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**FOR FURTHER INFORMATION AND TO PRE-REGISTER CONTACT:** John McGeehin (DFO), U.S. Geological Survey, 12201 Sunrise Valley Drive, M.S. 926A, Reston, VA 20192, (703) 648-5349, [mcegehin@usgs.gov](mailto:mcegehin@usgs.gov).

**Dr. William Werkheiser,**

*Acting Associate Director for Geology, U.S. Geological Survey.*

[FR Doc. 07-5897 Filed 11-30-07; 8:45 am]

**BILLING CODE 4311-AM-M**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### **Proposed Finding Against Acknowledgment of the Juaneño Band of Mission Indians, Acjachemen (Petitioner #84A)**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of Proposed Finding.

**SUMMARY:** Pursuant to 25 CFR 83.10(h), the Department of the Interior (Department) gives notice that the Assistant Secretary—Indian Affairs (AS-IA) proposes to determine that the Juaneño Band of Mission Indians, Acjachemen Nation (JBA, Petitioner #84A), c/o Anthony Rivera, Jr., 31411-A La Matanza Street, San Juan Capistrano, California 92675, is not an Indian tribe within the meaning of Federal law.

This notice is based on a determination that the petitioner does not satisfy all seven of the criteria set forth in Part 83 of Title 25 of the Code of Federal Regulations (25 CFR part 83), specifically criteria 83.7(a), 83.7(b), 83.7(c), and 83.7(e), and therefore, does not meet the requirements for a government-to-government relationship with the United States.

**DATES:** Comments on this proposed finding (PF) are due on or before June 2, 2008. Publication of this notice of the PF in the **Federal Register** initiates a 180-day comment period during which the petitioner and interested and

informed parties may submit arguments and evidence to support or rebut the evidence relied upon in the PF. Interested or informed parties must provide a copy of their comments to the petitioner. The regulations, 25 CFR 83.10(k), provide petitioners a minimum of 60 days to respond to any submissions on the PFs received from interested and informed parties during the comment period.

**ADDRESSES:** Comments and requests for a copy of the summary evaluation of the evidence should be addressed to the Office of the Assistant Secretary—Indian Affairs, Attention: Office of Federal Acknowledgment, 1951 Constitution Avenue, NW., Mail Stop 34B-SIB, Washington, DC 20240.

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

**SUPPLEMENTARY INFORMATION:** The Department publishes this notice in the exercise of authority that the Secretary of the Interior delegated to the AS-IA by 209 DM 8. The JBA petitioner is located in the town of San Juan Capistrano, Orange County, California, approximately 40 miles south of Los Angeles and 20 miles south of the town of Santa Ana.

A group known as the Juaneño Band of Mission Indians (JBM) submitted a letter of intent to petition for Federal Acknowledgment as an Indian tribe to the AS-IA. The Department received the letter of intent on August 17, 1982. The Department designated the JBM as Petitioner #84. The JBM submitted its first documentation that included a narrative entitled "Petition for Federal Recognition of the Juaneño Band of Mission Indians in Compliance with CFR Part 83," as well as photocopies of documents discussed in the JBM petitioner's narrative. The Department received this material on February 2, 1988. The group claimed to descend from the historical Indian tribe of San Juan Capistrano (SJC) Mission, formed from residents of a pre-contact network of politically autonomous villages prior to Spanish colonization who spoke a Uto-Aztecan language.

The Department conducted an initial technical assistance (TA) review of the petition and sent an obvious deficiency (OD) letter dated January 25, 1990, to the JBM. The JBM responded to the first OD letter on September 24, 1993, when it submitted additional materials and requested to be placed on the "Ready, Waiting for Active Consideration" ("Ready") list. The Department placed JBM on the "Ready" list on September 24, 1993.

An election in 1993 resulted in a dispute within the JBM. A group of members led by Sonia Johnston challenged the results of the election and the leadership of the chairman David Belardes. On December 17, 1994, the Johnston-led group held an election and elected Sonia Johnston chairperson. Belardes and Johnston simultaneously claimed to be the chairperson of the JBM. The Department removed the JBM from the "Ready" list on May 19, 1995, pending revision of the JBM membership list, because of the petitioner's stated intent to substantially revise its membership roll, making it not ready for evaluation. Following the submission of the revised membership list, the JBM, in a letter signed by Davis Belardes, requested the Department to place it on the "Ready for Active Consideration" list, and the Department determined that the Belardes-led group was ready for evaluation on February 12, 1996.

On February 17, 1996, another group submitted a letter of intent to petition, signed by Sonia Johnston. Both groups claimed to be the legitimate successor of the JBM, both claimed the JBM petition narrative and research materials, and both used similar names (the Johnston-led group used the name "The Juaneño Band of Mission Indians," while the Belardes-led group used "The Juaneño Band of Mission Indians, Acjachemen Nation"). The Department designated the Belardes-led group Petitioner #84A (JBA), and the Johnston-led group Petitioner #84B (JBB). The Department placed the JBB petitioner on the "Ready" list on May 23, 1996.

Another election within the JBA on April 19, 1997, resulted in the election of Jean Fietze as chairperson. David Belardes, however, disputed the election results. Both Jean Fietze and David Belardes claimed to be the legitimate leader of the JBA. On September 22, 1997, David Belardes requested "interested party" status if Jean Fietze were to form a "new" group. At the same time, he requested "interested party" status to the JBB petitioner. Neither the Belardes-led group nor the Fietze-led group submitted a separate letter of intent to petition. The Department determined that the disagreement over leadership was an internal issue. The Department takes no part in the internal disputes of petitioning groups.

In 1998, 1999, and 2000, the JBA submitted additional documents including ones related to the disputed April 19, 1997, election and subsequent formation of a separate Belardes-led group. The JBA petitioner under the new leadership of Anthony Rivera, Jr.,

submitted new materials to OFA in April 2005, including a summary of documents the petitioner claimed supported its petition, as well as a new membership roll. In a letter dated July 19, 2005, the JBB requested that the AS-IA waive the regulations so that the JBA and the JBB could be considered simultaneously. On August 5, 2005, the Department responded that it would consider this request. OFA also conducted an informal TA meeting with JBA on August 29, 2005, in Washington, DC, and requested additional documentation.

The Department waived the priority provisions of the regulations at 25 CFR 83.10(d) in order to consider the petition of JBA at the same time as the petition of JBB. Both petitioners went on "Active Consideration" on September 30, 2005. However, David Belardes still claimed to be the leader of Petitioner #84A. The Department assigned the Belardes-led group (JBMI-IP) "interested party" status when the JBA and JBB went on "Active Consideration" status on September 30, 2005. This action was consistent with Belardes' previous request for interested party status for both the JBA and the JBB.

The Department received comments from other parties after the submission deadline. Consistent with the **Federal Register** notice of March 31, 2005 (70 FR 16513), the Department will consider these comments for the final determination (FD).

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

Criterion 83.7(a) requires that the petitioner be identified as an American Indian entity on a substantially continuous basis since 1900. The evidence does not demonstrate that external observers identified the petitioning group or a group antecedent to the JBA petitioner as an Indian entity on a substantially continuous basis from 1900 to 1997. An identification of a group in the 1930's and identifications at least from 1959 to 1965 of groups Clarence Lobo headed have not been demonstrated to be identifications of the same entity as the JBA petitioner and do not constitute substantially continuous identification of an Indian entity. There were identifications of the similarly named JBM organization between 1979 and 1994. However, the JBA petitioner has a membership substantially

different from JBM and one that has been much larger than JBM. Because the JBA petitioner is nearly contemporaneous with the JBM, has a substantially different membership, and other evidence does not show continuity in community or political influence between the JBM and the JBA petitioner, the identifications of the JBM between 1979 and 1994 cannot be considered identifications of the JBA petitioner. For the period since 1997, external observers have identified the JBA petitioner as an Indian entity. Therefore, the JBA meets the requirements of criterion 83.7(a) only from 1997 to the present.

Criterion 83.7(b) requires that a predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present. The available evidence does not demonstrate that the petitioner evolved from the historical SJC Indian tribe that lived at SJC Mission between 1776 and 1834. The petitioner's ancestors derive from the general population of residents of the town of SJC in the mid-19th century, which included non-Indians, individual SJC Indians, and non-SJC Indians. While some members of the current JBA petitioner do have SJC Indian ancestry, 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 part of the general, ethnically-mixed population. Some of the JBA petitioner's non-Indian and non-SJC Indian ancestors moved to the town of SJC during the mission period (1776–1834), arrived there soon after the 1834 secularization of the mission, or migrated to California around the time of the 1849 Gold Rush. Some of these ancestors established social relationships with SJC Indian descendants, including serving as godparents and confirmation sponsors. Some of these ancestors later married or entered into relationships with descendants of SJC Indians and established kin ties.

The current composition of the JBA petitioner mirrors the composition of the mid-19th century general population of the town and differs from the JBB petitioner. The JBA group includes more of the lifelong residents of SJC town who claim descent from the historical SJC Indian tribe. The JBA group also includes more claimed SJC Indian descendants who maintained contact with people in the town even after they moved away. In contrast, the JBB group includes primarily members who claim descent from the historical SJC Indian tribe, but whose ancestors left the town

decades ago and do not appear to have maintained contact with those who remained in the town, outside of a few close family members.

There is insufficient evidence in the record to establish that a predominant portion of the ancestors of the petitioning group comprised a continuous community distinct from the other residents of SJC prior to 1920 and the establishment of the Mission Indian Federation (MIF). From 1920 to 1964, some of the petitioner's ancestors (and some living members) took part in a variety of activities related to the settlement of the 1928 Claims Act, particularly those organized by non-Indian Marcos H. Forster and SJC Indian descendant Clarence Lobo, but the evidence indicates that most of this interaction was limited to the claims activities. There is no evidence in the record of any organization of members between the 1964 settlement of the claims issue and the 1975 establishment of the Capistrano Indian Council (CIC), and little evidence that JBA members residing outside of SJC participated in the CIC organization or associated with any town residents other than close relatives. There is some evidence of social interaction and communication among some JBM members, especially those involved in archaeological site monitoring, between 1978 and 1995. This evidence occurred predominantly within the realm of the JBM organization and does not demonstrate the widespread significant interactions required to demonstrate the existence of a community under 83.7(b). The JBA petitioner has not explained the inclusion in the membership of many new people and families with no former connection to the JBM after the separation of the JBB and the formation of the JBA, or explained the absence of many of the former JBM members who are no longer present on the JBA group's membership lists (and who do not appear as members of the JBB or JBMI-IP). The JBA experienced another substantial change in membership when the JBMI-IP formed a group in 1997. The fluctuations in membership also demonstrate that the JBA is not the JBM under a different name, as the membership of the JBA has changed dramatically, and no other evidence demonstrates that a cohesive continuing social community remained in place throughout these membership fluctuations. From 1995 to the present, there is insufficient evidence that the petitioner's members comprise a distinct community. The historical SJC Indian tribe would meet this criterion until 1834, but the JBA petitioning

group has not demonstrated that it meets the requirements of the criterion since 1834. Therefore, the JBA does not meet the requirements of criterion 83.7(b) at any time from 1834 to the present.

Criterion 83.7(c) requires that the petitioner maintain political influence or authority over its members as an autonomous entity from historical times until the present. The evidence in the record demonstrates that the JBA petitioner is not a continuation of the historical SJC Indian tribe present at the SJC Mission until 1834. Only a portion of the petitioner's members have demonstrated descent from Indians of the historical SJC Indian tribe, and these individuals appear to have left the historical SJC Indian tribe as individuals, often before 1834. There is also no available evidence from the early statehood period which demonstrates by a reasonable likelihood that representatives of a political entity of descendants from the historical SJC Indian tribe signed any of the 1852 unratified treaties. The petitioner did not present sufficient evidence of formal or informal leadership within an Indian group of which its ancestors were part during the late 19th century or early 20th century. The formation of the umbrella organization of the MIF in 1920 appears to have served as a catalyst for the organization of the local SJC MIF chapter. However, the information provided about the SJC MIF chapter indicates that it functioned predominantly as a claims organization, and does not indicate that the claims were of importance to the petitioner's ancestors prior to the founding of the MIF. There is no evidence in the petition to indicate that the leadership of the SJC chapter of the MIF addressed diverse issues of immediate importance to its membership.

Evidence in the record related to claimed SJC leader Clarence Lobo's activities in the late 1940's through the mid-1960's provides little evidence of a bilateral political relationship between Lobo and the undefined group of people claiming to be SJC Indian descendants. His activities also appear to focus almost exclusively on claims activities, and in this regard, his advocacy on behalf of pan-Indian organizations and a discrete group of Indian descendants in the town of SJC is sometimes uncertain. The record included no evidence of Clarence Lobo's leadership outside of his involvement with a number of pan-Indian organizations and the California claims issues. Lobo himself complained that few SJC claimants joined him in his political activities, although some claimants provided limited financial

support for his claims work. There is little evidence that SJC Indian claimants influenced or informed Lobo's actions.

The record presents no evidence of any formal political activity between the settlement of the California Claims in 1964 and the establishment of the CIC. There is also no indication of any informal leadership during this time. After the 1975 establishment of the CIC, an organization which included non-Indians and non-SJC Indians, some information showed limited political organization among some of the SJC residents claiming to be SJC Indian descendants. However, the evidence indicated very little participation in the organization of people who lived outside the town, and there is no indication that the people outside of SJC formed any parallel organizations of their own. From 1975 until 1978, the CIC appears to have politically influenced some of the residents of the town of SJC. The JBM, which first organized in 1978 as a part of the CIC, quickly became a separate organization. From 1978 until approximately 1989, the JBM and CIC provided some leadership. These organizations appear to have represented two populations (with little crossover): The JBM was composed predominantly of those who lived outside the town of SJC, while the CIC was composed of those who lived inside the town of SJC. The 1989 change in leadership (from Raymond Belardes to his cousin, SJC town resident David Belardes) and the JBM involvement in the Floyd Nieblas dispute with the administration of the Catholic Church located at the historical SJC Mission in 1990 does appear to have opened a door of membership to local CIC members not previously identified as members of the JBM organization. From approximately 1990 to 1996, the JBM demonstrated some influence over its members, both inside and outside of the town of SJC, but rates of participation in its activities and decision-making were exceedingly low. This influence continued until a group of members under the leadership of Sonia Johnston separated in 1996. Both groups claimed to be JBM, and the Department designated the group under David Belardes as "JBA" and the Johnston-led group as "JBB." In 1997, the JBMI-IP then separated from the JBA. From 1996 until the present, the JBA petitioner has not demonstrated political influence over its members that satisfies the requirements of the regulations. The historical SJC Indian tribe would meet this criterion until 1834, but the JBA petitioner has not demonstrated that it meets the requirements of the criterion

since 1834. Further, it has not demonstrated political authority within such a continuously existing entity at any time since 1834. Therefore, the JBA does not meet the requirements of criterion 83.7(c) at any time from 1834 to the present.

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

Criterion 83.7(e) requires that the petitioner's 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. The November 28, 2005, JBA membership list included 1,640 living, adult members. The list did not include minors under age 18. The evidence in the record demonstrates that most of the the JBA petitioner's members claim descent only from individuals who were not part of the historical Indian tribe at Mission SJC as it existed between 1776 and 1834. This PF finds that only 2 percent (37 of 1,640) of JBA members have actually demonstrated descent from one of the Indians of the historical SJC Indian tribe. Therefore, because the JBA petitioner's membership does not consist of individuals who descend from the historical SJC Indian tribe in 1834 (98 percent have not demonstrated descent), JBA does not meet the requirements of criterion 83.7(e).

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

Criterion 83.7(g) requires that neither the petitioner nor its members be the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship. No evidence has been found to indicate that the JBA petitioner was the subject of congressional legislation to terminate or prohibit a Federal relationship as an Indian tribe. The JBA petitioner meets the requirements of criterion 83.7(g).

Based on this preliminary factual determination, the Department proposes not to extend Federal Acknowledgment as an Indian tribe under 25 CFR part 83 to the JBA petitioner known as the Juaneño Band of Mission Indians, Acjachemen Nation.

As provided by 25 CFR 83.1(h), a report summarizing the evidence, reasoning, and analyses that are the basis for the PF will be provided to the petitioner and interested parties, and is available to other parties upon written request.

Comments on the PF and/or requests for a copy of the summary evaluation of the evidence should be addressed to the Office of the Assistant Secretary—Indian Affairs, Attention: Office of Federal Acknowledgment, 1951 Constitution Avenue, NW., Mail Stop 34B–SIB, Washington, DC 20240.

Comments on the PF should be submitted within 180 calendar days from the date of publication of this notice. Comments by interested and informed parties must be provided to the petitioner as well as to the Federal Government (83.10(h)). After the close of the 180-day comment period, the petitioner has 60 calendar days to respond to third-party comments (83.10(k)).

After the expiration of the comment and response periods described above, the Department will consult with the petitioner concerning establishment of a schedule for preparation of the FD. The AS–IA will publish the FD of the petitioner's status in the **Federal Register** as provided in 25 CFR 83.10(1), at a time that is consistent with that schedule.

On November 23, 2007, the AS–IA Carl J. Artman, approved the Proposed Finding Against Acknowledgment of the Juaneño Band of Mission Indians, Acjachemen Nation (Petitioner #84A). On November 26, 2007, he authorized his acting AS–IA to approve this **Federal Register** notice.

Dated: November 26, 2007.

**Debbie Clark,**

*Acting Assistant Secretary—Indian Affairs.*

[FR Doc. E7–23360 Filed 11–30–07; 8:45 am]

**BILLING CODE 4310–G1–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Proposed Finding Against Acknowledgment of the Juaneño Band of Mission Indians (Petitioner #84B)

**AGENCY:** Bureau of Indian Affairs, Interior.

#### **ACTION:** Notice of Proposed Finding.

**SUMMARY:** Pursuant to 25 CFR 83.10(h), the Department of the Interior (Department) notice is hereby given that the Assistant Secretary, Indian Affairs (AS–IA) proposes to determine that the Juaneño Band of Mission Indians (Petitioner #84B, JBB), c/o Joe Ocampo, 1108 East Fourth Street, Santa Ana, California 92701, and c/o Bud Sepulveda, P.O. Box 25628, Santa Ana, California 92799, is not an Indian tribe within the meaning of Federal law. Due to the group's recent internal leadership conflict, this notice is addressed to both individuals who claim to be its leader. The Department has not addressed this dispute in this proposed finding (PF). These individuals hopefully will resolve this conflict by the time of the final determination (FD).

This notice is based on a determination that the petitioner does not satisfy all seven of the criteria set forth in Part 83 of Title 25 of the Code of Federal Regulations (25 CFR part 83), specifically criteria 83.7(a), 83.7(b), 83.7(c), and 83.7(e), and therefore, does not meet the requirements for a government-to-government relationship with the United States.

**DATES:** Comments on this PF are due on or before June 2, 2008. Publication of this notice of the PF in the **Federal Register** initiates a 180-day comment period during which the petitioner and interested and informed parties may submit arguments and evidence to support or rebut the evidence relied upon in the PF. Interested or informed parties must provide a copy of their comments to the petitioner. The regulations, 25 CFR 83.10(k), provide petitioners a minimum of 60 days to respond to any submissions on the PFs received from interested and informed parties during the comment period.

**ADDRESSES:** Comments and requests for a copy of the summary evaluation of the evidence should be addressed to the Office of the Assistant Secretary—Indian Affairs, Attention: Office of Federal Acknowledgment, 1951 Constitution Avenue, NW., Mail Stop 34B–SIB, Washington, DC 20240.

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

**SUPPLEMENTARY INFORMATION:** The Department publishes this notice in the exercise of authority that the Secretary of the Interior delegated to the AS–IA by 209 DM 8. The JBB petitioner is located in the town of Santa Ana, Orange County, California, approximately 25 miles south of Los Angeles and 20 miles

north of the town of San Juan Capistrano.

A group known as the Juaneño Band of Mission Indians (JBM) submitted a letter of intent to petition for Federal acknowledgment as an Indian tribe to the AS–IA. The Department received the letter of intent on August 17, 1982. The Department designated the JBM as Petitioner #84. The JBM submitted its first documentation that included a narrative entitled “Petition for Federal Recognition of the Juaneño Band of Mission Indians in Compliance with CFR Part 83,” as well as photocopies of documents discussed in the JBM petitioner's narrative.

The Department received this material on February 2, 1988. The group claimed to descend from the historical Indian tribe of San Juan Capistrano (SJC) Mission, consisting of residents of a pre-contact network of politically autonomous villages prior to Spanish colonization who spoke a Uto-Aztecan language.

The Department conducted an initial technical assistance (TA) review of the petition, and sent an obvious deficiency (OD) letter dated January 25, 1990, to the JBM. The JBM responded to the first OD letter on September 24, 1993, when it submitted additional materials, and requested to be placed on the “Ready, Waiting for Active Consideration” (“Ready”) list. The Department placed JBM on the “Ready” list on September 24, 1993.

An election in 1993 resulted in a dispute within the JBM. A group of members led by Sonia Johnston challenged the results of the election and the leadership of the chairman David Belardes. On December 17, 1994, the Johnston-led group held an election and elected Sonia Johnston chairperson. Belardes and Johnston simultaneously claimed to be the chairperson of the JBM. The Department removed the JBM (Petitioner #84) from the “Ready” list on May 19, 1995, pending revision of the JBM's membership list, because of the petitioner's stated intent to revise substantially its membership roll, making it not ready for evaluation. Following the submission of the revised membership list, the JBM, in a letter signed by David Belardes, requested the Department to place it on the “Ready” list, and the Department determined that the Belardes-led group was ready for evaluation on February 12, 1996.

On February 17, 1996, another group submitted a letter of intent to petition, signed by Sonia Johnston. Both groups claimed to be the legitimate successor of the JBM, both claimed the JBM petition narrative and research materials, and both used similar names (the Johnston-