

Transcribed from the original document by John E. Thomson, Ph.D., on June 27, 2014.

The letter was sent to the County of El Dorado from the El Dorado County Pioneer Cemeteries Commission in response to a request for comments regarding a commercial project proposed for a parcel adjacent to the Clarksville Cemetery. The project was subsequently abandoned. To the best of my knowledge, the transcript represents the text of the original document - JET

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EL DORADO COUNTY
PIONEER CEMETERIES COMMISSION
2551 Deer Trail Lane
Cameron Park, CA 95682
(530) 677-8525

October 9, 2007

Jonathan Fong, Project Planner
El Dorado County Development Services Department
4930 Hillsdale Circle, Suite 100
El Dorado Hills, CA 95672

Re: Z 07-0028/PD 07-0027 & P 07-0030 - Clarksville Professional Business Park
Mormon Tavern (aka Clarksville) Cemetery

Dear Mr. Fong:

In response to the September 26, 2007 Redistribution notice regarding the above referenced project, the El Dorado County Pioneer Cemeteries Commission (EDCPCC) is pleased to provide the following background information on the project site and the Mormon Tavern (aka Clarksville) Cemetery. The purpose for providing this information is to assist your department in its evaluation of the site as a cultural and historical resource under CEQA guidelines.

The Mormon Tavern Cemetery is one of the oldest cemeteries in the region. The EDCPCC believes the present project proposal to be detrimental to the historic Mormon Tavern Cemetery. The project poses not only short term significant adverse impacts but also long term impacts that will be seen with cemetery vandalism and desecration. We believe it has only been because of the residence adjacent to the cemetery that has helped spare it from such a fate to this time.

Furthermore, the creation of a business park that will surround the remaining two open boundaries of the cemetery will further degrade and destroy its historic aesthetic, will disrupt future burials that will occur in the cemetery, deprive those using the cemetery from a sense of quiet solitude and privacy during burials and visitation, and will create a nightmare during funeral processions.

The tentative maps provided show the applicant placing parking stalls on the north and east boundaries of the cemetery without sufficient setback to prevent vandals from gaining access to the cemetery. It also depicts a new entrance to the grounds that will severely interfere with the historic entrance as evidenced by the present gate and will impact existing graves. It is wholly inconceivable to us that the applicant would believe this would best suit the cemetery, its occupants and the remaining families of those buried there. We strenuously object to the plans as presented and reject the notion that the applicant has any right to alter the present entrance or access to the cemetery. (We will discuss the easement acquired by the public later in this correspondence.)

We have spoken with some of the descendants of the Joseph Joerger family and have learned that they are also concerned about the plans given to them. They find it difficult to believe that this plan will in any way benefit the cemetery or their family's interest in it.

Historical Background

The property on which the project is proposed was once the site of a long identified early roadhouse that served immigrants coming to California across the Great Plains on their route to Sacramento. The Mormon Tavern served as a public inn and respite for travelers from as early as 1848 and continued to operate as a public house into the 1870s, even after the flush of the gold rush had waned. It pre-dated the existence of the Sacramento to Placerville road (roughly the route of present White Rock Road). The hotel sat across present US Hwy-50 from the project site and the cemetery was established on a small hill overlooking the house.

The naming of the tavern is linked directly to the early occupation in California by members of the Mormon Church. Some of them had come to the state in 1847 as part of the Mormon Battalion during the Mexican War of 1846-1847. Others arrived at San Francisco on the Ship Brooklyn and others migrated overland from Salt Lake City. Many of the businesses that were established in the foothills above Sacramento were started by men of the Battalion as they waited to travel east to Salt Lake City to meet up with their families who had continued on to settle the new city after men had been conscripted in Iowa for the war.

A large number of the roadhouses that were established along the Sacramento to Coloma and Sacramento to Placerville roads were started by members of the Mormon Church. The Mormon Tavern was likely the first of these roadhouses to be opened on the western slope of El Dorado County. These places served as Mormon

meeting houses and helped to create a link for church members to obtain information from family and friends in Salt Lake City.

Mormon Tavern Ownership -1848 to 1860

It has been written in numerous histories that the Mormon Tavern roadhouse was first established by a man named Morgan in 1848-1849.(1) The Tax Assessment Roll of El Dorado County for 1850 includes an assessment of property owned by A.A. (Asahel A.) Lathrop and identified as the Mormon Tavern valued at \$5,000. Lathrop mortgaged the Mormon Tavern for \$10,000 in January of 1850 and satisfied the mortgage in January of 1851. At this same time, Lathrop described the property where he operated the Mormon Tavern in a preemption claim filed at the County Recorder's office as being "seven miles Southerly from Mormon Island." A second preemption claim was also filed for property referred to as "Smith's and Lathrop's House."(2)

Asahel A. Lathrop was among the first Mormons to open up a southern route to San Bernardino, California in 1847, as Brigham Young sent groups in pursuit of cattle and supplies to take back to provide for the new settlement at Salt Lake City, Utah. Traveling with the Hunt Party, Lathrop was a contemporary of the infamous Orrin Porter Rockwell, who has long been described as Brigham Young's bodyguard and avenging angel. In early October, during the taking of the federal census of 1850, Lathrop and family were enumerated by the census taker. The family consisted of his wife Jane and four children. His residence is noted to be a Hotel.

Lathrop owned the Mormon Tavern for only a short time thereafter, and appears to have run into financial troubles. He made out an assignment of interest and power of attorney at the end of January 1851 after which the property title eventually came into the hands of William Buckholder and A.D. Patterson (later a well known figure in the history of Folsom, Sacramento County) in March of 1851. In 1852, William Buckholder was issued a saloon license at the Mormon Tavern. Buckholder did acquire title to the Mormon Tavern through a Sheriff's Sale to satisfy a legal judgment in the case of Joseph J. Gray vs. William Jones and P.C. Tyler, who had once mortgaged the tavern for Lathrop.(3)

By 1854, Buckholder himself had run into financial difficulties and lost the property to a suit filed against him by a man named Neil. Philo C. Sheldon purchased the Mormon Tavern property at the resulting Sheriff's Sale in May of 1854, and continued to hold and operate the Mormon Tavern until he sold it in July of 1856, to Mrs. Polly Winchell, wife of Franklin F. Winchell.(4) Philo C. Sheldon died at Clarksville in October 1864 and is probably buried in the Mormon Tavern Cemetery.(5) Both Sheldon and Winchell were members of the State Wagon Road convention in May of 1857 that was tasked to select the route and raise funds for the building of the highway between El Dorado County and the Carson Valley in Nevada.

Mormon Tavern Ownership -1861 to 1878

After her acquisition of the Mormon Tavern from Philo Sheldon, Polly Winchell's husband Franklin also purchased land from Sheldon. As a result, these properties were combined as the total parcel that comprised the Mormon Tavern land holdings.(6) By 1867, the couple had acquired a vast holding of land in the area and sold 500 acres of it to their son Charles P. Winchell. Five months later Charles was married to the daughter of local rancher Dennis Bence, at the Mormon Tavern.(7)

At the same time that Franklin and Polly sold property to their son, they also sold the Mormon Tavern property to Reverend John Beaver for \$2,300. Rev. Beaver had been enumerated on the South Fork of the American River in the 1850 federal census and was later listed in the Great Register of El Dorado County of 1867. Beaver may have leased out the Mormon Tavern as it appears that it was being operated in 1870 by Mrs. Frances (nee Ralston) Page, wife of John R. Page, an early settler in the Salmon Falls area.(8)

In January and February of 1872, John Beaver and his wife Helenday, sold the Mormon Tavern property to William Daily (also spelled Dayley) and Patrick Hughes. The deeds reference that the properties sold were "known as Winchell's Mormon Tavern" and also as "John Beaver's house and lot" Later deeds identify that the property containing John Beaver's "house and lot" was located in the Northwest corner of Section 11, in Township 9 North Range 8 East, a short distance west of the location of the Mormon Tavern roadhouse.(9) Hughes and Dayley may have given Beaver a mortgage for the property as Beaver again transferred interest in the property to Dayley in 1876.(10)

In 1878, Wm. Dailey transferred the Mormon Tavern property described in the 1872 deeds from Beaver, to Michael R. Bannon, who owned the marble quarry at Marble Valley. Ten months later Bannon sold the Mormon Tavern to Joseph "Jerger" [Joerger] for \$4,750.(11) Joseph Joerger and his family retained the Mormon Tavern property until 1960, when three of the family's ranches were sold for the development of El Dorado Hills.

Burials in Mormon Tavern Cemetery

Two of the first deaths and burials documented to have occurred at the Mormon Tavern and its cemetery, were a result of the great cholera epidemic in the fall of 1850. Their burials were documented by Dr. Israel Shipman Pelton Lord in his diaries written while in the area of Sacramento.(12) Dr. Lord's diary entry for Tuesday, October 29,1850, imparted the following information:

"At one p.m. word came down that Dr. Torrey had the cholera at Mormon Tavern, 33 miles out on the Hangtown road, where he had gone to see Wm.

Root, of Elgin, sick of dysentery. At quarter past one, I left to see him, and am now "en route" up to the American River.

"Mormon Tavern, six o'clock p.m. Dr. Torrey died at one o'clock today. I have hardly spirit left to write it, and I have been here more than an hour. Oh! What an amount of misery, suffering, anguish, heart-breaking and crime this California humbug poured upon the world! It is a deluge of moral and physical evil. . . ."

"I find Root convalescent. A. Root, Hiram Cutting, Wm. Thompson, Isaac Wanzer, and Wm. J. Root of Eight and Wm. Jones of Naperville are here. Jones was the doctor's nurse though Mr. Goodwin, of Will co. was with him part of the time. Jones, Wanzer, Thompson and Wm. J. Root, were present and assisted at his [Dr. Torrey's] burial. Cutting is sick. Thompson unwell. Cloudy and cool all day." [p. 306-307]

Two days later, Dr. Lord, at Sacramento, wrote more in his diary about the effect of the cholera sickness during his stay at the Mormon Tavern. On October 31, 1850, Dr. Lord wrote:

"Very foggy this morning. The cholera does not abate yet, though half the population [at Sacramento] is gone. On the 19th inst. Levi C. Caldrige of DuPage Co. died at Hangtown, and James Johnson, of Naperville, at Mormon Tavern. He and Dr. Torrey are buried side by side." [page 308]

No gravestones mark the graves of James Johnson and Dr. Torrey in the Mormon Tavern Cemetery today, nor has either grave been identified as having been marked in any earlier recording of the tombstones in the cemetery. Because these deaths occurred as the result of a contagious disease, it is not likely the remains of these men were recovered at a later date.

Between 1850 and 1860, two other Clarksville area residents were buried at the Mormon Tavern Cemetery. They were 40 year old William H. Sherman who died November 12, 1854, and James T. Smith, aged 22 years, who died at Clarksville September 4, 1858.(13) The graves of these men also are not marked.

From 1861 to the time of Joseph Joerger's purchase of the Mormon Tavern in 1878, twenty-six burials occurred in the Mormon Tavern Cemetery.(14) Others died at or near Clarksville and were undoubtedly buried there, but without a documented record of burial it is difficult to say if burial occurred in the Mormon Tavern Cemetery or the cemetery at the Railroad House closer to the town site.(15)

According to the *Mountain Democrat* of October 9, 1875, the man for whom the town of Clarksville was named was buried in the Mormon Tavern Cemetery. In part, the *Democrat* published:

“A Pioneer Gone. — G.S. Tong writes from Clarksville, under date of Oct. 4th, to report the death and burial of Luther Brown Clark, who died in that place on the 1st, and on the 2nd was followed by a large concourse of friends to his last resting place in the old Mormon Tavern Cemetery. He was one of the first settlers in Clarksville, the town being thus named, in the Spring of 1853, by a majority vote of miners and citizens, as a tribute of respect for the name and standing of Mr. Clark.”

A year later, another old pioneer of El Dorado County, Lewis Holdridge who owned and operated the Duroc House roadhouse (located at what is present Cameron Park) in 1857, was also buried at the Mormon Tavern Cemetery.(11) Neither the grave of Luther Clark nor Lewis Holdridge is marked in the cemetery and no earlier tombstone record has ever identified that markers ever existed.

In addition to being the burial place of Luther Brown Clark for whom the town of Clarksville was named, another significant person in history is also buried there. Samuel Elliott Kyburz, a Civil War veteran from California, was buried in 1917 in the Kyburz family plot in this cemetery. He was the son of Samuel and Rebecca Kyburz who were at Sutter’s Fort in 1848 and 1849 at the time gold was discovered and the world rushed in to California.

The Kyburz family, including six year old Samuel Elliott, came west across the plains and were in the train of wagons in which the ill fated Dormer Party was a part. At Salt Lake City, the Donner’s and others changed routes. While the Kyburz family made their way to Sacramento before the cold of winter, the Donner party found its way into the annals of California’s history. Rebecca Kyburz was a witness in the slander trial commenced by Louis Kezeberg, one of the Donner Party who had been accused not just of cannibalism, but of murdering little George Foster and keeping pots of human blood in his cabin.

Patriarch Samuel Kyburz’s experience in California also made the pages of history. It was his testimony as to the discovery of gold by James Marshall at Coloma in January of 1848 that was used to help determine the actual date of Marshall’s discovery. While probably not with his father at the time that Coloma was selected as the place for John Sutter’s sawmill, Samuel Elliott Kyburz’s boyhood eyes were witness to it all—the building of the mill and the discovery of gold.

Mormon Tavern (aka Clarksville) Cemetery Ownership

As discussed, between October 1850 and 1878 when Joseph Joerger acquired the Mormon Tavern and ranch, at least 30 burials took place in the cemetery. This number represents burials that have been unequivocally documented to have occurred. The number of other potential or probable burials that occurred during that time is uncounted and unknown. Given that the Mormon Tavern serviced the traveling public in the earliest years of the county—those years in which thousands

of tired and sick immigrants came to California across the plains—it may never be known how many other early graves were made in the cemetery.

It is known, however, that even after Joerger purchased the Mormon Tavern the people of Clarksville and its vicinity used the cemetery known as the Mormon Tavern Cemetery and, now, the Clarksville Cemetery.

Joseph Joerger recognized that the cemetery was the community cemetery and not his family's cemetery. In evidence of this, on March 5, 1889, he deeded to local residents Thomas B. Everett, George C. Fitch, and John York, two acres of land described as being located in the Northeast quarter of the Northeast quarter of Section 11, in Township 9 North Range 8 East, "embracing all that tract of land known as the Clarksville Cemetery." (17) After this transfer, Joerger no longer held title to the land on which the cemetery was located. The record title to the cemetery has never been transferred by a subsequent grant deed to any other person or entity."

The El Dorado Hills Community Services District in its May 25, 1967 meeting, heard an offer from the Joerger family which would have turned over to the community services district "the Clarksville cemetery as a historical site, plus land adjacent tort as a possible park, all told between 12 and 14 acres." The family also offered cash money to the district for the upkeep of the cemetery and the park. The only condition to the bequest was the "requirement that some of the old families will continue to use the cemetery as a burial ground." (19)

It doesn't appear this offer was accepted, as the present record of the El Dorado County Tax Assessor names several descendant family members of Joseph Joerger as owners of the cemetery parcel. In that Joerger held no record interest in the cemetery at the time of his death, no interest in it ever transferred through the probate of his estate.

The question of the legal ownership of the cemetery is an issue that we have been advised by General Services staff will not be addressed by the County of El Dorado. In 1872 the state legislature enacted the Political Code of the state which provided that the title to lands used as public cemeteries by the inhabitants of any city, town or village, vested in the people. This same law provided that for such public cemeteries located in the unincorporated territory of the county, the board of supervisors became the legal authority for their management and control. (20)

The public had used the Mormon Tavern Cemetery from as early as 1850, continuing to 1878 when Joerger acquired the Mormon Tavern. By the time of Joerger's purchase, the public had used the Mormon Tavern Cemetery as the public cemetery of Clarksville for the prescriptive period set forth in the law enacted in 1872. Between January 1, 1873 and January 1, 1878, nine burials occurred in the cemetery. In short, it is our opinion the people already owned the cemetery through operation of law at the time Joerger came into possession of the ranch.

In addition to acquiring its legal title, the public had also acquired a prescriptive easement across Joerger's land, in order to go to and from the cemetery for purposes of continuing burials and visitation. The easement route to the cemetery was the route of what is now known as Joerger Cutoff Road which originally led from the town of Clarksville and White Rock Road. This route may be seen in an aerial photo taken in the 1940s by the U.S. Soils Conservation Service. The road led up the hill to the location of the old Joerger barn and corral and proceeded southwesterly from the west end of the corral to the cemetery.

This easement, acquired long before Joerger became owner of the Mormon Tavern and used long after Joerger took residence, cannot be extinguished or taken from the public through any means. The proposed project will fully and completely obscure the public's easement and will prevent the future use of the easement by families and the public.

Concerns and Recommendations

As previously stated, several areas of the present proposal are of great concern to us. The project and the completed business park will promote vandalism, disrupt use of the cemetery for burials and visitation, has the potential to obscure the public's prescriptive easement/access, and will otherwise destroy the historic setting once held by the cemetery and enjoyed by its users. The proposed new entrance is unacceptable. In addition to severely impacting the Miller brothers and McFadden graves in the northwest corner where the new entrance is depicted on the map. It will unnecessarily alter the historic setting of the cemetery.

The loss of open space around the perimeter and placement of parking spaces in close proximity to the cemetery's fence line, is devastating. We have heard the applicant proposes to provide irrigation to the cemetery and we believe this will also alter the historic aesthetic associated with the cemetery and will likely disturb unmarked graves during installation of such irrigation lines.

As a means to protect the cemetery, its residents, and the families who use the cemetery from impacts associated with the project, we recommend the applicant consider the following:

1. Remove the parking areas shown immediately adjacent to the cemetery on the north and east boundaries and replace those areas with open space. Restrict all parking spaces to at least 40 feet from any line of the cemetery.
2. The entrance gate shall remain in place.
3. Erect fencing on the west, north and east lines of the cemetery in fence material that matches the fence already erected on the lines adjacent to the church property to the south. The west and east fence line should extend about three feet

beyond the north line of the existing north fence line leaving the present gate and entrance intact and interior to the new fencing. A gate to match the new fence will need to be installed at the present entrance so that the cemetery may be securely locked to prevent unwanted intrusion.

4. Create a route of entrance to the cemetery from Joerger Cutoff Road that will, at the very least, mimic the original easement/access road long used by the families and the public; one that will not require funeral processions to navigate and wind through the parking lot. A more direct route will help ensure that processions are not unnecessarily impeded or interfered with and that business patrons are not inconvenienced.
5. Place signs along the route to be used for funeral processions and cemetery visitation advising patrons that the area is subject to use for funeral processions. On the day that a funeral is scheduled to occur, make provision for notification of proprietors along the route.
6. No irrigation lines to be installed within the cemetery grounds.
7. No grading within 40 feet of the cemetery unless there is a qualified archaeologist on the premises at all times during grading activities.
8. Erect an appropriate monument at the entrance to the cemetery to recognize the historic importance of the Mormon Tavern, the cemetery and the many people and families buried there who contributed to the history of the region and the county. We recommend a granite rock base with heavy bronze plate plaque attached using approved methods that prevent the plaque from being stolen.
9. Night security patrols will be necessary to ensure that vandalism does not increase as a result of the project; such security to continue in perpetuity.
10. Provide a photographic archive to the El Dorado County Historical Museum in Placerville of all phases of the project. The photographic archive should provide views of the cemetery and adjoining property prior to the onset of construction and be accompanied by a full copy of the project's environmental review documentation.

We believe these measures will only slightly diminish the adverse impacts we think this project will create for the Mormon Tavern Cemetery. Although the prior use of the property of this project was altered somewhat by the current residential dwelling, this use was more consistent with the aesthetic to which the cemetery was historically associated. A commercial and professional business park is not.

Thank you for this opportunity to comment on this plan. We are saddened to see yet another historic era cemetery so adversely impacted. We hope we are wrong that this cemetery will suffer greatly as a result, but we don't believe we are. Only time will tell.

Please ensure that we are provided with copies of future correspondence and discussion of this project and its review.

Sincerely,

/Sue Silver/

SUE SILVER, Past President

cc: Helen Baumann, Supervisor, District II
Clarksville Region Historical Society
Mary Cory, El Dorado County Historical Museum
El Dorado County Historical Society
Marilyn Ferguson, El Dorado County Heritage Association
Chuck Harrell, General Services Dept.
Bonnie Wurm, General Services Dept.

Footnotes

1. *Early Inns of California*. Ralph Herbert Cross, 1954, p. 207.
2. 1850 Tax Assessments, EDC Museum, Placerville, Old Record Book A, p. 239, 1/31/1850, EDC Recorder's Office; Preemption Claim Book AB, p. 13, 1/2/1851, EDC Recorder's Office; Old Record Book A, p. 241, 1/1/1851, EDC Recorder's Office; Preemption Claim Book AB, p. 3, 1/2/1851, EDC Recorder's Office.
3. Old Record Book A, p. 394, 3/27/1851, EDC Recorder's Office; 1852 EDC Licenses, p. 17, EDC Museum; Deed Book A, p. 22, 9/1/1851, EDC Recorder's Office.
4. Deed Book B, p. 283, 5/18/1854, EDC Recorder's Office; Deed Book C, p. 33, 7/11/1856, EDC Recorder's Office.
5. Sheldon's daughter Florence Isadore, almost 5 years old, died in Placerville in June of 1857, and was referred to as the adopted daughter of F.F. Winchell.
6. It was to Franklin F. Winchell that the federal land patent issued on December 1, 1860, as a cash sale entry. The land covered by this patent is identified to be the East half of the Northeast Quarter of Section 11, Township 9 North Range 8 East.
7. Deed Book K, p. 551, 2/12/1867, EDC Recorder's Office; *Sacramento Daily Union*, 7/4/1867, marriage of Charles P. Winchell and Effie B. Bence.

8. Deed Book K, p. 552, 2/12/1867, EDC Recorder's Office; *Folsom Telegraph*. 4/16/1870 re ball to be held by Mrs. Page at the Mormon Tavern.
9. Deed Book N, p. 295, 1/23/1872, and p. 296, 2/14/1872; Deed Book N, p. 552, 5/13/1872, EDC Recorder's Office.
10. Deed Book U, p. 369, 4/6/1876, EDC Recorder's Office.
11. Deed Book U, p. 371, 1/8/1878, and Deed Book V, p. 215, 11/1/1878, EDC Recorder's Office.
12. *A Doctor's Gold Rush Journey to California*. Israel Shipman Pelton Lord, edited by Necia Dixon Liles, 1995, McFarland & Company Publishers, Jefferson, NC, pages 306 and 308.
13. Mormon Tavern (aka Clarksville) Cemetery Interment Identification Listing. EDCPCC (1998-1999), unpublished.
14. Burials documented by extant tombstones recorded previously or presently in place or burials documented by newspaper or other records.
15. The Railroad House Cemetery, in which first owner Calvin Rose was buried in 1856, is now called the Tong Family or Joerger-Tong cemetery.
16. *Mountain Democrat*, 1/15/1876; *Episcopal Death Record* (C.C. Peirce).
17. Deed Book 36, p. 225-226, 3/5/1889, EDC County Recorder's Office.
18. Of the three men who accept the 1889 deed from Joseph Joerger, we know the following: George C Fitch died at his home near Clarksville in 1904, and was buried in the Mormon Tavern (aka Clarksville) Cemetery; John York died at his residence at White Rock, Sacramento County in 1897, and was buried in the Mormon Tavern Cemetery next to his wife Emily York; Thomas B. Everett, husband of Addie Fitch Everett who is buried in the Mormon Tavern Cemetery, died in Sacramento in 1934, and was buried in the Sacramento City Cemetery.
19. *Mountain Democrat* 6/1/1967.
20. California Statutes 1872, Political Code, §§ 3105-3111.