

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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Serdar Tumgoren

Serdar Tumgoren, Senior Staff Writer, covers City Hall for The Dispatch. Reach him at 847-7109 or stumgoren@gilroydispatch.com.