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# Serra's Legacy: The Desecration of American Indian Burials at Mission San Diego

CLIFFORD E. TRAFZER

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As dusk fell on the evening of 4 August 1989, several Indians gathered in the courtyard of Mission San Diego. They congregated on the east side of the mission grounds near a *visita* that had been built earlier that day. Inside the brush lodge, a few Indians and a priest prepared to light candles and say a rosary. One of the Indians attending the ceremony wandered off to be alone and pray. He walked into a sandy, barren Indian cemetery pocked here and there with holes and piles of earth. He stood on the south end of the holy ground to pray and to place an offering into the earth for the spirits of those Indians who had been disturbed. The sacred offering of native sage, tan sinew, and blackbird feathers was left at the site of an unfortunate event—the exhumation of approximately sixty Indian people by the Catholic church to make way for a new parish hall.<sup>1</sup>

The evening ceremony and night-long vigil of Kumeyaay Indians and their friends marked the beginning of the end of a heated dispute between the Indians of San Diego and the Catholic church. The controversy had begun nearly a quarter of a century before, when the parish church at Mission San Diego and the University of San Diego, a Catholic institution, began an archaeological dig on mission grounds. Professors, staff, and students at the University

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of San Diego inaugurated an archaeological project in 1966. Over the years, many students participated in the digs, uncovering an untold number of artifacts and pieces of bone, including those of humans. However, the church and the university repeatedly denied publicly that any human remains had ever been uncovered, despite the fact that one of the first priests—probably Luis Jayme—and at least eight soldiers of the United States Army had been unearthed. Significantly, this denial would lead church authorities and some scholars associated with the University of San Diego to claim publicly that the area of the proposed building site contained no “cultural remains.”<sup>2</sup>

The official position of Monsignor Brent Eagen and the diocese of San Diego was “that no Indian burial ground exists at the construction site.” Furthermore, in March 1986, Eagen wrote that “contrary to some opinions, there is not an Indian cemetery underneath the site of the proposed building.” The church further maintained that “the area has been sufficiently reported on . . . as an area of historical and archaeological importance.”<sup>3</sup> These assertions that no human remains existed on the building site were supported by church authorities, who stated that their historical archaeologists, James Moriarty and Ray Brandes, had “excavated to sterile soil” without discovering evidence of human remains. They further claimed that the Kumeyaay living at the ancient village of Nipaguay “did not use this area as either a habitation site or a burial site.”<sup>4</sup>

In order to verify these and other arguments, the church and the university issued two separate reports discussing their work at Mission San Diego. Unfortunately, they did not offer full-length works such as refereed books or a series of scholarly journal articles to document their arguments. The academic community had long been interested in archaeological work at the famed first mission in Alta California, but the results of years of digging were not forthcoming. Finally, in 1984 and 1987, the University of San Diego printed its own reports, the findings of which were accepted as gospel by some city politicians, parishioners, and officials within the San Diego City Planning Department. This was important, since the church had formalized plans to construct a multipurpose building on the east side of the mission grounds in an area that many Indians and scholars considered to be “culturally sensitive.”<sup>5</sup>

Florence Shipek, the foremost scholar of San Diego’s Indian people, was appalled after reading the reports, particularly the

second study, which, she argued, "was obviously not written to describe the research and excavation results but to justify the erection of a large new non-conforming building on the mission grounds." She reported that the proposed building would ruin the "historic integrity of the mission and the historic and ethnographic record of mission history." Even worse, she maintained that the report ignored the historical evidence indicating that the proposed building would be constructed on top of an Indian cemetery.<sup>6</sup> Other scholars agreed with Shipek. In April 1985, Raymond Starr, a professor of history at San Diego State University and a member of the Committee for the Preservation of Mission San Diego, condemned the plans of the church to build on the east side of the mission grounds. Starr stated publicly that Monsignor Eagen, the leading proponent of the construction project, did not "know a damn thing about history."<sup>7</sup> Starr's assertions were supported by Ron May, a prominent archaeologist and also a member of the Preservation Committee.

Arguments made by Shipek and Starr were strengthened by the scholarly works of Father Zephyrin Engelhardt and Norman Neuerburg. Engelhardt provided a statement by Father Fermin Francisco Lasuen asserting that "[t]he cemetery of the Mission of San Diego occupies the land to a width of ten varas [29 feet] along the whole length of the church and vestry on the north side [of the vestry]."<sup>8</sup> Neuerburg strengthened this argument in his fine article about the mission, stating that in 1854, when the first plats were made by the United States, the document dealing with the plat "mentions the cemetery but simply says that it adjoins the church and mission buildings." Neuerburg provided further information on the location of the cemetery, including sketches and photographic documentation. Neither scholar stated conclusively that the mission church and adjoining cemetery were located on the east end of the property overlooking the San Diego River, but Neuerburg argued that in 1814, the bodies of the missionaries who had lived and died at Mission San Diego were moved to the site of the new church (the present site of the parish church). "That scarcely would have taken place if the site of the church were identical to that of its predecessor. Thus it would seem that there is little reason to doubt that the previous church was at the opposite side of the quadrangle and that its adjoining cemetery remained there. In all probability, though, its walls and foundation may have been removed to expand the very crowded cemetery."<sup>9</sup>

Starr, Shipek, May, and other scholars contended that the church's proposed building site was the location of the original Mission San Diego de Alcalá and the Indian cemetery, established in Mission Valley in 1774. Soon after the Spanish invaded the homelands of the Kumeyaay Indians by land and sea, Father Junipero Serra built the first Mission San Diego. He established it in Alta California in 1769 on Presidio Hill, six miles west of the present site, not far from Old Town. In 1774, Father Luis Jayme received permission from Serra to move the mission to the ancient Kumeyaay village of Nipaguay. The diocese claimed that Jayme built the first church in Mission Valley on the present site of Mission San Diego, but scholars disagreed. This issue became an important element in the recent controversy over Indian burials, since it was known that the priests buried numerous Indians near the first mission site in old Nipaguay.<sup>10</sup>

Local Indians and some scholars believed that if the church were built on the proposed site, the construction crews would destroy human remains, architectural ruins, and numerous artifacts. Evidence existed indicating that the building site was, in fact, a cemetery. The most important source was the rich oral tradition of the Kumeyaay elders. Unfortunately, some scholars and government officials ignored this, maintaining an age-old bias against Indian oral sources. The Indians knew their history, and they well knew the location of the cemetery at Mission San Diego where members of their families were buried. Some scholars listened to the Indian elders, most notably Florence Shipek, who had long maintained that the building site was *tierra santa*.

Shipek based her argument on the oral traditions of many Indians in San Diego who had shared their stories with her for thirty-five years. One of the elders who provided important information to Shipek was Fernando Quaha, who "pointed out the site of the pre-mission cremation grounds which were on the hill behind the mission and had already been bulldozed away in 1964." Fernando also stated that "the Mission Indian neophyte burial area" was located "on the east side of the mission grounds, just as indicated on the old map."<sup>11</sup> Indeed, maps existed indicating the location of the cemetery, and descriptions of the grounds described the burial area. Many people suspected that the building site was an old Indian burial ground, and others knew that it was a cemetery, including Monsignor Eagen, who admitted as much in conversations with archaeologists and Indians during the summer of 1989.<sup>12</sup>

From the outset, the San Diego diocese knew that it would face opposition to the construction project, but the church officials were unsure to what degree. To handle the process, the church hired a public relations firm and an attorney. The church retained the services of Donald Worley, an attorney considered to be the best in Southern California in dealing with real estate issues. Worley's firm handled the procurement of permits and licenses, as well as the legal objections to the project. In 1978, representatives of the church met with the San Diego City Historical Sites Board to discuss their proposed building plans, thus beginning a complicated process that would result in an application for an initial environmental study conducted by Ray Brandes and James Moriarty.<sup>13</sup> The Committee for the Preservation of Mission San Diego de Alcalá was formed to oppose the construction permit, and members of this organization, particularly Ron May, were outraged that the application for an environmental initial study was not sent out for public review with the environmental impact report, a sketchy document of less than five pages. From 21 December 1979 to 21 January 1980, a draft environmental impact report "went out for public review" and, with no initial opposition, was signed by James Gleason, supervising city planner, on 23 January 1980.<sup>14</sup>

The report was never shared with the San Diego County Archaeological Society, and members of this active organization protested, arguing that the original construction plans for a building of four thousand square feet had been changed to double the size. Since the church planned to double the size of their building and build a parking lot as well, members of the San Diego County Archaeological Society and the Committee for the Preservation of Mission San Diego de Alcalá demanded that the church provide a new environmental impact report.<sup>15</sup> The Archaeological Society and Preservation Committee brought so much pressure on the church and the city that the Historic Sites Board asserted that, until it received further data demonstrating that ruins, remains, and artifacts would not be impacted by construction, no permit would be issued. Ray Brandes, an expert consultant for the church, reported that, in "the area where the proposed structure is to go, . . . it is my opinion that we have exhausted the potential data both in terms of structural and cultural remains." He maintained that the university had dug the area for over ten years and that nothing new could be learned. "Can we reasonably expect to add any significant or new information to what we already have?" he asked Donald Worley. "My answer," Brandes stated, "would be,

'No.'"<sup>16</sup> To support this position, three students at the University of San Diego produced master's theses, basically arguing that nothing culturally significant would be harmed by construction on the site. The city backed down and did not force the church to do a fully developed environmental impact report. The city also informed the church that the old building permit was valid.<sup>17</sup>

The San Diego County Archaeological Society threatened to sue in order to stop construction. The National Park Service also joined forces with local archaeologists to prevent the destruction of cultural treasures. Mission San Diego was on the National and City Register of Historical Sites, and it was considered by many people to be a national treasure. However, the site was private property, and the National Park Service had no jurisdiction in the matter. Still, church officials were sensitive to public pressure, so they compromised with the park officials and local scholars. The church determined to construct their building off the ground, using twenty large concrete pillars which would damage only portions of the property. The church agreed to hire an archaeological firm to dig twenty caisson holes and mitigate the impact of the pillars. The church wanted to hire an archaeologist who had worked closely with Moriarty, but the city would not accept this individual.<sup>18</sup>

In September 1988, Worley's office opened negotiations with Richard Carrico of Environmental and Energy Services Company, attempting to hire him to dig the twenty caissons. Carrico refused at first, not wishing to become involved in a controversial project that might pit him against the Indian and academic communities. Two months passed, and numerous colleagues urged Carrico to reconsider his position. Many people argued that the dig was imminent and that it would be best for all concerned if Carrico would do the work and do it sensitively and correctly. In November 1988, Carrico met with Monsignor Eagen, and, during the next two months, the two parties worked out a contract. The monsignor argued that the construction project was a private matter for the church and not a public issue. For this reason, he demanded that the archaeologists working on the site refrain from providing publicity or public comment of any kind, unless it was cleared by church officials.<sup>19</sup>

Carrico agreed to this demand but stated that he had a professional obligation to allow American Indians and scholars onto the site. Carrico also insisted on treating the dig as if he were doing a project requiring an environmental impact report. Further, he told

Eagen that his firm had to provide information to the Historic Sites Board, Native American Heritage Commission, San Diego Indian community, and county coroner. He also stated that he would follow the California Environmental Quality Act, even though the project was on private property. The monsignor agreed, and the two parties signed a contract on 3 February 1989.

Within a month, Carrico completed a research design for the dig and was soon in the field.<sup>20</sup> Not long after beginning the project, Carrico's crew discovered its first burials of inarticulated remains. On 30 March, Carrico notified Robert Grubb, assistant county coroner, of the burials. The San Diego representative to the Native American Heritage Commission also contacted the coroner, urging him to call Sacramento. At first, the coroner was reluctant to call the Native American Heritage Commission, but he ultimately made the call, stating that "four graves, presumed to be Indian, were found at the Mission."<sup>21</sup>

Carrico also notified the Native American Heritage Commission and the local commissioner, stating that American Indian burials had been discovered. The archaeologists had found burial remains and not cremations, indicating that these were Christian burials. Rose Tyson, a physical anthropologist from the San Diego Museum of Man, verified that the remains were those of Native Americans. However, the major problem revolved around determining who was the most likely descendant. The Kumeyaay had lived on the site under the Spanish mission system, but other Indians—including Luiseño, Cupeño, Juaneño, Cocopah, Paipai, and Quechan—had lived and died at Mission San Diego.<sup>22</sup> There was no way of determining from which tribe the remains had originated. To further exacerbate the problem, there are eighteen reservations in San Diego County, and Kumeyaay lived on several of these reservations. The question arose within the Native American Heritage Commission as to who was the most likely descendant and who should be contacted.<sup>23</sup>

The San Diego representative to the Native American Heritage Commission called the Sacramento office to determine what should be done. Larry Myers, executive secretary of the commission, reported that his office could not determine the most likely descendant; he suggested that the Indian people of San Diego meet to discuss the issue and decide who should be responsible for the remains. Some Indians in the county already had become aware of the burials. James Luna, a Luiseño Indian, called the commission to express his concern, and he soon notified his uncle, Luiseño

elder Henry Rodriquez, of the burials. Ralph Forquera, a Juaneño Indian whose family had lived at Mission San Diego, also called the commission. Forquera was the director of the San Diego American Indian Health Center, and he used his office to notify Indians and politicians of the excavation of remains at the mission.<sup>24</sup> Forquera and Luna learned that Earl Green, a staff member of the Native American Heritage Commission, would arrive in San Diego on 21 April and meet with any local Indians interested in the burials. The San Diego representative to the commission notified Green that Kumeyaay Indians should also meet with him at the mission, and the commissioner invited Clarence Brown, Vera Brown, and Jane Dumas to attend the meeting. The next day all of the above-mentioned Indians, except Clarence Brown, met with Green and Carrico at Mission San Diego to discuss the disposition of the remains.<sup>25</sup>

When the local commissioner returned from a Native American Heritage Commission meeting in Sacramento, he prepared a memorandum to the most likely descendants of American Indians buried at Mission San Diego. He called a meeting with representatives of the eighteen reservations in the county, sending a notice to every tribal office and to individuals who had already become involved. He asked the Indian leaders to meet to "determine the ultimate disposition of all Indian remains found at the mission."<sup>26</sup> Since the commissioner was not a member of a local tribe, he did not make his views public, but he told friends that the dig should be stopped and all remains and grave goods should be returned to the earth. On 25 May 1989, sixteen Indians from San Diego County met with Green and the local commissioner at San Diego State University. The commissioner reported on the dig and his involvement in trying to determine the most likely descendants. Green gave a background of his involvement and that of the Native American Heritage Commission, explaining the legal limitations of the commission and state laws because of the fact that the mission was private property.<sup>27</sup>

"Ultimately," Green wrote in his report, "what occurred was that the group of local Native Americans [unanimously] selected Henry Rodriquez as the group's representative to prepare a letter directed to Monsignor Eagen." The group, calling itself the Indigenous Native Americans of San Diego County, was informed that Carrico had moved all of the remains—Indians, United States soldiers, and Spaniards—to the Museum of Man to protect them from vandals or damage due to exposure. This was a temporary

arrangement until the most likely descendants could be identified, and it was done by Carrico with the understanding that no analysis would be made of the remains. Rose Tyson of the Museum of Man and her staff respected this request and stored the remains for the Indian community. The commissioner and Rodriquez wrote a letter to Eagen, requesting an audience to discuss the disposition of the remains. Everything seemed to have gone smoothly; on the night of 25 May, however, the commissioner received a call from Florence Shipek, who informed him that everything had not gone so smoothly.<sup>28</sup>

In spite of the outward appearance of solidarity, the Kumeyaay representatives to the meeting felt that the Native American Heritage Commission had chosen a Luiseño leader as the most likely descendant. This was not the case; Larry Myers, Earl Green, and the San Diego commissioner had determined "that due to the fragmentary nature of many of these remains, ethnic identification will be extremely difficult, if at all possible."<sup>29</sup> The Native American Heritage Commission had not chosen a most likely descendant, but some of the Kumeyaay felt that this was the case. The San Diego commissioner called Fern Southcott and Clarence Brown, two prominent Kumeyaay leaders, to assure them that the commission had not attempted to circumvent the Kumeyaay people and to urge the Kumeyaay leadership to meet and form a unified group to represent their interests in the controversy. Both of these leaders agreed.<sup>30</sup>

While the Kumeyaay leadership began to organize, Henry Rodriquez, serving as the chair of the Indigenous Native American Indians of San Diego County, wrote Eagen demanding "that excavation and development procedures stop until representatives of our local American Indian community have an opportunity to meet with you to discuss the disposition of the Indian remains."<sup>31</sup> Donald Worley's response to the request to meet with Eagen was that the church wanted to deal with only one member of the Indian community and that was the San Diego commissioner. This was an old tactic of bureaucracies, to split the Indian community by selecting someone who could not truly represent the interests of a diverse Indian population. In this case, the local commissioner was not a California Indian, could not speak for the Indians of San Diego County, and would not presume to do so. Worley's letter also inaccurately portrayed the commissioner as having made decisions behind the scenes, without the knowledge of the local Indian people. This accusation drove another wedge

between elements of the Indian community.<sup>32</sup>

Rodriguez responded to Worley's communication by calling Eagen's office to set up an appointment. Representatives of the Kumeyaay, Cupeño, and Luiseño were invited to a meeting with Eagen at the University of San Diego on 15 June 1989. Three Indians attended the meeting, including two Luiseño and one Wyandot—the local commissioner.<sup>33</sup> Neither the Kumeyaay nor the Cupeño sent representatives. The reason was best stated by Fern Southcott, the Kumeyaay chair of Mesa Grande Reservation. She argued that the first meeting at San Diego State University was flawed by "the absence . . . of other parties of interest from among the Iipay (North Diegueño) and Tipay/Kumeyaay (South Diegueño) Indian bands of San Diego County who are historically linked to Mission San Diego de Alcalá." She and other Kumeyaay felt that before any discussions could take place, a broader representation of the Indian community had to be consulted. Thus, the community was split over procedure and leadership.<sup>34</sup>

In spite of the objections, Rodriguez met with Eagen and afterwards composed a letter to the Indian community informing the people of the meeting and its outcome. He explained that Indians were welcomed at the archaeological site to serve as monitors and that the community would be informed of all funerary items discovered so that they could be reinterred with the remains. It was also determined that the remains taken from the burial ground would be reburied as close to the cemetery as possible at a site where they would never be disturbed again. This letter encouraged the Kumeyaay people to organize and to discuss their wishes informally.

The San Diego commissioner became concerned that the archaeological dig would end and that construction would soon begin without an organized protest of the entire project.<sup>35</sup> Personally, he abhorred the desecration of the remains, and he felt strongly that the entire project should be stopped immediately. He called the city and county planning and licensing officials for help, but he learned that these officials could do nothing. When he telephoned the Native American Heritage Commission, it was suggested that he might work quietly against the construction project but should take no leadership role. The commission felt that if anyone should lead an attack against the project, it should be a local Indian group composed of most likely descendants.

Larry Myers of the Native American Heritage Commission instructed Earl Green to contact San Diego city officials to see if the

building permits could be revoked and the construction project halted. He reasoned that the circumstances under which the permits had been issued had changed; it now was clear that the construction would be in the heart of a cemetery and the ruins of Mission San Diego. Ron Buckley of the Historic Sites Board and other city officials were consulted, but all of them argued that their hands were tied. Myers also enlisted the help of Manuel Medeiros, deputy attorney general attached to the Native American Heritage Commission. Medeiros became actively involved by researching the case and serving as a legal adviser for the commission and Indian groups with regard to Indian remains at Mission San Diego.<sup>36</sup>

Students at San Diego State University became involved in the controversy after taking a field trip to Mission San Diego on 16 June 1989. Richard Carrico lectured on the dig and the findings to that point, while field archaeologist Carolyn Kyle answered some questions for the local commissioner. The commissioner learned from Kyle that many more Indian bodies had been exhumed and that the archaeologists had just opened a new unit, described as a "plague pit," containing several burials. Clearly Kyle was disturbed at uncovering so many bodies, and she expressed her disdain for digging up a cemetery. She discussed the plague pit with the students, and they soon expressed their disgust for the desecration. Several of the students vowed to write Eagen and local politicians. One of the students, Kevin Faulconer, was the Associated Student Body president of San Diego State University. Faulconer immediately sent a letter to Judy McCarty, deputy mayor of San Diego, declaring that he was "shocked, quite frankly, when I learned that the church is planning to erect a Bingo Hall directly on top of the site." He argued that, although the church might need a building, he did not "think digging up a cemetery and desecrating Indian grave sites is . . . the proper way to go about it."<sup>37</sup>

After viewing the remains of women, children, and men who had been stricken by disease and buried in the common grave, the commissioner decided to launch a public campaign against the church. An opportunity to do so arose that evening when Florence Shipek called him to report that she had protested the airing of a television special dealing with the desecration of Indian remains in Kentucky. She called the television station, saying, "You don't have to go to Kentucky to find desecration of Indian remains—just investigate the dig at Mission San Diego." A representative for

KFMB television, the CBS affiliate station in San Diego, contacted Shipek and the commissioner and offered to interview them and Eagen at the mission. Everyone except Eagen agreed to the interview on Sunday morning, 18 June. During the taping, Shipek and the commissioner spent some time explaining the desecration of the Indian graves and the abridgement of Indian rights. The commissioner argued that the church's actions were "barbaric, savage, unholy, and uncivilized." The next day, the commissioner left San Diego on business for a few weeks. Shipek remained in San Diego to work with the Kumeyaay people and to inform them of the status of construction at Mission San Diego.<sup>38</sup>

The airing of the television interview greatly disturbed church officials. They feared a public outcry against their construction plans, so they urged the archaeologists to complete their work. The archaeologists were behind schedule, largely because of the number of remains they had encountered and the great care they were taking in handling the remains. The scientists refused to deal with the remains in an "illegal and, certainly, unethical" manner. On 27 June, Eagen visited the site and informed the archaeologists that "funding for the archaeological excavations would be terminated on July 7, 1989, whether all 20 caisson holes were complete or not." Some of the caissons still contained human remains that extended beyond the limits of the 2 x 2 meter caissons, and Eagen demanded that the scientists remove only that portion of a remain that obstructed construction. Some of the construction people were on hand, and they told Kyle that they had been instructed to go ahead with the project regardless of the presence of human remains in the caisson holes. Presumably, these instructions had been given to them by Eagen, but there is no evidence to support this other than the remarks made to Kyle by the construction officials.<sup>39</sup>

Eagen had good reason for concern about his project. Slowly the public had learned of the construction project, and public outcry was beginning to mount. Furthermore, his building permit would expire in mid-July, and he hurried to begin construction. Opposition was developing on four separate fronts: Indians, archaeologists, city officials, and state officials. In addition, opposition within the church likely grew as parishioners questioned the construction project, particularly after Indian demonstrators arrived at the mission armed with accurate information, a quiet demeanor, and signs demanding an end to the project.<sup>40</sup> When the archaeologists learned that Eagen planned to initiate construction

without carefully removing the rest of the Indian remains, Rose Tyson called the San Diego commissioner to inform him of this and of the fact that an unknown individual had crushed the skulls of some of the Indian remains and shoved a mandible into the mouth of another skull.<sup>41</sup> The commissioner notified the Native American Heritage Commission and the attorney general's office. Manuel Medeiros notified Eagen that it was against California state law to damage skeletal remains and that construction should not be attempted. He also called the city attorney, informing him of the impending construction and of the expectation of the state that such construction should be prevented.<sup>42</sup>

Before the archaeologists left the site, several Indians visited the mission to review the excavation. Clarence Brown, a Kumeyaay, was "dismayed by all the bones and skeletal remains." He reviewed all of the caissons and determined that there were remains in all but one of them. Henry Rodriguez visited the site at the same time and reported that it was "a shame to destroy that historical site." His views were echoed by Shippek, who reminded everyone that "you don't recreate on top of a cemetery." She explained that the Indians were insulted by the church's actions, which ignored "the cemetery in which their [the Indians'] ancestors were buried."<sup>43</sup> Southcott added, "Dancing on top of the graves, that's not done. Shame on them."<sup>44</sup>

City councilwoman Judy McCarty also surveyed the area and ultimately called a press conference in which she and others protested the building on top of the cemetery, claiming that "it would be 'immoral' if a recreation hall is built on the spot."<sup>45</sup> Indians, scholars, and other city officials also spoke, condemning the project and calling for an end to construction on the site. Samantha Hurst resigned her position with the company doing the excavations so that she could testify publicly in opposition to the proposed construction. "To me," she said, "it is horrifying, absolutely horrifying, that someone would consider building a building on a site that is so historically significant, not only to San Diego, but to the entire state of California."<sup>46</sup> Hurst and other archaeologists joined together to inform the public that "dozens and dozens of burials (fetal, infant, subadult, adult, crematoriums . . .)" had been unearthed and removed. She also wrote Senator Larry Stirling, asking that the state take measures to halt the construction. The senator forwarded her letter to the director of state parks, who, in turn, sent it to the offices of the Native American Heritage Commission.<sup>47</sup>

The San Diego County Archaeological Society voiced its strong opposition to the project, and so did the Committee for the Preservation of Mission San Diego de Alcalá. Although some members of these groups were concerned about the remains, their primary focus was on the scientific and historical information that would be lost if construction proceeded.<sup>48</sup> Still, the goals of the archaeologists and the Indians merged, for all of them sought to end the further desecration of the area. On 10 July, the two communities met on common ground at the City Council chambers during a spirited special hearing "to take testimony from the public on the merits of permitting the continuation of plans for the construction of a recreation center at Mission San Diego de Alcalá over the site of what is now considered a significant archaeological find."<sup>49</sup> Judy McCarty made her position clear. She urged the diocese "to stop all construction activity at this site" and to "choose a new site for the desired parish hall." To accomplish this, she called for the city attorney "to take all necessary legal steps to prohibit any construction on the site." The worst fears of the church were realized when Ron Buckley and Judy McCarty called for an investigation to determine the "legal ownership of this burial ground."<sup>50</sup> Medeiros had already raised the legal question of whether the church still owned the property, since the church had abridged some of the provisions under which Abraham Lincoln had granted the land to the diocese.<sup>51</sup>

Although many groups and individuals helped to bring the controversy to a conclusion, none was more important than the Kumeyaay Indians. Most of the Indians buried at Mission San Diego were Kumeyaay. June Christman, Anthony Pico, Ron Christman, and other Kumeyaay met on 12 July on the Viejas Indian Reservation to discuss the mission controversy and to form a committee to deal with this and other issues that might arise involving Kumeyaay remains and artifacts. Part of the meeting was open to the general public, but the Kumeyaay soon asked to discuss some of the issues among themselves. They took an informal poll and agreed to ask the church to return all of the remains and associated grave goods to their original burial site. "That's the Indian tradition," proclaimed Clarence Brown. "You don't move (grave sites). This is something very sacred in Indian culture."<sup>52</sup>

The Kumeyaay Cultural Heritage Committee was formed, and members decided to seek the legal assistance of Robert Schull of California Indian Legal Services. Schull contacted Worley to re-

quest a meeting of all interested Indian parties and the legal representatives of the church.<sup>53</sup> On 18 July 1989, representatives of the Kumeyaay, Luiseño, and Cupeño met at the offices of California Indian Legal Services in Escondido. Also in attendance were the San Diego commissioner, Manuel Medeiros, and Steve Quisenberry. Jeff Brinton, attorney for the church, explained that the diocese wanted a "cooling off" period in which sand would be poured into the open caisson holes in order to protect the Indian remains. Ron Christman, chair of the Kumeyaay Committee, responded quickly that this was unacceptable to the Indian people. "We don't want a cooling off period. We want to end this matter, now." Brinton tried to skirt this demand but was drawn back into the circle of discussion when Medeiros raised the question of whether the church still owned the mission grounds or whether the Indians now owned it, since the diocese no longer used the grounds as an Indian mission.<sup>54</sup>

Medeiros explained the findings of his research and threatened to pursue the matter of legal title. Apparently, the attorneys for the church had previously discussed this gray area of the title that transferred the property from the United States to the diocese. The attorneys had decided that the issue was too dangerous to be resolved in a court of law. Immediately after raising the land issue, Brinton turned to Christman and asked, "What is it that you would like to see happen?" Christman responded that the Kumeyaay wanted all of the remains and associated grave goods returned to their original resting places. He also stated that his people wanted the construction stopped and a guarantee that the church would recognize the area as a cemetery and never build on the site. Brinton wrote the demands on a note pad and asked all of the Indians present if they agreed. Everyone agreed with the list of Kumeyaay demands. At this point, "a weighty spirit moved among the quiet crowd and the place was silent." Although Brinton asserted that he would have to take the Indian demands back to Worley and Eagen, everyone at that meeting believed that the church would agree to the wishes of the Indians.<sup>55</sup>

The San Diego commissioner reported to the Native American Heritage Commission that the "Kumeyaay people did a great job of presentation and unity."<sup>56</sup> Ron Christman, Fern Southcott, Debra Smith, June Christman, and Henry Rodriguez represented the local Indian people and the spiritual views of American Indians everywhere extremely well. The result of their work was apparent on 20 July, when Brinton presented Schull and Medeiros

with a "Summary of Indian Demands."<sup>57</sup> After some fine tuning of the document, the attorneys worked out the final "License Agreement between the Roman Catholic Bishop of San Diego and Representatives of the Kumeyaay, Luiseño, Quechan, Cocopah, and Cupeño People." On 3 August 1989, the parties signed the agreement, calling for the return of all remains to the Indians for reburial on the morning of 5 August, with appropriate ceremonies the night before. Once the church decided to return the remains to the cemetery, they wanted the transfer completed quickly, so that no analysis of the bones could be made.<sup>58</sup>

Church officials knew that if scientists had been given ample time to make a thorough examination of the remains, Serra's chances of becoming a saint would have been in jeopardy. A scholarly examination of the Indian remains would have revealed evidence of ill treatment, including malnutrition, elongation of bones from excessive work at young ages, and stress fractures from heavy labor. The survey analysis of the remains with the naked eye proved this, and much more would have been learned had there been a thorough examination by a physical anthropologist. Evidence to prove these assertions will be presented in the forthcoming scholarly works of Carrico and Shipek, who will document the stress fractures, malnutrition, and elongations found in the survey examination of the remains found at Mission San Diego. Rose Tyson of the San Diego Museum of Man may also present a scholarly work to verify the evidence she found in cursory examinations of the remains. A thorough forensic study of the Indian remains did not occur out of respect for the rights of the Indian descendants. The Kumeyaay, Luiseño, and others did not want any analysis of the remains, preferring a rapid resolution of the desecration of Indian burials.<sup>59</sup>

The night of 4 August was spent in ceremony, both Catholic and Indian. Prayers were said and sung, and quietly each Indian present remembered the tragic events that had led to that evening's ceremonies. The Kumeyaay kept vigil all night, and the next morning they returned all of the remains to the earth that had held the bones of their ancestors for over two hundred years. With their hands they delivered the remains to their final resting places, and with their hands they shoveled earth into the open caisson holes. The conclusion was bittersweet for many in attendance, perhaps a natural conclusion for a people who had suffered the invasion of their lands, the death of their people, and the destruction of their spiritual beliefs. To one Indian in attendance, Serra's legacy of

European dominance and superiority permeated the place where the Spanish had sought to reduce Indian people and remold them into neophytes, loyal to the Spanish Crown and church. Through the ages, the Indians had maintained their circle and had defended their most sacred right to revere the dead and the earth where they were laid to rest. The Indians had drawn to a close an unfortunate break in their sacred hoop of life and death. When the Indians met on the evening of 4 August 1989, they prayed that never again would they have to fight to preserve the integrity of their cemetery at Mission San Diego de Alcalá.<sup>60</sup>

## NOTES

1. This essay is respectfully dedicated to the Kumeyaay, Luiseño, Cupeño, Juaneño, Quechan, Cocopah, and other Indians whose ancestors are buried at the Indian cemetery at Mission San Diego de Alcalá. The number of Indian burials is speculative, because many of the remains were inarticulated or partial. Carrico estimates that the total number of remains found was seventy, of which ten to fifteen were Latino. Carrico will provide a thorough reporting of his findings when he has completed his "Report on the 1989 Spring-Summer Mission San Diego de Alcalá Excavations," Environmental and Engineering Services, 1990.

2. Ray Brandes and James R. Moriarty III, "Mission San Diego de Alcalá: The Archaeological Design and Fieldwork Conducted by the University of San Diego, 1966–1984," University of San Diego Report, 1–3, 221–326. For the best analysis of the question of American Indian burials, see Gerald Vizenor, "Bone Courts: The Rights and Narrative Representation of Tribal Bones," *American Indian Quarterly* 10 (Fall 1986): 319–43; Vine Deloria, Jr., "A Simple Question of Humanity: The Moral Dimensions of the Reburial Issue," *Native American Rights Fund Legal Review* 14 (Fall 1989): 1–12; Rosemary Cambra, "Control of Ancestral Remains," *News from Native California* 4 (Fall 1989): 15–17.

3. *San Diego Tribune*, 10 April 1989; Brent Eagen, "Presentation to Historical Sites Board, March 26, 1986," files of Richard Carrico.

4. Brandes and Moriarty, "Mission San Diego de Alcalá," 155, 206.

5. *Ibid.*; *idem*, "The History and Architecture of Mission San Diego de Alcalá, 1769–1965," University of San Diego, 1987.

6. Shipek to Carrico, 20 April 1989, author's files.

7. *Los Angeles Times*, 20 April 1989.

8. Zephyrin Engelhardt, O. F. M., *San Diego Mission* (San Francisco, CA: The James H. Barry Company, 1920), 146–47, 288.

9. Norman Neuerburg, "The Changing Face of Mission San Diego," *Journal of San Diego History* 32 (Winter 1986): 9–12.

10. Serra's "Memoria" in Engelhardt, *San Diego Mission*, 56–57.

11. Shipek to Carrico, 20 April 1989.

12. Oral interview, Carrico with Trafzer, 29 January 1989; Neuerburg, "The Changing Face of Mission San Diego," 3; transcript filed in the United States General Land Office, 12 August 1861, Surveyor General's Office, San Francisco,

California, copy in the Office of the Attorney General, state of California, hereafter cited as COAG.

13. Oral interview, Carrico with Trafzer, 29 January 1989.

14. *Ibid.*; "Analysis of Documents Relating to the Substantial Changes in the Project of the Multi-Purpose Building Proposed to Be Constructed atop the Ruins of the Mission San Diego de Alcalá Complex," author's files and COAG. The analysis was written by members of the Committee to Preserve the Mission San Diego de Alcalá, and a copy was forwarded to COAG on 12 July 1989.

15. The original document, "Public Notice of Draft Environmental Impact Report, 23 January 1980, document 236-5775, Environmental Quality Division, San Diego," can be found in the files of COAG. Also see "Analysis of Documents," COAG.

16. Brandes to Worley, 19 June 1985, COAG.

17. Oral interview, Carrico with Trafzer, 29 January 1989; the three theses include Lois T. Campbell, "Mission San Diego de Alcalá: The Archaeological Research Design and Fieldwork Conducted by the University of San Diego, 1966-1984" (M. A. thesis, University of San Diego, 1989); Gregory N. Chase, "History of Architecture and Restoration of Mission San Diego de Alcalá, 1774-1972" (M. A. thesis, University of San Diego, 1987); Toni L. Nagel-Watson, "Mission San Diego de Alcalá, 1774-1965" (M. A. thesis, University of San Diego, 1987).

18. Oral interview, Carrico with Trafzer, 29 January 1989; Cherry to Eagen, 14 July 1989, author's files and Escondido office of California Indian Legal Services.

19. Oral interview, Carrico with Trafzer, 29 January 1989. Copies of the contract are found in the files of the Environmental and Energy Services Company, San Diego, California.

20. *Ibid.*; "Analysis of Documents," COAG.

21. The San Diego representative to the California Native American Heritage Commission is Clifford E. Trafzer, the author of this work, who has chosen to refer to himself as the commissioner. Documentation of the calls is found in "Request for Assistance Regarding Native American Human Remains," Grubb to Green, 30 March 1989, Native American Heritage Commission files, 915 Capitol Mall, Room 288, Sacramento, California. Hereafter cited as "Request for Assistance," NAHC.

22. Florence Shipek has copies of all death records of the Mission San Diego and is analyzing the records for a statistical study. She reports that the records show over four thousand Indians buried at the mission. Kumeyaay Indians continued to bury their dead in the mission cemetery after secularization until 1900. Also, see Shipek to Carrico, 20 April 1989.

23. Green to Myers, 30 May 1989, NAHC.

24. "Request for Assistance," Luna to Green and Forquera to Green, 18 April 1989, NAHC.

25. *Ibid.*; Green informed Trafzer of his visit, but the commissioner was unable to meet with representatives of the Kumeyaay, Luiseño, and Juaneño because of a Native American Heritage Commission meeting in Sacramento. Green met to discuss the burials with the group mentioned in the work, except for Clarence Brown, who reported that he went to the mission but could not find the dig area because a docent had directed him to the excavations at the San Diego Presidio. Brown's daughter, Vera, did attend this first meeting.

26. Trafzer to most likely descendants of American Indians buried at Mission

San Diego, 16 May 1989, author's files.

27. James Luna of the Pauma Indian Education Center taped the meeting. A list of participants at the meeting is in the personal files of the author. Green to Myers, 30 May 1989, NAHC.

28. Green to Myers, 30 May 1989, NAHC; telephone communication, Shipek to Trafzer, Trafzer to Brown, Trafzer to Southcott, 25–26 May 1989.

29. Green to Myers, 30 May 1989 and Jeannine to Myers, 12 July 1989, NAHC.

30. Telephone communication, Trafzer to Southcott and Southcott to Trafzer, 26 May 1989.

31. Rodriquez to Eagen, 26 May 1989, author's files.

32. Worley to Rodriquez, 5 June 1989, author's files.

33. Trafzer journal, 15 June 1989, author's files.

34. Southcott to Trafzer, 26 May 1989, author's files.

35. Rodriquez to Indigenous Native American Indians of San Diego County, 6 June 1989, author's files.

36. Notes of Green, 16 June 1989, NAHC.

37. Faulconer to McCarty, 20 June 1989, Associated Students, San Diego State University.

38. Telephone communication, Shipek to Trafzer, 16, 17 June 1989. See file tape of the interview, KFMB Studios, San Diego, California.

39. Wright to Eagen, 6 July 1989, COAG.

40. Chacon testimony before the San Diego City Council, 10 July 1989, files of the San Diego American Indian Health Center; Neuerburg to Eagen, 25 July 1989, author's files.

41. Wright to Eagen, 6 July 1989; telephone communication, Tyson to Trafzer, 5 July 1985.

42. Telephone communication, Trafzer with Medeiros, Medeiros with San Diego city attorney, Medeiros with Eagen, 5 July 1989.

43. *San Diego Tribune*, 6 July 1989.

44. *Los Angeles Times*, 6 July 1989.

45. *San Diego Union*, 8 July 1989; *El Sol de San Diego*, 20 July 1989.

46. *San Diego Union*, 7 July 1989.

47. Hurst to Stirling, 5 July 1989, author's files.

48. *San Diego Reader*, 6 July 1989; "Request for Assistance," May to Green, NAHC.

49. Public Notice of a Hearing on Archaeological Activities at Mission San Diego de Alcalá, 10 July 1989, author's files.

50. *Ibid.*; *San Diego Union*, 8 July 1989.

51. Title document, 23 May 1862, in Engelhardt, *San Diego Mission*, 344–48.

52. *San Diego Union*, 13, 14 July 1989; telephone communication, Shipek to Trafzer, 14 July 1989.

53. Brinton to Trafzer, 14 July 1989, author's files.

54. Trafzer journal, 18 July 1989.

55. *Ibid.*

56. Notes by Earl Green, 18 July 1989, NAHC.

57. "Summary of Demands," COAG; Medeiros to Brinton, 20 July 1989, COAG.

58. "License Agreement, August 3, 1989," COAG; Medeiros to Brinton and Schull, 28 July 1989.

59. Trafzer journal, 18 July 1989.

60. *San Diego Tribune*, 5 August 1989.