

ATTACHMENT 11

BURDICK LETTERS



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Central California Agency
650 Capitol Mall, Suite 8-500
Sacramento, CA 95814-4710

IN REPLY REFER TO

OCT 21 2008

To Whom It May Concern:

The purpose of this correspondence is to provide notice that my decision of October 17, 2008, to acknowledge the actions taken by the General Council of the Timbisha Shoshone Tribe on September 20, 2008, is not yet effective.

Consistent with 25 CFR 2.6, my decision shall not be effective until the time for filing a notice of appeal has expired and no notice of appeal has been filed. A notice of appeal must be filed within 30 days from receipt of my decision, in accordance with 25 CFR 2.9. Consistent with 25 CFR 2.19, if my decision is timely appealed, the Regional Director shall render a written decision regarding the appeal within 60 days. A decision by the Regional Director may thereafter be appealed within 30 days after its issuance to the Interior Board of Indian Appeals (IBIA), consistent with 25 CFR 2.19.

Regulations governing appeals to the IBIA at 43 CFR Part 4, provide that no decision of a BIA official that is subject to appeal will be considered final so as to constitute agency action unless made effective by a decision and order of the IBIA, at which time the agency decision may be considered final and effective pursuant to 43 CFR 4.314.

Therefore, for purposes of government-to-government relations, the recognized Tribal Council for the Timbisha Shoshone Tribe continues to be:

Joe Kennedy, Chairman
Margaret Armitage, Vice-Chairman
Madeline Esteves, Secretary/Treasurer
Margaret Cortez, Council Member
Pauline Esteves, Council Member

Should you have any question in this matter, please contact my office at (916) 930-3776.

Sincerely,

Troy Burdick
Superintendent



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Central California Agency
650 Capitol Mall, Suite 8-500
Sacramento, CA 95814-4710

IN REPLY REFER TO

NOV 10 2008

Mr. Joe Kennedy, Chairman
Timbisha Shoshone Tribe
P.O. Box 206
Death Valley, California 92328-0206

Dear Mr. Kennedy:

The purpose of this correspondence is to clarify that, for government-to-government purposes, the Bureau of Indian Affairs (BIA) continues to recognize Mr. Joe Kennedy, Mr. Ed. Beaman, Ms. Madeline Esteves, Ms. Virginia Beck, and Mr. Cleveland Casey, members of the Tribal Council of the Timbisha Shoshone Tribe that were in office prior to the General Council meeting of January 20, 2008, as the governing body of the Tribe. The results of subsequent Tribal elections have been acknowledged by the BIA. However, as explained below, these decisions to acknowledge Tribal action are not final for the Department of the Interior until the opportunity for appeal is exhausted. Consequently, until decisions regarding acknowledgment of recent Tribal election activities are final, the BIA continues to recognize Mr. Kennedy and Mr. Beaman, and the Council seated prior to January 20, 2008, for purposes involving the Federal government.

Previously, by correspondence dated February 29, 2008, I acknowledged the actions by the Timbisha Shoshone General Council at a Special General Council meeting held on January 20, 2008, wherein the General Council voted to ratify the November 13, 2007, General Election, seating Margaret Armitage and Margaret Cortez. Consequently, my decision of February 29, 2008 to acknowledge the results of January 20, 2008 meeting was appealed and therefore is not yet final.

On October 17, 2008, I provided my response to documentation submitted on September 26, 2008, regarding the removal of Mr. Joe Kennedy, Chairman of the Timbisha Shoshone Tribe, at a General Council meeting held September 20, 2008 and acknowledged the actions taken at the September 20, 2008 meeting. Consequently, my decision of October 17, 2008, is again subject to appeal in accordance with 25 CFR, Part 2.

Both of my prior decisions to acknowledge the General Council's election actions are subject to appeal in accordance with 25 CFR, Part 2, which provides that no decision I make is effective until the time for filing a notice of appeal has expired and no notice of appeal has been filed within the 30 day period for filing an appeal. If my decision is

timely appealed, the Regional Director must then render a written decision regarding the appeal within 60 days. A decision by the Regional Director may thereafter be appealed to the Interior Board of Indian Appeals (IBIA). Regulations at 43 CFR Part 4 govern appeals to the IBIA, and provide that no decision of a BIA official that is subject to appeal will be considered final so as to constitute agency action unless made effective by a decision and order of the IBIA.

To summarize, both my February 29, 2008 and October 17, 2008 decisions are subject to appeal to the Regional Director, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825 in accordance with regulations at 25 CFR part 2 (copy enclosed). Any notice of appeal must be filed in this office within 30 days of the date you receive this decision. The date of filing your notice of appeal is the date it is postmarked or the date it is personally delivered to this office. Your notice of appeal must include name, address and telephone number. It should clearly identify the decision to be appealed. If possible, attach a copy of the decision. The notice of appeal and the envelope which it is mailed should be clearly labeled "NOTICE OF APPEAL." The notice of appeal must list names and addresses of the interested parties known to you and certify that you have sent them copies of the notice. You must also send a copy of your notice to the Regional Director, at the address given above. If no timely appeal is filed, these decisions will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

If you have any questions, please do not hesitate to contact Carol Rogers-Davis, Tribal Operations Officer, at (916) 930-3794.

Sincerely,



Troy Burdick
Superintendent

cc: Regional Director, Pacific Region, Bureau of Indian Affairs
 John M. Peebles, Esq. 1001 Second Street, Sacramento, CA 95814
 Mike Anderson, Esq. 300 Independence Ave., SE, Washington, D.C. 20003 ✓
 Judith A. Shapiro, Esq. 6856 Eastern Ave., NW, Ste. 206, Washington, D.C 20012
 Timbisha Shoshone Tribe, P.O. Box 206, Death Valley, CA 92328