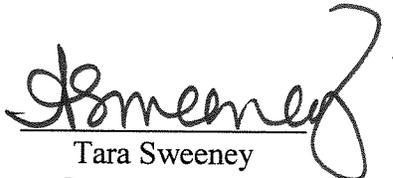


Proposed Finding
Against Acknowledgment of the
Southern Sierra Miwuk Nation
a.k.a.
American Indian Council of Mariposa County
(Petitioner #82)

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

NOV 16 2018

(Date)

A handwritten signature in black ink, appearing to read "Tara Sweeney", written over a horizontal line.

Tara Sweeney
Assistant Secretary – Indian Affairs

Southern Sierra Miwuk Nation (Petitioner #82) Proposed Finding

ACRONYMS

AICMC	American Indian Council of Mariposa County a.k.a. Southern Sierra Miwuk Nation
AS-IA	Assistant Secretary – Indian Affairs
BAR	Branch of Acknowledgment and Research, Bureau of Indian Affairs (Later renamed Office of Federal Acknowledgment, AS-IA)
BIA	Bureau of Indian Affairs
CFR	Code of Federal Regulations
FD	Final Determination
FR	Federal Register
MACT	Mariposa, Amador, Calaveras, Tuolumne Health Board, Inc.
M/PTDA	Miwok/Paiute Tourist Development Association
NPS	National Park Service
OD	Obvious Deficiency Letter
OFA	Office of Federal Acknowledgment
PF	Proposed Finding
SSM	Southern Sierra Miwuk Nation
TA	Technical Assistance Review Letter

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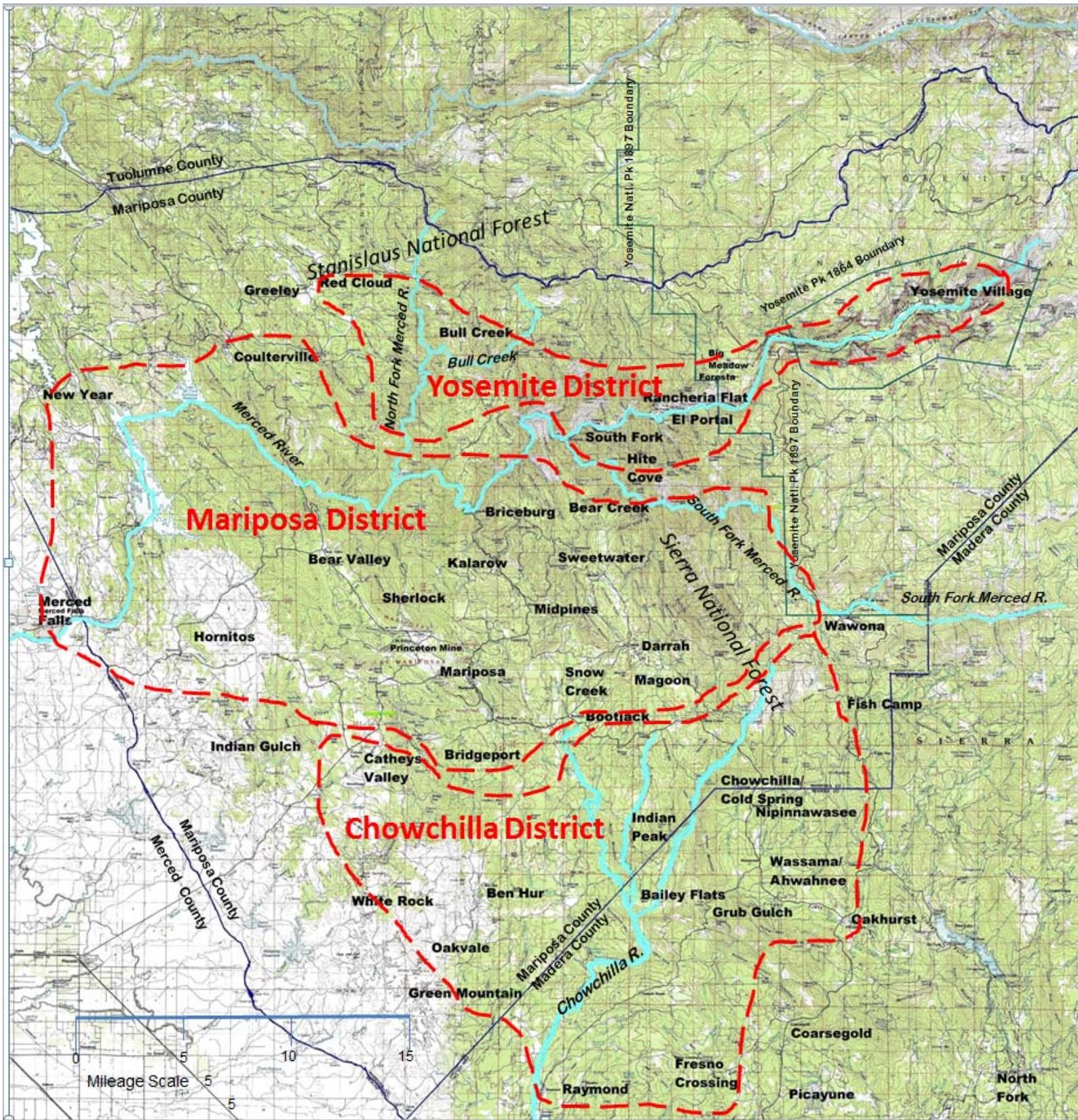


Figure 1: Composite of Sites Occupied by Southern Sierra Miwuk, including Boundaries for Yosemite National Park, Counties, and River Drainages, 1850s-1920s. Ethnographic Districts are in Red. Sources: Barrett 1908, 353-369; Kroeber 1925, 453-460; Levy 1978, 400; Merriam 1967, 325-346; and Yosemite Valley California, Geological Survey, 1976.

Southern Sierra Miwuk Nation (Petitioner #82) Proposed Finding Introduction

INTRODUCTION

The Office of the Assistant Secretary – Indian Affairs (AS-IA) within the Department of the Interior (Department) issues this proposed finding (PF) in response to the petition the Department received from the group known as the Southern Sierra Miwuk (SSM) Nation, a.k.a. American Indian Council of Mariposa County (AICMC, Petitioner #82).¹ The SSM petitioner is headquartered in Mariposa, California and currently has 850 members. The petitioner seeks Federal acknowledgment as an Indian tribe under Part 83 of Title 25 of the *Code of Federal Regulations*, “Procedures for Establishing that an American Indian Group Exists as an Indian Tribe.”²

The evidence submitted by Petitioner #82, and evidence Department staff obtained through its verification and evaluation research, are insufficient to demonstrate that Petitioner #82 meets the criterion found at 25 C.F.R. § 83.7(b) (criterion 83.7(b)), one of the seven mandatory criteria of the regulations for a determination that the petitioning group is an Indian tribe. Criterion 83.7(b) requires that “[a] predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present.” In accordance with the regulations, 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.³ Therefore, the Department proposes to decline to acknowledge Petitioner #82 as an Indian tribe.

According to the AS-IA Office of Federal Acknowledgment (OFA); Guidance and Direction Regarding Internal Procedures of May 23, 2008:

If during the evaluation of a petition on active consideration it becomes apparent that the petitioner fails on one criterion, or more, under the reasonable likelihood of the validity of the facts standard, OFA may prepare a proposed finding or final determination not to acknowledge the group on the failed criterion or criteria alone, setting forth the evidence, reasoning, and analyses that form the basis for the proposed decision.⁴

The burden of providing sufficient evidence under the criteria in the regulations rests with the petitioner.⁵ Because Petitioner #82 has not met criterion § 83.7(b) as a distinct community, it is

¹ This finding uses the spelling “Miwuk,” although other variations (Miwuk, Meewoc, Meewuk, Mewuk, Me’-wuk, Mew-wah, Miwak, Mowyuk, Moyuk, Mu-wa) in spelling are frequent in administrative, historical, or scholarly records and will be cited as such in quotations. “Miwok” is a linguistic classification such as “Algonquian,” “Iroquois,” and “Muskogean,” not the name of any specific Indian entity.

Additionally, AICMC and SSM are used interchangeably throughout this document. This is for ease of reference only and does not reflect a decision by the Department that one entity is representative of the other. See “Issues with the Formal Name of the Group as seen in the Governing Documents” on page 4.

² 25 C.F.R. Part 83 (1994).

³ 25 C.F.R. §83.6(d) and 25 C.F.R. §83.10(m).

⁴ 73 FR 30146 - 30148.

⁵ 25 C.F.R. § 83.5(c).

Southern Sierra Miwuk Nation (Petitioner #82) Proposed Finding

Introduction

not necessary, at this time, for the Department to make conclusions regarding the other 6 mandatory criteria.

This PF is based on the evidence currently in the record. Additional evidence may be submitted during the comment period that follows publication of this finding. New evidence provided during the comment period may result in a modification or reversal of the conclusions reached in the PF. As provided in the above mentioned AS-IA guidance of May 23, 2008:

If a proposed finding against acknowledgment is issued on fewer than seven criteria and if, following an evaluation of the evidence and argument submitted during the comment period, it is determined that the petitioner meets the criterion or criteria, then the Assistant Secretary will issue an amended proposed finding evaluating all seven criteria.⁶

Regulatory Procedures

The acknowledgment regulations establish the procedures by which a group may seek Federal acknowledgment as an Indian Tribe, establishing a government-to-government relationship with the United States. To be entitled to such a political relationship, the petitioner must document that it meets the seven mandatory criteria in section 83.7 of the regulations. The OFA administers the regulations and analyzes petitions based on the evidence in the administrative record.

Publication of the notice of the PF in the *Federal Register* (FR) initiates a 180-day comment period during which “the petitioner or any individual or organization wishing to challenge or support the proposed finding” may submit arguments and evidence to support or rebut the evaluation in the PF.⁷ Such comments should be submitted in writing to: Department of the Interior, Office of the Assistant Secretary – Indian Affairs, Attention: Office of Federal Acknowledgment, 1849 C Street, NW, Washington DC 20240. Third parties must provide copies of their submissions in writing to the petitioner, the Southern Sierra Miwuk Nation, c/o William H. Leonard, 4630 Ben Hur Road, Mariposa, California 95338.

The regulations provide the petitioner a minimum of 60 days to respond to timely comments on the PF. At the end of the response period, OFA will consult with the petitioner and interested parties to determine an equitable time frame for active consideration for the final determination (FD). The OFA will notify the petitioner and interested parties of the date such consideration begins. After the consideration of the evidence, comments, and responses, the AS-IA will issue either an amended PF or a FD regarding the petitioner’s status and publish notice of the decision in the FR.

⁶ 73 FR 30148.

⁷ 25 C.F.R. § 83.10(i).

Southern Sierra Miwuk Nation (Petitioner #82) Proposed Finding Introduction

Administrative History

The Department received a letter of intent from the petitioner under the name “American Indian Council of Mariposa County” on April 24, 1982, and designated it Petitioner #82.⁸ Notice of the receipt of the letter of intent appeared in the FR on September 30, 1982.⁹ The AICMC submitted a narrative and partial documentation on April 19, 1984. The Department replied with an “obvious deficiency” (OD) review letter on May 1, 1985.¹⁰ The petitioner responded with documentation on December 12, 1986. At the request of the petitioner, the Department sent a second OD review letter on April 11, 1988.¹¹ The Department received the petitioner’s response on January 16, 1998. The Department then placed Petitioner #82 on the “Ready, Waiting for Active Consideration” list.

Active consideration started on November 1, 2010, and the Department asked for an updated membership list and any other materials within 60 days.¹² The petitioner requested an “extension of time to submit documentation” and the Department received the petitioner’s submission on February 8, 2011, containing different types of supporting documentation, including meeting minutes, membership list, articles, newspapers, and governing documents.

During review of Petitioner #82’s documented petition, OFA identified technical issues with the petitioner’s membership files that needed to be resolved in order to complete the review for the PF. For this reason, the AS-IA extended the original due date for issuance of the PF, from November 1, 2011 to April 30, 2012.¹³ During further review, additional technical issues with the petitioner’s membership vital records arose and the AS-IA found good cause to suspend the issuance of the PF under 83.10(g).

On July 31, 2015, the Department issued a final rule that revised the acknowledgment regulations and provided the petitioner the opportunity to choose to complete the evaluation either under the revised 2015 regulations or under the 1994 regulations.¹⁴ Petitioner #82 decided to continue with the review of its petition under the 1994 regulations.¹⁵ Active consideration resumed, with, the AS-IA extending the deadline for this PF ultimately to November 16, 2018.¹⁶

Issues with the Formal Name of the Group as seen in the Governing Documents

During the review of the documents submitted, questions arose regarding the formal name of the petitioner. Several criteria for 83.7 are interconnected, and resolving the concern of the formal name of the group will assist with criterion 83.7(b).

⁸ AICMC 4/24/1982.

⁹ 47 FR 43192.

¹⁰ BAR to Leonard 5/1/1985.

¹¹ BAR to Brocchini 4/11/1988.

¹² 70 FR 16514.

¹³ Fleming, 11/2/2011.

¹⁴ 80 FR 37862-37895.

¹⁵ SSM 9/30/2015.

¹⁶ Fleming, 7/18/2018.

Southern Sierra Miwuk Nation (Petitioner #82) Proposed Finding

Introduction

At the first meeting in 1970, the group was called the “American Indian Council of Mariposa Co.” and consisted of 38 unique attendees.¹⁷ In 1981, the petitioner established the AICMC as a 501(c)(3) non-profit corporation “to educate its members and the public concerning the historical, social, and cultural traditions of the Indians of Mariposa County, and to maintain, protect, and preserve those traditions.” The incorporators were Leslie W. James, Nicholas E. Brocchini, and Jay J. Johnson.¹⁸

The AICMC board of directors adopted bylaws at a meeting on March 22, 1984.¹⁹ The 1984 governing document contains 13 articles that establishes membership requirements, defines officers and their duties, and describes how the petitioner governs itself. When the bylaws were amended in 1992, 2001, and 2010, it was done under the name, the American Indian Council of Mariposa County, not Southern Sierra Miwuk Nation.

In 1998, AICMC identified their group name as the “Southern Sierra Miwuk Nation” and since that time have used both names interchangeably within correspondence.²⁰ Updates to the governing documents in 2001 and 2010 do not address if AICMC and SSM are the same group or independent from each other. Submitted evidence, such as meeting minutes, do not explain the evolution of these two groups from 1970 to 1998 (when AICMC first self-identified as the Southern Sierra Miwuk Nation). The petitioner should submit additional information further explaining the change.

The burden of providing sufficient evidence that accounts for the transformation or evolution of the AICMC to SSM, as reflected in the most current membership list in 2011, rests with the petitioner.²¹ The petitioner will need to submit a resolution or additional information that indicates its governing documents have been amended to reflect its formal name, “The Southern Sierra Miwuk Nation,” because the current governing documents do not clearly identify this to be the petitioner’s legal name. The petitioner may also wish to consider formally reconciling its incorporation name with the California Secretary of State.

Updates to the Membership List

The petitioner submitted three membership lists, dated 1984,²² 1998,²³ and 2011,²⁴ a 2011 “Significant Changes” list, and a 2018 “196 Post Office Boxes” residence update.²⁵ These submissions, combined with records obtained by the Department researchers, resulted in a total of 850 current SSM members. A recent supplemental update in April 2018 accounted for only

¹⁷ AICMC Minutes, 1/21/1970, 2/5/1970.

¹⁸ AICMC 11/6/1981.

¹⁹ AICMC 3/22/1984.

²⁰ AICMC a.k.a. SSM to OFA, 6/7/2001, 8/30/2007, 2/8/2011, 4/17/2013, 4/22/2013, 2/19/2014, 11/3/2014, 3/16/2015, 3/31/2015, 9/29/2015, 9/30/2015, 5/2/2017, 3/28/2018. OFA to AICMC a.k.a. SSM, 3/25/1998, 11/18/2011.

²¹ Of the 458 members on the 1984 AICMC membership list, 201 are listed on the 2011 SSMN membership list.

²² SSM Petition Narrative 3/1/1984, Alphabetical List of Members 264-272.

²³ SSM 1/9/1998, Membership Roll 79 p.

²⁴ SSM 2/6/2011, Membership Roll 27 p.

²⁵ SSM 2/6/2011, Significant Changes 3 p. SSM 4/17/2018, Membership Residential Address 218 p.

Southern Sierra Miwuk Nation (Petitioner #82) Proposed Finding

Introduction

196 people who had residential address deficiencies. No other membership updates were submitted at that time.

The petitioner must prepare and submit a single, updated, and separately certified membership list that identifies all current living members by full names (including maiden names of married women), birth date, and residential address. Currently, four members have no residential address, and the petitioner may wish to remove those members to a pending file until addresses can be established. The petitioner must submit any vital records for new members, newborn offspring of current members, adoptions, or legal name changes. The petitioner must also identify any deceased members or individuals whose membership has been relinquished or revoked by the group. The petitioner has the opportunity during the comment period to prepare and certify a list of all known current members, with the required birth and residential data, which does not include deceased persons, non-members, or former members.

Southern Sierra Miwuk Nation (Petitioner #82) Proposed Finding Historical Indian Tribe

HISTORICAL INDIAN TRIBE

In 1984, the petitioner called itself broadly the “American Indian Council of Mariposa County, Inc.,” (AICMC). The AICMC petitioner submitted its “Narrative, Petition to the Government of the United States from the American Indian Council of Mariposa County for Acknowledgment as the Yosemite Indian Tribe.”

There is ambiguity in the petition about what the petitioner seeks to claim regarding the historical Indian Tribe, which is the Indian entity that existed at the time of first sustained contact from which a petitioner must demonstrate its continuous existence.²⁶ It is important for a petitioner to identify a historical Indian Tribe for the purposes of evaluating whether the petitioner continuously existed as a distinct social community under criteria 83.7(b), whether that community continuously exercised political influence as required by criterion 83.7(c), and whether the petitioner’s current members descend from a specific historical Indian Tribe as required by criterion 83.7(e).

Despite the specific reference to the historical “Yosemite Indian Tribe,” in the petitioner’s 1984 governing document, the petitioner’s governing document required prospective members to have one eighth Indian blood from any tribe and be “a lineal descendant of a Southern Miwok, Paiute, Cassons, or Chuckchancee Indian indigenous to the area which is now known as Yosemite National Park, Mariposa County, and its immediate environs.” The petitioning group appeared to view itself as Indians from various Indian language groups in and around Mariposa County, California. Yet, the petitioning group also believed that its members closely interacted among themselves to warrant a specific one-eighth degree or more Indian blood requirement, a broad descent requirement from several anthropological California linguistic stocks, and a geographic requirement tied to locations primarily in Mariposa County.

The petitioner’s 1984 narrative claims that the petitioner evolved as a “Southern Sierra Miwuk” Indian Tribe that existed in “Yosemite National Park and its environs” at the time of first sustained contact.²⁷ In contrast, the Department found evidence of numerous political entities organized as sovereign interdependent bands in 1851.

Overview of Findings

The petitioner submitted an extensive ethnohistory claiming that the Indians in the Yosemite Valley and the nearby Miwok bands in Mariposa County were a single political entity.²⁸ However, according to anthropologist, Richard Levy, in the Smithsonian Institution’s *Handbook of North American Indians* in the 1840s and 1850s, “the foremost political unit of the Miwok

²⁶ The definitions section of the acknowledgment regulations, § 83(1), state that *sustained contact* means the period of earliest sustained non-Indian settlement and/or governmental presence in the local area in which the historical tribe or tribes from which the petitioner descends was located historically. The section also states that *continuously* or *continuous* means extending from first sustained contact with non-Indians throughout the group’s history to the present substantially without interruption. Criteria 83.7(b) and 83.7(c) evaluate a petitioner from first sustained contact to the present, and criterion 83.7(e) requires that petitioner demonstrate its descent from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity.

²⁷ SSM Petition Narrative 1984.

²⁸ SSM Petition Ethnohistory 1991; Levy 1978, 400.

Southern Sierra Miwuk Nation (Petitioner #82) Proposed Finding Historical Indian Tribe

was the tribelet.”²⁹ “[E]ach tribelet was an independent and sovereign nation that embraced a defined and bounded territory exercising control over the natural resources contained therein.”³⁰ Membership in the bands of the area was fluid. The *Handbook of North American Indians* includes a map of the “Southern Sierra Miwok”-speaking bands. The map locates the Yosemite band in Yosemite Valley in the 1850s and other bands on rivers in the vicinity of the Yosemite. These Miwok bands included the Merced River, Bull Creek, Bear Creek, South Fork, Mariposa, and Chowchilla.³¹

Anthropologists also defined three geographic districts in which the historical Indian tribe had settlements: Yosemite, Mariposa, and Chowchilla (see map, page iii).³² These three “districts” pertain to the geographical location of certain important Miwok settlements. The process of incorporating other Miwok Indians, other Indians, or the children of Indian marriages to non-Indians into these bands continued after first contact.³³

This PF considers the historical Indian Tribe to be at least three historical Miwok tribelets or regional bands that resided on the Merced River in the foothills of the Sierra Nevada Mountains: the “Yo-semi-te,” the “Po-to-yun-te,” and the “A-wal-a-che” that may have combined under the leadership of Bautista.³⁴ First sustained contact began in 1851 when the United States Treaty Commissioners negotiated and signed a treaty with the Potoyunte band under Bautista and the Awalache band under Cypriano at Camp Fremont on March 19, 1851. Four other bands of Miwoks also signed the Camp Fremont Treaty. Chiefs Bautista and Cypriano assisted the Americans in their treaty negotiations at Camp Fremont. The Federal Government placed all six bands on the Merced Reservation. Bautista also played a key role in convincing other Miwok bands to negotiate and sign the subsequent Camp Barbour Treaty.³⁵ Although the Yosemite band under Tenaya refused to negotiate the Camp Fremont treaty, they were included under Article 4 in the Camp Barbour Treaty of April 29, 1851. Following the signing of the Camp Barbour Treaty, the Federal Government forcibly moved the Yosemite to the reservation established at the Fresno River.³⁶

²⁹ Levy 1978, 398.

³⁰ Levy 1978, 398.

³¹ Levy 1978, 400.

³² The “Yosemite district” contained known descendants of the Yosemite under Tenaya and includes Yosemite Valley, extends west along the north side of the Merced River to Bull Creek, and north to Coulterville and Red Cloud. The “Mariposa district” extends from the south side of the Merced River to the northern edge of the Chowchilla River drainage and includes Mariposa Township, the South Fork of the Merced River, and mining communities such as Kalarow (Colorado), Midpines, Darrah, Bear Creek, and Bear Valley. The “Chowchilla district” ranges from the Fresno River in the south, north to the upper Chowchilla drainage, east to Wawona, and southeast “eight or nine miles above or east of Raymond [Madera County].” Merriam 1967, 325.

³³ Levy 1978, 410.

³⁴ Deloria and DeMallie 1999, II: 801–03, 804–807.

³⁵ Contemporary observations by William J. Howard, Robert Eccleston, Sam Ward, and Jean-Nicolas Perlot described these bands in the early 1850s as did the treaty commissioners and an Indian agent of this period. These contemporary observations occurred during the Mariposa War (1850 through 1851), the treaty negotiations, and the short period following the establishment of the reservations on the Merced and Fresno Rivers. These documents are the clearest description of band political entities that existed in 1851. The four other bands were the Si-yante, Co-co-noon, A-pang-as-ne, and Aplache.

³⁶ Deloria and DeMallie 1999, II: 804–807.

Southern Sierra Miwuk Nation (Petitioner #82) Proposed Finding Historical Indian Tribe

The evidence in the record demonstrates that at least the three Miwuk bands discussed above combined during the reservation period of the 1850s. The resulting single Miwuk Indian entity was composed of small Indian settlements scattered along the Merced River extending into Yosemite Valley and in its immediate vicinity. Their territories comprised much of Yosemite National Park and modern-day Mariposa County.

These historical bands combined in residential areas such as near the mining town at Bull Creek, on family allotments or land grants, and by 1927, in an exclusive Indian settlement at Yosemite National Park. This Indian village became a center of the Yosemite-Mariposa Indians. After the Yosemite National Park Service (NPS) management dismantled the Yosemite Indian Village in 1969, the Yosemite-Mariposa Indians, now without an anchoring land base, formed a formal non-profit organization, the American Indian Council of Mariposa County, which may have later transformed or evolved into the Southern Sierra Miwuk Nation (Petitioner #82).

Beginning with Stephen Powers in the early 1870s, anthropologists interviewed survivors and descendants of these 1851 bands. He was followed by C. Hart Merriam, Edward Gifford, Samuel A. Barrett, and Alfred Kroeber. These anthropologists worked with survivors and descendants of these bands up through the early 20th century.³⁷

These sources, and others, suggest that, at some point after the treaties, an Indian entity—or multiple Indian entities—may have formed in the general area of the Yosemite Valley and the Merced River drainage. The petitioner may wish to review these sources to help it develop a formulation of its historical Indian Tribe and, during the comment period, the petitioner or third parties may wish to provide additional evidence supporting or refuting the Department’s findings regarding the historical Indian Tribe.³⁸

Members of the Historical Indian Bands

The petitioner did not provide a list of the membership of the historical bands in 1851, nor did the Department locate any membership list from this early period. However, the 1851 unratified treaties provide 15 names of “Chiefs, captains, and head men,” two of whom (“Bau-tis-ta” and “Cy-pri-ano”) have descendants in the petitioner. The evidence in the record, together with searches that the Department conducted, supports the assertion in the *Handbook of North American Indians* that “knowledge of Sierra Miwuk ethnography is largely confined to simple lists of lineage settlements or hamlets with very little information on bands and the band memberships of the various lineage settlements.”³⁹ Therefore, the Department looked for later documentation that could provide reliable evidence to identify members of these bands in 1851 or the entity that evolved from them.

To identify members of the historical Indian Tribe, the Department used four source documents: a published 1891 petition and four U.S. Government censuses. The first document in the record

³⁷ Powers 1877, 4–8, 352–371; Merriam 1967, 325–346; Gifford 1915; Barrett 1908, 353–369; Kroeber 1925, 453–460.

³⁸ Because this finding evaluates the petitioner only under criterion 83.7(b) from 1982 to the present, the finding did not rely on a specific formulation of the historical Indian tribe.

³⁹ Levy 1978, 399.

Southern Sierra Miwuk Nation (Petitioner #82) Proposed Finding Historical Indian Tribe

that describes this Indian entity is the 1891 “Petition to the Senators and Representatives of the Congress of the United States In behalf of the remnants of the former Tribes of the Yosemite Indians Praying for Aid and Assistance.”⁴⁰ The 1891 Petition represents survivors and descendants of the bands in the vicinity of Yosemite in 1851, as further expressed in its preamble:

We, the undersigned chiefs and head men of the existing remnants of the tribes of the Yo-Semite, the Mono and the Piute Indians, who hold claims upon that gorge in the Sierra Nevada Mountains known as the Yosemite Valley, and the lands around and about it, by virtue of direct descent from the aforementioned tribes, who were inhabitants of that valley and said territory at the time when it was so unjustifiably conquered and taken from our fathers by the whites, do utter, petition and pray your Excellency and your honorable bodies in Congress assembled to hear, deliberate upon, and give us relief⁴¹

The Department found that at least 15 of the 52 signers of the 1891 petition were born before 1851 and, therefore represent individuals who likely belonged to the historical Indian bands as they existed in 1851.⁴²

The second document is a “Schedule showing non-reservation Indians in Northern California.” Special Agent Charles E. Kelsey for the Bureau of Indian Affairs (BIA) created this census in 1905–06.⁴³ Kelsey enumerated Indian settlements by county. For Mariposa County, Kelsey enumerated “Miwak Stock” Indian settlements and provided names of heads of households with the number of adult individuals in each household and of children unnamed which included a total of 180 individuals in 10 different locations of “Indian settlements.” He recorded these Indian settlements in the following order: Mariposa (81), Bear Valley (2), Bull Creek (19), Yosemite (30), Greeley (4), Kalarow (15), Cold Spring (8), Snow Creek (4), Chowchilla (15), and Merced Falls (2). The Department found that the 1905–06 Kelsey Census, reflecting the previously identified 1850s Indian settlements, is reliable evidence to identify members of the historical bands.

The third and fourth documents are two censuses, both compiled in 1912 by United States field matrons who worked for the BIA: the “Census of Moyuks Indians of Tule River Agency” by Harriet M. Gilchrist on June 30, 1912, and the “Census of the Digger Indians of Yosemite district” compiled by Eleanor E. Tebbetts between July 19 and 30, 1912.⁴⁴ Although the word

⁴⁰ Anonymous 1891. Although evidence shows that this petition was drafted in the late 1880s, it was published in 1891, and this PF references this document as the “1891 Petition.” Captain A. E. Wood makes reference to this petition in his 1891 Annual Report.

⁴¹ Anonymous 1891, 1.

⁴² In his 1904 publication, *Indians of the Yosemite Valley and Vicinity*, Galen Clark, Guardian of the Park and a 50-year resident of Yosemite Valley, wrote about the mixed tribal ancestry of the Indians who lived in and near the valley (Clark 1904, 70). Clark understood that the Indians of the park were survivors of the historical Indian bands that combined and understood that, during his 50-year residence in the park, they had intermarried with other nearby Indians and non-Indians in the Yosemite, Mariposa, and Chowchilla districts.

⁴³ Kelsey 1905-1906, 62-66. The Department will reference this document throughout the PF as the “1905-1906 Kelsey Census.”

⁴⁴ Gilchrist 1912; Tebbetts 1912. The Department will reference these documents throughout the PF as the “1912 Gilchrist Census” and the “1912 Tebbetts Census.”

Southern Sierra Miwuk Nation (Petitioner #82) Proposed Finding Historical Indian Tribe

“Coarsegold” is noted above the title of the June 30th census, Gilchrist counted 42 individuals who were served by the Tule Agency and lived in the southern portion of Mariposa County,⁴⁵ as shown by contemporary evidence.⁴⁶ Three individuals enumerated by Gilchrist also signed the 1891 Petition. Tebbetts described 4 Indian settlements located in the “Yosemite district” and westward along the Merced River drainage. Tebbetts named 61 individuals, 13 of whom signed the 1891 Petition. Many of the families that made up the four settlements Tebbetts identified had been associated with the Yosemite Valley their entire lives.⁴⁷ Between the 1870s and the early 1900s, Powers, Clark, and Merriam identified specific individuals on both of these censuses as having been from the historical bands of 1851.

The Department offers these documents as suggestions, not requirements, for identifying people who might have belonged to or descended from a historical Indian tribe in the greater Yosemite area. The petitioner may wish to provide additional evidence supporting the Department’s findings regarding members of the historical Indian tribe, or the petitioner may wish to provide the Department with its own evidence.

Issues Pertaining to Unambiguous Previous Federal Acknowledgment (§ 83.8)

When the evidence shows a petitioner may have previous acknowledgment, the Department reviews the evidence in the record to see if it is sufficient to meet the regulatory requirements of unambiguous previous Federal acknowledgment. This review determines whether the petitioner is eligible for evaluation under the reduced evidentiary burden of section 83.8(d).⁴⁸

Part 83 defines “Previous Federal Acknowledgment” as: “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.”⁴⁹ Evidence to demonstrate previous Federal acknowledgment can include evidence that the group has had treaty relations with the United States.⁵⁰ Additionally, there is a requirement that previous Federal acknowledgment must be “unambiguous.”⁵¹

Two treaties, concluded at Camp Fremont, in California on March 19, 1851, and at Camp Barbour, on the San Joaquin River, in California on April 29, 1851, involved ancestors of the petitioner. Six bands of Miwoks negotiated the Camp Fremont Treaty, and 16 bands (three Miwok and thirteen Yokut), negotiated the Camp Barbour Treaty. The petitioner can trace descent to Miwok bands at the Fremont Treaty and to the Yosemite band mentioned in the

⁴⁵ The Department found that these 42 Miwok individuals were getting services through the Tule River Agency, but actually lived on Indian rancherias or land allotments near the town of Mariposa in both the Mariposa and Chowchilla districts (southern Mariposa County, California).

⁴⁶ Kelsey 1905-1906, 62-65; Lipps 1920, 48-49; Dorrington 6/23/1927, 12; U.S. Federal Censuses 1910 and 1920, CA, Mariposa County.

⁴⁷ Tebbetts 1912.

⁴⁸ 25 C.F.R. §83.8(a).

⁴⁹ 25 C.F.R. §83.1

⁵⁰ 25 C.F.R. §83.8(c)(1).

⁵¹ 25 C.F.R. §83.8(a).

**Southern Sierra Miwuk Nation (Petitioner #82) Proposed Finding
Historical Indian Tribe**

Barbour Treaty. If the petitioner decides to request unambiguous previous recognition because of this treaty evidence, they should submit evidence that sets forth their claim.

**Southern Sierra Miwuk Nation (Petitioner #82) Proposed Finding
Summary under the Criteria 25 CFR § 83.7(b)**

SUMMARY UNDER THE CRITERION

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.

Section 83.1 defines “community” as “any group of people which can demonstrate that consistent interactions and significant social relationships exist within its membership and that its members are differentiated from and identified as distinct from nonmembers. *Community* must be understood in the context of the history, geography, culture and social organization of the group.” The definition of “the present” is tailored to each petitioner’s unique history.

Due to the fact that the petitioner fails to meet the requirements of 83.7(b) (“the present”), the Department considers it unnecessary to conduct an analysis whether a predominant portion of the group comprised a distinct community and existed as a community from historical times. If additional evidence is provided after the PF is published, the Department may find it necessary to conduct an analysis of community from historical times to the present. For the petitioner, “the present,” is defined as 1982 to 2011.⁵²

The petitioner’s 1991 document “Ethnohistory” claimed:

If it is assumed that a “community” is characterized by an identity of oneness in which the members share a common, remembered cultural and historical background; one which identifies itself as separate from other identifiable Indian groups (e.g., central Miwok); one which identifies group activities such as recreational, religious, or instrumental to achieve practical goals; one which has a formally structured social unity with leadership elected (i.e. formal) and informal who are recognizable and titled; or one which has agreed upon goals as a group and successfully achieves them, then the sense of “community” for the Mariposa Indians is well-established. They do indeed act as a community within a larger community and remain intact as an ethnic enclave.⁵³

Much of the evidence related to the contemporary period is from interviews conducted by the Department in June 2011. Council meeting minutes in the record also discussed powwows, fundraisers, “Spiritual Walks,” and “Bear Dances,” among other topics. The petitioner submitted additional documentation in 2017, including photographs, copies of additional newsletters, and meeting minutes. Outside sources such as newspaper articles, court documents, NPS newsletters, and administrative correspondence are also included in the record. The petitioner did not specify

⁵² The “present” period begins in 1982 because that was the year the group submitted its letter of intent. For the purpose of this PF, the “present” period ends in 2011, when the petitioner submitted supplemental membership information. Going forward, if a revised PF is issued, the “present” period may be extended to 2018 and the petitioner is encouraged to submit information that would cover that time period.

⁵³ SSM Ethnohistory, 1991: 153. This same paragraph was also included in the petitioner’s 1984 petition (SSM Narrative, 1984; 190-1).

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which aspects of criterion 83.7(b) each piece of information satisfied. In total, these various forms of evidence (by themselves or in combination) did not provide sufficient evidence to support the petitioner's claims and did not satisfy the requirements of criterion 83.7(b) at "the present."

1971–1981

To lay a factual foundation for continuity and the evaluation of community at present, this finding includes an overview of petitioner's membership and organization starting in 1971, when it formally organized.

The American Indian Council of Mariposa County (AICMC) formed as a tax-exempt corporation in the State of California with a 1971 constitution and bylaws. This group was composed principally, but not exclusively, of members who would eventually become members of the petitioner, as shown by the attendance lists that it submitted. The petition narrative maintains that a short-lived organization called the Yosemite-Mariposa Intertribal Council was a precursor organization to what would become the AICMC.⁵⁴

The AICMC, led by former Yosemite Indian Village residents Jay Johnson (born 1931), Leslie "Les" Wade James (born 1935), and William Tucker (born 1938), was a response to the death of Yosemite leader Phoebe (Wilson) Hogan (1886-1969). According to the petitioner, her death "accelerated feelings of crisis to the Indians of the area, and made them more aware of the need for renewed and more formal leadership, especially in religious affairs."⁵⁵ However, as the name indicates, the group served all Native Americans, not only members of the petitioning group.

The petitioner made attendance sheets available for two early organizational meetings, on January 21, 1970 (20 attendees), and February 5, 1970 (32 attendees).⁵⁶ Of these 52 attendees, 14 attended both meetings, for a total of 38 unique attendees. The residences of the 38 attendees included El Portal, Fresno, Jamestown, Mariposa, Midpines, Sacramento, Tuolumne, and Yosemite. Yosemite and Mariposa had the greatest number in attendance, with Sacramento, Jamestown, and El Portal yielding one each. The meeting attendees' addresses were predominately located in Mariposa County. Of these 38 attendees, 6 are still alive and are enrolled members of the petitioner.⁵⁷ Several of these people have also held elected leadership positions in the organization. The Department also identified 14 people who died prior to the group's combined 1998/2011 membership list but who also appeared in other documents generated by the petitioner. The lists also include 4 non-SSM Indian attendees (one married to an SSM member), 3 non-Indian spouses, and 11 individuals whose names are not in the record elsewhere.

The petitioner submitted a copy of the draft 1971 bylaws of the AICMC. They included qualifications for regular (voting and office-holding) members, and included the stipulation

⁵⁴ SSM Ethnohistory 1991, 133.

⁵⁵ SSM Petition Narrative 1984, 180.

⁵⁶ AICMC Minutes 1/21/1970, 2/5/1970.

⁵⁷ Ralph Parker, Mary and Jay Johnson, Leslie (Les) James, Pat Rhoan, and Helen Coates.

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that each member be “at least one-eighth Indian blood of any tribe,” not enrolled in any other federally-recognized tribe,” and a “lineal descendant of a Miwok, Paiute, or Miwok/Paiute Indian indigenous to the area which is now known as Yosemite National Park and its immediate environs.”⁵⁸ This appears to have been an attempt to limit control of the organization to those from the local Native population, even though the formal organization was tasked with providing services to any Native American living in Mariposa County. Non-local Indians could belong to the AICMC as “honorary” members (later copies of the bylaws use the term “associate members”), but could not vote or hold office. The petitioner also submitted a copy of the organization’s 1981 bylaws filed with the state of California. In the years between the 1971 draft and the 1981 ratified bylaws, the group modified the descent portion of the definition of a “regular” member to “a lineal descendant of a Southern Miwok, Paiute, Cassons, or Chuckchensee Indian indigenous to the area which is now known as Yosemite National Park, Maricopa County and its immediate environs.”⁵⁹

In 1971, AICMC created an organization within itself, known as the Miwok/Paiute Tourist Development Association (M/PTDA), focused on “economic development projects, housing, educational opportunities for the improvement of conditions for Indian persons and families with low incomes and need” and intended “to contract with, and receive and disburse funds obtained from, any Federal, State or Local Governmental Agency or Body.” The M/PTDA membership was:

composed of some 190 members in good standing, based on the membership charge [as written]. There are 419 persons, based upon a hurried survey, that are eligible to become members, and the basic reason they are not listed . . . is due to the fact that there is no fund to provide for a house to house survey.⁶⁰

The “hurried survey” is the “Census of Persons of Miwok/Paiute Ancestry in Mariposa County,” which, according to the petitioner’s narrative, was “a survey made in March 1972.” It listed 419 individuals, with town or city of residence, age, and additional background for each individual. The list did not differentiate the 190 members “in good standing” from the other 229 members on the list.⁶¹ Of the 419 individuals listed, 15 percent died between 1972 and 1998; 42 percent do not appear on the combined 1998/2011 list, and 43 percent appear on the 1998/2011 list. This analysis shows that the AICMC census was not a membership list of the petitioner, but likely was a list of persons eligible to receive services. Only a portion of those listed went on to become members of the AICMC organization. The petitioner may wish to submit an explanation or description of how the AICMC conducted this “hurried survey.”

Documentation such as AICMC grant activities, the 1972 survey, and another entitled, “Informal Census of Indians in Mariposa County” (compiled by Nick Brochini in 1982),⁶² appear to be program needs assessments to serve the general Indian population in the area, not membership lists of the petitioner. The 1982 “Informal Census” includes 153 names with a column titled

⁵⁸ AICMC 1971 Draft, 5.

⁵⁹ AICMC Articles of Incorporation, 1981.

⁶⁰ SSM Petition Narrative 1984, 189, 294; AICMC 1972 and 8/1982.

⁶¹ SSM Petition Narrative 1984, 189, 294; AICMC 1972 and 8/1982.

⁶² SSM Petition Narrative 1984, 189, 294; AICMC 1972 and 8/1982.

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“tribe.”⁶³ A notation across the top indicates that this was a list of people who received government commodities.

The current petitioner includes 147 persons from the 1972 census list and 59 individuals from the 1982 list (all but five of whom were identified in 1982 as “Miwok”; 2 were identified as “Pomo” and 1 each as “Chuk,” “Mono,” and “Cherokee”). The petitioner did not consider either the 1972 or 1982 lists as membership lists.

1982–2011

For this PF, the Department defines “the present” to be the 31 years from the petitioner’s 1982 Letter of Intent to the submission of the group’s 2011 supplemental membership list. In support of criterion 83.7(b), the petitioner submitted membership lists which provided residential data, as well as, meeting minutes and letters from 2000 to 2011, and copies of newspaper articles and flyers from 1990 to 2011. These materials provide contemporary indications of how the members of the petitioner interact, and how the group resolves issues as they arise. The Department located the Yosemite NPS Oral History interviews (22 in all, involving 27 interview subjects) from 1995 to 1997, but they focused predominantly on the early 20th Century and did not discuss events after 1991. The Department also conducted 23 on-site interviews in June 2011 with 27 interview subjects. The petitioner also submitted additional documentation in 2017 including, but not limited to, additional meeting minutes, official correspondence, and various photographs of events.

Membership Information. The petitioner’s document preparation for its petition for Federal acknowledgment provides some insights into the membership organization during this period. In 1983, genealogical contractor Edna Moore noted to Jay Johnson that “during the past several months, as genealogical work progressed, the membership count expanded rapidly as extended family entries came in.” She added: “Les James explained to me that, according to AICMC bylaws, membership could be opened periodically to eligible persons not yet enrolled who wished to become members.” Following communications with OFA, AICMC members concluded that “all eligible members that can be located should have the opportunity to be included, with no geographic limitations on eligibility.”⁶⁴

The petitioner submitted three membership lists, dated 1984,⁶⁵ 1998,⁶⁶ and 2011,⁶⁷ a 2011 “Significant Changes” list, and a 2018 “196 Post Office Boxes” residence update.⁶⁸ Not all

⁶³ “Tribe” includes: “Apache,” “Cayuga,” “Cherokee,” “Chuckchancie,” “Comanche,” “Mission,” “Miwok,” “Mono,” “Navajo,” “Ottowa,” “Paiute,” “Pomo,” “Seneca,” “Shoshone,” “Souik,” and “Walaki.” These designations refer variously to Indian tribes, language families, and administrative groupings.

⁶⁴ Moore 7/19/1983.

⁶⁵ SSM Petition Narrative 3/1/1984, Alphabetical List of Members 264-272.

⁶⁶ SSM 1/9/1998, Membership Roll 79 p.

⁶⁷ SSM 2/6/2011, Membership Roll 27 p.

⁶⁸ SSM 2/6/2011, Significant Changes 3 p. SSM 4/17/2018, Membership Residential Address 218 pp. There were 213 members on the 2011 list that had a post office box or no address listed and the petitioner provided updates for those members only. In April 2018, SSM submitted an addendum for 196 members who had a post office listed as their residential address. The following changes were reflected: 1 dis-enrolled, 6 deceased, 3 various reasons no address listed, 3 relinquished memberships, and 4 dual enrolled.

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categories of information required by the acknowledgment regulations appeared on the membership list of 1984. After updating and annotating the data based upon review of submitted and discovered evidence, Department researchers found 458 members listed in 1984, 700 members in 1998, and 272 on the 2011 membership list. The petitioner's attorney notified OFA that the group wanted the 1998 and 2011 lists to be considered the group's complete membership list, so OFA has treated them as one document.⁶⁹ Correcting for duplications and changes noted on the 2011 "Significant Changes" list resulted in a total of 872 current SSM members. At the Department's request, the petitioner provided certified submissions containing additional birth, death, and membership status information, which the Department received on June 11, 2014, June 17, 2014, and July 14, 2014. These submissions, combined with records obtained by the Department researchers, identified 4 individuals who relinquished their membership and 18 recently deceased members, resulting in a total of 850 current SSM members.⁷⁰ Of these 850, 160, or 19 percent, are enumerated on both the 1984 and 1998/2011 lists.

The combined 1998/2011 list did not include an explanation why 206 members on the 2011 list were not included on the 1998 list, even though they were alive in 1998. Only 47 people on the 2011 list were born after 1999, so it did not simply add newborns to the previous list. The petitioner may wish to explain what took place in the years between 1998 and 2011 to account for this 24 percent increase in membership.

The Department attempted to conduct a residential analysis of the combined 1998/2011 list to determine where the members lived in relation to each other. However, the list is problematic in two ways. First, the petitioner did not update the residential addresses on the 1998 list when they submitted their supplemental list in 2011. Therefore, the addresses on the list were more than a decade out of date, and it is highly unlikely that all of the living members in 1998 still reside at the same address more than a decade later. Second, the lists did not include complete residential addresses for all members as required by OFA's regulations. Of the combined 850 members on the 1998/2011 list, 196, or approximately 23 percent, had only post office boxes or no address at all.

The OFA notified the petitioner of this problem, and the petitioner submitted a series of documents that provided residential addresses for 193 of those 196 members with post office box addresses (they could not provide residential addresses for three members, one because the address was unknown, one because the member was adopted and had no other address, and the last because the member declined to release it). This list also noted that six of these 196 members were deceased, three relinquished their memberships, four were dually enrolled (or believed to be enrolled) with federally recognized Indian tribes, and one member had been disenrolled because she did not meet the group's membership criteria. The 2018 documents remedy the problem of not having residential addresses for almost all residents but only provided updated information for the 196 individuals who had been listed with only post office boxes.

⁶⁹ Quesenberry to Fleming 7/9/2012.

⁷⁰ The petitioner provided two earlier lists, one dated March 1972 and the other dated 1982; however, these two lists are not considered previous "membership" lists of the petitioner (SSM Petition Narrative 1984).

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It is unclear how many other members on the 1998/2011 list are deceased, have relinquished their membership in the petitioner, or have been determined ineligible for membership. The petitioner must submit a fully updated membership list in order to identify the names and residential addresses of all of the group's current living members. The regulations require that petitioner's membership meet criterion 83.7(b) for community, so it is very important that the membership is accurate. If a significant number of members cannot show they interact with other members in significant ways within a distinct community, then the petitioner will not be able to meet criterion 83.7(b).

According to the 1998/2011/2018 documents, the vast majority of the petitioner's members (745, or approximately 87.5 percent) live in California; however, California is a large State, and members are distributed all across it. Approximately 36 percent (305) of the total membership still lives in areas historically significant to the group; specifically, the towns and cities of Mariposa, Midpines, and Merced; another 16 members live in Cathey's Valley, which is a small town only 15 minutes from Mariposa. However, the petitioner did not include sufficient information to demonstrate that the people living in these historical areas interact with each other in significant ways (such as lending aid to each other in times of need) or that the remainder of the group interacts in significant ways with those still in those areas. The petitioner may wish to submit its own residency analysis based on its updated membership list.

Social Interaction and Relationships. For this period, (1982-2011) the petitioner planned, organized, and conducted an event known as the "Spiritual Walk,"⁷¹ also referred to as the "Traditional Walk" and the "Trans Sierran Walk."⁷² The 2011 informant interviews state that the Spiritual Walk began in 1990 and has continued through 2011.⁷³ This Spiritual Walk retraces the wilderness trail from Yosemite to Mono Lake taken by Mono Paiutes and Yosemite-Mariposa Indians to trade and visit with each other. It starts each summer variously at Foresta Campground, Tenaya Lake, or Pate Valley, in Yosemite National Park. The event ends seven days later at Mono Lake, about 30 miles away, on the eastern side of the Sierras. The petitioner initiates and coordinates the walk's activities on the western side of the Sierras, at Yosemite National Park, and the Mono Paiute communities join them on the eastern side of the Sierras.

Informant descriptions of the Spiritual Walk indicate that the 30 to 40 participants involved would walk no more than four or five miles per day, with each individual carrying a pack containing camping equipment and other supplies. Teams of younger individuals assist the elderly and infirm.⁷⁴ Informants maintain both that it remains a large, well-coordinated ceremonial activity developed over time and that it has significant meaning to the sense of life purpose for those involved. Commenting on its beginnings in 1990, they observe

⁷¹ The terms "spiritual walk" and "spiritual camp" were the predominant usage found in SSM documentation.

⁷² Hollis 10/30/1997; Van Meter 10/22/1997.

⁷³ The "Walk Organizers" contact persons were Tony Brochini and Lucy Parker (SSM members) who provided application packets and described the Traditional Walk 2011 as follows: "The first 'Walk' coincided with the Centennial Celebration for Yosemite National Park. A return Traditional Walk in July of 1991, from Yosemite Valley to Mono Lake, via the same route was completed in five days and 45 people made it the entire way. Over 100 [SSM and Paiute] people participated in the 'Walk' in 2010. Space will be limited to approximately 60 participants in 2011." (SSM 7/24/2011)

⁷⁴ OFA Interviews 2011, J. Leard.

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that “[i]t’s something we’ve always talked about for a long time. Even when we first organized in ‘70 we talked about [it].”⁷⁵

Another spiritual development in the early 1990s was the revival of the Bear Dance ceremony by former Yosemite Indian Village residents, Jay Johnson, Les James, and William Tucker.⁷⁶ These three men were AICMC council leaders, at that time, and continue to oversee and direct the Bear Dance ceremony to the present. All the members of the SSM governing body carefully plan, organize, and conduct the ceremonial process, starting weeks before, when the leaders and singers fast and pray in solitude at undisclosed sites within Yosemite National Park. As of 2011, this ceremony has been held three times a year: spring, to wake up the Bear; summer, to celebrate the Bear’s presence; and fall, to put the Bear back to sleep. Approximately 120 SSM members attended the Bear Dance ceremony held during the Department’s June 2011 site visit. Although non-members were not turned away, this ceremony involved primarily the petitioner’s members from various extended families.

Informants planned and developed these ceremonies at least a decade earlier, and did so in consultation with Mono Paiute and Central Miwok friends and relatives at Tuolumne Rancheria such as Raymond Stone. One member stated: “I myself understood from the elders—not that they were giving orders—but this [our ceremonies] has to continue.”⁷⁷ These ceremonies have also become important to some members’ sense of purpose in that it redirected them away from self-destructive behavior and toward prayer as an integral part of their lives. It has become a response to the problem of alcohol abuse experienced by some members. As one informant explained “what it’s done for us, what it’s done for our families—without it I wouldn’t be here. I was on a path—probably—to destruction, way back when.”⁷⁸ Others made similar observations, and maintained that the effect was less drunkenness among their members at meetings and a lower incidence of alcohol and drug abuse among families and children. Some members mentioned that the prohibition on drinking affected family dynamics. In one example, an informant had “decided on the spiritual path,” and she reported that she told her children that there was to be “no more alcohol in the house.”⁷⁹

Another informant summarized the effects and seriousness of drinking from the late 1940s forward.

Well, I think it destroyed a lot of them. I think almost all the tragedies went back to liquor. Whatever accident they had, like car accidents where they would be drinking, and a lot of our people went due to liquor—cirrhosis of the liver. I would just say it was a bad thing. And thank goodness they’re not drinking today. A lot of them quit. But it took its toll.⁸⁰

⁷⁵ NPS Interview, Johnson 7/7/1995.

⁷⁶ NPS Interview, Johnson 7/7/1995; Hollis 10/30/1997.

⁷⁷ NPS Interview, Johnson 7/7/1995.

⁷⁸ OFA Interviews 2011, Chapman and Forga.

⁷⁹ OFA Interviews 2011, Chapman and Forga.

⁸⁰ OFA Interviews 2011, Coats.

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When reflecting on the effect alcohol had had on the group in the past, members commented on how drinking had inflamed old animosities among families at past council meetings:

You know, people get angry over things. It can be that people are being slighted in some way, or it can be like when families live around each other forever that something has happened back somewhere, and a lot of times I don't know what it's all about because I wasn't there . . . It could have been, like, at some point people were out drinking or whatever, and somebody stole someone's girlfriend, and that's what everything's about . . . So then they're angry at each other, and then they are exchanging back-and-forth for years, and then they're saying "that family over there is this way," and so you have these little feuds, or whenever, and they pass those on to their children.⁸¹

The interviews, however, did not discuss any particular issues or specific conflicts that may have been the cause of these disagreements to show that the group followed specific steps in resolving conflict that the members supported. The petitioner may wish to describe some of these claimed long-standing feuds or disagreements demonstrating that the members of the group had interacted outside of these council meetings.

Individuals maintained that these ceremonial activities have had an effect on the social organization of the group by strengthening individual relationships and allowing individuals to re-assess their views of others through time. As one informant explained:

I guess, growing up, you meet people; you know what families they came from, and you . . . knew what kind of parents they had. But when . . . you walk up with them, you get to know them more personally—what they believe in, what's important to them—and it gives you a much better perspective of them...⁸²

Alcohol consumption and other disruptive behavior were forbidden at ceremonies, both at the Bear Dance⁸³ and from the Spiritual Walk. In the latter case, disruptive individuals were escorted away from the other teams and were ordered to leave, or "sent off the walk." The "2003 Traditional Walk" registration form stated, "Absolutely no alcohol or illegal drugs will be allowed on the walk!"⁸⁴ The petitioner may wish to provide additional information about how it enforces this prohibition, and deals with any infractions, if they occur. The petitioner may also include information as to whether the wider membership discusses or punishes misbehavior on the Spiritual Walk once the event ends.

The record includes a copy of the list of registered walkers from 1994.⁸⁵ There are approximately 71 names on the list. The OFA identified 23 people on the 1994 list as members on the 1998/2011 list, with an additional 6 people who died or appeared on earlier group documents, but were not on the 2011 membership list. The remaining 42 people on the Spiritual

⁸¹ OFA Interviews 2011, Leonard.

⁸² OFA Interviews 2011, Long.

⁸³ OFA Interviews 2011, Brochini. See also SSM 2003b.

⁸⁴ OFA Interviews 2011, J. Leard. See also SSM 2003a.

⁸⁵ AICMC Minutes 1994, 44-8.

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Walk are not members, though OFA did identify three member spouses. There are no lists in the record indicating which members participated by cooking or contributing financially that year. The petitioner included copies of blank registration forms from several other years, but did not include either completed registration forms or a compiled list of all walkers and support staff for those years. For example, meeting minutes from 2010 stated that “over 120 walkers plus support crew and visitors” took part that year, but does not indicate how many of those people were members of the petitioner.⁸⁶ The record also included a photo of the 2010 walk captioned “130 walkers”, but with no additional information identifying who among these 130 people were members.⁸⁷ An additional document in the record from 2010 identified 22 people (18 members) who gave cash contributions to support the event, and a notation on the page reads “20 walkers,” but it is not clear if these people were walkers as well as donors.⁸⁸ The petitioner may wish to compile a list of group participants each year of the walk, with an emphasis on how many members took part in the event as walkers, support staff, or financial contributors, and how many non-members accompanied the group.

SSM/AICMC Activities. Available documentation shows that together the SSM governing body and some members of the group organize and run the “Indian Taco” scholarship fundraising booth at the annual Mariposa powwow, which was first held in May 1994.⁸⁹ Participants see the powwow as a homecoming which draws together both family members and a broad spectrum of friends from other families who live outside Mariposa County and would not have an opportunity to maintain regular contact. One informant claimed there is ample opportunity for the petitioner’s members to come together through the powwows sponsored by the governing council, as well as the Christmas parties and other activities: “It’s a two-day event and you get to see people you don’t see every day, like people that don’t go to the Bear Dance, they’ll go to the powwow and the people that don’t come out for the powwow will come out for the Christmas dinner.”⁹⁰

The petitioner submitted three lists, compiled by the current Chairperson and another member in 2017, of members who had attended the annual powwow, the “Big Time” celebration, and the Bear Dance over the last 20 or more years.⁹¹ The Chair and the other member compiled these lists from memory, and note that they may not be complete. The petitioner identified 93 attendees at all of these events. Of those 93, 17 (or approximately 18.5 percent) attended each of these three events at least once. Twenty-two people (approximately 23.5 percent) attended two of these events. Forty seven, or approximately 50.5 percent attended one of these events, and the remaining 7 people (7.5 percent) had either withdrawn from formal membership prior to 2011 or were not in the database. These lists do not represent a predominant portion of the petitioner taking part in some of the events the petitioner has identified as important, and there is no indication of whether these people attended one event in 20 years, or if they attended many events during that time. The petitioner may wish to compile additional lists and include its own

⁸⁶ AICMC SSM Minutes, 8/5/2010.

⁸⁷ AICMC SSM Minutes 2010, 57.

⁸⁸ AICMC SSM Minutes, 7/22/2010.

⁸⁹ AICMC Minutes, 5/1/1994.

⁹⁰ OFA Interviews 2011, Long.

⁹¹ SSM, “Bear Dance Ceremony,” 1/16/2017; “Chi-Tock-Non Kote-u-Pu,” 1/17/2017; “Big Time Celebration/Gathering,” 1/16/2017.

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analysis of those lists to describe the participation of people from across the group's membership.

The petitioner's 2017 submission included nine copies of *A-Hum-Ati Tracks* a newsletter published "for the Mariposa County Indian community."⁹² The copies included are from 1990, 1993, and 1995–2000 (each year has one issue included in the record except 2000, which has one complete October issue and one incomplete September issue).⁹³ These newsletters include not only information about events specific to the AICMC, but also refer to a number of events held at the "All Tribes Counseling Center." Mariposa County Mental Health Director Jerry Wengerd established this organization in 1985 to serve the mental health needs of the local Native American community "within a setting that supports their culture, values their spiritual beliefs, and respects their traditions."⁹⁴ Over the years, the "All Tribes" hosted a number of activities, including craft classes for adults and children. A photograph included in the record contained the notation "All Tribes is where we started our Miwuk dancing classes...Craig Bates⁹⁵ came and showed us how to make our headpieces and top knots....All Tribes was a place you could go for Birthday Parties, Meetings, or just to go and be with people who made you feel like family, because we all are."⁹⁶ It is not clear if the "All Tribes" center funded and published the newsletter itself, or if it was a joint effort involving the AICMC.

The *A-Hum-Ati Tracks* newsletters name many individuals who are current members of the petitioner, particularly people in leadership. However, it also names other people working at the center or taking part in the activities held there. OFA identified 219 individuals in total. Of these, 82 can be identified as current (2011) members, 27 are spouses of members, 15 appear to have been on earlier membership lists but disenrolled or died prior to 2011, 17 are children or grandchildren of members, but were not enrolled with the petitioner as of 2011, and 7 could not be identified definitively as members. A third of the people (71) named could not be connected to the petitioner at all. People in positions of leadership at the AICMC are often mentioned in several newsletters, while other members only once. The newsletters provide some "get well" wishes, birth announcements, and death notices for members of the petitioner, but they also provide them for other people as well.

The record includes several photographs of events with a number of members identified, but with a near-equal or greater number of people who are not members of the group participating. For example, a photo captioned "Craft Class at All Tribes (1995)" includes 31 people in the photo, but only identifies 16 of them by name; of those 16, 10 are in the petitioner's membership. Of the remaining six individuals, four are not identified as members, one's identity is unclear, and the final relinquished her membership in 2008. Another photo on the same page, captioned

⁹² *A-Hum-Ati Tracks* Newsletter, 5/1990.

⁹³ This newsletter was originally published quarterly.

⁹⁴ All Tribes Counseling Center Overview, 1993, 1. It appears that the "All Tribes" ceased operations sometime in 2000. An organization called MACT (Mariposa, Amador, Calaveras, and Tuolumne) Health Board Inc., appears to have assumed some of the counseling activities. The petitioner may wish to include more information about the history of the "All Tribes" and explain the relationship between it at the group.

⁹⁵ Craig Bates is a non-Indian employee of the National Park Service (NPS). He worked for the NPS more than 30 years, and is a nationally-recognized expert in the history and culture of the Paiute, Miwok, and other native peoples of the Yosemite area.

⁹⁶ AICMC Minutes 1/23/1993.

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“Meeting at All Tribes, Mariposa, CA” includes 15 people, but only names 10. Of those identified, eight are identified as members on the 1998/2011 list, while two are not.⁹⁷

The record includes a sign-in sheet from a 2006 Christmas dinner.⁹⁸ Approximately 90 people attended the dinner, of whom 38 are on the 1998/2011 membership list. The OFA also identified three other people no longer enrolled in the group, and one deceased person. While some of the remaining 48 non-members on the list may be spouses, these attendees are not in the petitioner’s database and cannot be identified. This is also the case for a number of other documents in the petition, where a number of people are on a list or in a photograph, but only some of them are identified as members of the petitioner.

The OFA also conducted analyses of other documentation submitted by the petitioner. These include meeting attendance sign-in sheets, lists of dues-paying members, sign-in sheets from volunteering at the taco booth the group sponsors to fund its scholarship program, and lists indicating participation in the Spiritual Walk. These documents indicate that there is a highly active group of people (approximately 10 percent of the membership) who attend functions and participate on a regular basis.⁹⁹ The record also indicates that there are people who also participate in the group’s activities, but who are not members and whose relationship to the group is unclear. The petitioner may wish to provide its own analyses of member participation in activities, while demonstrating how the minority of highly active members are connected to the majority of the group. The petitioner may also wish to identify non-member participants and explain their relationship to the group.

Informal Association among Members. The information in the petition concerns events formally organized by the group’s governing body, but the record contains very little information regarding how often members see each other outside of the functions organized by the group’s leadership.

The 2011 interviews include some discussion of an Indian softball league that some of the members participated in in the past,¹⁰⁰ but it is unclear how many members of the group participated when the interviews were conducted. The 2017 submission included a copy of an undated newspaper article about the winning 1988 “Mariposa Miwok” softball team which included nine men OFA identified as members of the petitioner, but also four teammates who are not members of the petitioner (they may be Miwoks from other communities, but they are not members of the SSM).¹⁰¹ Other softball team photos from 1999 and 2000 included in the

⁹⁷ AICMC Minutes 1993, 29.

⁹⁸ AICMC SSM Minutes 12/23/2006.

⁹⁹ OFA Anthropological Work Paper A: Meeting Analysis.

¹⁰⁰ OFA Interviews 2011, Leonard; Long; Tucker.

¹⁰¹ AICMC Minutes 1994, 53 (the newspaper clipping was included in the minutes, and did not include the name of the newspaper from which it was taken). Regarding the presence of non-SSM member Miwoks on the team, the Ethnohistory narrative described the “Miwoks” team and stated “Some of the team members come from North Fork and other neighboring Indian communities” (SSM Ethnohistory 1991, 152).

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submission identify members, but also indicate that the team did not consist entirely of the petitioner's members).¹⁰²

The relationship between the AICMC and the softball team is unclear. The September 1995 *A-Hum-Ati Tracks* newsletter acknowledged the "Mariposa Miwok" softball team with providing security for that year's Mariposa powwow, but there is no other information indicating that the team served as security at any of the other powwows over the years.¹⁰³ The record includes some documentation soliciting financial support from local businesses and individuals, but it is not on AICMC letterhead and appears to come from the team itself, rather than from the AICMC on behalf of the team.¹⁰⁴ There is no evidence that the AICMC supported the team by paying for uniforms or contributing to traveling expenses it is unclear whether or not other members of the group regularly attended (or still attend) to watch and support the team.¹⁰⁵ While there is one reference in a document to members attending a tournament in July 1990 to boost the softball team, it is not known how many members of the group went to cheer on their side, either on this occasion or others.¹⁰⁶

The petitioner submitted some information about its members taking part in the local Relay for Life cancer fundraiser each year after 2005. The group's formal governing body serves as a sponsor of the team. This particular walkathon-type fundraiser takes place in a 'team' format, and the petitioner sponsors the "Miwoks for a Cure" team. Information in the record from 2010 identified 13 people as having organized a display for the event,¹⁰⁷ though a note from 2006 indicates that the group needed 24 people to field a team; none of the minutes or other documents include a complete list of any years' participants. The petitioner may wish to include more information about the participants in this event, including those who actually walked, those who organized and implemented the event, and those who supported it financially or through other contributions.

The materials and interviews contained few descriptions of members from multiple families socializing at birthday parties, baby showers, graduations, anniversaries, or other events not sponsored by the group's governing body to show informal social relations that would extend beyond the formal record. For example, a document dated March 1, 2011, stated that the group requested the use of the Village of Ahwahnee behind the Yosemite Museum for an April 2 wedding, and that the group expected between 40 and 45 family and members to attend.¹⁰⁸ However, the document did not give the names of the couple, and there are no couples in the

¹⁰² The petitioner identified four people out of twelve on a 1999 team photo, two of whom OFA identified on the petitioner's membership list; the petitioner identified five people out of fourteen in a 2000 team photograph, and OFA identified three of those people on the petitioner's membership list (AICMC Minutes 1994, 54-5).

¹⁰³ *A-Hum-Ati Tracks*, 9/1995.

¹⁰⁴ One letter soliciting funds for the team used the mailing address of former AICMC member Gary Dondero; the record contains no list of players for 1994, but he was a member of the 2000 team (AICMC 1994, 51, 55). Another 1994 response to a letter soliciting funds for the "Mariposa Miwoks" is addressed to a person not found in the petitioner's membership (AICMC Minutes 1994, 52.)

¹⁰⁵ OFA Interviews 2011, Leonard; Long.

¹⁰⁶ SSM Ethnohistory, 11/1/1991; 204.

¹⁰⁷ AICMC Minutes 2010, 25.

¹⁰⁸ AICMC Schedule, 3/1/2011, 1.

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petitioner with a marriage date of April 2, 2011.¹⁰⁹ There are no photographs of this event, and no further information about how many group members attended, or participated in the ceremony or reception in any way. The petitioner may wish to submit any information it has regarding other weddings or other social events that members attended.

Funerals are described in multiple interviews as having been very significant events in the past, but the record does not contain records to show that this is still the case. One of the 2011 interviews includes some information about the formal organization being able to provide limited funding to families in order to pay for a funeral, but did not include any description of how contemporary funerals are organized.¹¹⁰ Meeting minutes in October of 2009 mention Chairman Tony Brochini thanking “all those who came to his father’s service the previous week,”¹¹¹ and the Department located some details of John Brochini’s September 2009 burial in Saint Joseph’s Catholic cemetery in Mariposa.¹¹² The record does not, however, include funeral cards, a program, or condolence book from this service, or other information as to whether or which of the petitioner’s members participated in the ceremony. The Department also located a number of obituaries (or abstracts of obituaries) of people in the petitioner’s database,¹¹³ but the record does not include any descriptions of members of the group serving as pallbearers for other members, sending flowers, or preparing food for a repast after the service.¹¹⁴ The petitioner may wish to include copies of this type of evidence for the final determination.

There is no discussion in the record of members aiding other members in times of sickness or financial hardship, independent of the formal structure of the group’s organization. The record contains a request from a member for financial assistance, and a note on the document indicates that 14 people at the April 1, 2004, meeting collected nearly \$200 in donations.¹¹⁵ There is, however, little to no discussion in the interviews or in any of the documents in the record of members informally looking after each other’s children, taking in other members if they were rendered homeless, helping other people to secure employment, or other examples of activities that would supplement the documentary evidence the petitioner submitted.

One of the documents in the petitioner’s submission states that, “People respect and take care of their elders. Earl Bolton, for example, who lives a fairly traditional life on the very isolated Maria Wilson tract near Indian Park, is regularly visited by his siblings and nieces and nephews.

¹⁰⁹ The record included an agenda for a meeting dated April 3, 2011, and a sign-in sheet for a meeting dated April 7, 2011, but no minutes for an April meeting of any date are included here. The minutes for the May 5, 2011 meeting make no mention of a wedding.

¹¹⁰ OFA Interviews, 2011, Tucker.

¹¹¹ AICMC SSM Minutes, 10/6/2009.

¹¹² Burial location taken from John Wilson “Spike” Brochini entry on *Find A Grave* (FindAGrave.com).

¹¹³ OFA located a number of abstracts and obituaries in the public record; however, not all of the people in the petitioner’s database were members of the petitioner at the time of their deaths.

¹¹⁴ The abstract of the 2011 obituary for Della Hern, who was not included on the 1998/2011 SSM membership list, indicates that SSM member Bill Leonard officiated at her graveside service (*Inyo Register*, 1/20/2011, transcript appears at *Find A Grave*, findagrave.com). The petitioner may wish to include any examples of members of the group officiating at the funerals of SSM members.

¹¹⁵ AICMC Minutes, 3/13/2004.

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The extended family gathers for feasts of venison and other traditional foods on occasion.”¹¹⁶ Family members visiting a close relative is not an example of a larger community looking out for older members. The petitioner’s 1984 narrative gave the example of an elderly member who had had both legs amputated, but was able to stay in his home because other members of the community looked in on him.¹¹⁷ The narrative did not identify who actually looked after the man, whether it was family members, local social service organizations, other people in the group at that time, or a combination of all three.¹¹⁸ The petitioner may wish to include descriptions of members of the group visiting and aiding other members they are not closely related to for the final determination.

Criterion 83.7(b) Summary

Evidence in the record shows involvement by some members of the petitioner in group activities, but not by a predominant portion of the membership. Events sponsored by the formal organization are attended by some of the petitioner’s members, but also by non-Indians and non-Miwok Indians (some of whom may be closely related to the petitioner but who are enrolled in federally recognized tribes). Participation in these activities appears to include some members from various families, but it is unclear to what extent this participation represents a cross-section of the entire membership. The ceremonial revitalization of the Bear Dance and the Spiritual Walk are described as having helped some members of the petitioner combat problems with drinking that had disrupted the group in the past, as well as becoming an important aspect of their spiritual lives. Further information would be helpful in strengthening the evidence of participation of named individuals to show the degree of membership involvement across the entire membership, not just that of a few highly involved individuals.

The petitioner may also wish to provide more information regarding social interaction among members outside of activities organized by the group’s leadership. In addition to providing more evidence about the events discussed in the interviews (for example, the softball team/league), the petitioner may wish to submit items such as condolence books from recent funerals demonstrating that members from multiple families attended or sent cards or flowers. Other evidence, such as church records (baptismal, marriage, funeral where witnesses are shown) and photographs (birthday parties, picnics, or graduations where individuals and events are clearly identified) that would help demonstrate members maintaining social relations between individuals and families independent of the actions of the formal governing body.

¹¹⁶ SSM Ethnohistory, 1991: 153. Earl Bolton (1922-2001) is described here as an “elder” in 1991, but was not included on the petitioner’s 1998 membership list. The petitioner may wish to clarify some of this information regarding why some people formally enrolled with the organization while others did not for the final determination.

¹¹⁷ SSM Narrative 1984, 209.

¹¹⁸ The petition cites “CSRI field notes 1894” as the source for this information, but those notes do not appear to be included in the record.

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Summary under the Criteria 25 CFR § 83.7(b)**

Conclusion

Department research shows that the combined evidence is insufficient to demonstrate that a predominant portion of the petitioner constitutes a distinct community for the time period at “the present” under criterion 83.7(b). Therefore, the petitioner does not meet criterion 83.7(b).

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