



THE PAIUTE INDIAN TRIBE OF UTAH

440 North Paiute Drive • Cedar City, Utah 84721 • (435) 586-1112 • Fax (435) 867-2659

October 25, 2019

Mrs. Carmen Clark
Shivwits Band Tribal Council
6060 West 3650 North
Ivins, UT 84738

Re: *Shivwits Band's Notice of Desire to Separate from the PITU; Demand to Participate in PITU Tribal Council Proceedings; and Objection to the Relocation of the Health Care Clinic in St. George, Utah*

Dear Mrs. Clark,

The Paiute Indian Tribe of Utah (hereinafter, the "Tribe" or "PITU") Tribal Council received your letter dated October 21, 2019, which concerns issues relating to the Shivwits Band's (hereinafter, the "Band") desire to separate from the Tribe, demand to participate in PITU Tribal Council proceedings, and objection to the relocation of the health care clinic to St. George, Utah. This letter constitutes the Tribe's response to your letter.

Your letter asserts that the PITU Tribal Council has limited the Band's participation in Tribal Council proceedings since January 2019 and has excluded the Band's representative from proceedings since July 2019. The enclosed letter dated April 30, 2019, clarifies that the Band previously vacated its seat on the PITU Tribal Council and would no longer be participating in Tribal Council proceedings. The PITU Tribal Council encourages the Band's participation on the PITU Tribal Council, and desires to resolve the internal governance issues raised in your letter in a timely manner. The Tribe formally acknowledges the October 21st letter and welcomes the Band to participate in Tribal proceedings. The Tribe does not desire to oversee how the constituent bands of the Tribe wish to fill their Band Council seats, but in perspective to a Tribal Council seat, the Tribe must follow the PITU Constitution and will continue to view the Tribal Council seat held by the Shivwits Band to be vacated until filled by following the requirements and processes defined in the PITU Constitution and PITU Election Ordinance.

The PITU Tribal Council's decision to relocate the health care clinic has been in discussion for several years and came after hearing concerns raised by tribal members relating to accessibility to health care services. The new location of the clinic is more accessible to all tribal members, will offer more

specialized services and have increased capacity to serve tribal members. In addition, the new location will be more accessible to our FourPoints Health services, which provides health and wellness, dental services, behavior health, and vision services to our tribal members. The PITU Tribal Council's decision to relocate the health care clinic has nothing to do with the Band's desire to separate itself from the PITU, our programs and services. The relocation of a tribal clinic is not unprecedented. For instance, the previous Tribal Council directed the Health Department to relocate the clinic in Richfield from the reservation to a more accessible location where additional services could be provided to tribal and non-tribal patients.

Despite your arguments to the contrary, the Band is not a separate federally recognized Indian tribe. PITU is a single federally recognized Indian tribe composed of five constituent bands, which include the Cedar City, Kanosh, Koosharem, Indian Peaks, and Shivwits Bands. The PITU Constitution recognizes PITU as a single federally recognized Indian tribe composed of five "constituent bands of the tribe." PITU Const. art. III. The BIA's official list of "Indian Entities Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs" also recognizes the Paiute Indian Tribe of Utah as a single, federally recognized Indian Tribe. 84 Fed. Reg. 1200, 1202 (Feb. 1, 2019). Nothing in the Paiute Indian Tribe of Utah Restoration Act ("Restoration Act") or any other source of authority indicates that the constituent band of PITU are separate federally recognized Indian tribes.

Your letter cites to the Indian Self-Determination and Education Assistance Act ("ISDEAA") to argue that its approval and consent is required to contract with IHS under Section 5321. In the case of a contract with IHS, Section 5321(a) requires the Secretary of Health and Human Services, "upon the request of any Indian tribe by tribal resolution, to enter into a self-determination contract or contracts with a tribal organization to plan, conduct, and administer programs or portions thereof, including construction programs." The Band is not an Indian tribe but is a constituent band of the Tribe. In addition, the Band does not meet the definition of a "tribal organization" empowered to negotiate and enter a self-determination contract pursuant to ISDEAA. Section 5304(1) defines "tribal organization," in pertinent part, as "the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body." Furthermore, the Band is not a tribal organization because it is not "controlled, sanctioned, or chartered" by the Tribe. Accordingly, there is not support for the argument that the ISDEAA requires the Band to approve or consent to the relocation of the health care clinic to St. George, Utah.

Please do not hesitate to contact me with any questions regarding this letter.

Sincerely,



Tamra Borchardt-Slayton
Chairwoman, Tribal Council
Paiute Indian Tribe of Utah

cc: Indian Health Service
Health Resources and Services Administration
Bureau of Indian Affairs
Geoff Strommer
Paul Tsosie

Enclosures: Letter on Shivwits Band's Withdrawal from the PITU Tribal Council
Letter on Shivwits Band's Proposal for Contract for Health Services
Letter on Shivwits Band's Request for a Secretarial Election
IHS 15-day letter to the Shivwits Band of Paiute Indians