

Baca Float Number Three:
An Institutional and Legal History
By
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The Treaty of Guadalupe Hidalgo of 1848 and the Gadsden Purchase of 1853 transferred approximately 560,000 square miles of Mexico to the United States. It took more than a half-century for the courts to unscramble myriad rival claims to the Spanish and Mexican land grants included in the Mexican Cession. The controversies in southern Arizona surrounding the Tumacacori, Calabasas, and Baca Float grants resulted in several noteworthy U.S. Supreme Court decisions. The land that comprised Baca Float Number Three, lies totally within the Sonoran desert in Santa Cruz County, Arizona and the Santa Cruz River, an intermittent water source, flows through the float and has played a critical role in its history. The legal and institutional history of the Baca Float Number Three clearly demonstrates that private property rights were protected under the Treaty of Guadalupe Hidalgo and the Gadsden Purchase, and at the time of Arizona statehood in 1912, these rights could not have passed in trust from the United States Government to the State of Arizona. Significantly, in 1860 the United States Congress acknowledged the validity of the Mexican grant and this notion was affirmed in subsequent federal court cases. The historical record is clear: the United States pledged to respect property rights of Mexicans in the ceded territories and subsequent Supreme Court decisions interpreting the treaty language asserts that successors in title to lands originally belonging to Mexican landholders enjoy the full rights and benefits of their Mexican predecessors.¹

¹ Perhaps the celebrated Peralta-Reavis land grant attracted the most historiographical attention. For a dated, but detailed account of the fraudulent Peralta-Reavis Grant see Donald M. Powell, *The Peralta*

In 1821, the during the final year of Mexico's struggle for independence from Spain, Don Luis Maria Cabeza de Vaca, a then-widely known and respected rancher in New Mexico, petitioned the Diputacion Provincial of Durango (New Mexico was subject to Durango) for a land grant containing pasture land and crop land. The 500,000 acres of land requested, known as Las Vegas Grande, had ample water resources—the Gallinas River cut through the tract and the Chapelote River bound the north and the Aguaje del Llege ran to the east. On May 29, 1821, the Diputacion Provincial ordered the Governor of New Mexico to place formal possession of the lands in the hands of Cabeza de Vaca.² The land grant contained water rights, according to Michael C. Meyer, Professor Emeritus from the University of Arizona and, arguably, the leading authority in the legal relationship between land and water in New Spain.

The Spanish legal system recognized at least three kinds of agricultural land. The first type, *tierras de pan sembrar* (dryland farming), was sometimes labeled *tierras de trigo aventuro*, and as the label suggests, only the most adventurous farmer would try to raise crops on them. The second category, *tierras de pan coger*, or what was more commonly known as *tierras de temporal*, according to Meyer, have generated no small amount of debate, as they have been defined in different ways. Most scholars concur that these lands were dependent upon a rainy season (the temporal) for their water source.

Grant: James Addison Reavis and the Barony of Arizona (Norman: University of Oklahoma Press, 1960); Ray H. Mattison, "The Tangled Web: The Controversy Over the Tumacacori and Baca Land Grants," *Journal of Arizona History (JAH)* (Spring 1967) 71-90; Michael C. Meyer, "Agricultural History of The Baca Float Number Three," (July 1985), unpublished manuscript, 1. Meyer describes the location of the Baca Float Number Three with precision: "The exterior boundary of the float form a square which is located in Arizona townships 21, 22, and 23 south, ranges 13 E., 14 E., and 15 E. The south boundary of the float is located approximately 6.8 miles north of the United States border with Mexico and the north boundary is approximately 7.9 miles south of the Pima County line."

² See Meyer, "Agricultural History of The Baca Float Number Three," 20; Michael C. Meyer, *Water in the Hispanic Southwest: A Social and Legal History, 1550-1880* (Tucson: University of Arizona Press, 1984) 128-131.

But their legal susceptibility to irrigation has caused controversy. Some have defined them as “not irrigable,” while others have argued the lands were “not requiring irrigation.” Still others, perhaps mistranslating the Spanish term “temporal” have written that they were “temporarily irrigable.” Meyer finally asserts that, “The issue is...clearly addressed in article 13 of the Plan de Pitic, which states that tierras de temporal ‘do not enjoy the benefit’ of the acequia.”³ This second category of land grants did not enjoy water rights.

The most authoritative source on land and water classifications, Manuel Galvan Rivera, asserts that only tierras de pan de llevar, the third type, were irrigable. And, Meyer wrote, “Nothing in the *Recopilacion*, subsequent ordinances, judicial decisions, or land grants leads one to believe that Galvan Rivera was incorrect.”⁴ Although this designation was sometimes associated with wheatland, it is more accurate to describe it as irrigable land.⁵ In the three major areas of agricultural land, therefore, it was assumed that an implied water right was extended to lands considered pan de llevar. Thus, when Don Luis Cabeza de Vaca solicited both cropland and grazing land he was requesting lands that carried the pan de llevar assignation. Furthermore, the cropland he requested along the Gallinas River, Meyer wrote, “was designated *labor*, and, in the Spanish legal system the *labor* carried water rights.”⁶ In effect, the Las Vegas Grande grant carried water rights with it.

³ Meyer, *Water in the Hispanic Southwest*, 127-28.

⁴ Ibid, 128.

⁵ Ibid. 128. Meyer writes that the historian Francios Chevalier translated pan llevar as wheatland. Further, because of the Crown’s great emphasis on increasing wheat production, it is likely that irrigable acreage in New Spain was more apt to be devoted to wheat than any other crop. However, other crops were grown on lands designated as pan de llevar. These lands carried water rights.

⁶ “...un sitio propio para labor y pasteos nombrandose Las Vegas Grande en el Rio de los Gallinas...” Doc. Exmo Senor No 137, Private Land Claims in New Mexico, Report #20, File #6 and #12, Tomas Cabeza de Vaca and Town of Las Vegas Grant.

To place this grant in context, of the 197 land grants made in New Mexico since its founding in 1598, 69 were made in the nineteenth century and 23 of these were made in the short period between 1840-1847. Additionally, the arrival of new settlers to the borderland province between 1821-1846 coincided with the demise of Spanish rule and the rise of Mexico. As distinguished historian Howard Roberts Lamar asserted, “Historians seem to have ignored the fact that land speculation and fever in the Far Southwest was a Mexican phenomenon as well as an American one between 1821-1846.” Among the first to realize the possibilities were Don Manuel Martinez and his sons, who secured a grant of land between the Tierra Amarilla tract and the Chama River as a reward for their role in defending the province from hostile Indians. As other grants were made, visions of landed empire tantalized new American newcomers in the trading center of Taos and the provincial capital at Santa Fe. A grant required political connections, however, and increasing number of new Anglo American traders and would-be entrepreneurs watched with envy as choice land on the Mora River went to Jose Tapia and 75 others, all of whom were friends of the presiding governor. Soon thereafter, Lamar and others have written, “the influential Vaca [sic] family was awarded the Las Vegas grant.”⁷

As noted above, the order for Jose Manuel Cabeza de Vaca was promulgated as Mexico struggled for independence from Spain. Little transpired until October 17, 1823, when the new Governor of New Mexico, Batolome Baca, directed the Mayor (Alcalde)

⁷ Howard Roberts Lamar, *The Far Southwest: A Territorial History, 1846-1912* (New Haven: Yale University Press, 1966) 49-50. In California, for example, local leaders seized the rich and already cultivated monestary lands in the flimsy name of secularization. In New Mexico, certain ambitious and practical businessmen decided to capitalize on the empresario system of land settlement. Under this ill-fated attempt at colonization, the Mexican government promised to make a large grant of land to any suitable colonizer who would settle a certain number of trustworthy loyal families on the tract. Ironically, the initial result of this policy was the occupation of Texas by American in such great numbers that Mexico lost the province by 1836.

of El Bado to execute the previous order issued by the Diputacion Provincial.⁸ In 1827 a local Mexican soldier killed Jose Maria Luis de Vaca, and his eldest son, Juan Antonio Baca (the family changed the spelling from Vaca to Baca at this time) took over the family interests. He and his younger brothers, however, demonstrated little resolve in developing the land grant, so in 1835 the Mexican government granted the same tract of land to the new town of Las Vegas, New Mexico.⁹ The heirs protested this action but no settlement was reached until after the war between the United States and Mexico and the transfer of territorial sovereignty.¹⁰

Historians of Mexico and of the American West concur that the Treaty of Guadalupe Hidalgo and the Gadsden Purchase Treaty provide protection of property rights of Mexicans, who, at the conclusion of the war in 1848 or after the sale of the Mesilla Valley in 1853--the location of the Baca Float Number Three—found themselves residing in the United States. Both documents apply the law of prior sovereigns to citizens innocently affected by a change of territorial possession. Article VIII of the Treaty of Guadalupe Hidalgo states:

Mexicans now established in the territories previously belonging to Mexico, and which remain for the future within the limits of the United States, as defined by present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican Republic, retaining the property which they possess in the said territories, or disposing thereof, and removing the proceeds wherever they please, without their being subjected, on this account to any contribution tax, or charge whatever...In the said territories, property of every kind, now belonging to Mexicans not established there, shall be inviolably respected.¹¹

⁸ See *Exec Doc. 14*, House of Representatives, 36 Cong. 1 Sess.

⁹ The heirs commenced using the spelling Baca instead of Vaca).

¹⁰ Meyer, "Agricultural History of The Baca Float Number Three," 21; Mattison, "Tangled Web," *JAH* 85.

¹¹ United States Senate, *The Treaty Between the United States and Mexico*, 30th Congress, 1st Session, Executive Document 52 (Washington, D.C., 1848, 47. See also, Meyer, "Agricultural History of The Baca Float Number Three," Appendix A, 77-78; Lamar, *The Far Southwest: A Territorial History, 1846-1912*, 139, 318, 416.

Equally important, Article X addressed directly land grants and provided the framework for the litigation over Mexican land grants that were addressed in the second half of the nineteenth and early twentieth centuries. “All grants of land made by the Mexican government,” the article states, “or by the competent authorities, in territories previously appertaining to Mexico, and remaining for future within the limits of the United States, shall be respected as valid, to the same extent that the same grants would be valid if the said territories had remained within the limits of Mexico.”¹² As Meyer asserted in 1985, “Mexican law was to retain its full vigor in land grants. The test of land grant validity in the United States Courts would be the authenticity of the grant under Mexican law. Where Mexican land grants were concerned, United States courts, in effect, would act as surrogates for Mexican courts.”¹³

Similarly, the Gadsden Purchase Treaty signed in December 1853 and ratified by the United States and Mexico the following year, reaffirmed the guarantees articulated in the Treaty of Guadalupe Hidalgo. Article 5 of the treaty stated that all the provisions of the Eighth, Ninth, Sixteenth and Seventeenth Articles of the Treaty of Guadalupe Hidalgo should apply to the territory ceded by the Mexican Republic. Further, these applications were extended to “all the rights of persons and property both civil and ecclesiastical

¹² Because certain references to specific land grants in Texas, Article X was not ratified by the U.S. Senate. But the issue of Mexican property rights was clarified a few months later when commissioners of both countries met and negotiated the Protocol of Queretaro. This protocol, though not requiring the ratification of Congress, serves as an official interpretation of treaty amendments. To wit, Article 2 of the Protocol addresses the issue specifically and except for the objectionable references to certain land grants in Texas, the Protocol of Queretaro reinstates Article X of the Treaty of Guadalupe Hidalgo: “In suppressing Article X of the Treaty of Guadalupe the American government has not intended to anul land grants made by Mexico in the ceded territories. Although the article was removed from the Treaty these grants continue to enjoy the legal validity that they have always had; and the grantees can validate their legitimate titles before American courts.”

¹³ Meyer, “Agricultural History of The Baca Float Number Three,” Appendix A, 79.

within the same, as fully and as effectually as if the said articles were herein again recited and set forth.”¹⁴

In the context of war and transition, Baca heirs, in 1860, petitioned the United States Congress under the terms of the Treaty of Guadalupe Hidalgo for the recovery of damages. Indeed, until 1854, when Washington finally sent a surveyor general to New Mexico, the title to all property had lain in uneasy status. The United States, by virtue of the Treaty of Guadalupe Hidalgo, had promised to respect New Mexico holdings but these were enormously complicated by the existence of three kinds of grants; to a community, usually for grazing purposes; to an individual for some outstanding service, such as defense against the Indians or as a reward for settling a new area; or to various Indian Pueblos. There were even further complications because the King of Spain, the Republic of Mexico after 1822, and the provincial governor had awarded such grants. Governor Manuel Armijo, in particular, during the five years before American conquest, issued a large number of grants.¹⁵

On June 21, 1860, Congress authorized the Baca heirs to select an equal amount of vacant land, not to exceed five tracts, anywhere in the Territory of New Mexico.¹⁶

They selected five tracts of land, or “floats,” of about 100,000 acres each. One of the

¹⁴ Meyer, “Agricultural History of The Baca Float Number Three,” 80; Charles I. Bevans, Comp., *Treaties and Other International Agreements of the United States of America, 1776-1949* (Washington: U.S. Government Printing Office, 1972) 9, 815.

¹⁵ There were even more refined distinctions between grazing and irrigated land grants, individual and common grants, and Pueblo and white grants. Also, Congress established the Board of Land Commissioners in 1851, the Office of Surveyor General in 1854, and the Court of Private Land Claims in 1891. See Lamar, *Far Southwest*, 139.

¹⁶ 12 U.S. Statutes at Large, 71. Section 6. This section asserts, “And be it further enacted, That it shall be lawful for the heirs of Luis Maria Baca, who make claim to the said tract of land as is claimed by the town of Las Begas [sic] to select instead of the land claimed by them, an equal quantity of vacant land, not mineral, in the Territory of New Mexico, to be located by them in square bodies, not exceeding five in number. And it shall be the duty of the surveyor-general of New Mexico, to make survey and location of the lands so selected by said heirs of Baca when thereunto required by them: Provided, however, that the right hereby granted to said heirs of Baca shall continue in force during three years from the passage of this act, and no longer. Approved, June 21, 1860.”

floats was on the Pecos River. Before approval of the Pecos float, John S. Watts, attorney for the Baca heirs, received permission to withdraw the selection. On June 17, 1863, Watts refiled, in a portion of southwestern New Mexico that became Arizona.¹⁷ The selection, which became known as Baca Float Number Three, contained 99,289.31 acres and, significantly, included irrigable lands in the valley of the Santa Cruz River. Within the float's boundaries, moreover, were about 126 acres of the township of Tubac.¹⁸ The fact that Tubac was a settled community before 1863 and included a well-known mining district did not impact this phase of the process. The Land Office, in April 1864, approved the selection and surveys were ordered. This proved crucial nearly one-half century later.¹⁹

The grantees, however, faced serious challenges. In 1865, Apaches killed two government employees, William Wrightson and Gilbert Hopkins, as they commenced work on the survey. As Meyer described the situation in the Santa Cruz Valley during this period, "1863 and 1864 were difficult years as the Apache once again rose up in rebellion and drove out all but the most stubborn."²⁰ As a consequence, no survey was filed. In April 1866, petitioners claimed a mistake in the initial point of location of the grant and asked for a correction to be made. The amended selection was north and east of the original float and contained a small portion of the northeast corner of the 1863 tract. Furthermore, the 1866 selection embraced rich mineral lands exploited prior to and

¹⁷ *Senate Report 498*, 66 Cong. 2 Sess. See also, Ralph Emerson Twitchell, *Leading Facts of New Mexico History* 2 vol. (Cedar Rapids, Iowa: 1912); Mattison, "Tangled Web," *JAH* 86.

¹⁸ *House Report No. 2422*, 67 Cong., 1 Sess; Meyer, "Agricultural History of The Baca Float Number Three," 25.

¹⁹ *Lane v Watts*, 234 U.S., 252 ff. See also Frank Ingalls, Surveyor General of Arizona, November 5, 1905, Baca Float Number Three Files, General Land Office, Phoenix, Arizona. Ingalls completed a thorough study of the settlements and mineral character of the float and suggests that Watts knew of the settlement and the nature of minerals there.

²⁰ See *Lane v Watts*, 234 U.S., 525.

after the Civil War. The order for survey was renewed but none was made. For the next two decades a number of claimants, often competing, tried in vain to have the Land Office approve the new location.²¹

In 1885 claimants attempted again to gain sanction for the amended 1866 location. In that same year John C. Robinson, claiming to be the owner, also made an application to the Land Office to relocate the claim. The Commissioner directed the Surveyor General to hold a hearing to determine the known character of the land at the time of its selection in 1866. In order to conduct this hearing, however, the Surveyor General had to first make a preliminary survey of the boundaries of the claim upon payment of the cost of the survey. Not satisfied with the bureaucratic obstacles, the claimants appealed the ruling to the Secretary of Interior, who promptly turned it down.²²

Once again, in 1899, claimants of the Baca Float Number Three submitted an application for a survey of the 1866 selection. The Secretary of Interior, however, directed that a survey be made for the selection of June 1863. The department found that of the two locations the one made in 1866 was, in fact a new location or relocation, since it included only a small portion of the original one of 1863. It was not at all an “amended” description.²³

²¹ See *Wise v Watts*, 239 Fed., 297 ff; *House Report No. 2422*, 67 Cong., 1 Sess., In 1871 all but one of the seventeen Baca heirs deeded their claims to Watts for the sum of \$6,800. 00. Watts died in 1876 and the next year Watts’s heirs requested permission from the Land Office to relocate their claims on the newer selection. The Commission denied this request because the law limited the selection period to three years. In the same year, 1877, Charles Poston, who claimed to be the assignee of the Baca heirs, made a similar request. A bill to permit the relocation of the Baca Float Number Three was introduced in both the 47th and 48th Congresses but in 1885 the Senate Committee of Private Land Claims reported adversely and the measure failed to pass.

²² See *Land Office Decisions*, 5: 705 ff; 13: 624 ff; Mattison, “The Tangled Web,” *JAH*, 87.

²³ *Land Office Decision*, 5: 705 ff; 13: 624 ff.

Underlying these repeated actions was the fact that during the period 1866 to 1899, the only portion of the 1863 selection claimed by Baca heirs or their assignees was the section that overlapped with the location of 1866. Since much of the land included in the 1863 selection had been claimed by the old Tumacacori and Calabasas grants, a large portion of the area had been surveyed in 1876.²⁴ Further, the plats had been approved in 1877 but suspended in 1878 pending consideration of private land claims.²⁵ In 1884, the Surveyor General submitted supplemental plats to show the approximate location of the Tumacacori, Calabasas, and Soniota claims and instructions were rendered to dispose of lands falling outside these claims.²⁶

In 1898, the Supreme Court rejected claims to the Tumacacori and Calabasas grants and the Land Office began permitting entries on the land. Homesteaders and preemptors filed on the land, including some on the original (1863) Baca Float Number Three.²⁷ In 1908, however, the Secretary of Interior rejected the claims to the Baca float. He argued that the actions by which the title had passed, under the Act of June 18, 1860, were, in fact, acceptance of the selection by the Department of Interior. Moreover, the filing of an approved plat and field notes buttressed his decision. Further, the lands involved were not subject to selection because they had been “occupied” in 1863 and the float was known to be mineral in character at the time of selection. As had become

²⁴ For information on these grants see Meyer, “Agricultural History of the Baca Float Number Three,” 1-15; Mattison, “The Tangled Web, *JAH* 71-85.

²⁵ *House Report No. 2422*, 67 Cong., 1 Sess.

²⁶ *Ibid.* Carmen Mendez, on February 6, 1899 filed a Homestead Application (No. 3035) on the land upon which Tumacacori Mission is located. The Supreme Court decision of 1914 in favor of the Baca Float claimants nullified the government title to the Tumacacori National Monument. Earlier, on June 30, 1908, title had been acquired when Mendez, who had homesteaded on the land, had relinquished his right to ten acres of the mission grounds to the federal government for the national monument. On September 15, 1908, President Theodore Roosevelt created Tumacacori National Monument by proclamation. The government again validated its claim when, on December 8, 1918, Weldon M. Bailey, James E. Bouldin, Jennie N. Bouldin, and Helen Lee Bouldin deeded the land to the government. See also, Meyer, “Agricultural History of The Baca Float Number Three,” 31-41.

²⁷ Meyer, “Agricultural History of the Baca Float Number Three,” 25-33; Appendix B, 84-91.

routine, the claimants filed a motion for the Secretary of Interior to again review the case, and just as predictably the motion was denied.²⁸

The 1908 decision registered little on homesteaders who continued to file applications to the Land Office. To stem the tide of entries, the Watts heirs and other claimants to the grant asked the Court of Appeals of the District of Columbia for an injunction, to stop the Secretary of Interior and the Land Office Commissioner from receiving more homestead applications because they were illegal. The injunction was granted and the court ordered the Secretary of Interior and the Land Office Commissioner to file patents on the Baca float. The ruling invalidated homesteaders' entries and this decision was appealed to the Supreme Court in 1914. The opinion of the lower court was sustained, much to the surprise and consternation of many who had inhabited the area for a generation or more. The Supreme Court maintained that the title to Baca Float Number Three had passed from the government to the Baca heirs when the Land Office Commissioner as being vacant and non-mineral approved the 1863 selection the following year. Therefore, the court reasoned, a survey of land was not necessary for the title to pass, as the Land Office and the Secretary of Interior had maintained. The entries of the homesteaders were invalid and illegal.²⁹

The Supreme Court decision, as suggested above, shocked homesteaders on the float. Patents had been issued to eighteen entrymen for 2,352 acres, and 41 unpatented entries were pending when the decision was rendered. These people were issued eviction notices in 1917. Some sympathetic congressmen introduced an "Act for the Relief of

²⁸ *Lane v Watts* 234 U.S., 525 ff.

²⁹ *Lane v Watts*, 234, U.S. 525 ff; Mattison, "The Tangled Web," *JAH* 89; Meyer, "Agricultural History of The Baca Float Number Three," 31-37.

Settlers” in the Sixty-sixth Congress but the bill foundered and failed to pass.³⁰ A subsequent bill, passed by both houses and signed by President Warren Harding on July 5, 1921, provided some relief. It authorized those who had received patents to their lands prior to December 13, 1917 and who had been evicted by the court order to select in lieu lands not exceeding twice the amount lost. Additionally, the lands had to be in Arizona.³¹

Litigation sputtered along fitfully for several more years. Following the 1914 decision suits were filed in the federal courts to address remaining conflicting claims. In 1917, the Circuit Court of Appeals for the Ninth District declared the selection of 1866 invalid. Later, a federal court sustained the float owners in suit for 2,000 acres of land in the San Jose de Sonoita grant, a grant that had been upheld by the Supreme Court in 1898.³² In effect, the court held that the title to Baca Float Number Three had passed to the Baca heirs in 1864 and the surveys and titles to the Sonoita grant were filed after that date. In short, the Baca grant superceded the Sonoita grant.

In vivid language, the 1914 decision confirmed the validity and location and water rights of Baca Float Number Three. “The Land Department has always treated the lands selected as segregated from the public domain,” the Court stated, “title having passed by the location of the grant and the approval of it, the title could not be subsequently divested [sic].” In effect, in 1914 the title to Baca Float Number Three was confirmed by the Supreme Court as fully vested in the Baca heirs and their successors.³³ The Court went further, confirming that the original date of the Mexican land grant—

³⁰ *Senate Report No. 498*, 66 Cong., 2 Sess.

³¹ *Cong. Rec.*, 67 Cong. 1 Sess., 2543. Some, according to Meyer, accepted the government offer and moved on to small plots close to Buckeye, and other sites in Maricopa and Pima Counties. Others vowed to stay as long as possible.

³² *Wise v Watts*, 239 Fed., 207 ff; *Watts v Ely Real Estate Co.*, 254 Fed. 862, ff.

³³ *Lane v Watts*, 234 U.S. 525.

1821--was valid and that the lands and waters encompassed by Baca Float Number Three had ceased to be in the public domain at that time. Put another way, at the time of Arizona statehood, the property had been privately held for over ninety years.

As Meyer and others have written, beginning in the 1850s the United States Supreme Court heard a number of cases that emanated from the change in territorial sovereignty.³⁴ Without deviation, the Supreme Court upheld the doctrine that treaty obligations of the United States bound the government to protect legitimate Spanish colonial and Mexican land titles. Treaties of the United States, similar to the Constitution, are the supreme law of the land. And, according to Article VI, Section 2 of the Constitution, judges in every state of the union must respect them, the laws of the state to the contrary notwithstanding. In effect, if state law conflicts with treaty obligations, the treaty takes precedence.³⁵ Without doubt, Baca Float Number Three, with its colorful and complicated legal, cultural, agricultural, and political history, is a valid Mexican land grant affirmed by the Supreme Court of the United States.

³⁴ See, for example, *United States v Southerland*, *United States v Moreno*, *United States v Anguisola*.

³⁵ *Constitution of the United States*, Article VI, Section 2; Meyer, "Agricultural History of The Baca Float Number Three," 79-81.

Vita

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Education

1985 Ph.D. in History with distinction from University of New Mexico
1979 M.A. in History from University of Arizona
1975 B.A. in American Studies from Yale University

Current Activities and Brief Biography

A historian in Northern Arizona University's Statewide Programs, Dr. Jack L. August, Jr. has recently taught courses in Western Water Policy and the New American West for the Master's in Liberal Studies Program and undergraduate history courses about the American Environment, American West, Far Southwest, and Arizona, via interactive instructional television and satellite cable for NAU. He is a former Fulbright Scholar, National Endowment for the Humanities Research Fellow, and Pulitzer Prize nominee in the history category in 2000. Also, he has served as historian and expert witness in the Natural Resources Section of the Arizona Attorney General's Office where his work focused on Indian versus non-Indian water issues and state trust lands. Additionally, he has served as expert witness for the City of Tucson and for private law firms representing clients with water rights claims. Recently, he has served as water resources consultant to the City of Page and historical consultant to the Hopi Tribe, where he secured a Department of Interior grant for \$50,000 for an oral history project on Hopi elders.

Dr. August has appeared on numerous television and radio programs, including "Horizon," the KAET/PBS Documentary "Arizona Memories from the 1960s," and National Public Radio features. He is currently at work in the production of documentary films on former Arizona Senators Carl Hayden and Ernest McFarland. He is a frequent contributor to magazines and historical journals including *Arizona Highways*, *Journal of Arizona History*, *Pacific Historical Review*, *Western Historical Quarterly*, and many others. His recent book, *Vision in the Desert: Carl Hayden and Hydropolitics in the American Southwest* (Ft. Worth: Texas Christian University Press, 1999) was considered by distinguished historian Howard Roberts Lamar, former president of Yale University, a groundbreaking analysis that filled a major gap in the history of the Southwest. His current scholarly endeavors include biographical accounts of former Arizona governor Evan Mecham and former U.S. Senator Dennis DeConcini, who named Dr. August his official biographer.

Professional Experience

2002-present, Expert Witness, City of Tucson, *Qwest v City of Tucson*.

2002-present, Arizona Humanities Council Lecture Series Speaker on *Moving Waters* National Endowment for the Humanities Grant and *Parched Arizona* Lecture Series.

2000-present, Water Resources Consultant, City of Page, Arizona.

2000-present, Historical Consultant, Hopi Tribe, Cultural Preservation Office.

1999-2002, Expert Witness and Historian, Natural Resources Section, Office of the Attorney General, State of Arizona.

1993-present, Historian, Northern Arizona University-Yavapai, teaching courses statewide through interactive instructional television and other distance learning technologies.

1994-1996, Historian, Graduate Advisor, and Grants Coordinator, Prescott College.

1994-1995, Historian and Writer for *Arizona Highways* Book Division; soft-cover book, *We Call it Preskit: A Guide to Prescott and the Central Arizona High Country*.

1994, National Endowment for the Humanities Faculty Research Fellow, Oregon Humanities Center, University of Oregon, Eugene, Oregon, Summer Fellowship.

1993-1994, U.S. Fulbright Scholar and Fulbright Professor of History and Environmental Studies to Canada. Teaching and research areas: Comparative Frontier History, the American West and the Canadian West, Environmental History.

1992-1993, on leave with Presidential Research Fund Grant, Assistant Professor of History and Associate Director of Public History Institute, University of Houston.

1992-1993, Editor and Chief Analyst, *Arizona Career Ladder Program: A Critical Analysis* (15 vols.) Arizona Department of Education, Phoenix, Arizona.

1987-1988, IPA Fellowship Program Officer and Academic Administrator, Division of Research Programs, National Endowment for the Humanities (NEH), Washington, D.C.

1986-1987, Assistant Director, Southwest Center, Adjunct Assistant Professor of History, Department of History, University of Arizona.

1986-1987, Project Director, *History of Forest Management: Fort Apache Reservation*, U.S. Department of Interior, Bureau of Indian Affairs Contract History.

1985-1986, Visiting Assistant Professor of History, University of Arizona, Tucson, Arizona.

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1983-1986, Department Head and Field Historian, Hayden Library, Arizona State University, Tempe, Arizona.

1983-1984, Chief Editor, Carl Hayden Family Letters Project, Hayden Library, Arizona State University, Tempe, Arizona.

1981-1984, Project Director and Author, *From Horseback to Helicopter: A History of Forest Management on the San Carlos Apache Indian Reservation*, U.S. Department of Interior, Bureau of Indian Affairs Contract History.

1981, Historian, U.S. Department of Interior, National Park Service, Santa Fe, New Mexico.

Teaching

1993-present, Northern Arizona University, Department of History, Office of Statewide Programs. Undergraduate Courses: The Making of the American West, 1500-1850, The American West Transformed, 1850-present, History of the Far Southwest, Recent America, 1919-present. Graduate Courses: Public History, History of Western Water Policy, New American West.

1994-present, Prescott College, Graduate Professor of History in Humanities Program. Courses: The American West: Historical Perspectives on Environmentalism, History of the American West, Public History, Historic Preservation.

1993-1994, University of Northern British Columbia, Fulbright Professor of History and Environmental Studies, Faculty of Graduate Studies. Courses: Environmental History of the Western Hemisphere, Environmental History of the American West, Comparative Frontiers: The American West and the Canadian West.

1988-1993, University of Houston, Assistant Professor. Undergraduate Courses: U.S. History to 1877, U.S. History 1877-present, History of the Trans-Mississippi West to 1900, The American West in the Twentieth Century, American Indian History. Graduate Courses: Public History, History of the American West.

1985-1987, Visiting and Adjunct Assistant Professor, University of Arizona. Courses: History of the Hispanic Borderlands, 1503-1848, History of Arizona, History of the Southwest, American West in the Twentieth Century.

1985-1986, Visiting Assistant Professor, University of New Mexico. Course: American West in the Twentieth Century.

Publications: Books

Vision in the Desert: Carl Hayden and Hydropolitics in the American Southwest (Ft. Worth: Texas Christian University Press, 1999), with a foreword by former U.S. Secretary of Interior, Bruce Babbitt. Nominated for Pulitzer Prize in history category (2000).

We Call it Preskit: A Guide to Prescott and the High Country of Central Arizona (Phoenix: Arizona Highways Books, 1996).

Editor, *Arizona's Career Ladder Program: A Critical Analysis*, 15 vols. (Phoenix, Arizona Department of Education, 1993).

From Horseback to Helicopter: A History of Forest Management on the San Carlos Apache Reservation, (Mesa, Arizona: American Indian Resource Organization, 1985).

Publications: Scholarly Chapters/Articles

"The Colorado River and the Grand Canyon," *Moving Waters* (Flagstaff: Grand Canyon Institute, 2003).

"Carl Hayden and the Legislative Quest for the Central Arizona Project, 1952-1968," *Bureau of Reclamation Centennial* (Washington, D.C., 2003).

"Arizona's Legislative Watermaster: Carl Hayden and the Central Arizona Project," *Arizona Insight*, (Phoenix: Arizona Humanities Council, 2002).

"Old Arizona and the New Conservative Agenda: The Hayden versus Mecham Senate Campaign of 1962," *Journal of Arizona History* (Winter 2001).

"Diamond Valley Lake and the East Side Reservoir: A Short History," Metropolitan Water District of Southern California (April 8, 2000).

"Water, Politics and the Arizona Dream: Carl Hayden and the Modern Origins of the Central Arizona Project, 1922-1963," *Journal of Arizona History* (Winter 1999).

"Desert Bloom or Desert Doom? Carl Hayden and the Modern Origins of the Central Arizona Project, 1922-1952," *Cactus and Pine*, Vol. 8 (Summer 1996).

- "A Vision in the Desert: Charles Trumbull Hayden, Salt River Pioneer," *Journal of Arizona History* (Summer 1995).
- "Carl Hayden," *Encyclopedia of the American West* (New York: MacMillan Publishing Company, 1995).
- "Carl Hayden and Arizona," *Encyclopedia of the United States Congress*, edited by Roger Bacon, Morton Keller, and Roger Davison (New York: Simon and Schuster, 1995).
- "The Navajos and the Great Society: The Strange Case of Ted Mitchell and DNA," *Canon: The Journal of the Rocky Mountains American Studies Association* (Winter 1994).
- "Carl Hayden's 'Indian Card': Environmental Politics and the San Carlos Reclamation Project," *Journal of Arizona History* (Winter 1993).
- "Carl Hayden, Arizona, and the Politics of Water Development in the Southwest," *Pacific Historical Review* (May 1989).
- "A Sterling Young Democrat: Carl Hayden's Road to Congress, 1900-1912," *Journal of Arizona History* (Autumn 1987).
- "Law Enforcement on the Arizona-Sonora Border," *Arizona Town Hall* (Tucson: University of Arizona Press, 1987).
- "The Future of Western History: The Third Wave," *Journal of Arizona History* (Spring 1986).
- "The Formation of the Bar: Americanization and Cultural Accommodation in New Mexico," *Journal of the New Mexico Bar Association* (November 1985).
- "The Future of Western History: The Third Wave," *Journal of Arizona History* (Spring 1986).
- "Phoenix: Desert Metropolis," in *Arizona: Its Land and Resources* (Tucson: University of Arizona Press, 1986).
- "Carl Hayden: Born a Politician," *Journal of Arizona History* (Summer 1985).
- "Balance of Power Diplomacy in New Mexico: Governor Fernando de la Concha and the Indian Policy of Conciliation," *New Mexico Historical Review* (Spring 1981).
- "The Anti-Japanese Movement in Arizona's Salt River Valley," *Arizona and the West* (Summer 1979).

Publications: Selected Book Reviews

- Wayne Aspinall and the Shaping of the American West*, by Stephen Schulte for *Western Historical Quarterly* (forthcoming).
- Acequia Culture: Water, Land, and Community in the Southwest* by Jose A. River for *New Mexico Historical Review* (Winter 1999).
- Barry Goldwater: Native Arizonan* by Peter Iverson for *Journal of Arizona History* (Winter 1999).
- Reclaiming the Arid West: The Career of Francis G. Newlands* by William Rowley for *Journal of Arizona History* (Winter 1997).
- Politics in the Postwar American West*, edited by Richard Lowitt for *Journal of Arizona History* (Winter 1996).

The Last Water Hole in the West: The Colorado-Big Thompson Project by Dan Tyler for *Canon: the Journal of the Rocky Mountains American Studies Association* (Winter 1996).

Carl Hayden: Builder of the American West, by Ross Rice for *Pacific Historical Review* (February 1996).

Turning on Water with a Shovel: The Life of Elwood Mead by James Kluger for *Pacific Historical Review* (January 1996).

The Legacy and the Challenge: A Century of Forest History at Cowichan Lake by Richard Rajala for *Forest and Conservation History* (October 1995).

Flooding the Courtrooms: Law and Water in the Far West by M. Catherine Miller for *Canon: The Journal of the Rocky Mountains American Studies Association* (Winter 1995).

To Reclaim a Divided West: Water, Law, and Public Policy by Donald Pisani for *Journal of Arizona History* (Summer 1995).

Cadillac Desert: The American West and its Disappearing Water by Marc Reisner for *Prince George Citizen*, Prince George, B.C., Canada, (December 17, 1994).

Phoenix: The History of a Southwestern Metropolis by Bradford Luckingham for *Southwestern Historical Quarterly* (Summer 1991).

New Courses for the Colorado River: Major Issues for the Next Century by Gary Weatherford and F. Lee Brown for *Journal of the Southwest* (Fall 1988).

Rayburn: A Biography by D.B. Hardeman and Donald Bacon for *Western Historical Quarterly* (Summer 1985).

The Politics and Economics of Racial Accommodation: The Japanese of Los Angeles, 1900-1942 by Thomas Modell for *Arizona and the West* (Spring 1979).

Selected Awards: Fellowships

2002, Margaret T. Morris Foundation and Kiekhefer Foundation Grant for Study of Arizona Cattle Industry.

2002, Hopi Oral History Grant, U.S. Department of the Interior, wrote and secured \$50,000 grant for Hopi Tribe.

2001, University of Arizona College of Law, Dennis DeConcini Education Grant for research into the public career of former Arizona Senator Dennis DeConcini.

2000, Nominee for the Pulitzer Prize in the History Category.

1998, Far West Foundation Grant for study into the business and public career of former governor Evan Mecham.

1996, nominee to the Center for Advanced Study in the Behavioral Sciences at Stanford University, funded by the MacArthur, Guggenheim, and Ford Foundations.

1994, National Endowment for the Humanities Summer Research Fellowship to Oregon Humanities Center.

1993, U.S. Fulbright Scholar Award to Canada in Comparative Frontiers and Environmental History, University of Northern British Columbia, Prince George, B.C.

1992, Presidential Research Scholarship Fund Grant (PRSF), University of Houston.

1992, Limited Grant-in-Aid (LGIA) Award, University of Houston.

1989, Research Initiation Grant (RIG), University of Houston.

1987, Intergovernmental Personnel Act (IPA) Grant to serve at National Endowment for the Humanities.

1986, New Mexico Legal History Grant, New Mexico Bar Association.

1984, New Mexico Humanities Council Grant, "Urban Growth and Economic Development in Northern New Mexico."

1983, Lyndon Baines Johnson Presidential Library, Moody Grant for research into the public career of U.S. Senator Carl Hayden of Arizona.

1982, University of New Mexico, Dorothy Woodward Memorial Fellowship in Hispanic Borderlands/U.S. Southwestern History, University of New Mexico Foundation.

Selected Scholarly Papers Presented

2002-2003, Arizona Humanities Council Lectures: "Parched Arizona: The Colorado River and the Future of the Southwest," papers presented in Tucson, Casa Grande, Tempe, Peoria, Prescott.

2001-2002, National Endowment for the Humanities Lectures: "Carl Hayden and the Central Arizona Project," papers presented in Tucson, Tempe, Grand Canyon.

2002, "Carl Hayden and the Legislative Quest for the Central Arizona Project, 1963-1968," Centennial Celebration Conference for the U.S. Bureau of Reclamation, Las Vegas, Nevada.

2000, "The American Southwest: Hydraulic Society at the Crossroads of History," Nineteenth Annual Maricopa Community College Honors Forum Lecture Series, Phoenix, Arizona.

2000, "The Hayden versus Mecham U.S. Senate Election of 1962: Old Arizona and the New Conservative Agenda," Arizona Historical Convention, Yuma, Arizona.

1995, "Alcan: Mission to the North," British Columbia Studies Conference, Okanagan, B.C., Canada.

1994, "Carl Hayden and the Origins of the Central Arizona Project," Arizona Historical Convention, Casa Grande, Arizona.

1991, "A Comment: The Third Great Age of Discovery," Johnson Space Center, NASA, Houston, Texas.

1986, "The Formation of the Bar: Americanization and Cultural Accommodation in New Mexico," Annual Meeting of the New Mexico Bar Association, Ruidoso, New Mexico.

1985, "Carl Hayden, Regionalism, and the Politics of Water in the Southwest, 1920-1928," Western History Association Conference, Sacramento, California.

1983, "Recent Interpretations of the Twentieth Century American West," Western History Association Conference, Salt Lake City, Utah.

1983, "The Progressive Impulse and the Navajo Soil Conservation Program," Arizona Historical Convention, Prescott, Arizona.

Other Professional Activity: Selected

2002, Keynote Speaker and Presenter, Biltmore International Water Conference, sponsored by the Arizona Philosophical Society and Salt River Project, Phoenix, Arizona.

2000, Keynote Speaker, Maricopa County Community College Honors Program, "Water and the West in the New Millennium," Phoenix Arizona.

2000, Historical Consultant for Metropolitan Water District of Southern California for Dedication of East Side Reservoir at Diamond Valley Lake, Riverside, California.

1999, Chair of Distinguished Arizonans Panel consisting of U.S. Secretary Bruce Babbitt, Grady Gammage, Arizona Water History Celebration, Tempe, Arizona.

1999, Featured Speaker at Valley Citizens League Luncheon, "Hydropolitics in the American Southwest," Phoenix, Arizona.

1999, Featured Speaker at Library of Congress Affiliate, Arizona Center for the Book, Lake Havasu and Prescott, Arizona.

1999, Keynote Speaker for Annual Legal Counsel Meeting for the Metropolitan Water District of Southern California, Los Angeles, California.

1999, Keynote Speaker for Phi Theta Kappa Awards hosted by Northern Arizona University, Bullhead City Campus, Bullhead City, Arizona.

1993-present, Contributing author to *Arizona Highways*.

1990-present, editorial referee/reader for several scholarly presses, including University of Arizona Press, University Press of Kansas and *Journal of Arizona History*, *Western Historical Quarterly*, *New Mexico Historical Review*, *Pacific Historical Review*, among others.

1989, Evaluator of Senator Ernest McFarland editing project, Florence, Arizona.

1983-present, Commentator and Speaker at various scholarly and historical conferences.

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Other references available upon request.