

FEDERAL RECOGNITION OF NATIVE AMERICAN TRIBES: THE CASE OF CALIFORNIA'S AMAH MUTSUN

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The efforts of Native American tribes to gain legal recognition by the federal government often have involved a long, arduous process. Although the unusual history of California Indians has further complicated the recognition process, this same history produced documentary evidence that can be used in addressing the criteria established by the United States for legal recognition. This article examines the case of one California tribe, the Amah Mutsun of Mission San Juan Bautista.

Under Spain, California tribes were "missionized," but rights to tribal land were protected under Spanish law. Under Mexican law, land grants to Mexican citizens were not supposed to include territory used by tribes, but much tribal aboriginal territory was nevertheless granted. Some California Indians continued to live in their aboriginal territory under Spain and then Mexico, working in virtual bondage on mission lands or on land grants to individuals. After California was acquired by the United States, eighteen treaties were negotiated with California tribes in the 1850s. However, California interests were able not only to prevent the treaties' ratification but also to have them sealed in secret Senate files. As a result, many California tribes, including the Amah Mutsun were deprived of their aboriginal lands and were not brought under the jurisdiction of the United States Bureau of Indian Affairs.

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Because they were not assigned to a reservation and were not under the authority of Indian agents, records of these tribal groups are especially sparse, making historical analysis difficult. Cultural continuity is an important criterion for federal recognition. Twentieth-century materials related to court actions regarding the nineteenth-century treaties and land grants provide considerable primary historical evidence that documents the cultural continuity of the Amah Mutsun of Mission San Juan Bautista.

FEDERAL RECOGNITION AND THE AMAH MUTSUN OF SAN JUAN BAUTISTA

The purpose of federal recognition is to acknowledge the existence of a particular tribe and to establish a government-to-government relationship between the United States and that tribe. A tribe can become recognized through an act of Congress or through the Bureau of Indian Affairs acknowledgment process. Regulations have been established for determining acknowledgment, a process that is carried out by the Office of Federal Acknowledgment, formerly known as the Branch of Acknowledgment and Research (BAR) in the Bureau of Indian Affairs.¹

A number of criteria set out by BAR test whether a tribe existed historically at first contact with the United States and has continued to exist, both politically and culturally, to the present day. For example, a tribe must show that its "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."² The tribe must also show that it "has been identified as an American Indian entity on a substantially continuous basis since 1900"; that the "predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present"; and that the "petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present."³

More than 250 letters of intent and petitions from tribal groups have been submitted to BAR, which has a limited staff

¹25 Code of Federal Regulations (CFR) Section 83.

²25 CFR 83.7 (e).

³25 CFR 83.7 (a), 25 CFR 83.7 (b), and 25 CFR 83.7 (c).

and reviews only a few petitioners at a time. Petitioning tribal groups first must achieve the status of "Ready for Active Consideration," after which they eventually may be classified as under "Active Consideration." Thus far, only a handful of tribal groups have completed the entire process and have become recognized. Typically, it takes years for a tribe to receive a final determination. Tribal groups seeking recognition, as well as the General Accounting Office, have criticized BAR for not processing petitions for acknowledgment expeditiously. The Bureau of Indian Affairs has defended itself by claiming that the process is fair but is slowed by a lack of adequate funding.⁴ Regardless of the reasons, the fact remains that tribes face a long and uphill battle to gain recognition through BAR.

The descendants of Mutsun who, during Spanish rule, were placed under Mission San Juan Bautista today are seeking federal recognition as a legitimate tribe. Calling themselves the Amah Mutsun, this tribal group—all of whom can prove they had Indian ancestors who were under Mission San Juan Bautista prior to the United States' occupation of California—had regularly met informally throughout the twentieth century. Work on the California Indian census from the 1920s to the 1970s prompted tribal leaders to investigate the recognition process, and formal meetings were begun in 1989. The tribe ratified a tribal constitution in 1991, filed a notice of intent to apply for recognition in 1995, and, after receiving and responding internally to two technical assistance letters from BAR, submitted a completed petition in 2002. Recently, the tribe ratified a new constitution, which, among other things, bans gaming. The Amah Mutsun Tribe has now been certified by BAR as "Ready for Active Consideration."⁵ But three tribes are currently under "Active Consideration," and eleven tribes are ahead of the Amah Mutsun in the "Ready for Active Consideration" queue, which means it could be quite some time before the tribe reaches "Active Consideration" status.

In order to meet the criteria necessary to achieve recognition, tribes must submit considerable historical evidence. Throughout much of the period in question, United States

⁴Neal A. McCaleb, "Strategic Plan: Response to the November 2001 General Accounting Office Report," September 12, 2002, Department of the Interior, Bureau of Indian Affairs (BIA), Office of Tribal Services, Branch of Acknowledgment and Research; McCaleb, assistant secretary of the interior for Indian affairs, to Dan Burton, chairman, Committee on Government Reform, House of Representatives, September 30, 2002.

⁵Amah Mutsun Tribal Band, Petition for Acknowledgment, submitted by The Amah Mutsun Tribal Band, Irenne Zwierlein, Amah Mutsun Tribal Band chairperson, April 26, 2002. Submitted to the Branch of Acknowledgment and Research, BIA; director, Office of Tribal Services, to Zwierlein, May 22, 1996; director, Office of Tribal Services to Zwierlein, February 16, 1999.

policy towards Indians was aimed at eliminating traditional tribal political leadership, acculturating tribal members into white society, removing tribes from their aboriginal homelands, and even terminating the special relationship that existed between the government and the recognized tribes. Thus, providing the necessary evidence for recognition obviously is difficult for a tribe such as the Amah Mutsun. Had the Amah Mutsun been recognized, the Bureau of Indian Affairs would have kept many government records relating to the tribe. Without those records, the tribe must look elsewhere.

SPANISH RECORDS

When Spanish colonizers arrived to settle Alta California in 1769, probably between 300,000 and 350,000 native inhabitants lived there, speaking more than three hundred different linguistic dialects.⁶ The central California region to the southeast of San Francisco Bay was one of the most densely populated areas. Native people occupied at least twenty villages in the San Pajaro and San Benito drainages, including some located in the vicinity of today's Gilroy, San Felipe, Mission San Juan Bautista, and Sargent Station. Their language, Mutsun, was one of eight that make up the Costanoan language family, spoken by tribes in the area from what is now San Francisco south past Monterey Bay to the Salinas River. It has been estimated that at the time of the arrival of the Spaniards, some 2,700 Mutsun speakers lived in the villages in the Pajaro River drainage.⁷

⁶Robert F. Heizer, "Treaties," *Handbook of North American Indians*, vol. 8, California (Washington, DC, 1978), 701, estimated 350,000 California Indians in 1769; Sherbourne F. Cook, "Historical Demography," *Handbook of North American Indians*, vol. 8:91, estimated a total of more than 300,000; Edward D. Castillo, "The Impact of Euro-American Exploration and Settlement," *Handbook of North American Indians*, vol. 8:99, also provided an estimate of 300,000 California Indians in 1869, and reported that there were more than 300 different native dialects.

⁷William F. Shipley, "Native Languages," *Handbook of North American Indians*, vol. 8:81, 84, 89; Richard Levy, "Costanoan," *Handbook of North American Indians*, vol. 8:486, provided the estimate of Mutsun population; John M. Martin, "Mission San Juan Bautista, California: The Causes and Effects of Its Rise and Decline," Ph.D. dissertation (University of Santa Clara, 1933), 35, described a notebook of Fr. Felipe Arroyo de la Cuesta in which he listed twenty Mutsun villages; Alex S. Taylor, "California Notes," *The Indianology of California*, second series, 1860, Bancroft Library, University of California, Berkeley, microfilm, identified fifteen "rancherias" of the San Juan Bautista Indians; Thomas Savage, "Mission San Juan Bautista," 1878, C-C 44,

After Juan Rodríguez Cabrillo sailed into San Diego Bay on September 28, 1542, Spain claimed California by right of discovery, but it was not until 1765 that Spain determined to systematically occupy and defend Alta California and to place the Indians there under Catholic dominion. The resulting military expedition was led by Gaspar de Portolá in 1769. The zealous Franciscan, Junípero Serra, accompanied the expedition and immediately began to establish a string of missions. Portolá failed to find Monterey Bay in 1769, but the following year he established a mission and presidio at Monterey Bay, the coastline of Mutsun territory. Monterey became the capital of one of the four districts of Spanish Alta California.⁸

Spanish expeditions in the 1770s reported large villages in Mutsun territory. Two expeditions led by Pedro Fages passed through Mutsun territory in 1770 and 1772. Mutsun villagers living in the San Benito and Pajaro River drainages saw Europeans for the first time when Fages passed by their villages, including one on the banks of San Felipe Lake. The villages he described may have included Ausaima and Unijaima.⁹ A priest who traveled with Fages reported that the San Benito River

Bancroft Library, microfilm, listed nineteen villages in the San Juan Valley that were taken into Mission San Juan Bautista; C. Hart Merriam, personal research papers, film 1022, reel 8, series N, "List of Bands, Tribes, or Villages," Bancroft Library, listed twenty-one San Juan Bautista villages; Zephyrin Engelhardt, *Mission San Juan Bautista: A School of Church Music* (Santa Barbara, California, 1931). Engelhardt, drawing on the early nineteenth-century work of Felipe Arroyo de la Cuesta, found twenty-one villages listed in the books of Mission San Juan Bautista.

⁸David J. Weber, *The Spanish Frontier in North America* (New Haven, CT, 1992), 41, 238–43; Ivy B. Ross, *The Confirmation of Spanish and Mexican Land Grants in California* (San Francisco, 1974, originally a thesis at the University of California, 1928), 1–3; Castillo, "The Impact of Euro-American Exploration and Settlement," 99; Robert G. Cowan, *Ranchos of California: A List of Spanish Concessions 1775–1822 and Mexican Grants 1822–1846* (Los Angeles, 1977), 2.

⁹Weber, *The Spanish Frontier in North America*, 246–48; Randall Milliken, ch. 1–3, in *Archaeological Test Excavations at Fourteen Sites along Highways 101 and 152, Santa Clara and San Benito Counties, California: Volume 2: History, Ethnohistory, and Historic Archaeology* (Davis, California, 1993), 63–65, in which he identifies Ausaima and Unijaima as tribes rather than villages. In any case, they were Mutsun speaking; Leslie A.G. Dill, Kara Oosterhous, and Charlene Duval, *Santa Clara County Heritage Resource Inventory Update: South County* (Los Gatos, California, 2003), 9; John Peabody Harrington, "The Papers of John Peabody Harrington in the Smithsonian Institution, 1907–1957," National Anthropological Archives, Smithsonian Institution, microfilm, 1984, reel 41, frames 74–78, notes both names in San Juan Bautista mission books, identifying them as Mutsun "rancherías"; Savage, "Mission San Juan Bautista," listed Ausaima and Unijaima as villages taken into the mission; Engelhardt, *Mission San Juan Bautista: A School of Church Music*, also lists Ausaima and Unijaima as villages.

was named during the 1772 expedition for St. Benedict, on whose birthday the river was encountered. The same priest recalled meeting Indians who had what may have been a bird-hunting decoy:

We saw in this place a bird which the heathen had killed and stuffed with straw. To some in our party it looked like a royal eagle. For this reason some of the soldiers called the stream "Río del Pajaro" and I added "La Señora Santa Ana del Río del Pajaro."¹⁰

The Rivera expedition of 1774 encountered a Mutsun village of at least three hundred people. The Anza expedition of 1776 discovered Mutsun rabbit hunters and may have named today's Carnadero for the place where the animals were slaughtered. This party also described seeing villages in Mutsun territory, including one near the mouth of Pescadero Creek, which may have been the village known as Huris-tak (or Juristac).¹¹

The Spanish exploring expeditions of the 1770s provided considerable information indicating a large Indian population in Mutsun territory (and among their neighbors). This was important information to the Franciscans, who planned to gather Indians into missions and end native life. During the next thirty years, Spain established another six missions in Costanoan territory, culminating with the founding of Mission San Juan Bautista at a beautiful spot called "Papeloutchom" by the Mutsun. The Mutsun village of Xisca was less than a mile to the south on San Juan Creek beneath a mountain sacred to the tribe.¹² Mission San Juan Bautista was founded in 1797. Construction of the church that stands on the mission grounds today was begun in 1803, and the church was dedicated in 1812. The mission has been in continuous use ever since.

¹⁰Marjorie Pierce, *East of the Gabilans* (Santa Cruz, 1976), 12.

¹¹Milliken, *Archaeological Test Excavations*, 49, 64–68. Milliken concluded that Juristac "is certainly a Costanoan village name," and reported a 1798 baptism record of a child born at the "Ranchería Jurestaca"; Dill et al., 9; Weber, *The Spanish Frontier in North America*, 250–53.

¹²Milliken, *Archaeological Test Excavations*, 49–51, 73; Sunset Books, *The California Missions: A Pictorial History* (Menlo Park, California, 1964), 235; California State Parks, *San Juan Bautista State Historic Park* (Sacramento, 2004); Pierce, *East of the Gabilans*, 1–2 and 9; C. Hart Merriam to J.P. Harrington, September 8, 1929, with attached notes from Harrington's consultation with Ascención Solórsano. Harrington, "Papers," reel 41, frames 74–78; Hildegard Hawthorne, *California's Missions: Their Romance and Beauty* (New York, 1942), 176, noted that the Mutsun had a sacred mountain two miles to the southeast of the mission.

Mission San Juan Bautista was established in the center of Mutsun territory in order to convert Indians to Christianity. Believing that they could do so most effectively by gathering Indians into a Spanish-style village, Spaniards removed the Indians from their traditional villages and assembled them at the mission under the authority of the priests. The Indian converts or "neophytes," as they were called, were not allowed to leave the mission or its ranchos and were subject to physical punishment if they disobeyed the priests, whose law was enforced by soldiers from the presidios.¹³

In the early nineteenth century, the non-Indian population of California was relatively small. Mutsun villages were a source not only of converts, but of labor as well. Mutsun peonage was used to build Mission San Juan Bautista, to grow its crops, and to look after its stock. As historian Albert L. Hurtado has observed,

The missions and Indian labor were the basis for California's economy. Neophytes constructed the buildings, herded the cattle, worked the fields, and did whatever was required to keep the missions running.

Under Spain the neophytes had certain at least nominal legal rights, but it was an unequal system, and they had no choice about the work that the mission required.

Indians were recognized as human beings with souls and certain civil rights, yet the crown and its representatives granted to conquistadors *encomienda* rights to labor and tribute from the conquered Indians.¹⁴

Prior to the arrival of the Spaniards, the Mutsun Indians had enjoyed a largely peaceful existence, in a territory rich with animal and plant life. They subsisted on roots, berries, acorns, fish, and small and large game, while living in tule homes in

¹³Castillo, "The Impact of Euro-American Exploration and Settlement," 101-102.

¹⁴Albert L. Hurtado, *Indian Survival on the California Frontier* (New Haven, 1988), quoted at 24; S. Lyman Tyler, "The Zuni Indians Under the Laws of Spain, Mexico, and the United States," in *Zuni and the Courts: A Struggle for Sovereign Land Rights*, ed. E. Richard Hart (Lawrence, Kansas, 1995), 61-64, described the "well-developed plan" of Spain to use missions and presidios to secure title to territory in the Americas; Tyler, *A History of Indian Policy* (Washington, 1973), 24, observed that under Spanish law Indians were "fellow subjects and as 'free persons' with legal rights." However, the Indians were subject to many strict rules that determined the manner in which they actually survived; Hawthorne, *California's Missions: Their Romance and Beauty*, 177.

villages along rivers, streams, and lakes.¹⁵ But within a few short decades after the establishment of Mission San Juan Bautista, the Mutsun had been "missionized," living as workers at the mission or on the mission's ranches and farms. Between 1797 and 1834, more than three thousand Indians were forced to leave their villages and move to the mission.¹⁶ At the peak of Mutsun population at Mission San Juan Bautista in 1823, reportedly 1,248 Mutsun lived at the mission or on the mission's ranchos.¹⁷ However, the death rate among the Mutsun from smallpox and other European diseases was disastrous.

By about 1810, the Mutsun had been fully missionized.¹⁸ Their lands had been taken over and they had become bound in servitude by the mission and the Spanish Crown.¹⁹ During the first two decades of the nineteenth century, "hundreds of individual and collective units of Mutsun Indian housing were constructed . . ." near the mission and at the ranchos.²⁰ Yet, despite the decades of servitude and the yoke of oppression under Spain, the Mutsun did not give up their tribalism, abandon their traditional activities, or discontinue use of their aboriginal homeland.

Felipe Arroyo de la Cuesta was a priest at Mission San Juan Bautista from 1808 to 1832. He saw to it that the Indians were taught Spanish at the mission, but Arroyo de la Cuesta also understood that he needed to learn Mutsun in order to com-

¹⁵Felipe Arroyo de la Cuesta, "Repuesta" ["replies" to the Interrogatorio], May 1, 1814, translated and reprinted in: Engelhardt, *Mission San Juan Bautista: A School of Church Music*, 18; Alfred L. Kroeber, *Handbook of the Indians of California* (New York, 1976, originally published as *Bulletin 78* of the Bureau of American Ethnology, Smithsonian Institution, 1925), 462-73; Levy, "Costanoan," 485-86.

¹⁶J. N. Bowman, "The Number of California Indians Baptized During the Mission Period, 1770-1834," *The Historical Society of Southern California Quarterly* 43:3 (September 1960): 273-77.

¹⁷Engelhardt, *Mission San Juan Bautista: A School of Church Music*, 36; Alex S. Taylor "Precis India Californicus," Bancroft Library, microfilm, p. 32; Pierce, *East of the Gabilans*, 3-4, reported that a total of more than 4,000 Indians are buried in the Mission San Juan Bautista Indian cemetery.

¹⁸Levy, "Costanoan," 486.

¹⁹Castillo, "The Impact of Euro-American Exploration and Settlement," 101-104, reported that there were unsuccessful Costanoan revolts against Spanish rule; Milliken, *Archaeological Test Excavations*, 78, reported, "By the end of 1805, the tribal villages of the *Unijaimas* and *Ausaimas* were abandoned, though members of those groups were still being baptized at least until 1812." He also reported on Mutsun conflict with the Spaniards.

²⁰Ruben G. Mendoza, *San Juan Bautista: An Archaeologist's View of an Early California Mission* (Sacramento, 2002), 2.

municate with the Indians under his charge. In order to learn their language, he collected nearly three thousand Mutsun phrases, which he published in 1815.²¹ Arroyo also translated prayers, songs, doctrines, confessions, acts, and other vocabulary into Mutsun and drafted a prayer book titled *El Oro Molido* (ground up gold), which linguist J.P. Harrington called "the most important Indian document from the Franciscan period of California history."²²

In the late eighteenth century, Junipero Sierra, a Mutsun named for the famous Spanish Junípero Serra, took on a role of leadership among his people. Arroyo de la Cuesta and Spanish authorities at the mission recognized his authority, and he became *alcalde* (a secular official) of the mission. Although the exact dates of his birth and death are not known, his tenure must have spanned the Spanish period, the Mexican period, and perhaps the early years of United States rule. His granddaughter later recalled his leadership role and the authority vested in him by Spanish administrators.²³ Traditional Mutsun leadership carried with it responsibilities to care for the less fortunate and to practice traditional medicine.

The earliest extensive record of Mutsun culture was recorded by Father Felipe Arroyo de la Cuesta in 1814. On October 6, 1812, the Spanish government sent out a questionnaire, or *interrogatorio*, to all of the civil and ecclesiastical authorities in Spanish California. The priests running the various missions were asked to answer thirty-six questions regarding the Indians in their jurisdictions. The questionnaire did not reach San Juan Bautista until early in 1814, and Father Arroyo de la Cuesta signed a response to the questions and submitted it on May 1, 1814.²⁴ In his response, he reported that the Mutsun people told traditional stories to their children and maintained traditions about hunting, games, and utilitarian affairs. Mutsun people who had been forced under the control of the mission continued to pass on these tradi-

²¹Arroyo de la Cuesta, Ab. Ar. Yo, *Alphabs. Rivulus Obeundus, Exprimationun Causa, Horum Indorum Mutsun, Missionis Sanct. Joann. Baptistae*. Conveniunt Rebus Nomina Saepe Suis, 1815.

²²Elaine L. Mills, ed., *The Papers of John Peabody Harrington in the Smithsonian Institution, 1907-1957*, vol. 2, "A Guide to the Field Notes, Native American History, Language and Culture of Northern and Central California" (White Plains, NY, 1985), 94-95, provides the quotations; Engelhardt, *Mission San Juan Bautista: A School of Church Music*, 16, 125-26, also discusses the publication.

²³Harrington, "Papers," reel 58, contains information on Sierra, including, for example, frames 314 and 328.

²⁴Arroyo de la Cuesta, "Repuesta," 15.

tions.²⁵ Father Arroyo was careful not to appear too interested in Indian traditions and downplayed their importance, saying the Indians'

history amounts to ridiculous fables, which are passed from generation to generation, and [that they] relate them only for the purpose of passing the time, laughing, or to entertain the boys. . . . The whole scientific knowledge of these people consists in the better way of telling the stories or in a greater aptitude in hunting and fishing.²⁶

Although the missionaries were attempting to teach the people agriculture, Arroyo said the Indians continued to collect and eat traditional foods:

They have in their little cabins an abundance of acorns and wild seeds—their ancient food. They will not let a chance pass by to catch rats, squirrels, moles, rabbits and other animals, which they were wont to eat, and eat even now, for which reason it is not easy to compute their daily amount of food.²⁷

The traditional village sites of the Mutsun quite naturally were situated in prime locations that contained an abundance of water, game, and other resources. It is no surprise, then, that Mission San Juan Bautista should appropriate these lands for its own use. The mission established at least six ranchos—some at Mutsun village sites—where cattle, horses, and sheep were raised, and agricultural land was cultivated. As at the mission itself, Indians did most of the work at these ranchos. Thus some Mutsun were able to continue to work at or near their traditional village sites, within their aboriginal homeland. For example, the land around the Mutsun village of Huristac, or Juristac, became the mission rancho called La Brea, named for the tar (natural asphalt) seeps located on what is now Tar Creek, which parallels Pescadero Creek and flows into the Pajaro River.²⁸

²⁵Martin, "Mission San Juan Bautista, California," 58–60, described the flogging and other punishments inflicted on Indians who tried to escape from the mission.

²⁶Arroyo de la Cuesta, "Repuesta," 22.

²⁷Arroyo de la Cuesta, "Repuesta," 15, 18. "Cabins" was the translation for the tribal members' living structures. The same translation was used for pre-Spanish, traditional structures.

²⁸Milliken, *Archaeological Test Excavations*, 77.

Under Spanish law, theoretically at least, converted Indians had the right to all the land they could effectively use and occupy. The mission was to hold the land until such time as the Indians, who were kept under the authority of the mission, were prepared to take possession. At the same time, the Crown had delegated the authority to make land grants, or "concessions," to viceroys and other officers in America. Aimed at encouraging settlement, these grants often were given to retired military officers. Such grants were not supposed to impinge on lands necessary for the future of the missions and the Indians under the authority of the missions.²⁹

The first Spanish grant of land to an individual in California was to Manuel Butrón, a soldier from the Monterey presidio who had married a baptized Indian woman. Father Serra approved of Spaniards marrying converted Indian women and supported Butrón's petition for a grant of land. In 1775, Butrón was granted a small concession in the Carmel Valley.³⁰ Interestingly, although he seems eventually to have lost his land grant, a number of Mutsun today can trace ancestry back to the Butrón family.³¹

In 1794, new Spanish regulations permitted presidio commanders to issue land grants, which had the potential to put

²⁹Ross, *The Confirmation of Spanish and Mexican Land Grants in California*, 1–5. The king of Spain delegated authority to officers in America in 1680, but it was not until 1773 that special authority was provided to allow grants in Alta California; Cowan, *Ranchos of California*, 3. Officials dealing with the Pueblo Indians in New Mexico also concluded that Indians had the right to all the land that they could effectively use and occupy. See Myra Ellen Jenkins, "Spanish Land Grants in the Tewa Area," *New Mexico Historical Review* 47:2 (April 1972): 113–16; Will M. Tipton, "Memorandum of the Contents of Those Spanish Archives in the U.S. Surveyor General's Office, at Santa Fe, New Mexico, that relate to lands of the Pueblo Indians," prepared by order of the secretary of the interior, for the use of the special attorney for the Pueblo Indians of New Mexico, 1911–1912. Mss., record group (RG) 75, Denver Federal Center, 62; Santiago Oñate, "Memorandum on Water Rights of Indian Communities in New Mexico (With Special Reference to the Jemez Valley)," United Mexican States, Federal District City of Mexico, Embassy of the United States of America; expert testimony submitted in behalf of the U.S. Department of Justice, 1987, 14–17; Floyd A. O'Neil and E. Richard Hart, "Fraudulent Land Activities by United States Officials Affecting Title to Zuni Lands," expert testimony submitted to the Committee on Interior and Insular Affairs, U.S. House of Representatives, 101st Congress, 2^d sess., July 12, 1990, 1.

³⁰Cowan, *Ranchos of California*, 4, 112; Ross, *The Confirmation of Spanish and Mexican Land Grants in California*, 5.

³¹See, for example, Reginald and Laverne Alvarado, application 10559, RG 75, entry 576, National Archives; Rosalia Gilroy, application 10496, RG 75, entry 576, National Archives. These Mutsun descendants identified the name of the grant as "Rancheria del Carmelo Los Virgines."

additional pressure on Mutsun lands. Only one grant seems to have been given in all of California to an individual by a viceroy, but that grant took up a central portion of Mutsun land. Although Spanish concessions were not supposed to encroach on Indian rancherias, or on lands held by missions for the benefit of Indians under their jurisdiction, in 1802 Mariano Castro, a soldier planning to retire, requested a viceregal grant for Rancho La Brea. The lands for which he petitioned included the rancho of the same name used by Mission San Juan Bautista for its cattle.³²

Concerned about the potential loss of their La Brea grazing lands, the fathers at Mission San Juan Bautista protested to Governor Don José Joaquín de Arrillaga. They claimed that the mission urgently needed the La Brea tract because La Brea and Ausaimas (another Mutsun village location) were the only two places where they could graze their stock. To reinforce their claim, in 1803 the mission built a house for the Spanish foreman and the Indian field hands at Rancho La Brea.³³

In 1808, Governor Arrillaga sided with the mission and directed Castro to make another selection. Castro chose an area that came to be known as Rancho Las Ánimas. This rancho was located to the north of the land claimed by the mission and included the lands of the Mutsun village located at what is now Carnadero. The rancho may have been named for that village, Unijaima. In 1810, Viceroy Francisco Javier de Lizana y Beaumont augmented the Las Ánimas rancho with an addition that was called Sitio de la Brea. Eventually, in 1835, Rancho Las Ánimas was regranted by the Mexican government to Castro's widow.³⁴ Even though this addition was named for the nearby asphalt seeps in Tar Creek canyon,

³²Clyde Arbuckle and Ralph Rambo, *Santa Clara Co. Ranchos* (1968; San José, CA, 1973), 19–21; Pierce, *East of the Gabilans*, 169–72 and map; Cowan, *Ranchos of California*, 15; Ross, *The Confirmation of Spanish and Mexican Land Grants in California*, 10; Dill et al.; Chester D. King, "Appendix I: Documentation of Tribelet Boundaries, Locations and Sizes," in *The Southern Santa Clara Valley, California: A General Plan for Archaeology* by Thomas F. King and Patricia R. Hickman (San Francisco: National Park Service, 1973), appendix, I-3-4, believed Las Ánimas ("The Spirits") was actually named for Unijaima, which sounded to the Spaniards like Ánimas.

³³Milliken, *Archaeological Test Excavations*, 77.

³⁴G.W. Hendry and J.N. Bowman, "The Spanish and Mexican Adobe and Other Buildings in the Nine San Francisco Bay Counties, 1776 to about 1850," part 7, *Santa Clara County*, in vol. 4, mss., Bancroft Library, 970; Arbuckle and Rambo, *Santa Clara Co. Ranchos*, 19–21; Pierce, *East of the Gabilans*, 169–72 and map; Cowan, *Ranchos of California*, 6, 15; Ross, *The Confirmation of Spanish and Mexican Land Grants in California*, 10; Dill et al.; King, "Appendix I: Documentation of Tribelet Boundaries, Locations and Sizes."

it did not include that portion of the mission's La Brea rancho. For the time being, the mission fathers had been able to prevent encroachment on the lands around the former Mutsun villages of Juristac and Ausaimas, but they were unable to prevent private grants of other lands in the vicinity.

In 1808, Rancho San Ysidro was granted to Ygnacio Ortega, whose close ties to the local Mutsun is evident in a baptismal entry of the same year, in which he is listed as the godparent to an Unijaima man. Ortega's grant encompassed more than thirteen thousand acres of land in the area of what is now Gilroy, and included prime Mutsun land. Through marriage, Scotsman John Gilroy eventually acquired a portion of this rancho. Gilroy's son married a Mutsun woman, as did his grandson. Some of today's Mutsun of San Juan Bautista are descended from those families.³⁵

Spanish land grant records help to establish Mutsun aboriginal territory and village locations and also provide evidence of continuing Mutsun interaction within their aboriginal territory. Mission records, which establish dates of birth and death, identifying tribal members and often providing the name of the individual's village, have facilitated production of genealogical charts and trees.³⁶ The Mutsun are fortunate because Fr. Felipe Arroyo de la Cuesta not only kept meticulous birth and death records, but extensively documented Mutsun culture and language.³⁷ His records provide a cultural benchmark that helps research into later cultural continuity.

³⁵Dill et al., 9–10; Adela Gilroy, interview by E. Richard Hart, May 24, 2004, Redwood City, CA; King, "Appendix I: Documentation of Tribelet Boundaries, Locations and Sizes"; Milliken, *Archaeological Test Excavations*, 78.

³⁶Milliken has done extensive research in Mission San Juan Bautista's registers of birth and death records for Indians. He has also reconstructed village locations and possible tribal boundaries from the mission records. See, for example, Milliken, *A Time of Little Choice: The Disintegration of Tribal Culture in the San Francisco Bay Area, 1769–1810* (Menlo Park, CA, 1995), e.g., 237, 258; Milliken, *Archaeological Test Excavations*, Chapter 1.

Earlier work with the mission records was done by the following: Savage, "Mission San Juan Bautista"; C. Hart Merriam, personal research papers, film 1022, reel 8, series N, "List of Bands, Tribes, or Villages," Bancroft Library; Harrington, "Papers," reel 41, frames 74–78; King, "Appendix I: Documentation of Tribelet Boundaries, Locations and Sizes."

³⁷Arroyo de la Cuesta, "Repuesta"; Arroyo de la Cuesta, *Alphabs. Rivulus Obeundus, Exprimationun Causa, Horum Indorum Mutsun, Missionis Sanct. Joann. Baptistae*; Arroyo de la Cuesta, *Vocabulary or Phrase Book of the Mutsun Language of Alta California* (New York, 1862).

MEXICAN RECORDS

Although Spanish military officer Agustín de Iturbide had declared Mexico's independence from Spain in early 1821, it was not until April 1822 that California's military and political leaders, after meeting with Catholic priests from the missions, took an oath of allegiance to the new government. The new government declared Catholicism to be Mexico's only religion, but plans to secularize the missions' holdings soon began to take shape.³⁸ To the new Mexican leaders, the key to the future stability of California was secularization of the missions, which would allow settlement and economic growth, and would prevent other nations from seizing the coast.³⁹

In the early 1820s, Mexican emigrants began moving into the San Juan Valley, but nearly a decade would pass before they acquired title to most of the lands around the mission. The Mexican colonization law of 1824 and subsequent 1828 regulations governing colonization of the territories made issuance of Mexican land grants possible. But it was not until 1833, when a bill secularizing all missions in Alta California was signed into law, that the Mexican government began issuing grants in the Mission San Juan Bautista region.⁴⁰

By 1830, Felipe Arroyo de la Cuesta was the only missionary left at Mission San Juan Bautista. After twenty-five years at the mission, he had learned the Mutsun language, had spoken to the Indians in their own tongue in his church, and had worked to create a Mutsun dictionary. But that era was ending. The mission ranchos, including La Brea, continued to be run by the mission, but Arroyo now had Mexican families living on the ranchos to organize the work and supervise the Indian labor. Some of the Mutsun now lived in small villages on the area ranchos.

As "juez de campo" of Rancho La Brea, Antonio German, a former soldier, was in charge of running the ranch and caring for the mission's cattle, as well as supervising the Indian workers. In 1830, with the secularization of the mission now determined, Arroyo "loaned" Rancho La Brea to Antonio German and his brother Faustino. Before reluctantly departing

³⁸David J. Weber, *The Mexican Frontier, 1821-1846: The American Southwest Under Mexico* (Albuquerque, 1982), 1-7.

³⁹*Ibid.*, 60-63.

⁴⁰Ross, *The Confirmation of Spanish and Mexican Land Grants in California*, 11; Weber, *The Mexican Frontier, 1821-1846*, 64; Milliken, *Archaeological Test Excavations*, 87.

San Juan Bautista in 1833, he recommended to authorities that the rancho be granted to the brothers. Almost certainly, Arroyo intended to put the rancho under someone who, like him, had some empathy and concern for the Indian workers. Although the Mexican missionaries who replaced Arroyo favored the Mexican policy of "emancipation" of the Indians, which has been said to translate in reality to pauperization, Arroyo's actions may have made life somewhat better for the Indians who formerly had been under Mission San Juan Bautista.⁴¹

Under Mexican law, lands used by Indians were supposed to be protected, but no real steps were taken to preserve any Mutsun land for the tribe. Between 1833 and 1843, at least eleven Mexican grants created new ranchos in Mutsun territory. With these new grants almost all of Mutsun territory was now carved up into ranchos that had been conveyed to Mexican citizens. Many of these grants were centered on old Mutsun village sites. Rancho Ausaymas y San Felipe, created with grants of 1833 and 1836, was named for the Mutsun village of Ausaimas. After padres at Mission San Juan Bautista told authorities they no longer had any claim to Rancho La Brea, it was granted, under the name Juristac, to the German brothers in 1835. Juristac was the name of a Mutsun village located on the rancho boundaries.⁴²

As the mission's property was privatized and its ranchos were granted to Mexican citizens, the lives of the Mutsun people changed. Formerly, they had been housed only at the mission and at mission camps on the ranchos. Now the

⁴¹Hubert Howe Bancroft, *History of California*, vol. 3, 1825–40 (San Francisco, 1886–90), 674, 711–17, 755; California Board of Land Commissioners, "Transcript in Case No. 62," *Juristac, Antonio and Faustino German vs. the United States*, case 9, 1852–53, mss., Bancroft Library; Hendry and Bowman, "The Spanish and Mexican Adobe," 979; Milliken, *Archaeological Test Excavations*, 88; Ruben G. Mendoza, *San Juan Bautista: An Archaeologist's View of an Early California Mission* (Sacramento, CA, 2002), 2, reported that Fray Felipe Arroyo de la Cuesta made every effort to stay at Mission San Juan Bautista, even requesting to change Franciscan orders, but he was unable to do so. Mendoza also reported that Arroyo was well liked by the Mutsun Indians; Hawthorne, *California's Missions: Their Romance and Beauty*, 179, noted that in his later years at the mission, Father Arroyo, crippled by arthritis, went out to Mutsun villages to carry out church activities.

⁴²Arbuckle and Rambo, *Santa Clara Co. Ranchos*, 13–39; Cowan, *Ranchos of California*, 12–109; Pierce, *East of the Gabilans*. The additional Mexican land ranchos, with the dates of the grants authorizing them, were Ausaymas y San Felipe (1833, 1836); Bolsa de San Felipe (1836, 1840); Ciénega de los Paicines (1842); Juristac (1835); La Ciénega del Gabilan (1843); Llano del Tequisquite (1835); Los Vergeles (1835); Rancho Lomerias Muertas (1842); San Antonio or San Juan Bautista (1839); San Joaquin or Rosa Morado (1836); and Santa Ana Y Quien Sabe (1839).



Diseño (ca. 1830) for the original Juristac (Rancho La Brea) land grant. Land Case Map D-307, Diseño for Rancho Juristac, ca. 1830, mss., Bancroft Library. The location of Rancho La Brea was the location of a Mutsun village.

mission was a town, owned privately, and although the Mutsun were no longer ruled by the mission priests, they were under the control of the rancho owners. In most of California, the rancheros treated the Indians even more harshly than the missions had treated them. Historian James J. Rawls described their plight:

The rancheros were in absolute control over their workers and used several means of coercion—persuasion, economic pressure, violent force—to recruit and maintain their labor supply.

A typical rancho in California might use as few as twenty or as many as several hundred Indian workers.⁴³ Violence became common against Indians, whether they had been baptized or

⁴³James J. Rawls, *Indians of California: The Changing Image* (Norman, OK, 1984), quoted at 20; Ross, *The Confirmation of Spanish and Mexican Land Grants in California*, 17–18.

not. Indians attempting to escape from ranchos, or trying to live on their aboriginal land, were often hunted down and killed. Mass executions of California Indians took place under Mexican rule.⁴⁴

A few Mutsun people remained in the pueblo of San Juan Bautista, finding work where they could.⁴⁵ Others worked like indentured servants on the ranchos that had been given to Mexican citizens through land grants.⁴⁶ At the former mission rancho of La Brea, now Rancho Juristac, Indians worked under Antonio and Faustino German. The Germans constructed houses for their families and Indian workers near the sites of old Mutsun villages.⁴⁷ The Mutsun there may have received some solace from the fact that they continued to work on their aboriginal lands and continued to live at the sites of their former villages.

It is impossible to know exactly how much the Mutsun population diminished under Spain and Mexico, but we do know the decline was dramatic. Mission records indicate that only 875 Indians were released from Mission San Juan Bautista when it was secularized in 1835.⁴⁸ Under Spain, the overall Costanoan population had been reduced by at least 80 percent.⁴⁹ During the Mexican period, there was a further severe decline of the California Indian population. Robert F. Heizer estimated that between 1769 and 1846, the population of California Indians fell from 350,000 to 100,000.⁵⁰ It is believed that a significant percentage of the Indian population of California was killed during Mexican raids.⁵¹

Mexican land grant records help to establish Mutsun aboriginal territory and village locations and to provide evidence of continuing Mutsun interaction within their aboriginal territory. Legal proceedings dealing with Mexican land grants (and earlier Spanish grants) in the area show that ranchos were frequently located at or very near to Mutsun village sites, and in fact were sometimes named, like Juristac,

⁴⁴Castillo, "The Impact of Euro-American Exploration and Settlement," 105–106.

⁴⁵Levy, "Costanoan," 486. Mills, *The Papers of John Peabody Harrington in the Smithsonian Institution, 1907–1957*.

⁴⁶Levy, "Costanoan," 486.

⁴⁷Hendry and Bowman, "The Spanish and Mexican Adobe," 973, 979–83; Cowan, *Ranchos of California*, 43.

⁴⁸Milliken, *Archaeological Test Excavations*, 89.

⁴⁹Levy, "Costanoan," 486.

⁵⁰Heizer, "Treaties," 701.

⁵¹Castillo, "The Impact of Euro-American Exploration and Settlement," 106–107.

for the village where the rancho was located.⁵² Records of the Mission San Juan Bautista ranchos that became land grants, such as Juristac, Las Ánimas, and Ausaymas y San Felipe, indicate that throughout the first half of the nineteenth century, at least some of the Mutsun Indians, who had been gathered and placed under the control of the mission, continued to work on the ranchos, which were within their traditional aboriginal territory. Demonstrating a strong attachment to their aboriginal territory, Mutsun also continued to work on and use their aboriginal land after the mission was secularized.⁵³

UNITED STATES RECORDS

Manifest Destiny had a dramatic effect, not only on the Mutsun but on their Mexican masters. A whole new social hierarchy was established at the close of the Mexican War, this one even more brutal than anything that had existed under Spain and Mexico. The United States declared war on Mexico on May 13, 1846. After occupying and establishing a civil government in New Mexico, Brigadier General Stephen Watts Kearny turned his attention to California, joined by forces under Commodore Robert F. Stockton. In early January 1847, they defeated the Mexican army in Los Angeles. By September, the American flag was flying over Mexico City. A treaty ending the war was signed at the village of Guadalupe Hidalgo on February 2, 1848. A little more than a month later, the Senate ratified the treaty.

⁵²For example, see the following, which, when compared with mission records and other analyses, show rancho structures built at Indian village sites: "Diseño al Rancho de las Ánimas," ca. 1835, mss., Bancroft Library; land case map E-1442, "Juristac," A. & Faustin [sic] German, claimants, filed February 26, 1861, mss., Bancroft Library; land case map D-307, Diseño for Rancho Juristac, mss., Bancroft Library; Hendry and Bowman, "The Spanish and Mexican Adobe," provided an analysis showing where early rancho structures were located.

⁵³Hendry and Bowman, "The Spanish and Mexican Adobe," 973, reported that the original La Brea grant petition discussed housing built in 1803 for the Indians working the mission ranch there; and p. 972 indicated similar housing for Indians on the Ánimas grant; Arroyo de la Cuesta, "Repuesta," 18, reported that Mutsun returned to their aboriginal lands to gather acorns and other traditional foods; Ross, *The Confirmation of Spanish and Mexican Land Grants in California*, 16–18, reported on the Indians working the mission ranchos and, after secularization, returning to live in their aboriginal territory; Milliken, *Archaeological Test Excavations*, 77. In both drives, the aged and infirm, the sick, and women with babies and little children who could not keep up, were put out of the way—some shot with pistols, some clubbed over the head, and some beaten until they fell and never got up.

The subsequent treatment of Indians in California under United States rule has been widely condemned. Indians were hunted down and shot as though they were game. They were sold as slaves. Large numbers of Indians were gathered and killed. Historian Hubert Howe Bancroft said in 1890,

It was one of the last human hunts of civilization, and the basest and most brutal of them all.

Anthropologist C. Hart Merriam, in testimony to Congress, described some of the roundups of Indians:

In both drives, the aged and infirm, the sick, and women with babies and little children who could not keep up, were put out of the way—some shot with pistols, some clubbed over the head, and some beaten until they fell and never got up.

It was in this "hellish" environment that the Mutsun Indians managed to subsist and survive on the ranches and in the towns around San Juan Bautista during the last half of the nineteenth century.⁵⁴

With the end of the Mexican War and the signing of the Treaty of Guadalupe Hidalgo, the United States explicitly guaranteed that legitimate Spanish and Mexican land grants should be honored by the United States. Congress also acted quickly to obtain a cession of tribal aboriginal territory. These two actions would have important impacts on California Indians in general, and on the Mutsun Tribe in particular.

Because of the Gold Rush, California quickly became a state in 1850. United States law and policy required that aboriginal title be extinguished so that non-Indians could settle on the California public domain. President Millard Fillmore appointed three commissioners to negotiate treaties with the Indians of California. Between 1851 and 1852, the three commissioners met with 402 Indian leaders and executed a series of eighteen treaties, which came to be known

⁵⁴Bancroft, *History of California*, vol. 7, 474–80, quoted at 475; Heizer, *The Destruction of California Indians* (introduction by Albert L. Hurtado) (1974; Lincoln, NE, 1993), especially, 219–71. Hurtado uses the word *hellish* in his introduction on p. ix; C. Hart Merriam, "Statement of C. Hart Merriam, Washington, D.C., Before subcommittee of House Committee on Indian Affairs, May 5, 1926," microfilm, Banc film 1022, reel 80, Bancroft Library, quoted at 4; Roy Nash, superintendent, Sacramento Indian Agency, "The Government Service Program—It's [sic] Objectives," address to Western Regional Conferences of the National Fellowship of Indian Workers," Galilee, Lake Tahoe, Nevada, August 14, 1940.

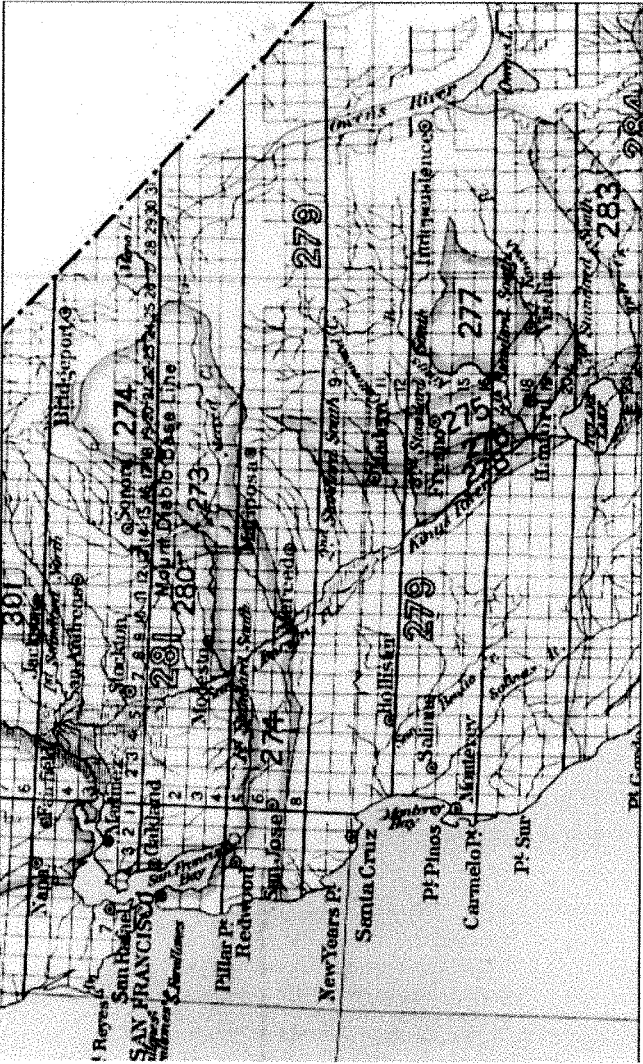
as the Barbour Treaties. Under the terms of these treaties, the Indians ceded aboriginal title to some seventy-five million acres in exchange for eighteen reservations with a total acreage of 8,518,900, and promises of implements, livestock, and clothing.⁵⁵

Four of the 1851 treaties were intended to cede Mutsun lands and create relatively large reservations to the east, where Mutsun should have been allowed to settle with support from the government.⁵⁶ However, by late 1851 the *Los Angeles Star* was already editorializing against Indian reservations in California. In early 1852, the state legislature, pressured by California miners and settlers, appointed a committee to "instruct" California's "Senators in Congress the course this Legislatures desires them to pursue in relation to the confirmation of the treaties. . . ." The majority report of that committee called for rejection of the treaties and was delivered to Congress, where the state's senators, led by Senator John B. Weller, succeeded not only in preventing the ratification of the treaties but in having them classified as confidential and sealed in the U.S. Senate's secret archives.⁵⁷ Eventually, the U.S. Court of Claims determined that even though these treaties were never ratified,

⁵⁵BIA, *Indians of California* (Washington, DC, 1966), 7-8; Robert W. Kenny, attorney general of California, *History and Proposed Settlement: Claims of California Indians* (Sacramento, 1944; facsimile reprint by Coyote Press, n.d.), 2-11.

⁵⁶Charles C. Royce, *Indian Land Cessions in the United States*, extract from the *Eighteenth Annual Report of the Bureau of American Ethnology*, part 2 (Washington, DC, 1899), 780-83 and California 1 map. Royce shows Mutsun territory being ceded under treaties M, A, B, and N; Heizer, "Treaties," 701-704. Heizer concluded that M was with Sierra Nevada tribes, in which case A, B, and N were the treaties that impacted Mutsun territory, all signed between April and May 1851; Charles J. Kappler, *Indian Affairs: Laws and Treaties*, vol. 4 (Laws) (Washington, DC, 1929), 1981-1096, reprints treaties M, A, and N; Alban W. Hoopes, "The Journal of George W. Barbour, May 1, to October 4, 1851," *Southwestern Historical Quarterly* 40:2 (October 1936): 145-53, and 40:3 (January 1937): 247-61; George Gibbs, "Journal of the Expedition of Colonel Redick M'Kee, United States Indian Agent, Through North-Western California. Performed in the Summer and Fall of 1851," in Henry R. Schoolcraft, *Information Respecting the History, Condition and Prospects of the Indian Tribes of the United States...* (Philadelphia, 1853), 99-177; William H. Ellison, "The Federal Indian Policy in California, 1846-1860," *The Mississippi Valley Historical Review* 9: 1 (June 1922): 37-67.

⁵⁷W.H. Ellison, "Rejection of California Indian Treaties: A Study in Local Influence on National Policy," *The Grizzly Bear* (May 1927), 4-5 and 86; *ibid.* (June 1925), 4-5; *ibid.* (July 1925), 6-7; BIA, *Indians of California*, 9; Kenny, *History and Proposed Settlement: Claims of California Indians*, 13-17; Kenneth M. Johnson, *K-344 or the Indians of California vs. The United States* (Los Angeles, 1966), 46-59; Rawls, *Indians of California*, 144-46.



Charles C. Royce. *Indian Land Cessions in the United States*. Extract from the *Eighteenth Annual Report of the Bureau of American Ethnology*, part II, 1899, California I map. Cession area 279 covered Mutsun territory. Royce said treaties N, A, and B ceded the land in area 279 and created reservations 275-78. Treaty M ceded area 274, which may have contained a small amount of Mutsun territory and created reservation 273.

seventy-five million acres of Indian lands, including all of Mutsun territory, had been ceded to the United States.⁵⁸

In 1926, anthropologist C. Hart Merriam, who in the early 1900s had conducted field work with a Mutsun elder named Barbara Solórsano, was asked by a congressional committee to identify the signers of the eighteen treaties by tribe. Using his analysis as well as additional work carried out by Robert Heizer, and secondary sources in the Smithsonian Institution's 1978 *Handbook of North American Indians* California volume, it is possible to identify which tribes were represented in the cession treaties, designated A, B, M and N—the treaties that ceded Mutsun territory. At least twenty-eight signers were Yokuts Indians (including Foothill Yokuts), six were Miwok, and six were Monache. Three others were either Yokuts, Miwok, or Monache. All of these tribes lived to the east of the Mutsun. None of the signers of the four treaties were Mutsun. No Mutsun signed treaties to cede their land, and there is no evidence to suggest that any Mutsun ever took any action showing intent to cede Mutsun aboriginal territory.⁵⁹

Although the treaties called for cession of all Mutsun land, the cession did not include Spanish and Mexican land grants, so the

⁵⁸Court of Claims of the United States, "No. K-344," decided October 5, 1942, Records of the United States Court of Claims, General Jurisdiction Files, box 4116, file K-344, National Archives; "Indians of California," K-344 claim, map, 1928, RG 123, box 4115, National Archives. The cession and reservation lines drawn on the court's map are the same as those found in Royce, attorney general of the state of California, "Petition," *The Indians of California vs. The United States*, No. K-344, Records of the United States Court of Claims, General Jurisdiction Files, , RG 123, box 1117, National Archives; Assistant Secretary of the Interior Chapman to the attorney general, "No. K-344, The Indians of California vs. The United States. Report of the Interior Department," Records of the United States Court of Claims, General Jurisdiction Files, RG 123, box 1117, National Archives.

⁵⁹Merriam, "Analysis of the 'tribal' names appearing in the 18 unratified California treaties of 1851–1852," C. Hart Merriam Papers, microfilm reel 80, Bancroft Library, mss 80/18 c., provided a tribal designation for nearly every signer of the four pertinent treaties; Merriam, Testimony. Indian Tribes of California. Hearing Before a Subcommittee of the committee on Indian Affairs on HR 8063 and HR 9497, May 5, 1926. U.S. House of Representatives, 69th Congress, 1st sess. (Washington, DC, 1926), 6, 9–10, 25, believed that 56 of more than 200 California tribes were represented and 70 villages, but that many of the Indians named in the treaties could not be identified. He noted the Olhonian, or Costanoan tribes, which would have included the Mutsun; Heizer, "Treaties," 701–704, testified that there were 67 "tribelets" and 45 villages represented in the treaties, with many California tribes not represented; Heizer, "The Eighteen Unratified Treaties of 1851–1852 between the California Indians and the United States Government," Archaeological Research Facility, Department of Anthropology, University of California, Berkeley, 1972, mss., Bancroft Library. Here Heizer ridiculed the commissioners' work, saying they hadn't "the slightest idea of the actual extent of tribal lands of any group they met with," and calling the treaty process "poorly conceived" and undemocratic.



Barbara Sierra Solórsano at Mission San Juan Bautista in September 1902. (Photograph by C. Hart Merriam; Lowie Museum negative 23204)

status of Juristac and other grants in Mutsun territory would have remained unchanged even if the treaties had been ratified.⁶⁰

At about this time, Barbara Sierra inherited a primary Mutsun leadership role from her father, Junipero Sierra. As traditional leaders, she and her husband, Miguel Solórsano, both full-blood Mutsun Indians, preserved both the Mutsun language and an expansive knowledge of tribal culture.⁶¹ Barbara was born in the middle of the Mexican period, in 1836, and lived through the difficult years of Mexican and early United States rule. She died in 1913.⁶²

During the remainder of the nineteenth century, the Mutsun were left to work, mostly as servants and laborers, around Mission San Juan Bautista and on the land grant ranchos in their aboriginal territory. But despite the commitment by the United States to honor the grants that had established these ranchos, the land quickly began falling into American hands.

During the same year that the treaty commission was established, 1851, the United States established the California Land Claims Commission. The commission was created to determine the boundaries and legal ownership of Spanish and Mexican land grants. But the process was "long, cumbersome, and expensive" and often actually "insurmountable" for Mexican owners. As a result, early American entrepreneurs acquired many of the grants.⁶³ The documentary record created by the Land Claims Commission provides important details concerning Mutsun who continued to use the heart of their

⁶⁰Hoopes, "The Journal of George W. Barbour," 145–53; and no. 3 (January 1937), 247–61, describes the negotiations for treaty N. There is no indication that the status of land grants was discussed; Gibbs, "Journal of the Expedition of Colonel Redick M'Kee," 99–177; William H. Ellison, "The Federal Indian Policy in California, 1846–1860," *The Mississippi Valley Historical Review* 9:1 (June 1922): 37–67; Royce, *Indian Land Cessions in the United States*, 780–83 and California 1 map; Kappler, *Indian Affairs: Laws and Treaties*, vol. 4 (Laws), 1981–1096, reprints treaties M, A, and N.

⁶¹Information on Miguel Solórsano and Barbara Sierra can be found in both the works of Harrington and Merriam, including, for instance, the following: Harrington, "Papers," excerpts from "Interviews with the San Juan Indians," microfilm, reel 58, for example, frames 263, 264, 273, 274, 275, 315–16.

⁶²Merriam to Harrington, September 8, 1929, with attached notes from Harrington's consultation with Ascención Solórsano. Harrington, "Papers," reel 41, frames 74–78. Merriam was amazed, in 1902, to locate Barbara and to learn that she was thoroughly knowledgeable about the culture and language of the Mutsun people. He obtained linguistic and cultural information from Barbara Sierra during the years 1902 to 1904; Harrington, "Papers," excerpts from "Interviews with the San Juan Indians." This material is found in Harrington's "San Juan Report" in frames 240–996 of roll 58 and frames 1–1126 of roll 59; Theodora Kroeber and Robert F. Heizer in *Almost Ancestors: The First Californians*, ed. F. David Hales (San Francisco, 1968), 22 and 166.

⁶³Dill et al., 12.

aboriginal homeland. Father Arroyo and the mission had used Spanish and Mexican law to help protect the Indians' working relationship with the ranchos. The documentary record created by the Land Claims Commission provides insights into how the intentions of Arroyo were eventually thwarted.

The history of the Rancho Juristac grant, containing more than four thousand acres in the heart of Mutsun aboriginal territory, exemplified the problems Mexicans had in trying to hold onto their property. On March 3, 1851, Congress established the "United States Board of Land Commissioners to Ascertain and Settle the Private Land Claims in the State of California." Antonio and Faustino German, owners of the Juristac grant, filed their claim with the board quickly, on February 21, 1852. The board determined that the necessary *expediente* (the Mexican file of official papers) was in order, with authentic signatures. They also found that there was an official *diseño* (a map, or, more precisely, a drawing of grant boundaries). There were no conflicting claims from other parties, and the board interviewed individuals who confirmed that the Germans had been living on the grant and had improved it by building houses, cultivating land, and constructing corrals. The board determined that all its questions concerning the grant had been answered except one. That question was whether the grant encroached on lands claimed by the mission. But in the *expediente* was a letter from Father Arroyo de la Cuesta, confirming the Germans' report that the mission had first loaned the ranch to them in 1830 and that the priest later had recommended to authorities that it be granted to the Germans. With all its questions answered, the board promptly rendered a decision confirming the grant to the Germans on December 18, 1852.⁶⁴

But if Antonio and Faustino German sensed victory, they were sadly mistaken. Under the law establishing the land board, Congress allowed either party (claimant or United States) to appeal first to federal district court and then to the Supreme Court. A total of 809 claims were presented to the board, of which 604 were confirmed. Of these, all but three

⁶⁴California Board of Land Commissioners, "Transcript in Case No. 62"; Bancroft, *History of California*, vol. 3, 1825-1840, 712; land case map D-307, *Diseño for Rancho Juristac*, mss., Bancroft Library. The *diseño* grant was for one league or 5,000 varas, which equaled about 4,439 acres; "Diseño al Rancho de las Ánimas," ca. 1835, mss., Bancroft Library. This *diseño* also locates the boundary of the mission lands, confirming the Germans' claims; Robert F. Heizer, Robert F. Almquist, and Alan J. Almquist, *The Other Californians: Prejudice and Discrimination under Spain, Mexico, and the United States to 1920* [Berkeley, 1971], 150.

were appealed to U.S. District Court. The Justice Department appealed 114 of the cases to the Supreme Court. Unfortunately for the Germans, the decision of the board on the Rancho Juristac grant was one of those appealed both to district court and to the Supreme Court.⁶⁵

Grant holders had the burden of proof under this system—a requirement severely criticized by historians, who have called it appallingly expensive and unjust. Claimants generally were forced to defend their title in from two to six trials. It is hard to justify the United States' actions in appealing nearly every case to federal district court and then the Supreme Court. Claimants not only had to pay attorneys' costs; they were forced to pay appellate fees and to survey their grants at their own expense. Only one year after the Land Claims Board was in session, 10 percent of the value of the claims had already been paid out to attorneys.⁶⁶ The net result of this system was that grant lands moved from Mexican to American ownership. By 1856, the Germans seemingly were left with no other choice but to sell their grant.

In 1855 Antonio German sold his half of the Juristac Rancho to R.S. Carlisle, and in February 1856 Faustino sold his half to Jacob L. Sargent.⁶⁷ Although the Germans had been granted more than four thousand acres with abundant water and grazing land, the system the United States established to confirm the grants had broken them completely. Bancroft's *History of California* stated that the brothers lost their land to American "sharpers," but there is no supporting evidence to suggest that Sargent and Carlisle were swindlers. Nevertheless,

⁶⁵California Board of Land Commissioners, "Transcript in Case No. 62"; Crisostomo N. Perez, *Land Grants in Alta California: A Compilation of Spanish and Mexican Private Land Claims in the State of California* (Rancho Cordova, CA, 1996), 45–47, 70. The Juristac case was Northern District case 9; *German v. United States*, 72 U.S.825; 18 L. Ed. 502; 5 Wallace 825; Ross, *The Confirmation of Spanish and Mexican Land Grants in California*, 38–39, had slightly different totals for the number of claims filed and confirmed by the board, but agreed on the salient points.

⁶⁶Ross, *The Confirmation of Spanish and Mexican Land Grants in California*, 47; Charles C. Baker, "Mexican Land Grants in California," *Publications of the Historical Society of Southern California*, vol. 9 (1914), 236–43; Paul W. Gates, "Adjudication of Spanish-Mexican Land Claims in California," *The Huntington Library Quarterly* 21:3 (May 1958): 213–36. Gates argues there was no discrimination against Mexican grantholders, but his view is not shared by most scholars who have looked at this issue.

⁶⁷Hendry and Bowman, "The Spanish and Mexican Adobe," 981–83.

interests of the mission, including its Indians. Ever since Junípero Serra had begun the process of missionizing the Indians, he and the authorities, partly because of the shortage of European women, had encouraged soldiers to marry baptized Indian women. With this in mind, and considering the fact that the Germans had a close working relationship with the Mutsun workers and that many of those workers' families had lived on the ranch throughout its existence, it is not surprising that Antonio German's son Juan married a Mutsun woman. Even today, Mutsun descendants recall what they regard as their former ownership of "Rancho La Brea."⁶⁹

Documentary records indicate that Mutsun Indians continued to work on Rancho Juristac after its purchase by Sargent and Carlisle.⁷⁰ During district court proceedings in 1860, Jacob L Sargent's brother James P., along with Carlisle, represented their interests in the Juristac grant. To comply with federal law, Sargent and Carlisle had the grant surveyed and the surveyor general certified its location.⁷¹ District court upheld the decision of the Land Claims Board and allowed an appeal in 1864, but the United States prevented final confirmation of the grant for another three years. In 1865, the United States appealed the decision to the Supreme Court, but the appeal was dismissed two years later because it had been filed late.⁷²

A mutual sense of place is a traditional cement that helps hold a culture together. Thus, for the Mutsun recognition process it becomes important to document continuing knowledge and use of the tribe's aboriginal home. The area that had now become Sargent Ranch had been a central portion of Mutsun territory—the location of several villages and the focus of much knowledge about useful flora and fauna. Mutsun continued to use the land when it was the Juristac land grant, and also later when it became Sargent Ranch, despite the dramatic political and cultural changes in the world around them.

⁶⁹Ross, *The Confirmation of Spanish and Mexican Land Grants in California*, 5; Bancroft, *History of California*, vol. 3, 1825–40, 755, reported that Juan was born in 1820; Yriberito Herman, application number 8084, RG 75, entry 576, National Archives. In 1930, Herman—his name now spelled with an "H"—testified that his great-grandfather, Juan, owned Rancho La Brea and that his father was born on the rancho. His testimony was supported by two prominent non-Indians who were long-time residents of San Juan Bautista.

⁷⁰Yriberito Herman, application number 8084, RG 75, entry 576, National Archives, with accompanying correspondence in the file.

⁷¹California Board of Land Commissioners, "Transcript in Case No. 62," 75–77; land case map E-1442, "Juristac."

⁷²*German v. United States*; 72 U.S. 825; 18 L. Ed 502; 1866 U.S. Lexis 987; 5 Wallace 825.

Throughout the remainder of the nineteenth century, Mutsun Indians continued to live near Rancho Juristac, which now became known as Sargent Ranch. They watched as the Americans expanded operations. The ranch included approximately sixty acres of tar springs, and as early as 1860 the owners began to mine the oil and asphalt seeps along La Brea Creek. They shipped the tar from Sargent Station (which later was called simply Sargent) on the Monterey Road to San José. There the tar was used to pave streets. By 1864, an oil and kerosene distillery was in operation at Sargent Station, where a small colony of Mutsun Indians continued to live.⁷³

In 1869, when the Santa Clara & Pajaro Railroad finished a rail line that reached Sargent Ranch, Sargent Station became a railway stop, near the mouth of Pescadero Creek. A year later the line was purchased by Southern Pacific. Finally, in 1871, Sargent, his brother, and their partner succeeded in obtaining a patent to Rancho Juristac, nineteen years after the German brothers submitted their grant to the Land Claims Board for confirmation. The 4,540-acre grant now became known officially as Sargent Ranch, with a stop on the Southern Pacific Railroad. J.P. Sargent now owned one of the largest cattle ranches in the region.⁷⁴

Yet the Mutsun Indian presence continued in the area. After the railroad reached Sargent Station, near a small Mutsun colony, a man named Mark Regan established a stage line and made a good living taking people from Sargent Station to San Juan and Hollister. As he drove the stage along the difficult road from Sargent to Mission San Juan Bautista, Regan would tell passengers stories he had learned from the Indians in the area.⁷⁵ The Indian community called its little village Sargenta,

⁷³Dill et al., 14–15, 17, 19–20. The Watsonville Oil Company began pumping oil from the Sargent Ranch oil field around the turn of the century. By 1948, when the company ceased operation, it had shipped 780,000 barrels of oil from Sargent Station. Most of the oil was pumped from wells three miles west of Sargent Station; Pierce, *East of the Gabilans*, 150–51.

⁷⁴Perez, *Land Grants in Alta California*, 70. The claim was patented on November 13, 1871; Dill et al., 9–15. The special court patented the grant in case 0009 ND; Erwin G. Gudde, *California Place Names: The Origin and Etymology of Current Geographical Names*, 4th ed., revised and enlarged by William Bright (1949; Berkeley, 2004), 351.

⁷⁵Isaac L. Mylar, *Early Days at the Mission San Juan Bautista* (1929; Fresno, CA, 1970), 63, 139–40, 154–55, 173–74, and 193; Charles W. Clough, *San Juan Bautista: The Town, the Mission & the Park* (Fresno, 1996), 63, 75, and 95. Mark Regan later became a conductor on a local train. In 1916, Helen Hunt Jackson, author of an important work on Indian history, *Century of Dishonor*, took Regan's stage to San Juan, there to continue her work on *Ramona*.

located where they people could still harvest the many plants found within the ranch boundaries.

By the end of the nineteenth century, Mutsun were living by wage labor and residing near Sargent Station, where a resort with a hotel, saloon, picnic ground, and open-air dance floor, ringed with torches for dancing at night, was constructed in 1896. Hunters and fishermen now arrived by rail, stayed in the hotel, and vacationed in the core of Mutsun aboriginal territory, an area rich in natural resources.⁷⁶ Still, the heart of that territory, which had once been Mission San Juan Bautista's Rancho La Brea, then the Juristac land grant, and eventually the Sargent Ranch, remained relatively untouched and undeveloped.

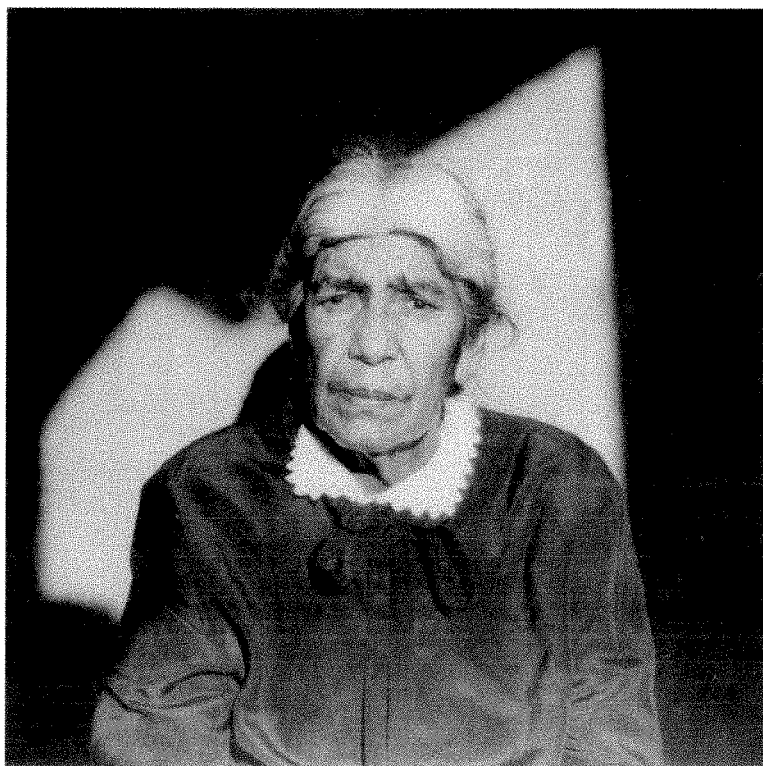
Small communities of Mutsun lived in several locations in San Benito County, including one at Sargent—or Sargenta, as the Indians called it—and one called Indian Corners, near Mission San Juan Bautista. Mutsun continued to gather medicinal herbs and foods in their aboriginal territory, including at Sargent Ranch.

The Mutsun population was further decimated during the second half of the nineteenth century under the United States. At the end of the Mexican period, the California Indian population had been about one hundred thousand. By 1900, the total California Indian population had dropped to about twenty thousand, less than 10 percent of what it had been one hundred years earlier. One scholar concluded that 12 percent of that population loss under the United States was caused by military or vigilante campaigns against Indians.⁷⁷

No culture is static; it must change in order to adapt to historic developments, and Mutsun culture is no exception. Nevertheless, it is important to note that the Mutsun perpetuated many traditional aspects of their culture, and some of those elements involved tribal leadership. Well before the deaths of her parents—Barbara Sierra and Miguel Solórsano—Ascención Solórsano had become a leader among the Mutsun of San Juan Bautista, or the San Juaneños, as they were often now called. She had learned the Mutsun language from her father and mother, and she worked systematically to preserve

⁷⁶Dill, et al., 17 and 19–20; Pierce, *East of the Gabilans*, 149–52. J.P. Sargent died early in the twentieth century, and title passed to his daughter, Ida Sargent Blanding. After Sargent's death, Joe Ayer of Milpitas leased the ranch until 1954. When Ida Blanding died in 1956, the ranch passed to family attorney Ed Rea and Robin Anderson, a stepson of Ida.

⁷⁷Cook, "Historical Demography," 91; Castillo, "The Impact of Euro-American Exploration and Settlement," 106–109.



Ascensión Solórsano, daughter of Barbara Sierra and Miguel Solórsano, became a leader of the Mutsun of San Juan Bautista. (Photograph by J.P. Harrington, taken between August 1929 and January 1930. OPPS negative no. 81-11249, Smithsonian Institution, National Anthropological Archives)

the tribal traditions of her people.⁷⁸ She also had studied and learned healing practices coming out of Mutsun shamanistic curative leadership tradition dating to pre-Spanish times, and she carried them forward into the twentieth century.

Mutsun leadership roles and culture had survived a century of brutal rule by three different nations. That leadership would now have to deal with completely new challenges and issues in the twentieth century. The laws and policies of Spain,

⁷⁸For example, see Harrington, "Papers," reel 58, frames 263, 264, 273, 274–75, 294, 300, 302, and 303. When John Peabody Harrington began interviewing her in the 1920s, she was able to provide a veritable treasure of information about the Mutsun people—culture, language, and biographical information.

Mexico, and the United States in the nineteenth century did much to direct the course of Mutsun tribal life in the twentieth century and on into the twenty-first century.

There has long been scholarly interest in the Mutsun language. Linguistic studies of Mutsun have been carried out from 1815 to the present. The results of these studies have demonstrated that Mutsun was a separate language, spoken in villages within a distinct region.⁷⁹ These studies help to document cultural continuity. Full-scale ethnological inquiries can provide substantial evidence of tribal cultural continuity, but it was not until the early twentieth century that systematic ethnological studies of Mutsun began to take place.

In 1902, ethnologist C. Hart Merriam interviewed Barbara Solórsano, who was living near Mission San Juan Bautista. She identified her tribe and sold Merriam an example of her people's basketry. She told him her people had "occupied San Juan Valley long before the Padres came."⁸⁰ Merriam conducted some limited fieldwork with Barbara Solórsano and with her daughter Ascención over the next three years and made linguistic notes on the Mutsun language.⁸¹

⁷⁹For example, see Arroyo de la Cuesta, *Alphabs. Rivulus Obeundus, Exprimationun Causa, Horum Indorum Mutsun, Missionis Sanct. Joann. Baptistae*; Arroyo de la Cuesta, *Vocabulary or Phrase Book of the Mutsun Language of Alta California*. In 1862, Cramoisy Press in New York reprinted de la Cuesta's original 1815 publication under the auspices of the Smithsonian Institution and as a part of Shea's Library of American Linguistics, vol. 8; Albert S. Gatschet, "Indian Languages of the Pacific States and Territories," *Magazine of American History* 1:1: 145-71; Gatschet, "Specimen of the Chumêto to Language," *American Antiquarian* 5:1 and 2 (1883); Bancroft Library; John Wesley Powell, "Annual Report of the Director," *Sixth Annual Report of the Bureau of Ethnology to the Secretary of the Smithsonian Institution, 1884-85* (Washington, DC, 1888), xxxi; J. Alden Mason, "The Mutsun Dialect of Costanoan Based on the Vocabulary of de la Cuesta," *University of California Publications in American Archaeology and Ethnology* 11:7 (Berkeley, March 9, 1916), 399-472; Shipley, "Native Languages," 81, 84, 89; Harrington, "Papers," reel 41, frames 92, 94, 95, and 101; Heizer, "California Indian Linguistic Records: The Mission Indian Vocabularies of H.W. Henshaw," *University of California Anthropological Records*, 15:2 (Berkeley 1955): 85-202; Levy, "Costanoan," 485.

⁸⁰Merriam, "Ethnographic Notes on California Indian Tribes III. Ethnological Notes on Central California Indian Tribes," *Reports of the University of California Archaeological Survey* 68:3 (Berkeley, December 1967): 371.

⁸¹Merriam to Harrington, September 8, 1929, with attached notes from Harrington's consultation with Ascención Solórsano. Harrington, "Papers," reel 41, frames 74-78.

But it was John Peabody Harrington, working closely with Ascención starting nearly twenty years later, who provided the first comprehensive, in-depth view of Mutsun culture.⁸² Harrington interviewed Ascención extensively in 1921 and 1929, living in the Solórsano household for an extended period during the latter year while Ascención was dying of cancer. Harrington called Ascención Solórsano's knowledge of Mutsun language and culture "astonishing." Of the hundreds of thousands of pages of Harrington's papers that were micro-filmed, at least twenty-three rolls of microfilm—more than twenty-five thousand pages of material—relate to Ascención Solórsano, Mutsun Indians, and the Mutsun language. These materials include vocabularies, geographical place names, and cultural details on language, jewelry, face-painting, kinship terms, material culture, minerals and paints, myths, people, clothing, religion and philosophy, the San Juan Bautista Mission, songs, riddles, sayings, stories, swimming, other tribes' names, cooking baskets, fiestas, hunting and fishing, historical anecdotes, and war. This remarkable material provided to Harrington by Ascención Solórsano constitutes an important record of Mutsun culture in all its diversity.

The kind of traditional leadership provided by Ascención Solórsano, as well as her mother and grandfather, would prove critical in helping the Mutsun react to United States' policy in the twentieth century and in maintaining Mutsun organization and collective identity.

As noted above, three of the 1851 treaties would have ceded Mutsun lands and created relatively large reservations to the east of their traditional territory, where Mutsun should have been allowed to settle with support from the government. However, the California State Legislature, pressured by miners and settlers, was vehemently opposed to the treaties. California's senators succeeded not only in preventing the ratification of the treaties, but in having them classified as "confidential" and sealed in the U.S. Senate's secret archives. Eventually, the U.S. Court of Claims determined that even though these treaties were never ratified, seventy-five million acres of Indian lands, including all of Mutsun territory, had been ceded to the United States.

In 1905, Senate clerks rediscovered the eighteen treaties, and the Senate removed their confidential status and revealed them

⁸²Les Field et al., "A Contemporary Ohlone Tribal Revitalization Movement: A Perspective from the Muwekma Costanoan/Ohlone Indians of the San Francisco Bay Area," *California History* (fall 1992): 412–31, who note Harrington's work and also address the efforts of Costanoan/Ohlone tribes, including the Amah Mutsun, to obtain recognition.

to the public. Both in California and nationally there was considerable public sympathy for California Indians and outrage at the actions of the Senate and the California legislature. Instead of dissipating over time, those concerns grew, until in 1927 the California legislature passed legislation authorizing the state attorney general to represent California Indians in a lawsuit against the United States. A year later Congress authorized the U.S. Court of Claims to "adjudicate California Indian claims in accordance with the provisions of the 18 unratified treaties of 1851 and 1852, allowing full payment of specified benefits, as if the treaties had been ratified."⁸³ A short time later, Congress amended that act to authorize the compilation of a census of all Indians in California who should share in any judgment. In order to qualify for enrollment, California Indians had to have been alive at the time of the original act, 1928, and they had to establish that they had ancestors who were in California in 1852, at the time of the signing of the last of the treaties.⁸⁴

In August 1929, the original petition was filed in the Court of Claims by California Attorney General U.S. Webb (who held that office from 1902 to 1939!). It would be twenty-six years before a final resolution of the case, which during ensuing years came to be known by its Court of Claims docket number, "K-344." Two subsequent attorneys general would continue the work begun by Webb. In November 1938, Earl Warren, the district attorney of Alameda County, was elected attorney general. He took office in early 1939 and continued pushing the case forward. In 1942, Warren was elected governor of California, and Robert W. Kenny was elected to the office of attorney general. In that same year, after the court ruled that the United States was liable, Kenny led negotiations to determine the value of the settlement.⁸⁵

In the meantime, the government moved forward in an effort to identify who would be eligible to receive a share of any possible compensation. In 1930, Fred A. Baker, who had extensive experience in enrolling Indians in censuses, was directed by the Bureau of Indian Affairs to compile the needed California Enrollment Census.⁸⁶

⁸³BIA, *Indians of California*, 13.45. Stat., 602.

⁸⁴*Ibid.*, 13.46. Stat., 259.

⁸⁵Kenneth M. Johnson, *K-344 or the Indians of California vs. The United States* (Los Angeles, CA, 1966), 67–75. The 1942 court ruling denied just compensation and allowed only compensation for an equitable claim.

⁸⁶Indians of California Census Rolls, Authorized under the Act of May 18, 1928 as amended, approved May 16–17, 1933. Introduction compiled by Larisa K. Miller. Microfilm M1853, National Archives, Northwest Regional Repository, Seattle, Washington.

Ascención Solórsano died in the same year and was buried at Mission San Juan Bautista in the Old Indian Cemetery, where so many of her ancestors were also buried. Father F.J. Caffrey, a priest who had been in charge of the Indian Mission of San Juan Bautista, reported, "It was one of the largest funerals in the history of the County."⁸⁷ Solórsano was widely known for her knowledge of Mutsun language and culture, as well as for her work as a traditional doctor, or *curandera*. Dignitaries from throughout the state attended the funeral, alongside many Mutsun Indians. It was reported that the governor was among those attending. Father Caffrey stated, "We were paying honor not to one person only, but to the entire tribe."⁸⁸ With the passing of Ascención Solórsano, it would be up to a new generation of Mutsun leadership to deal with the California claims process.

Fred A. Baker, assigned to carry out the census, developed a plan to identify Indians in California. Those individuals who were certified as Indian would be eligible to receive a share of the judgment from the K-344 case then being heard in the Court of Claims.

The plan adopted was somewhat unique in the enrollment of Indian tribes. Its main features were, first, to retain control over the issuance of the blank forms of applications for enrollment so as to avoid a flood of spurious and doubtful claims being filed; secondly, it was decided that the enrolling agents should visit personally the various Indian communities throughout the State of California and assist each individual applicant in the preparation of his claim.⁸⁹

In order to certify individuals as Indians, Baker first identified prominent Indians throughout the state.

Names of prominent Indians in each district were obtained and special notices sent to them with instructions to give the matter widespread publicity in their districts.

⁸⁷Engelhardt, *Mission San Juan Bautista: A School of Church Music*, 118–20.

⁸⁸Ibid., 120; Joseph Mondragon, interview by E. Richard Hart, October 15, 2002, San Francisco; Harrington, Photographs of the Funeral of Ascención Solórsano. OPPS 91-30402 and 30403, National Anthropological Archives, Smithsonian Institution; Mendoza, *San Juan Bautista: An Archaeologist's View of an Early California Mission*, 32.

⁸⁹Baker to commissioner of Indian affairs, September 30, 1932, RG 75, Central Classified Files, 053-11626-1929, General Services, pt. 4, National Archives.

Then hearings were held in the communities where the Indians lived.

All persons were enrolled in a public hearing, each person had to pass the careful scrutiny of the Indians of the local community. A committee of old Indians acted, in many instances, as witnesses to the authenticity of claims, and as to the fact of claimants being recognized as persons of California Indian descent. Unless a person were [sic] in fact of Indian blood, he would tend to hesitate to run the gauntlet of the old Indians present at the hearings.⁹⁰

Baker visited Mutsun communities in July and December 1930, enrolling San Juaneños in the towns of Hollister, Gilroy, and San Juan Bautista.⁹¹ He identified Mission San Juan Bautista Indians that could testify to the Indian ancestry of individuals, establishing what amounted to a committee of Mutsun Indians. These included María Antonia Sánchez Solórsano, Claudia Corona, Theresa Gómez, Frank and Pete Moreno, and especially María Dionisia Mondragon, daughter of Ascención Solórsano.⁹²

The enrollment applications, testimony, correspondence, census rolls, and other documentary materials associated with the California Enrollment Census provide a great deal of information about Mutsun cultural life in the twentieth century, including evidence of Mutsun Indian ancestry, Mutsun tribal organization, and non-Indian awareness of San Juan Indian tribal status.

It is safe to say that because of the policies of Spain, Mexico, and the United States, fewer than half of California's tribes were placed under the jurisdiction of the United States. These tribes were not placed on reservations in California and did not come under the authority of United States Indian agents. Both Spain and Mexico had attempted to destroy tribal culture and had treated Indians as little more than slaves. The United States continued and even exacerbated the disgraceful treatment of Indians. By sealing the eighteen treaties with California tribes, the United States attempted to deny these tribes' very existence. Nevertheless, a number of the tribes, like the Mutsun, persisted

⁹⁰Baker to commissioner of Indian affairs, March 8, 1933, RG 75, Central Classified Files, 053-11626-1929, General Services, pt. 5, National Archives, pp. 15 and 22.

⁹¹Baker to commissioner of Indian affairs, January 5, 1931, RG 75, Central Classified Files, 053-11626-1929, General Services, pt. 3, National Archives.

⁹²Selected applications, RG 75, entry 576, National Archives.



María Dionisia Mondragon, daughter of Ascención Solórsano, holds her son Victoriano Mondragon in a woven basket cradle. (Photograph by J.P. Harrington, ca. 1922. OPPS neg. no. 91-30352, Smithsonian Institution, National Anthropological Archives)

into the twentieth century, and eventually participated in litigation related to the loss of their aboriginal territory and the failure of the United States to establish the 1851 treaty reservations. As the Mutsun of San Juan Bautista sought their share of the judgments from this litigation, they began to understand the meaning of federal recognition and eventually began to seek it.

The records associated with the litigation over the eighteen 1851–52 unratified treaties are scattered across the country in archives from Washington, D.C., to San Bruno and Berkeley, California.⁹³ They provide abundant historical evidence of Mutsun in the second half of the nineteenth century and document aspects such as degree of Indian blood; tribal affiliation; tribal organization; awareness by the non-Indian community that the people were, indeed, Indian; and continued association with their aboriginal territory. A selective review of the 1933 California Enrollment Census applications and final roll shows that at least seventy-nine Mutsun, or Mission San Juan Bautista, Indians were enrolled—families could enroll all of their names on one application. Mutsun individuals were listed on thirty-eight approved applications.

The applications included a space where individuals could provide their degree of Indian blood. The degree of Mission San Juan Indian blood varied from 1/16 to full blood. Some applicants provided genealogical charts showing their ancestors for many generations. There were at least thirteen full blood Mutsun enrollees.⁹⁴

Individuals were required to provide considerable additional information on the six-page application, including where they lived on May 18, 1928; their place of birth; the name of "the Tribe or Band of Indians" to which they belonged; names of ancestors who were alive on June 1, 1852 and where they were living then. Applicants were asked, "[W]hat lands in the State of California do you claim were taken from you or your California Indian ancestors by the United States without compensation?"

Most people of Mutsun descent called themselves Mission Indians, because they had been under Mission San Juan Bautista. Some, however, called themselves Mutsun or Ama. Almost all the applicants said that their tribe had lost land that was located in San Benito County. Some also said that their tribe lost land in Santa Clara and Monterey Counties. Many Mutsun descendants said that their ancestors were born and married at Mission San Juan Bautista and named the particular ancestors who were living in what is now San Benito County in 1852. Four people of Mutsun descent submitted applications on which they said their parents had been married by "Indian custom." Today, members of the Amah

⁹³Records cited in this paper were located in the National Archives in Washington, D.C., in the National Archives branch in San Bruno, California, and at the Bancroft Library at the University of California, Berkeley.

⁹⁴Applications 8056, 8058, 8079, 8113, 8141, 8144, and 8145, RG 75, entry 576, National Archives.

Mutsun Tribe explain that among their people "Indian custom" simply meant moving in together.⁹⁵

Mutsun individuals whose names were placed on the California Enrollment Census waited, to no avail, through the 1930s for payment. Finally, in 1944, K-344 was settled, but it took Congress until 1950 to pass an act authorizing an update to the census roll to enable payment. In the early 1950s, Mutsun people again corresponded with Bureau of Indian Affairs officials and filled out applications, particularly for members of their families born since 1928. All of the applications that were approved made up the 1955 California Enrollment Census. Again applications included extensive documentation of tribal ancestry. Some people provided genealogical charts showing their ancestors for many generations, back to the early eighteenth century. Mutsun people described ancestors who were alive in 1852 and living in the area around Mission San Juan Bautista. Again, most people described themselves as Mission Indians from San Juan Bautista, although some used the term *Mutsun*.⁹⁶

A selective review of the 1955 California Enrollment Census applications shows considerable interaction by Mutsun people with Bureau of Indian Affairs officials, both in submitting applications and in correspondence. At least eighty-one Mutsun individuals were listed in the census records. At least thirty-one Mutsun who had been on the 1933 roll were still alive and re-enrolled on the 1955 census roll. There were forty-one new enrollments, mostly children of those who had been on the 1933 census, but also some, like

⁹⁵Selected applications, RG 75, entry 576, National Archives; Melvin M. Ketchum, Martha M. Ketchum, and Harold M. Ketchum, interview by E. Richard Hart, with Irenne Zwierlein, May 26, 2004, Woodside, California; Adela Gilroy, interview by E. Richard Hart, with Irenne Zwierlein, May 24, 2004, Redwood City, California.

⁹⁶RG 75, BIA, Sacramento Area Office, California Judgment Enrollment, 1937-52, Accepted New (1955), box 25, series 1 and 2, applications 8119, 8121, 8383, 10045, 10046, 11107, 9942, 13566, Manuel A. Sotelo; RG 75, Sacramento Area Office, California Judgment 1937-55, Deceased Enrollees, boxes 302, 382, 387, 376, 302; Cleo D. Caudell to John E. Wallace, June 9, 1953, RG 75 Sacramento Area Office, California Judgment 1937-55, Deceased Enrollees, boxes 302 and 387; RG 75, BIA, Sacramento Area Office, California Judgment Enrollment, 1937-55, 1933 Enrollees' Reapplications, box 202, applications 3951, 3952, 3953, 8119, 8120, 8121, 8122, 10045, 10046, 13331, 13332, 13333, 13334, 13336, 13566, 13567, 13568, 13571, 13572, 13573, 13536, 13538, 18587; RG 75, BIA, California Judgment and Enrollment, Accepted New (1955), 1937-52, series 1, box 2, files 48-126; RG 75, BIA, Sacramento Area Office, California Judgment Enrollment, 1937-52, Accepted New-1955, series 2, boxes 86 and 78.

Elario Sotelo, who had been eligible for the 1933 roll but had failed to apply. The census listed at least nine Mutsun who had died since 1933.

Liability of the government had been established by the U.S. Court of Claims in 1942. California Attorney General Kenny then worked for two years to reach a settlement with the United States on the value of the claim, and in 1944 the resulting stipulation was accepted by the court. It took Congress until 1950 to pass an act appropriating the settlement funds, and then several years more to settle the census roll. Finally, in 1955, checks for K-344 were sent out to those Mutsun enrolled on the California Enrollment Census. After twenty-seven years of litigation, years of filing applications, arranging witnesses, and corresponding with the BIA, individuals on the census roll received a check for \$150.⁹⁷

The work of enrolling was not over, however. After the filing of the California case in 1947 before the Indian Claims Commission, Mutsun Indians would again have to file the necessary papers, prove their Indian ancestry, and work with BIA officials to ensure they were enrolled. This case was litigated through the 1950s and finally settled in 1964. Congress again passed legislation calling for an update to the California Enrollment Census. Again correspondence, applications, and other documents show Mutsun people proving their Indian ancestry. Indians who had established themselves on the previous rolls, as well as those who wished to newly establish their ancestry since 1852 in California had a short, one-year filing period, between 1968 and 1969. Finally, in 1972 each enrolled tribal member received a check for \$668.51. Some Mutsun people who had not learned of the filing period in time and had filed late received no payment.⁹⁸ The documentary record produced as a result of K-344 demonstrates that Mutsun people aggressively worked to prove their tribal ancestry and heritage during the entire period from 1928 to 1972.

These records also provide evidence of continuing Mutsun organization and leadership. María Dionisia Mondragon, daughter of Ascención Solórsano, helped organize the Mutsun

⁹⁷"An Act to provide for a per capita payment from funds in the Treasury of the United States to the credit of the Indians of California," May 24, 1950 [64 Stat., 189]; Johnson, *K-344*, 75–80.

⁹⁸Adela Gilroy, interview by E. Richard Hart, with Irenne Zwierlein, May 24, 2004, Redwood City, California. She recalled that several of her relatives did file on time and received a check.

people to file their applications.⁹⁹ Baker, who recognized her as an authority, attached notes to her application that included the names, addresses, and ages of other Mutsun people she had identified so that Baker could contact them. This led to the enrollment of five others. One of those was Santos Corona.¹⁰⁰ In a letter that Baker wrote to Corona from Sacramento on March 5, 1931, Baker emphasized Mondragon's leadership role and knowledge.¹⁰¹

María Dionisia Mondragon helped organize the San Juan Bautista Indians to come in and meet with Baker in July and then December of 1930. As a result, most of the San Juan applications were grouped together sequentially. Mondragon witnessed at least seventeen different applications and certified that the individuals named on the applications were Indian.

Claudia Corona had been a member of the Mutsun committee that helped enroll San Juaneños in the 1933 census. Her daughter Marie continued to work with Mutsun descendants to enroll them in the 1955 census, and again in the 1972 census roll. She also continued Mutsun traditions that had been carried on by her mother Claudia Corona and her grandmother Ascension Solórsano. Marie continued to use traditional herbal remedies. Her daughter Martha M. Ketchum, who remembers J.P. Harrington working with Ascension Solórsano, today recalls her mother taking her to Sargent Ranch to explain which herbs could be used and which were dangerous. Martha said her mother was able to identify many herbs from the ranch, which she gathered and later used.¹⁰²

Marie also carried on the tradition of caring for and feeding less fortunate people. Like her grandmother and her mother, Marie fed people who came off the street and whom she had never met before. This is a tradition of Mutsun shamanistic obligation dating to aboriginal times and carried on through much of the twentieth century.¹⁰³

⁹⁹Joseph Mondragon, interview by E. Richard Hart, October 15, 2002, San Francisco. Also present were Irenne Zwierlein, chairperson of the Amah Mutsun Tribe, Jennifer Starks with Pillsbury Winthrop, Katherine Hicks, secretary of the Amah Mutsun Tribal Council, tape 2, transcript pp. 34–36. Joseph recalled his mother, María Dionisia, working to organize the Mutsun people.

¹⁰⁰Notes, attached to application file 8113, María Dionisia Mondragon (head of household), approved July 22, 1930, RG 75, entry 576, National Archives.

¹⁰¹Baker to Santos, March 5, 1931, in application file 8458, Santos Corona, approved in 1933, RG 75, entry 576, National Archives.

¹⁰²Melvin M. Ketchum, Martha M. Ketchum, and Harold M. Ketchum, interview by E. Richard Hart, with Irenne Zwierlein, May 26, 2004, Woodside, California.

¹⁰³Ibid.

The documentary record resulting from the claims cases on the 1851–52 treaties provides considerable evidence of Mutsun organization and leadership, but it also had a direct impact on the people's efforts to seek recognition. Some people who believed that enrollment would result in their recognition learned that this was not the case. Doing the necessary work to get Mutsun Indians of San Juan Bautista enrolled on the 1955 and 1972 census rolls led a number of members of the tribe to become more interested in genealogy. Some of them undertook fairly extensive genealogical research beginning in the 1950s and through the 1960s.¹⁰⁴ This work led directly to the tribal group's petition for recognition.

The records of the 1933 California Enrollment Census provide extensive evidence of non-Indian awareness of Mutsun Indians. In addition to the committee of Mutsun who witnessed applications, non-Indians spoke up to say that they knew individuals were of Indian descent. One of the most prominent citizens in San Benito County was the sheriff, Jeremiah J. Croxon. Prior to becoming sheriff, Croxon had been a book-keeper at the New Idria Mines and also owned a warehouse in San Juan village. He was active in community affairs, including the annual Mission San Juan Bautista Fiesta, which had been going on at least since the mid-nineteen century.¹⁰⁵ Sheriff Croxon submitted a letter with the application of Gerbacio P. López, identifying him as a San Juan Indian:

This will introduce to you Gerbacio P. Lopez. I have known him & his mother since 1874. His mother was of the San Juan Bautista Indians and always had the painted face. She died in 1906 in Los Banos, Merced Co. Was living with her son Isador Boyorques (the latter decease). . . . Gerbacio is a good man & of No. 1 habits is married & has one daughter besides a wife & five step children.¹⁰⁶

The application of Yriberto Herman also cited Sheriff Croxon as a witness.¹⁰⁷ Croxon, along with San Benito County Clerk

¹⁰⁴Mary Gilroy Beltran and Dolores Gilroy Quintana, interview by E. Richard Hart, with Irenne Zwierlein and Danise Quintana, May 20, 2004, Woodside, California.

¹⁰⁵Pierce, *East of the Gabilans*, 32 and 125.

¹⁰⁶Croxon to Baker, December 14, 1930, in application 8095, RG 75, entry 576, National Archives.

¹⁰⁷Application 8084, RG 75, entry 576, National Archives.

Elmer Dowdy, witnessed the application of four full-blooded San Juan Indians, including head of household Tomas Bojorques.¹⁰⁸

Other prominent non-Indian citizens who documented San Juan Indians included C.C. Zanetta and P.E.G. Anzar, who provided other important details of San Juan Indians, their background, culture, and family history.¹⁰⁹

The same body of documentary records provides substantial evidence of the Mutsun Tribe's continuing interaction with their aboriginal homeland, and particularly Rancho La Brea (the Juristac land grant, which became Sargent Ranch). On December 12, 1930, Fred A. Baker convened a meeting in the Hollister County Courthouse to consult with local Indians who wished to be enrolled on the California Enrollment Census. Baker used a committee of tribal elders and local officials to determine who was Indian.¹¹⁰ The record of sixty-two-year-old Yriberto (Billy) Herman appears on census application number 8084. Herman reported that he was the head of his household and was a one-half blood Mission Indian with ancestry from San Juan Bautista and Carmel. In a letter to Baker, Herman said he was a "thoroughbred California Indian" and that he had an aunt "who can remember before white people came here."¹¹¹ When questioned, he said that his tribe lost land in what are now Monterey and San Benito Counties. His application was witnessed by a prominent member of the Indian committee and also by important people in the non-Indian community: San Juan Bautista Constable C.C. Zanetta; the sheriff of Hollister; J.J. Croxon; and eighty-year-old Guadalupe Anzar from San Juan Bautista.¹¹² All three families, Zanetta, Croxon and Anzar, had been important in the San Juan Bautista community since at least the mid-nineteenth century.¹¹³

Herman reported that his father and grandfather on his father's side were from San Juan Bautista. At the hearing Baker asked him, "Did your father's father Juan German, have a

¹⁰⁸Application 8056, RG 75, entry 576, National Archives.

¹⁰⁹Application 8084, RG 75, entry 576, National Archives; application 8072, RG 75, entry 576, National Archives; Guadalupe Anzar to Baker, December 14, 1930, application 8095, entry 576, National Archives; and application 8084, RG 75, entry 576, National Archives.

¹¹⁰Baker to commissioner of Indian affairs, January 5, 1931, RG 75, Central Classified Files, 053-11626-1929, General Services, pt. 3, National Archives.

¹¹¹Yriberto Herman to Fred Baker, March 19, 1930, RG 75, entry 576, application 8084.

¹¹²Yriberto Herman, application number 8084, RG 75, entry 576, National Archives.

¹¹³California State Parks, *San Juan Bautista State Historic Park*, reports that Angelo Zanetta built the Plaza Hotel in 1858.

Spanish grant in California?" He answered, "No. But his father, Antonio German, had a grant by the name of Rancho La Brea, near Sargent Station. . . ." His own father, said Herman, was born in "Rancho La Brea."¹¹⁴ In a letter to Baker written in broken Spanish, Herman explained that his uncle was also born on Rancho La Brea, and Herman asked Baker if it might be that he still held rights to the land grant ranch.¹¹⁵

These documents support the proposition that Father Arroyo de la Cuesta hand-picked the grant recipients of the Juristac land grant because they were close to the Indians. In fact, the German (later spelled Herman) family intermarried with Mutsun. It is also interesting that the San Juan town dignitaries all identified the Hermans as being known in the community as San Juan Indians.¹¹⁶

Harrington's work documented use of Sargent Ranch through the early twentieth century.¹¹⁷ In contemporary interviews, Mutsun tribal members describe using Sargent Ranch throughout the remainder of the twentieth century. In fact, tribal members even continued to live at or near their old village site of Huristak well into the twentieth century.¹¹⁸

* * *

There could hardly be a more clear instance of the enduring impact of legal actions than that experienced by the Mutsun Indians. Both the Spanish policy of missionization of Indians and the Mexican policy of secularization of mission ranchos resulted in land grants of portions of Mutsun aboriginal territory. The Spanish and Mexican land grants of former mission ranchos led to litigation that began in 1851 and

¹¹⁴Yriberto Herman, application 8084, RG 75, entry 576, National Archives.

¹¹⁵Herman to [Baker], September 6, 1930, accompanying application 8084, RG 75, entry 576, National Archives; Bancroft, *History of California*, vol. 3 (1825–40), 755, suggested that the Germans lost the grant to unscrupulous whites, but it is more likely the cause of the legal system in place than of the Sargent brothers.

¹¹⁶Charles L. Sayers, *The Spirit-Soaring Drum* (San Jose, CA, 1993), 8–9, published selections of Harrington's papers, including a section in which Ascención Solórsano described the particular style of face painting and tattooing that was used by the Mutsun.

¹¹⁷Harrington, "Papers," the "San Juan Report" is found in rolls 58 and 59; Sayers, *The Spirit-Soaring Drum*, xxix and unnumbered appendix.

¹¹⁸Melvin M. Ketchum, Martha M. Ketchum, and Harold M. Ketchum, interview by E. Richard Hart, with Irenne Zwierlein, May 26, 2004, Woodside, California; Adela Gilroy, interview by E. Richard Hart, with Irenne Zwierlein present, May 24, 2004, Redwood City, California; Joseph Mondragon, interview by E. Richard Hart, October 15, 2002, San Francisco.

continued for decades. Just as that litigation was beginning, the U.S Senate sealed treaties that called for a cession of Mutsun land and establishment of reservations for the people. The eventual litigation stemming from those actions of the United States continued in the courts until the 1970s.

The policies and actions of the three nations directly resulted in lack of recognition of the Mutsun Tribe, but the records of legal proceedings initiated as a result of these actions (some over a century ago) continue to provide important evidence of cultural activity. The little-known records associated with these legal proceedings provide evidence bearing on Mutsun aboriginal territory, cultural continuity, genealogy, and outside recognition by the non-Indian community. Legal history sometimes provides considerable material for cultural history. The case of the Mutsun Tribe is a clear example of how legal history stretching back more than a century has an immediate impact and an important influence on the day-to-day lives of contemporary citizens.

Spanish and Mexican land grant records help to establish Mutsun aboriginal territory and village locations. They also provide evidence of continuing Mutsun interaction within their aboriginal territory. Mission records establish firm birth and death records, identifying tribal members and often providing the name of the individual's village or tribe. This documentary evidence can be used to produce genealogical charts and trees.¹¹⁹ The Mutsun are fortunate because Fr. Felipe Arroyo de la Cuesta not only kept meticulous birth and death records, but extensively documented Mutsun culture and language.¹²⁰ These records provide a cultural benchmark that facilitates research into later cultural continuity. Legal proceedings dealing with Spanish and Mexican land grants in the area indicate that ranchos were frequently located at or very near Mutsun village sites, and in fact were sometimes named for them, like "Juristac."¹²¹

¹¹⁹See note 36.

¹²⁰See note 37.

¹²¹For example, see the following, which when compared with mission records and other analyses, show rancho structures built at Indian village sites: "Diseño al Rancho de las Ánimas," ca. 1835, mss., Bancroft Library; land case map E-1442, "Juristac," A. & Faustin [sic] German, claimants, filed February 26, 1861, mss., Bancroft Library; land case map D-307, "Diseño for Rancho Juristac," mss., Bancroft Library; Hendry and Bowman, "The Spanish and Mexican Adobe," provided an analysis showing where early rancho structures were located.

Records of the Mission San Juan Bautista ranchos that became land grants, such as Juristac, Las Ánimas, and Ausaymas y San Felipe, indicate that throughout the first half of the nineteenth century at least some of the Mutsun Indians, who had been gathered and placed under the control of the mission, continued to be used as workers on the ranchos, which were within their traditional aboriginal territory. Demonstrating a strong attachment to their aboriginal territory, Mutsun also continued to work on and to use their aboriginal land after the mission was secularized.¹²²

United States records from the nineteenth- and twentieth-century legal proceedings described above provide abundant evidence to address questions of cultural continuity, tribal organization, and outside awareness of tribal existence, as well as language and genealogy. Documents from legal actions associated with the confirmation of eighteenth- and nineteenth-century Spanish and Mexican land grants and records of censuses related to the litigation on the unratified United States treaties with California tribes provide some of the best sources of documentary materials to test established federal recognition for the Amah Mutsun of San Juan Bautista.

¹²²Hendry and Bowman, "The Spanish and Mexican Adobe," 973, reported that the original La Brea grant petition discussed housing built in 1803 for the Indians working the mission ranch there; and p. 972 indicated similar housing for Indians on the Ánimas grant; Arroyo de la Cuesta, "Repuesta," 18, reported that Mutsun returned to their aboriginal lands to gather acorns and other traditional foods; Ross, *The Confirmation of Spanish and Mexican Land Grants in California*, 16-18, reported on the Indians working the mission ranchos, and after secularization returning to live in their aboriginal territory; Milliken, *Archaeological Test Excavations*, 77.