

REPORT EMBRACING BOUNDARY LINE LITIGATION

SECTIONS 16, 20 and 21, T. 2 N., R. 11 W., S. B. M.

Prepared under the Direction of

Alfred Jones, County Surveyor

January 1943

By E. T. Mankey, Deputy County Surveyor

W. H. NORWAY SURVEY (1875)

In 1875 W. H. Norway, United States Deputy Surveyor, executed the official survey of the subdivisional lines in the north half of T. 2 N., R. 11 W. which included the original establishment of the boundaries of Sections 16, 20 and 21 (C.S.9262). This survey was approved by the Commissioner of the General Land Office on April 3, 1876 and on April 6, 1876 the plat thereof was filed in the local land office at Los Angeles.

G. W. PEARSON SURVEY (1884)

In 1884 G. W. Pearson, United States Deputy Surveyor, ran the official subdivisional lines in the south half of T. 2 N., R. 11 W. (C.S.9266). His survey was approved September 15, 1884 and filed in the local land office at Los Angeles on October 3, 1884.

TITLE - SECTIONS 16, 20 AND 21

The presumption is that Section 16 being a school section was originally held in fee by the State of California.

On March 25, 1905 the South $\frac{1}{2}$ of the South $\frac{1}{2}$ of Section 16 was conveyed by the State of California to A. G. Strain.

Subsequently, in January 1922 the title to this property was conveyed to J. M. Beard who, presumably, is the present owner.

The United States Government has never relinquished claim to Sections 20 or 21.

LEGRAND FRIEL SURVEY (1924)

It appears that in 1924, upon recommendation of Mr. Charlton of the U. S. Forest Service, Mr. Beard retained the services of Legrand Friel to establish and monument the boundaries of the South $\frac{1}{2}$ of the South $\frac{1}{2}$ of Section 16.

On account of his failure to recover section or quarter section monuments of the Norway or Pearson surveys, Friel established the boundaries of the abovementioned property from calls to natural topographic monuments appearing in the field notes and on the plat of the

original Norway survey. (See sketch attached).

This survey disclosed that certain improvements presumably erected by predecessors of Beard and located within the boundaries of the South $\frac{1}{2}$ of the South $\frac{1}{2}$ of Section 16 as established by Friel, were in possession of the U. S. Forest Service under the direction of George H. Cecil, Supervisor of the Angeles National Forest.

BEARD VS. CECIL (S.C.C.171223)

On June 3, 1925 Beard brought action against Cecil in the Superior Court to recover possession of his property in accordance with the Friel boundaries (S.C.C.171223).

On March 31, 1926 judgment was entered in favor of the plaintiff, awarding him possession of said premises and placing him in possession by virtue of a writ of assistance issued by the court and served by the Sheriff of Los Angeles County.

SURVEYS BY AVERILL AND WILSON (G.S.9370)

On October 6, 1926 Beard was advised by D. R. Averill, U. S. Surveyor, that he had been officially authorized to resurvey T.2 N., R.11 W. to establish the location of the West Fork Ranger Station of the Angeles National Forest. Averill's notice of intention allowed Beard 30 days in which to file a protest against such resurvey.

Acting accordingly, Beard on October 23, 1926 filed a protest which was dismissed by the Commissioner of the General Land Office on November 12, 1926.

A later appeal before the Secretary of the Interior prepared by George H. P. Shaw and E. S. Brashears, attorneys for Beard, was presumably also dismissed. (Appeal Appended Hereto.)

In addition to the citation of a number of legal references, the principal argument protesting against the resurvey was "36 Stat. 884, U.S.C., title 43, sec. 772" approved June 25, 1910 which reads in part as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled - - - - -"

"That the Secretary of the Interior may, in his discretion, cause

to be made, as he may deem wise under the rectangular system now provided by law, such resurveys or retracements of the surveys of public lands as, after full investigation, he may deem essential to properly mark the boundaries of the public lands remaining undisposed of: PROVIDED, That no such resurvey or retracement shall be so executed as to impair the bona fide rights or claims of any claimant, entryman, or owner of lands affected by such resurvey or retracement."

Between November 10, 1926 and September 24, 1927, D. R. Averill, U. S. Surveyor, and R. F. Wilson, U. S. Transitman, executed the resurvey hereinabove mentioned (C.S.9370).

The exterior boundaries of the township were established by them as follows:

1. Northwest Township Corner
Recovered original government corner
2. Corner to Sections 2 and 3 on North Boundary
Recovered original government corner
3. Northeast Township Corner
Recovered original government corner
4. Southeast Township Corner
Established by double proportion between the northeast township corner; the corner to Sections 12, 13, 7 and 18 on the east boundary of T.1 N., R.11 W. as perpetuated by Friel; the corner to Sections 5, 6, 31 and 32 on the north line of T.1 N., R.9 W. as perpetuated by the County Surveyor and the departure of the corner to Sections 1, 6, 7 and 12 on the west boundary of T.1 N., R.11 W. as perpetuated by Cutting.
5. The Corner to Sections 31 and 32 on the South Boundary
Established at record latitude (160 ch.) north from the corner to Sections 7, 8, 17 and 18, T.1 N., R.11 W. as perpetuated by Buck and Hayes, and proportionally between the corner to Sections 5, 6, 31 and 32 on the north boundary of T.1 N., R.9 W. and the departure of the corner to Sections 1, 6, 7 and 12 on the west boundary of T.1 N., R.11 W. previously described.
6. The West Quarter Corners of Sections 6 and 7 and the Corner to Sections 6 and 7 on the West Boundary of the Township
Recovered original government corners
7. The West Quarter Corner of Section 30
Established by single proportion between the west $\frac{1}{4}$ corner, Section 7, T.2 N., R.11 W. and a granite stone accepted for the west $\frac{1}{4}$ corner of Section 6, T.1 N., R.11 W.
8. The Southwest Township Corner
Established at intersection of cardinal lines running south from the west $\frac{1}{4}$ corner of Section 30 and west from the southwest corner of Section 32.

9. Balance of Section and Quarter Section Corners on Exterior Lines of T.2 N., R.11 W.

Established by single proportionate measurement between the controlling corners hereinabove described.

Interior Corners - The northwest corners of Sections 32, 33 and 36 were established at proportionate distances between the northerly and southerly township lines and at record distance westerly from the corner to Sections 25 and 36 on the east boundary of the township.

All other interior section corners shown on the plat of the Averill and Wilson survey established by double proportionate measurement between respective exterior and interior controls hereinabove described in conformance with prescribed standards for the reestablishment of lost corners.

The Averill and Wilson corner to Sections 15, 16, 21, 22 established by their resurvey was placed some 72 chains north northeast from the corner to Sections 15, 16, 21, 22 as established by Friel. (See Sketch Attached.)

Similarly the Averill and Wilson corner to Sections 16, 17, 20, 21 was placed some 45 chains north northeast from the corner to Sections 16, 17, 20, 21 as established by Friel.

The Averill and Wilson resurvey was approved by the U. S. Supervisor of Surveys on November 28, 1927, accepted by the Commissioner of the General Land Office on December 14, 1927, and the plat filed in the U. S. Land Office at Los Angeles on December 27, 1928.

NORWAY AND PEARSON SURVEYS REJECTED

At some time during the interim between the initiation and completion of the Averill and Wilson resurvey, the Department of the Interior by official action rejected the original surveys by Norway and Pearson in T.2 N., R.11 W. (Book #52 Land Decisions)

U.S.A. vs. J. M. BEARD (U.S. D.C.C.#0-39-H)

On September 10, 1928 the U. S. A. brought action against J. M. Beard in the U. S. District Court, to regain possession, occupancy and

ownership of the West Fork Ranger Station site based on the returns and subdivisional lines of the Wilson and Averill resurvey. (U.S. D.C.C. #0-39-H)

Judgment was rendered in favor of the plaintiff on July 25, 1929, said judgment being later affirmed by the U. S. Circuit Court of Appeals for the Ninth Circuit Court.

This adjudication placed the West Fork Ranger Station site within Sections 20 and 21 and affirmed plaintiff's ownership of same.

The decision and appeal also affirmed the defendant's ownership of the south $\frac{1}{2}$ of the south $\frac{1}{2}$ of Section 16, T.2 N., R.11 W. but denied him any right title or interest in the parcel of land within the bounds of the Friel survey.

The Court in its judgment declared the Norway and Pearson surveys and plats false and fraudulent excepting for the following six corners, said corners being all in T.2 N., R.11 W.:

1. Northeast Corner Section 1
2. Northwest Corner Section 2
3. Northwest Corner Section 6
4. Southwest Corner Section 6
5. West $\frac{1}{4}$ Corner Section 6
6. West $\frac{1}{4}$ Corner Section 7

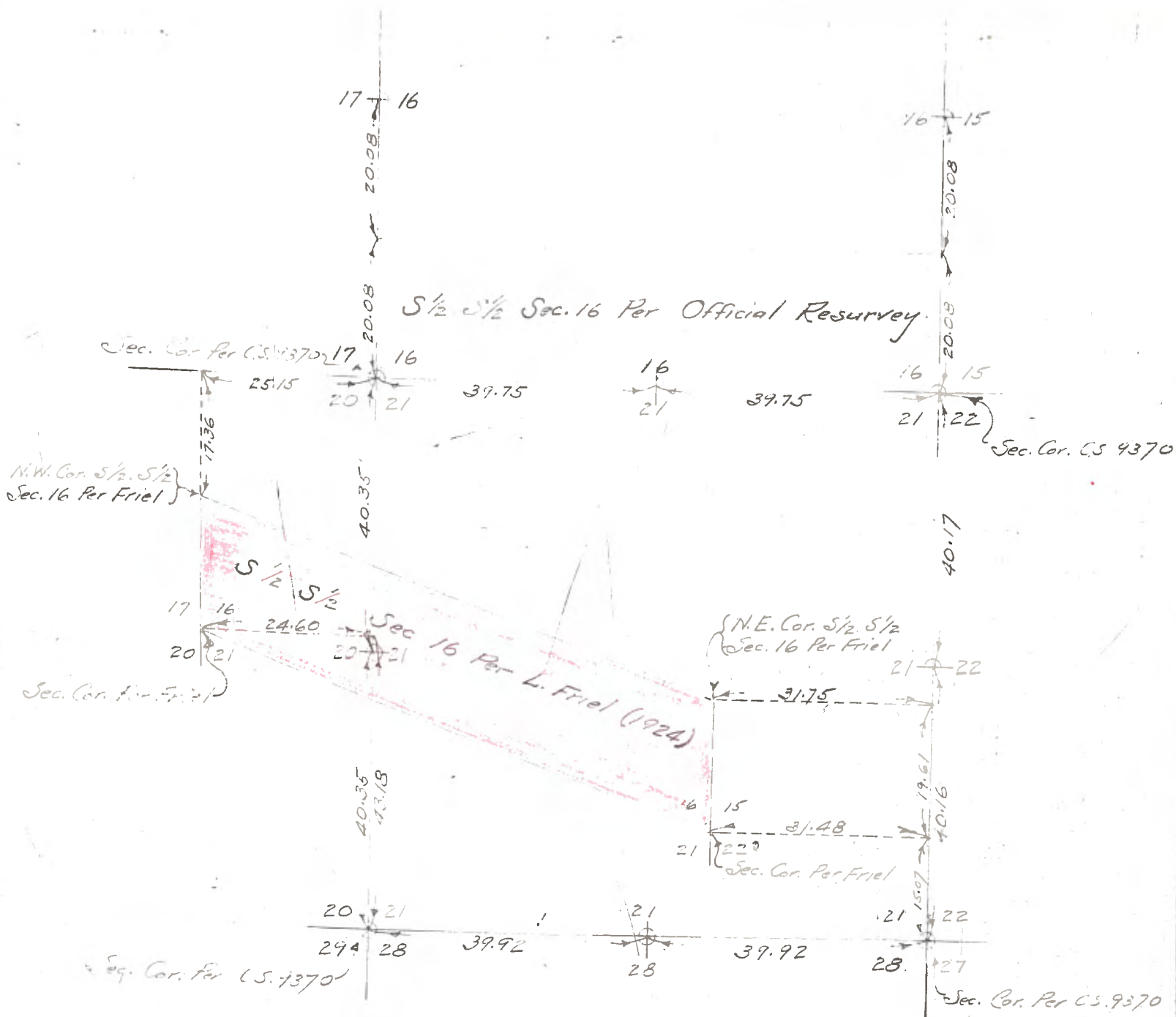
CONCLUSION

This judgment appears to be final, the defendant therein, together with his successors and assigns, being thereby forever enjoined and debarred from asserting any claim whatsoever in or to said land adverse to the plaintiff.

APPENDICES

1. Sketch showing relationship between the location of the south $\frac{1}{2}$ of the south $\frac{1}{2}$ of Section 16, T.2 N., R.11 W. as surveyed by Friel and the official resurvey by Averill and Wilson
2. Copy of Decision - J. M. Beard vs. George H. Cecil S.C.C.171223
3. List of Exhibits, Record of Enrollment and partial copy of Judgment - U.S.A. vs. J. M. Beard - U.S. D.C.C.#0-39-H
4. Copy of communication from the Commissioner of the General Land Office to J. M. Beard dated December 14, 1927 dismissing Beard's appeal against the Averill and Wilson resurvey and giving him 30 days in which to appeal to the Secretary of the Interior
5. Copy of Beard's appeal to the Secretary of the Interior prepared by his attorneys, George H. P. Shaw and E. S. Brashears

*For complete Appendices see
copy in General File, Main
Office.*



SKETCH SHOWING SURVEY OF SECTION 21 T. 2 N. R. 11 W., S.B.M.

BY- D.R. Averill, United States Surveyor & R.F. Wilson, U.S. Tie Line man in 1926 & 1927

Compiled From Field Notes of the Above Survey as Shown On CS. 9370

By, E.T. Mancey - January, 1943.

Scale - 1" = 20 Ch. (Approx)

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES

No. 171,223

Dept. No. 4

J. M. BEARD
Plaintiff
vs.
GEORGE H. CECIL
Defendant

Finding of Fact and Conclusions of Law

The above entitled action came on regularly for trial on the 9th day of February, 1926 before Hon. F. M. Jamison, Judge of the said Superior Court presiding, in Department 4 thereof, sitting without a jury (a jury having been expressly waived by the respective parties), the plaintiff appearing by his attorneys George H. P. Shaw, G. J. Milliron and Leo M. Daly, Esquires, and Samuel W. McNabb, Esc., United States Attorney, Donald Armstrong, Assistant United States Attorney, and H. B. Dechant, Esc., appearing upon behalf of the defendant; evidence oral and documentary was introduced on behalf of the respective parties; after argument of counsel and the cause having been submitted to the court for his decision, ~~judgment~~ after due deliberation, the court now files its decision in writing consisting of the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The plaintiff is, and at all times hereinafter mentioned has been, the owner in fee simple and entitled to the possession of all that certain tract of land situate in the County of Los Angeles, State of California, described in the complaint in the above entitled action

and hereinafter particularly described.

2. Prior to the commencement of this action, defendant without right entered into the possession of said land and ousted the plaintiff therefrom, and ever since and now wrongfully and unlawfully withholds the possession thereof from; plaintiff has not been damaged in the sum of One Hundred (\$100.00) Dollars or any other sum of at all.

3. Thereafter and before the bringing of this action, plaintiff demanded of the defendant the possession of said premises so wrongfully and unlawfully entered upon by the defendant, but the defendant then and there refused to deliver up the possession thereof to the plaintiff and still refuses so to do.

4. The rents, issues and profits of said premises from the time of said ousting while the plaintiff was being excluded therefrom by the defendant are not of the value of Four Hundred (\$400.00) Dollars, or any other sum, and are of no value.

CONCLUSIONS OF LAW

As conclusions of law from the foregoing facts, the Court finds that the plaintiff is entitled to judgment against the defendant as follows, to-wit:

That the plaintiff is, and at all times mentioned in the complaint on file herein has been, the owner in fee simple and entitled to the possession of that certain tract of land situate in the County of Los Angeles, State of California, described in the complaint and hereinafter particularly described; that the plaintiff do have and recover of and from the defendant the possession of that land, and to have issued to writ of execution of possession therefor; that the

plaintiff also have and recover of and from the defendant his costs and disbursements incurred in this action to be taxed herein.

That the premises described in the complaint in this action and herein referred to is all that certain tract of land situate in the County of Los Angeles State of California, and described as follows:

The South half of Southeast Quarter and South half of Southwest quarter of Section 16 in Township No. 2 North, Range No. 11 West, San Bernardino Meridian, containing 160 acres, more or less, together with all the privileges and appurtenances thereunto appertaining and belonging; and said above described premises are further particularly described and located as follows; to-wit:

Beginning at the corner common to Sec. 16, 17, 20 and 21, Township 2 North, Range 11 West, San Bernardino Meridian, said corner being further witnessed by a 2 inch iron pipe set at the foot of the mountains and on the South side of the West Fork of the San Gabriel River, and said corner being some 2000 feet more or less East of where an old trail crosses said West fork of the San Gabriel River and also about 1300 feet southwesterly from the forks of said West Fork of the San Gabriel River and Short Cut Canyon; thence North on the line between said Sec. 16 and 17, a distance of 20 chains to the Northwest corner of the South half of the South half of said section 16, as follows, to-wit: At a point on said line between said Sec. 16 and 17 distant 1.10 chains North from said point of beginning, said line crosses the center of the present channel of the West Fork of the San Gabriel River, the course of said river being southeast; continuing along said line and at a point thereon distant 2.35 chains North from the point of beginning, said line crosses the center of an old channel of the West Fork of the San Gabriel River, the course of said river being East; continuing along said line and at a point thereon distant 4.85 chains North from the point of beginning, said line leaves Canada and then ascends over foothills and to Northwest corner of the South half of the South half of said Sec. 16, said corner being witnessed by a 2 inch iron pipe, and distant from the point of beginning 20 chains; from said Northwest corner; thence South $69^{\circ}57'$ East 78 chains to the northeast corner of the South half of the South half of said Sec. 16, said corner being witnessed by a 2 inch iron pipe; thence South on the line between Sec. 15 and 16 of said Township 20 chains to the corner common to Sec. 15, 16, 21 and 22 of said Township, as follows:

Commencing at said Northeast corner, said line descends hills and at a point thereon distant 12.50 chains South of said Northeast corner, said line crosses the center of the West Fork of the San Gabriel River, the course of said

West Fork being Southeast; continuing along said line it ascends mountains to the corner common to Sections 15, 16, 21 and 22 of said township, which last named corner is further witnessed by a 2 inch iron pipe and is distant 20 chains from said Northeast corner of the South half of the South half of said Sec. 16, from said corner common to Sec. 15, 16, 21 and 22 of said Township; thence North 69°57' West on the line between Sec. 16 and 21 of said Township, a distance of 78 chains to the place of beginning, as follows: From said last-named common corner said line runs on North slope of hills and a point thereon 77 chains from said last-named common corner said line enters the Canada of said West Fork of the San Gabriel River; thence continuing along said line to the corner common to Sec. 16, 17, 20 and 21, being the place of beginning, last named corner being distant 73 chains from said corner common to said Sec. 15, 16, 21 and 22.

Let judgment be rendered and entered accordingly.

Dated: April 27th, 1926.

F. W. Jamison

Judge of the Superior Court,
Presiding.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES

Department No. 4

NO. 171,223

J. M. BEARD
Plaintiff

vs.

GEORGE H. CECIL
Defendant

JUDGMENT

The above entitled action came on regularly for trial on the 9th day of February, 1926 before Hon. F. M. Jamison, Judge of the said Superior Court presiding, in Department 4 thereof, sitting without a jury (a jury having been expressly waived by the respective parties), the plaintiff appearing by his attorneys George H. P. Shaw, G. J. Millron and Leo M. Daly, Esquires, and Samuel W. McNabb, Esq., United States Attorney, Donald Armstrong Assistant United States Attorney, and H. B. Dechant, Esq., appearing upon behalf of the defendant; evidence oral and documentary was introduced on behalf of the respective parties; after argument of counsel and the cause having been submitted to the court for decision in writing wherein it ordered that judgment be rendered and entered in favor of the plaintiff and against the defendant, as therein and hereinafter set forth; wherefore

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the plaintiff is, and at all times hereinafter mentioned has been, the owner in fee simple and entitled to the possession of all that certain tract of land situate in the County of Los Angeles, State of California, described in the complaint and hereinafter particularly described; that the plaintiff to have and recover of and from the defendant the

possession of said land, and to have issued a writ of execution of possession therefor; that the plaintiff also have and recover from the defendant his costs and disbursements incurred in this action taxed at the sum of \$86.05.

That the premises described in the complaint in this action and herein referred to is all that certain tract of land situate in the County of Los Angeles, State of California and described as follows:

The south half of Southeast quarter and South half of Southwest quarter of Section 16, in Township No. 2 North, Range No. 11 West, San Bernardino Meridian, containing 160 acres, more or less, together with all the privileges and appurtenance thereunto appertaining and belonging: and said above described premises are further particularly described and located as follows, to-wit:

Beginning at the corner common to Sec. 16, 17, 20 and 21, T. 2 N., R. 11 W., San Bernardino Meridian, said corner being further witness by a 2 inch iron pipe set at the foot of the mountains and on the South side of the West Fork of the San Gabriel River, and said corner being some 2000 feet more or less East of where an old trail crosses said West Fork of the San Gabriel River and also about 1300 feet southwesterly from the forks of said West Fork of the San Gabriel River and Short Cut Canyon; thence North on the line between said Sec. 16 and 17, a distance of 20 chains to the Northwest corner of the South half of the South half of said section 16, as follows, to-wit:

At a point on said line between said Sec. 16 and 17 distant 1.10 chains North from said point of beginning, said line crosses the center of the present channel of the West Fork of the San Gabriel River, the course of said river being Southeast; continuing along said line and at a point thereon distant 2.35 chains North from the point of beginning, said line crosses the center of an old channel of the West Fork of the San Gabriel River, the Course of said river being East; continuing along said line and at a point thereon distant 4.85 chains North from the point of beginning, said line leaves Canada and then ascends over foothills and to Northwest corner of the South half of the South half of said Sec. 16, said corner being witnessed by a 2 inch iron pipe, and distant from the point of beginning 20 chains; from said Northwest corner; thence South $69^{\circ}57'$ East 78 chains to the Northeast corner of the

South half of the South half of said Sec. 16, said corner being witnessed by a 2 inch iron pipe; thence South on the line between Sec. 15 and 16 of said Township 20 chains to the corner common to Sec. 15, 16, 21 and 22 of said Township, as follows:

Commencing at said Northeast corner, said line descends hills and at a point thereon distant 12.50 chains South of said Northeast corner, said line crosses the center of the West Fork of the San Gabriel River, the course of said West Fork being Southeast; continuing along said line it ascends mountains to the corner common to Sections 15, 16, 21 and 22 of said township, which last named corner is further witnessed by a 2 inch iron pipe and is distant 20 chains from said Northeast corner of the South half of the South half of said Sec. 16, from said corner common to Sec. 15, 16, 21 and 22 of said Township; thence North 69°57' West on the line between Secs. 16 and 21, said township a distance of 78 chains to the place of beginning, as follows:

From said last-named common corner said line runs on North slope of hills and a point thereon 77 chains from said last-named common corner said line enters the Canada of said West Fork of the San Gabriel River; thence continuing along said line to the corner common to Sec. 16, 17, 20 and 21, being the place of beginning, last named corner being distant 78 chains from said corner common to said Sec. 15, 16, 21 and 22.

~~Let judgment be rendered and entered accordingly.~~

Dated: April 27th, 1926

F. M. Jamison
Judge of the Superior Court,
Presiding.