Congress of the United States
Washington, DC 20515

June 29, 2012

President Barack Obama
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Secretary of State Hillary Clinton
2291 C St., NW
Washington, D.C. 20520

Dear President Obama and Secretary Clinton:

We write to express our concerns regarding the negotiation of the United Nations Arms Trade Treaty (ATT), the text of which is expected to be finalized at a conference to be held in New York during the month of July. Your administration has voted in the U.N. General Assembly to participate in the negotiation of this treaty. Yet the U.N.'s actions to date indicate that the ATT is likely to pose significant threats to our national security, foreign policy, and economic interests as well as our constitutional rights. The U.S. must establish firm red lines for the ATT and state unequivocally that it will oppose the ATT if it infringes on our rights or threatens our ability to defend our interests.

The U.S. must not accept an ATT that infringes on our constitutional rights, particularly the fundamental, individual right to keep and to bear arms that is protected by the Second Amendment, as well as the right of personal self-defense on which the Second Amendment is based. Accordingly, the ATT should not cover small arms, light weapons, or related material, such as firearms ammunition. Further, the ATT should expressly recognize the individual right of personal self-defense, as well as the legitimacy of hunting, sports shooting, and other lawful activities pertaining to the private ownership of firearms and related materials.

The U.S. must also not accept an ATT that would interfere with our nation's national security and foreign policy interests. The ATT must not accept that free democracies and totalitarian regimes have the same right to conduct arms transfers: this is a dangerous piece of moral equivalence. Moreover, the ATT must not impose criteria for determining the permissibility of arms transfers that are vague, easily politicized, and readily manipulated. Specifically, the ATT must not hinder the U.S. from fulfilling strategic, legal, and moral commitments to provide arms to allies such as the Republic of China (Taiwan) and the State of Israel. Indeed, the State Department acknowledged in June 2010 that the ATT negotiations are expected to introduce such regional, country-specific challenges. Finally, the ATT should not contain any language that legitimizes the arming of terrorists – for example, by recognizing any right of resistance to "foreign occupation" – or implies that signatories must recognize the jurisdiction of the International Criminal Court.

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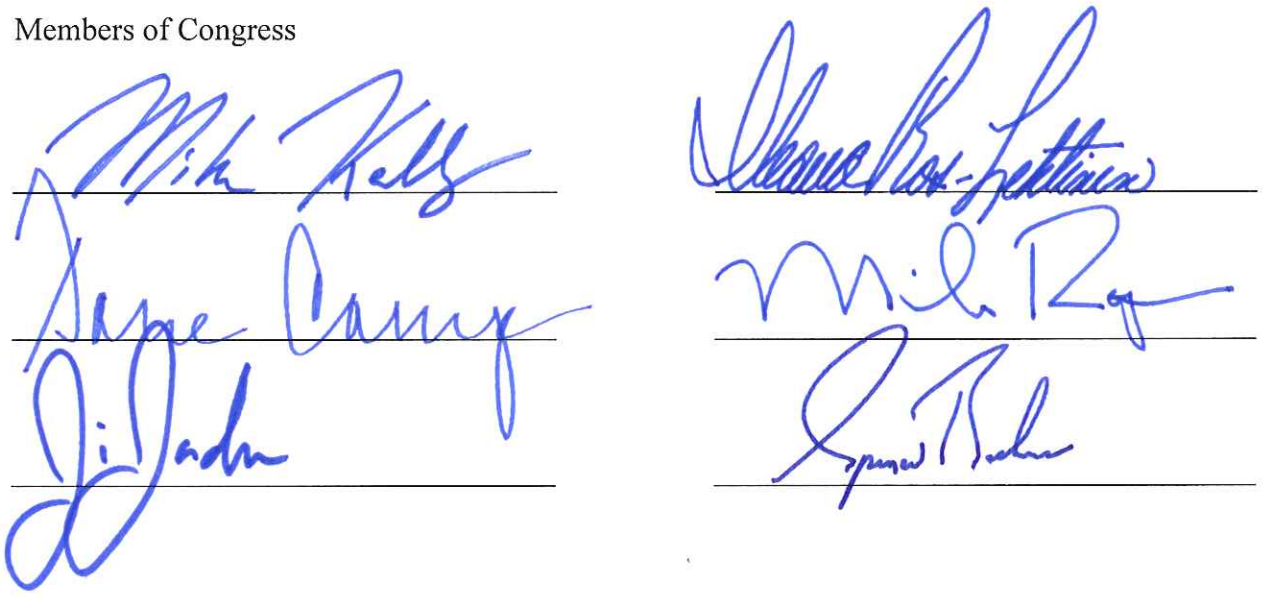
Furthermore, the U.S. must not agree to an ATT that would damage U.S. economic interests. The ATT must not create costly regulatory burdens on law-abiding American businesses, for example, by creating new onerous reporting requirements that could damage the domestic defense manufacturing base and related firms. Furthermore, the ATT must not pressure the U.S. to alter either the criteria or the decision-making system of its current arms export control system, which Secretary Clinton has called the "gold standard" of export controls. The ATT should not in any way skew domestic debate on export control reforms, as the U.S. continues to modernize export controls to increase U.S. global competitiveness, create jobs for American workers, and strengthen our allies.

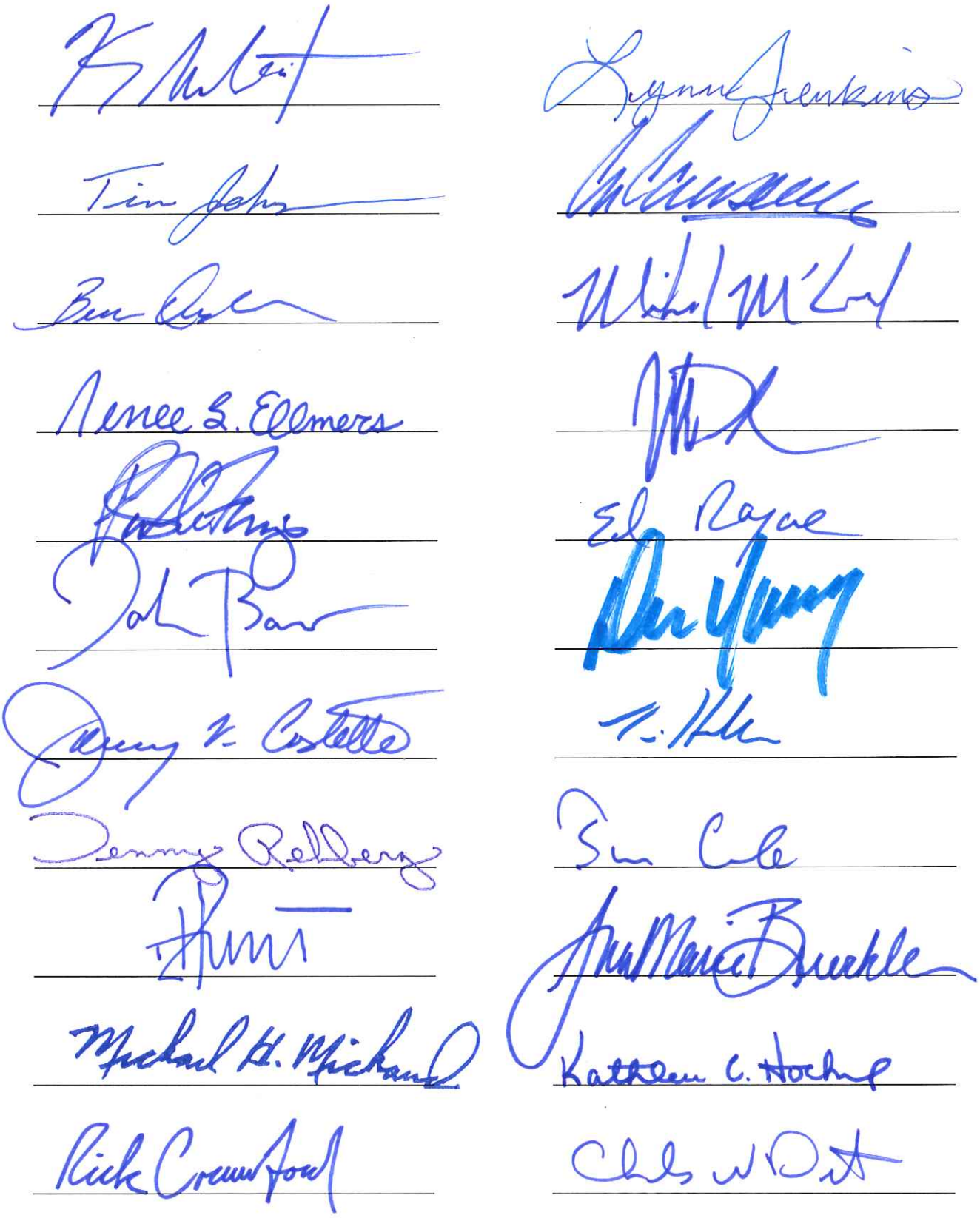
Lastly, regardless of negotiated text, the Administration must make clear in its reservations, understandings, and declarations that the ATT places no new requirements for action on the U.S., because U.S. law is already compliant with the treaty regime or that the treaty cannot change the Bill of Rights or the constitutional allocation of power between the federal and state governments. Moreover, the U.S. must not accept the creation of any international agency to administer, interpret, or add to the ATT regime because it might represent the delegation of federal legal authority to a bureaucracy that is not accountable to the American people.

We urge this Administration to uphold the principles outlined above in the ATT negotiations at the July conference and any future venues for discussion. Should the final ATT text run counter to these principles or otherwise undermine our rights and our interests, we urge this Administration to break consensus and reject the treaty in New York. Further, the Constitution gives the power to regulate international commerce to Congress alone, and the ATT will be considered non-self-executing until Congress enacts any legislation to implement the agreement. As members of the House of Representatives, we reserve and will maintain the power to oppose the appropriation or authorization of any taxpayer funds to implement a flawed ATT, or to conduct activities relevant to any ATT that has been signed by the President but has not received the advice and consent of the Senate.

Sincerely,

Members of Congress





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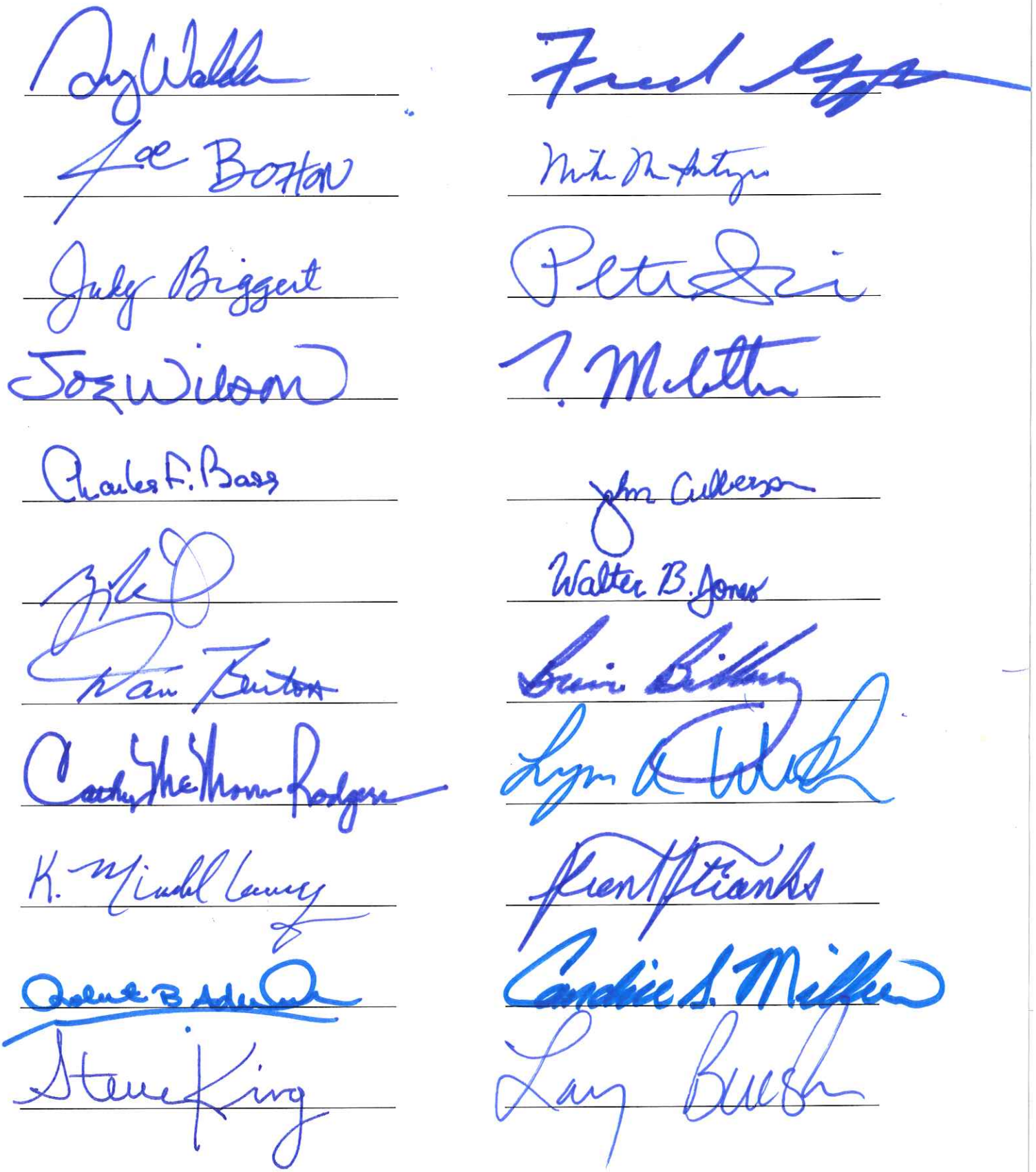

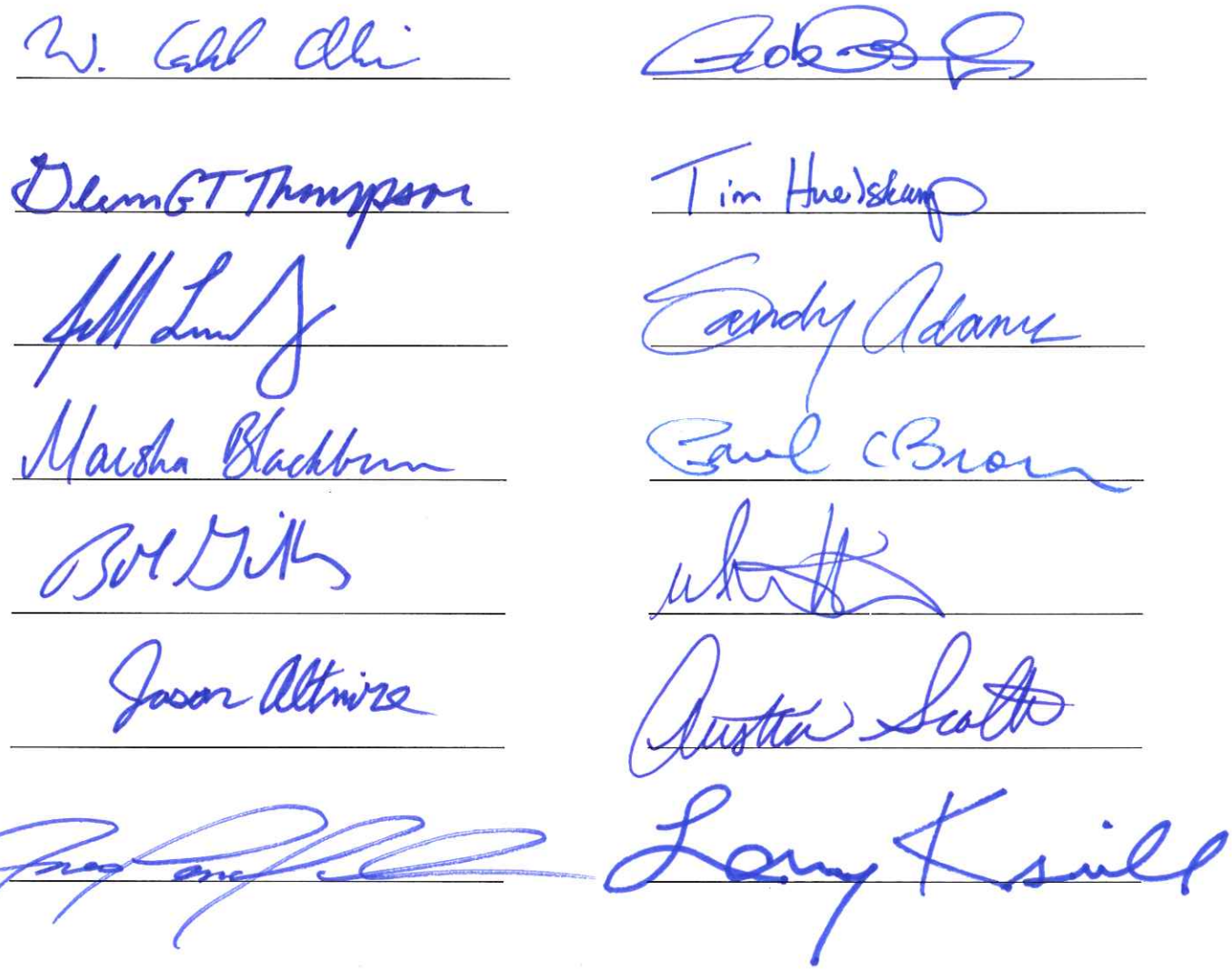

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