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The Treaty of Temecula: A Story of Invasion, Deceit, Stolen Land, and the Persistence of Power, 1846-1905

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UNIVERSITY OF CALIFORNIA  
RIVERSIDE

The Treaty of Temecula:  
A Story of Invasion, Deceit, Stolen Land, and the Persistence of Power, 1846-1905

A Dissertation submitted in partial satisfaction  
of the requirements for the degree of

Doctor of Philosophy

in

Native American History

by

Sean Christian Milanovich

September 2021

Dissertation Committee:

Dr. Clifford E. Trafzer, Chairperson

Dr. Rebecca M. Kugel

Dr. Robert Perez

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2021

The Dissertation of Sean Christian Milanovich is approved

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Committee Chairperson

University of California, Riverside



## Acknowledgments

I want to thank all my relatives who came before me and those who stood by me to write this story. This work would not be possible without the help and support of their sacrifices and efforts, including the attachment of their marks to the Treaty of Temecula. I want to thank my Dad, the late Richard M. Milanovich, for his support and initial inspiration for this project. I am grateful for my immediate family, including my wife, Maria, and daughters Jackie, Milegly, and Gina, and my son, Miguel. Thank you for your continued love and encouragement. Thank you, Creator, for helping me get up and watch the sunrise and sing those songs. I thank the land and water as they refreshed my soul and provided energy to persevere and look forward.

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## **Dedication**

In loving memory of Dad,  
Richard M. Milanovich

Nena 'ika, Ivax'a alowah pish ehma'piyik.

Thank you, Dad, for giving me the strength, wisdom,  
and the courage to challenge myself.

Nemingkem'ika, Alowah pish Muchingax pish Chemqal Ivax!  
Thank you, relatives, for looking forward, so we could be here today!

## ABSTRACT OF THE DISSERTATION

The Treaty of Temecula:  
A Story of Invasion, Deceit, Stolen Land, and the Persistence of Power, 1846-1905

by

Sean Christian Milanovich

Doctor of Philosophy, Graduate Program in History  
University of California, Riverside, September 2021  
Dr. Clifford Trafzer, Chairperson

The Treaty of Temecula and the Indigenous people of Southern California is a story about land theft, deceit, genocide, tenacity, perseverance, and the fight for basic human rights. California is stolen land. In 1846 the American invasion began with United States military dragoons, “an elite fighting force trained to fight on horse and foot.”<sup>1</sup> The late Rupert Costo, a prominent Cahuilla leader and historian of Indigenous California, believed American invaders disregarded the Indigenous people of California. The American invaders claimed the Indigenous land as their own and established a foreign government and subjugated the Indigenous peoples to a foreign law, American law.<sup>2</sup> The

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<sup>1</sup> National Park Service, “Dragoon Soldier-Historical Background,” Fort Scott, National Park Service, U.S. Department of the Interior. October 11, 2017.  
<https://www.nps.gov/fosc/learn/education/dragoon5.htm#:~:text=Dragoons%20may%20have%20been%20treated,on%20horseback%20and%20on%20foot.>

<sup>2</sup> Rupert Costo and Jeanette Costo, *Native of the Golden State: The California Indians* (San Francisco: Indian Historian Press, 1995), 201-217.

Americans held the Indigenous peoples in a peon state of war and did not acknowledge their right to own land.

On January 5, 1852, Indigenous leaders of the Cahuilla, Cupeño, Luiseño, and Serrano attached their marks to the Treaty of Temecula surrendering their land base under duress and established a small permanent reservation. Between March 1851 and January 1852, Indian commissioners produced eighteen treaties with at least 139 tribal bands.<sup>3</sup> Commissioners conducted treaties with tribes under false pretense. Peace was not the sole reason as written in history books. The principal reason treaties were used was to acquire title to the land by extinguishing the Aboriginal title. The American leaders of the time believed title of occupancy could be taken from the Indigenous people through treaty if agreement was reached with signature marks from tribal leaders. In July 1852, the United States Senate rejected the treaties, and the land was never returned to the tribes.

Indigenous research methodologies were used to gather, write, and process information on this unfamiliar subject.<sup>4</sup> Native voice was essential in getting the accurate story which has been left out of most scholarly work.

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<sup>3</sup> David D. Dejong, *American Indian Treaties: A Guide to Ratified and Unratified Colonial, United States, State, Foreign, and Intertribal Treaties and Agreements, 1607-1911* (Salt Lake City: The University of Utah Press, 2015), 40.

<sup>4</sup> See the introduction for the Indigenous research methodologies in more detail.

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## Introduction



*“Through you my ancient people, I am!”<sup>1</sup>*

**RICHARD M. MILANOVICH, CAHUILLA, 2012**

Since time immemorial, the Indigenous people of Southern California lived on the lands given to them by their Creator. Invasion by foreign governments caused bands of Indigenous people to align themselves defensively over time. During the American invasion of 1846-1852, Americans came violently, quickly, and claimed the Indigenous lands of California. Invasion was often met with resistance. Some tribal leaders encouraged alliances to resist encroachment and violations of human rights of their people. Americans ignored the autonomy of the tribes and tribal sovereignty over their people and homelands.

The American Government employed its policy of treaty-making to take Indian lands and resources. In January 1852, an American treaty commissioner held treaty

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<sup>1</sup> My father Richard M. Milanovich used to say this to us kids. “Through you my ancient people I am!” This is an old Cahuilla saying. Recollection of author Sean Milanovich. These words declare that we owe everything we are to those that came before us. We are our ancestors. We are the ancestors of tomorrow.

councils at Temecula and Santa Ysabel, with Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano tribal leaders. The treaties were not clearly interpreted to the tribal leaders present. For the tribes, the treaties represented a time to reevaluate their position in that time and space to work together so future generations of Indigenous children in Southern California had a chance of living. Tribal leaders met with Americans to secure small portion of their homelands for their families and future generations.

The Treaty of Temecula was an instrument of conquest used to force the displacement of the Indigenous people.<sup>2</sup> The Treaty intended to open thousands of acres for American settlement and development.<sup>3</sup> This is a story of the First people of the land, Southern California's Indigenous people, and the Treaty of Temecula. The Treaty of Temecula and Treaty of Santa Ysabel affected the Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano peoples. The story is one of resistance, land theft, rejection, uncertainty, and the opening of vast lands for non-Native settlement in Southern California. In 1851-1852, three federal treaty commissioners, Redick McKee, George Barbour, and Oliver M. Wozencraft, concluded eighteen treaties with 139 known tribal bands of California tribes from the north to the south. Not all tribal bands had the opportunity to conduct government to government relations with representatives of the United States.

The California treaty commissioners of the United States failed to meet with at

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<sup>2</sup> Anthony Madrigal interview by author, Beaumont, CA, June 14, 2018. Hereafter cited as Anthony Madrigal, June 14, 2018.

<sup>3</sup> Anthony Madrigal discussion and author, Banning, CA, June 24, 2018.

least 175 more tribes, according to Native American historian David D. Dejong.<sup>4</sup>

Through these treaties, the United States sought to extinguish California “Indian” title to millions of acres of Indigenous land and open California to White settlement.<sup>5</sup> People of European ancestry were the primary invading settlers of California between 1846-1905.<sup>6</sup> Treaty commissioners attempted to subjugate California’s Indigenous peoples and relocate them to reservations out of the way.<sup>7</sup> The United States wanted to concentrate the Indigenous people to keep watch over them through Indian superintendents and agents.

It was quite common for tribes throughout the American West to be subjected to treaties. However, the California treaties developed without bilateral agreements; instead, treaties were imposed upon the tribes during an era of genocide and threatened warfare.<sup>8</sup> The eighteen treaties consisted of objectives and articles imposed on the tribes by three federal treaty commissioners. Treaty commissioners created a template for each treaty drafted, changing a few of the articles to fit each specific tribal area and group. Of course, the wording for each of the eighteen reservations differed due to locale and reservation boundaries.<sup>9</sup>

At Temecula and Santa Ysabel, Treaty Commissioner Oliver M. Wozencraft

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<sup>4</sup> Dejong, *American Indian Treaties*, 40.

<sup>5</sup> Rupert Costo and Jeanette Costo, *Native of the Golden State*, 237-246.

<sup>6</sup> James J. Rawls, *Indians of California: The Changing Image* (Norman: University of Oklahoma Press, 1984), 137-148.

<sup>7</sup> Rupert Costo and Jeanette

Costo, *Native of the Golden State*, 239; Charles Kappler ed. *Indian Affairs: Laws and Treaties* 4 (Washington, D.C.: Government Printing Office, 1929), 1124-1126.

<sup>8</sup> Dejong, *American Indian Treaties*, 3.

<sup>9</sup> Robert F. Heizer, *The Eighteen Unratified Treaties of 1851-1852 Between the California Indians and the United States Government* (Berkeley: California University Press, 1972), 2 and 20.

provided neither negotiation nor any formal consultation with tribal representatives. The Cahuilla, Cupeño, Kumeyaay, Luiseño, Serrano, whose original territory extended from the Pacific Ocean to the Colorado River, were given an ultimatum. The treaty commissioners told the tribal leaders to sign the treaties, or face annihilation through war, settlement, relocation, and forced removals.<sup>10</sup> Cahuilla, Cupeño, Luiseño, and Serrano tribal leaders added their marks to the Treaty of Temecula on January 5, 1852. Two days later at Santa Ysabel, Kumeyaay tribal leaders added their marks to a treaty known as the Treaty of Santa Ysabel.<sup>11</sup>

After creating the last two California treaties at Temecula and Santa Ysabel, the treaties were sent to the United States Senate for ratification. Across California, eighteen treaties were crafted and approved by tribal leaders and the three treaty commissioners. The United States Senate never approved any of the eighteen treaties. Settlers and politicians in California opposed the ratification of all eighteen reservations, so the Senate met in secret session and chose to reject all eighteen treaties in California. No one told the Indigenous people of the unratified treaties until the early twentieth century.<sup>12</sup> Under American jurisdiction, tribes had no legal standing for their land, nor did they have any rights.<sup>13</sup>

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<sup>10</sup> Just before the signing, the United States led a brutal attack on the Indigenous people of Southern California which resulted in a massacre. The slaughter stemmed from the Americans' greed of wanting the land for themselves. Oliver M. Wozencraft, "Statement, 1877 Indian Affairs, 1849-1850," (C-D 204, The Bancroft Library, University of California Berkeley), 12-13.

<sup>11</sup> Charles Kappler ed., *Indian Affairs: Laws and Treaties* 4 (Washington, D.C.: Government Printing Office, 1929), 1124-1128.

<sup>12</sup> Luke Madrigal interview by author, phone, September 13, 2019.

<sup>13</sup> Luke Madrigal interview by author, September 13, 2019; and Clifford E. Trafzer, *Fighting Invisible Enemies: Health and Medical Transitions Among Southern California Indians* (Norman: University of Oklahoma Press, 2019), 10.

The tribes adhered to and followed the rules set forth in the treaties and some moved to the proposed reservations.<sup>14</sup> Settlers moved onto the lands of the Indigenous people. Meanwhile, the Natives were evicted from lands desired by American invaders and settlers. The United States chose not to act on the issue until twenty-three years later when President Ulysses S. Grant began to establish reservations through executive orders in Southern California.<sup>15</sup> This is a story of deceit, genocide, and land theft confronted by the Indigenous people of Southern California. After facing the American invasion during and after the war between the United States and Mexico, the people suffered genocidal attacks by settler intruders and American militia armies bent on exterminating Indigenous men, women, and children.

The tribal people also suffered during treaty negotiations of eighteen unratified treaties, which led to stolen lands, the theft of Native resources, and forced removal to avoid genocide.<sup>16</sup> California Aboriginals would have been left with 7.5 percent of what they originally owned if the Senate had ratified the eighteen treaties.<sup>17</sup> Instead, the tribes tried to secure a smaller fraction of their previous territorial land base. Officials from the

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<sup>14</sup> Oliver Wozencraft Statement of Dr. Oliver Wozencraft (Bancroft Library: University of California Berkeley, 1877), 13.

<sup>15</sup> George H. Phillips, *Chiefs and Challengers: Indian Resistance and Cooperation in Southern California, 1769-1906* (Norman: Oklahoma University Press, 2014), 210.

<sup>16</sup> Guy Trujillo interview by author, San Diego, CA, November 17, 2017; Luke Madrigal interview, September 13, 2019; and Madley, Benjamin Madley, *An American Genocide: The United States and the California Indian Catastrophe* (New Haven: Yale University Press, 2016), 14-15.

<sup>17</sup> William H. Ellison used the Land Cession Maps to estimate the total acreage of land to be held in trust by the United States government for the Indigenous people of California if the eighteen treaties would have been ratified. Cuthcha Risling Baldy, *We Are Dancing for you: Native Feminism & Revitalization of Women's Coming-of-Age Ceremonies* (Seattle: University of Washington Press, 2018), 65; William Henry Ellison, "The Federal Indian Policy in California, 1846-1860," *Mississippi Historical Society* (Oxford: Oxford University Press, June 1922), 57; and Charles C. Royce, *Indian Land Cessions in the United States* (Washington D.C.: Government Printing Office, 1989), CXIV.

United States and California governments exploited American Indian policy for personal gain and stole Indigenous peoples' lands through the treaties, war, and policies. Treaties were designed to denigrate tribal people and take all control of all resources from Native people, who were not citizens of the state or nation. Despite tribes acting in good faith at Temecula and Santa Ysabel, the governments and settlers cheated them when they were most vulnerable, due to wars, epidemics, and starvation.

Considerable thought led to use of the terms Aboriginal, Native, Indigenous, and First people, rather than Indian or Native American. For this manuscript, the terms Aboriginal and Indigenous people were generally used to describe the original people of California. Aboriginal and Indigenous are capitalized because they are pronouns and “signify cultural heterogeneity and political sovereignty of these groups.”<sup>18</sup> Often each is followed by the word people, reminding people that Aboriginal and Indigenous are people, too. These terms are general terms that are approved by the communities they come from. There is no one word to describe the Indigenous people.

The people come from many geographic areas, and each is its own sovereign. When referring to a specific area, the local term for the people will be used. In reference to the Cahuilla, *Ívilluatem* will be used. In reference to the Cupeño, *Kúupangaxwichem* will be used. In reference to the Luiseño people, *Payómkowichum* will be used. In reference to the Serrano, *Taxhtem* will be used. These terms affirm the original identity of the First people of the land in Southern California. Other tribal historians use the word

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<sup>18</sup> Michael Yellow Bird, “What We Want to be Called: Indigenous Peoples’ Perspectives on Racial and Ethnic Identity Labels,” *American Indian Quarterly* 23, no. 2 (Spring 1999), 2.



*Indian*, but it carries a negative connotation used by many to signify hatred. Also, Indian does not accurately describe the Indigenous from California but describes a people from another land in South Asia. As a Cahuilla person, the term “American Indian” is derogatory and carries many negative connotations. American immigrants brought an invasion of war and extermination upon the Indigenous people of North and South America, including Southern California. The terms Indian and American Indian are bred into vocabulary. Terms “Indian” and “American Indian” are used as well. On the other hand, many Native Americans refer to themselves as Indians. There is no consensus on any of the terms by Indigenous peoples.

What shall the hundreds of thousands of people that came to California in the past be called? There are many terms that can be applied from settlers, miners, homesteaders, adventurers, entrepreneurs, traders, capitalists, hunters, trappers, and immigrants. From the Indigenous perspective, all these people are considered invaders and intruders. The invaders trespassed upon Aboriginal lands without permission and consumed available resources. This study will use the term invaders, intruders, and trespassers to describe the onslaught of the hundreds of thousands of non-Indigenous people who came to California between 1846-1875.

This manuscript is the result of many years of research. Indigenous and Native American research methodologies were used to conduct research, contemplate and extrapolate ideas, write, and get answers. Collaborating with peers, family, and elders was a great part of this research and methods used. Often many visits took place to formulate and get a full understanding of the event, person, or land in question.

Sometimes as new pieces of the puzzle revealed themselves visits and calls were made to relatives to help investigate. Participation in ceremonies played another part of this manuscript in keeping with following the line. Furthermore, getting out on the land, visiting the sites involved, and talking with the ancestors was instrumental in making the connections and understanding how the events that led up to, during, and after the treaty doings took place. Moreover, natural law was used to give reason, clarification, and authority to the Indian way of doing things, understanding, and world view. Furthermore, extensive research was conducted at many institutional archives and databases and reviewed with Native scholar eyes and world view.

This not a definitive scholarly work on the Treaty of Temecula nor the Treaty of San Ysabel, but it is a detailed beginning from a Cahuilla perspective. California is stolen land! The United States used the treaties to try to terminate Indigenous title to the land. Readers will find herein nine chapters that will invite readers into the story of invasion, dislocation, removal, reservations, and duplicity. The following introduces the chapters of this dissertation.

Chapter One, “The Indigenous People,” is about the people themselves. Chapter One describes the First people, their territories, their lands, food, and their world views. In the world view of the Native people, the Indigenous people have been here since time immemorial. Indigenous peoples are the caretakers of the land.

Chapter Two, “The American Invasion,” sets the foundation for the assault of American intruders on Indigenous lands. The Indigenous People saw new opportunity in trade and economy with the invaders. The invaders consumed most of the Indigenous

lands in California conducting military patrols and surveys, and establishing ranching, homesteads, roads, and parks.

Chapter Three, “The Treaty Commission,” explores the history and process of formulating the treaty commission in California. The first half of this chapter sets the stage with the development of American Indian policies in the United States, including laws and treaties. After the War with Mexico, the United States initiated a series of protocols to claim Indigenous lands “legally” through their foreign system. The end of the chapter investigates the first treaties conducted by Indian Agents George W. Barbour, Redick McKee, and Oliver M. Wozencraft.

Chapter Four, “Resistance,” goes into detail about the events that led to the Garra Revolt and what happened during the rebellion, when a small group of Indigenous people revolted against the American invaders. Cupeño leader Antonio Garra and his son took the lead, as they tried to connect tribal leaders across Indigenous country. The insurrection of resistance was long planned but failed to realize a successful campaign.

Chapter Five, “Coyote Canyon,” reveals how the Cahuilla and Cupeño people living in Coyote Canyon played a major part in the resistance for Indigenous rights. Cahuilla leader Juan Antonio used his traditional teachings to capture Antonio Garra.

Chapter Six concentrates on “The Treaty of Temecula,” and how the lack of proceedings resulted in no transcript of what was said by Indigenous leaders and American officials. In addition, the chapter provides insights into the leaders who signed the Treaty of Temecula, including twenty-seven tribal headmen from multiple villages. Hundreds of Indigenous people witnessed the event in the Temecula Valley.

Chapter Seven, “Witiaco,” explores the treaty of Temecula and the Treaty of Santa Ysabel. The chapter explores how Commissioner Wozencraft forced the tribal leaders to add their marks to the treaty document to show their collaboration. The chapter narrates the treaty council step by step and how the tribal leaders signed the treaty and why. Additionally, this chapter investigates the signers themselves.

Chapter Eight, “No Ratification,” investigates and looks at the treaty approval by the Senate and explores the reasoning behind non-ratification of the Treaty of Temecula and the other seventeen California treaties. An injunction was placed on the treaties and concealed from public view.

Chapter Nine, “Persistence on the Land,” explores self-determination for tribes in the twentieth century. The treaties, although not approved by the Senate, continue to play a major role in tribal politics and in American Indian policy. Tribes have learned a lot from the unratified treaties. The treaties persist as testament of the ancestors of the land. For tribal communities and their leaders today, the Treaty of Temecula remains as important now as it was in 1852.

## Chapter 1



### INDIGENOUS PEOPLE OF SOUTHERN CALIFORNIA

*It was a land of sunshine and flowers. The mountains touched the sky. Our meadows were rich in grasses, majestic trees of incredible height graced the coastline and inland. They were our cathedrals, enriching our spiritual lives and our economy as well, the natural monarchs of our world.*

*Beautiful rivers ran through our blessed land, sparkling and clear in the sunlight. In the north were the big ones, their tributaries threading adjacent land, and all filled with fish and marine life. Animals and birds filled the forests. The southern deserts provided beauty and sustenance. The coast leaned against the mighty ocean and those who made their home in this part of our land used the fish and sea life with care and respect.*

*There were people everywhere, living in families and groups of families. There was peace. Differences of opinion were settled by our leaders talking and agreeing in full view of the people. Our laws and governance were by consent of all the people. For everything there was laws, and the law was for everyone.*

*The people used all the land, the meadows, mountains and deserts, the rivers and the sea, whether for the physical means of life or out religion and prayer. Although there were many, many people, there was enough for all and in bad times or good times the people shared.*

*That's the way it was when the world was new.<sup>1</sup>*

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<sup>1</sup> Rupert Costo was a Cahuilla man from the Cahuilla Band of Cahuilla Indians. Costo was a descendant of Cahuilla leader Juan Antonio. Costo came from a long line of tribal leadership and was instrumental in founding the University of California, Riverside. Rupert Costo, a Native scholar who founded the American Indian Historical Society, inspired generations of Indigenous youth and elders to learn about and fight for their Indigenous roots and rights. Rupert Costo and Jeanette Henry Costo, *Natives of the Golden State*, 1.

## **RUPERT COSTO, CAHUILLA, 1995**

This is a story of the Treaty of Temecula and the Indigenous people of Southern California. The Treaty of Temecula is a story of land theft by the United States. This is more than a story of deception, lies, and genocide; it is a story of truth and resilience of the people to persevere and never give up. The Treaty of Temecula is a Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano narrative and their persistence of power over the land.<sup>2</sup> This is a powerful story of persistence and the unity of the people. The people's raw spirit and love evolved from their ancient teachings, and generations of caring for the beautiful land, and for one another. The lifeways of the Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano were embedded in their beliefs, their strategies, and their manipulation of the land to procure the resources they needed. Their life ways originated from their connection and relationship with the Creator, the great mystery, and the land itself. The Indigenous people lived in paradise. The Creator gave the people everything they needed to live on earth.

Since time immemorial, Indigenous people have lived in Southern California, the late Chairman Richard Michael Milanovich confirmed to his family, constituents, and community members regularly. The late Chairman of the Agua Caliente Band of Cahuilla Indians learned from his mother, grandfather, and relatives, the power and importance of the land. Milanovich often started his tribal gatherings with a prayer, acknowledging the

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<sup>2</sup> This undertaking will not italicize Indigenous words as what happens when the author wants the words to separate the words and have them stand out. These words are words that the ancestors used; they are not foreign words. One does not need to legitimize by making it stand out. One needs to just use the words to normalize them. The people take ownership of the language by using the words.

elders and the ancestors who were molded from the land and who came before him. Richard M. Milanovich acknowledged their struggles, sacrifices, adaptive strategies, and their persistence to fight for the land and the people, so future generations would have a place for their own and carry on their traditions and beliefs. Yet, the traditions and beliefs “were not stagnant either.” They changed along with the people each generation.<sup>3</sup> The people continued to maintain a connection to the land. The Indigenous people of California were a spiritual people who have a beginning. The elders said, we start by telling the origin, the creation of the world with the people, animals, and plants. The tribes in Southern California all share similar stories of creation and to each clan, their version is the truth.<sup>4</sup>

In the beginning, long ago, there was only darkness. There was emptiness and darkness filled all space. There was no light. There was no land or earth. Two strong and powerful energies existed: Túkmiat, the Night, and Ámna'a, the Greatness of All Things. These energies came together and wrapped around each other. They tried to create. Nothing happened. Túkmiat and Ámna'a came together again. Another miscarriage. On a third time, the energies came together again and wrapped around each other. Lights flashed, num'yum'a'wit. An embryo was created. It split in two and grew rapidly. Two twin boys emerged. The boys sat up and floated in darkness. Múkat pulled tobacco from his heart, and Témayawet pulled the pipe from his heart. The twin brothers smoked, and

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<sup>3</sup> Richard M. Milanovich, “Growing Up in Palm Springs” (Lecture, Agua Caliente Band of Cahuilla Indians, Tribal Building, May 25, 2005).

<sup>4</sup> The story of Creation has been told and retold countless times to each generation. Here, Sean Milanovich, the author and an Indigenous man of the Cahuilla people, wrote a short-condensed version of the Cahuilla Creation Story. Sean Milanovich is a Native scholar and a community member who has worked hard to learn and preserve traditional knowledge of his Cahuilla people, including neighboring tribes.

then they knew what they should do. First the brothers took out the hu'ya'na'wet, the sacred staff, the centerpole of the world. The brothers held the staff up. It did not stand by itself. The brothers placed spiders at the base to spin webs to hold it in place. Then they put snakes of all kinds to hold the staff steady and strong. The staff vibrated and the energy radiated out. Next, they created the Earth. Múkat pulled from his heart, the black dirt and mud. Témayawet pulled from his heart, the white dirt and mud. The twins created the Earth around the staff to give it balance. Water was put on earth along with supernatural beings. This was the foundation of the world.<sup>5</sup>

The Creators created people. Múkat pulled black clay from his heart and made the first beings, while Témayawet pulled white clay from his heart and made his creatures. Múkat took his time, while his brother Témayawet worked fast. The creators quarreled about their creations and how to move forward. Since then, brothers have always rivaled.<sup>6</sup> They created Dog, Coyote, and Owl. One of these first created ones was Menill, the only woman among all Múkat's creatures. Menill took on a motherly role and instructed the people how to care for themselves based on loving each other and honoring your relatives, declared Cahuilla elder Lorene Sisquoc.<sup>7</sup> Creator created Tahquitz, another powerful being, in the beginning. Tahquitz became the first medicine man but abused his power. Tribes as far away in Arizona have stories of the powerful Tahquitz

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<sup>5</sup> The Center Pole of the World is the *Huyanawet*, the sacred staff. The staff represents life itself. The staff carries everything on its shoulders and should be respected and revered.

<sup>6</sup> Rosinda Nolasquez, "The Story of Kisily Piwish," in *Mulu'wetam: The First People, Cupeño Culture, Mythology, and Cupeño Language Dictionary*, ed. Jane H. Hill and Rosinda Nolasquez (Banning, CA: Malki Museum Press, 2005), 9.

<sup>7</sup> Lorene Sisquoc is an amazing and powerful Cahuilla elder and leader. Lorene is known for her skills of the traditional arts of basketry and knowledge of plant medicine. Lorene Sisquoc interview by author, phone, May 8, 2014. Hereafter cited as Lorene Sisquoc interview, May 8, 2014.



and the mountain that carries his name.<sup>8</sup> Múkat, the elder brother, asked the First people to be animals and plants to help the larger community of people. Múkat, the elder brother, loved his creations, his children. He gave them tools, medicine, a large brain, and creative spirit, and everything they needed to live. After a while, Múkat abused and taught his children incorrectly. He instructed them in the violent ways of war. Múkat then assaulted his daughter Menill. Menill was crushed by her father's action. Menill's confidence and trust in the Creator was broken. When the others found out, they wanted Múkat gone. The siblings adulterated him, and Múkat became sick and died. The people held their first wake for their father, the Creator, following his instructions.

### **Tribes**

After the death of the Creator, feeling sad and lost with the loss of their father, the people went on a journey. The people went on a great migration, and the world they knew was transformed as they knew it. Some say these ancient ones circled the earth three times, while others say the people went in a circle, first heading south, then north and back down the coast. The people passed through and experienced many new lands and learned of the world around them. At times they were scared, happy, and amazed. This became known as one of greatest recorded events in history.<sup>9</sup> As the people returned and came near their homelands in Southern California, they recognized the land. Their hearts

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<sup>8</sup> Preston Arrow-weed is a Quechan elder and a singer of the *Urave*, the Quechan Lighting Songs. Preston Arrow-weed interview by author, Riverside, CA, March 19, 2004.

<sup>9</sup> The Cahuilla history of this migration is recorded in the Cahuilla Bird Songs. The Cahuilla sing Bird Songs retelling of this great epic migration of the people after the death of their father Múkat.

began to fill with joy. This was their ancestral home. Their home had always been where they started from. They settled in the areas they have today. Over time, each group grew and solidified into tribes. Each band became their own sovereign and were recognized by each other as so. They became known as: Acjachemen, Chemehuevi, Chumash, Cocopah, Íviatem-Cahuilla, Kúupangaxwiche-m-Cupeño, Kumeyaay, Kwaaymii, Maarenga'yam-Serrano, Maricopa, Mojave, Payómkawichum-Luiseño, Tataviam, Tongva-Gabrielino, and Quechan.<sup>10</sup> Many of the people settled at places of power that remained behind from Creation itself. This power was called Ívax'a by the Cahuilla, and Púha by the Chemehuevi. The power remains in those places and can be accessed by those who believe and have the spiritual connection to help the people.

This is the story of five tribes of Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano people who lived in and controlled the coast, desert, and mountainous regions of Southern California. The tribes made alliances with one and other for protection and family survival.

### **Cahuilla**

The Cahuilla are a spiritual people who believe in reciprocity, allowing them to become one of the most powerful and largest tribes in Southern California. The Cahuilla controlled access to and from the desert through San Gorgonio Pass and Coachella Valley from the northwest, and Imperial Valley from the southeast. Their ceremonies were extensive and contributed to many relations abroad. Cahuilla traditional use territory

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<sup>10</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 117.

extended from the Pacific Ocean to the Colorado River.<sup>11</sup> The Cahuilla peoples were and continue to be industrious, adaptive, and a resourceful people.<sup>12</sup> The Cahuilla called themselves Íviatem, or Cahuilla-Speaking people. Cahuilla elder Francisco Patencio once said, referring to the Cahuilla today, they are of the fifth people, meaning, they no longer migrated as those who came before them. They had permanent homes, buried their dead, attended to their gardens, and held ceremonies.<sup>13</sup> The Cahuilla were centered around the resource-rich San Jacinto and Santa Rosa Mountains, occupying the beautiful deserts and mountains, including the slopes, canyons, valleys, and oases.<sup>14</sup> The late Cahuilla elder Alvino Siva used to say, “The Cahuilla boundaries existed as far west as Colton, north to the San Bernardino Mountains, east to the Chocolate Mountains, and south to Palomar Mountain.”<sup>15</sup> Furthermore, Cahuilla homelands traditionally stretched from San Bernardino Valley east to the Chocolate Mountains to the Colorado River, according to Rupert Costo in his book, *Natives of the Golden State*.<sup>16</sup>

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<sup>11</sup> Ibid, 121-122.

<sup>12</sup> Richard Milanovich served as Tribal Chairman for the Agua Caliente Band of Cahuilla Indians from 1984 until his death in 2012. Richard Milanovich, “Prepared Statement for the Record,” *Hearing Before the Committee on Indian Affairs United States Senate, 108th Congress, 2<sup>nd</sup> Session, On Oversight Hearing Regarding Tribal Lobbying Matters, Et Al* (Washington D.C.: GPO, 2004), 19.

<sup>13</sup> They had permanent homes, buried their dead, attended to their gardens, and had ceremonies. Francisco Patencio and Margaret Boynton, *Stories and Legends of the Palm Springs Indians* (Palm Springs, CA: Desert Museum, 1943), 65.

<sup>14</sup> Lowell John Bean, Sylvia Brakke Vane, and Jackson Young, *The Cahuilla Landscape: The Santa Rosa and San Jacinto Mountains* (Menlo Park, CA: Ballena Press, 1991), iii; and Richard Milanovich, “Prepared Statement for the Record,” 19

<sup>15</sup> Alvino Siva was a first-generation Cahuilla speaker. Siva was a teacher of the Cahuilla language and a master of Cahuilla history and a leader of the Cahuilla Bird Songs. Alvino Siva interview by author, Banning, CA, July 21, 2008.

<sup>16</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 120 and 128; and Moraino Patencio interview, Agua Caliente Reservation, September 26, 2016. Hereafter referred to as Moraino Patencio interview, September 26, 2016.

# NATIVE PEOPLE OF THIS PLACE



Figure 1.1: Indigenous Peoples Map of California with Tribal Names. Created by: Timara Lotah Link. August 2018. Source: <https://www.kcet.org/shows/tending-the-wild/what-john-muir-missed-the-uniqueness-of-california-indians>.

The late Chairman Richard M. Milanovich of Agua Caliente said Cahuilla means strength, not in the physical sense, but of the mind.<sup>17</sup> Cahuilla can be interpreted as “in charge,” “resourceful,” “authority,” “knowledge,” “determined,” and “communicator.”

<sup>17</sup> Richard M. Milanovich interview by Douglas Young, Agua Caliente Reservation, Tribal Office, Palm Springs, CA, November 6, 2006. Agua Caliente Cultural Museum, Palm Springs, CA.

Cahuilla people were proud and knew their place in the world. They took care of those around them. To be Cahuilla means to know where you come from, understand who you are, and where you are going. The Cahuilla started here and continue to be here. To be Cahuilla means to know your tribal history, identity, the land, and the people. The Cahuilla came from a long line of leaders who were strong and powerful. Cahuilla people are masters of their own destiny.<sup>18</sup> The Cahuilla fought and remained in control of most their lands after the waves of invasions by outsiders.<sup>19</sup>

### Cupeño

The Cupeño are one of smallest Indigenous groups of Southern California who controlled some of the most beautiful and abundant lands. The Cupeño traditionally occupied a small territory about sixty miles northeast of San Diego, in the San Jose Valley at the east end of Palomar Mountain, and at the western edge of Coyote Canyon and present-day Anza Borrego State Park.<sup>20</sup> The Cupeño predominantly occupied the two villages of Kúpa and Wilákal.<sup>21</sup> Paluqal was a third village. Each village and head of the clan had its own núut, or leader. The larger village of Kúpa was the most northern village

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<sup>18</sup> Moraino Patencio interview, September 26, 2016.

<sup>19</sup> Ibid.

<sup>20</sup> There were several routes in Anza Borrego State Park that settlers took after crossing the Colorado River to get to San Diego and Los Angeles. State Hwy 78 now follows an old historic trail up through the desert passing the mountains and passed by the village of Kúpa. In 1851, Coyote Canyon was home to five clans of Cahuilla that left the canyon after the United States came in and slaughtered the Indigenous people living there. The people of Coyote Canyon and Kúpa had a close relationship. Lowell John Bean and Charles R. Smith, "Cupeño," in *Handbook of North American Indians*, Vol. 8, ed. Robert F. Heizer (Washington: Smithsonian Institution, 1978), 588; and William Duncan Strong, *Aboriginal Society in Southern California* (Banning, CA: Malki Museum Press, 1987), 185.

<sup>21</sup> Bean and Smith, "Cupeño," 588; and Joseph J. Hill, *The History of Warner's Ranch and Its Environs* (Los Angeles, 1927), 32. Hereafter cited as Joseph Hill, *The History of Warner's Ranch*.

at the base of Hot Springs Mountain, while the smaller village Wilákal was located four miles southeast at San Ysidro.<sup>22</sup> Descendants of the original inhabitants refer to the village as Kúpa today.<sup>23</sup> The Cupeño people from Kúpa called themselves Kúupangaxwichem.

The story begins as the people chose to settle in a beautiful valley around a hot mineral spring. Sycamores, pines, and large oak groves covered the land where the sun always appeared and warmed the valley. The hot spring originated with the help of a special green plant. Oral stories relate that wherever the leaves of the plant are placed down, a hot mineral spring will come to the surface. The Kúupangaxwichem say the First people brought the plant with them as they looked for a place to settle.<sup>24</sup> They established the village of Kúpa around the hot mineral spring. The Kúupangaxwichem built a ceremonial house there to pray and gave thanks to Creator God.<sup>25</sup> The green plant was called changalangish by Mr. Salvador Lopez, a Cahuilla púul or medicine man.<sup>26</sup> Salvador said the plant was a white-looking bush with gray leaves. A tea was made from the leaves to treat ulcers.<sup>27</sup>

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<sup>22</sup> The main settlement of the Cupeño was known as Hákupin meaning “warm water” while the Cahuilla called it Kúpa. Hákupin is a Kumeyaay word. Kúpa later became known as Warner Springs. William F. Shipley, “Native Language in California,” in *Handbook of North American Indians*, Vol. 8, ed. Robert F. Heizer (Washington: Smithsonian Institution, 1978), 88; Joseph Hill, *The History of Warner’s Ranch*, 1; and Strong, *Aboriginal Society*, 185.

<sup>23</sup> The village of Hákupin, has been recorded in living memory as Kúpa. Guy Trujillo is a tribal leader and singer for the Cupeño people. Guy Trujillo interview by author, San Diego, CA, November 13, 2017.

<sup>24</sup> Joseph Hill, *The History of Warner’s Ranch*, 3.

<sup>25</sup> Dorothy Ramon and Eric Elliot, *Wayta’ Yawa’ “Always Believe”* (Banning, CA: Malki Museum Press, 2000), 791.

<sup>26</sup> This name of the plant called changalangish is especially important to remember as it is part of the story of The Treaty of Temecula.

<sup>27</sup> Katherines Saubel had recorded all the plants her family used in her own book form to help her remember the plants. This book is based off Saubel’s records. Lowell John Bean and Katherine Siva

Cupeño people were close relatives of the Cahuilla people. Tribal elders say that a branch of Cahuilla left the Cahuilla homeland and migrated south, setting up a new village. Rupert Costo, a Cahuilla historian of Southern Californian Indigenous history, claimed that this movement happened long ago, about 1,000 years ago.<sup>28</sup> Many Cahuilla and Cupeño people recall the two groups were one people at one time, coming from the area of Soboba.<sup>29</sup> Jealousy, division, and friction led to their separation into an area that was bordered by the Luiseño and Kumeyaay.<sup>30</sup> The late Katherine Siva Saubel recollected the Cupeño were Cahuilla. Katherine's father told her, the people from Kúpa were never regarded as not being Cahuilla until recent times.<sup>31</sup> Monica Madrigal, a prominent and highly respected Luiseño woman, recalled Kúpa was a southern village of the Cahuilla as well.<sup>32</sup> Not everyone agreed with this origination. William Pink, Chairman of the Agua Caliente Band of Cupeño Indians of the Pala Reservation, California, questioned the division and branch of the Cahuilla into Cupeño and suggested the Cupeño had better access to more resources if they were on their own.<sup>33</sup> Guy Trujillo,

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Saubel, *Temalpakh: Cahuilla Indian Knowledge and Usage of Plants* (Morongo Indian Reservation: Malki Museum Press, 1972), 188.

<sup>28</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 125.

<sup>29</sup> Hill, *The History of Warner's Ranch*, vi.

<sup>30</sup> Bean and Smith, "Cupeño," 588.

<sup>31</sup> This might be a reason when Cupeño leaders signed the Treaty of Temecula. They were not recognized as being Cupeño but as Luiseño. Katherine Siva Saubel and Eric Elliot, *'Isill Héqwas Wáxish: A Dried Coyote's Tail*. Book 2 (Banning, California: Malki Museum Press, 2004), 1230-1231.

<sup>32</sup> Alvino Siva, a Cahuilla elder from Los Coyotes believed the Cupeño people were Cahuilla from their origin. Bill and Monica Madrigal interview by author, Agua Caliente Reservation, March 17, 2018.

<sup>33</sup> William Pink is traditional cultural bearer with great knowledge of plants for food and medicine. Pink is a master traditional artist. Mr. Pink also has a multitude of treasured stories of the people, past and present. William Pink served on the California Indian Heritage Commission from 1980-1983 and served as its Executive Director, protecting cultural sites, preserving tribal autonomy, and bringing awareness to the tribes of California. William Pink is Chairman of the Agua Caliente Tribe of Cupeño Indians of the Pala Reservation, California. William Pink interview by author, phone, September 16, 2019.

a Cupeño leader and singer, stated the origination of the Cupeño began with Kisily-Piwish, a story of a Cahuilla woman and her son who were the last people of their clan, and the son married with Luiseño sisters.<sup>34</sup>

The story of Kisily-Piwish connects the Cahuilla, Cupeño, and Luiseño people to the land. The story begins with a mother from Palukla and her son, Kisily-Piwish, who were the sole survivors after an attack at Kúpa. Kisily-Piwish, a young boy with great power, was a great hunter and always won in games and tournaments against others. He even beat challengers from other villages. Other boys hated him and never said anything good about him, for he was a champion. Other Cahuilla became jealous and angry with Kisily-Piwish, and the people came and burned down his village. They killed all the male babies and young boys. Maiden of Palukla tucked the penis of Kisily-Piwish in to make it look like he was a girl, and it worked. The mother and child were spared.<sup>35</sup>

All the people were killed except Kisily-Piwish and his mother, maiden of Palukla. The Cahuilla cut off all the villagers' heads and placed them in a basket. The mother took her son and walked away from the carnage. She walked north to Yuykat. or Soboba, to her son's relatives. There they stayed for a while. Kisily-Piwish grew up and became a young man. They moved back to Kúpa. He continued to hunt and gamble and won at whatever he did. He was a medicine man and healed people. He always helped the

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<sup>34</sup> Guy Trujillo is Cupeño from the Pala Reservation. Trujillo is a descendent of Antonio Garra and the *Kavalim* clan. Trujillo is a singer of the Cupeño and Cahuilla Bird Songs. Guy Trujillo interview, November 13, 2017; and Alvino Siva interview by author, Agua Caliente Reservation, Circa 2005; and Strong, *Aboriginal Society*, 220-221.

<sup>35</sup> Alvino Siva told this story many times. Siva said he was a descendant of Kisily-Piwish.



people. Then one day, he saw two women from another tribe sitting under the oaks near the hot spring. Kisily-Piwish married them, and they had three boys. It was from this family union that the descendants of Kúpa and even the Cupeño exist today.<sup>36</sup> The three founding family clans are Kavalim, Aulingawichem, and Puntumatulnikem. This story unites the people on the land and begins a new chapter for the people who call themselves Kúupangaxwichem.

### **Luisseño**

The Luisseño are one of the strongest and most humble Indigenous groups of Southern California. They are resilient, highly intelligent, and passionate about their land and people. The Luisseño call themselves Payómkawichum, or people of the west. They saw themselves as the most westerly tribe in their area. The heart of Luisseño territory is centered around Pu'eska and Palomar Mountains. The Payómkawichum consider the land of Temecula as sacred and holy ground. Consistent with Luisseño origin stories, Myra Ruth Masiel-Zamora, in her book, *Éxva Teméeku-Where We Began*, said the Payómkawichum believe creation began in Temecula Valley near the settlement of Éxva Teméeku.<sup>37</sup> Afterwards, when Wu'yoot the Creator got sick, the people took him to heal in the hot mineral spring at Kúpa, located near Hot Springs Mountains. Wu'yoot, one of

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<sup>36</sup> Jane Hill and Rosinda Nolasquez. *Mulu'wetem: The First People: Cupeño Culture, Mythology, and Cupeño Language Dictionary*. ed by Jane H. Hill and Rosinda Nolasquez (Banning, California: Malki Museum Press, 2005), 19-43; Guy Trujillo interview, November 13, 2017; and Strong, Aboriginal Society, 220-221.

<sup>37</sup> Myra Ruth Masiel-Zamora. *Éxva Teméeku: Where We Began* (Pechanga, California: Great Oaks Press, 2016), 6.

the first leaders and father figure, died at the base of Pu'eska Mountain, meaning, “where the rocks cried,” near Pay'achi or Lake Elsinore.<sup>38</sup> According to Mark Macarro, Chairman of the Pechanga Band of Luiseño Indians, Pu'eska is the place where man died, and death came into the world. It is part of the origin landscape.<sup>39</sup>

The Luiseño people controlled and managed a diverse territory.<sup>40</sup> The Luiseño settled on the coast to the inland valleys and passes along the Santa Margarita and San Luis Rey drainages, and on the mountains. They settled where they found water and access to food.<sup>41</sup> The Luiseño also controlled the waters of the Pacific Ocean, including the four southern Channel Islands of San Nicholas, San Clemente, Catalina, and Santa Barbara to the mainland near San Diego. The Luiseño patrolled the ocean waters along the mainland coast, but also ventured far into the ocean. Shelbi Nahwilet Meissner, a Luiseño scholar, suggested that the Luiseño sailed as far west as Hawaii.<sup>42</sup>

The San Luis Rey River was an especially important source of water and resource for the people. The San Luis Rey River ran from the top of Palomar Mountain southwest

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<sup>38</sup> Mark Macarro, “Honoring Luncheon for Chairman Mark Macarro,” Association for Tribal Archives, Libraries, and Museums. Pechanga Casino & Resort, Temecula, CA, October 10, 2019; and “Pu'eska Mountain,” History, Pechanga Band of Luiseño Indians. <https://www.pechanga-nsn.gov/index.php/history/pu-eska-mountain/>.

<sup>39</sup> Mark Macarro, “Nation to Nation,” September 23, 2014, Museum of the American Indian, Smithsonian, Video, 23:53 minutes. [https://www.youtube.com/watch?v=U0J5\\_7uPAWk](https://www.youtube.com/watch?v=U0J5_7uPAWk). Hereinafter referred to as Mark Macarro, “Nation to Nation,” September 23, 2014.

<sup>40</sup> Mark Macarro, “Honoring Luncheon for Chairman Mark Macarro,” October 10, 2019; and Cheri Carlson, “Hundreds of Human Remains, Burial Objects to be Returned to Tribes, San Nicholas Island,” *Ventura County Star*. (Ventura, CA): April 20, 2019. <https://www.vcstar.com/story/news/local/2019/04/20/human-remains-found-returned-san-nicolas-island-california-tribes/2957634002/>.

<sup>41</sup> Rupert Costo and Jeannette Costo, *Natives of the Golden State*, 127.

<sup>42</sup> Shelbi Nahwilet Meissner, “Reclaiming Rainmaking from Damming Epistemologies: Water Politics and Radical Indigenous Language Reclamation” (Presentation, NAISA, University of Waikato, Hamilton, New Zealand, June 2019).

through the Pauma Valley to the Pacific Ocean.<sup>43</sup> The water was their life. At the top of Palomar Mountain were oak trees, and Indigenous people from all over Southern California knew about this place and came to gather there, Cahuilla elder Alana Segundo recalled.<sup>44</sup> The Luiseño people have learned from the oaks around them. There is one oak that was acknowledged as an elder, a relative. This tree is at the southern eastern end of Temecula Valley; it is called Wi'ással or the Great Oak. This respected tree is at least 1,000 years old and embodies the identity and character of the Luiseño people: strength, wisdom, longevity, and determination.<sup>45</sup> The people prayed here and asked for guidance and continue to come and lay down prayers.<sup>46</sup>

### **Serrano**

The Serrano are a spiritual and giving Indigenous people from Southern California, which allowed them to make relationships across the land. Today the Serrano are centered around the San Bernardino Mountains.<sup>47</sup> Traditionally, the Serrano people occupied the largest land base in Southern California. Their lands were spread out over an extended landscape, from the San Gabriel Mountains near the Pacific Coast to the

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<sup>43</sup> Mark Macarro, "Nation to Nation," September 23, 2014.

<sup>44</sup> Alana Segundo is a Cahuilla elder. She remembers going with family in the car to collect acorns on top of Palomar Mountain.

<sup>45</sup> "The Great Oak," Pechanga Band of Luiseño Indians." accessed October 9, 2019. <https://www.pechanga-nsn.gov/index.php/history/the-great-oak>.

<sup>46</sup> Many Natives including the Luiseño continue to go to Wi'ással, the Great Oak to pray and ask for help, guidance, and protection.

<sup>47</sup> Alfred L. Kroeber, "The Serrano," in *Handbook of the Indians of California* (New York: Dover Publications, Inc. 1976), 611.

Maria Mountains near the Colorado River.<sup>48</sup> The Serrano people had multiple settlements across the land. The Serrano include: the Yuhaaviatem, People of the Pines, who came from the area of Big Bear in the San Bernardino Mountains; the Maarenga'yam, People of Maara, who came from the area of Twentynine Palms in the Mojave Desert;<sup>49</sup> the Vanyume, who came from the area along the Mojave River; the Kitanemuk, who came from the area near Fort Tejon, and the Alliklik, who came from the Santa Clara River.<sup>50</sup> Elder Ernest Siva with the Morongo Band of Mission Indians noted the Serrano called themselves táhxtam, meaning people.<sup>51</sup> The Spanish invaders gave the name “Serrano” to those who lived in the sierras, or mountains. Serrano means highland or mountainous.<sup>52</sup>

Historically the Serrano occupied and controlled the mountains and high deserts from the San Gabriel Mountains east to the Mohave River, and continuing east beyond the Oasis of Maara in Twentynine Palms. The Serrano people occupied the deserts, mountains, passes, valleys, and canyons, where they found water. A water source was extremely important for survival in this dry and hot environment. In the northern part of

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<sup>48</sup> Lowell John Bean and Charles Smith, “Serrano,” in *Handbook of North American Indians*, Vol. 8, ed. Robert F. Heizer (Washington: Smithsonian Institution, 1978), 570.

<sup>49</sup> For this project, the spelling “Maarenga’yam,” meaning the People of Maara, provided by Ernest Siva was used. Leaders from San Manuel Band of Mission Indians refer to themselves as Maara’yam. “The people who lived at Yuhaaviat were known as the Yuhaaviatam, or “People of the Pines”, and were a clan of Maara’yam (Serrano) people.” The Serrano people originated from the first village of Maara. Ken Ramirez, “Welcome to the Inaugural Issue of Hamiinat,” *Hamiinat* 1, no. 1 (Fall 2021): 3.

<sup>50</sup> Clifford E. Trafzer, *The People of San Manuel* (Patton: California, San Manuel Band of Mission Indians, 2002), 19.

<sup>51</sup> Ernest Siva is the founder of the Dorothy Ramon Learning Center. Siva is a speaker and teacher of the Serrano language. Siva is a master storyteller with tremendous knowledge of his ancestors and their ways. Ernest Siva interview by author, Banning, CA, May 27, 2019. Hereafter cited as Ernest Siva interview, May 27, 2019.

<sup>52</sup> Lowell John Bean and Florence C. Shipek, “Serrano,” in *Handbook of North American Indians*, Vol. 8, ed. Robert F. Heizer (Washington: Smithsonian Institute, 1978), 570.

the San Bernardino Mountains, they lived around Lake Arrowhead, Big Bear Lake, near rivers, and at springs.<sup>53</sup> At the west end of Serrano territory, there was a village called Amútca at the top of Cajon Pass in the San Bernardino Mountains next to the Mojave River.<sup>54</sup> The Mojave River was an ancient river that used to flow across the high desert, providing a large source of water. There, the ground was rocky with creosote vegetation and some pinyon trees. Muscupiabit was another Serrano village located at the bottom of the Cajon Pass. To the east, in modern-day Yucaipa, there was another large village, Yucaipat. The mountains provided cool winds and freshwater streams, ample water for oak trees that surrounded the area.<sup>55</sup>

The Serrano had a village at the eastern end of the San Bernardino Mountains on the north side, called Maara. There was small village at the western edge of the Oasis of Maara where the Serrano thrived and lived around a small pool of water, palms, cottonwoods, and abundant native plants to sustain them. The oasis provided fresh spring water where animals also came to drink. The Maarenga'yam Serrano believe this palm oasis with its source of fresh water is where the Creator first brought them to settle on the land.<sup>56</sup> The Serrano have a song to describe their arriving on earth. “Peychaav anim pichii.” “They arrived with their songs.”<sup>57</sup> At Maara, the people had a ceremonial house

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<sup>53</sup> John Peabody Harrington, Southern California/Basin: Serrano, in John Peabody Harrington Papers, National Anthropological Archives, Smithsonian Institution. Reel 101, Harrington\_mf3\_3101\_0268. accessed May 2019, [https://collections.si.edu/search/detail/edanmdm:siris\\_arc\\_363773/](https://collections.si.edu/search/detail/edanmdm:siris_arc_363773/).

<sup>54</sup> Strong, *Aboriginal Society*, 7.

<sup>55</sup> Ruth Fulton Benedict, “A Brief Sketch of Serrano Culture,” *American Anthropologist* 26, no. 3 (July-September 1924), 688.

<sup>56</sup> Ramon and Elliot, *Wayta 'Yawa*, ' 6-9.

<sup>57</sup> Ernest H. Siva, *Voices of the Flute: Songs of Three Southern California Nations* (Banning, CA: Ushkana Press, 2004), 9.

and a garden cultivated with beans, corn, pumpkins, squash, chia. The village was located on an old trading route that connected the Colorado River people with the people on the coast.

The Chemehuevi often traded and stopped at Maara on their travels and on their trips to the coast. In the 1860s, a Chemehuevi family, the Mike Family from the Colorado River, moved to the oasis and spread out from there.<sup>58</sup> The same trail the Indigenous people walked on brought the Americans. There was a Serrano prophecy of the White Eagle, as told by Ernest Siva from Morongo. The White Eagle came and revealed “younger brother” is coming. He is coming with all his children. Learn his ways. Go to his schools. Then engage with him. Beat him at his own game.<sup>59</sup>

### **Kumeyaay**

The Kumeyaay were one of the most fierce, knowledgeable, and courageous tribes in Southern California, which allowed them to control lands from the Pacific Coast to the Colorado River. The Kumeyaay were among the first Indigenous people the American intruders encountered when crossing into California.<sup>60</sup> Kumeyaay means “the people of the cliffs over-looking the ocean.”<sup>61</sup> The Kumeyaay are an Indigenous people

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<sup>58</sup> Clifford E. Trafzer, *A Chemehuevi Song: The Resilience of a Southern Paiute Tribe* (Seattle: Washington Press, 2015), 132.

<sup>59</sup> Ernest Siva interview, May 27, 2019.

<sup>60</sup> Phillip St. George Cooke, *The Conquest of New Mexico and California; A Historical and Personal Narrative*, (New York: Putnam’s Sons, 1878), 186.

<sup>61</sup> Stan Rodriquez, Text Message to author, May 24, 2019.

centered around San Diego and east to Imperial County, with a great diversity of land and climate.<sup>62</sup> It is cool on the Pacific Coast and hot and dry inland. Yet, the stories and heritage of the Kumeyaay people called Ipay and Tipay are so intertwined.<sup>63</sup> In his book, *Kumeyaay: A History Textbook, Volume 1, Pre-contact to 1893*, Michael Connolly Miskwish declared that the elders agreed in the 1950s that these groups of people should be called Kumeyaay, meaning the people, because there were many names used to describe the people in their various dialects.<sup>64</sup>

Kumeyaay territory stretched out into the Pacific Ocean east to the Salton Sea and as far east toward the Colorado River with summer and winter villages and traveling trails.<sup>65</sup> They traded and sailed along the coast of California, south into Mexico. According to Dr. Stan Rodriguez, a Kumeyaay leader, a Kumeyaay language speaker, and scholar, the Kumeyaay most likely sailed and traded with the Pacific Islanders of Hawaii.<sup>66</sup> The Kumeyaay traditionally occupied the land from the Colorado River to Vallecito and Laguna Mountains down to the modern-day California border and into Baja California, to the coast in San Diego. Their lands on the coast included valleys, beaches, and lagoons. Further inland, Kumeyaay lands consisted of mountains and deserts. Kumeyaay lands to the east exist in the arid Colorado Desert.

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<sup>62</sup> M. Steven Shackley, ed., *The Early Ethnography of the Kumeyaay* (Berkeley: University of California, 2004), 1

<sup>63</sup> David L. Toler Jr., *Blood of the Band: An Ipai Family Story* (San Diego, CA: Sunbelt Publications, 2015), XII.

<sup>64</sup> Michael Connolly Miskwish, *Kumeyaay: A History Textbook, Volume 1, Precontact to 1893* (El Cajon, CA: Sycuan Press, 2007), 18. Hereinafter referred to as Miskwish, *Kumeyaay*.

<sup>65</sup> Miskwish, *Kumeyaay*, 15; and Toler, *Blood of the Band*, 22.

<sup>66</sup> Stan Rodriguez interview with author, Hamilton, New Zealand, June 27, 2019. Hereafter cited as Stan Rodriguez interview, June 27, 2019.

Ceremonies, gathering seasons, hunting seasons, and migration times were all dependent on the stars. The celestial sky is and was an important part of Native culture. The Kumeyaay have a story for the solar eclipse, as told by Dr. Stan Rodriguez. The story is important in that it reveals the Kumeyaay perception of Creation and traditional thinking. The Sun and Moon were going to get married on top of Kuuchamaa Mountain [Tecate Peak], and all the animals followed in a procession. As the animals walked, two frogs that were in love, lagged behind. They stopped walking and went to a pond where they mated. Afterward they caught up with the others in procession. The female frog started to feel sick. She complained that her stomach hurt. She really needed to rest. Both frogs decided then to return to the pond to rest. As soon as she entered the water, little pollywogs flushed out of her and swam around in the pond. They realized then what happens when two beings mated. They wanted to warn the Sun and the Moon what happens when two beings mate. The two frogs went to the Sun and Moon, and told them they could not marry because they would eventually mate. They showed the Sun and the Moon and all the animals the little frogs. The Sun and Moon agreed they did not want to mate and have many suns and moons all over the sky.<sup>67</sup>

They agreed to take turns and come out. Sometimes they came out together. When the Sun is out and Moon comes to kiss him, this is called enyaa wesaaw, or solar eclipse.<sup>68</sup> This solar cycle is extremely important for “the sun is life and power.” The

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<sup>67</sup> Michael Connolly Miskwish, *Maay Uuyow Kumeyaay Knowledge* (Alpine, CA: Shuluk, 2016), 6-8.

<sup>68</sup> *Ibid*, 6-8.



Kumeyaay tracked the cycles of the sky within their observatories on the landscape.<sup>69</sup> Observation of the celestial sky allowed the Indigenous people to maximize use of the land given to them by the Creator. Stories are important to Indigenous people. Stories give ideas, balance, encouragement, knowledge, and sovereign autonomy to Indigenous people. This story connects the people to the land, and supports the concepts to share, learn from, work things out, and help one another. These are guiding principles to live by. The story reveals the importance of Kuuchamaa Mountain as a place of creation and a place where the celestial beings live and gather.

### **Tribes**

The Cahuilla, Cupeño, Luiseño, Serrano, and the Kumeyaay share similar stories of Creation and teachings from this extremely important narrative that frame Indigenous law, beliefs, culture, and strategies. The Cahuilla Creation Story is not a myth. It is the truth, the late Cahuilla elder Alvino Siva told.<sup>70</sup> This was the beginning “of our way of life,” Katherine Siva Saubel, a Cahuilla elder who believed in the old ways and traditions, said. “Our religion started with this.” With Creation stories emerged the laws “given to us through this time,” Saubel explained.<sup>71</sup> Since Time Immemorial, Indigenous people have lived in California. Each tribe has their own Creation Story from their area. What

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<sup>69</sup> Ibid, 1.

<sup>70</sup> Chris Petiprin, director, *The Legend of Tahquitz Canyon* (Carlsbad, CA: Digitat Studio, 2000), DVD.

<sup>71</sup> Katherine Siva Saubel interview by Thomas Blackburn and Everett, AEA Studios, 1982. Lowell Bean’s Files.

that means is that Indigenous people were created right here in Southern California, Tom Lucas a Kwaaymii elder, believed.<sup>72</sup> The people believed each of their lands is the center of the world; therefore, all the lands in California were extremely respected places. The stories of creation continue to be valuable to the people in terms of tribal identity, tribal territory, and tribal sovereignty. Even more importantly, the story of Creation sets the foundation and belief system for the Indigenous people to live and abide by tribal and natural law. To the Indigenous people, the story of Creation carries with it a bundle of guidelines and rules to live by. The Creation story teaches one how to act, care for oneself, how to work with others, while pulling from your inner power to push forward. The story reveals we all must work together to get through this world.

For the Cahuilla, according to the late Katherine Siva Saubel, the Creators put their creations down on earth at the base of the Santa Rosa and San Jacinto Mountains.<sup>73</sup> For the Cupeño, their story begins with Kisily Piwish at the village of Kúpa at the base of Hot Springs Mountain.<sup>74</sup> In her book, *Éxva Teméeku*, Luiseño Native scholar Myra Ruth Masiel-Zamora said Creation began at the west end of Palomar Mountain in Temecula Valley.<sup>75</sup> According to the late Serrano elder Dorothy Ramon and the Serrano creation

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<sup>72</sup> Lora L. Cline, *Just Before Sunset* (San Diego: Sunbelt Publications, 1984), 108.

<sup>73</sup> Katherine Siva Saubel was a first-generation Cahuilla language speaker and singer of her language. She educated thousands of people on Cahuilla history, language, and stories. Siva was a founding member of the Malki Museum on the Morongo Reservation. The author merged parts together to make this story of the first creation. Charles Hillinger, "Cahuilla Historian Spreads Word About Cahuilla Tribe in Desert," *Los Angeles Times* (Los Angeles, CA), March 6, 1983.

<sup>74</sup> Guy Trujillo interview, November 13, 2017; and Nolasquez, ed, "The Story of Kisily Piwish," *Mulu'wetam*, 19.

<sup>75</sup> Myra Ruth Masiel-Zamora is a tribal speaker of the Luiseño language. She is the Director of the Pechanga Cultural Center. Masiel-Zamora, *Éxva Teméeku*, 2; and Constance Goddard Dubois, "The Religion of the Luiseño Indians of Southern California," *American Archaeology and Ethnology* 8 no. 3 (June 27, 1908), 128-147.

story, the Serrano began at Maara, a palm oasis in Twentynine Palms.<sup>76</sup> For the Kwaaymii, a band of Kumeyaay, and according to the late Tom Lucas, Kwaaymii elder, creation started in the Laguna Mountains.<sup>77</sup> This is the beginning story for the Indigenous people of Southern California.<sup>78</sup> Southern California is home to many tribes, including Acjachemen, Cahuilla-Íviullatem, Chemehuevi, Chumash, Cocopah, Cupeño, Kamia, Kumeyaay, Kwaaymii, Luiseño-Payómkawichum, Maricopa, Mojave, Serrano, Tataviam, Tongva-Gabrielino, and Quechan.<sup>79</sup> Not all of these tribes share the same creation motifs but each share a characteristic from their close neighbors.<sup>80</sup>

From creation itself, the Indigenous people learned that not even the Creator of all things is above the law and is held accountable. In turn, the people respected and honored the laws set forth in the beginning. If someone went against the law, then they must take the consequences. For the most part, the violation of others was responded back with reciprocal action. This kept the line straight like an arrow. The death of the Creator also tells us that even the ones with power eventually die. Death was inevitable. Creation stories prepared the people about the hardships in life and that those sufferings shall pass.

The tribes created their homes, settled, migrated, intermarried, traded, and sometimes went to war with another across California.<sup>81</sup> Indigenous people and more

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<sup>76</sup> Dorothy Ramon and Eric Elliot, *Wayta 'Yawa'*, 6-9.

<sup>77</sup> Tom Lucas was the last descendant born on the Kwaaymii Reservation and he was deeded the Reservation in 1947 by the United States. Cline, *Just Before Sunset*, 108.

<sup>78</sup> Each band and each tribe have their own version and understanding of how the world came into existence. This is a highly condensed version of those ancient stories.

<sup>79</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 117.

<sup>80</sup> Harry Lawton, "Agriculture Motifs in Southern California Indian Mythology," *Journal of California Anthropology* 1, no. 1 (1974): 55-72.

<sup>81</sup> Matthew Leivas is a founder of the Salt Song Trail Project and singer of the Salt songs. Leivas is highly respected for his knowledge of Chemehuevi history, songs and stories, and his fight for the protection of

specifically the Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano developed relationships with the land, with each other, and with their neighbors. They travelled great distances to visit, gather, patrol, and know the land and its resources. The Indigenous people knew the land intimately. They had too; it was their life; it was their survival; and it provided for them.

Southern California geography is a rich and vast region, diverse with multiple geographies and ecological zones from the Pacific Ocean to inland valleys, to forested mountains, and sandy deserts.<sup>82</sup> The Kumeyaay and Luiseño lived along the southern coast into the valleys. The Cahuilla, Cupeño, Luiseño, Serrano, Kumeyaay all lived and occupied the inland valleys and mountains. The Cahuilla, Kumeyaay, and Serrano lived in the mountains and deserts on the eastern edge of California. The geography varied from the cool coastal islands and plains, to wetlands, to sage brush chaparral valleys, to wooded pine and oak forests, to rugged snow-covered mountains, to palm oases, and to the hot, dry, sparse deserts.<sup>83</sup>

The Indigenous peoples' oral stories of Creation, earlier times, migration, and cultural heroes surrounded the Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano landscapes. In 1943, Francisco Patencio, a Cahuilla leader and visionary, collaborated with Margaret Boynton in *Stories and Legends of the Palm Springs Indians*. The Cahuilla

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cultural sites across the landscape. Matthew Hanks Leivas interview by author, Chemehuevi Reservation, September 10, 2019.

<sup>82</sup> Trafzer, *Fighting Invisible Enemies*, 25.

<sup>83</sup> Lowell John Bean, Syvilia BlakkeVane, and Jackson Young, *The Cahuilla Landscape*, 5; Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 124-131; Miskwish, *Kumeyaay*, 23-32; Florence Shippek, *Pushed into the Rocks: Southern California Indian Land Tenure, 1769-1986* (Lincoln: University of Nebraska Press, 1986), 3-10; and Strong, *Aboriginal Society*, 5.

landscape is reflected through their oral narratives and cultural heroes and memorialized on the landscape as prominent features. One story depicts the boundaries of the Cahuilla territory marked by *Evonganet*, a Cahuilla leader and headman, from the Cucamonga Mountains to the Santa Rosa and San Jacinto Mountains, and continuing south and east of the Coachella Valley.<sup>84</sup> At the end of his journey, Evonganet entered the San Jacinto Mountain and came out at the top as a white dome, called Kow'wish'no'kalet.<sup>85</sup>

The Cupeño people have their hot mineral spring, which according to their oral stories originated from the people. As the Cupeño looked for a place to settle, they decided on a valley filled with abundant resources and greeted by a warm sun. The Cupeño placed a special green plant down, and a spring came to the surface.<sup>86</sup> The spring was the center of all activity.

Just the same, the Kumeyaay, have their story about Kuuchama Mountain. In the beginning, the Creator, Maayhaay, created the mountain for the people to access power for good.<sup>87</sup> There is another mountain, told Kwaaymii elder Carmen Lucas, when Coyote ran off with the creator's heart. The blood dripped all the way to the mountains, where Coyote consumed the heart on top of Coyote Mountain in Anza Borrego southeast of

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<sup>84</sup> Patencio and Boynton, *Stories and Legends*, 1-54.

<sup>85</sup> Ibid, 52-54.

<sup>86</sup> Joseph Hill, *The History of Warner's Ranch*, 3.

<sup>87</sup> Florence C. Shipek, "Kuuchamaa: The Kumeyaay Sacred Mountain," *Journal of California and Great Basin Anthropology* 7, no. 1 (1985): 67-74.

Coyote Canyon. The land is stained red where the blood dripped. The Kumeyaay and Kwaaymii continue to revere the mountain, Carmen Lucas explained.<sup>88</sup>

The Luiseño also have traditional cultural properties in their area. Wuyóot, the Káamalam Clan's first leader, died and was cremated on Pu'éska Mountain.<sup>89</sup> Pu'éska Mountain is sacred place to the Luiseño and remember where this significant cremation took place long ago. Pu'éska Mountain is also the site where Táamayawut gave birth to the Káamalam.<sup>90</sup>

Likewise, the Serrano also have stories of features found on the landscape. One story is about Kutatinan. Kutatinam is the place where the Serrano Creator, Kokiiatach, was buried in the San Bernardino Mountains, after his death. This is one of the most sacred places to the Serrano people.<sup>91</sup> To the Indigenous people of Southern California, the cultural, the oral narrative, and the language are embedded in the land. The land connects the people to their surroundings and reminds them of who they are and where they come from.

The landscape of Southern California extends from the Pacific Ocean on the west coast east to the Colorado River. Southern California extends from below the Central

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<sup>88</sup> Carmen Lucas is the daughter of Tomus Lucas from the Kwaaymii band that lives in the Laguna Mountains. Tomus in Kwaaymii means everything obliterated. Carmen Lucas, said her Dad Tom in 1947, requested the Kwaaymii Reservation be removed from U.S. government control. Carmen Lucas interview by author, Lucas Ranch, Pine Valley, CA, August 29, 2016. Hereafter cited as Carmen Lucas interview, August 29, 2016.

<sup>89</sup> Masiel-Zamora, *Éxva Teméeku*, 2-3.

<sup>90</sup> "History," Pechanga Band of Luiseño Indians. accessed October 3, 2019, <https://www.pechanga-nsn.gov/index.php/history/pu-eska-mountain>.

<sup>91</sup> Trafzer, *The People of San Manuel*, 17-18.

Valley at Fort Tejon to the international border with Mexico in San Diego, about a 275-mile distance.<sup>92</sup> Southern California contains great mountain ranges including the San Gabriel Mountains to the west, the Tehachapi Mountains to the north [the western and southern boundaries of the Central Valley], the Mule Tank Mountains next to the Colorado River to the east, the Jacumba Mountains to the south, and in the center, the San Jacinto and San Gorgonio Mountains near Palm Springs. San Gorgonio has the highest peak in Southern California at 11,503 feet, considered sacred by all the Indigenous people. San Jacinto Peak is at 10,834 feet the second-highest peak in Southern California and a place of holy ground revered by all tribes as far as the Colorado River, Preston Arrow-weed, a Quechan elder and singer of Urave or Lighting Songs, said. The Lighting Songs are songs of power, and when sung, the songs take the singer and in a spiritual way, revisit the places within the Lighting Song trail. San Jacinto was part of the trail and journey.<sup>93</sup>

San Jacinto is especially held close to the heart of the Cahuilla people; it is a place where medicine and power come from. In Serrano, it is called Ayaqaych, or Gathering Mountain, the place where the people went to gather medicine and food, and where shamans went to learn their songs.<sup>94</sup> Chemehuevi leader and elder Matthew Leivas said that the Chemehuevi along the Colorado River sing Salt Songs. The Songs tell the journey of two women from the Colorado River. The Songs tell of the women passing

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<sup>92</sup> Mexico is all Indigenous country too. Indigenous people of Southern California always moved across the landscape down into Mexico to visit relatives before Mexico was ever an international border between the United States and Mexico.

<sup>93</sup> Preston Arrow-weed interview, March 19, 2004.

<sup>94</sup> Ernest Siva, *Voices of the Flute*, 16.

near Mount San Jacinto.<sup>95</sup> Nestled among the mountains, valleys, canyons, hills, passes, and plains, the Indigenous people made their homes, settled, and collected their food and everything else they needed from the natural world.<sup>96</sup>

Francisco Patencio described the California Indigenous people as being the fifth people. They no longer migrated as those who came before them. They had permanent homes, buried their dead, attended to their gardens, and had ceremonies.<sup>97</sup> They lived in one area and did not need to move around. The people hunted and gathered their foods from nearby sources. Their environs provided a vast array of food with meat, vegetables, and fruits. To begin, meat was not always eaten. Southern California Aboriginal people consumed a lot more plant products than meat. Meat was only eaten occasionally. Meat came from the relatives of the Native, so animals were hunted sparingly. The Kumeyaay collected food from the ocean such as abalone, fish, and shellfish.<sup>98</sup> Delfina Cuero, a Kumeyaay elder, admitted in her book, *The Autobiography of Delfina Cuero*, “Any kind of meat we could get, we used — rabbit, deer, opossum, racoon, wood rat, anything.”<sup>99</sup> They fished in fresh and salt waters for food and gathered other resources like seaweed and kelp. Hundreds of plants provided food and other resources. According to the

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<sup>95</sup> Matthew Leivas interview by author, Chemehuevi Reservation, CA, September 10, 2019. Hereafter cited as Matthew Leivas interview, September 10, 2019; and Preston Arrow-weed interview, March 19, 2004, Hereafter cited as Preston Arrow-weed interview, March 19, 2004.

<sup>96</sup> Lowell J. Bean, *Mukat's People: The Cahuilla Indians of Southern California* (Berkeley: University of California Press, 1974), 23.

<sup>97</sup> They had permanent homes, buried their dead, attended to their gardens, and had ceremonies. Patencio and Boynton, *Stories and Legends*, 65.

<sup>98</sup> Delfina Cuero and Florence Shipek, *The Autobiography of Delfina Cuero* (Morongo Indian Reservation: Malki Museum Press, 1970), 27.

<sup>99</sup> Delfina Cuero was born in mat kunap [Mission Viejo] around 1900. Cuero told her life story detailing the history and live ways of the Kumeyaay people. *Ibid*, 30.



Cahuilla Creation story, when the Creator Múkat died, the people cremated his body. Three days later, there were new foods growing from the center of the ashes. Múkat's spirit revealed that these foods included beans, squash, melons, cacti, and corn. The people wanted to know what was growing. They went to look for the spirit of Múkat in the east.

*“The people sent Aswet, the Eagle a powerful being to look for Múkat. Eagle caught up to Múkat and inquired about the plants. Múkat replied, ‘That is tobacco, pívat, my breath. Use that in your ceremonial house. Burn it in your pipe. Another plant is corn, túmah, my teeth. The stalks will have hair. Also, black beans, tévemalem, my eyes. And pumpkins will grow, nysashlum, my stomach. And from my nostrils, summer squash. The plants can be eaten and taken as medicine Múkat told his people.’”<sup>100</sup>*

Other Native foods included seeds, grains, fruits, nuts, bulbs and tubers, leaves, stems, blossoms, and cacti. Many villages had gardens, but California was so abundant with natural foods, the tended landscape was the garden as “the result of thousands of years of selective harvesting, tilling, burning, pruning, sowing, weeding, and transplanting.”<sup>101</sup> To the Indigenous people, all plants, shrubs, and trees are sacred beings given to the people by the Creator. The plants are remembered as being the First people who sacrificed themselves who transformed into the plants for the people to eat.

The people have since taken care of the plants, all remembering their father. The Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano were agriculturists who grew corn,

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<sup>100</sup> Ruby Modesto and Guy Mount, *Not for Innocent Ears: Spiritual Traditions of a Desert Cahuilla Medicine Woman* (Angelus Oaks: Sweetlight 1980), 129.

<sup>101</sup> Willard Rhoades, “Method of Caring for the Land: Take Care of Nature and it Will Take Care of You,” in *Tending the Wild*. ed. M. Kat Anderson (Berkeley, London, and Los Angeles: University of California Press, 2005), 126.

beans, and squash and intergraded other native plants and fauna into their diet.<sup>102</sup>

California had an abundant source of natural foods and resources packed with protein and energy from “fish, acorns, small game, berries, insects, edible plants, and roots.”<sup>103</sup> The people collected foods from their own areas they owned and managed. They did not pick



*Figure 1.2: Families harvest agave in the Santa Rosa Mountains. Source: Sean Milanovich.*

more or take more than what was needed. According to the late Barbara Drake, a Tongva elder and admirer of plants, the people did not pick everything available on one plant; the people always left a good amount behind as they went to the next plant to gather. These were instructions given to them long ago they followed. This was a food-gathering strategy they adopted.<sup>104</sup>

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<sup>102</sup> Shackley, *The Early Ethnography of the Kumeyaay*, 1

<sup>103</sup> “California Indian Acorn Culture-Background,” *National Archives*. accessed October 7, 2019. <https://www.archives.gov/education/lessons/acorn>.

<sup>104</sup> Barbara Drake was a Tongva elder with a strong passion to make relationships with our plant relatives. Barbara Drake interview with author, Alta Loma, CA, January 23, 2020.

Foods and medicines were usually within a proximity of their village and in most cases within a day's walking distance, crossing valleys and streams. The women primarily gathered, and the men hunted, while plant-gathering involved an entire community. For example, the collection of agaves involves the work of men, women, and children today. This is how it was done in the past. Entire groups and families moved up the mountain for a few weeks and harvested the agave. It required labor-intensive work. Southern California's ecosystems have great diversity, and the rich biota provided an abundance of food from multiple ecological life zones and elevations.<sup>105</sup> Food was available for harvest from below sea level to the highest peaks.<sup>106</sup> Salt was collected from several places, including the ocean, the dry lake bed of the Salton Sea, and the dry lake bed of Cadiz Valley, and then traded.<sup>107</sup> Chemehuevi elder Matthew Leivas considered salt to be "a precious commodity that everyone could not live without." Salt was used for cooking, storing, medicinal and holy sacrament. It depended on where it came from. Salts have different characteristics or properties that can be used for a specified use.<sup>108</sup>

The Indigenous people of Southern California all had native plants with multiple varieties depending on location of community. For example, each lineage of the Wanikik Cahuilla clan of San Geronio Pass owned specific food-collecting and hunting areas, as well as resource areas for other valuable products, within the region's canyons, valleys,

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<sup>105</sup> Bean, *Mukat's People*, 25.

<sup>106</sup> Kat Anderson, "Wildlife, Plants, and People," in *Tending the Wild* (Berkeley, London, and Los Angeles: University of California Press, 2005), 13.

<sup>107</sup> The Salton Sea Seabed and Cadiz salt flats were both ancient seabeds, covered by the ocean long ago. As the ocean receded, salts were left behind and later collected by the people.

<sup>108</sup> Matthew Leivas interview, September 10, 2019.

foothills, and mountains.<sup>109</sup> If they did not have a plant or shrub they wanted, they traded for it. Giving food as gifts also often was an essential part of rituals and ceremonies. “Economic Exchange involved an elaborate system of exchange rules, associated with kinship and marriage regulations and controlled by ritual obligations.”<sup>110</sup>

Indigenous people of Southern California have four primary foods that were available to most groups depending on climate: agave, pinyon, mesquite, and acorns.<sup>111</sup> For some foods, they were so abundant and provided a staple of the diet, groups collectively gathered.<sup>112</sup> Native people developed a deep relationship and understanding with the plants. The plants are considered relatives, told Cahuilla and Apache elder Lorene Sisquoc.<sup>113</sup> Some of the First people were asked by Creator to sacrifice themselves to become plants.<sup>114</sup> Tongva elder Barbara Drake said that the Earth is part of our community. The plants are treated with kindness and love. Before the plants are harvested, the harvesters thanked them for their sacrifice to give of themselves to feed the people.<sup>115</sup>

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<sup>109</sup> Lowell J. Bean, “Morongo Indian Reservation: A Century of Adaptive Strategies,” in *American Indian Economic Development*, ed. Sam Stanley (Paris: Mouton, 1978), 164.

<sup>110</sup> Bean, “Morongo Indian Reservation,” 166.

<sup>111</sup> Sean Milanovich, “Cahuilla Continuum: Tuku, Ivax, Tuleqa” (master’s thesis, University California Riverside, 2014), 48-56.

<sup>112</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 51-53; and Milanovich, “Cahuilla Continuum: Tuku, Ivax, Tuleqa,” 48-56.

<sup>113</sup> Lorene Sisquoc interview, May 8, 2014.

<sup>114</sup> This is part of Cahuilla Creation Story. The first beings created were human. The Creator Múkat asked the people afterwards to become plants and trees for the people to eat.

<sup>115</sup> Barbara Drake and Craig Torres, “Plant Relationships,” (Presentation, Riverside - San Bernardino County Indian Health, Agua Caliente Resort-Rancho Mirage, Agua Caliente Reservation, CA, August 17, 2017).

The primary sources of food were supplemented with various other roots, bulbs, shoots, and seeds.<sup>116</sup> The harvest and gathering of plants were seasonal and only available during specific times of the years. Monica Madrigal, a Luiseño teacher and gatherer, said there is a seasonal calendar of harvesting from the land. In the spring, agave, yucca, cactus flowers, are available. In the summer, mesquite and cactus flowers and pads are



*Figure 1.3: Monica Madrigal teaching kids how to process acorns at Agua Caliente Reservation for the Tamit Enanqa event April 3, 2010. Source: Sean Milanovich.*

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<sup>116</sup> Lowell J. Bean and Florence C. Shipek, “Serrano,” in *Handbook of North American Indians*, Vol. 8, ed. Robert F. Heizer. (Washington: Smithsonian Institute, 1978), 571.

available. In the fall, pinyon and acorns become ready for harvest.<sup>117</sup> California, and more specifically southern California, offer a large variety of plants that provided a bountiful surplus of food.<sup>118</sup>

The principal food sources of acorn, agave, mesquite, and pinyon were high in nutrients.<sup>119</sup> Acorns were gathered and consumed throughout California. Acorns are found in elevations from 1,000 to 8,000 feet. There are eighteen species of oak in California.<sup>120</sup> There are six prominent varieties of oak in Southern California: Coastal Live Oak, Canyon Live Oak, Interior Live Oak, Canyon Live Oak, California Black Oak, and California Scrub Oak.<sup>121</sup> The Black Oak and Live Oak were most favored, providing the largest harvest and best-tasting nuts. The oak trees provided an abundant and reliable source of acorns. The acorns were stored in woven willow granaries on individual platforms a few feet above the ground, and on roofs of structures. The willow branches of the granaries have a natural pesticide that kept bugs and rodents out. The acorns need to season over the year by resting in place with the occasional stir.

The nuts were pulverized, and the meal sifted. Acorns have a tannic acid that is leached out with water. Acorn groves were so important and such a reliable source of

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<sup>117</sup> Monica Madrigal is Cupeño and Luiseño. Monica is a mother of eight beautiful kids. She and her husband Bill, teach Native culture to the Native community. Monica Madrigal, email to author, Circa 2009.

<sup>118</sup> Robert F. Heizer and Mary Anne Whipple, *The California Indians: A Source Book* (Berkeley and Los Angeles: University of California Press, 1951), 234.

<sup>119</sup> Milanovich, "Cahuilla Continuum: Tuku, Ivax, Tuleqa," 47.

<sup>120</sup> Bruce M. Pavlik, Pamela C. Muick, Sharon Johnson, and Marjorie Popper, *Oaks of California* (Los Olivos, CA: Cachuma Press, 1991), 3.

<sup>121</sup> Timothy R. Plumb and Anthony P. Gomez, "Five Southern California Oaks: Identification and Postfire Management," U.S. Forest Service. (1983); 1. accessed April 2, 2020. <https://doi.org/10.2737/PSW-GTR-71>.

food, lineages and families owned groves.<sup>122</sup> The Cahuilla referred to the groves as mékiawah, or the place that waits for me.<sup>123</sup> Families made a ring and pin game from the acorn cups. It has been suggested that acorns were so important, the Indigenous people brought acorns to areas where there were no acorns, such as in parts of Joshua Tree National Park and lower elevations. Two Live Oaks from the coast are found in Joshua Tree. Some suggest that Natives transplanted the oak seedlings here.<sup>124</sup> The idea was to bring important food with you to a new area where there was no food. Matthew Leivas, a Chemehuevi elder and Salt Song Singer, said that when the people moved from West Well to the Turtle Mountains to the west, they brought mesquite and Palms with them. There were no mesquite and palm, so the Leivas sisters brought these incredibly valuable foods to plant there.<sup>125</sup> Cahuilla elder and prominent cultural bearer Cahuilla Red Elk shared,

*“An elder once told me that the Indigenous people were people that could dream and create. When the people used to climb the mountains to go gather and harvest the acorns from the oaks, the people walked in the sun. They closed their eyes, prayed, and had visions of what to do. They would sing their Bird Songs to honor the great mystery and fill their hearts with love. The great mystery was familiar and as the people climbed higher and higher, they knew they were connected. As the people got closer and closer to the top, their stomachs ached for the food. They knew they were close.”<sup>126</sup>*

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<sup>122</sup> Rhoades, “, “Method of Caring for the Land,” 134.

<sup>123</sup> Sean Milanovich, “Cahuilla Continuum: Tuku, Ivax, Tuleqa,” 52.

<sup>124</sup> Kollibri terre Sonnenblume, “A Century of Theft from Indians by the National Park Service,” Counterpunch.org. March 9, 2016. accessed September 17, 2016. [www.counterpunch.org](http://www.counterpunch.org).

<sup>125</sup> Matthew Hanks Leivas interview by author, Chemehuevi Reservation, September 19, 2019. Hereafter cited as Matthew Leivas interview, September 19, 2019.

<sup>126</sup> Cahuilla Red Elk is a highly respected Cahuilla elder and accomplished attorney for American Indian Rights. Mrs. Red Elk was raised by her grandparents and is knowledgeable in Native cosmology, Native history, and Native medicine. This is the story told to Cahuilla Red Elk by her uncle Matthew Pablo. Cahuilla is Cahuilla and Lakota. Cahuilla Red Elk interview by author, phone, March 30, 2020. Hereafter cited as Cahuilla Red Elk interview, March 30, 2020.



Another important food resource to Southern California was agave. Agave is found in elevation from 500 to 3,500 feet. Agave grows on most mountain slopes from the Cucamonga and San Bernardino ranges south to the Santa Rosa/San Jacinto Mountains, to Palomar Mountain, to the Jacumba Mountains. Like the other principal resources, Agave was a family and clan affair which required the help of most of the people from the village. The entire agave was dug out of the ground with a digging stick. The agave was roasted in stone-lined pits for twelve hours, confirmed Sean Milanovich, an advocate for traditional foods. Sean roasts agave every year on the Agua Caliente Reservation with help from the community.<sup>127</sup> The succulent stalks, leaves, and base are all edible and savored by desert tribes, William Pink, a traditional gatherer and cook from the Cupeño and Luiseño, wrote.<sup>128</sup> The agave is sweet in taste, tasting somewhat like yams. It is kéma, or delicious, Milanovich informs.<sup>129</sup>

Mesquite was a staple food item primarily for the desert people but was a traded food commodity. The mesquite pod was ground up into flour. Cakes and a hardtack were made from the flour.<sup>130</sup> There are two types of mesquites, the screwbean and honey mesquite. Honey mesquite was better liked for its sweet taste. Mesquite grows on the sandy floor and canyons of the desert. The mesquite was a staple food for the desert

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<sup>127</sup> Sean Milanovich learned to harvest agave with Alvino Siva and Daniel McCarthy. Siva harvested agave in the Santa Rosa Mountains.

<sup>128</sup> William Pink, "California's Cornucopia, A Calculated Abundance," in *Tending the Wild*. ed. M. Kat Anderson (Berkeley, London, and Los Angeles: University of California Press, 2005), 245.

<sup>129</sup> Sean Milanovich loves to eat agave and thinks it is deliciously sweet.

<sup>130</sup> Matthew Leivas interview by author, September 10, 2019.



people. The mesquite was so important to the Cahuilla people, they created a calendar based on the flowering and ripening of the flowers and bean pods. August Lomas from Torres-Martinez Reservation used a seasonal calendar for picking mesquite. For the most part, the calendar corresponded to the development of the leaves and beans on the mesquite giving eight months a year.<sup>131</sup>

### **Cahuilla Mesquite Calendar**<sup>132</sup>

1. Taspá	<i>Budding of Trees</i>
2. Sevwa	<i>Blossoming of tree</i>
3. Heva-wiva	<i>Beginning to Form Beans</i>
4. Menukis Kwasva	<i>Ripening Time of Bean</i>
5. Menukis Chavaveva	<i>Falling of Beans</i>
6. Talpa	<i>Midsummer</i>
7. Uche-wiva	<i>Cool Days</i>
8. Tamiva	<i>Cold Days</i>

Another source of food found in the area and important as well to maintain the family's survival was the pinyon nut. The pinyon tree is found in elevations of 2,500 to 9,000 feet. The pinyon nut is rich in flavor and nutrition. Pinyon has a high fat content. The people gathered the pinyon nuts in August and September. The nuts were roasted and eaten individually or mixed into a stew or porridge. To the Serrano, the pinyon pine was a valuable food and part of their identity and their creation.

The people from Big Bear, the Yuhaviatem or people of the pines, have a deep relationship with the pines. As their Creator Kruktat was dying, the people tended to him.

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<sup>131</sup> Lucille Hooper, "The Cahuilla Indians," *The University of California Publications in American Archaeology and Ethnology* 16, no. 6 (Berkeley: University of California Press, 1920), 362.

<sup>132</sup> August Lomas from the Torres Martinez Reservation recalled this mesquite seasonal calendar.

These people mourned for their father and in grief turned into pine trees. The fruit of the pine, the pinyon nut, became the food for migrating people. The land of the Serrano contained their birthplace and the story of the Yuhaviatem Clan. High up in the mountains the Creator passed on. The people cremated their father. Coyote came to take a piece of the Creator, then the people hit Coyote and blood spewed out turning the land around Baldwin Lake red. As the cremation got hot, Kruktat's eye flew out and became a large white quartz rock known as Aapahunane't, or God's Eye, according to James Ramos, California State Assembly member and former Chairman of San Manuel Band of Mission Indians.<sup>133</sup> Ramos continued, "The Yuhaviatam began their creation around Baldwin Lake (Near Big Bear Lake). At the death of Kruktat, the one who created the Serrano people, and after his cremation the people themselves turned into tall pine trees and their tears became the nuts for food. As the people became pine trees, life began for the Yuhaviatam clan."<sup>134</sup> The pine nut and pine tree are the identity of the Yuhaviatam, a band of Serrano. The pinyon nut was a great trade commodity for all tribes in the greater Southwest and proved a valuable resource. Indigenous people quickly adopted to gathering the pinyon and caring for their relative the Pine. "Aware that pinyon trees are not fire-resistant, Indigenous people pruned back dead wood in the canopies and cut back low-lying limbs under the trees that could catch fire."<sup>135</sup>

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<sup>133</sup> James Ramos, "Spiritual Home of the Yuhaviatam," *Press Telegram*. November 19, 2009.

<https://www.presstelegram.com/2009/11/19/big-bear-spiritual-home-of-the-yuhaviatam/>.

<sup>134</sup> James Ramos, "Santos Manuel, Leader of the Yuhaviatam," *Big Bear Grizzly*. (Big Bear Lake, CA): November 25, 2014. [http://www.bigbeargrizzly.net/opinion/editorials/santos-manuel-leader-of-the-yuhaviatam/article\\_39e36884-7509-11e4-aa3b-1337201f85dc.html](http://www.bigbeargrizzly.net/opinion/editorials/santos-manuel-leader-of-the-yuhaviatam/article_39e36884-7509-11e4-aa3b-1337201f85dc.html).

<sup>135</sup> Rosalie Bethel, "Plant Foods Aboveground: Seeds Grains, Leaves, and Fruits," *Tending the Wild*. ed. M. Kat Anderson (Berkeley, London, and Los Angeles: University of California Press, 2005), 284.

The staple plants provided a continual sustenance for the people to live on. The plants secured the people during rough times. The people ate primarily plants provided by the Creator for their diet. Other primary foods included: ményikish sáwish, Cahuilla for mesquite cakes, tévilmalem, or beans, and néxish, or squash. Essential foods consisted of wíwish, or acorn pudding, távut hépul, or rabbit stew, and súkat hépul, deer stew.<sup>136</sup> The people had a First-Foods ceremony to give thanks to the Creator for their lives and the foods that sustained them, connecting people to the land.<sup>137</sup> Tribal sovereignty comes from the land. The First-Foods Ceremony occurred when the season began to warm, and the fruits ripened in the spring. Foods were gathered and prepared in the Ceremonial House. The people gave thanks to the Creator and offered the first fruits to Creator and the relatives.<sup>138</sup> The people offered up the first hunted deer of the season, to the Ceremonial House and divided it up among the people. First the people made an offering to the Creator and the ancestors. Then elders who no longer hunted received some meat to take home. The people fed the sick. Any remaining meat was distributed to others who did not have anything. The people took care of one another this way. They were humble people.

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<sup>136</sup> Milanovich, “Cahuilla Continuum: Tuku, Ivax, Tuleqa,” 56.

<sup>137</sup> The term, First-Food Ceremony was never in use before the American invasion. First-Food ceremony is a colonized term. Before this term was used, the term “foods” was used. Gabriel Johnson, Presentation, “Revitalization and Resistance” as part of “Living Breath of wəłəbʔaltx,” Indigenous Foods Virtual Symposium, “Food is Resistance.” June 5, 2021. University of Washington’s American Indian Studies Department and the Na’ah Illahee Fund. Zoom.

<sup>138</sup> The Agua Caliente Band continued this practice of first-fruits ceremony and a meal to give thanks to the Creator into the 1970’s with a feast and singing at Andreas Ranch.

California Indigenous people believe their identity comes from the land and the plants they make a relationship with. Cahuilla elder and master basket weaver Rose Kitchen believes, “The heart of Native identity lies in the chaparral and sage scrub-covered hillsides, pinyon creeks, and desert regions.”<sup>139</sup> There are hundreds of plants used by Natives. Here are a couple plants that are used by Indigenous people today. Native plants that contributed to Native diet and identity included: Yerba Mansa, Bladderpod, Elderberry, Manzanita, Wild Cherry, Creosote, Yerba Santa, White Sage, and Stinging Nettle. Craig Torres, a Tongva elder and advocate of Native plants, uses the Stinging Nettle as a medicine and a tea. Torres stated, “Stinging nettle tea is a blood purifier, but I just drink it like a regular tea. I’m growing it at home, and I use the new shoots and tips from older plants.”<sup>140</sup> The Aboriginal people used the plants, bushes, and herbs for ceremony, food, and medicine. The people were given instructions how to use which plant, how to prepare it, and how to give it. They were able to heal those that suffered from illness and repercussions from accidents, and encounters with natural and negative forces. The Kumeyaay used elderberry to treat eye infections, coughs, and colds. It was also consumed as a food and beverage. They used Monkey Flower to treat diarrhea. In addition, they used Live Oak as a staple food and to treat toothaches. The Kumeyaay also used White Sage to treat muscle pains, stiff neck, and colds. The native vegetation was critical for survival. To encourage a stable supply of the natural foods and medicines, the Kumeyaay and others practiced land-management strategies. Methods

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<sup>139</sup> Rose Ramirez and Deborah Small, *Ethnobotany Project: Contemporary Uses of Native Plants, Southern California and Northern Baja Indians* (Banning: Malki-Ballena Press, 2015), 4.

<sup>140</sup> *Ibid*, 74.

such as prescribed burns and cultivation techniques allowed the Native Californians to support large populations.<sup>141</sup>

The men would climb the foothills and mountains, and hunt game such as deer, antelope, sheep, rabbit, snakes, lizards, and quail. Certain animals were not hunted for they were revered as spiritual animals. Usually, animals on the higher end of the food chain were regarded as having power and maintained connections with the spirit world. The golden eagle was regarded as a power being. It flew high in the sky near Creator and delivered messages to the Creator. Its feathers were used to wipe off and clean away their negative energy they carried. Whistles were made from its wing bone. The bear was regarded as medicine, too. There is the Bear Dance and healing is received from the Bear. Tribes have used the bear as part of their sacred bundles. The bear though was hunted and eaten, but not regularly. There was a hooved being that too carried medicine. Pemtexweva, a spiritual being was often seen in the form of a white deer.<sup>142</sup> Pemtexweva was the leader of all the hooved animals including bighorn sheep, deer, pronghorn, and antelope. There was one bighorn sheep that lived in the mountains. It was quite different from the others, Alvino Siva recalled. It had long white hair. It controlled the other hooved animals.<sup>143</sup> Cahuilla and Serrano both acknowledged Pemtexweva.<sup>144</sup> Before a hunt of the hooved animals, they sang songs with a deer-hoof rattle. Bighorn sheep hunters used hooves attached to their legs, asking permission to take an animal's life to

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<sup>141</sup> Toler, *Blood of the Band*, 41-43.

<sup>142</sup> Bean, *Mukat's People*. 167.

<sup>143</sup> Alvino Siva discussion with author, Circa 2010.

<sup>144</sup> Agua Caliente Cultural Museum, "The Cahuilla Changing Landscape," in *The Spirit* XVI no. 2 (2012): 4. Agua Caliente Cultural Museum, Palm Springs, CA.

feed the people.<sup>145</sup> The men hunted large and small game animals with their territory and sometimes outside their area. The large animals at times were tracked for days into another's territory. The hunt if it did occur on another lands, an exchange was given at a time that worked for both groups.

The Indigenous peoples of Southern California have a special relationship with the hooved animals. The people managed and cared for the animals. They were respected. Since the time of Creation, the hooved animals, “offered hides, meat, bones, hooves, and other resources.”<sup>146</sup> Even more so, “The horse offered amazing new mobility and new ways to adapt and thrive during turbulent times, when more and more people kept arriving in California to overrun Native American homelands and traditional ways,” said Pat Murkland, a historian who works with Dorothy Ramon Learning Center.”<sup>147</sup> The horse allowed the people to travel great distances in a shorter period of time. Southern California Indigenous people used the horse to protect and manage their lands.

The Indigenous people gave thanks to the hooved animals and treated all hooved animals with respect. Roy Mathews, a cattle rancher from Morongo, said that long ago, a wake was held for the hooved animals when they died.<sup>148</sup> The horse specifically was highly prized, valued, and sought after. Indigenous peoples often did not use a bit in the horse's mouth while Americans did. So, when the horses had a bit shoved into their

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<sup>145</sup> Ernest Siva interview, May 27, 2019.

<sup>146</sup> Pat Murkland, “Horses, a Ride to Resiliency,” News from Dorothy Ramon Learning Center. September 2, 2020.

<sup>147</sup> Ibid.

<sup>148</sup> The people honored the hooved animals with song and a feed. Roy Mathews interview by author, Morongo Reservation, Old Tribal Building, September 5, 2015. Hereafter cited as Roy Mathews interview, September 5, 2015.

mouth, they were not used to it.<sup>149</sup> Bits are not a natural way to control horses and hurt the animal. Natives understood this and therefore did not use bits, acknowledged Bernard Moves Camp.<sup>150</sup> You want the horse to trust you so you can become one with the horse. Trust, love and kindness are used to gain the confidence of the horse.

Tribal groups adapted to environmental changes. They moved away to areas when water was absent to other areas and returned later when water was abundant. Anthony Andreas told of his lineage, the Payniktum left Andreas Canyon in the late 1800s for a time to Morongo and returned later in the early 1900s when water flowed again.<sup>151</sup> The Indigenous people took advantage of environmental changes, too, including after fresh water flooding of the Salton Sea Basin.<sup>152</sup> Many groups gravitated toward the lake, when it was present, and in doing so altered their subsistence strategies to emphasize lacustrine resources.<sup>153</sup> The Cahuilla and the Kumeyaay were attracted to the standing lake because of the availability of resources, including various species of fish such as bonytail chub, razorback sucker, Colorado River pikeminnow, and striped mullet. The Cahuilla and Kumeyaay fished from the Salton Sea, and brought back fish and waterfowl to their

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<sup>149</sup> Justin Smith. *The War with Mexico* (Norwood, Massachusetts: Norwood Press, 1919), 341.

<sup>150</sup> Bernard Moves Camp interview with author, Wanblee, South Dakota, October 2016. Bernard is Lakota from the Pine Ridge Reservation. Moves Camp is a horse breeder and trainer. He trains his horses without ropes and bits. Bernard said the owner of the horse needs to earn the respect of the horse. It does work if the owner forces the animal into obeying commands. There is relationship with a horse that makes the rider one with the horse.

<sup>151</sup> Anthony Andreas II interview by author, Agua Caliente Reservation, CA. Circa 1998.

<sup>152</sup> Phillip J. Wilke, "Late Prehistoric Human Ecology at Lake Cahuilla, Coachella Valley, CA," (dissertation, University of California, Riverside, 1976), 4.

<sup>153</sup> Jeffrey H. Altschul, Steven D. Shelley, "Yamisevul: An Archaeological Treatment Plan and Testing Report for CA-RIV-269, Riverside County, California," (Tucson: Statistical Research, 1987), 100.

villages.<sup>154</sup> The Cahuilla constructed traps to catch the fish on the shore slopes of mountains. Ancient Lake Cahuilla was over 100 miles long.

The late Cahuilla Elder Anthony Andreas II recalled that the songs and stories depict that the Salton Sea rose and receded three times. Traditional Bird Songs include songs about the Salton Sea. Anthony Andreas Sr. [1938-2009] was the head Bird Singer at Agua Caliente and throughout Southern California, who taught many aspiring singers the songs and history of the ancestors.<sup>155</sup> The Salton Sea was an extremely important resource for it to be incorporated into songs and oral literature.

The Bird Songs are songs describing the historical journey of Southern California Indigenous people. They originated from the Cahuilla people. Wally Antone, a Mojave Bird singer, will tell you that the Bird Songs originated from the Cahuilla. The Mojave lost their songs and asked for songs from the Cahuilla long ago.<sup>156</sup> This only happened because the Cahuilla and Mojave were already connected through marriage and trade. They intermarried with one another. They respected one another. The Cahuilla, Chemehuevi, Cupeño, Kumeyaay, Luiseño, and Serrano all sing the Bird Songs, as well as many others. The Bird Songs tell of the Creation of the world and the migration of the people, their journey, and their return to their homelands.

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<sup>154</sup> Jerry Schaefer, Shelby Gunderman, and Don Laylander, "Cultural Resources Study for the Hudson Ranch II Project, Imperial County," California ASM Affiliates, Carlsbad, CA. August 2010.

<sup>155</sup> Each time the sea came it flooded the area. Anthony Andreas II interview by author, Circa 1998.

<sup>156</sup> Wally Antone is Quechan elder who lives on the Mojave Reservation in Needles, CA with his wife Mary. Antone is a traditional head singer of Bird Songs from the Colorado River. Wally Antone carries a wealth of knowledge about the Indigenous people and their connection to the land. Wally Antone interview by author, Agua Caliente Reservation, April 4, 2010.



The songs themselves claimed ownership and authority to the land for the Native people. The songs designate the singers of the songs as the original owners of the land. The songs retell the journey of the people as they traveled around. Many of the songs can be translated while others come from an older dialect that is no longer remembered. Ernest Siva and Dorothy Ramon believed that this “older dialect” is often Serrano. The Serrano gave some of their songs to the Cahuilla, just as the Cahuilla gave some of their songs to the Chemehuevi.<sup>157</sup> There is one song that recognized the village of Teméeku as a place of outlying boundary marker beyond the center of Cahuilla territory as a place where other people lived.

### **Cahuilla Bird Song**<sup>158</sup>

*YA HOOT, KEY MI-YA WEN-NE, YA HOOT, KEY MI-YA WEN-NE  
YA “HOOT, KEY MI-YA WEN~NE,” YA HOOT, KEY MI-YA WEN~NE  
YA HOOT, KEY MI-YA WEN-NE, E MA-KU WEN-NE, E MA-KU WEN-NE,  
E\*TEMA-KU, E TEMA-KU~U, KEY MI-YA WEN-NE.*

This song literally names the village of Teméeku. Teméeku is important because this is the place where the Treaty of Temecula was signed at. Teméeku was important long before the Treaty signing as a place where people gathered, held ceremony, and travelled through. The Luiseño people incorporated the Bird Songs too. The Luiseño have a Bird Song that mentions mountains the Luiseño people could see and still and from their homelands of Temecula. Those mountains are important to the Luiseño, including

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<sup>157</sup> Paul Apodaca, “*Tradition, Myth, and Performance of Cahuilla Bird Song*,” (dissertation, University of California Los Angeles, 1999), 9.

<sup>158</sup> Anthony Andreas Jr., *Cahuilla Bird Songs, #1-169*, ed. Paula Andreas (Manuscript, 2018), #79.

Mt. Wilson-San Gabriel Mountains, San Bernardino, San Gorgonio, San Jacinto, and Palomar Mountains.<sup>159</sup>

For the Serrano, elder Ernest Siva, a master storyteller, a speaker of the Serrano language, and tribal historian of the Morongo Band of Mission Indians, elaborated, “Regarding the songs, my mom made a decision not to pass on the trade. She did not feel it was needed anymore.” Siva continued, “Treat it like a story but it is like a religion. “Sacredness is paramount.”<sup>160</sup> The Bird Songs are songs of Creation and history. For the Indigenous people, their history is an oral narrative that has been transmitted through song from each generation to the next. Within the last two generations, the songs have been passed down but their meanings and story behind each one has not. Traditionally Bird Songs were heard through the day and night. They were a large cultural and religious component of the people. People sang songs to greet the sun in the morning, while others sang to send the sun home. Likewise, there were others who sang to the moon. Like Alvino Siva used to say, “Chem ivax'a pichem kuswe chemtaxmu wenipa.” “We get our power from our songs.” As singer Matt Leivas emphasized, “At any rate, you know our people were family and kind, did a lot of exchange with people and more friendly than anything and can communicate in different dialects. That was one of the beautiful things that our people did as they learned the languages of many other cultures as well as their way of living.”<sup>161</sup>

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<sup>159</sup> Ernest Siva, *Voices of the Flute*, 17.

<sup>160</sup> Ernest Siva interview by author, phone, March 28, 2020. Hereafter cited as Ernest Siva, March 28, 2020.

<sup>161</sup> Matthew Leivas interview, September 10, 2019.

The Cahuilla, Cupeño, Luiseño, Serrano, and Kumeyaay are culturally and linguistically related, Michael Conolly Miskwish, a Kumeyaay scholar, historian, and tribal leader.<sup>162</sup> Likewise, Indigenous people see the similarities and characteristics but disagree in being classified under settler colonial concepts like Uto-Aztecan and Hokan language families.<sup>163</sup> Cahuilla, Cupeño, Luiseño, and Serrano are each a separate language, but each contains words and phrases that are common. Southern California Indigenous people believe they are all related. They are not only related because they married into one another's communities but because of their ancestral creation stories. After the Creator was killed, and the people migrated, they returned sometime later, coming down the coast of California; they then began to separate and settle. Pechanga Band of Luiseño Indians Chairman Mark Macarro believes his people had their own language and it is distinct from the Uto-Aztecan language family. Macarro argues that their word for bison is oochlat.<sup>164</sup> The interesting thing is bison have not been in this area for 10,000 years. A linguist told Mark Macarro that if the Luiseño were part of the Uto-Aztecan wedge, it would be impossible for the Luiseño to have a word that old and remembered. Even more so, the linguist said, they could not be possibly Uto-Aztecan.<sup>165</sup> Tribes do not like to be defined by American construct; tribes define themselves.

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<sup>162</sup> Miskwish, *Kumeyaay*, 16-19; William F. Shipley, "Native Language in California," in *Handbook of North American Indians*, Vol. 8, ed. Robert F. Heizer (Washington: Smithsonian Institution, 1978), 87-88; and Strong, *Aboriginal Society*, 5.

<sup>163</sup> Linguistics classify the Cahuilla, Cupeño, Luiseño, and Serrano languages as falling under the branch of Uto-Aztecan languages while the Kumeyaay are classified as Hokan.

<sup>164</sup> Mark Macarro, "Honoring Luncheon for Chairman Mark Macarro," Association for Tribal Archives, Libraries, and Museums. Pechanga Casino & Resort, Temecula, CA. October 10, 2019.

<sup>165</sup> *Ibid.*

According to Cahuilla, Cupeño, Serrano marriage laws, an individual had to marry someone outside of their moiety, a group identity. The Cahuilla divided themselves into two moieties, Isil [coyote] and Túkut [bobcat] long ago as instructed by Menill, the Moon Maiden. For the Luiseño, they were not organized into moieties like the Cahuilla, Cupeño, and Serrano.<sup>166</sup> They cannot marry within their own group. You cannot marry into the same group you are from. A Coyote cannot marry a Wildcat and vice versa.<sup>167</sup> This afforded much ceremonial reciprocity. For example, the people at Maara invited the Yámisevel people at Mission Creek with whom they intermarried.<sup>168</sup> Villages that bordered each other became the ceremonial exchange circles and contributed to each other's growth and well-being. As the people settled in new areas, they created new ceremonial relationships. For example, when Kika or leader Jim Pine from Maara moved down to Mission Creek, the people from Palm Springs and Morongo helped to rebuild the ceremonial house there.<sup>169</sup>

This prevented families from marrying too close and kept the bloodline clean. Another important reason for the moiety was to keep families and groups linked to help support one another for peace, economic, and survival reasons.<sup>170</sup> Families married out their children to extended settlements, to maintain a trade system with that group. Also, during hard times, when food resources were low, a family could go to their relatives,

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<sup>166</sup> Lowell J. Bean and Florence C. Shipek, "Luiseño," in *Handbook of North American Indians*, Vol 8, ed. Robert F. Heizer (Washington: Smithsonian Institution, 1978), 555.

<sup>167</sup> Patencio and Boynton, *Stories and Legends*, 8; and Guy Trujillo interview, November 13, 2017.

<sup>168</sup> Strong, *Aboriginal Society*, 12-13.

<sup>169</sup> Ernest Siva interview, May 27, 2019.

<sup>170</sup> Bean, *Mukat's People*, 93.

who lived in another geographic area, and receive food supplies where food crops were plentiful. For example, in one area there might not be any mesquite beans that year, but if they married into a family where the mesquite beans were plentiful, they could go to the family and ask for help.<sup>171</sup> The moiety social structure continues with ceremonies. When singers came for the all-night Wake Ceremony and feast, singers from both moieties were required. At the Wake, stories in song are told to recreate Creation itself. In this story, each moiety or Coyote and Wildcat each played a part of Creation. Each group then only sang their part of the story. “When feasts were given at Maarkinga' [Malkinga'], the Wanepuhpa'yam clan [Wanikitam in Cahuilla] sang the first half of the night and the Keyekiyam [Kauisiktam] sang until dawn.”<sup>172</sup>

Indigenous villages and communities demonstrated communal land ownership and sharing of resources with one another.<sup>173</sup> Cahuilla scholar and elder Edward Castillo expressed that there were fluid boundary zones that were based on economy and environmental conditions and natural features.<sup>174</sup> Southern California Indigenous groups held ownerships of the land and managed it in way that increased its best use and potential. Traditionally, Indigenous land ownership was quite different from that of the invaders, including the Spanish, Mexican, and American intruders. Indigenous people believed the land was given to them by the Creator. Each band therefore had their own

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<sup>171</sup> Ibid, 85-86.

<sup>172</sup> Sarah Martin and Kenneth C. Hill, *The Road to Maarrenga'* (Banning, CA: Ushkana Press, 2005), 27.

<sup>173</sup> Susan Sanchez. “The Selling of California: The Indian Claims Commission and the Case of the Indians V. California v The United States” (dissertation, University of California, 2003), 123.

<sup>174</sup> Edward Castillo interview by author, Hemet, CA, March 12, 2019. Hereafter cited as Edward Castillo interview, March 12, 2019.

territories. The land belonged to each individual band or clan. This has been interrupted to mean the headman and or his family. The Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano practiced private land ownership through clan autonomy.<sup>175</sup>



*Figure 1.4: Cahuilla Kishamnawet, the ceremony house. Painting by Lorna Christensen. Bureau of Indian Affairs, Palm Springs, CA.*

The Aboriginal people owned their land collectively through clan ownership and their attachment to the land through known resources and given place names. Some Serrano groups and individuals owned individual plots of land, trees, and other resources, practicing private ownership of land. Non-owners had to ask permission to cross the

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<sup>175</sup> Trafzer, *The People of San Manuel*, 20.

lands and collect from the land.<sup>176</sup> The Serrano marked their territory using natural features from the land where the Serrano, hunted, harvested, and cremated their relatives. The Serrano called the San Gorgonio Mountains Qwirriqaych, and Cahuilla-Serrano elder Ernest Siva said the Serrano word meant bald or smooth.<sup>177</sup> The Serrano delineated the stretch of the San Bernardino Mountains as their own. Each clan had a given area for their use and settlement. For example, the Santa Ana River or *Kotainat* was an eastern boundary for two Serrano clans.<sup>178</sup>

There were summer and winter villages. When it was hot, the Cahuilla moved to a higher elevation where it was cooler. The Cahuilla on the desert floor moved into the canyons and higher elevations. When it was cold, the Cahuilla who lived in the mountains moved to lower elevation, where it was warmer. Each band had summer and winter accommodations within their territories.<sup>179</sup> Likewise the Luiseño lived in the San Luis Rey Valley for most of the year. During the winter, they moved to the coastal plains out of the mountains where it was warmer.<sup>180</sup> The Cupeño left their villages in the mountain areas and moved for the winter with their relatives to Coyote Canyon, where it was warmer. The Serrano moved to their summer homes in the mountains and returned to

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<sup>176</sup> Ibid.

<sup>177</sup> Bean, Vane, and Young, *The Cahuilla Landscape*, 79; and Alfred L. Kroeber and Lucile Hooper, *Studies in Cahuilla Culture* (Banning, CA: Malki Museum Press, 1978), 34.

<sup>178</sup> Kroeber and Hooper, *Studies in Cahuilla Culture*, 34; and Sanchez, "The Selling of California," 185.

<sup>179</sup> Betty Pierce was the widow to Larry Pierce, former tribal leader of the Agua Caliente Band of Cahuilla Indians. Betty Pierce interview by author, phone, August 22, 2017; Harry Quinn, an archaeologist and geologist is a great friend of many Cahuilla and author Sean Milanovich. Quinn has lived among the Cahuilla people his entire life. Harry learned from many of the Cahuilla elders like Saturnino Torres and Alvino Siva. Harry Quinn interview by author, Coyote Canyon, San Diego County, April 24, 2019.

<sup>180</sup> Philp Stedman Sparkman, "The Culture of the Luiseño Indians," *American Archaeology & Ethnology* (August 8, 1908), 190.

their winter homes on the valley floors and canyons when it was cold.<sup>181</sup> The Kumeyaay did the same and left the mountains to the lower elevations on the Pacific Coast and towards the Colorado River. Having summer and winter homes was a strategy Southern California Indigenous people used over the land they owned and managed. The land was utilized from the Pacific Coast all the way into the deserts. Southern California Indigenous people maximized use of their land, covering a large network for habitation, trade, ecology, and gathering sites.

Large villages had their own Big House or Ceremonial House where leaders gathered for discussion and ceremonies were held by the medicine man. Each Ceremonial House and or village had a medicine man who communicated with the supernatural for help, healing, and power.<sup>182</sup> Smaller villages shared a ceremony house with a larger village. The Big House also served as a spiritual and sacred place where men and women gathered to discuss village and regional issues and held ceremonies for the dead. The Núkíl, the most important ceremony by the Cahuilla, was a weeklong ceremony to honor and mourn the dead and held in the Ceremony House.<sup>183</sup> The Wake Ceremony has changed form but is considered the most sacred ceremony for the people, and continues today. The Maiswet, sacred bundle composed of instruments for healing, was stored in the Big House in an adjoining room and belonged to the lineage that controlled the house.<sup>184</sup> Long ago, the people picked beautiful and multicolored flowers from their

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<sup>181</sup> Trafzer, *The People of San Manuel*, 20.

<sup>182</sup> Bean, *Mukat's People*, 83-89.

<sup>183</sup> Alvin Siva interview by author, Banning, CA, July 21, 2008; and Bruce Fessier, "Society Full of Folklore, Tradition: Community Included shamanism, Trading, and Intricate Brid Songs," *The Desert Sun* (Palm Springs, CA), October 7, 2012.

<sup>184</sup> Dora Prieto interview by author, Phone, Circa 1998.



homelands and took them with them to their relatives for ceremony when invited.

Flowers were gifts to the Creator and the people. The flowers represented the raw beauty and strength of the people. In a reciprocal form, the invited guests were given gifts of food to say thank you for coming.

### **Relationships**

Southern California Indigenous people traded foods, baskets, tools, ideas, songs, stories, skills, and knowledge along trade routes from the Pacific Ocean east to the Colorado River and beyond on trails such as the Coco-Maricopa Trail and the Santa Fe Trail. Trails went north and south from the Central Valley and south beyond Yuma. Trade routes went well beyond boundaries of California to the homelands of various tribal groups.<sup>185</sup> Elders and leaders passed knowledge from one generation to the next. The California Indigenous people were highly intelligent and solved numerous problems, but the Spanish, Mexican and American invasion of California challenged the Indigenous people.<sup>186</sup> To survive under the stress, the Natives adopted strategies and manipulated the environment to get the desired outcome.<sup>187</sup> California Indigenous people wanted good health and happiness for their communities, and still want the same for their communities

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<sup>185</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 32-35.

<sup>186</sup> Rupert Costo and Jeanette Costo, *Native of the Golden State*, 3; and Clinton Hart Merriam "Ethnographic Notes on California Indian Tribes," Reports of the University of California Survey. No. 68, Part 1, ed. Robert F. Heizer (Berkeley: Department of Anthropology, 1966), 38.

<sup>187</sup> Larea Lewis, "The Desert Cahuilla: A Study of Cultural Landscapes and Historic Settlements" (master's thesis, Anthropology, Tucson: University of Arizona, 2013), 32 and Shipek, *Pushed into the Rocks*, 153.

today.<sup>188</sup> Reciprocity was the name of the game. Give and you shall be taken care of by the Creator. Each band built into its framework a reciprocal relationship that tended to all their needs. The Creation Story taught the people that reciprocal relationships will benefit the people, so they enacted reciprocity into their daily lives.

The Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano interacted with each other the most intensively. They shared a similar ecology, subsistence system, social and political structure, and belief systems. A variety of resources strengthened their relationship to the land and each other through trade and exchange, leading to social and political interactions.<sup>189</sup> Their competition for similar resources was high.<sup>190</sup> These groups intermarried with one another, which helped relieve some of the stress of securing food and other resources. Territorial claims to land by the Indigenous people of Southern California often overlapped each other especially in high resource areas that were usually joint use lands, which in a sense were oral land use agreements. Edward Castillo, a Cahuilla/Luiseño Native and emeritus professor of Native American Studies at Sonoma State University, said boundaries were fluid but protected. There were fluid boundary zones.<sup>191</sup> The boundaries tended to shift as well from one period to another, where one clan or people moved out while another moved into an area.<sup>192</sup> For example, in historic times before 1769, before the arrival of the missionaries, the Serrano occupied the San

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<sup>188</sup> Good health and happiness are all one needs in this world. For thousands of generations, this concept of good health and happiness has held together the American Indian. It is a way of life. Material items come and go but good health and happiness signify well-being and stability.

<sup>189</sup> Rupert Costo and Jeanette Costo, *Native of the Golden State*, 117.

<sup>190</sup> Bean, *Mukat's People*, 68-69.

<sup>191</sup> Edward Castillo interview, March 12, 2019.

<sup>192</sup> Lowell John Bean and Sylvia Brakke Vane, "The Native American Ethnography and Ethnohistory of Joshua Tree National Park: An Overview" (Menlo Park, CA: Cultural Systems Research, 2002), 6-7.

Bernardino area region. As the Serrano population shifted, the Cahuilla then in historic time claimed the San Bernardino region as their own.<sup>193</sup> Crossing from one territory to the next required permission from the Tribe. More importantly “territories were adaptive to environmental circumstances and economic needs.”<sup>194</sup>

California Indigenous leaders made agreements with each other, respected, and honored one another. Agreements are nothing new in Native tradition, and these agreements are held in the highest regard. These agreements reflected the people’s integrity. The agreements documented the trust, dependability, and abiding relationships the Native people had with their allies and with adversaries. Traditionally, each tribe and its bands were autonomous and maintained their own beliefs and government. One Cahuilla elder long ago once said, “As far as the eye could reach, we were the masters. No one disputed our rights. No one had to work as we now know it. All was free for the gathering and abundant. For our every need — all, until the white curse blighted our land and race.”<sup>195</sup>

With the lands the Creator gave them, Native peoples developed and made oral agreements to promote peace and keep the people from fighting with another. The late Dorothy Ramon, a Serrano elder, said that those close to one another took care of each other.<sup>196</sup> Indigenous people made spiritual agreements with one another and with the

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<sup>193</sup> Strong, *Aboriginal Society*, 5.

<sup>194</sup> Lewis, “The Desert Cahuilla,” 6-7.

<sup>195</sup> Charles Russel Quinn and Elena Quinn, *Edward H. Davis and the Indians of the Southwest United States and Northwest Mexico* (Downey, CA: Elena Quinn, 1965), 57. Hereafter cited as Charles R. Quinn and Elena Quinn, *Edward H. Davis and The Indians of the Southwest*.

<sup>196</sup> Ramon and Elliot, *Wayta 'Yawa*, ' 348.

Creator, told Cahuilla Red Elk. They tried to live in harmony but that did not always happen.<sup>197</sup> Cahuilla Net Francisco Patencio believed the Indigenous people did not like war. “They only fought for self-protection.”<sup>198</sup> The Cahuilla, Cupeño, Luiseño, and Serrano did have war and there was a great deal of feuding and battles. “The basic cause for warfare was economic competition, which included trespassing, and poaching, as well as murder.”<sup>199</sup> The people protected their lands and did not take kindly to the trespasser. An eye for an eye was the saying. There was no large-scale organized warfare in Southern California except around the Colorado River.<sup>200</sup> The Mojave, Cocopah, and Quechan were the main tribes along the river, and they killed and raided the tribes to their west in California.<sup>201</sup> The Chemehuevi lived along the river as well but did not want to fight as much. Battles and warfare on the coast and inland among the Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano broke out over boundaries, revenge, and jealousy.<sup>202</sup> A band of Cahuilla fought a band of the Serrano and drove them out in what is known as the Battle of Aguanga.<sup>203</sup> On January 21, 1847, at Aguanga about twenty miles east of

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<sup>197</sup> Cahuilla Red Elk interview by author, Agua Caliente Reservation, September 26, 2018. Hereafter cited as Cahuilla Red Elk interview, September 26, 2018.

<sup>198</sup> Francisco Patencio was the Nét or Clan leader of the Kauisic Clan of the Agua Caliente Band of Cahuilla Indians in the 1940's. Francisco Patencio became Nét after his older brother Alejo passed. Patencio and Boynton, *Stories and Legends*, xiii.

<sup>199</sup> Steven R. James, and Suzanne Graziani, "California Indian Warfare," In *Ethnographic Interpretations, 12-13: Socio-Religious Aspects of Resource Management, and Practices of Warfare Among California Indians*, 47-109. *Contributions of the University of California Archaeological Research Facility*, no. 23 (Berkeley: University of California Archaeological Research Facility, 1975), 51.

<sup>200</sup> James and Grazianai, “*California Indian Warfare*,” 82.

<sup>201</sup> Ramon and Elliot, *Wayta 'Yawa*, ' 80-81.

<sup>202</sup> James and Grazianai, “*California Indian Warfare*,” 82-84.

<sup>203</sup> The Agua Caliente Band of Cahuilla Indians have an oral story about how they made war on a people that were living in their territory who bothered them until the morning they were attacked and killed. Milanovich, “Cahuilla Continuum; Tuku, Ivax, Tuleqa,” 45-46; and Ramon and Elliot. *Wayta 'Yawa*, ' 161-163.

Temecula, there was a great ambush led by the forces of Cahuilla on forces of the Luiseño and Cupeño that resulted from American invasion.<sup>204</sup> Some say there was a previous enmity among the Cahuilla and Luiseño and for this reason, vengeance was taken when an opportunity became available.<sup>205</sup>

Each tribe and their associate villages had boundaries and protected those boundaries. The boundaries were understood by each group. Permission was needed to cross into another's lands. Even bordering tribes did not penetrate another tribe's territory without permission. It was imperative to remember clan boundaries.<sup>206</sup> Permission was needed to cross boundaries. The Indigenous people never crossed into another territory if food was ripening.<sup>207</sup> The Indigenous peoples of Southern California for a long time had made agreements to confirm boundaries for alliances, peace, trade, hunting and gathering rights, and for access to water. For example, the Tongva made agreements with the Cahuilla to allow them to gather acorns from their territory. The oak trees provided an abundance of acorns every two years. The Tongva marked certain trees for people of other tribes to take from while traveling through their territory. The Tongva marked trees with an etched line going across it. If non-Tongva people picked from an unmarked oak, that meant war, proclaimed the late Julia Bogany, a Tongva spiritual elder and educator.<sup>208</sup> Conflict resulted if people did not ask permission to pick in another's

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<sup>204</sup> Cooke, *The Conquest of New Mexico and California*, 192-193; George H. Phillips, *Chiefs and Challengers: Indian Resistance and Cooperation in Southern California, 1769-196* (Norman: University of Oklahoma Press, 2014), 84-85.

<sup>205</sup> James and Grazianai, "California Indian Warfare," 86.

<sup>206</sup> Sanchez, "The Selling of California," 123.

<sup>207</sup> Ramon and Elliot, *Wayta'Yawa*, 381-382.

<sup>208</sup> Julia Bogany interview by author, Pomona, California, February 20, 2019.

territory and follow the ascribed laws. Similarly, Cahuilla leaders such as the *nét* and war chiefs acted and went to war to defend their land and resources.<sup>209</sup>

The people established communities with villages, gardens, burial grounds, networks of trails, and gathering areas, close to water and food. Millions of Indigenous people lived in Southern California over time and took advantage of the rich resources in each life zone, with similar plant and animal communities. The different life zones supported a great interwoven social and political economy of California's First people, which promoted alliances, intermarriage, and trade.<sup>210</sup> The Indigenous people lived in bands or small family units with up to two-hundred people living in each village.<sup>211</sup> Each band had its own government, healing ceremonies, trading partners, land tenure, marriage practices, hunting and gathering laws, and ideas about how to manage the land.<sup>212</sup> They learned to protect one another and developed ceremonial reciprocity relationships with those close to them.

Indigenous people in Southern California had a patrilineal society, unlike their relatives to the north. Men and women were always just as important as the other. Yes, everything was passed down through the male, including name, tribal identity, and ownership of any family lands and songs. In addition, men were the tribal leaders and held positions of political authority, as did the twin brothers in the story of Creation.

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<sup>209</sup> Lewis, "The Desert Cahuilla," 23.

<sup>210</sup> Bean, *Mukat's People*, 68-92.

<sup>211</sup> *Ibid*, 76.

<sup>212</sup> *Ibid*, 83-119; Rupert Costo and Jeanette Henry Costo, *Natives of the Golden State*, 117; Strong, *Aboriginal Society in Southern California*, 1-2; and Miskwish, *Kumeyaay*, 23-32.

Priscilla Pete and brother Richard Little, both Cahuilla and Chemehuevi elders, said that men spoke for the people with the help and support of the women. Women nurtured men and helped give them their strength. Women also pushed men to do what was needed. The women understood what was needed and encouraged their husbands and boys to act responsibly and to push on through during hard times. Women were widely respected and acknowledged for their contributions in Indigenous society.<sup>213</sup>

Women were the backbone of the people. It was their love, selfless desire to help others. This is represented and taught through the story of Menill, the Moon Maiden. Menill helped her brothers and sisters. She taught them how to bathe and use yucca to make their hair shiny. She taught them games and songs. She taught them how to make baskets. These stories are often retold to young kids from their grandmothers.<sup>214</sup> The women are reminders this is not a man's world, but instead a world where each is equally important. Both women and men each have a position and role to fulfill. These lessons and other valuable anecdotes were taught to the people at a young age. They were meant to keep the people safe, healthy, and happy.

The women were instrumental in passing on stories and tradition as well. Baskets were a big part of many women's lives, and this skill continues today. Juana Apapas from Soboba made a basket with the Milky Way design in it. (See Figure 1.5). According to George Wharton James in his book, *Indian Basketry*, Juana Apapas admitted,

*“over and over again when was she weary and tired, and angered at the subjugation of her people to the rude and domineering whites, as she lay down at*

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<sup>213</sup> Priscilla Pete and Richard Little discussion with author, March 11, 2017.

<sup>214</sup> Shannon Michelle Mirelez, *Menill, The Moon Maiden* (Banning, CA: Malki-Ballena Press, 2011), IV-26.

*night, her eyes wandered to the 'long path of gray light in the sky,' — the Milky Way — and she felt she would like to pass away, to die then her spirit would walk on this path of light with 'Those above,' and from thence she could look down upon the white people in the sorrows she hoped would come upon them for their wicked treatment of her people.*"<sup>215</sup>

Juana wanted to pass on the story of the Milky Way to her children and grandchildren. Granddaughter Rosemary Morillo and basket maker of Soboba described the story as how her grandma wants to look down from the Milky Way. Morillo said, "It must have taken a lot to say that, for a woman."<sup>216</sup> Here we have a strong woman declaring the horrible treatment she and the relatives before her experienced by the Americans. These stories were passed down too. The Milky Way design in the basket is a complicated design and only an intelligent, compassionate, and resourceful person can make such a work of art.

The Indigenous people of Southern California were and continue to be an amazing and powerful people on the land. The Indigenous people have been there on their traditional territories since the beginning of time. They have maintained a relationship with the land, plants, and animals, and each other. Until recently, the people did not document linear time. They did not have clocks, but they did document time, just not in the same way as done today. It was always more important to remember the details

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<sup>215</sup> George Wharton James, *Indian Basketry With 360 Illustrations*, Second Edition (New York: Henry Malkan, 1902), 220.

<sup>216</sup> Rosemary Morillo was former Chairwoman of Soboba Band of Mission Indians. Rosemary is a strong advocate for Nex'wetem, Southern California Basket Weaver's Association. Rosemary continues the tradition of making baskets. Rosemary Morillo interview by author, Soboba Reservation, CA, August 29, 2016.





Figure 1.5: Basket made by Juana Apapas. Apapas wove the Milky Way into her basket. *Juncus coiled on a deergrass bundle foundation, design in natural juncus*. George Wharton James Collection. Courtesy of the Southwest Museum, Los Angeles CA. <http://collections.theautry.org/>.

of the event, who, what, and where. The date itself was not important. Reciprocity was important. The Indigenous people learned to reciprocate to create balance and keep love flowing. Their love for each other was immense. It was visible in their food, songs, baskets, and the way they cared for their children. They prayed and gave thanks to the Creator, who provided everything they needed, including the tools and the capacity to maintain their continuum into future.

The land and its resources belonged to the Indigenous people. The land was not foreign or frontier land. In fact, the tribal people documented and managed the land in such a way that it looked like it was in its natural state. That is how well the people took care of the land. When the invaders came, they saw the land as unused, not cared for, and chose not to recognize the Indigenous peoples as having ownership of the land. The invaders made decisions to benefit themselves and invaded the Indigenous lands, bringing violence. The American invasion on Indigenous lands led to the United States-sponsored government treaty commissions to obtain title to the land. In 1852, the Treaty of Temecula was drafted and signed with the marks of the tribal leaders of the Cahuilla, Cupeño, Luiseño, and Serrano peoples.

## Chapter 2



### INVASION

*“Our ancestors have told us we have always been here!”<sup>1</sup>*

**CARMEN LUCAS, KWAAYMII, 2019**

The first White invaders saw the land of the Indigenous people as wilderness. It was not. The land had been occupied and managed since the beginning of the world by the Indigenous people of each region. The invaders saw the land as “an obstacle to be overcome through settlement and the use of living and non-living resources.”<sup>2</sup> For Christian theologians, the finding of the Americas was immense. The land was larger than Europe and occupied by millions of Indigenous people. The potential for riches from this new land was enormous, which stimulated unmitigated greed from invaders.<sup>3</sup> For most people around the world, acknowledgment of a unknown land meant new wealth and urgency to claim the land and all its resources, including the Indigenous people as a

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<sup>1</sup> Carmen Lucas interview by author, Laguna Ranch, Pine Valley, CA, December 8, 2019. Hereafter cited as Carmen Lucas interview, December 8, 2019.

<sup>2</sup> Gregory Cajete is Tewa from the Santa Clara Pueblo in New Mexico. Cajete is a well-known Native scholar for his work in Native curriculum using Native based science and natural law. Gregory Cajete, *Native Science, Natural Laws of Interdependence* (Santa Fe, New Mexico: Clear Light Publishers, 2000), 179.

<sup>3</sup> Vine Deloria Jr., *God is Red: A Narrative View of Religion* (Golden, Colorado: Fulcrum Publishing, 2003), 257.

potential labor force.<sup>4</sup> California had a rich landscape abundant with fresh water, timber, tall grasses for grazing, and flat-bottomed agricultural lands from the Pacific Coast to the Sierra Mountains to the Colorado River.

According to Cahuilla elder and tribal historian Jane Penn, the Indigenous population reached an approximate 3,000,000 in the Americas before the arrival of the European invaders.<sup>5</sup> In his book, *Natives of the Golden State*, Cahuilla scholar Rupert Costo estimated the California Indigenous population was over 1,500,000 in California.<sup>6</sup> Many Indigenous scholars do not agree on how many people existed before the invasion.<sup>7</sup> In his book, *An American Genocide*, Benjamin Madley, a scholar of Native American history, conservatively estimated the Native population at 310,000 which horrifically dropped below 150,000 to 30,000 after the American colonial invasion.<sup>8</sup> What is important to know is that the population decreased dramatically after the Spanish settlement in 1769 through the American invasion.<sup>9</sup> The Indigenous people of Southern California outnumbered the invaders for another 100 years.<sup>10</sup> During the eighteenth

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<sup>4</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 155.

<sup>5</sup> Jane had a book with all this information she had written down, told Cahuilla Red Elk. Jane Penn was an authority on Cahuilla Indigenous history. Penn's father was Wanikik leader William Pablo. Penn was a Native scholar and curator of the Malki Museum. Penn was a founding member of the Malki Museum. Penn was the aunt of Cahuilla Red Elk and Sean Milanovich. Cahuilla Red Elk interview, September 26, 2018. Hereafter cited Cahuilla Red Elk interview, September 26, 2018.

<sup>6</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 11.

<sup>7</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 11; Madley, *An American Genocide*, 3; and Trafzer, *Fighting Invisible Enemies*, 9.

<sup>8</sup> Madley, *An American Genocide*, 3.

<sup>9</sup> Trafzer, *Fighting Invisible Enemies*, 9.

<sup>10</sup> Lowell John Bean, Sylvia Brakke Vane and Jackson Young, *The Cahuilla and the Santa Rosa Mountain Region: Places and Their Native American Uses*, ed. by Russell L. Kaldenberg (Cultural Systems Research, Inc. for the United States Bureau of Land Management, October 1981), 2-3.

century, invaders subjugated the Indigenous race of people as slaves to a labor market expansion built on racism.<sup>11</sup>

The initial American invasion [1846-1876] stormed Indigenous California and within a noticeably short time, opened California for settlement to adventurers, fur trappers, loggers, miners, colonizers, surveyors, capitalists, thieves, and killers.<sup>12</sup> “The United States has been on an imperialist course from the earliest period of American history.”<sup>13</sup> The Americans brought ideas of self-righteousness and manifest destiny.<sup>14</sup> They arrived ignorant of Indigenous peoples and their boundaries, cultures, land tenure, trade economy, religion, philosophy, and world view. Most White Christian Americans viewed the Indigenous people as a hinderance to prosperity, and this philosophy encouraged rampant development over Indigenous California.<sup>15</sup> The colonizers neither respected nor valued Indigenous people nor viewed them as having much worth.<sup>16</sup> The American invasion of California increased the settler-invader population in California with the passage of the Treaty of Guadalupe Hidalgo in 1848, and exploded with the

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<sup>11</sup> Benjamin Madley, “Unholy Traffic in Human Blood, and Souls”: Systems of California Indian Servitude Under U.S. Rule,” *Pacific Coast Review* 38, no. 4 (2014), 626-667; and Roy Mathews interview by author, Morongo Reservation, Old Tribal Building, September 5, 2015. Hereafter cited as Roy Mathews interview, September 5, 2018.

<sup>12</sup> The initial American invasion started with the military invasion and ended with the establishment of reservations by the American government for the Indigenous people.

<sup>13</sup> Peter, D’Errico, “American Imperialism: American was Never Innocent,” *Indian Country Today* (Phoenix, AZ), March 31, 2017. <https://indiancountrytoday.com/>.

<sup>14</sup> Brendan C. Lindsay, *Murder State: California’s Native American Genocide, 1846-1873* (Lincoln and London: University of Nebraska Press, 2012), 37.

<sup>15</sup> White is a physical description of the term American that controlled and dominated the United States in 1852 and continues to do so. It refers to someone who was light skinned, someone of European ethnicity, and Christian. White implies racial, negative, and segregated connotations. Ibid.

<sup>16</sup> Cahuilla Red Elk interview by author, phone, March 5, 2019. Hereafter cited as Cahuilla Red Elk interview, March 5, 2019.

Gold Rush of 1849. The invasion redefined Indigenous land ownership and occupation as the invaders claimed Native California.

The occupation of Indigenous California by invaders brought extreme conditions of war, death, rape, confinement, labor, dehumanization, and oppression to the Indigenous people. The invasion by the United States Army, followed by settlement and establishment of a government, hindered the traditional flow of security and trade, and slowed interaction among the tribal people.<sup>17</sup> The invasion brought displacement, greed, and power plays by the White people to the Native people. The advancing invaders forced tribal leaders to deal with the invasion that called for frequent adjustments or adaptations by tribal leadership to maintain control and authority.<sup>18</sup> The tribal chiefs did the best they could under the circumstances to maintain their lands and people as the invaders exploited their lands and people. Altercations and violent attacks resulted from the American intrusion on Indigenous lands and resources. Criminals of all kinds came with the invasion and the tribal chiefs tried to stop the thieves.<sup>19</sup> Tribal alliances shifted and re-shifted until Indigenous control of California had been absorbed by the powers of the United States. Tribal leaders tried to work together and at times new power alliances were made to deal with the American rivalry. It took five years after the American Army arrived in 1846, before American treaties came to California.

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<sup>17</sup> Kate Collins, *Desert Hours with Chief Patencio* (Palm Springs, CA: Palm Springs Desert Museum, 1971), 10.

<sup>18</sup> Carmen Lucas interview by author, Laguna Ranch, Pine Valley, CA, September 21, 2017. Hereafter cited as Carmen Lucas interview, September 21, 2017.

<sup>19</sup> Moraino Patencio interview, September 26, 2016; and Cahuilla Red Elk interview, phone, March 8, 2019. Hereafter cited as Cahuilla Red Elk interview, March 8, 2019.

From the Indigenous point of view, the Indigenous people saw the invasion of Southern California a little differently than what White historians had written. The Indigenous people of Southern California first saw the invaders 481 years ago [1540] as foreseen in visions that depicted the intruders riding on horses. The medicine people received visions of the newcomers. It was not until 1769 did the visions come true. One Kwaaymi story revealed that men on large animals that were big like elk [horses] would come as there were no horses at the time.<sup>20</sup> The Indigenous people were not isolated, and news had traveled of previous Indigenous intruders. They had a robust trade network system that connected the Pacific Ocean to the Interior mountains to the Colorado River, and well beyond. News traveled quickly of the intruders. The invaders had a light skin color, had hair on their face, dressed differently, spoke a foreign language, and wore an attitude of “I don’t like you,” all of which the First people of the land dealt with. The invaders carried rifles called thunder sticks by the Cahuilla, which intimidated and scared the Indigenous people.<sup>21</sup> The weapons were used to kill the Indigenous people and enforce peace.

The Indigenous people of Southern California had been taught to share what they had with those that were on good terms with them. The newcomers could stay if they followed natural law and did not harm others. The Indigenous bands in Southern California permitted the settlers to settle on the lands. The Americans did not just settle where they wanted. The Native people let the invading Americans settle where they

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<sup>20</sup> Cline, *Just Before Sunset*, 60.

<sup>21</sup> Charles R. Quinn and Elena Quinn, *Edward H. Davis and The Indians of the Southwest*, 57.

wanted the newcomers to settle at first, to allow the people to keep watch over them. The original inhabitants showed Americans where water resources were located including hot and cold springs, freshwater lakes, and streams. The newcomers were shown where timber was found for homes, barns, stores, and other structures. The Indigenous people showed the strangers ancient trails and paths to get from one place to another.<sup>22</sup> The First people nourished the newcomers with good foods. Everyone was to share the resources including water, food, and land. On the other hand, the invaders had no intent of sharing the resources. The American invaders wanted it all for themselves. The invaders fought between themselves and killed Native people and wiped out entire communities to get control of the land.<sup>23</sup>

The discovery of the new world and the invasion of California triggered invasion, trauma, greed, conflict, and a war of extermination on the homelands of the California Indigenous people. According to Tewa Native scholar and storyteller Gregory Cajete, “The land was a material object, a commodity, something from which they could gain economically. For the most part, they viewed the people they encountered as another resource that they would either use or abuse in accord with their agenda for material gain.”<sup>24</sup> After the initial invasion, Americans made treaties with tribes to get control of the land that belonged to individual sovereign tribal powers.<sup>25</sup> According to Kumeyaay

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<sup>22</sup> “Pauline Weaver had Own Route to the River,” *Sun Telegram* (San Bernardino, CA), February 12, 1956. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>23</sup> Roy Mathews interview by author, Pathfinder Ranch, Mountain Center, CA, June 2, 2018. Hereafter cited as Roy Mathews interview June 2, 2018; Emanuel Olague interview by author, Oasis of Maara, Twentynine Palms, May 27, 2017; and Ramon and Elliot, *Wayta’ Yawa*, ’ 34-36 and 262-264.

<sup>24</sup> Cajete, *Native Science*, 179.

<sup>25</sup> Michael Connolly Miskwish, *Sycuan, Our People, Our Culture, Our History* (Alpine, CA: Sycuan Band of the Kumeyaay Nation, 2006), 128.



language speaker, tribal leader, and Native scholar Stan Rodriquez, there were three waves of foreign invasion in Southern California. First there was the Spanish invasion. Next came the Mexican invasion. It was the American invasion that altered Indigenous land tenure.<sup>26</sup>

In 1540, Hernando de Alacrón, a Spanish explorer, first sailed up the Colorado River to Yuma in Kumeyaay and Quechan territory and witnessed the rich and abundant lands protected by the Indigenous people on shore with bows and arrows.<sup>27</sup> Indigenous California was immense. California was too large to dominate and required an army to dominate. Some 230 years later, the invaders reappeared, and cut out a space for themselves using technological advances to overpower the Native people. Spanish soldiers “were armed with firearms and swords and lances made of steel, wore body armor that deflected arrows, and rode horses,” to subdue and control the Native people.<sup>28</sup> The Spanish already colonized and occupied Central America and South America.<sup>29</sup> In 1769, the Spanish settled in Southern California after Gaspar de Portolá of the Spanish Army commanded the first land expedition to California from Mexico. A Spanish priest named Junípero Serra then established Mission San Diego Alcalá, in Kumeyaay territory, the first of twenty-three missions.<sup>30</sup>

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<sup>26</sup> Stan Rodriquez interview by author, phone, November 2, 2018. Hereafter cited as Stan Rodriquez interview, November 2, 2018.

<sup>27</sup> Jeffery Allen Smith, “Made Beings: Cahuilla and Chemehuevi Material Culture as Seen Through the Cary Collection” (dissertation, University of California Riverside, 2006), 140.

<sup>28</sup> Robert H. Jackson and Edward Castillo, *Indians, Franciscans, And Spanish Colonization: The impact of the Mission System on California Indians* (Albuquerque: University of New Mexico Press, 1885), 75-76.

<sup>29</sup> Robert Jackson and Edward Castillo, *Indians, Franciscans, And Spanish Colonization*,” 34.

<sup>30</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 155.

By 1771, the missionaries established Mission San Gabriel Arcángel in Gabrielino-Kumivit territory in what is now Los Angeles over the village of Yaanga to erase the Indigenous footprint. Yaanga was the first Tongva village that was overtaken by the missionaries. According to Craig Torres, a Gabrielino-Tongva leader, Spanish soldiers placed a severed head of a Kumivit leader on a pole in the center of town as a marker to let other Kumivit know what will happen to them if they do not do as the invaders say.<sup>31</sup> Southern California Indigenous people believe that respect must be earned and cannot be forced. Violence against Indigenous women started at the missions when the missionaries and soldiers raped Indigenous women.<sup>32</sup> California's Indigenous population sharply declined after the arrival of the Spanish missionaries and soldiers from Baja.<sup>33</sup>

In 1821, Mexico's declaration of independence stimulated its powerful domination and army over the Indigenous people and the land in Southern California. Mexican Governors gave Indigenous land away to prominent citizens of California and established enormous cattle ranches from the coast to San Bernardino Valley, sixty miles inland. Under the Mexican regime, Aboriginal people along the coast continued to be

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<sup>31</sup> Kumivit refers to an older name used by the Tongva today. Kumivit was the name of a village. As Indigenous people on the coast became missionized, traditional village names like Kumivit stopped being used. Village names helped to identify people. Tongva territory includes the coasts of Los Angeles and inland to the Cahuenga and Cucamonga Mountains. Gabrielino refers to the Indians whose territory closely surrounded the San Gabriel Mission in which the area became Los Angeles County. Missionaries forced the local Indigenous people to be enslaved by the mission. These people were ascribed and absorbed the name Gabrielino. Many villages incorporated the Gabrielino Natives including that of Tongva. Craig Torres interview by author, Sycuan Reservation, September 13, 2017.

<sup>32</sup> Cahuilla Red Elk interview by author, phone May 16, 2018. Hereafter cited as Cahuilla Red Elk interview, May 16, 2018.

<sup>33</sup> Margaret A. Field, "Genocide and the Indians of California, 1769-1873" (master's thesis, University of Massachusetts Boston, 1993), 23.

disposed from their lands. Under Mexican authority, the Indigenous people were enslaved to work on the ranches that encompassed their village.<sup>34</sup> The ranches employed the Native people at harvest and vintage seasons with low wages.<sup>35</sup> The Secularization Act passed by the Mexican Congress on August 17, 1833, closed the operation of the missions and granted liberation to Indigenous people, who were baptized at the mission and referred to as neophytes, kisteños, and gente de razones [people of reason].<sup>36</sup>

The invaders believed that only educated and Christianized Indians were intelligent. Cahuilla and Luiseño scholar Edward Castillo revealed that Natives held a “wall of silence,” not revealing how much they knew about religion, traditional life ways, or their form of government. This “wall of silence” helped to portray Aboriginal people as ignorant. It was a strategy to survive, declared Dr. Edward Castillo.<sup>37</sup> In addition, mission lands, mission buildings, mission livestock were to be divided up by approved state administrators and distributed to surviving “Indians.” The decree implied that “Indian” communities would become a town or pueblo of converted Native people like

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<sup>34</sup> William H. Emory, *Notes of a Military Expedition Reconnaissance from Fort Leavenworth, in Missouri, to San Diego, in California, Arkansas, Del Norte, and Gila Rivers* (Washington, D.C.: Wendell and Van Benthuysen, 1848), 105-106. Hereinafter referred to as Emory, *Notes of a Military Expedition Reconnaissance*; and Hyer, *We Are Not Savages*, 43-44.

<sup>35</sup> Frank Wheeler Henry Smith Turner, *The Original Journals of Henry Smith Turner: With Stephen Watts Kearny to New Mexico and California 1846-1847*. ed. Dwight L. Clarke (Norman: University of Oklahoma Press, 1966), 164; and Lela V. Ackerman, *Wheeler Scrapbook 2*, (Honnold Mudd Library, Special Collections, Claremont College), 119. accessed June 15, 2020, <http://ccdlibraries.claremont.edu/col/wsc>.

<sup>36</sup> Robert Jackson and Edward Castillo, *Indians, Franciscans, And Spanish Colonization*,” 87.

<sup>37</sup> Edward Castillo is a Luiseño/Cahuilla scholar. Castillo specialized in Indigenous Southern California. Castillo’s great grandfather, Victoriano Quishish, signed the Treaty of Temecula in 1852. Ibid, 35-36.

that of San Pasqual.<sup>38</sup> San Pasqual village was a new village created under the closure of the missions.

The Mexican Government developed a list of directives to follow to secularize the Indigenous from the Spanish missions but did not enforce it.<sup>39</sup> The Secularization Act freed the neophytes or converted Indigenous people and was to give the emancipated ones the mission structures and the land surrounding the missions upon which to build their pueblos.<sup>40</sup> Fundamental ideas influenced Mission “Indian” emancipation: individual rights, incorporation into Mexican society, and liquidate corporate wealth and promote modernization. In addition, missions perpetuated colonial policy and the degradation of Indigenous people. In his book, *Indians, Franciscans, And Spanish Colonization: The Impact of the Mission System on California Indians*, elder and scholar Edward Castillo alleged, “The special legal status of ‘Indians’ under the Spanish laws of the Indies and their social segregation deprived them of the skills to carry out the ‘social transactions of life’.”<sup>41</sup> Most Indigenous mission influenced communities never received the chance to use former mission lands for their own use. Spanish and Mexican soldiers plundered the missions and ignored the rights of the Indigenous people. The soldiers continued to attack the Indigenous inhabitants ruling with vicissitudes of justice.<sup>42</sup>

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<sup>38</sup> Robert Jackson and Edward Castillo, *Indians, Franciscans, And Spanish Colonization*,” 87; Dana Ruth Hicks Dunn, “Strategies for Survival: Indian Transitions in the Mountains of San Diego County, 1846-1907” (dissertation, University of California, Riverside, 2013), 18.

<sup>39</sup> Hubert Howe Bancroft, *History of California. Vol. 3: 1825-1840* (San Francisco: A. L. Bancroft and Company, 1885), 342-344.

<sup>40</sup> Helen Hunt Jackson, *Glimpses of California and The Missions* (Boston: Little, Brown, & Company, 1903), 74.

<sup>41</sup> Robert Jackson and Edward Castillo, *Indians, Franciscans, And Spanish Colonization*, 88.

<sup>42</sup> Richard Hanks, *This War is for a Whole Life: The Culture of Resistance Among Southern California Indians, 1850-1966* (Banning: Ushkana Press, 2012), 1.

Important to the story of the Treaty of Temecula is the story of Mission San Bernardino and the Lugo ranch in San Bernardino Valley. The Lugo ranch was in the middle of Cahuilla and Serrano Indigenous territory. The ranch interacted and depended on the Indigenous peoples. In 1810, the Spanish established the San Bernardino Asistencia at Guachama, a Cahuilla and Serrano village, as a supply station and raised cattle. It was on the route to Mission San Gabriel.<sup>43</sup> According to the late Cahuilla William Pablo, San Gabriel Mission extended its boundaries east to be close to a medicine spring.<sup>44</sup> In 1819, the Asistencia was moved about a mile east and rebuilt larger after being attacked by local Indigenous people.<sup>45</sup> In 1839, Don Antonio Marie Lugo, a former soldier who fought for the Spanish King, and his three sons: José del Carmen, José Maria, and Vicente and nephew Diego Sepulveda arrived in San Bernardino Valley at the base of Cajon Pass and squatted there.<sup>46</sup>

The region was magnificent and large for their cattle enterprise to expand. The Lugo already had a large cattle ranch in Los Angeles called Rancho San Antonio.<sup>47</sup> Cahuilla and Serrano people occupied the valley and the water resources, worked the

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<sup>43</sup> On May 20, 1810, the San Bernardino Valley was named after the patron Saint of the day on the Catholic Calendar, Saint Bernardino of Siena. Father Juan Caballeria, *History of San Bernardino Valley from the Padres to the Pioneers, 1810-1851* (San Bernardino: Times-Index Press, 1892), 38.

<sup>44</sup> John Bruno Romero, *The Botanical Lore of the California Indians: with Side Lights on Historical Incidents in California*, (New York, Vantage Press, INC., 1954), 73-74.

<sup>45</sup> Roy Mathews interview, September 5, 2015.

<sup>46</sup> José María Lugo married María Antonia Avila, a Acjachemen Native, who was most likely from the village of Panhe near San Juan Capistrano thirty miles west of Temecula. John R. Johnson, Stephen O'Neil, and Santa Barbara Museum of Natural History, "Descendants of Native Communities in the Vicinity of Marine Corps Base Camp Pendleton: An Ethnographic Study of Luiseño and Juaneño Cultural Affiliation" (Santa Barbara, CA: Science Applications International Corporation, 2001), 88-89. Hereinafter cited as Johnson and O'Neil, "Descendants of Native Communities."

<sup>47</sup> José del Carmen Lugo, "Life of a Ranchero," in *Viva California: Seven Accounts of Life in Early California*. ed. Michael Burgess and Mary Wickizer Burgess (San Bernardino: Borgo Press, 2006), 10.

gardens and their ranches and traded with other tribes there. San Bernardino was on the edge of Cahuilla territory. The area was used by multiple tribal groups, including Cahuilla, Luiseño, Serrano, and Tongva over multiple generations. The Lugo family applied for a grant from the Mexican Governor Juan Bautista Alvarado. In 1842, Don Antonio Maria Lugo received a land grant in the name of his three sons, encompassing 35,509.41 acres.<sup>48</sup> The three sons and nephew each moved out onto separate parts of the ranch. José del Carmen Lugo moved to Reservoir Canyon and settled into the Asistencia buildings. There were still some Cahuilla and Serrano people who lived and worked the Mission gardens for themselves. The Lugos expanded their cattle enterprise into the whole valley. Antonio Marie Lugo had two daughters, Merced and Mariá de Jesús. Mariá de Jesús later married Colonel Julian Isaac Williams, a ranch owner in the San Bernardino Valley.<sup>49</sup>

José del Carmen Lugo hired the entrepreneur and “dispenser of justice” Juan Antonio Coos’woot’na [Costakik], a Cahuilla leader, to help manage the ranch and keep cattle rustlers away from his cattle, informed William Madrigal, a Cahuilla scholar.<sup>50</sup> Paiute cattle rustlers were mainly coming down the Cajon Pass into San Bernardino Valley, according to Cahuilla elder and descendant of Juan Antonio, Roy Mathews.

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<sup>48</sup> Chris Perez, “Grants of Land in California Made by Spanish or Mexican Authorities” State Lands Commission (California Agencies, 1983), 93. accessed 2018, [https://digitalcommons.law.ggu.edu/caldocs\\_agencies/117](https://digitalcommons.law.ggu.edu/caldocs_agencies/117).

<sup>49</sup> Henry D. Barrows, “Don Antonio Maria Lugo; A Picturesque Character of California,” *Annual Publication of the Historical Society of Southern California, Los Angeles* V 3, no. 4 (1896), 31.

<sup>50</sup> William Madrigal is a member of the Cahuilla Band of Indians near Anza, CA, near Cahuilla Mountain, and from the Natcutakiktum Clan. Madrigal is a graduate student at the University of California, Riverside, in the Ethnic Studies Department. Madrigal is a descendant of Chief Juan Antonio. William Madrigal interview with author, Banning, CA, June 24, 2018. Hereafter cited as William Madrigal interview, June 24, 2018.

Cajon Pass was at the west end of the ancient Indigenous foot trail known as the Mojave Trail.<sup>51</sup> Mathews asserted that Juan Antonio burned down the Asistencia three times. Antonio did not like how the missionaries treated his Indigenous relatives.<sup>52</sup> According to John P. Harrington and consultant Lee Arenas, Chiefs Cabazon and Juan Antonio heard the missionaries were going to poison and educate the Indigenous people in Santa Mateo Canyon, known as San Timoteo Canyon and home of the village of Sáxhatpah. Early ethnographer George P. Harrington recorded Yuhaaviatem Chief Santo Manuel, “So Cabazon said, he might as well kill them off. So, he attacked & killed [butchered] all the Inds. living at Santa Mateo Canyon.”<sup>53</sup> By 1851, the Lugos had 8,000-10,000 head of cattle roaming San Bernardino Valley with the help of Juan Antonio.<sup>54</sup>

### **Juan Antonio Coos'woot'na**

At the time of the American Invasion, 1846-1876, the Indigenous people had several notable leaders that fought for tribal rights and protection of their resources and provided spiritual guidance. At the same time, some of these leaders were so powerful, they influenced the settlement by invaders. One such man who commanded respect and was a master of his own destiny was the powerful and intelligent tribal chief, Juan

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<sup>51</sup> Jim Byrkit and Bruce Hooper, *The Story of Pauline Weaver: Arizona's Foremost Mountain Man, Trapper, Gold-Seeker, Scout, and Pioneer* (Arizona: Sierra Azul Productions, 1993), 14.

<sup>52</sup> Roy Mathews is a respected elder from the Morongo Reservation. Mathews is a descendant of Chief Juan Antonio. Roy Mathews interview, September 5, 2015.

<sup>53</sup> Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH- NMNH- Harrington\_mf3\_r114\_0421.

<sup>54</sup> Edward Leo Lyman, *San Bernardino: The Rise and Fall of a California Community* (Salt Lake City: Signature Books, 1996), 54.

Antonio.<sup>55</sup> On the other hand, White men feared Juan Antonio and other chiefs attacking the invaders' settlements.<sup>56</sup> Juan Antonio was a traditional *nét* or tribal chief who inherited his authority.<sup>57</sup> According to Cahuilla leader and orator Moraino Patencio, Juan Antonio was not a traditional leader in the traditional sense. Juan Antonio worked patiently and diligently with the American outsiders. Antonio conformed to their ways as needed.<sup>58</sup> In 1852, Juan Antonio affirmed his name on the Treaty of Temecula. Juan Antonio Coos'woot'na was the first Indigenous leader to consent to the Treaty of Temecula, paving the way for others to sign.<sup>59</sup>

Juan Antonio Coos'woot'na, later known as Costo, was one the most well-known Indigenous leaders in Southern California.<sup>60</sup> Juan Antonio came from the Costakiktem clan in the Santa Rosa and San Jacinto Mountains. Antonio was born around 1778 at the village of Sew'ia. The late Cahuilla elder and master storyteller Alvino Siva associated the village of Sew'ia around Thomas Mountain west to Garner Valley.<sup>61</sup> The tribal elders of his tribe recognized Antonio's leadership skills of speaking with authority and knew his tribal history and political boundaries. The elders trained and groomed Juan Antonio

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<sup>55</sup> Collins, *Desert Hours with Chief Patencio*, 12.

<sup>56</sup> "Indian Troubles in the South," *Daily Alta California* (San Francisco, CA), June 21, 1862. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>57</sup> The Cahuilla call the chief of the tribe *nét*. The Cupeño call the chief *núut*. The Luiseño call the chief *nóta*. The Kumeyaay call the chief *kwapai*. The Serrano say *Kiika* for chief.

<sup>58</sup> Moraino Patencio interview by author, Agua Caliente Reservation, CA, March 6, 2018. Hereafter referred to as Moraino Patencio interview, March 6, 2018.

<sup>59</sup> Moraino Patencio interview, September 26, 2016.

<sup>60</sup> George Hazin Shinn, *Shoshonean Days: Recollections of a Residence of Five Years Among the Indians of Southern California, 1885-1889* (Glendale, CA: Arthur H. Clark Company, 1941), 93.

<sup>61</sup> Alvino Siva was Cahuilla from the Los Coyotes Reservation. Siva came from the Isil Siva lineage. Alvino was a horse rider and lover. Harry Quinn's notes from "Conservations with Alvino Siva August 21, 2008," in possession with author.



to work with the outsiders.<sup>62</sup> Juan Antonio became a war commander and political mediator between the settlers both Mexican and Americans.<sup>63</sup> The Cahuilla called Juan Antonio Chem'yuleqa, meaning, “Our Head.”<sup>64</sup> The Serrano referred to him as Yampooche, meaning, “Quick Mad.”<sup>65</sup>

In 1828, missionaries baptized headman Juan Antonio as Juan Antonio “Cusuatná” or Coos'woot'na, at the age of fifty at Mission San Luis Rey.<sup>66</sup> The first name “Juan Antonio” was the given baptized slave name. The second name referred to his clan name, “Coos'woot'na.”<sup>67</sup> According to the late Cahuilla tribal elder Katherine Siva Saubel, Juan Antonio’s last name and clan reference was Kústakik.<sup>68</sup> A derivative of Coos-woot-na, Costo is now used.<sup>69</sup> Some of the lineal descendants carry the family name of Costo, such as Rupert Costo.<sup>70</sup> Priests from Mission San Luis Rey appointed Juan Antonio as “Captain” like a justice of the peace.<sup>71</sup> The missions usually appointed people to control the people over a linguistic area. The captain was usually a strong-

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<sup>62</sup> Moraino Patencio interview, March 6, 2018; Cahuilla Red Elk Interview, May 16, 2018; and Shinn, *Shoshonean Days*, 93.

<sup>63</sup> Moraino Patencio interview, March 6, 2018

<sup>64</sup> Terrance Przeklasa, “Reservation Empire: The Mission Indian Federation and Native American Conservatism,” (dissertation, University of California Riverside, 2015), 48.

<sup>65</sup> Tom Hughes, *History of Banning and San Geronio Pass* (Banning: Banning Record Print, 1938), 107. Hereinafter cited as Johnson and O’Neil, “Descendants of Native Communities,” 41; and “Early California Population Project,” a Database of Baptism, Marriage, and Burial Records from California Mission.” The Huntington: Library, Art Museum, and Botanical Gardens. accessed December 16, 2019, <https://www.huntington.org/ecpp>. Hereafter referred to “Early California Population Project,” The Huntington, <https://www.huntington.org/ecpp>.

<sup>67</sup> Johnson and O’Neil, “Descendants of Native Communities,”41.

<sup>68</sup> Katherine Siva Saubel and Eric Elliot, *Isill Héqwas Wáxish: A Dried Coyote’s Tail*, Book 1 (Banning: Malki Museum Press, 2004), 262.

<sup>69</sup> Harry Quinn. “Some Potential Derivatives of Cahuilla Names,” Paper (August 14, 2014), 2 in possession with author.

<sup>70</sup> Roy Mathews interview, June 2, 2018.

<sup>71</sup> Anthony Madrigal, *Sovereignty, Land and Water: Building Tribal Environmental and Cultural Programs on the Cahuilla and Twenty-Nine Palms Reservations* (Riverside: California Center of Native Nations, 2008), 141; and Strong, *Aboriginal Society*, 149.

willed person and not necessarily the traditional leader. The person appointed captain was someone the priests thought they could trust and get the work done. These were usually leaders of the village. Juan Antonio was traditional leader of a band of Indigenous people from the village of Sew'ia on top of the Santa Rosa Mountain range.

The mission influence on the people broke down the traditional political structures. By the 1840s, most Aboriginal peoples spoke a construct of the Spanish language. A new line of leaders acknowledged by the missions and ranches came into play. Hereditary leaders were gradually replaced with new leaders who were strong, prominent, and persuasive. There was "El Capitan," who was appointed over each village and district [usually corresponding to linguistic areas], and under them "Alcaldes" [police/constables] and "*Jueces*" [judges/justices of the peace].<sup>72</sup> The new political structure made an awareness of the Spanish Mexican culture extremely important as well with the American culture. Tribal leaders developed new political and economic strategies to deal with the invaders. "They strengthened themselves politically by confederating several clans or remnants of former clans under one leader by the 1840s."<sup>73</sup> Chief Juan Antonio was a leader that reorganized and took advantage of the situation to help his people.

Juan Antonio's authority extended over five villages and clans in the mountains from the valleys of Anza and Garner, into Coyote Canyon, Juan Antonio's territory of the

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<sup>72</sup> Strong, *Aboriginal Society*, 149; Tanis Thorne, "The Death of Superintendent Stanley and The Cahuilla Uprising of 1907-1912," in *The Journal of California and Great Basin and Anthropology* 24, no. 2 (2004), 234.

<sup>73</sup> Bean, Vane and Young, *The Cahuilla and the Santa Rosa Mountain Region*, 2-3.

Costakiktem, Natcutakiktem, Pauatiauitcem, Tepamokiktem, and Temewhanic.<sup>74</sup> Juan Antonio strategically moved to San Bernardino after his time at Mission San Luis Rey to get better control over who came and left at the northwestern part of Cahuilla territory. There is a story originating from Garner Valley about the Cahuilla. Supposedly, there was a Cahuilla chief who traded some of his ancestral land for ninety-one head of cattle to Americans to use the area temporarily. The land encompassed Garner Valley, absorbing thousands of acres. The land itself was not for sale.<sup>75</sup> Perhaps Juan Antonio, who held ownership and jurisdictional rights to the land, constructed the trade.

Juan Antonio married Juana Antonia “Calulli,” from the village of Yuginca, a Mountain Cahuilla village.<sup>76</sup> Juan Antonio looked for work off the mountain and found it at San Bernardino Mission Asistencia, where he lived and managed 500 Indigenous people working the land.<sup>77</sup> The Spanish missionaries did not always treat Antonio and others well. In resistance, Juan Antonio set fire to the mission three times while he worked at the mission because he did not like how the invaders treated him.<sup>78</sup>

In 1844, José del Carmen Lugo offered Juan Antonio and his men work as a defensive measure against cattle rustlers.<sup>79</sup> Juan Antonio accepted and moved west of the

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<sup>74</sup> Hubert Howe Bancroft, *History of California Vol. 5: 1846-1848* (San Francisco: A.L. Bancroft and Company, 1886), 624; and Strong, *Aboriginal Society*, 150.

<sup>75</sup> Author Sean Milanovich recollects from a story as told to him by his father Richard Milanovich.

<sup>76</sup> Juan Antonio and Juana Antonio Caulli were baptized in 1828 at Mission San Luis Rey. Johnson and O’Neil, “Descendants of Native Communities,” 41.

<sup>77</sup> Juan Caballeria, *History of San Bernardino Valley: From the Pioneers to the Padres, 1810-1851* (San Bernardino, CA: Times-Index Press, 1902), 128.

<sup>78</sup> Roy Mathews interview, September 5, 2015.

<sup>79</sup> Saubel and Elliot, *‘Isill Héqwas Wáxish*, 264.

Santa Ana River and south of Cajon Pass to an old Serrano village called Politana.<sup>80</sup> Politana was located near Vicente Lugo's [brother to Carmen Lugo] adobe.<sup>81</sup> Politana had been a former camp and village site to Lorenzo Trujillo and other settlers from New Mexico, who previously worked for the Lugos.<sup>82</sup> Before the Asistencia came, multiple villages existed on the west side of the Santa Ana River to the north side of the mountain.<sup>83</sup> Chief Juan Antonio and his relatives and hundreds of their family members moved to Politana.<sup>84</sup> Juan Antonio and his warriors patrolled the land near the Cajon Pass for desperados but mainly cattle thieves.<sup>85</sup> Juan Antonio with his supporters and families from the five clans already living in the San Bernardino Valley recruited more men to protect the Lugo Ranch from cattle and horse thieves. Juan Antonio safeguarded the lands from the San Bernardino area to the San Jacinto Pass for the protection of the cattle and horses. José del Carmen Lugo hired Juan Antonio and his men to keep cattle rustlers away and do wrangler work on the ranch. Alvino Siva recalled that Ute Chief Timpanagos, known as Walkara, came down the Cajon Pass to steal cattle and then returned to Utah with his new herd.<sup>86</sup> Walkara took Indigenous captives from California for personal use and the slave trade market.<sup>87</sup> For thousands of years, people of different

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<sup>80</sup> George William Beattie and Helen Pruitt Beattie, *Heritage of the Valley: San Bernardino's First Century* (Pasadena, CA: San Pasqual Press, 1939), 61-62; and Richard A. Hanks, "Vicissitudes of Justice: Massacre at San Timoteo Canyon," in *Southern California Quarterly* 82, no. 3 (Fall 2000), 254.

<sup>81</sup> Hanks, "Vicissitudes of Justice," 237.

<sup>82</sup> George William Beattie and Helen Pruitt Beattie, *Heritage of the Valley*, 61-62.

<sup>83</sup> *Ibid.*, 12.

<sup>84</sup> *Ibid.*, 68.

<sup>85</sup> *Ibid.*, 61-62.

<sup>86</sup> Alvino Siva interview by author, Agua Caliente Reservation, CA, Circa 2005. Hereafter cited Alvino Siva interview, Circa 2005; and Ned Blackhawk, *Violence Over the Land: Indians and Empires in the Early American West* (Cambridge, Massachusetts and London, England: Harvard University Press, 2006), 120.

<sup>87</sup> Blackhawk, *Violence Over the Land*, 140-143.

racers from around the world participated in the inhumane form of slavery. “The American Southwest had a history of slavery (and some unique features of human bondage) during the Indian, Spanish, Mexican, and American periods.”<sup>88</sup> Juan Antonio wanted to curb slavery. Juan Antonio then moved to Politana. Politana was named for a tribal leader, Hipolito Espinosa from New Mexico, who in the early days worked at the supply station of San Bernardino.<sup>89</sup>

In 1841, a group of colonists arrived from New Mexico and settled.<sup>90</sup> Many of the men had been fur trappers and sold furs in Los Angeles. One of the trappers, James M. Waters, held a gathering and invited Chief Juan Antonio and his men. They smoked a pipe, offering a sign of peace with permission to settle on the land for the time being.<sup>91</sup> Gatherings such as this and offerings of gifts made with Juan Antonio were ways to create bonds and relationships with the Indigenous people. It was these interactions that kept the camaraderie between the Indigenous people and the settlers. It was this type of reciprocal relationship that fostered good relations.<sup>92</sup> This was a lesson of reciprocity, that some invaders got, but most failed, leading to mistrust and skepticism, uncertainty, and the Treaty of Temecula.

Some of the first newcomers set the stage for distrust. It was here that the fur trappers from Santa Fe introduced themselves to Juan Antonio. Some of the trappers were

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<sup>88</sup> Clifford J. Walker, *Gone the Way of the Earth: Indian Slave Trade in the Old Southwest* (Barstow, California: Mojave River Valley Museum Association, 2009), 3.

<sup>89</sup> George William Beattie and Helen Pruitt Beattie, *Heritage of the Valley*, 39.

<sup>90</sup> Benjamin Hayes, *Pioneer Notes from the Diaries of Judge Benjamin Hayes, 1849-1875*, ed. Majorie Tisdale Wolcott (Los Angeles, 1929), 259.

<sup>91</sup> Shinn, *Shoshonean Days*, 92.

<sup>92</sup> “From the Plain,” *Los Angeles Star* (Los Angeles, CA), November 17, 1855. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

Indigenous themselves. One of the Native trappers was Lorenzo Trujillo, a Comanche. Trujillo lived at a place called Agua Mansa on the Jurupa Ranch granted to Juan Bandini.<sup>93</sup> Another settler was Daniel Sexton, who settled in San Bernardino. Benjamin Davis, a trapper from Santa Fe who originally came from Tennessee, traveled with Trujillo, who led the expedition to California. For a time, Trujillo worked for José del Carmen Lugo, protecting the ranch from cattle and horse thieves, mainly renegade Natives coming down the Cajon Pass, before being replaced with Juan Antonio. The Cajon Pass was a direct route connecting the upper desert with the lower desert. Even more so, Cajon Pass connected the Mojave Trail, an ancient Indigenous trail from Utah in Paiute country to San Bernardino Valley.<sup>94</sup> American invaders followed the trail as well to come to California. Some of these characters played a big part in events of Southern California. American Benjamin Wilson in 1844 bought the Jurupa Ranch from Californio Juan Bandini, which encompassed Cahuilla lands and later, the transient village of Pachapa.<sup>95</sup>

Wilson, being a ranch owner with cattle and horses, protected his assets. He hunted down Indigenous horse thieves. Some thieves hid in the more isolated parts of Cahuilla country. On one account, Wilson went into the desert, tracking two neophytes who stole cattle from multiple ranches from San Gabriel to San Bernardino. The two Aboriginal people stole cattle to eat. The neophytes had been forcefully removed from

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<sup>93</sup> Hayes, *Pioneer Notes from the Diaries of Judge Benjamin Hayes*, 157.

<sup>94</sup> William Madrigal interview, June 24, 2018.

<sup>95</sup> John Goodman, "Spring Rancheria: Archaeological Investigations of a Transient Cahuilla Village in Early Riverside, California," (M.S. thesis, University of California, Riverside, 1993), 1-16; and Benjamin Davis Wilson, "My Life in Early California," in *Viva California: Seven Accounts of Life in Early California*. ed. Michael Burgess and Mary Wickizer Burgess (San Bernardino: Borgo Press, 2006), 67-84.

their land and forced to work at Mission San Gabriel. When the missions were secularized and the Indigenous people returned to their villages, some of the villages were occupied and taken over by non-Indigenous. The Indigenous had nowhere to go and they moved around from one place to another to survive. Most of the game was gone; the ranchers had hunted all the game.<sup>96</sup>

In the desert, near the Cahuilla village of Séxki, tribal leader José Cabazon confronted Benjamin Wilson. Cabazon controlled a large group of Indigenous people in what is now called the Coachella Valley.<sup>97</sup> Cabazon did not like the idea that this group of non-Indigenous White men travelled through his territory without his permission. He noticed they carried lethal weapons and were looking for something and were not lost. Cabazon sent his brother Adam and twenty warriors to capture the two renegades hiding in his territory.<sup>98</sup> He made sure Wilson stayed put and did not allow Wilson to continue further. It was summer, and the drifting sand was hot.<sup>99</sup> Wilson had been appointed alcalde or mayor of his district of Jurupa.<sup>100</sup> Wilson believed he was doing justice killing Indigenous people who made depredations on the Spanish, Mexican, and American settlers. Many Aboriginal people already were already killed on the coast, and many more had lost their homes and were being pushed up the mountains into the rocks and into the desert. The Aboriginal traditional economy was disappearing, and the people

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<sup>96</sup> Joel R. Hyer, *We Are Not Savages: Native Americans in Southern California and the Pala Reservation, 1840-1929* (East Lansing: Michigan State University, 2001), 73.

<sup>97</sup> The Coachella Valley is home to a host of cities. One such city is Palm Springs which is centered around the hot mineral spring Séxhi and the home of the Agua Caliente Band of Cahuilla Indians.

<sup>98</sup> Wilson, "My Life in Early California," 85.

<sup>99</sup> During the summer, it is not uncommon for temperature to reach 120+ Fahrenheit.

<sup>100</sup> Wilson, "My Life in Early California," 88.

were hungry. Indigenous thieves raided stock that thrived on their former lands.<sup>101</sup>

Indigenous villages shifted and relocated. Villages were abandoned while others flocked to relative villages away from the danger of the Whites. It was safer in larger numbers for the Indigenous people. The Desert Cahuilla under Cabazon for the most part, were left alone until now.

### **Se'san Jose Cabazon Tuikik**

Traditional leader Jose Cabazon was an important leader for dissolving disputes with invaders including Americans.<sup>102</sup> According to the late Cahuilla leader Francisco Patencio, elder Jose Cabazon's name was Se'san.<sup>103</sup> Se'san Jose Cabazon Tuikik was the most respected net or traditional leader and elder spokesman in the desert region of Southern California. Cabazon's authority extended over a vast territory from the San Gorgonio Pass to the Colorado River.<sup>104</sup> Cabazon had more power and influence than any other Indigenous leader living in California, according to Helen Hunt Jackson.<sup>105</sup> The respected leader Jose Cabazon came from the village of Tuikiktum Hemki.<sup>106</sup> It can be translated as "People's home of the fruit," meaning his village had mesquite trees and

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<sup>101</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 188-191.

<sup>102</sup> Ramon and Elliot, *Wayta' Yawa'*, 494-496.

<sup>103</sup> Collins, *Desert Hours with Chief Patencio*, 8.

<sup>104</sup> Collins, *Desert Hours with Chief Patencio*, 8; and Robert Perez, *The History of the Cabazon Band of Mission Indians 1776-1876* (Indio, California: Cabazon Band of Mission Indians, 1999), 20.

<sup>105</sup> Helen Hunt Jackson, *A Century of Dishonor: A Sketch of the United States Government Dealing's with Some of the Indian Tribes* (Boston: Roberts Brothers, 1890), 521.

<sup>106</sup> Harry Quinn, "Chief Cabezón's Four Villages: *Maswut Helaanut, Awelpitcava, Palaiyil Tuikiktum Hemki* in the lower Coachella Valley and one *Qaaych "Ashuceyka"* in the Banning Pass." Unpublished Article. June 9, 2018, 3.



were plentiful with beans. An abundant supply of good healthy beans means water was nearby. Cabazon's village was in Indio and now part of the Cabazon Reservation.<sup>107</sup>

Cabazon was a revered hereditary leader who assumed position in a traditional way. The leadership was passed onto Cabazon through the family line. Cabazon was a traditional nét of the Kawichpameauitcem Clan.<sup>108</sup> Chief Jose Cabazon's authority controlled multiple villages including: Maswut Helaanut, Awelpitcava, Palaiyil, and Tuikiktum Hemki in the lower Coachella Valley and Qaaych Ashuceyka in the San Gorgonio Pass.<sup>109</sup>

Cabazon's authority and influence extended from San Gorgonio Pass, between the San Jacinto and the San Bernardino Mountains, to the Colorado River. In 1845, American Powell "Pauline" Weaver claimed a portion of the old Rancho San Gorgonio.<sup>110</sup> Weaver and his partner Isaac Williams ran cattle in the pass to the Colorado River. With all the cattle rustling by Indigenous renegades coming down Cajon Pass, Weaver requested help from Cabazon. Chief Cabazon set up a village, Qaaych Ashuceyka, in the center of the San Gorgonio Pass with some of his warriors to protect the ranch's livestock.<sup>111</sup> Cabazon constructed a ceremonial house in the Pass and held ceremonies with the Cahuilla,

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<sup>107</sup> The City of Indio is named for the Indians who lived there. Bean, Vane, and Young, *The Cahuilla Landscape*, 97.

<sup>108</sup> Ibid, 23.

<sup>109</sup> Quinn, "Chief Cabezon's Four Villages." June 9, 2018, 1-3; and Perez, *Cabazon Band of Mission Indians*, 22.

<sup>110</sup> Before Pauline Weaver claimed land as a Mexican citizen in the San Gorgonio Pass, he lived at Rancho Muscupiabe, at the base of Cajon Pass in the San Bernardino Valley. Weaver cut logs on the ranch. Rancho Muscupiabe received its name after the Serrano village of Muscupiabit, nearby. Jim Byrkit and Bruce Hooper, *The Story of Pauline Weaver*, 14.

<sup>111</sup> The village was on the south side of I-10 at the base of San Jacinto. Quinn, "Chief Cabezon's Four Villages," 3.

Chemehuevi, Paiute, Serrano, and Ute peoples, establishing alliances and creating unity.<sup>112</sup>

Traditional net or tribal leader Jose Cabazon and his younger nephew Juan Antonio held council with one another as needed in the ceremonial house. Each had a different way to deal with the invaders of their territory.<sup>113</sup> Cabazon was a speaker, an orator, and a negotiator. Cabazon was a traditional trader, and traded all the way to the Colorado River.<sup>114</sup> The knowledgeable leader was called upon to help and uplift the people. Cabazon was a War Chief.<sup>115</sup> Cabazon's leadership was recognized not only by his Indigenous relatives, but by both the Mexicans and Americans. In Cahuilla, the Chief's ascribed name was Coos-pa-om-nu-wit, meaning "big throat."<sup>116</sup> Cabazon was highly intelligent and therefore the Spanish later gave him the name Cabazon, or big head, believed Dorothy Ramon [1909-2002], a Serrano elder.<sup>117</sup> Chief Cabazon united Desert Cahuilla villages where none existed previously.<sup>118</sup> Many villages existed on the desert floor, and Cabazon was able to bring them all together. Cabazon used his powerful thought-provoking words, big voice Coos'pa'om'nu'wit to unite the people as times changed and new leadership roles developed. In 1852, Cabazon Coos'pa'om'nu'wit signed the Treaty of Temecula along with Juan Antonio to secure the Indigenous people a small

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<sup>112</sup> Ramon and Elliot, *Wayta' Yawa'*, 494-495.

<sup>113</sup> Perez, *Cabazon Band of Mission Indians*, 33.

<sup>114</sup> Moraino Patencio interview, September 26, 2016.

<sup>115</sup> Collins, *Desert Hours with Chief Patencio*, 9.

<sup>116</sup> John Peabody Harrington, Southern California/Basin: "Treaty of Temecula," Cahuilla Reel 114. NMNH- NMNH-Harrington\_mf3\_r114\_0418. National Museum of Natural History, National Anthropological Archives. Smithsonian Institution, <http://edan.si.edu/>; Perez, *Cabazon Band of Mission Indians*, 30; and Joseph Benitez interview by author, phone, July 29, 2020.

<sup>117</sup> Ramon and Elliot, *Wayta' Yawa'*, 495-496.

<sup>118</sup> Perez, *Cabazon Band of Mission Indians*, 24.

reservation to the United States. The American invasion and military intimidation on tribal lands led to the Treaty.<sup>119</sup>

### **American Invasion**

On March 4, 1845, James Knox Polk became the eleventh President of the United States, with a vision of expanding the United States to the Pacific Ocean with the acquisition of California into the United States.<sup>120</sup> In his inaugural address, Polk emphasized that the American domain stretched from “ocean to ocean.” Polk noted that lands west of the Rocky Mountains have been occupied by American families and the pioneers should be protected by the laws of the American people. He suggested that the United States extend its boundaries westward. President James Polk claimed in his inauguration speech that “Indians” rights had been obliterated. Polk continued, “The title of numerous Indian tribes to vast tracts of country has been extinguished; new states have been admitted into the United States; new territories have been created and our jurisdiction and laws extended over them.”<sup>121</sup> President Polk ignored previous treaties that designated land west of the Mississippi to the Pacific Ocean as “Indian Country,” meaning the United States recognized the area as land designated and reserved for Indians, Indigenous people the territory from the Mississippi River west to the Pacific

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<sup>119</sup> Perez, *Cabazon Band of Mission Indians*, 30; and Red Elk Interview, September 26, 2018.

<sup>120</sup> Richard Griswold del Castillo, *The Treaty of Guadalupe Hidalgo: A Legacy of Conflict* (Norman, Oklahoma, University of Oklahoma Press, 1990), 5; Madley, *An American Genocide*, 42; and Lindsay, *Murder State*, 54.

<sup>121</sup> Gutenberg Volunteers and David Widger, *United States Presidential Speeches from Washington to George W. Bush*. eBook (Gutenberg, January 8, 2013).

Ocean. Some Indigenous groups were moved to this territory by the United States military.<sup>122</sup>

The United States was all Indigenous land and occupied by millions of Indigenous people. The land was not unsettled frontier but managed with hundreds of tribes each with their own government and way of life spread across the land from ocean to ocean. War after war against the first peoples established American authority over Indigenous lands.<sup>123</sup> Over the decades, from the eighteenth century forward, the United States restructured its policy with the Indigenous people, as it grew stronger and expanded across Indigenous territory to the Pacific Ocean. Indigenous residents were displaced as invaders colonized the land. Early on, the United States enacted the Trade and Intercourse Acts between 1790 and 1834, which allowed the United States government to trade with Indigenous people.<sup>124</sup> Trade permitted the United States government to grow and expand as it made relationships with Indigenous people. The Americans believed their right to the land was superior to that of the Indigenous people who had lived on that land and taken care of it for since time immemorial. In 1830, the United States enacted the Indian Removal Act, forcing tribes to give up their traditional lands, and relocated thousands of Aboriginal people.<sup>125</sup> The United States military moved the Indigenous

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<sup>122</sup> Dejong, *American Indian Treaties*, 29-29.

<sup>123</sup> Matthew Leivas interview by author, phone, August 3, 2017. Hereafter cited as Matthew Leivas interview, August 3, 2017.

<sup>124</sup> 25 U.S.C. § 177; and Stephen L. Pevar, *The Rights of Indians and Tribes* (Oxford: Oxford University Press, 2012), 78.

<sup>125</sup> Cathleen D. Cahill, *Federal Fathers & Mothers: A Social History of the United States Indian Service, 1869-1933* (Chapel Hill: University of North Carolina, 2011), 8-9.

people east of the Mississippi River from their homelands west of the Mississippi River, to land to be set aside as “Indian” territory for eternity.<sup>126</sup>

On May 13, 1846, United States President James Polk declared war with Mexico under the vision of manifest destiny and expansion of the United States to the Pacific Ocean with acquisition of California.<sup>127</sup> The war between Mexico and the United States brought an invasion of American military forces into Alta California.<sup>128</sup> The Native people offered their services and in return they hoped they would gain an ally. The invaders mistook this phenomenon as being weak. California Indigenous people had their own network communication system in place. Indigenous people across the land observed and sent messages to one another as the intruders trespassed onto their lands. California Indigenous people watched and reported the actions of the invaders to local and distant tribes up and down the state.<sup>129</sup>

In July 1846, combined American military forces of Commodore John D. Sloat, Captain John Charles Frémont, Lieutenant Archibald H. Gillespie, and Commodore F. Stockton secured Northern California from Mexico.<sup>130</sup> Frémont and Carson sailed south to the Pueblo of Los Angeles with Commodore Stockton to take control of Southern

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<sup>126</sup> S. C. Gwynne, *Empire of the Summer Moon: Quanah Parker and the Rise and Fall of the Comanches, the Most Powerful Indian Tribe in American History* (New York, London, Toronto, and Sydney: Scribner, 2010), 209.

<sup>127</sup> Griswold del Castillo, *The Treaty of Guadalupe Hidalgo*, 5; Lindsay, *Murder State*, 54; Madley, *An American Genocide*, 42; and Justin H. Smith, *The War with Mexico: The Classic History of the Mexican American War, Volume 1 & 2* (St. Petersburg, Florida: Red and Black Publishes, 1919), 190.

<sup>128</sup> Alta California refers to the territory of Mexico (California) after the 1824 Mexican Constitution was approved. Baja California refers to the territory claimed by Mexico.

<sup>129</sup> Dunn, “Strategies for Survival,” 38.

<sup>130</sup> Clifford E. Trafzer, *Yuma: Frontier Crossing of the Far Southwest* (Wichita: Western Heritage Books, 1980), 31.

California. In August 1846, Commodore Stockton arrived and took possession and control of Los Angeles. California remained under a military government. Stockton appointed Frémont as Governor of California and ignored the existing tribal governments ruling California.<sup>131</sup> Frémont sent Pauline Weaver, a trapper and military scout, and Kit Carson, a frontiersman and tracker, with messages to President Polk in Washington D.C. to relay the defeat of Mexico in California.<sup>132</sup> Kearny intercepted Weaver and Carson in New Mexico. Kearny then sent Pauline Weaver to Santa Fe, New Mexico, to escort the Mormon Battalion that would be headed to Southern California.<sup>133</sup> Carson then escorted Kearny to California. American forces took possession of areas dominated by Mexican forces. Americans invaded California without first consulting first with the rightful owners and occupants, the sovereign bands of Indigenous people. The American invaders Indian policy was to ignore the Indigenous peoples; Indigenous people lacked any formal relations until the treaty commissioners arrived in California in 1851-1852, leaving the Indigenous peoples without recognition as having claim to the land and rights to their lands.

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<sup>131</sup> John Charles Frémont, *Defense of Lieut. Col. JCV Fremont, Before the Military Court Martial* (Washington, January 1848), 7-8. Internet Archive, <https://archive.org/details/defenceoflieutco00frich/page/n5>.

<sup>132</sup> Donald Jackson and Mary Lee Spence, ed., Letter from Robert F. Stockton to President James Polk. August 26, 1846, *The Expeditions of John Charles Frémont: Volume 2, The Bear Flag Revolt and the Court-Martial* (University of Illinois Press: Chicago, 1973), 193; Jim Byrkit and Bruce Hooper, *Pauline Weaver*, 17-19; and Ken Edwards, "Pauline Weaver's Early Life as a Trapper and a Scout," November 18, 2000. accessed May 5, 2000, Sharlot Hall Library & Archives, <https://la.sharlohallmuseum.org/index.php/blog/pauline-weaver-trapper-and-scout>. Hereafter cited as Edwards, "Pauline Weaver's Early Life as a Trapper and a Scout."

<sup>133</sup> Jim Byrkit and Bruce Hooper, *Pauline Weaver*, 20; and Edwards, "Pauline Weaver's Early Life as a Trapper and a Scout."

On June 30, 1846, a major military force under General Stephen Watts Kearny, known as the Army of the West, left Fort Leavenworth, Kansas for the Pacific Ocean.<sup>134</sup> In June 1846, President Polk and his Cabinet promoted Stephen Kearny to Brigadier General in preparation for the Mexican-American War.<sup>135</sup> He commanded 1,700 men and was General of the First Dragoons Cavalry Regiment.<sup>136</sup> With the dream of expanding the United States from “Sea to Shining Sea” in mind, President Polk ordered Colonel Kearny to capture and occupy New Mexico first, and then secure California from the Mexican government, which included opposing Aboriginal forces.<sup>137</sup> Kearny had received instructions for the conquest of California and establishment of a temporary government.<sup>138</sup>

To aid in the invasion of California and in preparation of war with Mexico, Brigadier General Stephen Watts Kearny engaged Lieutenant Colonel Phillip St. George Cooke.<sup>139</sup> Kearny gave orders to Cooke to march to Santa Fe, New Mexico, to meet Mormon volunteers, and for Pauline Weaver, a military scout, to guide the battalion to California. Kearny went on ahead and staggered his troops’ arrival to California. On

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<sup>134</sup> Cooke, *The Conquest of New Mexico and California*, 2; and Edwin L. Sabin, *Kit Carson’s Days 1809-1868: Adventures in The Path of Empire* (Lincoln: University of Nebraska Press, 1995), 524.

<sup>135</sup> James Knox Polk, *Diary of James K. Polk During his Presidency 1845-1849*, 438-439. Hathi Trust Digital Library, <https://catalog.hathitrust.org/>.

<sup>136</sup> Cooke, *The Conquest of New Mexico and California*, 6; and Trafzer, *Yuma*, 31.

<sup>137</sup> Polk, *Diary of James K. Polk*, 438-439.

<sup>138</sup> Cooke, *The Conquest of New Mexico and California*, 7.

<sup>139</sup> Cooke, *The Conquest of New Mexico and California*, 1-3; and Jeffrey V. Pearson, “Phillip St. George Cooke: On the Vanguard of Western Expansion with the U.S. Army” (dissertation, University of New Mexico, Albuquerque, 2011), 153 and 329.

October 13, Cooke assumed command of the Mormon Battalion and began his southwestern march to California.<sup>140</sup>

In Santa Fe, Kearny heard about the first raid on California by United States generals Sloat and Stockton. On hearing the good news, Kearny split up his men. Of the 1,700 men, only 121 went to California. Other units were sent to stand guard over the general territory while still others returned home.<sup>141</sup> Kearny staggered his military forces. Cooke followed Kearny to California with just over one month's lag time.<sup>142</sup>

General Kearny and 121 men continued the march west to California, following the Gila River to the Colorado River.<sup>143</sup> On November 22, Kearny reached the intersection of the Gila and Colorado Rivers, site of today's modern-day town of Yuma on the California border.<sup>144</sup> On November 25, Kearny's men arrived in Quechan territory at the Colorado River south of 'Avii Kwalál or Pilot Knob.<sup>145</sup> The village here had been recorded as having over 800 Quechans when Spanish explorers passed through in 1774.<sup>146</sup> Wally Antone, a Quechan tribal leader and elder, described Pilot Knob as a sacred mountain peak; it is about sixty miles south of 'Avii Kwamée or Spirit Mountain,

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<sup>140</sup> Cooke, *The Conquest of New Mexico and California*, 90.

<sup>141</sup> Ibid, 85.

<sup>142</sup> Kearny arrived at Warner's Ranch on December 2, 1846. Cooke arrived at Warner's Ranch on January 21, 1847. John S. Griffin, "A Doctor Comes to California: The Diary of John S. Griffin, Assistant Surgeon with Kearny's Dragoons, 1846-1847," ed. George Walcott Ames Jr., *California Historical Society Quarterly* 21, no. 3 (1942): 356.

<sup>143</sup> Trafzer, *Yuma*, 32.

<sup>144</sup> Bancroft, *History of California. Vol. 5: 1846-1848*, 337.

<sup>145</sup> Barbara Levy, Quechan Language Program Coordinator, "Kwatsaan Iiyaa Mattkuu'eyyk! Learn the Quechan Language!" PDF. accessed October 31, 2018.

<https://www.quechantribe.com/documents/documents/TheIntermediate-BeginnersQuechanDictionary.pdf>.

<sup>146</sup> Robert E. Lee, *Crosscurrents Along the Colorado: The Impact of Government Policy on the Quechan Indians* (Tucson, AZ: The University Arizona Press, 1981), 5.



the place of origin for the Quechan and other tribes along the Colorado River.<sup>147</sup> The area is still considered sacred today by tribes all along the River. Many other tribes lived along the great river, including the Chemehuevi, Havasupai, Hualapai, Maricopa, Mojave, Quechan, and Yavapai. The Quechans called the river Haquita or Red River.<sup>148</sup> The river was filtered with red fine mud, giving it a red color and opacity.<sup>149</sup> A large and impressive Quechan village thrived there, called Algodones. railroad surveyor Lieutenant R. S. Williamson, topographical engineer for the United States, reported in 1853. According to Williamson, the Indigenous people traded ears of corn from their irrigated fields for tobacco from the surveyors.<sup>150</sup>

General Kearny and his men crossed the mighty Colorado River south of the village of Algodones.<sup>151</sup> The Indigenous people watched the foreigners cross and sent warriors to get information on their itinerary. By heading south, the state military skirted the sand dunes that would have been difficult to travel, over sandy hills and with no

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<sup>147</sup> Wally Antone is a Quechan elder born in Yuma and a member of the Quechan Tribe. Mr. Antone is a tribal historian and ceremonial singer for his people. He lives with his wife Mary and daughter on the Mojave Reservation near Needles, California. Wally Antone interview by author, phone, April 24, 2018.

<sup>148</sup> The Colorado River was referred to as a red river by the Indigenous people. The river flowed, carrying silts and sediments with pigment of red and orange; the river had a red opaque hue. After Americans built the Hoover Dam, the dam captured the silt and sediments, and the river appeared blue-green as we see it today. Clifford E. Trafzer, *Quechan Voices* (Riverside, California: University of California, 2012), 39.

<sup>149</sup> William P. Blake, "Geology Report," in *Reports of Explorations and Surveys to Ascertain the Most Practicable and economical Route for a Railroad from the Mississippi River to the Pacific Ocean: Volume. 5* (Washington D.C.: B. Tucker, Printer, 1885), 112.

<sup>150</sup> Blake, "Geology Report," 111.

<sup>151</sup> Algodones is a Spanish word for (cotton). Mexican and American soldiers discovered cottonwood trees growing along the Colorado River. Cottonwoods are a sign of water. The village of Algodones was located just on the south side of what would become the American-Mexico international border. Turner, *The Original Journals of Henry Smith Turner*, 118.



*Figure 2.1: Indigenous Recording of Americans sailing up the Colorado River with a paddlewheel boat. Picture taken at Corn Springs, 50 miles west of the Colorado River. Source Sean Milanovich.*

water, with 121 men with a depleting supply of horses and mules. The river was shallow and wide here, which made it easier to cross the deep and fast-flowing current of the Colorado River. The American soldiers crossed through what is now Ocotillo Wells in Anza Borrego State Park, through the flats and the rock-lined fish traps. The Cahuilla caught fish from the rising and depleting ancient Lake Cahuilla. From there, the men continued west into the pine-ridged Laguna Mountains. Kearny's campaign was the beginning of the assault on California and the United States occupation of Indigenous California.

On the chilly evening of December 1, Kearny and his dragoons reached a small village of the Kumia [Kumeyaay], a desert people.<sup>152</sup> The village was known as Áwiinally [a-wi-nash], or “Moving Rattlesnake.”<sup>153</sup> The invaders knew the village as San Felipe in the small open valley. The Kumia people cultivated corn fields and pea patches. The Kumia had left in a hurry in anticipation of the invading soldiers. The willow framed houses covered with thatched arrow weed were vacated. The Kumia had left just before the soldiers arrived out of fear. Disrespectfully, the soldiers tramped through the garden and dismantled the Indigenous homes and burned them for fuel to stay warm that night.<sup>154</sup>

Brigadier General Kearny and his dragoons marched through the large opening from the desert through a pass in the mountains known as Jacupin, Jakupin, Hakupin, and Sajopin later known as Warner’s Pass.<sup>155</sup> As the soldiers climbed over the pass, they descended over the treeless terrain into a green valley. The soldiers first passed a ranch house that belonged to Juan José Warner, who was absent and locked up as a prisoner.<sup>156</sup> The valley was busy with Aboriginal people working on his ranch and lands he now owned. There were up to four villages: Puerta de la Cruz, Puerta de San José, San José,

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<sup>152</sup> Native scholar and linguist Stan Rodriquez described the Native people inland at the southern tip of California as Kumia and the coastal people as Kumeyaay. Stan Rodriquez, Text Message to author. June 8, 2020.

<sup>153</sup> Stan Rodriquez interview, November 2, 2018.

<sup>154</sup> Griffin, “A Doctor Comes to California,” 219; and Stan Rodriquez interview, November 2, 2018.

<sup>155</sup> Joseph Hill, *The History of Warner’s Ranch*, 1; and Lieutenant Pedro Grijalba, 1795 Notes,” in *C. H. Merriam Papers Relating to Work with California Indians 1850-1974*, Bancroft Library, University California Berkeley, 19-24.

<sup>156</sup> The Americans in San Diego locked him as a prisoner for possibility being a traitor to the United States because he was a naturalized Mexican citizen. Griffin, “A Doctor Comes to California,” 220.

and Mataguay, occupied by Luiseño and Kumeyaay families.<sup>157</sup> As one continued down into the valley, a large village could be seen about three miles away, to the north at the base of the mountain. On December 2, 1846, the United States soldiers reached a large settlement and home to hundreds of Indigenous people that surprised the American soldiers.<sup>158</sup> This is important as the Aboriginal people from here were the first contacts for the invaders and the invaders influenced the people. Kearny and his men expected to see Warner who owned the ranch known as Warner's Ranch.<sup>159</sup> The ranch was the first settlement after crossing the desert for many invaders that took the southern route to California. The trail from Warner's branched north to Los Angeles and south to San Diego.

The Cahuilla called the village Kúpa, meaning a place to sleep, while the people of Kúpa called it Jácopin.<sup>160</sup> Jácopin is a Kumeyaay word meaning "warm water."<sup>161</sup> Descendants of the original inhabitants refer to the village as Kúpa today.<sup>162</sup> The people from Kúpa called themselves Kúupangaxwichem or the people from Kúpa. Cupeño is a Spanish derivation referring to the people from the place of Kúpa.<sup>163</sup> By the time Kearny arrived at Kúpa, the Kúupangaxwichem and other Indigenous people in the area already knew the Americans were coming from the Native runners who had monitored Kearny's

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<sup>157</sup> Helen H. Jackson, *A Century of Dishonor*, 487.

<sup>158</sup> Griffin, "A Doctor Comes to California," 219-220.

<sup>159</sup> Emory, *Notes of a Military Expedition Reconnaissance*, 105.

<sup>160</sup> In 1821 Fathers Payeras and Sanchez recorded the name of the village by the villagers as Jacopin. See Payeras and Sanchez: Expedition from San Diego to San Gabriel in 1821 in *C. H. Merriam Papers Relating to Work with California Indians 1850-1974*, Bancroft Library, University California Berkeley. 43.

<sup>161</sup> Joseph Hill, *The History of Warner's Ranch*, 1.

<sup>162</sup> The village of Jácopin, has been recorded in living memory as Kúpa. People today refer to the village as Kúpa, Guy Trujillo interview, November 13, 2017.

<sup>163</sup> Joseph Hill, *The History of Warner's Ranch*, 1.

passage into California. Native runners were trained athletes who delivered important messages over all terrain from one village to the next. There were prophecies of the arrival of the Whites. They were coming on some type of animal. The Indigenous people expected to see strange and foreign people coming to their lands.<sup>164</sup> Although this revelation started with the Spanish, horses and mules were seen for the first time by some of the Indigenous people of Southern California. It was an exciting time.

The valley was green and covered with trees and cultivated fields. The soldiers marched right into the village. According to John Bruno Romero, in his book, *The Botanical Lore of the California Indians with Side Lights on Historical Incidents in California*, the Cupeño and other Natives admired the march of the blue uniformed soldiers with their colored brass buttons.<sup>165</sup> The Aborigines felt fear as the soldiers brandished their rifles, but they did not show it. The Kúupangaxwichem were aware from Kumia runners that the same soldiers had burned down the village of San Felipe. The Quechan on the river also sent runners west to notify the Kwaaymii, Kúupangaxwichem, Kumeyaay, Kumia, and Payómkowichum peoples of the oncoming intruders.<sup>166</sup> The soldiers carried rifles called thunder sticks by the Cahuilla. The thunder sticks were medicine sticks that were loud and killed. “All had the short thunder sticks, and many had the long thunder sticks.”<sup>167</sup> “Little did they know, however, that behind this army was a

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<sup>164</sup> Saubel and Elliot, *Isill Héqwas Wáxish*, 540-541.

<sup>165</sup> Romero, *The Botanical Lore of the California Indians*, 31.

<sup>166</sup> Miskwish, *Kumeyaay*, 81.

<sup>167</sup> Charles R. Quinn and Elena Quinn, *Edward H. Davis and the Indians of the Southwest*, 57.

power and authority which could be exercised without cause or provocation in the name of the government of the United States.” The dragoons were there to claim the land.<sup>168</sup>

The village of Kúpa was and continues to be extremely important in American, Mexican, Spanish, and Indigenous politics.<sup>169</sup> Juan José Warner claimed all the lands in the Valley of San Jose through a land grant he received on May 21, 1845, from the Mexican Governor Manuel Micheltoarena.<sup>170</sup> The land grant included the land south of the village of Kúpa. Warner, a naturalized Mexican citizen, was absent when Kearny arrived as well. Warner had been locked up by United States Naval Commander Robert F. Stockton in San Diego.<sup>171</sup> Stockton upon his arrival in San Diego at the end of July 1846 secured San Diego and imprisoned those who posed a potential threat. Even though Warner was born American born as Jonathon Trumbell Warner, he was a naturalized Mexican citizen. He took Mexican citizenship to apply for a Mexican grant to the land.<sup>172</sup>

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<sup>168</sup> Romero, *The Botanical Lore of the California Indians*, 31.

<sup>169</sup> William J. Pink, Chairman of the Agua Caliente Tribe of Cupeño Indians of the Pala Reservation sued the United States government for federal recognition on behalf of his tribe. In 1903, the United States disposed the people from the village of Kúpa and from nearby villages from their homelands and moved them onto the Pala Reservation. The descendants of the people of Kúpa want recognition as a separate and sovereign nation.

<sup>170</sup> Joseph Hill, *The History of Warner's Ranch*, 110.

<sup>171</sup> Griffin, “Doctor Comes to California,” 193-194 and 220.

<sup>172</sup> Jonathan Trumbell Warner changed his name to Juan José Warner after he became a Mexican citizen. He adopted his second name after he found the Valley of San Jose. This dissertation will use the Juan José Warner name because that is how most people knew him as and how he recorded his name on the Treaty of Temecula. The people also recognized him as J. J. Warner. The Native people called the valley Sajopin (Jacopin). Father Juan Merriner named the valley San Jose after he and Lieutenant Pablo Grijalba passed through the valley in 1795. Joseph Hill, *The History of Warner's Ranch*, 143; and Lieutenant Pedro Grijalba, 1795 Notes,” in *C. H. Merriam Papers Relating to Work with California Indians 1850-1974*, Bancroft Library, University California Berkeley, 20. Henry D. Barrows, “Memorial Sketch of Col. J.J. Warner,” *Annual Publication of the Historical Society of Southern California* V 3, no. 3 (1895), 23.

Warner became part of the rancho aristocracy. By 1848, Mexican authorities granted thirty land grants in San Diego County, formerly indigenous lands, to the aristocrats.<sup>173</sup>

The Mexicans and Americans called this place Warner's Ranch or Warner's Hot Springs, named for the hot mineral spring there. The local Indigenous villagers worked on the ranch for Mr. Warner. The Indigenous people were kept in a serfdom by the master of the rancheria. Kúpa was a village located within a green valley with trees, grass, flat lands, gardens, and a cold flowing stream.<sup>174</sup> The KúpangaxwicheM people lived near the hot mineral spring. The spring was the center of all activities at the village. The spring rejuvenated worn tired muscles and healed the people.<sup>175</sup> The KúpangaxwicheM considered the spring sacred. The spring was a portal to the spirit world, where one could go and ask for help and power. The springs were all connected, told William Pink.<sup>176</sup> Springs were the underground spiritual highways. There were other similar places that were regarded as powerful and sacred places and thus heavily guarded.

Mission San Rey about fifty-five miles away, heavily influenced the village of Kúpa. Under Spanish domination, the Indigenous people were forced to build satellite missions first at San Ysabel eight miles south in 1822 and then another at Kúpa in

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<sup>173</sup> Richard F. Pourade, *The Silver Dons* (San Diego: Union Tribune Publishing Company, 1963), 61-76; Stephan R. Van Wormer and Susan D. Walter, "Two Forks in the Road: Test Excavations of the Ranch House at Warner's Ranch (Warner-Carrillo Ranch House) and Site of Jonathan T. Warner's House and Store," (Chula Vista: Walter Enterprises, July 2011), 10. accessed August 10, 2020, <http://sohosandiego.org/>.

<sup>174</sup> Emory, *Notes of a Military Expedition Reconnaissance*, 105.

<sup>175</sup> Bancroft, *History of California. Vol. 5: 1846-1848*, 338; and Guy Trujillo discussion with author, Kúpa village, CA, Circa Spring 2010.

<sup>176</sup> William J. Pink interview by author, Riverside, CA, January 31, 2015. Hereafter cited as William Pink, January 31, 2015.

1830.<sup>177</sup> Under mission control, adobe houses were also built, and a Catholic presence was maintained at the village.<sup>178</sup> In 1836, when the satellite mission grounds were decommissioned and returned to the people. The Cupeño moved into the adobe buildings that were built on their lands.<sup>179</sup> The adobe homes were constructed by their relatives and built east of the sulfur hot spring. The missionaries through forced coercion, baptized many of the Cupeño. The benefits of baptism outweighed the alternatives. Baptism was a strategy used to survive. Baptisms also lead one to understand how the invader thought.

The village supported extensive agriculture and animal husbandry. The Cupeño continued to grow corns and beans after the arrival of the missionaries. The Cupeño channeled water from the mountains and watered such vegetables and fruits as wheat, corn, beans, barley, olives, and grapes.<sup>180</sup> The KúupangaxwicheM raised stock with large herds.<sup>181</sup> Sheep, goats, cattle, and horses were cared for and supplied a meat for the people.<sup>182</sup>

Indigenous strategy included making alliances with those deemed trustworthy or who had something to offer, and something might be gained in return. The Cupeños offered the American soldiers a place to stay. The soldiers set up camp next to the creek, where the water was fresh and good for drinking.<sup>183</sup> The women at the village fed the

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<sup>177</sup> After taking control of the coast, the satellite missions were established inland and were not maintained by soldiers as closely as those on the coast. The inland missions such as at Pala weaved Christianity with Indigenous cosmology, strengthening the tie with the Church.

<sup>178</sup> Joseph Hill, *The History of Warner's Ranch*, 125.

<sup>179</sup> Emory, *Notes of a Military Expedition Reconnaissance*, 106.

<sup>180</sup> Joseph Hill, *The History of Warner's Ranch*, 43-44.

<sup>181</sup> Blake, "Geologic Report," 106.

<sup>182</sup> Joseph Hill, *The History of Warner's Ranch*, 44.

<sup>183</sup> Jane Hill and Roscinda Nolasquez, *Mulu'wetam*, 52-53.



American soldiers. The Kúupangaxwicheḿ followed traditional támingkiwet or natural law. Natural law is a mandate from the Creator to care for all the people, beings, and the elements for all to enjoy.<sup>184</sup> According to Gregory Cajete, a Tewa Native scholar, in his book *Native Science*, natural law is a:

*“guiding principle of the “spiritual ecology” held by every tribe in its perception of nature. Guided by this metaphysical principle, people, understood that entities of nature—plants, animals, stones, trees, mountains, rivers, lakes, and a host of other embodied relationships that must be honored. Part of this guiding principle was to share relationships and resources.”*<sup>185</sup>

The women ground up wheat making bread and pinole. The Cupeño provided the Americans with beef, pinole, fruits, and vegetables.<sup>186</sup> One elder woman worked hard grinding down the beans. According to Cupeño elder Carolina Nolasquez, General Kearny took notice of the grandmother with her lack of protection from the cold air and gave the elder woman his jacket. It has been reported by Jane Hill and Rosinda Nolasquez in their book, *Mulu'wetam: The First People*, that this grandmother was Juan Awlinve'esh's mother, Isabella Tucvikiḿvat.<sup>187</sup>

The Kúupangaxwicheḿ Creation stories reminded people of reciprocity. The story of Kisily Piwish is one such story in which a lone mother and child go for help with nothing in hand. Years later, the young man reciprocates back with food, medicine, and protection.<sup>188</sup> These stories gave guidance on how one should live and carry oneself. The people tried making a friendly relationship with the strangers. Antonio Garra, the

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<sup>184</sup> Lorene Sisquoc interview, May 8, 2014; and Cahuilla Red Elk interview by author, phone, March 21, 2018. Hereafter cited as Cahuilla Red Elk interview, March 21, 2018.

<sup>185</sup> Cajete, *Native Science*, 178.

<sup>186</sup> Jane Hill and Rosinda Nolasquez, *Mulu'wetam*, 52-53.

<sup>187</sup> Jane Hill and Rosinda Nolasquez, *Mulu'wetam*, 52-55 and 183; and Strong, *Aboriginal Society*, 200.

<sup>188</sup> Jane Hill and Rosinda Nolasquez, *Mulu'wetam*, 34-43.

headman of the village, was away on business, but he owned a lot of cattle, recalled elder Carolyn Nolasquez, who was a descendant from Kúpa.<sup>189</sup> He was a cattleman and businessman. Garra's people butchered a couple of cows to feed the Americans, gaining their confidence. In return, the American soldiers bought cattle from Antonio Garra for their journey west to San Diego when they left.<sup>190</sup>

Chief Antonio Garra returned the next day and on the evening of December 3 and spoke to Kearny to learn of his intentions.<sup>191</sup> Antonio Garra was a "political leader." This does not mean he was an actual núut or headman, Guy Trujillo explained.<sup>192</sup> There were different leaders for different activities. Garra was a War Chief for the Kúupangaxwicheh.<sup>193</sup> It was Garra's position and job to interact with outsiders. He was the tribal liaison with the outsiders and invaders.

Jose Noca Chan-gah-lang-ish was the núut of his band at Kúpa, also referred to as Agua Caliente to the Spanish-speaking community. In 1852, Antonio Garra [Chan-gah-lang-ish] signed the Treaty of Temecula, five years later.<sup>194</sup> The Indigenous people early on accessed the situation to determine if they wanted to align themselves with the

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<sup>189</sup> Dunn, "Strategies for Survival," 5; and Jane Hill and Roscinda Nolasquez, *Mulu'wetam*, 34-43.

<sup>190</sup> Jane Hill and Roscinda Nolasquez, *Mulu'wetam*, 53-55.

<sup>191</sup> Phillips, *Chiefs and Challengers*, 82.

<sup>192</sup> Guy Trujillo interview, November 13, 2017; Strong, *Aboriginal Society*, 185; and Phillips, *Chiefs and Challengers*, 82.

<sup>193</sup> Guy Trujillo interview, November 13, 2017.

<sup>194</sup> Robert F. Heizer, ed., *The Eighteen Unratified Treaties of 1851-1852 Between the California Indians and the United States Government* (Berkeley: Archaeological Research Facility, Department of Anthropology, University of California Press, 1972), 60. Hereafter cited as Heizer, *The Eighteen Unratified Treaties*.

Americans, who wanted to take control of the land. It was still too early to tell, yet the Kúupangaxwicheḿ befriended the Americans diplomatically.<sup>195</sup>

To foster a working political relationship with Antonio Garra, General Kearny gave Garra a title of authority which encouraged friendly rapport and persuasion. To create alliances and bonds, United States military officials in California routinely appointed Indigenous people with leadership and good communications skills as chiefs or generals.<sup>196</sup> Kearny appointed Garra “Chief” of the San Luis Rey tribe, seeing his leadership skills and this became known to the Indian agents that followed.<sup>197</sup> Mexican authorities also had given titles to the Indigenous regularly.<sup>198</sup> American soldiers gave titles to tribal people seen as liaisons. This was a way to construct a relationship and gain their confidence.<sup>199</sup> General Kearny tried to outwit Garra, but Antonio Garra knew better. Antonio Garra had come from a long line of leaders extending from the first Kúupangaxwicheḿ lineage of Kisily Piwish.<sup>200</sup>

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<sup>195</sup> Dunn, “Strategies for Survival,” 5.

<sup>196</sup> Ibid.

<sup>197</sup> Benjamin D. Wilson, *The Indians of Southern California in 1852: The B. D. Wilson Report and a Selection of Contemporary Comment*, ed. John Walton Caughey (San Marino: Huntington Library, 1952), 67. Hereinafter referred to Caughey, *The B. D. Wilson Report*; and “Confession of Antonio Garra,” *Daily Alta California* (San Francisco, CA), January 3, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>198</sup> Caughey, *The B. D. Wilson Report*, 67.

<sup>199</sup> In 1849, the Quechan told Lieutenant Cave Johnson Coutts, the Mexicans appointed Pablo, a Quechan as Captain of the Quechan near the confluence of the Colorado and Gila Rivers. Cave Johnson Coutts commanded the military escort for the United State/Mexico Boundary Commission survey party. Cave Johnson Coutts, *From San Diego to the Colorado River in 1849: The Journal and Maps of Cave J. Coutts*, ed. William McPherson (Los Angeles: Arthur M. Ellis, 1932), 34-36.

<sup>200</sup> Guy Trujillo interview, November 13, 2017.



*Figure 2.2: Kúpa Settlement. Photo by William A Jones, Indian Commissioner. Source: Charles F. Lummis, editor, “The Exiles of Cupa” *Out West: A Magazine of the Old Pacific and the New* XVI (May 1902).*

Headman Antonio Garra told General Stephen Kearny that the Kúupangaxwicheam had always been there in the region of the spring. According to Julio Ortega, his grandfather told him Kearny drafted up a deed to the land for the Kúupangaxwicheam people. Kearny knew about American law and title and what was to come with American domination. “When Kearny learned that the Indians lived at the hot springs, he drew up a deed that gave the Indians title to them. They were to file the deed in San Diego but never did, and it was later destroyed.”<sup>201</sup> The Cupeño took care of General Kearny and he wanted to return the gesture. In addition, Kearny offered the

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<sup>201</sup> Phillips, *Chiefs and Challengers*, 82 and 352; and Helen H. Jackson, *A Century of Dishonor*, 486; and Millard F. Hudson, “The Last Indian Campaign in the Southwest,” *The Pacific Monthly* *VXVII*, January-June 1907, ed. William Bittle Wells and Lute Pease, (Portland, Oregon: The Pacific Monthly Publishing Company, 1907), 154. Hathi Trust Digital Library, <https://catalog.hathitrust.org/>.

grandfather his sword.<sup>202</sup> The Secretary of War, William Learned Marcy told Kearny to inform the Indigenous people of California that their rights were being protected and that the United States wished “to provide for them, a free government with the least possible delay.”<sup>203</sup> Garra informed General Kearny, they would not fight the Mexican soldiers.

Chief Antonio Garra asked General Stephen Kearny for information about the plans of the Americans and the Mexicans. Garra told Kearny about the Americans in San Diego and the Mexican residing in the pueblo of Los Angeles. Garra wanted to know where the United States stood in relationship to the Native people. Kearny told Garra he had instructions from the United States Secretary of War, William Learned Marcy, to conquer and take possession of California from Mexican authority and control.<sup>204</sup>

American invaders did not recognize the Indigenous people as having authority over the land. Antonio Garra wanted to protect his people from threats.<sup>205</sup> Garra questioned Kearny’s authority and the intent of the American soldiers. The Cupeño permitted the Americans to pass through their land.

Bill Marshall, an American sailor who had jumped ship in San Diego in 1844, married Dominga, a Cupeño woman who was the daughter of núut or leader Jose Noca and first cousin to Antonio Garra.<sup>206</sup> Marshall then opened a store at the village of Kúpa and sold goods from San Francisco along with fresh fruits, vegetables, and beef grown by

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<sup>202</sup> Phillips, *Chiefs and Challengers*, 82 and 352.

<sup>203</sup> United States, Congress, *The Congressional Globe*, Volume 18: Thirtieth Congress, First Session, book (Washington D. C., 1848), 566. accessed June 19, 2020, University of North Texas Libraries, <https://digital.library.unt.edu>.

<sup>204</sup> Cooke, *The Conquest of New Mexico, and California*, 35.

<sup>205</sup> Guy Trujillo interview, November 13, 2017.

<sup>206</sup> Hyer, *We Are Not Savages*, 46; and Strong, *Aboriginal Society*, 193.

the Natives, to immigrants arriving in California.<sup>207</sup> Marshall acted as interpreter for Garra as he interviewed Kearny. Marshall provided information about the Indigenous people of Southern California to Kearny. Marshall also related information about the American navy in San Diego. The Americans had taken control of San Diego. The Pueblo of Los Angeles was the last stronghold that remained and was controlled by Mexican military forces. In addition, he provided information about Mexican General Andres Pico's forces nearby waiting for Kearny, about a day's ride away.<sup>208</sup>

On December 4, 1846, General Kearny marched fifteen miles south to the village of Ellykwanan, also known as Santa Ysabel, a Kumeyaay settlement.<sup>209</sup> The Kumeyaay today call this place Howls, meaning "rocky meadow."<sup>210</sup> It is centered around a long, rolling, flat valley with a creek and trees of acorn atop the hills. In 1818, the Santa Ysabel Asistencia was established with a chapel, granary, cemetery, and houses.<sup>211</sup> The Santa Ysabel people continued to live in their homes around the mission. This strategy allowed the Native people less interference and disturbance in their lives. It also showed the Americans they lived in permanent homes and did not move from place to place. The mission still was used as a church. The Kumeyaay people at Santa Ysabel worked on the mission ranch lands and adopted new skills for ranch land tenure. "Indian men had

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<sup>207</sup> Phillips, *Chiefs and Challengers*, 82.

<sup>208</sup> Griffin, "Doctor Comes to California," 220.

<sup>209</sup> "History," Iipay Nation of San Ysabel. accessed August 16-17, 2018, <http://www.iipaynation-nsn.com/>.

<sup>210</sup> Stan Rodriguez, Text Message to author, August 16-17, 2018.

<sup>211</sup> Tom Simondi, "Santa Ysabel Asistencia," *MissionTours.org: A Virtual Tour of the California Missions*, October 29, 2016, <https://missiontour.org/wp/sandiego/santa-ysabel-asistencia.html>.

become cowboys and Indian women worked as cooks and laundresses for the rancheros.”<sup>212</sup>

The Kumeyaay had great leaders who were in the forefront of the American Invasion. One of the first tribal leaders the Americans met was Kumeyaay Kuchut or Chief Pedro Jose Panto. Panto was a strong and energetic Captain of the San Pasqual village. The valley had long been home to the Kumeyaay. Originally Panto was from the village of Matamo, a Kumeyaay village south of San Pasqual. The village of Matamo had been involved with the burning of Mission San Diego in 1775.<sup>213</sup> Panto, the Captain of San Pasqual, told Kearny directly that the Kumeyaay people did not want to have any part in the fighting. Panto told Kearny his people would work for the Americans for a fee after the war. Kearny felt this was not the Natives’ fight. This strategy of survival allowed kept options open for the Ipai who were not ready to strategize with the Americans but acknowledged their potential.<sup>214</sup> Kearny used the mission as a military station for his American forces, informed Stan Rodriquez.<sup>215</sup> When the battle began, Felecita La Chapa Morales, the daughter of Chief Panto witnessed the Americans/Mexican battle with others far above in the hills. According to Kumeyaay scholar and elder David Toler Jr in his book, *Blood of the Band*, that night messengers were sent to General Pico to stop or the Ipai would attack. Panto and others witnessed the violence and bloodshed. The Chief wanted to protect his family.<sup>216</sup>

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<sup>212</sup> Dunn, “Strategies for Survival,” 8.

<sup>213</sup> Ibid, 18.

<sup>214</sup> Ibid, 8.

<sup>215</sup> Stan Rodriquez interview by author, Sycuan Reservation, CA, September 12, 2017. Hereafter cited as Stan Rodriquez interview, September 12, 2017.

<sup>216</sup> Toler, *Blood of the Band*, 81-82.

## General Cooke and Mormon Battalion

General Phillip St. George Cooke and the Mormon Battalion reached Southern California and headed to San Diego. Through Imperial Valley, Cooke's men marched and worked on building a wagon road to San Diego, and entered the mountains that bordered San Diego County. Every day, Indigenous people made themselves present before the soldiers. Many delivered messages. On January 14, 1847, news of the Battle of San Pasqual by General Kearny and Mexican General Andres Pico reached the company.<sup>217</sup> As on the morning of January 18, Indigenous messenger and alcalde of San Phillip delivered a letter from Commander Montgomery, Military Governor of San Diego. Cooke received orders to march to San Diego.<sup>218</sup> A day later, the men passed through the deserted village of "San Phillipi" or San Felipe. News kept coming of the recent battle with General Cooke.<sup>219</sup> The Americans heard how tribal leader Panto helped the Americans fight against the Mexicans at the village of San Pasqual. Chief Panto had gathered his warriors and fought with Colonel Kearny against the Mexican General Andres Pico and his army.<sup>220</sup> San Felipe was the home of a group of Kumia who lived in the Laguna Mountains in Valle De San Felipe [Los Vallecitos], named after a Spanish land grant. United States Indian Commissioners would later visit San Felipe and see firsthand how the invasion of emigrants to Aboriginal lands stole water, land, food

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<sup>217</sup> The battle took place on the tribal lands adjacent to the village San Pasqual. The Battle of San Pasqual subjected the Indigenous people to warfare even though they were innocent bystanders. Cooke, *The Conquest of New Mexico and California*, 181.

<sup>218</sup> Ibid, 186.

<sup>219</sup> Ibid, 188.

<sup>220</sup> Romero, *The Botanical Lore of the California Indians*, 131.



resources such as rabbits and left the people deprived of their traditional means of support.<sup>221</sup>

On January 21, 1847, General Phillip St. George Cooke and the Mormon Battalion reached the Indigenous village of Kúpa, where a sense of confusion and trauma persisted on the land.<sup>222</sup> The People there at Kúpa told Cooke and his men the recent activities that had taken place. The Indigenous people were on alert. Thirty-eight people [Cupeños and Luiseños] had just been killed in a battle near Aguanga, a Luiseño village, between Temecula and Warner's Ranch.<sup>223</sup> Indigenous and Mexican warriors, under the leadership of Chief Juan Antonio from the Cahuilla, ambushed Cupeño and Luiseño warriors. Cooke and his soldiers helped bury the fallen Indigenous warriors.<sup>224</sup> On January 25, 1847, War Chief Antonio Garra took General Cooke with ten members of the Mormon Battalion with him for a ride into Temecula Valley at sunset. The reconnaissance team encountered 150 mounted and armed Indigenous strike force on horses prepared for battle. The strike force marched towards Antonio Garra and General Cooke. The Luiseño warriors mistook Garra and the American soldiers for Mexican soldiers. Garra signaled to them and soon all were shaking hands.<sup>225</sup> Garra knew many of the Luiseño in Temecula from the mission and his band had intermarried with the

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<sup>221</sup> Phillips, *Chiefs and Challengers*, 243.

<sup>222</sup> Cooke, *The Conquest of New Mexico and California*, 191-192.

<sup>223</sup> There was a story of the dogs coming out of the water at the bog of Aguanga. Aguanga gets its name from these spiritual dog entities. The Valley was a place where the people gathered plants for food and medicines. Michael Madrigal interview by author, Scottsdale, Arizona, May 27, 2018; and Harrington, "Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties," NMNH-Harrington\_mf3\_r114\_0407.

<sup>224</sup> *Ibid*, 192.

<sup>225</sup> Jim Byrkit and Bruce Hooper, *Pauline Weaver*, 24; and Phillips, *Chiefs and Challengers*, 85.

Temecula band. Pauline Weaver returned home to his ranch below the San Gorgonio Mountains.<sup>226</sup>

The pueblos of San Diego and Los Angeles were places where Indigenous people were murdered and killed without consequences by the invaders. The invading White settlers had a bad rap. Large numbers of the invaders made the Indigenous feel uneasy and squeamish. Southern California Aboriginals remained skeptical about foreign invaders and their communities. These places were once Native communities and becoming dominated by invaders. As these new American invaders came to California, Southern California Indigenous people hoped that the new people would not be so greedy and ignorant of their rights. Most of all, the Indigenous people wanted to make diplomatic relationships with the Americans if they were going to stay. Garra tried to establish a diplomatic relationship with the Americans. Unfortunately, the American government had no diplomacy with Aboriginal people in California for its occupation on aboriginal land until 1851-1852.

On January 29, 1847, General Cooke and the soldiers of the Mormon Battalion reached the Pacific Ocean and the Pueblo of San Diego, and terminated their march to California.<sup>227</sup> Olivia Chilcolte, a Luiseño scholar and Professor of Native American Studies, indicated the Battalion took up residence at Mission San Luis Rey in Northern San Diego County, which was constructed near the Luiseño village of Quechinga.<sup>228</sup> The

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<sup>226</sup> Ibid.

<sup>227</sup> Griffin, "Doctor Comes to California," 49.

<sup>228</sup> Olivia Chilcote is Professor of Native American Studies at San Diego State University. Chilcote's main research focused on the Luiseño of San Luis Rey and their fight for federal recognition by the United States Federal Government. Olivia Chilcote interview by author, phone, September 15, 2017. Hereafter cited Oliva Chilcolte, September 15, 2017; and John R. Johnson and Dinah Crawford, "Contributions to Luiseño

Mormon Battalion opened a southern wagon route for emigrants into California by way of the Colorado and Gila River confluence. The wagon road laid the foundation for the American invasion on Indigenous lands.<sup>229</sup>

Three crossings existed on the Colorado River. There was the Yuma Crossing near the bluffs and Fort Yuma. A second crossing known as the upper crossing or emigrant crossing was located about six miles downstream across from Pilot Knob. A third crossing, known as the lower crossing, was about three miles south of Pilot Knob. Kearny chose this route to cross.<sup>230</sup> Within three years, an estimated 100,000 settlers passed through the Gila Trail located along the Gila River in Southern Arizona and New Mexico to California without permission from the Aborigines. The Gila Trail was significant to the invasion of California first by American armed forces, followed by settlers, leading to the arrest of Indigenous political dominance and the Treaty assemblies of 1851-1852.

The Americans showed a strong force in Southern California, intimidating the Mexican forces and the Indigenous people. Hundreds of Spaniards and Mexicans lived in Los Angeles. It remained as the last city to be taken by the American invaders.<sup>231</sup>

Thousands of Gabrielino-Tongva had adopted a Mexican culture to survive the racial

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Ethnohistory Based on Mission Register Research,” *Pacific Coast Archaeological Society Quarterly* 35, no. 4 (Fall 1999), 85. accessed October 1, 2018, Research Gate, <https://www.researchgate.net/publication/237761630>.

<sup>229</sup> Trafzer, *Yuma*, 39-40.

<sup>230</sup> Tom Jonas, “Wells in the Desert: Retracing the Mexican War Trails of Kearny and Cooke Through Baja California,” *The Journal of Arizona History* 50, no. 3 (Autumn 2009), Tucson, Arizona, 274. accessed January 25, 2018. JSTOR, [www.jstor.org](http://www.jstor.org).

<sup>231</sup> Bancroft, *History of California. Vol. 5: 1846-1848*, 624.

ethnic cleansing. They worked jobs in the city and owned houses.<sup>232</sup> The late Julia Bogany, a Tongva educator, revealed many Tongva had already been killed by the invaders by the Spanish, Mexicans. Americans continued the killing of the Indigenous people.<sup>233</sup> The Pueblo expanded to Mission San Gabriel Arcangel. The Mission was twenty-five miles inland from the Pacific Ocean and twenty-five miles east to San Bernardino. San Bernardino was fifty miles northwest of Temecula. In 1776, five years after its establishment, Mission San Gabriel moved inland to the village of Lisanchanga in what became Whittier and Montebello.<sup>234</sup> Los Angeles was the ancestral home of the Tongva or “People of the Earth.” Tongva are sometimes referred to as Gabrielino-Tongva. The Spanish named tribes after nearby missions, many of which remain in use. The Tongva were referred to as Gabrielinos after Mission San Gabriel Arcangel marked Tongva born Dario Martinez.<sup>235</sup> The Tongva, one of the original people and inhabitants of the Los Angeles basin, lived along the coast of the Pacific Ocean and into the interior. The Tongva lived as far inland as Cucamonga Mountain near San Bernardino.<sup>236</sup>

On January 13, 1847, the Treaty of Cahuenga was signed between the United States and Mexico on the traditional territory of Cahuenga people, ending the war

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<sup>232</sup> Craig Torres is Gabrielino and Tongva from the villages of Yungva and Cosmit. Craig Torres interview by author, Sycuan Reservation, CA, September 13, 2017. Hereafter cited as Craig Torres interview, September 13, 2017.

<sup>233</sup> Julia Bogany was Tongva and Acjachemen. She was an educator of Native history at Pomona College. Julia Bogany interview, Pomona College, Claremont, CA, February 19, 2019. Hereafter cited as Julia Bogany interview, February 19, 2019.

<sup>234</sup> Dario Martinez interview by author, Hemet, CA, August 13, 2017. Hereafter cited as Dario Martinez interview, August 13, 2017.

<sup>235</sup> Dario Martinez interview, August 13, 2017.

<sup>236</sup> When the non-Indigenous arrived, the San Bernardino area was a shared space. The Tongva to the west, the Serrano to the north, and the Cahuilla to the southeast. William McCawley reported that there were over forty-five of these coastal people. William McCawley, *The First Angelinos: The Gabrielino Indians of Los Angeles* (Banning: Malki Museum Press, 1996).

between Mexico and the United States.<sup>237</sup> A treaty with Mexico was not signed for another year in Hidalgo. In February of 1847, General Kearny left and sailed for Monterey, leaving his duties in Southern California behind him. On March 27, 1847, General Kearny gave Colonel Richard B. Mason authority to be in command of all affairs civil and military.<sup>238</sup> In April 1847, General Kearny began to appoint Indian Agents for California's three districts: Northern California, Central Valley, and Southern California.<sup>239</sup> For the northern district, on April 7, 1847, General Kearny appointed Colonel Mariano Guadalupe Vallejo as Sub-Indian Agent.<sup>240</sup> For the central district, on April 7, 1847, General Kearny appointed John A. Sutter as Sub-Indian Agent.<sup>241</sup> Aware of this new power in California, the Indigenous people such as Chief Juan Antonio kept alert and concerned about their traditional lands and what would become of them. In the fall, Southern California received a sub-Indian agent.

The American Military continued to invade California and its territories already claimed by the Indigenous. The invaders of Southern California kept coming and their numbers increased. Military forces stormed California. Colonel Jonathon D. Stevenson with Company F. Third Artillery, a regiment of volunteers from New York arrived March

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<sup>237</sup> Madley, *An American Genocide*, 59.

<sup>238</sup> Letter to Colonel Richard B. Mason from General Stephen Watts Kearny, March 27, 1846. United States. Congress. *Message from the President of the United States, Communicating Information Called for by a Resolution of the Senate of the 17<sup>th</sup> Instant, in Relation to California and New Mexico*. Thirty-First Congress, First Session, no. 18. (Washington D.C., 1852), 281, <https://play.google.com/books/reader?id=5qQD3qJRt48C&hl=en&pg=GBS.PA1>.

<sup>239</sup> Caughey, *The B. D. Wilson Report*, xxiv

<sup>240</sup> George H. Phillips, *Indians and Intruders in Central California, 1769-1849* (Norman and London: University of Oklahoma Press, 1993), 142-143.

<sup>241</sup> Phillips, *Indians and Intruders*, 143.

1847 to help take command of Southern California.<sup>242</sup> The regiment then marched to the Pueblo de Los Angeles and began construction of a military fort.<sup>243</sup>

In August 1847, United States Colonel Stevenson spoke to about 150 Indigenous people at Mission San Luis Rey. Stevenson told the people that the United States would assign an agent to them for their protection and punishment. On August 1, of 1847, for the southern district, Stevenson appointed Jessie D. Hunter as Indian Agent with a post at Mission San Luis Rey, twenty-six miles south of Temecula.<sup>244</sup> Hunter came to California as part of the Mormon Battalion.<sup>245</sup> The agents received orders to inquiry about the Indigenous population and to protect the Natives from settlers.<sup>246</sup> A year later on February 2, 1848, the Treaty of Guadalupe Hidalgo officially ended the war with Mexico and expanded the territory of the United States.<sup>247</sup>

*In exchange for the transfer of land and sovereignty by Mexico, the United States promised in the Treaty of Guadalupe Hidalgo that it would "inviolably respect" the established private property rights of Mexican citizens in the conquered territory and provide them with "guaranties equally ample as if the same belonged to the citizens of the United States."*<sup>248</sup>

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<sup>242</sup> Griffin, "A Doctor Comes to California," 53.

<sup>243</sup> Ibid, 59.

<sup>244</sup> Phillips, *Chiefs and Challengers*, 91.

<sup>245</sup> Pourade, *The Silver Dons*, 128; and Charles Hughes, "A Military View of San Diego in 1847," *San Diego Historical Society Quarterly* 20, no. 3 (Summer 1974).

<sup>246</sup> Bancroft, *History of California. Vol. 5: 1846-1848*, 568.

<sup>247</sup> Toler, *Blood of the Band*, 85; and United States, Treaty of Guadalupe Hidalgo, February 2, 1848, "Perfected Treaties, 1778-1945," General Records of the United States Government, Record Group 1, National Archives Building. (Washington, D.C.: National Archives), Online version. accessed September 16, 2018, <http://www.docsteach.org/documents/document/guadalupe-hidalgo-original>.

<sup>248</sup> Christine A. Klein, "Treaties of Conquest: Property Rights, Indian Treaties, and the Treaty of Guadalupe Hidalgo," in *New Mexico Law Review* 26, 26 N.M. L. Rev. 201 (Spring 1996), 202. University of New Mexico, <https://digitalrepository.unm.edu/>.

Indigenous people were considered Mexican citizens by Mexico and the United States under the original Treaty of Guadalupe was to transfer American citizenship to the Indigenous people of California. The Treaty of Guadalupe Hidalgo was ratified by Congress on July 8, 1848, with major changes.<sup>249</sup> California then came under full jurisdiction and control of the United States, according to Western law, without tribal consent or knowledge. Furthermore, Kumeyaay leader David Toler believed, “The Americans had no right to take over Indian lands, and after one year the Native people should have become American citizens, with their property rights protected under the United States Constitution.”<sup>250</sup> Article IX of the Treaty provided, as originally written, citizenship to the Indigenous people. The United States did not want to grant Indigenous people citizenship and rights to the land, so the United States deleted this Article.<sup>251</sup> The United States Congress ratified and approved the Treaty with Mexico on March 10, 1848 without Article IX granting citizenship and citizenship rights to the Indigenous people.<sup>252</sup> The Mexican Cession to the United States included tribal lands in Arizona, Colorado, New Mexico, Nevada, Utah, and California, ignoring the Indigenous peoples’ right of ownership, management, and spiritual mandate to care for the land.<sup>253</sup> After the United

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<sup>249</sup> The Treaty of Guadalupe Hidalgo took five months for ratification by Congress. This is important to note. Once the Treaty of Temecula was signed the Indigenous people waited, believing the Treaty was to be ratified. The United States Senate reduced Article IX and deleted Article X from the final draft. Article IX recognized the Indigenous people of California as citizens of the United States with equal protection and rights. Article X stated, the United States recognized all grants of land by the Mexican Government. Griswold del Castillo, *The Treaty of Guadalupe Hidalgo*, 43 and 54; and Toler, *Blood of the Band*, 84.

<sup>250</sup> Toler, *Blood of the Band*, 85.

<sup>251</sup> Griswold del Castillo, *The Treaty of Guadalupe Hidalgo*, 66.

<sup>252</sup> U.S., *Journal of the Executive Proceedings of the Senate Volume 7, 1845-1848* (New York: Johnson Reprint Corporation, 1886). accessed April 7, 2020, Hathi Trust Digital Library, <https://babel.hathitrust.org/cgi/pt?id=mdp.39015073070032&view=1up&seq=7>.

<sup>253</sup> Trafzer, *A Chemehuevi Song*, 89.

States won the war with Mexico in 1848, with the logistics unknown by tribes, the United States added 1.2 million square miles of Indigenous land to its claim.<sup>254</sup> Between 1845 and 1848, the United States increased by 1,202,286 square miles, by taking control of Indigenous land.<sup>255</sup>

Upon the arrival of the Americans in Southern California, Indigenous alliances with one another shifted.<sup>256</sup> The battles of San Pasqual, Pauma, and Águanga involving American and Mexican military forces and bands of Indigenous warriors including the Cahuilla, Cupeño, Luiseño, Serrano, and Kumeyaay brought immediate war and political shifts. Alliances between Cahuilla and Serrano peoples altered over night with the invasion of the American army.<sup>257</sup> The traditionalists kept their distance, but the younger generation saw opportunity with the Americans. The progressive people saw their land swallowed up and overrun by thousands of American emigrants in the years to come whereas the Californios came in by the hundreds. The Indigenous people received warning of the coming of the mélkish or “noisy one” known as the White Man through the ones who could see into the future, told Kwaaymi leader Tom Lucas.<sup>258</sup> The People knew things would change. Survival meant adaption. Kwaaymi elder, Carmen Lucas

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<sup>254</sup> Durwood Ball, *Army Regulars on the Western Frontier, 1848-1861* (Norman: University of Oklahoma Press, 2001), xxi.

<sup>255</sup> George H. Phillips, “*Bringing Them Under Subjection*” *California’s Tejón Indian Reservation and Beyond, 1852-1864* (Lincoln and London: University of Oklahoma Press, 2004), 23.

<sup>256</sup> Richard Carrico, *Strangers in a Stolen Land: Indians of San Diego County from Prehistory to the New Deal* (San Diego, CA: Sunbelt Publications, 2008), 44-46.

<sup>257</sup> Hanks, *This War is For a Whole Life*, 19.

<sup>258</sup> Cline, “The Kwaaymii, Reflections on a Lost Culture,” 68.



articulated why the people adopted. “The people wanted peace. They found a way to make that happen. They adopted new ways and let go of the old ways to get peace.”<sup>259</sup>

By the time the American military invasion started in Indigenous Southern California, the pressure brought by the foreign powers of the Spanish and Mexican powers had already colonized and split the Indigenous people into two divisions.<sup>260</sup> One group was isolated from the invaders and maintained their social, economic, political, and governmental structures, while Mission and Mexican ranches surrounded this group and colonization began to root, impacting their traditional ways. Their traditional leadership system had been compromised but they adapted. Traditional leaders who assumed position via birthright, an office that had been passed from one generation to the next, deteriorated. The headmen or traditional leaders of each tribe began to become fewer and fewer. New leader positions were confirmed with Spanish and Mexican authority.<sup>261</sup> Later, Californios reaffirmed leadership and or created leadership roles by selecting an individual and appointing that person as chief, captain or general. Those Natives believed to be trusted were given this title. Cupeño leader Antonio Garra received the title of Chief by General Kearny, Guy Trujillo believed.<sup>262</sup> Indigenous leaders who received this title were elevated amongst their peers. When the Americans came, the Indigenous people wanted to overthrow the Mexican Regime. Americans saw this and played the pawn making certain tribal leaders in their book. The military gave the Aborigines titles to

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<sup>259</sup> Carmen Lucas interview, September 21, 2017.

<sup>260</sup> Carrico, *Strangers in a Stolen Land*, 43-44.

<sup>261</sup> Robert Jackson and Edward Castillo, *Indians, Franciscans, And Spanish Colonization*, 37.

<sup>262</sup> Guy Trujillo interview, November 13, 2017.

those they thought could be trusted and were respected by their peers. The title given was often used as weight when the individual address and commanded others.<sup>263</sup>

The relationship between the Americans and the Indigenous people of California never really became solidified until long after the Treaty of Temecula was signed. The United States was not honest with tribes and did not tell the truth.<sup>264</sup> Americans ignored California's Indigenous peoples' civil and human rights. Indigenous people always had the right to settle and occupy lands wherever they chose to till the ground, under Spanish law, and adopted by Mexican law. Under the Treaty of Guadalupe, those rights of occupancy were to be carried forward to the Indigenous people. "If they were wild, and scattered in the mountains and wilderness, the policy of the law, and of the instructions impressed on the authorities of the distant provinces, was to reduce them, establish them in villages, covert them to Christianity, and instruct them in useful employments."<sup>265</sup> Americans wanted the Indigenous people for a free labor force as well.<sup>266</sup> The colonizers hoped the Aborigines would become extinct and ultimately die off.<sup>267</sup>

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<sup>263</sup> Caughey, *The B. D. Wilson Report*, 67.

<sup>264</sup> "Cal Star's Sonoma Correspondence," *California Star* (San Francisco, CA), March 11, 1848. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>265</sup> W.W. Carey Jones, "Report on Land Titles in California," *Sacramento Transcript* (Sacramento, CA) July 20, 1850. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>265</sup> Ibid.

<sup>266</sup> *California Star* (San Francisco, CA) December 11, 1847. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>267</sup> United States, House of Representatives, *Hearings Before a Subcommittee of the Committee of Indian Affairs: Indian Tribes of California*. Sixty-Sixth Congress, Second Session, (Washington D.C., 1920), 5. accessed January 21, 2018, Google Books, <https://books.google.com/>.

According to the *California Star*, Americans stole the land from the Indigenous people before arriving in California through treaties, bribes, and soldiers, which led to bloody disputes.<sup>268</sup> “One tribal elder repeated,

*You acknowledge our right to our lands and homes, but wishing a portion for your increasing people, are anxious to purchase from us. We are at first, perhaps all opposed to any sale; but by and by, by threatening, bribing, and making drunk, a portion of our chiefs, they sign their assent to the transfer. The document though still illegal, and unbinding on the tribe, is good sufficient for your purposes, the balance, though still unwilling, knowing full well the penalty of longer refusal-trespass upon our soil, to have it taken forcibly from us, and we degraded slaves and outcasts among you whites, or else war and death.*<sup>269</sup>

Americans continued to overlook the original people of the land as having any right to land or rights as human beings. The Americans soon established laws to enslave California Indigenous peoples just as California became a free State of the United States. Americans created such laws to reinforce their agenda and ideas of superiority over the local Indigenous people, to encapsulate the American dream of land ownership. Settlers brought ideas of enslavement with them from the East Coast as they moved to California. In California, there were few African Americans but there were thousands of Indigenous people whom the Whites saw as a commodity for slave labor.<sup>270</sup>

*“Unfree labor—defined here as work without the freedom to quit—was common in nineteenth-century California. The large scale of unfree California Indian labor under U.S. rule was the product of supply (provided by a large California Indian population), demand (driven by a rapidly expanding labor market), and, most importantly, political will (informed by racism and expressed in legislation and governmental policies).”<sup>271</sup>*

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<sup>268</sup> “Cal Star’s Sonoma Correspondence,” *California Star* (San Francisco, CA), March 11, 1848. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>269</sup> Ibid.

<sup>270</sup> Roy Mathews interview, September 5, 2015; and Madley, “Unholy Traffic in Human Blood and Souls,” 627.

<sup>271</sup> Madley, “Unholy Traffic in Human Blood and Souls,” 627.

The Spanish already enslaved the Indigenous people, but slavery was abolished in California when Americans claimed California as a State in 1850. Slavery was not legalized in California, but slavery was exercised with Indigenous people in California. Historian James Rawls disclosed, “Although the delegates voted unanimously to prohibit slavery in California, their attention was on black slavery not on Indian slavery.”<sup>272</sup> Early on, California exercised a form of bondage over the Indigenous people.<sup>273</sup> In Southern California, in the city of Los Angeles, city authorities held slave auctions of Indigenous men and women in chain gangs.<sup>274</sup> In 1850, California passed *An Act for the Government and Protection of Indians* and its amendments in 1855 and 1860 allowed for the apprenticeship and indentured servitude of Indigenous men, women, and children.<sup>275</sup> Call it what you want, but this was a form of legalized slavery of the Indigenous people of California.<sup>276</sup>

In May 1848, United States President James K. Polk directed the people of California to settle on lands with pre-emptive rights. He told the people to improve the

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<sup>272</sup> Rawls, *Indians of California*, 86.

<sup>273</sup> Madley, “Unholy Traffic in Human Blood, and Souls,” 626-667.

<sup>274</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 219; and Roy Mathews interview, September 5, 2015.

<sup>275</sup> *An Act for the Government and Protection of the Indians* was enacted not to protect the rights of Indians but to regulate them as a commodity, a product, or a piece of merchandise. Further on in Chapter 2, Chapter 2 will have more information on this indentured act for California Indigenous peoples. See Chapter 133, *An Act for the Government and Protection of Indians*. April 22, 1850, in *The Statutes of California: Passed at the First Session of the Legislature, Begun the 15th day of Dec. 1849, and ended the 22d day of April 1850, at the City of Pueblo de San José* (San Jose, CA: J. Winchester, State Printer, 1850), 408. Hereafter cited to as California, *The Statues of California*. Kimberly Johnston-Dodds, “Early California Laws and Policies Related to California Indians,” (Sacramento: Research Bureau, 2002), 5-13. accessed March 25, 2021, California State Assembly, Office of the Chief Clerk, <https://clerk.assembly.ca.gov/content/statutes-and-amendments-codes-1850>.

<sup>276</sup> Rawls, *Indians of California*, 90.

land before and after they are surveyed. Indian title to the land will be extinguished through the treaties like the Treaty of Temecula. To hasten the process of land theft, the President suggested the “judicial system, revenue laws, and laws regulating trade and intercourse” be extended over the tribes.<sup>277</sup>

The transfer of title to land ownership from Mexico was just the first step. Now, the United States required Indigenous people to cede their land as well to legally gain title of lands through treaties.<sup>278</sup> Treaties had been the way to gain legal title of Indigenous peoples’ lands for generations. Treaties brought tribes within the domain of federal “Indian” policy.<sup>279</sup> In February 1850, the people of the California territory started talking about treaty negotiations with the Aboriginal people who claimed title to the land.<sup>280</sup> On the other hand, to curb depredations by the Indigenous people and violence by the Whites, in May 1850, Major General Thomas J. Green conducted a treaty of peace and friendship with Chiefs Weima, Buckler, and Poollel in Northern California.<sup>281</sup> The Indigenous people occupied lands from the top of California all the way down through California to San Diego and out to the Colorado River.<sup>282</sup> Soon the United States would send federal Indian Commissioners to California to make treaties with the Aboriginal

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<sup>277</sup> “President’s Message, *The California Star* (San Francisco, CA), May 13, 1848. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>278</sup> Rupert Costo and Jeanette Henry, *Indian Treaties: Two Centuries of Dishonor* (San Francisco, The Indian Historian Press, 1990), 8-9.

<sup>279</sup> Dejong, *American Indian Treaties*, 5.

<sup>280</sup> “Report of the Secretary of the Interior,” *Daily Alta California* (San Francisco, CA), February 24, 1850. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>281</sup> “Indian Affairs,” *Placer Times* (San Francisco, CA), May 29, 1850. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>282</sup> W.W. Carey Jones, “Report on Land Titles in California,” *Sacramento Transcript* (Sacramento, CA) July 20, 1850. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

people to get the tribal leaders to cede their lands away in exchange for small reservations and other resources reducing tribal control, authority, and autonomy.<sup>283</sup> In 1851-1852, the United States came in and took possession of the land from the Indigenous people through treaties. Seven generations later, Agua Caliente Chairman Richard Milanovich told his son, “Look all around you. This was all our land from mountaintop to mountaintop.”<sup>284</sup>

### **Boundary Survey**

After the Treaty of Guadalupe Hidalgo was signed and ratified in 1848, ending the war with Mexico, the United States set out to survey the boundaries between the two foreign powers and California.<sup>285</sup> The boundary was established between the United States and Mexico at the confluence of the Gila and Colorado Rivers. Lieutenant Amiel Weeks Whipple was ordered to survey the boundary.<sup>286</sup> Whipple surveyed the land for longitude and latitude near the international boundary near the junction.<sup>287</sup> Lieutenant Cave Johnson Couets and Company A with the First Dragoons and Second Infantry were

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<sup>283</sup> Dejong, *American Indian Treaties*, 39-40.

<sup>284</sup> Richard Michael Milanovich was the son of Laverne Virginia Miguel. In 1955, Miguel was the Vice-Chairwoman of all women Tribal Council of the Agua Caliente Band of Mission Indians. This all-woman council was the first in the country. Richard Milanovich discussion with author, Agua Caliente Reservation, Circa 1980.

<sup>285</sup> “Proceedings of the Convention,” *Weekly Alta California* (San Francisco, CA), November 1, 1849. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>286</sup> John P. Sherbourne, *Through Indian County to California: John P. Sherbourne’s Diary of the Whipple Expedition, 1853-1854*, ed. Mary McDougall Gordon (Stanford, CA: Stanford University Press, 1988), 5 and 10.

<sup>287</sup> Trafzer, *Yuma*, 46.

sent to escort Whipple through Indigenous territory.<sup>288</sup> This is mentioned here, because Coutts was part of actions that led to the Treaty of Temecula. The northern boundary territory was home to the Quechan people skirted by the Cocopah, Maricopa, and Kumeyaay. The Indigenous people were very keen and kept watch on the American survey party from a distance. It was reported leader Juan Antonio with his family and daughter spotted Whipple at the Colorado River at this time.<sup>289</sup> This might be another Indigenous man from the river with the same name as the Cahuilla Chief or it may well be the Cahuilla Chief visiting family, if he was with his daughter. In any case, the people had to be observant. Their lives were at stake. The signing of the Treaty of Guadalupe and the boundary survey opened California to frontiersman and miners.

## Gold

The discovery of gold in 1848, triggered a massive invasion on Indigenous California. Scholars and written accounts do not agree in population numbers, but they do agree that the Native population decreased significantly, and the non-Native population increased dramatically, during the California gold rush. In 1846, fewer than 1,000 non-Natives lived in California.<sup>290</sup> In January of 1849, California contained 25,000 non-Natives. By June 1849, the population increased to 30,000. By December, the invader'

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<sup>288</sup> Sherbourne, *Through Indian Country to California*, 29; and Trafzer, *Yuma*, 40-45.

<sup>289</sup> Trafzer, *Yuma*, 46.

<sup>290</sup> Jeffery Smith, "Made Beings," 28.

populations surged to at least 94,000.<sup>291</sup> There were over 100,000 gold miners who stormed California by the end of 1849.<sup>292</sup> Gold altered the landscape of Indigenous California. From the predominant population of Indigenous people, the California foreign population grew exponentially with tens of thousands of Americans, Chinese, Mexicans, Chileans, Germans, and others from around the globe by the way of ocean and land.<sup>293</sup> The forty-niners took one of two routes overland to reach the gold fields: the Humboldt Trail, a branch of the Oregon Trail in the north, and Gila River Trail, also known as Cooke's Wagon Road, in the south.<sup>294</sup>

The invading miners, trappers, and settlers viewed gold as being a free resource and did not ask permission to mine on the Indigenous lands. The miners did ask the local tribal people to work. Within the first year, about 4,000 Indigenous laborers worked as miners in the gold fields.<sup>295</sup> Thousands of Indigenous peoples surrounded the gold fields, so they were the first ones to work them. The invader replaced the Natives on the line. Soon mining exploded and sent an army of invaders into Indigenous territory where it was hit with confrontation by fierce encounters with Indigenous people. The newcomers not familiar with Indigenous people armed themselves with handguns, rifles, and ammunition.<sup>296</sup> At the same time, the Yokuts, Miwoks, Paiute, Shasta, and Modoc all attempted to stop the wagonloads of people from trespassing into their territory.<sup>297</sup> The

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<sup>291</sup> Madley, *An American Genocide*, 76.

<sup>292</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 219.

<sup>293</sup> Hyer, *We Are Not Savages*, 53.

<sup>294</sup> Trafzer, *Yuma*, 69

<sup>295</sup> Hyer, *We Are Not Savages*, 52.

<sup>296</sup> Madley, *An American Genocide*, 78.

<sup>297</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 203.



United States War Department sold weapons to people traveling to California from its arsenals. The invaders did not bother getting permission to enter, cross through, or mine on Native lands. Some of the invaders turned into killers and killed Native men, women, and children on site.<sup>298</sup> Native elders throughout California remembered “miners murdered thousands of Indians, raped hundreds of native women and children, and sold thousands of people into slavery.”<sup>299</sup> Above all, the most important consideration for Americans was to secure Aboriginal land for the United States.<sup>300</sup> The Gold Rush sped the process of territory acquisition for the United States. It usually took years before a territory became a state. With so many people in California, the people acted fast — fast enough so that a treaty was soon needed.

The Gold Rush brought emigrants, killers, and genocide to California. The invaders were money hungry and bloodthirsty. California scholars Cliff Trafzer and Joel Hyer reported in their book, *Exterminate Them*, that over 100,000 Indigenous men, women, and children lost their lives to genocide in California.<sup>301</sup> Northern California experienced the highest proportions of genocide. Much of the gold was in Northern California but was also found in Southern California. The miners took all routes to the gold fields in California.

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<sup>298</sup> Madley, *An American Genocide*, 83.

<sup>299</sup> Clifford E. Trafzer and Joel R. Hyer, ed. *Exterminate Them: Written Accounts of the Murder, Rape, and Enslavement of Native Americans during the California Gold Rush* (East Lansing: Michigan State University Press, 1999), xiii.

<sup>300</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 219.

<sup>301</sup> Trafzer and Hyer, *Exterminate Them*, xiii.

As time went on, the confrontations became more violent. There was a bounty on California “Indian” heads, the late Chairman Richard Milanovich recalled.<sup>302</sup> One of the most horrific events occurred on the Colorado River in Southern California. The miners and settlers followed the Gila River to the Junction of the Colorado River at Yuma. In April 1850, Americans killed Quechan leader Cavello en Pello on the Colorado River. Quechan warriors retaliated and killed eleven of the intruders’ fourteen men.<sup>303</sup> The State of California sent a militia of one hundred twenty-five men under General Joseph C. Moorhead, Quarter-Master General of California, to eliminate the sovereign band of Quechan and Indigenous people alike, along the Colorado River, to protect safe travels for emigrating invaders into California.<sup>304</sup> Benjamin Wilson recalled Moorhead “killed a score of them.” The one campaign totaled \$75,588 at Yuma to kill the Indigenous people there.<sup>305</sup>

In 1948, the United Nations Convention on the Prevention and Punishment of the Crime of Genocide adopted by the General Assembly declared genocide as the intent to destroy, in whole or in part. The definitions of genocide are reflected in actions taken historically by government and individual, which directly harmed Indigenous health

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<sup>302</sup> In the fall of 2009, Chairman Richard Milanovich and his eldest son Sean Milanovich gave a lecture on California Indigenous history to Xavier High School Students, Palm Desert, CA.

<sup>303</sup> Jeremiah Hill and Abel Stearns, “Origin of the Trouble Between the Yumas and Glanton: Deposition of Jeremiah Hill,” *Annual Publication of the Historical Society of Southern California and of the Pioneers of Los Angeles County* 6, no. 1, (1903), 57-62. accessed October 2, 2017, University of California Press, <https://online.ucpress.edu/>.

<sup>304</sup> Caughey, *The B. D. Wilson Report*, 12-13; and State of California, *Journal of The Legislature of The State of California. Second Session. January 6, 1851-May 1, 1851*. (San Jose: Eugene Casserly, State Printer, 1851), 16-17. accessed December 30, 2018. California State Assembly, Office of the Clerk, <https://clerk.assembly.ca.gov/archive-list>. Hereinafter referred to as State of California, Journals of the Legislature of the State of California-1851.

<sup>305</sup> Caughey, *The B. D. Wilson Report*, 12-13.

among Southern California Indigenous people. Under Article II, Genocide is described as:

- (a) *Killing members of the group;*
- (b) *Causing serious bodily or mental harm to members of the group;*
- (c) *Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;*
- (d) *Imposing measures intended to prevent births within the group;*
- (e) *Forcibly transferring children of the group to another group.*<sup>306</sup>

California genocide shifted boundaries, alliances, and change in political domain of the land. The relentless invasion onto Cahuilla, Cupeño, Luiseño, and Serrano lands in Southern California brought a full-scale war to California. The tribal groups did not like the new foreign power on their lands. They wanted to remove the intruders on their land and be done with them. The tribal leaders formed alliances. The United States military forcefully brought in many tribal leaders to have them sign over their lands to the United States. Genocide ran rampant in Indigenous California.<sup>307</sup> There was not one band that escaped the ethnic cleansing. By the middle of the 19th century, the United States became the supreme power in California.<sup>308</sup>

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<sup>306</sup> “United Nations Convention on the Prevention and Punishment of the Crime of Genocide,” December 9, 1948. accessed July 20, 2020, United Nations, <https://www.un.org/>; and Jack Norton, *Genocide in Northwestern California* (San Francisco: American Indian Historians Press, 1979), 159-63; Lindsey, *Murder State*, 14-16; Madley, *An American Genocide*, 551-554; and Trafzer, *Fighting Invisible Enemies*, 125.

<sup>307</sup> Madley, *An American Genocide*, 1-15.

<sup>308</sup> Carter Smith, ed. *The Conquest of the West: A Sourcebook on the American West* (Brookfield, Connecticut: Millbrook Press, 1992), 77.

## **Building Capacity to Regulate Against Indigenous People**

On April 22, 1850, before becoming a part of the United States, the California Senate approved “An Act for the Government and Protection of Indians.”<sup>309</sup> The act delegitimized the Indigenous people including incarceration and indentured servitude to Whites who controlled California under Euro-American laws by threat and armed forces. Under the “Act for the Government and Protection of Indians” of 1850, Indigenous children became wards of the state and could be adopted by citizens [foreign invaders] of the United States, Thus, Native parents lost parental rights to their children. This law facilitated the removal of Indigenous peoples from their traditional lands and separated at least one generation of children and adults from families, cultural, native community, and language.<sup>310</sup> “An Act for the Government and Protection of Indians” stripped Indigenous peoples of California right to claim land.<sup>311</sup>

This act did not help or protect tribal people at all. In fact, this “Act for the Government and Protection of Indians” inhibited the Indigenous people from protection and nearly destroyed the Natives’ confidence and way of life. The act damaged the Aboriginals in such a way that this law set in motion the practice of genocide. There were twenty sections to the act. The first Section of the Act gave authority to Justices of the Peace to handle all complaints dealing with “Indians.” The second section allowed

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<sup>309</sup> Kimberly Johnston-Dodds. “Early California Laws and Policies Related to California Indians,” 5.

<sup>310</sup> Ibid.

<sup>311</sup> Aim M. Noel and Phyllis W. Cheng, “Through Struggle to the Stars: A History of California's Fair Housing Law,” *California Real Property Journal* 27, no. 4 (2009). assessed March 27, 2021, [11-0262\\_misc\\_2-8-12e.pdf \(lacity.org\)](#).

proprietors of Indigenous lands to be sectioned off, decreasing tribal lands. The third section allowed anyone to take possession of an Indigenous child from the parents. This was usually done to groom the child as a laborer, either for indoor or outdoor work. A certificate would be granted to the “master” White man to have an Aboriginal in possession. This was a form of legalized Indigenous slavery. Section four allowed a neglected Indigenous child to be passed from one negligent “master” to the next. Section five gave a White man permission to make a contract for labor with an adult Indigenous man before a Justice of the Peace. Section six prohibited non-Indians from taking repercussions after testimony from an Aboriginal given in the court. Aboriginals were not allowed to testify against miners, explorers, settlers, fur trappers, soldiers, craftsman, or anyone except against another Aboriginal. Section seven was to protect the Indigenous family by not allowing Whites to forcefully remove Indigenous people from their private homes to work against their will. If a White man forcefully made Indigenous men or women work and if it did go before the Justice of the Peace, it was the White man’s word over the Aboriginal.<sup>312</sup>

Section eight permitted monies to be collected from Aboriginal fines and handed over to the treasure to keep in the county account. Section nine guaranteed Indigenous peoples learned the local laws. The Justice of the Peace did not explain the laws to the Native people. If laws were ignored or disobeyed, the Indigenous people were punished. Section 10 limited Aboriginal people with management of their lands as they saw fit. As

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<sup>312</sup> California, *The Statues of California*, 408-409; and Kimberly Johnston-Dodds. “Early California Laws and Policies Related to California Indians,” 27-28.

part of land management strategy, Aboriginals could not burn prairies grasses, palm oases, and forests. Burning was a common method to reduce fire hazard and replenish the earth with much needed minerals. Sections eleven to thirteen demanded that all offences committed by Indigenous people against a White man be settled by a court of law. In this way, the judge brought in chiefs and other men of stature within the tribe to apprehend the Aboriginal who committed the offense. The White man did not have to waste time in trying to do so. Juan Antonio, Cahuilla chief often helped the Californios and the Americans. Chief Antonio did not like his people committing offences against the outsiders.<sup>313</sup>

Section fourteen stated that any Aboriginal convicted and locked up could be set free with a paid fine. The act allowed ranchers, settlers, miners, or whomever to pay a bond to the court for the individual. The Aboriginal then had to work as an indentured servant for the non-Indian until the court decided the Aboriginal had worked hard and long enough. The Aboriginal person had no say in the matter. Section fifteen demanded that alcohol must not be sold to Indigenous people. Only white people could drink alcohol. It was believed that Indians became revengeful, hurtful, mean, and belligerent while intoxicated.<sup>314</sup> Sections sixteen and seventeen granted permission to non-Indians to whip Indigenous laborers with twenty-five lashes for stealing horses, mules, cattle, or personal items. Depredations by Indigenous peoples on non-Indians was frowned on.

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<sup>313</sup> California, *The Statues of California*, 409; and Kimberly Johnston-Dodds. "Early California Laws and Policies Related to California Indians," 29.

<sup>314</sup> Alcohol helped lead to the intoxicating word "Indian" as a negative racial term.

Depredations by non-Indians on Indians was permissible. Section nineteen granted the Justice of the Peace authority to make money off Indians. Any contract involving an Indian had to get approval from the Justice with a payment. Section twenty was one of the worst. Section twenty forbade Indigenous people from being present and loitering around town. No Indigenous person could idly stand around town. Indians must be working if they were to remain in town. The local sheriff or mayor could arrest the Indigenous person and place under arrest. The Aboriginal would then be auctioned off to the highest bidder for a period not more than four months.<sup>315</sup>

California legislatures passed several laws and joint resolutions after Statute 133, or “Act for the Government and Protection of Indians,” that supported Indian wars against the Indigenous peoples of California. Between 1851-1859, California passed twenty-seven acts and resolutions counter to Indigenous peoples’ civil liberties of life. The laws granted extermination of California’s Indigenous peoples by funding state sponsored genocidal-backed programs. Funds appropriated supplied funds and reimbursed state voluntary militias against Indigenous groups the state wanted to act against. California paid out \$1,293,179.20 for claims against the Native peoples.<sup>316</sup>

An American foreign and military government ruled over the territory of California occupied by the Indigenous, Spanish, Mexican, and American peoples. In September to October of 1849, the invading Americans met to establish California as a state in

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<sup>315</sup> California, *The Statutes of California*, 409-410; and Kimberly Johnston-Dodds, “Early California Laws and Policies Related to California Indians,” 29-30.

<sup>316</sup> Kimberly Johnston-Dodds, “Early California Laws and Policies Related to California Indians,” 2.

Sacramento. At the California Convention in 1849, the debate of Indian citizenship as demanded by the Treaty of Guadalupe Hidalgo echoed in the halls.<sup>317</sup> The First California Convention voted not to allow “Indians” to be citizens of California, denying them their birthright.<sup>318</sup> The State of California and the United States deprived the Indigenous peoples of their chance to become citizens of the United States, allowing Americans to take complete advantage and transfer title of land from the California Indigenous people to the United States through treaties to come.<sup>319</sup> The Anglos initiated making California a state within the middle of Indigenous territory and home to hundreds of bands and thousands of Aborigines.<sup>320</sup> On September 9, 1850, California became a state of the United States.

From the beginning of California statehood, Californians waged war on California’s First people, not the other way around. On December 19, 1850, Californians elected Peter Burnett as California’s first governor.<sup>321</sup> Burnett a native of Tennessee came south in 1848 from Oregon looking for gold in a wagon train.<sup>322</sup> Peter Burnett learned mistreatment and animosity for the Natives while he worked at Sutter’s Fort as an attorney and as a prior Indian Agent.<sup>323</sup> He saw firsthand how wrongfully Sutter treated

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<sup>317</sup> “Proceedings of the Convention,” *Weekly Alta California*. October 11, 1849. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>318</sup> John Ross Browne, *Report of the Debates in the Convention of California, On the Formation of the State Constitution, in September and October 1849* (Washington: John T. Towers, 1850), 74. accessed January 3, 2018, Google Books, <https://books.google.com/>.

<sup>319</sup> Griswold del Castillo, *The Treaty of Guadalupe Hidalgo*, 69; and Heizer, *The Eighteen Unratified Treaties*, 5.

<sup>320</sup> Barbara Ann Metcalf, “Oliver M. Wozencraft in California, 1849-1887” (master’s thesis, University of California Los Angeles, CA, 1963), 1-5 and 10.

<sup>321</sup> Winfield J. Davis, *History of Political Conventions in California, 1849-1892* (Sacramento, 1893), 5-6.

<sup>322</sup> Madley, *An American Genocide*, 74.

<sup>323</sup> Jared Arthur Jones, “From Merchant Shops to Museum: The Fort After Sutter,” (master’s Thesis, California State University Sacramento, 2017), 36 and 34.



his Indigenous employees. When he arrived in office, he knew what he wanted to do. Peter H. Burnett disclosed in his inaugural address, the United States government neglected to make treaties with the tribes in California. Governor Burnett described the Indigenous people of California as a doomed race and bet on a war of extermination would wipe them out.<sup>324</sup>

Beginning in the year 1849, more than 10,000 miners dared to cross the mighty Colorado River.<sup>325</sup> Over 35,000 invaders arrived in California via ships.<sup>326</sup> Most of the men who came to California seeking gold camped in the Sierra Nevada Mountains and established communities infringing on Native rights on Native lands. This constituted an invasion of privacy. The miners trespassed without consent of the Indigenous people. Gold and wealth attracted an array of ethnicities and race including Americans, Germans, Anglos, Chinese, Mexicans, as well as the Indigenous.<sup>327</sup>

In Southern California, miners found gold in the Laguna, Little San Bernardino, San Jacinto, San Gabriel, Old Women, Santa Ana, Calico, and Cuyamaca mountains to name a few from the 1840s-1880s. The miners sought gold everywhere. Most of the time, gold and silver claims were located near Indigenous communities and villages. The miners disturbed the Indigenous peoples on the land and molested them at will. The miners camped near water sources; the same water sources the Indigenous people used.

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<sup>324</sup> Burnett, Peter. *Annual State of the State Address*. January 6, 1851. California's National Governors Association. <https://www.nga.org/former-governors/california/>.

<sup>324</sup> State of California, *Journals of the Legislature of the State of California-1851*, 14.

<sup>325</sup> Leonard Parker, ed., *Eight Annual International Desert Cavalcade of Imperial Valley, March 13-14-15, 1947* (Calexico, CA: Chronicle Press, 1947), 33.

<sup>326</sup> Pourade, *The Silver Dons and the Pioneers who Overwhelmed California*, 140.

<sup>327</sup> Trafzer and Hyer, *Exterminate Them*, 55.

This put pressure on both sides. The non-Indigenous pushed the Indigenous off the land taking claim to the land, water, and the gold. Indigenous people were sniped off one by one till the camp moved elsewhere. The miners hunted most if not all the game on the land, polluted streams, trampled through graves and other sacred areas, and destroyed native vegetation that were the staple foods and medicines for the people.<sup>328</sup>

The invading settlers “increasingly moved into the Great Basin, taxing the local Indian communities’ foods, resources, and energies.”<sup>329</sup> With the arrival of thousands of invaders to California came violence and abuse towards the original inhabitants. Sudden population growth encouraged the new settlers to look for places to settle on and overran Indigenous camps and villages. The invading miners forced the Indigenous people off their lands to allow for other miners and settlers. Ultimately, the first genocide in California began to unfold. Miners forced the Indigenous to do heavy labor. Native laborers worked under the worst conditions as actual slaves. Some were coerced into the labor through a system of debt peonage while others received a low wage.<sup>330</sup> If the Natives tried to escape, the White operators whipped them.<sup>331</sup> If the Natives did not work fast enough or do as miners demanded and not asking, the miners out of ignorance, selfishness, and greediness, took the life of their Native employee. Mass killings in the

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<sup>328</sup> Trafzer and Hyer, *Exterminate Them*, 55; Katherine Siva Saubel and Lowell John Bean, *Temalpakh: Cahuilla Indian Knowledge and Usage of Plants* (Morongo Indian Reservation: Malki Museum Press, 1972), 8-26; and Sherburne F. Cook, *The Conflict Between the California Indian* (Los Angeles: University of California Press, 1976), 484-485.

<sup>329</sup> Blackhawk, *Violence Over the Land*, 120.

<sup>330</sup> Albert L. Hurtado, “California Indians and the Workaday West: Labor, Assimilation, and Survival,” in *California History* 69, no. 1 (Spring, 1990), 5.

<sup>331</sup> Hubert Howe Bancroft, *History of California. Vol. 6: 1848-1859* (San Francisco: The History Company, 1888), 73.

north by miners, and ranchers, took place, instilling in future settlers to kill the Indigenous peoples. Soldiers killed Indians if they got too close to American encampments regardless of the individual's "age, gender, identity, location, and tribal affiliation."<sup>332</sup>

The United States planned to secure the land by bringing in people to settle upon the land occupied by Indigenous people. To establish American commerce and development on the Pacific Coast in California, the United States conducted a series of surveys. Up till now, Cooke's Wagon Road following the Gila River was the only road to Southern California. In 1853, the United States Army Corps of Topographical Engineers arrived in California to survey the best route for a transcontinental train route connecting with states east of the Mississippi River. In 1853, the United States government funded an expedition for a railroad survey along the 32<sup>nd</sup> and 35<sup>th</sup> parallels. The United States Congress appropriated \$150,000 "to ascertain the most practicable and economical route for a railroad from the Mississippi River to the Pacific Ocean."<sup>333</sup> Lieutenant R. S. Williamson of the United States Army Corps of Topographical Engineers, wanted to connect routes between the 32<sup>nd</sup> and 35<sup>th</sup> parallels. The survey left Benicia near San Francisco and headed south to Tejon Pass, San Bernardino, the Colorado River, and down to San Diego.<sup>334</sup> Congress charged the surveyors with finding an economical route for the rail line. On their journey they were to document and record the route,

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<sup>332</sup> Madley, *An American Genocide*, 101-102 and 116.

<sup>333</sup> Odie B. Faulk, *Destiny Road: the Gila Trail and the Opening of the Southwest* (New York: University of New York Press, 1973), 85.

<sup>334</sup> R. S. Williamson, *Reports of Explorations and Surveys to Ascertain the Most Practicable and Economical Route for a Railroad from the Mississippi River to the Pacific Ocean: Volume 5* (Washington D.C.: B. Tucker, Printer, 1885), xiv and xiv. Hereinafter referred to as Williamson, *Reports of Explorations and Surveys*.

topography, zoology, and the Indigenous people who occupied the land. Within their wagon train they were accompanied by a military escort, a naturalist, two civil engineers, and one draughtsman.<sup>335</sup>

To protect the Americans colonizing Indigenous lands, United States armed forces constructed military strongholds in strategic areas. American military forces constructed a series of garrisons in California for the protection of the White Americans from the “Indians,” not the other way around. Indigenous people needed protection from the Whites, but in most cases, California authorities turned their head when it came to “Indian” matters. In Southern California there were two important military forts established. One was at Yuma on the Colorado River, established 1851, and the other at the Tejon Pass just north of Los Angeles, established 1854. Fort Tejon was in the southern part of the State, but many acknowledge its location at the southern end of the Central Valley. In November 1850, Lieutenant Samuel Peter Heintzelman arrived in California with three small companies of soldiers and established Fort Yuma by 1851 at the Colorado River and Gila River confluence in Quechan and Cocopah territory.<sup>336</sup> Heintzelman protected Americans crossing the Colorado River on ferries as violence erupted from White confrontation with the Quechan. Heintzelman also protected the southern easterly entrance to California from attack. Beginning in 1846, Americans brought genocidal practices to Indigenous California all in the interest of land acquisition. The American military campaign invaded Southern California and immediately put

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<sup>335</sup> Williamson, *Reports of Explorations and Surveys*, xiv and xiv.

<sup>336</sup> Trafzer, *Yuma*, 53.

pressure on the Indigenous people on their traditional homelands bringing warfare, death, murder, enslavement, change in political government structures, implementation of survival measures, and adoption of new lifeways.<sup>337</sup>

The American invaders dispossessed the California Indigenous people from their own land and simultaneously did not recognize the individual tribal sovereigns and their intellect.<sup>338</sup> The colonizers instilled a foreign policy over the land which did not recognize tribal land ownership. The invaders' policies and actions brought chaos and war to Southern California. The American military campaign invaded Southern California and immediately terrorized the Aboriginal people on their traditional homelands.<sup>339</sup> The American military came in and claimed all the land and immediately enforced its own authority on the land and people. The United States Army constructed roads, established ports, and opened Indigenous lands for settlement by Americans.<sup>340</sup>

The Indigenous people of Southern California remembered the Creator created boundaries and gave the land to the Native people.<sup>341</sup> In 1849, Americans estimated

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<sup>337</sup> Stephen Watts Kearny, *The Journal of Stephen Watts Kearny*, ed. Valentine Mott Porter (Missouri Historical Society Collections, Volume III, 1908), 6. accessed December 6, 2017. Google Books, <https://books.google.com/>; and Cooke, *The Conquest of New Mexico and California*, 262.

<sup>338</sup> Frances Jennings, *The Invasion of America: Indians, Colonialism, and the Cant of Conquest* (Chapel Hill: University of North Carolina Press, 1975), 128; and San Manuel Band of Mission Indians, "History." San Manuel Band of Mission Indians. accessed October 12, 2018, <https://www.sanmanuel-nsn.gov/Culture/History>.

<sup>339</sup> Kearny, *The Journal of Stephen Watts Kearny*, 6; and Cooke, *The Conquest of New Mexico and California*, 262.

<sup>340</sup> Cooke, *The Conquest of New Mexico and California*, 197 and 274.

<sup>341</sup> Dorothy Ramon, *Wayta' Yawa*, 369.

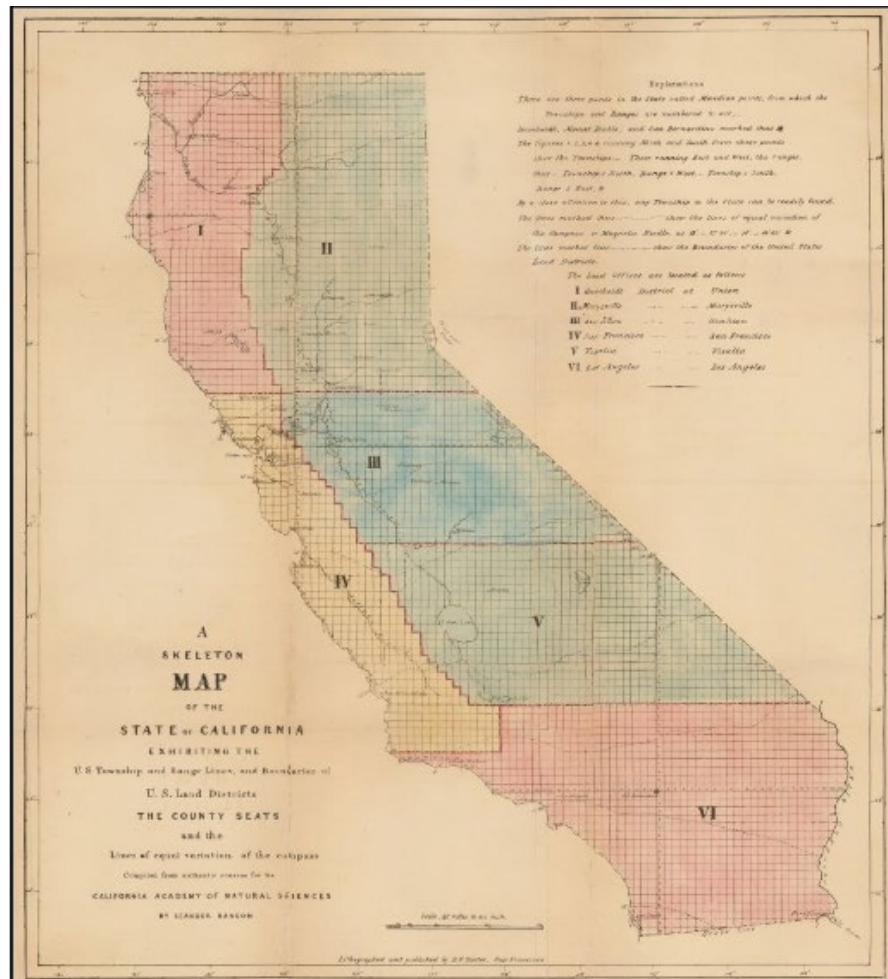


Figure 2.3: A Skeleton Map of the State of California Exhibiting the U.S. Township and Range Lines, and Boundaries of U.S. Land Districts the County Seats and the Lines of Equal Variations of the Compass Compiled from Authentic Sources for the California Academy of Natural Sciences, 1853 by Leander Ransom.

100,000 Indigenous people commanded the California landscape.<sup>342</sup> The American invasion halted traditional lifeways but the things that were important continued. Songs, language, stories, traditional foods, and Native voice and perspectives were carried

<sup>342</sup> Russel Thornton, *American Indian Holocaust and Survival: A Population History Since 1492* (Norman: University of Oklahoma Press, 1987), 109; and Hyer, *We Are Not Savages*, 53.

forward to each new generation. The American invasion brought Little Brother [Americans] to the land. Big Brother [Indigenous people] remembered they were told to help their Little Brother and adopt to the new ways but never forget who they were, expressed Ernest Siva, Serrano elder and teacher.<sup>343</sup>

The Aboriginal people held on to their ceremonies, language, sovereignty, stories, language, beliefs, and never let go, even though the United States subjected the Cahuilla, Cupeño, Kumeyaay, Luiseño, and Cahuilla to colonization and assimilation. The land with the cooling and warming winds, the falling acorns, and the flowing streams reminded the people of their place. The Indigenous people were the First people of the land who had inherent rights that included sovereignty that cannot be taken away.<sup>344</sup> The people cared for the land entrusted upon them by the Creator. Although, the invasion and displacement rocked the Indigenous peoples' world, the Indigenous people persisted to hold on with every breath. Unknown to the Indigenous people, the treaties would strip the people of their lands giving title to the United States. The United States stole most of the land it acquired through treaties with Indigenous peoples.<sup>345</sup> Indian Commissioners came ignorant of natural law and tribal relationships to the land and one another. Their union had broken under pressure from the imminent attacks of constant invasion. The alliances

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<sup>343</sup> Ernest Siva interview, May 27, 2019.

<sup>344</sup> Dune Lankard is a Native Eyak and fisherman from Cordova, Alaska. Lankard is President of the Native Trust Council and the Native Land Trust Alliance. Dune Lankard interview by author, phone, July 20, 2020.

<sup>345</sup> U.S., Congress, Senate. *Congressional Globe*. Index, Volume 23: 31<sup>st</sup> Congress, 2<sup>nd</sup> Session (Washington: GPO, 1851), 31. accessed October 27, 2019, from University of North Texas Libraries, Digital Library, <https://digital.library.unt.edu/ark:/67531/metadc30778/m1/910/?q=California%20treaties>. Hereafter cited as U.S., *Congressional Globe*, Index, Volume 23:31<sup>st</sup>.

of the tribes were diminished after the foreign invasions and the trust relationship was broken. The Americans pitted the tribes against one another. Tribal groups no longer trusted one another as before. With the arrival of the Americans, the Indigenous people were forced to make significant changes to their “subsistence” and “social systems.”<sup>346</sup> Within a matter of time, the Americans wanted all the land for themselves. It was not enough that the Indigenous people had made changes in their lifestyles. Americans wanted the land and were determined to take the land using treaties.

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<sup>346</sup> Susan A. Wade, Stephen Van Wormer, and Heather Thompson, “240 Years of Ranching: Historical Research, Field Surveys, Oral interviews, significance Criteria, and Management Recommendations for Ranching Districts and Sites in the San Diego Region,” California State Parks, September 8, 2009.



## Chapter 3



### THE TREATY COMMISSION

*“We [Indigenous people] were so dispensable to them [Invaders]!”<sup>1</sup>*

**ROSEMARY MORILLO, CAHUILLA/CUPEÑO 2016**

The White invaders manipulated the law to their own benefit to obtain legal title to Indigenous land through their own courts, legal system, and treaties.<sup>2</sup> According to Indigenous people, Natural law or Indigenous law was the law the Aboriginal people knew and followed. The United States did not follow Natural law when dealing with Indigenous people. Aboriginal title is based on Euro-American views and comes from a legal system founded in Europe. It does not look at Natural law and requires that the Indigenous people disregard their own laws, legal systems, and traditional governments.<sup>3</sup> The United States developed and evolved its Indian policy for California based on the American experience east of the Mississippi River, and brought its policies West as it expanded west through Indigenous country and grew in military strength. For this purpose, Indian policy shall be considered a course of action pursued by the United States

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<sup>1</sup> Rosemary Morillo interview, August 29, 2016.

<sup>2</sup> Vine Deloria Jr. and David E. Wilkens, *Tribes, Treaties, & Constitutional Tribulations* (Austin: University of Texas Press, 1999), 3-12.

<sup>3</sup> Vine Deloria Jr., *Behind the Trail of Broken Treaties: An Indian Declaration of Independence* (Austin: University of Texas Press, 1985), 86.

government and adopted as advantageous by that government in its relations with any of the Indigenous tribes at a particular time or specific circumstance.<sup>4</sup>

The United States wanted the land for its growing empire. The United States viewed the Indigenous people as culturally and intellectually inferior, thus, the United States government believed that settlers could make better use of the land than the Indigenous people. The United States believed it could manage the land better than the Indigenous people, so the United States declared and demanded the Indigenous people needed only a fraction of their land to exist.<sup>5</sup> The United States thought the Indigenous people wasted the land by not developing it as Whites did.<sup>6</sup> According to Susan Shown Harjo, Cheyenne, and Hodulgee Muscogee, a Native scholar, “Many Europeans and Euro-Americans considered Native peoples to be beneath them — bloodthirsty, godless, and stupid.”<sup>7</sup> Most White settlers believed that God reserved Native lands for them, and the land belonged exclusively to Whites to control and administer.<sup>8</sup>

The United States based its Indian policies on liquidation of all Indigenous lands across the United States from coast to coast. According to Vine Deloria and David E. Wilkens in their book, *Tribes, Treaties, & Constitutional Tribulations*, the United States based its Indian policy on three guiding principles:

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<sup>4</sup> S. Lyman Tyler, *A History of Indian Policy: for the Bureau of Indian Affairs U.S. Department of the Interior* (Honolulu, Hawaii: University Press of the Pacific, 2001), 1.

<sup>5</sup> Deloria and Wilkens, *Tribes, Treaties, & Constitutional Tribulations*, 12.

<sup>6</sup> Jennings, *The Invasion of America*, 43-56; and Tyler, *A History of Indian Policy*, 10-11.

<sup>7</sup> Susan Shown Harjo, “Introduction,” in *Nation to Nation: Treaties Between the United States & American Indian Nations*, ed. Susan S. Harjo (Washington DC, and New York: National Museum of the American Indian, 2012), 3.

<sup>8</sup> Harjo, *Nation to Nation*, 3.

## Principals Used by the United States

- 1) The land was believed to ultimately belong to the United States, although Indian tribes were recognized as holding a lesser title of occupancy that they could cede to the federal government without duress.
- 2) Indians were culturally and intellectually inferior to Europeans and Euro-Americans.
- 3) Indian tribes must nevertheless be treated as nations capable of entering into diplomatic negotiations and making war.<sup>9</sup>

The United States demonstrated complete authoritarian control with its actions with the tribes and the treaties. No where did the United States write in the Constitution or other legislation about how it truly felt about the Indigenous people. Leaders were careful to omit this verbiage.<sup>10</sup> Yet, with the Treaty of Temecula and the other seventeen non-ratified treaties of California, the United States selected the most intelligent men of the day to draft up the language of the treaties. Carmen Lucas believes, “The designers knew damned well how to design a treaty.”<sup>11</sup>

The United States developed a theory to implement its policy of liquidation, called the Doctrine of Discovery, asserted Native scholar Vine Deloria Jr.<sup>12</sup> The Doctrine of Discovery is the “legacy of 1,000 years of European racism and colonialism directed against non-Western peoples.”<sup>13</sup> This legal theory benefited European Western nations and their peoples. This international law “impacted Indigenous peoples from the onset of colonization to the present day.”<sup>14</sup> The Doctrine of Discovery was used to subjugate

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<sup>9</sup> Deloria and Wilkens, *Tribes, Treaties, & Constitutional Tribulations*, 12.

<sup>10</sup> Ibid.

<sup>11</sup> Carmen Lucas interview, August 29, 2016.

<sup>12</sup> Deloria, *Behind the Trail of Broken Treaties*, 85-86.

<sup>13</sup> Pevar, *The Rights of Indian and Tribes*, 24.

<sup>14</sup> Robert J. Miller, “The Doctrine of Discovery: The International Law of Colonialism,” in *The Indigenous People’s Journal of Law, Culture, & Resistance*, 5(1), (2019), 35. accessed May 3, 2021, eScholarship, <https://escholarship.org/uc/item/3cj6w4mj>.

Indigenous peoples, and used to steal Indigenous lands, assets, and rights.<sup>15</sup> The Doctrine of Discovery rested on the pillar that Christianity was the only true form of God and the only acceptable religious foundation.

The leaders of Spain, Portugal, England, and the Roman Catholic Church gave themselves the authority and the power to seize the lands, resources, and riches of non-Christians around the world, including Native peoples in the Americas and California.<sup>16</sup> Spain was ruled by King Phillip, who ruled and controlled most of Europe, and the Spanish and Portuguese dominions in America, Africa, India and the East.”<sup>17</sup> This is why the Doctrine of Discovery is significant. The leaders of these countries wanted to expand and colonize distant lands for their own benefit without having to acknowledge non-Christian kingdoms and governments or their peoples as having any value.<sup>18</sup> In 1455, the Roman Catholic Pope granted Portugal power “to invade search out, capture, vanquish,” all peoples of the world who were not Christians.<sup>19</sup> On May 3, 1493, the Pope granted all the lands Spain would discover and claim, including California.<sup>20</sup> This was the beginning of Indian policy in the Americas and the United States. “Jealous to acquire empires and

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<sup>15</sup> Robert J. Miller, “The Doctrine of Discovery,” 35.

<sup>16</sup> Ibid.

<sup>17</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 140-141.

<sup>18</sup> “On January 9, 1455, the Pope granted Portugal the power: to invade, search out, capture, vanquish, and subdue all Saracens [Muslims] and pagans whatsoever, and other enemies of Christ wheresoever placed, and the kingdoms, dukedoms, principalities, dominions, possessions, and all movable and immovable goods whatsoever held and possessed by them and to reduce their persons to perpetual slavery, and to apply and appropriate to himself and his successors the kingdoms, dukedoms, counties, principalities, dominions, possessions, and goods, and to convert them to his . . . use and profit . . . [and to] possess, these islands, lands, harbors, and seas, and they do of right belong and pertain to the said King Alfonso and his successors . . . .” Robert J. Miller, “The Doctrine of Discovery,” 40.

<sup>19</sup> Ibid.

<sup>20</sup> For more information on the treaties used early on to claim Indigenous and non-Christian lands see *European Treaties Bearing on the History of the United States and its Dependencies to 1648*, ed. by Frances Gardner Davenport. Robert J. Miller, “The Doctrine of Discovery,” 36-37.

riches themselves, England, Holland, and France also used this international law to claim rights in North America and elsewhere.”<sup>21</sup>

The United States adopted the principles of the Doctrine of Discovery for itself and declared that Indigenous people lost title to the land and all rights when Christian nations “discovered them.”<sup>22</sup> Aboriginal people were not Christians before the invasion of North America, but the Creator God was a big part of their everyday lives, traditions, songs, stories, and cosmologies. Sadly, not being Christian, Indigenous people were not allowed to defend themselves in a court of law nor could they get the invaders to recognize their rights to the land.<sup>23</sup> It did not matter what the policy was; the intent was to take title of the land.<sup>24</sup> Yet, the United States saw fit to allow tribes to sign treaties to turn the land over to the United States.

Since the Articles of Confederation and the United States Constitution, treaties had become Indian policy. Ever since the treaties of Fort Pitt, Fort Stanwix, Fort McIntosh, and Hopewell, treaties had become the hallmark of American Indian policy.<sup>25</sup> Just three years after the United States Revolutionary war began with Great Britain, the United States went to the Delaware Nation and asked permission to cross over its lands to attack the British posts in southern Canada.<sup>26</sup> On September 17, 1778, the Lenape, the

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<sup>21</sup> Ibid, 37.

<sup>22</sup> Ibid, 38-40; and Steve Newcomb interview, Sycuan Reservation, CA, September 15, 2017. Hereafter cited as Steve Newcomb interview, September 15, 2017.

<sup>23</sup> Deloria and Wilkens, *Tribes, Treaties, & Constitutional Tribulations*, 4.

<sup>24</sup> Ibid, 7.

<sup>25</sup> Rupert Costo and Jeannette Henry, *Indian Treaties*, IX; Harjo, *Nation to Nation*, 15; Jack Norton, *Centering in Two Worlds: Essays on Native Northwestern California History, Culture and Spirituality* (Mansfield, Ohio: Book Masters, Inc., 2007), 41; and Francis Paul Prucha, *The Great Father: The United States Government and the American Indians* (Lincoln: University of Nebraska Press, 1986), 17.

<sup>26</sup> Deloria, *Behind the Trail of Broken Treaties*, 118.

Delaware, signed the Fort Pitt Treaty at Fort Pitt, Pennsylvania. The Fort Pitt Treaty was the first treaty the United States negotiated with tribes. The Fort Pitt Treaty established the inherent authority of the tribes; tribes have the power, authority, and government structure to regulate themselves.<sup>27</sup> The United States recognized the inherent sovereign rights of tribes. The Fort Stanwick Treaty was the second treaty negotiated by the United States with the Indigenous tribes. On October 22, 1784, six nations of the Haudenosaunee or the Iroquois Confederacy in New York signed the Fort Stanwick Treaty.<sup>28</sup> The United States pressured the tribes into signing the treaties under duress, and the tribes with a heavy heart agreed to be placed under the protection of the United States, which then became United States law carried forward. On January 21, 1785, the United States negotiated four treaties with the tribal leaders of the Chippewa, Delaware, Ottawa, and Wyandotte tribes in Beaver, Pennsylvania. Collectively, these treaties are known as the Fort McIntosh Treaty for peace and friendship.<sup>29</sup>

On November 11, 1785, thirty-six leaders of the Cherokee people negotiated and signed the Treaty of Hopewell with the United States in Hopewell, South Carolina. The treaty recognized the sovereignty and boundaries of the Cherokee Nation. Following this first treaty at Hopewell, the United States signed treaties with the Choctaw and then the Chickasaw. Treaties with the United States created a legal and formal relationship with the tribes. These three treaties created the precedent that the tribes fell under the protection of the United States. Within a short period of time, the United States used

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<sup>27</sup> Dejong, *American Indian Treaties*, 25.

<sup>28</sup> Dejong, *American Indian Treaties*, 25; and Harjo, *Nation to Nation*, 48.

<sup>29</sup> Dejong, *American Indian Treaties*, 132.

treaties to acquire lands belonging to tribes and to reduce the authority of Indian nations. Tribes signed the treaties and relinquished lands under threat.<sup>30</sup> The United States used treaties to deal with the land cessions, commerce, Indian trade, and to create “peace and friendship.”<sup>31</sup> In the nineteenth century, the United States dealt with tribes as nations, just as the government dealt with other foreign nations.<sup>32</sup> Some tribes honored the treaties, but watched the United States not enforce boundaries, thereby allowing settlers to encroach on Aboriginal lands.

The United States recognized the sovereign powers of the Indigenous tribes and framed it within its Articles of Confederation and its Constitution. The law recognized tribal nations as having distinct inherent sovereign authority. The Articles of Confederation and the Constitution of the United States recognized tribes with treaties as equals, such as with any foreign nation. Tribal people were still treated with extreme animosity and subjected to racism, discrimination, and prejudice. To help manage, manipulate, and control the Indigenous people, the central government under the articles was given the responsibility of “regulating the trade and managing all affairs with Indians.”<sup>33</sup> Article VI of the United States Constitution recognized treaties with tribes to be the supreme law of the land that took precedence over all state and local laws.<sup>34</sup> The United States made treaties with many tribes, including those displaced by wars and White settlement.

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<sup>30</sup> The Chickasaw Nation, “Treaty of Hopewell Videos,” Chickasaw TV Video Network. accessed November 4, 2019. <https://www.chickasaw.tv/lists/treaty-of-hopewell-videos>.

<sup>31</sup> Dejong, *American Indian Treaties*, 219-312.

<sup>32</sup> *Ibid*, 4.

<sup>33</sup> Deloria and Wilkens, *Tribes, Treaties, & Constitutional Tribulations*, 14.

<sup>34</sup> Dejong, *American Indian Treaties*, 34.

The government's treaty-making powers under Article IX of the United States Constitution gave Congress the power "to regulate commerce with the tribes."<sup>35</sup> Article I, section 8, clause 3 states "Congress shall have the power to regulate Commerce with foreign Nations, and among the several states, and with the Indian Tribes."<sup>36</sup> Article II, section 2, clause 2, became known as the Treaty Clause. The Treaty Clause gave the president of the United States and the Senate the authority to make treaties with Indian tribes.<sup>37</sup> "All treaties signed with Indians prior to 1849 can be said to have expressed the concern for the regulation of commerce with the tribes" with the exception of the Treaty of Ghent and the Indian-removal treaties of the 1820s and 1830s.<sup>38</sup> According to Vine Deloria Jr. and David E. Wilkens in their book, *Tribes, Treaties, & Constitutional Tribulations*, "Beginning in 1849, with the Treaty of Cheille (Canyon de Chelly) with the Navajo and continuing until 1865," the United States used treaties to obtain title of the land.<sup>39</sup> It is extremely important to understand, only the government of the United States has authority to deal with the Indian nations. Individual states and individual citizens cannot make legally binding treaties with tribal nations or their people.<sup>40</sup> The United States viewed tribes as separate independent nations and thus only the federal government had authority to deal with foreign governments.<sup>41</sup>

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<sup>35</sup> Constitution of the United States, Article IX; Tyler, *A History of Indian Policy*, 33; and Pevar, *The Rights of Indians and Tribes*, 57.

<sup>36</sup> Pevar, *The Rights of Indians and Tribes*, 57.

<sup>37</sup> Ibid.

<sup>38</sup> Deloria and Wilkens, *Tribes, Treaties, & Constitutional Tribulations*, 60.

<sup>39</sup> Ibid.

<sup>40</sup> Constitution of the United States, Art. 1, Sec. 8, CL. 3; and Tyler, *A History of Indian Policy*, 37.

<sup>41</sup> Ibid, 32.



## Control of the Indigenous People

In the middle of the nineteenth century, the United States created a new branch in the hierarchy of the United States Government to have greater control over the Indigenous people in its territory, just before California became a state. The United States wanted the Indigenous people out of the way. Officials in the Indian office believed the “Indian” presented a barrier to White settlement in California and other newly obtained territories.<sup>42</sup> On April 4, 1849, the United States created the Department of the Interior. The Bureau of Indian Affairs was transferred from the War Department to the Department of the Interior and became the United States representative for all tribes.<sup>43</sup>

The invasion of Indigenous lands demanded the American government incorporate protocol in dealing with Indian affairs. American Indian policy has changed over the last 345 years here in the United States since 1776.<sup>44</sup> Indian policy changed as settler invaders claimed Aboriginal lands for themselves and moved across North America, becoming the dominant force on the land. American Indian policy did not begin with the United States government. Indian policy started when some of the first invading settlers, a colony of French settled near Jacksonville, Florida, in Timucuan Indigenous

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<sup>42</sup> George H. Phillips, *Indians and Indian Agents: The Origins of the Reservation system in California, 1849-1852* (Norman: University of Oklahoma, 1997), 4.

<sup>43</sup> Deloria and Wilkens, *Tribes, Treaties, & Constitutional Tribulations*, 40; and Tyler, *A History of Indian Policy*, 65.

<sup>44</sup> The United States under the sphere of the thirteen colonies became the founding states of the United States in 1776. Indian policy had begun long even before that. Indian policy started when the European nations began to colonize Indigenous lands under orders of the Papa Bulls. Under United States domain, Indian policy changed as the threat of violent attacks from Indigenous tribes with probable serious injury diminished.

territory in 1565 and a colony of English people settled in New England in Pokanoket territory in 1620.<sup>45</sup>

In 1540, Hernando de Alacrón invaded Indigenous territory in Southern California, setting the foundation for invasion and recognizing the Indigenous people not as intelligent beings but instead as a commodity. In 1851, American Indian policy was based on at least 396 years of intrusion, invasion, and deceit.<sup>46</sup> Each intruder [England, France, Mexico, Netherlands, Portugal, Russia, Spain, and the United States] brought their own laws, policies, and ideologies to Aboriginal lands. These founding regulations helped develop American Indian policies.<sup>47</sup> Between 1830-1842, the United States used treaties to acquire most Aboriginal lands in the eastern portion of the United States, and forced the tribes to move west, away from the invaders settlements, as far away as present-day Oklahoma, Iowa, Kansas, and Texas.<sup>48</sup> By the time the Whites gained control of California and the coastal waters of the Pacific Ocean, the Indian policy had changed again.<sup>49</sup>

The invaders were clueless about California's Indigenous peoples. The president of the United States, the United States Congress, and California administrators knew truly little about the Indigenous peoples of California, so officials appointed individuals to learn about the Indigenous people and report their status. California Governor Mason did

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<sup>45</sup> Kenneth S. Davis, "America's First True "Pilgrims," *Smithsonian Magazine*, May 22, 2008. <https://www.smithsonianmag.com/history/americas-first-true-pilgrims-50229713/>; and Nathaniel Philbrick, *Mayflower: A Story of Courage, Community, and War* (New York: Viking, Penguin Group, 2006), 48-49.

<sup>46</sup> Indian policy took shape over 396 years ago. It originated from the time when Hernando de Alacrón sailed up the Colorado River in 1540.

<sup>47</sup> Tyler, *A History of Indian Policy*, 21-31.

<sup>48</sup> Prucha, *The Great Father*, 78-93.

<sup>49</sup> Phillips, *Indians and Indian Agents*, 4.

a study on Native rights to the land and thought Congress would ultimately abrogate Aboriginal rights to the land.<sup>50</sup> On April 7, 1847, General Stephen W. Kearny, who marched to California, appointed John A. Sutter as field Indian agent on the Sacramento and San Joaquin Rivers.<sup>51</sup> On November 17, 1849, Sutter was officially appointed as a United States Indian agent, although he never accepted.<sup>52</sup> At the same time, Kearny also appointed General Mariano Guadalupe Vallejo as Indian agent for the area north of San Francisco. On August 1, 1847, General Kearny appointed Jesse D. Hunter as Indian agent for the area south of San Francisco to San Diego.<sup>53</sup> On April 3, 1849, President Zachary Taylor appointed Thomas King as a special agent in California.<sup>54</sup>

The men who became Indian agents did not always have the best intentions for the Indigenous people. Sutter had vicious intentions. John Sutter, for example, was a terrible person who treated the Indigenous people with sheer racial discrimination, injustice, and force. Sutter settled and operated a fort on Miwok territory.<sup>55</sup> Sutter enslaved many men, women, and children. “Sutter engaged himself in raiding for young Indian slaves to trade with other California settlers.”<sup>56</sup> He whipped people as

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<sup>50</sup> Chad Hoopes, *Domesticate or Exterminate: California Indian Treaties Unratified and Made Secret in 1852* (Eureka: Redwood Coast Publications, 1975), 8.

<sup>51</sup> U.S., *House Executive Documents*, Serial Set 573, Document 17 (Washington: GPO, 1848), 294.

<sup>52</sup> Letter from Thomas Ewing to Luke Lea, November 17, 1849. *Letters Received by the Office of Indian Affairs, California Superintendence, 1849-1880*, Microcopy 12.

<sup>53</sup> U.S., *House Executive Documents*, Serial Set 573, Document 17 (Washington: GPO, 1848), 384.

<sup>54</sup> Hoopes, *Domesticate or Exterminate*, 9; and U.S., Congress, Senate, “*Thomas Butler King’s Report on California*,” March 27, 1850. *House Executive Documents* 59. Serial 577. March 27, 1850. 2. Hathi Trust Digital Library, <https://babel.hathitrust.org/>. Hereinafter referred to Thomas Butler King’s Report.

<sup>55</sup> Albert L. Hurtado. *John Sutter: A Life on the North American Frontier* (Norman: University of Oklahoma Press, 2006), 57.

<sup>56</sup> Minyong Lee, “Circuits of Empire: The California Gold Rush and the Making of America’s Pacific,” (dissertation: University of Chicago, Illinois, 2018), 32.

punishment.<sup>57</sup> John Sutter was involved with rape of women and girls.<sup>58</sup> John Sutter was not a hero as Americans understood.<sup>59</sup> Sutter was a tyrant.

Thomas King received instructions to relay his concerns for California's welfare to the people of California, "to advise the adoption of measures suggested by the president, to gather general information on the territory, and to report any attempts by the people to establish an independent government."<sup>60</sup> On June 4, 1849, King arrived in California to gain intelligence on the status of the Indigenous people, climate, population, natural resources and gold.<sup>61</sup> King reported that the emigrant population was estimated at 115,000 in 1849, while there were 300,000 Aborigines living in California. He wrote that the Indigenous populations had severely dropped. "The remains of a vast number of villages in all the valleys of the Sierra Nevada, and among the foot-hills of that range of mountains, show that at no distant day there must have been a numerous population where there is not now and Indian to be seen."<sup>62</sup>

King in his study described the Indians as "the lowest grade of human beings."<sup>63</sup> The Indians, he continued, "have never pretended to hold any interest in the soil (as far as cultivation), nor have they been treated by the Spanish or American immigrants as

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<sup>57</sup> Hurtado, *John Sutter*, 80.

<sup>58</sup> Hurtado, *John Sutter*, 116; and Cuneyt Dil, "John Sutter Statue Removed Outside Sacramento Hospital Bearing His Name," *Associated Press*, June 16, 2020, <https://www.pressdemocrat.com/article/news/john-sutter-statue-removed-from-outside-sacramento-hospital-bearing-his-name/>.

<sup>59</sup> Eric Foner, *Give Me Liberty: An American History*, Vol. 1 (New York: W. W. Norton and Company, 2012), 374.

<sup>60</sup> Mary Pickney Kearns, "Session Diplomacy: A Study of Thomas Butler King, Commissioner of Georgia to Europe, 1861," (master's thesis, Georgia Southern University, 2006), 32.

<sup>61</sup> U.S., "Thomas Butler King's Report on California," 7.

<sup>62</sup> *Ibid.*

<sup>63</sup> *Ibid.*

possessing any;” yet, the Aboriginal people defended their land from intruders crossing their lands without permission.<sup>64</sup> Thomas Butler King suggested that United States military action be taken against the Indigenous people who would ultimately die out anyway.<sup>65</sup> King’s report persuaded members of Congress to take arms against the Indigenous people in California and to not recognize their civil rights and rights to the land.<sup>66</sup> The Aboriginal people knew something was going on but they fully did not comprehend the American invasion, its impacts, and its full potential.<sup>67</sup>

On September 28, 1850, Congress passed the law, “An Act to provide for extending the laws and judicial system of the United States to the State of California.” This was so important for the actions of the treaty agents. According to United States law, this law extended all the power and authority of the United States over California.<sup>68</sup> According to Indigenous law or Natural law, the Indigenous tribes were sovereign nations and their authority prevailed over the land. At the same time, the Indigenous people were not fully cognizant of Americans law that now presented itself.

In December 1850, the United States Senate passed a bill to grant donations of land to settlers in California. The United States acquired the land in California through the Treaty of Guadalupe Hidalgo and secured preemptive rights to settlers of California

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<sup>64</sup> Ibid, 8 and 13.

<sup>65</sup> Ibid, 8.

<sup>66</sup> Hoopes, *Domesticate or Exterminate*, 10.

<sup>67</sup> Edward Castillo interview, March 12, 2019.

<sup>68</sup> U.S., Congress. *The Congressional Globe*, V 21, Part 2: 31<sup>st</sup> Congress, First Session, book, 1850; Washington D.C.: 2012. accessed October 28, 2019, <https://digital.library.unt.edu/ark:/67531/metadc30775/m1/1061/?q=California%20treaties>.

with the California Land Act of 1851.<sup>69</sup> The land became public domain and to set in motion a policy to develop California. The California Land Act permitted settlers, not Indigenous people, to claim lands in California, and the California land commissioners reviewed the claims. Another bill was passed to “grant to the State of California certain quantities of lands of the public lands [United States] lying within said State for settlement and development.”<sup>70</sup>

Land ownership in California remained perplexing. Land grants had been under previous Spanish and Mexican control developing businesses and ranches. The Senate debated, recognizing Spanish and Mexican land grants and the Spanish and Mexican laws of land before the United States.<sup>71</sup> The United States set out to understand the land ownership in California. The Indigenous peoples had no legal ownership of lands. Under the California Land Act of 1851, settler claims were transferred to a Court of Claims.<sup>72</sup> The owners of land grants had two years to file. In 1853, the United States House of Representatives sent land commissioners to California to survey the land and questioned the legality of land ownership. The Americans claimed every part of the State had been petitioned for by non-Indians.<sup>73</sup>

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<sup>69</sup> Griswald del Castiillo, *The Treaty of Guadalupe Hidalgo*, 73; and U.S., *Congressional Globe*, Index, Volume 23:31<sup>st</sup>, 55.

<sup>70</sup> U.S., *Congressional Globe*, Index, Volume 23:31<sup>st</sup>, 55.

<sup>71</sup> Chris Perez, “Grants of Land in California Made by Spanish or Mexican Authorities” State Lands Commission (California Agencies, 1983), 1-12. accessed 2018, [https://digitalcommons.law.ggu.edu/caldocs\\_agencies/117](https://digitalcommons.law.ggu.edu/caldocs_agencies/117).

<sup>72</sup> Paul Gates, “The California Land Act of 1851,” *California Historical Quarterly* 50, no. 4 (1971), 395.

<sup>73</sup> U.S., Congress, *The Congressional Globe*, V 21, Part 2: 31<sup>st</sup> Congress, First Session, book, 1850; Washington D.C., 2045. accessed October 28, 2019, University of North Texas Libraries, Digital Library, <https://digital.library.unt.edu/ark:/67531/metadc30775/m1/1039/?q=California%20treaties>.



Figure 3.1: Map of Indigenous People and their Territories.

To manage Indian affairs, the United States selected commissioners of the Bureau of Indian Affairs. Each president chose who would be the California Indian commissioner. The California Indian commissioner created policies for governing the Indigenous people. Sometimes the governor served as the superintendent of Indian Affairs or as the ex officio Superintendent of Indian Affairs. Superintendents had agents assigned to them to work as liaisons between the settlers and Aboriginal people. Often

the Indian agents worked with military posts for assistance to arrest violators selling liquor to Indians, remove settlers from Indian land, and guard against lawlessness and violence between settlers and Indigenous peoples.<sup>74</sup>

Indian Commissioner William Medill believed the best way to deal with Indigenous peoples in California was to isolate and confine the Indians to teach them new skills until they assimilated into American culture.<sup>75</sup> The government ignored the tribes and refused to conduct treaty councils of peace and formal acts of diplomacy with tribes until settlers already claimed most of the land. In 1850, a new Indian Commissioner, Luke Lea, felt obligated to secure a permanent land base for tribes as immigrants moved onto Indigenous lands. In California, Luke Lea wanted to establish relationships with the tribes and offered trinkets of, “goods, stock animals, agriculture implements and other useful articles.”<sup>76</sup> Small gifts became one of the Indian policies of the Indian agents who were to come to California to make treaties.

Tribes defended their lands against the intrusion. With so many encounters between the original inhabitants and newcomers, both the tribes and the Whites fought against one another, leading to bloody violence.<sup>77</sup> On January 18, 1850, John McDougal replaced Peter Burnett as Governor of California. On that same day, McDougal submitted a report with four reports of disturbance in California Indian country along the Colorado

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<sup>74</sup> Tyler, *A History of Indian Policy*, 47.

<sup>75</sup> William Medill, “Report of the Commissioner of Indian Affairs,” November 30, 1848. U.S., Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs, 1848* (Washington D.C.: G.P.O., 1848), 386; and Phillips, *Indians and Indian Agents*, 4.

<sup>76</sup> Luke Lea, “Report of the Commissioner of Indian Affairs,” November 27, 1850. U.S., Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs, 1850* (Washington D.C.: G.P.O., 1850), 9.

<sup>77</sup> Lindsay, *Murder State*, 136-222.



and Gila Rivers to the south, Bear Creek, El Dorado, and Mariposa to the north. McDougal reported that the three California Indian agents “will shortly proceed to the scenes of Indian disturbances with the view of negotiating treaties” with the Indigenous people.<sup>78</sup> The State of California and the United States federal government wanted to clear the land of any hostilities, especially by Native opposition to settlement by the invaders. In response, California sent out the state militia to mow down hostilities. On the same day, Governor McDougal sent one hundred volunteer militia men to Mariposa to eradicate Indian aggressions.<sup>79</sup> In January 1851, the head of California’s state militia, General Joshua Bean, marched with fifty men to the Colorado and Gila River junction [200 miles from Temecula] to suppress hostilities.<sup>80</sup> These deadly attacks led to Congress taking action to make treaties in California and ultimately the Treaty of Temecula.

The non-Indian referred to these attacks as the Indian Wars.<sup>81</sup> Native peoples refer to these attacks as genocide. These Indian uprisings resulted from the deliberate

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<sup>78</sup> “Message from Governor McDougal in Relation to El Dorado Mariposa, Bear Creek, and Gila Expedition, San José, January 18, 1851.” California, *Journal of the Senate of the State of California*, Second Session, (San Jose: Eugene Casserly, State Printer, 1851), 599-600. California State Assembly Journals. accessed December 20, 2018, California State Assembly, Office of the Chief Clerk, <https://clerk.assembly.ca.gov/archive-list>. Hereafter cited as McDougal, “Message from Governor McDougal in Relation to El Dorado Mariposa, Bear Creek, and Gila Expedition, San José, January 18, 1851.”

<sup>79</sup> “Message from Governor McDougal in Relation to El Dorado Mariposa, Bear Creek, and Gila Expedition,” 599-600; and George H. Phillips, *Indians of the Tulare: Adoption, Relocation, and Subjugation in Central California* (Pechanga, CA: Great Oaks Press, 2016), 157.

<sup>80</sup> “Message from Quarter-Master General Joseph C. Morehead to Governor John McDougal, January 21, 1851.” State of California, *Journal of the Senate of the State of California*, Second Session, (San Jose: Eugene Casserly, State Printer, 1851), 599-600. California State Assembly Journals. accessed December 20, 2018, California State Assembly, Office of the Chief Clerk, <https://clerk.assembly.ca.gov/archive-list>.

<sup>81</sup> Letter from George W. Barbour to Luke Lea, Received February 2, 1852. *Letters Received by the Office of Indian Affairs*, 488; and “The Alta California and the Indian Reservations,” *Daily Alta California* (San Francisco: CA), September 26, 1850. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

intrusion, settlement, deadly confrontations by intruders on Native land.<sup>82</sup> The State of California and the United States federal government responded by sending state and federally sponsored militia forces against the original inhabitants on their lands and did their best to annihilate the Indigenous people.<sup>83</sup> The United States continued to dispossess the Aboriginal peoples from their land in California by force. Secretary of the Interior Alexander H. H. Stuart wrote, “The policy of removal, except under peculiar circumstances, must necessarily be abandoned; and the only alternatives left are, to civilize or exterminate them.”<sup>84</sup> The invaders believed they were destined to rise above the Indian with God on their side and therefore had the right to assume control over life itself and Native lands.<sup>85</sup> On May 30, 1850, the *Daily Alta California* reported that the military acts of violence and aggression must stop on the Indigenous people. Recent atrocious and bloody acts by the United States military on the Aboriginal people of Clear Lake and the Feathers Rivers in Central California had exposed the intention of the United States to gain title of the land.<sup>86</sup> On September 19, 1850, California Senator John Frémont proposed ten bills to transfer millions of acres of Indigenous land to the State of California.<sup>87</sup> The first bill granted 1,600,000 acres of Indigenous land for improvement

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<sup>82</sup> “Address of Dr. Wozencraft, Delivered at the Capital, on Friday Evening, Jan. 30,” *Sacramento Daily Union* (Sacramento, CA), February 2, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>83</sup> Madley, *An American Genocide*, 175.

<sup>84</sup> Phillips, *Indians and Indian Agents*, 6.

<sup>85</sup> Vine Deloria Jr., *God Is Red: A Native View of Religion* (Golden, Colorado, Fulcrum Publishing, 2003), 257.

<sup>86</sup> “The Steam Paper,” *Daily Alta California* (San Francisco, CA), May 30, 1850. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>87</sup> Frémont also sometimes spelled Fremont and Freemont. For the Treaty where John Frémont was present, the Treaty is called Camp Fremont.

and development.<sup>88</sup> California already had expanded with several small towns and ports like San Francisco, Sacramento, Los Angeles, San Diego, and Santa Barbara.

By 1850, the invasion on Indigenous California reached 200,000 invading miners in pursuit of gold and wealth.<sup>89</sup> Luke Lea believed that the Indigenous communities “held undisputed possession of the great region” and felt “entitled to compensation, not only for the right of way through their territory, but for the great and injurious destruction of game, grass, and timber” committed by soldiers, miners, and other immigrants.<sup>90</sup> The Gold Rush in California impacted the Native people negatively. The intruders quickly annihilated the Natives peoples encountered.<sup>91</sup> The invading miners and settlers moved onto the land, confronting Native resistance, which escalated to violence rapidly.<sup>92</sup> The violence intensified in California, leading to massacres of Indigenous people.<sup>93</sup>

The American Senate wanted access to preserve peace in gold mine districts of California. At the same time, the Senate wanted to extinguish the tribe’s territorial claims. The United States senators believed the California Indigenous communities were in the way of American prosperity.<sup>94</sup> The State preferred using military force and extermination

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<sup>88</sup> Madley, *An American Genocide*, 163.

<sup>89</sup> Rand E. Roe, “Gold Migrations and Goldfield Populations in the American West 1848-1880,” *The Geographical Bulletin* 28, no. 1 (1986): 6. accessed November 7, 2019, <https://gammathetaupsilon.org/the-geographical-bulletin/1980s/volume28-1/article1.pdf>.

<sup>90</sup> Luke Lea, “Report of the Commissioner of Indian Affairs,” *Annual Report of the Commissioner of Indian Affairs, 1850*, November 27, 1850. U.S., Office of Indian Affairs, (Washington D.C.: G.P.O., 1850), 9.

<sup>91</sup> Cook, *The Conflict Between the California Indian, 257-258*; and Trafzer and Hyer, *Exterminate Them*, 17-18.

<sup>92</sup> Jeffery Smith, “Made Beings,” 28.

<sup>93</sup> Trafzer and Hyer, *Exterminate Them*, 17-21.

<sup>94</sup> U.S., Congress, *Congressional Globe*, V 21, Part 2: 31<sup>st</sup> Congress, First Session, Book, 1850; Washington D.C., 1816. accessed October 27, 2019, University of North Texas Libraries, UNT Digital Library, <https://digital.library.unt.edu>. Hereinafter referred to as *Congressional Globe*, V 21, Part 2: 31<sup>st</sup> Congress, 1850.

to alleviate the “Indian” problem to get access to Indian lands in the southern part of the State flanked by Los Angeles, San Diego, and the Colorado River.<sup>95</sup> The invading settlers saw California as “a State of great wealth and power.”<sup>96</sup> White settlers wanted Indigenous lands with its trees, grasses, water sources, and gold.<sup>97</sup> Congress regretted treaties and appropriations had not been made with the tribes in California earlier, but federal legislators saw now that they had made a grave mistake.<sup>98</sup>

The Senate was not in a rush to work directly with the Natives of California unless it was in the favor of the United States. “There was no question that the Americans believed the Indians were heathen savages who had little to recommend them and who, if they were to live near or among white settlements, needed to be transformed into “civilized” human beings.”<sup>99</sup> Members of the Senate believed the Indigenous people were a substandard race of people. On May 20, 1851, Senator Robert Ward Johnson of Arkansas related, “It may be supposed by some, that because these treaties are only made with Indians, therefore an inferior order of mind and an inferior degree of intelligence only is necessary to what would be required in framing a treaty with a foreign power.”<sup>100</sup>

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<sup>95</sup> California, *Journal of the House of Assembly of the State of California at its Second Session*. Committee of Indian Affairs, April 2, 1851. (Eugene Casserly, State Printer), 1481-1482.

<sup>96</sup> U.S., “*Thomas Butler King’s Report on California*,” 4.

<sup>97</sup> “Address of Dr. Wozencraft, Delivered at the Capital, on Friday Evening, Jan. 30,” *Sacramento Daily Union* (Sacramento, CA), February 2, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>98</sup> Luke Lea, “California Superintendency,” Annual Report of the Commissioner of Indian Affairs, 1850 (Washington: Gideon & CO., 1851), 10. accessed October 16, 2018, University of Wisconsin-Madison Libraries., <http://digicoll.library.wisc.edu/cgi-bin/History/History-idx?type=browse&scope=HISTORY.COMMREP>.

<sup>99</sup> Deloria and Wilkens, *Tribes, Treaties, & Constitutional Tribulations*, 6; and “Address of Dr. Wozencraft, Delivered at the Capital, on Friday Evening, Jan. 30,” *Sacramento Daily Union* (Sacramento, CA), February 2, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>100</sup> U.S., Congress, Senate, *Congressional Globe*, Volume 23: 31st Congress, Second Session, 1851; Washington D.C., 617. accessed October 28, 2019, University of North Texas Libraries, Digital Library, <https://digital.library.unt.edu/ark:/67531/metadc30778/m1/659/?q=California%20treaties>.

Two years after the United States acquired California, no treaties with tribes had been made to establish formal relationships with tribes. Congress had failed to provide Indian agents in the West to create treaties and meaningful relationships with the Indigenous people. The issue of slavery was more important. Civil War encroached upon the United States. The House and Senate of the United States were divided on the slavery issue and if it should be allowed in the new territories, including California.<sup>101</sup> The Senate wanted to secure its slavery assets [Indigenous people] in California it believed it already managed. The United States believed it “acquired dominion over them” through the Treaty of Guadalupe Hidalgo with Mexico.<sup>102</sup> The United States saw the Indigenous people as a commodity. California already had its perpetual slaves. Indigenous men and women were sold in Los Angeles on the steps of the courthouse as slaves to the highest bidder.<sup>103</sup> At the same time, the United States wanted to secure land titles from the same people to create space for American occupation on those lands and create economic opportunity in California.

Just days after California became a State on September 11, 1850, treaties and Indigenous land titles were debated in Congress. United States Senator John Frémont of California introduced three bills to extend United States jurisdiction to California, to create an office of surveyor of public lands in California, and a bill to preserve peace with the Indian tribes in California by extinguishing their territorial claims in the gold-mine

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<sup>101</sup> Foner, *Give Me Liberty*, 377-382.

<sup>102</sup> “Report of the Select Committee of Thirteen,” *Daily Alta California* (San Francisco, CA), June 25, 1850. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>103</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 207; and Roy Matthews interview, September 5, 2015.

districts.<sup>104</sup> California Senator John Frémont, California Senator William M. Gwin, and Missouri Senator David R. Atchison devised a plan to acquire land holdings and subject the Native people to peace camps.<sup>105</sup> Senator Gwin requested that Indian commissioners be sent to find and meet with the Aboriginals people of the land and examine their rights.<sup>106</sup>

It was suggested to find men to be treaty commissioners who were not from California and had less of a bias about “Indians.” The Senators wanted commissioners who knew nothing at all about Natives and their needs or their political status as independent sovereign foreign nations. It was better to find incompetent men to address the desires of the people of the United States and not the Indigenous people. The senators wanted to appoint men who, “should not be of the character of Indian agents generally, but men who selected having a knowledge and capacity to understand the Mexican and Spanish laws and Legislation upon this subject of treating with the Indians.”<sup>107</sup> The political leaders wanted men whose first move was not to shoot an “Indian” and deny any rights to the land except for occupation.

Senator Gwin opposed sending men not already in California because of traveling expenses to the State. Texas Senator John Bell suggested the men should have money for gifts and disbursements for the tribes that signed the treaty. At the end of the day, the

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<sup>104</sup> U.S., *Journal of the Senate of the United States of America, V 41*, 31<sup>st</sup> Congress, First Session (Washington D.C., 1849-1850), 622. Library of Congress, <https://memory.loc.gov/ammem/amlaw/lwsjlink.html>; and Phillips, *Indians and Indian Agents*, 11.

<sup>105</sup> David R. Atchison was a Missouri Senator and on the Indian Committee of Senate Affairs. Robert A. Trennert Jr., *Alternative to Extinction: Federal Indian Policy and Beginning of the of the Reservation System, 1846-51* (Philadelphia: Temple University Press, 1975), 50.

<sup>106</sup> U.S., *The Congressional Globe*, V 21, Part 2: 31<sup>st</sup> Congress, 1850, 1816.

<sup>107</sup> *Ibid*, 1817.

Senators finished the discussion, approving \$100,000 to be set aside to make treaties with tribes in California.<sup>108</sup> Congress did not want to spend the \$100,000 to make treaties with the tribes in California. Congress appropriated much less for treaty deliberations with Oregon's Native people.<sup>109</sup> This is important to know because the United States did not want to spend money on Indian affairs or Indian people, whom the United States believed were incompetent and unable to manage their own affairs.

The United States government planned a new Indian policy for California called reservations.<sup>110</sup> On Monday, September 16, 1850, the United States Senate passed the bill, "An Act to Authorize the appointment of Indian Agents in California, and for other purposes."<sup>111</sup> The commissioners were to survey the habits and conditions of the Indians. Moreover, the treaty commissioners were to survey the land and its occupation.<sup>112</sup> The Indian agents' responsibilities were to remove Indians from lands wanted by the American settlers and recommend a small reservation or plot of land for the Indians occupation, remarked Michelle Shover, in her book, *California Standoff: Miners, Indians and Farmers at War, 1850-1865*.<sup>113</sup> No money was allocated for the negotiation of treaties with the Indigenous tribes of California. The act provided for the appointment of

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<sup>108</sup> Ibid.

<sup>109</sup> U.S., *Congressional Globe*. V 21, Part 2: 31<sup>st</sup> (Washington: GPO, September 28, 1850), 1850. accessed October 28, 2019, from University of North Texas Libraries, Digital Library, <https://digital.library.unt.edu/ark:/67531/metadc30775/m1/1008/?q=California%20treaties>.

<sup>110</sup> Phillips, *Chiefs and Challengers*, 96; and Tyler, *A History of Indian Policy*, 72-75.

<sup>111</sup> U.S., *The Congressional Globe*, V 21, Part 2: 31<sup>st</sup> Congress, 1850, 1828; and Phillips, *Indians and Indian Agents*, 12.

<sup>112</sup> Letter from Alexander H. H. Stuart to Orlando Brown, October 9, 1850, *Letters Received by the Office of Indian Affairs, California Superintendence, 1849-1880*, RG 75, Microcopy 46-48, Roll 32. CD, American Indian Resource Center, Los Angeles County Library. Hereafter cited to as *Letters Received by the Office of Indian Affairs, California Superintendence, 1849-1880*.

<sup>113</sup> Michele Shover, *California Standoff: Miners, Indians, and Farmers at War, 1850-1865* (Chico, CA: Stansbury Publishing, 2017), 2.

commissioners only. The United States Congress felt the tribes in California for too long have held the lands in their possession and that things must change. Congress believed the Indigenous people of California were from “savage tribes.”<sup>114</sup> Congress did not put much value or consideration into the Indigenous people of California.<sup>115</sup> Congress believed the tribes wanted just compensation for settlers passing through their land. A delegation would be sent forth to meet the tribes and tell them of what to expect in the future.<sup>116</sup>

Congress worried about its expenditures with the Aboriginal people it thought were inferior. The United States did not value the Indian and believed money should not be spent on something that does not have value. In the late afternoon, on September 28, 1850, the Senate disagreed on approving \$100,000 for treaties in California.<sup>117</sup> The United States believed it already owned all the land in California. The Senate wanted tribes to relinquish their occupational right to the land. Later that evening, the act went before the House of Representatives. Senator Johnson requested passage of the act to appoint three Indian Agents in the State of California. After a recommendation from the Committee on Indian Affairs, Johnson struck out the second passage that appropriated \$100,000 for treaties. He read the first passage three times, and it was approved without

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<sup>114</sup> “Report of the Select Committee of Thirteen,” Daily Alta California (San Francisco, CA), June 25, 1850. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>115</sup> Carmen Lucas interview, August 29, 2016.

<sup>116</sup> U.S., *Congressional Globe*, Index, Volume 23:31<sup>st</sup>, 31.

<sup>117</sup> U.S., Congress, Senate. *Congressional Globe*. V 21, Part 2: 31<sup>st</sup> Congress, First Session, 1850; Washington: 2016. accessed October 28, 2019, from University of North Texas Libraries, Digital Library, <https://digital.library.unt.edu/ark:/67531/metadc30775/m1/1008/?q=California%20treaties>.



any appropriations to fund it.<sup>118</sup> The act went before the House of Representatives for final approval and included provisions for the president to appoint three Indian agents in California. It passed.<sup>119</sup> Indian agents did not have authority to negotiate treaties with tribes while Indian commissioners did. It was the main duty of a commissioner to make treaties with tribes while the duty of the Indian agents was primarily to regulate the Indigenous people.<sup>120</sup>

The United States granted a special appropriation of \$25,000 to negotiate treaties with the tribes in California but no funds were granted for salary or expenses for the federal Indian Agents.<sup>121</sup> President Millard Fillmore assumed the presidency at the death of President Zachary Taylor and promptly appointed three men.<sup>122</sup> President Fillmore chose three men from quite different backgrounds to negotiate treaties with Native people of California.<sup>123</sup> It was a political move, one which proved devastating for the Native peoples of California. On the same day, September 28, 1850, President Millard Fillmore nominated Redick McKee of Virginia, George W. Barbour of Kentucky, and Oliver M.

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<sup>118</sup> U.S., Senate. *Congressional Globe*. V 21, Part 2: 31<sup>st</sup> Congress, 1<sup>st</sup> Session, (Washington: GPO, 1850), 2023. University of North Texas Libraries, Digital Library, <https://digital.library.unt.edu/ark:/67531/metadc30775/m1/1017/?q=California%20treaties>.

<sup>119</sup> *A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774 – 1875, Statutes at Large*, 31<sup>st</sup> Congress, 1<sup>st</sup> Session. 519. <https://memory.loc.gov/cgi-bin/ampage?collId=llsl&fileName=009/llsl009.db&recNum=546>.

<sup>120</sup> U.S., Bureau of Indian Affairs, *Laws, Regulations, Etc. of the Indian Bureau 1850* (Washington: GPO, 1869), 26. Library of Congress, <https://www.loc.gov/item/09011991/>.

<sup>121</sup> Luke Lea, “California Superintendency,” *Annual Report of the Commissioner of Indian Affairs, 1850* (Washington: Gideon & CO., 1851), 10 and 159. accessed October 16, 2018, University of Wisconsin-Madison Libraries. <http://digicoll.library.wisc.edu/cgi-bin/History/History-idx?type=browse&scope=HISTORY.COMMREP>.

<sup>122</sup> Ray Raphael, *Little White Father: Redick McKee on the California Frontier* (Eureka, CA: Humboldt County Historical Society, 1993), 17.

<sup>123</sup> Susan Lynn Sanchez, “The Selling of California: The Indian Claims Commission and the Case of the Indians of California v. the United States,” (Ph.D. diss., University of California, Riverside, 2003).

Wozencraft of California as Indian agents of California.<sup>124</sup> The Senate approved the nominations.<sup>125</sup> The appointments were political, and it came down to who knew who.<sup>126</sup>

Redick McKee was a member of the new Whig Party under the newly seated President Fillmore. Fillmore brought in his people. McKee was also an acquaintance of the new secretary of the Interior, Alexander H. H. Stuart, a Whig from Virginia. Kentucky Gov. John J. Crittendon was tasked with staffing the new office of Indian Affairs. Crittendon a friend of McKee's, recommended McKee as an Indian agent. McKee also knew the acting Commissioner of Indian Affairs, Ardavan S. Loughery. Redick McKee was a businessman and a slave owner. McKee saw California as business opportunity and envisioned the Indigenous inhabitants as a source of cheap labor.<sup>127</sup> Some regarded McKee to be a religious man.<sup>128</sup>

Orlando Brown of Kentucky, a previous Commissioner of Indian Affairs under President Taylor, recommended Colonel George W. Barbour as Indian agent.<sup>129</sup> George Barbour went to college and worked as a lawyer and politician.<sup>130</sup> Barbour later served as

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<sup>124</sup> U.S., *Journal of the Executive Proceedings of the Senate of the United States of America from December 4, 1848 to August 31, 1852, Inclusive, V III*. (Washington: GPO, 1887), 268.; and United States, *Congressional Globe*. V 21, Part 2: 31<sup>st</sup> Congress, First Session, 1850; Washington: 2016. From University of North Texas Libraries, Digital Library, <https://digital.library.unt.edu>; and Google Books. ([https://books.google.com/books?id=bseGAAAAMAAJ&pg=PA269&lpg=PA269&dq=president+fillmore+journal+september+1850&source=bl&ots=XPg153\\_r5B&sig=ACfU3U0czjwnN\\_UyIcu-uBFIBk7\\_LUum3g&hl=en&ppis=c&sa=X&ved=2ahUKewikoPSRmvr1AhWHvZ4KHQVjAfYQ6AEwEHoECAoQAQ#v=onepage&q=president%20fillmore%20journal%20september%201850&f=false](https://books.google.com/books?id=bseGAAAAMAAJ&pg=PA269&lpg=PA269&dq=president+fillmore+journal+september+1850&source=bl&ots=XPg153_r5B&sig=ACfU3U0czjwnN_UyIcu-uBFIBk7_LUum3g&hl=en&ppis=c&sa=X&ved=2ahUKewikoPSRmvr1AhWHvZ4KHQVjAfYQ6AEwEHoECAoQAQ#v=onepage&q=president%20fillmore%20journal%20september%201850&f=false)).

<sup>125</sup> U.S., *Journal of the Executive Proceedings of the Senate of the United States of America from December 4, 1848 to August 31, 1852, Inclusive, V III* (Washington: GPO, 1887), 668.

<sup>126</sup> Raphael, *Little White Father*, 18.

<sup>127</sup> Redick McKee was born in 1800 and 50 years old in 1850. In 1738, McKee's family emigrated from Ireland to the U.S. Redick McKee had a wife and raised five children. Raphael, *Little White Father*, 16.

<sup>128</sup> Raphael, *Little White Father*, 18.

<sup>129</sup> After making treaties in California, Colonel George W. Barbour served as Second Lieutenant in the Civil War in the Michigan Calvary. Hoopes, *Domesticate or Exterminate*, 27.

<sup>130</sup> "John Charles Fremont Report," Reports of Committees, The House of Representatives Made During the First Session of the 33<sup>rd</sup> Congress Volume 1, (Washington: A. O. P. Nicholson, Printer, 1854), 7.

a senator of the State of Kentucky.<sup>131</sup> Barbour got to know many people in the government. George W. Barbour was from Southern Kentucky. Many considered Barbour highly intelligent and a man of integrity.<sup>132</sup>

Senator William Gwin of California recommended Oliver Meredith Wozencraft as an Indian agent and treaty commissioner.<sup>133</sup> Like Gwin, Wozencraft was a medical doctor. Oliver Wozencraft had no experience or knowledge of the Native people. In 1849, Wozencraft caught gold fever and adventured to California. Upon his arrival, he saw thousands of Indigenous men, women, and children working the ranches. The Native population far outnumbered the non-Indigenous population. Wozencraft foresaw economic opportunity in California. Wozencraft envisioned Americans as “civilizing” Indigenous people and teaching them skills to be obedient to the Whites as a labor force.<sup>134</sup>

Oliver M. Wozencraft was born in 1814 in Ohio. By 1844, Wozencraft became an established medical doctor in New Orleans. A cholera epidemic broke out in New Orleans, where he worked four years tending to the sick. He left for Texas to get a break, where he encountered another cholera eruption. In 1849, Wozencraft received word of the gold mines in California and wanted to try his luck and change his pace. Wozencraft

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<sup>131</sup> *Journal of The Senate of the Commonwealth of Kentucky, Begun and Held in the Town of Frankfort on Monday. The Thirty First Day of December, in the Year of our Lord, 1849, and of the Commonwealth, the Fifty-Eight* (Frankfort, Kentucky: A. G. Hodges & CO., State Printers, 1849), 3.

<sup>132</sup> U.S., Reports of Committees of the House of Representatives. 33<sup>rd</sup> Congress (Washington: A. O. P. Nicholson, Printer, 1854), 119.

<sup>133</sup> Hoopes, *Domesticate or Exterminate*, 27.

<sup>134</sup> “Address of Dr. Wozencraft, Delivered at the Capital, on Friday Evening, Jan. 30,” *Sacramento Daily Union* (Sacramento, CA), February 2, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

left his family behind and followed the Gila River Trail to California and arrived in California at the age of 35.<sup>135</sup>

Oliver Wozencraft tried his luck in California for four months in the gold fields near San Francisco before his comrades selected to serve as a delegate to California's first Constitutional Convention. The Convention started on September 1, 1849. Wozencraft voted against recognizing the Indigenous inhabitants as being citizens of California or having any rights to vote or right to petition for help.<sup>136</sup> Wozencraft saw Indigenous people as inferior and undiligent.<sup>137</sup> Oliver M. Wozencraft was a signer to the 1849 California Constitution.<sup>138</sup> Wozencraft spoke against African Americans admission to the State of California.<sup>139</sup> He disliked "Blacks" and "Indians." Wozencraft voted to oppose slavery in the State of California. Yet, he kidnapped a young Yuki, an Indigenous girl, to be a slave to his family. In August 1851, while working to develop treaty relations with the tribes in the Shasta Mountains, Wozencraft and United States soldiers led a punitive campaign against her people in Northwestern California."<sup>140</sup> Wozencraft saw the "Shasta" girl about three years old alone and took her. Wozencraft wrote to his wife, "I am sending you a little present." Wozencraft returned to San Francisco where his wife

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<sup>135</sup> Barbara Ann Metcalf, "Oliver M. Wozencraft in California, 1849-1887" (master's thesis, University of California Los Angeles, CA, 1963), 3-4.

<sup>136</sup> Ross Browne, *Report of the Debates of the Convention in California on the Formation of the Formation of the State Constitution in September and October 1849* (Washington: John T. Towers, 1850), 69.

<sup>137</sup> "Address of Dr. Wozencraft, Delivered at the Capital, on Friday Evening, Jan. 30," *Sacramento Daily Union* (Sacramento, CA), February 2, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>138</sup> Hubert Howe Bancroft, *History of California. Vol. 6: 1848-1859* (San Francisco: A. L. Bancroft and Company, 1884), 288; James D. Hart, *A Companion to California* (Berkeley, University of California Press, 1987), 108.

<sup>139</sup> Dan L. Thrapp, *Encyclopedia of Frontier Biography: P-Z* (University of Nebraska Press, 1999), 1599.

<sup>140</sup> Stacy L. Smith, *Freedoms Frontier: California and the Struggle over Unfree Labor, Emancipation, and Reconstruction* (Chapel Hill: University of North Carolina Press, 2014), 1.

stayed and gave the kidnapped Indigenous girl to his wife as a gift.<sup>141</sup> Under the provision of “Act for the Government and Protection of Indians,” Wozencraft kept the young Indigenous girl as his ward, slave, and laborer for his own benefit and profit.<sup>142</sup> Wozencraft kept the girl for years as his indentured servant.<sup>143</sup> This is pointed out now to develop a character sketch of Wozencraft.

On October 15, 1850, Acting Commissioner of Indian Affairs, Ardavan S. Loughery wrote McKee, Barbour, and Wozencraft announcing suspension of functions and salaries as Indian agents. Their title as Indian Agents faded with the non-passage of any funds to support the three Indian Agents. On September 30, 1850, President Fillmore appointed the three men as Indian commissioners to hold treaties with tribes in the new state of California.<sup>144</sup> The Bureau of Indian Affairs oversaw all activities of the three Indian commissioners. The newly appointed Indian Agents had not received any correspondence of their title change from Indian Commissioners to Indian Agents from Luke Lea, Commissioner of Indian Affairs until April 12, 1851, when the Indian Agents

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<sup>141</sup> “Story of “Shasta,” An Indian Orphan,” Sacramento Daily Union (Sacramento, CA), December 15, 1856. accessed: November 22, 2019. From California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; and Taze Lamb and Jessie Lamb, "Dream of a Desert Paradise," *The Desert Magazine* (June, 1939), 22. accessed March 27, 2020, <https://repository.arizona.edu/handle/10150/310675>.

<sup>142</sup> Smith, *Freedoms Frontier*, 1.

<sup>143</sup> *Ibid*, 1.

<sup>144</sup> Luke Lea, “California Superintendency,” Annual Report of the Commissioner of Indian Affairs, 1850 (Washington: Gideon & CO., 1851), 121; Letter from Ardavan S. Loughery to Redick McKee, George W. Barbour, and Oliver M. Wozencraft, Washington D.C., Oct. 15, 1850. *Report of the Secretary of the Interior*, U.S. Congress, Senate 33<sup>rd</sup> Congress, Special Session, Executive Document 4. Serial 688, (Washington: Robert Armstrong, Public Printer, 1853), 8. Hereafter this report is cited as *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688; and Phillips, *Indians and Indian Agents*, 13.

had already made one treaty.<sup>145</sup> For this manuscript, from this point forward, the three appointed men will be labeled as Indian commissioners and treaty commissioners and not Indian agents for clarification and consistency. Many resources have not used the correct title. Acting Commissioner of Indian Affairs Ardavan Loughery wrote instructions down along with the objections for the Indian commissioners when they made treaties with the tribes in California. Acting Commissioner Loughery told Redick McKee, George W. Barbour, and Oliver M. Wozencraft, “The object of the government is to obtain all the information it can with reference to tribes of Indians within the boundaries of California, their manners, habits, customs, and extent of civilization, and to make such treaties and compacts with them as may seem just and proper.”<sup>146</sup> The instructions led to the eighteen treaties with California Aborigines, including the Treaty of Temecula.

The Bureau of Indian Affairs paid the commissioners \$8.00 a day and \$0.10 a mile.<sup>147</sup> Guidelines allowed the three men a secretary to take notes of their meetings, compose descriptions of the Aboriginal people they encountered, and write out treaties to be made with the Aboriginal leaders. Luke Lea appointed Redick McKee as disbursing agent of the allotted \$25,000. McKee made drawdowns and payments for himself and to Barbour, Wozencraft and others as needed. Lea gave instructions to meet United States

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<sup>145</sup> From this point on, the three appointed men will be addressed as commissioners unless used in other literature noted. Redick McKee to Luke Lea, Washington D.C., March 24, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 14.

<sup>146</sup> Luke Lea, “California Superintendency,” *Annual Report of the Commissioner of Indian Affairs, 1850* (Washington: Gideon & CO., 1851), 122; and Ardavan S. Loughery to Redick McKee, George W. Barbour, and Oliver M. Wozencraft, Washington D.C., Oct. 15, 1850. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 8.

<sup>147</sup> Luke Lea, “California Superintendency,” *Annual Report of the Commissioner of Indian Affairs, 1850* (Washington: Gideon & CO., 1851), 121. Hereafter cited as Lea, *Annual Report of the Commissioner of Indian Affairs, 1850*.

Indian Agent Adam Johnston in California, who was familiar with and had information on the tribes of the San Joaquin and Sacramento Rivers.<sup>148</sup> Adam Johnston claimed to have known ten different tribes.<sup>149</sup> Commissioner Luke Lea gave the three appointed United State Indian commissioners a list of tribes and two pages on instructions as a point of reference.<sup>150</sup>

Loughery instructed the Indian commissioners to meet up in California and then develop a plan of action. Loughery left it up to the Indian commissioners to decide to work together or work alone in their duties and treating with the Aborigines of the land.<sup>151</sup> Loughery directed the men to keep journals of their daily proceedings and to report everything that occurred. The men did not take journal notes regularly, nor did they describe all events. When they did document, it was very biased and in the favor of the non-Indigenous peoples. “These treaty accounts, therefore, reflect only a depiction of what translators thought tribal diplomats said or what they believed was germane to the discussion.”<sup>152</sup> Loughery also notified the three United States treaty commissioners: C. S. Todd, Robert B. Campbell, and Oliver P. Temple that worked with tribes along the southern border of the United States.<sup>153</sup> Boundary Commissioners C. S. Todd, Robert B.

In the end, Congress appropriated only \$25,000 to create treaties with tribes in California. Commissioner of Indian Affairs Luke Lea thought the amount granted was

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<sup>148</sup> Lea, *Annual Report of the Commissioner of Indian Affairs, 1850*, 121.

<sup>149</sup> *Ibid*, 91.

<sup>150</sup> *Ibid*, 122.

<sup>151</sup> *Ibid*.

<sup>152</sup> Dejong, *American Indian Treaties*, 22.

<sup>153</sup> Lea, *Annual Report of the Commissioner of Indian Affairs, 1850*, 122.

insufficient to reach the desired goals of treating with the Indigenous people.<sup>154</sup>

Commissioner Lea paid the three federal Indian commissioners a salary of \$6,750, or \$2,250 each, for the period from October 1, 1850 to June 30, 1851.<sup>155</sup> As an incentive, on October 15, the men received their first quarterly payment of \$750 in the mail with their letter from Ardavan S. Loughery, acting commissioner of Indian Affairs.<sup>156</sup>

The three commissioners all accepted. McKee, on October 19, 1850, was the first to accept his appointment as an Indian commissioner.<sup>157</sup> George W. Barbour accepted his appointment on October 26, 1850, as an Indian commissioner of California.<sup>158</sup> On October 26, 1850, Wozencraft accepted his appointment as an Indian commissioner to make treaties with tribes of California.<sup>159</sup> All three men were classified as Indian commissioners and given authority to make treaties with tribes in California. None of the men had any prior experience in consultation with Indigenous peoples; although Wozencraft must have had some experience as far as interaction with Indigenous people as he traveled through Indigenous territory taking the overland route to California a year earlier.<sup>160</sup> The President of the United States asked the men to make treaties of peace with the Aboriginal people of the land and to document what they learned from the people.

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<sup>154</sup> Lea, *Annual Report of the Commissioner of Indian Affairs, 1850*, 159.

<sup>155</sup> *Ibid*, 156.

<sup>156</sup> *Ibid*, 122.

<sup>157</sup> Letter from Redick McKee to Orlando Brown, October 26, 1850. *Letters Received by the Office of Indian Affairs, California Superintendence, 1849-1880*, 70-72.

<sup>158</sup> Letter from George W. Barbour to Orlando Brown, October 26, 1850. *Letters Received by the Office of Indian Affairs, California Superintendence, 1849-1880*, 55-56.

<sup>159</sup> Letter from Oliver M. Wozencraft to Orlando Brown, October 26, 1850. *Letters Received by the Office of Indian Affairs, California Superintendence, 1849-1880*, 53-54.

<sup>160</sup> Metcalf, "Oliver M. Wozencraft in California," 2-4.



Treaties were not new to California's Indigenous people. California Native people along the coast had negotiated a treaty previously with United States Indian Agent Colonel Vallejo. In 1848, Vallejo developed a treaty with eleven bands of Southern Pomo and Lake Miwok tribes.<sup>161</sup> Prior to this, Russian traders signed a treaty with the *Kashia Pomo* in 1817, ceding land for a Russian military outpost. Tribes had dealt with invaders, foreigners and traders for a long time.<sup>162</sup> According to the late Annie Hamilton, a Cahuilla elder and storyteller, tribes for the most part were happy in California before intrusion. The Creator gave them everything they needed.<sup>163</sup> From the Native point of view, the tribes saw themselves as the big brother and offered to help the new arrivals.<sup>164</sup>

The *Daily Alta California* reported that the Natives and the Whites for the most part lived peacefully together until gold was discovered by miners.<sup>165</sup> This is false. When White men first appeared in California, Natives were killed on sight. Ben Madley reported that one scout and surveyor for the United States Army, John C. Frémont, told his men "to shoot Indians on sight."<sup>166</sup> Miners and gold seekers with no previous knowledge or relationships with Native peoples arrived in California and killed the Native people. Upon entrance to California, the Indigenous people made relationships

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<sup>161</sup> U.S., Congress, Senate, *Federal Acknowledgment Administrative Procedures Act of 1989: Hearing Before the Select Committee on Indian Affairs, United States Senate, 101<sup>st</sup> Congress First Session, on S. 611, to Establish Administrative Procedures to Determine the Status of Certain Indian Groups, April 28, 1989 Sacramento, CA, Part 1* (Washington: GPO, 1989), 452. accessed November 22, 2019, Google Books, <http://books.google.com>.

<sup>162</sup> Edward Castillo interview by author, Rancho Mirage, CA, September 4, 2016. Hereafter cited as Edward Castillo interview, September 4, 2016.

<sup>163</sup> Annie Hamilton interview by author, Riverside, CA, May 25, 2015. Hereafter cited as Annie Hamilton interview, May 25, 2015.

<sup>164</sup> Ernest Siva interview, May 27, 2019.

<sup>165</sup> "Address of the Indian Agents," *Daily Alta California* (San Francisco, CA), January 14, 1851. California Digital Newspaper Collection, California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>166</sup> Madley, *An American Genocide*, 48.

with the intruders in the mines and helped the foreign miners; yet, as more and more invaders came, the Natives were cast aside and disregarded. The American miners and settlers hunted and killed the Indigenous people.<sup>167</sup> Soon, small California state-sponsored and state-organized militias pursued and murdered Indigenous men and women. In addition, United States federal troops received orders to kill the Aborigines who disrupted White settlement on Indigenous lands.<sup>168</sup> In Southern California there was not much gold, but miners settled on the land after not finding gold, and bought and sold parcels of Indigenous land.<sup>169</sup>

Differences existed on how to deal with the Aboriginal people. The governor of California, Peter Burnett, wanted to exterminate the Native inhabitants, while the Indian agents wanted to establish formal relationships with them to subdue them to work as slaves for White Americans.<sup>170</sup> The State was at war with the Native population, according to Indian Agent George W. Barbour.<sup>171</sup> On January 12 and 14, 1850, the *Daily Alta California* newspaper reported that the American people deceived and lied to the Native people. The Indian agents addressed the White inhabitants of California and stated their intent to make treaties of peace and friendship with tribes.<sup>172</sup> The President of the

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<sup>167</sup> Oliver M. Wozencraft to the People of California, Address. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 116-117.

<sup>168</sup> Madley, *An American Genocide*, 174-175.

<sup>169</sup> Olivia Chilcolte, "Time Out of Mind, The San Luis Rey Band of Mission Indians and the Historical Origins of the Struggle for Federal Recognition," *California History* 96, no. 4 (Winter 2019), 42-43.

<sup>170</sup> "Governors Message," *Marysville Herald*, (Marysville, CA). January 14, 1851. California Indian History, <http://calindianhistory.org/1851-history-of-california-indians/>.

<sup>171</sup> Letter from George W. Barbour to Luke Lea, Received February 2, 1852. *Letters Received by the Office of Indian Affairs, California Superintendence, 1849-1880*, 12. 487.

<sup>172</sup> "Address of the Indian Agents," *Daily Alta California*. (San Francisco, CA), January 14, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu>; and "Our Indian Relations," *Daily Alta California*, (San Francisco, CA), California Digital Newspaper Collection, January 12, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu>.

United States and the Bureau of Indian Affairs gave the Indian commissioners a mandate to make treaties of peace, not allocations of land for reservations.<sup>173</sup> Luke Lea in his annual report to Congress as the Commissioner of Indian Affairs recommended reservations be established for tribes in Indigenous California, which the United States considered as the American frontier. Lea proposed secluded and confined reservations using military force to stop the Natives from their traditional ways of collecting resources from the land. The reservation policy had not been activated yet in California.<sup>174</sup>

The three Indian Commissioners: Barbour, McKee, and Wozencraft, met in San Francisco on January 13, 1851, to discuss, “The most expedient method to be pursued.” The Indian commissioners decided initially to act together to establish treaties with the tribes.<sup>175</sup> Treaties were a western idea and not the Native way of doing things. Traditionally, California Natives came to terms with foreign tribes and groups in their own way. Usually, it was an oral agreement between the two that fostered a relationship of some kind. For example, when the ancestors of the Agua Caliente returned home after a migration, there was another group living there.<sup>176</sup> They made an oral agreement with one another to not harm the other and to respect the others’ territory, otherwise there were consequences to be dealt with. The Indian commissioners also wrote a circular to be published in the *Daily Alta California* asking the people of California for help.<sup>177</sup>

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<sup>173</sup> Madley, *An American Genocide*, 164.

<sup>174</sup> Trennert, *Alternative to Extinction*, 56.

<sup>175</sup> Letter from Redick McKee to Luke Lea, Washington D.C., January 13, 185. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 8; and Horace Parker, *The Historic Valley of Temecula: The Treaty of Temecula*, Librito No. 2 (Balboa Island, CA: Paisano Press, 1967), 4.

<sup>176</sup> Ernest Siva interview by author, Banning, CA, January 15, 2015.

<sup>177</sup> Julia Bogany interview, February 20, 2019.

On January 14, 1851, Indian Commissioners Redick McKee, George W. Barbour, and Oliver M. Wozencraft petitioned the help of the miners, settlers, and traders of the State of California who live with “Indian Troubles” to act with self-control and forbearance. The Indian commissioners believed Whites provoked the Indigenous people to retaliate. “The Indians of this country are represented as extremely ignorant, lazy and degraded.”<sup>178</sup> After gold was discovered, the Whites saw the Indigenous people as the invader and “as an intruder, as a common enemy of the whites, and in many instances shot down with as little compunction as a deer or antelope.”<sup>179</sup> In a plea for help, the Indian commissioners believed there were only two options for the Indigenous race in California: “EXTERMINATION OR DOMESTICATION.”<sup>180</sup> Wozencraft wanted domestication for he envisioned the Indigenous inhabitants working for the White man as “cheap labor” as a slave. The commissioners believed the Christians of the United States had the gift and spirit to stop the killing of the Indigenous inhabitants.<sup>181</sup> Christian domination and beliefs devastated Southern California traditional tribal nations while the treaty was implemented and subjugated Indians and their lands.<sup>182</sup>

The three men and strangers to California’s Indigenous population, primed with making treaties, decided early on that they would make treaties with those tribes that still

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<sup>178</sup> “Address of the Indian Agents,” *Daily Alta California* (San Francisco: CA), January 14, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>179</sup> Ibid.

<sup>180</sup> Ibid.

<sup>181</sup> Ibid.

<sup>182</sup> Steve Newcomb interview, September 15, 2017; and “Address of the Indian Agents,” *Daily Alta California* (San Francisco: CA), January 14, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

governed themselves and were declared by the miners, settlers, and traders as hostile.<sup>183</sup>

Moraino Patencio believed that the government gave the three Indian commissioners instructions to make peace treaties with those Indigenous communities that they deemed aggressive and violent toward the settlers to prevent injustice.<sup>184</sup> Indian commissioner George Barbour said they only wanted to meet with tribes that seemed violent.<sup>185</sup>

Additionally, they were told to make treaties with the ones who had economic power and leverage. The government wanted to increase trade. They were told to increase peace on the land where settlers and the Indigenous communities lived relatively close together.<sup>186</sup>

The United States used its power to get what it wanted. Military force most of the time was a tool used to establish American domination on Indigenous lands. It is horrible that entire settlements were wiped out. Thousands of lives were lost, and the Indigenous peoples' way of life was threatened. The Indigenous people understood what was before them. They were not ignorant. They were the keepers of the land for millennia. They did what they needed to do to survive and continued their life here on earth. The United States on the other hand, wanted more and more land without the Indian.

The American took and took until there was no more to be taken, and then took some more. The United States used its courts, plenary power, and highly paid powerful men to take the land from the rightful and original owner of the land. The United States broke treaty after treaty previously.<sup>187</sup> By the time Americans arrived in California,

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<sup>183</sup> Phillips, *Chiefs and Challengers*, 96.

<sup>184</sup> Moraino Patencio interview, September 26, 2016.

<sup>185</sup> George W. Barbour to Luke Lea, Washington D.C., Unknown Sent Date, Received Date-February 2, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 252.

<sup>186</sup> Moraino Patencio interview, September 26, 2016.

<sup>187</sup> Deloria, *Behind the Trail of Broken Treaties*, 1-21.

treaties across the continent of the American Empire had been broken multiple times by the Americans and continued to be broken.<sup>188</sup> In 1862, for example, Congress declared all treaties with the Sisseton, Wahpeton, Mdewakanton, and Wahpekute Bands in the Dakotas as “abrogated and annulled.”<sup>189</sup> Broken treaties and unratified treaties upset the Indigenous people. Yet, treaties were used to subdue the Indians, explained Lakota Jim Fenelon, professor of Psychology and Native American History, and a fierce advocate for Indigenous rights.<sup>190</sup>

Remember that the Americans came to the Indigenous people and not the other way around.<sup>191</sup> The Indigenous people had something that the Americans wanted and that was land. The Indigenous people were given the land by the Creator told Cahuilla/Apache elder Lorene Sisquoc.<sup>192</sup> They managed the land successfully and occupied the land long before any immigrants arrived. Luke Lea instructed the three commissioners to consult and review the manual, *Laws, Regulations, Etc. of the Indian Bureau 1850*, they each received.<sup>193</sup> The manual gave little instruction for the commissioners on how to conduct a treaty council or negotiate a treaty. The book outlined the laws and regulations of the Indian commissioners.<sup>194</sup> According to the

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<sup>188</sup> James Fenelon interview by author, June 18, 2018. Hereafter cited as James Fenelon interview, June 18, 2018; and U.S. Commission on Civil Rights, *Broken Promises: Continuing Federal Funding Shortfall for Native Americans* (Washington, 1918), 1.

<sup>189</sup> Dejong, *American Indian Treaties*, 30.

<sup>190</sup> James Fenelon interview, June 18, 2018.

<sup>191</sup> Carmen Lucas interview, September 21, 2017.

<sup>192</sup> Lorene Sisquoc is loved and a highly sought-out elder for her knowledge of traditional basketry and plants for food, medicine, and basketry tools. Sisquoc has a wealth of knowledge on culture, language, stories, songs, and ceremonies. Lorene Sisquoc interview, May 8, 2014.

<sup>193</sup> Letter from Charles E. Mix to Oliver M. Wozencraft, Washington D.C., August 9, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 8; and Phillips, *Indian and Indian Agents*, 14.

<sup>194</sup> Phillips, *Indians and Indian Agents*, 14.

manual, the first duty of the treaty commissioners was “to determine the time and place at which the Indians shall be convened in council, which whenever practicable, will be in the Indian country, where the intercourse can be enforced [Trade and Intercourse act of 1934].”<sup>195</sup>

The Trade and Intercourse Act is what allowed Americans to conduct trade with the Aboriginal people across the United States. The Act promoted interaction between the United States and tribes. It also promoted growth and financial gain. In October 1850, Redick McKee requested additional material to learn about current laws in California and their duties as Indian commissioners.<sup>196</sup> Commissioner Luke Lea forwarded a copy of a volume of Indian treaties published in 1837, *Treaties Between the United States of America, and the Several Indian Tribes, From 1778 to 1837*.<sup>197</sup>

Barbour, McKee, and Wozencraft got down to business and elected John McKee as secretary of the board of commissioners. They proceeded to San Jose to check on “such information as they might be able to impart, in relation to the Indians and the Indian difficulties in their respective districts.”<sup>198</sup> Scared of the Indigenous people, the Indian commissioners requested troops for an escort as they intertwined with the tribes.

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<sup>195</sup> U.S., Bureau of Indian Affairs, *Laws, Regulations, Etc. of the Indian Bureau 1850* (Washington: GPO, 1869), 26. accessed November 11, 2019. Library of Congress, <https://www.loc.gov/item/09011991/>.

<sup>196</sup> Letter from Redick McKee, Indian Agent to Ardavan S. Loughery, Acting Commissioner, Washington D.C., August 9, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 8; and Phillips, *Indians and Indian Agents*, 14.

<sup>197</sup> Letter from Luke Lea, Commissioner to Redick McKee, Indian Agent, Washington D.C., November 9, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 12; and Phillips, *Indians and Indian Agents*, 14.

<sup>198</sup> Letter from George W. Barbour, Redick McKee, and Oliver M. Wozencraft to Luke Lea, Washington D.C., February 11, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 56.

United States Army General Persifer F. Smith, officer in charge of the United States troops in California at the time, provided the Indian commissioners an escort of 101-200 military men.<sup>199</sup> The Indian commissioners declined the offer of the Governor of California for a state militia escort which had 200 men, due to the military escort already secured. The volunteer escort chastised the Indigenous people.<sup>200</sup> They spoke to Colonel Neeley who sent troops to exterminate the Indians if the treaty and Indian commissioners did not help bring peace to the area.<sup>201</sup>

The objective was still the same. The object was and always has been to extinguish Aboriginal possessory title to the land.<sup>202</sup> The American visionaries wanted all the Native land without the Native people. The treaty was an instrument of conquest to get the title of land, asserted Anthony Madrigal, a Cahuilla scholar and authority on Native American History and law.<sup>203</sup> The United States Congress wanted Indian commissioners acting as treaty commissioners who knew nothing of the new territory in California and knew nothing about Indians. This was a sure sign; things would be in

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<sup>199</sup> Letter from Redick McKee reported General Persifer F. Smith offered 101 soldiers while George Barbour reported 200 soldiers to escort the Indian Commissioners. Redick McKee to Luke Lea, Washington D.C., February 11, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 55; and George W. Barbour to Luke Lea, Washington D.C., Unknown Sent Date, Received Date-February 2, 1852, *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 250.

<sup>200</sup> Letter from George W. Barbour, Redick McKee, and Oliver M. Wozencraft to Luke Lea, Washington D.C., February 11, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 55.

<sup>201</sup> Letter from George W. Barbour, Redick McKee, and Oliver M. Wozencraft to Luke Lea, Washington D.C., February 11, 1852. U.S. Congress, Senate 33<sup>rd</sup> Congress, Special Session, Executive Document 4. Serial 688 (Washington: Robert Armstrong, Public Printer, 1853), 58.

<sup>202</sup> Letter from Edward F. Beale to Luke Lea, Washington D. C., May 11, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 329.

<sup>203</sup> Anthony Madrigal interview, June 14, 2018.



favor of the United States government's ideology using devious tactics to acquire the land.

As the treaty commissioners travelled through Indigenous territory in Central California, they witnessed Indigenous settlements and people. The Aboriginal inhabitants witnessed the caravan of one hundred plus soldiers, "three six-mule covered wagons, and some one hundred and fifty pack-mules to carry provisions, ammunition, and Indian goods."<sup>204</sup> The three commissioners, Captain E. D. Keyes, and J. Neeley Johnson, who commanded the Mariposa militia, ventured into Mariposa territory.<sup>205</sup> On February 9, 1851, Wozencraft and Barbour left the group and traveled to the Stanislaus River to visit some friendly Indians to obtain Indigenous guides, interpreters, and runners to send word to other Indigenous people for a treaty council. After commissioners secured the Native guides, the commissioners headed towards Indigenous Country in Mariposa County with a large wagon train. The Indian commissioner had gifts for those they considered "hostile tribes" to get their attention and permission for land title.<sup>206</sup> The Indian commissioners planned on obtaining beef as a major component of the treaty transaction from local ranchers in the vicinity of the treaty council.<sup>207</sup>

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<sup>204</sup> Letter from Redick McKee reported General Persifer F. Smith offered 101 soldiers while George Barbour reported 200 soldiers to escort the Indian Commissioners. Redick McKee to Luke Lea, Washington D.C., February 11, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 55.

<sup>205</sup> Hoopes, *Domesticate or Exterminate*, 34.

<sup>206</sup> Hoopes, *Domesticate or Exterminate*, 34; and Letter from George Barbour, Redick McKee, and Oliver Wozencraft to Luke Lea, Washington, D.C., February 17, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 55.

<sup>207</sup> Letter from George W. Barbour, Redick McKee, and Oliver M. Wozencraft to Luke Lea, Washington D.C., February 17, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 55.

Regarding the land itself, as the Indian commissioners conducted actual field reconnaissance, and walked through the vast domain of Indigenous people of the region, the Indian commissioners began to think and question about whose territory was it they were in. The men heard rumors of hostilities between the Whites and the Aborigines and war was on the brink. The commissioners decided to begin where the most hostilities existed. On January 6, 1851, the Mariposa Battalion was formed to hunt down and kill local Indians that caused depredations on the invader's camps.<sup>208</sup> "From the southern part of the State, and particularly in the Mariposa country, murders by the Indians were of almost daily occurrence, besides frequent depredations on the livestock and other property of the whites."<sup>209</sup> They decided to head where the most violent hostilities took place. On February 12, 1851, on the Stanislaus River, Barbour and Wozencraft met several hundred Indigenous people close to Dent's Ferry.

The commissioners relayed their intentions to Judge Dent who acted as interpreter and he relayed their objectives and plans to sign a treaty. They heard stories of the Indigenous people there themselves. Headman "Cipriano" and his four men offered to take the commissioners deeper into Mariposa territory. They crossed heavily wooded forests, rivers, and numerous villages where the people lived and sustained themselves. On February 17, 1851, they put their questions in writing to Luke Lea, Commissioner of Indian Affairs. The commissioners asked if the Indigenous people held a possessory title

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<sup>208</sup> John W. Bingaman, *The Ahwahneechees: A Story of the Yosemite Indians* (Lodi, CA: End-Kian Publishing Company, 1970), 3.

<sup>209</sup> Letter from George W. Barbour, Redick McKee, and Oliver M. Wozencraft to Luke Lea, Washington D.C. February 17, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 56-57.

to the rich territory, they lived on. The commissioners asked if they were to establish military posts for the protection of Whites and Indigenous people. A final question they asked, were the commissioners authorized to appoint someone to trade with and manage the Aboriginals after treaties are made with them?<sup>210</sup>

The Indian commissioners set out to meet with the tribes near the San Joaquin and Sacramento Rivers but closer to the Mariposa, Merced, and Tuolumne Rivers.<sup>211</sup> A large population of Indigenous people thrived and occupied the area east of San Francisco which was close to the Sierra Mountains. Some groups were friendly while others were not. The invading miners, settlers, ranchers, and traders shot and killed the Indigenous people to try to stop them from stealing cattle. The American intruders held a complete disregard for Indigenous people and their land; while the Indigenous people stole mules and cows from the interlopers to eat.<sup>212</sup>

At the end of February and beginning of March, the Indian Commissioners met with tribal chiefs, captains and headmen along the Tuolumne River explaining their intent and mission. The mission was a lie. The mission was to console the Indigenous people and make them think the United States would behave itself as it took all the land and its food, medicines, water, and other resources. The Indian commissioners feared the tribal

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<sup>210</sup> Letter from George W. Barbour, Redick McKee, and Oliver M. Wozencraft to Luke Lea, Washington D.C., February 17, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 56-59.

<sup>211</sup> Letter from George W. Barbour, Redick McKee, and Oliver M. Wozencraft to Luke Lea, Washington D.C., February 17, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 58.

<sup>212</sup> Letter from George W. Barbour and Oliver M. Wozencraft to Luke Lea, Washington D. C., March 5, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 60.

leaders with their aggressions, movements, and strong speeches with such intonation, the Indian commissioners gave in and thought about giving the tribes their own territory. The local tribes far outnumbered the small caravan of one hundred plus men. The Indian commissioners tried to figure out what they would say to the tribes. They noted there were thousands of Indigenous people everywhere. There were many more than they thought existed previously. Barbour and Wozencraft explained that there were thousands of Indigenous people in the country while there were roughly 300 settlers and miners.<sup>213</sup>

George Barbour told the Indigenous people he brought gifts of tools to plant and harvest foods. He told them schools were to be built for them to receive American instruction. He concluded that beef shall be provided upon signature. Barbour shared the advantages of submitting to the United States and signing a treaty. Barbour lied and told the Native people present, that the United States wanted to live on friendly terms with the Indigenous communities but if they continued to be hostile towards the Whites, then the Americans surely will kill them. Barbour “told them, that if they persisted in their hostility to the Whites, and continued their depredations, destruction and annihilation of their tribe would be inevitable.”<sup>214</sup>

The tribes felt threatened after listening to Barbour and the other hostile Indian commissioners. The Mariposa tribal leaders questioned whether to trust the strangers. Then on March 7, the battalion entered the Yosemite Valley where they met a group of

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<sup>213</sup> Letter from George W. Barbour and Oliver M. Wozencraft to Luke Lea, Washington D.C., March 5, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 60.

<sup>214</sup> Letter from George W. Barbour and Oliver M. Wozencraft to Luke Lea, Washington D.C., March 5, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 60.

Ahwanneechee under Chief Tenaya.<sup>215</sup> The tribal leaders received instructions to meet in the coming weeks for a treaty.<sup>216</sup> The Indian commissioners felt the arriving leaders were hostile.<sup>217</sup> On March 19, 1851 at the pre-designated spot in Northern California along the Mariposa River, the California Indian commissioners negotiated their first treaty together with six tribes of the Southern Miwok and Miwok Tribes at Camp Fremont.<sup>218</sup> The Indigenous people asked for land they found valuable between the Merced and Tuolumne Rivers. The commissioners not finding the land valuable, agreed with their request. George Barbour drafted the stipulations or articles of the treaty. The Indian commissioners through their interpreter Captain Henry Stanton Burton expressed the articles of stipulations of the treaty with whom they thought were the Aboriginal chiefs, captains, and headmen of the six tribes. The chiefs then deliberated amongst themselves and came back and signed the treaty.<sup>219</sup> The headmen and their families were removed immediately to the reservation according to United States Treaty Commissioner George W. Barbour in his report to Luke Lea, Commissioner of Indian Affairs.<sup>220</sup>

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<sup>215</sup> Deborah Valoma, *Scrap the Willow Until It Sings, The Words and Work of Basket Maker Julia Parker* (Berkeley, California, Heyday Books, 2013), 20.

<sup>216</sup> Letter from George W. Barbour and Oliver M. Wozencraft to Luke Lea, Washington D.C., March 5, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 60.

<sup>217</sup> Letter from George W. Barbour and Redick McKee to Luke Lea, Washington D.C., March 25, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 69.

<sup>218</sup> Dejong, *American Indian Treaties*, 39; and Phillips, *Chiefs and Challengers*, 96.

<sup>219</sup> Letter from Redick McKee to Luke Lea, Washington D.C., March 24, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 67-69; and Charles J. Kappler ed., *Indian Affairs: Laws and Treaties Vol. IV, Laws Compiled to March 4, 1927* (Washington: GPO, 1904), 1081-1085. accessed October 15, 2019, Hathi Trust Digital Library, <https://catalog.hathitrust.org/Record>.

<sup>220</sup> Bingaman, *The Ahwahneechees*, 4; and Letter from George W. Barbour to Luke Lea, Washington D.C., Unknown Sent Date, Received Date-February 2, 1852, *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 250.

The treaty itself became a template for all future treaties among the three Indian Treaty Commissioners George W. Barbour, Redick McKee, and Oliver M. Wozencraft.<sup>221</sup> The contents of the treaty including the articles themselves were taken from previous written and ratified treaties with tribes found in the treaty manual handbook. The commissioners used the book, *Treaties Between the United States of America, and the Several Indian Tribes, from 1778 to 1837: with a Copious Table of Contents*, to formulate and draft their first treaty and those that followed. The United States published the book in 1837. The treaties were arranged chronologically for reference. The last three treaties in the book became a template for the Treaty at Camp Fremont signed March 19, 1851. The last three treaties in the book are Treaty with the “Sioux” signed November 30, 1836, Treaty with the “Potawatamies,” signed February 11, 1837, and Treaty with the “Choctaws and Chickasaws,” signed January 1837.<sup>222</sup>

In a letter from Redick McKee to Luke Lea, to intimidate the tribal leaders, McKee recommended taking some dozen chiefs with him to Washington D.C. to see the power and resources of the American people.<sup>223</sup> As McKee wrote, he addressed differences among himself and the other Indian commissioners. Barbour and Wozencraft estimated an Aboriginal population of 200,000 to 300,000 in California, while McKee estimated 50,000-75,000. McKee said Frémont’s estimate of an Aboriginal population of

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<sup>221</sup> Robert F. Heizer, *The Eighteen Unratified Treaties of 1851-1852 Between the California Indians and the United States Government* (Berkeley: University California Riverside, 1972), 2.

<sup>222</sup> United States, *Treaties Between the United States of America, and the Several Indian Tribes, From 1778 to 1837*, (Washington D.C.: Langtree and O’Sullivan, 1837), 694-699. Hathi Trust Digital Library, <https://babel.hathitrust.org/>.

<sup>223</sup> Letter from Redick McKee to Luke Lea, Washington D.C., March 24, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 68.

40,000 was too low. McKee also pointed out that he and the other two Indian commissioners were thinking of splitting themselves up and working independently.<sup>224</sup> The Indian commissioners were greedy. Each thought they could do better than the other and saw how much opportunity existed in California when the land was taken from the Aboriginal peoples.

A month later April 29, 1851, the three Indian commissioners conducted their second treaty at Camp Barbour in Awani or Yosemite Valley.<sup>225</sup> Indian Agent Adam Johnson was instructed to manage the new reservation. He wondered how treaty stipulations would be maintained. He felt the Whites would come in and remove the Indians from the land without a military force present. Within a few days, the United State violated the treaty; the United States failed to protect the Native people from the White neighbors. Sub-Indian Agent Johnston reported a young White man got drunk. In the middle of the night, he invaded the new reservation and attempted to rape an Indigenous woman. Indigenous men grabbed the violator and beat him but did not kill him. The man threatened to kill all the Indigenous people.<sup>226</sup>

Luke Lea, on May 22, 1850, approved the stipulations of the first treaty but acknowledged the original treaty still needed approval from the United States Senate.<sup>227</sup>

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<sup>224</sup> Letter from Redick McKee to Luke Lea, Washington D.C., March 24, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 15.

<sup>225</sup> Bingaman, *The Ahwahneechees*, 4.

<sup>226</sup> Hoopes, *Domesticate or Exterminate*, 41; and Letter from Adam Johnston to Luke Lea, San Francisco, CA., April 11, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 73.

<sup>227</sup> Letter from Luke Lea to Redick McKee, George Barbour, and Oliver M. Wozencraft, San Francisco, CA., May 22, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 15.

In addition, due to the high numbers of reported Indigenous people in California, Indian Commissioner Luke Lea instructed the three Indian commissioners to work together and not to divide themselves and work independently of one another in the State. Lea was also worried about the budget of the commissioners. Their budget had been cut to \$25,000 with the fact that so much uncertainty existed about the number of Indigenous people in California.<sup>228</sup> The number of Indigenous people in California exceeded all estimates. Political dynamics might have been different if the United States had a better understanding of the Indigenous people before diving in and making treaties with so many unknowns such as numbers of people, numbers of tribes, numbers of dialects, territories of tribes, locations of settlements, and Indigenous perspectives on the world.

On May 15, 1851, the three Indian commissioners wrote the Commissioner of Indian Affairs, Orlando Brown, about the negotiated second treaty.<sup>229</sup> Included in the letter was the intent of the Board of Indian Commissioners to divide themselves up and each to take a part of California. They believed they could do more apart. On May 31, Barbour, McKee, and Wozencraft “resolved to act separately to carry out their duties.” Redick McKee, George Barbour, and Oliver M. Wozencraft drew straws. The three men sectioned the state of California into three parcels, with each assigned a section. George W. Barbour received the southern district of California. Redick McGee received the northern district of California. Oliver M. Wozencraft received the central district of

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<sup>228</sup> Letter from Luke Lea to Redick McKee, George Barbour, and Oliver M. Wozencraft, San Francisco, CA., May 22, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 15.

<sup>229</sup> Luke Lea, “California Superintendency,” *Annual Report of the Commissioner of Indian Affairs*, 1851 (Washington: Gideon & CO., 1851), 222.



California to conduct treaty negotiations.<sup>230</sup> The three treaty commissioners received payment quarterly for their duties.<sup>231</sup>

Barbour left for the south with the present escort assigned to the treaty commissioners. Barbour had to travel the longest distance and allowed to take the military escort with him on his way into Southern California. The other two Indian commissioners acquired additional smaller military escorts from the command at Benicia, thirty-eight miles northeast of San Francisco. In addition, with their division, the acting secretary, John McKee, stayed with Redick McKee who was the agent for dispensing funds. It was decided, the recorder should go with the dispensing agent to document the recordings. The other two commissioners later acquired secretaries as needed.<sup>232</sup>

The Treaty commissioners disbanded, and each set out on their own journeys of invasion trespassing through Indigenous territories. Since the beginning of the American footprint on Indigenous soil, the Americans took land that was not theirs. Over the next nine months from May to January, Indian Commissioners Barbour, McKee, and Wozencraft set across California to make treaties of “peace” to terminate Indigenous title of occupancy to the land to allow for non-Indigenous settlement on those lands. George W. Barbour conducted four treaty councils alone with a military escort. George Barbour kept

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<sup>230</sup> Allan W. Hoopes and George W. Barbour, “The Journal of George W. Barbour from May 1 to October 4, 1851” in *The Southwestern Historical Quarterly* 40, no. 2 (1936), 147.

<sup>231</sup> Redick McKee to Oliver Wozencraft, May 22, 1851. U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, (1851-1852). (Washington D.C.: National Archives, 1851-185,) 7. accessed August 31, 2016, University of North Texas Libraries, Digital Library, <https://digital.library.wisc.edu>. Hereafter this report will be cited as U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*.

<sup>232</sup> Luke Lea, “California Superintendency,” *Annual Report of the Commissioner of Indian Affairs, 1851* (Washington: Gideon & CO., 1851), 224.

a journal of his travels and the treaty councils. N. H. McLean and Kit Barbour both served as secretary for Barbour when needed.<sup>233</sup> Redick McKee conducted four treaty councils alone with a military escort. McKee hired on George Gibbs to serve as interpreter. Gibbs kept and wrote in a journal of their events and all four treaty councils are documented.<sup>234</sup> Oliver M. Wozencraft concluded eight treaty councils alone with a military escort. John Hamilton served as his recording secretary. They conducted a total of eighteen treaties in California with 139 “signatory groups.”<sup>235</sup> See *Table 6.1*. The Indian commissioners failed to meet with at least another 175 more sovereign bands of Indigenous people in their haste from March 1851 to January 1852.<sup>236</sup>

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<sup>233</sup> Allan W. Hoopes and George W. Barbour, “The Journal of George W. Barbour from May 1 to October 4, 1851” in *The Southwestern Historical Quarterly* 40, no. 2 (1936), 147.

<sup>234</sup> George Gibbs, *George Gibbs Journal of Redick McKee’s Expedition Through Northwestern California in 1851*, ed. Robert F. Heizer (Berkeley: University California Berkeley, 1972), 11-12.

<sup>235</sup> Dejong, *American Indian Treaties*, 40.

<sup>236</sup> Robert F. Heizer, “Treaties,” in *Handbook of North American Indians*, Vol. 8, California, (Washington: Smithsonian, 1978), 703.

Table 3.2: *Treaties and Indian Commissioners.*

Show	Treaty	Date of Treaty	Tribes	Commissioners
A	Treaty at Camp Belt	May 13, 1851		George B. Barbour
B	Treaty at Camp Keyes	May 30, 1851		George B. Barbour
C	Treaty at Camp Burton	June 3, 1851		George B. Barbour
D	Treaty at Camp Persifer F. Smith	June 10, 1851		George B. Barbour
E	Treaty at Dent and Valentines Crossings	May 28, 1851		Oliver M. Wozencraft
F	Treat at Camp Union	July 18, 1851		Oliver M. Wozencraft
G	Treaty at Bidwell's Ranch	August 1, 1851		Oliver M. Wozencraft
H	Treaty at Readings Ranch	August 16, 1851		Oliver M. Wozencraft
I	Treaty at Camp Colus	September 9, 1851		Oliver M. Wozencraft
J	Treaty at the Fork of Consumnes River	September 18, 1851		Oliver M. Wozencraft
K	Treaty at the Village of San Luis Rey	January 5, 1852	Cahuilla, Cúpeño, Luiseño, Serrano	Oliver M. Wozencraft
L	Treaty at the Village of San Ysabel	January 7, 1852	Kumeyaay	Oliver M. Wozencraft
M	Treaty at Camp Frémont	March 19, 1851		George M. Barbour Redick McKee Oliver M. Wozencraft
N	Treaty at Camp Barbour	April 29, 1851		George M. Barbour Redick McKee Oliver M. Wozencraft
O	Treaty at Camp Lu-pi-yu-ma	August 20, 1851		Redick McKee
P	Treaty at Camp Fernando Feliz	August 22, 1851		Redick McKee
Q	Treaty at Camp Klamath	October 6, 1851		Redick McKee
R	Treaty at Camp in Scott's Valley	November 4, 1851		Redick McKee

The United States military invaded the north and assaulted the Indigenous people. The Mariposa War started before the Indian commissioner arrived to make treaties in the spring of 1851. Governor Mason sent Captain Henry Naglee into the mountains near Yosemite Valley in pursuit of Indigenous individuals who stole some horses. The United States military took into captivity tribal Miwok leader Cechee for questioning, and then tied up Cechee to restrain him. The principal leader of the Yosemite told his son also named Cechee, to revenge him. General Nagle then executed the leader in front of everyone, including his son. Cechee took a steed and began to attack the invading invaders all around him, protecting his family, and community from the incursion of intruders who attacked and killed the Natives. Cechee's actions became known as the Mariposa War to Americans. Cechee in 1851 signed a treaty with Treaty Commissioner Oliver M. Wozencraft.<sup>237</sup>

The appointed commissioners were supposed to be some of the most intelligent, enlightened, and non-biased men chosen by the president of the United States himself to make treaties with the Aboriginal people. If non-Indians wanted to live on Indigenous land, then they did so without consent from the Aboriginal people. The Americans did not consult with the First people to live on the land, confirmed Dario Martinez, a Tongva community member.<sup>238</sup>

Americans arrived in California with a set of prefabricated ideas about the Aboriginal people which brought racial tensions, segregation, and treaties. Steve

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<sup>237</sup> Madley, *An American Genocide*, 64; and Oliver M. Wozencraft, "Indian Affairs, 1849-1850, Statement of Dr. O. M. Wozencraft," (1877), 4. The Bancroft Library, University of California, Berkeley.

<sup>238</sup> Dario Martinez interview, August 13, 2017.

Newcomb, a Shawnee and Lenape community member and American Indian historian living on Kumeyaay land, said that tribes were not recognized as being owners of the land under the American Court Case, *Johnson v McIntosh*, 1823.<sup>239</sup> The Supreme Court saw the Indigenous people as “heathens.” *Johnson v McIntosh* denied Indigenous people the rights to own their own lands. According to American law and Stephen Pevar, an attorney with American Civil Liberties Union, “Indian title is a possessory interest,” meaning the United States did not want tribes to own their land but they had a right to live on it.<sup>240</sup> The United States was completely ignorant of the Indigenous people in California.<sup>241</sup> Americans believed the Aboriginal peoples were empty vessels with no knowledge of God, science, language, and agricultural systems. In fact, just the opposite, the Indigenous people were highly intelligent with a different viewpoint on world cosmology. The Native people had no idea about western cosmology and how that played a role in the treaties they signed with American Indian commissioners.

The United States government did not really believe in treaties and did adhere to the articles and instructions within treaty framework, James Fenelon believed. By the time Americans arrived in California, treaties had been broken multiple times.<sup>242</sup>

American invaders, called “Haikos” by Serrano Jim Pine,<sup>243</sup> swarmed Southern California and forced their laws on the Indigenous peoples. In Southern California,

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<sup>239</sup> Steve Newcomb interview, September 15, 2017.

<sup>240</sup> Pevar, *The Rights of Indians and Tribes*, 24-25; and *Johnson v McIntosh*, 21 U.S. (8 Wheat.) 543 (1823).

<sup>241</sup> Prucha, *The Great Father*, 129.

<sup>242</sup> James Fenelon is professor at California State University, San Bernardino, in the territory of the Serrano people. James Fenelon interview, June 18, 2018.

<sup>243</sup> Jeffrey H. Alschul and Steven D. Shelley, *Yamisevul: An Archaeological Treatment Plan and Testing Report for CA-RIV-269, Riverside County, California* (Statistical Research, 1987), 16.

intruders taxed the Native people who still maintained their lands, creating an Indigenous uprising against the most cunning nation in the Americas. The people rose not because of the tax but because of their shrinking land base and the American invasion.

## Chapter 4



### RESISTANCE

*“If we lose this war then it is forever, never will it stop.”<sup>1</sup>*

**ANTONIO GARRA, CUPEÑO, 1851**

After 1848 with the signing of the Treaty of Guadalupe Hidalgo, the United States began building capacity to take control of California. The Compromise of 1850 brought California into the United States as a free state. Shortly thereafter, Congress created the Treaty Commission to make agreements with California tribes. While the federal government pondered its next moves, people kept moving into California and stealing Aboriginal lands. According to Professor Harlan Hoffman in his dissertation, “In the Shadow of the Mountain, The Cahuilla, Serrano, and Cupeño People of the Morongo Indian Reservation, 1885-1934,” “The invaders did not recognize any legal rights of the Indigenous people, so Indian lands became ‘free’ for the taking.”<sup>2</sup> The invaders squatted on and took control of lands, including Native settlements, fields, springs, and sacred lands.<sup>3</sup> The Indigenous leaders wanted to know who these new people were, what was

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<sup>1</sup> Letter from Antonio Garra to Juan Antonio, George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 35, File 16. Huntington Library, San Marino, CA.

<sup>2</sup> Harlan Lanas Hoffman III, “In the Shadow of the Mountain, The Cahuilla, Serrano, and Cupeño People of the Morongo Indian Reservation, 1885-1934,” (dissertation, University of California, Riverside, 2006), 3.

<sup>3</sup> Hoffman III, “In the Shadow of the Mountain,” 3.

their purpose, and most of all, how to stop the invasion that threatened their way of life. Many Native communities felt uneasy about these aggressors. The tribal leaders wanted to discuss and review problems with the intruders who invaded their territory, who carried long thunder sticks or rifles, as stated by Kumeyaay elder Yellow Sky.<sup>4</sup> The rifles scared the Aboriginal people. Yellow Sky admitted the Indians “feared the white man as a great *Chicero* [medicine man] who could make fire and noise at will with his wonderful medicine stick.”<sup>5</sup>

On March 6, 1847, Lieutenant Colonel Jonathan Drake Stevenson and the First New York Regiment arrived from New York in San Francisco, California, with ten companies consisting of about one thousand soldiers.<sup>6</sup> Kearny gave the command for the distribution of the companies from “Sonoma, Presidio, Monterey, Santa Barbara, and Los Angeles. Two companies escorted Colonel Stevenson to Los Angeles.”<sup>7</sup> After Stevenson reached San Diego, Cupeño tribal leader Antonio Garra made it a point to meet with all new military leaders. Garra met with Stevenson and told him of his frustration of the newcomers crossing his land. Stevenson made an agreement with Chief Antonio Garra, to observe and keep watch on the immigrant road that crossed his lands and to report to

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<sup>4</sup> Charles Russel Quinn and Elena Quinn, ed., *Edward H. Davis and the Indians of the Southwest*, 57.

<sup>5</sup> In 1921, Edward H. Davis who owned land near the Mesa Grande Reservation interviewed Yellow Sky who was at least one hundred years old. Ibid.

<sup>6</sup> William Heath Davis and Douglas S. Watson, *Seventy-Five Years in California: A History of Life and Events in California, Personal, Political, and Military, Under the Mexican Regime, During the Quasi-Military by the United States, and After the Government of the Territory Admission of the State to the Union* (San Francisco: J. Howell, 1929), 382. accessed January 18, 2021. Hathi Trust Digital Library, <https://babel.hathitrust.org/>; and “Colonel J. D. Stevenson Dead,” *Sacramento Daily Union* (February 15, 1894). California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>7</sup> William Heath Davis and Douglas S. Watson, *Seventy-Five Years in California*, 386.



him.<sup>8</sup> On July 6, 1847, Chief Antonio Garra led some eighty Cupeño warriors into Los Angeles.<sup>9</sup> Garra used his given title as Chief given to him from General Kearny when interacting in official capacity with the Americans. Garra entered Los Angeles to talk with American Colonel Jonathan D. Stevenson, who was stationed about one hundred miles northwest of his village. Garra wanted to establish a relationship with the Americans and address Native concerns.<sup>10</sup> Garra met with Stevenson, addressing issues such as American advancement on Native lands, displacement of families, and bloody threats on Natives peoples from the White intruders.<sup>11</sup>

Inland tribal leader Juan Antonio of the Western Cahuilla and Antonio Garra had been going to Los Angeles vying for political rights for their constituents for some time. This was not unusual. The Indigenous people wanted to establish recognition of their inherent tribal rights and tribal sovereignty. Aboriginal people had their own structure of government and laws to abide by. Juan Antonio laid down the framework for a relationship between the Americans and Aboriginal peoples. In the end, political leader Juan Antonio thought he could gain from the relationship with Americans over time. Juan Antonio was a strategist and an entrepreneur. He traded goods with other Aboriginal people all over Southern California. He traded vegetables grown at Séxhki [Agua

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<sup>8</sup> Jonathan Drake Stevenson, *Memorial and petition of Col. J.D. Stevenson of California* (San Francisco: J.R. Brodie & Co., Steam Printers, 1886), 31. accessed July 15, 2020, Hathi Trust Digital Library, <https://babel.hathitrust.org/>.

<sup>9</sup> Schwartz, *Kit Carson's Long Walk*, 39.

<sup>10</sup> Guy Trujillo interview, November 13, 2017.

<sup>11</sup> Hyer, *We Are Not Savages*, 51.

Caliente] in the desert for other food items in Los Angeles. Juan Antonio envisioned a large trade network with the Americans and his fellow tribesmen.<sup>12</sup>

Antonio Garra rode into the bustling town of Los Angeles on horseback with his Native soldiers, “armed with spears, pistols, knives, rifles, and plenty of ammunition.”<sup>13</sup>

Garra, being a businessman himself, traded for advanced weapon technology for the invader’s weapons. It was this technology, that the Americans were able to gain control of Indigenous lands.<sup>14</sup> Garra wanted the Americans to respect him and his people.

Colonel Stevenson told Garra that he and the other Natives would be well if they all maintained peace with the Americans and worked hard. Garra, not satisfied with the answer he received, requested an Indian agent be appointed in San Diego where Garra’s

relatives’ blood stained the earth from White hands. Garra wanted someone who gave him his full attention. The Indigenous people needed a liaison between them and the

Americans. Jonathan. D. Stevenson promised Garra an Indian agent to be appointed within six weeks. A member of the Mormon Battalion, Jessie B. Hunter, was appointed Indian sub-agent in August 1847.<sup>15</sup> Hunter was the third appointed federal Indian Agent

in California but the first in Southern California. Governor George Mason gave Hunter explicit instructions to protect Mission San Luis Rey near San Diego. Governor Mason

also wanted to restrict Indigenous peoples’ movement on the trails and roads and between villages and towns. Hunter made it mandatory for Indigenous people to get permits “to go

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<sup>12</sup> Moraino Patencio interview, September 26, 2016.

<sup>13</sup> Hyer, *We Are Not Savages*, 51.

<sup>14</sup> Jennings, *Invasion of America*, 33; and Cooke, *The Conflict Between the California Indian and White Civilization*, 5-9.

<sup>15</sup> Dunn, “Strategies for Survival,” 19; Hyer, *We Are Not Savages*, 51; and Albert Hurtado, *Indian Survival on the Frontier* (New Haven: Yale University Press, 1988), 91.

any distance from their houses or rancherias,” otherwise they would be locked up and jailed for not following White law. The “passport” law enforced under Governor Mason applied only to the Indigenous community; while, Americans travelled wherever and whenever they wanted.<sup>16</sup>

Garra returned home, taking the ancient trail that connected the coast, including Los Angeles, Temecula, and San Diego. Garra witnessed as the American invaders took possession and occupied the land with the power of a large military force. Garra began to reassess his position. Garra returned to the settlement of Kúpa, where the invaders’ trail known as the Emigrant Trail bisected his village. He served as mediator between the Aboriginal people and the invaders. The Indigenous people at Kúpa occupied and lived in the former adobe quarters of the asistencia that once overlapped the village of Kúpa. This was a planned strategy to show the invaders they were educated, skilled, and had permanent homes. Most other Natives lived in traditional thatched houses. Garra had many cattle, too. Garra had learned animal husbandry from the mission that once enslaved him. When Garra had served at Mission San Luis Rey in San Diego, he learned that cattle were a form of money which the Americans valued.<sup>17</sup>

Not everyone, including Indigenous people and scholars, agree on the identity of Antonio Garra and where he originated from.<sup>18</sup> Some Natives say Antonio Garra was

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<sup>16</sup> Hurtado, *Indian Survival on the Frontier*, 91-92.

<sup>17</sup> Before American currency, Native people used a currency called *quichil* by the Cahuilla, composed of a string of small shells. Guy Trujillo interview, November 13, 2017.

<sup>18</sup> Carrico, *Strangers in a Stolen Land*, 59.

Cupeño.<sup>19</sup> Others say Antonio Garra was Cahuilla, Kumeyaay, Yuman or Quechan.<sup>20</sup>

According to William J. Pink, Chairman for the Cupeño Band at Pala, Antonio Garra was not originally from Kúpa, but infiltrated it and set up his own power system to take the land and the spring. Pink declared the people of Kúupangaxwichem as weak and allowed Garra to take over as their headman.<sup>21</sup> William Pink believes Antonio Garra to be Yuman from the Colorado River. William Pink and scholar Dana Ruth Hicks both suggested Garra came from Mission San Luis Rey near the California border in Arizona and close to the international border with Mexico.<sup>22</sup> Pink asserted that the Cupeños were a small group, easygoing, and needed leadership. They found Garra to be their headman. As per William Pink, many Indigenous families moved to Kúpa from elsewhere. The story goes as Native peoples heard Americans wanted to give away land as a treaty negotiations and reservations were to be established, non-Cupeño people arrived from the Colorado River and the south. They used false identity to get recognized and get on the rolls to receive land.<sup>23</sup>

Still others say Garra was Luiseño.<sup>24</sup> Stan Rodriquez believes Garra was Kumeyaay.<sup>25</sup> The fact is Cupeño people were bordered to the north by the Cahuilla and

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<sup>19</sup> Guy Trujillo interview, November 13, 2017.

<sup>20</sup> Saubel and Elliot, *Isill Héqwas Wáxish*, 896; “Antonio Garra, the Rebel Chief,” *Daily Alta California*, (San Francisco, CA), December 19, 1851, California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; Stan Rodriquez interview, September 12, 2017; and William J. Pink interview by author, Cajon Pass, San Bernardino, CA, May 7, 2018. Hereafter cited as William Pink interview, May 7, 2018.

<sup>21</sup> William J. Pink, “Who Was Antonio Garra?: (Supposed Chief of Cupeno Indians),” CupeñoTribe.com. 2020. accessed December 15, 2020, <http://cupenotribe.com/historical-commentary>.

<sup>22</sup> Hicks, “Strategies for Survival,” 31; and William Pink interview, May 7, 2018.

<sup>23</sup> William Pink interview by author, phone, August 24, 2017.

<sup>24</sup> Carrico, *Strangers in a Stolen Land*, 59.

<sup>25</sup> Stan Rodriquez interview, September 12, 2017.

Serrano, the east by the Kamia and Quechan, to the southeast by the Kumeyaay, and to south by the Luiseño. They all intermarried. Cupeños followed Garra as a traditional leader who advocated for all Indigenous people.<sup>26</sup> “The Cupeño maintained the social organization and clan structure from the Cahuilla, and adapted the Chinigchinich religion from the Luiseño, as did the Ipai in the nearby settlements of Mesa Grande and San Ysidro. Additionally, of the two Cupeño moieties (Coyote and Wildcat), the latter was largely comprised of clans with Kumeyaay origins.”<sup>27</sup> This is important to know, because the Cupeño were aligned with the Kumeyaay through marriage and ceremony. The people in this area were all mixed [Cahuilla, Cupeño, Kumeyaay, and Luiseño], told Kumeyaay scholar Stan Rodriguez.<sup>28</sup> Antonio Garra originated from the Kaval and Auliñawich clans.<sup>29</sup> Garra maintained relationships with the Kumeyaay. Anthropologist Florence Shippek learned in her research that the Cupeños were an “intrusive conquering” tribe that took control of the land of the Kumeyaay before they settled there.<sup>30</sup>

Research including comparison of mission records, written material, and interviews with Southern California tribal people, reveal details about Antonio Garra. Antonio Garra’s father was a Cahuilla with the name Belardes.<sup>31</sup> In her book, *‘Isill Héqwas Wáxish*, Cahuilla scholar Katherine Siva Saubel states that Antonio Garra was

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<sup>26</sup> Guy Trujillo interview, November 13, 2017.

<sup>27</sup> Three original Kumeyaay clans at the Cupeño villages included: Sivimoat, Auliñawic and Tcūtnikut. Antonio Garra was related to the Auliñawic. Damon B. Akins, “Lines on the Land: The San Luis Rey River Reservation and the Origins of the Mission Indian Federation, 1850-1934” (dissertation, University of Oklahoma Norman, 2009), 24.

<sup>28</sup> Stan Rodriguez interview by author, phone, April 5, 2021. Hereafter cited as Stan Rodriguez interview, April 5, 2021.

<sup>29</sup> Strong, *Aboriginal Society*, 226; and Guy Trujillo interview, November 13, 2017.

<sup>30</sup> Strong, *Aboriginal Society*, XX.

<sup>31</sup> *Ibid.*

Cahuilla because the Cupeño were Cahuilla before the Cupeño separated away from the larger group, according to the elders. Garra's mother was Cupeño.<sup>32</sup> Antonio Garra inherited his title as chief of his tribe from his father.<sup>33</sup> For patrilineal groups, such as those in Southern California, everything was passed down through the father's side, including name, lineage, clan, and moiety. Garra married twice. His first wife was Paulina Huehix, a Luiseño woman who died. His second wife was Anselma Sahuebal [Saubel], a Cahuilla woman from Los Coyotes.<sup>34</sup> This might also be reported in William Duncan Strong's book, *Aboriginal Society* as Malvina Sauvivil.<sup>35</sup> Antonio Garra had at least two children with Saubel, Antonio Kaval and Jose Luis Kaval.<sup>36</sup> Early California Population Project Database at the Huntington Library registers only one child Antonio Garra [Chagalgues] and that is Antonio Kaval [Chagalgues]. Antonio Kaval is also identified as Antonio Garra, Jr. Antonio Garra Jr. helped to lead the attacks on Warner's Ranch. Jose Luis was the alcalde of Kúpa.

Antonio Garra was born about 1804 at the base of Hot Springs Mountain in Southern California where he learned the traditional arts and skills of his people. Elders mentored Garra as a leader. Years later, missionaries and soldiers incarcerated Antonio

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<sup>32</sup> Saubel and Elliot, *'Isill Héqwas Wáxish*, 205-206.

<sup>33</sup> Guy Trujillo interview, November 13, 2017.

<sup>34</sup> It is unclear if Anseima came from Coyote Canyon or from the territory of the Los Coyote Reservation. Phillips, *Chiefs and Challengers*, 57.

<sup>35</sup> Strong, *Aboriginal Society*, 193.

<sup>36</sup> Alvino Siva said on many occasions that William Duncan Strong's book, *Aboriginal Society* had many errors in it. Siva wished he could have had the opportunity to correct Strong. Alvino Siva further went on to say so much history is based on what Strong put in his book and it is not all true. The author believes the genealogy charts found in Strong's book are not totally correct either. It is based on information taken from a consultant years later in 1903 after the people moved from Kúpa to Pala. The consultant gave wrong information 50 years after the fact. The material is not organized correctly either indicated Siva. Antonio Garra, "Early California Population Project," The Huntington, <https://www.huntington.org/ecpp>; and Strong, *Aboriginal Society*, 193, 222, and 226.

Garra as a young man at Mission San Luis Rey to become “civilized” and receive instruction in Catholicism and learn skills such as agriculture and animal husbandry. Garra also learned to read and write Spanish in the mission.<sup>37</sup>

On January 24, 1824, at the age of 20, a Spanish priest baptized Changalangish Kaval [Antonio Garra] as Antonio “Chagalgues,” at Mission San Luis Rey, forty-two miles north of San Diego.<sup>38</sup> Antonio Garra belonged to the Kavalem clan.<sup>39</sup> Guy Trujillo believed Antonio Garra carried another name, Belardes. Belardes was Garra’s father’s ascribed name. Many family members of Garra carry the name Belardes.<sup>40</sup> Anthropologist William Duncan Strong learned that Belardes was related to Kaval.<sup>41</sup> They were one of the same. Padrones Mission Records reported Antonio Garra’s Native name as Chagalgues.<sup>42</sup> Kaval was the name of the clan Garra was from.<sup>43</sup> Changalangish was Garra’s father name and lineage name. Southern California Aborigines used their clan’s name as their surname.

With Catholic baptism(s), the Aboriginal people began to be identified by their missionized slave names. The missionaries gave the Indigenous people of California

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<sup>37</sup> Phillips, *Chiefs and Challengers*, 57.

<sup>38</sup> Antonio Garra’s baptismal record is 04284. “Early California Population Project,” The Huntington, <https://www.huntington.org/ecpp>.

<sup>39</sup> Guy Trujillo interview, November 13, 2017; and Strong, *Aboriginal Society*, 250.

<sup>40</sup> The Family name of Belardes was carried on in future generations. Guy Trujillo interview, November 13, 2017; and Strong, *Aboriginal Society*, 226.

<sup>41</sup> In 1929, William Duncan Strong wrote *Aboriginal Society in Southern California*. *Aboriginal Society*, 250.

<sup>42</sup> Phillips, *Chiefs and Challengers*, 57; and “Early California Population Project,” The Huntington, <https://www.huntington.org/ecpp>.

<sup>43</sup> There were seven clans including: Kauval (Kaval), Tcañalañic [Changalangish], Nauwilot [Laws], Djutnika (Tcütñikut), Auliñawic, Sivimoat and Potamatologic from Kúpa. Kaval, Tcañalañic, and Laws belong to the Coyote clan. Tcütñikut, Auliñawic, Sivimoat, and Potamatologic belong to the Wildcat clan. Guy Trujillo interview, November 13, 2017; and Edward Winslow Gifford, “Clans and Moieties in Southern California,” *American Archaeology and Ethnology* 14, no. 2 (1918): 198.

foreign names to break down the Indigenous identity and make the “Indians” forget who they were and where they came from over time. This was all part of the system to assimilate the Indian and introduce a new manifesto to take root.<sup>44</sup> Southern California Indigenous people did not use their Aboriginal surnames as much.<sup>45</sup> The Spanish wrote Antonio Garra’s Aboriginal surname Changalangish as “Chalgues.” Garra’s baptismal record does not indicate a surname was given. Sean Milanovich theorized that Spanish and Mexican authorities adopted the name of Belardes as his last name at some point afterward. It is recorded Jose Noca from Kúpa signed the Treaty of Temecula under the name Chan-gah-lang-ish.<sup>46</sup> According to the late Roscinda Nolasquez, a Cupeño leader and fluent speaker of the language, Changalanga means “speckled” and refers to a plant.<sup>47</sup>

This most likely was the plant used to create the sacred powerful spring at Kúpa. Núut or Chief Jose Noca Changalangish was Antonio Garra’s uncle through his father. Although documents do not mention it, William D. Strong suggests it.<sup>48</sup> William Duncan Strong, in his classic book, *Aboriginal Society in Southern California*, declared Antonio Garra was the first núut or traditional Chief in memory.<sup>49</sup> On another note, about Garra’s

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<sup>44</sup> Richard Moves Camp is a ceremonial singer for the Lakota people on the Pine Ridge Reservation. Richard Moves Camp interview by Peter Bratt, Pine Ridge Reservation, SD, July 26, 2018.

<sup>45</sup> Jane H. Hill, *A Grammar of Cupeño* (Los Angeles: University of California Press, 2005), 7-8.

<sup>46</sup> Heizer, *The Eighteen Unratified Treaties of 1851-1852*, 60.

<sup>47</sup> Hill and Nolasquez, *Mulu’wetem*, 238; William Pink interview by author, Agua Caliente Reservation, February 8, 2020. Hereafter cited as William Pink, February 8, 2020.

<sup>48</sup> Strong, *Aboriginal Society*, 193.

<sup>49</sup> *Ibid*, 250.



father, some believe a man named Elias was Garra's father.<sup>50</sup> "Garra" was the nickname of Antonio Changalangish [Antonio Garra]. Antonio Garra received the name "Garra" because he liked to grab and take things.<sup>51</sup> Antonio Garra collected cattle, tables and chairs, farm equipment, and things he could use from Mission San Luis Rey. He believed it was his anyway since the missions gave all the land back and its property to the Indigenous people. He earned the Spanish title "Garra" from these escapades. Garra means "claw," like a talon, or "to grab" in Spanish William Pink explained.<sup>52</sup> Antonio Garra and others not only took livestock from the missions but robbed from ranchers as well to feed their families and community members.<sup>53</sup> Ranchers had built up a wall with buildings and fences that discouraged Native hunters and gatherers from their natural collection areas, so they took food that was readily available.

It is important to understand the Indigenous position on the land and understand how Antonio Garra thought. Mexican law declared mission lands be returned to the Aboriginal people.<sup>54</sup> This meant that the land Garra lived on belonged to the Indigenous people. Additionally, "Besides calling for the distribution of mission lands to Indian converts, this legislation declared that new converts to obtain half of all tools, livestock, and seeds belonging to the missions."<sup>55</sup> More importantly, communal property of mission

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<sup>50</sup> Steven Hackle a professor at University California Riverside, believes Garra's father was named Elias. Steven Hackle, "Native Insurgent Literacy in Colonial California," *California History* 96, no. 4 (Winter 2019), 7; and "Early California Population Project," The Huntington, <https://www.huntington.org/ecpp>.

<sup>51</sup> William Pink interview, September 16, 2019; and Strong, *Aboriginal Society*, 222.

<sup>52</sup> William Pink interview, May 7, 2018.

<sup>53</sup> Hyer, *We Are Not Savage*, 50.

<sup>54</sup> Robert Jackson and Edward Castillo, *Indians, Franciscans, And Spanish Colonization*, 87.

<sup>55</sup> Hyer, *We Are Not Savages*, 32

lands and buildings were to be distributed back to Native converts.<sup>56</sup> Garra was proud of the name he marked for himself, but the intruders gave him the name with hate and dislike. Antonio Garra was not his real name, and it carried a negative connotation. The name “Changalangish” brings the connection to the land into play. Indigenous names connected the people to the land and to the spiritual order of things. Changalangish is Antonio Garra’s family name. It is not known if Garra went by another name. Native people did not always have more than one name and if they did it was hidden and used discreetly. For this manuscript, from this point forward, Antonio Garra will be used in place of Antonio Changalangish Kaval because that is how he is remembered and that is how he signed his name.

While serving at the Mission San Luis Rey, Antonio Garra learned to read and write Spanish.<sup>57</sup> He learned how the foreigners thought. He learned how the intruders valued the land but did not value the Aboriginal people as being equal. Whites valued the land and money, while Garra valued the people and their connections to the land, and to the people around him, as other Native peoples did. Antonio Garra was highly intelligent and maintained associations with wealthy prominent invaders. He wrote letters and corresponded with officials by publishing the letters in the local newspapers such as the *San Diego Herald* and the *Los Angeles Star*. Perhaps he was an alcalde at the Mission and regarded by all as a leader. He learned husbandry at the mission and how to grow crops. He took these skills back with him to his village at Kúpa, raised cattle, and planted

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<sup>56</sup> Robert Jackson and Edward Castillo, *Indians, Franciscans, And Spanish Colonization*, 87.

<sup>57</sup> “Antonio Garra The Rebel Chief,” *Daily Alta California* (Sacramento, CA), December 13, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

his own crops.<sup>58</sup> Garra was a businessman. He bartered with cattle, vegetables, and fruits for things he needed. Antonio Garra was a “political leader.”<sup>59</sup> There are different leaders for different things and needs. Garra was the political spokesman for the village of Kúpa.<sup>60</sup> It was Garra’s position and job to interact with outsiders. In 1851, at the age of 47, Antonio Garra planned a revolt against the American intruders from his village about sixty-five miles northwest of San Diego.<sup>61</sup>

The following narrative is important in the story of the Treaty of Temecula. It lays out unfortunate events that led to the planned rebellion, followed by the forced signing of the Peace and Friendship Treaty of Temecula with the Americans. The Garra Revolt was a beginning of a revolution because there was a movement towards fundamental socioeconomic changes. At the same time, the idea was to overthrow the Americans. The Americans took possession of the country five years earlier and installed a foreign government on tribal lands. The American invaders incorporated the town of San Diego four years after invasion. The newcomers created their constitution and set up their offices as a foreign government in the middle of Indigenous lands belonging to the Kumeyaay, Luiseño, and outlying Cupeño. San Diego government offices included “County Clerk, District Attorney, Sheriff, and Coroner, but under its powers the

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<sup>58</sup> “Matter to San Diego-Martial Law Proclaimed,” *Daily Alta California* (Sacramento, CA), December 20, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; Caughey, *The B. D. Wilson Report*, 54; and RBV. Father Juan Caballeria, *The History of San Bernardino Valley from the Padres to the Pioneers, 1810 to 1851* (San Bernardino, CA: Timer Index, 1902), 67.

<sup>59</sup> Guy Trujillo interview, November 13, 2017; and Phillips, *Chiefs and Challengers*, 82; and Strong, *Aboriginal Society*, 185.

<sup>60</sup> Guy Trujillo interview, November 13, 2017.

<sup>61</sup> William Edward Evans, “The Garra Uprising: Conflict Between San Diego Indians and Settlers in 1851.” *California Historical Society Quarterly* 45 (1966): 339-349; and Phillips, *Chiefs and Challengers*, 98-116.

Legislature added the offices of Assessor, County Attorney, County Judge, Recorder, and Treasurer.”<sup>62</sup> With its incorporation came a court of sessions with administrative and judicial powers.<sup>63</sup>

In October 1850, one month after California became a State, Charles Haraszthy became the first judge of San Diego. The White people of San Diego elected his son, Agoston Haraszthy, as sheriff of San Diego County. Some say he was the tax collector as well as an assessor.<sup>64</sup> The intruders elected Philip Crosthwaite as the true assessor which compiled the positions of the county treasurer, tax collector, and county assessor.<sup>65</sup> It is extremely important to recognize the newly formed foreign governmental in Indigenous territory including its relationships and powers. The judge and sheriff are father and son.<sup>66</sup> The Court and Judge Haraszthy instructed the assessor Crosthwaite to tax the “Indians.”

The local Aboriginal people worked like slaves for the newly elected government body with no legal framework set up on their behalf. The Indigenous people were invisible to the law at this point. Historian Donna Sefton related, “It is related that Philip Crosthwaite had a number of Indians working for him, and sometimes they grew lazy and refused to work. Then he tied them up one at a time, and gave them a good whipping,

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<sup>62</sup> Donna K. Sefton, “Justice in Old Town,” *The Journal of San Diego History* 2, no. 4 (October 1965): <https://sandiegohistory.org/journal/1956/october/justice-5/>.

<sup>63</sup> Sefton, “Justice in Old Town.”

<sup>64</sup> Ibid.

<sup>65</sup> Phillips, *Chiefs and Challengers*, 92.

<sup>66</sup> William Ellsworth Smythe, *History of San Diego, 1542-1907, An Account of the Rise and Progress of the Pioneer Settlement on the Pacific Coast of the United States* V 1, *Old Town* (San Diego: The History Company, 1907), 180. Hathi Trust Digital Library, <https://babel.hathitrust.org/>. Hereinafter referred to as Smythe, *History of San Diego*.

whereupon they went to work again.”<sup>67</sup> In 1851, José Maria Estudillo replaced Crosthwaite as the county treasurer. Estudillo owned a large ranch in San Jacinto.<sup>68</sup> At any rate, Charles Haraszthy and Agoston Haraszthy worked together to benefit themselves.<sup>69</sup> The town of San Diego had no money for public services. Haraszthy imposed fines on people of San Diego to make money. Charles Haraszthy most likely extorted money from the Aboriginal people, too.

In 1850, the City of San Diego first taxed the residents of San Diego. All the residents were levied a tax, including the Native peoples of the Cupeño, Luiseño, and Kumeyaay communities.<sup>70</sup> “According to the new American laws, Cupeños and Luiseños were ‘Mission Indians’ or ‘Christianized Indians’ and residents of San Diego County, thereby liable to pay county taxes.”<sup>71</sup> “The tax is judgement against the property.”<sup>72</sup> The Court of Session chose to tax Indigenous peoples because they had no protection and no representation. The non-Indigenous denied the Indigenous inhabitants of any civil and property rights; yet they were assessed a tax. Non-Indians continued to kill Indigenous people and it was not a crime.<sup>73</sup> The invaders considered “Indians” as substandard human beings and that is why San Diegans did not take one another to trial for killing an

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<sup>67</sup> Smythe, *History of San Diego*, 180.

<sup>68</sup> Sefton, “Justice in Old Town.”

<sup>69</sup> Ibid.

<sup>70</sup> Phillips, *Chiefs and Challengers*, 92.

<sup>71</sup> Hicks, “Strategies for Survival,” 32.

<sup>72</sup> Benjamin Hayes, “Cause of the Insurrection of the Indians,” December 22, 1851. Benjamin Hayes Scrapbook, 1847-1885, Volume 38, Unpublished Manuscript. The Bancroft Library, University of California, Berkeley. Hereafter cited as *Hayes Scrapbook 1847-18-85*, Vol. 38.

<sup>73</sup> Schwartz, *Kit Carson’s Long Walk*, 41.

“Indian.”<sup>74</sup> This sounds like a conspiracy to hold down the masses. This infuriated not only Antonio Garra, but Juan Antonio, and the other tribal leaders as well.

San Diego needed more money to fund its government and administration. The administrators of San Diego looked for other revenue sources. Haraszthy reviewed his constituents. Haraszthy said, “There is no doubt that the possessions, real and personal, of Christianized Indians, are taxable.”<sup>75</sup> Some of the more Christianized Natives such as the Aboriginal inhabitants from Kúpa should pay a tax, suggested Haraszthy. Haraszthy classified the “Mission Indians” of San Diego as residents of San Diego. In San Diego, this included the Kumeyaay, the Luiseño, and the Cupeño peoples. In 1850, Crosthwaite went to visit the village of Kúpa and assessed the Cupeño people. Haraszthy noted, the Cupeño had around one hundred acres under cultivation all watered from one spring.<sup>76</sup> Crosthwaite estimated the Cupeño should pay about \$600 for the year. The Cupeño did not want to pay. They resisted, but ultimately paid the full amount.<sup>77</sup>

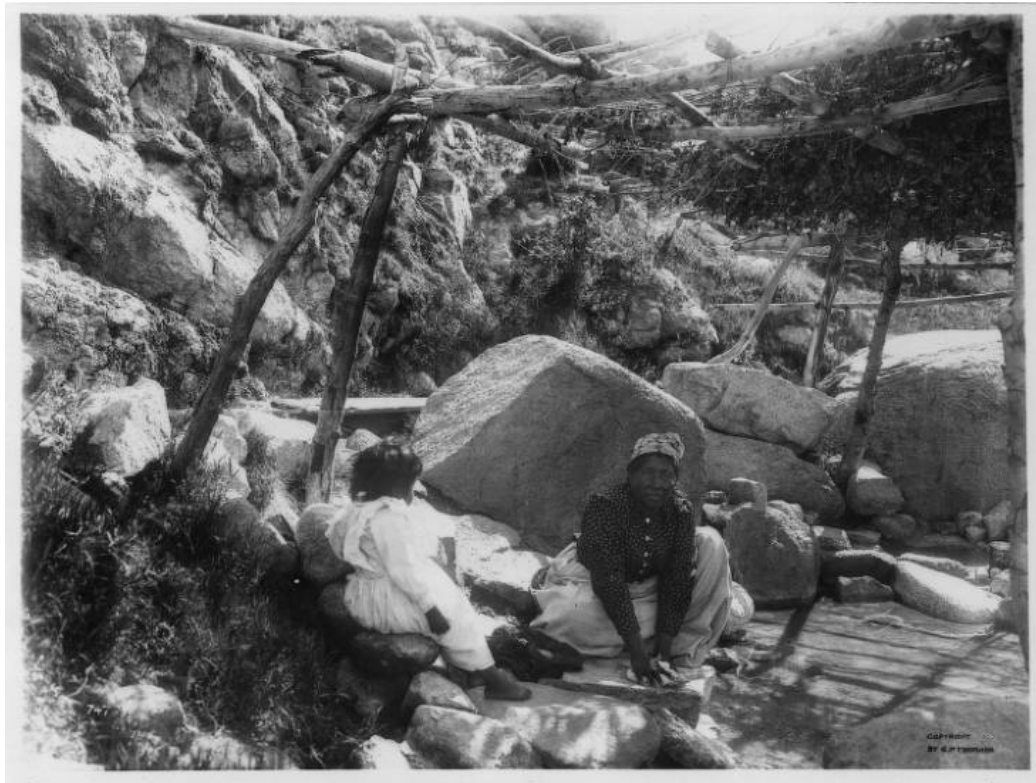
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<sup>74</sup> Cook, *The Conflict Between the California Indian and White Civilization*, 259

<sup>75</sup> Carrico, *Strangers in a Stolen Land*, 59.

<sup>76</sup> “Must They Leave: Title of Indians to Part of Warner’s Ranch in Question,” *The San Diego Union* (San Diego, CA), July 18, 1893, California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>77</sup> Phillips, *Chiefs and Challengers*, 92.



*Figure 4.1: Indigenous Women Washing Clothes at the Settlement of Kúpa. Source: Photo by Charles C. Pierce. Pierce Collection. Huntington Library.*

Antonio Garra felt furious with the tax levied on him and his people. None of the Aboriginal people agreed with the taxes. Haraszthy needed money, so he schemed and supported the taxing of the Indigenous peoples who were considered “Mission Indians.”, Mission Indians received instruction in the Christian faith. Mission Indian also meant the “Indian” had been subjugated to a Mission and now considered civilized, educated, and no longer wild but nonetheless, still considered an “Indian.”<sup>78</sup>

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<sup>78</sup> George H. Phillips, “Military Tribunal in Coyote Canyon,” 2002, 8. Part of “*Archaeological Testing at the “Garra Site” (CA-SDI-2319/H) in Coyote Canyon Anza Borrego Desert State Park, California.*” By

In 1851, the San Diego Court of Sessions assessed a tax on the Cupeño people for a second time. In late summer 1851, Major General of the California State Militia, Joshua H. Bean instructed the Indigenous people not to pay the taxes assessed by San Diego.<sup>79</sup> Joshua Bean served as San Diego's first alcalde or mayor.<sup>80</sup> On April 11, 1850, the California Senate appointed Joshua H. Bean as Major General of the Fourth Division.<sup>81</sup> General Bean stationed his base camp in San Bernardino with fifty volunteer militia men at the base of Cajon Pass protecting Los Angeles and San Diego.<sup>82</sup> Bean knew from experience not to burden the Native inhabitants, nor to give them reason to question the Americans and retaliate.

“Indians” were excluded from American citizenship until 1924. Therefore, “Indians” cannot be levied a tax, reported the *Sacramento Daily Union*.<sup>83</sup> Agoston Haraszthy, the Sheriff of San Diego, and his assistant rode out to multiple tribal villages and communities to assess tribal people and collect taxes. Haraszthy informed the Natives, if they did not pay, he had the authority and power to confiscate their cattle. The Aborigines feared the Americans, so they paid what they had in cash. Haraszthy only accepted cash to pay taxes; so, he instructed the tribal representatives who had cattle to

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Joan S. Schneider (Uncirculated, Anza Borrego State Park, 2005). Hereafter cited as Phillips, “Military Tribunal in Coyote Canyon.”

<sup>79</sup> Joshua was the first alcalde or mayor of the Pueblo of San Diego. Jack Skiles, *Judge Roy Bean Country* (Lubbock, Texas, Texas Tech University Press, 1996), 2.

<sup>80</sup> Smythe, *History of San Diego*, 233.

<sup>81</sup> California, *Journal of The Senate of the State of California*, First Session. December 15, 1849-April 2, 1850 (San José: J. Winchester, State Printer, 1850), 315-316. accessed December 30, 2018. California State Assembly, Office of the Clerk, <https://clerk.assembly.ca.gov/archive-list>. Hereafter cited as *Journal of The Senate of the State of California*, First Session. December 15, 1849-April 2, 1850.

<sup>82</sup> George William Bettie and Helen Pruitt Beattie, *Heritage of the Valley*, 84.

<sup>83</sup> “Indians as Citizens,” *Sacramento Daily* (June 1872). *Hayes Scrapbook 1847-1885, Vol. 38*, 59.



go to San Diego and sell cattle there for cash.<sup>84</sup> Antonio Garra sent his son Antonio Garra, Jr. to make a partial payment of the imposed tax. *The San Diego Herald*, reported from just the three Cupeño villages, Haraszthy collected a total of “\$250 in money, and drove off eighteen gentle milch cows, and five gentle horses and mules.”<sup>85</sup> From the village of Kúpa alone, the Native inhabitants paid a total of \$150 in cash.<sup>86</sup>

The Americans sold or confiscated Indigenous property, including cattle, horses, mules, and other items of personal property.<sup>87</sup> The tribes in the northeast part of San Diego, including the Cahuilla living in Coyote Canyon, were not assessed. They were considered “wild” and not taxable. American officials reasoned that these Cahuilla had not been introduced to Christianity and missionized. Settlers of San Diego feared most of the Indigenous tribes, especially the Cahuilla.<sup>88</sup> According to Kwaaymi tribal leader Carmen Lucas, Antonio Garra and other tribal leaders feared the Americans and did not want to be killed so they conformed.<sup>89</sup>

Cupeño leader Antonio Garra felt upset with the American invasion and the new government structure, the taking of all the resources, and the American treatment toward Aborigines. The Americans oppressed the Aboriginal peoples. The Aboriginal people

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<sup>84</sup> Leiland E. Bibb, “William Marshall, The Wickedest Man in California,” in *The Journal of San Diego History*, San Diego Historical Society Quarterly 22, no. 1 (1976), The San Diego History Center, <https://sandiegohistory.org/>; Hyer, *We Are Not Savages*, 62; and Phillips, *Chiefs and Challengers*, 92.

<sup>85</sup> Hyer, *We Are Not Savages*, 62; and “Taxing the Indians, Los Angeles News,” *Sacramento Daily Union* (Sacramento, CA), January 8, 1852. California Digital Newspaper Collection, Schneider, “*Archaeological Testing at the “Garra Site,”*” 16.

<sup>86</sup> Phillips, *Chiefs and Challengers*, 92.

<sup>87</sup> Indian Agent Oliver Wozencraft reported to Redick McKee that Indigenous property such ranch animals had been taken. The Natives were upset. Letter from Oliver M. Wozencraft to Redick McKee, Washington D.C., December 1, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 229.

<sup>88</sup> Phillips, “Military Tribunal in Coyote Canyon,” 8.

<sup>89</sup> Carmen Lucas interview, December 8, 2019.

had no civil liberties as applied in the Constitution of the United States and in American Society. Civil liberties did not apply to the Indigenous people. Aboriginals could not vote and had no legal protection from the invading settlers or the federal government. Aboriginals could not testify or take an American to court. Aboriginal people were picked up and jailed at any time without warrant. Aboriginals were forced to work in an indentured system for the White man. The masters whipped their Native laborers as punishment.<sup>90</sup> At the same time, according to the late Cahuilla leader and historian Rupert Costo, “One of the worst manifestations of oppression was in the area of sex... It was quite customary for unattached white men to make such use as they wished of the native women.”<sup>91</sup> To make matters worse, it had been reported in San Diego, White men who employed young Native teenage girls to work as domestic servants, usually sexually abused the girls.<sup>92</sup> All these actions against the Indigenous man were validated. The Whites believed the Indigenous race would disappear and become non-existent. Americans exploited Indigenous peoples and their feelings were ignored.<sup>93</sup> According to Historian James Rawls, in his book *The Indians of California: The Changing Image*, the Indian population dropped.

*Generally, Whites regarded this process as inevitable. The extinction of the Indian population by disease and violent conflict was seen as an unavoidable consequence of contact between the two races. Furthermore, there were whites on the California frontier who had dedicated themselves to making extinction a certainty. They advocated and carried out a program of genocide that was*

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<sup>90</sup> Lindsay, *Murder State*, 154.

<sup>91</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 183.

<sup>92</sup> Lindsay, *Murder State*, 155.

<sup>93</sup> Rawls, *Indians of California*, 171-201.

*popularly called “extermination,” and in the process thousands of California Indians were killed.*<sup>94</sup>

### **Indian Commissioners**

On June 10, 1851, Indian Treaty Agent George Barbour reached the southern end of the San Joaquin Valley bordered to the west by the San Emigdio Mountains and to the east by the Tehachapi Mountains and conducted a treaty session with eleven groups of tribal people, including “Texon, Cas-take, San Juris, Woas, Carises, Buena Vista, Lenahuon, Hol-e-clame, Cho-ho-nuts, Tocia, and Hol-mie-uhs.” Barbour estimated 600 tribal delegates participated.<sup>95</sup> Barbour noted the tribes were small having been decimated by smallpox and war.<sup>96</sup> Tribal representation included the Kitanemuk, Chumash, Tataviam, Tubatulabal, Paiute, and Yokut.<sup>97</sup>

After the treaty doings, Barbour left the San Joaquin Valley through the Tejon Pass and continued south to the Pueblo of Los Angeles.<sup>98</sup> On June 15, 1851, Barbour and his military escort, commanded by United States Captain Erasmus D. Keyes of the 3<sup>rd</sup> Artillery, camped within one mile west of Mission San Fernando at the north end of the San Fernando Valley.<sup>99</sup> The Pacific Ocean was some twenty miles southwest from there.

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<sup>94</sup> Ibid, 171.

<sup>95</sup> Letter from George W. Barbour to Luke Lea, Washington D.C., Received February 2, 1852, *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 256.

<sup>96</sup> Letter from George W. Barbour to Luke Lea, Washington D.C., Received February 2, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 256.

<sup>97</sup> “Who We are Today,” Tejon Indian Tribe, <https://www.tejonindiantribe.com/>.

<sup>98</sup> The United States built Fort Tejon in the middle of the Tejon Pass in 1854 to protect the people of Los Angeles from foreign threats including threats from local Indigenous people. The fort restricted Indigenous people from using the corridor of the Central Valley to the southern part of the State.

<sup>99</sup> Alban B. Hoopes and George W. Barbour, “Journal of George W. Barbour, May 1, to October 4, 1851: II,” *The Southwestern Historical Society* 40, no. 3 (Jan. 1937), 250. JSTOR, <https://www.jstor.org/>.

Hundreds of Natives lived around Mission San Fernando, mostly Tataviam; but others as well, including the Acjachemen, Chumash, and Gabrielino Tongva lived near the mission.<sup>100</sup> General Joshua Bean reported the Natives around the mission to be friendly. Barbour believed the Native people were “approachable” and did not seem to pose a threat to Americans; Barbour thought no treaty was needed for the Native people around Mission San Fernando, so the military escort was disbanded.<sup>101</sup>

At the Mission, Barbour learned he did not have to worry about the tribes in the vicinity of Los Angeles as a risk to American lives or commerce. General Joshua Bean and Lieutenant Stevenson sent word to Barbour that the “Indians” in Los Angeles were friendly and no treaty was needed with them, either.<sup>102</sup> The Spanish colonized the Tongva and Los Angeles Basin with sheer force and genocidal actions and left the Tongva Nation broken and other tribes “in a continual state of mourning,” repeated Tongva scholar Cindi Alvitre.<sup>103</sup> The late Tongva elder Julia Bogany reported that the Tongva resisted the Americans and the previous invaders.<sup>104</sup> The Americans invaders conspired together not to make a treaty with Native Americans in the Los Angeles Basin, so the settlers could claim all the land and resources. On June 16, 1851, George W.

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<sup>100</sup> Chester King and Thomas C. Blackburn. “Tataviam,” *Handbook of North American Indians, California*, Vol. 8. Ed. Robert Heizer (Washington: Smithsonian, 1978), 535-537.

<sup>101</sup> Letter from George W. Barbour to Erasmus. D. Keys, June 17, 1851. *Letters Received by the Office of Indian Affairs, California Superintendence, 1849-1880*, RG 75, Microcopy 12, Roll 32. CD, American Indian Resource Center, Los Angeles County Library, Huntington Park, CA. 530. Hereinafter referred to as *Letters Received by the Office of Indian Affairs*.

<sup>102</sup> Letter from George W. Barbour to Erasmus. D. Keys, June 17, 1851. *Letters Received by the Office of Indian Affairs*, 530; and Julia Bogany interview, February 20, 2019.

<sup>103</sup> Charles A. Sepulveda, “California Mission Projects: The Spanish Imaginary in Riverside and Beyond,” (dissertation, University California, Riverside, 2016), 23.

<sup>104</sup> Julia Bogany interview, February 20, 2019.

Barbour camped four miles outside of Los Angeles near Mission San Gabriel. On June 17, Barbour relieved Captain Erasmus D. Keyes and his soldiers from duty.<sup>105</sup>

Barbour looked forward to reaching the Pueblo of Los Angeles to receive funding to continue his journey east to the Colorado River, and then south to San Diego at the international border to make treaties with tribes there.<sup>106</sup> While in Los Angeles, Barbour heard of recent events that caused much excitement. For one, a group of Cahuilla led by Chief Juan Antonio defeated the Irving Gang and killed all but one of its members near present-day San Timoteo Canyon about seventy miles east. reported the *Daily Alta California*.<sup>107</sup> In addition, at the beginning of June 1851, a group of Native warriors killed twenty-two silver miners, one hundred miles north of Los Angeles at Mount Quirinal.<sup>108</sup>

John Irving and his gang of desperados had stolen a silver saddle, a horse bridle, and clothes from José del Carmen Lugo's ranch in Yucaipa, close to the Serrano village of Yucaip't "the place where water gathers." Some Serrano, Tongva, Cahuilla men worked as cowboys at the Lugo ranch. Juan Antonio and his men watched from a distance before Antonio and about forty of his men went after Irving and his men.<sup>109</sup>

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<sup>105</sup> Letter from George W. Barbour to Erasmus. D. Keys, June 17, 1851. *Letters Received by the Office of Indian Affairs*, 530.

<sup>106</sup> Letter from George W. Barbour to Luke Lea, Received February 2, 1852. *Letters Received by the Office of Indian Affairs*, 487.

<sup>107</sup> Juan Antonio went after the Irving Gang that killed, robbed, and stole from people in Southern California. Whites were too afraid to act. Juan Antonio did not like thievery entering his lands, so he took action. In a gun fight, all but one man of the Irving Gang escaped. Hanks, *This War Is for a Whole Life*, 22-24; and "Events Since the Last Sailing of the Last Steamer," *Daily Alta California* (Los Angeles, CA), June 30, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu>.

<sup>108</sup> "Our Southern Correspondence," *Daily Alta California* (Los Angeles, CA), July 10, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu>.

<sup>109</sup> George William Bettie and Helen Pruitt Beattie, *Heritage of the Valley*, 84-85.

Antonio and his men rode fast to Yucaipa, and the Irving Gang fled, taking the trail that today people drive south from Yucaipa to Moreno Valley; Antonio and Irving clashed near the modern-day railroad tracks and then turned west into the hills. The Cahuilla warriors trapped the Irving desperados in Live Oak Canyon, a side canyon where Irving could not escape. Their horses were exhausted, and Juan Antonio and his warriors caught the Irving Gang. George Evans of the Irving Gang was the only gang member to escape. He stole a mule from the Lugo Ranch, where he rode to the Colorado River and reported the attack as if the White men were blameless.<sup>110</sup>

The call went out to punish the Cahuilla for Antonio's killing of the Irving Gang. It got so bad and dangerous for Juan Antonio and his people, they fled to the mountains. The White colonizers sent two hundred men to hunt down and kill Juan Antonio.<sup>111</sup> José del Carmen Lugo stepped in to explain that Antonio and the Cahuilla worked for him as cowboys and guards against cattle and horse rustlers. Even General Joshua Bean tried to tell the people that Juan Antonio and the Cahuilla wanted a workable relationship with the White settlers.<sup>112</sup> "The Cahuilla remained at this time the most powerful threat to White imperialism in Southern California, but Juan Antonio knew that adaptation, compromise, and finally deception were the only real weapons at his command."<sup>113</sup> Even though Juan Antonio terminated the threat of the Irving Gang, the fact that an "Indian"

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<sup>110</sup> *Hayes Scrapbook 1847-18-85, Vol. 38*, 68; and Clifford Trafzer, Personal Communication with author, June 15, 2020.

<sup>111</sup> "Decimation of Irving and His Party\_Arrival of Immigrants\_Domestic Intelligences," *Daily Alta California* (Los Angeles, CA), June 17, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu>.

<sup>112</sup> Hanks, "Vicissitudes of Justice," 238.

<sup>113</sup> Hanks, *This War is for a Whole Life*, 22-23.

killed a White men was unthinkable.<sup>114</sup> American authorities suggested to Indian Commissioner Barbour to make a treaty with the tribal people that the settlers considered a threat. The invaders underestimated the Indigenous people throughout California.

On June 17, 1851, George Barbour sent a dispatch to tribal leaders he would be coming to negotiate with the “San Luis Rey Indians,” and the Cahuilla at Chino Ranch of Isaac Williams in June or July. General Joshua Bean and his soldiers would accompany Barbour to Chino Ranch for the treaty with the tribes.<sup>115</sup> General Joshua Bean carried and delivered the message to Juan Antonio.<sup>116</sup> Juan Antonio liked the idea of a treaty with the Americans so he could protect his people and establish a better economic trade system with the Americans.<sup>117</sup> A treaty or alliance was not new to Juan Antonio and the Cahuilla. For many years, the Cahuilla had their own tribal alliances. As a matter of fact, Juan Antonio made an alliance with the Californios or Mexican authorities to guard against depredations from thieves in the San Bernardino Valley with José del Carmen Lugo, whose carried the title Justice of the Peace.<sup>118</sup> Lugo gave Antonio legal permission and papers that allowed him to kill thieves from desperados and not be penalized for it.<sup>119</sup>

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<sup>114</sup> Leonard B. Waitman, “The Watchdog of San Bernardino Valley, Chief Juan Antonio, Lorenzo Trujillo,” *San Bernardino Museum Association Quarterly* 43, no. 3 (Winter 1970), 6.

<sup>115</sup> “Indian Traits,” *Hayes Scrapbook 1847-18-85, Vol. 38, 67*; “Colonel Barbour,” *Los Angeles Star* (Los Angeles, CA), June 28, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; Phillips, *Chiefs and Challengers*, 96-97; and Letter from George W. Barbour to Luke Lea, July 28, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 124.

<sup>116</sup> Letter from George W. Barbour to General J. H. Bean, June 17, 1851. *Hayes Scrapbook 1847-18-85, Vol. 38, 2*.

<sup>117</sup> Moraino Patencio interview, September 26, 2016.

<sup>118</sup> Hanks, *This War is for a Whole Life*, 22-23; and “Decimation of Irving and his Party-Arrival of Immigrants-Domestic Intelligence,” *Daily Alta California* (Sacramento, CA), June 17, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>119</sup> “Decimation of Irving and his Party-Arrival of Immigrants-Domestic Intelligence,” *Daily Alta California* (Sacramento, CA), June 17, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

Americans did not like the idea that Juan Antonio, a Indian killed, was given authority to kill non-Indians. Further, Juan Antonio now wanted an official relationship with the Americans. He wanted to conduct business with the Americans. After talking with rancher Julian Isaac Williams, George Barbour confirmed the proposed treaty location at his ranch, which was close to the Cahuilla village of Politana, home of Juan Antonio. Barbour told the leaders to meet at Santa Ana del Chino Ranch, owned and operated by Isaac Williams.<sup>120</sup>

Not knowing the area, George Barbour asked General Joshua Bean to help him to notify the San Luis Rey tribe and the Cahuilla of a future treaty council. The San Luis Rey tribes included Cupeño and Luiseño tribes from the communities of Kúpa, Teméeku, Palomar Mountain, and San Luis Rey and many more.<sup>121</sup> Cahuilla settlements included numerous villages in the San Gorgonio Pass, Coachella Valley, and Santa Rose Mountains. The major villages included Politana, Malki, Paui, and more.<sup>122</sup> Additionally the Serrano under Santos Manuel may have been alerted as well. Americans invited Native leaders, such as Juan Antonio, Antonio Garra, Manuel Cota, Pablo Apis, and Santos Manuel.

Neither Barbour nor most of the local White settlers knew the tribes well. The settlers grouped all the tribal people within the vicinity of Mission San Luis Rey and

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<sup>120</sup> "Southern Intelligence, The Cahuillas," *Daily Alta California* (Los Angeles, CA), July 24, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>121</sup> For a large list of affiliated tribes and communities of San Luis Rey, see Phillip Steadman Sparkman, "The Culture of the Luiseño Indians," in *American Archaeology and Ethnology* 8, no. 4 (1908), 191-192.

<sup>122</sup> For a list of Cahuilla bands and territory see Lowell John Bean, "Cahuilla," in *Handbook of North American Indians*, V 8. (Washington: Smithsonian Institution, 1978), 576; and Bean, Vane, and Young, *The Cahuilla Landscape*, 1-104.



labeled them as San Luis Rey Indians. The American intruders labeled the Natives in Los Angeles as Gabrielinos because of their association with the mission, but the people called themselves Tongva. The tribes east of Los Angeles included Cahuilla, Tongva, Serrano, and Luiseno. The American settlers remained ignorant of the tribes, and generally American settlers failed to make amicable or working relationships with the Indigenous peoples.

Tribal leaders heard that George W. Barbour conducted a treaty with tribes near Tejon Pass, ninety miles northwest of Los Angeles. Most Southern California tribes heard Indian commissioners met with tribes up north and made treaties, and they, too, had a chance to meet with United States governmental officials. This is what Juan Antonio and Antonio Garra both wanted. Juan Antonio and Antonio Garra wanted to be taken seriously and recognized by American settlers and government. Juan Antonio and Antonio Garra wanted the Americans to treat the Indigenous peoples as human beings and as people with rights to Indigenous lands. Juan Antonio thought this might be an excellent chance to establish a political and progressive relationship with the Americans. Garra tried the previous four years to establish a formal relationship with American authorities.<sup>123</sup> White Americans saw many of the Cahuilla as “wild,” not Christianized, and thus ignored the Cahuilla for years. Alternatively, Americans viewed Antonio Garra’s Cupeño people as Christianized and less aggressive and dealt with them

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<sup>123</sup> Stevenson, *Memorial and petition of Col. J.D. Stevenson of California*, 31.

periodically.<sup>124</sup> Still, the White saw the San Luis Rey tribes of the Cupeño and Luiseño as “Indians” and did not pay much attention to them, except to demand they pay taxes.

Juan Antonio and Antonio Garra wanted the freedom to live on their lands and trade without being bothered. They wanted a safe place to live for future generations without any more problems such as being hunted and killed by White settlers, state and local militias, and federal armies. Furthermore, they wanted Americans to stop hunting down Indigenous peoples and selling them into slavery rings. Garra did not like American travel permits. On November 1, 1847, a general law went into effect, guiding all settlers who hired “Indians” to issue “Indians” permits to them. The law required all “Indians” to carry work permits. Those “Indians” that did not have such permits and found “loitering” were arrested.<sup>125</sup> Furthermore, Antonio Garra did like being taxed. There was no benefit Garra, or other Native peoples received from the tax collections. Juan Antonio and Antonio Garra were ready to sign a treaty.

Rancho San Bernardino and Ranch Sana Ana del Chino, owned by the Lugo brothers and their brother in-law Julian Isaac Williams, were situated near Politana, located about five miles south of present-day San Bernardino and few miles west of the Santa Ana River. Fresh water and mineral springs were active in the area known today as Colton.<sup>126</sup> The Santa Ana watershed provided fresh water, plants for medicine, food, ceremony, and baskets. Trees and tulle lined the riverbank, which Natives used for tools

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<sup>124</sup> “II.-Cahuillas,” *Hayes Scrapbook 1847-18-85, Vol. 38*.

<sup>125</sup> William H. Ellison, “The Federal Indian Policy in California, 1846-1860,” *Mississippi Valley Historical Review* 9 (1922): 43; and Hyer, *We Are Not Savages*, 52.

<sup>126</sup> Jane Davies Gunther, *Riverside County, California, Place Names: Their Origins and Their Stories* (Riverside, CA: Rubidoux Printing Co., 1984), 241; and Hanks, “Vicissitudes of Justice,” 237.

and structures.<sup>127</sup> Historians George and Helen Pruitt Beattie wrote, “The Indians cultivated all over the land there.”<sup>128</sup> Julian Isaac Williams was a son in-law to the prominent Mexican family of Antonio Maria Lugo.<sup>129</sup> Williams was a beaver trapper who settled in California. In 1841, Williams purchased Rancho Santa Ana del Chino from Antonio Marie Lugo. Williams later married Lugo’s daughter, Mariá de Jesús Lugo.<sup>130</sup> She was a member of the prominent Lugo family and sister to José del Carmen Lugo, who owned a large part of the rich and fertile San Bernardino Valley. Juan Antonio worked for the Lugo family. Isaac Williams had some 30,000 longhorn cattle, sheep, and horses on his ranch.<sup>131</sup> In 1843, Williams acquired the adjoining Indigenous lands through a Mexican land grant.<sup>132</sup> The lands originally belonged to the Cahuilla, Gabrielino-Tongva, and Serrano, but invading Americans and settlers claimed a good portion of Indigenous lands.

After the death of Mariá de Jesús Lugo in 1842, Williams had two daughters with two sisters, Maria Antonia Apis 13 and Maria Jesus Apis 14. The two sisters were the daughters of Luiseño leader and ranch owner Chief Pablo Apis. In 1843, Mission San Luis Rey’s administrators granted half a league of land to leader Pablo Apis in Temecula Valley, where he constructed an adobe house, grew fruits and vegetables, and later sold

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<sup>127</sup> Charles Sepulveda, “Our Sacred Waters: Theorizing *Kuuyam* as a Decolonial Possibility,” *Decolonization: Indigeneity, Education & Society* 7, no. 1 (2018), 43.

<sup>128</sup> “Reference to Santa Ana River,” George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 20, pg. 5. Huntington Library, San Marino, CA.

<sup>129</sup> Jane D. Gunther, *Riverside County, California, Place Names*, 90.

<sup>130</sup> Lindley Bynum, “The Record Book of Rancho Santa Ana del Chino,” *Annual Publication of the Historical Society of Southern California* 16, (1934): 1. University of California Press, <https://online.ucpress.edu/>.

<sup>131</sup> Bynum, “The Record Book of Rancho Santa Ana del Chino,” 3.

<sup>132</sup> *Ibid*, 2.

them to immigrants. Mission San Luis Rey formerly controlled the lands of Temecula.<sup>133</sup> Isaac Williams' ranch was one of the largest and most profitable ranches, needing extensive labor. The local Indigenous people provided the labor force. Williams paid the laborers twenty-five cents a day.<sup>134</sup> Isaac Julian Williams was a land baron who was quick to scheme for profit. Under Mexican and American laws, settlers claimed a great deal of the land from the Pacific coast to the San Bernardino Valley.

In June 1851, Chief Juan Antonio, his warriors, and their families waited at Rancho del Chino at Colonel Isaac Williams' ranch, as requested by Indian Commissioner Barbour, to negotiate a treaty. Barbour was supposed to leave Los Angeles June 27 for Rancho del Chino about forty miles east. Rancher Williams provided the Native people two head of cattle a day to feed the Indigenous leaders and their families. A five-hundred-pound cow can feed over 250 people well. Cahuilla tribal leaders and about two hundred of their community members showed up for the occasion, with the intent of hearing out the Americans and possible alignment with the Americans. Barbour did not show up. Most of the tribal headmen, captains, warriors, and their families did not wait more than a few days for Barbour. Barbour should have arrived June 29-30. Barbour failed to arrive. Cahuilla headman Juan Antonio and others waited five additional days until July 5, when they realized that Treaty Commissioner Barbour would not show up.<sup>135</sup>

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<sup>133</sup> Phillips, *Chiefs and Challengers*, 62-63.

<sup>134</sup> Leland E. Bibb, "Pablo Apis and Temecula," *The San Diego Historical Society Quarterly* 37, no. 4 (Fall 1991). San Diego History Center, accessed February 2, 2019, <https://sandiegohistory.org/journal/1991/october/temecula-3/>; and Jane D. Gunther, *Riverside County, California, Place Names*, 90.

<sup>135</sup> Phillips, *Chiefs and Challengers*, 97.

Barbour never arrived and never sent word to tribal leaders.<sup>136</sup> Juan Antonio was disappointed, and felt he had been overlooked by the Indian commissioner. Anger boiled inside Juan Antonio, and he believed he had been tricked. Juan Antonio believed Barbour had tricked him into going. Antonio returned to his village at Politana.<sup>137</sup> Antonio Garra also felt betrayed. Garra left disturbed, believing the Americans were not trustworthy. Garra told his warriors not to accept presents from the White authorities.<sup>138</sup>

A few days later in July 1851, Juan Antonio received two guests. Commissioner George Barbour dispatched José del Carmen Lugo and Ignacio Palomeres to relay a message to Chief Juan Antonio. Lugo and Palomeres reported that Treaty Commissioner Barbour could not meet. Lugo and Palomeres. Another commissioner would return soon to work with the Cahuilla.<sup>139</sup> Juan Antonio trusted José del Carmen Lugo. They allied together. Juan Antonio sent messengers to notify other tribal leaders of the latest news.<sup>140</sup> Days later, on July 16, Isaac Williams rode to Politana to see Juan Antonio and explained the cause of Commissioner George Barbour's failure to attend the meeting he requested. Colonel Williams distributed presents of farming utensils and blankets to Juan Antonio and his people to try to make amends. Juan Antonio wanted peace and security for future

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<sup>136</sup> "Cahuilla waited at Chino for Barbour," *Los Angeles Star* (Los Angeles, CA), July 12, 1851; and George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 35, File 8. Huntington Library, San Marino, CA.

<sup>137</sup> Juan Antonio did not move to Sáxhatpah in San Timoteo Canyon till the fall of 1851.

<sup>138</sup> Phillips, *Chiefs and Challengers*, 97.

<sup>139</sup> "Indian Traits," *Hayes Scrapbook 1847-18-85, Vol. 38*, 67; and "The Cahuillas," *Los Angeles Star* (Los Angeles, CA), July 18, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>140</sup> The men had received esoteric training as boys. The young boys learned about coming into harmony with the earth's natural forces known as natural law. They were taught to pray and sing to the earth, so their foot became one with the earth. Paul Douglas Campbell, *Survival Skills of Native California* (Salt Lake City: Gibbs Smith, 1999), 45.

generations, not housewares. Juan Antonio wanted to meet the men sent by the President of the United States.<sup>141</sup> Isaac Williams tried to assure Juan Antonio that an Indian treaty commissioner would return soon for treaty negotiations when it cooled down.<sup>142</sup> Barbour wanted to return to Southern California in September to make a treaty with tribes if not done yet and on the Colorado River.<sup>143</sup>

The politics changed that summer of 1851 due to three independent events. Each had nothing to do with the other but combined, they continued to add fire to Indigenous and White relations, which were nearly non-existent. A heat wave blistered Southern California. Los Angeles can get to be one hundred degrees Fahrenheit or more in the summer. The inland region and deserts east of Los Angeles can get to be an average of 113 degrees a day and unbearable, described traveler Edward Palmer in 1891.<sup>144</sup> The extreme heat and dry weather made George W. Barbour sick. He could not function in the heat.<sup>145</sup> George Barbour failed to meet and conduct a treaty with invited tribal leaders Juan Antonio, Antonio Garra, and others.

Two, while in Los Angeles, Barbour received news of an outbreak by the tribes of Yosemite Valley, where he and other Indian commissioners had met with the Aboriginal

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<sup>141</sup> "Southern Intelligence," *Daily Alta California* (Sacramento, CA), July 24, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>142</sup> "Southern Intelligence, The Cahuillas," *Daily Alta California* (Los Angeles, CA), July 24, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>143</sup> "From Lower California," *Daily Alta California* (Sacramento, CA) June 29, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>144</sup> Edward Palmer, "Cahuilla," *Edward Palmer Notes, CA, 1859-1891*, 12. Unpublished Manuscript. Bancroft Library, Berkeley. University of California Berkeley, CA.

<sup>145</sup> Letter from George W. Barbour to Luke Lea, July 28, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 124; and Hoopes and Barbour, "Journal of George W. Barbour, 251. JSTOR, <https://www.jstor.org/>.

people in March and April. Tribal headman Tenaya did not want to sign the treaty and remained hidden until Americans captured him. The American soldiers threatened the Ahwahneechees and forcefully moved the band of Ahwahneechees to a new plot of land to live on. The Ahwahneechees had lived there at their former village for as long as they could remember.<sup>146</sup> The Ahwahneechees did not like the small plot of land or reservation that the American invaders had established to confine and keep track of the people.<sup>147</sup> Before their land was open and hidden from outsiders.<sup>148</sup>

Barbour received a letter from Captain John Bowling of the United States Army requesting Barbour's aid and a return to the Mariposa area.<sup>149</sup> On June 27, Barbour wrote General Bean, stationed at Mission San Luis Rey, that he would not be able to meet with tribes in Southern California. On June 29, Barbour decided he would return to the San Joaquin River and discharged himself as Indian commissioner.<sup>150</sup> Barbour asked General Bean to conclude treaties with the more hostile tribes in Southern California when weather permitted.<sup>151</sup> Barbour left Los Angeles for the San Joaquin Valley to revisit the Ahwahneechee and tried to settle the hostilities between the Whites and Indigenous

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<sup>146</sup> Valoma, *Scrap the Willow Until It Sings*, 20.

<sup>147</sup> Bingaman, *The Ahwahneechees*, 6.

<sup>148</sup> Valoma, *Scrap the Willow Until It Sings*, 20.

<sup>149</sup> "Sacramento Intelligence, Savages Battalion," *Daily Alta California* (Los Angeles, CA), June 14, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>150</sup> Alban B. Hoopes and George W. Barbour, "Journal of George W. Barbour, May 1, to October 4, 1851: II," *The Southwestern Historical Society* 40, no. 3 (Jan. 1937). accessed December 15, 2019, JSTOR, <https://www.jstor.org/>.

<sup>151</sup> "Indian Traits," *Hayes Scrapbook 1847-1885, Vol. 38*, 67; "Colonel Barbour," *Los Angeles Star* (Los Angeles, CA). June 28, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

people there.<sup>152</sup> Commissioner Barbour left Los Angeles on June 30th, for Yosemite believing the tribal communities in Southern California were not a threat.<sup>153</sup>

The third event caused a large ripple in Southern California. When the American invaders in Los Angeles heard that Juan Antonio eliminated the Irving Gang of thieves and killers, it left an uproar in the community. The White community did not like Indians killing White men, even outlaws disrupting the peace among settlers. The thought of who was going to be next frightened the American intruders. The intruders sent out armed men to track down and kill Juan Antonio. Antonio had received warning and hid himself and his people until things quieted down.<sup>154</sup> At the same time, this left a negative impression on Chief Juan Antonio.

Alternately, the Americans were afraid of the keen mind and authority of Juan Antonio. Decimating the Irving Gang, which American authorities ignored for too long,<sup>155</sup> was nothing new for Juan Antonio. For years, Antonio had patrolled Southern California, including the region of present-day Redlands and San Bernardino, taking care of business and removing threats long before the Americans had arrived and afterwards.<sup>156</sup> Juan Antonio left his homelands on the mountains to protect his people on

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<sup>152</sup> Letter from George W. Barbour to General Joshua Bean, June 27, 1851. *Hayes Scrapbook 1847-1885*, Vol. 38, 2. Bancroft Library, University of Berkeley, CA.

<sup>153</sup> Phillips, "Military Tribunal in Coyote Canyon," 7.

<sup>154</sup> "Decimation of Irving and His Party\_Arrival of Immigrants\_Domestic Intelligences," *Daily Alta California* (Los Angeles, CA), June 17, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; and "State of California," *Daily Alta California* (Los Angeles, CA), June 28, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>155</sup> "Decimation of Irving and his Party-Arrival of Immigrants-Domestic Intelligence," *Daily Alta California*, (Sacramento, CA), June 17, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>156</sup> Waitman, "The Watchdog of San Bernardino Valley," 1-8.



the borderlands with the powerful American invaders.<sup>157</sup> The Americans now present wanted leader Juan Antonio, called *Yaampechi* by the Serrano because he got mad quick, to take a quieter stance.<sup>158</sup> Americans did not like the idea of an Indigenous man to have that power and authority so close to White settlements. This thinking was bad for the Aborigines. The Americans did not care what happened to the Natives, for they never shared nor discussed American law with them.<sup>159</sup> On one hand, in July 1851, with Juan Antonio doing such a great job, General Joshua Bean disbanded his fifty-man volunteer militia.<sup>160</sup> On the other hand, on August 26, 1851, the settlers in Los Angeles acted and no longer acknowledged Juan Antonio as liaison of the Cahuilla and appointed someone else.<sup>161</sup> This affected Juan Antonio mentally. He felt betrayed. The Americans pitted the tribal leaders against one another. It is understood, the best way to break unity is from within.

Tribes had been on alert since the Gold Rush, but now with larger numbers, the invading Americans increased their chances of overthrowing the Indigenous population. Invading immigrants crossed tribal lands to get to California from the east, which caused tribes along the Colorado River to be vigilant. Invading Americans became careless and travelled in small groups of four to five people through Indigenous lands that were

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<sup>157</sup> William Madrigal interview by author, phone, January 24, 2021.

<sup>158</sup> Ramon and Elliot, *Wayta' Yawa*, ' 265; and "Decimation of Irving and his Party-Arrival of Immigrants-Domestic Intelligence," *Daily Alta California*, (Sacramento, CA), June 17, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>159</sup> Benjamin Hayes, *Pioneer Notes from the Diaries of Judge Benjamin Hayes, 1849-1875*, ed. Majorie Tisdale Wolcott (Los Angeles, 1929), 107.

<sup>160</sup> "Disbanding of Gen. Bean's Troops," *Los Angeles Star*, July 12, 1851. George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 35, File 29. Huntington Library, San Marino, CA.

<sup>161</sup> "From the South," *Daily Alta California* (Los Angeles, CA), August 26, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

heavily guarded and protected.<sup>162</sup> In February 1851, a small band of Tulkapaiya or Western Yavapai, attacked, killed, and kidnapped members of the Oatman family about 120 miles east of the Yuman Crossing. The attackers clubbed a boy named Lorenzo and left him for dead. The Yavapai took the two Oatman girls, Mary Ann, who later died, and her sister, Olive who was taken captive and ultimately sold to Mojave people.<sup>163</sup> In March 1851, the news spread about the Oatman killing. On March 8, Lieutenant Major Samuel Peter Heintzelman, heard of the killing on the river from Yuma.<sup>164</sup> The tribes felt the pinch of the onslaught of invaders settling and passing through their territory. Often the invaders provoked the tribal people “beyond all endurance,” stated Lieutenant Cave J. Coutts.<sup>165</sup> The surviving fourteen-year-old Lorenzo found his way to Camp Yuma on March 27, where United States Lieutenant Heintzelman was stationed on the Colorado River.<sup>166</sup> Today, it is known that the Tulkapaiya Band of Yavapai that attacked the Oatman family, and the raid is still talked about by the Yavapai and historians.<sup>167</sup>

Major Heintzelman was a commander at Camp Yuma at the Colorado River next to Yuma. Heintzelman received orders to occupy the Colorado River near the immigrant crossing in Yuma about one hundred miles east of San Diego with Companies D and H of

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<sup>162</sup> Bynum, “The Record Book of Rancho Santa Ana del Chino,” 6.

<sup>163</sup> Trafzer, *Yuma*, 70-74; and Brian McGinity, *The Oatman Massacre: A Tale of Desert Captivity and Survival* (University of Oklahoma Press: Norman, 2005), 3-4.

<sup>164</sup> Samuel P. Heintzelman, *Samuel P. Heintzelman's Journal, 1851-1853, Fort Yuma*. Transcribed by Creola Blackwell (Yuma, Arizona: Arizona Historical Society, 1989), 39. Hereinafter referred to as Blackwell, *Heintzelman's Journal*.

<sup>165</sup> Cave J. Coutts, *From San Diego to the Colorado River in 1849, The Journal and Maps of Cave J. Coutts*, ed. William McPherson. (Los Angeles: A. M. Ellis, 1932), 23.

<sup>166</sup> Blackwell, *Heintzelman's Journal*, 20; and McGinity, *The Oatman Massacre*, 3-4.

<sup>167</sup> Clifford Trafzer, Personal Communication with author. June 15, 2020.

the 2<sup>nd</sup> Infantry.<sup>168</sup> In April 1849, he arrived in Southern California with his wife and children in San Diego, where he left them and headed to the Colorado River. He set up base and later moved it south to Fort Yuma. The Colorado River was a five-day journey on foot to San Diego.<sup>169</sup> In June 1851, Lt. Heintzelman left the river and Camp Independence and headed for San Diego. Heintzelman ordered Lieutenant Thomas W. Sweeney of the Second Regiment of Infantry and nine men to remain at Yuma Crossing to protect immigrants and military equipment left behind.<sup>170</sup> Camp Independence became a target of Indigenous hostilities.<sup>171</sup> Geronimo, Chief of a band of Kamia [the eastern Kumeyaay near the Colorado River], relayed messages to Antonio Garra about events along the river. Geronimo checked on the United States Army, keeping watch on the movement of Major Heintzelman and his army, then relayed the information to Antonio Garra and others.<sup>172</sup>

Antonio Garra grew tired of waiting for a relationship with the Americans. He had wanted recognition. Antonio Garra, like Juan Antonio, was upset Indian Agent George Barbour failed to meet him and the other tribal leaders at Chino Ranch. Word had spread that Barbour wanted to meet with tribes associated with Mission San Luis Rey.<sup>173</sup> Garra, being a political leader of the Cupeño people, wanted dialogue with the American leaders or their representatives. The Americans, since their arrival in California in 1846, had for

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<sup>168</sup> Samuel P. Heintzelman, "Official Report of Samuel P. Heintzelman, 1853" in *Journal of California and Great Basin Anthropology* 28 no. 1. (Merced: University of California, 2008), 89.

<sup>169</sup> Phillips, "Military Tribunal in Coyote Canyon," 15.

<sup>170</sup> Trafzer, *Yuma*, 54.

<sup>171</sup> Blackwell, *Heintzelman's Journal*, 20

<sup>172</sup> Phillips, "Military Tribunal in Coyote Canyon," 9.

<sup>173</sup> "Indian Traits," *Hayes Scrapbook 1847-1885, Vol. 38*, 67; and "Colonel Barbour," *Los Angeles Star*. (Los Angeles, CA). June 28, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

the most part ignored the Indigenous people at a political level and made laws that did not help the Indigenous people in any way, nor were the laws ever explained to the Indigenous.<sup>174</sup> In the meantime, the Americans kept to their policy of extermination of the Indian. “The extermination of the Indian race on the continent has been as gradual and as natural as the growth of empire, and the increase of the whites over the hunting grounds once possessed by the dusky tribes of America,” reported the *Daily Alta California* newspaper in August 1851.<sup>175</sup> Americans expected annihilation of the Indigenous people.<sup>176</sup> According to Benjamin Davis Wilson, “Armed bands took the field against the Indians on an almost completely indiscriminate basis. A whole series of Indian ‘wars’ ensued, though, as Bancroft sagely observed, there was not a respectable one in the lot. Instead, they featured wholesale butchery and seemed to aim at complete liquidation of the Indians.”<sup>177</sup>

The Americans established and forced laws of indentured servitude upon the Aboriginal inhabitants.<sup>178</sup> The Americans of San Diego taxed the Indigenous occupants in San Diego County placing pressure on Natives.<sup>179</sup> Garra wanted the Americans to recognize the Indigenous people as people and as citizens. He wanted his land back. Even more so, Antonio Garra wanted to be treated as a human being and as someone who had worth. Garra grew impatient. At one time he had been willing to negotiate with the

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<sup>174</sup> Hayes, *Pioneer Notes from the Diaries of Judge Benjamin Hayes*, 107.

<sup>175</sup> “Pioneer Practices,” *Daily Alta California*, (Los Angeles, CA), August 15, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>176</sup> Ibid.

<sup>177</sup> Caughey, *The B. D. Wilson Report*, 12 .

<sup>178</sup> Carrico, *Strangers in a Stolen Land*, 52; and McCawley, *The First Angelinos*, 204-205.

<sup>179</sup> “Southern Intelligence,” *Daily Alta California*, (Los Angeles, CA), July 24, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

Americans over the tax issue. It was the tax issue that crossed the line; Garra knew from then that he must resist and fight for his rights as his relatives did before him.<sup>180</sup> Garra pledged to regain control of the land. It was for the Native people. The Native people had given and given with little in return. He saw that the Americans would do little for the Aboriginal people. So, while there was still a chance, Garra wanted to purge Southern California of the American invaders.<sup>181</sup> Garra was ok with the Californios the Mexicans, but the Americans had to go. Acjachemen scholar Charles Sepulveda believed, “one of his [Antonio Garra] principal concerns were the number of immigrants trampling through his people’s territory, and the impacts of settler colonialism that brought further violence.”<sup>182</sup>

In all terms, Antonio Garra and other tribal leaders feared the Americans.<sup>183</sup> The Americans openly hunted down the Natives of the land.<sup>184</sup> The Indigenous people’s way of life changed dramatically after the arrival of the Americans. Gabrielino-Tongva leader Dario Martinez declared, the Natives feared losing their land, their way of life, and the burial grounds of their ancestors.<sup>185</sup> According to Kwaaymi tribal elder Carmen Lucas, Americans took all the land and resources.<sup>186</sup> Compounded with dispossession of lands, the foreign tax weighed heavily on Garra. Americans knew this as tax without

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<sup>180</sup> “Taxing the Indians,” *Daily Alta California* (San Francisco, CA), January 5, 1852, California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; and “Trial of Antonio Garra,” *San Diego Herald* (San Diego, CA), January 10, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>181</sup> Hyer, *We Are Not Savages*, 63; and Lindsay, *Murder State*, 156.

<sup>182</sup> Sepulveda, “California Mission Projects,” 134.

<sup>183</sup> Carmen Lucas interview, December 8, 2019.

<sup>184</sup> “Pioneer Practices,” *Daily Alta California*, (Los Angeles, CA), August 15, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>185</sup> Dario Martinez interview by Sean Milanovich, Hemet, CA. August 13, 2017.

<sup>186</sup> Carmen Lucas interview, December 8, 2019.

representation.<sup>187</sup> Garra did not get much help from White authorities besides General Joshua Bean, who instructed him not to pay taxes.<sup>188</sup> Garra needed to get the attention of the United States government to get a discussion with a representative of the United States government. Garra did not like the Americans continued ignorance of his people and their mistreatment. Garra developed a plan of attack.<sup>189</sup> Garra wanted to expel the White invaders from San Diego to Santa Barbara with the aide and union of the tribes.<sup>190</sup> Even though Garra feared the Americans he had courage to fight them. The risk was great but the likelihood of a productive and rich life for his relatives far outweighed the consequences if he did nothing. He did not sit idly on the side as the people suffered. The Indigenous people might get their life back if they united and fought. Coastal towns of San Diego and Los Angeles had a good sizeable population of Americans but inland, the Indigenous people far outnumbered the Americans. The Indigenous peoples' control of inland routes deteriorated after General Heintzelman settled along the Colorado River to protect Americans in 1849 and hundreds of thousands of miners arrived during the gold rush. Garra believed a war with coordination of all tribal communities and with weapons like rifles like the invaders carried, the tribes might prevail.

Garra likely looked to the Creation story and other traditional stories of the Aboriginal people to frame his thoughts and strategies in how to live and achieve a better life while interacting with the intruders. Like Fox, Coyote, Wolf, and Buzzard, Garra

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<sup>187</sup> This revolt is similar to the Boston Tea Party Revolt on December 16, 1773. Americans revolted for the tax and violation of their rights. Hanks, *This War is for a Whole Life*, 24.

<sup>188</sup> "The Taxing of Indians," *San Diego Herald*, December 22, 1851. George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 35, File 19. Huntington Library, San Marino, CA.

<sup>189</sup> *Ibid.*

<sup>190</sup> *Ibid.*

wanted something better for his people.<sup>191</sup> Garra considered the oral stories to strategize. If they worked together like the twin Creators Múkat and Témayawet, then perhaps they may have their world back.<sup>192</sup> Antonio Garra strategized on his next move.

Antonio Garra as an opportunist. Antonio Garra was a man of influence, wealth, energy, and determination.<sup>193</sup> The *San Diego Union* recognized Garra as “a man of energy, determination, and bravery.”<sup>194</sup> Garra originated from a long line of leaders and people who overcame others by force to get what they needed.<sup>195</sup> Garra worked on his plan of attack. To accomplish his plan, he needed to unite hundreds if not thousands of warriors. He wanted to unite and bring together the Indigenous warriors within a radius of about 500 miles away in all directions on an assault of Southern California. Antonio Garra envisioned aligning multiple tribal groups from the southern part of California to the Central Valley, including the Acjachemen, Cahuilla, Chemehuevi, Chumash, Cupeño, Esselen, Gabrielino-Tongva, Kawaiisu, Kitanemuk, Kumeyaay, Luiseño, Miwok, Mojave, Mono, Ohlone, Paiute, Serrano, Tataviam, T’epotaha’l, Tubatulabal, Quechan,

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<sup>191</sup> Jane H. Hill and Roscinda Nolasquez ed., *Mulu’wetam: The First People, Cupeño Culture, Mythology, and Cupeño Language Dictionary* (Banning, CA: Malki Museum Press, 2005), 122-147.

<sup>192</sup> For the Cupeño and the Cahuilla, the brothers Múkat and Témayawet created the world and people. Jane Hill and Roscinda Nolasquez, *Mulu’wetam*, 2-17.

<sup>193</sup> Hanks, *This War Is for A Whole Life*, 19; and Hudson, “The Last Indian Campaign in the Southwest,” 154.

<sup>194</sup> Hyer, *We Are Not Savages*, 52; and “Matter in San Diego-Martial Law Proclaimed,” *Daily Alta California* (San Diego, CA), December 4, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>195</sup> The Cupeños took control of the San Jose Valley and surrounding lands and claimed the land as their own after defeating the Kumeyaay for a small area to have as their own. Strong, *Aboriginal Society*, XX.

and Yokut. It was reported “that the Cupeño headman Antonio Garra enlisted Juaneños [Acjachemen] to participate in the revolt.”<sup>196</sup>

To make this fight valid, Garra needed the tribes closest to him in his area of Southern California to align with idea to expel the Americans, otherwise this whole war was for nothing.<sup>197</sup> Antonio Garra had longstanding relationships of trade, marriage, and political alliances with the tribes directly to his north, including the Cahuilla. Garra worked closely with the tribes to the east on the Colorado River including the Mojave and the Quechan. His relationship with the Quechan was so tight, some say that Garra originated from one of the Yuman-speaking tribes. The tribes to the south included the Kumeyaay and the Tipay. All these groups intermarried with one another and thus interacted with each other. Garra believed the Indigenous people could get their freedom and land back if the Americans were eradicated.

Antonio Garra needed Chief Juan Antonio’s alignment to make the war against the Americans a success. Juan Antonio’s alignment was key to a successful attack on the Americans of Southern California. Tribal leader Antonio Garra created alliances with the tribes. According to the Mormons in San Bernardino, Garra was Cahuilla and held a feast for Cahuilla leaders including Juan Antonio, Cabazon, and other powerful Cahuilla leaders such as Juan Razon and Pablo Gabriel.<sup>198</sup> Garra told the chiefs not to be afraid of

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<sup>196</sup> Carl Artman, “Proposed Finding Against acknowledgment of the Juaneño Band of Mission Indians Acjachemen Nation, (Petitioner #84A).” November 23, 2007.

[https://www.bia.gov/sites/bia.gov/files/assets/asia/ofa/petition/084B\\_juajbb\\_CA/084b\\_pf.pdf/](https://www.bia.gov/sites/bia.gov/files/assets/asia/ofa/petition/084B_juajbb_CA/084b_pf.pdf/).

<sup>197</sup> Letter from Antonio Garra to Juan Antonio, December 2, 1851. George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 35, File 25. Huntington Library, San Marino, CA.

<sup>198</sup> George William Beattie and Helen Pruitt Beattie, *Heritage of the Valley*, 185.



bullets; he would turn them into water.<sup>199</sup> All the chiefs at the feast declined to aid Antonio Garra at first and returned home.<sup>200</sup> Afterwards, Juan Antonio kept thinking about Antonio Garra's pledge to eradicate the Americans. Juan Antonio was not afraid of the Americans but knew their weapons to be powerful killing machines. Those same weapons, the Americans used on the Native people within Cahuilla territory and throughout Indigenous California. Americans had hunted Juan Antonio back in June. The Indigenous world known by Juan Antonio was about to change. Juan Antonio could feel something. He witnessed the brutal murders and horrific treatment by Americans towards his people. The world was unstable. Juan Antonio and others were not sure what the next day would bring. The Indigenous people held an unconditional birth right to self-sustainability with access to the land for spirituality, food, medicine, and tools.

On September 22, 1851, the Lugo brothers accepted an offer for the sale of the San Bernardino Ranch.<sup>201</sup> The new Mormon colony purchased Rancho San Bernardino for \$77,000 containing 35,509 acres of Indigenous land from the Lugos.<sup>202</sup> About 450 Mormons moved to California to the San Bernardino Valley. They were self-sufficient and protected their own cattle without assistance from Chief Juan Antonio and his

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<sup>199</sup> Here is the mention of turning bullets into water. The Cahuilla and Serrano mention dodging bullets. This is a skill and medicine for protection. Dodging is an important part of the mourning ceremony shared by Cahuilla and Serrano. The people had power to dodge things coming at them.

<sup>200</sup> Richard R. Hopkins, "Journal of the San Bernardino Branch of Latter-Day Saints," 61. Church History Museums, Salt Lake City, Utah. <https://churchofjesuschrist.org/>.

<sup>201</sup> Edward Leo Lyman, *San Bernardino: The Rise and Fall of a California Community* (Salt Lake City: signature Books, 1997), *San Bernardino*, 58.

<sup>202</sup> Chris Perez, "Grants of Land in California Made by Spanish or Mexican Authorities," 94; and Jesse William and Eleanor Clarkson Baker, "Life Story of Jesse William and Eleanor Clarkson Baker," 27. Church History Museums, Salt Lake City, Utah. <https://churchofjesuschrist.org/>.

men.<sup>203</sup> There were more Mormons in San Bernardino compared to about one hundred American citizens of San Diego. Juan Antonio's work of protecting the valley came to an end. Juan Antonio moved his village from Politana east to San Timoteo Canyon to his new home and village of Sáxhatpah in fall 1851, thirty miles away.<sup>204</sup> Descendants of Juan Antonio recalled that the Lugo family granted the land in San Timoteo Canyon to Juan Antonio, recollected Cahuilla historian and elder Roy Mathews.<sup>205</sup> Antonio was far enough from the heavy flow of Americans and yet still within radar to keep watch. His neighbors were the Weavers. In the meantime, Juan Antonio offered three hundred of his men to help fight and take the Americans recounted Tom Hughes in his book, *History of Banning and San Gorgonio Pass*.<sup>206</sup>

With affirmation of his assistance to Antonio Garra, Juan Antonio sent several delegations of runners north in autumn 1851. The runners were trained and physically fit to carry messages long distances. Along with the verbal message of a request for help, the runners carried medicine with them. The runners carried a large deer pouch of chia for stamina and yucca for protein to carry them on their journey.<sup>207</sup> The runners also carried tobacco for distribution to the various people they held council with. As discussed earlier in chapter one, tobacco was an especially important plant used to talk about the spiritual

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<sup>203</sup> Jane D. Gunther, *Riverside County, California, Place Names*, 442; and Sarah Barringer Gordon and Kevin Waite, "California's Forgotten Slave History," *Los Angeles Times* (Los Angeles, CA) January 19, 2020. [Latimes.com](https://www.latimes.com).

<sup>204</sup> Phillips, *Chiefs and Challengers*, 96.

<sup>205</sup> Roy Mathews is a lineal descendant of Juan Antonio. Roy Mathews interview, June 2, 2018.

<sup>206</sup> George William Beattie and Helen Pruitt Beattie, *Heritage of the Valley*, 185; and Smythe, *History of San Diego*, 192; and Tom Hughes, *History of Banning and San Gorgonio Pass, In Two Parts* (Banning, California: Banning Record Print, 1939), 108.

<sup>207</sup> Cahuilla Red Elk interview by author, phone, August 9, 2020.

nature of things. The runners might have each carried a white flag as symbols of peace to let the tribal chiefs know their intent; they wanted to talk and meant no harm. This was critical, as the runners passed through territory that was not their own and a general war existed throughout California. In 1847, Chief Juan Antonio and José del Carmen Lugo used this method when visiting the Luiseño in Temecula.<sup>208</sup> This medicine was a symbol used to show the seriousness and urgency of the matter. It was supposed to be understood by all groups. It was an ancient method of the past used in the present. Juan Antonio used the white cloth to show how grave and serious the matter was.

Juan Antonio remembered Indian Agent George Barbour's words about wanting to sign a treaty and his failure to meet back in June and July 1851. Juan Antonio thought about annihilating the Americans. Juan Antonio also sent a delegation to talk with tribes in the Central Valley and probe on their desire to fight the Americans.<sup>209</sup> In the fall of 1851, Vincent Haler, a mountaineer, heard that an Indigenous leader from Southern California named Juan Antonio sent runners up to the mountains around San Francisco. Tribes of the "Chinchilla" Miwok and Yokut received runners into their villages asking the tribes to join the war against the Americans.<sup>210</sup> Juan Antonio wanted to know how the Americans treated the Indigenous people up north. He questioned whether the northern tribes wanted to align with Juan Antonio and others to fight the Americans.

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<sup>208</sup> Lugo, *Life of a Rancher*, 33.

<sup>209</sup> "The Tulare Indians," *Los Angeles Star* (Los Angeles, CA), December 20, 1851. George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 35, File 17. Huntington Library, San Marino, CA.

<sup>210</sup> Wozencraft, Oliver M. "Statement of Dr. O. M. Wozencraft, Indian Affairs 1849-1850 in 1877," Microfilm. Bancroft Library, University of California Berkeley, 12.

A commission of runners had been dispersed in all directions north towards San Francisco, east to the Colorado River, south to Baja, and west to the Pacific Ocean. Antonio Garra had far less communication with his tribal relatives up north in the San Joaquin Valley. Juan Antonio sent a delegation of runners north to the San Joaquin Valley calculating his odds. Juan Antonio played a much bigger part in the planning stages of the revolt than what is generally known, suggested Native American historian George Phillips.<sup>211</sup> Antonio Garra sent runners into Baja California among the Southern Kumeyaay, into Mexico. He had a much larger relationship with them.<sup>212</sup> Garra had family and trade contacts down in Tipai territory. Some of the tribal people from the east and south moved to Antonio's village of Kúpa before and after the Treaty of Temecula, William Pink asserted.<sup>213</sup> The runners went north through the San Joaquin Valley looking to gather warriors for a war against the Americans. The people up north did not want to fight. They just had signed treaties with the United States Indian commissioners and to keep their land they wanted to abide by the terms, such as not to bring war against the United States.

Juan Antonio and Antonio Garra planned on the people from the north [Miwok and Yokut] lower Central Valley, striking Santa Barbara. The Cahuilla, Cupeño, Serrano, and Gabrielino-Tongva were to take Los Angeles. The people from the river [Kumeyaay, Luiseño, and Quechan] were going to take San Diego.<sup>214</sup> The three major cities were

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<sup>211</sup> Phillips, *Chiefs and Challengers*, 137.

<sup>212</sup> Phillips, *Chiefs and Challengers*, 32; and Oliver Wozencraft to Luke Lea.

<sup>213</sup> William Pink interview author, February 8, 2020.

<sup>214</sup> Phillip, *Chiefs and Challengers*, 102.

going to be sacked simultaneously. All tribes agreed that the Americans disrupted their lives and wanted change. Some tribes wanted to fight the Americans while others wanted peace and did not want war. The old, knowledgeable, and well-respected Chief Jose Cabazon did not want to subject his people to fight. He wanted peace and no part in the revolt against the Americans, although he also did not like the American invasion within his territory.<sup>215</sup>

Moreover, Antonio Garra, Juan Antonio, and the other tribal leaders heard that tribes north in the San Joaquin Valley met with American Indian commissioners, and were guaranteed a piece of land for their exclusive use and peaceful relationships between the Americans. Aborigines were at the helm of it all. The tribes wanted to exclude others from passing through and settling on their lands. Miners, settlers, and traders often crossed and set up camp within villages, water sources, and gathering areas of the first occupiers and traditional landowners. Squatters angered the local Native people. Intruders, not seeing fences or houses, assumed the land was vacant and available for settlement and acquisition of Native resources.<sup>216</sup>

Tribal leaders heard that the Kitanemuk, Chumash, Tataviam, Tubatulabal, Paiute, and Yokut signed a Treaty with United States Indian Commissioner George Barbour on June 10 at the southern end of the San Joaquin Valley, just ninety miles north of Los Angeles. The people of the Central Valley refused to join Juan Antonio's and Antonio Garra's plot to attack the Americans. The people of the north were angered with the

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<sup>215</sup> Joseph Benitez interview by author, phone, July 29, 2020.

<sup>216</sup> Carmen Lucas interview, August 29, 2016.

American invasion as well, but saw there were many of them and they all carried guns and rifles. José Zapatero, a local Kitanemuk headman, that signed the Treaty of Fort Tejon, went to Los Angeles and notified the Americans his people had no hostile intentions. They wanted to protect their interest, their recent treaty with land set aside for their sole use.<sup>217</sup>

People in the south heard Antonio Garra's cry for help. In the fall of 1851, Antonio Garra met Joaquin Ortega, a prominent Californio, at Ortega's ranch, alone.<sup>218</sup> Ortega delivered a secret proposal to Antonio Garra. Ortega first suggested to Antonio Garra to take revenge against the Americans for collection of taxes, an unjust measure. Ortega told Garra that Californios would join the Natives in the war against the Americans.<sup>219</sup> Ortega advised Garra to rise that coming winter against the Americans. Ortega told Juan Antonio that Americans would be disturbing the "Indians." Afterward, Joaquín Ortega helped Antonio Garra spread the word. On October 11-12, 1851, Diegueños [Kumeyaay] arrived at Californio Joaquín Ortega's Rancho Santa Maria in Pauma Valley, in Luiseño territory, and asked to hold a feast for the "Gavian," an eagle.<sup>220</sup> Ortega agreed and offered up four heads of beef for the occasion, according to

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<sup>217</sup> Phillips, *Indians and Indian Agents*, 108; Phillips, "Military Tribunal in Coyote Canyon," 9; and Steven Vredenburg's Website, Historic and Geologic Resources of Southern California, <https://vredenburg.org/>. (Including, Tehachapi, the Mojave Desert and Southern San Joaquin Valley,) "Indians of Mission San Fernando, Who Later Lived at Rancho El Tejón," Extracted from Johnson, John R., 1997, "The Indians of Mission San Fernando" in Doyce B. Nunis Jr. ed. "Mission San Fernando Rey de Espana, 1797-1997" Historical Society of Southern California Quarterly: Vol 79, No. 3, pp 249-290. <https://vredenburg.org/tehachapi/data/tejon01.htm>, accessed January 29, 2021.

<sup>218</sup> "Confession of Antonio Garra," *San Diego Herald* (San Diego, CA), December 18, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>219</sup> Ibid.

<sup>220</sup> The bands of Cahuilla, Cupeño, Luiseño, and Serrano of Southern California held an eagle ceremony. The tribes considered this ceremony one of the most powerful and important ceremony for the people. The ceremony symbolized the continued life of the people.

Joaquín Ortega.<sup>221</sup> Ortega, a Californio and a major landowner, owned two ranches in San Diego County [Santa Maria-17,708 acres and Santa Ysabel-17,719 acres].<sup>222</sup> At the feast, Ortega encouraged the Indigenous people to rise against the Americans. Ortega told the tribal leaders present that he would go to Santa Barbara to get help from other prominent Californios such as Andres Pico and others to join Antonio Garra in the war against the Americans. Garra believed Californios would help fight alongside the Indigenous warriors to regain control of their lands. During the Mexican American War, many Native warriors helped their Mexican counterparts and friends. Many Californios revolted and resisted up till 1856, after they lost their domination over the land and lost their resources.<sup>223</sup>

Antonio Garra also spoke with Californio José Antonio Estudillo, San Diego County treasurer, and a major landowner. Mexican Governor José María Echeandía granted Estudillo 6,658 acres of Indigenous land which became the Otay Ranch, where he employed Natives. Later he received the Temecula grant. Estudillo owned land at San Juan Capistrano. Estudillo maintained a house in Old Town San Diego for his business. He was a man of character, large influence, and very well connected with lots of money.<sup>224</sup> Estudillo had enough resources to purchase an arsenal of weapons and cover the cost of a war. Garra spoke to Estudillo, who agreed to help fight and support the war

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<sup>221</sup> Letter from Joaquin Ortega to the editor, "Letter from Joaquin Ortega," *San Diego Herald* (San Diego, CA), January 10, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>222</sup> Perez, "Grants of Land in California Made by Spanish or Mexican Authorities," 97

<sup>223</sup> Charles Hughes, "The Decline of the Californios," *The San Diego Historical Society Quarterly* 21, no. 3 (Fall 1975). accessed September 4, 2020, San Diego History Center, <https://sandiegohistory.org/journal/1975/july/the-decline-of-the-californios/>.

<sup>224</sup> Smythe, *The History of San Diego*, 133, and 169.

against the Americans. José Antonio Estudillo wanted to oust the Americans and instigated Antonio Garra to pursue the fight claimed Antonio Garra.<sup>225</sup> José Antonio Estudillo and Joaquín Ortega both could lose their land and way of life. They did not like how Americans intercepted their business transactions. They implored Garra to start a war against the American intruders. Neither Estudillo nor Ortega valued the Natives people as peers but knew they could fight. Estudillo and Ortega reached out to their neighbors and friends as far as Santa Barbara. José del Carmen Lugo supported the idea of the war, but he did not want to fight. He had a business to run. He allowed Chief Juan Antonio to gather his warriors on his ranch property before moving away. Hundreds of Cahuilla and Serrano warriors assembled and discussed a plan of action at the Lugo Ranch, and later at Juan Antonio's settlement of Sáxhatpah. As far as Antonio Garra was concerned, Garra claimed the Lugos did not participate in any of the planning or hostile acts against the Americans.<sup>226</sup> The *Daily Alta California* reported that the Lugos tried to raise a company of Mexicans to assist Juan Antonio and Antonio Garra fight the Americans.<sup>227</sup>

With the Californios on his side, Antonio Garra felt empowered. Garra believed that the Mormon Community in San Bernardino disliked the Americans government, too,

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<sup>225</sup> "Letter from San Diego and Los Angeles," *Daily Alta California*, (San Francisco, CA), January 5, 1852, California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; and "Trial of Antonio Garra," *San Diego Herald*, (San Diego, CA), January 10, 1852, California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>226</sup> "Declaration of Antonio Garra," Rancho Del Chino, December 16, 1851," *Los Angeles Star* (Los Angeles, CA), December 21, 1851. George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 34, File 16. Huntington Library, San Marino, CA. Hereinafter referred to "Declaration of Antonio Garra," *Los Angeles Star*, December 21, 1851.

<sup>227</sup> "A Duel-Almost," *Daily Alta California* (San Francisco, CA), January 11, 1852, California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.



and would join him.<sup>228</sup> Cahuilla Chief Juan Bautista [Baptiste] from Coyote Canyon alleged the Mormons would ultimately join the war against the Americans, because they disliked the Americans.<sup>229</sup> In fact, it was quite contrary, after hearing about Antonio Garra and his actions, the new settlement prepared to protect themselves from attack by Juan Antonio and Antonio Garra.<sup>230</sup> It is true, the Mormons did not like American laws and the regulation of their religious beliefs, but they feared California's Indigenous warriors might potentially attack their settlement.<sup>231</sup> The threat of American invasion on Native lands and its impacts were great. The great War Chief, Antonio Garra, wanted to eliminate the American invasion.<sup>232</sup>

Juan Antonio heard back from the delegation of runners he had sent up north. The information they brought back confirmed what he thought and heard. The people up north did not want to fight. They just signed treaties with the Americans which forbade them to bring war against the Americans. This would break their treaty of peace and the security of having a land base. They told Juan Antonio they would not fight. Juan Antonio held ceremony on his land at Sáxhatpah and asked the ancestors for guidance. The ancestors confirmed what Juan Antonio already knew. The ancestors suggested peace as the way to work with the Americans. Only death would come from war for his people. Juan Antonio

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<sup>228</sup> "Confession of William Marshall," December 10, 1851. George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 34 and Box 5, Folder 35. File 31. Huntington Library, San Marino, CA. Hereinafter referred to as "Confession of William Marshall," George William Beattie and Helen Pruitt Beattie Papers.

<sup>229</sup> Ibid.

<sup>230</sup> Lyman, *San Bernardino*, 60.

<sup>231</sup> Ibid, 61.

<sup>232</sup> Guy Trujillo interview, November 13, 2017.

knew his position and could not risk a fight with the Americans anymore. He did not say anything to Antonio Garra yet.<sup>233</sup>

Antonio Garra never assembled a regimented army to fight the Americans as he desired. Garra's strategy of aligning the people across the landscape never materialized. Garra wanted the Tulareños of the San Joaquin Valley to attack Santa Barbara. Cahuilla and Cupeño were to attack Los Angeles. Kumeyaay and Quechan were to attack San Diego.<sup>234</sup> The Mexicans of each municipality were to attack their own communities. The Indigenous people from the Colorado River were to attack Camp Independence, a military camp occupied by the United States Army, along the Colorado River, which defended coastal towns with deployment of army units.<sup>235</sup> Guy Trujillo stated, "Garra wanted to attack San Diego, Los Angeles, and Santa Barbara because they were places of White settlements."<sup>236</sup> Garra felt this was the last chance he had to make a difference and expel the Americans before they outnumbered the Indigenous people.<sup>237</sup>

Antonio Garra maintained optimistic with his plans of attack. As Garra explained, "I confess that Senor Joaquín Ortega is the first who said to me, that they [Californios] were going to rise with all, that White people were going to enter, and you counsel the Indians."<sup>238</sup> The Californios requested help from Garra and the Indigenous people to

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<sup>233</sup> The author Sean Milanovich prayed on this during a recent ceremony. This is what was revealed to him. "Things Revealed during Sweat Lodge Ceremony on August 14, 2020." Sweat Lodge Ceremony, August 14, 2020, Cabazon Reservation, CA.

<sup>234</sup> Phillip, *Chiefs and Challengers*, 102.

<sup>235</sup> Schwartz, *Kit Carson's Long Walk*, 42.

<sup>236</sup> Guy Trujillo interview, November 13, 2017; and George William Beattie and Helen Pruitt Beattie, *Heritage of the Valley*, 184.

<sup>237</sup> Madley, *An American Genocide*, 202-203.

<sup>238</sup> "(Unreadable) Important from San Diego," *Nevada Journal* (Nevada City, CA), January 8, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

strike against the Americans. American soldiers found letters addressed to Antonio Garra from prominent Mexicans in the community in Coyote Canyon confirming the allegation with the Mexican support of war.<sup>239</sup> After notifying his people, Garra went east to the Colorado River to reveal this unification plan to the Indigenous people along the river.

Early in November 1851, paramount Chief Antonio Garra went to visit friend and headman Geronimo on the river and confirmed that attack against the Americans.<sup>240</sup> The Kamia leader Geronimo, and others supported Antonio Garra. The Quechan were ready to attack. Garra wanted the backing of armed warriors from the Kamia and Quechan to attack San Diego. What followed was a series of outbreaks that led to American deaths that ricocheted throughout San Diego County, causing a break in uniformity, and attacks on both sides. The individual events fed off one another all within days of one another, without much time to gather intelligence and strategize for the move.

Antonio Garra often sought support of the tribes along the Colorado River including the Quechan, Cocopah, and Kamia.<sup>241</sup> Antonio Garra advised the Quechan of the strike on the Americans with combined forces with the Californios. The Aboriginal people on the river took immediate action. Garra was not ready yet to strike; he did not have his strike commanders lined up and ready to attack the ranches and cities near San Diego, Los Angeles, and Santa Barbara. Furthermore, Garra was not ready to strike the next day; Garra needed rest. The traveling wore on his body as he was not young

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<sup>239</sup> Ibid.

<sup>240</sup> "Declaration of Antonio Garra," *Los Angeles Star* (Los Angeles, CA), December 21, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>241</sup> Phillips, "Military Tribunal in Coyote Canyon," 9.

anymore. On the other hand, the Kamia were ready for a fight, although Garra was against immediate attack. The warriors prepared themselves to attack the next day.<sup>242</sup>

On November 11, 1851, hostilities began without Garra as a participant. Kamia leader Geronimo and more than one hundred warriors attacked American sheep herders at the Colorado River on the California side. The herd was bound for Los Angeles.<sup>243</sup> The immigrants to Southern California usually crossed the Colorado River using the ferry operated by other intruders without permission from the Indigenous people who owned and lived along the river. Invading immigrants brought cattle, horses, and supplies, crossing Indigenous water and lands without paying Native owners. Seven sheepherders managed to get 1,500 sheep across the river. Native warriors surrounded the men on the California side just beyond Pilot Knob, where Lieutenant Thomas W. Sweeney had established Camp Independence on the California side of the river. The Native's arrows far outnumbered the shepherd's rifles. A volley of bullets covered the Americans. Native warriors killed four Americans, while the Natives lost eleven to twelve warriors.<sup>244</sup> That same night, the warriors attacked Lieutenant Sweeney's Camp, but the howitzer canons scared them away.<sup>245</sup>

One shepherd escaped and walked west as far as San Geronio Ranch near San Bernardino. Information was relayed to the Mormon settlement that the Cahuilla had

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<sup>242</sup> "Declaration of Antonio Garra," *Los Angeles Star*, December 21, 1851.

<sup>243</sup> Ibid.

<sup>244</sup> "Declaration of Antonio Garra," *Los Angeles Star*, December 21, 1851; Phillips, "Military Tribunal in Coyote Canyon," 9; Phillips, *Chiefs and Challengers*, 101; and W. J. Ankrum to editors, "Rio Colorado," *San Diego Herald* (San Diego, CA), November 27, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>245</sup> "Letter from the Colorado," *San Diego Herald* (San Diego, CA), December 11, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

formed a confederacy with the tribes in the mountains as far north as Santa Barbara to attack the White towns simultaneously.<sup>246</sup> It is possible Juan Antonio participated or at least witnessed the attacks. On November 10, a neighbor to Juan Antonio, Pauline Weaver, reported that Juan Antonio went to the Colorado River to talk with the Native people on the river. Weaver also stated Indigenous people attacked his ranch and home due to failure of treaty commissioners to meet with the tribal leaders in June.<sup>247</sup>

Many newspapers published articles about the attacks by the Indigenous people and their potential to storm California. “Antonio Garra [sic], the Rebel Chief,” published in the *Daily Alta California* by the editors on December 19, 1851, gave a sketch about Antonio Garra that is not completely factual. There are only snippets of the truth. These untrue articles offered negative images to the reader and American invaders that were not factual, and led to violence by the White community upon the Indigenous peoples. In response to the attacks on the Colorado River, the *Daily Alta California* newspaper reported that Garra’s “recent murders, so far as have been ascertained, have been confined to Americans [except for one Sonoran], and were twelve in number.”<sup>248</sup> The words “his recent murders” provoked fear and hatred toward all Indigenous people in the region. As Juan Antonio had learned, Americans hunted to kill Indigenous people. In June, Antonio had killed the Irving Gang in response to its raids in Antonio’s country. Americans feared the Cahuilla, especially Juan Antonio.

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<sup>246</sup> Hopkins, “Journal of the San Bernardino Branch,” 58.

<sup>247</sup> “More Indian Troubles Feared,” *Daily Alta California* (San Francisco, CA), November 30, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>248</sup> “Antonio Garra, the Rebel Chief,” *Daily Alta California* (San Francisco, CA), December 19, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

A Sonoran shepherd escaped to San Gorgonio Pass and the ranch of Pauline Weaver. He declared his life was spared because he was not White but Sonoran. In addition, he told Weaver that the leader of the raid on the shepherders was none other than Garra.<sup>249</sup> It is highly unlikely that the shepherd or others could identify Antonio Garra. His picture had not been in the papers. He was unknown to the non-Indian world. It is most likely, Native friends and spies of the Whites leaked the information. There was no uniform allegiance or camaraderie under Garra such as other revolutionists had. Generally revolutionary armies maintained a sense of progressive aide, allegiance and brotherhood to one another, explained historian Marcella Lara.<sup>250</sup> Within the ranks of Garra's own warriors, betrayal existed.

In his declaration, Garra probably would have taken responsibility for his presence if he had been at the attack.<sup>251</sup> News of the attack on the river reached Chief Pablo Apis of Temecula. Apis notified the Americans of Antonio Garra's alignment with tribes to the east to exterminate the Americans trying to persuade the Americans to leave the Luiseño alone.<sup>252</sup> The attacks continued at Camp Independence along the river for several nights. The Quechan attacked fired arrows into Lieutenant Sweeny's camp.<sup>253</sup> According to the confession of William Marshall, the Luiseño under Manuelito Cota planned to say they wanted no part with Antonio Garra.<sup>254</sup> The Luiseño reached out to

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<sup>249</sup> Phillips, *Chiefs and Challengers*, 101.

<sup>250</sup> Marcella Lara, "Voices of the 1917 Revolution: Progression of the Radicalization of the Russian Soldiers," Lecture at UCR Undergraduate Symposium, May 12, 2021. Zoom.

<sup>251</sup> "Declaration of Antonio Garra," *Los Angeles Star*, December 21, 1851.

<sup>252</sup> "Indian Murders on the Colorado\_ Expected Invasion!," *Daily Alta California* (San Diego, CA), December 1, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>253</sup> *Ibid.*

<sup>254</sup> "Confession of William Marshall," George William Beattie and Helen Pruitt Beattie Papers.

the Americans, hoping to gain their confidence. Cota and Garra believed the Americans called on the Luiseño to enter Coyote Canyon when asked to talk to Antonio Garra and the other leaders, to persuade them to put down their arms. The idea was then the entire mass of Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano warriors would ambush the Americans in one large attack.<sup>255</sup> The aligned Chiefs were to sack the ranches first, then fall on San Diego and Los Angeles, while the tribes in the north took Santa Barbara.

Antonio Garra invited the Quechan to help eliminate the Americans, but fighting the Cocopah preoccupied the Quechan. The Cocopah had planned to kill Quechan tribal leaders.<sup>256</sup> A feast was held where some Quechan leaders had recently been killed. The Quechan then held a feast for invited Cocopah and proceeded to kill the Cocopah. This competition kept the Quechan and Cocopah engaged. The Quechan were preoccupied, and could not focus on both competition with the Cocopah and the proposed attack on San Diego at the same time, as Garra anticipated. Furthermore, the distribution of the 1,500 head of sheep caused the Quechan to quarrel among themselves.<sup>257</sup> The Americans considered the associated tribes as hostile. Dr. Wozencraft of the Treaty Commission and the other Indian Commissioners found hostile tribes as mandatory candidates for a treaty.<sup>258</sup>

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<sup>255</sup> Ibid.

<sup>256</sup> Letter from Samuel P. Heintzelman to E. D. Townsend, Fort Miller, August 2, 1853. *Indian Affairs on the Pacific*, 4<sup>th</sup> Congress, 3<sup>rd</sup> Session. House of Representatives, Executive Document 76. 50. accessed May 14, 2020, ProQuest, <http://li.proquest.com/elhpdf/histcontext/906-H.exdoc.76.pdf>.

<sup>257</sup> "Confession of Antonio Garra," *San Diego Herald* (San Diego, CA), December 18, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>258</sup> Moraino Patencio interview, September 26, 2016; and "The Indian Commission," *San Joaquin Republican* (Stockton, CA), September 17, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

On November 17, 1851, Antonio Garra and his warriors passed through Coyote Canyon from the east in Anza Borrego, close to home.<sup>259</sup> The long extensive canyon was home to Chief Chapuli of the Los Coyotes Cahuilla.<sup>260</sup> At least four independent Cahuilla settlements occupied Coyote Canyon with multiple lineages. There were at least five lineages of the Wiwaiistam.<sup>261</sup> Juan Antonio moved from the ridge of Coyote Canyon to San Bernardino.<sup>262</sup> Juan Antonio and Coyote Canyon were intricately connected. His place of birth, called Sew'ia, and where leaders groomed Juan Antonio, shouldered the top of Coyote Canyon to the north. Family relationship and ceremony connected Sew'ia and Coyote Canyon. There was the main village of Wiliya located at Middle Meadows.<sup>263</sup> To the west was Tcia. At the upper end to the north, was Nacutea in Horse Canyon.<sup>264</sup> To the south was Nauhana.<sup>265</sup> Tomas Arenas was net and tribal leader of the

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<sup>259</sup> Phillips, "Military Tribunal in Coyote Canyon," 9.

<sup>260</sup> "Declaration of Antonio Garra," *Los Angeles Star*, December 21, 1851.

<sup>261</sup> William Madrigal interview by author, phone, August 30, 2020. Hereafter cited as William Madrigal interview, August 30, 2020.

<sup>262</sup> Lowell John Bean, Sylvia Brakke Vane, and Jackson Young, *The Cahuilla and the Santa Rosa Mountain Region: Places and Their Native American Association* (Riverside: Cultural Systems Research, 1981), 28; and William Madrigal interview, August 30, 2020.

<sup>263</sup> Stacie L. Wilson, "A GIS Based Analysis of Prehistoric and Post-Contact Mountain Cahuilla Settlement and Subsistence Patterns," (thesis, Northern Arizona University), 2008, 83.

<sup>264</sup> This was the home of the Arenas Family. Members of the Madrigal family are descendants of the Arenas Family Clan. Cahuilla elder and the patriarch of the Madrigal Family, Anthony Madrigal, wrote in his book, *Sovereignty, Land, and Water*, that Nacutea was the home of the Natcutakiktum people, their relatives. After the fight with the military in 1851, the people left and moved away to Seupa. The land was eventually settled and sold by Americans. In 1891, American Fred Cark purchased the land that included the villages of Nacutea and Pauki. In 2005, the Native American Land Conservancy (NALC) purchased the land in Horse Canyon that included the village of Nacutea to return to the original people. The NALC and tribal elders believed the property should be turned over to California State Parks for preservation and management of the area. The people protected the village through the help of the Native American Land Conservancy. Bean, Vane and Young, *The Cahuilla Landscape*, 28; and Anthony Madrigal, *Sovereignty, Land and Water*, 75 and 114.

<sup>265</sup> Phillips, "Military Tribunal in Coyote Canyon," 8.



Nátcutakiktum.<sup>266</sup> There was a large spring and seasonal surface water that flowed down stream through the canyon. During floods, the people would have to stay clear of the turbulent creek. All villages were out of the main drainage flow. Agave, manzanita, and mesquite groves in Coyote Canyon provided stable foods for the people. They did not have to far to harvest their primary foods.<sup>267</sup> The west end of Coyote Canyon followed a path that led into the Santa Rosa Mountains, where multiple Cahuilla villages and sites covered the landscape. The Cupeño village of Kúpa was just ten miles southwest from this point. Tribal leader Chapuli governed the main village of Wiliya at the base of Coyote Mountain in the Anza Borrego Desert. This was home to the Coyote Moiety. The Cahuilla established the village at Middle Willows or the needle of Coyote Canyon. The canyon and mountain remain a sacred place to the Indigenous people.<sup>268</sup> The Kumeyaay occupied the landscape south of Coyote Canyon.<sup>269</sup>

Antonio Garra's plan for war climaxed while he was in Coyote Canyon. As Antonio Garra moved up the canyon, he saw the people preparing for war. Men worked on making weapons of mesquite clubs for the looming war. Men primed their bows and made hundreds of arrows with wooden and lithic tips. Women prepared medicine for the men. Pots of stew boiled. Fires dotted the canyon, each with storytellers delivering words of combat. They had heard of the attack at the river. The people at Coyote Canyon

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<sup>266</sup> Bean, Vane, and Young, *The Cahuilla and the Santa Rosa Mountain Region: Places and Their Native American Association*, 28.

<sup>267</sup> Anthony Madrigal, *Sovereignty, Land, and Water*, 114.

<sup>268</sup> The Cahuilla, Cupeño, Luiseño, and Kumeyaay, held their traditional cultural property in high regard. The stories and history attached to the land designate this place sacred ground. Stan Rodriguez interview, April 5, 2021.

<sup>269</sup> Schneider, "Archaeological Testing at the "Garra Site," 10.

prepared for an attack on the ranch of invader Juan José Warner.<sup>270</sup> Chief Chapuli of Pauki and Chief Vicente of Coyote Canyon both approached Antonio Garra of the eminent attack on Coyote Canyon by the Americans.<sup>271</sup> Chapuli and Vicente told Garra “to take command of the people.”<sup>272</sup> Garra told his people, “he would charm the bullets of the White men so that they would not hurt them any more than water.”<sup>273</sup> Antonio Garra suggested the attack before to his fellow comrades, but they took it to another level.<sup>274</sup> Antonio Garra gathered the leaders and warriors together and strategized their strike upon the Americans from the village of Wílakal just five miles south of the village of Kúpa. The plan was to eliminate all the Americans from Southern California. The Natives determined their allies and adversaries. The Cupeño and the Cahuilla in Coyote Canyon believed the principal Cahuilla War Chief Juan Antonio would ultimately side with those who wanted to attack the Americans. First, they would strike, and later, they would send word to the Cahuilla War Chief Juan Antonio to send his reinforcements. Unfortunately, Garra’s runners were not discreet. Many runners betrayed and disclosed Antonio Garra’s plans to the Americans and other tribal people opposed to the war. Garra did not control his people well, and they acted at times without his consent. Due to indiscreet runners, the Americans became aware of Garra’s plans for war.<sup>275</sup> Antonio Garra and his commanders determined first to strike Warner’s Ranch, the source of their

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<sup>270</sup> Phillips, “Military Tribunal in Coyote Canyon,” 9.

<sup>271</sup> Alvino Siva used to talk about Chief Chapuli in Coyote Canyon. Siva said the Americans killed Chapuli in battle.

<sup>272</sup> “Rancho Del Chino., Dec. 13, 1851,” *San Diego Herald* (San Diego, CA), December 18, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>273</sup> Wozencraft, “Indian Affairs, 1849-1850,” 10.

<sup>274</sup> “Declaration of Antonio Garra,” *Los Angeles Star*, December 21, 1851.

<sup>275</sup> Hudson, “The Last Indian Campaign in the Southwest,” 154.

problems. Warner lived at the ranch, which was located near Kúpa. Garra predetermined to strike the ranch owners first, then sack the towns.<sup>276</sup> Juan José Warner had been the principal culprit of many of the problems facing the local Natives.<sup>277</sup> Problems that Garra took to heart with him, caused by José Warner, consisted of taking control of the Cupeño ancestral land, and forcing the Indigenous people to work on the land. The Natives received whippings on their backs by Warner when they did not work hard enough. This form of abuse allowed the Americans and others to abuse the Aboriginal people physically and mentally. It is not known at this time if Warner killed the Cupeño who lived within his ranch land, but he did threaten them with the whip.

Garra organized two strike teams made up of Cupeño and Cahuilla warriors. Antonio Garra's son, named Antonio Garra, Jr., led the assault team to attack the Americans that lived at the village of Kúpa in the early morning.<sup>278</sup> Kúpa stood at the base of the southern face of Hot Springs Mountain and at the northern end of the Vallé de San José. Cahuilla Chief Chapuli, a né and a hereditary leader from the village Wíliya, led the strike team that was to attack Warner's Ranch and kill Juan José Warner and his family. Warner's Ranch rested at top of the eastern side of the San José Valley. Warner built his adobe house four miles southeast of Kúpa. The war party moved out of Coyote Canyon into position into the southern end of the San José Valley to the village of Wílakal (San Ysidro). Antonio Garra felt weak and exhausted from his long trek across

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<sup>276</sup> "Declaration of Antonio Garra," *Los Angeles Star*, December 21, 1851.

<sup>277</sup> Letter from John R. Bartlett, Mexican Boundary Commissioner to Alex H. H. Stuart, February 19, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 287.

<sup>278</sup> Phillips, "Military Tribunal in Coyote Canyon," 10-11.

the desert; his heart bothered him.<sup>279</sup> He had been on the move a lot, trying to unify sovereign tribal groups to fight against the Americans. Antonio Garra stayed behind at the village of Wílakal.<sup>280</sup> Lázaro, a Native leader from Santa Ysabel, forewarned Juan José Warner a day earlier of the imminent attack on his ranch. Warner sent his wife and family to San Diego immediately. Warner stayed behind to protect his property.<sup>281</sup>

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<sup>279</sup> "Council of War," Cave Johnson Coutts Papers. Box 32, Folder CT 1974. File 1. Huntington Library, San Marino, CA.

<sup>280</sup> Phillips, "Military Tribunal in Coyote Canyon," 10-11.

<sup>281</sup> Ibid.



*Figure 4.2: Digueños [Kumeyaay] by Arthur Schott, in charge of surveying party on Mexican border. Source: Report of the United and Mexico Boundary Survey, 1857, by William H. Emory. Painting by Arthur Schott.*

On November 21, 1851, around 2 a.m., Antonio Garra, Jr., went to his village of Kúpa to kill the Americans who lived there among the Kúupangaxwichem.<sup>282</sup> Antonio Garra enlisted the help of American Bill Marshall, who had married into the village of Antonio Garra. He had married Dominga, the daughter of Núut and leader Jose Noca, and first cousin to Antonio Garra, Sr. Marshall married into the powerful leadership family and there was no way out. In the end, Marshall buckled. Marshall, aware of the planned

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<sup>282</sup> “Confession of William Marshall,” George William Beattie and Helen Pruitt Beattie Papers.

attack, and not sure what to do, minded his own business when his nephew Antonio Garra Jr. arrived with men to take the lives of the Americans. Garra Jr. went to Chief Jose Noca's house, where two visitors stayed, an American, Joe Manning, and Sonoran Juan Verdugo [Berro]. The attackers rounded up the Americans. Joe Manning was killed outside by a blow to the head with a club by Cosme.<sup>283</sup> Cosme [Palaguagix] Palaguix was from Kúpa and baptized at San Luis Rey.<sup>284</sup> Cosme or Cosmo was a stout, bull-headed, Indigenous man from San Luis Rey who took orders from Antonio Garra Jr. to hit Manning.<sup>285</sup> Within minutes, the attack was over. The Indigenous warriors identified three other Americans within the village grounds. The warriors led Mr. Fiddler, James Ridgeley, and Levi M. Slack to the cemetery, where the combatants killed them.<sup>286</sup> A report by Sheriff Haraszthy claimed four Americans were killed that early morning.<sup>287</sup> Antonio Garra claimed three Americans were killed.<sup>288</sup> Marshall knew about the eminent

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<sup>283</sup> No first names were given. Phillips, *Chiefs and Challengers*, 103; and "Trial of Bill Marshall," *Hayes Scrapbook 1847-1885, Vol. 38*, 67.

<sup>284</sup> Cosme Palaguix, "'Early California Population Project,'" The Huntington, <https://www.huntington.org/ecpp>.

<sup>285</sup> Cosme was Cupeño from Kúpa. Baptismal record 03658, confirmed Cosme was from Kúpa. "Los Angeles Correspondence," *Daily Alta California* (San Francisco, CA), March 1, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; and "Early California Population Project," The Huntington, <https://www.huntington.org/ecpp>.

<sup>286</sup> Only two first names were given of the four Americans killed. From the 1850 San Diego County Census, names can be found for three of those killed at the village of Kúpa. William Marshall confessed and gave names of the four Americans killed. "Confession of William Marshall," George William Beattie and Helen Pruitt Beattie Papers; "1850 Census, San Diego County, Indexed," Second Edition, (San Diego, Genealogical Society, 1995), 1, 5, and 7. accessed August 17, 2020, <https://casdgs.org>; Phillips, *Chiefs and Challengers*, 103; Smythe, *The History of San Diego*, 187; and "Trial of Bill Marshall," *Hayes Scrapbook 1847-18-85, Vol. 38*, 67.

<sup>287</sup> "Important from the South," *Daily Alta California* (San Francisco, CA), December 3, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>288</sup> "Court Martial of Antonio Garra Chief of the Cupeños. January 10-17, 1852." Cave Jonson Coutts Papers. Box 38. Folder CT 1974. Huntington Library, San Marino, CA.

attacks three hours before hand. He heard the disturbances but did nothing to stop it.<sup>289</sup> Marshall was afraid, yes, but he was married into the family as well.<sup>290</sup> Antonio Garra Senior must have thought highly of Marshall and instructed his son not to have him killed.

Later that morning at sunrise, four miles south, the Native militia continued their attack at Warner's place of residence.<sup>291</sup> Chief Chapuli [Chapulgas] of the Los Coyotes Band, sub-leader for the attack, and Panito and Francisco Mocate and their warriors attacked the adobe residence of Juan José Warner. Chapuli and Panito were Cahuilla from Coyote Canyon. Garra appointed Francisco Mocate as headman of the Village of Wilakal. Warner and his young Indigenous house slave Santos, and another Indigenous boy awoke to war cries and chaos from the outside. When Warner opened the door, a volley of arrows soared through the air toward him. He shot his way through the door with a rifle and killed three Native combatants at the start.<sup>292</sup> Outside, Warner saw cattle and horses running away with several Aboriginals following. The warriors drove off Warner's horses and stock.<sup>293</sup> The ranch house, barn, and stables had been set ablaze, and burned for hours. Warner and the boys jumped on a couple of horses and headed east that cold morning, over the summit towards Vallecitos, escaping Mocate and the execution

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<sup>289</sup> "Los Angeles Correspondence," *Daily Alta California* (San Francisco, CA), March 1, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>290</sup> Phillips, "Military Tribunal in Coyote Canyon," 11.

<sup>291</sup> Phillips, *Chiefs and Challengers*, 104.

<sup>292</sup> "Martial law Declared in San Diego," *San Diego Herald* (San Diego, CA), November 27, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>293</sup> "Indian Difficulties in Southern California," *Sacramento Daily Union* (Sacramento, CA), December 5, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

team. Warner hid there with his young vaqueros.<sup>294</sup> Warner escaped! The Indigenous combatants raided the ranch and took the tools and things they could use or trade. Chapuli and the others failed to kill Warner. What a horrible blow! Chapuli lost three of his men in the encounter against Juan Warner, yet no charges were ever brought against Warner.<sup>295</sup> This was one of the problems Antonio Garra and other Indigenous people faced daily. Whites used abusive methods of brutal force and murder to get the Natives to conform with no repercussions, but if the Indigenous killed Whites, a military unit was sent to quiet the people which usually meant death of another Indigenous family or community. Then the Americans moved onto that land that was now vacant.

Warner returned to his place later that afternoon. On his way back, he saw an Indigenous man with his stolen belongings and murdered him for it. The attack at Warner's Ranch left five Americans dead and his house and barn still burned. His house had been pillaged.<sup>296</sup> The house and barn burned completely to the ground, it was reported. In 2011, Stephan R. Van Wormer and Susan D. Walter conducted an archaeological survey and found no evidence of any significant fire on the Warner-Carrillo Ranch property that would have destroyed Warner's house and store.<sup>297</sup> They claimed there was a fire but not enough burned remains were present to have leveled his ranch home. This suggest that the raid on Warner's house and property was not as

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<sup>294</sup> Smythe, *The History of San Diego*, 188.

<sup>295</sup> "Confession of Antonio Garra," *Daily Alta California* (San Francisco, CA), January 1, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>296</sup> Letter from Judson Ames, Public Notary to Luke Lea, November 23, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 287. 290-291.

<sup>297</sup> Van Wormer and Susan D. Walter, "Two Forks in the Road: Test Excavations of the Ranch House at Warner's Ranch (Warner – Carrillo Ranch House) and Site of Jonathan T. Warner's House and Store," (Chula Vista: Walter Enterprises, July 2011), 73.



significant as suggested by Warner and newspapers of the time. The attackers left behind some horses and mares. Warner noticed all his cattle had been taken.<sup>298</sup> The major-dormo had been found atop a wood pile where he had been killed and set on fire. This was a sign that the Indigenous warriors meant business and did not want to back down. News spread of the attack on Warner's Ranch and of the California Senator's possible death. His body could not be located.<sup>299</sup> The next day, Warner rode to San Diego to inform the residents of the attack. The news of the attacks on the river, at Warner's Ranch, and at Kúpa, alarmed the Americans.<sup>300</sup> The recent attacks at Warner's ranch left the residents of San Diego terrified. Warner assessed his damages at \$58,745.<sup>301</sup> The individual bands of tribes never assessed a dollar amount of damages for attacks on their villages and the number of slain men, women, and children by the invaders. The numbers would be off the charts.

After the attack, the warrior strike team including, Antonio Garra Jr., Jose Luis, Cosme Palaguix, Jose Noca, Chapuli, Francisco Mocate, Panito, William Marshall, and Juan Verdugo, and all those who participated on the raids that morning, hurried back to Coyote Canyon for safety. The remaining Indigenous families left Kúpa for Coyote Canyon for fear of retaliation by Americans. They hoped to return to their home at some point in the future.<sup>302</sup> On the second day, they arrived at the top of the Coyote Canyon

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<sup>298</sup> Phillips, "Military Tribunal in Coyote Canyon," 12.

<sup>299</sup> Hopkin's, "Journal of the San Bernardino Branch," 62.

<sup>300</sup> Smythe, *The History of San Diego*, 189.

<sup>301</sup> "Property Taken or Destroyed by Indians on or About the 23d November 1851, at the Ranch of the Undersigned," San Diego, CA. January 13, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 290-291.

<sup>302</sup> Phillips, "Military Tribunal in Coyote Canyon," 12.

from the west entrance and proceeded down the rocky path into the canyon. Antonio Garra, still weak, stayed at Wilakal for two more days before leaving for Coyote Canyon.<sup>303</sup> There in Coyote Canyon, they gathered with Antonio Garra to strategize and organize the next move. Most warriors were on foot. A small number of the Native strike team had horses. The Native warriors armed themselves with an arsenal of bows and arrows, war clubs, and some six shooters.<sup>304</sup>

Garra and the other leaders recognized the Americans had squeezed them into a tight position. They knew the Americans were coming and they needed to act first. Unknown to the Americans, Antonio Garra had not unified the various bands of tribal groups nor solidified unity with Juan Antonio. Antonio Garra had some alliances at the river and communities that bordered his village, but in no way had he incorporated, aligned, and amassed a guerilla army of Indigenous Californians to rise against the Americans. The Americans believed Antonio Garra had unified the Indigenous people of Southern California and beyond, and based their decisions on this intelligence.<sup>305</sup> Garra had reached out to many tribal leaders and Californios for support. Most tribes wanted to align themselves with the Americans and follow treaty guidelines of not rising against the United States just as Zapatero did, a local headman from the San Joaquin Valley. Zapatero notified the Americans his people in the Central Valley had no hostile intentions.<sup>306</sup>

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<sup>303</sup> "Declaration of Antonio Garra," *Los Angeles Star* (Los Angeles, CA), December 21, 1851.

<sup>304</sup> "Important from the South," *San Joaquin Republican* (Stockton, CA), December 6, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>305</sup> Phillips, *Chiefs & Challengers*, 131.

<sup>306</sup> Phillips, *Indians and Indian Agents*, 108.

Antonio Garra, an intellectual, understood he had only one chance, and if he did nothing now, all would be lost not only for him, but for all Natives in Southern California. He tried to assemble an army of warriors to fight the Americans. Some Luiseño remained ready but without Juan Antonio and the Cahuilla, the largest tribe in Southern California, much remained uncertain. Garra tried to align himself not only with Natives but with the Californios, who were influential and had wealth. Garra worked with many Californios and previously they had told him that they wanted their lives back, too. Garra wrote memos and short letters to his friends and to people he knew.

While in Coyote Canyon, Antonio Garra gave Juan Verdugo letters to deliver to people he had made alliances with previously.<sup>307</sup> The *Daily Alta California* newspaper claimed Juan Verdugo was a sub-leader of the revolt, as was Bill Marshall. Verdugo was a Sonoran.<sup>308</sup> Not hearing anything from José Antonio Estudillo, Garra wrote to his other political allies. Garra wrote to Mr. José Joaquín Ortega, a prominent Californio landowner who had acquired the land around the Asistencia of Santa Ysabel and the Kumeyaay people, south of Kúpa.<sup>309</sup> Joaquín Ortega had also been the mayordomo or administrator at Mission San Luis Rey.<sup>310</sup> Garra was ready to fight and checked in to see if Ortega and the Californios were still going to fight with him. In a letter to Mr. Joaquín Ortega pleading for help, Garra acknowledged tribal leaders Politano and the people of

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<sup>307</sup> Phillips, *Chiefs & Challengers*, 105.

<sup>308</sup> "Los Angeles Correspondence," *Daily Alta California* (San Francisco, CA), March 1, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>309</sup> Phillips, *Chiefs and Challengers*, 92-93; Lynn Newell Christenson and Ellen L. Sweet, *Ranchos of San Diego County* (Charleston SC, Chicago IL, Portsmouth NH, and San Francisco CA: Arcadia Publishing, 2008), 91-93.

<sup>310</sup> Phillips, *Chiefs and Challengers*, 55.

Razon were there with him. Garra wrote that, “They do not rise for anything but the taxes not for the mere wish of revolting. Nothing more. I am here in the Callotes [Coyote Canyon].”<sup>311</sup> It took a lot to break down the people, and when they broke, they bounced back with resiliency and stamina.

On November 21, 1851, Garra addressed José Antonio Estudillo, a wealthy Californio. Estudillo received a land grant that contained part of the Temecula Ranch twenty miles west of Antonio Garra’s village. He was San Diego’s second tax assessor.<sup>312</sup> Estudillo was also an administrator and Mayordomo at Mission San Luis Rey.<sup>313</sup> The editor published the letter in the San Diego Herald. Garra told Estudillo he had started to attack the ranchos. The following Tuesday, he would attack San Diego. Garra was concerned. He had not heard back from Cahuilla Chief Juan Antonio.<sup>314</sup> Garra told Estudillo so he can be ready with other Californios to attack San Diego and then the other cities.

The letter stated “Antonio Garra” revolted in response to being taxed and disagreed with being taxed. This is not the original letter, but this letter is signed “Antonio Garra.” The letter was written in Spanish and translated from a copy of the original here:

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<sup>311</sup> “Letter from the Indian Chief Garra,” *Sacramento Daily Union* (Sacramento, CA), December 20, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>312</sup> Donna K. Sefton, “Justice in Old Town,” *The Journal of San Diego History* 2, no. 4 (October 1965): <https://sandiegohistory.org/journal/1956/october/justice-5/>.

<sup>313</sup> Smythe, *History of San Diego*, 169.

<sup>314</sup> “Important from the South,” *Daily Alta California* (San Francisco, CA), December 3, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

Señor Don Jose Antonio Estudillo, pues Señor doy saludes  
 aquel tiempo y te dije que en quanto pensaba yo esta  
 cosa ahora yas ta rompido este golpe pues este vida  
 le voy ayudar por que todos los Indios convidados  
 en todas partes puede que San Bernardino estaran  
 levantando y aqui un hombre yamado Juan Berro  
 me dice que me guardaban la gente de razon por  
 eso doy este mis palabras y que alistán para el  
 martes salin de aqui para al pueblo y usted  
 se compone con la gente de razones y Indios  
 y mandame su palabra no mas  
 Aque Caliente 21 de Noviembre de 1851  
 Antonio Garra

Figure 4.3: Copy of letter written in Spanish from Antonio Garra to José Antonio Estudillo.

### Garra's Spanish Version

Señor Don Jose Antonio Estudillo, pues Señor doy saludes aquel tiempo y te dije que en quanto pensaba yo esta cosa ahora yas ta rompido este golpe pues este vida le voy ayudar por que todos los Indios convidados en todas partes puede que San Bernardino estaran levantando y aqui un hombre yamado Juan Berro me dice que me guardaban la gente de razon por eso doy este mis palabras y que alistán para el martes salin de aqui para al pueblo y usted se compone con la gente de razones y Indios y mandame su palabra no mas.<sup>315</sup>

### Newspaper Version

I salute you, the time I told you what I thought of things; now the blow is struck; if I have life, I will go and help you, because all the indians are invited in all parts, and it is possible that the San Bernardino's are now rising—and how a man named Juan Berro told me that the white people waited for me, for I give these my words and to be prepared. Get ready by Tuesday to leave this for the Pueblo;

<sup>315</sup> "The Indians Rising-Attack on Warner's Ranch!-Departure of the Volunteers," *San Diego Herald* (San Diego, CA), December 3, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

*and you will arrange with the white people and Indians, and send me your word, nothing more.*

***Milanovich Transcribed Version***

*Mr. Jose Antonio Estudillo, well sir, I give greetings at this time. I told you what I thought of this thing, the attack has already started. I give my life to help because all the Indians living in all parts, are invited. Maybe the San Bernardino's [Juan Antonio, the Cahuilla and Serrano people] are rising up and here a man named Juan Berro [Verdugo], tells me that the gente de razon [missionized and assimilated Indigenous people including Cupeño, Kumeyaay, and Luiseño] are waiting for instructions from me. For this reason, I give my words. The Californios [Mexicans born in California] get ready by Tuesday to leave here for the town [San Diego] you and the gente de razones [missionized and assimilated Indigenous people including the Cupeños, Kumeyaay, Luiseños] and Indians [Indigenous people not missionized including Cahuilla and Serrano] and send me your word.*

Antonio Garra did not speak English, but he could read and write in Spanish quite well. He wrote this letter in Spanish to José Antonio Estudillo. The letter was transcribed into English and printed in the local newspaper, the *San Diego Herald*, on December 11, 1851. The letter was transcribed one way. A review of the original special text reveals errors in the original translation. After another translation by author Sean Milanovich, who is more in tune with what Antonio Garra thought, a different transcription is revealed and sheds light on a few things. First, the translation of “gente de razon.” Secondly, Juan Verdugo, a Mexican, waited for Antonio Garra to get instructions to give to other bands, waiting for the call to attack. Antonio Garra had the strategized and organized a smashing strike team not only with the help of the Cahuilla and Cupeño but also with the Kumeyaay, Luiseño, and Serrano. Garra waited for things to unfold.

Milanovich questioned the newspaper translation after finding a copy of the original letter written by Antonio Garra at the Huntington Library. Milanovich did not agree with the translation so, he transcribed it himself and the letter makes more sense now. Primarily “gente de razon” refers to a class of people, but back then the paper reported that “gente de razon” meant White people, which is not the case. Indigenous people were considered the lowest class of people in Spanish California and in American society.<sup>316</sup> The Indigenous people who had been baptized adopted the label “gente de razon” or, “people of reason,” to distinguish themselves from the non-missionized Indigenous people such as the Cahuilla in the pass, mountains, Coyote Canyon, and deserts in Riverside and San Diego counties, and the Kumeyaay in the mountains and deserts of San Diego and Imperial counties.<sup>317</sup> The *Sacramento Daily Union* reported that “razon” can be interpreted in two ways, “either the native of the country or of the Indian Captain called Razon.”<sup>318</sup> “Gente de razon,” did not refer to the Indian Captain because Garra did not capitalize the “R” in Razon; whereas he capitalized the first letter of proper names. The *Daily Alta California* newspaper published the letter twelve days after it had been written. By the time, the letter had been published, Sheriff Haraszthy already had placed San Diego under martial law.<sup>319</sup> At the same time the above letter called for a rise

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<sup>316</sup> Edward D. Castillo, “California Indian History,” Native American Heritage Commission, State of California (2021). accessed January 31, 2021, <http://nahc.ca.gov/resources/california-indian-history/>.

<sup>317</sup> Vladimir Guerro, “Caste, Race, and Class in Spanish California,” *Southern California Quarterly* 92, no. 1 (Spring 2010), 7; and “Letter of Antonio Garra, the Indian Chief-Captain,” *San Diego Herald* (San Diego, CA), November 27, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>318</sup> “Letter from the Indian Chief Garra,” *Sacramento Daily Union* (Sacramento, CA), December 20, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>319</sup> The judge of the United States district court, the Indian Treaty Agents, and the Marshal of the State all used specific papers to communicate with the public. Those papers used were the “Herald” and the “Alta” of San Francisco along with the “Times” and “Transcript” of Sacramento. At this time, it was alerted that

of rebellion by Indians in Southern California, in December 1851, the *Daily Alta California* reported simultaneously on the same day about the Fort Laramie Indian Treaty.<sup>320</sup> The American people in San Diego upon reading this would have begun wondering about a treaty with the Indigenous people of Southern California. The letter implicated the Luiseño and Kumeyaay, not known to have been involved in the attacks and their planning.

The acknowledgment of treaties made in Northern California must have made the citizens of Southern California, including San Diego, Los Angeles, and San Bernardino, ask themselves about making a treaty with such leaders as Antonio Garra, Juan Antonio, Manuelito Cota, Panto, and Victoriano. When might the United States send treaty commissioners to make treaties with Aboriginal people of Southern California? Aboriginals had been sending messages and letters via the newspaper. Antonio Garra and Juan Antonio were very aware of the situation and need for negotiation with the United States government. Native scholar and historian Edward Castillo believes that the Aboriginal people all talked and interacted with one another and were aware of all existing events, including the treaties in the north down to the Tejon Mountains, just north of Los Angeles.<sup>321</sup>

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Californians in December were very unhappy with California State representatives and wanted them removed from office. The Indian uprising really scared a lot of people. "Rank Injustice," *Sacramento Daily Union* (Sacramento, CA), December 20, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>320</sup> "The Indian Troubles," *Daily Alta California* (San Francisco, CA), December 13, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>321</sup> Edward Castillo interview, March 12, 2019.



The White citizens of San Diego heard about the anticipated attack on San Diego. Sheriff Haraszthy requested all able bodies of men to volunteer for a militia to counterattack the Indigenous people. A volunteer militia formed, called the Fitzgerald Volunteers.<sup>322</sup> Major E. Fitzgerald was one of the first to enlist and made Captain by the unit. Fitzgerald appointed his officers. With Lieutenant Major Heintzelman's cooperation, the unit was given arms, including fifty muskets.<sup>323</sup> Arms and ammunition were in extremely limited supply. So short, that the Americans feared the alliance of the Cupeño and all the Cahuilla.<sup>324</sup> The Americans believed that Antonio Garra could have mustered 5,000 people.<sup>325</sup> The attack on San Diego by the Californios and Indigenous people that coming Tuesday never materialized as Antonio Garra planned for, according to his letter to José Antonio Estudillo.<sup>326</sup> Sheriff Haraszthy, in an appeal to California Governor McDougal, wrote there were no more than one hundred Americans in the San Diego vicinity.<sup>327</sup> On November 27, the militia of thirty-seven volunteers under command of Fitzgerald left San Diego for Kúpa, in search of Antonio Garra.<sup>328</sup> In

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<sup>322</sup> "Important from the South," *Daily Alta California* (San Francisco, CA), December 3, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>323</sup> Madley, *An American Genocide*, 203.

<sup>324</sup> Harris Newmark, *Sixty Years in southern California, 1853-1913, Containing the Reminiscences of Harris Newmark*, ed by Maurice H. Newmark and Marco R. Newmark, (New York: Knickerbocker Press, 1916), 50 and 168. Library of Congress, [www.loc.gov/resource/calbk.023](http://www.loc.gov/resource/calbk.023).

<sup>325</sup> *Los Angeles Star*, (Los Angeles, CA), November 30, 1851. George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 35. Huntington Library, San Marino, CA.

<sup>326</sup> "Important from the South," *Daily Alta California* (San Francisco, CA), December 3, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>327</sup> Sheriff Haraszthy to Gov. McDougal, *The Daily Alta California* (San Francisco, CA), December 3, 1851. (NO 151 Hays Collection, Bancroft Library, F851, H 4, R 38), 17-18. Hunting Library, San Marino, CA.

<sup>328</sup> "The Expedition Against the Indians," *The San Diego Herald* (San Diego, CA), December 11, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; and "List of Volunteers," Cave Johnson Coutts Papers. Box 6, Folder CT 290. Huntington Library, San Marino, CA.

addition, ten volunteers from San Bernardino and more from Los Angeles united to put an end to the Native insurgents.<sup>329</sup> Known at the time, it would not be until January 13, 1852, that one hundred federal troops arrived in San Diego to attack the Indigenous people.<sup>330</sup>

The 450 Mormon residents of San Bernardino received word of the attack on Warner's Ranch and of the planned attack on Americans in their region. Furthermore, local Indigenous raids on the foreign settlement already put the community on alert that they had invaded the lands of the Cahuilla, Serrano, and Tongva peoples. "Permission was granted from state officials, to hold an election at which two justices of the peace and two constables were chosen."<sup>331</sup> The Mormons therefore believed "precaution was necessary as the Indians in the district, assisted by a few renegade whites, were somewhat troublesome, and had to be kept in subjugation."<sup>332</sup> The frightened Mormons prepared for the worst and got ready for an eminent attack on their settlement. The Mormons tore their recently built houses down and constructed a fort and a barricade. Fort San Bernardino enclosed eight to ten acres protecting at least 100 families.<sup>333</sup> A guard kept watch during the night.<sup>334</sup> The Mormon settlement was placed on Martial law.<sup>335</sup> Fear of an attack

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<sup>329</sup> Hopkins, "Journal of the San Bernardino Branch," 62.

<sup>330</sup> "Evening Edition," *Daily Alta California* (San Francisco, CA), January 13, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>331</sup> Jesse William and Eleanor Clarkson Baker, "Life Story of Jesse William and Eleanor Clarkson Baker," 27.

<sup>332</sup> *Ibid.*

<sup>333</sup> *Ibid.*

<sup>334</sup> "Los Angeles Correspondence," *Daily Alta California* (San Francisco, CA), January 6, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>335</sup> Lyman, San Bernardino, 62.

rattled the land.<sup>336</sup> At the same time, the Indigenous people feared the invaders and just wanted to be left alone but the idea of war spread and gave power and mobilized the Natives in their homeland.

On November 23, Camp Yuma received news of the attack at Warner's ranch. An "express came in at 11 at night, with the news that the Indians had broken down the corral & driving all Warner's cattle & horses, plundered his house and destroyed it." Heintzelman dispatched a group of sixteen men back to the Colorado River to curb more conflicts against Whites.<sup>337</sup> Sheriff Haraszthy collected a posse of fifty men to go to Garra's village. Heintzelman promised arms and ammunition. San Diego asked for arms to protect the town from Indigenous threats.<sup>338</sup> Antonio Garra reached out to his family, too, to ask for help in the fight against the Americans. Guadalupe, the servant to Mrs. Cave Coutts, was a first cousin to tribal leader Antonio Garra.<sup>339</sup> Cousins were treated as brother and sisters under Southern California Indigenous Natural law. Guadalupe received word from her brother to revolt against the Americans and join him.<sup>340</sup>

The *Daily Alta California* reported that over 3,000 Indigenous people from Santa Barbara to the Colorado River aligned with Antonio Garra.<sup>341</sup> The attack on the Colorado River and on Warner's Ranch frightened the non-Indigenous people who numbered about

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<sup>336</sup> Hopkins, "Journal of the San Bernardino Branch," 58.

<sup>337</sup> Phillips, *Chiefs & Challengers*, 110.

<sup>338</sup> Blackwell, *Heintzelman's Journal*, 46.

<sup>339</sup> Peter Heintzelman understood Guadalupe was Antonio Garra's wife's sister. Ibid.

<sup>340</sup> "Indians of California, Garra Uprising," Cave Johnson Coutts Collection. Huntington Library, San Marino, CA.

<sup>341</sup> "The Indian Troubles," *Daily Alta California* (San Francisco, CA), December 13, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

one hundred people in the San Diego area.<sup>342</sup> The Indigenous were frightened for their lives too as the invaders moved closer and closer to their villages. Previous attacks in Los Angeles added fuel to the belief of Indian insurrections. In early November, the *Los Angeles Star* reported of Indian murders several months before and killings of more Indians just outside a Los Angeles tavern, spreading more hate towards the original people of the land.<sup>343</sup> Americans reevaluated their position and reminded themselves that the “Indian” lived in proximity to the White man.

On November 26, 1851, Americans declared martial law in San Diego.<sup>344</sup> Under martial law, the military governed the town and county, not letting people wander the streets until it was safe. People had to stay inside their homes. Major Edward Harold Fitzgerald of the First Dragoons led a militia of men to kill Antonio Garra and those responsible for the attacks. The Fitzgerald Militia searched for Antonio Garra first at his village. Garra could not be located. Fitzgerald and the militia then burned the village of Kúpa, leaving little left of the homes for the people to return to.<sup>345</sup> On December 1, 1851, Fitzgerald dispatched a message to Antonio Garra via runners. Word got back that several hundred Natives gathered in Coyote Canyon with enough cattle to sustain them for a long time. Fitzgerald descended the canyon and entered the village of Wíliya with caution, where he apprehended William Marshall, Juan Verdugo, and Santos.<sup>346</sup> Tribal leaders gave up the non-Indians. The Cahuilla, Cupeño, Luiseño, and Kumeyaay staked

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<sup>342</sup> Ibid.

<sup>343</sup> Madley, *An American Genocide*, 203.

<sup>344</sup> Phillips, *Chiefs & Challengers*, 108.

<sup>345</sup> Joseph Hill, *History of Warner's Ranch and its Environs*, 139.

<sup>346</sup> Phillips, “Military Tribunal in Coyote Canyon,” 14.

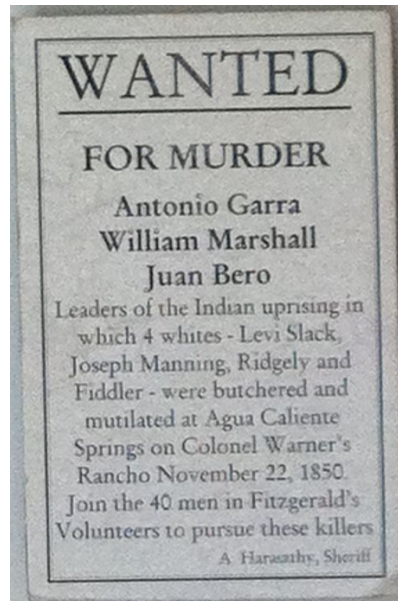


Figure 4.4: Antonio Garra wanted poster. Source: <https://hiddensandiego.net/influencer-antonio-garra.php>.

out near and inside Coyote Canyon wanted to fight and were prepared for war. The Kumeyaay occupied the Anza Borrego Desert south of Coyote Canyon and the Cahuilla occupied Coyote Canyon to the north.<sup>347</sup> Even if something happened to Antonio Garra, the people were ready to continue to fight until they were no more.<sup>348</sup>

Antonio Garra was aligned with the Cahuilla in Coyote Canyon under Cahuilla Chief Chapuli.<sup>349</sup> Garra also aligned with the prominent Luiseño Chief Manuel Cota.<sup>350</sup> Cosme Palaguix was an individual who helped Antonio Garra. The American papers

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<sup>347</sup> Schneider, "Archaeological Testing at the "Garra Site," 10 and 16.

<sup>348</sup> "Confession of William Marshall," George William Beattie and Helen Pruitt Beattie Papers.

<sup>349</sup> Ibid.

<sup>350</sup> To show their alliance with one another, in 1847, Manuel Cota, Antonio Garra, and other chiefs held a military council of war against Mexicans that stole horses that belonged to the Luiseño. Ibid.

listed Cosme as a Luiseño, but he was Cupeño. This misleading tribal name shed lights on the discrepancies with early written material, and its continued use needs to stop. With the combined efforts of Native scholars and local community members, this discrepancy can be resolved. Luiseño individuals helped Antonio Garra until the end.<sup>351</sup>

Antonio Garra was aligned with the Kumeyaay from multiple villages, including the Kumeyaay village located at Kúpa [Jaxopin], Santa Ysabel, and San Felipe.<sup>352</sup> Not all bands of Cahuilla, Kumeyaay, and Luiseño aided Cupeño war chief Antonio Garra in the war against the Americans. It is not clear at this point exactly which bands of Luiseño and Kumeyaay participated in the war.<sup>353</sup> It might be just individuals or groups under leaders such as Kamia Chief Geronimo.<sup>354</sup> Antonio Garra invited the Quechan and Cocopah 100 miles east along the river. Michael Connolly Miskwish, in his book, *Kumeyaay, A History Textbook, Volume 1, Precontact to 1893*, believed the Kumeyaay thought about uniting with Garra, but there were internal conflicts.<sup>355</sup> Some Kumeyaay did participate in the war with Garra against the Americans, according to Stan Rodriguez.

There were Kumeyaay people at Warner Springs. There were also several Kumeyaay individuals and people from multiple villages who fought against the Americans. Besides the Kamia, not much is known about the Kumeyaay as participants

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<sup>351</sup> Cosme was a San Luis Rey Indian. This understood, San Luis Rey Indian could mean any Indigenous person that was at Mission San Luis Rey for a given time. "Los Angeles Correspondence," *Daily Alta California* (San Francisco, CA), March 5, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>352</sup> The Kumeyaay from Santa Ysabel attended the feast given the year before by Joaquin Ortega where they were all instigated to revolt against the Americans. "Confession of William Marshall," George William Beattie and Helen Pruitt Beattie Papers; and Stan Rodriguez interview, phone, April 5, 2021.

<sup>353</sup> Schneider, "Archaeological Testing at the "Garra Site," 65.

<sup>354</sup> Phillips, *Chiefs and Challengers*, 102.

<sup>355</sup> Miskwish, *Kumeyaay*, 85.

to the Garra Revolt. Stan Rodriquez believes that there was a hush-hush on participants of the war. Rodriquez stated after the treaties were signed, Indigenous people hunted down and tried to shake down those who partook in the war for causing such a disturbance, which became a threat to continued Indigenous life.<sup>356</sup> For example, Cahuilla Chief Juan Bautista and twenty-five of his men caught Cosme Palaguix in February 1852, who confessed he had killed Americans at Warner's ranch.<sup>357</sup> Bautista continued his search for Indigenous rebels such as Panito. It is true, Bautista did play a major role in war effort against the Americans. Perhaps his due diligence outweighed any negativity as seen by the invaders.

After the attack on Warner's, Antonio Garra Jr. wrote to Luiseño leader Manuel Cota, requesting help to get ready and organize the Luiseño people. Manuel Cota was born Luiseño; his father was a Spanish soldier named Jose Manuel Cota and his Native mother was Maria Conception. Cota was born and raised at Mission San Luis Rey, as many Luiseño before and after him. Cota was born as Manuel Culijuat according to George Phillips. Culijuat could be the village name also. Often the last names of baptized Natives originated from their village name. The Kumeyaay had a village known as Cojuat or Cajuat. Not all scholars agree on where Cota was from.<sup>358</sup>

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<sup>356</sup> Stan Rodriquez interview, April 5, 2021.

<sup>357</sup> "Los Angeles Correspondence," *Daily Alta California* (San Francisco, CA), March 1, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>358</sup> Bibb, "Pablo Apis and Temecula," <https://sandiegohistory.org/journal/1991/october/temecula-3/>; Carrico, *Strangers in a Strange Land*, 44-45; Dunn, "Strategies for Survival," 121; and Phillips, *Chiefs and Challengers*, 83 and 86.

Manuel Cota, a great tribal leader with a good mind, dressed fashionably, and was friendly to the Whites, but he was feared and respected by other Natives.<sup>359</sup> According to William Marshall and unknown to Americans at the time, Manuel Cota was in alignment with Antonio Garra.<sup>360</sup> The strategy of Garra and Cota was to fool the Americans with Cota, pretending he was in alliance with the Americans. Manuel Cota was in alliance with his people and Garra. Cota fooled Coutts and other Americans, making the Americans believe he aligned with the Americans after Cave Coutts had told Manuel Cota that he [Cota] was head of all Luiseño.<sup>361</sup> Cota was to pretend he aligned with the Americans. He then was supposed to enter Coyote Canyon pretending he was to talk to Garra. He was to wait with Garra and ambush the Americans with joined forces.<sup>362</sup> Cota sent runners to all local Luiseño village tribal leaders. On November 30, Luiseño tribal leader Domingo Tule responded and wrote back to Manuel Cota. Tule relayed to Cota that the Natives from Las Flores and Santa Margarita were not in alignment with Antonio Garra and would not fight the Americans.<sup>363</sup> Chief Manuel Cota never arrived to unite forces in Coyote Canyon as planned previously with Antonio Garra and Manuel Cota.<sup>364</sup>

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<sup>359</sup> Richard Carrico, "The Struggle for Native American Self Determination in San Diego County," *Journal of California and Great Basin Anthropology* 2, no. 2 (1980), 204-206.

<sup>360</sup> "Confession of William Marshall," George William Beattie and Helen Pruitt Beattie Papers.

<sup>361</sup> Cave Johnson Coutts made several leaders captains of their tribes from Antonio of the Quechan to Manuel Cota. Edward Fitzgerald made Tomas Indian Chief of the tribe at Santa Ysabel. "Cave Coutts to Manuel Cota," September 1, 1853. Cave Johnson Coutts Papers. Box 6. Folder CT 297. Huntington Library, San Marino, CA.

<sup>362</sup> "Confession of William Marshall," George William Beattie and Helen Pruitt Beattie Papers.

<sup>363</sup> "Domingo Tule to Manuel Cota," November 30, 1851. Cave Johnson Coutts Papers. Box 38. Folder CT 2321. Huntington Library, San Marino, CA.

<sup>364</sup> "Confession of William Marshall," George William Beattie and Helen Pruitt Beattie Papers.





## Chapter 5



### COYOTE CANYON

*“We cannot live anywhere else. We were born here and our fathers are buried here. We do not think of any place after this. We want this and not any other place.”<sup>1</sup>*

#### CECILIO BLACKTOOTH, CUPEÑO, 1902

Circumstances unfolded where each leader determined to withdraw from the fight. This left Garra in a desperate position. On December 2, 1851, from Coyote Canyon, Antonio Garra reached out to the most powerful and influential tribal leader of the region, Juan Antonio. There were definite leaks in confidentiality with information getting into the wrong hands. The people had not united as planned. Garra informed Juan Antonio that he and other warriors were ready to take the large cattle rancherias. The Indigenous workers on the ranches must have been aware of the imminent attacks, and their alignment and agreement was needed for the plan to be a success. Garra wrote that he was tired of the Whites hurting the Indigenous people. In a final plea for help, Garra wrote, *“If we lose this war then it is forever, never will it stop.”<sup>2</sup>* He again asked for help

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<sup>1</sup> Charles Fletcher Lummis, ed., “The Exiles of Cupa,” *Out West: A Magazine of the Old Pacific and the New* XVI, (May 1902), 475.

<sup>2</sup> Letter from Antonio Garra to Juan Antonio, George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 35, File 16. Huntington Library, San Marino, CA.

and waited in Coyote Canyon.<sup>3</sup> Garra believed what was at stake was, “This whole life or nothing.”<sup>4</sup> Garra felt this was the last chance to fight. It was all or nothing. Garra realized if he did not eradicate all Americans at that point in time, then there was no chance of survival as he knew it for himself or his relatives. It was not lining up as he planned, though.

Southern California Indigenous people followed natural law. Cahuilla Nét or Chief Juan Antonio engaged with natural law too. Part of natural law was the code of ethics for individual families. Families were sovereign units long ago, and still are. The man was to provide for the family. That meant the man was to provide food, a home, love, and protection. The Indigenous people of Southern California looked to the animal world to help. They have a story of the bees. Bees are diligent workers and go out every day to bring back honey for the colony. Bees worked so industriously that the bees were given jobs of protecting sacred sites. The bees attacked if a threat was seen.<sup>5</sup> The Cahuilla have stories of the birds. The cactus wren goes out every morning at sunrise to work on its nest, one branch at a time. The wren eliminates any threat by circling its nest and going after intruders.

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<sup>3</sup> “The Indians Rising-Attack on Warner’s Ranch!-Departure of the Volunteers,” *San Diego Herald* (San Diego, CA), December 3, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>4</sup> Letter from Antonio Garra to Juan Antonio, George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 35, File 16. Huntington Library, San Marino, CA.

<sup>5</sup> Richard Moves Camp, “Family,” Lecture for Wicahpi Koyaka Tiospaye. March 4, 2021. Zoom.



*Figure 5.1: Agave field in Coyote Canyon. Agave is a major source of food. The plant was roasted in stone line pits and then the heart and leaves were eaten. Coyote Canyon can be just over a mile in width in some locations. Photo by Sean Milanovich.*

Likewise, Juan Antonio reviewed and worked on all his branches. Juan Antonio followed a mandate to care for his family. On top of that, Juan Antonio was Chief of his people, which carried additional ethics. As Chief, Juan Antonio was to provide access to available resources for individuals and families of his community circle. The *nét* decided when and where food was ready to be gathered and hunted. Furthermore, Juan Antonio was given the mandate to provide a platform for his people to talk and learn, such as talking circles within the ceremonial house and sweat lodge. As the *nét*, he dealt with

natural phenomena such as drought, flood, and earthquakes. Moreover, Juan Antonio served as head of his clan structure and government. Juan Antonio's control extended over several clans and lineages on and off the Santa Rosa and San Jacinto mountains. He knew clan boundaries and ownership rights. Juan Antonio had to protect his community from any threats including attacks and ideas that might harm his people. This weighed heavily on Juan Antonio.

On November 26, 1851, Juan Antonio, with his friend and associate Pauline Weaver, rode into the Mormon settlement in San Bernardino to declare his stance and liberate himself from recent views of his alignment with Garra. Juan Antonio wanted to clear his name and association with Antonio Garra, "and that he stood at all times ready to prove it by his actions."<sup>6</sup> A few days later, Juan Antonio received a letter from Los Angeles County Judge Agustin Olvera. Olvera sent word to Juan Antonio and asked why Antonio Garra was so angry and wanted to fight the Americans.<sup>7</sup> Olvera told Juan Antonio, if he was involved in the recent attacks or any future attack on the Americans, to expect an attack against him. The great leader Juan Antonio with a heavy heart responded on December 8, thirteen days later returning from the desert with Antonio Garra as his prisoner and to prove his political stance.<sup>8</sup> Juan Antonio brought in Antonio Garra, believing he knew what was best for the survival of his people.

Juan Antonio, like Antonio Garra, wanted peace, as all the Aboriginal people did. Juan Antonio was frustrated with the manipulation, exploitation, abuses, theft,

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<sup>6</sup> Hopkins, "Journal of the San Bernardino Branch," 60; and Phillips, *Chiefs and Challengers*, 105-106.

<sup>7</sup> *La Estrella* (Los Angeles, CA), December 13, 1851.

<sup>8</sup> *La Estrella* (Los Angeles, CA), December 13, 1851; and Phillips, *Chiefs and Challengers*, 106.

discrimination, prejudice, and outright murders against all the Indigenous people of California. Unlike Antonio Garra, Juan Antonio was not ready to go to war against the American invaders without complete union of the tribes to the north, east, south, and west. Juan Antonio did not want any more deaths. His warriors did not have the weapons and firing power the invaders had. Juan Antonio believed Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano future generations still had a chance at a good life without fighting. He risked everything to align with the Americans. It was not that he aligned with the Americans, but with natural law. It was step by step. Juan Antonio, like Antonio Garra, like so many of the early immigrants, were opportunists. Minute by minute, day by day, and event by event determined the actions of the Indigenous people and Juan Antonio. The Indigenous people felt the squeeze of the invaders in all directions on the land. Something had to give. Juan Antonio heard news of a \$300 reward for the capture of Antonio Garra. Some believed Juan Antonio wanted to go after Garra for the reward. Why not? It was a way to make some money. Money was hard to come by. At the same time, Juan Antonio wanted to show where he stood and keep face with the Americans.<sup>9</sup> Juan Antonio's decision was based on his analysis after tribal leaders to the north refused to join forces in a campaign against the Americans. Charles Sepulveda pointed out, "Juan Antonio, while not participating directly in the war, remained on the side of the Californios to defend their land from Americans such as the Irving Gang and other American incursions."<sup>10</sup>

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<sup>9</sup> Hudson, "The Last Indian Campaign in the Southwest," 158.

<sup>10</sup> Sepulveda, "California Mission Projects," 135.

Juan Antonio's strategy for survival against the American invasion included collaboration and cooperation.<sup>11</sup> In the end, Juan Antonio chose life over death. Antonio wanted to work with the Americans declared Roy Mathews.<sup>12</sup> Tribal leaders like Juan Antonio had heard about a potential treaty with the Americans to establish friendly and economic relationships, political protocols, and physical boundaries for land for the sole use by the Indigenous people. Life was never going to be the same, but change was good. Juan Antonio envisioned partnerships including trade with the Americans. Juan Antonio reflected on his history making rapid choices. Antonio recalled once that he attacked the Luiseño too quickly and his elder and uncle, Chief Jose Cabazon, told him to use better judgement. Cabazon said that the people need to work together not against one another, exclaimed the late Cahuilla elder Joseph Benitez.<sup>13</sup>

Juan Antonio then wrote to Antonio Garra and requested a meeting at the settlement of Tuva, the home of Juan Razon, a powerful Cahuilla leader.<sup>14</sup> Tuva was a small village with a spring near what is now called the city of Coachella.<sup>15</sup> The Cahuilla clan of *Wantciñakik tamianawitcem* claimed the territory.<sup>16</sup> Razon's village was located

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<sup>11</sup> Dunn, "Strategies for Survival," 33.

<sup>12</sup> Roy Mathews interview, June 2, 2018.

<sup>13</sup> Joseph Benitez interview, July 29, 2020.

<sup>14</sup> Juan Razon told Joseph Smeaton Chase that he was born in Coyote Canyon. Many knew Razon as Figtree John. Joseph Smeaton Chase, *California Desert Trails: Riding Through the Mojave Desert in 1916* (Long Riders Guild Press, 2004), 182.

<sup>15</sup> After the Salton Sea rose, the water covered the village of Tuva, so Razon moved nearby to Agua Dulce. During the spring of 1905, the banks of the Colorado River overflowed. The water flowed to the lowest point, the Salton sink which was 254 feet below sea level. Salton was a mining town of salt. The river flowed into the basin for two years before the settlers were able to damn it and control it. The flow created the body of water known as the Salton Sea. Bean, *The Cahuilla Landscape*, 98; Chase, *California Desert Trails*, 181; and John Peabody Harrington, Southern California/Basin: "Treaty of Temecula," Cahuilla Reel 114. NMNH-Harrington\_mf3\_r114\_0419. National Museum of Natural History, National Anthropological Archives. Smithsonian Institution, <https://cdnc.ucr.edu/>.

<sup>16</sup> Strong, *Aboriginal Society*, 49.

on the present-day border of Riverside and Imperial counties, east beyond Coachella Valley.<sup>17</sup> The valley and surrounding mountains to the north and south were all Cahuilla territory. Close allies of Garra, mainly Chief Chapuli of Wiliya and Chief Juan Bautista of Pauki, encouraged Antonio Garra to meet leader Juan Antonio.<sup>18</sup> Cupeño elder and leader Jose Noca told Garra to go and meet Juan Antonio as well, while others believed the Cahuilla were not in alliance with Garra and war against the Americans.<sup>19</sup> Juan Antonio did not have direct authority over Chapuli and Bautista, but his words and actions carried weight. Juan Antonio originated from the same area. Chapuli, Juan Bautista, and Antonio Garra wanted to know of Juan Antonio's position of war.

On December 3, Juan Antonio left San Bernardino Valley with twenty-six warriors to secure Antonio Garra and halt the war on the Americans.<sup>20</sup> Pauline Weaver donated mules and other provisions for the three-day trip.<sup>21</sup> Weaver, alone on his ranch and scared of any violent attacks, moved west from his ranch temporarily, six miles from the Mormon colony for extra protection, and did not go with Juan Antonio.<sup>22</sup> Antonio passed several villages in San Bernardino Valley, Moreno Valley, San Gorgonio Pass, and the Coachella Valley. On his final approach, Chief Juan Antonio passed through Politana, Homhoa, Ya'i Heki, Wani Piapa, Kavinish, Temal Waxish, and many other villages as he approached the village of Tuva.

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<sup>17</sup> Bean, *The Cahuilla Landscape*, 98.

<sup>18</sup> Phillips, "Military Tribunal in Coyote Canyon," 13.

<sup>19</sup> Jose Noca gave testimony in the trial of Bill Marshall as recorded by Benjamin Hayes. Hanks, *This War is For a Whole Life*, 26.

<sup>20</sup> Hopkins, "Journal of the San Bernardino Branch," 62.

<sup>21</sup> George William Bettie and Helen Pruitt Beattie, *Heritage of the Valley*, 187; Hopkins, "Journal of the San Bernardino Branch," 63; and Phillips, *Chiefs and Challengers*, 106.

<sup>22</sup> Hopkins, "Journal of the San Bernardino Branch," 63.



The Cahuilla village of Tuva was in *Palpaniwanet* or valley of water [Coachella Valley] flanked by the San Jacinto and Santa Rosa Mountains, and controlled by Cabazon. Juan Antonio sent runners to Cabazon to bring attention to the matter. Cabazon's authority extended over the village of Tuva, where he wanted to meet Garra. Cabazon concurred with the seizure of Antonio Garra and the plan for turning him over to the Americans. It was in the best interest of all the Indigenous people in Southern California, he believed. A war with the Americans meant violence and death. Cabazon did not want any more problems for his people. Cabazon agreed to assist Juan Antonio and went to meet his relative and ally Juan Razon before Antonio Garra arrived. Cabazon sent runners to Razon to alert him that he and Juan Antonio wanted to seize Antonio Garra. Cabazon gave Razon instructions to keep Antonio Garra at his village and not to let him go. Cabazon arrived before Garra. Cabazon updated Razon in the plan to take Garra hostage for Juan Antonio.

Antonio Garra needed Juan Antonio's help and left for Tuva the day after receiving Juan Antonio's message from a runner.<sup>23</sup> Antonio Garra left for Tuva with allies Cosme of Kúpa, Juan Bautista, and others to meet Juan Antonio out in the flat plains of the sandy desert north of the Santa Rosa Mountains. Garra brought several heads of cattle as a bargaining tool.<sup>24</sup> Garra arrived at Juan Razon's home during the night. Razon helped Juan Antonio.<sup>25</sup> Razon fed and listened to Garra, keeping him calm. Chief Cabazon instructed Antonio Garra to wait for Juan Antonio, stating that he was en

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<sup>23</sup> "Declaration of Antonio Garra," *Los Angeles Star*, December 21, 1851.

<sup>24</sup> Confession of William Marshall," George William Beattie and Helen Pruitt Beattie Papers.

<sup>25</sup> Roy Mathews interview, June 2, 2018.

route. Juan Antonio arrived in the morning with his warriors and supplies. Upon arrival, Juan Antonio's men slipped up behind Antonio Garra, securing him, and then Juan Antonio stripped him of his clothes.<sup>26</sup> According to the *Journal of the Fifth Session of the Legislature of the State of California*, Juan Antonio apprehended Antonio Garra and four others at this time who were taken prisoner, too.<sup>27</sup> Cosme escaped in the dark. Juan Antonio did not take his cousin Juan Bautista as a prisoner. Juan Antonio, Jose Cabazon, Juan Razon, and Juan Bautista all held a pact together and conspired to bring in Garra. It was a setup. Juan Antonio gave the mules brought by Antonio Garra to Razon for his help in the capture. Juan Antonio and his warriors returned with Antonio Garra and four other prisoners to San Gorgonio Ranch, which bordered Juan Antonio's village.<sup>28</sup>

Juan Bautista sent runners to Coyote Canyon to report that Juan Antonio took Antonio Garra as prisoner. The capture created chaos in Coyote Canyon. The Indigenous people in Coyote Canyon knew death was upon him.<sup>29</sup> Some people left, some took arms, and others tried to figure out what they were going to do without Antonio Garra. Leader Chapuli told leader Jose Noca that the Cupeños should leave for their protection. Under

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<sup>26</sup> Rupert Costo and Jeanette Costo, *Natives of the Golden State*, 205; Hudson, "The Last Indian Campaign in the Southwest," 159; Phillips, *Chiefs and Challengers*, 106; and "Declaration of Antonio Garra," *Los Angeles Star*, December 21, 1851.

<sup>27</sup> According to the California 1854 State Legislature, Juan Antonio, including Pauline Weaver, apprehended Antonio Garra and four others. Weaver did not apprehend Garra. Weaver provided supplies to Juan Antonio to reach Garra and bring him into custody. Juan Antonio, after apprehending Antonio Garra, took him to Juan Antonio's ranch until the Americans took him into custody. Ray Weaver, "Old Pauline Weaver: Frontiersman, Free Trapper, Scout, Guide, Prospector," in *Los Angeles Corral* (Los Angeles, CA) March 1965, 3-4; and State of California, *Journal of the Fifth Session of the Legislature of the State of California*, (Sacramento, 1854), 454. Hereinafter referred to as California, *Journal of the Fifth Session - 1854*.

<sup>28</sup> Arthur Woodward, "Old Mountain Man-Pauline Weaver," in *Los Angeles Corral* (Los Angeles, CA) March 1965, 8.

<sup>29</sup> "Confession of William Marshall," George William Beattie and Helen Pruitt Beattie Papers.

the leadership of Chief Jose Noca, some of the Cupeños headed west out of the canyon. Bill Marshall, Juan Verdugo, and Santos Luna left for San Diego.<sup>30</sup>

The word of Antonio Garra's capture by Juan Antonio spread quickly. An American squatter camped at the spring of Kúpa witnessed an Indigenous man riding by on a horse. The Indigenous man said Antonio Garra had just been taken captive.<sup>31</sup> The *Daily Alta California* reported the capture, "The rumor of the Capture of Antonio Garra-Confirmed."<sup>32</sup> On December 7, Major Heintzelman heard of Antonio Garra's capture.<sup>33</sup>

Juan Antonio wasted no time and headed west close to the borderlands of the White settlements near San Bernardino. Most likely, Juan Antonio placed a cover over Antonio Garra's head and tied him up as he was taken prisoner. Unknown of the capture of Antonio Garra, on December 10, members of the Mormon settlement, first saw the Los Angeles Volunteers under Captain Edward Fitzgerald pass through their settlement on their way to capture and secure Antonio Garra.<sup>34</sup> The Mormons later that day spotted Juan Antonio with Antonio Garra as his prisoner, who took him to the settlement of Sáxhatpah where about 250 Indigenous warriors and people lived.<sup>35</sup> Juan Antonio locked

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<sup>30</sup> "Confession of William Marshall," George William Beattie and Helen Pruitt Beattie Papers; and "Court Martial of William Marshall and others," George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 34. CT 1973. Huntington Library, San Marino, CA.

<sup>31</sup> Samuel Washington Woodhouse, *From Texas to San Diego in 1851: The Overland Journal of Dr. S. W. Woodhouse* (Lubbock, Texas, Texas Tech University Press, 2007), 174.

<sup>32</sup> "Later from San Diego," *Daily Alta California* (San Francisco, CA), December 18, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>33</sup> Blackwell, *Heintzelman's Journal*, 48.

<sup>34</sup> Hopkins, "Journal of the San Bernardino Branch," 64; and "Our Los Angeles Correspondence," *Daily Alta California* (San Francisco, CA), January 6, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>35</sup> San Gorgonio can be misleading. Pauline Weaver held title and lived at Rancho San Gorgonio. Juan Antonio lived at Sáxhatpah in San Timoteo Canyon also known as San Gorgonio by the new settlers. Sáxhatpah was flanked by the San Gorgonio Mountains to the north and was bordered by Rancho San Gorgonio to the east. It should be clear that Juan Antonio took the prisoner Antonio Garra to his own

up Antonio Garra.<sup>36</sup> Juan Antonio sent word to General Bean of his prisoners Antonio Garra and the other rebels. Juan Antonio expected to be paid for his service.<sup>37</sup> General Bean was busy and sent Captain Christopher S. Lovell of the Second Infantry to let Juan Antonio know he was coming for Antonio Garra's release to him.

On December 13, after three days of discussion, Juan Antonio released Antonio Garra to General Bean. General Bean promised the Chief, he would receive an award, and some presents for his men for the capture of Antonio Garra, who so many feared.<sup>38</sup> General Bean took Antonio Garra and the others into custody for sentencing under an American military tribunal for war crimes.<sup>39</sup> The *Daily Alta California* reported, that before leaving, General Bean had Antonio Garra write his son Antonio Garra Jr., telling him to turn in himself and other accomplices of the attack on Warner's Ranch, to Juan Antonio.<sup>40</sup> Garra's dream of expulsion of the American intruders in Southern California abruptly ended. Garra, sullen and full of sadness, wrote his son and runners delivered the message.

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settlement of Sáxhatpah and not Rancho San Gorgonio. Juan Antonio had to watch his back during this time and did not want to be overpowered by American forces. His village was a safe place. Ibid.

<sup>36</sup> Hopkins, "Journal of the San Bernardino Branch," 63; Phillips, *Chiefs and Challengers*, 113; and "Our Los Angeles Correspondence," *Daily Alta California* (San Francisco, CA), January 6, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>37</sup> "Juan Antonio Received Goods for Garra's Capture," George W. George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 35, File 24. Huntington Library, San Marino, CA.

<sup>38</sup> "Our Los Angeles Correspondence," *Daily Alta California* (San Francisco, CA), January 6, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>39</sup> Phillips, "Military Tribunal in Coyote Canyon," 14.

<sup>40</sup> "Our Los Angeles Correspondence," *Daily Alta California* (San Francisco, CA), January 6, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

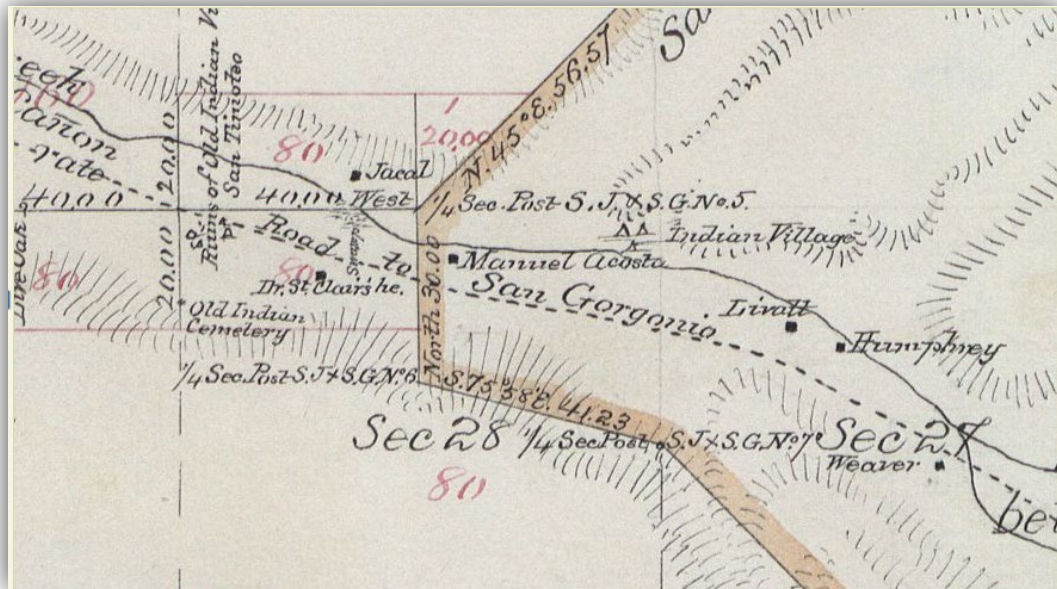


Figure 5.2: 1871 GLO Plot Map of San Timoteo Canyon with Juan Antonio's village of Sáxhatpah and his neighbor Duff Weaver. Source: Bureau of Land Management, <https://gloreCORDS.blm.gov/>.

General Bean took Garra to Rancho Santa Ana del Chino.<sup>41</sup> Upon arrival, Bean wrote to Cave Johnson Coutts, second in charge with the Fitzgerald Militia of San Diego, that Antonio Garra was confined by Captain Lovell and that he would be taken to San Diego for trial.<sup>42</sup> “Old Garra is to be taken to San Diego to be tried,” Mormon Charles C. Rich wrote in a letter.<sup>43</sup> General Bean took Garra to Rancho Santa Ana del Chino, about forty miles west, and safely locked up Garra, where Americans had a temporary military

<sup>41</sup> Isaac William held title to Rancho Santa Ana del Chino.

<sup>42</sup> “Joshua H. Bean to Cave Johnson Coutts,” Cave Johnson Coutts Papers. Box 2, Folder CT 85. Huntington Library, San Marino, CA.

<sup>43</sup> Charles C. Rich to Amasa M. Lyman, December 30, 1851. Amasa M. Lyman Collection, 1832-1877. Church History Museums, Salt Lake City, Utah. <https://churchofjesuschrist.org/>.

station.<sup>44</sup> General Bean interrogated Garra for his implications of recent events. On December 14, in a Private note from Bean to Coutts, Bean wrote that Antonio Garra commented that, “Joaquín Ortega and José Antonio Estudillo instigated him.”<sup>45</sup> The message was secret. If this was true that the Californios were part of the uprising, also, and this frightened General Bean. The recent attacks were more complicated than believed. “The Americans wanted to persuade the Indigenous people for purchasing some clothes and provisions for those Indians who have shown themselves friendly.”<sup>46</sup> The Indigenous people were obliged but not interested. They wanted their land and life ways back.

On December 19, in a last and desperate attempt, Antonio Garra Jr. visited Juan Antonio to persuade him to join in the fight against the Americans. Juan Antonio refused and attempted to secure young Garra.<sup>47</sup> Garra Jr., was furious with Juan Antonio and attempted to kill the Cahuilla leader. Garra Jr. became angry and attacked Juan Antonio with his knife. Juan Antonio saw the knife coming and tried to dodge the blade, but Garra Jr. stabbed Juan Antonio on his left side, and the blade went into the arm.<sup>48</sup> It was only a flesh wound but it still dropped the powerful and elder Juan Antonio, causing major injury.<sup>49</sup> Moments earlier, General Bean had arrived from Rancho Santa Ana del Chino

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<sup>44</sup> Phillips, *Chiefs and Challengers*, 113.

<sup>45</sup> “Annexed note from Joshua H. Bean to Cave Johnson Coutts,” Cave Johnson Coutts Papers. Box 2, Folder CT 85, Huntington Library, San Marino, CA.

<sup>46</sup> “Davis, George Henry,” in “Indians of California, Garra Uprising,” Cave Johnson Coutts Collection, Box 10, Folder 519. Huntington Library, San Marino, CA.

<sup>47</sup> “Los Angeles Correspondence,” *Daily Alta California* (San Francisco, CA), January 6, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>48</sup> Phillips, “Military Tribunal in Coyote Canyon,” 14.

<sup>49</sup> “Los Angeles Correspondence,” *Daily Alta California* (San Francisco, CA), January 6, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

and witnessed the incident. Juan Antonio's men jumped on Garra Jr. and held him down.<sup>50</sup> Juan Antonio took Garra Jr. and ten other men who came with him as his prisoners.<sup>51</sup> Juan Antonio now had leverage.

Wounded, Juan Antonio asked General Joshua H. Bean if he wanted to take Antonio Garra Jr. and the other leaders into custody as well for their actions. General Bean jumped at the opportunity. Bean brought gifts of dry goods for Juan Antonio as payment for the capture of Antonio Garra Sr., and his release to the Americans a few days earlier.<sup>52</sup> Juan Antonio invited Bean to dinner and offered him a place to stay for the night. They celebrated.<sup>53</sup> The next morning, Bean wanted to let Juan Antonio know how much he appreciated and valued Juan Antonio and his actions. While at Sáxhatpah, on December 20, 1851, Major General Joshua H. Bean, commander of the 4<sup>th</sup> Division of California and Chief Juan Antonio of the Cahuilla Bands of the Mountains and Deserts, signed a Treaty of Peace.<sup>54</sup> Treaty Commissioner George W. Barbour had previously asked General Joshua Bean to make a treaty of friendship with Juan Antonio six months earlier, in June.<sup>55</sup> The Garra affair sealed the relationship between the Americans and Juan Antonio.

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<sup>50</sup> Ibid.

<sup>51</sup> Phillips, *Chiefs and Challengers*, 113.

<sup>52</sup> *Los Angeles Star* (Los Angeles, CA). January 3, 1852. George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 35, File 21. Huntington Library, San Marino, CA.

<sup>53</sup> "Our Los Angeles Correspondence," *Daily Alta California* (San Francisco, CA), January 6, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>54</sup> Phillips, "Military Tribunal in Coyote Canyon," 15; "Our Los Angeles Correspondence," *Daily Alta California* (San Francisco, CA), January 6, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; and "Correspondence," *Los Angeles Star* (Los Angeles, CA), December 1851; and George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 35, File 18. Huntington Library, San Marino, CA.

<sup>55</sup> "Indian Traits," *Hayes Scrapbook*, 67; and "Colonel Barbour," *Los Angeles Star* (Los Angeles, CA), June 28, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

The Treaty of Peace, Amity, and Friendship consisted of six articles. The first article read, “There shall be an everlasting peace between the two contracting parties forever, and for the faithful observance, we pledge, each to the other, our sacred words of honor.” The Treaty acknowledged Juan Antonio and the Cahuilla people and their help with keeping the land free of disturbances for all.<sup>56</sup> As George Phillips points out in his book, *Chiefs and Challengers*, the treaty “had no legal standing,” because only the United States government can make treaties with Indigenous people in the United States.<sup>57</sup> Nonetheless, Juan Antonio felt empowered with the treaty with General Bean. Antonio believed he helped to restore peace for his people and extended his hand of hope and prosperity around the Americans.<sup>58</sup>

Juan Antonio and the Cahuilla saw it differently, though. For the Indigenous people living in 1851, there were no courts of law for them in the foreigner’s law system. The people had only their word with the Americans. Under the treaty, Juan Antonio agreed to respect and honor the settlers and the settlers were to respect and honor and the Aboriginal people for perpetuity. Juan Antonio signed the treaty with Joshua Bean, who commanded the State of California militia. Juan Antonio intended to adhere to the treaty just as he hoped Bean would make sure the State adhered to the treaty as well.<sup>59</sup> Under

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<sup>55</sup> Letter from George W. Barbour to General Joshua Bean, June 27, 1851. *Hayes Scrapbook*, 2.

<sup>56</sup> “Treaty of Peace, Amity, and Friendship,” George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 35, File 21. Huntington Library, San Marino, CA.

<sup>57</sup> Phillips, *Chiefs & Challengers*, 113.

<sup>58</sup> See Appendix B for a transcribed copy of the treaty between Cahuilla Chief Juan Antonio and California State General Joshua Bean.

<sup>59</sup> To support his alliance with the Americans, Juan Antonio captured Antonio Garra just days before and handed Garra over to General Joshua Bean. This is the first time that Juan Antonio handed over another Indigenous person to the White settlers for justice. There was an unwritten law that declared Natives held justice over their own while Whites held justice over their own.



United States law, states could not make treaties with tribes. General Joshua Bean commanded the State of California militia. Under United States law, treaty-making belonged only to the U.S. Senate and president, not California.<sup>60</sup>

In his groundbreaking book, *Murder State, California's Native American Genocide, 1848-1873*, historian Brendan C. Lindsay pointed out that the American legal system used “jurisdictional technicalities, legal injustice, and indifference to deflect blame, temporize, and avoid doing what was right.”<sup>61</sup> The United States interfered with the Juan Antonio and his descendants for generations to come, using American law and its technicalities. Juan Antonio did not find it necessary to sign another treaty. The treaty Antonio signed at his residence was everything that Juan Antonio wanted. The treaty recognized Juan Antonio as a friend. The treaty recognized the land of Sáxhatpah belonged to Juan Antonio. The treaty recognized Juan Antonio for who he was, Chief. Previously the Whites ignored Juan Antonio. The final thing that stood in front of Juan Antonio was that the Americans agreed to respect the Aboriginal people. This meant the world to Juan Antonio. Juan Antonio was oblivious that the treaty with General Bean had no legal standing in American law. But for Antonio and other Natives, the treaty with General Bean was everything and the law.

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<sup>60</sup> According to the Constitution of the United States, Article II, section 2, clause 2 is known as the Treaty Clause. The clause states the president, “shall have the power, by and with the advice of the consent of the Senate, to make treaties, provided that two thirds of the Senate present concur.” Stephen L. Pevar, *The Rights of Indians and Tribes*, 4<sup>th</sup> edition (Oxford, Oxford University Press, 2012), 57.

<sup>61</sup> Lindsay, *Murder State*, 168.

Afterward, General Bean took Antonio Garra Jr. and the other prisoners to Ranch Santa Ana del Chino for a military court tribunal at Rancho Santa Ana del Chino. General Joshua Bean held a military tribunal for the prisoners including Garra Jr., Jose Luis, Juan, Blass, and a boy named Jose.<sup>62</sup> The council charged Antonio “Garra” Jr. and Luis with “treason, murder, and robbery.” On December 27 at 5 a.m., a firing squad shot and killed Antonio Garra Jr. and Jose Luis at Santa Ana del Chino Ranch, where they were buried.<sup>63</sup> Indigenous people working on the ranch must have witnessed the executions. The young boy, Jose, received fifty lashes.<sup>64</sup> Juan, Blass, and a woman escaped before the trial.<sup>65</sup>

## San Diego

The non-Indians in San Diego and Los Angeles prepared for the “one unbroken and dangerous chain of tribes from Santa Barbara to the Rio Colorado.”<sup>66</sup> The cities armed themselves as best they could. Los Angeles procured itself with men, arms, and ammunition. Further south in San Diego, the non-Indians prepared for war. General Hitchcock ordered fifty additional soldiers from the Capital at Benicia to head to San Diego under Major Frazier.<sup>67</sup> There were few canons and arms to be found. San Diego

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<sup>62</sup> Phillips, “Military Tribunal in Coyote Canyon,” 23.

<sup>63</sup> Phillips, *Chiefs & Challengers*, 124-125; and “Court Martial of William Marshall and others,” Cave Johnson Courts Papers. Box 38, Folder CT 1973. Huntington Library, San Marino, CA. Hereinafter referred to as “Court Martial of William Marshall and others,” Cave Johnson Courts Papers.

<sup>64</sup> Phillips, “Military Tribunal in Coyote Canyon,” 23.

<sup>65</sup> “Rancho del Chino, Dec. 18, 1851,” *Daily Alta California* (San Francisco, CA), January 6, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>66</sup> “The Indian Troubles,” *Daily Alta California* (San Francisco, CA), December 13, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>67</sup> “The Sea Bird- Departure of U.S. Troops,” *Daily Alta California* (San Francisco, CA), December 9, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

was not properly armed for a large attack.<sup>68</sup> The soldiers under Heintzelman were not in town with Heintzelman. The soldiers left San Diego on December 6 for the Colorado River, expecting trouble.<sup>69</sup> On December 9, Edward Fitzgerald, Cave Coutts and the volunteer militia reached Santa Ysabel and encountered Cupeño Chief Jose Noca, William Marshall, and Juan Verdugo. The militia apprehended the three men and took them as prisoner on assumption of their part in the attack on Warner's ranch and the killing of four Americans at Kúpa. They were taken to San Diego for trial.<sup>70</sup> On December 12, General Joshua Bean held a military court martial in San Diego. The state militia conducted the tribunal for Chief Jose Noca, William Marshall, and Juan Verdugo who were accused of high treason for the murders of four Americans, and "taking up arms against the United States and the State of California."<sup>71</sup> Agoston Haraszthy as judge along with many other White community members including José Antonio Estudillo, an instigator for the attacks, presided over the court martials.<sup>72</sup> The military court martials found William Marshall and Juan Verdugo guilty of treason and were sentenced to hang the next day.<sup>73</sup> Chief Noca was not found guilty but he was reprimanded. Americans kept

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<sup>68</sup> "Later from the South\_The Indian War," *Daily Alta California* (San Francisco, CA), December 12, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>69</sup> Philips, *Chiefs & Challengers*, 110.

<sup>70</sup> Philips, *Chiefs & Challengers*, 110; Confession of William Marshall," George William Beattie and Helen Pruitt Beattie Papers; and "Court Martial of William Marshall and others," Cave Johnson Coutts Papers; and "The Expedition Against the Indians," Later from San Diego," *San Diego Herald* (San Diego, CA), December 11, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>71</sup> Phillips, "Military Tribunal in Coyote Canyon," 23.

<sup>72</sup> The editors of the *Los Angeles Star* and the public believed José Antonio Estudillo and Joaquín Ortega were guilty of instigating the uprising, but they were well connected and had family members in high positions in society. "Correspondence of the State," *Los Angeles Star* (Los Angeles, CA). December 23, 1851. George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 35, File 20. Huntington Library, San Marino, CA.

<sup>73</sup> According to Cosme, a young Native warrior on the strike team, William (Bill) Marshall was in on the plan to kill. Bill Marshall had been sentenced to death for his participation in the killings. Marshall was

Noca alive, believing he could be used for information while in the field.<sup>74</sup> Marshall and Verdugo were hanged and buried in the Roman Catholic Cemetery in Old Town.<sup>75</sup>

The news of each of the attacks at the Colorado River, Kúpa, and Warner's Ranch spread like wildfire, exciting all parts of California. Attacks on the river continued. Attacks such as the theft of cattle and horses at San Gorgonio Rancho continued.<sup>76</sup> Indian Agent Adam Johnston from the northern part of the San Joaquin Valley believed the Aboriginal people in San Diego caused disturbances because they wanted allotments of food. Johnston consulted with Indian Agent Oliver M. Wozencraft, who happened to be in San Francisco area near Johnston. Johnston questioned Wozencraft about Antonio Garra, asking why Garra and the other people revolted. They discussed how the imminent threat of driving all Americans from the area was real and ongoing. The fear spread, and the city of Sacramento obtained one hundred nineteen American army soldiers from Astoria to protect the city from attack.<sup>77</sup> Wozencraft believed the tribes retaliated and were "complaining in consequence of their not having received their portion of beef, as per treaty stipulations" as other tribes received. Additionally, tribes had prepared to meet with Indian Agent Barbour in June, where they had heard gifts of beef were to be

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buried in the cemetery in Old Town San Diego. "Los Angeles Correspondence," *Daily Alta California* (San Francisco, CA), March 1, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; and "The Hanging of Bill Marshall and Juan Verdugo!," *San Diego Herald* (San Diego, CA), December 18, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>74</sup> Major Heintzelman took Jose Noca with him and left San Diego for Santa Ysabel and later Coyote Canyon.

<sup>75</sup> Phillips, "Military Tribunal in Coyote Canyon," 23; and "Trial of William Marshall" and "The Hanging of Bill Marshall and Juan Verdugo," *San Diego Herald* (San Diego, CA), December 18, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>76</sup> "Los Angeles Items," *Daily Alta California* (San Francisco, CA), January 6, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>77</sup> "Special correspondence," *Sacramento Daily News* (Sacramento, CA), December 11, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

provided after signing the treaty. Johnson wanted to provide for the tribes in Southern California. Johnston and Wozencraft both felt responsible.<sup>78</sup> Wozencraft knew firsthand after visiting multiple tribes that Antonio Garra's word meant danger for the invading Americans.

Wozencraft recalled that Juan Antonio sent runners to the north to incite them to help him fight the Americans just weeks prior.<sup>79</sup> Juan Antonio's runners crossed path with Vincent Haler, Wozencraft's interpreter and mountain guide.<sup>80</sup> The tribal resistance known as "Garra Uprising" by the Americans created so much fear in California, Oliver Wozencraft took action and decided to make treaties with the Indigenous people in Southern California.<sup>81</sup> Indian Commissioner George Barbour failed in making treaties with tribes in Southern California from Los Angeles to San Diego to the Colorado River. The Commissioners themselves assigned Barbour Southern California. Agent Oliver Wozencraft believed he might be able to smooth things over at the southern end of California with the tribes with a treaty of peace and friendship, as with other tribes. Wozencraft informed Indian Commissioner Luke Lea of the Bureau of Indian Affairs. He headed to the southern part of the state to meet with the Aboriginal people, to try to stop the insurrection with a treaty. Wozencraft petitioned Brevet General Ethan A. Hitchcock, commander of the Pacific Division, to assist him with a small escort of soldiers in dealing

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<sup>78</sup> Letter from Oliver M. Wozencraft to Luke Lea, Washington D.C., December 1, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 230-231.

<sup>79</sup> "Los Angeles Items," *Daily Alta California* (San Francisco, CA), January 6, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>80</sup> Oliver M. "Statement of Dr. O. M. Wozencraft, Indian Affairs 1849-1850 in 1877," 14-15. Microfilm. Bancroft Library, University of California Berkeley.

<sup>81</sup> Hyer, *We Are Not Savages*, 137.

with the leaders of the uprising in Southern California. Hitchcock ordered two companies to escort Wozencraft in San Diego.<sup>82</sup> The military escort included Lieutenant Frazier with thirty-seven men of the Second Infantry and Lieutenant Hamilton of the Third Artillery with sixteen men for a total of fifty-three men.<sup>83</sup> If that did not work, General Hitchcock planned to order one hundred dragoons from Fort Orford, Oregon.<sup>84</sup> Wozencraft left on December 8 for San Diego.<sup>85</sup> Wozencraft felt the tribes in the north had been treated better than the tribes in the south. The tribes in the south never held a treaty council and did not receive the presents of beef and other gifts. Along with being taxed, overcome with anger for being not represented, the tribes resisted.<sup>86</sup>

On December 13, 1851, Indian Commissioner Oliver M. Wozencraft arrived by steamer in San Diego to make a treaty of peace and friendship with the Indigenous people and to try and restore peace. On the boat were two companies, infantries C and F, from Benicia and Monterey, with a total of fifty-three men ordered by General Hitchcock at the request of Wozencraft to assist with the treaty campaign.<sup>87</sup> Major Samuel Heintzelman and others believed “there can be no lasting peace until the Indians are

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<sup>82</sup> Letter from Oliver M. Wozencraft to Luke Lea, Washington D.C., Received February 18, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 285.

<sup>83</sup> Heintzelman, *Samuel P. Heintzelman's Journal*, 52; and Letter from Oliver M. Wozencraft to Luke Lea, Washington D.C., Received February 18, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 285.

<sup>84</sup> “The Indian Commissioner,” *Daily Alta California* (San Francisco, CA), December 9, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>85</sup> “Wozencraft coming to Southern California,” *Los Angeles Star* (Los Angeles, CA). December 4, 1851; and Letter from Oliver M. Wozencraft to Luke Lea, Washington D.C., December 1, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 231.

<sup>86</sup> “Indian Commission,” George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 35, File 32. Huntington Library, San Marino, CA.

<sup>87</sup> Letter from Oliver Wozencraft to Luke Lea, February 18, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 285.

soundly beaten.”<sup>88</sup> Heintzelman met Wozencraft at the dock. Wozencraft told Heintzelman his proposal to make a treaty of peace with the tribes that caused so much fear in Southern California. Wozencraft asked to be escorted into “Indian Territory.” General Hitchcock gave orders to Heintzelman to assist Wozencraft and made plans to leave the next morning.<sup>89</sup> The possibility of attack upon San Diego and Los Angeles kept the Americans on alert.<sup>90</sup> On Monday December 14, Heintzelman, Wozencraft, Chief Jose Noca, and American soldiers left San Diego with wagons and supplies, and headed northeast for the mountains and valleys where the Natives continued to live and hid from the Americans.<sup>91</sup> It is important to note that Chief Jose Noca was assisting American soldiers, as was determined by the court. Charges against Noca were dropped, so he could enable Americans to get control of the situation. On December 17, Heintzelman and his party arrived at Santa Ysabel where they camped around the old mission grounds and began to strategize.<sup>92</sup> Captain John B. Magruder arrived late in the evening with his men, bringing the total combined force from San Diego to 133 heavily armed soldiers.<sup>93</sup>

Santa Ysabel was an Ipai settlement of Kumeyaay where the Kumeyaay allowed the founding of Mission San Ysabel in 1818. Captain Magruder, Indian Commissioner

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<sup>88</sup> “Sea Bird,” *Daily Alta California* (San Francisco, CA), January 1, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>89</sup> Blackwell, *Heintzelman’s Journal*, 49; and Letter from Oliver Wozencraft to Luke Lea, February 18, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 285.

<sup>90</sup> “Correspondence,” *Los Angeles Star* (Los Angeles, CA), December 15, 1851. George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 35. Huntington Library, San Marino, CA.

<sup>91</sup> “Later from San Diego,” *Daily Alta California* (San Francisco, CA), December 18, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>92</sup> Blackwell, *Heintzelman’s Journal*, 49; and “Sea Bird,” *Daily Alta California* (San Francisco, CA), January 1, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>93</sup> “Sea Bird,” *Daily Alta California* (San Francisco, CA), January 1, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

Wozencraft, and the soldiers arrived that afternoon on December 17 at the mission. The Americans now occupied the area as a military base, and practiced their firing techniques.<sup>94</sup> The Kumeyaay saw the Americans as hostile, as soldiers marched around and shot their loudly exploding artillery. Tomas, a Kumeyaay leader, must have sent word to Coyote Canyon of the impending attack by American soldiers all armed with rifles. The Kumeyaay were related to the Cahuilla and Cupeño people through marriage and cultural practices.<sup>95</sup> At Santa Ysabel, Wozencraft wanted to teach the Indigenous people not to mess with the Americans. While he was there at Santa Ysabel, Wozencraft encouraged tribal leaders to hear his speech on a forthcoming treaty. Wozencraft believed a treaty was the answer to stop the resistance by the Indigenous people. Wozencraft told the Kumeyaay leaders that he wanted to negotiate treaties there with the tribal leaders in the region.<sup>96</sup>

They had heard Juan Antonio had just signed a treaty with General Joshua Bean and were interested. It was not the gifts the Indigenous people wanted, rather the acknowledgement that they mattered and would not be killed. They wanted their land and a peaceful relationship with the Americans. A formal relationship with the United States might bring some peace. On December 18, Captain John Davidson arrived at Santa Ysabel with sixteen men. They had previously served on the Colorado River.<sup>97</sup>

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<sup>94</sup> Blackwell, *Heintzelman's Journal*, 50.

<sup>95</sup> Strong, *Aboriginal Society*, 215-19; Jane Hill and Roscinda Nolasquez, *Mulut'wetam*, 177; Lowell J. Bean and Charles R. Smith, "Cupeño," in *Handbook of North American Indian*, Vol. 8, Robert F. Heizer (Washington: Smithsonian Institution, 1978), 589.

<sup>96</sup> Phillips, "Military Tribunal in Coyote Canyon," 16.

<sup>97</sup> *Ibid.*



Juan José Warner stayed temporarily at Santa Ysabel after losing his house to fire, and where it was safe for Americans.<sup>98</sup> Warner ultimately abandoned his ranch property.<sup>99</sup> A large American military encampment occupied Santa Ysabel. Major Heintzelman probed Juan Warner because of his knowledge about the local Indigenous people.<sup>100</sup> Warner who hired the Cupeños as laborers knew Antonio Garra's people better than any other Americans. He knew them as beasts of labor but did not understand their worldview or their thinking. Warner did not understand what the Native people valued, nor did he care to. Warner believed the Indigenous people of Southern California to be "incompetent" and in no way able "to form a political organization."<sup>101</sup>

Warner told Major Heintzelman that the Aborigines had gathered in Coyote Canyon to the northeast in large numbers. Without being able to confer who was part of any of the recent attacks or who was involved, Major Heintzelman decided to attack. Heintzelman went off what California Senator Juan Warner said. Warner was furious after the attempt on his life and losing his ranch.<sup>102</sup> Juan Warner wanted revenge. Nevertheless, Heintzelman used Warner for his knowledge.

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<sup>98</sup> Blackwell, *Heintzelman's Journal*, 50.

<sup>99</sup> Warner never returned to live on his ranch and moved to Los Angeles out of fear. In 1856, Warner's ranch was auctioned off to the highest bidder. Wormer and Walter, "Two Forks in the Road," 7; and "Sheriff's Sale," *San Diego Herald* (San Diego, CA), November 22, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>100</sup> Phillips, "Military Tribunal in Coyote Canyon," 16.

<sup>101</sup> Johnathan Trumbull Warner, *An Historical Sketch of Los Angeles County, California: from the Spanish Occupancy, by the Founding of the Mission San Gabriel Archangel, September 8, 1771, to July 4, 1876* (Los Angeles: Louis Lewin & Co, 1876), 6. accessed September 3, 2020, the Church of Jesus Christ of Latter Day Saints, <https://catalog.churchofjesuschrist.org>.

<sup>102</sup> Jonathan Trumbull Warner changed his name to Juan José Warner when he arrived in California under Mexican jurisdiction. Joseph Hill, *History of Warner's Ranch and its Environs*, 139.

On December 19, Heintzelman called on Chief Jose Noca and probed him on the plans of the War Chief Antonio Garra and the Native warriors and villagers in Coyote Canyon. Noca relayed that Cahuilla Chief Razon and his people did not participate in the outbreak and should be left alone.<sup>103</sup> Jose Noca revealed to Heintzelman and Wozencraft that most of the local Natives did not agree to participate nor were they involved in the recent attacks, as previously thought by Americans.<sup>104</sup> The attack on San Diego with simultaneous attacks on Los Angeles, and Santa Barbara never occurred as planned. With Antonio Garra taken prisoner by Juan Antonio, along with several other leaders, the Native people were at a loss, Jose Noca explained. Heintzelman ordered his men to prepare to leave the next morning. Lieutenant Thomas Sweeny took with him thirty men that Major Henry Lane Kendrick had with him along and headed for San Diego. Kendrick had arrived earlier with his men from New Mexico.<sup>105</sup>

Under his command, Heintzelman took Companies G, F, and D of the Second Infantry, numbering some forty-six men, to attack the Indigenous people in Coyote Canyon.<sup>106</sup> Magruder took the other companies of men. Magruder and his fifty men entered from the top [west end] while Heintzelman came from the wide opening at the bottom [east] end of Coyote Canyon.<sup>107</sup> Heintzelman secured a solo Aboriginal warrior by the name of Qualita to take the American military forces into Coyote Canyon the next

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<sup>103</sup> Take notice. Juan Antonio is not mentioned as being part of the war efforts. Only Razon is mentioned.

<sup>104</sup> Blackwell, *Heintzelman's Journal*, 50.

<sup>105</sup> Ibid.

<sup>106</sup> Blackwell, *Heintzelman's Journal*, 50; and Samuel P. Heintzelman, "Major Heintzelman's Reports of Engagements with Indians in the Mountains Between Agua Caliente and the Desert," in *C. H. Merriam Papers Relating to Work with California Indians 1850-1974*, Bancroft Library, University California Berkeley. 1. Hereinafter will be referred as "Heintzelman' Reports," *Merriam Papers*.

<sup>107</sup> Ibid.

morning.<sup>108</sup> They camped that night about fourteen miles north Santa Ysabel between Warner's and San Felipe.<sup>109</sup> In all, there were at least 133 American soldiers armed and ready to shoot and kill.

The next morning, on December 20, it was cold, and the rain clouds still hovered at daybreak. The ground was wet and muddy. Magruder and the other soldiers had not begun the vertical rocky descent down into Coyote Canyon. Heintzelman and twenty soldiers entered Coyote Canyon from its bottom at the east end. There was a fresh trail beaten with footmarks and cattle prints. With all the recent foot traffic in and out of the Canyon, the trail led the way to the Indigenous people and their settlements. Three Native soldiers with quivers full of arrows were taken prisoner and questioned for detailed information. The soldiers settled early that day and prepared for battle the next day.<sup>110</sup>

Chief Chapuli from Coyote Canyon had received word those soldiers were coming to attack. Some of Chapuli's scouts had seen the soldiers coming. He sent more scouts to investigate.<sup>111</sup> It rained all night again. On the morning of December 21, Heintzelman and the soldiers, including Warner, were on the march by 4 a.m. December 22 is winter solstice. There is a winter solstice site in Coyote Canyon that recorded the movement of the sun. This important site signified the prosperity of the coming year. The significance of winter solstice is great to the Indigenous people of California. It was the shortest day of the year with the least amount of visible sunlight. It was a time when

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<sup>108</sup> Blackwell, *Heintzelman's Journal*, 50; and Phillips, "Military Tribunal in Coyote Canyon," 16.

<sup>109</sup> Blackwell, *Heintzelman's Journal*, 50.

<sup>110</sup> Ibid.

<sup>111</sup> "Heintzelman's Reports," *Merriam Papers*, 3.

everything was at rest. The bear rested in hibernation.<sup>112</sup> The stars above had shifted. People sat up all night telling stories of Creation, emergence, migration, and of the imminent attack.

The soldiers walked till sunrise when the sun began to light the valley about 6:15 a.m. Arriving near the village armed Indigenous soldiers advanced on the American intruders.<sup>113</sup> The United States soldiers passed several Indigenous homes before Heintzelman set fire to the main village of Wiliya about six miles in. Men, women, and children scattered into the brush and hills. Chief Chapuli attacked the soldiers that trespassed into his village. Then on the north side, the Indigenous warriors began to shoot their bows and rifles at the oncoming soldiers. The valley echoed with the yells of the Native war cries towards the trespassers.<sup>114</sup> The gun fire ricocheted through the narrow canyon from the fired weapons. More warriors came from the south side. Some thirty to forty Indigenous warriors waited for the American intruders on a ridge of a side canyon. Heintzelman's and his men went after the warriors. The Indigenous warriors tried to surround the American soldiers. They ran through the thickets of willow, tulles, and mesquite.<sup>115</sup> During this time, Chief Juan Bautista appeared with at least ten warriors.<sup>116</sup>

Most of the warriors had bows and arrows but a few had rifles.<sup>117</sup> The Americans unable to climb as fast and securely as the Natives, watched the wave of Indigenous

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<sup>112</sup> Barbara Drake interview by author, Alta Loma, CA. January 23, 2020.

<sup>113</sup> "Heintzelman' Reports," *Merriam Papers*, 3.

<sup>114</sup> "Battle Between the Indians and the U.S. Forces," *San Diego Herald* (San Diego, CA), January 10, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>115</sup> Blackwell, *Heintzelman's Journal*, 51.

<sup>116</sup> "Heintzelman' Reports," *Merriam Papers*, 4.

<sup>117</sup> *Ibid*, 3.

warriors scramble up the mountain. The sharp shooters of the army proved lethal. The soldiers picked off the Indigenous fighters, one by one. The Americans soldiers firing power overcame the Natives and within minutes, the Americans took control. It was a massacre. At one-point, Dominga, the sister of Antonio Garra, came running over with her child and begged the Americans to stop. She said others would come as well if they Americans put their weapons away.<sup>118</sup> In all sincerity, the frightened Aboriginal people were traumatized from the current unrest by the American invasion. The Indigenous men and women were not ready to put their weapons down but the fear of war in their village terrified the common people and the mothers with young children. The Indigenous warriors on the other hand, had a responsibility to protect their homes and families, so they kept fighting until they were overpowered.

When the firing came to an end, some the people were rounded up and taken prisoners. They were forcefully prodded and questioned about the attack at Warner's ranch. Some admitted that items were taken from Warner's ranch. They also admitted that a team of fighters killed four Americans at Kúpa and then buried them to hide their bodies. Some of the more frightened young ones, dug up items taken from the ranch and buried in Coyote Canyon. Warner found a huge pile of the recently slaughtered cattle, evidence of the recent feed. Heintzelman believed there was enough cattle remains to say that at least four hundred people lived at the settlement.<sup>119</sup> Tribal leader Juan Bautista and ten of his warriors came out of the shadows and only came down after some assurance by

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<sup>118</sup> Blackwell, *Heintzelman's Journal*, 50-51.

<sup>119</sup> *Ibid*, 51.

the Americans, that he would not be hurt.<sup>120</sup> The massacre left the Aboriginal people disturbed for generations.<sup>121</sup>

Indian Commissioner Oliver Wozencraft, after talking to Senator Juan Warner, was determined to begin treaty talks with the various bands of tribes, including Chief Razon's. Wozencraft wanted to prepare to begin to meet that morning with the headmen identified as tribal leaders. Heintzelman told Wozencraft to wait a couple days before he began talks of a treaty. In disregard to Heintzelman, Wozencraft wanted to start his intimidation process that afternoon. Wozencraft gathered the Indigenous people who made themselves visible and told them to meet with him in just a few days for a peace treaty there in Coyote Canyon.<sup>122</sup> Wozencraft sent runners to Chief Razon, telling him to come to Coyote Canyon for the treaty council with the Americans.<sup>123</sup> Wozencraft determined afterward to move the place for a treaty council to Temecula, where it was

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<sup>120</sup> Americans recently accused Chief Juan Bautista of stealing horses from rancher Pauline Weaver. This is not Bautista from Pauki but someone else with the same name. This might be Juan Bautista of San Ygnacio, who was executed in Coyote Canyon by Heintzelman. Blackwell, *Heintzelman's Journal*, 51.

<sup>121</sup> Anthony Pico is a Kumeyaay tribal leader who served as Tribal Chairman for the Viejas Band of Kumeyaay Indians from 2011-2015. Pico speaks on the traumatic history that Native people experienced from the American invasion in Southern California. Anthony Pico interview by author, Morongo Reservation, August 9, 2017.

<sup>122</sup> Blackwell, *Heintzelman's Journal*, 51.

<sup>123</sup> "Heintzelman' Reports," *Merriam Papers*, 4.



*Figure 5.3: Overgrown growth near a spring in Coyote Canyon Creek. Photo by Sean Milanovich.*

safer from ambush by the Indigenous people and easier for others to get to some sixty miles away, at least a two-day journey.

Many Indigenous people lost their lives in battle that early morning. The people from Coyote Canyon gathered the dead the next day and buried them.<sup>124</sup> The Natives found the slaughtered bodies of tribal leader Chapuli of Wíliya and “Ce-ci-li” of Kúpa. Cecilio was Antonio Garra’s principal adviser.<sup>125</sup> The names of the other people killed

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<sup>124</sup> Ibid.

<sup>125</sup> Ibid.

were not recorded because they were of “less note,” wrote Major Heintzelman.<sup>126</sup> Six Indigenous warriors with rifles, probably under Chief Juan Bautista, held positions of fire on the mountains and ready to attack if the American soldiers made a wrong move.<sup>127</sup> The Indigenous people in Coyote Canyon remained in shock for days after learning of Chapuli’s and Cecilio’s deaths and the others who were fathers, mothers, sons or daughters.

Survivors sent word to Chiefs Juan Antonio, Jose Cabazon, and Juan Razon requesting advice and help. Chief Juan Bautista was persuaded to come down the mountain. Bautista told the Americans he and his people were invited to join Garra but refused. To prove his trustworthiness, Bautista agreed to call in other Cahuilla chiefs to report to Heintzelman and Wozencraft for a treaty.<sup>128</sup> This alerted his fellow supporters that something was wrong.

A message from Razon’s village returned. Razon replied he did not want to come to meet Wozencraft for a treaty. He and his people were safe. The people did not see a need to come in. Besides, General Juan Antonio had just signed a Treaty of Peace, Amity, and Friendship with California General Joshua Bean. A note was sent back to Razon demanding him to make it to the mandatory treaty signing with Indian Commissioner Oliver Wozencraft in Temecula in a week.<sup>129</sup> It is not clear whether Chiefs Jose Cabazon, Juan Antonio or other Cahuilla chiefs received runners telling of

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<sup>126</sup> Ibid.

<sup>127</sup> Ibid.

<sup>128</sup> Phillips, “Military Tribunal in Coyote Canyon,” 17.

<sup>129</sup> Blackwell, *Heintzelman’s Journal*, 51.



the mandatory treaty council in Temecula. Only Razon's name is mentioned. Wozencraft sent runners to Razon and to other nearby Cahuilla villages.<sup>130</sup> Wozencraft sent runners to those tribes recently involved in the attacks at Kúpa and on Warner's Ranch. Heintzelman wrote in his report, "We have sent runners to bring in all of the principal chiefs, and all those engaged in the recent murders."<sup>131</sup> Furthermore, American soldiers found stashed letters in the village addressed to Antonio Garra from important Californios José Antonio Estudillo and Joaquin Ortega, instigating war against the Americans.<sup>132</sup>

On December 21, Wozencraft sent runners to San Ysidro to call in principal headmen and those responsible for the recent attacks. Four men came in.<sup>133</sup> On December 24, Heintzelman held a military tribunal or "council of war" for four tribal leaders thought to be part responsible for the insurrections against the Americans. Heintzelman tried Juan Bautista [Coton], Jacobo [Quisil], Luis [Alcalde of Kúpa], and Francisco Mocate [Chief of Wílakal].<sup>134</sup> There were two men with the name Juan Bautista. This man here with alias "Coton" is not Juan Bautista of Pauki but Juan Bautista from San Ysidro.<sup>135</sup> The men were charged with murder, arson, and robbery by a council of eight men on the battlefield. Each was tried separately with no defense council.<sup>136</sup> Wozencraft

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<sup>130</sup> "Heintzelman' Reports," *Merriam Papers*, 4-5.

<sup>131</sup> *Ibid*, 4.

<sup>132</sup> "(Unreadable) Important from San Diego," *Nevada Journal* (Nevada City, CA), January 8, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>133</sup> "Heintzelman' Reports," *Merriam Papers*, 3-5.

<sup>134</sup> *Ibid*, 4.

<sup>135</sup> Phillips, "Military Tribunal in Coyote Canyon," 21.

<sup>136</sup> Schneider, "Archaeological Testing at the "Garra Site," 16; and Letter from Oliver M. Wozencraft to Luke Lea, Washington D.C., Received February 17, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 287.

joined in the council of war and agreed to the findings and the punishment.<sup>137</sup> The American military tribunal convicted the four men of treason. Wozencraft agreed with the proceedings of the council of war.<sup>138</sup> Heintzelman gave final approval of the proceedings and ordered the executions.<sup>139</sup>

On Christmas morning, a firing squad of twenty divided themselves up into four groups.<sup>140</sup> The soldiers dug four rectangular graves each about four feet deep.<sup>141</sup> The selected area was already set aside as a cemetery for the people of the village.<sup>142</sup> The convicted men were blindfolded and knelt on their knees in front of their graves as is common for a military execution.<sup>143</sup> Lieutenant Slemmer gave the command to shoot.<sup>144</sup> The five man firing squads shot the four men in the chest and killed the convicted tribal leaders.<sup>145</sup> The Indigenous people witnessed the executions from a distance.<sup>146</sup> The executions sent a chilling message to those still alive; the Americans meant business and would kill those who crossed them. They would kill you, too! Chief Juan Bautista of Pauki and his followers witnessed the executions.<sup>147</sup> After burial of the four leaders, the

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<sup>137</sup> Letter from Oliver M. Wozencraft to Luke Lea, Washington D.C., February 18, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 287.

<sup>138</sup> Blackwell, *Heintzelman's Journal*, 51; and "Heintzelman's Reports," *Merriam Papers*, 5.

<sup>139</sup> Blackwell, *Heintzelman's Journal*, 51.

<sup>140</sup> *Ibid.*

<sup>141</sup> Blackwell, *Heintzelman's Journal*, 51; and Deborah W. Gray, "Anthropology Report Garra Excavation," 8. Part of "Archaeological Testing at the "Garra Site" (CA-SDI-2319/H) in Coyote Canyon Anza Borrego Desert State Park, California." By Joan S. Schneider (Uncirculated, Anza Borrego State Park, 2005). Hereafter cited as Gray, "Anthropology Report Garra Excavation." Gray, "Anthropology Report Garra Excavation," 8.

<sup>142</sup> Thurman, "The Cahuillas and The White Men of San Carlos and Coyote Canyon," 30.

<sup>143</sup> Blackwell, *Heintzelman's Journal*, 51.

<sup>144</sup> Phillips, "Military Tribunal in Coyote Canyon," 21.

<sup>145</sup> Gray, "Anthropology Report Garra Excavation," 8.

<sup>145</sup> Blackwell, *Heintzelman's Journal*, 51.

<sup>146</sup> *Ibid.*

<sup>147</sup> Phillips, "Military Tribunal in Coyote Canyon," 21.

soldiers marked each grave with a small pile of rocks.<sup>148</sup> Warner served as the translator for the military tribunal.<sup>149</sup> The Americans wanted the land occupied by the tribal groups and killed for it. Juan Bautista of Pauki and the survivors in Coyote Canyon witnessed this and realized the Americans had taken over and assumed control of their lands. That is why Antonio Garra wrote Juan Antonio, “If we lose this war, all will be lost, the world. If we gain this war, then it is forever, never will it stop; this is war for a whole life,” a few weeks earlier trying to get help from his relatives, friends, and supporters.<sup>150</sup>

Major Samuel Heintzelman and his men burned the homes and villages of the Indigenous people there in Coyote Canyon.<sup>151</sup> The massacre and bloodshed scarred the sacred grounds of Coyote Canyon. Heintzelman left a few brush structures at Wiliya for Jose Noca and his people to stay in before they headed for Temecula. Before leaving, Heintzelman instructed Noca to burn the houses he and his followers stayed in. when he left. Heintzelman, Wozencraft, Warner, and the American soldiers all left Coyote Canyon unscathed. Heintzelman departed for Temecula through Coyote Canyon, signifying the invading Americans had the power to travel on any path or direction they chose even if occupied by Indigenous families.<sup>152</sup> The surviving families eventually moved away after the American assault to Pachawal village, now part of the Los Coyotes Reservation.<sup>153</sup> This is why the canyon was so important to Katherine Siva Saubel and Alvino Siva. Their

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<sup>148</sup> Schneider, “*Archaeological Testing at the “Garra Site,”*” 29-30.

<sup>149</sup> Joan Schneider interview by author, Riverside, CA, May 6, 2019.

<sup>150</sup> Hanks, *This War for a Whole Life*, 33.

<sup>151</sup> Phillips, “Military Tribunal in Coyote Canyon,” 21.

<sup>152</sup> Phillips, “Military Tribunal in Coyote Canyon,” 21.

<sup>153</sup> Wilson, “A GIS Based Analysis of Prehistoric and Post-Contact Mountain Cahuilla Settlement and Subsistence Patterns,” 83.

family members came from Coyote Canyon and later resettled at Pachawal. Other families moved to San Ignacio.<sup>154</sup> The canyon had been home to the Cahuilla and others since the beginning of time. Coyote Canyon became deserted after the American invasion.

The Aboriginal people who claimed Coyote Canyon as home never again returned and occupied the canyon as before. Some families resettled later, but the Cahuilla families never maintained control of the canyon again. Most of the survivors moved southwest to San Ignacio or San Ysidro.<sup>155</sup> The settlement of Pauki remained occupied by Juan Bautista and his family for years. Miners, ranchers, and settlers quickly claimed the land after the treaty that soon followed.<sup>156</sup> The attack on Coyote Canyon helped to initiate homesteaders claiming Indigenous land. In 1862, Frank Clark claimed ownership of the land through the Homestead Act. In 1891, Clark received title to 160 acres at the top of Coyote Canyon, which included the village of Pauki, sometimes called La Puerta by the early settlers because the area opened to the desert.<sup>157</sup> Clark lived on the land with the Indigenous people for years to come.<sup>158</sup> After the American forces defeated the Cahuilla in Coyote Canyon, it was expected a treaty would be consummated with tribal leaders and Indian Commissioner Wozencraft's to show Americans controlled the

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<sup>154</sup> Wade Stevenson discussion with author, April 18, 2021.

<sup>155</sup> Bean, *Cahuilla Landscape*, 102.

<sup>156</sup> Anthony Madrigal, *Sovereignty, Land, and Water*, 114; and Harry Quinn interview by author, Coyote Canyon, March 2019.

<sup>157</sup> Frank Thurman, "The Cahuillas and the White Men of San Carlos and Coyote Canyon," *San Bernardino County Museum Association Quarterly* XVII, no. 4 (Spring 1970), 28.

<sup>158</sup> William T. Eckhardt, "Reconstructing a Destruction of the Past: The Cary Ranch," Proceedings for the Society of California Archaeology. V21, (2009), 157.

Indigenous people of Southern California, believed United States General Ethan A. Hitchcock, commanding officer of the Pacific Division.<sup>159</sup>

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<sup>159</sup> Letter from E. F. Hitchcock to Edward F. Beale. January 17, 1852. *Letters Received by the Office of Indian Affairs*, 642.

## Chapter 6



### TREATY OF TEMECULA

*All the best lands in the Valley of Water, those lands he gave many, many miles to each one, until the Indian people had to leave those lands that provided their food, and move onto poor land of little water. They were forced to move and move again, until they had no homes any more, and did not know which way to go.<sup>1</sup>*

**FRANCISCO PATENCIO, CAHUILLA, 1943**

The Indian war in Southern California sent a message to the Indigenous people: If you do not follow American law, you will be killed. The short but effective military campaign and executions in Coyote Canyon due to the war and the arrest of Antonio Garra sent shock waves to all the local villages of the Cahuilla, Cupeño, Luiseño, Serrano, and Kumeyaay. American threats brought war to Indigenous homelands. Tribal people felt threatened as invading Americans were dangerous and killed the Indigenous people if they were in the way of American domination over the land.<sup>2</sup> The imperialistic United States was using its force and power to squash any Indigenous threats in southern California from San Bernardino to San Diego, to the Colorado River, including Coyote Canyon.<sup>3</sup> The news spread quickly to each sovereign settlement. Most villages

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<sup>1</sup> Francisco Patencio and Margaret Boynton, *Stories and Legends*, XIV.

<sup>2</sup> Lindsay, *Murder State*, 141-163; and Madley, *An American Genocide*, 199-206.

<sup>3</sup> Lindsay, *Murder State*, 141-143 and 161; and Madley, *An American Genocide*, 180-183, 203, and 254.

maintained their own sovereignty with a chief, administrators, council of elders, warriors, ceremonial leader, and ceremonial house. The tribal nations had well established governments and societies for thousands of years.<sup>4</sup> Villages worked together under the unity of their political leaders, and relationships through families, marriage, stories, and the land. Village leaders for the most part recognized the authority of the other village leaders. In the end, most of the tribal chiefs and their people choose not to side with Antonio Garra.

On December 25, 1851, after the United States military defeated the Indigenous people at Coyote Canyon, Indian Commissioner Oliver M. Wozencraft and Major Peter S. Heintzelman instructed the Aboriginal people to go to the village of Teméeku for a mandatory treaty assembly fifty miles away. The timing had a lot to do with it. The state of California and the United States were at war with the Indigenous people. In his earth-shattering book, *An American Genocide: the United States and the California Indian Catastrophe*, Benjamin Madley said that California Governor McDougal sent out at least six killing campaigns in 1851 to slaughter the Indigenous people, followed by treaty negotiations with the Indian Treaty Commissioners Redick McKee, George Barbour, and Oliver Wozencraft.<sup>5</sup> The campaigns compelled the tribal leaders to sign the treaties.<sup>6</sup> Deadly military campaigns against Indigenous peoples were a way the United States laid the foundation for a treaty, as with the Mescalero Apache people in New Mexico and

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<sup>4</sup> Rupert Costo and Jeannette Costo, *Natives of the Golden State*, 40-57; Phillips, *Indians of the Tulares*, 15; and Toler, *Blood of the Band*, 9-14.

<sup>5</sup> Madley, *An American Genocide*, 186-206.

<sup>6</sup> *Ibid*, 201.

Texas.<sup>7</sup> For Wozencraft, his job was to make the treaty he had been assigned to do. He knew that if he did not make treaties with the tribes, Americans planned to move forward and annihilate tribal groups.<sup>8</sup> According to Wozencraft, the treaty was an agreement that the tribes were to follow, after violent alterations by American armed forces. Wozencraft foreshadowed the Indigenous people to be peaceful after the slaughter in Coyote Canyon. The killing was a predeterminant in the treaty itself. The killing pushed the people into agreeing to a treaty with the United States.

The treaty of Peace was supposed to be a more peaceful way to get Indigenous people out of the way without having to kill off all the Indigenous people off the land, but leaving a few. The treaty was a mechanism to take control of the land by force.<sup>9</sup> “Treaty was driven by manifest destiny. The United States government supported killing the Indians,” exclaimed Carmen Lucas, “for the land.”<sup>10</sup> After talking with Juan Warner, Oliver Wozencraft decided to set the stage for treaty discussions to be held at the safe place of Teméeku, at the ranch of Luiseño Alcalde Pablo Apis.<sup>11</sup>

The Americans called this junction on the Emigrant Road, Temecula, after the village of Teméeku. There at Temecula, Indian Commissioner, Oliver Wozencraft wanted to meet with all tribal leaders of the “Cahuilla Nation,” meaning all local tribes of

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<sup>7</sup> Margery Hunt Watkinson, “A Savage Land: Violence and Trauma in the Nineteenth-Century American Southwest (dissertation, Arizona State University, 2020), 49-50.

<sup>8</sup> Ibid, 193.

<sup>9</sup> Letter from Oliver Wozencraft to Luke Lea. January 9, 1852. *Letters Received by the Office of Indian Affairs*, 1040.

<sup>10</sup> Carmen Lucas interview, August 29, 2016.

<sup>11</sup> Letter from Oliver Wozencraft to Luke Lea. January 9, 1852. *Letters Received by the Office of Indian Affairs*, 1040-1041.



region including Cahuilla, Cupeño, Luiseño, and Serrano.<sup>12</sup> Specifically, Wozencraft wanted to make a treaty with the Indigenous people affiliated with the recent attacks. It was believed those who participated in the recent attacks were Cahuilla and Cupeño. The Americans did not know for certain who was involved in the attacks until the military tribunal in Coyote Canyon and later, the tribunal for Antonio Garra.<sup>13</sup> The American intruders had an idea of the complexity of the recent uprising. At the same time, the Americans labeled the Indians as the culprits of the war.<sup>14</sup> In reality, Antonio Garra and his Indigenous neighbors, including mainly Cupeño warriors, but some Cahuilla, Kumeyaay, and Luiseño had been pushed to too far and wanted change.<sup>15</sup> The Quechan tribes along the Colorado River were allies and proponents of the hostilities, too. The Quechan wanted to fight the Americans to stop Americans from crossing their lands and killing their families.<sup>16</sup>

Wozencraft previously sent runners to the regional settlements instructing the chiefs and headmen to meet at Temecula as soon as they could within a week's time.<sup>17</sup> Olivia Chilcolte acknowledged, "Runners were sent to tribes to come and meet," at Temecula for a treaty.<sup>18</sup> Wozencraft in his messages gave the names of those four leaders

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<sup>12</sup> Ibid, 1040.

<sup>13</sup> Letter from Oliver Wozencraft to Luke Lea. January 9, 1852. *Letters Received by the Office of Indian Affairs*, 1041; and "Trial of Antonio Garra," *San Diego Herald* (San Diego, CA), January 10, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>14</sup> "Taxing the Indians," *Daily Alta California* (San Francisco, CA), January 5, 1852, California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; and "Trial of Antonio Garra," *San Diego Herald* (San Diego, CA), January 10, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>15</sup> Carmen Lucas interview, August 29, 2016; and Guy Trujillo interview, November 13, 2017.

<sup>16</sup> Alfonzo Ortiz, "Quechan," in *Handbook of North American Indian* V 10, ed. Robert F. Heizer (Washington: Smithsonian, 1983), 94; and Trafzer, *Yuma*, 52-81.

<sup>17</sup> Carmen Lucas interview, August 29, 2016; Guy Trujillo interview, November 13, 2017; and Blackwell, *Heintzelman's Journal*, 51.

<sup>18</sup> Olivia Chilcote interview, September 15, 2017.

killed and called for more of the Native conspirators to be brought before the Americans.<sup>19</sup> To the Native people, the messages conflicted with what Wozencraft wanted with the treaty. The Indigenous people questioned the meeting and their livelihood. Wozencraft believed that a treaty would solve the differences between the invading American people and the Aboriginal people of Southern California, but not the injustices done upon the Aboriginals. Temecula was about fifty miles west of Coyote Canyon, a two-day walk. Wozencraft and his escort of soldiers walked out of Coyote Canyon, toward Temecula. On his way out of the canyon to Temecula, Wozencraft passed multiple villages. Near the top of Coyote Canyon, he passed Chief Panto's village of Nacuta.<sup>20</sup> At the top of the Coyote Canyon, on its northwest edge, Wozencraft passed the vibrant village of Pauki, spread over the land with gardens and cattle. Pauki was the winter home of Chief Juan Bautista.<sup>21</sup> They walked to Temecula, passing through the homelands of Juan Bautista, Antonio Garra, and Cervantes Qaxal of Aguanga.

Temecula is the Americanized name of 'Éxva Teméeku. Temecula was on the old Indigenous trade corridor. There was a junction at Temecula where the Sonoran and Emigrant Trails merged. The Sonoran Trail connected the south to the north. The trail, also known as the San Luis Rey Road, branched off and connected Mission San Luis Rey to Temecula.<sup>22</sup> From Baja California, the Sonoran Trail went north to San Diego and to Temecula, and on to Los Angeles. This was an ancient trading route used for thousands

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<sup>19</sup> Letter from Oliver Wozencraft to Luke Lea, February 18, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 287.

<sup>20</sup> Blackwell, *Heintzelman's Journal*, 51-52.

<sup>21</sup> Eckhardt, "Reconstruction a Destruction of the Past," 157.

<sup>22</sup> Blackwell, *Heintzelman's Journal*, 52.

of years. The Emigrant Trail connected the West Coast to the East Coast. It was this route that bisected Teméeku, bringing American invaders from the Colorado River into the heart of Payómkawichum, or Luiseño territory, to the Pacific Coast. The trail was given many names, such as Gila Trail and Emigrant Road.<sup>23</sup> The road became the Butterfield Stagecoach Road, Overland Road, and then Interstate 15.<sup>24</sup>

The lands around Temecula Valley were fertile and supported abundant villages, game, plants, and trees. The Payómkawichum hunted in the valleys and mountains and ate deer, antelope, rabbits, wood rats, ground squirrels, mice, quail, ducks, and fish.<sup>25</sup> The main staple food for the inland valleys and mountains was the oak tree. The oak supplied an abundant source of acorns. Acorns were hulled, ground down, leached for tannic acid, and made into a meal. The meal was then made into a nutty porridge.<sup>26</sup> The people wanted continued access to their oak trees.

Temecula lies along Murrieta Creek and on the north face of the Santa Margarita Mountains. Mission administrators granted the land to Pablo Apis. About 1792, Pablo Apis was born at the village of Guajome on the coast near the San Luis Rey River. Apis was baptized and educated at Mission San Luis Rey where he learned to read and write Spanish. Apis is also known to be spelled Hapish.<sup>27</sup> Apis became an alcalde or magistrate at the Mission. Apis was not a traditional Luiseño chief or nóta. After secularization of

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<sup>23</sup> Jane D. Gunther, *Riverside County, California, Place Names*, 507-508.

<sup>24</sup> Leland E. Bibb, "Pablo Apis and Temecula," *Journal of San Diego History* 37, no. 4 (Fall 1991). accessed February 2, 2019, San Diego History Center, <https://sandiegohistory.org/journal/1991/october/temecula-3/>.

<sup>25</sup> Horace Parker, *The Historic Valley of Temecula*, 10.

<sup>26</sup> Milanovich, "Cahuilla Continuum; Tuku, Ivax, Tuleqa," 51.

<sup>27</sup> Bibb, "Pablo Apis and Temecula," <https://sandiegohistory.org/journal/1991/october/temecula-3/>.

Mission San Luis Rey, Apis rose in leadership as he advocated for the return of mission lands to the Indigenous people and restrict lands from Californios. In 1843, Mission San Luis Rey's administrators, Father José Maria Zalvidea and José Joaquin Ortega, granted a half-league, or 2,333.42 acres, of Temecula to Pablo Apis for his services as alcalde.<sup>28</sup> The grant of land contained the village of Teméeku.<sup>29</sup> Temecula was about twenty-five miles inland and northeast of the village Guajome and Mission San Luis Rey.

Pablo Apis was known as Chief and Captain Apis to the Americans even though he was not born with traditional *nóta* status. Lauriano Cahparahpish of Temecula was a hereditary Chief of the village at Teméeku.<sup>30</sup> Teméeku was in the northern-most territory of the Luiseño people and one of the largest villages in the area.<sup>31</sup> Americans believed Teméeku to be one of the largest Indian settlements in California.<sup>32</sup> The fact is there were many large Indigenous settlements unfamiliar and unknown to the invading settlers, who paid little attention to the Native peoples. There were at least thirty willow framed structures for individual homes. There was a pear and peach orchard. The Payómkowichum or Luiseño grew corn and beans and raised cattle. The Indigenous farmers sold their goods to the travelers on the road.<sup>33</sup>

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<sup>28</sup> Chris Perez, "Grants of Land in California Made by Spanish or Mexican Authorities," 85.

<sup>29</sup> Bibb, "Pablo Apis and Temecula," <https://sandiegohistory.org/journal/1991/october/temecula-3/>; and Phillips, *Chiefs and Challengers*, 59.

<sup>30</sup> Lauriano Cahparahpish information was recorded as "Valeriano Caparrapix" from the village of Toulepa. Toulepa is a corruption of Teémeku and later known as Temecula. "Early California Population Project," The Huntington, <https://www.huntington.org/ecpp>; and Johnson and O'Neil, "Descendants of Native Communities in the Vicinity of Marine Corps Base Camp Pendleton," 45-46.

<sup>31</sup> Blackwell, *Heintzelman's Journal*, 52.

<sup>32</sup> *Ibid*, 51.

<sup>33</sup> Bibb, "Pablo Apis and Temecula," <https://sandiegohistory.org/journal/1991/october/temecula-3/>; and Blackwell, *Heintzelman's Journal*, 52.

On December 27 in the evening, Oliver Wozencraft, Juan Warner, and part of the military escort of soldiers, arrived at Temecula. The other American soldiers arrived the next day.<sup>34</sup> The ranch encompassed the settlement of Teméeku located on the westerly high point. The village of Teméeku was located where the junction of the Murrieta Creek [east flowing] and Temecula River [west flowing] joined to form the Santa Margarita River [south flowing]. Apis had built his adobe and settled in 1843 about one mile north of the village up the Emigrant Trail. Apis built a multiroom adobe house on the easterly high point of the ranch lands on the Temecula River. The military escort included Lieutenant Frazer with thirty-seven men of the Second Infantry and Lieutenant Hamilton of the Third Artillery, with sixteen men for a total of fifty-three soldiers each with rifles.<sup>35</sup> Wozencraft, Warner, and the White soldiers set up camp near the adobe home of Pablo Apis, where the treaty signing took place. The adobe was located at the eastern end of the Temecula Valley, about one mile north of the junction of Interstate 15 and Highway 79, heading east on the Emigrant Trail. Wozencraft must have felt fear, being surrounded by hundreds of Indigenous people after his engagement in Coyote Canyon that resulted in the deaths of many known Natives and countless unknown Natives.

Upon Wozencraft's arrival at Temecula, many of the Luiseño chiefs, headmen, and tribal leaders had already assembled at Temecula, according to the *San Diego Herald*.<sup>36</sup> The Luiseño from the coast, especially San Luis Rey Mission, were still in

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<sup>34</sup> Blackwell, *Heintzelman's Journal*, 52.

<sup>35</sup> Blackwell, *Heintzelman's Journal*, 52; and Letter from Oliver M. Wozencraft to Luke Lea, February 18, 1852. Letter from Oliver Wozencraft to Luke Lea, February 18, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 285.

<sup>36</sup> "Arrival of the Indian Commissioner," *San Diego Herald* (San Diego, CA). January 10, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

route. Luiseño leaders present included those who lived in the region of present-day Riverside County and the northern part of San Diego County near the San Luis Rey River. Tribal leaders attending the Temecula treaty assembly included: Pedro Kowalish of San Luis Rey, Pablino Kwoxákish of Pala, Cervantes Qaxal of Aguanga, Lauriano Cahparahpish of Temecula, and Captain Pablo Apis formerly of Guajome, and now, Temecula. Other leaders followed. The Luiseño feared the Americans, too, after hearing about the bloody campaign at Coyote Canyon and did not trust the Americans. Pablo Apis, the people of Temecula, along with his 300 head of cattle, just had returned from Mission San Luis Rey, where he and the other Luiseño from Temecula separated themselves from the rebels and revolutionaries.<sup>37</sup>

Armed American Federal and State militia soldiers marched to Temecula. General Joshua Bean of the State Militia and some of his men were some of the first soldiers to camp around Temecula.<sup>38</sup> Governor McDougal disbanded General Beans' militia December 26, after Antonio Garra had been arrested.<sup>39</sup> General Bean maintained murderers and other prisoners who were being transported to Los Angeles.<sup>40</sup> Heintzelman the next day sent Captain Davidson and his company to Santa Ysabel to make sure the volunteers did not molest the Aboriginal people there.<sup>41</sup> The soldiers liked to molest and chastise the Indigenous people. On December 28, Heintzelman arrived in

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<sup>37</sup> Bibb, "Pablo Apis and Temecula," <https://sandiegohistory.org/journal/1991/october/temecula-3/>; Jane D. Gunther, *Riverside County, California, Place Names*, 528; and "Alarm of the Indians," *Daily Alta California* (San Francisco, CA). December 4, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>38</sup> Blackwell, *Heintzelman's Journal*, 57.

<sup>39</sup> Madley, *An American Genocide*, 203.

<sup>40</sup> Blackwell, *Heintzelman's Journal*, 52.

<sup>41</sup> *Ibid*, 52.

Temecula with his Companies of G., F., and D. of forty-six infantry soldiers. They camped a few miles south of Temecula away from the excitement on the San Luis Rey Road.<sup>42</sup> Wozencraft believed the uprising was over, but for precautionary measures, he had Heintzelman camp on the outskirts with his men to keep guard for a few days.<sup>43</sup> Lieutenant Cave J. Couets sent word to Heintzelman that Captain Hays arrived with forty-five men to join the war against the Indigenous people. Heintzelman declined the offer since hostilities in the area seemed to be over after the arrest of Garra and the Coyote Canyon confrontation.<sup>44</sup> General Bean prepared to take some Aboriginal rebels to Los Angeles for trial. The incarcerated men were all chained.<sup>45</sup> Heintzelman and his soldiers did not stay for the treaty discussions. On December 3, Indian Commissioner Wozencraft released Major Heintzelman from his service and Heintzelman departed for San Diego.<sup>46</sup> Lieutenant Edward Fitzgerald Beale and most of the fifty-man volunteer militia from San Diego arrived as well to show American force over the Indigenous people.<sup>47</sup>

On December 30, Cupeño Chief Jose Noca and Cahuilla Chief Juan Bautista came into Temecula. They set up camp north of Pablo Apis's adobe distant from the Luiseño village. Cahuilla Chief Juan Antonio and other Cahuilla had not come.<sup>48</sup> The valley was large enough to accommodate all those that were coming but this was Luiseño territory.

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<sup>42</sup> Ibid.

<sup>43</sup> Ibid, 52.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid 57.

<sup>46</sup> Ibid, 52.

<sup>47</sup> Ibid, 53.

<sup>48</sup> "Arrival of the Indian Commissioner," *San Diego Herald* (San Diego, CA), January 10, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

For many Aboriginal people, the thought of coming to Temecula to meet with Indian Commissioner Wozencraft seemed foolish. American forces had just killed Cahuilla, Cupeño, Luiseño citizens, including a chief, headmen, administrators, warriors, and community members, a few days earlier in an attack, followed by executions. The Cahuilla, Cupeño, and Luiseño in Coyote Canyon participated and witnessed the entire encounter now had been commanded to go to Temecula. They were frightened and did not trust the Americans. Chief Juan Antonio sent Oliver Wozencraft a message stating he did not need to come to Temecula. According to Wozencraft, Juan Antonio reported that he was a “good American Indian,” thus he did not need to come in.<sup>49</sup> In Juan Antonio’s mind, he had done nothing wrong, and he was concerned how the Luiseño might receive him, since he had killed Luiseño men after a conflict. To Oliver Wozencraft, Juan Antonio could not be trusted.<sup>50</sup> Juan Antonio had sent runners up north to check whether tribes wanted to participate in war against the Americans.<sup>51</sup> Vincent Halder, a mountaineer, who was visiting tribes before Wozencraft met with them, heard that Chief Juan Antonio from Southern California sent runners up north around San Francisco to ask tribes about a war against the Americans.<sup>52</sup>

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<sup>49</sup> Oliver M. Wozencraft, “Indian Affairs, 1849-1850: Statement of Dr. O. M. Wozencraft,” (Bancroft Library, 1877). Oliver M. Wozencraft Papers, Bancroft Library, University of California Berkeley, San Francisco, CA. 12.

<sup>50</sup> Wozencraft, “Indian Affairs, 1849-1850,” 12.

<sup>51</sup> Wozencraft, “Indian Affairs, 1849-1850,” 12; and “The Tulare Indians,” *Los Angeles Star* (Los Angeles, CA), December 20, 1851. George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 35, File 17. Huntington Library, San Marino, CA.

<sup>52</sup> Oliver M. Wozencraft, “Statement of Dr. O. M. Wozencraft, Indian Affairs 1849-1850 in 1877,” Microfilm. Bancroft Library, University of California Berkeley, 12.



Wozencraft was not familiar with Indigenous people or their territory in Southern California or any other part of the state.<sup>53</sup> Americans knew extremely little about any Indigenous people in California.<sup>54</sup> Wozencraft grew up in the state of Ohio and only had arrived in California two years before. Wozencraft lived in San Francisco. Wozencraft depended on Juan Warner for all his help in selecting a place. They could have met in San Diego on the San Luis Rey River, where there were more Luiseño than at Temecula. Warner and Wozencraft chose Temecula because it was a central location on a major trade route, and it seemed closer for the Cahuilla leaders and their leaders, including Juan Antonio, to get to within a reasonable amount of time. Temecula was a central location and on the border with the Cahuilla tribes. The Cahuilla/Cupeño were the principal tribes who the Americans saw as the leaders who had organized and participated in the outbreaks against the Americans.<sup>55</sup> Antonio Garra and Juan Antonio were viewed as the leaders of the resistance, even though Juan Antonio did not participate in the attacks.

In 1845, Mexican Governor Pio Pico approved the Apis grant by Mission officials surrounding the village of Éxva Teméeku.<sup>56</sup> Apis was one of the Indigenous people to receive a land grant. In her book, *Éxva Teméeku: Where We Began*, Myra Ruth Masiel-Zamora, a Luiseño scholar and archaeologist, pointed out that for the Luiseño, Éxva Teméeku is the place where creation began. Many stories of creation and the beginnings

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<sup>53</sup> Phillips, *Indians of the Tulares*, 140-141.

<sup>54</sup> Letter from Adam Johnson to Edward F. Beale. January 30, 1852. *Letters Received by the Office of Indian Affairs*, 658-662.

<sup>55</sup> Clinton Hart Merriam, "Heintzelman's Reports" in "Southern California," *C. H. Merriam Papers Relating to Work with California Indians 1556\_74*, 4. Bancroft Library Archives. University of California, Berkeley, San Francisco, CA.

<sup>56</sup> Phillips, *Chiefs and Challengers*, 62.

started here.<sup>57</sup> Just east of Temecula is the Luiseño cultural property of Pu'eska Mountain, where Wo'yuut, the first ancestral tribal leader, died.<sup>58</sup> The people occupied Temecula Valley since the beginning of time. The energy left from Creation itself remained in the area, unknown to Warner, Wozencraft, and other Americans. It was this energy that brought the treaty here, giving people hope and birth for a new beginning.

Cahuilla leader Juan Antonio received the message from runners dispersed by Wozencraft on December 21, 1851, to go the mandatory treaty signing.<sup>59</sup> Juan Antonio was reluctant to go to Temecula, and stayed home at his village of Sáxhatpah in San Timoteo Canyon, about fifty miles north of Temecula. The village was in a small narrow canyon with rolling hills, supplied with a good creek of flowing water, willows, and flat lands for gardens. Six months earlier, Indian Commissioner George Barbour had invited Juan Antonio to sign a treaty in mid-June 1851 at Isaac Williams' ranch. Antonio had waited for the United States Treaty Commissioner, George W. Barbour for five days before he left.<sup>60</sup> Juan Antonio did not want to wait again. The most pressing issue for Juan Antonio was riding into an American trap. It was not the fact that Juan Antonio with Mexican José del Carmen Lugo, and their men five years earlier, killed thirty-eight Luiseño and Cupeño warriors in an ambush just twenty miles east of Temecula. What bothered Juan Antonio was the news of Wozencraft and the United States soldiers camped at Teméeku. The Cupeño and Luiseño were colonized and missionized and had

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<sup>57</sup> Myra Ruth Masiel-Zamora, *Èxva Teméeku: Where We Began*, (Pechanga, CA: Great Oaks Press, 2016), 2.

<sup>58</sup> Mark Macarro, "Nation to Nation," September 23, 2014.

<sup>59</sup> Blackwell, *Heintzelman's Journal*, 51.

<sup>60</sup> Phillips, *Chiefs and Challengers*, 97.

conformed already to the invader's ways, while the Cahuilla for the most part had not been colonized and remained reluctant to give in to the intruder's commands. Juan Antonio represented a coalition of individual sovereign bands or nations, and each was autonomous of the other.

Furthermore, Juan Antonio had recently signed a Treaty of Amity, Peace and Friendship with General Bean less than two weeks before.<sup>61</sup> In his landmark book, *Chiefs and Challengers: Indian Resistance and Cooperation in Southern California, 1769-1906*, historian George H. Phillips clarified that the Treaty that Chief Juan Antonio and General Joshua Bean signed had no legal standing.<sup>62</sup> Only the Senate of the United States with a two-thirds vote could ratify a treaty, and it could not become law without the signature of the president of the United States. General Bean did not have authority to create or sign a valid treaty on behalf of the United States. The treaty was never sent to the Senate and ratified. The treaty had no legal standing in the American court system.

Juan Antonio being Chief also served as judge in his communities. The Cahuilla people had the *nét* or chief who served as judge with the Native communities. Judge Juan Antonio approved of the document as a valid treaty. The chief was the law. Juan Antonio was the law if it did not go against natural law. He held that title. This is important to note here. The people took his word and authority. They believed in him. They gave him that power to act on their behalf. Juan Antonio was unaware of the strategic move that Oliver Wozencraft planned. Wozencraft planned to confine the tribes onto two small

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<sup>61</sup> Ibid, 113-114.

<sup>62</sup> Ibid.

reservations and take control of all the Indigenous lands in Southern California on behalf of the United States.<sup>63</sup>

Some scholars reported that Juan Antonio did not feel safe going to Temecula, where Luiseños lived.<sup>64</sup> In 1847, Juan Antonio, Californios, and other Cahuilla warriors ambushed and killed thirty-eight Luiseño and Cupeño warriors.<sup>65</sup> Even before this, tension existed between the groups. Hereditary Cahuilla Chief and Nét Victoriano from Soboba recalled that a fierce battle took place between the Ivahs [Cahuilla] and Temeculas [Luiseño] about 350 years before around 1500 A.D.<sup>66</sup> The people fought over chia, a powerful source of sustaining energy. In the end, many lost their lives in what is known as Massacre Canyon just west of the Soboba Reservation.<sup>67</sup> For many generations, conflicts between the Cahuilla and Luiseño have existed, giving credence that Juan Antonio including other Cahuilla would have looked over their back while nearing Temecula. On top of this, under the situation with the recent expedition in Coyote Canyon, Juan Antonio did not feel the Americans had his best interest.

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<sup>63</sup> See the maps. Phillips, *Chiefs and Challengers*, 145; and Tribal Connections, “Forest Service Lands, Federal and Indian Lands, and Indian Lands Cessions Viewer,”

<https://www.arcgis.com/apps/webappviewer/index.html?id=fe311f69cb1d43558227d73bc34f3a32>.

<sup>64</sup> Parker, *The Historic Valley of Temecula*, 9; and Phillips, *Chiefs and Challengers*, 138.

<sup>65</sup> José del Carmen Lugo of Rancho San Bernardino asked Juan Antonio for assistance to avenge the deaths of Californios killed by leaders Manuel Cota and Antonio Garra at the village of Kúpa. Juan Antonio agreed to assist. Lugo who employed Juan Antonio as head of an elite security team. Lugo wanted to work with the Indigenous people and the Indigenous people to work with the Californios, not against them. In the end, the ambush led to the deaths of Juan Antonio’s relatives and neighbors, Luiseños and Cupeños known as the Aguanga Massacre.

<sup>66</sup> Jane D. Gunther, *Riverside County, California, Place Names*, 314.

<sup>67</sup> *Ibid.*

Luiseno chiefs most likely had warrior scouts stationed on top of ridge of the Santa Ana Mountains scouting for the Americans and others to learn of who was coming and going in Temecula Valley from the west to the east. The ridge and peaks were heavily used as observation points during the treaty doings. The vista from atop the mountain allows one to see a clear distance as far west as Corona, and as far east as Aguanga. The village of Teméeku seemed politically centered in the Temecula Valley, which was the highway and wagon trail for people heading south to Mexico and north to Los Angeles. Teméeku received heavy foot traffic from Americans including miners, ranchers, and people just moving back and forth between La Paz, Mexico to San Diego to Los Angeles to San Francisco, and to the gold fields. There was so much traffic, that caused some serious problems with invasion on aboriginal lands.<sup>68</sup>

A new mandate had arrived and Wozencraft wanted everyone to hear it. Americans were taking control of all the land. To lure people in and keep people there, he fed the people. The feeding was part ceremonial and good gesture, thanking the people for coming. For Indigenous Southern California, it was customary to feed the people at gatherings. Oliver Wozencraft knew hundreds of people would show up to Temecula as many tribal leaders received instructions to come with their families to hear what little brother, the United States, wanted to tell them. Wozencraft used tactics of fear to initiate the treaty process, far from the reason behind the purpose of the treaty. To bring all these people in, Wozencraft knew from this past year's experience, he needed to feed the

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<sup>68</sup> Carrico, *Strangers in a Stolen Land*, 65; Madley, *An American Genocide*, 202; and Phillips, *Chiefs and Challengers*, 101.

people. Wozencraft had learned the best to subdue the Aboriginal people was to provide them with beef and flour.<sup>69</sup> Treaty Indian Commissioners Redick McKee, George Barbour, and Oliver Wozencraft fed the tribal people beef at the treaty doings and offered beef as an exchange for signing over their vast territories to the United States and to encourage the Indigenous people to come to the treaty council.<sup>70</sup>

Upon his arrival at Temecula, Wozencraft searched for rancher Isaac Williams. Prior to his coming to San Diego area from San Francisco, Wozencraft secured a contract with Williams to supply cattle. Wozencraft had no money or credit left for treaty negotiations to secure gifts of beef and flour for the tribes in southern California and there at Temecula. Indian sub-Agent Adam Johnston met with Wozencraft in San Francisco to help Wozencraft contract with Isaac Williams.<sup>71</sup> Rancher Pablo Apis, who had a large herd of beef cattle, must have offered his stock to Wozencraft on behalf of his son-in-law, Isaac Williams. Williams had children from Pablo Apis's two daughters Maria Antonia Apis [13 years] and Maria Jesus Apis [14 years].<sup>72</sup>

Isaac Williams contracted with Indian Commissioner George Barbour back in June/July 1851 to feed the Native people who showed up at Williams's ranch for the failed treaty signing.<sup>73</sup> Oliver M. Wozencraft arranged for beef with rancher Isaac

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<sup>69</sup> Letter from Redick McKee, George Barbour, and Oliver Wozencraft to Luke Lea, May 1, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 76.

<sup>70</sup> Wozencraft rationalized he aided the State from Indians retaliating from American invasion. Wozencraft believed the \$25,000 allocation for treaties in California with Indian tribes was not enough to fulfill the criteria and instructions for treating with the unknown tribes of California. Hoopes, *Domesticate or Exterminate*, 18-19.

<sup>71</sup> Letter from Adam Johnston to Alex H. H. Stuart, December 4, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 233-234.

<sup>72</sup> Phillips, *Chiefs and Challengers*, 62-63.

<sup>73</sup> *Ibid*, 97.

Williams before arriving in San Diego.<sup>74</sup> Williams had provided the beef for the proposed treaty council back in June 1851 at his Rancho Santa Ana del Chino.<sup>75</sup> Wozencraft had come to the conclusion that about nineteen out twenty of all the disturbances between “Whites” and “Indians” stemmed directly from aggression on the part of the Whites, or failure on their part to supply the Aboriginals with beef and flour promised to them.<sup>76</sup> The beef and flour were useful and desired by the Indigenous people.<sup>77</sup> The Indigenous peoples’ access to hunt and gather had been severely restricted. Most people would not turn down a good meal. This was all part of Wozencraft’s strategy. Wozencraft needed to scheme to gain the trust of the Aboriginal people and coax them to sign the treaty.

Isaac Williams provided the beef at the treaty doings, and he was to fulfill the beef contract with Wozencraft. According to the contract, Williams was to provide beef for the treaty doings and then provide 2,500 head of cattle afterwards for treaty stipulations. Each cow was to weigh 500 pounds accordingly.<sup>78</sup> The issues with the contract became a circus. According to the *Los Angeles Star*, Williams went up north and lost his contract. Williams was to provide \$36,000 in funds afterwards as is part of the

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<sup>74</sup> Letter from Oliver Wozencraft to Luke Lea, February 18, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 289.

<sup>75</sup> Letter from Oliver M. Wozencraft to Luke Lea, San Francisco, December 1, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 229.

<sup>76</sup> Metcalf, “Oliver M. Wozencraft in California,” 36.

<sup>77</sup> Letter from Reddick McKee to Luke Lea, San Francisco, May 13, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 77.

<sup>78</sup> Statement by Isaac Williams to General Christopher S. Lovell, June 7, 1852. *Letters Received by the Office of Indian Affairs*, 1137-1138.

share of the contract.<sup>79</sup> Wozencraft agreed he gave the contract originally to Isaac Williams, and then to someone else. Wozencraft said Williams wanted to be released from said contract. Wozencraft said that Williams wanted to pay Wozencraft \$25,000 for his share of the profit, while Wozencraft wanted \$36,000.<sup>80</sup>

By December 31, Juan Antonio and the other Cahuilla chiefs under him sent for had not arrived. Runners had been sent to demand their presence at Temecula, but the Cahuilla chiefs did not show up.<sup>81</sup> Wozencraft wondered where Juan Antonio was, along with the other Cahuilla leaders. Wozencraft had ordered all tribes to meet at Temecula.<sup>82</sup> It was apparent, Juan Antonio was vital to get the Cahuilla leaders to come in and sign the treaty.

Major Heintzelman believed counter forces hindered Juan Antonio from coming in earlier. One being that Antonio Garra's son stabbed Juan Antonio in his arm and side and perhaps he was not able to get around.<sup>83</sup> Wozencraft thought it best that someone familiar with Juan Antonio go to meet him, and persuade him to come in. Tribal leader Juan Bautista of Pauki at the western ridge of Coyote Canyon and Cahuilla Valley was told to bring in Juan Antonio. Wozencraft asked Juan Warner to lead the party to the village of Sáxhatpah to avoid any deception.<sup>84</sup> General Joshua Bean and Lieutenant

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<sup>79</sup> "Beef Contracts," Oliver Wozencraft to Orion, editor," *Los Angeles Star* (Los Angeles, CA), July 24, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>80</sup> Ibid.

<sup>81</sup> Blackwell, *Heintzelman's Journal*, 51.

<sup>82</sup> Wozencraft, "Indian Affairs, 1849-1850," 11.

<sup>83</sup> General Bean told Lieutenant Heintzelman of the event he witnessed at Sáxhatpah. Blackwell, *Heintzelman's Journal*, 57.

<sup>84</sup> John W. Robinson and Bruce D. Risher, *The San Jacinto's* (Arcadia, CA: Big Santa Ana Historical Society, 1993) 102-103.



Francis E. Patterson, 1<sup>st</sup> Artillery Assistant Commissary Subsistence and Acting Assistant Quarter Master in San Diego, and a force of his militia accompanied the party north beyond Hemet Valley to the San Gorgonio Pass, the territory into Juan Antonio's village.<sup>85</sup> The commission of men arrived about 2 a.m. at Sáxhatpah, the village of Juan Antonio. Juan Bautista told Juan Antonio of the dire situation. American forces camped at Teméeku. The United States military guarded the outskirts of the village at Temecula. United States Military units were stationed only at the Southern entrance. The Americans soldiers had defeated Cahuilla and Cupeño forces and executed the leaders of Antonio Garra's resistance.

Juan Warner relayed a pertinent message to Juan Antonio. He was to expect soldiers to attack his village and kill them.<sup>86</sup> General Bean affirmatively told Juan Antonio if he did not cooperate with the Americans, soldiers would be used to make him comply.<sup>87</sup> After some difficult discussions, Juan Antonio agreed to leave for Temecula the next day. On January 1, 1852, Warner, accompanied by Lieutenant Francis E. Paterson, left Sáxhatpah for Temecula about 9:00 a.m. and arrived back at Temecula about 10:30 p.m. that evening. Juan Antonio left later in the day with his twelve captains. General Joshua Bean escorted Juan Antonio and his men to Temecula to make sure they arrived and did not try anything.<sup>88</sup>

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<sup>85</sup> Blackwell, *Heintzelman's Journal*, 57; and Robert W. Frazier, "Military Post in San Diego, 1852," *San Diego Historical Society Quarterly* 20, no. 3 (Summer 1974), San Diego History Center, <https://sandiegohistory.org/journal>.

<sup>86</sup> Letter from Oliver M. Wozencraft to Luke Lea, Received February 18, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 286-287.

<sup>87</sup> Wozencraft, "Indian Affairs, 1849-1850," 12.

<sup>88</sup> Blackwell, *Heintzelman's Journal*, 57.

On January 2, 1852, Chief Juan Antonio, Nét Jose Cabazon, and nine other headmen arrived in caravan with Chief Juan Bautista. This is incredibly significant. The Cahuilla tribal leaders realized and agreed their power over the land was diminishing with the American invasion. To save their people and lands, elder and traditional leader Jose Cabazon believed they had to make an agreement with the Americans.<sup>89</sup> Cabazon's words must have weighed in with Juan Antonio's ultimately deciding to go to Temecula. Chief Jose Cabazon was the principal authority in the Southern California desert.<sup>90</sup> The Cahuilla respected this man as a traditional nét and "head of the desert," for he carried years of experience and knowledge.<sup>91</sup> Juan Antonio looked up to his uncle Jose Cabazon for guidance and knowledge.<sup>92</sup> Remember that it was Cabazon who told Juan Antonio not to fight the Americans. Americans were more familiar with Juan Antonio than with Cabazon because Juan Antonio lived closer to American settlements and had more interaction with him. Each leader had their own territory they managed and took care of.

The leaders and their warriors arrived late at night. It was reported, Juan Antonio and his men rode into Temecula on their horses, to the sullen glare of the Luiseño.<sup>93</sup> Furthermore, Juan Antonio and the twelve tribal leaders "had a very warlike appearance as they rode up to Pablo Apis's Rancho" on horses.<sup>94</sup> Rancher and friend Pauline Weaver accompanied Juan Antonio and the other headman.<sup>95</sup> Weaver must have been with the

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<sup>89</sup> Perez, *Cabazon Band of Mission Indians*, 32.

<sup>90</sup> Shinn, *Shoshonean Days*, 26; Strong, *Aboriginal Society*, 53; Cahuilla Red Elk interview, Agua Caliente Reservation, CA, Spring 2015.

<sup>91</sup> Perez, *Cabazon Band of Mission Indians*, 20

<sup>92</sup> Joseph Benitez interview, July 26, 2020.

<sup>93</sup> Robinson and Risher, *The San Jacinto's*, 102-103.

<sup>94</sup> Parker, *The Treaty of Temecula*, 9.

<sup>95</sup> Ibid.

Cahuilla previously to coax Juan Antonio into going to the treaty deliberations.

Americans in the area were all aware of the presence of the Treaty Commissioner Oliver Wozencraft. Americans believed a treaty with the Indigenous people would solve the hostile disputes between Americans and the Indigenous people.

It was understood by the Americans that all Indigenous people had to change their way of life or “cease to live, at all.”<sup>96</sup> This meant that the Indigenous people had to learn and adopt the White man’s ways. The treaty assembly was a step in that direction. This was nothing new for the Cahuilla. As part of their culture, they adopted new ideas and threw out what they did not need.

To resist the incorporation of a foreign government and political domination, the tribal leaders went to Temecula to hear the Americans out. The Indigenous people lived in two worlds but held one identity, which was attached to the land.<sup>97</sup> Annihilation or extermination was on the doorstep if the tribal people did not comply with the Americans. Juan Antonio arrived angry.<sup>98</sup> Juan Antonio had problems with the Americans who found the Aboriginal people’s way of life disagreeable from their own and were willing to terminate life for their own justification. Juan Antonio had had enough. He wanted something to make the fighting stop and secure a place for the people without threat from the intruders and settlers. The Cahuilla set up their camp on the north side of the Teméeku on the outskirts of the village with Juan Bautista.

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<sup>96</sup> Luke Lea, “Report of the Indian Commission of Indian Affairs,” *Annual Report of the Commissioner of Indian Affairs, for the Year 1852*, November 30, 1852. United States. Office of Indian Affairs (Washington, D.C.: GPO, 1852), 3-4.

<sup>97</sup> Murillo, *Living in Two Worlds*, 1-428.

<sup>98</sup> Wozencraft, “Indian Affairs, 1849-1850,” 12.

Later that night, Juan Antonio went inside the adobe of Pablo Apis, where Oliver Wozencraft had set up his headquarters. According to Wozencraft, Juan Antonio entered the back room full of arrogance. Wozencraft then told Juan Antonio he knew of his secret, sending runners up north among the Yokut to incite them in war against the United States.<sup>99</sup> Supposedly, Juan Antonio then quieted down. Wozencraft told Juan Antonio things were going to change on the land. Wozencraft leaned over to Juan Antonio and began to threaten Juan Antonio. Wozencraft spoke in English. Juan Antonio did not have a command of the English language, but he probably knew a few phrases to convey messages with American friends and ranchers such as Isaac Williams and Pauline Weaver. Juan Antonio had dealt with General Kearny, Judge Benjamin Hayes, General Bean, and ranchers Isaac Williams, Pauline Weaver, and Duff Weaver. Out of necessity, Juan Antonio learned English while dealing with Americans. It would have been in Antonio's best interest to learn the American's language. Juan Antonio's strategy was to learn from his advisories. That is how he was taught and groomed.<sup>100</sup> Wozencraft did not respect Juan Antonio and verbally attacked and humiliated Juan Antonio with racial slurs.<sup>101</sup> Wozencraft believed it was fate and natural order of things for Indians to be treated badly. Wozencraft penned that, "It was not in the nature of things that two races, whose habits, manners, customs, and religion were so different, could live amicable

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<sup>99</sup> Ibid, 12-13.

<sup>100</sup> Moraino Patencio interview, September 26, 2016.

<sup>101</sup> Wozencraft, "Indian Affairs, 1849-1859," 12; and Letter from Oliver M. Wozencraft to Luke Lea, January 9, 1852. *Letters Received by the Office of Indian Affairs*, 1043.

together.”<sup>102</sup> Furthermore, Wozencraft thought, “Its bad policy to have any one Indian exercise a controlling influence over many.”<sup>103</sup> It was inevitable the Americans treated the Natives poorly.<sup>104</sup> It was not just.

Juan Antonio also told Wozencraft to address him only and not to talk to his captains.<sup>105</sup> Chief Juan Antonio had permission from other leaders to speak on their behalf at times. but in this case, each tribal leader wanted to speak for themselves. The leaders groomed Juan Antonio for this position as liaison. Antonio described “all that he had done and intended doing.”<sup>106</sup> According to the Wozencraft in a statement he made twenty years later, Wozencraft told the patriot chief that he “was going to hold him responsible for all the bad things [events caused by the revolt led by Antonio Garra] that were done by people.”<sup>107</sup> Wozencraft most likely embellished a little bit to show what a strong and courageous leader he was and to show he was a tough guy when dealing with the most significant chiefs in Southern California. It is not clear if there was an interpreter in the room, so each might not have understood exactly what was said, but the conduct of each was understood.

Wozencraft claimed that when he “charged him [Juan Antonio] with treachery, all his boasting arrogance departed, and he thought I was going to kill him. I told him he

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<sup>102</sup> Hoopes, *Domesticate or Exterminate*, 63; and Oliver. M. Wozencraft. “Oration,” 25th Anniversary of the Corporate Society of California Pioneers” (San Francisco, 1875), Huntington Library, San Marino, CA. 8-9.

<sup>103</sup> Letter from Oliver M. Wozencraft to Luke Lea, January 9, 1852. *Letters Received by the Office of Indian Affairs*, 1043.

<sup>104</sup> Hoopes, *Domesticate or Exterminate*, 63.

<sup>105</sup> Wozencraft, “Indian Affairs, 1849-1859,” 13.

<sup>106</sup> Letter from Oliver M. Wozencraft to Luke Lea, January 9, 1852. *Letters Received by the Office of Indian Affairs*, 1043.

<sup>107</sup> *Ibid*, 13.

could do nothing but what I could find out, that I was not going to kill him, but I was going to make him behave himself, and be a good Indian.”<sup>108</sup> Proud, strong, and being a military general himself, Juan Antonio took Wozencraft’s words as a threat to his life. It is not known how Juan Antonio responded or what words were said except that, Juan Antonio took Wozencraft’s words and actions as a threat to the Indigenous cosmology. Juan Antonio’s world was changing before him.

Oliver Wozencraft drafted a six-article treaty at Temecula. The first and second treaties in California became the templates for all future treaties in 1851-1852 by treaty commissioners Barbour, McKee, and Wozencraft. Wozencraft used the outline and text from the Treaty of Camp Fremont [March 19, 1851] and Treaty of Camp Barbour [April 29, 1851] to guide him in writing the treaty at the village of Temecula.<sup>109</sup> Wozencraft worked with Juan Warner and the tribal people on the location for a reservation. Under the circumstances, Wozencraft most likely asked the Luiseño people present at Temecula an area they would like to be set aside for them. They said they wanted to live in the area they already occupied including Temecula, their place of origin. Most of the Cahuilla had arrived late due to outside engagements and keeping them back. Juan Antonio had been injured and stabbed by Antonio Garra’s son.<sup>110</sup> The Cahuilla were asked where they wanted to live and told Wozencraft they did not want to move from where they lived now. Of the tribal people present, the Luiseño comprised the largest group since they had a village there. The Luiseño were in their own territory and village. The next largest

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<sup>108</sup> Ibid, 12-13.

<sup>109</sup> Heizer, *The Eighteen Unratified Treaties of 1851-1852*, 2.

<sup>110</sup> Blackwell, *Heintzelman’s Journal*, 53.

group present were the Cahuilla. In looking at the number of signers, between these two groups, they probably had more than seventy-five percent of the people and chiefs present. It is not clear how many people were present over the days leading up to the treaty. It is probably fair to say that many Cupeño and Serrano were also present. The Cupeño came with Chief Jose Noca. Many Serrano came with Juan Antonio as they lived and worked with him at Politana and Sáxhatpah.

There was no separate reservation for each tribal nation per the treaty. Juan Warner and Oliver Wozencraft agreed with the reservation boundaries. The bands of Cahuilla, Cupeño, Luiseño, and Serrano all were to share one plot of land. The tribal people did not approval the boundaries. Combined, each of the four groups had over twenty thousand people. This area was to hold and provide enough resources for twenty thousand plus people. There was to be sufficient drinking water. The area needed ample resources to provide for a traditional and healthy diet and essential items to make tools, clothing, houses, paints, baskets, etc. The reservation can be compared to a dumping ground. This reservation was to be a designated Indian territory as a place into which all Indians would be forced. The people were to move onto one small reservation of land and would not be able to leave without permission either. Indigenous people already needed permits to travel from one area to another.

To gain access to an Indigenous labor force, Warner suggested the proposed reservation be held close to existing Mexican and American cattle ranches. This way the ranch owners could use the labor force of the Indians who lived right next to them. Warner had a labor of Indians from several Native settlements, including Kúpa, which

was within four miles of his ranch. Warner paid his Native work force \$3 a month accompanied with repeated floggings.<sup>111</sup> Besides Warner's ranch, seven ranches nearby included: Pauba Ranch, La Laguna Ranch, San Jacinto Ranch, San Gorgonio Ranch, Santa Rosa Ranch, and Temecula Ranch.<sup>112</sup>

The ranchers all used a Native labor force. Each ranch depended on Native labor from the local occupants of Cahuilla, Cupeño, Luiseño, and Serrano.<sup>113</sup> The Kumeyaay worked as laborers on the ranches that were in their territory.<sup>114</sup> Some Natives at this time floated in between ranches to find work to feed their families. Wozencraft had designed a previous treaty at Bidwell's Ranch the same way. John Bidwell owned a cattle ranch near the Sacramento valley on Big Chico Creek surrounded by thousands of Maidu, Yahi, and Mechoopda people in Butte County. John Bidwell wanted the Indians close to him so he could pull a cheap labor force together to work on his ranch.<sup>115</sup> It worked two ways. Ranch owner John Bidwell extrapolated an Indigenous labor force from nearby Native villages. At the same time, Bidwell allowed the Mechoopodas, an Indigenous people, to stay on their ancestral lands if they agreed to work for him.<sup>116</sup>

Wozencraft selected an area to maximize the labor force for the American ranchers that included: Temecula Valley, Menifee Valley, and Hemet Valley, taking into

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<sup>111</sup> Joseph Hill, *The History of Warner's Ranch*, 137.

<sup>112</sup> Phil Brigandi, "A Short History of Temecula, California," Temecula Valley Historical Society, 2010-2020. [http://www.temeculahistoricalsociety.org/html2/Temecula\\_History.html](http://www.temeculahistoricalsociety.org/html2/Temecula_History.html); Lech, *Pioneers of Riverside County*, 39-50; and Map of Temecula Valley with Historic Ranches, Library of Congress.

<sup>113</sup> Bibb, "Pablo Apis and Temecula," <https://sandiegohistory.org/journal/1991/october/temecula-3/>; Joseph Hill, *The History of Warner's Ranch*, 137; and Thomson, *240 Years of Ranching*, 10-11, and 142.

<sup>114</sup> Thomson, *240 Years of Ranching*, 3-4, 10, and 58.

<sup>115</sup> Michell Shover, *California Standoff: Miners, Indians and Farmers at War, 1850-1865* (Chico: Stansbury Publishing, 2017), 3-23.

<sup>116</sup> Shover, *California Standoff*, 4.



little consideration of the Native peoples wishes to incorporate more land and pre-existing settlements.<sup>117</sup> The Cahuilla occupied the northern perimeter of the proposed reservation. After designating the area for a reservation, Secretary John Hamilton added the boundaries of the proposed reservation with said coordinates.<sup>118</sup> Afterwards, Hamilton drafted final treaties for signatures with the tribal chiefs and Americans. Wozencraft employed Hamilton as recording secretary during Wozencraft's trip to Southern California from December 13, 1851-January 1852.<sup>119</sup>

Beginning on January 3, 1852, treaty proceedings and tribal deliberations began.<sup>120</sup> John Hamilton, recording Secretary and Interpreter, read a copy of the treaty aloud in English to the assembled council of Aboriginal leaders and their families.<sup>121</sup> Oliver Wozencraft appointed and employed John Hamilton of the 3<sup>rd</sup> Artillery upon his arrival in San Diego on December 13 as Secretary and Interpreter for the expedition and treaty signing.<sup>122</sup> As interpreter, Hamilton conveyed the object of the mission, policy of the United States government as it related to the Indigenous people, and the course of

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<sup>117</sup> Many of the pre-existing settlements were located out of the intruders sphere of influence and ranches.

<sup>118</sup> See Treaty of Temecula, Article 3 in the appendix for a written description.

<sup>119</sup> Letter from Oliver Wozencraft to Luke Lea, Received February 18, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 289.

<sup>120</sup> "Arrival of the Indian Commissioner," *San Diego Herald* (San Diego, CA), January 10, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>121</sup> The role of the Secretary was to keep a full record of the of all the proceedings of the Indian commissioner. No Notes from Indian Commissioner Oliver M. Wozencraft and secretary Lieutenant John Hamilton have been found. It is not known if either took notes or journaled at this time. The role of the interpreter was to interpret the dialogue between the Americans and the local Indigenous people. According to the manual received, *Laws, Regulations, Etc. of the Indian Bureau 1850*, by the Indian Commissioners, the interpreter was a position that fulfilled whatever needs the Indian commissioner needed. The interpreter was not necessarily used to translate. U.S., Bureau of Indian Affairs, *Laws, Regulations, Etc. of the Indian Bureau 1850* (Washington: GPO, 1869), 18 and 26. accessed November 11, 2019. From Library of Congress, <https://www.loc.gov/item/09011991/>.

<sup>122</sup> Letter from Oliver Wozencraft to Luke Lea, Received February 18, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 289.

Table 6.1: Treaty of Temecula Signatories Representing Their Villages and Homelands. Each tribal leader attached their mark on behalf of their families and communities.

Treaty of Temecula Signatories Representing Their Village and Homelands				
Signatories	Name in Treaty	Nation	Head of Village	Village in Treaty
Juan Antonio	Juan Antonio "Coos-woot-na"	Cahuilla	Sáxhatpah	
Juan Razon	Leonardo "Parlewet"	Cahuilla	Tuva	Too-va
Francisco Javiel	Francisco Javiel	Cahuilla	Temal Waxish	Tierra Seca
Jose Cabazon	Jose "Coos-pa-óm-niwit"	Cahuilla	Panūksī	Páh-nuc-say
Juan Palsewish	Juan "Kah-wé-a"	Cahuilla	Séxhki (Palm Springs)	Pál-se-wish
Ginio Gabriel	Ginio "_____"	Cahuilla	Wani Pipa	Wah-ne-pe-ah-pa
Satoo Ylario	Sahtoo "son of" Ylario	Cahuilla	Wakina	Wah-kigh-na
Teodoro Chu-gal	Teodoro "Chu-cal"	Cahuilla	Kavinish	Cá-be-nish Palma Seca
Ygnacio Chungal	Ygnacio "Chín-gal"	Cahuilla	Toro	Pal-káy-witch-ish Agua Corta
Juan Bautista	Juan Bautista "Sah-at"	Cahuilla	Pauki	Sah-at of Pówky
Geronimo Corovangang	Geronimo "_____"	Cahuilla	Corovangang	Co-ro-vang-ang
Victoriano Quishish	Victoriano "Kwe-vish"	Cahuilla	Soboba	Sow-wah-wah
Emeterio Morongo	Emeterio "_____"	Serrano	Malki	Maronga
Pedro Kowalish	Pedro "Ka-wa-wish"	Luiseno	San Luis Rey Mission	Mission
Cisto Ngononish	Cisto "Go-no-nish"	Luiseno	Las Flores	Las Flores
Bicente Po-kláw	Bicente "Poo-clow"	Luiseno	Buena Vista (Vista)	Buena Vista
Pablino Kwoxákkish	Pablino "Coo-há-ish"	Luiseno	Pala	Pala
Francisco Páwval	Francisco "Pah-hóo-vole"	Luiseno	Pauma	Pauma
Jose Calac	Jose "Cah-lác"	Luiseno	Cuqui	El Potrero
Calistro Chaqualis	Calistro "Cha-cwál-ish"	Luiseno	Yapicha	Yah-peat-cha
Santiago Yulók	Santiago "Yú-loke"	Luiseno	Cuqui	La Joya
Pedro Palasas	Pedro "Pal-e-gish"	Luiseno	Cahuenga	La Puerta
Bruno Kwásekát	Bruno "Cwah-si-cat"	Luiseno	Guariba (Puerta Cruz)	Puerta Cruz
Ysidro Tósovól	Ysidro "To-sho-vwal"	Luiseno	Tobone	Tovin
Cervantes Qaxál	Cervantes "Ca-hál"	Luiseno	Aguanga	Ahuanga
Lauriano Cahparahpish	Lauriano "Cah-par-ah-pish"	Luiseno	Toleupa	Temecula
Jose Noca	Jose Noca "Cháng-gah-láng-ish"	Cupeño	Kúpa (Jacopin)	Agua Caliente
Jose Ygnacio	Jose Ygnacio "Tósh-mah-kín-ma-wish"	Cupeño	Wilakal	San Ysidro

action to be taken.<sup>123</sup> Lieutenant John Hamilton was a Lieutenant soldier for the 3<sup>rd</sup> Artillery who commanded sixteen men on the expedition in Southern California.<sup>124</sup> Quite often, the military escort provided the services as interpreters, translators, clerks, and secretaries.<sup>125</sup> He was neither trained in Indigenous languages nor negotiation, but instead trained for combat and to kill. Hamilton had served previously as Secretary and as Interpreter with the three Indian Commissioners George Barbour, Redick McKee, and Oliver Wozencraft.<sup>126</sup> Wozencraft himself wrote several letters with vague details of treaty proceedings which can be found in *Letters Received by the Office of Indian Affairs, California Superintendence, 1849-1880* and *Report of the Secretary of the Interior, United States Congress, Senate 33<sup>rd</sup> Congress, Special Session, Executive Document 4, Serial 688*.<sup>127</sup> There were no written minutes of the treaty proceedings.

After review of Gibson's notes on treaty doings in the north, a chronological placement of treaty doings including dialogue was created for the Treaty of Temecula.<sup>128</sup> This is how the treaty council took place. Interpreter John Hamilton read the treaty in

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<sup>123</sup> This proceeding was taken from the first treaty council. There are no recorded proceedings, so the author borrowed from previous accounts to lay out the role of general events.

<sup>124</sup> Letter from Oliver Wozencraft to Luke Lea, Received February 18, 1852. *Report of the Secretary of the Interior, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 285*.

<sup>125</sup> Letter from Redick McKee to E. A. Hitchcock, Benicia March 26, 1852. *Report of the Secretary of the Interior, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 307*.

<sup>126</sup> Journal of United States Indian Commissioner Redick McKee and Secretary John McKee, April 26, 1851. *Report of the Secretary of the Interior, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 93*; and Heizer, *The Eighteen Unratified Treaties of 1851-1852*, 80.

<sup>127</sup> Letter from Oliver Wozencraft to Luke Lea, Received February 18, 1852. *Report of the Secretary of the Interior, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 285-290*; and Letter from Oliver M. Wozencraft to Luke Lea, January 9, 1852. *Letters Received by the Office of Indian Affairs*, 1043.

<sup>128</sup> George Gibbs, *George Gibbs Journal of Redick McKees Expedition Through Northwestern California in 1851*, ed. Robert F. Heizer, (Berkeley: University of California Berkeley), 116. Hereinafter referred to as Gibbs, *Journal of Redick McKee*.

English. There was a double translation from English to Spanish to a Cahuilla and Luiseño dialect leaving room for error in interpretation.<sup>129</sup> Someone like Juan Warner translated the treaty into a Spanish synopsis. Juan Jose Warner served as interpreter at the Council of War in Coyote Canyon.

The Treaty was not read in Spanish because there was no version of the treaty in Spanish. The treaty was not translated word for word, but brushed over from the English to Spanish translation, encompassing the general idea and leaving out important and sensitive details. Juan Bautista and Pablo Apis, if not, someone else, then translated the Spanish version into a Cahuilla and Luiseño synopsis. There was confusion for sure, but the people held it together. They had to. Their lives depended on it. Fear of the unknown and what the treaty stated rippled through their minds.

Native American historian and Luiseño scholar Olivia Chilcote asserted the Spanish language was used to communicate with the Americans and vice-versa, with the Aborigines during the treaty proceedings.<sup>130</sup> Commissioners Barbour, McKee, and Wozencraft used Spanish as the primary language to convey with the people.<sup>131</sup> The tribal leaders listened attentively.<sup>132</sup> The Aboriginal people never fully understood the treaty and what it encapsulated, including loss of land. George Gibbs, who served as Secretary in the Treaty at Camp Lu-Pi-Yu-ma, believed the tribal people who were to

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<sup>129</sup> Ibid.

<sup>130</sup> Olivia Chilcote interview, September 15, 2017.

<sup>131</sup> Gibbs, *Journal of Redick McKee*, 18.

<sup>132</sup> The Indigenous people in Southern California for millennia made oral agreements and alliances with neighboring tribes to keep the peace with the various bands. Agreements kept trade corridors open and allowed people to travel abroad. If people did not adhere to the agreed upon solutions and motions, skirmishes broke out and caused more disturbances. So, it was critical and imperative, each did their best to follow the guidelines.

benefit from the treaty, did not comprehend any part of the treaty nor the motive behind the Indian commissioners.<sup>133</sup> This was the case at Temecula. What was understood by the tribes, was that a foreign power was taking control of the land. At the same time, the tribes believed the United States acknowledged the tribes as individual sovereign nations each with exclusive jurisdictional powers over their lands and people while they maintained as an independent nation. The treaty was used to bring the parties together and bound all parties, nation to nation, to the agreement.

If they violated that agreement and took arms against the Americans, then American soldiers would attack and annihilate the Native people. Juan Antonio and others had been told and heard that Native people up north had signed a treaty with the Americans and did not want to give reason for the Americans to attack them.<sup>134</sup> On the other hand, much was lost during translation from English to Spanish to the local language, but the tribal leaders got the gist and essence of it. The Americans were taking their land. The people were highly intelligent. They understood what was going on. The tribal leaders that arrived in Temecula were the superior leaders of the region. They represented a society of people who had been trained for their role as leaders, managing the land and people with all its challenges. Additionally, Native communities experienced much change in the last eighty-three years. They were able to bend with the wind to keep them afloat. Juan Antonio and others remained skeptical of the immediate future, but they knew it would get better. According to their oral traditions, peaceful times were

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<sup>133</sup> Gibbs, *Journal of Redick McKee*, 18.

<sup>134</sup> "Los Angeles Items," *Daily Alta California* (San Francisco, CA), January 6, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

coming.<sup>135</sup> It was like the ocean. It came in waves. There were high waves and there were low waves. Their ancestors were behind them.

The principal chiefs, headmen, captains, and leaders present at the treaty council were some of the most powerful and influential Indigenous people of their time. Tribal groups represented included the Cahuilla, Cupeño, Luiseño, and Serrano. Coastal Luiseño villages received news of the mandatory call. Leaders from La Jolla and Las Flores made the trek to Temecula. Not all leaders of these groups made it to Temecula and others simply had not received word of the important meeting.

There were multiple tribal leaders and bands of tribes in the region that were not invited or did not receive word about the treaty gathering with American representatives of the United States. Santos Manuel, a Kíka or political and ceremonial leader, from the mountains above San Bernardino, did not make the gathering and he was such a well-known prominent leader of the Serrano.<sup>136</sup> In the high desert of Morongo Valley and Twentynine Palms, there were villages there with Cahuilla, Serrano, and Chemehuevi. They were not invited. Serrano Kíka Jim Pine of Máara [present-day town of Twentynine Palms] was not invited.<sup>137</sup> The Cahuilla and Serrano people from Big Morongo Canyon were not invited either. Hardly any Serrano and no Chemehuevi participated in the treaty gathering at Temecula.<sup>138</sup> There were other tribal leaders that were closer near to Temecula that did not sign. After review of treaty signers, it is apparent Manuel Cota

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<sup>135</sup> Ernest Siva interview, February 13, 2020.

<sup>136</sup> Clifford E. Trafzer, *The People of San Manuel* (Patton, CA: San Manuel Band of Mission Indians, 2002), 58-59.

<sup>137</sup> Trafzer, *A Chemehuevi Song*, 160.

<sup>138</sup> Trafzer, *The People of San Manuel*, 58-59.

from the Mission of San Luis Rey and Agua Tibia nor did Pablo Apis sign the treaty.<sup>139</sup> Both Pablo Apis and Manuel Cota owned land already and both were raised within their ancestral villages.<sup>140</sup> Pablo Apis owned Rancho Little Temecula and Manuel Cota owned Rancho Agua Tibia.<sup>141</sup> Both men had been educated and could read and write Spanish.<sup>142</sup> Perhaps because they both owned land and were literate, this meant they were already assimilated enough into the dominant White culture. Apis and Cota both supported the Americans.<sup>143</sup> Cota also supported the rebel alliance under Garra.<sup>144</sup>

### Treaty Doings

It is extremely important to know that there were no negotiations and truly little if any consultation between the Treaty Commissioner Oliver Wozencraft, and the tribal leaders. It was a take it or leave it deal. According to Frederick Hoxie, a professor of emeritus in American Indian Studies, tribal leaders were given an ultimatum, “You must sign it or else.”<sup>145</sup> Treaties were written for the benefit of the Americans not the Indigenous people who had everything to lose from land, people, culture, and their identity. Wozencraft revealed a prefabricated treaty to the Indigenous people. Either they

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<sup>139</sup> Bibb, “Pablo Apis and Temecula,” <https://sandieghistory.org/journal/1991/october/temecula-3/>; and Dunn, “Strategies for Survival,” 121.

<sup>140</sup> Pablo Apis was born at Ojauminga (Guajome). Manuel Cota was born at Culijuat. Manuel did acquire the Agua Tibia Ranch near Pala and lived there. Dunn, “Strategies for Survival,” 26 and 164; and Phillips, *Chiefs and Challengers*, 86.

<sup>141</sup> Phillips, *Chiefs and Challengers*, 84 and 86.

<sup>142</sup> Natives that lived at missions, were educated, and not all but some could read and write Spanish. Dunn, “Strategies for Survival,” 121; and Phillips, *Chiefs and Challengers*, 83.

<sup>143</sup> Dunn, “Strategies for Survival,” 126 and 164.

<sup>144</sup> Confession of William Marshall,” George William Beattie and Helen Pruitt Beattie Papers.

<sup>145</sup> “The Indian Problem,” in *Smithsonian Insider*, May 26, 2016. National Museum of the American Indian. <https://insider.si.edu/2016/05/the-indian-problem/>.

accepted it or there would be consequences. Wozencraft came to Southern California with an outline of the treaty in mind based on earlier treaties he drafted in the months leading up to Temecula.<sup>146</sup> All Wozencraft did was add in boundaries, offerings to be given, and names of tribal leaders after meeting with the leaders and consultation with the White rancher and State Senator, Juan Warner.<sup>147</sup> Oliver M. Wozencraft, a United States representative, and Juan Warner (Jonathan Trumbell Warner was known in California as Juan José Warner), a California State representative, both ignored the concerns of the Aboriginal people of Southern California. Wozencraft did not hear what the leaders had to say about past grievances, boundary violations, war causation, and the fate of the leaders like Antonio Garra. There were no discussions and conversations that went back and forth between the Indian commissioner and the tribal representatives present. Neither Indian Commissioner Oliver M. Wozencraft nor recording Secretary John Hamilton took minutes of the Treaty of Temecula council or any of the proceedings.<sup>148</sup>

Language was a barrier in communication. The imperialist Americans spoke English, a foreign language to the tribal people. The tribal people spoke an unrecognizable language to the Americans. This made the process difficult for all parties

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<sup>146</sup> Pevar, *The Rights of Indians and Tribes*, 48.

<sup>147</sup> Warner and Wozencraft spent a week together between Coyote Canyon and Temecula. Wozencraft probed Warner for ideas since he was local and received a land grant that included Native residents and five villages.

<sup>148</sup> Archival material used to recreate the treaty proceedings came from letters written by Oliver M. Wozencraft to Indian Commissioner Luke Lea in Washington D.C. Accounts of proceedings came from other treaty accounts in California by the treaty commissioners including their minutes. See: *Report of the Secretary of the Interior*, U.S. Congress, Senate 33<sup>rd</sup> Congress, Special Session, Executive Document 4. Serial 688, (Washington: Robert Armstrong, Public Printer, 1853); and George Gibbs, *George Gibbs Journal of Redick McKee's Expedition Through Northwestern California in 1851*, ed. Robert F. Heizer (Berkeley: University California Berkeley, 1972).



involved. John Hamilton read the treaty in English. The Americans benefited from this part as they witnessed the doings and acknowledging the six articles of the Treaty of Temecula. Afterwards Juan Warner, Isaac Williams, Pauline Weaver or someone else translated the treaty into Spanish to the tribal representatives. Warner, Williams, and Weaver all owned ranches and spoke English, Spanish, and broken dialect(s) of the [Cahuilla, Cupeño, Luiseño, and Serrano].

By no means could any of them communicate well in the Native tongues. Each rancher was surrounded by hundreds of Native people on their ranches and heard them talk. Then another person perhaps Juan Bautista and Pablo Apis translated from Spanish into the desired language. Juan Bautista helped with translation into Cahuilla. Chief Juan Antonio spoke Spanish and shared his knowledge with the Cahuilla and Cupeño in attendance.<sup>149</sup> Pablo Apis helped translate the treaty for the Luiseño. There were more than two dozen tribal leaders along with hundreds of concerned relatives that attended the listening sessions. Most of the tribal representatives at Temecula were Cahuilla and Luiseño.<sup>150</sup>

The treaty council broke for deliberations, and each tribal group went back to their camps to discuss what was said and how to move forward. Most families had to give up the land they lived on and move to land located between mountain ranges of the Elsinore and Palomar Mountains to the south, and the San Gorgonio and San Jacinto Mountains to the north. The Americans believed their wants, desires, and dreams

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<sup>149</sup> Roy Matthews is a descendant of Cahuilla Chief Juan Antonio. Juan Antonio was educated in Spanish by the Lugos. Antonio could read and write in Spanish. Roy Matthews interview, June 2, 2018.

<sup>150</sup> Kappler, *Indian Affairs* Vol. IV, 1126 and 1128.

superseded the Natives. The tribal leaders understood the Americans wanted their land and killed for it. The attack on Coyote Canyon proved that as did the other six years of American invasion. The leaders spoke amongst themselves. The American defeat at Coyote Canyon sent a powerful message: “If you do not listen and follow American authority, you will be killed.” The tribal leaders did not want this atrocity to happen again.

The tribal leaders actively engaged in dialogue and discussed their options. They knew their weapons were no match for the Americans.<sup>151</sup> Juan Antonio, Jose Cabazon, and Pablo Apis suggested they align with the Americans and sign.<sup>152</sup> Furthermore, the signatories of the signing member tribes came together and decided to allow the Americans to stay on their traditional lands as did the tribal nations of the Walla Walla Treaty Council in 1855.<sup>153</sup> Juan Antonio looked on the positive side and envisioned a trade network that extended from the Cahuilla territory out in the desert, west of the San Jacinto Mountains and to the Pacific Coast. Juan Antonio traded goods with some of the Americans. He wanted to expand that relationship so all the Indigenous people could benefit. Juan Antonio traded freshly grown vegetables and fruits to settlers, travelers,

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<sup>151</sup> Roy Mathews interview, September 5, 2015.

<sup>152</sup> Moraino Patencio interview, September 26, 2016.

<sup>153</sup> Thomas Morning Owl, Presentation, “Revitalization and Resistance” as part of “Living Breath of wəłəbʔaltxʷ,” Indigenous Foods Virtual Symposium, “Food is Resistance.” June 5, 2021. University of Washington’s American Indian Studies Department and the Na’ah Illahee Fund. Zoom. This program hereafter cited as “Living Breath of wəłəbʔaltxʷ,” Indigenous Foods Virtual Symposium, “Food is Resistance.” June 5, 2021.

miners, ranchers, and traders.<sup>154</sup> He also traded and sold beef from his own stock. The people under Juan Antonio used Juan Antonio's brand to mark their cattle.<sup>155</sup> Juan Antonio wanted to expand trading with the Americans on a larger scale.<sup>156</sup> Juan Antonio already traded with many travelers, miners, and ranchers. Pablo Apis traded too with the American travelers, and settlers. He wanted to expand his relationships with the Americans too.<sup>157</sup> The leaders all around spoke of the land. They did not own the earth or the land they lived on. They were just passing through this world. They had been entrusted by the Creator to care for the land and all the creatures upon it.<sup>158</sup> To secure a future for their children yet to be born, and better life, they agreed to conform and sign the treaty.<sup>159</sup> They aligned as a nation of nations in hopes of creating a larger nation of nations. They united their voice and authority over the land.

Many Californians and Americans did not look for common ground with the tribal people.<sup>160</sup> People had heard of the Indigenous people by their names, but not many knew the Native people themselves, like José Carmen del Lugo, Pauline Weaver, and Isaac Williams.<sup>161</sup> For the most part, only those who had ranches which encompassed a nearby

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<sup>154</sup> Roy Mathews interview, September 5, 2015; and Moraino Patencio interview, September 26, 2016.

<sup>155</sup> Juan Antonio gave out three branding irons to the Cahuilla in the desert, a chief at Old Santa Rosa, and another chief in Anza. Harry C. James, *The Cahuilla Indians* (Tucson, AZ: Westernlore Press, 1960), 112-113. Harry C. James Papers. Special Collections and University Archives. UCR Library.

<sup>156</sup> Moraino Patencio interview, September 26, 2016.

<sup>157</sup> Bibb, "Pablo Apis and Temecula," <https://sandiegohistory.org/journal/1991/october/temecula-3/>.

<sup>158</sup> Lorene Sisquoc interview, May 08, 2014.

<sup>159</sup> Scott Richard Lyons, *X-Marks, Native Signatures of Assent* (London and Minneapolis: University of Minnesota Press, 2010), 1-34.

<sup>160</sup> Cline, *Just Before Sunset*, 121-128; Lyons, *X-Marks*, 2; and Toler, *Blood of the Band*, 85.

<sup>161</sup> These three men: José del Carmen Lugo, Paulino Weaver, Isaac Williams, all helped Chief Juan Antonio during this period. Lugo employed Juan Antonio. Weaver helped Antonio capture Antonio Garra. Williams and Antonio were neighbors. Williams delivered messages about Indian Commissioner George Barbour. Saubel and Elliot, *Isill Héqwas Wáxish*, 264; Hopkins, "Journal of the San Bernardino Branch,"



Figure 6.1: Juan Antonio Branding Irons. Courtesy of Riverside Metropolitan Museum. The larger iron was used for cattle. The smaller iron was used for sheep. Photo by Stephen Wall. <https://www.pe.com/2014/10/01/riverside-museum-exhibit-tells-tale-of-cahuilla-people/>.

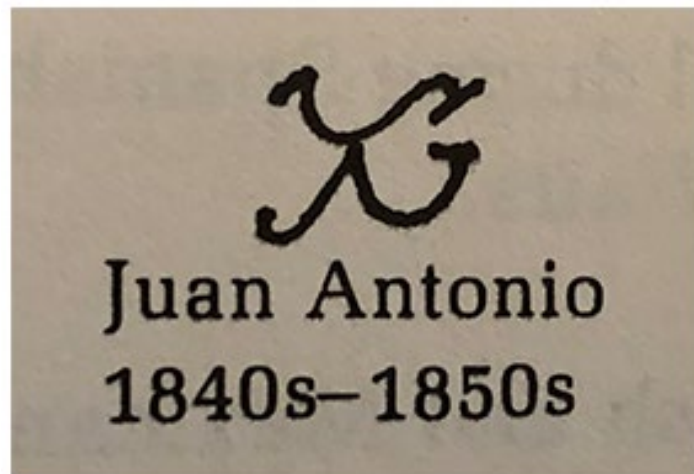


Figure 6.2: Juan Antonio's cattle branding insignia. Picture from Riverside County, California Place Names: Their Origins and Their Stories by Jane Davies Gunther. <https://dorothyramonlearningcenter.substack.com/p/horses>.

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63; "From Lower California," *Daily Alta California* (Sacramento, CA), June 29, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

village took the time to know their neighbors. It was common for Aborigines to be mislabeled, misunderstood, discredited, and taken for granted. Americans did not take the time to get to know their tribal neighbors. California legislatures nor United States legislatures never passed a law banning the hunting and killing of Indians.<sup>162</sup> State-sponsored killing of Indians continued up until 1873 with the war against the Modoc.<sup>163</sup> Many Americans in California in 1851-1852 favored the extermination of the Aboriginal people in California.<sup>164</sup> On the other hand, political leaders like Juan Antonio and Antonio Garra had sought out the Americans to make relationships and work together with the new power.<sup>165</sup>

The Treaty of Temecula was important to the Indigenous people. The signers envisioned an Indigenous nation composed of multiple tribes in solidarity with each continuing their individual sovereign immunity as they signed involuntarily. Using Indigenous principals and adoption of American principals that benefited them, the people protected their lands and interests. The Treaty of Temecula represented the future of the people with a new beginning. The treaty embodied an agreement with the new American power. The treaty aligned the people together, bringing in the most important tribal leaders to Temecula. In the recent past, tribes were made to underestimate their relationship with other tribes. The invaders made the Indigenous people of Southern

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<sup>162</sup> People like Benjamin Wilson actively sought out and killed Indigenous people to control them. He used these tactics to show his power over them. In 1851, President Fillmore appointed Benjamin D. Wilson as Indian Agent for the Southern District of California. Hereafter cited as Wilson, "My Life in Early California," 82-88, and 115.

<sup>163</sup> Madley, *An American Genocide*, 355.

<sup>164</sup> *Ibid*, 204.

<sup>165</sup> Moraino Patencio interview, September 26, 2016; and Guy Trujillo interview, November 13, 2017.

California fight each other.<sup>166</sup> The best way to conquer a group was to divide from within. The people knew if they did not sign, the future was bleak. They remained positive.

The tribal leaders half-heartedly believed in the Treaty of Temecula itself and the power it had to resolve many of the problems they faced. They did not have a great confidence in the treaty itself.<sup>167</sup> The treaty though, brought a new outlook for the people. The leaders looked to the Creator, to their ancestors, and the teachings of natural law for help. The leaders witnessed the targets of American imperialism at the mouth. The tribal leaders accepted the treaty as an alternative of the uprising with Garra, which led to more violence on both sides. The Indigenous leaders of the Cahuilla, Cupeño, Luiseño, and Serrano unified their strengths and used supernatural power, called by the Cahuilla *Ívax'a* and by the Serrano *Puha*, to bring temporary peaceful relations. They established formal government-to-government relationships with the United States that recognized the individual sovereign status of each band.

The tribal leaders collaborated at Temecula and held a ceremony to bring the people together.<sup>168</sup> The Indigenous people were not alone. They had their ancestors there with them. The leaders called upon their ancestors for help. The ceremonial leaders

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<sup>166</sup> Anthony Madrigal interview, June 14, 2018.

<sup>167</sup> Kim Marcus interview by author, phone, March 29, 2019. Hereafter cited as Kim Marcus interview, March 29, 2019.

<sup>168</sup> Author Sean Milanovich had a vision about the Treaty of Temecula during ceremony and how the Indigenous leaders came together at this moment in great need. A vision is not an uncommon thing. Visions were and are natural law and part of the Native way. Visions were ways the spirits communicated with those in the physical realm. On February 7, 2020, Sean had a vision while inside a sweat lodge on the Cabazon Reservation. This is what was explained to him in the vision. This is the story that unified the political leaders together. Hereafter cited as Milanovich, "Vision," February 7, 2020.

invoked the ancestors in this great time of need and in the immediate future to help them stand in solidarity, overcome the fear of the unknown, and lay the foundation down for a better future for their children. To help them, a ceremonial leader blew tobacco smoke in the four directions from the west to the north, to the east, and to the south. They smoked tobacco to clear their minds and hearts. In a ceremonial fashion, the leaders and those assembled at the treaty-signing smoked the pipe to offer their prayers to the Creator and to the ancestors, and thanked them for all they received. The smoking of the pipe represented the union of the sovereign tribes coming together and the transition of American law.<sup>169</sup> Tobacco was and continues to be used as medicine for the Aboriginal people of Southern California.<sup>170</sup> After the prayer and ceremony, the people felt confident, knowing their ancestors before them had prayed long ago for them so that they had the strength and wisdom to know what to do that very day and moment. The ancestors knew this day was coming and prepared.

Following the ceremony, the Indigenous people sang Bird Songs to help them deal with the stress. Bird Songs are songs that tell the story of the people, their migration, and parts of Creation. The songs have rhythmic beats that are accompanied by the melody of a gourd rattle. Most likely, the Cahuilla and Luiseño men even played peon, a gambling game against one another, as done at other gatherings for fun and political

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<sup>169</sup> Juan Antonio smoked the pipe with tobacco with the colonists and trappers from New Mexico to show his unity with them to help protect the people and their cattle from hostile Paiute raiders. Shinn, *Shoshonean Days*, 92.

<sup>170</sup> The Indigenous people of Southern California believe tobacco was a conduit to the spirit world. The people held ceremony and prayed to their relatives asking for help before having a treaty council with Wozencraft. Lowell John Bean and Katherine Siva Saubel, *Temalpakh*, 90-94.

reasons. From here, the sadness had been uplifted. The people did not feel the burden upon them as much. They had hope for a future for their children to continue as they had since time immemorial to prosper. They wanted their children to learn what the Americans brought, to engage with the intruder and learn their ways to stay ahead of the game.<sup>171</sup>

The tribal leaders returned to meet with Wozencraft and requested amendments to the treaty. Luiseño Chief Victoriano asked that the Americans let the tribes manage their own affairs and land.<sup>172</sup> In the end, they consented to sign with no amendments permitted. The leaders consented as individuals for their families. In some cases, some consented for their people if they were chiefs. There were speeches by the prominent tribal leaders. Leaders that may have spoken included: Chief Juan Antonio [Cahuilla], Chief Jose Cabazon [Cahuilla], Chief Jose Noca Kaval [Cupeño] Chief Pedro Kowalish [Luiseño], Chief Jose Calac [Luiseño], and Chief Victoriano [Cahuilla]. These were all prominent men with powerful families. Speeches would have recognized the land as gifts of the Creator. They recognized they were citizens of the land first. In the coming years, Juan Antonio made a speech declaring he was American; he was born on this soil.<sup>173</sup> The speeches encouraged a new political consciousness to be awakened. The leaders set their individual sovereign status aside to form a greater sovereign state conjured with a mix of different beliefs, culture, language, religion, and political power, for the well-being of the

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<sup>171</sup> Milanovich, "Vision," February 7, 2020.

<sup>172</sup> Edward Castillo interview by author, Riverside, CA. August 24, 2016. Hereafter cited as Edward Castillo, August 24, 2016.

<sup>173</sup> "Juan Antonio Speech," George William Beattie and Helen Pruitt Beattie Papers. Box 4, Folder 34. Huntington Library, San Marino, CA.



whole. Unity by tradition kept the alignment of the people together giving strength to overcome doubt, fear, and the unknown.

To the Native people, the treaty represented a sacred agreement. It was a pact that wove the people together. It was the start of a relationship building process with the invaders.<sup>174</sup> They spoke about the new American order. The leaders suggested the people learn the American way, but never give up your identity and your culture. Your identity and culture are your foundation. There was little room for exchange of dialogue with Wozencraft. It was a take it or leave it kind of deal. The treaty itself was one-sided as prescribed by the treaty Commissioner Wozencraft. Treaty commissioners often dictated what was in the treaty, confirmed Kevin Gover, Director of the National Museum of the American Indian.<sup>175</sup> The United States had grown in military power and treaties became one-sided movements.<sup>176</sup> The tribal leaders were invested with the land, and stood in solidarity for a better future.

On January 5, 1852, Oliver Wozencraft called the Aboriginal leaders to gather outside the adobe home of Pablo Apis for the government treaty-signing. William Contreras, a Cahuilla cultural bearer, remembered that the Treaty of Temecula was signed at the adobe home of his grandfather, Pablo Apis.<sup>177</sup> Since the first treaties of the

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<sup>174</sup> Richard Hill, "Linking Arms and Brightening the Chain," in *Nation to Nation*, 44.

<sup>175</sup> The National Museum of the American Indian, NMAI opened a treaty exhibit in 2014. NMAI created a film to introduce treaties between the individual sovereign Indigenous tribes and the United States. "The Indian Problem," in *Smithsonian Insider*, May 26, 2016. National Museum of the American Indian. <https://insider.si.edu/2016/05/the-indian-problem/>.

<sup>176</sup> Pevar, *The Rights of Indians and Tribes*, 48.

<sup>177</sup> Pablo Apis was the grandfather to William Contreras's father. Contreras is from the Razon lineage from Torres Martinez Desert Cahuilla Indians. William Contreras "Snapper," interview by author, phone, October 17, 2020.

United States, the government believed Indians had a natural right to the land but that right, “Aboriginal Title,” could be released via treaty.<sup>178</sup> The primary goal of the Treaty of Temecula was to extinguish Indigenous land title and provide the tribes with a limited land base that was protected by encroaching miners and agricultural settlers.<sup>179</sup> John Hamilton read the Treaty one last time from the treaty’s written language of English. The tribal leaders then signed. Four Americans: Juan José Warner [Jonathan Trumbell Warner], Isaac Julian Williams, L. D. Vinson [Vincent] Haler, and Russel Sackett acknowledged the treaty as written, read, and signed. Secretary John Hamilton then signed and approved the treaty.<sup>180</sup> California Senator Jonathon Trumbell Warner used his Mexican alias and signed as Juan José Warner.<sup>181</sup>

The Treaty Commission needed a strategy to get the Aboriginal leaders to sign. It was first determined to have the most feared tribal leader Juan Antonio consent and sign to the treaty by adding his mark.<sup>182</sup> If Juan Antonio signed, others would follow, even the Cupeño, Luiseño, and Serrano. Wozencraft called in the headman of each tribal group present one by one. Wozencraft told each signatory, the United States government will give you land, cattle, horses, flour, blankets, and teachers.<sup>183</sup> Guy Trujillo stated that the

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<sup>178</sup> Rupert Costo and Jeanette Henry, *Indian Treaties*, 4-5; Deloria and Wilkens, *Tribes, Treaties, & Constitutional Tribulations*, 60; and Pevar, *The Rights of Indians and Tribes*, 24.

<sup>179</sup> Rupert Costo and Jeanette Henry, *Indian Treaties*, 4-5; Deloria and Wilkens, *Tribes, Treaties, & Constitutional Tribulations*, 60; and Pevar, *The Rights of Indians and Tribes*, 45

<sup>180</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>181</sup> *Ibid.*

<sup>182</sup> Wozencraft did not call on traditional elder, Cahuilla nét and statesman Jose Cabazon first because Wozencraft believed Juan Antonio more of a threat to Americans than Cabazon. Cabazon was one of the most honored men at the treaty doings. Intensity and fierceness got the attention of the Indian treaty Commissioner Wozencraft not status.

<sup>183</sup> On August 1, 1851, Oliver Wozencraft conducted The Treaty at Bidwell’s Ranch. In 1957, Valley Maidu Emma Cooper gave an account of the treaty doings. In her recollections she recalled step by step how Wozencraft conducted the treaty as transmitted to her by Napanni, the Maidu translator at the actual

American treaty Commissioner manufactured the treaty on promises of giving “stuff.” “It was a way to make the Indian think they were being taken care of.”<sup>184</sup>

Wozencraft called on Juan Antonio first. In Wozencraft’s eyes, Juan Antonio represented an instigator of the recent uprising. With that in mind, Wozencraft wanted Chief Juan Antonio to sign first. If the influential Juan Antonio signed first, other powerful and powerful tribal leaders were sure to follow his lead.<sup>185</sup> Juan Antonio consented to the treaty and the establishment of a formal relationship with the United States as a representative of his people. Juan Antonio added his mark. Twenty-seven of the most remarkable leaders followed Juan Antonio and signed the Treaty of Temecula.

In all, twenty-eight of the most important dominant and controlling Aboriginal leaders of the time and within a sixty-mile radius of Temecula “signed” the Treaty of Temecula.<sup>186</sup> Each leader stated their name. The name was recorded and written down phonetically by the recording secretary. Leaders signed an “X,” reported Rosemary Morillo, a respected Luiseño elder.<sup>187</sup> Careful analysis reveals that each “X” mark was written with a different stroke, and the color is different from the other text of the treaty.<sup>188</sup> This confirms each leader added their own “X” mark. Then a hand-drawn seal was added to each name to verify the mark corresponded with the written name, and was

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doings. Annie H. Currie, “The Bidwell Rancheria,” *California Historical Society Quarterly* 36 (December 1957), assessed September 22, 2020, 315; and Shover, *California Standoff*, 17.

<sup>184</sup> Guy Trujillo interview, November 13, 2017.

<sup>185</sup> Moraino Patencio interview, September 26, 2016.

<sup>186</sup> Leaders came from as far away as eighty miles out near the Salton Sea. Some of the Cahuilla traveled the farthest coming from the east end of the Coachella Valley. Many Luiseño leaders came from the coast, thirty miles away.

<sup>187</sup> Rosemary Morillo interview, August 29, 2016.

<sup>188</sup> See page four of the original treaty signature page Appendix C, Smithsonian.

not forged. The embossed seal had “L.S.” written in the center, which was short for Locus Sigilli, meaning place of the seal.<sup>189</sup> At least two copies of the Treaty of Temecula were written up and signed.<sup>190</sup> This dissertation used the original treaty and signatory

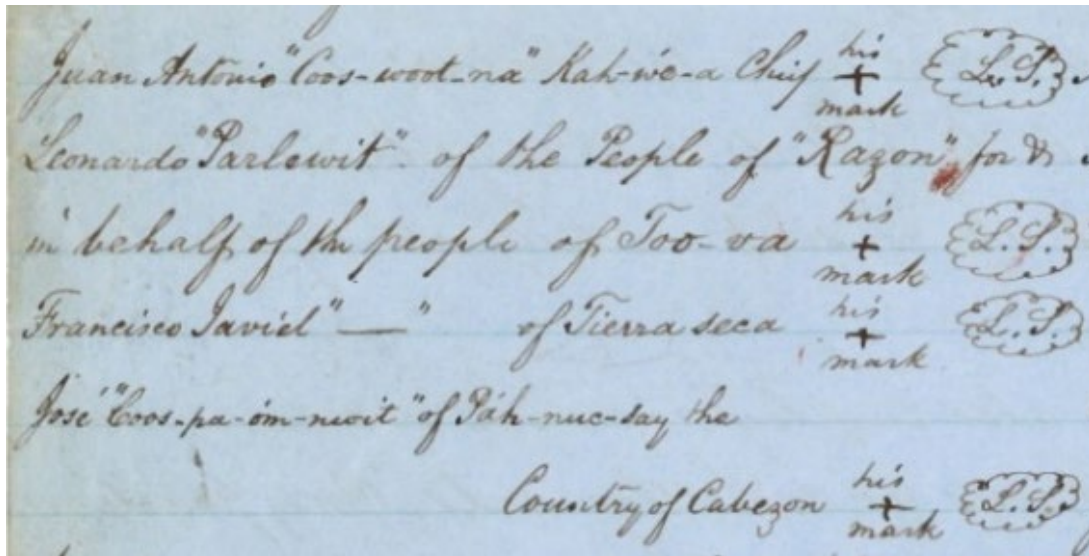


Figure 6.3: Signature and Marks page of the Treaty of Temecula. This was the last page of the Treaty of Temecula. Marks of Juan Antonio, Juan Razon, Francisco Javiel, and Jose Cabazon. The hand drawn seals of certification “L.S.” are to the right of each “X” mark.

page as used for display at the National Museum of the American Indian in 2016.<sup>191</sup>

<sup>189</sup> This L.S. seal was required to be an official document of the United States. Oliver Wozencraft had the seal put in to show that the signatories were legit and legally binding (if approved by the Senate) in a court of law. Judy G. Russel, “The Other Certification,” *The Legal Genealogist*. January 11, 2018. <https://www.legalgenealogist.com/2018/01/11/that-other-certification/>.

<sup>190</sup> The National Museum of the American Indian has one copy in their collections. The original treaty was written on blue lined government issued paper. All the marks were signed on one page. Juan Antonio’s mark was at the top with all the Cahuilla and Serrano marks below him and followed by Pedro Kowalish heading the top of the of the Luiseño and Cupeño signatories and marks in another column to the right. Another copy of the Treaty was found in the California State Museum in Sacramento. This copy of the Treaty was written on white paper that is now faded and darkened tan. The marks were signed on two pages of this paper. The first signing begins with Pedro Kowalish and other Luiseño and Cupeño signers followed by the Cahuilla and Serrano signers. This is opposite of the original treaty noted here where the Cahuilla, then Serrano, followed by Luiseño, and then the Cupeño were the last to affix their marks.

<sup>191</sup> “News,” *Unratified Treaty at the Village of Temecula in California to Go on Display at the National Museum of the American Indian* in the Nation to Nation: Treaties Between the United States and American Indian Nations, September 21, 2014-Through 2021, exhibit in Washington, DC. Smithsonian, National

## Cahuilla Signatories

**Juan Antonio Costakik** [later shortened to Costo] was a principal tribal leader of the Cahuilla in the 1840s-1850s. Antonio was not the sole authority of the Cahuilla Nation. Each village was their own sovereign community and had their own leader. Juan Antonio did not rule as a traditional leader or *nét*. Juan Antonio assumed a hereditary position as *nét* and leader of his village of Séwia. Juan Antonio's traditional name was Cooswootna or Costakik, which originated from his village of Séwia or old Santa Rosa in the Santa Rosa Mountains.<sup>192</sup> He was baptized at Mission San Luis Rey, and later worked at the cattle ranch of Mission San Gabriel in San Bernardino.<sup>193</sup> He lived in San Bernardino Valley at the village of Politana, close to Agua Mansa along the Santa Ana River to help the Lugo family as entrepreneur, cowboy, administrator, liberator, enforcer, and leader.<sup>194</sup> Antonio later moved to San Timoteo (San Mateo) Canyon to a place called Sáhhatpah, meaning place of the willows. Antonio moved to Sáhhatpah in the fall of 1851 after the Lugos sold their ranch to the Mormons.<sup>195</sup> Juan Antonio was a leader of the Western Cahuilla and Mountain Cahuilla from San Bernardino east to San Gorgonio

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Museum of the American Indian. September 15, 2016.  
[https://americanindian.si.edu/sites/1/files/pdf/press\\_releases/Nation-to-Nation-Treaty-K-press-release.pdf](https://americanindian.si.edu/sites/1/files/pdf/press_releases/Nation-to-Nation-Treaty-K-press-release.pdf).

<sup>192</sup> Strong, *Aboriginal Society*, 146.

<sup>193</sup> *Ibid*, 149.

<sup>194</sup> George W. Beatie and Helen P. Beatie, *Heritage of the Valley* (Pasadena: San Pasqual Press, 1951), 61; and Hanks, *This War is for a Whole Life*, 19

<sup>195</sup> George W. Beatie and Helen P. Beatie, *Heritage of the Valley*, 189.

Pass. He and his compatriot, Cabazon, together brought the various Cahuilla clans under one name, “Cahuilla.”<sup>196</sup>

Juan Antonio was interested in fighting the Americans and sent runners up north to investigate whether he could count on tribal support from the north to fight the Americans.<sup>197</sup> The tribal leaders north of the San Bernardino Mountains opted not to support war against the American invaders. Ultimately, Juan Antonio decided against fighting the Americans and followed a neutral policy in dealing with the Americans. In 1863, Juan Antonio died from smallpox. According to Lorene Sisquoc, Nét and leader Manuel Largo from Cahuilla became Chief of the Cahuilla afterwards.<sup>198</sup> For many years, Juan Antonio wore a blue military jacket that General Stephen Watts Kearny gave to Antonio as a sign of his leadership, some say appointing Juan Antonio General of the Cahuilla people. When his people buried the famed leader, Juan Antonio wore the blue military jacket. While most people view Antonio as a wise and prudent leader of his people, Wozencraft believed Juan Antonio was in league with Antonio Garra and an enemy of the Americans — an opinion disputed by many contemporary scholars.<sup>199</sup>

**Juan Palsewet Razon** was a Cahuilla nét under Chief Cabazon. His mark is reported as Leonardo “Parlewit” of the people of “Razon” on behalf of the people of *Toova*.<sup>200</sup> Tuva was located next to a spring.<sup>201</sup> Tuva could also refer to the tufa near

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<sup>196</sup> Moraino Patencio interview, September 26, 2016.

<sup>197</sup> Wozencraft, “Indian Affairs, 1849-1850,” 12.

<sup>198</sup> Manuel Largo was the great grandfather of Lorene Sisquoc. Sisquoc said Manuel Largo did not sign the Treaty. Largo was at the Temecula Council. Lorene Sisquoc interview by author, phone, October 14, 2020.

<sup>199</sup> “Los Angeles Correspondence,” *Daily Alta California* (San Francisco, CA), March 15, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>200</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>201</sup> Chase, *California Desert Trails*, 182.

travertine point in the Coachella Valley.<sup>202</sup> Parlewit was a misspelling of *Palsewet*, the name of the Salton Sea. There was no Salton Sea at the time of the Treaty of Temecula, but there must have been a sizable salt lake. Razon's village of Tuva was covered when the sea rose.<sup>203</sup> After the rise of the lake, Razon moved his village to the spring of Agua Dulce or sweat water at the east end of the Coachella Valley.<sup>204</sup> Razon's traditional Cahuilla name was *Wéntcaq Támyaxvic*. His anglicized name was Juan Razon, but he was called Fig Tree John. Razon grew fig trees around the springs at his home.<sup>205</sup> Razon helped capture Antonio Garra at Razon's place of residence at Tuva.<sup>206</sup>

**Francisco Javiel** was a Cahuilla Chief and *nét* from the desert. His mark is reported as Francisco Javiel "[blank]" of Tierra Seca. Tierra Seca is old Augustine, or Temal Wax'ish, or Dry Earth.<sup>207</sup> The springs on the land went dry long around the end of the nineteenth century.<sup>208</sup> The people of Temal Wax'ish moved the village north one mile. This land is now called the Augustine Reservation. Historically this village was called La Mesa. Augustine gets its name from Captain Vee-Vee Augustine. Augustine

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<sup>202</sup> "Travertine or tufa is a freshwater lime deposit. Tufa is derived from fresh waters that have a high concentration of calcium carbonate CaCO<sub>3</sub>, the material of seashells." Eugene Singer, "Geology of the Imperial Valley, California," accessed October 26, 2020, <http://fire.biol.wvu.edu/trent/alles/SingerImperialValley.pdf>.

<sup>203</sup> Chase, *California Desert Trails*, 182.

<sup>204</sup> Chase, *California Desert Trails*, 182; and Strong, *Aboriginal Society*, 49.

<sup>205</sup> George W. James, *Wonders of the Colorado Desert (Southern California): Its Rivers and its Mountains, its Canyons, and its Springs, its Life, and its History, Pictured and Described Including an Account of a Recent Journey Made Down the Overflow of the Colorado River to the Mysterious Salton Sea*, Vol 1 (Boston: Little, Brown and Company, 1906), 251.

<sup>206</sup> Harrington, "Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties," NMNH-Harrington\_mf3\_r114\_0419; and Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>207</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>208</sup> Richard Lando and Ruby Modesto, "Temal Wakhish: A Desert Cahuilla Village" in *The Journal of California Anthropology* 4, no. 1 (1977), 100.

was born in 1820.<sup>209</sup> It is possible that Vee Augustine's name was erroneously recorded as Francisco Javiel, Javiel being a derivative of Vee Vee or Francisco Vee Augustine.<sup>210</sup> Most likely, Vee-Vee Augustine was a relative to Francisco Javiel.

**Jose “Kuspa Amnawet” Cabazon** was a traditional *nét* or principal tribal leader of the Desert Cahuilla. He was one of the most powerful and influential Cahuilla leaders of the nineteenth century.<sup>211</sup> He was a traditional leader who received his title through his hereditary line. Cabazon means “big head” in Spanish. After the Spanish, Mexican, and American invasion, Cabazon's authority increased, and he controlled the Colorado Desert from Yuma to San Bernardino. Cabazon's traditional given name was Táaxalat.<sup>212</sup> His mark was reported as Jose “Coos-pa-om-nu-it” of Pah-nuc-say, the country of Cabazon.<sup>213</sup> The village of Pa-nach-sa [Panūksī] was at the mouth of a canyon seven miles east of Indio.<sup>214</sup> Panuksēkiktum referred to a small clan of the area.<sup>215</sup> Coos-pa-om-nu-it, or kuspa ámnawet, means big throat or big voice.<sup>216</sup> In 1935, Lee Arenas said you could hear Cabazon ten miles away. Lee Arenas recalled Cabazon's hair was cut at the

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<sup>209</sup> Bean, Blake, and Young, *The Cahuilla Landscape*, 89; Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0417; Lando and Modesto, “Temal Wakhish,” 95-101; Augustine Band of Mission Indians. accessed January 27, 2020, <https://augustinetribe-nsn.gov>; and Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>210</sup> Anonymous interview by author, phone, February 26, 2020.

<sup>211</sup> Joan S. Schneider, “Traditional Cultural Place Study: Oasis of Maará and Queen Mountain, San Bernardino County, California,” (Draft, October 2019), 51; and Helen Hunt Jackson and Abbot Kinney, “Report of Mrs. Helen Hunt Jackson and Abbot Kinney on the Mission Indians in 1883” (Boston: Press of Stanley and Usher, 1887).

<sup>212</sup> Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0420.

<sup>213</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>214</sup> Bean, Blake, and Young, *The Cahuilla Landscape*, 71.

<sup>215</sup> Strong, *Aboriginal Society*, 55; and Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0420.

<sup>216</sup> Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-NMNH-Harrington\_mf3\_r114\_0404.



treaty signing. “They cut his hair when they explained the regulations. They told him to lay down his bows and arrows,” recorded John P. Harrington.<sup>217</sup> In 1876, Chief Cabazon had a reservation named after him.<sup>218</sup> Chief Cabazon signed the Treaty of Temecula to bring peace to his lands. He did not want to fight if it was not necessary. Cabazon already had witnessed too much death among his people.

**Juan “Kah-we-ah” Palsewish** was a traditional Cahuilla leader as *nét* and chief of Palsewish. Juan Palsewish was a headman and *alcalde* for Juan Antonio. Palsewish was the place name for Agua Caliente in the Coachella Valley. Palsewish means place of the hot water. Juan Palsewish signed as Juan Kaweah.<sup>219</sup> Palsewish used the name Kaweah upon signing as a trade name. Palsewish wanted the people to know, the Cahuilla were a powerful trading partner and an ally. Moraino Patencio, great grandson to Juan Palsewish, believed that if the Cahuilla signed the treaty as a Nation, then it was more powerful than just a clan or bands of the Cahuilla. The name Cahuilla means strength and power of the mind. Cahuilla invokes power, both political power and trading power. People feared the Cahuilla, and many chose to align with the Cahuilla rather than oppose them.<sup>220</sup> Juan Palsewish was the *nét* at Palsewish, known as Séxhki or Palm Springs. Séxhki is the name of the hot mineral spring. His mark was recorded as Juan “Kah-we-a” of Pal-se-wish.<sup>221</sup> The name Palsewish describes the people originating from the hot water. Juan Palsewish later changed his name to Juan Patencio. The Patencio

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<sup>217</sup> Ibid.

<sup>218</sup> Ibid.

<sup>219</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>220</sup> Moraino Patencio interview, September 26, 2016.

<sup>221</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

family is a founding family of the Agua Caliente Reservation and continues to play a role in tribal politics.<sup>222</sup>

**Ginio Gabriel** was a strong Cahuilla nét of the powerful Wanikik clan. His mark was recorded as Ginio “[blank]” of Wah-ne-pe-ah-pa.<sup>223</sup> Gabriel was very well-respected asserted Lee Arenas and Clem Segundo.<sup>224</sup> Ginio was sometimes spelled as Ajenio. Ajenio was said to refer to a no man’s land, referring to the San Gorgonio Pass.<sup>225</sup> Ginio Gabriel was tribal headman of the village Wanipiapa, located in Whitewater Canyon in the San Gorgonio Pass.<sup>226</sup> Gabriel belonged to the Coyote moiety. The Wanipiapa lineage was the *acha'ai* or first and most powerful and influential Wanikik lineage of Wanikik settlements.<sup>227</sup> Wanipiapa is derived from the word *Wani* or *Wanup*, meaning running water. *Wanish* means stream. According to Serrano and Cahuilla elder Ernest Siva, Wanipiapa originated from a true story about a flood. It should be written as “Wani Papa,” signifying river over them. Wani means river. Papa means washed over them.<sup>228</sup> The name Wanikik originated from a couple of stories. One story said Ginio went to hide behind a waterfall as the water flowed over him. Another story is that the people lived in

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<sup>222</sup> Juan Patencio married Jane Augustine. The Agua Caliente cemetery in Palm Springs is named after her. Juan and Jane are the parents of Anita Patencio Segundo, Alejo Patencio, Moraino Patencio, Albert Patencio, and Francisco Patencio. The people settled around a mineral hot spring surrounded by palm, cottonwood, mesquite, and juncus. The area around the spring was surveyed in 1853 by the encroaching Americans. Bean, Blake, and Young, *The Cahuilla Landscape*, 91; Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0417; Kappler, *Indian Affairs* Vol. IV, 1126; and Moya Henderson, *Images of America: Palm Springs* (Palm Springs and San Francisco, CA: Arcadia Publishing, 2009), 7; and Moraino Patencio interview, September 26, 2016.

<sup>223</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>224</sup> Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0415.

<sup>225</sup> Hughes, *History of Banning and San Gorgonio Pass*, 108.

<sup>226</sup> Ernest Siva interview, May 27, 2019.

<sup>227</sup> There were at least ten Wanikik villages. Bean, Blake, and Young, *The Cahuilla Landscape*, 11.

<sup>228</sup> Ernest Siva interview, May 27, 2019.

the creek. When a flood came, it washed the village away as the water flowed over.<sup>229</sup> Ginio later moved to Malki (Morongo) with his people after a flood in the late 20<sup>th</sup> century.

Mission San Gabriel extracted young children as far away as Whitewater Canyon to take to Mission San Gabriel to be baptized. The Mission attempted to take kids at Agua Caliente in Palm Springs, but Pedro Chino, a pa'vu'ul or powerful medicine man, did not allow the missionaries to take any children.<sup>230</sup> The Wanikik learned and adopted some agricultural ways from the missions.<sup>231</sup> Ginio Gabriel was the grandfather to the late Jane Penn of the Morongo Reservation and Co-Founder of the Malki Museum.<sup>232</sup>

**Sahtoo Ylario** was a Cahuilla nét from the village of Wakina [Wahkigha]. His mark was recorded as Sahtoo “son of” Ylario of Wah-kigh-na. The people of Wakina at one time lived in Martinez Canyon at Isilsiveyuitcem. Afterward they moved south of the town of Cabazon.<sup>233</sup> Sahtoo Ylario had a son with the same name but spelled as Satu. Satu had a son named Miguel Saturnino who was from Agua Caliente or Palm Springs.<sup>234</sup> Sahtoo Ylario was the great great great uncle to author Sean Milanovich of Agua

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<sup>229</sup> Bean, Blake, and Young, *The Cahuilla Landscape*, 100; Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0416; and Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>230</sup> Alvino Siva interview, Circa 2005.

<sup>231</sup> Bean, “The Wanakik Cahuilla,” 115. Lowell Bean spells this SIB of Cahuilla differently from Wanikik.

<sup>232</sup> Jane Penn, “Treaty Participants,” Loose Mimeographed History of the Malki Museum, Binder of Information Releases and Newsletters. Circa 1976. Binder in possession of Pat Murkland.

<sup>233</sup> Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0415.

<sup>234</sup> Miguel Saturnino was Amado Miguel’s uncle and brother to Joe Miguel. Joe Miguel was Amado’s father. Amado Miguel is the great grandfather to Sean Milanovich. Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0415; and Kappler, *Indian Affairs* Vol. IV, 1126.

Caliente.<sup>235</sup> The Wakina Wanikik village was in Blaisdell Canyon and extended to at the entrance to Palm Springs.<sup>236</sup> Sahtoo Ylario was of the Coyote moiety.<sup>237</sup>

**Teodoro Chu-gal** was a Cahuilla nét under Jose Cabazon not Juan Antonio. Cabazon's territory included the eastern part of the Coachella Valley. His mark was recorded as Teodoro "Chu-gal" Alcalde of Juan Antonio and of Cáh-be-nish or Palma Seca.<sup>238</sup> Cáh-be-nish is equivalent to Kavinish. Kavinish means hole. Kavinish was a watering hole where the people had a hand-dug well.<sup>239</sup> Mesquite and palms surrounded the watering hole. Kavinish had another name called by the people, Máwwvul Wáxxish or dried palms; this term is now out of use. The Cahuilla dug wells to reach ground water in the Coachella Valley. There was a large village at Kávinish where the Indian Wells Tennis Garden is located, north of Whitewater Creek. The village of Kávinish was the largest Cahuilla village around. After the American invasion, the population decreased. The old stagecoach used to stop by Kavinish as it provided shade and water. After the earthquake in 1906, the water table dropped, and the creek stopped flowing year-round, but the water dried up even earlier; hence the name Máwwvul Wáxxish. It was already dry in 1852.<sup>240</sup>

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<sup>235</sup> Amado Miguel is the great grandfather to Sean Milanovich. Amado Miguel was the nephew of Miguel Saturnino. It was recorded in oral history that the Miguel family line originated at Teshana, which is one mile west of Wakina in Snow Creek.

<sup>236</sup> Bean, Blake, and Young, *The Cahuilla Landscape*, 11.

<sup>237</sup> Strong, *Aboriginal Society*, 91.

<sup>238</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>239</sup> Bean, Blake, and Young, *The Cahuilla Landscape*, 45.

<sup>240</sup> Harrington, "Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties," NMNH-Harrington\_mf3\_r114\_0414; and Kappler, *Indian Affairs* Vol. IV, 1126.

**Ygnacio Chungal** was a Cahuilla nét from the village of Toro at the east of the Coachella Valley about twenty miles west of the Salton Sea. Ygnacio's mark was recorded as "Chin-gal" of the people of Toro of Pal-kay-witch-ish or Agua Corta.<sup>241</sup> Toro was located at the base of the Santa Rosa Mountains, where the water was cut off. Tcíḡḡalqa means lightning strikes. Agua Corta means cut off. Tcíḡḡalqa means "cut off from the water in several places or where the water left a mark or cut a line."<sup>242</sup> This is visible on the south side of the Salton Sea beginning from Travertine Point east for five miles. But Toro village was located ten miles west of Travertine Point. *Chungal* and *Tcúkkal* means cactus. Lee Arenas's father was named Tcúkkal.<sup>243</sup> Toro was one the founding villages for the Torres Martinez Reservation.<sup>244</sup>

**Juan Bautista** was a prominent Cahuilla nét. Juan Bautista's mark was recorded as Juan Bautista of "Sah-at" of Pówky.<sup>245</sup> Juan Bautista had three homes. Bautista had his summer home of Pówky or Pauki in the Cahuilla Valley atop the Santa Rosa Mountains. Pauki included the whole top of the Cahuilla Valley and region. He had a winter village in Coyote Canyon in Anza Borrego, where he fought against the American attack by General Heintzelman in 1851. Bautista was also an alcalde of Juan Antonio. Antonio and his men left the mountain and settled in Sah-at or Sáxhatpah, also known as San Timoteo

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<sup>241</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>242</sup> Geologist recorded this watermark in 1853 when he surveyed for a path for a railroad route from the Colorado River to the Pacific Ocean. See Williamson, *Reports of Explorations and Surveys*.

<sup>243</sup> Harrington, "Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties," NMNH-Harrington\_mf3\_r114\_0414; and Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>244</sup> The late Patricia Galaz Holleman was from the Awalem Clan and a member of the Torres Martinez Desert Cahuilla Indians. Patricia Galaz Holleman interview by author, Torres Martinez Reservation, CA, November 20, 2006.

<sup>245</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

Canyon, west of the San Gorgonio Pass. Bautista was with Juan Antonio when he died in 1863 at Sáxhatpah.<sup>246</sup> Bautista returned to Pauki after he left Sáxhatpah in 1863.

**Geronimo Corovangang** was a Cahuilla headman. His mark was recorded as Geronimo “[left blank]” of Co-ro-vang-ang.<sup>247</sup> The village of Co-ro-vang-ang was named after the spring of Co-ro-vang-ang. The village of Co-ro-vang-ang was a village located at a “never failing spring” about three miles west of the village of Sow-wah-wah [Soboba] described William Pink.<sup>248</sup> Today, Soboba is a federally recognized tribal reservation of the Soboba Band of Luiseño Indians. Soboba has members both of Cahuilla and Luiseño ancestry. Corovangang orientated from the village of Corova. According to Jane Davies Gunther, Corova meant “cool place.” Corova was the most northern village of seven villages located in the San Jacinto Valley. The village was in Castillo Canyon.<sup>249</sup> In 1814, Chief Victoriano Quishish led his people from Corovangang to San Gabriel Mission to investigate what the intruders and Native people were doing.<sup>250</sup>

**Victoriano Quishish** was a traditional tribal leader and net of the village Sow-wah-wah or Soboba.<sup>251</sup> Victoriano was the first remembered chief of Soboba.<sup>252</sup> His mark is recorded on the Treaty of Temecula as Victoriano “Kwe-vish” of Sow-wah-wah.

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<sup>246</sup> Juan Antonio was buried at Sáxhatpah. People still used and visited the cemeteries according to Lee Arenas in the 1940s. Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0413; and Kappler, *Indian Affairs* Vol. IV, 1126,

<sup>247</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>248</sup> Helen H. Jackson, *A Century of Dishonor*, 480; and William Pink interview, August 24, 2017.

<sup>249</sup> Jane D. Gunther, *Riverside County, California, Place Names*, 136.

<sup>250</sup> Chester King, “Japchibit Ethnohistory,” September 29, 2003 [Revised November 1, 2003], 3.

<sup>251</sup> Victoriano Quishish was his name. Kwevish is a misspelling of the same name. Clifford Trafzer and Jeffery Smith, *Native Americans of Riverside County* (Charleston, South Carolina: Arcadia Publishing, 2006), 28.

<sup>252</sup> Rosemary Morillo interview, August 29, 2016.

Sow-wah-wah refers to and is written as Soboba. Soboba today is a federally recognized tribal reservation. Soboba originated from two villages: Sow-wah-wah and Co-ro-va.<sup>253</sup> Co-ro-vang-ang was at the base of base of the San Jacinto Mountains in the northern edge of the San Jacinto Valley.<sup>254</sup> Victoriano was Cahuilla and Luiseño.<sup>255</sup> Victoriano helped construct Mission San Gabriel.<sup>256</sup> Victoriano had a garden, an orchard of apricots, and a vineyard of grapes at his ranch. His father planted the grapes. Edward Castillo is the great grandson of Chief Victoriano. Edward Castillo once said that his grandfather Adam Castillo did not want to be under the control of the United States government and removed himself from the federal roles and applied for a homestead.<sup>257</sup> Victoriano came from a powerful and strong lineage.<sup>258</sup> Victoriano lived at the village of Corova.<sup>259</sup> A mineral hot spring was located within the village.

### Serrano Signatories

**Emeterio Morongo** was a Serrano kika, a political and ceremonial leader from the village of Malki. His mark was recorded as Emeterio “[left blank]” of Maronga.<sup>260</sup> Rosa Morongo, a Cahuilla elder from Morongo, consulted with William Strong almost

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<sup>253</sup> William Pink interview, August 24, 2017.

<sup>254</sup> The Corovang settlement was located where the old Soboba Tribal Office was.

<sup>255</sup> Edward Castillo interview, August 24, 2016.

<sup>256</sup> “Victoriano, Chief of the Soboba Indians,” *Calisphere*, University of California. accessed February 14, 2021. <https://calisphere.org/>.

<sup>257</sup> Edward Castillo interview, August 24, 2016.

<sup>258</sup> Edward Castillo interview, August 24, 2016; Clifford E. Trafzer and Jeffrey A. Smith, *Native Americans of Riverside County*, 28; and “Soboba-Exhibit B,” University of California, accessed January 30, 2020, <http://faculty.humanities.uci.edu/tcthorne/notablecaliforniaindians/hhj/bexhibit.htm>.

<sup>259</sup> Jane D. Gunther, *Riverside County, California, Place Names*, 136; and Helen H. Jackson, *A Century of Dishonor*, 480.

<sup>260</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

one hundred years ago. Morongo gave the head of the lineage as Captain Sia Morongo.<sup>261</sup> Cahuilla-Serrano elder and historian Ernest Siva said his great-grandfather's brother was John Morongo, a Serrano leader and son to Sia [Cio] Morongo.<sup>262</sup> John Morongo carried the name Sia as his grandfather did.<sup>263</sup> Sia Morongo's son was John Morongo born around 1846.<sup>264</sup> Sia Morongo might just be Emeterio Morongo. Sia Morongo loved horses and owned several horses. According to the Treaty of Temecula, Co-com-cah-ra was described as a Serrano alias. Lee Arenas believed the word was more like ko-kam-ara or Morongo. Morongo was derived from the Serrano place of Márra, the Oasis of Maara in Twentynine Palms. The Oasis of Maara was the point of creation and origin of the Marrenga'yam Serrano.<sup>265</sup>

### **Luiseno Signatories**

**Pedro Kowalish** was a tribal captain of the San Luis Rey Village.<sup>266</sup> His mark was reported as Pedro "Ka-wa-wish" of the Mission.<sup>267</sup> Pedro Kowalish was probably baptized at Mission San Luis Rey and originated from a nearby village, perhaps

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<sup>261</sup> Strong, *Aboriginal Society*, 16.

<sup>262</sup> Tom Hughes, *History of Banning and San Geronio Pass*, 118; and Strong, *Aboriginal Society*, 16.

<sup>263</sup> Ibid.

<sup>264</sup> Ernest Siva interview by author, Banning, CA, February 13, 2020. Hereafter cited as Ernest Siva interview, February 13, 2020; and Strong, *Aboriginal Society*, 16.

<sup>265</sup> Harrington, "Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties," NMNH-Harrington\_mf3\_r114\_0413; and Dorothy Ramon and Eric Elliott, "Beginning of the World," and "Arrival of White People," *Wayta' Yawa': Always Believe* (Malki Museum Press, Banning, CA, 2000), 6-11.

<sup>266</sup> Olivia Chilcolte interview, September 15, 2017.

<sup>267</sup> Harrington, "Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties," NMNH-Harrington\_mf3\_r114\_0412; John R. Johnson, Stephen O'Neil, and Santa Barbara Museum of Natural History, "Descendants of Native Communities in the Vicinity of Marine Corps Base Camp Pendleton: An Ethnographic Study of Luiseno and Juaneño Cultural Affiliation" (Santa Barbara, CA: Science Applications International Corporation, 2001), 54; and Kappler, *Indian Affairs* Vol. IV, 1126.



Ojauminga or Quechinga.<sup>268</sup> It is not clear what village Pedro originated from. Pedro Kowalish was the first Payómkowichum leader to add his mark to the Treaty of Temecula and establish a government-to-government relationship with the United States.<sup>269</sup> Kowalish was the first in line due to his status, his age, and power. Kowalish is also Qéwewish, spelled by Harrington as he heard it pronounced from Adam Castillo, a Luiseño collaborator. Qéwewish means fox. This word qéwewish is like the Cahuilla word for fox, qáwisish.<sup>270</sup>

**Cisto Ngonónish** confirmed his name and agreement to the Treaty of Temecula with his mark. His name and place of origin were recorded as Cisto “Go-no-nish” of Las Flores on the treaty.<sup>271</sup> Ngonónish was a Luiseño leader from the village of Las Flores on the coast. The name Ngonónish means “to roar.” The roar of the ocean is reflected in this name. Ngonónaq is a bullroarer, a local Native instrument used to summon the people. A bullroarer makes a low buzzing undertone. The bullroarer was used to call the people to ceremony. Las Flores is the historical name of the village of Ushmay, place of the roses on the Camp Pendleton Marine Base north of San Diego. The descendants of the village

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<sup>268</sup> Ojauminga and Quechinga are both the two closest villages to Mission San Luis Rey. Ojauminga was later written as Guajome. Quechinga was closer to the mission. Luiseño Pablo Tac recalled that Tacayme referred to the village and Quechia referred to the area. Quechia is named after the rock that is found there. Johnson, O’Neil, and Santa Barbara Natural History Museum, “Descendants of Native Communities in the Vicinity of Marine Corps Base Camp Pendleton,” 10 and 54; John R. Johnson and Dinah Crawford, “Contributions to Luiseño Ethnohistory Based on Mission Register Research,” *Pacific Coast Archaeological Society Quarterly* V 35, no. 4, (Fall 1999), 85. Pacific Coast Archaeological Society, accessed February 3, 2020, <https://www.researchgate.net/publication/237761630>; and Mary Robbins-Wade, *Cultural Resources Survey and Assessment, Mission/Academy Planned Development Plan Oceanside, San Diego County, California* (El Cajon: Affinis, 2013), 8. <http://www.ci.oceanside.ca.us>.

<sup>269</sup> Olivia Chilcolte, “The Process and the People: Federal acknowledgment and the San Luis Rey Band of Luiseño Mission Indians,” (dissertation, University of California Berkeley, 2017), 1, 9, and 83.

<sup>270</sup> The Patencio family from Agua Caliente are Kausictem, meaning the Fox people.

<sup>271</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

of Las Flores village lived in the Valley of San Jose and called it Las Flores. Cisto Ngonóish was baptized as Sixto Guanonix originally came from Topome area from the village of Chacupe.<sup>272</sup>

**Vicente Po-kláw** confirmed his name and agreement to the Treaty of Temecula with his mark. Po-kláw was a Luiseño leader. His name and place of his origin were recorded as Bicente “Poo-clow” of Buena Vista on the treaty.<sup>273</sup> Poo-clow or Po-kláw represents a club to hit or smash with. Vincent was from the village of Buena Vista or what is now called Vista near the town of Escondido in San Diego County. Vincent was baptized at Mission San Luis Rey as Vicente Puclau from the village of Pumusi.<sup>274</sup>

**Pablino Kwoxákkish** was a tribal Luiseño captain from Pala who signed the Treaty of Temecula.<sup>275</sup> His mark was recorded as Pablino “Coo-hac-ish” of Pala.<sup>276</sup> Pablino was raised by his stepfather Pablo Apis, alcalde at the village of Teméeku. Pablino was sometimes referred to as Pablo Apis Jr.<sup>277</sup> In 1806 when he was a newborn, Pablino was baptized as Paulino Cohaquix at Mission San Luis Rey. Kwoxákkish or Cohaquix oversaw the construction at Pala as it developed for the satellite mission.<sup>278</sup>

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<sup>272</sup> Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0412; Johnson, O’Neil, and Santa Barbara Natural History Museum, “Descendants of Native Communities in the Vicinity of Marine Corps Base Camp Pendleton,” 10 and 54; John R. Johnson and Dinah Crawford, “Contributions to Luiseño Ethnohistory Based on Mission Register Research,” 92; and Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>273</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>274</sup> Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0411; and Johnson, O’Neil, and Santa Barbara Natural History Museum, “Descendants of Native Communities in the Vicinity of Marine Corps Base Camp Pendleton,” 54.

<sup>275</sup> Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0411.

<sup>276</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>277</sup> Bibb, “Pablo Apis and Temecula,” <https://sandiegohistory.org/journal/1991/october/temecula-3/>.

<sup>278</sup> Johnson, O’Neil, and Santa Barbara Natural History Museum, “Descendants of Native Communities in the Vicinity of Marine Corps Base Camp Pendleton,” 34.

The clan's name of Cohaquix was later changed to Chorre. Pablino's son Sebastian Chorre became a great leader.<sup>279</sup> The village of Pala expanded as the Pala Reservation with the occupation of the Cupeño and Luiseño peoples in northern San Diego County.

**Francisco Páwval** was a Luiseño leader from the rancheria and village of Paumega.<sup>280</sup> His mark was recorded as Francisco "Pah-hoo-vole" of Pauma.<sup>281</sup> Pauma is a Luiseño Reservation in San Diego County. The Páwval family was a prominent family in historic times. Francisco was a tcori clan leader at Pala and replaced Manuel Cota as leader of the Luiseño in 1862. Francisco Páwval was baptized at Mission San Luis Rey as Juan Francisco Paubel.<sup>282</sup>

**Jose Calac** was a Luiseño leader who signed the Treaty of Temecula in 1852. His mark was reported as Jose "Cah-lác" of El Potrero.<sup>283</sup> El Potrero was the name of the rancheria, but the village was Cuqui.<sup>284</sup> Cuqui was the next largest village outside of Topome.<sup>285</sup> Calac was baptized at Mission San Luis Rey as Jose Calac. John P. Harrington spelled the name Kalák. Kalákam refers to the first beings of creation, the two

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<sup>279</sup> Harrington, "Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties," NMNH-Harrington\_mf3\_r114\_0411; and Johnson, O'Neil, and Santa Barbara Natural History Museum, "Descendants of Native Communities in the Vicinity of Marine Corps Base Camp Pendleton," 34 and 54.

<sup>280</sup> Johnson, O'Neil, and Santa Barbara Natural History Museum, "Descendants of Native Communities in the Vicinity of Marine Corps Base Camp Pendleton," 54; and Harrington, "Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties," NMNH-Harrington\_mf3\_r114\_0410.

<sup>281</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>282</sup> Richard Carrico, *The Struggle for Native American Self-Determination in San Diego County*, "the Journal of San Diego History 2, no. 2 (December 1980), 203; and Harrington, "Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties," NMNH-Harrington\_mf3\_r114\_0410; Johnson, O'Neil, and Santa Barbara Natural History Museum, "Descendants of Native Communities in the Vicinity of Marine Corps Base Camp Pendleton," 34 and 54.

<sup>283</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>284</sup> In 1845, the rancheria was granted to María Juana de Los Angeles of San Luis Rey Mission.

<sup>285</sup> Johnson, O'Neil, and Santa Barbara Natural History Museum, "Descendants of Native Communities in the Vicinity of Marine Corps Base Camp Pendleton," 35.

twins.<sup>286</sup> The Calacs are a prominent and patriarchal family in the Luiseño region today.<sup>287</sup> Descendants of Calac and other family members moved to Rincon and La Jolla after they were evicted from their homelands between 1879-1889.<sup>288</sup> In 1871, Jose Calac's relative, Captain Olegario Calac, resisted American authority and complained of "loss of land and water, corralling of their livestock, intimidation, and abridgment of their rights."<sup>289</sup>

**Calistro Tewalic** or Calistro Chaqualish put his name and mark to the Treaty of Temecula. Chaqualish was a Luiseño leader. Chaqualish was baptized at Mission San Luis Rey. Calistro's mark was recorded as Calistro "Chah-cwal-ish" of Yah-peat-cha.<sup>290</sup> There are several spellings of the village name of Yah-peat-cha or Yápittea or Yapicha. Yapicha was the name of a settlement and rancheria on land that became part of the Potrero or La Jolla Reservation. The families from Yapicha were originally from Topome near Camp Pendleton Marine Base. Calistro Chaqualish's father came from Topome.<sup>291</sup>

**Santiago Yulók** was a Luiseño headman who signed the Treaty of Temecula. He was from the village of La Jolla, which is now on the La Jolla Reservation. La Jolla was located at the southern side at the Palomar Mountain along the San Luis Rey River

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<sup>286</sup> Harrington, "Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties," NMNH-Harrington\_mf3\_r114\_0410.

<sup>287</sup> Harrington, "Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties," NMNH-Harrington\_mf3\_r114\_0410; and Johnson, O'Neil, and Santa Barbara Natural History Museum, "Descendants of Native Communities in the Vicinity of Marine Corps Base Camp Pendleton," 34 and 54.

<sup>288</sup> Johnson, O'Neil, and Santa Barbara Natural History Museum, "Descendants of Native Communities in the Vicinity of Marine Corps Base Camp Pendleton," 36.

<sup>289</sup> Thorne, *El Capitan*, 41.

<sup>290</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>291</sup> Johnson, O'Neil, and Santa Barbara Natural History Museum, "Descendants of Native Communities," 9 and 54; and Harrington, "Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties," NMNH-Harrington\_mf3\_r114\_0409.

corridor. His mark was recorded as Santiago “Yu-loke” of La Joya.<sup>292</sup> Yu-loke or Yulók means lots of hair on the head.<sup>293</sup> Santiago Yulók was baptized as Santiago Yuluc at Mission San Luis Rey.<sup>294</sup>

**Pedro Palasas** was a Luiseño leader. Pedro is from the village of La Puerta.<sup>295</sup> His mark was recorded as “Pal-e-gish” of La Puerta on the Treaty of Temecula.<sup>296</sup> Pal-e-gish or Pálekish means wet. La Puerta is also named Puerta Noria.<sup>297</sup> Pedro was baptized as Pedro Palaguix at Mission San Luis Rey originally from Caguenga. “Gabriela Apis, the eldest daughter of Pablo Apis and Casilda Anó, married Marcial Palaguix, the son of Pedro Palaguix, the captain of Caguenga.”<sup>298</sup>

**Bruno Kwásekát** attached his mark to the Treaty of Temecula as a Luiseño captain. His mark was reported as Bruno “Cwah-si-cat” of Puerta Cruz on the Treaty of Temecula.<sup>299</sup> Cwah-si-cat or Kwásekát means to stretch.<sup>300</sup> He was from the village of La Puerta Cruz near Coyote Canyon. Bruno was originally from Guiarba, but after the American invaders came into the Valley of San Jose, the village moved east, closer to La

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<sup>292</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>293</sup> Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0409.

<sup>294</sup> Johnson, O’Neil, and Santa Barbara Natural History Museum, “Descendants of Native Communities,” 54.

<sup>295</sup> Johnson, O’Neil, and Santa Barbara Natural History Museum, “Descendants of Native Communities,” 54 and 80

<sup>296</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>297</sup> Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0408.

<sup>298</sup> Johnson, O’Neil, and Santa Barbara Natural History Museum, “Descendants of Native Communities,” 54 and 80.

<sup>299</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>300</sup> Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0408.

Puerta and Coyote Canyon. The Luiseño name for La Puerta is Nguríiva. Bruno Kwásekát was baptized as Bruno Qusagát.<sup>301</sup>

**Ysidro Tósovól** was a Luiseño leader. He was Captain of the village of Tovín. He was originally from Aguanga. His mark was recorded as Ysidro “To-sho-vwul” of Tovín on the Treaty of Temecula.<sup>302</sup> To-sho-vwul or Tósovól means color.<sup>303</sup> At the age of one, Ysidro Tósoval was baptized as Thosobel.<sup>304</sup> Ysidro Tóshovwul was an ancestor to the Pechanga people.<sup>305</sup>

**Cervantes Qaxal** was a Luiseño Captain from the village of Aguanga. Qaxal affixed his mark to the Treaty of Temecula. His name was reported as Cervantes “Ca-hal” of Aguanga.<sup>306</sup> Aguanga comes from the word *awal* or dog. It is said, little dogs were seen coming out of the spring, when something is going to happen to your family.<sup>307</sup> Ca-hal or *Qaxal* means quail. Cervantes Qaxal was baptized at the age of seven in 1817 at Mission San Luis Rey as Silvano Caxal.<sup>308</sup>

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<sup>301</sup> Johnson, O’Neil, and Santa Barbara Natural History Museum, “Descendants of Native Communities,” 38-39, and 54.

<sup>302</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>303</sup> Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0407.

<sup>304</sup> Johnson, O’Neil, and Santa Barbara Natural History Museum, “Descendants of Native Communities,” 54.

<sup>305</sup> “History,” Pechanga Band of Luiseño Indians. 2020. Pechanga Band of Luiseño Indians. accessed October 25, 2020, <https://www.pechanga-nsn.gov/index.php/history>.

<sup>306</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>307</sup> Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0407.

<sup>308</sup> Johnson, O’Neil, and Santa Barbara Natural History Museum, “Descendants of Native Communities,” 43 and 54.

**Lauriano Cahparahpish** was a Luiseño hereditary chief.<sup>309</sup> His name was recorded as Lauriano “Cah-par-ah-pish” of Temecula.<sup>310</sup> The name of Lauriano Cahparahpish was recorded as Lauriano Coras in another writing.<sup>311</sup> In 1810, Cahparahpish was baptized at Mission San Luis Rey as Valeriano Caparrapix at three years old.<sup>312</sup> According to baptismal records, Cahparahpish came from the village of Toulepa.<sup>313</sup> Cahparahpish was captain in Temecula in during the years before and after the treaty was signed.<sup>314</sup> The name Cahparahpish in the Luiseño language means, he was to be cut. The name is an old family name.<sup>315</sup> Lauriano Cahparahpish is an ancestor to the Pechanga people.<sup>316</sup>

### **Cupeño Signatories**

**Jose Noca Kaval Changalangish** was a hereditary Cupeño nóta or chief from the village of Kúpa. Jose was from the Wildcat moiety. Jose Noca’s mark is reported as José Noca “Chan-gah-lang-ish” of Agua Caliente.<sup>317</sup> Agua Caliente was the Spanish name of

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<sup>309</sup> Helen Hunt Jackson, *A Call for Reform: The Southern California Indian Writings of Helen Hunt Jackson*, ed. Valerie Sherer Mathes and Phil Brigandi (Norman: University of Oklahoma Press, 2015), 117.

<sup>310</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>311</sup> Johnson, O’Neil, and Santa Barbara Natural History Museum, “Descendants of Native Communities,” 55.

<sup>312</sup> “Early California Population Project,” The Huntington, <https://www.huntington.org/ecpp> .

<sup>313</sup> Johnson, O’Neil, and Santa Barbara Natural History Museum, “Descendants of Native Communities,” 45-46.

<sup>314</sup> Myra-Masiel-Zamora to author, email, May 19, 2021.

<sup>315</sup> Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0406.

<sup>316</sup> Lauriano Cahparahpish is the relative of Myra Masiel-Zamora. Myra said, he is my great great grandmother’s uncle. “History,” Pechanga Band of Luiseño Indians. 2020. Pechanga Band of Luiseño Indians. accessed October 25, 2020, <https://www.pechanga-nsn.gov/index.php/history>. Myra-Masiel-Zamora to author, email, May 19, 2021

<sup>317</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

Kúpa. Some refer to Kúpa as Agua Caliente #1.<sup>318</sup> Jose Noca was born and raised at Kúpa. The Americans called the village Agua Caliente. Jose Noca Kaval Changalangish's clan name was recorded as Tcangallngawish by Harrington meaning "a bunch of string all tangled up."<sup>319</sup> Changalangish is equivalent to Tcangallngawish. Today, the family name "Owlinguish" is a derivative of Tcangallngawish. Owlinguish was spelled as Auliñawic, which means something all tied up over head in the Kumeyaay language.<sup>320</sup> Jose Noca was the uncle or a close relative of Antonio Garra, who wanted to liberate his people. Jose Noca was held for trial by the Americans during the "Garra" revolt and released. Lee Arenas told Harrington; the name of the settlement of Kúpa used to be called "Noká"<sup>321</sup> This is similar to "Kúpa." Jose Noca was baptized at Mission San Diego and transferred to Mission San Luis Rey as Jose Chagalgues.<sup>322</sup>

**Jose Ygnacio** was a Cupeño headman from Wílakal. Wílakal was also known as San Ysidro.<sup>323</sup> Ygnacio's mark was recorded as Jose Ygnacio "Tosh-mah-ken-ma-wish" known as Táma Kennis of San Ysidro.<sup>324</sup> Táma kennish means sweat mouth.<sup>325</sup> Jose Ygnacio earned the name Toshmah Kenmawish. He was a talker with a sweat mouth.

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<sup>318</sup> Agua Caliente #2 refers to Agua Caliente or Séxhki which is home to the Agua Caliente Band of Cahuilla Indians. Clinton Hart Merriam, "Southern California," *C. H. Merriam Papers Relating to Work with California Indians 1556\_74*, 9. Bancroft Library Archives. University of California, Berkeley. San Francisco, CA.

<sup>319</sup> Harrington, "Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties," NMNH-Harrington\_mf3\_r114\_0405.

<sup>320</sup> Strong, *Aboriginal Society*, 186.

<sup>321</sup> Noka means my grandfather in the Pala language. Harrington, "Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties," NMNH-Harrington\_mf3\_r114\_0405.

<sup>322</sup> Johnson, O'Neil, and Santa Barbara Natural History Museum, "Descendants of Native Communities," 54.

<sup>323</sup> Phillips, *Chiefs and Challengers*, 56.

<sup>324</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>325</sup> The late Cahuilla historian and speaker of the language Alivo Siva used to say this, Hemma Kámehish meaning are you kidding.



According to Lee Arenas, “Whatever he says is good. His word is good when he talks.” “Means maybe true, but whatever he says sounds nice, sweat talk.”<sup>326</sup> Wílakal was about five miles south of Kúpa. Captain Francisco Mocate, the Captain and traditional leader from Wílakal, had been killed days before by a firing squad by the United States Army in Coyote Canyon. An American tribunal found Mocate guilty in supporting Antonio Garra in the revolt.<sup>327</sup>

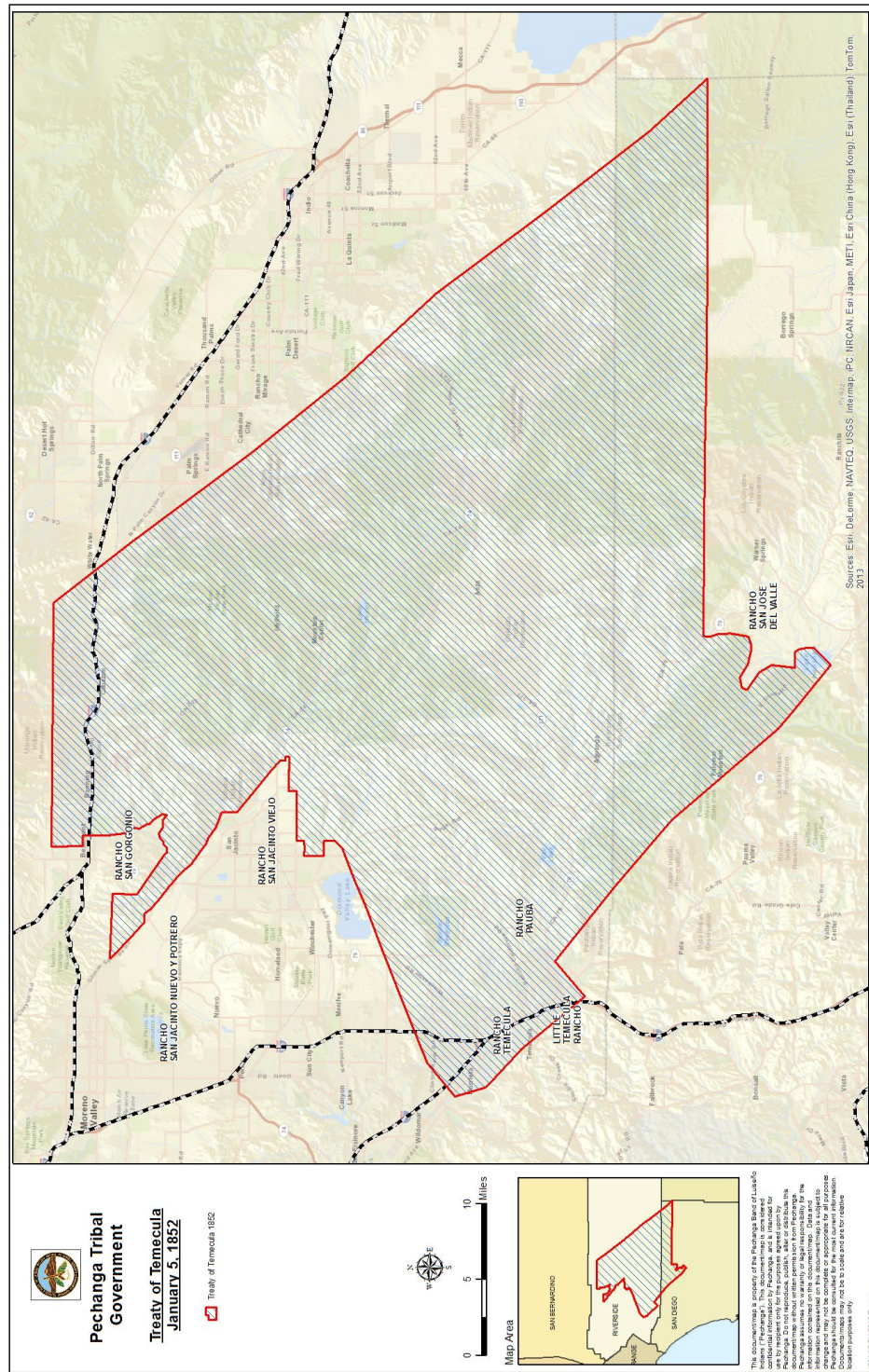
Wow, that was legendary. The Temecula Council was one of the most important events recalled in Southern California Indigenous history. The Treaty of Temecula is also the least known among Indigenous descendants today. The treaty was not a grant of land to the Americans but was an ultimatum for life itself. The Treaty of Temecula occurred under direct force and threat from American soldiers. The lands in Indigenous Southern California were stolen through the Treaty of Temecula using tactics of invasion, deceit, and war. The people tried to make the best of it to redefine their identities with their inherit and sovereign powers. Cahuilla, Cupeño, Luiseño, and Serrano leaders solidified their existence and the future of Southern California tribes by adding their mark.

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<sup>326</sup> Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0406; Johnson, O’Neil, Santa Barbara Natural History Museum, “Descendants of Native Communities in the Vicinity of Marine Corps Base Camp Pendleton,” 55; and *Indian Affairs* Vol. IV, 1126.

<sup>327</sup> Clinton Hart Merriam, “Heintzelman’s Reports” in “Southern California,” *C. H. Merriam Papers Relating to Work with California Indians 1556\_74*, 4. Bancroft Library Archives. University of California, Berkeley, San Francisco, CA.

Figure 6.4: Treaty of Temecula Boundary Map. Courtesy of Pechanga Band of Luiseño Indians.



## Chapter 7



### WITIACO

*Indians in the lower part of California, of the singularity fortuitous results, attending my mission among them — that peace was made in a manner not likely to be broken on their part, in as much of some of these chiefs, and head men, sealed with their chiefs blood, which was farther confirmed by their assent and signatures of fifty Chiefs, and Captains.<sup>1</sup>*

#### **OLIVER M. WOZENCRAFT, INDIAN COMMISSIONER, 1852**

With each signatory, Secretary John Hamilton penned the names on behalf of each of the signers to “preserve the original pronunciation.” Each leader and signer then made the mark.<sup>2</sup> Some tribal leaders could read and write in Spanish but not English. Not one of the tribal leaders was given the chance to write their name on their own behalf. Hamilton asked for each tribal leader to come up and give their name, village, and territory represented. Hamilton was not trained in any of the signatory group languages of Cahuilla, Cupeño, Luiseño, and Serrano. Each was a foreign language to him.<sup>3</sup> The

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<sup>1</sup> Letter from Oliver M. Wozencraft to Luke Lea, June 23, 1852, *Letters Received by the Office of Indian Affairs*, 1125.

<sup>2</sup> U.S., *Documents Relating to the Negotiation of Unratified Treaties with the Various Band of Mission Indians of California*, Microcopy 88-89.

<sup>3</sup> To Americans, the Native language was foreign and sounded like gibberish. It is possible, the recorder misheard this name.

newcomers did not know the tribal languages spoken and since they could not speak any Native language and the Natives could not speak English. It was hard to get it right.

The signatory marks have been described as a small cross or as an “X.”<sup>4</sup> It was common for American Indian treaty commissioners in the eighteenth and nineteenth centuries to have the tribal interlocutors add an “X” to signify presence and agreement.<sup>5</sup> Most Indigenous people could not read or write in English, so they were asked to put a mark next to their name with a pen to something they did not fully comprehend. A soldier, most likely John Hamilton, the recording secretary, guided their hands to make an X on paper “in front of a line of armed soldiers.”<sup>6</sup> “If they refused to obey their orders, all our Indians in the area would be exterminated.”<sup>7</sup> They reluctantly accepted.

Sometimes the leader put an “X” and sometimes White officials put the “X” down.<sup>8</sup> After examination of the original Treaty of Temecula signature page, it appears that for the treaty of Temecula, each signatory probably marked an “X” themselves.<sup>9</sup> Even more so “an X-mark is a sign of consent in the context of coercion and intimidation;

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<sup>4</sup> Jane D. Gunther, *Riverside County, California, Place Names*, 442.

<sup>5</sup> Lyons, *X-Marks*, 1.

<sup>6</sup> On October 6, 1851, Indian Agent Redick McKee concluded a treaty with the Lower Klamath, Upper Klamath, and Trinity River tribes. Descendant Lois L. Risling, as told by her grandfather, narrated the treaty doings and how a soldier guided the hands of the tribal leaders to make an “X” mark. Lois J. Risling, “The Treaty with the Lower Klamath, Upper Klamath, and Trinity River Indians-and Who We Are Today,” in *Nation to Nation: Treaties Between the United States & American Indian Nations*, ed. By Susan Shown Harjo, 216.

<sup>7</sup> Lois J. Risling, “The Treaty with the Lower Klamath, Upper Klamath, and Trinity River Indians-and Who We Are Today,” in *Nation to Nation*, 216.

<sup>8</sup> Northwest Historians Cliff Trafzer and Richard D. Scheuerman called this approach “touched the pen.” Chief Kamiakin “touched the pen” in 1855 when the Treaty of Yakima was signed with fourteen confederated tribes of the Yakima Nation in Washington.<sup>8</sup> This same approach was used by the Indian treaty commissioners in California including Wozencraft. The Americans did not let the “Indian” write their own signatures even if they could but allowed them to make their mark.

<sup>9</sup> The signature page from the original Treaty of Temecula. See Appendix C.

it is the agreement one makes when there seems to be little choice in the matter.”<sup>10</sup> Elder Carmen Lucas pointed out that just because you touched the pen does not mean you consulted with the tribal membership.<sup>11</sup> At some treaty councils, tribal chiefs were not allowed to put their own “X” mark. Instead, leaders touched the pen as Chief Kamiakin did in 1855 at the Walla Walla Treaty Council. The soldiers placed his “X” mark for Kamiakin.<sup>12</sup>

As tribal leaders, you bring back the information to the membership circle, and then the leaders make decisions based on what the membership said. The treaty signers met with their community members present at Temecula but failed to consult with their tribal constituents back at their settlements. Carmen Lucas feels therefore their actions did not align with membership.<sup>13</sup>

The late Robert Levi, a Cahuilla elder from Torres- Martinez Reservation, used the word or phrase “*Witiaco*,” or, “So be it.”<sup>14</sup> *Witiaco* was usually said in the past to conclude the doings of a ceremony.<sup>15</sup> Perhaps “*witiaco*” was said here. Tribal leaders did not understand the complexity, limits, and articles of the treaty. Tribal chiefs, headman, and captains did understand they were to move if they do not live in the boundaries as defined by the treaty. They were to receive gifts; this, they understood. The Aboriginal

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<sup>10</sup> Lyons, *X-Marks*, 1.

<sup>11</sup> Carmen Lucas interview, August 29, 2016.

<sup>12</sup> *Richard D Scheuerman and Michael O. Finley, Finding Chief Kamiakin: The Life and Legacy of a Northwest Patriot* (Pullman, Washington: Washington State University Press, 2008), 40-41.

<sup>13</sup> Carmen Lucas interview, August 29, 2016.

<sup>14</sup> Robert Levi, Alvino Siva, Ernest Siva, Katherine Siva Saubel, and Lowell John Bean, “The Cahuilla Creation Story,” (Banning, CA: Voices International Archive of California, 1999), tape cassette; and Saubel and Elliot, *Isill Héqwas Wákish*, 1258-1259.

<sup>15</sup> “Cahuilla,” The Survey, University of California, Berkeley. <https://cla.berkeley.edu/>.

people wanted to be left alone.<sup>16</sup> The United States commissioner and settlers left out many Native communities on purpose so they could steal Indian lands and resources near the Pacific slope including those in the Los Angeles Basin. Yet, there were numerous tribes and not all were known about to exist in the southern part of the State.

Communications between the runners and Indian Commissioner Wozencraft were minimal. Wozencraft did not invite all the tribes to the treaty council, especially those along the coast near towns including the Tongva-Gabrielino tribes near Los Angeles, Kumeyaay living in San Diego, the Acjachemen of San Juan Capistrano, Chumash, Kawiisu, Serrano, Chemehuevi, and others. American settlers had no interest in recognizing tribal people living in the Los Angeles Basin or along the Pacific Coast which were considered prime lands that the Americans wanted to claim as their own. Coastal territories were valuable as having harbors and access to ocean waters for trade and protection. Not all tribes were requested to come. Runners were not sent to every village as hoped by the Commissioner.<sup>17</sup>

“Peace and plenty were preferable at all times, to war and starvation.”<sup>18</sup> Juan Antonio and all the leaders that signed under him chose to side with the Americans, and work with the invaders to stop the American assaults on their people. The Indigenous people were strangers in their own lands. The elders wanted a future and a chance at life.<sup>19</sup> The tribal leaders of the time thought it best to work together with the Americans

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<sup>16</sup> Gibbs, *George Gibbs Journal*, 18.

<sup>17</sup> Carmen Lucas interview, August 29, 2016.

<sup>18</sup> “Aboriginal Troubles,” *Daily Alta California* (Sacramento, CA), July 14, 1862. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>19</sup> Carmen Lucas interview, August 29, 2016.

to “keep their lands, livelihoods, resources, and their families safe.”<sup>20</sup> Yet, this was a strategy all too familiar to the Americans, to take the land from the Indigenous families using a method that was legitimized in an American court. This method of thievery was not completely understood at the time by the tribal leaders, who came together under false pretense, deceit, and genocidal action against them. This story of deception by the United States led to theft of California Indigenous lands. This painful history has led the people to stand in solidarity and keep abreast of the American strategy to acquire Native lands and extinguish Native rights.

### **Treaty Details**

The Treaty of Temecula contained six standard articles which included similar verbiage, if not some of the same verbiage in the other seventeen treaties of California.<sup>21</sup> Some treaties in California of 1851 had more than six articles.<sup>22</sup> Some treaties had less.<sup>23</sup> The twenty-eight tribal leaders came together under duress and agreed to the treaty without ever fully understanding how the treaty and its six articles and terms impacted future generations to come. To begin, the United States came to the tribes and not the other way around, Kumeyaay elder Carmen Lucas stated.<sup>24</sup> It is important not to forget

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<sup>20</sup> Dunn, “Strategies for Survival,” 33.

<sup>21</sup> Heizer, *Eighteen Unratified Treaties*, 2.

<sup>22</sup> Treaties: Treaty B-Treaty with the Si-Yan -Te, etc., Treaty E-Treaty with the Howechees, etc., Treaty M-Treaty with the Ko-Ya-te, etc., Treaty N-Treaty with the Iou-ol-umnes, Wethillas, etc., Treaty O-Treaty with the Ca-la-no-po, etc., Treaty Q-Treaty with the Poh-lik and the Lower Klamath, etc., and Treaty R. Kappler, *Indian Affairs* Vol. IV, 1081-1083, 1085-1089, 1094-1096, 1096-1099, 1108-1111, 1117-1120, and 1123.

<sup>23</sup> Treaties C, D, and P. Ibid, 1100, 1102, and 1113.

<sup>24</sup> Carmen Lucas interview, September 21, 2017.

that. The tribes had something the colonizers wanted, the land.<sup>25</sup> The United States recognized the tribes as having legal and full authority and ownership over the lands.<sup>26</sup> Twenty-eight leaders signed the treaty, and twenty-eight village communities were represented. Each of those villages were viewed as individual sovereign nations, each with their own tribal government, stories of Creation, and authorities. The people believed sovereignty was given by the Creator.<sup>27</sup> Each village acknowledged the other village was separate and independent of one another. Singers included men who came from twenty-eight different sovereign communities representing the four tribal nations of the Cahuilla, Cupeño, Luiseño, and Serrano.<sup>28</sup> (See Appendices C and D for the Treaty of Temecula).

Article 1 read, “The several nations above mentioned do acknowledge the United States to be the sole and absolute sovereign of all the soil and territory.”<sup>29</sup> Even though Wozencraft read the treaty in English, it was translated into Spanish, and then translated into each tribal dialect. It is extremely doubtful the tribes would have approved Article 1 under sovereign recognition, nation-to-nation dialogue. Conditions at the treaty council were deplorable. Like at other treaty councils on the west coast including, the Walla Walla Treaty Council, Americans soldiers threatened the tribal leaders into signing with death threats.<sup>30</sup> While under complete unrest, you will do anything to protect your family

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<sup>25</sup> Ibid.

<sup>26</sup> Rupert Costo and Jeanette Henry, *Indian Treaties*, 32-33.

<sup>27</sup> Carmen Lucas interview, September 21, 2017.

<sup>28</sup> After review of the Treaty of Temecula, four tribal nations were revealed as signatories. The last two signers under the Luiseño or not Luiseño but Cupeño.

<sup>29</sup> Kappler, *Indian Affairs* Vol. IV, 1124.

<sup>30</sup> Robert R. Ruby and John A. Brown, *Indians of the Pacific Northwest* (Norman: University of Oklahoma Press, 1981), 138.



and your people.<sup>31</sup> The leaders were coerced into signing as was Chief Red Cloud of the Lakota Nation. Rifles pointed at the tribal leaders pressured the Native people to consent and sign. There was a war of eradication to eliminate the “Indian” in California at that time and space.<sup>32</sup> An Indian war in this context indicates that the colonizer was at war with the Indigenous people of the land. Just as the Nez Perce were at the Treaty of Fort Lapwai, tribal leaders were held at gunpoint to sign the treaty.<sup>33</sup> For the treaty in northern California, held on the Trinity River with the Lower Klamath and Indian Commissioner Redick McKee, the soldiers pointed their rifles at the leaders to get them to sign.<sup>34</sup> The tribal leaders did not sign willingly or voluntarily.<sup>35</sup>

The treaty was written in English and translated into Spanish, leaving out the critical points, said George Gibbs.<sup>36</sup> There were several tribal leaders present who were literate and understood Spanish. It did not matter at that point then, even if word for word was translated into the Native tongue, because the meat of the treaty was purposely left out, when translated in Spanish, without the tribal leaders knowing. The leaders did not agree the United States was the absolute authority. This was planted in the treaty without the tribal leaders understanding. This was probably the case for all California treaties.

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<sup>31</sup> Carmen Lucas interview, August 29, 2016; read Bob Drury and Tom Clavin, *The Heart of Everything That Is: The Untold Story of Red Cloud, An American Legend* (New York, London: Simon and Schuster, 2014).

<sup>32</sup> See: Richard Carrico, *Strangers in a Stolen Land*; Richard Hanks, *This War is For a Whole Life*; Benjamin Madley, *An American Genocide*; and George Phillips, *Chiefs and Challengers*.

<sup>33</sup> Cliff Trafzer discussion with author, phone, June 2, 2020. Hereafter cited as Cliff Trafzer discussion, June 2, 2020.

<sup>34</sup> Lois J. Risling, “The Treaty with the Lower Klamath, Upper Klamath, and Trinity River Indians-and Who We Are Today,” in *Nation to Nation*, 216.

<sup>35</sup> Pevar, *The Rights of Indians and Tribes*, 48.

<sup>36</sup> Gibbs, *Journal of Redick McKee*, 18.

Tribal leaders acknowledged the United States was a new sovereign power in their territory, but the tribes themselves would never have given up their sovereignty and rights to manage their people and the lands. The translators brushed over or even excluded Article 1 intentionally.

Article 1 stated that previously Mexico had ceded California to the United States. According to the United States and its laws of discovery, through the Treaty of Guadalupe Hidalgo, Mexico ceded much of the lands of the Southwest to the United States.<sup>37</sup> This was done unknowingly without tribal consultation and consent and thus not valid, according to the tribes. This was a written agreement of which the tribes had no knowledge, asserted Luiseño elder and Native scholar Edward Castillo.<sup>38</sup> The tribes themselves never ceded any of their lands or rights to anyone, including Spain, Mexico, or to the United States. The tribes across California disagreed with the legal concept and law that Spain claimed the land, later acquired by Mexico and ceded to the United States. Rupert Costo believed, “International treaties recognized the native’s right of occupancy, or aboriginal title, and stipulated continuing protection of their Indian citizens.”<sup>39</sup> Historian Chad Hoopes remarked in his book, *Domesticate or Exterminate*, that the

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<sup>37</sup> Under the Treaty of Guadalupe Hidalgo, Native people became citizens of Mexico. As citizens of Mexico, the Native people were to be respected and treated fairly. The United States did not acknowledge Indigenous people as having property rights. The United States never did accept Native peoples as citizens until 1924. Under the Treaty of Guadalupe, the Indigenous people never received any acknowledgement to personal property or land rights. William Wood, “The Trajectory of Indian Country in California: Rancherias, Villages, Pueblos, Missions, Ranchos, Reservations, Colonies, and Rancherias,” *Tulsa Law Review* 44, issue 2 (Winter 2008), 332.

<sup>38</sup> Edward Castillo’s great grandfather Victoriano signed the Treaty of Temecula. Edward Castillo interview, September 4, 2016.

<sup>39</sup> Rupert Costo and Jeanette Henry, *Indian Treaties*, 32-33.

United States recognized the Aboriginal peoples' right of occupancy.<sup>40</sup> The tribal leaders did not understand the impact by attaching their marks. The United States used this in malice and used the marks against the tribes to take the land. A court must uphold the treaty as it was the supreme law of the land if approved. The United States Congress lied and took the marks as saying the tribes ceded their land to the United States. The Treaty was never approved and therefore, the legality of the land transfer was invalid. Likewise, the tribes were coerced into agreeing with Article 2 which was glossed over, too.

Article 2 read, "The said nations of Indians acknowledge themselves, jointly and severally, under the exclusive jurisdiction, authority and protection of the United States."<sup>41</sup> The tribal leaders did not agree to Article 2. Wozencraft brushed over this issue in the treaty council at Temecula. The tribes were sovereign nations themselves and never consented to such a fallacy without a severe threat over their tribal communities. The tribes were coerced into agreeing with Article 2. Like Carmen Lucas believed, people will do anything when subjugated to death.<sup>42</sup> Olivia Chilcolte acknowledged the tribes through Article 2 via the treaty formed a formal relationship with the United States.<sup>43</sup> Similarly Article 3 was not explained to the tribal leaders.

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<sup>40</sup> Hoopes, *Domesticate or Exterminate*, 107.

<sup>41</sup> Kappler, *Indian Affairs* Vol. IV, 1124.

<sup>42</sup> Carmen Lucas interview, August 29, 2016.

<sup>43</sup> Chilcolte, "The Process and the People," 30.



*Figure 7.1: Pool of water in Andreas Canyon on the east side of San Jacinto Mountain.  
Source: Sean Milanovich.*

Article 3 had several pertinent and hidden trajectories within in it. According to Charles Kappler, as far as resources go, all minerals belonged to the United States.<sup>44</sup> According to the treaty, the United States claimed all minerals including water and gold. Hupa elder and Native Professor Jack Norton in his book, *Genocide in Northwestern California*, discusses how American settlers came to California in search of gold and a water source for their livelihood.<sup>45</sup> Americans killed for the gold and water. Carmen

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<sup>44</sup> Kappler, *Indian Affairs* Vol. IV, 1125.

<sup>45</sup> Norton, *Genocide in Northwestern California*, 38.

Lucas asserted that leaders like Chief Valentine wanted water as part of the treaty.<sup>46</sup> California Indian commissioners never included water and water rights in the treaties. Lucas said tribes were coerced into agreeing and signing the treaty.<sup>47</sup> According to David H. DeJong, a scholar of Native American History, in his book, *American Indian Treaties*, tribes have reserved water right not expressly given up by treaty.<sup>48</sup> American courts recognized even though water is not expressly written into the treaty, sufficient clean water was a must for each tribal reservation.

Article 3 set aside an area to be recognized as a federal tribal reservation. One of the major provisions of the Treaty of Temecula created one of the eighteen reservations to be established. The proposed reservation set land aside for the sole use and occupancy of said tribes with given boundary:

*commencing at the southwest corner of the San Jacinto grant, and running along the southern and eastern line of the same to the San Gorgonio grant; thence running along the southern and eastern line of the same to the northeastern corner thereof; thence due east to the eastern base of the Sierra Nevada mountain; thence on a southerly straight line in the general direction of the base of said mountain to a point due east of the northeastern corner of the grant of San Jose del Valle; thence due west to said corner; thence along the northeastern line of the same to the northwestern corner; thence on a direct line to the southern corner of the grant of Temecula; thence running around said grant, including it, by west, north and east, to its northeastern corner, and from thence on a straight line to the place of beginning.*<sup>49</sup>

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<sup>46</sup> Carmen Lucas interview by author, Laguna Ranch, Pine Valley, CA, November 29, 2018. Hereafter cited as Carmen Lucas interview, November 29, 2018.

<sup>47</sup> Ibid.

<sup>48</sup> DeJong, *American Indian Treaties*, 34.

<sup>49</sup> Kappler, *Indian Affairs* Vol. IV, 1125.

The boundary to the north of the proposed reservation was the San Gorgonio Mountains, which shadowed the established and encroaching San Jacinto and San Gorgonio ranches. The northwest corner was at present-day Beaumont. The northeast corner was at Whitewater River where the river crossed below present day I-10 between San Gorgonio and San Jacinto Mountains. The reservation followed and skirted the San Jacinto and Santa Rosa Mountains down to the Salton Sea at present day Borrego Springs. From there, the reservation headed west, cutting through the San Ysidro and Hot Springs Mountains, north of present-day Warner Springs. At this junction, the boundary headed south just east of present-day Lake Henshaw. From there, the boundary continued northwest through the southern side of Palomar Mountain to present-day north-east corner of Pechanga Reservation. The boundary continued and headed south, bisecting Pechanga to just beyond S-16. From there, the boundary headed northwest into Temecula Valley following the Murrieta Creek at the base of Margarita Mountain to present day Murrieta Hot Springs. From there the boundary line headed generally northeast to present-day Hemet, then to the town of present-day San Jacinto and back to Beaumont.

Article 3 read that the United States had the right of way on all tribal lands for its protection. At the same time, Article 3 reserved the right for the United States government access to build and maintain military post(s), school(s), housing, and other needed structures for its use or for the protection of the tribes. The Indian commissioners determined that military post(s) would have to be created in between reservations.

Military reserves were an absolute to protect the “Indians” from White men, George W. Barbour explained to Captain E. D. Keys.<sup>50</sup>

The tribes were to agree to never claim any other land even the lands they currently lived on.<sup>51</sup> The tribes never agreed to cede their lands over to the United States and move.<sup>52</sup> The tribal leaders had American acquaintances who attended the treaty doings, such as Isaac Williams and Pauline Weaver. The Americans and other ranch owners did not say anything to the tribal leaders about ceding their lands to the United States and having claim to only the new parcel of land, out of fear. The tribal leaders might remonstrate if they knew the Americans swindled their land from them. Americans and others had much to gain from this transaction.<sup>53</sup> Americans present at the council kept quiet and did not tell the tribal leaders. The proposed reservation skirted the ranchos of San Gorgonio and San Jacinto but included the Temecula Ranch and Little Temecula Ranch.<sup>54</sup> Wozencraft hoped to purchase the Temecula Ranch and acquire Little Temecula.

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<sup>50</sup> George H. Phillips, *Indians and Indian Agents: The Origins of the Reservations System in California, 1849-1852* (Norman: University of Oklahoma Press, 1997), 99.

<sup>51</sup> Ibid.

<sup>52</sup> Edward Castillo interview, September 4, 2016.

<sup>53</sup> Through the treaties and United States Senate, the United States acquired stolen land, stated Valentine Lopez, Chairman for the Amah Mutsun Tribal Band. Valentine Lopez. “Land Grab,” A Zoom Conference. University of California. October 23, 2020.

<sup>54</sup> Phillips, *Chiefs and Challengers*, 145; and Tribal Connections, “Forest Service Lands, Federal and Indian Lands, and Indian Lands Cessions Viewer,” <https://www.arcgis.com/apps/webappviewer/index.html?id=fe311f69cb1d43558227d73bc34f3a32>.

Table 7.1: Villages to be relocated verses those villages that can remain. If the village fell within the boundary of the proposed treaty, then the village would not have to move.

<b>Settlements to Relocate</b>	<b>Nation</b>	<b>Settlements to Stay</b>	<b>Nation</b>
Sáxhatpah	Cahuilla / Serrano	Séxhki	Cahuilla
Tuva	Cahuilla	Wana Piapa	Cahuilla
Temal Waxish	Cahuilla	Wakina	Cahuilla
Panūksi	Cahuilla	Co-ro-vang-ang	Cahuilla / Luiseño
Kávinish	Cahuilla	Sow-wah-wah	Cahuilla / Luiseño
Pauki	Cahuilla	Maronga	Cahuilla
Toro	Cahuilla	Aguanga	Luiseño
Guajome	Luiseño	Teméeku	Luiseño
Las Flores	Luiseño		
Buena Vista	Luiseño		
Pala	Luiseño		
Kúpa	Cupeño		
Paulmega	Luiseño		
Cuqui	Luiseño		
Yapicha	Luiseño		
La Jolla	Luiseño		
Puerta Cruz	Luiseño		
Tovin	Luiseño		
Kúpa	Luiseño		
Wilákal	Cupeño		

without purchase since it was owned by tribal leader Pablo Apis, a Luiseño Indian.

Wozencraft gave no hint of where he came up with the reservation boundaries in his



letter to Luke Lea on January 9, 1852, where he gave a brief description of the Treaty, nor any future letters or communications.<sup>55</sup>

Senator Jonathan Warner [Juan Warner] most likely had a large part to do deal with Article 3. Warner had a large ranch. Warner spent the most time with Wozencraft during his stay in Southern California. Warner accompanied Wozencraft from the village of Santa Ysabel to Coyote Canyon and then on to Temecula for the treaty, totaling some twenty days together. Warner had plenty of time to plant his ideas and philosophies into Wozencraft's head about boundaries.<sup>56</sup> Wozencraft did not know the territory. In addition, Wozencraft must have spoken with other ranch owners in the area for a mutually agreed upon reservation, including José Antonio Estudillo of the San Jacinto Ranch, Isaac Julian Williams of the San Ana del Chino Ranch, Powell Pauline Weaver of the San Gorgonio Ranch, Felix Valdez of the Temecula Ranch, and Pablo Apis of the Little Temecula Ranch.<sup>57</sup>

Despite tribal concerns, it is believed, Oliver Wozencraft did not allow the tribal leaders to choose another piece of land to live on. Tribal leaders on the coast surely did not want to move to Temecula. Tribal leaders out in the desert did not want to move to the proposed reservation named Temecula. Oliver Wozencraft had gained some

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<sup>55</sup> Wozencraft gave few minimal details about the treaty of Temecula and how it proceeded. As a matter of fact, Wozencraft never gave much detail with any of his treaty proceedings. Letter from Oliver Wozencraft to Luke Lea, Received February 18, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 285-290.

<sup>56</sup> Juan José Warner had much to do with the Treaty of Temecula and Treaty of San Ysabel. Specifically, Wozencraft was influential in the boundaries. Chilcolte, "The Process and the People," 75; Blackwell, Heintzelman's Journal, 52-52; and Kappler, *Indian Affairs* Vol. IV, 1128.

<sup>57</sup> Jane D. Gunther, *Riverside County, California, Place Names*, 458-459, 466-469, 527-528.

experience after six previous treaty councils.<sup>58</sup> Wozencraft knew what he wanted to do. There was no negotiation with the tribal leaders to select a location for the proposed settlement of the twenty-eight bands and four tribal nations to live on jointly. Olivia Chilcolte exclaimed the tribes did not want to move into the boundaries defined by the treaty. Chief Pedro Kowalish of the Mission San Luis Rey Band of Payómkawichum wanted to remain in his homelands of Quechia near the Pacific Coast near the mission.<sup>59</sup>

It is highly doubtful any of the bands would have agreed to live on one confined reservation together and leave their ancestral homelands and villages behind. Furthermore, Wozencraft had discussed with Lieutenant Samuel Heintzelman about a controlled area for a reservation. Heintzelman believed Indians were part of the problem with settlers entering California from the Colorado River. Heintzelman thought it best if the area between the river and the mountains of the Peninsular Ranges, a hundred mile stretch of dry land but well-traveled by settlers. The settlers “provoked them [Indigenous people] beyond all endurance,” into attacking the settlers.<sup>60</sup> The area in the Temecula Valley and surrounding territory was the only option to keep control over the Native people. In addition, Heintzelman wanted to add military posts. Heintzelman believed

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<sup>58</sup> As a board, Indian Commissioners Redick McKee, George W. Barbour, and Oliver M. Wozencraft, together conducted eighteen treaty councils. Singlehandedly, Oliver Wozencraft had crafted eight treaties in California. The first six treaties included: (Treaty E) Treaty at Dent’s and Valentine’s Crossing on May 28, 1851, (Treaty F) Treaty at Camp Union on July 18, 1851), (Treaty G) Treaty at Bidwell’s Ranch on August 1, 1851, (H) Treaty at Reading’s Ranch on August 16, 1851, (Treaty I) Treaty at Camp Colus on September 9, 1851, and (Treaty J) Treaty at the Fork of the Cosumnes River on September 18, 1851. U.S., *Documents Relating to the Negotiation of Unratified Treaties with the Various Band of Mission Indians of California*, Microcopy 29-31.

<sup>59</sup> Olivia Chilcolte interview, September 15, 2017.

<sup>60</sup> Trafzer, *Yuma*, 69.

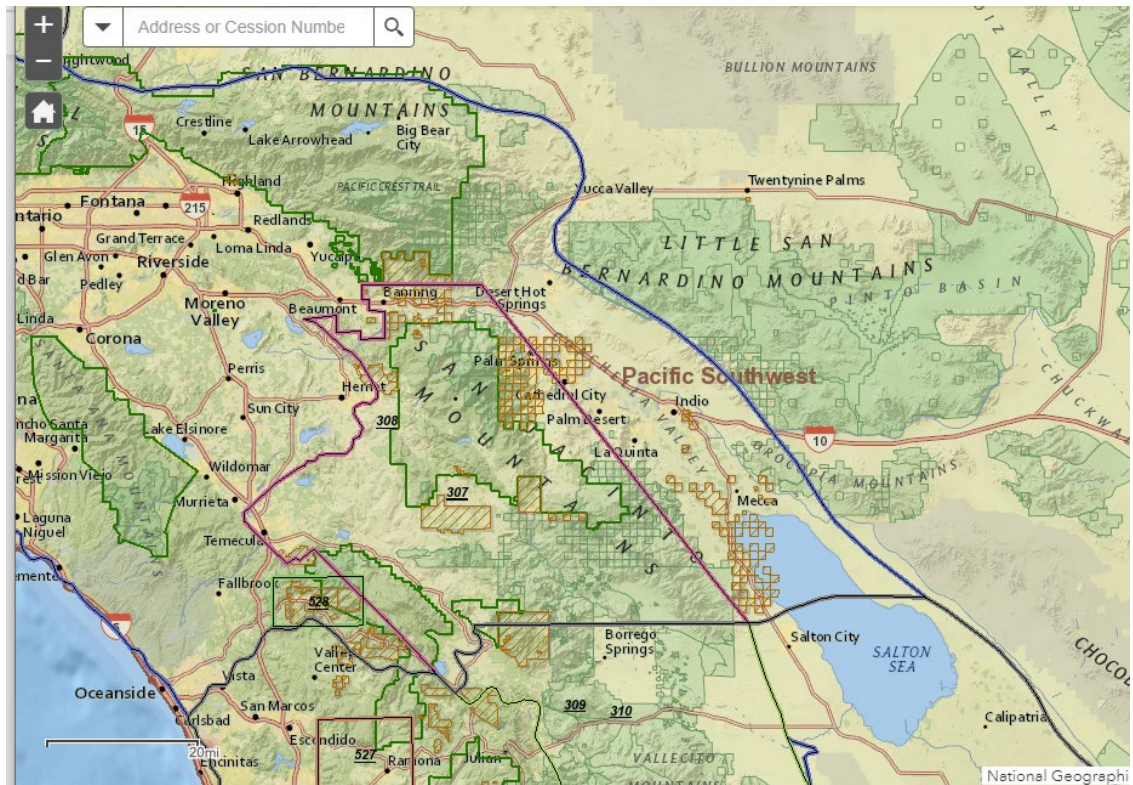


Figure 7.2: Proposed Reservation under the Treaty of Temecula Boundaries in magenta color.

Source: Tribal Connections.

<https://www.arcgis.com/apps/webappviewer/index.html?id=fe311f69cb1d43558227d73bc34f3a32>

adding more companies of soldiers to Fort Yuma, San Diego and an American military camp at Agua Caliente [Kúpa], “to keep the Cah-willas in check.”<sup>61</sup>

Article 4 stipulated that the United States was to supply supplies of food and other goods aside for settlement within the new reservation boundaries.<sup>62</sup> The Aboriginal people were to receive 2,500 head of beef-cattle, each weighing an average of 500

<sup>61</sup> Heintzelman, Samuel P., and ed. E. D. Townsend, "Official Report of Samuel P. Heintzelman, 1853." *Journal of California and Great Basin Anthropology* 28, no. 1 (2008): 101.

<sup>62</sup> Kappler, *Indian Affairs* Vol. IV, 1125.

pounds. The tribes were to receive 350 sacks of one-hundred-pound bags of flour to make cakes, breads, and batter. The traditional diet was still a part of everyday life for tribes out in the desert. The people on the coast consumed traditional foods and supplemented with settler-colonial acquired foods. Yet equivalents of sugar, corn, beans, coffee, and other foods had long been used from traditional food and plant resources and traded with other tribal groups. Many tribal descendants through colonialism have forgotten that their relatives had all various forms of food and drink as medicine prior to invasion.<sup>63</sup>

Diets changed as tribal people adopted new foods provided by the invaders. One resident claimed, “We planted corn, pink beans, and black-eyed peas.” Scholar Tanis Thorne in her book, *El Captain*, believes, “The change in diet was one of the ‘silent tools’ in the reworking of identity.”<sup>64</sup> According to Clifford Trafzer in his landmark book, *Fighting Invisible Enemies: Health and Medical Transitions Among Southern California Indians*, their new diet with new foods would lead to cancer, diabetes, and death. Poor health and chronic suffering by individuals were a result of the change in diet.<sup>65</sup> Wozencraft needed to find someone to provide these stipulations to the people. Isaac Williams jumped at the chance to front the beef to the Cahuilla, Cupeño, Luiseño, and Serrano to make a huge profit. The government would be good for it. Wozencraft secured this beef contract before his arrival in Southern California.<sup>66</sup> According to treaty

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<sup>63</sup> Richard Moves Camp, “Understanding Indigenous Medicine,” Lecture for Wicahpi Koyaka Tiospaye. June 3, 2021. Zoom.

<sup>64</sup> Thorne, *El Capitan*, 24.

<sup>65</sup> Trafzer, *Fighting Invisible Enemies*, 284-285.

<sup>66</sup> Letter from Oliver M. Wozencraft to Luke Lea, February 18, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 19.

stipulations, the United States had two years to distribute said resources.<sup>67</sup> In addition to distributions, the tribal nations were to receive material goods for subsistence and living.<sup>68</sup>

According to the Treaty of Temecula, Article 5 encouraged the “domestic arts of civilization.”<sup>69</sup> Articles to be given included: clothes, blankets, tools for agriculture and household items for men and women as stipulated by the treaty. These are not to be confused with presents. At the Treaty of Temecula, Wozencraft gave out servings of dry food and meat. Food rations of rice, flour, beef, and bacon were distributed among those that showed up at the treaty doings to trick the people into believing the United States would take care of them.<sup>70</sup> The women pounded the rice into pinole and mixed it with the beef and the flour. Wozencraft distributed bacon to the people and they loved it. This was first time many of the Natives had eaten bacon.<sup>71</sup>

Wozencraft, like the other two treaty brokers, Redick McKee and George W. Barbour, believed the “presents” were to show the good faith from the United States to follow through with the treaties.<sup>72</sup> In no way did the tribal leaders see the gifts or treaty stipulations as a reciprocal exchange for land. The main idea of the cattle, flour, and other

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<sup>67</sup> Kappler, *Indian Affairs* Vol. IV, 1125.

<sup>68</sup> See Article IV of the Treaty of Temecula in Appendices C and D.

<sup>69</sup> *Ibid.*

<sup>70</sup> Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0419.

<sup>71</sup> Some took the bacon east of Temecula to Aguanga at dripping springs, where they threw the bacon on the fire and watched it burn. It sizzled and burned. According to Lee Arenas, some liked the bacon so much they wanted to plant it like seeds in the ground. Harrington, “Ethnographic and Linguistic Notes Relative to 18 Unratified Treaties,” NMNH-Harrington\_mf3\_r114\_0419.

<sup>72</sup> Minutes kept by John McKee, secretary, on the expedition from Sonoma, through Northern California. 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 5.

goods was to entice and hold the Indigenous people down until they became habituated to reservation life.<sup>73</sup> These trinkets were used to coerce tribal leaders and their followers into staying and signing the treaty at Temecula. Not all tribes encountered by the Indian commissioners signed a treaty because there was a lack of presents.<sup>74</sup> The Indian commissioners' methods were alternative methods to the standard practice of treaty-making.<sup>75</sup> In addition, stipulations provided that the Native people were to receive instruction in the American way of thinking and living. Up until 1905, William Pink acknowledged, many people received farming implements (tools, wagons, implements, and wire), and services in exchange for the land surrendered.<sup>76</sup>

Article 6 alleged that the United States will provide instruction, housing, and teachers for trade positions on the newly established reservations for a period of five years.<sup>77</sup> A blacksmith, a wheelwright, a carpenter, and a practical farmer would be provided, and live on the reservation with the Natives. The Indigenous people were to receive, in addition, a teacher with as many assistants needed to train the Indigenous people in an English language setting.<sup>78</sup> The United States government wanted Indian students to learn how to speak, write, and read in English. Historian, scholar, and activist

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<sup>73</sup> Phillips, *Indians and Indian Agents*, 99.

<sup>74</sup> Letter from George W. Barbour, Redick McKee, and Oliver M. Wozencraft to Luke Lea, February 19, 1851. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 58.

<sup>75</sup> Letter from Luke Lea to Alex H. H. Stuart. May 14, 1852. U.S., *Documents Relating to the Negotiation of Unratified Treaties with the Various Band of Mission Indians of California*, Microcopy 30-31.

<sup>76</sup> William Pink interview, August 24, 2017; and United States, Office of Indian Affairs, "Report of Superintendent in Charge of Missions Indians," California Superintendency. *Annual Report of the Commissioner of Indian Affairs, for the Year 1905*, (Washington, D.C.: GPO, 1875), 225. accessed May 18, 2021, University of Wisconsin Digital Collections, <https://digicoll.library.wisc.edu/cgi-bin/History/History-idx?type=article&did=History.AnnRep05p1.i0005&id=History.AnnRep05p1&isize=M>.

<sup>77</sup> Kappler, *Indian Affairs* Vol. IV, 1125.

<sup>78</sup> *Ibid*, 1125-1126.

Rupert Costo said that Natives were always ready to improve their conditions.<sup>79</sup> To add to Costo, Indigenous people adopted new ways and traditions when they wanted to and that benefited them. The tribal leaders wanted new generations of kids to learn English to communicate effectively with the Americans. They could not go back to the old ways.<sup>80</sup>

Serrano and Cahuilla elder Ernest Siva recalled the White Eagle Prophecy. His grandfather had reported that a White Eagle came and delivered a message. The new settlers would bring new ideas and ways of doing things. The prophecy said to adopt the younger brother's [newcomer's] ways but to never forget who your ancestors are.<sup>81</sup> The roots of the Native people are grounded in the principles of their relatives and all those that came before them. Native people's traditions originate with teachings of honor and respect which will carry them forward. The tribal leaders wanted an education for their children. The youth were smart and needed the skills to operate in this new world with a foreign government and foreign language of English. The leaders knew that the best way to deal with the situation at hand was to adopt the new ways and learn what the Americans offered. In the long run the people adopted new ways and let the old ways go to get peace, emphasized Carmen Lucas.<sup>82</sup> The tribal elders and leaders understood one would have a better chance to succeed by going to American schools. The leaders wanted what was best for their children even if that meant change. Serrano elder and kika

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<sup>79</sup> Kenneth R. Philp, ed, *Indian Self Rule: First-Hand Accounts of Indian-White Relations from Roosevelt to Regan* (Logan, Utah: Utah State University Press, 1995), 48.

<sup>80</sup> Carmen Lucas interview, August 29, 2016.

<sup>81</sup> Ernest Siva interview, May 27, 2019.

<sup>82</sup> Carmen Lucas interview, September 21, 2017.

Francisco Morongo once said, “one can get lost in the crowd so do not forget your language and who you are.”<sup>83</sup>

An addendum was affixed to the bottom of the treaty. “ADDENDA. -- In case the government of the United States and the actual proprietor of the Temecula Grant cannot agree upon its purchase, the said government agrees to add some other portion of territory of equal extent to the above-described Indian grant.”<sup>84</sup> Oliver Wozencraft had not spoken to ranch owner Felix Valdez. Wozencraft had included the Temecula Ranch owned by Valdez within the boundaries of the proposed reservation. According to the treaty, if Valdez did to want to sell his land to the United States, the United States agreed to add comparable property to the reservation boundaries. It was a necessity that the reservation included the land owned by Valdez because the settlement at Temecula extended onto his land.

Signatures of affirmation concluded the approval of the Treaty of Temecula in the field. Oliver Meredith Wozencraft signed his name and title “Indian Agent” at the bottom of the Treaty. This concluded the Treaty of Temecula. The treaty concluded with witness four signers including: Juan José Warner, L. D. Vincent Haler, Isaac Williams, and Russell Sackett.<sup>85</sup> Wozencraft gave the tribal leaders at least one copy of the Treaty of Temecula.<sup>86</sup> It is not known which tribal leader kept the treaty and if this copy still exists. At the end, the Indigenous people wanted the treaty to restore tribal sovereignty,

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<sup>83</sup> Ernest Siva interview, May 27, 2019.

<sup>84</sup> Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>85</sup> Ibid.

<sup>86</sup> George H. Anderson, William H. Ellison, and Robert F. Heizer, *Treaty Making and Treaty Rejection by the Federal Government in California, 1850-1852* (Socorro, New Mexico: Ballena Press, 1978), 27.



autonomy, and bring better conditions and life ways to their people for generations.<sup>87</sup>

After the Treaty of Temecula, Wozencraft had in mind to create one more treaty in the region at Santa Ysabel.

### **Santa Ysabel**

After the treaty signing on the morning of January 5 at Temecula, Indian Commissioner Oliver Wozencraft left with a military force of men for Santa Ysabel. Wozencraft learned from the past week, the Kumeyaay were known to have participated in the recent attacks on Americans. In addition, some of Kumeyaay held close relations with the people of Kúpa, thus Wozencraft felt he need to make a treaty with their leaders. Lieutenant John Hamilton, who acted as Secretary for the Treaty of Temecula, led the 3<sup>rd</sup> Artillery unit of sixteen men to Santa Ysabel along with Captain Delavin Davidson of the 2<sup>nd</sup> Infantry and his ten men.<sup>88</sup> Companies “G” and “F” from Benicia with fifty-three men also escorted Wozencraft through the Indigenous territory to the next treaty location. After the bloodbath at Coyote Canyon, Heintzelman received news of ongoing Native resistance elsewhere.<sup>89</sup> As a matter of fact, the Kumeyaay revolted, too, and attacked in Lower California under Tipai leader Negrete. On January 4, 1852, Mexican forces defeated the Native forces near Mission Santa Tomas, Baja Mexico in Southern

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<sup>87</sup> Cline, *Just Before Sunset*, 128; Toler, *Blood of the Band*, 73; and Dan McGovern, *The Campo Indian Landfill War: The Fight for Gold in California's Garbage* (Norman: University of Oklahoma Press, 1995), 66-68.

<sup>88</sup> Captain Delavin Davidson of the 2<sup>nd</sup> Infantry had been ordered to Fort Yuma with General Samuel P. Heintzelman. Heintzelman ordered Davidson to Warner's Ranch after the ranch had been attacked by the Indigenous rebels. Blackwell, *Heintzelman's Journal*, 46; and Kappler, *Indian Affairs* Vol. IV, 1126.

<sup>89</sup> Blackwell, *Heintzelman's Journal*, 52.

Kumeyaay territory.<sup>90</sup> The slaughter of human lives in Coyote Canyon and the ongoing violence on their homelands brought reality to the forefront of the Indigenous world.

The Native people wondered what the future would bring, and they tried to envision their place in it. Wozencraft sent runners to encourage Kumeyaay leaders to a treaty at Santa Ysabel in Kumeyaay territory just days before he left Temecula. The runners went down into Southern Kumeyaay territory into Mexico as well. Ironically, some volunteer soldiers who participated in the attacks on Coyote Canyon returned to San Diego, causing great terror and scaring the residents of San Diego. Just weeks before the Native people of Southern California scarred the residents of San Diego through their use of power as American soldiers. With White soldiers dominating the scene, the soldiers chastised and ransacked the Native people.<sup>91</sup> Now the Indigenous people had assembled to secure a diplomatic relationship with the United States while California soldiers were out disturbing the peace and, on their way, south to rob and pillage.<sup>92</sup>

The Kumeyaay were told to meet for a treaty signing at the Mission of Santa Ysabel. There at the mission, the American armed forces already maintained security of the mission structures, lands, and the valley. This was a safe place for Americans but for the Indigenous people, it was questionable. Those who stayed around Santa Ysabel used this strategy to make peaceful relationships with the invaders.<sup>93</sup> Sheer force and weapon technology were the best way to show power over the Native people. At Santa Ysabel,

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<sup>90</sup> Santo Tomás is about 170 miles south of Temecula. Gordito, "Our San Diego Correspondence," *Daily Alta California* (Sacramento, CA), January 15, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>91</sup> *Ibid*, 57.

<sup>92</sup> *Ibid*.

<sup>93</sup> Dunn, "Strategies for Survival," 8.

the howitzer canons kept the Indigenous people back with their loud noises that echoed through the valley.<sup>94</sup>

Santa Ysabel was a day's ride and a two-day walk from Temecula. Wozencraft and Warner rode on horses.<sup>95</sup> Forty-six miles lay between Temecula and Santa Ysabel. The village of Santa Ysabel was southeast of Temecula. Wozencraft and the soldiers took the heavily worn trade wagon road and passed the village of Aguanga at base of Palomar Mountain. Wozencraft and the soldiers entered the Valley of San Jose and passed the burned village of Kúpa. Kúpa was not part of the tract of land set aside for use defined by the Treaty of Temecula but it within the boundaries of as defined by the Treaty of Santa Ysabel.<sup>96</sup> San Ysabel was south of Kúpa. The entourage of soldiers traveled through Indian country surrounded by mountains and cool air that January.

On January 6, Wozencraft arrived in Kumeyaay territory at the village of Santa Ysabel or *Ellykwanan*.<sup>97</sup> The small valley had green pastures and rock outcrops bordered with acorn trees. Scholar and Santa Ysabel Tribal Council Member Stan Rodriguez said Ellykwanan means rocky meadow.<sup>98</sup> Wozencraft and the treaty party arrived at Mission San Ysabel, which was located on the east side of the Santa Ysabel Valley in the northern Cuyamaca Mountains. The tribal leaders had already gathered and waited for the Americans to arrive. Captain Davidson also waited for Wozencraft's arrival. He had been

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<sup>94</sup> Hubert Howe Bancroft, *History of California. Vol. 5: 1846-1848* (San Francisco: A.L. Bancroft and Company, 1886), 340.

<sup>95</sup> Blackwell, *Heintzelman's Journal*, 52.

<sup>96</sup> There was always a fight for the land the Indigenous People had. In 1903, the Cupeño were expelled from their homelands including the village of Kúpa. Strong, *Aboriginal Society*, 185; Kappler, *Indian Affairs* Vol. IV, 1128.

<sup>97</sup> Phillips, *Chiefs and Challengers*, 140.

<sup>98</sup> Stan Rodriguez interview, June 27, 2019.

sent to Santa Ysabel days before, to make sure the volunteer soldiers did not bother the Kumeyaay people.<sup>99</sup> Kumeyaay signatories present included:

*Pantho of San Pascual,  
Jose Apau of To-co-onac,  
Juan Pablo of Ca-ma-jal,  
Mateo Co-nu-po-ip of Tah-wee,  
Loronzo Cho-lo-pe of Paishaway,  
Tamouroo of Too-weal,  
Heperera of Melcalsme San Felipe,  
Eloo of Mat-mok La Puerta,  
Oon-ah-oon of Su-ah-pi,  
Felipe Am-coo-si of Matajuai,  
Ass-tore of Kow-wer Vallecito,*

*Santiago of Ha-coom,  
Kwah-pi of Ta-cah-tay,  
Soldado of Matirom,  
Ne-cah-hal of Wah-ti,  
Sundo of Sa-quan,  
At-chu-cal of Ha-soo-malc,  
Tah-cah-pan of Coquilt,  
Leandro of San Diego Mission,  
Tadeo of San Dieguito,  
Lazaro of Santa Ysabel,  
Tomas of Santa Ysabel<sup>1777</sup>*

The tribal leaders had gathered on the grounds of Mission Santa Ysabel.<sup>1778</sup> The treaty council started immediately with at least twenty-two Kumeyaay leaders present. There were probably more including their families. Not everyone was present, either. Stan Rodriquez said the treaty negotiations and signing took place on the eastern hill just south of the mission.<sup>1779</sup> Oliver M. Wozencraft drafted up the Treaty of Santa Ysabel before its presentation to the powerful tribal leaders of the Kumeyaay [Northern Ipai and Southern Tipai].<sup>1780</sup> Oliver Wozencraft and John Hamilton reviewed the treaty with the tribal leaders who had gathered. Wozencraft read the treaty in English and fully explained its impact to the tribal leaders, who spoke no English.<sup>1781</sup>

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<sup>99</sup> Blackwell, *Heintzelman's Journal*, 52.

<sup>1777</sup> Miskwish, *Kumeyaay*, 150-151.

<sup>1778</sup> Stan Rodriquez interview by author, Santa-Ysabel -Sycuan Reservation, September 12, 2017.

<sup>1779</sup> *Ibid.*

<sup>1780</sup> Miskwish, *Kumeyaay*, 93.

<sup>1781</sup> Kappler, *Indian Affairs* Vol. IV, 1128.

The treaty was then translated into Spanish and brushed over again, leaving out critical points. Someone then, maybe Captain Leandro from Mission San Diego or Chief Panto from San Pasqual who could speak Spanish, then translated what was heard into a Kumeyaay dialect. Some of the tribal leaders who did make it to the treaty council were literate in Spanish, coming from Mission San Diego and Mission Santa Ysabel. Leandro was a Kumeyaay captain from Mission San Diego where he learned to read and write Spanish.<sup>1782</sup> Kuchat Leandro from Santa Ysabel who was baptized and lived near Mission Santa Ysabel, spoke Spanish as well and could translate into Kumeyaay as well. The former Chairman for the Viejas Band of Kumeyaay Indians, Anthony Pico, said the government had no translators who spoke the local Indigenous language. To Americans, the Native language was foreign and sounded like gibberish. English was used as the official language of the treaty. As with the Temecula Treaty, Spanish was the language used to communicate with the Kumeyaay people.<sup>1783</sup>

Like the Treaty of Temecula, the articles were touched on but not detailed enough to accurately describe the position they were in. Wozencraft used deceit to stop the tribes from realizing what was in the treaty document. Not all tribal leaders of the Kumeyaay Nation were present.<sup>1784</sup> Some leaders may have just disagreed and refused to sign. Kwaaymi elder Carmen Lucas said Chief Valentine of Kwaaymii was not present for the treaty assembly for the United States.<sup>1785</sup> Not of the leaders at Santa Ysabel or at

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<sup>1782</sup> Thorne, *El Capitan*, 26.

<sup>1783</sup> Anthony Pico interview by author, Morongo Reservation, CA, May 10, 2017. Hereafter cited as Anthony Pico, May 10, 2017.

<sup>1784</sup> Carmen Lucas interviews, August 29, 2016; and Carrico, *Strangers in a Stolen Land*, 91.

<sup>1785</sup> Kwaaymii is a band of the Kumeyaay Nation. Carmen Lucas interview, November 29, 2018.

Temecula had the power or authority to transfer title of their lands to the United States or obligate their people to move to new lands, stated Edward Castillo.<sup>1786</sup>

The individual sovereign bands had a chance to review and talk about the treaty, its six articles, the proposed reservation defined by the treaty, and the impacts on their communities, among themselves at least overnight. The treaty and its articles and addendum were not completely revealed, to not let on the scope of the treaty, to take the land. At the heart of the treaty doings, the tribal leaders took into consideration what would happen to them if they did not sign. The massacre at Coyote Canyon was fresh in their minds. If you do not comply with the United States, you will be killed as American law dictated. The mighty leaders without comprehension and under direct coercion signed the treaty without realizing the full impact. They had hoped for a better life to come. The leaders came with a good heart and prayed for a better future. That is why they signed it, exclaimed Anthony Pico.<sup>1787</sup> They did not fully understand the treaty itself. The Kumeyaay people wanted the treaty believing better living conditions were to come, along with a foundation to continue their lifeway practices. The Kumeyaay did not want the extinguishment of land and occupation of land rights and saw a continuance of tribal management over the land.<sup>1788</sup>

The treaty identified six articles. Like the Treaty of Temecula, the Indigenous people were to recognize the United States as the authority of the land from this day

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<sup>1786</sup> Edward Castillo interview, March 12, 2019; and Carrico, *Strangers in a Stolen Land*, 91.

<sup>1787</sup> Anthony Pico interview, May 10, 2017.

<sup>1788</sup> Cline, *Just Before Sunset*, 128; Toler, *Blood of the Band*, 73; and McGovern, *The Campo Indian Landfill War*, 66-68.

forward in exchange for a small plot of land.<sup>1789</sup> The United States viewed the transfer of title as cession of lands, but the Indigenous people did not see it that way.<sup>1790</sup> The Kumeyaay were expected to cede their lands to the United States. The tribal leaders never ceded their lands to the United States, hammered Edward Castillo.<sup>1791</sup> This was an abomination. The Kumeyaay people were asked to give up their land from the Pacific Coast all the way to the Colorado River.<sup>1792</sup> The proposed Santa Ysabel Reservation would have included only a third of the lands and villages of the Kumeyaay and Luiseño, excluding much of the traditional lands, food gathering ares, and villages of the Kumeyaay.<sup>1793</sup>

Indian Commissioner Oliver Wozencraft must have collaborated with Senator Johnathon Warner [Juan José Warner] in selection of an area to set be aside for the Kumeyaay and its boundaries for a reservation. It is possible that Warner suggested he act as an Indian agent, too. Warner probably suggested to Wozencraft to include his ranch property where hundreds of Indigenous people lived, to be part of the new reservation to give him access to a labor force and give him the land. The proposed reservation bordered the reservation with the Cahuilla, Cupeño, Luiseño, and Serrano to the north.<sup>1794</sup> The Treaty of Temecula was used as a template for the Treaty of Santa Ysabel with similar articles and stipulations. The main difference being the proposed reservation

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<sup>1789</sup> Kappler, *Indian Affairs* Vol. IV, 1127.

<sup>1790</sup> Duane Champagne, "Treaties, Ceded Land, and Recognition," *Indian Country Today*, September 14, 2014. <https://indiancountrytoday.com/>.

<sup>1791</sup> Edward Castillo interview, September 4, 2016.

<sup>1792</sup> Kappler, *Indian Affairs* Vol. IV, 1127.

<sup>1793</sup> Carrico, *Strangers in a Stolen Land*, 91.

<sup>1794</sup> Kappler, *Indian Affairs* Vol. IV, 1128.

boundaries under Article 3. There was an addendum to the Treaty of Santa Ysabel too, that was most likely not even read, translated, or skimmed over to the tribal leaders.

*“From the above district of country, set apart for the Indians, is reserved to the present owner thereof, the Hon. J. J. Warner, one square league at Aqua Caliente, to be selected by him for the purpose of improving the warm springs at said place, in case the said ownership be adjudicated in his (Warner's) favor by the land commissioners of California.”<sup>1795</sup>*

The proposed reservation excluded all coastal but included mountain and desert areas. Beginning at present day Santa Ysabel Reservation, the northern part of the proposed Kumeyaay [Ipai] reservation bordered the southern part of the proposed boundaries contained within the Treaty of Temecula. From Santa Ysabel, the boundary meandered north to Hot Springs Mountain and then headed east passing through present day Los Coyote Reservation. The boundary continued east towards the Salton Sea and terminated at Big Wash and two miles southwest of present-day Red Earth Casino on the Torres Martinez Reservation in the desert. From Big Wash, the boundary headed southeast between the Fish Creek Mountains and Superstition Mountain. From there the boundary headed southwest to the modern-day international border with Mexico in the Jacumba Mountains. From there the boundary headed west, along the international border to one mile east of the Campo Reservation. From the border, the proposed boundary headed northwest, passing through multiple present-day reservations including Campo, La Posta, Manzanita, Ewiaapaap, and back to Santa Ysabel.

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<sup>1795</sup> Ibid.



The coast provided many cultural sites with resources like fish and shells that were part of self-sufficiency and trade exclaimed Kwaaymii leader and knowledge holder, Carmen Lucas.<sup>1796</sup> The reservation did not include the ocean itself, which was a primary resource for food and voyaging. According to Kumeyaay leader Stan Rodriguez, the area to be set aside for Kumeyaay use was within the mountainous areas and away from White settlements.<sup>1797</sup>

This plot of land selected for the sole use of the Kumeyaay was to allow Juan José Warner to continue to live on his ranch lands, which included a good running spring. This land belonged to the Cupeño from the village of Kúpa. This was the home of Nóta Jose Noca and Antonio Garra. Jonathon Warner wanted “legal” and uncontested ownership of the ranch in case the United States did not recognize his land grant from Mexico.<sup>1798</sup> Warner, a California Senator, was a scrupulous man and tried to take advantage of the treaty situation at both the Treaty of Temecula and Treaty of Santa Ysabel, exclaimed Cupeño Chairman William Pink.<sup>1799</sup>

The treaty was about improving the lives of the Aboriginal people, yet California State Senator Jonathan Trumbell Warner [Juan José Warner] worked for his own benefit.<sup>1800</sup> Phillips suggest that Warner and Wozencraft wanted to make sure the Indigenous people had enough food.<sup>1801</sup> Twenty-two Kumeyaay tribal leaders attached

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<sup>1796</sup> Carmen Lucas interview, November 29, 2018.

<sup>1797</sup> Stan Rodriguez interview, September 12, 2017.

<sup>1798</sup> All land grants had to be approved by the California Court of Claims within two years after California became a state.

<sup>1799</sup> William Pink interview, April 2, 2017.

<sup>1800</sup> *Ibid.*

<sup>1801</sup> Phillips, *Chiefs and Challengers*, 141.

their “X” mark as consenting to their presence and agreeing to the treaty by force and threat. Richard Carrico, a prominent historian who worked in the San Diego region, believed that the Indigenous leaders negotiated and that the leaders consented.<sup>1802</sup> This is how the history was written. This is not true at all. Such academic views do not accurately paint the truth of the treaty doings and how the people felt about the treaty. There was no negotiation.

The tribal leaders consented under duress. Corresponding to his book, *X-Marks, Native Signatures of Assent*, Native American theorist Scott R. Lyons wrote that the “X” mark signifies threat and duress and less of an understanding and more of a coercion to sign.<sup>1803</sup> Kwaaymii elder Carmen Lucas believes that the treaty was driven by manifest destiny and the killing of Indians. Tribes that did not sign were killed. Lucas believes, “the people [Indigenous people] wanted peace. They found a way to make that happen. They adopted new ways and let go of the old ways to get peace,” including confirmation of the treaty with your name.<sup>1804</sup> Lucas also said, “just because you touched the pen, does not mean you are a spokesman for the people.”<sup>1805</sup> Many people at the time disagreed with the when the leaders signed the treaty with the United States. Furthermore, it has been suggested as well that alcohol was part of the transaction. Americans might have given alcohol to the leaders the night before to help entice the leaders to sign. The *California Star* newspaper suggested that this had happened in northern California.<sup>1806</sup>

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<sup>1802</sup> Carrico, *Strangers in a Stolen Land*, 91; Phillips, *Chiefs and Challengers*, 140-141.

<sup>1803</sup> Lyons, *X-Marks, Native Signatures of Assent*, 1.

<sup>1804</sup> Carmen Lucas, September 21, 2017.

<sup>1805</sup> Carmen Lucas, August 29, 2016.

<sup>1806</sup> “Cal Star’s Sonoma Correspondence,” *California Star* (San Francisco, CA), March 11, 1848. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

In addition, the Treaty of Temecula reserved all minerals for the United States so that White miners would have access to mineral rights on reservations. Dan McGovern, a former environmental lawyer for the Environmental Protection Agency, pointed out that the mineral rights belonged to the nation, not the tribes.<sup>1807</sup> Gold and water were resources miners encountered and wanted. Wozencraft believed Indigenous people did not need such resources as gold.<sup>1808</sup> Indigenous rights were overlooked for the benefit of the White communities.

In his book, *Blood of the Band, An Ipai Family Story*, David Toler, a Kumeyaay leader and historian, asserted Northern Kumeyaay and Southern Kumeyaay sought out land rights and recognition for their people with the American government at the treaty doings.<sup>1809</sup> Oliver Wozencraft and the military forces represented a threat to the Kumeyaay way of life. They also knew they needed to adopt a new way of life if they were going to survive.<sup>1810</sup> On November 7, 1852, the Treaty of Santa Ysabel was signed by Kumeyaay leaders from California and Baja California on the grounds of Mission Santa Ysabel.<sup>1811</sup>

### **Kumeyaay Signatories**

**Jose Panto** was an elected traditional captain of the Kumeyaay who signed the Treaty of Santa Ysabel. Panto was the first in line to sign the Treaty of Santa Ysabel. His

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<sup>1807</sup> McGovern, *The Campo Indian Landfill War*, 67.

<sup>1808</sup> Ibid.

<sup>1809</sup> Toler, *Blood of the Band*, 73.

<sup>1810</sup> Carmen Lucas interview, August 29, 2016; Carmen Lucas interview, September 21, 2017; and Carmen Lucas interview November 28, 2018.

<sup>1811</sup> Stan Rodriguez interview, September 12, 2017; and Toler, *Blood of the Band*, 73.

mark was recorded as Pantho of San Pasqual.<sup>1812</sup> Panto came from the village of Paswka or San Pasqual, a newly established village after the secularization of the missions in 1833.<sup>1813</sup> Panto was born at the village of Matmo, but he was baptized at Mission Santa Ysabel.<sup>1814</sup> Panto had a gift from the Creator. Panto was a medicine man or kusiai, a healer.<sup>1815</sup> In Spanish, they called him Panto or fantasma.<sup>1816</sup> Captain Panto helped United States General Kearny fight the Mexican army in December 1846 at the village of San Pasqual. Stan Rodriquez refers to this area as Matguay, meaning battlefield.<sup>1817</sup> Panto provided horses to American forces on his raid of Los Angeles in 1847.<sup>1818</sup> Panto was a rancher and had a heard of horses and cattle. Panto was a fierce leader, protecting his territory and people. Panto later protected Mesa Grande as its Captain. Panto in 1854 replaced Tomas as the captain of Mesa Grande.<sup>1819</sup> Panto had a daughter named Felecita.<sup>1820</sup>

**Jose Apan** was a traditional leader of the Kumeyaay from the village of To-co-mak or Tukumak.<sup>1821</sup> His mark was recorded as José Apan of To-co-anac.<sup>1822</sup>

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<sup>1812</sup> Kappler, *Indian Affairs* Vol. IV, 1128.

<sup>1813</sup> Farris, "José Panto, Captain," 149.

<sup>1814</sup> Ibid, 149-150.

<sup>1815</sup> Ibid.

<sup>1816</sup> Fantasma means ghost or spirit. Panto was a medicine man. Panto was able to travel in both the physical and spiritual worlds. He was a spiritual leader.

<sup>1817</sup> Stan Rodriquez interview, September 12, 2017.

<sup>1818</sup> Farris, "José Panto, Capitan," 155.

<sup>1819</sup> Toler, *Blood of the Band*, 72.

<sup>1820</sup> Ibid, 76.

<sup>1821</sup> Carrico, *Strangers in a Stolen Land*, 94.

<sup>1822</sup> Kappler, *Indian Affairs* Vol. IV, 1128.

**Juan Pablo** was a traditional leader of the people at Ca-ma-jal or Jamacha.<sup>1823</sup> His mark was recorded as Juan Pablo of Ca-ma-jal.<sup>1824</sup> Ca-ma-jal is also referred to as Mesa Chiquita.<sup>1825</sup> There were fields of wheat and a small orchard of fruit trees at Mesa Chiquita.<sup>1826</sup>

**Mateo** was a traditional Kumeyaay leader. His mark was recorded as Mateo “Co-nu-po-ip” of Tah-wee.<sup>1827</sup> Mateo signed the Treaty of Santa Ysabel as leader of the village Tah-wee. Tah-wee was located north of San Felipe, just outside of San Jose Valley and twelve miles east of Kúpa.<sup>1828</sup> Mateo is a Spanish word meaning “bear.” Mateo’s traditional name was Co-nu-po-ip.<sup>1829</sup> Mateo was a farmer who grew corn and peas.<sup>1830</sup>

**Lorenzo** was a traditional leader of the Kumeyaay from the village Prickaway. His mark was recorded as Lorenzo “Cho-lo-pe” of Prick-a-way.<sup>1831</sup> His traditional name was Cho-lo-pe.<sup>1832</sup>

**Tamouroo** was a traditional leader of the Kumeyaay. He led the people from the village of Too-weal.<sup>1833</sup> His mark was recorded as Tamouroo of To-weal.<sup>1834</sup>

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<sup>1823</sup> Carrico, *Strangers in a Stolen Land*, 94.

<sup>1824</sup> Kappler, *Indian Affairs* Vol. IV, 1128.

<sup>1825</sup> “Part 1: Clans and Villages,” Mesa Grande Band of Mission Indians. <http://mesagrandeband-nsn.gov.s228462.gridserver.com>.

<sup>1826</sup> Helen H. Jackson, *A Century of Dishonor*, 495.

<sup>1827</sup> Kappler, *Indian Affairs* Vol. IV, 1128.

<sup>1828</sup> Akin, “Lines of the Land,” 131; Carrico, *Strangers in a Stolen Land*, 12; and Shipek, *Pushed into the Rocks*, 44.

<sup>1829</sup> Kappler, *Indian Affairs* Vol. IV, 1128.

<sup>1830</sup> Toler, *Blood of the Band*, 76.

<sup>1831</sup> Kappler, *Indian Affairs* Vol. IV, 1128.

<sup>1832</sup> *Ibid.*

<sup>1833</sup> *Ibid.*

<sup>1834</sup> *Ibid.*

**Heperera** was a Kumeyaay leader of the people from the village of Mel-co-to-nac.<sup>1835</sup> His mark is recorded as Heperera of Mel-co-to-mac or San Felipe. The village of Mel-co-to-mac is also known as San Felipe after the Mexican name of grant that claimed it.<sup>1836</sup> Michael Miskwish Connolly records the name of the village as Melcalseme.<sup>1837</sup> Stan Rodriguez's family originated from this Kumeyaay village that lies on the plateau of the mountains down into the valley looking out into the open desert facing east. The village had another name of Awinally [a-wi-nash] or Moving Rattlesnake.<sup>1838</sup>

**Eloo** was a Kumeyaay leader from the village of Mat-mak.<sup>1839</sup> His mark was recorded as Eloo of Mat-mok.<sup>1840</sup> Mat-mak is also known as La Puerta.<sup>1841</sup> La Puerta is a Spanish synonym for a saddle, pass, or doorway.

**Oon-ah-oon** was a leader of the Kumeyaay people. He was leader at the village of Lu-ah-pi also known as Cuyapaibe.<sup>1842</sup> Aha-kwi-amak or Cuyamaca means water beyond.<sup>1843</sup>

**Felipe** was a traditional Kumeyaay leader from the village of Matajauí. Matajauí is commonly referred to as Mataragui.<sup>1844</sup> Felipe's traditional name was Am-coo-si.<sup>1845</sup>

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<sup>1835</sup> Ibid.

<sup>1836</sup> Thomson, *240 Years of Ranching*, 1.

<sup>1837</sup> Miskwish, *Kumeyaay*, 150-151.

<sup>1838</sup> Stan Rodriguez interview, September 12, 2017.

<sup>1839</sup> Kappler, *Indian Affairs* Vol. IV, 1128.

<sup>1840</sup> Ibid.

<sup>1841</sup> Carrico, *Strangers in a Stolen Land*, 94.

<sup>1842</sup> Ibid.

<sup>1843</sup> Pene Manale, "First Map of San Diego Uplands-1783," Alpine Historical and Conservation Society, © 2020, [http://www.alpinehistory.org/first\\_map\\_of\\_san\\_diego\\_uplands\\_1783.html](http://www.alpinehistory.org/first_map_of_san_diego_uplands_1783.html).

<sup>1844</sup> Carrico, *Strangers in a Stolen Land*, 94.

<sup>1845</sup> Ibid.

Mataragui was in the Cuyamaca Mountains near Julian.<sup>1846</sup> Mataragui means a crooked place. There was a spring located there and the land was fertile.<sup>1847</sup>

**Santiago** was a traditional kachat or leader of the Kumeyaay. Santiago was from the village of Ha-coom.<sup>1848</sup> Another name for Ha-coom is Jacumba.<sup>1849</sup> Jacumba was centered the village around a mud hot spring.<sup>1850</sup> Santiago and the people of Jacumba cultivated vegetables, grapes, and other fruits to sustain themselves. The land used to be rich and fertile.<sup>1851</sup>

**Kwapi** was a traditional leader of the Kumeyaay. Kwapi's mark was recorded as Kwa-pi, from the village of Tac-cah-tay or Tecate. Tecate was located to the southeast of the sacred mountains of Kuchama. Kuchama was a place power for the Kumeyaay.<sup>1852</sup> Kwahpi represented a strong powerful line of people. Kwapi or Kwapai is another word for Kumeyaay.<sup>1853</sup> Tecate was a village in Baja California or Mexico where different foods could be acquired.<sup>1854</sup>

**Soldado** was a traditional leader of the Kumeyaay. His mark was recorded as Soldado of Matiom.<sup>1855</sup> Soldado is the Spanish name for soldier.

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<sup>1846</sup> Ibid, 93.

<sup>1847</sup> Albert Simonson, "Cuyamaca's "Crooked Place," in *Julian News*. February 23, 2014. [https://issuu.com/juliannews/docs/juliannews\\_29-29](https://issuu.com/juliannews/docs/juliannews_29-29); and Toler, *Blood of the Band*, 76.

<sup>1848</sup> Kappler, *Indian Affairs* Vol. IV, 1128.

<sup>1849</sup> Carrico, *Strangers in a Stolen Land*, 94.

<sup>1850</sup> <http://viejasbandofkumeyaay.org/viejas-community/kumeyaay-history/kumeyaay-sense-of-the-land/>.

<sup>1851</sup> J. M. Farwell, "Letter from Our Special Overland Correspondent," *Daily Alta California* (Sacramento, CA), November 6, 1858. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>1852</sup> <http://viejasbandofkumeyaay.org/viejas-community/kumeyaay-history/kumeyaay-sense-of-the-land/>.

<sup>1853</sup> Campo Kumeyaay Nation.

<http://www.camponsn.gov/postcontact.html#:~:text=In%201852%2C%20the%20Kumeyaay%20Kwa,a%20nation%20within%20a%20nation.>

<sup>1854</sup> Delfina Cuero and Florence Shipek, *The Autobiography of Delfino Cuero* (Banning, CA: Malki Museum Press, 1970), 26.

<sup>1855</sup> Kappler, *Indian Affairs* Vol. IV, 1128.

**Necacal** [Ne-cah] was a leader of the Kumeyaay. Michael Connolly writes the name as Ne-cah-cal.<sup>1856</sup> Necacal led the people from the village of Guatay [Wah-ti].<sup>1857</sup> Necacal went by the name “Coo-lim.”<sup>1858</sup>

**Sundo** was a traditional leader of the Kumeyaay. Sundo was from the village of Sycuan [Sa-quan]. His mark was recorded as Sundo of Sa-quan.<sup>1859</sup> Sa-quan was in Sweetwater Canyon. The people of Sundo cultivated the land and raised and cattle.<sup>1860</sup> Sycuan is now a federally recognized tribal reservation.

**Atchucal** was a leader of the Kumeyaay. Atchucal led the people of the village Ha-soo-malc.<sup>1861</sup> Atchucal is the powerful medicine plant called creosote in English.

**Tah-ca-pan** was a Kumeyaay leader. Tah-ca-pan led the people of Coquilt.<sup>1862</sup> His mark was recorded as Tah-ca-pan of Coquilt.<sup>1863</sup>

**Leandro** was a Kumeyaay alcalde and captain. Leandro was the captain of the people at Mission San Diego. His mark was recorded as Leandro of San Diego Mission.<sup>1864</sup> Leandro was a literate Native who read and wrote in the Spanish language.<sup>1865</sup> Leandro came from the village of Nipaquay near the coast.<sup>1866</sup> Leandro was

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<sup>1856</sup> Miskwish, *Kumeyaay*, 150.

<sup>1857</sup> Carrico, *Strangers in a Stolen Land*, 94.

<sup>1858</sup> Kappler, *Indian Affairs* Vol. IV, 1128.

<sup>1859</sup> Ibid.

<sup>1860</sup> Helen H. Jackson, *A Century of Dishonor*, 500.

<sup>1861</sup> Kappler, *Indian Affairs* Vol. IV, 1128.

<sup>1862</sup> Ibid.

<sup>1863</sup> Ibid.

<sup>1864</sup> Ibid.

<sup>1865</sup> Thorne, *El Capitan*, 26.

<sup>1866</sup> Carrico, *Strangers in a Stolen Land*, 94.



sixty years old when he signed the Treaty of San Ysabel. Leandro moved inland to El Capitan River Valley and started a new settlement there years later.<sup>1867</sup>

**Tadeo** was Kumeyaay captain. He came from the village of San Dieguito also called Jellegua.<sup>1868</sup> The Kumeyaay called the settlement, Ahwell Ewa, meaning “twines’ house.”<sup>1869</sup> His mark was recorded as Tadeo of San Dieguito.<sup>1870</sup> San Dieguito was a coastal village. Tadeo is a Christianized name. He was baptized. Tadeo was pressured into signing because the proposed reservation was far from his home; yet this was his way to keep his people alive.<sup>1871</sup>

**Lazaro** was a traditional hereditary kuchat or leader from the village of Santa Ysabel or Ellykwanan. Lazaro led the people of Santa Ysabel, traditionally known as Ellykwanan, meaning “mound by a mole.”<sup>1872</sup> The Kumeyaay today call this place Howls, meaning “rocky meadow.”<sup>1873</sup> Lazaro supported the Americans. Lazaro warned Juan Warner of the impending attack on his ranch by Garra. In July of 1852, Lazaro helped American military forces capture Kamia leader Geronimo by the Colorado River. The leaders at Santa Ysabel were used to working diplomatically with the foreign governments as a survival mechanism.<sup>1874</sup> Most likely, Lazaro in Spanish was literate and learned to communicate in Spanish.

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<sup>1867</sup> Tanis, *El Capitan*, 26.

<sup>1868</sup> Carrico, *Strangers in a Stolen Land*, 94.

<sup>1869</sup> Richard Carrico, “Castigating the Insolent Ones: Native Resistance and the Spanish Military, The Pa’mu Incident,” in *The Journal of San Diego History* 64 (Spring 2018), 151.

<sup>1870</sup> Kappler, *Indian Affairs* Vol. IV, 1128.

<sup>1871</sup> Dunn, “Strategies for Survival,” 156.

<sup>1872</sup> Joseph Hill, *The History of Warner’s Ranch*, 117-118; and “The Prehistoric People of Ramona,” *The Daily Press*, (Victorville, CA), June 4, 2009. <https://www.dailypress.com/>.

<sup>1873</sup> Stan Rodriguez, Text Message to author, August 16-17, 2018.

<sup>1874</sup> Dunn, “Strategies for Survival,” 156-157.

**Tomas Chihu** was an upcoming leader of Santa Ysabel.<sup>1875</sup> He was not a traditional leader from the village Ellykwanan.<sup>1876</sup> Tomas worked through the Americans to gain his power at Santa Ysabel. In 1854, the Americans appointed him as leader of all the Diegueño.<sup>1877</sup> The word “tomus” sounds like Tomas as it was written on the treaty. “Tomus” though, is a Kumeyaay word meaning everything obliterated or covered up.<sup>1878</sup> Tomas ruled for more than fifteen years at Santa Ysabel at least from 1850 to 1865.<sup>1879</sup> Ambrosio replaced Tomas as the leader of Santa Ysabel.<sup>1880</sup> Tomas Chihu was young man from Santa Ysabel who was well educated in the Spanish language. He used the Spanish language as a tool to work with outsiders. He used such tools as language for cultural survival.

**Asso-tore Haawii** was a traditional Kumeyaay leader. Asso-tore led the people from the village of Haawii in the Vallecito Valley. His mark was recorded as As-so-tore of How-Wee Vallecito.<sup>1881</sup> Kumeyaay scholar Michael Connolly writes the name as “Asso-tore of Kow-wer Vallecito.”<sup>1882</sup> The winter village was located near the mineral hot springs, now called Agua Caliente Springs, on the edge of the desert and the base of the Cuyamaca Mountains.<sup>1883</sup> Kwaaymii elder Tom Lucas recalled Haawii means water in

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<sup>1875</sup> Carrico, *Strangers in a Stolen Land*, 92.

<sup>1876</sup> Ibid 92 and 94.

<sup>1877</sup> Dunn, “Strategies for Survival,” 158.

<sup>1878</sup> Kwaaymii leader Tomas Lucas said he was given the traditional name of Tomus. Tomus means everything obliterated or covered up with Kumeyaay. Cline, *Just Before Sunset*, 1.

<sup>1879</sup> Carrico, *Strangers in a Stolen Land*, 92.

<sup>1880</sup> Cave Coutts recorded Tomas when he first passed through the area. Ibid.

<sup>1881</sup> Kappler, *Indian Affairs* Vol. IV, 1128.

<sup>1882</sup> Miskwish, *Kumeyaay*, 151.

<sup>1883</sup> The mineral springs are located within the Agua Caliente County Park in the Anza Borrego Desert State Park. Frederick H. Hills, *History of Agua Caliente Springs and Agua Caliente Regional Park* (San Diego, CA: Desierto Relampago Books, 2017), 20.

rock.<sup>1884</sup> Haawii was just north of the Laguna mountains in the Vallecito Valley. Another group took control of the village and left the village of Haawii abandoned.<sup>1885</sup> The people from Kow-wer joined with the Amat Haapshuu to the west.<sup>1886</sup>

The Kwaaymii Band did not have a signatory to the Treaty of Santa Ysabel. The three Kwaaymi villages were all close to one another and close to the other Kumeyaay villages that did have representation on the treaty. At the time in 1851-1852, Laguna allowed and brought in new leadership. Chief Valentine was not Kwaaymii but Kumeyaay from the village of San Pasqual, related Carmen Lucas. The Kwaaymii gave Valentine full authority to speak on their behalf.<sup>1887</sup> Why was Valentine not a signatory to the treaty Carmen Lucas asked.<sup>1888</sup> Carmen Lucas does not agree tribes should be under the authority of the United States, and doubts Chief Valentine would have agreed to Articles 1 and 2, giving authority to the United States to be the highest authority in the land and Kwaaymii subjects to the United States.<sup>1889</sup> Native scholars Sean Milanovich, Stan Rodriquez, and Cliff Trafzer believe the leaders were forced into signing the treaties

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<sup>1884</sup> Cline, *Just Before Sunset*, 18.

<sup>1885</sup> The area is now within the Anza Borrego State Park.

<sup>1886</sup> Cline, *Just Before Sunset*, 18.

<sup>1887</sup> For some tribal descendants, not all the signatories had permission to sign. They represented families only. At the same time, Kelsey expressed the opinion that the Indian Commissioners themselves including Oliver Wozencraft did not have authority to be present. Richard Carrico, "San Diego Indians and the Federal Government Years of Neglect, 1850-1865," *Journal of San Diego History* 26, no. 3 (Summer 1980): San Diego History Center, accessed October 9, 2020, <https://sandiegohistory.org/journal/1980/july/neglect/>; Kelsey, "Treaty Myth," 231; and Heizer, *Unratified Treaties*, 4-5.

<sup>1888</sup> Carmen Lucas interview, November 29, 2018.

<sup>1889</sup> In 1947 and 1949, Tom Lucas, a member of the Kwaaymii Laguna Band of Mission Indians petitioned the Bureau of Indian Affairs for a patent of the land in fee. Lucas did not want to be under watch of the Bureau. Carmen Lucas interview, November 29, 2018; Carmen Lucas interview, August 4, 2021, and Thomas L. Scharf, "Brief Glimpse of the Kumeyaay Past," *San Diego Historical Society Quarterly* 29, no. 2 (Spring 1983), <https://sandiegohistory.org/journal/1983/april/kumeyaay/>, October 19, 2020.

of Santa Ysabel and Temecula.<sup>1890</sup> Like Temecula, the leaders were encouraged through force of arms, demonstrations of canons, and the bloodshed at Coyote Canyon, as a way to encourage treaty consent. On January 9, 1852, Indian Commissioner Oliver Wozencraft wrote to Commissioner of Indian Affairs, Luke Lea:

“Indians in the lower part of California, of the singularity fortuitous results, attending my mission among them ~ that peace was made in a manner not likely to be broken on their part, in as much of some twelve of these chiefs, and head men, sealed with their chiefs blood, which was farther confirmed by their assent and signatures of fifty Chiefs, and Captains.”<sup>1891</sup>

The fact that a previous treaty had just been signed by Chief Juan Antonio and many others encouraged tribal leaders to consent to signing the Treaty of Santa Ysabel. The extortion of the military on the tribal leaders was strong. Chief Panto as well as the other leaders that day wanted to secure a future for their children for generations to come. The Kumeyaay believed the Treaty of Santa Ysabel was the mechanism whereby the United States acknowledged the Kumeyaay people and their status as a nation within a nation.<sup>1892</sup>

## No More Treaties

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<sup>1890</sup> Cliff Trafzer interview by author, phone, August 29, 2019; and Rodriquez interview, September 12, 2017.

<sup>1891</sup> Oliver Wozencraft underlined the words in his letter to Luke Lea reporting on the actions including the Treaty at Temecula. Letter from Oliver M. Wozencraft to Luke Lea, June 23, 1852, *Letters Received by the Office of Indian Affairs*, 1125.

<sup>1892</sup> Campo Kumeyaay Nation.

<http://www.camponsn.gov/postcontact.html#:~:text=In%201852%2C%20the%20Kumeyaay%20Kwa,a%20nation%20within%20a%20nation.>

After Treaty Commissioner Oliver Wozencraft finalized the Treaty of Santa Ysabel, Wozencraft had intentions of making another treaty with the Indigenous people on the southern side of California along the Colorado River.<sup>1893</sup> The river was about a five-day walk which passed through heavily guarded Kumeyaay country. With the treaty stipulations for the two treaties that Wozencraft just conducted and the one envisioned at the Colorado River, Wozencraft expected expenditures totaling \$200,000 to be needed for stipulation supplies, including beef.<sup>1894</sup> “A proposition and engagement had been made with them to do a treaty afterward was not complied with by us. Indeed, this was assigned to us as one of the strongest causes of the war.”<sup>1895</sup> Wozencraft felt the Indigenous people of Southern California, “Kah-we-as [Cahuilla], San Luis Rey Indians [Luiseno and Cupeño], Co-com-cah-ras [Serrano], Dieguinos [Diegueño or Kumeyaay], and the Indians of the Colorado,” after receiving beef, would be at peace with the Americans.<sup>1896</sup> Wozencraft believed peace was coming to the tribal people with whom he had just made treaties. “No white man would be willing to live on the land, except in case of sickness when he chose to visit the hot sulphur [sulfur] springs.”<sup>1897</sup>

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<sup>1893</sup> Letter from Oliver M. Wozencraft to Luke Lea, Received February 18, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 289.

<sup>1894</sup> Letter from Oliver Wozencraft to Luke Lea. January 9, 1852. *Letters Received by the Office of Indian Affairs*, 1046.

<sup>1895</sup> *Ibid*, 1045.

<sup>1896</sup> *Ibid*, 1046.

<sup>1897</sup> Letter from Oliver M. Wozencraft to Luke Lea, Received February 18, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 288.

To the Americans, the Indigenous people along the Colorado River were viewed as a threat and caused problems for immigrants crossing into California.<sup>1898</sup> The Mohave and Quechan had protected their territory from Americans who crossed their lands without permission and killed the Indigenous men and women who got in their way. Wozencraft wanted to conduct a treaty council with the people on the river corridor and plateaus to make peace. Wozencraft waited on information from the Army commanding officer, Samuel Peter Heintzelman, for the expedition to the Colorado River.<sup>1899</sup> Heintzelman did not expect to go for another three weeks to the confluence of the Gila and Colorado Rivers. Heintzelman was waiting on news from the Sierra Nevada before leaving. Therewithal, Wozencraft was sick, reported Heintzelman. He was not accustomed to being in the field.<sup>1900</sup> Wozencraft and Warner arrived back in San Diego on January 9 and left on the 13. They both left for San Francisco on the Sea Bird vessel, leaving unfulfilled promises of making another treaty with tribes on the Colorado River.<sup>1901</sup>

Oliver M. Wozencraft never made any more treaties with tribes after the treaties of Temecula and Santa Ysabel. General Heintzelman never made the trip to the Colorado River until the end of February; thus, Wozencraft did not make a treaty with the Aboriginal people there. Lieutenant Heintzelman did make a treaty with the Quechan on

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<sup>1898</sup> Faulk, *Destiny Road*, 73-81; Lindsay, *Murder State*, 136-137, 141-144, and 159; Madley, *An American Genocide*, 180-181, and 191; and "Expedition of General Morehead Continued," *Daily Alta California* (San Francisco, CA), January 18, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>1899</sup> *Ibid.*

<sup>1900</sup> Blackwell, *Heintzelman's Journal*, 58.

<sup>1901</sup> "Later from San Diego and Los Angeles," *Daily Alta California* (San Francisco, CA) January 18, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

the river several weeks later.<sup>1902</sup> With the lands left stained from Indigenous blood, Americans believed, “travelers can now proceed on their journey without fearing the hostilities of the Colorado.”<sup>1903</sup> Wozencraft never made the trip to the high desert to make a treaty with the Serrano and Chemehuevi people either. Violence continued on the land against the Indigenous people of Southern California while settlers and state militias overran Indigenous lands and villages.<sup>1904</sup>

The treaties opened land grabs by invading American settlers, who undermined the remaining Indigenous people on the land. Americans consumed all Indigenous lands, leaving the Indigenous people with little land with little resources to support themselves. There was no land to sustain themselves effectively. All the problems the Native people faced before the treaties and from the American invasion continued for the next fifty years into the twentieth century. The Americans kept coming by the thousands and tipped the scale of colonization even further, dividing the land and the people. Often groups were removed by force up to 1870s when the United States made federal reservations for the Indigenous people.<sup>1905</sup> The Americans felt they had the right to the land even though the Indigenous people occupied it.

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<sup>1902</sup> This treaty was not an official treaty with an appointed treaty commissioner from the President of the United States. It was not until 1883 did the Quechan meet with the United States and establish the Fort Yuma Reservation. The Government a year later put the land back in public domain. Then in 1894, The Fort Yuma Reservation was re-established. “From Sonora *Los Angeles Star* (Los Angeles, CA) November 13, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; and Royce, *Indian Land Cessions in the United States*, 912.

<sup>1903</sup> “News From the Gila,” *San Diego Herald* (San Diego, CA) March 6, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>1904</sup> Madley, *American Genocide*, 355.

<sup>1905</sup> Lindsay, *Murder State*, 168-178.

## Antonio Garra's Trial

On January 9-10, 1852, just days after the treaties of Temecula and San Ysabel, the United States held a foreign United States military tribunal in San Diego for Antonio Garra of the Kavalim Clan.<sup>1906</sup> Captain Cave Couets was appointed Judge of the court. California Senator, Jonathan Warner [Juan José Warner] was appointed interpreter. It is highly doubtful; Warner understood the native language of Garra, but Spanish was used. Antonio Garra requested a counselor and Major Justus McKinstry was appointed as counselor. The tribunal consisted of all military officials. Major General Bean, Major M. Norton, Major Santiago E. Arguello, Lieutenant George F. Hooper, and Lieutenant Thomas W. Tilghman assembled for the military.<sup>1907</sup> It was not a court martial as reported in the San Diego Herald newspaper, but instead a military tribunal.<sup>1908</sup> “A court martial is used to determine the guilt of members of the armed members who are subject to military law. A military tribunal was designed to try members of enemy forces during wartime.”<sup>1909</sup> Garra was arraigned on three charges of treason, murder, and robbery. Since Antonio Garra was a citizen of the land but not a citizen of the United States, the first charge of treason was dropped. The tribunal court dropped the charge of treason since Antonio Garra was head of the Cupeño Nation and had direct charge to protect his

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<sup>1906</sup> Gordito, “Our San Diego Correspondence,” *Daily Alta California* (Sacramento, CA), January 15, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>1907</sup> *Ibid.*

<sup>1908</sup> *Ibid.*

<sup>1909</sup> Ernesto Gapasin, “Difference Between Court-Martial and Military Tribunal,” *Worsham & Gapasin, Attorneys at Law*, October 26, 2015, <https://www.militarylawyer-defense.com/>.



people.<sup>1910</sup> Garra admitted guilty only to the second charge. How ironic. Antonio Garra was not even involved in any of the attacks at the River, Kúpa, or at Warner's Ranch.<sup>1911</sup> Antonio Garra called for the killing of Americans at the village of Kúpa. Three Americans: Ridgley, Slack and Fidler were found dead with their heads bashed in.<sup>1912</sup>

At the end of the hearing on the second day, the court found Antonio Garra guilty of the second and third charge of murder and theft. The theft charge resulted from the ordering of robbing the ranch belonging to Juan J. Warner. Garra was found guilty and sentenced to death.<sup>1913</sup> Antonio Garra worried about his family, sent a message to Oliver Wozencraft via the *San Diego Herald*. Garra requested, "that he should take charge of his family and provide for them, in common with the rest of the Indians whom he treated."<sup>1914</sup> On the afternoon of January 10, 1852, Garra was taken to his gravesite without any members of his family.<sup>1915</sup> Antonio Garra told his combatants, "Gentleman, I ask your pardon for all of my offences, and expect yours in return." Antonio Garra forgave the United States combatants and requested their apology in return. That late afternoon as the sun set, Antonio Garra was executed at his grave and buried.<sup>1916</sup> The

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<sup>1910</sup> "Trial of Antonio Garra," *San Diego Herald* (San Diego, CA), January 10, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>1911</sup> "Declaration of Antonio Garra," *Los Angeles Star* (Los Angeles, CA), December 16, 1851.

<sup>1912</sup> When in war, the heads of enemies are smashed with clubs and rocks. This is a traditional form of warfare in Southern California.

<sup>1913</sup> "Trial of Antonio Garra," *San Diego Herald* (San Diego, CA), January 10, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>1914</sup> "Antonio Garra," *The San Diego Herald* (San Diego, CA), January 10, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>1915</sup> Antonio Garra was buried in Old Town San Diego at the Cemetery of El Campo Santo.

<sup>1916</sup> Carrico, *Strangers in a Stolen Land*, 51; "Trial of Antonio Garra, the Hostile Chief," *The San Diego Herald* (San Diego, CA), January 17, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; and "The Execution," *The San Diego Herald* (San Diego, CA), January 17, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

“war” was not over. Antonio Garra’s actions sparked a wave of resistance to fight the Americans in the years to come. His death did not end Indigenous self-determination in middle of the nineteenth century. In fact, Antonio Garra’s determination and ability to manipulate the outcome electrified the rest of Indigenous California to stand up and fight into the twentieth century for their rights as Indigenous people.<sup>1917</sup>

Eleven days later on Wednesday January 21, after the Treaty of Temecula, Juan Antonio, the leader of the Western Cahuilla rode into Los Angeles with about one hundred of his followers including other tribal leaders at his side.<sup>1918</sup> Antonio came to collect the \$300 reward for his capture of Antonio Garra the past month.<sup>1919</sup> The capture of the elder Cupeño leader Antonio Garra largely disrupted and terminated one of the last united Indigenous attacks in Southern California.<sup>1920</sup> The United States presented Juan Antonio with a United States Calvary buckle and belt. Juan Antonio wore this gift of honor until his death in 1863. He also collected three hundred dollars’ worth of goods.<sup>1921</sup>

To the tribal chiefs, headmen, and captains who signed Treaty of Temecula and Treaty of Santa Ysabel, the treaties represented a new dawn. The treaties represented the

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<sup>1917</sup> Guy Trujillo interview, November 13, 2017; “California Indians,” *Los Angeles Star* (Los Angeles, CA), August 14, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>1918</sup> “Latter from the South-Arrival of the Sea Bird,” *Daily Alta California* (Sacramento, CA), January 29, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>1919</sup> Hudson, “The Last Indian Campaign in the Southwest,” 158; and Phillips, *Chiefs and Challengers*, 147

<sup>1920</sup> “Los Angeles Items,” *Daily Alta California* (Sacramento, CA), January 16, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>1921</sup> “Bones of Indians Killed by Pox in 1862 found in San Timoteo,” *San Bernardino Sun* (San Bernardino, CA), October 8, 1957. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; and “Later from the South-Arrival of the Sea Bird,” *Daily Alta California* (San Francisco, CA), January 29, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

future and a new beginning with economic partnerships.<sup>1922</sup> Tribal leaders viewed the treaties as a prophesy to move forward and leave the old ways behind. The treaties came at a time in the middle of California's "Indian" wars. The treaties left a legacy of deceit, war, and stolen land due to the American invasion and war. The people did not like the way they were pressured into signing the treaty, but that is what it was. The treaties started the beginning of tribal relations with the Americans.

The treaty suggested their former way of life would come to end if they did not learn to adopt the American way of life, which on the outside was to speak English and farm as their White counterparts did. The people thought about this as they returned home to their villages after signing the treaties. They waited for the Americans to return word about the treaties in Washington and their approval. As the other Indian Commissioners who made treaties with the California Indigenous people, Wozencraft told the tribal leaders that the treaty and its articles must be approved in Washington before any of the benefits are to be realized. The people waited for years without any word. During this time, a political consciousness developed and was engaged among the tribal leaders of Southern California.

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<sup>1922</sup> Moraino Patencio interview, September 26, 2016.

## Chapter 8



### NO RATIFICATION

*“Our best policy, and perhaps that of the General Government, would be to remove them [Indigenous people] beyond the confines of the State.”<sup>1</sup>*

**JOHN MCDOUGAL, GOVERNOR OF CALIFORNIA, 1852**

#### Treaty Process

The United States Supreme Court explained that a treaty “is essentially a contract between two sovereign nations.”<sup>2</sup> The Americans brought the Treaty of Temecula and Treaty of Santa Ysabel to the Native people of California, not the other way around.<sup>3</sup> The Americans wanted something the Indigenous people had, the land and its abundant resources, the late Cahuilla elder Rupert Costo stated.<sup>4</sup> Native peoples were accustomed to having their agreements honored immediately by their counterparts. The fifty-one signatories who added their X mark to the Treaty of Temecula and Treaty of Santa

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<sup>1</sup> California, *Journal of the Proceedings of the Assembly, January 5, 1852-April 16, 1852*, 2<sup>nd</sup> Session, 21.

<sup>2</sup> Pevar, *The Rights of Indians and Tribes*, 45; and *Washington v. Washington State Commercial Passenger Fishing Vessel Association*, 443 U.S. 658, 675 (1979).

<sup>3</sup> Carmen Lucas interview, August 29, 2016.

<sup>4</sup> Testimony of Rupert Costo, U.S. Congress, House Committee on Indian Affairs, *Hearings Seventy-Fourth Congress, First Session, 1935, and 2<sup>nd</sup> Session 1936* (Washington D.C.: GPO, 1935-1936), 430. accessed October 27, 2020. Hathi Trust Digital Library, <https://babel.hathitrust.org/>.

Ysabel expected the turnaround time for approval by the President and the Senate to be quick and “approved.”<sup>5</sup> Tribal leaders of Temecula expected the United States to approve the treaty immediately. Most likely, they thought by making the agreement, it was a done deal. The tribes had no understanding of the approval process before the Senate and the President of the United States before it was executed. The American treaty system was more complex and involved a lengthy process for approval.

The signatories did not understand the parameters of the Treaty nor the procedure for ratification. It is clear though, the Indigenous leaders wanted the Treaty for prosperity, although they did not trust it.<sup>6</sup> They made a deal, and it was done. They believed the Treaty would be enforced right after they signed it in January 1852. According to the Constitution of the United States, the President of the United States was the only person who could negotiate or make a treaty with a tribe.<sup>7</sup> The President is the only one who can make a legally binding Treaty with tribes. In this case, President Polk sent his representaives [Redick McKee, Oliver M. Wozencraft, and George W. Barbour] to make treaties with tribes in California. Following protocol, after the treaty is signed, the treaty is submitted to the President, who recommends approval or non-approval. The President then forwards the treaty to the Senate of the United States, who has final say.<sup>8</sup> The Senate votes on the treaty after review of all supporting submitted documents. The vote is secured with a majority vote of present Senators. According to the Constitution of the

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<sup>5</sup> All 139 tribal groups of California that signed the treaties with the United States expected a quick turnaround approval. Dejong, *American Indian Treaties*, 40.

<sup>6</sup> Carmen Lucas interview, August 29, 2016; Kim Marcus interview, March 29, 2019; Moraino Patencio interview, September 26, 2016; and Ernest Siva interview, January 15, 2015.

<sup>7</sup> Constitution of the United States. Article II, Section II.

<sup>8</sup> There are two Houses. The House of the Senate and the House of Representatives.

United States, a majority vote is needed for ratification of a treaty.<sup>9</sup> Tribes had no say in the final treaty approval and ratification process.

The Indigenous people of Southern California dealt with treaties or agreements with foreign governments in a different way. The Cahuilla, Cupeño, Luiseño, Kumeyaay, and Serrano had a built-in leadership structure to deal with such authorities. Each tribal village was sovereign. Each village had a hereditary leader who was born into the role and groomed for the position. The Spanish, Mexican, and American invasions put pressure on the tribal units and forced this hereditary position into an elected captain (liaison) who worked with the intruders and outsiders.<sup>10</sup> Tribes closest to where the invaders (Mexican and Americans) lived felt the pressure the most, and followed policy of having an elected captain. Mission administrators often made an individual an alcaides or captain because of his leadership ability, intelligence, and accommodation of the invaders.<sup>11</sup> Mission administrators made Pablo Apis an alcaide and he was later referred to as a captain.<sup>12</sup> Pablo was not elected by his peers or born into authority. Generally, those appointed by the intruders as with Manuel Cota, did have a strong following but as time went on, his following thinned and others came and went.<sup>13</sup> Indian agent William Lovell re-appointed Cota as Captain of all the Luiseño.<sup>14</sup> Sometimes the Americans gave individuals with certain character and strength a title such as captain or general.<sup>15</sup>

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<sup>9</sup> U.S., *Senate Manual Containing the Standing Rules, Orders, Laws, and Resolutions Affecting the Business of the United States Senate* (Washington D.C.: GPO, 2014), 58.

<sup>10</sup> Carrico, *Strangers in a Stolen Land*,

<sup>11</sup> Bibb, "Pablo Apis and Temecula."

<sup>12</sup> Phillips, *Chiefs and Challengers*, 180.

<sup>13</sup> Carrico, "The Struggle for Self-Determination in San Diego County," 201.

<sup>14</sup> Phillips, *Chiefs and Challengers*, 181.

<sup>15</sup> Wilson and Caughey, *Indians of Southern California*, 59.

The support for someone elected by the invaders was never as strong as the support with some who inherited their role as leader. This broke down, too, as the American invasion set upon the traditional lands of the signers of the Treaty of Temecula. United States General Stephen Kearny breveted Antonio Garra to be chief and breveted Juan Antonio as general.<sup>16</sup> Both Garra and Antonio already assumed authority from inherited birthright as leaders for their people. These individuals became regional leaders. Each of these individuals could act on their own and make decisions for their people and villages on their behalf. Whatever the case, it was always best to confer with your tribal membership and elders.<sup>17</sup> The community often brought knowledge to the table and gave different strategies on how to move forward.<sup>18</sup> Village leaders dealt with the day-to-day affairs of life in each village.<sup>19</sup> There was a transfer of power from the Aboriginal people to the Americans, resulting in “allegiances, outbreaks of violence, and continuous struggles over power.”<sup>20</sup>

When agreements impacted the larger communities at great scale, the leaders had a responsibility to return to their communities and discuss the matter with their membership. Traditionally, hereditary leaders had the authority to act on their own behalf, but matters were always discussed in the Big Houses with a council.<sup>21</sup> There were other leaders whose power extended beyond their villages over a territory such as Chief

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<sup>16</sup> Ibid.

<sup>17</sup> A true leader gets the support of his/her community by conferring amongst their membership.

<sup>18</sup> This is how tribal meetings take place today just as they did in the past.

<sup>19</sup> Perez, *Cabazon Band of Mission Indians*, 24.

<sup>20</sup> Carrico, *Strangers in a Stolen Land*, 44.

<sup>21</sup> Trafzer, *The People of San Manuel*, 115.

Jose Cabazon.<sup>22</sup> Old and Wise, Cabazon's voice and opinion carried more weight than most and tribal leaders listened to what Cabazon had to say, exclaimed Cahuilla and Chemehuevi elder Joe Benitez.<sup>23</sup> Chief Cabazon had the authority to make decisions for his own people as he inherited his role as chief of his tribe from his father, but he conferred with his people as well.<sup>24</sup> Often the leaders discussed the matter at hand with the community members to get their opinions on the matter before making a final decision.

Tribal leaders at the treaty councils for the Treaty of Temecula and Treaty of Santa Ysabel did not take back the treaty and discuss it with their communities. For one, the leaders did not understand the articles of the treaty or their impacts. Secondly, the leaders did not have the permissible leisure to leave the treaty council and take the time to discuss with their relatives. The leaders only had the opportunity to discuss the matter among themselves. It was a take-it-or-be-killed deal. There were no other options.<sup>25</sup> Carmen Lucas believes the Treaty of Temecula and Treaty of Santa Ysabel were driven by American Manifest Destiny for the land. Lucas went to say that the United States supported killing the Indians to take the land.<sup>26</sup> Francis Jennings pointed out in his book, *The Invasion of America, Indians, Colonialism, and Cant of Conquest*, "The EuroAmerican pleads 'not guilty' to killing tribal government. He could not have committed such a crime, he says, because the victim never lived."<sup>27</sup> The Native leaders

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<sup>22</sup> Joe Benitez interview, July 29, 2020

<sup>23</sup> Perez, *Cabazon Band of Mission Indians*, 26.

<sup>24</sup> Ibid.

<sup>25</sup> Lyons. *X-Marks*, 1.

<sup>26</sup> Carmen Lucas interview, August 29, 2016.

<sup>27</sup> Jennings, *The Invasion of America*, 127.



chose to live at all costs, so their children had a future and the Native way, and traditional lifeways, and beliefs might continue. The Treaty of Temecula recognized a tribe's legal "right to exist."<sup>28</sup> In this case, the leaders had the authority to make the decision and it was final. No more approval was needed. With the Americans, it was not final.

Supposedly, the Treaty Commissioners explained the treaties had to be approved by the Senate of the United States and the President, but the tribes had no idea what that meant. A nod of approval already had been agreed to by the tribal leaders to agree, approve, sign, and abide by the Treaty. For the Americans, this was just the first step. According to the Constitution of the United States, the Senate and President of the United States could agree to treaties with a tribe.<sup>29</sup>

The Treaty of Temecula and Treaty of San Ysabel were important to the Indigenous people. The fact is the Indigenous people needed a land base recognized by the Americans as belonging to the Indigenous people for their sole use, where they did not have to worry about being shot at, molested, or told to leave. The people needed a place they could call home, a place their kids could run around and be safe, a place they could express their feelings of joy, happiness, sadness, and grief without be questioned who they were or what they were doing. All eighteen treaties signed in California were extremely significant to the Aboriginal people in California because the people believed the treaties brought peace, hope, education, and stability to their homelands. The Aboriginal people kept their word, Cahuilla patriarch Juan Siva told his daughter

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<sup>28</sup> Bean, *From Time Immemorial*, 341.

<sup>29</sup> Constitution of the United States. Article II, Section II.

Katherine Saubel.<sup>30</sup> The Aboriginal people obeyed the treaty stipulations. They kept the peace. The treaties were sent to Washington, D.C., for final approval from the American government. The Indigenous people did not realize this could lead to refusal of the treaties.

By January 10, 1852, the *San Diego Herald* reported that two more treaties with the “hostile tribes in the Southern District” had been signed.<sup>31</sup> From the treaties, two small plots of land were designated for the tribal people to keep and move to without interference from the Americans. It is extremely important to note that the land always belonged to the Native people; the United States government stole the land from the Native people. The United States government never gave the tribes any land. Indians owned all the land of California, and only a few tribes of California were able to secure for themselves a small portion of their former homelands. As Michael Connolly Miskwish explained, “the legal process for new states to be admitted into the United States was based on the legal surrender of the land by the Indians in possession in return for securing land reserved by the federal government (reservations).”<sup>32</sup> The land was not the United States’ land to give. American residents of Southern California opposed the Treaty of Temecula and the other treaties designating land to Indians. Whites continued to spread the beliefs that Indians were an inferior species of man, thus did not need any land base to sustain themselves. In February 1852, a group of ranchers met to petition the

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<sup>30</sup> Katherine Saubel interview, 1993.

<sup>31</sup> “Arrival of the Indian Commissioner,” *San Diego Herald* (San Diego, CA), January 10, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>32</sup> Miskwish, *Kumeyaay*, 84.

United States President to investigate claims of southern California and reservations set aside for inland tribes.<sup>33</sup>

Shortly after Native leaders signed the treaties in California, the settlers, especially politicians and landowners of California, began to voice their opposition to oppose the treaties and the lands sets aside for the Aboriginal people.<sup>34</sup> A common settler complaint was that the treaties gave too much land to the Indians.<sup>35</sup> With the eighteen treaties in all, 139 “signatory groups” or Native tribes, including the Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano, were affected by the agreements. Many tribes were left alone in the Indian commissioner’s haste. The Indian commissions failed to meet with at least approximately 175 other tribes in California.<sup>36</sup> No one even met with half the tribes and bands of Indigenous communities.

On January 12, more than one hundred United States federal army soldiers had been ordered to Southern California to stop the tribal people from rising against the Americans. “Companies A. and E. of the 1<sup>st</sup> regiment United States Dragoons, consisting of one hundred and ten non-commissioned officers and men,” arrived from Sonoma in San Francisco in route to San Diego via United States *Transport Barque Anita*.<sup>37</sup> The

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<sup>33</sup> “Los Angeles Correspondence,” *Daily Alta California* (San Francisco, CA), March 1, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>34</sup> Bean, *From Time Immemorial*, 341.

<sup>35</sup> “From the North,” *Los Angeles Star* (Los Angeles, CA), March 27, 1852. Rivera Library, University California Riverside; “The California Legislature-3d Session,” *Sacramento Daily Union*, (Sacramento, CA), February 11, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; “Whig Central Committee,” *Sacramento Daily Union* (Sacramento, CA), March 22, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; and “The Indian Reservations-Correspondence,” *The Daily Alta California* (San Francisco, CA), March 15, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>36</sup> Dejong, *American Indian Treaties*, 40.

<sup>37</sup> “Evening Edition,” *Daily Alta California* (San Francisco, CA), January 13, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

soldiers arrived in San Diego to help suppress “Indian hostilities” caused by Garra and his supporters.<sup>38</sup> It was reported that San Diego, for the most part, was free of any hostilities where treaties had been signed.<sup>39</sup> The junction of the Colorado and Gila Rivers remained an area of resistance by the Colorado River Indigenous people. Aboriginal people along the Colorado River, including the Yumas [Quechan], “became estranged from the Americans in consequence of the outrageous conduct of the California emigrants towards them,” believed Mexican Boundary Commissioner, John R. Bartlett.<sup>40</sup>

On January 24, the United States sent thirty wagons loaded with supplies to Vallecitos in Kumeyaay territory, where federal troops were deployed against the Natives.<sup>41</sup> In addition, the United States transport vessel, the *Sierra Nevada*, left San Diego loaded with supplies to sail up the Colorado River to fight the Native tribes at the junction.<sup>42</sup> The United States had forged its alliances with the tribal leaders. “The ultimate effect of those arrangements was to dispossess the Indians, depriving them simultaneously of government over persons and ownership in land.”<sup>43</sup> It hoped for the best anyway. The state called these events disturbances, which were “Indian Wars,” to suppress “Indian Depredations,” and “Indian Hostilities” intruders trespassing on their

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<sup>38</sup> Blackwell, *Heintzelman's Journal*, 60; and “Evening Edition,” *Daily Alta California* (San Francisco, CA), January 13, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>39</sup> “Summary of a Fortnight's News,” *Daily Alta California* (San Francisco, CA), January 21, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; and “General Summary,” *San Diego Herald* (San Diego, CA), February 3, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>40</sup> John R. Bartlett to Alex H. H. Stuart, February 19, 1852. *Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 6, Serial 688, 98; and “News Summary,” *Daily Alta California* (San Francisco, CA), April 18, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>41</sup> “A Train of Wagons,” *San Diego Herald* (San Diego, CA), January 24, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>42</sup> “The U.S. Transport Vessel, *Sierra Nevada*,” *San Diego Herald* (San Diego, CA), January 24, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>43</sup> Jennings, *The Invasion of America*, 128.

land.<sup>44</sup> To the Americans, “Indian War” inferred that it was okay to shoot and kill “Indians,” which the invaders did. There was an Indian war across the United States at this time.<sup>45</sup> Historian Francis Jennings defined war as, “organized violence between politically distinct communities.” Furthermore, Jennings believed, “Civilized war is the kind we fight against them [Indigenous people].” Savage war he defined as the “atrocious war” that Indigenous people fought against Americans.<sup>46</sup>

Signers of the Treaties of Temecula and Santa Ysabel and the other sixteen treaties and their relatives were expected to die in California from extinction, so it was assumed that they did not need the land.<sup>47</sup> “There were bounties on Native American heads in California,” painfully explained the late Chairman Richard Milanovich.<sup>48</sup> To make things worse, stories were invented to keep lands legally out of the Aboriginal peoples’ title. The *California Farmer and Journal of Useful Sciences* reported that “Indian skulls with double rows of teeth,” were found on San Clemente Island and Miguel Islands.<sup>49</sup> This was a way non-Indians continued to manifest the fate of the Indigenous families for generations to come.

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<sup>44</sup> “Speech of Hon. H. E. Robinson,” *Sacramento Daily Union* (Sacramento, CA), April 2, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; and “Special Message,” *Daily Alta California* (San Francisco, CA), February 1, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>45</sup> There was a violent war on the plains which ended momentarily with the Treaty signing at Fort Laramie in 1851. “Special Message,” *Daily Alta California* (Sacramento, CA), January 31, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>; “Arrival of the Carolina,” *Daily Alta California* (Sacramento, CA), December 13, 1851. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>46</sup> Jennings, *The Invasion of America*, 146.

<sup>47</sup> “General Summary,” *San Diego Herald* (San Diego, CA), February 3, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>48</sup> “Richard Milanovich, Native American History in Southern California,” Lecture. Xavier High School, Palm Desert, CA. Circa May 2010.

<sup>49</sup> *California Farmer and Journal of Useful Sciences* (San Francisco, CA), January 31, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

By the beginning of March 1852, there were 700-800 United States soldiers at the borders between San Diego and the Gila River, the *Los Angeles Star* reported.<sup>50</sup> On August 24, 1852, General Heintzelman and forces fought against forces of Apache, Kumeyaay, Mojave, Papago, Quechan, and Yuma along the Colorado River.<sup>51</sup> It was expected a legally binding treaty with the tribes would be concluded soon.<sup>52</sup> All this was expected to acquire the land without interference from the Aboriginal people of California.

Oliver Wozencraft returned to San Francisco without making a treaty with the Indigenous people on the Colorado River near Yuma as planned. The Indigenous people were too remote to be reached, according to General Ethan. A. Hitchcock.<sup>53</sup> Senator Thomas Butler King reported that the United States public domain in California should be given to settlers free of charge, and miners should be allowed to mine gold to boost the economy of California and bring in resources to the United States.<sup>54</sup> The California State Senate and House were encouraged to petition the Senate of the United States to pass an act, “declaring that all the agricultural and grazing lands of California shall be and remain forever open and free to every actual settler and that the said law shall provide a

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<sup>50</sup> “Further Indian Depredations,” *Los Angeles Star* (Los Angeles, CA), March 6, 1852. Rivera Library, University California Riverside.

<sup>51</sup> “Late from the South,” *Daily Alta California* (San Francisco, CA), September 19, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>52</sup> Ibid.

<sup>53</sup> California, *Journal of the Proceedings of the Senate, January 5, 1852-April 16, 1852*. 3<sup>rd</sup> Session (San Jose: Eugene Casserly, State Printer, 1852), 708. accessed December 30, 2018. Hathi Trust Digital Library, <https://babel.hathitrust.org/>. Hereinafter cited as California, *Journal of the Proceedings of the Senate, January 5, 1852-April 16, 1852*, 3<sup>rd</sup> Session.

<sup>54</sup> Thomas Butler King had attended the Miners and Settlers Convention in Sacramento. “Letter from Hon. T. Butler King,” *Daily Alta California* (San Francisco, CA), January 28, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

donation to be made of 160 acres to each actual settler, being an American citizen, or having declared his intention to become such.”<sup>55</sup>

By February 1852, California had developed a strong, vocal, anti-treaty attitude throughout the State.<sup>56</sup> Newspapers, citizens, politicians, military officials, State legislators, and the Governor expressed their pessimistic views and opposed the treaties.<sup>57</sup> The *Daily Alta California* reported that United States Senators were to be told to, “strike in every treaty the provisions making permanent grant of lands to the Indians.”<sup>58</sup> The *Daily Alta California* additionally reported that a man known as “X,” believed California was much worse than before,” the treaties.<sup>59</sup> “X” did not believe Indigenous people should be granted land and beef after their attacks on settlers passing the Colorado River into California. California was a buzz with the recent treaties and other recent land transactions. The *Sacramento Daily Union* reported that Mr. Anderson from the Select Committee on the disposal of United States public lands cried, “it was not desirable to have a conflict with the General Government, though the committee thought it indispensable to resist the policy of permanently locating good arable or mineral lands in the hands of savages.”<sup>60</sup>

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<sup>55</sup> The Homestead Act did not pass until 1862. “Legislative Intelligence,” *Daily Alta California* (San Francisco, CA), March 19, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>56</sup> Hoopes, *Domesticate or Exterminate*, 82.

<sup>57</sup> Ibid.

<sup>58</sup> “Legislative Intelligence,” *Daily Alta California* (San Francisco, CA), March 13, 1852. California Digital Newspaper Collection,

<sup>59</sup> “Our San Diego Correspondence,” *Daily Alta California* (San Francisco, CA), February 8, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>60</sup> “California Legislation-3d Session,” *Sacramento Daily Union* (Sacramento, CA), February 13, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>60</sup> Hoopes, *Domesticate or Exterminate*, 83.

The *Daily Alta California* newspaper reported that according to a recent United States Land Commission report, Rancho Temecula had been confirmed to Luis Vignes.<sup>61</sup> Wozencraft, without authorization, included the property of Rancho Temecula inside the Treaty of Temecula boundary limits. The Treaty of Temecula was affected by this confirmed land grant negatively. Wozencraft did not submit a map of the boundaries of the Treaty of Temecula. There was a lack of communication between the state and the federal government.

Further, on January 5, the day of the signing of the Treaty of Temecula, California Governor John Bigler's inaugural address stated, "the State's Indian policy must be that of President Jackson: Indian removal, which would end the 'Indian War'."<sup>62</sup> Two days later, on January 7, outgoing California Governor John McDougal addressed California State Senators and House Assembly Members one last time, to derail approval of the treaties with the Aboriginal people of California.<sup>63</sup> Governor John McDougal reminded that President Jackson "recommended removing them [Indigenous people] to an isolation position, distant from all contact with the Whites."<sup>64</sup> Governor McDougal then declared in reference to the Indigenous people, "our best policy, and perhaps that of the General Government, would be to remove them [Indigenous people] beyond the confines of the

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<sup>61</sup> Felix Valdez acquired the land in 1844 as a land grant from Mexican Governor Manuel Micheltozero. In 1859, the U.S. Patented the land to Luis Vignes. Jane D. Gunther, *Riverside County, California, Place Names*, 528; and "U.S. Land Commission," *Daily Alta California* (San Francisco, CA), September 19, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>62</sup> Hoopes, *Domesticate or Exterminate*, 83.

<sup>63</sup> California, *Journal of the Proceedings of the Senate, January 5, 1852-April 16, 1852*, 3<sup>rd</sup> Session, 20-21.

<sup>64</sup> California, *Journal of the Proceedings of the Assembly, January 5, 1852-April 16, 1852*, 2<sup>nd</sup> Session, 21.



State.”<sup>65</sup> McDougal estimated there were at least 200,000 Indigenous people in the State that needed to be relocated.<sup>66</sup>

Every part of the state had been penetrated and explored. Invading settlers often settled and lived in close proximity to the Aboriginal inhabitants’ settlements and put pressure on the Natives as Americans assumed control of the country.<sup>67</sup> California Governor John Bigler set the tone with his policy of extermination or removal of the Native people.<sup>68</sup> In regard to the Indigenous people, Governor Bigler declared that one should “hasten the annihilation.”<sup>69</sup> On January 30, 1852, New California Governor John Bigler opposed the treaties. In a special message, Governor Bigler addressed the Senate and the Assembly of the State of California. Bigler did not like displacing California citizens on behalf of the “Indian in pursuance of the Treaty.”<sup>70</sup> General Hitchcock of the Pacific Division agreed. Americans did not want to live close to the Indigenous people. Hitchcock wrote to Governor Bigler, “that the two races cannot live in harmony together, and that their neighborhood to each other must continue to be productive of evil.”<sup>71</sup> The California Legislature needed more information and expertise about the treaties to decide how to move forward.

On January 12, the California Legislature House Assembly announced several standing committees, including two that directly studied and affected the Native people

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<sup>65</sup> Ibid.

<sup>66</sup> Ibid.

<sup>67</sup> California, *Journal of the Senate, January 5, 1852-April 16, 1852*, 3<sup>rd</sup> Session, 708-709.

<sup>68</sup> Hoopes, *Domesticate or Exterminate*, 82.

<sup>69</sup> California, *Journal of the Senate, January 5, 1852-April 16, 1852*, 3<sup>rd</sup> Session, 79.

<sup>70</sup> Ibid.

<sup>71</sup> California, *Journal of the Proceedings of the Senate, January 5, 1852-April 16, 1852*, 3<sup>rd</sup> Session, 709.

of California: *Indian Affairs and Indian Reservations*.<sup>72</sup> The State wanted guidance on how to deal with the Indigenous population in California. Agoston Haraszthy, the sheriff of San Diego served on the *Indian Affairs Committee*. In 1850-1851, Haraszthy had taxed the Aboriginal people within the proximity of San Diego County and that tax started an insurrection that led to the “Garra Uprising.”<sup>73</sup> Thomas H. Coates served on both *Indian Affairs* and *Indians Reservation Committees*. Thomas H. Coates was Chairman of the Indian Affairs Committee.<sup>74</sup> Mr. Coates did not care for the Indigenous people. He used his personal judgement and knowledge against the Indians when making decisions.<sup>75</sup> The following month, Coates said the best lands cannot be set aside for exclusive use by the “Indians.”<sup>76</sup>

California Senators and House Assemblymen knew extraordinarily little about the recent treaties with California Indian leadership. Because of the unknown, and not wanting to return stolen land, California was destined for opposition of the treaties. California’s guiding leadership contested the treaties made with Indigenous leaders, and their fight for their civil and human rights.<sup>77</sup> On January 16, 1852, special committees from state legislative were created to study the values, conditions, and locations of

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<sup>72</sup> California, *Journal of the Proceedings of the Assembly, January 5, 1852-April 16, 1852, 2<sup>nd</sup> Session*, 45.

<sup>73</sup> Hyer, *We are Not Savages*, 62; and Phillips, *Chiefs and Challengers*, 108.

<sup>74</sup> California, *Journal of the Proceedings of the Assembly, January 5, 1852-April 16, 1852, 2<sup>nd</sup> Session*, 45.

<sup>75</sup> Letter to Governor John Bigler dated April 6, 1852, California, *Journal of the Proceedings of the Senate, January 5, 1852-April 16, 1852, 3<sup>rd</sup> Session*, 703-704.

<sup>76</sup> “Leese Legislation, or Legislation with Looseness! -“Indian Reservation” Again,” *Daily Alta California* (San Francisco, CA), February 24, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu>.

<sup>77</sup> Carrico, *Strangers in a Stolen Land*, 95.

reservations plus characterization of Tribes with whom treaties were made and the future of those tribes.<sup>78</sup>

To learn more about the treaties, on January 19, 1852, President of the California Senate, Samuel Purdy announced a committee to enquire into the treaties made with California tribes by the federal “Indian Agents” McKee, Barbour, and Wozencraft.<sup>79</sup> The committee included: M. M. Wombough of Yolo and Colusa Counties, Jonathan T. Warner [Juan José Warner] of San Diego, James H. Ralston of Sacramento, B. Frank Keene of El Dorado, and Frank Miller of Napa.<sup>80</sup> On January 21, 1851, after returning from the treaty councils, Senator Jonathan Warner must have told his fellow State Senators that the Treaty of Temecula and the Treaty of Santa Ysabel had just been signed between Indian Commissioner Wozencraft and tribal leaders near his ranch property. Warner instructed the State Senate to confer with Oliver M. Wozencraft, Indian Commissioner dealing with Indian treaties.<sup>81</sup> Warner was elected to a standing committee on Indian Affairs because of his knowledge of the tribes in Southern California and the fact that he lived among them.<sup>82</sup>

The Indian Commissioners who made the treaties were asked for their opinions.<sup>83</sup> The joint State Senate and Assembly Committee invited Treaty Commissioner Redick McKee to come and speak. On January 26, McKee told committee members that he and the other federal Indian Commissioners had not been given specific directives on Indian

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<sup>78</sup> Hoopes, *Domesticate or Exterminate*, 87.

<sup>79</sup> California, *Journal of the Proceedings of the Senate, January 5, 1852-April 16, 1852*, 3<sup>rd</sup> Session, 46.

<sup>80</sup> *Ibid.*

<sup>81</sup> *Ibid.*, 67.

<sup>82</sup> *Ibid.*, 59.

<sup>83</sup> Hoopes, *Domesticate or Exterminate*, 86-88.

policy nor were the commissioners given instructions how to make treaties with them.<sup>84</sup> McKee told the Senate and Assembly Committee that it was policy when entering a new area to consult with California settlers and ask for their advice and cooperation.<sup>85</sup> The Indian Commissioners asked the settlers what tribes lived in the area and where their villages were located. This is what Indian Commissioner Oliver Wozencraft did; Wozencraft conferred with Juan Warner about the tribes near San Diego.<sup>86</sup>

On January 17, Wozencraft returned to San Francisco accompanied by Senator Jonathan Warner to discuss how to get the treaties approved, in spite of their opposition.<sup>87</sup> On January 30, Oliver Wozencraft addressed the Legislation in Sacramento at the Capital.<sup>88</sup> Oliver M. Wozencraft was a racist who believed that the White race should manage “an inferior creature in the scale of organization.”<sup>89</sup> Wozencraft stated, “can we not control the Indian and make him subservient to our wishes, and at the same time materially improve his condition?”<sup>90</sup> Although Oliver M. Wozencraft did not want to kill the Native people, he felt the California Native people would die of extinction if the Americans did nothing to help them.<sup>91</sup> It was a common belief among Whites for generations in the United States, Indians were to gradually decline and become extinct.<sup>92</sup>

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<sup>84</sup> Metcalf, “Oliver M. Wozencraft in California,” 59.

<sup>85</sup> Hoopes, *Domesticate or Exterminate*, 86-88.

<sup>86</sup> Metcalf, “Oliver M. Wozencraft in California,” 36.

<sup>87</sup> “Arrival of the Sea Bird,” *Daily Alta California* (San Francisco, CA), February 1, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>88</sup> Hoopes, *Domesticate or Exterminate*, 88.

<sup>89</sup> “Address of Dr. Wozencraft, delivered at the Capital on Friday Evening, Jan. 30,” *Sacramento Daily Union* (Sacramento, CA), February 2, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>90</sup> *Ibid.*

<sup>91</sup> Metcalf, “Oliver M. Wozencraft in California,” 59.

<sup>92</sup> “William F. Cody (Buffalo Bill),” *Los Angeles Herald* (Los Angeles, CA), June 2, 1901. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

As a matter of fact, many Americans continue this racist attitude towards Indigenous people and people of color, Native scholar Michael Yellow Bird wrote in his paper, “What We Want to be Called: Indigenous Peoples’ Perspectives on Racial and Ethnic Identity Labels.”<sup>93</sup> Yellow Bird continues, “racism, the belief that there are superior and inferior races of people, developed as the Americas were colonized by the Europeans.”<sup>94</sup>

Indian Commissioner Redick McKee, in a letter to Luke Lea on January 30, 1852, wrote, “They charged that we had given the Indians large bodies of the finest farming and mineral lands in the State, to the great prejudice of the white settlers.”<sup>95</sup> McKee went on to declare the goal of the United States to the Aboriginal people, regarding the recent treaties in California. “Our object had been to give them lands which they could work on, and upon the product subsist after two or three years, during which the government would aid them with supplies of food, clothing, &c.”<sup>96</sup> McKee reminded Luke Lea, the Commissioner of Indian Affairs, the Government’s goals with the treaties. McKee told Lea, the Commissioner of Indian Affairs, not to buckle under pressure.<sup>97</sup> Redick McKee was one of the biggest advocates of the treaties.<sup>98</sup>

Treaty discussions and reports continued. On February 11, 1852, Senator M. M. Wombough, head of a special committee of Indian Affairs, submitted the Majority

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<sup>93</sup> Michael Yellow Bird, “What We Want to be Called: Indigenous Peoples’ Perspectives on Racial and Ethnic Identity Labels,” in *American Indian Quarterly* 23, no. 2 (Spring, 1999), 3. accessed November 3, 2020, JSTOR, <https://www.jstor.org/>.

<sup>94</sup> Yellow Bird, “What We Want to be Called,” 3.

<sup>95</sup> Letter from Adam Johnston to Luke Lea, January 31, 1852, *Report of the Secretary of the Interior, Report of the Secretary of the Interior*, 33<sup>rd</sup> Congress, Special Session, Exec. Doc. 4, Serial 688, 248.

<sup>96</sup> Ibid.

<sup>97</sup> Ibid.

<sup>98</sup> Hoopes, *Domesticate or Exterminate*, 82.

Report.<sup>99</sup> The Majority Report concluded not to approve the policy, “pursued by the Indian commissioners in their negotiation of treaties with different Indian tribes in California.”<sup>100</sup> The Majority Report supported the rejection of the treaties.<sup>101</sup> M. M. Wombough, J. H. Ralston, B. Frank Keene, and James Miller signed and approved the Majority Report to remove all “Indians” except neophytes from the State of California.<sup>102</sup> On February 13, Jonathon Warner submitted his Minority Report in response to the treaties in California and the Majority Report.<sup>103</sup> Warner was the sole signatory, with the submission of the report.<sup>104</sup> Senator Warner supported the approval of the treaties. Warner ventured off by himself because Warner had something to gain from the ratification of the treaties. With the Treaty of San Ysabel, Warner shrewdly added an addendum to have one square league of land around the hot spring and settlement of Kúpa to be given to him in the Treaty.<sup>105</sup> Moreover, Warner lived among the first occupants of California and witnessed the dispossession of lands and need for a land base.

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<sup>99</sup> California, *Journal of the Proceedings of the Senate, January 5, 1852-April 16, 1852*, 3<sup>rd</sup> Session, 597-601.

<sup>100</sup> *Ibid*, 105.

<sup>101</sup> *Ibid*, 602-604.

<sup>102</sup> *Ibid*, 598.

<sup>103</sup> *Ibid*, 602-604.

<sup>104</sup> *Ibid*, 604.

<sup>105</sup> Jonathan Trumbull Warner was a crook, a liar, and he treated the Indigenous people atrociously. He stole their land repeated Cupeño elder William Pink. Warner took advantage of his position as California State Senator and owner of a ranch that encompassed the Cupeño village of Kúpa. Warner abused his power for personal benefit. He hoped to gain additional property if the California Claims Commission did not approve his claim to his current ranch. William Pink interview by author, Agua Caliente Reservation, CA, February 8, 2020; and Guy Trujillo interview, November 13, 2017. See Addendum to Treaty of Santa Ysabel. Kappler, *Indian Affairs* Vol. IV, 1128.

California politicians did not envision granting any land base for the Indigenous people to live on. The land was too valuable, with an abundance of the prime land for agriculture and gold bringing large sums of money to California.<sup>106</sup> On February 12, the Public Domain's Committee reported and declared California public lands were for agriculture and cattle ranching and available to American citizens or those who will become an American citizen.<sup>107</sup> California non-Indians understood "Indians" were not American citizens, and there was no movement to make Indigenous people American citizens.<sup>108</sup> The Public Domain Committee of California further went on to say that "Indians" had no part in California lands. The Committee did not want to dispose "a large portion of the most valuable agricultural and mineral lands belonging to the public domain" to the Indigenous people as part of the treaty stipulations.<sup>109</sup>

On February 14, the California Senate approved the warrants to pay past military militia suppression, including the Mariposa Volunteers, for acts of violence against the Indigenous people in Northern California in Mariposa County. The first two treaties of California between the United States and tribes had been signed in Mariposa County.<sup>110</sup> The California Legislature disregarded the trespassing and American invasion on

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<sup>106</sup> Hoopes, *Domesticate or Exterminate*, 89.

<sup>107</sup> California, *Journal of the Proceedings of the Senate, January 5, 1852-April 16, 1852*, 3<sup>rd</sup> Session, 575.

<sup>108</sup> American Indians did not become citizens of the United State until 1924, 72 years later. United States "President Calvin Coolidge signed the Indian Citizenship Bill June 2, 1924, and thereby all non-citizen Indians became citizens of the United States." Some Indigenous people became citizens of the United States by treaty and others through political tactics, but no California Indigenous people were ever considered or acknowledged as citizens of the United States until 1924. S. Lyman Tyler, *A History of Indian Policy: for the Bureau of Indian Affairs United States Department of the Interior* (Honolulu, Hawaii: University Press of the Pacific, 2001), 110.

<sup>109</sup> California, *Journal of the Proceedings of the Senate, January 5, 1852-April 16, 1852*, 3<sup>rd</sup> Session, 588.

<sup>110</sup> See Appendix A. Ibid, 113.

Indigenous lands as manifest destiny. The State of California authorized and instructed militias to remove the Indigenous people from the land, which it did.<sup>111</sup> On February 16, the Indian Reservations Committee submitted its report.<sup>112</sup> This important report did not recommend the treaties. The report recommended not to confirm the reservations of land set aside for the Indigenous people of California. There was “no means of ascertaining the precise extent of each reservation.” There were no maps. It was assumed from known sources that reservations averaged thirty square miles.<sup>113</sup>

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<sup>111</sup> Madley, *An American Genocide*, 199-202.

<sup>112</sup> California, *Journal of the Assembly, January 5, 1852-April 16, 1852*, 2<sup>nd</sup> Session, 202-205.

<sup>113</sup> *Ibid*, 203.





Figure 8.1: California Treaty Boundaries and their locations. Source: California Indian History. <https://calindianhistory.org/california-unratified-treaties-map/>

Table 8.1: The Eighteen Treaties of California. Source: -California Indian History.  
<https://calindianhistory.org/california-unratified-treaties-map/>.

Treaty Number	Royce Number	US Department of Interior Letter Designation	Date	Treaty
1	273	M	March 19, 1851	Treaty made at Camp Fremont by George W. Barbour, Redick McKee, O.M. Wozencraft
2	275	N	April 29, 1851	Treaty made at Camp Barbour by George W. Barbour, Redick McKee, O.M. Wozencraft
3	276	A	May 13, 1851	Treaty made at Camp Belt by George W. Barbour
4	280	E	May 28, 1851	Treaty made at Dent and Yantine's Crossings by O.M. Wozencraft
5	278, 277	B	May 30, 1851	Treaty made at Camp Keyes by George W. Barbour
6	282, 283	C	June 3, 1851	Treaty made at Camp Burton by George W. Barbour
7	285	D	June 10, 1851	Treaty made at Camp Persifer F. Smith by George W. Barbour
8	287	F	July 18, 1851	Treaty made at Camp Union by O.M. Wozencraft
9	290	G	August 1, 1851	Treaty made at Bidwell's Ranch by O.M. Wozencraft
10	293	H	August 16, 1851	Treaty made at Reading's Ranch by O.M. Wozencraft
11	295	O	August 20, 1851	Treaty made at Camp Lu-pi-yu-ma by Redick McKee
12	295	P	August 22, 1851	Treaty made at Camp Fernando Felize by Redick McKee
13	298	I	September 9, 1851	Treaty made at Camp Colus by O.M. Wozencraft
14	301	J	September 18, 1851	Treaty made at Fork of the Consumes River by O.M. Wozencraft
15	303	Q	October 6, 1851, Additional Supplement added October 12, 1851	Treaty made at Camp Klamath and Camp Cor-a-tem by Redick McKee
16	305	R	November 4, 1851	Treaty made at Camp in Scott's Valley by Redick McKee
17	307	K	January 5, 1852	Treaty made at Village of Temecula by O.M. Wozencraft
18	309	L	January 7, 1852	Treaty made at Village of Santa Yabel by O.M. Wozencraft

The committee believed the reservations would do damage to California and to the federal government.<sup>1</sup> The report explained that the reservations include “extensive tracts of the most desirable mineral and agricultural lands in California.”<sup>2</sup> In addition, the lands given back to the Aborigines would yield “a loss to the California of not less than one hundred million dollars.”<sup>3</sup> In the eyes of the Californian Legislature, the land had been improved. “Immense labor, exposure and suffering has been incurred in making discoveries, developing the resources and making available the immense tracts of mineral lands included in many of the reservations.”<sup>4</sup> The committee considered the Indigenous people of the State as, “a few tribes of ignorant barbarians.”<sup>5</sup>

The Indian Reservations Committee came with a resolution to instruct the Senators in Congress to oppose “confirmation of any and all treaties made with Indians of California, granting them exclusive right to occupy any of the public lands of the State.”<sup>6</sup> The report demanded that the representatives of California do its best to get the treaties rejected from United States Senate.<sup>7</sup> One resolution stated: “Resolved: That our Senators in Congress be instructed, and our Representatives requested, to use all proper means to prevent Congress confirming the Indian reservations which have been made in this State,

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<sup>1</sup> Ibid, 204-205.

<sup>2</sup> Ibid, 202.

<sup>3</sup> Ibid, 203.

<sup>4</sup> Ibid, 202.

<sup>5</sup> Ibid, 203.

<sup>6</sup> Ibid, 205.

<sup>7</sup> Ibid.

but respectfully to insist that the same policy be adopted, with regard to the Indian tribes in California, which has been adopted in other new States.”<sup>8</sup>

The Committee on Indian Affairs believed removing the Native people “beyond the limits” of White civilization was the best answer.<sup>9</sup> The report directed the State after, “considering the character and habits of the Indians — their dispositions and propensities —that instead of being thrown into positions of close contiguity with the white population, they should be removed to regions abounding in game and fish, and which presents all the natural facilities for obtaining their subsistence, to which, from time immemorial, they have been familiarly accustomed.”<sup>10</sup> The Legislators wanted the land and came up with crazy ideas to support their own ideologies. The Americans wanted the Indians removed from and erased to have complete control of the land.<sup>11</sup> This way, the Americans and the State did not have to worry about the “Indian Problem.”<sup>12</sup> By 1852, the State had grown in power and population. The treaties had become obsolete, and the Indian people did not matter anymore as being a viable threat. The American male legislators viewed the “Indians” as dangerous and hostile. The Indian Reservations Committee requested proper measures be taken to not allow the United States Congress to approve any of the California treaties.<sup>13</sup> Thomas H. Coats, Chairman; S. A. Merritt, Samuel Fleming, James W.

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<sup>8</sup> Ibid, 205.

<sup>9</sup> Ibid, 204.

<sup>10</sup> Ibid.

<sup>11</sup> Madley, *An American Genocide*, 101.

<sup>12</sup> See, “The Indian Problem,” in *Smithsonian Insider*, May 26, 2016. National Museum of the American Indian. <https://insider.si.edu/2016/05/the-indian-problem/>.

<sup>13</sup> Ibid.

Coffroth, and W. P. Jones approved and signed the Committee Report, seeking to deny Indigenous peoples any reservations in California.<sup>14</sup>

On February 19, the Governor John Bigler submitted documents to the California Senate for review on any current Indian Wars and military expeditions to subdue the Indigenous population in California.<sup>15</sup> A war of extermination was on the rise if the state did not enforce the treaties already made, declared the *Sacramento Daily Union*.<sup>16</sup> Governor Bigler, California state representatives, public officials, newspapers, ranchers, military, and citizens carried a strong resentment toward reservations within California. Most newspapers changed direction from being pro-reservation to not letting the “Indians” keep their own land.<sup>17</sup> Governor John Bigler hollered California’s Indian policy should remove Indians from the State.<sup>18</sup> The *Daily Alta California* described moving Indians as a folly.<sup>19</sup> In March, “a war of extermination had been declared by the whites against the Indians, and many aborigines have been killed.”<sup>20</sup>

On March 22, after an interview with Indian Commissioner Agent Redick McKee, the California Assembly tabled the Indian Reservations idea.<sup>21</sup> It was reported that the proposed reservations would be detrimental to both the “Indians” of the State and the

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<sup>14</sup> W. P. cannot be identified. Ibid, 205.

<sup>15</sup> California, *Journal of the Senate, January 5, 1852-April 16, 1852, 3<sup>rd</sup> Session*, 231.

<sup>16</sup> “Indian Hostilities in Shasta,” *Sacramento Daily Union* (Sacramento, CA), March 5, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>17</sup> Hoopes, *Domesticate or Exterminate*, 83.

<sup>18</sup> California, *Journal of the Senate, January 5, 1852-April 16, 1852, 3<sup>rd</sup> Session*, 21.

<sup>19</sup> Hoopes, *Domesticate or Exterminate*, 85; and “The Indian Reservations-Correspondence,” *The Daily Alta California* (San Francisco, CA), March 15, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>20</sup> Madley, *An American Genocide*, 205.

<sup>21</sup> California, *Journal of the Proceedings of the Assembly, January 5, 1852-April 16, 1852, 2<sup>nd</sup> Session*, 396-397.

White settler population as well. It was also brought out that the Indian agents appointed to make treaties had special permission to grant miners and others to work on the reservations. The miners could have exclusive access to mining claims within the State which would not benefit California. In addition, it was reported that reservations confirmed would consume up to two-thirds of the agricultural lands within the State. The reservations were deemed bad policy and declared the Indian Commissioners' actions of setting aside said reservations as inappropriate and unwise. Therefore, it would be subversive to the State to approve the reservations.<sup>22</sup>

### **Washington, D.C.**

Between July 1851 and February 1852, the eighteen California treaties arrived in Washington, D.C.<sup>23</sup> The last two treaties from Temecula and Santa Ysabel arrived on February 2, 1852.<sup>24</sup> The debate against ratification of all California's Indian treaties began in the Nation's capital alongside the fight to shelve those treaties, although the Senators did not receive the treaties for another four months in June.<sup>25</sup> Luke Lea, the Indian Commissioner of Indian Affairs, held off forwarding the eighteen treaties to Alex H. H. Stuart, Secretary of the Interior until all treaties had arrived and could be reviewed simultaneously.<sup>26</sup> The Commissioner of Indian Affairs wanted the Secretary of the Interior

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<sup>22</sup> Ibid.

<sup>23</sup> Letter from Luke Lea to Alex Stuart, May 14, 1852. U.S., *Documents Relating to the Negotiation of Unratified Treaties with the Various Band of Mission Indians of California*, Microcopy 30.

<sup>24</sup> On February 18, 1852, more treaties arrived in Washington and then submitted collectively to Luke Lea. 1852. Ibid.

<sup>25</sup> Letter Millard Fillmore to the Senate of the United States, June 1, 1852. *Letters Received by the Office of Indian Affairs*, 28.

<sup>26</sup> Ibid.



to review the treaty documents collectively, to judge their merits and final disposition.<sup>27</sup> Luke Lea also waited for further information to transpire from the treaty commissioners, California House Assembly, or from Washington.<sup>28</sup> It was known that the Congressional delegation from California opposed the treaties.<sup>29</sup>

The United States federal government recognized the Indigenous people of California needed to be dealt with and controlled. On March 3, the United States established the California Indian Superintendency.<sup>30</sup> In the eyes of the Indigenous people, the United States wanted to create a California Indian Superintendency under federal jurisdiction to gain complete control over the Aboriginal people of California.<sup>31</sup> The Aboriginal people feared the Americans and did not trust the Americans after the American conquest of California, the late Cahuilla leader Richard Milanovich believed.<sup>32</sup> The next day, President Millard Fillmore appointed Edward F. Beale as the first Superintendent of Indian Affairs in California.<sup>33</sup>

Edward F. Beale had served in the United States Navy for several years before coming to California. In 1846, Beale had joined forces with General Kearny in Southern California where the Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano lived. Beale was

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<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> United States, *The Statues at Large and the Treaties of the United States of America from December 1, 1851 to March 3, 1851* (ed. George Minot, ESQ), (Boston: Little, Brown & Company, 1855), 2. accessed August 24, 2019. Google Books, <https://books.google.com/>.

<sup>31</sup> Carmen Lucas interview, December 8, 2019.

<sup>32</sup> “Richard Milanovich, Native American History in Southern California,” Lecture. Xavier High School, Palm Desert, CA. Circa May 2010.

<sup>33</sup> Gerald Eugene Thompson, “The Public Career of Edward Fitzgerald Beale, 1845-1893,” (dissertation, University of Arizona, 1978), 133.

stationed in Southern California for just a few months. Edward F. Beale had limited knowledge of Indigenous California, but still had some knowledge and was appointed Superintendent.<sup>34</sup> Reportedly, Beale's knowledge comes from the Battle of San Pasqual, which was fought on Kumeyaay lands at the village of San Pasqual where Kumeyaay people lived.<sup>35</sup> Approval of the treaties ultimately might help Beale subjugate the Indians of California.

On April 14, 1852, after a good review of the treaties, Luke Lea forwarded the eighteen treaties and supporting documents to Alex Stuart, the Secretary of the Interior, for his review.<sup>36</sup> Lea wanted Stuart to receive all eighteen treaties and supporting documents together. One by one, the treaties arrived in Washington individually. After all treaties had arrived, Lea forwarded the treaties collectively to Stuart.<sup>37</sup> Luke Lea withheld the extremely important documents from President Millard Fillmore and his team to validate the treaties as holding value.<sup>38</sup>

On May 7, 1852, Alex H. H. Stuart wrote Luke Lea requesting the need for more supporting documents to support and substantiate the treaties, such as maps designating boundaries of the proposed reservations.<sup>39</sup> Stuart requested maps to identify areas of the proposed reservation and maps of California. In 1851, the United States had limited knowledge of the topography and environmental conditions in California but did know that

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<sup>34</sup> Thompson, "The Public Career of Edward Fitzgerald Beale," 95.

<sup>35</sup> Miskwish, *Kumeyaay*, 81-82.

<sup>36</sup> Letter from Luke Lea to Alex Stuart, May 7, 1852, *Letters Received by the Office of Indian Affairs*, 680-682.

<sup>37</sup> U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy, 30.

<sup>38</sup> *Ibid.*

<sup>39</sup> Letter from Luke Lea to Alex Stuart, May 7, 1852, *Letters Received by the Office of Indian Affairs*, 681.



there was gold and irrigable land. Indigenous peoples were obsolete and invisible to many Americans. Worse yet, the United States had no interaction with tribes unless it was a military action. The treaties were the only nation-to-nation interactions the individual sovereign bands had with the Americans. There was no other communication except from limited engagements with the local Indian agents. The United States had limited knowledge of Indigenous affairs in California or what lands tribes claimed in the state. As a matter of fact, tribes claimed all the land in California.<sup>40</sup>

Furthermore, the United States did not know how many tribes, nor how many Indigenous people existed in California. Nor did anyone know anything about the Indigenous people themselves, such as how many Indigenous languages were spoken, what foods were eaten, what were their traditions, and what were the tribes' political and traditional territories. Stuart wanted to know what he was dealing with.<sup>41</sup> The notes and correspondence of the Treaty Commissioners McKee, Barbour, and Wozencraft still had not been reviewed by anyone in Washington. The tribes on the other hand, knew that the American invaders to be conniving, two-faced, and dishonorable. Many invaders disregarded the Indians' right and believed their race was superior and Indian race was not able to compete against the White man. Furthermore, there was almost no law in California and the law that did exist, strongly favored Americans.<sup>42</sup> Indigenous Scholar Steve Newcomb believes that a

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<sup>40</sup> Damon B. Akins and William J. Bauer Jr., *We Are the Land: A History of Native California* (Oakland, University of California Press, 2021), 13-31.

<sup>41</sup> Letter from Edward Beale to Luke Lea, May 11, 1852, *Letters Received by the Office of Indian Affairs*, 681.

<sup>42</sup> Kimberly Johnston-Dodds, "Early California Laws and Policies Related to California Indians,"

Christian foundation influenced the White American invaders and they used Christian domination and laws to dictate Indian Policy.<sup>43</sup>

On May 11, 1852, Edward F. Beale, Superintendent of Indian Affairs in California reported to Luke Lea on the merits of the treaties.<sup>44</sup> Beale believed the treaties were conducted, “as proper and expedient under the circumstances.”<sup>45</sup> Beale said as long as lands have been selected for the Native people in the State as, “suitable and appropriate,” Beale recommended approval of the treaties.<sup>46</sup> Beale recognized the right of the tribes to occupy the land but if allowed to continue to occupy the land, the fight for the land by the settlers was inevitable.<sup>47</sup> Beale thought the idea of beef and flour as a replacement of annuities of “money, power, lead, and guns” was a novel idea and it was just for two years.<sup>48</sup> Commissioner of Indian Affairs, Lea had waited for Superintendent of Indian Affairs of California Beale’s, response before notifying the Secretary of the Interior, Stuart about the treaties.

On May 11, 1852, Edward Beale, Superintendent of Indian Affairs in California, wrote Luke Lea in favor of ratification of all eighteen treaties.<sup>49</sup> Beale believed the reservations were necessary to gain the peace and friendship of the tribal peoples of California.<sup>50</sup> Beale said the reservations adopted throughout Indigenous California were

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<sup>43</sup> Steve Newcomb interview, September 15, 2017.

<sup>44</sup>Letter from Edward Beale to Luke Lea, May 11, 1852, U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy 31-33.

<sup>45</sup> Ibid, 31-21.

<sup>46</sup> Ibid, 30.

<sup>47</sup> Ibid, 30.

<sup>48</sup> Ibid, 31.

<sup>49</sup> Report from Edward F. Beale, May 11, 1852, U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy 31-33.

<sup>50</sup> Ibid, 31.

for the protection of the Indians.<sup>51</sup> Protection to Americans meant the Indians were to be confined and restricted to isolated compounds while invading American settlers were to have access and control of all lands outside the reservation with access to gold, water, forests, and good farming land. He believed if the “Indian” can roam freely then early extinction was inevitable.<sup>52</sup> Beale was not in favor moving the Aboriginal people east to the other side of the Sierras or moving the Indigenous people of California north to Oregon.<sup>53</sup>

Beale suggested giving the Aboriginal people their own reservation. It was suggested, some would be angry if gold was found on the Aboriginals’ land, but the gold then could be used to support themselves. Beale said by far and large, the land in California is void of water and barren. “The reservations made in the southern portion of the State are undoubtedly composed of the most barren and sterile land to be found in California.”<sup>54</sup> Superintendent Beale believed that if the treaties were rejected to expect a bloody war.<sup>55</sup>

The report from California Superintendent of Indian Affairs, Edward F. Beale favored ratification of the treaties to prevent war with the Indians.<sup>56</sup> Superintendent Beale felt it would be bad business for Southern Pacific Railroad, which was planning on laying down railroad track across California. Beale believed moving the Aboriginal people out of State or east to the Sierra Madre Mountains was out of the question. Moving them to

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<sup>51</sup> Ibid, 32.

<sup>52</sup> Ibid, 31.

<sup>53</sup> Ibid, 31-32.

<sup>54</sup> Ibid, 32.

<sup>55</sup> Ibid, 31-33.

<sup>56</sup> Ibid, 32.

Northern California into gold country was unheard of. It was too close to the miners.<sup>57</sup> Moving them south along the border of Mexico would violate the Treaty of Guadalupe Hidalgo. It was best to leave the Indigenous people where the treaty terms had been identified by the treaty commissioners, and to do it expediently.

Beale thought it was best to act fast. He also believed Indigenous people were not ready for agriculture as had been suggested in the treaties. Yet, agriculture was not new to them. They had learned of this practice from the people along the Colorado River such as the Mojave, Chemehuevi, and Quechan years ago. The missionaries reintroduced farming methods to the Indigenous people as well. The Indigenous people of California had years of extensive manual labors in the Missions as agriculturalists. Luke Lea thought tools would end up with the non-Indian community in a matter of time.<sup>58</sup> Land management, agricultural traditions, and tools of the trade were part of Indigenous societies long before the Spanish, Mexican, and American intruders arrived.

On May 13, 1852, Luke Lea, Commissioner of Indian Affairs received documents related to the negotiation of treaties with California Indians, with a report by the Superintendent of Indian Affairs for the State of California.<sup>59</sup> On May 14, 1852, Luke Lea, Commissioner of Indian Affairs, wrote Alex Stuart, Secretary of the Interior and relayed that he did not send the treaties and associated documents earlier, because he thought it best that they all should be considered together.<sup>60</sup> Luke Lea further wrote that Senators

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<sup>57</sup> Ibid, 31-32.

<sup>58</sup> Ibid, 32.

<sup>59</sup> Letter from Luke Lea to Alex Stuart, May 14, 1852, U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy 30.

<sup>60</sup> Ibid.

from California, “opposed the treaties and that there was violent opposition to them in the legislature of the State where they were undergoing investigation.”<sup>61</sup> Luke Lea evaluated and wrote protocol for the treaties.<sup>62</sup>

Luke Lea liked the idea of moving the tribal people away from their ancestral villages where the American newcomers moved in around them. Luke Lea supported the of moving the tribes, “within the limits of a State,” and immediately away from the settlers.<sup>63</sup> Luke Lea believed Indian Agents McKee, Barbour, and Wozencraft acted without authority and their actions were improper to create such treaties with tribes in California.<sup>64</sup> Lea believed that the treaty commissioners conduct had been improper referring “to their making contracts for fulfilling treaties in advance of their ratification.”<sup>65</sup> Luke Lea supported approval of the treaties. Luke Lea favored ratification of the treaties in that, “a rejection of the treaties without the adoption of precautionary measures guarding against a general outbreak on the part of the Indians would be hazardous and unwise.”<sup>66</sup>

On May 22, 1852, Alex H. H. Stuart, Secretary of the Department of the Interior submitted all documents and all eighteen treaties signed in California to United States President Millard Fillmore.<sup>67</sup> Documents included the eighteen treaties along with a mass

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<sup>61</sup> Letter from Alex H. H. Stuart to Millard Fillmore, May 22, 1852, U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy 32.

<sup>62</sup> *Ibid*, 30-31.

<sup>63</sup> *Ibid*, 30.

<sup>64</sup> Letter from Luke Lea to Alex H. H. Stuart, May 14, 185, U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy 31.

<sup>65</sup> *Ibid*, 31.

<sup>66</sup> *Ibid*.

<sup>67</sup> Letter from Alex Stuart to Millard Fillmore, May 22, 1852, *Letters Received by the Office of Indian Affairs*, 28-30.

of supporting documents, surveys, notes, inventories of the Indigenous people and land, and a report from the Commissioner of Indian Affairs with regard to the treaties as seen in *Documents Relating to the Negotiation of Unratified Treaties with the Various Band of Mission Indians of California*.<sup>68</sup> He did not want to share the treaties and all associated documents earlier with the president until further review, because of the treaties had large expenditures of money and beef. Stuart revealed also “that there was much opposition to them [treaties with the Aboriginal people] among the people of California.”<sup>69</sup> The president did not state he approved the treaties neither did he say he opposed them.<sup>70</sup>

The United States Senate did not receive the actual treaties until halfway into the year. After a ten day review, on June 1, 1852, United States President Millard Fillmore submitted the California treaties, including the Treaty of Temecula, and other support material with the letter from the Secretary of the Interior, to the Senate of the United States for constitutional action.<sup>71</sup> President Fillmore failed to make a decision on the eighteen treaties of California, succumbing to the pressures of California’s strong opposition to treaties and any acknowledgement of California Indigenous people.<sup>72</sup> The Treaties went for review by the Senate. Then on June 7, 1852, six months after the Treaty of Temecula had been conferred by the federally approved Indian Commissioner Oliver Wozencraft, the

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<sup>68</sup> U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy 28-29.

<sup>69</sup> Letter from Alex Stuart to President Millard Fillmore, May 22, 1852, U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy 30-31.

<sup>70</sup> *Ibid.*

<sup>71</sup> Letter from Millard Fillmore to the Senate of the United States, June 1, 1852. *Letters Received by the Office of Indian Affairs*, 28.

<sup>72</sup> Phillips, *Indians of the Tulares*, 264.

Senate took action to exhibit the treaties.<sup>73</sup> The Secretary did not submit the treaties in the order that they were created or submitted. Luke Lea arranged the treaties in groups according to the Indian agents that signed them. Exhibits A-D contained treaties negotiated by George Barbour. Exhibits E-L contained treaties negotiated by Oliver M. Wozencraft [See Figure 8.1 and Table 8.1].

Exhibits M-N contained the first two treaties which were negotiated by all three Commissioners Barbour, Wozencraft, and McKee together before they split up, dividing the territory of California into three parcels. Exhibits O-R contained treaties negotiated by Redick McKee.<sup>74</sup> The Treaty of Temecula became known as Treaty K because it had been listed under Exhibit “K.”<sup>75</sup> The treaties and their associated documents were displayed for all to see. Copies were made through the Committee of Indian Affairs. The treaties were read aloud with little discussion.<sup>76</sup> The Senate closed the floor for discussion of treaties and there was no further discussion. The reservation proposed by Wozencraft never came into existence.<sup>77</sup> The lands occupied by the Aboriginal people of California were never ceded to the United States. Kumeyaay scholar Michael Connolly Miskwish believed the United States Senate sided with the State of California in rejection of the treaties because the treaties did not include provisions for removal of the Indigenous people out of the

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<sup>73</sup> Executive Session, June 7, 1852, U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy 27.

<sup>74</sup> Heizer, *Eighteen Unratified Treaties*, 2.

<sup>75</sup> From Alex H. H. Stuart to United States Senate, May 22, 1852, U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy 29-30.

<sup>76</sup> Norton, *Genocide in Northwestern California*, 73.

<sup>77</sup> Rawls, *Indians of California*, 146.

State.<sup>78</sup> The reason the treaties were never ratified was because the American people wanted the land, plain and simple. The politicians made up justifications not to approve the California Indian treaties.<sup>79</sup>

The United States Congress had not received the treaties yet; however, Congress began to debate the merits of the California Indian commissioners. On March 26, *The Congressional Globe* reported that some United States congressmen believed there were problems with the California Indian treaties: Indian commissioners did not have authority to make contracts for unratified treaties, and Indian Commissioners did not receive substantial guidance nor instructions to make treaties.<sup>80</sup> The debate started when United States Congressman John W. McCorkle of California moved to appropriate \$520,000 to pay debts for beef contracts submitted on behalf of the commissioners for California Indian treaties.<sup>81</sup> His colleagues did not agree that such contracts without prior permission need be paid.<sup>82</sup> McCorkle suspected the motive of the commissioners for the beef contracts was to get the Indigenous people, “to treat with them.”<sup>83</sup>

United States Congressman Meredith Poindexter Gentry of Tennessee expressed, “If the commissioners have proceeded to California to make expenditures, and treaties, and contracts not authorized by their instructions from Government here, and for which no

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<sup>78</sup> Miskwish, *Kumeyaay*, 84.

<sup>79</sup> Hoopes, *Domesticate or Exterminate*, 106-107.

<sup>80</sup> U.S., Congress, *The Congressional Globe: The Debates, Proceedings, and Laws of the 1<sup>st</sup> Session of the Thirty Second Congress*, V 24, Part 2, 1852, 888. accessed February 26, 2017, University of North Texas Libraries, <https://digital.library.unt.edu/>. Hereafter cited as United States, *The Congressional Globe*: V 24, Part 2, 1852.

<sup>81</sup> U.S., *The Congressional Globe*: V 24, Part 2, 1852, 888.

<sup>82</sup> Hoopes, *Domesticate or Exterminate*, 101-102; and U.S., *The Congressional Globe*: V 24, Part 2, 1852, 888-889.

<sup>83</sup> *Ibid*, 888.



appropriations had been made by Congress,”<sup>84</sup> “Congress ought to set its face sternly against this character.”<sup>85</sup> Gentry believed the treaty commissioners acted with neglect and must be held accountable. It came down to money. Congressman Gentry believed the lands acquired by the Indian commissioners in the new states and territories of the United States acquired by the Treaty of Guadalupe Hidalgo would “bankrupt” the United States.<sup>86</sup> It was not just the treaties in California that put pressure on the Senate to pay for beef contracts in California but outstanding debts from the transaction of Indian Commissioners after the acquisitions of land from the Treaty of Guadalupe including California, Oregon, and Texas.<sup>87</sup>

United States Senator Samuel Houston from Texas believed that the Indian Commissioners violated their instructions, “agreeing to execute treaties before they were ratified by the Senate.”<sup>88</sup> McCorkle stated the Indian commissioners were appointed by the President of the United States, “and sent out to California with full powers to negotiate treaties with the various Indian tribes inhabiting that State.”<sup>89</sup> As far as guidance or instructions go, on March 26, 1852, Treaty Commissioner George Barbour admitted he had been given only general guidance.<sup>90</sup>

On April 19, United States Congress reviewed a report and suggested resolutions from the California Legislature Committee of Indian Affairs.<sup>91</sup> The California Senators

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<sup>84</sup> Ibid.

<sup>85</sup> Ibid.

<sup>86</sup> Ibid.

<sup>87</sup> U.S., *The Congressional Globe: V 24, Part 2, 1852*, 887-890.

<sup>88</sup> Ibid, 888.

<sup>89</sup> Ibid.

<sup>90</sup> Hoopes, *Domesticate or Exterminate*, 18.

<sup>91</sup> U.S., *The Congressional Globe: V 24, Part 2, 1852*, 1121-1122.

tried to overturn the California Indian treaties and disrupt payment to settle associated costs. California settlers and politicians wanted to take all the land and resources and it would be harder if there were no reservations in the way. The report stated the Indian commissioners in California incurred debts beyond \$766,000.<sup>92</sup> Some \$150,000 of the cost came from military escort of the Indian commissioners.<sup>93</sup> The people of Californian wanted to know where the treaties were physically located. They wanted to know boundaries of the reservations. Then the report stated:

*To take any portion of the country west of the Sierra Nevada, for the home of the wild, and generally hostile Indians, would be so manifestly unwise and impolite, that your committee cannot think that anything more is necessary, than thus to present it in public consideration, has been one long established, and to which we claim an undoubted right. That policy, is to remove all Indian tribes beyond the limits of the State in which they are found, with all practicable dispatch.*<sup>94</sup>

The California politicians wanted the land for themselves and did not want to give up what they had taken. The report stated that Indian policy never recognized the Indigenous peoples' right to the land and it, "was never admitted nor recognized."<sup>95</sup> The report included a resolution, "to oppose the confirmation of any and all treaties of the State of California, granting to Indians an exclusive right to occupy any of the public lands of this State."<sup>96</sup>

To aid the United States Senators with their decision on the treaties they did not physically possess, the Senators used the *Annual Reports of the Commissioners of Indian*

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<sup>92</sup> Ibid, 1121.

<sup>93</sup> Ibid, 1122.

<sup>94</sup> Ibid, 1121.

<sup>95</sup> Ibid.

<sup>96</sup> Ibid, 1122.

*Affairs* to make their judgments.<sup>97</sup> The reports were incomplete and did not include the most recent treaties made in California, specifically the Treaty of Temecula and the Treaty of Santa Ysabel.<sup>98</sup> Information was based on limited data available to the Senators. According to the 1851 *Annual Report of the Indian Commissioner*, used by the Senate, Indian Commissioner George Barbour wrote, “the country set apart for them is very poor soil; but a small portion of it adapted to agriculture purposes, but remarkably well adopted to the raising of stock.” The extract was used to assess the treaties made with California tribal leaders.<sup>99</sup> The extracts reported by the Indian Commissioners showed commissioners controlled military escorts and exceeded their appropriation, causing huge costs to the treaty stipulations, and beef contracts.<sup>100</sup> Ultimately, in the end, the California politicians wanted the land for themselves. At the same time, the other Senators and Congressmen of the Country were tired of paying for it, so they ignored the treaties they just signed and through their colonial power, claimed the land.<sup>101</sup> The United States used the treaty to transfer title of tribal land to the United States government with “permanent means of support by the Government by receiving payment for their lands.”<sup>102</sup> The politicians no longer supported annuities for the land. “I confess I do not see any charity in the government in supporting a single Indian by way of annuity upon the public treasury,” Congressman Cyrus Dunham explained.<sup>103</sup>

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<sup>97</sup> Ibid, 1120.

<sup>98</sup> Lea, *Report of the Commissioner of Indian Affairs* 1851, 3-13, and 222-253.

<sup>99</sup> Ibid, 1121.

<sup>100</sup> Ibid.

<sup>101</sup> U.S., *The Congressional Globe*: V 21-Pat III, 1<sup>st</sup> Session, 1852, 1828.

<sup>102</sup> Ibid.

<sup>103</sup> Ibid.

“The Treaty of Temecula, like the other seventeen treaties negotiated by the commissioners, was steeped on controversy,” affirmed scholar Vanessa Ann Gunther.<sup>104</sup> The “growing list of vouchers for supplies, salaries and livestock” alarmed the Senators.<sup>105</sup> On April 29, the United States Senate Committee on Indian Affairs commenced consideration of the “treaties, Agent’s debts, and all other factors relation to the Indian Commission.”<sup>106</sup> William M. Gwin, a United States Senator from California, was a emblematic expansionist, and urged the “immediate construction of a railroad from the valley of the Mississippi to the Pacific back in January.”<sup>107</sup> Indigenous peoples’ reservations were in the way of Senator Gwin’s vision. Senator Gwin demanded immediate rejection of the treaties and their ratification.<sup>108</sup> Gwin wanted California Indigenous peoples’ land for American progress without the Indian. Gwin was the leading delegate of California.<sup>109</sup> Newer delegates looked towards Gwin for support, so, when Gwin charged, “abuses in the Executive Department of the Government,” by the treaty commissioners of California, it stirred the Senate.<sup>110</sup> California Congressman Gwin demanded that Congress hold the Indian commissioners, “to the strict letter of the law.”<sup>111</sup>

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<sup>104</sup> Vanessa Ann Gunther, “Ambiguous Justice: Native Americans and the Legal System in Southern California, 1848-1890,” (dissertation, University of California Riverside, 2011), 43.

<sup>105</sup> Vanessa A. Gunther, “Ambiguous Justice,” 43.

<sup>106</sup> Hoopes, *Domesticate or Exterminate*, 104.

<sup>107</sup> Rachael St. John, “The Unpredictable America of William Gwin: Expansion, Secession, and the Unstable Borders of Nineteenth-Century North America,” in *Journal of the Civil War Era* 6, no. 1 (March 2016), 61. accessed November 11, 2020. JSTOR, <https://www.jstor.org/>; and U.S., *The Congressional Globe: V 24, Part 2, 1852*, 965.

<sup>108</sup> Ibid.

<sup>109</sup> St. John, “*The Unpredictable America of William Gwin.*”

<sup>110</sup> United States, *The Congressional Globe: V 24, Part 2, 1852*, 582.

<sup>111</sup> Hoopes, *Domesticate or Exterminate*, 106; and U.S., Congress, *The Congressional Globe: The Debates, Proceedings, and Laws of the 1<sup>st</sup> Session of the Thirty Second Congress*, V 25, 1<sup>st</sup> Session, Appendix, 1852, 582. accessed February 26, 2017, University of North Texas Libraries, <https://digital.library.unt.edu/>. Hereafter cited as United States, *The Congressional Globe: V 25, Appendix, 1852.*

James A. Pierce, President of the Senate, wanted to wait for more info to come in regarding the treaties themselves.<sup>112</sup> According to the *Congressional Globe*, United States Senator Gwin did not want to approve the treaties because they were made in a haste of war with the tribes.<sup>113</sup> Gwin said he believed government made treaties to prevent war. Senator Gwin did not like the idea of moving the Indigenous people from “the mountains and ranchos,” close to American settlements centered in one area, due to potential violence.<sup>114</sup> There were all these charges, but none unified the Senate except one: the land. The Senators wanted the land for American settlers, who would bring “progress” to build up America’s strength through development and infrastructure. The United States senators did not envision the Indigenous people of California as part of the nation’s future. United States Senators dehumanized California Indigenous people.

On June 1, 1852, President Millard Fillmore submitted the treaties and associated documents to the Senate for their review and approval.<sup>115</sup> The treaties and supporting documents were referred to the Senate on June 7 and each treaty was read. The treaties were asked to be printed without any action taken.<sup>116</sup> The treaties were considered behind closed doors in Executive Session over several days.<sup>117</sup> On June 7, 1852, the treaties were

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<sup>112</sup> Ibid.

<sup>113</sup> Ibid.

<sup>114</sup> Hoopes, *Domesticate or Exterminate*, 105; and United States, *The Congressional Globe*: V 25, Appendix, 1852, 582.

<sup>115</sup> U.S., *Journal of the Executive Proceedings of the Senate of the United States of America: From December 4, 1848 to August 31, 1852, Inclusive, Vol. III*, (Washington: GPO, 1887), 390. accessed November 17, 2020, Hathi Trust Digital Library, <https://babel.hathitrust.org/>. Hereinafter cited as U.S., *Journal of the Executive Proceedings of the Senate*.

<sup>116</sup> Anderson, Ellison, and Heizer, *Treaty Making and Treaty Rejection by the Federal Government in California*, 27; Larisa K. Miller. “*The Secret Treaties with California Indians*,” *Prologue* (Fall/Winter 2013), 43; U.S., *Senate Manual*, 172; and U.S. *Journal of the Executive Proceedings of the Senate*, 393-394.

<sup>117</sup> Hoopes, *Domesticate or Exterminate*, 106; and Kelsey, “The California Indian Treaty Myth,” 233.

referred to the Senate Select Committee on Indian Affairs, hereinafter referred to Committee on Indian Affairs.<sup>118</sup> On June 8, the Senate then ordered the treaties and all documents and papers received associated with the treaties be, “printed in confidence for use by the Senate.”<sup>119</sup> Deliberations on the treaties began. The Committee of Indian Affairs consisted of seven appointed members.<sup>120</sup> United States Senator John B. Weller from California chaired the Committee on Indian Affairs.<sup>121</sup>

On June 28 the Treaty of Temecula and the other seventeen treaties were presented without amendment or ratification to the Senate by Mr. Atchison of the Committee on Indian Affairs.<sup>122</sup> The Committee on Indian Affairs reached a decision not to ratify the treaties based on counter arguments that included: novel stipulations, large expenditures of money, that Indian commissioners abused their authority, and that the land was too valuable. Further, “the people of California had no interest in the Indian’s welfare.” The public demanded rejection of treaties and wanted to “retain the Indians in the undisturbed possession of their reservations and expel the intruders.” Indigenous people had no rights, and the Senators believed the territory had been ceded to the United States through the Treaty of Guadalupe Hidalgo.<sup>123</sup> In addition, “in the wake of the gold rush,” Americans

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<sup>118</sup> Larissa Miller, “The Secret Treaties with California Indians,” 43; and U.S., *Journal of the Executive Proceedings of the Senate*, 393-394.

<sup>119</sup> Anderson, Ellison, and Heizer, *Treaty Making and Treaty Rejection by the Federal Government in California*, 27; and U.S., *Journal of the Executive Proceedings of the Senate*, 397.

<sup>120</sup> U.S., *Senate Manual*, 172.

<sup>121</sup> U.S., *The Congressional Globe: V 21-Pat III*, 1<sup>st</sup> Session, 1852, 2180.

<sup>122</sup> Larissa Miller, “The Secret Treaties with California Indians,” 43; and U.S., *Journal of the Executive Proceedings of the Senate*, 417.

<sup>123</sup> Hoopes, *Domesticate or Exterminate*, 106-107; Phillips, *Indian and Indian Agents*, 182. and U.S., Congress, *The Congressional Globe: The Debates, Proceedings, and Laws of the 1<sup>st</sup> Session of the Thirty Second Congress*, V 21-Part III, 1<sup>st</sup> Session. 1852, 2173. accessed November 9, 2020, Hathi Trust Digital Library, <https://babel.hathitrust.org/>. Hereafter cited as United States, *The Congressional Globe: V 21-Pat III*, 1<sup>st</sup> Session, 1852.

opposed the treaties, because they limited access to the land and gold mines.<sup>124</sup> In addition, “perpetuated by individuals like President Theodore Roosevelt, the myth that Indians did not have concepts of ownership and thus did not own their lands; this myth helped to legitimize non-Indian conquest,” and non-approval of the treaties.<sup>125</sup> The decision to reject the treaties was due to the fact that Americans wanted the land and they came up with every argument to validate their own chauvinistic beliefs to give reason why the treaties need not be ratified. The Select Committee of Indian Affairs came back and reported to the Senate their decision.<sup>126</sup>

No note of what was said or spoken was recorded for Senate records.<sup>127</sup> It was not public information. Senators were forbidden to discuss the details of treaty deliberations.<sup>128</sup> All members of the Senate, in executive session, swore an oath of secrecy.<sup>129</sup> According to the President of the Senate, James A. Pierce, anything presented or heard while in executive session or from the Select Committee deliberations was forbidden to be shared with the Senate in open session or anywhere else.<sup>130</sup> General discussion could be spoken about treaties once the injunction of secrecy was removed.<sup>131</sup> The injunction was not removed until 1905.<sup>132</sup> Additionally, conferring to the *Senate Rules and Procedures*, Rule XXIX, 29.2: Executive Sessions:

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<sup>124</sup> Larissa Miller, “The Secret Treaties with California Indians,” 39.

<sup>125</sup> Przeklasa, “Reservation Empire,” 39.

<sup>126</sup> Hoopes, *Domesticate or Exterminate*, 107.

<sup>127</sup> Phillips, *Indians of the Tulares, Notes*, 70; and U.S., *Senate Manual*, 56.

<sup>128</sup> Kelsey, “The California Indian Treaty Myth,” 234; U.S., *Senate Manual*, 56.

<sup>129</sup> U.S., *Senate Manual*, 56.

<sup>130</sup> U.S., *The Congressional Globe: V 21-Pat III*, 1<sup>st</sup> Session, 1852, 2173.

<sup>131</sup> U.S., *Journal of the the Senate*, 417.

<sup>132</sup> Hoopes, *Domesticate or Exterminate*, 107 and Larissa Miller, “The Secret Treaties with California Indians,” 43.

When acting upon confidential or Executive business, unless the same shall be considered in open Executive session, the Senate Chamber shall be cleared of all persons except the Secretary, the Assistant Secretary, the Principal Legislative Clerk, the Parliamentarian, the Executive Clerk, the Minute and Journal Clerk, the Sergeant at Arms, the Secretaries to the Majority and the Minority, and such other officers as the Presiding Officer shall think necessary; and all such officers shall be sworn to secrecy.<sup>133</sup>

On July 6, in Executive Session behind closed doors, the Committee on Indian Affairs returned to the Senate with their recommendation.<sup>134</sup> With consideration from the Committee on Indian Affairs, the Senate voted not to confirm and ratify the Treaty of Temecula or any treaty from California.<sup>135</sup> The United States Senate voted unanimously not to ratify the treaties.<sup>136</sup> All thirty-seven Senators present rejected the treaties.<sup>137</sup> According to George Phillips, in his book, *Indians of the Tulares: Adoption, Relocation, and Subluxation, in Central California, 1771-1917*, Senator John B. Weller was absent for the vote.<sup>138</sup> Resolutions were drafted and adopted not to ratify each treaty. Each resolution required a majority vote.<sup>139</sup> “It was unanimously determined in the negative,” for each treaty vote.<sup>140</sup> The treaties, one by one, were rejected via resolution. The Treaty of

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<sup>133</sup> U.S., *Senate Manual*, 56.

<sup>134</sup> Larissa Miller, “The Secret Treaties with California Indians,” 43; and U.S., *Journal of the Executive Proceedings of the Senate*, 417.

<sup>135</sup> Hoopes, *Domesticate or Exterminate*, 106-107; and U.S., *The Congressional Globe*: V 21-Pat III, 1<sup>st</sup> Session, 1852, 2173; U.S., U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy 200-343; and U.S., *Journal of the Executive Proceedings of the Senate*, 417-420.

<sup>136</sup> Phillips, *Indians and Indian Agents*, 182.

<sup>137</sup> Phillips, *Indians and Indian Agents*, 182; and U.S., *Journal of the Executive Proceedings of the Senate*, 417.

<sup>138</sup> Phillips, *Indians of the Tulares*, 264.

<sup>139</sup> U.S., *Senate Manual*, 172.

<sup>140</sup> U.S., *Journal of the Executive Proceedings of the Senate*, 417.



Temecula was rejected by the United States Senate on July 8, 1852.<sup>141</sup> Asbury Dickins, Secretary of the United States Senate in 1852, recorded each resolution as, “Resolved, that the Senate do not advise or consent to the ratification of the Treaty of Peace and Friendship.”<sup>142</sup> The *Congressional Globe* reported the Senate Select Committee placed an injunction of secrecy on the treaties.<sup>143</sup> The secrecy alluded to in the *Senate Manual* mandated that the senators in executive session take an oath of secrecy which automatically assumes an “injunction of secrecy,” and can only be removed by a majority vote of the Senate.<sup>144</sup>

Although Harry Kelsey, a historian, believed there was no, “conspiracy to hide the existence of the California Indian treaties,”<sup>145</sup> there is enough evidence to say there was a conspiracy. The ban of secrecy was never lifted until 1905. The men of United States conspired to the hide treaties for more than half a century.<sup>146</sup> The conspiracy led to the theft of Aboriginal land.<sup>147</sup> The treaties were not available to the researcher as Kelsey suggested.<sup>148</sup> In actuality, all the treaty documents had been filed away.<sup>149</sup> The fact alone

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<sup>141</sup> U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy 281.

<sup>142</sup> U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy 281.

<sup>143</sup> U.S., *The Congressional Globe*: V 21-Pat III, 1<sup>st</sup> Session, 1852, 2180.

<sup>144</sup> U.S., *Senate Manual*, 56 and 58.

<sup>145</sup> Kelsey, “The California Indian Treaty Myth,” 233.

<sup>146</sup> U.S., *Checklist of the United States Public Documents, 1789-1909, Vol 1: Lists of Congressional and Departmental Publications*, 3<sup>rd</sup> ed, (Washington: GPO, 1911), 1475-1476. accessed November 17, 2020, Hathi Trust Digital Library, <https://babel.hathitrust.org/>. Hereinafter cited as United States, *Checklist of the United States Public Documents*.

<sup>147</sup> Sam Levin, “This is all stolen land’: Native Americans want more than California’s Apology,” in *The Guardian*. June 21, 2019, <https://www.theguardian.com/us-news/2019/jun/20/california-native-americans-governor-apology-reparations>.

<sup>148</sup> Kelsey, “The California Indian Treaty Myth,” 233.

<sup>149</sup> U.S., *Checklist of the United States Public Documents*, 1475-1476.

that the ban of secrecy was not lifted until 1905, granting access, persuades collusion, cover

*In Executive Session Senate of the United States,  
July 8, 1852*

*Resolved, That the Senate do not advise and consent to the ratification of the Treaty of peace and friendship made and concluded at the Village of Temecula, California, between the United States Indian Agent, O. M. Worcester, of the one part, and the Captains and Headmen of the following nations, viz: The nation of San Luis Rey Indians, the Kahu-we-as, and the tribe of Co-com-cah-ras.*

*Attest* *Anthony Disbent,*  
*Secretary.*

Figure 8.2: “Nonratification of the Treaty of Temecula,” July 8, 1852, in Executive Senate Session.<sup>150</sup>

<sup>150</sup> U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy 281.

up, and conspiracy. The United States Senate regularly sealed documents on treaty deliberations from public view as required in their self-prescribed manual.<sup>151</sup>

The treaties represented a nation-to-nation and government-to-government relationship, and that was completely disregarded to take all the traditional lands of the Indigenous people including the lands of the Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano, which is much of Southern California. The United States turned its head on the tribes of California, ignoring the Indigenous peoples' request for a secure land base. The Senates disregard to approve the treaties allowed California to expand into Indian county, where Indigenous people lived and occupied the lands. There was a cover up. The Senate used its own measures and protocol not to act on the California Indian treaties, and hid them. The treaties were then locked, stored, and hidden from "Indians" and Indian supporters, until the treaties resurfaced in 1905.<sup>152</sup>

The Senate of the United States ordered all California Indian treaties hidden from public view. "Transmitted to the Senate of the United States in 1852, the existence and contents of these treaties were not made public until 1905."<sup>153</sup> Within a short period of time, the treaties vanished and became "lost," exclaimed Larea Lewis, a Cahuilla scholar.<sup>154</sup> Luke Lea, Commissioner of Indian Affairs for Alex H. H. Stuart, Secretary of the Interior, wrote that the United States government did not want tribes to know about the hidden treaties for fear of opposition by the Indigenous people and a "general Indian war in

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<sup>151</sup> U.S., *Senate Manual*, 172.

<sup>152</sup> U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy 1.

<sup>153</sup> *Ibid.*

<sup>154</sup> Lewis, "The Desert Cahuilla," 49-50.

California.”<sup>155</sup> For this reason, the Senate secretly hid the treaties discreetly, although, there were no records of the Senate’s decision.<sup>156</sup> The Indigenous people recall that treaties were made and hidden. The Senate Select Committee of Indian Affairs filed the treaties away with all the other unratified treaties.<sup>157</sup> The late tribal elder Katherine Saubel explained the Whites later came and denied treaties ever existed.<sup>158</sup> The reservation proposed by Wozencraft never came into existence.<sup>159</sup>

It is extremely important to understand that the lands occupied by the Aboriginal people of California were never ceded to the United States. Instead, these lands were taken. The United States claimed the Indigenous lands by the right of conquest of Mexico and ignored Indigenous peoples’ rights of ownership using western theory and law, which was unknown to the Native people.<sup>160</sup> Mexico and the United States both used western law to assume control over the land. The United States did conquer the Indigenous people.<sup>161</sup> According to the Webster-Merriam Dictionary, conquer means, “one who wins a country in war, subdues or subjugates a people, or overthrows an adversary.”<sup>162</sup> There was not war on part of the tribes. There was a war of extermination against the Indigenous people by the invading Americans. The Native people let the intruders stay and opted for negotiation and change. Do not see the power to choose one’s path as defeat. Western law only

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<sup>155</sup> U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy 30.

<sup>156</sup> Ellison, “Federal Indian Policy in California, 1846-1860,” 58.

<sup>157</sup> Vanessa A. Gunther, “Ambiguous Justice,” 45.

<sup>158</sup> Saubel and Elliot, *‘Isill Héqwas Wáxish\_Book 1*, 544-545.

<sup>159</sup> Rawls, *Indians of California*, 146.

<sup>160</sup> Cahuilla Red Elk interview, March 5, 2019; and Deloria and Wilkens, *Tribes, Treaties, & Constitutional Tribulations*, 3-4.

<sup>161</sup> Deloria and Wilkens, *Tribes, Treaties, & Constitutional Tribulations*, 12.

<sup>162</sup> “Merriam-Webster,” <https://www.merriam-webster.com/>. 2021.

benefited the intruder's rights to the land. Trickery, secrecy, and thievery came with Western law. The mass coverup by the United States Senate in 1852 to grant the entire State of California as public domain without securing title from Indigenous peoples was one of the largest land thefts in United States history. Without ratification, the United States Senate sealed the Treaty of Temecula and the other seventeen treaties of California behind closed doors for fifty-three years. The Senate kept papers in the "Indian Room" with other executive papers. The "Indian Room" was in the Department of the Interior's office.<sup>163</sup>

"The record copies of the treaties were returned to the Department of the Interior; only the copies printed for use by Senators fell under the secrecy action."<sup>164</sup> The treaties were never truly secret or "lost."<sup>165</sup> Some Americans had not heard of the unratified treaties. Senator Weller stated to the Senate, "It will be hard indeed to explain to these Indians how it came that the formal treaties made with your accredited agents have been violated."<sup>166</sup> Indian Commissioner Wozencraft did not correspond with the tribes about the unapproved treaty of Temecula nor did other agents of the United States government. The tribal leaders waited for confirmation and approval of the treaties.

The debates on the treaties continued. On July 17, Senator Abraham W. Venable asked, "who commissioned us, as a Christian people, to destroy a whole race of men,

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<sup>163</sup> The treaties were kept in Washington. Larissa Miller, "The Secret Treaties with California Indians," 44.

<sup>164</sup> Larissa Miller, "The Secret Treaties with California Indians," 39.

<sup>165</sup> "Lost Treaties of California Indians," *Sacramento Daily Union* (Sacramento, CA), February 26, 1922. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>166</sup> Anderson, Ellison, and Heizer, *Treaty Making and Treaty Rejection by the Federal Government in California*, 28.

whose offense is, that deny decline to adopt our institutions, and refuse to surrender their lands?<sup>167</sup> This is not true, The Indigenous people already agreed to adopt and change their way of life. It is true, they did not surrender their lands at will, but protection then with vengeance, as war of extermination was upon them. On August 6, the Senate voted against an investigation of the treaties and Indian Commissioners.<sup>168</sup> New treaties were suggested but never approved.<sup>169</sup> It was also considered to provide supplements to feed the Native people of California with an appropriation of \$100,000, even though treaties were not endorsed.<sup>170</sup> Tension remained in the Senate. One Senator suggested that on top of the \$100,000 that an additional \$500,000 be distributed to the Native people in California to help them.<sup>171</sup> In mid-September news of the rejection of treaties reached California, along with \$100,000 to buy essential supplies to feed the Native people.<sup>172</sup>

On August 11, 1852, California State Senator, John B. Weller predicted “Indians” would be exterminated by the White man as the Whites invaded Indigenous California.<sup>173</sup> Weller and other Americans believed they had the right to “exterminate” the Indigenous people.<sup>174</sup> It was American Manifest Destiny. Many, like Weller, believed this was the fate of the Indigenous people, and the Senators voted to reject all of California’s treaties with

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<sup>167</sup> Senator Venable asked, “who authorized us to go on a crusade to press civilization by force upon a race of our fellow-men or destroy them in one general massacre.” U.S., *The Congressional Globe*: V 21-Pat III, 1<sup>st</sup> Session, 1852, 1828.

<sup>168</sup> U.S., *The Congressional Globe*: V 21-Pat III, 1<sup>st</sup> Session, 1852, 2173.

<sup>169</sup> Hoopes, *Domesticate or Exterminate*, 108.

<sup>170</sup> Carrico, *Strangers in a Stolen Land*, 96.

<sup>171</sup> U.S., *The Congressional Globe*: V 21-Pat III, 1<sup>st</sup> Session, 1852, 2173-2180.

<sup>172</sup> “Congressional, Arrival of the Pacific Steamer,” *Sacramento Daily Union* (Sacramento, CA), September 18, 1852. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>173</sup> U.S., *The Congressional Globe*: V 21-Pat III, 1<sup>st</sup> Session, 1852, 2172-2180.

<sup>174</sup> *Ibid*, 1828-1829, and 1910.

tribal leaders with this belief in mind. The crafty, racist, and land-hungry invaders such as Senator Weller and other California Senators wanted the land for themselves.<sup>175</sup> Yet, on August 30, Congress appropriated \$100,000 to feed the Indigenous people after the treaties were dissolved. At the same time, the Senate did not want to make this an obligation to those “Indians who have been disposed of their land in California,”<sup>176</sup> Lowell J. Bean pointed out that the rejection of the eighteen treaties, including the Treaty of Temecula, placed the Indian people in great peril. “Squatters could now enter Indian communities and dispossess people of their homes and fields.”<sup>177</sup> Under American law, Indigenous people did not own their land. The people were at the mercy of the invaders.

The United States continued to ignore the Indigenous people and raped the land of all its resources.<sup>178</sup> The signatory groups of the treaties were left without any recognition or rights acknowledged by the American government. By April 1853, California heard that the Senate opposed the treaties. The *San Joaquin Republican* reported the treaties were rejected, “so that now the Indians remain without practical protection from law or treaties, and the government officers have to do the best they can to save them from death by massacre or starvation.”<sup>179</sup> Vanessa Gunther believed, “While the Americans recognized that Indians had a “natural right” to their lands, this could be extinguished through conquest or treaty.”<sup>180</sup> Neither invasion nor treaty extinguished the Aboriginals’

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<sup>175</sup> Madley, *An American Genocide*, 212.

<sup>176</sup> Phillips, *Indians and Indian Agents*, 182.

<sup>177</sup> Bean, *From Time Immemorial*, 341.

<sup>178</sup> Rupert Costo and Jeannette Henry Costo, *The Missions of California: A Legacy of Genocide* (San Francisco) Indian Historic Press, 1987), 1-6.

<sup>179</sup> “The Indian Commissioners,” *San Joaquin Republican* (Stockton, CA), April 23, 1853. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>180</sup> Vanessa A. Gunther, “Ambiguous Justice,” 29.

right to the land. The Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano had not been beaten. They were the land. There was no major battle; there were skirmishes and raids. Treaties were never approved.

The Indigenous people granted the Americans the right to stay on their land. The Americans brought new ideas and ways of doing things that slowly over time were adopted by the Native people. The Indigenous people chose to live and wanted to negotiate with the Americans, but the Americans saw this as a weakness and politically and discreetly, through American law, assumed control of the land. Relations between the Native people and the interlopers and settlers continued to be hostile.<sup>181</sup> The Native people of Southern California persisted to live in proximity of their new neighbors during these times of conflict. Americans moved onto the lands formerly occupied by the Aboriginal people, and pushed the Indigenous people into areas away from the American footprint, such as into the deserts, canyons, mountains, and corners of American establishments.

Officially and legally, no one told the Indigenous people about the rejection and non-approval of the treaties until 1905, fifty-three years, or two generations later. The tribes were not happy with the treaty, but they did what they believed was best for future of their people. The tribal leaders wanted confirmation of the treaties from Washington, D.C. Neither Oliver M. Wozencraft or the Senate, nor any other representative of the United States told the tribes of the non-ratification the Treaty of Temecula.<sup>182</sup> The late Luke Madrigal, a Cahuilla leader steeped in the history, stories, and songs of his people,

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<sup>181</sup> Ibid, 47.

<sup>182</sup> Vanessa A. Gunther, "Ambiguous Justice," 46.



believed, “The United States felt there was no need to talk to the people; so, the people never heard of treaties’ non-approval.”<sup>183</sup> On the other hand, the rejection of the treaties meant the tribes still held title to the land and maintained the right to occupy the land. That is how the tribal people pushed on through, knowing they were autonomous, and they took care of the land, and the land took care of them.<sup>184</sup> Indigenous people retained title to the land and have stories to the land, which connects them spiritually, physically, socially and ceremonially.

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<sup>183</sup> Luke Madrigal was a passionate and creative storyteller, a Cahuilla Bird Singer, and a loving father and husband. Madrigal was Natcutakik from the Cahuilla Reservation near Coyote Canyon. Luke Madrigal interview by author, phone, September 13, 2019.

<sup>184</sup> Anthony Madrigal, *Sovereignty, Land and Water*, 106.

## Chapter 9



### **Persistence on the Land**

*Sovereignty and Self Determination are not new concepts for Kumeyaay People. Rather they were inherent in the powers exercised for millennia before contact with Europeans. This has always been at the forefront of Treaty Negotiations and policy development with the United States.<sup>1</sup>*

**MICHAEL CONNOLLY MISKWISH, KUMEYAAY, 2007**

### **Juan Antonio Returns Home**

For many years, Juan Antonio and several other tribal leaders wondered what happened to the treaty (Treaty of Temecula) that they had signed and what could they do about it. Indigenous people were not considered citizens, meaning they had no rights, and their concerns were not fully taken into consideration by the intruders. Indigenous people took the complaints to a judge without any action. The 1850 *Act for the Government and Protection of the Indians* did not permit judges to help Aboriginal peoples.<sup>2</sup> Wanting to know answers, Juan Antonio made several trips to Los Angeles, inquiring about the Treaty of Temecula, which he signed but had never received any confirmation, either.<sup>3</sup>

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<sup>1</sup> Miskwish, *Sycuan, Our People. Our Culture. Our History*, 129.

<sup>2</sup> Johnson-Dodds, "Early California Laws and Policies Related to California Indians," 3 and 6.

<sup>3</sup> Phillips, *Indians and Indian Agents*, 99.

In February 1863, during the Civil War, the raging smallpox pandemic spread across Southern California into the village of Sáxhatpah, where Juan Antonio lived.<sup>4</sup> Katherine Saubel reported, “The white people sent contaminated blankets to them [Indigenous people living at Sáxhatpah].”<sup>5</sup> Cahuilla and Luiseño historian professor Edward Castillo reported that he has tried to find evidence of smallpox blankets being delivered by soldiers to Cahuilla people, but as of this writing, he has found no evidence of soldiers giving smallpox-infected blankets to the Indian people of Southern California.<sup>6</sup> The smallpox epidemic came off ships and spread into Los Angeles and moved inland to the Cahuilla, Serrano, Chemehuevi, Mojave, and Quechan, killing an untold number of Indigenous people.

The *Los Angeles Star* reported that after a generation of protecting his family’s lands, the Cahuilla leader, probably his wife, and three others living at Sáxhatpah, had succumbed to the disease.<sup>7</sup> Smallpox was a dangerous virus just like COVID-19.<sup>8</sup> Smallpox took the life of one of the most important men remembered in Cahuilla history. Juan Antonio had been the first tribal leader to sign the Treaty of Temecula. He encouraged other tribal leaders to sign. Juan Antonio became one of the most influential and powerful Southern California Indian leaders.<sup>9</sup> Before his passing, Juan

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<sup>4</sup> Saubel and Elliot, *Isill Héqwas Wáxish\_Book 1*, 262-265.

<sup>5</sup> Ibid.

<sup>6</sup> Clifford Trafzer discussion with author, phone, June 2, 2020. Hereafter cited as Clifford Trafzer discussion, June 2, 2020.

<sup>7</sup> “Correspondence,” *Los Angeles Star* (Los Angeles, California), February 28, 1963.

<sup>8</sup> David L. Heyman and Annelies Wilder-Smith, “Successful Smallpox Eradication: What Can We Learn to Control Covid-19,” in *Journal of Travel Medicine* V 27, no. 4 (May 2020). accessed November 18, 2020, Oxford University Press, <https://academic.oup.com/jtm/article/27/4/taaa090/584911>.

<sup>9</sup> Anthony Madrigal, *Sovereignty, Land, and Water*, 77.

Antonio told those not known to be sick at his village to return to the mountain away from the White men, where life would be better for them and possibly hidden from the disease. Juan Antonio by this time realized the United States government would not ratify the Treaty of Temecula and had no intention of doing so. His relatives went back to the mountains away from the White settlers where life would be better for them. This was smart: without understanding the virus, he knew they needed to isolate to overt the disease virus. The remaining members of the families and clans from the village at Sáxhatpah, returned to the mountains near present-day Anza.<sup>10</sup>

For Juan Antonio, once he contracted smallpox, nothing could be done for him. Once smallpox develops in the body and breaks out externally in the eyes, face mouth, nose, it attacks the feet, preventing people from walking to get water or food or fire or fire, and it can break out inside the body on organs and then burst, killing the person slowly.<sup>11</sup> The disease had covered his entire body with pustules. If it dries up, it creates scabs but not before; it breaks out and oozes fluid filled with the virus.<sup>12</sup> Antonio's village in San Timoteo Canyon, near present-day Yucaipa, had good clean running water, a grove of oak trees, game, fertile soil, and long stretches of open space but settlers encroached around him.<sup>13</sup> Whites kept abreast of the spread of disease. The virus spread

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<sup>10</sup> "Culture," Santa Rosa Band of Cahuilla Indians, NFP Designs. October 26, 2020, <https://santarosacahuilla-nsn.gov/culture.html>.

<sup>11</sup> Cliff Trafzer discussion, June 2, 2020.

<sup>12</sup> Ibid.

<sup>13</sup> Peggy Christian, *Historic San Timoteo Canyon: A Pictorial Tour, Myths, and Legends* (Morongo Valley, CA: Sagebrush Press, 2002), 114-189.

from Los Angeles inland all the way to the Colorado River where the Chemehuevi, Mojave, and Quechan contracted and died from the virus as well.<sup>14</sup>

In February 1863, the smallpox took Juan Antonio's life and the lives of many others from his village.<sup>15</sup> The village lay deserted. Only the dead were present, lying on the ground with no one to tend to them. They lay where they died. No one was there to help them in their time of need. They died alone. Days later, Duff Weaver found his neighbor and friend, Juan Antonio, outside near his home.<sup>16</sup> Weaver buried Juan Antonio and the others on the south side of the creek in unmarked graves at the base of the hills.<sup>17</sup> This was a good place away from foot traffic and travel.<sup>18</sup> During the Spanish and Mexican occupation in the 1850s, the route or unofficial highway crossed through San Timoteo Canyon, connecting Los Angeles and the Colorado River.<sup>19</sup> The heavy traffic through the canyon and the non-ratification of the Treaty of Temecula brought the demise and death of Juan Antonio. Ninety-four years after his burial and one hundred-two years after the Treaty of Temecula, Juan Antonio and several people of his village were uncovered by an excavator grading the area for development. The late Alvino Siva said they could identify Juan Antonio because he was wearing a United States Army jacket

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<sup>14</sup> Trafzer, *Fighting Invisible Enemies*, 128-129.

<sup>15</sup> More than twelve skeletons were exposed in 1957 during an excavation of the area. "Juan Antonio's Burial Place Discovered," *San Bernardino Sun-Telegram* (San Bernardino, CA), October 20, 1857. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>16</sup> *Ibid.*

<sup>17</sup> The unmarked graves are located on lands of the Rivers and Lands Conservancy in Riverside County.

<sup>18</sup> Christian, *Historic San Timoteo Canyon*, 174; and "Indian Chief Joined Forced with Settlers," *San Bernardino Sun* (San Bernardino, CA), July 5, 1987. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>19</sup> Francis J. Johnston, "San Gorgonio Pass: Forgotten Route of the Californios?" in *Journal of the West* V VIII, no. 1 (1969), 125-136.

with epaulets.<sup>20</sup> With Juan Antonio's death, the story of Juan Antonio and the Treaty of Temecula and its broken promises were passed down to each generation and not forgotten.<sup>21</sup> Juan Antonio is kept alive today in stories passed down. These stories were memorialized on steel and rock near the village of Sáxhatpah.<sup>22</sup> The era of signatories faded over time, but the Temecula Council of men who affirmed their mark on the Treaty of Temecula was used against them to open the lands of California for American invasion.

With Indigenous California under American control and power, Americans moved west into California to claim Indigenous land. For the American government, Indigenous land became property of the United States and turned into public lands. The public lands were redistributed to Individual Americans that put a claim on the land through the Homestead Act of 1862.<sup>23</sup> The United States deemed it had an Indian

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<sup>20</sup> General Stephen Kearny gave Juan Antonio a military Jacket that he wore to his death. Sean Milanovich remembered the story told by Alvino Siva. Siva recollected Juan Antonio's burial and associated objects in San Timoteo Canyon had been uncovered long ago and were waiting for reburial. Juan Antonio's funerary is still the subject of controversy. Cliff Trafzer discussion, June 2, 2020.

<sup>21</sup> Roy Matthews interview, June 2, 2018.

<sup>22</sup> Descendant of Juan Antonio, Alvina Siva in the 19080's fought hard with the local and State authorities for a memorial plaque depicting JuanAntonio and Saahatpah. Siva collaborated with the State and California Histoirc Landmarks to get a memorial in honor of Juan Antonio for his hardwork im protection of the Cahuilla and White peoples. Siva wrote the wording for the plaque. The California Hisotirc Landmark reads, "Saahatpah, Chief Juan Antonio and his band of Cahuilla Indians helped white wettlers in the San Bernardino area defend their property and livestock against outlaws during the 1840's and 1850's. In late 1851, Juan Antonio, his warriors, and their families setttled at Saahatpa. During the winter of 1862-1863, a smallpox epidemic swept through Southern California killing many Native Americans, including Juan Antonio. Cahuilla tradition asserts that the U.S. government sent army blankets that were contaminated with smallpox. After this disaster, Saahatpah was abandoned." California Histoirc Landmark #749.

<sup>23</sup> Douglas W. Allen, "Homesteading and Property Rights; Or "How the West Was Really Won," in *The Journal of Law & Economics* 34, no. 1 (Spring 1991), 2. accessed March 2, 2020. JSTOR, <https://www.jstor.org/>; and Hannah L. Anderson, "That Settles It: The Debate and Consequences of the Homestead Act of 1862," in *The History Teacher* 45, no. 1 (November 2011), 117. accessed March 2, 2020. JSTOR, <https://www.jstor.org/>.

problem.<sup>24</sup> Under American law, Indigenous people had no safeguards nor stability in their existence as Americans encroached around them. Native peoples were not citizens and could not claim any land as their own legally. This was a way to keep Native people from gaining access to land.<sup>25</sup> In the 1870s the United States recognized the Aboriginal people of California as needing a secure land base before the settlers claimed and settled on the land.<sup>26</sup> President Ulysses S. Grant “envisioned some Indian reservations, but mostly urged that Indians be granted citizenship, settle on farms and plots of land, and ultimately blend into the American melting pot.”<sup>27</sup>

In his inauguration speech in March 1869, President Ulysses Grant acknowledged his goal was citizenship for Aboriginal people within the United States through land tenure.<sup>28</sup> The Indigenous people had a right to their own land.<sup>29</sup> President Grant and his advisors began to construct an Indian Peace Policy in the aftermath of the Civil War.<sup>30</sup> By the end of the year, President Grant had a policy to push forward to establish a “permanent peace” between the settlers and the Aboriginal people of the land. President Grant told his constituents, “I see no substitute for such a system, except in placing all the Indians on large reservations, as rapidly as it can be done, and giving them

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<sup>24</sup> Allen, “Homesteading and Property Rights,” 2.

<sup>25</sup> Chilcolte, “Time Out of Mind,” 45.

<sup>26</sup> Gunther, “Ambiguous Justice,” 73; and Carrico, *Strangers in a Stolen Land*, 96.

<sup>27</sup> Larry E. Burgess, “Commission to the Mission Indians, 1891,” San Bernardino County Museum Association Quarterly, V 35 no. 1 (Spring 1988), 5.

<sup>28</sup> Ulysses S. Grant., “Inaugural Address,” March 4, 1869. The American Presidency Project. <https://www.presidency.ucsb.edu/>.

<sup>29</sup> Carrico, *Strangers in a Stolen Land*, 108.

<sup>30</sup> Ibid.

absolute protection there.”<sup>31</sup> Grant believed that an exclusive land base was necessary to cultivate peace.

On January 31, 1870, President Ulysses S. Grant set aside the first reservations for Aboriginal people in Southern California through Executive Order at Pala and San Pasqual valleys.<sup>32</sup> The reservations included the ancestral territory of the Luiseño and Kumeyaay. More than 138,000 acres was set aside as federal reservation for the two reserves. They were more or less “farms,” but still they were lands set aside by the President of the United States for Indigenous people. “Many Indians objected to the proposed relocation to these reservation lands. They were suspicious of the reservation scheme, considering it a plan to dispossess them of their lands while keeping them close to labor for the ranches.”<sup>33</sup> The reservations were set up as work farms and did not last long. Land rights to Aboriginal peoples were marginalized and disputed. Not only Indigenous peoples but Americans too, voiced objections to the reservations in San Diego, informed Kumeyaay scholar Michael Connolly Miskwish.<sup>34</sup> White Americans disapproved of granting the irrigable land for a tribal reservation. Within a year, the

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<sup>31</sup> Alysis Landry, “Ulysses S. Grant: Mass Genocide Through “Permanent Peace” Policy,” *Indian Country Today*, Digital Indigenous News. May 3, 2016. *Indian Country Today*, <https://newsmaven.io/indiancountrytoday>.

<sup>32</sup> There were eleven experimental reservations created with two in San Diego County. The Fort Tejon Reservation (Sebastian Reservation) was the closest reservation north of Los Angeles. Fort Tejon was subsequently established in 1854 in the center of a narrow pass and located on an ancient trail that was the corridor between the Southern end of the San Joaquin Valley and the Los Angeles Basin. The Army strategically constructed the fort there to limit Indigenous movement. According to an anonymous source, the military fort protected all threats from “Indians” and foreign invaders upon Los Angeles. Office, *Executive Orders Relating to Indian Reserves*,” 43-44; and Interview with an anonymous employee of California State Parks by author, Fort Tejon, Lebec, CA, November 17, 2018.

<sup>33</sup> Miskwish, *Sycuan, Our People, Our Culture, Our History*, 53.

<sup>34</sup> Miskwish, *Kumeyaay*, 93.



reservations were closed.<sup>35</sup> The White settlers wanted the “executive lands” for themselves.<sup>36</sup>

Twenty-one years after the Treaty of Temecula was rejected, the United States government stopped signing treaties with Indian tribes with the passing of the Indian Appropriations Act.<sup>37</sup> On March 3, 1871, the Senate passed the Indian Appropriations Bill and abandoned treaty-making; “however, agreements continued to be made subject to the approval of both the Senate and the House of Representatives before they became law.”<sup>38</sup> The Senate chose not to make treaties with independent sovereign tribal nations within its borders. The act stated, “no Indian nation or tribe within the territory of the United States shall be acknowledged or be recognized as an independent nation, tribe, or power with whom the United States may contract by treaty.”<sup>39</sup>

The Indian Appropriations Act of 1871 terminated “treaty-making with Indian tribes.”<sup>40</sup> The United States no longer sought out treaties of peace. Furthermore, tribes no longer signed treaties with the United States after 1871.<sup>41</sup> The president established reservations for California’s Indigenous people through executive orders.<sup>42</sup> Wanting to take away inherent sovereign authority from tribes, the federal government no longer

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<sup>35</sup> Richard Carrico, “*The Struggle for Native American Self-Determination in San Diego County*,” in the *Journal of California and Great Basin Anthropology* V 2, no. 2 (Winter 1980),” 204

<sup>36</sup> Shipek, *Pushed into the Rocks*, 35.

<sup>37</sup> Rupert Costo and Jeanette Henry, *Indian Treaties*, 11.

<sup>38</sup> Tyler, *A History of Indian Policy*, 84.

<sup>39</sup> Indian Appropriations Bill March 3, 1871. 566. 41<sup>st</sup>. Congress. 3<sup>rd</sup> Session, 566. accessed February 27, 2020. Library of Congress, <https://www.loc.gov/law/help/statutes-at-large/41st-congress/session-3/c41s3ch120.pdf/>.

<sup>40</sup> Rupert Costo and Jeanette Henry, *Indian Treaties*, 11.

<sup>41</sup> Tyler, *A History of Indian Policy*, 84.

<sup>42</sup> Charles J. Kappler ed., *Indian Affairs: Laws and Treaties Vol. I, Laws Compiled to December 1, 1902* (Washington: GPO, 1904), 821. accessed October 15, 2019, Hathi Trust Digital Library, <https://catalog.hathitrust.org/Record/>.

used treaties to establish reservations after 1871.<sup>43</sup> Tribal leaders did not negotiate through treaties any longer but did make other agreements.

The period of treaty-making came to end where mutual consent was given, such as with the Treaty of Temecula. As historian Michael Cohen pointed out, “the substance of treaty-making was destined to continue for many decades. For in substance a treaty was an agreement between the federal government and an Indian tribe. And so long as the federal government and the tribes continue to have common dealings, occasions for agreements are likely to recur.”<sup>44</sup> Agreements between the nations continued in the nineteenth century but they were few and not enough. With no possibility of a treaty granting lands to tribes to live on, non-Indians continued to take and settle on Aboriginal lands; the Indigenous people were displaced and left with no land base to live on.<sup>45</sup> In June 1871, California superintendent of Indian Affairs Billington C. Whiting reported there were 5,066 Indians living in San Diego and San Bernardino counties (which included modern-day Riverside and Imperial counties).<sup>46</sup> The settlers had settled on lands that included lands designated within the boundaries of the Treaty of Temecula. Tribes in California had no legal rights to any lands in White America until the 1870s, when reservations, through executive orders with the President of the United States and approved by the Senate, were established.

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<sup>43</sup> Kappler, *Indian Affairs Vol. 1*, 821-822.

<sup>44</sup> Rupert Costo and Jeanette Henry, *Indian Treaties*, 11.

<sup>45</sup> Smiley Commission Report, 1891, 31-36.

<sup>46</sup> U.S., Office of Indian Affairs, “California Superintendency,” in *The Report of the Indian Commissioner of Indian Affairs, for the Year 1871* (Washington: Government Printing Office, 1871), 328. accessed February 28, 2020, University of Wisconsin Digital Collections, <http://digital.library.wisc.edu/1711.dl/History.AnnRep71>.

President Grant imagined a policy recommended by reformers, people who wanted to bring a solution to the “Indian question.”<sup>47</sup> Many of these reformers were part of Christian Faith ministries such as Roman Catholic, Methodist, and Moravian.<sup>48</sup> Indian agents and commissioners were appointed to figure out a solution for a permanent land base for the Aboriginal people of Southern California.<sup>49</sup> By October 1875, tensions rose in the San Luis Rey Valley as Luiseño tribal leader Manuel Olegario and some say as many as 1,000 of his supporters rallied against settler colonialism and liquidation of vast tracts of Indigenous land.<sup>50</sup> But it was not until 1875 that Manuel Olegario swayed President Grant on behalf of his people to act and establish permanent reservations in Southern California.

In November 1875, Manuel Olegario, a Luiseño tribal leader and an advocate for a tribal land base, traveled to Washington D.C. to meet President Grant, and addressed his concerns for a tribal land base in Southern California.<sup>51</sup> Olegario was the first tribal representative from Southern California to travel to Washington, D.C., and lobby for lands. Manuel Olegario, also known as Olegario Calac, was present for the signing of the Treaty of Temecula at the treaty assembly in 1852.<sup>52</sup> On November 16, political leader

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<sup>47</sup> Burgess, “Commission to the Mission Indians, 1891,” 5.

<sup>48</sup> Pat Murkland interview by author Banning, CA. February 3, 2020.

<sup>49</sup> Valerie Sherer Mathes and Phil Brigandi, *Reservations, Removal, and Reform: The Mission Indian Agents of Southern California, 1878-1903* (Norman: University of Oklahoma Press, 2018), 14-28.

<sup>50</sup> Richard Crawford, “The Mystery Death of an Indian Chieftain Manuel Olegario,” *Los Angeles Times* (Los Angeles, CA), January 31, 1991. *Los Angeles Times*, [The Mysterious Death of Indian Chieftain Manuel Olegario - Los Angeles Times \(latimes.com\)](https://www.latimes.com/local/lanow/la-me-1191-manuel-olegario-1991-01-31-story.html).

<sup>51</sup> This was not the first time a tribal leader went to Washington. Hundreds of Native leaders went to Washington to meet with presidents and other government officials during the nineteenth century. Carrico, “*The Struggle for Native American Self-Determination in San Diego County*,” 209; and Clifford Trafzer, ed. *American Indians: American Presidents: A History* (Harper Collins: Smithsonian, 2009), 21.

<sup>52</sup> U.S., House of Representatives, *Hearings Before the Committee on Indian Affairs, Seventy-third Congress, Second Session on H.R. 7902* (Washington: Government Printing Office, 1934), 287-288.

Manuel Olegario met with the President Ulysses Grant. Most likely, Olegario asked about the Treaty of Temecula. Olegario told Grant of the large sums of his lands in Southern California being distributed to settlers and the loss of his traditional lands. President Grant promised to help the Indigenous people and give relief.<sup>53</sup> One month later, the federal government established and created reservations for some, but not all the tribal bands in Southern California, through executive orders.<sup>54</sup>

On December 27, 1875, President Ulysses S. Grant signed an executive order and established thirteen reservations in Southern California in San Diego County, including: Potrero – Luiseño, Rincon – Luiseño, Gapich – Luiseño, La Joya – Luiseño, Cahuilla – Cahuilla, Captain Grande – Kumeyaay, San Ysabel – Kumeyaay, Mesa Grande – Kumeyaay, Pala – Cupeño and Luiseño, Agua Caliente (Kúpa) – Cupeño, Sycuan – Kumeyaay, Inaja – Kumeyaay, and Cosmit – Kumeyaay.<sup>55</sup> The following year, on May 15, 1876, President Grant signed an executive order and established six more reservations north of San Diego County in modern-day Riverside County, including: Potrero (Morongo) – Cahuilla and Serrano, Mission Creek – Cahuilla and Serrano, Agua Caliente – Cahuilla, Cabazon – Cahuilla, Torres Martinez – Cahuilla, and Augustine –

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<sup>53</sup> Olegario's death in 1877 ended a pan-Indigenous movement. Jose Chante followed Olegario as a Luiseño leader, but he was less effective, and groups began to isolate at the clan level. Carrico, "The Struggle for Native American Self-Determination in San Diego County," 209; "News of the Morning," *Sacramento Daily Union*, November 17, 1875; and Dunn, "Strategies for Survival," 193. "Chronology of the Indigenous Peoples of San Diego County," University of San Diego. <https://www.sandiego.edu/native-american/chronology/>

<sup>54</sup> Carrico, "The Struggle for Native American Self-Determination in San Diego County," 209; "The Mission Indians Important Executive Order," *San Diego Union and Daily Bee* (San Diego, CA), January 23, 1876. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>55</sup> Indian Office, *Executive Orders Relating to Indian Reserves*, 45.

Cahuilla.<sup>56</sup> Unlike the Treaty of Temecula, which drafted boundaries for one large reservation for all Southern California Indians to live on, the reservations in the presidential executive order were much smaller and located primarily in each band's traditional territory. The reservations were just a fragment of their traditional lands, with limited resources of water, timber, plants, and game to sustain themselves. Optimistically, the president hoped the villages of the people were included within these small parcels of land.<sup>57</sup>

Individual bands had to fight for their lives and their right to live on their lands. Many bands already had been evicted from their traditional homelands. At the location where the Treaty of Temecula was signed at present-day Temecula, a determined group of Luiseño people continued to live and fight for their right to exist. An American had an American court order to expel the Native people living on his land in Temecula. The court did not recognize the land belonging to the Natives as included within the Treaty of Temecula boundaries. On September 20-23, 1875, Payómkawichum people, ancestors to the people of Pechanga today, were expelled from their village of Teméeku, which they had occupied since the beginning of Creation.<sup>58</sup> They were told if they caused any problems, they would be shot. The people loaded their personal belongings on wagons. Some of the Indigenous people went to Pechanga Canyon, where they were somewhat safe and hidden, while others moved to land of John Magee, an American rancher and

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<sup>56</sup> Ibid, 46.

<sup>57</sup> Mathes and Brigandi, *Reservations, Removal, and Reform*, 25.

<sup>58</sup> Masiel-Zamora, *Éxva Teméeku*, 2; United States, Office of Indian Affairs. *Annual Report of the Commissioner of Indian Affairs, for the Year of 1875* (Washington, D.C.: GPO, 1875), 225. accessed November 22, 2020, University of Wisconsin Digital Collections, <http://digital.library.wisc.edu/1711.dl/History.AnnRep75>.

friend.<sup>59</sup> One year later, President Rutherford B. Hayes set aside land that created and extended other reservations.<sup>60</sup> What followed was a series of newly created, withdrawn, and expansions of reservations for the Aboriginal peoples of Southern California between 1875-1889.<sup>61</sup>

The unratified Treaty of Temecula allowed for Southern California settlement and development by the American intruders. The reservations competed with the railroad for lands in Southern California.<sup>62</sup> The reservation lands were not continuous pieces of land. They were checkerboarded, which helped to break up the continuity of the reservation. In addition, this forced assimilation of the dominant American culture onto the Aboriginal people. Whites claimed and bought land that bordered the reservations and lived on and extracted resources from them. Southern California had been surveyed back in 1853-1855 for a railroad, along the thirty-second and thirty-fifth parallels<sup>63</sup>

In 1852, Henry Washington surveyed Mount Diablo and established the San Bernardino Meridian and baseline to secure and set land titles in Southern California.<sup>64</sup> The land was divided up into townships, with thirty-six square mile sections. Each section was 640 acres. The United States granted land to Southern Pacific Railroad to build a railroad from Los Angeles to the Colorado River cutting through the traditional

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<sup>59</sup> "History," Pechanga Band of Luiseño Indians. assessed February 17, 2020. <https://www.pechanga-nsn.gov/index.php/history>.

<sup>60</sup> Indian Office, *Executive Orders Relating to Indian Reserves*," 46.

<sup>61</sup> *Ibid*, 47-49.

<sup>62</sup> Bean, *From Time Immemorial*, 380.

<sup>63</sup> U.S., *Explorations and Surveys for a Railroad Rout from the Mississippi River to the Pacific Ocean*, 7-43.

<sup>64</sup> "Surveyors Have Many Troubles Mapping the Desert," *San Bernardino Sun* (San Bernardino Sun, CA), July 25, 1954. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

lands of the Serrano, Cahuilla, Chemehuevi, Mojave, and Quechan. Referring to the railroads, the late Richard Milanovich told his son, “The United States had given our land away, so our reservation was cut in half.”<sup>65</sup> The placement of the reservation was dependent on railroad lands.

Presidents of the United States adjusted reservation lands and dabbled in events that erroneously started tribal recognition by the United States and disputed Native American identity issues into the twentieth century.<sup>66</sup> For one, on January 17, 1880, President Hayes rescinded part of President Grant’s executive order that established both the Santa Ysabel and Agua Caliente (Kúpa) reservations.<sup>67</sup> Both of these lands were integral to the Treaty of Temecula and the Treaty of Santa Ysabel, and were included within the treaty boundaries. On June 27, 1882, the Pechanga Reservation was created by executive order under United States President Chester A. Arthur.<sup>68</sup> The Payómkowichum people moved there after being evicted from their village at Little Temecula, where the Treaty of Temecula was signed.<sup>69</sup>

Under the presidency of William McKinney and Theodore Roosevelt, some lands were withdrawn from trust status as lands set aside for the Aboriginal people, only to be

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<sup>65</sup> Literally, the railroad bisected the reservation to the north and allowed the reservation to be half of what it might have been. Memory of author Sean Milanovich as told to him by his father Richard Milanovich. Richard repeatedly told Sean that for the Agua Caliente Reservation, only every other section was reservation since the United States first gave Southern Pacific the land. Our relatives were second.

<sup>66</sup> Indian Office, *Executive Orders Relating to Indian Reserves*,” 47-52.

<sup>67</sup> Mathes and Brigandi, *Reservations, Removal, and Reform*, 40.

<sup>68</sup> *Ibid*, 26.

<sup>69</sup> “History,” Pechanga Band of Luiseño Indians. assessed February 17, 2020, [https://www.pechanga-nsn.gov/index.php/history](https://www.pechanga-nsn.gov/index.php/history;);

returned to public domain in 1901-1902.<sup>70</sup> Lands are generally held in trust by the United States for a tribe but are not outright given to tribes where the lands would be taxable and under local jurisdiction. Trust status are under federal protection and scrutiny. “Thirty-one small, scattered reservations, comprising about a quarter-million acres, were set aside by executive orders for remnants of Mission Indians bands between 1875 and 1891.”<sup>71</sup> The United States government returned 265,301 acres of land back to the tribes.<sup>72</sup>

As time passed, Indian agents of the United States dealt with the sociopolitical structure and aftermath of non-ratification of the Treaty of Temecula. Indian agents acknowledged primarily individual band leaders. Agents ignored and discredited powerful leaders who were known as generals, such as Chief Juan Antonio.<sup>73</sup> Reformers and Indian agents came and went in Southern California, trying to fix the loss of land after the non-approval of the Treaty of Temecula. Most of those lands defined within the Treaty boundary were claimed and patented by White settlers.<sup>74</sup> One woman in particular, Helen Hunt Jackson, gave voice to the people whose relatives signed the Treaty of Temecula and Treaty of Santa Ysabel. Helen Hunt Jackson’s “Report on the Condition and Needs of the Mission Indians of California,” with Abbott Kinney, and then

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<sup>70</sup> “History,” Pechanga Band of Luiseño Indians. assessed February 17, 2020, <https://www.pechanga-nsn.gov/index.php/history>.; and Indian Office, *Executive Orders Relating to Indian Reserves*, 50-52.

<sup>71</sup> Imre Sutton, "Private Property in Land Among Reservation Indians in Southern California," *Yearbook of the Association of Pacific Coast Geographers* 29 (1967): 70. accessed May 5, 2021.

<http://www.jstor.org/stable/24042325>.

<sup>72</sup> Sutton, "Private Property in Land Among Reservation Indians in Southern California," 72.

<sup>73</sup> Mathes and Brigandi, *Reservations, Removal, and Reform*, 3-28.

<sup>74</sup> Helen Hunt Jackson, *A Century of Dishonor: A Sketch of the United States Dealings with Some of the Indian Tribes* (Boston: Robert Brothers, 1890), 460. accessed November 22, 2020, Hathi-Trust Digital Library, <https://babel.hathitrust.org/>. (See “Report on the Conditions and Needs of the Mission Indians of California, Made by Special Agents Helen Hunt Jackson and Abbot Kinney, to the Commissioner of Indian Affairs,” 458-514.)



her landmark book, *A Century of Dishonor*, captured the attention of reformers and government officials.<sup>75</sup> Jackson and Kinney recommended to survey boundary reservations established by executive order, because the boundaries were not clear to White settlers nor the Indigenous people. Often villages were located off the reservations and the reservations themselves were of the poorest land.<sup>76</sup> Furthermore, Jackson and Kinney proposed the lands be held in trust for twenty-five years and allotted to individual Indians to make improvements on it.<sup>77</sup> “Acculturation and assimilation became the main goal of the reform movement.”<sup>78</sup>

In 1887, to help assimilate the Indigenous people, the General Allotment or Dawes Act was passed to make individual allotments of their reservation to the Mission Indians. The Allotment Act “encouraged the Government officials to deal with individual Indian families, and to by-pass tribal leaders and to sometimes ignore the tribal groupings.”<sup>79</sup> Moreover, Rupert Costo believed, “the publicized goal of the Allotment Act was to make the Indian people into farmers in twenty-five years by allotting Indian an individually owned parcel of land out of the communally held Indian lands, most of which were guaranteed to them by treaty.”<sup>80</sup> Additionally, it was believed allotments made the “Indian self-reliant and market oriented.”<sup>81</sup> Indigenous people were adapt at learning new ideas and philosophies in the money economies. In the future, starting in 1919,

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<sup>75</sup> Burgess, “Commission to the Mission Indians, 1891,” 5.

<sup>76</sup> Jackson, *A Century of Dishonor*, 464.

<sup>77</sup> *Ibid*, 467.

<sup>78</sup> Burgess, “Commission to the Mission Indians, 1891,” 7.

<sup>79</sup> Tyler, *A History of Indian Policy*, 95.

<sup>80</sup> Rupert Costo and Jeannette Costo, *Natives of the Golden States*, 287.

<sup>81</sup> Sutton, “Private Property in Land Among Reservation Indians in Southern California,” 69.

elders of the Mission Indian Federation opposed the allotments as an attack on traditional Indigenous beliefs as the “allotments were ostensibly private property,” which may be sold and decrease reservation acreage.<sup>82</sup> Felix Cohen, an American lawyer, wrote in his book, *Handbook of Federal Indian Law*, “Section 5 [General Allotment Act] provides that title in trust to allotments shall be held by the United States for 25 years, or longer if the President deems an extension desirable. During this trust period encumbrances or conveyances are void.”<sup>83</sup> Furthermore, “the allottee receives what is a “trust patent,” the theory that the United States retains legal title to the land.”<sup>84</sup>

Lands were held in trust for twenty-five years with assumption the people had enough knowledge to manage their own affairs afterwards. The government declared the Indian people as incompetent and unable to manage their own affairs.<sup>85</sup> The government continued to extend the trust policy into the twentieth century.<sup>86</sup> Still, there were hundreds of Natives and multiple tribal groups without a land base in Riverside, San Bernardino, and San Diego counties. Tourists and development were taking up the usable land and displaced the Natives from their traditional lands.<sup>87</sup>

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<sup>82</sup> Przeklasa, “Reservation Empire,” 112-113.

<sup>83</sup> Felix Cohen, *Handbook of Federal Indian Law with Reference tables and Index* (Washington, GPO, 1942), 78.

<sup>84</sup> *Ibid*, 109.

<sup>85</sup> Author Sean Milanovich remembers his father Richard Milanovich telling him repeatedly, the United States government believed the Indians were incapable of managing their own affairs and declared them incompetent; and Kappler, *Indian Affairs Vol. 1*, 13.

<sup>86</sup> Charles J. Kappler ed., *Indian Affairs: Laws and Treaties Vol. V, Laws Compiled from December 22, 1927 to June 29, 1838* (Washington: GPO, 1941), 657-659. accessed October 15, 2019, Hathi Trust Digital Library, <https://catalog.hathitrust.org/Record>.

<sup>87</sup> Larry Burgess interview by author, Smiley Library, Redlands, CA, November 24, 2020.

All unallocated tribal lands were placed in the public domain for Americans to claim and settle on.<sup>88</sup> The United States government wanted to break up the reservations and assimilate the Indigenous people on them. Reservations were left unallocated for the time being in Southern California. Many tribal people living on the reservations did want individual parcels of land. Cahuilla leader William Pablo later said, “We were not notified and don’t want allotments. We have patents to our land and want to hold them always together.”<sup>89</sup>

### **Smiley Commission**

In January 1891, “An Act for the Relief of the Mission Indians in the State of California,” passed in Congress and was signed into law by President Benjamin Harrison.<sup>90</sup> The law instructed the Secretary of the Interior to “appoint three disinterested persons as commissioners to arrange a just and satisfactory settlement of the Mission Indians residing in the State of California, upon reservation which shall be secured to them.”<sup>91</sup> Professor of Emeritus of Native American History Larry E. Burgess believed the goal of the commission was to evaluate land status and establish reservations where none existed but were needed.<sup>92</sup> The commissioners were to assess the living conditions

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<sup>88</sup> Rupert Costo and Jeannette Costo, *Natives of the Golden States*, 288.

<sup>89</sup> “Will Pablo, Mission Indian Federation, California Claims Commission.” accessed February 18, 2020. <http://faculty.humanities.uci.edu/tcthorne/Hist15/redpowerinsocal.htm>.

<sup>90</sup> Mathes and Brigandi, *Reservations, Removal, and Reform*, 112.

<sup>91</sup> “An Act for the Relief of the Mission Indians in the State of California,” Statutes at Large, Library of Congress. accessed November April 15, 2020, <https://www.loc.gov/law/help/statutes-at-large/51st-congress/session-2/c51s2ch65.pdf>.

<sup>92</sup> Larry Burgess interview, November 24, 2020.

of the Indigenous people and reserve lands to accommodate their needs for a permanent home. Alternatively, the commission was given instructions to identify the land the Aboriginal people were already living on and convert this land into a federal reserve for the Aboriginals unless this land was already claimed by a non-Indian.<sup>93</sup> Florence Connolly Shipek, in her book, *Pushed into the Rocks*, explained the commission was “concerned with obtaining water rights and preserving water rights necessary for farming on the reservations.”<sup>94</sup>

Senator Henry Dawes appointed Albert Smiley to lead the commission.<sup>95</sup>

Secretary of the Interior John Noble appointed Charles C. Painter and Joseph D. Moore.<sup>96</sup> The commission consisted of three white males including Albert S. Smiley, Charles C. Painter, and Joseph H. Moore. Albert Smiley lived in Southern California in the City of Redlands. The Smileys lived in Redlands, sixty miles northeast of Temecula, where the Treaty of Temecula was signed. Albert Smiley was very well connected politically. Albert Smiley was aware of the problems local Indigenous people faced. After Serrano and Paiuchi [Chemehuevi] peoples in the San Bernardino Mountains and in the high deserts were dispossessed from their lands, some survivors stole cattle from the invading settlers on their lands. In 1886-1887, a series of expeditions resulted. The Serrano and Paiuchi were attacked and brutally killed from Chimney Rock down to San Bernardino.<sup>97</sup>

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<sup>93</sup> Wood, “The Trajectory of Indian Country in California: Rancherias, Villages, Pueblos, Missions, Ranchos, Reservations,” 35.

<sup>94</sup> Shipek, *Pushed into the Rocks*, 39.

<sup>95</sup> Burgess, “Commission to the Mission Indians, 1891,” 8.

<sup>96</sup> *Ibid*, 9.

<sup>97</sup> The Paiuchi are a band of Chemehuevi that migrated to the area around Victorville. Emanuel Olague told the story of the battle at Chimney Rock, near Victorville in the high desert where White settlers came in and spent the whole day killing all but a few Paiuchi. Matthew Leivas interview by Mishuana R. Goeman,

The Santos Manuel Band of Serrano people lived cautiously on land that was now public domain.<sup>98</sup> They lived on lands ten miles north of modern-day Redlands at the base of the San Bernardino Mountains.<sup>99</sup> The land was landlocked without sufficient water.<sup>100</sup> Smiley had fought for the Act and lobbied the president and Congress to support the Mission Indian Act of 1891.<sup>101</sup> Charles Painter was a scholar and a member of the Indian Rights Association with some knowledge of the Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano.<sup>102</sup> Painter had visited the territory of the Aboriginal people three times to assess the needs of the people.<sup>103</sup> According to Native American scholar Larry Burgess, Painter brought the most to the commission and to the need of the Indigenous people.<sup>104</sup>

Joseph Moore was a Michigan Supreme Court Justice.<sup>105</sup> Moore was democratic in his instincts and manifested this in all his relations with men.”<sup>106</sup> Painter believed Moore was the right man to research Indigenous concerns and conditions due to his agreeable character.<sup>107</sup> Justice Moore had no experience working with Indigenous and he

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Bonanza Spring, Mojave Trails National Monument, CA, November 30, 2020; and Emanuel Olague interview, May 27, 2017.

<sup>98</sup> Trafzer, *The People of San Manuel*, 77.

<sup>99</sup> *Ibid*, 77.

<sup>100</sup> *Ibid*, 32.

<sup>101</sup> Larry Burgess interview, November 24, 2020.

<sup>102</sup> During the last quarter of the nineteenth century, Whites formed the Indian Rights Association to help the Aboriginal people of the land acculturate into White America.

<sup>103</sup> Mathes and Brigandi, *Reservations, Removal, and Reform*, 82.

<sup>104</sup> Larry Burgess interview, November 24, 2020.

<sup>105</sup> Trafzer, *A Chemehuevi Song*, 160-1161.

<sup>106</sup> In Memorandum Joseph B. Moore,” Michigan Supreme Court Historical Society, 2015.

<http://www.micourthistory.org/special-sessions/in-memoriam-joseph-b-moore/>.

<sup>107</sup> Indian Rights Association, “Report of Mr. C.C. Painter, Washington Agent of the Association,” in *The Ninth Annual Report of the Executive Committee of the Indian Rights Association for the Year Ending December 15<sup>th</sup>, 1899* (Philadelphia: Office of Indian Rights Association, 1902), 12.

was the weakest link of the commission.<sup>108</sup> The Smiley Commission had one year to report their findings and make recommendations.<sup>109</sup>

After meeting tribal leaders, Indian agents, educators, and other Whites, on several reservations, in villages, and White settlements, Moore, Painter, and Smiley put their report together and then submitted it, in December 1891.<sup>110</sup> The commission consulted with the Aboriginal people to get their firsthand accounts and needs.<sup>111</sup> The Indigenous people wanted more land to hunt on, gather on, cultivate, and continue their traditional life ways, but the White settlers had already secured most of the land.<sup>112</sup> Smiley believed the Indigenous people did not need all that land. Smiley suggested American citizenship for the Indigenous people if they worked and earned a living under the protection of American law.<sup>113</sup> Like other Americans, the Smiley Commission played God, and believed they knew what was best for the Indigenous people of California. The Smiley Commission failed to see the Indigenous people of California as being sovereign, as having their own traditional ways, and failed to understand how the Indigenous people did not like being told to succumb to the commission's mandate to change their ways to

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<sup>108</sup> Larry Burgess interview, November 24, 2020.

<sup>109</sup> Ibid.

<sup>110</sup> Albert S. Smiley, "Account of Trip Through Southern California of Spring 1891 as Chairman of Mission Indian Commission," in Albert S. Smiley Diary. Special Collections, Smiley Library, Redlands, CA. 1-8; and Randolph V. Whiting, *Reports of Cases Determined in the District Courts of Appeal of the State of California from November 13, 1920, to December 31, 1920*. Vol. 50 (San Francisco: Bancroft-Whitney Company, 1923), 597. assessed February 16, 2020, Google Books, <https://books.google.com/>.

<sup>111</sup> Smiley, "Account of a trip through Southern California of Spring 1891 as Chairman of the Mission Indian Commission," 1-8.

<sup>112</sup> Larry Burgess interview, November 24, 2020; and Burgess, "Commission to the Mission Indians, 1891," 13.

<sup>113</sup> Burgess, "Commission to the Mission Indians, 1891," 13.

live on the land as “civilized White men.”<sup>114</sup> As the Smiley Commission saw it, “Indians wanted more land than could be possibly obtained for them. The good land was already taken.”<sup>115</sup>

From early March through April, the commission consulted with leaders from the following lands: San Manuel, Cabazon, Agua Caliente, Captain Grande, Santa Ysabel, Ignacio Cuna, San Pasqual, Mataguay Canyon and Cahuilla Valley, Pechanga and Pauma Valleys, and those around Mission San Luis Rey.<sup>116</sup> It is not known if any signers of the Treaty of Temecula were still alive in 1891. On the other hand, Smiley did meet with Chief Hervasio Cabazon, the son of Jose Cabazon, who did sign the Treaty of Temecula.<sup>117</sup> It is highly likely that Cabazon brought up the Treaty of Temecula and the continued ramifications of its non-ratification. The Smiley Commission stopped meeting at the end of April and started again in December.<sup>118</sup> After visiting Cabazon, the Smiley Commission continued its journey north to the Oasis of Maara, where a band of Chemehuevi and a band of Serrano lived. The Commission recommended a reservation be established for them.<sup>119</sup> It was not until 1895, through executive order, that a reservation was established for the Chemehuevi and Serrano. Inappropriately, the

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<sup>114</sup> Albert S. Smiley, Joseph H. Moore, and Charles Painter, “Smiley Commission Report and Executive Order of December 29, 2891,” 2. Smiley Library, Redlands, CA. Hereinafter cited as Smiley, Moore, and Painter, “Smiley Commission Report.”

<sup>115</sup> Larry Burgess interview, November 24, 2020.

<sup>116</sup> Smiley, “Account of a trip through Southern California of Spring 1891 as Chairman of the Mission Indian Commission,” 1-8.

<sup>117</sup> Ibid, 2.

<sup>118</sup> Ibid, 6.

<sup>119</sup> Trafzer, *A Chemehuevi Song*, 165.

reservation was established south of the oasis without any water. The United States previously gave the oasis to the railroad.<sup>120</sup>

The commission recommended creating new reservations where none had existed before. The Smiley Commission recommended that no additional lands be absorbed but recommended taking from the total amount set aside originally by executive orders from 1875 to 1889, which totaled nearly 270,000 acres of land in Southern California.<sup>121</sup> What did change was some reservations decreased in acreage while some increased in acreage, and still others were created with small amounts of acreage. The following were the recommendations of the Smiley Commission, but each place was individually considered over the years well into the first quarter of the twentieth century.<sup>122</sup> Cosmit and Mission Creek were to be eliminated and the land returned to public domain. The residents were to move to other reservations.<sup>123</sup>

The Commission recommended the following reservations to be decreased in acreage: Captain Grande [Barona and Viejas], Agua Caliente, Morongo, and Cabazon.<sup>124</sup> The commission recommended the following reservations increase in acreage: Cahuilla, Potrero [La Jolla], Mesa Grande, Inaja, La Posta, Manzanita, Temecula [Pechanga], Los Coyotes, and Torros [Torres-Martinez] Reservations.<sup>125</sup> The Smiley Commission finally recommended the establishment of fourteen small reservations to accommodate the

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<sup>120</sup> Ibid, 167.

<sup>121</sup> Larry Burgess interview, November 24, 2020; and Burgess, "Commission to the Mission Indians, 1891," 33-34; Burgess, "Commission to the Mission Indians, 1891," 33; and Indian Office, *Executive Orders Relating to Indian Reserves*, 24-28.

<sup>122</sup> Smiley, Moore, and Painter, "Smiley Commission Report." 2-3.

<sup>123</sup> Ibid, 12-13 and 68.

<sup>124</sup> Ibid, 20-23, 33-38, 53-65, and 69-71.

<sup>125</sup> Ibid, 9-46.



following bands and villages: San Manuel, Twenty-Nine Palms, Ramona, Pala, Rincon, Laguna, Campo, Cuyapaipe, Sycuan, San Jacinto [Soboba], Pauma, Augustine, Santa Rosa, and Santa Ysabel.<sup>126</sup> “All the lands mentioned here in said report are hereby withdrawn from settlement and entry until patents shall have been issued for said selected reservations, and until the recommendations of said commission shall be fully executed.”<sup>127</sup> It is important to realize that most of these reservations were already included within the boundaries of the Treaty of Temecula and Treaty of Santa Ysabel.

The Smiley Commission made settler-, colonial-minded recommendations that were not necessarily in the best interest of the tribes. The San Luis Rey Indians were visited by the commission, too. The band insisted they remain on their ancestral land near the Pacific Coast close to Oceanside and Mission San Luis Rey. According to Albert Smiley, the White settlers had already swallowed up all available public lands on the coast and there were no lands sufficient for the San Luis Rey people to settle on.<sup>128</sup> “The people of the San Luis Rey Village did not want to relocate to a different place where they had no connection,” thus no lands were reserved for them, declared Native scholar and member of the San Luis Band, Olivia Chilcote.<sup>129</sup> Moraino Patencio believed the San Luis Rey Band were too friendly so they were not given land.<sup>130</sup> The commission

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<sup>126</sup> Ibid, 5-68.

<sup>127</sup> Whiting, *Reports of Cases Determined in the District Courts of Appeal of the State of California from November 13, 1920, to December 31, 1920*, 598.

<sup>128</sup> Smiley, Moore, and Painter, “Smiley Commission Report,” 70.

<sup>129</sup> The San Luis Band of Luiseño has been fighting for recognition by the United States government. Olivia Chilcolte, “Time Out of Mind: The San Luis Rey Band of Mission Indians and the Historical Origins of a Struggle for Federal Recognition,” in *University of California Press* 96, no. 4 (Winter 2019); and Chilcolte, “The Process and the People,” 82.

<sup>130</sup> Moraino Patencio interview, September 26, 2016.

reported the Kumeyaay people at the village of San Felipe Ranch did not want to relocate as they were on their traditional lands long before the ranch.<sup>131</sup> The commission did not help the Indigenous people and the White settlers eventually ejected them from their homelands. The commission recommended the San Pasqual Reservation be broken up and homesteaded by the Aboriginal people living on it.<sup>132</sup> Finally, the Smiley Commission visited the Cupeño people still living on Warner's Ranch.<sup>133</sup> The commission ignored the fact that the Cupeño people were the rightful owners of the land. With this colonial mindset, the Indigenous people received only institutionalized help from the commission and the Treaties of Temecula and Santa Ysabel began to fade from initiative and memory.

The Smiley Commission did not visit all villages; some were smaller than others and located remotely.<sup>134</sup> The Commission wanted some of these smaller groups to move onto the larger, established reservations.<sup>135</sup> The commissioners learned that most Native communities did want to move from their traditional lands.<sup>136</sup> The commission failed to visit the Acjachemen in San Diego and Orange counties and the Tongva in Los Angeles County. It was figured the Indigenous people already had assimilated into American culture and did not need help with a land base.<sup>137</sup> The commission visited the Santa Ynez

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<sup>131</sup> Stan Rodriguez interview, September 12, 2017.

<sup>132</sup> Smiley, Moore, and Painter, "Smiley Commission Report," 26-28

<sup>133</sup> Ibid, 22-23.

<sup>134</sup> Shipek, *Pushed into the Rocks*, 39; and Wood, "The Trajectory of Indian Country in California," 39.

<sup>135</sup> Shipek, *Pushed into the Rocks*, 39.

<sup>136</sup> Smiley, Moore, and Painter, "Smiley Commission Report," 26-28.

<sup>137</sup> Julia Bogany interview, February 20, 2019.

Chumash near Santa Barbara about 230 miles north of Temecula, but did not help them, either.<sup>138</sup>

The Smiley Commission's report recommended extreme life-threatening changes that several reservations be decreased in acreage. The commission recommended the Agua Caliente Reservation in the Coachella Valley decrease in acreage from 61,000 acres to 4,620 acres.<sup>139</sup> To the non-Indians at the time, the land was, "worthless mountain land and worthless wash and desert."<sup>140</sup> Furthermore, the commissioners wanted to relocate isolated tribes and people onto larger reservations that had larger land holdings like Agua Caliente. For example, the commission recommended the reservation supported, "at least one hundred more Indians than there are now."<sup>141</sup> "Some of the desert Indians must, and all may be compelled to move, if the Salton Sea should rise," believed Commissioner Albert Smiley.<sup>142</sup> Agua Caliente and other reservations close to the railroad were patented even sections of land.<sup>143</sup> Southern Pacific Railroad held the patent to all odd sections of land.<sup>144</sup>

Albert Smiley wanted contiguous reservations, so he negotiated with Charles Crocker, an executive with Southern Pacific Railroad. Crocker agreed to exchange some

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<sup>138</sup> Smiley, Moore, and Painter, "Smiley Commission Report," 28-30.

<sup>139</sup> Burgess, "Commission to the Mission Indians, 1891," 25; and Smiley, Moore, and Painter, "Smiley Commission Report," 31-36.

<sup>140</sup> Burgess, "Commission to the Mission Indians, 1891," 25.

<sup>141</sup> Smiley, Moore, and Painter, "Smiley Commission Report," 37.

<sup>142</sup> Ibid.

<sup>143</sup> Ibid.

<sup>144</sup> Shipek, *Pushed into the Rocks*, 85; "Railroad Grants," *Daily Alta California* (San Francisco, CA) January 28, 1887. assessed December 3, 2020, California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

sections of land for others to make reservation lands continuous.<sup>145</sup> Crocker only wanted to exchange railroad lands in San Geronio Pass, near the Morongo Reservation. Croker ultimately exchanged sections of lands for other pieces of land in the Colorado Desert, making lands continuous on the Morongo Reservation.<sup>146</sup>

The Smiley Commission recommended allotments of tribal lands to individual tribal members according to the Allotment Act 1887. “As those reservations where we think it wise to allot the lands at an early date in severalty, we have so recommended.”<sup>147</sup> The Commission did not recommend allotments for all reservation lands. “As to the reservations where we do not so recommended, we did not think it best as yet to allot the lands to individuals.”<sup>148</sup> Allotments in Southern California depended on how ready the Smiley Commission believed the Aboriginal people were.<sup>149</sup>

The Aboriginal people remembered the Treaty of Temecula, including their loss of lands, when the Smiley Commission came around. The tribal people did not trust the United States nor its administrators. The Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano wanted more land, including the land set aside by treaties they agreed to and signed back in 1852. The people wanted a continuous land base. The changes on the land occurred rapidly and settlers claimed and developed the lands as a result of the Senate’s not approving the Treaty of Temecula. The lack of ratification made California Indian lands part of the public domain. The Smiley Commission did not take any land from the

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<sup>145</sup> Larry Burgess interview, November 24, 2020; and Smiley, Moore, and Painter, “Smiley Commission Report,” 24-25.

<sup>146</sup> Burgess, “Commission to the Mission Indians, 1891,” 25 and 33.

<sup>147</sup> Smiley, Moore, and Painter, “Smiley Commission Report,” 2.

<sup>148</sup> *Ibid*, 2.

<sup>149</sup> *Ibid*, 2-68.

public domain to establish reservations for Indigenous people who were dispossessed. The Treaty of Temecula and its nonratification allowed Indigenous lands to be taken from the Indigenous people, only to be claimed by non-Indigenous people through public domain, which the Smiley Commission promulgated.

The Smiley Commission did help establish many reservations thankfully, but prejudice continued, and the settlers failed to recognize the Indigenous peoples' rights to their land. This Indian policy of non-recognition of basic human rights was based on Christian domination which reduced the Indigenous people of the Americas to heathens.<sup>150</sup> The reformers and the government continued and imposed systems of oppression and domination over the California Indigenous tribes. The tribes continued to lose lands in the twentieth century.

### **Treaties Come Out of Hiding**

In 1903, President Theodore Roosevelt visited California on a tour of the Golden State. Roosevelt had never been to California.<sup>151</sup> Charles F. Lummis, the Southwest Museum founder and advocate for Indigenous rights, and others had corresponded with the president and informed him of the conditions and needs of the Indigenous peoples and the loss of lands due to the American invasion.<sup>152</sup> The Lummis report in 1902 was used in

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<sup>150</sup> Steve Newcomb interview, September 15, 2017.

<sup>151</sup> Theodore Roosevelt. *California Addresses* (San Francisco: The California Promotion Committee, 1903), 12.

<sup>152</sup> The Kelsey report in 1902 was used in the determination to move the Cupeño people from Warner's Ranch and Kumeyaay people from San Felipe. Charles Lumis, "Preliminary Report on Warner's Ranch Commission," in "Preliminary Draft Commission Report," (1902), 1-11; and Charles F. Lummis Manuscript Collection, Sequoia League Series, Warner's Ranch Subseries, MS.1.SL.1.2.21 (Braun Research Library), Autry National Center, Autry Museum of the American West, Los Angeles, CA. [http://binder.theautry.org/archive/view/ms\\_1\\_sl\\_1\\_2\\_21](http://binder.theautry.org/archive/view/ms_1_sl_1_2_21). Hereafter referred to as Lumis, "Preliminary Report on Warner's Ranch Commission."; and Steven M. Karr, "The Warner's Ranch Indian Removal:

the determination to move the Cupeño people to Pala from Warner's Ranch.<sup>153</sup> Conservationist John Muir had corresponded with Roosevelt and encouraged him to set land aside for Yosemite National Park, where the first California treaty with Indian commissioners took place.<sup>154</sup> Roosevelt had planned a trip to California. The president wanted to meet with Muir. In addition, President Roosevelt wanted to visit the shrinking territory of Indigenous people. Roosevelt labeled Indigenous people as "wild creatures."<sup>155</sup> In 1901, Theodore Roosevelt instructed Congress to use the Allotment Act to break up tribal groups and families for National Parks.<sup>156</sup> Theodore Roosevelt wanted to secure title to Indian forest lands for American conservation and environmental protection.<sup>157</sup> Roosevelt wanted to find Indigenous lands to use as National Parks for the benefit of the citizens of the United States, not the individual tribes. In California, it was pertinent to find the unratified treaties to make allotments and break up the reservations.

In 1899, the United States published the *Eighteenth Annual Report of the Bureau of Ethnology*, by Charles Royce, which included alleged California Indian land cessions of the United States. The book included maps taken from data collected from ratified and unratified treaties with tribes within the United States. The United States claimed all the land defined by the Treaty of Temecula and the Treaty of Santa Ysabel as ceded land. Additionally, the United States claimed all the land that tribes supposedly relinquished to

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Cultural Adaptation, Accommodation, and Continuity." *California History* 86, no. 4 (2009): 27. accessed March 11, 2020. <https://www.jstor.org/>.

<sup>153</sup> Lumis, "Preliminary Report on Warner's Ranch Commission," 11.

<sup>154</sup> Bingaman, *The Ahwaneechees*, 4-5; and Heizer, *Eighteen Unratified Treaties*, 14.

<sup>155</sup> Roosevelt, *California Addresses*, 43 and 140.

<sup>156</sup> Tyler, S. *A History of Indian Policy*, 104-105.

<sup>157</sup> *Ibid.*

the United States through ratified and unratified treaties. The United States saw California Indian lands as ceded lands and took the land out of public domain into the trust of the United States for the tribes' exclusive use.<sup>158</sup>

Roosevelt sought Indian lands in California. It was pertinent to find the unratified treaties to make allotments, break up the reservations, and put the remaining land back into the public domain. The Dawes Act or Allotment Act of 1891 allowed President Roosevelt to survey native lands and make allotments. Theodore Roosevelt saw allotment as, "a mighty pulverizing engine, to break up the tribal mass."<sup>159</sup> This was all part of Roosevelt's plan to assimilate the Indigenous people. In 1902, Roosevelt spoke to the two houses of Congress. Roosevelt relayed, "in dealing with the Indians, our aim should be ultimate absorption into the body of our people."<sup>160</sup> Roosevelt, using his settler colonial mind, wanted to direct the Aboriginal people to earn their keep and find work that was meaningful to them such as weaving and canoeing. Roosevelt wanted the Indigenous people to take command of the English language.<sup>161</sup>

Roosevelt desperately needed clarification on what lands were thought ceded through the eighteen unratified, rejected, and hidden treaties of California, so he could set aside lands for public use for conservation as national parks and preserves. Laws were set

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<sup>158</sup> John W. Powell, Charles C. Royce, and Thomas Cyrus, *Eighteenth Annual Report of the Bureau of American Ethnology - 1896-97*, Part 2 (Washington: GPO, 1899), 852-934. Digital Commons, [https://digitalcommons.csumb.edu/hornbeck\\_ind\\_1/2/](https://digitalcommons.csumb.edu/hornbeck_ind_1/2/).

<sup>159</sup> Charles Wilkinson, "Blood Struggle: The Rise of Modern Indian Nations (New York and London: W.W. Norton & Company, 2005), 43.

<sup>160</sup> "Message of the President of the United States Communicated to the Two Houses of Congress." 1902. Sagmore Hill National Historic Site. <http://www.theororerooseveltcenter.org/Reservh/Digital-Library/Record?libID=0224538>. Theodore Roosevelt Center Digital Library. Dickson State University. 20-21.

<sup>161</sup> Ibid.

into place such as the 1891 Forest Reserve Act for public land preservation. “The Forest Reserve Act of 1891 authorized the President to set aside forest lands on the public domain.”<sup>162</sup> In California, public domain lands, including national parks and monuments, came from the non-ratification of the Treaty of Temecula and the other seventeen treaties. President Roosevelt met with Muir in Yosemite, the Aboriginal home of the Miwok Indigenous people.<sup>163</sup> The second treaty negotiated by all three Indian commissioners, written at Camp Barbour, was signed with the affiliated tribal bands of Yosemite.<sup>164</sup> The president understood the need to develop and invest in California. In 1890, Congress established Yosemite, the home of Indigenous people, as a national park.

President Theodore Roosevelt arrived in California in May 1903 to witness the growth of California as a state and to talk about the preservation of the landscape for the future of American generations.<sup>165</sup> Roosevelt started in Southern California and traveled north, giving speeches and visiting places within Indigenous country. Barstow was the first stop, home to a group of Serrano Indigenous people. Roosevelt then stopped in Redlands. From there he traveled to San Bernardino, Riverside, and Claremont, and on to

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<sup>162</sup> Robert M. Utley and Barry Mackintosh, “The Conservation Movement,” in *The Department of Everything Else: Highlights of Interior History* (Park Net, National Park Service, United States Department of the Interior. 1989), Revision: May 17, 2001. [https://www.nps.gov/parkhistory/online\\_books/utley-mackintosh/interior6.htm](https://www.nps.gov/parkhistory/online_books/utley-mackintosh/interior6.htm).

<sup>163</sup> “Yosemite Trip Comes to an End, President Roosevelt Bids Goodbye to the Park,” *Morning Press*, (Santa Barbara, CA), May 19, 1903. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>164</sup> Tribes that are affiliated with Yosemite today include: Southern Sierra Miwuk Nation, Bishop Paiute Tribe, Bridgeport Indian Colony, Mono Lake Kutzadika’a, North Fork Rancheria of Mono Indians of California, Picayune Rancheria of the Chukchansi Indians, and the Tuolumne Band of Me-Wuk Indians. “Surviving Communities,” National Park Service. accessed <https://www.nps.gov/yose/learn/historyculture/surviving-communities.htm>.

<sup>165</sup> “Cordial Meeting, President Welcomed at Redlands, San Bernardino, and Riverside,” *Press Democrat* (Santa Rosa, CA), May 8, 1903. accessed March 7, 2020. <https://cdnc.ucr.edu/?a=d&d=SRPD19030508.2.9&srpos=7&e=01-01-1901-31-12-1909--en--20--1--txt-txIN-roosevelt++riverside-----1>.



Los Angeles. The president of the United States gave a talk at each city he visited. President Theodore Roosevelt visited San Bernardino and Riverside and their jurisdictions on May 7, 1903.<sup>166</sup>

When President Roosevelt was in Riverside, he was on the traditional lands of the Cahuilla.<sup>167</sup> The Cupeños who lived in San Diego area called Warner's Ranch had heard the president was coming to visit in Riverside, so they sent a delegation to Riverside to speak to the president and tell him of their fight for their home known as Kúpa. Tribal Kúpa leaders Juan Maria Cibimoat, Salvador Nolasquez, Ambrosio Ortega, and two others went to Riverside to meet President Theodore Roosevelt. Their plan was to talk to the President as he passed by in the parade. At the parade, the Cupeño leaders shook the president's hand but were unable to talk to him directly. Cibimoat and the others never got to talk to the president about their issues. They knew the president saw them, but he chose not to acknowledge the tribal leaders that day.<sup>168</sup> The Cupeño leaders were devastated and left with a broken heart.

President Theodore Roosevelt continued his journey north in California, where he was confronted by Indigenous people and their advocates. The Northern California Indian Association, NCAI, met with the president on his stop in San Jose. NCAI presented the

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<sup>166</sup> Roosevelt, *California Addresses*, 12.

<sup>167</sup> "Cahuilla Continuum Exhibit: Tuku, Ivax, Tuleqa," Riverside Metropolitan Museum, Riverside, CA. Curated by Sean Milanovich. September 26, 2014-August 31, 2017; and Milanovich, "Cahuilla Continuum," 4 and 30.

<sup>168</sup> Phil Brigandi, "In the Name of the Name of the Law: Cupeño Removal 1903," *The Journal of San Diego History* 64, no. 1 (Winter 2018), accessed August 16, 2018, <https://sandiegohistory.org/journal/2018/august/in-the-name-of-the-law-the-cupeno-removal-of-1903/>.

president with a memorial that read, “title and ownership to this beautiful land have never been extinguished.” “Numbering some ten or twelve thousand souls are wholly landless.”<sup>169</sup> The United States government sold off the Indigenous people’s land and left them with nothing. The NCAI’s action can be interrupted as a suggestion to buy back land for the Indigenous men and women.<sup>170</sup> President Roosevelt returned to Washington D.C., wanting to know where those treaties were.

President Roosevelt was aware of the pending removal of Indigenous families from Warner’s Ranch before his arrival in California. It was on April 24, 1903, Secretary of the Interior Ethan Allen Hitchcock wrote the president and informed him of the removal of “Indians” from their lands. He also explained the “Indians” did not want to move.<sup>171</sup> But knowing of the plight of the Indigenous tribal leaders and they still came to see the president moved the Secretary of the Interior, but that did not matter. Roosevelt understood the demeanor of the people and all that had been lost but even more so, he saw what the United States might gain. Never mind the Indigenous people, he envisioned lands that once belonged to tribes could be taken for American settlers and for American public parks. The Indigenous people along the sidelines of parade routes reminded President Roosevelt that “Indians” still existed in Southern California, and they must have had some agreements or treaties with the United States. President Roosevelt was

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<sup>169</sup> Larisa K. Miller. “*The Secret Treaties with California Indians*,” Prologue (Fall/Winter 2013), 40.

<sup>170</sup> Ibid.

<sup>171</sup> Letter from Ethan Allen Hitchcock to Theodore Roosevelt, April 12, 1903. Theodore Roosevelt Papers. Library of Congress Manuscript Division. Dickson State University. accessed March 2, 2020.

<https://www.theodorerooseveltcenter.org/Research/DigitalLibrary/Record/ImageViewer?libID=o40771&imageNo=1>.

aware of the treaties that were made in California but unaware of their rejection or whereabouts. Roosevelt witnessed the plight of the Indigenous people with a built environment of paved roads and houses over their gathering, hunting, living, cemeteries, and sacred sites.<sup>172</sup> He saw the impacts of non-ratification of the treaties. When Roosevelt went to Riverside, he must have heard about the Cahuilla transient village of Spring Rancheria there on the outskirts of Riverside, that lay dormant after the Cahuilla were dispossessed from their village.<sup>173</sup>

In 1903, returning from a handshake with President Roosevelt in Riverside, Juan Cibimoat gave a passionate speech, stressing that the springs at Kúpa had always been their home, and claiming again that there was nothing for them at Pala and that they would all starve there. The lands of Kúpa had been within the boundaries of the Treaty of Santa Ysabel, which the Senate chose not to acknowledge. “The Captain maintained to the last that he would rather die than be moved.”<sup>174</sup> On May 12, 1903, the Cupeños were evicted from their village and homelands.<sup>175</sup> Several families were forced away from their ancestral homelands promised to them in the Treaty of Santa Ysabel, not the Treaty of Temecula.<sup>176</sup> The

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<sup>172</sup> See Gerald Clarke Exhibit, “Falling Rock” at the Palm Springs Art Museum. January 18, 2020-May 16, 2021. Gerald Clarke is a Cahuilla artist from the Cahuilla Reservation in the Santa Rosa Mountains. Clarke had a strong connection to the sees how the land is the identity of the people.

<sup>173</sup> Goodman, “Spring Rancheria,” 12.

<sup>174</sup> Brigandi, “In the Name of the Name of the Law.”

<sup>175</sup> Steven, Karr, “The Warner’s Ranch Indian Removal: Cultural Adaption, Accommodation, and Continuity,” *California History* 86, no. 4 (2009), 33.

<sup>176</sup> The great grandmother of author Sean Milanovich was disposed from her home of adobe at Kúpa by military force. Rufina Welmas was five years old when the soldiers arrived and forced her and her relatives out of their homes. The Welmas family consisted of parents Casilda and Cayetano Welmas and their seven children: Rufina, Miguel, Jose Juan, Rosa, Serafina, Phillip, and Merced. They were told not to come back.

United States Supreme Court upheld the order to remove the Indigenous people who claimed the land as theirs and in no way wanted to leave. The people were evicted and moved to a new plot of land that was not theirs but belonged to the Luiseño people of Pala, their relatives.<sup>177</sup>

Returning from his trip, Roosevelt realized the importance of finding the unratified treaties. He requested a full investigation and report from Commissioner of Indians Affairs William A. Jones.<sup>178</sup> The examination of the secret treaties proved important to the Treaty of Temecula. Commissioner Jones confirmed, “that no compensation has ever been made the California Indians for their lands, as the Government seems to have followed the policy of Mexico, from whom it got its title to California, in not recognizing the Indians’ right of occupancy.”<sup>179</sup> Commissioner Jones realized the United States never thanked or gave the Indigenous people something in return for the land, thus the land was stolen.<sup>180</sup> In short, the United States claimed ownership of the land. The United States dispossessed the Indigenous people from the land after treaties were made with tribal leaders. The United States then sold the land and

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They moved to the community of Pala. They walked for two days to get to Pala. There at Pala the United States government gave the Indigenous people canvas tents. The tents were their place of residence.

<sup>177</sup> Guy Trujillo interview, November 17, 2017.

<sup>178</sup> Larissa Miller, “The Secret Treaties with California Indians,” 40.

<sup>179</sup> Ibid.

<sup>180</sup> Larissa Miller, “Secret Treaties with California Indians,” 40; National Indian Association, and Women's National Indian Association, “The Indian’s Friend,” *The National Indian Association* 18, no. 4 (New Haven: Connecticut, December 1905), 10. Google Books,

[https://www.google.com/books/edition/The\\_Indian\\_s\\_Friend/OZwyAQAAMAAJ?hl=en&gbpv=0](https://www.google.com/books/edition/The_Indian_s_Friend/OZwyAQAAMAAJ?hl=en&gbpv=0).

Hereafter cited as “The Indian’s Friend,” *The National Indian Association* 18, no. 4, 10.

allowed its settlement and disregarded the original owners and stewards of the land, the Indigenous people. The “Indians” were invisible to American society and government.

It was not until late 1903 when the American government started relearning about the California Indian treaties and taking an interest in the conditions of the Indigenous people of California.<sup>181</sup> On July 7, 1852, the United States Senate voted to keep the treaties from the public and tribes themselves.<sup>182</sup> For fifty-one years, the eighteen treaties of California were hidden for Senate use only, and only to those that knew about them or remembered them. The treaties and their associated support were stored in the office of the Senate.<sup>183</sup> California Senator Thomas Bard introduced a petition in 1903 by the Northern California Indian Association to buy some land for Indigenous people who had no land. The failure of the Senate to ratify the eighteen treaties left thousands of Indigenous people landless. The unratified treaties forced thousands of Indigenous people to find resources on their own.

Senator Thomas Bard lived in Ventura, California, where the Indigenous Chumash people lived, one hundred-fifty miles northwest of where the Treaty of Temecula was signed.<sup>184</sup> Bard lived in Southern California surrounded by thousands of Indigenous people affected by the Indian Treaty Commission. Bard was on the Indian Senate Committee and a member of the Sequoia League, a group of advocates for

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<sup>181</sup>“The Indian’s Friend,” *The National Indian Association* 18, no. 4, 10.

<sup>182</sup> U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy 27.

<sup>183</sup> National Indian Association, and Women’s National Indian Association, “The Indian’s Friend,” 10.

<sup>184</sup> Senator Thomas Bard was originally from Pennsylvania.

Indigenous people's rights.<sup>185</sup> Senator Bard advocated not only for Indigenous people in California but for Indigenous people in Oklahoma as well.<sup>186</sup> Most of Bard's work was done in the state of California where the hidden and rejected treaties affected so many of the Indigenous people. In 1904, Senator helped the Quechan in Southern California receive allotments of their best lands.<sup>187</sup>

In January 1904, Senator Bard presented to the Senate Committee on Indian Affairs a petition from the Northern California Indian Association, to buy land for the Indigenous people of Northern California. Bard introduced the topic through the Indian Appropriations Bill. The Senator first suggested to survey the conditions and needs of the Indigenous people of Northern California after the non-ratification of the treaties. It did not pass. Bard then strategized how to get their proposal on the desk of the President of the United States. Bard had to find the concealed treaties of California to get the attention of the president. Thomas Bard wrote a memorandum to Congress about the eighteen unratified treaties of California. Bard identified that the United States never paid the "Indians" for their land. He wrote that the Indigenous people deserved the same "protection and privileges" as other American citizens and habitants of the country.<sup>188</sup>

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<sup>185</sup> Larissa Miller, "Secret Treaties with California Indians," 41.

<sup>186</sup> Thomas R. Bard, "The Autonomy of Arizona Guaranteed Forever: Speech of Hon. Thomas R. Bard, of California, in the Senate of the United States, Friday, January 6, 1905," (Washington, 1905), 3-6. accessed December 3, 2020, Internet Archive, <https://archive.org>.

<sup>187</sup> By 1910, the United States viewed the remaining tribal allotments as "surplus lands" and opened the allotments to White settlers. Ian Michael Smith, "From Subsistence to Dependence: The Legacy of Reclamation and Allotment on Quechan Indian Lands, 1700-1940," (M.S. thesis, University of Montana, 2010), 86, and 116.

<sup>188</sup> Larissa Miller, "Secret Treaties with California Indians," 42.

Then in June 1904, Charles Edwin Kelsey wrote to Senator Bard about the eighteen treaties with suggestions on how to find them. Kelsey believed and informed Bard how critical and valuable they were to the Indigenous people in California for their livelihood.<sup>189</sup> Kelsey had been part of the Northern California Indian Association and part of the appointed commission to find appropriate land for the Indigenous people in Northern California. In July, Bard wrote his secretary, R. Woodland Gates, about the hidden treaties. Bard requested Gates look for those concealed treaties.<sup>190</sup>

In September 1904, R. Woodland Gates located the treaties in the Secret files of the Senate.<sup>191</sup> Gates first looked at the files of Indian Affairs, but they were not there. Gates then went to the Senate offices and searched the files of Secretary of the Senate, where he found the documents relating to the negotiation of unratified treaties with various bands of Mission “Indians,” of California in 1851-1852. There were the original eighteen treaties with supporting documents, about 350 pages in total.<sup>192</sup> Gates told Bard in a letter of the find.<sup>193</sup> Bard notified President Theodore Roosevelt. The president took the matter to the Senate. After review and discussion, the Senate ordered the injunction of secrecy removed.<sup>194</sup> On January 18, 1905, the Senate of the United States, “ordered, that the injunction of secrecy be removed from the eighteen treaties with Indian tribes in California, sent to the Senate by President Fillmore June 7, 1852 [Executive, A, B, C, D,

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<sup>189</sup> Ibid.

<sup>190</sup> Ibid, 39-40.

<sup>191</sup> Ibid, 42-43.

<sup>192</sup> See U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*.

<sup>193</sup> Larissa Miller, “Secret Treaties with California Indians,” 43.

<sup>194</sup> Ibid.

E, F, G, H, I, F, J, K, L, M, N, O, P, Q, and R, Thirty-second Congress, first session].<sup>195</sup>

The injunction of secrecy was removed under President Theodore Roosevelt.<sup>196</sup>

The next day on January 19, 1905, Secretary of the Senate Charles Bennett requested copies of the eighteen treaties be made for review by the Executive Committee of the United States.<sup>197</sup> The treaties were placed on an annexed schedule for review and discussion. Treaties were arranged in alphabetical order for review according to exhibit of presentation.<sup>198</sup> Exhibits A-R were presented to the President of the United States then the Senate in this fashion under the lens of Exhibit. “Exhibit” suggests the treaties were treated as a case of misconduct in a court of law and do not give full power to the treaties. The United States Senate had intentionally discarded the treaties in 1852. That was a crime. The Treaty of Temecula came under Exhibit K. The Treaty of Temecula was sometimes revered to as Treaty K while The Treaty of Santa Ysabel was sometimes revered to as Treaty L. The Treaty of Santa Ysabel came under Exhibit L.<sup>199</sup> This was the first time many members of the current Congress had heard about the unratified treaties and the theft of land as a result of the treaties, and the disregard for Indigenous rights. It became established that the United States stole the lands from the Indigenous people of

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<sup>195</sup> U.S., *Journal of the Executive Proceedings of the Senate of the United States of America: From March 4, 1905 to March 18, 1905, Vol. XXXV* (Washington: GPO, 1931), 465. accessed December 2, 2020, Hathi Trust Digital Library, <https://babel.hathitrust.org/>. Hereinafter cited as U.S., *Journal of the Executive Proceedings of the Senate, March 4, 1905 to March 18, 1905*.

<sup>196</sup> U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy 27.

<sup>197</sup> U.S., *Documents Relating to the Negotiation of the Unratified Treaties with the Various Bands of Mission Indians of California*, Microcopy 27; and U.S., *Journal of the Executive Proceedings of the Senate, March 4, 1905 to March 18, 1905*, 466.

<sup>198</sup> Heizer, *Eighteen Unratified Treaties*, 2.

<sup>199</sup> Heizer, *Eighteen Unratified Treaties*, 2-3 ad 14; and “Unratified Treaty at the Village of Temecula in California to Go on Display at the National Museum of the American Indian,” Smithsonian, National Museum of the American Indian Museum, September 15, 2016. <http://newsdesk.si.edu/>.



California. Ethan A. Hitchcock, the Secretary of the Interior, in his annual report, reported, “The Commissioner of Indian Affairs calls attention to the wrongs of the landless Indians of Central and Northern California parties to unratified treaties,” reported the *San Jose Mercury News*.<sup>200</sup> There was admittance, but nothing more came about to correct the stolen lands by the federal government.

### **California Indian Land Claims**

It was clear the United States was not inclined to respond to the injustices occurred in the last half of the nineteenth century.<sup>201</sup> The stolen Aboriginal lands of California caused serious injustices on all tribal groups and caused severe problems for the people after the turn of century. The people had no fight for their right to live. The people had splintered away from their majority and their traditional life ways. Ceremonies that kept the people united and together were minimized.<sup>202</sup> The Indigenous people had been deceived and lied to by the United States government since 1851-1852.<sup>203</sup> This became one of the Indigenous people’s grievances against the United States government. The Indigenous people wanted their land back, but that was not going to happen anytime soon. The people wanted their traditional lands back and acknowledgment that the United States claimed and stole the lands after the Treaty of

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<sup>200</sup> “Annual Report of the Secretary of the Interior,” *San Jose Mercury News*, (San Jose, CA), December 9, 1905. California Digital Newspaper Collection, <https://cdnc.ucr.edu/>.

<sup>201</sup> Rupert Costo and Jeannette Costo, *Natives of the Golden State*, 311.

<sup>202</sup> Cahuilla Red Elk interview by author, December 5, 2020.

<sup>203</sup> Guy Trujillo interview, November 13, 2017.

Temecula, Treaty of Santa Ysabel, and the other sixteen treaties with California Indigenous people, were rejected and shelved in secrecy.<sup>204</sup>

The tribal people united as they had done for millennia, and filed major lawsuits after many hurdles. The United States claimed the land as public domain, disposed the Aboriginal people, and the colonizers moved onto the land and consumed all nearby resources. The Aboriginal people never gave the colonizers permission to claim the land as their own.<sup>205</sup> The theft of land is based on a fallacy. The United States government had no consideration of approving the treaties with California Tribal leaders since White politicians believed Indigenous peoples were going to just disappear, and they would not have to worry about it in a few years.<sup>206</sup> Indians never did disappear. That never happened. In fact, in 1919, the Indigenous people kept gathering and organized the Mission Indian Federation to combat treaty violations and fight for Indigenous rights.<sup>207</sup> The Mission Indian Federation sued the United States for compensation for lands stolen after the unratification of the Treaties of Temecula and Santa Ysabel.<sup>208</sup> In 1924 Congress passed the Indian Citizenship Act (Snyder Act), which conferred full U.S. citizenship, rights and responsibilities to all Indigenous people born in the United States

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<sup>204</sup> Florence C. Shipek, "Mission Indians and Indians of California Land Claims," *American Indian Quarterly* 13, no. 4, Special Issue: The California Indians (Autumn 1989), 409-410. accessed December 4, 2020, J-STOR, <https://www.jstor.org/>.

<sup>205</sup> Rupert Costo and Jeannette Costo, *Natives of the Golden State*, 311; and Shipek, "Mission Indians and Indians of California Land Claims," 409.

<sup>206</sup> Rupert Costo and Jeannette Costo, *Natives of the Golden State*, 289.

<sup>207</sup> Mission Indian Federation, "The Indian, The Magazine of the Mission Indian Federation," June 1934, no. 2. 1-28; Chris McCormick, "History and Memory: The Mission Indian Federations Tools of Resistance," (masters' thesis, California State University, Fullerton, 2018), 32-34; and Przeklasa, "Reservation Empire," vii and 10.

<sup>208</sup> Przeklasa, "Reservation Empire," X.



*Figure 9.1: Indigenous Gathering at the Pala Mission. “Indian Council at Pala, 1886.” Horatio N. Rust Photograph Collection: Album of Indians of Southern California and the Southwest, approximately 1886-approximately 1905. Source: The Huntington, Library Art Museum, and Botanical Gardens.*

who had not yet received citizenship through treaties or statutes.<sup>209</sup> The Indigenous people prepared and fought the United States after assuming American citizenship granting them their right to vote and go to court in the American system.<sup>210</sup>

The Unratified Treaties, as they came to be known, played a central role in a great portion of California Indian politics for decades to come. The lack of protection from federal reservations led to immense loss of land. This prompted many Indian people throughout the state to enter into complex litigation through the Indian Claims Commission, lawsuits that dominated much of the politics of the first half of the twentieth century.<sup>211</sup>

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<sup>209</sup> An Act to Authorize the Secretary of the Interior to Issue Certificates of Citizenship to Indians, Public Law 68-175, 43 STAT 253, June 2, 1924; and Pevar, *The Rights of Indians and Tribes*, 10.

<sup>210</sup> *Ibid.*

<sup>211</sup> Przeklasa, “Reservation Empire,” 64.

In 1928, Congress passed the California Indian Jurisdictional Act, also known as the Lea Act.<sup>212</sup> The purpose was compensation, “for land lost by non-ratification of the 1851-1852 treaties.”<sup>213</sup> The Indigenous people wanted their land to live on, to gather, to hunt and fish, and have ceremony. Money cannot replace the land and its cultural values. With the land came a legacy of teachings and stories of the people, cried out Rosa Soza War Soldier, a Mountain Maidu/Cahuilla/Luiseño scholar.<sup>214</sup> For the time being, the Lea Act “provided California Indians the right to sue the federal government for land claims compensation.”<sup>215</sup> In 1934 with the passage of the Indian Reorganization Act, mutual consent and agreement between tribal nations and the United States, as during the treaty period, was given new life, with the “federally approved tribal constitutions,” according to Rupert Costo.<sup>216</sup> After the Indian Reorganization Act of 1934, tribes adopted tribal constitutions and tribal councils, replacing traditional tribal governments.

The Mission Indian Federation and multiple tribes in Southern California objected to the domination of the Bureau of Indian Affairs.<sup>217</sup> The tribes knew what was best for their lands and people and do not like to be micromanaged by the Bureau of Indian

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<sup>212</sup> The Act was passed on May 18, 1928. Shipek, “Mission Indians and Indians of California Land Claims,” 410.

<sup>213</sup> Ibid.

<sup>214</sup> Rose Soza War Soldier is a member of the Soboba Band of Luiseño Indians. Soza War Soldier is a professor in the Ethnic Studies Department at California State University Sacramento. Rose Delia Soza War Soldier, ““To take Positive and Effective Action”: Rupert Costo and the California Indian Historical Society,” (dissertation, Arizona State University, 2013), 75; and Contributed Staff, “Soboba Tribal Member Begins New Journey,” *The Hemet & San Jacinto Chronicle* (Hemet, CA), January 1, 2021. accessed June 6, 2021, <https://hsjchronicle.com/soboba-tribal-member-begins-new-journey/>.

<sup>215</sup> Ibid.

<sup>216</sup> Rupert Costo and Jeannette Costo, *Indian Treaties*, 11.

<sup>217</sup> Carmen Lucas interview, August 29, 2016; Przeklasa, “Reservation Empire,” 118; and Rupert Costo and Jeannette Costo, *Indian Treaties*, 12.

Affairs. Tribal people such as Lupy Lugo believed they did not need approval from the Bureau to conduct their tribal business. Leaders of the Mission Indian Federation wanted “to resist government intrusion into their political affairs.”<sup>218</sup> The United States government dominated every aspect of tribal existence including the California Indian land claims.

The United States did not want to spend the time or energy in the breakdown of its deceit. Everything was minimized.<sup>219</sup> From the Native perspective, Aboriginal people never gave the land to Spain, Mexico, or the United States. American colonizers quickly assumed control through military force and foreign laws. The California tribes had several major claims.<sup>220</sup> Those who could file included, “all Indians who were residing in the State of California June 1, 1852, and their descendants living in said State,” per the 1928 California Indian Jurisdictional Act.<sup>221</sup> There were a multitude of land claims and each was very complex.<sup>222</sup> The court ultimately acknowledged land claims that were traced back to original Indian title acknowledged by Spain, Mexico, and the United States in eighteenth- and nineteenth-century laws, including the Treaty of Guadalupe Hidalgo of 1848.<sup>223</sup> The Treaty of Guadalupe Hidalgo is tied with the beginnings of the legal assault on sovereign immunity on California Indigenous tribes.<sup>224</sup> The Court of Claims did agree

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<sup>218</sup> Przeklasa, “Reservation Empire,” 85.

<sup>219</sup> Cahuilla Red Elk interview, December 5, 2020.

<sup>220</sup> Shipek, “Mission Indians and Indians of California Land Claims,” 409-420.

<sup>221</sup> Ibid, 410.

<sup>222</sup> Robert F. Heizer and Alfred L. Kroeber, “For Sale: California at 47 Cents Per Acre,” *The Journal of California Anthropology* 3. no. 2 (1976): 65; and Shipek, “Mission Indians and Indians of California Land Claims,” 410.

<sup>223</sup> Omer C. Stewart, “Kroeber and the Indian Claims Cases,” Digital Assets, Berkeley, CA.

<https://digitalassets.lib.berkeley.edu/anthpubs/ucb/text/kas025-013.pdf>.

<sup>224</sup> Wood, “The Trajectory of Indian Country in California,” 317-364.

that treaty commissioners made a promise which was accepted by the bands of Indigenous people. The court acted ninety years after the treaties were conducted. In 1942, the Court issued a decision in the California Indians K-344 case, which was, “for return of, or payment for misappropriated property.”<sup>225</sup> In 1950, the first settlement was awarded. California Indian recipients received \$150 for their lost treaty lands.<sup>226</sup>

Chief Justice Richard H. Whaley set the amount of compensation due to the Indigenous people of California for lands “lost,” not stolen, by the United States at \$17,053,941.98 for expenses and \$12,029,099.64 for offsets, for a total of \$29,083,041.62.<sup>227</sup> Offsets included all the items promised in the treaties.<sup>228</sup> For example, the Treaty of Temecula, Article IV, included items like food such as cattle and flour, farming tools, and materials for clothes.<sup>229</sup> Do not be fooled with the \$29,000,000. The Court discounted the supplies that were never realized in most cases. Fractionalized, the final amount to be given to the Indigenous people of California, succumbed to the amount for the land valued at \$17,000,000 minus the offsets of supplies worth \$12,000,000 with a balance of \$5,000,000. \$5,000,000 was distributed among thousands of Indigenous people. This was the total award amount.<sup>230</sup>

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<sup>225</sup> Steve Newcomb, “The Court of Claims Ruling in California, Indians K-344,” *Indian Country Today*. May 30, 2012. accessed December 6, 2010, <https://indiancountrytoday.com> H and Shipek, “Mission Indians and Indians of California Land Claims,” 410.

<sup>226</sup> Personal Conversation with Edward Castillo and author. Circa 2016; and Department of Parks and Recreation, Historic Preservation, State of California, *Five Views: An Ethnic Sites Survey for California* (Sacramento: Office of Historic Preservation, 1988), 21.

<sup>227</sup> See Richard H. Whaley, “California Indians K-344, Brief,” United States Supreme Court. December 4, 1944. accessed December 6, 2020. [http://www.tachi-yokut.com/ca\\_tribes1.pdf](http://www.tachi-yokut.com/ca_tribes1.pdf); and Shipek, “Mission Indians and Indians of California Land Claims,” 410

<sup>228</sup> Sanchez, “The Selling of California,” 45.

<sup>229</sup> See the Appendix for Treaty of Temecula, Article IV.

<sup>230</sup> Sanchez, “The Selling of California,” 50.

The most discriminating part was that the Court of Claims failed to recognize the Indigenous peoples' legal right to the land. Instead the judgement was based on the failure of the United States to ratify the eighteen Indian treaties.<sup>231</sup> The judgment declared, "this claim does not involve a taking of land by the Government," which would require interest.<sup>232</sup> The claim was based on an amount set at \$1.25 acre for the lands specified under the treaties from the year 1852.<sup>233</sup> Total acreage the United States recognized as being misappropriated by the United States was close to 8,518,900 acres.<sup>234</sup> The entire State of California was much larger than that. The courts compiled a one lump sum of \$29,000,000 for all the land purloined by the United States through the stolen lands due to the rejection of the eighteen treaties.<sup>235</sup> In 1968, additional claims were consolidated by President Lyndon B. Johnson, averaging out to forty-seven cents an acre.<sup>236</sup> Indigenous scholar Edward Castillo revealed that from this second settlement, he and other California "Indians" received a check for \$633 as a monetary compensation for the land taken through the treaties.<sup>237</sup> Many California Indigenous people and scholars felt the forty-seven cents per acre was unjust and opposed the settlement. "We oppose

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<sup>231</sup> Newcomb, "The Court of Claims Ruling in California, Indians K-344."

<sup>232</sup> Newcomb, "The Court of Claims Ruling in California, Indians K-344"; and Sanchez, "The Selling of California," 50.

<sup>233</sup> Sanchez, "The Selling of California," 45; and Whaley, "California Indians K-344 Brief," 5.

<sup>234</sup> Ibid, 5.

<sup>235</sup> Ibid 1.

<sup>236</sup> Heizer and Kroeber, "For Sale: California at 47 Cents Per Acre," 65.

<sup>237</sup> Monies came in the form of a check close to Christmas. Most people objected to the United States theft of land with the rejection of the treaties. Natives were hungry and needed money, so they cashed the small checks said Edward Castillo. To show his support that non-approval of the treaties was a violation of promises made, Edward Castillo did not cash his check. The non-ratification encouraged theft of the land by the invading settlers and the United States. Edward Castillo interview, March 12, 2019; Personal Conversation with Edward Castillo and author. Circa 2016; and Office of Historic Preservation, *Five Views* (Sacramento: State of California, 1988), 10.

this settlement proposal, even though the attorneys approve it,” asserted Rupert Costo and others in protest.<sup>238</sup>

According to Cahuilla Red Elk, “our leaders were negotiating, and it was drowned in the California Indians Land Claims Commission.”<sup>239</sup> Their voices, needs, and grievances were not taken seriously.<sup>240</sup> The “recovery was limited to the scope of promises of the 1851-1852 unratified treaties,”<sup>241</sup> The method used and agreed upon was the voice and direct testimony of the Indigenous people from each tribal area. Vine Deloria, Jr., believed as many others did, the Indian Claims Commission restricted the scope of testimony and alternative measures of discovery. The Indian Claims Commission failed to, “design, hear, and make decisions on the accumulated claims of the tribes against the United States.”<sup>242</sup> This not the last stand.

California indigenous people received a fraction of the land value for a fraction of the original lands that they occupied, and where they managed and maintained their traditional life ways. Deloria went on to say that the “payments from claims cases received by tribes did not settle treaty obligations but is more in the nature of compensating tribes for their real-estate-contract aspect of their treaties.”<sup>243</sup> The legality of the development resting on Indigenous lands is questionable and an outright an abomination. California tribes do not want to take the issue back into an American Court

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<sup>238</sup> “Rupert Costo and Jeannette Costo, *Natives of the Golden State*, 321-322; and Soza War Soldier, “To take Positive and Effective Action,” 76.

<sup>239</sup> Cahuilla Red Elk interview, December 5, 2020.

<sup>240</sup> Ibid.

<sup>241</sup> Rupert Costo and Jeannette Costo, *Natives of the Golden State*, 299.

<sup>242</sup> Deloria, *Behind the Trail of Broken Treaties*, 208.

<sup>243</sup> Ibid, 227.



of law. Tribes stood and still stand on the foundation as foreign nations at the United Nations Court of law and international law. According to Vine Deloria Jr., tribes can go to war or lobby Congress to get their actions and voices heard. In addition, tribes hold international status at the United Nations and can request a special court to settle treaty violations and deliberate intentions of misconduct by the United States Senate.<sup>244</sup>

To the Indigenous people of California, the treaties are revered pacts that still matter and are regarded as important binding agreements. The treaties represent the first consultation with the American federal government. The tribes recognized the United States as a sovereign and independent nation; likewise, the United States recognized the Indigenous tribes as autonomous and sovereign themselves and continuing to maintain their sovereign identity. It does not matter that the treaties were all rejected. The point is that there was a mandate from the Senate to make treaties with tribes in California. The United States made treaty contracts in California to establish a door into Indigenous lands. The framers of the treaties wanted the Indigenous peoples to give up their rights and to stop fighting for their lands in exchange for the right to live. The treaty framers would have killed those not ready to comply. In other parts of the country, the United States made treaties, agreements, and contracts with tribes to diminish Aboriginal title to the land.<sup>245</sup>

As the American invasion occurred in California, tribal rights diminished, as did political autonomy. Within a matter of five years, 1848-1852, many tribal bands became

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<sup>244</sup> Ibid, 228.

<sup>245</sup> Dejung, *American Indian Treaties*, 57.

nations within a nation while several were ignored for who they were. Terrorism became prominent on the land. Treaties through force and intimidation, led to a larger expansion of United States Indian policy and corruption. Treaties were not ratified by the United States and hidden. The Treaty of Temecula was one of eighteen treaties of California the United States suppressed to fraudulently take the land to which the tribes held title. Then beginning in 1875-1905, the voices of the bands of descendants and relatives who signed the treaties were recognized by the United States, and some lands were returned to the sovereign bands while others were not even recognized.

Due to the nonratification of the Treaty of Temecula, Indigenous bands were marginalized in Southern California. Native peoples were dispossessed from their villages and homelands including the people of Kúpa, San Felipe, San Luis Rey Band, and countless others.<sup>246</sup> For the San Luis Rey Band, at the heart of the Treaty of Temecula is recognition and identity. The San Luis Rey Band signed the treaty, yet the United States failed to recognize and continues not to acknowledge the Indigenous band as a sovereign power.<sup>247</sup> Why does the United States get to say which tribes in California shall be recognized? Other tribes along the Pacific Coast in Southern California are not recognized, either, and they never signed any treaties. This non-recognition falls on the United States government's policies of self-government and neglect.<sup>248</sup> Olivia Chilcote, a member of the San Luis Rey Band, wrote, "Pedro Kawawish's signature on the 1852

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<sup>246</sup> Mathes and Brigandi, *Reservations, Removal, and Reform*, 180-183.

<sup>247</sup> Chilcolte, "The Process and the People," 1-2.

<sup>248</sup> Deloria and Wilkens, *Tribes, Treaties, & Constitutional Tribulations*, 159.

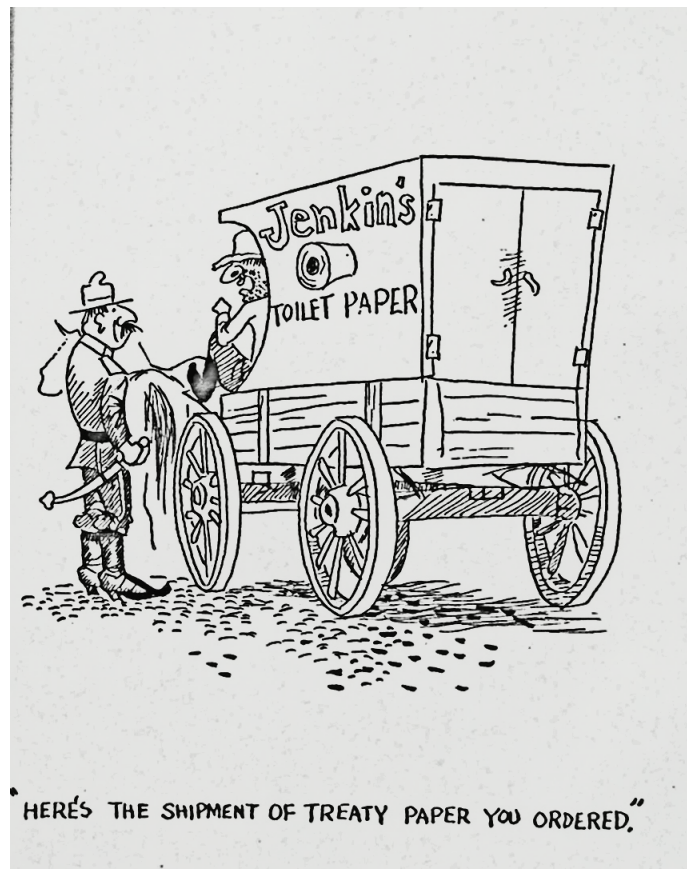
Treaty of Temecula marked the beginning of what should have been an acknowledgment of San Luis Rey's sovereignty. But without ratification, what should have been a moment of recognition has turned into a legacy of neglect."<sup>249</sup> Indigenous people and tribes continue to see the Treaty of Temecula as the primary document of government-to-government relationships.

In the larger context, the Treaties of Temecula and Santa Ysabel realign the sacred teachings of respect and honor with the present. The treaty of Temecula remains just as important now, 169 years later, as it did in 1852, for five reasons. For one, the Americans came to the tribes. The Americans wanted the land the tribes held under occupation and management from the Creator since the beginning of time. Two, the Treaty remains a legal framework for which the Indigenous bands acknowledged the United States as a foreign power, and transferred some of their sovereignty to that power for the betterment of the tribal people. This recognition can be taken away by the tribes themselves. Three, the Treaty represents acknowledgment by the United States that the tribes in Southern California were sovereign powers. This acknowledgement is the grounds for a tribal relationship with the United States, if the tribes wish. Tribes count on this government-to-government relationship with the United States to keep binding their political status under the American umbrella. Four, the Indigenous people signed the Treaty of Temecula to secure lands for their people to live on. The treaty continues to be a testament of time in which the descendants of the four tribes or twenty-eight bands

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<sup>249</sup> Chilcolte, "The Process and the People," 7, 17, 39, and 44.

recognized their relatives' sacrifice so the Indigenous generations to come would always have a home. Five, the Treaty of Temecula is a reminder of the Indigenous people's persistence of power over traditional lands.



*Figure 9.2: The Treaty of Temecula remains just as important today as it did in 1852. The treaty is still part of conversations, dialogue, and is mocked. Source: Robert Freeman, For Indians Only (San Marcos, CA: A & L Litho).*

At the Treaty of Temecula, the four tribes of Indigenous bands came together and pledged their allegiance, trust, and faith to one another, and to the country. That was a

powerful moment in time. The tribes came together on January 5, 1852, so generations of children and the stories of the people would continue in the future. This story of unification of the Cahuilla, Cupeño, Luiseño, and Serrano follows the mandate of natural law and traditional stories.<sup>250</sup> The people knew better times were coming.

The Indigenous people of Southern California have an allegiance to their ancestors, the Creator, and the plants and animals to commit for their well-being. The signatories of the Treaty of Temecula — Cahuilla, Cupeño, Luiseño, and Serrano — were invested in the land and held integrity and honor that was passed down from their relatives. The Treaty of Temecula was the backbone of the late Chairman Richard Milanovich for over 40 years. Milanovich fought for Native rights at home and in Washington D.C., securing the right for tribes to continue their fight for land and water rights that were stolen through the unratified Treaty of Temecula. Milanovich predicted tribes would always have to fight for their land and water rights, including tribal recognition and identification.<sup>251</sup>

Tribes continue to see their traditional lands and reservations set aside through treaty, executive order, and agreements as sacred, political, spaces of memory. In 2016, then-Chairman Mark Macarro of Pechanga rationalized, “The display of the Treaty of

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<sup>250</sup> In the beginning of the world, Creator took advantage of Menill. Menill lost trust in him. Overtime she forgave him for his wrongdoings and later trusted in him.

<sup>251</sup> Richard Milanovich is probably best known for his big heart, generosity and tough negotiations skills to protect tribal lands for future generations. Milanovich was Wanikik Cahuilla who learned from his relatives the land is sovereignty. From the land comes from strength. Milanovich drew his inspiration from the land his relatives fought for. Milanovich served on the Tribal Council for thirty-three years, and thirty of that as Tribal Chairman. He learned from his mother Laverne Miguel, who served as Vice-Chairman of the Agua Caliente Band of Cahuilla Indians from 1954-1956.

Temecula, negotiated within Pechanga's tribal territory, was a physical reminder that the California Indian experience was just as valid as any Native American experience in the United States."<sup>252</sup> The United States used the treaties to claim Indigenous lands. Travis Milanovich, a Cahuilla leader of Agua Caliente, saw the non-ratification of the Treaties as the pinnacle of United States threat to California Indigenous people, declaring, "It was the worst thing that has ever been done."<sup>253</sup> The Cahuilla, Cupeño, Kumeyaay, Luiseño, and Serrano people are not leaving their homelands of Southern California. The fact that thousands of Native communities continue to exist as separate governing nations with distinct characteristics after 500 years from the first European contact suggests, "that Indian societies have great holding of power, that they are likely to continue to endure, and that they may choose their way of life in preference to the non-Indian way in the years to come."<sup>254</sup> The Treaty of Temecula remains at the forefront of tribal agendas across Southern California as the people "inherited a legacy of tenacity and endurance."<sup>255</sup>

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<sup>252</sup> Chilcolte, "The Process and the People," 2.

Mission Indians, diss at University of California Berkeley. San Francisco, 2017.

<sup>253</sup> Travis has a deep and spiritual connection with the land. Travis Milanovich is an enrolled member of the Agua Caliente Band of Cahuilla Indians and Head Tribal Horticulturist. Travis Milanovich is the son of the late Tribal Chairman, Richard M. Milanovich and brother to the author. Travis Milanovich interview by author, Tribal Garden, Agua Caliente Reservation, Palm Springs, CA, January 10, 2018.

<sup>254</sup> Tyler, *A History of Indian Policy*, 10-11.

<sup>255</sup> Mark Macarro, "Nation to Nation," September 23, 2014.

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## **APPENDICES**



## Appendix A

### Treaty of Camp Frémont [Transcribed]

*A treaty made and concluded on the nineteenth day of March, in the year eighteen hundred and fifty-one, at Camp Fremont, near the little Mariposa river, in the State of California, between Redick McKee, George W. Barbour, and Oliver M. Wozencraft, commissioners appointed by the President of the United States to treat with the various tribes of Indians in the State of California, of the one part, and the chiefs, captains, and head men of the Si-yan-te, Po-to-yun-te, Co-co-noon, Apang-as-se, Aplache, and A-wal-a-che tribes of Indians, of the other part.*

*ARTICLE 1. The said tribes of Indians severally acknowledge themselves to be under the jurisdiction, control and authority of the government of the United States, and as such, that they severally agree and pledge themselves to refrain in future from the commission of any act of hostility or aggression towards the government of the United States, or any of the citizens thereof, and to live on terms of peace and friendship, not only with the citizens of the United States, but with all Indian tribes.*

*ART. 2. The said tribes hereby severally relinquish, and forever quit claim to the government of the United States, all the right, title, claim, or interest, of whatsoever character, that they, or either of them may have had, or now hold, in and to any lands in the limits of the State of California, or the United States.*

*ART. 3. It is agreed between the contracting parties, that the district of land lying between the Mercede and Touolumne rivers, to wit: commencing at a point on the Mercede river, opposite the mouth of a small stream emptying into said river, on the south side of said river, about one mile above what was formerly known as Ford's ferry, now known as Stone and Company's ferry; running thence a direct line to the Touolumne river, striking or intersecting said river at the mouth of a gulch emptying into said river at a bend about two miles above Spark's old ferry, being at or near the foot of the first fall or rapids of said river, above said Spark's ferry; thence down the middle of said stream to a point one-half of one mile above Harr's ferry; thence a straight line across, so as to intersect the Mercede river at a point about one-quarter of one mile above the present residence of Dr. Lewis, on said stream; thence up the middle of said Mercede river to place of beginning; the said district, supposed to contain about four full townships of land, is hereby and shall be forever set apart and held for the occupancy of said tribes of Indians; and it is further stipulated, that said tribes shall have free access to all the country between the Mercede and Touolumne rivers, extending above said described district to the Sierra Nevada mountains, for the purpose of hunting an*

*collecting fruits, nuts, &c.; but in no event shall they remove their women and children from the lands hereby set apart for their occupancy. The government of the United States reserving the right to establish a military post, and to erect the necessary buildings for an agent or other officers, within the limits of said land.*

*ART. 4. In further consideration of the aforesaid premises, and for the purpose of aiding in the subsistence of said tribes of Indians during the years eighteen hundred and fifty-one and two, it is agreed by the party of the first part to supply said tribes jointly with one hundred head of good beef steers, and one hundred sacks or barrels of flour, each year.*

*ART. 5. It is further agreed, that as soon after the ratification of this treaty by the President and Senate of the United States as may be practicable and convenient, the said tribes shall be furnished jointly and free of charge by the government of the United States, the following articles of property, to be divided among said Indian tribes, according to their respective numbers, to wit: ten brood mares and one jack or stallion, twenty-five cows and one bull, five large and five small ploughs, ten sets of gear or harness complete, one hundred axes, one hundred hatchets, one hundred hoes, ten mattocks or picks, all necessary seeds for sowing and planting for one year, eight hundred pounds of iron, two hundred pounds of steel, two hundred pairs of two and a half point blankets, two flannel shirts and two pairs of coarse pants for each man and boy, one linsey gown for each woman and girl, two thousand yards of brown sheeting, two thousand yards of calico, twenty-five dollars worth of thread, needles, buttons, scissors, &c.*

*ART. 6. The United States agree further to furnish a man skilled in the art of farming, to live among and instruct said tribes, and such others as may be placed under his supervision, in the business of farming, one blacksmith, one man skilled in working in wood, (wagon maker or rough carpenter,) one superintendent, and such assistant school teachers as may be necessary, all to live among and work for, and teach said tribes and such other tribes as they may be required to work for and teach; said farmer, blacksmith, worker in wood and teachers to be supplied to said tribes as aforesaid, for the period of five years, and as long thereafter as the President of the United States shall deem advisable: a school-house and other necessary buildings for the accommodation of the persons named in this article to be erected at the cost of the government of the United States.*

*ART. 7. It is further agreed between the parties, that for any violence done by individuals to the person or property of any citizen of the United States, by an Indian or Indians, of either of said tribes, or if done by a citizen or citizens of the United States, to the person or property of any of said tribes, or any of the members thereof, no personal retaliation shall be attempted, but the party aggrieved shall apply to the civil authorities of the country for a proper redress of their grievances; each party pledging themselves to*

*bring, if possible, all guilty offenders to justice, by delivering them up to the officers of the law when in their power.*

*ART. 8. These articles of agreement to be binding on the contracting parties when ratified and confirmed by the President and Senate of the United States of America.*<sup>2474F</sup><sup>1</sup>

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<sup>1</sup> U.S., *Treaties Between the United States of America, and the Several Indian Tribes, From 1778 to 1837: With a Copious Table of Contents* (Washington, D.C.: Langtree and O'Sullivan, 1837), Preface.

## Appendix B

### Treaty of Peace, Amity, and Friendship with Juan Antonio [Transcribed]

TREATY OF PEACE, Amity and Friendship made and concluded between Major General J.H. Bean, commanding the 4th Division, California State Militia, on the part and behalf of the People of the said State; and Juan Antonio, Chief of the Cahuilla Nation.

Art. I. There shall be an everlasting peace between the two contracting parties forever, and for the faithful observance of which, we pledge, each to the other, our sacred words of honor.

Art. II. The said Major General Bean, on the part of the people of the said State, herewith pledges the faith of said people, that, as long as the said chief, Juan Antonio shall act as heretofore, in a friendly manner towards the American people and the citizens of the State of California, then they, the said people, will protect and maintain the said chief Juan Antonio in the possession and occupation of his lands, property and effects, and also in his authority and command over his said Tribe or Nation, in every legal manner whatsoever.

Art. III. In consideration of and for the purpose of carrying out the mutual friendly understanding between the two contracting parties, the said General Bean, on the part of the People of the said State and the People of the City and County of Los Angeles, hereby donate to the said chief Juan Antonio certain valuable presents, now in the hands of Messrs P. & D. Weaver, at San Gorgonio.

Art. IV. It is also understood that the conduct of the said Juan Antonio in the arrest and delivery of Antonio Garra and the chief members of his tribe to the said General Bean, is hereby approved, and that the above mentioned donation is made as well for that service as the future services of the said Juan Antonio, hereby promised to him by the Americans.

Art. V. And the Said Juan Antonio, Chief and General of the Cahuilla Nation on the part and behalf of himself and his people do hereby pledge himself to assist and befriend the American citizens and the People of the State of California with the whole of his power, and all his warriors, against any and all the enemies of the people of the said State against and all of the enemies of the people of the said state.

Art. VI. And the said General and Chief Juan Antonio hereby pledges himself that in case of any outbreak or rising of the Indians in any portion of the said State, that shall come to his knowledge, or in case of any danger to any American citizen or citizens, or to any of the people of the said State, he will give them timely warning, and assist them to the utmost of his ability. And in such case, they, the people of the said State, will give to him, the said Juan Antonio, such remuneration for his services as he may deserve.

Done and concluded at San Geronimo, California, the twentieth day of December, in the year of our Lord one thousand eight hundred and fifty-one.

J .H. Bean,  
Major Gen. comd' g 4th Div.  
Cal. Militia  
Juan Antonio  
Chief Cahulla Nation.

Signed and Sealed in duplicate, in presence of Myron Norton, Major and Aid-de-Camp, and Caleb Smith, 2d Lt. U.S. Infy.

**Appendix C**  
Treaty of Temecula

1077  
A Treaty of Peace and Friendship,  
made and concluded at the village of Temecula California  
between the United States Indian Agent C. M. Weycraft  
of the one part and the Captains and Heads Men of the  
following Nations, viz: The nation of San Luis Rey Indians,  
the Kah-we-as, and the tribe of Coccomococas --

Art. 1.

The several Nations above-mentioned do acknowledge  
the United States to be the sole and absolute Sovereigns  
of all the soil and territory ceded to them by a Treaty of Peace  
made between them and the Republic of Mexico --

Art. 2.

The said Nations of Indians acknowledge themselves  
jointly and severally, under the exclusive jurisdiction,  
authority, and protection of the United States and hereby  
bind themselves hereafter to refrain from the commission  
of all acts of hostility and aggression towards the  
Government or citizens thereof, and to live on terms of peace  
and friendship among themselves, and with all other  
Indian tribes which are now or may come under the  
protection of the United States, and furthermore bind  
themselves to conform to, and be governed by the laws  
and regulations of the Indian Bureau made and provided  
therefor by the Congress of the United States.

Art. 3.

To promote the settlement and improvement of said Nations  
it is hereby stipulated and agreed that the following  
District of Country in the State of California shall be and  
is hereby set apart forever for the sole use and occupancy  
of the aforesaid Nations of Indians, still reserving to the  
Government of the United States all minerals found  
thereon -- To wit; Commencing at the South West corner of the San Jacinto  
Grant and running along the Southern and Eastern line of the same to the San Joaquin Grant,  
thence running along the Southern and Eastern line of the same to the Northeastern corner  
thereof, thence due East to the Eastern base of the Sierra Nevada Mountain, thence on a Southly

Figure C.1: Treaty of Temecula. Pg. 1. Source: Smithsonian Institute.



1-75  
straight line in the general direction of the base of said mountains to a point due East of the Northeastern corner of the Grant of San Jose del Valle, thence due West to said corner, thence along the Northeastern line of the same to the Northwestern corner, thence in a direct line to the Southeastern corner of the Grant of Temecula, thence running round the said grant, including it, by West, South, and East to its Northeastern corner, and from thence on a straight line to the place of beginning:

To have and to hold the said District of Country for the sole use and occupancy of said Indian Nations forever, Provided that there is reserved to the Government of the United States the right of way over any portion of said Territory, and the right to establish and maintain any Military Post, or Posts, Public Buildings, School Houses, Houses for Agents, Teachers and school purposes, and such others as it may deem necessary for its uses or the protection of the Indians. The said Nations and their tribes and each of them hereby engage that they will never claim any other lands within the boundaries of the United States nor ever disturb the people of the United States in the free use and enjoyment thereof —

Art. 4

To aid the said Nations of Indians in their subsistence while removing to and making their settlement upon the said reservation, the United States will furnish them free of all charge with (2500) Two Thousand Five Hundred Heads of Beef Cattle to average in weight (500) Five Hundred pounds, (350) Three Hundred Fifty Sacks of Flour of (100) One Hundred pounds each within the term of (2) Two Years from the date of this Treaty —

Art. 5.

As early as convenient after the ratification of this Treaty by the President and Senate, in consideration of the premises and with a sincere desire to encourage said Nations in acquiring the Arts and habits of civilized life, The United States will also furnish them the following articles to be divided among them by the Agent according to

Figure C.2: Treaty of Temecula. Pg. 2. Source: Smithsonian Institute.



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their respective numbers and wants during each of the two years succeeding the said ratification, viz; (1) One pair of strong pantaloons and (1) one red flannel shirt for each man and boy, (1) One linsey gown for each woman and girl, (7000) seven Thousand Yards of Calico, (1700) Seventeen Hundred Yards of Brown Shirting, (70) Seventy Pounds of Scotch Thread, (4) Four Dozen pair of scissors, (14) Fourteen Dozen thimbles, (5000) Five Thousand Needles, (1) One 2 1/2 point Mackinaw Blanket for each man and woman over fifteen years of age, (7000) Seven Thousand Pounds of Iron and (600) Six Thousand Pounds of Steel; And in like manner in the first year for the permanent use of the said Tribes and as their joint property, viz; (150) One Hundred thirty Poods Mares and (7) Seven Stallions, (600) Six Hundred Young Cows      & (36) thirty Six Bulls, (20) Twenty Yoke of Working Oxen with Yokes and Chains, (20) Twenty Work Mules or Horses, (42) Forty Two Ploughs assorted sizes, (350) Three Hundred forty Corn Hoes, (140) One Hundred and forty Spades and (20) Twenty grindstones

The Stock enumerated above and the product thereof and no part or portion thereof shall be killed, exchanged, sold or otherwise parted with without the consent and direction of the Agent.

Art. 6.

The United States will also employ and settle among said Nations at or near their Towns and Settlements, One practical farmer, who shall superintends all agricultural operations with two Assistants, men of practical knowledge and industrious habits, One Carpenter, One Wheel-wright, One Blacksmith, One principal School Teacher, and as many Assistant Teachers as the President may deem proper to instruct said Nations in reading, writing, etc. & in the domestic arts upon the manual labor system. All the above-named Workmen and Teachers to be maintained and paid by the United States for the term of (5) Five years, and as long thereafter as the President shall deem advisable. The United States will also erect suitable School Houses, Shops and Dwellings for the accommodation of the School Teachers, Mechanics, Agriculturists,

Figure C.3: Treaty of Temecula. Pg. 3. Source: Smithsonian Institute.

1-77

and Apistants above specified and for the protection of the public property -

In testimony whereof the parties have herunto signed their names and affixed their seals this Fifth day of January in the Year of Lords One Thousand Eight Hundred and Fifty Two.

Signed, sealed, and delivered after being fully explained in the presence of

*J. L. Warner*  
*J. Williams*  
*L. D. Vinsonhuler*  
*R. Sackett*  
 Hamilton Secretary

For and in behalf of the Kah-wi-ah Nation of Indians.

Juan Antonio "too-wed-na" kah-wi-ah Chief  
 Leonardo "Pavelwit" of the People of "Razon" for  
 in behalf of the people of Too-wa  
 Francisco "Javid" of Sierra Seca  
 Jose "Coo-pa-em-nwit" of Pah-nuc-tay the Country of Calceyon  
 Juan "Kak-wi-a" of Pat-se-wich  
 "Gurio" of Wih-na-pa-ah-pa  
 Sakti too son of "Gurio" of Wash-high-na  
 Teodoro "Chu-cal" Alcalde of San Antonio and of Cah-be-nish or Palma Seca  
 Ygnacio "Chin-gal" of the people of Toro of Pat. Kay-witch or Agua Corta  
 Juan Bautista "Sah-at" of Tinky  
 Coronimo of Co-ro-vang-ang  
 Victoriano "Kwo-wish" of Low-wah-wah  
 For and in behalf of the people or Tribe of Co-com-cah-cas, alias Aruanos - "Emeterio" of Maronga

*J. M. Wagoner*  
*J. L. Warner*  
 For and in behalf of the San Luis Rey Indians  
 Pedro "Ka-wa-wish" of the Mission  
 Gisto "Go-no-nish" of Las Flores  
 Vicente "Po-clo-wi" of Buena Vista  
 Sabino "Coo-tac-ish" of Tala  
 Francisco "Pal-hoi-wis" of Pauma  
 Jose "Cah-lac" of El Totero  
 Calisto "Chah-awit-ish" of Yah-pect-cha  
 Santiago "Yi-loke" of La Joya  
 Pedro "Pal-e-gish" of La Puerta  
 Bruno "Wah-si-cal" of Puerta Cruz  
 Ysidro "To-sho-awut" of Totin  
 Cervantes "Ca-hai" of Huanga  
 Lauriano "Cah-par-ah-pish" of Temecula  
 Jose "Noca-Chin-gah-lang" of Aguacaliente  
 Jose Ygnacio "Sah-mah-kin-ma-wis" of San Pedro

Addenda. In case the Government of the United States and the actual proprietor of the Temecula Grant do not agree upon its purchase, then said Government agrees to add some other portion of territory of equal extent to the above-described Indian Grant.

*J. M. Wagoner*  
*J. L. Warner*  
*L. D. Vinsonhuler*  
*J. Williams*  
*R. Sackett*

Figure C.4: Treaty of Temecula. Pg. 4. Source: Smithsonian Institute.



## Appendix D

### Treaty of Temecula [Transcribed]

*A treaty of Peace and friendship made and concluded at the village of Temecula, California, between the United States Indian Agent, O. M. Wozencraft, of the one part, and the captains and head men of the following nations, viz: The nation of San Luis Rey Indians, the Kah-we-as, and the tribe of Co-com-cah-ras.*

*ART. 1.-The several nations above mentioned do acknowledge the United States to be the sole and absolute sovereign of all the soil and territory ceded to them by a treaty of peace made between them and the republic of Mexico.*

*ART. 2.-The said nations of Indians acknowledge themselves, jointly and severally, under the exclusive jurisdiction, authority and protection of the United States, and hereby bind themselves hereafter to refrain from the commission of all acts of hostility and aggression towards the government or citizens thereof, and to live on terms of peace and friendship among themselves, and with all other Indian tribes which are now or may come under the protection of the United States; and furthermore bind themselves to conform to and be governed by the laws and regulations of the Indian bureau, made and provided therefor by the Congress of the United States.*

*ART. 3.-To promote the settlement and improvement of said nations, it is hereby stipulated and agreed that the following district-of country in the State of California shall be and is hereby set apart forev'er, for the sole use and occupancy of the aforesaid nations of Indians, still reserving to the government of the United States all minerals found thereon, to wit: commencing at the southwest corner of the San Jacinto grant, and running along the southern and eastern line of the same to the San Gorgonio grant; thence running along the southern and eastern line of the same to the northeastern corner thereof; thence due east to the eastern base of the Sierra Nevada mountain; thence on a southerly straight line in the general direction of the base of said mountain to a point due east of the northeastern corner of the grant of San Jose del Valle; thence due west to said corner; thence along the northeastern line of the same to the northwestern corner; thence on a direct line to the southern corner of the grant of Temecula; thence running around said grant, including it, by west, north and east, to its northeastern corner, and from thence on a straight line to the place of beginning. To have and to hold the said district of country for the sole use and occupancy of said Indian nations forever: Provided, That there is reserved to the government of the United States the right of way over any portion of said territory, and the right to establish and maintain any military post or posts, public buildings, school-houses, houses for agents, teachers, and school purposes, and such others as they may deem necessary for its uses or the protection of*

*the Indians. The said nations and their tribes, and each of them, hereby engage that they will never claim any other lands within the boundaries of the United States, nor ever disturb the people of the United States in the free use and enjoyment thereof.*

*ART. 4.-To aid the said nations of Indians in their subsistence while removing to and making their settlement upon the said reservation, the United States will furnish them, free of all charge, with two thousand five hundred head of beef-cattle to average in weight five hundred pounds, three hundred and fifty sacks of flour of one hundred pounds each, within the term of two years from the date of this treaty.*

*ART. 5.-As early as convenient after the ratification of this treaty by the President and Senate, in consideration of the premises, and with a sincere desire to encourage said nations in acquiring the arts and habits of civilized life, the United States will also furnish them with the following articles, (to be divided among them by the agent according to their respective numbers and wants,) during each of the two years succeeding the said ratification, viz: one pair strong pantaloons and one red flannel shirt for each man and boy; one linsey gown for each woman and girl; seven thousand yards calico, seventeen hundred yards of brown sheeting, seventy pounds Scotch thread, four dozen pairs of scissors, fourteen dozen thimbles, five thousand needles, one two and a half point Mackinaw blanket for each man and woman over fifteen years of age; seven thousand pounds of iron and six thousand pounds of steel; and in like manner in the first year for the permanent use of said tribes, and as their joint property, viz: one hundred and thirty brood-mares and seven stallions, six hundred young cows, thirty-six bulls, twenty yoke of working oxen with yokes and chains, twenty work mules or horses, forty-two ploughs, assorted sizes, three hundred and forty corn hoes, one hundred and forty spades, and twenty grindstones. Of the stock enumerated above, and the product thereof, no part or portion shall be killed, exchanged, sold, or otherwise parted with, without the consent and direction of the agent.*

*ART. 6.-The United States will also employ and settle among said nations, at or near their towns or settlements, one practical farmer, who shall superintend all agricultural operations, with two assistants, men of practical knowledge and industrious habits; one carpenter, one wheelwright, one blacksmith, one principal school-teacher, and as many assistant teachers as the President may deem proper to instruct said nations in reading, writing, &c., and in the domestic arts upon the manual labor system; all the above named workmen and teachers to be maintained and paid by the United States for the period of five years, and as long thereafter as the President shall deem advisable. The United States will also erect suitable school houses, shops and dwellings for the accommodation of the schoolteachers, mechanics, agriculturists and assistants above specified, and for the protection of the public property.*

*In testimony whereof the parties hereunto signed their name and affixed their seals this Fifth day of January in the Year of our Lord One Thousand Eight Hundred and Fifty Two.*

*Signed, sealed, and delivered after being fully explained in the presence of*

*J. J. Warner  
G. Williams  
L.D. Vinson Haler  
R. Sackett  
J. Hamilton, Secretary*

***For and in behalf of the Kaw-we-ah Nation of Indians:***

*Juan Antonio “Coos-woot-na” Kah-wé-a Chief. Juan Antonio Cooswootna of Séwia and Sáxhatpah.*

*Leonardo “Parlewit” of the people of “Razon” for in behalf of the people of Too-va.*

*Francisco Javiel “\_” of Tierra Seca.*

*José “Coos-pa-om-nu-it” of Pah-nuc-say, the country of Cabezon,*

*Juan “Kah-we-a” of Pal-se-wish.*

*Ginio “\_” of Wah-ne-pe-ah-pa.*

*Sahtoo “son of Ylario of Wah-kigh-na.*

*Teodoro “Chu-gal” alcalde of Juan Antonio and of Cáh-be-nish or Palma Seca.*

*Ygnacio “Chin-gal” of the people of Toro of Pal-kay-witch-ish or Agua Corta.*

*Juan Bautista “Sah-at” of Pów-ky. Chief of Pauki,*

*Geronimo “\_” of Co-ro-vang-ang.*

*Victoriano “Kwe-vish” of Sow-wah-wah (The name Co-cóm-cah-ras) alias*

***For and in behalf of the people or Tribe of Co-cóm-cah-ras, alias, Serrano:***

*Emeterio “\_” of Maronga. Emeterio was Serrano.*

***For and behalf of the San Luis Rey Indians:***

*Pedro “Ka-wa-wish” of the Mission,*

*Cisto “Go-no-nish” of Las Flores,*

*Bicente “Poo-clow” of Buena Vista,*

*Pablino “Coo-hac-ish” of Pala,*

*Francisco “Pah-hoo-vole” of Pauna,*

*Jose “Cah-lac” of El Potrero,*

*Calistro “Chah-cwal-ish” of Yah-peet-cha,*

*Santiago "Yu-loke" of La Joya,  
Pedro "Pal-e-gish" of La Puerta,  
Bruno "Cwah-si-cat" of Puerta Cruz,  
Ysidro "To-sho-vwul" of Tovin,  
Cervantes "Ca-hal" of Ahuanga,  
Lauriano "Cah-par-ah-pish" of Temecula,  
Jose Noca "Chan-gah-lang-ish" of Agua Caliente,  
Jose Ygnaci, "Tesh-mah-ken-ma-wish" of San Ysidro.*

***ADDENDA.** -- In case the government of the United States and the actual proprietor of the Temecula grant (Rancho Temecula) cannot agree upon its purchase, the said government agrees to add some other portion of territory of equal extent to the above described Indian grant.*

*Oliver M. Wozencraft, U. S. I. A. (United State Indian Agent)*

*J. J. Warner*

*G. Williams*

*L.D. Vinson Haler*

*R. Sackett*

*J. Hamilton, Secretary*

**Witnesses**

**Appendix E**

Treaty of Santa Ysabel

A Treaty of Peace and Friendship  
made and concluded at the village of Santa  
Ysabel California between the United States  
Indian Agent C. M. Wozencraft of the one  
part and the Captains and Head Men of  
the Nation of Dieguinos Indians -

Article 1.

The several Tribes of the above-mentioned  
Nation do acknowledge the United States to be  
the sole and absolute Sovereigns of all the  
soil and territory ceded to them by a Treaty  
of Peace made between them and the  
Republic of Mexico -

Art. 2.

The said Nation of Indians and the several  
tribes thereof acknowledge themselves jointly and  
severally under the exclusive jurisdiction, authority,  
and protection of the United States, and hereby  
bind themselves hereafter to refrain from the  
commission of all acts of hostility and  
aggression towards the Government or citizens  
thereof, and to live on terms of peace and  
friendship among themselves, and with all  
other Indian tribes which are now or  
may come under the protection of the United  
States; and furthermore bind themselves  
to conform to and be governed by the laws  
and regulations of the Indian Bureau  
made and provided therefor by the Congress  
of the United States -

Art. 3.

To promote the settlement and improvement  
of said Nation it is hereby stipulated  
and agreed that the following district of  
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Figure E.1: Treaty of Santa Ysabel. Pg. 1. Source: Smithsonian Institute.



1-27  
country in the State of California shall be and is hereby set apart forever for the sole use of and occupancy by the aforesaid Nation of Indians, still reserving to the Government of the United States all minerals found thereon, to wit; Commencing on the Southern line of the State at the Eastern base of the Sierra Nevada Mountain and on the the Desert and running along the base Northwesterly to the Southeastern corner of the Reservation set apart for the Kah-we-as, San Luis, & Co-con-sak-ra Nations of Indians, thence following the Southern lines of the same to the southwestern corner of the Grant of San Jose del Valle, thence following the boundaries thereof by South and East to the Southeastern corner of it, thence on a right line to the Northwestern corner of the San Felipe Grant, thence on the Western line of the same to the Southwestern corner thereof, thence southerly to the Southern line of the State at a point twenty miles from the place of beginning, thence along said Southern line to the place of beginning.

To have and to hold the said district of country for the sole use and occupancy of said Indian Nation forever; Provided that there is reserved to the Government of the United States the right of way over any portion of said Territory, and the right to establish and maintain any Military Post ~~or Post~~ or Posts, Public Buildings, School Houses, Houses for Agents, Teachers and such others as it may deem necessary for its uses or the protection of the Indians. The said Nation and its tribes and each of them hereby engage that they will never claim any other lands within the boundaries of the United States nor ever disturb the people of the United States in the free use and enjoyment thereof.

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Figure E.2: Treaty of Santa Ysabel. Pg. 2. Source: Smithsonian Institute.

1-27  
country in the State of California shall be and is hereby set apart forever for the sole use of and occupancy by the aforesaid Nation of Indians, still reserving to the Government of the United States all minerals found thereon, to wit; Commencing on the Southern line of the State at the Eastern base of the Sierra Nevada Mountain and on the the Desert and running along the base Northwily to the Southeastern corner of the Reservation set apart for the Kah-we-as, San Luis, & Co-con-ach-ra Nations of Indians, thence following the Southern lines of the same to the Northwestern corner of the Grant of San Jose del Valle, thence following the boundaries thereof by South and East to the Southeastern corner of it, thence on a right line to the Northwestern corner of the San Felipe Grant, thence on the Western line of the same to the Southwestern corner thereof, thence southerly to the Southern line of the State at a point twenty miles from the place of beginning, thence along said Southern line to the place of beginning.

To have and to hold, the said district of country for the sole use and occupancy of said Indian Nation forever; Provided that there is reserved to the Government of the United States the right of way over any portion of said Territory, and the right to establish and maintain any Military Post ~~or~~ Posts, Public Buildings, School Houses, Houses for Agents, Teachers and such others as it may deem necessary for its uses or the protection of the Indians. The said Nation and its tribes and each of them hereby engage that they will never claim any other lands within the boundaries of the United States nor ever disturb the people of the United States in the free use and enjoyment thereof.

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Figure E.3: Treaty of Santa Ysabel. Pg. 3. Source: Smithsonian Institute.



1-23  
Art. 4.

To aid the said Nation of Indians in their subsistence while removing to and making their settlement upon the said reservation, the United States will furnish them free of all charge with (1800) One Thousand Eight Hundred Heads of Beef Cattle to average in weight, (500) Five Hundred Pounds, (350) Three Hundred and Fifty Sacks of Flour of (100) One Hundred Pounds each within the term of (2) Two Years from the date of this Treaty.

Art. 5.

As early as convenient, after the ratification of this Treaty by the President and Senate, in consideration of the premises and with a sincere desire to encourage said Nation in acquiring the Arts and habits of civilized life, The United States will also furnish them the following articles to be divided among them by the Agent according to their respective numbers and wants in the different tribes during each of the two years succeeding the said ratification, viz: (1) One pair of strong pantaloons and (1) One red flannel shirt for each man and boy, (1) One linsley gown for each woman and girl, (3500) Five Thousand Five Hundred yards of Calico, (3000) Three Thousand yards of Brown Shirting, (60) Sixty Pounds of Scotch Thread, (4) Four dozen pair of scissors, (14) Fourteen dozen thimbles (5000) Five Thousand Needles, (1) One 2<sup>1</sup>/<sub>2</sub> point Mackinaw Blanket for each man and woman over fifteen years of age, (6000) Six Thousand Pounds of Iron and (5500) Five Thousand Five Hundred Pounds of Steel; And in like manner, in the first year for the permanent

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Figure E.4: Treaty of Santa Ysabel. Pg. 4. Source: Smithsonian Institute.



1-29  
use of the said Nation and as the joint property of  
the several Tribes thereof, viz: (120) One Hundred  
and Twenty Brood Mares and (6) Six Stallions,  
(500) Five Hundred Young Cows and (30)  
Thirty Bulls, (15) Fifteen Yokes of Working  
Oxen, with Yokes and Chains, (16) Sixteen  
Work Mules or Horses, (32) Thirty Two  
Ploughs, assorted sizes, (300) Three Hundred  
Corn Hoes (120) One Hundred and Twenty  
Spades and (10) Sixteen Grindstones, and  
the necessary seeds of various kinds.

The Stock enumerated above and the product  
thereof and no part nor portion thereof, shall be  
exchanged, killed, sold, or otherwise parted  
with without the consent and direction of  
the Agent -

Art. 6.

The United States will also employ and  
settle among said Nation at or near their  
Towns and Settlements, One practical farmer  
who shall superintend all agricultural  
operations with two Assistants, men of practical  
knowledge and industrious habits, One Carpenter, One  
Whewright, One Blacksmith, One principal School  
Teacher, and as many Assistant Teachers as the  
President may deem proper to instruct said  
Nations in reading, writing, etc, and in the  
domestic arts upon the manual labor system;  
All the above-named Workmen and Teachers to  
be maintained and paid by the United States  
for the term of (5) Five years and as long  
hereafter as the President shall deem advisable.

The United States will also erect suitable School  
Houses, Shops, and Dwellings for the accommodation  
of the School Teachers, Mechanics, Agriculturists

Figure E.5: Treaty of Santa Ysabel. Pg. 5. Source: Smithsonian Institute.



Article 6. Continued. — x x and Assistants above specified, and for the protection of the Public Property —

In testimony whereof the parties have hereunto signed their names and affixed their seals this Seventh day of January in the Year of our Lord One Thousand Eight Hundred and Fifty Five — signed, sealed and delivered after being fully explained, *J. M. Wozner* in the presence of *J. S. J. J.*

Delosque Davidson, Capt 2<sup>d</sup> Regt.

*J. M. Warner* For and in behalf of the Dieguino Indians

- |   |                |               |                          |                 |
|---|----------------|---------------|--------------------------|-----------------|
|   | Shutige        | of Ka-oom     | his mark                 | (L.S.)          |
|   | Kwah-pi        | of Ka-cah-tiy | his mark                 | (L.S.)          |
| For and in behalf of the Dieguino Indians Abldads |                |               |                          |                 |
| Panthero  | of San Pascual | his mark      | of Ka-cab-hal by loo-lim | of Mah-ti       |
| Jose Span   | of Socomea     | his mark      | Sur-do                   | of Sa-guan      |
| Juan Pablo  | of La-ma-jal   | his mark      | At-ohu-cal               | of Ka-soo-male  |
| Mateo's-mu-pa-ix'                                 | of Tak-wee     | his mark      | Tah-cah-pan              | of Coquilt      |
| Loronz' the-lo-pe'                                | of Peik-a-way  | his mark      | Leandro                  | of San Diego    |
| Tamouros  | of To-weal     | his mark      | Jadeo                    | of San Diego    |
| Heperera  | of Malatone    | his mark      | Lazaro                   | of Santa Isabel |
| Eles  | of La Puerta   | his mark      | Tomas                    | of Santa Isabel |
| Don-ah-oom  | of Cu-ah-pi    | his mark      | As-so-tore               | of Koo-wee      |
| Delosque Davidson                                 | of Malatone    | his mark      |                          | of Malatone     |

Addenda. From the above district of country set apart for the Indians is reserved to the present owner thereof, the Hon. J. J. Warner, one square league at Agua Caliente to be selected by him for the purpose of improving the Warm Springs at said place, in case the said ownership be adjudicated in his, Warner's, favor by the Land Commissioners for California.

*J. Hamilton*  
Secretary of the  
Indian Agency

Figure E.6: Treaty of Santa Ysabel. Pg. 6. Source: Smithsonian Institute.

**Appendix F**  
Treaty of Santa Ysabel  
[Transcribed]

*Treaty made and concluded at the village of Santa Ysabel, California, between O. M. Wozencraft, United States Indian Agent, and the captains and head men of the Nation of Dieguino Indians, January 7, 1852.*

*Article I. - The several tribes of the abovementioned nation do acknowledge the United States to be the sole and absolute sovereigns of all the soil and territory ceded to them by a treaty of peace made between them and the republic of Mexico.*

*Art. 2. - The said nation of Indians and the several tribes thereof, acknowledge themselves, jointly and severally, under the exclusive jurisdiction, authority and protection of the United States, and hereby bind themselves hereafter to refrain from the commission of all acts of hostility and aggression towards the government or citizens thereof, and to live on terms of peace and friendship among themselves, and with all other Indian tribes which are now or may come under the protection of the United States; and, furthermore, bind themselves to conform to and be governed by the laws and regulations of the Indian bureau, made and provided therefor by the Congress of the United States.*

*Art. 3. - To promote the settlement and improvement of said nations it is hereby stipulated and agreed that the following district of country, in the State of California, shall be and is hereby set apart forever, for the sole use and occupancy of the aforesaid nation of Indians, still reserving to the government of the United States all minerals found thereon, to wit: commencing at the southern line of the State at the eastern base of the Sierra Nevada mountain and on the desert, and running along the base northerly to the southeastern corner of the reservation set apart for the Kah-we-as, San Luis, and Co-con-cah-ra nations of Indians, thence following the southern lines of the same to the northwestern corner of the grant of the San Jose del Valle, thence following the boundaries thereof by south and east to the southeastern corner of it, thence on a right line to the northwestern corner of the San Felipe grant, thence on the western line of the same to the southwestern corner thereof, thence southerly to the southern line of the State at a point twenty miles from the place of beginning, thence along said southern line to the place of beginning: To have and to hold the said district of country for the sole use and occupancy of the said Indian nation forever: Provided, that there is reserved to the government of the United States the right of way over any portion of said territory, and the right to establish and maintain any military post or posts, public buildings, school-houses, houses for agents, teachers, and such others as they may deem necessary for their use or the protection of the Indians.*

*The said nations and tribes and each of them, hereby engage that they will never claim any other lands within the boundaries of the United States, nor ever disturb the people of the United States in the free use and enjoyment thereof.*

*Art. 4. - To the said nation of Indians, in their subsistence while removing to and making their settlement upon the said reservation, the United States will furnish them, free of all charge, one thousand eight hundred head of beef cattle, to average in weight five hundred pounds, three hundred and fifty sacks of flour of one hundred pounds each, within the term of two years from the date of this treaty.*

*Art. 5. - As early as convenient after the ratification of this treaty by the President and Senate, in consideration of the premises, and with a sincere desire to encourage said nation in acquiring the arts and habits of civilized life, the United States will also furnish them the following articles, to be divided among them by the agent according to their respective numbers and wants in the different tribes, during each of the two years succeeding the said ratification, viz : one pair strong pantaloons and one red flannel shirt for each man and boy, one linsey gown for each woman and girl, five thousand five hundred yards of calico, three thousand yards of brown sheeting, sixty pounds Scotch thread, four dozen pairs of scissors, fourteen dozen thimbles, five thousand needles, one 2  $\frac{1}{2}$ -point Mackinaw blanket for each man and woman over fifteen years of age; six thousand pounds of iron and five thousand five hundred pounds of steel; and in like manner in the first year for the permanent use of said nation, and as the joint property of the several tribes thereof, viz: one hundred and twenty brood-mares and six stallions, five hundred young cows and thirty bulls, fifteen yore working oxen with yokes and chains, sixteen work mules or horses, thirty-two ploughs assorted sizes, and sixteen grindstones, and the necessary seeds of various kinds.*

*The stock enumerated above and the product thereof; and no part or portion thereof shall be killed, exchanged, sold or otherwise parted with, without the consent and direction of the agent.*

*Article 6. - The United States will also employ and settle among said nation, at or near their towns or settlements, one practical farmer, who shall superintend all agricultural operations, with two assistants, men of practical knowledge and industrious habits; one wheelwright, one carpenter, one blacksmith, one principal school-teacher, and as many assistant teachers as the President may deem proper to instruct said nations in reading, writing, &c., and in the domestic arts upon the manual-labor system. All the above-named workmen and teachers to be maintained and paid by the United States for the period of five years, and as long thereafter as the President shall deem advisable. The United States will also erect suitable school-houses, shops and dwellings for the accommodation of the school teachers, mechanics, agriculturists and assistants above specified, and for the protection of the public property.*

*In testimony whereof, the parties have hereunto signed their names and affixed, their seals, this seventh day of January, one thousand eight hundred and fifty-two.*

*Signed, sealed and delivered, after being fully explained, in presence of DELAVIN DAVIDSON, Captain 2d infantry. E. MURRAY, Lieutenant 2d infantry. J. J. WARNER.*

*O. M. WOZENCRAFT, United States Indian agent for and in behalf of the Dieguino Indians:*

*SANTIAGO, of Ha-coom  
KWA-PI, of Ta-cah-tay  
SOLDADO, of Matirom  
NE-CAH, by COO-LIM, of Wah-ti  
SURDO, of Sa-quan  
AT-CHU-CAL, of Ha-soo-malc  
TAH-CA-PAN, of Coquilt  
SANTIAGO, of Ha-coom  
LEANDRO, of San Diego mission  
TADEO, of San Dieguito  
LAZARO, of Santa Ysabel  
TOMAS, of Santa Ysabel  
AS-SO-TORE, of How-wee Vallcito  
PANTHO, of San Pascual  
JOSE APAN, of To-co-mac  
JUAN PABLO, of Ca-ma-jal  
MATEO (Co-nu-po-ip) of Tah-wee  
LOENZO, (Cho-lo-pe) of Prickaway  
TAMOUROO, of Too-weal  
HEPERERA, of Mel-co-to-nac, San Felipe  
ELOO, of Mat-mak, La Puerta  
OON-AH-OON, of Lu-ah-pi  
FELIPE (Am-coo-si) of Matajuai*

*ADDENDA: -- From the above district of country, set apart for the Indians, is reserved to the present owner thereof, the Hon. J. J. Warner, one square league at Aqua Caliente, to be selected by him for the purpose of improving the warm springs at said place, in case the said ownership be adjudicated in his (Warner's) favor by the land commissioners of California.*

*J. HAMILTON, Secretary of the Indian agency.*



## Appendix G

### California Indians K-344 Brief (Various Tribes of Indians located in California)

Jurisdictional Act May 18, 1928, 45 Stat. 605; amended April 29, 1930, 46 Stat. 259

Location California

Population As of 1940 - 23, 276

Amount Claimed \$12,800,000.00

Nature of Claim Accounting and value of land taken without compensation under 18 Unratified Treaties.

G.A.O. Report Forwarded to Department of Justice, May 31, 1934

Court Action Decided October 5, 1942, referred to Commissioner to ascertain values, 98 C. Cls. 583. Plaintiffs' petition for writ of certiorari denied, June 7, 1943, 319 U.S. 764, 99C. Cls. 817. Judgment for plaintiffs entered December 4, 1944, 102 C. Cls. 837.

Amount of Judgment \$17,053,941.98

Offsets \$12,029,099.64

#### Statement of Case

In 1850 the Congress passed an act carrying an appropriation "to enable the President to hold treaties with the various Indian tribes in the State of California." 9 Stat. 544, 558. Commissioners to negotiate treaties were appointed by the President and during the period from March 1851 to January 1852, negotiated eighteen separate treaties with some of the tribes and bands of Indians of California. These tribes and bands of Indians constituted about one-third to one-half of the total number of members of the Tribes and bands in California at that time. The treaties were of the same general character. In each treaty there was set apart a certain district of country to be forever held for the sole use and occupancy of said tribes of Indians. The Indian tribes on their part agreed to forever quit claim to the United States any and all lands to which they or either of them then or may ever have had claim or title whatsoever. There were provisions made for the supplying by the United States to the Indians of cattle, farming implements, blacksmiths, and schools and teachers, to be maintained and paid for by the

Government for a definite period. These treaties were transmitted to the Senate by President Fillmore. On June 28, 1852, the Senate refused to ratify all and several of the eighteen treaties.

The Indians of California consist of wandering bands, tribes, and small groups, who had been roving over the same territory during the period under the Spanish and Mexican ownership, before the treaty between Mexico and the United States whereby California was acquired by the United States. They had no separate reservations and occupied and owned no permanent sections of land. They and their forbearers had roved over this country for centuries. They possessed no title to any particular real property existing under the Mexican law in California. Hayt, Admn. V. United States and Utah Indians 38 C. Cls. 455. Ex Doc. No. 50. H. R. 30<sup>th</sup> Cong. 2d Sess. P. 77.

These Indians did not qualify before the Commission created by the Act of March 3, 1851, 9 Stat. 631, entitled "An Act to ascertain and settle the private land claims in the State of California". Therefore, whatever lands they may have claimed became a part of the public domain of the United States. Barker v. Harvey, 181 U.S. 481; United States v. Title Insurance & Trust Co. et al., 265 U.S. 472.

However, these Indians were roving over the State of California when the "gold rush" began and the white man paid no attention to any claims the Indians asserted to any portion of this territory. This resulted in bloody clashes and reprisals.

The object of the National Government in providing a Commission to negotiate treaties with these Indians was to localize them on particular tracts and confine them in certain defined sections. There was no recognition of a claim of cession under the Mexican or Spanish law or the use and occupancy of any definite country. It was simply a fair and just solution of a very troublesome situation in a newly acquired territory and was to avoid clashes between the white and red men. The Government simply held out a promise to the Indians that certain territory would be ceded to them for their permanent residence and certain provisions were made to civilize what were considered un-civilized tribes, bands and groups. The Indians, bands, and Tribes, who signed these eighteen treaties, on their part agreed to move to these reservations, relinquish all claim to any and all other lands, and to abide in peace and harmony with the white man.

There was a promise made to these tribes and bands of Indians and accepted by them but the treaties were never ratified so the promise was never fulfilled.

From 1852 this matter lay dormant for almost eighty years. In 1928, Congress passed a private act, 45 Stat. 602, supra, which provided that the claims of these Indians should be adjudicated by the Court of Claims.

The plaintiffs' position was that, under the terms of the jurisdictional act, the Congress Had admitted or assumed a limited liability arising out of the failure and refusal of the Senate to ratify the eighteen treaties, and the Court was only called upon to ascertain The amount due and enter a decree.

The defendant contended:

- (1) That the original petition not being within the authorization expressed in the Jurisdictional act, the Court was without jurisdiction of the amended petition, it having been filed after the expiration of the limitation contained in the jurisdictional act.
- (2) That the claim arising out of the alleged failure of the United States to protect the asserted property rights of the plaintiff, Indians under Spanish and Mexican law was without basis for the reason that they had no property rights as asserted.
- (3) That the language of the jurisdictional act relied upon by the plaintiffs as creating a right of recovery through an implied ratification of the eighteen ungratified treaties did not have that affect, but simply meant that "equitable relief" on the basis prescribed in the act should be applied by the Court if the failure of the United States to perform its assumed obligation under the treaty of Guadalupe Hidalgo and protect the property rights of the Indians of California presented a basis for judicial relief.
- (4) If the provision relied upon by the plaintiffs created a liability out of an alleged moral obligation, power to adjudicate the claim arising there under was not conferred upon the Court by the terms of the jurisdictional act.
- (5) The provision in question did not create or assume a liability but directed the Court to adjudicate a moral claim through the application of legal principles, and was therefore invalid.

The Indians of California, as defined in the jurisdictional act, are all Indians who were on June 1, 1852, residing in that State, and their living descendants.

The court held that "The Claim sued on is one arising under an act of Congress that says the promise made to these Indians in negotiating treaties with them, and afterwards not carrying out that promise by ratification, is sufficient to constitute an equitable claim allowing all the Indians of California to recover the amount specified in these ungratified treaties, both in the value of the land promised to be set aside and the other compensation provided, and granted a right of action thereon.

Congress ripened the promise into an equitable claim. The failure of Congress to set apart certain reservations for these Indians in 1852, and its failure to provide the goods, chattels, school houses, teachers, etc. was recognized as a loss to these Indians and was made by the Congress an equitable claim to be paid in money value.

The act does not in any place set out a legal claim. It is the recognition of an equitable claim and is repeatedly so referred to in the jurisdictional act. Congress in its plenary powers can recognize an equitable, a moral claim, or any claim in the conscience of the nation. United States v. Realty Company, 163 U.S. 427, 440, 441.

In the instant case this is clearly admitted and recognized in the last paragraph of section 2 of the jurisdictional act which reads as follows:

“It is hereby declared that the loss to the said Indians on account of their failure to secure the lands and compensation provided for in the eighteen ungratified treaties is sufficient grounds for equitable relief.

It is in the power of Congress to grant any kind of relief which its wisdom dictates. There have been many instances of the recognition of moral claims, even gifts and bounties. Under its general jurisdictional powers the Court of Claims cannot pass on a moral claim, nor can it recognize a case sounding in tort. Radel Oyster Co. v. United States, 78 C. Cls. 816; Nansfield et al. v. United States, 89 C. Cls. 12; Stubbs v. United States, 85 C. Cls. 152. But the Congress has repeatedly sent tort cases to this court for adjudication under special jurisdictional acts. The Congress can confer on this Court jurisdiction to determine any sort of claim which the Congress has converted into a right of action. United States v. Realty Co., supra.

In the instant case the Congress not only has recognized an equitable claim but has gone still further. The amount of recovery has been almost definitely defined. The land which is described in the respective treaties is to be valued as a fixed price. The chattels and other articles promised to be supplied are capable of having their value ascertained as of the date of the treaties. The value per acre is fixed in the jurisdictional act and it is only necessary to ascertain the number of acres in the reservations mentioned in the eighteen treaties. The chattels and services are named in the treaties so it is only necessary to ascertain the amount which would purchase them at the time when Congress failed to ratify the treaties.

As against this amount the jurisdictional act provides the Government may plead by way of set off “any payment which may have been made by the United States or moneys heretofore or hereafter expensed to date of award for the benefit of the Indians of California made under specific appropriations for the support, education, health and civilization of Indians in California, including purchases of land.”

There can be no denial of the fact that, when these Indians did not receive the eighteen separate tracts of land set aside for them in the treaties and the other prerequisites therein mentioned, a loss was sustained by them which would not have happened if the Congress had carried out the promise by ratification of the treaties. Years afterward, the Congress recognized this loss to these Indians, and attempted to make restitution in money by converting this loss into an equitable claim and directing this Court to ascertain the amount in dollars and cents and enter a decree when the amount was ascertained.

This case does not involve the payment for land of which the Indians has a cession, or use and occupancy. No legal claim under any treaty or act of Congress setting aside land for the use of the Indians of California can be sustained. The decree can only be for a fixed amount of compensation. There has been no taking which under the Constitution would require just compensation to be paid and therefore would involve interest. The amount awarded would only be in full settlement of a recognized equitable claim which the congress has ordered the Court to ascertain, and, after ascertainment, to enter a decree.

The amount so recovered is not to go to the Indians of California per capita nor is it to be disbursed in any other individual manner. Under the jurisdictional act it is to be placed under the care of the Secretary of the Treasury, and draw four percent interest. That is not all. The Congress alone can appropriate from the fund, as established for the Indians of California, from time to time, such use as, in its discretion, seems wise, and even these appropriations are to be for educational, health, industrial and other purposes for the benefit of said Indians including the purchase of lands and building of homes – beneficial purposes for the elevation and progress of these Indians to better citizenship.

The court is of the opinion that the plaintiffs are entitled to recover the value of the land set out and described in the eighteen ungratified treaties at the price per acre named in the jurisdictional act, and the value of the other articles, chattels and services as of the date of the failure of the Senate to ratify the treaties. As this claim does not involve a taking of land by the Government for which just compensation shall be made, but only compensation for an equitable claim, no allowance of interest is permitted or allowable.

On December 4, 1944, the Court issued the following order:

In this case, it appearing that on October 5, 1942, the Court of Claims filed special findings of fact with an opinion holding that the plaintiff Indians were entitled to recover; and it appearing that on February 8, 1943 the Supreme Court of the United States denied the application of the plaintiff Indians for a writ of Certiorari to review the judgment of the Court of Claims; and the mandate of the Supreme Court having been received by this court, the case was referred to a commissioner of the court to ascertain values and to report to the court; and it further appearing that on November 11, 1944, a

stipulation was filed, signed on behalf of the plaintiff Indians by Robert W. Kenny, Attorney General of the State of California, counsel for plaintiffs, and on behalf of the defendant by Assistant Attorney General Norman M. Littell, in which stipulation it is stated

**I** - That Robert W. Kenny is the duly elected, qualified, and acting Attorney General of the State of California and as such is the successor of U.S. Webb and is the duly and lawfully constituted attorney for the plaintiff Indians under the act of Congress of May 18, 1928, 45 Stat. 602, and the act of the Legislature of the State of California, c. 643, Statues of 1927, p. 1082.

**II** - That the area of land for which the plaintiff Indians are entitled to recover under the aforesaid jurisdictional act as found by this Court in its decision of October 5, 1942, is 8,518,900 acres; that the value of said land per acre as fixed by the aforesaid jurisdictional act is \$1.25; that the total value of said land for which the plaintiff Indians are entitled to recover is the sum of \$10,648,825.

**III** - That there has been set aside by the United States for the plaintiff Indians as reservations and otherwise, by Executive Orders, acts of Congress or otherwise a total of 611,220 acres of land, which it is agreed had a value of \$1.25 per acre, or a total value of \$764,032.50; that the defendant is entitled to a credit or offset of said sum of \$764,032.50 against plaintiffs' recovery on account of land' that plaintiffs' net recovery on account of land shall be \$10,648,625 minus \$764,032.50, or \$9,584,592.50.

**IV** - That the definite items provided for in the ungratified treaties involved in this litigation, consisting of goods, wares, merchandise, and other chattels, which would have been furnished if the treaties referred to in Exhibit "A" to the petition herein had been ratified, were of the value of \$1,407,149.48, which amount the plaintiffs are entitled to recover under the jurisdictional act and the aforesaid decision of this Court.

**V** - That the services and facilities which would have been supplied if the said treaties had been ratified would have been furnished for a period of twenty-five (25) years and would have cost the United States the sum of \$5,762,200 to supply, which amount the plaintiffs are entitled to recover under the jurisdictional act and the aforesaid decision of this court.

**VI** - That the total amount which it is agreed the plaintiffs are entitled to recover under the aforesaid jurisdictional act and the decision of this court, subject however under the aforesaid act and decision to the offsets specified in the following paragraph No. VII of this stipulation, is as follows:

On account of land as specified in paragraphs II and III  
\$9,888,592.50 of this stipulation

Definite treaty items as specified in paragraph IV of this  
\$1,407,149.48 stipulation

Services and facilities as specified in paragraph V of  
\$5,762,200.00 this stipulation

Total \$17,053,941.98

**VII** - That the total amount available to the defendant in this action as offsets against the plaintiffs recovery under the terms of the aforesaid jurisdictional act is made up of the following items:

Disbursement made out of specific appropriations for the Support, education, health and civilization of Indians in California \$5, 547,805.87

Disbursements made out of appropriations for the service generally but by the appropriations acts certain amounts were appropriated to the Indian service in California \$1,573,249.66

Out of disbursements made for the support and Maintenance of the non-reservation Indian schools at Fort Bidwell, Greenville and Riverside, California. of this stipulation \$4,9808,044.11

Total \$17,053,941.98

**VIII** - That the aforesaid offsets in the total sum of \$12, 029,099.64, as set out in paragraph VII above, shall be deducted from the total amount which the plaintiff is entitled to recover, as stated in paragraph VI above, namely, \$17,053,941.98, making the net amount for which judgment may be entered by the Court the sum of \$5,024,842.34.

**IX** IT IS FURTHER STIPULATED AND AGREED by and between the parties to this action that should the Court of Claims accept and approve this stipulation the said Court of Claims may enter judgment for the plaintiffs and against the defendant for the sum of

\$5,024,842.34 as stated in paragraph VIII of this stipulation and that said judgment when entered shall be in full and complete settlement, satisfaction and discharge of any and all claims and demands of every kind and character whatsoever which the plaintiff

Indians, or any of them, may have against the United States under and by virtue of the Act of May 18, 1928, 45 Stat. 602.

And it further appearing that on November 13, 1944, the commissioner of the court to whom the case was referred filed a memorandum report stating that “net recovery in favor of the plaintiffs is recommended in the sum of \$5,024,842.34”, - now therefore,

IT IS ORDERED this 4<sup>th</sup> day of December, 1944, that plaintiffs recover of and from the United States the sum of \$17,053,941.98, and that the defendant recover of and from the plaintiffs the sum of \$12,029,099.64 as an offset against the plaintiffs recovery, and that judgment be entered in favor of the plaintiff Indians for the balance of five million twenty-four thousand eight hundred forty-two dollars and thirty-four cents (\$5,024,842.34).

BY THE COURT

Richard S. Whaley  
Chief Justice<sup>2475F</sup><sup>1</sup>

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<sup>1</sup> “California Indians K-344 Brief.” (Various Tribes of Indians located in California). Jurisdictional Act, May 18, 1928. Amended April 29, 1930. [www.standupca.org](http://www.standupca.org).