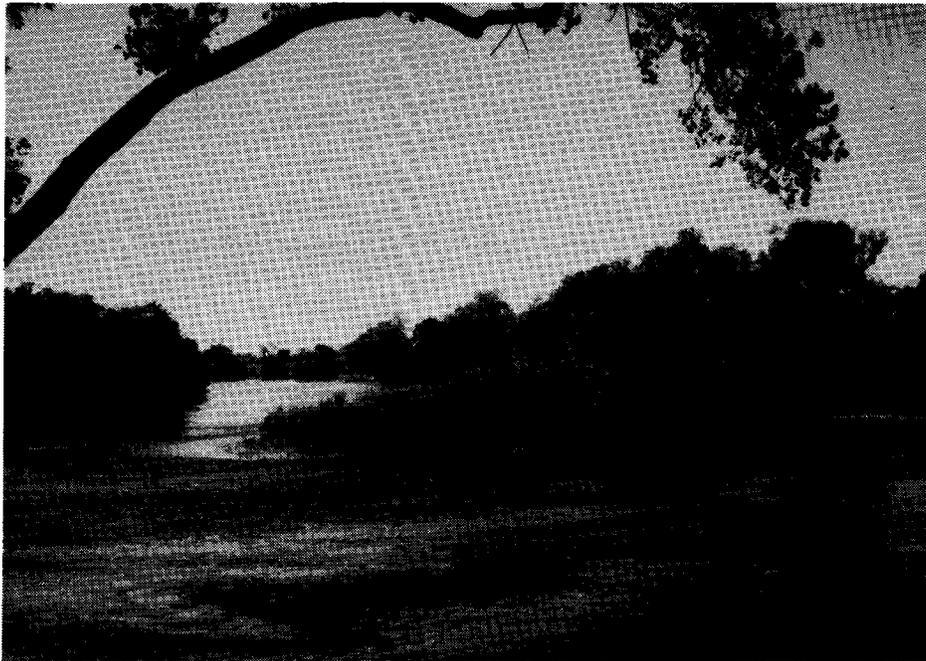


AMERICAN RIVER

A STUDY OF PUBLIC AND PRIVATE RIGHTS BETWEEN THE SACRAMENTO RIVER AND NIMBUS DAM



**PREPARED BY
THE CALIFORNIA STATE LANDS DIVISION
IN RESPONSE TO
ASSEMBLY CONCURRENT RESOLUTION NO. 49
NOVEMBER 1978**

Prepared by the

STATE LANDS DIVISION

STATE LANDS COMMISSION

STATE OF CALIFORNIA



STATE CONTROLLER KENNETH CORY, CHAIRMAN
LIEUTENANT GOVERNOR . . . MERVYN M. DYMALLY, MEMBER
DIRECTOR OF FINANCE ROY M. BELL, MEMBER

EXECUTIVE OFFICER WILLIAM F. NORTHROP

November 1978

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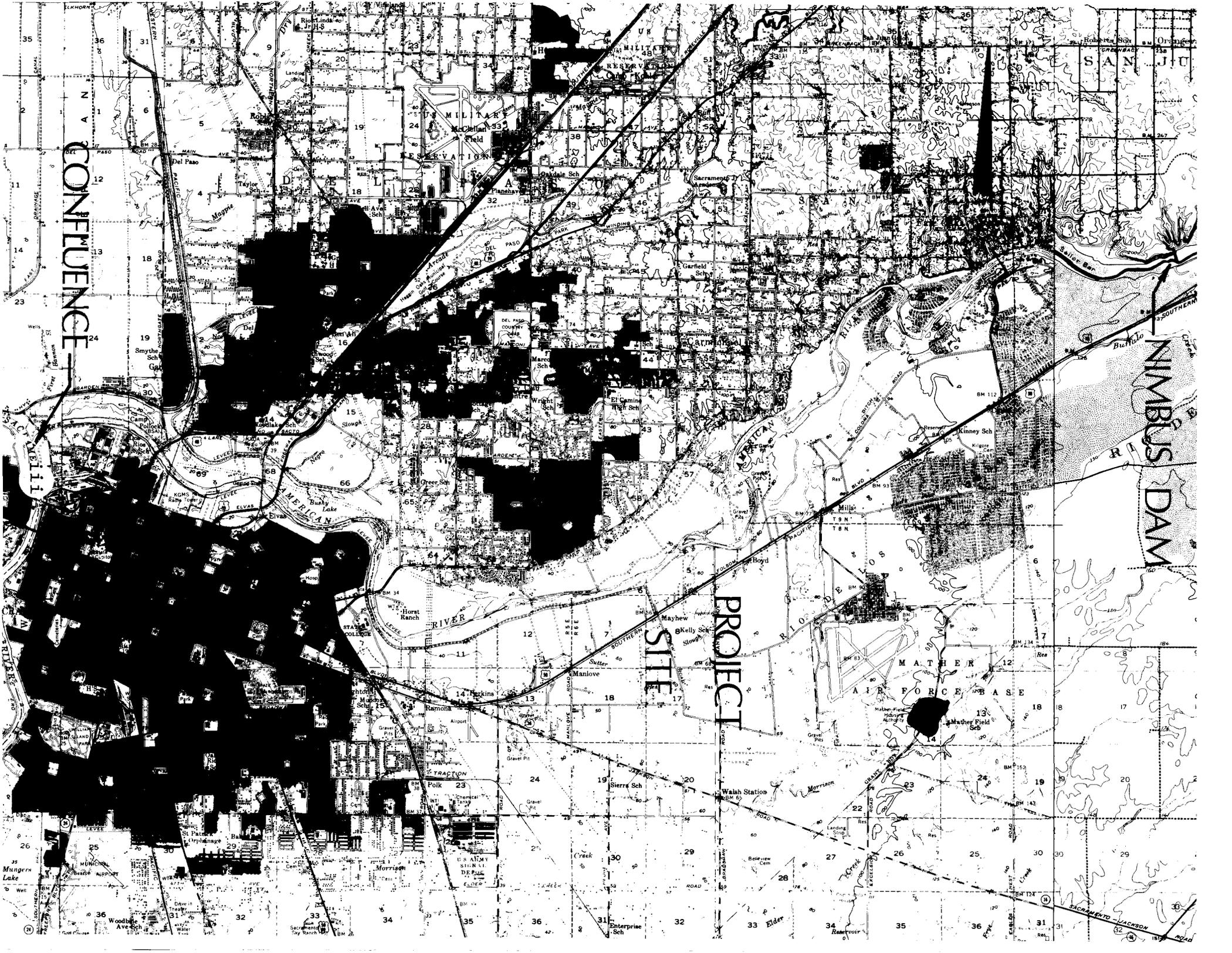
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CONFLUENCE

NIMBUS DAM

PROJECT

SITE

MATHER AIR FORCE BASE

SAN JOAQUIN RIVER

AMERICAN RIVER

SOUTHERN RIVER

SACRAMENTO-JACKSON ROAD

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Assembly Concurrent Resolution No. 49

RESOLUTION CHAPTER 102

Assembly Concurrent Resolution No. 49—Relative to American River boundaries.

[Filed with Secretary of State September 2, 1975.]

LEGISLATIVE COUNSEL'S DIGEST

ACR 49, Gualco. American River: determination of public rights and boundaries.

This measure requests the State Lands Commission to determine the boundaries and extent of vested public rights along the American River.

WHEREAS, The American River possesses extraordinary scenic, recreational, fishery and wildlife values; and

WHEREAS, The American River and its immediate environs should be preserved in its free-flowing state for the benefit of the people; and

WHEREAS, The boundaries and the extent of vested public rights along the American River should be clarified; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members request the State Lands Commission to undertake, as a priority area project, to determine the boundaries of state ownership and the extent of public trust easements vested in the people along the boundaries of the American River from the confluence with the Sacramento River to Nimbus Dam; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Lands Commission.

O

I.

INTRODUCTION

The population explosion and increased leisure time has increased the popularity and use of California waterways. One of the waterways subject to this intensified public use is the American River, particularly as it runs through the metropolitan Sacramento area from Nimbus Dam to its confluence with the Sacramento River. The American River is a significant recreational resource. In response to the increased needs of the public in this area, the County of Sacramento has developed the American River Parkway Plan, and significant portions of the adjoining lands have been acquired for public use.

As public use continues to expand, the possibility of friction between private property owners along the waterway and members of the general public using the river greatly increases. Complaints by both sides have resulted in increased efforts to manage the American River. However, efficient management efforts can only be successful if public rights are clearly defined. The California Assembly recognized this problem and passed a resolution directing the State Lands Commission to determine the extent of vested public rights along the American River between its mouth and Nimbus Dam. This report is submitted in response.

As will be more thoroughly discussed in this report, the American River from Nimbus Dam to its confluence with the Sacramento River is a naturally navigable waterway. Consequently, the State of California is the owner of the riverbed and this ownership is under the jurisdiction of the State Lands Commission.

Certain portions of the State's ownership interests have been granted in trust to the City of Sacramento, Chapter 519, Statutes of 1868. The State Lands Commission retains the jurisdiction remaining in the State over such granted lands, Public Resources Code section 6301. With these exceptions, however, the State of California is the owner of the riverbed.

The State Lands Commission is vested by statute and common law with the power to determine boundaries along waterways through boundary agreements or litigation with the owners of abutting uplands. Due to possible disputes with upland parties concerning the common boundaries between uplands and the riverbed, the State Lands Commission cannot definitively establish such boundaries unilaterally without obtaining an agreement with, or judgment against, the affected upland party.

In the past, the State Lands Commission has been directly involved in the resolution of public title and public rights on the American River. The Commission has been a party to

two lawsuits which established boundaries and protected public rights on certain areas of the American River; County of Sacramento v. Orwick, et al, Sacramento County Superior Court No. 183188, and County of Sacramento v. Commons Development Co., et al, Sacramento County Superior Court No. 213340. In both of these cases negotiated settlements were reached that ensured preservation of public rights.

In addition, over the years, the State Lands Commission has sought to protect public title to the river by requiring leases and permits for certain activities conducted within the river. The State Lands Commission also has entered into boundary line agreements (BLA's) along the American River to help clarify and preserve title to the bed of the river in the State. These BLA's are two of the earliest entered into by the State Lands Commission. They are BLA 5 and BLA 6. BLA 5 is on the north bank of the American River adjacent to the California State Exposition. BLA 6 is on the south bank of the American River across from BLA 5 in the area commonly known as "Paradise Beach".

Currently, the Commission has authorized staff to undertake a complete survey and study to define and resolve the boundary and ownership problems in the area of Sarah Court, a significant area of recreational use and river access in which the rights of the public and private riparian owners have come into apparent conflict. Discussions are currently underway with the County and when completed, the Commission has authorized appropriate action to define the boundaries of the State's sovereign ownership in the area.

Resolution of title and boundary problems along the American River is a continuing program of the State Lands Commission involving complex historical research and extensive engineering studies. This work is proceeding in accordance with the established priorities.

The purpose of this report is to give a status report to the Legislature concerning the progress which is being made in accordance with the request made in Assembly Concurrent Resolution No. 49 (1975 Session) and to provide a general discussion concerning public and private title interests within and along the portion of the American River referred to in the Resolution.

The report includes sections on the background of riverbank ownership; basis of public rights within and adjacent to the riverbed; leasing activities of public agencies in and across the river; access to the American River; and ineffectiveness of upland deed descriptions to pass title to riverbed.

II.

BASIS OF PUBLIC RIGHTS WITHIN AND ADJACENT TO THE RIVERBED

There are various types of public rights that exist with respect to the American River. Some of these rights may be summarized as follows:

1. Public ownership of the bed of the river, subject to a public trust for purposes of commerce, navigation and fishery.

2. A public navigational easement over any privately owned lands which are covered by navigable waters. The incidents of this easement include boating, swimming, fishing, hunting and all recreational purposes. This easement arises where the waters have been diverted from the riverbed to flow over privately owned lands by high water flows or diversions caused by man or avulsive acts (sudden floods) and public title to the lands covered by the waters has not arisen by virtue of purchase, use, or long continued flow of water in that location.

3. Public rights which have arisen by implied dedication which may include accessways and use of bank areas.

A. OWNERSHIP OF THE BED OF THE AMERICAN RIVER

The people of California hold the absolute title to the lands beneath navigable waters for their common use. Civil Code section 670 expressly states: "The State is the owner. . . of all land below the water of a navigable lake or stream. . . ." These lands are held in trust for the purposes of commerce, navigation and fishery. Marks v. Whitney, 6 Cal.3d 251.

Title to the beds of navigable rivers was automatically vested in the State of California by virtue of its sovereignty upon admission into the Union on September 9, 1850. At that time, the State became vested with all rights, sovereignty, and jurisdiction in and over navigable waters and of the soils under them. Oregon v. Corvallis Sand and Gravel Co., (1977) 429 U.S. 363; Utah v. U.S., (1971) 403 U.S. 9; Lux v. Haggin, 69 Cal. 255, 335; Perry v. State, 139 Cal.App.2d 379; Hihn v. Santa Cruz, 170 Cal. 436. The question of navigability and thus of ownership of the bed must be determined as of the date the State was admitted into the Union. Ord Land Company v. Alamitos Land Company, 199 Cal. 380; Bohn v. Albertson, 107 Cal.App.2d 738. Evidence of navigability at a later time is admissible as evidence of navigability at a former time. Ord Land Company v. Alamitos Land Company, supra.

1. Historical Evidence

It is clear from historical evidence that the American River from Nimbus Dam to its confluence with the Sacramento River was navigable in 1850 and even later, although hydraulic mining tailings raised its bed and impeded passage of ships.

The first report of a steamer navigating the American River was recorded in April of 1850. This steamer was used not only for passenger travel, but also for the transportation of commercial goods. In 1854 the bridge at Lower Ford was specifically constructed as a draw-bridge to avoid the obstruction of navigation. Further evidence of navigability found in newspaper reports in 1882 contain the saga of the steamboat Daisy as she made her way up the American River as far as Folsom. The article continued to report that despite the American River bridge and the fact that the river was filled and choked by tailings from hydraulic mining, the Daisy demonstrated that the river was susceptible of navigation for purposes of commerce by small steam-boats and towed barges.

The American River was in 1850 statutorily declared to be navigable from the Sacramento River to the east line of Rancho San Juan located at the town of Folsom.¹ Although later statutes placed the head of navigation farther and farther downstream until the American River was eliminated from the list of navigable streams set forth, such changes do not divest the public of ownership. Furthermore, the fact whether the river is listed in the statutes or not, has no conclusive effect on the question of navigability. The State will not be deemed to have conveyed or abandoned public land unless that intent is clearly expressed. People v. California Fish Company, 166 Cal. 576, 597; Patton v. City of Los Angeles, 169 Cal. 521; Humboldt County v. Van Duzer, 48 Cal.App. 640; 45 Cal.Jur.2d State of California section 48. A statutory change that moves the head of navigation upstream will not divest private ownership. People v. Elk River Mill and Lumber Company, 107 Cal. 221. Likewise, a change downstream will not divest the public of its ownership. In 65 Corp. Jur. Sec., Navigable Waters, Section 97, the rule is stated as follows:

"A legislative change in the status of waters from navigable to non-navigable, or vice versa, does not shift the boundaries of riparian proprietors, so that a statutory declaration that a navigable stream

¹Statutes of 1850, Chapter 37, p. 10

is nonnavigable will not transfer title to its bed to a riparian owner and a statute declaring a stream navigable will not deprive a riparian owner of such title as he has previously acquired by grant." Allen v. Weber (Wis) 50 NW 514 (1891); Wood v. Chicago R.R. Co. (Iowa), 15 NW 284 (1883); Dana v. Hurst (Kan), 122 P. 1041 (1911).

One factor causing the decrease in use of the river for navigation in the early days was the completion of the Sacramento Valley Railroad from Sacramento to Folsom in February 1855. The new line was immediately successful as a carrier of passengers and freight. The smaller steamboats had little competition for the same haul before 1855. After that date some of the greatest financial interests in the State were concentrated in the railroad and against the small water haulers. (See Journal of the California Senate, 11th Sess. 1860, page 64.) Indicative of the early sentiment to keep the river open was a petition to the 1851 State Legislature opposing the construction of Lisle's Bridge as a barrier to navigation, since it was said that the river was needed to transport building stone and coal to the City of Sacramento.

In United States v. Holt State Bank, 270 U.S. 49, 56, the Court stated:

". . .navigability does not depend on the particular mode in which such use is or may be had--whether by steamboats, sailing vessels or flat-boats--nor on an absence of occasional difficulties in navigation, but on the fact, if it be a fact, that the stream in its natural and ordinary condition affords a channel for useful commerce."

This language was approved in United States v. State of Utah, 283 U.S. 64. In fact, in the early case of American River Water Company v. Amsden, 6 Cal. 443, the California Supreme Court held that the test of navigability had been extended to the capacity of a river "to float rafts of lumber".

"Navigability is not destroyed because the watercourse is interrupted by occasional natural obstructions or portages; nor need the navigation be open at all seasons of the year, or at all stages of the water."

Economy Light and Power Company v. United States, 256 U.S. 113, (41 S.Ct. 409, 412). United States v. State of Utah, supra, is to the same effect.

As pointed out in United States v. Appalachian Electric Power Company, 311 U.S. 377, 61 S.Ct. 291, 299-300:

"A waterway, otherwise suitable for navigation, is not barred from that classification merely because artificial aids must make the highway suitable for use before commercial navigation may be undertaken. . . . There has never been doubt that the navigability referred to in the cases was navigability despite the obstruction of falls, rapids, sand bars, carries or shifting currents. . . . Small traffic compared to the available commerce of the region is sufficient. Even absence of use over long periods of years because of changed conditions, the coming of the railroad or improved highways does not affect the navigability of rivers in the constitutional sense."

In United States v. State of Utah, 283 U.S. 64, 51 S.Ct. 438, the Court held that certain portions of the Green, Colorado, and San Juan Rivers within the State of Utah were navigable. The Court affirmed the rule that the test of navigation does not depend upon actual use and that it was not necessary to prove any actual use to support navigation in the legal sense. The susceptibility to use as a waterway is controlling. At page 443 (of 51 S.Ct.) the Court said:

"The question of that susceptibility in the ordinary condition of the rivers, rather than of the mere manner or extent of actual use, is the crucial question The extent of existing commerce is not the test. The evidence of the actual use of streams, and especially of extensive and continued use for commercial purposes may be most persuasive, but, where conditions of exploration and settlement explain the infrequency or limited nature of such use, the susceptibility to use as a highway of commerce may still be satisfactorily proved."

The Court referred to Packer v. Bird, 137 U.S. 661, 667, and Economy Light and Power Company v. United States, 256 U.S. 113, 122-3.

Mexican grants bounded either side of the river in many areas, and the river boundaries were meandered for defining by the Federal Government. The fact that the river has been meandered by the Federal Government is some evidence, though not conclusive, of its navigability. Hurst v. Dana, 86 Kans. 947, 122 Pac. 1041; Lutesville Sand and Gravel Company v. McLaughlin, (Ark) 26 South-western 2d 892.

2. The Boundary Line of Public Ownership

Ownership of the beds of navigable rivers goes to the ordinary high water mark. Churchill v. Kingsbury, 178 Cal. 554, 557, 558 (1918); Civil Code section 670. The ordinary high water mark is the highest mark reached by the water in a normal year, including normal storm and flood waters. See Churchill v. Kingsbury, supra; Mammoth Gold Dredging Co. v. Forbes, 39 Cal.App.2d 739, 751 (1940).

Section 830 of the Civil Code, relating to boundaries on navigable streams, does not indicate a contrary result. See Churchill v. Kingsbury, supra. Further, that section merely embodies a rule of interpretation absent a contrary intent.

For purposes of establishing a State's right to submerged lands, therefore, it must be determined whether the lands in question were, at the time of California's admission to the Union, used or susceptible of being used in their natural condition for the purposes of trade and commerce. Utah v. United States, 403 U.S. 9, 10-11. Thus, the bed of the American River in its natural condition in 1850 constitutes sovereign lands within the ownership of the people of the State of California. The discussion above and appendices of this report show that the American River was in fact navigable in 1850 to Folsom.

Even though the bed of the American River was filled with hydraulic mining debris between 1862 and 1884, which impaired navigability, as stated prior, newspaper reports show substantial evidence of navigation as far as Folsom by steamships in 1882, when such navigation would have been more difficult than in 1850. An extensive study must be undertaken to establish all the facts concerning early navigation on the American River that would be determinative for title purposes.

B. THE PUBLIC'S TRUST RIGHT OF NAVIGATION

It is well established that the public has a right of passage over submerged lands for the trust purposes of commerce, navigation and fisheries. People v. California Fish Company, 166 Cal. 576 (1913). Section 4, Article 10, of the California Constitution provides in part:

"No individual, partnership, or corporation claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision so that access to the navigable water of this State shall always be obtainable for the people thereof."

These provisions have been held to be "mandatory and prohibitory".

C. THE NAVIGATIONAL EASEMENT

Under established principles of law, where waters flow over an area agreed to be in private ownership, there is a public easement over the navigable water of the State for the purposes of boating, swimming, fishing, hunting and all recreational purposes irrespective of whether the title to lands beneath such water is in public or private ownership. Bohn v. Albertson, 107 Cal.App.2d 738; People ex rel Baker v. Mack 19 Cal.App.3d 1040; Marks v. Whitney, 6 Cal.3d 251; Hitchings v. Del Rio Woods Recreation and Parks District, 55 Cal.App.3d 560.

Navigability for purposes of establishing the public easement for navigation is a question of fact and may be demonstrated by a lesser showing than that required for ownership of the underlying submerged lands; i.e., by showing recreational use by small craft. People ex rel Baker v. Mack, supra; Bohn v. Albertson, supra.

In Hitchings, supra, the court pointed out that there were essentially three definitions of navigability; all applicable for different purposes:

1. Navigability for commerce clause purposes. For these purposes, rivers have been held to be navigable in law which are "in fact used or susceptible of being used in their natural condition 'or with reasonable improvements' for purposes of trade and commerce." Citing U.S. v. Appalachian Power Co., 311 U.S. at 377, 406-409.

2. Navigability for purposes of determining the respective rights of the states and the United States to the title of a streambed. Here the court characterized the test as a "basic 'commerce clause' test, with two exceptions. It is applied to the stream in its natural condition, and is determined as of the time of admission of the state to the United States", citing Utah v. United States, 403 U.S. 9, 10-11.

3. Navigability for all other purposes (e.g., the public navigational easement). "In all other respects", the court held, the states are free to prescribe their own definitions of navigability, and when in conflict with Federal dominion, the exclusive control of waters is vested in the state, whether the waters are deemed navigable in the Federal sense or in any other sense.'" 55 Cal.App.3d at 567.

Regardless of whether the underlying bed is in public or private ownership, there is an easement in the public for navigation and the incidents of navigation such as boating, fishing, swimming, hunting, and other recreational uses, in those California streams which are navigable in fact. People ex rel Baker v. Mack, 19 Cal.App.3d 1040, 1045, 1048, 1050, 1051 (1971); Bohn v. Albertson, 107 Cal.App.3d 738, 742 (1951); Forestier v. Johnson, 164 Cal. 24 (1912); People v. California Fish Company, 166 Cal. 576, 587-589 (1913). 55 Ops.Atty.Gen. 293 (1972).

A stream is navigable for the purposes of public right of navigation if it is capable of boating for pleasure. The modern determinations of the California courts, as well as those of several of the states, as to the test of navigability can well be restated as follows:

"Members of the public have the right to navigate and to exercise the incidents of navigation in a lawful manner in any point below high water mark on waters of this state which are capable of being navigated by oar or motor propelled small craft." People ex rel Baker v. Mack, 19 Cal.App.3d at 1050.

The test of navigability for the purposes of public navigational rights is not whether such a stream is commercially navigable, but whether it is capable of boating for pleasure. People ex rel Baker v. Mack, 19 Cal.App.3d at 1044, cites

approvingly cases finding that navigability existed where there was "availability for row boats", where, except in times of high water, travel in a row boat necessitated dragging or pushing it on the bottom of the river in numerous shallow places; where uses were shown of canoe and row boat navigation and log floating; and where use by pleasure and sport fishing craft during the ice-free season occurred.

In Baker v. Mack, the court found that the use by small boats of a portion of the Fall River established the right of public passage inasmuch as the stream was "physically navigable by small craft". Id at 1051. Accord, Bohn v. Albertson, supra.

In the subsequent case of Hitchings v. Del Rio Woods Recreation and Park District, supra, the Court of Appeals reaffirmed the Mack test, holding that a portion of the Russian River which was in fact navigable by small boats for approximately nine months every year was a public recreational highway for most of the year, and therefore navigable in law. The court approvingly cited the holding of the Mack case that "it hardly needs citation of authorities that the rule is that a navigable stream may be used by the public for boating, swimming, fishing, hunting, and all recreational purposes." People ex rel Baker v. Mack, supra, 19 Cal.App.3d at 1045. See also Marks v. Whitney, 6 Cal.3d 251 at 259.

Therefore, because the American River is capable of boating for pleasure, is physically navigable by small craft, and is capable of being navigated by oar or motor propelled small craft, it is navigable by law and a public easement exists over said waters.

D. IMPLIED DEDICATION RIGHTS

In Gion v. City of Santa Cruz and Dietz v. King (1970), 2 Cal.3d 29, the California Supreme Court set forth rules relating to the doctrine of implied dedication of property for public recreational and allied uses. These cases involved the long-standing public use of beach areas above the mean high tide line near the City of Santa Cruz in Santa Cruz County and Navarro by the Sea in Mendocino County. The land was in private ownership but because of the public use it was held that the doctrine of implied dedication prohibited the private owners from excluding the public from the land in question.

Gion and Dietz, supra, set forth the criteria that must be proved to establish a dedication to the public. These criteria, the court held, that the land must have been used as a public land by members of the public for a five year period or more. Finally, the use must be without asking or receiving permission to use the land.

With the long history of public use of the American River and adjacent upland areas, the probability that certain areas have been dedicated to the public under the principles of Gion and Dietz for access to the river and use of adjacent areas is substantial. Ascertaining whether such rights actually exist with respect to specific areas requires a factual investigation and ultimately agreement with the landowner or appropriate litigation. Any resolution of public and private rights along the American River must take into consideration the doctrine of implied dedication. Studies to identify the areas subject to such a claim will be required.

III.

LEASING AND PERMIT ACTIVITIES OF PUBLIC AGENCIES ON THE RIVER

Consistent with public ownership of the bed of the American River, there have been many leases and permits issued by the State Lands Commission and other public agencies for uses in and adjacent to the riverbed. A list of many of these leases and permits issued by the State Lands Commission appears in the appendix to this report.

The bed of the American River, as well as the upland, has been subject to extensive mineral extraction. There are presently three mineral extraction operations within the vicinity of the American Riverbed. See Figure 9 (page 36) for location of these operations. One is Robertson Sand and Gravel Company which is located within the 1867/68 grant to the City of Sacramento. The second is Erickson-Arden Sand and Gravel Company located at the end of Arden Way. The third is Lone Star Industries located on the south side of the American River near Bridge Road and Sunrise Boulevard. All three of these companies have leases for mineral extraction. Robertson Sand and Gravel has a lease with the City of Sacramento, pursuant to the granting statute mentioned above, and Erickson-Arden Sand and Gravel and Lone Star Industries lease from Sacramento County.

The Erickson-Arden Company plant has been at this site for about 50 years and has been prohibited from mining since December 31, 1975. It does, however, have permission to process 8,000 tons of rock previously mined. Lone Star Industries has been at its site since 1900 and must stop mining and processing operations on or before July 1, 1977.² The Robertson Sand and Gravel Company lease from the City of Sacramento expired in November 1976, and was not renewed because sand and gravel operations are not in conformance with the American River Parkway Plan.³

Three railroad bridges span the American River in the subject area. The Sacramento Northern (abandoned, but carries a city sewer line) is about 1000 feet southeast of Highway 160, the Western Pacific Bridge is about 1500 feet southeast of Highway 160, and the Southern Pacific Bridge is about 1300 feet northwest of Highway 80. Such crossings over sovereign State lands are authorized by Public Utilities Code section 7551 et seq.

²Per Sacramento County Public Works Department.

³Per Sacramento City Planning Department.

IV.

BACKGROUND OF RIVERBANK OWNERSHIP

Title to private upland property along the American River stems either from the confirmation of rancho patents or the purchase of swamp and overflowed lands. The tracing of the chain of title to ranchos must go back to the original Spanish occupation of California. Spanish occupation of California in 1769 vested title to the land in the King of Spain. During the Spanish period, concessions of ranch property were made to private individuals.

Between 1822 and 1846, the Mexican government granted many ranch titles. Some of the ranch titles, or ranchos, were confirmatory of Spanish concessions. Both the Spanish and Mexican grants were later required to be confirmed by the Board of Land Commissioners pursuant to the Treaty of Guadalupe Hidalgo and the Act of Congress of March 3, 1851 (9 Stats. at Large 631). Successful claimants received a confirmatory patent to their rancho from the United States.

Along the American River in the area of this study there were four confirmed rancho patents. The New Helvetia Rancho, encompassing much of the present site of the City of Sacramento, was confirmed to John A. Sutter in 1859. The Rancho Rio De Los Americanos was confirmed to Joseph L. Folsom in 1862. The Del Paso Rancho was confirmed to Samuel Norris in 1858, and the Rancho San Juan was confirmed to Hiram Grimes in 1858.

These ranchos all bordered the American River. The American River was not included within any of the rancho patents. The patents called to the bank of the river. By this description, the upland owners took only to the bank of the American River and their interest did not in any way extend into or on the river itself.

Certain sections of land along both banks of the American River were not included in rancho land grants. Instead, the federal government segregated these parcels and classified them as swamp and overflowed lands. The swamplands were transferred to the State which in turn patented (deeded) these lands to private individuals.

The following swamp and overflow surveys were located along the bank of the American River in the project area.

North Bank (From the Sacramento River to the west boundary of Rancho Del Paso)

Survey No. 409, Surveyed, February 15, 1860
by Johnly Cleal

Survey No. 410, Surveyed, February 15, 1860
by Johnly Cleal

Survey No. 411, Surveyed, March 3, 1860
by A. G. Winn

Survey No. 484, Surveyed, June 22, 1860
by A. G. Winn

Survey No. 809, Surveyed, July 1, 1865
by G. W. Colby

Survey No. 903, Surveyed, January 23, 1867
by A. G. Winn

South Bank (Between Rancho New Helvetia and Rancho
Rio De Los Americanos)

Survey No. 949, Resurvey, October 1, 1868
by John Doherty

Survey No. 950, Resurvey, October 14, 1868
by John Doherty

Survey No. 952, Resurvey, October 17, 1868
by John Doherty

Survey No. 600, Surveyed, December 22, 1860
by John Doherty

Survey No. 601, Surveyed, December 22, 1860
by John Doherty

Survey No. 865, Surveyed, January 22, 1866
by G. W. Colby

California disposed of these lands by swamp and overflowed patents based on Swamp and Overflow Surveys. The patents were issued under the authority of the Arkansas Act of September 28, 1850.

A patent was issued by the State to the purchaser of the Swamp and Overflow Survey. An analysis of the individual patents issued for these Swamp and Overflow Surveys shows that the descriptions of the surveys convey title only to the bank of the river. They do not extend into the river. As stated before, there have been no conveyances of the riverbed to private parties by the State.

V.

ACCESS TO THE AMERICAN RIVER

The word "access" may be defined as "permission, liberty, or ability to enter, approach, communicate with, or pass to and from or to make use of". This definition of the word "access" seems very straightforward and easily understood, but the application of the word to the American River must be further qualified by the question: Access by whom? Access to the river for a person who enjoys backpacking is completely different from access for the person who is looking for a Sunday drive along the river. The State Lands Commission investigation team attempted to catalog types of access along the river.

Vehicular access to the American River for the Sunday driver is limited to point access⁴ in about twenty different areas along the river between the Sacramento River and the town of Folsom.

The main means of traversing the banks of the river is by pedestrian, bicycle and equestrian travel. Rafting is a fourth way of traveling along the river.

The County of Sacramento has attempted to keep access to the river as widely available as possible by designing bike and pedestrian trails with gentle slopes and by providing rest areas at convenient spots along the river. Figure 10 (page 37) is a land use map of the American River which shows the location and type of access which is available along the river. This map was provided by the Sacramento County Recreation and Parks Department.

Most of the access referred to above along and to the river has been obtained by grant or condemnation.

Completion of an investigation of other forms of public access that may exist by virtue of implied dedication is required. Such investigations concerning whether such access rights exist in the area of Sarah Court have been commenced by staff of the State Lands Commission and various private individuals not connected with the State.

⁴Point access means access to the river but restricted movement up or down the bank.

VI.

INEFFECTIVENESS OF UPLAND DEED
DESCRIPTIONS TO PASS TITLE TO RIVERBED

As has been noted, the State is the owner of the bed of the American River and private title to uplands abutting the river extends only to the river's bank. No records exist of any State conveyance to private parties of the bed of the American River. Nevertheless, instances exist in which private grants purported to pass title to sovereign lands within the riverbed. Since the private grantor had no title to convey such lands, the conveyance was ineffective to transfer any title to the grantee. It should additionally be noted that a private claim of title to the riverbed on the basis of adverse possession cannot be made since the doctrine does not apply to sovereign lands. Patton v. City of Los Angeles, 169 Cal. 521 (1915).

An examination has been made to determine how these private claims of title to the bed of the river arose. This revealed the following information which is best summarized by examining the title to one of the parcels of lands along the river. Title to the selected parcel originated within the boundaries of the historical "Rancho San Juan", one of the pre-statehood Mexican grants. Hiram Grimes acquired the Rancho by deed on February 27, 1849, and recorded in Book C, Page 199, of Land Titles, Archives of San Francisco, Upper California. The claim of Rancho San Juan by Hiram Grimes was founded on a Mexican grant to Joel P. Dedmond on December 24, 1844. Hiram Grimes' claim to Rancho San Juan was confirmed on June 3, 1856 by the District Court of the United States for the Northern District of California and recorded in Book 1 Patents, Page 18. A copy of this patent is on file in the records of the State Lands Commission. The patented land is described as:

"beginning. . . on the right
bank of the American River. . .
thence meandering the right
bank. . . upstream. . . ."
(Emphasis added)

Subsequent conveyances of the Rancho San Juan were described as lying on the north side of the American River until early 1856.

After 1856, descriptions generally ran to the southerly side or bank of the river until 1872. In late 1872 the land was described as extending to the centerline of the American River. The first documented evidence of this extension to the centerline of the river was on November 20, 1872 when

Bruce Lee conveyed all of his holdings to John Curry and S. Hastings. From November 20, 1872 until the present, descriptions have generally called to the centerline of the river. The following is a list of conveyances for this parcel [273-051-12] from March 17, 1849 to the present.

| <u>OWNERSHIP</u> | <u>DATE</u> | <u>INTEREST</u> | <u>BOUNDARY DESCRIPTION ALONG RIVER</u> |
|--|-------------|--|---|
| Grimes to Cooke | 3/17/1849 | 100% | to bank of river |
| Cooke to Phelps | 5/7/1849 | 50% | to bank of river |
| Cooke to Hayden | 12/2/1850 | 50% | to bank of river |
| Cook to Fowler and Cleal | 9/17/1852 | ? | to bank of river |
| Cooke to Wills | 12/30/1854 | Order of sale again- st Cooke, Phelps and Hayden | to bank of river |
| Wills to Whitcomb | 12/30/1854 | 62% | to bank of river |
| Wills to Phelps | 4/4/1855 | 20% | to bank of river |
| Wills to Phelps | 2/26/1856 | 18% | to bank of river |
| Phelps to Whitcomb | 3/6/1856 | 38% | to bank of river |
| Phelps to Cornwell | 4/10/1856 | 20% | to bank of river |
| Phelps to Smith | 4/10/1856 | 18% | to bank of river |
| Whitcomb to Semple | 11/10/1856 | 100% | to bank of river |
| Semple to Catlin | 8/25/1857 | 1/5th | to bank of river |
| Semple to Robertson | 3/3/1858 | 4/5th | to bank of river |
| Robertson to Bartlett | 8/13/1858 | 4/5th | to bank of river |
| Catlin to Curry | 4/15/1859 | 1/5th | to bank of river |
| Phelps to Curry | 11/4/1859 | Any interest | to bank of river |
| Lands of Bartlett to Hastings (Tax Sale) | 7/28/1860 | 4/5th | to bank of river |
| Semple, Curry, Bartlett and Thompson to Hastings (Sheriff sale) | 12/20/1861 | 100% | to bank of river |
| Hastings to Lee | 4/12/1872 | 1/8th | to bank of river |
| Curry to Lee | 4/12/1872 | 1/8th | to bank of river |
| Hastings & Curry to Lee | 11/20/1872 | 100% as to West Por- tion of Rcho | to bank of river |
| Lee to Curry & Hastings | 11/20/1872 | 100% as to West Por- tion of Rcho | to center of river |
| Curry to Clarke & Cox | 1/8/1873 | 1/2 | to center of river |

| <u>OWNERSHIP</u> | <u>DATE</u> | <u>INTEREST</u> | <u>BOUNDARY DESCRIPTION ALONG RIVER</u> |
|---|------------------------------------|--|---|
| Hastings to Clarke and Cox | 8/28/1873 | 100% as to Por- tion of Rncho | to center of river |
| Lee to Clarke and Cox | 8/29/1873 | 100% as to portion of Rncho | to center of river |
| Estate of Cox to Jennie A. Cox et al | 4/28/1908 | | to center of river |
| Cox et al to Robinson | 9/4/1909 | | to center of river |
| Clarke Co. to Robinson | 9/29/1909 | | to center of river |
| Robinson to Calif. Corp. | 11/16/1909 | | to center of river |
| Robinson to Calif. Corp. | (Rerecording of Bk. 300/ 41) | | to center of river |
| Calif. Corp to Carmichael | 11/26/1909 | | to center of river |
| Clarke Co. to Robinson | 12/16/1909 | 1/2int. | to center of river |
| Carmichael to Panario | 12/23/1935 | | to center of river |
| Panario to Panario | 7/20/1936 | | to center of river |
| Panario to Curran | 4/20/1937 | | to center of river |
| Curran to Fatigate | 4/1/1960 | | to center of river |
| Fatigate to Cottrell | 9/27/1962 | | to center of river |
| Cottrell to Cottrell | 1/25/1968 | | to center of river |
| Cottrell to Fricker | 1/14/1970 | | to center of river |

The reason for the change in property description from the bank of the river to the centerline of the river on November 20, 1872 is not known.

The chain of title investigation did not produce a valid reason for changing the waterward limits of this property from the bank to the centerline of the river. No conveyance from the State to private party exists for the portion of the riverbed included. This leads to the assumption that the change was arbitrary and that the grantor included lands in the deed description to which he has no fee title or other interest.

Other parcels where similar conditions appeared to exist are:

| <u>Parcel Number</u> | <u>Parcel Number</u> | <u>Parcel Number</u> |
|----------------------|----------------------|----------------------|
| 001-012-08 | 001-181-01 | 242-260-13 |
| 001-012-09 | 001-181-02 | |
| 001-012-12 | 001-181-03 | 260-380-01 |
| 001-012-13 | 001-181-04 | 260-380-17 |
| | 001-181-05 | 260-380-18 |
| 001-020-35 | | 260-380-20 |
| 001-020-36 | 001-200-09 | |
| 001-020-41 | | 260-400-08 |
| 001-020-44 | 075-010-13 | 260-400-09 |
| | 075-010-14 | 260-400-10 |
| 001-160-04 | 075-010-15 | |
| 001-160-05 | | 273-051-12 |
| 001-160-29 | 075-020-01 | 273-051-13 |
| | 075-020-02 | 273-051-14 |
| 001-170-03 | 075-020-49 | 273-051-15 |
| | | |
| 273-051-16 | 283-280-06 | 283-371-17 |
| 273-051-17 | 283-280-20 | 283-371-18 |
| 273-051-18 | 283-280-24 | 283-371-19 |
| 273-051-19 | 283-280-26 | 283-371-20 |
| | 283-280-28 | 283-371-22 |
| 273-260-18 | 283-280-35 | |
| 273-260-22 | 283-280-42 | 283-400-09 |
| 273-260-26 | 283-280-43 | 283-400-11 |
| | 283-280-44 | 283-400-13 |
| 275-270-05 | | |
| | 283-300-15 | 283-480-13 |
| 283-260-13 | 283-300-30 | 283-480-14 |
| 283-260-14 | 283-300-44 | 283-480-15 |
| 283-260-15 | 283-300-50 | |
| 283-260-16 | 283-300-53 | 292-180-69 |
| | 283-300-54 | |
| 283-272-26 | 283-300-67 | |
| 283-272-27 | 283-300-68 | |
| 283-272-28 | | |
| 283-272-29 | | |

VII.

FUTURE PLANS FOR THE RIVER

The American River Parkway Plan is a policy document which provides guidelines for development, preservation, and use of the American River from the Sacramento River to the Sierras. The basic concepts of the Parkway Plan are:

Man-made improvements shall be limited to those needed for public's enjoyment, compatible with the natural environment and insofar as possible, not situated in areas of natural vegetation still relatively undisturbed.

Efforts to maintain or improve the environmental quality of the parkway shall be a first priority management responsibility.

Planting of trees and shrubs shall be limited to native varieties.

Archaeological and historical sites shall be preserved until determination of this disposition is reached.

Some devastated areas may be reclaimed for recreational use or restored to a natural condition.

Portions of the parkway may be temporarily closed to prevent overuse or to correct the effects of overuse.

Existing activities which are incompatible with the American River Parkway Plan will be phased out and their value amortized.⁵ With few exceptions, fee ownership by public agencies of all lands adjacent to the American River between the Sacramento River and Folsom Dam is the goal of the Parkway Land Acquisition Program.⁶

A simplified summary of the purpose of the American River Parkway Plan is to control the use of the river

⁵American River Parkway Plan, February 23, 1976; Sacramento Co.

⁶Per Sacramento City Planning Department

through a well-planned program which will preserve the environment for the enjoyment of the general public. Sacramento County has insured future control of the American River Parkway area by acquiring public title to 75 percent of the shoreline mileage between the Sacramento River and Nimbus Dam.

VIII.

CONCLUSION

The American River has been used for recreational traffic and as a highway of commerce since California became a state. Its banks were first settled in the days of the Mexican ranchos, and the history of public and private rights is a lengthy one.

Several principles of law have emerged from the long history of development of the river and its use:

1. The American River from Nimbus Dam to its confluence with the Sacramento River is a navigable river. Its bed is owned by the people of the State of California. Whether this ownership goes to the line of ordinary low water or ordinary high water is presently in litigation with respect to other waterways which are similarly situated. However, it is clear that ownership in the bed vests in the people of the State.
2. The waters and bed of the American River are owned in public trust by the State of California for the people of the State.
3. There is a public right to navigate the American River to the ordinary high water mark irrespective of title where river crosses lands subject to private claims.
4. Access to the river by implied dedication may have been established in areas where there has been uninterrupted public use for periods of over five years.

A
P
P
E
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D
I
X

APPENDIX 1

AGENCIES CONTACTED

Sacramento County

Laurence M. Lancaster
Real Estate Supervisor
Department of Public Works

Walt S. Ueda
Chief, Planning and Development
Department of Parks and Recreation

Tom Sparks
Planner
County Planning Commission

Mr. McKenzie
Sacramento County
Public Works Department

City of Sacramento

Recreation and Parks Department

Mr. George Smith
Sacramento City
Planning Department

APPENDIX 2

LIST OF ACTIVE LEASES ISSUED BY STATE LANDS COMMISSION FOR PORTIONS OF THE BED OF THE AMERICAN RIVER

| <u>NUMBER</u> | <u>LOCATION</u> | <u>TYPE</u> | <u>AGENCY</u> |
|---------------|-----------------|---|--|
| P 571.9 | 1 | Elvas Bridge | State, CalTrans |
| P 1504.9 | 2 | Powerline Crossing at Howe Avenue | SMUD |
| P 2071.9 | 3 | 16th Street Bridge Powerline Crossing | SMUD |
| P 2168.9 | 4 | Sewer Crossing | Sacramento County Sanitation District 2 |
| P 2393.9 | 5 | Fair Oaks Bridge | Sacramento County |
| P 2394.9 | 6 | Powerline Crossing at Hollister Avenue | SMUD |
| P 2404.9 | 7 | Watt Avenue Bridge | Sacramento County |
| P 2734.9 | 8 | Sewer Plant at Arden Bar | Sacramento County |
| P 2846.9 | 9 | Powerline Crossing at Fair Oaks | SMUD |
| P 2847.9 | 10 | Powerline Crossing at Ancil Hoffman Park | SMUD |
| P 3000.9 | 11 | Powerline Crossing Near Manlove Road | SMUD |
| P 3342.9 | 12 | Sunrise Bridge | Sacramento County |
| P 3402.9 | 13 | Pedestrian Bridge at Sacramento State University | Sacramento County |
| P. 3406.9 | 14 | Park Site | Sacramento County |
| P 3673.9 | 15 | Powerline Crossing Arden Bar and Sacramento State University | SMUD |
| P 3777.9 | 16 | California Exposition | State General Services |
| P 3900.9 | 17 | Powerline Crossing at Howe Avenue | SMUD |
| P 3927.9 | 18 | Howe Avenue Bridge | Sacramento City |
| P 3951.9 | 19 | Bridge crossing at Elvas | State, CalTrans |
| P 3967.9 | 20 | Powerline Crossing at Watt Avenue Crossing | SMUD |

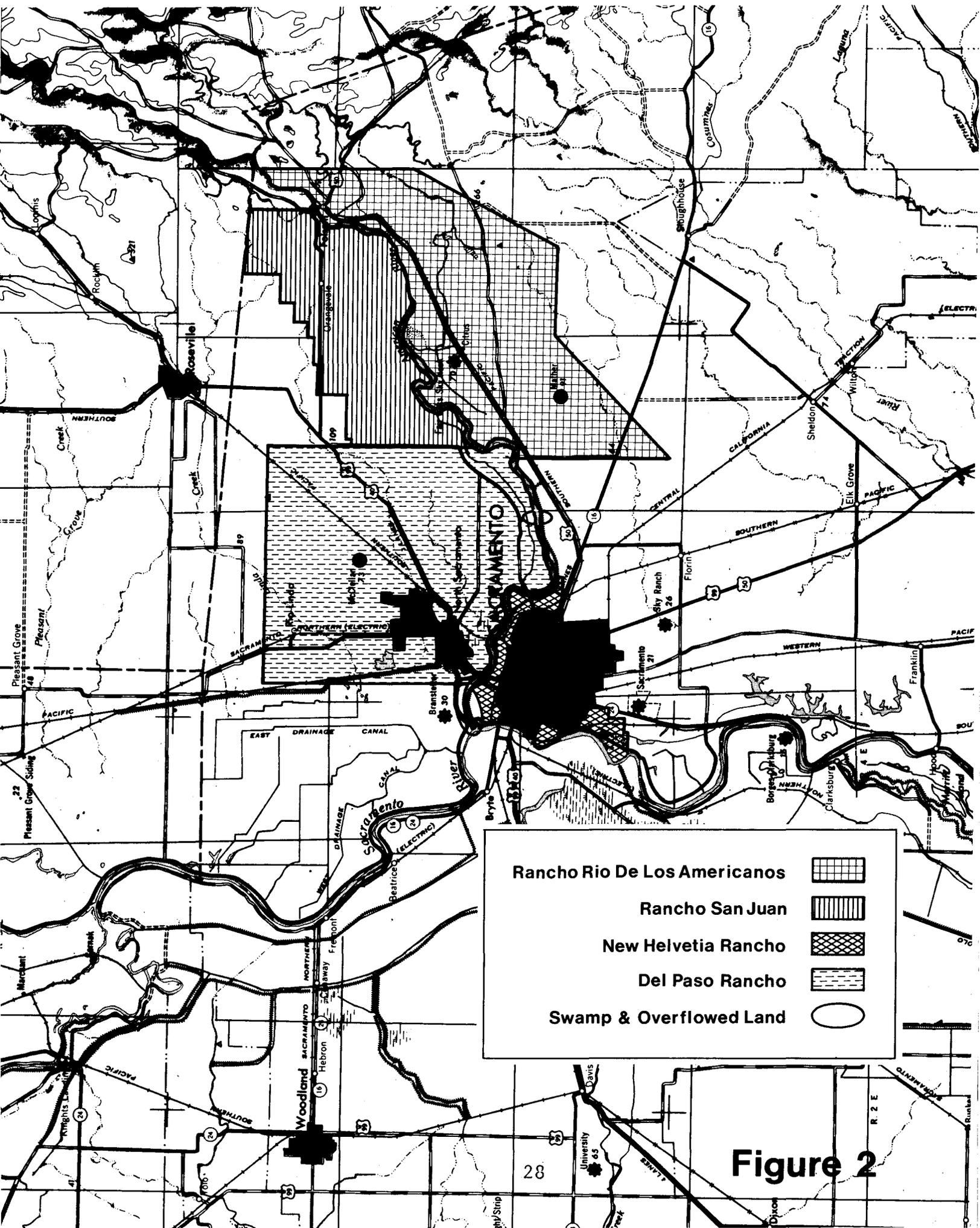
| <u>NUMBER</u> | <u>LOCATION</u> | <u>TYPE</u> | <u>AGENCY</u> |
|---------------|-----------------|--|-----------------------------------|
| P 4075.9 | 21 | Sewerline crossing at Arden Bar | Sacramento County |
| P 4113.9 | 22 | Powerline Crossing at Howe Avenue Bridge | SMUD |
| P 4156.9 | 23 | Powerline Crossing at Elvas Freeway | SMUD |
| P 4658.9 | 24 | Parks Use Permit near Arden Bar | Sacramento County |
| P 1529.1 | 25 | Gasline Crossing near Arden Bar | Southern Pacific Pipeline Company |
| P 2101.1 | 26 | Powerline Crossing at Howe Avenue | P.G.&E. |
| P 3342.1 | 27 | Sunrise Bridge at Fair Oaks | Sacramento County |
| P 3383.9 | 28 | Telephone Cable Crossing at Arden Bar | PTT |

SMUD -- Sacramento Municipal Utility District

P.G.&E. -- Pacific Gas and Electric Company

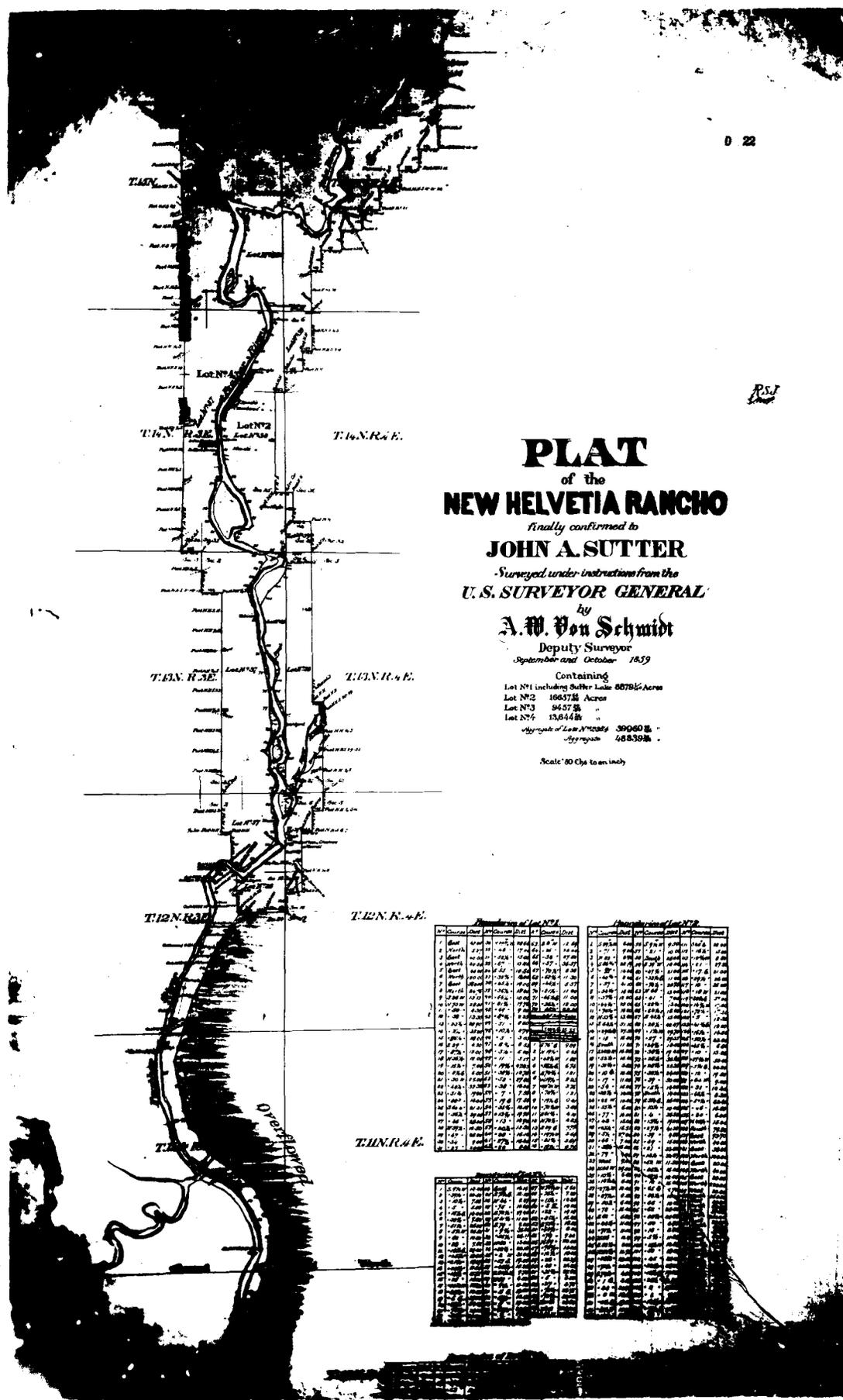
PTT -- Pacific Telephone and Telegraph Company.

FIGURES



| | |
|------------------------------|---|
| Rancho Rio De Los Americanos |  |
| Rancho San Juan |  |
| New Helvetia Rancho |  |
| Del Paso Rancho |  |
| Swamp & Overflowed Land |  |

Figure 2



PLAT
of the
NEW HELVETIA RANCHO

finally confirmed to
JOHN A. SUTTER
Surveyed under instructions from the
U.S. SURVEYOR GENERAL

by
A. W. Von Schmidt
Deputy Surveyor
September and October 1859

Containing
Lot No 1 including Sutter Lake 6879 1/2 Acres
Lot No 2 16057 1/2 Acres
Lot No 3 9457 1/2
Lot No 4 15,844
Aggregate of Lots No 1, 2, 3 & 4 39060 1/2
Approximate 46839 1/2

Scale 80 Chs to an inch

| Description of Lot No 1 | | | | Description of Lot No 2 | | | |
|-------------------------|-------------|-----------|---------|-------------------------|-------------|-----------|---------|
| Section | Sub-section | Area | Remarks | Section | Sub-section | Area | Remarks |
| 1 | 1 | 16057 1/2 | | 1 | 1 | 16057 1/2 | |
| 1 | 2 | 16057 1/2 | | 1 | 2 | 16057 1/2 | |
| 1 | 3 | 16057 1/2 | | 1 | 3 | 16057 1/2 | |
| 1 | 4 | 16057 1/2 | | 1 | 4 | 16057 1/2 | |
| 1 | 5 | 16057 1/2 | | 1 | 5 | 16057 1/2 | |
| 1 | 6 | 16057 1/2 | | 1 | 6 | 16057 1/2 | |
| 1 | 7 | 16057 1/2 | | 1 | 7 | 16057 1/2 | |
| 1 | 8 | 16057 1/2 | | 1 | 8 | 16057 1/2 | |
| 1 | 9 | 16057 1/2 | | 1 | 9 | 16057 1/2 | |
| 1 | 10 | 16057 1/2 | | 1 | 10 | 16057 1/2 | |
| 1 | 11 | 16057 1/2 | | 1 | 11 | 16057 1/2 | |
| 1 | 12 | 16057 1/2 | | 1 | 12 | 16057 1/2 | |
| 1 | 13 | 16057 1/2 | | 1 | 13 | 16057 1/2 | |
| 1 | 14 | 16057 1/2 | | 1 | 14 | 16057 1/2 | |
| 1 | 15 | 16057 1/2 | | 1 | 15 | 16057 1/2 | |
| 1 | 16 | 16057 1/2 | | 1 | 16 | 16057 1/2 | |
| 1 | 17 | 16057 1/2 | | 1 | 17 | 16057 1/2 | |
| 1 | 18 | 16057 1/2 | | 1 | 18 | 16057 1/2 | |
| 1 | 19 | 16057 1/2 | | 1 | 19 | 16057 1/2 | |
| 1 | 20 | 16057 1/2 | | 1 | 20 | 16057 1/2 | |
| 1 | 21 | 16057 1/2 | | 1 | 21 | 16057 1/2 | |
| 1 | 22 | 16057 1/2 | | 1 | 22 | 16057 1/2 | |
| 1 | 23 | 16057 1/2 | | 1 | 23 | 16057 1/2 | |
| 1 | 24 | 16057 1/2 | | 1 | 24 | 16057 1/2 | |
| 1 | 25 | 16057 1/2 | | 1 | 25 | 16057 1/2 | |
| 1 | 26 | 16057 1/2 | | 1 | 26 | 16057 1/2 | |
| 1 | 27 | 16057 1/2 | | 1 | 27 | 16057 1/2 | |
| 1 | 28 | 16057 1/2 | | 1 | 28 | 16057 1/2 | |
| 1 | 29 | 16057 1/2 | | 1 | 29 | 16057 1/2 | |
| 1 | 30 | 16057 1/2 | | 1 | 30 | 16057 1/2 | |
| 1 | 31 | 16057 1/2 | | 1 | 31 | 16057 1/2 | |
| 1 | 32 | 16057 1/2 | | 1 | 32 | 16057 1/2 | |
| 1 | 33 | 16057 1/2 | | 1 | 33 | 16057 1/2 | |
| 1 | 34 | 16057 1/2 | | 1 | 34 | 16057 1/2 | |
| 1 | 35 | 16057 1/2 | | 1 | 35 | 16057 1/2 | |
| 1 | 36 | 16057 1/2 | | 1 | 36 | 16057 1/2 | |
| 1 | 37 | 16057 1/2 | | 1 | 37 | 16057 1/2 | |
| 1 | 38 | 16057 1/2 | | 1 | 38 | 16057 1/2 | |
| 1 | 39 | 16057 1/2 | | 1 | 39 | 16057 1/2 | |
| 1 | 40 | 16057 1/2 | | 1 | 40 | 16057 1/2 | |
| 1 | 41 | 16057 1/2 | | 1 | 41 | 16057 1/2 | |
| 1 | 42 | 16057 1/2 | | 1 | 42 | 16057 1/2 | |
| 1 | 43 | 16057 1/2 | | 1 | 43 | 16057 1/2 | |
| 1 | 44 | 16057 1/2 | | 1 | 44 | 16057 1/2 | |
| 1 | 45 | 16057 1/2 | | 1 | 45 | 16057 1/2 | |
| 1 | 46 | 16057 1/2 | | 1 | 46 | 16057 1/2 | |
| 1 | 47 | 16057 1/2 | | 1 | 47 | 16057 1/2 | |
| 1 | 48 | 16057 1/2 | | 1 | 48 | 16057 1/2 | |
| 1 | 49 | 16057 1/2 | | 1 | 49 | 16057 1/2 | |
| 1 | 50 | 16057 1/2 | | 1 | 50 | 16057 1/2 | |

Continued on Figure 3a

Figure 3

Continued from Figure 3

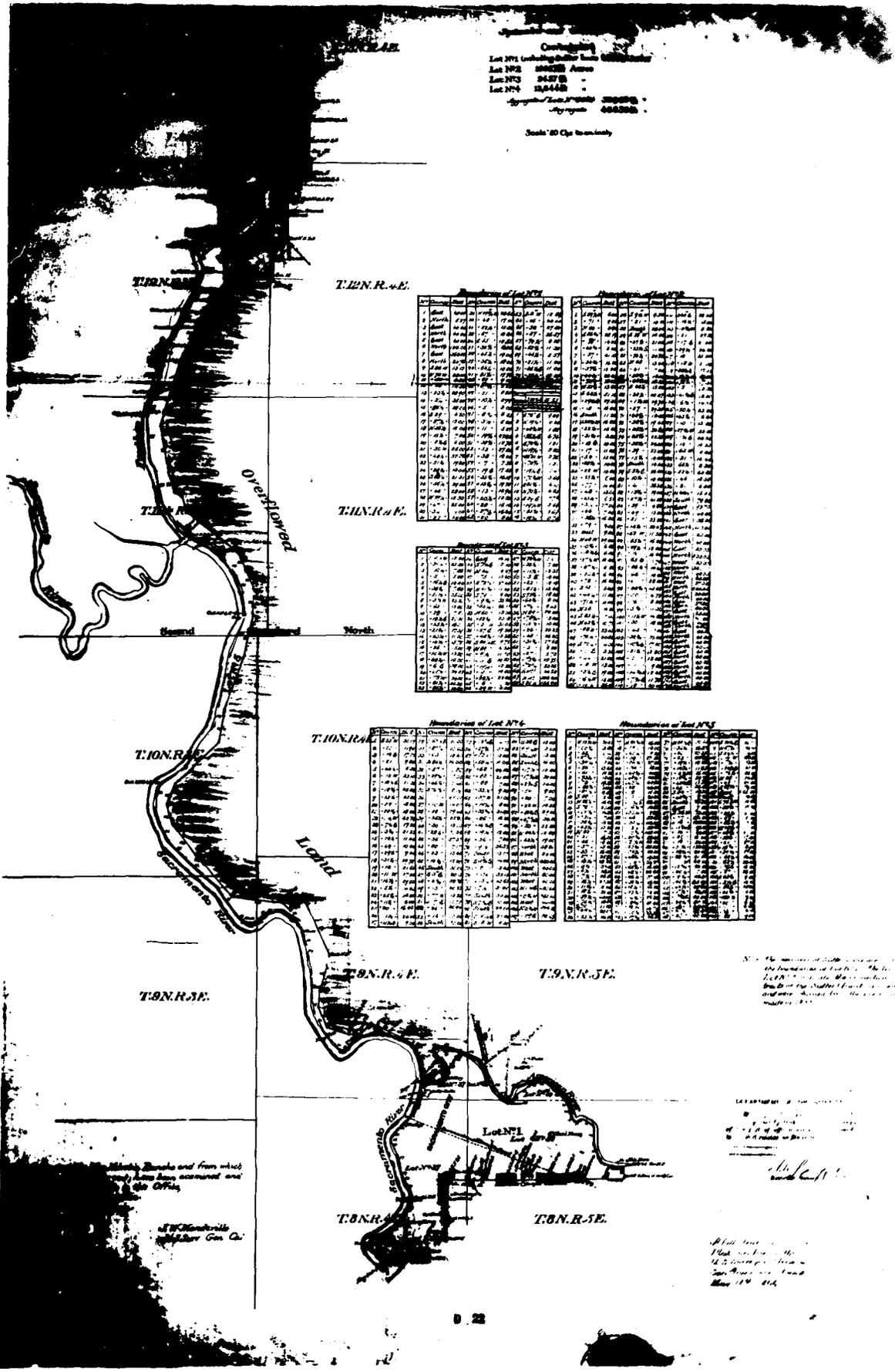
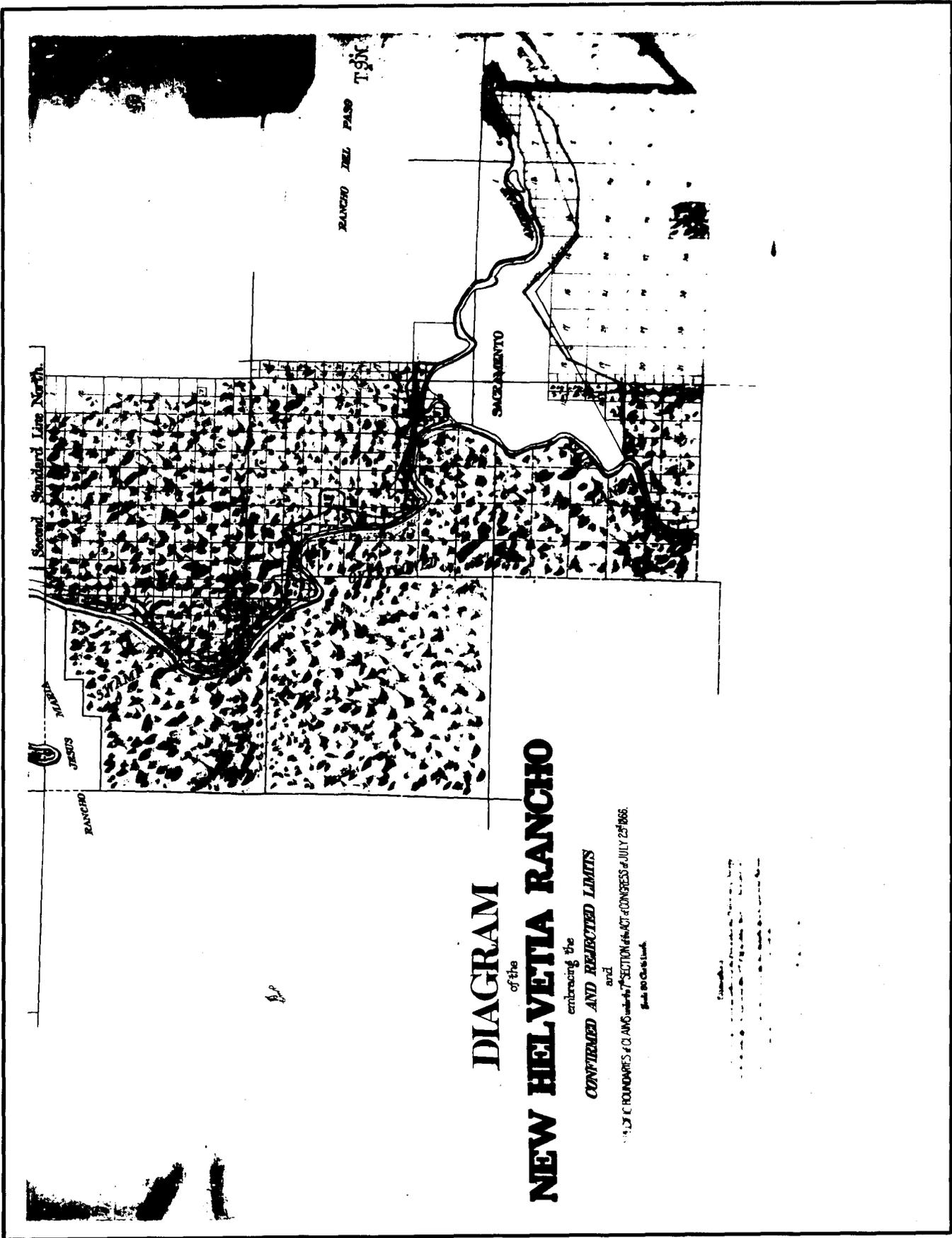


Figure 3a



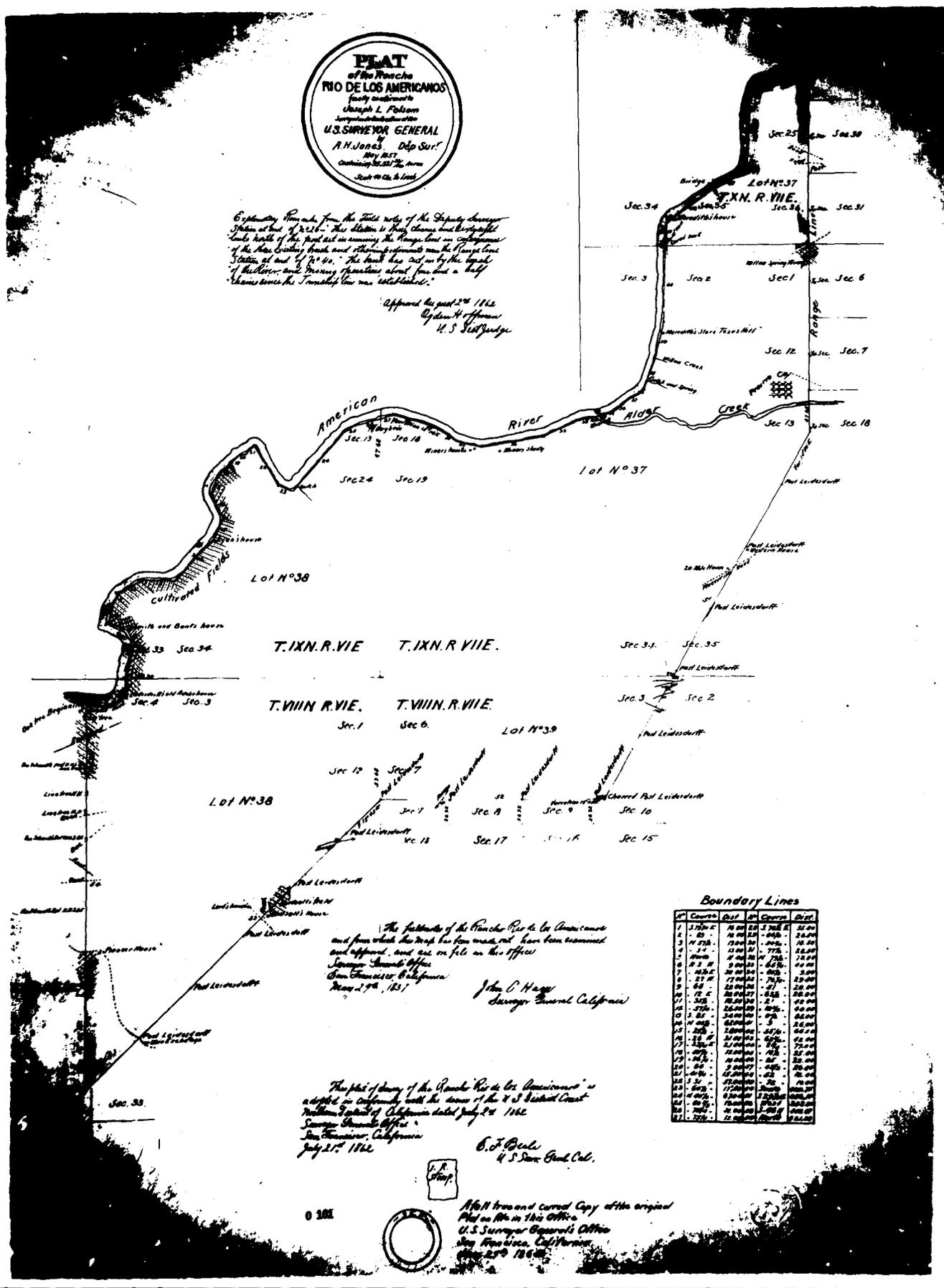
Rancho Rio De Los Americanos

Confirmed to Joseph L. Folsom, surveyed in 1857,
with final approval in 1862. (See Figure 5)

PLAT
of the Rancho
RIO DE LOS AMERICANOS
first surveyed by
Joseph L. Folson
Surveyor General
U.S. SURVEYOR GENERAL
A.H. Jones, Dep. Sur.
May 1857
Containing 32,512 Acres
Sec. 10 to 36, & Land

Explaining Remarks from the field notes of the Deputy Surveyor
Folson at and of 1857: "This station is high, clean and well settled
lands north of the road and on crossing the Range line on continuation
of the New Britain base and other monuments on the Range line
Station at end of No. 40. The bank has been by the length
of the river, and having operations about four and a half
chains since the Township line was established."

Approved the 2^d 1862
By the Hon. Secy of the Interior
U.S. Surveyor General



Boundary Lines

| No. | Course | Dist. | No. | Course | Dist. |
|-----|-------------|-------|-----|-------------|-------|
| 1 | S 75° 30' E | 70.00 | 23 | S 70° 30' E | 25.00 |
| 2 | S 75° 30' E | 10.00 | 24 | S 70° 30' E | 25.00 |
| 3 | N 75° 30' W | 70.00 | 25 | S 70° 30' E | 25.00 |
| 4 | N 75° 30' W | 10.00 | 26 | S 70° 30' E | 25.00 |
| 5 | N 75° 30' W | 10.00 | 27 | S 70° 30' E | 25.00 |
| 6 | N 75° 30' W | 10.00 | 28 | S 70° 30' E | 25.00 |
| 7 | N 75° 30' W | 10.00 | 29 | S 70° 30' E | 25.00 |
| 8 | N 75° 30' W | 10.00 | 30 | S 70° 30' E | 25.00 |
| 9 | N 75° 30' W | 10.00 | 31 | S 70° 30' E | 25.00 |
| 10 | N 75° 30' W | 10.00 | 32 | S 70° 30' E | 25.00 |
| 11 | N 75° 30' W | 10.00 | 33 | S 70° 30' E | 25.00 |
| 12 | N 75° 30' W | 10.00 | 34 | S 70° 30' E | 25.00 |
| 13 | N 75° 30' W | 10.00 | 35 | S 70° 30' E | 25.00 |
| 14 | N 75° 30' W | 10.00 | 36 | S 70° 30' E | 25.00 |
| 15 | N 75° 30' W | 10.00 | 37 | S 70° 30' E | 25.00 |
| 16 | N 75° 30' W | 10.00 | 38 | S 70° 30' E | 25.00 |
| 17 | N 75° 30' W | 10.00 | 39 | S 70° 30' E | 25.00 |
| 18 | N 75° 30' W | 10.00 | 40 | S 70° 30' E | 25.00 |
| 19 | N 75° 30' W | 10.00 | 41 | S 70° 30' E | 25.00 |
| 20 | N 75° 30' W | 10.00 | 42 | S 70° 30' E | 25.00 |
| 21 | N 75° 30' W | 10.00 | 43 | S 70° 30' E | 25.00 |
| 22 | N 75° 30' W | 10.00 | 44 | S 70° 30' E | 25.00 |
| 23 | N 75° 30' W | 10.00 | 45 | S 70° 30' E | 25.00 |
| 24 | N 75° 30' W | 10.00 | 46 | S 70° 30' E | 25.00 |
| 25 | N 75° 30' W | 10.00 | 47 | S 70° 30' E | 25.00 |
| 26 | N 75° 30' W | 10.00 | 48 | S 70° 30' E | 25.00 |
| 27 | N 75° 30' W | 10.00 | 49 | S 70° 30' E | 25.00 |
| 28 | N 75° 30' W | 10.00 | 50 | S 70° 30' E | 25.00 |
| 29 | N 75° 30' W | 10.00 | 51 | S 70° 30' E | 25.00 |
| 30 | N 75° 30' W | 10.00 | 52 | S 70° 30' E | 25.00 |
| 31 | N 75° 30' W | 10.00 | 53 | S 70° 30' E | 25.00 |
| 32 | N 75° 30' W | 10.00 | 54 | S 70° 30' E | 25.00 |
| 33 | N 75° 30' W | 10.00 | 55 | S 70° 30' E | 25.00 |
| 34 | N 75° 30' W | 10.00 | 56 | S 70° 30' E | 25.00 |
| 35 | N 75° 30' W | 10.00 | 57 | S 70° 30' E | 25.00 |
| 36 | N 75° 30' W | 10.00 | 58 | S 70° 30' E | 25.00 |
| 37 | N 75° 30' W | 10.00 | 59 | S 70° 30' E | 25.00 |
| 38 | N 75° 30' W | 10.00 | 60 | S 70° 30' E | 25.00 |
| 39 | N 75° 30' W | 10.00 | 61 | S 70° 30' E | 25.00 |
| 40 | N 75° 30' W | 10.00 | 62 | S 70° 30' E | 25.00 |
| 41 | N 75° 30' W | 10.00 | 63 | S 70° 30' E | 25.00 |
| 42 | N 75° 30' W | 10.00 | 64 | S 70° 30' E | 25.00 |
| 43 | N 75° 30' W | 10.00 | 65 | S 70° 30' E | 25.00 |
| 44 | N 75° 30' W | 10.00 | 66 | S 70° 30' E | 25.00 |
| 45 | N 75° 30' W | 10.00 | 67 | S 70° 30' E | 25.00 |
| 46 | N 75° 30' W | 10.00 | 68 | S 70° 30' E | 25.00 |
| 47 | N 75° 30' W | 10.00 | 69 | S 70° 30' E | 25.00 |
| 48 | N 75° 30' W | 10.00 | 70 | S 70° 30' E | 25.00 |
| 49 | N 75° 30' W | 10.00 | 71 | S 70° 30' E | 25.00 |
| 50 | N 75° 30' W | 10.00 | 72 | S 70° 30' E | 25.00 |
| 51 | N 75° 30' W | 10.00 | 73 | S 70° 30' E | 25.00 |
| 52 | N 75° 30' W | 10.00 | 74 | S 70° 30' E | 25.00 |
| 53 | N 75° 30' W | 10.00 | 75 | S 70° 30' E | 25.00 |
| 54 | N 75° 30' W | 10.00 | 76 | S 70° 30' E | 25.00 |
| 55 | N 75° 30' W | 10.00 | 77 | S 70° 30' E | 25.00 |
| 56 | N 75° 30' W | 10.00 | 78 | S 70° 30' E | 25.00 |
| 57 | N 75° 30' W | 10.00 | 79 | S 70° 30' E | 25.00 |
| 58 | N 75° 30' W | 10.00 | 80 | S 70° 30' E | 25.00 |
| 59 | N 75° 30' W | 10.00 | 81 | S 70° 30' E | 25.00 |
| 60 | N 75° 30' W | 10.00 | 82 | S 70° 30' E | 25.00 |
| 61 | N 75° 30' W | 10.00 | 83 | S 70° 30' E | 25.00 |
| 62 | N 75° 30' W | 10.00 | 84 | S 70° 30' E | 25.00 |
| 63 | N 75° 30' W | 10.00 | 85 | S 70° 30' E | 25.00 |
| 64 | N 75° 30' W | 10.00 | 86 | S 70° 30' E | 25.00 |
| 65 | N 75° 30' W | 10.00 | 87 | S 70° 30' E | 25.00 |
| 66 | N 75° 30' W | 10.00 | 88 | S 70° 30' E | 25.00 |
| 67 | N 75° 30' W | 10.00 | 89 | S 70° 30' E | 25.00 |
| 68 | N 75° 30' W | 10.00 | 90 | S 70° 30' E | 25.00 |
| 69 | N 75° 30' W | 10.00 | 91 | S 70° 30' E | 25.00 |
| 70 | N 75° 30' W | 10.00 | 92 | S 70° 30' E | 25.00 |
| 71 | N 75° 30' W | 10.00 | 93 | S 70° 30' E | 25.00 |
| 72 | N 75° 30' W | 10.00 | 94 | S 70° 30' E | 25.00 |
| 73 | N 75° 30' W | 10.00 | 95 | S 70° 30' E | 25.00 |
| 74 | N 75° 30' W | 10.00 | 96 | S 70° 30' E | 25.00 |
| 75 | N 75° 30' W | 10.00 | 97 | S 70° 30' E | 25.00 |
| 76 | N 75° 30' W | 10.00 | 98 | S 70° 30' E | 25.00 |
| 77 | N 75° 30' W | 10.00 | 99 | S 70° 30' E | 25.00 |
| 78 | N 75° 30' W | 10.00 | 100 | S 70° 30' E | 25.00 |

The plat of the Rancho Rio de los Americanos
and from which the map has been made, not
been examined and approved, and are on file in the office
Surveyor General's Office
San Francisco, California
May 2, 1857
John C. Hays
Surveyor General California

The plat of survey of the Rancho Rio de los Americanos
is adopted as California with the date of the U.S. District Court
Northern District of California dated July 27, 1862
Surveyor General's Office
San Francisco, California
July 27, 1862
O. J. Beale
U.S. Surveyor General, Cal.

U.S. Surveyor General's Office
San Francisco, California
May 27, 1862

Figure 5

Del Paso Rancho

Confirmed to Samuel Norris, surveyed in 1857
with final approval in 1858.(See Figure 6)

PLAT
of the
DEL PASO RANCHO
finally confirmed
by
SAMUEL NORRIS
Surveyed under the orders
of the
U.S. SURVEYOR GENERAL

De Witt Coye Appraiser
March 1857
Containing 94,271 3/4 Acres
Such 4000 to be set back

| Particulars of All Pasa Rancho | | Acres | Value |
|--------------------------------|-------|-------|-------|
| 1 | 18420 | 20 00 | 10000 |
| 2 | 18420 | 20 00 | 10000 |
| 3 | 18420 | 20 00 | 10000 |
| 4 | 18420 | 20 00 | 10000 |
| 5 | 18420 | 20 00 | 10000 |
| 6 | 18420 | 20 00 | 10000 |
| 7 | 18420 | 20 00 | 10000 |
| 8 | 18420 | 20 00 | 10000 |
| 9 | 18420 | 20 00 | 10000 |
| 10 | 18420 | 20 00 | 10000 |
| 11 | 18420 | 20 00 | 10000 |
| 12 | 18420 | 20 00 | 10000 |
| 13 | 18420 | 20 00 | 10000 |
| 14 | 18420 | 20 00 | 10000 |
| 15 | 18420 | 20 00 | 10000 |
| 16 | 18420 | 20 00 | 10000 |
| 17 | 18420 | 20 00 | 10000 |
| 18 | 18420 | 20 00 | 10000 |
| 19 | 18420 | 20 00 | 10000 |
| 20 | 18420 | 20 00 | 10000 |
| 21 | 18420 | 20 00 | 10000 |
| 22 | 18420 | 20 00 | 10000 |
| 23 | 18420 | 20 00 | 10000 |
| 24 | 18420 | 20 00 | 10000 |
| 25 | 18420 | 20 00 | 10000 |
| 26 | 18420 | 20 00 | 10000 |
| 27 | 18420 | 20 00 | 10000 |
| 28 | 18420 | 20 00 | 10000 |
| 29 | 18420 | 20 00 | 10000 |
| 30 | 18420 | 20 00 | 10000 |
| 31 | 18420 | 20 00 | 10000 |
| 32 | 18420 | 20 00 | 10000 |
| 33 | 18420 | 20 00 | 10000 |
| 34 | 18420 | 20 00 | 10000 |
| 35 | 18420 | 20 00 | 10000 |
| 36 | 18420 | 20 00 | 10000 |
| 37 | 18420 | 20 00 | 10000 |
| 38 | 18420 | 20 00 | 10000 |
| 39 | 18420 | 20 00 | 10000 |
| 40 | 18420 | 20 00 | 10000 |
| 41 | 18420 | 20 00 | 10000 |
| 42 | 18420 | 20 00 | 10000 |
| 43 | 18420 | 20 00 | 10000 |
| 44 | 18420 | 20 00 | 10000 |
| 45 | 18420 | 20 00 | 10000 |
| 46 | 18420 | 20 00 | 10000 |
| 47 | 18420 | 20 00 | 10000 |
| 48 | 18420 | 20 00 | 10000 |
| 49 | 18420 | 20 00 | 10000 |
| 50 | 18420 | 20 00 | 10000 |
| 51 | 18420 | 20 00 | 10000 |
| 52 | 18420 | 20 00 | 10000 |
| 53 | 18420 | 20 00 | 10000 |
| 54 | 18420 | 20 00 | 10000 |
| 55 | 18420 | 20 00 | 10000 |
| 56 | 18420 | 20 00 | 10000 |
| 57 | 18420 | 20 00 | 10000 |
| 58 | 18420 | 20 00 | 10000 |
| 59 | 18420 | 20 00 | 10000 |
| 60 | 18420 | 20 00 | 10000 |
| 61 | 18420 | 20 00 | 10000 |
| 62 | 18420 | 20 00 | 10000 |
| 63 | 18420 | 20 00 | 10000 |
| 64 | 18420 | 20 00 | 10000 |
| 65 | 18420 | 20 00 | 10000 |
| 66 | 18420 | 20 00 | 10000 |
| 67 | 18420 | 20 00 | 10000 |
| 68 | 18420 | 20 00 | 10000 |
| 69 | 18420 | 20 00 | 10000 |
| 70 | 18420 | 20 00 | 10000 |
| 71 | 18420 | 20 00 | 10000 |
| 72 | 18420 | 20 00 | 10000 |
| 73 | 18420 | 20 00 | 10000 |
| 74 | 18420 | 20 00 | 10000 |
| 75 | 18420 | 20 00 | 10000 |
| 76 | 18420 | 20 00 | 10000 |
| 77 | 18420 | 20 00 | 10000 |
| 78 | 18420 | 20 00 | 10000 |
| 79 | 18420 | 20 00 | 10000 |
| 80 | 18420 | 20 00 | 10000 |
| 81 | 18420 | 20 00 | 10000 |
| 82 | 18420 | 20 00 | 10000 |
| 83 | 18420 | 20 00 | 10000 |
| 84 | 18420 | 20 00 | 10000 |
| 85 | 18420 | 20 00 | 10000 |
| 86 | 18420 | 20 00 | 10000 |
| 87 | 18420 | 20 00 | 10000 |
| 88 | 18420 | 20 00 | 10000 |
| 89 | 18420 | 20 00 | 10000 |
| 90 | 18420 | 20 00 | 10000 |
| 91 | 18420 | 20 00 | 10000 |
| 92 | 18420 | 20 00 | 10000 |
| 93 | 18420 | 20 00 | 10000 |
| 94 | 18420 | 20 00 | 10000 |
| 95 | 18420 | 20 00 | 10000 |
| 96 | 18420 | 20 00 | 10000 |
| 97 | 18420 | 20 00 | 10000 |
| 98 | 18420 | 20 00 | 10000 |
| 99 | 18420 | 20 00 | 10000 |
| 100 | 18420 | 20 00 | 10000 |

The boundaries of the Del Paso Rancho, and the whole of the same, as shown on this plat, are the same as shown on the original survey of the same, made by the U.S. Surveyor General, John C. Hoyt, in the year 1857, and confirmed by the U.S. Surveyor General, John C. Hoyt, in the year 1857.

DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D. C.
John C. Hoyt
U.S. Surveyor General

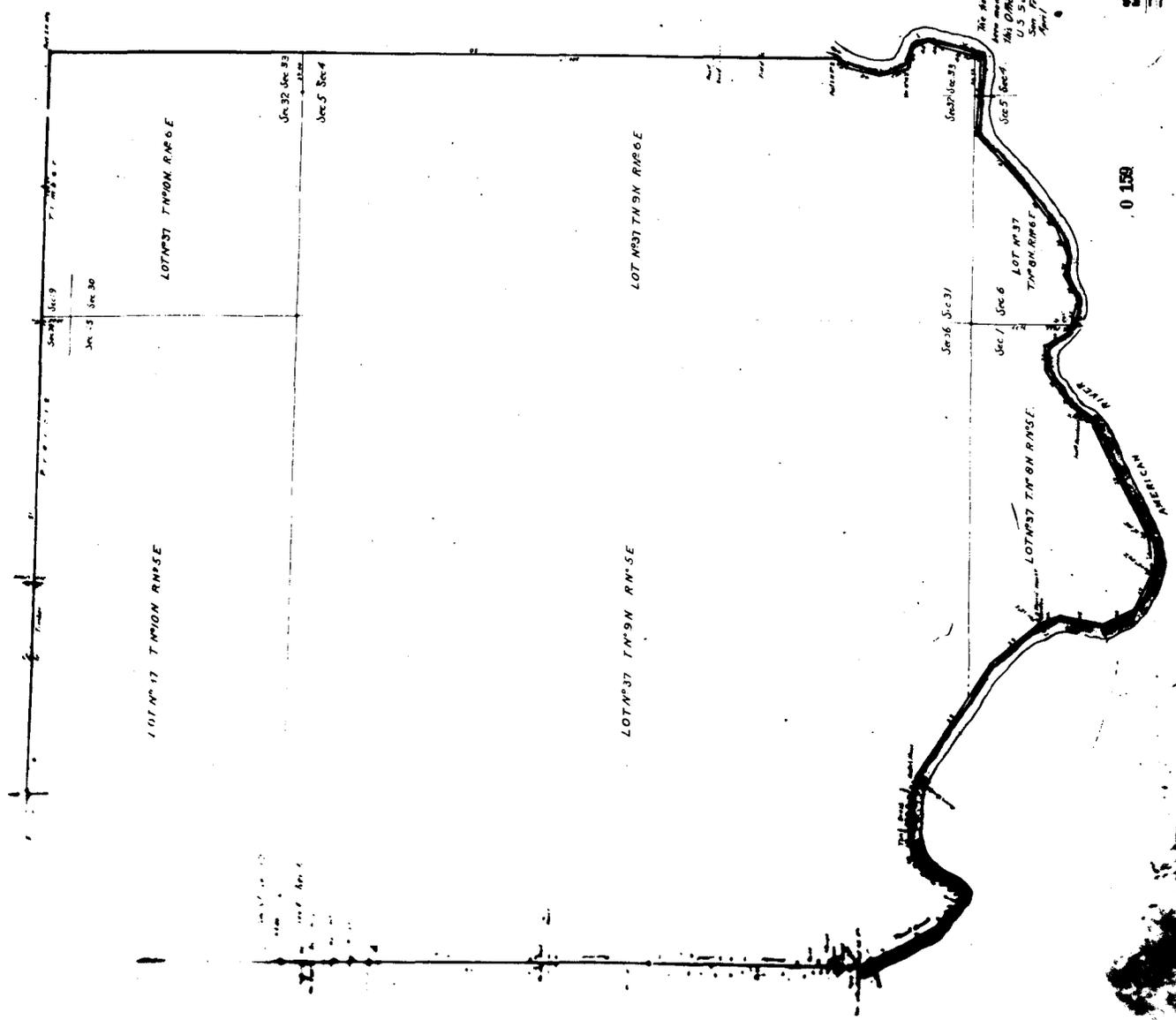


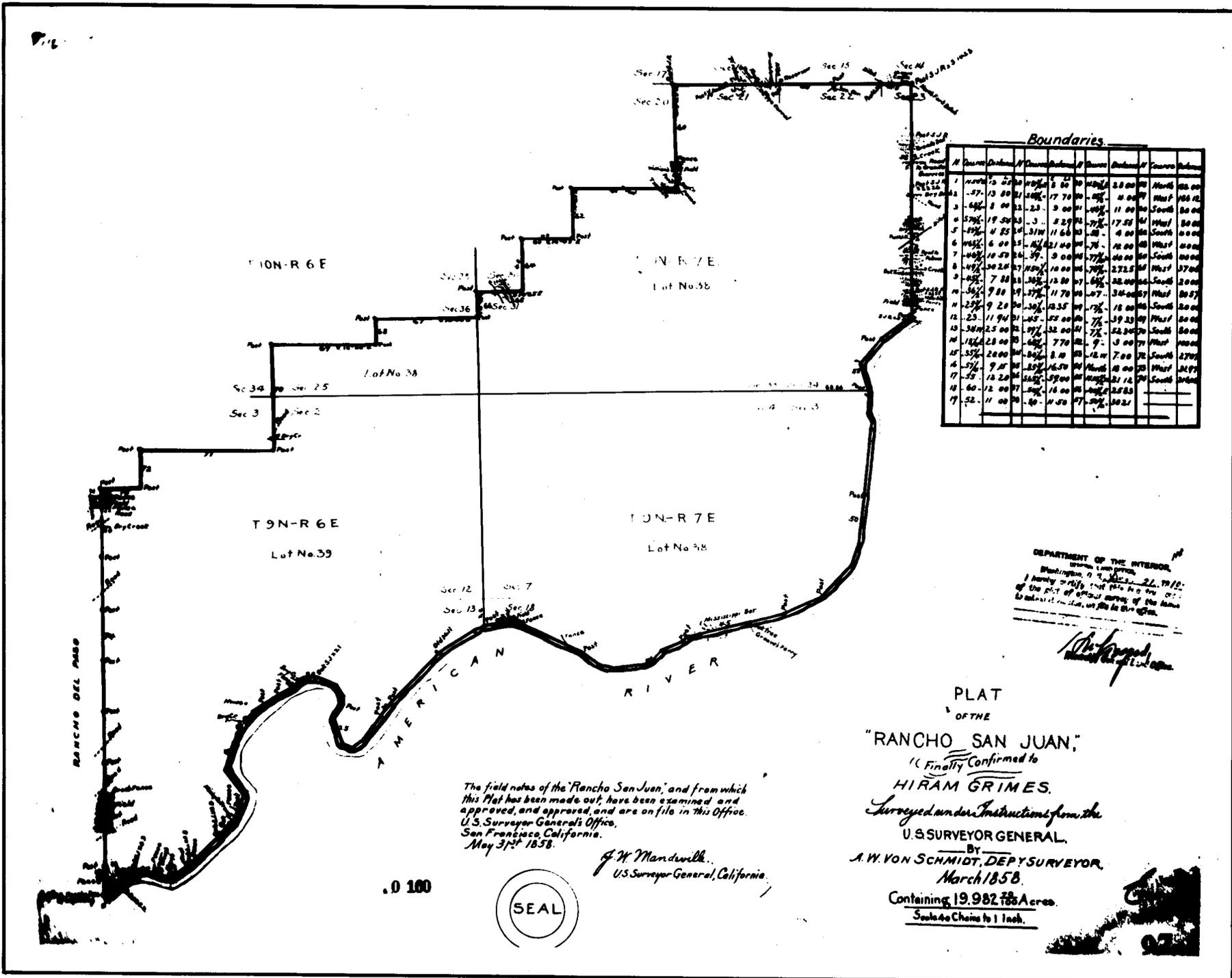
Figure 6

Rancho San Juan

Confirmed to Hiram Grimes, surveyed in 1858 with
final approval of survey in 1858. (See Figure 7)

The ranchos were all bounded by the American River which was
not included within them as was proper for a navigable river.

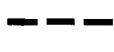
Figure 7

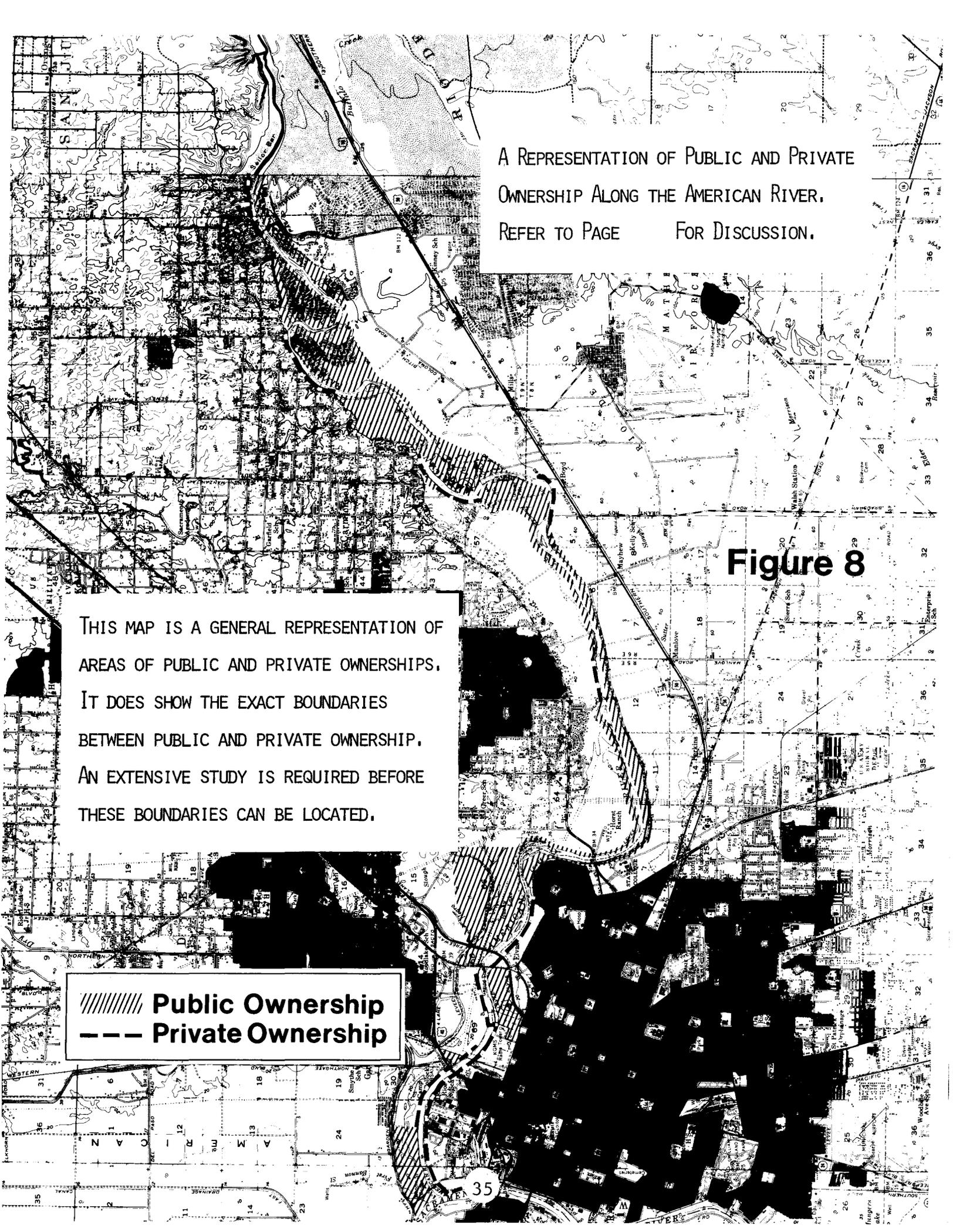


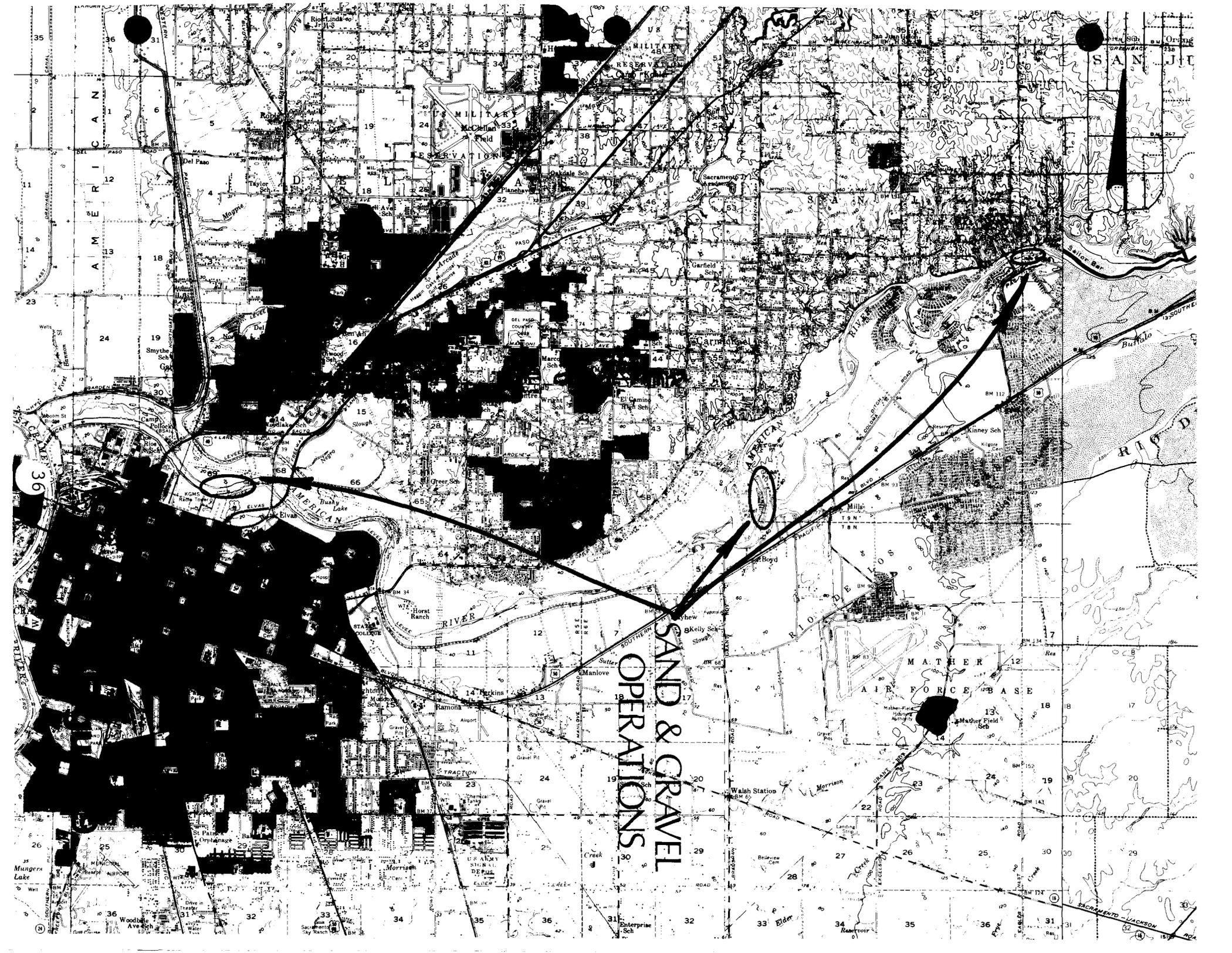
A REPRESENTATION OF PUBLIC AND PRIVATE OWNERSHIP ALONG THE AMERICAN RIVER. REFER TO PAGE FOR DISCUSSION.

Figure 8

THIS MAP IS A GENERAL REPRESENTATION OF AREAS OF PUBLIC AND PRIVATE OWNERSHIPS. IT DOES NOT SHOW THE EXACT BOUNDARIES BETWEEN PUBLIC AND PRIVATE OWNERSHIP. AN EXTENSIVE STUDY IS REQUIRED BEFORE THESE BOUNDARIES CAN BE LOCATED.

 Public Ownership
 Private Ownership





SAN JUAN

AMERICAN

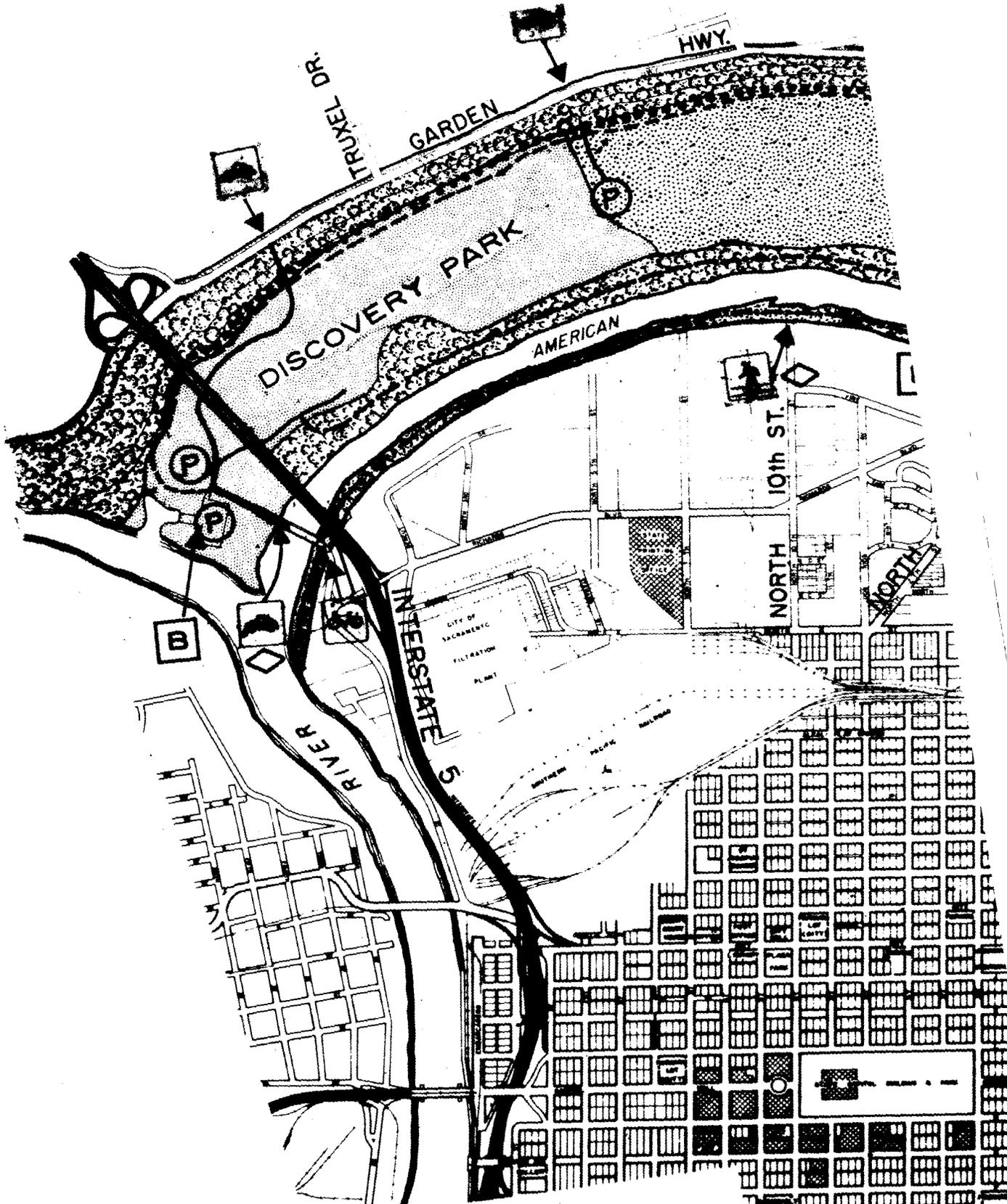
36

SAND & GRAVEL
OPERATIONS

MATHER AIR FORCE BASE

Mungret Lake

SACRAMENTO-JACKSON



OFFICIAL APPROVAL CERTIFICATE
COUNTY PLANNING COMMISSION

APPROVED BY RESOLUTION NO. PO-76-22 - 9MAR. 1976
 /S/ BETTY O'LEARY
 SECRETARY

/S/ FREDERICK G. STYLES
 CHAIRMAN

SACRAMENTO COUNTY BOARD OF SUPERVISORS
 ADOPTED BY RESOLUTION NO. 76-294 - 7 APR 1976

/S/ BETTY POOHAR
 CLERK OF THE BOARD

/S/ PATRICK E. MELARKEY
 CHAIRMAN

Continued on next p



HWY 160

RIVER

INTERSTATE 80

C
EX

Continued on next

LAND USE



OPEN SPACE PRESERVE
PRESERVED IN UNDEVELOPED CONDITION; PUBLIC OR PRIVATE OWNERSHIP, AND NOT NECESSARILY FOR PUBLIC USE.



NATURE STUDY AREA
USE LIMITED TO PEDESTRIANS ON DESIGNATED TRAILS ONLY.



PROTECTED AREA
DEVELOPMENT LIMITED TO TRAILS; NO MOWING OR BRUSH CLEARING.



LIMITED RECREATION AREA
SOME PICNIC TABLES, TRAILS; MOWING AND BRUSH CLEARING, REST STOPS PERMITTED.



DEVELOPED RECREATION AREA
PERMITS TURFED AREA, BARBEQUES, ETC.

CALIFORNIA STATE POSITION AND FAIR

YOUTH HOSTEL

ETHAN WAY

NORTHVIEW AVE

AMERICAN STADIUM

RIVER

BLVD

FAIR OAKS

HOME AVE

ACCESS



PEDESTRIAN ACCESS
NO PARKING NORMALLY AVAILABLE



BICYCLE, PEDESTRIAN ACCESS
NO PARKING NORMALLY AVAILABLE



EQUESTRIAN, BICYCLE, PEDESTRIAN ACCESS
PARKING AVAILABLE FOR HORSE TRAILERS

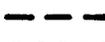


VEHICULAR ACCESS
WITH PEDESTRIAN, BICYCLE, AND EQUESTRIAN ACCESS
PARKING LOT WITHIN PARKWAY



SIGNIFIES LIMITED PARKING AVAILABLE
OUTSIDE PARKWAY

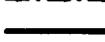
TRAILS AND ROAD



BIKE TRAIL



EQUESTRIAN TRAIL



PEDESTRIAN TRAIL



PARK ROAD



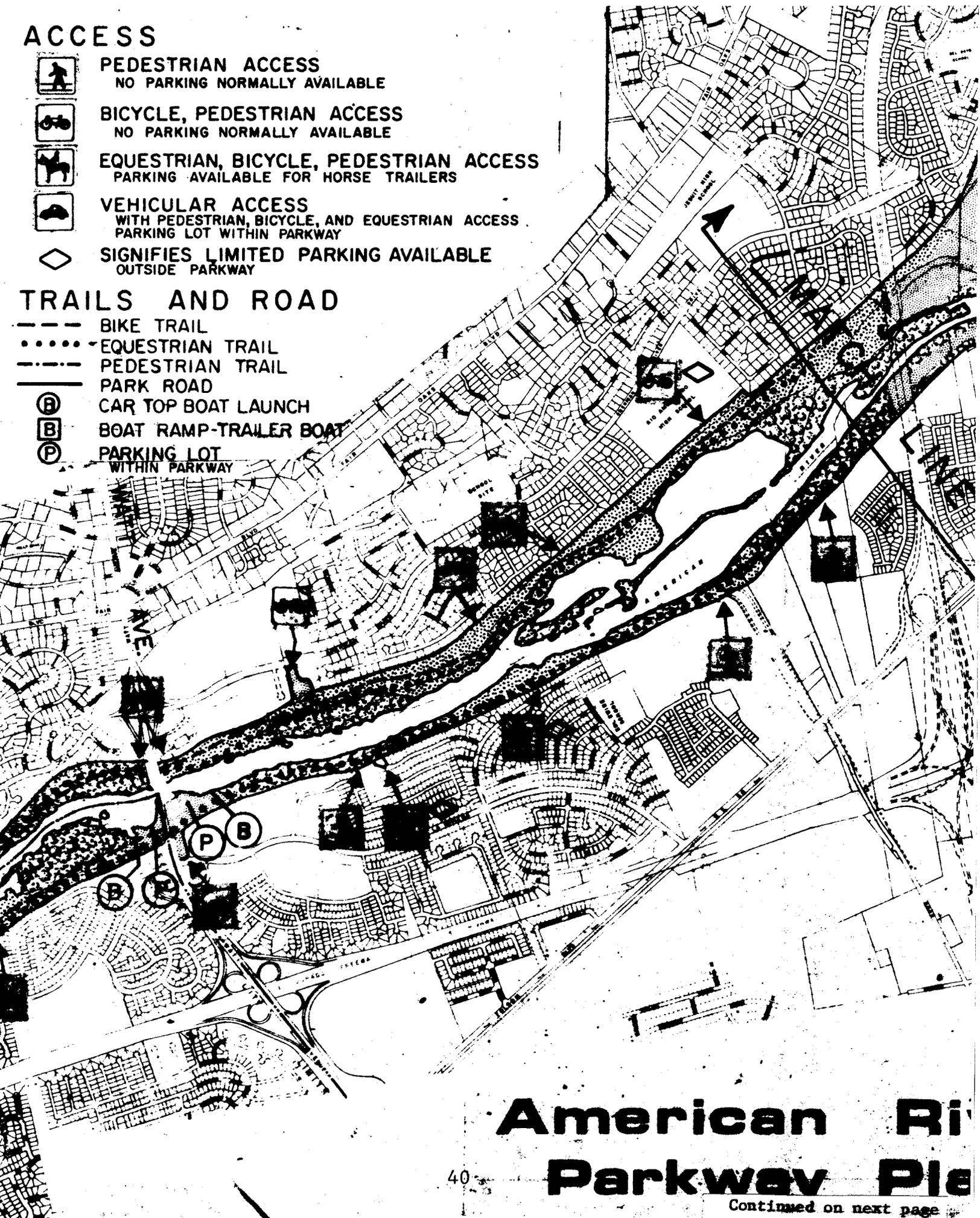
CAR TOP BOAT LAUNCH



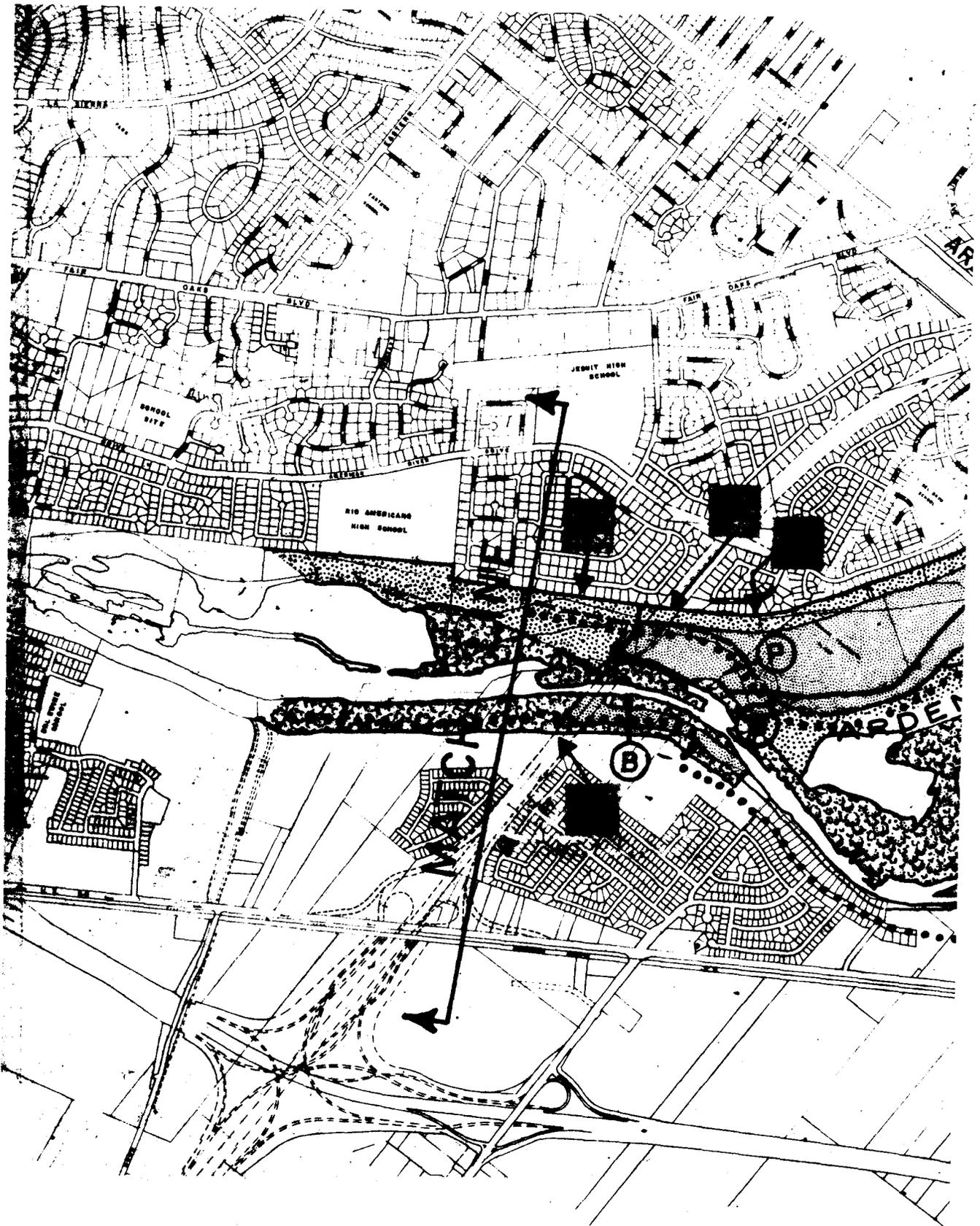
BOAT RAMP-TRAILER BOAT



PARKING LOT
WITHIN PARKWAY



American River Parkway Plan



OFFICIAL APPROVAL CERTIFICATE
COUNTY PLANNING COMMISSION

APPROVED BY RESOLUTION NO. PO-76-22 - 9 MAR. 1976

/S/ BETTY O'LEARY
SECRETARY

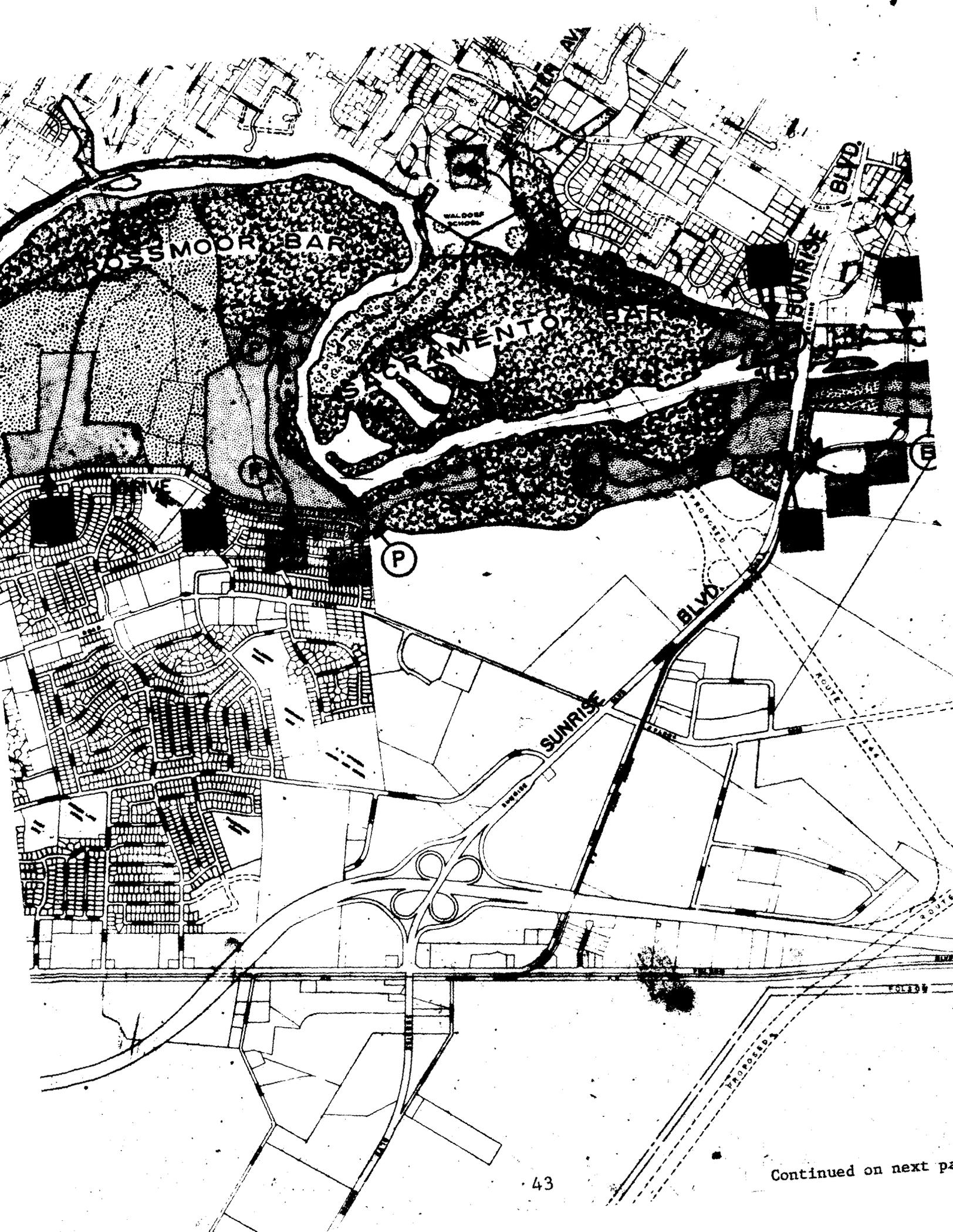
/S/ FREDERICK G. STYLES
CHAIRMAN

SACRAMENTO COUNTY BOARD OF SUPERVISORS
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/S/ BETTY POOHAR
CLERK OF THE BOARD

/S/ PATRICK E. MELARKEY
CHAIRMAN





LAND USE



OPEN SPACE PRESERVE

PRESERVED IN UNDEVELOPED CONDITION; PUBLIC OR PRIVATE OWNERSHIP, AND NOT NECESSARILY FOR PUBLIC USE.



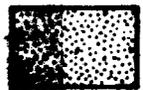
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PROTECTED AREA

DEVELOPMENT LIMITED TO TRAILS; NO MOWING OR BRUSH CLEARING.



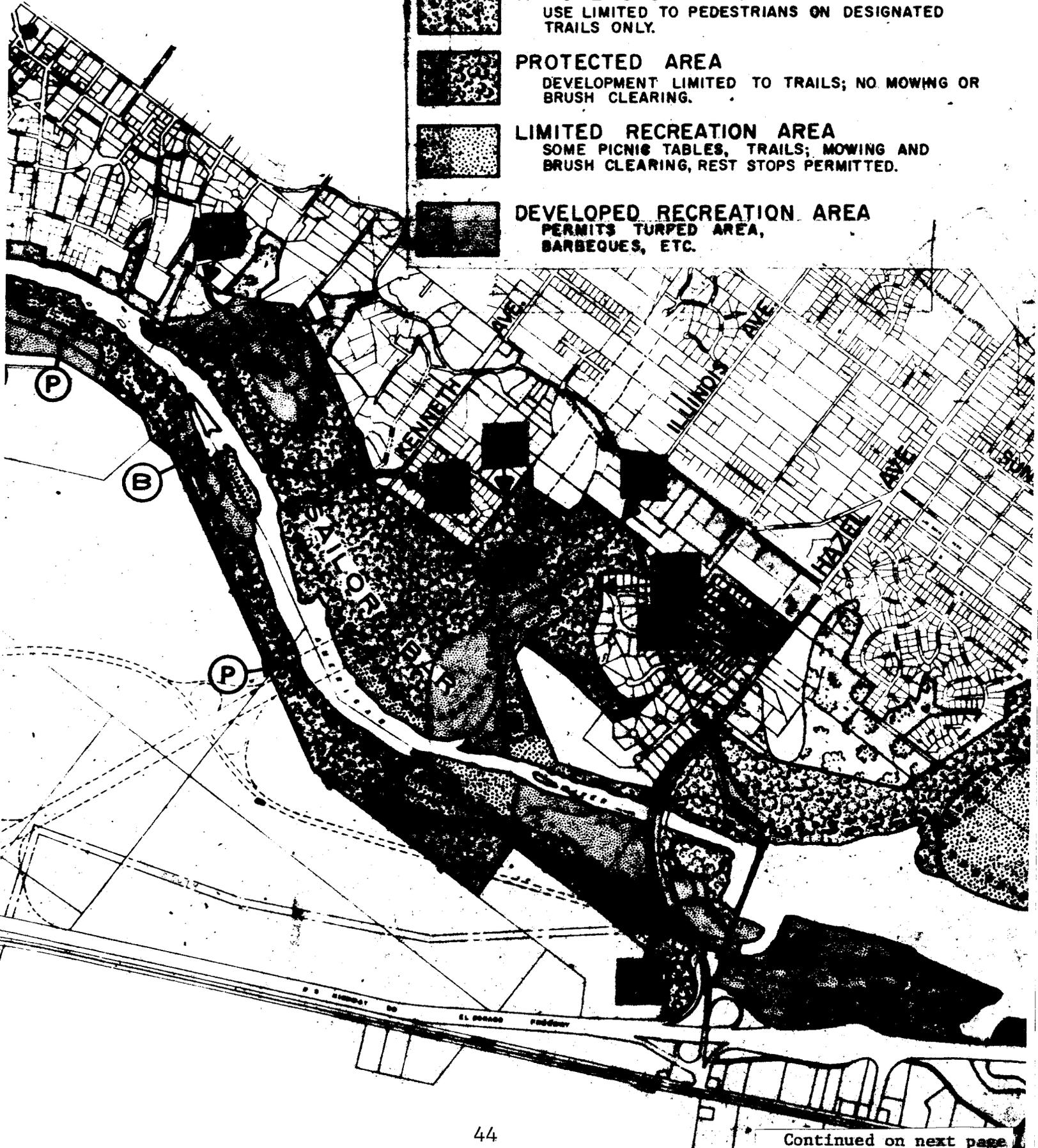
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DEVELOPED RECREATION AREA

PERMITS TURPED AREA, BARBEQUES, ETC.



ACCESS



PEDESTRIAN ACCESS
NO PARKING NORMALLY AVAILABLE



BICYCLE, PEDESTRIAN ACCESS
NO PARKING NORMALLY AVAILABLE



EQUESTRIAN, BICYCLE, PEDESTRIAN ACCESS
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VEHICULAR ACCESS
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PARK ROAD



CAR TOP BOAT LAUNCH



BOAT RAMP-TRAILER BOAT



PARKING LOT
WITHIN PARKWAY

