

## Fw: Public Comments for Committee Meeting

Agendadesk <Agendadesk@sanjoseca.gov>

Wed 8/7/2024 9:00 AM

To: Rules and Open Government Committee Agendas <rulescommitteeagenda@sanjoseca.gov>

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**From:** City Clerk <city.clerk@sanjoseca.gov>  
**Sent:** Wednesday, August 7, 2024 7:45 AM  
**To:** Agendadesk <Agendadesk@sanjoseca.gov>  
**Subject:** FW: Public Comments for Committee Meeting

-----Original Message-----

From: Jenna Kress <[REDACTED]>  
Sent: Wednesday, August 7, 2024 5:15 AM  
To: City Clerk <city.clerk@sanjoseca.gov>  
Subject: Public Comments for Committee Meeting

[External Email]

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I am emailing as a San Jose resident to make public comment during the committee meeting on 8/7 asking that the city council takes this opportunity to pass a resolution calling on congress to recognize the Muwekma Ohlone Tribe.

Warmly,

Jenna

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**Fw: Muwekma Ohlone Tribe Resolution comment for agenda meeting8/7/24**

Agendadesk &lt;Agendadesk@sanjoseca.gov&gt;

Wed 8/7/2024 9:10 AM

To: Rules and Open Government Committee Agendas &lt;rulescommitteeagenda@sanjoseca.gov&gt;

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**From:** City Clerk <city.clerk@sanjoseca.gov>**Sent:** Wednesday, August 7, 2024 9:05 AM**To:** Agendadesk <Agendadesk@sanjoseca.gov>**Subject:** FW: Muwekma Ohlone Tribe Resolution comment for agenda meeting8/7/24

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**From:** Julie Dominguez <[REDACTED]>**Sent:** Wednesday, August 7, 2024 8:53 AM**To:** City Clerk <city.clerk@sanjoseca.gov>**Subject:** Muwekma Ohlone Tribe Resolution comment for agenda meeting8/7/24

[External Email]

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My name is Julie Dominguez.

I'm the community education chair and tribal ambassador for the Muwekma Ohlone Tribe of the San Francisco Bay Area.

I'm urging this committee to pass the resolution and move this item to the council agenda next week!

Our tribe has fought long and hard enough, even going so far to providing DNA analysis to grave sites dating back centuries.

Have we not proved enough that we are the descendants of this land?

This is exactly why our people are traveling on our journey of Trail of Truth to Washington DC. Our ancestral burial sites need protection and we need to have the right to repatriate! Because just remember we are all our future ancestors, it's this gravesites now and our in less than 100 years!

**Julie Dominguez**

Mobile: [REDACTED]

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**Fw: Muwekma Ohlone Tribe**

Agendadesk <Agendadesk@sanjoseca.gov>

Wed 8/7/2024 9:10 AM

To: Rules and Open Government Committee Agendas <rulescommitteeagenda@sanjoseca.gov>

---

**From:** City Clerk <city.clerk@sanjoseca.gov>

**Sent:** Wednesday, August 7, 2024 9:05 AM

**To:** Agendadesk <Agendadesk@sanjoseca.gov>

**Subject:** FW: Muwekma Ohlone Tribe

-----Original Message-----

From: Vee Velasquez <[REDACTED]>

Sent: Wednesday, August 7, 2024 8:40 AM

To: City Clerk <city.clerk@sanjoseca.gov>

Subject: Muwekma Ohlone Tribe

[External Email]

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I support the Muwekma Ohlone tribe and I urge the city to pass the resolution to call on congress to reaffirm their federal recognition status.

Do what's right .

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## Fw: Recognizing Muwekma Ohlone Tribe

Agendadesk <Agendadesk@sanjoseca.gov>

Wed 8/7/2024 10:59 AM

To: Rules and Open Government Committee Agendas <rulescommitteeagenda@sanjoseca.gov>

**From:** City Clerk <city.clerk@sanjoseca.gov>

**Sent:** Wednesday, August 7, 2024 10:54 AM

**To:** Agendadesk <Agendadesk@sanjoseca.gov>

**Subject:** FW: Recognizing Muwekma Ohlone Tribe

**From:** Tanya Herrera <[REDACTED]>

**Sent:** Wednesday, August 7, 2024 10:36 AM

**To:** City Clerk <city.clerk@sanjoseca.gov>

**Subject:** Recognizing Muwekma Ohlone Tribe

[External Email]

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To Whom it may concern,

As a Bay Area Native, I have always grown up with the knowledge that we are on Muwekma Ohlone land. That knowledge should not be bared from the government recognizing it as well. I know my email may be late but it's very much worth my time to say to please put the item on the agenda to recognize the Muwekma Ohlone Tribe so they can go on to receive the acknowledgement they deserve on a national level. Thank you for your time.

-Tanya Herrera

[www.TanyaHerrera.com](http://www.TanyaHerrera.com)

[www.instagram.com/organizeddrawcreations](https://www.instagram.com/organizeddrawcreations)

<https://vm.tiktok.com/ZMLVFUutE/>

<https://youtube.com/user/tanyahg>

[tanyaherrera.o.r.c/facebook.com/](https://www.facebook.com/tanyaherrera.o.r.c/)

LinkedIn - Tanya Herrera



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**Fw: MUWEKMA OHLONE RECOGNITION**

City Clerk &lt;city.clerk@sanjoseca.gov&gt;

Wed 8/7/2024 12:38 PM

To: Rules and Open Government Committee Agendas &lt;rulescommitteeagenda@sanjoseca.gov&gt;

**Office of the City Clerk | City of San José**200 E. Santa Clara St., Tower 14<sup>th</sup> Floor

San Jose, CA 95113

Main: 408-535-1260

Fax: 408-292-6207

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**From:** Cecilia Arellano <[REDACTED]>  
**Sent:** Wednesday, August 7, 2024 12:09 PM  
**To:** City Clerk <city.clerk@sanjoseca.gov>  
**Subject:** MUWEKMA OHLONE RECOGNITION

[External Email]

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We are Muwekma Ohlone and we have been kept silent far too long. After millennia of our history , and centuries of displacement and dispossession , acknowledging the bay areas original indigenous inhabitants is well over due. When we talk about land, land is part of who we are. its a mixture of our blood, our past, our current and our future . We carry our ancestors in us and around us as you all do. Not being federally recognized takes away the rights of our tribe, and the ability to honor and RESPECT our ancestors. This is our land and we have the sovereign right to be here and be recognized. We are here , we always have been. Can you hear us?

Sincerely, Cecilia Arellano

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**Fw: Public Comment: Muwekma Ohlone Tribe Recognition Now**

City Clerk &lt;city.clerk@sanjoseca.gov&gt;

Wed 8/7/2024 12:39 PM

To: Rules and Open Government Committee Agendas &lt;rulescommitteeagenda@sanjoseca.gov&gt;

**Office of the City Clerk | City of San José**200 E. Santa Clara St., Tower 14<sup>th</sup> Floor

San Jose, CA 95113

Main: 408-535-1260

Fax: 408-292-6207

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**From:** Katelyn Black <[REDACTED]>  
**Sent:** Wednesday, August 7, 2024 12:18 PM  
**To:** City Clerk <city.clerk@sanjoseca.gov>  
**Subject:** Public Comment: Muwekma Ohlone Tribe Recognition Now

[External Email]

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August 7, 2024

Public Comment: Muwekma Ohlone Tribe Recognition Now

My name is Katelyn Black, and I am a Bay Area resident born and raised on Muwekma Ohlone land. I attended Santa Clara University and am a former employee of Stanford University, both of which are organizations complicit in the ethnic cleansing and genocide of the Muwekma Ohlone people on their Native land dating back to their founding. The eradication and erasure of the Muwekma Ohlone people will never be forgotten and their sovereign rights to this land must be recognized. As such, I implore the Rules Committee to pass a resolution calling on Congress to recognize the Muwekma Ohlone tribe. Federal recognition is one small step, but a significant one to begin the land back process and to begin the healing of generational trauma inflicted on the Native inhabitants of this land.

Thank you,  
Katelyn

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## Public Comment Recognition

rebecca <[REDACTED]>

Wed 8/7/2024 1:24 PM

To:City Clerk <city.clerk@sanjoseca.gov>

[External Email]

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Hello,

As a San Jose resident of over 30 years and a contributing tax payer to the community, I strongly request and urge the elected council members to add to the agenda the recognition of the indigenous community to this land we call San Jose - The Muwekma Ohlone Tribe.

The Muwekma Ohlone deserves to be recognized by the elected members not simply because it is the moral and ethical thing to do, but it is also a legal requirement that the elected members represent and support each and every resident of San Jose; regardless if they just moved to the city or if they were born and raised here. And the Muwekma Ohlone people were born and raised here long before the city was known as San Jose.

The Muwekma Ohlone tribe's requests need to be heard and given the opportunity for greater exposure and city support, which can only happen on a wider scale if they are added to the agenda as the first step. Do the right thing.

Best,

Rebecca

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**Fw: Muwekma ohlone trib.**

Agendadesk <Agendadesk@sanjoseca.gov>

Tue 8/6/2024 3:11 PM

To: Rules and Open Government Committee Agendas <rulescommitteeagenda@sanjoseca.gov>

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**From:** City Clerk <city.clerk@sanjoseca.gov>

**Sent:** Tuesday, August 6, 2024 3:11 PM

**To:** Agendadesk <Agendadesk@sanjoseca.gov>

**Subject:** FW: Muwekma ohlone trib.

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**From:** Yvonneavila1973 [REDACTED]

**Sent:** Tuesday, August 6, 2024 3:10 PM

**To:** City Clerk <city.clerk@sanjoseca.gov>

**Subject:** Muwekma ohlone trib.

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[External Email]

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Support the muwekma ohlone trib.

Sent from my T-Mobile 5G Device

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**Fw: Please recognize the Muwekma Ohlone tribe**

City Clerk <city.clerk@sanjoseca.gov>

Wed 8/7/2024 4:11 PM

To:Agendadesk <Agendadesk@sanjoseca.gov>

**Office of the City Clerk | City of San José**

200 E. Santa Clara St., Tower 14<sup>th</sup> Floor

San Jose, CA 95113

Main: 408-535-1260

Fax: 408-292-6207

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**From:** M.T. R. [REDACTED]

**Sent:** Wednesday, August 7, 2024 4:00 PM

**To:** City Clerk <city.clerk@sanjoseca.gov>

**Subject:** Please recognize the Muwekma Ohlone tribe

[External Email]

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Dear City Clerk,

I'm writing to urge the San José City Council to pass a resolution to urge our federal government to recognize the Muwekma Ohlone tribe. This is our responsibility as people who live on their land.

Thank you,  
Maureen Roddy

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## FW: City Council Rule Committee: Federal Recognition of the Muwekma Ohlone

City Clerk <city.clerk@sanjoseca.gov>

Thu 8/8/2024 7:38 AM

To:Agendadesk <Agendadesk@sanjoseca.gov>

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**From:** Tatyana Foltz [REDACTED]  
**Sent:** Wednesday, August 7, 2024 8:57 PM  
**To:** City Clerk <city.clerk@sanjoseca.gov>  
**Subject:** City Council Rule Committee: Federal Recognition of the Muwekma Ohlone

[External Email]

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Dear City Council members,  
Please pass the resolution calling on Congress to recognize the Muwekma Ohlone tribe.  
Thank you,  
Tatyana

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## FW: Muwekma Ohlone support: public comment

City Clerk <city.clerk@sanjoseca.gov>

Thu 8/8/2024 7:38 AM

To:Agendadesk <Agendadesk@sanjoseca.gov>

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**From:** Samantha Pereyra [REDACTED]  
**Sent:** Wednesday, August 7, 2024 11:33 PM  
**To:** City Clerk <city.clerk@sanjoseca.gov>  
**Subject:** Muwekma Ohlone support: public comment

[External Email]

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Hello good evening,

My name is Samantha Pereyra, I'm a San Jose resident and I'm reaching out to express my support for the federal recognition of the Muwekma Ohlone tribe. They are an awesome and foundational part of our community! I hope to see the topic on the agenda.

Kind regards,  
Sam

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## FW: Support for Muwekma Ohlone tribal recognition

City Clerk <city.clerk@sanjoseca.gov>

Thu 8/8/2024 7:38 AM

To: Agendadesk <Agendadesk@sanjoseca.gov>

-----Original Message-----

From: Rachel Berkowitz [REDACTED]

Sent: Thursday, August 8, 2024 2:01 AM

To: City Clerk <city.clerk@sanjoseca.gov>

Subject: Support for Muwekma Ohlone tribal recognition

[External Email]

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Hello,

My name is Rachel Berkowitz, and I am a San Jose resident and professor at [REDACTED] I hope this message finds you well.

I am writing in strong support of the City Council adding to its agenda the resolution calling on Congress to recognize the Muwekma Ohlone tribe. Passing such a resolution would show our city's support for the indigenous stewards of this land, building on and going beyond our land acknowledgments.

Thank you for your attention to this important opportunity.

Best wishes,

Rachel

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## FW: Muwekma Ohlone Tribe's response to Lofgren's correspondence

City Clerk <city.clerk@sanjoseca.gov>

Tue 8/13/2024 11:23 AM

To: Taber, Toni <toni.taber@sanjoseca.gov>; Rodriguez, Joy <Joy.Rodriguez@sanjoseca.gov>; Roche, Megan <megan.roche@sanjoseca.gov>; Agendadesk <Agendadesk@sanjoseca.gov>

📎 2 attachments (592 KB)

Letter to Matt Mahan and City Council 081324.pdf; Press Release - GOP Backs Muwekma 2.pdf;

Morning,

I sent this to Rules, but wasn't sure if you guys needed to be aware of this.

Mitsy

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**From:** Mossing, Mackenzie <Mackenzie.Mossing@sanjoseca.gov>

**Sent:** Tuesday, August 13, 2024 10:57 AM

**To:** City Clerk <city.clerk@sanjoseca.gov>

**Subject:** FW: Muwekma Ohlone Tribe's response to Lofgren's correspondence

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**From:** Matthew Ricchiazzi [REDACTED]

**Sent:** Tuesday, August 13, 2024 10:37 AM

**To:** The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>

**Cc:** Ortiz, Peter <Peter.Ortiz@sanjoseca.gov>

**Subject:** Muwekma Ohlone Tribe's response to Lofgren's correspondence

[External Email]

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Hello Mayor Mahan and Councilmembers,

Attached is correspondence from Chairwoman Nijmeh, responding to Rep. Zoe Lofgren's deceptive letter to the Rules Committee last Wednesday morning.

Please include this in the official record relating to ROGC 24-642.

The Tribe will be rallying outside City Hall at 4:00 pm this afternoon. Speakers will making remarks beginning at 4:15, and you are all more than welcome to join us.

We hope to see you there!

All the best,

Matt

*Note also:*

**Zoe Lofgren's use of staffers to squash Muwekma Ohlone Tribe's resolution may violate the Hatch Act**

**<https://sfinquirer.com/2024/08/11/zoe-lofgrens-use-of-staffers-to-play-local-politics-violates-hatch-act-critics-say/>**

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## FOR IMMEDIATE RELEASE

Contact: Matt Ricchiazzi  
[REDACTED]

Event: **Horseback Procession to City Hall**  
Location: Beginning at Emma Prusch Park  
(King Road at Story Road, enter from Story Road)  
Date: August 13, 2024  
Time: 2:30 pm procession line up; 3:00 pm procession departure

Event: **Announcement and Rally**  
Location: San Jose City Hall – Plaza Space Outside of the Rotunda  
Date: August 13, 2024  
Time: 4:00 pm rally

## **GOP backs Muwekma Ohlone Tribe's status clarification, slams Rep. Lofgren for obstructing municipal resolution**

*San Jose City Council delays passage of a Resolution at Lofgren's request, raising questions about casino-related political corruption*

(SAN JOSE, CA) – The South Bay's Republican Party is backing the **Muwekma Ohlone Tribe's** status clarification through congressional legislation, and officials plan to announce their support at a rally outside San Jose City Hall at 2:30 pm, during the Council's regular Tuesday session.

**The backing comes after four Democratic Party organizations have formally endorsed an affirmation of the Tribe's federal status** (San Francisco County, Contra Costa County, Santa Clara County, and Santa Cruz County).

**Peter Hernandez**, the Republican challenging Rep. **Zoe Lofgren** in California's 18<sup>th</sup> congressional district, is set to back legislation that will affirm the Tribe's federal status. The longtime congresswoman is the subject of intense criticism for her mistreatment of the Tribe, which includes a January 2023 conversation on Capitol Hill in which Lofgren demanded that Tribal Chairwoman **Charlene Nijmeh** sign away a vast swath of the Tribe's rights and freedoms in exchange for legislation that would correct the federal government's mistake.

**Corrina Powers**, the President of the California Chapter of the **Republican National Hispanic Association** (RNHA), and **Shane Patrick Connelly**, the Republican Party Chairman of Santa Clara County will also be endorsing the Tribe's status clarification

The Tribe was previously federally recognized as the **Verona Band of Alameda County**, was never terminated by an act of Congress, and 100% of its members descend from that previously recognized Tribe. But the **Bureau of Indian Affairs** erred in omitting Muwekma from the original 1978 list of officially recognized Tribes. In the four decades since, the Tribe has struggled to get the federal government to correct its mistake.

In recent days, the Hernandez campaign circulated this statement:

*Rep. Zoe Lofgren turned her back on the Muwekma Ohlone people, betraying one of the most marginalized and historically maligned populations in our State. Her horrific behavior continues California's genocide against this community with her cold, callous, and extortionate behavior. Unlike the lust for control and demands of submission that typify Rep. Lofgren's behavior, I will take the opposite approach.*

*I believe deeply in bottom-up government. I believe that communities should be self governing – whether the City of Hollister, Santa Clara County, or the Muwekma Ohlone Tribe. Local decisions should be in the hands of local communities. The decentralization of power and decision-making will be my driving policy approach to every challenge, including this challenge of justice for one of the most marginalized indigenous populations in California.*

In prepared remarks, Chairwoman Nijmeh plans to say, in part:

*I am so happy to see such a young, dynamic, and understanding leader of our region emerging. His name is Peter Hernandez and his willingness to tackle complicated decades-long problems – that the entrenched Democrats in the Bay Area continue to ignore – is refereshing.*

*When I first met Peter and I asked him to help my People affirm our existence in the eyes of the federal government, I found a compassionate business leader who wants to solve problems, to empower communities, and to serve the people of his district.*

*Rep. Zoe Lofgren on the other hand turned her back on the Muwekma Ohlone people years ago. She cares about the Big Money and Silicon Valley powerbrokers – with little regard or concern for the challenges faced by the region's indigenous and Mexican American communities.*

*When Rep. Zoe Lofgren first ran for Congress, our Tribe backed her in a big way. My mother was the Chairwoman of the Tribe at the time. We endorsed her. We raised money for her. We organized a Get Out the Vote program for her.*

*She promised to restore our status. She demanded it in her remarks on the House Floor. Then she got bought-off by special interest money that is funded, in large part, by the 68 Indian casinos that are operating in California – who have their feet on the necks of California's most marginalized Indian tribes.*

*Her behavior is typical of California's historic treatment towards indigenous people. Her silence and attempted political erasure of the Muwekma people is just a continuation of the genocide that has been waged against us. During the Gold Rush, our genocide was motivated by mining companies, railroad barons, and cattle ranchers.*

*Today our continued genocide comes in the form of political erasure, and it's motivated by politicians who need campaign contributions from casino executives to win their reelections.*

*I've always been a proud Democrat deeply concerned with social justice, environmental protection, and the quality of life of working-class communities.*

*So what does it say about Today's Democratic Party When Republican Peter Hernandez shares my concerns so much more than Democrat Rep. Lofgren ever will?*

*I am proud to endorse Peter Hernandez for Congress – and in the coming days my Tribal Council will be voting on a Resolution to offer him our official endorsement as well!*

The Muwekma Ohlone Tribe is comprised of all surviving indigenous lineages aboriginal to the greater San Francisco Bay region. The Tribe's ancestors were forcibly enslaved in feudal agrarian systems at Missions Delores, Santa Clara and San Jose.

A **Stanford University** genomic study conclusively confirms that the tribe's members trace their DNA to the 2,500 year-old ancestors at a pre-contact village site in the San Francisco Bay Area in a study affirming the tribe's continuing presence in their aboriginal territories.

The Tribe has been landless since before California was acquired by the United States and aboriginal title was extinguished by the Congress. Despite federal laws mandating that Bureau of Indian Affairs was to purchase land for our Tribe, an Indian Agent at the Sacramento agency unilaterally and illegally politically erased the Tribe by removing them from the list of tribes to receive land as mandated by Congress.

Tribal members have suffered disproportionately from homelessness, housing uncertainty, and residential displacement. Now, with the ongoing gentrification of Bay Area homelands, housing prices threaten to decimate the Tribe, prevent the ability to live as a Tribe, and be pushed out of homelands into a diasporic existence.

The federal government has a clear trust responsibility to prevent the threat that California's housing and land use policies pose to the Tribe.

The Muwekma Ohlone Tribe has broad-based support from virtually everyone in the Bay Area.

Many universities have expressed their support for the Tribe, including **Stanford University**, **University of California at Berkeley**, **Santa Clara University**, **San Jose State University**, and many others.



The Office of the Muwekma Ohlone Tribal Council

Muwekma Ohlone Tribe of the San Francisco Bay  
1169 South Main Street, #336  
Manteca, CA 95337  
Muwekma.org • [muwekma@muwekma.org](mailto:muwekma@muwekma.org)

**Muwekma.org**  
[muwekma@muwekma.org](mailto:muwekma@muwekma.org)

(408) 464-2892

August 13, 2024

Mayor Matt Mahan  
City of San Jose  
200 E. Santa Clara St.  
San José, CA 95113

**Re: Request to Add Resolution on Federal Recognition for Muwekma Ohlone Tribe to the City Council meeting Agenda of August 13, 2024.**

Dear Mayor Mahan,

I am pleased to provide you on behalf of the Muwekma Ohlone Tribe responses to the points made in the letter dated August 7, 2024 from Congresswoman Lofgren regarding the proposed resolution supporting the Tribe's recognition.

First, let me say that I am surprised with the vigorousness with which the Congresswoman seeks (1) to deny the Tribe's legitimate claim for justice for the people of the Muwekma Ohlone Tribe and their ancestors, and (2) to discourage the City Council from voicing its views on the matter to Congress. The arguments in the Congresswoman's letter do not undercut the Tribe's powerful and just case for recognition.

Each key point of Congresswoman Lofgren's letter is discussed below.

- *The letter argues that Interior's denial of acknowledgment to the Tribe is conclusive of the Tribe's entitlement to recognition.* This is wrong for two reasons. First, Tribes may also seek federal recognition by act of Congress. Congress has expressly reserved such authority in the Federally Recognized Tribe List Act,<sup>1</sup> and since 1970, Congress has passed legislation to federally recognize or reaffirm 26 Indian tribes.<sup>2</sup> This includes tribes that were terminated and denied recognition in the acknowledgment process. For example, in 2019 Congress recognized the Little Shell Band, which was initially denied

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<sup>1</sup> Pub. L. 103-454, title I, § 103(3) ("Indian tribes presently may be recognized by Act of Congress; by the administrative procedures set forth in part 83 of the Code of Federal Regulations denominated 'Procedures for Establishing that an American Indian Group Exists as an Indian Tribe;' or by a decision of a United States court"), (5) ("Congress has expressly repudiated the policy of terminating recognized Indian tribes, and has actively sought to restore recognition to tribes that previously have been terminated").

<sup>2</sup> S. Rep. 116-190, 116<sup>th</sup> Cong., 2d Sess. 2 (2020) (listing 25 tribes recognized by Congress to date); National Defense Authorization Act for Fiscal year 2020, Pub. L. 116-92, § 2870 (recognizing the Little Shell Band).

recognition by Interior.<sup>3</sup> Second, legally the Interior Department may reconsider the acknowledgment decision. The Supreme Court confirmed that the Department has the power to change its mind on matters of recognition, and recognized that this authority has long been exercised by the Department.<sup>4</sup> In the litigation for judicial review of Interior's recognition decision regarding Muwekma the courts held only that the decision was not arbitrary and capricious or contrary to law. These decisions do not preclude the Department from making a different determination now. Nor do they preclude Congress from reversing Interior just as it reversed itself in restoring terminated tribes and it recognized Little Shell.

- *The letter cites the Office of Federal Acknowledgment's conclusion that Muwekma did not satisfy certain criteria for acknowledgment.* The acknowledgment decision was wrong as it refused to consider relevant evidence of community, including godparenting relationships spanning decades of the 20<sup>th</sup> century, the activism to save the Ohlone Cemetery, and the Tribe's organization of Muwekma economic activities in the late 20<sup>th</sup> century. The Department's decision improperly rejected a number of categories of evidence that demonstrated continuing tribal status and federal interaction with the Tribe, including BIA approval of Muwekma tribal members' California Judgment Act enrollment applications that Muwekma children attended Chemawa Indian School in Oregon in 1940s.<sup>5</sup>

Interior's decision failed to consider important information about historical circumstances affecting the Tribe's ability to document its continuing status. This violated Interior's own regulations.<sup>6</sup> Historically California tribes suffered from brutal

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<sup>3</sup> *Id.*; S. Rep. 116-190, at 3 ("In 2009, the Department issued a negative 'final determination' against federally acknowledgment of Little Shell."). Little Shell appealed the decision to the Interior Board of Indian Appeals, and it was referred to the Assistant Secretary for reconsideration. Little Shell elected to proceed under the new 2015 acknowledgment regulations but had not resubmitted its petition. *Id.*

<sup>4</sup> *See Carciari v. Salazar*, 555 U.S. 379, 398-399 (2009) (Breyer, J., concurring) (noting that the Department of the Interior did not recognize Stillaguamish Tribe until 1976 but then acknowledged that the Tribe had maintained treaty rights against the United States since 1855; that in 1934 Department thought the Grand Traverse Band of Ottawa and Chippewa Indians had dissolved, but later recognized the Tribe as having existed continuously since 1675; and that in the 1930s the Department thought that the Mole Lake Tribe no longer existed, but later recognized the Tribe); *see also City of Sault Ste. Marie v. Andrus*, 532 F. Supp. 157, 161 n.6 (D.D.C. 1980) (rejecting interpretation of Indian Reorganization Act that would "[bind the government by its earlier errors or omissions.>").

<sup>5</sup> As discussed below, in its recent decision finding the Mashpee Wampanoag Tribe was under federal jurisdiction in 1934 for purposes of the Indian Reorganization Act, the Interior Department relied on evidence that Mashpee students were enrolled in the Carlisle Indian School.

<sup>6</sup> Acknowledgment regulations governing the acknowledgment process stress that OFA should "[t]ake into account historical situations and time periods for which evidence is demonstrably

policies by the state and federal governments aimed at wiping them out entirely. Indians in California suffered through centuries of imperial rule by the Spanish and Mexican governments, which repressed Indian religion and lifeways and imposed forced labor. After the United States obtained California from Mexico, United States commissioners negotiated and signed a series of treaties with the California Indian tribes under which the tribes agreed to cede millions of acres of valuable land in the State in exchange for 8 million acres of reservations and compensation for their ceded lands. At the urging of the Legislature and U.S. Senators, the Senate never ratified the treaties and kept them secret for decades. In the meantime, the State passed laws that legalized enslavement of Indians and organized and paid for militias to hunt down and kill Indians throughout California with the goal of exterminating them.<sup>7</sup> Over 303 militia units involving 35,000 California volunteers served between 1851 and 1866.<sup>8</sup> The State and federal governments expended as much as \$1.5 million, more than \$24 million in today's dollars, to pay the militias for campaigns to kill Indians.<sup>9</sup> These policies contributed to an 80 percent decline of the Native population from 1846 to 1873.<sup>10</sup> In the early 20th century a study by the federal government "found that Indians had been forced from agriculturally productive lands and were then living on worthless lands in distressing conditions." *Duncan v. Andrus*, 517 F. Supp. 1, 2 (N.D. Cal. 1977). Governor Newsom recently recognized that "the State historically sanctioned over a century of depredations and prejudicial policies against California Native Americans" and apologized for "the many instances of violence, maltreatment and neglect California inflicted on tribes . . ." in Executive Order N-15-19 (June 18, 2019).

In addition to suffering from the policies and events described above, in the early 20<sup>th</sup> century the tiny Muwekma communities were decimated by a flu epidemic and then forced to leave to pursue work. Formal and informal discrimination also forced the Muwekma to downplay their tribal organization, identities, and culture. Yet Interior's

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limited or not available," and "the limitations inherent in demonstrating historical existence of community and political influence or authority" and to "[a]pply these criteria in context with the history, regional differences, culture, and social organization of the petitioner." 25 C.F.R. § 83.10(b)(2), (3) and (5). Furthermore, they require that "[d]istinct community must be understood flexibly in the context of the history, geography, culture, and social organization of the entity," and the maintenance of political influence or authority "is to be understood flexibly in the context of the history, culture, and social organization of the entity." *Id.* § 83.11(b), (c).

<sup>7</sup> See generally William Wood, *The Trajectory of Indian Country in California*, 44 *Tulsa L.R.* 317, 333-44 (2008); Chris Clarke, *Untold History: The Survival of California's Indians*, KCET (Sept. 26, 2016), <https://www.kcet.org/shows/tending-the-wild/untold-history-the-survival-of-californias-indians>; *Stand Up for Cal.! v. U.S. Dep't of Interior*, 204 F. Supp. 3d 212, 228-29 (D.D.C. 2016).

<sup>8</sup> Benjamin Madley, *An American Genocide: The United States and the California Indian Catastrophe* 174 (2016).

<sup>9</sup> *Id.* at 14, 252-53, 320-21.

<sup>10</sup> *Id.* at 10.

decision failed to take account of these historical circumstances in direct violation of its own regulations. Not only was this unlawful, but this history highlights the powerful force of justice pushing Muwekma's recognition claim.

- *The letter points to the court's decision in Muwekma Ohlone Tribe v. Salazar rejecting the Tribe's request for judicial review under the Administrative Procedure Act of the negative acknowledgment decision.* The court's rejection of the Tribe's lawsuit is not a basis for withholding support for recognition because the issues in that case were limited to the questions whether the acknowledgment decision was arbitrary and capricious or contrary to law.<sup>11</sup> The court's holding was limited to whether the legal standard required reversal, and did not extend to a determination whether it was correct.
- *Developments subsequent to the acknowledgment decision and subsequent litigation support the Tribe's claim to acknowledgement.* In 2022 a federal district court held the Tribe is entitled to sovereign immunity protecting federally recognized tribes. In *Weiss v. Perez*, 602 F. Supp. 3d 1279 (N.D. Cal. 2022), the court found the tribe satisfied the test for tribal status recognized in *Native Village of Tyonek v. Puckett*, 957 F.2d 631, 635 (9th Cir. 1992) and *Montoya v. United States*, 180 U.S. 261, 266 (1901). *Id.* at 1295 n.3. The court dismissed a lawsuit involving claims in which the Tribe had a protected interest based on its determination that "the Tribe is a Native American tribe entitled to sovereign immunity, it cannot be joined to his lawsuit." *Id.* at 1295.

In January 2021 the Tribe submitted new evidence in the form of a 150-page detailed report prepared by Dr. Christine Grabowski entitled *The Origin and Continuity of the Muwekma Ohlone Indian Tribe (MOIT)* dated December 2020. That report demonstrated that Interior's decision contained significant errors ejecting substantial evidence that the Tribe presented and failing to consider historical context of such evidence. A federal court recently held, "evaluating the evidence in isolation and failing to view the probative evidence 'in concert'" is contrary to the Department's approach. *Mashpee Wampanoag Tribe v. Bernhardt*, 466 F. Supp. 3d 199, 218 (D.D.C. 2020). The acknowledgment decision evaluated all, or nearly all evidence in isolation, without consideration of the relationship between different kinds and pieces of evidence, which was contrary to this principle described above as well as to the Part 83 regulations.

Subsequent changes in the law show that the acknowledgment decision's rejection of evidence that Muwekma tribal members attended BIA boarding schools during the 1930s and 1940s was error. The decision rejected the evidence on the ground that the record did not indicate whether these tribal members were accepted based on their degree of Indian blood or membership in a recognized tribal group. However, since then, an

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<sup>11</sup> *Muwekma Ohlone Tribe v. Salazar*, 813 F.Supp.2d 170, 199 (D.D.C. 2011) ("there exists no basis upon which it may overturn the agency's findings"); 708 F.3d 209 (D.C.Cir. 2013) (affirming district court).

Interior Solicitor’s opinion determined that BIA actions taken for or on behalf of individual tribal members is probative of a tribe’s status as under federal jurisdiction, including the education of Indian children at BIA schools. Sol. Op. M-37029 19.<sup>12</sup> A federal district court held that the Department’s rejection of evidence that the BIA educated Mashpee tribal members at BIA schools over a period of 13 years on the ground that it “was not evidence of federal action towards the Mashpee Tribe itself – just towards a handful of Mashpee students,” was “expressly inconsistent with express language in the M-Opinion.” *Mashpee Wampanoag Tribe*, 466 F. Supp. 3d at 220. The court held, “[t]he M-Opinion thus expressly allows for a federal action towards some tribal members – here students – to serve as evidence that supports a finding that a tribe as a whole was under federal jurisdiction.” *Id.* In a later decision, the Department noted BIA schools were part of the “federal Indian policy aimed at breaking up tribal communities across the country” and found that BIA education of Mashpee children at BIA schools “provides probative evidence of federal jurisdiction over the Tribe and its members.” Interior Mashpee Tribe Fee-to-Trust Decision 19 (Dec. 22, 2021).

I look forward to discussing these issues as consideration of the proposed resolution proceeds.

Respectfully submitted,

A large black rectangular redaction box covering the signature of Charlene Nijmeh.

Charlene Nijmeh  
Chairwoman

CC: Councilmembers

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<sup>12</sup> The Department later withdrew this opinion and in 2020 replaced it with a different standard accepting evidence about the “establishment of schools and other service institutions for the benefit of a tribe.” *Mashpee Wampanoag Tribe v. Bernhardt*, 466 F. Supp. 3d 199, 219 (D.D.C. 2020) (citing Mar. 10, 2020 memorandum). However, the Department since reinstated M-37029. See Sol. Op. M-37070 (Apr. 27, 2021).

## **ONE-HALF of the Facts Leads to Disinformation**

City must be transparent in providing all relevant information

The proposed resolution on **ITEM #3.6** falls short

### **OVERVIEW**

**The cover memo & proposed resolution are misleading. Both fail to acknowledge and address critical issues raised in Congresswoman Lofgren's August 2024 letter to the City Council.**

### **FOR YOUR CONSIDERATION**

**=> Does the resolution comply with City Council Policy that restrains the City from addressing matters decided by the Federal Government and Federal Judiciary?**

**Policy #0-11 states "The City Council is sometimes requested to take action on matters which lie outside the scope of its jurisdiction. There being better and more appropriate avenues of communication between citizens and other governmental entities, the City Council desires to restrict its own deliberations to problems which most immediately affect the government of the City of San José."**

**=> Does the resolution contain statements that are both accurate and current?**

**=> Is not a Declaratory Letter the better option rather than forcing a vote based on the current record?**

### **ACTION ITEMS**

**Uphold community confidence in city leadership:**

- by acknowledging and addressing all the facts**
- by complying with City Council policy**
- by refraining from passing a resolution that contains misleading and/or outdated statements**
- by maintaining the credibility of city leadership**

## SUPPORTING DETAIL

statements in cover memo & proposed resolution	critical issues <u>not acknowledged or addressed</u>
In 1995, the Muwekma Ohlone Tribe petitioned the US government for federal acknowledgement. "While this process is ongoing ....."	In Sept. 2002, the US government denied the petition; the Tribe did not meet 3 of the 7 criteria required for federal recognition. The petition process is <b>NOT</b> "ongoing"
In 2000, US District Court ruled "in favor of the Tribe" and ordered the government to expedite the tribe's petition	In 2000, District Court Judge Urbina agreed that the petition process was moving too slowly. This ruling was not on the <b>MERITS</b> of the petition, only on the <b>SPEED</b> of the proceedings. #1
In July 2002, Congresswoman Lofgren issued a statement in support of the Tribe.  In August 2002, Lt. Governor Bustamante issued a similar letter.	BOTH letters were submitted <b>BEFORE</b> the determination by the US in Sept. 2002 that the Tribe did not meet 3 of the 7 criteria. Congresswoman's August 2004 letter clearly states her <b>CURRENT</b> position - she supports the US government's determination upheld through the Federal Court appeal process to ensure a uniform process for all petitioners.
"we strongly believe that federal recognition will benefit the residents of San Jose who belong to the Tribe"	Information about population of Tribe residents in San Jose would context on local impact. The Interior Dept. found that "[s]ince 1990, participation in [Muwekma's] activities has been mostly by a core group of <b>20 individuals</b> " and "[a] predominant portion of [its] membership has not participated in the group's activities." #2
"The Verona Band of Alameda County, now reconstituted as the Muwekma Ohlone Tribe, was once federally recognized by the Bureau of Indian Affairs."	The Verona Band was recognized by the federal government between 1914 and 1927. There is no evidence that the Muwekma Tribe was <b>ever</b> federally recognized. #3

1. *LA Times 7/8/2000* 2 & 3 *Muwekma Ohlone Tribe v. Salazar*, 708 F.3d 209 (D.C. Cir. 2013)

## FW: YES on voting in favor of the Muwekma Ohlone Resolution

City Clerk <city.clerk@sanjoseca.gov>

Mon 8/26/2024 3:45 PM

To: Agendadesk <Agendadesk@sanjoseca.gov>

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**From:** Dorah <[REDACTED]>  
**Sent:** Monday, August 26, 2024 3:36 PM  
**To:** City Clerk <city.clerk@sanjoseca.gov>  
**Subject:** YES on voting in favor of the Muwekma Ohlone Resolution

[External Email]

You don't often get email from [REDACTED] [Learn why this is important](#)

Dear San Jose Mayor and City Council,

Jewish Voice for Peace-South Bay has been based in the area between San Jose and Palo Alto since 1997, and has since grown to include the peninsula and the areas south all the way to Santa Cruz. Jewish Voice for Peace was founded to give voice to the many Jews who support human rights and freedom for Palestinians, but we recognize the relationship with indigenous peoples' struggles here at home to live with human rights and political freedom. We have been involved in several events and issues in coalition with the Indigenous peoples of our beautiful region, including the Muwekma Ohlone, the Amah Mutsun, and others whose ancestors were forced into the missions, boarding schools, and other systems designed to prevent them from developing as sovereign groups. It is well documented that politically influential Californians in the 19th Century, such as our first Governor and US Senators, convinced the US government not to follow through on treaty obligations with many tribes, including the Muwekma Ohlone. The Muwekma's ancestors were identified in a census ordered by Congress of landless California tribes. They were identified again in 1914, 1923 and 1927 on a list of tribes to receive land from Congress. Decades later, in 1978, the Bureau of Indian Affairs did not include it on a list of federally recognized tribes, thereby depriving the Muwekma Ohlone their rightful designation as a documented tribe.

Despite generations of continuous stewardship on the land of their ancestors and over forty years pursuing justice through the Department of the Interior and the Bureau of Indian Affairs, the Muwekma Ohlone still do not have legal custodial or ownership rights on the land that has been their home for millennia, according to their history and physical scientific evidence. Their homelands are now some of the most expensive real estate in the world, which is a huge obstacle to their efforts towards federal recognition and the rights associated with such status.

Jewish Voice for Peace South Bay stands with the Muwekma Ohlone in their quest for recognition and reparation, including legal rights to some of their own unceded territories, and the cultural and legal autonomy that goes with tribal recognition. In order for San Jose to be a truly inclusive city, it must voice its support for the original inhabitants of this land, who continue here to this day, for their long overdue recognition, with all the of the legal and land rights that would come with this. We also urge the inclusion of the history of the Muwekma Ohlone in our public school education.

Members of the tribe are traveling on horseback to Washington DC on their "Trail of Truth".

Congress has the power to provide the recognition that the Bureau of Indian Affairs has failed to provide. San Jose City Council Members, please pass a resolution on behalf of the Muwema Ohlone tribe's recognition, so that Congress clearly hears that we are all united in this call for justice.

Sincerely,

Wendy Greenfield and Dorah Rosen,  
On behalf of Jewish Voice for Peace-South Bay

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**FW: Support Muwekma Ohlone Tribe recognition**

City Clerk &lt;city.clerk@sanjoseca.gov&gt;

Tue 8/27/2024 7:36 AM

To: Agendadesk &lt;Agendadesk@sanjoseca.gov&gt;

---

**From:** Socorro McCord <[REDACTED]>  
**Sent:** Monday, August 26, 2024 5:52 PM  
**To:** City Clerk <city.clerk@sanjoseca.gov>  
**Subject:** Support Muwekma Ohlone Tribe recognition

[External Email]

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I am in full agreement that the San Jose City Council must support the resolution for the Muwekma Ohlone Tribe to be recognized as a tribe by the federal government.

The Muwekma's ancestors were identified in a census ordered by Congress of landless California tribes. They were identified again in 1914, 1923 and 1927 on a list of tribes to receive land from Congress. Decades later, in 1978, the Bureau of Indian Affairs did not include it on a list of federally recognized tribes, thereby depriving the Muwekma Ohlone their rightful designation as a documented tribe.

Members of the tribe are traveling on horseback to Washington DC on their "Trail of Truth". Congress has the power to provide the recognition that the Bureau of Indian Affairs has failed to provide. San Jose City Council Members, please pass a resolution on behalf of the Muwema Ohlone tribe's recognition, so that Congress clearly hears that we are all united in this call for justice.

It is time

Socorro Reyes-McCord, Community Peace and Justice Activist, [REDACTED], home phone: [REDACTED],

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**FW: Public comment in favor of Federal recognition for the Muwekma Ohlone peoples**

City Clerk &lt;city.clerk@sanjoseca.gov&gt;

Tue 8/27/2024 7:36 AM

To:Agendadesk &lt;Agendadesk@sanjoseca.gov&gt;

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**From:** Amanda Flowers <[REDACTED]>**Sent:** Monday, August 26, 2024 7:08 PM**Subject:** Public comment in favor of Federal recognition for the Muwekma Ohlone peoples

[External Email]

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Hello,

I am reaching out as an educator, union member, and neighbor to request that my city council adopt the preposed resolution declaring our lasting support for federal recognition of the Muwekma Ohlone people. In the past several years we have started to move forward with acknowledging the harm that has come to the native people of California and through the adoption of this resolution I know we can continue to make an effort in providing support to communities who have been displaced and disenfranchised.

In 1906, Muwekma's ancestors were **identified** and included in a census ordered by Congress of landless California Tribes. Being identified as a distinct Indian community on the 1906 census as well as being named "as Verona Band" in 1914, 1923, and again in 1927 on a list of Tribes to receive land by Congress effectively gave the Muwkma people "acknowledgment" (also known as "recognition") as an American Indian Tribe (a sovereign Nation with the right of self-determination for its members). That right of sovereignty was promised in perpetuity to tribal nations and such government-to-government relationships can only be terminated by Congress.

Although the Bureau of Indian Affairs (BIA) has conceded that Muwekma was "**acknowledged**" as a federally recognized tribe under the name "Verona Band" as late as 1927, and that their status was never terminated by Congress, they still had neglected to place their Tribe on the first official 1978 list of federally recognized tribes (**a crucial Departmental error**).

My hope is that we as a community can take steps in acknowledging this error and insuring that steps are taken in support of federal recognition.

In community,  
Amanda Flowers

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**FW: Public comment in favor of Federal recognition for the Muwekma Ohlone peoples**

City Clerk &lt;city.clerk@sanjoseca.gov&gt;

Tue 8/27/2024 7:36 AM

To: Agendadesk &lt;Agendadesk@sanjoseca.gov&gt;

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**From:** Karina Chadha <[REDACTED]>  
**Sent:** Monday, August 26, 2024 7:16 PM  
**To:** District9 <district9@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>  
**Subject:** Public comment in favor of Federal recognition for the Muwekma Ohlone peoples

[External Email]

Some people who received this message don't often get email from [REDACTED]. [Learn why this is important](#)  
Hello,

I am reaching out as a community worker, union member, and neighbor to request that my city council adopt the preposed resolution declaring our lasting support for federal recognition of the Muwekma Ohlone people. In the past several years we have started to move forward with acknowledging the harm that has come to the native people of California and through the adoption of this resolution, I know we can continue to make an effort in providing support to communities who have been displaced and disenfranchised.

In 1906, Muwekma's ancestors were identified and included in a census ordered by Congress of landless California Tribes. Being identified as a distinct Indian community on the 1906 census as well as being named "as Verona Band" in 1914, 1923, and again in 1927 on a list of Tribes to receive land by Congress effectively gave the Muwekma people "acknowledgment" (also known as "recognition") as an American Indian Tribe (a sovereign Nation with the right of self-determination for its members). That right of sovereignty was promised in perpetuity to tribal nations and such government-to-government relationships can only be terminated by Congress.

Although the Bureau of Indian Affairs (BIA) has conceded that Muwekma was "**acknowledged**" as a federally recognized tribe under the name "Verona Band" as late as 1927, and that their status was never terminated by Congress, they still had neglected to place their Tribe on the first official 1978 list of federally recognized tribes (**a crucial Departmental error**).

My hope is that we as a community can take steps in acknowledging this error and ensure that steps are taken in support of federal recognition.

In community,  
Karina Chadha

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**FW: Muwekma Ohlone recognition**

City Clerk <city.clerk@sanjoseca.gov>

Tue 8/27/2024 7:38 AM

To:Agendadesk <Agendadesk@sanjoseca.gov>

-----Original Message-----

From: Forrest Nixon <[REDACTED]>

Sent: Monday, August 26, 2024 8:10 PM

To: City Clerk <city.clerk@sanjoseca.gov>

Subject: Muwekma Ohlone recognition

[External Email]

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Dear Members of the Council:

I support a resolution in support of recognition of the Muwekma Ohlone as a tribe. They have been on this land for thousands of years. Whatever we can do to recognize them seems like a small step toward creating an atmosphere where all of can be respected and valued.

Thank you.  
Forrest Nixon

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**FW: Muwekma**

City Clerk <city.clerk@sanjoseca.gov>

Tue 8/27/2024 7:41 AM

To: Agendadesk <Agendadesk@sanjoseca.gov>

---

**From:** Fadi Saba <[REDACTED]>  
**Sent:** Monday, August 26, 2024 9:54 PM  
**To:** City Clerk <city.clerk@sanjoseca.gov>  
**Subject:** Muwekma

[External Email]

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Dear Honorable Mayor and Members of the Council,

I urge you to support the Muwekma Ohlone Tribe's struggle to be federally recognized. It's the right thing to do.

Thank you,  
Fadi Saba

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# FW: Support for the Muwekma Ohlone Tribe

City Clerk <city.clerk@sanjoseca.gov>

Tue 8/27/2024 12:38 PM

To: Agendadesk <Agendadesk@sanjoseca.gov>

📎 8 attachments (2 MB)

Support of the Muwekma Ohlone Tribe San Jose City Council.docx; DC District Court Muwekma.pdf; BIA Smith Letter 1998.pdf; Federal Court Opinion Muwekma 1 (1).pdf; Lt. Governor Letter 2002.pdf; Lofgren Extension of Remarks.pdf; Miller's Restoration Bill 2000.pdf; Previous Recognition 5 24 96 1.pdf;

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**From:** Alan Leventhal <[REDACTED]>  
**Sent:** Tuesday, August 27, 2024 12:34 PM  
**To:** City Clerk <city.clerk@sanjoseca.gov>  
**Cc:** Charlene Nijmeh <[REDACTED]> Tiffini Jones <[REDACTED]> Richard Massiatt <[REDACTED]>  
 <[REDACTED]> JoAnn Brose <[REDACTED]> Frank Ruano Sr. <[REDACTED]>  
 <[REDACTED]> Sheila Schmidt <[REDACTED]>  
 <[REDACTED]> Julie Dominguez <[REDACTED]>  
**Subject:** Support for the Muwekma Ohlone Tribe

[External Email]

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Dear San Jose Mayor and City Council Members,

Attached, please find my support for the Muwekma Ohlone Tribe's federal Recognition along with some attached legal and historical documents.

Sincerely,

Alan Leventhal

--  
 Alan Leventhal  
 Emeritus Staff/Faculty  
 Department of Anthropology  
 College of Social Sciences  
 San Jose State University  
 San Jose, Ca. 95192  
 [REDACTED]

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear San Jose Mayor and City Council,

I write to you today to express my full support for the reaffirmation of the Muwekma Ohlone Tribe's status as a federally recognized tribe. As stated elsewhere, the Muwekma Tribe became federally recognized through the action of Special Indian Agent Charles E. Kelsey (of San Jose), who was appointed in 1905 as Special Indian Agent for Northern California after the discovery of the 18 unratified treaties of 1851-1852 sealed away in the Secret Archives of the U. S. Senate. Agent Kelsey was charged to conduct a Special Indian Census between 1905-06, and he included the Verona Band of Alameda County residing in Niles and Pleasanton and placed them directly under the Indian Service Bureau and his jurisdiction. The Verona Band, now living on the land owned by Senator George Hearst and his wife Phoebe Apperson Hearst were later interviewed by renown anthropologists and linguists from Berkeley and the Smithsonian's Bureau of American Ethnology between 1884 and 1930s.

The Verona Band were removed from the list of land/homeless California Indian Tribes by the Superintendent at Sacramento, Lafayette A. Dorrington on June 23, 1927. Without any benefit of a needs assessment survey, Dorrington removed 135 landless tribal communities that were slated to have homesites (later rancherias) purchased for them under the Congressional Homeless California Indian Appropriation Acts spanning from 1906-1937. In 1924 American Indian=s became citizens and the California Indians commenced suing the US Government over the 8.5 million acres of land that was to be set aside under the 1851-1852 treaties. The only instrument the US Government had to quiet aboriginal title for Indian lands was through treaty, and the 18 California Indian treaties were never ratified.

By 1928 Congress passed the California Indian Jurisdictional Act to which 17,000 California Indian enrolled with the BIA. Between 1929-1932 sixty-four members of the Verona Band enrolled and their applications were approved by the Secretary of Interior. The Muwekma families enrolled between 1950-1957 during the second enrollment period, and later in 1968-1971 during the third enrollment period. During the 1930s and 1940s Muwekma children were sent to Indian Boarding Schools at Sherman Institute, in Riverside County and at Chemawa near Salem, Oregon. The heads of families also enrolled with the Bay Area Indian Council in the 1940s and 1950s.

Concurrently, eight Muwekma men enlisted in the US Armed Forces in the Army, Navy and Marine Corps prior to and after America's entrance during WWI. They later, enlisted in all branches of service during WWII, serving in the Pacific, African, and European Theaters (101<sup>st</sup> Airborne and the 82<sup>nd</sup> Airborne 508 Parachute Division for example). Muwekma men served in Korea and Vietnam, and later Muwekma men and women served in Desert Storm, Iraq, and are still serving today.

As an anthropologist/archaeologist I was hired at San Jose State University in the Department of Anthropology in 1978 and I retired from the Dean's Office in the College of Social Sciences while still teaching in the Anthropology Department in 2019. I was the first anthropologist to work with the Muwekma Ohlone families since the last fluent speakers of the Tribe died in the 1930s. I also had the privileged of working on their petition for the restoration of their previously recognized status which the BIA on May 24, 1996, agreed that that Tribe was federally recognized and never terminated by any act of Congress. These facts were upheld in two federal court cases.

As I have worked with the Tribe over these past 44 years their vision of benefitting the public and school groups commenced early on while working with Austin Warburton from Santa Clara University, San Jose State University, and Stanford University faculty staff and student. They also worked to develop educational displays at Coyote Hills East Bay Regional Park District, the Los Gatos, the Campbell Historic, Los Altos Historic, Oakland, Pleasanton Museums, as well as recently working with the San Francisco Public Utilities Commission on their newly constructed Watershed educational facility by the Sunol Water Temple.

Much detailed information about the Muwekma Ohlone Tribe has been published, co-authored with various scholars from San Jose State, Stanford, Santa Clara, UC Davis, University of Illinois, University of Oklahoma, and other institutions of higher learning. Collectively, we have worked on their ancestral heritage sites throughout the greater SF Bay Area with one of them located at the old Holiday Inn Site now extended to the 200 and 180 Park Avenue Office locations, and another at a site located just to the west of the San Jose Airport where their ancestral remains and subsurface features have dated to 10,000 years ago.

In summary, the Muwekma Ohlone Tribe has sacrificed perhaps more than any other ethnic group, and not only basic social justice and dignity needs to be accorded to them as the only BIA continuously existing Ohlone Tribe of the San Francisco Bay Area.

Sincerely,

Alan Leventhal,  
Emeritus Faculty, Department of Anthropology, San Jose State University

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

MUWEKMA TRIBE,

Plaintiff,

v.

BRUCE BABBITT,,  
Secretary of the United States Department  
of the Interior, and

KEVIN GOVER,  
Assistant Secretary for Indian Affairs,  
United States Department of the Interior,

Defendants.

Civil Action No.: 99-3261 (RMU)

Document Nos.: 27, 28

**MEMORANDUM OPINION**

**Granting the Plaintiff's Motion to Amend the Court's Order**

**I. INTRODUCTION**

The Muwekma Tribe is a tribe of Ohlone Indians indigenous to the present-day San Francisco Bay area. In the early part of the Twentieth Century, the Department of the Interior ("DOF") recognized the Muwekma Tribe as an Indian tribe under the jurisdiction of the United States. In more recent times, however, and despite its steadfast efforts, the Muwekma Tribe has been unable to obtain federal recognition, a status vital for the Tribe and its members. Without federal recognition, the Tribe cannot receive the benefits of health care, housing, economic development, and self-governance that the United States provides to federally recognized tribes. *See* Pl.'s Mot. for Summ. J. at 2; 25 C.F.R. § 83.2.

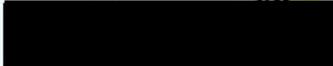


# United States Department of the Interior

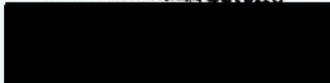


**BUREAU OF INDIAN AFFAIRS**  
Sacramento Area Office

IN REPLY REFER TO:



Ms. Dena Magdaleno



JAN 23 1998

Dear Ms. Magdeleno:

This is to acknowledge receipt of your letter dated December 16, 1997 and received in this office on December 22, 1997. Please accept our apologies for the delay in responding.

At your request, I am writing a letter of support for the Tsnungwe Council and the Muwekma Ohlone Tribe in their bid for Federal recognition. First let me state that the Bureau of Indian Affairs, Sacramento Area Office, is painfully conscious of the fact that California Indian tribes and their individual members have suffered numerous atrocities and inequities from the dominant culture through the hands of the United States Government and the State of California. To this day, those tribes who are fortunate to have Federal recognition status continue to suffer inequities in their share of Federal funds compared to funds received by similar tribes in other states. To that end, this office fully supports efforts by Indian groups such as the Tsnungwe Council and the Muwekma Ohlone Tribe in their bids for Federal recognition status.

Along with your request regarding the Tsnungwe Council, you provided a letter signed by the Acting Director, Office of Tribal Services, which acknowledged that you had established evidence that your ancestors were considered as parties to the 1864 Treaty. We concur with the Central Office of this finding and will support your bid for Federal recognition. I believe the Assistant Secretary - Indian Affairs has the administrative authority to reaffirm Federal status to your tribe.

Although the Central Office has noted that the 1851 Treaty did not provide conclusive evidence that the treaty did not establish clear evidence of Federal recognition of your ancestors, I am fully supportive of your efforts to establish "unambiguous" Federal recognition of your ancestral group as a tribal entity.

The Bureau of Indian Affairs, Sacramento Area Office, is ready to assist the Tsnungwe Council and the Muwekma Ohlone Tribe in seeking administrative Federal recognition on the basis your tribes were never terminated.

Sincerely,



Acting Area Director

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

MUWEKMA OHLONE TRIBE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	Civil Action No. 03-1231(RBW)
DIRK KEMPTHORNE, <sup>1</sup>	)	
Secretary of the Interior, <u>et al.</u> ,	)	
	)	
Defendants.	)	
	)	

**MEMORANDUM OPINION**

The Muwekma Ohlone Tribe (“Muwekma,” “the Tribe,” or “the plaintiff”)<sup>2</sup> brings this action under the United States Constitution and the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 554, 701-706 (2000), seeking review of the “Final Determination Against Federal Acknowledgment of the Muwekma Ohlone Tribe” (“Final Determination”), 67 Fed. Reg. 58,631 (2002), issued by the Department of the Interior (“DOI” or “the Department”),<sup>3</sup> which declined to

---

<sup>1</sup> Pursuant to Federal Rule of Civil Procedure 25(d)(1), the Court has substituted the Secretary of the Interior, Dirk Kempthorne, for the former Secretary, Gale Norton, as a defendant in this action.

<sup>2</sup> As a matter of convenience, and in accordance with both parties’ pleadings, the Court will at times throughout this Opinion refer to the plaintiff as “the Tribe.” See Complaint ¶ 1; Answer at 2 n.2. The Court notes, however, that the plaintiff’s status as a Native American tribe within the meaning of the federal acknowledgment criteria is the primary point of contention in this litigation. See Morton v. Mancari, 417 U.S. 535, 553 & n.24 (1974) (stating that for the purposes of federal recognition tribal status is a political rather than racial classification). Accordingly, the Court’s reference to the plaintiff as “the Tribe” is not intended to suggest that the plaintiff is, or should be, entitled to federal tribal recognition.

<sup>3</sup> The named defendants are (1) Gale Norton, in her official capacity as the Secretary of the Interior (“Secretary”); (2) Aurene Martin, in her capacity as the Acting Assistant Secretary for Indian Affairs; and (3) the Department of the Interior (collectively “the defendants”). As noted supra, Dirk Kempthorne has been substituted for Gale Norton pursuant to Rule 25(d)(1). In addition, Aurene Martin is no longer the Acting Assistant Secretary for Indian Affairs, and the position is currently vacant.

grant federal recognition to Muwekma as a Native American tribe pursuant to the acknowledgment criteria of 25 C.F.R. § 83 (2006) ("Part 83"). Complaint ("Compl.") ¶ 1. Specifically, Muwekma contends, inter alia, that the Department violated the Equal Protection Clause and the APA by requiring it to undergo the Part 83 acknowledgment procedures while allowing similarly situated tribal petitioners to bypass these procedures altogether. Compl. ¶¶ 37-39; Points and Authorities in Support of Plaintiff's Motion for Summary Judgment ("Pl.'s Mem.") at 22-30. Currently before the Court are the parties' cross-motions for summary judgment.<sup>4</sup> For the reasons set forth below, the Court denies both parties' motions without prejudice and directs the Department to supplement the administrative record.

### I. Background

The following facts are not in dispute. Muwekma is a group of American Indians indigenous to the San Francisco Bay area, the members of which are direct descendants of the historical Mission San Jose Tribe, also known as the Pleasanton or Verona Band of Alameda County ("the Verona Band"). Pl.'s Mem. at 4; Defs.' Mem. at 5; Answer at 6. From 1914 to 1927, the Verona Band was recognized by the federal government as an Indian tribe. Pl.'s Mem. at 4-5; Defs.' Mem. at 5; Answer at 12-13. Neither Congress nor any executive agency ever formally withdrew federal recognition of the Verona Band. Pl.'s Mem. at 5; Answer at 14.

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<sup>4</sup> The following papers have been submitted in connection with these motions: (1) Points and Authorities in Support of Plaintiff's Motion for Summary Judgment ("Pl.'s Mem."); (2) Memorandum in Support of Defendants' Cross-Motion for Summary Judgment and Response in Opposition to Plaintiffs' Motion for Summary Judgment ("Defs.' Mem."); (3) Reply Brief in Support of Plaintiff's Motion for Summary Judgment and Opposing Defendants' Motion for Summary Judgment ("Pl.'s Opp."); (4) Reply Memorandum in Support of Defendants' Cross-Motion for Summary Judgment ("Defs.' Reply"); (5) Plaintiff's Notice of Supplemental Authority ("Pl.'s Not."); (6) Defendants' Response to Plaintiff's Filing of Supplemental Authority ("Defs.' Resp."); (7) Plaintiff's Second Notice of Supplemental Authority ("Pl.'s Second Not."); (8) Defendants' Response to Plaintiff's Second Notice of Supplemental Authority ("Defs.' Second Resp."); and (9) Plaintiff's Reply in Support of Second Notice of Supplemental Authority ("Pl.'s Reply to Second Resp.").



**CRUZ M. BUSTAMANTE**  
Lieutenant Governor  
State of California

August 29, 2002

The Honorable Neal McCaleb  
Assistant Secretary-Indian Affairs  
United States Department of the Interior  
[REDACTED]

Dear Secretary McCaleb:

I write to urge you to support Petition #111 by the Muwekma Ohlone Tribe for reaffirmation of Federal Acknowledgement.

The Muwekma Ohlone Tribe meets all of the criteria for reaffirmation set by the court as well as the Bureau of Indian Affairs' acknowledgement criteria. The tribe is a previously recognized tribe. It has demonstrated that it has had a trust relationship with the United States from 1906 to the present and Congress has never terminated their relationship.

The tribe's members descend from an historical Indian tribe and they are not members of any other Federally-recognized tribe.

After compiling data and completing extensive research, the Muwekmas have presented a compelling case for the tribe's Federal Acknowledgement. I respectfully urge you and the Bureau of Indian Affairs to carefully review their Petition.

Sincerely,

[REDACTED]  
**CRUZ M. BUSTAMANTE**  
Lieutenant Governor

cc: The Honorable Aurene Martin, Deputy Assistant Secretary-Indian Affairs

CMB:BM/mb082902

[REDACTED] • Phone [REDACTED]

• Fax [REDACTED]

**Extension of Remarks  
Representative Zoe Lofgren  
July 25, 2002**

The Muwékma Ohlone Indian Tribe is a sovereign Indian Nation located within several counties in the San Francisco Bay Area since time immemorial.

In 1906, the Tribe was formally identified by the Special Indian Census conducted by Indian Agent C.E. Kelsey, as a result of the Congressional Appropriation Act mandate to identify and to purchase land for the landless and homeless California Indian tribes.

At this time, the Department of Interior and the Bureau of Indian Affairs federally acknowledged the Verona Band as coming under the jurisdiction of the Reno and Sacramento Agencies between 1906 and 1927.

The Congress of the United States also recognized the Verona Band pursuant to Chapter 14 of Title 25 of the United States Code, which was affirmed by the United States Court of Claims in the Case of Indians of California v. United States (1942) 98 Ct. Cl.583.

The Court of Claims case judgment instructed the identification of the Indians of California with the creation of Indian rolls. The direct ancestors of the present-day Muwékma Ohlone Tribe participated in and enrolled under the 1928 California Indian Jurisdictional Act and the ensuing Claims Settlement of 1944 with the Secretary of the Interior approving all of their enrollment applications.

Meanwhile, as a result of inconsistent federal policies of neglect toward the California Indians, the government breached the trust responsibility relationship with the Muwékma tribe and left the Tribe landless and without either services or benefits. As a result, the Tribe has suffered losses and displacement. Despite these hardships the Tribe has never relinquished their Indian tribal status and their status was never terminated.

In 1984, in an attempt to have the federal government acknowledge the status of the Tribe, the Muwékma Ohlone people formally organized a tribal council in conformance with the guidelines under the Indian Reorganization Act of 1934.

In 1989, the Muwékma Ohlone Tribal leadership submitted a resolution to the Bureau of Indian Affairs Branch of Acknowledgement and Research with the intent to petition for Federal acknowledgement. This application is known as Petition #111. This federal process is known to take many years to complete.

Simultaneously, in the 1980's and 1990's, the United States Congress recognized the federal government's neglect of the California Indians and directed a Commission to study the history and current status of the California Indians and to deliver a report with recommendations. In the late 1990's the Congressional mandated report - the California

Advisory Report, recommended that the Muwekma Ohlone Tribe be reaffirmed to its status as a federally recognized tribe along with five other Tribes, the Dunlap Band of Mono Indians, the Lower Lake Koi Tribe, the Tamungwe Council, the Southern Sierra Miwuk Nation, and the Tolowa Nation.

On May 24, 1996, the Bureau of Indian Affairs pursuant to the regulatory process then issued a letter to the Muwekma Ohlone Tribe concluding that the Tribe was indeed a Federally Recognized Tribe.

In an effort to reaffirm their status and compel a timely decision by the Department of the interior, the Muwekma Ohlone Tribe sued the Bureau of Indian Affairs. The Court has mandated that the Department issue a decision this year. That decision is expected in early August.

Specifically, on July 28, 2000, and again on June 11, 2002, Judge Ricardo Urbina wrote in his Introduction of his Memorandum Opinion Granting the Plaintiff's Motion to Amend the Court's Order (July 28, 2002) and Memorandum Order Denying the Defendant's to Alter or Amend the Court's Orders (June 11, 2002) affirmatively stating that:

**"The Muwekma Tribe is a tribe of Ohlone Indians indigenous to the present-day San Francisco Bay area. In the early part of the Twentieth Century, the Department of the Interior ("DOI") recognized the Muwekma tribe as an Indian tribe under the jurisdiction of the United States." (Civil Case No. 99-32671 RMU D.D.C.)**

I proudly support the long struggle of the Muwekma Ohlone Tribe as they continue to seek justice and to finally, and without further delay, achieve their goal of their reaffirmation of their tribal status by the federal government. This process has dragged on long enough. I hope that the Bureau of Indian Affairs and the Department of Interior will do the right thing and act positively to grant the Muwekma Ohlone Tribe their rights as a Federally Recognized Indian Tribe. The Muwekma Ohlone Tribe has waited long enough; let them get on with their lives as they seek to improve the lives of the members of this proud tribe. To do anything else is to deny this Tribe Justice. They have waited patiently and should not have to wait any longer.

H.L.C.  
[DRAFT]

April 13, 2000  
106th CONGRESS  
2nd Session  
H. R. \_\_\_\_

IN THE HOUSE OF REPRESENTATIVES

Mr. George Miller of California introduced the following bill; which was referred to the Committee on \_\_\_\_\_

A BILL

To restore Federal recognition to certain California Indian tribes, address the special land needs of the California Indians, establish equitable treatment of California Indians in the programs and services of the Bureau of Indian Affairs, develop adequate California tribal justice systems, and for other purposes.  
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

- (a) Short Title.--This Act may be cited as the "California Indian Act of 2000".
- (b) Table of Contents.--The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purpose.
- Sec. 3. Policy.
- Sec. 4. Definitions.

TITLE I--RESTORATION OF TERMINATED CALIFORNIA INDIAN TRIBES

- Sec. 101. Definitions.
- Sec. 102. Restoration of Federal recognition, rights, and privileges of the Tribes.
- Sec. 103. Economic development.
- Sec. 104. Transfer of land to be held in trust.
- Sec. 105. Membership rolls.
- Sec. 106. Interim government.
- Sec. 107. Tribal constitution.

## TITLE VII--MISCELLANEOUS PROVISIONS

Sec. 701. Contract authority.

Sec. 702. Certain land and facilities held in trust for the California Indians.

Sec. 703. Savings provisions.

### SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.--Congress finds that--

(1) the Advisory Council on California Indian Policy, pursuant to the Advisory Council on California Indian Policy Act of 1992 (Public Law 10209416; 25 U.S.C. 651 note), submitted its proposals and recommendations regarding remedial measures to address the special status of California's terminated and unacknowledged Indian tribes and the needs of California Indians relating to economic self-sufficiency, health, and education;

(2) in the Advisory Council on California Indian Policy Extension Act of 1998 (Public Law 10509294), the Congress directed the Council to work with the Congress, the Secretaries of the Interior and Health and Human Services, and the California Indian tribes to implement the Council's proposals and recommendations contained in its report to Congress, including presenting draft legislation to Congress for implementation of the recommendations requiring legislative changes.

(3) California Indian tribes cannot effectively exercise sovereignty or self-determination without a land base large enough to develop economically and provide for the basic needs of tribal members, including adequate housing, employment, and social welfare services;

(4) as a result of their uniquely tragic history, California Indian tribes do not have a land base that is adequate to meet their immediate and essential needs for housing, economic development, and cultural and natural resource protection and preservation;

(5) although a large number of California Indian tribes negotiated 18 treaties with the United States in the early 1850's that would have set aside approximately 8,500,000 acres as their tribal homelands, the United States Senate failed to ratify these treaties;

(6) the Senate's failure to ratify the California Indian treaties, in conjunction with Congress' passage of the 1851 Land Claims Act which required those claiming interests in California lands to file their claim within 2 years or forever forfeit such claim, denied California Indians any legally cognizable claim to their ancestral lands;

(7) most California Indians were rendered homeless by these Federal actions, a situation that remained unremedied for many years until the United States

and early 1860's by military and volunteer patrols that resulted either in their death, removal to the Hoopa Valley Reservation or hiding in the hills. However, a few years later the Tsnungwe returned to their aboriginal lands where they have remained ever since.

(4) The Muwekma are the aboriginal inhabitants of the southern, eastern, and western regions of the San Francisco Bay Area, including all of what is now San Francisco, San Mateo, Alameda, and Contra Costa Counties, much of what is now Santa Clara County, and parts of Santa Cruz, San Joaquin, Napa, and Solano Counties. The Muwekma Indians are from the following aboriginal tribes: Passasimi/Yatikumne, Tamcan, Josemite, Lacquisemne, Julpun, Napian/Karkin, Jalquin/Yrgin, Alson/Tamien, Suenen, Chupcan, Choquoime, and Nototomne. Spanish missionaries forced the ancestors of the Muwekma Tribe into the Missions Dolores, San Jose, and Santa Clara in the late 18th and early 19th centuries. In the 1830's the Mexican Government secularized the missions and distributed their lands. Many Muwekma left the missions and resettled in other parts of the Bay Area, including on 20a number of rancherias in Alameda County, including the Alisal Rancheria near Pleasanton, the Del Mocho Rancheria in Livermore, the El Molino Rancheria in Niles, as well as on rancherias in Sunol and San Leandro/San Lorenzo until the early part of the 20th century. The Muwekma people continue to reside in their aboriginal territory in the San Francisco Bay Area.

(5) The Tolowa are the aboriginal inhabitants of the present day county of Del Norte, located in the northwestern corner of California. In this area, their villages were scattered along the coastline, at the Lakes Earl and Tolowa, and along the larger tributaries of the Smith and Winchuck Rivers. The Tolowa signed a treaty with the United States on August 17, 1857, and were removed to the Klamath Reservation that same year. They were subsequently moved to the Smith River Reserve until it was discontinued on May 3, 1862, and thereafter moved several more times, including to the Siletz Indian Reservation in Oregon and to the Round Valley, Hoopa, and Klamath Reservations in California. Documents of the Bureau of Indian Affairs from 1915 through 1916 show that 100 acres of land was to be purchased for the Lake Earl (Tolowa) Indians and the Lipps-Michaels Survey of Landless Nonreservation Indians of California, 1919091920, confirms such a purchase of 100 acres of undivided land near Crescent City, Del Norte County, for these Indians.

(6) The Southern Sierra Miwuk Nation is composed of several bands or groups of Indians of the Yosemite/Mariposa area. These bands or groups are mentioned in countless official letters and journals of the United States Commissioners who were charged by Congress to negotiate treaties with the California Indian tribes during the period 1851091852. The first treaty camp was Camp Fremont, just northwest of Mariposa, California. The second treaty camp was Camp Barbour, south of Mariposa in the Millerton Lake area. Some of the Southern Sierra Miwuk bands or groups that signed the treaties or were mentioned in the



# United States Department of the Interior



BUREAU OF INDIAN AFFAIRS

Washington, D.C. 20240

IN REPLY REFER TO:

Tribal Government Services - AR  
W77 4641-MIB

MAY 24 1996

Ms. Rosemary Cambra  
[REDACTED]

Dear Ms. Cambra:

The Branch of Acknowledgment and Research has reviewed documentation submitted by the Muwekma to demonstrate previous acknowledgment. The purpose of this research is to determine whether the Muwekma can utilize section 83.8 of the acknowledgment regulations by demonstrating previous Federal acknowledgment in the 20th century.

If a petitioner can demonstrate past acknowledgment, the requirements to be acknowledged are reduced, in accord with section 83.8(d). A previously acknowledged petitioner need only demonstrate tribal existence from the point of last Federal acknowledgment. Further, the demonstration of tribal existence between last acknowledgment and the present-day community requires only a demonstration of criterion 83.7(c), using a reduced burden of evidence. The petitioner must still show that modern-day group meets the full requirements of criteria 83.7(b) and (c). Tribal ancestry under criterion 83.7(e) must still be shown, tracing from the group at the point of last Federal acknowledgment or earlier.

A determination of previous acknowledgment has two general elements. One is to show a past Federal action which constitutes unambiguous Federal acknowledgment. The second is to establish on a preliminary basis that the present group is the same as or has evolved from the group as it existed at the point of last acknowledgment.

Based on the documentation provided, and the BIA's background study on Federal acknowledgment in California between 1887 and 1933, we have concluded on a preliminary basis that the Pleasanton or Verona Band of Alameda County was previously acknowledged between 1914 and 1927. The band was among the groups, identified as bands, under the jurisdiction of the Indian agency at Sacramento, California. The agency dealt with the Verona Band as a group and identified it as a distinct social and political entity. The band was among the bands proposed by a Special California Indian agent in 1914 for homesite land under the appropriations for homeless California Indians which began in 1906. In 1928, the band was again

identified under the land purchase program, but this review was that a homesite was not required.

The Muwekma have also established, on a preliminary basis, that it is the same group as the band identified between 1914 and 1927. Consequently, the Muwekma may complete their petition documentation based on section 83.8 of the regulations, tracing the group's existence from 1927 to the present.

This letter is a determination of eligibility to be evaluated under section 83.8, not a determination that the Muwekma meet the requirements of the acknowledgment regulations, section 83.7, as modified for previously acknowledged groups by section 83.8. That determination will be made during the active consideration of the Muwekma petition.

While we have endeavored to make this determination as conclusive as possible, you should be aware that a determination of the point of last Federal acknowledgment under 83.8 is subject to review during the preparation of the proposed finding, as well as to challenge and review in the final determination comment process and any reconsideration, in the same manner as any other question bearing on a determination concerning acknowledgment.

This letter constitutes only a portion of the results of the technical assistance review of the documented Muwekma petition. The technical assistance review will be conducted based on the this determination of previous acknowledgment. We expect to provide the balance of the review within a short time.

Sincerely,

/SGD/ DEBORAH J. MADDOX

Director, Office of Tribal Services

cc: Al Logan Slagle  
Dena Magdaleno

Surname; 440B; 440 Chron; 400; Hold; Roth:gr; x3592; 5/6/96;  
muwekprv.ltr; transmit 7; ret:jac 05-10-96

## FW: Muwekma Ohlone Tribe Letter of Support

City Clerk <city.clerk@sanjoseca.gov>

Fri 9/13/2024 8:05 AM

To: Agendadesk <Agendadesk@sanjoseca.gov>

 1 attachments (307 KB)

Muwekma Ohlone Tribe Letter of Support.pdf;

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**From:** George Galvis [REDACTED]  
**Sent:** Thursday, September 12, 2024 10:27 PM  
**To:** City Clerk <city.clerk@sanjoseca.gov>  
**Subject:** Muwekma Ohlone Tribe Letter of Support

[External Email]

You don't often get email from [REDACTED] [Learn why this is important](#)  
To Whom It May Concern,

Please refer to the attached letter below intended for Mayor Matt Mahan and the City Council members.



**George Galvis**

*he / him / his*

Executive Director

 [Social icon](#)  [Social icon](#)  [Social icon](#)

#DreamBeyondBars

Llahtakunah atipayninwanqa, tihsimuyuta kuyuchisunchismi.  
Con el poder de los pueblos moveremos el mundo.  
With the power of the people we will move the world.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.



September 12, 2024

City of San Jose City Council  
c/o: Mayor Matt Mahan  
200 E. Santa Clara St.  
San Jose, CA 95113

Dear Council Members:

My name is George Galvis, Executive Director at Communities United for Restorative Youth Justice (CURYJ). CURYJ (pronounced 'courage') unlocks the leadership of young people to dream beyond bars. We look to young people to lead the way in transforming our communities by investing in their healing, aspirations, and activism.

I am writing this letter deeply concerned about the federal government's continued political erasure of wrongly unrecognized indigenous communities across the United States. We are particularly concerned about the situation of the Muwekma Ohlone Tribe in California, which is the only tribe in the United States to have received a determination from your Bureau of Indian Affairs as being "previously unambiguously recognized" but remains excluded from the Bureau's official list of recognized tribes.

The Muwekma Ohlone Tribe was previously federally recognized as the Verona Band of Alameda County, and it was never terminated by an act of Congress. One-hundred-percent of the tribe's current members are direct descendants of that previously recognized tribe. A federal district court judge in the Northern District of California found that the tribe retains its sovereign immunity despite not being on the BIA's list. The Tribe is composed of all of the known surviving American Indian lineages aboriginal to the San Francisco Bay region who trace their ancestry through the Missions Dolores, Santa Clara, and San Jose. Additionally, an enormous body of genealogical and anthropological records conclude that the Muwekma Ohlone Tribe is aboriginal to several Bay Area counties including: Santa Clara, San Francisco, San Mateo, Alameda, Contra Costa, and portions of Napa, Santa Cruz, Solano, and San Joaquin. Three other similarly situated tribes in California were reaffirmed through a special process known as 'administrative corrective action'. Ione Band of Miwok, Lower Lake Rancheria, and the Tejon

Tribe were previously federally recognized, never terminated, and wrongly excluded from the BIA's in 1978. The facts are clear and the Muwekma should be afforded the same treatment. Additional corrective action is required by your government, which is already extremely out of compliance with the United Nations Declaration on the Rights of Indigenous People (UNDRIP).

It has been very clear to international indigenous rights groups that the United States regularly and structurally violates the inherent rights of indigenous people and their governments. This is certainly the case with regard to the Muwekma Ohlone, and we ask that you respond to their request for administrative corrective action. The Muwekma Ohlone should be added to the BIA's list of federally recognized tribes immediately.

As you know, restoring the federal status of the Muwekma Ohlone Tribe is of enormous consequence for the Muwekma Ohlone people, who will materially benefit from federal acknowledgement, not just as matter of affirming the tribe's capacity to self-govern, but with newfound access to federal programs intended to help Indian communities lift themselves up. Access to services such as federal tuition assistance & financial aid, low interest lending and grant programs, Indian Health service and health insurance coverage limited to members of federally recognized tribes, and the National Eagle Feather Repository at the US Fish and Wildlife Service, are imperative for the continued survival of the tribe. Gentrification pressures in the Bay Area threaten to push the Tribe's young people off of their 10,000-year homeland. The Tribe badly needs the capacity to take land into trust to build housing for their people, which is only something that federally recognized tribes have the ability to pursue.

To make matters even worse, the Native American Graves Protection Act continues to restrict institutions from repatriation of ancestral remains and burial objects to unrecognized Tribes – despite all of the DNA evidence in the world that conclusively links these ancestors to the Tribe. Thus, UC Berkeley can't return the tens of thousands of their ancestors and hundreds of thousands of burial objects that it stores in its basement. The Tribe has been working for four decades to return their ancestors to final rest. It's beyond time.

This justice has been too long delayed, and the City Council should begin the work of reconciliation with its indigenous people.

This resolution of support is the very least that you can do.

In community,



George Galvis  
Executive Director



## FW: SJ City Council - Resolution on Federal Recognition for the Muwekma Ohlone Tribe

City Clerk <city.clerk@sanjoseca.gov>

Mon 9/16/2024 7:54 AM

To:Agendadesk <Agendadesk@sanjoseca.gov>

 1 attachments (86 KB)

Muwkema\_Ohlone\_LetterOfSupport.pdf;

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**From:** Lee Panich <[REDACTED]>

**Sent:** Friday, September 13, 2024 5:20 PM

**To:** City Clerk <city.clerk@sanjoseca.gov>

**Subject:** SJ City Council - Resolution on Federal Recognition for the Muwekma Ohlone Tribe

[External Email]

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Hello,

Unfortunately, I will not be able to attend the San Jose City Council Meeting on September 17 to make a public comment. I would like to submit the attached letter urging the council to approve the Resolution on Federal Recognition for the Muwekma Ohlone Tribe.

Thank you,

Lee

Lee M. Panich  
Professor and Chair  
Department of Anthropology  
Santa Clara University  
[REDACTED]

[Archaeologies of Indigenous Presence \(University Press of Florida, 2022\)](#)

Santa Clara University occupies the unceded territory of the Ohlone people. Learn more [here](#).

This message is from outside the City email system. Do not open links or attachments from untrusted sources.



San Jose City Council

September 13, 2024

Dear Council Members,

I am writing to urge you to approve the **Resolution on Federal Recognition for the Muwekma Ohlone Tribe**. This action sends the message that the City of San Jose supports the Indigenous residents on whose land we live and work. Though there are other voices in the local Native community, the Muwekma Ohlone Tribe is the largest tribal entity in the San Francisco Bay area and represents multiple surviving lineages whose ancestors were associated with Mission San José, Mission Santa Clara, and Mission San Francisco de Asís.

As an archaeologist and historical anthropologist with more than twenty years of experience working in the Bay Area, I have reviewed mountains of evidence that supports the Muwekma Ohlone Tribe's enduring connection to their ancestral homelands. This connection includes DNA evidence conclusively linking present-day tribal members to ancestors who lived near Sunol—only a few miles from San Jose—hundreds of years before the arrival of Europeans to this area. The tribe has also been involved in research on more ancient ancestral sites in and around San Jose that date up to 10,000 years ago. Some of these sites are only a few blocks from where you are meeting in San Jose City Hall.

My own research centers on the Spanish mission period and its aftermath. I have personally reviewed baptismal, marriage, and death records from Mission Santa Clara and Mission San José that include individuals who are direct lineal ancestors of present-day members of the Muwekma Ohlone Tribe. In my most recent research, I have examined documents from History San José—our city's own archives—that include detailed testimonies from multiple ancestors of the Muwekma Ohlone Tribe who were involved in court cases in the 1840s and 1850s, during the collapse of the mission system. These men include Zenon Patcha, Habencio Zapais, Liberato, Leopardo, Aniceto, and Silvestre, among many, many others. These men and their families were living in and around the Pueblo of San José, and were trying by any means necessary to maintain connections to their ancestral homelands as colonists stole their land and property.

Many 21<sup>st</sup>-century residents of our city do not know this history, but we all continue to benefit from the historical dispossession and erasure of the Indigenous residents of this region. We owe it to their descendants to support the restoration of the Muwekma Ohlone as a federally recognized tribe. While I cannot be present in person today, I urge you to support this resolution.

Sincerely,

[REDACTED]

Dr. Lee Panich  
Professor and Chair  
Department of Anthropology  
Santa Clara University

[REDACTED]

## FW: Letter of Support re Resolution on Federal Recognition for Muwekma Ohlone Tribe

City Clerk <city.clerk@sanjoseca.gov>

Mon 9/16/2024 2:07 PM

To:Agendadesk <Agendadesk@sanjoseca.gov>

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**From:** Indigenous Solidarity [REDACTED]

**Sent:** Monday, September 16, 2024 1:59 PM

**To:** The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>

**Subject:** Letter of Support re Resolution on Federal Recognition for Muwekma Ohlone Tribe

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c/o Mayor Matt Mahan  
City of San José City Council  
200 E. Santa Clara St.  
San José, CA 95113

September 16, 2024

Honorable Mayor Mahan and City of San José Council Members,

The Membership of the San José-based grassroots organization *South Bay Indigenous Solidarity*, hereby writes to express our strong support for the Resolution Declaring the City of San José's Support toward Federal Recognition of the *Muwekma Ohlone Tribe of the San Francisco Bay Area* at the upcoming City Council meeting. *South Bay Indigenous Solidarity* is a multi-ethnic group that supports Indigenous-led, grassroots efforts to promote human rights, restore Indigenous land stewardship and preserve threatened cultural, burial, and sacred sites.

We rise united in solidarity with the *Muwekma Ohlone Tribe of the San Francisco Bay Area* in their rightful pursuit of Federal recognition, which was unjustly unilaterally stripped from the Tribe (previously known as the *Verona Band*) in 1928 by the *Bureau of Indian Affairs*, without reference to or input from the United States

Congress. The Muwekma Ohlone people have continuously resided in this region, maintaining deep cultural and Ancestral ties to their lands. Despite having undeniable historical and genealogical documentation affirming their status as descendants of the previously recognized *Verona Band*, the Tribe remains excluded from the Federal list of Recognized Tribes. This exclusion is a stark injustice that has been perpetuated for far too long.

As an organization committed to amplifying Indigenous voices and addressing historical wrongs, we strongly urge the *City of San José* to adopt this resolution of support for Federal recognition. Doing so would align the City's actions with its equity goals and demonstrate a commitment to justice for Indigenous communities upon whose unceded lands the *City of San José* exists. Federal recognition of the *Muwekma Ohlone Tribe* is essential for restoring Tribal Members' inherent human rights, including access to federal services, housing programs, and healthcare, which are vital for the Tribe's survival in an increasingly gentrified Bay Area.

The Muwekma Ohlone have waited nearly a century for justice, and it is now incumbent upon our local governments to support their efforts to secure the rights and recognition they deserve. As residents of the South Bay, we believe that Federal recognition is a necessary step toward healing historical wounds and establishing meaningful relationships between United States government authorities and the Peoples indigenous to the Bay Area.

We respectfully ask the *San José City Council* to take action in support of this Resolution to Restore the Federal Recognition of the *Muwekma Ohlone Tribe of the San Francisco Bay Area*.

Thank you for your attention to this important matter. We hope that the *City of San José* will decide to be on the right side of history by advancing this resolution.

Sincerely,

The Membership of South Bay Indigenous Solidarity



***South Bay Indigenous Solidarity is a multi-ethnic group that supports Indigenous-led, grassroots efforts to promote human rights, restore Indigenous land stewardship and preserve threatened cultural, burial, and sacred sites. Our current focus is supporting the Amah Mutsun Tribal Band's effort to protect Juristac, an area of immense cultural, historical, environmental, and spiritual importance.***

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## FW: Muwekma Ohlone Federal Tribe Recognition - Public Comment

City Clerk <city.clerk@sanjoseca.gov>

Mon 9/16/2024 2:48 PM

To:Agendadesk <Agendadesk@sanjoseca.gov>

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**From:** Natalie De La Cruz [REDACTED]  
**Sent:** Monday, September 16, 2024 2:16 PM  
**To:** City Clerk <city.clerk@sanjoseca.gov>  
**Subject:** Muwekma Ohlone Federal Tribe Recognition - Public Comment

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September 16, 2024

City of San Jose City Council  
c/o: Mayor Matt Mahan  
200 E. Santa Clara St.  
San Jose, CA 95113

Dear Council Members:

We write to you deeply concerned about the federal government's continued political erasure of wrongly unrecognized indigenous communities across the United States. We are particularly concerned about the situation of the Muwekma Ohlone Tribe in California, which is the only tribe in the United States to have received a determination from your Bureau of Indian Affairs as being "previously unambiguously recognized" but remains excluded from the Bureau's official list of recognized tribes.

The facts are clear and corrective action is required by your government, which is already wildly out of compliance with the United Nations Declaration on the Rights of Indigenous People (UNDRIP):

- The Muwekma Ohlone Tribe was previously federally recognized as the Verona Band of Alameda County, and it was never terminated by an act of Congress. One-hundred-percent of the tribe's current members are direct descendants of that previously recognized tribe.
- A federal district court judge in the Northern District of California found that the tribe retains its sovereign immunity despite not being on the BIA's list.
- A seven-year genomic study conducted by Stanford University and the University of Illinois conclusively links each member of the Muwekma Ohlone Tribal Council and its eleven core lineages to a 2,500 year old burial site in San Francisco.
- The Tribe is comprised of all of the known surviving American Indian lineages aboriginal to the San Francisco Bay region who trace their ancestry through the Missions Dolores, Santa Clara, and San Jose.
- An enormous body of genealogical and anthropological records conclude that the Muwekma Ohlone Tribe is aboriginal to several Bay Area counties including: Santa Clara, San Francisco, San Mateo, Alameda, Contra Costa, and portions of Napa, Santa Cruz, Solano, and San Joaquin.
- Three other similarly situated tribes in California were reaffirmed through a special process known as 'administrative corrective action'. Ione Band of Miwok, Lower Lake Rancheria, and the Tejon Tribe were previously federally recognized, never terminated, and wrongly excluded from the BIA's in 1978. Muwekma should be afforded the same treatment.

It has been very clear to international indigenous rights groups that the United States regularly and structurally violates the inherent rights of indigenous people and their governments. This is certainly the case with regard to the Muwekma Ohlone, and we ask that you respond to their request for administrative corrective action. The Muwekma Ohlone should be added to the BIA's list of federally recognized tribes immediately.

As you know, restoring the federal status of the Muwekma Ohlone Tribe is of enormous consequence for the Muwekma Ohlone people, who will materially benefit from federal acknowledgement, not just as matter of affirming the tribe's capacity to self-govern, but with newfound access to federal programs intended to help Indian communities lift themselves up:

- Access to federal tuition assistance and financial aid that is intended for members of federally recognized tribes;
- Access to low interest lending and grant programs that support tribal housing authorities and programs that intend to reduce homelessness and overcrowding;
- Access to the Indian Health Service and health insurance coverage that is limited to members of federally recognized tribes;
- Access to the National Eagle Feather Repository at the US Fish and Wildlife Service, so that we can access eagle feathers for our ceremonial and religious use, which is limited to federally recognized tribes.

Access to these services is imperative for the continued survival of the Tribe. Gentrification pressures in the Bay Area threaten to push the Tribe's young people off of their 10,000-year homeland. The Tribe badly needs the capacity to take land into trust to build housing for their people, which is only something that federally recognized tribes have the ability to pursue.

Making the situation even worse is the Native American Graves Protection Act, which restricts institutions from repatriating ancestral remains and burial objects to unrecognized Tribes – despite all of the DNA evidence in the world that conclusively links these ancestors to the Tribe. But UC Berkeley can't return the tens of thousands of their ancestors and hundreds of thousands of burial objects that it stores in its basement. The Tribe has been working for four decades to return their ancestors to final rest. It's beyond time.

This justice has been too long delayed, and the City Council should begin the work of reconciliation with its indigenous people.

This resolution of support is, literally, the very least that you can do.

Respectfully,

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## FW: Public Comment on Federal recognition for Muwekma Ohlone Nation

City Clerk <city.clerk@sanjoseca.gov>

Mon 9/16/2024 2:48 PM

To:Agendadesk <Agendadesk@sanjoseca.gov>

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**From:** Malinalli Milian Diaz <[REDACTED]>  
**Sent:** Monday, September 16, 2024 2:18 PM  
**To:** City Clerk <city.clerk@sanjoseca.gov>  
**Subject:** Public Comment on Federal recognition for Muwekma Ohlone Nation

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September 17, 2024

City of San Jose City Council  
c/o: Mayor Matt Mahan  
200 E. Santa Clara St.  
San Jose, CA 95113

Dear Council Members:

I write to you deeply concerned about the federal government's continued political erasure of wrongly unrecognized Indigenous communities across the United States. I am particularly concerned about the situation of the Muwekma Ohlone Tribe in California, which is the only tribe in the United States to have received a determination from your Bureau of Indian Affairs as being "previously unambiguously recognized" but remains excluded from the Bureau's official list of recognized tribes.

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- A federal district court judge in the Northern District of California found that the tribe retains its sovereign immunity despite not being on the BIA's list.
- A seven-year genomic study conducted by Stanford University and the University of Illinois conclusively links each member of the Muwekma Ohlone Tribal Council and its eleven core lineages to a 2,500 year old burial site in San Francisco.
- The Tribe is comprised of all of the known surviving American Indian lineages aboriginal to the San Francisco Bay region who trace their ancestry through the Missions Dolores, Santa Clara, and San Jose.
- An enormous body of genealogical and anthropological records conclude that the Muwekma Ohlone Tribe is aboriginal to several Bay Area counties including: Santa Clara, San Francisco, San Mateo, Alameda, Contra Costa, and portions of Napa, Santa Cruz, Solano, and San Joaquin.

- Three other similarly situated tribes in California were reaffirmed through a special process known as ‘administrative corrective action’. Lone Band of Miwok, Lower Lake Rancheria, and the Tejon Tribe were previously federally recognized, never terminated, and wrongly excluded from the BIA’s in 1978. Muwekma should be afforded the same treatment.

It has been very clear to international Indigenous rights groups that the United States regularly and structurally violates the inherent rights of Indigenous people and their governments. This is certainly the case with regard to the Muwekma Ohlone, and I ask that you respond to their request for administrative corrective action. The Muwekma Ohlone should be added to the BIA’s list of federally recognized tribes immediately.

As you know, restoring the federal status of the Muwekma Ohlone Tribe is of enormous consequence for the Muwekma Ohlone people, who will materially benefit from federal acknowledgement, not just as matter of affirming the tribe’s capacity to self-govern, but with newfound access to federal programs intended to help Indian communities lift themselves up:

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Access to these services is imperative for the continued survival of the Tribe. Gentrification pressures in the Bay Area threaten to push the Tribe’s young people off of their 10,000-year homeland. The Tribe badly needs the capacity to take land into trust to build housing for their people, which is only something that federally recognized tribes have the ability to pursue.

Making the situation even worse is the Native American Graves Protection Act, which restricts institutions from repatriating ancestral remains and burial objects to unrecognized Tribes – despite all of the DNA evidence in the world that conclusively links these ancestors to the Tribe. But UC Berkeley can’t return the tens of thousands of their ancestors and hundreds of thousands of burial objects that it stores in its basement. The Tribe has been working for four decades to return their ancestors to final rest. It’s beyond time.

This justice has been too long delayed, and the City Council should begin the work of reconciliation with its indigenous people.

This resolution of support is, literally, the very least that you can do.

In community,  
Malinalli M. Diaz

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# FW: Organization Letter in support of Agenda Item 3.4 (Resolution on Federal Recognition for Muwekma Ohlone Tribe)

City Clerk <city.clerk@sanjoseca.gov>

Mon 9/16/2024 2:48 PM

To:Agendadesk <Agendadesk@sanjoseca.gov>

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**From:** Indigenous Solidarity <[REDACTED]>

**Sent:** Monday, September 16, 2024 2:24 PM

**To:** The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>

**Subject:** Organization Letter in support of Agenda Item 3.4 (Resolution on Federal Recognition for Muwekma Ohlone Tribe)

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c/o Mayor Matt Mahan  
City of San José City Council  
200 E. Santa Clara St.  
San José, CA 95113

September 16, 2024

Honorable Mayor Mahan and City of San José Council Members,

The Membership of the San José-based grassroots organization *South Bay Indigenous Solidarity*, hereby writes to express our strong support for the Resolution Declaring the City of San José's Support toward Federal Recognition of the *Muwekma Ohlone Tribe of the San Francisco Bay Area* at the upcoming City Council meeting. *South Bay Indigenous Solidarity* is a multi-ethnic group that supports Indigenous-led, grassroots efforts to promote human rights, restore Indigenous land stewardship and preserve threatened cultural, burial, and sacred sites.

We rise united in solidarity with the *Muwekma Ohlone Tribe of the San Francisco Bay Area* in their rightful pursuit of Federal recognition, which was unjustly unilaterally stripped from the Tribe (previously known as

the *Verona Band*) in 1928 by the *Bureau of Indian Affairs*, without reference to or input from the United States Congress. The Muwekma Ohlone people have continuously resided in this region, maintaining deep cultural and Ancestral ties to their lands. Despite having undeniable historical and genealogical documentation affirming their status as descendants of the previously recognized *Verona Band*, the Tribe remains excluded from the Federal list of Recognized Tribes. This exclusion is a stark injustice that has been perpetuated for far too long.

As an organization committed to amplifying Indigenous voices and addressing historical wrongs, we strongly urge the *City of San José* to adopt this resolution of support for Federal recognition. Doing so would align the City's actions with its equity goals and demonstrate a commitment to justice for Indigenous communities upon whose unceded lands the *City of San José* exists. Federal recognition of the *Muwekma Ohlone Tribe* is essential for restoring Tribal Members' inherent human rights, including access to federal services, housing programs, and healthcare, which are vital for the Tribe's survival in an increasingly gentrified Bay Area.

The Muwekma Ohlone have waited nearly a century for justice, and it is now incumbent upon our local governments to support their efforts to secure the rights and recognition they deserve. As residents of the South Bay, we believe that Federal recognition is a necessary step toward healing historical wounds and establishing meaningful relationships between United States government authorities and the Peoples indigenous to the Bay Area.

We respectfully ask the *San José City Council* to take action in support of this Resolution to Restore the Federal Recognition of the *Muwekma Ohlone Tribe of the San Francisco Bay Area*.

Thank you for your attention to this important matter. We hope that the *City of San José* will decide to be on the right side of history by advancing this resolution.

Sincerely,  
The Membership of South Bay Indigenous Solidarity

***South Bay Indigenous Solidarity is a multi-ethnic group that supports Indigenous-led, grassroots efforts to promote human rights, restore Indigenous land stewardship and preserve threatened cultural, burial, and sacred sites. Our current focus is supporting the Amah Mutsun Tribal Band's effort to protect Juristac, an area of immense cultural, historical, environmental, and spiritual importance.***

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**FW: ITEM 3.4 Supporting federal recognition of the Muwekma Ohlone tribe**

City Clerk &lt;city.clerk@sanjoseca.gov&gt;

Tue 9/17/2024 7:38 AM

To: Agendadesk &lt;Agendadesk@sanjoseca.gov&gt;

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**From:** South Bay JVP chapter <[REDACTED]>  
**Sent:** Monday, September 16, 2024 5:00 PM  
**To:** City Clerk <city.clerk@sanjoseca.gov>  
**Subject:** ITEM 3.4 Supporting federal recognition of the Muwekma Ohlone tribe

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Dear Mayor Mat Mahan and Members of the San Jose City Council,

We write on behalf of Jewish Voice for Peace-South Bay, based in the area between San Jose and Palo Alto since 1997, that now extends south to Santa Cruz and to the peninsula north of Palo Alto. We are writing with deep concern about the federal government's ongoing political erasure of wrongly unrecognized Indigenous communities across the United States. Of particular concern is the plight of the Muwekma Ohlone Tribe, whose ancestral homeland includes several Bay Area counties, including San Jose and the entire County of Santa Clara. Despite undeniable evidence of their historic and continuous presence, the Muwekma Ohlone Tribe remains excluded from the Bureau of Indian Affairs' (BIA) official list of federally recognized tribes.

Our organization was founded to advocate for the human rights of Palestinians, but we also recognize the intersectionality of struggles for justice, particularly with Indigenous peoples here in our own region. We have worked in coalition with local tribes, including the Muwekma Ohlone, the Amah Mutsun, and others, whose ancestors endured forced assimilation through missions, boarding schools, and other oppressive systems designed to undermine their sovereignty.

The Muwekma Ohlone's story is a clear injustice. Historically, their tribe was recognized as the Verona Band of Alameda County, and at no point did Congress terminate this recognition. All current members of the tribe are direct descendants of the federally recognized Verona Band. Furthermore, a federal district court in the Northern District of California has upheld the tribe's sovereign immunity. Scientific research, such as a seven-year genomic study conducted by Stanford University and the University of Illinois, further supports the Muwekma Ohlone's claim, linking them directly to a 2,500-year-old burial site in San Francisco.

Despite these facts, the tribe was unjustly left off the BIA's list of recognized tribes in 1978, an omission that has continued to deprive them of their rightful federal status. Three similarly

situated California tribes—the Lone Band of Miwok, Lower Lake Rancheria, and the Tejon Tribe—were reinstated through administrative corrective action. The Muwekma Ohlone deserves the same recognition.

The consequences of this lack of recognition are dire. The Muwekma Ohlone lack access to crucial federal programs and services designed to help Indigenous communities, such as educational assistance, healthcare services through the Indian Health Service, and support for tribal housing. Moreover, the tribe is barred from taking land into trust to build housing, exacerbating the pressure of gentrification and threatening to displace their people from their 10,000-year homeland.

Additionally, the Native American Graves Protection and Repatriation Act prevents institutions from repatriating ancestral remains and burial objects to unrecognized tribes. Despite clear DNA evidence linking these ancestors to the Muwekma Ohlone, institutions like UC Berkeley continue to store tens of thousands of their ancestors and artifacts in their basements, depriving the tribe of the dignity of properly laying their ancestors to rest. Restoration of their legal status would enhance their ability to bury their forebears.

Jewish Voice for Peace-South Bay stands in full support of the Muwekma Ohlone's fight for federal recognition, reparation, and autonomy. This justice has been delayed far too long. San Jose, as a city that prides itself on inclusivity, must recognize and support the original inhabitants of this land. We respectfully urge the City Council to pass a resolution supporting the Muwekma Ohlone Tribe's immediate recognition. Members of the tribe are currently on their "Trail of Truth" to Washington, D.C., and it is essential that Congress hears the unified call for justice from the people of San Jose.

This resolution is the very least that can be done in the name of justice and reconciliation with the Indigenous people of this region.

Respectfully,

Wendy Greenfield and Dorah Rosen, on behalf of

Jewish Voice for Peace-South Bay\*

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**FW: Please support federal recognition for Muwekma**

City Clerk &lt;city.clerk@sanjoseca.gov&gt;

Tue 9/17/2024 7:38 AM

To: Agendadesk &lt;Agendadesk@sanjoseca.gov&gt;

**From:** Stacie Wolny <[REDACTED]>**Sent:** Tuesday, September 17, 2024 4:56 AM**To:** The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>**Subject:** Please support federal recognition for Muwekma

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To the mayor and City Council of San Jose -

I am writing in strong support of the resolution for the City of San José to make a formal statement of support toward the Muwekma Ohlone Tribe's effort to restore their status as a federally recognized Tribe. Thank you for bringing up this very important resolution.

The currently-called Silicon Valley that we all know and love is the result of land theft, genocide and unconscionable violence against the people and ecosystems who lived and thrived here together for thousands of years. The Muwekma Ohlone people have continuously resided in the San José region, maintaining deep cultural and ancestral ties to their lands. Despite having undeniable historical and genealogical documentation proving their status as descendants of the previously recognized Verona Band, the Tribe remains excluded from the federal list of recognized tribes. This exclusion is a stark injustice that has been perpetuated for far too long.

There is so much that needs to be done to face the real history of this place, move toward healing, and make real reparations, including returning land to its original people, plants, animals and waterways. Voicing support for Muwekma's federal recognition is one small, and meaningful, step, that the Council can take, which I hope leads to much deeper, systemic support for justice for all of our Bay Area tribes and their ancestral land that we are guests on.

Thank you.

~ Stacie Wolny, Campbell CA

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## FW: Letter in support of Agenda Item 3.4 (Resolution on Federal Recognition for the Muwekma Ohlone Tribe)

City Clerk <city.clerk@sanjoseca.gov>

Tue 9/17/2024 8:13 AM

To:Agendadesk <Agendadesk@sanjoseca.gov>

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**From:** South Bay Indigenous Solidarity <[REDACTED]>  
**Sent:** Tuesday, September 17, 2024 8:00 AM  
**To:** The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>  
**Subject:** Letter in support of Agenda Item 3.4 (Resolution on Federal Recognition for the Muwekma Ohlone Tribe)

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Honorable Mayor Mahan and Honoerable City of San José Council Members,

I am writing in wholehearted support for the City of San Jose to pass a Resolution supporting the Muwekma Ohlone Tribe of the San Francisco Bay Area in its efforts to reaffirm/restore its status as a Federally recognized Tribe.

***Please note that the Democratic Party of Santa Clara County, the Democratic Party of Santa Cruz County, the Democratic Party of Contra Costa County, the Democratic Party of San Mateo County, and the Democratic Party of San Francisco have all passed similar Resolutions.***

The Muwekma Ohlone Tribe of the San Francisco Bay Area represents an unbroken Tribal lineage that has stewarded the land and protected the graves of its Ancestors for thousands of years. The Tribe's Federal recognition was improperly 'terminated' unilaterally, by several officials at the Bureau of Indian Affairs, without reference to Congress. The termination was based on reference to several sholarly written statements that declared the Ohlone Peoples to be 'extinct'. The scholars who wrote such statements later rescinded their contention of 'extinction' and opposed the 'termination' action.

My name is Louis Robert Chiaramonte, Jr. I was born in San Jose, my parrents were born in San Jose, and my grandparents were born in San Jose. My family has lived in San Jose for over 120 years, and own's the Bay Area's oldest family-owned foodservice business, *Chiaramonte's Market* (609 N 13th Street, San Jose).

Respectfully,

Louis Robert Chiaramonte, Jr.

Assembly District Delegate (ADEM, AD 28), *California Democratic Party*  
Organizer, *South Bay Indigenous Solidarity*  
[REDACTED]

Sent with [Proton Mail](#) secure email.

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**FW: Regarding agenda item 3.4 Federal Recognition of Muwekma Ohlone**

City Clerk &lt;city.clerk@sanjoseca.gov&gt;

Tue 9/17/2024 10:02 AM

To: Agendadesk &lt;Agendadesk@sanjoseca.gov&gt;

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**From:** Greg Van Holt <[REDACTED]>  
**Sent:** Tuesday, September 17, 2024 9:33 AM  
**To:** City Clerk <city.clerk@sanjoseca.gov>  
**Subject:** Regarding agenda item 3.4 Federal Recognition of Muwekma Ohlone

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Council Members,

I hope you are doing as well as you can when you get this and are able to fully understand the gravity of the decisions you make. I am a high school teacher who has taught a number of young people of the Muwekma Ohlone Nation. Some were aware of their past and some were not. If we are going to have justice for a group of people who were robbed of so much, we need to be the ones who make that difference. Can their be justice on stolen land? There are some that would say the past is the past but if we are going to make a better future and address the oppression which in many ways has already been internalized, I hope and pray that you will start that process by voting to recognize the Muwekma Ohlone. There is so much good that can be done to uplift a people should they be recognized. Please do your part for the present and the future.

Sincerely,

Greg Van Holt

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