

Juaneño Band of Mission Indians (Petitioner #84A) Final Determination

Final Determination

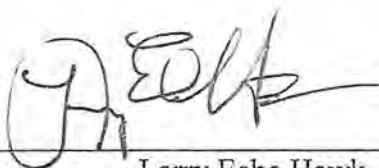
Against Acknowledgment of

The Juaneño Band of Mission Indians, Acjachemen Nation
(Petitioner #84A)

Prepared in Response to the petition Submitted to the Assistant Secretary – Indian Affairs for
Federal Acknowledgment as an Indian Tribe

MAR 15 2011

(Date)



Larry Echo Hawk
Assistant Secretary – Indian Affairs

Final Determination

The Juaneño Band of Mission Indians, Acjachemen Nation
(Petitioner #84A)

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ACRONYMS AND ABBREVIATIONS

AS-IA	Assistant Secretary – Indian Affairs
BIA	Bureau of Indian Affairs
BLUC	The Bancroft Library, University of California, Berkeley
CA	California
CDIB	Certificate of Degree of Indian Blood
CIC	Capistrano Indian Council
CFR	<i>Code of Federal Regulations</i>
DOI	Department of the Interior
ECPP	Early California Population Project, the Huntington Library
FD	Final Determination
FAIR	Federal Acknowledgment Information Resource
FR	<i>Federal Register</i>
FTM	Family Tree Maker™
IBIA	Interior Board of Indian Appeals
JBA	Juaneño Band of Mission Indians, Acjachemen Nation (Petitioner #84A)
JBB	Juaneño Band of Mission Indians (Petitioner #84B)
JBM	Juaneño Band of Mission Indians
JBMI-IP	Juaneño Band of Mission Indians, Interested Party
JPA	California Cities for Self-Reliance/Joint Powers Authority
LCI	League of California Indians
MIF	Mission Indian Federation
OFA	Office of Federal Acknowledgment
PF	Proposed Finding
SCA	Stand Up for California
SG	San Gabriel
SJC	San Juan Capistrano
SLR	San Luis Rey
TA	Technical Assistance Review Letter
U. S.	United States

INTRODUCTION

The Office of the Assistant Secretary – Indian Affairs (Assistant Secretary or AS-IA) within the Department of the Interior (Department or DOI) issues this final determination (FD) in response to the petition received from a group known as the Juaneño Band of Mission Indians, Acjachemen Nation (JBA) located in San Juan Capistrano (SJC), California. The JBA petitioned for Federal acknowledgment as an Indian tribe under Part 83 of Title 25 of the Code of Federal Regulations (25 CFR Part 83), *Procedures for Establishing that an American Indian Group Exists as an Indian Tribe*.

The acknowledgment regulations, 25 CFR Part 83, establish the procedures by which groups may seek Federal acknowledgment as an Indian tribe entitled to a government-to-government relationship with the United States. To be entitled to such a political relationship, the petitioner must submit documentary evidence that the group meets all seven mandatory criteria set forth in section 83.7 of the regulations. The Department shall acknowledge the petitioner as an Indian tribe when it determines that the group satisfies all of the criteria in 83.7(a-g), and shall decline to acknowledge a petitioner as an Indian tribe if it does not. The Office of Federal Acknowledgment (OFA), within the Office of the AS-IA, has responsibility for petition review and analysis.

This FD concludes the JBA petitioner does not meet four of the seven mandatory criteria for Federal acknowledgment—criteria 83.7(a), 83.7(b), 83.7(c), and 83.7(e)—and therefore is not an Indian tribe within the meaning of Federal law. Since all criteria are mandatory, the Department declines to acknowledge the JBA petitioner.

The Department bases this FD on an evaluation of materials the petitioner and third parties submitted in response to, and materials already in the record, for the PF. The FD also incorporates evidence Department researchers developed during their verification research. Therefore, this FD should be read and considered in conjunction with the PF.

Summary of the Proposed Finding

On December 3, 2007, the Department issued a proposed finding (PF), signed by the Assistant Secretary – Indian Affairs, that concluded the JBA petitioner did not meet all seven mandatory criteria and proposed not to acknowledge the group as an Indian tribe. The JBA petitioner did not meet criteria (a), (b), (c), and (e).

The JBA petitioner claims to have descended as a group from the historical Indians at San Juan Capistrano (SJC) Mission. The PF concluded that an Indian entity, consisting of Indian tribes or groups that had combined, existed at or near the Mission between 1776 and 1834. However, evidence for the purpose of this petition indicates that, after 1834, only a small number of SJC

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Indian descendants remained in the area. The JBA petitioner claims that these descendants of the historical SJC Indians are the ancestors of the JBA petitioner's members and that the JBA petitioner has existed continuously since that time as a distinct social and political community of descendants of the historical Indian tribe at SJC Mission.

The PF found that the JBA petitioner did not meet criteria 83.7(a), (b), (c), or (e). Evidence in the record did not demonstrate that external observers identified the JBA petitioner or a group antecedent to the petitioner as an Indian entity on a substantially continuous basis from 1900 to 1997. The PF concluded that evidence in the record did not demonstrate that the JBA petitioner evolved as a distinct community from the historical Indian tribe that existed at SJC Mission in 1834. Also, the PF concluded that the evidence was insufficient to establish that a predominant portion of the JBA petitioner's members or their ancestors comprised a community distinct from non-members at any time since 1834. The evidence in the record did not demonstrate that the JBA petitioner or any group antecedent to the petitioner maintained political influence or authority over its members from 1834 until the present. The PF found that 2 percent of the 1,640 JBA members documented that they are descendants of a historical SJC Indian, but that another 35 percent of the JBA members might be able to demonstrate descent from at least one member of the historical SJC tribe at SJC Mission if additional genealogical evidence demonstrated the claimed connections. No previous petitioner has met criterion 83.7(e) without at least 80 percent of its members documenting descent from a historical Indian tribe.

The PF found that the JBA petitioner did not meet all seven mandatory criteria and the Department proposed not to acknowledge the group as an Indian tribe.

Regulatory Procedures

Publishing notice of the PF in the *Federal Register* initiated a 180-day comment period beginning on December 3, 2007, during which time the petitioner, and interested and informed parties could submit arguments and evidence to support or rebut the PF. The petitioner requested and the Department provided a series of extensions for good cause that eventually extended the deadline for the comment period to March 13, 2009. The regulations at 25 CFR 83.10(k) provide the petitioner a minimum of 60 days to respond to any comments that interested and informed parties submit on the PF during the 180-day comment period. The petitioner also requested and the Department provided an extension for good cause that extended the deadline for the response period to September 11, 2009.

After the publication of the notice of the FD in the *Federal Register*, the petitioner or any interested party may file a request for reconsideration with the Interior Board of Indian Appeals (IBIA) under the procedures specified in section 83.11 of the regulations. The IBIA must receive this request no later than 90 days after the publication of the FD in the *Federal Register*. The FD will become effective as provided in the regulations 90 days from the publication unless the petitioner or any interested party files a request for reconsideration within that timeframe.

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Administrative History of the Petition Since the Proposed Finding

On November 23, 2007, the AS-IA signed the PF against Federal acknowledgment of the Juaneño Band of Mission Indians, Acjachemen Nation (JBA). The PF concluded that the petitioner had not submitted sufficient evidence to demonstrate it had met criteria 83.7(a), (b), (c), and (e). Notice of the PF was published in the *Federal Register* on December 3, 2007.

At the request of the JBA petitioner, the OFA held informal technical assistance (TA) meetings (either in person or by teleconference) with the petitioner's researchers on January 29, 2008, February 21, 2008, March 13, 2008, October 9, 2008, and November 7, 2009, to provide additional guidance, with follow-up letters summarizing the main points (Fleming 3/3/2008, 3/28/2008, 11/19/2008, 11/09/2009). The JBA petitioner requested and the OFA held a formal on-the-record TA meeting with the petitioner's researchers on April 17, 2008, and provided relevant OFA research materials and analyses to the petitioner (OFA TA Meeting 4/17/2008; Fleming 5/19/2008).

The OFA received comments on the PF submitted by the JBA petitioner on March 13, 2009. The OFA also received comments on the PF from 10 third parties: Mike Aguilar (Aguilar 3/13/2009); Theresa S. Aguilar-Garcia (Aguilar-Garcia 3/-/2009); David M. Bartosz (Bartosz 8/7/2008); California Cities for Self-Reliance/Joint Powers Authority (JPA) (JPA 11/9/2006 Comments; 5/9/2008, 5/9/2008a; 5/9/2008b); Juaneño Band of Mission Indians-Interested Party (JBMI-IP) (Belardes 9/17/2007 Perry 3/12/2009); Rudolph R. "Rudy" Martinez (Martinez 3/9/2009); Michelle Moreland (Moreland 3/-/2009); Bud Sepulveda et al. (JBB petitioner)¹ (Sepulveda 9/17/2007); Harry Rivers et al. (Rivers 9/13/2007); and Stand Up for CA (JPA 9/22/2006). The OFA received the JBA petitioner's response to these third-party comments on September 11, 2009. The OFA asked the JBA petitioner to submit the documents in the "Chief Clarence Lobo Database" that apparently were omitted in the petitioner's submission through error. OFA received these documents by the specified deadline, April 9, 2010 (Fleming 3/26/2010; JBA 4/9/2010). On July 6, 2010, OFA requested the JBA petitioner to submit a "separate report" by Christine Grabowski referred to in its comments on the PF but not included in its submission (Fleming 7/6/2010). The OFA received the report with associated exhibits on July 14, 2010 (JBA 7/12/2010; Grabowski 3/12/2009). The Department included these materials in its evaluation for the FD.

The JBA petitioner's comments consisted of more than 55,000 pages of documents and arguments submitted in response to the PF and to requests for information as outlined in the PF and during the formal TA meeting, held after the PF was issued, and the various informal TA meetings. The FD considered this material in combination with the remainder of the record for the FD, including the more than 34,000 pages already in the record for the PF.

The Department began consideration of the JBA petition for the FD on January 4, 2010 (Fleming 10/14/2009, 4/1/2010). The OFA requested and received for good cause a 90-day extension for the issuance date of the FD for the JBA petitioner and a new deadline was established for

¹ This group is an interested party and a petitioner, #84B, for Federal acknowledgment.

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September 4, 2010. On July 30, 2010, the OFA requested and received for good cause an additional 30-day extension for issuing the FD, subsequently extended to October 4, 2010. To permit review by the Offices of the AS-IA and the Solicitor, the deadline for issuing the FD was extended 75 days to December 15, 2010. A 60-day extension to February 14, 2011, was granted to the Office of the AS-IA to allow for review of the recommended decision. A 30-day extension to March 16, 2011, was granted to permit review by the Offices of the AS-IA and the Solicitor.

Overview of the Historical Indian Tribe

Definition of the Historical Indian Tribe in the Proposed Finding

The PF treated the Indian population at the San Juan Capistrano (SJC) Mission in 1834 as the “historical Indian tribe” for this petitioner. The regulations provide for acknowledgment of historical Indian “tribes or groups that have historically combined” (section 83.6(f)). Members of the Order of Friars Minor (Franciscans) established the SJC Mission in 1776, very soon after the Spanish initiated first sustained contact in the area. The evidence in the record establishes by a reasonable likelihood that, as a result of Spanish policy, the Indian population of the Mission became an entity consisting of Indian tribes or groups that had combined. Socially connected and culturally similar Indian populations from politically allied villages from a small local geographic area moved to the SJC Mission. The current record provides some evidence between 1776 and 1834 that pre-existing social and political relationships at the villages continued within the Mission population. Spanish policy at the Mission created a political structure for its Indian population which made the combined groups a single political entity. This Indian tribal entity existed at the SJC Mission when the Mexican government ordered the secularization of the Mission in 1834. The PF stated that the petitioner could meet the acknowledgment criteria if it could demonstrate that it is a continuation of the Indian tribes that historically combined at the Mission by 1834.

Summary of Comments on the Proposed Finding’s Definition of the Historical Indian Tribe

The discussion regarding the historical Indian tribe at SJC Mission is equally applicable to both the JBA and the JBB petitioners. Therefore, this FD discusses the comments on the historical Indian tribe at SJC Mission here for the convenience of both petitioners.

The JBA petitioner did not provide comments on the PF’s decision to treat the Indian tribe at SJC Mission as the historical Indian tribe for the finding. However, in the materials it submitted during the comment period, the JBA petitioner revised its current membership to include only those members who claimed descent from an Indian who lived at or was associated with SJC Mission prior to 1834. This revision, removing some members and adding others, indicates that the JBA petitioner accepted the PF’s reliance upon the Indian tribe at SJC Mission as the “historical Indian tribe” from which the JBA petitioner must demonstrate descent under criterion 83.7(e).

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The JBB petitioner commented on the PF's decision to treat the Indian tribe at SJC Mission as the historical Indian tribe for the finding. The JBB petitioner did this in a portion of its 40-page narrative entitled, "Final Submission and Comments on Proposed Finding of the Juaneño Band of Mission Indians, Petitioner 84B" (JBB Narrative 2/28/2009). The narrative did not have a section that specifically addressed the PF's treatment of the historical Indian tribe, but the narrative made several comments that pertained to the historical Indian tribe at SJC Mission in the sections of the narrative relating to criteria 83.7(b) and 83.7(c).

An interested party, the "California Cities for Self Reliance, Joint Powers Authority" (JPA), submitted, as comment on the JBA and JBB PFs, a 69-page document written by James P. Lynch (the Lynch Report) (JPA 5/9/2008). This report provides comments that relate to the PF's description of the historical Indian tribe at SJC Mission.

In response to the comments in the Lynch Report provided by the JPA, the JBA petitioner submitted a document entitled, "Proof of the Achachemen Nation as a Continuous Historic Tribe from the Pre-Mission Era to 1930: Response to Lynch Comments" (JBA Response to JPA/Lynch Report 9/15/2009). This document contained materials that dispute the findings in the Lynch Report. While JBA Response addressed the Lynch Report's determinations it did not assess the Lynch Report's methodology or if the author has expertise in this area. The JBB petitioner did not respond to the Lynch Report.

Analysis of the Comments for the Final Determination

The JBB petitioner, in its comments, criticizes the Department for allegedly "limiting its analysis of the Historical Tribe to its descend[ants] located in the town of SJC" and for not "including Indians of other tribes." The JBB petitioner believes the PF's treatment of the historical Indian tribe at SJC Mission is problematic because it accepts a post-contact structure (the Mission) as "trump[ing] pre-existing, inter-village relationships." The JBB petitioner claims that the PF erred by accepting the Indian tribe of SJC Mission as the "historical Indian tribe" from which a petitioner must demonstrate descent and continued tribal existence. In particular, the JBB petitioner is concerned that, if the name of an ancestor appeared in the records of another mission, such records would "not necessarily [be] evidence that the ancestor belonged to a different and pre-existing *indigenous* community" rather than the SJC Mission Indian community (JBB Narrative 2/28/2009, 18, 22; emphasis in original).

The JBB petitioner's comments misconstrue the Department's finding. The SJC Mission was a place at which its Indian population became an entity consisting of Indian tribes or groups that had combined. Indian individuals demonstrated to have been a part of the Indian community at the SJC Mission during its operation as a mission (1776-1834) are considered to be a part of the SJC Mission Indian tribe. If an individual Indian appears in the records of another mission, it does not necessarily preclude that person from being a member of the Indian tribe at the SJC Mission. Evidence is needed, however, to demonstrate that such a person was a member of the Indian tribe at the SJC Mission. If such evidence is not available, the petitioner may still meet the requirement for calculating descent from a historical Indian tribe under criterion 83.7(e), because not all of a petitioner's current members must document descent from the historical

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Indian tribe. The Department's past decisions to acknowledge a tribe found that a minimum of 80 percent of a petitioner's members documented descent from the historical Indian tribe. Additionally, if the petitioner demonstrated that its Indian ancestors combined, as a group, with the Indian tribe at SJC Mission, the regulations would accept this occurrence because the regulations provide for acknowledgment of historical Indian "tribes or groups that have historically combined" (section 83.6(f)). The JBB petitioner did not demonstrate, however, that its claimed "pre-existing indigenous community" encompassing Indians from various populations over a large geographical area actually existed, or that Indian ancestors of JBB that were not part of the historical Indian tribe at SJC Mission combined, as a group, with the Indian tribe at SJC Mission. The regulations do not require documenting descent from a pre-contact community.

The Lynch Report comments on the historical Indian tribe at SJC Mission. However, this FD does not depend upon the Lynch Report for its finding on the historical Indian tribe. The Lynch Report has limited usefulness for this FD because it is deficient in certain aspects (its errors are noted herein), most notably the report's incorrect understanding of a description of a "social core" that the Department used in a previous finding. The evidence in the record does not support Lynch's understanding of that finding.

In the Lynch Report, the JPA states that the "historical evidence tells us that the Juaneño lacked any evidence of political influence or authority from 1804-1900" (JPA 5/9/2008, 33).² This implies that the JPA contests that the Indian population of the Mission became an entity consisting of Indian tribes or groups that had combined as a result of Spanish policy. However, the Lynch Report also contends that, although there was no specific "Juaneño band" prior to the establishment of the SJC Mission, the Juaneño Indian tribe was a "mission-era construct from which its political and social identity emerged" (JPA 5/9/2008, 10). The Lynch Report asserts that, "[f]rom its inception, a zone of 'tribal community interaction' was present at this mission until secularization occurred," and that an application of the "social core concept" applied in a previous acknowledgment decision "fits [the Juaneño] situation when analyzing and defining social interaction and the effectiveness of political authority" (JPA 5/9/2008, 11).³ The report

² This statement might contain a typographical error. It is possible that the JPA intended to write "1834" but instead wrote "1804." As discussed below, interpreting the "1804" as "1834" would be more consistent with the JPA's claims.

³ The Lynch Report discusses the "social core" that the Department referred to in its final determination on the Mohegan Tribe of Indians of the State of Connecticut. The Lynch Report focuses on a 10-mile radius that the Department used in the Mohegan FD to help describe levels of social interaction, and the Lynch Report interprets this 10-mile radius as a geographical limit for measuring social interaction. This interpretation, however, misrepresents the Mohegan findings. In the Mohegan findings, the Department used the "10-mile" language to describe the evidence, not to impose a standard or requirement. The term "social core" referred to the portion of the Mohegan group which maintained substantial social contact among the members (Eastern Pequot PF 2000, 136-138; Eastern Pequot FD 2002, 126-128). The demography in the SJC Mission area in the early 19th century was different from the demography of Connecticut in the 20th century, and it is expected that the social dynamics of the Mohegan community would differ from the social dynamics of the SJC Mission.

The Lynch Report seems to accept that Juaneño Indians living within a 10-mile radius of the Mission prior to secularization would have been interacting with each other. However, outside of that 10-mile radius, the Lynch Report protests any presumption that Juaneño Indians would have been interacting with one another (JPA 5/9/2008,

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then discusses how, in the post-mission period, “the record depicts the scattering” of the SJC Indian tribe (JPA 5/9/2008, 11). These statements indicate that the JPA supports the PF’s conclusion that there was an Indian tribe at SJC Mission prior to secularization in 1834, but that the JPA believes that after secularization the Juaneño population became too scattered to retain its character as a distinct Indian community. These claims are relevant to criteria 83.7(b) and 83.7(c) after 1834, but do not dispute the existence of a historical Indian tribe at SJC Mission in 1834.

The JBA petitioner responded at length to the JPA’s comments made in the Lynch Report (JBA 9/15/2009). In general, the JBA petitioner supports the PF’s decision to treat the Indian population at SJC Mission as the historical Indian tribe for the purposes of the regulations. The JBA petitioner’s response to the Lynch Report’s contention that the Juaneño Indian tribe lost political influence after secularization is discussed in the FD’s evaluation under criterion 83.7(c).

The Historical Indian Tribe in the Final Determination

The FD treats the Indian population at the SJC Mission in 1834 as the “historical Indian tribe” for this petitioner because the Department received no argument during the comment and response periods that provided a viable alternative to the PF’s conclusions.

Report protests any presumption that Juaneño Indians would have been interacting with one another (JPA 5/9/2008, 11-12). In evaluating both the JBA and the JBB petitioners for the PF and the FD, the Department did not apply a 10-mile radius as a threshold for evaluating social interaction after secularization. Instead, consistent with the Mohegan findings, the Department evaluated whether the evidence demonstrates that the petitioner’s members engaged in social interaction with each other, independent of their proximity to the SJC Mission. Although the Department does not accept Lynch’s characterization of an appropriate methodology to determine social interaction, his comments support the position of the PF for the purpose of defining the historical Indian tribe.

UNAMBIGUOUS PREVIOUS FEDERAL ACKNOWLEDGMENT

Summary of the PF

A finding of unambiguous previous Federal acknowledgment means that a petitioner is eligible to be evaluated under the reduced evidentiary requirements of 25 CFR 83.8. For the PF, the JBA petitioner presented no claim for unambiguous previous Federal acknowledgment for the PF. The JBB petitioner, for the PF, presented a claim that the unratified Treaty of Temecula, signed on January 5, 1852, constituted unambiguous previous Federal acknowledgment of the JBB petitioner as an Indian tribe. The JBMI-IP group also advanced a claim for unambiguous Federal acknowledgment of a Juaneño entity based on the 1852 Treaty of Temecula. The PF found that the evidence in the record did not demonstrate that the Federal Government unambiguously acknowledged an entity antecedent to either the JBA petitioner or the JBB petitioner as an Indian tribe by the 1852 treaty or at any other time.

Summary of Comments on the PF

The new claim for unambiguous previous Federal acknowledgment presented by the JBB petitioner is equally applicable to the JBA petitioner. The claims against unambiguous previous Federal acknowledgment by the JPA are applicable to both the JBA and JBB petitioners. Therefore, this FD presents the evaluation of those arguments here for the convenience of both petitioners.

During the comment period, the JBA petitioner did not challenge the PF's conclusion that the Federal Government did not previously acknowledge either petitioner as an Indian tribe. The JBA petitioner did not present new argument or evidence for unambiguous previous Federal acknowledgment during the comment period. The JBB petitioner did not challenge the PF's conclusion that the unratified Treaty of Temecula signed on January 5, 1852, did not constitute unambiguous previous Federal acknowledgment. However, the JBB petitioner made a new claim of previous Federal acknowledgment in its 40-page narrative entitled, "Final Submission and Comments on Proposed Finding of the Juaneño Band of Mission Indians, Petitioner 84B" (JBB Narrative 2/28/2009). In this narrative, the JBB petitioner contends that the Federal Government "dealt with and recognized the Juaneño Band of Mission Indians as one of the 46 bands of Mission Indians that were permitted to sue the United States" under the Indian Claims Commission Act of 1946 (JBB Narrative 2/28/2009, 13). The JBB petitioner believes that listing the "Juaneño Band of Mission Indians" as one of the 46 bands of Mission Indians involved in Docket 80 of the proceedings of the Indian Claims Commission (ICC) constituted unambiguous previous Federal acknowledgment of the JBB petitioner.

An interested party, the "California Cities for Self Reliance, Joint Powers Authority" (JPA), submitted, in the comment period, a 69-page document written by James P. Lynch (the Lynch Report) (JPA 5/9/2008). The Lynch Report commented on the petitioners' eligibility to be evaluated for unambiguous previous Federal acknowledgment. The report claimed that the Federal Government did not acknowledge a San Juan Capistrano-based Indian tribe by any of the

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following: the 1852 Treaty of Temecula, the 1891 Mission Relief Act (U.S. Congress 1891), the 1928 California Indians Jurisdictional Act (U.S. Congress 1928), the 1934 Wheeler-Howard Act (U.S. Congress 1934), or by the litigation associated with the 1946 Indian Claim Commission Act (U.S. Congress 1946). The JBA petitioner responded to JPA's comments regarding unambiguous previous Federal acknowledgment, stating that such comments are "not relevant" to its petition because the JBA petitioner "does not qualify" for unambiguous previous Federal acknowledgment (JBA Response to Comments 9/15/2009, 1). The JBB petitioner did not respond to the JPA's comments.

Analysis of the Comments for the Final Determination

The evidence in the record does not show that the Federal Government previously and unambiguously acknowledged either the JBA petitioner or the JBB petitioner.

The Lynch Report presents multiple theories against unambiguous previous Federal acknowledgement that neither JBB nor JBA raise. Moreover, JBA does not assert that there is an unambiguous previous Federal acknowledgment. Thus, the FD analysis on this matter makes findings with the regard to the theory that JBB asserts and the Lynch Report's treatment of the JBB theory.

The definitions section of the acknowledgment regulations, 25 CFR 83.1, states:

Previous Federal acknowledgment means action by the Federal Government clearly premised on identification of a tribal political entity and indicating clearly the recognition of a relationship between that entity and the United States.

A petitioner is eligible to be evaluated under 25 CFR 83.8 if it provides substantial evidence that the Federal Government acknowledged, by its actions, a political relationship between the United States and the petitioner as an Indian tribe. If there is substantial evidence that the Federal Government established such a relationship, the Department must then determine whether the petitioner is able to advance a claim that it is the same tribal entity that was previously acknowledged or is a portion that has evolved as a group from the previously acknowledged Indian tribe (see sections 83.8(a), 83.8(d)(1)). Because this FD finds that the Federal Government did not previously acknowledge a "Juaneño" Indian tribe in San Juan Capistrano or elsewhere, the FD need not evaluate whether the petitioner is the same group or a group that evolved from a previously acknowledged Indian tribe.

Based on the evidence in the record, the Federal Government did not acknowledge or establish a political relationship with a Juaneño Indian tribe with the 1852 Treaty of Temecula. The JPA provided argument and evidence that generally supports the PF's findings that the evidence in the record did not show that Indian agent O. M. Wozencraft included or "intended" to include any Indian leader or leaders representing an SJC Indian political entity in the negotiations leading up to the signing of the treaty (JBA PF 2007 30-32; JBB PF 2007, 30-32). The Department received no new evidence during the comment or response periods that requires a

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modification of the PF's analysis and conclusion that this treaty was not unambiguous previous Federal acknowledgment of a Juanefio Indian tribe.

The Federal Government did not acknowledge or establish a political relationship with a Juanefio Indian tribe with the 1946 Indian Claims Commission Act or through the proceedings of the Indian Claims Commission. The JBB petitioner claimed that the proceedings of the Commission under Docket 80 "amounts to [an] example of previous unambiguous Federal acknowledgment" (JBB Narrative 2/28/2009, 13). However, the JBB petitioner did not provide any new evidence in its comments to support this claim.⁴ The act allowed "any Indian tribe, band, or other identifiable group" to pursue historical claims against the Federal Government (U. S. Congress 1946). In the 1950s and 1960s, the Commission allowed "the Mission Indians" to seek claims under the Indian Claims Commission Act as descendants of the Mission Indians of California (U.S. Indian Claims Commission 7/2/1964, ICC Docket 80). This action by the Commission did not constitute an acknowledgment by the Federal Government that the claimants were tribal in character at the time of the Commission's proceedings or that the Federal Government was in, or was establishing, a political relationship with the claimants as an Indian tribe. Instead, the action by the Commission gave the claimants standing for the limited purpose of pursuing, as descendants, historical claims within the limited context of the Indian Claims Commission. The ability of claimants to pursue claims through the Indian Claims Commission does not demonstrate that the U.S. Government deemed the claimants to be a federally acknowledged Indian tribe.⁵

Conclusion for the FD

The FD reviewed the new arguments and evidence, both for and against unambiguous previous Federal acknowledgment, that the Department received during the comment and response periods. This new material, together with the rest of the evidence in the record, does not show that the Federal Government established, by its actions, a relationship between the United States and the JBA petitioner or the JBB petitioner. Therefore, this FD finds that material in the combined JBA and JBB record does not provide evidence of previous unambiguous Federal acknowledgment. Consequently, the JBA and JBB petitioners will be evaluated under the requirements of the mandatory acknowledgment criteria 83.7(a) through (g) without modification by the provisions of section 83.8(d).

⁴ The JBB petitioner's claim for unambiguous previous Federal acknowledgment amounts to brief and minimally developed remarks in its comments that are tangential to the JBB petitioner's comments on criterion 83.7(a).

⁵ Past Department decisions have made similar determinations (see Chinook RFD 2002, 15-32; Lower Muskogee Creek FD 1981, 2, 6).

CONCLUSIONS UNDER THE CRITERIA (25 CFR 83.7)

The JBA and JBB petitioners and a number of third parties submitted evidence for this FD, and OFA staff conducted limited research to verify and evaluate the evidence, arguments, and interpretation submitted. Additionally, OFA conducted verification research in the sacramental registers (baptisms, confirmations, marriages, burials) of SJC Mission, San Diego Mission/San Diego Presidio, San Gabriel Mission, and the Los Angeles Parish (Old Plaza) Church to verify genealogical claims. The burden of providing sufficient evidence under the criteria in the regulations rests with the petitioner. It is not the responsibility of OFA to obtain copies of documents cited that the petitioners did not provide, although OFA may do so. The OFA requested two additional submissions from the JBA petitioner that had been mentioned and cited in its FD submission, but had not been included in the petitioner's submission through inadvertence. Both these submissions (the "Chief Clarence H. Lobo Collection" and the "Response to the Proposed Finding 25 CFR 83.7 (b),(c)" Report) were evaluated for the FD under section 83.10(l) of 25 CFR 83.

This FD evaluates the evidence in the record for both the PF and FD. The evidence in the record demonstrates that the JBA petitioner does not meet four of the seven mandatory criteria for Federal acknowledgment: criteria 83.7(a), 83.7(b), 83.7(c), and 83.7(e). The petitioner meets criteria 83.7(d), 83.7(f), and 83.7(g). In accordance with the regulations set forth in 25 CFR 83.7, the failure to meet all seven criteria requires a determination that the petitioning group is not an Indian tribe within the meaning of Federal law. Therefore, the Department proposes to decline to acknowledge the JBA petitioner.

This FD treats the Indian population at the SJC Mission in 1834 as the "historical Indian tribe." The regulations provide for acknowledgment of historical Indian "tribes or groups that have historically combined" (section 83.6(f)). The evidence in the record establishes by a reasonable likelihood that as a result of Spanish policy, the Indian population of the SJC mission became an entity consisting of Indian tribes or groups that had combined. This Indian tribal entity existed at the SJC Mission when the Mexican government ordered the secularization of the mission in 1834. Therefore, the Department evaluated the petitioner to determine if the petitioner meets the acknowledgment criteria by demonstrating that it is a continuation of the Indian tribes that historically combined at the mission by 1834.

The final determination reaches the following conclusions for each of the mandatory criteria in 25 CFR 83.7:

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The JBA petitioner does not meet the requirements of criterion 83.7(a). The evidence in the record does not demonstrate that external observers identified the petitioner, or a group from which the petitioner evolved, as an American Indian entity on a substantially continuous basis from 1900 to 1997. There are identifications of the JBA petitioner as an American Indian entity between 1997 and 2005. Because the petitioner, or a group from which the petitioner has evolved, has not been identified as an American Indian entity on a substantially continuous basis since 1900, the petitioner does not meet the requirements of criterion 83.7(a).

The JBA petitioner does not meet the requirements of criterion 83.7(b). The evidence in the record demonstrates that the JBA petitioner did not evolve from the historical SJC Indian tribe as a distinct community. The FD concludes that evidence in the record indicates that a community of SJC Indians persisted around and at the former SJC Mission until 1862, when a smallpox epidemic killed almost half the estimated Indian population (88 of 200) in a period of less than 3 months. No evidence in the record indicates that the community was able to recover from this event. The petitioner, as it is currently constituted, consists of members identified by the petitioner as SJC Indians, but whose ancestors functioned as part of the general population of SJC residents since the mid-19th century. This community included non-Indians, individual SJC Indians, and non-SJC Indian residents in the town. The petitioner's individual ancestors, both Indian and non-Indian, were part of this larger community. There is no evidence that the petitioner's SJC Indian ancestors were distinct within this community after 1862, or were part of an Indian entity that evolved from the SJC Indian tribe in 1834; rather, they appear to be Indian individuals who became absorbed into the general, ethnically-mixed population of Old Mexican/Californio families, as well as with non-SJC Indians who moved to the town prior to 1900. The 2005 membership of the JBA petitioner reflected the makeup of this general population, as many members had no documented Indian ancestry, or had documented California Indian ancestry from other non-SJC Indian populations. The 2009 membership, considerably revised in an attempt to eliminate members without demonstrable SJC Indian ancestry, no longer mirrors the composition of the mid-19th century general population of the town or the group described in its earlier submissions. The petitioner's omission of people formerly identified as ancestors and members to satisfy the requirements of criterion 83.7(e) no longer describes the social community that the petitioner described in its previous submissions, and the "group" that the petitioner now describes reflects only a number of individuals who were actually part of a much larger, multi-ethnic community. The overall record does not demonstrate that the petitioner's mid-19th century ancestors formed a distinct SJC Indian community within a larger Spanish-speaking, Catholic, Old Mexican/ Californio community after 1862. Therefore, because the totality of the evidence does not demonstrate that the petitioner's SJC Indian ancestors formed a distinct community from which the current JBA petitioner evolved since 1862, the JBA petitioner has not met criterion 83.7(b).

The JBA petitioner does not meet the requirements of criterion 83.7(c). The evidence submitted for the FD, in combination with the evidence already in the record for the PF, is insufficient to satisfy the requirements of criterion 83.7(c) for any time from 1835 to the present. The evidence in the record submitted to demonstrate political influence or authority during the post-secularization period included a marriage analysis. The analysis, however, is methodologically flawed and, thus, does not provide evidence to satisfy the requirements of criterion 83.7(b)(2) that could "carry over" under 83.7(c)(3) to satisfy criteria 83.7(c) for this same period of time.

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The petitioner's discussion of the early to late 19th and early to mid-20th century, particularly of the Mission Indian Federation (MIF), did not address several important issues raised in the PF, including the lack of evidence of a bilateral relationship between the members of the SJC chapter of the MIF and the leadership of the organization. The new documents in the record related to Clarence Lobo's leadership between the late 1940s and 1965 did not indicate that Lobo acted on behalf of an entity of SJC Indian descendants when he worked on behalf of much larger pan-Indian organizations which counted SJC Indians among their members. The documentation also did not demonstrate a bilateral relationship between Lobo and the group members, and included little information demonstrating that the group addressed any issues other than claims.

There was no information as to any political activity among group members during the 10 years between the 1965 end of Lobo's active involvement and the 1975 formation of the Capistrano Indian Council (CIC). The information in the record regarding the early years of the CIC and the Juaneño Band of Mission Indians (JBM) supported the PF's conclusions regarding the membership of the organizations, namely, that the CIC members tended to be SJC Indian descendants still living in or very near the town of San Juan Capistrano, and that JBM members tended to be non-SJC descendants living outside of the town of San Juan Capistrano (even those members who were verifiable SJC Indian descendants were still mostly non-local). Most CIC members did not join the JBM until after 1995, but there was little information as to how the CIC members became integrated into the larger group, or how this integration affected the political composition of the group. There was no new information regarding the political turmoil within the JBM that resulted in the formation of the JBA, JBB, and JBMI-IP, and no new information regarding how the group's drastic revision of its membership between 2005 and 2009 changed the political structure of the group. The third-party comments included in the record largely agree with the conclusions reached in the PF, and the responses offered by the petitioner provide little new information regarding the political structure of the group over time. After 1834, there is insufficient evidence that there were any internal processes or other mechanisms that the group used as a means of influencing or controlling the behavior of its members in significant respects, or made decisions for the group which substantially affect its members, or represented the group in dealing with outsiders in matters of consequence. The petitioner does not satisfy criterion 83.7(c).

The JBA petitioner meets the requirements of criterion 83.7(d). The petitioner submitted a copy of its governing document which includes its membership criteria.

The JBA petitioner does not meet the requirements of criterion 83.7(e). The petitioner submitted a membership list dated March 12, 2009, that names 1,940 living members. The list included minors under the age of 18. The evidence in the record demonstrates that all of the JBA petitioner's 1,940 members claim descent from individuals who were part of the historical Indian tribe at SJC Mission as it existed between 1776 and 1834. This FD finds that only 61 percent (1,182 of 1,940) of JBA members demonstrated descent from one of the Indians of the historical SJC Indian tribe. The remaining 39 percent (758 of 1,940) of JBA members have not demonstrated their claimed descent from a historical SJC Indian. Therefore, the JBA petitioner has not demonstrated that its members descend from a historical Indian tribe.

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The JBA petitioner meets the requirements of criterion 83.7(f). The petitioner's membership is composed principally of persons who are not members of any federally acknowledged North American Indian tribe.

The JBA petitioner meets the requirements of criterion 83.7(g). Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.

Failure to meet any one of the mandatory criteria results in a determination that the petitioning group is not an Indian tribe within the meaning of Federal law. The JBA petitioner has met criteria 83.7(d), (f), and (g), but has not met criteria 83.7(a), (b), (c), and (e). Therefore, this FD declines to acknowledge that the JBA petitioner is an Indian tribe.

Criterion 83.7(a)

83.7(a) The petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900.

Introduction

To satisfy the criterion, an identification must be of the petitioner (or a group from which the petitioner evolved); it must be of an entity; and the entity must be described as American Indian. It is also required that the identification be “by other than the petitioner itself or its members” (25 CFR 83.7(a)). Self-identifications, therefore, do not satisfy the criterion. Acceptable identifications must occur on a substantially continuous basis since 1900, which, under acknowledgment precedent, requires an identification every 10 years.

The discussion of potential identifications of a Juaneño Indian entity prior to the emergence of the JBA and JBB petitioners in the latter 1990s applies to both petitioners. Therefore, the FD evaluates the comments from both the JBA and JBB petitioners and presents that evaluation here for the convenience of both petitioners.

Summary of the Proposed Finding

The PF determined that the petitioner did not meet the requirements of criterion 83.7(a). The PF reviewed documents created by Federal, state, and local governments; scholarly studies; newspaper and magazine articles; and records of organizations and Indian entities. There was not evidence in the record sufficient to demonstrate that external observers identified the JBA petitioner as an Indian entity on a substantially continuous basis from 1900 to 1997. For the period between 1997 and the issuance of the PF in 2007, the PF concluded that external observers identified the JBA petitioner as an Indian entity on a substantially continuous basis. Because the evidence in the record for the PF did not demonstrate that external observers identified the petitioner on a substantially continuous basis since 1900, the petitioner did not meet the requirements of criterion 83.7(a) for the PF.

The record for the PF contained material that identified Indians in California. In general, the documents submitted identified individuals, rather than an entity; were too vague to be identifications of the petitioner; identified an entity other than the petitioner; or were pro forma letters of response that are not considered identifications of the petitioner. Even when documents referenced an American Indian entity in the San Juan Capistrano area, the PF did not find that the documents identified the petitioner. The evidence submitted was not sufficient to satisfy the criterion.

Summary of the Comments on the Proposed Finding

During the comment period, the JBA petitioner submitted a narrative entitled, “Response to the Proposed Finding Against Acknowledgment of the Juaneño band of Mission Indians Acjachemen Nation (Petitioner #84A).” This document is 60 pages in length and was prepared by Christine Grabowski (Grabowski 3/12/2009). Much of the document tends to comment generally on topics related to the petitioner’s claimed history during the 19th and 20th centuries. Some of the material addresses criterion 83.7(a).

During the comment period, the JBB petitioner submitted a 40-page narrative entitled, “Final Submission and Comments on Proposed Finding of the Juaneño Band of Mission Indians, Petitioner 84B” (JBB Narrative 2/28/2009). This narrative contained 12 pages of comment that addressed the PF’s findings under criterion 83.7(a), and it was accompanied by several exhibits.

Analysis of the Comments for the Final Determination

For criterion 83.7(a), the PF noted the problem that although the record contained references to various American Indian entities associated with San Juan Capistrano, these references did not appear to be identifying the petitioner. Additionally, the PF did not find that the petitioner evolved out of an American Indian entity that was identified in the record prior to the 1990s; this made it difficult for the PF to conclude that the petitioner was the same entity as any of the entities identified prior to the 1990s. Thus, the PF indicated that, when commenting on criterion 83.7(a), the petitioner needed to advance a claim that it evolved out of an American Indian entity that was identified on a substantially continuous basis since 1900.⁶ The comments that the JBA and JBB petitioners submitted on criterion 83.7(a) did not advance a substantive claim that either one evolved, as a group, from any entity that was identified on a substantially continuous basis since 1900. Furthermore, neither the PF nor the FD finds that the petitioner evolved, as a group, out of an American Indian entity that was identified between 1900 and 1997. Although the record contains identifications, made prior to the 1990s, of various American Indian entities, none of these identified the petitioner or an entity out of which the petitioner evolved.

⁶ For example, the PF found that neither the JBA petitioner nor the JBB petitioner evolved from the Juaneño Band of Mission Indians (JBM) organization, which formed in 1978; the petitioners were too different from JBM and did not have organizational continuity from JBM. Therefore, the PF could not accept identifications of JBM as identifying either petitioner (JBA PF 2007, 48, 52, see also 118-120; JBB PF 2007, 48, 52, see also 120-122). Similarly, the PF did not find that either petitioner evolved from a group associated with Clarence Lobo, who was active in the 1950s and 1960s (JBA PF 2007 43-44, 52; JBB PF 2007, 43-44, 52). For the years prior to 1950, the PF noted that a 1936 identification of an American Indian entity was not demonstrated to be the same entity as either petitioner (JBA PF 2007, 52; JBB PF 2007, 52).

1900-1949

Summary of the PF (1900-1949)

The PF concluded that the record contained no identifications of the petitioner that satisfied criterion 83.7(a) during the period from 1900 to 1949 (JBA PF 2007, 37, 42, 52; JBB PF 2007, 37, 42, 52). The PF reviewed a 1936 newspaper article by Alphonso Yorba that identifies an American Indian entity; the article refers to “the San Juanefio Mission Indians—a tribe that today numbers more than 300 strong and is still resident in this county” (Alphonso Yorba, 2/1/1936). However, the PF noted that this entity was not demonstrated to be the same entity as either the JBA or JBB petitioner, or from which either petitioner evolved as a group (JBA PF 2007, 42; JBB PF 2007, 42).⁷ Therefore, this article does not identify an entity that is the petitioner. In addition, only one reference to an entity in a 50-year period is not considered to be “substantially continuous” as required by the regulations.

JBA Comments (1900-1949)

In its narrative addressing criterion 83.7(a), the JBA petitioner discusses the 1900 and 1910 Federal censuses of the San Juan Township, along with a Federal census of the Sherman Institute Indian school in Riverside, California. In discussing these censuses, the JBA narrative discusses the census enumerators’ decisions whether to identify certain individuals as Indians, as Indians from “San Juan Capistrano,” or as “Juanefio” or some similar term. However, these censuses do not identify an American Indian entity.⁸ Instead, these census entries identified Indian individuals; the entries did not identify a collective entity. The PF addressed these censuses and determined that none of them identified the petitioner as an American Indian entity. Nothing in the narrative or accompanying exhibits warrants a change in that determination.

The JBA narrative discusses a 1909 article in *Outing Magazine*: “An Old Village on the Pacific Coast,” by Clifton Johnson. The PF did not find a satisfactory identification in this article, but the JBA narrative contends, “his article does indicate that the Indian population of the town distinguished it as a tourist attraction” (Grabowski 3/12/2009, 23). The article does not identify an Indian entity, only that there were Indian people (individuals and families) who lived in the town.

The JBA narrative discusses text of a new document it submitted for review, a transcribed copy of portions of a journal kept by Father O’Sullivan, a pastor at the SJC Mission in the early 20th century (O’Sullivan 2/-/1912). This document mentions individual Indians, but nowhere in the text does it identify an American Indian entity of petitioner’s ancestors or identify any contemporary American Indian entity at SJC.

⁷ Neither the PF nor the FD found that there was such a “tribe” of “San Juanefio Mission Indians” at that time.

⁸ See the Match-e-be-nash-she-wish Band PF and the Huron Potawatomi PF for examples of census documents that identified a petitioner as an American Indian entity (Match-e-be-nash-she-wish PF 1997, 3; Huron Potawatomi PF 1995, 4). See also the explanatory note in the Muwekma FD (Muwekma FD 2002, 43).

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Criterion 83.7(a)

The JBA narrative presented a new piece of evidence, a 1915 newspaper article, “San Juan Capistrano is Tumbling in Ruins” (*Los Angeles Times* 3/28/1915). The article states that “the offerings of the *parish Indians* each Sunday as they file into mass on the spot where many of their great-grandparents perished in the earthquake of 1812” provide some funding for the parish (emphasis in Grabowski 3/12/2009, 24). This article does not identify or describe an American Indian entity at SJC or elsewhere. The parish at this point was not an Indian entity; it included many non-Indian individuals. Thus, the phrase “parish Indians” does not identify an American Indian entity.

The JBA narrative suggests that a 1920 letter from Mission Indian Federation (MIF) Grand Secretary Ben Watta, together with a newly provided list of intended recipients, would constitute an identification acceptable for criterion 83.7(a). One of the entries on the list of intended recipients of the letter is “San Juan Capistrano Village Captain Marcus H. Forster” (Watta 3/1/1920). The JBA narrative contends this entry “did not reflect personal membership but *band and/or tribal* membership, each captain/delegate participating as a *representative*” (Grabowski 3/12/2009, 28; emphasis in original). These documents identify Forster as an individual, perhaps living in SJC, but this list does not identify an American Indian entity in SJC. The JBA petition narrative also discusses a new list submitted for the FD, possibly of MIF officers, that identifies Marcus Forster and associates him with “San Juan Capistrano, Village San Juan.” This phrase appears in a column under the header “Indian Village or Reservation.” The other individuals on this list are associated with Indian reservations, except for one individual who was associated with San Luis Rey, California (MIF 2/-/1929; Grabowski 3/12/2009, 31). This list identifies Forster as either a “captain” from San Juan Capistrano Village, as living there, or as associated with it in some other capacity. The town of San Juan Capistrano was not an Indian entity; it included many non-Indians. No other evidence indicates that there was an Indian village or residential area separate from the rest of the town during this period, and nowhere in the document is an SJC Indian entity identified or described. This document does not provide an acceptable identification of the petitioner as an American Indian entity.

The JBA narrative also claims that, in certain contexts, the term “Mission Indians” referred to Indians of San Juan Capistrano instead of referring generally to Indians of the California Missions. The PF explained that the term “Mission Indians” is not synonymous with the petitioner.⁹ None of the documents in the record show that, after 1900, the term “Mission Indians” was used to identify an American Indian entity that was the petitioner. The JBA petitioner presented two newspaper articles from the *Coastline Dispatch* as new evidence, claiming that these articles constitute satisfactory identifications. These documents suffer from the same problem as the 1936 article by Alfonso Yorba. That is, what is referenced in the document has not been demonstrated to be the petitioner. The first article, a 1931 obituary, refers to the deceased Juan Robles as “a picturesque member of the old Mission Indians” (Grabowski 3/12/2009, 25; *Coastline Dispatch* 1931).

Juan Robles, a picturesque member of the old Mission Indians, passed away early last Friday morning at his home in San Juan after an illness of several weeks.

⁹ The Department explained that identifications of “Mission Indians” or the MIF as an American Indian entity are not acceptable as identifications of the petitioner (JBA PF 2007, 38-39, 42-43; JBB PF 2007, 38-39, 42-43).

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Juan, who was born and raised here, was one of the survivors of the smallpox epidemic (1881) and it is said he had never been outside his native town. In his younger days Juan was employed by Don Juan Forster and later by his son Marcus Forster. The funeral was conducted from the old Mission. (*Coastline Dispatch* 1931)

The term “old Mission Indians,” in this article, does not identify a contemporaneous Indian entity.¹⁰ Nothing in this obituary, reproduced in full above, demonstrates that the “old Mission Indians” was an entity rather than population of scattered descendants. Neither the PF nor the FD found that there was an “old Mission Indian” entity at the time of this obituary to which Robles might have belonged as a “member.” Regardless, it has not been demonstrated, by either the JBA petitioner or the JBB petitioner, or in the process of the Department’s evaluation for the FD, that this vague and indefinite reference to Juan Robles as “a member of old Mission Indians” identifies the petitioner or an entity from which the petitioner evolved as a group; therefore, it is not an identification that satisfies criterion 83.7(a).

The second article is the obituary of Ernestina Saguas (b.ca.1918-d.1935). It states that Ernestina was “the daughter of Francisco Saguas, a fullblood Mission Indian of the Achachemem tribe, and Dona Rosa Aguilar” (Grabowski 3/12/2009, 25; *Coastline Dispatch* 7/26/1935).¹¹ Although the obituary uses the term “tribe,” the obituary provides no further description of it that might help link it to the petitioner. Regardless, it has not been demonstrated, by either the JBA petitioner or the JBB petitioner, or in the process of the Department’s evaluation for the FD, that this vague and passing reference to an “Achachemem tribe” identifies the petitioner or an entity from which the petitioner evolved as a group. Therefore, it is not an identification that satisfies criterion 83.7(a).

The JBA narrative claims that because the BIA, in response to the California Indian Judgment Act of 1928, chose San Juan Capistrano as an enrollment site for Indian descendants, the BIA “knew an Indian community resided in and around the small town” (Grabowski 3/12/2009, 33). This hypothesis is not a description or identification of an American Indian entity, nor is the hypothesis supported by any contemporary identifications of an SJC Indian entity. The JBA narrative does not produce any primary source documents contemporaneous to the 1928 Act, created by the BIA or other observers, to support this claim.

The JBA narrative points out that anthropologist John P. Harrington and Father O’Sullivan, a priest at the SJC mission church, interviewed Indians at San Juan Capistrano. These Indians, according to the *Los Angeles Times*, possessed “excellent memories” and managed to turn “deaf ears to the distractions of modern life” (*Los Angeles Times* 1/2/1933). The JBA narrative claims

¹⁰ No evidence has established that, in the early 20th century, the SJC Mission was itself an Indian entity or that an Indian entity existed at or near the town of SJC. In the context of the evidence in the record, it is inappropriate to interpret the phrase “Mission Indians” as identifying an SJC Indian entity in the early 20th century.

¹¹ Ernestina Saguas is not in the combined Family Tree Maker™ (FTM) database. The database, however, contains a Justine Saguas (b.1917), daughter of a Frank Saguas (b.1885–d.1955), who is also in the database. None of the current JBA or JBB members descend from Justine or Frank Saguas. The evidence in the record suggests that the “Francisco” Saguas and the “Ernestina” Saguas of the obituary are the same as people as the Frank Saguas and Justine Saguas of the FTM database.

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that these informants were “collectively distinct” from the rest of the town and had “cultural memories, language, and lifestyle that set them apart from ‘modern’ life,” therefore “these attributes distinguished them as an Indian entity” (Grabowski 3/12/2009, 34). This line of reasoning does not demonstrate that contemporary observers identified an American Indian entity in SJC; rather, it is the JBA narrative that infers that conclusion. The narrative does not present any new supporting documents that show either Harrington or O’Sullivan describing a contemporaneous American Indian entity in SJC. Instead, these documents indicate that these men worked with individual informants or families, not with a contemporary Juaneño group.

The JBA narrative discusses the collected writings of Alfonso Yorba, who himself was not native to San Juan Capistrano, but had ancestors who lived there. Yorba wrote numerous articles and essays about the town of San Juan Capistrano, and he sometimes used the term “Mission Indians.” This term, as discussed elsewhere, does not identify an entity that is the petitioner. The JBA narrative argues that “Yorba’s numerous and specific references to the Indians of San Juan, their historic relationship to the SJC Mission and their relationship to Father O’Sullivan, . . . unambiguously identify the Indians of San Juan Capistrano as an Indian entity” (Grabowski 3/12/2009, 36-37). Again, references to individual Indians do not satisfy criterion 83.7(a) because the observer is not identifying a specific collective entity—such as a “tribe” or “group” or “community.”

As discussed above, the PF noted that a 1936 article by Alfonso Yorba in the *Coastline Dispatch* identified an American Indian entity:

While much attention has been given to the preservation of ex-mission San Juan Capistrano, little indeed has been directed toward the San Juaneño Mission Indians—a tribe that today numbers more than 300 strong and is still resident in this county. (*Coastline Dispatch* 2/1/1936)

However, the PF noted that this entity—if it existed as Yorba described—was not demonstrated to be the same entity as either the JBA or the JBB petitioner or an entity from which either petitioner evolved (JBA PF 2007, 42; JBB PF 2007, 42). The JBA narrative discusses Alfonso Yorba and his writings. The same *Coastline Dispatch* article states, “the largest groups of the San Juaneño tribe are to be found living in San Juan, Santa Ana, Anaheim, and the Santa Ana Canyon” (*Coastline Dispatch* 2/1/1936; Grabowski 3/12/2009, 28). This text references a “group” of the San Juaneño “tribe” living in San Juan Capistrano. However, the “tribe” to which Yorba refers has not been demonstrated to be either the JBA or JBB petitioner or an entity from which either petitioner evolved as a group. Furthermore, the “group” Yorba referenced in San Juan Capistrano is mentioned with so little detail that it, too, has not been demonstrated to be either the JBA or the JBB petitioner or an entity from which either petitioner evolved. The comments on criterion 83.7(a) did not address these problems that the PF raised.

The JBA narrative claims that the PF did not properly credit a 1940 newspaper obituary of SJC native Jose Doram as containing an acceptable identification of the JBA petitioner (Grabowski 3/12/2009, 39). The *Coastline Dispatch* notes that Jose Doram, a “leader of Mission Indians,” died at age 76. The obituary declared that he was “San Juan’s cultured and beloved Indian leader,” and was perhaps “the best informed Mission Indian in California.” Doram spoke “four

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Indian tongues . . . perfectly: Acjachemen (San Juan), San Lusieno, San Dieguino, and Cahuilla,” and spoke “San Jacinto, Saboba and Temescal” fairly well. The obituary states that “Doram, as leader of the Acjachemen tribe,” approved historic preservation projects in the town. Thus, the article refers to an American Indian entity, a “tribe.” The obituary further notes, “a number of Indians from the Pala Reservation” came “to pay honor to their tribesman.” Nowhere in the obituary does the author describe an Indian entity in San Juan Capistrano, which is where the petitioner’s ancestral entity would have been located, that might help link it to the petitioner. Furthermore, although the obituary identifies Doram as “leader of the Achachemen tribe,” the article also notes that he is a “leader of Mission Indians,” which suggests a broad group of people, and that at least some of his “tribesm[e]n” were from the Pala Indian Reservation in San Diego County, California (*Coastline Dispatch* 5/31/1940). Thus, the “Acjachemen tribe” of which Doram was the “leader” seems to be something much larger and more expansive than the petitioner and too indefinite to be an identification of the petitioner or something from which the petitioner evolved. It has not been demonstrated that the obituary identifies the petitioner as an American Indian entity.

The JBA narrative discusses two new pieces of evidence: a November 24, 1948, letter from attorney Norman M. Littell to Clarence Lobo (an SJC Mission Indian descendant) and a December 14, 1948, letter from Littell to Purl Willis, another attorney. In the November letter, Littell asks Lobo about his “Capistrano group,” and in the December letter, Littell states that he will send a copy of the letter to Clarence Lobo and his cousin, requesting that they provide him a statement about how signatures were secured and a “full statement as to the Capistrano band” (Littell, 12/14/1948). As stated in the PF, correspondence from a petitioner’s attorney of record does not constitute an external identification (JBA PF 2007, 45; JBB PF 2007, 45), and, by acknowledgment precedent, these statements are not acceptable under criterion 83.7(a).

The JBA petitioner claimed that an April 19, 1949, letter from the Commissioner of Indian Affairs approved an attorney contract for a San Juan Capistrano Band of Mission Indians. However, the record does not contain, and neither the JBA nor the JBB petitioner submitted, a copy of this document (Grabowski 3/12/2009, 41).¹² Therefore, the FD cannot evaluate it. Further, such correspondence merely repeats self-identifications and is not considered identifications under this criterion.

For the period 1900-1949, both the JBA petitioner and the JBB petitioner provided new documents for evaluation and requested that the Department reevaluate documents submitted for the PF. However, none of the new documents show that external observers identified the petitioner as an American Indian entity between 1900 and 1949. The PF reviewed similar documents that identified an American Indian entity, but noted that these identifications were not demonstrated to be identifying the petitioner and thus did not meet the requirements of this criterion. The comments from the two petitioners did not address this problem but instead submitted more documents with the same problem. The comments on the PF did not warrant a

¹² A letter from attorney Norman M. Littell to the “Captain of the San Juan Capistrano Band of Mission Indians” informed Clarence Lobo that the Commissioner of Indian Affairs approved an attorney contract for the “band of which you are captain” (Littell 6/30/1952). The JBA petitioner contends that this letter shows that, on April 19, 1949, the Commissioner, “thus acknowledge[ed]” that the “San Juan Capistrano Band of Mission Indians” was an “‘identifiable band’ and eligible to bring suit before the Indian Claims Commission” (Grabowski 3/12/2009, 41).

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change in the evaluation of documents provided for the PF. Thus, the FD finds there are no identifications of petitioner as an American Indian entity for the period 1900-1949.

JBB Comments (1900-1949)

The JBB petitioner provided comments on the PF's findings under criterion 83.7(a) for the 1900-1949 period. These comments did not dispute the PF's analysis of the aforementioned 1936 newspaper article by Alfonso Yorba. The JBB petitioner claimed that, "due to funding constraints, it was impossible to gather evidence" relating to JBB ancestors maintaining the graves of their ancestors during the early 20th century, evidence that they hoped would address criterion 83.7(a). Regarding funding constraints, the burden is on the petitioner to document its petition (see 25 CFR 83.5(c)), and the FD must evaluate the evidence in the record. In this case, however, there is a submission by the JBA petitioner for this time period that is part of the record, which mitigates against any alleged hardship. In reviewing the full body of evidence in the record, it seems unlikely that such identification would be found. Furthermore, descriptions by members of the petitioner of a group practice of maintaining graves would be considered a self-identification and would not meet the requirements of criterion 83.7(a).¹³

The JBB petitioner also claimed that, because of the persecution endured by California Indians in the 19th century, the Indians did not want to "identify their tribal communities" out of fear of "extermination and extinction" (JBB Narrative 2/28/2009, 8). The JBB petitioner suggests that scholars like Alfred Kroeber might not have detected the existence of a Juaneño entity because informants were reluctant to "expos[e] their communities to danger" (JBB Narrative 2009, 10). There is an abundance of documentation on other California Indian tribes in the 20th century (OFA TA Meeting 4/17/2008, 185-187; OFA TA Meeting 4/18/2008, 64-67). The acknowledgment regulations, under section 83.6(a), allow for the evaluation of petitions to take into account historical situations and time periods for which evidence is demonstrably limited or not available. However, the JBB petitioner did not demonstrate that, for a period subsequent to 1900, informants were reluctant to expose their communities to danger, and the abundant documentation available concerning California Indians suggests otherwise.¹⁴ Researchers such as John P. Harrington and Alfred Kroeber interviewed descendants of Mission Indians. The available record indicates that although researchers external to the petitioner located Mission Indian descendants, those researchers did not identify a contemporaneous Juaneño Indian entity.

The JBB petitioner also submitted new records of the Sherman Institute from the 1920s and afterward, claiming that these records identify it as an American Indian entity (Sherman Institute Juaneño Files 1928-1963). In particular, the JBB petitioner claims that "many of the records contain the entry, 'Indian of the Mission Indian Tribe, located at San Juan Capistrano'" (JBB

¹³ The JBB PF evaluated recent oral interviews with a JBB member who recalled how various individual women helped maintain the SJC mission. The record does not indicate that an SJC tribal entity maintained the mission in the 20th century, nor did the interview transcript show that the interviewee identified a 20th century SJC Indian entity (McMullen 3/15/2006, 9-20).

¹⁴ The JBB provided examples of violence against Indians in California in the 19th century. Criterion 83.7(a) does not require identifications prior to 1900. The one example of violence in the 20th century that the petitioner provided occurred in Northern California, far away from the town of SJC.

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Narrative 2/28/2009, 9). However, upon inspection of these documents, it is clear that the documents do not identify a “Mission Indian Tribe” then existing at SJC. The phrase, “Indian of the Mission Indian Tribe, located at San Juan Capistrano,” does not exist in the document. The petitioner has created a composite phrase, made up of two types of text. The first is typed boilerplate text on the standardized application form from the Sherman Institute. The second type of text is the fill-in-the-blank text supplied for each applicant—seemingly by each applicant or a parent. In the blank for “Indian of the” appears the phrase “Mission Indian.” In the blank for “Tribe located at” appears the phrase “San Juan Capistrano.” Such information supplied by applicants is a form of self-identification and therefore not acceptable for criterion 83.7(a).¹⁵ The petitioner’s claim is misleading, as no external observer was describing an American Indian entity at San Juan Capistrano that was the petitioner. Therefore, these documents from the Sherman Institute do not provide identifications of the petitioner as an American Indian entity as required by criterion 83.7(a).¹⁶

The JBB petitioner protests that the Department does not accept documents from this period related to Clarence Lobo as being satisfactory for criterion 83.7(a). The JBB narrative does not show that the Department misinterpreted any documents related to Clarence Lobo that contained potential identifications of the petitioner. However, the JBB narrative suggests that an oral interview from February 17, 1992, with Clarence Lobo’s sister, Evelyn (Lobo) Villegas, contains an acceptable identification under criterion 83.7(a). The PF reviewed this document under criterion 83.7(b), but did not explicitly discuss it under criterion 83.7(a) because it is not an acceptable identification under criterion 83.7(a). The FD discusses it here. The petitioner’s narrative states that Villegas said:

My brother Clarence . . . he became Chief of the Juaneño Tribe. It did not come through inheritance or father to son but the Indians of the area voted him as such When he became Chief, that was in 1946 He got involved with other people that were involved in the Indians’ case and that’s when he became involved here, trying to unite the Indians here because they were very disunited. (JBB Narrative 2/28/2009, 11; see also Evelyn (Lobo) Villegas interview transcription, 2/17/1992)

As a sibling, Lobo’s sister is not external to what was identified. This interview is not acceptable as an identification under criterion 83.7(a) because it is a self-identification.

¹⁵ Similarly, a Sherman Institute yearbook photo of Robert Lobo contains a caption noting that he is a “Mission” Indian from the town of “San Juan Capistrano” (Sherman Institute Yearbook 1934). The caption does not identify an Indian entity and also is a self-identification. It is therefore not acceptable for criterion 83.7(a).

¹⁶ Again, it is important to note that the term “Mission Indians” is not synonymous with Juaneño. The term could apply to Indians, as individuals or in groups, associated with any of the Spanish missions. The Department explained in the PF that identifications of “Mission Indians” are not acceptable as identifications of either petitioner (JBA PF 2007, 38-39, 42-43; JBB PF 2007, 38-39, 42-43). No comment submitted in response to the PF warrants a change in that reasoning.

1950 - 1977

Summary of the PF (1950-1977)

The PF evaluated the period 1950 to 1977, which encompassed the years of greatest activity of Clarence Lobo (b.1912-d.1985), as a single chronological period. During this period, Lobo emerged as a leader of the MIF and as a self-described “chief” of a group that claimed descent from the historical Indian tribe of SJC Mission. The PF noted that many of the available documents in the record in this period referred to Lobo either in his role with the MIF or the pan-Indian League of California Indians (LCI), which were not SJC groups, or as an individual. The record for the PF contained identifications, at least during the years from 1959 to 1965, of a Juaneño “tribe” or “group,” usually associated with Lobo. However, the PF did not accept these identifications to be of the petitioner because they were too generic and not specific enough to identify the JBA petitioning group or a group antecedent to the JBA petitioner (JBA PF 2007, 43-44; see also JBB PF 2007, 43-44).

JBA Comments (1950-1977)

In its comments, the JBA petitioner submitted numerous new documents, principally newspaper articles about Clarence Lobo and his claims activities as well as pieces of correspondence relating to the claim of the Mission Indians of California against the United States in ICC Docket 80. These documents do not contain identifications acceptable under criterion 83.7(a). In some documents the text does not identify an entity at all, in other documents the text identifies a historical entity rather than a contemporary entity, and in some documents the text is too vague or too general to determine that they referred to a specific entity that evolved into the petitioner. Some documents referred to the “Mission Indians” of ICC Docket 80. This organization was much larger than and different from either the JBA or JBB petitioner and does not identify either one. Some documents associated with ICC Docket 80 are not acceptable identifications under criterion 83.7(a) because attorneys representing a group are not considered external to the group.

The JBA petitioner devoted considerable effort showing that sources could link Indians of the SJC Mission—both in historical and contemporary times—to a variety of terms, including the “Ahaechma (various spellings) tribe, Capistrano Band of Mission Indians, Juaneño Band of Mission Indians, Indians of San Juan Capistrano, San Juan Capistrano Indians, Juaneño, etc.” (Grabowski 3/12/2009, 50). Criterion 83.7(a) allows for inconsistency in terms applied to an entity; however, the criterion requires that, despite variations in terminology, the entity identified in a document to be the petitioner or of an entity from which the petitioner evolved.

In its comments on the PF, the JBA petitioner responded to the PF’s findings that the claimants associated with ICC Docket 80, the “Mission Indians,” were something larger than and different from the petitioner. The JBA petitioner was able to show, with BIA documents from 1951 and 1959, that a non-member referenced a separate SJC “band” as a component of the “Mission Indians” of ICC Docket 80. However, the record does not indicate that this identifies the petitioner or that either petitioner evolved out of this “band” associated with Lobo. The JBA narrative also provided some new documents that showed differentiation between San Juan

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Capistrano and Santa Ana.¹⁷ One newspaper article identified Clarence Lobo as the “head of the Capistrano Indians” and advisor to the “Santa Ana organization” of the League of California Indians (*Coastline Dispatch* 8/29/1952). Another newspaper article noted that the “Capistrano Mission Indians” planned to sponsor a dinner in cooperation with the “Santa Ana group” (*Coastline Dispatch* 7/6/1951). These passages indicate a distinction between Capistrano Indians and an entity in Santa Ana. However, it has not been shown that either petitioner evolved out of this organization associated with Lobo or a different Santa Ana “group” or “organization” associated with him.

The JBA petitioner submitted several new documents for the FD, usually associated with Lobo, that date from 1951, 1959, 1962, and 1964. However, they are not, as discussed below, identifications of the petitioner and they fail as well for the same reasons discussed in the prior paragraph. A 1951 form letter from the Sacramento Area Office of the Bureau of Indian Affairs (BIA) reported that “the following groups of California Indians” have filed claims through their respective attorneys, including the “San Juan Capistrano . . . Band[] of Mission Indians” (Ring 2/26/1951). The evidence in the record does not show that this group was the petitioner. On November 4, 1959, Homer B. Jenkins, Chief of the BIA’s Branch of Tribal Programs, in Washington, D.C., wrote a letter to Clarence Lobo. Jenkins did not address Lobo as a representative or leader of a Juaneño Indian entity. Instead, Jenkins addressed Lobo without special title, as a member of the general public. Jenkins referenced an SJC Indian entity, noting that on October 12, 1959, the Commissioner of Indian Affairs conditionally approved contracts between several “[b]ands” of Mission Indians, including the “San Juan Capistrano (Juaneño)” band (Jenkins 11/4/1959). A December 15, 1959, letter from Jenkins to the Sacramento, California, Area Director of the BIA notes that the BIA had approved attorney contracts for certain “bands” of Mission Indians for prosecution of claims against the Federal Government. This letter stated that one of the bands was the “San Juan Capistrano Band of Mission Indians” (Jenkins 12/15/1959). As the PF noted, and as the FD finds, the evidence does not show that either the JBA or JBB petitioner evolved as a group from this “band.” Furthermore, in its comments on criterion 83.7(a), neither petitioner provided an explanation of why, in view of the evidence of discontinuity between itself and Lobo, these references should be considered acceptable identifications of itself or the other petitioner.

Other newspaper articles newly submitted by the JBA petitioner are too generic and not specific enough to be acceptable as an identification of the petitioner. A 1951 newspaper article, “Indian Dance,” discusses sending a delegate to Washington, D.C., to represent the “Juaneño and Gabrieleño bands of mission Indians” in an attempt to obtain certain rights (Newspaper 1951-1952c). Another newspaper article notes that Indians from all over the State attended their annual powwow and feast, sponsored by “the Orange County group of the League of California Indians” (Newspaper 1951-1952d). A newspaper article entitled “Indian Chief Visits Scout Pack Meeting” discusses a youth scout meeting in Silverado, California, that was highlighted by the appearance of “Chief Lobo” of the “Ahaechma tribe.” The article further noted that “Chief Lobo,” who represented “his tribe” in Washington, D.C., annually, resided in Capistrano and had two sons of his own in the scouting program (Newspaper 1951-1952a). A newspaper article from

¹⁷ Neither the PF nor the FD finds that the JBA petitioner evolved from an American Indian entity in SJC or Santa Ana during the 1950s or 1960s. Neither the PF nor the FD finds that the JBB petitioner evolved from an American Indian entity in SJC or Santa Ana during the 1950s or 1960s.

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the *Coastline Dispatch* in 1962 states that Chief Clarence Lobo, the head man and spokesman for the Juaneños of San Juan Capistrano, called a general meeting of “the Juaneño and Gabrieleño bands of Indians” (*Coastline Dispatch* 10/3/1962). In 1964, another *Coastline Dispatch* article noted that Chief Lobo and 20 members of his “tribe” marched into Orange County Bank in a gesture of protest (*Coastline Dispatch* 7/8/1964). What was identified in these articles has not been shown to be the petitioner or an entity out of which the petitioner evolved as required by criterion 83.7(a). Again, in its comments on criterion 83.7(a), the neither petitioner provided an explanation of why, in view of the evidence of discontinuity between itself and Lobo, these references should be considered acceptable identifications of either petitioner.

In summary, for the period 1950-1977, the JBA comments contain some new documents that, as with previously submitted documents, identified a Juaneño “tribe,” “group,” or “band,” usually associated with Clarence Lobo. The material submitted during the comment period had the same problems as documents reviewed for the PF for this period. First, the PF noted that certain identifications of people associated with Lobo are too generic and not specific enough to be acceptable under criterion 83.7(a). Second, the PF did not find that either the JBA or JBB petitioners evolved out of a group associated with Lobo. In their comments on criterion 83.7(a), neither petitioner provided an explanation of why, in view of the evidence of discontinuity between itself and Lobo’s associates, these references should be considered acceptable identifications of either petitioner. Like the PF, the FD does not find that either petitioner evolved out of groups associated with Lobo, and does not find evidence that the petitioner was identified as an American Indian entity during this time period.

JBB Comments (1950-1977)

In its comments on criterion 83.7(a), the JBB petitioner makes some general claims regarding the Indian Claims Commission’s Docket 80. However, the JBB petitioner does not present any new evidence contemporary to those proceedings. The JBB petitioner suggests that, because “Juaneño Tribe” is listed in Docket 80 as one of the Indian tribes inhabiting California in the 18th and 19th centuries, this constitutes an identification of the JBB petitioner in the middle of the 20th century. However, identifications of a pre-1900 entity are not acceptable identifications for a post-1900 period under criterion 83.7(a). Furthermore, as discussed in the PF, Docket 80 identifies the Mission Indians of California, a collection of individuals in California claiming descent from mission Indians in California in the mid-1800s, which is much larger than, and different from, either the JBA or the JBB petitioner (JBA PF 2007, 43-45; JBB PF 2007, 43-45). The identifications associated with Clarence Lobo and Docket 80 are not specific enough to identify either petitioner, or a group antecedent to either petitioner, in the middle of the 20th century. As with the PF, the FD does not find that references to an entity associated with Lobo are demonstrated to be of either petitioner or a group from which either petitioner evolved.

The JBB narrative claims that the Department improperly analyzed, with respect to criterion 83.7(a), two specific newspaper articles from the period from 1950 to the present. One article reported that a “group of San Diego County and Capistrano Indians” went to Washington, D.C., with Purl Willis, regarding the concerns of the “Mission Indians” (*The San Diego Union* 5/9/1950; see also JBA PF 2007, 46, and JBB PF 2007, 46). The “group” to which the article alluded was small enough to travel to Washington in Purl Willis’s automobile. This handful of

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individuals from San Diego County and Capistrano was too small to be the petitioner, and the article does not indicate that these individual Indians represented an American Indian entity that was either the JBA or JBB petitioner. The second article, an article from a newspaper in 1951, mentioned that more than 100 Indians from the “Capistrano-Santa Ana band” met with Clarence Lobo and additional officers. The PF discussed this article, noting that the meeting seemed to be a pan-Indian organization and something other than the JBA or JBB petitioner (JBA PF 2007, 46-47, 151; JBB PF 2007, 46-47, 153). No new argument or evidence warrants a change in the PF’s analysis.

1978-1995

Summary of the PF (1978-1995)

The PF found that the record contained evidence of external identifications of the Juaneño Band of Mission Indians (JBM) organization as an American Indian entity during the period 1979 to 1994. The JBM formed in 1978. There also were general references to Juaneños during these years that were not identifications of the JBM. The PF concluded that the evidence in the record showed that the membership of the JBA petitioner differed significantly from the membership of the JBM organization, and differed significantly when those groups had membership lists that were nearly contemporaneous with each other. The PF found that the JBA petitioner did not appear to be a continuation of JBM, despite a portion of JBM members constituting a portion of the JBA membership. The numerous new members of the JBA petitioner did not move to it from another entity, separate from JBM, that had been identified since 1900. The PF noted that dramatic changes between JBA membership lists also made it difficult to find organizational continuity from a prior organization. The PF found that the JBA petitioner had a membership substantially different from JBM and one much larger than JBM. In view of this evidence of discontinuity, the PF concluded that identifications of the JBM between 1978 and 1994 could not be considered identifications of the JBA petitioner (JBA PF 2007, 48; JBB PF 2007, 48).

JBA Comments (1978-1995)

The JBA petitioner’s comments on criterion 83.7(a) do not address any of the PF’s conclusions for the 1978-1995 period. Furthermore, the JBA petitioner does not offer new arguments for interpreting old evidence during this period.

JBB Comments (1978-1995)

The JBB petitioner’s comments on criterion 83.7(a) do not address any of the PF’s conclusions for the 1978-1995 period nor does the JBB petitioner offer new arguments for interpreting old evidence during this period. The JBB narrative requests that identifications of JBM be treated as identifications of JBB, but the narrative did not specifically address the PF’s conclusions on that issue or provide a substantive discussion of why identifications of JBM should be viewed as the same entity as JBB (JBB Narrative 2/28/2009, 3-14).

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There is still evidence of discontinuity between the JBM membership and the current JBA membership—which, since the PF, has changed dramatically again. Therefore, for these reasons, the FD finds that the evidence in the record does not demonstrate that the JBA petitioner meets criterion 83.7(a) for the period 1978-1995.

1996-present

The PF found that there was evidence in the record of the identification of the JBA petitioner as an Indian entity since 1997. The PF found that identifications in at least 1997, 2000, and 2005 provided evidence of substantially continuous identification of the JBA petitioner as an Indian entity since 1997.

No comments were submitted on criterion 83.7(a) for this period.

The identifications of the petitioner that the PF accepted under criterion 83.7(a) are also acceptable for the FD because of organizational continuity, despite the changes to the membership that occurred between the issuance of the PF and the issuance of the FD. Therefore, the FD finds that the evidence in the record demonstrates that the petitioner meets criterion 83.7(a) for the period 1997-present.

Conclusions for the FD on Criterion 83.7(a)

The evidence in the record does not demonstrate that external observers identified the petitioner, or a group from which the petitioner evolved, as an American Indian entity on a substantially continuous basis from 1900 to 1997. There are identifications of the JBA petitioner as an American Indian entity between 1997 and 2005. Because the petitioner, or a group from which the petitioner has evolved, has not been identified as an American Indian entity on a substantially continuous basis since 1900, the petitioner does not meet the requirements of criterion 83.7(a).

Criterion 83.7(b)

83.7(b) A predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present.

Summary of the Proposed Finding

The 2007 JBA PF concluded that the evidence in the record demonstrated that the JBA petitioner did not evolve as a distinct community from the historical SJC Indian tribe that existed at SJC Mission in 1834. The evidence demonstrated that the petitioner's ancestors derived from a population of non-Indians, some individual SJC Indian descendants, and other non-SJC Indians who lived in the town of SJC in the mid-19th century. There was not sufficient evidence to show that these people formed a distinct community which meets the requirements of the regulations at any time after 1834. The historical SJC Indian tribe existed until 1834, but the JBA petitioner did not demonstrate that it evolved a distinct SJC Indian community. Therefore, the JBA petitioner did not satisfy criterion 83.7(b) for any period of time after 1834 (JBA PF 2007, 127).

The conclusions also discussed the specific problem of the severe membership fluctuations within the former Juaneño Band of Mission Indians (JBM), specifically the dramatic fluctuations in the JBA group's membership lists, and the inclusion of sizeable numbers of people unconnected to the previous members of either the JBM or the Capistrano Indian Council (CIC). The evidence in the record indicated that the JBA petitioner is essentially a different group than the JBM. A number of former JBM members chose to enroll with the JBA, the JBA did not evolve as a group from the JBM or CIC organizations. The JBA, JBB, and the JBMI-IP¹⁸ all continued to draw from this same "pool" of former JBM members, as well as incorporating new members claiming SJC Mission Indian descent. These fluctuations made it very difficult to determine the composition of the JBA petitioner at any given time period; and to understand social relationships among its members. No other evidence in the record demonstrated that a cohesive continuing social community remained in place throughout these membership fluctuations (JBA PF 2007, 126).

Petitioner's Response to the PF: The 2009 Membership List

The group's 2009 certified membership list, submitted by the JBA petitioner for the FD, differs substantially from the 2005 list submitted for the PF.¹⁹ OFA examines the membership lists of a

¹⁸ The Juaneño Band of Mission Indians (JBMI-IP) is the group lead by former JBA chairman David Belardes. OFA designated this group an interested party (JBA PF 2007, 3;166-7).

¹⁹ OFA reviewed all of the submitted documents. The petitioner's researchers submitted new analyses of some of the material in the petition record and in the PF, and in some cases, the petitioner corrects errors in the PF (e.g.,

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group over time to understand how a group defines itself. Membership lists are also used in conjunction with other documents to examine relationships between those defined as members. The membership list is a foundational document used to interpret the rest of the available evidence and informs the entire petition submission.

*Discussion of Community Relative to Membership Lists
The 2005 and 2009 Membership Lists*

The discussion will focus on the difference between the 2005 certified membership list and the 2009 certified membership list.²⁰ While 696 of the 1,640 members on the 2005 list remained on the 2009 list (the same family lines and most of the same individuals from those family lines appeared on both lists), 928²¹ living adults identified as members on the 2005 list did not appear on the 2009 list. The new list removed approximately 57 percent of the 1,640 adults whose genealogies the petitioner determined did not trace back to the historical SJC Indian tribe, and added 1,244 people who had not been on the 2005 list. Of the 1,244 new members on the 2009 list, 859 members (378 adults and 481 minors) had never appeared on any previous membership list. The remaining 385 members had been included on a previous JBA membership list (either one of two 1995 lists, or the 1999 list) but were not named on the 2005 list. The JBA petitioner now claims that 100 percent of its 1,940²² members descend from the historical SJC Indian population (see discussion under criterion 83.7(e)).

The petitioner redefined its set of claimed historical Juaneño ancestors, claiming descent from 19 historical SJC Indian ancestors (see criterion 83.7(e)). The petitioner provided additional evidence to confirm the Juaneño ancestry of 5 ancestors whose SJC Mission Indian ancestry could not be established at the time of the PF. The petitioner removed, from its set of claimed ancestors, other Indians who lived in the town of SJC who descended only from other California Indian populations (e.g., Mustun Maria Gorgonia, Digueño Herculana Martin/Martinez Olivares, and some of the children of Luiseño Refugio Rios)²³ as well as non-Indian descendants of Old

providing additional evidence of an individual's Indian descent). The petitioner also submitted some materials (often without comment or analysis) which, upon examination, did not prove to be relevant to the finding. This FD will not include a discussion of each individual submission or document presented by the petitioner, but will concentrate on the larger issues raised by the petitioner's response.

²⁰ See discussion of the various membership lists under criterion 38.7(e).

²¹ OFA identified a total of 944 individuals who had been removed from the 2005 membership list. Information in the record indicates that 16 of those people died between 2005 and 2009.

²² The number of members on the two lists (1,640 in 2005 vs. 1,940 in 2009) remained close despite the removal of many of the previous members because the 2009 list includes minors, which the 2005 list did not.

²³ In its 2009 submission, the petitioner stated, "The assimilation of other Indian individuals into the Juaneño population did not stop at 1834 but continued well into the 20th century..." (Escobar and Rivera 3/13/2009, 35). However, the petitioner's 2009 membership list does not include any such descendants of other non-SJC Indians who lived in SJC during the mission era, or who later moved there during the post-mission era.

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Mexican/Californio²⁴ descent (e.g., the descendants of Antonio Maria Olivares and Maria Juana Dolores Bermudez) who had previously been identified as SJC Indians.

In its comments, the JBA petitioner claimed that the reason the previous lists included so many non-Juañeno descendants in the group was the fault of the Federal Government:

Prior to U.S. Federal government's implementation of the Congressional California Indian Jurisdictional Act of May 1928, the matter of tribal identity was not an issue to the Tribe. Referring to how things were before a formal tribal role was created in 1979, Teeter Romero, a Juañeno elder born in 1934, said, "We all knew who was a Juañeno and who wasn't." But, the agencies of the U.S. federal [*sic*] government . . . effectively blocked this Tribe from being able to maintain a Juañeno-only tribal membership for nearly thirty years [1979 to 2007] by its continued use of faulty and unproven data collected in the 1928 CIJA enrollment process. So, in 2005, as a direct result of federal misfeasance, the Tribe was disempowered to correct its rolls and submitted a tribal roll composed of mixed ancestry which clearly caused the JBMI-84A to fail 25 CFR 83.7(c). (JBA Response to Comments, Michelle Moreland Report 9/15/2009, 9)

This argument is unsubstantiated. There is no evidence to indicate that the Federal Government controlled the method by which any group of claimed SJC Indian descendants constituted its membership before 1979, and no evidence to demonstrate that the Federal Government prohibited the group from modifying its membership or its membership criteria. Both federally recognized tribes and non-federally recognized groups determine their own membership criteria. If the group wanted to change or modify its criteria to remove or add people, it was able to do so.

The petitioner seems to suggest that the group that organized itself in 1979 as the JBM was compelled to accept every person who could prove descent from the 1933 Census Roll. Such a claim would be incorrect. The 1933 Census Roll was not a tribal roll, but a roll of descendants prepared specifically for the distribution of a claims settlement. People were required only to demonstrate, to the satisfaction of Government agents, that they descended from a California Indian living in 1852, not to demonstrate they were members of an existing tribal entity. The 1933 Census Roll was not a proxy roll for group or tribal membership. Efforts to identify eligible claimants did not preclude a group from identifying its own members for other purposes.

²⁴ The term "Californio" here refers to the descendants of those families who lived in California during the time that California was governed from Mexico City. These include the descendants of the families who settled the territory, and the escort ("escolta") soldiers who protected them. The Spanish and Mexican governments both encouraged immigration to California not only from Mexico, but from Peru and Chile. Many Californios were of mixed European and Native American ancestry, while some of European and American ancestry also moved to the territory, received land grants, and became Mexican citizens (e.g., the Englishman John Forster and the American Abel Stearns).

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The OFA agrees with the petitioner that the 1933 Census Roll was not fully vetted.²⁵ The 2007 JBB PF explained why OFA “looked behind” the 1928 Claims Act applications and the 1933 Census Roll to the records of the SJC Mission (JBA PF 2007, 27, 103, 147-148). The 1933 Census Roll was not a tribal roll, but a roll prepared specifically for the distribution of a claims settlement. People were required only to demonstrate that they descended from a California Indian living in 1852, not to demonstrate that they were members of an existing tribal entity. The 1933 Census Roll was not a proxy roll for group or tribal membership. Research indicates that many people who enrolled in 1928 as SJC descendants were not actually the descendants of the historical SJC Indian population, although some other people on this list descend from other California Indian population.²⁶ The evidence in the record indicated that at least some claimants knew or believed other people had enrolled (either fraudulently or erroneously) who were not SJC Indian descendants.²⁷ However, the record contained no examples of any specific, named individuals who tried to claim funds they were not entitled to, or evidence that any group made an effort to exclude any people or groups of people on the basis that they were not rightfully SJC Indians. The right to take part in the judgment funds based solely on one’s descent from a California Indian alive in 1852 was separate from being a member of a tribe or group.

In 1962, Clarence Lobo and his Gabrieleño associate Frank Tafoya tried to organize a roll of those claiming descent from the Juaneño and Gabrieleño Indians “in order to establish who is who and where they [are] being in relation to any awards that may be forthcoming through the rulings from the Indian Claims Commission”(Lobo 4/6/1962, 1). It does not appear from the evidence in the record that Lobo and Tafoya ever compiled this list. Regardless, the stated purpose of the list was to identify individual claimants, not to limit the membership of a group to only SJC Mission Indian or Gabrieleño descendants.

Comparison of Previous Lists

The earliest membership roll for the JBM group in the petition record is dated 1979. In a situation where there are multiple membership lists, OFA compares these documents in order to understand who the members were and how the group’s membership has changed over time. As the petitioner does not have any earlier rolls, OFA examined several earlier lists that were included for both the PF and the FD and which identified members of several earlier

²⁵ For a discussion of some of the problems with the 1933 Census Roll, see discussion in Muwekma FD (Muwekma FD 2002, 15-24).

²⁶ The Juaneño descendants did not have an official government roll or Indian agent who could provide documentation that would verify descent, nor did they keep a roll of themselves. It appears that in the case of the Juaneño descendants, the agents compiling the judgment roll accepted the testimony of witnesses, who were generally other claimed descendants, and only occasionally asked for documentary evidence (such as a baptismal certificate) to verify claims.

²⁷ There is evidence in the record which indicates that, in the 1950s, some people in SJC believed that “many Mexicans” had fraudulently enrolled during the 1920s and 1930s (Colbert in Myer 5/14/1951, 3). Also, in one of the interviews conducted with OFA in 2005, one of the spouses of a Juaneño descendant (and JBB member) described that her Juaneño father-in-law had spoken about the people who had lived in SJC all their lives, whom the locals believed were SJC Indian descendants, but who had been discovered to be Mexicans during the time of the enrollment (Charles 3/16/2006, 82-83).

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organizations of claimed SJC Indian descendants. These groups included the Mission Indian Federation (MIF) and the “Capistrano-Santa-Ana Band.” The OFA examined a 1922 list entitled “San Juan Capistrano Indian Villagers” compiled by Marcos Forster (Forster 1922, 1-6), and the 1959 contract signed by Clarence Lobo, et al., authorizing Lindsey and Staniforth to serve as the attorneys for the “Capistrano band” (Lobo et al 1959, 1-3). Both of these lists were in the record for the PF.

The petitioner submitted an additional list, the 1948 Soto/Lobo power of attorney list related to claims litigation (Lobo, Richard 1948 ca., 6-68), for the FD. This list of names was actually a combination of two lists, one of 503 individuals, and another of 51 individuals (554 in all). According to the explanation that accompanied the document, the list consisted of:

Powers of attorney signed under Santa Ana group by Carolyn Soto. Adults and children both 503. Capistrano- 51 signed resolution with Littell naming Clarence as their Capt. Out of the 503 that signed in Santa Ana, 246 are adults. Out of these 246, 131 are from Capistrano. The remaining 115 can be traced to Capistrano, that is the majority of them. From these figures Capistrano list should read 182 instead of 51. Capistrano has some 300 Indians. (Lobo, Richard 1948 ca., 5)

The author of this statement appears to be Clarence Lobo’s brother Richard, who often accompanied him during the early years of Clarence Lobo’s political activity. When OFA analyzed this new list, it found that the list contained approximately 555 names (14 names appear to be duplications), which differs from Lobo’s total of 554 by one name (Lobo, Richard 1948 ca., 6-68).

The petitioner also submitted another, much shorter 1948 list of 60 people who signed a contract authorizing Clarence Lobo to employ Littell and Funkhouser on April 5, 1948, to pursue claims litigation on their behalf (Lobo 4/5/1948). While the petitioner did submit an analysis of the 60-member list (JBA 9/15/2009 Docket 80 Signatures, 1-4), it did not provide an analysis of the longer 1948 list.

OFA examined these particular lists because either they identify an entity or group of people making up an entity (e.g., “Capistrano band”) or someone specifically identified the people on the list as SJC Indians. OFA analyzed each of these three past lists in light of the current claims made by the petitioner regarding the composition of the “tribe,” using the new database and membership list submitted by the petitioner, as well as the previous database used in the PF. The results are compiled in the table below.

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List	ID'ed as SJC in Pet. Databases (% approx.)	Not SJC in Pet. Databases	Not in Databases	Could not be determined	Total # on List
Forster, 1922	48 (27.5%)	45 (26%)	75 (43%)	6 (3%)	174
Richard Lobo, 1948 ca	117 (21%)	182 (32.5%)	248 (45%)	8 (1.5%)	555
Lobo et al., 1959	32 (35%)	55 (60%)	3 (3%)	2 (2%)	92

The number of individuals on these lists whom the JBA petitioner believes to be SJC Indian descendants ranges between 21 percent and 35 percent. However, a large percentage of the people enumerated on these lists cannot be identified as ancestral to the current group or as descendants of the historical tribe (reflected in columns “not SJC in Pet. Databases” and “Not in Databases”).²⁸ The petitioner has offered no explanation as to why many of the people who appear on these early lists are not named at all in their submissions. Taken altogether, the analyses of these lists indicate that even during the early and mid-20th century, few claimants could actually trace their descent from what the current JBA petitioner defines as the historical SJC Indian population. Many of the people previously designated as “SJC Indians” by the person or persons compiling the lists of “band members” were, in fact, not descendants of the historical Indian population at the SJC mission.

The petitioner submitted the April 5, 1948, list of 60 signatories for claims litigation as members of the “Capistrano Band of Mission Indians” (Lobo 4/5/1948, 2). The petitioner classified 40 of these people (67 percent) as SJC Indian descendants, while naming the remaining 33 percent as either not Juaneño or as unidentified. The majority of the 60 signatories were SJC town residents. However, the much longer Soto/Lobo list produced that same year named nearly 500 more people as SJC Indians, and included nearly all of the SJC Indian signatories on the first list as well (OFA identified 34 of the 40 SJC signatories on the Lobo/Soto list) (Lobo, Richard 1948 ca.). Other lists before and after the April 5, 1948, list enumerate a much larger group of people as the “Capistrano band.” The JBA petitioner’s own analysis concludes, as does OFA’s, that a full one-third of the signatories on the April 5, 1948, list are not SJC Indian descendants.

The 2009 petition submission included an abstract of an interview with Harley “Wick” Lobo, the brother of Clarence and Richard Lobo (Lobo, Harley 3/25/2009, 1). In this document, Harley Lobo describes seeing enrollment forms (presumably forms for claims filed under Docket 80 of the ICC) on which his brother Clarence had written “yes” and “no.” According to Harley Lobo, Clarence did this to distinguish those applicants who were SJC Indian descendants from those who were either non-SJC California Indians or not of Indian descent at all. These applications do not appear in the record for the PF or FD, and the record also does not contain any kind of list compiled by Clarence Lobo which indicates who he believed to be a SJC Indian and who he believed was not. Harley Lobo also stated that Clarence made many comments in the local newspaper about “how many of the 1928 applicants were not Indian.” Evidence in the record for

²⁸ Information in the record also indicates that many of the individuals enumerated on these lists actually descended from non-SJC Indians or from non-Indians from Old Mexican/Californio families who had been living in the town of SJC since the Mission era. These descendants are included under the column “Not SJC in Pet. Databases.”

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both the PF and FD indicates that Clarence Lobo did make many comments in the newspaper regarding the number of applicants he believed had little or no Indian ancestry (see discussion under criterion 83.7(c)), but it is not clear what evidence or combination of evidence Clarence Lobo used to determine that applicants were or were not SJC Indians. Further, the interview abstract only discussed Clarence Lobo's determination of whether a person was or was not an SJC Indian descendant, and did not include any information regarding whether other people accepted Lobo's determinations regarding the ancestry of others claiming SJC Indian descent.

The 1979 JBM Roll

The JBM group, a precursor to the JBA petitioner, compiled a roll in 1979. This roll included a large number of people not descended from documented SJC Indians. The petitioner again makes the argument that the Federal Government bears responsibility for their presence:

This roll also included spouses as well as many persons who were not of Juaneño ancestry which was the direct result of a vote to accept a formal constitution which based its enrollment criteria on the authority of the 1933 California Judgment roll. As a direct result of reliance upon BIA sanctioned data, the newly developed tribal membership consisted of a high volume of non-Juaneño individuals. . . . (JBA Response to Comments, Michelle Moreland Report 9/15/2009, 15)

The petitioner's argument that the Federal Government prevented any group of claimed SJC Indian descendants from modifying its membership list or from using other criteria for membership prior to 2009 is unsubstantiated by the documentation in the record. Rather, the evidence indicates that many of the JBM members, who voted in 1979 to accept the information from the 1933 Census Roll as the sole requirement for membership in the group, did so with the belief that they descended from the historical SJC Indian tribe. Further, the evidence in the record indicates that few of these people had strong social ties to each other and had little else other than the 1933 Census Roll on which to base their membership criteria. There is no evidence in the record that the group at the time considered any additional requirements for membership beyond descent from an ancestor on the 1933 Census Roll.

The Effect of the 2009 JBA Roll on the Evaluation of Criterion 83.7(b)

The JBA petitioner claims that 100 percent of its 2009 membership can document their descent from the historical SJC Indian tribe. The 2009 membership list dramatically differs from its prior membership lists, with the removal of 928 adults and the addition of 1,244 new people. In making such dramatic changes to its membership list, the petitioner has created a new problem in that the composition of the group the list now describes is very different than the group described in the materials submitted for the PF. The explanation of the membership changes given by the petitioner does not account for the previous involvement of a number of now-excluded families and individuals, some of whom were active in the MIF, during the Lobo era, and in the JBM and JBA for many years. It also does not explain the sudden addition to the roll of over 800 individuals who had had no documented interaction with the petitioner until their names appeared on the 2009 membership list. The petitioner did submit some photos and documents

relating to these people, but did not include evidence that the families interacted with any other SJC descendants during the late 19th or the entire 20th century. The contemporary JBA group so differs from the group described in the PF that the descriptions, analyses, and evaluations of community previously advanced by the petitioner in the materials submitted for the PF do not apply to the group as it is now constituted.

Summary of Petitioner's Response and 2009 Membership List

The petitioner's redefinition of its membership calls into question the information the petitioner presented for the PF. In the documentation for the PF, the petitioner indicated that many of the people who have since been removed from the group's membership were part of a SJC Indian social group. The removal of a large number of people who had had little to no contact with the petitioner would not affect the social composition of the petitioner, but the removal of a number of people who had previously been described as integral to the group calls into question the nature of the group as a continuous community.²⁹ The petitioner did not address this important issue in its response. The OFA reexamines the arguments advanced by the petitioner in the PF and evaluates them in light of this change in membership and the new evidence in the record submitted for the FD.

Evidence Relevant to Demonstrating Community, 1835-1862

The 2007 JBA PF discussion of the petitioner's evidence for the years 1835-1862 stated:

The evidence available in the record demonstrates that a portion of the JBA petitioner's ancestors lived in the town of SJC between 1835 and 1862. The mission registers provide some evidence that these ancestors interacted with each other, particularly in assuming religious obligations as godparents. However, there is little other evidence in the record demonstrating interaction among the petitioner's ancestors. The Mexican, U.S. Federal, and California censuses do not demonstrate the existence of a separate community composed predominantly of the JBA petitioner's ancestors (either Indian or non-Indian), but show a town with a number of residents from various portions of old Mexican society. The evidence in the record does not demonstrate that the petitioner's ancestors derived from a single, post-Mission Period Indian tribe, or from a single post-Mission Period non-Indian community, or a separate group within the SJC Indian tribe that evolved into a discrete entity. There is little to no evidence that these ancestors formed a community distinct from the rest of the population of the town of SJC between 1835 and 1862. (JBA PF 2007, 75)

²⁹ For more discussion of OFA's past analysis regarding groups that have dramatically changed their membership lists between the PF and FD, see Nipmuc Nation (Petitioner 69A), Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians (Petitioner 68B), Mohegan Tribe of Indians of the State of Connecticut (Petitioner 38), Schaghticoke Tribal Nation (Petitioner 79) and Burt Lake Band of Ottawa and Chippewa Indians, Inc. (Petitioner 101).

In response, the petitioner submitted evidence including, but not limited to, analyses of Mexican and American census records, scholarly documents, and various ecclesiastical records.³⁰ Some of the analyses cover multiple decades, and the relevant portions of these analyses will be addressed.

The PF concluded that SJC Indians existed as a tribe in 1834, when the Mexican government secularized the mission (JBA PF 2007, 54). The OFA also determined that the evidence in the record did not demonstrate that the tribe that existed at the SJC Mission in 1834 persisted as a distinct community after 1834 (JBA PF 2007, 75). The petitioner did not submit a specific response to the Schmit report (JPA 11/9/2006), but addressed some of the concerns in response to the same issues when OFA raised them in the PF.

Evidence in the Record for the PF

The record for the PF included a number of documents which provided information about the SJC Indians still living in and around the mission between 1835 and 1862. These include the mission's baptismal, confirmation, and burial registers, 1846 Mexican *Padron*, the 1850 and 1860 Federal censuses and the 1852 California State census (all discussed in the PF). Each of these documents or sets of documents provided some information about the population of Indians living at or near the mission. For example, the PF noted that of the 117 children confirmed in 1850, 56 (approximately 48 percent) were either SJC Indians or other Indians.³¹ Several of the Indians being confirmed had other Indians as godparents/confirmation sponsors,³² which indicated that the Indians maintained social relationships with each other.³³ The baptismal records record the relationships between unmarried couples that produced children, including Indian/Indian couples and Indian/non-Indian couples. The State and Federal censuses and the Mexican *Padron* provide additional information about the population of both Indians and non-Indians living in and around the mission.

The sum of these documents and new information and analysis submitted in response to the PF, provide satisfactory evidence to demonstrate the presence of an Indian community in the town of San Juan Capistrano between 1835 and 1862. The petitioner's initial discussion and analysis of these records misidentified a number of non-Indian SJC residents as Indians, which resulted in the petitioner describing the multi-ethnic general population of the town as an Indian community. In contrast, the petitioner's redefinition of the historical SJC Indian tribe submitted for the FD focused only on those who could be identified in the mission registers as being Indians "of the

³⁰ The petitioner also resubmitted a number of copies of documents already in the record. Unless the petitioner presented a new argument or analysis regarding this previously submitted material, it will not be discussed here.

³¹ This includes the children of non-Indian men and Indian women; there is only one known marriage recorded in the SJC registers between an Indian man (Jose de la Cruz) and a non-Indian woman (Maria Gertrudes Jurado) (SJC Marriage Register #1505, 5/7/1853). It is not clear if there are any recorded baptisms of children born to non-Indian women and Indian men during this period.

³² The Church discouraged birth godparents from serving as confirmation sponsors for their own godchildren, although they still used the term "godfather" or "godmother" in the confirmation records.

³³ The PF also noted that non-Indians also served as godparents/confirmation sponsors.

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mission,” thus removing non-SJC Indians and non-Indians present at the mission from consideration. The petitioner also submitted new analyses of much of the material already in the record. Taken together, these new analyses, along with other information in the record (submitted for the PF and FD) help provide a fuller picture of the SJC mission Indians in the years immediately after emancipation and secularization (post-1834).

One of the JBA petitioner’s 2009 submissions stated, “. . . the historic SJC Tribe did not end in 1834 upon secularization nor in 1841 with the distribution of house lots, as indicated by the PF. . . The tribe did not suddenly cease to exist with the secularization decree” (Grabowski 3/12/2009, 12). New evidence and analyses in the petition record support the JBA petitioner’s assertion for this time period that a historical SJC Indian community persisted around the former mission complex.

The 1839 and 1841 “Proxy Census”

The JBA petitioner submitted two “proxy” censuses compiled by the petitioner’s researchers from various ecclesiastical records. One “proxy” was for 1839, the year the Mexican government made the mission into a *pueblo*; the other was for 1841, the year the Mexican government abandoned the *pueblo* and distributed the land to settlers and former neophytes.³⁴ The petitioner describes these documents as lists of “Acjachemen Indians Living At, or Utilizing, Mission San Juan Capistrano.” The JBA petitioner maintained that these lists provide a “reasonable snap shot of the Juanefio Indian population either living in San Juan Capistrano or utilizing the mission there during the 7 years leading up to 1839” (Escobar 7/27/2009b, 2). The JBA petitioner appears to have compiled these two lists to try to name Indians who may have been living at or near the mission in the years immediately following secularization. William Hartnell, a California territorial representative, had stated that there were only 76 Indians at the mission when he visited in 1839 (Hartnell 1839).³⁵ Hartnell did not identify the 76 by name, but the JBA petitioner endeavored to create a list, or “proxy census,” of these 76 Indians by utilizing mission records (JBA Response to Comments, California Cities for Self-Reliance, JPA/James P Lynch Report 9/15/2009, 80).

According to the petitioner, the Indian individuals recorded on the petitioner-created “proxy censuses” married at or had a child baptized at SJC Mission in the years between 1833 and 1841. If a death record existed for a person during that time, the petitioner removed that person from the subsequent “proxy census.” Using this method, the petitioner recorded a total of 318 SJC Indians in 1839 and 326 in 1841 (Escobar 7/17/2009a, 11; Escobar 7/27/2009b, 10). It is not documented where these Indians lived in relation to the mission proper, considering that a number of Indians had left the area after emancipation. Approximately 10 to 20 percent of the SJC Indians recorded in the mission records during this period are ancestral to the current JBA petitioner; most of the Indians recorded have no known descendants in the group.

³⁴ The terms “neophyte” was used by the 18th-century Jesuit priests to describe Indians who converted to Christianity. The term “gentile” was used to describe unconverted Indians.

³⁵ Hartnell may only have done a count of the actual people in residence at the mission proper when he arrived, not the Indians living at more remote ranchos who returned to the mission to marry and to baptize their children, and who were still considered by the Mexican authorities and the priests to be “Indians of the SJC mission.”

The PF noted that a Bancroft citation accompanying a discussion of the 1846 Mexican *Padron*, or census, described the Indian population as “entirely dispersed” by 1844 (Bancroft Library 1880 ca.). However, this reference is contradicted by another Bancroft collection reference, which noted that “half-a-dozen families of *gente de razon*, and twenty or more of ex-neophytes lived quietly, if not prosperously, at San Juan. . .” between 1842 and 1845 (Bancroft 1884-1890, 627). It is unclear if the text referenced only those Indian families who lived in close proximity to the mission, or if it included all SJC Indians who lived within the boundaries of the old mission’s properties. It is impossible to determine from the limited evidence whether the 326 SJC Indians identified by the petitioner in 1841 were part of the “twenty or more” unnamed families noted between 1842 and 1845.³⁶ The PF did note that the use of the word “entirely” in reference to a dispersed SJC Indian population was inaccurate, as the baptismal registers indicated that SJC Indians lived there at that time (JBA PF 2007, 68), and because subsequent U.S. State and Federal censuses recorded several of these families still there in the 1850s and in 1860 (JBA PF 2007, 87; Appendix 1, 205-6). This Bancroft citation provides additional evidence to support the presence of an SJC Indian population in the years following the land distribution.

The petitioner’s “proxy censuses” by themselves, do not demonstrate that an Indian community existed at the Mission during this time. They do provide evidence not available at the time of the PF that a number of Indian individuals did live at and near the mission, and that they continued to marry and baptize their children at the former mission. The evidence also demonstrates that these Indians were part of the same population of Indians who had been identified as SJC Indians while the mission still functioned.

The Decade-by Decade Database

The JBA petitioner submitted an analysis entitled “JBMI-84A Census Decade-By-Decade Database.” According to the petitioner, the people in the database were either the direct ancestors or relatives of the direct ancestors of current 84A members (JBA 9/15/2009 1930 Census Data, 1),³⁷ and, according to the JBA petitioner, the analysis illustrates “the historical patterns of Juaneño occupation in San Juan Capistrano” (JBA 9/15/2009 1930 Census Data, 3). The petitioner compiled the information from a number of records, including U.S. Federal censuses, the 1852 California State censuses, and numerous ecclesiastical records from San Juan Capistrano, as well as other missions.

³⁶ This is unlikely, as it would have resulted in families averaging 16.3 members.

³⁷ The relatives identified in the documents appear to be first-degree relatives (brothers, sisters, children or parents) of those family members remaining in San Juan Capistrano, but the relationships are not explicitly stated.

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The OFA examined the JBA petitioner's analysis of documents from 1830 to 1839, 1840 to 1850, and 1851 to 1860 (the periodizations defined by the petitioner). All three documents name the people descended from specific SJC Indian progenitors, the location of their birth or baptism, and where they were enumerated during the relevant decade. According to the analysis, 69 of the petitioner's 82 claimed SJC Indian ancestors or their relatives lived in SJC between 1830 and 1839 (84 percent). From 1840 to 1850, the number of SJC Indian ancestors and relatives living in SJC had shrunk to 39 of 88 (44 percent). From 1851 to 1860, 51 of 99 (52 percent) lived in SJC.

According to the JBA petitioner's analysis, many of the petitioner's claimed and/or demonstrated SJC Indian ancestors or relatives lived near the mission in the years immediately following emancipation. By the 1840s, many had already moved to Los Angeles or to other locations. This remained the case between 1851 and 1860. The rest of the analysis provided little to no direct evidence indicating that those ancestors and relatives who left the area maintained relationships with the Indians still living in the town during these time periods, although OFA assumes that close relatives (siblings, parents, and children) remained in contact with each other.³⁸

SJC Marriage Analysis

The JBA petitioner submitted a document entitled "Proof of the Acjachemen Nation as a Continuous Historic Tribe From the Pre-Mission Era to 1930" (Escobar and Rivera 3/13/2009). In this document, the petitioner prepared an analysis of all of the new marriages conducted at SJC mission in which mission records identified at least one SJC Mission Indian between 1835 and 1915. The analysis divided the data into decades starting in 1835 (Escobar and Rivera 9/4/2009, 34-35; Escobar, 3/13/2009 Appendix 1). In the years 1835 to 1845, the petitioner identified 34 marriages involving at least one SJC Indian. Of these 34, 21 (61 percent) were between two SJC Indians. Between 1846 and 1855, the petitioner identified 16 marriages involving at least one SJC Indian, and 10 (63 percent) of these marriages involved two SJC Indians. In the next three decades described by the petitioner (1856-1865, 1866-1875, and 1876-1885) the petitioner identified a total of 42 marriages involving at least one SJC Indian. In none of the three decades did the rate of marriages between two SJC Indians ever exceed 33 percent, but the rate of marriage between SJC Indians and non-SJC Indians increased or remained constant—12 marriages (63 percent), 4 (36 percent), and 3 (25 percent), respectively. In the remaining three decades described by the petitioner (1886-1895, 1896-1905, and 1906-1915), the petitioner identified a total of 19 marriages. None of these marriages were between SJC Indians, and only one was between a SJC Indian and a non-SJC Indian (a Digueño). All remaining marriages were between SJC Indians and non-Indians.

According to the petitioner, ". . .the historic JBMI tribe meets criterion 83.7(b)(1)(i) from 1835-1885 at 'more than a minimal level' which indicates the historic JBMI tribe also meets 83(c)(1)(iv) for that same period of 1835 through 1885. Secondly, this evidence also demonstrates the historic JBMI tribe meets 83.7(b)(2)(ii) which confirms it also meets 83(c)(3)

³⁸ OFA has maintained that first-degree relatives (parents, children, and siblings) can be assumed to be in contact with each other, even if that contact is not explicitly demonstrated. Contact between more distant relatives (aunts, uncles, cousins, etc.) must be demonstrated with some other form of evidence.

for the same period” (Escobar and Rivera 9/4/2009, 35). This interpretation of the regulations is incorrect. According to the acknowledgment regulations, a petitioner may use very specific types of information to demonstrate community at a given point in time. One example of this evidence, as defined under 25 CFR 83.7(b)(2)(ii), is to demonstrate that “At least 50 percent of the marriages in the group are between members of the group.” The JBA petitioner’s analysis demonstrates that more than 50 percent of the marriages involving SJC Indians recorded in the SJC mission registers were between two SJC Indians in the years between 1835 and 1855, but this result cannot be applied to the whole historical SJC tribe because there is not enough evidence in the record at this time to define accurately the tribe’s membership and where they married. The JBA petitioner has tried to reconstruct the community from the available evidence in the record, but the lack of a reliable list of SJC Indians at any point in time makes it difficult to determine who the tribe comprised. For example, in this analysis, the JBA petitioner did not analyze the marriages of the siblings of the SJC Indians who married at the mission in order to determine if their siblings (who would also have been members of the historical tribe) also married SJC Indians, other Indians, or non-Indians. The data and analyses are incomplete.

The petitioner’s analysis also did not include any information on unsanctioned relationships which produced children, which OFA also counts as marriages, nor marriages recorded in places other than the SJC records. If these relationships were added to the tally of all church marriages involving one SJC Indian, it is not known if the number of “marriages” between SJC Indians would still exceed 50 percent between 1835 and 1855. For example, SJC Mission Indian Materna Chavez³⁹ had two children with a man named Juan de Mata [Saguas] between 1845 and 1855. The petitioner noted in its FTM database that “no marriage on record” existed for this couple, but the 1851 baptism of their daughter Maria Fernanda de Jesus refers to her as a “legitimate daughter,” indicating that the couple may have been married elsewhere (SJC Baptisms #4717, 6/11/1851).⁴⁰ The information in the petitioner’s database indicates that Juan de Mata was an Indian from San Luis Rey. If this relationship had been recorded in the petitioner’s marriage analysis, it would have been an additional “Indian/SJC Indian” marriage; however, it was not included in the analysis at all. It might be possible to ascertain a more complete record of all significant relationships by including information gleaned from the baptismal registers, which also included information on children born to unmarried couples or to couples who may have been married elsewhere and then returned to SJC. The marriage analysis presented here does not include relationships other than those formally acknowledged in the marriage registers or those marriages recorded somewhere other than SJC mission and thus is methodologically flawed and not accepted for purposes of an 83.7(b)(2) analysis.

According to the acknowledgment regulations, a petitioner may also demonstrate community by some combination of evidence under 25 CFR 83.7(b)(1)(i), including “significant rates of marriage within the group, and/or, as may be culturally required, patterned out-marriages with other Indian populations.” The JBA petitioner has presented such corroborating evidence

³⁹ Maria Materna Chaves is an ancestor of a number of the JBA petitioner’s members through her son Jose Doram. There are no known descendants of her Saguas children in the JBA petitioner.

⁴⁰ The 1856 baptismal record for their son Francisco also referred to him as the “legitimate son” (SJC Baptisms 123, 2/17/1856).

regarding church-sanctioned marriages involving SJC Indians and SJC and non-SJC Indians between 1835 and 1885, and OFA has identified other similar relationships not in the marriage registers.⁴¹ This information must be presented in combination with other types of corroborating information in order to demonstrate community. The marriage analysis is not sufficient to demonstrate community under criterion 25 CFR 83.7(b)(2), even when enhanced by OFA analysis. However, it does demonstrate that in the years following secularization and emancipation, SJC Indians continued to marry other SJC Indians in church weddings, and did so at the mission. Additional evidence also indicates that other SJC Indians forged similar relationships that were not recorded in the church marriage register. Thus, this analysis provides additional evidence that may be used in combination with other evidence in the record to satisfy the requirements of 25 CFR 83.7(b)(1).

Other New Evidence

The JBA petitioner provided additional evidence regarding an *alcalde* named Florentino Gugannavit (b.abt.1793-d.1852) witnessing seven weddings among the SJC Indians between 1850 and 1852 (JBA Response to Comments, California Cities for Self-Reliance, JPA/Lynch Report 9/15/2009, 102, 104). The petitioner also provided some additional evidence regarding godparenting among some of the SJC Indian men, specifically describing four men who served as godparents for the children of SJC Indians (JBA Response to Comments, California Cities for Self-Reliance, JPA/Lynch Report 9/15/2009, 103-4). The petitioner did not provide an analysis of godparenting or witnessing among the entire population of SJC Indians to determine what portion of Indians served as godparents and witnesses for other Indians, versus how many non-Indians godparented or witnessed the marriages of the Indians. Nevertheless, the information does provide additional information regarding the Indian population still living in and around the mission in the 1850s, including the fact that when a number of couples decided to marry, they not only did so in the presence of the Catholic priest, but also included a man recognized by the priest as an Indian *alcalde*.

The JBA petitioner submitted an analysis entitled “Juaneño Community, Historic Progenitors and Selected Historic Juaneños” (Grabowski 3/12/2009b). According to the petitioner, this document “illustrates the continuity of historic progenitors and their descendants from prior to 1834 to 1880 . . . it is clear that ancestors of the modern Tribe in most cases resided near enough to SJC to have had their vital events of their life recorded at the Mission” (Grabowski 3/12/2009 b, 12). The analysis named 24 historical San Juan Capistrano Indians (most of whom are ancestors of current members of both the JBA and JBB petitioners) and names some of their descendants who lived in SJC during each decade from 1840 to 1880. The analysis does not include information about other SJC Indians who may have lived in SJC at this time.

The Effect of the Smallpox Epidemic on the Indian Population at SJC

In the final months of 1862 through the beginning of 1863, a smallpox epidemic struck San Juan Capistrano (JBA PF 2007, 74). The disease killed 130 people within the span of 2 or 3 months, including 88 who were either identified specifically as “Indian” or who were listed without a

⁴¹ For example, the PF noted that three Indian couples baptized children at SJC mission in 1846 (JBA PF 2007, 68). As far as can be determined, these couples are not included in the petitioner’s marriage analysis.

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surname, a convention almost always used when designating Indians. It is not clear how many SJC Indians lived at the mission at this time, although the 1860 Federal Census identified 213 of the 661 people in town as “Indian.” The OFA located 10 Indians on the 1860 census who appear to be the same as the Indians on the burial register, but was not able to locate the others. Although it is not clear that the Indians on the census were all the same as the Indians who later died, it is likely that the majority were part of the historical tribe or descendants of the historical SJC Indian tribe, while some of the others may have been non-SJC Indians.

The lack of a list or roll of SJC Indians makes it impossible to know how many Indian people may have lived in SJC at that time, or the number of SJC Indians who were still alive but living away from their natal community. The OFA estimates that the Indians in SJC numbered about 200 people in the 1850s (an estimate based on the 173 Indians recorded on the 1852 State census and the 213 Indians recorded on the 1860 Federal census).⁴² Thus, approximately 44 percent of the Indians residing at SJC died within a very short time,⁴³ and no new evidence in the record for the FD indicates that the population of the petitioner’s claimed Indian ancestors ever recovered from this severe blow.

Summary of Evidence Relevant to Demonstrating Community, 1835-1862

The JBA petitioner significantly revised its definition of who was part of the historical SJC Indian community between the submission of the group’s 2005 membership list and its 2009 membership list. This revision eliminated many of the people JBA previously misidentified as SJC Mission Indians in earlier submissions. The petitioner also submitted a number of new analyses of documents already in the record. These revisions to the group’s definition of SJC ancestors and the new analyses the petitioner submitted, combined with the evidence already in the record, change the conclusion of the PF for the period of 1835-1862.

The acknowledgment regulations under 83.6(e) state that, “Evaluation of petitions shall take into account historical situations and time periods for which evidence is demonstrably limited or not available. The limitations inherent in demonstrating the historical existence of a community and political influence or authority shall also be taken into account.” In the case of the historical SJC Indian tribe, the 1835-1862 period was one of multiple transitions, including the period immediately following emancipation to the attempt to establish a *pueblo de indios* (1839-1841), through the transfer of California from Mexico to the United States culminating in statehood (1848-1852). The various authorities (Mexican, ecclesiastical, and American) who kept records during this time recorded a population of Indians at various points in time, but the Mexican/Spanish custom of recording Indians without surnames and the Indians use of various forms of their baptismal names⁴⁴ made it difficult to identify whether the Indians identified as

⁴² The JBA PF noted that the Indians enumerated on the 1852 State census did not appear to be ancestors of the current petitioner (JBA PF 2007, 72), although they may have been members of the historical tribe.

⁴³ It is possible that some of the other Indians left the area in order to escape the disease. It is not clear if some of the Indians who were later recorded in SJC survived the plague by leaving the area and returning later, or if they stayed in the area and avoided the contagion.

⁴⁴ For example, a woman named “Maria Josepha Dionisia” might be recorded as “Maria Josepha,” “Josepha,” or “Dionisia” on different records compiled at different times.

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SJC Indians in one document or set of documents were the same Indians referred to in another record. Nevertheless, the one institution that did persist throughout this time, the Catholic Church, continued to record the presence of a population of SJC Indians marrying each other, serving as witnesses at other Indians' weddings, baptizing and confirming their children, and burying their dead. This population of SJC Indians continued these activities at the SJC mission, refuting the claims made in some other records that a SJC Indian population no longer existed at the former mission.

The evidence in the record, when viewed in combination, and taking into account the demonstrably limited record and evidence from 1854-1862, is sufficient to demonstrate, at a minimal level, a continuing SJC community from 1835 to 1862. The conclusions of the PF for the 1835-1862 period under criterion 83.7(b) are now changed. There is now sufficient evidence in the record to demonstrate that a SJC Indian community existed at the SJC mission from 1834 until 1862. The JBA petitioner may now demonstrate that it evolved as an entity from the community present at the mission in 1862.

Evidence Relevant to Demonstrating Community, 1863-1879

The 2007 PF discussion of the petitioner's evidence regarding the time period 1863-1879 stated:

The evidence in the record indicates that some of the ancestors of the petitioner⁴⁵ were part of the same socio-economic group within the town of SJC, and may have established relationships due to their similar social status. However, the information in the available record is insufficient to demonstrate that the petitioner's ancestors formed a community distinct from the rest of the population of the town of SJC from 1863 to 1879. (JBA PF 2007, 79)

In response, the petitioner submitted evidence including, but not limited to, U.S. Federal Census records, various ecclesiastical records, scholarly monographs, and a copy of Fr. Jose Mut's account book from 1866-1888, including analyses. Some of the petitioner's analyses cover multiple decades, and the relevant portions of these analyses will be addressed below. The FD did not find that the petitioner met criterion 83.7(b) for the period 1863-1879.

The Book of Accounts of Fr. Mut

The 2007 PF discussed the work of Fr. Jose Mut, a Catholic priest who served the parish for 22 years and advocated on behalf of the poor people of San Juan Capistrano (JBA PF 2007, 76-7). The documentation in the record for the PF included information taken from the notes of ethnographer John P. Harrington describing how Mut had served as an advocate for the poor people of the town against the wealthy members of the community (Harrington Notes 1836-1927, 3; 33). Special Indian Agent John Ames also described an interview with Fr. Mut, who described his interest in the affairs of the Indians (Ames 10/28/1873, 4). One of the petitioner's

⁴⁵ This paragraph referred to the petitioner's SJC Indians and non-Indian ancestors, as well as the many non-Indian ancestors the petitioner identified as SJC Indians in the previous submissions.

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scholarly monographs cited Fr. Mut's account book as a source of information, but it was not included in the record for the PF. The OFA suggested that the petitioner might submit a copy of the book, and the petitioner included it as a comment for the FD.

Fr. Mut assumed control of the parish of San Juan Capistrano on August 17, 1866 (Aguilar 1933 Libro del Padre Jose Mut, 1). His account book records the money he took in for performing various ceremonies (particularly weddings, baptisms and funerals) as well as the money spent on supplies and various repairs at the mission. The book records his many trips to visit the Indians at Pala, San Luis Rey, and other places, as well as his trips to Los Angeles.

The account book provides some insight into Fr. Mut's responsibilities in maintaining such a far-flung parish, as he often traveled to administer sacraments to his parishioners far from San Juan Capistrano. He named SJC Indian Jose de Gracia Cruz ("Acu") as one of the men he paid to work at the Mission (Aguilar 1933 Libro del Padre Jose Mut, 61) and also mentions buying "crosses and medals for the Indians," as well as paying "the Indians for help with the Church, etc." (Aguilar 1933 Libro del Padre Jose Mut, 7). However, he also paid other people to work at the mission, and he may have given the crosses and holy medals to any of his various Indian parishioners either at the mission itself, or any of the other Indian populations he ministered to. His account book does not identify a community of SJC Indians living near the SJC mission.

The Decade-by Decade Database

The OFA examined the documents compiled by the JBA petitioner for 1861 to 1870 and 1871 to 1880 (JBA Census Data 9/15/2009). According to the petitioner's analysis, 75 of 107 (70 percent) of the current members' SJC Indian ancestors or their relatives lived in San Juan Capistrano between 1861 and 1870, and 94 of 123 (76 percent) lived in SJC between 1871 and 1880. The analysis demonstrates that a higher percentage of the petitioner's SJC ancestors lived in the town during these decades than in some other decades, but does not demonstrate actual interaction between these descendants, or between those who moved away and those who remained in the town. The presence of these individuals does not indicate the presence of an Indian community comprising these individuals and other SJC Indians who are not ancestors of the petitioner.

The petitioner's analysis entitled "Juaneño Community, Historic Progenitors and Selected Historic Juaneños" (Grabowski 3/12/2009b) also included some information about the SJC Indian descendants living in SJC during this time. According to the petitioner, this document "illustrates the continuity of historic progenitors and their descendants from prior to 1834 to 1880 . . . it is clear that ancestors of the modern Tribe in most cases resided near enough to SJC to have had their vital events of their life recorded at the Mission" (Grabowski 3/12/2009b, 12). The analysis named 24 historic San Juan Capistrano Indians (most of whom are ancestors of the current petitioner) and named some of their descendants who lived in SJC during each decade from 1840 to 1880. The analysis does not include information about any other SJC Indians who may have lived in SJC during this time.

Summary of Evidence Relevant to Demonstrating Community, 1863-1879

The petitioner's new analyses and data, in combination with the information already in the record, do not change the conclusions made in the 2007 PF. The new evidence provides little additional evidence of community among the petitioner's SJC Indian ancestors during this time. The evidence is insufficient to demonstrate the existence of a distinct SJC Indian community from which the petitioner has evolved socially and politically. The negative conclusions of the PF for the period from 1863 to 1879 under criterion 83.7(b) are unchanged.

Evidence Relevant to Community, 1880-1919

The 2007 JBA PF's discussion of the petitioner's evidence regarding the 1880 to 1919 time period indicated that the information in the Federal censuses, mission registers, and other available sources, demonstrated that a portion of the JBA petitioner's ancestors (both Indian and non-Indian) lived in the town of SJC and interacted with each other socially. The JBA petitioner's analyses of the 1870 and 1880 Federal censuses omitted key information, and misidentified some of the petitioner's ancestors as descending from the historical SJC Indian tribe. Some evidence in the ecclesiastical records demonstrates that the JBA petitioner's ancestors associated with each other, but did so as part of the general population of the town of SJC. The evidence did not demonstrate the existence of a distinct SJC Indian community from which the petitioner evolved socially and politically (JBA PF 2007, 88-89).

In response, the JBA petitioner submitted evidence including, but not limited to, scholarly monographs and portions of a journal by Fr. St. John O'Sullivan.

Fr. O'Sullivan's Journal

The JBA petitioner's submission for the FD included a transcript of a journal kept by Fr. St. John O'Sullivan the priest who established the Mission School and who worked diligently to repair and publicize the mission as a tourist destination (O'Sullivan 2/-/1912). Fr. O'Sullivan arrived in San Juan Capistrano in 1910, and this 1912 journal includes his recollections of his arrival in 1910. He mentions some individual SJC Indians, such as Maria Gomez⁴⁶ and Jose Dolores Mesa, and includes some information about the relationship between their families and the mission. His description of San Juan Capistrano and its residents, while it does name individual Indians and identifies them as SJC Indians, does not provide any evidence of a distinct Indian community, even within the town's population of Old Mexican/Californio residents.

⁴⁶ The JBA petitioner questioned OFA's identification of Maria Gomez as a SJC Indian in the PF (JBA PF 2007, 80); (Escobar 7/30/2009a; JBA 3/13/2009 Progenitor File: Gomez, Maria Braulia). Additional information in the Harrington notes identified Maria de Gomez as the daughter of a SJC neophyte named Raphael (her mother was unnamed)(Harrington 1907-1957 Vol. 3, 20). According to the information in Fr. O'Sullivan's journal, her parents left the mission after emancipation and she was born in Los Angeles (O'Sullivan 2/-/1912, 17).

Scholarly Monographs

The JBA petitioner included excerpts from a book entitled *Conquests and Historical Identities in California, 1769-1936* in the record for the FD (Haas 1995) to support some of its arguments regarding community among SJC Indian descendants. Haas' analysis indicates that non-Indian observers did not distinguish between Indians, Mexicans, and Californios because of their cultural and linguistic similarities (Haas 1995, 210, 214). According to the petitioner, "the English-speaking immigrants thus had trouble distinguishing between the Californio, Indian, and Mexican residents since they all spoke Spanish, had Spanish first and last names and were culturally distinct from the Anglo-Americans and Europeans" (Grabowski 3/12/2009, 18). However, the petitioner did not include any information that would provide evidence of the distinct Indian community in the town during this time period, existing alongside, or even within, a larger Old Mexican/Californio community. For example, the petition record for the FD includes no additional discussion of the feast of Corpus Christi, when Indians formerly maintained one of four altars at this important religious festival (JBA PF 2007, 81).

Summary of Evidence Relevant to Demonstrating Community, 1880-1919

The JBA petitioner's new analyses and data submitted for the FD, in combination with the information already in the record, do not change the overall conclusions under criterion 83.7(b) made in the 2007 PF. The new evidence provides little additional evidence of an Indian community descended from the earlier SJC Indian community during this time, even accounting for the petitioner's removal of a number of people formerly identified as SJC Indian ancestors from the analysis of the historical community. The evidence in the record still indicates that the SJC Indian ancestors of the petitioner were part of a larger, Spanish-speaking, Catholic, Old Mexican/Californio population.⁴⁷ There is insufficient evidence to demonstrate a community of SJC Indian descendants from 1880 to 1919, and the negative conclusions of the PF for the period 1880-1919 under criterion 83.7(b) are unchanged.

Evidence Relevant to Demonstrating Community, 1920-1963

The 2007 PF discussion of the JBA petitioner's evidence for the years 1920-1963 stated:

The evidence in the record is insufficient to demonstrate that a separate community of SJC Indian descendants existed in the town of San Juan Capistrano between 1920 and 1964, and that the ancestors of the JBA petitioner comprised or were part of such a community (JBA PF 2007, 106-108).

The JBA PF specifically noted that the evidence in the record indicated that a "sense of community" existed within the general community of Catholic, Spanish-speaking families who had lived in the town prior to the 20th century, which included SJC Indians, other Indians, and non-Indian Old Mexican/Californio families. The record for the PF did not contain a detailed

⁴⁷ There is some evidence in the record which indicates that the SJC "old families" distinguished (and continue to distinguish) themselves from Mexicans who migrated to California in the 20th century, but these "old families" do not define the petitioner during this time.

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residential analysis of the town of SJC itself (particularly Los Rios Street) or of census tracts in cities such as Santa Ana where the petitioner claimed SJC Indian descendants lived. The record also contained little evidence of relationships between families who remained in SJC and those who left the area (JBA PF 2007, 106-108).

In response, the petitioner submitted evidence including, but not limited to, new analyses of previously-submitted 1928 claims applications, two new documents authored by Alfonso Yorba (including a detailed account of the funeral of Fr. O'Sullivan), an analysis of the occupants of Los Rios Street, additional interviews, and newspaper articles (several of which were included in the "Chief Clarence Lobo Database"). The record also includes seven early 20th century applications to Sherman Institute from Juaneño Indian descendants, two of whom have descendants in the JBA petitioner.

Petitioner's Analysis of the 1928 Claims Applications

The 2007 PF stated:

The record contains no analysis of the 1928 Applications as a source of information regarding social relations among the claimants. For example, all the documents were witnessed by individuals who claimed to have knowledge of the person and their families and attested to the veracity of their statements. (JBA PF 2007, 103)

In response, the JBA petitioner submitted a detailed analysis of the 1928 Applications (Escobar 2/11/2009b, 1-11). The petitioner's analysis identified 76 people whom the current petitioner maintains were SJC descendants who filled out applications. The petitioner's analysis also identified the people who witnessed each person's application. The report then discussed the relationships between the people who witnessed the application and the people who filled out the applications. According to the report, "the genealogical evidence allows us to qualify which ones were actually Juaneño, which in turn allows us to reconstruct the Juaneño community-- a community hidden within a larger community" (Escobar 2/11/2009b, 2).

The witnesses on the application testified that they had known certain individuals "all their lives."⁴⁸ According to the petitioner, "*This element is perhaps the most significant characteristic to consider as it literally establishes a beginning time frame for acknowledgment of the individuals within the community*" (Escobar 2/11/2009b, 2; emphasis in original). Presumably, the petitioner means that this would provide a "snapshot" of the Juaneño community during the lifetimes of the witnesses. However, the problem with this analysis is that the petitioner does not take into account all of the people who were identified as descendants of the historical SJC tribe by these witnesses. As noted in the PF, OFA examined the claims applications of approximately 182 applicants (JBA PF 2007, 143) but the petitioner addressed only 76 of these claimants. The petitioner did not discuss the issue of erroneous identifications, and thus left unaddressed the problem of why these witnesses misidentified as SJC Indians so many non-Juaneño descendants. According to the petitioner's own analysis, "Marcos H. Forster signed affidavits for over 60

⁴⁸ The witnesses signed almost all of these applications in December of 1930.

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people who claimed California Indian Lineage. Out of these 60, 19 were Juaneño Indians. In his efforts, he swore that he knew these people for all of their lives . . . there can be no doubt Marcos indeed knew all of these persons to be part of the Juaneño community” (Escobar 2/11/2009e, 1). According to the petitioner’s analysis, of the 60 applications he witnessed, only 19 (32 percent) were filed by SJC Indian descendants. The petitioner did not mention the other 41 people (68 percent) whose applications he also witnessed, whether they claimed to be SJC Indian descendants or descendants of some other California Indian population. The analysis also did not include a list of the more than 60 people whose applications Forster witnessed. The petitioner did not offer any explanation as to why Forster witnessed the applications of so many people who identified themselves as descendants of the historical tribe, but who turned out not to be. Thus, the petitioner’s analysis does not provide evidence of a distinct Juaneño community within the larger community of San Juan Capistrano town residents.

The OFA examined a selection of claims applications witnessed by Augustine Manriquez, Teofilio Manriquez, Marcos Forster, and Jose Doram,⁴⁹ the four people who witnessed the majority of the claims applications of people who identified themselves as descendants of SJC Indians. On all these applications, the witnesses also indicated that they had known the claimants “all their lives” and supported their claims of SJC Indian ancestry. However, many people the witnesses vouched for are now identified, even in the petitioner’s submission, as non-SJC Indian descendants. The petitioner did not offer any explanation as to why these individuals they believe were knowledgeable misidentified so many non-Indian descendants as San Juan Capistrano Indians. If it were the case that the witnesses identified only the direct descendants of SJC Mission Indians (or even the SJC Indians and other people of Indian descent) with this phrase, then the evidence might support what the petitioner claims; however, considering that nearly all the witnesses claimed to have known almost all the claimants for all of their lives, whether they descended from Indians or not, the argument no longer holds. If one wishes to reconstruct the “tribe” by using these applications, then one would also have to include the other claimants whom Foster, Doram, and the Manriquez brothers identified as SJC Mission Indian descendants, even though these people did not descend from SJC Mission Indians. This resulting group would be much larger than the group that the petitioner has identified as “making up the tribe.” If the witness testimony given by Forster and others can be said to have described the “tribe,” then all of the people who received witness testimony from them would have to be counted as part of the “tribe.” Thus, this use of witnessing data does not provide evidence of a “community” as defined either by the petitioner or by OFA. The OFA also did not find this data helpful in discerning any community of SJC Mission Indian descendants.

This evidence and argument involving witnessing (much of the evidence regarding witnessing was available for the PF) does not change the conclusions of the PF, that the petitioner’s SJC Indian ancestors were incorporated into a multi-ethnic community and did not maintain or form a distinct Indian community, even within this larger community. This analysis of the 1928 Claims

⁴⁹ The Manriquez brothers and Marcos Forster each claimed to be SJC Indian descendants. However, the Manriquez brothers were descendants of a Mustun Indian woman (Maria Gorgonia) who was born near Monterrey during the Mission era. Marcos Forster’s aunts (the half-sisters of his mother) were of Juaneño descent, but there is no documented SJC Indian ancestry in his own ancestral line. Therefore, three of the four witnesses were themselves not SJC Indian descendants, although they swore that they were, and other people witnessed their applications as being true.

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Applications provides no additional evidence to satisfy criterion 83.7(b).

The Works of Alfonso Yorba

The petitioner submitted two new documents by Alfonso Yorba, a frequent visitor to San Juan Capistrano during the 1920s and 1930s who had an interest in the history of Mexican California. The first document described the 1933 funeral of Fr. O'Sullivan (Yorba 1933a), while the second is a collection of various notes about San Juan Capistrano residents (Yorba 1934b).

Yorba's description of the funeral specifically refers to "the Juaneños" in the town. However, while he names some of the petitioners' SJC Indian ancestors, his use of the term "Juaneño" refers not only to the SJC Indian descendants living in the town, but to the non-SJC Indians and Californio (who he also refers to as "Spanish") residents as well. While he certainly identified Indians among the population of San Juan Capistrano, his work does not describe any separate community of Indians, nor does it provide any new information to that already available for the PF about the residents, other interactions, and activities.

The other new Yorba document in the record appears to be a collection of various notes, some he took from people to whom he spoke, others he copied from other "libritos" ("little books") to which residents had given him access. Yorba recorded some notes regarding the Juaneño language gleaned from a conversation with SJC Indian Jose Doram (Yorba 1934b, 2) and copied the death dates of some SJC Indian descendants (just as he copied the death dates of other SJC residents), but most of the other information in the document relates to non-Indians. Much of this information was already available in the record for the PF, and the Yorba documentation did not add significant information.

The writings of Alfonso Yorba did not provide additional evidence to further explain issues involving community during the 1930s. In fact, this evidence further supports the conclusions of the PF for this time period that there was not a distinct community of SJC Indians or of the petitioner's ancestors.

Analysis of Los Rios, Ramos and Mission Street

The petitioner submitted an analysis entitled "Historical Geographical and Social Community (Community of Los Rios, Ramos and Mission Street 1794-Current)" (Escobar 9/11/2009a). This house-by-house analysis identifies the residents of particular homes in the Los Rios Street neighborhood during particular decades, and identifies the residents as Juaneño or non-Juaneño. However, the analysis is inconsistent in that it covers huge swaths of time for some homes and only a few years for others. For example, House #18 is described as having been owned by the Rios family since 1794, but House #16 is described as having Juaneño residents only during the 1950s, and House #17 as having had Juaneño residents from the 1930s through the 1950s (Escobar 9/11/2009a, 2). Some houses are described as having had Juaneño occupants only during particular decades. Also, some of the residents included in this analysis are identified by a surname or nickname, so the residents cannot be clearly connected to the named individuals in the petitioner's genealogical databases. While many families of SJC descent lived on Los Rios Street at different times, the neighborhood also had non-SJC Indian descendants and non-Indian

descendants living there as well. This is especially true when one considers that many of the people who lived in this neighborhood were people that the petitioner now identifies as non-Indians, but who had previously been identified as SJC members and ancestors throughout the 20th century (e.g., Ramon Ramos, Alfonso Lobo, and the Stanfield family).

This analysis does not show a distinct community of SJC Indians or of the petitioner's ancestors. Rather, it supports the PF's conclusions concerning the existence of a multi-ethnic community residing near the mission that was not a separate Indian community, even though some families (though not a majority) had SJC Indian ancestry.

Interviews and Oral Histories

The petitioner submitted a 2005 interview with SJC descendant Donald ("Dom") Doram (1922-2007), conducted by fellow JBA member and SJC descendant June (Oliveras) Ramos (Doram 2005). In this interview, he described his memories of growing up in San Juan Capistrano, including his recollections of his father (Jose Doram), Marcos Forster, Ralph Charles, and Felipa Olivares attending MIF meetings in Riverside and then returning to San Juan Capistrano to discuss the information with people in town. According to Doram, these groups sometimes included people from reservations such as Pala, Rincon, and San Luis Rey. Doram specifically remembered language preservation as one of the topics the Indians discussed. After they discussed the issues at hand, the gathering would also include a potluck dinner, storytelling (particularly ghost stories) for the children, card-playing for the men, and a bonfire and sing-along for everyone. Occasionally, someone from San Juan Capistrano would go over to a meeting at another reservation.

Doram identified a number of families as "Acjachemen," including the Robles/Lobos family, the Wattenbergs, the Ricardeses, the Aguilar, and the Manriquezes. He described some visiting between the families, and also maintained that the Acjachemen families usually associated among themselves and did not try to associate with the French Basques, Mexicans, and Caucasians in town. He also named a number of "Spaniard" families, including the Avilas, Sepulvedas, some of the Rioses, the Forsters, and the Belardeses. According to his recollection, these people had a Spaniard club which "made sure" no one joined the club unless they were Spaniards.⁵⁰ Doram also described his recollection of a typical "Acjachemen" wake and funeral, which included a bonfire.

Doram's identification of those people he considered to be "Acjachemen" is somewhat consistent with the petitioner's current definition of its ancestors, although both the Ramos and Aguilar families are no longer identified as SJC Indian families. At the same time, some of the families he identifies as "Spaniards" had members who belonged to the MIF and continued their involvement for many years. It appears that the petitioner included this interview in order to demonstrate that regular interaction between SJC Indians was limited to a few families, while the

⁵⁰ OFA discussed the "Spanish Club" in the PF (JBA PF 2007,104-105), and noted that approximately 23 percent of the members either claimed Indian descent for the 1928 Claims Act, or were married to people who applied for the claims payment.

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larger number of claimed descendants whose names appeared on the various lists from the MIF seldom interacted with other members.

The JBA petitioner also submitted a DVD containing six interviews with eight SJC Mission Indian descendants (Berniece Doram Jim, Delores Wattenberg Meeker, Helen Charles McMullen, Juanita Rios Foy, Clara Olivares, Eleanor Sanchez Garcia, Chris Crespín, and Petra Doram Valenzuela) conducted by Don Doram and his wife Phyllis in 1987 (JBA 9/15/2009 DVD 4).⁵¹ These interviews did not directly relate to SJC Mission Indians, but appear to have been done on behalf of a civic association concerned with plans for the development of downtown San Juan Capistrano. The interviews may have been conducted through the CIC (Don Doram conducted at least two of the interviews in the Harrison House, the home of the organization), but it is not clear. The Dorams interviewed a number of SJC Indian descendants about their opinions regarding the development of the town, but did not ask any questions specifically regarding SJC Indians or an SJC Indian community. The older residents who had grown up in the town did describe some of what life in the town had been like many years ago and discussed their Indian ancestry, but they did not describe a specifically Indian community. The petitioner did not discuss these interviews or their significance in the materials accompanying the DVD submission.

The OFA interviewed two of these descendants in 2006 (Helen Charles McMullen and Eleanor Sanchez Garcia),⁵² as well as several other descendants in the same age categories (including some siblings of the people interviewed in 1987)(McMullen 3/15/2006; Garcia and Garcia 3/13/2006). The OFA's interview questions were focused on the SJC Indian descendants and their interaction with each other, and most of their answers were consistent with those given in 1987. The community they described in the OFA interviews included many non-Indian and non-SJC Indian descendants, and did not describe a distinct SJC Indian community.

The petitioner submitted a DVD of a July 14, 2008 interview with JBA members Rosalind Rodman Kosack (b.1938) and Marie "Teeter" Oliveras Romero (b.1934) (JBA 3/13/2009 DVD(a)). The interview included their descriptions of their lives growing up in San Juan Capistrano, and included Rosiland Kosack's explanation as to why she grew up believing some non-Indian people were SJC Indians:

Interviewer: Were most of the kids you played with-- they were Juaneño? Living in Los Rios?

Kosack: Yes, yes.

Interviewer: So you all knew each other as Indian?

⁵¹ The Dorams also interviewed two people who were formerly considered SJC Indian descendants by the petitioner (Paul Arbisó and Julian Ramos). Julian Ramos was also interviewed by OFA in 2006.

⁵² Neither of these women are members of the JBA petitioner; Helen McMullen belongs to the JBB petitioner, and Eleanor Garcia is a member of the JBMI-IP.

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Kosack: Right, right. And then when we used to get mad at each other, being that my dad was White, they used to call me "Okie," And Teeter's dad was the Indian, but they used to end up calling her Mexican, and we just . . . you know, somebody would say, "Dirty . . .," you know, names to each other when we'd get mad at each other, you know?

Interviewer: And you knew the difference, then, between those kids that were really Mexican and those kids that were White and those of you that were Juaneño . . . ?

Kosack: Some. There was a few that I thought were Indian that turned out not to be. But they did have somebody in their family that was married to an Indian. And that's what made me think that being Manriquez was. . . that they were all Indian. If your last name was Manriquez, I thought you were Indian. Because one of them had been married to Ricardes. And we knew the Ricardeses were Indian, so we just took it for granted that the Manriquezes were Indian. And the same way with Elsie's family . . . Aguilar. We thought the Aguilars were Indian. And they probably were, at some point, because . . . one side of my family, they were Indian, but not from Capistrano. (JBA 3/13/2009, DVD(a))

The petitioner also submitted a September 24, 2008 group interview with JBA members Virginia "Della" Olivares Valenzuela (b.1916), her children Vivian (b.1933), Lloyd (b.1934), and Eunice (b.1937), and grandchildren, (Michael (b.1962) and Shelley V. Woodruff (b.1964) (JBA 3/13/2009, DVD(b)). The family did not live in San Juan Capistrano (Ms. Valenzuela was raised on the Santa Margarita ranch outside town, and her own children grew up mostly in Long Beach), but Ms. Valenzuela attended both the Mission School and the SJC public school, and her children attended the Mission School until the family moved to Long Beach. They all described visiting family members who lived on Los Rios Street, and attending wakes, funerals, events at the mission and MIF meetings in town. They were also very knowledgeable about the relationships among the various families who lived in town, and specifically those families who resided on Los Rios Street, where their grandmother had lived after leaving the ranch:

Interviewer: Teeter [Marie Olivares Romero] and Sister [Rosalind Rodman Kosack] talked about how within that community [specifically Los Rios Street] people helped each other, or if someone died.
(General assent)

Lloyd: Weddings. . .

Vivian: It was . . . all the families. . . I mean, from where my grandmother's house is, at that end of Los Rios, all the way to Little Hollywood, every family knew each other and would help each other . . .

Eunice: Or were related.

Vivian: Yeah, or were related in some way, from the Stanfields to the Ramoses,⁵³ all down that street. If you weren't related, you were like related. You grew up together all your lives. Even us, who didn't live there, everybody knew us because we were there every holiday, weekend, and for 2 or 3 weeks in the summer. (JBA 3/13/2009, DVD(b))

Collectively, these interviews did not provide significant evidence of a distinct SJC Indian community. These interviews did provide some supplemental evidence of a SJC community distinct from a larger community, but that community included non-Indians, individual SJC Indians, and other non-SJC Indian residents. The interviews support the conclusions regarding community drawn from interviews and documents available for the PF.

Newspaper Articles

The petitioner submitted the documents from the "Clarence Lobo Database," a collection of approximately 1,000 documents written and collected by Clarence Lobo during the many years he served as "Chief" of the San Juan Capistrano band. Most of the documents relate more to political issues than to issues of community, but there are some documents, including newspaper clippings, which address community issues. The petitioner also submitted other newspaper articles that were not included in the Lobo collection.

The area newspapers recorded some of the activities of people claiming descent from the historical SJC Mission Indian tribe. These activities were often part of the activities of the "Capistrano-Santa Ana Band," and of an organization called the "League of California Indians" (Newspaper 1951-1952b, 1). The activities of the League of California Indians cannot be considered solely SJC Indian events, although they involved a number of the petitioner's ancestors and living members, because it included a number of people who identified themselves as descendants of another Indian population (specifically Gabrieleños).⁵⁴ The 1954 article describes an "Indian festival" hosted by "the Juaneño band of Mission Indians at Capistrano and the Gabrieleño tribes of San Gabriel," but then identified the leadership of the Juaneño organization as Frank Tafoya, Sal Bleeker, Yolanda Sandoval and Helen Bleeker (*Coastline Dispatch* 7/16/1954), only one of whom (Yolanda Sandoval) was a descendant of SJC Indians.⁵⁵ The composition of the "Capistrano-Santa Ana Band" is also complicated by the petitioner's change of membership, as many of the ancestors and living members involved with the organization are no longer considered by the petitioner to have been part of the historical SJC Indian tribe, as reflected by the group's 2009 membership list. The petitioner did not provide any

⁵³ Both of these families are no longer identified by the JBA petitioner as "Juaneño."

⁵⁴ The petitioner was advised that it may wish to re-examine the composition of the "League of American Indians" (JBA PF 2007, 155) because it appeared to have been composed of claimed Juaneño descendants and claimed Gabrieleño descendants. The name of the organization should have been recorded as the "League of California Indians."

⁵⁵ The newspaper also identified an entirely separate slate of officers for the San Gabriel group, indicating that the organization that Tafoya et al. represented was actually an organization consisting of claimed Juaneño and Gabrieleño descendants.

analyses of the composition of the organizations to sort out which people belonged to which group.

The newspapers in 1951, 1952, 1953, and 1954 all recorded a barbecue or pow-wow in San Juan Capistrano (*Coastline Dispatch* 4/6/1951; 6/20/1952; 6/12/1953; 7/16/1954). In some articles, the paper identified some of the people who helped to organize the event (such as Elisa Rios and Katherine Pitassi). These people are currently identified by the petitioner as members of the "tribe" (*Coastline Dispatch* 4/13/1951; 4/6/1951; 6/20/1952). The papers also identify other people (such as the Belardes family and Frank Ramos) participating in the events who are no longer identified as SJC Indians by the petitioner (*Coastline Dispatch* 7/6/1951; 7/13/1951; 6/20/1952). The other documents in the record do not provide a broader understanding of what other people participated in these events. Then, no news articles record any large pow-wows or barbecues until the mid 1960s. The petitioner did not explain why the gatherings stopped, or if the group replaced them with something else.

These articles did not provide significant new evidence of community for the FD because the PF considered similar newspaper articles. The articles available for the PF also referenced two organizations, named the same or related individuals and families, and described similar pow-wows and barbecues. The information tends to support the conclusions reached in the PF.

Sherman Institute Files

The record contains copies of seven student admission files from Sherman Institute, dated between 1928 and 1963, for students of Juaneño descent, submitted by the JBB petitioner (Sherman Institute 1928-1963 Student Files).⁵⁶ Of these seven students, two (Robert Lobo and Raymond Lobo) have descendants in the JBA petitioner, four (Mary Mogart, Eva Parra, Benedicta Parra, and Petra Doram) have descendants in the JBB petitioner, and one (Vernaby/Berniece Doram) has no known living descendants. The JBB petitioner maintains that the files include "several letters detailing difficulties in securing the admission of Juaneño students" (JBB Narrative 2/28/2009, 8-9), but the petitioner does not include any further analysis of these records. The OFA examined the files, and was unable to determine what specific difficulties the JBB petitioner is referring to: difficulties in actually getting the students admitted to the institution or difficulties encountered by the students at home which lead them to seek admittance to boarding school. Two of the letters in the files for students living in San Juan Capistrano describe the public school as inadequate for Indian children, stating ". . . all the attention goes to the whites and (illegible) taken with the poor Indian" (Sherman Institute 1928-1963 Student Files, 4, 13). Five of the seven students were from homes where their mothers had died, but the other three were from intact (albeit poor) nuclear families. One of the students who had attended Sherman for at least 8 years prior to this particular application stated that he wanted to attend the school because San Juan Capistrano did not have a high school (Sherman Institute 1928-1963 Student Files, 17).

The Sherman Institute files include a few indications of community among the group of claimed SJC descendants, such as the signatures of witnesses on the applications. Marcus H. Forster,

⁵⁶ The petitioner indicated that it had submitted eight files, but there is no file for Evelyn Lobo included in the petition documentation.

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who served as the “captain” of the SJC branch of the Mission Indian Federation (MIF) wrote statements to support the admittance of two of the children to the school, and signed as a witness for four of the five other students, which indicates that he had some knowledge of these families. SJC Indian descendant Viviana (Ricardes) Oliveras also signed as a witness on the applications for two students, which indicates that she also had some knowledge of these children and their families. However, these examples are too small a sample to indicate that this knowledge and these relationships were widespread throughout the group.

Summary of Evidence Relevant to Demonstrating Community, 1920-1963

The JBA petitioner’s new analyses and data, in combination with the information already in the record, do not change the conclusions made in the 2007 PF that the evidence is insufficient to demonstrate community. The new evidence does not provide significant additional documentation regarding community among the petitioner’s ancestors during this time, even accounting for the removal of a number of people previously claimed as ancestors from the historical community. Much of the new evidence actually offers support for the conclusions reached in the PF: namely, that the petitioner’s members and ancestors participated within a much larger social group of Old Mexican/Californio families, non-SJC Indian families, and other SJC Indian descendants and were not distinct within it. A number of these people appear to have seen themselves as Indian descendants, even if they were not, and the verifiable Indian descendants appear to have accepted the others’ claim to a SJC Indian identity, as shown in some of their interactions with these people throughout the years. The new evidence in the record provides some additional limited evidence of social interaction within this group of people claiming descent from the historical SJC Indian tribe, but even if the petitioner considered all of these people as part of the “tribe,” it would not rise to the level of demonstrating that a distinct Indian community existed, as the criterion requires. There is insufficient evidence to demonstrate community, and the conclusions of the PF for the period 1920-1963 under criterion 83.7(b) are unchanged.

Evidence Relevant to Demonstrating Community, 1964-1993

The 2007 PF discussion of the petitioner’s evidence for the years 1964 to 1993 stated:

There is no evidence in the record to demonstrate social interaction among the members of the current JBA petitioner between 1964 and 1975, although interview data suggest that the SJC claimants and their descendants who were residents of SJC interacted in a variety of formal and informal situations. There is no information in the record reflecting interaction among the members of the JBA petitioner who lived outside SJC and between those people and people in the town of SJC Differences based primarily on residence inside and outside of the town played a strong role in determining which members ended up in which organization [Capistrano Indian Council or Juanefio Band of Mission Indians]. However, the evidence in the record is insufficient to demonstrate that either organization (or the two combined) represented a group distinct from the general population. (JBA PF 2007, 117-118)

The PF also commented on the differences between members of the Capistrano Indian Council (CIC) and the Juaneño Band of Mission Indians (JBM), and that there had been little overlap of membership until after 1995.

In its comments on the PF, the petitioner submitted evidence including, but not limited to, newspaper clippings, new documents regarding the CIC, and one document from the “Clarence Lobo Database.”

Newspaper Articles

The JBA petitioner submitted a few new articles related to gatherings of SJC Indian descendants during this period. In 1965, the local paper reported that a large, week-long pow-wow was scheduled to be held in San Juan Capistrano, but did not give a date. According to the article, the pow-wow would host meetings among various tribal leaders, as well as have a public component of a parade, barbecue, and dances performed for spectators. The article states that there had been three previous meetings held, including one which drew more than 2,000 people, but the previous meetings had been “for the Juaneño tribe” (*Coastline Dispatch* 6/30/1965). An article published a week later gives the dates of August 7 through August 14 for the pow-wow (*Coastline Dispatch* 7/7/1965), but then the record falls silent. The information in the record does not indicate that this pow-wow actually took place, or provide any descriptions of it.

Three articles (two in 1966, the other in 1967) describe the naming of SJC descendant Viviana Ricardes Oliveras (b.1883-d.1970) as the “matriarch” of the town of San Juan Capistrano by the local historical society (*Coastline Dispatch* 6/22/1966; 6/22/1966a; 3/15/1967a).⁵⁷ Records submitted for the PF had identified other SJC descendants as having held this position (e.g., Juanita Rios Foy, Evelyn Lobo Villegas, and Helen Charles McMullan), but the available record contains no evidence that that the matriarch (or patriarch) be of SJC Indian ancestry.⁵⁸ There is little other information in the record regarding Viviana R. Oliveras (see discussion regarding the Sherman Institute applications), and it is not stated why she was chosen for this position.⁵⁹ While the articles identified her as a SJC descendant, there is no mention of whether or not other SJC Indian descendants in town attended the ceremony honoring her, or if they held their own separate ceremony acknowledging her award. When interviewed for the 1967 article, she acknowledged her SJC Indian ancestry and stated that she had also attended an Indian school in San Diego, but she did not describe an Indian community in the town of SJC or imply that such a community existed.

⁵⁷ The “Matriarch” and “Patriarch” of San Juan Capistrano are honorary positions named by the local SJC Historical Society.

⁵⁸ The PF included a discussion of Evelyn Villegas Lobo, who was named SJC Matriarch in 1992. As was stated then, the historical society chooses Matriarchs from the elder women who have spent most of their lives in the town of SJC (JBA PF 2007, 98).

⁵⁹ Ms. Oliveras was a lifelong resident of the SJC area and the mother of 14 children, both of which may have influenced her being named to the position.

The Capistrano Indian Council

The JBA petitioner submitted copies of 170 applications for the Capistrano Indian Council (CIC) filed between 1975 and 1978 (JBA n.d. CIC Enrollment Applications). The CIC is a non-profit organization founded by a number of SJC Indian descendants and their spouses in 1975. The CIC organization was not limited to SJC Indian descendants, but welcomed all people interested in California Indian culture. The applications were not accompanied by an analysis demonstrating which members of the current petitioner belonged to the organization, and are from many non-Indians as well as people claiming Indian ancestry from all across the country. The petitioner also submitted a separate table of CIC members from 1974-1977, which named 70 of 246 members as “Juaneño” (JBA CIC Members 1974-1977 9/15/2009, 1-7). Several of the CIC members who are listed with no “tribal” affiliation on the table submitted for the FD identified themselves on their claims applications as “San Juan” or “Juaneño” Indians. A review of the petitioner’s genealogical databases indicates that the petitioner no longer accepts these individuals’ claim of Juaneño ancestry, although they were formerly members of the JBM and JBA. The petitioner’s analysis, then, does not necessarily reflect the number of “Juaneño” members the CIC had then, but reflects the number of SJC Indian descendants the current JBA petitioner has retroactively identified and accepted. It is not clear if the petitioner used the claims applications to compile the table, or if the petitioner used the claims application and some other source. The submission did not include any new descriptions of the activities of the CIC, nor did it include any additional comment or clarification of the residential distinction noted in the PF between the mostly SJC residents who joined the CIC, and the mostly non-local people who initially joined the JBM (Juaneño Band of Mission Indians) organization (JBA PF 2007, 108-113).

Other evidence in the record includes 31 sign-in sheets from the CIC from 1988-1991, which the JBB petitioner submitted (JBB 1988-1991). According to the JBB narrative, “Most of the members of the CIC were also Juaneño tribal members as documented by the CIC sign-in sheets” (JBB Narrative 2/28/2009, 25). The JBB petitioner provided no analysis of these sign-in sheets in order to support this assertion, but OFA considered this new data even without the petitioner’s analysis. Many CIC members did not actually join the JBM until the mid-1990s, as was discussed in the PF (JBA PF 2007, 113-115). While it is true that a number of the people on the sign-in sheets were SJC Indian descendants, being a descendant and being a member of the JBM (which would ostensibly have been the “tribe” in the latter 20th century) was not necessarily the same thing. The OFA examined three of the lists with the largest attendances, one from each year (October 9, 1988, February 11, 1990, and February 10, 1991) and compared them to the 1979 JBM membership list. Of the approximately 70 names on the three lists, only three could be identified on the 1979 JBM list. These lists support the PF’s conclusion that most of the people who attended CIC meetings before the late 1990s were local residents, and that few members of the much larger JBM attended the CIC. The JBB narrative also states, “The CIC plays an intrinsic function in the Juaneño tribal community. Most of its members are Juaneño tribal members and the organization does not exclusively involve the residents of SJC as noted by OFA . . .” (JBB Narrative 2/28/2009, 26). The JBB petitioner did not include any further explanation of what intrinsic function the CIC allegedly filled within the group of Juaneño descendants. The JBB petitioner’s statement regarding the CIC involving members other than

SJC residents may also be true currently, but the evidence in the record indicates that from the 1979 founding of the JBM until approximately 1993, most CIC members were from SJC, and few CIC members joined the JBM.

Documents in the “Clarence Lobo Database”

The “Clarence Lobo Database” collection included a letter from Clarence Lobo to “John and Frieda,” identified elsewhere as John and Freida (Doram) Sommers (Lobo to John and Freida 7/28/1974). According to this letter, Lobo rented his home in SJC to the Sommers family after he and his wife moved to Oroville, CA. As was noted in the PF, Lobo kept a journal in which he described various social interactions with the family of SJC Indian descendant Berniece (Doram) Jim, the sister of Freida Sommers (JBA PF 2007, 106), as well as with some other people unidentified in the petitioner’s genealogical databases. Both Doram sisters and their families lived in the Los Rios Street neighborhood. The evidence of a social relationship between members of a group is good evidence of community; however, the combined examples from the PF and the FD between Clarence Lobo’s family and the Doram sisters are not enough to demonstrate community among the population of SJC Indian descendants who were members of the petitioner. The materials submitted for consideration for the FD did not include any additional journals, diaries or notebooks detailing social or visiting relationships between a larger number of petitioner’s members.

Summary of Evidence Relevant to Demonstrating Community, 1964-1993

The petitioner’s new analyses and data, in combination with the information already in the record, do not change the conclusions made in the 2007 PF. The new evidence does not provide additional evidence of community among the petitioner’s members during this time, even accounting for the removal of a number of people previously identified as ancestors from the historical community. There is insufficient evidence to demonstrate community, and the overall conclusions of the PF for the period 1964 to 1993 under criterion 83.7(b) are unchanged.

*Evidence Relevant to Demonstrating Community, 1994-Present*⁶⁰

The 2007 PF discussion of the JBA petitioner’s evidence from 1994 to the present noted that the dramatic fluctuations in the JBA membership lists, particularly the inclusion of a large number of individuals not known to have been enrolled in or associated with the JBM, indicated that the JBA petitioner’s 2005 membership was essentially different from the JBM’s membership. These problems made it very difficult to demonstrate that the members of the petitioner had maintained social relationships with each other over time. No other evidence demonstrated that a cohesive continuing social community remained in place throughout these membership fluctuations, although a portion of the membership who lived in and close to SJC associated informally on a regular basis. There was also some evidence that members of the JBB and JBMI-IP (particularly those who still lived in or near SJC) continued to associate informally with members of JBA with whom they have had lifelong relationships (JBA PF 2007, 123-124).

⁶⁰ The 2007 PF erroneously identified this time period as “1993-Present,” rather than “1994-Present.”

In its comments on the PF, the petitioner submitted new evidence, principally the 2009 membership list and new interviews. The OFA also received a number of third-party comments, some submitted too late to be considered as evidence for the PF, and some comments submitted during the comment period on the PF. All such comments were considered for the FD. Any comments received after the close of the FD comment period were not considered, in accord with 83.10(ℓ)(1).

An organization called “California Cities for Self Reliance, Joint Powers Authority (JPA)” submitted a comment prior to the issuance of the 2007 PF (JPA 11/9/2006). The 27-page report by David Schmit included questions about interaction among the petitioner’s then-current membership, (JPA 11/9/2006, 14). The report specifically referred to evidence submitted by the JBB petitioner and cites attendance statistics from that group’s Annual Reunion, but the questions posed in the report regarding interaction among the petitioner’s membership also apply to the JBA petitioner. The report also questioned whether or not interaction occurred between the members of the three groups (JBA, JBB, and JBMI-IP) all claiming descent from the historical SJC Indian tribe. The petitioner did not submit a response to the Schmit report, but addressed some of the concerns in response to the same issues when OFA raised them in the PF.

The 2009 Membership List

This FD discussed the 2009 membership list in detail at the beginning of this report, and that discussion need not be repeated here. The change in membership creates two significant issues. The first is the petitioner’s need to explain the history of the group after having omitted many of the historical families and individuals from whom it had formerly claimed descent. The second is that the JBA petitioner did not provide any information regarding how the removal of such a large number of members has affected the group as it is currently constituted. The JBA petitioner did not claim that the people who had been removed had not been involved members of the group; instead, the petitioner simply removed them from the membership list and ceased to discuss them.

The OFA performed a residential analysis of the JBA petitioner’s 2005 membership list and included a discussion of this analysis in the 2007 PF (JBA PF 2007, 120). The petitioner did not include a separate residential analysis of the 2009 membership list, and did not include a copy of the 2009 membership file in electronic format. The OFA prepared a modified membership analysis⁶¹ of the new list to see if the members of the group live in the same towns as those members on the 2005 list, if they demonstrate any residential clustering, or if the change in membership altered the previous residential statistics OFA compiled for the PF. On the 2005 list, the city with the largest number of members was Santa Ana (114 of 1,640 members, or 7 percent), and San Juan Capistrano was second (90 members, or 5 percent). On the 2009 list, San Juan Capistrano replaced Santa Ana as the city or town with the largest number of members (191

⁶¹ The JBA petitioner did not submit an electronic copy of their membership list that could be easily sorted by residential address. OFA prepared an abbreviated residential analysis of the 2009 members by concentrating solely on the towns where members lived, without additional analysis of whether these members had been counted on the 2005 membership list. OFA is not expected to conduct extensive analysis of data not analyzed by the petitioner (70 Fed. Reg. at 16515 (March 31, 2005)).

of 1,940 members, or approximately 10 percent), and the city of Corona (92 of 1,940 members, or 4.7 percent) moved Santa Ana (71 of 1,940 members, or approximately 3.7 percent) to third place. While some of the increase and change can be attributed to the inclusion of minors, it is unclear just how much of the change is due to the addition of new members and the elimination of members living in other areas. There is no indication that the members who live in Corona or Santa Ana form any residential clusters or associate with each other outside of the formal organization. The increase in the number of members in SJC was not accompanied by any additional description of social interaction among the members (although there was some description of interaction among members living in SJC for the PF), and it is unclear whether this increase in members is due to the inclusion of minors, to new enrollees, or to the movement of people into the town.

The petitioner failed to describe the reaction of either those who had been excluded or the response of those who remained in the group to the expulsion of the others. As was described in the PF, many of these now-excluded people, especially the lifelong residents of SJC, had known each other their entire lives. These people played together as children, went to the same church and school, and had been friends for many years. The material in the record does not include any information on whether the change in membership criteria affected the personal relationships among the members of the group and those removed from the group. The petition also does not discuss the effect of the admission of a number of people who had not previously been involved with the group.

The comparative residential analysis of the 2005 and 2009 membership lists does not provide any evidence to change the overall conclusions of the PF; in fact, the fluctuation in membership indicates a lack of social interaction and cohesion among the JBA petitioner's members. It does not reflect any apparent social distinction among members. The petitioner did not include additional evidence regarding social interaction among current and former members of the JBA as reflected on the 2005 and 2009 membership lists. Rather, the change in members appears to address criterion (e), descent, not to define a preexisting distinct community or social group.

Interviews

The petitioner included an abstract of an interview with a current member who stated that some of the long-time local SJC descendants and former (CIC) members had objected previously to the inclusion of people based only on the 1933 Census Roll (Francine Yorba 3/26/2009).⁶² According to the petitioner's comments on the PF which referenced this interview, Yorba raised concerns in 1997 about the genealogy of a number of members after she observed that the data from the 1928 CIJA claims applications did not conform to other genealogical records in the group's possession. Other local SJC Indian descendants also expressed concern regarding the inclusion of many non-SJC descendants enrolling with the group, but did not or could not speak

⁶² As was discussed in the PF, the CIC was a community action organization comprised of local Indians, non-Indians and SJC Indians. It preceded the JBM and can be said to have actually started the JBM organization, as it was the group that originally appointed Raymond Belardes to investigate the possibility of petitioning for Federal acknowledgment (JBA PF 2007, 156-7). The JBM quickly became a separate organization, and had few overlapping members until the CIC members eventually became a part of the larger and more political JBM sometime in the early 1990s.

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up and protest (there is no discussion as to why the others did not make their concerns heard). She later brought this matter to the attention of the council several times between 1997 and 2000, but was unable to rectify the situation until the subsequent election of other officials (JBA Response to Comments, Michelle Moreland Report 9/15/2009, 20-21).⁶³

In its discussion of the CIC, the PF noted that there had been very little overlap in membership between the CIC and the JBM during the 1980s, as many local CIC members did not know the people who enrolled in the JBM and also because the CIC members did not approve of JBM leader Raymond Belardes's activities and political stance (JBA PF 2007, 108-114; 159-161). There is, however, no indication that the CIC members had any question about Belardes's SJC Indian ancestry. The argument that the former CIC members who eventually became part of the JBM had some concerns over the membership which they did not express publicly is plausible. However, there is no evidence in any of the documentation submitted prior to 2009 that this was an important or even a secondary issue within the group. It is possible that the leadership and the members choose not to discuss this matter in other interviews or in interviews conducted by OFA during the 2007 field visit, but there is no corroborating evidence included in the record to support the petitioner's assertions. The OFA reviewed again for the FD the JBA meeting minutes from 1997 through 2004 submitted for the PF, and found no references to concerns regarding membership based on the 1933 Census Roll. The OFA also reviewed other interviews in the record submitted by the group, and they did not contain any references to this particular issue.

An organization called "California Cities for Self Reliance, Joint Powers Authority" submitted a comment prior to the issuance of the 2007 PF (JPA 11/9/2006). The 27-page report by David Schmit questioned whether the Juaneño existed as a separate tribe at the time of first contact (JPA 11/9/2006, 7-8) and whether a distinct Juaneño community existed after the collapse of the mission system (JPA 11/9/2006, 9-12). The report specifically refers to evidence submitted by the JBB petitioner and cites attendance statistics from that group's Annual Reunion, but the questions posed in the report regarding the interaction among the petitioner's membership also apply to the JBA petitioner. The report also questions whether or not interaction occurred between the members of the JBA, JBB and JBMI-IP, which all claim descent from the historical SJC Indian tribe. The JBA petitioner did not submit a response to the Schmit report, but addressed some of the concerns in response to the same issues when they were raised the PF.

⁶³ The petitioner submitted an abstract of the interview conducted with Fran Yorba regarding the enrollment of non-SJC Indians in the JBM and JBA (Francine Yorba 3/26/2009), but did not submit a recording or word-for-word transcript of the interview. The inclusion of an actual transcript would have enabled OFA to evaluate the interviewer's questions, as well as the interviewee's answers (see PF's comment on problems of submitting interview abstracts rather than full transcripts (JBA PF 2007, 92)). The Yorba interview abstract also identified Teeter Marie Romero and Marian Walkingstick as SJC descendants who called into question the issue of the enrollment of non-SJC descendants. OFA interviewed both of these members in 2007 (Romero 3/17/2007; Walkingstick 3/17/2007), and neither of them made any reference to any contention over membership issues.

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The OFA received formal comments from two former members⁶⁴ of JBA, both of whom had been removed from the membership after the issuance of the 2007 PF (Martinez 3/9/2009; Moreland 3/-/2009). Both former members submitted additional genealogical information for their own families, but the Martinez submission also included some information regarding the 2008 expulsion of members:

On Saturday, March 15, 2008 . . . Tribal Chairman Anthony Rivera announced the passage of an ordinance amending the tribal constitution. The ordinance . . . will strip over 500 Juaneño general tribal members of all membership and voting rights . . . This move is perceived by many . . . as an attempt by three (3) Members (Chairman Rivera, Vice-Chair Fran Yorba, and Sec. Chris M. Lobo) of the five (5) member . . . body to reduce the size of the existing tribal rolls and to gain personal and family member advantage . . . (Anonymous 3/15/2008, 1).

The document also states that “members of the Capistrano Juaneño Band of Mission Indians are available for interviews,” but does not include the names any of the members who had had their status as group members terminated.

The JBA petitioner responded to the comments submitted by former members by presenting expanded genealogical reports to justify the exclusion of these members based on descent, and, by extension, the exclusion of many others (JBA Response to Martinez, 9/15/2009). In some cases, these reports also include additional information. For example, the petitioner’s “Response to Moreland” not only contained a genealogical discussion of Moreland’s claim to SJC Mission Indian descent, but also included the petitioner’s argument regarding how and why it so drastically changed its membership list, specifically that Moreland and others like her descended from 1928 Claims Act applicants, and that the Federal government’s enrollment of these ancestors forced the petitioner to include all 1928 Claims Act descendants in their organization (JBA 9/15/2009 Response to Moreland, 9-22; see also OFA’s discussion of this argument in section “The 2009 Membership List” above).⁶⁵

Summary of Evidence Relevant to Demonstrating Community, 1994-Present

The petitioner’s new analyses and data, in combination with the information already in the record for the PF, do not change the conclusions made in the 2007 PF. The new evidence does not provide additional evidence of community among the petitioner’s members during this time, does not account for the removal of a number of people previously identified as members, or whose ancestors the petitioner had considered part of the historical community. Further, the petitioner included little to no information regarding the effect of the disenrollment of such a

⁶⁴ OFA determined that several “comments” from former group members who wanted to be reinstated in the group did not properly qualify as comments because they did not comment on the PF, did not provide evidence to be evaluated, or merely complained about various individuals or about the group’s leadership. OFA placed these documents in the administrative correspondence file.

⁶⁵ The JBMI-IP also submitted comments on the PF, but specifically stated that “. . . the JBMI will not be addressing deficiencies in Criteria A, B, and C of the PF” (Perry 3/12/2009, 1). California Cities for Self Reliance, Joint Powers Authority (JPA), also submitted comments, but concentrated their reply on criterion 83.7(c) (JPA 5/9/2008).

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large number of members or on any patterns of social interaction among the group's members. The evidence does not demonstrate that the change in membership was to reflect a pre-existing distinct group. The evidence in the record is insufficient to demonstrate community from 1994 to the present, and the negative conclusions of the PF for the period 1994-present under criterion 83.7(b) are unchanged.

Summary of Evidence Relevant to Demonstrating Community, 1834-Present

The evidence in the record for the PF and FD demonstrates that the JBA petitioner did not evolve from the historical SJC Indian tribe as a distinct community. The petitioner, as it is currently constituted, consists of members identified by the petitioner as descendants of the historical SJC Indian tribe, but whose ancestors functioned as part of the general population of SJC residents in the mid-19th century. This community included non-Indians, individual SJC Indians, and other non-SJC Indian residents in the town. The petitioner's individual ancestors, both Indian and non-Indian, were part of this larger community, and not distinct within it. Further, there is no evidence that the SJC Indian ancestors were part of an Indian entity that evolved from the SJC Indian tribe in 1834; rather, they appear to be Indian individuals who became absorbed into the general, ethnically-mixed population of Old Mexican/Californio families, as well as with non-SJC Indians who moved to the town prior to 1900. The 2005 membership of the JBA petitioner reflected the makeup of this general population, as many members had no documented Indian ancestry, or had documented California Indian ancestry from other non-SJC Indian populations. The 2009 membership, having undergone considerable revision in an attempt to eliminate all members without demonstrable SJC Indian ancestry, no longer mirrors the composition of the mid-19th century general population of the town. However, the petitioner's omission of people formerly identified as ancestors and members to satisfy the requirements of criterion 83.7(e) no longer describes the social community that the petitioner described in its previous submissions, and the "group" that the petitioner now describes reflects only a number of individuals who were actually part of a much larger, multi-ethnic community and not separate or distinct from it. The overall record does not demonstrate that the petitioner's mid-19th century ancestors formed a distinct SJC Indian community within a larger Spanish-speaking, Catholic, Old Mexican/Californio community.

Conclusions for the Final Determination on Criterion 83.7(b)

The new evidence in the record in response to the 2007 PF, in combination with material already in the record for the PF, demonstrated that a community of SJC Indians existed around the SJC mission after 1834 and emancipation of the SJC neophytes. The JBA's petitioner's elimination of people formerly claimed as ancestors, coupled with the petitioner's new emphasis on ancestors specifically identified as SJC Indians in the SJC Mission records, redefined the population of what the JBA petitioner had formerly defined as the "tribe," or "community." The petitioner presented a marriage analysis of SJC Mission marriage records which demonstrated that the Indians marrying at the SJC mission tended to marry other SJC Indians. Combined with other evidence in the record from ecclesiastical and civil records, the petitioner's marriage analysis, and other documents demonstrated that the tribe that existed in 1834 when the Mexican

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government emancipated the SJC neophytes continued to exist as a community until the 1862-1863 smallpox epidemic. Therefore, this FD finds that the historical SJC tribe continued to exist as a community of Indians in the vicinity of the SJC mission from 1834 to 1862.

The evidence in the complete PF and FD record for the remaining time periods has not satisfied the requirements of criterion 83.7(b) for any time after 1862. The evidence already in the record and the new evidence submitted for the FD demonstrate that the JBA petitioner's SJC Indian ancestors were part of a larger, multi-ethnic community and did not form a separate Indian community at any time after 1862. The JBA petitioner's SJC Indian ancestors functioned as part of the general population of SJC residents in the mid-19th century, which included non-Indians, individual SJC Indians, and other non-SJC Indian residents. There is no evidence that the SJC Indian ancestors were part of an Indian entity that evolved from the SJC Indian community in 1862; rather, they appear to have been Indian individuals who became absorbed into the general, ethnically-mixed population of Old Mexican/Californio families, as well as with non-SJC Indians who moved to the town prior to 1900. The 2005 membership of the JBA petitioner reflected the makeup of this general population, as many members had no documented Indian ancestry, or had documented California Indian ancestry from other non-SJC Indian populations. The 2009 membership, having undergone considerable revision in an attempt to eliminate all members without demonstrable SJC Indian ancestry, no longer mirrors the composition of the mid-19th century general population of the town and no longer describes the social community that the petitioner described in its previous submissions. The historical "tribe" the petitioner now describes reflects only a number of individuals who were actually part of a much larger, multi-ethnic community. The petitioner has also submitted little information about the effect the contemporary group's recent and dramatic changes in membership have had on the group. Therefore, because the totality of the evidence does not demonstrate that the petitioner's SJC Indian ancestors formed a distinct Indian community after 1862 from which the current JBA petitioner evolved. The evidence is insufficient to demonstrate criterion 83.7(b), and the findings of the PF after 1862 are unchanged. The JBA petitioner does not satisfy criterion 83.7(b).

Criterion 83.7(c)

- 83.7(c) The petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present.**

Summary of the Proposed Finding

In the 2007 JBA PF, OFA concluded that the petitioner did not present sufficient evidence of formal or informal leadership among its claimed ancestors during the late 19th century or early 20th century. The evidence available in the record did not demonstrate political influence from 1834 to the present. The historical SJC tribe would meet this criterion until 1834, but the JBA petitioner did not demonstrate that it met the requirements of the criterion after 1834. Further, the petitioner did not demonstrate political influence at any time since 1834. Therefore, the JBA petitioner did not satisfy criterion 83.7(c) from 1834 to the present (JBA PF 2007, 171).

JBA Petitioner's Response to the PF Response to 2007 PF

During the comment period on the PF, the JBA petitioner submitted a number of additional documents including a 2009 narrative, newspaper articles, scholarly reports, and some additional meeting minutes and interviews. The petitioner also included a response to comments submitted by Michelle Moreland which included a 14-page discussion of previous membership lists and governance. The petitioner also submitted the documents referenced in the "Clarence Lobo Database," a set of approximately 1,000 documents written and compiled by Clarence Lobo over approximately 35 years. These included a number of letters written by Lobo to elected officials, as well as correspondence between Lobo and members of the various organizations in which he was involved.

The OFA also received a number of third-party comments, some submitted before the completion of the PF but too late to be considered as evidence for the decision, and some submitted during the comment period on the PF for consideration for the FD. Those received before the issuance of the PF were held until the comment period, and then considered for the FD. The OFA also considered comments submitted during the comment period for the FD.

The 2009 Membership List

As was discussed under criterion 83.7(b), the JBA petitioner's 2009 membership list removed a significant number of previously enrolled members on the basis that their ancestors were not SJC Indians. The petitioner removed 928 members, or 57 percent of the 1,640 adult members on the 2005 certified membership list. At the same time, the 2009 membership list includes 1,240 individuals (both adults and children) who had not been on the 2005 list. Of these, 859 members (378 adults and 481 minors) had never appeared on any previous membership list, but who the

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petitioner has identified as having a documented SJC Indian ancestor. The membership list is discussed under both criteria (b) and (c) because it is the document that defines the group. OFA examines the membership lists of a group over time to understand how a group defines itself. Membership lists are also used in conjunction with other documents to examine relationships between those defined as members. The membership list is a foundational document used to evaluate a petitioner's social and political evolution and interpret the rest of the petition documentation.

The JBA petitioner's submission under criterion (c) addressed the changes in the group's membership by noting that ". . . any and all individuals not lineally connected to the historic tribe of San Juan Capistrano have been removed from the membership rolls" (JBA Response 9/11/2009, 9). The petitioner attributed the inclusion of these names originally to over-reliance on data from the 1933 Census Roll (see discussion and response under criterion 83.7(b) in the FD).

Evidence of Political Influence, 1804-1862

The 2007 PF discussion of the petitioner's evidence for the years 1835 to 1862 is divided under two time periods (1776-1848 and 1848-1861). The PF did not include a separate discussion of the time period from 1804 to 1835, but comments from the JPA interested party addressed the issue of political authority or influence among the Indians of SJC Mission from 1804 to 1900. Considering that the PF identified a tribe at SJC in 1834, the discussion of the evidence for the FD will combine the evidence from 1804-1862. The 1863-1900 period will be discussed later in this finding.

The 2007 PF discussion of the evidence in the record stated that, after 1834, many of the Indians appear to have left the mission, although some did stay in the area. The Mexican government attempted to establish a *pueblo de indios*, but this attempt failed as more Indians left the former mission, and those who remained became increasingly dissatisfied with the administrators. The record contained one example of a 1839 petition by SJC Indian José Delfin on behalf of the other Indians at the SJC Mission, but is silent as to any political influence or authority exercised by, or on behalf of, a remaining group of SJC Indians still living near the former mission between 1841 and 1848 (JBA PF 2007, 133-134). The record contains no examples of formal or informal political authority or influence among the named SJC Indian ancestors of the current petitioning group living in SJC during this period. The record included no examples of elections, appointments, or formal or informal leadership among the petitioner's ancestors during this period. (JBA PF 2007, 137)

In response, the petitioner submitted a number of new analyses of information already in the record, such as ecclesiastical records from the Mission at San Juan Capistrano and other missions, Mexican census records, US Federal census records, and the California State census of 1852. The petitioner indicated that its researchers tried to locate additional primary or secondary

documentation believed to be important to the case, but were unable to do so (Grabowski 3/12/2009, 12).

Political Influence and Authority, 1804-1834

The OFA received a third-part comment that specifically addressed criterion 83.7(c) and the question of whether a SJC community exercised political influence over its members during the 19th century. An organization called “California Cities for Self Reliance, Joint Powers Authority” (JPA) submitted a report authored by James Lynch titled “Federal Recognition of the Juaneño Band of Mission Indians: An Ethnohistorical Evaluation of the Applicability of 25 CFR 83.8 and Further Evidence Applicable to Criteria 25 CFE 83.7(c)” (JPA 5/9/2008). In this report, the JPA interested party states that the “historical evidence tells us that the Juaneño lacked any evidence of political influence or authority from 1804-1900” (JPA 5/9/2008, 33). The report uses the date “1804” (JPA 5/9/2008, 33), which OFA believes is actually a typographical error that should read either “1834” or “1840.” The JPA report did not submit any specific information regarding the year 1804 or any explanation as to why that date was chosen; however, considering that the Mexican government established the SJC *pueblo* in 1839, the JPA interested party may have intended to choose 1834 (the year of secularization) or 1840 (the year immediately following the emancipation of the neophytes) as a date to begin examining political authority and influence among the Indians at the SJC Mission. This FD, in its section on the historical Indian tribe of SJC Mission, notes that the JPA seems to support the PF’s finding that there was an Indian tribe at SJC Mission prior to secularization in 1834, but argues that after secularization, the Juaneño population became too scattered to retain its character as a distinct Indian community.

The JBA petitioner submitted a response to the Lynch report entitled “Response to Comments 25 CFR 83.7- Proof of Acjachemen Nation as a Continuous Historic Tribe from the Pre-Mission Era to 1930, Response to Lynch Report Comments” (Escobar and Rivera 3/13/2009). This report did not directly address the specific evidence or arguments advanced in the JPA report. Instead, the response included a detailed analysis of the use of titles associated with political authority among the Indians before and during the mission period (specifically, the titles “Nu,” “Coronne,” “Eyaque,” and “Tepi”).⁶⁶ The petitioner submitted this material to support the contention that the persistence of these titles recorded in the mission registers indicate that the Acjachemen comprised a “tribe” prior to the establishment of SJC Mission. According to the petitioner’s analysis, the use of these titles among people from the various Acjachemen-speaking villages provided “incontrovertible proof the Acjachemen people interacted during the pre-mission period through 1827” (Escobar and Rivera 3/13/2009, 14).

The OFA evaluated the pre-1834 evidence in the record and found that it did not contradict the Department’s PF conclusion that a historical Indian tribe amalgamated at the SJC Mission prior to the mission’s 1834 secularization. No new evidence submitted by the JPA or in the record for the FD caused OFA to revise this conclusion.

⁶⁶ See the discussion regarding the use of these titles in the JBA Proposed Finding (JBA PF 2007, 128-130)

SJC Marriage Analysis

The JBA petitioner submitted a document entitled “Proof of the Acjachemen Nation as a Continuous Historic Tribe From the Pre-Mission Era to 1930” (Escobar and Rivera 9/4/2009). In this document, the JBA petitioner prepared an analysis of all of the new marriages recorded in the marriage register of the SJC Mission in which mission records identified at least one SJC Indian between 1835 and 1915.

According to the petitioner, “. . . the historic JBMI tribe meets criterion 83.7(b)(1)(i) from 1835-1885 at “more than a minimal level” which indicates the historic JBMI tribe also meets 83(c)(1)(iv) for that same period of 1835 through 1885. Secondly, this evidence also demonstrates the historic JBMI tribe meets 83.7(b)(2)(ii) which confirms it also meets 83.7(c)(3) for the same period” (Escobar and Rivera 9/4/2009, 35). The marriage analysis is discussed in detail under criterion 83.7(b).

According to the acknowledgment regulations, a petitioner may use very specific types of evidence to demonstrate community at a given point in time. One example of this evidence, as defined under 25 CFR 83.7(b)(2)(ii), is that “At least 50 percent of the marriages in the group are between members of the group.” The petitioner’s analysis demonstrates that more than 50 percent of the marriages involving SJC Indians recorded in the marriage register at SJC were between two SJC Indians in the years between 1835 and 1855, but as discussed under criterion 83.7(b), petitioner’s analysis is methodologically flawed and incomplete and does not provide the necessary evidence to satisfy the criterion under the 83.7(b)(2). Thus, it is not carried over for purposes of 83.7(c). The analysis does, however, provide additional evidence that can be combined with other evidence in the record in order to satisfy the criterion under 83.7(b)(1), but this evidence does not have the same type of crossover provision that 83.7(b)(2) evidence has. The regulations also provide that if a petitioner can demonstrate criterion (b) at more than a minimal level, it is evidence that can be used, in conjunction with other evidence under (c)(1), to demonstrate 83.7(c). While the record contains evidence to demonstrate that a community of SJC Indians existed between 1835 and 1862, it is only at a minimal level. Therefore, this criterion (b) evidence cannot be combined with other evidence under criterion (c)(1) to satisfy the requirements of criterion (c).

The JBA petitioner provided additional evidence regarding a man named Florentino Gugannavit (b.abt.1794-d.1852), who was recorded as an *alcalde* in the mission’s marriage register (JBA 9/15/2009 Response to JPA/Lynch Report, 102, 104). The petitioner analyzed the marriage registers and noted that Florentino served as a witness at seven weddings between SJC Indian couples between 1850 and 1852. While *alcaldes* had served as leaders among the mission’s Indians prior to emancipation, and while the title “*alcalde*” was still used among other California Indian populations as late as the 1860 Federal Census (JBA PF 2007, 130), the complete petition record includes no other information describing or identifying Florentino acting as a leader among the SJC Indians.

Summary of Evidence Relevant to Demonstrating Political Influence, 1804-1862

The evidence in the record is insufficient to change the conclusions of the PF from 1804 to 1834 or from 1835 to 1862. The record includes little evidence regarding political influence or authority among any group of petitioner's ancestors which evolved from the historical SJC Indian tribe. The JBA petitioner's marriage analysis, submitted under criterion 83.7(b)(2), did not satisfy criterion 83.7(b)(2), which would have allowed the evidence to "carry over" and satisfy the requirements 83.7(c) for the same period of time. The petitioner's marriage analysis, in combination with other evidence in the record, satisfies the requirements of criterion 83.7(b) at a minimal level, but this criterion does not contain a "carryover" provision. The new evidence and analyses do not provide significant evidence of political influence within a SJC Indian entity from which the current petitioner evolved. There is insufficient evidence to demonstrate political influence or authority, and the negative conclusions of the PF for 1835-1862 are unchanged.

Evidence Relevant to Political Influence, 1862-1933

The summary of the 2007 JBA PF for the period 1862 to 1933 stated that the record contained little to no evidence of political influence or authority among the JBA petitioner's ancestors following the 1862-1863 smallpox epidemic through the organization of the SJC chapter of the Mission Indian Federation (MIF) and the completion of the 1933 Census Roll. The finding also noted that there was little evidence in the record that the leadership of the local MIF chapter responded to any needs or requests from its members, or that or that members considered the activities of the leadership to be of importance, or that the chapter addressed any issues other than claims. The people who filled out 1928 Claims Act applications included non-Indians, non-SJC Indians, and SJC Indians. A number of these applicants appeared on the 1933 Census Roll, even though they did not descend from either SJC Indians or from other California Indian ancestors (JBA PF 2007, 145-146).

In response to the PF, the petitioner submitted evidence on godparenting and witnessing at weddings. The petitioner has also repeated some of the assertions made in the PF, sometimes with new evidence or analysis to support the claim. The record for the FD also contains two scholarly monographs about the Mission Indian Federation (MIF) and seven student files from Sherman Institute, which include some information regarding Marcos Forster's identification as a leader among SJC Indian descendants.

Identification of Leaders

The petitioner has named a number of Indian men, including Jose Feliz, Ambrosio Sol/Aguilar, and Lazaro Cruz as leaders of the Indians at SJC after the 1852 death of Florentino, the last recorded Indian *alcalde*. Much of this information was available for the PF, but the petitioner did not identify these men as leaders at that time.

Jose Feliz (b.1838-d.unk.) is identified by the petitioner as the uncle of Jose Doram (b.1863-d.1940), the future "captain" of the SJC group as part of the Mission Indian Federation. According to information in the Harrington notes, Feliz "had books on

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history,” and taught his nephew what he knew (Harrington 1916-1928a, 3).⁶⁷ The information in the record does not indicate specifically what “things” Feliz knew or how this knowledge could be considered leadership. There is no other information already submitted for the PF or included for the FD that describes Jose Feliz exercising any political influence over a group of petitioner’s ancestors, and the examples given by the petitioner (witnessing two weddings and teaching his nephew unspecified things) do not demonstrate political influence as defined in the regulations.

Ambrosio Aguilar (a.k.a. Ambrosio Sol)⁶⁸ (b.Unk.-d.abt.1884) was the *mayordomo* (or foreman) at the Forster ranch (Harrington 1836-1927, 10) and was reported to be so well-regarded by the ranch owner that it was said he could slaughter cattle on the ranch and not pay for the meat (Harrington 1836-1927, 12). The evidence in the complete record does not include any references to Ambrosio Sol/Aguilar actually doing this to provide meat for anyone who might be considered a member of a community of petitioner’s ancestors. The record includes instances of him acting as a witness at a number of weddings and serving as a godparent⁶⁹ on several occasions, which does not rise to the level of demonstrating political influence based on the evidence in the record.

The narrative identified Lazaro Cruz (b.1823-d.1870) as another man who served as a leader among the SJC Indians after the death of Florentino, but offers only the evidence of his serving as a witness at weddings and his role as bell-ringer at the mission, which was previously evaluated in the PF.

In the evidence for the PF, the petitioner identified Lazaro Cruz’s son Jose de Gracia Cruz (also known as “Acu,” (b.1844-d.1924) as a leader of the Indians at SJC from the mid-1870s until his death 1924. In the narrative submitted for the FD, the petitioner again claimed that Acu served as a leader during this period of time (Grabowski

⁶⁷ According to information recorded in the Harrington notes, Jose Doram learned to speak the Juaneño Indian language from his *padrino*, or godfather (Harrington 1916-1928a, 2). However, Doram’s baptismal record named the non-Indian Blas Aguilar (abt. 1812-1885) as his godfather, and Blas’s daughter Salvadora as his godmother (SJC Baptisms #703 2/17/1864). Elsewhere in Harrington’s notes, his informant Anastasia Davis identified Aguilar’s non-Indian wife Maria Antonia Gutierrez, as a fluent speaker of the Juaneño language.

⁶⁸ The “progenitor file” for Ambrosio Aguilar (a.k.a. Ambrosio Sol) describes him as the uncle of Anastasia Davis, a well-known Indian (Luiseño) resident of SJC, and also as a SJC Indian (JBA 3/13/2009 Progenitor File, Ambrosio “Sol” Aguilar). The petitioner has constructed a family tree in which Ambrosio became Anastasia’s uncle by marriage to Matilda, a documented SJC neophyte. The petitioner identifies Matilda as a “possible sister” to Crisanta Mesa, Anastasia Davis’s mother. However, evidence in the record indicates that this is not accurate, and that Ambrosio was not a SJC Indian by birth. According to the information found in the Harrington notes, Crisanta and Ambrosio were brother and sister, and had come to SJC with several other siblings (Vicente, Tomas, Fernando, Guadalupe and Petra) after having been “run out down south” (Harrington 1916-1932 Notes n.d.j., 108). In another interview with Anastasia Davis, Harrington specifically stated “Ambrosio + Crisanta, inf. Mother, were Pauma Inds” (Harrington 1916-1932 Notes n.k.d., 99).

⁶⁹ It is true that some powerful or well-respected people in communities might be asked to be the godparents of children from families of a lower social standing in order to establish or strengthen a relationship between families, but there is no evidence in the record to demonstrate that that is what happened here.

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3/12/2009, 40). According to the 2009 narrative, Acu's role as hereditary bell-ringer⁷⁰ at the mission (Lazaro, his father, had also served as the mission's bell-ringer) was an "administrative position" because his ringing the bells notified the town of events such as deaths of people and of particular religious obligations. This interpretation of Acu's role as a position of political influence is not supported by the evidence in the complete record, which provides no description or evidence regarding the role of the mission bell ringer as an administrative function at San Juan Capistrano or any other former mission, such as San Luis Rey. The petitioner also notes that Acu was referred to as "el Capitan" or "the Captain," and implies that this appellation or title designated him as "the Captain" of a SJC Indian entity, rather than "the captain" of the multi-ethnic work crew of sheep shearers he recruited. Acu may have had some limited authority among his sheep-shearing crew, but there is no indication that this authority carried over into a SJC Indian entity. Further, although the petitioner also maintained that Acu's role as a sheep shearer provided "economic subsistence for the Tribe" (Grabowski 3/12/2009, 98), the petitioner presented no new evidence to support these claims, but repeated arguments and resubmitted information already considered for the PF. The OFA examined these claims in the PF and discussed why they had not demonstrated political influence among a group of SJC Indians (JBA PF 2007, 139). This FD affirms that discussion. The petitioner also submitted a compilation of baptismal records which demonstrated that Acu served as a godfather to seven Indian children, several of whom were also related to him, from 1869 until 1890 (JBA 3/13/2009 Progenitor File: Jose de Gracia Cruz, 4). The PF discussed this evidence regarding Acu as the godfather to three of these children (and one not included in the petitioner's analysis)⁷¹ in the PF (JBA PF 2007, 82-83), and the evidence regarding the other four children is similar. This additional evidence of godparenting, even when combined with the information in the record regarding Acu's various activities, does not demonstrate the exercise of formal or informal leadership or political influence among a group of SJC Indians.

Fr. Mut

The PF noted that Fr. Jose Mut, the resident non-Indian priest at the former SJC mission from 1862-1888, assisted poorer residents of the town in securing title to their land, as well as combating the attempts of wealthier town residents to take over the town's resources (JBA PF 2007, 138). Although some of the petitioner's ancestors were in this socio-economic category,

⁷⁰ The petitioner makes the argument that "the mission fostered a sense of community through inherited responsibilities as bell ringer and canto, which were handed down from father to son or other relatives . . . Paul Arbiso, Acu's nephew became the mission bell-ringer after his uncle's death in 1924" (Grabowski 3/12/2009, 40). However, according to the information in the petitioner's database, Paul Arbiso was a non-SJC Indian descendant, and was not related to Acu through blood or marriage. Further, in a 1985 newspaper interview, Arbiso stated that an Indian had taught him to ring the bells, but did not identify him as an uncle, fictive or otherwise (*Capistrano Valley News* 7/25/1985).

⁷¹ In the PF, OFA listed Acu as the godfather of Jose Apolonio Rios, the son of his first cousin (SJC Baptisms #838, 4/11/1865). The petitioner did not include Jose Apolonio Rios in the list of Acu's godchildren. The godparents on the record are identified as "Jose de Gracia" and "Luisa." It is possible that the petitioner did not consider "Jose de Gracia" and "Jose de Gracia Cruz" to be the same person. However, the fact that Acu was the first cousin of the boy's father allows the possibility that Acu could well have been the same "Jose de Gracia" named on the baptismal record. The identity of "Luisa" is unknown, but Acu married his wife Maria two months after the Rios baptism.

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so were other people not ancestral to the petitioner who were part of the general community at SJC. Fr. Mut also provided information to U.S. Special Agent John Ames in 1873, including information that he had obtained demonstrating that the SJC *pueblo* had been divided among the Mexican and Indian inhabitants in 1841 (Ames 10/28/1873, 4).

The petitioner also argues that “Mission Indians (specifically referencing the SJC Indians) turned to the local priest for assistance for non-Indian injustices” (Grabowski 3/12/2009, 39), but did not include any new examples of the SJC Indians turning to Fr. Mut or another priest for protection against any injustices. The evidence already discussed in the PF detailed Fr. Mut’s campaign to assist the poor people (be they Indian or non-Indian) of the town from being taken advantage of by the wealthier men in town (JBA PF 2007, 138). The petitioner also claims that “Fr. Mut was functioning as the Indian Agent and SJC mission lands functioned as a trust reservation for the Indians of SJC who legally owned the property on which they lived” (Grabowski 3/12/2009, 37). While Fr. Mut did help the Indians gain proper title to their land under U.S. laws, he also helped poor non-Indian residents with their land and resource claims (Harrington 1836-1927, 5). There is no evidence already in the record for the PF or any submitted for the FD to support the petitioner’s assertion that Fr. Mut functioned as an Indian agent or that the SJC mission lands functioned as a reservation.

The Mission Indian Federation

Two new scholarly monographs submitted for the FD outlined the history of the Mission Indian Federation (MIF) (Dozier et al. 2005; Hanks 6/-/2006). The Dozier materials provided a history of the organization as well as brief historical sketches of leading members Jonathan Tibbets and Adam Castillo (Dozier et al. 2005, 1-33). The Hanks dissertation examined the people and forces that came together to create this organization, and examines it as a form of resistance by the Indians of southern California, (Hanks 6/-/2009, 263). These texts provided background information about the umbrella MIF organization, but little to no new information about the local SJC chapter.

The petitioner submitted a new explanation for the involvement and leadership of non-Indian Marcos H. Forster (b.1866-d.1936) in the MIF, an organization the petitioner identified as an important precursor of the contemporary JBA petitioner.⁷² The PF noted that Forster was not a descendant of a historical SJC Indian tribe, yet was very involved in both the local and statewide MIF organization. According to the petitioner, Forster’s non-Indian mother had two half-sisters who were SJC Indians through their mother (Maria de Jesus Soilo). These aunts were close to Forster in age, and he grew up with them and with the other Indian descendants in the general community. When he became an adult, he continued to work with his aunt, Felipa Avila Olivares (b.1872-d.aft.1945), and utilized his education and experience to help the members of the MIF (Grabowski 3/12/2009a, 101). His obituary described him as working “to get indemnity for the Indians for their well-founded property rights” and added that he took testimony, secured funds for the legal fights in Congress, and enrolled into a compact federation the scattered remnants of California’s “forgotten race” (*Coastline Dispatch* 10/23/1936, 1). The petitioner presented this additional biographical data as part of the explanation for Forster’s involvement in

⁷² The PF rejected this argument, finding instead that the several 20th century organizations of people claiming SJC Indian descent were each separate entities with different memberships, structures and aims (JBA PF 2007, 170).

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the organization, but such evidence does not change the evaluation in the PF that the MIF was not a precursor of the JBA petitioner.

The JBA petitioner submitted an interview with Don Doram (b.1922-d.2007), the youngest son of MIF Captain Jose Doram, in which he described how Forster, Felipa Olivares, and others would attend MIF meetings in Riverside. According to this interview, when Forster and the others returned to SJC after a large MIF meeting, they would hold a local meeting and convey the information they had learned to the members of the SJC chapter (Doram 2005, 1-2, 3). This interview does not include any additional information regarding whether the members of the local organization had specific concerns they brought before the leadership. Doram specifically identified language preservation as an issue the group leaders discussed with the membership at large, but that was the only issue he cited. The PF noted that there was little to no information in the record as to whether issues such as land and/or water rights, employment, or any issues other Indian communities addressed in their MIF meetings were similarly raised at SJC meetings (JBA PF 2007, 140-141). The Doram interview included no information to address this question, and no other information in the submissions for the FD addressed this question. Sherman Institute Files.

The record contained seven student admission files from Sherman Institute, dated between 1928 and 1932, for students of Juaneño descent (Sherman Institute 1928-1963). Of these seven students, four (Mary Mogart, Eva Parra, Benedicta Parra, and Petra Doram) have descendants in the JBB petitioner, two (Robert Lobo and Raymond Lobo) have descendants in the JBA petitioner, and one (Vernaby/Berniece Doram) has no known living descendants. Marcos H. Forster wrote statements to support the admittance of two of the children to the school, and signed as a witness for four of the five other students. While this activity might be interpreted as an example of leadership, six applications over four years is too small a sample from which to draw conclusions. There are no other examples of Forster acting as a witness for SJC Indian descendants (other than on the 1928 Claims Applications) in other circumstances, such as in a court action.

Comments by the JPA

The California Cities for Self-Reliance, Joint Powers Authority (JPA) interested party submitted a report for the FD entitled “Federal Recognition of the Juaneño Band of Mission Indians: An Ethnohistorical Evaluation of the Applicability of 25 CFR 83.8 and Further Evidence Applicable to Criteria 25 CFR 83.7(c),” written by James P. Lynch (JPA 5/9/2008). For the period between 1834 and 1900, the JPA report made several claims that various pieces of evidence indicate that a political community of SJC Mission Indians either did not exist or did not exercise political influence or authority. The report discussed some material from *San Juan Capistrano Mission*, by Zephyrin Engelhardt, O.F.M. (Los Angeles: The Standard Printing Co., 1922) regarding the SJC community shortly after secularization of the SJC Mission in 1834. The PF reviewed the material in Engelhardt extensively, and discussed it under both criterion 83.7(b) and criterion 83.7(c), as well as other places in the report. The PF did not find the material in Engelhardt demonstrated that the historical Indian tribe of SJC Mission exercised political influence over its members during this post-secularization period. The JPA’s report included new evidence, the B. D. Wilson Report of 1852, and quotes the observation of B. D. Wilson, a traveler to Southern

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California. Wilson observed, “the Indians of San Juan . . . are now nearly extinct, from intermarriage with the Spaniards and other more usual causes of Indian decay” (Caughey 1995, 18). Intermarriage with non-Indians would not preclude the petitioner from meeting criterion 83.7(c). However, nothing in the pages of the B. D. Wilson Report submitted by the JPA shows that the Indians of SJC Mission exercised political influence within a SJC entity in the post-mission period. The JPA report discussed the report made by Indian agent John G. Ames when he visited San Juan Capistrano in 1873⁷³ and interprets the Ames report as showing that the Indians of SJC left the town to escape the smallpox epidemic of that year (Ames 10/28/1873). The JPA report also contrasts Ames’ sparse writings about Indians in the town of SJC with his more detailed writings about Indians in other Southern California locations. This, the JPA report claims, “strongly suggests a lack of any Indian social or political organization at San Juan Capistrano” (JPA 5/9/2008, 30). The PF discussed Ames’s report and found that it did not provide evidence of political influence within a contemporary SJC Indian “tribe” (JBA PF 2007, 18, 138). The JPA report discusses the 1870 Federal Census of the Town of San Juan Capistrano and notes that only 5 of over 400 residents were identified as “Indian” and that the residences of these five were “located throughout the town” (JPA 5/9/2008, 31). The PF discussed this Census and found that it “does not provide evidence for the existence of a settlement composed solely or mostly of the JBA petitioner’s ancestors” (JBA PF 2008, 77-78). The JPA report also claimed that the Luiseño and Diegueño Indians in the late 1800s had individual, named leaders who spoke on behalf of a group, but that there was no similar sort of political influence for a “Juaneño political or band entity” (JPA 5/9/2008, 31). The PF also noted that the 1873 Ames report named several Indian leaders from other Indian communities, but did not identify any Indian leaders from SJC (JBA PF 2007, 138).

The JBA petitioner submitted a report entitled, “Response to Comments, 25 CFR 83.7- The California Cities for Self-Reliance, JPA James P. Lynch Report” (JBA 9/15/2009 Response to JPA/Lynch Report). This response criticized the Lynch report for discounting the entries in the SJC sacramental registers as providing evidence for Indian leaders throughout the Mission period (JBA Response to JPA/Lynch Report 9/15/2009, 70), as well as for the lack of an analysis of the pre-contact Acjachemen-speaking villages and for discounting of the role of Indian *alcaldes* and other Indian leaders during the Mission period (JBA Response to JPA/Lynch Report 9/15/2009, 52; 67). It did not directly address the evidence the JPA report presented regarding the post-1834 period.

OFA evaluated the evidence submitted regarding the post-1834 claims, and found that it supports the conclusions reached in the PF regarding the lack of evidence of political authority or influence among any group of San Juan Capistrano Indians from which the current petitioner evolved.

⁷³ The JPA Report incorrectly cites this report as being written in 1862, which was the year of SJC’s smallpox epidemic. The Department notes concerns with the Lynch Report.

Summary of Evidence Relevant to Demonstrating Political Authority, 1862-1933

The new evidence and analysis, in combination with the evidence already in the record for the PF, does not provide sufficient evidence of political influence among an entity of SJC Indians, or of petitioner's ancestors which evolved from the historical tribe. The petitioner's identification of certain people as leaders in the latter part of the 19th and early 20th century is not supported by the evidence in the record. Additional evidence submitted by third parties provides additional support for the conclusions of the PF. The petitioner's discussion of the early 20th century, particularly the MIF, did not address several important issues raised in the PF, including whether or not a bilateral relationship existed between the members of the SJC chapter of the MIF and the leadership of the organization. The negative findings of the PF for the time period 1862 to 1933 are unchanged.

Evidence Relevant to Political Influence 1934-1964

The summary of the 2007 JBA PF for the 1934-1964 period concentrated on the activities of Clarence Lobo, who was identified by the petitioner as the "Chief" of SJC Indian descendants. Lobo advocated for many years on behalf of the settlement of the California claims issue, but the PF noted that little evidence in the record related to Lobo's involvement with any issues other than the claims issue. The PF also noted that the petition contained little evidence of a bilateral relationship between Clarence Lobo and the individuals who claimed descent from the historical SJC Indian tribe (JBA PF 2007, 155).

In response, the petitioner submitted the "Chief Clarence H. Lobo Collection." This collection included more than 1,000 documents, including many letters written and received by Clarence Lobo (b.1912-d.1985), the man the petitioner identifies as its leader from the late 1940s until the mid-1970s. The petitioner also discussed some political issues in its comments on the PF under criterion 87.3(a) (Grabowski 3/12/2009) and in its comments on criteria 83.7(b) and (c) (Grabowski 3/12/2009a).

The Chief Clarence Lobo Collection

The new documents in the FD record include the "Lobo Collection," which covers Clarence Lobo's activities from approximately 1949 until 1975, and also includes a few documents written after 1975 (JBA 4/9/2010). Many documents detail his work with Purl Willis, a non-Indian "advisor" who was very active in California Indian politics from the 1920s until his death in the 1970s. The collection also includes correspondence between Lobo and a number of people claiming descent from the historical SJC Indian tribe. These people wrote to him for a variety of reasons, but most asked his advice on how to properly file their claims under the 1928 Claims Act.⁷⁴ The collection also includes several examples of correspondence written while he was in Washington, DC, notifying the people in California of his progress, and many examples of his

⁷⁴ The Lobo files contained approximately 15 examples of letters written to Lobo regarding the claims issue.

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letter-writing to various politicians, BIA representatives, lawyers, and interested citizens about the situation of the American Indian in contemporary society.

The documents in the “Lobo Collection” demonstrate Lobo’s passion for the cause of the California Indian, specifically what Lobo referred to as the “free Indians.”⁷⁵ According to the many letters he wrote, the Indians on reservations in California had garnered most of the attention of the State and Federal governments, and “free Indians” who had never lived on reservations or under government supervision (such as the Juanefios) had been ignored. Further, Lobo believed that the “free Indians” were still wards of the Federal Government (Lobo 4/14/1951, 1).

The PF noted that much of the available evidence in the record included many references to Clarence Lobo’s work in pan-Indian organizations such as the “League of California Indians” (LCI) and the “Capistrano-Santa Ana Band.”⁷⁶ An analysis of a number of the lists included in the record indicated that these organizations, while including a number of SJC Indian descendants, also included many people descended from other California Indian populations, or people descended from non-Indians who had come to identify themselves as Indians and participated in Indian organizations (JBA PF 2007, 148-153). The petitioner did not specifically address this issue in its response. This FD examined some of the new lists included in the “Lobo Collection,” including several attendance lists from meetings as well as lists of people who contributed financially to fund Lobo’s trips to Washington, DC and compared the names on the lists to the people named in the petitioner’s 2005 database and on the 2009 membership list (see JBA FD Appendix III, Meeting Lists from Lobo Collection). While a percentage of the current petitioner’s members and ancestors are reflected on these lists, most of the people on these lists are either not SJC Indian descendants as identified by the petitioner or are not in the petitioner’s database at all. This indicates that some SJC Indian descendants associated with Lobo were part of a number of pan-Indian organizations. These lists included in the record for the FD indicate that neither the “League of California Indians” nor the “Capistrano-Santa Ana Band” was a SJC Indian entity or antecedent to the petitioner.

The information included in the “Lobo Collection” provides some additional information regarding Lobo’s relationship with the members of the various organizations he represented. During the 1950s, Lobo seems to have divided the Indians he represented into those who lived in the town of San Juan Capistrano and those who lived outside of the town, and his relationship (as he described it in his letters) with each group waxed and waned. Sometimes, the Indians in San Juan Capistrano did not offer the support he desired. In one letter, he stated,

⁷⁵ The petitioner submitted a scholarly monograph which discusses Clarence Lobo’s work on behalf of the “free Indians,” who were defined as “. . . Indians who had left the reservations” (Hanks 6/-/2006, 255). In the case of the Indians of San Juan Capistrano, this was inaccurate, as they had never had a reservation.

⁷⁶ In one document, Lobo identified the LCI organization as “. . . an all Indian organization (California Indians) . . . trying in a small way to make ourselves known . . .” (Lobo 8/14/1952, 1). In another document, he identified himself as “. . . the leader of two great Bands of Indians, namely, the San Juan Capistrano Band along with the San Gabriel Band . . .” (Lobo 1/27/1953, 1). In another letter, he identified himself as “. . . Chief of the Juanefio Indians and advisor to the Gabrileño Band of Indians . . .” (Lobo 2/18/1960, 1).

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The Indians not only want my help and services, but my life. I say this of SOME of the Indians from Capistrano, because most of the Indians that are all out to help, are Indians from outside of Capistrano Now, the Santa Ana group has in the past been very helpful, they are mainly responsible for giving me the will to go all the way for the Indians, with the help of the most loyal little group in the world, the Capistrano group and you know who they are, yes about ten or twelve of them. (Lobo 4/10/1951, 2-3)

He reiterated this perception of the Santa Ana group in another letter, stating that “I am thankful that the Santa Ana group are behind me all the way because if I left it up to the Capistrano Group, I am afraid I would be lost at first base” (Lobo 5/10/1951, 2).

Later, however, he became disenchanted with the “Santa Ana Indians,” and became particularly wary of one specific family he believed had too much power in the organization. He wrote,

I heard this remark that the League of California Indians is now known as the League of Cruze Indians You know that the Cruzes have more relatives in Santa Ana and other places than Carter has pills and if you say the wrong thing at the right time, well, you know what will happen The fact still remains that Yolanda is the Santa Ana Indian God and I am afraid that I don’t want any part of it. (Lobo 7/5/1952, 1)

In a 1953 letter resigning from the “California Indian League” (which appears to be the same organization as the “League of California Indians”), he wrote “Washington D.C. is humming with Indian activity . . . and what do the Santa Ana Indians do? Pinch their pennies and act like I was to spend their last cent” (Lobo 1953 ca., 1).

Due to unspecified quarrels among or between the members of the groups, Lobo appears to have been so disenchanted by the people in Santa Ana and those in San Juan Capistrano that he apparently stopped acting on behalf of either for a period of time (somewhere between 2 and 5 years):

As you may have heard in the past many of the Santa Ana and Capistrano Indians became involved in petty squabbles (fighting amongst themselves) and through this display of elementary action I was compelled to withdraw so to speak from active duty, this was done on my own free will to prove to the Indians that someone has to keep plugging to get any action. . . I am still chief of the Juaneño Band. . . I want you to know that I am now active again after some years of being just a plain Indian. (Lobo 12/14/1958, 1)

In addition to Lobo’s concerns regarding members, he also had a very tumultuous relationship with Purl Willis. Willis, who had been active in California Indian affairs since the 1920s, sometimes agreed with Lobo, and sometimes did not. As early as 1952, Lobo appears to have been suspicious of Willis and his aims, and wrote, “I feel the same as you do in regards to Mr. Purl Willis. I can’t figure his game, although I know that he must have one and if I should go all-out to get to the bottom of his game it would take me too long and I just don’t have that kind

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of time” (Lobo 12/17/1952, 1). Ten years later, when Santa Ana resident and SJC descendant Yolanda Cruze Sandoval began to work with Willis, Lobo wrote, “Mr. Willis why must you hurt the people this way This same woman you select to carry your program into our territory is the same person who broke up the friendly relationship between the San Juan group and the Santa Ana people . . .”(Lobo 4/4/1962).⁷⁷ Nevertheless, Lobo continued to correspond and work with Willis for many years. It is not clear from the documents in the records how the men managed to put aside their differences.

The PF noted that the evidence in the record included little evidence of Lobo working with a council or governing body. The documents in the “Lobo Collection” provide some occasional references to other people who may have made up a council or governing body, but these references are infrequent. One document approving the contract between the Juaneño Band and attorneys Lindsley and Staniforth contained the signatures of Clarence Lobo and Joe Placentia, Placentia being identified elsewhere in the record as Lobo’s “sub-chief” (Lobo and Placentia 11/-/1959, 2). The PF noted that there was no notice of any election wherein Placentia was elected “Sub-Chief,” although there is a reference in the local newspaper to a ceremony in which Lobo named Placentia “Aide to the Chief” and named Abel Majel⁷⁸ as “warrior chief,” or bodyguard (*Coastline Dispatch* 3/19/1959, 1). The “Lobo Collection” also included a document certifying the change of attorney in the Indian Claims Commission (ICC) case signed by Clarence Lobo as “Spokesman” and “Mrs. Frieda D. Sommers” as “Secretary” (Lobo and Sommers 6/1/1962, 2). This is the only document in the record signed by Sommers, and it is not clear how she came to have the title of “Secretary,” even if it was only in this one instance. One document, a page of either minutes or notes taken from a 1964 meeting, implies that there was some discussion about forming a “tribal council,” but this does not appear to have happened. The information in the notes indicates that Lobo opposed the formation of a council, so much so that the anonymous author wondered why:

Is Lobo trying to be Geronimo? Does he want his people to act only at his command? And without any questions? Why doesn’t the Chief answer questions asked by the people? Why doesn’t he come to the point? And not go around like he does Is Clarence trying to keep this young Indian generation in the same light that Marcos Forster and the rest of those old-timers kept the Indians? Is Clarence afraid to have a council? What is he afraid of- why does he fight the idea of a council so hard? . . . Doesn’t Clarence trust his people? Is he afraid to educate his people to a point to where someone asks a question, he will be embarrassed? (Anonymous 7/12/1964, 1; spelling and punctuation added)

The JBA petitioner noted this document in its comments on the PF (Grabowski 3/12/2009a, 103), but did not include any further discussion of the matter, or any of the other issues addressed in this document. The record contains no indication that that group subsequently formed a council, even as it indicates at least one anonymous member was critical of Lobo’s style of leadership.

⁷⁷ In the margin of another document, someone, presumably Lobo, identified Yolanda Sandoval and Helen Bleeker as “field workers for P.W. propaganda” (Willis 4/24/1962, 1).

⁷⁸ Abel Majel, although born and raised in San Juan Capistrano, was a Pala (or Luiseño) Indian. He and his brother Juan participated in a number of SJC Indian events throughout their lives.

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The 2007 PF noted that most of the information related to Clarence Lobo dealt specifically with issues related to claims, with little information relating to any other issues which the group might have had, such as interceding with game wardens, truant officers, or other town or state officials (JBA PF 2007, 155). The new documentation provides some new information describing members asking for Lobo's assistance, but these requests were usually related directly or indirectly to the claims issue. A few letters from members requested help in clarifying their status with the BIA or sought the proper forms to fill out in regards to the claims case (Lobo 8/8/1962; 1, Soto 1/20/1964, 1-3; Lobo 5/31/1962). One letter in the submission appears to be a combined apology and thank-you letter from a member Lobo had allowed to sleep in his truck, possibly during the Cleveland National Forest protest (Saguas 5/30/1964, 1). The material submitted for the FD contained no new evidence of group members requesting Lobo's aid or assistance with other matters.

Evidence taken from many of the letters of Clarence Lobo also indicates that Lobo came to distrust the Federal Government's identification of many people as Indians, particularly people with a degree of "Indian blood" he considered unacceptably low. Lobo obtained a copy of the 1933 Approved Roll of California Indians and used it to help people who wrote to him asking for help in filling out their claims forms (Wood 12/14/1954; Lobo 5/28/1962b, 1), but he later accused the Federal Government of "incubating" Indians by allowing people of "very little Indian blood" to take part in the settlement (Lobo 1/15/1964; 1; Lobo 2/21/1964; 1; *Los Angeles Times* 5/28/1964.; *Register* 5/28/1964, C2). According to him, the government did this in order to overwhelm the votes of the "true" Indians who did not support the claims settlement, and also to reduce the amount of recovery per capita, which would make the claim less profitable for anyone to pursue. He also indicated that there were actually very few people claiming Juaneño descent who could actually document their Indian ancestry to his satisfaction and made statements such as:

"I've got 500 Juaneños credited to my tribe I doubt if 25 of them could actually prove such a bloodline." (*Los Angeles Times* 5/28/1964.)

". . . He (Lobo) said his tribe numbers 1,000, but that only eight are of mostly Indian blood." (*Register* 5/28/1964, C2)

"I have Indians in my band who are recognized by the Bureau with as little as 1/128th degree of Indian blood and some who cannot even prove their line."
(Lobo 9/21/1964, 1)

"So far, my family is the only family who has papers proving their Indian lineage here in San Juan Capistrano." (Lobo 3/12/1964, 2)⁷⁹

The petitioner did not comment on these newspaper articles or letters.

⁷⁹ It is unclear why Lobo made such statements regarding other families in San Juan Capistrano, as a number of his close friends and neighbors (particularly the Dorams, the Patricio Ricardes descendants, and the Magdalena Castengura descendents) were of undeniable SJC ancestry. The documentary evidence of their descent should have been no more difficult to obtain than the evidence of Lobo's own ancestry.

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The “Lobo Collection” included some new documents regarding Lobo’s protest in the Cleveland National Forest, including additional newspaper articles describing additional meetings held between Lobo and his supporters. These new documents provide some additional evidence of group support for Lobo’s agenda, including one reported meeting of 150 group members supporting Lobo’s protest in the Cleveland National Forest (*Santa Ana Register* 6/9/1964, 1). However, Lobo eventually characterized the government’s response to his protest as “very feeble,” and believed that “the few who have braved the danger of exposure are afraid that the reaction of this move may perhaps hurt their position . . .” (Lobo 6/25/1964e, 1). While the new documents in the record provide slightly more information about the Cleveland National Forest protest, they still indicate that support for Lobo’s more radical actions was fairly limited. After the vandalism of the trailer he had left on the 25-acre plot he had “purchased” from the Federal Government, there is no indication that Lobo or any of his supporters tried to carry on the protest.

The “Chief Clarence Lobo Collection” files provide more details about Lobo’s activities and show that he had some support for his agenda. However, this support was limited, and appears to have diminished as his actions became more radical.

Summary of Evidence Relevant to Political Influence, 1934-1964

The new evidence and analyses, combined with evidence already in the record for the PF, do not provide sufficient evidence of political influence among members of a SJC Indian entity that evolved into the current petitioner. The petitioner submitted much of the new information in the record, specifically the information in the Clarence Lobo collection, without additional analysis. The FD’s analysis of the information indicates that Clarence Lobo was active on behalf of pan-Indian organizations such as “the Capistrano-Santa Ana Band” and “the League of California Indians,” and that he also claimed to be the leader of an organization comprised specifically of SJC Indian descendants (known by various names including the “Capistrano Indian Band,” the “San Juan Capistrano Band,” and the “Juaneño Indians”). The evidence in the record supports the petitioner’s assertion that some claimed SJC descendants acknowledged Lobo as their “chief,” but the new information provided little information regarding a bilateral relationship between Lobo and the people who participated in the “Capistrano Indian Band.” It also provided little evidence of the members of the group contacting Lobo for reasons other than those related to the claims issue. The evidence submitted did not provide evidence of leadership or internal processes used to influence or control the behavior of the petitioner’s members in significant respects. The evidence is insufficient to demonstrate political authority or influence over a group of petitioner’s ancestors or members for this time period, and the negative findings of the PF for the time period 1934-1964 are unchanged.

Evidence Relevant to Political Influence, 1965-1993

The summary of the 2007 JBA PF for the period 1965-1993 noted that the record included almost no evidence to demonstrate the exercise of political influence under criterion 83.7(c) from 1964 until 1978. The PF record included no evidence of any type of activity, formal political organization, or informal influence and decision-making, between 1964 and 1974. There was

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also little evidence or analysis of the composition and activities of the Capistrano Indian Council (CIC), a non-profit organization formed in late 1974-early 1975 (JBA PF 2007, 156-157). There was no indication that the CIC was a continuation of the MIF or any of the claims organizations Clarence Lobo organized, although all the organizations' members drew from the same pool of descendants of pre-1900 SJC town residents. SJC Indian descendant Raymond Belardes (b.1930-d.2006) initially organized the Juaneño Band of Mission Indians (JBM) as an "offshoot" of the CIC, but it quickly became a separate organization of its own, with activities, a membership, and an agenda that appears to have differed significantly from that of the CIC. The PF record contains little or no evidence to demonstrate that the JBM leadership exercised political influence over the membership from 1978 until 1993, other than through the activities of the formal organization. Most members of the CIC did not join the JBM until the mid-1990s, as they disagreed with Raymond Belardes' politics. Some evidence from about 1989 (when David Belardes replaced his cousin Raymond as the JBM's spokesperson) to 1993 points to members of a core group residing in San Juan Capistrano exercising some influence on the leadership and actions of the JBM organization (JBA PF 2007, 162-163). This evidence did not extend to the membership as a whole.

In response to the PF, the petitioner submitted new evidence including the comments on criteria 83.7(b) and (c) (Grabowski 3/12/2009a), 175 CIC applications, an analysis of the 1979 JBM membership list, and some additional newspaper articles. The record also included 31 sign-in sheets from the CIC dated between 1988 and 1991.

The Post-Lobo Era

The 2007 JBA PF noted that after 1965, there was little evidence of any political influence or activity until the formation of the non-profit Capistrano Indian Council (CIC) in 1974-5 (JBA PF 2007, 156). The PF also noted that, in contrast to the CIC, very few local SJC descendants joined the JBM during its early years. Those SJC Indian descendants who did join the JBM were predominantly from outside of San Juan Capistrano. The JBA petitioner did not include any new information regarding the pre-1975 period. The petitioner also included little new information regarding the formation of the CIC, although it did submit two analyses, one of CIC membership from 1974 to 1977 (JBA 9/15/2009 CIC Members 1974-1977), and the other of the JBM 1979 membership list (JBA 9/15/2009 Analysis of 1979 ML). Both these analyses supported the statements made in the PF, namely that the SJC Indian descendants who enrolled in the CIC were predominantly from the local families described in the PF (the Olivares, Dorams, Rioses, and a few other families), and that very few local SJC descendants joined the JBM during its early years. Those SJC Indian descendants who did join were predominantly from outside of San Juan Capistrano. The CIC also had a large number of non-Indian members interested in California Indian culture, as well as some of the local Old Mexican/Californio descendants who identified themselves as "Juaneño" on the organization's application.

In contrast to the CIC, very few local SJC descendants joined the JBM during its early years. Those SJC descendants who did join the JBM were predominantly from outside of San Juan Capistrano. The JBA petitioner's analysis of the 1979 membership list also indicates that, by its own count, 61 percent of the JBM members were not SJC Indian descendants—48 percent were determined by the JBA petitioner not to be Juaneño, and 13 percent were unknown (JBA

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9/15/2009 Analysis of 1979 ML, 23). Few local SJC descendants enrolled in the JBM until after David Belardes took over the leadership from his cousin Raymond in 1989, but even then, most of the local members who had previously belonged to the CIC did not enroll in the JBM until 1995. The JBA petitioner maintains that the local SJC descendants who enrolled in the JBM in 1995 did so in order to have their names entered on the “Washington Rolls” as part of the group’s documentation for Federal acknowledgment (Grabowski 3/12/2009a, 111), but provided no interviews or other records documenting this.

The JBB petitioner submitted, but did not analyze, 31 CIC sign-in sheets in the record, dated from 1988 through 1991 (JBB 1988-1991 CIC Attendance). The OFA examined three of the lists with the largest attendances, one from each year (October 9, 1988, February 11, 1990, and February 10, 1991) and compared them to the 1979 JBM membership list. Of the approximately 70 names appearing on at least one of the three lists, only three could be identified on the 1979 JBM list. These lists support the PF’s conclusion that most of the people who attended CIC meetings before the late 1990s were local residents. The analysis also supports the PF’s conclusions that few members of the much larger JBM attended the CIC.

Summary of Evidence Relevant to Political Influence, 1965-1993

The new evidence and analyses in the record, in combination with other material already in the record for the PF, do not provide sufficient evidence to demonstrate political influence among a SJC Indian entity that evolved from the historical tribe. The petitioner submitted little new discussion or evidence related to the years between 1965 (the end of Clarence Lobo’s active period) and the formation of the CIC in 1975. The petitioner also provided little new information about the relationship between the CIC and the JBM organizations, and no new evidence regarding the eventual integration of CIC members into the JBM. No new evidence or analyses warrants a change in the negative findings of the PF for the time period 1965-1993.

Evidence Relevant to Political Influence, 1994-Present

The summary of the 2007 JBA PF for the period from 1994 to the present noted that the available evidence in the record and the conflicts over leadership provided some indications of a bilateral relationship between the petitioner’s members and the group’s leadership. However, the drastic membership changes documented in the group’s membership lists between 1994 and 2005 indicated that the JBA was not the JBM petitioner by another name, but a new group that drew its members from the same “pool” of descendants as the JBB and JBMI-IP⁸⁰ (JBA PF 2007, 119-120). The record included no evidence to demonstrate that the newly-enrolled JBA members composed a political subgroup (or any group at all), and did not demonstrate how the leadership maintained or exercised political influence over a rapidly changing group of people (JBA PF 2007, 169).

⁸⁰ As was discussed in the PF, the JBMI-IP is lead by the former JBA Chairman David Belardes.

In its comments on the PF, the petitioner submitted evidence including a discussion of the political processes which resulted in changes to the group's membership criteria, and eventually, the creation of the petitioner's 2009 membership, as well as the 2009 membership list itself.

Changes in Membership

The petitioner provided no new evidence regarding what had been one of the major issues discussed in the 2007 PF, namely, the political disagreements that led to the formation of the JBA and JBB petitioners and JBMI-IP interested party. Instead, much of the discussion addressed the reason why the new (2009) membership list had been created. The petitioner included an interview with member Francine ("Fran") Yorba, who described how some of the local SJC descendants had had concerns about the genealogy of many members of JBM who were not local, but did not raise the issue "due to the council's treatment of them" (Francine Yorba 3/26/2009, 1). The interview did not specify just what the council had said or done to the local members. Yorba also described being ostracized by the council in 1997 as a result of her concern regarding the enrollment of non-SJC descendants in the group, but did not include any specific discussions of any ostracizing acts by the council. Yorba did not address this issue again until 2000, when the composition of the council changed. After several years of changes of council members and the issuance of the 2007 PF, the group's governing body began to work towards a "Juaneño-only" membership. The group eventually removed those members who they believed could not demonstrate descent from the historical SJC Indian tribe.

The Yorba interview mentioned a "1997-1998 Membership Drive" (Francine Yorba 3/26/2009, 2) but did not specifically detail what this "membership drive" entailed. Another reference in the interview indicated the group received 2,000 applications as a result of this membership drive (Francine Yorba 3/26/2009, 3). The petition documentation did not include a discussion of whether or not the applications were a result of the political turmoil that resulted in the formation of the JBA/JBB/JBMI-IP organizations, nor did it include any discussion of just who these applicants were. The documentation also did not include any information as to how many of these new applicants met the group's membership criteria, or if these applicants met the requirements at the time, but then were removed before the preparation and submission of the 2009 membership list.

The dramatic change between the petitioner's 2005 and 2009 membership lists has been discussed under criterion 83.7(b), and the same difficulties presented by a rapidly changing membership addressed regarding community also apply to 83.7(c) regarding political influence. The explanation of the membership changes given by the petitioner does not account for the involvement of a number of now-excluded families and individuals, some of whom were active in the MIF, during the Lobo era, and in the JBM /JBA groups for many years. It also does not explain the appearance of a number of individuals who had had no documented interaction with the petitioner until their names appeared on the 2009 membership list. While the Yorba interview discussed tension between the Juaneño and non-Juaneño descendants, it did not include any discussion of the non-Juaneño local members who were well-known to the local SJC descendants and who had been identified as Juaneños by the documented descendants, but who

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were removed from the membership after years of involvement.⁸¹

The JBMI-IP submitted a comment in the form of a letter which addressed the rift between the JBMI-IP and the JBA (Perry 3/12/2009). Although the letter states that the comment “will not be addressing deficiencies in Criteria A, B, and C of the PF” (Perry 3/12/2009, 1),⁸² the letter did address some of the issues in criterion 83.7(c), particularly regarding the changes in membership:

It is the JBMI’s opinion that the Frieze/Shilo/Rivera group has recruited members and manufactured a tribe with the promise of recognition and a casino. Over the last year the Frieze/Shilo/Rivera have enlisted persons who can document lineage identified as San Juan Capistrano Indian, however, have had no community involvement. Additionally, they have disenrolled persons that have been active in the community for years and instrumental in Achjachemen tribal politics. (Perry 3/12/2009, 3)

In response, the JBA stated

. . . contrary to the unfounded comments of Perry regarding the manufacture of a Tribe, the Tribe nor its officials recruit persons for membership since the Tribe has a clear understanding of the continuity of community and descent from the historic Acjachemen Tribe. . . No such practices were ever done during the Frieze/Shilo or Rivera administrations (JBA Response to Belardes 9/15/2009, 8).

⁸¹ The administrative file contained some documents from an organization called “Acjachemen Nation, aka The Displaced Juaneño People (TDJP).” This group submitted a petition protesting the actions of the JBA leadership “to deny and/or strip Juaneño Tribal members of their identity and heritage” (Acjachemen Nation 8/15/2009, 1). This organization claimed to represent those people removed by the leadership of the JBA petitioner. The cover letter described a meeting held April 26, 2008, at the local library, where guards prohibited a number of people from entering. According to the letter, “When the approved members had been allowed in, the doors were locked . . .” (Acjachemen Nation 8/15/2009, 2). The letter did not indicate how these guards determined who was an “approved” member. The letter concluded with a request for a “full-scale investigation into the gross civil and human rights violations which has infected The Juaneño Band . . .” (Acjachemen Nation 8/15/2009, 3). This organization, while it lists a telephone and fax number in San Diego, does not include the names of any governing body members. The petition itself contains the signatures of 78 people, some of whom were former members of the JBA petitioner, while others do not appear to have been included on previous membership lists. There is no evidence in the submission that the “Displaced Juaneño People” provided the JBA group with a copy of this petition. The submission did not actually comment on the PF, and, as it provided no new evidence regarding the PF, it is not evaluated further for the FD.

⁸² The main focus of the JBMI-IP comment was “. . .the Department’s appointment of the Frieze/Shilo/Rivera group as Petitioner #84a” and maintains that various gaming and lobbying interests contributed to the split between the groups (Perry 3/12/2009, 1, 5). The PF discussed this topic, and the JBMI-IP presented the same arguments in this document as they had in previous documents. The arguments advanced by the JBMI-IP as to the legitimacy of the leadership of Petitioner #84a are not supported by the evidence in the record. The “contractual relationship between the Frieze/Shilo/Rivera group . . . and other interests” (Perry 3/12/2009, 5) that JBMI-IP maintains influenced the JBA has been examined, and is determined to be only one of a number of issues that led to the establishment of two groups now considered to be JBA and JBMI-IP. The JBA petitioner responded by disavowing any relationship with “any gaming lobbyist for the purpose of complying with the 25 CFR 83.7 regulations “ and stated that the first action of the 1997 council had been “. . . to terminate any and all agreements” with any outside gaming interests (JBA Response to Belardes 9/15/2009, 2,9). The current JBA leadership, with Anthony Rivera as the chairman, is the legitimate governing body of petitioner #84A for purposes of the petitioning process.

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This statement does not agree with the information from the Yorba interview, which referred to a “membership drive” in 1997-1998. The JBA petitioner did not include enough information about this action to determine whether or not this was the recruitment action the Perry comment referenced.

The JBA response also included references to the genealogy of both David Belardes (the JBA group’s former leader, now leader of the JBMI-IP) and Joyce Perry (the JBMI-IPs “tribal manager”), maintaining that neither is descended from the historical SJC Indian tribe (JBA Response to Belardes 9/15/2009, 5, 9). The petitioner did not mention that both the Belardes family and the Stanfield family (Joyce Perry’s family) had strong family ties to San Juan Capistrano and that the two families have been involved in the various Indian organizations in San Juan Capistrano (including the MIF and “Capistrano-Santa Ana Band”) throughout the 20th century. This omission reflects one of the main unaddressed problems of the JBA petition: namely, that many of the people who had formerly been identified as SJC Indian descendants and as important members of the social and political fabric of the JBM and the JBA in the materials submitted for the PF are now discussed in the materials submitted for the FD as if they and their families were never a part of the group. What remains of the petitioner, however, does not reflect a group within which political influence or authority is exercised.

Summary of Evidence Relevant to Political Influence, 1994-Present

The Yorba interview and the 2009 membership list, in combination with the evidence already in the record for the PF, do not provide sufficient evidence to demonstrate political influence or authority in the petitioning group from 1994 to the present. The petitioner submitted little new discussion or evidence related to the years after 1994, particularly regarding those changes that resulted in the formation of the JBA, JBB, and JBMI-IP from what once had been the JBM. The petitioner’s explanation of JBA’s change in membership included little discussion of the events which led up to the creation of the 2009 membership list. The Yorba interview, which does provide some insight into the role of the group’s council in altering the membership criteria over time, is not corroborated by any additional meeting minutes, notes, other documentation, or additional interviews in the record. The combined PF and FD record also includes little information regarding the effect of this change on the political structure of the group. The negative findings of the PF for the time period 1994 to the present are unchanged. The FD finds that there is insufficient evidence to meet criterion 83.7(c) for this time period.

Conclusions for the Final Determination on Criterion 83.7(c)

The evidence submitted for the FD, in combination with the evidence already in the record for the PF, did not satisfy the requirements of criterion 83.7(c) for any time after 1834. The evidence submitted to demonstrate political influence or authority among an entity that evolved from the SJC historical tribe during the post-emancipation period is not sufficient to satisfy the requirements of criterion 83.7(b)(2), and therefore does not “carry over” and satisfy criteria 83.7(c) for this same period of time. The evidence for criterion (b) did demonstrate that a community of SJC Indians existed at the mission between 1835 and 1862, but this was only demonstrated at a minimal level. Therefore, this criterion (b) evidence cannot be combined with

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other evidence under criterion (c)(1) to satisfy the requirements of criterion 83.7(c). There was insufficient evidence of political influence or authority from 1834 to 1854. The petitioner identified several men as “leaders” among the SJC Indian descendants between 1855 and 1890, but the evidence in the record for the PF and the FD does not demonstrate that these people actually exercised any political authority or influence over a group composed of petitioner’s ancestors. The petitioner’s discussion of the early to late 19th and early to mid-20th century, particularly the Mission Indian Federation (MIF), did not address several important issues raised in the PF, including whether or not a bilateral relationship existed between the members of the SJC chapter of the MIF and the leadership of the organization. The petitioner submitted a number of new documents related to Clarence Lobo’s leadership between the late 1940s and 1965, but did not provide additional analysis to clarify when he acted on behalf of an entity comprised of SJC Indian descendants, and when he worked on behalf of much larger pan-Indian organizations which counted SJC Indian descendants among their members. The documentation also did not demonstrate a bilateral relationship between Lobo and the group members, and there was no information demonstrating that these organizations addressed any issues other than claims. There was no information as to any political activity among group members during the ten years between the 1965 end of Lobo’s active involvement and the 1975 formation of the Capistrano Indian Council (CIC). The information in the record regarding the early years of the CIC and the Juaneño Band of Mission Indians (JBM) supported the PF’s conclusions regarding the membership of the organizations, namely, that the CIC members tended to be local SJC Indian descendants, and that JBM members tended to be non-local, non-SJC descendants (even those members who were verifiable SJC Indian descendants were still mostly non-local). Most CIC members did not join the JBM until the mid-1990s, but there was little information as to how the CIC members became integrated into the larger group, or how this integration affected the political composition of the group. There was no new information regarding the political turmoil within the JBM that resulted in the formation of the JBA, JBB, and JBMI-IP, and no information regarding how the group’s drastic revision of its membership between 2005 and 2009 changed the political structure of the group. The evidence did not demonstrate the maintenance of political influence or authority over the group’s members. The third-party comments included in the record largely agree with the conclusions reached in the PF.

In summary, the conclusions of the 2007 PF from 1835 to the present are unchanged. There is insufficient evidence to satisfy criterion 83.7(c) for any period of time from 1835 to the present.

Criterion 83.7(d)

- 83.7(d) A copy of the group’s present governing document including its membership criteria. In the absence of a written document, the petitioner must provide a statement describing in full its membership criteria and current governing procedures.**

Summary of the Proposed Finding

The PF found that the JBA petitioner satisfied the requirements of criterion 83.7(d) by submitting a copy of its governing document, entitled “Constitution of the Juaneño Band of Mission Indians 1979,” and a four-page Membership Ordinance adopted by the group on October 16, 1996.

Summary of the Comments on the Proposed Finding

The Department received no comments, from either the JBA petitioner or any other party, on the PF’s conclusions under criterion 83.7(d). However, the petitioner’s comments on the PF for criterion 83.7(e) include a mention of a resolution (Resolution No. 2-1-1997) adopted on February 1, 1997, by the petitioner’s governing body specifying “proof of direct lineal descent from an Acjachemen Juaneño ancestor was necessary to enroll as a voting tribal member,” and a discussion of “Tribal Council Ordinance No.03-06-2008-02” passed on March 6, 2008 (JBA 3/13/2009 Response to 83.7(e), 2-3), which guided the petitioner’s re-evaluation of the group’s membership after the issuance of the 2007 PF. The record does not contain a copy of a “Resolution No. 2-1-1997” but meeting minutes for a “special meeting of February 1, 1997” contain a motion and vote of the governing body on requiring “clear and compelling certification of direct lineal decendancy from the original Acjachemen Juaneño people” to be eligible for voting membership (JBA Minutes 2/1/1997, 2). Fran Yorba’s interview also states that, in 2007, the sitting council opted to enforce the 1997 resolution which emphasized proof of Juaneño blood and eliminated a blood-quantum requirement (Yorba 3/26/2009, 3). The petitioner did not submit a copy of the 1997 resolution or the 2008 ordinance for the FD, nor did the petitioner submit a copy of the minutes of the meeting during which the 2008 ordinance was passed. In Fran Yorba’s interview submitted for the FD, the interviewer notes that the 2008 ordinance was a “re-issue” of the group’s pre-existing “1997 resolution” (Yorba 3/26/2009, 3).

The record contains a “membership ordinance,” adopted by the JBA governing body on October 17, 1996,⁸³ which the JBA petitioner submitted for the PF (JBA Membership Ordinance 10/17/1996). The “criteria for membership” included in this document does address membership

⁸³ The record for the FD does not contain a JBA resolution dated 1997, or any other JBA governing document dated 1997.

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relative to descendants of current members and spouses of members, but does not address criteria for documenting descent from the historical Indian tribe. This 1996 ordinance also provides minimal criteria and procedures for individuals to address disenrollment of current members and enrollment of “unqualified” persons (JBA Membership Ordinance 10/17/1996, 1). No 1997 JBA resolution is in the current record.

The JBA petitioner stated in its narrative for the FD that “[o]n March 6, 2008, the Tribal Council adopted an ordinance to remove those individuals from its roll who lacked evidence of descent from the historic tribe as defined by OFA” (JBA 3/13/2009 Response to 83.7(e), 3). The petitioner designated these former members as “pending affiliates.” Escobar’s notes of Fran Yorba’s interview remark that

In March 2008, the Tribal Council re-issued the 1997 resolution and introduced the “Pending Affiliates” notice. Although the matter was already approved by the Tribal Council, the resolution was put to a vote by the present voting members at that meeting. No one had moved to put the resolution to a vote of the entire tribe At that point, the previous members who were non-Juaneño and maintained voting rights up until that time, were no longer able to vote or participate in tribal matters.

Behind the scene[s] . . . the TC [tribal council] was already using the list of OFA identified Juaneño members (613) to make the distinction between those who would remain tribal members and those who would not. (Yorba 3/26/2009, 3-4)

Based on this evidence, the JBA petitioner apparently changed its membership criteria as previously defined in the governing documents submitted for the PF in order to require descent from the historical SJC tribe (JBA PF 2007, 173). Criterion 83.7(d) requires the petitioner to submit a copy of its present governing document(s) and its membership criteria, or in the absence of a written document, a statement describing in full its membership criteria and current governing procedures. The minutes of February 1, 1997, and the subsequent removal of a significant number of persons who did not document descent, provides the required statement of its membership criteria.

Conclusions for the Final Determination on Criterion 83.7(d)

The Department’s PF concluded that based on the available evidence, the JBA petitioner satisfied criterion 83.7(d). The governing document and membership ordinance submitted for the PF, as modified by the requirement of descent from the historical SJC tribe evidenced by the passage of a resolution and the disenrollment of persons who did not descend, is sufficient to meet criterion 83.7(d). Therefore, the FD affirms the PF’s conclusion that the JBA petitioner meets criterion 83.7(d).

Criterion 83.7(e)

- 83.7(e)** **The petitioner’s membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity.**
- 83.7(e)(2)** **The petitioner must provide an official membership list, separately certified by the group’s governing body, of all known current members of the group.**

Summary of the Proposed Finding

The PF concluded that the JBA petitioner did not meet the requirements of criterion 83.7(e). To satisfy this criterion, the petitioner must (1) identify the historical Indian tribe and its members, (2) identify the petitioner’s current members by providing a membership list, and (3) provide evidence that the petitioner’s members descend from the historical Indian tribe. The PF concluded that the petitioner did identify its current members as required by the regulations (although minors were not identified) but that the petitioner did not document descent from the historical Indian tribe at SJC Mission or any other historical Indian tribe.

The PF treated the Indian population at the San Juan Capistrano Mission in 1834 as the historical Indian tribe, as does this FD. The PF described the members of the historical SJC Indian tribe as:

. . . individuals who are identified as Indians “of the San Juan Capistrano Mission” in the registers of Mission San Juan Capistrano (SJC) before secularization of the Mission in 1834, either by direct reference (such as *indio*) or by indirect reference (such as the lack of surname or the presence of ethnic identifiers in records for parents or offspring), or who are identified as Indians of Mission SJC on Indian censuses or other historical documents during the early-to-middle 19th century. Indians from other missions (such as San Gabriel or San Diego) or from other identified Indian entities (such as Luiseño or Diegueño) are not included as “historical Indians of the SJC Mission” (JBA PF 2007, 178)

The JBA petitioner submitted a certified membership list dated November 28, 2005, that named 1,640 living adult members. The list did not include minors under age 18. In addition, some residential addresses were missing.

The PF identified the petitioner’s claimed ancestors and verified which ones were historical SJC Indians. The PF found that only 2 percent (37 of 1,640) of JBA members demonstrated descent

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from one of the Indians of the historical SJC Indian tribe. The Department estimated that another 35 percent (576 of 1,640) of JBA members might be able to demonstrate descent from at least one of the Indians of the historical SJC Indian tribe, although the evidence connecting these members to their claimed SJC Indian ancestors was not submitted for the PF. The PF found that the remaining members (about 63 percent) did not demonstrate descent from the historical SJC tribe because none of their claimed ancestors were historical SJC Indians.

For these reasons, the PF found that the JBA petitioner did not satisfy the requirements of criterion 83.7(e).

The PF advised the petitioner to provide an updated membership list containing all living members (including minors) and all information required in criterion 83.7(e), such as missing residential addresses. The PF encouraged the JBA petitioner to submit a statement for the FD addressing the variations in the composition of its membership over time and the circumstances surrounding the preparation of current and former membership lists as requested in the regulations. In addition, the PF requested the JBA petitioner to submit evidence and analysis describing or explaining how its claimed ancestors are connected to the historical Indian tribe of SJC Mission, and to submit complete, generation-by-generation evidence demonstrating its members' descent from the historical SJC Indian tribe.

Summary of the Comments on the Proposed Finding

Comment by the JBA Petitioner

During the comment period, the JBA petitioner submitted an electronic Family TreeMaker™ (FTM) genealogical database, a 14-page narrative on the PF for criterion 83.7(e), a current membership list with 1,940 living members, 1,941 membership files,⁸⁴ 83 ancestor files, 267 “progenitor” files, and various exhibits containing narratives and copies of documents (JBA 9/15/2009 FTM; JBA 3/13/2009 Response to 83.7(e); JBA 3/12/2009 Membership List; JBA 3/13/2009 Membership Files; JBA 3/13/2009 Ancestor Files; JBA 3/13/2009 Progenitor Files). The JBA petitioner’s current membership list is fundamentally different from that submitted for the PF (see analysis below). The JBA petitioner’s comments on the PF for criterion 83.7(e) include a description of the explanatory and documentary materials submitted; a short discussion of a membership ordinance passed on March 6, 2008, and the consequent changes in the membership; revisions in the JBA petitioner’s list of claimed historical SJC Indian ancestors; pending membership applications; and a discussion of fluctuations in the petitioner’s membership from 1979 to the present.

The current JBA membership list, dated March 12, 2009, is separately certified by the group’s governing body and lists 1,940 living adults and minors (JBA 3/12/2009 Membership List). It contains all required information, although there are some birth date and name spelling discrepancies.

⁸⁴ These included one membership file for each member on the 2009 membership list plus one file for a deceased member.

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In its comments, the JBA petitioner states that “[o]n March 6, 2008, the Tribal Council adopted an ordinance to remove those individuals from its roll who lacked evidence of descent from the historic tribe as defined by OFA” (JBA 3/13/2009 Response to 83.7(e), 2). However, minutes of this meeting and a copy of this ordinance, Tribal Council Ordinance No. 03-06-2008-02, were not included with the petitioner’s comments.⁸⁵ The petitioner states that, as a result of the new membership ordinance, an unspecified number of individuals “were removed from the roll and given one year to prove their lineal descent from the historic tribe . . .” (JBA 3/13/2009 Response to 83.7(e), 2). The petitioner designated these former members as “pending affiliates” and submitted a list of their names for the FD; however, the list submitted by the petitioner actually contains 856 names and, under the “status” column, some are labeled “non-member,” some “pending,” and some “deceased” (JBA Non-Member/Pending List 2009). The petitioner’s narrative states that, as of March 11, 2009, “there were 107 applications [for membership] that had not been completely processed” and that they are all for “individuals who have immediate family relations currently enrolled” (JBA 3/13/2009 Response to 83.7(e), 13).⁸⁶

As requested in the PF, the JBA petitioner’s comments on the PF include a discussion of “fluctuations in tribal membership lists” along with a history of the circumstances surrounding the creation of all previous membership lists as well as the current list. Additional comments on membership fluctuations appear in a discussion entitled “How Federal Misfeasance Blocked Continuous Juaneño-Only Tribal Membership” in the JBA petitioner’s response to comments on the PF submitted by Michelle Moreland (JBA 9/15/2009 Response to Moreland, 9-22).

In its comments, the JBA petitioner includes a revised list of 19 historical SJC Indians whom the petitioner asserts are ancestors of its members (JBA 3/13/2009 Response to 83.7(e), 7-8) as shown below, along with a table showing the number of members claiming descent from each individual (JBA 3/13/2009 Response to 83.7(e), 1).

Claimed JBA Historical SJC Indian

- | | |
|-----------------------------------|-----------------------------------|
| 1. Benvenuto Sual/Suarez | 11. Florentino Gugannavit |
| 2. Macaria Yaquile | 12. Felipa |
| 3. Eustaquio (Ricardes) | 13. Juana Coroni |
| 4. Juana de Dios (Juana Bautista) | 14. Leona Ziruinam |
| 5. Fernando (Valencio) | 15. Magdalena Castensenguinam |
| 6. Carlota Huchio (Ruiz) | 16. Maria Bernarda Chigila |
| 7. Jose de la Cruz Cusyche | 17. Rufina Maria Allam |
| 8. Maria de Jesus Cozomne | 18. Materna Ayoubenet |
| 9. Odorico Yararabuit | 19. Maria Clara (Tacupa, Sitalas) |
| 10. Salomea Avila | |

⁸⁵ See also discussion of this document under criterion 83.7(d).

⁸⁶ The “pending affiliates” list mentioned above contains only 20 individuals whose status is listed as “pending.” The Department is uncertain whether the individuals with “pending” status on the “pending affiliates” list are included in the individuals mentioned in the response narrative as “member-related” applicants who have not been completely processed.

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The petitioner's claimed ancestors, their connection to the historical SJC Indian tribe, and the members of the JBA petitioner documenting descent from these individuals are discussed under descent analysis later in this section.

Detailed genealogical reports of various historical individuals and families are included within the membership files, ancestor files, and progenitors' files; as separate exhibits; and in the JBA petitioner's response to comments by third parties. These reports contain explanatory and interpretive narratives, excerpts from censuses and vital records, lineage charts, and copies of original documents.

Comments on Criterion 83.7(e) by Third Parties and the JBA Petitioner's Response

Comments on the PF submitted by the California Cities for Self-Reliance/Joint Powers Authority did not address criterion 83.7(e) specifically (JPA 11/9/2006 Comments; JPA 5/9/2008). However, the JBA petitioner interpreted some of the JPA interested party's comments as bearing on "social and genealogical evidence relative to criteria (b) and (e)," and submitted a 131-page response containing a wide variety of information on various historical SJC Indians (JBA 9/15/2009 Response to JPA/Lynch Report, 2). Included in the petitioner's response is a 13-page discussion concerning how the JBA petitioner was "mis-led" by Federal claims rolls and BIA certificates of degree of Indian blood (CDIBs) to include members who did not descend from SJC Indian ancestors. JBA's response to JPA's comments also presents "four summary examples of erroneous CDIB's," specifically for formerly active members or their family members who are no longer enrolled in the JBA petitioner. Relevant genealogical information in the JBB submission and the JBA petitioner's response is included in the analysis of the petitioner's claimed SJC Indian ancestors and their descendants under this criterion and in FD Appendix II.

Comments on the PF submitted by former JBA member Michelle (Lema) Moreland contained a short cover letter, computer-generated pedigree charts and 53 documents, including 1928 Claims applications, various church records (for baptisms, marriages, and burials), and census extracts (Moreland 3/-/2009). Moreland makes no specific claim or comment regarding the PF but claims descent from the "Oliveras/Morillo" line, which was discussed in the PF under Joseph Francisco "Frank" Benito Xavier Olivares (a.k.a. Navarro) (b.1790-d.aft.1836) and Maria Prudencia Lucia Morillo (b.abt.1798-d.aft.1836) (JBA PF 2007, 249), and identified as having no SJC Indian ancestry. The JBA petitioner responded with a genealogical analysis of Michelle Moreland's ancestry and a brief discussion of the documents submitted by this third party (JBA 9/15/2009 Response to Moreland). The JBA petitioner states that "Moreland's lineage through Adelina Reyes is assessed as ineligible for tribal membership in the JBMI-84A because the available evidence demonstrates this lineage has no Juaneño Indian ancestry" (JBA 9/15/2009, Response to Moreland, 8). Moreland's comments and evidence provide no useful information for analysis of the JBA petitioner under criterion 83.7(e).

Comments on the PF submitted by JBMI-IP "tribal manager" Joyce Perry contained general remarks about the descent of JBA petitioner's members from the historical SJC Indian tribe (Perry 3/12/2009). The comments did not name specific members or question any specific lineages. The JBA petitioner responded with general statements claiming that its current

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members all descend from historical SJC Indian, but did not name any specific members or any specific historical SJC Indians. The JBMI-IP third party's comments and the JBA petitioner's response contain no information applicable to the evaluation of the petitioner under criterion 83.7(e).

An anonymous news release submitted by third party Rudolph R. "Rudy" Martinez discusses two ordinances passed by the JBA petitioner's governing body on March 6, 2008: one "amending the tribal constitution" to "strip over 500 Juaneño general tribal members of all membership and voting rights" and a second "that would again amend the tribal constitution and unilaterally redefine the criteria for membership" (Anonymous 3/15/2008).⁸⁷ The document contradicts the JBA petitioner's comments concerning the passage of one ordinance on March 6, 2008. Neither the third party nor the JBA petitioner submitted a copy of any ordinance(s) passed on that date. The JBA petitioner did not respond to this submission. This document contains no information applicable to the evaluation of the petitioner under criterion 83.7(e) but the event it addresses is discussed under criterion 83.7(d).

Comments for the FD submitted by "the Aguilar Family," an informed party for the JBB petitioner, contained genealogical information on the parents of John Aguilar, namely, Basilio Aguilar and Amalia Rosa Ames (Theresa S. Aguilar-Garcia, 3/-/2009; David M. Bartosz 8/7/2008). Benjamin/Basilio Aguilar (1869-1926) and Amalia Rosa Ames (1887-1957) were discussed in the PF (JBA PF 2007, 247-248), and identified as having no SJC Indian ancestry. The Aguilar third party submission contested the PF's finding on the ancestry of Basilio and Amalia but presented no new evidence to support their claim of SJC Indian ancestry. The JBA petitioner did not respond to this submission. The Aguilar comments and evidence provide no useful information for analysis of the JBA petitioner under criterion 83.7(e).

During the response period, in response to OFA's request, the JBA petitioner submitted a 19-page document entitled "Chief Clarence H. Lobo Database" (JBA 9/11/2009, received 4/9/2010). The table of information which constitutes the "database" includes comments on, and extracts from, correspondence, administrative documents, and news articles. It is discussed under criteria 83.7(b) and 83.7(c), but it does not contain any information pertinent to criterion 83.7(e).

Analysis for the Final Determination

Current Membership List for JBA

The JBA petitioner has identified its current members by submitting a complete list of members, separately certified by its governing body, based on the requirements set forth under criterion 83.7(e)(2). This membership list for the FD is fundamentally different from that submitted for the PF. The current 2009 membership list for the JBA petitioner identifies 1,940⁸⁸ living

⁸⁷ This item was included in the Martinez third party submission (Martinez 3/9/2009).

⁸⁸ The petitioner states in the conclusion of its comments on the PF, "all of the 1,942 members that appear on the certified roll" (JBA 3/13/2009 Response to 83.7(e), 14). The Department has interpreted this as a typographical error. The certified membership list and membership files submitted for the FD identify 1,940 members.

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individuals (adults and minors) (JBA Membership List 3/12/2009). The 2009 JBA membership list includes 696 adults (36 percent of the current membership) who were listed on the JBA petitioner’s 2005 membership list submitted for the PF, and 1,244 individuals (64 percent of the current membership) who were not included on the 2005 membership list (see table below) (JBA Membership List 11/28/2005).⁸⁹

In its comments on the PF for criterion 83.7(e), the JBA petitioner states that an unspecified number of individuals were removed from the group’s membership list because they had not documented their descent from a historical SJC Indian (JBA 3/13/2009 Response to 83.7(e), 3). The petitioner submitted a “pending affiliates” list for the FD that includes 856 names (JBA 2009 Non-Member/Pending List 2009). However, OFA’s comparison of the 2005 JBA membership list used for the PF with the 2009 JBA membership list showed there are actually 944 individuals listed on the 2005 membership list who are not on the group’s 2009 membership list (JBA Membership List 11/28/2005; JBA Membership List 3/12/2009). This information is presented for comparison in the table below. The JBA petitioner has provided no explanation for the difference between the names on the “pending affiliates” list and the individuals “removed” from the 2005 membership list. The petitioner did not identify the individuals who were “removed.”

Changes in JBA Membership

Document	JBA 2005 Membership List	JBA 2009 Membership List	JBA 2009 Narrative
Adults	1,640	1,282	n/a
Minors	0	659	617
Total Members	1,640	1,940	1,942
Comments	697 of these members were on the 2009 membership list, 943 were not	1,244 members not on 2005 membership list	Total does not include 856 “pending affiliates” or 107 unprocessed applications

SOURCES: JBA 11/28/2005 Membership List; JBA 3/12/2009 Membership List; JBA 3/13/2009 Response to 83.7(e).

The JBA petitioner’s comments on the PF for criterion 83.7(e) indicates that there are 107 individuals whose applications for membership are still unprocessed, but that they are all relatives of current members of the group. The Department is unable to reconcile this number with the petitioner’s “pending affiliates” list, noted above, which lists 856 individuals but shows only 21 individuals with a status of “pending,” 7 as “deceased” with no death date, 1 as “minor to adult,” and 727 as “non-member.”

⁸⁹ The 2005 JBA membership list did not include minors. The petitioner asserts that JBA currently has 617 members under the age of 18 (JBA 3/13/2009 Response to 83.7(e), 7); OFA identified 659 minors on the 2009 membership list submitted for the FD.

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Six current JBA members also appear on the 2009 JBB membership list (JBB Membership List 2/28/2009). Three of these six members also appeared on both the 2005 JBA and 2005 JBB membership lists (JBA 11/28/2005 Membership List; JBB 11/28/2005 Membership List).

Historical SJC Indians Claimed as Ancestors by JBA for the Final Determination

In its narrative commenting on the PF, the JBA petitioner provided a table identifying 19 historical SJC Indians from whom its current members claim descent. Thirteen of these claimed SJC Indian ancestors are spouses or parents of others on the list. As a result, there are only 12 distinct family lines identified. All except five individuals were verified as historical SJC Indians in the PF (see table below).

The JBA petitioner submitted detailed genealogical reports, lineage charts, copies of church and vital records, and census extracts documenting these and other claimed historical SJC Indians, including parents and offspring of the 19 SJC Indian ancestors claimed by the JBA petitioner, and other individuals who are not ancestors of the petitioner's members. These genealogical reports and documents appear in membership files, ancestor files, and progenitor files, and also as separate exhibits and as part of the petitioner's response to interested party comments. The JBA petitioner used this combination of materials to document the descent of JBA's claimed forebears from the historical Indians of SJC Mission. A short summary of information on each of the petitioner's claimed SJC Indian ancestors is provided below. FD Appendix II contains a detailed analysis of the family lines for which the petitioner submitted new evidence as noted below.

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PF References for SJC Indians Claimed as JBA Ancestors

Historical Individuals Claimed as SJC Indian Ancestors by JBA for the FD Bold =verified as SJC Indian in PF	Reference in JBA PF
1. Benvenuto Sual/Suarez (spouse of Macaria) (1811-aft.1847)	Appendix IV, 233-234
2. Macaria Yaquile (spouse of Benvenuto) (abt.1808-aft.1847)	Appendix IV, 233-234
3. Eustaquio (Ricardes) (spouse of Juana de Dios) (abt.1810-bef.1876)	Appendix IV, 213
4. Juana de Dios (Juana Bautista) (spouse of Eustaquio) (1823-1876)	Appendix IV, 213
5. Fernando [Valencio] (spouse of Carlota) (1819-1871)	
6. Carlota [Huchio, Ruiz] (spouse of Fernando) (abt.1823-aft.1852)	
7. Jose de la Cruz Cusyche (spouse of Maria de Jesus) (1802-1834)	Appendix IV, 215
8. Maria de Jesus Cozomne (spouse of Jose de la Cruz) (1805-aft.1828)	Appendix IV, 215
9. Odorico Yararabuit (spouse of Salomea) (1800-bef.1842)	
10. Salomea Avila (spouse of Odorico) (abt.1802-1841)	
11. Florentino Gugannavit (spouse of Felipa and Juana Coronne) (abt.1794-1852)	Appendix IV, 217
12. Felipa (spouse of Florentino) (?-aft.1852)	Appendix IV, 217
13. Juana Coronne [Coroni] (spouse of Florentino) (1802-1831)	
14. Leona Ziruinam (1813-aft.1834)	Appendix IV, 214
15. Magdalena Castensenguinam (1808-abt.1876)	Appendix IV, 219-220
16. Maria Bernarda Chigila (abt.1762-aft.1787)	Appendix IV, 226
17. Rufina Maria Allam (abt.1761-aft.1800)	Appendix IV, 217-219
18. Materna Ayoubenet (1828-1868)	Appendix IV, 219
19. Maria Clara (Tacupa, Sitalles) (abt.1801-aft.1857)	Appendix IV, 235-238

SOURCES: JBA 3/13/2009 Response to 83.7(e); JBA PF 2007 Appendix IV; JBA Membership Files 3/13/2009; JBA Ancestor Files 3/13/2009; JBA Progenitor Files 3/13/2009).

#1. Benvenuto Sual/Suarez (1811-aft.1847) and #2. Macaria Yaquile (abt.1808-aft.1847)

Benvenuto Sual (or Suarez) (b.abt.1812-d. aft.1870) and his spouse, Macaria Yaquile (b.abt.1808-d.aft.1847), are both documented as historical Indians of SJC Mission in the baptismal and marriage records of SJC mission (SJC Bapt. #3352 3/9/1812 age 1; SJC Bapt. #2894 8/10/1808 recently born) (SJC Bapt. #3894 8/10/1808 born recently; SJC Bapt. #3352 3/9/1812 age 1; SJC Marriages #1082, 3/4/1826). See detailed analysis in FD Appendix II. There is also sufficient evidence in the record verifying that Maria Concepcion Suarez (b.bef.1831-d.1867) (SJC Bapt. #4384 recently born; LA Confirm. #282 9/1850) and Maria Ana de Jesus Suarez (b.1827-d.1909) were their daughters. See detailed analysis in FD Appendix II.

There is sufficient evidence in the record for the FD to demonstrate that Benvenuto and Macaria are historical SJC Indians, and that Maria Concepcion Suarez and Maria Ana de Jesus are their daughters. Thus, the problems with generational links noted in the PF have been resolved. There are 128 JBA members who claim descent from historical SJC Indians Benvenuto Sual and his spouse, Macaria Yaquile, through their granddaughters Maria Dolores Filomena Higuera (daughter of Maria Concepcion Suarez) and Mariana de Jesus Villalogos (daughter of Maria Ana de Jesus Suarez). However, only 16 of these 128 members demonstrated their descent from these historical SJC Indians. JBA members claiming descent from Benvenuto Sual are classified under "Sual/Yaquile" for the FD (see FD Appendix I).

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#3. Eustaquio (Ricardes) (abt.1810-bef.1876) and #4. Juana de Dios (Juana Bautista) (1823-1876)

Eustaquio Ricardes (b.abt.1810-d.bef.1876) and his spouse, Juana Bautista⁹⁰ a.k.a. Juana de Dios (b.1823-d.1876), are well documented as historical SJC Indians in the baptismal, marriage, and burial records of SJC Mission (JBA PF 2007, 213-214). There are 445 JBA members who claim descent from Eustaquio Ricardes and his spouse, Juana Bautista. However, only 272 of these 445 members demonstrated their descent from these historical SJC Indians. JBA members claiming descent from Eustaquio Ricardes are classified under “Juana Bautista” for the FD (see FD Appendix I).

Santos Eustaquio Ricardes (b.1889-d.1962) was verified in the PF as the son of Patricio Ricardes (b.1851-d.1890) and his wife, Custodia Manriquez (b.1857-d.1934). Patricio Ricardes was verified in the PF as the son of Juana Bautista and Eustaquio Ricardes (JBA PF 2007, 213). The JBA petitioner submitted a genealogical report on Santos Eustaquio Ricardes and his descendants (JBA 3/13/2009 Progenitor File: Santos Eustaquio Ricardes). The report does not contradict the finding in the PF and the 30 JBA members who claim descent from Santos Eustaquio Ricardes are classified under “Juana Bautista” for the FD. The analysis of this lineage will not be reviewed further for the FD.

#5. Fernando [Valencio] (1819-1871) and #6. Carlota [Huchio, Ruiz] (abt.1823-aft.1852)

Fernando (b.1819-d.1871) and his spouse, Carlota (b.abt.1823-d.aft.1852), are identified as Indians of SJC Mission in their 1837 SJC marriage record (SJC Marr. #1176 7/4/1837). The Los Angeles baptism record of their son, Jose Ureol, also identifies both Fernando and Carlota as *indios* (LA Bapt. #578 2/1/1852).

The JBA petitioner claims that 285 of the group’s members descend from a Uriol Mireles (b.abt.1852-d.1925) and his spouse, Senovia (also Senobia or Cenobia) Aguilar (b.abt.1854-d.bef.1925), and the petitioner claims that Uriol Mireles is the same person as “Jose Ureol,” son of Fernando and Carlota, *indios* of SJC Mission. However, documents in the available record indicate that these are two different people: Jose Ureol, the son of Fernando and Carlota (SJC Indians), and Uriol Mireles, the son of Silvestre Mireles and Carlota Ruiz (JBA 3/13/2009 Uriol Mireles Documents). See detailed analysis in FD Appendix II.

Members of the JBA petitioner claim descent from the historical SJC Indians Fernando and Carlota through either Maria Mireles (b.1869-d.1925) or Regina Mireles (b.1883-d.1969), whom JBA identifies as daughters of Uriol Mireles and Maria Zenobia Aguilar. Although evidence in the record documents the parentage of Regina Mireles, there is insufficient evidence that Maria Mireles is a daughter of Uriol Mireles and Zenobia Aguilar. There are 210 members of the JBA petitioner who claim descent from Maria Mireles, and 75 JBA members who claim descent from Regina Mireles.

⁹⁰ The names “Juana Bautista” and “Juana de Dios” are used in mission records for the same person. The PF used the name Juana Bautista, so that name will be used for the FD for the sake of continuity.

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There is insufficient evidence that Jose Ureol, son of Fernando and Carlota *Indios*, is the same person as Ariol/Auriol/Uriol Mireles, son of Silvestre Mireles and Carlota Ruiz/Abila. Thus, the 285 members of the JBA petitioner who claim descent from Ariol/Auriol/Uriol Mireles and Senovia Aguilar are not documented as descendants of a historical SJC Indian. These JBA members are classified under “Fernando/Carlota” for the FD (see FD Appendix I).

#7. Jose de la Cruz Cusyche (1802-1834) and #8. Maria de Jesus Cozomne (1805-aft.1828)

Jose de la Cruz Cusyche (b.1802-d.1834) and spouse of Maria de Jesus Cozomne (b.1805-d.aft.1828) and the parents of Primitiva (b.1821-d.1862) and Felis a.k.a. Felix Cruz (b.1828-d.aft.1862) (SJC Marr. #1001 1/31/1821; SJC Bapt. #3825 11/27/1821). These individuals were verified as historical Indians of SJC Mission based on evidence reviewed for the PF (JBA PF 2007, 215). The JBA petitioner submitted a genealogical report on Jose de la Cruz and Maria de Jesus, and their descendants (JBA 3/13/2009 Ancestor File: Cusyche, 1-3; Escobar 2009 Ancestral Histories, 1-3). The report does not contradict the finding in the PF. There are 25 JBA members who claim descent from Jose de la Cruz Cusyche and Maria de Jesus Cozomne and all demonstrated their descent from these historical SJC Indians. The JBA members claiming descent from these individuals are classified under “Primitiva” for the FD (see FD Appendix I).

The JBA petitioner submitted a genealogical report on Primitiva [Cruz/Rios] and one on Frances (Rios) Stanfield, a granddaughter of Primitiva (Escobar 2009 Ancestral Histories, 6-7; Escobar 1/3/2009). The petitioner claims that Frances Stanfield does not descend from Primitiva, and thus claims that her descendants cannot document to Primitiva as a historical SJC Indian ancestor. Documentation and analysis submitted by the JBA petitioner and found in the record establishes that Frances (Rios) Stanfield is a descendant of Primitiva, and the 25 current JBA members who claim descent from Primitiva, 19 through Frances (Rios) Stanfield and 6 through Maria Luciana Donaciana (Rios) Preston, demonstrated that descent. Two of Frances Stanfield’s grandchildren married descendants of Juana Bautista and their 19 descendants in the JBA membership have documented their descent both from Juana Bautista and from Primitiva.

Felis a.k.a. Felix Cruz (b.1828-d.aft.1862), the son of historical SJC Indians Jose de la Cruz Cusyche (b.1802-d.1834) and Maria de Jesus Cozomne (b.1805-d.aft.1828), was verified as a full brother of Primitiva (b.1821-d.1862) in the PF and thus confirmed as a historical SJC Indian. These individuals and the claims presented in the JBA petitioner’s petition documents were discussed in the PF (JBA PF 2007, 211-213). For the FD, the JBA and JBB petitioners submitted genealogical reports on Felis and his son Jose Tomas (JBA 3/13/2009 Progenitor File: Felis Cruz, 2-5; JBA 3/13/2009 Progenitor File: Jose Thomas Cruz, 2-5; Escobar 2009 Ancestral Histories, 4-5; JBB 2/28/2009 Ancestor File: Cruz). Additional mission records submitted for the FD clarify some, but not all, of the relationships claimed in this line. Although there are no current members in the JBA petitioner who claim descent from Felis a.k.a. Felix Cruz, a detailed analysis of the claims and evidence presented by both JBA and JBB for this family is presented in FD Appendix II under Jose de la Cruz Cusyche and Maria de Jesus Cozomne.

The JBA and JBB petitioners both claim that “Tomas Cruz,” age 21, found on the 1880 Federal census for Chino, San Bernardino County, as a son of Jesus Oyo (b.Sonora) and Macula (Indian), is the same person as Jose Tomas, the son of Felis and Michaela, *indios* of SJC Mission (SJC

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Bapt. #11 4/29/1860 age 6 months). The petitioners also claim that Micaela Lobos, the mother of Beatrice (Oyos) Serrano and the Indian woman enumerated as "Macula" on the 1880 Federal census as the wife of Jesus Oyo, is the same person as Micaela, the Luiseño spouse of Felis (SD Marr. [no#] at SLR 4/30/1855). Other than the coincidence that the two Micaelas both had a son named Tomas born about 1859, there is insufficient evidence in the record to conclude that Miguella Lovas, a.k.a. Micaela Lobos, the mother of Beatrice Oyo[s] in 1875, and the wife of Jesus Oyo on the 1880 census in Chino, CA, is the same person as Maria Michaela, the wife of Felis and mother of Jose Tomas (b.1858). In addition, there is insufficient evidence in the record to conclude that Tomas/Thomas Cruz, the son of Micaela/Macula Oyo, is the same person as Jose Tomas, the son of Felis and Micaela, historical Indians of SJC Mission. A detailed analysis of the claims and evidence presented by both JBA and JBB for this family is presented in FD Appendix II under Jose de la Cruz Cusche and Maria de Jesus Cozomne.

Although Felis [Felix Cruz] was verified as a historical SJC Indian in the PF, there is insufficient evidence in the record to demonstrate that Tomas/Thomas Cruz, husband of Leopolda Vasquez, is his son. Thus, the 39 members of the JBB petitioner who claim descent from Tomas/Thomas Cruz and Leopolda Vasquez have not demonstrated descent from the historical SJC Indian Felis.

#9. Odorico Yararabuit (1800-bef.1842) and #10. Salomea Avila (abt.1802-1841)

Odorico Yararabuit (b.1800-d.bef.1842) and his spouse, Salomea Avila (b.abt.1802-d.1841), were historical SJC Indians as documented by their baptismal records, their marriage record, and Salomea's burial record (SJC Bapt. #1920 2/4/1800 born the day before; SJC Bapt. #3729 11/18/1819 age 17, SJC Marr. #991 2/22/1820, SJC Burials #3384 3/26/1841). They were the parents of Leona, as documented by the record of Leona's 1842 marriage to Zoylo (also spelled Zoilo, Soylo, Soilo), the son of historical SJC Indians Florentino and Juana (deceased), at SJC Mission (SJC Marr. #1450 4/18/1842).

Zoylo and Leona were the parents of Maria de Jesus Soilo (b.1846-d.1884) (SG Bapt. #8891 9/22/1846 recently born). See FD Appendix II for more detailed analysis. There are 67 JBA members who claim descent from these individuals, of whom 50 demonstrated their descent from these historical SJC Indians. The JBA members claiming descent from these individuals are classified under "Maria de Jesus Soilo" for the FD (see FD Appendix I).

#11. Florentino Guganavit (abt.1794-1852)

Florentino Guganavit (or Gugonavit) (b.abt.1794-d.1852) was documented as a historical SJC Indian by his baptism record (SJC Bapt. #2441 3/14/1805 about 11 or 12). He married first Maria Sabas, and the record identified both of them as historical Indians of SJC Mission (SJC Marr. #726 9/7/1811). After the death of Maria Sabas in 1816, he married second Juana Coronne [Coroni] (b.1802-d.1831) (see #13 below), also a historical SJC Indian (SJC Burials #2145 8/2/1816; SJC Marr. #976 6/11/1819). Following Juana Coronne's death in 1831, Florentino married third Felipa (b.bef.1826-d.aft.1852) (see #12 below), daughter of Policarpo and Fabiana, identified as *neofitos* of SJC Mission in Felipa's 1840 marriage record (SJC Burials #3028 3/2/1831; SJC Marr. #1200 1/8/1840).

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Florentino Gugannavit and Juana Coronne were the parents of Zoylo (b.1820-d.aft.1846) (also spelled Zoilo, Soylo, Soilo), whose baptism record identified them as *neofitos* of SJC Mission (SJC Bapt. #3749 6/27/1820 recently born). Zoylo and his spouse, Leona, were the parents of Maria de Jesus Soilo (b.1846-d.1884) (SG Bapt. #8891 9/22/1846 recently born). See FD Appendix II for more detailed analysis on Maria de Jesus Soilo.

Florentino Gugannavit and Felipa were the parents of Ynez (b.abt.1840-d.1873), as documented by the record of her 1863 SJC marriage to Antonio Maria (b.1835-d.abt.1915) (SJC Marr #1597 11/7/1863). Both Ynez and Antonio Maria were identified in their marriage record as natives of SJC Mission.

There are 67 JBA members who claim descent from Florentino Gugannavit through his son, Zoylo, of whom 50 have documented their descent from this historical SJC Indian. There are 21 JBA members who claim descent from Florentino Gugannavit through his daughter Ynez, of whom 16 demonstrated their descent from this historical SJC Indian. The JBA members claiming descent from Florentino Gugannavit are classified under “Maria de Jesus Soilo” (67) and under “Ynez” (21) for the FD (see FD Appendix I).

#12. Felipa (bef.1826-aft.1852)

Felipa (b.bef.1826-d.aft.1852) was a historical SJC Indian and the daughter of Policarpo and Fabiana, identified as *neofitos* of SJC Mission in the record of Felipa’s 1840 marriage to Florentino Gugannavit (b.abt.1794-d.1852) (or Gugonavit, see #11 above) (SJC Marr. #1200 1/8/1840). Florentino was also a historical SJC Indian (see #11 above). Felipa and Florentino were the parents of Ynez (b.abt.1840-d.1873), as documented by the record of her 1863 SJC marriage to Antonio Maria (b.1835-d.abt.1915) (SJC Marr #1597 11/7/1863). Both Ynez and Antonio Maria were identified in their marriage record as natives of SJC Mission.

There are 21 JBA members who claim descent from Felipa through her daughter Ynez, of whom 16 demonstrated their descent from this historical SJC Indian. The JBA members claiming descent from Felipa are classified under “Ynez” for the FD (see FD Appendix I).

#13. Juana Coronne [Coroni] (1802-1831)

Juana Coronne (or Coroni) (b.1802-d.1831) was the daughter of Fabian Agua and Maria Rafaela Coronta, who were identified as Indians of SJC Mission on their 1792 marriage record (SJC Bapt. #2139 10/30/1802 recently born; SJC Marr. #307 10/6/1792). Juana herself was documented as an Indian of SJC Mission in her 1831 SJC burial record (SJC Burials #3028 2/2/1831).

In 1819, she married another historical SJC Indian named Florentino Gugannavit (b.abt.1794-d.1852) (or Gugonavit) (SJC Marr. #976 6/11/1819). Juana and Florentino were the parents of Zoylo (b.abt.1820-d.aft.1846) (also spelled Zoilo, Soylo, Soilo), whose baptism record identified them as *neofitos* of SJC Mission (SJC Bapt. #3749 6/27/1820 recently born). Zoylo and his spouse, Leona, were the parents of Maria de Jesus Soilo (b.1846-d.1884) (SG Bapt. #8891 9/22/1846 recently born). See FD Appendix II for more detailed analysis on Maria de Jesus Soilo.

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There are 67 JBA members who claim descent from Juana Coronne through her son, Zoylo, of whom 50 demonstrated their descent from this historical SJC Indian. The JBA members claiming descent from Juana Coronne are classified under “Maria de Jesus Soilo” for the FD (see FD Appendix I).

#14. Leona Ziruinam (1813-aft.1834)

Leona (b.1813-d.aft.1834) is documented as the daughter of Pio Maria Ziruit and Dominga Pangojobam, and as a historical SJC Indian through the SJC records of her own baptism and her parent’s marriage (SJC Bapt. #3427 6/27/1813, SJC Marr. #699 12/14/1809). Leona married another SJC Indian from “Pimix,” Jose Joaquin Yayourem, and had a daughter named Maria de los Angeles, as documented by the record of Maria de los Angeles’ marriage to San Diego Indian Andres Avelina (SJC Marriages #1142 2/14/1831; SJC Marr. #1474 8/3/1850). In 1873, Juan Robles, the son of Andres Avelino and Maria de los Angeles, married a Luiseño Indian, Maria de la Luz, from Pala (SJC Marr. #1775 5/16/1873). These records are discussed in detail in the PF (JBA PF 2007, 214-215).

The JBA petitioner submitted a genealogical report on the Robles ancestry prepared by Topanga Anthropological Consultants (JBA 3/13/2009Progenitor File: Hope Adelaida Robles). The report discusses records relating to the descent of Esperanza (Robles) Lobo from Leona, a historical SJC Indian identified in the PF (JBA PF 2007, 214), and does not contradict the finding in the PF. Therefore, the analysis of this lineage will not be reviewed further for the FD. There are 53 JBA members who claim descent from Leona, of whom 52 demonstrated their descent from this historical SJC Indians. JBA members claiming descent from Leona are classified under “Leona” for the FD (see FD Appendix I).

#15. Magdalena Castensenguinam (1808-abt.1876)

Magdalena Castengura (or Castensenguinam) (b.1808-d.abt.1876) is well documented as a historical SJC Indian in the baptismal, marriage, and burial records of SJC Mission. These records are discussed in detail in the PF (JBA PF 2007, 219-226). There are 395 JBA members who claim descent from Magdalena. However, only 261 of these 395 members demonstrated their descent from this historical SJC Indian. JBA members claiming descent from Magdalena are classified under “Magdalena Castengura” for the FD (see FD Appendix I).

#16. Maria Bernarda Chigila (abt.1762-aft.1787)

Maria Bernarda Chigila (b.abt.1762-d.aft.1787) is well documented as a historical SJC Indian in the baptismal, marriage, and burial records of SJC Mission. These records are discussed in detail in the PF (JBA PF 2007, 226-232). There are 566 JBA members who claim descent from Maria Bernarda, of whom 522 demonstrated their descent from this historical SJC Indian. JBA members claiming descent from Maria Bernarda are classified under “Maria Bernarda Chigila” for the FD (see FD Appendix I).

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#17. Rufina Maria Allam (abt.1761-aft.1800)

Rufina Maria Allam (b.abt.1761-d.aft.1800) is documented as a historical SJC Indian in the baptism and marriage records of SJC Mission (SJC Bapt. #177 4/13/1779 about 18; SJC Marr. #54 10/30/1779). These records are discussed in detail in the PF (JBA PF 2007, 217-219). There are 42 JBA members who claim descent from Rufina Maria, of whom 39 demonstrated their descent from this historical SJC Indian. JBA members claiming descent from Rufina Maria are classified under "Rufina Maria Allam" for the FD (see FD Appendix I).

#18. Materna Ayoubenet (1828-1868)

Maria Materna Ayoubenet (b.1828-d.1868) is documented as the daughter of historical SJC Indians Peregrino Ayoubenet (a.k.a. Giaubinit) (b.abt.1786-d.aft.1832) and Materna Teminavan (or Timabamde) (b.abt.1797-d.1842) and as a historical Indian of SJC Mission herself (SJC Bapt. #1948 4/29/1800; SJC Bapt. #2260 2/24/1804; SJC Marr. #596 7/10/1804; SJC Bapt. #4156 11/22/1828). These records are discussed in detail in the PF (JBA PF 2007, 219).

For this FD, the JBA petitioner submitted a genealogical analysis addressing the identity of Peregrino Ayoubenet's SJC Indian parents (Escobar 6/8/2008). The report contains no evidence contradicting the SJC Indian ancestry of Peregrino as presented in the PF (JBA PF 2007, 219). The evidence in the record documenting Peregrino as a historical SJC Indian is thoroughly discussed in the PF and will not be reviewed further for the FD. There are 49 JBA members who claim descent from Maria Materna Ayoubenet (and thus from Peregrino Ayoubenet), of whom 45 demonstrated their descent from this historical SJC Indian. JBA members claiming descent from Maria Materna Ayoubenet are classified under "Peregrino Ayoubenet" for the FD (see FD Appendix I).

#19. Maria Clara (Tacupa, Sitales) (b.1829-d.1914)

Clara Totoba (or Toetoebam)⁹¹ (abt.1801-1862), mother of Maria Clara (Tacupa, Sitales), is identified on her SJC baptismal record as the daughter of "gentiles" (unbaptized Indians) from Rancheria Pimix, although their names are not given (SJC Bapt. #3515 8/26/1815 age 14). Her 1819 marriage to Diego (Junjunuvit) (b.1797-d.aft.1857), a historical SJC Indian and the son of historical SJC Indians Felipe Jose Junjunuvit (b.1776-d.1829) and Eulalia Coroni (b.1773, d.1805), is recorded in the marriage register of SJC mission and their union is documented in the baptism records of their children (SJC Marr. #977 6/11/1819; SJC Bapt. #440 11/8/1783 age 7; SJC Marr. #272 4/21/1790). Felipe Jose was the son of Odorico Jose Tungo (b.abt.1747-d.1801), also documented in the SJC baptismal records as a historical SJC Indian (SJC Bapt. #374 9/24/1782; SJC burials #912 1/9/1801).

The JBA petitioner submitted a genealogical report on Jose Maria Uribes, a grandson of Maria Bernarda Chigila, a historical SJC Indian (see #4 above), and his spouse "Maria Clara (Tacupa/Sitales)," the daughter of Clara Totoba and Diego Jujunuvit, both historical SJC Indians (JBA 3/13/2009 Progenitor File :Jose Maria Uribes, 2-3). All of these individuals were verified

⁹¹ Recorded as "Tacupa" on 1928 claims application #9282.

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as descendants of historical SJC Indian ancestors in the PF (JBA PF 2007, 227-228, 235-236). Following the 1862 death of her spouse, Jose Maria Uribes, Maria Clara (Jujunuvit, a.k.a. Tacupa/Sitales) married Jose Maria Sitales, a native of Mexico (Federal censuses 1870, 1880, 1900), which is the source of the surname "Sitales." These records are discussed in detail in the PF (JBA PF 2007, 235-238). The report does not contradict the findings in the PF. Therefore, this lineage will not be reviewed further for the FD.

There is one JBA member who claims descent from Maria Clara (Jujunuvit, a.k.a. Tacupa/Sitales), and thus from Diego Jujunivit, grandson of Odorico Jose Tungo. However, this member has not demonstrated descent from this historical SJC Indian. The JBA member claiming descent from Maria Clara (Jujunuvit, a.k.a. Tacupa/Sitales) is classified under "Odorico Jose Tungo" and under "Maria Bernarda Chigila" for the FD (see FD Appendix I).

Summary of JBA Claimed SJC Indian Ancestors Used for the FD

In order to simplify the analysis for this FD, the Department has combined related individuals on the JBA list of claimed ancestors as shown in the table below. To clarify the analysis of descent for the JBA petitioner and to link the discussion in the FD with the PF, the Department will use the SJC Indian names and family lines shown in the first column of the table below for the remainder of this section. The number of JBA members descending from each of these lines is provided in FD Appendix I.

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JBA Claimed SJC Indian Ancestors/Families Used for the FD

Name or Family Identified by OFA	SJC Indian Progenitors Claimed by JBA	Birth-Death Dates	PF Reference
Sual/Yaquile	#1 Benvenuto Sual/Suarez #2 Macaria Yaquile Maria Ana de Jesus Sual Maria Concepcion Suarez	1811-aft.1847 abt.1808-aft.1847 b.1827-d.1909 b.bef.1831-d.1867	App. IV, 233-234 App. IV, 233-234 App. IV, 233-234 App. IV, 233-234
Juana Bautista	#3 Eustaquio (Ricardes) #4 Juana Bautista (Juana de Dios)	?-bef.1876 abt.1835-1876	App. IV, 213 App. IV, 213
Fernando/Carlota	#5 Fernando (Valencio) #6 Carlota Huchio (Ruiz)	1819-1871 abt.1823-aft.1852	
Primitiva	#7 Jose de la Cruz Cusyche #8 Maria de Jesus Cozomne Primitiva	1802-1834 1805-aft.1828 abt.1821-1862	App. IV, 215 App. IV, 215 App. IV, 215
Maria de Jesus Soilo	#9 Odorico Yararabuit #10 Salomea Avila Leona #11 Florentino Gugannavit #13 Juana Coroni Zoylo Maria de Jesus Soilo	1800-? abt.1802-1841 abt.1794-1852 1802-1831 abt.1849-1884	 App. IV, 214-215 App. IV, 217 App. IV, 246-247 App. IV, 246-247
Ynez	#11 Florentino Gugannavit #12 Felipa Ynez Antonio Maria	abt.1794-1852 ?-aft.1852 abt.1840-1873 1835-abt.1915	App. IV, 217 App. IV, 217 App. IV, 217 App. IV, 217
Leona	Pio Sereguinam/Pio Maria Zirunit M. Yasparguim/Dominga Pangojabam #14 Leona (Ziruinam) Jose Joaquin Yayourem Maria de los Angeles	1783-1815 bef.1795-aft.1813 1813-aft.1834 1809-bef.1850 1834	App. IV, 214 App. IV, 214 App. IV, 214 App. IV, 214 App. IV, 214
Magdalena Castengura	#15 Magdalena Castengura	1808-1876	App. IV, 219-220
Maria Bernarda Chigila	#16 Maria Bernarda Chigila	abt.1762-aft.1787	App. IV, 226
Rufina Maria Allam	#17 Rufina Maria Allam	abt.1761-aft.1800	App. IV, 217-219
Peregrino Ayoubenet	Peregrino Ayoubenet Materna Teminavan #18 Materna Ayoubenet	abt.1786-aft.1832 abt.1797-1842 1828-1868	App. IV, 219 App. IV, 219 App. IV, 219
Odorico Jose Tungo	Odorico Jose Tungo Felipe Jose Junjunivit Eulalia Coroni Diego (Junjunivit) Clara Totoba/Toetoebam #19 Maria Clara (Junjunivit (Tacupa/Sitales)	abt.1747-1801 1776-1829 1773-1805 1797-aft.1857 abt.1801-aft.1857 1829-abt.1914	App. IV, 235-238 App. IV, 235-238 App. IV, 235-238 App. IV, 235-238 App. IV, 235-238 App. IV, 235-238

SOURCES: JBA 3/13/2009 Response to 83.7(e); JBA PF 2007; JBA Membership Files

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3/13/2009; JBA Ancestor Files 3/13/2009; JBA Progenitor Files 3/13/2009)

The FD finds that all 19 historical individuals, whom the Department has condensed into 12 families and whom the JBA claimed as SJC Indians, are documented as members of the historical tribe of SJC Mission.

JBA Petitioner's Genealogical Reports and Analyses on Various Other Family Lines

The JBA petitioner submitted the following genealogical reports and analyses for the FD. However, the individuals discussed below do not connect with the historical SJC Indians discussed above or other SJC Indians. The individuals identified in these JBA reports are not ancestors or current members of the JBA petitioner.

Jose Dolores Mesa

The JBA petitioner submitted a genealogical report on the genealogy and descendants of Jose Dolores Mesa and his spouse, Crisanta Saraguas (JBA 3/13/2009 Progenitor File: Mesa). Crisanta's baptismal record at San Luis Rey (SLR) and the record for her marriage to Jose Dolores Mesa at SJC naming her parents, indicate that she was not a historical SJC Indian, but from SLR (SLR Baptisms #2450 11/13/1815; SJC Marriages #1829 10/30/1882). Her parents' marriage took place at SLR (SLR Marriages #2460). Jose Dolores Mesa, whom the JBA petitioner claims was the son of Peregrino Ayoubenet's daughter Leona, was identified as "the last Indian man, of pure blood of this Acagchemem [*sic*] nation" in his death record (SJC Burials 4/8/1914). There are no descendants of this couple in the current JBA membership. Therefore, the ancestry of the Jose Dolores Mesa and Cristiana Saraguas descendants does not affect the calculation of JBA members' descent from the historical SJC Indian tribe. This lineage will not be reviewed further for the JBA FD.

Joe Augustine Ocampo

The JBA petitioner submitted a genealogical report on the ancestry of Joe Augustine Ocampo, a former elected leader of the JBB petitioner (Escobar 8/21/2008). The petitioner's report claims that Joe Ocampo's Indian ancestry does not derive from a historical SJC Indian ancestor but from an Indian from Mexico. Joe Ocampo is not an ancestor of any current JBA members, nor is he a JBA member himself. Therefore, the ancestry of the Joe Augustine Ocampo descendants does not affect the calculation of JBA members' descent from the historical SJC Indian tribe. This lineage will not be reviewed further for the JBA FD.

David Lee Belardes

The JBA petitioner submitted a genealogical report on the ancestry of David Lee Belardes, the current leader of the JBMI-IP interested party (Escobar 6/10/2009). The petitioner's report claims that David Belardes' ancestry does not include any Indian ancestors. David Belardes is not an ancestor of any current JBA members, nor is he a JBA member himself. Therefore, the ancestry of the David Belardes descendants does not affect the calculation of JBA members'

descent from the historical SJC Indian tribe. This lineage will not be reviewed further for the JBA FD.

Descent of Current JBA Members

The JBA petitioner claims all of its 1,940 current members descend from historical SJC Indians at Mission SJC, which is located in present-day Orange County, California (see Overview of the Historical Tribe in this FD). For purposes of this evaluation under the criteria, this FD treats the Indian population at the San Juan Capistrano Mission in 1834 as the historical Indian tribe.

As defined in the PF,

The historical Indian tribe includes individuals who are identified as Indians “of the San Juan Capistrano Mission” in the registers of Mission San Juan Capistrano (SJC) before secularization of the Mission in 1834, either by direct reference (such as *indio*) or by indirect reference (such as the lack of surname or the presence of ethnic identifiers in records for parents or offspring), or who are identified as Indians of Mission SJC on Indian censuses or other historical documents during the early-to-middle 19th century. Indians from other missions (such as San Gabriel or San Diego) or from other identified Indian entities (such as Luiseño or Diegueño) are not included as “historical Indians of the SJC Mission” in this evaluation. (JBA PF 2007, 178)

According to the petitioner’s comments on the PF for criterion 83.7(e) and an interview with a member of the governing body, JBA membership criteria require members to document descent from historical individuals identified as San Juan Capistrano Indians living in 1852 (JBA 3/13/2009 Response to 83.7(e), 2-3; Yorba 3/26/2009, 3). However, the JBA petitioner submitted no governing document or recent membership ordinances confirming this requirement. The petitioner’s comments on the PF refer to a 1997 resolution by the governing body, Resolution No. 2-1-1997, and a 2008 membership ordinance, Tribal Council Ordinance No. 03-06-2008-02, although neither of these documents were submitted for the FD (JBA 3/13/2009 Response to 83.7(e), 2-3). Regardless of any changes in membership criteria passed by the petitioner’s governing body since the PF, the Department requires the petitioner’s members to demonstrate descent from the historical Indian tribe.

For the FD, the JBA petitioner submitted 1,940 membership files, 83 ancestor files, and 267 “progenitor” files, containing church and vital records, census extracts, lineage charts, membership applications, CDIB certificates, selected 1928 claims applications, and explanatory narratives (JBA Membership Files 3/13/2009; JBA Ancestor Files 3/13/2009; JBA Progenitor Files 3/13/2009). The contents of individual membership files varied widely but were helpful in verifying parentage and ancestry for the petitioner’s members. The petitioner submitted a membership file for each current member containing birth, marriage, and death records, census extracts, lineage charts, 1928 claims applications, and various membership applications and correspondence. The 83 submitted ancestor files contained documentation for historical individuals that the petitioner considers to be historical SJC Indians, whether they were claimed as ancestors of the petitioner’s members or not, and whether they were related to each other or

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not (spouses, parents, and children). The 267 submitted “progenitor” files held documentation for a variety of historical individuals the petitioner considers to be descendants of the claimed historical SJC Indian ancestors or ancestors of the petitioner’s current members, or both.

The JBA petitioner also submitted a revised FTM genealogical database containing 4,563 individuals (JBA FTM 9/15/2009), but the petitioner’s current members were not all identified by a unique fact field. Under the fact field “Tribal status,” 2,010 individuals have entries, but only 1,676 of these are identified by JBA as “Certified enrolled,” 265 less than the number of members on the petitioner’s 2009 membership list. Others are identified as “Admin compliance” (264), “Deceased” (49), “New Application” (19), “Ready for TC approval” (1), and “Applied elsewhere” (1), although the petitioner did not include annotation defining these categories. The Department added the numbers from each of these categories for a total of 1,940, the same number of individuals as on the petitioner’s 2009 membership list. Not all of the “ancestors” and “progenitors,” for whom the petitioner submitted files, were found in the JBA petitioner’s FTM genealogical database. Those who were applicable to the evaluation of JBA members’ descent from the historical SJC Indian tribe were used for that analysis. Those who were not forebears of the petitioner’s members were referenced by the JBA petitioner in comments for criteria 83.7(b) and 83.7(c).

The OFA entered information from the petitioner’s membership list, membership files, ancestor files, progenitor files, census excerpts, genealogical reports, and the JBA genealogical FTM database into the same combined FTM genealogical database that the Department used for the PF. The OFA added new members to the genealogical database and connected to their parents and siblings. The OFA annotated its previously created fact fields, such as “parentage verified” and “verified to SJC Indian,” with information derived from the documents in the record. The OFA created additional fact fields such as “JBA 2009ml” for the members listed on the petitioner’s current membership list.

The number of JBA members claiming and demonstrating descent from each claimed SJC Indian ancestor is provided in FD Appendix I. Descendants of several of the listed historical SJC Indians married individuals descending from other historical SJC Indians; thus, the sum of the number of members claiming descent from all of the claimed SJC Indians totals more than the number of members in the JBA petitioner. The number of JBA members who claim descent from more than one historical SJC Indian are shown for each historical SJC Indian in the table.

In summary, based on the evidence in the record, all of the JBA petitioner’s 1,940 members claim descent from individuals who were part of the historical Indian tribe at SJC Mission as it existed between 1776 and 1834. However, this FD finds that only 61 percent (1,182 of 1,940) of current JBA members demonstrated descent from one of the Indians of the historical SJC Indian tribe (see FD Appendix II). This low percentage of members documenting descent from a historical SJC Indian is the consequence of three factors:⁹²

⁹² These numbers total more than 758 (1,940 members minus 1,182 members with documented SJC Indian descent) because some individuals are counted in more than one category.

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- members who have not documented their own parentage (169 members),
- members who have a forebear whose descent from the claimed SJC Indian ancestor is not documented (701 members), and
- members who descend from Uriol Mireles, who is not documented to be the same person as Jose Uriol, son of Fernando and Carlota, historical SJC Indians (285 members).

Thirty-nine percent (758 of 1,940) of JBA members have not demonstrated their descent from a claimed historical SJC Indian.

Conclusions for the Final Determination on Criterion 83.7(e)

The PF found that, in addition to the 2 percent (37 of 1,640) of JBA members who demonstrated descent from one of the historical SJC Indians, the Department estimated that 35 percent (576 of 1,640) of JBA members should be able to demonstrate descent from at least one of the historical SJC Indians if additional genealogical evidence were submitted that demonstrated the claimed connections. The PF concluded that the JBA petitioner did not meet criterion 83.7(e) because it had not demonstrated that, based on precedent, at least 80 percent of its members descend from the historical Indian tribe of SJC mission. The JBA petitioner's response to the PF provided additional evidence that documented other SJC Indian ancestors and that significantly increased the number of its members who documented their descent from SJC Indians.

The March 12, 2009, JBA membership list names 1,940 living members, both adults and minors. The list includes the elements required by criterion 83.7(e) and is separately certified by the petitioner's governing body.

The evidence in the record shows that 61 percent (1,182 of 1,940) of current JBA members demonstrated descent from one of the Indians of the historical Indian tribe of SJC mission. A finding that 61 percent of the members have documented descent from a historical Indian tribe is insufficient to satisfy the requirements of criterion 83.7(e). No previous petitioner has met criterion 83.7(e) without at least 80 percent of its members documenting descent from a historical Indian tribe. Criterion 83.7(e) requires that the petitioner's members descend from the historical tribe. Nothing in the history or nature of the group justifies a change in this precedent. The FD finds that only 61 percent of the JBA petitioner's members have demonstrated descent and affirms the PF's conclusion that, based on the available evidence, the JBA petitioner has not demonstrated that its membership descends from the historical SJC Indian tribe and, therefore, does not meet criterion 83.7(e).

Criterion 83.7(f)

83.7(f) The membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe.

Summary of the Proposed Finding

The PF found that the JBA membership is composed principally of persons who are not members of any acknowledged North American Indian tribe, and thus met the requirements of criterion 83.7(f).

Summary of the Comments on the Proposed Finding

The petitioner did not submit any new evidence concerning dual enrollment of its members. The Department received no comments from the JBA petitioner or any other party on the PF's conclusions under criterion 83.7(f).

Conclusions for the Final Determination on Criterion 83.7(f)

Although the JBA petitioner submitted documents indicating that some ancestors of 40 current members were enrolled in the San Pasqual Band of Diegueño Mission Indians, no evidence has been found to indicate that any of the JBA petitioner's current members are enrolled in any federally recognized tribe. Therefore, as concluded in the PF, the FD concludes that the JBA petitioner meets the requirements of criterion 83.7(f).

Criterion 83.7(g)

83.7(g) Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.

Summary of the Proposed Finding

The PF discovered no evidence that the JBA petitioner was the subject of congressional legislation to terminate or prohibit a Federal relationship with the petitioner as an Indian tribe. The PF concluded that the petitioner met the requirements of 83.7(g).

Summary of the Comments on the Proposed Finding

The Department received no comments from the JBA petitioner or any other party on the PF's conclusions under criterion 83.7(g)

Conclusions for the Final Determination on Criterion 83.7(g)

Based on the available evidence, and as concluded in the PF, the FD concludes that the JBA petitioner meets the requirements of criterion 83.7(g).

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APPENDIX I- JBA SJC Indian Ancestors with Members Claiming Descent

Historical SJC Indian Ancestor	No. of JBA members claiming SJC Indian descent	No. of JBA members documenting SJC Indian descent	No. of JBA members NOT documenting SJC Indian descent	No of JBA members also claiming descent from other lines
Sual/Yaquile	128	16	112	0
Juana Bautista	445	272	173	Primitiva-19 Maria de Jesus Soilo-6 Magdalena Castengura-35 Maria Bernarda Chigila-16
Fernando/Carlota	285	0	285	0
Primitiva	25	25	0	Juana Bautista-19
Maria de Jesus Soilo	67	50	17	Juana Bautista-6 Leona-1
Ynez	21	16	5	0
Leona	53	52	1	Maria de Jesus Soilo-1
Magdalena Castengura	395	261	134	Juana Bautista-35 Maria Bernarda Chigila-15 Rufina Maria Allam-1 Peregrino Ayoubenet-2
Maria Bernarda Chigila	566	522	44	Juana Bautista-16 Magdalena Castengura-15 Odorico Jose Tungo-1
Rufina Maria Allam	42	39	3	Magdalena Castengura-1 Peregrino Ayoubenet-42
Peregrino Ayoubenet	49	45	4	Magdalena Castengura-2 Rufina Maria Allam-42
Odorico Jose Tungo	1	0	1	Maria Bernarda Chigila-1

Sub-total=2,077

Sub-total=1,298

Sub-total=779

Total JBA Members Documenting Descent from at least one SJC Indian minus duplications:⁹³ 1,182 (61 percent of 1,940).

Total on this table: 2,077 – 137 duplications =1,940 JBA members

⁹³ The sum of the number of members documenting and claiming descent from all of the claimed ancestors totals more than the number of members in the JBA petitioner and those documenting descent because some members are counted more than once in the table due to descent from more than one SJC Indian ancestor.

APPENDIX II

Evaluation of Claimed Historical SJC Indian Ancestors not Verified in the PF

The following historical individuals, claimed by the JBA petitioner as SJC Indian ancestors, either were not discussed in the PF or were not documented as SJC Indians for the PF. Because the petitioner submitted new documentation or made new claims concerning these historical individuals, they are reviewed here in detail.

Sual/ Yaquile

The members of the JBA petitioner and the JBB petitioner who claim descent from Benvenuto Sual/Suarez (b.1811-d.aft.1852) and Macaria Yaquile (b.abt.3/9/1808-d.aft.1852) were described in the PF as having no Indian or SJC Indian ancestors, as documentation for Benvenuto and Macaria was not submitted for the PF (SJC Bapt. #3352 3/9/1812; SJC Bapt. #2894 8/10/1808; JBA PF 2007, 233-234). OFA classified these members in a group labeled “Higuera/Suarez” descendants in the PF because they all traced their ancestry to Jose Doroteo/Dolores Higuera (b.1826-d.1865) and his spouse Maria Concepcion Suarez (b.bef. 1840-d.1867) (LA C#282 9/1850; LA D#1350 4/27/1867). As a result of additional evidence provided by the JBA petitioner and the JBB petitioner (Escobar 5/26/2008; JBA 3/13/2009 Membership File: Andrew Corban Lara; JBA 3/13/2009 Progenitor File: Mariana de Jesus Villalobos; JBB 2/28/2009 Ancestor File: Vinjerouvit), Maria Concepcion Suarez is now verified as the daughter of Benvenuto Sual (b.abt.1812-d. aft.1870) and Macaria Yaquile (b.abt.1808-d.aft.1852), who were married in 1826 at SJC (SJC Marriages #1082, 3/4/1826). The SJC Indian ancestry of both Benvenuto and Macaria and their 9 (or possibly 10) children is well documented in the baptismal, marriage, and burial records of SJC as shown in the following table.

Records Showing Benvenuto Sual [Vinjerouvit] and Macaria Yaquile and Their Children

Date	Record	Subject	Father/Groom	Mother/Bride
10 Aug 1808	SJC Bp#2894 born recently	Macaria, Mission	Joaquin Yaguile SJC #21 <i>Neofito</i>	Nemesia SJC #1302 <i>Neofito</i>
9 Mar 1812	SJC Bp#3352 age 1 y	Benvenuto, <i>Indio</i>	Braulio Vinjerouvit SJC #3336	Braulia Yaguainin SJC #3339
5 May 1826	SJC M#1082		Juan/Sual Benvenuto SJC #3352 <i>Neofito</i> , son of Braulio Vintarouvic and Bralia Yagecainin	Macaria SJC #2894 <i>Neofito</i> , dau of Juaquin Yaquile and Nemesia
16 Apr 1827	SJC Bp#4085 born recently	Ma Ana de Jesus	Benvenuto Sual	Macaria, <i>Indios de esta mision</i>
17 Feb 1830	SJC Bp#4235 born recently	Dominga	Benvenuto	Macaria, <i>de la mision</i>
13 Mar 1834	SJC Bp#4384 born recently	Ma de la Asumpcion	Benvenuto Sual SJC 3352 <i>Neofito</i>	Macaria SMC 3894 <i>Neofito</i>
03 Feb 1835	SJC D#3232	Ma de la Asumpcion SJC 4384	Benvenuto <i>Neofito</i>	Macaria, <i>Neofito</i>

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Date	Record	Subject	Father/Groom	Mother/Bride
06 Aug 1840	LA Bp#1012	Ma Trinidad, India	Benuto	Macaria, <i>Ambos de SJC</i>
16 Apr 1842	LA Bp#1139a	Ma Dolores, India	Benvenuto, <i>Neofito</i>	Macaria, <i>Neofito</i>
23 Aug 1844	SJC Bp#4601 b.6/14/1844	Ma Josefa	Venvenuto	Macaria, <i>de la mission</i>
30 Oct 1847	LA Bp#1765 age 12 days	Ma Matilde, India	Benvenuto Suarez, Neofito	Macaria, <i>Neofito</i>
18 Jul 1849	LA Bp#136	Ma Marta Suarez	Benvenuto Suarez	Macaria
28 Apr 1850	LA Bp#263 age 11 days	Jose Francisco Iguera	Mateo Iguera	Dominga Suarez
Sep 1850	LA C#161	Ma Trinidad Suarez	Benvenuto	Maria Alcarra
Sep 1850	LA C#282	Concepcion	Benvenuto	Nacaria
Sep 1850	LA C#318	Maria Suarez	Venuto	Macaria
29 May 1852	LA D#1335 age abt.19 y	Ma Dominga Suarez	Benvenuto Suarez Sp.Doroteo Higuera	
30 May 1852	LA Bp#635 age 3 days	Francisca Higuera	Doroteo Higuera	Dominga Suarez
20 Jan 1854	LA Bp#888 age 15 days	Salvador Higuera	Dorotea Higuera	Concepcion Suarez
08 Nov 1858	LA Bp#108 age 1 day	Maria Vialogo	Epifanio Vialogo	Maria de Jesus Suarez
12 Oct 1859	LA Bp#402	Mariana de Jesus Villalagos	Epifanio Vialogos	Mariana Sual
03 Mar 1856	LA Bp#1317 age 15 days	Ma Manuela Higuera, Razon	Doroteo Higuera	Concepcion Suares, natives of LA
08 Apr 1859	LA Bp#240	Epifanio Hyguera	Doroteo Hyguera	Concepcion Sual
15 May 1862	LA Bp#1113 b.5/6/1861?	Maria Dolores Filomena Hyguira	Dorotea Hyguera	Concepcion Suarez
23 Jul 1864	LA Bp#1788 b.7/12/1864	Margarita Juana Gualberta Higuera	Teodoro Higuera	Concepcion Suarez
27 Apr 1867	LA D#1350 d.4/26/1867	Concepcion Suarez	Sp.Doroteo Higuera	

The JBA membership includes 128 individuals who claim descent from historical SJC Indians Benvenuto Sual and Macaria Yaquile: 123 through their daughter Maria Concepcion Suarez and 5 through their daughter Maria Ana de Jesus Suarez (b.1827-d.aft.1859). However, only 16 of these 128 JBA members documented their descent from these historical SJC Indian ancestors. The JBB membership includes 159 individuals who claim descent from historical SJC Indians Benvenuto Sual and Macaria Yaquile through their daughter Maria Concepcion Suarez. However, only 107 of these 159 JBB members documented their descent from these historical SJC Indian ancestors. See OFA Genealogist Workpaper 1 for additional analysis of claimed descendants.

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Fernando/Carlota

The members of the JBA petitioner and the JBB petitioner who claim descent from Fernando (b.1819-d.1871) and Carlota (b.1823-d.aft.1852) were described in the PF as having no Indian or SJC Indian ancestors, as documentation for Fernando and Carlotta was not submitted for the PF (SJC Bapt. #3708 5/29/1819, SJC Bapt. #3914 11/4/1823). OFA classified these members in a group labeled “Olivares/Morillo” descendants in the PF because they all traced to Joseph Francisco “Frank” Benito Xavier Olivares (a.k.a. Navarro) (b.1790-d.aft.1836) and Maria Prudencia Lucia Morillo (b.abt.1798-d.aft.1836). According to additional documents provided by the JBA petitioner, these members now claim descent from Fernando and Carlota through their son, Jose Ureol (b.1852-d.?) (SJC Marriages #1176 7/4/1837; LA Bapt. #578, 2/1/1852).

Jose Ureol, born in Los Angeles on January 13, 1852, and his parents, Fernando and Carlota, who married at SJC Mission on July 4, 1837, are now verified as historical SJC Indians, based on the SJC marriage record of Fernando and Carlota and the Los Angeles baptism record of Jose Ureol. The available records for Fernando, Carlota, and Jose Ureol are shown in the table below.

Records Showing Fernando, Carlota, and Jose Ureol

Date	Record	Subject	Father/Groom	Mother/Bride
29 May 1819	SJC Bp#3708	Fernando	Valente <i>Neofito</i>	Egidia Ochome <i>Neofito</i>
04 Nov 1823	SJC Bp#3914	Carlota	-chio <i>Indio</i>	Apolonia <i>India</i>
04 Jul 1837	SJC M#1176		Fernando SJC-3708	Carlota no #
26 Jun 1840	SJC Bp#4533	Ma Antonia	Fernando SJC-3708	Carlota SJC-3914
19 Apr 1842	SJC Bp#4564	Ma de la Presentacion	Fernando SJC-3708	Carlota SJC-3914
09 Jun 1844	SG Bp#8679	Petra	Fernando SJC-3708	Carlota no #
18 Sep 1846	LA Bp#1605	Ma del Rosario	Fernando SJC <i>Neofito</i>	Ma Carlota SJC <i>Neofita</i>
01 Feb 1852	LA Bp3578	Jose Ureol	Fernando <i>Indio</i>	Ma Carlota <i>India</i>

The information in the SJC and Los Angeles church records confirm Jose Ureol was the son of SJC Indians Fernando and Carlota. However, the JBA and JBB petitioners’ members claim descent from an Ariol/Auriol/Uriol Mireles (b.abt.1852-d.1925), son of Silvestre Mireles (b.abt. 1805-d.?) and Carlota Abila/Ruiz (b.abt.1825-d.bef.1870), and assert that he is the same man identified as Jose Ureol in the Los Angeles baptismal record quoted above. The available records for Ariol/Auriol/Uriol Mireles and his spouse (Senovia/Senobia/Cenobia Aguilar), parents, and siblings are shown in the table below.

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Records Showing Ariol/Auriol/Uriol Mireles, Senovia Aguilar,
Silvestre Mireles, and Carlota Abila/Ruiz

Date	Record	Subject	Father/Groom	Mother/Bride
1 Jan 1855	SJC Bp 108 b.4/15/1854	Ma. Senovia Aguilar	Cristobal Aguilar	Rita Villa
09 Jul 1859	LA Bp no# ⁹⁴	Ma Ignacia Lugarda Mireles	Silvestre Mireles	Carlota Abila
1860	Census: CA, LA Co., SantaAna	Ariol do-8 Madalena Mireles- 10 Trinidad do-6 Estefano do-4	Silvestre Mireles-55 b.Mexico	Carlota do-35 b.California
1870	Census: CA, LA Co., SantaAna	Estafano Morales- 17 Trinidad do-20 Auriol do-20 Lugarda Moreles-4 Titus Jiminez-22 (b.Mexico)	Sylvester Mireles-74 b.Mexico	Arcadia Jimenez-30 b.Mexico
05 Dec 1874	LA M 1331		Oriol Mireles, son of Silvester Mireles and Carlota Ruiz	Senovia Aguilar, dau of Cristobal Aguilar and Rita Via del Campo Aleman
1880	Census: CA, LA Co., SanAntonio	James-4 Mary-9/12	Oriole Moralis-30	Senobia-25 wife
1900	Census: CA, Orange Co., Orange	Regina-16 Cenobia-11 Claudiana-9	Uriol Mireles-45 b.1855,Ca,Ca,Ca	Cenobia-45 wife b.2/1855,Ca,Mx,Mx
1910	Census: CA, Orange Co., Orange	Senoba-21 Claudina-18	Uriol Mireles-56, M35,Ca,Mx,Mx	Senoba-54 wife M35,8/4,Ca,Ca,Ca
28 Feb 1925	DR Orange Co. CA Informant: Les Castro	Uriol Marelis wd, sp.Snofia Morelis	Silvestre Marelis b.Mexico	Charlotte Ruiz b.California
4 Mar 1925	Burial Rec., StaAna Cem.	Uoril [sic] Mireles, d.2/29/1925, age 72, male, White, Res: El Modena, LA Co.		

The records describe two different men from two different families (JBA 3/13/2009 Uriol Mireles Documents). Although the records for the Mireles family, beginning with their daughter

⁹⁴ See next footnote.

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Maria Ignacia Lugarda Mireles' 1859 baptismal record,⁹⁵ show parents' surnames (Silvestre Mireles/Moralis/Marelis and Carlota Abila/Ruiz) and never provide identification as Indian, the records of the family of Fernando and Carlota, including the birth of Jose Ureol in 1852, never show surnames and always provide identification as Indian by the use of *Indios* or *Neofitos*. The birth year of Ariol/Auriol/Uriol Mireles cannot be confirmed as 1852, the birth year of Jose Ureol, because Mireles' age varies on available records: age 8 on 1860 Federal census (b.abt.1852), age 20 on 1870 Federal census (b.abt. 1850), age 30 on 1880 Federal census (b.abt.1850), age 45 on 1900 Federal census (b.abt. 1855), age 56 on 1910 Federal census (b.abt.1854), and age 72 on his Santa Ana death record (b.abt.1853). These minor variations in age over time are not so significant in themselves, but in combination with the evidence that Ariol Mireles was consistently identified as white and the son of Silvester Mireles, they support the conclusion that Ariol Mireles was not the same person as Jose Ureol. All records located for Ariol/Auriol/Uriol Mireles, including his marriage and death records, indicate that his parents were Silvestre Mireles and Carlota Abila/Ruiz and not Fernando and Carlota, *Indios*.

A search of the Huntington Library's Early California Population Project database revealed no additional information on these families and Northop's three volume *Spanish-Mexican Families of Early California: 1769-1850* includes no information on any of the principals named in these families (Northrop 1976-1984).

A lineage report for Lydia Angela (Ruiz) Gulley (JBA 3/13/2009 Progenitor File: Jose Ureol Mireles), submitted by the JBA petitioner, describes numerous records for baptisms of children with the same first name, approximate same age, and parents' first names as those found in the family of Silvestre Mireles. However, all of those records gave surnames other than Mireles for children and parents. Copies of these baptismal records were not found in the record for the FD; therefore, the Department could not verify those claims.

In conclusion, there is sufficient evidence to verify that Jose Ureol, son of Fernando and Carlota, *indios* of SJC Mission, is a different person than the JBA petitioner's claimed ancestor Ariol/Auriol/Uriol Mireles, son of Silvestre Mireles and Carlota Abila/Ruiz. In addition, the record does not contain sufficient evidence to demonstrate parentage for a claimed forebear, Maria Mireles, a possible daughter of Uriol Mireles. Thus, descendants of Ariol/Auriol/Uriol Mireles and Senovia Aguilar are not documented descendants of a historical SJC Indian.

The JBA membership includes 285 individuals who claim descent from Fernando/Carlota through Ariol/Auriol/Uriol Mireles. The JBB membership includes 2 individuals who claim descent from Fernando/Carlota through Ariol/Auriol/Uriol Mireles. The Department could not identify other SJC Indian ancestors from whom these petitioners' members could document descent. See OFA Genealogist Workpaper 2 for additional analysis of claimed descendants.

⁹⁵ This document is described as "Exhibit 20" on page 8 of a lineage report for Lydia Angela (Ruiz) Gulley in the progenitor file for Jose Uriol Mireles but a copy of the document is not in the record for the FD (JBA 3/13/2009 Progenitor File: Jose Ureol Mireles).

Jose de la Cruz Cusyche and Maria de Jesus Cozomne

Members of both the JBA petitioner and the JBB petitioner claim descent from Jose de la Cruz Cusyche (b.1802-d.1834) and Maria de Jesus Cozomne (b.1805-d.aft.1828), although from different offspring. JBA members claim descent from Primitiva (b.abt.1821-d.1862) and JBB members claim descent from Felis (b.1828-d.aft.1862). The records listed in the tables below are derived from evidence submitted by the JBA and JBB petitioners and online databases provided by Huntington Library (Huntington ECPP) and Ancestry.com.

Records Showing Jose de la Cruz Cusyche and Maria de Jesus Cozumne and Their Children

Date	Record	Subject	Father/Groom	Mother/Bride
9 Dec 1802	SJC B#2144 born recently	Jose de la Cruz	Jose de la Cruz Guaniot, <i>Neofito</i>	Antolina Tiaram, <i>Neofita</i>
20 Jun 1805	SJC B#2609 born recently	Maria de Jesus	Manuel Roman, <i>Neofito</i>	Antonina Ayaneques, <i>Neofita</i>
31 Jan 1821	SJC M#1001		Jose de la Cruz, SJC 2144, son of <i>Indios</i> Jose de la Cruz Guauniet and Antolina Taram	Maria de Jesus, SJC 2509, dau of <i>Neofitos</i> Manuel Roman Tuyidi? and Antonina Ayaneguet
27 Nov 1821	SJC B#3825	Primitiva	Jose de la Cruz, <i>Neofito</i>	Maria de Jesus, <i>Neofita</i>
16 Dec 1823	SJC B#3921	Lazaro	Josef de la Cruz	Maria de Jesus
13 Nov 1825	SJC B#4009 born recently	Eugenio	Josef de la Cruz, SJC 2144	Maria de Jesus, SJC 2609
29 Nov 1827	SJC D#2813	Eugenio, Indio, SJC 4009	Jose de la Cruz, <i>Neofito</i>	Maria de Jesus Coronne, <i>Neofita</i>
22 Feb 1828	SJC B#4121 born the day before	Felis	Josef de la Cruz Cusyche, <i>de la mision</i>	Maria de Jesus Coromne, <i>de la mision</i>
7 Aug 1827 [1829]	SJC B#4189 born recently	Matilda	Josef de la Cruz	Maria de Jesus, #2609
25 May 1832	SJC B#4317 born recently	Francisco, Indio	Jose de la Cruz, <i>Neofito</i>	Maria de Jesus, <i>Neofita</i>
28 May 1832	SJC D#3086	Francisco, Indio, SJC 4317	Jose de la Cruz, <i>Indio</i>	Maria de Jesus, <i>India</i>
7 Sep 1834	SJC M#1165		Severiano Rios, <i>razon</i> , son of Feliciano Rios and Catalina Romero, both deceased	Primitiva, ISJC 3825, dau of Jose de la Cruz and Maria Jesus
7 Dec 1834	SJC D#3222	Jose de la Cruz		Sp: Maria de la Cruz
17 Jul 1837	SJC B#4474	Francisco Maria	Not given	Maria de Jesus, I, widow of Jose de la Cruz

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Date	Record	Subject	Father/Groom	Mother/Bride
1850	Census: CA, LA Co.	Severiano Rodriguez-30 Presentia-25 Lazaro Serano-20 Matea-19 Feliz-16 Matilda-14 Maria-15 Francisco-13		Maria Jesus Serano- 40
1860	Census: CA, LA Co., San Juan	Fremativa-40,Ind Manuel-20,Ind Francisco-25,Ind Maria B.-23,Ind		Maria J. Serrano-65, Indian
2 Jun 1862	SJC D#5073	Primitiva, I	Jose de la Cruz	Maria de Jesus
1 Jan 1870	SJC D [no#]	Lazaro Cruz, age 46		Sp:Matea

Primitiva (b.abt.1821-d.1862), daughter of Jose de la Cruz Cusyche (b.1802-d.1834) and Maria de Jesus Cozomne (b.1805-d.?), was verified as a SJC Indian for the PF and her ancestry, marriage, and children were discussed in detail in Appendix IV of the PF (JBA PF 2007 Appendix IV, 215-216). No contradictory information was submitted during the comment periods. Therefore, further analysis of Primitiva will not be included here. The JBA membership includes 25 individuals who claim and documented descent from Primitiva (19 of these individuals also claim descent from Juana Bautista, a.k.a. Juana de Dios).

Felis (b.1828-d.aft.1862), son of Jose de la Cruz Cusyche (b.1802-d.1834) and Maria de Jesus Cozomne (b.1805-d.?), was verified as a SJC Indian for the PF and discussed in detail in Appendix IV of the PF (JBA PF 2007 Appendix IV, 211-213). The JBA petitioner and the JBB petitioner submitted additional evidence and arguments pertaining to this ancestor and his claimed descendants, so a new analysis of the petitioners' genealogical claims is presented here.

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Records Showing Felis (b.1828-d.abt.1855) and Micaela (b.abt.1832-d.abt.1860)
and Their Children

Date	Record	Subject	Father/Groom	Mother/Bride
22 Feb 1828	SJC B#4121	Felis	Josef de la Cruz Cusyche, <i>de la mision</i>	Maria de Jesus Coromne, <i>de la mision</i>
30 Apr 1855	SLR M [no#] (recorded at San Diego Mission)		Jose Felis, son of Jose de la Cruz deceased and Maria Jesus Serrano of San Juan Parish	Maria Michaela, dau of Mariano and Urbana, natives of SLR Mission
28 Apr 1860	SanAnt B#11 age 6 months	Jose Tomas, <i>Indio</i>	Felix, <i>Indio</i>	Michaela, <i>Indio</i>
1860	Census: CA, LA Co., Santa Ana	Matilda-2, Indian Tomas-6/12, Indian	Feliz-25, Indian	Maria Miguela-20, Indian
28 Jan 1862	SJC B#563	Maria de Jesus, <i>India</i> , born recently	Feliz	Micaela
22 Feb 1862	SJC D#5060 24 days old	Maria de Jesus, <i>India</i> , child	Feliz	Micaela

Felis, a San Juan Capistrano Indian, and Michaela, a San Luis Rey Indian, married on April 30, 1855, at San Luis Rey, although their marriage was recorded at San Diego Mission (SLR M No# 4/30/1855). Their son, Jose Tomas, was born near Los Angeles about October 1859 (San Antonio Bapt. #11 4/28/1860). The family, along with an earlier child, Matilda, is found on the 1860 Federal census in Santa Ana Township, Los Angeles County. Other than the baptism and death records of a third child, Maria de Jesus, in 1862, no other records of Felis and Micaela or their children have been located, either on the Federal census or in ecclesiastical archives (SJC Bapt. #563 1/28/1862; SJC D #5060, 2/22/1862).

The JBA and JBB petitioners both claim that "Tomas Cruz," age 21, found on the 1880 Federal census for Chino, San Bernardino County, as a son of Jesus Oyo (b.Sonora) and Macula (Indian), is the same person as Jose Tomas, the son of Felis and Michaela, *indios* of SJC Mission. The surname "Cruz," appears on the baptism record of Tomas' son, Anunciacion Micael, in 1894 near Los Angeles (San Antonio Bapt. #1922 5/28/1894). This record also provides the name of Tomas' spouse, Leopolda Vasquez. Tomas Cruz, age 79 and now a widower, is found on the 1930 Federal census in the household of his son and daughter-in-law, Tom Cruz (age 29) and Beatrice Rios (age 22).

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Records Showing Thomas Cruz, His Siblings, His Wife, and His Children.

Date	Record	Subject	Father/Groom	Mother/Bride
7 Jan 1875	St. Bernardine B [no#], age 1 year	Beatrice Madalena Oyos	Jesus Oyos	Micaela Lobos
1880	Census: CA, San Bernardino Co., Chino	Tomas-21 Rafael-12 Romualdo-10 Beatrice-8 Porfida-6	Jesus Oyo-37, White, b.Sonora	Macula Oyo-48, Indian
28 May 1894	San Ant B#1922 b.3/25/1894	Anunciacion Micael	Tomas Cruz	Leopolda Vasquez
19 Feb 1898	CA DR [no#]	Thomas V. Cruz	Cruz	Vasquez
7 May 1927	CA, Orange Co. BR [no#]	Thomas R. Cruz	Cruz	Rios
6 Mar 1929	CA, Orange Co. BR [no#]	James Cruz	Cruz	Rios
1930	Census: CA, Orange Co., Fullerton	Tom Jr-2 11/12 Lucinda-1 10/12 James-1 Tom Sr.-79	Tom Cruz-29	Beatrice [Rios] Cruz-22
15 Jan 1939	CA, Orange Co. DR [no#]	Tom Cruz b.1861 age 78	Unknown	Unknown Sp:Leopolda Cruz deceased
5 Nov 1971	CA, Orange Co. DR Amendment	Tom Cruz b.1859 age 80	Felix	Michela

On her 1928 Claims application (#5664), Beatrice (Oyos) Serrano, age 55 (b.1873), names her mother as Miguella Lovas, “full-blood Cahuilla” (Mission). Her name, parents, birthplace, and age are confirmed by the 1880 Federal census, on which she was enumerated as Beatrice Oyos, age 8, with her parents, Jesus Oyo and Macula, in the same household as Tomas (age 21). No last name given for Tomas, but he is listed under Oyo with Oyo’s other children. Beatrice’s baptism was recorded at St. Bernardine Church in 1875, indicating that she was one year old at the time and that her parents were Jesus Oyos and Micaela Lobos. Her mother, Micaela Lobos, was enumerated as “Indian” on the 1880 census but there is no evidence that she is the same person as Micaela, the SLR Indian who was the spouse of Felis, other than the coincidence that Micaela Lobos had a son named “Tomas” who was about the same age as Jose Tomas, the son of Felis and Micaela.

No marriage record of Tomas Cruz and his spouse Leopolda Vasquez has been located, and record of Tomas Cruz or Tomas and Leopolda Cruz has been found on the 1900, 1910, or 1920 Federal censuses.

Tomas Cruz’ death at age 78 is recorded in Orange County, and his parents’ names are noted as “unknown” (CA Orange Co. DR 1/15/1939). The informant on the death certificate was his son,

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Raymond Cruz. An amendment to this death record was filed 32 years later, in 1971, by 2 “friends” named Joe C. Morales and Gregorio Orosco, asserting that Tom Cruz’s parents were “Felix” and “Michela” and that he was age 80 at his death (born in 1859), not 78 (born in 1861). Tom Cruz Sr.’s death certificate was changed by two non-relatives to add his parents’ names more than 30 years after his death. These men did not live within the vicinity of Orange County before 1931, as documented by the 1930 census,⁹⁶ and it is unknown why they would have known the names of Tomas Cruz’s parents when his own son did not. The petitioner did not provide (nor did OFA locate) evidence that either man was related to Tomas Cruz or that they had first-hand knowledge of his birth date or parents’ names. The petitioner did not provide an explanation for their changing information on a 30-year-old death record. Consistent with genealogical standards, this FD finds the original death certificate more credible than the “amended” death record, as the original was closer in time to the event and the son, as informant, was more likely to know information on his father’s parents than two late-in-life acquaintances (Mills 2001, 337).

Descendants of Beatrice (Oyos) Serrano cannot claim descent from SJC as her parents were Jesus Oyos (b.Mexico) and Micaela Lobos (“Cahuilla” Indian on Beatrice’s 1928 Claims application). If Micaela Lobos is the same woman as the *india* Micaela/Maria Michaela/Maria Miguela, who was married to Felis, she was from San Luis Rey Mission, not San Juan Capistrano; therefore, Beatrice had no documented SJC Indian ancestry.

In conclusion, there is insufficient evidence to conclude that Jose Tomas, son of Felis and Micaela, *Indios*, is the same person as the JBB petitioner’s ancestor named Tomas Cruz, who was found on the 1880 Federal census in the household of Jesus Oyo and his Indian spouse Macula, on the 1930 Federal census with Tom Cruz and Beatrice Rios, and on the 1939 death record as the widower of Leopolda Vasquez. Thus, the 39 members of the JBB petitioner who claim descent from Tomas Cruz and Leopolda Vasquez are not documented descendants of a historical SJC Indian. See OFA Genealogist Workpaper 3 for additional analysis of claimed descendants.

María de Jesus Soilo

Based on the documentation available for the PF, the Department concluded that Maria de Jesus Soilo (b.abt/9/22/1846-d.12/13/1884) was recorded as an Indian of the SJC Mission in the baptism record for her daughter Felipa Avila (SJC Baptisms # 1427, 12/08/1872). However, because various records (and the petitioners’ genealogical databases) identify Maria de Jesus by multiple names (see table below), the Department could not confirm whether she was the same person named in various mission documents. OFA requested the petitioner to obtain more documentation to clarify her identity and that of the persons identified in various records (JBA PF 2007 Appendix, 246). The JBA petitioner submitted additional mission baptismal records

⁹⁶ As enumerated on the 1930 Federal census for California, Joe C. Morales (age 41, b.abt.1889) was living in Richmond, Contra Costa County, near San Francisco, and Gregorio Orosco (age 42, b.abt.1888) was living in Brawley, Imperial County, near the border of Arizona and Mexico. Both were identified as born in Mexico. Joe C. Morales’ eldest child, Jose Maria (age 6) was identified as born in Arizona. None of this information connected either man with the Indians at SJC or with Tomas Cruz.

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documenting Maria de Jesus Soilo's offspring and her own baptismal record identifying her parents. The petitioner also provided various genealogical analyses evaluating and correlating the documents submitted.

The principal problem in documenting Maria de Jesus Soilo as a San Juan Capistrano Indian, as identified in Appendix IV in the PF, was that, although she was identified as Maria de Jesus Soilo, an Indian of the SJC Mission, in the baptismal record of her daughter, Felipa Avila (SJC Bapt. #1427 12/8/1872) and as Maria de Jesus Soila in her burial record (SJC Burials [no#, p.395] 12/13/1884), she was identified as Maria de Jesus Caroques in the baptismal record of her daughter Maria Domitilda (SJC Bapt. #1369 10/9/1870). In addition, the record for the PF contained no baptismal record for Maria de Jesus Soilo to confirm her parentage and SJC Indian ancestry.

The JBA petitioner located and submitted the San Gabriel baptismal record for Maria de Jesus Indian as well as the San Gabriel baptismal record for her sister, Maria del Refugio, showing their parents to be "Soilo" (also spelled Zoylo, Zoilo, Soylo) and Leona, *Neofitos* of SJC Mission (SG Bapt. #8686 7/3/1844, SG Bapt. #8891 9/22/1846). The JBA petitioner also submitted the SJC baptismal records for Zoylo and Leona and their SJC marriage record, confirming their ancestry as SJC Indians (SJC Bapt. #3749 6/27/1820; SJC Bapt. #4084 4/11/1827; SJC Marr. #1210Y 4/18/1842).

As discussed in Appendix IV of the PF (JBA PF 2007, 246-247), the parental name on Domitilda Avila's baptismal record—Maria de Jesus Caroques—is confirmed as the same person as Maria de Jesus Soilo by the 1900 Federal census, which shows two of Maria de Jesus Soilo's children, Felipa [Avila] and Rafael Charles (a.k.a. Ralph Charles), as sister and brother to the head of the household, Domitilda (Avila) Aguilar (although Rafael Charles would have been her half-brother). Thus, the SJC Indian ancestry and family relations of Maria de Jesus Soilo are now documented by baptismal, marriage, burial, and census records as shown in the following table.

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Records Showing Maria de Jesus Soilo, Her Parents, Her Siblings, and Her Children

Date	Record	Subject	Father/Groom	Mother/Bride
27 Jun 1820	SJC B#3749	Zoylo	Florentino Gugunavit, SJC 2441, <i>Neofito</i>	Juana Coronne, SJC 2139, <i>Neofita</i>
11 Apr 1827	SJC B#4084	Leona	Ororico Yrarabig, SJC 1920	Salomea Abila, SJC 3729
18 Apr 1842	SJC M#1210Y		Zoylo, SJC 3749, Indio, son of Florentino and Juana de ?	Leona, SJC 4084, dau of Odorico and Salomea
3 Jul 1844	SG B#8686	Maria del Refugio	Soilo, SJC <i>Neofito</i>	Leonor, SJC <i>Neofita</i>
22 Sep 1846	SG B#8891	Maria de Jesus, India	Soylo, SJC <i>Neofito</i>	Leona, SJC <i>Neofita</i>
4? Jun 1853	SJC D#4960	Ella? Caro? De la Maria? De Jesus/Joseph?, child, India	Jose? Zoyla, <i>Neofito</i>	Maria Leona, <i>Neofita</i>
1 May 1864	SJC B#727 b.5/10/1864?	Maria Antonia, <i>India</i>	Soilo	Leona
8 Dec 1872	SJC B#1427 b.8/23/1872	Felipa Avila	Juan Avila	Maria de Jesus Soila, <i>India</i> of SJC mission
9 Oct 1870	SJC B#1369 b.10/5/1870	Maria Domitilda	Juan Avila	Maria de Jesus Caroques
20 May 1871	SJC D [no#]	Juan, <i>Indio</i>		Sp: Leona de Soila
8 Dec 1872	SJC B#1427 b.8/23/1872	Felipa	Juan Avila	Maria de Jesus Soila, <i>India</i> of SJC
14 Oct 1874	SJC B#1480 b.10/8/1874?	Jose Dionisio	Jose Dolores Yorba	Maria de Jesus Soila
19 Feb 1878	SJC B#1648	Jose Lazaro	Francisco Yorba	Maria de Jesus
4 Dec 1880	SJC B#1767	Ralph Carlos [Charles]	Henrique Carlos [Henry Charles]	Maria de Jesus Soilo
13 Dec 1884	SJC D [no#]	Maria de Jesus Soilo, single		
1 Aug 1898	SJC MR#1880		Alejandro Aguilar, age 26, res. of SJC	Domitila Abila, age 29, res. of SJC
1900	Census: CA, Orange Co., SJC	Felipe Avila-27 (8/1872), sister Viola [Yorba]-6 (2/1894), dau Rafael Charles-19 (10/1880), brother Maria J. Charles-85 (2/1815), 2 ch/0 living, gmo [mother?]		Aguilar Domitila-29 (10/1870), 3 ch/1 living

In conclusion, there is sufficient evidence to verify that Maria de Jesus Soilo was the daughter of the historical SJC Indians Zoylo [Gugannavit] and Leona [Yrarabuit]; the spouse (unmarried) of Juan Avila, Jose Dolores Yorba and Henry Charles; and the mother of Domitilda and Felipa

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Avila, Jose Dionicio and Jose Lazaro Yorba, and Raphael (a.k.a. Ralph) Charles.

The JBA membership includes 67 individuals who claim descent from historical SJC Indian Maria de Jesus Soilo, 50 of whom documented their descent. Six of these JBA members also claim descent from Juana Bautista (a.k.a. Juana de Dios) and one also claims descent from Leona. The JBB membership includes 8 individuals who claim descent from historical SJC Indian Maria de Jesus Soilo, 7 of whom documented their descent. All eight of these JBB members also claim descent from Juana Bautista (a.k.a. Juana de Dios). See OFA Genealogist Workpaper 4 for additional analysis of claimed descendants.



APPENDIX III

Analysis of Various Lists Included in the "Chief Clarence Lobo Collection"

Washington Delegate Collection List 2/17/1950

Number of names on list: 39

Number of SJC Indian descendants: 7

Number of Non-SJC Indian descendants: 20

Number of named individuals not included in the JBA/JBB petitioner's database(s): 10

Number of members whose ancestry is unclear: 2

Meeting at Guadalupe Hall/Other Contributions 2/18/1951

Number of names on list: 32

Number of SJC Indian descendants: 8

Number of Non-SJC Indian descendants: 11

Number of named individuals not included in the JBA/JBB petitioner's database(s): 12

Number of members whose ancestry is unclear: 1

Authorization for Clarence Lobo to Claim "Tribal Funds" 4/2/1951

Number of names on list: 27

Number of SJC Indian descendants: 16

Number of Non-SJC Indian descendants: 7

Number of named individuals not included in the JBA/JBB petitioner's database(s): 4

Fireman's Hall Meeting 6/3/1951

Number of names on list: 15

Number of SJC Indian descendants: 7

Number of Non-SJC Indian descendants: 7

Number of named individuals not included in the JBA/JBB petitioner's database(s): 1

SJC Meeting 7/12/1964

Number of names on list: 27

Number of SJC Indian descendants: 9

Number of Non-SJC Indian descendants: 14

Number of named individuals not included in the JBA/JBB petitioner's database(s): 3

Number of members whose ancestry is unclear: 1

NOTE: Classifying people as SJC Indian is taken from the JBA petitioner's 2009 database. Classification of people as non-SJC Indian, unclear, or not in the petitioner's databases is taken from JBA and JBB petitioner's 2005 and the JBA petitioner's 2009 databases.

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