STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In re: Draft Order WR 2009-0079-DWR	)	TESTIMONY OF CHRIS NEUDECK
	)	
RUDY MUSSI, et al.,	)	APN 131-170-03

INTRODUCTION/QUALIFICATIONS

I am Christopher H. Neudeck, P. O. Box 844, Stockton, California 95201. I am a registered Civil Engineer in the State of California and have worked with the Delta Islands including flood control, drainage and irrigation for the past twenty-five (25) years. I am the District Engineer for numerous reclamation districts in the Sacramento/San Joaquin Delta (Delta) and I am familiar with the history of reclamation of lands in the Delta including the Upper Division of Roberts Island which is the area of concern in this proceeding. The engineering firm of Kjeldsen, Sinnock & Neudeck, Inc. of which I am a principal is the engineer for Reclamation District No. 544 which encompasses the area of concern and adjoining districts Reclamation District No. 17 and Union Island Reclamation Districts 1 and 2. I am very familiar with the area including the waterways, levees, drains and irrigation facilities. A statement of my qualifications is submitted as a separate exhibit.

My testimony involves two main areas. The first is the review and mapping of title and other documents. The second is a summary of the irrigation and drainage practices of the southern Delta, and how these practices evolved over time.

With regard to the first, I begin with the Chain of Title produced for the Mussi property by Central Valley Land Service Company. I understand the research and production of documents was done by Mr. Thurl Pankey, one of the principles of Central Valley Land Service Company and any of his associates.

The Mussi property is San Joaquin County Assessor's Parcel No. 131-170-03. The tax assessor parcel map showing this parcel is Exhibit 3A to this testimony. Hereinafter, I will refer to this property as either the "Parcel" or the "Mussi Parcel."

When mapping this Parcel, I have ignored any deeds or indentures which date prior to the Parcel being patented from the State of California per instructions by counsel. By way of patent dated November 24, 1876, the State of California patented a very large tract of land to Mr. J. P. Whitney. This large tract included the Parcel; see Exhibit 3B. For this and other relevant deeds, the exhibit includes our mapping of the deed.

WIC EXHIBIT 4A

On January 17, 1877, Mr. Whitney transferred a portion of the land patented to him to Mr. Morton C. Fisher; see Exhibit 3C. These transferred lands included the Parcel and were generally those lands east and south of what was know as High Ridge Levee/Duck Slough.

On March 15, 1877, Mr. Fisher transferred his lands to James Stewart, James Burton, and James King; see Exhibit 3D.

On April 28, 1891, Stewart, Burton and King transferred their lands to Mr. Joseph Vasquez; see Exhibit 3E. This transfer separated the parcel from any surface connection to the main waterways of the time, Middle River, San Joaquin River, Burns Cut-off, or Whiskey Slough. This Vasquez land (which included the Parcel) abutted what was then labeled as a "cross levee." However, earlier deeds described this line as ". . . the levee constructed along High Ridge and Duck Slough. . ." see, for example, the language in Exhibit 3D. The last deed I have mapped created the parcel in its current size and is attached hereto as Exhibit 3F.

Of further note in this 1891 deed is the language *"Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof."*

The Vasquez land remained the same size as when it was first created until it was subdivided. This subdivision created two parcels, one of which is the Parcel; see Exhibit 3G. The Mussis became the owners of the Parcel by way of deed from Milton Welser, as Trustee (of his own Trust) dated June 7, 1999.

I have also prepared further exhibits which provide additional historical background and facts as they may relate to the Parcel.

Exhibit 3H includes the San Joaquin County Assessor's maps for the years 1876 through 1919, with the years 1877, 1878, 1909 and 1910 missing. These records are from the Micke Grove Historical Society, which is not aware of the locations of the "missing" maps. The map for 1876, shows a "blue" line along what was known as Duck Slough/High Ridge Levee; see Exhibit 3I. This line stretches from Burns Cut-off all the way to Middle River. Other documents confirm and/or suggest this was the route of Duck Slough on Roberts Island. Based on my expertise in mapping and reading maps, I believe this line indicates that Duck Slough had water in it at the time the tax assessor map was drawn.

I would like to note the method by which the levees, such as the "High Ridge Levee" were created. To create a new levee or improve a "natural" one, soil must be piled up. The easy and economical source of such soil was the immediate area around and near the levee site. Hence, dredges (or even hand labor) would remove soil in the vicinity of the levee site and would pile it up on the existing berm or levee. The "borrow pits" which were the sources for this soil were commonly located along the route of the levee. When the levee followed an old slough, it was common for the soil to be taken from the slough. The removal of soil deepened/widened the existing slough channel as soil was removed to build up the levee. We know that in this particular area, due to the depth to groundwater, digging a hole/trench/canal immediately results

in the channel filling with water seepage. When this was done to an existing slough, it created a larger source of open water fed from the main channel to which the slough connected.

In this case, we actually have a written source which confirms this enlargement of the slough abutting the Property. One of the early dredges (which were "floating steam shovels"), the *Sampson*, was actually used to create/improve the High Ridge Levee. The *Sampson* and its sister dredge the *Goliath*, were launched in 1875.

> The Sampson's first job was on Duck Slough and Burns' Cut-off levees of Roberts Island (FN), but the water was so low that the equipment could not make headway unless a channel 30 by 7 feet was dug.

The footnote from the above quote states:

> The levee followed the right bank of the slough southwestward toward Middle River from the slough's outlet on Burn's Cut-off. The present Honker Lake Tract, the Pocket, and Roberts Island north of the Santa Fe right-of-way (including McDonald Island) would be north of the levee.

This quote is from *The Settlement Geography of the Sacramento-San Joaquin Delta, California*; at page 267. Exhibit 3J is the entire document, and Exhibit 3K is the subject page.

This description in the *Settlement Geography* confirms the process of using the slough itself as the borrow pit, and the deepening of the slough along High Ridge Levee; Duck Slough. Such deepening was necessary to transport the floating dredge which was improving the levee.

From this I conclude that from very early on (1875), Duck Slough (abutting the Parcel) was improved to the extent the Slough became a substantial waterway (with the very approximate dimensions of 30' wide by 7' deed').

Exhibit 3L is another of the Assessor's Maps, this one dated 1881-1882. As we can see, it includes a "blue" line along the dotted lines. I interpret these marks to be the Assessor's notation of both the High Ridge Levee and Duck Slough. Again, the Parcel abuts these features.

Exhibit 3M is the *Map of a Portion of Roberts Island* dated 1883 (owned by M. C. Fisher and produced by Tucker & Smith, Civil Engineers, Stockton) This map shows a hashed line which represents a levee (labeled "Cross Levee") from Burns-Cutoff (a portion of the San Joaquin River south of Rough and Ready Island) running, generally, southwest down to Middle River. In addition to the dashed levee line, there is also a solid line running along the same route. This line indicates a smaller waterway (as opposed to the larger waterways indicated by two solid lines). Thus we have an interior island slough which connects the San Joaquin River to Middle River. This supports the conclusion that the blue line on the 1876 Assessor's parcel map indeed represents a waterway. This slough and levee are the dividing line between Middle Roberts and Lower Roberts. Again, the Mussi Parcel abuts High Ridge Levee/Duck Slough.

Exhibit 3N is the *California State Engineer Department Topography and Irrigation Map of San Joaquin County*, dated 1886. This map shows Duck Slough running from Township 1 North, Range 5 East, Section 12, Mount Diablo Baseline and Meridian to Township 1 North, Range 5 East, Section 27 Mount Diablo Baseline and Meridian. The Parcel is in the middle of Section 27 and abuts the Duck Slough line on this map.

Exhibit 3O is the 1894 Stockton-Bellota Drainage District map produced by the California Commission of Public Works This map also shows Duck Slough extending from Burns Cut-off.

Exhibit 3P is the *USGS Holt Quadrangle Map* of 1911. This map includes coloring of known waterways. As can be seen, the USGS noted that a waterway existed in this same Duck Slough, with water reaching also down into Section 27. It is evident from the countours marking depressions along the east side of High Ridge Levee that a wet slough was present along the length of the High Ridge Levee, although not all portions of the slough were drawn with blue ink on the 1911 USGS Holt Quadrangle Map of 1911.

Exhibit 3Q is the *Map of California Delta of the Sacramento and San Joaquin Rivers* compiled by Captain Weathers and Captain Petzinger, and dated 1921. This map is important because it locates a major interior island slough that appears to open/connect to Middle River. This large slough does not reach the Parcel, but it is very near to it, reaching from Middle River northward to the old site of the Kingston School (founded no later than 1881). Confirming this large interior island slough, is the 1941 *Map of Lands Served by Woods Irrigation Company* attached hereto as Exhibit 3R. As we can see, even as late as 1941, there was a significant interior island slough in this location, meaning that water was available for use on the lands in the area. This slough, according to the 1941 map runs all the way to Trapper Slough.

Exhibit 3S is the *Denny's Pocket Map of San Joaquin County*, dated 1913. Besides showing cities and Sections, the map's legend indicates it also identifies "Roads, Private Roads, Railroads, Electric Railroads, Creeks and Ravines, *Canals*, and County Boundary Lines" (emphasis added). Clearly identified as a "canal" or "canals" are lines which follow Duck Slough/High Ridge and the slough running to and past Kingston School. These are connected by a short east-west canal from the School's location to approximately where the USGS and State Engineer Department maps show water in Duck Slough.

This interconnection between the slough running up from Middle River to Kingston School and the old Duck Slough is confirmed by the 1976 Department of Water Resources Areal Geology Sacramento-San Joaquin Delta map, attached hereto as Exhibit 3T. This map clearly shows that the water from Middle River is connected to the water in the slough abutting the Property, even as late as 1976.

I conclude that the two sources of water (Duck Slough and the slough running past Kingston School) were connected to the Parcel. Based on the *Denny's Pocket Map of San Joaquin County's* (Exhibit 3S) use of the term "canal," this water was intentionally provided to the lands along these waterways. As we see, these sources of water run directly by, and abut the

Parcel. Any contrary conclusion is not supported by the facts. Since we know that the Kingston School slough existed through at least 1941, it is logical to conclude that water could be distributed through all the connecting canals.

I refer back to the description of the Sampson dredge's activities in building a levee along Duck Slough and its "creation" of a 30' wide by 7' deep channel to allow the dredge to float and be moved. The combination of designated waterways, enlarged waterways, interconnection with other waterways, canals and sloughs many years before the Parcel was separated from the main channels to many years after, the only reasonable conclusion is that the Property maintained a connection to the neighboring waterways and thus was ***not*** severed as of 1891.

For ease of reference, we have included Exhibit 3U which combines a number of references to water sources onto a map which also shows the outline of the Parcel.

I have also reviewed the testimony of Michael Robinson which indicates that the Parcel received water from Woods Irrigation Company sometime prior to 1925. He also states that in 1925, the current supply system was formalized, though it had functioned (supplied water to the Parcel) before that date.

The evidence for the Mussi Parcel is overwhelming. Not only do we have numerous sources showing Duck Slough having water in it well past the date the Parcel was separated off from the main channels, we have water in it at least as of 1911, then in 1913 (the Denny's Pocket Map) we have canals along Duck Slough and connecting to a slough that existed through 1941, and supply by Woods Irrigation Company up to the time the current system was installed. There can be little doubt the owners of the Parcel maintained a continuous connection to water for irrigation purposes from 1891 through the date of their current supply system used today.

The second part of my testimony deals with the historical irrigation and drainage practices of the area. Attached hereto as Exhibit 3V which is a copy of my testimony before this Board in the Term 91 ACL hearings held in February, 2003. I will only briefly summarize that testimony now, and can provide more detailed explanations/clarifications when called as a witness.

Briefly, the area in question, like much of the Delta was originally designated Swamp and Overflowed Lands during the original federal surveys of public lands in California. This designation was due to flooding that occurred during times of high flows on the San Joaquin, Sacramento, or other tributaries to the Delta. This regular process created innumerable waterways stemming from the main channels, including large sloughs, small sloughs, and smaller dendritic channels.

The banks of the channels were the natural high ground due to sedimentation of the materials carried by the high flows. The first farmers in the area used these high grounds locate their buildings and for farming. These farmers then attempted to construct levees to protect their lands from the high flows and to drain them (as necessary) for full reclamation. In this process, the natural high grounds along the sloughs and other channels were generally used as the foundation, or beginnings of the levee. This explains why many of the current surface features in

the area are not straight lines, but followed the meandering courses of current or historic waterways.

As levees were constructed around the lands in the Delta, interior channels were dammed at the point they intersected the levee. At these dams they installed sluice or flood gates so that they could regulate the water in the slough being severed by levee construction.

The flood gates were constructed for two main reasons. The slough was used to drain the lands as necessary. This was done by allowing seepage to fill the slough, and then open the sluice gate during the low tide. Under those conditions, the slough would drain into the main channel and the desired drainage of the land was accomplished. The second purpose of the sluice gate was for irrigation. By opening the gate during high tide or high flow conditions, the slough would fill with water. This water was either pumped out of the slough, allowed to flow over the lands via natural gradients, or simply held in the channel to sub-irrigate the lands. The method used depended of course on the topography, and the extent of the improvements the landowners had installed and operated. Whichever method was used, the farmers certainly took advantage of this system and these capabilities because the application of water vastly improves crop production and minimizes the vagrancies of weather and river flow.

Since the southern Delta is mostly higher elevation than the central Delta, the sluice gates on old sloughs were probably used for irrigation more than drainage. However, the southern Delta does have a high water table (directly connected to the water in the neighboring channels and the elevation of that water) and thus did require regular drainage.

As time passed, the farmers installed more modern and efficient systems, including pumps and the sluice gates were slowly replaced. They also eventually filled in the sloughs and so replaced them with smaller canals or pipelines.

This description of reclamation and irrigation practices in the Delta is not speculation. Besides the numerous historical references to these practices (both cited in my Term 91 testimony and in Mr. Nomellini's testimony) I have personally been involved in levee projects which have located, removed or filled in at least four (4) of these old sluice gates. In fact, I believe Mr. Nomellini's testimony identifies others still in operation. I have also had many conversations with local farmers who either knew of these gates and the practices I have referenced, or actually were involved in the operation of these gates.

There are other relevant circumstance pertaining to the Parcel. From both the USGS map referenced above and the materials cited/used by Mr. Lajoie, we see that the Parcel is at or below sea level, both as of the time it was separated from having a surface connection to the main channels through the present. This means that it was, and remains directly connected to the main channels of the Delta. When high flows or high tides occur, any old channel or slough fills to the same level as the neighboring channel. Before the Parcel was fully protected by levees, the water would inundate the land, both through surface and subsurface flow. After the construction of levees for reclamation purposes, the subsurface flows continue to saturate the reclaimed land.

This area in general, and the Parcel in particular, operate drainage systems to deal with this saturation.

As you can in Exhibit 3V (specifically section II., Exhibit "G") which is my testimony submitted in the Term 91 hearings, the surrounding groundwater is directly connected to the waters in the neighboring channels. As I stated in that proceeding:

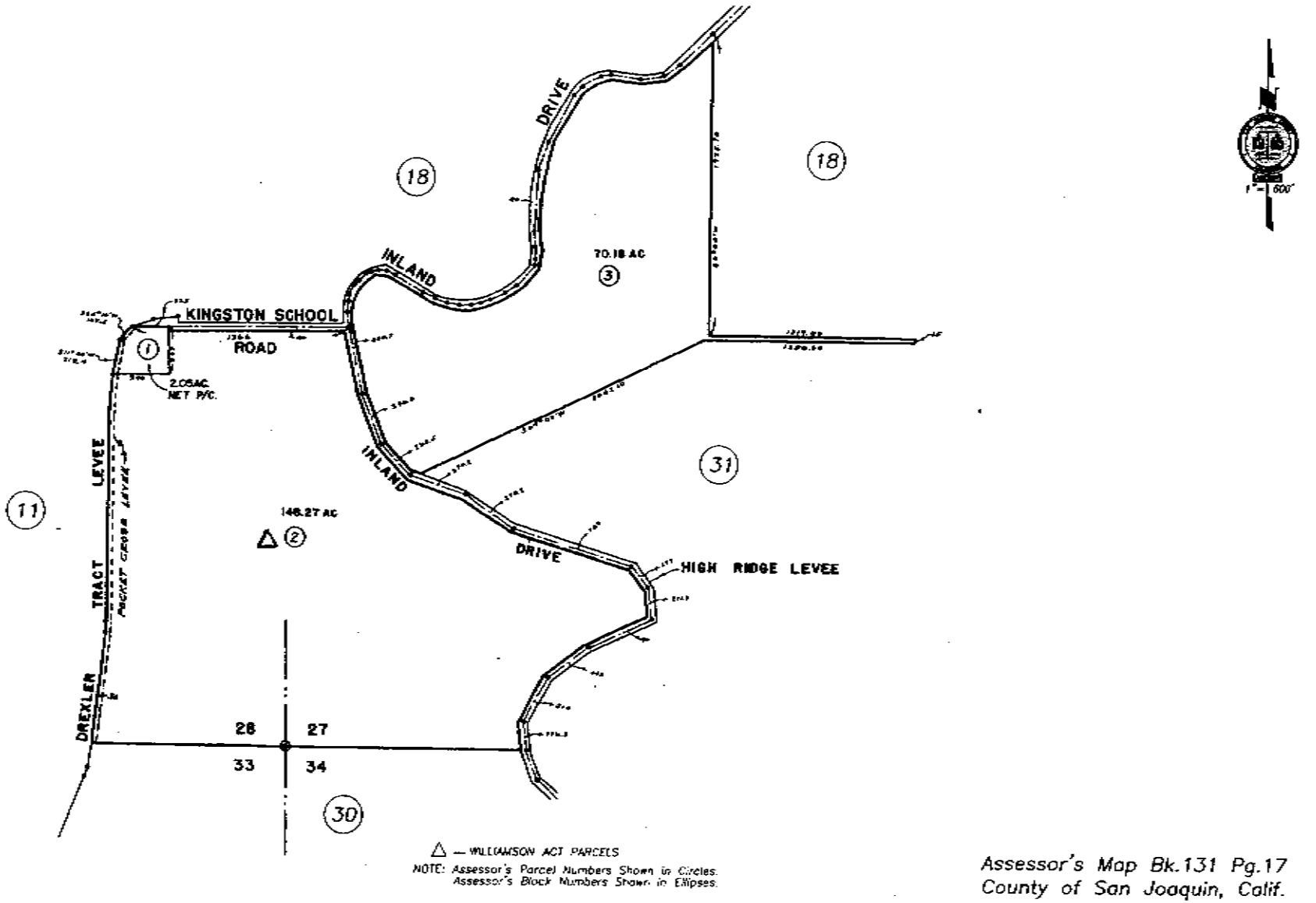
> This hydrologic conductivity is important to understand the local water supplies. The entire Delta is one big pool of water; some in the channel and some in the soils. There is no net difference in the amount of water in the Delta channels when local diverters take from neighboring channels, pump from shallow groundwater, or farm crops which draw from the shallow groundwater. Taking water from one place is virtually the same as from another. This is especially true during summer and fall months when the three tidal barriers are in operation as they hold high tide waters around Upper Roberts Island and thus prevent any depletion of the channel waters from causing low levels which might affect other diverters.

In conclusion, the pertinent records indicate that as the ownership of the Parcel changed over time, it was always either abutting a channel, or connected to a supply system which could deliver water to it.

POR. SECS. 27 & 28., T.1N. R.5E., M.D.B.&M.

THIS MAP IS FOR ASSESSMENT USE ONLY

131–17



Assessor's Map Bk.131 Pg.17
County of San Joaquin, Calif.

Exhibit 3A

1 . P'3 Patent (1876) 3/P/444

11.2476

State of California
to
J. P. Whitney

United States of America. State of California. To all to whom these presents shall come, Greeting: Whereas under the provisions of the Act of Congress of the United States approved the twenty eighth day of September A.D. one thousand eight hundred and fifty entitled "An Act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits" in which are the [illegible] swamp and overflowed lands [illegible] and whereas the Legislature of the State of California has provided for the sale and [illegible] of said lands by statutes enacted from time to time; And whereas it appears by the [illegible] of the [illegible] numbered 2172 bearing [illegible] Register of the State Land Office [illegible] one thousand eight hundred [illegible] and issued in accordance with the [illegible] provisions of law that the State of [illegible] and overflowed lands hereinafter described have been duly [illegible] and properly [illegible] in accordance with law [illegible] and payment has been made to the State for the same [illegible] that J. P. Whitney is entitled to receive a patent therefor; said lands being situated in San Joaquin County and described as follows to wit: [illegible] portions of [illegible] and 1306, 1307, [illegible] swamp and overflowed lands San Joaquin [illegible] Township No 1 and 2 South and [illegible] Mount Diablo Meridian Ranges [illegible] excepting portions of [illegible] of Township [illegible] Portions of [illegible] and portions of [illegible] portions of said [illegible] Portions of [illegible] and portions of [illegible] and some portions [illegible] 19 and 20 [illegible] described as follows. All of Township [illegible]

Exhibit 3B

[illegible]

Witness Thomas [illegible] Secretary of State

Witness [illegible] Secretary of State

Witness [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

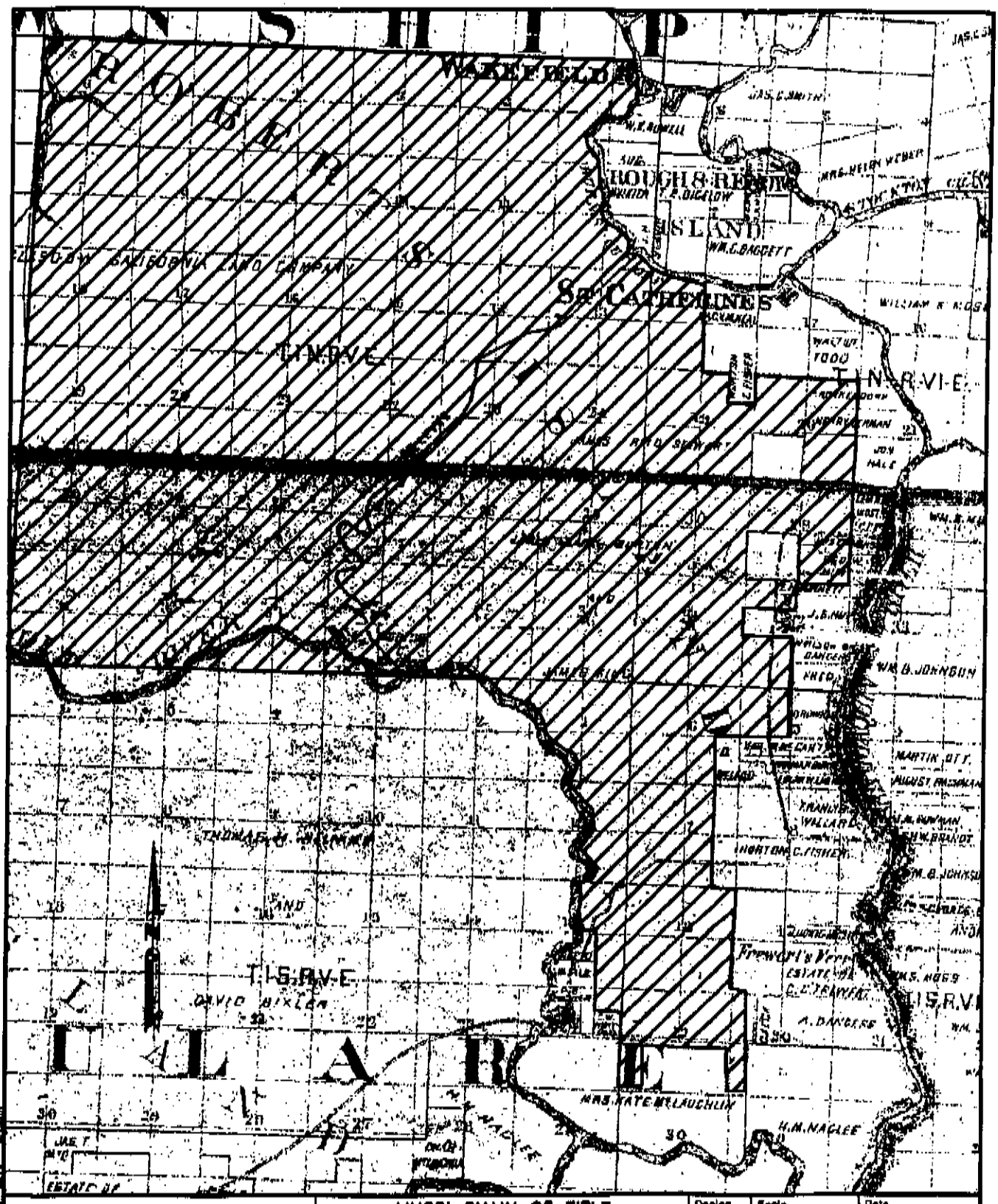
[illegible]

[illegible]

State of Wisconsin
To
J. S. [illegible]

United States of America State of Wisconsin, To all to whom these presents shall come Greeting:

Whereas Under the provisions of an Act of Congress of the United States approved the twenty eighth day of September A.D. One Thousand eight hundred and [illegible]



KSN INC.	KJELDSEN SINNOCK NEUDECK Civil Engineers and Land Surveyors	Post Office Box 844, 711 N. Pershing Avenue, Stockton, CA 95201-0844, Office: (209) 946-0268, Fax: (209) 946-0296, E-mail: KSN@kjsnlnc.com	MUSSI CHAIN OF TITLE GRANTOR: STATE OF CALIFORNIA GRANTEE: J.P. WHITNEY NOVEMBER 24TH, 1876	Design Drawn CSM Check SLB	Scale 1" = 7000' Original Drawing Scale 0 ¼" ½"	Date 3/30/10 Sheet Number 01 Project File No. 1732-0070

FILE SPEC: P:\1732_SINN\0070_Historical_Mapping\Survey\Maps\Exhibits\01\A_Sinn_to_JP_Whitney.dwg
PLOT DATE: Mar 31, 2010 - 8:43am

1-17-97

Exhibit 3C

[illegible] (40) South half (S½) and South West quarter (SW¼) of Section Twenty Nine (29) Whole Section Thirty (30) and Thirty One (31) West half (W½) of South West quarter (SW¼) and South East quarter (SE¼) of Section Thirty Two (32) Section Eighty One (81) South Range Five (5) East: South West quarter (SW¼) of Section Five (5) South half (S½) and South East quarter (SE¼) and West half (W½) of South East quarter (SE¼) of Section Six (6) a strip of land fronting on the Sioux River and running Easterly therefrom of uniform width to contain Eighty (80) acres being parts of the following tracts to wit: Section Four (4) South West quarter (SW¼) and South East quarter (SE¼) of Section Five (5) South East quarter (SE¼) and East half (E½) of South West quarter (SW¼) of Section Six (6) Whole Sections Seven (7) and Eighteen (18) West half (W½) of Section Eighteen (18) North half of Section Seventeen (17) Whole fractional Section Eighteen (18) and all West half (W½) of West half (W½) of Section Twenty (20) lying North of the Pacific Short Line Railway Company's Right of Way and Meridian together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said parties of the first part, of, in, to, or out of the premises aforesaid, and every part and parcel thereof, with the appurtenances: To have and to hold all and singular the above mentioned and described premises, unto the said party of the second part, his heirs and assigns forever.

In Witness Whereof, the said parties of the first part have hereunto set their hands and seals this day and year above written.

Signed, Sealed and Delivered in the presence of

Hon. Blanding
[illegible]

J. S. Whitney (Seal)

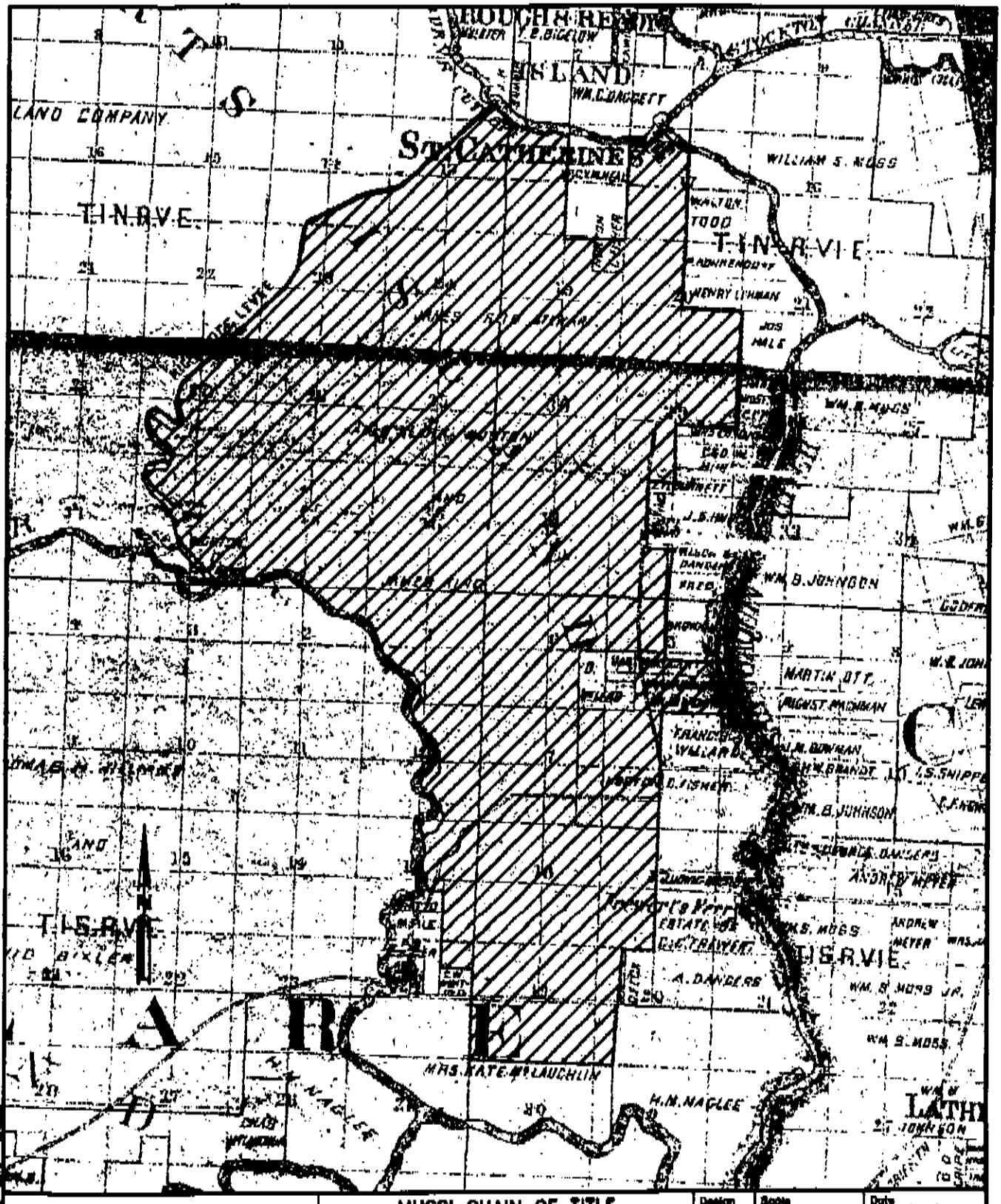
[illegible] A.D. One Thousand Eight Hundred and Forty [illegible] before me, [illegible] a Notary Public in and for said City and County, residing therein, duly commissioned and sworn, personally appeared [illegible] known to me to be the person whose name is subscribed to the annexed Instrument, and acknowledged to me that he executed the same. In Witness Whereof, I have hereunto set my hand and affixed my Official Seal at my office in the City and County of San Francisco, the day and year last above written.

(Seal) James L. King
Notary Public

Recorded at request of G. C. Fisher, Jany 1st A.D. 1851 at [illegible] minutes past [illegible] o'clock A.M.

Jorge Catherine to James C. Carter	This Indenture, Made the Eighth day of December in the year of our Lord one thousand eight hundred and forty, Between Jorge Catherine of the County of San Joaquin State of California, party of the first part, and James C. Carter of same place, the party of the second part, Witnesseth, that the said party of the first part for and in consideration of the sum of Two Dollars Gold Coin of the United States, to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, hath granted, bargained, and sold, conveyed and confirmed, and by these presents doth grant, bargain, sell, convey and confirm unto the said party of the second part, and to his heirs and assigns, forever, all that certain lot, piece or parcel of land, situate, lying and being in the County of San Joaquin, State of California, and bounded and described as follows, to wit; [illegible]

[illegible]



KSN INC. KJELDSEN SINNOCK NEUDECK Civil Engineers and Land Surveyors	MUSSI CHAIN OF TITLE GRANTOR: JP WHITNEY GRANTEE: M.C. FISHER JANUARY 17TH, 1877	Design Drawn CSM Check SLB	Scale 1" = 5000 Original Drawing Scale 0 ½" 1"	Date 3/30/10 Sheet Number Of Project File No. 1732-0070

of the second part, his heirs executors, administrators and assigns that he had not made, done, committed, executed or suffered any act or deed, thing or things whatsoever whereby or by reason whereof the said premises, or any part or parcel thereof, now are or at any time hereafter shall or may be liable to be charged or encumbered in any manner or way whatsoever.

In Witness Whereof, the said party of the first part, has hereunto set his hand and seal the day and year first above written.

Signed, Sealed and Delivered in the presence of J. H. Cotton } W. F. Sheard (Seal)

State of California } ss.
County of Colusa } On this 3rd day of July in the year of our Lord Eighteen hundred and Seventy Eight before me J. H. Cotton a Notary Public, personally appeared W. Sheard, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same. In Witness Whereof, I have hereunto set my hand and affixed my official seal at my office in the said County of Colusa the day and year in this Certificate first above written.

(L. S.) J. H. Cotton
Notary Public

Recorded at the request of Mr. Carpenter Sept. 10th A.D. 1878 at 40 min. past 2 o'clock P.M.

370-547

3-1-77

Morton C. Fisher.
To.
James Reid Shearsill
James Blair Gardner
James King

This Indenture Made the fifteenth day of March One Thousand Eight Hundred and Seventy seven Between Morton Crosby Fisher of London England, of the first part, and James Reid Shearsill Merchant, James Blair Gardner Merchant and James King all of Glasgow in the United Kingdom of Great Britain and Ireland of the second part. Witnesseth, That the said party of the first part

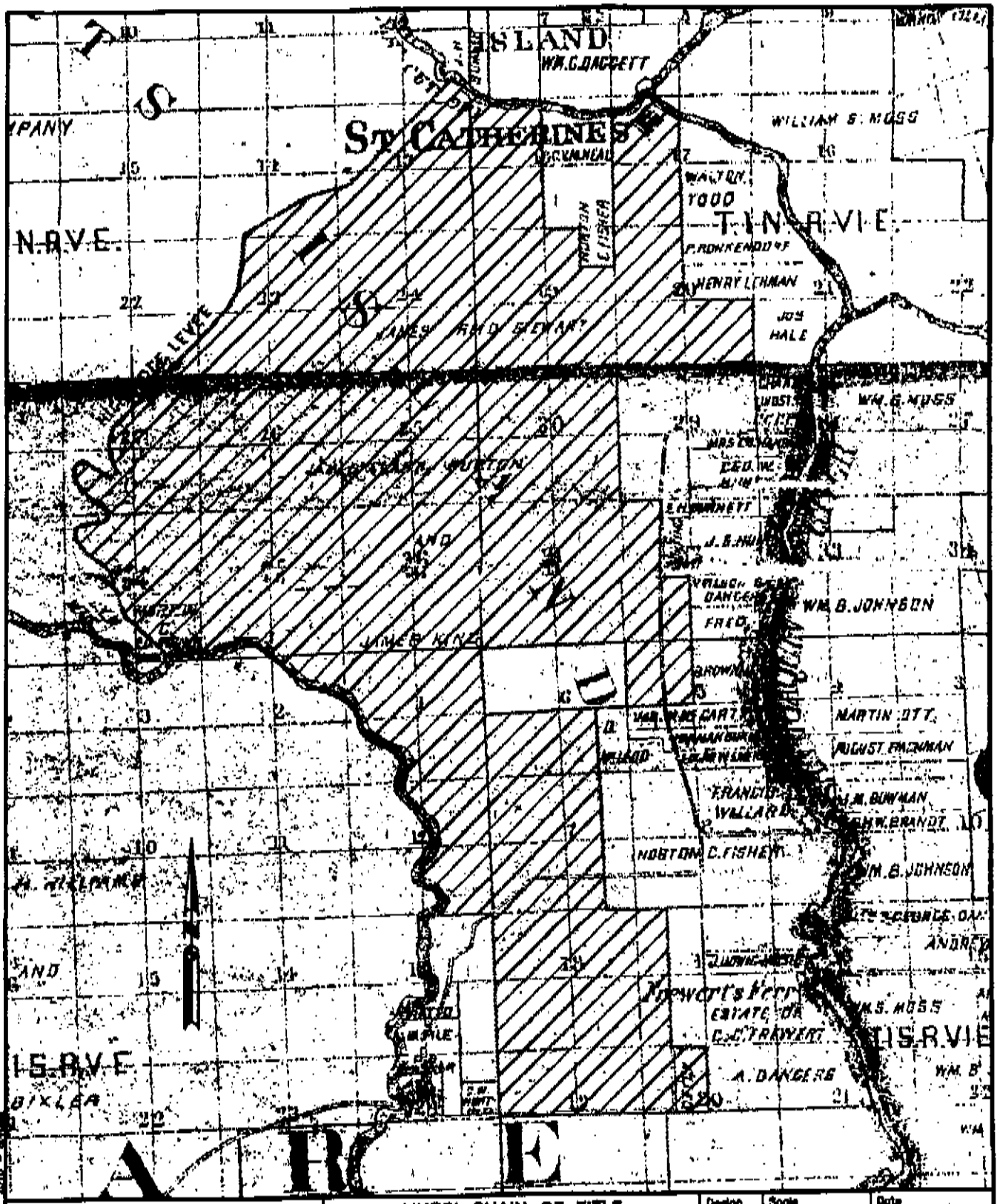
Exhibit 3D

five Dollars lawful money of the United States of America
in hand paid by the said parties of the
second part, at or before the ensealing and delivery of
these presents, the receipt whereof is hereby acknowledged,
have granted, bargained and sold and by these presents
doth grant, bargain and sell, unto the said parties
of the second part and to the survivor and survivors of
them, his heirs and assigns as joint tenants and not as
tenants in common, all those certain tracts pieces or parcels
of land situate lying and being in Tehachapi Island
San Joaquin County in the State of California particularly
described as follows viz: Township 1 (one) North
Range (5) East those portions of sections 12 (twelve) 13 (thirteen)
14 (fourteen) 22 (twenty two) 23 (twenty three) 27 (twenty seven)
and 27 (thirty four) lying South and East of the lines con-
structed along High Ridge and Brick Slough from the
branch of the San Joaquin River known as Bennett's
off to Middle River; also the whole of sections 23 (twenty
four) 25 (twenty five) 26 (twenty six) 35 (thirty five) and 36
(thirty six) together with the said lands on the land on
which it is situated. Fractional South East quarter of
section 34 (thirty four) excepted. In Township 1 (one)
South Range 5 (five) East those portions of sections 1 (one)
2 (two) and 12 (twelve) lying East of the Middle River fractional
North half and East half of section 11 (eleven) sections 13
(thirteen) and also the North East quarter of the North west
quarter of section 24 (twenty four) In Township 1 (one) North
Range 6 (six) East. Fractional West half of section 17 (seven-
teen) fractional west half of section 18 (eighteen) South half
North West quarter, West half of North East quarter and
South East quarter of North East quarter of section 19
(nineteen) West half and South East quarter of section
20 (twenty) North half of South West quarter of section
29 (twenty nine) [illegible] 30 (thirty) and 31 (thirty
one) [illegible]

quarter of section 32 (thirty two), township 1 south, range
2 west, East Mdl. West quarter of said township, South half of the
east quarter and East half of the west quarter of section 6
and South half and West half of the East half of section 7, South
half of West half of section 17 containing sixteen hundred
three fortieths of a section, 17 (minutes) east of the West half of the
West half of section 20 (twenty) lying North of the Pecaudeau
Grant, North line. Full King of Mind Wells Bar and
mention according to the United States Survey.
Together with all and singular the messuages tenements and
appurtenances thereunto belonging or in anywise appertaining,
and the reversion and reversions remainder and remainders, rents
issues and profits thereof. And all the estate right title
interest property, possession, claim and demand whatsoever as
well in law as in equity of the said party of the first part
of, in or to the above described premises and every part and
parcel thereof with the appurtenances. To have and to hold
all and singular the above mentioned and described premises
together with the appurtenances unto the said party
of the second part their heirs and assigns forever, and
said grantor covenants as aforesaid. In Witness Whereof, the said
party of the first part hath hereunto set his hand and
seal, this day and year first above written.

Signed, Sealed and Delivered } Hosford C. Butler. (Seal)
in the presence of E. L. Jones }

State of California }
County of San Francisco } On this Seventh day of
September, in the year of our Thousand Eight
Hundred and Seventy Nine before me, E. L. Jones
a Notary Public, in and for said City and County
personally appeared Hosford C. Butler, known to me
to be the person named and mentioned in the within
instrument, and acknowledged to me that he
executed the same freely and voluntarily for the uses
and purposes therein mentioned.



KSN INC. KJELDSEN SINNOCK NEUDECK Civil Engineers and Land Surveyors	Post Office Box 944, 711 N. Pershing Avenue, Stockton, CA 95201-0944, Office (209) 946-0268, Fax (209) 946-0296, E-mail: KSN@ksnine.com	MUSSI CHAIN OF TITLE GRANTOR: M.C. FISHER GRANTEE: STEWART ET. AL. MARCH 15TH, 1877	Design	Scale 1" = 5000'	Date 03/30/10
			Drawn CSM	Original Drawing Size 0 ½" 1"	Sheet Number Of
			Check SLB		Project File No. 1732-0070

71d 356

Jas Reid Stewart
Jas Clark Bunten
Jas. King

To

Joseph Vasquez

This Indenture, made this Twenty eighth day of April in the year of our Lord one thousand eight hundred and ninety one

Between James Reid Stewart James Clark Bunten and James King all of Glasgow of the United Kingdom of Great Britain and Ireland the parties of the first part and Joseph Vasquez of the County of San Joaquin State of California the party of the second part

Witnesseth: That the said parties of the first part, for and in consideration of the sum of Sixty seven hundred and twenty eight dollars Gold Coin of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do by these presents grant, bargain, sell, convey and confirm

unto the said party of the second part, and to his heirs and assigns forever, all those certain lots pieces or parcels of land situate, lying and being in Roberts Island in County of San Joaquin State of California and bounded and described as follows (viz:

The North West one quarter (N.W.¼) of the South East one quarter (S.E.¼) of section Twenty seven (27) the fractional part of the North one half (N½) of the South West one quarter (S.W.¼) of section Twenty seven (27) lying East of a cross levee separating the middle and lower tracts of said Roberts Island and the fractional part of the North West one quarter (N.W.¼) of section Twenty seven (27) lying South and East of said levee all in Township One North Range Five East (T.1.N. R.5.E.) M.D.M. and containing One hundred and forty nine and one half (149½) acres more or less according to Atherton's survey of the Middle division of Roberts Island

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

To have and to hold, all and singular the said premises, together with the appurtenances, unto the said party of the second part, and to his heirs and assigns forever, subject to taxes for the year 1891.

In Witness Whereof, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in the presence of

Henry McMc Gee

Jas Reid Stewart (Seal)
Jas Clark Bunten (Seal)
Jas King (Seal)
(Here follows signature of Reid's attorney in fact)

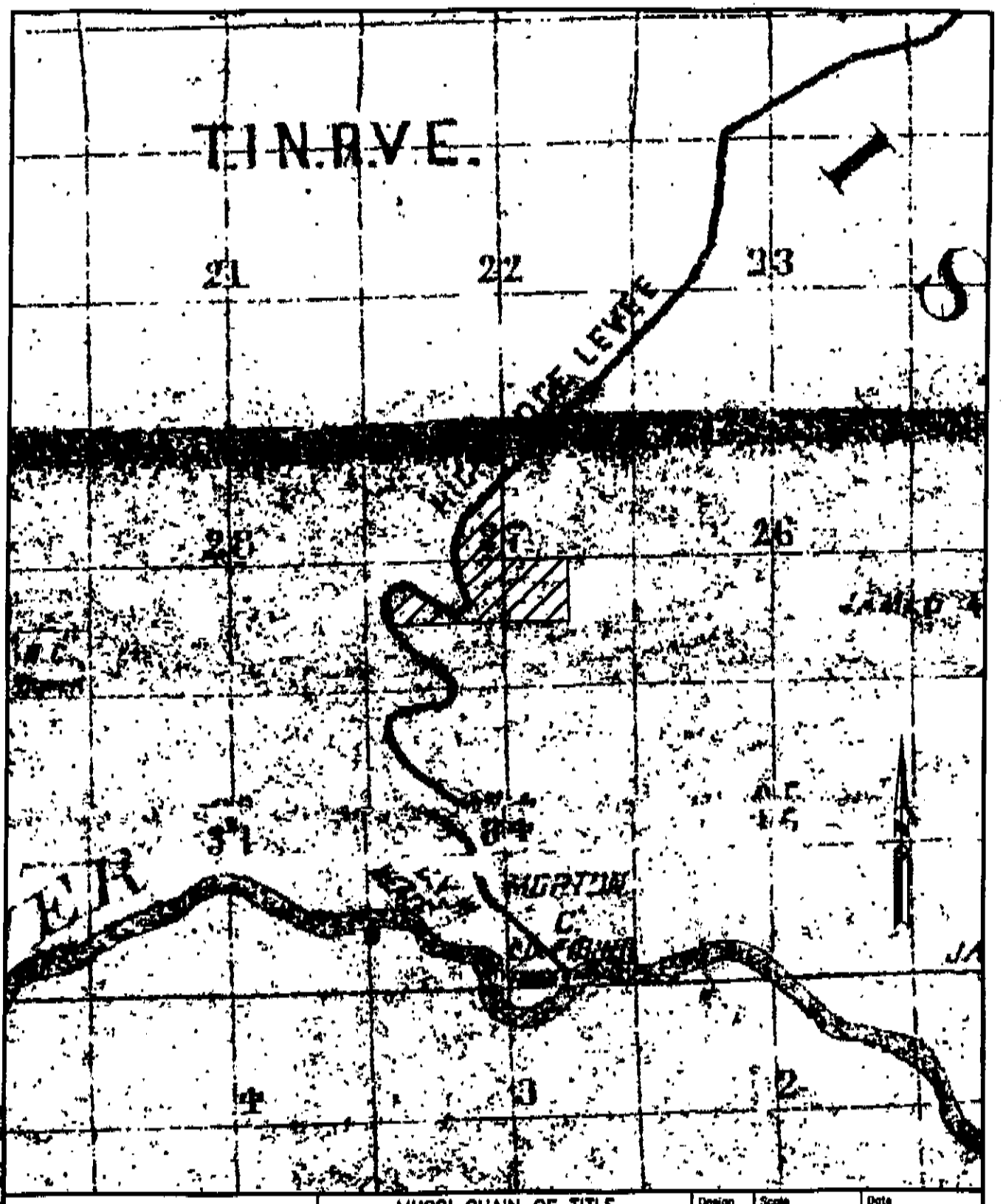
State of California,
City and County of San Francisco } ss.

On this 28th day of April A.D. 1891 before me Henry McMc Gee a Notary Public in and for the City and County of San Francisco State of California, personally appeared John Wakefield Ferris known to me to be the person whose name is subscribed to the within instrument as the Attorney in fact of James Reid Stewart James Clark Bunten and James King and he the said John Wakefield Ferris acknowledged to me that he signed the name of James Reid Stewart James Clark Bunten and James King thereto as principals and his own name as their attorney in fact.

In Witness Whereof, I have hereunto set my hand and affixed my official seal, at my office in said City and County the day and year in this certificate first above written.

Henry McMc Gee
Notary Public

Exhibit 3E



KSN INC.	KJELDSEN SINNOCK NEUDECK Civil Engineers and Land Surveyors	Post Office Box 644 711 N. Pershing Avenue Stockton, CA 95201-0644 Office (209) 946-0268 Fax (209) 946-0296 E-mail: ksn@pacbell.net	MUSSI CHAIN OF TITLE GRANTOR: STEWART ET. AL. GRANTEE: JOESEPH VASQUEZ APRIL 28TH, 1891	Design	Scale 1" = 2500'
				Drawn CSM	Original Drawing Scale 0 ½" 1"
				Check SLB	
				Date 3/30/10	Sheet Number Of
					Project File No. 1732-0070

265/493

PARCEL II: The North 110.14 feet of Lot Nine (9) of MAP N PACIFIC GARDENS, according to the official Map or Plat thereof filed for record October 6, 1929 in Vol. 10 of Maps and Plats, page 100, San Joaquin County Records.

EXCEPT the East 217 1/2 feet thereof.

(Seal) DEPARTMENT OF VETERANS AFFAIRS OF THE STATE OF CALIFORNIA
By Geo. A. Comfy, Asst. Manager, Farm and Home Purchases
Purchaser Thomas F. Unkouges

STATE OF CALIFORNIA }
COUNTY OF SACRAMENTO } ss.

On this - day of JUL. 19 1950 before me, ANNA M. ROBINSON, a Notary Public, personally appeared GEO. A. COMFY, known to me to be the Assistant Manager of Farm and Home Purchases, known to me to be the person who executed the within instrument on behalf of the said Department of Veterans Affairs of the State of California therein named, and acknowledged to me that said Department of Veterans Affairs of the State of California executed the same.

WITNESS my hand and official seal the day and year in this certificate first above written.

(Notary Seal) Anna M. Robinson, Notary Public in and for said County and State.

#81700 Recorded at Request of SECURITY TITLE INS. & GUAR. CO. JUL. 26 1950 at 40 min. past 11 o'clock A. M., in Book of Official Records Vol. 1265 page 493 San Joaquin County Records.

Fees $1.70 John D. Flaney, Recorder By

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN JOAQUIN

RECEIVED
FILED JUL. 24 1950
W.E.OWSLEY, Clerk
By ELDA LAWSON, DEPUTY

In the Matter of the Estate of JOHN E. VASQUEZ, who sometimes wrote his name JUAN E. VASQUEZ, Deceased.

No. 20834 Dept. No. 1

ORDER OF FINAL DISTRIBUTION

ANNA T. VASQUEZ, the duly appointed, qualified, and acting executrix of the last will and testament of John E. Vasquez, who sometimes wrote his name Juan E. Vasquez, deceased, having heretofore rendered, presented and filed herein her petition therein praying for the final distribution of said estate; and

Said matter coming on regularly for hearing on this day in open Superior Court, it having been first proven to the satisfaction of this Court that the Clerk of the Court, by virtue of the authority in him vested, appointed this day as the day for the hearing of said petition and gave due and legal notice of the time and place of hearing thereof, for the time, in the manner, and in all respects as required by law; and

The Court having proceeded to the hearing of said petition and the proofs produced in support thereof, and it appearing to the satisfaction of the Court that after the appointment and qualification of said executrix and the issuance to her of letters testamentary in the manner of said estate, she caused notice to the creditors of and all persons having claims against the said estate to be published for the time, in the manner, and as required by law; and

That more than six months has elapsed since the date of the first publication of said notice to creditors, and more than six months has expired since the admission to probate of said will and the appointment and qualification of said executrix and the issuance to her of letters testamentary in the matter of said estate; and

It appearing to the Court, the Court finds that notice to the creditors of said deceased has been duly given by said executrix as by law required, and that a copy of said notice to creditors and the affidavit showing its due publication has been filed with the clerk of this Court as by law required; and

That after the appointment and qualification of said executrix, she duly made, returned to, and filed in this Court a true and correct inventory and appraisement of all the property of said estate that had come to her possession or knowledge; and

That all the debts of said estate and of said deceased and all taxes that have attached to or

Exhibit 3F

accrued against said estate and the property thereof that are due and payable, and all expenses of administration of said estate, have been paid, satisfied, and discharged; and

That heretofore the inheritance tax appraiser appointed by the above-entitled Court [illegible] his report herein fixing and determining the amount of inheritance tax due the State of California from said estate and by reason of certain jointly held property, real and personal, of the [illegible] deceased and his surviving spouse [illegible] reported to the appraiser in the above-entitled matter; that said report has by this Court been confirmed and approved and said tax paid and the voucher therefor filed herein; that the said jointly held real property is described as follows:

That certain real property situate in the COUNTY OF SAN JOAQUIN, State of California, described as follows:

PARCEL I: A portion of Section Twenty-seven (27), Township One (1) North, Range five (5) East, Mount Diablo Base and Meridian, and more particularly described as follows:

The North 15 feet of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section twenty-seven (27), and portions of the fractional part of the North one-half of the Southwest Quarter of said Section 27 lying East and North of a cross levee separating the Middle and Lower Division of Roberts Island and the fractional point of the Northwest quarter of said Section 27, lying South and East of said levee, all in Township One (1), North, Range Five (5) East, Mount Diablo Base and Meridian, and being more particularly described as follows: Beginning at a steel axle set at the center of said Section 27 (and in the center of a drainage ditch); thence East along the center line of said drainage ditch on the North line of said Northwest Quarter of the Southeast Quarter of said Section 27, a distance of 1319.4 feet to a steel axle set at the Northeast corner of said Northwest Quarter of said Southeast quarter of said Section 27; thence South 00°09' West a distance of 15 feet to a point on the partition line between the lands of Josephine V. Jones and John R. Vasquez (said point being the Southeast corner of said Vasquez lands); thence West along said partition line (parallel to and South 00°09' West a distance of 15 feet from said North line of said Northwest Quarter of said Southeast quarter of said Section 27) a distance of 1320.5 feet to a steel axle set at the Northwest corner of the lands of said Jones (Said axle being South 64°09' West a distance of 34.4 feet from said steel axle in the center of said Section 27); thence South 64°09' West along said partition line 2042.1 feet to a steel axle set in the center line of said levee (said center line being also the center line of the County Road called the Kingston Road); thence meandering the center line of said levee to a steel axle set at the Northeast corner of said fractional part of said North west Quarter of said Section 27 lying South and East of said levee; thence leaving said levee, South 00°04' West along the East line of said fractional part of said Northwest Quarter a distance of 1022.9 feet to the point of beginning.

EXCEPTING a strip of land 30 feet in width immediately abutting said levee center line and lying West and South thereof, said strip having been heretofore deeded to San Joaquin County for roadway purposes.

RESERVING the right to use for drainage purposes only that strip of the above described tract 15 feet in width and lying East and South of aforesaid line running thence 64°9' West and connecting the center of Section 27 with said Northwest corner of the hereinddescribed tract.

ALSO an easement for drainage purposes only over a strip of land 15 feet in width whose North line is the South line of the above-described reserved strip and which easement extends the full length of said strip.

The above described parcel of land contains 78.08 acres more or less. Title acquired by Deed dated November 8, 1930, recorded November 8, 1930 in Vol. 837 of Official Records, Page 215.

PARCEL II: An undivided one-half (1/2) interest in and to the following described real property, situate in the City of Stockton, said County and State:

The North ninety (90) feet of Lot One (1), in Block One (1) East of Center Street, in the said City of Stockton, according to the Official Map or Plat thereof.

PARCEL XIV: [illegible] undivided interest in and to the following [illegible] property situate in said City of Stockton, said [illegible]:

The West ninety [illegible] Lot Two (2) in Block six (6) as shown upon Map entitled STOCKTON CITY HOMESTEAD ASSOCIATION, filed for record January 24, 1870 in Vol. 2 of Maps and Plats, page 44. EXCEPT THEREFROM the West ten (10) feet and five (5) inches of said West 90 feet.

PARCEL XV: The following real property situate in said City of Stockton, said County and State:

The West ninety (90) feet of lot four (4) in Block six (6) as shown upon map entitled STOCKTON CITY HOMESTEAD ASSOCIATION, filed for record January 24, 1870 in Vol. 2 of Maps and Plats, page 44.

PARCEL V: The following real property situate in said City of Stockton, said County and State:

The East ten (10) feet five (5) inches of the West ninety (90) feet of Lot Two (2) in Block Six (6) as shown upon Map entitled, STOCKTON CITY HOMESTEAD ASSOCIATION, filed for record January 24, 1870 in Vol. 2 of Maps and Plats, page 44.

PARCEL VI: The following real property situate in said City of Stockton, said County and State:

The East fifty (50) feet of each of Lots two (2) and four (4) in Block six (6) as shown upon Map entitled STOCKTON CITY HOMESTEAD ASSOCIATION, filed for record January 24, 1870 in Vol. 2 of Maps and Plats, page 44.

PARCEL VII: The following real property situate in said City of Stockton, said County and State:

All of Lots one (1) and three (3) in Block three (3) as shown upon Map entitled STOCKTON CITY HOMESTEAD ASSOCIATION, filed for record January 24, 1870 in Vol. 2 of Maps and Plats, page 44.

PARCEL VIII: The following real property situate in said City of Stockton, said County and State:

All of Lots five (5) and seven (7) in Block four (4) as shown upon Map entitled, STOCKTON CITY HOMESTEAD ASSOCIATION, filed for record January 24, 1870 in Vol. 2 of Maps and Plats, page 44, San Joaquin County Records.

PARCEL IX: The following real property situate in said City of Stockton, said County and State:

All of Lot eight (8) in Block five (5) as shown upon Map entitled STOCKTON CITY HOMESTEAD ASSOCIATION, filed for record January 24, 1870 in Vol. 2 of Maps and Plats, page 44.

PARCEL X: The following real property situate in said City of Stockton, said County and State:

The South thirty-three (33) feet of Lot Thirteen (13) in Block Five (5) as shown upon Map entitled STOCKTON CITY HOMESTEAD ASSOCIATION, filed for record January 24, 1870 in Vol. 2 of Maps and Plats, page 44.

PARCEL XI: The following real property situate in said City of Stockton, said County and State:

All of Lot fifteen (15) in Block Five (5) as shown upon Map entitled STOCKTON CITY HOMESTEAD ASSOCIATION, filed for record January 24, 1870 in Vol. 2 of Maps and Plats, page 44.

PARCEL XII: The following real property situate in said City of Stockton, said County and State:

The East forty-two (42) feet of lot sixteen (16) in Block five (5) as shown upon Map entitled, STOCKTON CITY HOMESTEAD ASSOCIATION, filed for record January 24, 1870 in Vol. 2 of Maps and Plats, page 44.

PARCEL XIII: The following real property situate in the City of Stockton, said County and State:

Lot six (6) in Block three (3) as shown upon Map entitled VIENER TRACT filed for record September 24, 1908 in Vol. 3 of Maps and Plats, page 23.

PARCEL XIV: The following real property situate in the City of Stockton, said County and State:

All of Lot six (6) in Block eighty-seven (87) SOUTH OF MORMON CHANNEL in the City of Stockton, according to the Official Map or Plat thereof.

PARCEL XV: The following real property situate in the City of Stockton, said County and State:

The North ninty (60) feet of Lot eight (8) in Block One Hundred Seventeen (117) SOUTH OF MORMON CHANNEL in the City of Stockton, according to the Official Map or Plat thereof.

PARCEL XVI: The following real property situate in the City of Stockton, said County and State:

The East 10 feet of the South 75 feet of Lot four (4); and the South 75 feet of Lot six (6) in Block 138 SOUTH OF MORMON CHANNEL in the City of Stockton, according to the Official Map or Plat

thereof. EXCEPT THEREFROM the South forty (40) feet (U. S. Standard Measure) as described in Deed to the City of Stockton, recorded April 8, 1948 in Vol. 749 of Official Records, page 140.

Situate in the COUNTY OF SANTA CRUZ, State of California:

PARCEL XVIX: That certain piece or parcel of land situate, lying and being in the COUNTY OF SANTA CRUZ, State of California, more particularly described as follows:

Lot 44 as shown and delineated on that certain map of Moran Lake Park recorded on the 28th day of June, 1926, in Map Book 22, page 6, in the Office of the Recorder of the County of Santa Cruz, State of California.

PARCEL XVIII: All that real property situate in the City of Santa Cruz, County of Santa Cruz, State of California, and bounded and described as follows:

BEING Lot 11 and the North half of Lot 12 all in Block "D" as marked and designated on the Map of "Beebright Building Lots made by T. H. Wright, Surveyor, for F. E. Watt" and filed for record in the office of the County Recorder of said County of Santa Cruz on July 10, 1906, in Map Book 5, at Page 41;

That heretofore the executrix herein filed the Federal Estate Tax Return required herein with the Collector of Internal Revenue and paid the Federal Estate Tax as computed therein, but that the final clearance thereon has not yet been received from said Federal Government;

That the property of said estate was part separate property of the deceased and part community property of the decedent and his surviving wife, Anna T. Vasquez;

That said executrix has not filed herein any final account and report for the reason that the same was waived by her herein as sole distributee and party of interest in said estate;

That John E. Vasquez, who sometimes wrote his name Juan E. Vasquez, died testate on the 22nd day of July, 1949, in the County of San Cruz, State of California, and at the time of his death he was a resident of the County of San Joaquin, State of California;

That thereafter and on the 9th day of August, 1949, the last will and testament of said deceased was admitted to probate and in and by said last will and testament, he devised and bequeathed his estate as follows:

"I give, devise and bequeath all of my estate, whether the same be real or personal property, and wheresoever situate, to my wife, ANNA T. VASQUEZ, absolutely and forever--".

That said estate is in condition to be closed and finally distributed, and the rest and residue of property on hand for distribution is as follows:

Furniture and furnishings of the late residence of the decedent at 419 E. Jackson Street, Stockton, California;

Furniture and furnishings of summer home of the deceased and his wife at Santa Cruz, California;

Furniture and furnishings of rented houses as follows:

4 room house on north side of First St., between Sutter & California Streets, Stockton,

House on West side of Sutter Street between Charter Way and First Street.

House on West side of Sutter Street between Charter Way and First Street;

IT IS, THEREFORE, HEREBY ORDERED, ADJUDGED, AND DECREED that all of the property of said estate hereinbefore described, together with any and all other property not now known or discovered or whether now known or discovered which belonged to said estate or said deceased or in which said estate or said deceased had any interest be, and the same is hereby, distributed to Anna T. Vasquez, absolutely and forever.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that if any of the property hereinbefore described and distributed is inaccurately described, said property by its correct description be, and the same is hereby, distributed as hereinbefore set forth.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that said executrix pay up and deliver to the party to whom the same is distributed the property hereinbefore described as hereinbefore set forth, and that upon the production of satisfactory proof thereof, said executrix be discharged

from all liability to be hereafter incurred and that said estate be decreed settle and closed.

DONE IN OPEN Superior Court this 26th day of July, 1950.

THOMAS H. QUINN, Judge of the Superior Court

THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

ATTEST JUL. 28, 1950.

(S.C. SEAL) R. E. GRAHAM, COUNTY CLERK AND CLERK OF THE SUPERIOR COURT, IN AND FOR THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA.
By [illegible], DEPUTY

#21712 recorded at request of Rutherford, Jacobs, Cavalero & Dietrich, JUL. 26 1950 at 54 min. past 12 o'clock P. M., in Book of Official Records, Vol. 1865 page 498 San Joaquin County Records.

Fees $4.00 John D. Finney, Recorder By

.....

RECORDED Manteca, California

OFFICE OF THE BOARD OF DIRECTORS
OF THE
SOUTH SAN JOAQUIN IRRIGATION DISTRICT

I hereby certify that the attached Grant of Easement was duly accepted and ordered recorded by the Board of Directors of the South San Joaquin Irrigation District at their meeting held July 25, 1950 and as recorded in Permanent Records of the said District in Volume 16, Page 224.

(Corp Seal) ATTEST: S. L. Steele (S. L. Steele) Secretary
South San Joaquin Irrigation District
Dated: July 25, 1950 A. Hill, Asst.

GRANT OF EASEMENT FOR RIGHT OF WAY

IN CONSIDERATION of the benefits to him derived, T. S. BINGHAM does hereby grant unto the SOUTH SAN JOAQUIN IRRIGATION DISTRICT, a right of way for drain ditch or pipeline in the NW¼ of Section 12, Township 2 South, Range 9 East, M.D.B.&M., and more particularly described as follows:

A strip of land 30 feet wide and 1094 feet long, being the East 30 feet of the West 60 feet of the South 1094 feet of the following described property. Beginning at a point in the North line of said Section 12, distant North 89° 17' West 987.8 feet from the NE Corner of said Section 12; thence North 89° 17' West 986.4 feet; thence South 2481.9 feet; thence South 89° 58' East 984.4 feet; thence North 2449.2 feet to point of beginning.

Said right of way being a part of Drain #80 of the South San Joaquin Irrigation District drainage System and containing 0.75 acres more or less and shown on Map in file A-1-B-132 in the office of the South San Joaquin Irrigation District at Manteca, California together with right of ingress and egress to and from said strip of land for purposes of Grantee.

IT IS A CONDITION of this Grant that the Grantee will construct, maintain and operate on said right of way a Drainage Canal belonging to the Grantee herein and comprising a portion of their General Drainage System.

THE GRANTEE is to use all due and proper care in the construction, maintenance and operation of said Drainage Canal so as to cause as little damage as possible to the adjacent lands of the Grantor.

IN THE EVENT that said Drainage Canal is abandoned as evidenced by a proper resolution passed by the Board of Directors of the Grantee herein, said strip of land herein granted shall be returned by the Grantee herein to the Grantor, his heirs, successors or assigns.

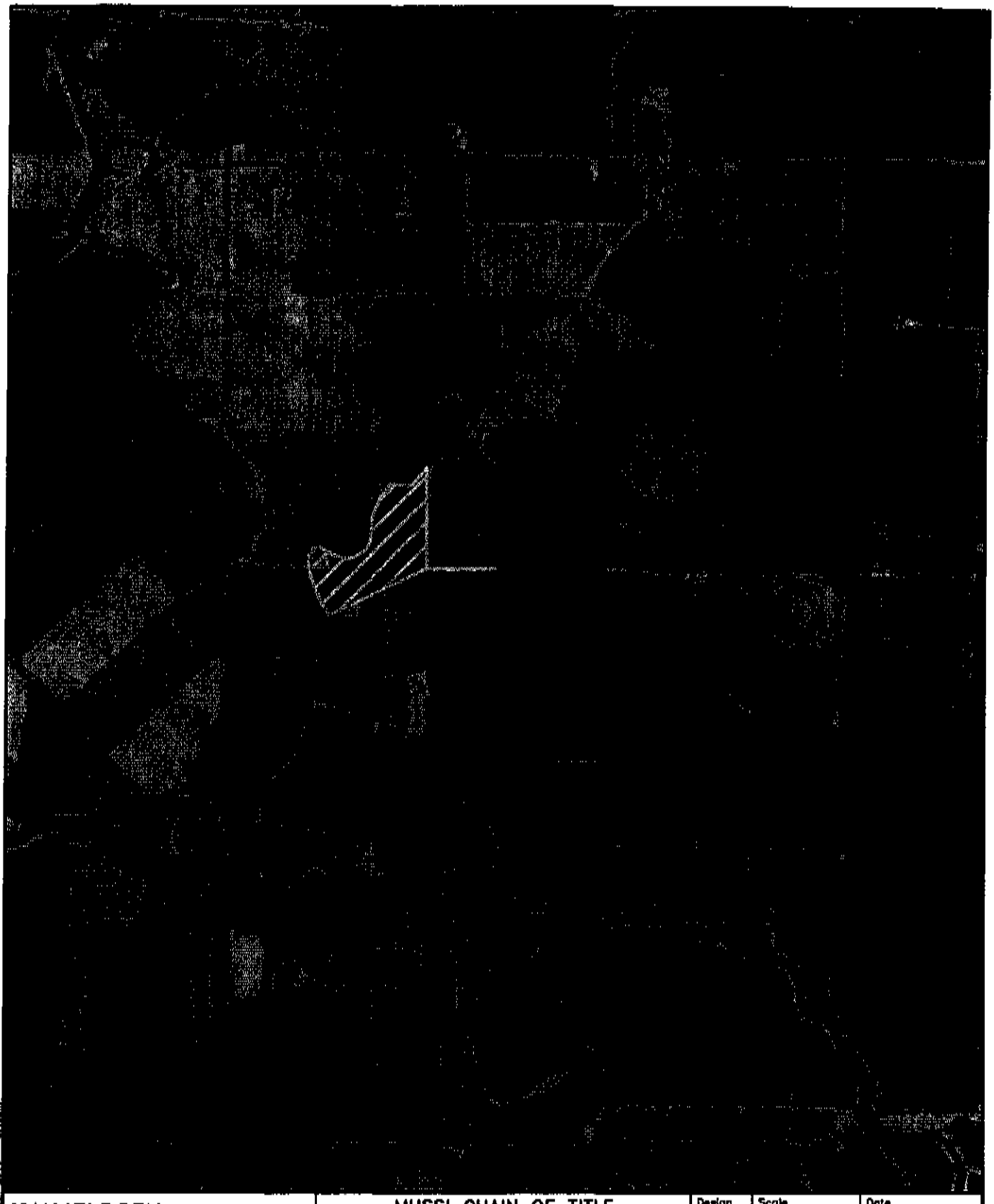
THIS GRANT OF EASEMENT shall constitute a covenant running with the land traversed thereby and shall be binding upon the grantor, his heirs, successors and assigns.

IN WITNESS WHEREOF, the Grantor has herein set his hand and seal this 18th day of July, 1950.

T. S. Bingham (T. S. Bingham)

STATE OF CALIFORNIA }
COUNTY OF SAN JOAQUIN } ss.

On this 18th day of July in the year one thousand nine hundred and fifty before me, Lisford F. Brown, a Notary Public in and for the County of San Joaquin, state of California, personally appeared T. S. Bingham known to me to be the person whose name is subscribed to the within instrument and he duly acknowledged to me that he executed the same.



KSN INC. KJELDSEN SINNOCK NEUDECK Civil Engineers and Land Surveyors	Post Office Box 844, 711 N. Pershing Avenue, Stockton, CA 95201-0844, Office: (209) 946-0268, Fax: (209) 946-0296, E-mail: KSN@ksninc.com	MUSSI CHAIN OF TITLE GRANTOR: JOHN VASQUEZ GRANTEE: ANNA VASQUEZ JULY 25TH, 1950	Design Drawn CSM Check SLB	Scale 1" = 2500' Original Drawing Scale 0 ¼" ½"	Date 3/30/10 Sheet Number Of Project File No. 1732-0070

FILE SPEC: P:\1732_SONA\0070_Historical_Mapping\Survey\Mussi\Exhibits\CAD\E-Vasquez_to_Heirs.dwg
PLOT DATE: Mar 31, 2010 - 8:48am

99078329

RECORDING REQUESTED BY:
Fidelity National Title Company of California
Escrow No. 129993-
Title Order No. 00120003

When Recorded Mail Document and Tax Statement To:
Mr. and Mrs. Rudy M. Musel
3560 Muller Road
Stockton, CA 95210

129993 W.P

APN: 131-170-03

DOCUMENTARY TRANSFER TAX
COUNTY 456.50
CITY

RECORDED
COUNTY CLERK
JAMES P. JOHNSTONE
99 JUN 16 AM 8:00
SAN JOAQUIN COUNTY
Fidelity National Title Co.
FEE

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

The undersigned grantor(s) declare(s)
Documentary transfer tax is $456.50
[X] computed on full value of property conveyed, or
[ ] computed on full value less value of liens or encumbrances remaining at time of sale,
[ ] Unincorporated Area City of Stockton

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Milton Joseph Walser, Revocable Trust dated December 9, 1988**

hereby GRANT(S) to Rudy M. Musel and Toni Musel, husband and wife/and Lary C. Musel and Victoria Musel, husband and wife as joint tenants each as to an undivided 50% interest as joint tenants

the following described real property in the City of Stockton
County of San Joaquin, State of California:
SEE EXHIBIT ONE ATTACHED HERETO AND MADE A PART HEREOF

Trustee of the Milton Joseph Walser

DATED: June 7, 1999

STATE OF CALIFORNIA
COUNTY OF San Joaquin
ON 6/7/99 before me, Dee D. Guzman personally appeared Milton Joseph Walser

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature

Milton Joseph Walser Revocable Trust dated December 9, 1988

By: Milton Joseph Walser
Milton Joseph Walser, Trustee

MAIL TAX STATEMENTS AS DIRECTED ABOVE

FD-212 (Rev 7/94) GRANT DEED

Exhibit 3G

EXHIBIT "ONE"

A portion of Section Twenty-Seven (27), Township One (1) North, Range Five (5) East, Mount Diablo Base and Meridian and more particularly described as follows:

The North 15 feet of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section Twenty-Seven (27), and portions of the fractional part of the North one-half of the Southwest Quarter of said Section 27; lying East and North of a cross levee separating the middle and lower division of Roberts Island and the fractional point of the Northwest Quarter of said Section 27, lying South and East of said levee all in Township One (1) North, Range Five (5) East, Mount Diablo Base and Meridian, and being more particularly described as follows:

Beginning at a steel axle set at the center of said Section 27 (and in the center of a drainage ditch); thence East along the center line of said drainage ditch on the North line of said Northwest Quarter of the Southeast Quarter of said Section 27, a distance of 1319.6 feet to a steel axle set at the Northeast corner of said Northwest Quarter of said Section 27; thence South 00 degrees 07 minutes West a distance of 15 feet to a point on the partition line between the lands of Josephine V. Jones and John S. Vasquez (said point being the Southeast corner of said Vasquez Lands); thence West along said partition line (parallel to and South 00 degrees 07 minutes West a distance of 1350.6 feet to a steel axle set at the Northwest corner of the lands of said Jones (said axle being South 64 degrees 07 minutes West a distance of 34.4 feet from said steel axle in the center of said Section 27; thence South 64 degrees 07 minutes West along said partition line 2042.1 feet to a steel axle set in the center line of said levee (said center line being also the center line of the County road called Kingston Road); thence meandering the center line of said levee to a steel axle set at the Northeast corner of said fractional part of said Northwest quarter of said Section 27 lying South and East of said levee; thence leaving said levee, South 00 degrees 04 minutes West along the East line of said fraction part of said Northwest Quarter a distance of 1922.7 feet to the point of beginning.

Excepting a strip of land 20 feet in width immediately abutting said levee center line and lying East and South thereof, said strip having been heretofore deeded to the San Joaquin County for roadway purposes.

Also an easement for drainage purposes only over a strip of land 15 feet in width whose North line is the South line of the above described reserved strip and which easement extending the full length of said strip.

Excepting therefrom, any portion of the herein described property which is or ever was tidelands below the line of the natural ordinary high tide.

Assessor's Parcel No: 131-170-03

[redacted]

esce9978329

STATE OF CALIFORNIA

County of San Joaquin

Title or type of Document _____
Number of Pages _____ Date of Document _____
Signer(s) Other than named below _____

On 6/7/99 before me D. Guzman personally appeared
William Joseph Weber

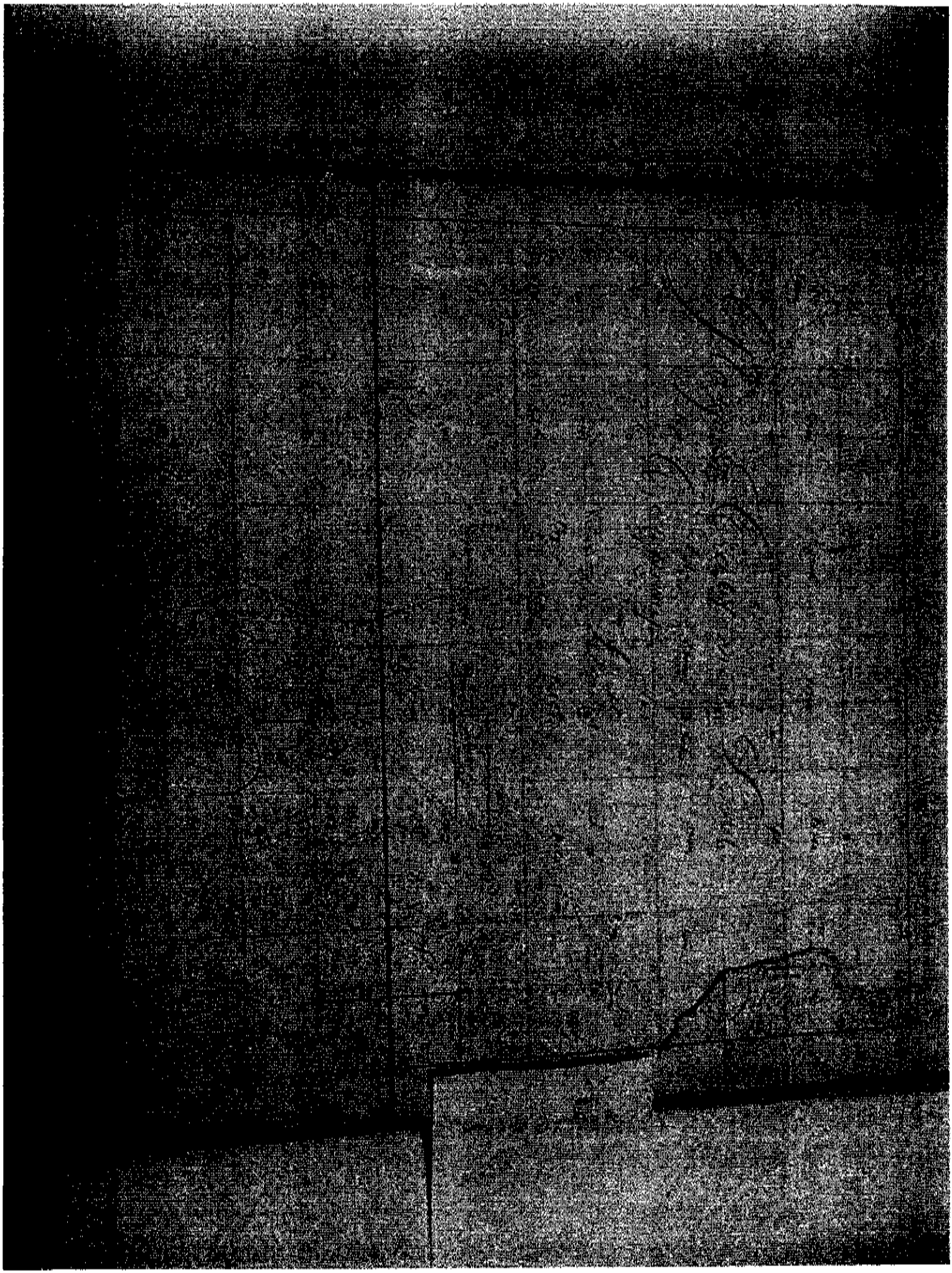
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

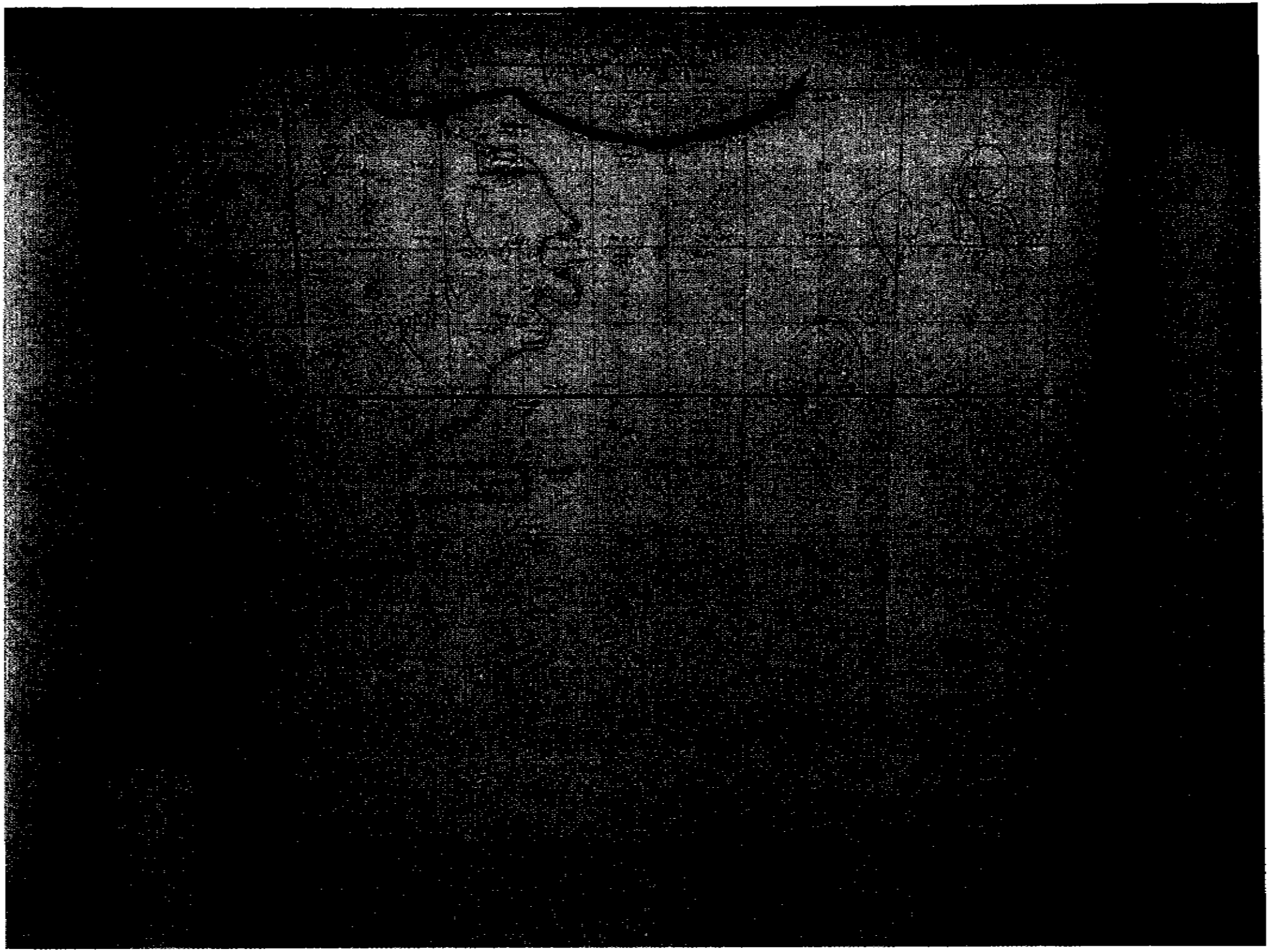
WITNESS my hand and official seal.

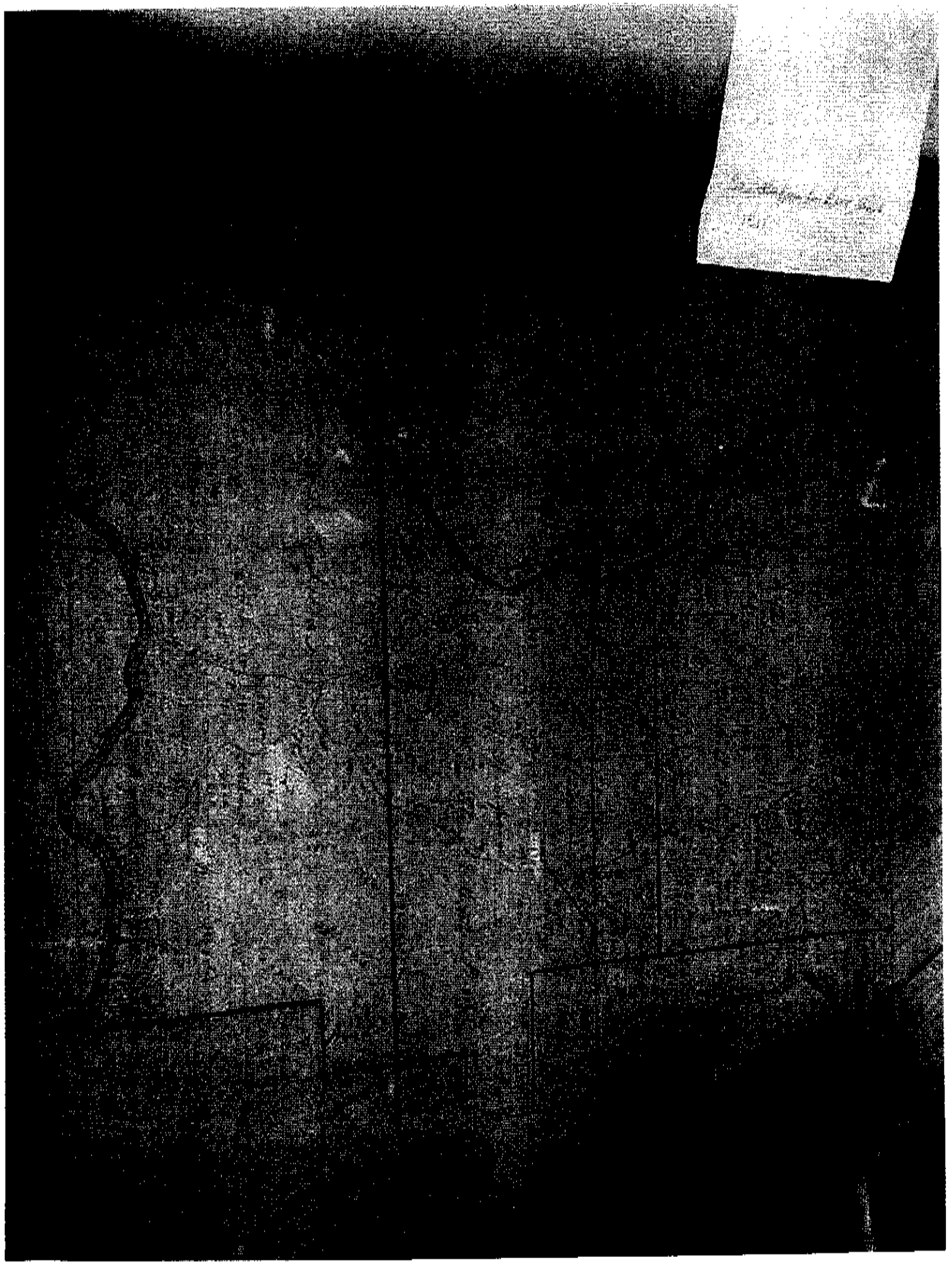
Signature [signature] (Seal)
Notary Public in and for said County and State

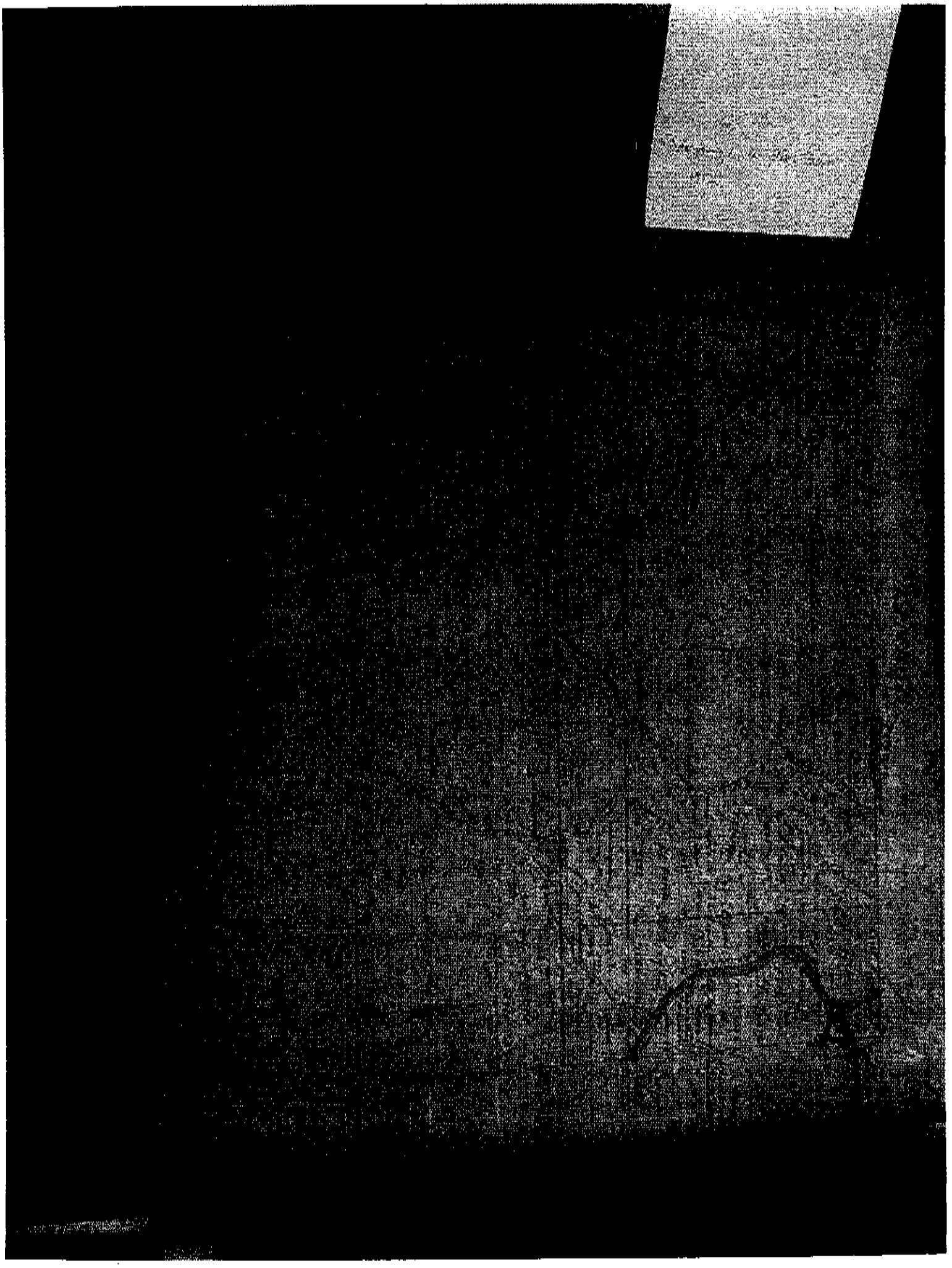
MC-1 (Rev. 4/94)

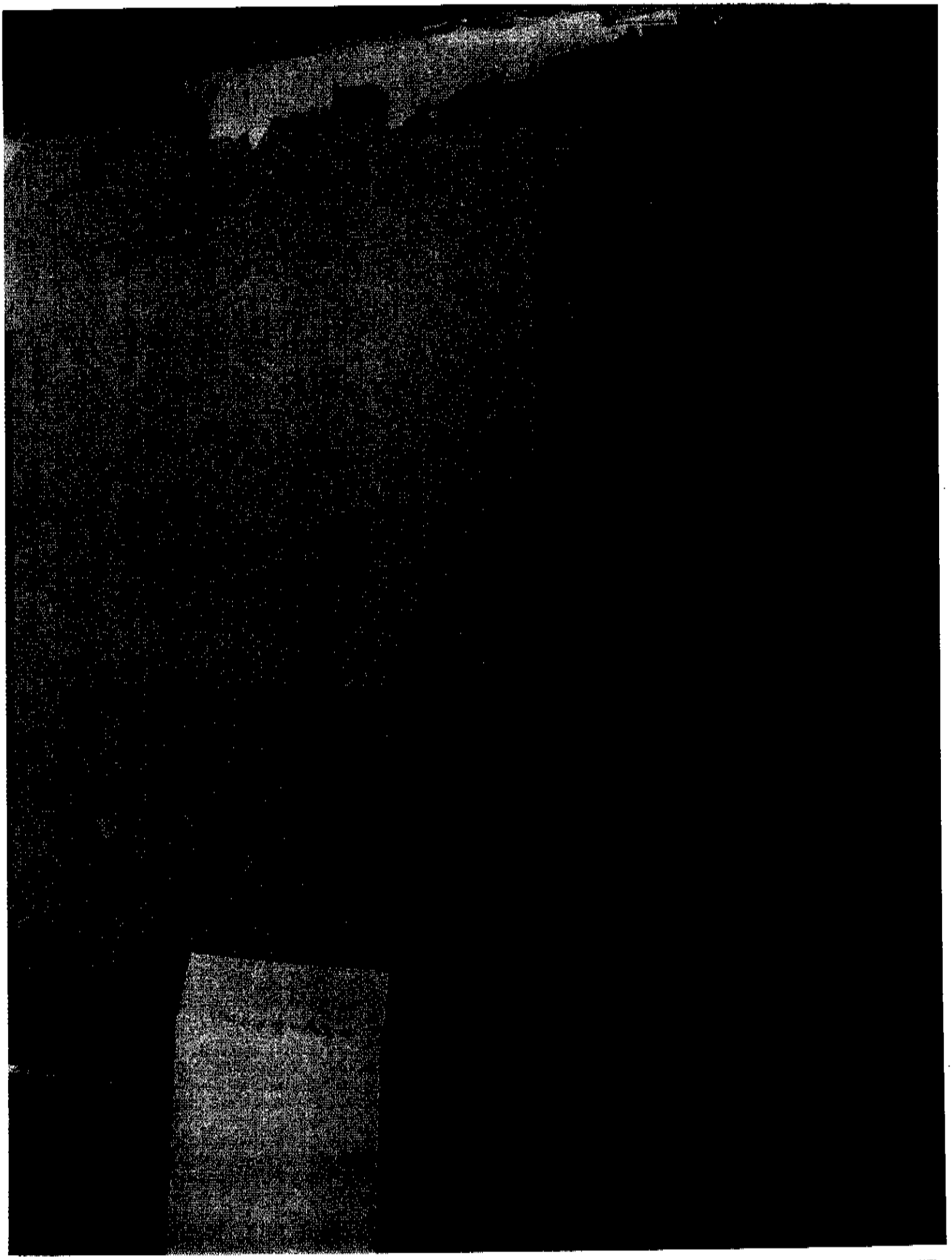
D. GUZMAN
COMM. # 1081187
NOTARY PUBLIC - CALIFORNIA
SAN JOAQUIN COUNTY
My Comm. Expires Jan 20, 2000

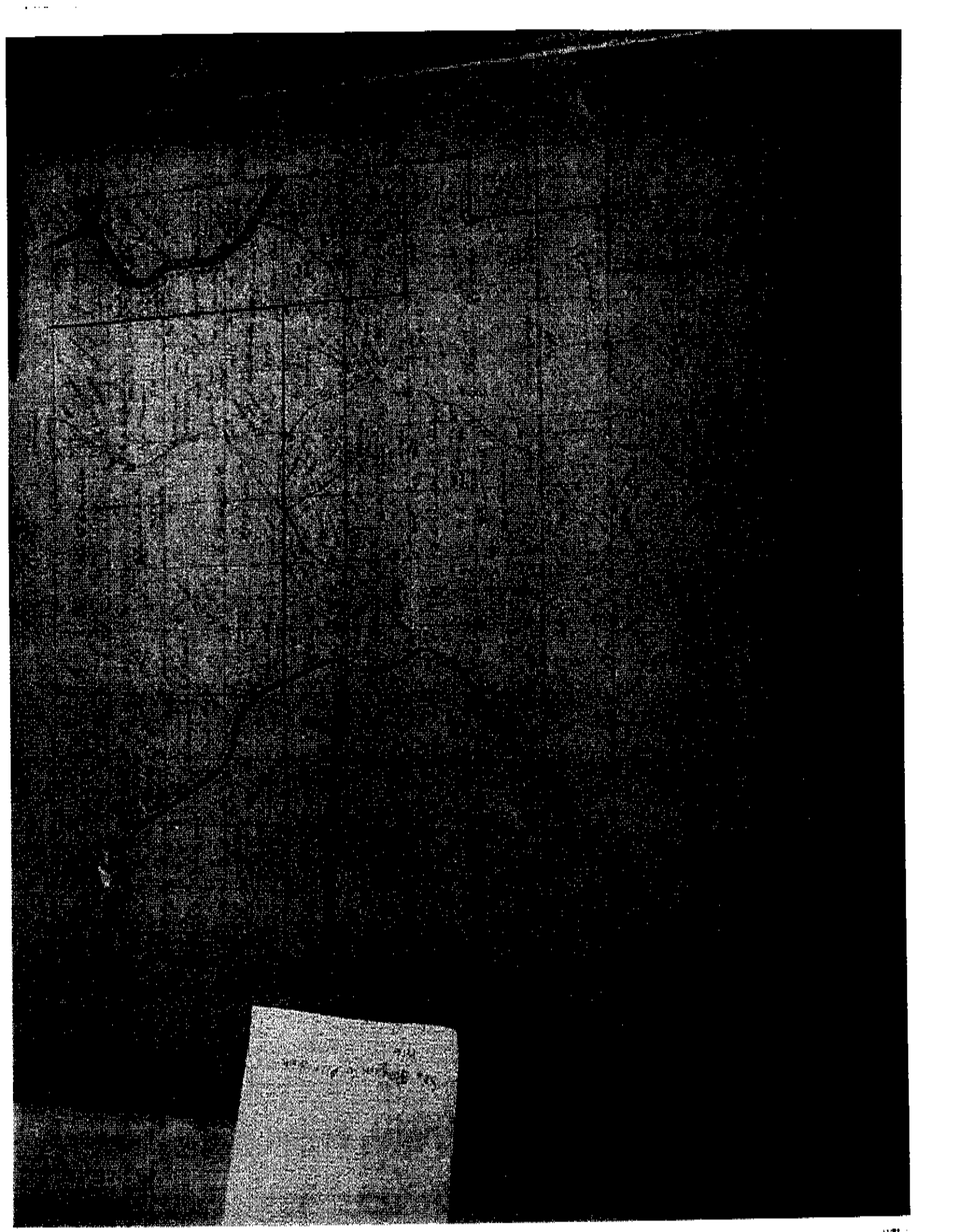












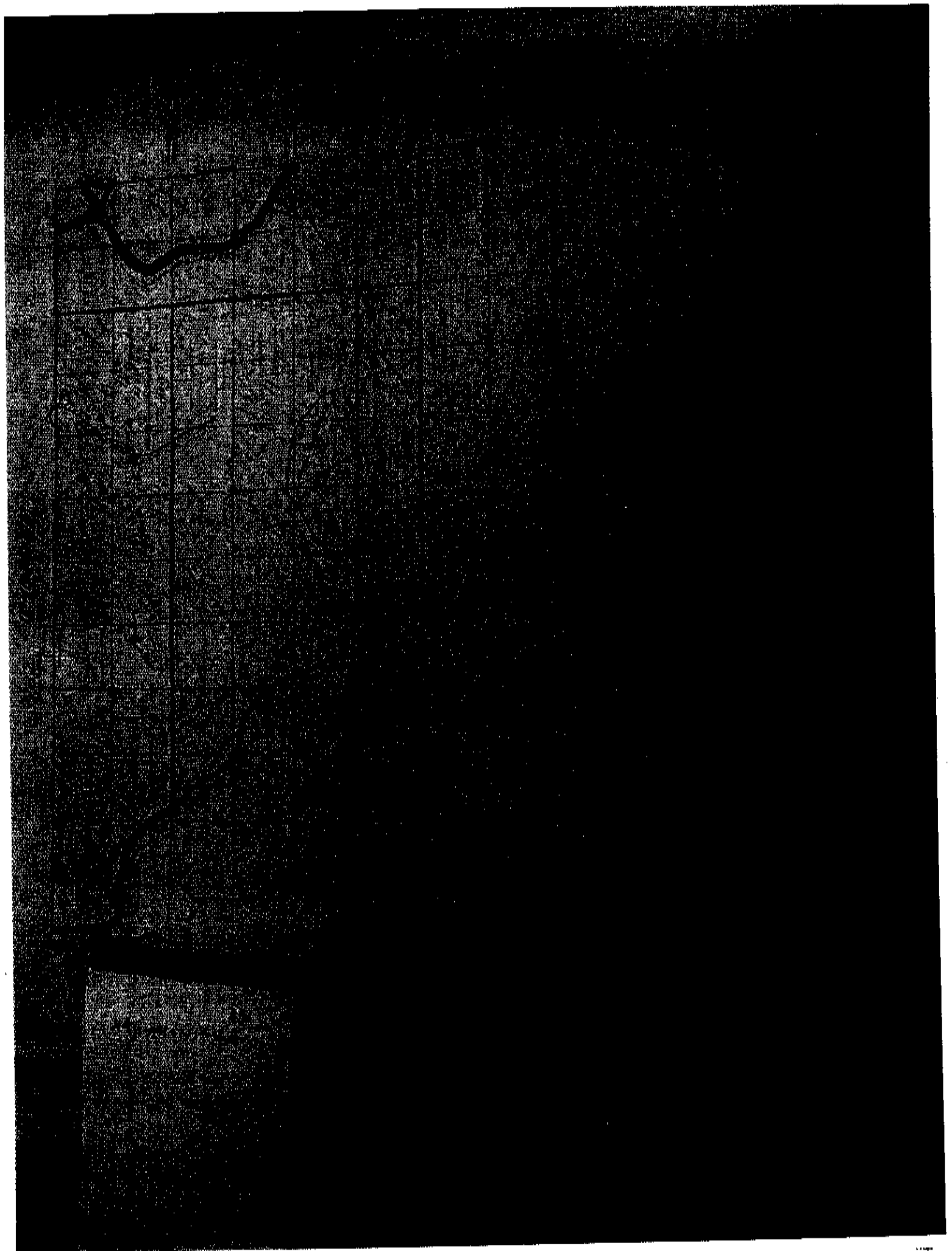


Exhibit 31

Exhibit 3J is attached on the CD

The Settlement Geography of the Sacramento-San Joaquin Delta, California

The Samson's first job was on Duck Slough and Burns' Cut-off levees of Roberts Island,[27] but the water was so low that the equipment could not make headway unless a channel 30 by 7 feet was dug. The volume of material that had to be removed to keep the scow floating vastly exceeded the amount planned for the levee.[28] Nevertheless, the demonstration resulted in urgent requests from levee builders in the Sacramento and Mokelumne river districts for assistance from the new dredges. One of the machines was tried at Staten Island early in 1876, but its boom was so short that to dump fill where it was wanted required excavation into the natural banks of the Mokelumne.[29] In November 1876 one of these dredges was used in building a cross levee on lower Grand Island. The performance was more promising and was thought to be a successful demonstration of the utility of machinery for levee building.[30] The dredge did not, however, satisfy the requirement for a machine which would not weaken natural banks in the process of raising levees above them.

---

[27]The levee followed the right bank of the slough southwestward toward Middle River from the slough's outlet on Burns' Cut-off. The present Honker Lake Tract, the Pocket, and Roberts Island north of the Santa Fe right-of-way (including McDonald Island) would be north of the levee.

[28]"Reclamation of Roberts Island," SWI, Nov. 20, 1875, p. 5.

[29]"Crops on the Lowlands," SWI, June 24, 1876, p. 5; "A New Contrivance," ibid., Nov. 18, 1876, p. 5.

[30]Ibid.; "Reclamation," ibid., Nov. 11, 1876, p. 7; "Roberts Island," ibid., Sept. 22, 1877, p. 7.

Exhibit 3K

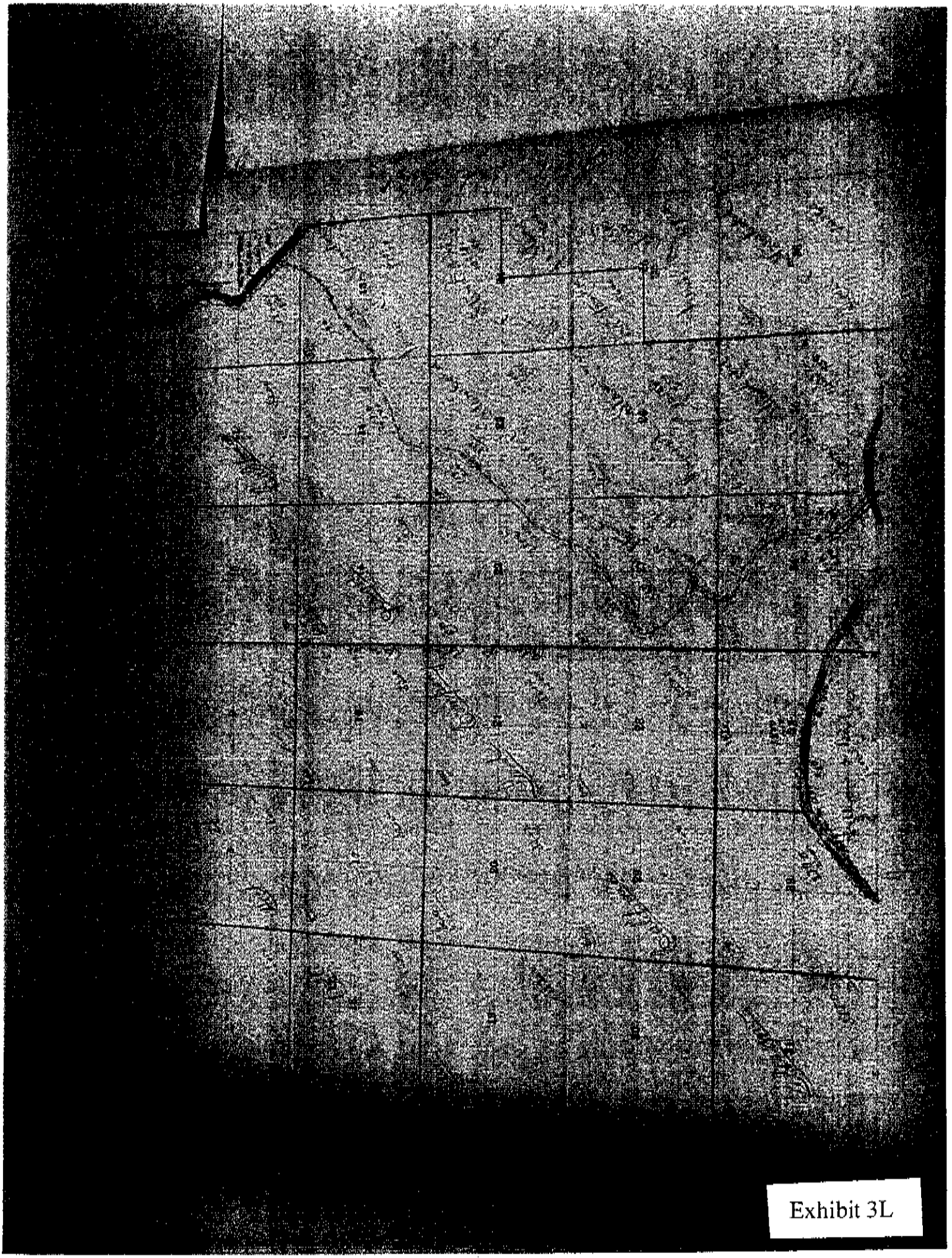


Exhibit 3L

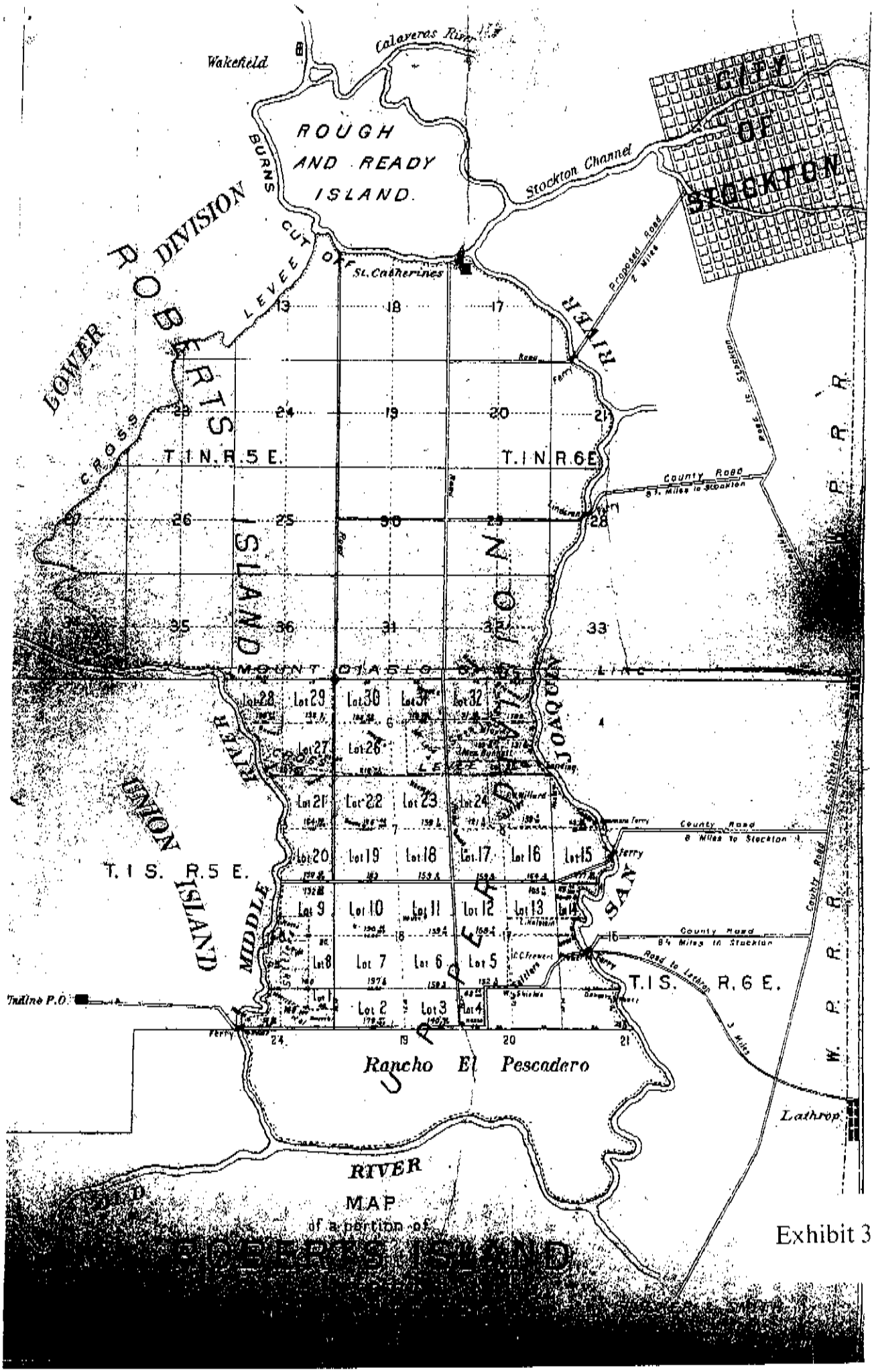
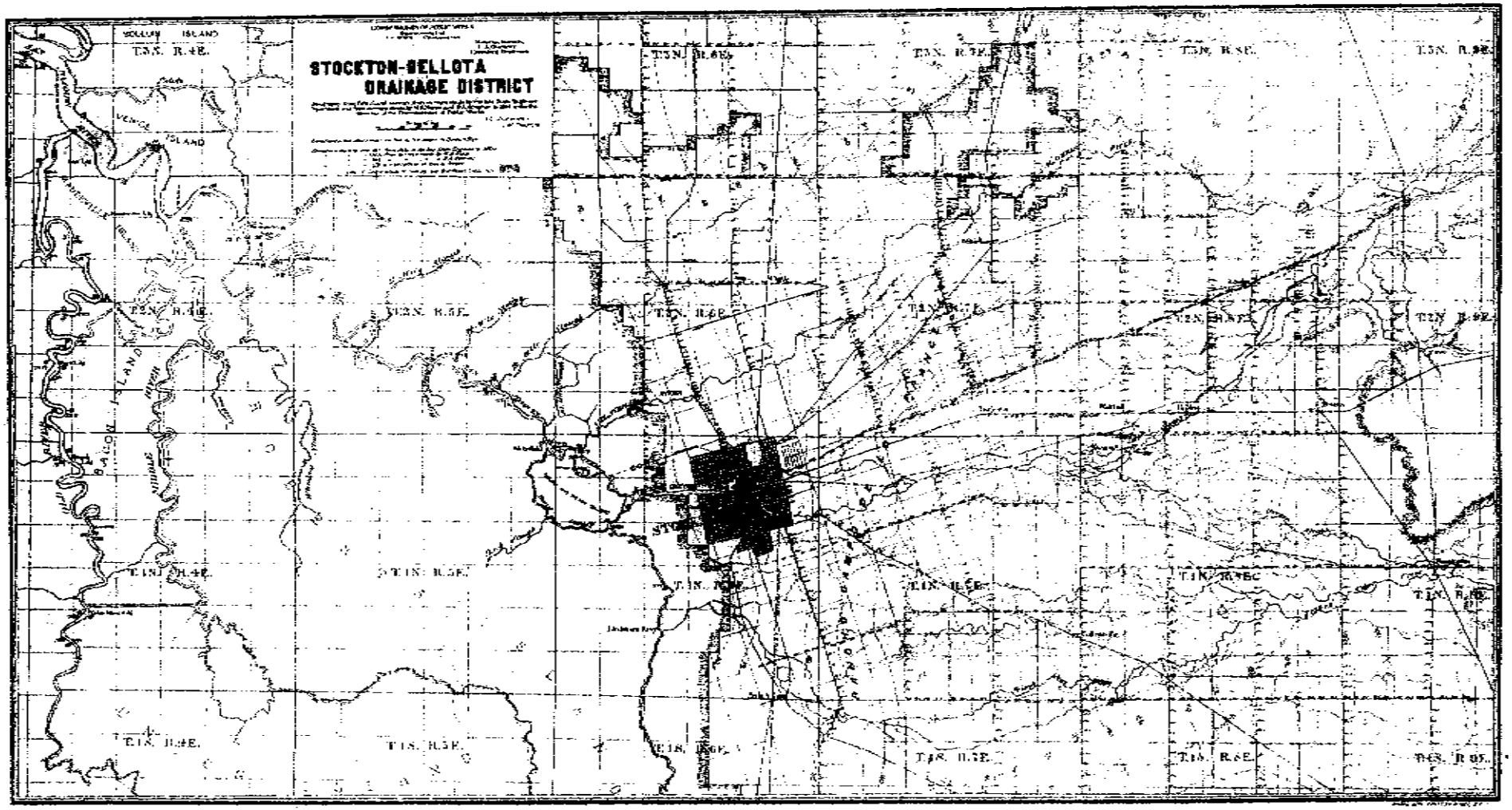

Wakefield
Calaveras River
ROUGH AND READY ISLAND
BURNS CUT OFF
LEVEE
Stockton Channel
CITY OF STOCKTON
Proposed Road 2 Miles
St. Catherines
LOWER ROBERTS DIVISION
CROSS
RIVER
T.1N.R.5E.
T.1N.R.6E.
County Road 8½ Miles to Stockton
ROBERTS ISLAND
MOUNT DIABLO BASE LINE
Lot 28
Lot 29
Lot 30
Lot 31
Lot 32
Lot 27
Lot 26
LEVEE
Lot 21
Lot 22
Lot 23
Lot 24
Lot 20
Lot 19
Lot 18
Lot 17
Lot 16
Lot 15
County Road 8 Miles to Stockton
UNION ISLAND
T.1S. R.5E.
MIDDLE RIVER
Lot 9
Lot 10
Lot 11
Lot 12
Lot 13
Lot 14
County Road 8¼ Miles to Stockton
Lot 8
Lot 7
Lot 6
Lot 5
Road to Lathrop
T.1S. R.6E.
Tulare P.O.
Lot 1
Lot 2
Lot 3
Lot 4
Rancho El Pescadero
Lathrop
W. P. R. R.
RIVER
MAP
of a portion of
ROBERTS ISLAND

Exhibit 3M

Exhibit 3N

Exhibit 30



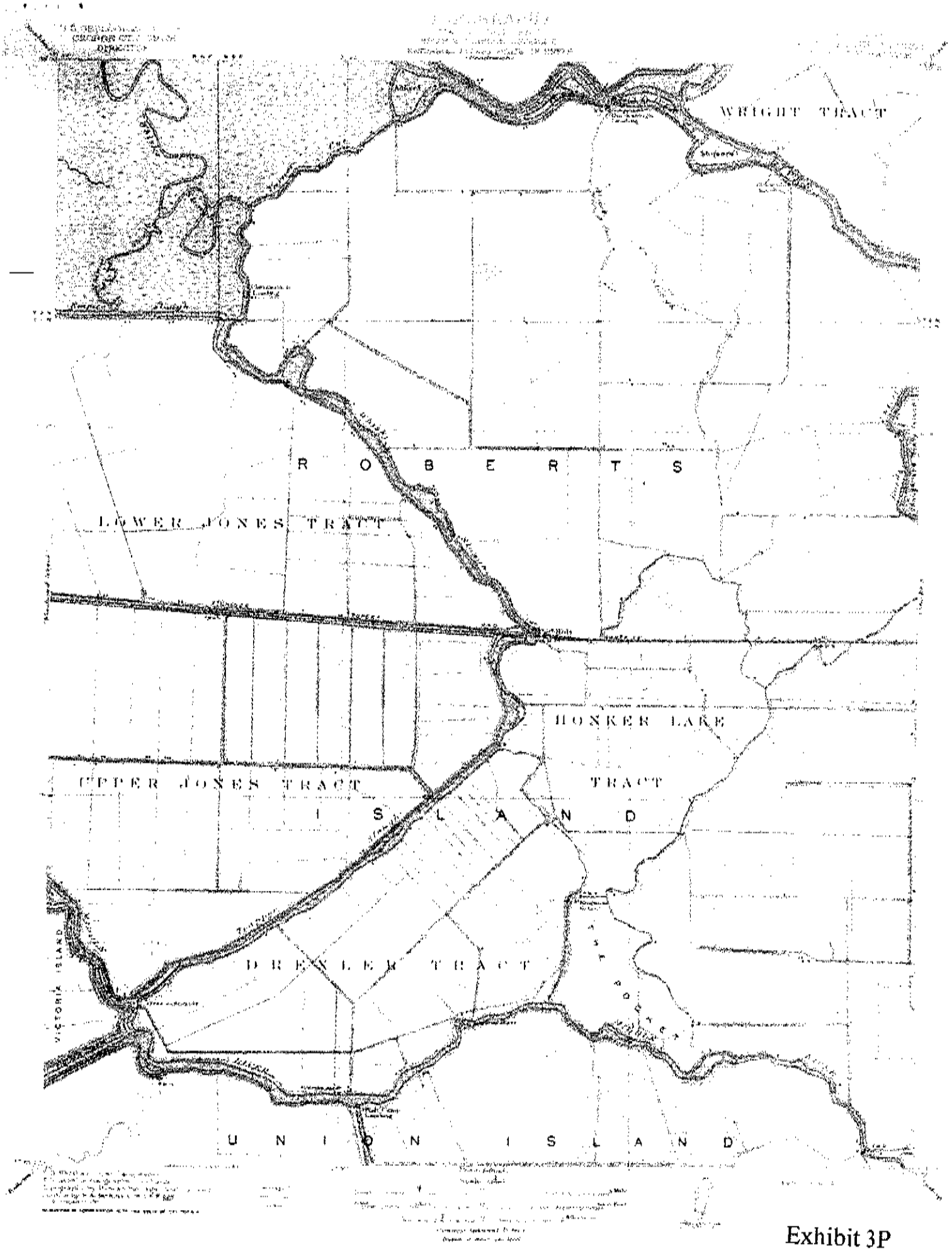
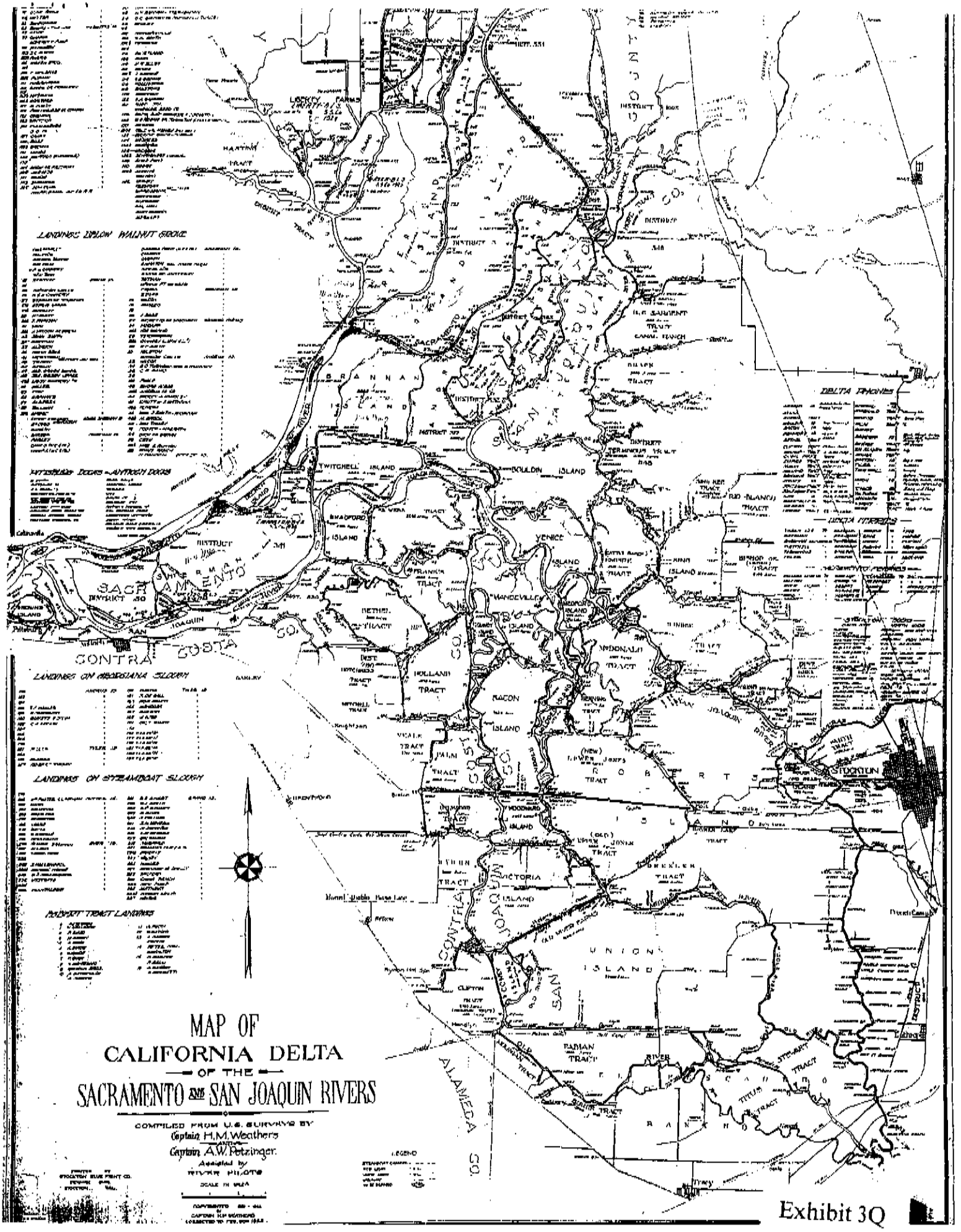

WRIGHT TRACT
R O B E R T S
LOWER JONES TRACT
HONKER LAKE
UPPER JONES TRACT
TRACT
I S L A N D
DRENKLER TRACT
VICTORIA ISLAND
U N I O N I S L A N D

Exhibit 3P


MAP OF
CALIFORNIA DELTA
OF THE
SACRAMENTO AND SAN JOAQUIN RIVERS
COMPILED FROM U.S. SURVEYS BY
Captain H.M. Weathers
AND
Captain A.W. Petringer.
Assisted by
RIVER PILOTS
SCALE IN MILES
LEGEND
LANDINGS BELOW WALNUT GROVE
LANDINGS ON MOKELUMNE SLOUGH
LANDINGS ON STEAMBOAT SLOUGH
DELTA TRACTS
DELTA ISLANDS
SACRAMENTO
CONTRA COSTA
SAN JOAQUIN
ALAMEDA
STOCKTON
UNION ISLAND
VICTORIA ISLAND
BACON ISLAND
ROBERTS ISLAND
MCDONALD TRACT
VENICE ISLAND
BOULDIN ISLAND
TWITCHELL ISLAND
BRANNAN ISLAND
BETHEL TRACT
HOLLAND TRACT
MANDEVILLE
WOODWARD ISLAND
BRAYTON TRACT
BAMAN TRACT
TITUS TRACT
STEWART TRACT
BRAZOS TRACT
CLIFTON TRACT
Exhibit 3Q

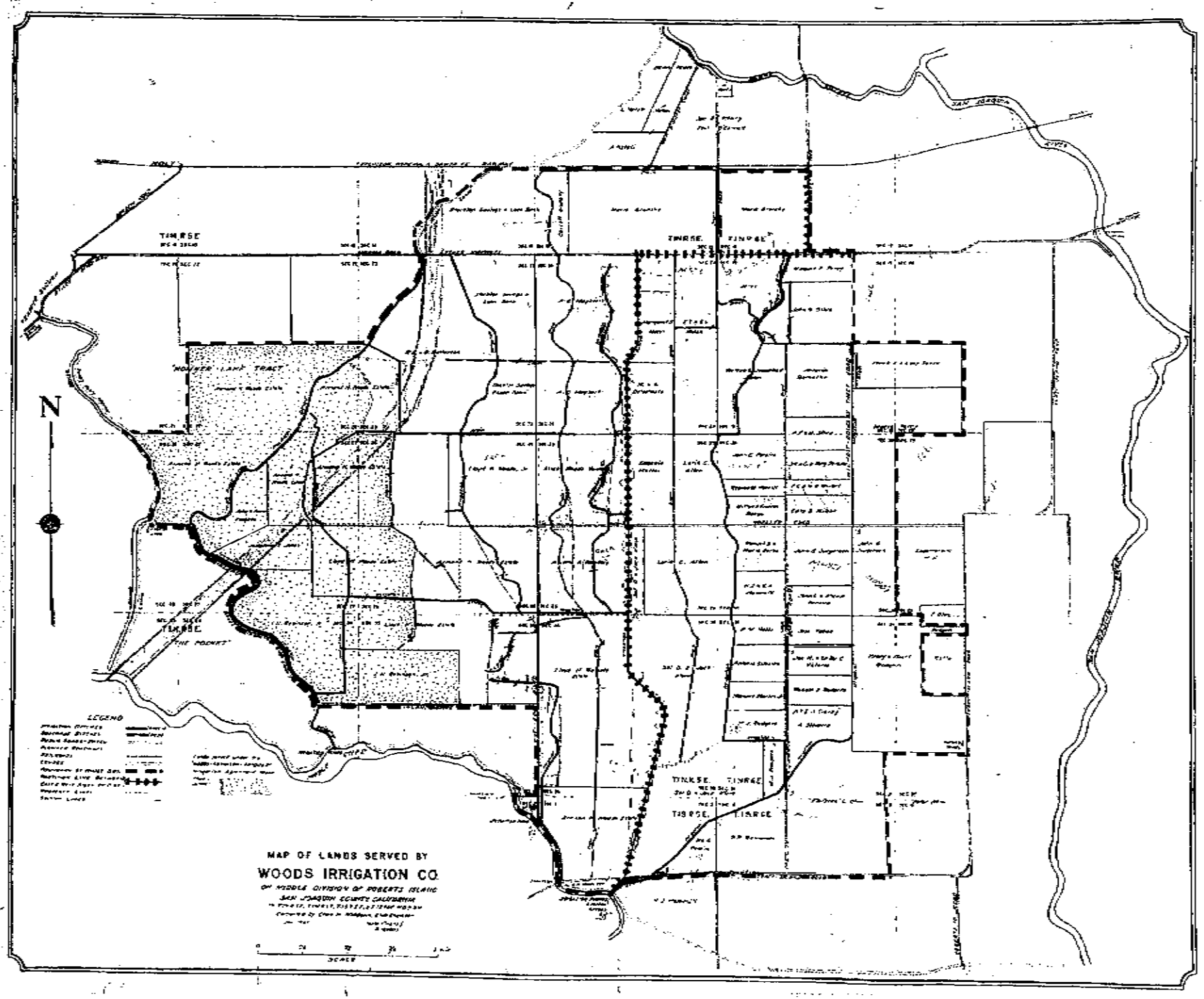

MAP OF LANDS SERVED BY
WOODS IRRIGATION CO.
N
LEGEND
T1N R5E
T1N R6E
T1S R5E
T1S R6E

Exhibit 3R

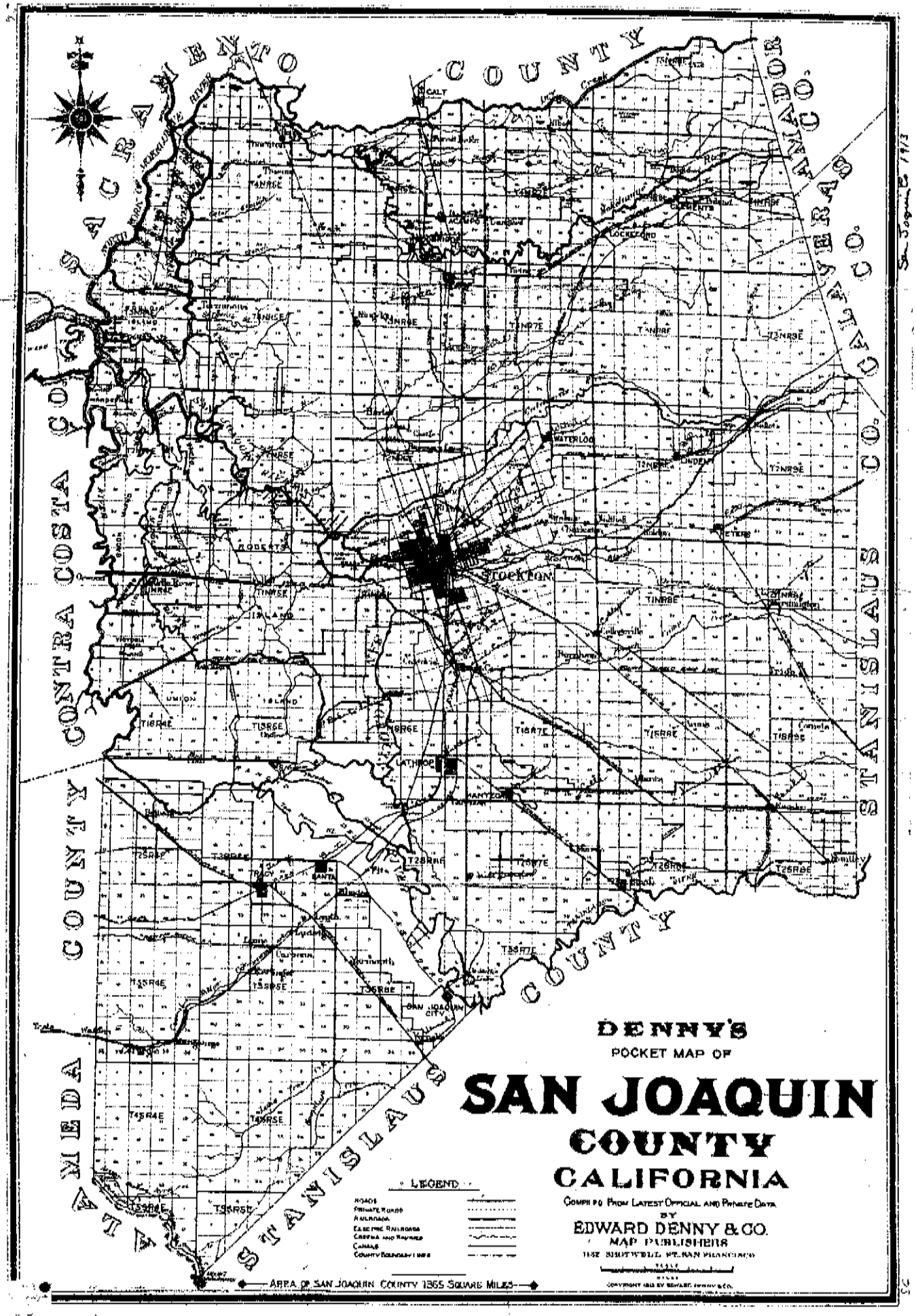

DENNY'S
POCKET MAP OF
SAN JOAQUIN
COUNTY
CALIFORNIA
COMPILED FROM LATEST OFFICIAL AND PRIVATE DATA
BY
EDWARD DENNY & CO.
MAP PUBLISHERS
LEGEND
AREA OF SAN JOAQUIN COUNTY 1365 SQUARE MILES
SACRAMENTO COUNTY
CONTRA COSTA COUNTY
ALAMEDA COUNTY
STANISLAUS COUNTY
CALAVERAS CO.
Stockton
LATHROPE
LOCKEFORD
WATERLOO
ROBERTS
ISLAND
UNION
TINRSE
T1SRE
T2SRE
T3SRE
T4SRE
T5SRE
T6SRE
T7SRE

Exhibit 3S

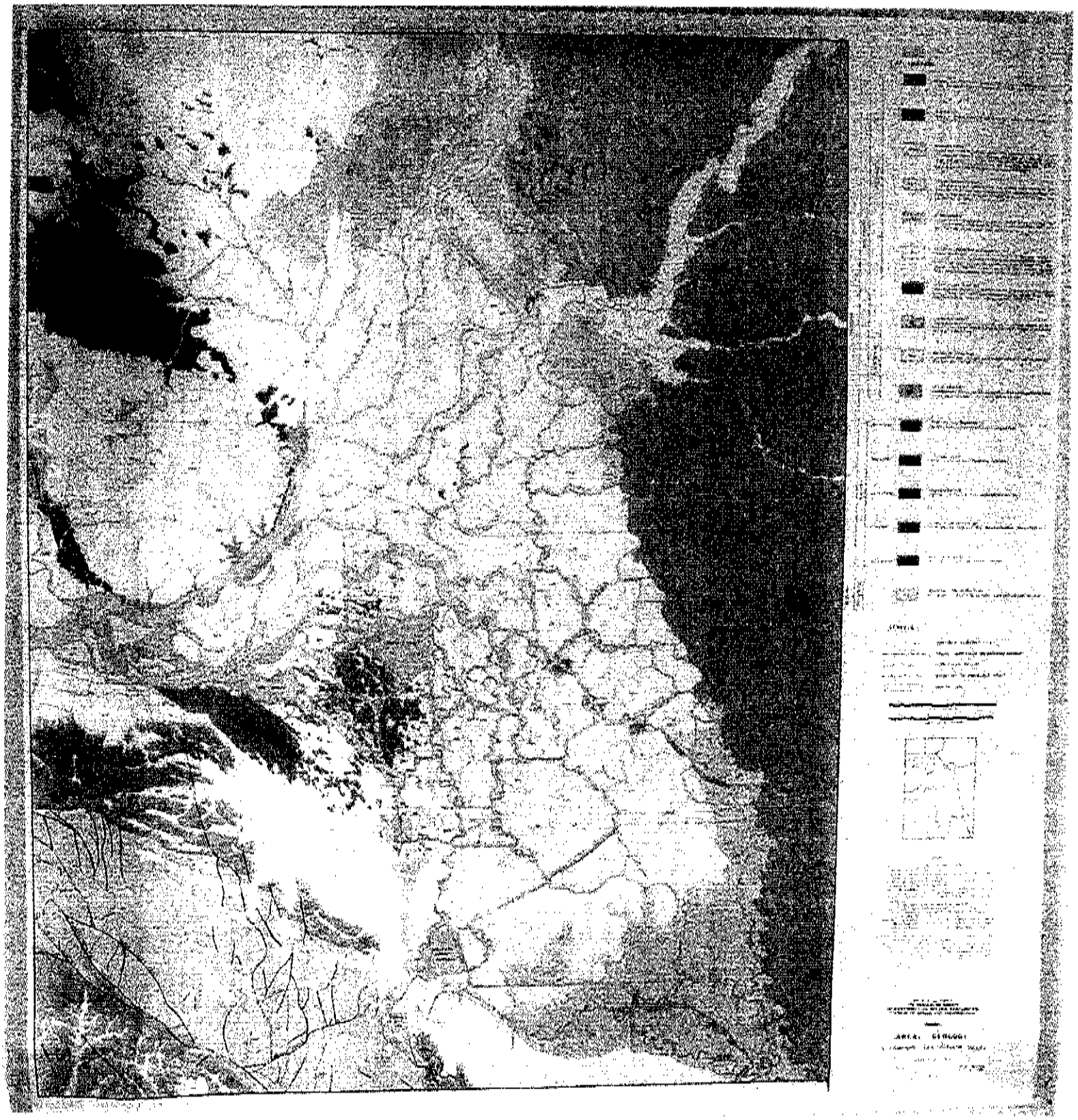
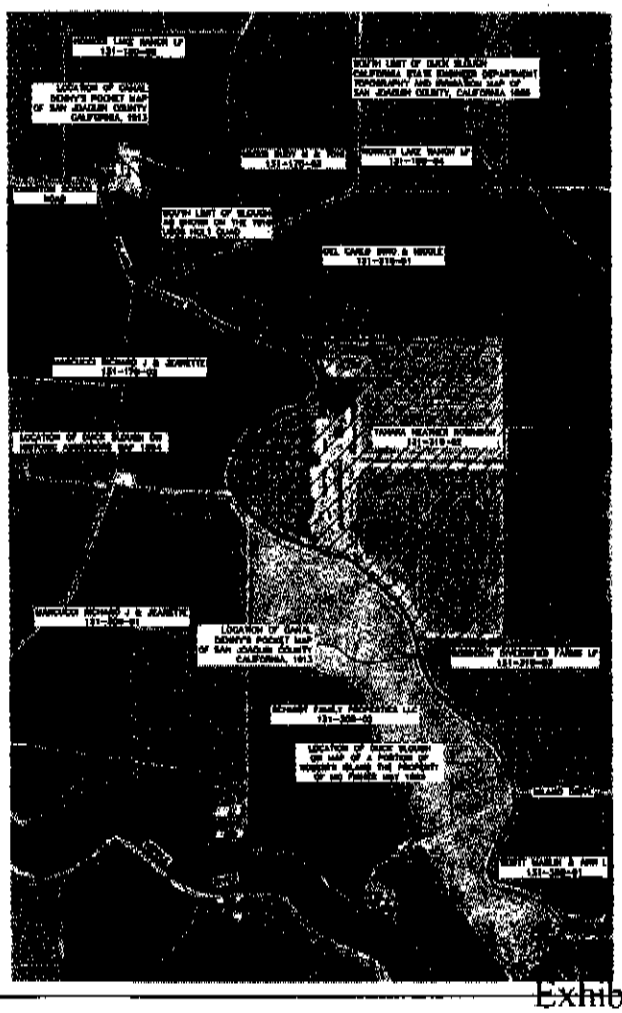


Exhibit 3T



DATA SOURCES:

- Lodi 2006 map handbook
- San Joaquin County Tax assessors Data
- 1914 USGS MOLT QUAD
- BONNY'S POCKET MAP OF THE SAN JOAQUIN COUNTY, CALIFORNIA 1913
- CALIFORNIA STATE ENGINEER DEPARTMENT TOPOGRAPHY AND IRRIGATION MAP OF SAN JOAQUIN COUNTY 1888

PURPOSE:

THE PURPOSE OF THIS MAP IS TO SHOW THE PARCEL CURRENTLY IDENTIFIED AS SAN JOAQUIN COUNTY APN 131-010-02 AND OWNED BY HEATHER TANARA MAINTAINED CONNECTION TO THE WATER COURSES KNOWN AS DUCK SLOUGH FROM 1890-1920.

EXHIBIT OF HISTORICAL WATER USE
AND CONNECTIVITY
PREPARED BY KSN
DECEMBER 2009

Exhibit 3U

State Water Resources Control Board
Term 91 ACL Hearing
Exh: SDWA - 03
For Ident: ____ In Evidence: ____

TESTIMONY OF CHRIS NEUDECK

I am Christopher H. Neudeck, P. O. Box 844, Stockton, California 95201. I am a registered Civil Engineer in the State of California and have worked with the Delta Islands including flood control, drainage and irrigation for the past twenty (20) years. I am the District Engineer for numerous reclamation districts in the Sacramento/San Joaquin Delta (Delta) and I am familiar with the history of reclamation of lands in the Delta including the Upper Division of Roberts Island which is the area of concern in this proceeding. The engineering firm of Kjeldsen, Sinnock & Neudeck, Inc. of which I am a principal is the engineer for Reclamation District No. 544 which encompasses the area of concern and adjoining districts Reclamation District No. 17 and Union Island Reclamation Districts 1 and 2. I am very familiar with the area including the waterways, levees, drains and irrigation facilities. A statement of my qualifications is submitted as a separate exhibit.

I. The Sacramento/San Joaquin Delta of which the upper division of Roberts Island is a part is the area where the Sacramento River system and San Joaquin River system merge and interface with tidal water. At the early times most relevant herein (mid 1800's), the area was recognized as swamp and overflowed land. The area has been described as the "Holland of America" where the deltas of the two river systems overlap. Like the branches of a tree, the river systems merging in the Delta divided and redivided into hundreds and perhaps thousands of channels which then rejoined into a single channel passing through the Carquinez Straits. (Exhibit "A".) These dendritic channels distributed the sediments suspended in the river flow. Heavier particles such as sands would settle closest to the channels resulting in a bank or area adjacent to the channel which is higher than the adjoining land. These bank areas rimmed tidal swamps with a gradient falling away from the channels. The gradient has over time been intensified by oxidation and deflation of drained peat, compaction and burning. (See Exhibit "C," The Settlement Geography of the Sacramento-San Joaquin Delta, pages 290-294.)

Prior to the construction of levees, the river flow would pass over all of the lands and dendritic channels for a number of months of most years. The entire area comprised the bed of the river with a variable depth. Water would be shallowest over the channel bank area. During periods of low river flow, water would essentially flow only through the dendritic channels.

In order to reclaim the swamp and overflowed lands, levees and floodgates were constructed to drain the lands. Although initially piecemeal and relatively small scale, the reclamation process evolved into a large scale effort. As relevant to Upper Roberts Island, the large scale effort commenced prior to June of 1879 (See Exhibit "B", Daily Evening Herald, June 27, 1879.) Levees were eventually constructed along the major channels now called the San Joaquin River, Old River, and Middle River. I have seen references to Old River as Old San Joaquin River and to Middle River as the Middle San Joaquin River.

Construction of the levees involved crossing or damming a number of the dendritic channels of various sizes which commonly are referred to as sloughs. The common practice was to install floodgates (a conduit with a mechanism for closure) in the levees (dams) at the point of crossing to provide for drainage and/or irrigation. (See Exhibit "C", The Settlement Geography

Exhibit 3V

of the Sacramento-San Joaquin Delta, pages 244 and 245, which describes the general practice of damming sloughs and installing sluiceways which I call floodgates.) The floodgates of course would be closed at times of high river flows. Many were equipped with flap gates on each end so that tidal pumping could be used to enhance drainage or irrigation. In the case of irrigation, the flapgate on the inside of the island would open on the incoming tide and close on the outgoing tide, thereby helping to maintain a full slough or ditch to improve the distribution of water to the various fields. Early floodgates included a variety of conduits. Some were rectangular pipes or boxes made of redwood, brick, or cement and others were riveted steel pipes or clay pipes. There are a number of floodgate and slough-type irrigation facilities still operating in the Delta. On Upper Roberts Island, all appear to have been replaced by irrigation pumps and pipelines and drainage pumps and canals. In some cases, drainage pumps discharge water into the irrigation pipelines which direct the water by way of backflow to the river.

Impacts on irrigation season water levels by water development and channel dredging, the need for more efficient irrigation and drainage practices and the desire to improve levee integrity are obvious factors which encouraged the shift from the slough and floodgate gravity systems to pumps, ditches and pipelines on Upper Roberts Island.

Exhibit "D" is a 1912 Topographic Map of Upper Roberts Island on which I have plotted what I believe are the dendritic channels in the area of Upper Roberts Island which abut the properties which are the subject of this proceeding. The channel locations are confirmed by aerial photos of the area on which the sedimentary soils deposited along the dendritic channels is reflected as the lighter colored area. (See, for example, Exhibit "E".) Although these channels do not at the present convey surface water to the subject properties, they do continue to serve as conduits for the river water to pass below the ground surface to such parcels. It is my opinion that such channels conveyed surface water to the subject parcels from at least 1850 until the time that replacement irrigation facilities were installed. As discussed hereinafter, there are still remnants of such channels, floodgates and other irrigation facilities which confirm the use of irrigation water and the lack of severance for the subject parcels. The passage of time has tended to mask the existence of historic sloughs. Meandering roadways and property lines have been straightened, sloughs have been filled and replaced by ditches and pipelines and floodgates have been removed to reduce the threat of levee failure. Farmers have "squared up" and leveled their fields. In many cases, the upper portions of the slough sediments were removed and exported or mixed with adjoining soil to make farm field soils more uniform.

With minor exceptions, all of the lands within the upper division of Roberts Island have from the time of reclamation been devoted to farming. The need for and use of surface water for growing crops has always been of paramount importance. Extending back even before the time of patent of lands by the State, the landowners and farmers on Roberts Island including Upper Roberts Island were beneficially using the surface water to grow crops. While at first beneficial use was limited to the moisture gained from natural overflow of the land to be planted to crops irrigation with surface water soon followed.

> "Some irrigating had been done earlier, but the practice does not appear to have become a common part of delta farming until the 1870's. Flood irrigation had been tried on small grain by 1871, but was given up because of the excessive

weed growth that resulted. For other crops land soaking before planting or flood irrigation were practices in use during the 1870's. Subirrigation prior to plowing and planting dates from the same decade; it was originally used for beans and potatoes or to encourage the growth of a volunteer hay crops. Since then subirrigation has been used on all growing crops.

Irrigation water was delivered to the backswamp land through tidal gates and drainage ditches in the 1870's. Filled mains backed water into field ditches of two- to four-foot depth; from these the water spread along the six-inch- to two-foot-deep laterals ("spud ditches") which were spaced at intervals of 65 to 85 feet. Seepage occurred in the peat soils. Water levels were controlled with dams across the ditches.

Water delivery systems independent of drainage ditches were in use by the latter 1870's. These systems were maintained by the farmer, only the drainage system being the responsibility of the reclamation districts. Water wheels, windmills, and low-head pumps were used on the higher alluvial banks where furrow and check irrigation were the rule. Gravity flow and siphons after the 1900's were used on the lower tracts. . . ." (Exhibit "C," The Settlement Geography of the Sacramento-San Joaquin Delta, pgs. 310 - 312.)

"The conversion of natural levees into farm land on Roberts Island may be credited to Chinese lessees who, at least by 1869, were establishing truck and fruit gardens on the San Joaquin River side of Roberts Island. South of Rough and Ready Island the cleared land had become an almost continuous series of 6- to 50-acre cultivated plots by 1875. The farmed strip stretched into the island 200 to 500 feet. Another 60-acre strip of cultivated levee was located on the west side of the island to the north of the Pescadero Grant line. Here and there along the levee were the homes and barns of a dozen white families, chiefly grain and bean farmers and stock owners. Scattered clusters of Chinese gardeners occupied the Grant land. Like the renters to the north, the Chinese raised onions, beans, and blackberries.

Once the land development companies began to reclaim the backswamps in the 1870's, the land use pattern changed. Extensive grain fields appeared over the interior of Roberts Island. The white lessees were mainland residents as well as island settlers. Most of the latter lived within a mile of the river; their houses occupied slight alluvial prominences amidst the grain fields. Some of their farm structures had been built by the land developers as base camps for the reclamation and land clearing crews. In addition to the expansion of grain fields over the interior of the island, an enlargement of bean and potato acreage occurred near the river, where the thrifty Chinese and Italians even planted on the artificial levee. A few small deciduous orchards were scattered around the higher periphery too." (Exhibit "C", The Settlement Geography of the Sacramento-San Joaquin Delta, pgs. 322-324.)

Attached hereto are copies of historic newspaper articles supporting the above.

Exhibit "F" is an article from the Daily Evening Herald for May 12, 1879, titled "A Trip to Roberts Island". In addition to the verification of the farming activities, the article reports the irrigation facilities and floodgate of Matthews & Lowry.

> "Messrs. Matthews & Lowry, who own a portion of this section of the island, have placed a flume through the levee with the intention of establishing a thorough system of irrigation on their land, if they are successful in making this flume, which is quite a large one, capable of carrying several thousand inches of water, work."

The referenced flume appears to be located in the same area as the dendritic sloughs which I have identified along Old River.

Exhibit "B" is an article from the Daily Evening Herald for June 27, 1879, titled "Crops and Prospects on Roberts' Island". The article verifies crop production and further provides:

> "Roberts Island is rapidly assuming the appearance of a settled and prosperous community. It requires no stretch of the imagination and no confidence in the improbable, to picture this Island as the most prosperous part of the county, and the very garden spot of the State."

The garden spot vision for the area confirms the lack of evidence of any intent of any of the landowners to abandon their rights to obtain water to grow crops.

II. I was also asked to investigate the relationship between the shallow subsurface water under Upper Roberts Island and those of the neighboring channels. I have extensive experience with this issue. Over the years of my engineering work in the Delta, I have dealt with flood waters, seepage, and drainage issues. I testified on this issue in the Delta Wetlands hearings before the Board.

For the area of concern, Upper Roberts Island, DWR has a recent study which resulted in that agency producing Exhibit "G" entitled "Reclamation District 544 Seepage Monitoring Study 2000 - 2001." This study confirms my prior conclusions that due to the subsurface soils, there is a direct connection between the shallow groundwater and the waters in the neighboring channels. When the river goes up, the groundwater goes up and vice-a-versa.

This hydrologic conductivity is important to understand the local water supplies. The entire Delta is one big pool of water; some in the channel and some in the soils. There is no net difference in the amount of water in the Delta channels when local diverters take from neighboring channels, pump from shallow groundwater, or farm crops which draw from the shallow groundwater. Taking water from one place is virtually the same as from another. This is especially true during summer and fall months when the three tidal barriers are in operation as they hold high tide waters around Upper Roberts Island and thus prevent any depletion of the channel waters from causing low levels which might affect other diverters.

I therefore conclude that if these four diverters which are the subject of this hearing were forced to shift to shallow wells for irrigation, or farm crops which had root zones reaching to the shallow groundwater, there would be no difference in the amount of water available in the surrounding channels.

III. I will now examine each of the four diverters' property separately. It is important to note my examination is also based on and includes the facts and conclusions stated earlier in my testimony regarding the history of Upper Roberts Island. I understand that the designation of riparian or pre-1914 rights is a conclusion to be made by this Board and/or the Courts. For my purposes, I have investigated to determine the facts relevant to the sociology, history, and engineering for the diversions which counsel informed me is relevant to the determination. Many of my exhibits are the patents, deeds, or other recorded documents contained in Mr. Pankey's exhibits of title documents. Of further relevance to these individual pieces of property are the facts stated earlier in my testing regarding the history of Roberts Island as well as the information contained in Exhibit "H" which includes biographical excerpts from the "History of San Joaquin County" dated 1923.

The Silva property is 169.92 acres. As we can see from the title documents, the Silva property was being purchased and sold before it was patented from the State. The early Deed (dated 1875) describes a large portion of upper and lower Roberts Island, including sections 1, 2, 12, and 13 in Township 1 South, Range 5 East, and portions of Sections 5, 6, 7, and Section 18 in Township 1 South, Range 6 East. The first map of Exhibit "I" has these sections highlighted and shows the property connected to Middle River (it is also connected to the San Joaquin River near Rough and Ready Island). By this date, substantial reclamation had been done, and as I stated earlier, the clear purpose of ownership was to farm the land.

The next deeds include the same acreage continuing the connection of property to Middle River and include such things as half interests being conveyed back and forth. During these times, there were typically floodgates connecting the sloughs to the waterways in order to irrigate the land of the island. Exhibit "J" includes a photo of an old floodgate just upstream and up slope of the Silva property. The control structure on the end of the floodgate is dated 1923, but the floodgate itself was likely in existence prior to that time.

The topographical maps indicate that water from this floodgate would indeed allow the periodic flooding and/ sub-irrigation of the Silva parcel, the common practice during the era. The names on the deeds are those of farmers indicating use of land for farming; the price of over $22,000 also indicating something other than bare, unused land.

The patent dated 1876 to Whitney also includes the Silva property (Township 1 South Range 6 East West one half, North East one quarter, and West half of South East one quarter of Section 6) which still retains a connection to Middle River. Deeds through 1891 continue to include Mr. Silva's property. The 1891 Deed from Easton to Woods now shows how the property is included in the description of lands that eventually becomes the Woods Irrigation District on Lower Roberts Island. The Deed clearly shows the continued connection to Middle River.

The next title document is dated 1909. We therefore have at least 37 years of probable farming on the land which as per my earlier testimony means that the organic soils have mostly been burned off leaving a more irregular landscape with the (now) high points being the areas along the sloughs. No evidence was found to indicate if or when the sloughs were no longer used for irrigation.

In 1909, the owner died and his estate is distributed through the court (Exhibit "K"). The property of the estate includes the Silva parcel and numerous farming equipment, draft animals, and other livestock.

Next we have two agreements each dated September 29, 1911. The first allows the owners to construct, operate, etc., canals for irrigation and drainage. This indicates to me the clear continuation of the application and use of water by farmers on the property. The next agreement is to actually provide the water to various parcels. This would indicate that the Woods Irrigation District had at least partially completed its delivery system using its current points of diversion on Middle River at a point just downstream of the old floodgate I have previously identified. (Exhibit "L.")

At the time of these agreements, the Silva property is described as Lot No. 22 of the Wilhoit-Douglass Tract. The agreement confirms my earlier conclusion by referencing portions of the property as "high lands" or lands along a slough. The agreement recognizes the ability to sub-irrigate or to pump water onto the land from the Woods irrigation facilities which follow a downstream slough with a lower elevation than the slough area of the Silva property. The reasonable conclusion is that the land was flooded from the sloughs and/or the identified floodgate when possible to assist grain production or promote grazing grasses.

A Deed dated 12/28/11 appears to the be first time the property is possibly disconnected from Middle River. In that Deed (Exhibit "M"), Lots 21 and 22 are transferred. It is important to note though that Lot 21 borders the main irrigation ditch of Woods Irrigation District; evidence which, along with the above-described agreements, shows intent to retain the ability to get water from Middle River. Additionally, there is no evidence that the right to receive water through the floodgate and slough was terminated. This same property (Lots 21 and 22) are transferred through a probate in 1915.

In November of 1915, there is a partition decree separating parcels 21 and 22. Of interest here is the fact that the person who gets parcel 22 also has an oral lease on Lot 21, which contains "tenant crops" (Exhibit "N"). It is likely that both parcels are therefore still under agriculture for at least pasture with flood irrigation when possible. We should note that the property still retains the ability to receive water from the Woods Irrigation District pursuant to the 1911 Agreement.

Next we have two documents recorded on the same day in August of 1941 (Exhibit "O"). One is a sale/purchase and the other is an agreement. The agreement allows the Silva property to install a pipeline over its neighbor to the west in order to get irrigation water from Middle River. The sale document requires the owner to finish leveling the property and irrigate that which he levels. Given the language contained in the document of "land not theretofore leveled and

irrigated," it is clear that the land was being irrigated before this time. This is also confirmed by my review of aerial photographs of portions of Roberts Island which show most of the Silva property under cultivation.

After 1941, the legal description changes slightly as the parcel had a lot line adjustment to resolve the issue of a barn on the property line. This slightly decreased the acreage of the Silva property.

My investigation confirms that since this 1941 agreement, the land has been continuously irrigated and farmed with crops of alfalfa, grain, tomatoes, asparagus, etc.

I therefore conclude the following:

1. The Silva property was originally part of a parcel abutting Middle River and at the time of disconnect, the intention of the owners to retain the ability to receive water from Middle River is clear and recorded by agreement;

2. Before and after reclamation of this portion of Roberts Island, the Silva property abutted an unnamed slough off of Middle River, which slough possibly also connected to the San Joaquin River; and

3. It appears that the land has been continuously supplied with water from Middle River since the mid-1870's through the present for irrigated farming

RATTO (Golden R, Inc.)

The Ratto property is approximately 55 acres located generally as the Northeast Quarter of the Northwest Quarter of Section 18 Township 1 South Range 6 East. It was included in the patent of 1876 from the State of California to Mr. Whitney (page 1 of Exhibit "P"). As before, this patent included large tracts of land on both Upper and Lower Roberts Island, which lands connected to both the San Joaquin River and Middle River.

Subsequent Deeds maintain the connection with the Middle River until 1891 when in 1891 the owners Stewart, et al., deeded to Small the current sized parcel, officially described in measurements in chains and links, but generally being the same Northeast quarter of the Northwest quarter referenced above. (See page 3 of Exhibit "P".)

Exhibit "Q" are selections from a book entitled, "The History of San Joaquin County" originally published in 1879. The first part of the Exhibit is a map which shows an interior island slough running up through sections 18 and 19 of One Township South Range 6 East. From the map, one would conclude that the Ratto parcel abuts the slough. To confirm this, I investigated early surveys and found one dated 1903 (Exhibit "R") which appears to be the same slough, but not reaching all the way to the Ratto property. This makes sense in that over time the sloughs were filled in and the ground itself farmed and irrigation practices moved from the use of sloughs to ditches and/or pipelines and eventually pump diversions closer to the main waterway. My investigation also confirmed that this slough had a floodgate used to regulate high flows and

tides in the slough to facilitate irrigation. The existence of the floodgate confirms that interior island farming using slough waters was occurring in this area.

A later survey in the San Joaquin County records shows that an irrigation ditch continues on from the 1903 surveyed slough, apparently along the tract of the slough referenced in the 1879 book; again confirming my earlier testimony about agricultural practices in that farmers typically used existing waterways for their irrigation.

Also in the 1879 book is an illustration of the property of M. C. Fisher. The illustration I believe includes the Ratto property. Although the illustration does not have the slough running north-south which appeared earlier in the book, it identifies a "Willow Slough" running approximately east west. The significance of this illustration is that it shows ongoing farming and a slough to the farm land. These confirm to me that at least as of the date of the illustration, the subject property is being farmed and irrigated in accordance with the agricultural practices of the day; well prior to being physically disconnected from Middle River. Grain crops and pasture appear to cover most all of the land. Also attached is Exhibit "S", a May 19, 1882, Article from the Daily Evening Herald which mentions a Willow Slough Dam, further confirming the use of these sloughs for irrigation.

I don't ascribe any real concerns for the failure of the drawing to show the north-south slough or the failure to show any irrigation improvements. The location of the cross levee and the proximity of the San Joaquin River both indicate the illustrator had a general but not perfect sense of the geography of the area. Nonetheless, I believe it is valuable evidence of ongoing practices at the time.

I next note that when the above-referenced owner Small died, his estate included farming equipment which would be used for the type of farming shown on the illustration, as well as livestock which would be raised for and used as power in the farming operation (see Exhibit "T"). I believe this is another clear indication of the ongoing farming practices of the day.

The next relevant title document is the grant of an easement in 1917 (Exhibit "U"). This document tells us that PG&E will indemnify for any damage to any "crops, cattle, stock . . ." Though only a small reference, it constitutes the specific evidence of activity on the land, and I therefore conclude the property was still being irrigated and farmed via flood gates from sloughs. A later easement for PG&E in 1930 (Exhibit "V") also references the requirement to not interfere with the Grantor's use of the land for "agricultural purposes."

The next relevant documents include three Indentures dated 1964 whereby the owners of the Ratto property enter into agreements to confirm and allow the use of irrigation pipes, etc., to supply water to the subject property over neighboring parcels. Three documents were required as the water is passing over more than one other parcel in its connection to Middle River. Importantly, the one document (Exhibit "W") references that the right of way granted follows "an existing Irrigation Ditch . . ." and an "existing concrete irrigation pipeline." When I trace these existing improvements, I note that they abut the Ratto property. This indicates to me that the water ran to the property before this right-of-way was officially granted. Since it appears the

property was always farmed, the reasonable conclusion is that the documents memorialize an ongoing practice.

Subsequently, the current owner confirms that the property continues to be irrigated and farmed the crops of alfalfa, corn, safflower, wheat, etc.

I therefore conclude the following:

1. The Ratto property was originally part of a parcel abutting Middle River and at the time of disconnect, the intention of the owners to retain the ability to receive water from Middle River or Old River is clear and continuous;

2. Before and after reclamation of this portion of Roberts Island, the Ratto property abutted an unnamed slough off of Old River and likely one or more from Middle River as well (including Willow Slough);

3. It appears that the land has been continuously supplied with water from Middle River or Old River since the mid-1850's through the present for irrigated farming.

CONN

The Conn property consists of 161 acres, which includes a 41 acre parcel and a 120 acre parcel. This property was also deeded a number of times before being patented from the state. The two parcels were originally in two different patents.

The first Deed includes Sections 1, 2, 12, and 13 in Township 1 South Range 5 East and portions of Sections 5, 6, 7, and Section 18 in Township 1 South Range 6 East. As before, this shows the 41 acre Conn parcel being originally connected to Middle River and the San Joaquin River.

The next five Deeds and the title documents transfer the same gross acreage back and forth until 1876 when Mr. Whitney, the last grantee on these Deeds, got a patent from the State of California. As shown before (page 2 of Exhibit "X"), this patent includes large tracts of land on Upper and Lower Roberts Islands. With regards to the Conn property, the patent includes the west half, northeast quarter, and west half of southeast quarter of Section 6. This generally includes the 41 acre parcel and not the 120 acre parcel. Two subsequent Deeds transfer this smaller of the Conn parcels, but the language is slightly different for a portion of Section 6. The Deed describes the north half and southwest quarter whereas the patent described the west half and northwest quarter. Though different, those descriptions outline a similar portion of property. Both the Deeds and the patent include the west half of the southeast quarter which is the smaller of the Conn parcels. This property continues to be connected to Middle River.

In 1887, another patent covering the 120 acre parcel was issued. Page 4 of Exhibit "X" shows that a Mr. McCloud received a patent in 1887 of just the east half of the southeast quarter of Section 6 and the southwest quarter of the southwest quarter of Section 5 Township 1 South

Range 6 East. This describes the "L" shaped parcel of 120 acres which continues to this date. As per my earlier testimony, there was no use for these Roberts Islands' lands in the 1800's except for farming and animal husbandry. It appears that after the initial deeding of the property in the 1970's, Mr. McCloud had occupied and used the 120 acre parcel such that the last person deeded the property before patenting, did not seek or get that property in his patent. Again, Mr. McCloud had obviously occupied and put the land to use to support his claim. This in combination with other information leads me to conclude that the land was used for farming at least as early as the 1870's.

As previously stated, I have located interior island sloughs which connected the 120 acre parcel to the San Joaquin River (see Exhibit "D"). Given the location of neighboring sloughs, it is likely this slough also connected to Middle River. These were therefore the source of irrigation water for the property. Similarly, the small parcel was likely connected to Middle River and/or the San Joaquin also.

Relevant to these conclusions is the Declaration of Peter Ohm (Exhibit "Y") previously submitted to the Board in support of these four diverters. Mr. Ohm died last year, but his Declaration states that these parcels received water prior to 1914 and probably prior to 1900 via a terra cotta pipe connecting with the San Joaquin River. I have investigated the site and found a portion of the pipe to confirm Mr. Ohm's testimony. A picture is attached here to as Exhibit "J".

The piece of pipe corresponds to the current cross island levee which separates Upper Roberts from Lower Roberts Island, which has been referenced in many of the Deeds describing the Silva and Conn properties. The location of this piece leads me to conclude that the pipeline ran along this feature and thus likely supplied both the Conn parcels from their southern border, it being the up slope side. My investigation confirms that the use of a terra cotta pipe suggests pre-1900 installation. Generally, prior to 1900 various materials such as terra cotta and brick were used to carry water as they were cheaper and locally produced. Use of cement pipes being more common thereafter.

Nearby this site are the remnants of a pump diversion (also located on the map) which the landowner has left in place as "proof" of pre-1914 diversion and use of water. The materials used include cement piping and since the owner places its installation between 1900 and before 1914, further support is given to my dating of the terra cotta pipeline.

One additional confirmation of the irrigation and farming of this land is an 1887 Deed of the 120 acres (Exhibit "Z"). This Deed includes a notation of an existing crop to be harvested and split between the grantor and grantee.

Subsequent transfers combined the two parcels as well as property which included the Silva parcel as of 1951; all of which were owned by a party named Avila. Eventually there was some sort of lease agreement with a party named Silveria, a lawsuit, a bankruptcy, and a settlement agreement dated 1990. The settlement agreement confirmed and split the ownership of the Conn and Silva properties. For our purposes, I note that the settlement agreement requires the Deed to Mr. Conn's predecessor to include the language, "together with the appurtenant water rights and entitlements and a non-exclusive right to use all appurtenant irrigation and

drainage related easements" (Exhibit "AA"). I believe this clearly refers to the Saunders' (Exhibit "BB") easement for irrigation which is the current source/method by which the Silva and Conn properties receive water from Middle River. Apparently, the terra cotta pipe was abandoned when a joint owner made an agreement to get water from Middle River. It is clear from the Ohm Declaration and the current owner's knowledge that the parcel was continuously irrigated most recently from Middle River and prior to that from the San Joaquin River.

Subsequently, the current owner confirms that the property continues to be irrigated and farmed the crops of alfalfa, tomatoes, safflower, wheat, etc.

I therefore conclude the following:

1. The smaller Conn parcel was originally connected to both Middle River and the San Joaquin River, but at the time of disconnect from those waterways, the intentions of the owners to retain the ability to receive water from the San Joaquin River is apparent. The fact that the original patent separated the other parcel from surrounding lands and the main waterways, and that it was done during ongoing farming indicates an intent to keep access to the water of the neighboring channels;

2. Before and after reclamation of this portion of Roberts Island, both the Conn parcels abutted an unnamed slough off of the San Joaquin River and probably also connected to a slough which connected to Middle River; and

3. The land has been continuously supplied with water from both the San Joaquin River or Middle River since the mid-1870's through the present for the purpose of irrigated farming.

PHELPS

The Phelps' property consists of three parcels, one of 156.65 acres, one of 76.35 acres, and one of 157.75 acres. These parcels also show deeding before being patented from the state. The first Deed transferred two of the parcels to a Mr. Kidd in 1873 (see page 1 of Exhibit "CC"). My earlier testimony indicates these parcels were connected to a slough off of the San Joaquin River, and probably also off of Old River. The first patent (page 2 of Exhibit "CC") is to Mr. Kidd in 1874 and includes the west half of Section 8, and the east half of the west half of Section 17 of Township 1 South Range 6 East which generally describes two of the Phelps' parcels.

Mr. Kidd then deeded the property to Mr. Whitney who himself received a patent in 1877. This second patent (page 3A of Exhibit "CC") takes in Section 18 of Township 1 South Range 6 East which includes the third Phelps' parcel; all three now being owned by one person (Mr. Whitney) which at the time of this last patent, are connected to Middle River and the San Joaquin River.

All three parcels are subsequently transferred as part of a larger whole. In 1878, only the parcel in Section 18 is transferred to a Mr. Stewart disconnecting it from the rivers. In 1885, the

other two parcels are sold through a sheriff's sale to the Stockton Building and Loan Association (page 5 of Exhibit "CC"). All three parcels are then bought and sold separately until eventually combined under one owner.

Of importance is my conclusion that these lands were continued to be farmed throughout. At a location near the old Brandt Bridge (noted on Exhibit "D") on the San Joaquin River, there remains a brick pipe through the levee which in modern times was closed off and filled with cement. This brick pipe had a floodgate on it which again confirms the local farmer's efforts to control interior island flows for the benefit of agriculture. The common practices would indicate that the waters were used for either direct irrigation or subsurface irrigation. My investigation as well as the fact that the structure was of brick indicate to me that it was in use probably sometime in the 1890's and continuing thereafter. The irrigation off this brick pipe could have connected to the remains of the old sloughs nearby.

The various owners of these parcels are mostly well-known farming families of the area, again indicating the continued use of the land for agriculture.

The Phelps' parcels were eventually all acquired by the current Mr. Phelps' father. The final document of interest being the 1962 indenture which established the current method of delivering water to the property. The current owner confirms that the property continues to be irrigated and farmed with crops typically being of alfalfa, tomatoes, beans, wheat, cucumbers, asparagus, etc.

I therefore conclude the following:

1. The Phelps' property in Section 18, Township 1 South Range 6 East was originally connected to the San Joaquin River but at the time of disconnect, the intention of the owners to retain the ability to receive water from the San Joaquin is clear and continuous;

2. Before and after reclamation of this portion of Roberts Island, the Phelps' property abutted an unnamed slough off of the San Joaquin River which slough also likely connected to Old River; and

3. It appears that the land has been continuously supplied with water from the San Joaquin River since the mid 1870's through the present for irrigated farming.

Finally, I would like to note that my conclusions herein include my many years of experience in the Delta which has resulted in my exposure to many sources of people. It cannot be seriously asserted that anyone who owns and/or farms Roberts Island lands would intend through any sale a severance of the properties' ability to get water from the neighboring channels.