

Charles R. Zeh, Esq.
Nevada Bar No. 001739
The Law Offices of Charles R. Zeh, Esq.
575 Forest Street, Suite 200
Reno, NV 89509
Telephone: 775.323.5700
Facsimile: 775.786.8183
e-mail: crzeh@aol.com

Attorneys for Tribal Defendants
The Te-Moak Tribe of Western Shoshone Indians of Nevada,
South Fork Band, Davis Gonzales, Alice Tybo and Virgil Townsend

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

South Fork Livestock Partnership,
Plaintiff,

vs.

United States of America, The Te-Moak
Tribe of Western Shoshone Indians of
Nevada, South Fork Band, Joseph
McDade, Rich Adams, Davis Gonzales,
Alice Tybo, Dave Smith, Virgil
Townsend, Brad Sones, Jill Silvey, Amy
Leuders, Bryan L. Bowker, Black
Corporation, Red Corporation, Blue
Corporation, White Corporation,
Partnerships 1-4 and
Does I-V,

Defendants.

Case 3:15-cv-00066-LRH-VPC

TRIBAL DEFENDANTS' REPLY
TO PLAINTIFF'S OPPOSITION
TO TRIBAL DEFENDANTS'
MOTION TO DISMISS

I. INTRODUCTION

Plaintiff's opposition to the Tribal Defendants' motion to dismiss for the want of jurisdiction by reason of Tribal sovereign immunity from suit cures none of the complaint's jurisdictional defects. The section 17 Corporate reference set out in the plaintiff's opposition upon which the plaintiff relies to assert that defendant, the Te-Moak Tribe of Western Shoshone Indians of Nevada (the Tribe), waived its sovereignty is misguided. It waives none of the Tribe's sovereignty, thereby eliminating the plaintiff's only claim that sovereignty had been waived by

1 the Tribe from the case. Tribal defendants, therefore, continue to urge dismissal of the complaint
2 against them on jurisdictional grounds by reason of Tribal sovereign immunity.

3 **II. THE SECTION 17 CORPORATE CHARTER UPON WHICH THE PLAINTIFF**
4 **RELIES TO OVERCOME SOVEREIGNTY DOES NOT CONSTITUTE A**
5 **WAIVER OF THE TRIBE'S SOVEREIGN IMMUNITY FROM SUIT**

6 To briefly recap, there are five "Tribal defendants" in this case. They consist of the Te-
7 Moak Tribe of Western Shoshone Indians of Nevada, Comp., ¶ 5, the South Fork Band, a
8 constituent Band of the Te-Moak Tribe, *see*, Constitution, Articles 2 and 3, Exhibit 1, to Tribal
9 Defendants' motion to dismiss, on file herein, Davis Gonzales, the Chairman of the Tribe's Tribal
10 Council, Comp., ¶ 16, Alice Tybo, the Vice-chairman of the Tribal Council and the Chairman of
11 the South Fork Band Council, *see*, Gonzales Affidavit, ¶ 2, to defendants motion to dismiss, and
12 Virgil Townsend, a South Fork Band official. Comp., ¶ 10. These Tribal defendants moved to
13 dismiss on the grounds that the Tribe is immune from suit, that South Fork, as a Tribe or
14 constituent Band of the Tribe, was immune from suit, and that the Tribe's umbrella of sovereign
15 immunity extends, also, to Tribal officials when acting within their official capacities. Further,
16 the defendants asserted that if this were also an individual capacity suit against the individual
17 Tribal defendants, they were nonetheless immune because the plaintiff had not indicated an
18 ability to plead and prove the individual defendants had acted without any colorable claim of
19 authority apart from a claim the defendants acted in violation of State or Federal law. *See*,
20 *Bassett v. Mashantucket Pequot Museum and Research Center, Inc.*, 221 F.Supp.2d 271, 280,
21 281, (D.C., Conn., 2002).

22 The plaintiff now claims that none of this matters. According to the plaintiff, the Tribe's
23 sovereign immunity has been waived, Opposition, pp. 5;7-10, 27-28, 6;1-2. Therefore, the
24 plaintiff argues there is no sovereign immunity available to oust the Court of jurisdiction over the
25 Tribe and the individual Tribal defendants from suit. *Ibid.* *See also*, Opposition p. 16;5-6.

26 The source of the Tribe's waiver of sovereignty, according to the plaintiff, is the Tribe's
27 section 17 Corporate Charter. Opposition, section p. 5;7-22. The plaintiff argues that the Tribe's
28 section 17 Corporate Charter contains a waiver of sovereignty which waives not only the
corporation's immunity from suit, but also, the Tribe's sovereign immunity from suit. Suit may

1 proceed in this case, therefore, as there is no sovereign immunity from suit to oust the Court of
2 jurisdiction to hear this matter.

3 Short shrift can be made of this argument. First, the Tribe's corporation is not a party to
4 this case. It is not, therefore, susceptible to suit in this matter. Second, even if it were a party to
5 this case, the Tribe's section 17 Corporate Charter is of no moment to the Tribe's sovereignty.
6 *Cohen* explains.

7 In addition to authorizing tribal constitutions, the IRA [the Indian Reorganization
8 Act of 1934 (IRA), 25 U.S.C. § 461, *et. seq.*] authorizes the Secretary of Interior
9 to issue tribal corporate charters upon petition by any tribe. [footnote omitted]. A
10 charter under section 17 of the IRA empowers the corporation to hold, manage
and dispose of property, including restricted Indian lands, and to carry out other
corporate business. [footnote omitted]. Corporations chartered under section 17
must be wholly owned by the tribe.

11 As in the case of tribal constitutions, many tribal section 17 charters were
12 originally drafted by the BIA. These BIA-drafted section 17 charters often
13 contained a clause allowing the corporation to sue and be sued. [footnote
14 omitted]. Some courts have held that this language waives the immunity of the
tribal corporation, while others have not. [footnote omitted]. Any such waiver,
15 however, is limited to actions involving the business activities of the section 17
corporation and does not waive the sovereign immunity of the tribe itself.
[footnote omitted].

16 *See*, *Cohen's Handbook of FEDERAL INDIAN LAW*, 2012 Edition, § 4.04[3][a], pp. 258, 259.

17 The Ninth Circuit is in accord. In *Linneen v. Gila River Indian Community*, 276 F.3d 489
18 (9th Cir., 2002), the Ninth Circuit, considering the liability of a section 17 Corporation, there,
19 expressly held that the section 17 Corporation "...in no way affects the sovereign immunity of the
20 Community [the Tribe] as a constitutional, or governmental entity." *Id.*, at 493-493. *See also*,
21 *Ute Distrib. Corp. v. Ute Indian Tribe*, 149 F.3d 1260, 1268 (10th Cir., 1998). There the Court
22 also affirmed that a waiver, if any, in a section 17 Corporate Charter does not cause a tribe to lose
23 its sovereign immunity.

24 Plaintiff's reliance upon the Tribe's section 17 Corporate Charter to conjure up a waiver of
25 the Tribe's sovereign immunity to permit this lawsuit to proceed against all Tribal defendants is
26 unavailing. As can be seen from the Corporate Charter attached as Exhibit A to the plaintiff's
27 opposition, it is one of those original documents drafted by the BIA for the Tribe. It is dated
28 October 28, 1938, and has a Library of Congress stamp of December 2, 1938. Like these original

1 section 17 Charters, the Tribe's section 17 Corporate Charter provides no basis for denying the
 2 Tribal defendants' motion to dismiss for the want of jurisdiction as to all Tribal defendants.

3 It contains a "sue and be sued" clause. *See*, Exhibit A, Charter, Section 5(b)(i). The
 4 Charter also provides that the corporation is Federal, and that it is a membership corporation,
 5 whose members consist of the members of the Tribe's Bands. *See*, Charter, Sections 2 and 3.
 6 The Charter also provides that it is subject to the provisions in the Tribe's Constitution. Charter,
 7 Section 5. There is a clear distinction, therefore, drawn between the Tribe and the Corporation,
 8 with the Corporate Charter subjugated to the Tribe's Constitution.

9 The Tribe's section 17 Corporate Charter serves the function which *Cohen* describes and
 10 consequently, like any other corporation, has an existence independent of ownership. A
 11 corporate veil hangs between it and the Tribe. The section 17 Corporation is separate and apart
 12 from the Tribe, itself, as a wholly owned entity of the Tribe, whose members also constitute the
 13 membership of the Corporation.

14 An explicit waiver of sovereign immunity from suit by either Congress or the Tribe is, of
 15 course, the only basis for haling the Tribe into this Court. *See, Kiowa Tribe of Oklahoma v.*
 16 *Manufacturing Technologies, Inc.*, 523 U.S. 751, 754, 118 S.Ct. 1700, 140 L.Ed.2d 961 (1998).
 17 "Indian Tribes and their governing bodies possess common-law immunity from suit. They may
 18 not be sued absent express and unequivocal waiver of immunity by the tribe or abrogation of
 19 tribal immunity by Congress." *Burlington N.R.R. V. Blackfeet Tribe*, 924 F.2d 899, 901 (9th Cir.,
 20 1991). Plaintiff asserts no Congressional waiver of the Tribe's sovereignty in its opposition to
 21 the motion to dismiss, other than its reliance upon the Tribe's section 17 Corporate Charter. No
 22 Tribal immunity is asserted, either. Plaintiff is left with the section 17 Corporate Charter to
 23 justify its claim the Tribe has waived its sovereign immunity from suit and that, therefore, the
 24 Court has jurisdiction to proceed.

25 Plaintiff's opposition must accordingly fail because as the *Cohen* treatise and the *Linneen*
 26 and the *Ute Indian Tribe* cases, among others, make clear, section 17 Tribal Corporate Charters,
 27 as in this case, are devoid of Tribal waivers of sovereignty. Thus, the Tribal defendants' motion
 28 to dismiss is unscathed by the plaintiff's claim, the Tribe has waived its sovereignty. The section

17 Tribal Corporate Charter affords no basis for the plaintiff to make such a claim and as it is the sole basis upon which the plaintiff asserts there has been a waiver of sovereignty, no waiver of Tribal sovereign immunity is offered by the plaintiff to preserve the Court's jurisdiction to hear its complaint. The defendants' motion to dismiss should, therefore, be granted.

III. LACKING THE REQUISITE CONNECTION WITH THE ALLEGED UNLAWFUL ACTIVITY, THE CLAIMS AGAINST THE INDIVIDUAL DEFENDANTS GONZALES, TYBO AND TOWNSEND MUST FAIL DUE TO SOVEREIGN IMMUNITY ALSO OUSTING THE COURT OF JURISDICTION OVER THEM

The individual Tribal defendants asserted in their motion to dismiss that they were not sued in their individual capacities. Motion, p. 16;1-9. The plaintiff referred to them as "individuals," rather than asserting they were sued in their individual capacities and, therefore, the Tribal defendants concluded that this use of the term "individual" was no more than a statement of fact, rather than a reference to their status as persons sued in their individual capacities. Motion, p. 16;6-9.

This characterization of the case has gone unchallenged by the plaintiff. Further discussion about individual immunities or personal capacities suits should, therefore, be unnecessary. Suffice it to state, here, that the discussion which follows about the immunities of the Tribal officials in their official capacities is also be pertinent to any individual capacity claims that might be divined from the pleadings because it also eviscerates the contention that the individual defendants acted without a colorable claim of authority.¹ *Bassett, supra* at 280, 281.

While Tribal defendants concede that the immunity of Tribal officials is not identical to the immunity of the Tribe in all cases, *see, Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 58, 98 S.Ct. 1670 (1978), it is also true that "...tribal immunity extends to individual tribal officials

¹For the first cause of action (Count I), the plaintiff seeks relief, alone, from the South Fork Band, on the one hand, and the BIA and BLM, two Federal agencies, on the other. Comp., p. 9, ¶ A. Since the complaint is devoid of any information or content from which to deduce an assertion, the individual Tribal defendants acted without any colorable claim of authority to sustain an individual capacity suit, it is evident the first cause of action (Count I) seeks monetary relief from the governmental bodies named in this cause of action. As is clear from this reply and the Tribal defendants' motion to dismiss, neither Congress nor the Tribe has waived the Tribe's sovereignty. Nothing further is needed to dismiss Count I, the first cause of action, as to South Fork for the want of jurisdiction to hear this claim due to the Tribe's sovereign immunity from suit. *Kiowa, supra* at 754; *Imperial Granite Company v. Pala Band of Mission Indians*, 940 F.2d 1269, 1271 (9th Cir., 1991).

1 acting in their representative capacity and within the scope of their authority. *Hardin v. White*
 2 *Mountain Apache Tribe*, 779 F.2d 476, 479 (9th Cir., 1985), citing *United States v. Oregon*, 657
 3 F.2d 1009, 1012 n.8 (9th Cir., 1981). Nevertheless, Tribal officials may not act with impunity
 4 towards the law. The doctrine of *Ex Parte Young* includes Tribal officials sued in their official
 5 capacities. *Burlington Northern & Santa Fe Ry. v. Vaughn*, 509 F.3d 1085, 1092 (9th Cir., 2007).
 6 "Under the doctrine of *Ex Parte Young*, immunity does not extend to officials acting pursuant to
 7 an allegedly unconstitutional statute. 209 U.S. 123, 155-56, 28 S.Ct. 441, 52 L.Ed. 714 (1908)."
 8 *Id.*, at 1092. Similarly, it does not protect Tribal officials in their official capacity from
 9 prospective injunctive relief based upon conduct allegedly in violation of federal law. *Ibid.*

10 This appears to be the direction the plaintiff is proceeding in its attack upon the individual
 11 Tribal officials. While it may be true that the Tribe's sovereign immunity will not protect Tribal
 12 officials from allegations that they are breaking federal law with their conduct, though acting in
 13 their official capacities, in order to satisfy the standard set out for complaints in *Ashcroft v. Iqbal*,
 14 556 U.S. 662 (U.S. 2009), the complaint or the plaintiff's pleadings in this case must contain
 15 sufficient specificity to establish it is at least plausible, *Iqbal, supra* at 678, the Tribal officials
 16 have the "...requisite enforcement connection" to the federal law being violated, "...for the *Ex*
 17 *Parte Young* exception to apply. See, *Nat'l Audubon Soc'y, Inc.*, 307 F.3d at 847." *Burlington*
 18 *Northern, supra* at 1092. Stated alternatively, to require anything less "...eviscerates ...[the
 19 protections of qualified or absolute immunity] and ultimately subjects Tribes to damages actions
 20 for every violation of state or federal law." *Basset, supra* at 280.

21 *Burlington Northern* was a Tribal tax case. One of the defendants, Easter, was the
 22 Tribe's tax administrator. "Because BSNF ...alleged that Easter ...[had]... 'direct authority over
 23 and principal responsibility for enforcing' the tax,..." the Ninth Circuit affirmed that the *Ex Parte*
 24 *Young* exception to immunity would apply. *Id.*, at 1092, 1093. On the other hand, the plaintiff
 25 also sued the Chairman of the Tribe, Charles Vaughn. As the Tribal Chairman, he was
 26 "...responsible for exercising executive authority over the Tribe. BSNF ...[did not]...allege that
 27 Vaughn ... [was] ... in any way responsible for enforcing the tax." Therefore, the Ninth Circuit
 28 ///

1 concluded that the *Ex Parte Young* exception would not apply to the Chairman and suit was
2 barred against him based upon the Tribe's sovereign immunity. *Id.*, at 1093.

3 Therein lies the rub for the plaintiff's pleadings in this case. Defendant Davis Gonzales is
4 the Chairman of the Te-Moak Tribe's Tribal Council. Alice Tybo is the Vice-Chairman of the
5 Te-Moak Tribal Council and the Chairman of the South Fork Band Council. Virgil Townsend is
6 an administrator, according to the plaintiff, for the South Fork Band. Comp., ¶ 10. Beyond those
7 allegations, that is as far as it gets with the wrongdoing of these defendants. As stated in the
8 motion to dismiss, aside from being identified as defendants in the complaint, these defendants
9 are not mentioned again. Motion, p. 2;10-17. This, alone, places them squarely in the "Vaughn"
10 status of *Burlington Northern*. Plaintiff's complaint must reveal some reasonable sense that the
11 defendants' action, conduct, threat of conduct, control over the situation or ability to enforce
12 activities related to the focus of the complaint for the plaintiff to satisfy *Ex Parte Young* and
13 *Iqbal*. As of the moment, the requisite nexus can only be supplied by speculation and *Iqbal*
14 precludes going forward under those circumstances where a public official's immunity is at stake.
15 *See, Iqbal, supra* at 678.

16 If the foregoing is not enough, Gonzales and Tybo are literally, constitutionally incapable
17 of acting alone. The Chairman of the Te-Moak Tribe is not allowed to vote on any matter, unless
18 to break a tie vote. Const., Article 4, Section 5(a)(5). The Tribal Council Vice-Chairman assists
19 the Chairman and steps into the shoes of the Chairman in his or her absence. Const., Article 4,
20 Section 5(b). The Chairman of a Band Council may vote on matters before the Band. Const.,
21 Article 4, Section 15(a)(5). The Tribal Council and the Band Council may act only by a majority
22 vote of the respective Tribal Council or Band Council. Const., Article 4, Section 19(c).

23 Furthermore, as grazing permits seem to be the object of the plaintiff's concern in his
24 complaint, the Tribe's Constitution provides: "Band Councils shall have the authority to issue
25 grazing permits." Constitution Article 10, Section 1(b). Grazing permits are not the province of
26 the Tribe and they are not the province of any individual. Their issuance is determined by a
27 majority vote of the Band Council.

28 ///

1 Plaintiff's complaint, therefore, falls within the holding, also, in *Audubon* where the
 2 matter was dismissed as to the Governor and State Secretary of Resources because there was no
 3 showing that either had "the requisite enforcement connection" to the statute or "proposition" at
 4 issue. *Nat'l Audubon Soc'y v. Davis*, 307 F.3d 835, 846, 847 (9th Cir., 2002). Absent this
 5 connection, the *Ex Parte Young* exception to sovereign immunity to enjoin public officials does
 6 not apply. *Audubon* controls, here, because neither Alice Tybo nor Davis Gonzales had any
 7 authority to act alone on behalf of the Tribe regarding grazing permits. Alice Tybo had no
 8 authority to act alone on behalf of the South Fork Band Council. Both Gonzales and Tybo are
 9 constitutionally foreclosed from acting alone to create the requisite nexus with the alleged wrong
 10 doing and, thus, as with *Burlington Northern*, *Audubon* also requires dismissal because these
 11 Tribal officials are not shorn of their Tribal public official immunity as the result of a patently
 12 infirm claim under *Ex Parte Young*.

13 At first blush, Mr. Townsend, as a Tribal official, might appear as if he is akin to Easter
 14 in *Burlington Northern*. That cannot be the case, however, at this stage in the proceedings, as the
 15 complaint does not even identify the activity or level of activity that Mr. Townsend administers.
 16 He, therefore, falls squarely in the "*Vaughn*" camp, requiring dismissal on sovereign immunity
 17 grounds. *See also, Audubon, supra* at 846, 847.

18 The plaintiff's opposition to the motion to dismiss does nothing to fill in the gaps for
 19 either Davis Gonzales, Alice Tybo or Virgil Townsend. There, the plaintiff references CFR's
 20 151.3, 151.9 and 151.11 (sic), apparently offering them as the federal connection for *Ex Parte*
 21 *Young* purposes. The same holds for 43 U.S.C. § 1061. Plaintiff also makes reference to an
 22 amount due from the Tribe to U.S. Government for past trespasses. Whether Tybo or Gonzales
 23 were in office at the time or Townsend was an administrator when this debt allegedly was
 24 incurred, is not alleged. Plaintiff does contend that defendants Tybo, Townsend and Gonzales
 25 continue taking positions to adversely possess property and take action on the property in
 26 violation of Federal law. There is no explanation, however, setting out how or when this
 27 occurred or what, actually, did occur and under what circumstances or even whether they had the
 28 ///

1 capacity to implement their alleged opposition to the plaintiff's best interest. It is clear, however,
2 that these individual Tribal defendants are constitutionally precluded from acting alone.

3 The plaintiff persists with the general claim that the defendants continue to use their
4 positions to frustrate Federal law and destroy plaintiff's business. Again, there are no allegations
5 setting out how this occurred, when this occurred or why this occurred, what actually occurred
6 and whether this activity was in derogation of Tribal authority or Federal law. Opposition, p. 15.

7 Wrapped around this discussion, the plaintiff states that immunity was waived, as stated
8 above, by Te-Moak and the South Fork Band, but that if that is not sufficient, the plaintiffs would
9 submit that "...this is a Federal Claim which requests prospective relief and that the individual
10 Council members do not have such immunity." Opposition, p. 16;3-8. Not finished, plaintiff
11 claims, additionally, that the "moving defendants" can't "...be immune from an action that seeks
12 to clarify the true character of the land identified ... [in the pleading]." *Id.*, at 16. Plaintiff does
13 not indicate how or why this is true. Only this naked claim is made.

14 Plainly, the reference, here to the waiver of immunity must be based upon the waiver tied
15 to the section 17 Corporate Charter. As explained, above, in Section II of this pleading, no such
16 waiver exists and, thus, the premise for this last discussion of waiver in the Opposition is
17 unavailing. Opposition, p. 16;3-6. Further, it is patent, again, that there is nothing contained in
18 this section connecting the individual defendant Tribal officials to any wrongdoing other than the
19 claim that the defendant Tribal officials did the plaintiff wrong. As *Iqbal* explains, and as
20 *Burlington Northern* and *Audubon* reveal in connection with a claim for prospective, injunctive
21 relief, there must be some plausible, *Iqbal, supra* at 678, nexus between the alleged wrongdoing
22 and the capacity of the defending Tribal officials to have actually caused the wrong doing or have
23 the unmistakable authority to cause such wrong doing to occur.²

24
25
26
27 ²Since the plaintiff has shown to be incapable of linking wrongdoing or the authority to create
28 wrong doing to support a waiver of sovereignty to allow a claim for prospective injunctive to proceed,
plainly, the plaintiff is incapable of proceeding with a personal capacity suit which would require
allegations and proof, the defendant public official acted without any colorable claim of authority. This
discussion is equally, therefore, dispositive of any personal capacity suit, if brought in this case.

1 The plaintiff's opposition, therefore, patently fails to give rise to a claim for prospective
 2 injunctive relief against the individual, Tribal officials, which would admit of haling them into
 3 this Court in derogation of their sovereign immunity from suit.

4 **IV. PLAINTIFF'S "STANDARD" ARGUMENT MISSES THE MARK**

5 The plaintiff commences its opposition with a section entitled "Standard." It purports to
 6 be some kind of discussion about the standard for deciding whether subject matter jurisdiction is
 7 before the Court. The significance of the discussion, frankly, alludes defense counsel for the
 8 Tribal defendants. Thus, the Tribal defendants may only add that it is well established that Tribal
 9 sovereignty is a matter of Federal common law. *See, Kiowa, supra* at 756. 28 U.S.C. § 1331, in
 10 turn, is a statutory grant of "[jurisdiction ...[that] will support claims founded upon federal
 11 common law as well as those of a statutory origin.' Federal common law as articulated in rules
 12 that are fashioned by court decisions are 'laws' as that term is used in § 1331." *National Farmers*
 13 *Union v. Crow Tribe of Indians*, 471 U.S. 845, 105 S.Ct. 2447 (1985). Plainly, this Court has
 14 jurisdiction under 28 U.S.C. § 1331 to determine if Tribal sovereignty obtains to oust the Court
 15 of jurisdiction to proceed.

16 **CONCLUSION**

17 The defendants' section 17 Corporate Charter does not waive the Tribe's sovereign
 18 immunity and no other source of a waiver of sovereignty was identified by the plaintiff. The
 19 Tribe and the South Fork Band are, therefore, immune from suit and the case, as to them, must be
 20 dismissed for the want of jurisdiction based upon the Tribe's sovereign immunity.

21 The umbrella of the Tribe's sovereign immunity, therefore, exists and extends to Tribal
 22 institutions and officials. Tribal officials, nevertheless, may be sued for prospective injunctive
 23 relief, when acting outside their official capacity in derogation of Federal law. There must be a
 24 requisite nexus between the wrong doing alleged and the conduct or threatened conduct of the
 25 Tribal official, and a showing of the capacity of the Tribal official to act in derogation of Federal
 26 law, before a claim for prospective injunctive relief trumps Tribal sovereignty. Speculation and
 27 claims of authority to act based upon the gossamer wings of fancy do not suffice. Plaintiff offers
 28 no more.

1 Consequently, the Tribal defendants' motion to dismiss for the want of jurisdiction based
2 upon Tribal sovereign immunity must be granted.

3 Dated this 5th day of June, 2015.

The Law Offices of Charles R. Zeh, Esq.

4
5
6 By:  /s/ Charles R. Zeh, Esq.
Charles R. Zeh, Esq.

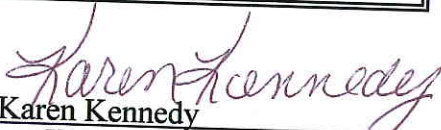
7 *Attorneys for defendants, The Te-Moak Tribe of*
8 *Western Shoshone Indians of Nevada, South Fork*
9 *Band, Davis Gonzales, Alice Tybo and Virgil*
10 *Townsend*

CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of The Law Offices of Charles R. Zeh, Esq., and that on this date, I deposited the foregoing *Tribal Defendants' Tribal Defendants' Reply to Plaintiff's Opposition to Tribal Defendants' Motion to Dismiss* on those parties identified below by:

✓	Placing an original or true copy thereof in a sealed envelope, postage prepaid, placed for collection and mailing in the United States Mail, at Reno, Nevada, to the following address: David D. Loreman David D. Loreman, Chtd. 445 Fifth Street, Suite 210 Elko, NV 89801
	Personal delivery
	Telephonic Facsimile at the following numbers: 775.738.6873
	Federal Express or other overnight delivery
	E-mailed: dloremanesq@frontiernet.net
	Certified Mail/Return Receipt Requested

Dated this 5th day of June, 2015.


/s/Karen Kennedy

Karen Kennedy an employee of
The Law Offices of Charles R. Zeh, Esq.

S:\Clients\Te Moak\South Fork Livestock\Pleadings\Reply to Opposition R8.wpd