

The Southern Sierra Miwuk Nation

A Compelling Case for Federal Recognition

Who We Are

Our tribe is the Southern Sierra Miwuk Nation (SSMN). We are the descendants of the Southern Sierra Miwuk people who had villages in the areas now known as Yosemite National Park, Mariposa County, and its immediate vicinity (*see* map). For untold generations our ancestors lived in and around these areas, subsisting on the natural resources this unique environment afforded. The remoteness of our homelands provided a sanctuary that protected our people from the advances of non-Indian colonists—Spaniards, Mexicans, and finally Americans—but the California Gold Rush changed that forever. During and following the Gold Rush our people suffered genocide, dispossession, assimilation, relocation, discrimination, indenture, and ultimately extreme poverty and near starvation in areas where our ancestors had resided for thousands of years. Despite this history of violence and adversity, our tribal government and people have persevered and are now requesting that the United States formally recognize us as an Indian tribe pursuant to the federal acknowledgment regulations at 25 CFR Part 83.

Our Current Situation

In 1982, we filed a petition with the Department of Interior seeking formal acknowledgment as a federally recognized Indian tribe. We were one of the first Indian groups to petition for federal acknowledgment. During the intervening 37 years, we have researched, prepared and submitted to the Interior Office of Federal Acknowledgment (OFA) thousands of pages of scholarly reports and supporting historical, anthropological and genealogical information, in addition to independent research conducted by the OFA, establishing the connection between our peoples—the Southern Sierra Miwuk Nation—and the historical Southern Sierra Miwuk people who signed treaties with the United States in 1851-52.

On November 16, 2018, in the first formal review stage of our petition, the Department of Interior, through the Assistant Secretary-Indian Affairs issued a Proposed Finding in our case denying our existence as a distinct Indian community during the period from 1982 to 2011. We are in the process of challenging the validity of this erroneous Proposed Finding during the 6-month review and comment period, but it will require the assistance of expert consultants and attorneys. In this effort, we are seeking support through the submission of public comments questioning the validity of the Proposed Finding, and through financial donations to our non-profit entity, the American Indian Council of Mariposa County (“American Indian Council”).

In the following summary, we review our history and struggle for federal recognition, and explain (1) why the deeply flawed Proposed Finding needs to be challenged; (2) why we should be accorded the status of a federally recognized tribe; and (3) how confirmation of our

federally recognized status will secure the right of self-determination and independence that has been denied to our people for more than a century.

Our History

Throughout our history continuing to the present day, we have resided in the area of Yosemite National Park, Mariposa County, and the immediate vicinity, as depicted on the attached map. Our relationship with the federal government began over 160 years ago. After the Treaty of Guadalupe Hidalgo between the United States and Mexico and the discovery of gold in 1848, our ancestral lands were flooded with non-Indian miners, ranchers and settlers seeking to exploit our natural resources and take our lands. In fact, private militias funded by the State of California engaged in a campaign to drive us from our homelands through the systematic destruction of our villages and food stores, and, in many cases, vigilante murders and enslavement of our people. In an effort to end the non-Indian violence and Indian resistance (i.e., the Mariposa War), the United States signed treaties in 1851-52 with the Southern Sierra Miwuk and neighboring tribes. In the treaties, our ancestors reserved tracts of land within our ancestral territory and the United States promised to protect our occupancy of those lands and provide other support to our people. Unfortunately, the lands we reserved in the treaties in exchange for our cession of large areas of our ancestral homeland were never confirmed and set aside for our use, and the federal government's promises never fulfilled. The U.S. Senate, in response to opposition by the senators of the new State of California (1850), opposed ratification of all 19 treaties negotiated by the treaty commissioners with California tribes throughout the state. Instead of negotiating new treaties, the government established temporary reservations or farms on federal lands. These temporary "refuges," however, were poorly managed, the Indians exploited for their labor, and the lack of provisions led to widespread malnutrition, starvation and death. In effect, the failure to ratify the treaties meant that most California Indians, including the Southern Sierra Miwuk, were denied a secure home on lands they had occupied for centuries, and had to fend for themselves in a State where they were subject to institutionalized discrimination and violence.

This breach of trust by the federal government left our people, along with many other California Indians, homeless in our native homelands and resulted in widespread starvation, illness, and the random killing of our people, including women and children. Miners, ranchers and settlers took our lands, destroyed our villages, indentured our children under racist California laws, and literally sought to "exterminate" or remove our people from areas they had occupied for centuries. Our people survived this period only by consolidating and sharing resources, by retreating to areas of refuge where hostile non-Indians were few and resources were scarce, and by maintaining our relationships with neighboring tribes—the Yokuts, Mono, Chuckchansi, Paiute, and other Miwuk people—with whom we had ties based on shared resources, intermarriage, and opposition to those who had entered our ancestral lands to commit acts of violence against our people and our way of life.

In the ensuing years, some of our people were able to find work on nearby ranches and farms where the owners provided a modicum of security for native laborers in exchange for agricultural work. Others worked as menial labor in mining camps or, if permitted by the miners, earned a meager living as independent placer miners on claims previously worked to near exhaustion. In general, the situation of our people, dispossessed of our homeland and at the mercy of a generally hostile non-Indian population, was desperate.

In the early 1900s, Congress, in response to the desperate situation of our people and other California Indians, passed legislation for the relief of “homeless California Indians.” Yet, the federal government again failed to assist us in reestablishing a homeland on some of the small tracts of land (rancherias) the federal government eventually purchased under the Homeless California Indian Acts. Although the Sacramento Indian Agency Superintendent in 1927 recommended creation of a “home site” for our people in the Yosemite Valley, the government failed to act on his recommendation. Eventually, only a few of our people obtained permanent homes on individual land allotments under the General Allotment Act of 1887.

When efforts to secure a separate homeland for our people failed, some of our people were able to secure employment and housing in the Yosemite Valley, which was one of the few places where Indians could find employment and access to traditional resources. During the 1850s, private entrepreneurs established trails and primitive hotels in the Yosemite Valley to attract sightseers to the splendors of the Valley. Throughout the remainder of the nineteenth century Indian men and women worked as laborers and laundresses for the burgeoning tourist trade. Some Miwuk Indians lived in small villages in Yosemite Valley where they became objects of fascination for the travelers who were interested in native life. Women wove baskets and baked acorn bread for sale, thus adding to the income of their families, and the resource-rich natural environment afforded hunting and fishing opportunities as well. Private owners of Yosemite’s hotels were tolerant of the native presence in part because they were sympathetic to Indians and because the Indians contributed to the Yosemite tourism experience.

This situation changed dramatically when the federal government took control of the Yosemite Valley and made it a National Park in 1905. The National Park Service (“Park Service”) destroyed the Miwuk village at the base of Yosemite Falls to construct a soldiers’ camp and demonstrated through other actions that the Indians did not fit within the Park Service’s vision of a wilderness experience. Between 1900 and 1910, the Miwuk historic village sites were reduced from five locations to a single tent cabin village on Indian Creek because of the encroachment of the foreign population. For a period, the Park Service permitted us to reside in the park—as tenants who lived and worked there at the sufferance of the government, and who were useful in promoting the increasing tourism in the Park and special Park events. These events included the “Yosemite Indian Field Days,” which mirrored the Park Service’s image of Indian authenticity and culture in which the Miwuk and other California Indians were obliged to don Plains Indian garb and perform during the Field Days. Eventually, however, the Park Service

forced the Indians out of their residences in the Park and destroyed their small village as part of a Park Service fire-fighting exercise in 1969.

After our eviction from Yosemite National Park, we continued our efforts for fair treatment and recognition by the United States, hoping to realize the promise of the treaties our ancestors signed while maintaining our tribal relations. Our tribe and other tribes, in both California and throughout the United States, were vocal elements of the Civil Rights and American Indian movements of the 1960s and 1970s and sought ways to improve the education and welfare of our people. In 1972, we established the American Indian Council of Mariposa County, a non-profit entity, which allowed us to compete for grants and initiate programs to advance the economic, social welfare, and education interests of our people. We also continued our cultural and religious practices, using the new policy protections accorded under the American Indian Religious Freedom Act of 1978, by sponsoring and holding annual events in Yosemite National Park and other areas of cultural and religious significance to our people. The funding received through the American Indian Council also supported our effort to obtain recognition as the Southern Sierra Miwuk Nation.

Creation of the Federal Acknowledgment Process

In 1978, consistent with the national efforts and initiatives of the American Indian Movement, and the recommendations of the American Indian Policy Review Commission, the federal government created a federal regulatory process through which the descendants of historic Indian tribes, such as ours, who continued to maintain tribal relations as a distinct Indian community, could petition the government for a formal government-to-government relationship with the United States (i.e., federal recognition or acknowledgment)—a status our tribe enjoyed more than a century before when our ancestors signed treaties in 1851-52 with federal treaty commissioners. This federal regulatory process, known as the Federal Acknowledgment Process, has a special office in the Department of the Interior known as the Office of Federal Acknowledgment (OFA). As noted above, we filed our petition under this process in 1982.

What Federal Acknowledgment (Recognition) Would Mean for Our Tribe

Federal acknowledgment or recognition establishes a formal government-to-government relationship between an Indian tribe and the United States. This relationship brings a tribe within the scope of numerous federal court decisions and statutes recognizing and protecting the sovereign status of Indian tribes and their right to self-determination. Among the most important of the numerous federal statutes applicable to Indian tribes are the Indian Self-Determination and Education Assistance Act, the Indian Child Welfare Act, the Indian Health Care Improvement Act, and the Native American Graves Protection and Repatriation Act. Recognition by the United States provides a tribe with the sovereign authority to administer government programs to provide services, such as housing, social services, and medical care; to reestablish a tribal homeland for housing and community development; to access special federal funding for education, medical care, and other benefits; to protect the welfare of tribal children and families;

and to protect and preserve tribal cultural and sacred sites. Most importantly, it provides a tribe with the status and authority of a sovereign, self-governing entity, entitled to treatment as such by both federal and state governments. For the Southern Sierra Miwuk Nation, it would bring to fruition a relationship that the federal government first acknowledged in the unratified treaties of 1851-52, and again through the extensive dealings and relationship of the Park Service with our people.¹

Recent Action by the Federal Government and the Challenge We Face

As stated above, on November 16, 2018, the Assistant Secretary-Indian Affairs issued a Proposed Finding Against Federal Acknowledgment of the Southern Sierra Miwuk Nation. We believe the Proposed Finding is deeply flawed in its treatment of our history and its characterization of our tribal community. Moreover, the way in which the Proposed Finding was issued—rejecting our petition on the basis of a single element of one of the seven mandatory criteria for federal acknowledgment without addressing the historical context of our connection to our historical tribe—is inconsistent with applicable federal regulations and precedent, and possibly inconsistent with OFA’s own professional and peer review standards. A public comment letter submitted by a former OFA staff member shortly after the Proposed Finding was issued alleges that there were communications between the Solicitor’s Office and OFA staff during the period the SSMN petition was under review that “tainted the peer review process, cast doubt on its legitimacy, and violated the rules of transparency required by the Department for the acknowledgment process as a whole.” See [December 4, 2017 letter of Dr. Aldo Salerno, Ph.D.](#), to the Assistant Secretary-Indian Affairs. These serious allegations further convince us the Proposed Finding is flawed and does not accurately represent the evidence we presented in support of our petition.

Our Present-Day Tribal Community and Its Relationships with the Park Service and Others

Today, with the assistance of our elders, we continue our ceremonies and celebrations in Yosemite Valley and surrounding areas that are part of our history, culture, and traditions. Yet, for every ceremony or tribal cultural event held in Yosemite, we have had to seek the permission of the Park Service. Despite this, the Park Service, through its actions during the past century, has recognized a special relationship with our people, and although we value that relationship and continue to explore ways to strengthen it and redress the abuses of the past, our lack of

¹ In its 1977 report to Congress, the American Indian Policy Review Commission (AIPRC) concluded in its Task Force No. 10 Report on Terminated and Non-Federally Recognized Indians:

The results of 'non-recognition' upon Indian communities and individuals has been devastating, and highly similar to the results of termination: the continued erosion of tribal lands, or the complete loss thereof; the deterioration of cohesive, effective tribal governments and social organizations; and the elimination of special federal services, through the continued denial of such services which the Indian communities in general appear to desperately need. AIPRC Task Force No. 10 Report, *supra*, at page 1695.

This accurately describes the situation confronting our Tribe and other unacknowledged tribes.

federal recognition has impeded these efforts. Additionally, although the Park Service acknowledges our history and that of neighboring tribes over thousands of years preceding the creation of the Park, and has worked with our Tribe to establish the Indian Village of Ahwahnee in Yosemite Valley on the site of one of our historic villages, its official website link about the “Yosemite Indians” fails to reflect much of our Tribe’s history and its struggle for recognition by the federal government. See <https://www.nps.gov/yose/learn/historyculture/yosemite-indians.htm>

In addition, the Park Service’s recent adoption of a “Gathering Plants and Plant Parts Rule” (81 FR 45024, July 12, 2016), effective as of August 11, 2016, allows only federally recognized tribes the ability to apply for a permit. Without such standing, our tribe cannot even apply to gather native plants important for our continued cultural traditions, including basketry and for medicinal purposes. This ruling essentially bans elders who were born in the old Indian Village in Yosemite Valley, attended government-sponsored Indian boarding schools, and served our country in the armed services, from practicing their culture and religion through the traditional gathering of plants. Ironically, the Yosemite Museum displays our tribal members making baskets, but our people are prohibited from gathering the basketry resources in the Park necessary to continue this tribal tradition.

Although our relationship with the Park Service has been central to our relationship with the Yosemite National Park and the federal government during the twentieth century, we realize that the mutual cooperation and benefits of our current relationship with the Park administration will remain restricted and uncertain until we attain federal recognition and can work together on a consistent, formal government-to-government basis.

In addition to our relationships with the Park Service and Mariposa County, above all we continue to honor our tribal relations, both among our own people and with our surrounding tribal neighbors. We know, respect and care for our sacred places and our ancestral village areas in the Yosemite National Park and other areas of our ancestral lands. And we continue with our persistent demand that the federal government honor its solemn promises and trust by according us the respect and the status of a tribe that is officially recognized by the United States. In brief, we know who we are, and the fact of our continued presence in our ancestral lands, including Yosemite National Park, providing for our people and honoring our customs and traditions, speaks clearly of our claim to recognition and for just treatment at the hands of the federal government.

Appeal for Support

We respectfully ask for your support for our effort to correct the Proposed Finding and secure justice and fair treatment for our people through federal recognition of the SSMN. For further information on the public comment process on the Proposed Finding and/or to make a donation in support of our recognition effort, please visit our tribal website at:

SouthernSierraMiwukNation.org