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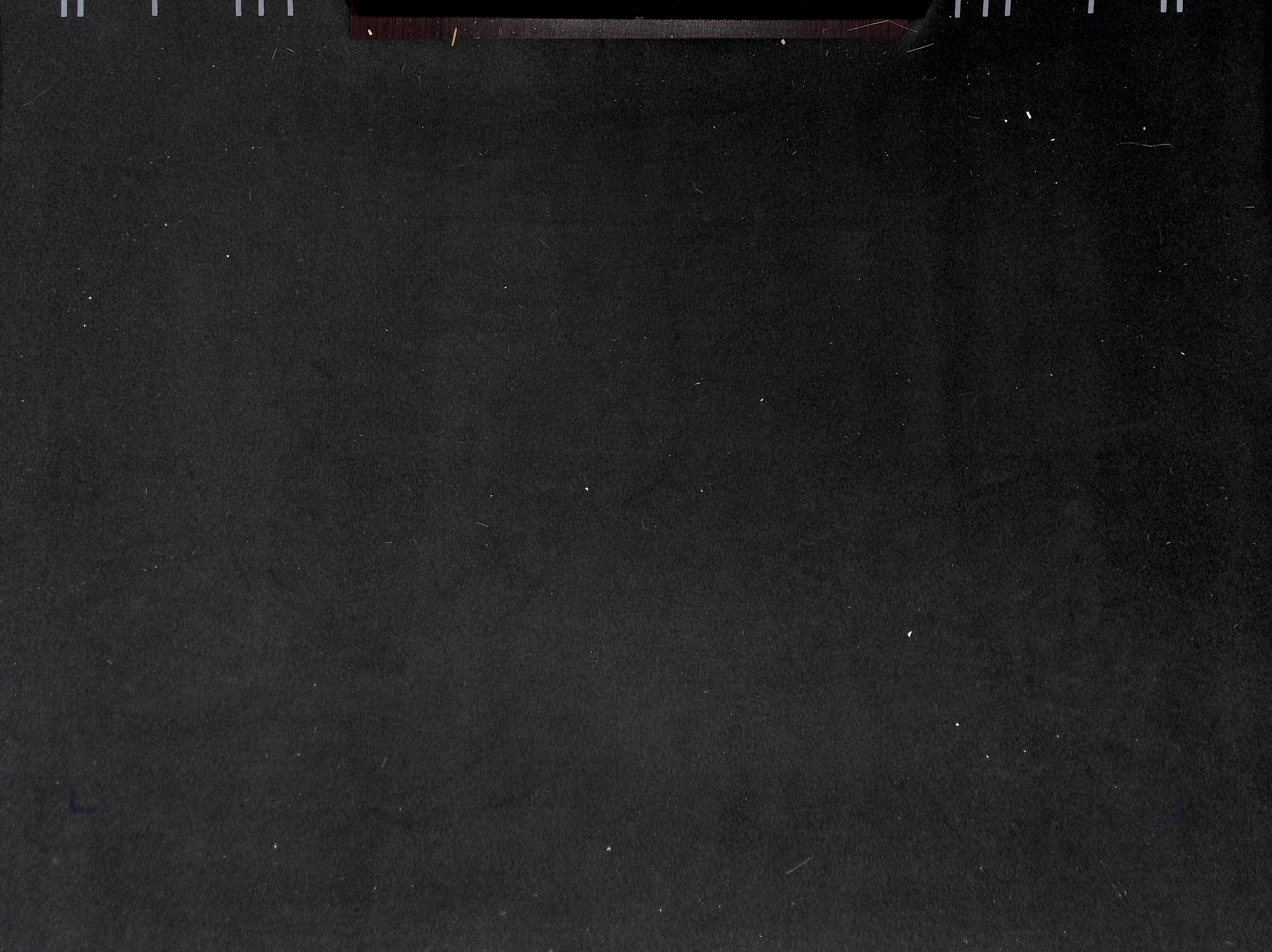
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LOT NO. 34 B.

Field Notes.

of the survey of the

Van Nostrand
Mills Site Claim

Situate in Arivaca mining district

County of Pima and in Sec. 7, Tp. 21 S

Range 10 E, of the Gila and Salt River Meridian.

Arizona.

Claimed by the Consolidated Arizona
Gold and Silver Mining Co.

Survey executed by John M. Allis D. S.

Under instructions dated November 26, 1880

Survey commenced December 4, 1880

Survey completed December 4, 1880

PAGE 1

Territory of Arizona }
 County of Pima } ss

On this 24th day of November A D
 1880 before me James Buell a Notary
 Public in and for said Pima County
 personally appeared John McLeafferty
 who after being by me first duly sworn
 according to law on oath says that he
 is the Agent and General Superintendent
 of the Consolidated Arizona Gold and Sil-
 ver Mining Company, for whom he here-
 with makes application for an official
 survey of the Van Nostrand mine and
 in connection therewith the Van Nos-
 trand Mill Site, both in Arivaca Mi-
 ning District, Pima County, Arizona;
 that affiant was one of the original loca-
 tors of said mine and said mill site, and
 that he has lived in said District since
 the year 1876 and he is well acquainted
 with that section of the country and all
 the claims and land marks therein;
 that affiant knows the monuments and
 allidged boundaries of the ^{alldged} Arivaca
 Grant, and that both said Van Nos-
 trand mine and said Van Nostrand
 mill site are entirely without the
 limits of said allidged grant and
 no part of said mine or mill site

is covered by any portion of said pre-
tended grant,

John McKeafferty, Secy. Suppl.

Subscribed and sworn to before me this
24th day of November A.D. 1888

Samuel Bruce
Notary Public
Pinal County
Arizona

In the matter of the
application for
official Survey

of
Van Nostrand Mine

Van Nostrand Mill Site

Affidavit of
John McKeafferty
Ag't & Supt

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PRELIMINARY OATHS FOR SURVEYS OF MINING CLAIMS AND MILL SITES.

WE, James C Holden and Joseph P Hayes
do solemnly swear that we will faithfully execute the duties of Chain Carriers, that we will level the chain upon uneven ground, and plumb the tally pins, whether by sticking or dropping the same; that we will report the true distance to all notable objects, and the true lengths, of all lines that we assist in measuring, to the best of our skill and ability.

James C Holden
Joseph P Hayes,

SWORN AND SUBSCRIBED before me this fourth
day of December 1880

Solon M Allis
Notary Public Pinal Co. A.T.

I, James L Gallagher
do solemnly swear that I will well and truly perform the duties of Flagman
according to instructions given me, and
to the best of my skill and ability.

James L. Gallagher

SWORN AND SUBSCRIBED before me this fourth
day of December 1880

Solon M Allis
Notary Public Pinal Co. A.T.

Field Notes of Survey of Van Nostrand

Chs Mill Site - located in connection
with the Van Nostrand Mine
Arivaca District Pinal Co A.T.

Surveyed Dec 4, 1880 by John
M. Allen Under Instructions from
Surveyor General John Warren
dated Nov 26, 1880

Commencing at tree described as
the center of five acres located as
Mill Site and when Notice was
spoken I ran South $68^{\circ}25'E$.

3.53 $\frac{1}{2}$ Var $12^{\circ}35'E$ By Obsen Polaris.
~~South $68^{\circ}25'E$~~ to a point in the
middle of the East side of Mill Site
when I turned a right angle to
left and ran North $21^{\circ}35'E$.

3.53 $\frac{1}{2}$ Var $12^{\circ}35'E$
Along Eastern Boundary to N.E.
Cor of Mill Site when I set a post
of Cedar 5×4 inches sq five ft long
2 ft in the ground - and marked
E. N. M. S. N^o 1 and built a
Monument of Stones 2 $\frac{1}{2}$ feet high
From which U. S. Mineral Mon bears
 $N 22^{\circ}35'E$ dist 95.40 chains
The Iron Smoke Stack of Stamp Mill
bears $S 71^{\circ}W$ dist 3.40 chs.

Thence I ran $N 68^{\circ}25'W$
Var $12^{\circ}35'E$

1.20 Along North boundary of Mill Site to a
point opp N.E. Cor of Roasting Furnace
building 26×30 ft dist 1.90 chs to left

2.80 To a point opp N.W. Cor of Engine Room
dist 2.02 chs size 25×35 ft

3.20 To pt opp N.E. Cor of Retort House
and Blacksmith Shop 18×26 ft dist 3.10 chs to left

7.07 To N.W. Cor of Mill Site when I
set a cedar post 5×4 in sq - 5 ft long

Field Notes of Survey of Van Nostrand

chs Mill Site Arivaca Dist Pima Co A.T.

2 ft in the ground Marked V.N.M.S.N=2
and built a mound of earth around
it, from which the S.E. corner of
the Van Nostrand Mill ^{lot 71^o 37} bears N 12° 09' E
Dist 56.50 chains

The Iron Smoke Stack of the Engine at
Stamp Mill bears S 21° 55' E Dist 4.98 chs

Thence Iron S 21° 35' W

Var 12° 35' East

7.07 Along West boundary of Mill Site to
S.W. corner where I set a cedar
post 4x5 inches sq 5 ft long - Marked
V.N.M.S.N=3 set two ft in the
ground and built a mound of earth
from which the Iron Chimney of Engine
bears N 64° 35' E.

Thence Iron S 68° 25' E

Var 12° 35' E.

7.07 Along South boundary of Mill Site
to S.E. corner of same where I set up
a cedar post 4x5 inches sq - 5 ft long
Marked V.N.M.S.N=4 - set two feet in
ground built a mound of earth from
which Iron Smoke Stack or Chimney of
Engine bears N 7° 25' W

Thence Iron N 21° 35' E

Var 12° 35' E

7.07 Along East boundary of Mill Site to
Post first set at N.E. corner.

This Mill Site contains 5 acres
Var obtained by obs on Polaris at greatest
Elongation - and when Alioth was in
same horizontal plane at its R_h Ascension
Angle bet Star and Mag Mer found to be
14° 10' As Elongation was West Azimuth
of Pol. Star was subtracted - Azimuth for Dec
1882 = 1° 34' 50" being subtracted from
14° 10' = 12° 35' Var East at place
of observation -

Solon M. Allen

U.S. Dep. of Min. Surveyor

NON-MINERAL AFFIDAVIT.

TERRITORY OF ARIZONA,)
County of Pima) ss.

James C. Holden and Wm^{ic} McCourt of said County and Territory, being first duly sworn, each for himself and not one for the other, deposes and says that he is well acquainted with the land of the Van Nostrand mill-site claim situated in Arivaca Mining District

Gila and Salt River Meridian, in the County of Pima and Territory of Arizona, claimed by The San Arizona Gold and Silver Mining Co applicant for United States patent therefor; that he is well acquainted with the character of said described land included within the boundary lines as officially surveyed by Solon M. Allis United States Deputy Surveyor, having frequently passed over the same; that his knowledge of such land is such as to enable him to testify understandingly with regard thereto; that there is not to his knowledge within the limits thereof any vein or lode of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin or copper or any deposit of coal; that there is not within the limits of said land, within his knowledge, any placer, cement, gravel or other valuable mineral deposits; that no portion of said land is claimed under the local customs or rules of miners or otherwise; that no portion of said land is worked for minerals during any part of the year by any person or persons; that said land is essentially non-mineral land, and that there is within the boundaries of said claim improvements, to-wit:

One Tin Stamp quartz mill on Reduction Furnace
one Retort building and Blacksmiths Shop - & other buildings.
and that he has no interest whatever in said described mill-site claim.

J. C. Holden
Wm^{ic} McCourt

SUBSCRIBED AND SWORN to before me this fourth day of December A. D. 1880; and I hereby certify that the foregoing affidavit was read to the said James C. Holden and William McCourt previous to their names being subscribed thereto, and that deponents are reputable persons to whose affidavits full faith and credit should be given.

Solon M. Allis
Notary Public Pima Co. A.T.



FINAL OATHS FOR SURVEYS OF MINING CLAIMS ~~AND~~ MILL SITES.

A LIST of the names of individuals employed to assist in running, measuring, or marking the lines and corners described in the foregoing field-notes of the survey of Van Nostrand Mill Site located in Arivaca Mining District, Pima County, Arizona, showing the respective capacities in which they acted.

James C. Holden Chainman.
Joseph P. Hayes Chainman.
James L. Gallagher Axeman.
James L. Gallagher Flagman.

WE hereby certify that we assisted Solon M. Allis U. S. Deputy Surveyor, in surveying the Van Nostrand Mill Site claimed by the Van Arizona Gold & Silver Mining Co located in Arivaca Mining District, Pima County, and in Township No Range No of the Gila and Salt River base and meridian, Arizona, and that said Survey has been in all respects, to the best of our knowledge and belief, well and faithfully executed, and the boundary monuments planted according to the instructions furnished by the Surveyor General.

J. C. Holden Chainman.
Joseph P. Hayes Chainman.
James L. Gallagher Axeman.
James L. Gallagher Flagman.

SWORN TO AND SUBSCRIBED before me this 4th day of December 1880

Solon M. Allis
Notary Public Pima Co A.T.

I, Solon M. Allis U. S. Deputy Surveyor, do solemnly swear that, in pursuance of instructions from John Wasson, U. S. Surveyor-General for Arizona, bearing date the 26 day of November 1880, I have well, faithfully and truly, in my own proper person, and in strict conformity with the instructions furnished by the Surveyor-General and the laws of the United States, surveyed all those portions of the Van Nostrand Mill Site claimed by Van Arizona Gold & Silver Mining Co located in Arivaca Mining District, Pima County, Arizona, as are represented in the foregoing field-notes as having been surveyed under my directions; and I do further solemnly swear that all the corners of said surveys have been established and perpetuated in strict accordance with the instructions furnished me, and that the foregoing are the true and original field notes of such surveys.

Solon M. Allis Deputy Surveyor.

SWORN TO AND SUBSCRIBED before me this 15th day of December 1880

John Wasson
U. S. Surveyor



(Van Nostrand Mill Site)

Notice of Location, notice is hereby given that we the undersigned having complied with the requirements of Chapter Six of Title thirty two of the revised statutes of the United States and the local customs, laws and regulations have taken up and located 5 acres of ground for a Mill Site in connection with the Van Nostrand Mine, situated on the Arivaca Stream 1 mile South - the mine, and more fully described as follows; the tree on which a copy of this notice is posted shall be known as being in the centre of Location, and the Location shall be known as the Van Nostrand Mill Site. Located May 27th 1877, Arivaca Mining District, Pima County Arizona Territory. Locators:

P. W. Van Nostrand.

John Bunke.

John W. Cafferty.

Filed and recorded at request of John W. Cafferty July 19th A.D. 1877 at 10 o'clock P.M.

Sidney W. Carpenter.

County Recorder.

Territory of Arizona }
County of Pima } ss.

I, Sidney W. Carpenter, County Recorder, in and for the County of Pima, do hereby certify that the above and foregoing is a full, true and correct copy of Mill Site notice of the Van Nostrand Mill Site, as appears of Record now in my office in Book P page 680, of Records

of which. In witness whereof I have hereunto set
my hand and affixed my official seal at my offic-
in Tucson this twenty fourth day of November A.D.
1882.

Thomas Butler County Recorder
By W. H. Black Deputy

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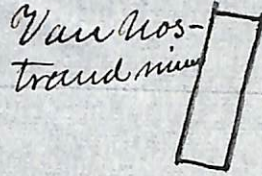
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North

NW

Arivaca Grant

NE



Van Nostrand mine

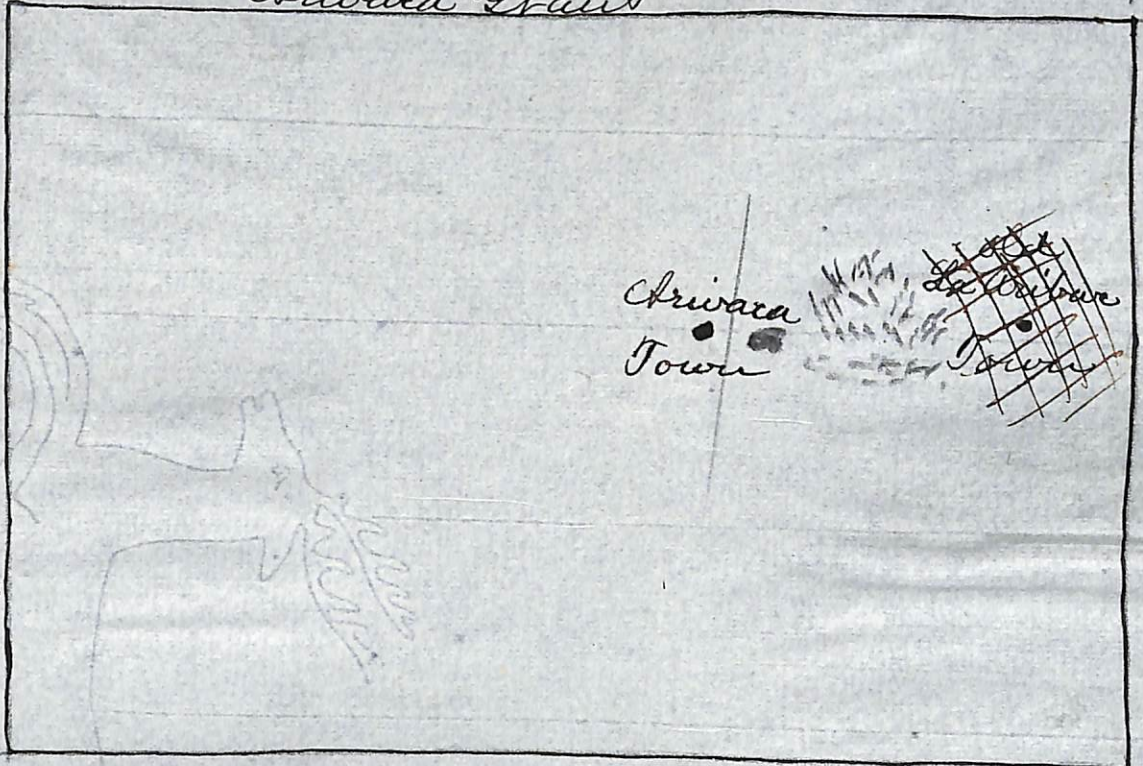
Van Nostrand Mill Site



Wilbur's Ranch



old buildings



Arivaca Town



East

SW

SE

West

South

"Chilbit A"

Filed Dec. 21, 1880

John H. Brown
A. D. New-Grant

U.S. Surveyor General's Office,

Tucson Arizona Dec 29, 1880.

Messrs Morgan ^{and} Price,

Attys. for Chas. W. Poston,

Tucson, Arizona.

Gentlemen:

I respectfully ask to be advised, at your earliest convenience if you desire to make any presentation to this office as to whether the Van Nostrand Mill Site claim lies within the boundary of the La Aribac private land claim.

I (Dec. 6, 1880,) originally set 13th instant to hear testimony in the case and on 13th, at request of interested parties, postponed the hearing until 20th instant, at which time no one appeared on behalf of Mr Poston, nor has anyone, in his behalf, appeared, at anytime since.

Very Respectfully
John Wasson

U.S. Surveyor-Genl.

PAGE 1

In the matter of the motion of Charles
 D. Poston to revoke and set aside the order
 for survey of the Van Nostrand Mill
 Site

The order for an official survey of the
 Van Nostrand Mill Site was granted
 upon the application of the Consolidated
 Arizona Gold and Silver Mining
 Company, the owners of the
 mill site.

They had a right to an official sur-
 vey.

Mountain Mining Company

Coop's Land Owner Vol 7 No 7 Page 101

Poston has failed to produce any
 evidence whatever in support of
 his motion.

The Consolidated Arizona Gold and
 Silver Mining Company have in-
 troduced evidence which shows that
 the Van Nostrand Mill Site is out-
 side of and West of the limits of
 said grant.

The declaration of Artiz one of the
 owners of said grant as to where the
 Western monuments of the grant
 were and the general reputation
 among the old inhabitants of the

country as to the location and sit-
nation of the Western monuments of
this grant, is legal and competent
evidence to prove the location of these
ancient land marks.

(See.)
Grundleaf on evidence vol 1 § 145
note 1 and American cases cited

Wherefore the consolidated Arizona
Gold and Silver Mining Company
demanded that said motion, of said
Charles D Poston to set aside ~~the~~^{his} said
order for an official survey of said
Van Nostrand Mill Site, be denied,
and that the order issued to it for an
official survey of said mill site be
confirmed.

James B. Mill Atty for
Hon. Arizona G & S. M. Co.

Received and filed in U. S. Surveyor General's Office
January 4, 1881, and it is hereby ordered that
the order in said case stand and that the
Survey made in pursuance thereof be
approved. Done this 4th day of January
1881.

John Mason,
U. S. Surveyor General.

Surveyor General's
Office
In the matter of the
Motion of Charles

D Poston to set aside
the order for survey
of the Van Nostrand
Mill Site
"Brief of
Con Arizona G & S
M Company"

U. S. Surveyor General's Office.

Tucson, Arizona, January 5, 1881

The foregoing field notes of the survey of the Near Nostrand
Mill Site ~~Mining Claim~~ situate in
 the Arivaca Mining District, Pima
 County, Arizona, claimed by the Consolidated
Arizona Gold and Silver Mining Co. ;
 survey executed by Solan M. Allis, Deputy
 Surveyor, under instructions from this office, having been critically examined
 and the necessary corrections and alterations made, the said field notes and
 the survey they describe are hereby approved; and that all
 the accompanying orders, testimony and
 correspondence are made part of the
 proceedings of this case.

John Masson.
 U. S. Surveyor General.

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John Mason Esq.
 United States Surveyor General
 for Arizona Territory.

Behaves D. Poston, respectfully reports
 as follows:

That he is the owner of that certain
 tract of land situate in Pima County
 Arizona, known as and called the "Si-
 vera Rancho, or La Striba". That he
 acquired title thereto through purchase
 and purchase from the original grantee
 thereof from the authorities of Mexico and
 that the same is a Private Land Claim
 under the meaning of the Act of Con-
 gress of July 22nd 1848 and the Act of Con-
 gress of various acts in relation to claims to
 lands derived from Spain and Mexico.

That pursuant to laws and the regulations
 of the General Land Office of the United States
 the said Poston presents to you his claims to
 said land and the evidence of his title, which
 fully describe the same, and to which reference
 is hereby made for a description thereof.

Said Poston represents that an order has
 been made in your office for a survey by

or by officials under your direction or authority. Or to take such action in the matter as may be proper under the laws and regulations.

Relating to the foregoing, your attention is respectfully directed to a portion of Section 8. of the act of Congress of July 22nd 1854, as follows: "and until the final action of Congress on such claims, all lands covered thereby shall be reserved from sale or other disposal by the government, and shall not be subject to the donations granted by previous provisions of this act."

Your attention is also invited, to the instructions of the General Land Office of date Jan^y 9th 1877, and the other instructions relating to the same subject.

Very Respectfully

Tuesda Dec 2nd 1887.

Charly A. Foster

U.S. Surveyor General's Office

Tucson Dec 6, 1880

Chas. S. Poston, Esq.

Tucson Arizona

Sir: Referring to your communication of the 2nd instant, I have to say:

Nov. 24, 1880, the Consolidated Arizona Gold and Silver Mining Company, by its agent and General Superintendent John M. Cafferty, applied for an official survey of the Van Nostrand Mine and also for a like survey of the Van Nostrand Mill Site. Both situate in Arivaca mining district, Pima Co. Arizona. Agent and Gen'l Superintendent John M. Cafferty accompanied the said application for surveys by an affidavit of his own, which affidavit sets out as follows, viz:

"That affiant was one of the original locators of said mine and said mill site, and that he has lived in said district since the year 1876, and he is well acquainted with that section of the country and all the claims and land marks there in; that affiant knows the monuments and alleged boundaries of

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"the alleged Aribae grant, and that
"both said Van Nostrand Mine and
"said Van Nostrand Mill-site are
"entirely without the limits of said
"alleged grant. and no part of said
"mine or mill-site is covered by any
"portion of said pretended grant."

Upon this explicit statement under oath and in the absence of any other information as to the location of said claims, I gave the usual orders for survey on Nov. 26, 1880. and I am credibly informed the Deputy surveyor left Tucson to execute said orders, early on the 1st instant. On the 2^d instant Mr. Price, of Messrs Morgan and Price, called, at this office, made inquiry as to whether such orders had been issued, and was informed they had.

He then made verbal request that the said orders be recalled, withdrawn or annulled. In reply I stated that in such important matters his said request must be in writing, and set forth the reasons therefor and refer to the governing law and regulations in the premises. At 4 P. M. on the 3^d instant, Mr. Price handed me

your communication of the 2^d instant and was informed that the case would have early attention. I immediately examined the law you cited, and endeavored to find the General Land Office regulations of January 9, 1877, referred to by you, but could not, and promptly advised you of this latter fact and also requested that you supply me therewith or a copy thereof, as I presumed they had an important bearing in the premises else you would not have called my attention to them.

I am still without such regulations. After an examination of what I consider the controlling facts in the case and all pertinent authorities at my command, I have decided to neither recall nor annul the order for the survey of the Van Nostrand Mining Claim, and now inform you that the survey in pursuance thereof will be completed and approved and delivered to applicant therefor in due course of business, and for these reasons, among others that might be cited, viz: Admitting for the pur-

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-pose of deciding this case, that the said mining claim is within the boundaries of the said "Aribac" private land claim, and that the said private land claim is valid, the grant did not convey to the grantees the unsevered minerals in the soil nor any interest in them, and therefore you have no interest in such minerals. "La Aribac" grant was for stock raising and all proceedings of the granting officers, as well as of the petitioners therewith, were in harmony with such object, Under Spanish and Mexican law then and now, title or interest in mines and minerals could only be obtained by proceedings under the mining ordinances, and no such proceedings were had in the Aribac case, neither under the Spanish Government in 1812 nor under the Mexican Republic in 1833, nor at any other time or times, nor is there any allegation on your part that there ever were any such proceedings in the Aribac case.

The Department Instructions

which govern my action in reference to private claims, contain this injunction

"It is obligatory on the Government of the United States to deal with the private land titles, and the 'pueblos' precisely as Mexico would have done had the sovereignty not changed.

"We are bound to recognize all ~~all~~ titles as she would have done, to go that far and no farther. This is the principle which you will bear in mind in acting upon these important concerns."

Article XIV. Title VI. Mining ordinances of New Spain or rather for governing the "important body of Mining of New Spain" of date May 22, 1783, and still in force, reads:

"That any one may discover and denounce a vein or mine, not only in common land but also in the private lands of any individual, provided he pays for the land of which he occupies the surface, and the damage which immediately ensues therefrom" &c; &c.

At its December term 1854, the United States supreme court in

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the case of *Tremont v. the United States* declared "that, under the mining laws of Spain, the discovery of a mine of a mine of gold or silver did not destroy the title of the individual to the land granted;" and also that "whether there be any mines on this land, and if there be any, what are the rights of sovereignty in them are questions which must be decided in another form of proceeding."

See 17 Howard, page 683.

It seems that the other form of proceeding alluded to by the Court, did appear in the case of the *United States v. Andres Castillers*, at the December term 1862. I quote from the opinion of the Court in this said case, to wit;

"Mines under the Mexican law may be the subject of rightful ownership, distinct from the land as such for agricultural or other ordinary uses. Ownership of a mine however, as secured under the mining ordinance by registry and judicial possession, does not consist alone in the right to take

"from the soil the minerals therein
 "to be found, but it also embraces,
 "if necessary to the working of the
 "mine, a right to the exclusive pos-
 "session and use of the surface of
 "the land for an indefinite period
 "within the boundaries of the perti-
 "nencies appertaining to the mining
 "right or privilege, such rights are by
 "law regarded as severed from private
 "land and also from public land
 "when granted by the usual forms
 "of conveyance for agricultural or
 "other ordinary purposes. Rights to a
 "mine not registered can only be ac-
 "quired from the sovereign power, 2^d
 Black P. 166.

. Again from the same opinion:
 "Mining rights under Mexican law
 "undoubtedly are usually held upon
 "conditions not affecting the title to the
 "land as derived under the ordinary
 "conveyances, and it is also true that
 "such rights may be acquired and held
 "by others besides the owner of the land
 "under the ordinary grants, and that
 "such rights are terminable when by
 "their use the minerals contained in
 "the soil are wholly removed."

Ibid page 167.

Again from the same opinion
 "Property in mines not discovered, and
 "registered according to law, whether
 "the mine was on public or private
 "lands, was vested, as has already
 "appeared, exclusively in the supreme
 "Government, so that private persons
 "could not acquire it or any interest in
 "it in any other mode than that pre-
 "scribed in the provisions of the mining
 "ordinance". Ibid page 169.

I presume it will not be asserted
 that any of the proceedings by virtue
 of which title was issued to the
Aribac Grant of land, were in pur-
 suance of the "provisions of the mining
 ordinance".

Again I quote from the aforesaid
 opinion:

"Grants of land under those laws
 "did not convey to the grantee the
 "unsevered minerals in the soil or
 "any interest in them, and there
 "is no ground whatever to hold that
 "the Supreme Government ever conferred
 "upon any of the local tribunals any
 "jurisdiction upon the subject under

consideration" *Ibid* page 195.

These citations from the highest authorities conclusively show that if the Aribac grant is valid, and your title thereto perfect, you have no interest in the mines or unsevered minerals within its boundaries.

The United States acquired the minerals in that and all other private land claims of Spanish and Mexican origin, with its acquisition of the territory. Had the Mexican Government retained control of the premises, it would have retained the minerals and, judged by the past, would never have confirmed or conveyed to the grantees of said Aribac claim any interest whatever in the minerals within its limits. The controlling principle laid down to govern me in my action in these important concerns, by the Commission of the General Land Office, and approved by the Honorable Secretary of the Interior, is that I shall go no farther than the Mexican Government would have gone, had the sovereignty not changed.

The United States alone now

owns the minerals in the Aritac grant, Congress may in its generosity make a donation of the said minerals to you or any one else. Any just action on its part in the premises, will embrace a reservation of them in any and all confirmations of private land claims derived from Spain and Mexico.

Referring directly to the official survey of mines under direction of the Surveyor General, The Interior Department on Aug. 9, 1880, made this ruling, to-wit:

"The procuring of an official survey of a mining claim is, from its very nature, an ex parte proceeding, in which the claimant alone is interested. It prejudices the ~~the~~ rights of no one, and settles or decides nothing as regards the title of the claim." Lopp's Land Owner Sept. 1880 p 82.

Regarding the order for the survey of the Van Nostrand Mill site, aforesaid I have to say:

A mill-site claim can only

to be made upon non-mineral land, therefore if the said Van Nostrand Mill-site lies within the boundaries of La Aribac private land claim, an official survey and approval thereof ought not to be permitted at this time, if ever. Touching the locality of said mill-site claim, I have before me an explicit statement under oath (hereinbefore referred to) to the effect that it is without, and another statement, not under oath, that it lies within said boundaries.

The survey upon the ground was very likely made before your communication was received, but its approval will not be given unless after due investigation, the said site is found to be without the boundaries of the said Aribac land claim. That right action may be taken in this behalf, I have decided to call for additional testimony under oath, touching the relative locality of said mill-site with the boundary of the said La Aribac grant.

Therefore, I have set next Monday Dec. 13, 1880, at 10 o'clock of said day, to hear such testimony, and hereby give you notice to that effect,

very respectfully,
John Watsson,
Superintendent-General

Testimony in the Case.

U. S. Surveyor-General's Office.

Tucson, Arizona, Dec. 13. 10. Am. 1880.

In the matter of the location of the Van
Nostrand mill-site.

Present Charles D. Poston with his
attorney Messrs. Veyass and Price;
also John McCafferty with his attor-
neys Messrs. Buell and Bryant.

In accordance with notice given
to the parties interested of date Dec. 6,
1880, the aforesaid matter was called
up for hearing, and after some dis-
cussion, it was agreed ~~by both~~ ^{parties}
that the taking of testimony in the
case be postponed until Dec. 20,
1880 at 10, Am. and it was so
ordered.

John Wasson,

U. S. Surveyor-General.

Dec. 20. 11. Am. 1880.

The above matter coming on for hearing,
John McCafferty and his attorney James
Buell appeared, none others appearing, ^{and}
after an informal discussion
of the case, it was agreed that Mr.
McCafferty ~~could~~ ^{might} introduce his wit-
nesses and have them examined at
anytime to suit his convenience
without reference to the opposing party, by
cause of his non-appearance. John Wasson.

U. S. Surveyor-General.

Dec. 20. 2 P.M. 1880.

The foregoing case came on for ^{hearing} at re-
quest of John McCafferty.

Present John Mc Cafferty and his
attorney James Buell ^{and John Mc Cafferty}
being and sworn testifies as follows:

Ques 1. (All questions by Mr Buell.) Are you the
Superintendent of the Can. Min. & S.
D. M. Co.?

Ans. I am.

Ques. 2. Do the Van Nostrand Mine
and Van Nostrand Mill-site belong to that Co.

Ans. They do.

Ques. 3. Were you one of the locators
of the Van N. Mill-site?

Ans. I was.

Ques. 4. How long have you known
that ground there?

Ans. Over four years.

Ques. 5. Have you lived near there
most of the time for the last four
years?

Ans. I have except at short
intervals when I have been
absent on business.

Ques. 6. Do you know where the
monument to
the N. W. Cor. of the Anikibac
grant is?

Ans. I know where it is.

Ques. 7. Which direction and about
how far is it from the Van Nostrand
Mine?

Ans. ~~Ques. 8.~~ It is as near as I can
say a little ~~west~~ ^{east} of South a
mile and three quarters or two ^{miles}.

Ques. 8. Do you know where the
monument to the S. W. Cor. of the
alleged grant is?

Ans. I do.

Ques. 9. What direction and about how far is the S.W. Cor. from the N.W. Cor.?

Ans. In the neighborhood of these ^{two} miles, ~~it~~ ^{is} a little in a southwesterly direction.

Ques. 10. Have you been to these ^{two} monuments and examined them?

Ans. I have.

Ques. 11. ~~How~~ How do you know these are the monuments of that alleged grant?

Ans. By information furnished ^{me} by Dr. Halbur, James Walters and others who were officially connected with ~~Heintzelman~~ ^{and others} in their mining operations, and from general reputation in the neighborhood and the appearance of the monuments themselves.

Ques. 12. Were these monuments large and different from any other monuments in that section of country?

Ans. They were and are.

Ques. 13. Did you ever run a line with a compass or otherwise across the valley from ^{one} ~~one~~ ^{of these} monuments to ~~another~~ the other?

Ans. I do.

Ques. 14. Do the Van Nostrand mill-site west of the line you ran and if so how far?

Ans. It is northwest and at the nearest

point about eighty rods.

Ques. 15. What line of the grant, or what side of the grant, was this line you ran?

Ans. Northwestern side.

Ques. 16. Is the Van Nostrand mill site entirely outside of the ~~grantee~~ ^{tribe's} grant, and how near to the grant at the ^{point} ~~nearest~~?

Ans. To the best of my knowledge it is, and it is from a quarter to a half mile.

Ques. 17. What direction and about how far is the Van Nostrand mill site from the Van Nostrand mine?

Ans. In a southerly direction and about three-quarters of a mile.

Ques. 18. Did you point out these monuments to J. M. Allis, the Surveyor who surveyed the mine and mill site?

Ans. I did.

Ques. 19. Did you point out these monuments to Mr. Unthank and Prof. Cook, and Mr. Edward Hudson?

Ans. I have often conversed with Mr. Unthank concerning these ^{monu-}ments, but am not sure that I ever pointed them out to him while on the

ground. I have pointed them out to
 Prof. Cook and also to Mr. Anderson,

John McCafferty

subscribed and sworn to before
 me this 20th day of Dec. 1880, as
 witness my hand and seal.

John Mason

U. S. Surveyor.

Solon M. Allis being first duly
 sworn testified as follows to
 questions put by James Buell, attorney, ~~for~~
~~the United States of America~~

Ques. 1. Mr. Allis did you make the
 official survey of the Van Nes-
 troand Mine and Van Nest and
 Mill site?

Ans. I did.

Ques. 2. Did Mr. McCafferty point
 out to you the western monu-
 ments of the supposed tribe
 grant?

Ans. He pointed ^{out} the positions where
 they were supposed to be. I could
 not see them from where we
 stood.

Ques. 3. On which side of a line
 running from the Northwest
 to the South west monument,

would the Van Nostrand mill-site be?

Ans. It would be on the west side
 Nos. 4 About how far west from
 the line?

Ans. 4. I should judge about sixty
 rods.

Ques. 5. If those monuments are
 the western monuments of the
 grant, is the Van Nostrand mill-site
 west of and entirely outside
 of said grant?

Ans. I should say it was.

Solon M. Allis.

Sworn and subscribed before me
 this 20th day of Dec. 1880. as witness
 my hand and seal.

John Masson,

W. O. Dungeel.

E. H. Cook being first duly
 sworn testified as follows in an-
 swer to questions put by Mr. Buell.
 Ques. 1 Do you know the Van Nostrand mill-
 site?

Ans. I do.

Ques. 2. Do you know where the
 north west and south west corner

monuments of the Tribe & grant
are?

Ans. I do as pointed out to me
by Dr. Wilbur and Mr. McAfferty.
Ques 3 Do you know of the Stiz
family

Ans. I do not.

Ques. 4 A straight line running from
the northwest monument to the
southwest monument, ^{which}
side of the line would the
Van Arsdale mill sit be,
and how far distant?

Ans. On the west side and about
300 paces to the nearest point.

Ques. 5, Have you seen and examined
these monuments?

Ans. I have examined the N. W. Mon-
ument

Ques. 6 Did it have the appearance
of having been built recently or
many years ago?

Ans. It had the appearance of
having been built a long time ago.

E. A. Cook

Sworn and subscribed to before me this
20th day of Dec. 1880 as witness my
hand and seal.
John Masson,
U. S. Surveyor.

Mr. A. W. Vanstrank being first
 duly sworn testified as follows
~~regarding~~ in reply to questions by
 Mr. Bnell.

Ques. 1. Are you a surveyor?

Ans. I am.

Ques 2. Do you reside in Arivaca
 mining district or near there?

Ans. I do.

Ques. 3. Do you know where the
 northwest corner and southwest
 corner of the alleged Tribe Grant
 are?

Ans. I do as pointed out to me
 by the son ^{one of the} of Artiga whose father
 was supposed to own the ranch?

Ques. 4 Are the monuments he pointed
 out to you the same as those
 pointed out to you by Mc Cafferty?

Ans. The N.W. monument is the
 same, but the other is in the same
 locality but I could not swear
 to its exact locality as it was
 some distance off.

Ques 5. Do you know the Van Strand
 mill-site?

Ans. I do.

Ques. 6. Would the mill-site be west of
 a straight line drawn from the

northwest to the southwest corner of the grant, and if so how far west from it?

Ans. It would be west but how far I could not tell, not having sighted through there since the mill-site has been surveyed.

Ques. 7. Would the mill-site be entirely out of and west of the line?

Ans. It would be west of a line shown to me by Ortiz.

Ques. 8. About how far is it from the town of Ariveca to the Van Astrand mill-site?

Ans. Between $2\frac{3}{4}$ miles and three miles therefrom.

Ch. H. Wnthank

Sworn and subscribed to before me this 20th day of Dec. 1880, as witness my hand and seal.

John Masson,

U. S. Sur-Genl.

R. A. Wilbur being duly sworn testified as follows to questions put by Mr. Bull.

Ques. 1. Do you know the Van Astrand mill-site?

Ans. Yes Sir, I know the Mc Caffery mill-site. I suppose it is the same.

Ques. 2 Have you a ranch near there?

Ans. I have. It joins ~~near there~~ the mill-site.

Ques. 3 How long have you known that country?

Ans. Since June or July 1866.

Ques. 4 Do you know the monuments of the northwest and southwest corners of the Aribae grant?

Ans. I knowed in this way. I know them to be such by being told they were ~~such~~ by one of the original ~~owners~~ ^{claimants} of the grant.

Thomas Ortiz.

Ques. 5 Did he point out to you the monuments?

Ans. No he did not point them out, but he told me ^{of them} and described them to me, and where they were.

Ques. 6 When was this?

Ans. I think it was in 1869.

Ques. 7 Did you afterwards find the monuments whose he described them to you to be?

Ans. No Sir. I only found one of them, and the other I found the place where it was or was ~~at~~

posed to have been.

Ques. 8 ~~Are there~~ Was it the general reputation in that country that these were the monuments of that grant?

~~Ans. Yes Sir, that is the people~~

~~considered them as such~~

Ans. The older Mexican residents and myself believed them to be such.

Ques. 9 Which monument did you find up and all right, and which monument was down?

Ans. I found the ^{northwestern} ~~southwestern~~ all right and the ^{southwestern} ~~southwestern~~ was down or there was no monument there.

Ques. 10 Describe how it looks where the ^{southwestern} ~~northwestern~~ monument should have been?

Ans. There was no ^{piled up} rock there, but rock was scattered around.

It looked as though there had been a monument there. It was the only place I could find that ^{would} answer to the description given to me by Ortiz.

Ques. 11 Did you point out these N. W. and S. W. monuments to Mr. McCoy Bert? ?

Ans. Yes, I told him where they were as nearly as I could, ~~but~~ ^{without} taking

him to them. _____

- At 4:30 P.M. examination postponed until to-morrow at 9 A.M.

9:30 A.M. Dec. 21, 1880.

Present Mr. Bull who recalled and questioned the witness McLear as follows, viz:

Ques. 12 Is the plat you have before you a substantial representation of the relative position of the ^{McCafferty} or Van Austraund mill site and the Arbae grant.

Ans. Yes Sir.

Ques. (Mr. Bull here offers plat marked Exhibit "A" in evidence and it is filed as such.)

Ques. 13 On which side of a straight line drawn from said N. W. Cor. to ^{the} S. W. Cor. would the Van Austraund mill site fall?

Ans. It falls outside the grant and on the west side.

Ques. 14 About how far from the ~~line~~ nearest point to said line is the ^{the} mill site?

Ans. I think it would come somewhere between 150 and 300 feet ~~from~~ distant but I can't say for certain. I judge that ~~to be true~~

by looking from one monument
to the other.

Ques. 15 Do the mill-site entirely ^{cut}
side of and west of said grant?

Ans. To the best of my knowledge ^{and}
belief it is

Ques. 16 How far do they call it
from the town of Arivaca to
the Van Bostand mill-site?

Ans. They call it three miles but
I ~~hardly~~ think it is hardly
so far. I think it is $2\frac{3}{4}$ miles
therefrom. I guess there is no
doubt about that.

Ques. 17 Which way would any
one get the most pasture or grazing
lands by laying off said grant
two leagues long up and down
the valley or in a square body
with the town of Arivaca as
a center?

Ans. Laying it in a square body looking
east will give ^{and better} more ^{pasturage}
than in a narrow or long body.

Ques. 18 Is there a monument west
of the S.W. cor. of the grant?

Ans. There is.

Ques. 19. State what you know ^{about}
this monument.

Mrs. Jose Ariza told me that this monument was built by young Edgeston when he made his survey of the Cerro Colorado, Arivaca and Fraguita in 1865. and I myself saw on the stake in this monument a tin painted red and white the same as was placed in all the monuments erected by the said Edgeston in said survey. I first saw ~~this~~ this monument in 1866. Jose Ariza ~~also~~ referred to in this answer is now dead.

R. A. Wilbur



I was and subscribed to before me this 21st day of December 1880. as witness my hand and seal.

John Masson.

W. D. San-Guil.
