



Northern
California

October 15, 2021

Honorable Lisa Gillmor, Mayor, and
City Councilmembers,
City of Santa Clara
Council Chamber Building
1500 Warburton Ave.
Santa Clara, CA 95050

Re: Agenda Item 12B: “Action on a Written Petition Submitted by Councilmember Jain Requesting to Place an Agenda Item at a Future Meeting to Discuss the Debt Acquisition Company of America Applying for a Conditional Use Permit to Build and Operate a 320 Acre Sand and Gravel Quarry at Sargent Ranch,” 10/19/21 Agenda

Dear Mayor Gillmor and members of the Santa Clara City Council,

The American Civil Liberties Foundation of Northern California (“ACLU NorCal”) submits this letter to express support of the “Action on a Written Petition Submitted by Councilmember Jain Requesting to Place an Agenda Item at a Future Meeting to Discuss the Debt Acquisition Company of America Applying for a Conditional Use Permit to Build and Operate a 320 Acre Sand and Gravel Quarry at Sargent Ranch,” (Agenda Item 12B on the Council’s Agenda for its October 19, 2021, public meeting) (“Juristac Resolution”).

The ACLU supports and defends the rights of all Native American peoples to retain their specific and unique cultural and religious traditions and practices. The future existence of Tribes across our country depends ultimately upon secure and permanent land bases, and the rights of self-determination necessary to preserve traditional customs and ways of life.¹ Self-determination, religious freedom and cultural survival are intimately tied to protection of sacred sites; there can be no religious freedom if the foundation for the practice of the religion in question has been destroyed.

The future survival and vitality of the ancestral people of these lands, represented by the Amah Mutsun Tribal Band, is largely tied to preservation of the sanctity of Juristac. To destroy this site would be to continue the long and ugly history of the nation and the state of California. The state of California was founded on the forced removal, enslavement, and genocide of Indigenous peoples.² Our state’s first Governor, Peter Burnett, put it bluntly in his 1851 address to the Legislature: “[t]hat a war of

¹ ACLU Board Policy 313; ACLU Foundation of Northern California Board Resolution No. 2021-06-24A “In Support of Nationwide ACLU Indigenous Justice Initiatives.” Available at: <https://www.aclunc.org/sites/default/files/FOUNDATION%20RESOLUTION%20supporting%20indigenous%20justice%20FINAL%2006.24.21.pdf>

² See, for example, “Gold Chains: The Hidden History of Slavery in California,” available at <https://www.aclunc.org/sites/goldchains/index.html>, and, Madley, Benjamin. An American Genocide: The United States and the California Indian Catastrophe, 1846–1873. (The Lamar Series in Western History.) New Haven, Conn.: Yale University Press, 2016.

American Civil Liberties Union of Northern California

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extermination will continue to be waged between the two races until the Indian race becomes extinct must be expected.”

California’s treatment of its original inhabitants was shockingly violent. After the brutal Mission system enslaved and took the lives of thousands of Indigenous peoples, the state sanctioned and funded massacres against Indigenous peoples—authorizing \$1.29 million in 1850’s dollars to pay for the militia campaigns that amounted to genocide.³ In addition to this brutal violence, laws and policies subjugated California Indians; for example, the 1850 “Act for the Governance and Protection of Indians” made the enslavement of California Indians legal, and fueled the kidnapping and trafficking of Native American children into indentured servitude. The State of California and the U.S. federal government destroyed sacred places and prohibited traditional and cultural practices by law.

Native peoples—who stood in the way of the rich bounty that California’s diverse natural beauty signified for newcomers – were forcefully removed from and dispossessed of their ancestral lands.

Through treaties and other agreements, the United States and Indian Tribes entered into government-to-government relationships, the federal government acknowledging Tribes’ existence as sovereign nations predating the US. In exchange for vast swaths of ancestral territory – nearly the entire country – and often upon forced removal to distant, barren lands, the federal government assumed a trust relationship with the Tribes, legally binding itself to provide for the education, health, and well-being of Native American peoples; to hold tribal land in trust and respect self-determination; and provide federal protections for sacred and burial sites and rights to hunt, fish and gather. But many tribes were never recognized by the United States or had their federal relationship terminated. In California, this is often a direct result of California elites fighting to disposes Native peoples of their land and heritage and in effect, erase Native peoples from our state. Without federal recognition, tribes still exist, but without the rights and protections afforded under federal law. Many tribes are today fighting to gain or regain federal recognition – including the Amah Mutsun Tribal Band. That the Amah Mutsun do not have federal recognition – and the tribal sovereignty, government-to-government relationship, and protection of important and hard-won federal laws – is not an accident. We must not use legacy of stolen land and broken treaties as a reason to deny the principles of freedom, equality and justice enumerated in our Constitution to all people today.

³ See, for example, Brendan C. Lindsay, *Murder State: California’s Native American Genocide, 1846–1873* 346 (University of Nebraska Press 2015); and, Benjamin Madley, *An American Genocide: The United States and the California Indian Catastrophe* (YALE UNIV. PRESS 2016). For a non-comprehensive list of genocide incidents in the San Joaquin Valley, see STATE OF CAL. NATIVE AM. HERITAGE COMM’N, *Timeline of Genocide Incidents in the San Joaquin Valley Region*, available at: <http://nahc.ca.gov/cp/timelines/san-joaquin/> (last accessed Apr. 9, 2021).

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AMERICAN CIVIL LIBERTIES UNION

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A mine at Juristac would be only another shameful stain on our state's history.

ACLU NorCal stands with the Amah Mutsun Tribal Band to protect their traditional lands and urges the City of Santa Clara City Council to approve the Juristac Resolution at its October 19, 2021 meeting.

Sincerely,

A handwritten signature in black ink that reads "Tedde Simon". The signature is written in a cursive style with a long horizontal stroke at the end.

Tedde Simon
Indigenous Justice Advocate
ACLU Foundation of Northern California
tsimon@aclunc.org

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