nevada.

6. Bulldozing twenty, thirty and more thousands of acres of desert land in the Las **Vegas** Valley at one time are controllable anthropogenic events by any reasonable, rational definition.

**DAQEM Response 6:** Clark County BACM requires that earthmoving operations cease during high wind conditions. Operators of construction sites are required to employ Best Available Control Measures (BACM) to limit **PM<sub>10</sub>** emissions. Limiting the amount of land under grading operations on project-by-project bases was evaluated as a potential control measure in the **PM<sub>10</sub>** SIP and rejected as infeasible. See the Clark County **PM<sub>10</sub>** SIP Chapter 4, Page 4-31 and Appendix P responses to comments for details. The control measures selected and incorporated into the **PM<sub>10</sub>** SIP not only represent BACM, but Most Stringent Measures (MSM).

7. The basis for **BACM** (best available control measures) in the Las Vegas Valley is dust control by the application of water. **Clark** County is in a drought of the century. There is no guarantee that the basis for

water dust control BACM in Clark County actually exists. Draft at 15.

**DAQEM Response 7: Reference to Page 15 of the NEAP main document: Water has long been used for the control of dust in arid regions. For construction activities during active soil disturbance, water is the primary means of dust control. “...water required for dust control is only a portion of the water required for construction activities.” Water use restrictions imposed by the 2002 Southern Nevada Water Authority (SNWA) Drought Plan and the Las Vegas Valley Water District Service Rules (August 2003) do not apply to construction activities and dust suppression (Section 12 Conservation and Drought, Subsection 12.2 Drought Conditions and 14.4 Water Waste Prohibited Section B. Exemptions – Public Health and Welfare – any activity where the use of water is the most appropriate and practical method to abate a health and safety hazard...Las Vegas Valley Water District Service Rules 8-03).**

8. The County does not yet know whether BACM or LAER (lowest achievable emission rate) applies pending judicial review and final approval of the 2001-2006 PM-10 plan and requested extension of time to comply despite the fact that four of the six year extension of time requested have passed. The reason is that the more stringent 1979/82 SIP may still apply since DAQEM does not yet know the result of Ninth Circuit Court of Appeals judicial review.

**DAQEM Response 8: The U.S. Environmental Protection Agency (U.S. EPA) approved the June 2001 PM<sub>10</sub> State Implementation Plan (SIP) for Clark County on May 3, 2004 and published the Federal Register on June 9, 2004 (Volume 69, Number 111). The SIP addresses BACM, which is a requirement for existing sources and does not address LAER, which is a new source review requirement (NSR). Furthermore, the SIP does not address what standard applies during new source review.**

9. Low desert humidity reduces the effect of water dust control to minutes. There is no night and weekend water dust control worthy of the name in the Las Vegas Valley.

**DAQEM Response 9: DAQEM BACM requirements include stabilizing soils so that controls are in place during periods of inactivity, including weekends, holidays and at night.**

10. DAQEM has not and does not now have monitoring stations in the Las Vegas Valley areas where the highest levels of PM-10 air pollution exist particularly regarding bulldozing and grading.

**DAQEM Response 10: DAQEM’s monitoring network is comprehensive and meets the requirements of U.S. EPA siting criteria. Clark County Department of Air Quality Management Technical Systems Audit, U.S. EPA Region 9 dated February 2002, states - “With so much development activity in the Las Vegas valley, it is not possible or reasonable for an agency to operate a monitoring site near all PM<sub>10</sub> producing activities.” DAQEM contracted with Technical & Business Systems, Environmental Research Associates to evaluate the existing monitoring network and make recommendations for improvements to the network and to accommodate future growth. DAQEM expects completion of the study and recommendations by the 1<sup>st</sup> Quarter of year 2006. DAQEM will implement monitoring network improvements in accordance with U.S. EPA guidance and the study recommendations.**

11. The June 30, 2002 audit of the Audit Department, Department of Air Quality and Environmental Management Local Road Paving Credit Program and the 2001 Environ Report commissioned by the Nevada Legislature provide ample evidence that the public, the County, the State and the EPA should reject any Department of Air Quality and Environmental Management proposal, plan or program pending evidence of a full investigation and administrative action regarding one or more who are responsible for the serious lapses of judgment described in both documents who still work for the County in key supervisory positions at DAQEM. Clark County has a proven inability to deal with administrative malfeasance.

**DAQEM Response 11: The program mentioned is not part of, or related to, the Natural Events Action Plan.**

12. Violations of the National Ambient Air Quality Standards (NAAQS) are largely due to the development bulldozing and grading of Las Vegas Valley serious nonattainment area lands. Draft at vii.

**DAQEM Response 12:** DAQEM accounted for emissions from bulldozing and grading in the construction source category in the June 2001 PM<sub>10</sub> State Implementation Plan (SIP). Construction sites constitute a significant source category. Chapter 4 of the PM<sub>10</sub> SIP contains the approved and adopted BACM.

13. Despite statements to the contrary, there are no "stringent control measures" regarding the development bulldozing and grading of Las Vegas Valley serious nonattainment area lands. Id. at vii. There is only runaway land development.

**DAQEM Response 13:** The U.S. EPA reviewed the Most Stringent Measure (MSM) analysis contained in the June 2001 PM<sub>10</sub> State Implementation Plan, and deemed the Air Quality Regulations (AQR's) and BACM requirements as among the most stringent in the country. Clark County's BACM for construction activities are proactive, site specific, soil specific and activity specific. Clark County's regulatory program contains *Best Management Practices* (BMPs) for twenty-two specific construction activities. Section 94 of the AQR's contains stringent performance standards for both continuous and intermittent emissions from construction activities.

14. The current air pollution DAQEM monitoring system is a tightly controlled misleading system that is not now and never has been transparent to the public.

**DAQEM Response 14:** See DAQEM Response number 10 above.

15. The data produced by DAQEM's air quality monitoring system is "audited" by DAQEM without public involvement or oversight.

**DAQEM Response 15:** DAQEM follows U.S. EPA requirements with respect to monitoring system audit procedures. It is common practice for large Air Quality agencies to have audit staff assigned to the Environmental Department separate from the monitoring sections for the purpose of independent audit procedures and requirements.

16. DAQEM has never placed public health as its highest priority.

**DAQEM Response 16:** DAQEM appreciates the comments from the NEC; however, the comments do not contain sufficient detail or information to enable the DAQEM to respond appropriately.

17. DAQEM uses its education and outreach programs as cover for Clark County's runaway growth policies.

**DAQEM Response 17:** Growth control falls outside the purview of the Clean Air Act.

18. DAQEM is administratively very close to the personnel from sources of air pollution. Draft at 29. DAQEM admits that "the Department of Air Quality and Environmental Management (DAQEM) developed this NEAP with the assistance of a stakeholder committee (NEAP Technical Committee/Working Group)." Sources of air pollution had an inside track from the outset. The public was not noticed until the draft was complete. Draft at 29-31

**DAQEM Response 18:** The Clark County Natural Events Action Plan (NEAP) External Stakeholder Committee who assisted in the development of the NEAP, consisted of three municipalities (Las Vegas, North Las Vegas, and Henderson), Environmental Group membership, the Clark County Health District, the Clark County School District and the Southern Nevada Home Builders Association (SNHBA). Clark County used a broad based coalition as recommended in the Natural Events Policy guidance to develop this NEAP.

19. DAQEM is administratively less close to those who question DAQEM's policies. Knowledgeable

members of the environmental community were not present when the "stakeholders" and DAQEM developed NEAP.

**DAQEM Response 19: See DAQEM Response number 18 above.**

20. DAQEM has long been known for its policy of weeding out employees who are not in lock step with policies some in the community consider to be corrupt.

**DAQEM Response 20: This comment does not address issues related to or contained in the Natural Events Action Plan.**

21. Clark County has approved or will likely soon approve some thirty or so high rise condominiums along the Las Vegas strip despite the fact that the area is collectively and cumulatively one the worst air pollution areas in the Las Vegas Valley.

**DAQEM Response 21: DAQEM appreciates the comments from the NEC; however, the comments do not contain sufficient detail or information to enable the DAQEM to respond appropriately.**

22. Statements such as "[t]he public must be informed whenever the air quality in the area is unhealthy" are absurd when the air quality in the Las Vegas Valley is pollutant collectively and cumulatively unhealthy. Valley air quality is not healthy and one number and unhealthy at that number plus one. The effects are pollutant collective and cumulative. Draft at 1.

**DAQEM Response 22: DAQEM appreciates the comments from the NEC; however, the comments do not contain sufficient detail or information to enable the DAQEM to respond appropriately.**

23. The NEAP is a means of claiming cleaner air attainment by a bureaucratic redefining of air pollution as **nonanthropogenic** versus anthropogenic. Disclaimers notwithstanding, the actual air pollution does not change. Only the propaganda to the public changes. NEAP is a misleading bureaucratic process by which what was once true is no longer true. **NEPA** fits hand in glove with the travesty of Clark County's offset credit program.

**DAQEM Response 23: DAQEM developed the Clark County NEAP in accordance with guidelines set forth in the May 30, 1996, U.S. EPA Natural Events Policy (NEP).**

24. Issues such as quantifiable data, credibility, public involvement, public oversight and public confidence are dealt with in the NEAP.

**DAQEM Response 24: DAQEM appreciates the comments from the NEC; however, the comments do not contain sufficient detail or information to enable the DAQEM to respond appropriately.**

25. The goal with NEAP is clean air attainment without actual attainment.

**DAQEM Response 25: The main purpose of the Clark County NEAP is to protect public health. The goal and primary objective of the program is to minimize the public's exposure to elevated PM<sub>10</sub> levels caused by high-wind natural events.**

Very truly yours,

Robert W. Hall, President, Nevada  
Environmental Coalition, Inc.  
and as an individual.

NEC