

THE TIMBISHA SHOSHONE TRIBAL HOMELAND

A Draft Secretarial Report to Congress
to
Establish a Permanent Tribal Land Base
and
Related Cooperative Activities

Developed by Representatives of the

Timbisha Shoshone Tribe

and the

Department of the Interior

This is
the Dept. of
Interior
Report on
Home lands -
page 12
PART 30 Intro.

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EXECUTIVE SUMMARY

For thousands of years, the Timbisha Shoshone Tribe has lived in and around the area that is now Death Valley National Park. For many years, the Tribe sought to obtain trust land within its aboriginal homeland. In 1994, Congress enacted the California Desert Protection Act, P.L. 103-433, including Section 705(b) which begins to address the need of the Tribe for a recognized land base. Section 705(b) directs the Secretary of the Interior to conduct a study to identify lands suitable for a reservation for the Timbisha Shoshone Tribe which has no land base at present. The Section provides:

The Secretary, in consultation with the Timbisha Shoshone Tribe and relevant Federal agencies, shall conduct a study, subject to the availability of appropriations, to identify lands suitable for a reservation for the Timbisha Shoshone Tribe that are located within the Tribe's aboriginal homeland area within and outside the boundaries of Death Valley National Monument and the Death Valley National Park as described in part 4 of this subchapter. California Desert Protection Act, Section 705(b).

This report contains the recommendations of the joint Federal-Tribal negotiating team responsible for carrying out the suitability study. The suitability study was conducted on a government-to-government basis with officials designated representatives of the Timbisha Shoshone Tribe and the Department of the Interior. It resulted in a comprehensive integrated plan to establish a permanent Homeland for the Tribe based on an analysis of the suitability of various lands within the tribal ancestral homeland in relation to basic tribal needs and consistency with Federal land management and stewardship mandates.

Among the factors restricting the ability of the negotiating team to identify a single contiguous area suitable for the establishment of a reservation are: natural limitations, including climate, geology, and the availability of water; mining claims; special resource designations such as Wilderness and Area of Critical Environmental Concern; and the availability of infrastructure such as roads, power, and other services.

This report concludes that the transfer of several separate parcels of land is needed and recommends transfer of 7,500 acres in trust to the Timbisha Shoshone Tribe. These parcels include: 1) 300 acres at Furnace Creek in Death Valley National Park encompassing the present Timbisha Village Site subject to jointly developed land use restrictions designed to ensure compatibility and consistency with tribal and Park values, needs and purposes; 2) 1,000 acres of land now managed by the Bureau of Land Management at Death Valley Junction, California, east of the Park; 3) 640 acres of land now managed by the Bureau of Land Management in an area identified as Centennial, California, west of the Park; 4) 2,800 acres of land now managed by the Bureau of Land Management and classified as available for disposal near Scotty's Junction, Nevada, northeast of the Park; and 5) 2,800 acres now managed by the Bureau of Land Management and classified as available for disposal near Lida, Nevada, north of the Park. Based on the proposed land use restrictions and opportunities for future close collaboration with the Tribe, the National Park Service and the Tribe believe that the limited transference of Park land described above will enhance the cultural and historical interpretative opportunities available to

the visiting public, but will not adversely impact Death Valley National Park. The report also seeks authorization to purchase two parcels of approximately 120 acres of former Indian allotted lands in the Saline Valley, California, at the edge of the Park, and the 2,430 acre Lida Ranch near Lida, Nevada from private owners.

This report also recommends a number of other arrangements authorizing tribal access to and traditional uses of certain designated areas which will remain in public ownership. One example of the latter type of arrangement is the recommendation to seek designation of an area primarily in the western part of Death Valley National Park as the Timbisha Shoshone Natural and Cultural Preservation Area within which low impact, environmentally sustainable, tribal established management plan agreed upon by the Tribe, the National Park Service and the Bureau of Land Management. The Tribe, the National Park Service, and the Bureau of Land Management see such a designation as a way of recognizing the common interests of the agencies and the Tribe in conserving and protecting this area. Examples of traditional tribal uses, practices and activities include seasonal camping, gathering piñon nuts and other plants for medicinal purposes, but not the taking of wildlife within the Park.

The proposed legislation will also expand Park purposes by recognizing the many contributions of the Timbisha Shoshone Tribe to the history, ecology, and culture of Death Valley National Park. It will affirm that the continued presence of the Tribe in the Park and in other parts of its ancestral homeland benefits the Park, the Tribe, and the American people.

A number of legislative and administrative actions will be necessary to implement these recommendations. A summary of those actions follows.

Table 1. Integrated Framework for Establishing a Timbisha Shoshone Permanent Land Base and Related Cooperative Activities

Location	Proposed Legislative Action	Proposed Departmental Action
Furnace Creek, Death Valley National Park	<ul style="list-style-type: none"> ◆ Legislation authorizing establishment of the Timbisha Shoshone Community Development and Adobe Restoration Area (a 300 acre trust parcel including a 25 acre non-development zone at the north end of the parcel), for community, residential, historic restoration, and visitor-related economic development, including requirements for jointly agreed upon standards for development that would require consistency with tribal and park values, needs, and purposes. The Tribe shall be granted a right-of-way for ingress and egress on Highway 190. ◆ Legislation providing for reserved water rights for tribal trust lands at Furnace Creek effective on the date legislation becomes law. ◆ Legislation authorizing establishment of the Buffer and the Mesquite Management Areas of approximately 3,000 acres, including authorization for restricting visitor use in these areas. 	<ul style="list-style-type: none"> ◆ Complete transfer of land to the Tribe in trust upon legislative authorization. ◆ Expand and implement a water conservation strategy in cooperation with all water users at Furnace Creek. ◆ Negotiate and adopt jointly agreed upon development standards for the tribal trust parcel at Furnace Creek. ◆ Negotiate and enter into a cooperative agreement between the Tribe and the National Park Service providing for traditional, ecologically sustainable, tribal practices within the Mesquite Use Area. ◆ Negotiate and enter into a cooperative agreement between the Tribe and the National Park Service for management of the Adobe Restoration Area in an environmentally sensitive manner to preserve the historic adobes and remove stands of invasive salt cedar.

Location	Proposed Legislative Action	Proposed Departmental Action
Timbisha Shoshone Natural and Cultural Preservation Area	<ul style="list-style-type: none"> ◆ Legislation authorizing designation of this area as the Timbisha Shoshone Natural and Cultural Preservation Area for low impact, ecologically sustainable, traditional practices, uses and activities by the Timbisha Shoshone Tribe pursuant to a jointly established management plan agreed upon by the Tribe, the National Park Service, and the Bureau of Land Management. ◆ Legislation authorizing and directing the establishment and maintenance, in perpetuity, of a tribal resource management field office, garage and storage area at Wildrose, all within the area of the existing ranger station, and traditional use camps at Wildrose and Hunter Mountain in locations agreed to by the Tribe and the National Park Service. ◆ Legislation authorizing funds for the acquisition of the Indian rancheria site in the Saline Valley to be transferred to the Tribe to be held in trust. 	<ul style="list-style-type: none"> ◆ Negotiate and enter into a joint management plan agreed upon by the Tribe, the National Park Service and the Bureau of Land Management. The joint management plan will include provisions for tribal facilities at Wildrose and for traditional camps at Hunter Mountain, two areas of special significance to the Tribe. ◆ Delineate area on all future National Park Service maps. ◆ Develop and conduct a joint Tribal-National Park Service pilot demonstration project regarding management of the Saline Valley Springs. ◆ Complete transfer of land to the Tribe in trust upon legislative authorization, appropriation, and purchase. ◆ Negotiate and enter into a cooperative agreement between the Tribe and NPS ensuring tribal access and use of the Mesquite Springs and Daylight Pass and to allow the Tribe to participate in resource protection in the area.

Location	Proposed Legislative Action	Proposed Departmental Action
Death Valley Junction—California	<ul style="list-style-type: none"> ◆ Legislation authorizing the transfer of approximately 1,000 acres of land from the Bureau of Land Management to the Tribe to be held in trust. 	<ul style="list-style-type: none"> ◆ Complete transfer of land to the Tribe in trust upon legislative authorization.
Centennial, California	<ul style="list-style-type: none"> ◆ Legislation authorizing transfer of approximately 640 acres, one section in size, from the Bureau of Land Management to the Tribe to be held in trust for the Tribe in the area of Black Rock Springs. ◆ Legislation providing for purchase of private surface water rights. 	<ul style="list-style-type: none"> ◆ Complete transfer of land to the Tribe in trust upon legislative authorization.
Eagle Mountain and Warm Sulphur Springs, California	<ul style="list-style-type: none"> ◆ None required 	<ul style="list-style-type: none"> ◆ Negotiate and enter into a cooperative agreement between the Tribe and the Bureau of Land Management to ensure Tribal access and use of these areas and to allow the Tribe to participate in resource protection.
Scotty's Junction, Nevada	<ul style="list-style-type: none"> ◆ Legislation authorizing the transfer of approximately 2,800 acres from the Bureau of Land Management to the Tribe to be held in trust. 	<ul style="list-style-type: none"> ◆ Complete transfer of land to the Tribe in trust upon legislative authorization.
Lida, Nevada -- Tribal Community Parcel	<ul style="list-style-type: none"> ◆ Legislation authorizing the transfer of approximately 2,800 acres of land from the Bureau of Land Management to the Tribe to be held in trust. 	<ul style="list-style-type: none"> ◆ Complete transfer of land to the Tribe in trust upon legislative authorization.
Lida, Nevada -- Tribal Use Area	<ul style="list-style-type: none"> ◆ None needed 	<ul style="list-style-type: none"> ◆ Negotiate and enter into a cooperative agreement between the Tribe and the Bureau of Land Management ensuring tribal access and use of the area and to allow the Tribe to participate in resource protection activities in the area.

Location	Proposed Legislative Action	Proposed Departmental Action
Lida, Nevada-- Lida Ranch	<ul style="list-style-type: none"> ◆ Legislation authorizing the purchase of Lida Ranch, approximately 2,430 acres, to be taken into trust for the Tribe and purchase of available surface water which would transfer with the land. 	<ul style="list-style-type: none"> ◆ Complete transfer of land to the Tribe in trust upon legislative authorization, appropriation, and purchase.
Ash Meadows National Wildlife Refuge Nevada -- Cooperative Activities	<ul style="list-style-type: none"> ◆ None needed 	<ul style="list-style-type: none"> ◆ Negotiate and enter into a cooperative agreement between the Tribe and the Fish and Wildlife Service to provide for compatible tribal access and use of the area and to allow the Tribe to participate in cultural resource protection in the area.

Location	Proposed Legislative Action	Proposed Departmental Action
Other Agreements and Special Arrangements	<ul style="list-style-type: none"> ◆ Legislation amending the purposes section of the Death Valley National Park; enabling legislation to: (a) recognize the contributions of the Timbisha Shoshone Tribe to the history, ecology, and culture of Death Valley National Park and other portions of their ancestral homelands; (b) recognize that the continued presence of the Tribe in the Park and other parts of its ancestral homelands benefits the Park and the American people; and, (c) specify that traditional use of the Park by the Tribe is an official Park purpose. ◆ Legislation authorizing preferential hiring for tribal members in the Park. 	<ul style="list-style-type: none"> ◆ Design and place new signs identifying the Timbisha Shoshone Homeland at appropriate locations in consultation with the Tribe. ◆ Support tribal requests for funding from other sources. ◆ Establish a presumption that pilot projects, if successful, will lead to long-term agreements and be incorporated into Park management plans. ◆ Authorize use of Park fees to fund Park-related tribal activities and tribal cultural enhancement projects. ◆ Submit Park base budget increase proposal to fund Park-related tribal activities and tribal cultural enhancement projects. ◆ Submit Bureau of Indian Affairs base budget increase proposal to provide administrative services related to newly established trust lands.

PREFACE

As a new nation, the United States took virtually all of the ancestral lands of our Native American predecessors leaving them with little foundation for their own distinct cultures to survive. As a visionary nation, we invented national Parks so that America's most evocative places could be preserved forever. Often those Parks, and the lands most important to Native Americans, are one and the same. Such is the case in the Death Valley area where much of the Timbisha Shoshone Homeland and Death Valley National Park not only coincide physically but are highly valued by the Tribe, the National Park Service, and the American public.

If we resolve to make a better nation for our children, a nation that recognizes the promises of America's best ideas and is not bound to the thought that the decisions of the past are the best that we can do, then we have a unique opportunity to rectify the existing situation where the Tribe lives on its ancestral lands without the ability to achieve self-determination and economic independence.

Consequently, we resolved in Death Valley, and in the surrounding ancestral homelands of the Tribe, to value the beliefs and needs of both nations, to be fair to the Timbisha Shoshone and to the people of the United States. We seek to restore lands on which the Timbisha Shoshone can exercise their sovereign tribal rights guaranteed by our Constitution and courts, and to develop lasting cooperative arrangements with the Tribe. We do so in the context of a better and more holistic vision of what Death Valley National Park and other parts of the Tribe's ancestral lands can become with an expanded and renewed tribal presence and the commitment to such a presence by the National Park Service and the Bureau of Land Management.

*John J. Reynolds
Director, Pacific West Region
National Park Service*

PREFACE

The word 'timbisha' refers to a red material found in the Black Mountains not far from our tribal village at Furnace Creek. Our ancestors, the Old Ones, used this material, called ochre in English. They would use it like paint on their faces, to protect them and heal them. The Old Ones believed that this material, 'timbisha', strengthened their spirituality.

Our people, the Timbisha, are named after this material and so is our valley. The term 'Death Valley' is unfortunate. We refrain from talking about death. Instead, we refer to "one who it has happened to." Even more importantly, this is a place about life. It is a powerful and spiritual valley that has healing powers and the spirituality of the valley is passed on to our people.

Our people have always lived here. The Creator, Appü, placed us here at the beginning of time. This valley, and the surrounding places that the Old Ones frequented, is 'tüppüüh', our Homeland. The Timbisha Homeland includes the valley and the nearby mountains, valleys, flats, meadows, and springs.

Then others came and occupied our land. They gave us diseases and some of our people died. They took away many of our most important places. The springs....the places we used for food. The places we used for our spiritual practices. They didn't want us to carry on our religion or our ceremonies or our songs or our language. The names of our places became unknown to some of our people.

We never gave up. The Timbisha people have lived in our Homeland forever and we will live here forever. We were taught that we don't end. We are part of our Homeland and it is part of us. We are people of the land. We don't break away from what is part of us.

Still, a lot has been lost. The current situation is very serious. We have no land at all. Very few of our people are employed. They need, for their welfare, housing and economic development. The plan negotiated between the Timbisha and the Department of the Interior will be of great assistance in bringing economic self-sufficiency, done sustainably, to my Tribe.

Economic development, if it is to work, must be done by the Timbisha people themselves. Now, there are very few opportunities within the Tribe. This plan will bring many opportunities within the Tribe. It is significant that this will be done, not just in one place, but in several places within the Homeland, because that is how the Old Ones always did it.

Most important of all, I envision that this plan will bring the people closer together. Many of us will be able to live and work in tribal communities once again. Our cultural preservation program will be greatly expanded once we have a tribal center. What we are fundamentally doing is re-educating many of our people as to who they are. The Timbisha people are not from some other Homeland. This is our Homeland. We will stay on, and this plan will give us the opportunity to do that in a self-sufficient, sustainable, and spiritual way.

Pauline Esteves
Timbisha Shoshone Tribal Chairperson

PART I - INTRODUCTION

A. Purpose

This report is submitted pursuant to Section 705(b) of the California Desert Protection Act of 1964 which directs the Secretary of the Interior, in consultation with the Timbisha Shoshone Tribe, to conduct a study to identify lands suitable for a reservation for the Timbisha Shoshone Tribe both inside and outside Death Valley National Park. This report identifies those areas determined suitable for the purposes outlined in the Act.

Areas within and outside the boundaries of Death Valley National Park were studied beginning with an examination of the Timbisha village at Furnace Creek. Historically, the Timbisha seasonally inhabited numerous sites within an expansive geographic area including all of what is now Death Valley National Park. Since 1936, however, the Tribe has made its home in a small village at Furnace Creek situated on approximately 40 acres of Park lands. The village also serves as the tribal headquarters. It is located approximately one mile south of Park headquarters immediately adjacent to the Furnace Creek Ranch, a private inholding owned by the Amfac Corporation.

The recommendations in this report constitute a comprehensive, integrated plan to establish a reservation for the Tribe. However, rather than identifying one parcel of land for a reservation, the negotiating team concluded that no single parcel could meet the basic needs of the Tribe and be compatible with the land management and stewardship responsibilities of the Bureau of Land Management and the National Park Service.

Among the factors restricting the ability of the negotiating team to identify a single contiguous area suitable for the establishment of a reservation are: natural limitations, including climate, geology, and the availability of water; mining claims; special resource designations such as Wilderness and Areas of Critical Environmental Concern; and the availability of infrastructure such as roads, power, and other services. Equally important was the significance of particular lands in relation to the culture and history of the Tribe. These factors as well as the traditional Timbisha Shoshone settlement pattern of dispersed residences and seasonal use of particular areas within large homelands were major considerations in recommending that 7,500 acres of land be taken into trust in seven separate areas. Each land area is described in Part 3, below, along with a discussion of the analysis supporting each recommendation.

B. The Process of Conducting the Suitability Study

In January, 1998, a Federal and tribal negotiating team was established to develop an integrated, comprehensive plan to complete the suitability study. The tribal team was comprised of Timbisha tribal officials and consultants. The Federal team members were drawn from the headquarters, regional, and field offices of the Assistant Secretary for Fish and Wildlife and Parks, Bureau of Land Management, the Bureau of Indian Affairs, the Office of American Indian Trusts, the Bureau of Reclamation, and the National Park Service. The tribal negotiating team leader was Tribal Chairperson Pauline Esteves. The Federal negotiating team leader was

John Reynolds, Director, Pacific West Region, National Park Service. Professor Charles Wilkinson of the University of Colorado Law School facilitated the process. A full listing of the two teams is found in Appendix A.

All study activities were carried out in accordance with the Ground Rules and Framework for Achieving a Timbisha Shoshone Homelands Adjudicated at the March 1998 session. See Appendix B. To emphasize the intergovernmental nature of the negotiations, the Framework provided in part:

The parties, working jointly as governments and in full cooperation agree to complete studies of areas inside and outside the Park of particular significance to the Tribe. The parties will use their best efforts to reach agreement on joint proposals resulting from each study.

With respect to substantive issues, the negotiators agreed to use an "interest-based" approach in the negotiations focusing on the underlying concerns and broad objectives of each team member. By the end of the first meeting, the set of shared interests listed in Appendix C were agreed upon and recorded for use throughout the negotiations.

Two fundamental principles flow from these shared interests. First, it is in the best interest of both the Tribe and the United States to secure the Tribe a permanent land base within the Homelands of sufficient size to meet the housing, economic, employment, governmental, and cultural needs of the Tribe and its members. The unresolved land status of the Tribe has created long standing hardships for the Timbisha people and has made it difficult for the Tribe and the agencies that now manage the Homelands to achieve mutually beneficial relationships.

Second, the parties agreed that the recommendations concerning lands suitable for a reservation would be consistent with the shared responsibility of the Timbisha Shoshone Tribe and the National Park Service to protect and preserve the natural, cultural, and historic resources of Death Valley National Park for generations to come.

The negotiations were supplemented by related fieldwork. Tribal and Federal team members made joint site visits to National Park Service and Bureau of Land Management land parcels of interest to the Tribe. This activity was extremely important in relation to the issue of suitability as the site visits allowed the team to view the landscape in relation to the various uses proposed by the Tribe. Tribal representatives worked with Billy Garrett and Miki Suebe from the National Park Service Denver Service Center to identify tribal concerns and desired land uses. Mike Berch, a rally specialist from the Office of American Indian Trust in Denver participated in these field visits and at the negotiation meetings as an advisor to the Tribe. Federal team members sought information from their respective agencies on parcels of interest to the Tribe. Such information included land ownership, use restrictions, potentially conflicting use rights, and water availability.

This process of eliciting proposed tribal uses, conducting field visits, developing maps and GIS displays, researching possible circumstances, and holding further discussions made it possible

for both tribal and Federal representatives to understand the underlying concerns of all parties, and to develop recommendations that could accommodate the parties shared interests.

C. The Timbisha Shoshone Homelands

The traditional ancestral homelands of the Timbisha Shoshone Tribe encompasses a vast territory of up to 11 million acres in the region of Death Valley, California, and extends into Western Nevada.¹ The Homelands, shown on Map 1, is the geographic area within which the Tribe has a historical relationship with the land, and is the area within which the Tribe identified lands of particular historical, cultural, and economic interest which were then analyzed to determine if they were suitable to become trust lands.

The Homelands is almost entirely within the Mojave Desert, a land of "hills and mountains, plains and alluvial fans, plateaus, badlands, pediments, river washes, playas, and sand dunes,"² as well as springs, hot springs, creeks and waterfalls. Elevations range from 11,000 feet to below sea level while temperatures range from below zero on the mountain peaks to more than 120 degrees on the valley floors. Tribal knowledge and use of this vast region is described in Part 2.

D. Suitability Criteria Used in the Study Process

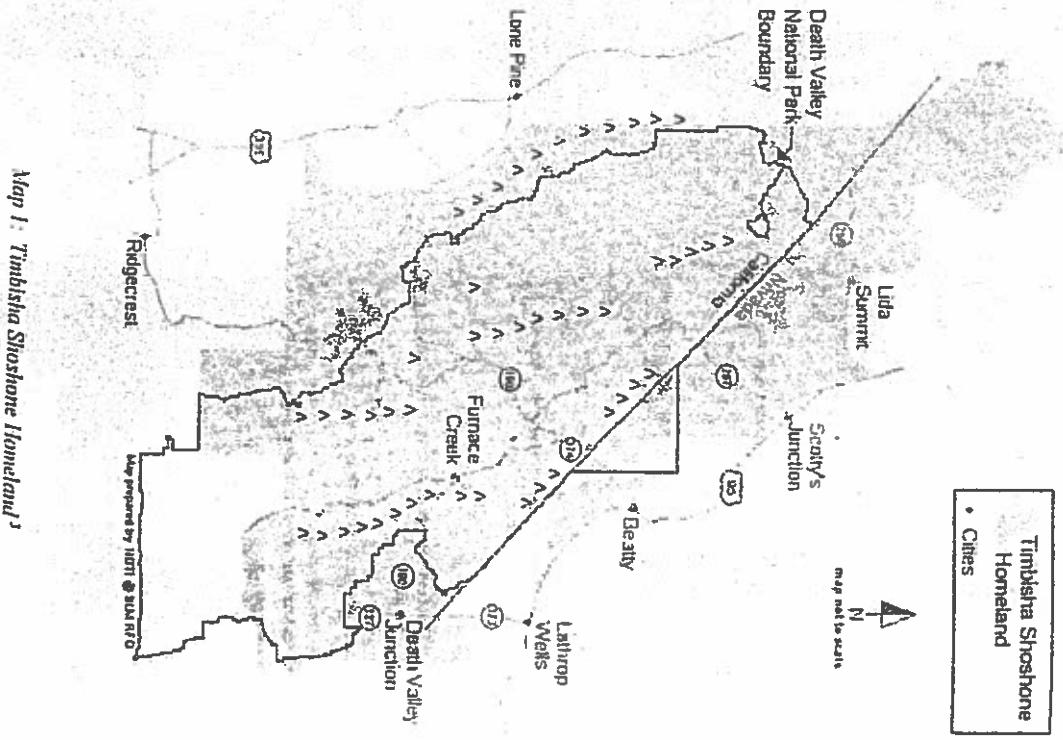
One of the first major steps in the negotiation process was to identify appropriate factors to determine whether lands within the Homelands were "suitable" for a reservation. The suitability criteria used in the study process are based on the set shared interests articulated by the negotiating team and listed in Appendix C.

The suitability criteria are as follows:

- ◆ the historical tribal relationship to the land;
- ◆ effects of climate and geography;
- ◆ availability of water and existence of natural resources;
- ◆ availability of infrastructure, such as roads, power lines, and other public services;
- ◆ the potential for sustainable tribal development;
- ◆ potential for housing;
- ◆ compatibility with existing land uses;
- ◆ special land use designations such as national park land, wilderness, critical habitat, and areas of critical environmental concerns;
- ◆ existing circumstances such as mining claims, leases, and rights-of-way; and,
- ◆ the Tribe's historical residential and cultural use areas.

¹ Catherine S. Fowler, et al., *Timbisha Shoshone Tribal Land Acquisition Program: Anthropological Data on the Twelve Study Areas*, Cultural Resources Consultants, Inc., Reno, Nevada. Prepared for the Timbisha Shoshone Tribe, 1995a.

² Peter Rowlands, et al., *The Mojave Desert in Reference Handbook on the Deserts of North America*, Gordon Bender, ed. Westport, Greenwood Press 1980



Map 1. Timbisha Shoshone Homeland³

³ This map is based upon the analysis of Catherine S. Fowler, et al., 1995a.

PART 2 -- HISTORICAL PERSPECTIVE AND THE NEED FOR A PERMANENT TRIBAL LAND BASE

A. Relationships of the Timbisha Shoshone People to the Death Valley Area

For millennia the Timbisha Shoshone have been a people inextricably tied to the beautiful but austere desert landscape. It has been their home and the source of their sustenance for countless generations. The Timbisha have an immense attachment to the land and a strong sense of responsibility for it. Their knowledge of the area and the life within it is unequalled.

Over the ages, the Timbisha Shoshone have devised ingenious methods for managing the natural resources of their Homeland. One such innovation was the Tribe's use of fire to control vegetation in marshes and to encourage seeds and other plants known to be fire followers. Rich harvests and lush plant growth resulted from the time and effort the people traditionally spent clearing and planting plants like pinyon, mesquite, and willow and transplanting and cultivating native domesticated plants, such as devil's claw, corn, beans, and squash. Tribal knowledge also included the location of water sources which they regularly cleaned and kept clear of debris to ensure a continued supply of clean, potable water for humans, animals, and migratory birds.⁴ Some springs are choked with vegetation because the Tribe has not been allowed to continue its traditional care-taking activities. The recommendations in this report provide opportunities for the Tribe and the National Park Service to work together to restore these important resources in the Park.

The Tribe is known for a basketry tradition that the Tribe very much wants to continue. Historically, baskets were made to collect seeds, carry pine cones and mesquite beans, and for parching and winnowing nuts and seeds. Baskets were made for boiling food and holding water, and for trapping birds. The provisions of this plan relating to traditional uses by the Tribe in certain areas inside and outside the Park support the Tribe's desire to reinvigorate this important tradition.

⁴ This section is substantially based on the ethnobotanical work of Catherine S. Fowler, particularly the report cited in Footnote 1, and Catherine S. Fowler, Molly Dufort, Mary Russo and the Historic Preservation Committee of the Timbisha Shoshone Tribe, *Residence without Reservation: Ethnographic Overview and Traditional Land Use Study, Timbisha Shoshone, Death Valley National Park, California, Phase 1 1995b*.

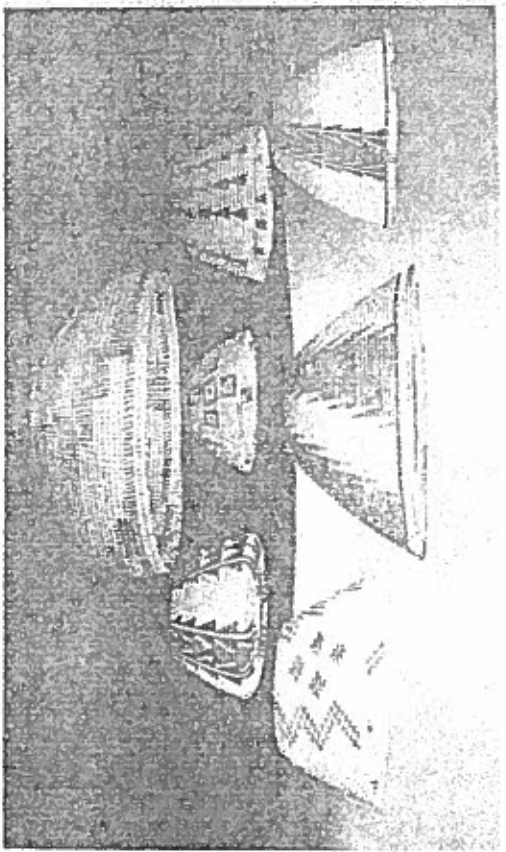


Illustration 1: Timbisha Shoshone Baskets

Although mining interests, homesteaders, and ranchers began moving into Death Valley in the 1850s, the Timbisha maintained their traditional life style until well into the 20th Century.

Traditionally, the Timbisha families would move into the mountains during the hot summer months and return to the mild valley floor in winter.

There were 150 people living here in clusters from the valley in the winter to the mountains in the summer. It was a community with people beyond the mountains and the valley. They are with the seasons. My auntie lived to be 105 years old. She told me, "We are rabbits. When it became warm we would eat springtime greens. When we would get a piece of animal fat, we would give it to grandma who needed fat. We are related to animals and we respect them." Pauline Esteves

B. History of Tribal Dislocation

The process of Timbisha dislocation began in the 1850's and accelerated through the 1870's and 1880's when homesteaders and ranchers moved into the area to supply mining camps and other settlements that served the miners. Dislocation increased even more dramatically in the century between the mid-1920s and 1936, the Tribe was forced to move four times within the area that is now Furnace Creek in Death Valley National Park.

In the 1920's, the Pacific Coast Borax Company built a large ranch house north of the present Post Office at Furnace Creek. At that time, tribal members lived near the ranch house. During this time, the Company experimented with the cultivation of grapes and citrus and brought cattle,

sheep, chickens, and cottonwoods into the area. Charwoman Pauline Esteves remembers the Company's ranch and when the date trees, now the most visually dominant tree at the oasis, were planted. In those days, many Timbisha members worked at the Ranch and on the 20-mule team wagons. They cultivated gardens of their own. In the late 1920s, the Tribe was directed to leave the ranch and move to what is now the Sunset Campground area. At this time, the families continued to live in traditional brush hames. Water was available from the Furnace Creek ditch.

(They were living in shelters made out of brush shelters. They used the arroyoweed a lot for their shelters...and in order to keep cool, what my mother told me...they'd get water from the creek because they were very close to the creek. And they would wet down the shelter, and then they would also throw water on their gravel floors, and they would put canvas over it and that way they would stay cool. Pauline Esteves

In the early 1930s, the Company directed the Tribe to leave the Sunset Campground area and to move to where the Visitor Center is located today. Although no water was available here, the Tribe complied with the Company's directive with the understanding that piped water would be provided. Tribal members constructed homes and planted gardens, but after only a few years, the Tribe was forced to move once more.

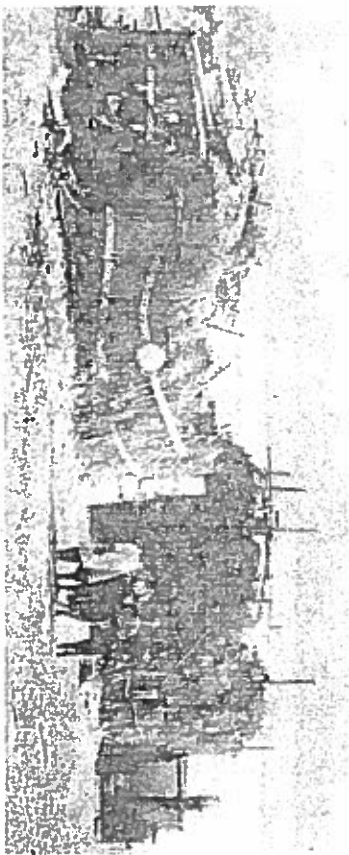


Illustration 2: Timbisha Shoshone summer hames at Furnace Creek, Death Valley National Park circa 1929. The young girl on the left is Pauline Esteves

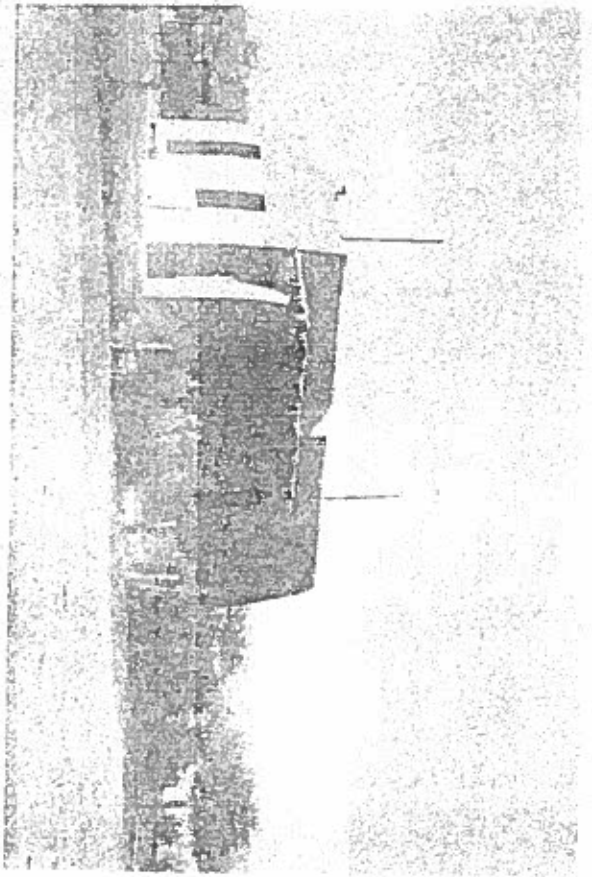


Illustration 3. Adobe home of Rowie Esteves, 1939

Another major disruption in the lives of Tribal members occurred in 1933 when President Herbert Hoover established Death Valley National Monument. The legislation creating the Monument was silent on the question of Timbisha Shoshone land tenure and no other accommodation for Tribal land was made. To address the Tribe's situation, the National Park Service and the Bureau of Indian Affairs entered into an agreement in 1936 to establish a tribal village site and to construct adobe residences. The residences were built by the Civilian Conservation Corps and several remain today. They are important historical structures that the Tribe plans to restore under this plan. The agreement also provided for a tribal gift shop and laundry business -- an early indication of the need for tribal income sources within the Park that were considered compatible with Park purposes at that time. As the houses were built, the Timbisha moved to their present location, south of Furnace Creek Ranch. At first, only some of the houses were finished and some of the families were forced to live in tents. The tribal settlement near the Visitors Center was destroyed.

Unable to continue hunting and caring for the land within the Monument, and with very limited economic opportunities from the National Park Service and the Fred Harvey (now AmFac) Corporation which supplies lodging, food, and other services to visitors to the Park, many families left Furnace Creek. Today, about 50 tribal members live in seven adobe residences and 11 mobile residences at Furnace Creek.

Over the years relationships between the Tribe and the National Park Service have suffered due

to the Tribe's lack of a secure land base. The Tribe has felt that the National Park Service did not want them in the Park. This has come to be understood by the Tribe as a National Park Service policy designed to drive them out.

Our people maintained an existence. Even through the days of the National Park Service trying to do everything in their power to force the people to leave their homelands. There was a Park policy to eliminate the local Indians. The adobe homes were washed down by high-power water hoses, or they were set on fire when the people left the Valley for the highlands during the summer. This stopped our people from moving to the mountains during the hot summers. The people were forced to remain on the Valley floor in the heat with no electricity, which finally arrived in the early 1970s. It has taken a lot for our people to sit across the table from the Federal government and work out an agreement for our continued existence within Death Valley National Park. It is especially difficult for our elders who have personal memories to draw on. That distrust has been there for many, many years. But now we must remember that we are two nations at the table, sharing words, ideas, and talking.
Barbara Durham

C. The Timbisha Today

While the Tribe has been formally organized since 1937, its present tribal government organization was established after the Tribe was federally recognized in 1983. The Tribal Council is made up of the Chair, Vice-Chair, Secretary-Treasurer and two additional Council members, elected by the General Council. The governing body of the Tribe is the General Council which consists of all tribal members 16 years of age or older. Any member of the Tribe who is 18 years of age is eligible to serve as a member of the Tribal Council.

The lack of secure land tenure has been a major barrier to the social and economic advancement of the Timbisha Shoshone Tribe. Of the 285 enrolled members, nearly 40% are unemployed, a rate more than three times that of Inyo County and four times higher than the State of California.³ More than 50% of the Tribe's population is in the active labor force, but almost 25% work only part time. More than 80% of the Tribe's households fall below the 1993 poverty threshold, which is \$13,950 for a U.S. family of four.⁴

Tribal members work in a variety of occupations ranging from nursing to unskilled labor. The Tribe employs some tribal members while others are employed by AmFac, the Park, and the United States Post Office. A number of young tribal members are attending colleges, including Notre Dame and the University of California at Los Angeles, and several have majored in wildlife management in the hope of finding employment in resource management positions in the Death Valley region.

³ Timbisha Shoshone Tribe "Tribal Needs Assessment and Socio-Economic Profile", Valle and Associates, Sacramento, California for California Indian Manpower Consortium, Inc. Sacramento California, March 1994

⁴ *ibid.*

We need a secure Homelands where we can rebuild our community and overcome the dispersing of the Tribe--a place where people can live, work, and play as a community. We need to create economic development, employment, and income potential for our people. We need a strategy for the Tribe to participate in the protection of the Park--the protection of wildlife, plants, medicinal plants and other vegetation. We need to establish an Indian presence in the Park, where we can tell the Tribe's story for Americans and for foreign visitors. We need a place to teach our people how to live correctly, to follow our traditions and ceremonies. The Tribe is not just thinking of today, but of lasting opportunities for many generations of people. Barbara Durham

We need housing for tribal members to move back. Some members have dropped their enrollment because there is no housing. It is too late for some of the people. Too late, if the Tribe cannot offer housing and economic development. Pauline Esteves

Families are the most important. When they move away, it's beyond normality--inherently beyond instincts. Family is everything. Separating families is not improving humanity. My mother, my nephews and niece need a place to identify with. This is urgent! We need trees, gardens, homes. Leroy "Spik" Jackson

The lack of a land base has prevented the Tribe from accessing Federal housing or other community development programs. As a result, many Timbisha tribal members have moved to other Indian communities like the Lone Pine Paiute-Shoshone Reservation, the Big Pine Paiute Tribal Reservation, and the Bishop Paiute Reservation in Owens Valley. Some tribal members live in Nevada in Beatty, Schurz, Reno and Las Vegas. The Tribe is committed to preserving its cultural and social integrity and sees the establishment of a land base as the key to its continued survival as a people. Timbisha tribal members seek the security that having land in trust status will provide.

The geographic dispersion of tribal members impedes communication and full participation in tribal government. This plan provides for a land base on which to build an efficient, effective, government center.

The Tribe is recognized in name only. The community building is built on sticks because we were not allowed to put a permanent foundation in. The new sign is the first thing to go into the ground. That was two years ago on Memorial Day (1996). Barbara Durham

Our Tribe is losing its culture. We are deprived of being a sovereign nation, deprived of keeping traditions, songs, stories, cultural practices and kinship above. With the creation of a Homelands for the Timbisha Tribe, we can rebuild our family ties, keep traditions alive, and keep our language intact. I am a full-blooded Timbisha Indian. My mother was born at Wildrose. My father came from the Beatty, Nevada, area. I grew up with them speaking the folks are here. I grew up traditionally. I maintain my home in Timbisha because my tribal development takes place inside and outside the Park. Barbara Durham

Approximately 57% of tribal members have no health insurance, or rely solely on the health services provided through the Indian Health Service Clinic, and/or Medicare, and/or Medi-Cal. Nearly 40% of tribal members do not receive dental care.⁷ Permanent land tenure will provide the Tribe the opportunity to establish health services in the community.

The recommended actions set forth in this report present an integrated strategy to address these and other tribal concerns through the establishment of a tribal land base suitable for housing, a center of tribal government, a health clinic, and opportunities for economic development. The potential for the development of a tribal museum/cultural center, and other appropriate economic activities will ensure a strong tribal presence within and outside the Park for the future.

D. Need for Tribal Land Base

Although the Tribe has lived in Death Valley for thousands of years, no lands were ever legally set aside for the Timbisha Shoshone. This situation is atypical as historically some accommodation for land rights were made for most tribes when aboriginal lands were acquired by the United States government. Nearly all Federally recognized tribes have land bases. Generally, this was done through a treaty of cession or by Executive Order. In more recent times, tribal lands have been provided through acquisition or by legislative transfer. However, only two Timbisha families received homestead allotments sometime around the turn of the century.

Since 1933, when the Executive Order establishing Death Valley National Monument was signed, the lack of permanent land tenure has been a source of continuing frustration for both the Tribe and the National Park Service. Although many attempts to resolve this issue have been made over the years, it has persisted for decades without a resolution satisfactory from either perspective. Options available under existing National Park Service authorities, such as granting special use permits or negotiating memoranda of agreement are inadequate substitutes for tribal trust status which provides permanence, security, and economic opportunity for the Tribe. Tribal land tenure will also clarify administrative responsibilities for the village area and provide a more appropriate framework for the division of responsibilities among the Tribe, the Park, and the Bureau of Indian Affairs.

Without trust lands, a tribe's access to Federal aid programs designed to benefit tribal communities is impeded, particularly with regard to housing assistance. Federal aid for basic tribal services is also limited. Unless the Tribe secures a land base of sufficient size to ensure sustainable development, its long term economic prognosis is dramatically diminished, as well as its social and cultural integrity. Many Federal services and programs available to Indian tribes through the Bureau of Indian Affairs are dependent upon the existence of tribal trust land. Consequently, even a long-term lease would not make the Tribe eligible for most Indian program funding. A new approach is required that meets the need of the Tribe for a Homelands within Death Valley National Park consistent with Park values and purposes and that also provides opportunities for tribal development outside the boundaries of the Park.

⁷ Ibid

Once the proposed lands are placed in trust for the Timbisha, a number of Federal programs and services can be made available to the Tribe and its members. Many Federal services and programs available to Indian tribes through the Bureau of Indian Affairs are dependent upon the existence of tribal trust land. Consequently, even a long-term lease would not make the Tribe eligible for most Indian program funding. A new approach is required that meets the need of the Tribe for a Homelands within Death Valley National Park consistent with Park values and purposes and that also provides opportunities for tribal development outside the boundaries of the Park.

PART 3 - SUITABILITY ANALYSIS AND RECOMMENDED ACTIONS

A. Introduction

The recommended actions outlined in this section represent the outcome of an analysis of various lands within the Timbisha Shoshone aboriginal homelands to determine whether they are suitable to be taken into trust for the Tribe based on the suitability criteria described above in Part 1.D. Taken together, these actions will provide a comprehensive integrated plan for a permanent land base for the Tribe.

Areas of particular historical, cultural and economic importance used by the Tribe both historically and well into recent times were identified and evaluated to determine their suitability as potential trust lands and/or for special tribal uses other than trust. Consideration included an assessment of the Tribe's present and future social and economic needs, tribal historical ties to the lands in relation to current land uses, conservation and preservation needs of the area, and potential resource constraints. Locations were selected in order to establish a foundation for a viable, self-sufficient tribal community within and outside Death Valley National Park given existing critical resources such as water.

All parcels recommended as trust lands are within the tribal Homelands and each is of particular historical and cultural importance to the Tribe. In some cases, the areas were once the homes and gardens of tribal members. Some areas contain burials; others are sacred sites. Still others were camp sites and areas where tribal members gathered and used important food resources such as mesquite, piñon nuts, spring greens, and cared for the springs and other water sources, and the land itself.

The geographic pattern of the areas recommended to be taken into trust reflects the historical Timbisha Shoshone settlement pattern of dispersed residences and seasonal use of particular areas within the broad Homelands. The parcels within the Park, as well as to the west, southeast, north, and northeast of the Park, are located in areas that have been documented historically as having been occupied and used by tribal members during the past century.

Our land is here. There were settlements west to Panamint Valley to Hunter Mountain to Milaronger Peak. It began in the Saline Valley. I was told by elders from Lida and Beatty, "Our hunters would travel to Timber Mountain and hunt the Big Horn Sheep." The places are all connected. There were protected places, places where the sheep did lambing. There were places that were taboo, where we stayed away from. Pauline Esteves

When we come home to Timbisha, and we come in from the West, as soon as we get near Centennial or near the Saline Valley trough, we feel we are home. When we come in from the North, as soon as we get to the Lida Mountains, we're home. From the East, when we come to 3,000 foot level, we're home. From the South, that would be the Harry Wade road leading to Sistronga Springs or even closer to Station, California. We have a big territory, and every inch of it is ours in a territorial sense. Barbara Durham

In Death Valley National Park, legislation is requested to transfer 300 acres at Furnace Creek (including a 25-acre non-development zone) to the Tribe in trust. The recommendations include an agreed upon level of development at Furnace Creek consistent with the availability and allocation of water and with Park purposes and values. The Tribe and the National Park Service agree that gaming within Death Valley National Park is inconsistent with tribal and Park purposes and values, and therefore, gaming will be prohibited within the Park. Legislation is also requested to designate approximately 3,000 acres, primarily in mesquite groves, adjacent to the tribal residential area at Furnace Creek, as an area of restricted use to be managed for tribal purposes, including traditional, environmentally sustainable, uses.

In the western side of the Park, legislation is requested to designate the Timbisha Shoshone Natural and Cultural Preservation Area to provide for nonexclusive tribal uses therein, also consistent with Park purposes and values. Existing laws, for example, the Wilderness Act, would be unaffected. There are no recommendations for trust land in this area. Tribal uses will also be agreed to in other areas of the Park using existing authorities.

The center of tribal activities will continue to be at Furnace Creek in Death Valley National Park with the opportunity for tribal members to live and work elsewhere on lands recommended to be transferred to the Tribe in trust.

Outside the boundaries of the Park, legislation is requested to transfer to the Tribe in trust a total of approximately 7,200 acres of land managed by the Bureau of Land Management in four separate parcels. In addition, legislation is requested to authorize and appropriate funds for the purchase of three private parcels previously owned by tribal members to be taken into trust. Tribal uses will also be recognized in agreements in other areas using existing authorities.

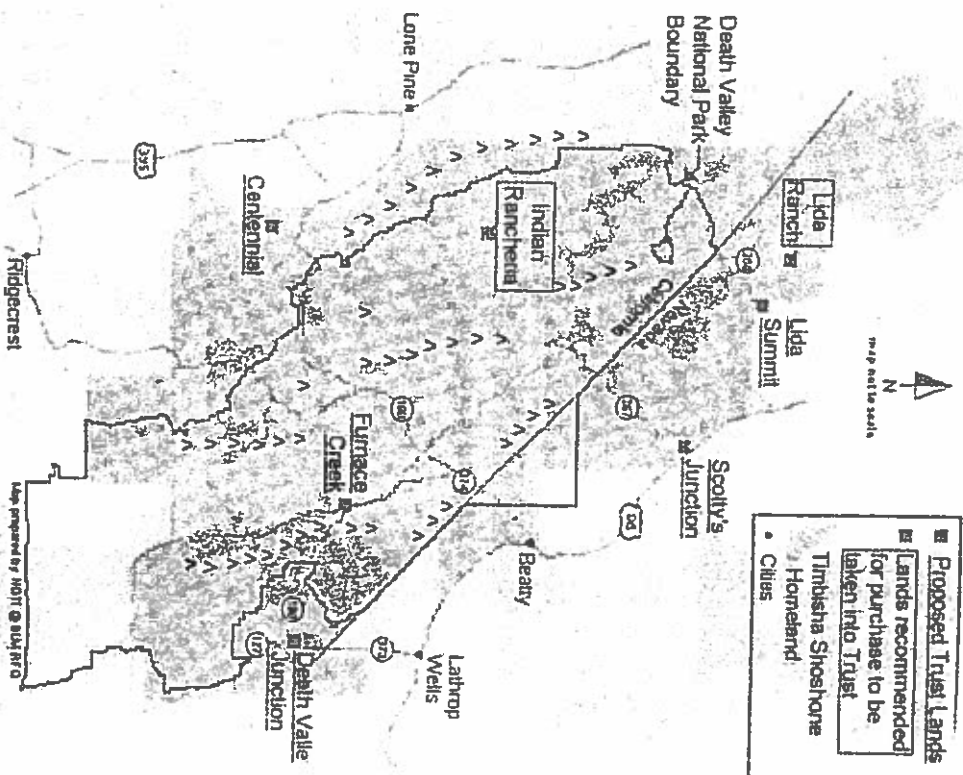
All of the parcels, once taken into trust, will constitute the initial reservation of a tribe acknowledged by the Secretary of the Interior under the federal acknowledgment process (see Appendix D)⁵. Therefore, while gaming will be specifically prohibited within the Park by the legislation enacting the recommendations in this report, the trust parcels outside the Park will not be subject to the Indian Gaming Regulatory Act's general prohibition of gaming on lands acquired by the Secretary in trust after October 17, 1988.

The parcels outside the Park are to be taken into trust for the primary purposes of residential, agricultural, and economic development. While the Tribe has no current plans to use these lands

⁵ Memorandum from Department of the Interior, Associate Solicitor, Division of Indian Affairs, March 17, 1999

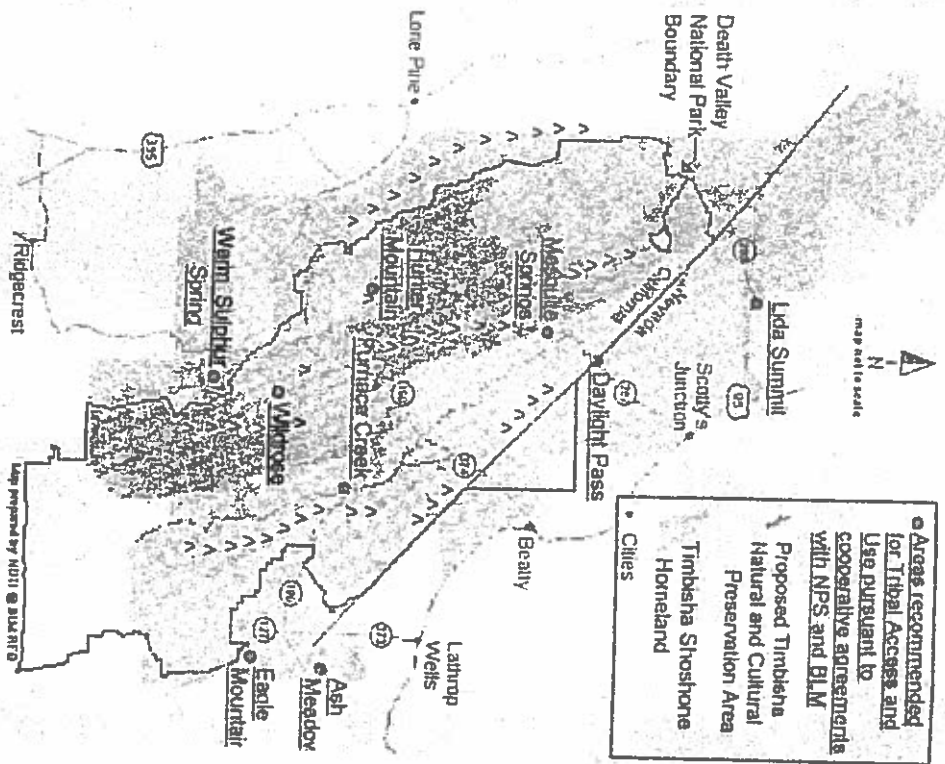
for gaming, class II gaming, commonly known as bingo, can occur on the land parcels recommended to be taken into trust outside the Park under the Indian Gaming Regulatory Act if the state within which the land parcels are located permits such gaming and the Tribe has a gaming ordinance approved by the National Indian Gaming Commission. Class III gaming, commonly known as casino gaming, can occur on these parcels only if (1) class III gaming is permitted by the state, (2) the Tribe has a gaming ordinance approved by the National Indian Gaming Commission, and (3) the Tribe and the governor of the state within which the parcel is located successfully negotiate a gaming compact.

All of these areas are shown on Maps 2 and 3. Each is discussed in further detail in the sections that follow.



Map 2. Lands recommended to be transferred in trust to the Tribe

Map 3: Lands recommended for tribal uses pursuant to cooperative agreements with the National Park Service and the Bureau of Land Management



H. Furnace Creek, Death Valley National Park

1. Suitability Analysis

Furnace Creek is located on the valley floor of central Death Valley and encompasses the tribal village, the privately owned inholding containing the Furnace Creek Ranch and Furnace Creek Inn, the Park Visitor Center, Texas Springs Campground, and a small airport. The area is bordered on the west by a large alluvial fan of about 3,000 acres of mesquite groves of great importance to the Tribe and the Park.

The Furnace Creek area is the cultural, political, and geographic heart of Timbisha Shoshone ancestral lands. The Timbisha Shoshone people have never left it. The area contains sacred sites and tribal burials. The settlement at Furnace Creek is where the current tribal government was formed. It is the place where the Tribe wants to build homes for its people, tribal offices to carry on tribal governance and business, and to develop visitor-related services to provide income and employment opportunities for its people. The Tribe and the agencies recognize that development at Furnace Creek must be limited and that additional development needs must be met outside the Park. The following recommended actions are designed to establish a foundation for a viable, self-sufficient tribal community within the Park given existing resources, particularly, the availability and allocation of water. Furnace Creek is also the place where the Tribe wants to carry on its traditions, particularly those associated with caring for the mesquite groves, and interpreting them, as appropriate, to the public.

Furnace Creek is the central place of our tribal culture. It is a reminder of the good days when our culture was still fully intact.

Furnace Creek is near the deposits of 'timbisha', the red mineral that gave its name to our people. The best mesquite groves are at Furnace Creek. The waters, which were always heated. It is said that the original Old Ones came from Furnace Creek, and carrying with them the knowledge about the waters, dispersed throughout the Homeland.

Furnace Creek has always been a traditional gathering place. I remember, as a little girl, when the people came in and did their dancing and singing. There was also a lot of langling and traditional gaming. I remember, when I was young, moving up from Furnace Creek into the Panamint with pack mules and horses for the summer months. Pauline Esteves

The tribal village area at Furnace Creek meets the suitability criteria developed by the negotiating team for land to be taken into trust. Tribal historical, cultural, traditional, and residential uses are well documented; the area is central to the future of the Tribe. Of all the parcels recommended to be taken into trust for the Tribe, Furnace Creek offers the most potential for cooperative activities to support and expand Park purposes, values, and needs. Furnace Creek provides the greatest potential for environmentally sensitive, sustainable, visitor-related, tribal development. The inholding at Furnace Creek has served the needs of visitors since the 1920s, before the Park was established. Roads, power lines, water (as described below) and other public services are available at Furnace Creek. The tribal development described below will continue

that historical tradition in the context of Timbisha culture and history. The contributions of the Timbisha Shoshone to the environment of the Park have never been fully appreciated or interpreted to the public. Under this plan, the Tribe, in cooperation with the Park, will provide visitors with a richer appreciation of the desert landscape of Death Valley, and how the Timbisha live as part of it, as they have for thousands of years.

The availability and allocation of water was a significant criteria in the suitability analysis. Water sources at Furnace Creek are Texas Springs, Travertine Springs and several undeveloped springs. Reliable, current information exists on existing and potential water use by the National Park Service, Antifac and the Tribe which was developed by the National Park Service and the Bureau of Reclamation in 1998 and 1999.⁹ That information indicates that water exists in adequate amounts but that unforeseen natural events may cause a temporary reduction in availability. The National Park Service and Antifac currently have a memorandum of understanding that guides cooperative action during these periods. The Tribe and the National Park Service will develop a similar agreement. In addition, all water users at Furnace Creek will jointly develop a water conservation strategy.

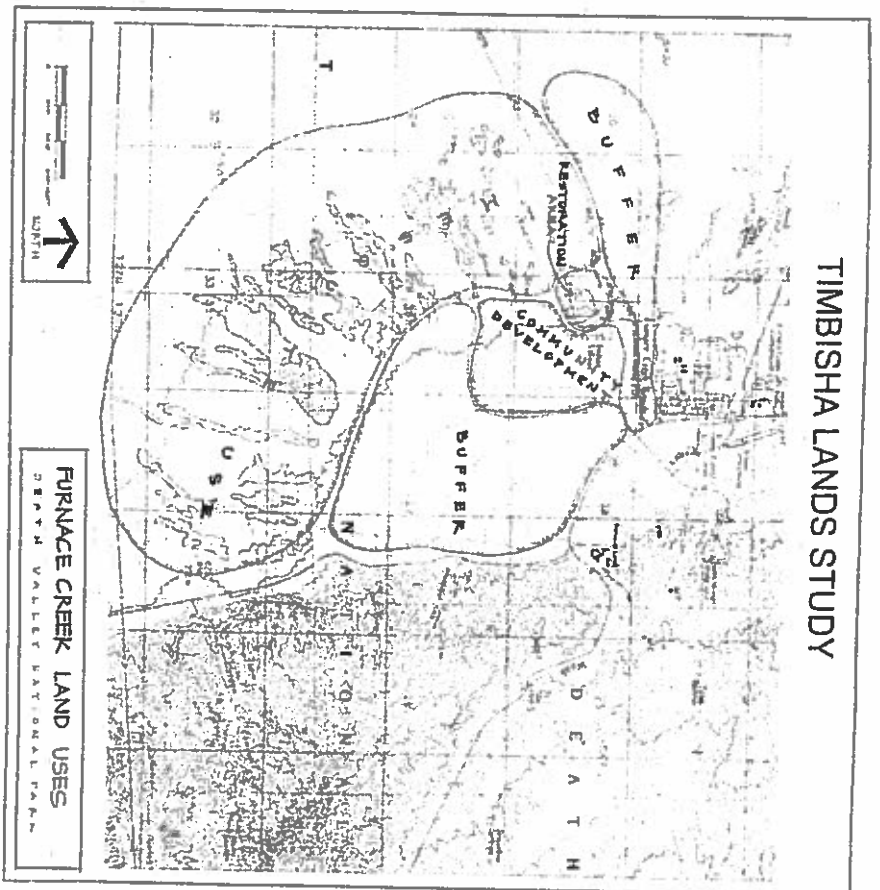
Current water use by the Tribe is approximately 40 acre feet per year. If development occurs as expected under the proposed plan, total water use is estimated to be approximately 92 acre feet per year. Because the proposed development will replace an antiquated, leaky and inefficient water system serving the Tribe, the proposed development will have a negligible impact on the total amount of water available at Furnace Creek.

2. Land Uses at Furnace Creek

Proposed tribal land uses at Furnace Creek are shown on Map 4. The map identifies four uses: community development, mesquite use, buffer, and restoration. A conceptual sketch of proposed tribal development is shown on Illustration 4.

⁹ Bellinger, Thomas R., *Estimated Present and Future Water Use for the Timbisha Shoshone Tribe, Furnace Creek Indian Village, Death Valley National Park, CA*, Bureau of Reclamation, Denver Service Center, Denver, CO, January 1999.

Wernli, William L., ed., *Hydrologist, Ground Water Resource Issues of Death Valley National Park Related to Timbisha Shoshone Proposed Reservation, Death Valley National Park* 1998



Map 4. Furnace Creek in Death Valley National Park showing proposed tribal use areas

b. Visitor-Related Non-Gaming Development

Tribal economic needs and aspirations were critical considerations in the discussions related to establishing a permanent land base for the Tribe in the Park. The potential for visitor-related tribal economic development has been recognized by both the Tribe and the Park since the 1930's, and the negotiating team articulated this potential at a very early point in the negotiations (see Appendix C). Following from this understanding, the negotiating team recognizes that a carefully controlled and sustainably designed level of development by the Tribe can be consistent with Park purposes and values. In addition, collaboration between the Park and the Tribe on development projects through the application of jointly established standards of size, impact, and design, can result in development that is in keeping with the desert environment and reflective of Timbisha Shoshone tribal history and values. Such development can provide the visitor with a heretofore unavailable experience that only the Timbisha Shoshone Tribe, as the original residents of the Park, can offer. Accordingly, the expanded tribal village area at Furnace Creek provides an ideal location for visitor-related tribal economic activity capable of providing income and year-round employment opportunities for tribal members.

The anticipated development would include a small-to-moderate sized, upscale desert inn with a Timbisha theme, a cultural museum and gift shop, and tribally guided hikes, lectures, and tours. The desert inn would not duplicate existing overnight accommodations at Furnace Creek and would be sustainably designed to ensure compatibility with Park values and purposes. Gaming would be prohibited, as the Tribe and the National Park Service agree that gaming is inconsistent with tribal and Park purposes and values. The inn will promote energy efficiency, water conservation, and low impact, environmentally sustainable, operations. As conceived, the inn would be of sufficient scope to be economically viable and would provide important skilled and unskilled jobs and career development opportunities for tribal members.

The following illustration, while conceptual only, gives a sense of the scale of the inn and how it could reflect Timbisha themes and the natural setting.

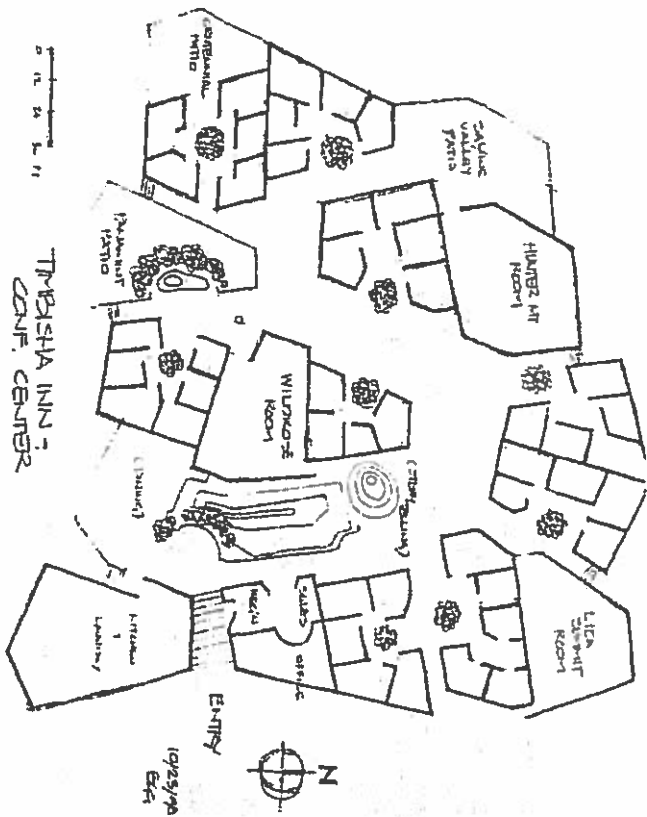


Illustration 5. Conceptual Sketch of the Timbisha Shoshone Desert Inn

c. Mesquite Use Area, Buffer Area, and Restoration Area

Mesquite Use Area

In addition to being the main residential and governmental center for the Tribe, the Furnace Creek area is central to preserving tribal traditional knowledge of the land, plants, and medicines. From earliest times, the Timbisha Shoshone people encouraged plant growth and harvested foods from this area. The mesquite stands near the village served as a major food source for the Timbisha people as the beans were known to be the sweetest in the area. Collecting mesquite, and knowing how to process it properly is a matter of tribal pride, and the Timbisha want that knowledge to continue. Under this plan the Tribe will be free to carry on its traditional resource management practices, particularly those associated with caring for the mesquite groves. The Tribe will also have authority to interpret the site, as appropriate, for the visiting public.

The Tribe is very concerned about the declining health of the mesquites which they attribute in part to a decreasing water supply due to the numbers of invasive salt cedar, or tamarisk, in the groves which compete with the mesquites for water. The trees also suffer from the inability of the Timbisha to care for them to promote their health by using traditional plant management techniques such as thinning, pruning, harvesting, and removing excess sand. Activities such as these will be reintroduced under this plan subject to a cooperative agreement between the Tribe and the National Park Service. Restoration of natural resources in general is consistent with Tribal and Park purposes and is a suitable use of this area.

Visitor use will be restricted, pursuant to the cooperative agreement, but there is a presumption of some public use subject to the conditions agreed upon by the Tribe and the Park. The Tribe has expressed interest in conducting cultural hikes, lectures and tours of the mesquite groves. Activities such as these are not only compatible with Park values, but will offer a new and enriching experience for Park visitors that the Tribe is uniquely suited to provide.

Buffer Area

The buffer area separates the tribal area from Park visitors and also serves to protect archeological sites. It will be an area restricted to visitors pursuant to a cooperative management agreement to be negotiated between the Tribe and the National Park Service. Use of this area as a buffer between the Tribal Village and the other developments at Furnace Creek is suitable as it separates Park visitors from tribal uses and activities unrelated to the Park, while affording tribal members some privacy and the ability to conduct community affairs without undue disruption from the public.

Restoration Area

The restoration area contains the historic adobe residences built in the 1930s. The Tribe wants to restore the adobe as part of their community development plans.

3. Recommended Action

a. Legislative Action

- ◆ Legislation authorizing establishment of the Timbisha Shoshone Community Development and Adobe Restoration area (a 300 acre trust parcel including a 25 acre non-development zone at the north end of the parcel), for community, residential, historic restoration, and visitor-related economic development, including requirements for jointly agreed upon standards for development that would require consistency with tribal and Park values, needs, and purposes. The Tribe would be granted a right-of-way for ingress and egress on Highway 190.
- ◆ Legislation providing for reserved water rights for tribal trust lands at Furnace Creek effective on the date legislation becomes law.
- ◆ Legislation authorizing establishment of the Buffer and the Mesquite Management Areas of approximately 3,000 acres, including authorization for restricting visitor use in these areas.

b. Departmental Action

- ◆ Complete transfer of land to the Tribe in trust upon legislative authorization.
- ◆ Expand and implement a water conservation strategy in cooperation with all water users at Furnace Creek.
- ◆ Negotiate and adopt jointly agreed upon development standards for the tribal trust parcel at Furnace Creek.
- ◆ Negotiate and enter into a cooperative agreement between the Tribe and the National Park Service providing for traditional, ecologically sustainable, tribal practices within the Mesquite Use Area.
- ◆ Negotiate and enter into a cooperative agreement between the Tribe and the National Park Service for management of the adobe restoration area in an environmentally sensitive manner to preserve the historic adobe and remove invasive stands of salt cedar.

C. Timbisha Shoshone Natural and Cultural Preservation Area

1. Suitability Analysis

The area to be identified as the Timbisha Shoshone Natural and Cultural Preservation Area is located primarily within the central western part of Death Valley National Park, but also includes some land administered by the Bureau of Land Management and two privately owned parcels. It is a very large area of mountain ranges, valleys, springs, hot springs, and other water sources. It includes portions of the Nelson Range, the Saline Valley, and portions of the Panamint Mountains including Wildrose Canyon. More than 95% of this area is designated Wilderness. All existing statutes and regulations will remain fully in effect. The Timbisha Shoshone Natural and Cultural Preservation Area is shown on Map 3.

This area of land is of utmost importance to the Tribe for historical, cultural, and religious reasons. Tribal members have lived in this area seasonally for generations and many are buried here. The stories, legends and songs of the Timbisha people refer to these lands as the sacred center of the earth. Under the proposed framework, the Tribe will be free to visit and camp in this area as well as to engage in traditional practices pursuant to a joint management plan agreed to by the Tribe, the National Park Service, and the Bureau of Land Management which will be consistent with existing laws and regulations established for the management and stewardship of the Park.

The Tribe, the National Park Service, and the Bureau of Land Management see the designation of the Natural and Cultural Area as a way of recognizing the common interests of the agencies and the Tribe in conserving and protecting this area. Designating the area and authorizing traditional uses by the Tribe within it provides a strong foundation for cooperative management activities.

The area is suitable for such designation because of the Tribe's strong historical relationship to the land and their historical and cultural uses of the area. The designation will take into account and complement existing land uses and special land use designations such as Wilderness, Critical Habitat, and Areas of Critical Environmental Concern.

Wildrose is vital to our background and to who we are. Members were born there and died there. Laughier and tears filled the air with harmony. Everything was simple then. It was a beautiful place, a place with many memories. The mountain is sacred. When we go there we pray for acceptance and to be worthy to take pine-nuts, ven, bright sheep or deer from the mountain. Like a church, it is a sacred place. You give thanks for what the mountain can provide. It has a spirit, and if you don't go in humble and ask for acceptance, danger can come in many forms. It is to be respected and not taken lightly. Barbara Durham

While traditional practices, particularly with regard to plant management and use, have been studied by ethnobotanists and other anthropologists, many of these activities have not been widely practiced for many years. The Tribe, National Park Service and Bureau of Land Management and are interested in studying the effects of traditional Timbisha natural resource management in this area. It is anticipated that the agencies and the Tribe will work together to restore the integrity of the springs and enhance the wildlife and vegetation with positive environmental effects.

a. Hunter Mountain

Hunter Mountain is located in the Nelson Range in the west central part of the Park. This mountainous area, reaching over 7,400 feet in elevation, is an important hunting area for big-horn mountain sheep. It was a valuable hunting area for sheep and deer until it was included within the boundaries of the Park. Hunter Mountain contains many sources of water and tribal members know of more than a hundred springs and creeks located there. There are piñon camps and summer living areas on Hunter Mountain where tribal members had cultivated gardens of melons, beans and corn. Many plants used by the Tribe for medicinal purposes grow on Hunter Mountain.

The area is suitable for special tribal uses like traditional use camps because of the strong historical relationship of the Tribe to the area and their historical and cultural use of the area. Ground and surface water sources are available in sufficient quality and quantity to support traditional use camps. Water sources at Hunter Mountain are particularly significant to the Tribe as spiritual beings reside there who influence the well being of the land and the Timbisha people. Anticipated traditional uses include seasonal camping, harvesting of piñon nuts and plants for medicinal purposes but not the taking of wildlife in the park.

b. Saline Valley Springs and the Indian Rancharia in Saline Valley

Saline Valley Springs are located in the Saline Valley in the northwestern part of Death Valley National Park. The hot springs are very important to the Tribe and were used for healing and medicinal and spiritual purposes. The Tribe no longer uses the springs because current visitor

use is incompatible with the Tribal values associated with the springs.

This area is suitable for special tribal uses because of the historic and cultural use of the area and the historical relationship of the Tribe to the area. The Tribe and the National Park Service want to establish a greater tribal presence at the springs and will develop and conduct a pilot demonstration project regarding management of the springs.

Historically, there were three tribal winter villages near the springs. West of the warm springs and at the edge of the Park, are also two privately owned parcels of 80 and 40 acres. Known as the Indian Rancharia, that were once homesteaded allotments to tribal members around the turn of the century. These parcels, once owned by Timbisha families, are historically very important to the Tribe. This report recommends legislative authorization for the purchase of these parcels to be held in trust for the Tribe.

c. Wildrose

Wildrose Canyon is located in the west central part of Death Valley National Park at an elevation of about 4,500 feet. Wildrose was an important piñon gathering area and the site of established summer and winter camps used by tribal members from Panamint Valley, Saline Valley, Hunter Mountain, Beatty, as well as Furnace Creek. Until the 1940s, several families from Furnace Creek used Wildrose as their summer-to-fall camp, coming here each June after the mesquite harvest and staying through the fall for the piñon nut harvest.

The Tribe wants to re-establish a tribal presence at Wildrose. This report recommends a tribal resource management field office, garage, and storage area, all within the area of the existing ranger station, and for traditional use camps at locations to be agreed to by the Tribe and the Park. Anticipated traditional uses include seasonal camping, harvesting of piñon nuts and plants for medicinal purposes but not the taking of wildlife in the park. These uses are suitable given the tribal historical and cultural uses of the area. Water is sufficient for the field office at Wildrose. Anticipated traditional uses include seasonal camping, harvesting of piñon nuts and plants for medicinal purposes, but not the taking of wildlife in the Park.

d. Mesquite Springs and Daylight Pass

Mesquite Springs is located in northeastern part of the Park. It was a winter village site and was important for wintering, food plants, and mesquite. Daylight Pass, is on a main route into the Park from the northwest from the town of Beatty, Nevada. The pass is more than 4,000 feet in elevation, and provides spectacular views of Death Valley. Not surprisingly, Daylight Pass was the route tribal members from the Beatty area used to enter Death Valley to collect piñon nuts or salt. The Pass was, and continues to be, valued for the food greens that grew along the trail. A regular overnight camp was located along the route near Hole-in-Rock Spring. The Tribe is interested in low-impact economic development, perhaps an information booth, at either Daylight Pass or Mesquite Springs.

Restoration of natural and biological resources is consistent with the purposes and values of the Park and the Tribe, and is suitable in these locations. Small business opportunities may be

available pursuant to business permits at Daylight Pass and Mesquite Springs. Such visitor related services are suitable in the Park.

2. Recommended Action

a. Legislative Action

- ◆ Legislation authorizing designation of the Timbisha Shoshone Natural and Cultural Preservation Area for low impact, ecologically sustainable, traditional practices, uses and activities by the Timbisha Shoshone Tribe pursuant to a jointly established management plan agreed upon by the Tribe, the National Park Service, and the Bureau of Land Management
- ◆ Legislation authorizing and directing the establishment and maintenance, in perpetuity, of a tribal resource management field office, garage and storage area at Wildrose, all in the vicinity of the existing ranger station, and for traditional use camps at Wildrose and Hunter Mountain in locations agreed to by the Tribe and the National Park Service.
- ◆ Legislation authorizing funds for the acquisition of the Indian rancheria site in the Saline Valley to be transferred to the Tribe to be held in trust.

b. Departmental Action

- ◆ Negotiate and enter into a joint management plan agreed upon by the Tribe, the National Park Service and the Bureau of Land Management. The joint management plan will include provisions for tribal facilities at Wildrose and for traditional camps at Wildrose and Hunter Mountain, two areas of special significance to the Tribe.
- ◆ Delineate the area on all future National Park Service maps.
- ◆ Develop and conduct a joint tribal-National Park Service pilot demonstration project regarding management of the Saline Valley Springs.
- ◆ Complete transfer of rancheria to the Tribe in trust upon legislative authorization, appropriation, and purchase.
- ◆ Negotiate and enter into a cooperative agreement between the Tribe and the National Park Service ensuring tribal access and use of the Mesquite Springs, Daylight Pass, and Travertine Springs and to allow the Tribe to participate in resource protection in the area.

D. Death Valley Junction, California

1. Suitability Analysis

Death Valley Junction is located in Inyo County, California, at about 2,000 feet in elevation in open saltbush scrub habitat. The parcel lies on the eastern edge of an alluvial fan sloping gently to the east. It is at the junction of highways 127 and 199, the latter being a main entrance road into the Park. The parcel, shown on Map 5, will be used for economic development and residences. The parcel is suitable to be taken into trust based on the historical tribal relationship to the land, the availability of water and infrastructure, the potential for housing and economic development, and the absence of significant encumbrances.

Tribal members traveled through what is now Death Valley Junction on their way to camps, residences, and gardens near the springs at Ash Meadows National Wildlife Refuge.

The Death Valley Junction area is primarily served by ground water. The water quality in the area is marginal for household use and would require treatment. It is estimated that between 10- to 20-acre feet could be withdrawn from this area with only a localized effect. This amount could supply several residences and small businesses. State water authorities will be consulted in determining issues of water allocation and season of use.



Map 6. Land at Centennial, California, recommended to be transferred to the Tribe in trust.

The Centennial parcel was located to avoid state land, mining claims, a Bureau of Land Management Wilderness area, and a withdrawal for the protection of watershed important to the City of Los Angeles. The parcel is within a cattle grazing allotment and within the Centennial Wild Horse Herd Management Area.

Local water supplies consist of ground and surface water. A potential source of surface water is Lower Centennial Spring and Black Rock Spring. Water right holdings exist on both springs totaling 2.97 acft./year. If a portion or all of these rights could be acquired, several residences with small gardens could be developed. The water quality may be marginal and could require treatment for home use. Ground water resources in the area are generally not well known. State water authorities would be consulted in determining issues of water allocation and season of use. A cooperative effort of the Bureau of Reclamation, Bureau of Indian Affairs, and the Bureau of Land Management is underway to sink an exploratory well in the area to better determine the viability of the Centennial parcel for the Tribe's intended use. This work is expected to be completed within the next several months.

The Bureau of Land Management supports a transfer of a parcel into trust in the Centennial area if an adequate source of groundwater is found to support the Tribe's proposal to locate a limited number of residences there. The California Desert Conservation Area Plan identifies this parcel to be retained by the Bureau of Land Management. However, the Bureau of Land Management believes pending the results of the exploratory drilling, and based on its analysis of current uses, land designations, resource values and effects, that this parcel is suitable for legislative transfer to the Timbisha Shoshone Tribe.

2. Recommended Action

a. Legislative Action

- ◆ Legislation authorizing transfer of approximately 640 acres, one section in size, in trust to the Tribe in the area of Black Rock Springs.
- ◆ Legislation for authorization and appropriation for potential purchase of private surface water rights.

b. Departmental Action

- ◆ Complete transfer of land to the Tribe in trust upon legislative authorization.

F. Eagle Mountain and Warm Sulphur Springs, California

1. Suitability Analysis

Eagle Mountain is a prominent limestone mass rising several hundred feet from the valley floor. Situated five miles southeast of Death Valley Junction, Eagle Mountain contains a variety of vegetative communities. It is bounded on the west by Highway 127 and is adjacent to the Amargosa River drainage. Warm Sulphur Springs is located below 2,000 feet in elevation in the

Panamint Valley. It has been designated an Area of Critical Concern to protect the desert marsh habitat which includes the marsh and the surrounding mesquite bosques.

These areas shown on Map 3, are within the tribal ancestral homelands and are important to the Tribe as they contain sacred sites, springs, and mesquite groves. The Tribe would like to enter into a cooperative agreement with the Bureau of Land Management to allow tribal access and use of the area, and to allow the Tribe to participate in resource protection, particularly with regard to Warm Sulphur Springs. The Bureau of Land Management is interested in working with the Tribe to restore the Springs to its proper functioning condition.

This kind of cooperative land use is suitable in these areas because of the historical tribal relationship to the area and because the Tribe and the Bureau of Land Management share mutual interests in protecting and conserving these lands.

2. Recommended Action

- a. Legislative Action
 - ◆ None required
- b. Departmental Action
 - ◆ Negotiate and enter into a cooperative agreement between the Tribe and the Bureau of Land Management to ensure Tribal access and use of these areas and to allow the Tribe to participate in resource protection.

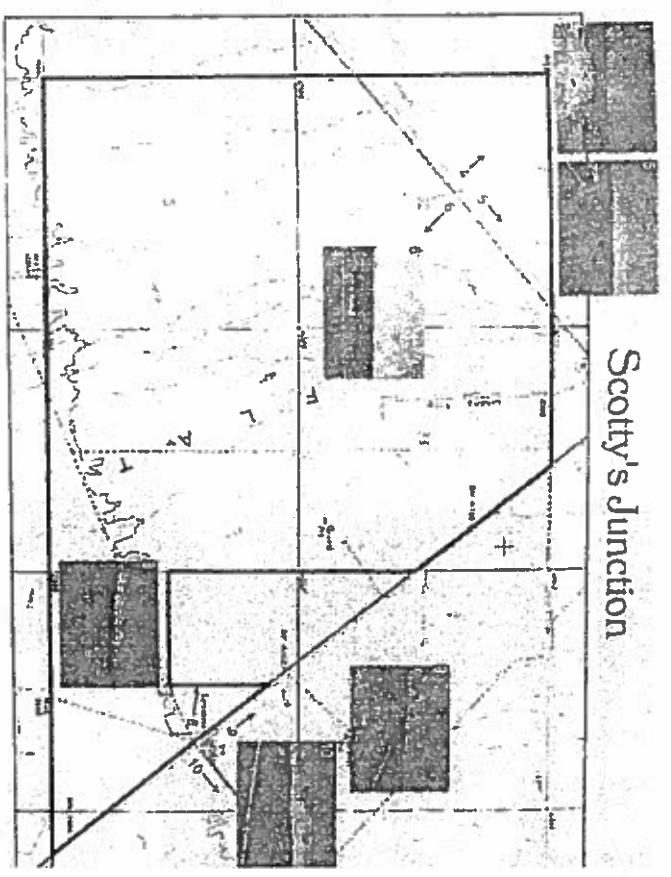
G. Scotty's Junction, Nevada

1. Suitability Analysis

Scotty's Junction is located east of the Park in Nye County, Nevada, on the junction of Highways 95 and 267 which is the access road to northern Death Valley. The land parcel, shown on Map 7, begins west of Highway 95. It is in the Sarcobatus flat valley bottom, and the terrain is relatively flat with low lying hot desert shrubs. There are no mining claims on the parcel. This land will be used for residences and economic development.

The parcel is suitable to be taken into trust based on the historical tribal relationship to the land, the potential availability of water and infrastructure, the potential for housing and economic development, and the absence of significant encumbrances. The area is currently listed as available for disposal in the Bureau of Land Management resource management plan.

This area is within the Tribe's Homeland and several tribal families lived there. Tribal members hunted for bighorn sheep until the 1940's and the area contains important lambing areas. Deer were also hunted.



Map 7. Land at Scotty's Junction, Nevada, recommended to be transferred to the Tribe in trust.

Scotty's Junction is supplied only by ground water. The ground water in the area is contained in a valley fill aquifer 200 to 300 feet below the surface. The annual yield in the valley in which Scotty's Junction is located is about 3 (M) acre feet with an annual discharge of about 5 acre feet per acre. Current water use in the area is between 1,200 and 2,000 acre feet. This leaves approximately 1,000 acre feet per year available on a valley-wide basis.

It is estimated that there is enough water to support several residences and small businesses. Agricultural use would further limit available water for other purposes.

2. Recommended Action

a. Legislative Action

- ◆ Legislation authorizing the transfer of approximately 2,800 acres from the Bureau of Land Management to the Tribe to be held in trust.

b. Departmental Action

- ◆ Complete transfer of land to the Tribe in trust upon legislative authorization.

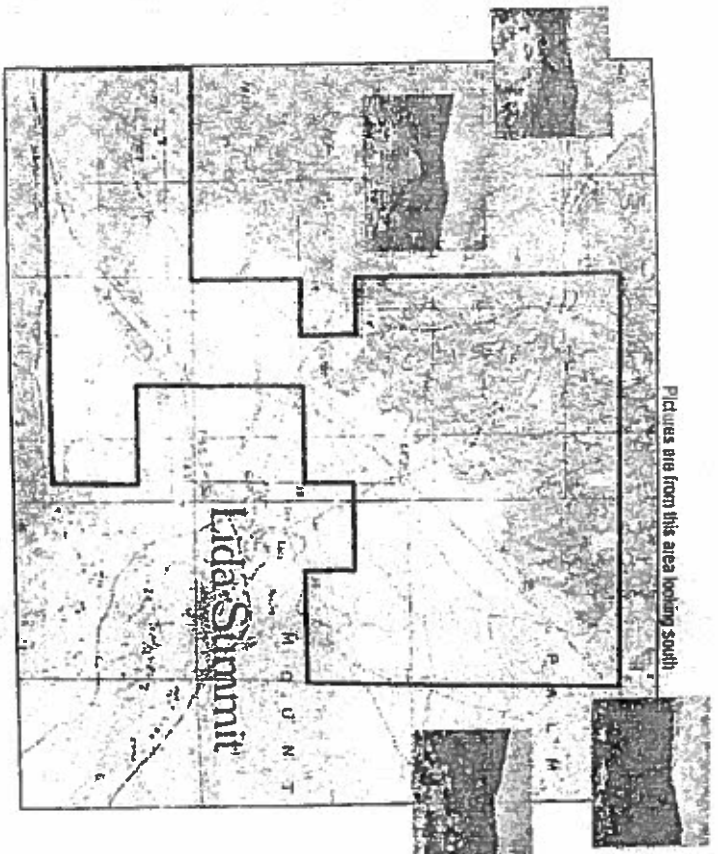
II. Lida, Nevada — Tribal Community Parcel

1. Suitability Analysis

This parcel, shown on Map 8, is located north of Death Valley National Park in Esmeralda County, Nevada and lies on the eastern slope of the Palmetto Mountains. The terrain varies from gradual to steep and rugged slopes. The parcel is at the interface of the hot desert shrub and piñon-juniper vegetation communities with about a equal mixture of each. The parcel is adjacent to the historic town of Lida which continues to have a few residents. Activities in the area include modest ranching and mining. The parcel is within a grazing allotment. However, the grazing permit has expired. Public utilities are limited to electricity.

This area has been used continuously by the Tribe since at least the early 19th century, and continues to be used for hunting, harvesting pine nuts, and ceremonies. At least five traditional villages were located in this area which is also the birthplace and burial area of relatives and ancestors. There are at least four springs known to tribal members who in the past had gardens and raised cattle in the area.

This area is suitable to be taken into trust because of the continuous tribal historical relationship to the area and the unbroken pattern of residential and cultural use. The Bureau of Land Management resource management plan identifies this parcel as suitable for disposal.



Map 8: Land at Lida, Nevada, recommended to be transferred to the Tribe in trust.

This land will be used for residences and for economic development. Ground water is potentially available. Legislation is requested for authorization and appropriation for purchase of surface water rights. The Lida area is supplied by both surface and ground water. Surface supplies consist of several springs and the ground water is supplied by an alluvial fill aquifer primarily recharged by local precipitation. Annual recharge in the area is estimated to be 150 acre/feet. However, local yield may only amount to about 30 acre/feet. Water quality is generally good. It is estimated that there is enough water to supply several residences and small businesses.

The Lida area is very important to the Tribe. The significance is in the sacredness of the Mountain itself and the surrounding area. Families still gather for ceremony, prayers, and in give thanks for life. Members of the Tribe lived in the area and worked in the mines. Certain areas are known for a family that used to live there. Members were buried at a burial site in Lida. Today, members still visit the area to harvest piñon nuts, gather medicinal plants, and to hunt game. Barbara Durham

2. Recommended Action

a. Legislative Action

- ◆ Legislation authorizing the transfer of approximately 2,800 acres in trust to the Tribe.

b. Departmental Action

- ◆ Complete transfer of land to the Tribe in trust upon legislative authorization

1. Lida, Nevada—Tribal Use Area

1. Suitability Analysis

This area covers a large part of the Pahreto Mountains and consists largely of mixed piñon and juniper stands. Surface water include numerous springs and streams which vary from intermittent to perennial. Macgruder Mountain, which anchors the southern portion of the area, is a well used recreational area and also supports mining and ranching. Hunting for upland game birds, deer, and mountain lions is a popular activity, as is harvesting firewood and cutting Christmas trees.

This area, shown on Map 3, is within the Tribe's ancestral lands and is important to the Tribe as it contains burials, springs, hunting areas and piñon. The Tribe would like to enter into a cooperative management agreement with the Bureau of Land Management to ensure tribal access and use of the area and to allow the Tribe to participate in resource protection in the area. Examples of resource protection activities include clearing springs to make water more available to wildlife, educating non-tribal piñon nut collectors about how to harvest pine nuts without damaging piñon pine trees, protection of burial sites, and developing a cooperative piñon pine management plan with the Bureau of Land Management.

2. Recommended Action

a. Legislative Action

- ◆ None needed

b. Departmental Action

- ◆ Negotiate and enter into a cooperative agreement between the Tribe and the Bureau of Land Management ensuring tribal access and use of the area and to allow the Tribe to participate in resource protection activities in the area.

1. Lida Ranch, Lida, Nevada

1. Suitability Analysis

The Lida Ranch was originally developed by a Timbisha family who gardened and grew hay for their horses and cattle. There was ample water in springs nearby where other Timbisha families lived. The springs were an important site for tribal gatherings related to ceremonial activities before and after the pine nut harvest. The Timbisha feel that they were unjustly driven from this area by non-Indian settlers and that the area is really theirs historically and culturally despite its current ownership.

We believe that the land and water are really ours. It is the Tribe's wish to protect this area, particularly the quality of water and the burial sites of our people. The springs have been polluted from waste that the miners have allowed to flow into the springs. Water is very important for the migration of birds and wildlife. Barbara Durham

It is also an area critical to the future of the Tribe as it has the most potential for tribal residences and economic development outside Furnace Creek in the Park. Purchase of the Ranch for the Tribe will relieve the pressure for additional development in the Park and provide economic development opportunities for the tribe outside the context of the Park which is solely focused on conservation and visitor services.

We look at the Lida area for its potential for residences and economic development. The Lida Ranch is another site in addition to Furnace Creek for homes and businesses, relieving pressure on the Park. This is an alternative to being in the Park. Pauline Esteves

This land, shown on Map 9, will be used for residences, agriculture, and perhaps a tribal retreat.

2. Recommended Action

a. Legislative Action

- ◆ Legislation authorizing the purchase of the 2,430 acre Lida Ranch to be taken into trust for the Tribe and purchase of appurtenant water rights for the Tribe.

h. Departmental Action

- ◆ Complete transfer of land to the Tribe in trust upon legislative authorization, appropriation, and purchase.

K. Ash Meadows National Wildlife Refuge, Nevada – Cooperative Activities

1. Suitability Analysis

Ash Meadows National Wildlife Refuge, established in 1987, is located slightly north of the California - Nevada border off Highway 373. This desert oasis has a great diversity of species and is critically important to several endangered species, including the Ash Meadows pup fish.

The Ash Meadows area serves as the main discharge point for the underlying carbonate rock aquifer lying to the northeast. Approximately 40 springs discharge in the area supplying Ash Meadows National Wildlife Refuge and Devils Hole pool which is part of Death Valley National Park. A court-mandated pool level must be maintained in Devils Hole. It is recommended that no water development take place in this area due to the potential impact on flow to the local springs, the Refuge, and to the pool level at Devils Hole.

This area, shown on Map 3, is within the Tribe's ancestral lands and is important to the Tribe as it contains burials, springs, and was the site of several villages and was an important gardening area. The Tribe would like to enter into a cooperative management agreement or other agreement with the Fish and Wildlife Service to ensure tribal access and compatible use of the area and to allow the Tribe to participate in cultural resource protection in the area.

2. Recommended Action

a. Legislative Action

- ◆ None needed

b. Departmental Action

- ◆ Negotiate and enter into a cooperative management agreement between the Tribe and the Fish and Wildlife Service to ensure tribal access and use of the area and to allow the Tribe to participate in resource protection in the area.

L. Other Agreements and Special Arrangements

1. Suitability Analysis

The recommended actions described in this section complement and reinforce the recommendations in other sections relating to an increased tribal presence in its ancestral homeland. All are suitable activities as they support the recognition of tribal contributions to the

history, ecology, and culture of the region, tribal employment in the Park, and funding support for Park-related tribal cultural enhancement projects.

2. Recommended Action

a. Legislative Action

- ◆ Legislation amending the purposes section of the Death Valley National Park enabling legislation to: (a) recognize the contributions of the Timbisha Shoshone Tribe to the history, ecology, and culture of Death Valley National Park and other portions of their ancestral homeland; (b) recognize that the continued presence of the Tribe in the Park and other parts of its ancestral homeland benefits the Park and the American people; and, (c) specify that traditional use of the Park by the Tribe is an official Park purpose.

- ◆ Legislation authorizing preferential hiring for tribal members in the Park.

b. Departmental Action

- ◆ Authorize use of Park fees to fund Park-related tribal activities and tribal cultural enhancement projects.
- ◆ Submit Park base budget increase proposal to fund Park-related tribal activities and tribal cultural enhancement projects.
- ◆ Submit Bureau of Indian Affairs base budget increase proposal to provide administrative services to newly established trust lands.
- ◆ Design and place new signs identifying the Timbisha Shoshone Homeland at appropriate locations in consultation with the Tribe.
- ◆ Support tribal requests for funding from other sources.
- ◆ Establish a presumption that pilot projects, if successful, will lead to long-term agreements and be incorporated into Park management plans.

PART 4 - CONCLUSION

Taken together, this report sets out sets out an integrated, comprehensive plan that reflects highest values of our nation. As a result of this plan, the Timbisha Shoshone Tribe will have received a long overdue measure of justice, and Death Valley National Park will more fully reflect its long and dignified human history.

As these recommendations are carried out, the Tribe can finally return to portions of their homeland on which they can build viable communities today and in the future. The parcel recommended for trust land at Furnace Creek is critical to the future of the Tribe as it is the current home of tribal members and has the potential for the modest development described above. However, the Tribe and the Park recognize that development opportunities are severely limited inside the Park and will be subject to standards consistent with Park values. It is clear that additional opportunities must be provided to the Tribe on trust parcels outside the Park. Of the lands identified as suitable for a reservation outside the Park, the parcel with most potential for future tribal development is a privately owned ranch in Lida, Nevada. This parcel has sufficient water and access to infrastructure to sustain a second Timbisha community outside the Park once the agreed upon the level of development at Furnace Creek is reached. The four other parcels, now managed by the Bureau of Land Management, are very important to the Tribe and will serve future tribal needs, but are more remote with less access to infrastructure at present.

As the negotiation process to date has created a solid working relationship based on trust, so too does this recommended plan provide the foundation for productive, collaborative relationships among governments and neighbors in the future. This emerging partnership can only further enrich our American heritage.

APPENDIX A

Timbisha Shoshone-Department of the Interior Negotiating Teams

Tribal Negotiating Team

Pauline Esteves, Timbisha Shoshone Tribal Chairperson
Barbara Durham, Timbisha Shoshone Tribal Administrator
Lenny "Spike" Jackson, Timbisha Shoshone Tribal Vice Chairman
Grace Goad, Timbisha Shoshone Tribal Secretary-Treasurer
Dorothy Altner, Tribal Attorney, California Indian Legal Services
Steven Haberfeld, Tribal Consultant and Advisor, Indian Dispute Resolution Services, Inc.

Federal Negotiating Team

Karen Atkinson, Counselor to Assistant Secretary for Fish, Wildlife, and Parks
Elizabeth Lohat Homer, Director, Office of American Indian Trust, Bureau of Indian Affairs
John Reynolds, National Park Service, Director, Pacific West Region
Richard Martin, National Park Service, Superintendent, Death Valley National Park
Patricia Parker, National Park Service, Chief, American Indian Liaison Office
Ron Hunsinger, Field Station Manager, Bureau of Land Management, Tonopah Office
Greg Thomssen, Resources Staff Chief, Bureau of Land Management, Ridgecrest Office
Dong Collins, Bureau of Indian Affairs, Self-Determination Officer, Central California Agency
James Bradford, Bureau of Indian Affairs, Realty Officer, Central California Agency
Thomas Bellingier, Hydrologist, Bureau of Reclamation, Denver Technical Service Center

Facilitator

Charles Wilkinson, Moses Laszly Professor of Law, University of Colorado Law School

APPENDIX B

Timbisha Shoshone Tribe and U.S. Government
Land Base Negotiation Meeting
Death Valley

Ground Rules

PREAMBLE:

The Timbisha Shoshone study provisions of the California Desert Protection Act and related issues involve critical concerns of the Timbisha Shoshone Nation and the United States and require bilateral, government-to-government negotiations between the two sovereigns. A special political relationship, including a trust obligation, exists between the Timbisha Shoshone Nation and the United States. Continuity among the representatives to the negotiations is critical. The negotiations shall be conducted by a core group as follows:

TIMBISHA SHOSHONE: Pauline Esteves, Barbara Durham, Spike Jackson,
Dorothy Alther and Steven Halberfeld.

NATIONAL PARK SERVICE: John Reynolds, Pat Parker, Dick Martin.

ASSISTANT SECRETARY FOR INDIAN AFFAIRS: Elizabeth Homer

ASSISTANT SECRETARY FOR FISH, WILDLIFE AND PARKS: Karen
Atkinson.

BUREAU OF LAND MANAGEMENT: Greg Thomson and a representative
from Nevada to be determined.

BUREAU OF INDIAN AFFAIRS: Representative to be determined.

BUREAU OF RECLAMATION: Representative to be determined.

All members of the group shall use their best efforts to attend all of the meetings. Alternates may attend in their absence. Others may be added to the core group, or invited to meetings on specific issues as appropriate.

The following principles shall guide the negotiations:

1. There may be times when the representatives at the table require ratification at a higher level. In those instances, they have the responsibility to follow-up and get answers promptly. If a recommendation is rejected, the representatives will explain why.
2. Anyone can call a caucus at any time.

3. The representatives may speak with external persons, including the press, about the status of the process and may identify the issues. They will not discuss the substance of proposals except through written statements agreed upon by the public, unless otherwise agreed upon or as required by law. The representatives shall speak only for themselves and not for other persons.

4. All agendas shall be jointly developed by the parties.

5. A summary of the discussions, including all understandings reached, shall be kept for each meeting.

Framework for Achieving a
Timbisha Shoshone Homeland

1. The representatives of the parties in this framework are as follows:

Timbisha Shoshone Tribe: Pauline Esteves, Barbara Durham, Leroy (Spike) Jackson, Steven Halberfeld, and Dorothy Alther.

National Park Service: John Reynolds, Dick Martin, and Patricia Parker.

Assistant Secretary for Fish, Wildlife, and Parks: Karen Atkinson.

Assistant Secretary for Indian Affairs: Elizabeth Lohah Homer.

Bureau of Land Management: Greg Thomson and Ron Hunsinger.

2. The parties, in order to fulfill the requirements of the Timbisha Shoshone Tribe provisions of the California Desert Protection Act, Section 705(b), and to resolve related issues, agree to the terms of this framework. They understand that this framework is general and that it is intended to lead to a specific, formal proposal for achieving a Timbisha homeland. This is a joint effort and the parties agree to proceed with the utmost cooperation. The federal parties have a special, government-to-government relationship, which includes a trust obligation, with the Tribe.

3. The parties share the following interests, which are consistent with the letter of James Pipkin, Counselor to the Secretary of the Interior, to Senator Ben Nighthorse Campbell, dated March 14, 1997. The parties will work toward fulfilling these interests as appropriate during the planning process described in this framework:
 - a. Co-existence and a dynamic relationship between the Tribe and the Park Service in Death Valley;
 - b. Recognition of the sovereignty of the Tribe;
 - c. Establishment of a permanent homeland for the Tribe in traditional ancestral land areas falling within and without today's National Park boundaries;
 - d. Establishment of quality housing clusters for tribal members close to schools, services, and physical infrastructure (roads, electricity, water and sewage, etc.). Proposed

- locations will include places in and near Furnace Creek as well as elsewhere in the Tribe's original homeland.
- c. Use by the Tribe of its traditional summer camping areas for seasonal use (including the possibility of physical structures), harvesting, stewarding land and natural resources, etc.
 - f. Establishment of the Tribe's government headquarters and community and human service programs in and near Furnace Creek or in other areas that may become desirable during completion of the study.
 - g. The preservation and development of the Tribe's own dynamic indigenous culture by living as a community on its ancestral lands.
 - h. The involvement of the Tribe in economic and employment development activities, particularly in low-impact eco-tourism development;
 - i. Recognition of the Tribe's historic responsibility to remain concerned and engaged in the active protection and preservation of the environmental (water, vegetation, wildlife) and cultural resources of the Death Valley area.
 - j. Recognition of the Tribe's interest in being an integral part, in full partnership with the Park Service, of the Death Valley National Park's landscape and program, including presenting/interpreting its own history and culture to Park visitors;
 - k. Recognition that any future or additional development of land in Furnace Creek will be conditioned by availability and allocation of water and by jointly established standards of size, impact and design;
 - l. Recognition of the common interests of the Timbisha Shoshone and the United States in the conservation and preservation of the plants, animals, land, air and water and their natural relationships in the Death Valley area, and in providing for the enjoyment and recreation by visitors.
 - m. Recognition of a common interest in the compatibility of other land uses.
4. The parties, working jointly as governments and in full cooperation, agree to complete four studies. The parties will use their best efforts to reach agreement on joint proposals resulting from each study. Any proposals that result from these studies shall be subject to appropriate public comment and input before any final recommendations are made.
 5. The parties recognize the paramount importance of the Tribe's having sufficient technical support, working at the direction of the Tribal Council, to participate in completing these four individual studies and to coordinate and assess the four studies as a comprehensive whole. Accordingly, the parties agree to use their best efforts to provide such technical support for the Tribe.
 6. The parties recognize the need to include the Bureau of Indian Affairs, the Bureau of Reclamation, and perhaps other agencies, in these study efforts as appropriate.
 7. The four studies are described in general terms below. The listed potential land uses and tribal land interests are illustrative and are not meant to be exclusive; the studies will be conducted in a cooperative, creative spirit in order to obtain the optimal proposals consistent with the joint interests set forth in section 3, above.

- a. Furnace Creek Area
 - Potential land uses: Housing, tribal government headquarters, community center, museum, low-impact economic development
 - Nature of tribal land interest: Permanent tribal land tenure, with full consideration of a range of legal options
 - Lead federal agency: Park Service
 - Proposed completion date: _____
 - b. Eastern Area - BLM (Death Valley Junction, Scotty's Junction, including Lida Summit, and Magnader Mountain area)
 - Potential land uses: Economic development, housing, traditional uses
 - Nature of tribal land interest: Tribal ownership, probably tribal trust land
 - Lead federal agency: Bureau of Land Management
 - Proposed completion date: _____
 - c. Eastern Area - Park Service (Daylight Pass, Mesquite Spring)
 - Potential land uses: Economic development, housing, traditional uses, ecosystem restoration
 - Nature of tribal land interest: Permanent tribal land tenure, permit, cooperative management agreement, as appropriate.
 - Lead federal agency: Park Service
 - Proposed completion date: _____
 - d. Western Area (Saline Valley, Luner Mountain, Lower Saline, Eureka Valley, Wildrose, Panamint Range and Valley)
 - Proposed land uses: Traditional uses, cultural camp and spiritual area, ecotourism, economic development, as appropriate
 - Nature of tribal land interest: Cooperative management, permit, tribal trust land, as appropriate
 - Lead federal agency: Park Service in cooperation with the Bureau of Land Management and Forest Service, as appropriate
 - Proposed completion date: _____
8. This framework may be amended at anytime by the agreement of the parties.

APPENDIX C

Shared Interests of the Timbisha Shoshone Tribe and the United States Government

Tribal Sovereignty and Self-Determination

- ◆ Recognition of the sovereignty of the Tribe and the need for tribal jurisdiction on tribal lands;
- ◆ Establishment of a permanent land base for the Tribe in traditional ancestral homeland falling within and without today's National Park boundaries;
- ◆ Preservation and development of the Tribe's own dynamic indigenous culture by living as a community on its ancestral lands;
- ◆ Involvement of the Tribe in economic and employment development activities, particularly low-impact eco-tourism development; and
- ◆ Establishment of quality housing clusters for tribal members close to schools, services, and physical infrastructure (roads, electricity, water, and sewage, etc.) Proposed locations will include places in and near Furnace Creek as well as elsewhere in the Tribe's original Homeland; and
- ◆ Establishment of the Tribe's government headquarters and community and human service programs in and near Furnace Creek.

Natural and Cultural Resource Protection

- ◆ Recognition of common interests of the Timbisha Shoshone and the United States in the conservation and preservation of the plants, animals, land, air, and water and their natural relationships in the Death Valley area; and in providing for the enjoyment and recreation of visitors;
- ◆ Recognition of the Tribe's historic responsibility to remain concerned and engaged in the active protection and preservation of the environmental (water, vegetation, wildlife) and cultural resources of the Death Valley area; and
- ◆ Recognition of a common interest in the compatibility of other land uses.

Tribal Presence in the Park

- ◆ Co-existence and a dynamic relationship between the Tribe and the National Park Service in Death Valley National Park;
- ◆ Recognition of the interests of the Tribe and the National Park Service in making the Tribe an integral part, in full partnership with the National Park Service, of the Death Valley National Park's landscape and program, including presenting/interpreting the Tribe's own history and culture to Park visitors;
- ◆ Use by the Tribe of its traditional summer camping area for seasonal use (including the possibility of physical structures), harvesting, stewarding land and natural resources, etc.; and,
- ◆ Recognition that any future or additional development of land in Furnace Creek will be conditioned by availability and allocation of water and by jointly established standards of size, impact, and design.



APPENDIX D

United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20249

MEMORANDUM TO

MAR 17 1989

Memorandum

To: Karen Atkinson, Counselor to the Assistant Secretary for Fish Wildlife and Parks
Elizabeth Homer, Director Office of American Indian Trust

From: Derril B. Jordan, Associate Solicitor, Division of Indian Affairs

Subject: Clarification of Rights of Timbisha Shoshone in Newly Designated Homeland

The California Desert Protection Act, section 705(b), directed the Secretary to conduct a study in identify lands suitable for a reservation for the Timbisha Shoshone Tribe within the Tribe's original homeland area. A joint Federal-Tribal negotiating team conducted a suitability study that recommended a plan to establish a permanent homeland for the Tribe. The details of this plan are laid out in a draft report to Congress. The report recommends that several separate parcels of land be transferred to the Tribe in trust and that other areas be designated as non-exclusive tribal use areas. Under the plan, 300 acres at Furnace Creek, in Death Valley National Park, will be transferred to the Tribe in trust and an additional 3000 acres will be designated the Timbisha Shoshone Natural and Cultural Preservation Area within which low impact, traditional tribal uses will be authorized subject to an established plan. In the lands transferred to the Tribe in trust within the Park, gaming operations will be prohibited.

In areas outside Death Valley National Park, the report proposes to transfer approximately 7,200 acres of Bureau of Land Management (BLM) land into trust for the Tribe and legislation is requested to authorize and appropriate funds for the purchase of three private parcels previously owned by tribal members. The BLM lands to be transferred in trust to the Tribe include four separate parcels: 1) 1,000 acres at Death Valley Junction, California, east of the park; 2) 640 acres at Centennial, California, west of the park; 3) 2,800 acres near Scotty's Junction, Nevada, northeast of the park; and 4) 2,800 acres near Lida, Nevada, north of the park. Under the plan, these parcels will be designated as part of the Tribe's reservation and Indian country. You have asked whether the Tribe will be able to conduct gaming on these BLM lands outside of the park boundaries.

The Indian Gaming Regulatory Act (IGRA) contains a general prohibition of gaming on lands acquired by the Secretary in trust for Indian tribes after October 17, 1986. 25 U.S.C. § 2719. There are a few exceptions to this general prohibition, however. The prohibition on gaming does not apply when lands are taken into trust as part of the initial reservation of an Indian tribe (b)(1)(B)(ii). In 1983, the Secretary acknowledged the Death Valley Timbisha Shoshone Band of California as a federally acknowledged tribe pursuant to the regulations at 25 C.F.R. Part 83.44 Fed. Reg. 214 (November 4, 1982). Since the Timbisha Shoshone do not currently have a land base, and the Secretary has not previously taken any other lands into trust for the benefit of

the tribe, these BLM parcels outside Death Valley National Park would constitute the initial reservation of a tribe acknowledged by the Secretary, and thus would fall under the exception to the general prohibition on gaming.

However, to be in compliance with IGRA, any Tribe that wishes to conduct class III gaming on Indian lands must be located in a state that permits such gaming for any purpose by any person, organization, or entity, must have a gaming ordinance approved by the NIGC, and must also negotiate a tribal-state compact with the governor of the state in which the Indian lands are located. 25 U.S.C. § 2710 (d)(1)(A)(B) and (C). While gaming can occur on the BLM parcels transferred to the Timbisha Shoshone in trust, the Tribe must negotiate a compact with the governor of either California or Nevada if the Tribe wishes to conduct class III gaming on a specific parcel located within those states.

Notwithstanding the provisions for class III gaming under IGRA, the Tribe can conduct class II gaming without federal approval and the concurrence of the governor of the state in which the Indian lands are located provided that the State permits such gaming for any purpose by any person, organization or entity and that the Tribe has an ordinance approved by the NIGC. 25 U.S.C. § 2710(c)(1)(A) and (B). Class II gaming is defined as the game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used) and card games that are explicitly authorized by the laws of the state or not explicitly prohibited by the laws of the state. 25 U.S.C. § 2703(7)(A).

APPENDIX E

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