# STATE OF CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

Re: Testimony of Mark Stretars and Charles Arnold Rudy Mussi, et al., APN 131-170-03 and Pak-Young, 131-180-07

## Rebuttal Testimony of Stephen R. Wee

July 13, 2010

### I, Stephen R. Wee, declare:

The following is a rebuttal to the testimony of Mark Stretars and Charles Arnold in the Mussi, et al. and Pak-Young CDOs with respect to the identification, dating and significance of the Prosecution Team's Exhibit No. PT9, which was described as a "1870 Tidal Map." (Exhibit 74a)

My investigation leads me to conclude that the map can be no older than 1877.

The map is located at the California State Archives in Sacramento. On its face, the map is unidentified as to its age, publisher, author or cartographer. It is one of twenty-nine topographic maps and is part of a "Miscellaneous Maps" collection identified as "Maps filed with the Secretary of State." A note transcribed from the Archive's original index cards for these maps bears the following description:

"March 17, 1959: By Bob Nadey: photostat negatives on file with State Lands Commission. Map # LRA-283 = I.D. number given by State Lands Commission to the above photostats. Bob Nadey to O'Brien 2/19/1965."

"No date (very old) probably, 1885 to 1890. (Maybe state engineer Ham Hall, 1877 to 1886)."

The current finding aid in the California State Archives dates the twenty-nine maps in this topographic map collection as ranging from 1866 to 1877, but does not assign a specific date to each map.

My reason for concluding that this map dates to 1877, or later, is based upon information contained on the face of the map itself that precludes it from being older than 1877. The map shows the location of two settlements on Roberts Island in the vicinity of Burns Cut-off — one near the head of Burns Cut-off, called St. Catherines; and the other near the confluence of Black Slough and the San Joaquin River, called Wakefield. St. Catherines was the location of a small settlement that included M. C. Fisher's home, the model demonstration farm, a landing, warehouses, and commercial buildings. It was founded during the period when the upper division property was finally reclaimed in 1875-76. Likewise, Wakefield was the model farm established by the Glasgow California Land Company in association with its reclamation efforts on the lower division of Roberts Island in 1876-77. The settlement was named after John

MMS-R-WEE-74

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Wakefield Ferris, who was the manager of the Glasgow California Land Company properties on the lower division of Roberts Island. (Exhibit 74b)

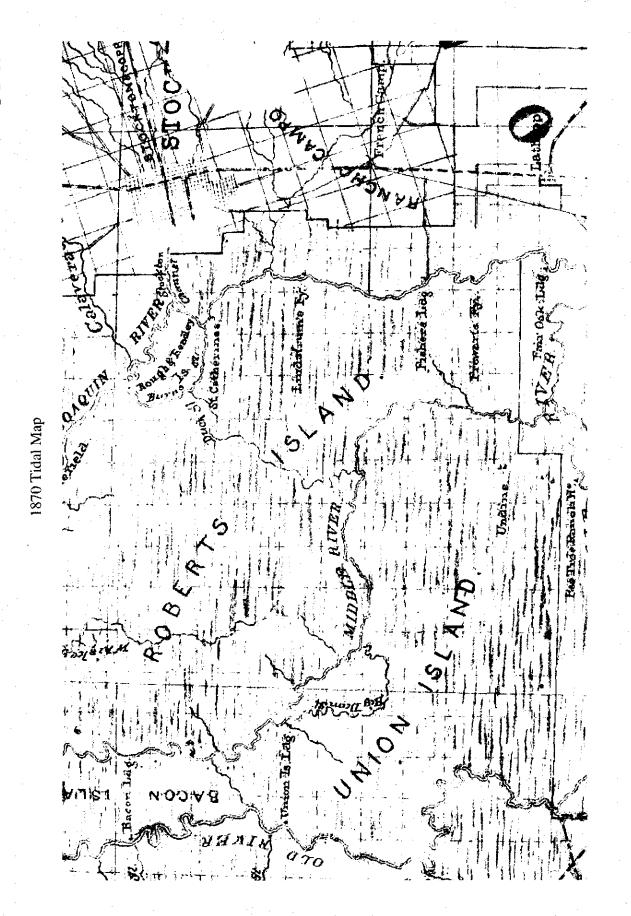
Exhibits 75 and 76 are copies of two newspaper articles dating from 1877 and 1878. The older of the two articles from the *Pacific Rural Press*, dated June 30, 1877, mentions St. Catherines as a settlement being "christened" by Morton C. Fisher. [Exhibit 75 - *Pacific Rural Press*, June 30, 1877] Fisher, as we know from our chain-of-title research, acquired the middle portion of Roberts Island (including the site of St. Catherines) from Joel P. Whitney on January 15, 1877. The second newspaper account comes from a story published in the *Sacramento Daily Union-Record* on December 16, 1878 which refers to both "Wakefield" and "St. Catherines" as "new points along the river." [Exhibit 76 - *Sacramento Daily Union-Record*, December 16, 1878] Wakefield was the "home farm" of Glasgow California Land Company on the lower division of Roberts Island. Glasgow, as we know from our chain-of-title research, first acquired its lower Roberts Island holdings from Fisher on June 20, 1877.

As noted, California State Archives staff has dated this series of topographic maps as ranging from 1866 to 1877, however none of the twenty-nine maps are assigned a specific date. Given the date range assigned by the State Archives and the definitive evidence from contemporary newspaper accounts presented above, this map appears to date to the year 1877, or perhaps shortly thereafter. [Exhibit 74A – PT9] The dates of establishment of the two settlements on Roberts Island make it impossible for the "Tidal Map" to be dated as 1870 as Messrs. Stretars and Arnold testified in these hearings.

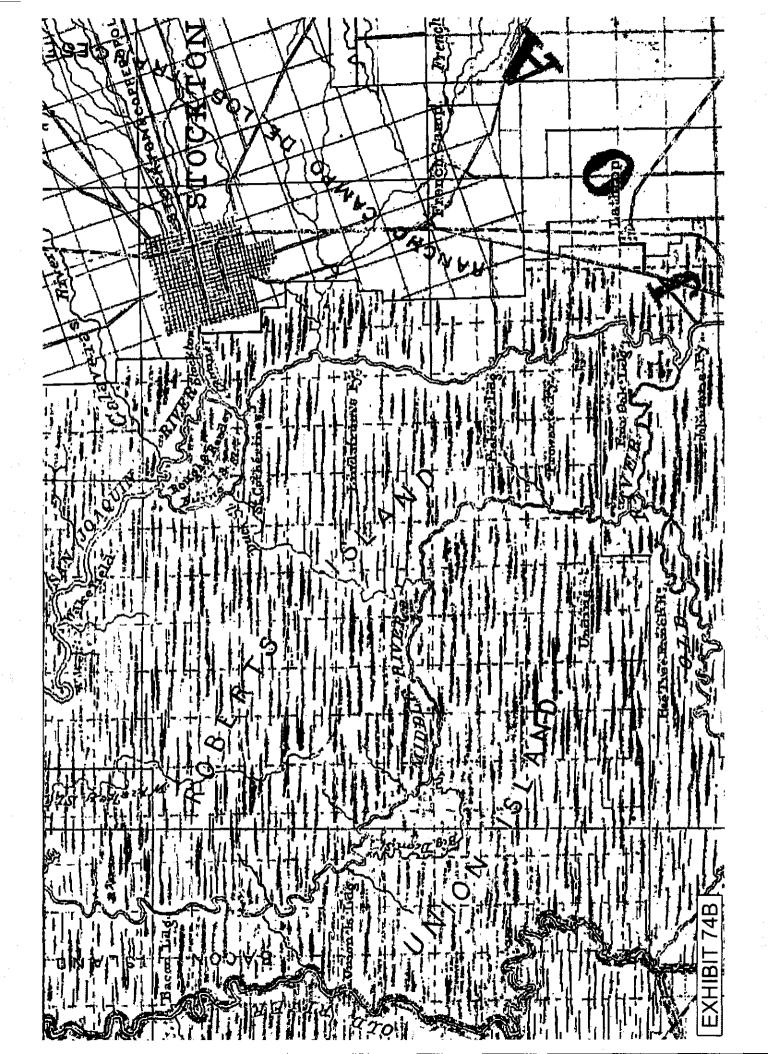
In part because of the assumption that the Tidal Map was dated 1870, and therefore showed conditions on the island prior to its reclamation in 1875-76, the state concluded that the map depicted "Duck Slough" as a body of water that extends from Burns Cut-off across the island to Middle River. However, if properly dated to 1877, after reclamation of upper Roberts Island and after completion of the High Ridge Levee, the conclusion reached by Messrs. Stretars and Arnold might have been far different, as they themselves admitted upon cross examination.

When considered in conjunction with all the other evidence presented in my rebuttal of Mr. Neudeck's testimony in the Mussi and Pak-Young hearings, I conclude that PT9 depicts "Duck Sl." as being located near to Burns Cut-off as shown on the Ringgold 1850 navigation chart, the 1869 Tideland Reclamation Company Map of Roberts Island, and the 1872 General Land Office plat map, i.e., as being confined to the one to two mile course where it is actually labeled as "Duck Sl." on Exhibit 74a. This would also be consistent with C. D. Gibbes' 1875 observation that there was no slough present at the intersection of the high ridge and Middle River; nor does he mention the existence of a slough paralleling the natural high ridge across the island where the cross levee would soon be built. Similarly, E. E. Tucker's statements in his field books from 1878 note that the heading of Duck Slough was located only two miles inland from Burns Cutoff and that the cross levee itself stretched an additional four miles across the island to Middle River. On the "Tidal Map" the line extending clear across the island to Middle River depicts the High Ridge Cross Levee, which was completed in 1875-76 and was a vital element of the new levee system on the island. It was completed at least a year or two before the "Tidal Map" (Exhibit PT9) was drawn.

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of its fruit in England and Italy. Six-year-old walnut trees in Santa Barbara county have already borne fruit; and Russel Heath's 20-year-old trees bear nuts by the wagon-load.

SAN JOAQUIN.

STOCK FOR ROBERTS INLAND, -Herald, June 23d: We are pleased to be able to give our readers some account of the stock lately imported from England by Mr. Morton C. Fisher, which has been comfortably domiciled at the headquarters on Roberts island: The racing stallion, "Young Prince," is a beautiful dark bay, 16½ hands high, with fine knee action, and very fast. He is by "Knowsley," out of "Queen of Spain," "Knowsley" being a son of the world-renowned "Stockwell," and "Queen of Spain," and "Queen of Spain," a daughter of the best of good horses, "King Tom." In this horse, therefore, are combined two of the best strains of blood upon the English turf, and his stock, if mated with mitable mares, cannot fail to be valuable. He is a horse of great size, fine action, good temper, very high pedigree, and without unsoundness of any kind. The Clydesdale colt, not yet two years old, but weighing 1,500 pounds, gives promise of great size and strength, combined with action and courage. It may interest our friends who hail from the "land o' cakes" to know that he is by "Cumnock Jock" by "Far-mer's Glory," two names which are, we believe, household words in Scotland. The colt will undoubtedly prove no unworthy son of such ancestors. The poultry, we can safely say, can not be excelled on this side of the Atlantic. It comprises a pen each of Black Red Game, Duckwig Game, Black Spanish, Grey Dorkings, Golden Spangled Hamburg and English Pheasants. These birds have all of them taken first prizes at recent English poultry shows, notably the Golden Spangled Hamburgs first prizes at Edinburgh this spring, the Games first prize at Glasgow Agricultural Society's show in May of this year, etc. The dogs comprise a pair each of Black Retrievers, Colleys (Shepherds), Staghounds, Bull-terriers, Scotch Terriers, and Dandy Dinmonts. The dogs have all been selected with great care and judgment, and regardless of expense. They are all severally as good as could be had of their various strains. A collection of cuttings of about thirty varieties of the choicest kinds of grapes arrived in excellent condition, and with the large assortment of seeds of all kinds (all imported), should presently help to make Roberts island one of the features and attractions of that part of the country. One piece of very bad fortune befell the consignment. A third horse, three years old, a Clydesdale stallion, got cast in his box during a violent storm at sea and was so seriously injured that he died when crossing the plains. Mr. Fisher has christened the settlement where the stock is located, and which is about three miles from Stockton, St. Catherines, and he proposes to make this the principal conter of his property. CLATES ATHERASE

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Sacramento Daily Union, Volume 7, Number 252, 16 December 1878

ing the advisability of starting an ice factory in Oroville, Butte county.

ARRESTA.—The following arrests were made Saturday and yesterday: James Bryant, by officer Wing, for battery; Mrs. LeBoy, by officers Brissell and Wing, for being drunk; H. Eldred, by officer Wing, for battery; A. L. Ham, by local officer Brissell, for petit larceny; Charles Brown and Charles Williams, by officer Valentine, for disturbing the peace; Ah Heung, by officers Woods and Martz, for burglary; David Watson, by officer Harvey and citizen Davis, for malicious mischief; Ah Gough, by local officer May, for the petit larceny of potatoes, property of M. T. Brewer & Co.

FAIR AT ELE GROVE.—At the ladies' fair held at Elk Grove in aid of the Presbyterian Church on the evenings of the 12th and 13th a fine time was had by all who attended. The attendance was large, and the net proceeds will be about \$250.

The new villages or landing places, or farm settlements on Roberts' Island, are multiplying. St. Catherines, Wakefield and Jordan are some of the new points along the river at which extensive improvements are being made, and now comes Stewarton, at the mouth of Big Black Slough, some 18 or 20 miles below Stockton, by the river, where the Glasgow Land Company have erected substantial farm buildings, constructed a wharf and have a large gang of men at work plowing and cultivating the soil. Roberts' Island is rapidly losing its identity as a swamp, and is looming up as a rich and fertile agricultural district, extensive enough when fully tilled to support a good sized city.—[Stockton Independent.

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