

- Gates, C. W. 1893. Letter to H. Banning, 31 March.
- Gay, M. 1989. A brief look at the ecology of Santa Catalina Island. *Conservancy Times*. Catalina Conservancy, Avalon, p. 1.
- Guinn, J. M. 1890. An early mining boom on Santa Catalina. *Overland Monthly*, November, pp. 476-479.
- Hayes, J. 1872. Sheep Farming in California. *Overland Monthly*, June, pp. 489-497.
- Hyacinth, S. 1870. A flock of wool. *Overland Monthly*, February, pp. 141-146.
- Hyder, B. 1986a. Interviewed by S. Januck, 4 June. Unpublished.
- Hyder, B. 1986b. Interviewed by M. Daily, 1 August. Unpublished.
- Johnson, K. Santa Catalina Island from 1840s to 1900s. Unpublished manuscript prepared under the auspices of Los Angeles County.
- Lester, E. 1974. The legendary king of San Miguel. McNally and Loftin, Santa Barbara, California, 90 pp.
- Milne, R. D. 1880. Shepherds and sheep herding. *The Californian*, February, pp. 224-228.
- Powers, B. 1988. Cowboy country. Arthur H. Clark Co., Glendale, California.
- Powers, S. 1884. The clothier of civilization. *Overland Monthly*, April, pp. 438-444.
- Propst, A. D. 1993a. Interviewed by P. G. O'Malley, 12 May. Unpublished. Channel Islands Archives, Santa Barbara Museum of Natural History, Santa Barbara, California.
- Propst, A. D. 1993b. Interviewed by P. G. O'Malley, 28 June. Channel Islands Archives, Santa Barbara Museum of Natural History, Santa Barbara, California.
- Renton, M. 1993. Interviewed by P. G. O'Malley, 9 July. Unpublished. Channel Islands Archives, Santa Barbara Museum of Natural History, Santa Barbara, California.
- Roberts, L. J. 1989. Sheep ranching on San Miguel Island. *Northern Channel Islands Anthology*. Santa Cruz Island Foundation, Santa Barbara, California, pp. 147-177.
- Roberts, L. J. 1991. San Miguel Island. Cal Rim Books, Carmel, California.
- Robinson, W. W. 1948. Land in California. University of California Press, Berkeley, California.
- Sanders, F. 1968. Waterlines, 4th quarter. Santa Catalina Island Company, Avalon, California, p. 10.
- Sheep ranching file. Catalina Island Museum and Historical Society. Unpublished.
- Smith, R. T. 1899. One of California's desert islands. *Land of Sunshine*, January, pp. 65-71.
- Swanson, M. T. 1993. Historic sheep ranching on San Nicolas Island. Technical Research, Inc. Technical Series No. 41. Draft, unpublished.
- U.S. Soil Conservation Service. 1954. Reconnaissance survey to appraise the current and future range resources, Catalina Island.
- Vail, W. T. 1892a. Letter to H. Banning, 2 April. The Huntington Library, San Marino, California.
- Vail, W. T. 1892a. Letter to W. Banning, 4 April. The Huntington Library, San Marino, California.
- Vail, W. T. 1893. Letter to W. Banning, 7 January. The Huntington Library, San Marino, California.
- Van Vuren, D. 1980. The feral sheep on Santa Cruz Island—biology and management recommendations. Unpublished.
- Warren, E., Jr. The agriculture of Santa Cruz Island. University of California, School of Agriculture, Davis. Unpublished.
- Winslow, W. L., and Thomas, J. H. San Nicolas Island, Channel Islands, Ventura County, California: a library brochure. Unpublished.
- Whittle, F. P., and Vail, W. L. March 23, 1892. San Marino. The Huntington Library.

## Santa Cruz Island: Conflict in the Courts

John Gherini

1114 State Street, Suite 230, Santa Barbara, CA 93101  
 Tel. (805) 966-4155; Fax (805) 963-4490

**Abstract.** Past lawsuits from Santa Cruz Island concerned questions of title, control of family corporations and environmental protection. United States Supreme Court decided in 1860 the first significant lawsuit involving the issue of ownership and confirmed the land grant of the island to Andres Castillero. One-hundred and twenty-four years later, the Chumash Indians filed a lawsuit claiming ownership of Santa Cruz and Santa Rosa islands. The Ninth Circuit Court of Appeal in 1986 denied their claim. Santa Cruz Island Company, formed in 1869, experienced the most significant litigation, lasting from 1912 to 1932. This litigation involved the rights of shareholders and control of the Caire family corporation, and resulted in the break up of the company and partition of the island. There were 7 published decisions by California appellate courts during the span of 20 yr. The most recent area of conflict involved environmental protection of the island. The California Court of Appeal in 1988 upheld stringent land use regulations imposed by the California Coastal Commission.

**Keywords:** Santa Cruz Island; California Supreme Court; Channel Islands National Park; Andres Castillero; The Treaty of Guadalupe Hidalgo; Land Commission; Act of March 3, 1851; William E. Barron; Justinian Caire; Santa Cruz Island Company; Chumash Indians; United States Supreme Court; Ninth Circuit Court of Appeals; California Environmental Quality Act; California Coastal Commission; Stanton; The Nature Conservancy; Rossi; Caire; Capuccio; Ringrose; Gherini; trustees.

### Introduction

Santa Cruz Island, the largest of the California Channel Islands, is located approximately 22 mi off the coast of Santa Barbara and Ventura counties. It is situated in an almost east and west line along the Santa Barbara Channel, is nearly 25 mi long, and at mid length is approximately 8 mi wide. The land mass of the island consists of 60,742 a. of diverse terrain. It is part of the Channel Islands National Park, although The Nature Conservancy owns nearly 90% of Santa Cruz Island, an inholding within the park. The social history of Santa Cruz Island is replete with significant litigation that involved issues of title, corporate control and the environmental protection of

the island. This litigation offers insight into the intriguing historical background of the island.

### *Conflict over title*

Andres Castillero, who was the first private owner of Santa Cruz Island, received a land grant of the island from Mexico in 1839 (Patent from United States of America to Andres Castillero). Castillero owned the island from 1839 to 1857. The purpose of the land grant was to reward him for his diplomatic services to Mexico in the 1830s. Castillero had negotiated a peaceful settlement of the revolt in California against the Mexican government, which governed California from 1822 to 1848 (Tays 1935). The Republic of Mexico and the United States later engaged in a conflict known as the Mexican-American War (1846-1848). The Treaty of Guadalupe Hidalgo, signed in 1848 by the United States and the Republic of Mexico, ended the war. The Treaty ceded New Mexico, Utah, Nevada, Arizona, and California, including the coastal islands, to the United States. This raised immediate concern as to the validity of the land grants. By the terms of the treaty, the United States attempted to protect the private property rights of former Mexican citizens residing in the territories to be ceded to the United States. The Congress enacted a law called the Act of March 3, 1851, to establish procedures for settling once and for all any claims concerning title to California land.

The Act of 1851 established a Land Commission consisting of a board of three commissioners with a secretary and a law agent skilled in Spanish. The terms of the commissioners were for 3 yr. The board was authorized to administer oaths and take evidence. Any person claiming an interest in land in California under a Spanish or Mexican title was required to file a claim with the necessary documents and other evidence with the board within 2 yr for adjudication, or thereafter be barred. The review process allowed an appeal to the U.S. District Court that could take additional evidence, and ultimately to the U.S. Supreme Court. All lands for which there were rejected claims would remain in the public domain. The surveyor-general surveyed all confirmed claims, and on the presentment of the claimant's certificate and plat, issued a

patent. The patent was conclusive against the United States but would not affect the rights of third parties (Bancroft 1884-1890).

On 13 April 1852, Castellero filed a petition with the Land Commission to confirm his Mexican land grant of Santa Cruz Island. The petition, however, did not go uncontested. Jose Antonio Aguirre, who described himself as a merchant of the Port of Santa Barbara, was an agent for Castellero, and he filed a claim. In support of Aguirre's claim, Governor Juan B. Alvarado, who was appointed governor on the recommendation of Castellero, testified against him before the commission on 25 September 1854. Alvarado testified that Castellero had told him that he promised to Aguirre one-half of the Island for taking care of it (Castillero transcript N. 176 ca. 1864). He stated that Castellero told him this in 1838 and that Castellero had not returned to the area from Mexico after 1847 (Castillero transcript N. 176 ca. 1864). In addition to Aguirre's claim, James R. Bolton also claimed an ownership interest in the island (Francisco de la Guerra Indenture 1851). He stated that he purchased his one-half interest in June of 1851 for the sum of \$130 from Francisco de la Guerra, who had allegedly acquired the south half of the island for \$26 at a tax sale (Maria de la Guerra 1850). Castellero presented evidence that his agent, Dr. James B. Shaw, paid the taxes (Castillero transcript N. 176 ca. 1864).

The land commissioners confirmed Castellero's title on 3 July 1855 and rejected the claims of Aguirre and Bolton. The U.S. government, arguing that Castellero's claim was invalid, appealed the decision. Nevertheless, the Federal District Court for the Southern District of California affirmed the commissioners' decision in January 1857. Ultimately, the U.S. Supreme Court also upheld the decision in April 1860, 3 yr after Castellero sold the island to William E. Barron (*United States v Castellero* 1860). In its review, the Supreme Court determined, among other issues, that the 1839 grant to Castellero was valid under Mexican law. In addition, the court noted that the documentary evidence presented in support of the Castellero claim was credible in that the documents were found in the Mexican archives, and the signatures of the documents identified (*United States v Castellero* 1860).

After the confirmation of Castellero's title, a survey was made, and a patent was issued to him on 21 March 1867 by the U.S. government. The patent, signed by President Andrew Johnson, stated that the island has as ". . . its boundaries the water's edge" (Island patent 1869). The patent also reserved to the U.S. government the right to select 100 a. for lighthouse purposes at such point or points as may thereafter be designated with the right of way to and from the same, across the island.

The intent of the Treaty of Guadalupe Hidalgo was to protect land titles in California acquired under

Mexican rule. In explaining the purpose of the treaty, the U.S. Supreme Court observed in another case: ". . . The country was new, and rich in mineral wealth, and attracted settlers, whose industry and enterprise produced an unparalleled state of prosperity. The enhanced value given to the whole surface of the country by the discovery of gold, made it necessary to ascertain and settle all private land claims. . ." (*Peralta v United States* 1866).

The Chumash Indians, who inhabited the Channel Islands, including Santa Cruz Island, as early as 8000 B.C., also challenged the title to the island in a lawsuit filed in June of 1984—124 yr after Castellero had his title confirmed by the U.S. Supreme Court. The Chumash culture was evident not only on the Northern Channel Islands but also along the central coast of California from San Luis Obispo to Malibu. They lived in small villages called *rancherías* on the Channel Islands until approximately 1822 (Orr 1943; Miller 1988). In their suit, they sought declaratory relief, damages for trespass and conversion, injunctive relief and attorney fees. (*United States ex rel. Chunie v Ringrose* 1986). The Chumash argued that they did not have to follow the claim procedures because they based their claim on "aboriginal title." They argued that the Treaty of Guadalupe Hidalgo did not specifically mention the island.

The Chumash claim was not successful. The Federal District Court in Los Angeles dismissed the case on 29 November 1984, but the Chumash appealed. The Ninth Circuit Court of Appeals affirmed the decision by noting that even though the Mexican government's grant did not extinguish their aboriginal title, they lost all rights when they failed to present their claims pursuant to the Treaty of Guadalupe Hidalgo and the Act of 1851. (*United States ex rel. Chunie v Ringrose* 1986). The Ninth Circuit Court noted that ". . . the absence of any reference to the island in the Treaty of Guadalupe Hidalgo is explained by the fact the treaty drafters were primarily concerned with the latitudinal boundary between the two countries" (*United States ex rel. Chunie v Ringrose* 1986). The court also observed that the treaty had 2 maps attached to it: "The Disturnell Map," which includes the islands, and "The Pantoja Map," which does not. The maps, however, were not conclusive on the issue of whether the islands were a part of the treaty since the U.S. Supreme Court had already decided that the Treaty included the islands (*United States ex rel. Chunie v Ringrose* 1986). The failure of the Indians to file their claims under the claims procedures established in 1851 was fatal to their case.

#### *Litigation over the conduct of island business*

The next area of litigation involved the heirs of Justinian Caire, who came to San Francisco in 1851 to start a small hardware business. His business became quite successful, and he began to invest his money in other ven-

tures. In 1869, Caire was one of 10 investors who purchased Santa Cruz Island from William E. Barron, who had purchased the island from Andres Castellero in 1857. During the Barron era (1857-1868), a large sheep operation was established on the island. A few days after acquiring the island, Caire and the other investors formed a corporation called the Santa Cruz Island Company. In the 1870s, the company experienced financial difficulties; Caire purchased the shares of stock of the other investors and became the sole shareholder by 1880.

During the next 17 yr, Justinian Caire, as the sole shareholder of the Santa Cruz Island Company, built an island enterprise that was unique to California history. Pursuant to a carefully analyzed master plan, Caire established a vineyard that eventually became the largest in Santa Barbara County, expanded the already significant sheep operation and introduced additional cattle onto the island. His company divided the island into 10 ranches and constructed beautiful 2-story adobe structures in the style of Italian Renaissance at some of these ranches. The company, under the direction of Caire, excavated and graded roads across the vast island; installed a telephone system; dug wells and built reservoirs as part of the island's water system. Artisans hired by Caire designed and erected other significant buildings, including warehouses, a winery, and even a chapel. The company also had its own vessel, the *Santa Cruz*, built in 1893. At times, the company had as many as 100 workers employed on the island (Daily and Stanton 1989).

Despite the success of his enterprising island operation, Justinian Caire's family was not without turmoil. Justinian and Albina Caire, had 6 children who lived to adulthood: Delphine Caire (1856-1949), Arthur Caire (1859-1942), Amelie Caire Rossi (1862-1917), Aglae Caire Capuccio (1864-1943), Frederic Caire (1865-1950), and Helene Caire (1867-1929). Arthur and Frederic were actively involved with Justinian Caire's businesses, including the Santa Cruz Island Company. In his will, Justinian stated that if his wife died before him he wanted all his estate to go equally to his children (*In the Matter of the Estate of Justinian Caire* 1898). Prior to his death, however, he transferred all 100 shares of stock of the Santa Cruz Island Company, as well as most of his other assets, to his wife, Albina.

The halcyon island ranch days, however, ended with Justinian Caire's death in Oakland, California on 10 December 1897. After Caire's death, his widow, Albina, began transferring shares of the Santa Cruz Island Company to her children. The distributions at first were in equal shares, but subsequent distributions favored some children over others. Albina also made changes to her will that clearly showed she favored her sons and unmarried daughters over her married daughters, Amelie Caire Rossi and Aglae Caire Capuccio. There also developed a desire by other Caire children, particularly Arthur and Frederic

Caire, to control the Santa Cruz Island Company. Subsequent events fractured the Caire family into 2 distinct groups and plunged Justinian Caire's heirs into 20 yr of litigation lasting from 1912 to 1932 that involved 7 appeals to the California Supreme Court and 1 appeal to the California Court of Appeals.

Ironically, the litigation was precipitated in November of 1911 by the failure of those in control to pay a \$5 license tax for the Santa Cruz Island Company. Under a corporation law enacted in 1905, the non payment of the license tax resulted in the forfeiture of the corporate charter. The law at that time stated that the directors were trustees for all the shareholders and were obligated to liquidate the corporation and distribute the assets to the shareholders. Therefore, during the litigation, the majority directors were referred to as "Trustees." The 20 yr of litigation can be broken down into 4 areas: (1) the lawsuit seeking an injunction; (2) the accounting action; (3) the partition of the island, including the appraisal and survey; and (4) litigation concerning who should pay the attorney fees.

At the time of the forfeiture of the corporate charter, Albina Caire and each of her children were shareholders of the Santa Cruz Island Company, which up to that time was a California corporation. The division of the 100 shares of the Santa Cruz Island Company stock was as follows: Albina had 45 shares; Frederick and Arthur each had 12 shares; Delphine had 10 shares; and Helene, Amelie, and Aglae had 7 shares each.<sup>1</sup> Albina and 4 of her children—Frederic, Arthur, Delphine, and Aglae—were the directors of the company, which paid no dividends and made no distributions to its shareholders.

Shortly after the forfeiture of the charter, the directors of the defunct corporation, other than Aglae Caire Capuccio, attempted to rehabilitate the company. Capuccio, as the dissenting director, at all times refused to consent to the rehabilitation of the corporation and refused to participate in any of the meetings of the directors.<sup>2</sup>

The Santa Cruz Island Company shares of stock were all that Amelie Caire Rossi and Aglae Caire Capuccio, the only 2 married Caire sisters, received out of their father's vast island enterprise and estate and would have been worthless if the charter of the Santa Cruz Island Company had not been forfeited and if they had not pursued their legal rights as shareholders of the company (Gherini 1937). This fact, coupled with the fact that Amelie and Aglae were virtually disinherited from the balance of Justinian Caire's fortune, served to heighten the tension within the Caire family.

The division of the Caire family was clearly defined. On 1 side, there was Albina Caire and 4 of her children, Arthur, Frederic, Delphine, and Helene. They were the majority shareholders who held 86 shares of the company stock. Except for Helene, these shareholders were also the majority members of the board of directors. On the

other side of the family dispute, there was Aglae Caire Capuccio and Amelie Caire Rossi, who were the only married daughters of Justinian Caire. On 23 May 1912, Amelie Caire Rossi, who was not in good health, transferred her shares to her son, Edmund Rossi, to manage for her. Both Rossi and Capuccio were united in their efforts against the trustees throughout the litigation.

The first legal gambit was made by Edmund Rossi, who filed a suit for an injunction on 12 July 1912. The purpose of the suit was to enjoin the controlling directors of the Santa Cruz Island Company from carrying on the business of the corporation and to compel them to wind up the affairs of the corporation by paying all of its debts and by distributing the corporate assets to the shareholders in proportion to their interest. While the trial court ruled for Rossi, this ruling was reversed by the California Supreme Court (*Rossi v Caire* 174 Cal 74 1916). The Supreme Court noted that the 1905 law and its amendments not only provided that a corporate charter would be forfeited if the license tax was not paid but also made the directors trustees for the shareholders in settling the affairs of the company. The court held that an injunction was not proper at that time and that the directors did not breach their duties since the affairs of the company were not in a condition to require immediate liquidation and distribution of the assets. The Supreme Court, however, stated that since the corporation ceased to exist, "it is no longer capable of holding title or the possession; the property belongs to the persons who were its stockholders at the time it ceased to be a corporation . . . and the right of possession passes to the directors by force of the statute making them trustees to settle the corporate affairs, since such right must be necessary for that purpose" (*Rossi v Caire* 174 Cal 74 1919). Despite the fact that this case significantly defined the rights and obligations of the parties, the litigation continued for years.

The next legal action was a lawsuit filed by Edmund Rossi for an accounting on 28 August 1917. Since the corporation was required to be dissolved, an accounting would identify all the assets of the company that had to be distributed to the shareholders. The trustees opposed the accounting and moved the court to dismiss the accounting lawsuit. The trial court granted the motion, but this decision was reversed by the Court of Appeal, which held that since the corporation had to be dissolved an accounting was proper (*Rossi v Caire*, 39 Cal App. 776).

The case was sent back for trial, but the trustees then raised the argument that they had revived the corporation and paid the necessary fees and penalties under an amendment of the license act that became effective in 1913. As a revived corporation, the trustees contended that the corporation did not have to be dissolved and that an accounting was not necessary. The trial court again ruled in the trustees' favor and Edmund Rossi and Aglae Caire Capuccio again appealed.

In 1921, the California Supreme Court reversed the trial court and ruled in favor of Edmund Rossi and Aglae Caire Capuccio. The court held that as a result of the forfeiture of the corporate charter, the corporation died and could not be revived without the consent of all the shareholders (*Rossi v Caire*, 186 Cal 544 1921). Clearly, Rossi and Capuccio did not consent. The case was sent back to the trial court, which then ruled on 7 December 1921, that the trustees were negligent in failing to liquidate and settle the affairs of the dissolved corporation. An appeal from this order was made by the trustees, but the appeal was dismissed by the Supreme Court in 1922 on the technical ground that the appeal was not proper because it was an appeal of a non-appealable order (*Rossi v Caire*, No. S.F. 10233 1922). Eventually, an accounting was made, and the court ordered payment of money to Rossi and Capuccio. Even the schooner *Santa Cruz* was ordered to be sold, and Arthur Caire purchased it. The accounting litigation lasted until 1930.

The next significant area of litigation among the Caires was the partition of the island. A partition is a legal action to divide lands held by joint owners (Black 1968). A lawsuit for partition was filed by Edmund Rossi and Aglae Caire Capuccio on 16 May 1918. After the California Supreme Court held in 1921 that the corporation had "died" and had to be liquidated as a result of the non payment of the tax, the next step involved the distribution of the corporation's largest asset, namely, Santa Cruz Island. Because of the forfeiture of the corporate existence, the California Supreme Court held that the corporation's shareholders jointly owned the real estate of the corporation as tenants in common. The island would either have to be sold or physically divided in proportion to the shareholder's interest in the corporation.

The trial court ruled that the island could be physically partitioned. The trustees, however, objected to the partition and appealed. To no avail, the California Supreme Court held that Edmund Rossi and Aglae Caire Capuccio were entitled to partition the island, and the case was sent back to the trial court for a trial on the partition (*Capuccio v Caire*, 189 Cal 514 1922). The trial court appointed F. F. Flournoy, George W. McComber, and H. J. Doulton as referees to value and survey the entire island, and to recommend to the court how the property should be divided. The survey work took 238 days, and the referees recommended dividing the island into 7 parcels. Parcel 6 was designated for Aglae Caire Capuccio and Parcel 7 was designated to Edmund Rossi.<sup>3</sup> The trial court approved the referees' division on 16 November 1925.

The physical division of the island rancho did not end the litigation. Since Edmund Rossi and Aglae Caire Capuccio were ruled to be the prevailing parties, the trial court ruled that they were entitled to have their attorney fees paid by the trustees. This decision was appealed, but in

1929 the California Supreme Court affirmed the trial court ruling (*Capuccio v Caire* 207 Cal 200 1929). The next issue was to determine the amount of such fees. The trial court awarded \$75,000, but the trustees again appealed. In 1932, the California Supreme Court again ruled in favor of Rossi and Capuccio by deciding that the amount was reasonable (*Capuccio v Caire*, 215 Cal 518 1932).

Maria Rossi Gherini, granddaughter of Justinian Caire, eventually acquired the interests of her brothers and sisters, who were represented by Edmund and the interest of her aunt, Aglae. This section (Parcels 6 and 7) of the island situated on the east end became known as the Gherini Ranch. The National Park Service currently owns an undivided 75% of Parcels 6 and 7 and is currently working on acquiring the other undivided quarter interest as part of Channel Islands National Park. The other descendants of Justinian Caire sold their interests to Edwin Stanton in 1937. After Stanton's death in 1963, his son, Dr. Carey Stanton, managed the island under the Santa Cruz Island Company, which had been revived. Dr. Stanton owned two-thirds of the common stock and his nephew, Edwin Stanton III, owned one-third of the stock. Dr. Stanton later entered into a complex agreement with The Nature Conservancy in 1978. As part of the agreement, the Nature Conservancy purchased the interest of Edwin Stanton III for \$1 million in order to settle a lawsuit the nephew had filed against Dr. Stanton.<sup>4</sup> The Nature Conservancy then paid Dr. Stanton \$1 million and acquired 12,000 a., which they then leased back to the Santa Cruz Island Company controlled by Dr. Stanton. He then donated a conservation easement and retained a life estate in the remainder of his property. Under the agreement, The Nature Conservancy would succeed to the balance of the property on Dr. Stanton's death, which occurred on 8 December 1987.

#### *Environmental litigation*

Historically, there had been numerous exploratory oil drillings on the island. The Santa Cruz Island Company entered into a drilling lease with Standard Oil Company of California as early as 1929 (Standard Oil lease 1930). In the late 1960s, Justinian Caire's descendants encountered new challenges in the form of the environmental movement. One of the catalysts for the movement was the nationally publicized Union Oil spill in January 1969. The oil-tarnished Santa Barbara Channel forever etched environmental consciousness into the minds of the public.

In 1969, the Gherinis entered into a lease with Union Oil. After Union Oil obtained the necessary county drilling permits, the Sierra Club filed a lawsuit in October 1969 against Santa Barbara County Board of Supervisors for issuing the drilling permit (*Sierra Club v Beattie* 1969). The Sierra Club sought injunctive relief. After

hearing the matter, the Santa Barbara Superior Court, on 27 October 1969, denied any injunctive relief on the technical ground that the environmental organization was not entitled to a hearing under the local drilling ordinance. The denial was actually only the beginning of environmental pressure to restrict and prohibit any development activity on the island.

The 1970s brought more challenges for the island owners. In 1970, the California Legislature enacted the California Environmental Quality Act (California Environmental Quality Act 1970). In the November 1972 general election, the voters of California passed an initiative measure called Proposition 20, which established the California Coastal Zone Conservation Act of 1972 and created the powerful Coastal Commission.<sup>5</sup> The enactment of these two state environmental laws forever changed land use planning for environmentally sensitive areas such as Santa Cruz Island.

In the late 1970s, the California Coastal Commission exercised its jurisdiction over the Channel Islands in reviewing the county of Santa Barbara's Local Coastal Plan mandated by the Coastal Act. The Coastal Commission substantially reduced the zoning from 10-a. zoning to 320-a. zoning and prohibited any oil development of the island.

The owners of the east end filed a lawsuit challenging the decision of the Coastal Commission. In 1988, the State Court of Appeal upheld the actions of the Coastal Commission. The Court noted that ". . . the biological significance and ecological sensitivity of the area was fully documented by its national park and sanctuary designations by state and federal agencies" (*Pier Gherini v Coastal Commission* 204 Cal. App. 3d 699 1988). The court also rejected the owners' claim that the action of the Coastal Commission amounted to inverse condemnation. The appellate court pointed out that there cannot be an inverse taking for land use regulations that merely cause a diminution in the value of an owner's land.

#### **Conclusion**

Litigation has played a significant role in the human history of Santa Cruz Island. In the last 130 yr, courts have determined issues of title, control and use of Santa Cruz Island. The litigation not only provides interesting historical background but also gives insight into the people and events that shaped the history of the island.

#### **Notes**

<sup>1</sup>Albina Caire transfer. 1913. In: Official Records of Santa Barbara County, Book of Deeds 139, p. 417. The 45 shares evidenced by certificate No 12 were issued on 13

June 1911 and subsequently granted to Arthur, Delphine, Fred and Helene Caire on 28 April 1913.

<sup>2</sup>Albina Caire indenture. 1917. In: Official Records of Santa Barbara County, Book 162, p. 491. From Albina C. S. Caire et al. to The Santa Cruz Island Company, dated 30 January 1917. By this indenture, Albina C. S. Caire, Arthur J. Caire, Fred F. Caire, and Delphine A. Caire, as directors and trustees of the Santa Cruz Island Company, quitclaimed any and all interest the defunct corporation had to the rehabilitated corporation.

<sup>3</sup>Referees Report in Partition of Santa Cruz Island, F. F. Flournoy, Geo. W. McComber, H. J. Doulton, referees. 1923-1924. Filed on 31 December 1924 in case entitled *Algae S. Capuccio, v Arthur Caire, et al.*, Santa Barbara Superior Court No 10812. The report is also incorporated into the Transcript on Appeal in *Capuccio v Caire*, 207 Cal. 200.

<sup>4</sup>*Stanton Edwin L, v Santa Cruz Island Company, Carey Stanton, et al.* 1976. Los Angeles Superior Court No. C180228. Like the Caire litigation, the Stanton litigation involved allegations of abuse of control of the closely held family corporation called Santa Cruz Island Company. The Caires operated the company until it was dissolved in December of 1946. When Ed Stanton died on 5 June 1963, his will directed the formation of a new corporation. Pursuant to this direction a corporation was formed on 17 July 1964 and called the Santa Cruz Island Company. It was legally a revival of the dissolved corporation operated by the Caire family.

<sup>5</sup>Coastal Zone Act. 1972. Public Resources Code section 27000. This act was subsequently replaced by the California Coastal Act of 1976 (Public Resources Code section 30000).

#### Literature Cited

- Bancroft, H. H. 1884-1890. History of California. 7 vols., San Francisco, 6:540-541.  
 Black, H. C. 1968. Black's law dictionary, Fourth Edition. West Publishing Co., St. Paul, Minnesota, p.1,276.  
*Capuccio v Caire*. 1922. 189 Cal. 514.  
*Capuccio v Caire*. 1929. 207 Cal.200.  
*Capuccio v Caire*. 1932. 215 Cal. 518.  
 Castillero Transcript. ca. 1864. The case of *Andres Castillero v United States*, District Court of the United States for the Southern District, case number 340, transcript no. 176, pp. 29-36.

- California Environmental Quality Act. 1970. Public Resource Section 21000, et seq.  
 Daily, M., and C. Stanton. 1989. Historical highlights of Santa Cruz Island. In: Santa Cruz Island Anthology (edited by M. Daily), Occasional Paper Number 1, Santa Cruz Island Foundation, pp. 79-87.  
 Francisco de la Guerra indenture. 1851. In: Official Records of Santa Barbara County, Book B, p. 43.  
 Gherini, A. 1937. Unpublished memo.  
*In The Matter of the Estate of Justinian Caire*. 1898. Alameda County Superior Court No. 5540.  
 Island Patent. 1869. From the United States of America to Andres Castillero, recorded in the official records of Santa Barbara County on 2 February 1869 in Book A, p. 32 of Patents.  
 Maria de la Guerra indenture. 1850. In: Official Records of Santa Barbara County, Book B, p.10.  
 Miller, B. W. 1988. Chumash, a picture of their world. Sand River Press, Los Osos, California, p.11.  
 Orr, P. C. 1943. Archaeology of Mescalitan Island and customs of the Canalino. Museum of Natural History, Santa Barbara, California, Occasional Papers No. 5, p. 9.  
 Patent from United States of America to Andres Castillero. 1839. In: Official Records of Santa Barbara County on 2 February 1869, Book A, p. 34 of Patents.  
*Peralta v United States*. 1866. 70 U.S. (3 Wall.) 434, 439, 18 L. Ed. 221.  
*Pier Gherini et al. v California Coastal Commission*. 1988. 204 Cal. App. 3d 699.  
*Rossi v Caire*. 1916. 174 Cal. 74.  
*Rossi v Caire*. 1919. 39 Cal.App.776.  
*Rossi v Caire*. 1921. 186 Cal. 544.  
*Rossi v Caire*. 1922. 189 Cal. 507  
*Rossi v Caire*. 1922. S.F. No 10233  
*Sierra Club et al v Beattie et al.* 1969. Santa Barbara Superior Court No. 86643.  
 Standard Oil Company lease. 1930. In: Official Records of Santa Barbara County, Book 203, p. 358.  
 Tays, G. 1935. Captain Andres Castillero, diplomat, an account from unpublished sources of his services to Mexico in the Alvarado Revolution of 1836-1838. California Historical Society Quarterly 14(September):230-265.  
*United States v Castillero*. 1860. 64 U.S. (23 How.) 464; 16 L.Ed. 498.  
*United States of America ex rel. Chunie v Ringrose et. al.* 1986. 788 F.2d 638 (9th Cir.).

## Ecological Ramifications of Historic Occupation of San Nicolas Island

Steven J. Schwartz

Environmental Division—P7320 Naval Air Weapons Station, Point Mugu, CA 93042  
 Tel. (805) 989-7412; Fax (805) 989-1011

**Abstract.** An examination of historic developments on San Nicolas Island in light of their impact on marine and terrestrial ecology reveals that the current environment is far from "pristine." The marine ecosystem has been affected by marine mammal hunting, kelp harvesting, sheep ranching, and shellfish collecting. The terrestrial ecosystem has been affected by sheep ranching, military facility construction, the introduction of plants for erosion control, and miscellaneous grading activities. These factors should be addressed in plans to "restore" the island; especially decisions as to what time period and what type of ecosystem to use as a restoration goal. These factors must also be considered when attempting to interpret prehistoric processes on the island and serve as a basis for an ecological approach to the study of historical-era developments.

**Keywords:** San Nicolas Island; history; sheep ranching; sea otter hunting; fishing; shellfish collecting; ecological impacts; erosion; restoration.

#### Introduction

Historic occupation of San Nicolas Island has had profound and long-lasting effects on the marine and terrestrial ecology that are not commonly acknowledged. A recent reconnaissance survey of the island (Schwartz and Rossbach 1993) reveals that, although there are relatively few historic sites, these sites do reveal a long and complex history of occupation. The main historic contexts for the island are Sheep Ranching (1857-1943), Shore-Based Fishing and Hunting (circa 1811-1940), and Early Military Developments (1933-1946). An examination of these historic developments provides significant new insights to the current ecology of the island.

Similar studies of San Miguel Island (Holbrook 1980; Johnson 1980) serve to demonstrate the useful perspective that history can give on the ecology of a given locale. Closer to home, Foreman (1967) includes, in his general assessment of vegetation communities on the island, a relatively lengthy discussion of historical impacts on the ecology of San Nicolas Island.

A historical perspective on the ecology of the islands provides insights for the biological, archaeological, and historical communities. Many in the biological community and the public at large are encouraging efforts to "restore" the Channel Islands. A historical perspective on the ecology of these islands reveals that there have been major, irreversible changes that need to be taken into consideration when setting goals for "restoration."

Recent archaeological research efforts on San Nicolas and the other Channel Islands has emphasized cultural ecology. However, many of these studies have failed to recognize the significance of historic influences on the environment. The current environment has too often been used as a model of the prehistoric ("pristine") environment. It is important to understand historic changes to the environment to accurately assess prehistoric processes.

An ecological approach can also be used in the study of historic occupation of the island. The early historic inhabitants of the island were very closely linked to natural processes (by low technological levels and isolation), and they also had a very profound influence on that environment. The main economic pursuits involved the utilization, or exploitation, of the environment as their basis for existence.

First, a brief overview of historic developments on San Nicolas Island will be presented, followed by an examination of the ecological impacts brought about by this usage.

#### Historic overview

A brief discussion of each of the major historic themes for the island follows below, to lay a foundation for an assessment of ecological impacts. Much of this overview is based on the recent research by Swanson (1993) and Schwartz and Rossbach (1993).

#### Sheep Ranching

The main economic pursuit on the island was sheep ranching. Sheep ranching on the island began about 1857,