

**FOR YUCCA MOUNTAIN LICENSING PROCEEDING PURPOSES ONLY
NOT ADMISSIBLE UNDER FEDERAL OR
STATE RULES OF EVIDENCE**

LETTER OF UNDERSTANDING

WHEREAS, since approximately November 2007, there has been a dispute over the composition of the Tribal Council of the Timbisha Shoshone Tribe.

WHEREAS, this dispute has resulted in at least four different Tribal Councils claiming to have authority over the Timbisha Shoshone since 2007: a council elected in November 2006 consisting of Joe Kennedy (Chair), Ed Beaman, Madeline Esteves, Virginia Beck, and Cleveland Lyle Casey; a council elected in November 2007 consisting of Joe Kennedy (Chair), Margaret Armitage, Madeline Esteves, Margaret Cortez, and Pauline Esteves; a council that purported to remove Joe Kennedy as Chairman and replace Margaret Armitage after she resigned in October of 2008 consisting of George Gholson (Chair), Wallace Eddy, Pauline Esteves, and Margaret Cortez; and a council elected in November 2008 consisting of Joe Kennedy (Chair), Madeline Esteves, Pauline Esteves, Angie Boland, and Erick Mason.

WHEREAS, the dispute among members of the various councils has resulted in several different appeals to, and decisions of, the Bureau of Indian Affairs (“BIA”), the Internal Board of Indian Appeals, and the Assistant Secretary of the BIA. Some of these appeals are outstanding and there is no indication of when they might be resolved.

WHEREAS, in 2007, the Assistant Secretary of the BIA designated the Tribe as a “federally-recognized Affected Indian Tribe” (“AIT”) for the purposes of the proceedings before the U.S. Nuclear Regulatory Commission (“NRC”) to determine whether the NRC would issue to the U.S. Department of Energy (“DOE”) a license to operate the Yucca Mountain geologic repository (the “Licensing Proceedings”), and such designation confers upon the Tribe several benefits, such as the right of automatic standing to participate in any hearing before the NRC in the Licensing Proceedings and the right to receive funds from the DOE for the purpose of participating in the Licensing Proceedings, among other activities.

WHEREAS, two different groups, one calling itself the “Timbisha Shoshone Tribe” (“TIM”) and the other calling itself the “Timbisha Shoshone Yucca Mountain Oversight Program Non-Profit Corporation” (“TOP”), have each filed a separate Petition to Intervene in the Licensing Proceedings, each claiming to represent the AIT and to be the sole rightful representative of the Tribe in the Licensing Proceedings.

WHEREAS, TIM claims that it represents the AIT because its efforts in the Licensing Proceeding are being directed by Ed Beaman, who claims to control a majority of votes in the Tribal Council elected in November 2006 (the “2006-2007 Council”), which is the Tribal Council that, as of the date of the signing of this Letter of Understanding, the BIA currently recognizes for government-to-government purposes. The majority of the BIA-recognized Council claim to have reorganized the Council, and removed Joe Kennedy as Chairman, replacing him with Ed Beaman as Chairman, Cleveland Lyle Casey as Vice-Chairman,

Madeline Esteves as Treasurer/Secretary, Virginia Beck as Executive Council Member, and Joe Kennedy as Executive Council Member. The BIA-recognized Council has not authorized the creation of TOP, nor does it recognize TOP as a Tribal entity, therefore the BIA-recognized Council does not acknowledge, nor have they approved or authorized, any actions, expenditures, representations, or approvals made by TOP on behalf of the Tribe. TOP and its Board of Directors, as well as the members of the Tribal Council that created TOP, deny and dispute these claims, and nothing in this Letter of Understanding or the accompanying Litigation Plan is intended to or shall be construed to constitute a waiver of or agreement with these claims.

WHEREAS, TOP claims that it represents the AIT and the Tribe because its efforts in the Licensing Proceeding are being directed by Joe Kennedy, who is the Chairman of the BIA Pacific Regional Office-recognized 2006-2007 Tribal Council, Chairman of the 2008-2009 Tribal Council, and is a member of TOP's Board of Directors, and who further claims that Ed Beaman and the two other members of the 2006-2007 Council are not members of the Tribe and cannot represent the Tribe in the Licensing Proceedings. TIM and the members of the 2006-2007 Council that claim to control a majority of the 2006-2007 Council deny and dispute these claims, and nothing in this Letter of Understanding or the accompanying Litigation Plan is intended to or shall be construed to constitute a waiver of or agreement with these claims.

WHEREAS, in the Licensing Proceedings, neither DOE nor the NRC Staff has objected to the Tribe's standing as an AIT, but both have objected to TIM's standing in any capacity other than as an AIT and DOE has objected to TOP's standing in any capacity other than as an AIT.

WHEREAS, in the view of two separate counsels assisting both TIM and TOP, during oral arguments before the NRC's Atomic Safety and Licensing Review Board Panel ("Board") on April 1, 2009 on whether to allow TIM, TOP, and other entities to intervene in the Licensing Proceedings, the Board essentially ordered TIM and TOP to participate as a single entity in the Licensing Proceedings or risk the Tribe having no participation at all.

WHEREAS, neither TIM and its principals nor TOP and its principals intend to relinquish or waive their respective claims as the sole representative of the Tribe and their right to participate as the AIT but, at the same time, do not desire their respective claims to sole representative status of the Tribe to result in the Tribe being excluded from participating in the Licensing Proceedings before the NRC.

THEREFORE, it is agreed as follows:

1. TIM and TOP and their respective counsel shall work together as a single participant in the Licensing Proceedings, each in good faith and using their best efforts, until such time as the Department of the Interior issues a final decision not appealable to any agency as to the recognized Tribal Council for government-to-government purposes. At such time, the Tribal Council that is recognized shall assume control over the representation of the Timbisha Shoshone Tribe in the Licensing Proceedings.
2. Counsel for TIM and TOP shall work together to prepare and file in the Licensing Proceedings such pleadings, briefs, and other documents as are necessary to protect the interests

of the Timbisha Shoshone Tribe or are required to be filed by the Board in accordance with a jointly-approved and jointly-prepared Litigation Plan.

3. TOP shall provide an audit to both TIM and DOE as to expenditure of funds received to date from DOE for Yucca Mountain oversight activities, and shall agree to reimbursement of consultants that have provided services to date for participation in the Licensing Proceedings consistent with the Litigation Plan attached hereto.

4. By signing this Letter, both parties agree that this Letter of Understanding is for the limited purposes of insuring representation for the Tribe in the proceedings before the NRC's Construction Authorization Boards ("CAB"), and this Letter of Understanding and subsequent cooperation between the two parties was at the behest of the CAB.

5. By signing this Letter, both parties agree that this Letter of Understanding and subsequent actions of the parties pursuant to this Letter of Understanding or other agreements related to proceedings before CAB do not express or imply acquiescence of the other's authority pursuant to the Tribe's constitution, duties thereof, or membership in the Tribe.

6. This executed Letter of Understanding and actions pursuant to it may not be used by either party as evidence of the other's authority or membership status in any tribal, federal, or state proceeding.

7. The statements made in the "WHEREAS" clauses of this Letter of Understanding are intended to and shall be construed only as stating the positions and claims of the respective parties. They are not intended to and shall not be construed as admissions or concessions of any sort whatsoever of any acquiescence by any party to the claims or statements made by any other party or any waiver by any party of arguments opposing the claims or statements made by any other party.

For TOP: _____ Name: _____ Date: _____	For TIM: _____ Name: _____ Date: _____
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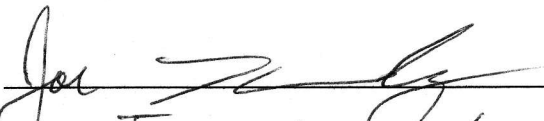
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For TOP:



Name: Joe Kennedy

Date: April 20, 2009

For TIM:

Name: _____

Date: _____

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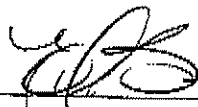
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<p>For TOP:</p> <hr/> <p>Name: _____</p> <p>Date: _____</p>	<p>For TIM:</p>  <hr/> <p>Name: <u>ED BEAMAN</u></p> <p>Date: <u>APRIL 20, 2009</u></p>
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