



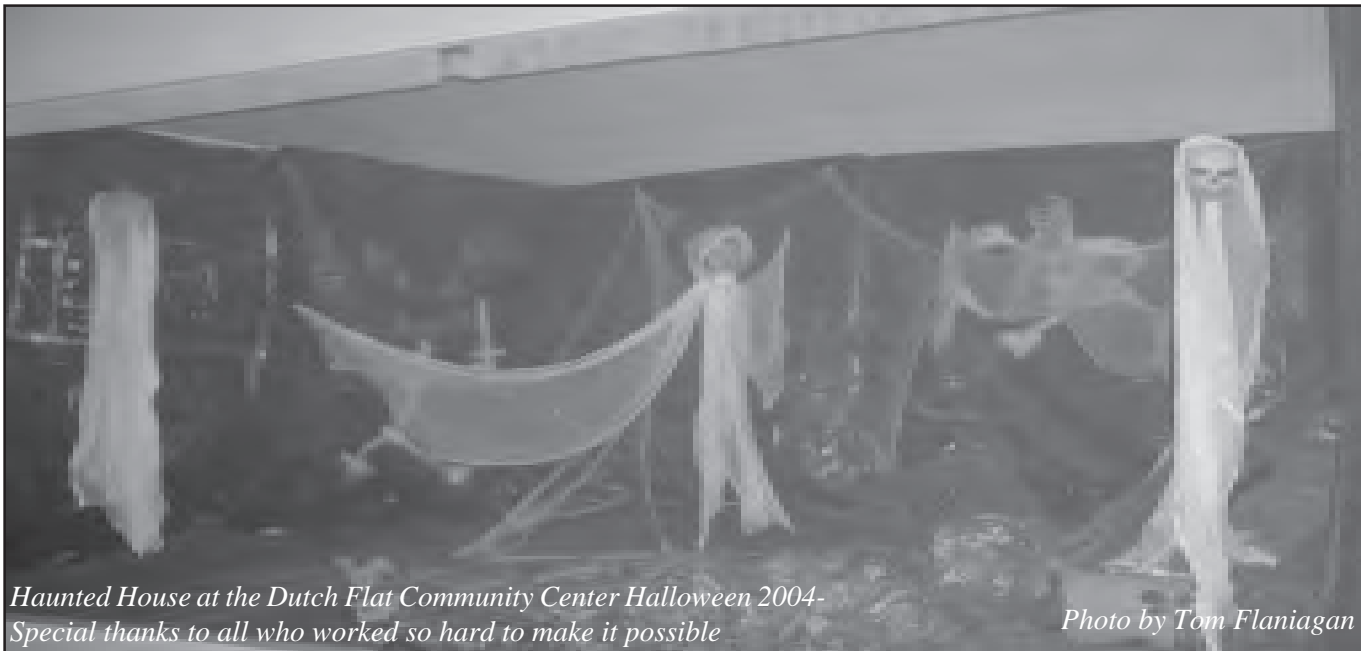
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# Community

Volume 18— No. 4

COMMUNITY • BOX 172, Dutch Flat, CA 95714

WINTER 2004



*Haunted House at the Dutch Flat Community Center Halloween 2004-  
Special thanks to all who worked so hard to make it possible*

*Photo by Tom Flanigan*

## Dutch Flat Community Center

By NANCY DAILEY, PRESIDENT

The wood is in...the pantry's full...soup pots on the stove. I think I am ready.

We saw our first hint of snow and it came as a reminder of what is to come. As I drive about our communities and talk with people, I see them cleaning up the fall leaves, trimming the fruit trees, and some are packing up their RVs, getting ready to head South. So many, many ways to prepare for winter. To me, winter is a beautiful season. It's a time to reflect on friends old & new and on our families near and far as we begin the holiday season.

Our Community Center is standing tall and stately awaiting concerts, pot-lucks (3<sup>rd</sup> Thurs. of each month), weddings, receptions, parties and meetings. The 2005 Community Center Board was voted in at our October pot-luck: I will once again remain your President and beside me will be Bob Pfister as Vice-President, Joe Lorang as Treasurer, and new to the Board this year, Sussy Flanigan, Secretary. At Large will be Eleanor Bridges (also in charge of building rental), Liz Lorang (she does the billing for ads) & Robin Reynolds. As a group we are ready to take on the challenges of the up coming year.

Our Community Center building is now 106 years old and in need of a few repairs to keep it standing tall & stately. Hawkins Construction will be undertaking repair to the foundation. Jim Ricker helps with smaller repairs such as broken widows, water pipes and those little things that happen when you reach 106 years of age. So remember, if you are planning an event and need a place to gather, call Eleanor at (530) 389-2369. Our Cookbook is back in print if you are looking for that special Christmas gift.

Continued on page 2

## New Editor For Community

By Rick Sims

After serving as editor of this newspaper for three years, I am hanging it up.

I am happy to report that I am not being hounded out of office by my critics. The situation is much more simple. As was reported in these pages, last May I got hitched to the beautiful and talented Linda Wallihan. Shortly thereafter, I moved into Linda's house in Sacramento, which is located five minutes from where I work. As much as I love Dutch Flat (a lot), I was happy to trade a five-minute commute for an hour-and-fifteen-minute commute. The price of gas didn't help, either.

I have found that it is impossible to be an absentee editor. I find out too late who has died.

I have tried during my editorship to make the paper informative, interesting, and, most of all, fun. You will be the judges of whether I succeeded.

I wish to register here my profound thanks to the regular contributors to Community, without whom we would have had a one-page

newspaper. They have been, in no particular order, Doug Ferrier, Nancy Dailey, Joyce Gray, Jim Boltman, Rev. Clarence Wager, Dolores Wager, Russell Towle, Lisa Nelson, Juanita Lorang, Rick Armstrong, Susan Prince, Jim Ricker, and Debby McClatchy.

But there is one person whom I want to thank most of all: the loyal, faithful, and unsung heroine of the paper, Toni Fonseca, one of my oldest friends in the world, who has given up weekend after weekend to master the incomprehensible process of putting a million words into a format that comes out looking like a newspaper. I am most happy to report that Toni and her daughter-in-law, Shana Brown, will assume the duties of editing the paper that Toni's mother started many years ago.

So thank you to the Board of Directors of the Dutch Flat Community Center for allowing me the honor and privilege of serving as editor of this wonderful newspaper.

I'll see you at the Fourth of July parade.

## Water Rates

The Placer County Water Agency has announced that the monthly base rate for treated water users will increase by 7.5 per cent and the renewal and replacement charge will increase by \$2.75, all effective January 1, 2005.

In Zone 3, which includes the I-80 corridor from Alta to Meadow Vista, a majority of customers (64%) using 20-60 units of water per month will see an average increase of \$6.64. Low volume users of 20 units or less (18%) will pay an average of \$5.14, while high volume users of more than 60 units (18%) will pay an added \$11.26 per month.

## No More Duct Tape Stories

During the past several years, this newspaper has reprinted numerous amusing stories about the uses of duct tape, as reported by the Associated Press.

Because these stories are subject to copyright by the Associated Press, this paper has obtained permission

Continued on page 3



# COMMUNITY

*COMMUNITY* is a quarterly publication of the Dutch Flat Community Center, a California non-profit corporation. *Community's* purpose is to inform residents of the villages of Dutch Flat, Alta and Gold Run and friends of those communities, of activities, events and other matters of concern to the area, and to provide a way for local businesses to showcase their services.

Letters and other contributions are welcome and must contain a signature and address of the author. They will be printed at the discretion of the editor. We reserve the right to edit material submitted due to limitation of space and appropriateness. Articles shall generally be no longer than 500 words. Views and opinions expressed here are those of the contributor and do not necessarily represent the members of the Community Center or the staff of *Community*.

Material intended for publication must reach *Community* by the first week, and no later than the second week of the month preceding publication. *Community* is published on March 15, June 15, September 15 and December 15.

Please mail stories and letters to P.O. Box 172, Dutch Flat, 95714 or e-mail as attachment to [dcommunitynews@yahoo.com](mailto:dcommunitynews@yahoo.com) Ad Rate sheets are available by calling 530/389-2369.

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**Rick Sims**

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## Contributors

- |                 |                 |
|-----------------|-----------------|
| Michael Bennett | Clarence Wager  |
| Doug Ferrier    | Russell Towle   |
| Dolores Wager   | Juanita Lorang  |
| Jim Boltman     | Rick Armstrong  |
| Rick Sims       | JimRicker       |
| Nancy Dailey    | Debby McClatchy |
| Cindy Goldman   |                 |

## DUTCH FLAT COMMUNITY CENTER

*Continued from page 1*

Our Recipes & Remembrances Cookbook is now available at a cost \$10.00 and we can ship it to you for an additional \$3.00. Doug Ferrier has done a great job on presenting the history of our communities. There are lots of helpful hints and, best of all, the great cooks of our communities have shared their recipes with us. It's a real treasure.

As I wish each and every one of you a happy holiday season and the very best of New Years, I want to remind you to eat your oatmeal and drink your fruit juice. Keep warm & dry. Stay healthy and I will see you in the Spring.

## SPAGHETTI DINNER

**BOY SCOUT TROOP 259 to host a Spaghetti Dinner**

**January 8th at 6:30 p.m.**

**Alta Fire House**

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**Recipes & Remembrances is available at the following Dutch Flat Locations**

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☞ **Dutch Flat Hotel Gift Shop** ☞

☞ **Runnymede Cottage Antiques** ☞

**The book can be ordered through the Dutch Flat Community Center P.O. Box 14, Dutch Flat, CA 95714**

**Please include check payable to the Dutch Flat Community Center for \$10.00 for each cookbook plus \$3.00 shipping**

## 2003-2004

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- Nancy Dailey- President 389-2617
- Bob Pfister- Vice President 389-2143
- Sussy Flanigan- Secretary (800) 836-3500
- Joe Lorang- Treasurer 389-2473
- Liz Lorang- At-Large 389-2473
- Robin Reynolds-At-Large 389-2304
- Eleanor Bridges-At Large 389-2369

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## North Fork American River Alliance

BY JIM RICKER

The North Fork American River Alliance, the NFARA, met October 19 at the Dutch Flat Community Center. President Jim Ricker made several brief announcements.

Ricker also told the group that PG&E had placed a locked gate on the road to Smart's Crossing, on the Bear River. Ricker, Matt Bailey, and Russell Towle, had each contacted PG&E and Placer County Public Works Road Division to have the gate either removed or unlocked, to allow public access to the river. Ricker reminded everyone that in the 1980s, Towle and others had obtained a court order declaring the route to Smart's Crossing a public right-of-way, to which the public had the right of unlimited access. The county contacted PG&E and asked them to remove the lock and open the gate. As of November 13 the lock was gone and the gate open.

As one of its series of community educational programs, NFARA invited Registered Professional Forester Bob Suter to speak on forest management, reducing fire danger by decreasing fuel load, and forest restoration after a catastrophic fire.

Suter presented a short history of fire management practices in the nation's forests. He described the role naturally-occurring fire played in the growth of a healthy forest and outlined the impact of three major industries, mining, railroad development and operation, and the timber industry, on public and private forests.

Suter outlined economic conditions and common practices in the timber business which have resulted in the current situation where many of the nation's forests have a heavy fuel load of slash after timber clearing. The practices increase the risk of catastrophic fire. He also summarized current regulations governing restoration on public lands, some of which prevent rapid restoration efforts after a catastrophic fire, like the Star Fire. A delay in restoration activities may delay forest recovery by decades.

Suter presented a video on reforestation on the Foresthill Divide, after the 2001 Star Fire, produced by Cecil Wetsel, the owner of one of the last lumber mills in California, in Latrobe. The mill recently closed. While the video presented the issue of reforestation from the mill owner's perspective, it provided valuable information on successful reforestation efforts on the Foresthill Divide.

Finally, Suter answered questions about forest management and restoration efforts. It was an interesting and valuable evening.

In further NFARA news, on November 2, the Placer County Board of Supervisors unanimously approved Facility Department staff recommendations for a parking/staging area for the Green Valley Trail along Moody Ridge Road. Property owners Dick and Sally Towle and Susan Winje have dedicated easements to the county for the Green Valley Trail. The staging area has already been graded and a culvert installed. Now the county will build a connector trail to the existing trail, put gravel down in parking area, install a small kiosk for information, etc.

Several people attended the supervisor's meeting and presented their views.

## NO MORE DUCT TAPE STORIES

*Continued from page 1*

from the A.P. to run these stories in Community. Until now, the Associated Press has waived its ordinary fee for reproduction of these stories upon our truthful representation that this newspaper is distributed free-of-charge, has no paid staff, and has no funds to pay copyright fees.

Since the last issue of this paper, however, the Associated Press has outsourced its approval of re-printed stories. Some corporation (not the Associated Press) is now doing the job. After a very, very lengthy exchange of e-mails with the editor of this paper, the new outsourced corporation has informed this paper that it no longer can waive the ordinary copyright fees.

We do not know who in India has made this unfortunate decision. We know only that the Associated Press has taken an unbending position that it will not waive re-print fees, and we have no funds to pay them. This decision by the Associated Press must affect thousands of small newspapers across the country.

So, in addition to the countless jobs lost to outsourcing, we must report that our duct tape feature is yet another casualty.

Ricker gave the official NFARA position which supported the project. Several other NFARA board members gave their comments. A couple who live next to the project had concerns about the parking area and presented their views. In addition, the county received numerous comments by phone and e-mail; they were overwhelmingly in favor of the project.

One of the concerns expressed was about trash; who is going to keep the area clean? NFARA has volunteered to be a partner with the county and will help maintain the trail and parking area. NFARA hopes those with concerns and problems will continue to work with the county and NFARA so this partnership will be a success.

NFARA will host more community programs starting again next spring. For information contact Jim Ricker at 389-8344.

## LETTERS TO THE EDITOR

Editor

It might be of interest to your readers that the water tank featured in the last issue of Community was built by Steve Griffin and crew.

Steve and his brother, Mark, both work for the Resource Development Company in Reno. They build tanks all over Nevada and California. They grew up in this area. Their parents were Cliff and Clara Griffin, who owned the Alta store for years.

Mark is my son in law. He is married to my daughter, Miki.

Sincerely,  
Don Marker



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## Dutch Flat Methodist Church History

By Rev. Clarence Wager

This year we have been observing 150 years of service by the Dutch Flat United Methodist Church. We need to understand that we are not celebrating the building, which was begun in about 1860, nor the *official organization*, which seems to have been in 1857. We are concerned with the time when people first gathered together and called themselves a Methodist church.

Another thing that is important is to be able to separate later tradition from fact. The best information comes from three sources: the *History of Placer County*, published in 1882, the records of the California-Nevada Annual Conference of the United Methodist Church, and the *Placer Weekly Herald*, which was one of the early newspapers in Auburn, beginning in about 1852.

Placer county was remote in those days, and it is likely that the church began without official sanction. There are two accounts of the beginning of the church. One centers on one Jack Martin, who seems to have been here shortly after 1850, and who seems to have been a pastor for perhaps two years. The other centers on James Rogers, who was appointed to the church in Auburn and who seems to



have begun a school, which is said to have been the basis of the church in Dutch Flat. The "window of opportunity" seems to be between 1852 and 1857, with the year 1854 being the most likely date. For this reason, we selected this year for our celebration. We know that at this time, Dutch Flat was one of the major centers of population in the county, next to Auburn itself. There was considerable mining activity, and discussion of the feasibility of a plank road or a railroad. The Methodist Church was important enough so that the *Weekly Herald* printed all the appointments of pastors in northern California towns. The exact picture may never be truly known, but it seems likely that in

## DUTCH FLAT MASONIC LODGE NEWS

CLAY LODGE 101 F&AM

BY JIM BOLTMAN

Fall 2004 and winter 2005 will be busy months for Clay Lodge.

A Second Degree was conferred in November, and this brother is scheduled to be raised to the Third Degree at our stated meeting on December 15. The past masters degree team of Ben Ali Temple in Sacramento will perform the ritual. This team includes a Past Grand Master, and their ritual is truly impressive. The degree is scheduled for 7:30 p.m., weather permitting.

Also at the meeting of December 15, officers for the coming year will be elected, with installation on January 8, 2005.

Our lodge is growing with the addition of a new brother and a new affiliation.

Very simply, on the second Saturday of each month, we have a 6:30 p.m. pot-luck (ladies welcome) with a stated meeting following at 7:30 p.m. Sojourners are most welcome.

about 1854 a congregation was present, led perhaps by Jack Martin, a colorful "exhorter"—similar in some ways to a lay pastor. A full text of the research involved may be obtained from members of the Dutch Flat church.

Remember: to be one, ask one.

It is with great sadness that I report that John Treat passed away on November 8. A memorial service and celebration of his life was held on Friday, November 12, 2004. More than 100 people attended. His remains were interred in the Masonic section of the Dutch Flat cemetery.

Ed note: Highest congratulations to our correspondent, Jim Boltman, for attaining his Third Degree.

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## Charley Mapa

### Postmaster

Gold Run, CA. 95717

BY RICK SIMS

**L**ike Dutch Flat, the Gold Run Post Office features an opaque glass window that can be raised or lowered depending on whether the office is open for business. However, unlike Dutch Flat, there is a sign taped next to the postal window. It reads, "Bostonian Spoken Heah!!!"

The sign remains at the pleasure of Gold Run Postmaster Charley Mapa, who, in fact, does not speak with a Boston accent. The sign reminds Charley of the long New England ancestry of his mother's family, the Kilpatricks, and also of Charley's great affection for the Boston Red Sox. This enduring affection for the Red Sox began when Charley (who was born in Honolulu) spent his "wonder years" (ages 6-13) in the Boston area. Charley had originally been a Yankees fan, but when his grandfather took him to Fenway Park, and when he saw Ted Williams blast a homer into the right field bleachers, he was a convert to the Red Sox Nation. And is until this day.

When Charley was 13, his father moved the Mapa family to Bowman, in Placer County, and Charley enrolled in Placer High School. However, at

## FAMILIAR FACES:



the end of Charley's sophomore year, the family moved to Oxnard, where Charley entered Santa Clara High School, a Catholic school noted for its strong football program. "Most of the teachers were Dutch brothers. They were some of the most brilliant men I have ever met, and they were teaching us in high school!" Charley adds. High school was generally "great." Charley was one of the smallest boys in the school but also one of the toughest and fastest. He played football and ran track, winning an award for "Most Valuable" track athlete his senior year.

Charley graduated from Santa Clara in 1968 and attended the Coast Guard Academy for a year. However, this was not his destiny, and Charley joined the United States Air Force a

year later. He was trained as an air traffic controller, at a time when the job had minimal technology and required maximum visual alertness. The Air Force sent him first to McClelland Air Force Base in Sacramento. The Vietnam War was on, and nearly every plane going to or coming from there touched down at McClelland. The air traffic controllers were busy as bees.

However, Charley had enough free time to date the sister of one of his fellow controllers. Charley's considerable charm carried the day, and he and Gwenda Burgess were married in 1971 (they celebrated their 33<sup>rd</sup> anniversary last month). A son, Charley Jr. (who has followed his father's footsteps in the Air Force), arrived while Charley was at McClelland. While Charley was directing airplanes from the tower, "We had some close calls, but none that were our fault. It was always pilot error."

After Vietnam cooled down, the Air Force transferred Charley and family to the Azores Islands. (If you are like me, you have to be reminded that the Azores are in the middle of the Atlantic Ocean). When Charley got there, "It was slower than Gold Run. But in those days, Air Force

Continued on page 6

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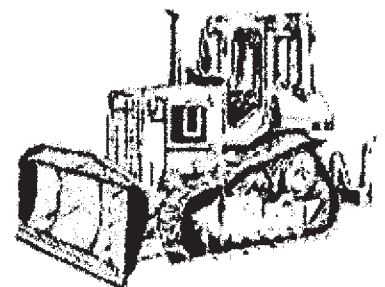
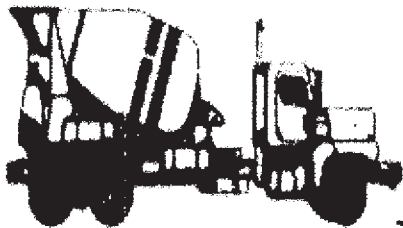
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## Charley Mapa

*Continued from page 5*

planes flying across the Atlantic had to stop in the Azores to refuel. When the Arab-Israeli War came along, and when we agreed to help Israel, the Azores got real busy real fast." Charley's daughter, Brenna, who has provided him with two grandchildren and who teaches second grade in Antelope, was born in the Azores.

Charley and his family loved the Azores and made many fast friends there. But the Air Force had other plans for Charley. They sent him to do air traffic control work at the Air Force Academy in Colorado Springs. "It was a wonderful place, but the work was very difficult. There was really a lot of traffic, and the planes were all small."

Perhaps the lure of academia from the nearby Academy got to Charley. In any event, for whatever reason, he decided he would obtain a college education. So, in December, 1976, Charley left the Air Force, moved the family to Placerville, and enrolled in the American River College campus there. Brenna got a job, and Charley worked when he could, but mainly he concentrated on his studies. He completed four semesters with highest honors and then moved the family to Humboldt County, where he enrolled in Humboldt State College. It was there that he first hooked up with the United States Postal Service. He would unload mail trucks at night in Eureka and attend classes during the day. "It was fine with me," he says, "but it was tough on Brenna. We had almost no

family life. But she stuck it out." Charley graduated from Humboldt State in 1982 with a degree in Biology and applied to the federal government for a biologist job.

It didn't happen.

Remembering his years in Placer County with great fondness, Charley moved back and took a job with the Colfax Post Office. It was to be a temporary job while Charley waited to get hired as a biologist by the federal government.

It didn't happen.

Then, when Don Wilson retired as Postmaster of Dutch Flat, Charley stepped in and ran the Dutch Flat Post Office for four months. He loved it. "I realized that this is what I wanted to do with the Postal Service. You got to deal with people as People, not as Persons," Charley says.

In 1985, Margaret Stewart retired as Postmistress of the Gold Run Post Office and Charley took over as Officer in Charge. And there he remains happily to this day. There is a little more technology now than in 1985 (Charley got the local post offices computers), but the job is much the same now as then. "You almost know too much about the people here," Charley says. "You know their children and their grandchildren and their dogs. People come in and tell you their problems. When someone dies, people usually come to the Post Office first of all to tell us. You have to learn to keep your mouth shut."

Like his counterpart in Dutch Flat, Randy Wright, Charley often acts as an unofficial Ombudsman with gov-

ernmental agencies. "Also, I help them out with the Postal Service. If I don't know something about the Postal Service, I know where to find out. And I will never sell them something they don't need."

When Charley isn't manning the postal window, his loyal assistants, Candy Shults and Jeri Wohn fill in. By all accounts, the citizens of Gold Run are very happy, indeed, with their local post office. In fact, this Familiar Faces story was chosen because Community received a number of suggestions that the paper run a feature on Charley Mapa.

When he is not at the post office, Charley likes to bicycle, hike and camp.

But recently, he has not had much time for these things. This is because Charley serves as Executive Vice President of the National League of Postmasters, a position that requires him to attend various state conferences each year. "I have found that the Postal Service is not some unchanging monster. It can change. Even from my dinky post office in Gold Run, I have been able to influence the Postal Service for the better."

As I was heading out the door of the Gold Run Post Office after wrapping up this interview, Charlie called to me: "Don't forget to mention that I love being here. This is the greatest place in the world."

## ANOTHER RESIDENT DEPUTY IN 2005

Until a few years ago, there were two Placer County Sheriff's Department Resident Deputies living in this area. However, budget cuts eliminated one position. Deputy Steve Park is now the only Resident Deputy in the area.


Undersheriff Steve D'Arcy has announced that, when the 2005 budget is effective, a second Resident Deputy will be returned to this area.

When a Resident Deputy is unavailable, the Sheriff's Department provides patrol coverage from Colfax or Weimar.



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## GOLDEN DRIFT HISTORICAL SOCIETY

BY DOUG FERRIER, PRESIDENT

Labor Day weekend saw another successful end to the museum season. For the last several years, each year the number of visitors has increased and the feedback we have gotten from them is positive about what we are doing. A big Thank You to all of the volunteers that were docents at the Museum this year. We could not do it without them.

This winter we will try to work on expanding the Indian exhibit and try to show more individual pictures of some of the early day residents of the area (most of which came from the diaries of I.T. Coffin) and hopefully a short biography of who they were. We also hope to expand the Town of Towle exhibit. As always, we are looking to uncover more old pictures of the area, and family histories. One thought has been to put together information on why some of the long-time residents and summer families came here. It might make for some interesting reading.

As always, during the winter months, if you have a group that would like to see the museum, or just some out of town family that might like to see it, we do open it up if one of the Board of Trustees is around and available to do it. Contact me at 389-2617 to see about availability.

### GARDENER'S NOTES

BY JUANITA LORANG



#### SPRING BLOOMING BULBS

Last call for planting Spring blooming bulbs.

#### CLEAN UP AND REPLANT

Clean up spent annuals and replant with cool weather plants: pansy, stock snapdragon, Iceland poppies, and primroses. You will have to bail for slugs, snails, and sowbugs, because they will think you planted snacks for them.

#### TREES AND SHRUBS

Plant trees and shrubs while soil is still warm for good root growth.

#### FERTILIZE

Fertilize camillias, rhododendrons, and azeleas with 0-10-10 for good blooms as buds are forming. Sacsanqua camillias are in the nurseries and are blooming now.

#### Retirement:

I'm retiring from submitting these GARDENER'S NOTES. Hope they were helpful. I no longer write for our garden club newsletter. Thank you for letting me add my little bit to your community news.

*ED. NOTE: Thanks a million, Juanita, for tending our gardens for us all these years.*



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# THE NEAR ARM OF THE LAW

## WINTER AWARENESS

By CAPTAIN RICK ARMSTRONG

With winter having us firmly in its grip, it may be time to prepare ourselves for outdoor adventures. We are so fortunate to live in an area that offers so many outdoor experiences that can be enjoyable and fulfilling if we prepare correctly. Sadly, every year people perish in the backcountry when, with just a little preparation, they could have survived to enjoy the winter experience again.

Perhaps the first step to survival takes place before you ever leave to enjoy the trip. It is a very simple practice we call the three W's.

**Tell a responsible adult** WHERE you are going. Show them maps and make sure they understand what you tell them. I cannot tell you how many times over the years I have gotten a call from a concerned person saying their friend is overdue up in the mountains near Lake Tahoe.

The second thing is to tell them WHEN you are returning: give them a day and a time.

And lastly tell them WHO you are going with so any rescue teams know what they are faced with. This step alone can save valuable time and increase your chances of rescue if something goes wrong.

The next step to survival is preparedness. Simply put, this includes clothing, equipment, food and water, knowledge of location, and something often overlooked: the weather report. Over the years we have been on literally hundreds of SAR operations for people who get lost or stranded due to weather trapping them. This is such an easy thing to fix by simply checking the weather report for the time you

plan on being out back. To not check the weather is foolish and can be very dangerous. Even then, be wary: the weather in the mountains can change without warning, creating more dangerous conditions. Be aware of avalanche conditions and learn what an avalanche field looks like and how to avoid the dangers associated with avalanches. Most fatal avalanches are ones started by the victim's stepping, skiing, or riding onto an avalanche zone and starting the slide. The majority of avalanches happen soon after a fresh snowfall and on slopes of 30 degrees.

It is recommended by experts that you dress in layers rather than in bulky clothes. Layering allows you to change your clothing to match your environment. These days, many Hi Tech fabrics are available that make this layering easy and comfortable. Start with a wicking layer of something like Polypropylene or wool next to your skin; it will wick moisture away from your body. **No cotton**; it gets cold when wet. Then add an insulating or middle layer. This could be anything from Polyester pile or fiberfill to wool and thinsulate. Then a protective layer like a rain suit to keep out rain and snow should go on top. A warm wool or polar fleece hat is a must. Anywhere from 40 to 75% of warmth is lost through the head. Gloves are another item of importance. Don't be cheap. Buy good quality gloves and remember mittens are warmer than gloves. Last but not least is footwear. You can also layer here by starting with a thick wool sock as a liner, and having boots that fit correctly. Add a pair of gators and good waterproofing of your boots, and your trip will be much more pleasant with warm dry feet.

Another important but often-overlooked step to awareness is eating and drinking. Eat before you go and continue to replenish as you travel. Bring candy and fruits, jerky, nuts, cheese, and crackers and bread to give you a well-rounded diet. Stopping for snack breaks allows you to enjoy the winter experience;

it's the reason you are there in the first place. Forget about your carbo counting for just this once; survival is more important than your appearance. Drink plenty of liquids; water is the best. As you exert yourself on your walk or ski, you will loose liquids that need to be replaced. Don't drink alcoholic beverages. This can impair judgment and allows blood veast resort. It takes a great deal of energy to covert snow to water in the body, and if you are tired, injured or cold, eating snow can cool the body.

Just before you head out, make sure all your equipment is in good shape and pack a survival kit. Remember: over the summer some of your gear may have deteriorated or become broken. Make a daypack with map and compass, sunscreen, lip balm, sunglasses, first aid kit, and Swiss army knife. A larger pack could contain two large plastic leaf bags, waterproof matches, plastic whistle (3 short blast mean help), candle, a metal cup for melting snow, quarters for a phone call and, if possible, a cell phone. If you do carry a cell phone, and if you are not a heart surgeon waiting for a call, turn it off to save the battery in case you need it to direct searchers to your location. Probably the most important thing to pack is duct tape. This can be wrapped around a ski pole, or as my old buddy Don Kipp used to do, wrap it around a pen or pencil. Its uses are countless and maybe our resident expert Joe Lorang can do an article on uses for Duct Tape in Wilderness survival. Don't leave home without it.

Once you are prepared to go and enjoy the wilderness experience, there is always the possibility of becoming lost or injured. Next issue, I will discuss some things to do if this happens that makes rescue and survival more likely.

I would like to than retired Deputy Warren Berg of the El Dorado County Sheriffs Department and the Tahoe Nordic Search and Rescue Team for information contained in this article.

## DUTCH FLAT POST OFFICE BURGLARIZED

In the late hours of Sunday, October 24, 2004, or early Monday morning, someone broke into the Dutch Flat Post Office.

According to Postmaster Randy Wright, the culprits probably used a Zip Code directory in the lobby to break the glass in the service window. The intruders then probably crawled inside and broke through interior doors leading to the back of the post office, where they stole somewhat less than \$100 in cash. Stamps and money orders were not touched; however, the thieves took a BB pistol (that looks like a real gun) that had been used in a movie. The intruders also took a can of stamps that Postmaster Wright found the next Thursday in the diggings (with stamps in tact but wet).

According to Postmaster Wright, this is the first break-in of the Dutch Flat Post Office.

Breaking into a post office is a federal crime. This burglary is being investigated by the United States Postal Inspection Service. Anyone with information about the crime should call their office at (916) 263-7240 or Placer County Crime Stoppers 800/923-8191.

## PLACER COUNTY CRIME STOPPERS



You might not yet have been the victim of crime but you almost certainly have been affected by it.

The cost of crime on an individual and on society is high. Be it graffiti, vandalism, burglary, stolen car, or assault—we all pay. Insurance premiums, repairs, replacement cars or goods, emotional and physical pain are just some of the costs.

We all want to live in a community free of crime. You can do something about it and that's where Crime Stoppers can help.

By raising private funds for rewards for anonymous tips, Placer County Crime Stoppers encourages citizens, who otherwise might not report what they know, to provide information that often is critical to solving serious crimes. Criminals and people who associate with them provide many of the anonymous tips, but community-wide awareness and financial support are what make the program successful.

Crime Stoppers is a community-based assistance to law enforcement, which allows you to give your information on the phone and remain

anonymous. If your information leads to an arrest you could receive a cash reward of up to \$1,000.00.

The information you have may help solve a crime or prevent a future one from occurring. It could be the piece of the puzzle that law enforcement is looking for, or it could be new information that they are unaware of. It does not matter how trivial you may think it is, it might be very important to an investigation.

### How Crime Stoppers works:

Anyone who has information about a crime or wanted subject in Placer County may call the Crime Stoppers' 24-hour toll-free telephone number at (800) 923-8191. Their information will be taken anonymously. Crime Stoppers *never knows the caller's identity*.

The caller is assigned a code number and given a telephone number to call in 7 to 10 days to determine if he or she is eligible for a reward.

The reward amount is determined by the Crime Stoppers board of directors on the basis of the seriousness of the crime and other relevant factors.

Payments are made in cash. All contact with the caller is based solely on the assigned number.



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Christmas Greetings

# HYDRAULIC MINING IN CALIFORNIA

With particular reference to the Dutch Flat area

BY DEBBY McCLATCHY

The account of hydraulic mining in California reaches back over fifty million years to the Eocene Period, when an ancient river system stretched from southern Plumas County to the Placer/El Dorado County lines. Later in the Miocene Period, lava flows from volcanic eruptions formed dams that created new lakes and rivers, dropping stratified gravels containing gold to the bottom. Subsequent eruptions then covered everything with ash and debris. About two million years ago, during the Quaternary Period, the Sierra Nevada Mountains were formed, creating new rivers, whose westerly flow cut through the old river beds, exposing the gold.

Miners arriving in California found three sources of gold - shallow placer gold, distributed by the modern rivers and climatic forces; deep tertiary gold, distributed by the older river system and buried beneath tons of rock and debris; and the "Mother Lode", a quartz and gold vein stretching from Georgetown to Columbia. The richest tertiary deposits were located in the Sierra, Plumas, Nevada, Yuba, Placer, and El Dorado Counties, around the American, Yuba, Feather, and Bear Rivers. Of these, the largest concentrations of gold were to be found in the San Juan Ridge, Slate Creek, Quaker Hill, Gold Hill, Red Dog, and Dutch Flat areas.

Of particular interest to us in the Dutch Flat area was the "Blue Lead", an ancient river channel one-half to one mile in width and located between seventy-five and five hundred feet (depending on source)



below the surface. The Blue Lead snaked through Hunts Hill, Red Dog, You Bet, Little York, Dutch Flat, and Gold Run. "Lead" was a corruption of the word "lode", because in the 1850s it was first thought to be a vein like the Mother Lode. The "blue" referred to the color of the exposed bedrock.

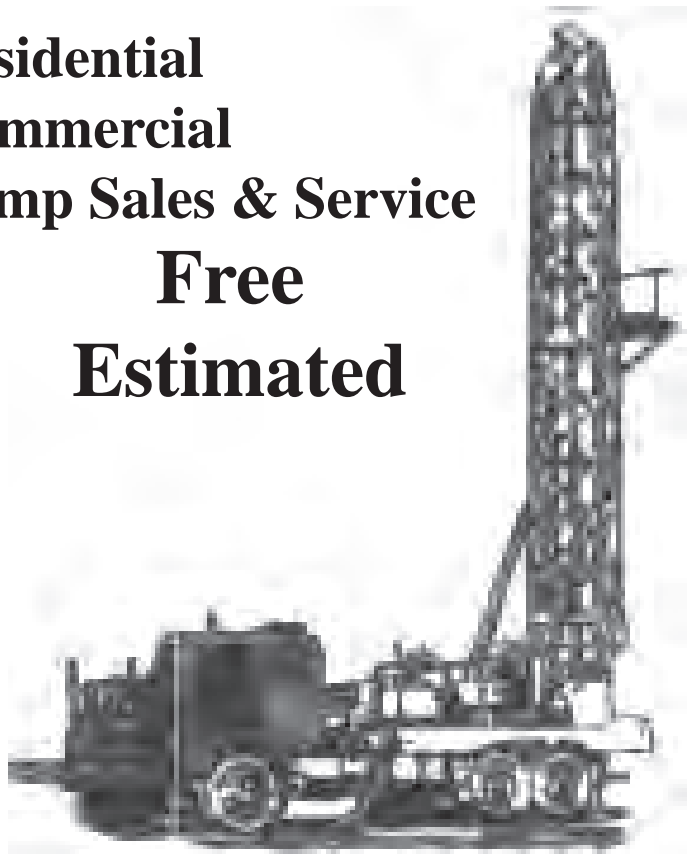
Hydraulic mining goes back much further than the California Gold Rush. During Roman times, Pliny the Elder mentions in his "Natural History" a process called "ground sluicing". In early 1850s California, the workers using long toms and rockers started a process called "booming" or "the self shooter", where waves of water were created by the

opening and closing of an automatic gate. Then, in 1852, Antoine Chabot, a French Canadian, was the first person to use a canvas hose while working a ground sluicing claim, either at Buckeye Hill in Nevada County or Buckeye Hill Ravine near Nevada City. He had been a sailmaker and his hose was thirty-five feet long and four inches wide. Another miner, a Mr. Haskins from Grass Valley, started using stove pipe as a method for delivering water to his claim. However, as both did not use a nozzle, it wasn't yet actually hydraulics. That honor, depending upon your source, belongs either to an unknown miner, using a rawhide hose with a tapered tin tube, working at Yankee Jims in Placer County in 1853; or to Edward Matteson, who utilized a rawhide or canvas hose with a pressurized sheet iron nozzle and a flume to bring in water, also in 1853, near Nevada City. Evidence included the records of the Rock Creek Water Company, where he doubled his water order in March of 1853. He might have copied the local fire department, which had recently used a pressurized nozzle.

The basic hydraulic technique was first used to wash down the banks of modern rivers, then later the soil above bedrock over the ancient rivers, then run the slurry through sluices, collecting the gold, allowing the debris to wash downstream to accumulate in "diggings". A number of conditions had to be met to insure a successful hydraulic operation. First was an ample water supply with legal rights to the same secured. Next the grade at the claim had to be such that the tailings could easily work down through the sluices (best was 4-5%). There needed to be an extensive financial investment, and the claim had to be large enough (eighty to two hundred acres) to prove viable. Finally, technology had to advance enough to decrease the amount of manpower and time it took to extract the gold.

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## HYDRAULIC MINING IN CALIFORNIA

*Continued from page 10*

A dependable, sufficient water supply was the most important pre-requisite for successful hydraulics. By 1865, each claim was using an average of 2,500,000 gallons, more than San Francisco with a population of a hundred thousand. The southern mine area contained too few water sources, and, therefore, hydraulic mining was negligible there. Of the fifty leading hydraulic mines, only one was located south of the Cosummes River. Most water companies were as large or larger than the mining companies. Until the 1880s California law protected the miners' right to use water not actually owned, a legality called "usufruct", the "right to utilize and enjoy profits and advantages of something belonging to another, so long as it is not damaged or altered in any way". The people of the mining area were supportive as their livelihood depended upon this legality. Whole towns, including Red Dog and Moores Flat, were occasionally re-located to get at the gold underneath. There were some limits; at one point townfolks in Nevada City, upset over miners digging in the Main Street, used shotguns to exercise their legal rights. The stealing of ditch water was even considered a hanging offence at one time.

At first, ditches were constructed to bring in extra water. Troughs on trestles, called hydraulic telegraphs, were also used, as well as tunnels. For a while the Cedar Creek Company of Dutch Flat had the longest tunnel at four thousand feet. Problems with early ditches arose, as they were often built too steeply, causing erosion and huge maintenance costs, or too slight, causing the debris to accumulate too quickly, damming them up. The best ditches were built along southern slopes to maximize snowmelt. Men lived every six miles or so to keep them free of debris. In 1857 Nevada County had 696 miles of ditches; constructed at a cost of 1.5 million dollars. By 1867 this had increased to 5,328 miles and \$15 million. By 1883 there were 8000 miles of ditches in Northern California. It is a testament to these builders that most are still in use today!

To move one cubic foot of gravel took thirty-five cubic feet of water. To provide this water for these ditches countless small lakes and rivers of the area were dammed, creating many of the lakes we enjoy today, including Bowman, created for the Malokoff Diggings, and Faucherie, named for the engineer who designed water flumes. In fact, prac-

tically all the lakes in the upper Yuba River watershed were dammed by 1855. In 1866 a legal right of way was secured by the ditch companies, and these secure landholdings brought in more investment. So much water was taken from the Yuba River it sometimes froze over!

The water for the Dutch Flat area came from lakes twelve to twenty miles away. It cost \$80,000 for the South Yuba Canal Company to build the ditches but it returned a profit of \$120,000 the same year. By 1876, the Company owned three hundred miles of canals and flumes. The Dutch Flat branch of twenty-three miles was started in 1864 and completed the next year, forcing seventy million gallons daily through the ditch. By 1867, there were forty-five mines within one and a half miles of Dutch Flat and Gold Run, and the South Yuba Canal was insufficient for their needs. The Dutch Flat Water Company was formed, owning the Placer County Canal and the Canyon Creek—Little Bear Ditch, each about thirty miles long. This water was only available from mid December to mid August. In 1871 the Dutch Flat Gravel Mining Company put in a long tunnel, coming down from five feet diameter to twenty-two inches. While the Dutch Flat system was mostly locally owned, the Gold Run Gravel Company was owned by a syndicate from London.

Before hydraulics, a process called "drift mining" was tried. This was a horizontal tunnel created directly into the hillside, with side tunnels called "drifts". This was accomplished with black powder, very hard work and was quite dangerous. As better technology improved the hydraulic process, "drifting" was less and less utilized.

At first, "coyote holes" were sunk to find the ancient river beds. Simple Mexican devices, called "arrastras", that dragged heavy stones over the ore to break it up, were replaced by stamp mills and derricks to lift the heavier pieces. These derricks were as large as one hundred feet high with a ninety foot boom, powered by a water wheel. The first successful derrick was used by the formerly mentioned Edward Matteson. Technology to make the pipes bigger, the hoses stronger, and the nozzles tighter and more flexible helped the process.

At first water came from a ditch or cistern into a sixteen to twenty foot pipe connected to a smaller pipe. Then primitive nozzles of iron pipe and tinplate were tried, to be replaced by a cast brass pipe connected to the hose by a screw joint. As more water pressure was needed, the strength of the hoses was increased by wrapping them in iron bands, called "Crinoline Hoses" after ladies petticoats. The hose had to be firmly attached to the ground and turned with a block and tackle. A gooseneck hose was tried, but it spun around in the wrong way. Leather hoses made in San Francisco were eventually of such quality that they became a secondary business, and imported all over the world, until 1874, when fire companies switched over to rubber. In the spring of 1870 Richard Haskins of Dutch Flat invented the "Haskins Dictator", a pressure and leak proof joint. Other improvements were the "Little Giant" nozzle (or monitor) that could swivel laterally and the "Perkins Deflector" that helped the hose move in the right direction. By the 1880s a nine inch monitor could force out over one million gallons of water an hour. This cut down on labor costs as one or two monitors could

do the work of the dozen previously used. The strength of the water easily tossed fifty pound boulders as if they were weightless. Workers caught in the force, even two hundred feet away, were often killed. Many workers lost their lives. At the Polar Star Mine, two men were killed by an unusual rush of water, sand, and gravel, a slurry much more dangerous than just water. The monitor operator, or "piper", found that he was more effective training the flow to the side from a distance of two to six hundred feet, rather than straight forward. Two other workers checked the debris to prevent jamming of the sluices, and to keep guard against persistent looters. "Pressure boxes" with grating were also used to catch debris, as well as a grate of iron bars in the sluice, called a "grizzly", which diverted debris to a side dump. Pressure boxes were used locally at both the Southern Cross and Polar Star Mines. In addition, the Polar Star had a unique system of color-coded boards linked to the piper, so water could immediately be turned off in an emergency. In good weather, the operation went twenty-four hours a day, with pipers working twelve hour shifts, using kerosene lanterns for light and coal oil for heat.

After the earth was washed down and crushed in stamp mills, it was forced down thirty to thirty-six inches deep. They contained riffle plates of wood set vertically nine inches high. Rock tunnels using cobble stones instead of sluices were popular in mines with a steeper grade and plenty of water. Quicksilver (mercury) was placed in the sluices to amalgam with the gold; five to six hundred pounds of mercury per mile of sluices. This mixture was removed and retorted again with mercury, which was driven off with heat, then drained. The gold was placed in a crucible and fused in a furnace, before poured into molds and sent to a smelter. Ten to twenty-five percent of the mercury was lost, most of it still probably out in the diggings. It is interesting to us locally that the Polar Star Mine used no mercury in its sluices, but only during the final clean-up operations, making the clean-up effort there a few years back less viable than it would have been in other local mines. Mercury was used generally until 1890, when it was replaced with a cyanide process.

Another major technological advancement came in 1878 when the first long distance telephone line in the United States, the Ridge Telephone Company, with sixty miles of line and twenty-two stations, was set up from French Corral to Weaver Lake, with branch lines to Bowman and Faucherie Lakes.

The 1860s saw a changing win/lose scenario. Most investors expected quicker profits than actually occurred, and companies often failed due to the high levels of interest on short term loans. The worst drought in California history hit in 1862-65, cutting back water supplies. The Rancho Era also ended as cattle herds died off, driving the state into a deep depression. Normal rainfall came back in 1866 and hydraulics resumed. However, gold and silver strikes elsewhere, coupled with a new federal policy restricting sales of mineral lands, forced a third to a half of all mines out of business. By 1869 Dutch Flat went from two thousand to one thousand residents, with a general air of dilapidation and vacancy throughout.

The 1870s saw a revival of hydraulics, due to a more advanced technology, completion of many tunnels, consolidation of claims, and new investors from

Continued on page 15

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## Why I Oppose the New American River Trail;

*A Personal View*

BY RUSSELL TOWLE

I enjoy hiking here in Placer County, often somewhere in the great American River Canyon, that is, the canyon of the North Fork of the American River. There are many old trails, historic trails, which give access to the canyon. Some of these have been abandoned, and offer quite a challenge to find and follow.

For instance, over the past several years, with various friends, I made seven expeditions in search of an old trail from Humbug Bar to the summit of Sawtooth Ridge. This trail is but a few miles east of Dutch Flat, and harkens back to the days when mining camps way up by Burnett Canyon and Texas Hill were supplied by mule trains from Dutch Flat. When roads from Emigrant Gap penetrated that area, about a century ago, the need for the trail declined, and it fell out of use. The bridge across the North Fork at Humbug Bar, connecting to the Euchre Bar Trail, washed out, and the fine old trail, graded for loaded mules, with massive stone retaining walls in places, lapsed into complete obscurity.

This Humbug-Sawtooth Trail could and should be restored.

Others have been blocked by gates, or ruined by logging. Concern over loss of our old public trails led Placer County residents, Democrats and Republicans alike, to propose a Trails Ordinance, which was enacted by our Board of Supervisors (BOS) in 1953. The ordinance decreed that all the trails and roads depicted on old Geological Survey maps were "County roads," and could not be blocked in any way.

Within minutes, large landholders in Placer County filed suit to overturn this Trails Ordinance, and in 1954 it was rescinded.

I could go on and on about the ongoing loss of our historic trails. What I really mean to say is, I love hiking, and I love old trails. Hence I find it somewhat strange to find myself talking part in a lawsuit to stop construction of a trail.

Placer County proposes to build a "multi-use" trail 12.6 miles up the North Fork canyon from The Confluence, below Auburn, to Ponderosa Bridge, below Weimar. It has been named the "North Fork American River Trail," which has the unfortunate acronym, NFART. The idea is to build a sort of level road, four to nine feet wide, cut directly into the canyon wall, so that mountain bikers, equestrians, and hikers can easily penetrate the wildest area left anywhere near Auburn.

I oppose this NFART for many reasons, not the least of which is that I would much prefer the County spend its limited funds on protecting our existing historic trails, rather than building new trails. The BOS approved the project in August, 2004, and in September, I joined with Dutch Flat's own Bill Newsom, Michael Garabedian of Citrus Heights, Colfax's Jay Shuttleworth, the amazing Catherine O'Riley, and others, to file suit to stop construction of NFART, and force an Environmental Impact Study.

NFART is in fact Phase One of the proposed Capital-to-Capital Trail (CCT), from Sacramento to Carson City, Nevada. Never mind that we already have a trail from Auburn all the way up and over the Sierra crest to Squaw Valley—the famous Western States Trail—Supervisor Rex Bloomfield decided that a new trail was needed. It would be five feet wide, as level as any amount of dynamite could contrive, blasted from the very cliffs of Giant Gap and the Royal Gorge, all the way up the North Fork canyon from Auburn.

Bill Newsom remarked that this would be like building the Central Pacific Railroad all over again, but over much more difficult terrain. Many people objected strenuously to the CCT; I remember Rex telling me that I was a "radical" and selfish, to boot, for I wished to deprive mountain bikers of a chance to coast down the length of the North Fork American River.

Placer County forged ahead, seeking grant money from the California Resources Agency, and obtained preliminary approval for 1.5 million dollars from Mary Nichols, Gray Davis's Agency Secretary. The CCT, in Placer County, had been divided into three "phases," of which the twelve miles from The Confluence to Ponderosa Bridge was Phase One.

This was a more than major project, which would require a painstaking and expensive environmental review. To avoid such costs, the Resources Agency and State Parks advised Placer County to carry it forward bit by bit, and treat Phase One as a "stand-alone" project.

Hence, suddenly, black-magically, Phase One of the CCT became stand-alone NFART. To Rex and his mountain bikers, little environmental review was needed; so a "Mitigated Negative Declaration" (of environmental impact) was conjured up and approved by the Supervisors. It was confusing to talk with County staff about NFART. These are men of integrity who have served our County well, like John Ramirez of Public Works, long involved with the Boy Scouts. On the one hand, it could not be denied that Placer County was still pursuing the CCT, across the Sierra to Squaw Valley and beyond; on the other hand, Phase One was a "stand-alone" project.

Doubletalk at its finest.

Were NFART in fact a stand-alone trail project, I might not have joined in the lawsuit. I rarely visit that part of the canyon, and, "out of sight, out of mind," as they say. There are so many threats to the North Fork and its historic trails, it is irksome to spend time and money fighting NFART. Right here in Gold Run, 800 acres is now for sale which includes one of the loveliest of all ancient paths, the Canyon Creek Trail. It is irreplaceable; its loss could not be mitigated in any way. This is where Placer County should be spending its money, to protect open space, preserve a historic mining district, and secure continued public access to existing trails.

## NEW OWNERS FOR DUTCH FLAT DIGGINS

BY CINDY GOLDMAN

The historic Nichols Diggins in Dutch Flat has new owners, effective November 2004.

The 204 acre property, which borders the houses along lower Main Street and the pool area off Mattell Drive, goes nearly to the afterbay and spans both sides of Diggins Road. Two men have purchased the property. Kim Douglas lives in Colfax with his family and is a small business owner in the computer field. Jim Biales is a retired gentleman who used to work in the hotel industry. Their intention is to build their own private residences.

The County has required them to clean up many trash dump sites and abandoned vehicles. They have hired a local young couple to help with this process.

Everybody needs to help maintain the natural environment by not using this private property to dump anything, including yard waste. If the dumping continues, Placer County will require the new owners to make the property inaccessible by fencing off large portions of it.

The new owners are open to allowing special events on the property, such as the traditional Easter Service and stargazing, and will consider other possible uses that will benefit the community. However, the new owners remind everyone that this is private property, and, for liability reasons, it is unlawful to use the property for activities such as swimming, camping, target shooting, or off-road vehicle riding, unless given special permission by the owners.

Kim Douglass is an active member of the Sierra Club and has strong feelings "about preserving and restoring California's beautiful Sierras to their natural condition." He also plans to "reforest the property by planting 1000 pine seedlings each year."

The new owners are open to ideas and suggestions and can be reached at:

Nichols Diggins  
P.O. Box 454 Dutch Flat, CA. 95714



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**HYDRAULIC MINING IN CALIFORNIA***Continued from page 11*

all over the States and overseas. At this point only about half of the people in the mining districts worked at mining, an indication of a stronger economic base. The mid to later part of the decade was the most successful time for hydraulics, with investment of over one hundred million dollars and an annual gross of eleven to fifteen million. The larger companies were employing seventy-five to a hundred and twenty-five workers.

Hydraulic mining was ultimately undone by the debris it created. As early as 1856 debris from the mines was polluting the Bear and Yuba Rivers, particularly where they entered the Sacramento Valley. In 1861 and 62 spring floods poured tons of "slickens" over agricultural and urban areas below the foothills, almost reaching the steps of the State Capital, and leaving eight feet of mud in its wake.

The first lawsuit against the hydraulic companies was mounted in 1871 by A.J. Crum near Dry Creek, when slickens killed his peach orchard, but, as the actual company responsible couldn't be named, the lawsuit was rejected. Ultimately the Great Marysville Flood of 1875 changed the legal climate. The whole city was virtually destroyed, and a Board of Levee Commissioners was formed to construct a system of levees and dams. In 1876 the first specific lawsuit was brought by James H. Keyes of Yuba City against eighteen mines which discharged into the Bear River. The Hydraulic Miners Association was formed to provide a united front against such legal actions. Mr. Keyes won his case in the trial court, but the Association went to the Supreme Court and won on appeal in 1879. There were boisterous celebrations all throughout the foothills, but the largest was in Dutch Flat, with a long procession of brass bands, plus men shooting off guns, ringing bells, and banging on tin pots, all culminating in a huge fireworks display. Phil Nichols, a local banker, went to various saloons and left orders to set up everything for the Boys, and to send the bill to him.

Meanwhile, in 1878, the farmers and ranchers formed the Anti-Debris Association of Sacramento Valley and brought suit against the owners of the Malakoff Diggings, in Woodruff v.s. the North Bloomfield Mining Company. These diggings,

named after an area in the Chimera, were the largest in the state, at more than a mile long and six

hundred feet deep, supported by forty-seven miles of flumes. While this suit was in process, the state legislature released the Drainage Act, a study commissioned by a Colonel Mendell, of the effects of the accumulated debris, and predicting a disaster. It found one hundred and twenty-two million cubic yards were choking the Bear River, and that the level of the American Canyon had raised up by five to thirty feet. Then, in 1883, the Rudyard Reservoir, more commonly known as the English Dam, burst, pouring a hundred foot wall of water down the Middle Yuba River. Luckily it was mostly dissipated by the time it reached Marysville, but en route many people were killed and much property lost or damaged.

Woodruff v.s. North Bloomfield Company was presided over by Judge Lorenzo Sawyer, a Nevada City lawyer generally thought to be sympathetic to the miners. Early on he took a group of prominent businessmen and journalists, including my great-great grandfather, James McClatchy, up to Malakoff for a closer look. James, as editor of the Sacramento Bee, wrote an editorial that stated "one of two things must soon come to pass - either hydraulic mining must be stopped or the valley must be deserted by man".

In 1884, in the "Sawyer Decision", the California Supreme Court ruled against the miners. A compromise had been expected, but the views of the majority of Californians prevailed. Hydraulic mining itself was not declared unlawful, but only where it contributed substantially to the damming of rivers, preventing navigation, or flooding farmlands. Such actions were declared a public nuisance and prohibited. This essentially shut down the larger mines. Smaller mines tried to continue, but the Anti-Debris Association shut them down with threats of long and costly litigation. It is generally believed that the Sawyer Decision was based upon environmental concerns, but it was really economics, as agriculture had proved more profitable to the state by the 1880s. Still, there was an estimated one hundred million invested in hydraulics at the time, which all became worthless. Many miners tried other methods, primarily drifting, but most failed. Nevada County, with its greater diversity of gold-bearing areas, came back better than Placer County, which suffered wide spread bankruptcy and unemployment.

1893 brought The Caminetti Act, which permitted hydraulic mining if debris dams were built to catch all the slickens before they clogged the rivers. A few attempts were made, including the Polar Star, but the cost of building the dams, the long licensing process, and problems with dam failures due to heavy storms and vandalism negated a revival.

"Bootleg" hydraulics still continued. Jerry Goodwin and others of You Bet would use hydraulics at night and pick and shovel digging during the day until the 1930s, using a system of sentries, and later telephones, to warn of approaching agents. It also helped that Goodwin was the sheriff! The Great Depression of the 1930s brought a renewed interest with the formation of the Hydraulic Miners Association, but it was suspended after two years due to lack of investment capital.

The La Grange Mine of Trinity County, whose water outlet flowed to the Pacific Ocean rather than the Central Valley, was therefore unaffected by the Sawyer Decision, so continued, finding its greatest productivity after most of the other mines had to close. The oldest continually operating mine in California was the Depot Hill in Yuba County, which ran from 1855 to 1942. Owned by three generations of the Joubert Family, it produced one and a quarter million dollars worth of gold. The previously mentioned Malakoff was the largest, and the Spring Valley of Butte County, known locally as the Cherokee, was the richest.

Over the years it is estimated that between one and a half and two billion cubic yards of slickens from four hundred mines, or about seven to eight times the amount of earth excavated in the Panama Canal, eventually found their way to San Francisco Bay. It would take over fifty years for it to dissipate. The Yuba River contributed the most, about six hundred eighty-four million cubic yards, more than the Feather and the American put together.

The water system was used later to generate electricity. In fact, the dynamo was in use before the Sawyer Decision, and the first water rights for hydroelectricity were in 1891 on the South Yuba, bringing power to Nevada City and Downeyville by 1896. This venture evolved into the PGE. Farmers in Nevada County organized a farm club to monitor water rights, becoming the NID in 1921. Wheat and produce farming in the Sacramento Valley became a new kind of gold, as ice-cooled railroad cars could then ship to the Midwest.

The pros and cons of hydraulic mining will be debated throughout history, but we can all agree, along with the transcontinental railroad, the area we all love to live in was certainly shaped both physically and emotionally by two of the most impressive periods of American history. I remember childhood years of swimming in the "gravel pit", most likely the Bear River Hills Mine, and I still love to explore the Polar Star, Blue Devil, and Southern Cross Mines. The Nichols Diggings behind the Post Office have recently been sold to a purchaser who proposes only to build one or two homes there. Fingers Crossed!!

Debby McClatchy -Dutch Flat October, 2004

The majority of this article was researched in the Golden Drift Museum of Dutch Flat. The museum has wonderful, extensive sources for local history and beyond. Next summer put it on your "must do" list for a number of visits. It is also a great place to bring guests.



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# HOW WE VOTED

Every election, our Placer County Elections Chief Jim McCauley and his Chief Deputy, Ryan Ronco, provide us with our elections results. What follows is the UNofficial results for all precincts in the Alta School District for the November, 2004, election:

## PRESIDENT

|                        |     |
|------------------------|-----|
| GEORGE W. BUSH .....   | 572 |
| JOHN F. KERRY .....    | 332 |
| MICHAEL BADNARIK ..... | 5   |
| DAVID COBB .....       | 2   |
| MICHAEL A. PEROUTKA 2  |     |
| WRITE IN VOTES .....   | 6   |

## UNITED STATES SENATOR

|                           |     |
|---------------------------|-----|
| BILL JONES .....          | 510 |
| BARBARA BOXER .....       | 335 |
| MARSHA FEINLAND .....     | 19  |
| JAMES P. "JIM" GRAY ..... | 17  |
| DON J. GRUNDMAN .....     | 15  |
| WRITE IN VOTES .....      | 2   |

## U.S. REPRESENTATIVE, 4<sup>TH</sup> CONGRESSIONAL

|                         |     |
|-------------------------|-----|
| JOHN T. DOOLITTLE ..... | 552 |
| DAVID L. WINTERS .....  | 332 |
| WRITE IN VOTES .....    | 1   |

## STATE SENATOR, 1<sup>ST</sup> SENATE DISTRICT

|                         |     |
|-------------------------|-----|
| DAVE COX .....          | 529 |
| KRISTINE MCDONALD ..... | 293 |
| ROBERTO LEIBMAN .....   | 36  |
| WRITE IN VOTES .....    | 1   |

## STATE ASSEMBLY 3<sup>RD</sup> ASSEMBLY DISTRICT

|                       |     |
|-----------------------|-----|
| RICK KEENE .....      | 509 |
| ROBERT A. WOODS ..... | 307 |
| ROBERT BURK .....     | 33  |

## SIERRA COMMUNITY COLLEGE TRUSTEE, AREA 3

|                       |     |
|-----------------------|-----|
| AARON KLEIN .....     | 394 |
| DAVID W. PARKER ..... | 298 |
| WRITE IN VOTES .....  | 2   |

## ALTA-DUTCH FLAT ELEMENTARY SCHOOL BOARD

|                         |     |
|-------------------------|-----|
| LYNN M. OLIVER .....    | 434 |
| GINA ERICKSON .....     | 399 |
| KATHLEEN A. MUTTO ..... | 368 |
| WRITE IN VOTES .....    | 39  |

## PLACER COUNTY WATER AGENCY

|                      |     |
|----------------------|-----|
| T. OTIS WOLLAN ..... | 567 |
| PETE JEFFALONE ..... | 178 |
| WRITE IN VOTES ..... | 3   |

## STATE PROPOSITIONS

|                               |     |     |    |     |
|-------------------------------|-----|-----|----|-----|
| NO. 1A GOVT LOCAL FUNDS       | YES | 742 | NO | 124 |
| NO. 59 ACCESS TO GOVT INFO    | YES | 708 | NO | 148 |
| NO. 60 PRIMARY ELECTIONS      | YES | 520 | NO | 303 |
| NO. 60A SURPLUS PROPERTY      | YES | 683 | NO | 149 |
| NO. 61 CHILDRENS HOSPITALS    | YES | 366 | NO | 498 |
| NO. 62 ELECTION PRIMARIES     | YES | 378 | NO | 482 |
| NO. 63 MENTAL HEALTH SERVICES | YES | 396 | NO | 482 |
| NO. 64 LIMIT ENFORCEMENT      | YES | 561 | NO | 301 |
| NO. 65 LOCAL GOVT FUNDS       | YES | 259 | NO | 541 |
| NO. 66 LIMIT THREE STRIKES    | YES | 358 | NO | 541 |
| NO. 67 TELEPHONE SURCHARGE    | YES | 169 | NO | 702 |
| NO. 68 TRIBAL RENEGOTIATION   | YES | 94  | NO | 802 |
| NO. 69 DNA SAMPLES            | YES | 556 | NO | 331 |
| NO. 70 TRIBAL EXCLUSIVE       | YES | 127 | NO | 761 |
| NO. 71 STEM CELL BONDS        | YES | 408 | NO | 492 |
| NO. 72 REFERENDUM             | YES | 315 | NO | 567 |

# THE ADVENTURES OF ARCHIBALD GWATHROP

A Fiction  
BY RICK SIMS

## Part 6

Two days later, Michael Murphy and Archibald Gwathrop found themselves on the deck of a 40-foot sailing sloop, which was tacking up the Sacramento River toward the town of Sacramento.

In the late afternoon, they approached the dock and saw the town assembled beyond. There were rows of new buildings and countless tents. Men were scurrying everywhere. Horses and mules kicked up a low cloud of dust in the streets. Everyone seemed to be in a hurry.

Michael and Archie found a rooming house (way too expensive) that served meals. They dined on venison and carrots and potatoes. It was Archie's first venison and, all things considered, he found he preferred the boiled beef of London.

The next day, the two men set out to get outfitted. At one end of town, they found the largest tent around, with a sign on the front that read, "Gold Fields Mercantile." In they went. They discovered an amazing array of picks, shovels, clothing, pots, pans and—well, you name it.

They must have looked dazed, because a heavy-set, cheerful man wearing an apron came up and said, "You fellows need a little help finding the tools of fortune?"

Michael and Archie looked at each other. As men often do, they were calculating whether to admit their inexperience and get help or whether to tough it out and remain proud.

Archie broke first. "Yes, thank you," he said. "We're headed for the gold fields, so we're looking for basic equipment. But not the most expensive items if you please."

The man laughed. "Most folks would say there are no Inexpensive items in Sacramento," he said. "But you just grab that cart over there and follow me." And during the next hour, the cart was filled up with a pick, a shovel, a tent, two mining pans, four pair of Levi denim pants, boots, gloves, cookware, and other miscellany necessary for making a fortune in the gold fields. The total came to almost \$500 each, but Michael and Archie both expected that they would recoup their investment in the first few days.



## ARCHIBALD GWATHROP

*Continued from page 16*

As they departed the store, Archie extended his hand to the man with the apron who had helped them. "I'm Archie Gwathrop," he said, "And this is Michael Murphy. Thank you so much for all your help."

"Charlie Crocker," the man replied. "Good luck to you. I hope you strike it rich."

That evening, at dinner in the rooming house, the two adventurers could not help overhearing the buzz around the other diners. Several men had come down from the gold fields and were on their way down to San Francisco. They were boasting that the richest takes were coming out of the North Fork Dry Diggins, which was a long day's ride from Sacramento.

Archie and Michael looked at each other. Without saying a word, Michael nodded. "Then it's North Fork Dry Diggins?" Archie asked. Michael nodded again. If you had to dig—and you did—you might as well be digging in the richest dirt to be found

Two days later, Archie and Michael found themselves and their gear in the back of a large open wagon, pulled by a team of mules, bumping toward the North Fork Dry Diggins. Two other men were in the back of the wagon, and two more were perched on the driver's seat.

One of the men in the back was older, Archie guessed in his fifties, and was spinning tales of the gold fields.

"I slept next to a fellow who was comin' out," the older man said. "He picked up half a dozen nuggets right in the streambed. Didn't even have to dig or pan for it. I figure I'll stay about a month and then retire. The wife's a waitin' in Pennsylvania for me. So's the dog."

The wagon entered a canyon with thick brush and oak trees along the road. All of a sudden, out of the brush, two men on horseback charged toward the wagon. They had bandannas tied over their faces. "Hold it! Hold it!" one of them shouted.

Without a word, one of the men in the driver's seat reached down and, from somewhere below, produced a double barreled shotgun. Before you could wink, the gun was in place on his shoulder, and a huge "BOOM!" was heard. The lead horseback rider was blown off his horse in an episode so sudden that Archie had no time to compute its meaning. The other rider threw both hands in the air.

"Give up! Give up! Don't shoot! I ain't got no gun!" he shouted.

"You just stay right where you are," commanded the man with the shotgun, as the other occupants of the wagon scrambled out.

Michael Murphy ran over, grabbed the horseman by the front of his shirt, and threw him to the ground. The horseman's bandanna fell off, and Archie could see that the horseman was in fact a youth of 15 or 16. "Ain't my idea," the youth shouted. "That's my uncle you shot. 'Twas his idea, not mine."

The wagon driver looked down at the youth on the ground. "Well, whoever's idea it was, it was a bad idea," the driver said. And he returned to the wagon, where he rummaged in the back and soon produced a rope. "We'll use that tree up ahead," the driver said.

Suddenly, it dawned on Archie what was about to transpire.

"Wait a minute," said Archie to the driver. "This isn't right. We should take this man to a sheriff."

"And exactly where would that be, Limey?" asked the driver.

"I don't know," said Archie. "But he's entitled to a trial. He should have a jury."

"We have a jury right here, Limey, and you're on it. Were you asleep? Didn't you see them ride out to rob us? Jury? Jury? Nonsense. The only thing the robbers understand is seein' another robber hangin' from a tree. That they do understand."

"He's right, Archie," said Michael Murphy. And the other men nodded in agreement.

And so they took the young man, who was struggling and crying over to an oak beside the road. There, the driver fashioned a noose. The rope was thrown over the limb of the oak, and the wagon was backed up to the rope. Two of the men held the would-be robber on the back of the wagon while the noose was placed over his head. He was trying to say something, but he was shaking so badly that he was incoherent.

Then the driver took his place in the driver's seat and slapped the mules with the reins and yelled "Ya."

The mules charged forward, and Archie realized that he was, indeed, in a new land.

## TOWLE BROTHERS COMPANY

BY DOUG FERRIER

Recently, I was asked to give a talk about the Towle Brothers Company to the Railroad group down in Auburn. There have also been a number of articles recently concerning the town of Towle and the Towle Brothers. Because some of these items had a number of errors or misconceptions in them, I thought maybe a series of articles about the TowleBros. Company would be appropriate. This is the first part, and covers the Towle family.

The central figure in the Towle Brothers Company is Allen Towle. Allen was his middle name, and one never sees his first name or first initial. Evidently he didn't greatly care for it. He was born in Corinth, Vermont, which is located about in the middle of state, towards the eastern border with New Hampshire. His parents owned a farm there that had been in the family since the Revolutionary war. He would be the oldest of at least three boys and two girls born to the family. He had a normal farming upbringing while attending public schools in the area. He came to California, by the ocean route and across the Isthmus of Panama, arriving in 1856. He was 23 years old. As with most emigrants of that era, he was hoping to try his hand at mining. He would end up in Placer and Nevada counties and was reported to have been mining on Steephollow Creek and the Bear River. He would also be involved in freighting, working as a teamster between Marysville and Dutch Flat. In 1859 & 1860, he bought interests in the Franklin mining claims, and the Bear River Hills mining claims, both in Dutch Flat. The Franklin is immediately behind today's Dutch Flat Trading Post store and the residence behind it, while the Bear River Hill claims were where the pond is as you go to the Dutch Flat Powerhouse. At the same time as he was purchasing these mining interests, he also went to work at Hamlet Davis's Dutch Flat Sawmill. This was a water powered sawmill located up by today's railroad tracks, roughly south of Mattel Drive and Main Street. It was built around 1854 and only put out about 6 thousand board feet of lumber a day. The 1860 census of the area has Allen listed as living with fellow sawmill workers in a cabin near the sawmill. In 1861, Allen decided to devote most of his energy to lumbering, and bought the sawmill from Hamlet Davis for \$1,300. The sale also included 320 of land around the mill, although the exact dimensions of the land are not precise. He would also take in a partner as owner of the mill, Nathan W. Blanchard, of Dutch Flat. This would be the start of what would eventually become the Towle Bros. Company.

George Washington Towle was the next major family member that would become part of the firm. Like his brother Allen, he too was born in Corinth, Vermont, and raised on the family farm. He was three years younger than Allen. He followed Allen to California, arriving 16 months later, on Thanksgiving Day, 1857. He would also spend his early days in California working as a miner and as a teamster. The 1860 census lists him as working as a teamster in Dutch Flat, and living with some laborers. It is unknown whether George went to work in the Dutch Flat Sawmill after Allen bought it, as documentation of his early days is sketchy. His name does not appear on any property documents until 1867, when he and Allen purchased some timberland in the Canyon Creek drainage. From then on, though, he became a major partner with Allen in various lumbering and mining ventures. He would own a 1/3 interest in the Towle Bros. Company, the same as Allen.

The third major member of the Towle family in the firm was Edwin W. Towle. He was the youngest of the three brothers, being 6 years younger than Allen. As with the other two, he was born and raised in Corinth, Vermont. He came to California in 1859, accompanying Allen as he returned from a trip east to the family farm. The 1860 census finds him working as a miner, and living in the same cabin as George Towle, with some other miners. His name does not start appearing in property documents of the Towle operations until 1871, leading one to wonder if maybe he worked in the mills or in the woods of various operations during those early days. He would however eventually become a one-sixth owner of the Towle Bros. Company.

At various times, Allen Towle and Towle Bros. Company had various non-family members as partners in individual enterprises, or even as lesser owners of the Company. Over the years, this included N.W. Blanchard, Alexander Hemphill, and James Gould.

Next time, I will write about the early expansion of the lumbering enterprises of the Towle Brothers.

## WHAT APPELLATE JUDGES DO

BY RICK SIMS

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*Rick Sims, the editor of Community, is a graduate of the Harvard Law School. For the past 20 years, he has served as Associate Justice of the California Court of Appeal for the Third Appellate District, in Sacramento.*

As we all know, partisan battles are raging in the United States Senate over the confirmation of the judicial nominees of President Bush to various Circuits of the United States Court of Appeals. This is nothing new. We saw similar partisan battles over the judicial nominees of President Clinton and over the nominees of Presidents before him.

But these battles raise the questions: Are appellate judges simply politicians with robes on? Does it mean anything anymore for appellate judges to “apply the law” or are appellate judges simply making it up as they go along?

A good place to start is with a line from John Chipman Gray, who was an attorney and professor at Harvard Law School, and who wrote in 1909 that, “The law is what the judges declare.”

In one sense, this statement is as true today as it was in 1909, because it remains true that the final decision of an appellate court resolves a dispute of law and therefore declares it. But in another sense, Professor Gray’s statement had a different meaning in 1909 than it does today, because appellate decision-making was vastly different in 1909 from what it is today.

In 1909 and before, appellate judges often decided disputes (cases) without reference to any statutes passed by any legislative body, simply because the statutes did not exist. Appellate courts in England and in this country exercised their “common law” power to decide cases by making up an appropriate rule of law according to what they considered to be wise public policy. This is how we got such things as “the rule in Shelley’s case” and “the rule against perpetuities,” both of which restricted the ability of landowners to tie up ownership of land for generation after generation.

When courts exercised this “common law” power to make up the law, they were acting in a legislative capacity, as Oliver Wendell Holmes, Jr. recognized in 1881 in “The Common Law:”

“[I]n substance the growth of the law is legislative. And this in a deeper sense than that what the courts declare to have always been the law is in fact new. It is legislative in its grounds. The very considerations which judges most rarely mention, and always with an apology, are the secret root from which the law draws all juices of life. I mean, of course, considerations of what is expedient for the community concerned. Every important principle which is developed by litigation is in fact and at bottom the result of more or less definitely understood views of public policy; most generally, to be sure, under our practice and traditions, the unconscious result of instinctive preferences and inarticulate convictions, but none the less traceable to views of public policy in the last analysis.”

The common law power of the courts to declare a rule of law, in the absence of legislation on the subject, exists to this day and is found most frequently in the law of personal injury, or “torts” as lawyers and judges call it. A relatively recent example is found in the 1963 decision of the California Supreme Court in *Greenman v. Yuba Power Products, Inc.* In that case, a man bought a Shopsmith, which was a combination power tool that could be used as a saw, drill, and wood lathe. While he was using the Shopsmith on a piece of wood, the wood flew up and struck him in the head, causing him serious injuries. He sued the manufacturer for breach of warranty and a jury awarded him \$65,000. The manufacturer appealed, contending the man had not given the manufacturer timely notice of breach of warranty. In an opinion by Chief Justice Roger Traynor, the Court held that it did not matter that the man’s notice of breach of warranty was untimely, because the man should have collected on another legal theory that needed no notice of breach of warranty, to wit, that the manufacturer of a product is strictly liable without fault to a consumer of the product who is injured by it when using the product as intended.

Think about it. The rule in *Greenman v. Yuba Power Products, Inc.*, established the law not only for that case but for all later cases in California (and, in fact, the *Greenman* rule of strict liability was later adopted by almost all the states). This is a rule with enormous social and economic consequences. It was made up by appellate judges exercising their historic common law power. This is not to say the *Greenman* rule was wrong, because it was not. It is simply to illustrate that the historic common law power of a state appellate court is a very potent power.

Thus, to return to the point of beginning, when John Chipman Gray said in 1909 that “The law is what the judges declare,” he meant it in the literal sense that judges, exercising their common law power, often made up what the law was in any given case.

However, since the time of Gray and Holmes, the common law power of both federal and state courts has been drastically diminished. The general common law power of the federal courts was severely curtailed by the United States Supreme Court in the landmark decision, *Erie Railroad Company v. Tompkins*, authored by Justice Brandeis in 1938. In that case, the high court held that, in deciding controversies between citizens of different states, the federal courts had to apply the law of the appropriate state and could not make up their own rules in the exercise of a general federal common law power. Additionally, in both federal and state jurisdictions, Congress and state legislatures have passed legislation that has invaded fields traditionally occupied by the common law power of courts. Thus, to pick but a few examples, Congress has passed laws regulating pollution and toxic waste, defining safety standards, and even specifying rules for arbitrations. The states have enacted various Uniform Laws, the most influential of which is probably the Uniform Commercial Code, which specifies the rules of law that apply to nearly all commercial transactions between merchants. California enacted its first set of comprehensive codes (statutes) in 1872. They were based on the famous Field Code of New York. The 1872 California Codes take up about three feet of shelf space. The current California Codes in my

chambers occupy about 40 feet of shelf space.

I am not suggesting there is anything wrong with this assertion of legislative power; to the contrary, it reflects the democratic notion that laws should be enacted by elected representatives. I simply wish to point out that, since the 19th century, the power to “declare the law” has shifted from the courts to the Congress and the state legislatures.

This change in how law is made has resulted in a significant change in what appellate judges do. While Justice Holmes spent much time grappling with the policy judgments underlying the quasi-legislative decisions he would make, modern appellate judges spend the vast majority of time grappling with the meaning to be assigned to words provided to them by a legislative body. The contemporary appellate judge is, first and foremost, dedicated to ascertaining the intent of the legislative body that supplied the statutory language at issue in the case. In performing this task, the modern appellate judge is more often a textual scholar than a maker of policy. Thus, although Holmes was influenced greatly by Darwin, the modern appellate judge is doubtless more influenced by the philosopher, Wittgenstein. The most valuable course I took in college was not “A History of the Supreme Court” but was rather an English course, “An Introduction to The New Criticism,” which focused on the close textual reading of poetry.

Take it from me: figuring out what the Legislature had in mind is not an easy task. When it comes to using language in ways that obfuscate, a state Legislature has few equals. However, the courts have adopted rules or “canons” of statutory interpretation and, if these rules are applied in any given case, most judges deciding a case will agree on the appropriate meaning to be given a statute.

Let me give you some examples of some of these rules.

The first and most important of these rules is that a statute should be construed according to its plain meaning. This means that if a statute says, “All red trucks must have mudguards,” a court should not say that all green trucks must have mudguards.

Not all appellate judges subscribe to the plain meaning rule. Some judges think that language has no fixed meaning and that the meaning of any word or phrase in a statute can never be ascertained without considering both its context and the history of the legislation in which it appears. However, one judge who does think that language can carry a plain meaning is Justice Antonin Scalia of the United States Supreme Court. I think that, on this point, most appellate judges agree with him. We use language every day in ways that show that words have a relatively fixed meaning, and we do so often in our laws. Thus, if the sign on the door says, “Cat Veterinarian; Practice Limited to Cats,” you would not take your dog inside (unless you wanted to give your dog a very special treat). Similarly, if the sign on your sidewalk says, “No parking on Thursdays: Street Cleaning,” you would know that you should not park on Thursdays but it would be OK to park on Friday. If you order pie, you do not expect cheesecake. And so forth. The plain meaning of language gets us through each day, every day.

When appellate courts apply the plain meaning rule to construe a statute, by using language in the way that it is used in everyday speech, they are

## WHAT APPELLATE JUDGES DO

*Continued from page 18*

primarily doing two things. First, they are exercising judicial restraint by inherently limiting the power of the court to make up the law. And, secondly, they are telling the legislative body: we will not try to comprehend how this sausage of a law got made; rather, you legislators are stuck, finally, with the words that were approved upon final passage of the bill.

There are, of course, exceptions to the plain meaning rule. Many words used by the Legislature are inherently vague (a subject we shall return to in a moment). Moreover, courts will not apply the plain meaning rule where language is shown to be a typographical error, or where facially plain language in a statute is made ambiguous by other, contradictory language in the statute. But on my court of 11 judges (representing a broad spectrum of political views), the plain meaning rule is uniformly followed where it applies, and it results in very few disagreements about the meaning of statutes. I call the plain meaning rule, "the glue that holds our court together."

There are numerous other rules, or "canons of statutory interpretation," that provide guidelines for how to assign meaning to unclear statutory language. Some of the more frequently used rules are:

\*Where statutory language is facially ambiguous, it is appropriate to study the legislative history of the statute (such as committee reports) to find out what the Legislature had in mind;

\*When the Legislature uses words with a settled legal meaning, the words should ordinarily be given that meaning;

\*Where general and specific statutory language conflicts, the specific language controls;

\*If possible, every word in a statute should be given meaning and significance, so that there is no surplus language;

\*Where two statutes cannot be reconciled and there is a conflict, the more recent statute controls;

\*Where a statute, with reference to one subject contains a given provision, the omission of such provision from a similar statute concerning a related subject is significant to show that a different legislative intent existed with reference to the different statutes.

Let me give you an example of a real-life application of the last rule of interpretation.

California has made it a crime to make a "criminal threat." The Legislature has expressly said that such a threat must be a "statement made verbally, in writing, or by means of an electronic communication device." In a case we decided, the defendant had made a threat to two boys not to tell the police about his spousal abuse. The defendant made his threat by making a gesture: he drew his finger across his throat in a slashing motion, signaling to the boys what would happen to them if they talked. After defendant was convicted of making a criminal threat, he appealed, contending he had not violated the statute because he had not uttered a "statement made verbally" (he obviously did not make a statement in writing or by an electronic communication device).

The Attorney General and the defendant proffered competing dictionary definitions of "verbal." The Attorney General's dictionary said "verbal" may include a verbal symbol (here the throat slashing).

Defendant proffered a definition from a different dictionary that said that "verbal" meant using words only and not including symbols. In light of these competing definitions, we declined to apply the "plain meaning" rule and concluded the term "verbal" was ambiguous.

We resolved the ambiguity by pointing out that the same legislative enactment that had amended the criminal threat statute had also amended an anti-stalking statute so that stalking could include "a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct..." This closely-related stalking statute showed that the Legislature differentiated "verbal statements" from conduct. We therefore concluded that, when defendant made his slashing gesture, it constituted conduct, so that he had not made a "verbal statement" within the meaning of the criminal threat statute.

What is important to recognize about this example is that we did not decide the case because we had any public policy views about the criminal threat statute or because we were peculiarly interested in the rights of the defendant or because we were "soft on crime." Rather, we applied an established canon of statutory interpretation to use related statutory language in order to resolve an ambiguity in the statute.

If judges resolve questions of statutory ambiguity by using a disciplined approach following established canons of interpretation, most judges will agree with the result. For that reason, as I have said, there are few disagreements on our court with respect to the interpretation of statutes. By way of contrast, as lawyers and judges are aware, the decisions of the federal Ninth Circuit Court of Appeals have been the most frequently reversed in the country by the United States Supreme Court during the last decade. These reversals include three unanimous reversals by the Supreme Court in per curiam opinions (no particular author) at the beginning of the 2002-2003 term. Many of these reversals involve questions of interpretation of federal statutes. During the 2003-2004 term, the Ninth Circuit fared better with the High Court; it was affirmed and reversed at about the same rate as the other circuits. Nonetheless, the historic high rate of reversal by both liberal and conservative justices on the United States Supreme Court indicates that something was wrong with the jurisprudence of some judges on the Ninth Circuit.

The problems of the Ninth Circuit aside, does this mean that appellate judges no longer make quasi-political policy decisions? Not at all. Certainly no one who has read the frequent five-to-four conservative/liberal decisions of the United States Supreme Court (including *Bush v. Gore*) could make such a claim with a straight face. But the ability of appellate judges to make policy decisions ordinarily varies directly with the vagueness of the statutory or constitutional language that they are asked to construe. Thus, for example, if the statute says, "a tax return must be filed by midnight on April 15 of this year," a court would not say the statute means April 16 (just ask the IRS). On the other hand, our courts are routinely asked to apply the language of the Fourteenth Amendment, that citizens be guaranteed "due process of law," or the language of the Fourth Amendment, prohibiting "unreasonable searches and seizures." This vague language obviously allows the courts great leeway in assigning meaning to the lan-

guage.

Some of the most vague and ambiguous language around is found in our federal Constitution. It is vague by necessity because it establishes the most general rules of law we have. But, as we have seen, the vagueness of the language allows the most room for judges to apply their own value judgments. That is why both major political parties are fighting tooth-and-nail over judicial nominees to the Supreme Court and the federal Courts of Appeal, both of which decide constitutional questions with enormous consequences.

But does this mean that appellate judges are routinely making quasi-political decisions? Are they, in fact, simply politicians with robes on?

I think the answer is that, because the federal appellate courts are entrusted with the job of finally construing general and vague constitutional language, those courts occupy a unique position where quasi-political decisions are made all the time, as the frequent five-to-four split on the current Supreme Court indicates. However, although appellate judges on lower courts sometimes make quasi-political decisions, they are doing it a lot less frequently than they did in the days of Oliver Wendell Holmes, before the legal universe was occupied nearly entirely by statutory language. The interpretation of statutes is the daily grist of both lower federal and state appellate courts. As we have seen, this task can be accomplished almost always in a disciplined way by applying the law, consisting of established rules of statutory interpretation.

So, yes, Virginia, there is such a thing as law, and it is being applied by the appellate courts in our country every day.

## RECIPE FOR HOLIDAY FRUIT-CAKE

**From the archives of the Golden Drift Historical Society**

1 cup water  
1 cup sugar  
4 large eggs  
2 cups dried fruit  
1 teaspoon baking soda  
1 teaspoon salt  
1 cup brown sugar  
lemon juice  
nuts

1 gallon whiskey

Sample the whiskey to check for the quality.

Take a large bowl. Check the whiskey again to be sure it is of the highest quality.

Pour one level cup and drink. Repeat.

Turn on the electric mixer; beat 1 cup butter in a large fluffy bowl. Add 1 teaspoon sugar and beat again.

Make sure the whiskey is still OK. Cry another cup.

Turn off mixer.

Break two legs and add to the bowl and chuck in the cup of dried fruit.

Mix on the turner.

If the fried fruit gets stuck in the beaters, pry it loose with a drowscriber.

Sample the whiskey to check! For tonsisticity.

Next, sift 2 cups of salt. Or something.

Who cares? Check the whiskey.

Now sift the lemon juice and strain your nuts.

Add one table. Spoon. Of sugar or something.

Whatever you can find. Grease the oven. Turn the cake tin to 350 degrees. Don't forget to best of the turner. Throw the bowl out the window. Check the whiskey again.

Go to bed. Who the hell likes fruitcake anyway?

## The Ballad of Eli James

BY MICHAEL BENNETT

Eli James was a man of few words,  
And as cold as the ice that ran through his veins.  
As mean as a rattler, 'least that's what I've heard,  
He was crafty and sneaky and slightly insane.

He walked with a limp and slow was his stride,  
From a bullet entombed in his leathery hide.  
Some sought to kill him, but those who had tried –  
Were thought of as fools, for all of them died.

Some thought that he was a renegade preacher,  
Others an outlaw who finally turned good.  
Some said he once was a second grade teacher,  
A reformer, a gambler, a cowboy turned hood.

Eli James had done all of these trades,  
Yet none were his chosen profession.  
For tracking down men and the price that it paid,  
Had become his long-standing obsession.

Though slow on the draw, his six-gun was true,  
And few were his shots in the heat of a fight.  
So when others cleared leather with the guns that they drew,  
O Eli took cover and shot them on sight.

Now his horse, called Henry, had a hankerin' for bitin',  
Any old fool he could reach with a strain.  
He was smart as a whip, and as fast as greased lightin',  
But only with Eli in charge of his reins.

So on one summer day with his back to the sun,  
Which was burning as hot as the dust in his face –  
He followed four outlaws, who were still on the run,  
Over mountains and rivers to a desolate place.

Five banks had been robbed by these outlaws of old,  
Four men lay dead in their rampaging path.  
Their misdeeds had gained them twelve bags of gold,  
And a judge's decree with a furious wrath.

A reward had been gathered and now it was offered,  
Of ten thousand dollars a head.  
They could be alive, but the hope had been proffered,  
To see the whole lot of them dead.

The name of the leader was Tommy Lee Sloan,  
But others just knew him as Slayer.  
For when some cried for mercy all Slayer had shown,  
Was that they never had even a prayer.

Now Johnny, called Scooter, though fiercely debated,  
Was second in charge of their gang.  
And Jim-Bob and Danny were closely related,  
As brothers whose mother was hanged.

Now the posse had long since abandoned the trail,  
For they ran out of water, of food, and of sign.  
But Eli prevailed where others had failed,  
For he tracked and he hunted those bandits just fine.

The outlaws made camp near an old muddy crick,  
And they built them a nice roaring fire.

They passed 'round the bottle and speeches turned thick,  
Of bragging on those they'd retired.

In a few short hours that bottle was drained,  
And these men became drunk from their booze.  
Eyelids turned heavy; words became strained,  
So the three bedded down for a snooze.

But Scooter stayed up, for it was his turn –  
To start watch the first shift of the night.  
But what he did not know, what he'd never learn,  
Was that he'd die from a man not in sight.

For Eli had watched and patiently waited,  
Not far from these men in their camp.  
He pondered his plan; he thought and debated,  
As he lay on the grass dark and damp.

The crack of the fire, the hint of a breeze,  
The flutter of wings from an owl;  
The moon dipped in orange and splashed on the trees,  
The haunt of a coyote's howl.

The snap of a twig and his sudden unrest!  
His head on a swivel; no one was in sight.  
The hand on his mouth, a dull pain in his chest,  
And Scooter died silent, alone in the night.

Now Slayer awoke to a dandy surprise,  
As an uneasy chill crept straight down his spine.  
For he saw that young Scooter had met his demise,  
And a note was pinned to him that Eli had signed.

Just give yourselves up boys, or I promise you this:  
You'll all suffer plenty and you surely will die.  
This is your last chance, if you try to resist,  
I'll kill you for sure!  
Yours truly,  
Eli

O Slayer saw red as he tore up that note,  
And he kicked and he cussed and he cursed.  
"Well don't just stand there! Go find that old goat!"  
So Danny and Jim-Bob real quick-like dispersed.

Now to say that these two were just simple-minded,  
Is like saying the beach has a small bit of sand.  
So with one brain between them they rode off to find him,  
In a bit of a hurry and not much of a plan.

So Danny rode west and Jim-Bob went east,  
And each held his trusty six-shooter.  
They'd just circle round for they thought that was best,  
And they tried not to think of poor Scooter.

Poor Danny kept searching for hours on end,  
But signs of O Eli were yet to be seen.  
So he stopped in the shade of a dry riverbed,  
And took a long pull from his dusty canteen.

"Just hold it right there," said a voice from behind,  
"Don't even think it; don't even try."  
So Danny turned slowly but only to find,  
A man with a gun; a man named Eli.

But Danny was foolish and dropped that canteen,  
To reach for the gun that hung low at his side.

Continued on page 21

## The Ballad of Eli James

*Continued from page 20*

The dirt 'neath his horse turned dark and sanguine,  
He shouldn't have tried, but he did and he died.

"I've got you mister; you're dead in my sights,  
And I'll kill you fer sure for what you just done.  
You murdered my brother and that just ain't right,  
I'll leave you to die 'neath the vultures and sun."

As Jim-Bob approached just a bit from the south,  
He said, "step down real slow from that stead."  
But he stood too close to old Henry's mouth,  
And I'll tell you this, that bite sure did bleed.

'Cause Henry latched on to Jim-Bob's right arm,  
and his shot must have missed by a mile.  
And from Eli's slow gun, O Jim bought the farm,  
As Henry just snorted and smiled.

So Three men were down and one still was standing,  
The cruelest and worst of the bunch.  
But to quick-draw with Slayer was just too demanding,  
At least that was O Eli's hunch.

The smart thing to do was to hide on the trail,  
And shoot Slayer straight in the back.  
The job would be done and Eli'd prevail,  
With a slyly, ingenious attack.

But Eli was tired of creeping around,  
The snooping, the peaking and sneaking –  
And the mud and thorns and the rocks on the ground,  
Plus his boots were all tattered and leaking.

When Eli rode up, O Slayer was waiting,  
Just as calm as a fellar could be.  
This was the fight he was anticipating,  
And he knew that he soon would be free.

"Hello, Eli," he said with a smile,  
"I can't let you haul me on in.  
There won't be no judge; there won't be no trial,  
So step down and let's just begin."

"When you're good and willing, I'll count to three,  
then we can both clear leather and fire.  
you'll get your money or I'll end up free;  
one will live and one will retire."

O Eli just shrugged and got himself ready,  
His face turned impassive and calm.  
His eyes turned to squints, and his hands grew so steady,  
No sweat could be found on his palms.

The stillness was broken when Slayer yelled one,  
For Eli would never fight fair.  
He reached down and fired three shots from his gun,  
To the chest of the now dying Slayer.

O Eli told Slayer with a bit of a grin,  
"I did what a man's got to do."  
And just before Slayer's life came to an end,  
He said, "yeah, I'd have shot you on two."

Some men were captured; some men were shot,  
But the ending was always the same.  
But this story I've told I have never forgot,  
It's the Ballad of O Eli James.

## 'Twas the Night Before Christmas

*(the unauthorized version)*



BY MICHAEL BENNETT

**T**was the night before Christmas and all through the flat  
Not a creature was stirring 'cept the unwelcomed rat.  
The stockings were hung by the air vent with tacks  
Filled up with marbles, some games and some snacks.  
The children were nestled atop their bunk-beds,  
"I'd better get cash," were the words that they said.  
Mama in her T-shirt and old ragged sweats  
While I paid the bills, we were both deep in debt.  
When out on the walk there arose such a clatter  
I cussed at the neighbors, now what was the matter?  
Away to the window I flew like a flash  
I tripped on the X-Box and fell on my ash.  
The moon on the breast of the new-fallen snow  
Of course I embellish, but what do you know?  
When, what to my wondering eyes should appear?  
A miniature sleigh (but I'm drunk from my beer)  
With a little old driver, a Santa-clad drifter  
Probably a crook or at least a shoplifter.  
More rapid than eagles, his coursers they came  
And he whistled and shouted, and called to his dames:  
"Now, DASHER! now, DANCER! now, PRANCER and VIXEN! On  
COMET! on CUPID! on, DONNER and BLITZEN!"  
"He's calling his strippers!" I said in a shout  
But my wife just ignored me and then threw me out.  
"To the top of the porch! To the top of the stairs!"  
Then he tripped on the railing and started to swear.  
As dry leaves that before the hurricane fly  
I shivered and got a stink-bug in my eye.  
So up the apartment the coursers they flew  
They got stuck on the landing but you would have too.  
As I drew in my hand and was turning around  
That big elf broke in and here's what I found:  
He was dressed all in fur from his head to his toe  
The animal rights activists had better not know.  
A bundle of toys he had flung on his back  
With a .44 Magnum in case of attack.  
His eyes – how they twinkled! His dimples, how merry!  
His cheeks were like roses; he looked like a ferry.

His droll little mouth was drawn up with a grin  
He looked kind of tipsy and he sure reeked of gin.  
His speech was quite slurred; his eyes sure were red  
There was no way on earth he could fly that big sled.  
He was chubby and plump, a right jolly old elf  
And I laughed when I hooked him and booked him myself.  
With a wink of his eye and a twist of his head  
He told me next year he would fill me with lead.  
He gave his confession, went straight to his cell  
And spent Christmas Eve in a cold county jail.  
I'm sure kids the world over will wake up and cry  
When they hear that Saint Nicholas was booked DUI.  
His reindeer were left there, so what could I do?  
Me and my family had venison stew.  
This is what I saw and he was quite a sight  
Happy Christmas to all! And to all a good night!

# OBITUARIES

## PHILIP K. FERRIER



Philip Ferrier passed away on September 10, 2004, after a short stay in Sutter Auburn Faith Hospital and Foothill Oaks Care Facility, due to complications of Alzheimer disease. He had lived here in Dutch Flat permanently for the past 6+ years. He was 87 years old.

Doctor Ferrier was born and raised in Berkeley, California, the eldest son of William Warren Ferrier, Jr. and Mabel Sadler Ferrier. Professor Ferrier was a law professor at Boalt Hall at U.C. Berkeley. Philip attended public schools in Berkeley, including UC-Berkeley and also graduated from UC Medical School in San Francisco. During World War II, he served in the European theater as a Captain in the Medical Corps. He had a private practice as a General Surgeon in Berkeley for 34 years, and retired in 1984.

In 1942, He married Esther Elizabeth Christopher, and their union resulted in four boys: Stephen, Douglas, Alan and David.

Since 1922, he had come up to Dutch Flat almost every summer, as his father bought a summer place here that year. His grandfather, William Warren Ferrier, Sr., would also have a summer place here, starting in 1931. Philip enjoyed fishing in the areas streams and lakes, including the lakes up at Grouse Ridge. He saw many changes come to the area, in his 82 years of coming here.

Per his wishes, no memorial services were held.

## LESLIE PARRISH DYER

Leslie Parrish Dyer translated from this life due to lung complications September 16, 2004, in Cumbaya, Ecuador, just short of the fourth anniversary of her marriage to Micheal Dyer. He is grateful for the happiness they shared in the short time they had together.

She was full of LIFE, LOVE & LAUGHTER, and, to quote her sister Jocelyn, "My luminous, funny, brilliant, exasperating, and utterly dear sister managed quite effortlessly to get more capitol "L" Living than ten ordinary mortals into a scant fifty years of earthly existence..."

Leslie attended Colfax High School in 1968-70, where she played sousaphone in the band. After the family moved, Leslie graduated from Lower Lake High School and earned her pilot's license in her senior year.

After graduating from Stanford University with her Flight Instructor's license, a Masters degree in German studies, and later a Masters in Kodaly Music Education, she taught vocal music and flying at many places at home and abroad. Writing, pottery, and travel were her passions, as was the long string of four-legged furry companions.

As an active member of Eckankar, Religion of the Light and Sound of God, Leslie volunteered her time at seminars the world over, gathering a multitude of friends who consider their lives enhanced by knowing her.

She and her husband Micheal met in Ghana, West Africa, at the African Eckankar Seminar in 1999, where they began singing and writing songs together. For the next four years they traveled extensively to Mexico and South America, giving workshops to help people find a deeper connection with their own spiritual nature.

She leaves a hole in the lives of her husband, Micheal Dyer, and his grandchildren of Lowell, OR (currently in Cumbaya, Ecuador); her mother Elaine Parrish of Gold Run; her father Don Parrish of Ycaipa, CA (a former Superintendent-Principal of Colfax Elementary); her brothers Luke Parrish and his wife and four children of Coos Bay, OR, and Jed Parrish of Long Beach, CA; and her sister, Jocelyn Parrish, of Woodstock, VT.

Memorial donations may be sent to the Temple of ECK in Chanhassen, Minnesota.

# Area Churches

## Dutch Flat United Methodist Church

BY DOLORES WAGER

The Holidays this year meant lots of planning and hard work for our church, beginning last January. Records show that this year we needed to celebrate 150 years of a Methodist congregation in Dutch Flat. So we chose December 5, 2004, as the date to have a "Sesquecentennial Party".

One of the main reasons for delaying the event until late in the year was to allow our very busy Bishop, Dr. Beverly Shamana, to enjoy the day with us. Bishop Shamana led the worship here in Dutch Flat, then went to Meadow Vista, our sister church at 11:00. At noon, a "parade" of cars from the surrounding churches came back up the hill for the delicious lunch and ceremony later.

Joe Hoffmann and Clarence Wager have both done extensive research in the Methodist archives, in local history books, and in the dusty back issues of the *Auburn Journal*, and its predecessors. Unfortunately, when one is trying to research such ancient information, sources disappear, and some of the issues of the newspapers were missing. However, we do believe that one man, Jack Martin, was holding Methodist services in Dutch Flat in 1854, three years before the formal congregation was established in 1857.

Most of the Methodist churches in the Mother Lode as well as other mining areas in the state,

were started by Cornish miners. In the mines of Cornwall, England, John Wesley, the founder of the Methodist movement, had a fertile field of conversion because he strongly believed in human rights for the working classes. We don't know who the original "movers and shakers" were here in Dutch Flat, but there are some families who have descended from Cornish ancestry.

And then there is the Christmas celebration: The highlight of the year is Christmas Eve in our old, old sanctuary. It makes you think of those early miners coming in to enjoy the evergreen decorations and to hear the always-moving Christmas story. Can't you picture them coming in, stomping the mud off their feet, shaking the snow off coats, and reverently sitting down in a back pew? Then you hear them singing their own Cornish Carols in 4-part male harmony. This church is so steeped with "Old Tyme" that your imagination runs away with itself!

If you didn't make it to our celebration, be sure to come for Christmas Eve at 7:00, and you'll get a feel for the past 150 years. Otherwise, we'll see you on Sunday morning, at 9:00.

**Pioneer Union Church**  
Gold Run, California  
A Non-Denominational Christian Fellowship



Established 1871

Sunday Service – 10:00 a.m.  
Gold Run, California – Gold Run Exit off I 80

Phone: Pastor: Skip Norton 916-652-5384  
Secretary: Tom Beck 530-389-8313

*Step Back In Time and Experience Eternity*

## THE COWBOY PREACHER

BY REV. CLARENCE WAGER

### Trip To the Auction Yard

Down to the flatland auction yard

With a load of cows to sell.

Every time I go down there

Things don't turn out so well.

There's a herd of hurryin' upscale folks

With their beemers and Corvettes.

When you're hauling your old trailer, that's

As rotten as it gets.

Now half those folks are late for work

The other half are mad.

They figure someone hauling cows

Is somethin' pretty bad.

An anachronistic relic

From some other kind of place

When folks all knew their neighbors and

They wasn't in your face.

Besides all this, the price of gas

To fill up our old trucks—

By the time I reach the auction yard

It's cost 'most fifty bucks.

And the price of beef has stabilized

Which is to say, it's low.

It seems the check was cut to size

Some fifteen years ago.

I'll go back to the auction yard

I guess I've got to do it.

But it didn't used to be this hard

And I won't look forward to it!

## COLFAX SEVENTH-DAY ADVENTIST CHURCH

Times for services:

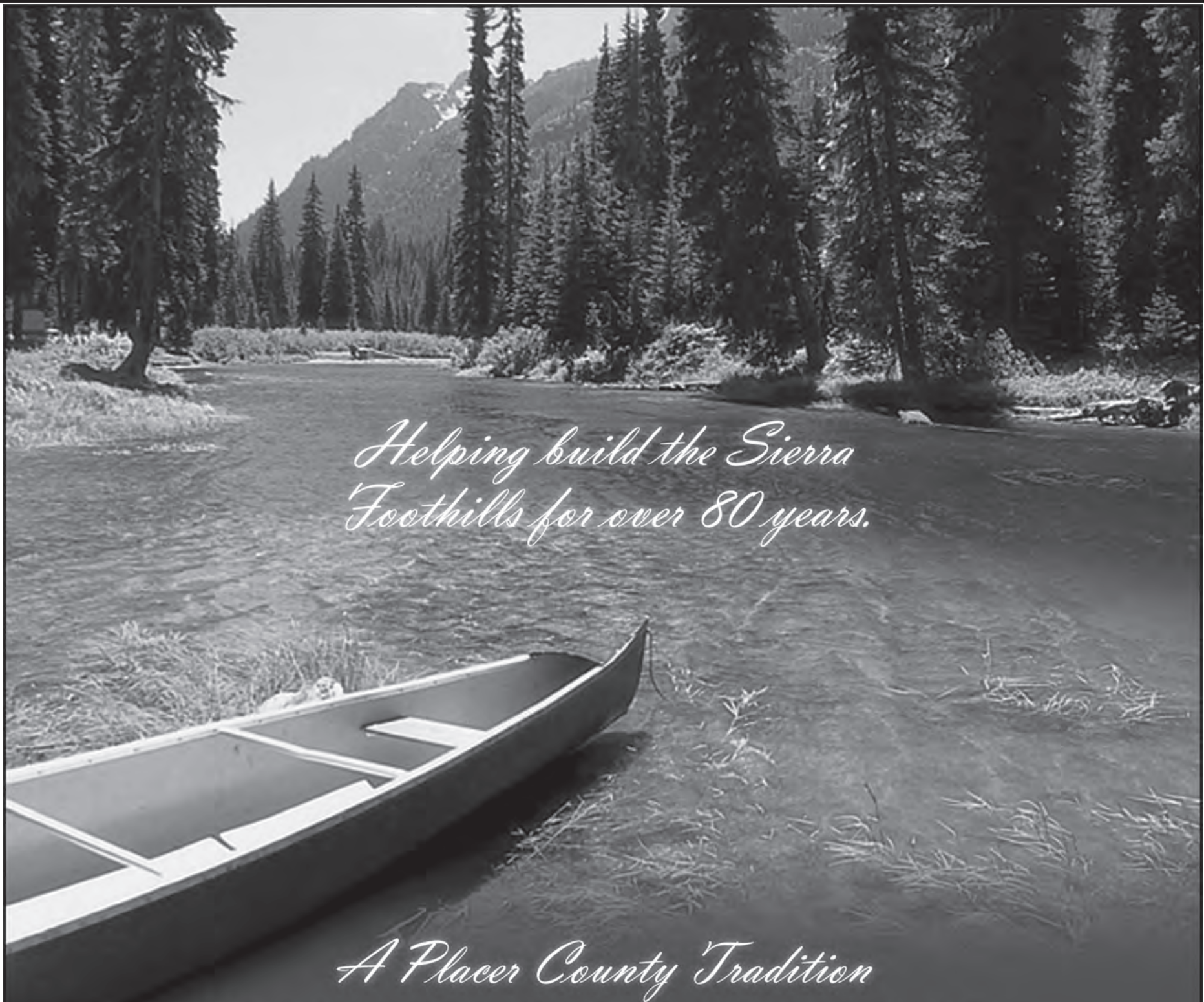
Bible study: Saturday 9:20 a.m. to 10:40 a.m.

Sermon: Saturday 11 a.m. to noon

Prayer meeting: Wednesday 7 p.m. to 8:30 p.m.

Community services: Wednesday 9 a.m. to noon.

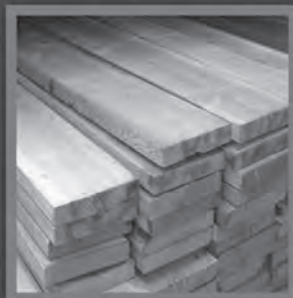
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