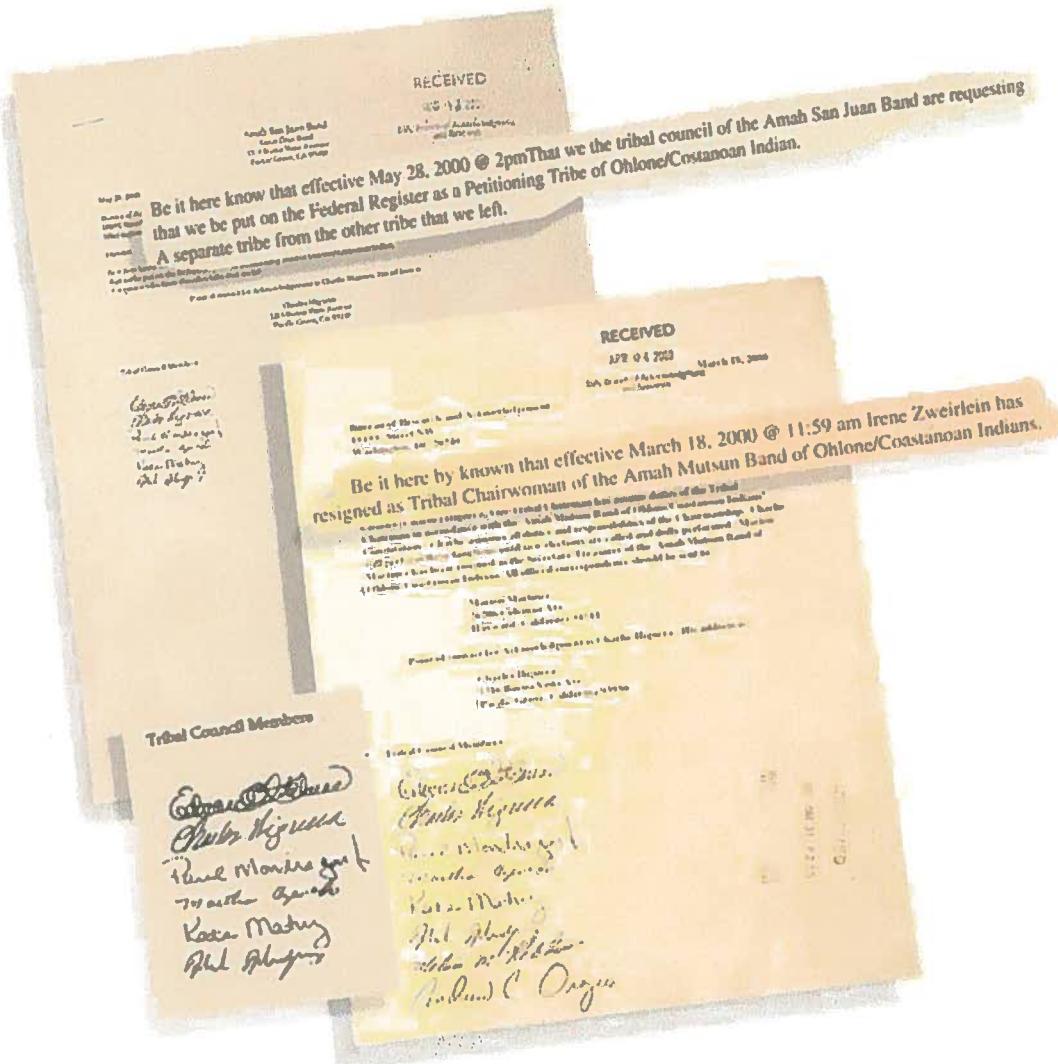


## Forgery Claim Blurs Tribe's Fate

Saturday, August 27, 2005

By Serdar Tumgoren ([stumgoren@gilroydispatch.com](mailto:stumgoren@gilroydispatch.com))



Gilroy - Irene Zwierlein is an Indian leader with clout. Flanked by a legion of consultants and lobbyists, including an accomplished legal historian and two retired U.S. attorneys, she stands in a commanding position to realize the Amah Mutsun Indian Tribe's dream of gaining federal recognition and laying claim to Sargent Ranch, 6,500 acres of rolling hills southwest of Gilroy.

With financial backing from Sargent Ranch owner Wayne Pierce, a high-profile developer, Zwierlein has compiled and sent the government thousands of pages of documents tracing the history of the tribe's 500-plus members to Sargent Ranch and other ancestral sites near Mission San Juan Bautista. She has also signed a development agreement with Pierce that could ultimately allow him to sidestep county zoning laws and develop 3,000 pristine acres under Indian sovereignty.

But rival local Amah Mutsun Indians say Zwierlein's claim to leadership is a scam, based on forged documents and stolen tribal records. Valentín Lopez and his rival Amah Mutsun Tribal Council fear that Zwierlein and Pierce will steamroll their efforts to preserve the tribe's ancestral lands. They are demanding that the federal Bureau of Indian Affairs investigate Zwierlein's legitimacy at once, rather than waiting for the tribe's petition for federal acknowledgment to come up for review.

"A fraudulent letter is a crime," Lopez said. "Like any crime, it needs to be immediately investigated. If we wait for the normal administrative process - 10 or 15 years - the people who are responsible for this crime may not be alive and this investigation may never occur."

The day of reckoning may arrive much sooner, however, if U.S. Representative Mike Honda (D-San Jose) succeeds in pushing through legislation to fast-track the Amah Mutsun's application for federal recognition. Instead of taking a decade or more, the legislation would require the BIA to make a final ruling on the petition within a year. At present, the BIA has refused to get involved in deciding tribal leadership, saying it will continue to communicate with both Zwierlein and Lopez.

"No one likes to choose one group over the other, especially if they don't have all the facts presented to them," Lopez said. "My position is that they should have a responsibility to gather the facts and make a determination, versus ignoring us because we don't have the legal counsel that Irenne (Zwierlein) has."

The ramifications of the BIA's refusal to investigate run deep for the tribe and all of South Valley, since the rival leaders have such different visions for Sargent Ranch.

While Lopez and his group hope to preserve the vast majority of the land, Zwierlein has signed a multimillion-dollar agreement with Pierce that would allow him to bypass the same zoning laws that have previously prevented him from developing golf courses and hillside homes on the property.

Earlier this year, the Dispatch reported that Pierce has borrowed heavily against the ranch, racking up more than \$30 million in debt in the past seven years. Under the terms of an economic development contract submitted to the BIA, Pierce would give the Amah Mutsun tribe 3,500 acres of land and \$21 million for a cultural center. The tribe would keep 500 acres for tribal homes, and lease back 3,000 acres to Pierce for development. The entire arrangement hinges on the tribe gaining recognition and placing Sargent Ranch under Indian sovereignty.

Lopez maintains, however, that Zwierlein does not have the authority to make such deals, and that her self-appointed leadership is based on a web of lies. He says the deception that led the tribe to this juncture began five years ago, when Zwierlein stepped down under pressure as tribal chairwoman.

"After her resignation, she wrote multiple letters to the BIA claiming that we splintered off from the group," Lopez said. "Those letters, combined with letters that were obvious forgeries and were not sent by our tribe, appear to have influenced the BIA to accept her as a legitimate leader."

#### A fateful meeting and a paper trail

On March 18, 2000, eight members of the original Amah Mutsun tribal council sent the BIA notification of a leadership change. The notice capped several stormy years of tribal politics that found Zwierlein at the heart of repeated controversies, according to tribal documents and interviews with members of the original tribal council.

During the mid- to late-'90s, Zwierlein came under attack for a number of issues, including her management of more than \$130,000 in federal grant monies intended to advance the tribe's recognition efforts.

Though Zwierlein has declined to comment on the controversies, they were of utmost concern on March 12, 2000, when tribal leaders assembled at the Pacific Grove home of former vice-chairman Charles Higuera to discuss her future as leader. Although not invited, Zwierlein caught wind of the meeting and showed up with her husband, Harold.

Council members, according to interviews, say they never had the chance to press Zwierlein for answers to their long-standing questions. Instead, the chairwoman and her husband walked out of the meeting as council members began airing their concerns. Her husband returned to Higuera's kitchen a few minutes later and, after speaking to the council about Zwierlein's difficulty in managing the tribe's affairs, offered them her resignation.

Not satisfied with a declaration by her husband, council members asked the chairwoman to sign a letter of resignation.

Zwierlein admits signing the resignation, but she calls the meeting a "hostile takeover." At the time, only two tribal members appeared to agree with that perspective - tribal administrator Joseph Mondragon and council member Melvin M. Ketchum. They joined Zwierlein in the months after her resignation, leaving intact a seven-member tribal council.

But before Zwierlein formed a new group, the remaining tribal council members - including Melvin Ketchum - signed a letter notifying the BIA of the chairwoman's resignation. The letter was dated March 18, 2000.

On Aug. 3, 2000, however, a letter purporting to come from six of the original council members arrived at the agency containing a different version of events. It stated that they, as opposed to Zwierlein, had been the ones to resign.

On Aug. 17, 2000, the agency received a third letter containing similar statements and also purporting to come from the original council:

"Be it here know [sic] that on March 18, 2000, we changed the name of our group. That it has been brought to our attention by the members that came over to us. We apology [sic] for disrupting the tribe. And that we intend to file for Federal petition as a separate group."

Though all three documents contained signatures of original tribal council members, those members say they never signed the letters received by the BIA in August. The agency verified that the second and third letters do not contain original signatures.

Additionally, a forensic analysis completed last month confirmed both are forgeries. The analysis was commissioned by Lopez for \$350 and performed by David S. Moore of Fair Oaks, Calif. Moore determined in his study that authentic signatures were taken from other tribal correspondence and transposed to the forgeries using a "cut-and-paste" method.

In the months following her resignation, Zwierlein signed and mailed documents to the BIA containing statements similar to those in the forgeries.

In a June 3, 2000 tribal resolution sent to the agency, she called the original council she presided over for nearly a decade a "splinter group," claiming "the Main stay of the lineage's stayed with this (remain tribal council)." [sic]

Faced with a storm of contradictory statements, federal officials adopted a neutral posture toward the leadership dispute. On Sept. 26, 2000, the BIA wrote to Higuera thanking him for his recent correspondence. In addition to specifically citing the alleged forgeries, BIA officials referenced Zwierlein's correspondence from the same period.

"When it is unclear who the duly elected governing body is, the BIA must decide with whom it will continue to transact business for the acknowledgment process," the letter stated. "Therefore, in reference to petition #120, the BIA will continue to work with both your governing body and the governing body represented by Ms. Zwierlein."

#### Ramifications of BIA decision

The BIA decision could have a profound effect on the tribe and its lands. It has freed Zwierlein, who started the tribe down its path toward federal recognition in 1990, to create a new tribal council and a constitution that anoints her chairwoman for life. That status has helped her secure the financial backing of Pierce.

Pierce did not respond to requests for comment.

The original council, meanwhile, has scrambled to reconstruct its membership roll, genealogies, and other vital documents. Lopez and his council say Zwierlein has withheld those records. They argue that use of federal grant money to help compile the information entitles all tribal members to access to those key documents.

Zwierlein counters that members should all have their original genealogical documentation. In addition, she refuses to disclose financial records related to the use of the federal grants.

BIA officials, meanwhile, cite privacy exemptions in refusing to release genealogies and other documentation to the Lopez group.

One of Lopez's first acts when he took over for Higuera and became chairman of his faction in 2003 was to alert federal officials to the existence of forged documents.

"The attached letter was written and signed by the impacted council members to bring to your attention that the document dated May 28, 2000 [and received Aug. 3, 2000] is a fraud as the persons whose signatures appear on the document never signed it," Lopez wrote in Oct. 2003 to BIA officials. "I urge and welcome an investigation into this claim as we have had to deal with this type of situation numerous times in the past."

Lopez offered in the same letter to have tribal council members submit to a lie detector test.

In letters to Zwierlein's associates, he went as far as blaming his rival for the forgeries, though he has not shown concrete evidence tying her to the documents.

Speaking at her Woodside home, Zwierlein dismissed the accusations as an attempt to hijack leadership of the tribe and scoffed at claims that she benefited from forgeries.

"There's a saying - he who 'doth protest too much'... 'I don't get my way so I'm going to accuse you of everything in the world,' " Zwierlein said. "This guy just attacks, attacks, attacks. If he ever said anything positive it would be wonderful."

Asked if she thought the government should investigate the source of the letters, Zwierlein said "it doesn't matter," due to the BIA policy of refusing to choose sides in leadership disputes.

She in turn questioned the legitimacy of Lopez and other members of his rival council.

"I want to see the letter to the BIA saying that they were council members," Zwierlein demanded. "Because that's the way to do things - sign it and send it to the BIA."

Lopez says they have sent such letters and now, armed with the results of the forensic analysis, he hopes to convince federal lawmakers and regulators to start asking questions.

#### **Federal response to forgery claims**

Congressman Mike Honda was unavailable for comment, but his chief of staff, Jennifer Van der Heide, stopped short of calling for an immediate investigation. She said the congressman's office would expect an examination of the suspect documents to take place during the normal BIA review process.

She also said the congressman would amend his legislation, HR 3475, to avoid any hint of partiality. The bill now calls for prompt review of "Petition No. 120 for Federal recognition of the Amah Mutsun of Mission San Juan Bautista" - the name of Zwierlein's faction. The Lopez group goes by the more-general "Amah Mutsun Tribal Band."

"We have met with representatives from both sides," Van der Heide said, "and under no circumstances would we try to pick sides."

Lee Fleming, director of the BIA's Office of Federal Acknowledgment, has declined repeated requests for interviews.

"We are not aware of any forensic analysis regarding suspect letters," BIA spokeswoman Nedra Darling said when informed of the study. "However, we do require groups' governing bodies to send in original signatures on all communications and certifications ... If the department has reason to believe that a petitioning group may be engaged in fraudulent activities involving the acknowledgment process, it will notify the department's Office of Inspector General," which investigates such matters.

The Dispatch provided Darling with a copy of the forensic analysis on July 25. To date, BIA officials have not responded to numerous inquiries about the possibility of an investigation.

"When a government agency learns of or has proof of fraud, they have an obligation to investigate it immediately," Lopez said. "We have no doubt it will show who the true leaders of the tribe are."

#### **Investigating the story**

The Dispatch investigation into allegations that forged documents have influenced federal decision making began in January 2005 with a Freedom of Information Act request to the federal Bureau of Indian Affairs. It continued into July, when Amah Mutsun Indian leader Valentin Lopez disclosed a forensic analysis identifying two documents sent to BIA officials as forgeries.

The Dispatch found that federal officials relied on forged documents in a decision to adopt a neutral stance toward a leadership dispute in the Amah Mutsun tribe. It also found the government violated its own policies in handling correspondence that lacks authentic signatures.

The forensic analysis determined, for example, that a letter dated May 28, 2000, contained six signatures transferred from an authentic letter dated March 18, 2000. The signatures, it states, were copied and reduced in scale by 200 percent and transferred to the fraudulent document. Using a standard photocopy machine, the Dispatch enlarged the May 28 signatures to normal scale and found them to match perfectly when laid over a copy of the originals.

The May 28 letter was one of two alleged forgeries federal officials cited in their decision to adopt a hands-off policy toward the leadership dispute, yet BIA officials say they only accept documents with authentic signatures.

In addition to the forensic analysis, the investigation relied on:

Hundreds of tribal letters, resolutions, and other documents obtained from the BIA and tribal members

Interviews with past and present tribal leaders, including: Charles Higuera, Edward Ketchum, Quirina Luna-Costillas, Valentín Lopez, Paul Mondragon and Irenne Zwierlein

Interviews with past and present tribal advisors and consultants

A tape recording of a tribal meeting on March 12, 2000

Requests for interviews were turned down by Lee Fleming, the director of the BIA's Office of Federal Acknowledgment. Repeated requests for comment went unanswered by Sargent Ranch owner Wayne Pierce, as well as Melvin Ketchum, a member of the once-unified tribal council who ultimately joined a new governing body under Zwierlein's leadership.

# Tribal Papers Forged

Friday, April 06, 2007

Gilroy - Federal officials have confirmed that a local Indian tribe leader who inked a deal to bring development to Sargent Ranch - thousands of pristine acres just south of Gilroy - forged and mailed documents to the government in what her rival calls an attempt to cling to power.

But it remains unclear if the investigative finding, released in February by the U.S. Department of Interior's Office of Inspector General, will undermine Chairwoman Irenne Zwierlein's control of the Amah Mutsun Indian Tribe and the fate of its ancestral lands. The 500-plus member group traces its lineage to San Juan Bautista Mission and roughly 6,000 acres of rolling hills and streams between Santa Clara and Santa Cruz counties.

Federal prosecutors will not confirm if they will pursue criminal charges against Zwierlein and federal officials responsible for reviewing the tribe's application for recognition - the first key step before development can occur on Sargent Ranch - say they will continue treating her as a legitimate leader until 2010, the earliest date they expect to review the tribe's application. In the meantime, a local congressman who once championed fast-tracking recognition of the tribe on Capitol Hill has backed off that position, leaving the tribe to face an intensive and lengthy review process at the hands of the federal Bureau of Indian Affairs.

BIA spokesman Gary Garrison, relaying information from Lee Fleming, director of the BIA's Office of Federal Acknowledgment, said the inspector general's report would only be one of several factors considered when OFA decides which tribal leaders are legitimate.

"Even at this point, though the IG (Inspector General) report said that Ms. Zwierlein tampered with documents that were submitted, the Office of Federal Acknowledgment continues to accept documents submitted from Ms. Zwierlein, because she's still stating that she's the leader of this group," Garrison said. "They haven't ruled anyone out or anyone in at this point."

Zwierlein did not return an e-mail and calls for comment Thursday and Friday. Though the BIA spokesman disclosed her responsibility for the forgeries, officials at the inspector general's office blacked out all names, titles and other personal identifiers from their five-page report.

"The investigation confirmed that (...) authored and mailed the aforementioned two letters to OFA in 2000 containing photocopies of tribal council members' signatures," the report states. "In addition, the investigation revealed that (...) authored and mailed three other spurious letters in April 2002."

The first two forgeries arrived at the Bureau of Indian Affairs in summer 2000, just a few months after Zwierlein resigned as tribal chairwoman amid criticisms of her handling of \$130,000 in federal grant money earmarked for the tribe's recognition efforts. The letters suggest that the original tribal council members, rather than Zwierlein, had resigned from the group. Around the same time, Zwierlein and a newly formed tribal council sent letters making similar statements to the BIA.

A forensic expert found that the signatures on the first two forgeries were photocopied and pasted from other tribal correspondence. The three forgeries from 2002 included a letter to the BIA, a letter to the California Native American Heritage Commission, and a letter to a tribal member threatening legal action.

Rival leader Valentin Lopez, who first drew the attention of federal investigators to the forgeries, said the inspector general report confirms his allegations that Zwierlein's splinter group tried to deceive the government.

"She resigned and then she regretted that decision. And then she attempted to reclaim chairmanship," he said. "I'm disappointed with the BIA that they give her the opportunity to continue to try and establish herself as a legitimate leader for the next three, four, five, 10 years. That's to the detriment of the legitimate tribe and should not be allowed to occur."

The fate of Sargent Ranch could hinge on which tribal leader wrests control of the group's petition for acknowledgment. Lopez said that his tribal council plans to build a cultural center and preserve the remainder of Sargent Ranch if they gain control of the property. Zwierlein, on the other hand, has struck a land deal with San Diego-based developer Wayne Pierce that could open the door to development on the



The Sargent Ranch site.



An aerial view of Sargent Ranch's borders, just south of Gilroy.

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property. Pierce, who has borrowed at least \$30 million against the ranch in the last eight years, has had county supervisors rebuff his past efforts to build golf courses and hillside homes on the property.

The developer could sidestep county zoning regulations if the Amah Mutsun gain federal recognition and place the land under tribal sovereignty. Under an economic development agreement Zwierlein submitted to the BIA, Pierce would give the Amah Mutsun tribe 3,500 acres of land and \$21 million for a cultural center. The tribe would keep 500 acres for tribal homes and lease back 3,000 acres to Pierce for development.

Santa Clara County Supervisor Don Gage, who has dealt with both Lopez and Zwierlein for several years, said the BIA should immediately recognize the tribe's proper leadership based on the inspector general's report. With regard to the prospect of development on Sargent Ranch, Gage said his opinion has not wavered.

"I don't want to see that land changed into a casino or housing," he said. "There are significant environmental impacts out there and it will have severe impacts to the City of Gilroy. It's going to impact schools. It's going to impact the highways. It's a big deal."

Pierce did not return an e-mail or phone calls for comment Thursday and Friday.

For the moment, it appears the prospect of fast-tracking Sargent Ranch development in congress has reached a dead end.

U.S. Representative Mike Honda (D-Campbell) has supported the tribe's efforts to gain sovereign status, which confers access to federal education, health and housing programs. And he has always separated the issue of recognition from development, despite criticisms that sovereign status opens the door to development. In the late '90s, as a Santa Clara County supervisor, Honda rejected Pierce's efforts to develop the tribe's ancestral lands. In 2004, as a congressman, he introduced legislation that would have granted federal recognition to the tribe.

That bill died in committee under Republican congressional control and Honda now has no plans to re-introduce the legislation.

"(Congressman Honda) doesn't intend to submit any related legislation on this matter," spokesman Daniel Kohns said Thursday.

With regard to whether federal prosecutors should pursue the forgery matter, Kohns said that "Congressman Honda has sworn to uphold the Constitution and believes in the rule of law in the United States, and any contravention of the rule of law should be investigated vigorously."

It remains unclear, however, if federal prosecutors will pursue the matter. Scott Culver, the Interior Department's assistant inspector general, would not specifically confirm that the investigative report was forwarded to the Northern California division of the U.S. Attorneys Office, based in San Francisco. But he said that "any time we conduct an investigation where there appears to be the possibility of some kind of criminal conduct, we would automatically refer that matter to the U.S. Attorney's office."

The attorney's office would not confirm if it had officially received the matter or if it plans to press criminal charges. Natalya LaBauve, spokeswoman for the U.S. Attorney's Office, said "we don't have a pending case on that matter."

A spokesman for the California Department of Justice did not return a phone call for comment. It remains unclear if that agency would pursue criminal charges in relation to the 2002 forgery mailed to the California Native American Heritage Commission, which is a state agency.

Lopez said the tribe does not want to be perceived as "pit bulls" by filing a civil suit over the forgeries. Instead, he hopes the inspector general's report will convince Zwierlein's faction to unify with the original council. Lopez plans to meet with BIA officials in coming weeks to discuss his group's claim to Petition 120, the tribe's application for federal recognition.

"Our position is that these forgeries are no longer alleged. These forged documents are a pivotal issue," Lopez said, adding: "We think there is no leadership dispute and (Zwierlein) should not have any rights or access to Petition 120."

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