

Final Determination

Against Acknowledgment of

The Juaneño Band of Mission Indians
(Petitioner #84B)

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

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(Date)



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Final Determination

The Juaneño Band of Mission Indians
(Petitioner #84B)

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ACRONYMS AND ABBREVIATIONS

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

INTRODUCTION

The Office of the Assistant Secretary – Indian Affairs (Assistant Secretary or AS-IA) within the Department of the Interior (Department or DOI) issues this final determination (FD) in response to the petition received from a group known as the Juaneño Band of Mission Indians (JBB) (Petitioner #84B), whose offices are located in Santa Ana, California. The JBB petitioned for Federal acknowledgment as an Indian tribe under Part 83 of Title 25 of the Code of Federal Regulations (25 CFR Part 83), *Procedures for Establishing that an American Indian Group Exists as an Indian Tribe*.

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

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

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

Summary of the Proposed Finding

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

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

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historical SJC Indians are the ancestors of the JBB petitioner's members and that the JBB petitioner has existed continuously since that time as a distinct social and political community of descendants of the historical Indian tribe at SJC Mission.

The PF found that the JBB petitioner did not meet criteria 83.7(a), (b), (c), or (e). Evidence in the record did not demonstrate that external observers identified the JBB petitioner or a group antecedent to the petitioner as an Indian entity on a substantially continuous basis from 1900 to 1997. The PF concluded that evidence in the record did not demonstrate that the JBB petitioner evolved as a distinct community from the historical Indian tribe that existed at SJC Mission in 1834. Also, the PF concluded that the evidence was insufficient to establish that a predominant portion of the JBB petitioner's members or their ancestors comprised a community distinct from non-members at any time since 1834. The evidence in the record did not demonstrate that the JBB petitioner or any group antecedent to the petitioner maintained political influence or authority over its members from 1834 until the present. The PF found that 4 percent of the 908 JBB members documented that they are descendants of a historical SJC Indian, but that another 14 percent of the JBB members might be able to demonstrate descent from at least one member of the historical SJC tribe at SJC Mission if additional genealogical evidence demonstrated the claimed connections. No previous petitioner has met criterion 83.7(e) without at least 80 percent of its members documenting descent from a historical Indian tribe.

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

Regulatory Procedures

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

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

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Administrative History of the Petition Since the Proposed Finding

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

After the publication of the PF, OFA received no requests for informal technical assistance (TA) from the JBB petitioner. The JBB petitioner requested and OFA held a formal on-the-record TA meeting with the petitioner's researchers on April 18, 2008, and provided relevant OFA research materials and analyses to the petitioner (OFA TA Meeting 4/18/2008; Fleming 5/19/2008).

The OFA received comments on the PF submitted by the JBB petitioner on September 17, 2007, September 24, 2007, March 5, 2008, September 30, 2008, March 6, 2009, March 13, 2009, and April 15, 2009. The OFA also received comments on the PF from eight third parties: Mike Aguilar (Aguilar 3/13/2009); Theresa S. Aguilar-Garcia (Aguilar-Garcia 3/-/2009); California Cities for Self-Reliance/Joint Powers Authority (JPA) (JPA 11/9/2006 Comments, 5/9/2008, 5/9/2008a, 5/9/2008b); Harry Rivers et al. (Rivers 9/13/2007); Juaneño Band of Mission Indians-Interested Party (JBMI-IP) (Belardes 9/17/2007; Perry 3/12/2009);); Rudolph R. "Rudy" Martinez (Martinez 3/9/3009); Michelle Moreland (Moreland 3/-/2009); and : Stand Up for CA (JPA 9/22/2006);. The JBB petitioner did not submit a response to any of these comments.

The JBB petitioner's comments consisted of more than 4,500 pages of documents and arguments submitted in response to the PF and to requests for information as outlined in the PF and during the formal TA meeting held after the PF was issued. The FD considered this material in combination with the remainder of the record for the FD, including the more than 34,000 pages already in the record for the PF.

The Department began consideration of the JBB petition for the FD on January 4, 2010 (Fleming 10/14/2009, 4/1/2010). The FA requested and received for good cause a 90-day extension for the issuance date of the FD for the JBB petitioner. The new deadline was established for September 4, 2010. On July 30, 2010, OFA requested and received for good cause an additional 30-day extension for issuing the FD, subsequently extended to October 4, 2010. To permit review by the Offices of the AS-IA and the Solicitor, the deadline for issuing the FD was extended 75 days to December 15, 2010. A 60-day extension to February 14, 2011, was granted to the Office of the AS-IA to allow for review of the recommended decision. A 30-day extension to March 16, 2011, was granted to permit review by the Offices of the AS-IA and the Solicitor.

OVERVIEW OF THE HISTORICAL INDIAN TRIBE

Definition of the Historical Indian Tribe in the Proposed Finding

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

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

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

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

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

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83.7(e).

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

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

Analysis of the Comments for the Final Determination

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

The JBB petitioner’s comments misconstrue the Department’s finding. The SJC Mission was a place at which its Indian population became an entity consisting of Indian tribes or groups that had combined. Indian individuals demonstrated to have been a part of the Indian community at the SJC Mission during its operation as a mission (1776-1834) are considered to be a part of the SJC Mission Indian tribe. If an individual Indian appears in the records of another mission, it does not necessarily preclude that person from being a member of the Indian tribe at the SJC Mission. Evidence is needed, however, to demonstrate that such a person was a member of the Indian tribe at the SJC Mission. If such evidence is not available, the petitioner may still meet the requirement for calculating descent from a historical Indian tribe under criterion 83.7(e), because not all of a petitioner’s current members must document descent from the historical Indian tribe. The Department’s past decisions to acknowledge a tribe found that a minimum of 80 percent of a petitioner’s members documented descent from the historical Indian tribe. Additionally, if the petitioner demonstrated that its Indian ancestors combined, as a group, with the Indian tribe at SJC Mission, the regulations would accept this occurrence because the regulations provide for acknowledgment of historical Indian “tribes or groups that have historically combined” (section 83.6(f)). The JBB petitioner did not demonstrate, however, that

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its claimed “pre-existing indigenous community” encompassing Indians from various populations over a large geographical area actually existed, or that Indian ancestors of JBB that were not part of the historical Indian tribe at SJC Mission combined, as a group, with the Indian tribe at SJC Mission. The regulations do not require documenting descent from a pre-contact community.

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

In the Lynch Report, the JPA states that the “historical evidence tells us that the Juaneño lacked any evidence of political influence or authority from 1804-1900” (JPA 5/9/2008, 33).¹ This implies that the JPA contests that the Indian population of the Mission became an entity consisting of Indian tribes or groups that had combined as a result of Spanish policy. However, the Lynch Report also contends that, although there was no specific “Juaneño band” prior to the establishment of the SJC Mission, the Juaneño Indian tribe was a “mission-era construct from which its political and social identity emerged” (JPA 5/9/2008, 10). The Lynch Report asserts that, “[f]rom its inception, a zone of ‘tribal community interaction’ was present at this mission until secularization occurred,” and that an application of the “social core concept” applied in a previous acknowledgment decision “fits [the Juaneño] situation when analyzing and defining social interaction and the effectiveness of political authority” (JPA 5/9/2008, 11).² The report

¹ This statement might contain a typographical error. It is possible that the JPA intended to write “1834” but instead wrote “1804.” As discussed below, interpreting the “1804” as “1834” would be more consistent with the JPA’s claims.

² The Lynch Report discusses the “social core” that the Department referred to in its final determination on the Mohegan Tribe of Indians of the State of Connecticut. The Lynch Report focuses on a 10-mile radius that the Department used in the Mohegan FD to help describe levels of social interaction, and the Lynch Report interprets this 10-mile radius as a geographical limit for measuring social interaction. This interpretation, however, misrepresents the Mohegan findings. In the Mohegan findings, the Department used the “10-mile” language to describe the evidence, not to impose a standard or requirement. The term “social core” referred to the portion of the Mohegan group which maintained substantial social contact among the members (Eastern Pequot PF 2000, 136-138; Eastern Pequot FD 2002, 126-128). The demography in the SJC Mission area in the early 19th century was different from the demography of Connecticut in the 20th century, and it is expected that the social dynamics of the Mohegan community would differ from the social dynamics of the SJC Mission.

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

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

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

The Historical Indian Tribe in the Final Determination

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

UNAMBIGUOUS PREVIOUS FEDERAL ACKNOWLEDGMENT

Summary of the PF

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

Summary of Comments on the PF

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

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

An interested party, the "California Cities for Self Reliance, Joint Powers Authority" (JPA), submitted, in the comment period, a 69-page document written by James P. Lynch (the Lynch Report) (JPA 5/9/2008). The Lynch Report commented on the petitioners' eligibility to be evaluated for unambiguous previous Federal acknowledgment. The report claimed that the

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Unambiguous Previous Federal Acknowledgment

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

Analysis of the Comments for the Final Determination

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

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

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

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

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

Based on the evidence in the record, the Federal Government did not acknowledge or establish a political relationship with a Juaneño Indian tribe with the 1852 Treaty of Temecula. The JPA provided argument and evidence that generally supports the PF's findings that the evidence in the record did not show that Indian agent O. M. Wozencraft included or "intended" to include any Indian leader or leaders representing an SJC Indian political entity in the negotiations leading up to the signing of the treaty (JBB PF 2007 30-32; JBA PF 2007, 30-32). The

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Department received no new evidence during the comment or response periods that requires a modification of the PF's analysis and conclusion that this treaty was not unambiguous previous Federal acknowledgment of a Juaneño Indian tribe.

The Federal Government did not acknowledge or establish a political relationship with a Juaneño Indian tribe with the 1946 Indian Claims Commission Act or through the proceedings of the Indian Claims Commission. The JBB petitioner claimed that the proceedings of the Commission under Docket 80 "amounts to [an] example of previous unambiguous Federal acknowledgment" (JBB Narrative 2/28/2009, 13). However, the JBB petitioner did not provide any new evidence in its comments to support this claim.³ The act allowed "any Indian tribe, band, or other identifiable group" to pursue historical claims against the Federal Government (U. S. Congress 1946). In the 1950s and 1960s, the Commission allowed "the Mission Indians" to seek claims under the Indian Claims Commission Act as descendants of the Mission Indians of California (U. S. Indian Claims Commission 7/2/1964, ICC Docket 80). This action by the Commission did not constitute an acknowledgment by the Federal Government that the claimants were tribal in character at the time of the Commission's proceedings or that the Federal Government was in, or was establishing, a political relationship with the claimants as an Indian tribe. Instead, the action by the Commission gave the claimants standing for the limited purpose of pursuing, as descendants, historical claims within the limited context of the Indian Claims Commission. The ability of claimants to pursue claims through the Indian Claims Commission does not demonstrate that the U.S. Government deemed the claimants to be a federally acknowledged Indian tribe.⁴

Conclusion for the FD

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

³ The JBB petitioner's claim for unambiguous previous Federal acknowledgment amounts to brief and minimally developed remarks in its comments that are tangential to the JBB petitioner's comments on criterion 83.7(a).

⁴ The Department decisions have made similar determinations (see Chinook RFD 2002, 15-32; Lower Muskogee Creek FD 1981, 2, 6).

CONCLUSIONS UNDER THE CRITERIA (25 CFR 83.7)

The JBB and JBA petitioners and a number of third parties submitted evidence for this FD, and OFA staff conducted limited research to verify and evaluate the evidence, arguments, and interpretation submitted. Additionally, OFA conducted verification research in the sacramental registers (baptisms, confirmations, marriages, burials) of SJC Mission, San Diego Mission/San Diego Presidio, San Gabriel Mission, and the Los Angeles Parish (Old Plaza) Church to verify genealogical claims. The burden of providing sufficient evidence under the criteria in the regulations rests with the petitioner. It is not the responsibility of OFA to obtain copies of documents cited that the petitioners did not provide, although OFA may do so.

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

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

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

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

The JBB petitioner does not meet the requirements of criterion 83.7(b). The evidence in the record demonstrates that the JBB 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

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Criterion 83.7(a)

event. The petitioner, as it is currently constituted, consists of members identified by the petitioner as SJC Indians, but whose ancestors functioned as part of the general population of SJC residents since the mid-19th century. This community included non-Indians, individual SJC Indians, and non-SJC Indian residents in the town. The petitioner's individual ancestors, both Indian and non-Indian, were part of this larger community. There is no evidence that the petitioner's SJC Indian ancestors were distinct within this community after 1862, or were part of an Indian entity that evolved from the SJC Indian tribe in 1834; rather, they appear to have been Indian individuals who became absorbed into the general, ethnically-mixed population of Old Mexican/Californio families, as well as with non-SJC Indians who moved to the town prior to 1900. The 2005 membership of the JBB petitioner reflected the makeup of this general population, as many members had no documented Indian ancestry, or had documented California Indian ancestry from other non-SJC Indian populations. The 2009 membership, considerably revised in an attempt to eliminate members without demonstrable SJC Indian ancestry, no longer mirrors the social community that the petitioner described in its previous submissions. The petitioner's omission of people formerly identified as ancestors and members to satisfy the requirements of criterion 83.7(e) no longer describes the social community that the petitioner described in its previous submissions, and the "group" that the petitioner now describes reflects only a number of individuals who were actually part of a much larger, multi-ethnic community. The overall record does not demonstrate that the petitioner's 19th century ancestors formed a distinct SJC Indian community within a larger Spanish-speaking, Catholic, Old Mexican/Californio community after 1862. Therefore, because the totality of the evidence does not demonstrate that the petitioner's SJC Indian ancestors formed a distinct community from which the current JBB petitioner evolved since 1862, the petitioner has not met criterion 83.7(b).

The JBB petitioner does not meet the requirements of criterion 83.7(c). The evidence submitted for the FD, in combination with the evidence already in the record for the PF, is insufficient to satisfy the requirements of criterion 83.7(c) for any time from 1835 to the present. The evidence in the record submitted to demonstrate political influence or authority during the post-secularization period included a marriage analysis. The analysis, however, is methodologically flawed and, thus, does not provide evidence to satisfy the requirements of criterion 83.7(b)(2) that could "carry over" under 83.7(c)(3) to satisfy criteria 83.7(c) for this same period of time. The petitioner's discussion of the early to late 19th and early to mid-20th century, particularly of the Mission Indian Federation (MIF), did not address several important issues raised in the PF, including the lack of evidence of a bilateral relationship between the members of the SJC chapter of the MIF and the leadership of the organization. The new documents in the record related to Clarence Lobo's leadership between the late 1940s and 1965 did not indicate that Lobo acted on behalf of an entity of SJC Indian descendants when he worked on behalf of much larger pan-Indian organizations which counted SJC Indians among their members. The documentation also did not demonstrate a bilateral relationship between Lobo and the group members, and included little information demonstrating that the group addressed any issues other than claims.

There was no information as to any political activity among group members during the 10 years between the 1965 end of Lobo's active involvement and the 1975 formation of the Capistrano Indian Council (CIC). The information in the record regarding the early years of the CIC and the Juaneño Band of Mission Indians (JBM) supported the PF's conclusions regarding the membership of the organizations, namely, that the CIC members tended to be SJC Indian descendants still living in or very near the town of San Juan Capistrano, and that JBM members

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tended to be non-SJC descendants living outside of the town of San Juan Capistrano (even those members who were verifiable SJC Indian descendants were still mostly non-local). Most CIC members did not join the JBM until after 1995, but there was included little information as to how the CIC members became integrated into the larger group, or how this integration affected the political composition of the group. There was no new information regarding the political turmoil within the JBM that resulted in the formation of the JBB and JBA, and no new information regarding how the group's drastic revision of its membership between 2005 and 2009 changed the political structure of the group. The third-party comments included in the record largely agree with the conclusions reached in the PF, and the petitioner provided no response to those comments. After 1834, there is insufficient evidence that there were any internal processes or other mechanisms that the group used as a means of influencing or controlling the behavior of its members in significant respects, or made decisions for the group which substantially affect its members, or represented the group in dealing with outsiders in matters of consequence. The petitioner does not satisfy criterion 83.7(c).

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

The JBB petitioner does not meet the requirements of criterion 83.7(e). The petitioner submitted a membership list dated February 28, 2009, that names 455 living members. The list includes minors under age 18. The evidence in the record demonstrates that most of the JBB petitioner's 455 members claim descent from individuals who were part of the historical Indian tribe at SJC Mission as it existed between 1776 and 1834. This FD finds that only 53 percent (241 of 455) of JBB members demonstrated descent from one of the Indians of the historical SJC Indian tribe. Of the remaining 47 percent, 33 percent (149 of 455) of JBB members have not demonstrated their claimed descent from a historical SJC Indian. The remaining 14 percent (65 of 455) of JBB members do not claim and also have not demonstrated that they descend from any ancestor who is a historical SJC Indian. Therefore, the JBB petitioner has not demonstrated that its members descend from an historical Indian tribe.

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

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

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

Criterion 83.7(a)

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

Introduction

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

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

Summary of the Proposed Finding

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

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

Summary of the Comments on the Proposed Finding

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

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

Analysis of the Comments for the Final Determination

For criterion 83.7(a), the PF noted the problem that although the record contained references to various American Indian entities associated with San Juan Capistrano, these references did not appear to be identifying the petitioner. Additionally, the PF did not find that the petitioner evolved out of an American Indian entity that was identified in the record prior to the 1990s; this made it difficult for the PF to conclude that the petitioner was the same entity as any of the entities identified prior to the 1990s. Thus, the PF indicated that, when commenting on criterion 83.7(a), the petitioner needed to advance a claim that it evolved out of an American Indian entity that was identified on a substantially continuous basis since 1900.⁵ The comments that the JBB and JBA petitioners submitted on criterion 83.7(a) did not advance a substantive claim that either one evolved, as a group, from any entity that was identified on a substantially continuous basis since 1900. Furthermore, neither the PF nor the FD finds that the petitioner evolved, as a group, out of an American Indian entity that was identified between 1900 and 1997. Although the record contains identifications, made prior to the 1990s, of various American Indian entities, none of these identified the petitioner or an entity out of which the petitioner evolved.

1900-1949

Summary of the PF (1900-1949)

The PF concluded that the record contained no identifications of the petitioner that satisfied criterion 83.7(a) during the period from 1900 to 1949 (JBB PF 2007, 37, 42, 52; JBA PF 2007, 37, 42, 52). The PF reviewed a 1936 newspaper article by Alphonso Yorba that identifies an

⁵ For example, the PF found that neither the JBB petitioner nor the JBA petitioner evolved from the Juaneño Band of Mission Indians (JBM) organization, which formed in 1978; the petitioners were too different from JBM and did not have organizational continuity from JBM. Therefore, the PF could not accept identifications of JBM as identifying either petitioner (JBB PF 2007, 48, 52, see also 120-122; JBA PF 2007, 48, 52, see also 118-120). Similarly, the PF did not find that either petitioner evolved from a group associated with Clarence Lobo, who was active in the 1950s and 1960s (JBB PF 2007, 43-44, 52; JBA PF 2007 43-44, 52). For the years prior to 1950, the PF noted that a 1936 identification of an American Indian entity was not demonstrated to be the same entity as either petitioner (JBB PF 2007, 52; JBA PF 2007, 52).

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American Indian entity; the article refers to “the San Juaneño Mission Indians—a tribe that today numbers more than 300 strong and is still resident in this county” (Alphonso Yorba, 2/1/1936). However, the PF noted that this entity was not demonstrated to be the same entity as either the JBB or JBA petitioner, or from which either petitioner evolved as a group (JBB PF 2007, 42; JBA PF 2007, 42).⁶ Therefore, this article does not identify an entity that is the petitioner. In addition, only one reference to an entity in a 50-year period is not considered to be “substantially continuous” as required by the regulations.

JBB Comments (1900-1949)

The JBB petitioner provided comments on the PF’s findings under criterion 83.7(a) for the 1900-1949 period. These comments did not dispute the PF’s analysis of the aforementioned 1936 newspaper article by Alfonso Yorba. The JBB petitioner claimed that, “due to funding constraints, it was impossible to gather evidence” relating to JBB ancestors maintaining the graves of their ancestors during the early 20th century, evidence that they hoped would address criterion 83.7(a). Regarding funding constraints, the burden is on the petitioner to document its petition (see 25 CFR 83.5(c)), and the FD must evaluate the evidence in the record. In this case, however, there is a submission by the JBA petitioner for this time period that is part of the record, which mitigates against any alleged hardship. In reviewing the full body of evidence in the record, it seems unlikely that such identification would be found. Furthermore, descriptions by members of the petitioner of a group practice of maintaining graves would be considered a self-identification and would not meet the requirements of criterion 83.7(a).⁷

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

⁶ Neither the PF nor the FD found that there was such a “tribe” of “San Juaneño Mission Indians” at that time.

⁷ The JBB PF evaluated recent oral interviews with a JBB member who recalled how various individual women helped maintain the SJC mission. The record does not indicate that an SJC tribal entity maintained the mission in the 20th century, nor did the interview transcript show that the interviewee identified a 20th century SJC Indian entity (McMullen 3/15/2006, 9-20).

⁸ The JBB provided examples of violence against Indians in California in the 19th century. Criterion 83.7(a) does not require identifications prior to 1900. The one example of violence in the 20th century that the petitioner provided occurred in Northern California, far away from the town of SJC.

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Indian descendants, those researchers did not identify a contemporaneous Juaneño Indian entity.

The JBB petitioner also submitted new records of the Sherman Institute from the 1920s and afterward, claiming that these records identify it as an American Indian entity (Sherman Institute Juaneño Files 1928-1963). In particular, the JBB petitioner claims that “many of the records contain the entry, ‘Indian of the Mission Indian Tribe, located at San Juan Capistrano’” (JBB Narrative 2/28/2009, 9). However, upon inspection of these documents, it is clear that the documents do not identify a “Mission Indian Tribe” then existing at SJC. The phrase, “Indian of the Mission Indian Tribe, located at San Juan Capistrano,” does not exist in the document. The petitioner has created a composite phrase, made up of two types of text. The first is typed boilerplate text on the standardized application form from the Sherman Institute. The second type of text is the fill-in-the-blank text supplied for each applicant—seemingly by each applicant or a parent. In the blank for “Indian of the” appears the phrase “Mission Indian.” In the blank for “Tribe located at” appears the phrase “San Juan Capistrano.” Such information supplied by applicants is a form of self-identification and therefore not acceptable for criterion 83.7(a).⁹ The petitioner’s claim is misleading, as no external observer was describing an American Indian entity at San Juan Capistrano that was the petitioner. Therefore, these documents from the Sherman Institute do not provide identifications of the petitioner as an American Indian entity as required by criterion 83.7(a).¹⁰

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

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

⁹ Similarly, a Sherman Institute yearbook photo of Robert Lobo contains a caption noting that he is a “Mission” Indian from the town of “San Juan Capistrano” (Sherman Institute Yearbook 1934). The caption does not identify an Indian entity and also is a self-identification. It is therefore not acceptable for criterion 83.7(a).

¹⁰ Again, it is important to note that the term “Mission Indians” is not synonymous with Juaneño. The term could apply to Indians, as individuals or in groups, associated with any of the Spanish missions. The Department explained in the PF that identifications of “Mission Indians” are not acceptable as identifications of either petitioner (JBB PF 2007, 38-39, 42-43; JBA PF 2007, 38-39, 42-43). No comment submitted in response to the PF warrants a change in that reasoning.

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

JBA Comments (1900-1949)

In its narrative addressing criterion 83.7(a), the JBA petitioner discusses the 1900 and 1910 Federal Censuses of the San Juan Township, along with a Federal Census of the Sherman Institute Indian school in Riverside, California. In discussing these Censuses, the JBA narrative discusses the census enumerators' decisions whether to identify certain individuals as Indians, as Indians from "San Juan Capistrano," or as "Juaneño" or some similar term. However, these censuses do not identify an American Indian entity.¹¹ Instead, these census entries identified Indian individuals; the entries did not identify a collective entity. The PF addressed these censuses and determined that none of them identified the petitioner as an American Indian entity. Nothing in the narrative or accompanying exhibits warrants a change in that determination.

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

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

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

The JBA narrative suggests that a 1920 letter from Mission Indian Federation (MIF) Grand Secretary Ben Watta, together with a newly provided list of intended recipients, would constitute an identification acceptable for criterion 83.7(a). One of the entries on the list of intended recipients of the letter is "San Juan Capistrano Village Captain Marcus H. Forster" (Watta 3/1/1920). The JBA narrative contends this entry "did not reflect personal membership but *band and/or tribal* membership, each captain/delegate participating as a *representative*" (Grabowski

¹¹ See the Match-e-be-nash-she-wish Band PF and the Huron Potawatomi PF for examples of census documents that identified a petitioner as an American Indian entity (Match-e-be-nash-she-wish PF 1997, 3; Huron Potawatomi PF 1995, 4). See also the explanatory note in the Muwekma FD (Muwekma FD 2002, 43).

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3/12/2009, 28; emphasis in original). These documents identify Forster as an individual, perhaps living in SJC, but this list does not identify an American Indian entity in SJC. The JBA petition narrative also discusses a new list submitted for the FD, possibly of MIF officers, that identifies Marcus Forster and associates him with “San Juan Capistrano, Village San Juan.” This phrase appears in a column under the header “Indian Village or Reservation.” The other individuals on this list are associated with Indian reservations, except for one individual who was associated with San Luis Rey, California (MIF 2/-/1929; Grabowski 3/12/2009, 31). This list identifies Forster as either a “captain” from San Juan Capistrano Village, as living there, or as associated with it in some other capacity. The town of San Juan Capistrano was not an Indian entity; it included many non-Indians. No other evidence indicates that there was an Indian village or residential area separate from the rest of the town during this period, and nowhere in the document is an SJC Indian entity identified or described. This document does not provide an acceptable identification of the petitioner as an American Indian entity.

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

Juan Robles, a picturesque member of the old Mission Indians, passed away early last Friday morning at his home in San Juan after an illness of several weeks. Juan, who was born and raised here, was one of the survivors of the smallpox epidemic (1881) and it is said he had never been outside his native town. In his younger days Juan was employed by Don Juan Forster and later by his son Marcus Forster. The funeral was conducted from the old Mission. (*Coastline Dispatch* 1931)

The term “old Mission Indians,” in this article, does not identify a contemporaneous Indian entity.¹³ Nothing in this obituary, reproduced in full above, demonstrates that the “old Mission Indians” was an entity rather than population of scattered descendants. Neither the PF nor the FD found that there was an “old Mission Indian” entity at the time of this obituary to which Robles might have belonged as a “member.” Regardless, it has not been demonstrated, by either the JBA petitioner or the JBB petitioner, or in the process of the Department’s evaluation for the

¹² The Department explained that identifications of “Mission Indians” or the MIF as an American Indian entity are not acceptable as identifications of the petitioner (JBB PF 2007, 38-39, 42-43; JBA PF 2007, 38-39, 42-43).

¹³ No evidence has established that, in the early 20th century, the SJC Mission was itself an Indian entity or that an Indian entity existed at or near the town of SJC. In the context of the evidence in the record, it is inappropriate to interpret the phrase “Mission Indians” as identifying an SJC Indian entity in the early 20th century.

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FD, that this vague and indefinite reference to Juan Robles as “a member of old Mission Indians” identifies the petitioner or an entity from which the petitioner evolved as a group; therefore, it is not an identification that satisfies criterion 83.7(a).

The second article is the obituary of Ernestina Saguas (b.ca.1918-d.1935). It states that Ernestina was “the daughter of Francisco Saguas, a fullblood Mission Indian of the Achachemem tribe, and Dona Rosa Aguilar” (Grabowski 3/12/2009, 25; *Coastline Dispatch* 7/26/1935).¹⁴ Although the obituary uses the term “tribe,” the obituary provides no further description of it that might help link it to the petitioner. Regardless, it has not been demonstrated, by either the JBB petitioner or the JBA petitioner, or in the process of the Department’s evaluation for the FD, that this vague and passing reference to an “Achachemem tribe” identifies the petitioner or an entity from which the petitioner evolved as a group. Therefore, it is not an identification that satisfies criterion 83.7(a).

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

The JBA narrative points out that anthropologist John P. Harrington and Father O’Sullivan, a priest at the SJC mission church, interviewed Indians at San Juan Capistrano. These Indians, according to the *Los Angeles Times*, possessed “excellent memories” and managed to turn “deaf ears to the distractions of modern life” (*Los Angeles Times* 1/2/1933). The JBA narrative claims that these informants were “collectively distinct” from the rest of the town and had “cultural memories, language, and lifestyle that set them apart from ‘modern’ life,” therefore “these attributes distinguished them as an Indian entity” (Grabowski 3/12/2009, 34). This line of reasoning does not demonstrate that contemporary observers identified an American Indian entity in SJC; rather, it is the JBA narrative that infers that conclusion. The narrative does not present any new supporting documents that show either Harrington or O’Sullivan describing a contemporaneous American Indian entity in SJC. Instead, these documents indicate that these men worked with individual informants or families, not with a contemporary Juaneño group.

The JBA narrative discusses the collected writings of Alfonso Yorba, who himself was not native to San Juan Capistrano, but had ancestors who lived there. Yorba wrote numerous articles and essays about the town of San Juan Capistrano, and he sometimes used the term “Mission Indians.” This term, as discussed elsewhere, does not identify an entity that is the petitioner. The JBA narrative argues that “Yorba’s numerous and specific references to the Indians of San Juan, their historic relationship to the SJC Mission and their relationship to Father

¹⁴ Ernestina Saguas is not in the combined Family Tree Maker™ (FTM) database. The database, however, contains a Justine Saguas (b.1917), daughter of a Frank Saguas (b.1885–d.1955), who is also in the database. None of the current JBB or JBA members descend from Justine or Frank Saguas. The evidence in the record suggests that the “Francisco” Saguas and the “Ernestina” Saguas of the obituary are the same as people as the Frank Saguas and Justine Saguas of the FTM database.

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O’Sullivan, . . . unambiguously identify the Indians of San Juan Capistrano as an Indian entity” (Grabowski 3/12/2009, 36-37). Again, references to individual Indians do not satisfy criterion 83.7(a) because the observer is not identifying a specific collective entity—such as a “tribe” or “group” or “community.”

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

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

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

The JBA narrative claims that the PF did not properly credit a 1940 newspaper obituary of SJC native Jose Doram as containing an acceptable identification of the JBA petitioner (Grabowski 3/12/2009, 39). The *Coastline Dispatch* notes that Jose Doram, a “leader of Mission Indians,” died at age 76. The obituary declared that he was “San Juan’s cultured and beloved Indian leader,” and was perhaps “the best informed Mission Indian in California.” Doram spoke “four Indian tongues . . . perfectly: Acjachemen (San Juan), San Lusieno, San Dieguino, and Cahuilla,” and spoke “San Jacinto, Saboba and Temescal” fairly well. The obituary states that “Doram, as leader of the Acjachemen tribe,” approved historic preservation projects in the town. Thus, the article refers to an American Indian entity, a “tribe.” The obituary further notes, “a number of Indians from the Pala Reservation” came “to pay honor to their tribesman.” Nowhere in the obituary does the author describe an Indian entity in San Juan Capistrano, which is where the petitioner’s ancestral entity would have been located, that might help link it to the petitioner. Furthermore, although the obituary identifies Doram as “leader of the Achachemen tribe,” the article also notes that he is a “leader of Mission Indians,” which suggests a broad group of people, and that at least some of his “tribesm[e]n” were from the Pala Indian Reservation in San Diego County, California (*Coastline Dispatch* 5/31/1940). Thus, the “Acjachemen tribe” of which Doram was the “leader” seems to be something much larger and more expansive than the petitioner and too indefinite to be an identification of the petitioner or something from which the petitioner evolved. It has not been demonstrated that the obituary identifies the petitioner as an American Indian entity.

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

The JBA petitioner claimed that an April 19, 1949, letter from the Commissioner of Indian Affairs approved an attorney contract for a San Juan Capistrano Band of Mission Indians. However, the record does not contain, and neither the JBB nor the JBA petitioner submitted, a copy of this document (Grabowski 3/12/2009, 41).¹⁵ Therefore, the FD cannot evaluate it. Further, such correspondence merely repeats self-identifications and is not considered identifications under this criterion.

For the period 1900-1949, both the JBB petitioner and the JBA petitioner provided new documents for evaluation and requested that the Department reevaluate documents submitted for the PF. However, none of the new documents show that external observers identified the petitioner as an American Indian entity between 1900 and 1949. The PF reviewed similar documents that identified an American Indian entity, but noted that these identifications were not demonstrated to be identifying the petitioner and thus did not meet the requirements of this criterion. The comments from the two petitioners did not address this problem but instead submitted more documents with the same problem. The comments on the PF did not warrant a change in the evaluation of documents provided for the PF. Thus, the FD finds there are no identifications of petitioner as an American Indian entity for the period 1900-1949.

1950 - 1977

Summary of the PF (1950-1977)

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

¹⁵ A letter from attorney Norman M. Littell to the “Captain of the San Juan Capistrano Band of Mission Indians” informed Clarence Lobo that the Commissioner of Indian Affairs approved an attorney contract for the “band of which you are captain” (Littell 6/30/1952). The JBA petitioner contends that this letter shows that, on April 19, 1949, the Commissioner, “thus acknowledge[d]” that the “San Juan Capistrano Band of Mission Indians” was an “‘identifiable band’ and eligible to bring suit before the Indian Claims Commission” (Grabowski 3/12/2009, 41).

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43-44; see also JBA PF 2007, 43-44).

JBB Comments (1950-1977)

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

The JBB narrative claims that the Department improperly analyzed, with respect to criterion 83.7(a), two specific newspaper articles from the period from 1950 to the present. One article reported that a "group of San Diego County and Capistrano Indians" went to Washington, D.C., with Purl Willis, regarding the concerns of the "Mission Indians" (*The San Diego Union* 5/9/1950; see also JBB PF 2007, 46, and JBA PF 2007, 46). The "group" to which the article alluded was small enough to travel to Washington in Purl Willis's automobile. This handful of individuals from San Diego County and Capistrano was too small to be the petitioner, and the article does not indicate that these individual Indians represented an American Indian entity that was either the JBB or JBA petitioner. The second article, an article from a newspaper in 1951, mentioned that more than 100 Indians from the "Capistrano-Santa Ana band" met with Clarence Lobo and additional officers. The PF discussed this article, noting that the meeting seemed to be a pan-Indian organization and something other than the JBB or JBA petitioner (JBB PF 2007, 46-47, 153; JBA PF 2007, 46-47, 151). No new argument or evidence warrants a change in the PF's analysis.

JBA Comments (1950-1977)

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

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identifications under criterion 83.7(a) because attorneys representing a group are not considered external to the group.

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

In its comments on the PF, the JBA petitioner responded to the PF’s findings that the claimants associated with ICC Docket 80, the “Mission Indians,” were something larger than and different from the petitioner. The JBA petitioner was able to show, with BIA documents from 1951 and 1959, that a non-member referenced a separate SJC “band” as a component of the “Mission Indians” of ICC Docket 80. However, the record does not indicate that this identifies the petitioner or that either petitioner evolved out of this “band” associated with Lobo. The JBA narrative also provided some new documents that showed differentiation between San Juan Capistrano and Santa Ana.¹⁶ One newspaper article identified Clarence Lobo as the “head of the Capistrano Indians” and advisor to the “Santa Ana organization” of the League of California Indians (*Coastline Dispatch* 8/29/1952). Another newspaper article noted that the “Capistrano Mission Indians” planned to sponsor a dinner in cooperation with the “Santa Ana group” (*Coastline Dispatch* 7/6/1951). These passages indicate a distinction between Capistrano Indians and an entity in Santa Ana. However, it has not been shown that either petitioner evolved out of this organization associated with Lobo or a different Santa Ana “group” or “organization” associated with him.

The JBA petitioner submitted several new documents for the FD, usually associated with Lobo, that date from 1951, 1959, 1962, and 1964. However, they are not, as discussed below, identifications of the petitioner and they fail as well for the same reasons discussed in the prior paragraph. A 1951 form letter from the Sacramento Area Office of the Bureau of Indian Affairs (BIA) reported that “the following groups of California Indians” have filed claims through their respective attorneys, including the “San Juan Capistrano . . . Band of Mission Indians” (Ring 2/26/1951). The evidence in the record does not show that this group was the petitioner. On November 4, 1959, Homer B. Jenkins, Chief of the BIA’s Branch of Tribal Programs, in Washington, D.C., wrote a letter to Clarence Lobo. Jenkins did not address Lobo as a representative or leader of a Juaneño Indian entity. Instead, Jenkins addressed Lobo without special title, as a member of the general public. Jenkins referenced an SJC Indian entity, noting that on October 12, 1959, the Commissioner of Indian Affairs conditionally approved contracts between several “[b]ands” of Mission Indians, including the “San Juan Capistrano (Juaneño)” band (Jenkins 11/4/1959). A December 15, 1959, letter from Jenkins to the Sacramento, California, Area Director of the BIA notes that the BIA had approved attorney contracts for certain “bands” of Mission Indians for prosecution of claims against the Federal Government.

¹⁶ Neither the PF nor the FD finds that the JBB petitioner evolved from an American Indian entity in SJC or Santa Ana during the 1950s or 1960s. Neither the PF nor the FD finds that the JBA petitioner evolved from an American Indian entity in SJC or Santa Ana during the 1950s or 1960s.

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This letter stated that one of the bands was the “San Juan Capistrano Band of Mission Indians” (Jenkins 12/15/1959). As the PF noted, and as the FD finds, the evidence does not show that either the JBB or JBA petitioner evolved as a group from this “band.” Furthermore, in its comments on criterion 83.7(a), neither petitioner provided an explanation of why, in view of the evidence of discontinuity between itself and Lobo, these references should be considered acceptable identifications of itself or the other petitioner.

Other newspaper articles newly submitted by the JBA petitioner are too generic and not specific enough to be acceptable as an identification of the petitioner. A 1951 newspaper article, “Indian Dance,” discusses sending a delegate to Washington, D.C., to represent the “Juaneño and Gabrieleño bands of mission Indians” in an attempt to obtain certain rights (Newspaper 1951-1952c). Another newspaper article notes that Indians from all over the State attended their annual powwow and feast, sponsored by “the Orange County group of the League of California Indians” (Newspaper 1951-1952d). A newspaper article entitled “Indian Chief Visits Scout Pack Meeting” discusses a youth scout meeting in Silverado, California, that was highlighted by the appearance of “Chief Lobo” of the “Ahaechma tribe.” The article further noted that “Chief Lobo,” who represented “his tribe” in Washington, D.C., annually, resided in Capistrano and had two sons of his own in the scouting program (Newspaper 1951-1952a). A newspaper article from the *Coastline Dispatch* in 1962 states that Chief Clarence Lobo, the head man and spokesman for the Juaneños of San Juan Capistrano, called a general meeting of “the Juaneño and Gabrieleño bands of Indians” (*Coastline Dispatch* 10/3/1962). In 1964, another *Coastline Dispatch* article noted that Chief Lobo and 20 members of his “tribe” marched into Orange County Bank in a gesture of protest (*Coastline Dispatch* 7/8/1964). What was identified in these articles has not been shown to be the petitioner or an entity out of which the petitioner evolved as required by criterion 83.7(a). Again, in its comments on criterion 83.7(a), the neither petitioner provided an explanation of why, in view of the evidence of discontinuity between itself and Lobo, these references should be considered acceptable identifications of either petitioner.

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

1978-1995

Summary of the PF (1978-1995)

The PF found that the record contained evidence of external identifications of the Juaneño Band of Mission Indians (JBM) organization as an American Indian entity during the period 1979 to

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

JBB Comments (1978-1995)

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

JBA Comments (1978-1995)

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

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

1996-present

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

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

The identifications of the petitioner that the PF accepted under criterion 83.7(a) are also acceptable for the FD because of organizational continuity, despite the changes to the membership that occurred between the issuance of the PF and the issuance of the FD. Therefore,

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the FD finds that the evidence in the record demonstrates that the petitioner meets criterion 83.7(a) for the period 1997-present.

Conclusions for the Final Determination on Criterion 83.7(a)

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

Criterion 83.7(b)

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

Summary of the Proposed Finding

The 2007 JBB PF concluded that the evidence in the record demonstrated that the JBB petitioner did not evolve as a distinct community from the historical SJC Indian tribe that existed at SJC Mission in 1834. The evidence demonstrated that the petitioner's ancestors derived from a population of non-Indians, some individual SJC Indian descendants, and other non-SJC Indians who lived in the town of SJC in the mid-19th century. There was not sufficient evidence to show that these people formed a distinct community which meets the requirements of the regulations at any time after 1834. The historical SJC Indian tribe existed until 1834, but the JBB petitioner did not demonstrate that it evolved from this tribe as a distinct SJC Indian community. Therefore, the JBB petitioner did not satisfy criterion 83.7(b) for any period of time after 1834 (JBB PF 2007, 126-129).

The conclusions also discussed the specific problem of the severe membership fluctuations within the former Juaneño Band of Mission Indians (JBM), specifically the dramatic fluctuations in the JBB group's membership lists, and the inclusion of sizeable numbers of people unconnected to the previous members of either the JBM or the Capistrano Indian Council (CIC). The evidence in the record indicated that the JBB petitioner is essentially a different group than the JBM. A number of former JBM members chose to enroll with the JBB, but the JBB did not evolve as a group from the JBM or CIC organizations. The JBB, JBA, and JBMI-IP¹⁷ all continued to draw from this same "pool" of former JBM members, as well as incorporating new members claiming SJC Mission Indian descent. These fluctuations made it very difficult to determine the composition of the JBB petitioner at any given time period, and to understand social relationships among its members. No other evidence in the record demonstrated that a cohesive continuing social community remained in place throughout these membership fluctuations (JBB PF 2007, 169-171).

¹⁷ The Juaneño Band of Mission Indians (JBMI-IP) is the group lead by former JBA chairman David Belardes. OFA designated this group an interested party (JBA PF 2007, 3; 166-7).

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

The group's 2009 certified membership list, submitted by the JBB petitioner for the FD, differs substantially from the 2005 list submitted for the PF.¹⁸ The OFA examines the membership lists of a group over time to understand how a group defines itself. Membership lists are also used in conjunction with other documents to examine relationships between those defined as members. The membership list is a foundational document used to interpret the rest of the petition documentation and informs the entire petition submission.

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

The discussion will focus on the difference between the 2005 certified JBB membership list and the 2009 certified membership list.¹⁹ The 2005 membership list named 908 members, including both adults and minors; the 2009 list includes 455 names, a reduction of 453 members (50 percent). Comparing the 2009 list to the 2005 list, 348 (76 percent) of the 455 current members also appear on the 2005 membership list, while 107 members (23 percent) do not. The 107 appear to be close relatives (siblings, children, etc.) of those who had been on previous lists.²⁰

The petitioner removed most the non-Indian descendants of Old Mexican/Californio²¹ descent (e.g., the descendants of Antonio Maria Olivares and Maria Juana Dolores Bermudez) who could not trace their ancestry to a documented Juaneño line, but continued to include the descendants of Mustun Indian Maria Gorgonia on the basis that she was an Indian at the SJC Mission during the Mission period, and should therefore be included as part of the historical tribe.

¹⁸ OFA reviewed all of the submitted documents. The petitioner's researchers submitted new evaluations of some of the material in the petition record and in the PF, and in some cases, the petitioner corrects errors in the PF (e.g., providing additional evidence of an individual's Indian descent). The petitioner also submitted some materials (often without comment or analysis) which, upon examination, did not prove to be relevant to the finding. This FD will not include a discussion of each individual submission or document presented by the petitioner, but will concentrate on the larger issues raised by the petitioner's response.

¹⁹ See discussion of the various membership lists under criterion 83.7(e).

²⁰ The petitioner also maintains that it has "... adhered to its constitutional requirement of enrolling members with only 1/16th Juaneño Blood, certified by the Aforementioned Certificate of Degree of Indian Blood. This has eliminated many certified descendants of recognized ancestors from the Tribe's rolls over the years" (JBB Narrative 2009, 37). It is not clear from the narrative if the group eliminated any members on the 2005 roll from the 2009 roll because they did not satisfy the blood quantum requirement.

²¹ The term "Californio" here refers to the descendants of those families who lived in California during the time that California was governed from Mexico City. These include the descendants of the families who settled the territory, and the escort ("escolta") soldiers who protected them. The Spanish and Mexican governments both encouraged immigration to California not only from Mexico, but from Peru and Chile. Many Californios were of mixed European and Native American ancestry, while some of European and American ancestry also moved to the territory, received land grants, and became Mexican citizens (e.g., the Englishman John Forster and the American Abel Stearns).

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According to the petitioner,

The Tribe originally believed that the regulations allowed the Certificate of Degree of Indian Blood, created in 1933 . . . for tribal enrollment purposes . . . once the Tribe learned that the BIA was not going to recognize its own documentation as primary sources of lineage verification, they had to rely on county and state-issued documents as primary sources of lineage substantiation . . . the tribe still has not completed its documentation for over 100 of its members, known by the Tribe to be descendants from ancestors recognized by OFA This has also eliminated many documented tribal members who cannot be linked at this time to an ancestor identified by OFA in the preliminary finding. (JBB Narrative 2/28/2009, 36-37)

The 2007 JBB PF explained why OFA “looked behind” the 1928 Claims Act applications and the 1933 Census Roll to the records of the SJC Mission (JBB PF 2007, 27, 103, 147-148). The 1933 Census Roll was not a tribal roll, but a roll prepared specifically for the distribution of a claims settlement. People were required only to demonstrate that they descended from a California Indian living in 1852, not to demonstrate that they were members of an existing tribal entity. The 1933 Census Roll was not a proxy roll for group or tribal membership.²² Further, the 1933 Census Roll was not fully vetted. Research indicates that some people who enrolled in 1928 as SJC descendants were not actually the descendants of the historical SJC Indian population, although some were descended from other California Indian populations.²³ The evidence in the record for the PF indicated that at least some people in the group knew or believed that people had enrolled (either fraudulently or erroneously) who were not SJC Indian descendants.²⁴ However, the record contained no examples of any specific, named individuals who tried to claim funds they were not entitled to, or evidence that any group made an effort to exclude any people or groups of people on the basis that they were not rightfully SJC Indians. The right to take part in judgment funds based solely on one’s descent from a California Indian alive in 1852 was separate from being a member of a tribe or group.

In 1962, Clarence Lobo and his Gabrieleño associate Frank Tafoya tried to organize a roll of those claiming descent from the Juaneño and Gabrieleño Indians. “in order to establish who is who and where they [are] being in relation to any awards that may be forthcoming through the rulings

²² For a discussion of some of the problems with the 1933 Census Roll, see discussion in Muwekma FD (Muwekma FD 2002, 15-24).

²³ The Juaneño descendants did not have an official government roll or Indian agent to provide documentation that would verify descent. It appears that in the case of the Juaneño descendants, the agents accepted the testimony of witnesses, who were generally other claimed descendants, and only occasionally asked for documentary evidence (such as a baptismal certificate) to verify claims.

²⁴ There is evidence in the record which indicates that, in the 1950s, some people in SJC believed that “many Mexicans” had fraudulently enrolled during the 1920s and 1930s (Colbert in Myer 5/14/1951, 3). Also, in one of the interviews conducted with OFA in 2005, one of the spouses of a Juaneño descendant (and JBB member) described that her Juaneño father-in-law had spoken about the people who had lived in SJC all their lives, whom the locals believed were SJC Indian descendants, but who had been discovered to be Mexicans during the time of the enrollment (Charles 3/16/2006, 82-83).

from the Indian Claims Commission”(Lobo 4/6/1962, 1). It does not appear from the evidence in the record that Lobo and Tafoya ever compiled this list. Regardless, the stated purpose of the list was to identify individual claimants, not to limit the membership of a group to only SJC Mission Indian or Gabrieleño descendants.

The Effect of the Changes Made to the 2009 JBB Membership List

The JBB petitioner described the changes it made to its membership list, but also included several references to how disruptive changing the list had been to its members:

This has also eliminated many documented tribal members who cannot be linked at this time to an ancestor identified by OFA in the preliminary finding. . . This included over 500 tribal members who considered themselves to be Juaneño Indians and who have been in our community for all their lives. Needless to say, this has been devastating to most of them, including elders, who were told that they were Juaneño Indian from their childhoods and who have participated faithfully and consistently in the activities of their community for as long as they can remember. This has left the tribal community in a distressed and unhealthy state. (JBB Narrative 2/28/2009, 37)

The petitioner also included some information about the retention of 63²⁵ “elder members” (approximately 14 percent of the current JBB membership) whose descent from the historical tribe could not be documented, but who had been active members of the group for many years (JBB Narrative 2/28/2009, 35-37). The petitioner did not include a separate list detailing the names of the 63 undocumented individuals, but OFA estimates that these are members who were 62 years of age or older in 2009, based on the group’s membership list. The retention of these elder members indicates that the group desired to maintain at least some of the social continuity that it had before the issuance of the 2009 membership list. It is not clear whether the petitioner believes that all or a portion of these members would eventually be able to document their descent from the historical tribe.

It is important to note that the petitioner did not respond to the 2007 PF by demonstrating that its 2005 membership descended from the historical SJC Indian tribe; rather, the group removed hundreds of members whom the PF said did not descend from the SJC Indian tribe. The petitioner did not include any additional interviews with any former members of the JBB petitioner whose membership had been eliminated, or provide any more in-depth description of how this revision altered the nature of the group.

²⁵ The JBB petitioner’s Narrative gives the number of “elder members” as both 62 (JBB Narrative 2009, 37) and 63 (JBB Narrative 2/28/2009, 35). OFA’s analysis of the 2009 membership list determined that the correct number of these “elder members” is 63.

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

The JBB petitioner now claims that most of its members can document their descent from the historical SJC Indian tribe. However, the revision of the JBB 2009 membership list has created a new problem in that the composition of the group the list now describes is very different than the group described in the materials submitted for the PF.²⁶ The group has tried to maintain some continuity in its social character by retaining 63 socially influential members who cannot demonstrate descent from the historical tribe, but still removed more than 450 of its 2005 members. The contemporary JBB group so differs from the group described in the PF that the descriptions, analyses and evaluations of community previously advanced by the petitioner in the materials submitted for the PF do not apply to the group as it is now constituted.

Summary of the Petitioner's Response and 2009 Membership List

The petitioner's redefinition of its membership calls into question the information the petitioner presented for the PF. In the documentation for the PF, the petitioner indicated that many of the people who have since been removed from the group's membership were part of a SJC Indian social group. The retention of some of these individuals the group identified as important members of their social community has provided the group with some social stability, but the removal of a large number of members calls into question the stability of the group itself. The OFA reexamines the arguments advanced by the petitioner in the PF and evaluates them in light of this change in membership and the new evidence in the record submitted for the FD.

Evidence Relevant to Community, 1835-1862

The 2007 PF discussion of the petitioner's evidence for the years 1835-1862 stated that the evidence in the record demonstrated that a portion of the JBB petitioner's ancestors lived in the town of SJC between 1835 and 1862. The mission registers provided some evidence that these ancestors interacted with each other, particularly in assuming religious obligations as godparents. However, little other evidence in the record demonstrated interaction among the JBB petitioner's ancestors. The Mexican, U.S. Federal, and California censuses did not demonstrate the existence of a separate community composed predominantly of the JBB petitioner's ancestors (either Indian or non-Indian), but showed a town with a number of residents from various portions of old Mexican society. The evidence in the record did not demonstrate that the petitioner's ancestors derived from the historical SJC Indian tribe and evolved into a discrete SJC Indian entity. There was little to no evidence that these ancestors formed a community distinct from the rest of the population of the town of SJC between 1835 and 1862. (JBB PF 2007, 76-77)

²⁶ For more discussion of OFA's past analysis regarding groups that have dramatically changed their membership lists between the PF and FD, see Nipmuc Nation (Petitioner 69A), Wedster/Dudley Band of Chaubunagungamaug Nipmuck Indians (Petitioner 68B), Mohegan Tribe of Indians of the State of Connecticut (Petitioner 38), Schaghticoke Tribal Nation (Petitioner 79), and Burt Lake Band of Ottawa and Chippewa Indians, Inc. (Petitioner 101).

In response, the petitioner submitted evidence including a 2009 narrative and a scholarly monograph relating to the history of California Indians (Smith n.d.). The petition record also includes a marriage analysis submitted by the JBA petitioner, which is applicable to the JBB submission.

The 2009 Narrative

The JBB petitioner argued against several of the conclusions reached in the 2007 JBB PF, but submitted little new documentary evidence for their claims. For example, the JBB petitioner had originally submitted an analysis of the 1846 Mexican *Padron*, or census, and maintained that the ancestors of the group who appeared on this list were SJC Indians. The PF documented that all but one of the ancestors identified were either non-Indians, or were non-SJC Indians. The petitioner did not submit a new analysis of the 1846 *Padron*, but did dispute the PF's analysis:

In at least one of these instances OFA is incorrect, according to its own definition of Historic Tribe. Recall that the Historic Tribe is an amalgamation of villages that existed at San Juan Capistrano in 1834. One of the individuals that they discount, Fernanda Cañedo, whose parents were from San Diego Presidio and Los Angeles, was baptized in 1831 at San Juan Capistrano. Fernanda's mother was an Indian from San Diego [PF, pp. 69-70]. Therefore, since Fernanda and her mother were present at San Juan Capistrano prior to 1834, they should be counted in the amalgamated Historic Tribe, even if they were not "Natives" of San Juan Capistrano." (JBB Narrative 2/28/2009, 34-35)

This is not an accurate characterization of the PF. The PF defined the historical Indian tribe of SJC Mission as consisting of California Indians "from a defined geographic region who had been part of a pre-contact system of culturally and linguistically similar, politically autonomous villages" (JBB PF 2007, 65). These villages located within an approximately 25-mile radius of the mission complex to the south and east, encompassing most of the modern Camp Pendleton Marine Base near San Clemente, CA, as well as some additional territory (JBB PF 2007, 55). Fernanda Cañedo inherited her Indian ancestry from her paternal grandmother, not her mother (her mother was a member of the non-Indian Rios family from San Diego). Fernanda's paternal grandmother, Maria Gorgonia Cañedo, was a Mustun Indian from the vicinity of Monterey, California, and had been baptized at San Carmel Mission. As was discussed in the PF, San Carmel is approximately 400 miles north of San Juan Capistrano (JBB PF 2007, 66). The Indians there were of an entirely different linguistic group than those in the vicinity of SJC. Maria Gorgonia married a non-Indian soldier and accompanied him to military postings in San Diego, where some of her children were born (including Fernanda's father, Jose Maria), and San Juan Capistrano, where others were born. The Cañedo children did not marry into the local SJC Indian population, but some of the Cañedo grandchildren did. Therefore, although the Cañedo family was of Indian descent and eventually established kin ties with SJC Indian descendants, they were not from the geographic or linguistic area that defined the historical SJC tribe.

The petitioner also misunderstood a point raised in the PF's discussion of non-SJC Indians in the membership of the JBB. The petitioner characterizes the PF's discussion of the presence of non-SJC Indians in the group as a "criticism" of the group's composition (JBB Narrative 2/28/2009,

22). The PF's discussion of these individuals was not a criticism of the group's historical community; rather, it was a discussion of the multiple social and political factors that resulted in the formation of what the petitioner originally referred to as the "tribe." Indians affiliated with the linguistically and socially similar Luiseño and Digueño communities, such as Herculana (Martin/Martinez) Olivares and Refugio (Ardillo) Rios, did move to San Juan Capistrano, lived there for many years, and established close kin ties there. Some, such as Crisanta (Serrano) Mesa and Anastacia (Davis) Majel, also maintained close ties with their original communities.

The petitioner's argument that ". . . the fact that the name of an Indian ancestor of a so-called "Juaneño" appears in the archives of a different Mission is not necessarily evidence that the ancestor belonged to a different and pre-existing indigenous community" (JBB Narrative 2/28/2009, 22, emphasis in original) cannot be supported. Considering that the priests entered the information while the person was still alive (or very shortly after their death), it is reasonable to give the mission records significant consideration when they note that a person is from one mission or another, or from one linguistic group or another. This is particularly true if the mission records consistently record the person as belonging to another group. The identification of a person in the records of a particular mission does not provide indisputable evidence that the person was from that mission, but it cannot automatically be discounted.

The petitioner argues against a number of the PF's interpretations of the historical record, including the writings of Englehardt and Bancroft:

OFA accepts that four former neophytes and twenty-nine non-Indians received land in these sales. Yet it dismisses Englehardt's assertion . . . that, in addition, a number of other unnamed neophytes also received small homesteads out of Mission lands Further, OFA misleadingly cites [sic] Bancroft as stating that these Indians received lands "in the eastern valley," as if to suggest a lack of connection to the Historical Tribe or the Mission What OFA does not note is that the neophytes received 9,775 *varas*²⁷ in land altogether. Bancroft claims that the ex-neophytes receiving land at SJC were "about 100 in number." (JBB Narrative 2/28/2009, 19)

Regarding the "eastern valley," the PF noted only that the record provided no indication of the actual location of this area, and stated that the Indians who chose (and received) the lands there were probably part of the historical Indian population; however, the lack of a list of named recipients made it impossible to determine who these Indians were, and if any of the current members of the petitioner descend from them (JBB PF 2007, 67). Regarding the amount of land received by the Indians, the record states, "Also list of the neophytes, each family receiving 100 *varas* and each individual 50 *varas*, the whole amounting to 9,775 *varas*" (Bancroft 1884-1890, 626). This quote does not indicate that the Indians chose contiguous plots of land, but only that the total acreage received by all the Indians totaled 9,775 *varas*. The PF's discussion of the distribution of Mission lands did not dismiss the notion that additional neophytes received land,

²⁷ A *vara* is a unit of measure equal to 33 inches.

and specifically cited Englehart's count of men, both gentiles and former neophytes, who were still living in community as of 1841.

Scholarly Monographs

The petitioner included a portion of a text used in an anthropology course from Cabrillo College entitled "ANTHRO 6- An introduction to California's Native People" (Smith n.d., 1-14). The text is an overview of California Indian history and Indian policy that does not specifically mention San Juan Capistrano. The text adds no new information to the record.

Evidence in the Record for the PF

The record for the PF included a number of documents which provided information about the SJC Indians still living in and around the mission between 1835 and 1862. These include the mission's baptismal, confirmation, and burial registers, 1846 Mexican *Padron*, the 1850 and 1860 Federal Censuses and the 1852 California State Census (all discussed in the PF). Each of these documents or sets of documents provided some information about the population of Indians living at or near the mission. For example, the PF noted that of the 117 children confirmed in 1850, 56 (approximately 48 percent) were either SJC Indians or other Indians.²⁸ Several of the Indians being confirmed had other Indians as godparents/confirmation sponsors,²⁹ which indicated that the Indians maintained social relationships with each other.³⁰ The baptismal records record the relationships between unmarried couples that produced children, including Indian/Indian couples and Indian/non-Indian couples. The State and Federal censuses and the Mexican *Padron* provided additional information about the population of both Indians and non-Indians living in and around the mission.

The JBA petitioner submitted a number of additional new analyses of the information already in the record for consideration for the FD. This new information also applies to the JBB petitioner. The sum of these documents, new information, and analysis submitted in response to the PF, and their new analysis for the FD provide satisfactory evidence to demonstrate the presence of an Indian community in the town of San Juan Capistrano between 1835 and 1862. The petitioner's initial discussion and analysis of these records for the PF misidentified a number of non-Indian SJC residents as Indians, which resulted in the petitioner describing the multi-ethnic general population of the town as an Indian community. In contrast, the JBA petitioner's redefinition of the historical SJC Indian tribe submitted for the FD focused only on those who could be identified in the mission registers as being Indians "of the mission," thus removing non-SJC Indians and non-Indians present at the Mission from consideration. The petitioner also submitted new analyses of much of the material already in the record. Taken together, these new analyses, along with other information in the record (submitted for the PF and FD) help provide a fuller

²⁸ This includes the children of non-Indian men and Indian women; there is only one known marriage recorded in the SJC registers between an Indian man (Jose de la Cruz) and a non-Indian woman (Maria Gertrudes Jurado) (SJC Marriage Register #1505, 5/7/1853). It is not clear if there are any recorded baptisms of children born to non-Indian women and Indian men during this period.

²⁹ The Church discouraged birth godparents from serving as confirmation sponsors for their own godchildren, although they still used the term "godfather" or "godmother" in the confirmation records.

³⁰ The PF also noted that non-Indians also served as godparents/confirmation sponsors.

picture of the SJC mission Indians in the years after emancipation and secularization (post-1834).

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

The 1839 and 1841 "Proxy Census"

The JBA petitioner submitted two "proxy" censuses compiled by the petitioner's researchers from various ecclesiastical records. One "proxy" was for 1839, the year the Mexican government made the mission into a *pueblo*; the other was for 1841, the year the Mexican government abandoned the *pueblo* and distributed the land to settlers and former neophytes.³¹ The petitioner describes these documents as lists of "Acjachemen Indians Living At, or Utilizing, Mission San Juan Capistrano." The JBA petitioner maintained that these lists provide a "reasonable snap shot of the Juaneño Indian population either living in San Juan Capistrano or utilizing the mission there during the 7 years leading up to 1839" (Escobar 7/27/2009b). The JBA petitioner appears to have compiled these two lists to try to name Indians who may have been living at or near the mission in the years immediately following secularization. William Hartnell, a California territorial representative, had stated that there were only 76 Indians at the mission when he visited in 1839 (Hartnell 1839).³² Hartnell did not identify the 76 by name, but the JBA petitioner endeavored to create a list, or "proxy census", of who these 76 Indians may have been by utilizing mission records (Escobar 7/27/2009b).

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

The PF noted that a Bancroft citation accompanying a discussion of the 1846 Mexican *Padron*, or census, described the Indian population as "entirely dispersed" by 1844 (Bancroft Library

³¹ The terms "neophyte" was used by the 18th-century Jesuit priests to describe Indians who converted to Christianity. The term "gentile" was used to describe unconverted Indians.

³² Hartnell may only have done a count of the actual people in residence at the mission proper when he arrived, not the Indians living at more remote ranchos who returned to the mission to marry and to baptize their children, and who were still considered by the Mexican authorities and the priests to be "Indians of the SJC mission."

1880ca). However, this reference is contradicted by another Bancroft collection reference which noted that “half-a-dozen families of *gente de razon*, and 20 or more of ex-neophytes lived quietly, if not prosperously, at San Juan . . .” between 1842 and 1845 (Bancroft 1884-1890, 627). It is unclear if the text referenced only those Indian families who lived in close proximity to the mission, or if it included all SJC Indians who lived within the boundaries of the old mission’s properties. It is impossible to determine from the limited evidence whether the 326 SJC Indians identified by the petitioner in 1841 were part of the “20 or more” unnamed families noted between 1842 and 1845.³³ The PF did note that the use of the word “entirely” in reference to a dispersed SJC Indian population was inaccurate, as the baptismal registers indicated that SJC Indians lived there at that time (JBA PF 2007, 68), and because subsequent U.S. State and Federal censuses recorded several of these families still there in the 1850s and in 1860 (JBA PF 2007, 87; Appendix 1, 205-6). The Bancroft citation provides additional evidence to support the presence of an SJC Indian population in the years following the land distribution.

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

The Decade-by Decade Database

The JBA petitioner submitted an analysis entitled “JBMI-84A Census Decade-By-Decade Database.” According to the JBA petitioner, the people in the database were either the direct ancestors or relatives of the direct ancestors of current 84A members (JBA 9/15/2009 1930 Census Data, 1),³⁴ and the analysis illustrates “the historical patterns of Juaneño occupation in San Juan Capistrano” (JBA 9/15/2009 1930 Census Data, 3). The petitioner compiled the information from a number of records, including U.S. Federal censuses, the 1852 California State censuses, and numerous ecclesiastical records from San Juan Capistrano, as well as other missions.

The OFA examined the JBA petitioner’s analysis of documents from 1830 to 1839, 1840 to 1850, and 1851 to 1860 (the periodizations defined by the petitioner). All three documents name the people descended from specific SJC Indian progenitors, the location of their birth or baptism, and where they were enumerated during the relevant decade. According to the analysis, 69 of the petitioner’s 82 claimed SJC Indian ancestors or their relatives lived in SJC between 1830 and 1839 (84 percent). From 1840 to 1850, the number of ancestors and relatives living in SJC had shrunk to 39 of 88 (44 percent). From 1851 to 1860, 51 of 99 (52 percent) lived in SJC. According to the JBA petitioner’s analysis, many of the petitioner’s claimed and/or demonstrated SJC Indian ancestors or relatives lived near the mission in the years immediately following emancipation. By the 1840s, many had already moved to Los Angeles or to other locations.

³³ This is unlikely, as it would have resulted in families averaging 16.3 members.

³⁴ The relatives identified in the documents appear to be first-degree relatives (brothers, sisters, children or parents) of those family members remaining in San Juan Capistrano, but the relationships are not explicitly stated.

This remained the case between 1851 and 1860. The rest of the analysis provided little to no direct evidence indicating that those ancestors and relatives who left the area maintained relationships with the Indians still living in the town during these time periods, although OFA assumes that close relatives (siblings, parents, and children) remained in contact with each other.³⁵

SJC Marriage Analysis

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

According to the JBA petitioner, “. . . the historic JBMI tribe meets criterion 83.7(b)(1)(i) from 1835-1885 at “more than a minimal level” which indicates the historic JBMI tribe also meets 83(c)(1)(iv) for that same period of 1835 through 1885. Secondly, this evidence also demonstrates the historic JBMI tribe meets 83.7 (b)(2)(ii) which confirms it also meets 83(c)(3) for the same period” (Escobar and Rivera 9/4/2009, 35). According to the acknowledgment regulations, a petitioner may use very specific types of information to demonstrate community at a given point in time. One example of this evidence, as defined under 25 CFR 83.7 (b)(2)(ii), is to demonstrate that “At least 50 percent of the marriages in the group are between members of the group.” The JBA petitioner’s analysis demonstrates that more than 50 percent of the marriages involving SJC Indians recorded in the SJC mission registers were between two SJC Indians in the years between 1835 and 1855, but this result cannot be applied to the whole historical SJC tribe because there is not enough evidence to define accurately the tribe’s membership and where they married. The JBA petitioner has tried to reconstruct the community from the available evidence in the record, but the lack of a reliable list of SJC Indians at any point in time makes it difficult to determine who the tribe comprised. For example, in this analysis, the petitioner did not analyze the marriages of the siblings of the SJC Indians who

³⁵ OFA has maintained that first-degree relatives (parents, children, and siblings) can be assumed to be in contact with each other, even if that contact is not explicitly demonstrated. Contact between more distant relatives (aunts, uncles, cousins, etc.) must be demonstrated with some other form of evidence.

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married at the mission in order to determine if their siblings (who would also have been members of the historical tribe) also married SJC Indians, other Indians, or non-Indians. The data and analyses are incomplete.

The petitioner's analysis also did not include any information on unsanctioned relationships which produced children, which OFA also counts as marriages, nor marriages recorded in places other than the SJC records. If these relationships were added to the tally of all church marriages involving one SJC Indian, it is not known if the number of "marriages" between SJC Indians would still exceed 50 percent between 1835 and 1855. For example, SJC Indian Materna Chavez³⁶ had two children with a man named Juan de Mata [Saguas] between 1845 and 1855. The petitioner noted in its FTM database that "no marriage on record" existed for this couple, but the 1851 baptism of their daughter Maria Fernanda de Jesus refers to her as a "legitimate daughter," indicating that the couple may have been married elsewhere (SJC Baptisms #4717, 6/11/1851).³⁷ The information in the petitioner's database indicates that Juan de Mata was an Indian from San Luis Rey. If this relationship had been recorded in the petitioner's marriage analysis, it would have been an additional "Indian/SJC Indian" marriage; however, it was not included in the analysis at all. It might be possible to ascertain a more complete record of all significant relationships by including information gleaned from the baptismal registers, which also included information on children born to unmarried couples or to couples who may have been married elsewhere and then returned to SJC. The marriage analysis presented here does not include relationships other than those formally acknowledged in the marriage registers or those marriages recorded somewhere other than SJC mission and thus is methodologically flawed and not accepted for purposes of an 83.7(b)(2) analysis.

According to the acknowledgment regulations, a petitioner may also demonstrate community by some combination of evidence under 25 CFR 83.7(b)(1)(i), including "significant rates of marriage within the group, and/or, as may be culturally required, patterned out-marriages with other Indian populations." The JBA petitioner has presented such corroborating evidence regarding church-sanctioned marriages involving SJC Indians and SJC and non-SJC Indians between 1835 and 1885, and OFA has identified other similar relationships not in the marriage registers.³⁸ This information must be combined with other types of corroborating information in order to demonstrate community. The marriage analysis is not sufficient to demonstrate community under criterion 25 CFR 83.7 (b)(2), even when enhanced by OFA's analysis. However, it does demonstrate that in the years following secularization and emancipation, SJC Indians continued to marry other SJC Indians in church weddings, and did so at the mission. Additional evidence also indicates that other SJC Indians forged similar relationships that were not recorded in the church marriage register. Thus, this analysis provides additional evidence that may be used in combination with other evidence in the record to satisfy the requirements of 25 CFR 83.7(b)(1).

³⁶ Maria Materna Chaves is an ancestor of a number of the JBA petitioner's members through her son Jose Doram. There are no known descendants of her Saguas children in the JBA petitioner.

³⁷ The 1856 baptismal record for their son Francisco also referred to him as the "legitimate son" (SJC Baptisms 123, 2/17/1856).

³⁸ For example, the PF noted that three Indian couples baptized children at SJC mission in 1846 (JBA PF 2007, 68). As far as can be determined, these couples are not included in the petitioner's marriage analysis.

Other New Evidence

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

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

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

In the final months of 1862 through the beginning of 1863, a smallpox epidemic struck San Juan Capistrano (JBB PF 2007, 76). The disease killed 130 people within the span of 2 or 3 months, including 88 who were either identified specifically as “Indian” or who were listed without a surname, a convention almost always used when designating Indians. It is not clear how many SJC Indians lived at the mission at this time, although the 1860 Federal Census identified 213 of the 661 people in town as “Indian.” The OFA located 10 Indians on the 1860 census who appear to be the same as the Indians on the burial register, but was not able to locate the others. Although it is not clear that the Indians on the census were all the same as the Indians who later died, it is likely that the majority were part of the historical tribe, while some of the others may have been non-SJC Indians.

The lack of a list or roll of SJC Indians makes it impossible to know how many Indian people may have lived in SJC at that time, or the number of SJC Indians who were still alive but living away from their natal community. The OFA estimates that the Indians in SJC numbered about 200 people (between the 173 Indians recorded on the 1852 State Census and the 213 Indians

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recorded on the 1860 Federal Census).³⁹ Thus, approximately 44 percent of the Indians residing at SJC died within a very short time,⁴⁰ and no new evidence in the record for the FD indicates that the population of the petitioner's claimed Indian ancestors ever recovered from this severe blow.

Other Evidence

The JBB narrative stated, "Due to extreme funding constraints, it was impossible to provide for a full-time analyst to thoroughly examine and document the thousands of mission records from SJC and Los Angeles as they may "contain many details" of a certain level of community among the JBB's ancestors, as OFA suggested" in the PF (JBB Narrative 2/28/2009, 22).

The JBB petitioner provided no additional evidence to satisfy criterion 83.7(b)

Summary of Evidence Relevant to Demonstrating Community, 1835-1862

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

The acknowledgment regulations under 83.6(e) state that, "Evaluation of petitions shall take into account historical situations and time periods for which evidence is demonstrably limited or not available. The limitations inherent in demonstrating the historical existence of a community and political influence or authority shall also be taken into account." In the case of the historical SJC Indian tribe, the 1835-1862 period was one of multiple transitions, including the period immediately following emancipation to the attempt to establish a *pueblo de indios* (1839-1841), through the transfer of California from Mexico to the United States culminating in statehood (1848-1852). The various authorities (Mexican, ecclesiastical, and American) who kept records during this time recorded a population of Indians at various points in time, but the Mexican/Spanish custom of recording Indians without surnames and the Indians use of various forms of their baptismal names⁴¹ made it difficult to identify whether the Indians identified as SJC Indians in one document or set of documents were the same Indians referred to in another record. Nevertheless, the one institution that did persist throughout this time, the Catholic Church, continued to record the presence of a population of SJC Indians marrying each other,

³⁹ The JBA PF noted that the Indians enumerated on the 1852 State census did not appear to be ancestors of the current petitioner (JBA PF 2007, 72), although they may have been members of the historical tribe.

⁴⁰ It is possible that some of the other Indians left the area in order to escape the disease. It is not clear if some of the Indians who were later recorded in SJC survived the plague by leaving the area and returning later, or if they stayed in the area and avoided the contagion.

⁴¹ For example, a woman named "Maria Josepha Dionisia" might be recorded as "Maria Josepha," "Josepha," or "Dionisia" on different records compiled at different times.

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serving as witnesses at other Indians' weddings, baptizing and confirming their children, and burying their dead. This population of SJC Indians continued these activities at the SJC mission, refuting the claims made in some other records that a SJC Indian population no longer existed at the former mission.

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

Evidence Relevant to Demonstrating Community, 1863-1879

The 2007 PF discussion of the petitioner's evidence for the years 1863 to 1879 stated:

The evidence in the record indicates that some of the ancestors of the petitioner⁴² were part of the same socio-economic group within the town of SJC, and may have established relationships due to their similar social status. However, the information in the available record is insufficient to demonstrate that the petitioner's ancestors formed a community distinct from the rest of the population of the town of SJC from 1863 to 1879. (JBB PF 2007, 80)

In response the JBB petitioner submitted no new information or discussion regarding the years between 1863 and 1879. The narrative stated, "As we follow the development of the Juaneño community in the early American period, we run into special problems of documentation. Nearly all of our knowledge of the Juaneño in the early contact period comes to us from the Church authorities When the mission system ceased to exist, the Church's documentary record of the tribe ceased to exist also, and nothing comparable took its place" (JBB Narrative 2009, 23). This assertion would seem to ignore not only the records of baptism, confirmation, marriage and death that the Church continued to record, but also overlooks the numerous censuses (both State and Federal), local tax and land records, and other documents produced after statehood that may provide evidence of community.

Other Evidence in the Record

Evidence in the record for the FD included U.S. Federal census records, various ecclesiastical records, scholarly monographs, and a copy of Fr. Jose Mut's account book from 1866 through 1888, and some analyses of various documents. Some of the analyses cover multiple decades, and the relevant portions of these analyses will be addressed below. Where JBA submitted comments on its PF and the evaluation of those comments do not assist JBB under the criteria, the analysis in the JBA FD is not repeated here.

⁴² This paragraph referred to the petitioner's SJC Indians and non-Indian ancestors, as well as the many non-Indian ancestors the petitioner identified as SJC Indians in the previous submissions.

The Book of Accounts of Fr. Mut

The 2007 PF discussed the work of Fr. Jose Mut, a Catholic priest who served the parish for 22 years and advocated on behalf of the poor people of San Juan Capistrano (JBB PF 2007, 78). The documentation in the record for the PF included information taken from the notes of ethnographer John P. Harrington describing how Mut had served as an advocate for the poor people of the town against the wealthy members of the community (Harrington Notes 1836-1927, 3; 33). Special Indian Agent John Ames also described an interview with Fr. Mut, who described his interest in the affairs of the Indians (Ames 10/28/1873, 4). One of the scholarly monographs in the petition record cited Fr. Mut's account book as a source of information, but it was not included in the record for the PF. The OFA suggested that a copy of the book be included in the submission for the FD, and the JBA petitioner included it in consideration for the FD.

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

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

Summary of Evidence Relevant to Demonstrating Community, 1863-1879

The evidence in the record does not change the conclusions made in the 2007 PF. The new evidence in the record in combination with the evidence in the record for the PF is insufficient to demonstrate the existence of a distinct SJC Indian community from which the petitioner has evolved socially and politically. The negative conclusions of the PF for the period from 1863 to 1879 under criterion 83.7(b) are unchanged.

Evidence Relevant to Demonstrating Community, 1880-1919

The 2007 JBB PF discussion of the petitioner's evidence regarding the 1880 to 1919 period noted that indicated that the information in the Federal censuses, mission registers, and other available sources, demonstrated that a portion of the JBB petitioner's ancestors (both Indian and non-Indian) lived in the town of SJC and interacted with each other socially. However, this

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evidence did not demonstrate the existence of a distinct community composed predominantly of the petitioner's ancestors. The evidence showed the JBB petitioner's Indian and non-Indian ancestors interacting with the general SJC population. The JBB petitioner also misidentified a number of non-Indian and non-SJC Indian ancestors as SJC Indians. While the JBB petitioner claimed that its ancestors suffered from anti-Indian discrimination, the contemporary evidence does not support the petitioner's assertion. The JBB petitioner submitted no evidence of residential discrimination or of segregated schooling, nor is there any other evidence which supports the petitioner's claim that non-Indians discriminated against its ancestors because of Indian descent. This evidence did not demonstrate the existence of a distinct SJC Indian community from which the petitioner evolved socially and politically (JBB PF 2007, 90).

In response, the JBB petitioner submitted no additional evidence or any new analyses of information already in the record. Other evidence in the record, submitted by other parties, also applied to the petitioner's claims. This evidence included, but is not limited to, scholarly monographs and portions of a journal by Fr. St. John O'Sullivan.

Fr. O'Sullivan's Journal

The record for the FD included a transcript of a journal kept by Fr. St. John O'Sullivan, the priest who established the Mission School and who worked diligently to repair and publicize the mission as a tourist destination (O'Sullivan 2/-/1912). Fr. O'Sullivan arrived in San Juan Capistrano in 1910, and this 1912 journal includes his recollections of his arrival in 1910. He mentions some individual SJC Indians, such as Maria Gomez⁴³ and Jose Dolores Mesa, and includes some information about the relationship between their families and the mission. His description of San Juan Capistrano and its residents, while it does name individual Indians and identifies them as SJC Indians, does not provide any evidence of a distinct Indian community, even within the town's population of Old Mexican/Californio residents.

Scholarly Monographs

The record for the FD includes excerpt from a book entitled *Conquests and Historical Identities in California, 1769-1936* (Haas, 1995), submitted by the JBA petitioner to support some of its arguments regarding community among SJC Indian descendants. Haas' analysis indicates that non-Indian observers did not distinguish between Indians, Mexicans and Californios because of their cultural and linguistic similarities (Haas 1995, 210, 214). However, the record includes no new evidence of a distinct Indian community in the town during this time period, existing alongside, or even within, a larger Old Mexican/Californio community. For example, the petition record for the FD included no additional information about the feast of Corpus Christi, when Indians formerly maintained one of four altars during this important religious festival (JBB PF 2009, 82).

⁴³ The JBA petitioner questioned OFA's identification of Maria Gomez as a SJC Indian in the PF (JBA PF 2007, 80); (Escobar 7/30/2009a; JBA 3/13/2009 Progenitor File: Gomez, Maria Braulia). Additional information in the Harrington notes identified Maria de Gomez as the daughter of a SJC neophyte named Raphael (her mother was unnamed) (Harrington 1907-1957 Vol. 3, 20). According to the information in Fr. O'Sullivan's journal, her parents left the mission after emancipation and she was born in Los Angeles (O'Sullivan 2/-/1912, 17).

Summary of Evidence Relevant to Demonstrating Community, 1880-1919

The analyses and data submitted during the comment period, in combination with the information already in the record, do not change the overall conclusions under criterion 83.7(b) made in the 2007 PF. The new evidence provides little additional evidence of an Indian community descended from the earlier SJC Indian community during this time, even accounting for the petitioner's removal of a number of people formerly identified as SJC Indian ancestors from the analysis of the historical community. The evidence in the record still indicates that the SJC Indian ancestors of the petitioner were part of a larger, Spanish-speaking, Catholic, Old Mexican/Californio population.⁴⁴ There is insufficient evidence to demonstrate the existence of a community of SJC Indian descendants from 1880 to 1919, and the negative conclusions of the PF for the period 1880-1919 under criterion 83.7(b) are unchanged.

Evidence Relevant to Demonstrating Community, 1920-1963

The 2007 PF discussion of the JBB petitioner's evidence for the years 1920-1963 described how the JBB petitioner attempted to define a membership for this time period by using the information on the 1928 Applications (JBB PF 2007, 104-106). Some evidence indicated that the ancestors of the current JBB petitioner were dispersed throughout Orange County, California, with most members living outside of the town of SJC. More members of the JBA petitioner and JBMI-IP had close connections to the town of SJC than did the members of the JBB, though all three groups also contain members who grew up outside of SJC and had little or no contact with the people living in the town. The record contained less information regarding community among those families who moved away from SJC, whose descendants currently make up the majority of both the JBA petitioner and JBMI-IP, and the overwhelming majority of the JBB petitioner. The record contained no information to support any claims of the establishment of "Juaneño" communities in the Santa Ana neighborhoods of Logan, Delhi, or Artesia, otherwise identified as ethnic Mexican neighborhoods. The record for the PF did not include a residential analysis of the specific census tracts in which these neighborhoods are located, and did not include any other analysis of the households in which SJC descendants were said to have resided. The evidence in the record did not demonstrate that a separate community of SJC Indian descendants existed in the town of SJC or that the ancestors of the JBB petitioner comprised or were part of such a community (JBB PF 2007, 109-110).

In response, the petitioner submitted seven admission files from Sherman Institute, a Federal Indian boarding school attended by a number of SJC Indian descendants. Other evidence in the record submitted by other parties also applied to the petitioner's claims. This evidence included two new documents authored by Alfonso Yorba (including a detailed account of the funeral of Fr. O'Sullivan), additional interviews, and newspaper articles (several of which were included in the "Chief Clarence Lobo Database.")

⁴⁴ There is some evidence in the record which indicates that the SJC "old families" distinguished (and continue to distinguish) themselves from Mexicans who migrated to California in the 20th century, but these "old families" do not define the petitioner during this time.

Sherman Institute Files

The JBB petitioner submitted seven student admission files from Sherman Institute, dated between 1928 and 1932, for students of Juaneño descent (Sherman Institute 1928-1963 Student Files). Of these seven students, four (Mary Mogart, Eva Parra, Benedicta Parra, and Petra Doram) have descendants in the JBB petitioner, two (Robert Lobo and Raymond Lobo) have descendants in the JBA petitioner, and one (Vernaby/ Berniece Doram) has no known living descendants. The petitioner maintains that the files include “several letters detailing difficulties in securing the admission of Juaneño students” (JBB Narrative 2/28/2009, 8-9), but the petitioner does not include any further analysis of these records. The OFA examined the files, and is unable to determine what specific difficulties the JBB petitioner is referring to: difficulties in actually getting the students admitted to the institution, or difficulties encountered by the students at home which lead them to seek admittance to boarding school. Two of the letters in the files for students living in San Juan Capistrano describe the public school as inadequate for Indian children, stating “. . . all the attention goes to the whites and (illegible) taken with the poor Indian” (Sherman Institute 1928-1963 Student File, 4, 13). Five of the seven students were from homes where their mothers had died, but the other three were from intact (albeit poor) nuclear families. One of the students who had attended Sherman for at least 8 years prior to this particular application stated that he wanted to attend the school because San Juan Capistrano did not have a high school (Sherman Institute 1928-1963 Student Files, 17).

The Sherman Institute files include a few other indications of community among the group of claimed SJC descendants, such as the signatures of witnesses on the applications. Marcus H. Forster, who served as the “captain” of the SJC branch of the Mission Indian Federation (MIF) wrote statements to support the admittance of two of the children to the school, and signed as a witness for four of the five other students, which indicates that he had some knowledge of these families. SJC Indian descendant Viviana (Ricardes) Oliveras also signed as a witness on the applications for two students, which indicates that she also had some knowledge of these children and their families. However, these examples are too small a sample to indicate that this knowledge and these relationships were widespread throughout the group.

The Works of Alfonso Yorba

The record contains two new documents by Alfonso Yorba, a frequent visitor to San Juan Capistrano during the 1920s and 30s who had an interest in the history of Mexican California. The first document describes the 1933 funeral of Fr. O’Sullivan (Yorba 1933a), while the second is a collection of various notes about San Juan Capistrano residents (Yorba 1934b).

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Yorba's description of the funeral specifically refers to "the Juaneños" in the town. However, while he names some of the petitioners' Indian ancestors, his use of the term Juaneño" refers not only to the SJC Indian descendants, but to the non-SJC Indians and Californio (which he also refers to as "Spanish") residents as well. He specifically contrasts the residents with the tourists, who he felt viewed the funeral as a show rather than treating it with the appropriate respect (Yorba 9/1933ca, 9). While he certainly identified Indians among the population of San Juan Capistrano, his work does not describe any separate community of Indians nor does it provide any new information to that already available for the PF about the residents, other interactions, and activities.

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

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

Interviews and Oral Histories

The record included a DVD containing six interviews with eight SJC Indian descendants, including one current member of the JBB petitioner (Helen Charles McMullen) conducted by SJC Indian descendant Don Doram and his wife Phyllis in 1987 (JBA 9/15/2009 DVD 4).⁴⁵ These interviews did not directly relate to SJC Indians, but appear to have been done on behalf of a civic association concerned with plans for the development downtown San Juan Capistrano. The interviews may have been conducted through the CIC (Don Doram conducted at least two of the interviews in the Harrison House, the home of the organization), but it is not clear. The Dorams interviewed a number of SJC Indian descendants about their opinions regarding the development of the town, but did not ask any questions specifically regarding SJC Indians or an SJC Indian community. The older residents who had grown up in the town did describe some of what life in the town had been like many years ago and discussed their Indian ancestry, but they did not describe a specifically Indian community.

The OFA interviewed two of these descendants in 2006 (Helen Charles McMullen and Eleanor Sanchez Garcia),⁴⁶ as well as several other descendants in the same age categories (including

⁴⁵ The Dorams also interviewed two people who were formerly considered SJC Indian descendants by the petitioner (Paul Arbisio and Julian Ramos).

⁴⁶ Neither of these women are members of the JBA petitioner; Helen McMullen belongs to the JBB petitioner, and Eleanor Garcia is a member of the JBMI-IP.

some siblings of the people interviewed in 1987)(McMullan 3/15/2006; Garcia and Garcia 3/13/2006). The OFA's interview questions were focused on the SJC Indian descendants and their interaction with each other, and most of their answers were consistent with those given in 1987. The community they described in the OFA interviews included many non-Indian and non-SJC Indian descendants, and did not describe a distinct SJC Indian community.

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

Newspaper Articles

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

The area newspapers recorded some of the activities of people claiming descent from the historical SJC Indians. These activities were often part of the activities of the "Capistrano-Santa Ana Band," and also of an organization called the "League of California Indians" (Newspaper 1951-1952b, 1). The activities of the League of California Indians cannot be considered solely SJC Indian events, although they involved a number of the petitioner's ancestors and living members, because it included a number of people who identified themselves as descendants of another Indian population (specifically Gabrieleños).⁴⁷ The 1954 article describes an "Indian festival" hosted by "the Juaneño band of Mission Indians at Capistrano and the Gabrieleño tribes of San Gabriel," but then identified the leadership of the Juaneño organization as Frank Tafoya, Sal Bleeker, Yolanda Sandoval and Helen Bleeker (*Coastline Dispatch* 7/16/1954), only one of whom (Yolanda Sandoval) was a descendant of SJC Indians.⁴⁸ The composition of the "Capistrano-Santa Ana Band" is also complicated by the petitioner's change of membership, as many of the ancestors and living members involved with the organization are no longer considered by the petitioner to have been part of the historical SJC Indian tribe, as reflected by the group's 2009 membership list. The petitioner did not provide any analyses of the composition of the organizations to sort out which people belonged to which group.

⁴⁷ The JBB petitioner was advised that it may wish to re-examine the composition of the "League of American Indians" (JBB PF 2007, 157) because it appeared to have been composed of claimed Juaneño descendants and claimed Gabrieleño descendants. The name of the organization should have been recorded as the "League of California Indians."

⁴⁸ The newspaper also identified an entirely separate slate of officers for the San Gabriel group, indicating that the organization that Tafoya et al. represented was actually an organization consisting of claimed Juaneño and Gabrieleño descendants.

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The newspapers in 1951, 1952, 1953, and 1954 all recorded a barbecue or pow-wow in San Juan Capistrano (*Coastline Dispatch* 4/6/1951; 6/20/1952; 6/12/1953; 7/16/1954). In some articles, the paper identified some of the people who helped to organize the event (such as Elisa Rios and Katherine Pitassi) who are currently identified by the JBA petitioner as descendants of the historical tribe (*Coastline Dispatch* 4/6/1951, 1; 4/13/1951, 1; 6/20/1952, 1). The papers also identify other people (such as the Belardes family and Frank Ramos) participating in the events who are no longer identified as SJC Indians by the JBA petitioner (*Coastline Dispatch* 7/6/1951, 1; 7/13/ 1951, 1; 6/20/1952, 1). It is unclear from the information in the record whether the JBB petitioner would define these same people or families as descendants of the historical tribe. Then, no news articles record any large pow-wows or barbecues until the mid-1960s. There are no explanations as to why the barbecues stopped, or if any other events replaced them.

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

Summary of Evidence Relevant to Demonstrating Community, 1920-1963

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

Evidence Relevant to Demonstrating Community, 1964-1993

The 2007 PF discussion of the petitioner's evidence for the years 1964-1993 noted that there was no evidence in the record to demonstrate social interaction among the members of the current JBB petitioner between 1964 and 1975, although interview data suggest that the SJC claimants and their descendants who were residents of SJC interacted in a variety of formal and informal situations. There is no information in the record reflecting interaction among the members of the JBB petitioner who lived outside SJC and between those people and people in the town of SJC.

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The JBM [Juaneño Band of Mission Indians] started with the support of the CIC [Capistrano Indian Council], but quickly became its own separate institution. The evidence indicated that tension between SJC residents, who knew each other well, and the majority of the members of the JBM, whom they said they did not know and with whom they had little to no previous association, kept the membership of the two organizations from overlapping significantly for several years. The evidence in the record indicated that the JBM organization was essentially a descent group composed predominantly of people who had little previous contact with each other, but who claimed descent from the same “pool” of pre-1900 residents of SJC (JBB PF 2007, 119-120).

In its comments on the PF, the petitioner submitted the 2009 narrative and 31 sign-in sheets from CIC meetings from 1988-1991. The petitioner also re-submitted some additional documents already in the record, including a copy of a 1992 interview with Evelyn Lobo Villegas, and several CIC newsletters. Additional information in the record includes some newspaper clippings and 170 applications from the Capistrano Indian Council (CIC) filed between 1975 and 1978.

The 2009 Narrative

The 2009 JBB narrative did not address the issue raised in the PF concerning the lack of information regarding community between 1964 and 1974 (JBB PF 2007, 111). The JBB petitioner described a basket-making class formed “with the intention of reviving and preserving traditional Juaneño basketry” at some unspecified point in the early 1970s. It is not clear from the discussion if this group formed before the CIC and was quickly incorporated into the organization, or if the basket-making class was one of the CIC’s first activities.

Newspaper Articles

The record contains a few new articles related to gatherings of SJC Indian descendants during this period. These articles are applicable to the claims made by the JBB. In 1965, the local paper reported that a large, weeklong pow-wow was scheduled to be held in San Juan Capistrano, but did not give a date. According to the article, the pow-wow would host meetings among various tribal leaders, as well as have a public component of a parade, barbecue, and dances performed for spectators. The article states that there had been three previous meetings held, including one which drew more than 2,000 people, but the previous meetings had been “for the Juaneño tribe” (*Coastline Dispatch* 6/30/1965, 1). An article published a week later gives the dates of August 7 through August 14 for the pow-wow (*Coastline Dispatch* 7/7/1965, 1), but then the record falls silent. The information in the record does not indicate that this pow-wow actually took place, or provide any descriptions of it.

Three articles (two in 1966, the other in 1967) describe the naming of SJC descendant Viviana Ricardes Oliveras (b.1883-d.1970) as the “matriarch” of the town of San Juan Capistrano by the local historical society (*Coastline Dispatch* 6/22/1966; 6/22/1966a; 3/15/1967a).⁴⁹ Records submitted for the PF had identified other SJC descendants as having held this position (e.g.,

⁴⁹ The “Matriarch” and “Patriarch” of San Juan Capistrano are honorary positions named by the local SJC Historical Society.

Juanita Rios Foy, Evelyn Lobo Villegas, and Helen Charles McMullen), but there is no known requirement that the matriarch (or patriarch) be of SJC Indian ancestry.⁵⁰ There is little other information in the record regarding Viviana R. Oliveras (see discussion regarding the Sherman Institute applications), and it is not stated why she was chosen for this position.⁵¹ While the articles identified her as a SJC descendant, there is no mention of whether or not the other SJC descendants in town attended the ceremony honoring her, or if they held their own separate ceremony acknowledging her award. When interviewed for the 1967 article, she acknowledged her SJC Indian ancestry and stated that she had also attended an Indian school in San Diego, but she did not describe an Indian community in the town of SJC, or imply that such a community existed.

The Capistrano Indian Council

The record contains 170 applications for the Capistrano Indian Council (CIC) filed between 1975 and 1978, and submitted to OFA by the JBA petitioner (JBA n.d. CIC Enrollment Applications). The CIC is a non-profit organization founded by a number of SJC Indian descendants and their spouses in 1975. The CIC organization was not limited to SJC Indian descendants, but welcomed all people interested in California Indian culture, and included many non-Indians as well as people claiming Indian ancestry from all across the country. The submission did not include any new descriptions of the activities of the CIC, nor did it include any additional comment or clarification of the residential distinction noted in the PF between the mostly SJC residents who joined the CIC and the mostly non-local people who initially joined the JBM (Juaneño Band of Mission Indians) organization (JBB PF 2007, 111-116).

The JBB petitioner submitted 31 sign-in sheets from the CIC from 1988-1991 (JBB 1988-1991). According to the narrative, “Most of the members of the CIC were also Juaneño tribal members as documented by the CIC sign-in sheets” (JBB Narrative 2/28/2009, 25). The JBB petitioner provided no analysis of these sign-in sheets in order to support this assertion, but OFA considered this new data even without the petitioner’s analysis. Many CIC members did not actually join the JBM until the mid-1990s, as was discussed in the PF (JBB PF 2007, 115-116). While it is true that a number of the people on the sign-in sheets were San Juan Capistrano descendants, being a descendant and being a member of the “tribe” (i.e., the JBM) was not necessarily the same thing. The OFA examined three of the lists with the largest attendances, one from each year (October 9, 1988, February 11, 1990, and February 10, 1991) and compared them to the 1979 JBM membership list. Of the approximately 70 names on the three lists, only three could be identified on the 1979 JBM list. These lists support the PF’s earlier conclusion that most of the people who attended CIC meetings before the late 1990s were local residents, and that few members of the much larger JBM attended the CIC. The JBB narrative also states, “The CIC plays an intrinsic function in the Juaneño tribal community. Most of its members are Juaneño tribal members and the organization does not exclusively involve the residents of SJC as noted by OFA . . .” (JBB Narrative 2/28/2009, 26). The JBB petitioner did not include any

⁵⁰ The PF included a discussion of Evelyn Villegas Lobo, who was named SJC Matriarch in 1992. As was stated then, the historical society chooses Matriarchs from the elder women who have spent most of their lives in the town of SJC (JBA PF 2007, 98).

⁵¹ Ms. Oliveras was a lifelong resident of the SJC area and the mother of 14 children, both of which may have influenced her being named to the position.

further explanation of what intrinsic function the CIC fills within the group of Juaneño descendants. The JBB petitioner's statement regarding the CIC involving members other than SJC residents may also be true currently, but the evidence in the record indicates that from the 1979 founding of the JBM until approximately 1993, most CIC members were from SJC, and few CIC joined the JBM.

Summary of Evidence Relevant to Demonstrating Community, 1964-1993

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

*Evidence Relevant to Demonstrating Community, 1994-Present*⁵²

The 2007 PF discussion of the JBB petitioner's evidence for the years 1994 to the present noted that the dramatic fluctuations in the JBB membership lists (particularly the inclusion of a number of individuals not known to have been enrolled in or associated with the JBM) indicated that the current JBB petitioner's membership is essentially different from the JBM membership. These problems made it very difficult to demonstrate that the members of the petitioner had maintained social relationships over time. No other evidence in the record demonstrated that a cohesive continuing social community remained in place throughout these membership fluctuations. The JBB petitioner indicated that it had instituted a number of social and cultural programs for the benefit of its members, but did not sufficiently document the involvement of the membership in these activities. Unlike San Juan Capistrano, where there was a degree of informal association among the JBB, JBA, and JBMI-IP members who live in town, there was very little information on the relationship between members living in other cities and towns, other than their participation in formal activities the JBB organized. There was little information as to whether the JBB members who live in Santa Ana, Riverside, or in other areas associate with each other, and no information as to how these members interact with each other outside of the formal organization (JBB PF 2007, 127-128).

In its comments on the PF, the petitioner submitted its 2009 membership list and the 2009 Narrative. The OFA also received a number of third-party comments, some submitted too late to be considered as evidence for the PF, and some comments submitted during the comment period on the PF. All such comments were considered for the FD. Any comments received after the close of the FD comment period were not considered, in accord with 83.10(4)(1).

An organization called "California Cities for Self Reliance, Joint Powers Authority (JPA)" submitted a comment prior to the issuance of the 2007 PF (JPA 11/9/2006). The 27-page report by David Schmit included questions about interaction among the petitioner's then-current

⁵² The 2007 PF erroneously identified this time period as "1993-Present," rather than "1994-Present."

membership, (JPA 11/9/2006, 14). The report specifically referred to evidence submitted by the JBB petitioner and cites attendance statistics from that group's Annual Reunion, but the questions posed in the report regarding interaction among the petitioner's membership also apply to the JBA petitioner. The report also questioned whether or not interaction occurred between the members of the three groups (JBA, JBB, and JBMI-IP) all claiming descent from the historical SJC Indian tribe. The petitioner did not submit a response to the Schmit report (JPA 11/9/2006), but addressed some of the concerns in response to the same issues when they were raised them in the PF.

The 2009 Membership List

The 2009 membership list is discussed in detail at the beginning of this report, and that discussion need not be repeated here. The change in membership creates two significant issues. The first is the need to explain the history of the group after having omitted many of the historical families and individuals from whom it had formerly claimed descent. The second is that the JBB petitioner did not provide any information regarding how the removal of such a large number of members has affected the group as it is currently constituted. The 2009 JBB narrative included some description of the effect of the reduction of members on the group, but did not include any interviews with either members who had been removed, or with those members still part of the group. Further, the petition included no information regarding whether the change in membership criteria affected the personal relationships among the current members of the group and those removed from the group.

The OFA performed a residential analysis of the JBB petitioner's 2005 membership list and included a discussion of this analysis in the 2007 PF (JBB PF 2007, 122). The petitioner did not include a separate residential analysis of the 2009 membership list, and did not include a copy of the 2009 membership file in electronic format. The OFA prepared a modified membership analysis⁵³ of the new list to see if the members of the group live in the same towns as those members on the 2005 list, if they demonstrate any residential clustering, or if the change in membership altered the previous residential statistics OFA compiled for the PF. On the 2005 list, only 3 of the 908 JBB members had San Juan Capistrano residential addresses; in 2009, only one member of the 455 members did. Approximately one-third of the petitioner's 2005 members (297 of 908 members, or 32 percent) lived in one of five towns (Corona, Escondido, Riverside, Santa Ana, and Valley Center); on the petitioner's 2009 list, the percentage of members in those five towns remained about the same (144 of 455 members, or 31 percent), but two other towns (Norwalk and Orange) now had more residents (17 and 20 respectively) than Santa Ana or Valley Center (15 and 14 respectively). The petitioner did not include any information on residential clustering among those members on the 2005 or 2009 lists, and OFA did not find any.

The petitioner did not include any interviews with either those members who had been excluded or the response of those who remained in the group to the expulsion of the others. The material in the record does not include any information on whether the change in membership criteria affected the

⁵³ The JBB petitioner did not submit an electronic copy of their membership file that could be easily sorted by residential address. OFA prepared an abbreviated residential analysis by concentrating solely on the towns where members lived, without any additional analysis of whether these members had been counted on the 2005 membership list.

personal relationships among the members of the group and those removed from the group.

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

Summary of Evidence Relevant to Demonstrating Community, 1994-Present

The new analyses and data in the record for the FD, in combination with the information already in the record for the PF, do not change the conclusions made in the 2007 PF. The new evidence does not provide additional evidence of community among the petitioner's members during this time, does not account for the removal of a number of people previously identified as members, or whose ancestors the petitioner had considered part of the historical community. Further, the petitioner included little to no information regarding the effect of the disenrollment of such a large number of members on the patterns of social interaction of the group's members. The evidence does not demonstrate that the change in membership was to reflect a pre-existing distinct group. The evidence in the record is insufficient to demonstrate community from 1994 to the present and the negative conclusions of the PF for the period 1994-present under criterion 83.7(b) are unchanged.

Summary of Evidence Relevant to Demonstrating Community, 1834-Present

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

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does not demonstrate that the petitioner's mid-19th century ancestors formed a distinct SJC Indian community within a larger Spanish-speaking, Catholic, Old Mexican/Californio community.

Conclusions for the Final Determination on Criterion 83.7(b)

The new evidence in the record in response to the 2007 PF, in combination with material already in the record for the PF, demonstrated that a community of SJC Indians existed around the SJC mission after 1834 and the emancipation of the SJC neophytes. Combined with other evidence in the record from ecclesiastical and civil records, the marriage analysis submitted by the JBA petitioner and other documents demonstrated that the community that existed in 1834 when the Mexican government emancipated the SJC neophytes continued to exist as a community until the 1862-1863 smallpox epidemic. Therefore, this FD finds that the historical SJC tribe continued to exist as a community in the vicinity of the SJC mission from 1834 to 1862.

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

Criterion 83.7(c)

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

Conclusions of the Proposed Finding

In the 2007 JBB PF, OFA concluded that the petitioner did not present sufficient evidence of formal or informal leadership among its claimed ancestors during the late 19th century or early 20th century. The evidence available in the record did not demonstrate political influence from 1834 to the present. The historical SJC tribe would meet this criterion until 1834, but the JBB petitioner did not demonstrate that it met the requirements of the criterion after 1834. Further, the petitioner did not demonstrate political influence at any time since 1834. Therefore, the JBB petitioner did not satisfy criterion 83.7(c) from 1834 to the present (JBB PF 2007, 169-171).

JBB Petitioner's Response to the PF

During the comment period on the PF, the JBB petitioner submitted a new 2009 membership list and a 2009 narrative which argues several of the conclusions OFA reached in the PF. The petitioner submitted few documents to substantiate the arguments in its narrative. Some additional information in the record also applies to the JBA petitioner, and will be discussed here as it informs the decision.

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

The 2009 Membership List

As was discussed under criterion (b), the JBB petitioner's 2009 membership list removed a significant number of previously enrolled members on the basis that their ancestors were not historical SJC Indians (the petitioner removed 453 members, or 50 percent of the 908 members on the 2005 certified membership list). At the same time, the petitioner also explained that it had retained 63 members whose ancestry could not be documented, but who had been part of the group for many years (JBB Narrative 2/28/2009, 37). The membership list will be discussed in some depth under both criteria (b) and (c) because it is the document that defines the group. The OFA examines the membership lists of a group over time to understand how a group defines itself. Membership lists are also used in conjunction with other documents to examine

relationships between those defined as members. The membership list is a foundational document used to evaluate a petitioner's social and political evolution and interpret the rest of the petition documentation.

The JBB petitioner did not directly address the issue of the revised membership list under criterion 83.7(c). The petitioner did indicate that the change in membership negatively affected the group, but included no discussion of how the political leadership of the group decided who to remove and who to keep. There was also little discussion of how this drastic membership revision affected the political composition of the group.

Evidence of Political Influence, 1835-1862

The 2007 PF discussion of the petitioner's evidence for the years 1835 to 1862 is divided under two time periods (1776-1848 and 1848-1861).⁵⁴ Considering that the PF identified a tribe at SJC in 1834, and no new evidence was submitted for the time period before 1834, the discussion of the evidence for the FD will combine the evidence from 1835-1862.

The 2007 PF discussion of the evidence in the record stated that, after 1834, many of the Indians appear to have left the mission, although some did stay in the area. The Mexican government attempted to establish a *pueblo de indios*, but this attempt failed as more Indians left the former mission, and those who remained became increasingly dissatisfied with the administrators. The record contained one example of a 1839 petition by SJC Indian José Delfin on behalf of the other Indians at the SJC Mission, but is silent as to any political influence or authority exercised by, or on behalf of, a remaining group of SJC Indians still living near the former mission between 1841 and 1848 (JBB PF 2007, 135-135). The record contains no examples of formal or informal political authority or influence among the named SJC Indian ancestors of the current petitioning group living in SJC during this period. The record includes no example of elections, appointments, or formal or informal leadership among the petitioner's ancestors during this period (JBB PF 2007, 139).

The record for the FD includes a number of new analyses of information already in the record, such as ecclesiastical records from the Mission at San Juan Capistrano and other missions, Mexican census records, US Federal census records, and the California State census of 1852.

SJC Marriage Analysis

The record for the FD included a document entitled "Proof of the Acjachemen Nation as a Continuous Historic Tribe From the Pre-Mission Era to 1930" (Escobar and Rivera 3/13/2009), prepared and submitted by the JBA petitioner. In this document, the JBA petitioner prepared an analysis of all of the new marriages recorded in the marriage register of the SJC Mission in which mission records identified at least one SJC Indian between 1835 and 1915.

⁵⁴ The 2007 PF originally described the time periods 1776-1848 and 1848-1861. The new evidence in the record creates new time periods for discussion.

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According to the JBA petitioner, “. . . the historic JBMI tribe meets criterion 83.7(b)(1)(i) from 1835-1885 at “more than a minimal level” which indicates the historic JBMI tribe also meets 83(c)(1)(iv) for that same period of 1835 through 1885. Secondly, this evidence also demonstrates the historic JBMI tribe meets 83.7(b)(2)(ii) which confirms it also meets 83.7(c)(3) for the same period” (Escobar and Rivera 3/13/2009, 2009, 35). The marriage analysis is discussed in detail under criterion 83.7(b).

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

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

Summary of Evidence Relevant to Demonstrating Political Authority, 1835-1862

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

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evolved. There is insufficient evidence to demonstrate political influence or authority, and the negative conclusions of the PF for 1835-1862 are unchanged.

Evidence Relevant to Political Influence, 1862-1933

The summary of the 2007 JBB PF for the period 1862 to 1933 stated that the record contained little to no evidence of political influence or leadership among the JBB petitioner's ancestors following the 1862-1863 smallpox epidemic through the organization of the SJC chapter of the Mission Indian Federation (MIF) and the completion of the 1933 Census Roll. The finding also noted that there was little evidence in the record that the leadership of the local MIF SJC chapter responded to any specific needs or requests from its members, or that members considered the activities of the leadership to be of importance, or that the chapter addressed any issues other than claims. A number of the petitioner's ancestors who applied under the 1928 Claims Act and appeared on the 1933 Census Roll did not descend from SJC Mission Indians. Some descended from Indians from other former missions, but most identified non-Indian ancestors as Indians (JBB PF 2007, 147-148).

In response to the PF, the petitioner submitted the 2009 narrative and seven applications from Sherman Institute. Additional evidence in the record for the FD includes, but is not limited to, an interview with the son of MIF "captain" Jose Doram, which described the activities of the MIF during this period.

The 2009 Narrative

The 2009 narrative summarized OFA's discussion from the 2007 PF, but presented little new evidence to challenge or overturn OFA's evaluation of the evidence. The petitioner offered some new arguments to support a different interpretation of evidence already in the record, but did not include any additional analysis to support these new arguments. For example, the petitioner argues, ". . . it is worth considering how the residential distinction in membership can be tied to OFA's lack of analysis of the descendants of the Historical Tribe living adjacent to SJC While it may be possible to argue and build a history based on Chris Wood's argument for two-way movement of tribal members between SJC and outlying areas, it would nevertheless need to be supported by evidence of social, familial, and other ties over time, precisely those areas for which, according to OFA, insufficient evidence has been submitted" (JBB Narrative 2/28/2009, 26). The petitioner did not, however, do the analysis that it described and it is petitioner's burden to do so. In another instance, the petitioner argues, "Again relying on a negative inference, OFA claims that this lack of documentation suggests that the failure to ratify the [1852] treaty (and presumably, the later claims activities) were of no concern to petitioner's ancestors, and only became a concern after MIF's involvement" (JBB Narrative 2/28/2009, 27). Again, the petitioner offered no additional analysis or any other documentary evidence to demonstrate why the PF's analysis was in error.

The narrative, in combination with other evidence in the record, did not provide sufficient evidence to satisfy the requirements of criterion 83.7(c).

The Mission Indian Federation

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

The record for the FD includes a new explanation for the involvement and leadership of non-Indian Marcos H. Forster (b.1866-d.1936) in the MIF, an organization the petitioner identified as an important precursor of the contemporary JBB petitioner.⁵⁵ The PF noted that Forster was not a descendant of a historical SJC Indian tribe, yet was very involved in both the local and Statewide MIF organization. According to the JBA petitioner, Forster's non-Indian mother had two half-sisters who were SJC Indians through their mother (Maria de Jesus Soilo). These -aunts were close to Forster in age, and he grew up with them and with the other Indian descendants in the general community. When he became an adult, he continued to work with his aunt, Felipa Avila Olivares (b.1872-d.aft.1945), and utilized his education and experience to help the members the MIF (Grabowski 3/12/2009, 101). His obituary described him as working "to get indemnity for the Indians for their well-founded property rights" and added that took testimony, secured funds for the legal fights in Congress, and enrolled into a compact federation the scattered remnants of California's "forgotten race" (*Coastline Dispatch* 10/23/1936, 1). The JBA petitioner presented this additional biographical data as part of the explanation for Forster's involvement in the organization, but such evidence does not change the evaluation in the PF that the MIF was not a precursor of the JBA petitioner.

The record also includes an interview with Don Doram (b.1922-d.2007), the youngest son of MIF Captain Jose Doram, in which he described how Forster, Felipa Olivares, and others would attend MIF meetings in Riverside. According to this interview, when Forster and the others returned to SJC after a large MIF meeting, they would hold a local meeting and convey the information they had learned to the members of the local SJC chapter (Doram 2005, 1-2, 3). This interview does not include any additional information regarding whether the members of the local organization had specific concerns they brought before the leadership. Doram specifically identified language preservation as an issue the group leaders discussed with the membership at large, but this was the only issue he cited. The PF noted that there was little to no information in the record as to whether issues such as land and/or water rights, employment, or any issues other Indian communities addressed in their MIF meetings were similarly raised at SJC meetings (JBB PF 2007, 143-144). The Doram interview included no information to address this question, and no other information in the submissions for the FD submission addressed this question.

⁵⁵ The PF rejected this argument, finding instead that the several 20th century organizations of people claiming SJC Indian descent were each separate entities with different memberships, structures and aims (JBB PF 2007, 170).

Sherman Institute Files

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

Comments by the JPA

The California Cities for Self-Reliance, Joint Powers Authority (JPA) interested party submitted a report for the FD entitled “Federal Recognition of the Juaneño Band of Mission Indians: An Ethnohistorical Evaluation of the Applicability of 25 CFR 83.8 and Further Evidence Applicable to Criteria 25 CFR 83.7(c),” written by James P. Lynch (JPA 5/9/2008). For the period between 1834 and 1900, the JPA report made several claims that various pieces of evidence indicate that a political community of SJC Mission Indians either did not exist or did not exercise political influence or authority. The report discussed some material from *San Juan Capistrano Mission*, by Zephyrin Engelhardt, O.F.M. (Los Angeles: The Standard Printing Co., 1922) regarding the SJC community shortly after secularization of the SJC Mission in 1834. The PF reviewed the material in Engelhardt extensively, and discussed it under both criterion 83.7(b) and criterion 83.7(c), as well as other places in the report. The PF did not find the material in Engelhardt demonstrated that the historical Indian tribe of SJC Mission exercised political influence over its members during this post-secularization period. The JPA’s report included new evidence, the B. D. Wilson Report of 1852, and quotes the observation of B. D. Wilson, a traveler to Southern California. Wilson observed, “the Indians of San Juan . . . are now nearly extinct, from intermarriage with the Spaniards and other more usual causes of Indian decay” (Caughey 1995, 18). Intermarriage with non-Indians would not preclude the petitioner from meeting criterion 83.7(c). However, nothing in the pages of the B. D. Wilson Report submitted by the JPA shows that the Indians of SJC Mission exercised political influence within a SJC entity in the post-mission period. The JPA report also discussed the report made by Indian agent John G. Ames when he visited San Juan Capistrano in 1873⁵⁶ and interprets the Ames report as showing that the Indians of SJC left the town to escape the smallpox epidemic of that year (Ames 10/28/1873). The JPA report also contrasts Ames’ sparse writings about Indians in the town of SJC with his more detailed writings about Indians in other Southern California locations. This, the JPA report claims, “strongly suggests a lack of any Indian social or political organization at San Juan Capistrano” (JPA 5/9/2008, 30). The PF discussed Ames’ report and found that it did not provide evidence of political influence within a contemporary SJC Indian “tribe” (JBB PF 2007,

⁵⁶ The JPA Report incorrectly cites this report as being written in 1862, the actual year of the SJC smallpox epidemic. The Department notes concerns with the Lynch Report.

18, 140). The JPA report discusses the 1870 Federal Census of the Town of San Juan Capistrano and notes that only 5 of over 400 residents were identified as “Indian” and that the residences of these 5 were “located throughout the town” (JPA 5/9/2008, 31). The PF discussed this Census and found that it “does not provide evidence for the existence of a settlement composed solely or mostly of the JBB petitioner’s ancestors” (JBB PF 2007, 78-79). The JPA report also claimed that the Luiseño and Diegueño Indians in the late 1800s had individual, named leaders who spoke on behalf of a group, but that there was no similar sort of political influence for a “Juaneño political or band entity” (JPA 5/9/2008, 31). The PF also noted that the 1873 Ames report named several Indian leaders from other Indian communities, but did not identify any Indian leaders from SJC (JBB PF 2007, 140).

The JBB petitioner submitted no response to the comments in the JPA report.

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

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

Evidence Relevant to Political Influence 1934-1964

The summary of the 2007 JBB PF for the 1934-1964 period concentrated on the activities of Clarence Lobo, who was identified by the petitioner as the “Chief” of SJC Indian descendants. Lobo advocated for many years on behalf of the settlement of the California claims issue, but the PF noted that little evidence in the record related to Lobo’s involvement with any issues other than the claims issue. The PF also noted that the petition contained little evidence of a bilateral relationship between Clarence Lobo and the individuals who claimed descent from the historical SJC Indian tribe (JBB PF 2007, 157).

In response, the petitioner submitted the 2009 JBB narrative. The record also includes the “Chief Clarence H. Lobo Collection.” This collection included over 1,000 documents, including many letters written and received by Clarence Lobo (b.1912-d.1985), the man the petitioner identifies as its leader from the late 1940s until the mid-1970s.

The 2009 Narrative

The 2009 narrative summarized OFA’s discussion from the 2007 PF, but presented little new evidence to challenge or overturn OFA’s evaluation of the evidence for this period. The petitioner described the PF’s evaluation of the material regarding Clarence Lobo as having been “dismissed for lack of evidence showing community support” (JBB Narrative 2/28/2009, 28), but

then includes no further discussion of the material in the record. The petitioner also submitted no new material relating to any of Clarence Lobo's activities.

The Chief Clarence Lobo Collection

The FD record includes many new documents from the "Chief Clarence Lobo Collection" ("Lobo Collection"), which covers his activities from approximately 1949 until 1975, and also included a few documents written after 1975. Many documents detail his work with Purl Willis, a non-Indian "advisor" who was very active in California Indian politics from the 1920s until his death in the 1970s (JBA 4/9/2010). The collection also includes correspondence between Lobo and a number of people claiming descent from the historical SJC Indian tribe. These people wrote to him for a variety of reasons, but most asked his advice on how to properly file their claims under the 1928 Claims Act.⁵⁷ The collection also includes several examples of correspondence written while he was in Washington, D.C., notifying the people in California of his progress, and many examples of his letter-writing to various politicians, BIA representatives, lawyers, and interested citizens about the situation of the American Indian in contemporary society.

The documents in the "Lobo Collection" demonstrate Lobo's passion for the cause of the California Indian, specifically what Lobo referred to as the "free Indians."⁵⁸ According to the many letters he wrote, the Indians on reservations in California had garnered most of the attention of the State and Federal governments, and "free Indians" who had never lived on reservations or under government supervision (such as the Juaneños) had suffered. Further, Lobo believed that the "free Indians" were still wards of the Federal Government (Lobo 4/14/1951, 1).

The PF noted that much of the available evidence in the record included many references to Clarence Lobo's work in pan-Indian organizations such as the "League of California Indians" (LCI) and the "Capistrano-Santa Ana Band."⁵⁹ An analysis of a number of the lists included in the record indicated that these organizations, while including a number of SJC Indian descendants, also included many people descended from other California Indian populations, or people descended from non-Indians who had come to identify themselves as Indians and participated in Indian organizations (JBB PF 2007, 150-154). The petitioner did not specifically address this issue in its response. This FD examined some of the new lists included in the "Lobo Collection," including several attendance lists from meetings as well as lists of people who contributed financially to fund Lobo's trips to Washington D.C. (see JBA FD Appendix III,

⁵⁷ The Lobo files contained approximately 15 examples of letters written to Lobo regarding the claims issue.

⁵⁸ The FD record includes a scholarly monograph which discusses Clarence Lobo's work on behalf of the "free Indians," who were defined as "... Indians who had left the reservations" (Hanks 6/-/2006, 255). In the case of the Indians of San Juan Capistrano, this was inaccurate, as they had never had a reservation.

⁵⁹ In one document, Lobo identified the LCI organization as "... an all Indian organization (California Indians) . . . trying in a small way to make ourselves known . . ." (Lobo 8/14/1952, 1). In another document, he identified himself as "... the leader of two great Bands of Indians, namely, the San Juan Capistrano Band along with the San Gabriel Band . . ." (Lobo 1/27/1953, 1). In another letter, he identified himself as "... Chief of the Juaneño Indians and advisor to the Gabrileño Band of Indians . . ." (Lobo 2/18/1960, 1).

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Meeting Lists from Lobo Collection) and compared the names on the lists to the people named in the JBA petitioner's 2005 database and on their 2009 membership list. Most of the people on these lists are either not SJC Indian descendants as identified by the JBA petitioner or are not in the JBA petitioner's database at all. The JBB petitioner did not submit a new genealogical database for the FD, but it did submit a new 2009 membership list, which allowed for a limited comparison. It does not appear that any of the current members of the JBB petitioner claim descent from any of the people whose names appear on these lists other than those individuals both OFA and the JBA petitioner have identified as SJC Indian descendants. These lists included in the record for the FD indicate that neither the "League of California Indians" nor the "Capistrano-Santa Ana Band" was a SJC Indian entity or an antecedent to the petitioner.

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

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

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

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

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

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

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

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

In addition to Lobo's concerns regarding members, he also had a very tumultuous relationship with Purl Willis. Willis, who had been active in California Indian affairs since the 1920s, sometimes agreed with Lobo, and sometimes did not. As early as 1952, Lobo appears to have been suspicious of Willis and his aims, and wrote, "I feel the same as you do in regards to Mr. Purl Willis. I can't figure his game, although I know that he must have one and if I should go all-out to get to the bottom of his game it would take me too long and I just don't have that kind of time" (Lobo 12/17/1952, 1). Ten years later, when Santa Ana resident and SJC descendant Yolanda Cruze Sandoval began to work with Willis, Lobo wrote, "Mr. Willis why must you hurt the people this way This same woman you select to carry your program into our territory is the same person who broke up the friendly relationship between the San Juan group and the Santa Ana people . . ." (Lobo 4/4/1962).⁶⁰ Nevertheless, Lobo continued to correspond and work with Willis for many years. It is not clear from the documents in the records how the men managed to put aside their differences.

The PF noted that the evidence in the record included little evidence of Lobo working with a council or governing body. The documents in the "Lobo Collection" provide some occasional references to other people who may have made up a council or governing body, but these references are infrequent. One document approving the contract between the Juaneño Band and attorneys Lindsley and Staniforth contained the signatures of Clarence Lobo and Joe Placentia, Placentia being identified elsewhere in the record as Lobo's "sub-chief" (Lobo and Placentia 11/-/1959, 2). The PF noted that there was no notice of any election wherein Placentia was elected "Sub-Chief," although there is a reference in the local newspaper to a ceremony in which Lobo named Placentia "Aide to the Chief" and named Abel Majel⁶¹ as "warrior chief," or bodyguard (*Coastline Dispatch* 3/19/1959, 1). The "Lobo Collection" also included a document certifying the change of attorney in the Indian Claims Commission (ICC) case signed by Clarence Lobo as "Spokesman" and "Mrs. Frieda D. Sommers" as "Secretary" (Lobo and Sommers 6/1/1962, 2). This is the only document in the record signed by Sommers, and it is not clear how she came to have the title of "Secretary," even if it was only in this one instance. One

⁶⁰ In the margin of another document, someone, presumably Lobo, identified Yolanda Sandoval and Helen Bleeker as "field workers for P.W. propaganda" (Willis 4/24/1962, 1).

⁶¹ Abel Majel, although born and raised in San Juan Capistrano, was a Pala (or Luiseño) Indian. He and his brother Juan participated in a number of SJC Indian events throughout their lives.

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document, a page of either minutes or notes taken from a 1964 meeting, implies that there was some discussion about forming a “tribal council,” but this does not appear to have happened. The information in the notes indicates that Lobo opposed the formation of a council, so much so that the anonymous author wondered why:

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

There is no indication that that group subsequently attempted to form a council, even as it indicates at least one anonymous member was critical of Lobo's style of leadership.

The 2007 PF noted that most of the information related to Clarence Lobo dealt specifically with issues related to claims, with little information relating to any other issues which the group might have had, such as interceding with game wardens, truant officers, or other town or state officials (JBB PF 2007, 157). The new documentation provides some new information describing members asking for Lobo's assistance, but these requests were usually related directly or indirectly to the claims issue. A few letters from members requested help in clarifying their status with the BIA or sought the proper forms to fill out in regards to the claims case (Lobo 8/8/1962, 1; Soto 1/20/1964, 1-3; Lobo 5/31/1962). One letter in the submission appears to be a combined apology and thank-you letter from a member Lobo had allowed to sleep in his truck, possibly during the Cleveland National Forest protest (Saguas 5/30/1964, 1). The material submitted for the FD contained no new evidence of group members requesting Lobo's aid or assistance with other matters.

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

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

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

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

“So far, my family is the only family who has papers proving their Indian lineage here in San Juan Capistrano.” (Lobo 3/12/1964, 2)⁶²

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

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

Summary of Evidence Relevant to Political Influence, 1934-1964

The new evidence and analyses, combined with evidence already in the record for the PF, do not provide sufficient evidence of political influence among members of a SJC Indian entity that evolved into the current petitioner. The FD’s analysis of the information in the “Lobo Collection” indicates that Clarence Lobo was active on behalf of pan-Indian organizations such as “the Capistrano-Santa Ana Band” and “the League of California Indians,” and that he also claimed to be the leader of an organization comprised specifically of SJC Indian descendants (known by various names including the “Capistrano Indian Band,” the “San Juan Capistrano Band,” and the “Juaneño Indians”). The evidence in the record supports the JBA petitioner’s

⁶² It is unclear why Lobo made such statements regarding other families in San Juan Capistrano, as a number of his close friends and neighbors (particularly the Dorams, the Patricio Ricardes descendants, and the Magdalena Castengura descendants) were of undeniable SJC Indian ancestry. The documentary evidence of their descent should have been no more difficult to obtain than the evidence of Lobo’s own ancestry.

assertion that some claimed SJC descendants acknowledged Lobo as their “chief,” but the new information provided little information regarding a bilateral relationship between Lobo and the people who participated in the “Capistrano Indian Band.” It also provided little evidence of the members of the group contacting Lobo for reasons other than those related to the claims issue. The evidence submitted did not provide evidence of leadership or internal processes used to influence or control the behavior of the petitioner’s members in significant respects. The evidence is insufficient to demonstrate political authority or influence over a group of petitioner’s ancestors or members for this time period, and the negative findings of the PF for the time period 1934-1964 are unchanged.

Evidence Relevant to Political Influence, 1965-1993⁶³

The summary of the 2007 JBB PF for the period 1965-1993 noted that the record included almost no evidence to demonstrate the exercise of political influence under criterion 83.7(c) from 1964 until 1978. The PF record included no evidence of any type of activity, formal political organization, or informal influence and decision-making, between 1964 and 1974. There was also little evidence or analysis of the composition and activities of the Capistrano Indian Council (CIC), a non-profit organization formed in late 1974-early 1975 (JBA PF 2007, 156-157). There was no indication that the CIC was a continuation of the MIF or any of the claims organizations Clarence Lobo organized, although the organizations’ members drew from the same pool of descendants of pre-1900 SJC town residents. SJC Indian descendant Raymond Belardes initially organized the Juaneño Band of Mission Indians (JBM) as an “offshoot” of the CIC, but it quickly became a separate entity of its own, with activities, a membership, and an agenda that appears to have differed significantly from that of the CIC. The PF record contained little or no evidence to demonstrate that the JBM leadership exercised political influence over the membership from 1978 until 1993, other than through the activities of the formal organization. Most members of the CIC did not join the JBM until the mid-1990s, as they disagreed with Raymond Belardes’s politics, although some evidence from about 1989 (when David Belardes replaced his cousin Raymond as the JBM’s spokesperson) to 1993 points to members of a core group residing in San Juan Capistrano exercising some influence on the leadership and actions of the JBM organization (JBB PF 2007, 165). This evidence did not extend to the membership as a whole.

In response to the PF, the petitioner submitted the 2009 narrative and 31 sign-in sheets from the CIC dated between 1988 and 1991. Other evidence in the record included 175 CIC applications, dated between 1974 and 1978, as well as an analysis of the applications.

The Post-Lobo Era

The 2007 JBB PF noted that after 1965, there was little evidence of any political influence or activity until the formation of the non-profit Capistrano Indian Council (CIC), in 1974-5 (JBB PF 2007, 158). The PF also noted that, in contrast to the CIC, very few local SJC descendants joined the JBM during its early years. Those SJC descendants who did join the JBM were

⁶³ A typographical error on page 157 of the 2007 PF designated this particular time period as “1964-1996”, when it should have read “1965-1993.”

predominantly from outside of San Juan Capistrano. The JBB petitioner did not include any new information regarding the pre-1975 period. The record for the FD also included little new information regarding the formation of the CIC. The JBA petitioner submitted an analysis of 175 CIC membership applications from 1974 to 1977, as well as copies of the applications themselves (JBA 9/15/2009 CIC Members 1974-1977). The analysis supported the statements made in the PF, namely that the SJC Indian descendants who enrolled in the CIC were predominantly from the local families described in the PF (the Olivares, Dorams, Rioses, and a few other families), and that very few local SJC descendants joined the JBM during its early years. Those SJC descendants who did join were predominantly from outside of San Juan Capistrano. The CIC also had a large number of non-Indian members interested in California Indian culture, as well as some of the local Old Mexican/Californio descendants who identified themselves as “Juaneño” on the organization’s application.

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

Summary of Evidence Relevant to Political Influence, 1965-1993

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

Evidence Relevant to Political Influence, 1994-Present

The summary of the 2007 JBB PF for the period from 1993 to the present noted that the drastic membership changes documented in the group’s membership lists indicated that the JBB was not the JBM petitioner by another name, but a new group that drew its members from the same “pool” of descendants as the JBA and JBMI-IP (JBB PF 2007, 128). A portion of the JBM members joined the JBB, but the contemporary JBB group was substantially new and different group from the JBM. The record included no evidence to demonstrate that the newly-enrolled JBB members composed a political subgroup (or any group at all), and did not demonstrate how the leadership maintained or exercised political influence over a rapidly changing membership (JBB PF 2007, 169).

In its comments on the PF, the petitioner submitted the 2009 narrative response and the 2009 membership list.

Changes in Membership

The petitioner provided no new evidence regarding what had been one of the major issues discussed in the 2007 PF, namely, the political disagreements that led to the formation of the JBB petitioner.

The petitioner included the revised 2009 membership list, but included little discussion of the process which created the new list. The administrative record includes references to political disagreements within the group over leadership, but did not include any discussion of how the group determined the criteria used to compile the 2009 list. According to the information in the narrative, the new membership list consisted of 392 members who claim descent from ancestors OFA accepts as SJC Indians.⁶⁴ It also included 63 members who are long-standing members of the group's social community, although their ancestry could not be traced to a documented SJC Indian (JBB Narrative 2/28/2009, 35). The petitioner did not include any description of how the group determined to keep these particular 63 people as opposed to any others with insufficient genealogical documentation. The petitioner described using "county and state-issued documents as primary sources of lineage substantiation" and removing those members whose ". . . files were deemed incomplete" (JBB Narrative 2/28/2009, 37), but did not describe if the group's governing body carried out this task themselves or if it appointed a special committee to determine eligibility. There is no discussion of whether the group voted to proceed with this action, or whether any verified members protested the removal of the other members.

Leadership Disputes

At the time of the 2007 PF, the group was embroiled in a leadership dispute between Adolph "Bud" Sepulveda and Joe Ocampo. The OFA determined this to be an internal leadership dispute (Fleming 11/26/2007b, 1). Sonia Johnston, who lost to Ocampo in a 2007 election that she later contested, replaced Bud Sepulveda as the Chair in an election held January 19, 2008 (Johnston 2/4/2008, 1-5), but Joe Ocampo did not acknowledge this election. In 2009, OFA received correspondence from Sally Cruz-Wright, who stated, "The members on the Tribal Council were replaced due to their inability to provide the additional documentation requested that proves their lineal descendancy from the Historical Tribe of San Juan Capistrano"(Cruz-Wright 2/5/2009, 1) and that she had assumed the role of Acting Chair. The only person on the organization's letterhead who had been removed was Joe Ocampo. Joe Ocampo denied that he had been removed from leadership, and stated, "An offshoot group composed of four Interim Council members known as the "Cruz Family," decided in a rump session that I should resign as the duly Elected Chair of 84-B so as to make their new group legal" (Ocampo 2/12/2009, 1). Benjamin Dubay claimed to have replaced Joe Ocampo as the chairman of the group by virtue of winning an election held February 28, 2009 (Cruz-Wright 3/26/2009, 1). Dubay did not appear

⁶⁴ The JBB petitioner claims 392 members descended from SJC Indian descendants, but only submitted genealogical information for 390 members.

on the group's 2005 certified membership list or in any other documentation submitted by the JBB petitioner before 2009, but three members (Sally Cruz-Wright, Alice Marion, and Susan Wallace) of the six-member governing body formerly led by Joe Ocampo appear on the letterhead as members of the Dubai council (Cruz-Wright 3/26/2009, 1). The Dubai group submitted several lists, including a list of 272 members, not separately certified by the governing body, a list of 167 "Deceased Members," and a list of 461 "Disenrolled Members" (Dubay 3/12/2009). In a letter to the Acting Deputy AS-IA, the group also referenced, but did not submit, a list of 163 people who had specifically requested that their membership information not be used by the group led by Joe Ocampo (Dubay 3/12/2009, 1-6).⁶⁵ Three of the six members of the governing body led by Joe Ocampo had been replaced under Dubai. The OFA received no further correspondence from Dubai or from Ocampo. Because the Department received current membership information and comments on the PF from the previously known governing body of the JBB petitioner and no official documents reporting a change of leadership, the Department concluded that Dubai's group is not the designated JBB petitioner and the individuals signing as its governing body are not the current governing body of the JBB petitioner. The OFA considers Ocampo one of two disputed leaders of the JBB petitioner. OFA received no other materials for the FD from either Ocampo or Dubai after mid-2009.

The JBB group currently represented by Johnston submitted the materials in the record in response to the PF, including the revised 2009 membership list. None of the materials submitted has clarified who is the legitimate governing body of the group.

Summary of Evidence Relevant to Political Influence, 1994 to the Present

The new evidence and analyses submitted for the FD, in combination with the evidence in the record for the PF, do not provide sufficient evidence to demonstrate political influence or authority in the petitioning group from 1993 to the present. The petitioner submitted little to no new discussion or evidence related to the years after 1993, particularly regarding those changes that resulted in the formation of the JBA and JBB from what once had been the JBM. The petitioner's explanation of JBB's change in membership included little discussion of the creation of the 2009 membership list. The combined PF and FD record also includes little information from the petitioner regarding the effect of this change on the political structure of the group. The comments in the 2009 narrative that describe the negative effect of the membership revision are not accompanied by any interviews from past or present members describing just how the change affected the group. The negative findings of the PF for the time period 1994 to the present are unchanged. The FD finds that there is insufficient evidence to meet criterion 83.7 (c) for this time period.

Conclusions for the Final Determination on Criterion 83.7(c)

The evidence submitted for the FD, in combination with the evidence already in the record for the PF, did not satisfy the requirements of criterion 83.7(c) for any time after 1835. The evidence submitted to demonstrate political influence or authority among an entity that evolved

⁶⁵ See discussion under criterion 83.7(e) for a description of the materials submitted by Dubai

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from the SJC historical tribe during the post-emancipation period is not sufficient to satisfy the requirements of criterion 83.7(b)(2), and therefore does not “carry over” and satisfy criteria 83.7(c) for this same period of time. The evidence for criterion (b) did demonstrate that a community of SJC Indians existed at the mission between 1835 and 1862, but this was only demonstrated at a minimal level. Therefore, this criterion (b) evidence cannot be combined with other evidence under criterion (c)(1) to satisfy the requirements of criterion 83.7(c). There was insufficient evidence of political influence or authority from 1835 to 1854. The petitioner’s discussion of the early to late 19th and early to mid-20th century, particularly the Mission Indian Federation (MIF), did not address several important issues raised in the PF, including whether or not a bilateral relationship existed between the members of the SJC chapter of the MIF and the leadership of the organization. The new documents in the record related to Clarence Lobo’s leadership between the late 1940s and 1965 did not indicate when Lobo acted on behalf of an entity of SJC Indian descendants, and when he worked on behalf of much larger pan-Indian organizations which counted SJC Indians among their members. The documentation also did not demonstrate a bilateral relationship between Lobo and the group members, and there was no information demonstrating that these organizations addressed any issues other than claims. There was no information as to any political activity among group members during the 10 years between the 1965 end of Lobo’s active involvement and the 1975 formation of the Capistrano Indian Council (CIC). The information in the record regarding the early years of the CIC and the Juaneño Band of Mission Indians (JBM) supported the PF’s conclusions regarding the membership of the organizations, namely, that the CIC members tended to be local SJC Indian descendants, and that JBM members tended to be non-local, non-SJC descendants (even those members who were verifiable SJC Indian descendants were still mostly non-local). Most CIC members did not join the JBM until the mid-1990s, but there was little information as to how the CIC members became integrated into the larger group, or how this integration affected the political composition of the group. There was no new information regarding the political turmoil within the JBM that resulted in the formation of the JBA and JBB, and little to no information regarding how the group’s drastic revision of its membership between 2005 and 2009 changed the political structure of the group. The evidence did not demonstrate the maintenance of political influence or authority over the group’s members. The petitioner provided no response to the third party comments included in the record for the FD.

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

Criterion 83.7(d)

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

Summary of the Proposed Finding

The PF found that the JBB petitioner satisfied the requirements of criterion 83.7(d) by submitting a copy of its governing document, entitled “Constitution of the Juaneño Band of Mission Indians 1979,” and a 14-page collection of 8 membership ordinances adopted by the group between January 20, 1996, and November 18, 2005.

Summary of the Comments on the Proposed Finding

The petitioner did not submit any new evidence concerning the governing document or its membership requirements. The Department received no comments, from either the JBB petitioner or any other party, on the PF’s conclusions under criterion 83.7(d).

Conclusions for the Final Determination on Criterion 83.7(d)

The Department’s PF concluded that based on the available evidence, that JBB petitioner satisfied criterion 83.7(d). No comments challenged this conclusion of the PF. Therefore, the FD affirms the PF’s conclusion that the JBB petitioner meets criterion 83.7(d).

Criterion 83.7(e)

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

Summary of the Proposed Finding

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

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

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

The PF found that the JBB petitioner did not properly identify its 908 members because the “Supplemental Enrollment List” portion of the petitioner’s two-part November 28, 2005, membership list did not include birth dates as required under the regulations. Also, the JBB petitioner indicated that nearly 600 of its members did not appear on the membership list submitted for the PF.

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The PF found that only 4 percent (36 of 908) of JBB members demonstrated descent from one of the Indians of the historical SJC Indian tribe and the Department estimated that another 14 percent (127 of 908) of JBB members might be able to demonstrate descent from at least one of the Indians of the historical SJC Indian tribe.

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

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

Summary of Comments on the Proposed Finding

Comments by the JBB Petitioner

During the comment period the JBB petitioner submitted a 40-page narrative for the FD with appendices (6 pages addressing criterion 83.7(e)), a current membership list with 455 living members, 455 membership files, 58 ancestor files; 171 "recall" letters requesting the return of individuals' membership files, 7 Sherman Institute student files, and various supplemental materials including lineage report narratives produced from a petitioner-created database and photocopies of historical and genealogical documents (JBB 2/28/2009 Narrative; JBB 2/28/2009 Membership List; JBB Membership Files 3/6/2009; JBB Ancestor Files 2/28/2009; JBB Recall Letters 5/-/2008; Sherman Institute Student Files 1928-1963). The petitioner's comments on the PF on criterion 83.7(e) includes a summary of the PF's analysis, the JBB petitioner's criticisms of the PF, and responses to comments and arguments on the PF, a report on the petitioner's claimed descent from the historical SJC Indian tribe, a discussion of members' descent re-verification, and a general discussion of fluctuations in the JBB petitioner's membership from 1979 to the present.

The current JBB membership list, dated February 2009, is separately certified (February 28, 2009) by the group's governing body, and lists 455 living individuals (adults and minors) (JBB 2/28/2009 Membership List). It contains all required information, although there are some birth date and name spelling discrepancies.

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In its comments, the JBB petitioner reaffirms its adherence to the group's 1979 constitution and membership criteria, which restrict membership to

- a) All persons of Juaneño Indian blood whose names appear on the 1933 California Judgment Roll, and;
- b) All persons including those persons born in the future who are direct lineal descendants of those persons whose names appear on the 1933 California Judgment Roll and who possess at least one-eighth (1/8) degree Juaneño Indian blood; and (JBB 2/28/2009 Narrative, 36)

The JBB petitioner states that, as a result of the findings and recommendations in the PF, the group removed a number of individuals from its membership, both for lack of descent from an SJC Indian ancestor and for lack of documentation of descent from a historical SJC Indian ancestor.

A collection of 171 "Recall Letters" requesting membership files from Joe Ocampo are included in the JBB petitioner's comments, but an index of "Demand Letters," included in the petitioner's comments, lists the names of 213 members (JBB Recall Letters 5/-/2008; JBB 3/6/2009 Demand Letters Index). The Department could not confirm that the "Recall Letters" and the "Demand Letters" were the same documents.

The JBB petitioner submitted Sherman Institute student files for seven individuals (Sherman Institute Student Files 1928/1963). The petitioner's cover sheet for these records lists eight students but the file for one listed student was missing from the submission. These files provided birth date and parentage information. Two of the students have descendants in the JBB petitioner and three have descendants in the JBA petitioner. The two remaining students have no descendants in either petitioner.

As requested in the PF, the JBB petitioner's comments on the PF include a very brief discussion of fluctuations in tribal membership. These comments are discussed in the analysis section below.

The JBB petitioner does not include a specific list of claimed SJC Indian ancestors in its comments on the PF. The petitioner submitted narratives and comprehensive documentation on only three claimed historical SJC Indian ancestors for the FD, addressed in "lineage reports" for Felix [Felix Cruz] (JBB 2/28/2009 Cruz Lineage) and for Benvenuto Sual/Suarez and his spouse Macaria Yaquile (JBB 2/28/2009 Ancestor File: Vinjerouvit).

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

During the comment period, third parties such as Theresa S. Aguilar-Garcia (Aguilar-Garcia 3/-/2009), David M. Bartosz (Bartosz 8/7/2008), JBMI-IP (Perry 3/12/2009), Rudolph R. "Rudy" Martinez (Martinez 3/9/2009), and Michelle Moreland (Moreland 3/-/2009) submitted comments on the PF regarding criterion 83.7(e).

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Comments on the PF submitted by former JBA members Michelle (Lema) Moreland contained a short cover letter, computer-generated pedigree charts and 53 documents, including 1928 Claims Applications, various church records (for baptisms, marriages, and burials), and census extracts (Moreland 3/-/2009). Moreland makes no specific claim or comment regarding the PF but claims descent from the “Oliveras/Morillo” line discussed in the PF under Joseph Francisco “Frank” Benito Xavier Olivares (a.k.a. Navarro) (b.1790-d.aft.1836) and Maria Prudencia Lucia Morillo (b.abt.1798-d.aft.1836) (JBB PF 2007, 251), and identified as having no SJC Indian ancestry. Although OFA examined Moreland’s report for any information applicable to the JBB FD, the report provided no useful information for analysis of the JBB petitioner under criterion 83.7(e).

Comments on the PF submitted by JBMI-IP “tribal manager” Joyce Perry contained general remarks about the descent of JBA petitioner’s members from the historical SJC Indian tribe (Perry 3/12/2009). The JBMI-IP third party’s comments contained no information applicable to the evaluation of the JBB petitioner under criterion 83.7(e).

Comments for the FD submitted by “the Aguilar Family,” an informed party for the JBB petitioner, contained genealogical information on the parents of John Aguilar, namely, Basilio Aguilar and Amalia Rosa Ames (Theresa S. Aguilar-Garcia 3/-/2009; David M. Bartosz 8/7/2008). Benjamin/Basilio Aguilar (1869-1926) and Amalia Rosa Ames (1887-1957) were discussed in the PF (JBB PF 2007, 249), and identified as having no SJC Indian ancestry. The Aguilar third party submission contested the PF’s finding on the ancestry of Basilio and Amalia but presented no new evidence to support their claim of SJC Indian ancestry. The Aguilar comments and evidence provide no useful information for analysis of the JBA petitioner under criterion 83.7(e).

These submissions presented some additional ancestry documentation for the members of the JBB petitioner and information about conflict existing between some of the JBB petitioner’s sub-groups. Most of the third parties commented only on the disenrollment of particular members or families and the changes in the JBB petitioner’s attitude toward its former members.

The JBB petitioner did not respond to any of these comments.

Analysis for the Final Determination

Current Membership List for JBB

The JBB petitioner has identified its current members by submitting a complete list of members, separately certified by its governing body, based on the requirements set forth under criterion 83.7(e)(2). This membership list for the FD is fundamentally different from that submitted for the PF. The current 2009 membership list for the JBB petitioner lists 455 living individuals, and includes 384 adults (84 percent) and 71 minors (JBB Membership List 2/28/2009). Of the 455 current members, 348 (76 percent) are listed on the JBB petitioner’s previous (2005)

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membership list⁶⁶ and 107 individuals (24 percent) are not found on the 2005 membership list (JBB Membership List 11/28/2005). The 107 new members include 49 minors.

In its comments on the PF for criterion 83.7(e), the JBB petitioner states that it has removed over 100 members who are known to descend from historical SJC Indians but whose files (descent documentation) “were deemed incomplete,” and over 500 individuals who “cannot be linked at this time” to a historical SJC Indian (JBB 2/28/2009 Narrative, 37). The JBB petitioner’s 2005 membership list named 908 members, both adults and minors. Of the 908 living JBB members in 2005, 348 (38 percent) appear on the 2009 JBB membership list and 560 (62 percent) do not.

Review of JBB Petitioner’s 2005-2009 Membership History and Claims

Document	JBB 2005 Membership List (OFA count & comparison)	JBB 2009 Membership List (OFA count & comparison)	JBB Narrative
Total Members	908 members	455 members	391 members
Members Common to Both 2005 and 2009 Lists	348 members also on 2009 membership list;	348 members including 61 of “63 elders” also on 2005 membership list	63 elders not documented to SJC Indian
Not on Both 2005 and 2009 Lists	560 members not on 2009 membership list	107 members not on 2005 membership list	
Members also on 1987 JBM List	334 members also on JBM membership list	124 members also on JBM membership list	127 members also on JBM membership list

SOURCES: JBB 11/28/2005 Membership List; JBB 2/28/2009 Membership List; JBB 2/28/2009 Narrative, 37, 39; JBM 1987 Membership List.

The petitioner did not submit any lists identifying the individuals it described as having incomplete documentation, those who cannot link to an SJC Indian ancestor, those who are deceased, or those who joined another group. In an effort to maintain “some semblance of a former vigorous society,” the JBB petitioner reports that it has retained on its current membership list “63 [or 62]⁶⁷ elder members of their community who cannot document their lineage to a recognized [SJC Indian] ancestor at this time” (JBB 2/28/2009 Narrative, 35, 37); these 63 [or 62] elder members are not named in the petitioner’s comments or identified in its genealogical database. However, after OFA analyzed the ancestry of the current JBB members, the “63 elders” were identified based on their non-SJC Indian ancestry (see FD Appendix I).

⁶⁶ The JBB petitioner’s previous membership list included both adults and minors. At the time of the PF, JBB claimed that 284 members had full documentation and that 626 had incomplete documentation (see JBB PF 2007, 180).

⁶⁷ In its narrative, the petitioner states that it has included “63 documented members of their community who cannot be linked at this time to an accepted [SJC Indian] ancestor” (JBB 2/28/2009 Narrative, 35) but later the petitioner states that it has included on the 2009 membership list “62 elder members of their community who cannot document their lineage to a recognized [SJC Indian] at this time (JBB 2/28/2009 Narrative, 35, 37).

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Throughout the acknowledgment process, the JBB petitioner submitted a total of seven previous membership lists which were reviewed for the PF, including its 2005 membership list (JBB PF, 180). In the JBB petitioner's comments on the PF regarding the variation in membership over time, the petitioner made only general remarks about changes in the group's membership (JBB 2/28/2009 Narrative, 39-40). The petitioner did not address previous lists specifically, and did not describe, except in the most general terms, the conditions which led to the generation of new membership lists or explain why some members on previous lists did not appear on a subsequent list but reappeared on a much later list.

For the FD, the JBB petitioner submitted a cover letter and a list of 213 individuals who "have written demand letters to Mr. Joe O'Campo [*sic*] insisting the return of their membership files to the legal Tribal Council" (that is, to the JBB petitioner headed by Sonia Johnston) (JBB 3/6/2009 Ocampo Demand Letters; JBB 3/6/2009 Demand Letters Index). The petitioner also submitted 171 "copies of the signed letters sent to Mr. Ocampo by many of the tribal members making this demand" (JBB 5/-/2008 Recall Letters). The petitioner provided no information regarding whether any of the requested membership files were returned; however, the group did submit 459 membership files containing vital records, lineage charts, and some copies of CDIB certificates and 1928 Claims applications.

The Department received a submission from Benjamin Dubay, who claims to have replaced Joe Ocampo as the chairman of the JBB petitioner by virtue of winning an election held February 28, 2009 (Cruz-Wright 3/26/2009, 1).⁶⁸ Because the Department received current membership information and comments on the PF from the previously known governing body of the JBB petitioner and no official documents reporting a change of leadership, the Department concluded that Dubay's group is not the designated JBB petitioner and the individuals signing as its governing body are not the current governing body of the JBB petitioner. The materials submitted by the Dubay group contained only its membership lists and a report already in the record; they did not contain comments on the PF. Therefore, the materials submitted by the Dubay group need not be discussed further in this FD.

Six current JBB members also appear on the 2009 JBA membership list (JBA Membership List 3/12/2009). Three of these members also appeared on both the 2005 JBB and 2005 JBA membership lists (JBB 11/28/2005 Membership List; JBA 11/28/2005 Membership List).

⁶⁸ Dubay does not appear on the JBB petitioner's 2005 certified membership list or in any documentation submitted by the JBB petitioner before review for the FD. Dubay submitted a separate list of 272 "members," entitled "Acjachemen Nation Juaneño Band of Mission Indians Corrected Tribal Roll" (Dubay[JBB] 3/12/2009 Corrected Membership List), which was not separately certified by the Dubay group's governing body comprised of Dubay, as "Chairman," and 4 persons: Susan Wallace "Treasurer," Alice Marion "Vice-Chair," Kenneth Warfield "Secretary," and Anthony Cruz "Member at large" (Dubay 3/12/2009). This list included the names of 177 individuals also listed on the 2009 JBB membership list (JBB Membership List 2/28/2009). Dubay also submitted a list of 167 "Deceased Members" without death date information (Dubay [JBB] 3/12/2009 Deceased Members), a list of 461 "Disenrolled Members" (Dubay[JBB] 3/12/2009 Disenrolled Members), a report on the Felix [Cruz] lineage (Escobar 1/13/2008) already in the record, and a letter to the Acting Deputy AS-IA, dated March 12, 2009 (the day before the close of the comment period), requesting that the comment period be extended (Dubay to Skibine 3/12/2009, 1-6). That request was not granted.

Historical Individuals Claimed as Ancestors by JBB for the Final Determination

The Department has determined that the individuals listed below are the JBB claimed ancestors, based on mission records, member's vital records, Federal census records, and other information submitted for both the PF and the FD. The Department concluded, based on evidence in the record, that individuals #1 through #11 are SJC Indians and are documented as such in the mission registers. Individuals #12 through #15 are not SJC Indians. The number of JBB members descending from each of these historical SJC Indians is provided in FD Appendix I. The eight individuals on this list in **bold** font were verified as historical SJC Indians in the PF, and three new SJC Indians have been identified for the FD.

PF References for JBB Claimed Ancestors

Historical SJC Indians Claimed as Ancestors by JBB for the FD Bold =verified as SJC Indian in PF	Reference in JBB PF
1. Benvenuto Sual/Suarez (spouse of Macaria) (1811-aft.1847)	Appendix IV, 235-236
2. Macaria Yaquile (spouse of Benvenuto) (abt.1808-aft.1847)	Appendix IV, 235-236
3. Juana de Dios (Juana Bautista) (1823-1876)	Appendix IV, 215-216
4. Fernando [Valencio] (spouse of Carlota) (1819-1871)	
5. Carlota [Huchio, Ruiz] (spouse of Fernando) (abt.1823-aft.1852)	
6. Felis [Felix Cruz] (1828-?)	Appendix IV, 213-215
7. Magdalena Castengura (1808-abt.1876)	Appendix IV, 221-222
8. Maria Bernarda Chigila (abt.1762-aft.1787)	Appendix IV, 228
9. Peregrino Ayoubenet (1786-aft.1832)	Appendix IV, 221
10. Maria de Jesus Soilo (1846-1884)	Appendix IV, 247-249
11. Odorico Jose Tungo (abt.1747-1801)	Appendix IV, 230, 237-238
Historical Individuals Claimed as Ancestors by JBB for the FD Who Are Not SJC Indians	Reference in JBB PF
12. Maria Gorgonia (bef.1770-aft.1786)	Appendix IV, 241-242
13. Maria Catalina Godinez (1860-1922)	Appendix IV, 250
14. Basilio Aguilar (1869-1926)/Amalia Rosa Ames (1887-1957)	Appendix IV, 249
15. Joseph Frank Olivares (1790-aft.1836/Ma.Prudencia Morillo (abt.1798-aft.1836)	Appendix IV, 251
16. Unknown	

SOURCES: JBB 2/28/2009 Narrative, 37, 39; JBB PF 2007 Appendix IV; JBB 3/6/2009 Membership Files; JBB 2/28/2009 Ancestor Files

In its narrative commenting on the PF, the JBB petitioner mentions only three claimed SJC Indians from whom its current members claim descent: #1. Benvenuto Sual, #2. Macaria Yaquile (Benvenuto's spouse), and #6. Felis [Felix Cruz] (JBB 2/28/2009 Narrative, 40).

In addition to the detailed genealogical reports on the Cruz and Sual/Yaquile ancestors, the JBB petitioner submitted lineage charts, copies of vital records, and census extracts documenting these and other claimed historical SJC Indians and non-Indians, including parents and offspring of the 10 SJC Indians and the 5 claimed ancestors not verified to be historical SJC Indians listed above. The JBB petitioner submitted some documents for historical individuals who are not claimed as ancestors of JBB members. These genealogical reports and documents appear in

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membership and ancestor files, and also as separate exhibits. In combination with additional documents in the record, these materials attempt to describe or explain the connection of the claimed historical individuals listed above to the historical Indians of SJC Mission and link them to subsequent generations.

The ancestry of SJC Indians #3 Juana de Dios (Juana Bautista), #7 Magdalena Castengura, #8 Maria Bernarda Chigila, #9 Peregrino Ayoubenet, and #11 Odorico Jose Tungo was discussed in the PF and their detailed documentation will not be repeated for the FD as no new information was submitted during the comment period on them. The ancestry of SJC Indians #1 Benvenuto Sual/Suarez, #2 Macaria Yaquile, and #6 Felis [Felix Cruz], was discussed in the PF but new documentation and new claims were submitted for the FD; therefore, they are discussed further below. Three additional historical SJC Indians have been verified for the FD: #4 Fernando, #5 Carlota, and #10 Maria de Jesus Soilo (see FD Appendix II for discussion of these lines). Thus, all of the claimed historical SJC Indians for JBB have been verified as historical SJC Indians. However, claimed descendants of three of these SJC Indians have a problem verifying descent from the historical SJC Indian in the first or second generation. These “problem” generational links are those claiming descent from #4 Fernando and from #5 Carlota (Fernando/Carlota line), and from #6 Felis [Felix Cruz] (see FD Appendix II).⁶⁹

JBB Claimed Ancestors Verified to be Historical SJC Indians

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

Benvenuto Sual (or Suarez)(b.abt.1812-d. aft.1870) and his wife, Macaria Yaquile (b.abt.1808-d.aft.1847), are both documented as historical Indians of SJC Mission in the baptismal and marriage records of SJC mission (SJC Bapt. #2894 8/10/1808 born recently; SJC Bapt. #3352 3/9/1812 age 1; SJC Marriages #1082, 3/4/1826). There is also sufficient evidence in the record verifying that Maria Concepcion Suarez (or Sual) (b.bef.1840-d.1867) (SJC Bapt. #4085 4/16/1827 recently born; LA Confirm. #282 9/1850) and Maria Ana de Jesus Suarez (or Sual) (b.1827-d.1909) were their daughters. See detailed analysis in FD Appendix II.

There is sufficient evidence in the record for the FD to demonstrate that Benvenuto and Macaria are historical SJC Indians, and that Maria Concepcion Suarez and Maria Ana de Jesus Suarez are their daughters. Thus, the problems with generational links noted in the PF have been resolved. There are 159 JBB members who claim descent from historical SJC Indians Benvenuto Sual and his wife, Macaria Yaquile, through their granddaughters Maria Dolores Filomena Higuera (daughter of Maria Concepcion Suarez) and Mariana de Jesus Villalagos (daughter of Maria Ana de Jesus Suarez). However, only 107 of these 159 members demonstrated their descent from these historical SJC Indians. JBB members claiming descent from Benvenuto Sual and Macaria Yaquile are classified under “Sual/Yaquile” for the FD (see FD Appendix I).

⁶⁹ Even if these problem linkages were corrected, only 62 percent (282 of 455) of petitioner’s members would have documented descent from the historical tribe.

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#3. Juana de Dios (Juana Bautista) (1823-1876)

Juana Bautista⁷⁰ a.k.a. Juana de Dios (b.1823-d.1876) and her spouse, Eustaquio Ricardes (b.abt.1810-d.bef.1876), are well documented as historical SJC Indians in the baptismal, marriage, and burial records of SJC Mission (JBB PF 2007, 215-216). Eight JBB members claim descent from Juana Bautista and her husband, Eustaquio Ricardes, and seven of these eight JBB members demonstrated their descent from these historical SJC Indians.⁷¹ JBB members claiming descent from Eustaquio Ricardes and Juana Bautista are classified under “Juana Bautista” for the FD (see FD Appendix I).

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

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

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

Both members of the JBB petitioner claim descent from the historical SJC Indians Fernando and Carlota through Maria Mireles (b.1869-d.1925), whom JBB identifies as a daughter of Uriol Mireles and Maria Zenobia Aguilar. Although evidence in the record documents the parentage of another daughter, Regina Mireles, there is insufficient evidence that Maria Mireles is a daughter of Uriol Mireles and Zenobia Aguilar.

There is insufficient evidence that Jose Ureol, son of Fernando and Carlota *Indios*, is the same person as Ariol/Auriol/Uriol Mireles, son of Silvestre Mireles and Carlota Ruiz/Abila. In addition, the record does not contain sufficient documentation of parentage for a claimed forebear of the JBB petitioner’s members, Maria Mireles, a possible daughter of Uriol Mireles. Thus, the two members of the JBB petitioner who claim descent from Ariol/Auriol/Uriol Mireles and Senovia Aguilar are not documented descendants of a historical SJC Indian. These JBB members are classified under “Fernando/Carlota” for the FD (see FD Appendix I).

⁷⁰The names “Juana Bautista” and “Juana de Dios” are used in mission records for the same person. The PF used the name Juana Bautista, so that name will be used for the FD for the sake of continuity.

⁷¹These eight JBB members also claim descent from #10 Maria de Jesus Soilo, another historical SJC Indian.

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#6. Felis [Felix Cruz] (1828-aft.1862)

Felis a.k.a. Felix Cruz (b.1828-d.aft.1862), the son of historical SJC Indians Jose de la Cruz Cusyche (b.1802-d.1834) and Maria de Jesus Cozomne (b.1805-d.aft.1828), was verified as a full brother of Primitiva (b.1821-d.1862) in the PF and thus confirmed as a historical SJC Indian. These individuals and the claims presented in the JBA petitioner's petition documents were discussed in the PF (JBB PF 2007, 213-215). For the FD, the JBB and JBA petitioners submitted genealogical reports on Felis and his son Jose Tomas (JBA 3/19/2009 Progenitor File: Felis Cruz, 2-5; JBA 3/13/2009 Progenitor File: Jose Thomas Cruz, 2-5; Escobar 2009 Ancestral Histories, 4-5; JBB 2/28/2009 Ancestor File: Cruz). Additional mission records submitted for the FD clarify some, but not all, of the relationships claimed in this line.

The JBB and JBA petitioners both claim that "Tomas Cruz," age 21, found on the 1880 Federal census for Chino, San Bernardino County, as a son of Jesus Oyo (b.Sonora) and Macula (Indian), is the same person as Jose Tomas, the son of Felis and Michaela, *indios* of SJC Mission (SJC Bapt. #11 4/29/1860 age 6 months). The petitioners also claim that Micaela Lobos, the mother of Beatrice (Oyos) Serrano and the Indian woman enumerated as "Macula" on the 1880 Federal census as the wife of Jesus Oyo, is the same person as Micaela, the Luiseño spouse of Felis (SD Marr. [no#] at SLR 4/30/1855). Other than the coincidence that the two Micaelas both had a son named Tomas born about 1859, there is insufficient evidence in the record to conclude that Miguella Lovas, a.k.a. Micaela Lobos, the mother of Beatrice Oyo[s] in 1875, and the wife of Jesus Oyo on the 1880 census in Chino, CA, is the same person as Maria Michaela, the wife of Felis and mother of Jose Tomas (b.1858). In addition, there is insufficient evidence in the record to conclude that Tomas/Thomas Cruz, the son of Micaela/Macula Oyo, is the same person as Jose Tomas, the son of Felis and Micaela, historical Indians of SJC Mission. A detailed analysis of the claims and evidence presented by both JBB and JBA for this family is presented in FD Appendix II under Jose de la Cruz Cusche and Maria de Jesus Cozomne.

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

#7. Magdalena Castengura (1808-abt.1876)

Magdalena Castengura (or Castensenguinam) (b.1808-d.abt.1876) is well documented as a historical SJC Indian in the baptismal, marriage, and burial records of SJC Mission; these records are discussed in detail in the PF (JBB PF 2007, 221-228). There are 88 JBB members who claim descent from Magdalena. However, only 42 of these 88 members demonstrated their descent from this historical SJC Indian. JBB members claiming descent from Magdalena are classified under "Magdalena Castengura" for the FD (see FD Appendix I).

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

Maria Bernarda Chigila (b.abt.1762-d.aft.1787) is well documented as a historical SJC Indian in the baptismal, marriage, and burial records of SJC Mission; these records are discussed in detail

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in the PF (JBB PF 2007, 228-234). There are 90 JBB members who claim descent from Maria Bernarda. However, only 84 of these 90 members demonstrated their descent from this historical SJC Indian.⁷² JBB members claiming descent from Maria Bernarda are classified under “Maria Bernarda Chigila” for the FD (see FD Appendix I).

#9. Peregrino Ayoubenet (1786-aft.1832)

Peregrino Ayoubenet (a.k.a. Giaubinit) (b.abt.1786-d.aft.1832) and his wife, Materna Teminavan (or Timabamde) (b.abt.1797-d.1842), are well documented as historical Indians of San Juan Capistrano Mission in the baptismal and marriage records of the SJC Mission (SJC Bapt. #1948 4/29/1800; SJC Bapt. #2260 2/24/1804; SJC Marr. #596 7/10/1804; SJC Bapt. #4156 11/22/1828). These records are discussed in detail in the PF (JBB PF 2007, 221).

For this FD, the JBA petitioner submitted a genealogical analysis addressing the identity of Peregrino’s SJC Indian parents (Escobar 6/8/2008). The report contains no evidence contradicting the SJC Indian ancestry of Peregrino as presented in the PF (JBB PF 2007, 221). The evidence in the record documenting Peregrino as a historical SJC Indian is thoroughly discussed in the PF and will not be reviewed further for the FD. Four JBB members claim descent from Peregrino Ayoubenet. However, only one of these four members demonstrated descent from this historical SJC Indian. JBB members claiming descent from Peregrino are classified under “Peregrino Ayoubenet” for the FD (see FD Appendix I).

#10. Maria de Jesus Soilo (1846-1884)

There is now sufficient evidence in the record for the FD to demonstrate that Maria de Jesus Soilo (b.1846-d.1884) was an Indian of the SJC Mission (see analysis presented in FD Appendix II). The SJC baptism record for her daughter Felipa Avila states that she is an “Indian of this mission” (SJC Baptisms # 1427, 12/08/1872). However, because various records identified her by widely differing names, the Department was unsure whether she was the same person named in each of the various mission documents. The PF suggested the petitioner seek more documentation to clarify her identity and that of the persons identified in the various records (JBB PF 2007, 247-249). The JBA petitioner submitted additional mission baptismal records documenting her offspring with Jose Dolores Yorba and Henry Charles, as well as Soilo’s own vital records connecting her to her parents. The petitioner also provided various genealogical analyses evaluating and relating the documents provided (Escobar 2009, 8-9; JBA 3/13/2009 Ancestor File: Zoylo).

In conclusion, there is sufficient evidence in the record for the FD demonstrating that Maria de Jesus Soilo was the daughter of the historical SJC Indians Zoylo [Gugannavit] and Leona [Yararabuit]; the “common law” spouse of Juan Avila, Jose Dolores Yorba and Henry Charles; and the mother of Domitilda and Felipa Avila, Jose Dionicio Yorba, and Raphael Charles (see analysis presented in FD Appendix II). Eight JBB members claim descent from Maria de Jesus Soilo, and seven of these eight demonstrated descent from this historical SJC Indian ancestor.⁷³

⁷² Two of these JBB members also claim descent from #11 Odorico Jose Tungo, another historical SJC Indian.

⁷³ These eight JBB members also claim descent from #3 Juana Bautista, another historical SJC Indian.

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JBB members claiming descent from Maria de Jesus Soilo are classified under “Maria de Jesus Soilo” for the FD (see FD Appendix I).

#11. Odorico Jose Tungo (abt.1747-1801)

Odorico Jose Tungo (b.abt.1747-d.1801) is documented as a historical SJC Indian in the baptismal and burial records of SJC Mission (SJC Bapt. #374 9/24/1782 age 35, SJC Burials #912 1/9/1801). His son, Felipe Jose (or Phelipe Jose) Jujunivit (b.abt.1776-d.1829), also was baptized and buried at SJC Mission (SJC Bapt. #440 11/8/1783 age 7, SJC Burials #2960 8/24/1829). The baptismal record of Diego (Junjunuvit) (b.1797-d.?) identified his parents as Felipe Jose Junjunivit and Eulalia Coroni (SJC Bapt. #192 5/25/1779; SJC Marr. #272 4/21/1790), both of whom were identified as Indians from Mission SJC. Diego married Clara Totoba (or Toetoebam), an Indian of SJC Mission (SJC Bapt. #3515 8/26/1815; SJC Marr. #977 6/11/1819), and their daughter Maria Clara was likely the wife of Jose Maria Uribes, the son of #8 Maria Bernarda Chigila and Jose Maria Uribes (SJC Marr. #1475 2/24/1851). These records are discussed in detail in the PF (JBB PF 2007, 237-238). Therefore, this lineage will not be reviewed further for the FD.

Two JBB members claim descent from Odorico Jose Tungo, and both of these members demonstrated their descent from this historical SJC Indian.⁷⁴ JBB members claiming descent from Odorico Jose Tungo are classified under “Odorico Jose Tungo” for the FD (see FD Appendix I).

JBB Claimed Ancestors not Verified to be Historical SJC Indians

These historical individuals were all discussed in the PF but a brief summary is provided here to explain why the Department does not consider them to be historical SJC Indians.

#12. Maria Gorgonia (bef.1770-abt.1854)

Maria Gorgonia (a.k.a. Maria Gorgonia Espinosa, a.k.a. Gorgonia Maria) (b.bef.1770-d.abt.1754) was an Indian woman who was baptized at San Carlos Mission in 1792 (SC Baptisms #1816 11/23/1792). Her parents, Zosimo Jose (Native name “Chicrima”) and Julita Maria (Native name “Gualama”), both Indians, were also baptized at San Carlos Mission (SC Baptisms #1567 2/1/1791 and #1571 2/2/1791). In her marriage record at San Diego Presidio, her spouse, Jose Cañedo, is noted as “razón” and Maria Gorgonia (named as Gorgonia Maria) is noted as “India” from “Carmelo.” The 1823 baptismal record at San Juan Capistrano of one of the children of the couple states that Maria Gorgonia is a *neófita* of Mission San Carlos (SJC Baptisms #3883, 1/17/1823).

The JBB petitioner submitted no additional evidence to support their claim that Maria Gorgonia and her family “integrated” into the SJC Indian community and became a member of the

⁷⁴ These two JBB members also claim descent from #8 Maria Bernarda Chigila, another historical SJC Indian.

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historical SJC Indians at Mission SJC. The evidence in the record shows only that Maria Gorgonia was an Indian from San Carlos who settled at the SJC Mission about 1833. Thus, the 20 members of the JBB petitioner who claim Indian descent only from Maria Gorgonia are not documented descendants of a historical SJC Indian.⁷⁵ JBB members claiming descent only from Maria Gorgonia are classified under “Maria Gorgonia” for the FD (see FD Appendix I).

#13. Maria Catalina Godinez (1860-1922)

Maria Catalina Godinez (b.1860-d.1922) was the spouse of Jose Antonio Yorba. On 1928 Claims applications (#9179, 9181, 9210), descendants claimed her as an 1852 SJC Indian ancestor. The record lacks contemporary evidence for her as “Indian” and information provided by the petitioner or obtained by the Department indicates all maternal ancestors of Maria Catalina Godinez descend from Mexican immigrants who were not California Indians. There is no information in the record on the ancestors of her father. Thus, the seven members of the JBB petitioner who claim Indian descent only from Maria Catalina Godinez are not documented descendants of a historical SJC Indian.⁷⁶ JBB members claiming descent only from Maria Catalina Godinez are classified under “Maria Catalina Godinez” for the FD (see FD Appendix I).

#14. Basilio Aguilar (1869-1926)/Amalia Rosa Ames (1887-1957)

Amalia Rosa Ames (b.1887-d.1957) asserted on her 1928 application (#9345) that both she and her deceased spouse, Benjamin/Basilio Aguilar (b.1869-d.1926), were “4/4” SJC Indian. The 1860 and 1870 Federal Censuses show Benjamin/Basilio Aguilar’s father was born in Sonora, Mexico; the JBA petitioner claims his mother was baptized at San Gabriel Mission but the mission documentation is not in the available record. The 1900 Federal Census entry for San Diego shows Amalia Ames and her parents were born in Mexico. The record lacks contemporary evidence that either of these individuals were “Indian.” Thus, the 17 members of the JBB petitioner who claim Indian descent only from Benjamin/Basilio Aguilar and Amalia Rosa Ames are not documented descendants of a historical SJC Indian.⁷⁷ JBB members claiming descent only from Basilio Aguilar and Amalia Rosa Ames are classified under “Aguilar/Ames” for the FD (see FD Appendix I).

⁷⁵ Some additional members of the JBB petitioner, who claim descent from #12 Maria Gorgonia, also claim descent from historical SJC Indian ancestors. Those members are counted under their claimed SJC Indian ancestors and not under Maria Gorgonia.

⁷⁶ Some additional members of the JBB petitioner, who claim descent from #13 Maria Catalina Godinez, also claim descent from historical SJC Indian ancestors. Those members are counted under their claimed SJC Indian ancestors and not under Maria Catalina Godinez.

⁷⁷ Some additional members of the JBB petitioner, who claim descent from #14 Basilio Aguilar and Amalia Rosa Ames, also claim descent from historical SJC Indian ancestors. Those members are counted under their claimed SJC Indian ancestors and not under Basilio Aguilar and Amalia Rosa Ames.

#15. Joseph Frank Olivares (1790-aft.1836)/Maria Prudencia Morillo (abt.1798-aft.1836)

Joseph Francisco “Frank” Benito Xavier Olivares (a.k.a. Navarro) (b.1790-d.aft.1836) and his spouse, Maria Prudencia Lucia Morillo (b.abt. 1798-d.aft.1836), were the parents of Antonio Maria Olivares. All appear on JBB petitioner’s December 1, 2005, lists of progenitors of “core families.” The JBA petitioner’s 2005 genealogical database asserts that Frank Olivares’ parents and his spouse, Prudencia, were born in Mexico. The record lacks contemporary evidence that either of these individuals were “Indian.” Thus, the 19 members of the JBB petitioner who claim Indian descent only from Frank Olivares/Navarro and Prudencia Lucia Morillo are not documented descendants of a historical SJC Indian.⁷⁸ JBB members claiming descent only from Joseph Frank Olivares and Maria Prudencia Morillo are classified under “Olivares/Morillo” for the FD (see FD Appendix I).

#16. Unknown

Two members of the JBB petitioner have submitted no evidence to illustrate descent from ancestors antecedent to their parents; that is, there is no documentation in the record to identify their grandparents or earlier ancestors. Thus, these two members of the JBB petitioner are not documented descendants of a historical SJC Indian and are classified under “Unknown” for the FD (see FD Appendix I).

Descent of Current JBB Members

The JBB petitioner claims at least 392⁷⁹ of its 455 current members descend from historical SJC Indians at Mission SJC, which is located in present-day Orange County, California (see Overview of the Historical Indian Tribe in this FD). The petitioner states in its narrative for the FD that it has included 63⁸⁰ “elders” on its 2009 membership list who “cannot document their lineage to a recognized [SJC Indian] ancestor at this time” (JBB 2/28/2009 Narrative, 35, 37). The petitioner does not name or provide a list of these 63 individuals, but OFA was able to identify these 63 “elders” based on their claimed ancestry (see Appendix I). As discussed previously, for purposes of this evaluation under the criteria, this FD treats the Indian population at the San Juan Capistrano Mission in 1834 as the historical Indian tribe.

⁷⁸ Some additional members of the JBB petitioner, who claim descent from #15 Joseph Frank Olivares and Maria Prudencia Morillo, also claim descent from historical SJC Indian ancestors. Those members are counted under their claimed SJC Indian ancestors and not under Joseph Frank Olivares and Maria Prudencia Morillo.

⁷⁹ The JBB petitioner’s narrative for the FD states that the petitioner has 391 members but the 2009 JBB membership list submitted for the FD lists 455 individuals.

⁸⁰ See previous footnote under “Current Membership List for JBB” regarding 63 [62] “elders.”

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As defined in the PF,

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

According to the 1979 JBM constitution, which the JBB petitioner still claims as its governing document, JBB membership is open to “[a]ll persons of Juaneño Indian blood whose names appear on the 1933 California Judgment Roll, and [a]ll persons including those persons born in the future who are direct lineal descendants of those persons whose names appear on the 1933 California Judgment Roll and who possess at least one-eighth (1/8) degree Juaneño Indian blood” (JBB 1979 Constitution; JBB 2/28/2009 Narrative, 36). Before the PF, the JBB petitioner required members to document their ancestry to the 1933 California Roll and to submit a Certificate of Degree of Indian Blood (CDIB) from the Bureau of Indian Affairs (BIA) for group enrollment. After the PF, the petitioner attempted to collect birth, baptism, marriage, death, and census records to document the descent of the JBB group’s members. However, the JBB petitioner states that the group “still has not completed its documentation for over 100 of its members” believed to descend from historical SJC Indians and, as a result, declared their files “incomplete” and removed them from the membership (JBB 2/28/2009 Narrative, 37). The petitioner also asserts that “over 500 tribal members who considered themselves to be Juaneño Indian and who have been in our community for all their lives” were also removed from the group’s membership (JBB 2/28/2009 Narrative, 37). Thus, the Department is unsure exactly how many individuals the petitioner considers to be members with incomplete files and “as yet undocumented” descent from an SJC Indian.

For the FD, the JBB petitioner submitted 455 membership files and 58 ancestor files, containing birth, baptism, marriage, death, and census records, census extracts, lineage charts, membership applications, CDIBs, selected 1928 claims applications, and explanatory narratives (JBB 33/6/2009 Membership Files; JBB 2/28/2009 Ancestor Files). The contents of individual files varied widely but were helpful in verifying parentage and ancestry for the petitioner’s members. The petitioner submitted a membership file for each current member. Ancestor files contained documentation for a variety of historical individuals, including those that the petitioner considers to be historical SJC Indians as well as many more recent forebears. The JBB petitioner did not submit an updated Family TreeMaker™ (FTM) genealogical database for the FD.

The OFA entered information from the petitioner’s membership list, membership files, ancestor files, census excerpts, genealogical reports, and the JBB genealogical FTM database into the same combined FTM genealogical database that the Department used for the PF. The OFA added new members to the genealogical database and connected to their parents and siblings.

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The OFA annotated its previously created fact fields, such as “parentage verified” and “verified to SJC Indian,” with information derived from the new documents in the record. The OFA created additional fact fields such as “JBBml2009” for the members listed on the petitioner’s current membership list.

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

In summary, based on the evidence in the record, this FD finds that 86 percent of the JBB petitioner’s 455 members claim descent from individuals who were part of the historical Indian tribe at SJC Mission as it existed between 1776 and 1834. However, this FD finds that only 53 percent (241 of 455) of current JBB members demonstrated descent from one of the Indians of the historical SJC Indian tribe, although 86 percent (392 of 455) of the JBB petitioner’s members claim such descent (see FD Appendix I). This low percentage of members documenting descent from a historical SJC Indian is the consequence of four factors:⁸¹

- members who have not documented their own parentage (24 members),
- members who have a forebear whose descent from the claimed SJC Indian ancestor is not documented (168 members),
- members who descend from Tomas Cruz, who is not documented to be the same person as Jose Tomas, son of Felis, a historical SJC Indian, and his wife Micaela, a Luiseño Indian (39 members), or from Uriol Mireles, who is not documented to be the same person as Jose Uriol, son of Fernando and Carlota, historical SJC Indians (2 members), and
- members whose ancestors do not include a historical SJC Indian (65 members).

Forty-seven percent (214 of 455) of JBB members did not demonstrate their descent from a claimed historical SJC Indian.

Conclusions for the Final Determination on Criterion 83.7(e)

The PF found that, in addition to the 4 percent (36 of 908) of JBB members who demonstrated descent from one of the historical SJC Indians, the Department estimated that 14 percent (127 of 908) of JBB members should be able to demonstrate descent from at least one of the historical SJC Indians if additional genealogical evidence were submitted that demonstrated the claimed connections. The PF concluded that the JBB petitioner did not meet criterion 83.7(e) because it had not demonstrated that, based on precedent, at least 80 percent of its members descend from the historical Indian tribe of SJC mission. The JBB petitioner’s response to the PF provided

⁸¹ These numbers total more than 214 (455 members minus 241 members with documented SJC Indian descent) because some individuals are counted in more than one category.

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additional evidence that documented other SJC Indian ancestors and that significantly increased the number of its members who documented their descent from SJC Indians.

The February 2009 JBB membership list names 455 living members, both adults and minors. The list includes the required elements required by criterion 83.7(e) and is separately certified by the petitioner's governing body.

The evidence in the record demonstrates that 53 percent (241 of 455) of current JBB members demonstrated descent from one of the Indians of the historical Indian tribe of SJC mission. A finding that 53 percent of the members have documented descent from a historical Indian tribe is insufficient to satisfy the requirements of criterion 83.7(e). No previous petitioner has met criterion 83.7(e) without at least 80 percent of its members documenting descent from a historical Indian tribe. Criterion 83.7(e) requires that the petitioner's members descend from the historical tribe. Nothing in the history or nature of the group justifies a change in this precedent. The FD finds that only 53 percent of the JBB petitioner's members have demonstrated descent and affirms the PF's conclusion that, based on the available evidence, the JBB petitioner has not demonstrated that its membership descends from the historical SJC Indian tribe and, therefore does not meet criterion 83.7(e).

Criterion 83.7(f)

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

Summary of the Proposed Finding

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

Summary of the Comments on the Proposed Finding

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

Conclusions for the Final Determination on Criterion 83.7(f)

No evidence has been found to indicate that any of the JBB petitioner's members are enrolled in any federally recognized tribe. Therefore, the FD affirms the PF's conclusion that the JBB petitioner meets the requirements of criterion 83.7(f).

Criterion 83.7(g)

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

Summary of the Proposed Finding

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

Summary of the Comments on the Proposed Finding

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

Conclusions for the Final Determination on Criterion 83.7(g)

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

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APPENDIX I– JBB SJC Indian Ancestors with Members Claiming Descent

Historical SJC Indian Ancestor	No. of JBB members claiming SJC Indian descent	No. of JBB members documenting SJC Indian descent	No. of JBB members NOT documenting SJC Indian descent	No of JBB members also claiming descent from other Hist. SJC Indians
Sual/Yaquile	159	107	52	0
Juana Bautista	8	7	1	Maria de Jesus Soilo-8
Fernando/Carlota	2	0	2	0
Felis	39	0	39	0
Magdalena Castengura	88	42	46	0
Maria Bernarda Chigila	90	84	6	Odorico Jose Tungo-2
Peregrino Ayoubenet	4	1	3	0
Maria de Jesus Soilo	8	7	1	Juana Bautista-8
Odorico Jose Tungo	2	2	0	Maria Bernarda Chigila-2
Ancestors Other than SJC Indians (“63 elders”)	No. of JBB members claiming SJC Indian descent	No. of JBB members documenting SJC Indian descent	No. of JBB members NOT documenting SJC Indian descent	No. of JBB members also claiming descent from Hist. SJC Indians
11. Maria Gorgonia	20	0	20	0
12. Maria Catalina Godinez	7	0	7	0
13. AguilarAmes	17	0	17	0
14. Olivares/Morillo	19	0	19	0
Unknown Ancestors	No. of JBB members claiming SJC Indian descent	No. of JBB members documenting SJC Indian descent	No. of JBB members NOT documenting SJC Indian descent	No. of JBB members also claiming descent from Hist. SJC Indians
15. Unknown	2	0	2	0
Sub-total=465		Sub-total=250		Sub-total=215

Total JBB Members Documenting Descent from SJC Indian minus duplications: 241⁸² (53 percent of 455).

Total on This Table: 465 - 10 duplications=455 JBB members

⁸² The sum of the number of members documenting and claiming descent from all of the claimed ancestors totals more than the number of members in the JBB petitioner and those documenting descent because some members are counted more than once in the table due to claiming descent from more than one SJC Indian ancestor.

APPENDIX II

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

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

Sual/ Yaquile

The members of the JBB petitioner and the JBA petitioner who claim descent from Benvenuto Sual/Suarez (b.1811-d.aft.1852) and Macaria Yaquile (b.abt.3/9/1808-d.aft.1852) were described in the PF as having no Indian or SJC Indian ancestors, as documentation for Benvenuto and Macaria was not submitted for the PF (SJC Bapt. #3352 3/9/1812, SJC Bapt. #2894 8/10/1808; JBB PF 2007, 235-236). OFA classified these members in a group labeled “Higuera/Suarez” descendants in the PF because they all traced their ancestry to Jose Doroteo/Dolores Higuera (b.1826-d.1865) and his spouse Maria Concepcion Suarez (b.bef. 1840-d.1867) (LA C#282 9/1850; LA D#1350 4/27/1867). As a result of additional evidence provided by the JBA petitioner and the JBB petitioner (JBB 2/28/2009 Ancestor File: Vinjerouvit; JBA 3/6/2009 Membership File: Andrew Corban Lara; Escobar 5/26/2008; JBA 3/13/2009 Progenitor File: Mariana de Jesus Villalobos), Maria Concepcion Suarez is now verified as the daughter of Benvenuto Sual (b.abt.1812-d. aft.1870) and Macaria Yaquile (b.abt.1808-d.aft.1852), who were married in 1826 at SJC (SJC Marriages #1082, 3/4/1826). The SJC Indian ancestry of both Benvenuto and Macaria and their 9 (or possibly 10) children is well documented in the baptismal, marriage, and burial records of SJC as shown in the following table.

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

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

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

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

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Fernando/Carlota

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

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

Records Showing Fernando, Carlota, and Jose Ureol

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

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

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

Date	Record	Subject	Father/Groom	Mother/Bride
1 Jan 1855	SJC Bp 108 b.4/15/1854	Ma. Senovia Aguilar	Cristobal Aguilar	Rita Villa
09 Jul 1859	LA Bp no# ⁸³	Ma Ignacia Lugarda Mireles	Silvestre Mireles	Carlota Abila
1860	Census: CA, LA Co., SantaAna	Ariol do-8 Madalena Mireles- 10 Trinidad do-6 Estefano do-4	Silvestre Mireles-55 b.Mexico	Carlota do-35 b.California
1870	Census: CA, LA Co., SantaAna	Estafano Morales- 17 Trinidad do-20 Auriol do-20 Lugarda Moreles-4 Titus Jiminez-22 (b.Mexico)	Sylvester Mireles-74 b.Mexico	Arcadia Jimenez-30 b.Mexico
05 Dec 1874	LA M 1331		Oriol Mireles, son of Silvester Mireles and Carlota Ruis	Senovia Aguilar, dau of Cristobal Aguilar and Rita Via del Campo Aleman
1880	Census: CA, LA Co., SanAntonio	James-4 Mary-9/12	Oriole Moralis-30	Senobia-25 wife
1900	Census: CA, Orange Co., Orange	Regina-16 Cenobia-11 Claudiana-9	Uriol Mireles-45 b.1855,Ca,Ca,Ca	Cenobia-45 wife b.2/1855,Ca,Mx,Mx
1910	Census: CA, Orange Co., Orange	Senoba-21 Claudina-18	Uriol Mireles-56, M35,Ca,Mx,Mx	Senoba-54 wife M35,8/4,Ca,Ca,Ca
28 Feb 1925	DR Orange Co. CA Informant: Les Castro	Uriol Marelis wd, sp.Snofia Morelis	Silvestre Marelis b.Mexico	Charlotte Ruiz b.California
4 Mar 1925	Burial Rec., StaAna Cem.	Uoril [<i>sic</i>] Mireles, d.2/29/1925, age 72, male, White, Res: El Modena, LA Co.		

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

⁸³ See next footnote.

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Maria Ignacia Lugarda Mireles' 1859 baptismal record,⁸⁴ show parents' surnames (Silvestre Mireles/Moralis/Marelis and Carlota Abila/Ruiz) and never provide identification as Indian, the records of the family of Fernando and Carlota, including the birth of Jose Ureol in 1852, never show surnames and always provide identification as Indian by the use of *Indios* or *Neofitos*. The birth year of Ariol/Auriol/Uriol Mireles cannot be confirmed as 1852, the birth year of Jose Ureol, because Mireles' age varies on available records: age 8 on 1860 Federal census (b.abt.1852), age 20 on 1870 Federal census (b.abt. 1850), age 30 on 1880 Federal census (b.abt.1850), age 45 on 1900 Federal census (b.abt. 1855), age 56 on 1910 Federal census (b.abt.1854), and age 72 on his Santa Ana death record (b.abt.1853). These minor variations in age over time are not so significant in themselves, but in combination with the evidence that Ariol Mireles was consistently identified as white and the son of Silvester Mireles, they support the conclusion that Ariol Mireles was not the same person as Jose Ureol. All records located for Ariol/Auriol/Uriol Mireles, including his marriage and death records, indicate that his parents were Silvestre Mireles and Carlota Abila/Ruiz and not Fernando and Carlota, *Indios*.

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

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

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

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

⁸⁴ This document is described as "Exhibit 20" on page 8 of a lineage report for Lydia Angela (Ruiz) Gulley in the progenitor file for Jose Uriol Mireles but a copy of the document is not in the record for the FD (JBA 3/13/2009 Progenitor File: Jose Ureol Mireles).

Jose de la Cruz Cusyche and Maria de Jesus Cozomne

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

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

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

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

Primitiva (b.abt.1821-d.1862), daughter of Jose de la Cruz Cusyche (b.1802-d.1834) and Maria de Jesus Cozomne (b.1805-d.?), was verified as a SJC Indian for the PF and her ancestry, marriage, and children were discussed in detail in Appendix IV of the PF (JBB PF 2007 Appendix IV, 217-218). No contradictory information was submitted during the comment periods. Therefore, further analysis of Primitiva will not be included here. The JBA membership includes 25 individuals who claim and documented descent from Primitiva (19 of these individuals also claim descent from Juana Bautista, a.k.a. Juana de Dios).

Felis (b.1828-d.aft.1862), son of Jose de la Cruz Cusyche (b.1802-d.1834) and Maria de Jesus Cozomne (b.1805-d.?), was verified as a SJC Indian for the PF and discussed in detail in Appendix IV of the PF (JBB PF 2007 Appendix IV, 213-215). The JBB petitioner and the JBA petitioner submitted additional evidence and arguments pertaining to this ancestor and his claimed descendants, so a new analysis of the petitioners' genealogical claims is presented here.

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Records Showing Felis (b.1828-d.abt.1862) and Micaela (b.abt.1832-d.abt.1860)
and Their Children

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

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

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

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

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

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

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

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

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Raymond Cruz. An amendment to this death record was filed 32 years later, in 1971, by 2 “friends” named Joe C. Morales and Gregorio Orosco, asserting that Tom Cruz’s parents were “Felix” and “Michela” and that he was age 80 at his death (born in 1859), not 78 (born in 1861). Tom Cruz Sr.’s death certificate was changed by two non-relatives to add his parents’ names more than 30 years after his death. These men did not live within the vicinity of Orange County before 1931, as documented by the 1930 census,⁸⁵ and it is unknown why they would have known the names of Tomas Cruz’s parents when Raymond, Tomas’ own son, did not. The petitioner did not provide (nor did OFA locate) evidence that either man was related to Tomas Cruz or that they had first-hand knowledge of his birth date or parents’ names. The petitioner did not provide an explanation for their changing information on a 30-year-old death record. Consistent with genealogical standards, this FD finds the original death certificate more credible than the “amended” death record, as the original was closer in time to the event and the son, as informant, was more likely to know information on his father’s parents than two late-in-life acquaintances (Mills 2001, 337).

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

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

Maria de Jesus Soilo

Based on the documentation available for the PF, the Department concluded that Maria de Jesus Soilo (b.abt/9/22/1846-d.12/13/1884) was recorded as an Indian of the SJC Mission in the baptism record for her daughter Felipa Avila (SJC Baptisms # 1427, 12/08/1872). However, because various records (and the petitioners’ genealogical databases) identify Maria de Jesus by multiple names (see table below), the Department could not confirm whether she was the same person named in various mission documents. OFA requested the petitioner to seek more documentation to clarify her identity and that of the persons identified in various records (JBB PF 2007 Appendix, 247-248). The JBA petitioner submitted additional mission baptismal records documenting Maria de Jesus Soilo’s offspring and her own baptismal record identifying

⁸⁵ As enumerated on the 1930 Federal census for California, Joe C. Morales (age 41, b.abt.1889) was living in Richmond, Contra Costa County, near San Francisco, and Gregorio Orosco (age 42, b.abt.1888) was living in Brawley, Imperial County, near the border of Arizona and Mexico. Both were identified as born in Mexico. Joe C. Morales’ eldest child, Jose Maria (age 6) was identified as born in Arizona. None of this information connected either man with the Indians at SJC or with Tomas Cruz.

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her parents. The petitioner also provided various genealogical analyses evaluating and correlating the documents submitted.

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

The JBA petitioner located and submitted the San Gabriel baptismal record for Maria de Jesus Indian as well as the San Gabriel baptismal record for her sister, Maria del Refugio, showing their parents to be “Soilo” (also spelled Zoylo, Zoilo, Soylo) and Leona, *Neofitos* of SJC Mission (SG Bapt. #8686 7/3/1844, SG Bapt. #8891 9/22/1846). The JBA petitioner also submitted the SJC baptismal records for Zoylo and Leona and their SJC marriage record, confirming their ancestry as SJC Indians (SJC Bapt. 3#749 6/27/1820; SJC Bapt. #4084 4/11/1827; SJC Marr. #1210Y 4/18/1842).

As discussed in Appendix IV of the PF (JBB PF 2007, 247-249), the parental name on Domitilda Avila’s baptismal record—Maria de Jesus Caroques—is confirmed as the same person as Maria de Jesus Soilo by the 1900 Federal census, which shows two of Maria de Jesus Soilo’s children, Felipa [Avila] and Rafael Charles (a.k.a. Ralph Charles), as sister and brother to the head of the household, Domitilda (Avila) Aguilar (although Rafael Charles would have been her half-brother). Thus, the SJC Indian ancestry and family relations of Maria de Jesus Soilo are now documented by baptismal, marriage, burial, and census records as shown in the following table.

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

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

In conclusion, there is sufficient evidence to verify that Maria de Jesus Soilo was the daughter of the historical SJC Indians Zoylo [Gugannavit] and Leona [Yararabuit]; the spouse (unmarried) of

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Juan Avila, Jose Dolores Yorba and Henry Charles; and the mother of Domitilda and Felipa Avila, Jose Dionicio and Jose Lazaro Yorba, and Raphael (a.k.a. Ralph) Charles.

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

APPENDIX III

Analysis of Various Lists Included in the “Chief Clarence Lobo Collection”

Washington Delegate Collection List 2/17/1950

Number of names on list: 39

Number of SJC Indian descendants: 7

Number of Non-SJC Indian descendants: 20

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

Number of members whose ancestry is unclear: 2

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

Number of names on list: 32

Number of SJC Indian descendants: 8

Number of Non-SJC Indian descendants: 11

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

Number of members whose ancestry is unclear: 1

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

Number of names on list: 27

Number of SJC Indian descendants: 16

Number of Non-SJC Indian descendants: 7

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

Fireman’s Hall Meeting 6/3/1951

Number of names on list: 15

Number of SJC Indian descendants: 7

Number of Non-SJC Indian descendants: 7

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

SJC Meeting 7/12/1964

Number of names on list: 27

Number of SJC Indian descendants: 9

Number of Non-SJC Indian descendants: 14

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

Number of members whose ancestry is unclear: 1

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

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