



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAR 16 2011

Mr. Anthony Rivera, Jr.
31411-A La Matanza Street
San Juan Capistrano, CA 92675-2674

Dear Mr. Rivera:

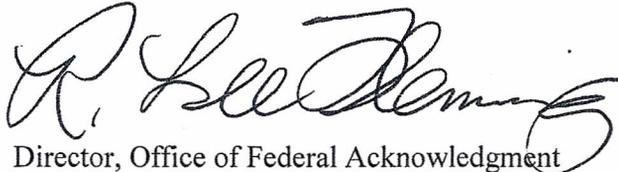
The petition for Federal acknowledgment as an Indian tribe of the group known as the Juaneño Band of Mission Indians, Acjachemen Nation (Petitioner #84A), has been reviewed under Part 83 of Title 25 of the Code of Federal Regulations, (25 CFR Part 83), "Procedures for Establishing that an American Indian Group Exists as an Indian Tribe." Based on the available evidence, the Assistant Secretary – Indian Affairs (AS-IA) has determined that the Juaneño Band of Mission Indians, Acjachemen Nation, is not entitled to be acknowledged as an Indian tribe within the meaning of Federal law. Please find enclosed a copy of the notice of this decision that will be published in the Federal Register and a copy of the summary evaluation of the evidence.

This determination is final and effective 90 days after publication in the Federal Register, pursuant to 25 CFR 83.10(l)(4), unless a request for reconsideration is received by that date with the Interior Board of Indian Appeals (IBIA) pursuant to 25 CFR 83.11. Under section 83.11, only the petitioner and parties that qualify as interested parties have the opportunity to request reconsideration. Enclosed is a list of those parties that have qualified to date as interested parties under the regulations. The IBIA has the authority to determine which parties qualify as interested parties for purposes of the proceedings before it. Please see the enclosed copy of the regulations for information.

When a final determination is negative, the regulations direct that the petitioner will be informed of alternatives to this administrative process for achieving the status of a federally recognized tribe, or other means by which the petitioner's members may become eligible for services and benefits as Indians (§ 83.10(n)). Some of your individual members may be eligible for membership in recognized tribes or eligible for individual services or benefits under certain Federal statutes. In addition, Congress may consider taking legislative action to recognize petitioners that do not meet the specific requirements of the acknowledgment regulations.

If you have any questions, please contact the Office of Federal Acknowledgment, 1951 Constitution Avenue, N.W., MS-34-SIB, Washington, D.C. 20240, (202) 513-7650.

Sincerely,



Director, Office of Federal Acknowledgment

Enclosures Summary under the Criteria
 News Release
 List of Interested Parties
 Federal Acknowledgment Regulations

cc: Interested and Informed Parties

(4310-G1-P)

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination Against Acknowledgment of the Juaneño Band of Mission Indians, Acjachemen Nation

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Final Determination.

SUMMARY: The Department of the Interior (Department) gives notice that the Assistant Secretary–Indian Affairs (AS–IA) has determined the petitioner known as the Juaneño Band of Mission Indians, Acjachemen Nation, is not an Indian tribe within the meaning of Federal law. This notice is based on a determination that the petitioner does not satisfy all seven of the criteria set forth in the applicable regulations, and therefore, does not meet the requirements for a government-to-government relationship with the United States.

DATES: This determination is final and will become effective 90 days from publication of this notice in the **Federal Register** on [INSERT DATE 90 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER], unless the petitioner or an interested party files within 90 days a request for reconsideration before the Interior Board of Indian Appeals pursuant to 25 CFR 83.11.

ADDRESSES: Requests for a copy of the final determination that includes the summary evaluation under the criteria should be addressed to the Office of the Assistant Secretary–

Indian Affairs, Attention: Office of Federal Acknowledgment, 1951 Constitution Avenue, N.W., MS: 34B-SIB, Washington, DC 20240, and is available at <http://www.bia.gov/WhoWeAre/AS-IA/OFA/RecentCases/index.htm>.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Director, Office of Federal Acknowledgment, (202) 513-7650.

SUPPLEMENTARY INFORMATION: Pursuant to 25 CFR 83.10(h), the Department publishes this notice that the Juaneño Band of Mission Indians, Acjachemen Nation (JBA), Petitioner #84A, is not an Indian tribe within the meaning of Federal law. The Department issued a proposed finding (PF) to decline to acknowledge the petitioner on November 23, 2007, and published notice of that preliminary determination in the **Federal Register** on December 3, 2007. This final determination (FD) affirms the PF that the Juaneño Band of Mission Indians, Acjachemen Nation (JBA), c/o Anthony Rivera, Jr., 31411-A La Matanza Street, San Juan Capistrano, California 92675-2674, does not satisfy all seven of the criteria set forth in part 83 of title 25 of the Code of Federal Regulations (25 CFR part 83), specifically criteria at 83.7(a), 83.7(b), 83.7(c), and 83.7(e), and therefore does not meet the requirements for a government-to-government relationship with the United States.

The acknowledgment process is based on the regulations at 25 CFR part 83. Under these regulations, the petitioner has the burden to present evidence that it meets the seven mandatory criteria in section 83.7. The JBA petitioner does not satisfy criteria 83.7(a), 83.7(b), 83.7(c), and 83.7(e). The JBA petitioner meets the requirements of criteria 83.7(d), 83.7(f), and 83.7(g).

Criterion 83.7(a) requires that external observers have identified the petitioner as an American Indian entity on a substantially continuous basis since 1900. 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) requires that a predominant portion of the petitioning group has comprised a distinct community from historical times to the present. 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 whose ancestors functioned as part of the general population of SJC residents since the mid-19th century. There is no evidence in the record 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 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 totality of the evidence 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, nor does it demonstrate that the petitioner's SJC Indian ancestors formed a distinct community from which the current JBA petitioner evolved since 1862. Therefore, the JBA petitioner does not meet the requirements of criterion 83.7(b).

Criterion 83.7(c) requires that the petitioning group has maintained political influence over its members as an autonomous entity from historical times to the present. 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 petitioner's comments on the PF did not provide evidence sufficient to satisfy the requirements of criterion 83.7(c) and new documents related to Clarence Lobo's leadership between the late 1940s and 1965 provided little information on the political composition of the group or a bilateral relationship between leaders and members. 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 authority and influence in 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 affected its members, or represented the group in dealing with outsiders in matters of consequence. Therefore, the petitioner does not meet the requirements of criterion 83.7(c).

Criterion 83.7(d) requires that the petitioner provide a copy of its governing document including its membership criteria. The petitioner submitted a copy of its governing document which includes its membership criteria. Therefore, the JBA petitioner meets the requirements of criterion 83.7(d).

Criterion 83.7(e) requires that the petitioner's members descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity. The March 12, 2009, JBA membership list includes 1,940 living members, both adults and minors. The evidence in the record indicates that all of the petitioner's members claim descent from individuals who were members of the historical Indian tribe at SJC Mission as it existed between 1776 and 1834. However, the FD finds that only 61 percent (1,182 of 1,940) of JBA members have demonstrated such descent. The petitioner has not demonstrated for this FD that its members descend from an historical Indian tribe. Therefore, the JBA petitioner does not meet the requirements of criterion 83.7(e).

Criterion 83.7(f) requires that the petitioner's membership be composed principally of persons who are not members of another federally recognized Indian tribe. A review of the membership rolls of those Indian tribes in California that would most likely include the JBA petitioner's members revealed that the petitioner's membership is composed principally of persons who are not members of any federally acknowledged North American Indian tribe. Therefore, the JBA petitioner meets the requirements of criterion 83.7(f).

Criterion 83.7(g) requires that the petitioner not be subject to congressional legislation that has terminated or forbidden the Federal relationship. A review of the

available documentation showed no evidence that the petitioning group was the subject of congressional legislation to terminate or prohibit a Federal relationship as an Indian tribe. Therefore, the JBA petitioner meets the requirements of criterion 83.7(g).

Based on this final determination, the Department determines not to extend Federal acknowledgement as an Indian tribe to the petitioner known as the Juaneño Band of Mission Indians, Acjachemen Nation (JBA).

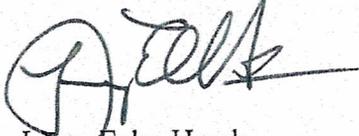
A copy of the FD that includes the summary evaluation under the criteria and summarizes the evidence, reasoning, and analyses that are the basis for the FD will be provided to the petitioner and interested parties, and is available to other parties upon written request. It will be posted on the Bureau of Indian Affairs Web site <http://www.bia.gov/WhoWeAre/AS-IA/OFA/RecentCases/index.htm>. Requests for a copy of the FD should be addressed to the Federal Government as instructed in the ADDRESSES section of this notice.

After the publication of 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 set forth 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 **Federal Register** publication unless a request for reconsideration is received within that time.

Dated:

MAR 15 2011

A handwritten signature in black ink, appearing to read "Larry Echo Hawk", written over a horizontal line.

Larry Echo Hawk
Assistant Secretary-Indian Affairs

