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**CONTEMPORARY INDIAN ALLOTMENT:
APPROPRIATING AN ASSIMILATIONIST POLICY**

by

Meghan Claire Kensler

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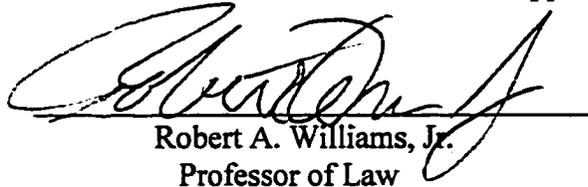
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TABLE OF CONTENTS

ABSTRACT	5
INTRODUCTION.....	6
CHAPTER ONE: “Appropriation” <i>verb. to take something and make it your own</i>	9
CHAPTER TWO: The General Allotment Act of 1887	20
CHAPTER THREE: Contextualizing Indian Canyon.....	29
CHAPTER FOUR: Contemporary Allotment: Indian Canyon	40
CHAPTER FIVE: Noso-n.....	58
CHAPTER SIX: Threats to Cultural Survival	64
CHAPTER SEVEN: Appropriation of an Assimilationist Policy	74
APPENDIX A: Certificate of Eligibility for Ann-Marie Sayers	82
APPENDIX B: Allotment Application	83
APPENDIX C: Petition for Land Classification	85
APPENDIX D: Topographical Map of Indian Canyon, Hollister, California.....	86
APPENDIX E: Certificate of Allotment for Ann-Marie Sayers	87
APPENDIX F: Trust Patent for Ann-Marie Sayers.....	88
APPENDIX G: “Policy Statement Concerning Qualifying as an Indian under the IRA”. ..	89
WORKS CITED.....	90

ABSTRACT

The General Allotment Act of 1887 was a two-pronged policy aimed at assimilating American Indians into the dominant Euro-American society by allotting individual plots of land to Indians, thereby creating surplus lands which would then be opened up for non-Indian settlement. The process of allotment officially ended in 1934 with the passage of the Indian Reorganization Act, however, it was used again in the late-1900s to gain an individual trust allotment. Ann-Marie Sayers, a Mutsun Band Costanoan Indian, used the General Allotment Act of 1887 to gain her allotment in 1988. Ms. Sayers appropriated this assimilationist act to promote cultural survival. That is, the General Allotment Act was used to obtain an individual trust allotment, but assimilation was not the outcome. Rather in this case, the outcome was the maintenance and promotion of cultural survival.

INTRODUCTION

Early in the 1990s Gerri Parker, Chair of the American Indian Studies Department at De Anza College, urged me to pursue a degree in American Indian Studies. Now in 1999 I am ready to receive my Master's degree in that very discipline. I remember Mrs. Parker talking to me about relationships—relationships with Indian people and communities, which would form and be important to me as I moved on in my life. One such relationship formed when Mrs. Parker introduced me to Ann-Marie Sayers during a course field trip.

When I first visited Indian Canyon I was excited. There was also a feeling of good things to come. Maybe this feeling came from words Mrs. Parker shared with us before the trip, "Leave all negativity behind. If you're in a bad mood or don't want to go, stay home. Respect the Canyon." I don't know what I expected that day, but I was in a good mood and ready for whatever was to come.

The class gathered in the dance arbor, formed a circle, and we were introduced to Ann-Marie Sayers, Tribal Chairperson of Indian Canyon Nation. We smudged together and I'll always remember Ms. Sayers' words, "We do this so that we hear nothing but the truth, speak nothing but the truth, see nothing but the truth, and so we are true to where, and who, we are." Those words have echoed in my mind and heart. I often find comfort in them. Looking back, I realize those words are more than a prayer to Ms. Sayers. Those words guide her life. Those words are the law of the Canyon.

That day was spent fixing potholes, clearing debris from the creekbed, and other such reclamation work. On subsequent trips, I helped construct a wading pool near the

subterranean sweatlodge, or made shawls for a giveaway. Sometimes I would just visit with Ms. Sayers. Regardless of what I did when I visited the Canyon, a special relationship developed with Ms. Sayers.

While I did my undergraduate program at UC Santa Cruz and my Master's studies at The University of Arizona, I found that these programs emphasize reciprocity. Engaging with Indian people and communities should not be purely "academic." In other words, research about Indian people or communities should somehow benefit Indian people. For my undergraduate thesis, I wanted to conduct research to fulfill the requirements of academics, but also research that would be pertinent to the community with which I worked. I realized that working with Ms. Sayers regarding Indian Canyon Nation's struggle for federal recognition could fulfill both requirements. My Master's degree requirements provided me with another opportunity to once again work with Ms. Sayers for my thesis research.

This thesis focuses on one of Ms. Sayers' challenges—the need for land, and more specifically, the need for the lands of her ancestors. Ms. Sayers grew up in Indian Canyon and as a young adult moved to Los Angeles. Eventually she returned to Hollister, California. Ms. Sayers dreamed of building a home on her great-grandfather's homestead in Indian Canyon. This thesis, therefore, centers on that pursuit to regain the land of her ancestors.

Chapter One delineates the theoretical framework for this thesis. The General Allotment Act of 1887 was a policy aimed at assimilating Indians into the dominant Euro-American society. However, Ms. Sayers' use of this act did not assimilate her.

Rather, she appropriated the act by using it in a manner other than intended.

Chapter Two provides an overview of the General Allotment Act of 1887. This policy's intentions were two-fold: to assimilate Indians into mainstream society, and to gain access to Indian lands by allotting plots to Indians and opening up the surplus lands to non-Indian settlement. This chapter discusses the actual process of allotment.

Chapter Three contextualizes Indian Canyon's present status by presenting an overview of Indian-White relations in California. Specifically, this chapter focuses on factors having profound impacts on California Indians in the Indian Canyon area. The mission system, San Juan Bautista Mission, and the 18 treaties signed—yet not ratified—provide insight into how the Canyon has developed into its present situation.

Chapter Four examines how Ms. Sayers utilized the General Allotment Act of 1887 to regain her traditional homelands.

Chapter Five shows how Ms. Sayers uses those lands to promote cultural survival of Indian Canyon Nation and other Indian people.

Chapter Six details ongoing struggles faced in maintaining cultural survival, including threats of losing the land trust status and losing the relationship with the federal government.

Chapter Seven concludes by connecting Ms. Sayers' efforts back to the idea of appropriation.

Like relationships, this work has been ongoing and continues to grow. Like relationships, this work will never have an end. Rather, this thesis provides insight into just one of the many aspects of Ms. Sayers' life and her struggles—and her survival.

CHAPTER ONE: "Appropriation" *verb. to take something and make it your own.*

R. David Edmunds's chapter entitled *Antelope and the Engineers: Challenge and Change in the Indian Communities* begins with a vignette of two Kiowa men debating the adoption of the horse.¹ Antelope believes that the horse will offer much help in hunting buffalo and carrying possessions. The other man, Wolf-That-Follows, believes that adopting the horse will lead the Kiowa away from their traditional ways. Wolf-That-Follows concludes, "We have always walked behind the buffalo herds. Our women and dogs have always carried our burdens. If we change, we lose the old ways. We betray our fathers. New ways and new ideas have no place around our campfires."² Wolf-That-Follows's statement clearly sums up the contemplation and debate surrounding the adoption of outside ideas and materials into tribal communities. The issue at stake, as reflected by Wolf-That-Follows, centers on Indian identity, on the maintenance of culture, social lifeways and intricate belief systems that form a community's identity.

To say that adoption, or incorporation, of outside ideas or materials erodes a culture is to argue that culture is static. Though it must be recognized "that too much in the way of large-scale, continuing change may also place a culture in jeopardy,"³ change—and adaptation—have been and continue to be integral parts of a culture. While making a distinction between adaptation and progress, Haviland defines adaptation as "a consequence of change that happens to work well for a population," and progress as a

¹ R. David Edmunds, "Antelope and the Engineers: Challenge and Change in the Indian Communities," in *American Indian Identity*, ed. Clifford E. Trafzer (Sacramento: Sierra Oaks Publishing Company, 1989), 1-11.
² *ibid.*, 4.

value “judgement of those consequences in terms of the group’s cultural values.”⁴ “Progress,” Haviland states, “is whatever it is defined as.”⁵ Thus, one group’s definition of progress may be very different from another group’s, as the case may be for an Indian community and the dominant Euro-American society.

According to Haviland, four mechanisms of cultural change exist: innovation, diffusion, cultural loss, and acculturation.⁶ Innovation as a mechanism for cultural change includes primary and secondary categories. For the purposes of this paper, secondary innovation is pertinent. Secondary innovations “result from the deliberate applications of known principles.”⁷ Additionally, an innovation “must be reasonably consistent with a society’s needs, values, and goals, if it is to be accepted” and its “chance of acceptance tends to be greater if it is obviously better than the thing or idea it replaces.”⁸ Thus, secondary innovations occur when some known principle is adopted by a society and is fitted within the existing cultural framework of that society.

The second mechanism for cultural change is diffusion, which is defined as the “spread of customs or practices from one culture to another.”⁹ In simple terms, diffusion can be defined as “borrowing.” In fact, “[s]o common is borrowing that the late Ralph Linton, a North American anthropologist, suggested that borrowing accounts for as much

³ William A. Haviland, *Cultural Anthropology* (Orlando: Harcourt Brace Jovanovich Publishers, 1993), 401.

⁴ *Ibid.*, 405.

⁵ *Ibid.*

⁶ *Ibid.*, 405-414.

⁷ *Ibid.*, 405.

⁸ *Ibid.*, 407.

⁹ *Ibid.*

as 90 percent of any culture's content."¹⁰ Include the historical and contemporary rates of intermarriage between Native communities,¹¹ for example, and one can expect additional instances of cultural "spread" from surrounding communities to be added to the "diffused" cultural elements. Yet, it is important to note that diffusion usually only occurs when the value of that which is being adopted "does not conflict with traditional ways and values."¹²

Haviland's two other mechanisms for cultural change detail cultural loss and acculturation. Acculturation, specifically, "always involves an element of force, either directly, as in the case of conquest, or indirectly, as in the implicit or explicit threat of force that will be used if people refuse to make the changes that those in the other group expect them to make."¹³ Though Haviland does not expand much on what acculturation actually means, never giving a clear, workable definition, he does discuss responses to "forcible change."¹⁴ These responses include the formation of syncretic systems, revitalization movements, and rebellion and revolution. However, one response to—or mechanism of—change that is not covered in Haviland's work is the idea of appropriation.

In her article *Of Native Americans and Tribal Members: The Impact of Law on Indian Group Life*, Carole Goldberg-Ambrose argues that Indian people have

¹⁰ Ibid.

¹¹ Ward Churchill, "The Crucible of American Indian Identity: Native Tradition Versus Colonial Imposition in Postconquest North America," in Duane Champagne, ed., *Contemporary Native American Cultural Issues* (Walnut Creek, CA: Alta Mira Press, 1999), 41.

¹² Haviland, *Cultural Anthropology*, 407.

¹³ Ibid., 410.

¹⁴ Ibid., 415-420.

appropriated the notion of “tribe” in order to maintain their sovereignty. Goldberg-Ambrose summarizes that “both internal mobilization efforts (military alliances, religious and cultural revival movements) and external pressures (deliberate as well as unintended)” have affected Indian group life.¹⁵ Her article focuses, however, on those “external forces,” noting that “Native groups have not passively submitted to these forces; but the story of their distinctive conflicts over, and responses to, American law demonstrate how groups can appropriate powerful outside pressures to sustain an evolving sense of their identity and community.”¹⁶

What then, is appropriation? *The American Century Dictionary* finds that the verb “appropriate” stems from the Latin word *proprius*, meaning “own.”¹⁷ This dictionary defines “appropriate” in the following way: “to devote to special purposes.” *Rogert’s College Thesaurus* provides the synonyms “take” and “seize.”¹⁸ Thus, based on these meanings, my working definition for the purposes of this thesis is *to take something (foreign) and make it your own, to use it for a purpose other than intended.*

Appropriation in this case is directly linked to cultural survival. That is, appropriation is a means used to promote cultural survival (or in Haviland’s words, a response to change), specifically the cultural survival of Indian Canyon Nation. Cultural survival is directly linked to identity. Thus, appropriation is used to maintain, and shape, the identity of Indian Canyon Nation, those surviving members of the Mutsun Band of

¹⁵ Carole Goldberg-Ambrose, “Of Native Americans and Tribal Members: The Impact of Law on Indian Group Life,” *Law and Society Review* 28, no. 5 (Dec. 1994): 1124.

¹⁶ *Ibid.*

¹⁷ 1995 ed., s.v. “appropriation.”

¹⁸ 1989 ed., s.v. “appropriation.”

Costanoan Indians. This idea of appropriation and how it is utilized can be better understood by again examining the article by Goldberg-Ambrose.

While criticizing an argument made by Judith Resnik (1989), Goldberg-Ambrose concludes, "Implicit in her reasoning is the view that unless contemporary Indian groups reenact longstanding tribal tradition, they are not truly Indian, and not proper heirs to the legacy of tribal sovereignty...Resnik's approach conceives of traditional Indian society as relatively fixed and unresponsive to outside influences."¹⁹ As has been previously discussed, this notion of static culture has no foundation. Furthermore, Goldberg-Ambrose's evaluation of Resnik's argument demonstrates what wrong (and threatening or damaging) conclusions can be drawn and the negative impact these conclusions can have on Indian identity and sovereignty. A much more logical conclusion is that Indian groups are dynamic and ever-changing and are, in fact, responsive to outside influences. Joane Nagel succinctly summarizes that "like those of all ethnic and national groups, American Indian identities and communities—tribal and supratribal—are constantly changing and evolving, responding to external threats and challenges as well as to incentives and opportunities."²⁰ These responses can take many forms, and one such form is appropriation—in this case a response to an external challenge and opportunity.

Though the idea of appropriation is only explicitly discussed by a handful of authors, once the definition is grasped, one can recognize instances of appropriation easily. For instance, a clear example of appropriation is found when Goldberg-Ambrose

¹⁹ Goldberg-Ambrose, "Of Native Americans and Tribal Members," 1130.

²⁰ *American Indian Ethnic Renewal: Red Power and the Resurgence of Identity and Culture* (New

argues that the notion of “tribe,” which may or may not coincide “with the structures traditionally viewed as politically legitimate by its members,”²¹ has been *appropriated* by Indian people and used to protect and strengthen their sovereign rights. Another example can be seen in the appropriation of a *place*. The small town of Wounded Knee, South Dakota, the site of the 1890 massacre, was *appropriated* in 1973 by members of the American Indian Movement (AIM), and as Cornell states, “Once more the Indians were surrounded at Wounded Knee, but this time it had a different meaning.”²² Cornell also discusses how Indians have “*appropriated*” a voice in order to be an integral part of the decision-making process which affects their lives.²³ Additionally, Goldberg-Ambrose examines the adoption by the Cherokee of “an American-style written constitution and court system during the early decades of the 19th century.”²⁴ Yet, she importantly notes here that ““it would be error to suggest that the mass of full bloods were exploited by the [American style] legal system or even that it was a form of colonialism imposed from above.””²⁵

Two crucial and related points regarding appropriation can be drawn out from these previous examples. First, that which is appropriated, whether it be a written constitution, an idea such as “tribe,” or a policy, as is the case with Indian Canyon Nation, is thought about differently by those it comes from and those who have appropriated it. In

York: Oxford University Press, 1996), 12.

²¹ Goldberg-Ambrose, “Of Native Americans and Tribal Members,” 1125.

²² Stephen Cornell, *The Return of the Native: American Indian Political Resurgence* (New York: Oxford University Press, 1988), 4.

²³ *Ibid.*

²⁴ Goldberg-Ambrose, “Of Native Americans and Tribal Members,” 1130.

²⁵ Strickland quoted in Goldberg-Ambrose, “Of Native Americans and Tribal Members,” 1130.

other words, going back to Goldberg-Ambrose's argument about "tribe," the United States federal government including the Supreme Court, which has helped to shape the legal definition of "tribe," has a different understanding of "tribe" than does the group who has appropriated the term/idea/definition/status of "tribe." The example of Wounded Knee provided by Cornell gets to the heart of this crucial point—the understanding or *meaning* of that which is being appropriated differs for those appropriating it.

Second, though a term or idea or element may be appropriated from another society, by my very definition of appropriation, it has a different *use*. Connected to this difference in meaning or use is the notion of assimilation. In a discussion about assimilation with a colleague,²⁶ I related to her a comment made earlier in the day regarding the idea of assimilating Indians into the dominant Euro-American society through education. The comment had to do with contemporary Indians receiving an education in a mainstream university and how this education was assimilationist in nature. I was unable to stop thinking about this idea and the discussion with my colleague centered on the fine line between change and assimilation. At what point do people assimilate? My argument was (and is) that assimilation is implicitly connected to the adoption of the *value* associated with whatever is being adopted.

Using the example of the education of Indians in a mainstream institution, assimilation would occur if the student adopted the value associated with that education. For some, the adoption of the value must surely happen. But for many others, I would

²⁶ Shannon O'Loughlin, conversation with author, February 1999.

argue that their ideas of education also greatly differ, and hold an additional or different value than the one ascribed. In my case, like others I know, our education is not being attained so that we can move into the higher echelons of the American economic class system. Rather, our education is a tool obtained in order to affect change in Indian Country. Thus, we use the American educational system, even though we may not agree with how or why that system works, in order to obtain our goals. This educational system, therefore, has been appropriated and because we have not adopted the prescribe value of that system, we have not assimilated. In short, the value connected with whatever element is being adopted must be internalized for assimilation to occur.

In her article, "American Indian Identities: Issues of Individual Choice and Development,"²⁷ Devon Mihesuah explores ideas of identity development among American Indians. Dr. Mihesuah's examination rests on William Cross' "life stages" model for understanding identity development among blacks, though she applies his model to American Indian identity development. In Cross' model, four stages in identity development exist.²⁸ These stages lend understanding to what an individual experiences in "identity choice and development."²⁹ Cross' first life stage, therefore, explains how an individual knows he or she is "black, but...give[s] little thought to race issues."³⁰ The second stage explains the realization that this individual has regarding his or her identity, specifically the realization "that their frame of reference for forming their identity is

²⁷ In Duane Champagne, ed. *Contemporary Native American Cultural Issues* (Walnut Creek, CA: AltaMira Press, 1990), 13-38.

²⁸ *Ibid.*, 14.

²⁹ *Ibid.*, 30.

³⁰ *Ibid.*, 15.

inadequate.”³¹ This realization leads to Cross’ third stage, “immersion-emersion,” which “is marked by intense interest in all that is black.”³² Eventually, the individual comes to have “a sense of inner security and self-confidence about his black identity.” This security comes during Cross’ fourth stage, termed internalization.³³

During Cross’ fourth stage a person has internalized their identity, has come to accept their identity as black, or in Dr. Mihesuah’s argument, as American Indian. Accordingly, it can be said that the individual has “assimilated” in that he or she accepts his or her identity as Indian. Similarly, it can then be argued that assimilation into the dominant Euro-American society would occur for an Indian person when that person came to accept his or her identity as American, when that person internalized that identity. This argument, however, does not preclude the possibility of identifying as both an Indian and an American, rather the key point is that assimilation occurs with internalization. Internalization of an identity, or cultural value associated with an identity, leads to assimilation. However, remembering the definition of appropriation, internalization would not occur when a concept, term, or policy is appropriated.

It must be recognized that some might argue that appropriation is just another form of assimilation.³⁴ The basic argument is that if one appropriates an element of an outside society they are, in essence, becoming more like that society, and therefore appropriation is assimilationist. Ann-Marie Sayers utilized the General Allotment Act of

³¹ Ibid.

³² Ibid.

³³ Ibid., 16.

³⁴ *Note:* Again, because the idea of appropriation is not specifically discussed by many authors, I have not been able to find arguments specifically arguing against the idea of appropriation.

1887 to gain an individual trust allotment in 1988. This thesis will prove that appropriation of a United States policy by an Indian person has promoted cultural survival, not assimilation. However, those that would argue against the idea that appropriation has promoted cultural survival might reason with the following argument: The very fact that Ann-Marie Sayers utilized a United States federal policy moves her down the road toward assimilation.

Henry Zentner's chapter on "The Impending Identity Crisis" provides insight into the argument that suggests adoption of an element outside one's culture leads to assimilation. Zentner states that:

if native peoples are to meet the challenge of managing their own affairs, the requisite motivations and skills will have to be taken over from the culture of the dominant society. They will have to adopt principles of authority, hierarchy, planning, punctuality, and above all, manipulative techniques and practices. All this implies that the values currently placed on individualism, democracy, freedom, equality, and humanitarianism will have to be compromised and relativized. In other words, they will have to take on the attitudes, values and practices which are at present current in the dominant society. And having done this, what besides a hollow illusion can possibly remain of their cherished sense of unique identity?³⁵

What Zentner is arguing, therefore, is that adoption of principles leads to assimilation. However, what happens when the principles of the dominant society are not adopted, but the *form* that embodies those principles is?

Goldberg-Ambrose's article exemplifies the adoption of a form, versus the adoption of the principles or values associated with that form. She describes how the Navajo Nation has utilized an American-style form of government. Though this form of

³⁵ *The Indian Identity Crisis* (Calgary, Alberta, Canada: Strayer Publications, Limited, 1973), 69.

government may not be consistent with what the Navajo hold to be valid and valuable, they have appropriated this form in order to maintain tribal sovereignty, or a “continued tribal self-governing authority.”³⁶ Similarly, Goldberg-Ambrose notes how American Indian groups have utilized the notion of “tribe” to help maintain sovereignty, even though that designation may not agree “with the structures traditionally viewed as politically legitimate by its members.”³⁷

Thus, many argue that one way Indian people, communities, or societies have become assimilated into the dominant Euro-American culture and system is by, as Cornell says, accepting the “institutional means of redress offered by that system.” However, can it be said that a person or society has assimilated simply because they have accepted an element from another society? It is my contention that assimilation does not necessarily occur with the adoption of a cultural element, rather the cultural *value* of that element must be internalized for assimilation to occur. Again, Zentner’s argument is that assimilation occurs when *principles* are adopted. Goldberg-Ambrose provides examples of how forms are adopted without adopting the principles or values associated with that form. Further, Goldberg-Ambrose’s examples demonstrate how the meaning and use of the adopted forms are vastly different than intended. Thus, when Ann-Marie Sayers, for example, accepts a United States federal policy, she has simply adopted the *form* of the policy and therefore does not further the assimilation process because the *value* of that policy—private property ownership, assimilation into American society—has not been, in

³⁶ Goldberg-Ambrose, “Of Native Americans and Tribal Members,” 1135.

³⁷ *Ibid.*, 1125.

Dr. Mihesuah's words, internalized. On the contrary, Ann-Marie Sayers has very definite and different ideas about that policy and how it can serve her own goal of maintaining a distinct identity as a Mutsun Band Costanoan Indian.

CHAPTER TWO: The General Allotment Act of 1887

“An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes.”³⁸

On 8 February 1887, a new policy dealing with Indians was approved and signed by President Grover Cleveland.³⁹ This policy was one in a series of governmental policies aimed at finding a solution to the “Indian problem.” The General Allotment Act of 1887, also known for its promoter Henry Dawes as the Dawes Act, aimed at assimilating Indians into the dominant Euro-American society by allotting parcels of land to individual Indians, thereby breaking up the communally-held tribal land base, and opening up the surplus lands for non-Indian settlement. The act was by some measures successful in that tribal lands were certainly broken up and lost to non-Indian settlement through the sale of “surplus” lands. However, the assimilationist impetus of the act was not as successful as had been hoped.

To understand the contemporary use of the General Allotment Act of 1887 and its effects, an understanding of this act as it worked during the late-1800s/early-1900s must be gained. The purpose of this section is to give an overview of the General Allotment Act of 1887. A review of secondary material provides insight into how the General Allotment Act worked in reality, that is, the functional aspects of how allotment was carried out, as well as providing understanding about the reasons for its implementation.

³⁸ Wilcomb E. Washburn, *The Assault on Indian Tribalism: The General Allotment Law (Dawes Act) of 1887* (New York: J.B. Lippincott Company, 1975), 68.

³⁹ D.S. Otis, *The Dawes Act and the Allotment of Indian Lands* (Norman: University of Oklahoma Press, 1973), 6.

Therefore, this literature review is divided into three sections. The first section details the assimilationist nature or impetus of this policy. The second section provides the general information about how allotment worked. The third section shows the effects of this act. Overall these sections contextualize the General Allotment Act and set the scene for understanding the similarities and differences of allotment a century ago and today.⁴⁰

Section One: The Impetus Behind the General Allotment Act of 1887

In examining the secondary literature, two schools of thought regarding the aims and motives of the General Allotment Act become apparent. First, there are those who clearly believe that the main purpose of the General Allotment Act was for Euro-Americans to gain access to Indian lands. Their arguments about the assimilative nature of the act suggest that proponents of assimilation simply used this argument as a rationalization or justification for land-grabbing. Then there are those who do not believe, or simply do not acknowledge in their work, that the main purpose of the General Allotment Act was accessing Indian lands, rather they suggest—through lack of mention or by clearly arguing—that the main purpose was for a number of reasons, assimilation. Perhaps one of the most complete examinations of the General Allotment Act of 1887 is found in D. S. Otis' work, *The General Allotment Act and the Allotment of Indian Lands*.⁴¹ In his chapter dealing with the "Aims and Motives of the Allotment

⁴⁰ *Note:* Due to the large volume of works dealing with the General Allotment Act of 1887, this literature review succinctly focuses on those secondary materials which evaluate allotment in the above mentioned ways: its impetus of assimilation, how allotment was carried out, and the effects of land loss and detribalization. This review does not cover the events/policies leading up to the inception and implementation of the General Allotment Act, nor does it cover the many subsequent acts amending the General Allotment Act.

⁴¹ (Norman: University of Oklahoma Press, 1934, 1973).

Movement,”⁴² Otis perhaps gives the best answer to this question of the real goal of the General Allotment Act.⁴³

Otis’ second chapter begins by explaining one level of motivation for allotment, the “friendly” motives of those proponents of the General Allotment Act. By those supporters, the act was seen as a way to “make restitution to the Indian for all that the white man had done to him in the past.”⁴⁴ The Allotment Act was viewed as “progress” for the Indian, where the “benefits of civilization” would be forthcoming.⁴⁵ This idea of progress was based on the Euro-Americans belief that “the white man’s way was good and the Indian’s way was bad.”⁴⁶ An additional “philanthropic aim” was to “protect the Indian in his present land holding.”⁴⁷ The benevolent aims of those supporters of the General Allotment Act, and those who saw civilization as the best way to solve the “Indian problem,” are often argued as the main impetus of this act.⁴⁸ Others argue that “protection” or the benefits provided the Indians was a rationalization or justification for

⁴² Ibid.. Chapter Two.

⁴³ Leonard A. Carlson, *Indians, Bureaucrats, and Land: The Dawes Act and the Decline of Indian Farming* (Westport, Ct: Greenwood Press, 1981), 18. *Note:* In his thorough coverage of the Allotment Act, also offers a clear discussion regarding the dispute over the motives of the General Allotment Act, stating that the “crucial question is whether the Dawes Act should be viewed primarily as a thinly disguised device for expropriating Indian land.”

⁴⁴ Ibid.. 8.

⁴⁵ Ibid.. 9.

⁴⁶ Ibid.

⁴⁷ Ibid.. 13.

⁴⁸ Francis Paul Prucha, *The Great Father: The United States Government and the American Indians* (Lincoln: University of Nebraska Press, 1984), 225. *Note:* Prucha discusses humanitarian drives and offers evidence of those who disagree, but argue for the aim being access to Indian lands; David H. Getches, Charles F. Wilkinson, and Robert A. Williams, Jr., *Federal Indian Law: Cases and Materials*, 3rd ed. (St. Paul: West Publishing Co., 1993), 168; S. Lyman Tyler. *A History of Indian Policy* (Washington, D.C.: United States Department of the Interior, Bureau of Indian Affairs, 1973), 96; Frank Pommersheim, *Braid of Feathers: American Indian Law and Contemporary Tribal Life* (Berkeley, Los Angeles: University of California Press, 1995), 19.

pressing the Allotment Act.⁴⁹ Still others do not argue over the driving force of this act at all, rather simply argue that it was assimilative in nature and had disastrous effects.⁵⁰

Although Otis acknowledges that some of those in favor of allotment as a means to civilization truly had benevolent motives in “that they believed that the allotment policy would promote the Indian’s economic and spiritual welfare,”⁵¹ a differing school of thought clearly focuses on Euro-Americans gaining access to Indian lands as the main impetus of the General Allotment Act. Otis, along with several other authors,⁵² agrees that “it is probably true that the most powerful force motivating the allotment policy was the pressure of the land hungry western settlers.”⁵³ Castille and Bee further argue that not only did allotment solve the problem of gaining access to Indian lands, its purpose was also to “relieve the government of large annual appropriations.”⁵⁴

Whether the Allotment Act’s main impetus was to gain access to Indian lands or to bestow upon the Indians the benefits of American values, assimilation was the means. The assimilationist nature of the act targeted two related areas: breaking up tribal

⁴⁹ George Pierre Castile and Robert L. Bee, eds., *State and Reservation: New Perspectives on Federal Indian Policy* (Tucson: University of Arizona Press, 1992), 115; Arrell Morgan Gibson, *The American Indian: Prehistory to the Present* (Lexington, Ma: D.C. Heath and Company, 1980), 495; Stephen Cornell, *American Indian Political Resurgence* (New York: Oxford University Press, 1988), 42; Laurence M. Hauptman, “Congress, Plenary Power, and the American Indian, 1870-1992,” in *Exiled in the Land of the Free: Democracy, Indian Nations, and the U.S. Constitution*, (Santa Fe: Clear Light Publishers, 1992), 321.

⁵⁰ Sharon O’Brien, *American Indian Tribal Governments* (Norman: University of Oklahoma Press, 1989), 177; John R. Wunder, “Retained by the People:” *A History of American Indians and the Bill of Rights* (New York: Oxford University Press, 1994), 33; Pommersheim, *Braid of Feathers*, 19.

⁵¹ Otis, *The Daves Act and the Allotment of Indian Lands*, 19.

⁵² Emma R. Gross. *Contemporary Federal Policy Toward American Indians* (New York: Greenwood Press, 1989), 20; Castille and Bee, *State and Reservation*, 115; Gibson, *The American Indian*, 495; Hauptman, “Congress. Plenary Power, and the American Indian,” 321.

⁵³ *Ibid.*, 20.

⁵⁴ 114.

landholdings⁵⁵ and instilling the value of private property.⁵⁶ Along with encouraging self-sufficiency, these target areas were viewed as the way to bring the Indians into the fold of American society.

Thus, the literature reveals that dispute exists regarding the impetus for the General Allotment Act of 1887. In essence, two schools of thought highlight the dispute: those who argue that the allotment policy was implemented for the benefit of Indians, and those that believe benevolent offers were simply rationalizations or justifications for the true purpose—opening Indian lands for non-Indian settlement. Regardless of the impetus, the General Allotment Act was an assimilationist policy.

Section Two: Carrying Out the Act

One area where all authors agree is how the General Allotment Act of 1887 was carried out. Based on the act itself, which is provided in part in Hurtado's work,⁵⁷ most authors when discussing the General Allotment Act, provide a brief or general description of the act.⁵⁸ This general description usually includes the basic provisions guided in the

⁵⁵ Gross, *Contemporary Federal Policy Toward American Indians*, 20; Hauptman, "Congress, Plenary Power, and the American Indian," 321; Castille and Bee, *State and Reservation*, 114; Pommersheim, *Braid of Feathers*, 19; Michael G. Lacy, "The United States and American Indians: Political Relations," in Vine Deloria, Jr., ed. *American Indian Policy in the Twentieth Century* (Norman: University of Oklahoma Press, 1985), 87; O'Brien, *American Indian Tribal Governments*, 77.

⁵⁶ Gross, *Contemporary Federal Policy Toward American Indians*, 20; William T. Hagan, *American Indian* (Chicago: University of Chicago Press, 1993), 51-2; Lacy, "The United States and American Indians," 87; Cornell, *The Return of the Native*, 44; O'Brien, *American Indian Tribal Governments*, 77.

⁵⁷ Albert A. Hurtado and Peter Iverson, *Major Problems in American Indian History*, (Lexington, MA: D. C. Heath and Company, 1994), 370-372.

⁵⁸ Hauptman, "Congress, Plenary Power, and the American Indian," 321; Castille and Bee, *State and Reservation*, 195; O'Brien, *American Indian Tribal Governments*, 77; Hagan, *American Indians*, 159; Peter Nabokov, *Native American Testimony: A Chronicle of Indian-White Relations From Prophecy to the Present, 1492-1992* (New York: Penguin Books, 1992), 237; Gibson, *The American Indian*, 497-498; Vine Deloria, Jr., and Clifford M. Lytle, *The Nations Within: The Past and Future of American Indian Sovereignty* (Austin: University of Texas Press, 1984), 5; Tyler, *A History of Indian Policy*, 96;

act.

Section One of the General Allotment Act of 1887 gives authorization to the President of the United States to allot Indian lands and details the size of the allotments based on the type of land. Section Two states that if an Indian does not make a selection of land for allotment, that an agent of the Department of the Interior may do so for the Indian. Section Four of this act describes the 25-year period where allotment will be held in trust for the individual Indian. Section Five then describes the transfer to fee-simple title after the trust period expires, along with a grant of United States citizenship.⁵⁹

Succinctly, the way the General Allotment Act worked can be described as follows:

The president of the United States was given the discretion to allot reservation lands to Indians, the title to be held in trust for twenty-five years. American Indians accepting allotment were to receive United States citizenship. Heads of families were to receive 160 acres with smaller plots going to other Indians.⁶⁰

Of course, the lands left over after all Indians had received their individual allotments were considered "surplus lands" and were made available for non-Indian settlement.⁶¹

Now lacking in these general descriptions is an in-depth examination of each section of the Allotment Act. For example, Section One, which details the specifics of the size of the allotment to be granted...160 acre to each head of family, 80 acres to each

Pommersheim, *Braid of Feathers*, 19; Ward Churchill and Glenn T. Morris, "Key Laws and Cases," in M. Annette Jaimes, ed., *The State of Native America: Genocide, Colonization, and Resistance* (Boston: South End Press, 1992), 14; Cornell, *The Return of the Native*, 42-43; Wunder, "Retained by the People," 32; Francis Paul Prucha, *American Indian Policy in Crisis: Christian Reformers and the Indian, 1865-1900* (Norman: University of Oklahoma Press, 1976), 252-253; Prucha, *The Great Father*, 226.

⁵⁹ Albert L. Hurtado and Peter Iverson, *Major Problems in American Indian History* (Lexington, Ma: D.C. Heath and Company, 1994), 370-372.

⁶⁰ Hauptman, "Congress, Plenary Power, and the American Indian," 321.

single person over 18 years old, and 80 acres to each “orphan child under eighteen years of age”...also explains that “when the lands allotted are only valuable for grazing purposes, an additional allotment of such grazing lands...shall be made to each individual.”⁶² Perhaps the difference between grazing and agricultural lands is not seen as significant, but as will be demonstrated in Chapter Four, this difference is crucial.

Section Three: Effects of the General Allotment Act of 1887

The most prominent effect of the General Allotment Act stems directly from the way the act worked: Indians were allotted individual tracts of land, and the surplus lands were opened for non-Indian settlement. By 1934 when the policy of allotment ended with the implementation of the Indian Reorganization Act, almost 90 million acres of Indian lands were lost to non-Indians.⁶³ This land was lost not only through the immediate opening of the surplus lands, but also through leasing and the transfer of trust-status lands to fee-simple title. For example, of those on the Cheyenne River Sioux Reservation that received a trust patent, 95 percent lost their lands through sale or mortgage.⁶⁴

Because of the great loss of land, the effects of the Allotment Act “proved disastrous for tribes culturally, politically, and economically.”⁶⁵ When the tribal lands

⁶¹ Ibid.

⁶² Hurtado and Iverson, *Major Problems in American Indian History*, 371.

⁶³ Hauptman, “Congress, Plenary Power, and the American Indian,” 322; Castile and Bee, *State and Reservation*, 166; Pommersheim, *Braid of Feathers*, 20; Wunder, “Retained by the People,” 33; Cornell, *The Return of the Native*, 44; Gibson, *The American Indian*, 506.

⁶⁴ Fergus M. Bordewich, *Killing the White Man’s Indian: Reinventing Native Americans at the End of the Twentieth Century* (New York: Doubleday, 1996), 123.

⁶⁵ O’Brien, *American Indian Tribal Governments*, 77; Russell Thornton, *American Indian Holocaust and Survival: A Population History Since 1492* (Norman: University of Oklahoma, 1987), 123; Cornell, *Return of the Native*, 80.

were broken up, tribal organization, including tribal governments, were affected.⁶⁶ The authority of the tribal governments was often times undermined or eroded altogether.⁶⁷ Economically, tribes were affected in that the act “brought further poverty” because Indian allotments were “often unsuitable for agriculture” and “the government’s promises of money, supplies, and technical advice rarely materialized.”⁶⁸ Culturally, not only did tribes have to deal with conceptions of land ownership that vastly differed from their own views,⁶⁹ they also faced missionaries who sought to change traditional tribal life and government agencies which targeted religious life by banning traditional practices.⁷⁰

Though the General Allotment Act of 1887 greatly affected Indian people, the success of the act is debated.⁷¹ As discussed, authors agree that the Allotment Act did negatively impact tribalism, however, tribes retained political and cultural elements of their societies. For example, allotments “selected by individual tribal members often reflected existing kinship and residence patterns.”⁷² In fact, the “great drive to make American citizens out of the Indians in the late 1880s and the 1890s” was a matter of “cultural amalgamation of the Indians into the mass of white citizens, a much more comprehensive matter” than the General Allotment Act could handle.⁷³ Considering that

⁶⁶ Pommersheim, *Braid of Feathers*, 21; Cornell, *The Return of the Native*, 43; Thornton, *American Indian Holocaust and Survival*, 123; O’Brien, *American Indian Tribal Governments*, 78.

⁶⁷ Pommersheim, *Braid of Feathers*, 21, O’Brien, *American Indian Tribal Governments*, 78.

⁶⁸ O’Brien, *American Indian Tribal Governments*, 78.

⁶⁹ Tyler, *A History of Indian Policy*, 96; O’Brien, *American Indian Tribal Governments*, 78; Hagan, *American Indians*, 160; Castile and Bee, *State and Reservation*, 115; Pommersheim, *Braid of Feathers*, 20.

⁷⁰ Pommersheim, *Braid of Feathers*, 21.

⁷¹ Otis, *The Dawes Act and the Allotment of Indian Lands*, 124-155.

⁷² Thornton, *American Indian Holocaust and Survival*, 123.

⁷³ Prucha, *The Great Father*, 232.

tribalism and tribal peoples continue to exist today, it cannot be argued that the Allotment Act was a success in terms of total assimilation.

CHAPTER THREE: Contextualizing Indian Canyon

Fifteen miles south of Hollister, California, is a canyon located in the Gabilan Mountain Range in an area known as Cienega Valley. This canyon is bound by steep cliffs that are covered with chaparral, sagebrush, madrone, manzanita, and buckeye trees. Harlan Creek courses through this canyon and cascades over a waterfall. Harlan Creek often swells with the winter rains. This area was originally known as Indian Gulch. It has been renamed Indian Canyon and it is the traditional home of Ann-Marie Sayers.

Ann-Marie Sayers is a Costanoan/Ohlone Indian. She is a member of Indian Canyon Nation and is a descendant of the original people who lived in the Canyon. Costanoan/Ohlone people comprised, and still comprise, many different language families. These language families had/have many dialects. Ms. Sayers refers to herself as being of the Mutsun family from which she descends on her mother's side. Her mother's family is part of the original descendants.

The word Costanoan comes from the Spanish *Costanos*, meaning "coastal people."⁷⁴ Costanoan is used to refer to the territory extending from San Francisco south to Big Sur, and from the Pacific Ocean eastward to the Diablo Mountain Range. Within the Costanoan territory, eight major language families exist: Chochenyo, Karkin, Tamyen, Ramaytush, Awaswas, Mutsun, Rumsen, and Chalon.⁷⁵ Within each major language family, the people "all had their code of behavior and dialect."⁷⁶

⁷⁴Richard Levy, "Costanoan," in *Handbook of North American Indians*, ed. Robert F. Heizer. 8 (Washington: Smithsonian Institution, 1978), 494.

⁷⁵Ibid.

⁷⁶Ann-Marie Sayers, quoted in Meghan Kensler, *Indian Canyon Nation: Surviving Colonization*, Santa Cruz: University of California, Santa Cruz, May 1997, 2.

The origin of the term Ohlone is unclear. Ms. Sayers has said that one well-accepted theory is that it came from the name of a village near San Francisco.⁷⁷ This theory is substantiated in Richard Levy's work, which states that the term "Ohlonean," previously used to describe the languages of Costanoan people, is derived from a "triblet" of Costanoan Indians located in San Mateo County, south of San Francisco.⁷⁸ Today, the terms are used interchangeably to refer to the Indian people from this area. However, some Native peoples prefer the term Ohlone because they dislike having the Spanish term placed on them.⁷⁹

Before contact with Europeans, Indian Canyon had long been inhabited by Costanoan people. Artifacts found in Indian Canyon provide evidence for this inhabitation.⁸⁰ According to Ms. Sayers, this "culture was shaped by the environment in which we lived. Indian Canyon is filled with oak, pine, sycamore, bay and manzanita. Our economy was based on gathering acorns, berries, and many other plants, supplemented by game such as deer, wild turkey, rabbit, elk, quail, and others."⁸¹ The people who lived in Indian Canyon "traded, socialized and married with neighboring tribes as far afield as the Miwok, Salinan, Yokut, Esselen, and Chumash."⁸² Yet, their lifeways were certainly disrupted with the coming of the Spanish missionaries.

⁷⁷Ann-Marie Sayers, Tribal Chairperson of Indian Canyon Nation, interview by author, tape recording, Hollister, Ca., 10 April 1997.

⁷⁸Levy, "Costanoan," 485.

⁷⁹Arlene Hirschfelder and Martha Kreipe de Montano. *The Native American Almanac: A Portrait of Native America Today* (New York: Prentice Hall, 1993), 95.

⁸⁰Ann-Marie Sayers, "Noso-n: 'In Breath so it is in Spirit'—The Story of Indian Canyon," in *The Ohlone Past and Present: Native Americans of the San Francisco Bay Region*, ed. Lowell John Bean (Menlo Park, Ca: Ballena Press, 1994), 339.

⁸¹*Ibid.*, 339-340.

⁸²*Ibid.*, 340.

The first serious attempt to colonize the Native peoples of California began with the arrival of these Spanish missionaries in the 1700s. The goal of the mission system was two-fold: to convert the Native people to Catholicism and to create a labor force to sustain mission economies.⁸³ Part of the plan behind these two elements was that they would assist in the assimilation of Native people into the colonizing society, thereby opening up the land for non-Indian settlement. During the late-1700s, the “Spanish missionaries recorded the first interactions with the *Mutsuns* at Mission San Juan Bautista.”⁸⁴

These missionaries maintained the numbers of Indian converts and laborers through active recruitment and through “incentives,” which encouraged Indians to stay. Some of these incentives included the branding of the Indians, flogging, whipping, incarceration, and capital punishment.⁸⁵ This physical persuasion, however, did not always induce the mission Indians to remain instead of running away. One of the primary forms of resistance by the mission Indians was fugitivism.⁸⁶ In 1805, for example, 200 Indians from the Mission San Juan Bautista fled.⁸⁷ In 1816, 12 more fled, and in 1819, 47 of these Indians escaped.⁸⁸ This mission had a direct impact on the Costanoan people, including those residing in the area of Indian Canyon. Indian Canyon became a place of

⁸³Robert 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, 1995), 48.

⁸⁴Sayers, “Noso-n: ‘In Breath so it is in Spirit’—The Story of Indian Canyon,” 337.

⁸⁵Jo Ann Woodsum, “California Native Women, Missions, and the Gold Rush,” (lecture presented on 23 April 1997) University of California, Santa Cruz, Santa Cruz.

⁸⁶Jackson and Castillo. *Indians, Franciscans, and the Spanish Mission System*, 78.

⁸⁷*Ibid.*, 79.

⁸⁸Sherburne F. Cook, *The Conflict Between the California Indian and White Civilization* (Berkeley: University of California Press, 1976), 60-61.

refuge for some of these Indians fleeing the mission: "When I was a child, my mother told me that Indian Canyon has always served as a safe haven for some of those who did not like the restrictions of the mission."⁸⁹ Both proximity of Indian Canyon to the mission and the topography of the canyon lent to Indian Canyon becoming a place of refuge. *Cienega*, the name of the valley within the Gabilan Mountains where Indian Canyon is located, means "swamp," and one "had to be intimately familiar with the Gabilan Mountain Range in order to find this particular area. Many people found refuge here and did not have to worry about getting killed, or beaten and taken back to the mission as a work force."⁹⁰

The Spanish mission system also affected the lives of Indian people in other ways. Epidemics of tuberculosis, smallpox and measles, illnesses due to weather conditions, changes in diet, poor pre-natal care, high infant mortality rates, unsanitary living conditions, and overcrowding at the missions are some of the elements that contributed to the population decimation of California Indians.⁹¹ At Mission San Juan Bautista, there was an 87 percent rate of decline in population during the early-1800s.⁹² Overall statistics for California Indians before and after the arrival of the Spanish are 300,000 California Indians prior to Spanish settlement, and 150,000 California Indians by 1830.⁹³ These statistics show a 50 percent population decline in approximately 100 years. This population decimation greatly affected the California Indian, and continues to do so

⁸⁹Sayers, "Noson: 'In Breath so it is in Spirit'—The Story of Indian Canyon," 338.

⁹⁰Sayers, interview by author, 10 April 1997.

⁹¹Jackson and Castillo, *Indians, Franciscans, and the Spanish Mission System*, 42-48.

⁹²*Ibid.*, 56.

⁹³Albert L. Hurtado, *Indian Survival on the California Frontier* (New Haven: Yale University

today.⁹⁴

Another factor greatly affecting the historical and contemporary status of California Indians, and their lands, was the series of 18 treaties negotiated between the United States and various Indian tribes in California. One such treaty “was negotiated with representatives of the Costanoan Indians.”⁹⁵ One of the stipulations of these treaties was that the California Indians gave title to their lands to the United States in exchange for provisions and cattle.⁹⁶ Perhaps the most important provision in these treaties that would greatly affect California Indians was the reservation of certain lands.⁹⁷

California Indians were unable to benefit, however, from the lands they reserved in the treaties. Californians who were opposed to the “proposed reservations” because the lands had “great potential value...were simply unwilling to set them aside for the exclusive use of Indians.”⁹⁸ With the “vigorous opposition...of the governor, the state legislature, and the majority of the people of California,” California congressmen convinced the Congress to not ratify the treaties. Instead, these treaties were “placed under seal,” in effect keeping the true status of these treaties secret from the Indians who had signed them.⁹⁹ In fact, under the assumption that the treaties had been ratified under

Press, 1988), 198.

⁹⁴Note: During the 1980s, Indian Canyon Nation petitioned for federal recognition and was denied, partly because there are only three lineal descendants left today. Low population numbers can be directly attributed to loss of life due to the harsh mission-system life and an epidemic of tuberculosis which hit the Indian Canyon area during the 1800s.

⁹⁵Costanoan Indian Research, Inc., “Needs Statement/Introduction,” for *Administration for Native Americans Program Announcement 13612-921*, 1992: 22.

⁹⁶James J. Rawls, *Indians of California: The Changing Image* (Norman: University of Oklahoma Press, 1984), 141.

⁹⁷*ibid.*

⁹⁸Rawls, *Indians of California*, 147.

⁹⁹California Indian Legal Services, “Briefing Paper: An Overview of the Historical Factors Which

the good faith of the federal government, many Indians “abandoned their traditional homes to move to the treaty lands.”¹⁰⁰

One opponent of ratifying the treaties, in fact of negotiating treaties altogether, was Edward Fitzgerald Beale, who was appointed the superintendent of the “independent Indian superintendency for California.”¹⁰¹ Beale’s proposal consisted of establishing “modest reservations” of government lands for California Indians.¹⁰² After the 18 treaties failed to be ratified, Beale worked to have those reservations established. Through his efforts, “Congress provided for the establishment of five reservations in California.”¹⁰³ Between 1852 and 1856, five reservations were established in California.¹⁰⁴ During the 1860s, three more reservations were established and in 1870 two more reservations were founded.¹⁰⁵ However, by the 1870s these reservations, with the exception of Hoopa Valley, Round Valley, and Tule River, had been abandoned or closed.¹⁰⁶

Though most of the original reservations had been closed, other reservations continued to be established. Through executive order in 1875, President Grant established “several small...reserves ...for the Indians of southern California.”¹⁰⁷ These reserves, and the others that were not closed, were put into trust through the Mission Relief Act of

Have Contributed to the Special Status Problems of California Indians.” Prepared for the Honorable Bill Richardson, Chairman, Subcommittee on Native American Affairs. 9 June 1993, Revised 19 July 1993, 4.

¹⁰⁰ *Ibid.*

¹⁰¹ Rawls, *Indians of California*, 148.

¹⁰² *Ibid.*

¹⁰³ *Ibid.*, 151.

¹⁰⁴ *Ibid.*, 151-152.

¹⁰⁵ *Ibid.*, 152-153.

¹⁰⁶ *Ibid.*, 158.

¹⁰⁷ *Ibid.*, 211.

¹⁰⁸ *Ibid.*; Carole Goldberg-Ambrose, *Planting Tail Feathers: Tribal Survival and Public Law 280* (Los Angeles, Ca: American Indian Studies Center, University of California, Los Angeles, 1997), 191.

1891, which also set “aside small parcels of land for homeless Indians in Southern California.”¹⁰⁸ Further public domain allotments (approximately 2,580) were made to those California Indians who were still landless after these executive order and Mission Relief Act reservations were established.¹⁰⁹

Had the 18 treaties been ratified in good faith, they “would have established an Indian land base in California of approximately 8.5 million acres and provided guarantees of teachers, farmers, carpenters and other workmen to assist the Indians in adjusting to a more sedentary agrarian lifestyle.”¹¹⁰ Yet, it was not until 1905 that these “lost” treaties were “discovered,” and any attempt to rectify the situation was made.¹¹¹

Prior to discovery of the unratified treaties in 1905, a number of reservations and rancherias were established for California Indians by Congress or executive order. These reserves were small and were mainly in southern California. Yet, one way in which the federal government compensated California Indians for the loss of land due to the 18 unratified treaties was to create more reservations and rancherías. This compensation was forthcoming mainly due to public pressure on Congress and the President.¹¹² Starting in 1906, “sixty-one small reservations or rancherias, totaling approximately 7,500 acres” were established for homeless California Indians.¹¹³ Thirty-six of these rancherias were

¹⁰⁹ Ibid., 124.

¹¹⁰ Ibid.

¹¹¹ Sayers, interview by author, 10 April 1997.

¹¹² Champagne and Goldberg-Ambrose, “A Second Century of Dishonor,” 122.

¹¹³ Ibid.

¹¹⁴ Rawls, *Indians of California*, 211. Note: One band of the Pomos received a piece of land from the Northern California Indian Association, which purchased the land for them in 1902. Ibid., 209.

established in northern California.¹¹⁴ By the mid-1990s, “a total of 117 Indian communities had been established by the federal government, either on lands set aside from the public domain or on lands purchased by federal funds. These reservations varied in size from the one-acre plot in Strawberry Valley, Yuba County, to the Hoopa Valley Reservation in Humboldt County with over 116,000 acres.”¹¹⁵

Another way that an attempt was made to compensate California Indians for the loss of land was through a Special California Indian Census, which was conducted in 1928. Any Indian who could prove that they had ancestors who lived in California during the time the 18 treaties were signed received a Bureau of Indian Affairs number.¹¹⁶ Also in 1928, a suit was filed to compensate California Indians for the loss of land promised to them in the 18 treaties. Sixteen years later, \$17 million was awarded to the California Indians as compensations. Yet, \$12 million was deducted from that amount for “goods and services that had been provided to the Indians over the years by the federal government.”¹¹⁷ The remainder left approximately \$5 million to be dispersed between those Indians who had received a Bureau of Indian Affairs number through the 1928 census, amounting to a settlement of \$150.00 per Indian, or \$0.41 per acre for the State of California.¹¹⁸

Further compensation was made available through the creation of the Indian Claims Commission, which helped California Indians file suits for compensation. In

¹¹⁵ *Ibid.*, 211.

¹¹⁶ Sayers, interview by author, 10 April 1997.

¹¹⁷ Rawls, *Indians in California*, 210.

¹¹⁸ Sayers, interview by author, 10 April 1997.

1963, an additional \$29 million was settled upon for compensation for the lands lost due to the 18 treaties. Again, those Indians who had proved that their ancestors were living in California during the signing of the 18 treaties were eligible for this compensation, which amounted to approximately \$700.00.¹¹⁹

Ann-Marie Sayers' great-grandfather, Sebastian Garcia, was one of the California Indians to receive a Bureau of Indian Affairs number per the 1928 census. Therefore, Ms. Sayers was a recipient of compensation, which amounted to a total of \$818.00. In 1952, Ms. Sayers received \$150.00, and in 1972 she received \$668.00.¹²⁰ Receipt of this compensation is significant because it proves that Ms. Sayers' ancestors were living in California during the time the 18 treaties were signed. Had the treaties been ratified in the first place, they "would have constituted formal recognition of most, if not all, of the Indian groups whose status as tribes the Federal government now questions,"¹²¹ as is the case with Indian Canyon Nation.

The federal government's "relationship and dealings with the California Indians over the past century and a half have directly influenced, and in many contexts created, the complex tribal and individual Indian status problems that persist in California today."¹²² These factors, in part, give context to the present and unique status of Ann-Marie Sayers and Indian Canyon Nation. However, Ms. Sayers finds herself in a absolutely unique situation. Though California Indians today hold lands in trust, due to the creation of congressional and executive order reservations, rancherias, and individual

¹¹⁹Rawls, *Indians in California*, 210-211.

¹²⁰Sayers, interview by author, 10 April 1997.

allotments and heirship of such lands, Ann-Marie Sayers is the only California Indian to have received her allotment not through heirship of one of these plots of land, rather, first-hand through the General Allotment Act of 1887.

¹²¹ California Indian Legal Services, "Briefing Paper," 4.

¹²² *Ibid.*, 1.

CHAPTER FOUR: Contemporary Allotment: Indian Canyon

In the late-1970s/early-1980s, a dream began to take shape in the mind, and heart, of Ann-Marie Sayers. Having inherited part of her grandfather's original trust patent from her mother, a piece of land which had since been transmuted into fee-simple title, Ms. Sayers dreamed of building a log cabin on the original site of her great-grandfather's home. As Ms. Sayers began to investigate the possibility of building on Sebastian Garcia's homesite, she became aware that, unfortunately, his homesite was no longer a part of the land she owned, rather lay 300 yards past the southern-most boundary of her property.¹²³ Yet, Ms. Sayers did not give up. Her persistence led her on an eight-year journey which ended with the realization of this dream, and the creation of many new ones.

After Ms. Sayers had decided that she would build on her great-grandfather's homesite, she first visited the Bureau of Land Management's office near Sacramento, California. She was hoping to purchase the land adjacent to her property through an auction held by the Bureau of Land Management. It was during this visit to the Sacramento office that she was informed that the Bureau of Land Management no longer at this time auctioned off land. She explained that the land previously belonged to her great-grandfather, Sebastian Garcia, and that he had received the land as an individual trust allotment under the General Allotment Act of 1887. The response of the Office was that she could try to obtain this piece of land using the same act, but that chances of

¹²³ Ann-Marie Sayers, Tribal Chairperson of Indian Canyon Nation, interview by author, tape recording Hollister, Ca., 19 March 1999.

success were less than three percent.¹²⁴ Again, Ms. Sayers was not discouraged.

Armed with this new information, Ann-Marie Sayers was contacted by a faculty member of Dr. Lucinda Mooney's at Hartnell College, a small community college in Salinas, California. Through Dr. Mooney, it came to Ms. Sayers' attention that she could indeed attempt to gain the particular parcel of land through the General Allotment Act of 1887.¹²⁵ Ms. Sayers obtained a copy of the act, and plans began to take shape. Not only would she have to prove that she was eligible for the individual trust allotment, but she would also have to take many steps toward fulfilling the requirements for obtaining the allotment. For the next three years, Ms. Sayers worked toward meeting these criteria, some being met naturally, others creatively.

Perhaps one of the easiest requirements for Ms. Sayers to meet was proving her eligibility to receive an allotment. Contacting the Bureau of Indian Affairs (BIA) office in Sacramento, Ms. Sayers received the necessary paperwork proving that she was indeed an Indian.¹²⁶ Of course, proving that she's Indian has never been a problem for Ms. Sayers. Proving that she is a member of an Indian tribe has been an ongoing struggle, though. Nevertheless, the BIA office was able to provide Ms. Sayers with the proper identification in order that she receive a "Certificate of Eligibility." Ms. Sayers applied for this certificate and received "Certificate No. 472" certifying that she is a California Indian and "eligible as an Indian to receive land on the public domain under Section 4 of the act of February 8, 1887 (24 Stat. 388), as amended, or in a national forest under

¹²⁴ Ibid.

¹²⁵ Ibid.

Section 31 of the act of June 25, 1910 (36 Stat. 855)."¹²⁷ The first parts of the foundation were being laid.

Completing the paperwork for the process of applying for an individual trust allotment proved to be simple compared to meeting the other requirements necessary to receive the allotment.¹²⁸ The application for allotment is a basic two-page, general-information-gathering form. Ms. Sayers also filed a "Petition for Classification," which called for the Secretary of the Interior "to classify and open public lands to entry or otherwise to make them available for disposition."¹²⁹ With these forms completed, Ms. Sayers continued on to the next, and much more difficult, phases of completing the requirements.

Section 4 of the General Allotment Act of 1887 (25 USC Sec. 331) details the nature of lands to be allotted on reservations. Though Ms. Sayers applied for an allotment under Section 334, "Allotments to Indians not residing on reservations," the *type* of allotment granted, either agricultural or grazing lands, followed the same regulations as those granted on reservations.¹³⁰ Under this section, allotments granted are "not to exceed eighty acres of agricultural or one hundred and sixty acres of grazing land to any one Indian."¹³¹ Further distinctions are made between irrigable and nonirrigable agricultural

¹²⁶ Ibid.

¹²⁷ "Certificate of Eligibility," Personal Collection of Ann-Marie Sayers. *See Appendix A.*

¹²⁸ *See Appendix B.*

¹²⁹ Sayers, interview by author, 19 March 1999. *See Appendix C.*

¹³⁰ Ibid.

¹³¹ 25 USC Section 331; U.S. Department of the Interior: Bureau of Land Management, Bureau of Indian Affairs: U.S. Department of Agriculture: Forest Service. *Questions and Answers about Indian Allotments on Public Lands.* (May 1964), 2.

and grazing land.¹³² As classified, the parcel of land that Ms. Sayers was applying for fell under the descriptions of nonirrigable grazing lands. Therefore, she was as an individual Indian, entitled to apply for 160 acres,¹³³ based again on Section 331 which states that allotments are “not to exceed...forty acres to any one Indian, and such irrigable land shall be held to be equal in quantity to twice the number of acres of nonirrigable agricultural land and four times the number of nonirrigable grazing land.”¹³⁴ After having the land surveyed it was determined that the area she intended to apply for did not exceed the 160 acres. In fact, the available lands only included 123.42 acres, the total acreage Ms. Sayers eventually applied for.¹³⁵

The land that Ms. Sayers was attempting to gain has always been known to her as Indian Canyon. Growing up in Indian Canyon with her brother, Ms. Sayers’ mother, Elena Sayers Sanchez, instilled in her children “a respect for the land.”¹³⁶ Ms. Sayers was raised knowing how to properly identify and harvest plants. She was raised understanding “that all the natural elements, and its substance (i.e., air, wind, water, rocks, trees, plants, animals, etc.) were part of a living whole in which we also participated.”¹³⁷ During the years that Ms. Sayers researched and fulfilled the requirements necessary for the allotment, she learned different words to describe the environment she knew so well. As the representative from the Bureau of Land Management told Ms. Sayers, the Allotment

¹³² Ibid.

¹³³ Sayers, interview by author, 19 March 1999.

¹³⁴ 25 USC Section 331.

¹³⁵ Sayers, interview by author, 19 March 1999. *See Appendix D.*

¹³⁶ Ann-Marie Sayers. “Noso-n: ‘In Breath so it is in Spirit’—The Story of Indian Canyon,” 343.

¹³⁷ Ibid., 340.

Act and its requirements were “very old” and “archaic.”¹³⁸ Still in her positive manner, Ms. Sayers responded, “If the land can meet the requirements, they will be met.”¹³⁹

One of the main requirements needed to be met to receive a trust allotment is self-sufficiency. The general purpose of the Allotment Act (when it passed in 1887 and as it continued through the 1930s) was to assimilate Indians into the dominant Euro-American society, thereby solving the “Indian problem,” which in part consisted of Indians being “dependent” upon the government. In reality, goods and services provided by the government, and trust lands upon which Indians resided, were treaty-guaranteed rights, not some free handout donated by a generous government. Regardless of its duty to maintain these rights, the government still viewed the Indians as dependent and reasoned that the federal-Indian relationship would never end (and its trust responsibility with it) unless this “dependency” was terminated. Therefore, one criterion worked into the General Allotment Act is self-support. Again the government envisioned this self-sufficiency deriving from working the land in a productive manner, either through agriculture or grazing, as is obvious by the methods used by the government for classifying lands.

Therefore, in order for the allotment to be granted, Ms. Sayers had to prove self-sufficiency by showing that the land was able to support an Indian family.¹⁴⁰ The parcel of land that Ms. Sayers was to obtain was classified as “nonirrigable grazing land.” Then the question became how to “support” a family on this kind of land. Ms. Sayers had

¹³⁸ *Ibid.*, 343.

¹³⁹ Ann-Marie Sayers, quoted in Sayers, “Noso-n: ‘In Breath so it is in Spirit’.” 343.

learned that in recent allotment cases “the soil has been found too poor or without enough water to support an Indian family, and virtually all of the applications have been turned down.”¹⁴¹ As with the federal recognition process, criteria and definitions are greatly different for the government and for Indians. Knowing that Indian Canyon had always supported an Indian family—*her* family—Ms. Sayers became the kind of expert in water, soil, and vegetation that could prove to the government that the land could indeed support an Indian family.

Beginning early in 1980, Ms. Sayers started to investigate ways she could prove to the government that she could be self-sufficient. Though just in the beginning stages, she had learned that raising African Pygmy goats for sale at shows and as pets might be a viable option. Her first step then was to determine if Indian Canyon could support these goats via nonirrigable grazing. A neighbor, Howard Harris, who would be of great assistance throughout Ms. Sayers’ pursuits, offered to lend his expertise as a water consultant to determine the water situation in Indian Canyon. Mr. Harris evaluated Indian Canyon’s main source of water, Harlan Creek. This creek courses through the property, entering at the head of the canyon through a waterfall.¹⁴² Mr. Harris examined “surface flow” and “pools of water,” as well as vegetation in Indian Canyon. From this consultation he determined that “despite the fact that the year has been extremely dry, and we are at the driest period of the year...In my judgment there is sufficient water on the property, together with riparian water rights to use it, and do most anything Ann Marie

¹⁴⁰ Sayers, “Noson: ‘In Breath so it is in Spirit’,” 343.

¹⁴¹ *Ibid.*

might wish to do with her property, such as irrigate gardens, support several acres of permanent pasture, and have plenty left over for livestock watering and domestic use.”¹⁴³

Yet, sufficient water would not be enough to support these goats.

At the end of that same year, Bruce Eisenman, a District Conservationist with the Department of Agriculture’s Soil Conservation Service (now the Natural Resource Conservation Service), visited Indian Canyon on a volunteer basis to help Ms. Sayers determine the soil and brush situation.¹⁴⁴ Mr. Eisenman along with his co-worker Jeff Rodriguez, walked Indian Canyon investigating and describing types of soil and vegetation throughout the 123 acres. They concluded that in its present condition, the land was limited in the number of goats it could support. Limitations were due to “the steep slopes and loose soil...in the brush covered areas,” and “the low amount of available forage on the brush covered area.”¹⁴⁵ Eisenman’s first evaluation also came with some recommendations, and a follow-up letter detailed further recommendations that would make the land suitable for grazing.

The conservationists’ first estimates provided that approximately “50 to 75 acres would be adequate to maintain 22 goats,” based on available forage/browse and soil conditions.¹⁴⁶ However, in early-January 1981, Ms. Sayers received another letter from

¹⁴² Sayers, interview by author, 19 March 1999.

¹⁴³ Letter from Howard Harris, Harris Consulting to Ann-Marie Sayers. Personal Collection of Ann-Marie Sayers.

¹⁴⁴ Sayers, interview by author, 19 March 1999.

¹⁴⁵ Letter to Ann-Marie Sayers from Jeff Rodriguez for Bruce E. Eisenman, District Conservationist. United States Department of Agriculture, Soil Conservation Service. 17 December 1980. 2. Personal Collection of Ann-Marie Sayers.

¹⁴⁶ Ibid.

Bruce Eisenman in which he provided information on “brush crushing” and other recommendations to make the land suitable for grazing. Though the letter outlined some foreseeable problems with brush crushing, detailed calculations altered the first estimate for acreage necessary to support 22 African Pygmy goats. Eisenman “determined that 16 acres of improved brush land can support 22 goats on a year long basis.” Further, Eisenman had been “conservative” in calculating these figures. Only 16 acres would be necessary to support the goats, after making the improvements on the land, and Eisenman estimated that out of the areas he surveyed “20 to 25 acres of brush land” would be “suitable for brush crushing and goat grazing.”¹⁴⁷ Ms. Sayers now had a combination of new information regarding water, soil, and vegetation that allowed her to move on to the next phase of self-sufficiency planning—becoming an expert on African Pygmy goats.

Becoming an expert in obtaining, raising, and breeding goats proved to be one of the most expensive areas of research and planning that Ms. Sayers experienced in attempting to gain her individual trust allotment. She spent in excess of \$20,000 learning about goats.¹⁴⁸ Eventually, Ms. Sayers was able to show that she could generate enough annual revenue by raising 33 African Pygmy goats to meet the self-sufficiency requirement, which is based on income reflecting the “current poverty level guidelines, as established by the Office of Management and Budget and published in the Federal

¹⁴⁷ Letter to Ann-Marie Sayers from Bruce E. Eisenman, District Conservationist, United States Department of Agriculture, Soil Conservation Service. 9 January 1981. I. Personal Collection of Ann-Marie Sayers.

¹⁴⁸ Sayers, interview by author, 19 March 1999.

Register.”¹⁴⁹ This poverty-level income was approximately \$12,000 and her net income would be, according to her estimates, approximately \$20,000.¹⁵⁰

Ms. Sayers was thorough in her research on African Pygmy goats, which included cost of buying these animals, and costs of production/upkeep (feed, medicine, and boarding), and marketing/sales (publicity and registration at shows).¹⁵¹ At the request of David Howell, Area Manager of the Hollister Resource Area Bureau of Land Management, Ms. Sayers’ plan for raising goats was evaluated in 1983 by G.M. Spurlock, Ph.D., of the University of California. Dr. Spurlock gave some recommendations and concluded that “All in all it appears to me that she has a plan to produce a viable livestock operation (with goats).”¹⁵²

By this time, Ms. Sayers had proved that she would be able to “support an Indian family” in Indian Canyon. She had produced a viable plan for raising revenue, had plans to build a house, and had also received all the necessary paperwork proving her eligibility. The lands had been properly classified as suitable for an Indian allotment. On 12 October 1983, Ann-Marie Sayers received a “Certificate of Allotment” from the Department of the Interior.¹⁵³ However, three years after she began this pursuit, Ms. Sayers found that the battle had only just begun.

¹⁴⁹ Letter to Ann-Marie Sayers from Nancy J. Alex, Chief, Lands Sections, Branch of Adjudication and Records, United States Department of the Interior, Bureau of Land Management, California State Office. “Conditions Not Met, Extension Granted.” 21 May 1987. 2. Personal Collection of Ann-Marie Sayers.

¹⁵⁰ Sayers, interview by author, 19 March 1999.

¹⁵¹ “Indian Allotment Act” petition for allotment submitted by Ann-Marie Sayers, January 1984. Personal Collection of Ann-Marie Sayers.

¹⁵² Letter to David E. Howell from Dr. G.M. Spurlock, Emeritus Cooperative Extension, University of California. 11 May 1983. 3. Personal Collection of Ann-Marie Sayers.

¹⁵³ “Certificate of Allotment,” Personal Collection of Ann-Marie Sayers. *See Appendix E.*

When Ms. Sayers received her allotment in 1983, she found that the land was not yet considered trust land. Steve Hirsh of California Indian Legal Services told Ms. Sayers that not classifying the land as trust land was illegal, but Ms. Sayers was still faced with meeting the stipulations set forth to have the land put into trust. In 1983 Ms. Sayers applied for and was granted a two-year extension from the Bureau of Land Management.¹⁵⁴ During the next two years, Ms. Sayers had to implement the plan she submitted. The stipulations included establishing inhabitancy on the land, making sure that her home was "in conformance with county codes and ordinances," submitting a financial statement regarding her livestock operation which would demonstrate her annual net income, and making any necessary range improvements (with prior permission from the Bureau of Land Management).¹⁵⁵

Using money she had saved and money borrowed from her brother and friends, Ms. Sayers began making the improvements on the land. The road leading into Indian Canyon was developed, culverts were installed, the ground was leveled and the foundation for the house was placed. During this two-year period Ms. Sayers began purchasing African Pygmy goats. Because the house was not yet completed nor the pens for the goats, Ms. Sayers still resided in the town of Hollister, a 20-30 minute drive from Indian Canyon. The goats were boarded out in this same town.¹⁵⁶

¹⁵⁴ Letter to Ann-Marie Sayers from Rose M. Fairbanks for Elenor Wilkinson, Chief, Lands and Locatable Minerals Section, Branch of Lands and Minerals Operation, United States Department of the Interior, Bureau of Land Management, California State Office. 12 October 1983. "Allotment Approved. Issuance of Trust Patent Suspended." Personal Collection of Ann-Marie Sayers.

¹⁵⁵ Ibid.

¹⁵⁶ Sayers, interview by author, 19 March 1999.

Ms. Sayers stated that during the process of attempting to gain her trust allotment she became an expert in asking for extensions. Again, at the end of 1985, Ms. Sayers applied for another extension to meet the necessary stipulations for the allotment. Her extension was approved in early-January of 1986, suspending the issuance of the trust patent for another two years. Though the road was in-place and the foundation for the house completed, Ms. Sayers had yet to build the house to meet the stipulation of residency on the land.¹⁵⁷

During 1986, progress in Indian Canyon was slow. But, 1987 proved to be the climax year for problems affecting the obtainment of the trust patent. In May of that year, Ms. Sayers received a letter from Nancy Alex of the Bureau of Land Management in Sacramento. This letter, under the heading of "Conditions Not Met: Extension Granted," again detailed the stipulations to be met in order for the trust patent to be issued. The letter then went on to state that "it appears that the applicant," Ann-Marie Sayers, "does not intend to use the lands for agricultural purposes, and is not in good faith and intention concerning the allotment." The final statement in the letter revealed that if Ms. Sayers did "not establish residence and prove the required income from livestock, her allotment" would "be rejected for failure to demonstrate good faith and intentions by actually complying with the laws and regulations governing Indian Allotments." The final comments further stated that if the stipulations could not be met then Ms. Sayers would "be allowed a reasonable amount of time to remove her improvements, and the land will

¹⁵⁷ Ibid.

be restored to its former condition.”¹⁵⁸ In other words, the land would be returned to the Bureau of Land Management.

It was around this time that Ms. Sayers contacted California Indian Legal Services for representation in the matter. Steven Hirsh, a lawyer with this firm at the time Ms. Sayers contacted them, became one of her many legal representatives.¹⁵⁹ Mr. Hirsh immediately responded to Nancy Alex’s letter, not only commenting on her unwarranted accusations of Ms. Sayers not showing “good faith and intention,” but also offering comments regarding Ms. Sayers’ ancestral ties to Indian Canyon. So powerful was this letter that direct quotations are warranted here.

First, Mr. Hirsh addressed Nancy Alex’s allegations regarding Ms. Sayers’ “good faith and intention” to settle the land. In response, Mr. Hirsh stated that:

In fact, the considerable efforts Ms. Sayers has expended, both off and on the allotment, conclusively demonstrate her good faith intention to settle the land and use it for agricultural purposes. Your letter contains no evidence to the contrary, nor does it provide insight into why Ms. Sayers would have made these improvements if she did not intend to utilize the land in the manner described. If you have any concrete evidence indicating that Ms. Sayers does not intend to occupy the allotment, I would appreciate your making such information available for my review. If such evidence is unavailable, your conclusions are unwarranted and inappropriate.¹⁶⁰

Second, Mr. Hirsh commented on the Bureau of Land Management’s requirement that Ms. Sayers provide evidence of sufficient income to support an Indian family.

¹⁵⁸ Letter to Ann-Marie Sayers from Nancy J. Alex, Chief, Lands Sections, Branch of Adjudication and Records, United States Department of the Interior, Bureau of Land Management, California State Office. “Conditions Not Met, Extension Granted.” 21 May 1987. 2. Personal Collection of Ann-Marie Sayers.

¹⁵⁹ Sayers, interview by author, 19 March 1999.

Somewhere along the way, the definition of an Indian family became a "family of four."

In 1987, per Nancy Alex's 21 May 1987 letter, sufficient income, at the poverty level, was considered to be approximately \$11,000. Mr. Hirsh responded that:

the statutes authorizing Indian allotments on the public domain...do not require an allottee to demonstrate that the allotment can generate sufficient cash income to support a family of four...Neither do the BLM regulations governing Indian allotments (25 CFR subpart 2530) contain such a requirement. The regulations allow only that the issuance of a trust patent may, if necessary, be suspended for two years pending the allottee's demonstration of a good faith intention to settle the land...There is, thus, no authority for conditioning the final approval of an Indian allotment on the allottee's ability to extract a particular level of cash income from the allotment.¹⁶¹

With this evidence, Mr. Hirsh requested "that since more than two years has elapsed since the allotment was approved, and since Ms. Sayers has clearly demonstrated a good faith intention to settle and occupy the allotment" that the Bureau of Land Management "issue the trust patent without further delay."¹⁶²

Finally, Mr. Hirsh offered some additional thoughts regarding Ms. Sayers' dedication to receiving the allotment. Amidst all the legal (institutional, governmental) arguments presented by Mr. Hirsh in his letter, he took the time, as a good lawyer, to speak about the truth of the situation. His words reflect the truth about Indian legal rights which are often not accepted by the government as sufficient "evidence," in this case, of inherent rights to the land. He stated, "Ms. Sayers is a descendant of the people who occupied Indian Canyon since before Europeans arrived in what is now California. Her

¹⁶⁰ Letter to Nancy Alex, Chief, Lands Section from Steven Hirsh, Attorney, California Indian Legal Services. 18 June 1987. 1-2. Personal Collection of Ann-Marie Sayers.

¹⁶¹ *Ibid.*, 2-3.

¹⁶² *Ibid.*, 3.

ties to this land are deep and strong. Only her passion for this land has motivated her to expend over four years and considerable amounts of money trying to secure a legal right of occupancy.”¹⁶³ Mr. Hirsh concluded his letter by urging Nancy Alex to accept an invitation from Ms. Sayers to visit Indian Canyon and see firsthand that her “conclusions are erroneous.”¹⁶⁴

A response to Mr. Hirsh’s letter of 18 June 1987 was sent in October of that same year. Again from Nancy Alex, this letter did not address any of the arguments presented by Mr. Hirsh in his June correspondence. Rather, Alex’s response threw up yet another roadblock to the receipt of Ms. Sayers’ trust patent. “Only subsequent to the Bureau’s May 21, 1987, decision, did we discover that the lands in Ms. Sayers’ application are affected by a federal court order,” Alex’s letter stated.¹⁶⁵ The court order was issued in a 1985 lawsuit, *National Wildlife Federation v. Burford* (676 F. Supp. 271, D.D.C. 1985), which spurred the District Court of the District of Columbia to place an injunction on public lands, including lands under the jurisdiction of the Bureau of Land Management. In Ms. Sayers’ case, this injunction prevented the Bureau of Land Management from issuing the trust patent to her allotment.¹⁶⁶

¹⁶³ Ibid.

¹⁶⁴ Ibid., 4.

¹⁶⁵ Letter to Ann-Marie Sayers c/o Steven Hirsh, California Indian Legal Services from Nancy Alex, Chief, Lands Section, Branch of Adjudication and Records, United States Department of the Interior, Bureau of Land Management, California State Office. 7 October 1987. “Federal Action Suspended, Compliance Date Suspended,” I. Personal Collection of Ann-Marie Sayers.

¹⁶⁶ Note: It seems up to the government’s usual standards to only throw up those roadblocks when someone gets too close to “beating the system.” I find it ironic that the injunction affecting BLM lands was “discovered” only after Nancy Alex received Steve Hirsh’s letter. Did he hit too close to home with his arguments? In fact, Mr. Hirsh perfectly captured the situation when he stated, “After BLM’s actions left Ms. Sayers with no choice but to challenge the unauthorized conditions, BLM retaliated by ‘discovering’ an

Alex further warned Ms. Sayers because the outcome of the lawsuit was yet to be determined, “any future investment of energy and resources on your part to perfect your allotment application should be undertaken only with full appreciation of the substantial risks involved.” Alex did notify Ms. Sayers, however, that if her application for allotment “is adversely affected by this action, there is a right of appeal to the Board of Land Appeals, Office of the Secretary.”¹⁶⁷ Appeal the injunction is exactly what Ms. Sayers did.¹⁶⁸

On behalf of Ann-Marie Sayers, Steve Hirsh appealed the injunction to the Department of the Interior’s Board of Land Appeals. Based on the fact that Ms. Sayers’ ancestors have always occupied the lands in question, Steve Hirsh argued that the injunction did not apply to Indian Canyon.¹⁶⁹ In response to this fact, the Bureau of Land Management asked for “an extension of time within which to file a motion for hearing or other responsive pleading.”¹⁷⁰ The Bureau of Land Management’s position was that “the applied for allotment was” not “in fact occupied by the Sayers family prior to 1934.”¹⁷¹ The Bureau of Land Management had archaeologists conduct a preliminary survey of Indian Canyon and had, at the time of asking for an extension, not found any “significant

injunction which had been in effect for fifteen months, and is using that injunction to avoid its statutory obligations towards Ms. Sayers. BLM’s belated and erroneous invocation of the NWF order as a bar to final approval of the allotment has the unfortunate appearance of being intended to rid BLM of what it apparently views as a ‘problem case.’” (Steve Hirsh’s letter to Leon Panetta, 7 Dec. 1987).

¹⁶⁷ Letter to Ann-Marie Sayers c/o Steven Hirsh from Nancy Alex, 7 October 1987, 2.

¹⁶⁸ Sayers, interview by author, 19 March 1999.

¹⁶⁹ Bruce R. Harris, Deputy Chief Administrative Judge, Gail M. Frazier and Robert W. Mullen, Administrative Judges, United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals. 26 January 1988. “Order: Extension of Time Granted.”

¹⁷⁰ *Ibid.*, 1.

¹⁷¹ *Ibid.*

signs that the applied for allotment was occupied for any length of time."¹⁷² Yet, this conclusion was unfounded.

The Bureau of Land Management's archaeologist who surveyed the land was Steve Addington. The day he visited Indian Canyon to conduct the survey it was raining. His survey, therefore, was superficial and he stated so in his report. Furthermore, in his report to the Bureau of Land Management, Mr. Addington stated that he did not find any conclusive evidence one way or the other to suggest whether or not the land had been previously occupied. Yet, the Bureau of Land Management interpreted the findings in his report to mean that the "significant signs" of previous occupation were not found.¹⁷³ Again, the burden of proof would fall to Ms. Sayers and her lawyer.

Ms. Sayers and Steve Hirsh set about gathering testimonies of those people who could validate the Sayers' family's previous occupation. The first of these testimonies came from Ann Cromwell. Ms. Cromwell was born in 1910 in San Benito County, and shortly after her birth her family moved to Cienega Valley in Hollister, the same valley where Indian Canyon is located. Her testimony relates how her father would give rides to Elena Sanchez (Sayers), Ms. Sayers' mother (at the time a young girl), from the boarding school she attended back home to Indian Canyon. Further, her testimony relates a story about how her father "was visited by an agent of the Indian Service...who was inquiring into Elena Sayers' ownership of Indian Canyon." This story provided "evidence" of previous occupation when Ms. Cromwell stated that her "father informed the Indian

¹⁷² Ibid.

¹⁷³ Ann-Marie Sayers, telephone interview by author, 27 March 1999.

Service agent that he knew Elena's family, and that they had been living in Indian Canyon when he arrived in the area in 1889."¹⁷⁴

Another testimony was given by Ms. Sayers' neighbor, Howard Harris. Mr. Harris' testimony proved to be much more detailed than Ann Cromwell's. Not only did Mr. Harris relate stories told to him by relatives of Ms. Sayers, he also verified occupancy in Indian Canyon by the Sayers family through his own family history. As discussed in Chapter Three, Indian Canyon was a place of refuge for Indians fleeing the Mission San Juan Bautista. Mr. Harris related a story told to him by Sebastian Garcia which told of how "some of the Indians hid out in the Gavilan mountains near Indian Canyon where the topography was extremely rough." He also discussed in his testimony how Sebastian Garcia received "title to the adjoining Indian Canyon property in 1911, and lived in the Canyon until he died in 1933." Yet, perhaps the most powerful testimony given by Mr. Harris relates to his remembered experiences as a young boy.¹⁷⁵

Mr. Harris stated that his family had "been acquainted with that of Ann Marie Sayers for over 100 years." He discussed how his great-grandfather moved to the area during the 1840s and how he was raised by his grandfather, living nearby on Cienega Road (the road leading to Indian Canyon) from 1919 until 1975. Mr. Harris told stories about visiting the Sayers family in Indian Canyon as a young boy, taking "trips to the waterfalls in Indian Canyon where we saw sheep, cattle, pigs, rabbits and chickens

¹⁷⁴ Declaration of Ann Cromwell given to California Indian Legal Services for the United States Department of Interior, Board of Land Appeals, 21 November 1987. Personal Collection of Ann-Marie Sayers.

nearby.” Mr. Harris also remembered his family hiring Elena Sayers and her husband Elliot, along with the children Ann-Marie and Chris, to help “during the walnut crop harvest.” Mr. Harris also included a few photographs dating back to 1930 to support his statements.¹⁷⁶

The third person from which a testimony was gathered was Majorie Pierce, author of the book *East of the Gabilans: The Ranches, the Towns, the People—Yesterday and Today*. Ms. Pierce had conducted interviews with Elena Sayers while researching her book. Ms. Pierce related some of the information shared during those interviews, including Elena’s account that her ancestors had lived in Indian Canyon since the early-1800s. Elena also gave Ms. Pierce a photograph of her mother Maria Garcia, taken in Indian Canyon in 1906. Along with Mr. Harris’, this photograph was included with the testimony.¹⁷⁷

Ms. Sayers also gave testimony, though no different than what she had been saying all along—Indian Canyon is Ms. Sayers’ home as it had been the home of her ancestors. Together these declarations worked to persuade the Bureau of Land Management that the land had indeed been occupied pre-1934, and therefore was exempt from the injunction on Bureau of Land Management lands. Thus, the Board of Land Appeals in Washington, D.C., stating that the “BLM has found the statements to be

¹⁷⁵ Declaration of Howard Harris given to California Indian Legal Services for the United States Department of the Interior, Board of Land Appeals, 21 November 1987. Personal Collection of Ann-Marie Sayers.

¹⁷⁶ Ibid.

¹⁷⁷ Declaration of Majorie Pierce given to California Indian Legal Services for the United States Department of the Interior, Board of Land Appeals, 24 November 1987. Personal Collection of Ann-Marie Sayers.

sufficient evidence that the allotment application lands were occupied by Indians," remanded the case "from the Interior Board of Land Appeals," and vacated the October decision which suspended the issuance of a trust patent due to the injunction placed on Bureau of Land Management lands, including Indian Canyon.

On 20 May 1988, an order was issued by the Interior Board of Land Appeals remanding the case "to BLM for issuance of the proposed decision."¹⁷⁸ On 18 August 1988, Ann-Marie Sayers, a Mustun Band Costanoan Indian, received a trust patent to Indian Canyon, exempting the property "from taxation and other regulation by the county and state."¹⁷⁹ Ms. Sayers' eight-year battle had been won. Her persistence and positive manner helped her to obtain her goal, and recent words perhaps best sum up her experience, "I feel that it's because I'm located on the homesite where my ancestors have always been that I have the ancestral spirits that are guiding the actions and the movement forward, coming to a place in time that I feel is the best time for a California Indian to be alive since contact."¹⁸⁰ The ancestral spirits certainly did guide her, and continued to do so as she moved on to other pursuits. Those spirits still guide her.

¹⁷⁸ Bruce R. Harris, Gail M. Frazier, R.W. Mullen, Administrative Judges, United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals. "Decision Vacated; Case Remanded," 20 May 1988. Personal Collection of Ann-Marie Sayers.

¹⁷⁹ The United States of America. trust patent issued pursuant to Section 4 of the Act of February 8, 1887. Personal Collection of Ann-Marie Sayers. *See Appendix F.*

¹⁸⁰ Sayers, interview by author, 19 March 1999.

CHAPTER FIVE: Noso-n

Once Ms. Sayers' dream of obtaining her ancestral land had been realized, she began pursuing other dreams. These dreams focused, and continue to focus, on emphasizing "that Indian country exists within the Costanoan/Ohlone territory, Indian Canyon."¹⁸¹ The Canyon is the center for many activities aimed at raising awareness about Indian Country, Native peoples and their worldviews. Indian Canyon "is being developed into an educational, cultural and spiritual environment, one that is...now registered with the Native American Heritage Commission as a 'Living Indian Heritage Area.'"¹⁸² As the Canyon historically served as a place of refuge, today it "still serves as a place of healing and renewal."¹⁸³ This healing and renewal is achieved in many ways, from the obvious forms of healing and renewal realized through ceremony, to those forms accomplished through educational activities, the formation of partnerships, community events, and political activism.

Perhaps the most significant way that healing and renewal takes place is through ceremony. Ms. Sayers grew up understanding the importance of ceremony. Her mother believed, as Ms. Sayers does, that if the ceremonies stop, so will the earth.¹⁸⁴ Thus, one of the first actions taken by Ms. Sayers after receiving her individual trust allotment was to open up Indian Canyon to "native people who do not have traditional land for

¹⁸¹ Sayers, "Noso-n: 'In Breath so it is in Spirit:'—The Story of Indian Canyon," 350.

¹⁸² *Ibid.*, 350-351.

¹⁸³ *Ibid.*, 338.

¹⁸⁴ Sayers, interview by author, 19 March 1999.

ceremony.”¹⁸⁵ The Canyon holds six sweatlodges, including a traditional Costanoan subterranean sweatlodge. Three tule dwellings, the dance arbor, and the waterfall also provide areas for ceremony. In fact, the waterfall provides a place to access the water, which “is an essential ceremonial element at Indian Canyon.”

Starting in 1999 and continuing for the next four years, Indian Canyon will host the California Bear Dances. Ms. Sayers is very excited about these dances because she believes that “with the more ceremonies that are taking place here, the more alive the Canyon becomes.”¹⁸⁶ In light of her belief, a few years ago the construction of a traditional village began in the Canyon. *Tupen-Tah-Ruk*, which in the Mutsun language means “Round or Assembly House,” will hold between 200 and 250 people, and will serve ceremonial, cultural and educational purposes.¹⁸⁷

Indian Canyon also serves other educational purposes. Ms. Sayers has opened the Canyon to student field trips, from the fourth grade through the college levels. Fourth graders from the local elementary schools visit the Canyon while they are studying California Indian history. This visit gives the children a chance to experience “materials not in the history books,” which could be as important as learning that California Indians still exist in the present. The students have the opportunity to participate in a different culture and not just learn from books. They are able to hear the history of the Canyon and participate in making “a pledge allegiance to the earth” during their visit. Ms. Sayers has

¹⁸⁵ *Ibid.*, 350.

¹⁸⁶ Sayers, interview by author, 19 March 1999.

¹⁸⁷ Sayers, interview by author, 10 April 1997.

expressed great pleasure in listening to these children go round in a circle and one-by-one make their pledge. By the time they have finished, Ms. Sayers knows “that the earth has another second or two longer to live.”

College students also visit the Canyon on field trips and get involved in activities in the Canyon. Sometimes these older students participate in reclamation work that helps maintain the Canyon. Many also participate in activities that help to generate awareness about Indian people, specifically Costanoan/Ohlone people. The Canyon has interns, who are students from schools such as Stanford, University of California, Santa Cruz (UCSC), University of California, Los Angeles (UCLA), and Cal State Monterey Bay, who assist in creating important educational tools via the Canyon. One student from UCSC created an “ethnobotanical display” highlighting plants found in the Canyon, how they are traditionally used, and their medicinal uses. Other students have helped to create an on-site museum and a Native American library. Another UCSC student, Russ Imrie, created an award-winning website about Indian Canyon, which includes historical information about Costanoan/Ohlone Indians, contemporary information about Indian Canyon, and provides at least 50 links to other relevant websites.¹⁸⁸ Ms. Sayers commented that, ironically, “here, we are in Indian Country, two miles of dirt road, our next door neighbor is a couple of miles away, there’s no electricity...but there is solar, we’re off the grid, and we do have our websites, our computers, our etceteras, etceteras.”¹⁸⁹

¹⁸⁸ Ibid.

¹⁸⁹ Ibid., 19 March 1999.

Educational activities are not the only way Ms. Sayers acts to raise awareness. Over the past few years, Ms. Sayers has hosted a number of people, events, and workshops in Indian Canyon. In 1997 the Canyon “housed” the Peace and Dignity Runners who left Alaska and Argentina simultaneously to meet in Mexico City at the end of their run.¹⁹⁰ The California Indian Storytelling Event is held in Indian Canyon each year, one such event which is open to the public and draws hundreds of local people to listen.¹⁹¹ And recently, Ms. Sayers was the tribal host for the Natural Resource Conservation Service’s *Harmony Workshop*, “five concentrated days of introducing the history of California Indians to all the DCs [District Conservationists] who were educating themselves on how to work with California Indians.” One participating Yurok elder, Vivian Hailstone, commented that participation in this workshop was “the first time” she had “ever seen California Indians and Indians talking—and the government listening.”¹⁹²

Along those same lines of getting the government to listen to the Indian perspective, Ms. Sayers has forged many partnerships with local, state, and federal agencies. At the local level, Ms. Sayers worked with the “County Planning Commission to get an ordinance for the preservation of Native American sites for San Benito County.”¹⁹³ Additionally, Ms. Sayers currently works with the County of San Benito,

¹⁹⁰ Ibid., 10 April 1997.

¹⁹¹ Ibid.

¹⁹² Ibid.

¹⁹³ Sayers, “Noson: ‘In Breath, so it is in Spirit,’” 352.

acting as a liaison between the local agency and Native peoples when a burial is unearthed and needs to be reinterred. Recently three burials were unearthed on private property in Hollister, San Benito County. Ms. Sayers was contacted and located the “most likely” descendant, the person who will now work with the county to have them reburied where they will not be disturbed.

“State and federal agencies are” also “starting to acknowledge our existence.”¹⁹⁴ At the state level, Ms. Sayers has formed a partnership with the California Department of Forestry (CDF). Ms. Sayers works in this partnership to educate those of the local CDF about harvesting and resource management in the area. One representative from the CDF, Butch Washington, was educated about materials used and the manner in which they are used. Excited about the response of the CDF, Ms. Sayers states, “These are practices which we can incorporate very successfully today” and “they are doing so. It’s honoring the wisdom of the elders.”¹⁹⁵

Also at the state level, as a member of a non-recognized tribe who holds land in trust, Ms. Sayers participates in the “Tribal-State Cooperative” hosted by UCLA. This forum started two years ago and acts as a meeting place to foster cooperation among California Indian tribes and the state to discuss such critical issues as child welfare, law enforcement, water rights, federal recognition, and funds appropriation.¹⁹⁶

¹⁹⁴ Ibid., 350.

¹⁹⁵ Ibid.

¹⁹⁶ Meghan Kensler, “Indian Canyon Nation: Surviving Colonization,” 23.

At the national level, Ms. Sayers has signed a cooperative agreement with the National Parks Service regarding the De Anza Trail. Through this agreement Ms. Sayers is seeking to have the Native perspective represented along the trail. A recent trip to Arizona secured agreement from several tribes who will participate in having their perspective heard. Ms. Sayers also acts as a strong voice in the fight for non-federally recognized tribe by bringing awareness of the situation of non-recognition to almost every arena. For example, Ms. Sayers recently questioned how gaming might be affected by those who are non-recognized yet have lands in trust.¹⁹⁷

Ultimately, all the activities involving Ms. Sayers and Indian Canyon serve to promote awareness about Indian people and their lifeways. Indian Canyon acts as the center of this awareness-raising. Whether through ceremony or other activities which promote cultural survival, the healing and renewal, she will continue to be a strong voice in Indian Country. "I put it out there and if you don't hear me, stick around!" Ms Sayers will continue to keep talking, educating, opening, and sharing...others are bound to hear.

¹⁹⁷ *Note:* See Chapter Six, "Threats to Cultural Survival," for a detailed explanation.

CHAPTER SIX: Threats to Cultural Survival

Ms. Sayers met success in gaining an individual trust allotment. As Chapter Five demonstrated, she has used the trust land to promote cultural survival. Still, threats to cultural survival continue to exist. For Ms. Sayers specifically, there exist three potential ways in which her way of life—promoting the survival of Indian Canyon Nation and other Indian peoples—could be in jeopardy. These three related threats all pertain to Ms. Sayers losing the trust status of her land due to non-recognized status. One threat comes from an attorney with the Office of the Solicitor in the Department of the Interior. Scott Keep has told Ms. Sayers that her allotment was received “in error,” a verbal threat which Ms. Sayers has taken seriously. Pertaining to this threat, Ms. Sayers, as tribal chairperson of Indian Canyon Nation, has been in a battle (yes, another one!) to gain federal acknowledgment as a recognized Indian tribe. Not having federal recognition could jeopardize the rights she is entitled to as an Indian person and as a member of a tribe. This recognition is directly tied to maintaining the trust status of her land. Finally, a recently-issued policy statement threatens to take lands out of trust status for Indians who are not federally recognized. However, these threats have been met by Ms. Sayers head on, always with the same positive confidence she possesses.

One of the main threats to the cultural survival of Indian Canyon Nation is not having federal recognition. After Ms. Sayers received her individual trust allotment, one of the next battles she engaged herself in was the fight to gain recognition. In 1989 Indian Canyon Nation submitted its first petition for federal recognition to the Branch of Acknowledgment and Research. The reasons for submitting this petition are many, but all

pertain to the need to have rights recognized to benefit from those rights. Furthermore, Indian Canyon Nation is in a rather unique (comparatively speaking, when evaluating all Indians in the United States) situation in that Ms. Sayers holds trust land, which has created a relationship with the federal government, yet, is not a member of a federally recognized tribe, the only way in which the relationship between Indians and the federal government is acknowledged. However, other California Indians have found themselves in the same situation.

Though Ms. Sayers is the only Indian in California to utilize the General Allotment Act of 1887 to gain an individual trust allotment in contemporary times,¹⁹⁸ she is not the only Indian of a non-recognized tribe who holds land in trust.¹⁹⁹ Like other California Indians in her situation, these people “find it odd and distressing that they can be the beneficiaries of trust land, as well as identified as Indians according to the California Indian rolls, yet have no official status as Indians in the eyes of the federal government.”²⁰⁰ Champagne and Goldberg-Ambrose acknowledge that “there can be a difference between recognition of a tribe and recognition of an individual as being of Indian descent.”²⁰¹ However, Champagne and Goldberg-Ambrose also recognize the important fact that “the existence of the public domain trust allotment offers some

¹⁹⁸ Jay Peterson, California Indian Legal Services, phone interview with Ann-Marie Sayers, 19 March 1999.

¹⁹⁹ Duane Champagne and Carole Goldberg-Ambrose, “A Second Century of Dishonor: Federal Inequities and California Tribes.” *The Community Service/Governance/Census Task Force Report*. Los Angeles: UCLA American Indian Studies Center. 1996, p. 124.

²⁰⁰ *Ibid.*

²⁰¹ *Ibid.*

evidence of a federal responsibility and relationship."²⁰²

This federal responsibility and relationship does not always act as a benefit for Indians who hold trust land. In fact, Ms. Sayers has often found herself in a Catch-22 situation created by her anomalous status. For example, in February 1997, heavy rains caused Harlan Creek to flood and eroded part of the road leading into Indian Canyon, making access in or out of the Canyon impossible. Ms. Sayers contacted the Federal Emergency Management Association (FEMA) and was informed that FEMA would be unable to help because the property is Indian trust land and help must be obtained through the Bureau of Indian Affairs. Ms. Sayers contacted Sharron Williams with the BIA and requested assistance for repairing the road. Ms. Sayers was told that it would be no problem to get the road fixed, as she has trust land and the BIA has a trust responsibility for ingress and egress. However, the next day Ann-Marie received a phone call informing her that assistance would not be possible because Indian Canyon Nation was not a federally recognized tribe, therefore, not eligible for assistance.²⁰³

Water also caused another problem for Ms. Sayers and Indian Canyon Nation seven years prior to the damage from the 1997 rains. In this case, lack of water was the source of the problem. Shortly after receiving her trust allotment, one of Indian Canyon's upstream neighbors, Josh Jenson, built a dam on Harlan Creek to water his newly planted vineyard. The damming caused a tremendous impact on the day-to-day activities in the Canyon. Not only was the water necessary for domestic use and to provide life to the

²⁰² Ibid.

²⁰³ Meghan Kensler, *Indian Canyon Nation: Surviving Colonization*, May 1997.

vegetation, which also supported Ms. Sayers' livestock operation, but over 1,000 people use the water annually in their ceremonies while at Indian Canyon. Ms. Sayers found herself in a legal battle over water rights with her neighbor. She wanted to press federal claims because she holds land in trust, however, she is not a member of a federally recognized tribe and the Bureau of Indian Affairs was again unable to assist her. Instead, Ms. Sayers had to rely upon California water laws to resolve the situation.²⁰⁴

Recently with California's Proposition 5 dealing with Indian gaming, Ms. Sayers again found how the situation of having trust land yet not being a member of a federally recognized tribe can have an effect. At a rally in Colusa, California, where Indians gathered to film a commercial supporting Indian gaming, Ms. Sayers questioned how gaming would affect those who hold trust land but are not federally recognized. Ken Ramirez, the Native American spokesperson for Proposition 5, responded that he was unaware of any California Indian who held lands in trust but was not federally recognized. She, of course, corrected him and shared her situation with him. Surprised, he told Ms. Sayers that he would investigate that situation. To date, Ms. Sayers is still waiting for an answer.²⁰⁵

Even though Ms. Sayers finds herself in this Catch-22 situation, the alternative of not having trust land poses a serious threat. If trust status were to be lost, the only "evidence" of that "federal responsibility and relationship" between Ms. Sayers and the federal government would cease to exist. Thus, one threat to Ms. Sayers and her trust

²⁰⁴ Ibid.

²⁰⁵ Sayers, Phone interview, 29 March 1999: Note: those California Indian gaming tribes are taking

allotment came from Scott Keep with the Office of the Solicitor. During 1995, Ms. Sayers and other tribal chairpersons of non-federally recognized tribes visited Washington, D.C. with the California Indian Advisory Council, which had arranged a meeting between officials in Washington, D.C., and these chairpersons. Ms. Sayers participated in this meeting, as Tribal Chairperson of Indian Canyon Nation. During this visit, Ms. Sayers “was fortunate to obtain a meeting with the Assistant Secretary of the Interior, Indian Affairs, Ada Deer.” Ms. Sayers explained to Ada Deer that they were in “an eighteen-month litigation suit” where she could not press her religious freedom rights (regarding the use of water and using state versus federal water law due to the unique status having trust land but not being a member of a federally recognized tribe) because of a specific legal opinion in Washington, D.C.²⁰⁶ This opinion was presented to Ms. Sayers by Scott Keep, who stated that there are “in excess of 3,000 California Indians who are not federally recognized who hold in excess of 18,000 acres of land in trust.” Mr. Keep continued that “the legal opinion in Washington, D.C., is that if you are not a member of a federally recognized tribe, this government cannot hold land in trust for you.”²⁰⁷ Regarding this statement Ms. Sayers has discussed the difference between this opinion and reality. She stated, “This is diametrically opposite of reality, particularly here in California,” where so much land is held in trust for members of non-recognized tribes.²⁰⁸

When Ms. Sayers brought this situation, and Scott Keep’s “legal opinion” to the

6% of their proceeds from gaming and distributing them to those non-gaming California Indian tribes.

²⁰⁶ Sayers, interview by author, 19 March 1999.

²⁰⁷ Champagne and Goldberg-Ambrose, i24.

²⁰⁸ Sayers, interview by author, 19 March 1999

attention of Ada Deer, Ms. Deer arranged a meeting between Ms. Sayers and other “directors” with the Office of the Interior. This meeting proved that these directors were unaware of this legal opinion. Ms. Sayers believes that this opinion is just that—an opinion—and further believes that “it was primarily instigated by Scott Keep.” However, to clear the confusion, another meeting was arranged. Thanks to Ms. Deer, Ms. Sayers was able to meet with those in the Office of the Solicitor, Scott Keep, Pamela Jones, and Angela Kelsey. At this time, Ms. Sayers was being represented by McCutchen, Doyle, Brown, and Enersen for the water rights previously mentioned. Ms. Sayers did not want to talk to Mr. Keep and the others without her legal representation, therefore, her lawyer was also present during the meeting via speakerphone.²⁰⁹

During this meeting, Angela Kelsey confirmed the “opinion” stated by Scott Keep, yet also stated that she “did not happen to agree with it.” In response, Ms. Sayers’ lawyer said, “Yes, but, the land is in trust. You do have a responsibility.” It was at this time that Scott Keep delivered a statement that concerned Ms. Sayers’ lawyer. He replied, “Yes, when we issued that patent, we think we issued it in error.” Though his words appear to be without justification, they still cause Ms. Sayers sufficient worry in regards to keeping her allotment. Ms. Sayers has not pushed the issue.

Under the General Allotment Act of 1887 lands were to be held in trust for a period of 25 years. However, under the Indian Reorganization Act of 1934, “the Trust period on all Indian Allotments was definitely extended until same is revoked by the

²⁰⁹ Ibid.

Department of the Interior or by some other means.”²¹⁰ One way of extending the trust period is through Executive Order. In Sebastian Garcia’s case, the trust period was extended for an additional 25 years by an Executive Order of 20 September 1936.²¹¹ When the 25-year trust-period is up for Ms. Sayers’ allotment, her land will transmute to fee-simple status.²¹² Steven Hirsh reminded Ms. Sayers that “the trust period for public domain allotments has been extended regularly since the 1930s by executive order.”²¹³ Therefore, losing trust status on her lands through the ending of the 25 year trust period is not an immediate threat, however, a recently-issued policy statement could prove to be one.

Another way in which this trust status, and therefore the relationship with the federal government, is threatened is through a policy statement issued by the Bureau of Indian Affairs on 16 April 1998. Ms. Sayers had contacted Sam Farr, her congressional representative, requesting information regarding a policy she had heard about which would affect “trust lands held by California Indians who are not currently federally recognized.”²¹⁴ Mr. Farr on Ms. Sayers’ behalf requested and obtained this statement, along with additional information intended to make clear the policy and its effects.

The subject of the particular memorandum is “Policy Statement Concerning

²¹⁰Letter to T.H. Donovan, San Benito County Assessor, Hollister, California from Roy Nash, Superintendent, Sacramento Indian Agency, 29 December 1936.

²¹¹Letter to Roy Nash, Superintendent, Sacramento Indian Agency, from J.M. Steward, Director of Lands, 5 May 1937.

²¹²Letter to Steven Hirsh, California Indian Legal Services from Richard D. Freel, Deputy State Director, Operations, Bureau of Land Management, Sacramento office, 1 September 1988.

²¹³Letter to Ann-Marie Sayers from Steven Hirsh, California Indian Legal Services, 6 September 1988.

²¹⁴Sam Farr, personal correspondence to Ann-Marie Sayers, 8 October 1998.

Qualifying as an Indian under the IRA.” The statement deals with obtaining “lands in trust status under the Indian Reorganization Act (IRA) of June 18, 1934.” The heart of this policy deals with qualifications of “individuals of Indian descent” in obtaining such lands. Section 19 of the Indian Reorganization Act is relied upon for determining such qualifications:

all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include all other persons of one-half or more Indian blood.²¹⁵

The policy statement concludes that a person may be of “Indian descent,” however, if “he/she does not qualify as an Indian as described above, the individual cannot acquire lands in trust under the IRA.”²¹⁶ These qualifications alone are worrisome because of the many problems created by defining an Indian according to blood quantum. However, as this policy applies to Ms. Sayers as a member of a non-recognized tribal member who holds lands in trust, the additional material provided by the “Area Director” for the Bureau of Indian Affairs sheds more light on the subject.

The accompanying letter sent to Sam Farr from the Area Director of the Sacramento office of Bureau of Indian Affairs explains the obvious implications of the policy statement regarding blood quantum and heirship as they pertain to individuals holding lands in trust. The last two paragraphs of this letter briefly point out the further

²¹⁵ Policy statement memorandum, 18 April 1998. *See Appendix G.*

²¹⁶ *Ibid.*

implications of this policy statement. First, the Area Director explains that this policy was not “intended to target just California Indians,” rather the fee-to-trust regulations...are applicable to Indians and Indian lands throughout the U.S.”²¹⁷ The Area Director then tied this applicability specifically to those California Indians who are not members of a federally recognized tribe, but who have obtained lands through the “aforementioned probate process,” in other words, those who have obtained trust lands through heirship. The crux of the matter was summed up in the final paragraph. The Area Director stated that:

the subject clarification memorandum is seen as having a profound impact on the present or future status of lands owned by California Indians. We believe that there is also concern that the trust or restricted status now enjoyed by many may be extinguished before any decision is made on any pending tribal federal recognition petition.²¹⁸

Through one paragraph it has become apparent how this policy statement could have critical implications for Ms. Sayers and her trust-status lands.

First, if Ms. Sayers is to fail in gaining federal recognition, this policy could in effect take away the trust status of her individual allotment. Without recognition, and without trust lands, Ms. Sayers will no longer have any ties to the federal government. The federal government will also no longer have any responsibility toward Ms. Sayers or Indian Canyon Nation. Second, by the criteria set forth in this policy statement, trust status could be lost when Ms. Sayers’ daughter, Kanyon, receives the trust land through

²¹⁷ Letter to Sam Farr from BIA Area Director, Sacramento Office, 9 September 1998, p. 2.

²¹⁸ Ibid.

the heirship process. "Utilizing the 1934 definition of 'Indian'...in our case, might not affect me, but will definitely affect my daughter."²¹⁹ Kanyon Sayers-Roods does not qualify under these IRA regulations because she does not have "one half or more Indian blood."

Ms. Sayers has often said that she has to jump through hoops to get what she wants. When I once talked about this notion of "jumping through hoops" with an Elder,²²⁰ he related Ms. Sayers' hoop jumping to Hoop Dancers seen often at pow wows. These dancers use multiple hoops (up to forty) while dancing to the beat of the drum. Hoop Dancers manipulate the hoops into different forms, representations of what they see in life. In the same manner, Ms. Sayers has learned to manipulate those hoops to work in her favor. Thus, although these threats exist, Ms. Sayers will no doubt continue to move forward, as she has always done, in a manner that honors the ancestors. She has now used appropriation to combat colonial practices, both historical and contemporary, and can continue to do so. Regardless, Indians are not going to simply fade into history. As long as we have the knowledge of who we are, we will continue to exist.

²¹⁹ Ann-Marie Sayers, interview by author, 19 March 1999.

²²⁰ Chuck Kensler, Cheyenne River Sioux, May 1987.

CHAPTER SEVEN: Appropriation of an Assimilationist Policy

The past chapters have shown how Ann-Marie Sayers utilized the General Allotment Act of 1887 to obtain an individual Indian trust allotment in 1988. They have demonstrated how Ms. Sayers has used this land to promote cultural survival. Though threats to cultural survival may still exist, Ms. Sayers will continue to use cultural knowledge—"the wisdom of the ancestors"—to combat colonial practices in order to survive as an Indian person.

Keeping the ideas brought forth in Chapter One in mind, a two of examples lend understanding to what is meant by using this cultural knowledge to survive, or as Ms. Sayers would say, to "move forward in a manner that honors the ancestors." Both examples come from previous study conducted with Ms. Sayers regarding Indian Canyon Nation's petition for federal recognition.²²¹ The first deals with the notion of "tribe," and the second with the idea of a "governing body." These examples demonstrate differences in definitions between the federal government and Indian people.

The Branch of Acknowledgment and Research (BAR), the Department of the Interior's agency responsible for handling federal recognition petitions, relies on criteria set forth in 25 CFR 83.7 in determining whether or not an Indian group will be granted federal recognition. These criteria are detailed, and include elements such as proving historical continuity, community distinctiveness, and political influence, and providing written documents, including a "copy of the group's present governing document."²²²

²²¹Kensler. "Indian Canyon Nation: Surviving Colonization." 30 May 1997.

²²²25 CFR 83.7(d).

Given that an Indian group meets all of the BAR's criteria, the group is granted federal recognition as an "Indian tribe." Difficulty can arise for an Indian group in meeting these criteria, simply because the federal government's definition of a tribe differs so vastly from an Indian perspective of a tribe. The government uses "socio-anthropological" criteria, as set forth in 25 CFR 83.7, but Indians define "tribe" in other ways. For example, according to one Indian perspective, a tribe may constitute people who have not abandoned their tribal relations with the environment.²²³ Another Native definition claims a tribe is defined as family, and "family means people are together, they have the same lineage and beliefs."²²⁴ In still another Native definition, "tribe" may be defined as:

a community of people that identify relationships among and between themselves based on genetics, marriage and alliance relationships, and/or socially constructed connections, such as clans and societies. A tribe shares commonalities in worldview, ethics, morals, and behaviors. This group of people may not inhabit the same locale, but maintains cohesiveness through interaction and communication in a variety of forms. The tribe may consist of a nuclear group, a large extended family, or a collective of individuals that identify themselves as a distinct entity, are openly recognized by other members of that group, and whose intent and actions are carried out for the benefit of the whole.²²⁵

A tribe has also been defined simply as "a group of blood-related people that work together for a common goal—survival."²²⁶

²²³ Sayers, telephone interview with author, 26 May 1997.

²²⁴ Jule LeBeau, Cheyenne River Sioux, telephone interview with author, 26 May 1997.

²²⁵ Leslie Berry, Cherokee/Wampanoag, interview with author, Los Altos, Ca, 24 May 1997.

²²⁶ Charles Kensler, Cheyenne River Sioux, telephone interview with author, 26 May 1997.

The second example stems from one of the criterion followed by the BAR. The requirement for providing evidence of a “governing document” states that in “the absence of a written document, the petitioner must provide a statement describing in full its membership criteria and current governing practices.”²²⁷ As Ms. Sayers learned from her mother, the “governing body” in Indian Canyon has always been “the truth, to rise above negativity, and to be responsible for your actions, today and for the future.” Yet, these guiding principles were unacceptable to the BAR. Consequently, Ms. Sayers paid \$5,000.00 to have a written constitution drawn up. In Indian Canyon, this written document has no authority, and those in the Canyon continue to live by the rules that have always guided the people there.

What these two examples show is that differences in meaning exist. The federal government’s meaning of “governing body” and “tribe” vastly differ from those of Ann-Marie Sayers and other Indian people. Yet, in Ms. Sayers’ case, she has “jumped through hoops” in an attempt to see her goals realized. This notion of “jumping through hoops” can be described in another way—appropriation.

Revisiting the ideas presented in Carole Goldberg-Ambrose’s article, which deals with the ways that Indians have utilized the notion of “tribe” to maintain their sovereignty, emphasizes what is meant by appropriation. Goldberg-Ambrose states, “many tribes have established court systems complete with appellate review, environmental protection agencies with formal procedures, and their own bill of rights” because “they have realized that one guarantee of continued tribal self-governing

²²⁷25 CFR 83.7 (d).

authority within the American legal system is adherence to non-Indian legal/political forms,"²²⁸ even though those forms may go against what they hold to be valid and valuable. One such "adherence to non-Indian legal/political forms" is to the notion of "tribe," and is demonstrated through the example of Indian Canyon Nation's petition for federal recognition. Adherence to this form or definition demonstrates "a distinctive way of appropriating the institution of the tribe."²²⁹

Now, Goldberg-Ambrose addresses the resistance to appropriating such institutions. She shows how some argue that appropriation "undercuts that sense of [tribal] identity."²³⁰ Perhaps the sense of their identity is weakened, however, to argue that this appropriation of an outside element has led assimilation is faulty. As discussed in Chapter One, the differences between appropriation and assimilation rest on three related points. First, the *meaning* of the element being appropriated is different for those appropriating it and those from which it comes. Second, the element being appropriated has a different *use* by those appropriating it and those from which it comes. Related to these differences in meaning and use is the idea of value-internalization.

As has been shown, the meaning and use of what is being appropriated are different for those appropriating it and those it is being appropriated from. The *meaning* of tribe is different for Indian people and the federal government, as is shown by the BAR's criteria and the varying "Indian" definitions given. American-style governments used by tribal peoples have a different *use* in that they represent "guarantee of tribal self-

²²⁸Goldberg-Ambrose, "Of Native Americans and Tribal Members," 1135.

²²⁹*Ibid.*, 1123.

governing authority.”²³¹ In other words, “tribal members have come to see the empowerment of tribal governments as essential to maintaining autonomy.”²³² Similarly, Ann-Marie Sayers has come to see the empowerment of the General Allotment Act of 1887 as essential to maintaining autonomy. Implicit in this empowerment is the understanding that the act has a different meaning and use for Ann-Marie Sayers.

Chapter Two lent understanding to the impetus for the General Allotment Act, as well as to the way in which its aims would be achieved. The main impetus of the act was to gain access to Indian lands through assimilation, specifically through allotting individual plots of land to Indians, which in theory would instill the value of private property ownership and break up tribalism. Yet, in the eleven years since Ms. Sayers received her trust allotment, she has not necessarily been instilled with the value of private property, and “tribalism” has certainly not been broken up. In fact, Ann-Marie Sayers has used this assimilationist act to in effect promote tribalism—cultural survival—as described in Chapter Five. Thus, Ms. Sayers’ use of the act has not assimilated her into the dominant Euro-American society, rather it has acted as a way to promote the continuance of culture. The lack of assimilation is directly related, then, to the idea of internalization.

Devon Mihesuah discusses Cross’ “life stages’ paradigm,” which provides a model for examining “identity development.”²³³ The four stages explain what an individual goes through in “identity choice and development.” The fourth stage is termed

²³⁰ *Ibid.*, 1135.

²³¹ *Ibid.*, 1135.

“internalization,” and describes the point in which an individual becomes secure with his or her identity. This internalization, then, means that a person has come to accept that identity. Relating these ideas to the aims of the General Allotment Act, assimilation would be successful if the individual Indian came to accept his or her identity as nothing more than a United States citizen. In that sense the individual would have come to believe in or internalize the value of what was being offered through the Allotment Act. As with many of the Indians who were forcibly made to participate in allotment, Ann-Marie Sayers has not internalized the values associated with the act, and therefore has not assimilated. Rather, Ms. Sayers used the General Allotment Act of 1887 for a purpose other than intended, the very definition of appropriation presented in Chapter One.

At this time two interesting conclusions can be drawn regarding the use of the General Allotment Act of 1887 historically and in contemporary times. First, the act was used originally as a means for non-Indians to obtain Indian lands. In contemporary times, the act has been used as a means for an Indian to obtain non-Indian lands (i.e., federal lands). Second, the original means for obtaining Indian lands was through the assimilationist nature of the act. Again, in contemporary times the act has been used in a way directly opposite of its intention. That is, the assimilationist act has been used to promote cultural survival. Appropriation in this case is a response to change (Haviland, Chapter One) and a response to an external challenge and opportunity (Nagel, Chapter One). This response has worked to, in Goldberg-Ambrose’s words, sustain an evolving

²³²Ibid., 1145-1146.

²³³Mihesuah, “American Indian Identities,” 30.

sense of identity and community.

Once again, then, the idea of static culture arises. The short story that introduced Chapter One, the dialogue between Antelope and Wolf-That-Follows, reflects the ongoing debate about how the adoption of elements outside one's culture affects the maintenance of that culture. As this work has shown, appropriation is one way that outside elements are adopted to maintain a culture. Appropriation, by the definition given, is to take something (foreign) and make it your own. Ann-Marie Sayers did just that—she took the General Allotment Act of 1887 and made it her own, using it in a way that helped her achieve her goals. Ann-Marie Sayers manipulated the many hoops of the General Allotment Act into a form she can work with, into a form that for her is a representation of life. That form is land, ceremony, and her continuing identity as a Mutsun Band Costanoan Indian.

APPENDIX A: Certificate of Eligibility for Ann-Marie Sayers



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
Central California Agency
P.O. Box 15740
Sacramento, California 95813

IN REPLY REFER TO:

Real Prop. Mgt.
Acq. & Disp. Section
006- Ann Marie Sayers

CERTIFICATE NO. 472

TO WHOM IT MAY CONCERN:

This is to certify that Ann Marie Sayers,
California Roll No. _____, a California Indian, born
_____, is eligible as an Indian to
receive land on the public domain under Section 4 of the act of
February 8, 1887 (24 Stat. 388), as amended, or in a national forest
under Section 31 of the act of June 25, 1910 (36 Stat. 855).

Richard H. Russell
Superintendent

APPENDIX B: Allotment Application

Form 2530-1
(July 1977)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
BUDGET BUREAU NO. 42-R1363.1

State Office and Serial Number

INDIAN ALLOTMENT APPLICATION

Section 4, Act of February 8, 1887, (25 U.S.C. 334, 336, and 337), as amended

1. Name of applicant <i>(first, middle initial, and last)</i> Ann-Marie Sayers	Address <i>(Include Zip Code)</i> Hollister, California 95023
---	--

2. If application is being made for a minor child, complete a, b, and c.

a. Name of child <i>(first, middle initial, and last)</i>	b. Age of child	c. What is the relationship of child to you?

3. Sex of Applicant <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female	4. What is the name of Indian tribe of which you or minor child is a member? Costanoan	5. Give number of certificate issued you or minor child, by Bureau of Indian Affairs. One
--	---	--

6. Give legal description of lands applied for

TOWNSHIP	RANGE	MERIDIAN	SECTION	SUBDIVISION
14S	5E	Mount Diablo	24	Lots 1, 2, & 3
State of California			Containing a total of 123.42 acres	

7. What allotments have you or minor child previously received under any Act of Congress? *(List types of prior allotments, if any, together with the laws under which filed or received, if none, write "none")*

NONE



NOTICE

The Privacy Act of 1974 and the regulation in 43 CFR 2.48(d) provide that you be furnished the following information in connection with information required by this Indian Allotment Application.

AUTHORITY: 25 U.S.C. 334, 336, 337

PRINCIPAL PURPOSE: The information is to be used to process the application for an Indian Allotment.

ROUTINE USES: (1) The adjudication of the applicant's rights to the land or resources. (2) Documentation for public information in support of notations made on land status records for the management, disposal,

and use of public lands and resources. (3) Transfer to appropriate Federal agencies when concurrence is required prior to granting a right in public lands or resources. (4)(5) Information from the record and/or the record will be transferred to appropriate Federal, State, local or foreign agencies, when relevant to civil, criminal or regulatory investigations or prosecutions.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of the information is voluntary. If all the information is not provided, the application may be rejected.

-
8. Do you or the minor child occupy the land described in Item 6 above? Yes No
-
9. Have you or minor child placed any improvements on the land described in Item 6 above? Yes No (If "yes," describe such improvements)
-
10. Do you or the minor child claim a valid bona fide settlement? Yes No. (Public land withdrawn by Executive Orders 6910 and 6964 of November 26, 1934, and February 5, 1935, respectively, is not subject to settlement under section 4 of the General Allotment Act of February 8, 1887, as amended, until classified as suitable.)
-
11. Describe the manner in which settlement was made on the lands described in Item 6, above, such as posting of notices, marking corners, construction of houses, etc. (If none, write "none")

APPENDIX C: Petition for Land Classification

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

PETITION FOR CLASSIFICATION
A PETITION TO CLASSIFY AND OPEN PUBLIC LANDS
TO ENTRY OR OTHERWISE TO MAKE THEM
AVAILABLE FOR DISPOSITION

NOTICE TO PETITIONER--APPLICANT

Your application (which must be attached hereto) requests the Secretary of the Interior to take an action that is entirely within his discretion. The basis for the Secretary's authority and the policies and procedures

which he has established under that authority, are described in the regulation 43 CFR 2410, 2430, and 2450. A copy of these regulations can be secured from any land office of the Bureau of Land Management.

PETITION

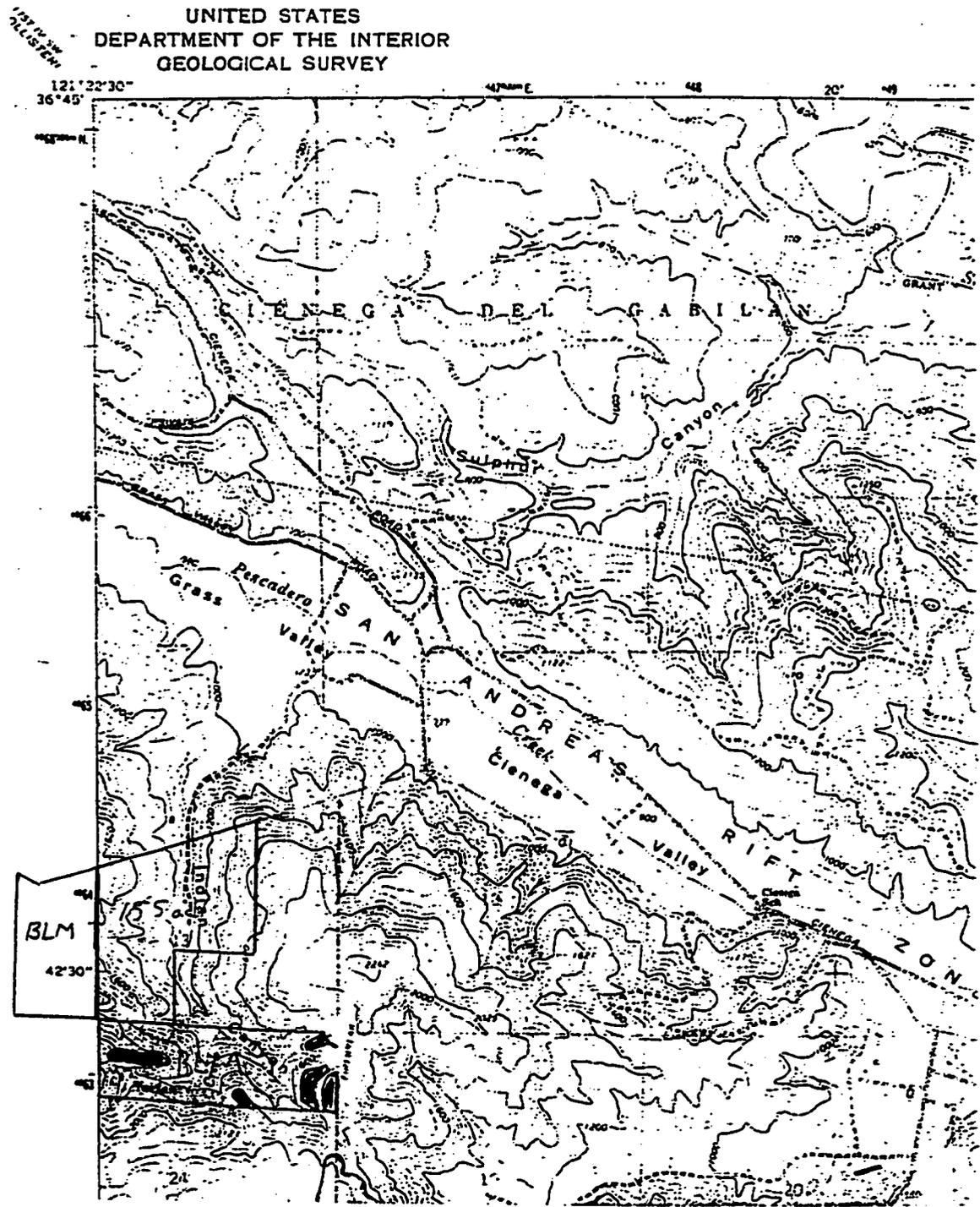
I HEREBY PETITION The Secretary of the Interior to have the lands described in the attached application classified or otherwise made available for entry or disposition pursuant to my application.

I understand that if the Authorized Officer of the Bureau of Land Management does not make the lands available for disposition pursuant to my application, the regulations (43 CFR 2450) are applicable to my case.

Aug. 8, 1981
(Date)

John Marie [Signature]
(Signature of Petitioner--Applicant)

APPENDIX D: Topographical Map of Indian Canyon, Hollister, California



APPENDIX E: Certificate of Allotment for Ann-Marie Sayers

Form 2530-2
(August 1970)
(formerly 2212-2)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
CERTIFICATE OF ALLOTMENT

California State Office
Date OCT 12 1983

I HEREBY CERTIFY That Ann Marie Sayers (Name), an
Indian of the Costanoan Tribe, has filed in this Office,
for herself Allotment Application Number CA 12519
(Insert "himself," name of minor child, or wife, as appropriate)
for (describe land) Lots 1, 2, and 3, T. 14S., R. 9E., Mount Diablo Meridian.

under section 4 of the act of February 8, 1887 (24 Stat. 388), as amended by the acts of February 28, 1891 (26 Stat. 794) and June 25, 1910 (36 Stat. 855-860); and pursuant to said application, the land has been classified as proper for allotment under said acts.

Rose M. Fairbanks, Jr.
(Signature of Authorized Officer)

Chief, Lands & Locatable Minerals Section
Branch of Lands & Minerals Operations
(Title)

APPENDIX F: Trust Patent for Ann-Marie Sayers

Form 1860-4
(May 1963)

The United States of America

To all to whom these presents shall come, Greeting:

Serial No. CACA 12519

WHEREAS,

Ann Marie Sayers,
an Indian of the Costanoan Tribe,is entitled to a trust patent pursuant to Sec. 4 of the Act of February 8,
1887, as amended (25 U.S.C. 334), for the following described land:

Mount Diablo Meridian, California

T. 14 S., R. 5 E.,
sec. 24, lots 1, 2, and 3.

Containing 123.42 acres.

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, has allotted and by these presents does allot, unto the said Indian, the land above described, and hereby declares that it does and will hold the land thus allotted (subject to all statutory provisions and restrictions) for the period of twenty-five years, in trust for the sole use and benefit of the said Indian, and at the expiration of said period the United States will convey the same by patent to the said Indian in fee, discharged of said trust and free from all charge and encumbrance whatsoever; but in the event said Indian dies before the expiration of said trust period, the Secretary of the Interior shall ascertain the legal heirs of said Indian and either issue to them in their names a patent in fee for said land, or cause said land to be sold for the benefit of said heirs as provided by law;

EXCEPTING AND RESERVING TO THE UNITED STATES a right-of-way thereon for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).

IN TESTIMONY WHEREOF, the undersigned authorized officer of Bureau of Land Management, in accordance with the provision of the Act of June 17, 1948 (62 Stat. 476), has, in the name of United States, caused these letters to be made Patent, and Seal of the Bureau to be hereunto affixed.

[SEAL]

GIVEN under my hand, in Sacramento, California, the NINETEENTH day of AUGUST in the year of our Lord one thousand nine hundred and EIGHTY- and of the Independence of the United States the two hundred and THIRTEENTH.

Patent Number 04-88-0047

By Deak Reed
Deputy State Director
California State Office

APPENDIX G: "Policy Statement Concerning Qualifying as an Indian under the IRA"

2022191255

DIRECTOR of OTR 04/21/98 09:37 0001



IN REALTY SERVICES
Real Estate Services

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

APR 16 1998

SEARCHED _____
SERIALIZED _____
INDEXED _____
FILED _____
RESPONSE REQUIRED TO _____
DATE _____
BY _____
LTC _____
TELE _____ OTHER _____

Memorandum

To: All Area Directors
All Area Realty Officers

From: ~~ACTING~~ Deputy Commissioner of Indian Affairs

Nancy Tomison

Subject: Policy Statement Concerning Qualifying as an Indian under the IRA

RECEIVED
APR 23 1998
REAL PROPERTY MGMT

We have had inquiries about whether individuals of Indian descent qualify to acquire lands in trust status under the Indian Reorganization Act (IRA) of June 18, 1934 (48 Stat. 988, 25 U.S.C. 479; 48 U.S.C. 463). For example, an individual inherited lands in trust status within the boundaries of a reservation. This individual did not meet tribal qualifications as an enrolled member but would like to purchase other trust interests in the allotment in which he inherited. Our policy is as follows:

The land acquisition regulation is based on various statutes, in particular, the IRA. Section 19 of the IRA (25 U.S.C. § 479, 48 Stat. 988) defines an Indian for the purposes of acquiring lands in trust status as:

"... all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include all other persons of one-half or more Indian blood. For the purposes of this Act, Eskimos and other aboriginal peoples of Alaska shall be considered Indians."

Although the individual is of Indian descent, but he/she does not qualify as an Indian as described above, the individual cannot acquire lands in trust status under the IRA.

OPTIONAL FORM NO. 10-1985

FAX TRANSMITTAL

of copies > 1

TO: ALL AREA DIRECTOR
FROM: REAL ESTATE SVCS.
DEPT: BIER
PHONE: 202-208-7737
FAX: 202-219-1065
GENERAL SERVICES ADMINISTRATION

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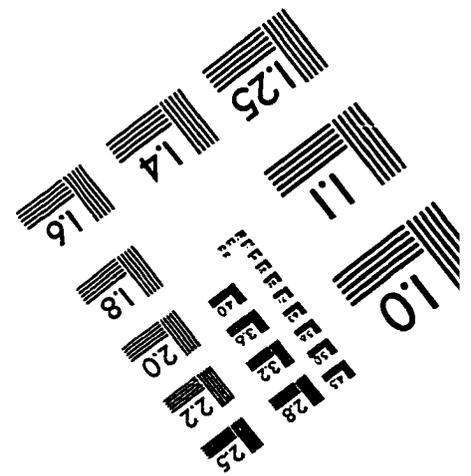
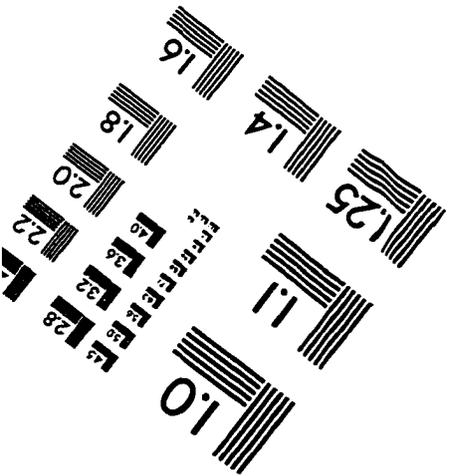
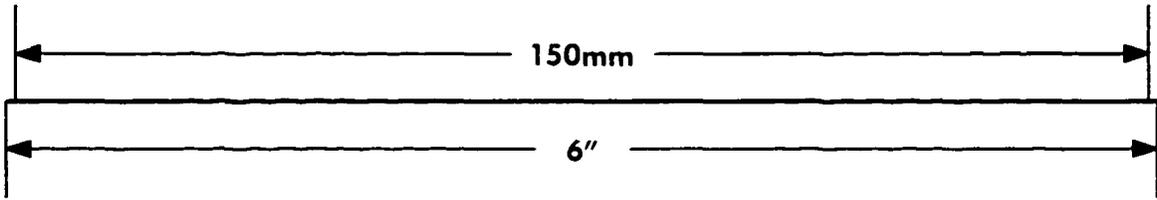
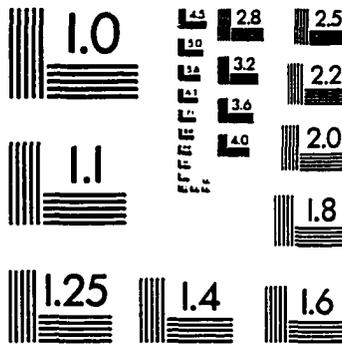
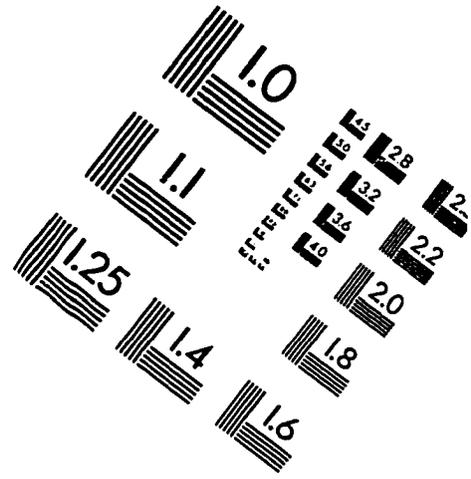
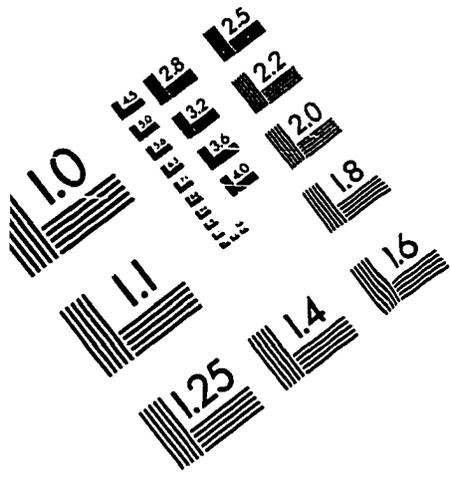
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IMAGE EVALUATION TEST TARGET (QA-3)



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