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**Docket:** NRC-2015-0051

Department of Energy; Yucca Mountain, Nye County, Nevada; Supplemental Environmental Impact Statement

**Comment On:** NRC-2015-0051-0004

Department of Energy; Yucca Mountain, Nye County, Nevada; Correction and Extension of Comment Period

**Document:** NRC-2015-0051-DRAFT-0052

Comment on FR Doc # 2015-23510

## Submitter Information

**Name:** James Birkelund

**Submitter's Representative:** James Birkelund

**Organization:** Timbisha Shoshone Tribe

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## General Comment

Regarding: Docket ID NRC-2015-005 and report number NUREG-2184

Attached please find comments from the Timbisha Shoshone Tribe. Please let me know if you have any issues opening the document.

Best regards,  
James Birkelund

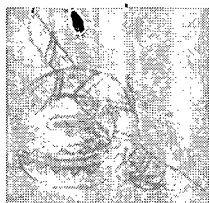
8/21/2015  
@ FR 50875

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## Attachments

Yucca SEIS comment letter (FINAL)

SUNSI Review Complete  
Template = ADM - 013  
E-RIDS= ADM -03  
Add= C. Pineda (CSLI)



November 18, 2015

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Council Member

Dora Jones,  
Council Member

Cindy Bladey, Office of Administration  
Mail Stop: OWFN-12-H08  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001.

Re: Comments on Supplement to Environmental Impact Statement for Nuclear Waste Repository at Yucca Mountain; Docket ID NRC-2015-0051.

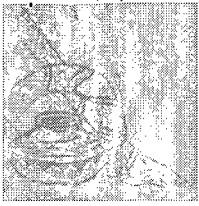
To Whom It May Concern:

On behalf of Timbisha Shoshone Tribe (Timbisha), we submit these comments on the Nuclear Regulatory Commission's (NRC) "Supplement to the U.S. Department of Energy's Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada" (Supplement or SEIS). For the reasons set forth below, the SEIS is wholly inadequate. The SEIS must be rewritten and re-issued pending additional consultation and feedback from Timbisha and with a more meaningful analysis of the environmental justice (EJ) concerns, groundwater contamination, and otherwise.

The Timbisha is a sovereign nation and its people are in closer proximity to the proposed Yucca Mountain Nuclear Waste Repository (Project) than any other Indian group. The Tribe has significant cultural, historic, religious and other stakes that are impacted by the Project. Ensuring full participation by the Tribe and fully analyzing impacts to the Timbisha Shoshone nation should be of paramount importance to NRC.

The Supplement ignores the devastating effect storing high-level radioactive waste at Yucca Mountain would impose on Timbisha's cultural and historic interests. NRC's conclusion that the Project's direct, indirect, and cumulative impacts would be "small" is uninformed and, from the Tribe's perspective, egregious. The Yucca Mountain repository would be highly destructive to the Timbisha Shoshone Indian community. The proposal is antithetical to the cultural and traditional values of the Tribe. Timbisha Shoshone are spiritual people. Radioactive contamination in groundwater and springs, for example, affronts the Timbisha's way of life, is disrespectful to cultural beliefs, and constitutes an environmental justice infringement on the rights of a sovereign nation. Yucca Mountain will have disproportionate impact on the Timbisha as a minority, and calling these impacts "small" is contrary to the law of the National Environmental Policy Act (NEPA), the Nuclear Waste Policy Act (NWPA), and NRC's own implementing regulations.

The SEIS is also an abbreviated effort to assess impacts without meaningful Tribal consultation. Rather than facilitate the Timbisha's participation, the Supplement was issued without *any* funding being provided to the Tribe to hire consultants and experts, which, by



necessity, are required to provide analysis and feedback on the SEIS. Also, on a categorical level, the NRC staff impermissibly defers consideration of potential adverse impacts to Timbisha lands in California.

The nature and troubled history of the Project merit a careful examination of impacts in the Supplement, and the Timbisha has statutory rights to full consultation. The SEIS therefore should be rejected and shelved until funding and sufficient time is provided to allow for meaningful input by the Tribe.

## I. STATUTORY BACKGROUND

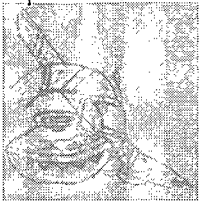
The National Environmental Policy Act's implementing regulations spell out in detail what federal agencies, such as DOE and NRC, must do to comply with NEPA. 40 C.F.R. § 1500.1(a). Those regulations and the federal agencies' adherence to them are not mere technicalities that may be glossed over or treated lightly. Federal agencies shall to the fullest extent possible examine the impacts of a project under NEPA. As the Supreme Court explained:

NEPA's instruction that all federal agencies comply with the impact statement requirement – and with all the other requirements of § 102 – “to the fullest extent possible,” 42 U.S.C. § 4332, is neither accidental nor hyperbolic. Rather the phrase is a deliberate command that the duty. NEPA imposes upon the agencies to consider environmental factors not be shunted aside in the bureaucratic shuffle.

*Flint Ridge Development Co. v. Scenic Rivers Ass'n*, 426 U.S. 776, 787 (1976). In addition, federal agencies shall “[u]se all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.” 40 C.F.R. §1500.2(f).

Environmental effects that must be analyzed under NEPA are interpreted broadly to include economic, social, and other environmental justice considerations. The “effects” to be analyzed include “ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, **historic, cultural**, economic, social, or health, **whether direct, indirect, or cumulative.**” *Id.* §1508.8 (emphasis added). The focus on historic and cultural effects or impacts is reiterated, in multiple locations, and a NEPA analysis “shall include discussions of... [u]rban quality, **historic and cultural resources**, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.” *Id.* § 1502.16(g) (emphasis added).

In addition, the Council on Environmental Quality (CEQ) created the following guiding principles for environmental justice analyses under NEPA:



- (i) consideration of the racial composition of the area affected by the proposed action, and whether there may be a disproportionate impact on minority populations;
- (ii) consideration of relevant public health and industry data and the potential for exposure to environmental hazards:
- (iii) consideration of “the interrelated cultural, social, occupational, historical, or economic factors that may amplify the natural and physical environmental effects of the proposed agency action”;
- (iv) development of “effective public participation strategies”;
- (v) assurance of “meaningful community representation in the process”; and
- (vi) assurance of “tribal representation in the process in a manner that is consistent with the government-to-government relationship between the United States and tribal governments, the federal government’s trust responsibility to federally-recognized tribes, and any treaty rights.”<sup>1</sup>

Special emphasis therefore is placed on the importance of a NEPA analysis considering impacts to and consulting with Indian tribes. *See also* Executive Order 12898 (59 FR 7629) (Federal agencies responsible for identifying and analyzing impacts on minority and low-income populations).

Likewise, the Nuclear Waste Policy Act and NRC’s implementing regulations to promulgate NEPA policies specifically require that an SEIS consider and analyze the proposed repository’s potential historic and cultural impacts on Indian tribes. NRC’s regulations governing a NEPA analysis include:

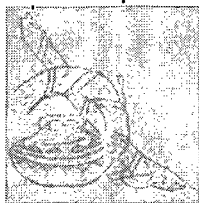
Analysis of major points of view. To the extent sufficient information is available, the draft environmental impact statement will include consideration of major points of view concerning the environmental impacts of the proposed action and the alternatives, and contain an analysis of significant problems and objections raised by other Federal, State, and local agencies, by **any affected Indian tribes**, and by other interested persons.

10 C.F.R. § 51.71(b) (emphasis added).

As discussed below, the SEIS fails to adequately consider and analyze post-closure cultural impacts on the Timbisha Shoshone, as both NEPA and NRC regulations require.

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<sup>1</sup> Council on Environmental Quality, *Environmental Justice: Guidance Under the National Environmental Policy Act 15-16* (1997), available at <http://energy.gov/nepa/downloads/environmental-justice-guidance-under-nepa> [hereinafter CEQ Guidance].



## II. COMMENTS

### A. THE SEIS FAILS TO ADEQUATELY IDENTIFY AND ANALYZE TRIBAL HISTORIC AND CULTURAL RESOURCES

Cultural impacts to the Timbisha from the Project are clear-cut, significant, and unmitigable. The SEIS's failure to meaningfully analyze and fully disclose these impacts is a glaringly deficiency under NEPA and NRC regulations.

Based on available data, the Timbisha has significant cultural, historic, religious, and other interests at stake that would be directly and severely impacted by the Yucca Mountain repository. The path of post-closure groundwater flow from Yucca Mountain runs to the Death Valley Regional Groundwater Flow System and Armagosa River watershed, which cover thousands of miles and include communities of Timbisha Shoshone Tribe. SEIS, pp. 2-1, 2-13, Figures 2-1, 2-3, 2-10. As the Supplement acknowledges, “[g]roundwater flow and potential releases traveling beyond the regulatory compliance location, if uninterrupted, would discharge in Death Valley” and “Death Valley is the ultimate discharge area for groundwater flow in the Death Valley Regional Groundwater Flow System.” *Id.* Death Valley is in the heart of Timbisha homelands.

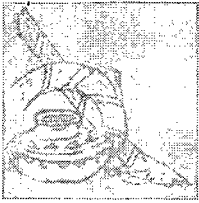
The Timbisha have at least five distinct areas in harms way that would be impacted by the Project:

1. Timbisha Village and Surrounding Portions of Death Valley National Park. This area is particularly important to the Timbisha Shoshone people.<sup>2</sup> Along with a historic village, this area includes significant mesquite groves, Furnace Creek wash, as well as the Travertine Springs, Texas Springs, Navel Springs, and other springs.

This area is steeped in historical significance. More than 20 historic place names in the Shoshone language are recorded for this area, including: Tumpisakka (‘rock ochre’), from which the local area, and the larger Death Valley area takes its Shoshone name; Furnace Creek Wash (Padumpean Nunupi); Mesquite Canyon (Ohbitan Nabant); Mushroom Rock (Tugoboyoitsi, ‘the bird, desert flycatcher,’ important in the story of the theft of pine nuts, with which this site is associated), and others. For years immemorial, the Shoshone people have used, and continue to use, the important springs in the area: Travertine (Podoina, “bubbling up,”), which is important as a water source and also for its sacred medicinal properties; Nevares springs, which was also an important sacred area for curing and ceremony; Navel Springs, an important mountain sheep hunting ground (as was Nevares Peak and springs); and Texas Springs (Owiagonatsi), an important gardening site.

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<sup>2</sup> Unless otherwise noted, the information provided has been gathered with assistance from Tribal members and a review of available but limited studies.



Present-day tribal members place great importance on the various locations within this area. The fact that the Timbisha Village has been somewhere within this tract for as long as people can remember is very important. In addition, there are other significant sites in the vicinity, including an important ceremonial mortar used at the time of mesquite harvesting that is now within the parking lot of the Furnace Creek Inn. There is also a historic and active cemetery immediately to the north and west of the Furnace Creek Inn. It is the site of graves of ancestors of most contemporary Timbisha Village residents, as well as other Tribal members. There is a ceremonial dance ground just below the Nevares Springs area, long used for medicinal purposes. The long history and continuity of this area makes it highly significant to present-day tribal members. Added significance is also attached to the mesquite groves within this district, not only a source of food but also of a representation of Tribal members' cultural and ethnic identity. These were the groves of their ancestors, the source of one of the two key summer and winter vegetable foods, the other being pine nuts. There are old camps in the grove, and in all likelihood, graves and other important properties.

2. Death Valley Junction and Surrounding Area. This area includes Greenwater Canyon, for example, which was an important place to hunt chuckwallas, a traditional food, and also an area with a large petroglyph panel. Greenwater Valley is known for doves and rabbits, and the high mountains had bighorn sheep. Timbisha tribal members recall hunts and there are important willow gathering areas within Greenwater Valley that are considered important for potential development to help revive the almost unsurpassed Death Valley and Panamint Shoshone basketry tradition. Other sites include Bennetts Well and Eagle Borax, which are well revered by Timbisha tribal members as is the large open pond at Eagle Borax that attracted water fowl and had duck hunting blinds.

3. The Ash Meadows and Vicinity. Ash Meadows was continuously occupied jointly by Timbisha Shoshone and by Southern Paiute people for at least 150 years. The large flowing springs and the mesquite groves attracted the people in the early years, and some set up homestead ranches in the early 1900s. Most of the Indian people in this area had gardens of corn, beans, squashes and various introduced plants, farming probably beginning in the early 1800s. These were irrigated with water from the springs. The area remains important to the Timbisha Shoshone. It contains several significant springs, including Fairbanks, Rogers, Longstreet, Point or Rocks, Devils Hole, Jack Rabbit Spring, Big Spring, Blue Spring and Last Chance Spring. Several large mesquite groves are also in the valley, and there are sites of ranches. Several of these springs are important areas for endangered pup fish and several plant species.

4. Death Valley Monument, Town of Beatty and Surrounding Area. This area was continuously used for seed and pine nut gathering, hunting and other purposes by members of the Timbisha Tribe. At various times, Tribal members also kept cattle and horses, for which they grew alfalfa, raised turkeys, collected large amounts of



pine nuts, both for their own use and for sale, and made wine from the wild grapes.

5. Stovepipe Wells and Surveyor's Well Areas. This area comprises of a number of locales associated with springs of importance to the Timbisha Shoshone people. In addition, this region has a number of historical camp areas. Traditional food plants, particularly greens are still collected by some Timbisha elders, who also appreciate the Chuckwallas population. Stovepipe Wells (Tugu'mu, Grosscup) is believed to have been an old camp with an area to the west on Mesquite Flats, where an intermittent stream from the Mesquite Springs waters a meadow that once wintered and grazed sheep and goats. Surveyor's Well (the Qhyy 'mesquite') is Located on the valley floor at approximately 60 feet below sea level and is also an area of great significance to the Timbisha.

The aforementioned discussion of cultural and historical resources are not comprehensive but limited due to resource and time constraints. Studies are needed to delineate the Timbisha's cultural and historic interests that are potentially impacted by the post-closure impacts from the Project. But even with this limited information, it's clear that storing high-level radioactive waste at Yucca Mountain would strip the Timbisha of its federally-conferred rights to continue traditional tribal religious and cultural activities associated with the springs and negatively impact other cultural and historic resources of the Timbisha.

The Supplement admits that contaminated groundwater effluent from the repository will reach springs that the Timbisha Shoshone hold as sacred and require to be kept pure. SEIS, p. 3-38. Yet the Supplement contains no consideration or meaningful analysis of this injury to Timbisha Shoshone cultural interests or how these effects can be prevented. *Id.* (only public health and physiological impacts considered). This failure to adequately examine cultural and historical resources is in direct violation of NEPA's mandates. 40 C.F.R. 1502.16(g); CEQ Guidance; *see also* 10 C.F.R. § 51.71(b).

There are numerous other deficiencies in the SEIS as well. For example:

The SEIS improperly and wholly excludes an analysis of the Timbisha's interests in California. The SEIS focuses on proposed activities within the State of Nevada but admits that some of the affected areas identified in the Supplement are in California. SEIS, pp. 3-34, 3-35. The NRC staff even "concludes that DOE would need to assess whether further consultation and investigation are necessary to account for potential impacts on cultural resources that may be located in [California] areas where groundwater discharges to the surface." *Id.* Likewise, NRC staff concludes "DOE would need to assess whether further consultation and investigation are necessary to account for potential impacts and potential cumulative impacts on historic and cultural resources that may be located in [California] surface discharge areas. SEIS, pp. 4-19, 4-20.

Deferring an analysis of the Project's impacts in California to an unknown future time prevents the Tribe from meaningfully evaluating the SEIS. There's also a risk that the



analysis will never be done at all. The whole point of NEPA is to study the impact of an action on the environment *before* the action is taken. *See Conner v. Burford*, 848 F.2d 1441, 1452 (9th Cir.1988) (NEPA requires that agencies prepare an EIS before there is “any irreversible and irretrievable commitment of resources”). Where “[i]nterim action prejudices the ultimate decision on the program,” NEPA forbids it. 40 C.F.R. §§ 1506.1(c)(1)-(3). Proceeding with the Project and approving the SEIS without an analysis of impacts to California Tribal interests is impermissible due to the inherent prejudice that this action threatens against the Timbisha Shoshone Tribe. The Timbisha’s statutory rights to be consulted on those impacts in California is eviscerated.

In addition, public health impacts also are not fully examined. The NRC staff, for example, did not evaluate the ingestion of crops, animal products, and fish as pathways for exposure in the Furnace Creek area. SEIS, p. 3-37. These impacts have the potential to impact the Timbisha people and must be delineated, as required for a full analysis under NEPA.

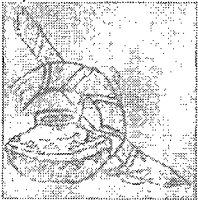
Finally, given that Tribal interests and lands exist along the Project’s proposed transportation routes for nuclear waste, any transportation accidents or other problems will also affect the Tribe and these impacts have not been fully analyzed.

**B. NRC HAS FAILED TO SATISFY ITS STATUTORY OBLIGATIONS TO CONSULT WITH THE TIMBISHA SHOSHONE TRIBE REGARDING CONCERNS OVER THE YUCCA MOUNTAIN REPOSITORY**

The United States Department of the Interior (“DOI”) formally determined on June 29, 2007 that the Timbisha Shoshone Tribe is an “affected Indian tribe” pursuant to the Nuclear Waste Policy Act, 42 U.S.C.A. § 10101(2). By virtue of having the affected Indian tribe status, the Tribe has been a party to all actions concerning the proposed Yucca Mountain site. The Timbisha received funding from the United States Department of Energy (“DOE”) in 2009 to assist the Timbisha with participating in the review and comment on the DOE’s Environmental Impact Statement for a Geologic Repository for Spent Nuclear Fuel and High Level Radioactive Waste at Yucca Mountain, Nye County, Nevada. The Timbisha fully expended all of the funds provided by the DOE during this lengthy process.

The Timbisha became aware that the United States Nuclear Regulatory Commission had issued a “Supplement to the U.S. Department of Energy’s Environmental Impact Statement for a Geologic Repository for Spent Nuclear Fuel and High Level Radioactive Waste at Yucca Mountain, Nye County, Nevada” when it received a copy of the NRC’s August 13, 2015 press release a few days after its release. The Office of Nuclear Material Safety and Safeguards only notified the Timbisha of the Supplement’s availability by letter dated August 21, 2015. The Timbisha was immediately concerned by the short time period for comment and the fact that the Timbisha had received no prior notice from the NRC that it was planning to issue the SEIS.





The Timbisha and its legal counsel did a cursory review of the SEIS and noted that groundwater studies and analysis were a prominent factor. As we have addressed elsewhere in this comment, the impact of potentially radioactive groundwater on Tribal lands and springs, both within and outside of our Reservation lands, is of tremendous concern to the Timbisha both because of public health concerns, as well as cultural and spiritual concerns regarding potential impacts to these sacred sites. The Timbisha realized that without in depth expert analysis of the SEIS concerning the potential impacts to groundwater, and perhaps other impacts that we have not been able to discern from our cursory and non-technical review, the Timbisha would be unable to fully and effectively participate in the SEIS comment process.

The Timbisha therefore determined that it must seek federal funding to be able to effectively participate in the SEIS process. The Timbisha has no funds of its own available for such purposes. The Tribe is located in a remote region of California and Nevada and to date has not been able to develop any economic ventures to supplement the grant funding it receives to operate its Tribal government.

The Timbisha made the following efforts to obtain federal funding to assist the Timbisha with preparing a comment on the SEIS:

- August 20, 2015 – Email to Deputy Assistant Secretary for Indian Affairs of the Department of the Interior Lawrence Roberts, received no response.
- August 21, 2015 - Telephone call with Jim Rubenstein of Nuclear Regulatory Commission. Mr. Rubenstein advised that NRC had no funding to assist the Timbisha with its review and comment on the SEIS, and referred the Timbisha to William Boyle of the DOE.
- August 24, 2015 – Email to William Boyle of the DOE.
- September 2, 2015 - Mr. Boyle emailed a response advising that the DOE also had no funding to assist the Timbisha with its review and comment on the SEIS.
- September 8, 2015 – Email to Superintendent Troy Burdick of the Central California Agency, Bureau of Indian Affairs, Department of the Interior, received no response.

The United States is obligated by its own law to provide additional funding to the Timbisha to comment on the SEIS. 42 U.S.C.A. § 10138(b) provides that the DOE shall give financial assistance to affected Indian tribes to study potential economic, social, public health and safety, and environmental impacts of the proposed repository. *See also* 42 U.S.C.A. § 10199. When the NRC issued the SEIS, new technical information was made available. The Timbisha must be given both the opportunity and the reasonable financial assistance necessary to effectively study the aforementioned impacts on the Timbisha, its



lands, and its members of the information set forth in the SEIS.

The NRC is duty-bound by the Nuclear Waste Policy Act to delay any consideration of the approval of the SEIS until the Timbisha has been given both the time and financial assistance necessary to effectively participate in the review and comment on the SEIS.

**C. NRC HAS FAILED TO FULFILL ITS TRUSTEE OBLIGATIONS TO PROTECT TRIBAL LANDS AND INTERESTS**

The NRC is obligated to delay any consideration any consideration of the approval of the SEIS until the Timbisha and the United States have fully analyzed the potential impacts on the lands held in trust for the benefit of the Timbisha.

The United States holds five parcels in trust for the benefit of the Timbisha (the "Reservation"). These five noncontiguous parcels were set aside for the Timbisha by the Timbisha Homeland Act, 16 U.S.C. § 104aa, Pub. L. 106-423, §§ 1-8, Nov. 1, 2000, 114 Stat. 1875. One of the central features of the status of lands held in trust for the benefit of a tribe is restraint against alienation. Only the federal government can extinguish this title once issued. *People of the Village of Gambell v. Hodel*, 869 F.2d 1273 (9<sup>th</sup> Cir. 1989). For purposes of consideration of this SEIS, this means that if the Tribal lands are impacted by this action of the federal government, only the federal government itself can approve any change to the land status of the Timbisha's Reservation. This highlights the reality of the Timbisha: we have been here since time immemorial, and if something happens to our lands or groundwater which renders them uninhabitable, we can't go anywhere.

The United States has a trust obligation to ensure that the Timbisha's Reservation remains livable and self-sustaining. *Winters v. United States*, 207 U.S. 564 (1908). This is the exact standard that is applied to the water supply available to reservations, and by its terms (livable and self-sustaining) it applies both to water quantity and to water quality. It is the responsibility of the United States to ensure that the Tribal springs and groundwater sources remain free of radioactive contamination in perpetuity.

**D. THE SEIS FAILS TO PROVIDE MEANINGFUL ANALYSIS OF ENVIRONMENTAL JUSTICE ISSUES IN EXECUTIVE ORDER 12898**

Cultural and historical impacts to the Timbisha are summarily dismissed and are neither seriously considered nor discussed in the SEIS. NRC is shirking its responsibility, "to the greatest extent practicable and permitted by law," to "make achieving environmental justice part of its mission by identifying and addressing... disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations." Executive Order (EO) 12898, p. 1.

Among other things, EO 12898 established the creation of an Interagency Working Group on Environmental Justice (IWG) composed of representatives from 17 Federal

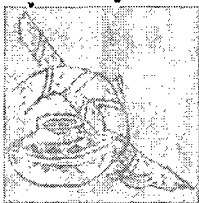


agencies and White House offices to accomplish its EJ objectives. The IWG was established to promote greater coordination and cooperation among Federal agencies, make government more accessible and responsive to communities, ensure integration of EJ policies, programs and activities of Federal agencies. The IWG Action Agenda notes the following goals:

- (i) Ensure that no segment of the population, regardless of race, color, national origin, or income, suffers disproportionate adverse human or environmental effects, and that all people live in clean, healthy and sustainable communities.
- (ii) Create opportunities for building partnerships between specific Federal agencies to promote comprehensive solutions to environmental justice issues.
- (iii) Promote models based in an integrated approach to addressing environmental, public health, economic and social concerns of distressed communities.
- (iv) Ensure that those who live with environmental decisions (community residents; state, tribal, and local governments; and the private sector) have meaningful opportunity for public participation in the decision-making process.
- (v) Provide a lasting framework for the integration of environmental justice into the missions of Federal Agencies.

Integrated Federal Interagency Environmental Justice Action Agenda, Environmental Protection Agency (EPA), p. 5. Within the context of the Action Agenda, “‘environment’ is defined pursuant to National Environmental Policy Act compliance and encompasses those elements that affects a community’s quality of life.” *Id.*, p 6. To the Timbisha people, cultural and historic resources are a large part of their quality of life.

After failing to fully consult with the Tribe, or perhaps because of this failure, NRC Staff falsely concludes that “no environmental pathway that would physiologically affect minority or low-income populations differently from other segments of the general population” and therefore there is no disproportionately adverse impact on the Timbisha in the Death Valley Area. SEIS, p. 3-38. No meaningful attempt is made in the SEIS to analyze and consider the Timbisha’s cultural and historic sensitivities. NRC staff even admits, for example, that “DOE would need to assess whether further consultation and investigation are necessary to account for potential impacts and potential cumulative impacts on historic and cultural resources that may be located in surface discharge areas.” SEIS, pp. 4-19, 4-20. As discussed above, the NEPA analysis and considerations of the Project’s impacts must occur now, before approval of the SEIS, not as a maybe afterthought for the future. The failure of NRC to meaningfully identify and consider the Timbisha’s



cultural and historic resources violates NEPA, EO 12898, and environmental justice principles.

### III. CONCLUSION

Unless and until the Timbisha Shoshone Tribe is engaged and funded as an affected Indian tribe to participate in the SEIS process and the Tribe's cultural and historic concerns are fully addressed, the SEIS must not be approved. Full participation by the Timbisha is necessary to deliver on the promise of environmental justice.

Thank you for the opportunity to comment on these plans.

Respectfully submitted,

George Gholson  
Chairman  
Timbisha Shoshone Tribe