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## The Little Tribe That Could

**As descendants of San Francisco's aboriginal people, the Muwekma Ohlone Indian tribe seldom gets much respect. But that could be about to change.**

**By Ron Russell**

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In the arcane and often contradictory world known as Indian Country, the Muwekma Ohlone have long been a special case. Claiming San Francisco and much of the Bay Area as their ancestral homeland, the Muwekma, about 450 strong, are the Rodney Dangerfield of California Indian tribes. Seldom have they gotten much respect.

Paolo Vescia



The little-known tribe was summarily ignored in the late 1980s when it laid claim first to the Presidio, and then to the former Hunters Point Naval Shipyard, after the government announced the closure of military installations at those locations.

More recently, it suffered the indignity of having other tribes backed by powerful casino interests (but with dubious ancestral connections to the Bay Area) seek to establish lucrative gaming empires at San Francisco's doorstep, on its claimed ancestral turf. Those tribes — including the Koi Nation and several other upstate Pomo groups, each with designs on opening gaming meccas along the East Bay shoreline — possess something that has long eluded the Muwekma: all-important federal recognition.

Just how the Muwekma, whose descendants were federally recognized until 1927, became outcasts in the eyes of the United States Bureau of Indian Affairs, which has jurisdiction in such matters, is a tale unto itself. It involves a long-ago tragic misjudgment by a famous UC Berkeley anthropologist and the apparent incompetence of one or more government agents. The tribe's predicament is all the more peculiar considering that similar Native American groups with an arguably weaker case for federal recognition have — with help from friends in high places — managed to obtain it.

Muwekma Ohlone tribal chair Rosemary Cambra.



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But the Muwekma have taken an unusual approach to seeking sovereign nationhood. For the past eight years, they've duked it out with the federal government in court. Leading the fight is scrappy Muwekma tribal chair Rosemary Cambra, who lives in a Milpitas mobile home park and once served time in jail for belting an archaeologist with a shovel.

Financed by their own casino sugar daddy, Florida real estate tycoon Alan Ginsburg and his associates, as well as with proceeds from the tribe's own archaeological consulting firm, the otherwise humble Muwekma have spent millions of dollars on the effort. Much of that money has gone toward procuring the aid of a high-powered Washington, D.C., law firm.

Now their struggle may be about to pay off.

A federal judge, who last September was openly skeptical of the government's rationale for withholding recognition from the tribe, is expected to rule perhaps as early as June on whether to grant Muwekma the acknowledgement it seeks. The decision by U.S. District Judge Reggie B. Walton of the District of Columbia, who presided over the recent obstruction-of-justice trial of former vice presidential Chief of Staff I. Lewis "Scooter" Libby, promises to have far-reaching repercussions.

"The implications are broad and for the tribe the stakes are high," says Carole Goldberg, who teaches Indian law at UCLA and who has monitored the tribe's legal struggle.

Owing to an obscure federal law passed in 1990 giving recognized tribes new rights with regard to Indian artifacts and skeletal remains, a victory could mean that the Muwekma will be able to demand the repatriation of thousands of Ohlone skeletal remains at UC Berkeley's Hearst Museum — the largest repository of Indian bones outside the Smithsonian.

But more significantly, recognition would open the door for the tribe, with the U.S. Department of the Interior's approval, to place land in federal trust as a "reservation" on which it could open a casino. Indeed, should they attain recognition, the Muwekma almost assuredly will become the envy of non-gaming tribes from outlying regions of the state who've tried and thus far not succeeded at "reservation shopping" — that is, attempting to set up casino operations in urban areas far from their aboriginal homeland. The Muwekma, as it turns out, have an ace in the hole giving them an advantage over their would-be casino competitors.

"Recognition will change the natural order of things in a number of ways," says Colin Cloud Hampson, one of the

Tribal members oversaw a massive reburial of Indian bones in the East Bay in 1989.

#### Ron Russell



Alan Leventhal, a San Jose University professor, is the tribe's ethnohistorian.

#### Paolo Vescia



Cambra with her daughter and grandsons at the Presidio, sacred ground to the Muwekma.

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tribe's lawyers. "In a political sense it is clear that the Muwekma will be in a much stronger position than perhaps many people ever imagined."

At first blush, Rosemary Cambra, 59, a one-time nurse who lives modestly with her Portuguese-American husband of 38 years, doesn't fit the stereotype of someone who could soon become the leader of a sovereign nation.

Mild-mannered and with a shock of snow-white hair that appears brilliant enough to glow in the dark, she speaks softly and measures her words carefully when it comes to tribal matters, as if the weight of a people rests on her shoulders.

The daughter of farm workers whose older sister once marched with Cesar Chavez, Cambra says her coming of age as an activist came in 1969 when she was a young woman. That year, she and some friends with access to a fishing boat set sail for Alcatraz and briefly joined the landmark Native American protest occupation of the island.

About a decade later, she became the Muwekma's leader by default, she says, after many of the tribe's younger males, newly returned from the Vietnam War, were either too busy starting families or too disillusioned to take up the recognition struggle.

Besides locking horns with the federal government, she's also had to contend with internecine rivals, including a group of Ohlone who, despite sharing similar ancestries, have never enrolled in — and have occasionally belittled — the tribe.

The group centers around Philip Galvin, a Fremont handyman in his 80s whose patriarchal status has earned him the nickname "Chief Philip" among some Muwekma. Records on file with the Secretary of State's office show Galvin as the principal agent for Ohlone Indian Tribe Inc., a nonprofit entity that controls a historic Ohlone cemetery in Fremont. Despite the name, the entity doesn't pretend to be a tribe and has never applied for tribal status with the Bureau of Indian

Affairs, or BIA.

Galvin declined to discuss Cambra or the Muwekma for this article, referring questions to his son, Andrew, a former seminarian and the curator at Mission Dolores. "Let's just say we're more interested in academic and religious issues, and Cousin Rosie is more interested in politics," Andrew Galvin declares.

Others, meanwhile, view Cambra as something of a visionary.

"There's no question in my mind that the tribe wouldn't have gotten to where it is today except for Rosemary's leadership," says Dena Magdaleno, a leader among the Tsungwe tribe in Northern California. She has worked alongside Cambra agitating for Native American rights, including pressing the flesh in the corridors of power in the nation's capital.

At a 1995 White House reception at which President Clinton was present, Cambra handed a BIA undersecretary a copy of the Muwekma genealogy and quietly exhorted her "not to make this our death certificate," Magdaleno recalls.

In 1989, when the Army announced plans to transfer the Presidio to the Department of the Interior for inclusion in the national park system, Cambra showed similar forcefulness. She fired off a letter to the Secretary of the Army, claiming "right of first refusal" to ownership of the Presidio on the tribe's behalf. She entered similar claims — each of them ignored — for Hunters Point Naval Shipyard and the former Alameda Naval Air Station.

"You're not going to tell Rosemary something's impossible if she thinks it's in the [Muwekma's] best interest," says community activist Espanola Jackson. She credits Cambra with helping torpedo an unpopular Bayview development proposal in the 1980s after drawing attention to Indian burials there. A volunteer liaison for the tribe in San Francisco, Jackson says of Cambra: "She's a mild-mannered, sweet woman who seldom gets upset. I have to kick her to make her mad."

But it wasn't always that way.

In the summer of 1985, angered at perceived insensitivity toward Indian remains unearthed at a construction site in downtown San Jose, Cambra — with a camera crew from a local TV station looking on — attacked field archaeologist William Roop with a shovel, opening a 2-inch cut on his right arm before onlookers restrained her.

"The woman tried to kill me. You have to understand I don't assign much credibility to what she has to say," says Roop, who heads an archaeological consulting firm in Petaluma.

The incident cost Cambra dearly. Originally charged with assault with intent to kill, she later pleaded guilty to simple assault and was sentenced to weekends in jail for a year (an accommodation by the judge, considering that she had three small children at home), plus three years probation. As a convicted felon, Cambra lost her nursing license and she and her husband filed for bankruptcy.

For a time, the incident made her an Indian Country celebrity. It's a role she never relished, although she admits to keeping the shovel. "I've used it as a teaching tool for my children and grandchildren — about what not to do."

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Among the vast collections at UC Berkeley's Phoebe A. Hearst Museum of Anthropology are some 269,000 Native American ethnographic and archaeological artifacts from California alone — by far the largest collection of its kind.

Of the relative handful of them on display in the museum's exhibition hall — including items related to the famous Ishi, the reputed "last Stone Age Indian" who stumbled down out of the Sierras in 1911 and into the hearts and minds of subsequent generations of schoolchildren — not a single artifact pertains to the Muwekma.

But the basement is a different story.

There, off-limits to all except scholars, are some 10,000 skeletal remains, part of an archaeological legacy that dates back more than a century to the legendary Alfred L. Kroeber, the museum's first curator. It's the largest assemblage of Native American bones outside the Smithsonian. Many — if not most — of them came from the Bay Area's shellmounds and other burial grounds dug up over the decades to make room for freeways, shopping centers, and subdivisions.

Cambra considers many of the remains to be those of her tribal ancestors. Since many of the remains are uncontestedly Ohlone, and since, if the Muwekma succeed, they will become the only Ohlone

group with federal recognition, it's a contention that could carry a great deal of weight. Three other Ohlone tribes, also unrecognized, claim ancestral territory farther south, on the Monterey Peninsula and in the Salinas Valley.

Years ago, Cambra agitated for the university to surrender its Ohlone bones for proper burial, to no avail. But if the judge rules in the tribe's favor, that could change, with potentially dramatic consequences for the Hearst Museum, which, among other things, prides itself as among the nation's leading centers for anthropological research.

Amid heightened sensitivity on such matters, Congress in 1990 passed the Native American Graves Protection and Repatriation Act, often referred to by its acronym, NAGPRA. The law changed the rules for how museums and other institutions treat Indian remains and funerary objects in their possession. It requires the institutions to consult with recognized tribes, and, under certain circumstances, provides them the right to visit the collections and claim the remains of their ancestors.

Kent Lightfoot, an anthropologist and the Hearst's interim director, says the museum complies "with the letter of the law" and has repatriated an undisclosed number of skeletal remains after consulting with numerous tribes across the country. Tim White, the museum's curator of biological anthropology, defends its custodianship of the bones, saying, "They're kept under very appropriate protocols and conditions. You won't find any [bones] on display, as other institutions have done."

However, when it comes to the Muwekma — by far the largest would-be claimant of the Hearst's Indian remains — the museum is under no obligation because the tribe is not federally recognized. "If and when recognition occurs, that would change the equation," Lightfoot acknowledges. "If that were to happen and the tribe comes to us with a request, we will certainly work with them to the best of our ability."

Cambra says that should the tribe gain recognition, "one of our first priorities will be to direct our attention to UC Berkeley and open discussions with them about how best to return our ancestors' remains for proper burial."

It's an area where she and the tribe — federally recognized or not — claim a considerable track record.

"I would say that Rosemary has been more instrumental in raising consciousness on the repatriation issue than anyone realizes," says Laura Jones, campus archaeologist at Stanford University. Jones' first meeting with Cambra, in 1987, while a Stanford graduate student, was portentous.

Jones recalls the day that Cambra and several other women from the tribe came to the old Stanford Museum after making an appointment to view Ohlone baskets not on public display. The women were led to the museum's basement, where skeletal remains were laid out on shelves near the artifacts they had come to see, and Cambra announced, "We want to see it all."

After Jones removed the cover to a storage tray bearing the remains of an Indian child and one of the women began to cry, she led them outside to a picnic table in the Rodin Sculpture Garden. There, Cambra intoned, "I want to know why you need to keep these people. If you don't have any reason to keep them, we want them back."

Two years later, after protracted negotiations with university officials — and before NAGPRA became law — Stanford voluntarily repatriated some 700 skeletal remains to the tribe for interment in an East Bay regional park. The move touched off controversy among anthropologists and archaeologists at other institutions, some of whom feared a wholesale run on their bone collections.

For a time, Cambra and the Muwekma were the darlings of Indian Country. Their having persuaded Stanford to surrender an archaeological treasure trove had been quite a feat for a tribe that the government officially refuses to admit exists.

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Among the nation's nearly 250 tribes unrecognized by the federal government, the Muwekma is an unusual case. Although previously recognized as a tribe a century ago, and despite never having that acknowledgment lifted by Congress, which alone has the power to do so, the tribe in 1927 ceased to be listed on the Federal Register as federally recognized.

Whether due to ignorance or ill will, the removal was predicated on the mistaken notion that the tribe had become extinct, says Alan Levanthal, a San Jose State University anthropologist and the tribe's ethnohistorian.

Muwekma Ohlone is the modern iteration of the Verona Band of Mission Indians whose ancestry, from the time of Spanish contact in 1769, can be traced to settlements at Mission Dolores in San Francisco, Mission Santa Clara, and Mission San Jose in Fremont. No one, including the BIA, disputes the genealogical connection between Muwekma's 450 enrolled members and the Verona Band. The band was named for a train station near the Alameda County settlement where the BIA's C. E. Kelsey found dozens of the Indians living in poverty in 1906, the year the tribe gained recognition.

Driven from their Bay Area lands by settlers after statehood, the tribe had been reduced to squatting on property bought by wealthy UC Berkeley regent and museum namesake Phoebe Apperson Hearst, the mother of newspaper titan William Randolph Hearst. Phoebe Hearst, who died in 1919, built a palatial estate on what is now Castlewood Country Club in Pleasanton and allowed the Indians to remain. Some of them became her servants.

But the tribe's luck, such as it was, took a turn for the worse.

In his influential 1925 work, *Handbook of the Indians of California*, Alfred Kroeber, the renowned UC Berkeley ethnographer and the person after whom the building that houses the Hearst Museum is named, observed — mistakenly, as even he acknowledged some 30 years later — that the Verona Band appeared to be extinct. Two years later, the newly appointed superintendent of BIA's Sacramento office, Lafayette Dorrington, dropped the Verona Band from the Register list of federally recognized tribes.

Levanthal, the ethnohistorian, calls what happened to the Muwekma "a quintessential example of the politics of erasure." He adds, "A government bureaucrat arbitrarily and mistakenly declares that a people no longer exists, and now 80 years later their descendants still struggle to force the government to acknowledge the obvious."

That struggle has been nothing if not frustrating.

After several years of exhaustive genealogical research and filing thousands of pages of documentation with BIA in 1995, the tribe waited for more than a year for the agency to issue a letter merely confirming its "previous unambiguous recognition." The Muwekma were then placed on a waiting list of tribes seeking recognition. Based on the agency's resolving fewer than two such cases per year, it appeared likely that the Muwekma wouldn't get their turn until at least 2020. With the current generation of tribal elders growing older, Cambra says, "We didn't have that kind of time."

To expedite its case, the Muwekma sued the BIA, accusing the agency of unreasonable delay in considering its petition. In 2000, a federal judge ruled in the tribe's favor and gave the agency two years to act.

In 2001, as the deadline approached, BIA rejected the tribe's application, despite a few months earlier having granted recognition to two other tribes who weren't on the waiting list and whose circumstances closely matched those of the Muwekma. Astonishingly, one of those tribes was Koi Nation, whom the outgoing head of the BIA, Kevin Gover, granted recognition by executive order on his final day in office. As first reported by *SF Weekly*, Gover, who now teaches Indian law at Arizona State University, later went to work as a lobbyist on the Koi Nation's behalf during its failed push for the Oakland casino.

In 2003, the Muwekma sued again, this time asking a federal judge to order the agency to restore the tribe's recognition. Citing the constitution's equal protection clause, the tribe contends that BIA acted "arbitrarily and capriciously" in denying its request while granting recognition to Koi Nation and an Alaskan tribe.

Although BIA does not dispute that Muwekma's tribal status was never officially terminated, the agency nonetheless posits that the tribe has not always remained a cohesive entity after being dropped from the Federal Register. Yet, a similar finding in the case of the Koi and the other tribe did not prevent the agency from restoring them.

Walton, the judge hearing the matter, issued a memorandum last September taking the agency to task for the way the case was handled, saying that the BIA "[had] not articulated a sufficient basis" for its "disparate treatment of the Muwekma" compared to the other tribes.

The judge in effect gave the agency one last chance to review the voluminous administrative record of its dealings with the tribe and demonstrate how denial of the Muwekma's claim is justified. In February, the agency submitted additional materials. In March, the tribe's lawyers filed new briefs, arguing that BIA's rationale is no more convincing than before the judge questioned it.

BIA spokeswoman Nedra Darling says the agency will have no comment on the matter, pending the outcome of the case. Harry R. Sachse, the tribe's lead counsel, says he's "very optimistic." Sachse compares BIA's "intransigence" toward the Muwekma to school boards that resisted desegregation during the civil rights era. "Rather than do right by the tribe, it appears the Bureau of Indian Affairs prefers to have a court order them to do so."

If Sachse's name sounds familiar, it's because he's a former assistant U. S. Solicitor General in the Nixon and Ford administrations whose resume includes a stint teaching Indian law at Harvard. Lawyers like Sachse don't come cheap, and the Muwekma can't afford his legal tab on its own. But others can — others who are gambling that the Muwekma will become the first California Indian tribe to hit the jackpot and open a casino in an urban area.

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Cambra isn't comfortable talking about gaming. "That's something that isn't on our minds right now. We're totally focused on the recognition issue."

But if she isn't talking, others are.

"Opening a casino is the end-all of the tribe's struggle," opines Cheryl Schmit, co-chair of Stand Up for California, an anti-gaming group. "It's the pot of gold at the end of the rainbow." This could especially be the case for the Muwekma, who, if recognized, would enjoy a distinct advantage over landless tribes from outside the Bay Area who want to open casinos here.

Federal law prevents tribes from setting up casinos on land they didn't already own in 1988 (the year the Indian Gaming Regulatory Act was enacted). But so-called "restored" tribes — including the Muwekma, if they succeed — which had no land when the law was passed, are exempt. Should the Muwekma, as a landless tribe, win recognition and establish a "reservation," they — unlike most other

tribes — would not need the consent of California's governor to open a casino. (Gov. Arnold Schwarzenegger is on record opposing urban casinos.)

All of which helps to explain how a tiny group of Indians with ostensibly few resources could sustain a protracted legal battle against a federal agency that, by the tribe's acknowledgement, has cost it "several" millions of dollars. Its legal counsel, Sonosky, Chambers, Sachse, Endreson & Perry, with headquarters on K Street in Washington, is among the nation's pre-eminent firms specializing in Indian law.

"How do they afford it? I think you'd have to ask them that question," says Sachse.

Cambra deflects questions about the tribe's finances. To help pay its bills, the tribe has operated Ohlone Families Consulting Services, an archaeological consulting firm, since the 1980s, she says. But the business seems an unlikely candidate to cover mounting litigation costs. In a belt-tightening move, the firm closed its offices in San Jose four years ago, and its consultants, which still do occasional work for Caltrans and private developers, work from their homes, says tribal administrator Norma Sanchez.

Sources familiar with the matter say that since 1999, when the Muwekma filed the first of two lawsuits against the Interior Department (which oversees the Bureau of Indian Affairs), its legal tab has been picked up by Alan Ginsburg, the Florida real estate developer, and an associate, Frank Shunock.

Ginsburg, who did not respond to interview requests for this article, has long been a key behind-the-scenes player in trying to bring Indian gaming to the Bay Area. His North American Sports Management Co. is the prime backer of the Scott's Valley Band of Pomo's efforts to build a Vegas-style gambling establishment in the unincorporated East Bay community of North Richmond. Until the tribe switched its allegiance to another developer, Ginsburg had also backed the Guidiville Band of Pomo's campaign for a casino next door in Richmond.

And, ironically, considering his ongoing role with Muwekma, Ginsburg was, until 2005, the financier behind Koi Nation, a 53-member Pomo band (aka Lower Lake Rancheria) that tried unsuccessfully to procure land for a casino near the Oakland airport.

Koi Nation's effort was especially nettlesome for Cambra, who says she personally introduced its tribal leaders to Ginsburg several years ago when the tribe expressed interest in launching a casino project in Lake County, its aboriginal territory. "The next thing you know, they're down here, claiming to be native to the Bay Area, and trying to set up in Oakland," says Cambra, who spoke against the Koi project at public hearings.

Was Ginsburg simply trying to hedge a bet?

"You'd have to ask him," she says. "Our position then is the same as it is now. The Bay Area is our aboriginal land. A lot of people wrote us off because we're not federally recognized. They don't think we'll ever make it. But they're about to be surprised."

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Although critics believe a potential casino bonanza is the driving force behind the tribe's efforts, Cambra is quick to point out that the Muwekma's struggle predates large-scale Indian gaming. Voters approved Proposition 5 to sanction gaming on the state's Indian reservations in 1998. After the initiative was ruled unconstitutional, voters in 2000 approved Proposition 1A, ratifying Indian gaming and triggering a casino frenzy among the state's tribes. The Muwekma brought their petition for recognition to the Bureau of Indian Affairs in 1989.

If the Muwekma get recognition, a casino is not the only thing on Cambra's mind. For one thing, there is the repatriation of the bones at the Hearst museum. Cambra also has her eye on San Francisco's Presidio.

Brushed aside by the National Park Service in the early '90s with regard to future planning at the Presidio, the tribe has stood on the sidelines and watched as officials there have dealt with other Native American groups on cultural patrimony issues that the Muwekma contend is their rightful domain as the park's claimed aboriginal people.

With a view toward an anticipated change of status, the tribe earlier this year resumed participating in talks on such matters sponsored by the park service and the Presidio Trust, which, since 1998, have had joint jurisdiction over the former Army base.

Although officially "recognized" as San Francisco's first people by the Board of Supervisors more than a decade ago, the tribe's local history is little known and even less appreciated, supporters say. Muwekma Ohlone Park — the lone city landmark bearing the tribe's name — is a weed-strewn patch of unimproved open space along Islais Creek in a heavily industrial section of the Bayview.

That, too, will change eventually, Cambra insists.

For now, while remaining cautious, the tribal leader is counting the days to anticipated judicial vindication.

Cambra even imagines how she will get the news. Although expecting a phone call from the tribe's lawyers, she'd prefer a letter. If the Muwekma's sovereignty is returned, they want to see it in writing.