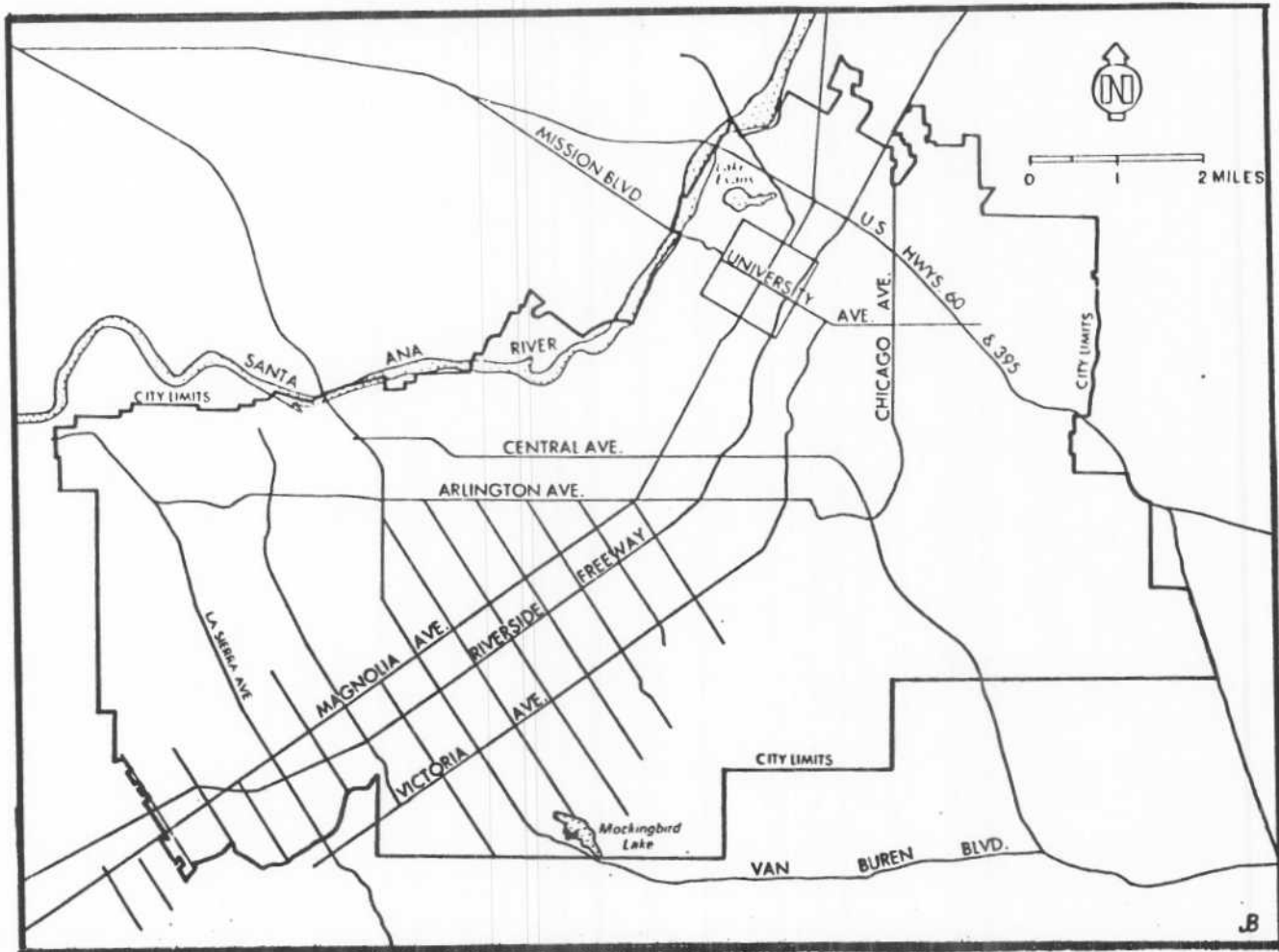


A SHORT HISTORY OF THE WATER SUPPLY AND
WATER RIGHTS
FOR THE CITY OF RIVERSIDE, CALIFORNIA
by D. K. Stewart
Anthropology 340/Water: The West's Challenge
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THE RIVERSIDE CITY MAP IN 1970

A SHORT HISTORY OF THE WATER SUPPLY AND WATER RIGHTS
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Introduction

It is the purpose of this paper to describe the development of the water supply and its agencies, and the evolution of water rights of the City of Riverside, a community located in the Santa Ana River Watershed, beginning with its establishment as a colony in 1870 and continuing to the present time, an historical span of over 115 years.

The City of Riverside is located in Southern California approximately 60 miles east of Los Angeles and 15-20 miles southwest of the cities of San Bernardino and Redlands (with which it shares much common local history) and lies on the southeasterly bluffs of the Santa Ana River.¹¹ It covers about 70 square miles² and has a population of over 192,000. The climate is warm and dry with a mean average temperature of 80 degrees in the summer months. Humidity usually averages around 40 percent, making the days warm and the nights cool and comfortable.³ (See map, overleaf).

Riverside has been the home of a rich citrus agricultural industry due to its temperate climate.⁴ A product of irrigated agriculture, with the introduction of the orange into the United States at Riverside there was generated a "Second California Gold Rush" and it produced a way of life known as the citrus culture. By 1895, the famous navel orange

had made Riverside the richest city per capita in the United States.⁵ Riverside today is one of the fastest-growing urban centers in the United States with a well-balanced economic base of commercial, industrial, professional,⁶ and agricultural enterprises.

Water Supply

Average annual rainfall for Riverside is 12 inches per year,⁷ making it an arid region. As such, its agricultural industry must rely almost totally on irrigation,⁸ and the systems built and agencies established for this purpose will be discussed in this paper shortly. Additionally, Riverside receives most of its domestic water supply, nearly 80 percent, from two primary sources of well water located in the Bunker Hill area of the Santa Ana River basin San Bernardino.⁹ Bunker Hill dike, an impervious underground fault not far above the Warm Creek mouth, is a dam creating a large underground water storage basin.¹⁰ Wells here store water from the rain and snow runoff from the San Bernardino Mountain Range into the Santa Ana River basin. Riverside lies about 20 miles from the source of the stream.¹¹ About 15 percent of Riverside's total underground water supply is produced from other wells located in Riverside. Riverside's water system has 77 active wells and 17 reservoirs maintaining a capacity of 83 million gallons of water. It has nearly 800 miles of pipeline ranging from 2 inches to 60 inches in diameter. Riverside also receives about 6 percent imported water purchased from the Western Municipal Water District.¹²

Riverside's Beginnings, 1870

Riverside was founded in 1870 as a colony in San Bernardino County by John Wesley North of Knoxville, Tennessee, originally from Sand Lake, New York. He was a "carpetbagger" in the original sense of the term -- an entrepreneur, a developer -- and an idealist and a lawyer as well; his purpose in founding Riverside was to build a prosperous community of "good, industrious people."¹³ Land was purchased in the Jurupa (Rubi-doux) Rancho area (see map, Exhibit "A" of Appendix). He was president of the Southern California Colony Association.¹⁴

Development of the Water Supply

When North arrived, the California Silk Center Association (see map, Exhibit "B" of Appendix), an unsuccessful enterprise, had already been appropriating some water from the Santa Ana River by 1869 and carried it by canals and flumes to the plateau at what was to become Riverside, to be used for the irrigation of its farm lands.¹⁵

The Southern California Association, 1870

The Southern California Colony Association, headed by North, purchased four-sevenths of the Silk Association's stock¹⁶ and owned, operated, and extended the water system from September 15, 1870 to March 3, 1877.¹⁷ The surveyors Goldsworthy and Higbie added the "Lower Ditch" (which later became the "Upper Ditch" of the Riverside Land and Irrigating Company) canal to the previously existing system,¹⁸ (see map, Exhibit "B" of Appendix). North financed this canal in partnership with C. N. Felton.¹⁹ The first water delivered from the Bunker Hill

basin through North's canal was in mid-1871.²⁰ Later, the intake was moved three miles upstream to the mouth of Warm Creek, and a new canal route a few feet east joined the old one.²¹

Water Rights of Established Tracts vs. Government Lands

Unfortunately, not all of the people who moved to the general Riverside area actually bought land and water rights through the SCCA. Many settled the adjacent Government Tract²² (see map, Exhibit "B" of Appendix). Squatter rights were recognized. The informality by which North's colony sold water to those on government land would lead to serious conflict and litigation, to be described herein.²³ The first patents were issued in 1879 on government land watered by the colony's canals, even though government land claimants had not paid a share of the cost of canal construction by buying colony land.²⁴ In the meantime, by 1875 John North began to pursue business interests elsewhere.²⁵

The Riverside Land and Irrigating Company, 1874

In 1874, a new arrival to the area, Samuel Cary Evans, and his partner, William Sayward, bought a tract of land in the Rancho El Sobrante de San Jacinto area southwest of the SCCA's land (see map, Exhibit "B" of Appendix) and tried to build their own canal from the river basin to water their tract. However, they were denied the right-of-way by John North and his colony, which, unfortunately for the Colony, had already compromised its water right and use of its canal to Government Tract squatters;²⁶ once a water right is given, it cannot be taken away.²⁷ North's partner, C. N. Felton, being dissatisfied with North's

unwise and far-reaching business decision, quickly sold his controlling interest in the SCCA to Evans. Evans, Felton, and Sayward created a new company, the Riverside Land and Irrigation Company, which owned, operated, and extended the Riverside water system from March 3, 1877 to July 26, 1879.²⁸ (See map, Exhibit "B" of Appendix).

At this time, aware of the need to develop more water sources for the rapidly growing community, North attempted to secure the future supply of water for Riverside. He had an opportunity to buy Mathews flour mill, located about three miles from the Riverside canal intake in the basin. Formerly called the Meeks Mill, it was on Warm Creek, a stream that flowed all year from natural artesian springs. With the mill purchase came 160 acres of land and the right to use the creek flow; this water right was for power production only, "non-consumptive use," but the right advantageously prevented diversions upstream that would have absorbed the right to consume.²⁹ Eventually the principal Riverside intake would be moved to the creek about one-half mile above the mill site.³⁰

North remained the president of his Colony Association until 1876, when Evans replaced him.³¹ In 1877, the SCCA sold all its land and water rights to the RL&I.³² The new Evans-Sayward canal was finished. The former "Lower Ditch" of the system became the new "Upper Ditch"³³ (see map, Exhibit "B" of Appendix). On May 15, 1876, the map of the Riverside Land and Irrigation Company's Tract was filed.³⁴

In 1881, William Sayward was made the president of the RL&I and he brought on ten years of controversy over water rights and water distribution.³⁵ Immediately he, Evans, and Felton announced that the RL&I did not recognize the right of those on government lands to obtain water on the same basis as those who bought company lands, which included the water right in the purchase agreement. The controversy made California state water history and dominated community interest.³⁶

Sayward first made it clear that the company would not longer supply water to settlers on government land or to any land which had not been acquired though the company or its predecessors, unless the owner paid for the water right at \$20 per acre or else granted one-half of his land to the RL&I in payment for the water rights for his other half. The government land was being held only by squatters' rights; understandably there was great reluctance to make cash payments for such land which might not eventually be obtained.³⁷ Many settlers denounced Sayward's action as unfair and the cost as oppressive; some said that they were guaranteed their right to water at regular rates because they had helped to dig the extension of the canal from which their water was being supplied; others claimed to know nothing of having to pay for a water right. The whole community, including both those settled on government lands and the proprietary owners, soon began to regard as dangerous to their welfare any company which controlled their entire water supply.³⁸ Fears of being charged for water at excessive rates and general anti-monopoly sentiments were gaining local as well as national attention.³⁹

Most of the water systems of the time were small mutual organizations, where the owners simply levied charges against themselves.⁴⁰ A mutual irrigation company is a cooperative much like any other agricultural cooperative, formed in this case by irrigators to provide water to their fields, and each member is a stockholder with each share representing a share of the available water supply.⁴¹ The community of Riverside had the most ambitious water distribution system in San Bernardino County. Under North's SCCA colony plan, it was not separate from the company which subdivided and sold land; there was a general assumption that it would function in the interest of all the irrigators⁴² as in any other mutual irrigation company.

The Satterwaite Act, 1876

As a result of Sayward's abrupt changes in water supply policy, John W. Satterwaite of San Bernardino, State Senator, introduced the Satterwaite Act of 1876. The Act provided that a water company, once it started furnishing water to a tract of land, must continue to supply that tract to the extent of its ability, at the same rates as charged to comparable customers.⁴³

Price v. Riverside Land & Irrigating Co., 1877

Under the Satterwaite Act, W. O. Price of Riverside filed suit in 1877 against the RL&I (Cal. 431)⁴⁴ and won the case in the same year; it was appealed as far as the State Supreme Court, where the decision was upheld in November 1880. The Satterwaite Act and the decision in Price v. RL&I became the water doctrine known as appurtenancy to the

land: the right to a specific supply of water supply becomes attached to a specific piece of land.⁴⁵

The Riverside Canal Company, 1878

In 1878 under Evans' control, the RL&I divided itself into two separate firms by creating the new Riverside Canal Company. Its capital assets were declared to be \$200,000. Irrigators became alarmed, knowing that the owners were thereby entitled to a return on investment. Previously it had been assumed, without anything in writing, that the water belonged to the colony and that when all the colony land was sold all of the owners would then own a pro-rata interest in the water rights and water system. But under Evans, the area being offered for sale with promise of water was now doubled; this scheme made it possible for him to make a separate and ongoing profit on water.⁴⁶

Citizens Water Company, 1882

Meanwhile, the RL&I canals leaked and were steadily deteriorating. Evans claimed that the canals could not be maintained properly because the water rates were too low; yet the irrigators wanted maximum assurance that they would have a reliable water supply and a definite plan in which they would become the eventual owners and managers of the system before committing themselves to high payments to Evans to maintain and improve the system. In November 1882, water users representing 2,000 acres of Riverside's irrigated land formed the Citizens Water Company to deal with Evans and Felton. Citizens filed a claim for water rights asserting that Riverside Canal Company was not developing the water supply properly.⁴⁷

Riverside Becomes a City, 1883

After this, the leaders of Citizens developed their most dramatic legal tactic against Evans: they campaigned for the incorporation of Riverside as a city. The boundaries of the proposed City of Riverside were drawn around all of the land owned and controlled by the RL&I or irrigated by its canals (see map, Exhibit "B" of Appendix). Much of this land was above the flow of the canals, on the upper plans and steep hillsides. (Matthew Gage and others were preparing to build what was to become the Gage Canal in order to bring water to the plain in eastern Riverside, which was omitted in the proposed incorporation area). The election for cityship was held on September 25, 1883, with 228 votes in favor of incorporation and 147 against, a majority of 60 percent. Riverside was 56 square miles, extending from several blocks north of Columbia Avenue to the Temescal Wash in present-day Corona.⁴⁸ No longer a small rural village of San Bernardino County, Riverside legally became a real city in its own right (see map, Exhibit "C" of Appendix).

Soon afterward, on October 10, 1883, S. C. Evans filed suit against the San Bernardino County Supervisors, the City of Riverside and its Board of Trustees and the Citizens Water Company and its leading officers. He asked that the court declare that the supervisors, in setting water rates, provide for the canal company's operating and maintenance costs plus eight percent interest yearly on investment; that the rates established previously be declared void; and that the new city of Riverside be forbidden to establish any water rates.⁴⁹

However, the local newspaper printed complaints that told of how the other developers of nearby towns sold water rights only with the land and also gave landowners the assurance that more land would not be sold if the water rights for lands already in use would thereby become prejudiced, and that these developers made only one profit on the sale of land with the water rights included instead of two profits on land and water rights sold separately. Evans' land sales quickly came to a standstill as a result of this bad publicity. By January 1884, he conceded the main points, that of water control being granted to the irrigators at an early date and that of limitation of land sales according to availability of water.⁵⁰

Riverside Water Company, 1885

The Riverside Water Company received the Riverside Canal Company in transfer on June 1, 1885,⁵¹ dropping its former name with its unfavorable reputation.⁵² It was to be one-half owned by Evans' RL&I and one-half owned by the new Riverside Water Company. Not only did the Riverside Water Company rapidly consolidate water rights in the area, but it also proceeded with its responsibility to improve the water supply. In 1886 construction began on the Riverside-Warm Creek Canal.⁵³ Evans remained a large stockholder but not a majority voice.⁵⁴

The Gage Canal, 1886

In 1882, jeweler Matthew Gage staked his claim Section 30 on the large eastern upper plain, which was too high to be watered by the RL&I canals, under the provisions of⁵⁵ the Desert Land Act of 1877:

"The Desert Land Act offered a section of the public domain at \$1.25 an acre to any U.S. citizen who would claim it, make a down payment of \$.25 an acre, and irrigate one-eighth of it within three years... Payment of the remaining \$1.00 for each acre was due at the time of presentation of proof of irrigation."⁵⁶

Gage then purchased 160 acres in Box Springs Canyon nearby in hopes that wells dug there could provide enough water to irrigate his claim, but this was unsuccessful.⁵⁷

The next possible source of supply for Gage's Section 30 land was the Santa Ana River, requiring a canal twelve miles long with an intake far upriver, north of present-day Loma Linda. Gage quietly purchased majority ownership in the Hunt and Cooley Ditch, securing the surface flow of the river near his intake, and then he secured an option to buy 1,000 acres of artesian basin nearby⁵⁸ which was under riparian rights⁵⁹ from J. A. Carit.⁶⁰ On November 7, 1886,⁶¹ his canal was completed (see map, Exhibit "B" of Appendix).

Gage's irrigating canal spurred the land boom of the 1880s in Riverside,⁶² which was part of the greater land boom that all of Southern California was experienced at that time.⁶³ Between 1886 and 1890, water rights to 4,000 acres of land had been sold.⁶⁴ The Gage Canal supplied water chiefly to the Riverside Orange Company in the Arlington greenbelt area.⁶⁵

Riverside Water Company v. Gage, 1887

In June 1887 the Riverside Water Company brought suit against

Gage, charging that his diversion upstream of Riverside's intake had reduced the flow in the water company's canals by 450 miner's inches.⁶⁶ There was some violence over the issue.⁶⁷ Gage denied that Riverside Water Company had any rights to the water, citing his ownership of the long-established water rights of the Hunt and Cooley Ditch and of a large area of land riparian to the river. The court ruled in 1888 that Gage was entitled to about 300 miner's inches during the height of the irrigation season. Gage later went on to supplement his water supply with other wells in the San Bernardino artesian basin.⁶⁸

By 1886, the State of California, by the decision of the supreme court in the legal contest known as Lux v Haggin, had already accepted a dual system of water law, both the doctrine of riparian rights and the doctrine of appropriative rights:⁶⁹ the riparian doctrine (which, briefly, holds that only the owner of lands bordering a stream or body of water has any right to its use) governed property rights in water on private lands; and the appropriation doctrine (which basically permits anyone to divert water from a source for his own use) governed property rights on public lands. Riparian rights were limited by any appropriations made to water public lands prior to transfer to private individuals but were superior to appropriations made after transfer. This ambiguous situation set the stage for controversies over water rights in all California,⁷⁰ and would be cited in decisions on groundwater rights that are crucial to the existence of the City of Riverside.

Riverside was then a part of San Bernardino County and was not feared as a rival. The possibility that the total supply of water taken from the Santa Ana River basin to supply several surrounding communities would become inadequate was only a distant possibility. San Bernardino residents with water leaking into their basements and having to contend with swamp lands harboring mosquitoes welcomed drainage of the river basin and lower the groundwater level.⁷¹

In 1913 the City of Riverside took over domestic water distribution by authority of its charter of 1907. The universal need for water, the potential scarcity, and the inability to guarantee a profit to any company from the operations of such a public necessity discouraged private effort to the further development of water supplies. At this time, voters approved a bond issue to finance the City Water Department, including the purchase of three established water companies: the Riverside Water Company domestic system, the Artesia system, and the Kyes system.⁷²

The concern of residents in San Bernardino over the export of water from the Santa Ana River artesian basin to Riverside evolved only gradually, but everyone knew that there would not be enough water to satisfy the ever-increasing demand later. The primary reason that Riverside was able to continue and increase its appropriation from the river basin was that it could claim beneficial use for its residents.⁷³

San Bernardino Suits v. Riverside, 1904

On June 4, 1904,⁷⁴ a sequence of lawsuits started when a group of San Bernardino land owners with Warm Creek rights above the Mathews Mill filed the historic suit known as Barton v. Riverside Water Company⁷⁵ (155 Cal. 505, 1909). The suit claimed that San Bernardino irrigators were being unfairly deprived of the use of groundwater by the company. However, the court found in favor of Riverside; while agreeing that its operations encroached upon the supply to San Bernardino, the court held that because the Riverside Water Company was and had been a public service corporation for many years, that it had set up expensive operations with the full knowledge of the irrigators in San Bernardino, and that suit was not brought until two full years after the diversions were being made,

"...that where one whose property is taken for a public use has stood by without objection, knowing that it was so taken and applied...and has permitted the people benefitted thereby to adapt themselves to the new conditions...he cannot thereafter maintain an action to enjoin the continuance of such public use...but will be relegated to an action for damages. The rule was mentioned in Katz v. Walkinshaw (141 Cal. 136) ...The doctrine of correlative rights in such waters...was adopted because it was deemed necessary for the protection of present and future uses of such waters against the unreasonable and remediless invasions that would be allowable under the doctrine of absolute and irresponsible ownership..."
76

The previous decision in Katz v. Walkinshaw, which was concerned with wells also in the Bunker Hill basin area, had stated,

"such parts of the common law of England as

are not adapted to our condition form no part of the law of this state. The common law, by its own principle, adapts itself to varying conditions... When the reason of a rule ceases, so should the rule."⁷⁷

City of San Bernardino v. City of Riverside, 1921

In 1921 the City of San Bernardino, as a municipal corporation, in another major action taken in the long-standing water rights controversy between the two cities, brought suit against the City of Riverside (186 Cal. 7). San Bernardino requested that the claims and rights of both of the parties taking subterranean waters from the Santa Ana River basin be determined and adjudicated, and that Riverside be enjoined from diverting any water from the basin for use on lands not situated in the basin or in the tributary watershed. But again in Riverside's favor, the court found and adjudged that the city of Riverside, long having held appropriative rights in the basin, was entitled to take a certain stated amount of water for municipal uses provided they were beneficial, reasonable, and did not injure the water rights of San Bernardino.⁷⁸

Western Municipal Water District, 1954

Until about 1950, the area had more than enough water to serve the needs of residents and the large acreage of citrus groves.⁷⁹ However, the natural flow of water from the artesian wells in the Santa Ana River basin in the Bunker Hill dike area quickly decreased during and after World War II. The population of the area grew rapidly and the Santa Ana River basin groundwater supply was no longer adequate. The underground water reserves were being depleted

faster than they could be replenished by rain and snow runoff. After several dry years it was agreed that another source of water was needed. The only other source of water available was from the Colorado River, which could only be brought into the western Riverside County Region through membership in the Metropolitan Water District of Southern California (MWD).⁸⁰

MWD transports Colorado River Water to Southern California via the Colorado River Aqueduct which was built in the 1930s. The Western Municipal Water District of Riverside County was formed so that Riverside could obtain membership in the MWD. Western was authorized by the public in an election on January 19, 1954 and was formed under the Municipal Water District Act of 1911 a week later; in September 1954 Western was annexed to MWD. The Colorado River aqueduct runs through the district and empties into Lake Mathews, the terminal reservoir in Riverside, from where it is distributed to Riverside, San Bernardino, Orange, Los Angeles, and Ventura counties⁸¹ (see map, Exhibit "D" of Appendix).

Again, by the mid-1950s most of the Bunker Hill basin wells were being pumped. And the more water an agency pumped, the more water it was legally entitled to, so there was little incentive to conserve. As a result of the dwindling supply, the San Bernardino Valley Water Conservation District brought suit against the Gage Canal Company and the City of Riverside, among others exporting water from the basin.⁸²

Orange County v. City of Chino, et al., 1963

Cities downstream of San Bernardino and Riverside, such as Anaheim, Orange and Irvine, were increasingly concerned with their river basin water supplies and would become a major factor in the evolution Riverside's water supply rights. In 1963 the Orange County Water District brought suit against Riverside, Colton, San Bernardino, Chino, and Redlands, naming some 4,000 users.⁸³

Acquisition of Riverside Water Company, 1961

The City of Riverside purchased the holdings of the Riverside Water Company in 1961 and has continued to operate the system.⁸⁴

Condemnation of Gage Canal, 1964

The city of Riverside began buying stock in the Gage Canal Company in about 1956, and in 1965 it acquired the company and all of its resources by condemnation.⁸⁵ In 1967 the system consisted of open canals, inverted syphons, and closed conduits. Water was supplied exclusively from ground-water sources, about 60 percent of it for agricultural use and 40 percent for domestic use.⁸⁶

In an attempt to control the water being exported from the basin, San Bernardino filed a condemnation suit against the Gage Canal Company (37 Cal. Rptr. 2d 856), but the City of Riverside had filed a condemnation suit first (37 Cal. Rptr. 2d 862). In both cases the basis was that the state water policy allows priority right to domestic use over irrigation use, and the Gage Canal Company was designed only for irrigation use.⁸⁷ Riverside won.

Western-San Bernardino Watermaster, 1969

On April 17, 1969, as the result of Orange County's 1963 suit⁸⁸ against the four major upriver basin users (Orange County Water District v. City of Chino, et al, Case No. 117628, County of Orange⁸⁹) over the right to use water in the Santa Ana River Watershed and how much water could be used,⁹⁰ the court found each of the three water basin areas (San Bernardino, Riverside and Chino) (see map, Exhibit "E" of Appendix) responsible for allowing a minimum amount flow through the Santa Ana River Watershed for the benefit of Orange County.⁹¹ The Western Metropolitan Water District, a small supplier of Colorado River water to the Riverside area, was named local Watermaster by the court⁹² and on October 1, 1970 was given responsibility for 22 other Riverside domestic water companies including the City of Riverside Water Department, which itself had spent the previous 50 years buying, absorbing, merging with or receiving other companies such as the Gage Canal and the Riverside City Water Department.⁹³

The lawsuit resulted in two Judgments, the first specifying how much water was allocated to those who held water rights in the Santa Ana River Watershed, and the second required two watermaster committees to be established by the principal water agencies to report adherence to the court decisions on a yearly basis. The Western-San Bernardino Watermaster is accountable to the court for the amount of water being pumped from the Bunker Hill groundwater basins, and Western and San Bernardino are required to recharge the groundwater if too much has been pumped.⁹⁴

It is the purpose of the Watermasters of each basin in the Santa Ana River Watershed to work together to the benefit of all, and therefore they have joined together in the Santa Ana Watershed Project Authority, a joint powers agency, created in the early 1970s to develop and operate projects maintaining water quantity and quantity, with five members: Western, Orange County Water District, Chino Basin Municipal Water District, San Bernardino Valley Municipal Water District and Easter Municipal Water District⁹⁵ (see map, Exhibit "F" of Appendix).

Since 1981 Western has been involved in the Basin Management Task Force, organized to deal with a complicated, serious problem of overflowing groundwater in the Bunker Hill Basin under the City of San Bernarino. Although Western owns no wells in the basin, it represents the Riverside County interests in its negotiations with the San Bernardino water agencies to solve the groundwater problem while protecting Riverside's water rights. Many issues must be addressed, such as who pays the cost of pumping, where extra water will go, and which among the 30 agencies which extract groundwater from the basin gets priority. It was also agreed in 1981 that the City of Riverside could pump and extra 10,000 acre feet from the Bunker Hill Basin in addition to the amount of water permitted under the 1969 Orange County water rights settlement.⁹⁶

Western Municipal Water District works closely with the City of Riverside on such matters as the most recent action taken over San

Bernardino's proposal to build "super wells" in the Bunker Hill basin, supposedly to lower the troublesome water levels in the city of San Bernardino. The city of Riverside, the Western Municipal Water District in Riverside and two other water districts sued to halt the project, arguing that the use of the super wells and the resulting lowered water levels would contaminate ground water they export from the basin. After a court battle, Valley municipal abandoned the "super wells" project early in 1987.⁹⁷

Conclusion

In the state's hierarchy of priorities, developed through legislation, the higher uses have garnered a priority of right in addition to the priority they have by the ability to pay. As the City of Riverside and its surrounding communities steadily evolve from agricultural land use to urban land use, the role of water usage has also been changing. Domestic and manufacturing uses progressively overcame agricultural uses, and as a result, few citrus groves remain within the city limits.⁹⁸

Scarcity of water is a typical result of Southern California climate conditions. Therefore, as Southern California's population expands, the Santa Ana River, with all its tributary creeks, from the mountains to the sea, is now considered one unit despite a multitude of city, county, and water district boundaries.⁹⁹ Right from Riverside's beginnings, California law has been developing

beyond the original English common law doctrine of riparian rights; although it still exists, the beneficial use of water which can be provided by irrigation systems on distant lands steadily became more important.¹⁰⁰ No longer a river with surface water flowing, the Santa Ana River's water supply has been put to use, "but not without something to show for it. Instead of a green riverbottom, there are orange groves, street trees, and people."¹⁰¹

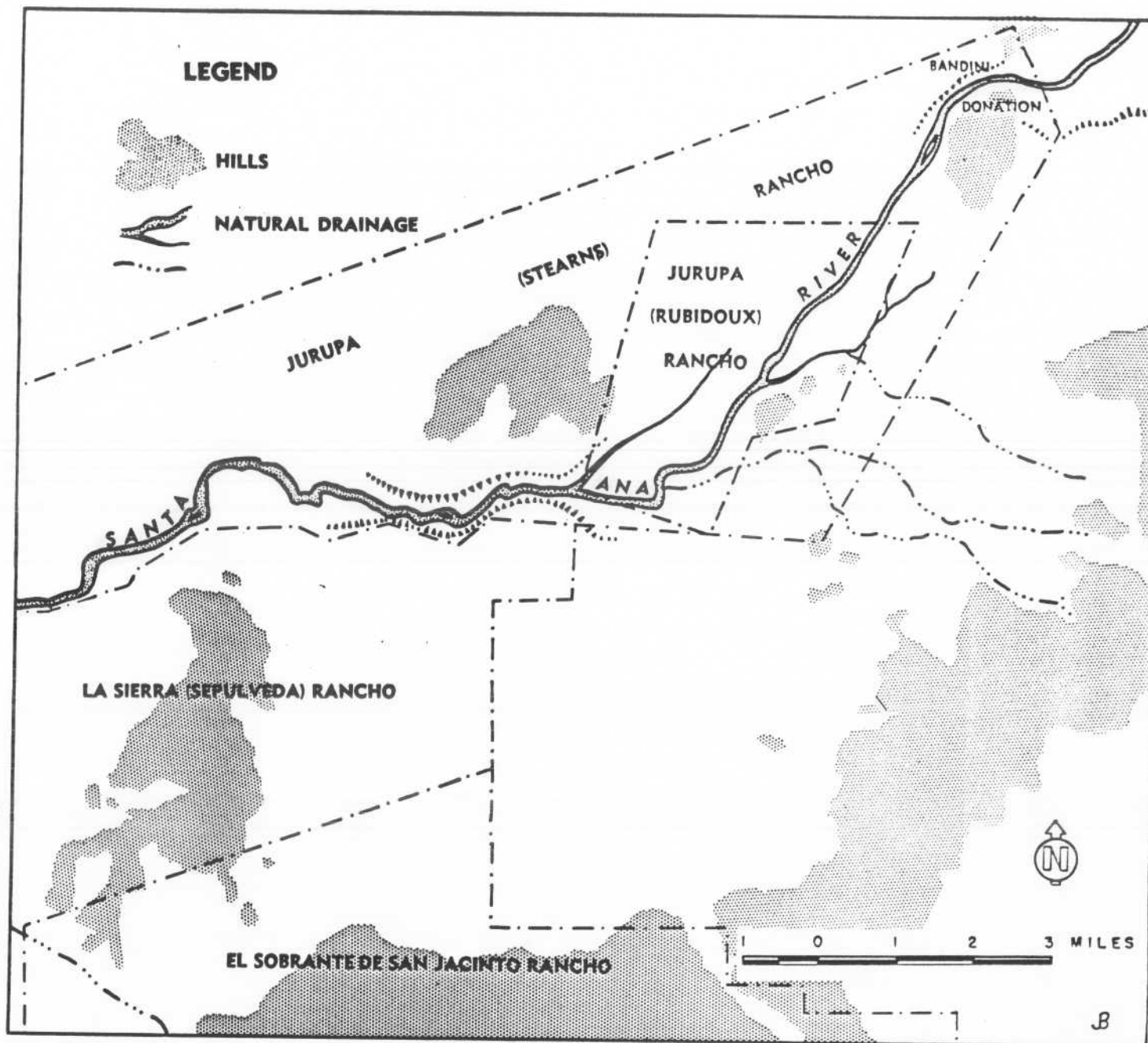
Southern California desert, pre-1870, which would later become the site for the City of Riverside.

EXHIBIT "A"

In the beginning were rocky hills, uplands with annual grasses and dry brush, bottom lands that were occasionally overflowed and the year-around Santa Ana River with its year - around tributary, Spring Brook.

The property lines of the Mexican period appear here as they were ultimately drawn, after lawsuits, deals and surveys in the American period.

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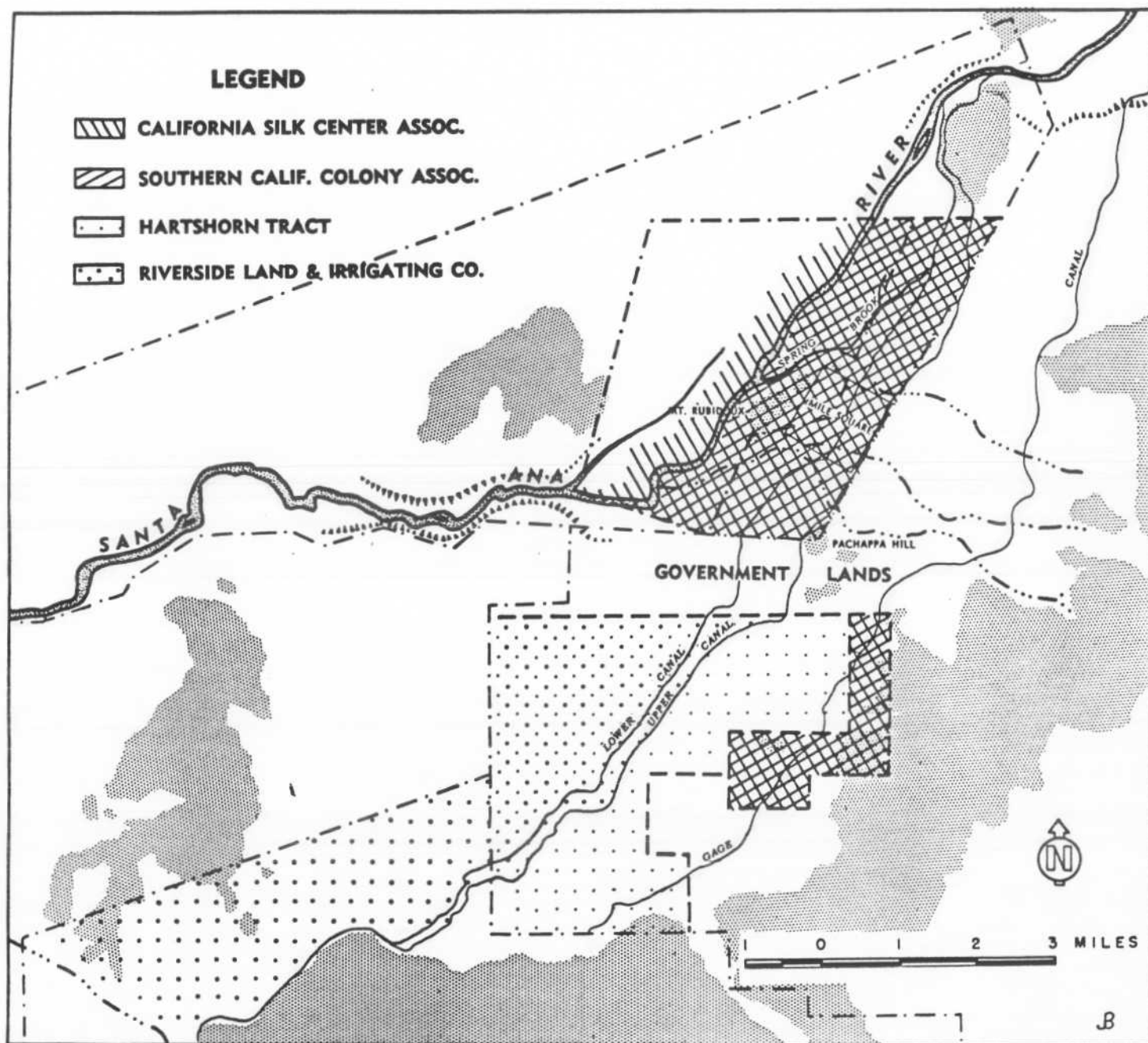


The colony of Riverside, beginning as a rural town of citrus groves, walnut trees, silkworm production, and other agricultural enterprises. Citrus became the major crop.

EXHIBIT "B"

Much of the government land between the three ranchos was acquired by Benjamin Hartshorn in 1868. An ill-fated silk-worm colony scheme acquired much of the Rubidoux land and some of the government land in the same year. The Southern California Colony Association (Riverside) acquired most of the silk colony property in 1870. Sayward and Evans acquired all the Hartshorn Tract in 1874. This left the mile-wide strip called the Government Tract with boundaries and titles in doubt until the Rancho Jurupa line was legally defined in 1878.

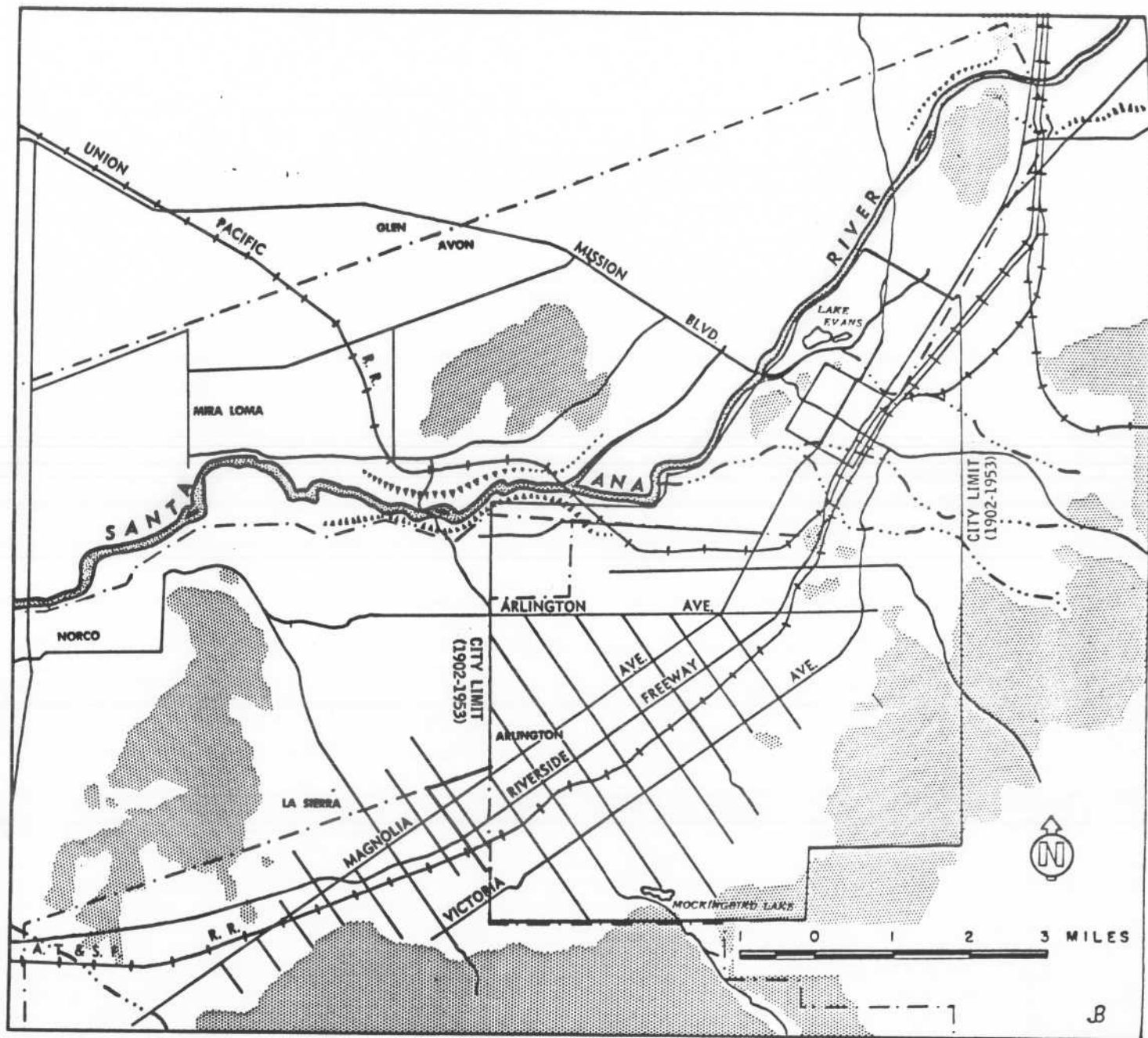
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B

The modern City of Riverside, taking shape, still based on citrus but also supported by the manufacture of machinery and growing urban developments.

EXHIBIT "C"



The original boundaries and surveys left their marks and compass bearings on the streets of today. The city boundary outlined here prevailed from 1902 to 1953, after the original 1883 boundary was modified by withdrawal of the southwest and southeast corners.

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EXHIBIT "D"

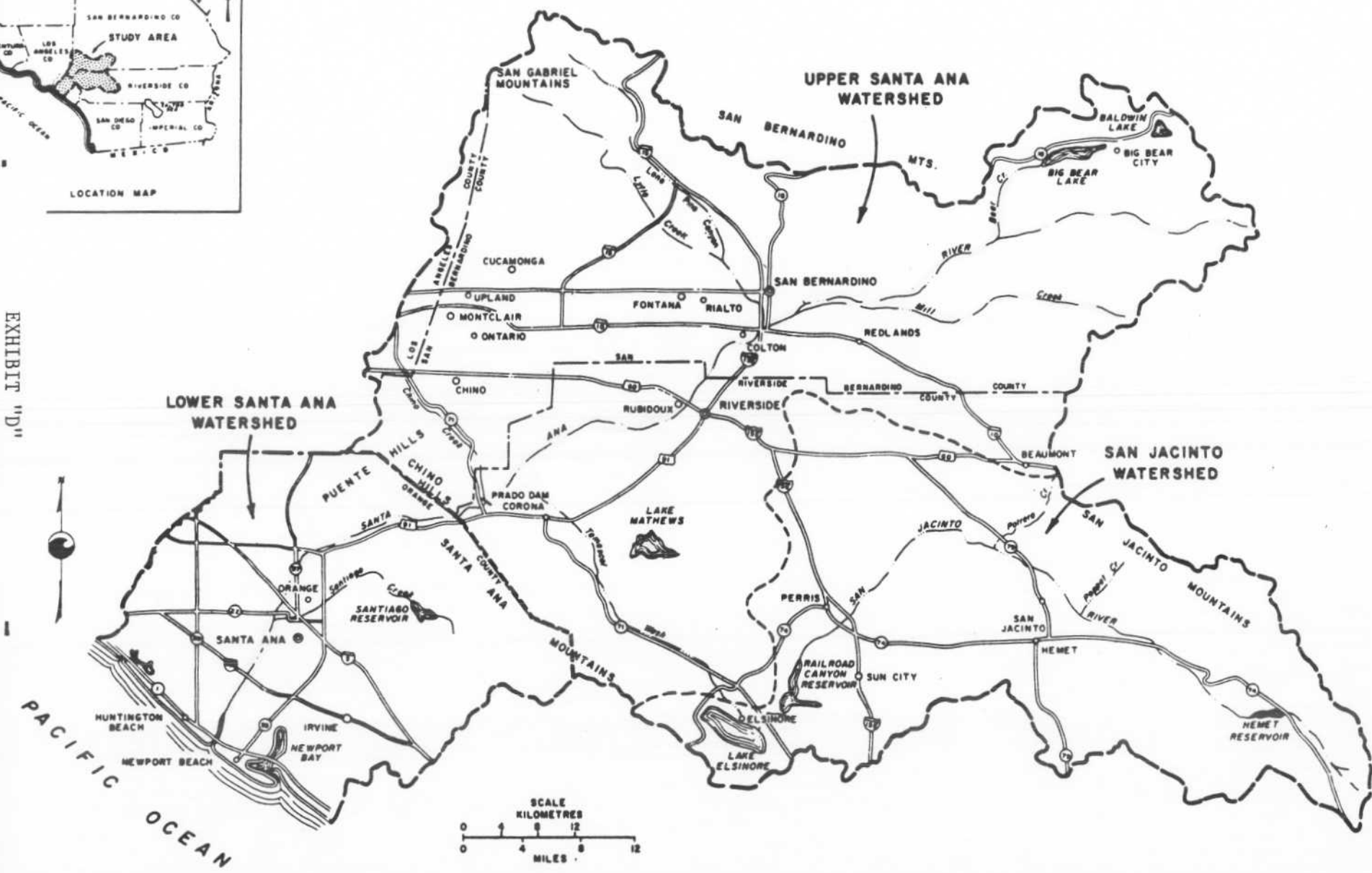


FIGURE 1-1

THE SANTA ANA REGION

Western Municipal Water District of Riverside County

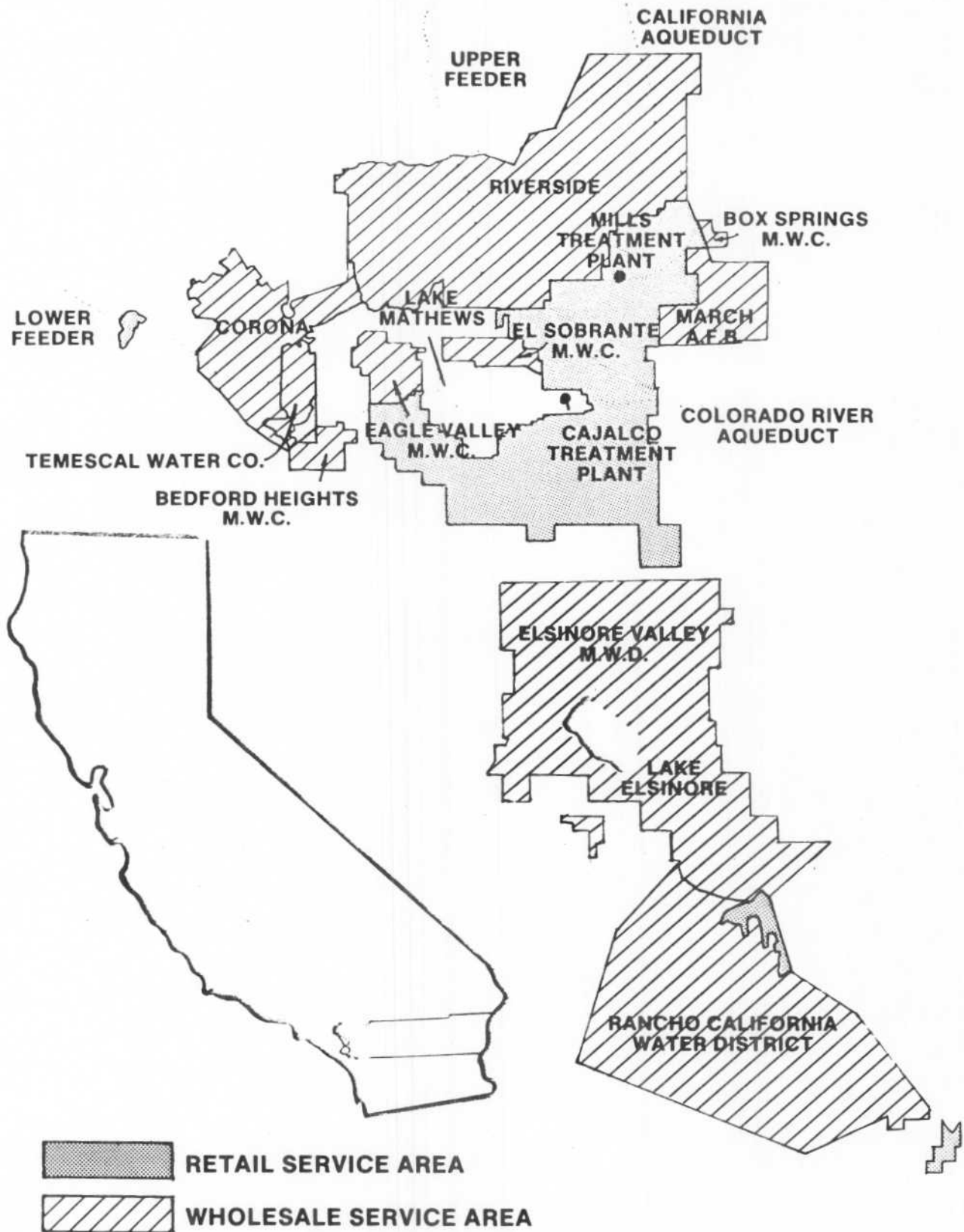
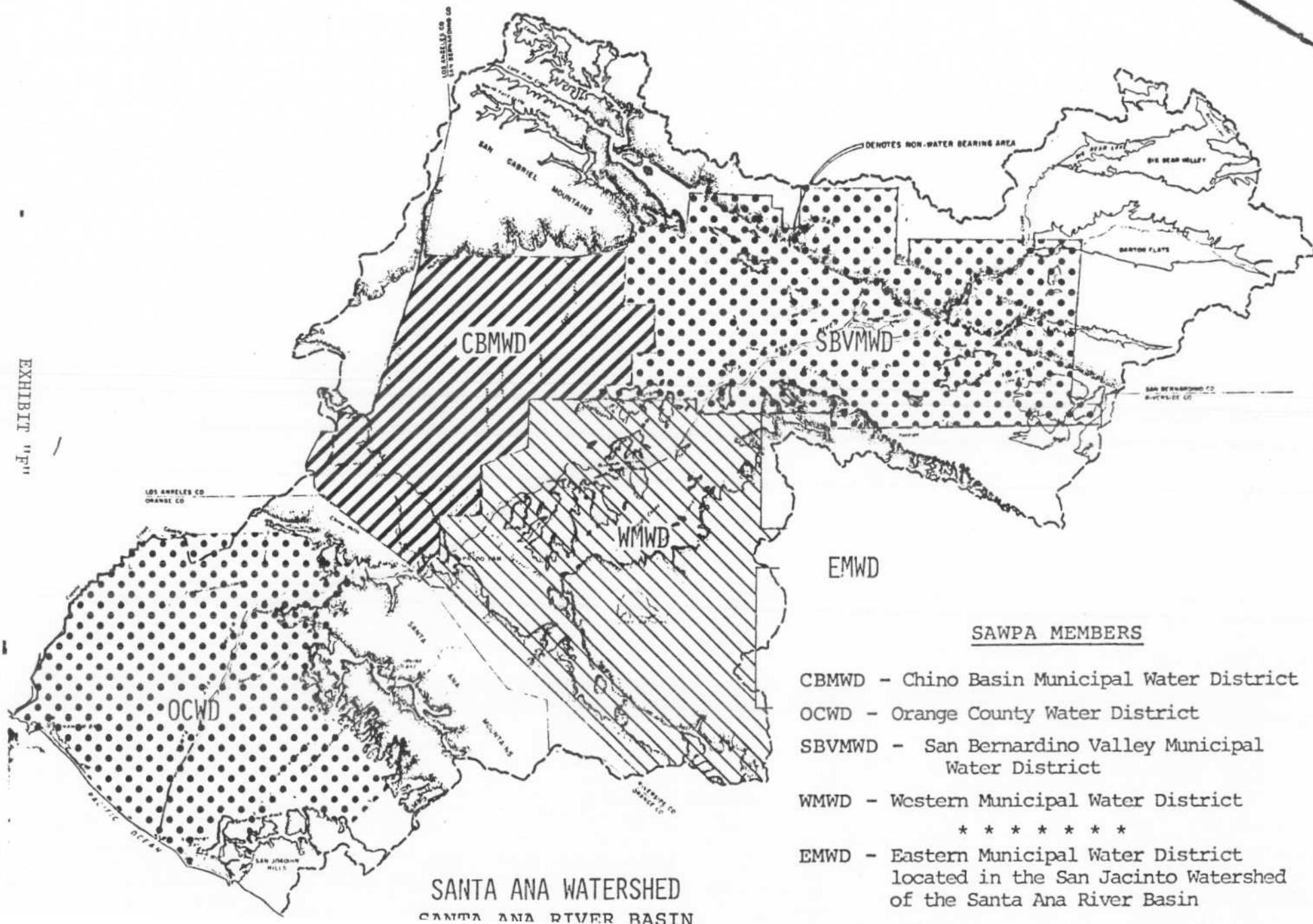


EXHIBIT "E"



SAWPA MEMBERS

- CBMWD - Chino Basin Municipal Water District
- OCWD - Orange County Water District
- SBVMWD - San Bernardino Valley Municipal Water District
- WMWD - Western Municipal Water District
- *****
- EMWD - Eastern Municipal Water District
located in the San Jacinto Watershed
of the Santa Ana River Basin

SANTA ANA WATERSHED
SANTA ANA RIVER BASIN

NOTES

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2. Thomas Bros. Maps, San Bernardino and Riverside Counties 1987, Irvine, California, 1986, Riverside section, page "F."
3. Greater Riverside Chambers of Commerce, City of Riverside Street Map, 1986.
4. Ibid.
5. Riverside Museum, display section on irrigation and citrus industry.
6. Greater Riverside Chambers of Commerce, Riverside, California, Riverside, March, 1987, p. 72.
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8. Riverside, California, pp. 11-13.
9. Riverside Public Utilities, "Where Riverside's Water Comes From," Watts 'N Water Lines, Fall/Winter, 1987, p. 2.
10. Tom Patterson, A Colony for California, Riverside, 1970, p. 68.
11. Smythe, p. 99.
12. Riverside Public Utilities, p. 2.
13. Patterson, 28.
14. Ibid., p. 68.
15. Riverside Land Co. v. Jarvis, 174 Cal. 316, p. 320.
16. Patterson, p. 38.
17. Riverside Land Co. v. Jarvis, 174 Cal. 316, p. 320.
18. Patterson, p. 42.
19. Ibid., p. 38.
20. Ibid., p. 51.
21. Ibid., pp. 42-45.

22. Ibid., p. 46, p. 63.
23. Ibid., 47.
24. Ibid., p. 60.
25. Ibid., p. 61.
26. Ibid., p. 66.
27. Ibid., p. 87.
28. Ibid., pp. 66-67.
29. Ibid., pp. 68-69.
30. Ibid., p. 68.
31. Ibid., p. 68.
32. Riverside Land Co. v. Jarvis, 174 Cal. 316, p. 320.
33. Patterson, p. 45.
34. Ibid., p. 68.
35. Ibid., p. 77.
36. Ibid., p. 78, p. 85.
37. Ibid., p. 85.
38. Ibid., p. 85.
39. Ibid., p. 88.
40. Ibid., p. 89.
41. Robert G. Dunbar, Forging New Rights in Western Waters, University of Nebraska, Lincoln, 1983, pp. 28-29.
42. Patterson, p. 89.
43. Ibid., p. 88.
44. W. O. Price v. The Riverside Land and Irrigating Company, (Cal. 431).

45. Patterson, p. 88.
46. Ibid., p. 91.
47. Ibid., p. 93.
48. Ibid., pp. 93-95.
49. Ibid., p. 95.
50. Ibid., pp. 95-96.
51. Riverside Land Co. v. Jarvis, 174 Cal. 316, p. 320.
52. Patterson, p. 97.
53. Metropolitan Water District, "Historical Perspectives," p. 6.
(adapted from Development of Water Facilities in the Santa Ana River Basin California, 1810-1968, U.S. Geological Survey Administrative Report, Menlo Park, California, November 1976).
54. Patterson, p. 102.
55. James T. Brown, Harvest of the Sun, An Illustrated History of Riverside County, Riverside, 1985, p. 98.
56. Dunbar, p. 46.
57. Brown, p. 98; Patterson, p. 181.
58. Brown., pp. 98-99.
59. S. E. Mains and W. H. Chilner, Western Municipal Water District of Riverside County, "The Gage Canal: A Hydro-Historical Footnote," Geologic Guidebook to the Santa Ana River Basin, Irvine, California, pp. 55-56.
60. Metropolitan Water District, "Historical Perspectives," p. 7.
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62. Ibid., p. 101.
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64. John Raymond Gabbert, History of Riverside City and County, Riverside, 1935, p. 256.
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69. Dunbar, pp. 66-67.
70. Ibid.
71. Patterson, p. 307.
72. Ibid., p. 283.
73. Ibid., p. 307.
74. Ibid.
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76. Ibid., p. 516.
77. Katz v. Walkinshaw, 141 Cal. 116 (1903).
78. Patterson, pp. 307-309.
79. Western Municipal Water District of Riverside County, Annual Report 1984-1985, Riverside, p. 13.
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81. Ibid., p. 14.
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83. Ibid., p. 461.
84. "Historical Perspectives," p. 6.
85. Mains, p. 56.
86. "Historical Perspectives," p. 6.
87. Patterson, p. 462.
88. Ibid., p. 461.

89. Santa Ana River Watermaster, Sixteenth Annual Report 1985-1986, for Orange County Water District v. City of Chino et al., Case No. 117628, County of Orange, cover.
90. Western Municipal Water District of Riverside County, Annual Report 1984-1985, Riverside, p. 12.
91. Ibid.
92. Ibid.
93. Steve Mains, "Adventure in Waterland, or, Which Rabbit Hole Does Your Water Come From?" Western Municipal Water District of Riverside County, 1984, pp. 1-2.
94. Western Municipal Water District of Riverside County, Annual Report 1984-1985, Riverside, p. 12.
95. Ibid., p. 10.
96. Ibid., p. 13.
97. Riverside Press Enterprise, "San Bernardino Wells To Pump Excess Water," November, 1987.
98. Patterson, p. 307
99. Ibid., p. 464.
100. Ibid., p. 182.
101. Ibid., p. 311.

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BOOKS AND LEGAL CASES:

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Dunbar, Robert G. Forging New Rights in Western Waters, Lincoln, Nebraska, University of Nebraska Press, 1983.

Course text; defines and describes western water rights and their historical development in general for the seventeen western contiguous United States. (University of Redlands).

Gabbert, John Raymond. History of Riverside City and County, Riverside, W.N. and G.M. Shepard, Record Publishing Company, 1935.

Available only in University of California at Riverside's Thomas Rivera library in the Special Collections Department. Water rights, p. 149-153; Gage Canal, p. 176, pp. 256-257; biographical text on Matthew Gage, p. 334-336; John W. North's choice of Riverside on the river, p. 253. (University of California at Riverside, Tomas Rivera Library).

Greater Riverside Chambers of Commerce, The. Riverside, California, Riverside, Sullivan Publications, March, 1987.

A "resource book" for residents and tourists. Good history information, pp. 4-32; water supply and issues, pp. 26-27. (Riverside Chamber of Commerce - gift).

Hutchins, Wells A. Selected Problems in the Law of Water Rights in the West, United States Department of Agriculture, Washington, D.C.

Library reference book, which indicated two of Riverside's early water-rights law cases: 155 Calif. 509 (1909) and 186 Calif. 7 (1921). (RPL - reference section only).

Katz v. Walkinshaw, 141 Cal. 116 (1903).

Landmark case in development of California groundwater rights, which set a precedent for later court decisions; users of groundwater have correlative rights based upon reasonable use. Cited in Barton et al. v. Riverside Water Company et al. 155 Cal. 509 (1909).

Mains, S. E., and W. H. Chilner. "The Gage Canal: A Hydro-Historical Footnote," Geologic Guidebook to the Santa Ana River Basin, Irvine, California. Prepared for South Coast Geological Society field trip of October 7, 1978.

Excellent information about the Gage Canal plus map, pp. 54-57, especially on water rights controversy and Santa Ana River water rights history. (RPL).

Patterson, Tom. A Colony for California: Riverside's First Hundred Years, Riverside, California, Press-Enterprise Company, 1971.

The most comprehensive text available on Riverside's history including development of water rights for the city; an easily read, fascinating book upon which I had to rely heavily and for which I am deeply thankful to Mr. Patterson. See especially Chapters 3, 4, 6, 11, 18, 19, 30, and 31 concerning water supply and water rights. (Personal copy).

Price v. The Riverside Land and Irrigating Company,
Cal. 431, (1880).

As part of the ten-year controversy over water rights that led to Riverside becoming a city in 1883, along with the Satterwaite Act of 1876 "the decision...became the water doctrine known to water lawyers as appurtenancy to the land. The right to a specific supply of water supply becomes attached to a specific piece of land." See Patterson, p. 88.

Riverside v. Malloch, 37 Cal Rptr 862 (1964).

Action of City of Riverside to condemn property of Gage Canal Company, a mutual water company. This was done in anticipation of the City of San Bernardino attempting to do the same.

San Bernardino v. Riverside, 186 Cal. 7 (1921).

San Bernardino attempted to prevent Riverside from taking groundwater from the Santa Ana River basin, but was denied this by the court, under the reasoning that Riverside's very existence depends upon this source of water for both irrigation and domestic use, and has put it to such beneficial use, retaining the water right.

San Bernardino Valley Municipal Water District v. Gage Canal Company, 37 Cal Rptr 856.

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The most comprehensive reference work found in this search on the subject of water law for the United States, including history, definitions, instructions for various water law procedures, and most case citations of litigation. A source of citations for specific lawsuits regarding water supply in the Santa Ana River watershed, although the Barton v. Riverside Water Co. case is inexplicably not included in the list of citations. (Riverside County Law Library).

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Good source of information on MWD's authority in dealing with the City of Riverside in legal concerns over Bunker Hill dike; also some information on SAWPA's role.

ARTICLES, MAPS, PAMPHLETS, AND SPEECHES:

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Overview information on entire subject of Santa Ana River basin problems from Mill Creek area to Prado Dam.

Greater Riverside Chambers of Commerce. City of Riverside Street Map, 1986, Sullivan Publications, 1986.

Mains, Steve. "Adventures in Waterland, or, Which Rabbit Hole Does Your Water Come From?" Metropolitan Water District of Riverside County, 1984.

Discusses the relationships between the various water agencies in the Riverside-San Bernardino-Chino basins.

Metropolitan Water District. "Historical Perspectives," (adapted from Development of Water Facilities in the Santa Ana River Basin California, 1810-1968, U.S. Geological Survey Administrative Report, Menlo Park, California, November 1976).

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Patterson, Tom. "Dividing the Water of the Santa Ana River," speech at University of Redlands, January 15, 1987, notes on which were provided to me by Dr. Roger Baty.

Press Enterprise. "San Bernardino Wells To Pump Excess Water," November 1987.

Riverside Public Utilities, "Watts 'N Water Lines," Fall/Winter 1987.

Provides facts and figures about Riverside's water supply and about water conservation measures.

Thomas Bros. Maps. The Thomas Guide, San Bernardino and Riverside Counties 1987, Irvine, California, 1986.

INTERVIEWS

Garcia, David V. Water Engineering Manager, City of Riverside,
November 20, 1987, 2:00 - 2:15 p.m.

Laney, Diana. Special Projects, Water Education, Western Municipal Water
District of Riverside County, November 20, 1987, 10:30 a.m. - 1:00.

Mains, Steven. Special Projects Manager, Western Municipal Water
District of Riverside County, November 20, 1987, 10:30 a.m. - 1:00.

D. Stewart
Water Management
Project Proposal
Nov. 25, 1987
*Revised

Project Title (Revised):

A History of the Water Rights Issues
of The City of Riverside

By: Debra K. Stewart

Course title and number: Water: The West's Challenge,
Anthropology 340

Date: December 6, 1987

Summary: Riverside, originally a simple agricultural colony in the county of San Bernardino, became a city due to tactics used in an internal fight over water rights. Prior to that time, some water rights were uncertain in various parts of the area; also, Riverside has engaged in litigation over rights to its well water in the Santa Ana River basin. This report will describe, in chronological order, the history of Riverside's water rights and water development.

The problem to be investigated:

I chose this subject for its pertinence to my daily life as a "native" resident of Riverside. Most residents of Riverside including myself are unclear as to where our household water comes from or why San Bernardino is involved in the issue of Riverside's water supply. For my own information as well as for the ability to explain to others the source of our water supplies and the significance of the water rights we hold, I propose to trace the history of water rights for Riverside from the 1870's when Riverside was founded by John W. North and was provided its first supplies of water by him and by Matthew Gage, up to the present time (1987) when San Bernardino recently intended to build "super wells" and was prevented from doing so by losing a suit brought on by factors in Riverside.

Methodology: The sources I will use for information will be as follows:

1) Local libraries such as the Riverside Public Library (which has a local history section), the Marcy Branch library (which has a copy of the California Water Atlas), Riverside Community College's library (which has pamphlets on the Santa Ana River), and the University of California at Riverside libraries (which, since the university was originally founded as a citrus experiment station and the citrus culture is based on getting water to irrigate the arid land, hopefully it will have water rights information), to find out about Riverside's basic local history in general upon which I may design a framework for tracing its local water rights history, as well as to find books and information on water rights in general.

2) Interviews with officials and employees of the Metropolitan Water District offices and treatment plants in Riverside.

3) Interviews with planners and engineers at the City of Riverside.

4) Local historical places of interest, such as the Riverside Museum and the San Bernardino Museum.

5) If possible and time permits, interview others knowledgeable about the local history of water rights, if names are suggested via any of the above sources.

6) Local newspaper articles pertaining to the subject.

7) Riverside County Law Library for pertinent court cases.

8) Possible personal field trips to view the headworks of canals, etc.

9) Information provided by various speakers which have been invited to make presentations to our class.

Findings:

By completing this project, I hope to understand both the location from where Riverside gets its water and the issues of water rights that affect it.

Conclusions and Recommendations:

I presently and perhaps erroneously imagine that the case of Riverside against San Bernardino pertaining to respective water rights may be similar on a much smaller scale to the case between the residents of Owens Vally and the City of Los Angeles, since both Riverside and Los Angeles depend on major water supplies coming from outside their political boundaries. I do know that unlike most of Southern California, whose water supplies depend almost exclusively upon imported water from Northern California and the Colorado River, the area of Riverside, San Bernardino, and Redlands is relatively secure in its water supply from wells.

A SHORT HISTORY OF THE WATER SUPPLY AND WATER RIGHTS
FOR THE CITY OF RIVERSIDE, CALIFORNIA

I. Introduction

A. Location

1. Riverside is located in the Santa Ana River Basin watershed southeast of the river.
2. It lies south of the cities of San Bernardino and Redlands.

B. Climate

1. Riverside's climate is warm and dry.
2. It has an average annual rainfall of 12 inches.

C. Historical Beginnings

1. Riverside began as an agricultural colony, the Southern California Colony Association, in 1870 by John W. North.
2. It became rich and famous for its production of oranges.
richest city per capita.
3. Its agriculture was based on irrigation, using appropriated groundwater from wells in the Santa Ana River in the Bunker Hill dike.

II. Development of the Water Supply and Water Rights

A. Chronological History of Water Agencies

1. The California Silk Center Association had been appropriating water from the Santa Ana River by 1869 and carried it by flumes and canals to what was later to become the city of Riverside for irrigation.
2. In 1870 the Southern California Colony Association bought a tract of land in the Jurupa Rancho section, purchased 4/7 interest in the California Silk Center Association and took over its irrigation system; a new canal was added.
 - a. North's Colony allowed adjacent Government Tract squatters to use water from his canal without requiring them to purchase water rights.
 - b. S. C. Evans of the future Riverside Land and Irrigating Company purchased a tract in Rancho El Sobrante and attempted to build a canal for it from the Bunker Hill basin.

- c. North's Colony tried to oppose the right of way.
 - d. North's partner ^{Felton} sold his controlling interest in the SCCA to the Riverside Land and Irrigating Company.
3. In 1874, the Riverside Land and Irrigating Company took over control of the system.
- a. The president of the RL&I instigated 10 years of controversies over water rights by denying that government land squatters had any water rights.
 - c. In 1876 the Satterwaite Act was passed.
 - d. W. O. Price of Riverside filed suit against the RL&I in 1877 and won.
 - e. The resulting court decision became the water doctrine known as "appurtenancy to the land."
4. In 1878 the ^{RL&I} Riverside Canal Company divided into two firms.
- a. The RL&I could make two profits, one on the sale of land and one on the sale of water, instead of only one.
 - b. The irrigators wanted the RL&I to be a mutual irrigation company for their benefit.
 - c. Both local proprietary owners of land and government squatters feared monopoly and united against the RL&I.
5. The Citizens Water Company was formed in 1882 to deal with the RL&I's abrupt change in practices.
- a. Citizens Water filed a claim for water rights asserting that RL&I was not developing the water supply.
 - b. Citizens Water then campaigned for the incorporation of Riverside as a city. *to better organize against the water co. monopoly*
 - c. Riverside became a city in 1883 by a 60 percent majority.
 - d. The RL&I lost sales due to bad publicity about its two profits, and was sold to the Riverside Water Company.
6. The Riverside Water Company took over Riverside Canal Company in 1885.
- a. It was 1/2 owned by Riverside Water Company and 1/2 owned by the RL&I.
 - b. It took the responsibility to adequately develop and maintain the water supply.

7. The Gage Canal was built in 1886.

- a. Gage staked his claim on Section 30 under the provisions of the Desert Land Act of 1877.
- b. He built a canal far upriver on the Santa Ana to tap natural artesian springs under riparian rights.
- c. The Gage Canal irrigated orange groves.

III. Riverside was a part of San Bernardino County and was not feared as a rival in groundwater appropriations from the river until later.

1. In 1904 a sequence of lawsuits started when a group of San Bernardino land owners filed Barton v. Riverside Water Company.
 - a. Those in San Bernardino claimed that Riverside was taking too much water from the basin and asked that it cease operations.
 - b. The court held that because Riverside Water Company was a public service corporation that built expensive operations that were widely known, that the doctrine of "correlative rights" of the Katz v. Walkinshaw case applied.
2. In 1921 the City of San Bernardino brought suit against the City of Riverside (186 Cal. 7).
 - a. San Bernardino asked that the rights of both parties be adjudicated.
 - b. The court found that Riverside, having held appropriative rights, was entitled to take a certain amount of water.
3. In 1961 both San Bernardino and Riverside filed condemnation suits against the Gage Canal for control exportation of groundwater.
 - a. San Bernardino filed San Bernardino Valley Municipal Water Conservation District v. Gage Canal Company (37 Cal. Rptr 2d 856, 1964).
 - b. Riverside filed Riverside v. Malloch (37 Cal. Rptr. 862, 1964), in anticipation of the City of San Bernardino attempting to condemn Gage Canal.
 - c. Riverside won the condemnation suit in 1965.

IV. Riverside became a member of the Metropolitan Water District in 1954.

- A. In 1963 Orange County brought suit against upriver users San Bernardino, Riverside, and Chino, naming 4,000 individuals, in Orange County Water District v. City of Chino et al, Case No. 117628, County of Orange.

1. The lawsuit resulted in two Judgments.
 - a. It specified how much water was to be allocated to those who held water rights in the Santa Ana River Watershed.
 - b. It required two watermaster agencies to report adherence to the court decisions on a yearly basis.
2. The Western Metropolitan Water District of Riverside County was named local watermaster over 22 other local agencies.
 - a. Western represents Riverside County interests in negotiations with San Bernardino water agencies to solve the groundwater problem while protecting water rights, for example, the most recent "super wells" proposal by San Bernardino.
 - b. It supplies water to recharge the basin when necessary.

V. Conclusion

- A. California law has developed beyond the original English common law doctrine of riparian rights, although it is still included.
- B. As Riverside has evolved from an agricultural economy into an urban community of business and the professions, so has the use of water been transformed in the hierarchy of priorities.
- C. "The Santa Ana River's water supply has been put to use, but not without something to show for it. Instead of a green riverbottom, there are orange groves, trees, and people."

good data
clear grasp of subject
good handout
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