

INDIAN LAW RESOURCE CENTER

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October 11, 2013

Certified Mail/Return Receipt Requested

Interior Board of Indian Appeals
Office of Hearings and Appeals
U.S. Department of the Interior
801 N. Quincy St., Suite 300
Arlington, VA 22203

Re: **NOTICE OF APPEAL**

Ladies and Gentlemen:

The Indian Law Resource Center, a nonprofit organization, files this Notice of Appeal on behalf of appellants Joe Kennedy, the last lawfully elected Chair of the Timbisha Shoshone Tribal Council, Grace Goad, Erick Mason, Pauline Esteves, and Madeline Esteves. All of these individuals are enrolled members of the Timbisha Shoshone Tribe (Tribe) and their names are listed on the 1978 Base Roll approved by the Bureau of Indian Affairs (BIA) in 1982. All have served in various tribal elected capacities, including elections between 2008-2010 to serve on the last lawfully elected Tribal Council.

Decision Being Appealed

The appellants hereby appeal the September 20, 2013 decision of the Director, Pacific Region, BIA (Decision), authorizing the Superintendent of the Central California Agency, BIA, to call and conduct a Secretarial election to adopt or reject a proposed Constitution of the Timbisha Shoshone Tribe in accordance with 25 C.F.R. Part 81. The Decision is explicitly referenced in a letter from Troy Burdick, Superintendent, Central California Agency, BIA, dated September 25, 2013 (Letter), to eligible voters of the Timbisha Shoshone Tribe, attached hereto as Exhibit A.

Statement of the Reasons for the Appeal

The Decision of the Pacific Regional Director is contrary to applicable law, and appellants'

grounds for appealing the Decision include, but are not limited to:

1. The Decision authorizes a Secretarial election in which individuals who do not meet the membership requirements of the Tribe will be permitted to vote.
2. The Decision was not sent to interested parties such as the appellants and violates applicable federal regulations requiring that notice and information about appealing a decision be given to interested parties.
3. The purported tribal government that supposedly requested the Secretarial election has, since 2011 permitted individuals who do not meet the Tribe's membership requirements to vote and hold office in the Tribe in direct violation of the present Constitution of the Tribe.
4. Every stage of the Secretarial election now underway from the Decision to the process outlined in the Letter violates the existing Constitution of the Tribe.
5. The Decision is inconsistent with the Department of the Interior's prior decision recognizing the Tribe and spelling out who is eligible to be a member of the Tribe.

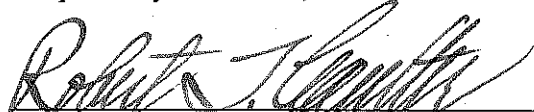
Relief Sought

During the pendency of this appeal, the appellants request interim relief in the form of an immediate stay of the Decision and suspension of the Secretarial election.

The appellants seek the following final relief:

1. Cancellation of the Secretarial election on rejection or adoption of the proposed Constitution; and
2. Appropriate measures to assure that the Department of the Interior's recognition is extended only to a government elected pursuant to the Tribe's Constitution in which the voters and office holders are limited to those who meet the membership requirements of the present Constitution.

Respectfully Submitted,



Robert T. Coulter, Esq.

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ATTORNEYS FOR APPELLANTS

CERTIFICATION

Pursuant to 43 C.F.R. §§ 4.332(a) and 4.333, and 25 C.F.R. § 2.20(b), I certify that, on October 11th, 2013, a copy of this Notice of Appeal has been sent by first-class, postage prepaid, addressed as follows to the Assistant Secretary – Indian Affairs, the Pacific Regional Director who made the Decision being appealed, and each known interested party:

Kevin Washburn
Assistant Secretary – Indian Affairs
Department of the Interior
MS-3071-MIB
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Purported Tribal Government
c/o George Gholson, Chairman
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RESPECTFULLY SUBMITTED on this 11th day of October, 2013.



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