

280-12
GEORGE B. HARRISON

310-311 BRADLEY BUILDING
PASADENA, CALIF.

508 Nolden Street,
Los Angeles, Calif.,
October 5, 1922.

Colonel Ed Fletcher:
San Diego.

Dear Colonel Fletcher:

I am associated with Mr. Luther A. Ingersoll, of the Ingersoll Historical Collection, in a work of planning the naming of streets and roads in new subdivisions and colonization projects, paying especial attention to suitable historical commemoration relative to the project under way. In addition to thirty-five years of collection of Californiana on Mr. Ingersoll's part we have a compilation of names which aids greatly in preventing duplications in the same territory and a method of turning the naming plan to considerable advantage in securing publicity.

This work saves the development work a great deal of annoyance. It makes for permanence in establishing names and returns value in other ways. We wish to undertake this in the Santa Fe development work, and at the right time to place our plan before you if you have this in charge. In addition to our knowledge of San Diego County I happen to have been railroad reporter on Topeka, Kansas, papers for several years, and then had occasion to become acquainted with Santa Fe history and men, so that I am able to further commemorative naming in this respect.

Very truly yours,

Geo. B. Harrison

HO.

MEMORANDUM FOR COL. ED FLETCHER
re water rights of City of San
Diego. C 1258

Between the City of San Diego and the agricultural or ex-Mission lands, it is evident that the latter and not the City or its predecessors has always controlled the water of the San Diego River. This is shown by the following facts:

San Diego was established as a presidio in 1769, and at that time the Mission was established with recognized rights as to agriculture and its necessary water. Father Z. Engelhardt says in his local history of San Diego Mission (p. 54): "It was Fr. Luis Jayme who in a letter formally proposed to Fr. Serra the removal of the entire mission, converts and missionaries to another site. His reason was two-fold, the scarcity of water and the proximity of the military camp." The letter of Father Jayme shows this clearly.

The Mission was accordingly moved up the river in August, 1774. The dam across the water supply was built and there was never any question as to the right of the Mission to control this water.

That this was accepted by the military was shown by the fact that they turned to another water shed for their agricultural needs. William E. Smythe says in his History of San Diego (Vol. II, p. 100): "The fine upper valley of the San Diego with the El Cajon was monopolized by the Mission Fathers; hence, the military were compelled to look elsewhere for their grazing and farming lands.... The Soledad, twelve miles up the coast, --- was treated as the commons of the San Diego military

establishment, and, later, of the Pueblo." In 1800, Mr. Smythe says, the Presidio was without settlers, but expected ultimately to become a presidio.

The Pueblo of San Diego was organized December 21, 1834, but did not acquire any exclusive or special water rights or privileges. The pueblo lands were not surveyed until 1845, when the boundaries of the lands assigned to the pueblo were marked out under the superintendence of Santiago Arguello, the sub-prefect, and the two alcades of the town. A map from this survey was prepared by Capt. Henry D. Fitch, and the survey and map were submitted to Governor Pio Pico and fully approved. No exclusive or special water rights were then acquired up the river, according to the report on this survey of the Commissioner of the General Land Office dated December 17, 1870.

Santiago Arguello is the same man to whom the ex-Mission of San Diego, "together with all the appurtenances found and known at the time as belonging to it" (according to the deed) was sold in 1846. He also purchased other and adjoining ranch lands; if his purchase had been deprived of water rights by the pueblo survey which he himself superintended he would certainly have known it.

Apparently this does not appear on testimony of the City of San Diego, for on February 14, 1853, the City, by the Board of Trustees filed with the United States Land Commissioners a petition for confirmation of the claims of the City to the pueblo lands "as delineated and described on the map prepared by Henry D. Fitch, which map accompanied the petition".

With the petition also were depositions of Santiago Arguello and of Jose Matias Moreno as to the survey of 1845.

Under instructions from the United States Surveyor General of California a survey was made of the pueblo lands of the City of San Diego in July, 1858, by John C. Hays. It was based on the Fitch map, but was found not to cover so large an area as the Arguello survey. This survey was approved by the Surveyor General December 4, 1858. Patent was accordingly issued to the City on April 1, 1874.

Lieutenant E. O. C. Ord (who, I believe, was himself a surveyor), Third Artillery, U.S.A., examined the San Diego Mission and its lands and made a report dated November 6, 1849, to Major A. R. S. Canby on San Diego (Old Town) and the Mission in which he refers to the established irrigation rights even though the town was located on the river. He said in this report: "There is still in good preservation an aqueduct leading from the running water in the hills to the Mission, which with a little more care would supply water for irrigation to the whole valley." Lieutenant Ord did not find that the town had pre-empted any rights on the water.

Water was hauled from the river only intermittently and because it was there. When the new city was established there was a discussion as to wells rather than of up-river supply; a well for artesian water was sunk in the City in 1871 and the Horton House well was sunk in 1873. A. E. Horton was a very keen observer of city rights and privileges, and nothing appears in his statements to show that he found city rights to the river water. The litigation following the Horton purchase in

1867 may have brought out something about water rights; if not, this would tend to show that it was not considered that the city had any such alleged rights.

- - - -

The descendants of Santiago Arguello may have something of value referring to this. His granddaughters were Mrs. A. H. Wilcox and Mrs. William B. Couts, in San Diego, and his grandson, Francisco Arguello, lived on the old ranch at Tijuana in 1906, and if he is not still alive some of his family must be there.

- - - -

Some of the books and documents probably bearing on this question are:

Report of the Commissioner of the General Land Office of December 17, 1870.

Executive Document #47, 31st Congress, 1st Session, Senate (Report of the Secretary of War).

Escrituras Sueltas, collection of Spanish documents and letters in the archives of the Bishop of San Francisco.

Father Zephyrin Engelhardt's History of the Missions of California, Vol. IV., and his (New Series) History of San Diego Mission (one volume).

William E. Smythe's History of San Diego (two vols.).

Pio Pico Documentos, ii.

Bancroft collection Sta. Barb. archives, Unbound Documents (pp.97-99).

- - - -

January 8, 1925.

Original sent to Sanders.

508 Nolden Street,
Los Angeles, Calif.,

January 9, 1925.

Col. Ed Fletcher,
San Diego, Calif.

Dear Col. Fletcher:

If my conception as to the question involved as to water rights is correct the inclosed brief may contain some information of interest to you. However, it has been very quickly prepared and I have had no opportunity to examine the city's argument before the Land Commissioner or the litigation in 1869, both of which should have some information on this if the city's present contention has any merit.

Santiago Arguello certainly would have known if the city acquired any water rights up the river, and he would have referred to this fact--furthermore, he would not have acquired agricultural lands bereft of water rights--but I am unable to find the slightest reference or indication that there was anything of the kind. The land and water rights of the city were threshed out in the hearing and consideration on the pueblo lands prior to the issuance of patent thereon; an examination of all this matter will show whether the city has a leg to stand on. I don't see that it has, not even a toehold.

If I have gone on the wrong lead or you want any other data, please let me know and I will be very glad to dig out whatever I can.

Very truly yours,

GEO. B. HARRISON

GBH:H

January 12, 1925.

Mr. George B. Harrison,
508 Nolden Street,
Los Angeles, California.

My dear Harrison:

I thank you very much for your kind
letter of the 9th with memorandum re water
rights. I have sent same to my attorney.

Yours very truly,

EF:AH

Ed Fletcher Papers

1870-1955

MSS.81

Box: 10 Folder: 3

General Correspondence - Harrison, George B.



Copyright: UC Regents

Use: This work is available from the UC San Diego Libraries. This digital copy of the work is intended to support research, teaching, and private study.

Constraints: This work is protected by the U.S. Copyright Law (Title 17, U.S.C.). Use of this work beyond that allowed by "fair use" requires written permission of the UC Regents. Permission may be obtained from the UC San Diego Libraries department having custody of the work (<http://libraries.ucsd.edu/collections/mscl/>). Responsibility for obtaining permissions and any use and distribution of this work rests exclusively with the user and not the UC San Diego Libraries.