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& OLSEN**

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February 13, 2018

The Honorable John Tahsuda III  
Principal Deputy Assistant Secretary Deputy-Indian Affairs  
United States Department of the Interior  
1849 C Street, NW  
Washington, D.C. 20240  
[John.Tahsuda@bia.gov](mailto:John.Tahsuda@bia.gov)

**Re: *Formal Meeting Request on behalf of Cedar, Kanosh and Shivwits  
Bands of Paiute Indians & Declaration of Position***

Dear Mr. Tahsuda:

*Meeting Request*

On behalf of the Cedar Band of Paiute Indians, the Kanosh Band of Paiute Indians, and the Shivwits Band of Paiute Indians (the "Bands"), I write to request a meeting to discuss several important matters related to each Bands' sovereign status. Specifically, these Bands wish to discuss:

- Proposed amendments to the Constitution of the Paiute Indian Tribe of Utah (pursuant to the attached Resolutions of each Band numbered 2018-01);
- Clarification of the Bands' relationship with the BIA;
- Discussion of the Bands' sovereign status in relation to the Paiute Indian Tribe of Utah and the Bands' desire to obtain federal legislation clarifying each Bands' sovereign, federally-recognized status under Public Law 96-227 (94 Stat. 317) (see attached Resolution Nos. 2017-06 (Cedar), 2018-02 (Kanosh, Shivwits); and
- The Bands' request for a Secretarial Rule under Public Law 96-227 (pursuant to the attached Resolution Nos. 2017-07 (Cedar), 2018-03 (Kanosh, Shivwits)).

Will you please make time to meet with Band representatives and me at your office in the next two weeks? Time is of the essence.

*Background*

The Cedar, Kanosh and Shivwits Bands were each separate, sovereign Indian tribes since time immemorial. These and two other Paiute Bands were all terminated by Congress in 1953. However, Congress restored federal recognition to each Band in 1980.

The Paiute Restoration Act of 1980 (Public Law 96-227) confirmed the Bands' sovereign status: "The Federal trust relationship is... restored to the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah and restored or confirmed with respect to the Cedar City Band of Paiute Indians of Utah." 94 Stat. 317, Section 3(a). In that Act, "the term 'tribe' means each individual Band. Id., Section 2(1). The federal trust relationship was thus confirmed as to the individual Bands.

Historically, there was no such thing as the Paiute Indian Tribe of Utah. Prior to termination it did not exist. Upon restoration, it was not established by Congress as an independent federally-recognized Tribe.

The Paiute Restoration Act required the election of an Interim Tribal Council (comprised of a representative from each of the Bands) to be a temporary (six month) governing body for all the restored Bands. This administrative entity was used for the logistical convenience of the BIA and because it mirrored the familiar governance structure of a non-profit corporation that had been established during termination to preserve assets of the terminated Bands. Through the Interim Tribal Council, the Bands chose to delegate certain authorities to 'the Paiute Indian Tribe of Utah' (PITU). PITU is now an administrative organization that is exercising authority delegated by the Bands.

There is no Congressionally-recognized federal trust relationship to the Tribal Council and PITU in the Restoration Act.

### *Practical Problems*

The existing organizational structure, consisting of the separate Bands existing under the PITU 'umbrella' – creates problems and frustration for the Bands:

1. Federal agencies are confused when trying to deal with and coordinate activity with the Bands.
2. The Bands are stopped from effective access to P.L. 93-638 Indian Self-Determination and Education Assistance Act participation.
3. What could be an effective trust relationship with good communication between the BIA and the Bands is diminished.
4. Effective participation by the Bands in the Indian Reorganization Act is stymied, as there is no clear right to Section 16 Constitution and Bylaws or Section 17 economic development corporate charters for the Bands.
5. Bands are prevented for effective participation in SBA Section 8(a) contracting opportunities for tribally-owned businesses.
6. The Bands are unable to provide effective health care to each's members.
7. Relationships between the Bands and State and local government authorities are diminished due to the uncertainty of leaders knowing who or what to work with.
8. The cultural identity of each independent Band is diluted.
9. Grant opportunities are limited.

10. PITU has failed to create a Tribal judicial forum.
11. Bands' opportunities for doing business are stunted.
12. The Bands are unable to exercise the full breadth of sovereignty.

*Declaration of Position*

- The Bands do NOT want to break apart the Paiute Indian Tribe of Utah.
- The Bands want the Tribal Council of the Paiute Indian Tribe of Utah to continue functioning as a cooperative and collaborative entity that exercises certain delegated sovereign authorities.
- The Bands want to work cooperatively with the BIA and each other to develop amendments to the Tribes' outdated Tribal Constitution.
- Chairwoman Borchardt-Slayton has infringed upon the Bands' rights under the Tribal Constitution, Band Bylaws, and inherent sovereignty of the Bands, and has violated her express Constitutional duties in the process.
- Congress definitively declared in the Paiute Restoration Act of 1980, that the federal trust responsibility was restored directly, and individually to each of the Bands.
- Almost four decades after Restoration, the Tribe still does not have a judicial forum, some Bands lack basic organic documents that Congress mandated, the Bands are not effectively participating in basic federal programs, i.e., housing, economic development, etc., confusion exists amongst federal agencies about the relationship and authority of the Tribe/Bands, Bands are not effectively running their own elections, and Band sovereignty has failed to thrive because the current Constitutional framework is flawed.

*Band Representation*

As a preliminary matter, please note that these three federally-recognized Bands represent a majority of the constituent Bands of the Paiute Indian Tribe of Utah, and that Chairwoman Slayton, with whom you may be meeting this week, does not speak for these Bands. She does not represent the Bands' interests. In fact, she is delivering a message that is contrary to the unified position and express Resolutions of a majority of the Paiute Bands. Chairwoman Slayton has acted outside of the scope of her authority for some time. The Cedar Band specifically has sought to work through internal governance issues with Chairman Slayton but has been given a deaf ear.

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The Bands' representatives and I look forward to meeting with you. Please contact Colleen Sullivan to set up a meeting with the Bands at [colleen@echohawk.com](mailto:colleen@echohawk.com) or 435.668.4594. Additionally, you are welcome to contact me directly at 435.922.8920.

Sincerely,



Mark A. Echo Hawk

MAE/cs

cc: Shivwits Band Council  
Cedar Band Council  
Kanosh Band Council  
PITU  
Superintendent Williams  
Anita Personius [anita.personius@bia.gov](mailto:anita.personius@bia.gov)