

Enduring Frictions: Deep-Mapping Property-Rights Struggles and the
Unresolved Frontier of *La Sierra* in Costilla County, Colorado

A SENIOR CAPSTONE PROJECT

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Abstract

Located in southern Costilla County, Colorado, the mountain commons of the Sangre de Cristo Land Grant, known as “La Sierra,” is historically fraught with property-rights disputes between multigenerational Hispano residents and extralocal landowners. Despite the Colorado Supreme Court’s landmark 2002 ruling in *Lobato v. Taylor*, which sought to resolve these conflicts by restoring communal access-rights, ongoing disputes with Cielo Vista Ranch (CVR) persist. This capstone seeks to answer the question of why property disputes have continued post-*Lobato*. In it, I argue that by grafting communal use-rights onto private property, the Court institutionalized a ‘frontier’ on the Sierra where competing claims to authority and legitimacy persist. Through the multifaceted approach of ‘deep mapping’ – which combines historical, ethnographic, legal, and geospatial analyses – I explore the past property-rights struggles that led to the *Lobato* decision and created the ‘imperfections’ in the Court’s ruling. I then extend this deep map into the present to examine the ongoing conflicts between CVR and rights-holders over access, resource-use, and management along the Sierra. This capstone contributes to the scholarship on the Sangre de Cristo Land Grant by extending its analysis to the contemporary struggles, demonstrating the persisting friction between private-property rights and the *Hispano* residents’ locally-formulated understandings of resource-use and landscape governance. Furthermore, it aids the broader scholarship on resource frontiers in political ecology by demonstrating how frontier dynamics persist on landscapes where the erasure of communal property relations is no longer possible.

Honor Code

On my honor, I have neither given, nor received, any unauthorized aid on this project. Honor Code
Upheld.

Signed: *Jamie Harvie*

Date: April 28th, 2025

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***Reconstructions are approximations based on selected sources and are not definitive maps of historical property structure. Independent verification should be used before any reproduction.**

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1. Introduction

Following a nearly 140 years of property rights-battles between the multigenerational descendants of the Sangre de Cristo Land Grant's original *Hispano* settlers and various extralocal landowners, the Colorado Supreme Court passed down a landmark ruling through their 2002 decision in *Lobato v. Taylor*. It was a decision that defied all odds and preestablished juridical patterns in litigation related to Mexican land grants, constituting a monumental win for the *Hispano* locals whose communal use-rights had been unjustly extinguished 62-years prior (Cohen 2022). The parties involved were Jack Taylor (to be succeeded by his son, Zachary Taylor, following his death in 1988) and the *Hispano* residents of the Culebra River villages in southern Costilla County, Colorado (see figure 1). Both parties asserted rights to the 77,000-acre, resource-rich mountain tract, known to the defendants as the privately-owned, 'Taylor Ranch,' and to the plaintiffs as the communally-owned, 'La Sierra.' These plaintiffs averred that Jack Taylor had illegally enclosed the mountain tract in 1960 and illegitimately erased their historical usufruct rights¹ to the Sierra – rights that had been established upon settlement of the Sangre de Cristo Land Grant in 1849 and reinforced through their subsequent pattern of usage between 1849 and 1960 that remained largely-uninterrupted. The Taylors, on the other hand, asserted their right to exclude these residents, supported by their title to the mountain tract in fee simple absolute.

¹ The Legal Information Institute provides the following definition for 'usufruct': "Usufruct is the right to use and benefit from a property, while the ownership of which belongs to another person." Prior to its enclosure, the *Hispano* settlers had rights to the mountain tract for recreational purposes, hunting, fishing, foraging, livestock grazing, and timber/firewood harvesting.

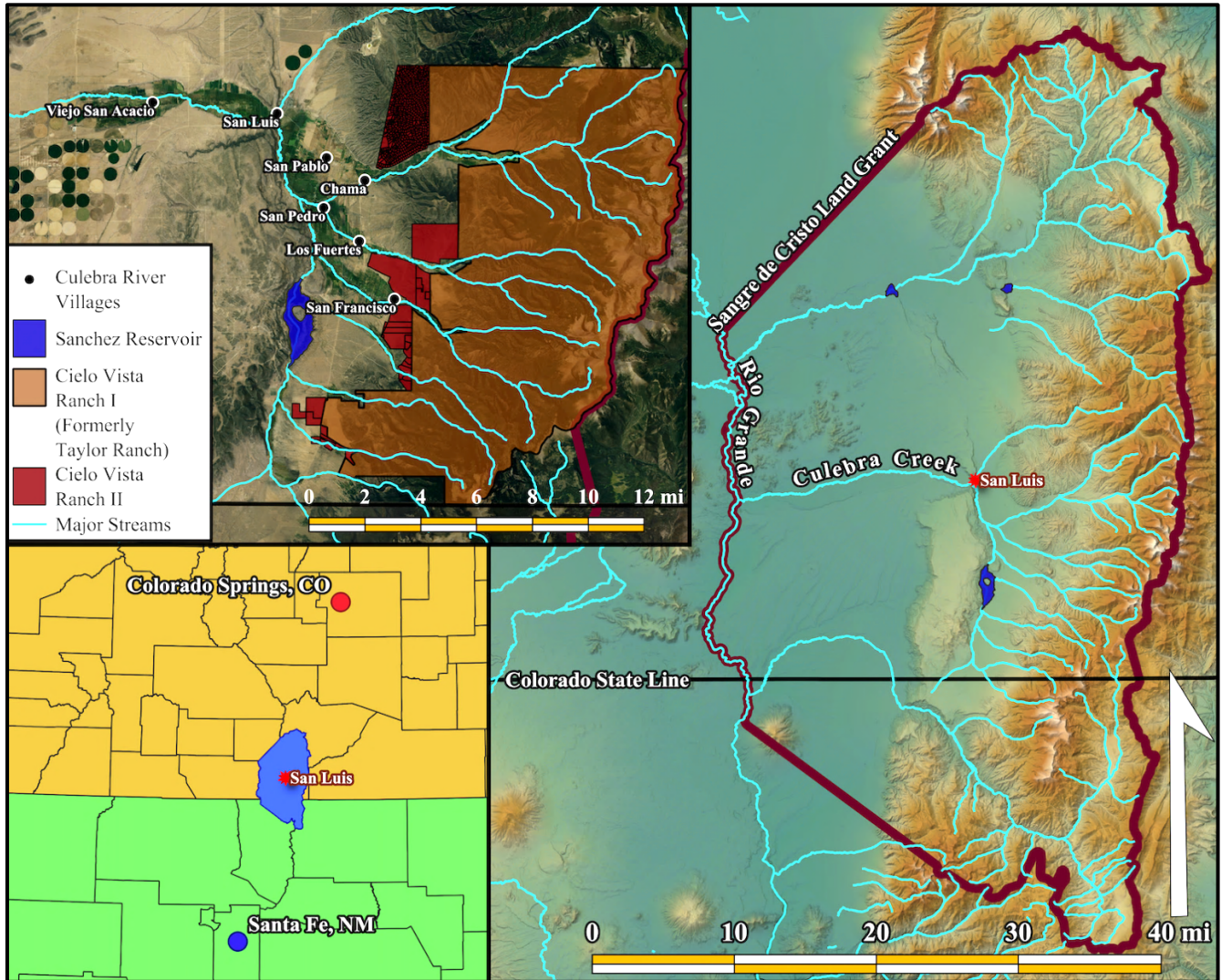


Figure 1: Geographic orientation for the Sangre de Cristo Land Grant, Culebra River villages, Cielo Vista Ranch I (formerly Taylor Ranch), and Cielo Vista Ranch II.

For over 140 years, federal and state courts had dealt with similar litigations involving the enclosure of former commons on Mexican land grants that had been subsumed into United States boundaries following the Mexican-American War (Montoya 2002; Benavides and Golten 2008). Consistently, these courts ruled against the historical communal rights of the *Hispano* residents, favoring the structure of private ownership claimed by wealthy landowners (Montoya 2002; Golten 2005; Benavides and Golten 2008; Cohen 2022). So, when the Colorado Supreme Court ruled in favor of these *Hispano* residents in 2002, it was a tremendous (and more than welcome) surprise. The courts restored their rights to harvest wood and graze livestock on the Sierra, while simultaneously

maintaining the legitimacy of private ownership to the mountain tract. The pro-bono lawyers who argued the case were met with standing ovations at community events, and residents spoke of their forefathers – the ones who had started this battle – smiling down from the heavens above (La Sierra 2002). And in 2004, the owners of the mountain tract (at the time, Bobby and Dottie Hill) changed its name to Cielo Vista Ranch (CVR), stating their desires to establish a “clean slate and fresh start” (quoted in: Carlos Mora 2004). Today, however, the continuing contestations between the Culebra villages’ locals and CVR, now under the ownership of William Harrison since 2017, indicate that the court’s decision here was not a panacea for conflict.

Twenty-two years after *Lobato* and twenty years after the Hills vowed a fresh start, I and over 100 other community members packed ourselves into the multipurpose room of Centennial School, located in southern Costilla County’s town of San Luis. Only a special occasion could draw such a crowd in the middle of a June workday during irrigation season – and a special occasion this was. Colorado’s state attorney general, Phil Weiser, had traveled all the way down from Denver for a townhall session about the ongoing legal and social battles with CVR. The subject of discussion revolved around two key matters. First, was CVR’s construction of the ‘High Fence’ (as it is known in ongoing litigations), the 8-foot-tall barrier spanning over 20-miles of the ranch’s perimeter that many locals find to be an ecological and relational disaster. The second point of contention was CVR’s treatment of *Lobato*’s established access-rights and access-rights holders, with many individuals describing instances of harassment and undue restrictions of their rights. In his opening remarks, Weiser mentioned his desire to understand these ongoing disputes and his experience in helping other Colorado communities in similar disputes. But by the end of the townhall, the attorney general looked frazzled – perhaps not ready for the emotional potency of this conflict.

Verbal spats broke out between CVR employees and access-rights holders, with employees accusing two individuals of shooting at them. On the other hand, several rights-holders called out these same employees for unmerited instances of harassment, intimidation, and retaliation. Other

community members became choked-up while describing the emotional impact of the High Fence and its impacts on them, their perceptions of the landscape, and its non-human inhabitants. Additionally, and perhaps most notably, a few individuals even chastised the rights-holders' lawyers for not securing a decisive-enough victory in *Lobato*. And as I exited the building, it was more than clear that *Lobato* had not been the cure-all for conflict that the Colorado Supreme Court wished it would be. This leads to the question of 'why?' Why is it that disputes persist between the multigenerational locals and CVR even after the Colorado Supreme Court restored access-rights? Why is it that people characterize *Lobato* as an 'imperfect decision' and how did these imperfections arise? And how are the continuing contestations manifesting both on the landscape and in peoples' material and affective experiences with it? To answer these questions requires an examination of the past and present – one that necessarily locates the connections and departures between what happened then and what is happening now.

Beginning with American acquisition of the land grant in 1864, the Sierra has been subject to various 'frontiers' – defined as a spaces *and* moments in which emerging possibilities for resource extraction or economic enjoyment prompt extralocal landowners to marginalize the preexisting order of resource-use and access on a landscape (Rasmussen and Lund 2018). Since this acquisition, competing stakeholders have sought to territorialize – i.e. inscribe both legally and materially – their formulations of property over the landscape and its resources through constantly conflicting enactments of property to establish, legitimize, and enforce those territories. Their competing assertions and territorializations have evolved and layered upon each other, shaping the context in which further assertions emerge and take form. There was hope that the 2002 Colorado Supreme Court decision in *Lobato* would put this conflict to an end, but the contestations arising since then have squashed those wishes.

In fact, I argue that rather than closing the Sierra's frontier, the Court *institutionalized* it – leading to the ongoing contestations between CVR and the access-rights holders that must coexist

with each other despite their competing formulations of the property, management of its landscape, and use of its resources. Over time, the economic goals of the Sierra's extralocal landowners have changed – from promoting mass settlement and development under the land companies, to industrial logging under Taylor Ranch, and now a mission of conservation and recreation under CVR. But despite these disparate uses, I contend that the central frustrating force for each of these title-holders to the Sierra has remained the same – those being the locals' economic, socio-cultural, and affective connectivities to the landscape and its resources, which invariably conflict with the economic aspirations of the extralocal landowners. Furthermore, these connectivities do not merely reflect cultural attachments; they establish an enduring and often-incompatible formulation of property, one that complicates attempts to impose restrictions on use or exclusion of people through legal and material infrastructure.

To date, the Sangre de Cristo Land Grant has been a focal point of land grant studies, with much being written by legal scholars (Garcia and Howland 1995), cultural geographers (Hicks 2005), political ecologists (Lindner 2012a), anthropologists (Stoller 1980), and local community members (Mondragon-Valdez 2000) about its settlement, historical land-rights struggles, and agroecology. However, ever since Keith Lindner published his article, “Geographies of Struggle in the San Luis Valley,” in 2012, there has been no locatable scholarly work on the contemporary contestations over property rights along the Sierra. Consequently, there is a gap in the literature relating to how CVR – now under the ownership of William Harrison since 2017 – has introduced new methods of spatially ordering the mountain tract in accordance with its formulation of property, and how it has continued, innovated upon, or even departed from the methods of its predecessors.

Moreover, while each of these scholars have contributed enormously to scholarly understandings of the land grant, there is yet to be a work that centralizes critical developments in the region's property regimes in a chronological manner to reveal the process by which these have

layered upon each other. With future contestations seeming all but inevitable,² it is critical to detail what is happening currently and how this came to be, so as to provide better context for future research endeavors on what may occur later on. This manuscript will provide a comprehensive history of property rights along the Sierra and an ethnographic view into the ongoing legal and social battles over the landscape. Using the framing device of ‘deep mapping’ I will describe the various territories of property that have been spatialized across the Sierra’s frontier and detail the performances used to construct, legitimize, and enforce these territories. I seek to demonstrate how they have layered upon each other, constructing new contexts for further territories and assertions of property to take form. And throughout the paper, I will argue for how these enactments and demarcations of property – attempted or realized – (mis)align with the connectivities of locals and the goals extralocal landowners with respect to the landscape and its resources.

I will begin with a synthesis of the theoretical frameworks best-suited to my analysis of this situation, detailing the scholarship behind performances of property, territorialization, and resource frontiers – identifying their connections, and demonstrating the value of deep-mapping for approaching these concepts as they relate to historical and contemporary property rights struggles along the Sierra. Having developed the theoretical framework, section three will demonstrate the ecological and societal impetus behind the original settlement patterns and land tenure system of the Sangre de Cristo Land Grant. The structure of property constructed by the original Mexican settlers (i.e. *pobladores*) established the economic, socio-cultural, and affective connectivities to the Sierra that have consistently frustrated the economic aspirations of extralocal landowners. This third section will also discuss the Congress’s “Act to Confirm Certain Private Land Claims in the Territory of

² In a 2022 judicial hearing over the extent of access-rights to CVR, the presiding judge, Kenneth Plotz, noted that, “Between these two entities [CVR and access-rights holders], I find that there is an inherent and continuing conflict of interest. Part of that, or much of it, is an economic interest...The conflict is always going to be a given, and given that the conflict is always going to exist, there is always going to be clashes between the parties” (Perdoni “Court Video” 2022, 2:16–3:36).

New Mexico” of 1860 (i.e. the “Confirmatory Act”), which represented the government’s first (of many) statutory measures to erase the land grant’s property regime.

The fourth section details how a variety of land companies seized upon the opportunity created by the Confirmatory Act and introduced frontiers of development to the Sierra that necessitated a legal marginalization and erasure of the *pobladores* property rights and relations. Their failures and successes in this marginalization laid the groundwork for the imperfections of the *Lobato* decision that are ultimately driving many of the modern-day disputes. However, before talking about the ramifications of *Lobato*, it is necessary to talk about the man who made *Lobato* necessary: Jack Taylor. The upheavals he brought to the Sierra’s frontier through his enclosure of the mountain tract, along with how locals reasserted their rights to it through the (imperfect) *Lobato* litigation, will be the subject of the fifth section. This then leads to the modern-day, where I will discuss the novel character of the institutionalized, post-*Lobato* frontier on the Sierra. Today, the fundamental underpinning of frontiers – that being contested valuations of the landscape and its resources – still persist, but *Lobato* has successfully prevented enactments of erasure. This may seem to negate any characterization of these ongoing contestations as a ‘frontier,’ yet both CVR and access-rights holders continue to assert their competing formulations of property rights and relations. Furthermore, the processes by which they do so, and the ramifications that they incur, mirror those that existed on the Sierra’s frontiers pre-*Lobato*.

Sections three, four, and five rely primarily on archival research that I have conducted over the course of two years across various different repositories throughout the state of Colorado and online. However, my analysis on the modern-day disputes is built upon my ethnographic fieldwork in the Culebra River villages (see figure 1, above) that began in March of 2024. Each of these analytical sections will also include textual analysis of relevant documents and legal cases, along with incorporating descriptive and analytical mapping to provide further tangibility to the Sierra’s frontiers.

2. Theoretical and Analytical Background

2.1. Deep Mapping

Deep mapping originates within the tradition of human geography, positioned as a way to “to understand how place is made through everyday practice and how it influences (and is influenced by) structure... constructing complex collages that reveal change over time as well as the inherently varied meanings we ascribe to place” (Bodenhamer 2022, 12). The term ‘deep mapping’ can be taken both literally and metaphorically (Wood 2022). In the literal sense, deep mapping involves the creation of a variety of maps (Wood 2022). It also includes presenting previously-created maps, frequently alongside recontextualizing and annotating these maps to reveal greater insights that were not immediately available in their original forms (Ethington and Toyosawa 2015; also see figures 7 and 8 in the land company section for an example of recontextualization and annotation). On the other hand, a metaphorical interpretation of deep mapping underscores its interdisciplinary component. Maps visualize features of a landscape, often describing surface-level patterns and relations between these features and other features or actors. A plat map, for example, delineates property parcels across a landscape, showing who owns what and where. Deep mapping, however, seeks to understand how these patterns and relations came to be, how “place is made through everyday practice as that occurs in relation to structure” (Corrigan 2015, 63). Thus, researchers must move beyond geospatial maps and incorporate a variety of sources into their analysis, providing a comprehensive rendering of a particular space and how that space came to be.

Towards this end, those engaged in this practice take a multidisciplinary approach to their methods, analysis, and product. It is common, as I will do in this paper, to incorporate ethnographic fieldwork, archival research, geospatial information, textual analysis, and discursive analysis in deep mapping (Corrigan 2015; Wood 2022). This is because, “Deep maps are not confined to the tangible or material, but include the discursive and ideological dimensions of place, the dreams, hopes, and

fears of residents” (Bodenhamer et al. 2015, 3). Thus, they seek to connect the material nature of problems within a particular space to the way in which people in those spaces perceive and interact with those problems.

The expansive nature of deep maps – both temporally and disciplinarily – enables their function as a repository for future researchers to comb through and discover matters of study that are deserving of greater elaboration (Ridge et al. 2013). In deep mapping the historical and contemporary development of the Sierra’s frontiers, I discuss a variety of key events, processes, and dynamics that occurred (or are occurring) on this landscape. However, my treatment of these matters exists insofar as they relate to my analysis of the Sierra’s frontiers, which sometimes limits a more comprehensive discussion of them. One of my hopes is that by centralizing these matters into a single manuscript, future land grant scholars can pick up their threads and begin weaving their own analyses of this landscape.

2.2. On Frontiers and Property

In this section, I work to define frontiers (also often called ‘resource frontiers’) and explain how competing territorializations and performances of property shape them in order to provide a guiding framework that can properly describe how property conflicts along the Sierra take form and manifest materially. These ‘frontiers’ are a burgeoning subject of analysis in political ecology and critical rural studies (Peluso and Lund 2011; Rasmussen and Lund 2018; Huizenga 2022; Rasmussen and Lund 2025), and they are ripe for exploration through the deep map. In this context, ‘frontiers’ are not synonymous with their popular imaginations as spaces of ‘untouched wilderness,’ waiting for the project of civilization (Rasmussen and Lund 2018). Rather, frontiers are formulated as contested spaces, “zones of friction between contradictory forces” (Rasmussen and Lund 2021, 83), that materialize when new possibilities for resource use, development, or economic extraction arise and prompt “competing claims to authority, legitimacy, and access” (Rasmussen and Lund 2018, 391).

Critically, the emergence of frontiers incurs a process of erasure by which extralocal institutions seek to materially and legally ‘unmake’ the local, preexisting institutions, patterns of ownership, and systems of access and use on a landscape that conflict with the “new economic drivers with spatial organization” (Rasmussen and Lund 2018, 393). The source of these new economic possibilities is not always, say, the discovery of mineral deposits. The revaluation of lands and resources in response to changes in wider markets is also a critical driver – with emerging frontiers of private conservation landscapes being a particularly interesting example of that (Giminiani and Fonck 2018; Buchadas et al. 2022; Rasmussen and Mendoza 2023). Taken together, then, frontiers are to be understood within a spatiotemporal context, with consideration of the differing valuations of landscapes and resources, and how these contested matters give rise to conflicting orders of access and use. Such an analysis is highly amenable to deep mapping, which is a method “by which we represent the contested meanings of space and place, as well as the dynamics that produce them” (Bodenhamer 2015, 21).

The ultimate goal of extralocal actors on frontiers is to reconfigure the area’s ‘territory of property’ and make it pliable to their economic aspirations (Rasmussen and Lund 2018). Drawing from the work of Mattias Rasmussen and Christian Lund (2018; 2021; 2025), I define territories of property as the relational arrangements of space by local or extra-local actors, which delineate boundaries of access, create rights subjects (i.e. right to enjoy, right to exclude, etc.), and establish the avenues by which individuals can ‘legitimately’ claim ownership over valued lands and resources. In this respect, territories of property may be seen as synonymous with property regimes, which order the “relationships between people with respect to valued things” (Canfield 2020, 1).

An important characteristic of this process is that “Territorial regimes are established *and* challenged at the interface between local organizational forms and emergent authorities and new economic drivers for spatial organization [emphasis added]” (Rasmussen and Lund 2018, 393). On frontiers (such as the Sangre de Cristo Land Grant), there is no single property regime that maintains

total dominance. Instead, there exists divergent and competing territorialities, championed by different actors who endeavor for the legitimization of their spatial orderings (Rasmussen and Lund 2018). In light of this, I shall make a distinction between “statutory territories” and “material territories,” along with “actualized regimes” and “contested regimes.” Statutory territories are the property regimes grafted on to a landscape by political systems of power through legislative acts and litigation, whereas material territories are those which actually exist on the ground. When there is harmony between these, they constitute actualized regimes; but when there is dissonance or conflict, contested regimes arise.

Historically, a common catalyst contested regimes is the process of enclosure, wherein private enterprises work in collaboration with the state to decouple landscapes from their “localized nexus of collectively organized and policed relationships,” integrating those spaces and their resources into “wider networks of calculation and commodification” (Blomley 2017, 236). In other words, the territory of private property supplants that of common property. However, territories do not just appear instantaneously with the stroke of a surveyor’s pen. Although territories constitute powerful institutional structures for action and organization, that power only exists inasmuch as it is materialized. Consequently, the performance of property is paramount for the process of establishing territories (Blomley 2017; Rasmussen and Lund 2025). Performance, here, refers to “active forms of engagement, communication and interaction that help constitute the world in particular ways” (Blomley 2013, 16).

Thus, territories should be seen as a framework for ordering the landscape and the relational rights to its resources that must be “performed into being” (Blomley 2015, 600). Accordingly, the intermingling of multiple performances bounded by a normative goal constitutes the process of territorialization (Peluso and Lund 2011). To return to the example of enclosure, a state surveyor simply drawing gridded parcels on a map is not sufficient enough for the successful creation of a privatized landscape. These are contested processes; they are not just going to be acquiesced to after

a mere display of title. Consequently, they necessitate performances. Barriers need to be constructed, so-called ‘squatters’ subjected to forced evictions, and ‘trespassers’ violently removed. In doing so, these enactments take on a “citational quality,” drawing from, producing, and enforcing the territories of property they operate within (Blomley 2013, 4; Blomley 2007). Furthermore, they also work to institute a type of “corporeal discipline” on the landscape that regulates movement through it and engagement with it (Blomley 2013, 26).

While the term ‘performance’ may suggest that these are inherently symbolic gestures, such an interpretation mischaracterizes this concept. To perform, here, is essentially synonymous with ‘to enact,’ ‘to assert,’ and ‘to materialize.’ Of course, performances of property often carry a symbolic nature with them, but that symbolism most often arises from the context in which these performances occur instead of constituting their driving intent. For example, someone tearing down barriers of enclosure to continue asserting their previous use of a landscape’s resources is engaged in a performance of property. However, their critical motivation here is not an ideological one, but rather economic. They are trying to revert the landscape’s material territory of property back to its preexisting regime that supported their livelihood. Nevertheless, the fact that such a performance is occurring within the context of enclosure does symbolize resistance to disruptive transformations that affect patterns of ownership.

To bring this all together, frontiers are spaces in which competing institutions – be they the state, private corporations, or locally-established nexuses of individuals – work to territorialize particular regimes of property most amenable to their economic aspirations through legal and material performances of ownership, authority, and legitimacy. Apart from their economic connectivities to the landscape and its resources, what is also at stake for local communities whose property regimes are threatened with erasure is their socio-cultural and affective connectivities. That is to speak of 1) the role that engagement with their landscape has in developing and sustaining

social and cultural life, and 2) their emotional connections with the landscape, how they make sense of it, and how they make sense of their place within it.

Towards this end, I will introduce and invoke the term “fluidity” in my ethnographic analysis of contemporary contestations to adaptable forms of self-governance by access-rights holders on the Sierra, which manifest through their physical movement across the landscape and their forms of physical engagement with its resources. Here, multiplicity is key. There is no singular route of movement across the Sierra. Where these people enter, where they linger, and where they exit is determined by a variety of factors such as geography, memory, tradition, bodily limitations, and purpose. The latter of these often centers on accessing the natural resources of the Sierra. However, human engagement with these resources – be it the forests, meadows, ponds, streams, etc. – should not be thought of solely in terms of simple economic extraction, since they too are fluid. For one, not all engagements with the Sierra’s resources are extractive, with picnicking and hiking being two prevalent examples of that throughout its history. Moreover, there are also social, cultural, and affective dimensions to these extractive and non-extractive practices, which can both drive engagement and overlay other reasons for it. The practice of firewood harvesting is illustrative of this. It is, of course, an extractive practice, but it has long been a family activity, too, working to foster personal intergenerational bonds with the landscape and with each other (Perdoni 2022). These fluidities, however, frequently contravene the often exclusionary or rigid structure of American property law.

This theoretical framework, which interweaves political-ecological analyses of resource frontiers, legal geographies of property, and ethnographic understandings of landscape connectivity is, I believe, salient for the field of land grant studies; a field which has long been concerned with how encounters with American sovereignties and property regimes have sought to marginalize and erase the locally-generated understandings of property, resource-use, and access (Stoller 1993; Garcia and Howland 1995; Montoya 2002; Hicks 2005; Lindner 2012b; Correia 2013; Lindner 2013). The

story of the Sierra demonstrates how a single landscape can become subject to various different frontiers, each replete with different economic drivers and, consequently, different approaches to territorializing and concretizing their claims.

Using deep-mapping as a framing device, I will explore how the evolving resource frontiers of the Sierra, and the territorializations that they have incurred, have layered upon each other, working to disrupt – and simultaneously being frustrated by – the multifaceted connectivities of the multigenerational residents of the Culebra River villages. As a result of this, my historical background prior to the modern-day contestations is more comprehensive and detailed than is standard. However, this is necessary for two particular reasons. First, it demonstrates how different resource frontiers have been brought upon this landscape, leading to the modern-day contestations today. Second, there is not yet to my knowledge another work that provides a detailed rendering of the connections between these frontiers and how they built upon the critical developments in the land grant's statutory and material territories of property.

The following section will demonstrate the cultural and ecological impetus for the original land grant's territory of property and how this served to establish the deeply-held and deeply-valued connectivities of the area's residents. I also discuss the first (albeit delayed) blow to this regime of access and use through the Confirmatory Act of 1860, which grafted a statutory territory of private property onto the Sierra where a material territory of communal property existed. The fourth section will examine the various land companies who seized upon the opportunity presented by the Confirmatory Act, purchasing the grant in its whole and introducing a resource frontier of development and emigration to it with the hope to 'crowd the Mexicans out' and erase their property regime (Lindner 2013). While their attempts often floundered, enabling the settlers to continue enacting their territory of property on the ground, they established the legal groundwork that culminated in Jack Taylor's enclosure of the Sierra.

The focus of the fifth section is this enclosure, the performances of property that enforced it, its economic and socio-cultural impacts, and the multigenerational locals' successful employment of "institutional bricolage" (Rasmussen and Lund 2018, 395) in the *Lobato* litigation to restore their rights (albeit in a piecemeal manner). The last section will focus on the modern-day contestations between CVR and the access-rights holders since *Lobato*. As will be seen, *Lobato* did not close the Sierra's frontier, but rather enshrined it into law – establishing a territory of contradictory properties and creating a situation of ambiguity around the extent and scope of rights for both access-rights holders and CVR. Thus, the institutional bricolage employed by landowners was successful into restoring their connectivities, but it has also led to conflicts between peoples' exercise of rights and CVR's mission of conservation and recreation.

3. Origins of (Dis)Possession

3.1. Genesis: Establishing Connectivities (1848 – 1864)

In the early to mid-19th century, the nations of Mexico and the United States were locked in a race against each other, as both nations vied to settle uncolonized territories in what is now the American Southwest. At the time, known by Mexico as *Santa Fe de Nuevo Mexico* and *Alta California*, or more colloquially, the "Northern Frontier" (Hall 1885, 109). In the United States, a variety of congressional acts related to land acquisition allowed Anglo-American citizens to claim or purchase property from the 'public domain' for settlement (Stoller 1980). Meanwhile, the Mexican government relied on the centuries-old Spanish Land Grant System for colonization, allocating large expanses of land to individuals and communities that "contained all of the ecosystems vital to the maintenance of traditional Hispano subsistence patterns" (Stoller 1980, 25). Thus, "In a desperate attempt to secure their frontiers by validating ownership through settlement, the governors [of Mexico]...soon made huge land grants" across their northern territories (Stoller 1980, 24).

The Sangre de Cristo Land Grant (see figure 2), established by the Mexican Courts in 1843 and occupying most of modern-day Costilla County, Colorado, and parts of Taos County, New Mexico, was created in this context. It was first granted to Narciso Beaubien, but following his untimely death the grant came under management of Charles Beaubien, a wealthy Quebecois fur trader – establishing him as the *poblador principal* (Benavides and Golten 2008). The grant was made through Mexico’s *empresario* system, which obliged Beaubien to induce the settlement of Mexican citizens to legitimate his claims (Garcia and Howland 1995). There is still debate about where and when the first settlements were established in what is now the state of Colorado. A couple of oral histories gathered by Costilla County students from local elders in the 1970s located the first settlement as “Los Jacales” (i.e. the shacks) in 1847 (Payne and Trujillo 1975; Chavez 1977). Although the timing of its construction is disputed (Van Diest 1928), and no traces of Los Jacales can be found on the landscape today (trust that I tried), its physical existence is confirmed by early maps of the area (see figure 3, for example). Whatever its chronology may be, once real concerted settlement efforts could be made in 1848, the land grant had already been subsumed into the United States’s territorial boundaries following the Mexican-American War.



Figure 2: Map of the Sangre de Cristo Land Grant produced by Edmund Van Diest, depicting its territorial boundaries with the Culebra subrange on the east, the Rio Grande on the west, Mount Blanca to the north, and a line from Ute Mountain to Latir Peak in the south.

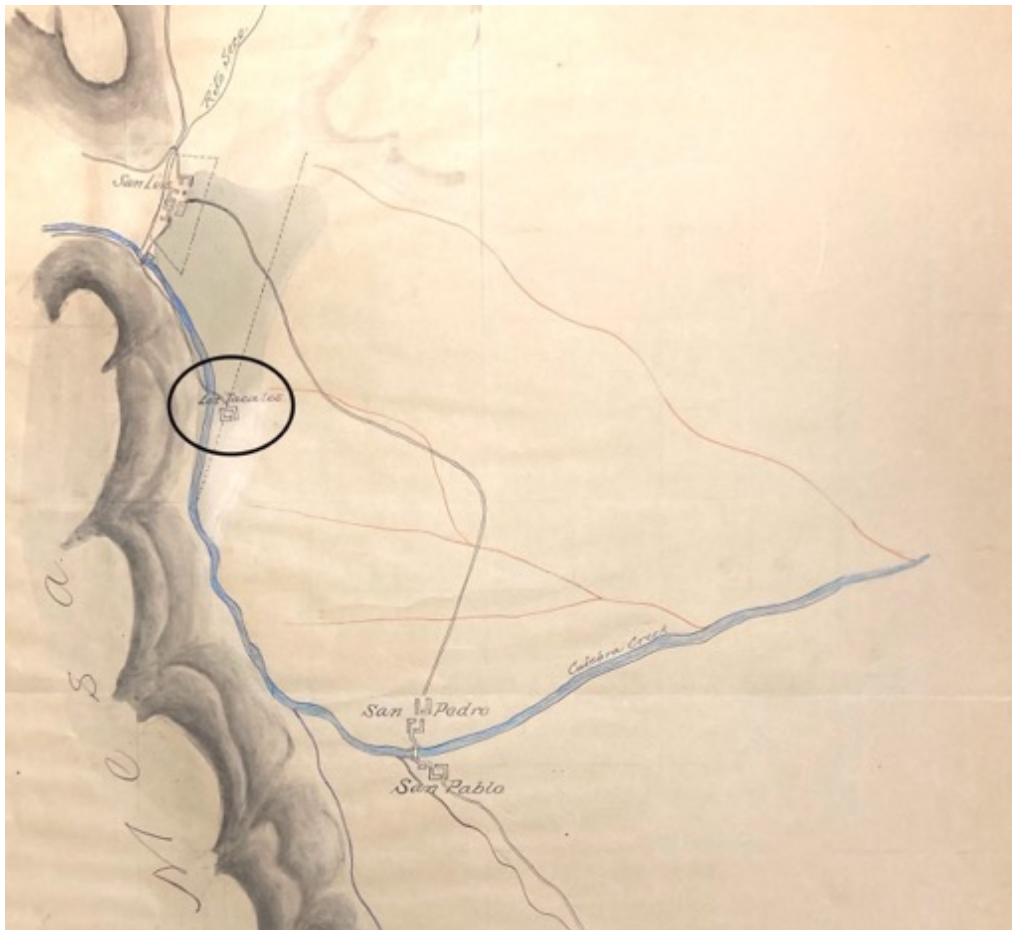


Figure 3: “Map of Early Hispano Settlements in Costilla County” with Los Jaailes circled, created by Edmund Van Diest. Exact date is unknown, but most likely created in the 1880s. This map can be found in the Colorado College Special Collections.

However, its integration into the US’s territorial boundaries did not immediately create trouble for the land grant and its property structure – that would come later. Instead, Article VIII in the Treaty of Guadalupe Hidalgo vowed that:

In the said territories [previously belonging to Mexico], property of every kind, now belonging to Mexicans not established there, shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract, shall enjoy with respect to it guarantees equally ample as if the same belonged to citizens of the United States.

So, given the greenlight, Beaubien continued to deed lands to *Hispano* settlers, a necessary act for legitimizing ownership under the Mexican property norms still dominating the land grant (Garcia and Howland 1995). Accordingly, the towns of Garcia (then known as Plazas de Los Manzanares),

San Luis, San Pedro, San Pablo, San Acacio, San Francisco, Chama, and Los Fuertes were established between 1849 and 1860 (Saenz 2020). Notably, successful performances of property under this system correlated to “using it, living and building on it, and deriving subsistence from it” (Stoller 1980, 22). Under these cultural norms and standards of property, “paper title was of little importance” and possession was recognized and legitimized inasmuch as it was practiced (Garcia and Howland 1995, 43).

Those who settled in the Culebra River villages were agropastoralists, raising crops and livestock simultaneously; and as such, their livelihoods were deeply intertwined with the arid landscapes they settled upon and necessitated movement through it (Mondragon-Valdez 2000). The long, thin strips of private property Beaubien deeded to settlers – known as *varas* – did not provide sufficient room for both the rearing of livestock herds on pasture and the cultivation of subsistence crops (Mondragon-Valdez 2000). Consequently, Beaubien designated the lands beyond these *varas* as freely-accessible commons (Mondragon-Valdez 2000). This included the Vega grazing commons (see figure 4), which once stretched from the Rito Seco to the north of San Luis, down along the Culebra and Ventero creeks, almost reaching the modern-day border with New Mexico (Stoller 1993; McConnell personal communications 2024). Most importantly, however, it also included the mountains just east of the villages where the Upper Culebra Watershed is born, winding its way alongside rolling foothills, forested slopes, and montane meadows. This region constituted the *ejidos* (upland commons) of the land grant and became known as the Sierra (Mondragon-Valdez 2000). Of course, it provided another area for grazing – but it was also used for firewood and timber harvesting, foraging, fishing, hunting, and social activities (Stoller 1993).

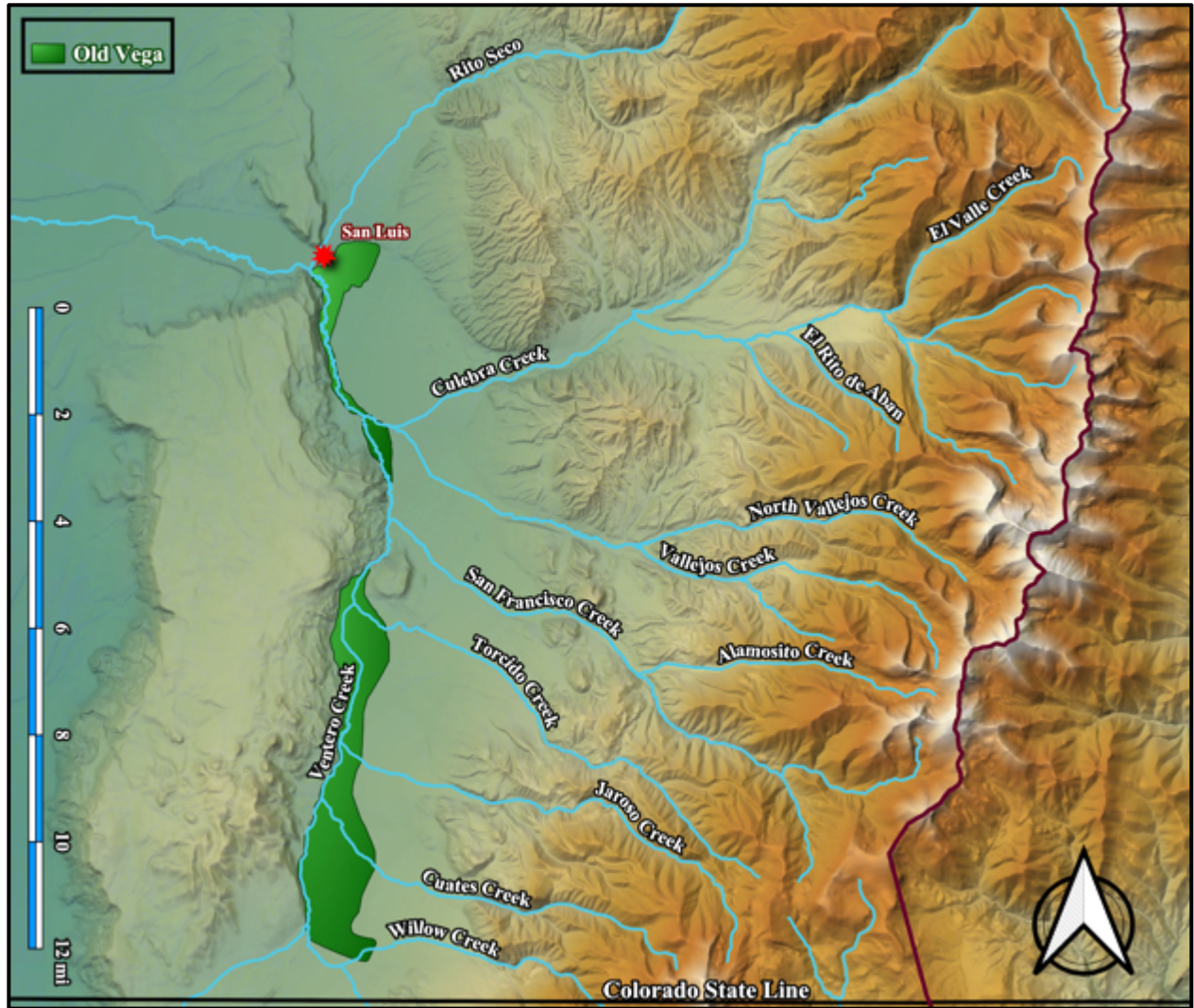


Figure 4: Reconstructed map of the Vega's historical boundaries. Reconstructed from the research of Marianne Stoller (1993), which included ethnographic and archival data, and various maps gathered from the CC Special Collection's "Van Diest Papers."

It is difficult to underscore just how important access to the land grant's commons was for its settlers. The landscape's aridity necessitated the mobile practice of "transhumance," entailing the rotation of sheep and cattle "from the confines of the lower pastures [in winter]...to upper meadows for summer grazing" (Mondragon-Valdez 2000, 4). By moving livestock off the *varas* for the spring and summer, the *pobladores* could grow subsistence crops like cabbages, potatoes, cauliflower, etc., and cultivate hay for winter feed once snow blanketed the Sierra (Stoller 1993). Moreover, its forests provided the building materials for the settlers' homes, and the wild game, fish, piñon nuts, and berries provided additional sustenance for the families of the Culebra River Villages

(Mondragon-Valdez 2000). Consequently, “Without access to *la vega* and to the meadowlands of the Sangre de Cristos, there could have been no agropastoral settlement in the Rio Culebra”

(Mondragon-Valdez 2000, 4). Therefore, the land grant’s patterns of ownership and structure of property relations (see figure 5) were territorialized by Beaubien in a manner that would support agropastoralism and were performed into being by those who settled the lands. That fluidity between privately-owned and communally managed areas of property is the defining characteristic of this territory of property.

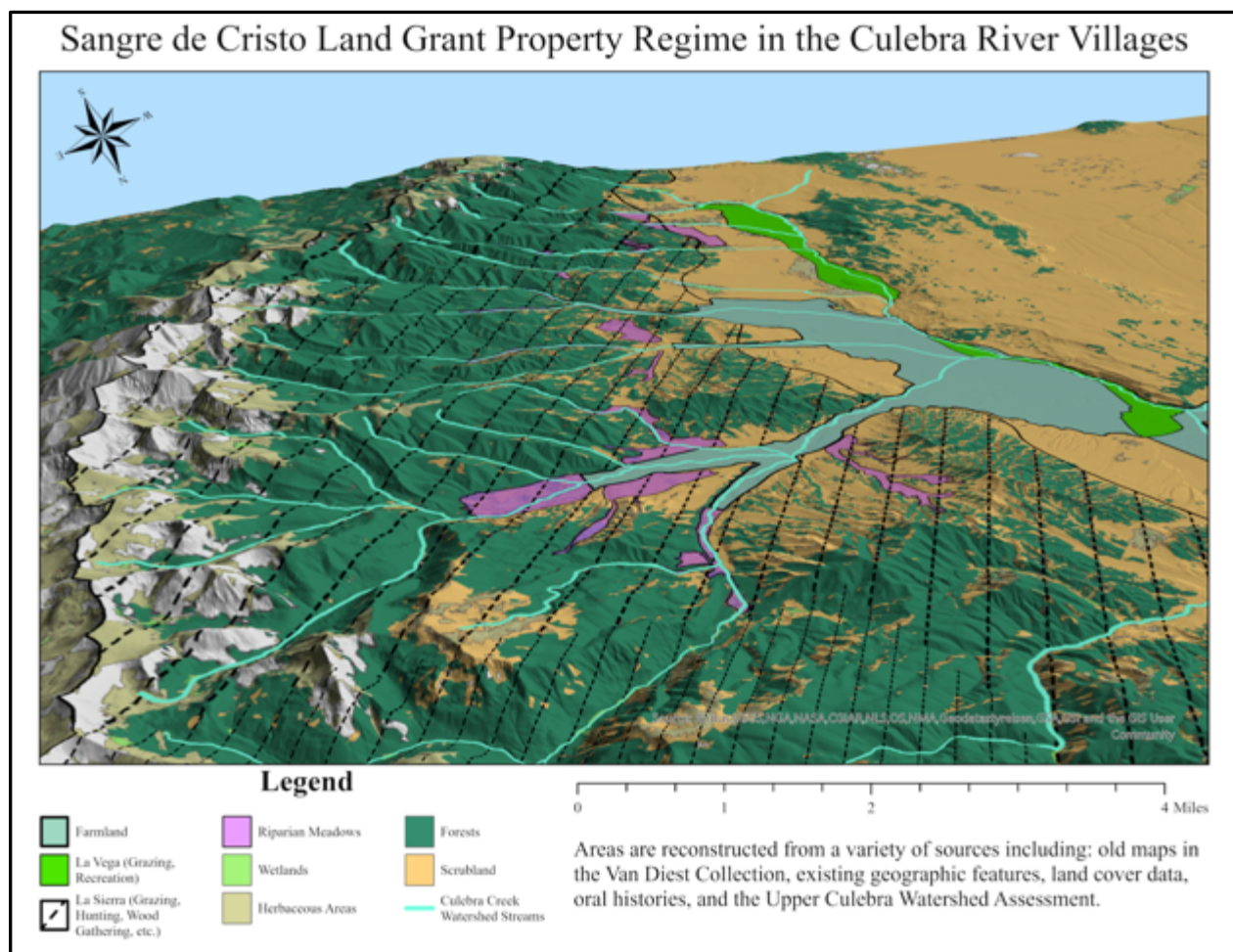


Figure 5: Reconstructed map of the Sangre de Cristo Land Grant's historical property regime showing areas of farmland, the Vega and Sierra commons, and land cover data related to natural resources.

In deeding private lands and establishing the Sierra and Vega commons, Beaubien fulfilled the obligations inhered to the *empresario* system (Garcia and Howland 1995) and simultaneously laid

the foundation for the ensuing contestations over property rights. As seen in figure 5 (above), the land grant's settlers communally held an enormous expanse of land and resources. They had forests to harvest wood from and forage for food in, riparian meadows to graze cattle along, streams to fish and swim in, and great stretches of wild land to hunt game in. It was the settlers and their engagement with these resources that solidified the *Hispano* territory of property. Their "regular, physical presence" on the landscape, constituted "an important form of citational labor" by which they routinely performed their formulations of property rights and enacted the land grant's territory of property (Brown et al. 2019, 60). And through this labor, the settlers began forming those physical, economic, socio-cultural, and affective connectivities to the landscape that would prove incommensurable for the economic goals of the ensuing extralocal landowners who assumed ownership after Beaubien's death.

3.2. Original Sin: American Translations of Mexican Territories in the Confirmatory Act of 1860

The first blow to the land grant's *Hispano* property structure was a delayed one, with the ramifications of it not becoming apparent for several years – and ironically, it arose out of the very act that *should have* recognized the land grant's property structure. In 1854, Congress set out to follow through on the provisions of Article VIII in the Treaty of Guadalupe-Hidalgo, passing a piece of legislation entitled, "An Act to Establish the Offices of Surveyor-General of New Mexico, Kansas, and Nebraska, to Grant Donations to Actual Settlers Therein, and for Other Purposes" (Cohen 2022, 848). Under this act, the surveyor general was tasked with evaluating each land grant claim – generally submitted by the *poblador principal* – and provide recommendations to Congress for its approval or denial (Benavides and Golten 2008; Cohen 2022). Unfortunately, the actual process for evaluation and recommendation was plagued with erroneous mischaracterizations about the type of grant being surveyed, ultimately causing many communal to be designated by Congress as private property under sole ownership of the *poblador principal* (Benavides and Golten 2008).

In 1860, four years before Beaubien's death, Congress passed the "Confirmatory Act," awarding him title in fee simple absolute through a quitclaim deed (Montoya 2002; Garcia and Howland 1995). Through designating Beaubien as sole owner, Congress negated the land grant's arrangement of private and communal ownership, reorganizing the lands into a single, enormous tract of private property (Garcia and Howland 1995). Maria Montoya (2002) argues that the reason for this 'mistranslation' was because the mixture of private and communal properties within Mexican land grants was essentially incommensurable with American property law and the government held too many "anxieties about preserving Mexican property rights" (pg. 169).

In spite of this reorganization, however, the actual territory of property under Beaubien remained much the same; and, for the moment, the privatization of the land grant was not yet 'performed into being' – not by Beaubien, nor by the settlers who inhabited the area (Garcia and Howland 1995). In fact, Beaubien continued efforts to ensure that the property structure would stay intact (Garcia and Howland 1995). Arguably the most significant of his actions post-confirmation came on May 11th, 1863 when he drafted what came to be known as the "Beaubien Concession" (Cohen 2022, 857). In the litigation over the enclosure of the Sierra almost a century later – which will be explored in the section about Taylor Ranch – this document was a critical piece of evidence for the legal arguments of the multigenerational residents of the Culebra River Villages (Goldstein 2003). In it, he declares:

[N]o one has rights to...place any obstacle or obstruction to anyone in the enjoyment of his legitimate rights, and if anyone has done so, he will have to remove the obstacle immediately and without delay...According to the corresponding rule, all the inhabitants [of the land grant] will have enjoyments of benefits of pastures, water, firewood and timber, always taking care that one does not injure another (quoted in: Stoller 1993, 100).³

³ The wording of this document notably mirrors the 1781 *Reglamento para el Gobierno de la Provincia de California*, which served as the dominant model for Mexican settlements in the Northern Frontier (Reich 2003). This regulatory document stipulated that "[t]he new colonists shall enjoy, for the purpose of maintaining their cattle, the common privilege of the water and pasturage, firewood and timber, of the common forest and pasturelands" (quoted in: Reich 2003, 218).

This promulgation “merely formalized” the Sierra’s communal arrangement of resource-access and use that the settlers consistently performed since colonization began (Cohen 2022, 857).

Furthermore, it functionally established an “easement by estoppel” under American property law, which is when “the conduct of a landowner leads another to believe that they have a right to the land” (Goldstein 2003, 191; Attorneys Real Estate Group 2025). Thus, Beaubien’s Concession constituted an effort to reiterate the land grant’s territory of property within the newly-established confines of American property law.

Unfortunately, the continued refusal to treat the land grant as his personal property did not preclude Beaubien from the responsibilities of property owners under American law, meaning that Beaubien was responsible for paying the property taxes owed on the one-million-acre grant (Knox 2003). The same year that he drafted the concession, Beaubien agreed to sell his title to William Gilpin with the stipulation that Gilpin would uphold the usufructuary rights of the settlers (Goldstein 2003). Beaubien, however, died in February of 1864 before he could finalize this transaction (Stoller 1993). Nevertheless, his family followed through on his end of the agreement, selling Beaubien’s title for a total of \$41,000 (four cents an acre),⁴ and granting Gilpin “proper use and benefits [of the property] in fee simple⁵ forever” (Stoller 1993; “Gilpin Deed”, 2). Critically, Beaubien’s family still received an oral agreement from Gilpin that would he honor his terms of the deal and maintain the usufructuary rights of the settlers (“Eugene Tepley Notes”). The agreement was then documented by the family as follows:

[*From Eugene Tepley:*] The oral agreement had been made [*From document recording oral agreement:*] ‘on the express condition that certain settlement rights before then conceded by said Charles Beaubien to residents of the settlements...shall be confirmed by the said William Gilpin as made by him, the said Charles Beaubien during his occupancy of said tract, and as understood and agreed upon by and between him and said settlers (“Eugene Tepley Notes”, 11).

⁴ Equivalent to around \$829,500 (81 cents an acre) today (CPI Inflation Calculator 2025).

⁵ From the Legal Information Institute (2025): “A fee simple is the greatest possible property interest in land, granting its owner all traditional property rights.”

Gilpin reiterated his commitment to this agreement in 1865 during a campaign event (Meyer 1871). Yet in spite of this verbal pledge to honor his obligations to the settlers, the actions of Gilpin – along with the extralocal landowners and land companies that would follow after him – demonstrated his interest in doing quite the opposite. Instead, they worked relentlessly to subvert the land grant's territory of property (Lindner 2013); and although they only experienced limited success materially, they nevertheless laid the legal groundwork for the more decisive and detrimental actions taken by Jack Taylor almost one hundred years after Beaubien's sale (Lindner 2013).

4. The Land Company Years: Territories at an Impasse (1864 – 1959)

To be frank, the number of extralocal actors involved during the period between 1864 and 1960 – be they individual prospectors, lawyers, land companies, mining corporations, railroad tycoons, etc. – is borderline absurd. For this reason, and because there is still much ground to cover, I will focus on a handful of key matters: 1) the shared motivations of four specific land companies for economic enjoyment of the land grant; 2) their efforts to territorialize their formulations of property relations; 3) the resultant material transformations (or, in some cases, the lack thereof) to the landscape and its inhabitants' connectivities; and 4) two critical pieces of litigation that laid the bedrock for Jack Taylor's enclosure of the Sierra in the 1960s (Stoller 1993; Lindner 2013).

Beginning with Gilpin efforts, a successive chain of land companies formed – the U.S. Freehold Land and Emigration Company (“Freehold,” 1870 to 1902), the Costilla Land and Investment Company (“Costilla Investment,” 1902 to 1908) Costilla Estates Development Land Company (“Costilla Development,” 1908 to 1935), and the Costilla Land Company (“Costilla

Land,” 1935 to 1960)⁶ – with each hoping to successfully develop the region for resource extraction and colonization by American and European settlers (Lindner 2013; Davidson and Guarino 2015). In so doing, they established a ‘frontier space,’ constituting the land grant as a “site where authorities, sovereignties, and hegemonies of the recent past have been or are currently being challenged by new enclosures, territorializations, and property regimes” (Peluso and Lund 2011, 688). Critically, conflict is inherent to frontiers (Rasmussen and Lund 2018), and throughout their attempts to territorialize the landscape in conformance with American standards of private property, the land companies faced resistance and indifference towards their claims from the *Hispano* settlers (Lindner 2013). Barring a few exceptions, I argue that these extralocal actors demonstrated an over-reliance on the word of statutory law to legitimize – i.e. successfully perform – their ownership to the land grant. Consequently, they ultimately did little to transform the material territory of property in the Culebra River villages, which continued to be enacted by the *Hispanos*. As will be shown, however, they were successful in laying a legal groundwork for Taylor’s enclosure of the Sierra.

4.1. Contested Regimes on the Development Frontier

Frontiers arise when new possibilities for resource exploitation or development emerge, which conflict with previous orders of ownership and use (Rasmussen and Lund 2018). For the Sangre de Cristo Land Grant, Gilpin’s acquisition of title to the lands opened up the space and its inhabitants to the grand (one could say naïve) machinations of the U.S. Freehold Land and Emigration Company – established by Gilpin and his associates in 1870 to “colonize, settle, improve, and induce emigration to the County of Costilla” and “mine, develop, cultivate, and improve certain lands in said County” (“Articles of Incorporation,” quoted in: Brayer 1949, 82).

⁶ This list of companies is specific to the southern half of Costilla County. The northern half of the county is subject to a different lineage of land companies due to Gilpin’s subdivision of the land grant into the Trinchera and Costilla Estates. I am limiting my discussion to the Costilla Estates for the reason that there were no formally-established *Hispano* settlements in the northern, Trinchera Estate part of the land grant (Mondragon-Valdez 2000). Thus, the history of land-rights struggles between *Hispano* and American property systems is largely unique to the Costilla Estates area.

Freehold's owners were particularly intrigued by the prospect of bringing tens of thousands of Dutch emigrants to the land grant, which had been bifurcated into the Trinchera and Costilla Estates⁷ (see figure 6) to ease their property tax burden (Stoller 1993).

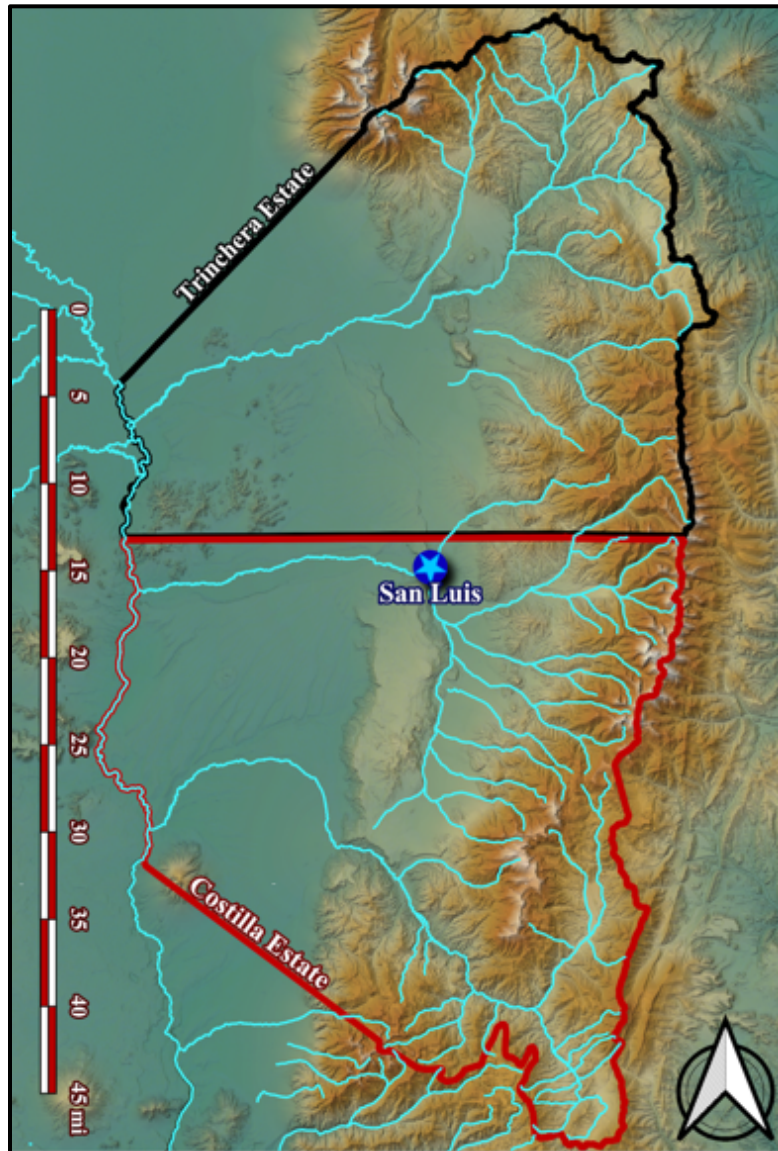


Figure 6: Reconstructed map of the Trinchera (the northern half outlined in Black) and Costilla Estates (southern half outlined in red).

⁷ Because the Costilla Estate contained the entirety of the Culebra River villages, and because the Trinchera Estate became subject to a different lineage of land companies after the subdivision (Brayer 1949), this section will be entirely focused on the Costilla Estate.

William Brayer (1949) characterizes the economic ambitions of Freehold as “territorial assembly,” which, despite predating the scholarship on resource frontiers and territories of property, is by happenstance an apt term to understand those concepts (pg. 82). To elaborate, Freehold did not simply endeavor to establish a few mining operations or lumber mills across the landscape. Instead, they envisioned a total reconfiguration of the existing system of land tenure, patterns of property ownership, and even the demographics of the region (Lindner 2013). Nevertheless, these sovereign-like power would require an act of Congress to ensure the legitimacy of any actions Freehold would take and protect them from being nullified (Brayer 1949). Thus, Gilpin and his associates began a successful lobbying effort to have Congress introduce “An Act to incorporate the United States Freehold Land and Emigration Company, and to confirm certain Legislation in Colorado Territory” (“Incorporation Act”) on March 8th, 1870 (Brayer 1949).

The powers which Freehold sought congressional approval for were unprecedented, with the potential to grant immense control over the direction of resource exploitation and development (Committee on the Territories 1870). Indeed, one senator opposed to the incorporation argued that “Congress has never created a corporation of similar powers; certainly none of such broad and indefinite franchises and privileges” (Committee on the Territories 1870, 1). However, others were more open to the idea, with Senator Anthony of Rhode Island enticed by the Freehold’s promise to bring in “twenty thousand emigrants from Holland,” whom he characterized as “emigrants of a very superior character” (quoted in: Brayer 1949, 84). After much deliberation, Congress officially passed the Incorporation Act in July of 1870, granting Freehold the powers it desired and reiterating a statutory territory of property characterized by private ownership (Brayer 1949). And with Freehold formally incorporated, the company began a sweeping advertising campaign across the US, Britain, and the Netherlands to attract emigrants and investors (Lindner 2013).

Rarely ever mentioned in their reports and advertisements, however, was those who had already settled these lands (Stoller 1993). Never mind the fact that – abiding by Mexican standards for land grant settlement – the *pobladores* had already established farms on the most fertile tracts (Hall 1885; Brayer 1949; Stoller 1993). And while Freehold’s associates were on other continents or in the halls of Congress, the *pobladores* continued cultivating their lands, using the resources of the Sierra, and deepening their connectivities with the landscape. They did not simply leave because Gilpin bought title to the land for \$41,000 or because Congress established immense control over the estate. Rather, Freehold was faced with a culture in which these titles and statutory laws did little to generate recognition of ownership (Garcia and Howland 1995). When the company did mention them in reports, they spoke of them as “squatters” (Pels 1895, 4), or of the “rude and unskilled labor of the Mexican population” (Bliss 1866, 182).⁸ In effect, Freehold engaged in a discursive – but still not material – unmaking of the *pobladores* territory of property.

The omission of the land’s inhabitants was likely rooted in the fact that Freehold “seemed to view the Costilla Estate as a place where it could exercise sovereign-like control over political and economic life – a blank slate on which to realize its ambitions for development” (Davidson and Guarino 2015, 229). To them, Congress had established a *carte blanche* to reconfigure the property relations of this landscape to their whim. Their attitude is emblematic of the “frontier moment” in which extralocal actors seek wholly reconfigure the economic possibilities of a landscape through materially and discursively erasing previous territories of property, effectively enabling new forms of development and extraction to arise (Rasmussen and Lund 2018, 391). In other words, to Freehold it was their world, the *Hispanos* were just living in it.

⁸ Bliss’s report was created for the first iteration of Freehold, that being the Colorado Freehold Land and Emigration Co., which then evolved into U.S. Freehold Land and Emigration Co. when Gilpin and his associates established it in 1870.

This disposition towards the landscape and those who resided on it is reflected in various maps the company drafted, which visualized their plans for development. There are two specific maps that provide a great deal of insight into how Freehold configured, imagined, and demarcated the landscape of the Costilla Estate. To unlock their potential, however, requires layering them together; in other words, making the maps deeper through “through the juxtaposition and layering of materials that represent the complexities of place” (Harris 2015, 37). Figure 7 (below) is a map produced by Edmund van Diest, a cartographer contracted by Freehold to survey their property for the delineation of the landscape, its resources, and its people. This particular map illustrates Freehold’s plans for reservoir development, and I have marked four specific reservoirs on it that become notable when they are georeferenced onto some of Van Diest’s other work.

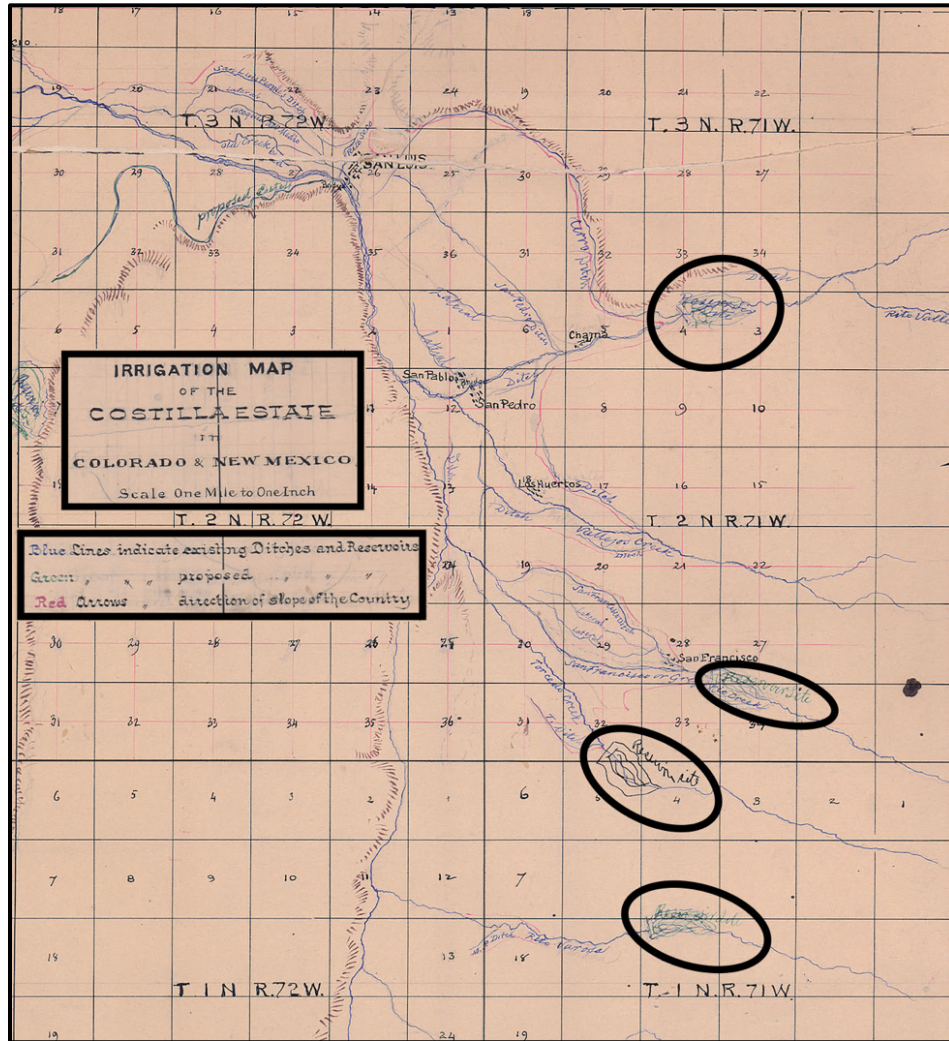


Figure 7: “Irrigation Map of the Costilla Estate,” produced by Edmund van Diest, showing major streams, current irrigation ditches and proposed reservoir sites. It is undated, but the chronology of ditches present on the map likely places it around 1889. Proposed reservoirs are drawn in green or black ink.

Taken alone, figure 7 (above) demonstrates the economic aspirations of Freehold, but it does so without speaking much to how these aspirations related to the material territory of property at that time. In fact, the only identifiable traces of that territory are the irrigation ditches established by the *pobladores* along the streams of the Upper Culebra Watershed – ones that Freehold sought to expropriate for their own benefit (Davidson and Guarino 2015). In this sense, figure 7 (above) elucidates Freehold’s imagining of the landscape as a ‘blank slate.’ However, when one transposes the locations of Van Diest’s proposed reservoirs to his other maps that do illustrate that

contemporary structure of property, the relationship between Freehold's aspirations and the *pobladores* territory of property becomes clearer. Figure 8 (below) locates the proposed reservoirs in relation to the areas of the Costilla Estate settled by the *pobladores*. Notably, two of these reservoir sites sit directly on top of areas occupied by supposed "squatters" while the other two overlay "lands prepared for cultivation." With this layering, then, the friction between Freehold's economic desires for development and the *pobladores* current structure of property becomes more visible than either map could provide individually. Furthermore, Van Diest's differentiation between the "Beaubien Tilled Lands" and "Squatter's Claims" subtly highlights the manner by which Freehold endeavored to 'unmake' this material territory of property (Hicks 2005).

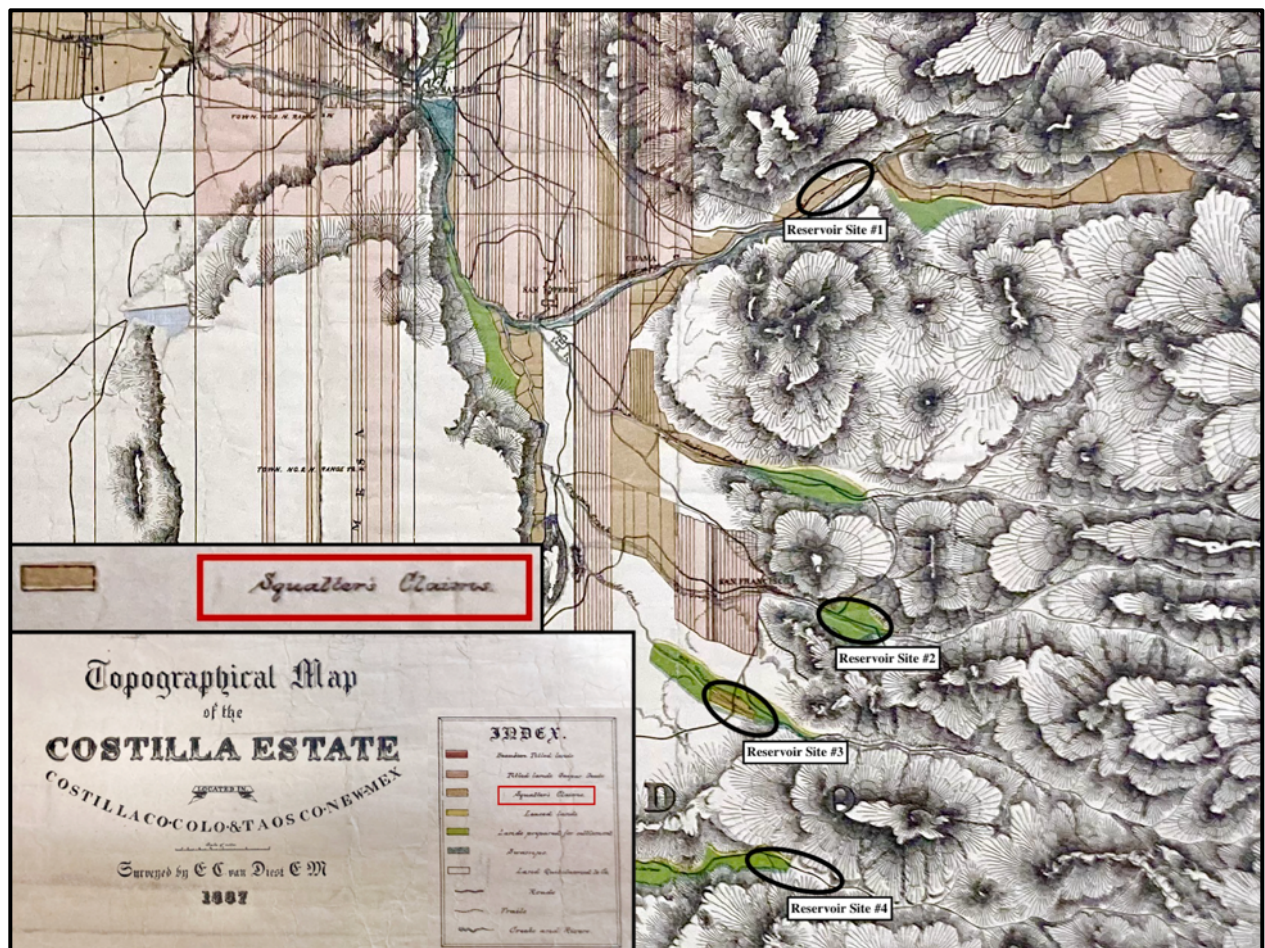


Figure 8: "Map of the Costilla Estate" produced by Edmund Van Diest in 1887 depicting the *pobladores* patterns of property ownership and areas under cultivation, overlaid with the reservoir sites from Figure 7. Proposed reservoir sites from figure 7 are marked, showing overlap with two sites noted as "squatter claims" (brown) and two sites "prepared for cultivation" (green).

Freehold's demarcation of "Squatter's Claims" in figure 8 (above) is significant because it underscores the disconnect between *Hispano* informal understandings of property ownership⁹ and Freehold's Anglo-American understandings of it; and, consequently, how Freehold sought to (mis)translate these *Hispano* understandings into a normative language of expropriation. To elaborate, Freehold defined squatters as individuals who had settled the land grant without an explicit invite from Charles Beaubien himself (or could not prove they had received such an invite) (Hicks 2005). Such a characterization follows logically under American perceptions of property ownership in which paper title is largely the only authorized way of proving ownership (Blomley 2013). However, this distinction established by Freehold between legitimate ownership (with paper title) and illegitimate ownership (without paper title) did not exist in the *pobladores* preexisting ordering of the landscape (Hicks 2005).

In fact, it was common practice across Mexican land grants "that relatives and residents of the [invited] settlers' communities of origin would come to a newly opened area, settling near earlier arrivals to whom they had ties" (Hicks 2005, 388). Such patterns of settlement were not seen as intrusions, but instead as normal or even beneficial for the establishment of *Hispano* communities across the Northern Frontier (Hicks 2005). Freehold, on the other hand, did not share this view. Instead, the presence of these so-called squatters was detrimental to their emigration-inducing ambitions (Stoller 1993). Thus, weaving Van Diest's maps together highlights how Freehold "could not proceed [with its economic aspirations] until it had defined and contained the extensive claims of the Hispano settlers to water, farm lands, and grazing lands" (Hicks 2005, 390). Here, their method of containment was the delineation of squatters claims for the purposes of identifying areas in which space could be 'freed up' to benefit their imagined influx of European emigrants.

⁹ "Informal," here, is not synonymous with "arbitrary." Rather, it circumscribes the locally-generated and locally-recognized forms of legitimizing ownership that did not inherently entail the need for a valid paper title.

To summarize, then, Van Diest's map in figure 8 (above) recognizes the material property regime of the landscape in which invited *pobladores* and uninvited *pobladores* coexisted and collaborated with each other (see figure 9 below). However, it does so in a translative manner, establishing a dichotomy of legitimate versus illegitimate ownership that was not present previously. This cartographic divide created by Van Diest's surveys opened an avenue for them to unmake the *Hispanos* property regime through the ejection and expropriation of unauthorized inhabitants. Furthermore, the layering of those proposed reservoir sites in figure 8 (above) reveals the necessity of this divide for Freehold's "reconfiguration of the conditions of possibility" – i.e. the chief goal for extralocal actors on resource frontiers (Rasmussen and Lund 2018, 391). To get their reservoirs, their European emigrants, or the litany of other projects they imagined, Freehold would have to do something about the *pobladores* occupying their desired lands.

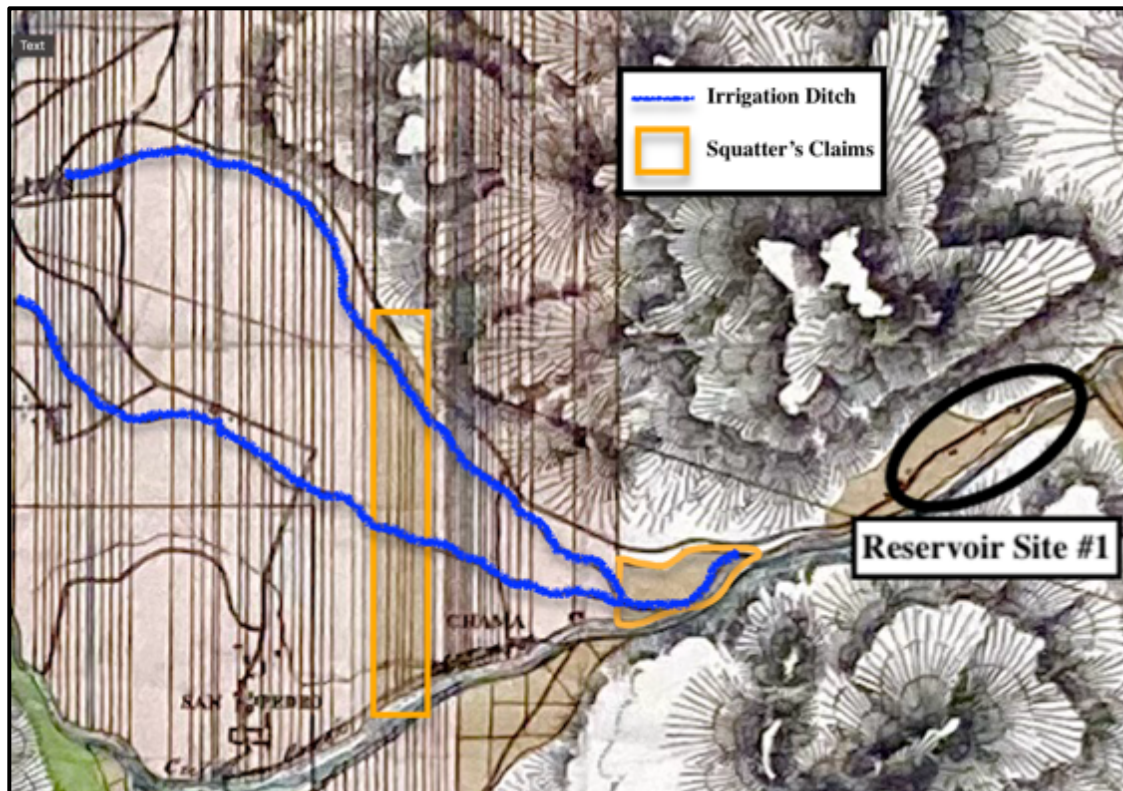


Figure 9: Cropped and annotated version of figure 8 (above), showing an irrigation ditch shared between both invited and uninvited *pobladores* of the Sangre de Cristo Land Grant. This shared ditch was governed communally in accordance with the Mexican system of water management

(see: Hicks and Peña 2003). As such, it demonstrates the coexistence and collaboration between these two groups, contradicting the cartographic and legal divide created by Freehold.

However, according to one anecdote relayed to me around a coffee table those *pobladores* were not acquiescent to Freehold's desires:

"Jose": There's this story that goes way back to when the Spaniards came into the area, and then you had some white Anglos that came in, and somewhere in that story there was going to be these European towns. And on that other side of the mesa [referring to the eastern slope of San Pedro Mesa where the *pobladores* had settled], they were going to fill it in and everything was going to be a reservoir.

"Maria": That was the US Freehold and Emigration Company.

"Jose": Right, so the Spaniards came in and said, "You think so? Well, you better watch yourself because you might not be here tomorrow morning," ya know? So they chased them out because all these people had little pieces of land, and they were just going to flood the whole area out to the mountain.

This story, while having some embellished details about the size of Freehold's proposed reservoirs (likely as a result of being passed down for over a century now), does corroborate both the threat posed to the *pobladores* property regime and their willingness to resist Freehold's acts of 'territorial assembly.' Furthermore, the context in which this story was brought up, that being a discussion about the modern-day contestations with CVR, highlights an enduring cultural memory of struggle with extralocal actors on the region's many frontiers – one that continues to shape perceptions and actions in the present.

Back to the past, however, the hostilities between the *pobladores* and Freehold beg an important question: what is a company to do when their plans for development are incommensurable with the firmly-rooted property rights and relations of people who also happen to occupy the most favorable lands for settlement? One of Freehold's first moves to actualize the company's territory of property in accordance with the institutional territory created by the Confirmatory and Incorporation Acts was a shortsighted attempt at compromise (Hicks 2005). In October of 1871, Gilpin met with a committee of *Hispanos*, offering a deal that would concretize the

title of *pobladores* who could provide paper deeds granted by Beaubien (Hicks 2005). Although there was a catch, with Freehold stipulating that it would not recognize the legitimacy of lands owned by “squatters,” nor would it continue to allow “the practice of general, free access to the commons of grass, wood, and water [on the Sierra and Vega]” (Hicks 2005, 391). So, in essence what Freehold sought was a total surrender of the *Hispanos* territory of property that, despite being statutorily erased through the 1860 Confirmatory Act and the 1870 Incorporation Act, continued to iterate itself materially through locals’ performances of ownership – in particular, their uninterrupted cultivation along the *varas* and use of the Sierra.

Notably, the company’s objective to ‘reterritorialize’ the system of land tenure and ownership echoes the outcomes of other instances of enclosure wherein “property became disentangled from a localized nexus of collectively organized and policed relations, and was inserted within wider networks of calculation and commodification” (Blomley 2017, 236). In this context, Freehold’s delineation of legitimate claims versus squatter’s claims worked to disentangle the interwoven and normalized relationships between these groups in an attempt to expropriate the lands they needed to induce European emigration. In their own performance of property – one that refused to acknowledge the legitimacy of Freehold’s authority – the *pobladores* rejected the compromise, asserting their unwillingness to capitulate to the company’s aspirations for extralocal development (Hicks 2005). While they had no legal power or organizational capacity (at the time) to “throw cloud on the land company’s title,” they remained committed to the material continuation of their traditional property regime through hostility to Freehold’s claims and various forms of citational labor (Brayer 1949, 108; Stoller 1993). Vexed and exasperated from their failure to secure an actualized regime of property, one company manager remarked to an associate of Freehold: “I am well nigh worn out and quite disgusted with the Mexicans” (quoted in: Brayer 1949, 115).

4.2. *Laying the Legal Groundwork, Seeding Enclosure*

With their attempt at compromise unsuccessful, Freehold (and its eventual successors) explored another avenue by which to actualize their territory of property and end the frontier moment: litigation (Stoller 1993). Here, I deal with two specific cases – *US Freehold Land and Emigration Co. v. Tameling* (“*Tameling*”) and *Salazar et al. v. Jacquez et al.* (“*Jacquez*”) – along with discussing with a series of unspecified ejectment under the Costilla Estates Development Co. from 1908 to 1911. In their sum, these cases demonstrate how extralocal actors mobilize the courts to marginalize and statutorily erase local property relations. Furthermore, while these cases were rarely followed by substantive action from the land companies, they served to lay the legal groundwork that Jack Taylor eventually exploited in his material enclosure of the Sierra.

In 1873, Freehold filed a suit against John Gerard Tameling (*USFLEC v. Tameling*, or “*Tameling*”), an American homesteader who had ostensibly settled on the Costilla Estate without permission (*Tameling* 1874). While most scholars have treated the legitimacy of this case’s facts as a given, there are indications that the whole thing had been contrived by Freehold in an underhanded attempt to clear title to the Costilla Estate (The Advocate 1895; Stoller 1993). According to Marianne Stoller (1993) – a reputable and highly-influential scholar on the Sangre de Cristo Land Grant who served as an expert witness in the *Lobato* proceedings – evidence suggesting that collusion occurred between Freehold and Tameling can be found in the “New Mexico Land Grant Papers” ledger compiled by John Purdy in 1885. While I have not been able to independently verify Stoller’s claim, her assertion is echoed by an 1895 article published in “The Advocate,” a Kansas newspaper:

[Freehold] concluded to forestall a genuine settlers’ suit by getting up a settlers’ suit of its own. To this end the company had John G. Tameling, one its employees¹⁰ [*sic*],

¹⁰ Other historical newspapers speak to the existence of one John Gerard Tameling living in New York (where many of Freehold’s main associates and co-owners resided, see: Brayer 1949) who worked as an exports commission merchant

bring suit for the recovery of his ranch...The company employed Tameling's lawyers as well as the lawyers for the defense (pg. 2)

Even when one sets aside the possibly corrupt nature of the litigation, there are still quite a few moving parts to this case (see Montoya 2002; Benavides and Golten 2008), so I will simply summarize the three key pieces of precedent arising from the U.S. Supreme Court's decision on it in 1876. First, title to the Costilla Estate was once again confirmed in its totality to Freehold, reinforcing Congress's Confirmatory and Incorporation Acts (Stoller 1993). Second, Mexican property law standards, which John Tameling's counterclaims relied upon (ironically as a way to delegitimize the validity of the original land grant),¹¹ were deemed irrelevant as a source of precedent in legal proceedings relating to land grants (Barnet 2008; Benavides and Golten 2008). Lastly, the Supreme Court declared that the confirmation of land grants by Congress was beyond the purview of judicial review (*Tameling* 1876). Consequently, any attempts to rectify mischaracterizations of grant type or misallocations of title to fraudulent parties would have to be done through the federal legislature, effectively precluding any future attempts to do so (Benavides and Golten 2008). Thus, the *Tameling* decision was a decisive victory for Freehold and for other similar companies in different land grants (Montoya 2002).

Like the Confirmatory and Incorporation Acts, *Tameling* functioned to reterritorialize the land grant's property regime – an enactment of statutory law designed to erase the preexisting

(Brooklyn Eagle 1891) and traveled to Europe for work (Brooklyn Daily Times 1892; "Customs List of Passengers" 1893). There is no decisive evidence that he is the John G. Tameling associated with the litigation, nor that he worked for Freehold, but his occupation and place of residency would be in line for that of a Freehold employee. All that said, this whole matter is worthy of a much deeper investigation than I can provide right now.

¹¹ Tameling's argument posited that the confirmation of the land grant through the Confirmatory Act of 1860 was illegitimate due to the act violating Mexican laws on land grants, which limited the size of *empresario* grants to eleven square leagues (Stoller 1993). If it was illegitimate as Tameling argued, then the deed held by Freehold that they obtained from Beaubien would be void (Montoya 2002). However, the Colorado Supreme Court ruled that "had it been the intention of congress to limit the quantity granted to an amount less than that embraced within the natural boundaries, they could have imposed such limitations in their act of confirmation and quit-claim...And the fact that the quantity of land turns out to be larger than supposed, should not be allowed to diminish the force of the act" (*Tameling*, 1874). This ruling was upheld by the U.S. Supreme Court in 1876 (*Tameling*, 1876).

territory of property. In once again characterizing the land grant as a single, enormous tract of private property, the federal government reiterated its unwillingness to account for the system of land tenure that created the commons (Montoya 2002). What is unique (and perhaps more significant) about *Tameling* when compared to the aforementioned acts, is that it enshrined the negation of Mexican property customs in the highest court of the land. Consequently, it provided a ‘supreme’ denial of the legitimacy and relevance of Mexican property regimes by declaring the deeds provided in the Confirmatory Act as *de novo* (i.e. “from anew”) grants (Montoya 2002). In essence, the Court declared that whatever property regime may have existed prior to 1860 was now irrelevant, having been erased by Congress’s pen. In so doing, “the Court incorporated Mexican law into U.S. law simply by having the latter engulf the former” (Montoya 2002, 162). Even in the 21st century, *Tameling* remains as one of the greatest barriers to land grant litigation (*Montoya v. Tecolote Land Grant Board of Trustees* 2007; Benavides and Golten 2008).

Freehold, however, did little to back this ruling with any teeth (apart from a floundering attempt in 1887 to eject around 70 settlers from their lands that was ultimately dropped, see: *Aspen Daily Chronicle* 1888; Hicks 2005). Gregory Hicks (2005) speculates that the patterns of violent resistance sweeping across the Maxwell Land Grant, right on the Sangre de Cristo Land Grant’s eastern border, deterred Freehold from mirroring the Maxwell Land Company’s policies of indiscriminate ejectment and removal. There was, then, an impasse. And despite the sovereign-like powers granted to them by Congress, despite the enormous wealth of their investors and co-owners, and despite their legal wins in the courts, Freehold ultimately failed to actualize the regime of property that they sought and failed even worse at inducing emigration to the Costilla Estate (Stoller 1993). Facing delinquent taxes and bankruptcy, they ultimately sold the entire estate to the Costilla Land and Investment Company (Stoller 1993).

While short-lived, Costilla Investment changed the nature of the land grant's frontier, moving away from the grand plans of Dutch emigration and going all-in on mass development. In turn, they were more direct in their territorializations of property along the Sierra than Freehold. One of these performances was the 1907 civil suit, *Salazar et al. v. Jacquez et al.*, they filed against several individuals for grazing on the Sierra ("Jacquez," 1908). In this litigation, they asked that "the defendants be enjoined from further asserting title to the land, prevented from fencing it as they threaten to do, and kept from using it for pasturage and grazing for their cattle" (The Advertiser 1907, 3). In their arguments, they asserted complete control over the Sierra as a result of their title acquired from Freehold (Lindner 2013). On the other hand, the *pobladores* filed a counterclaim that asserted their rights to the commons as a result of the Beaubien Concession (Jacquez, "Answer" 1908). The courts, however, sided with Costilla Investment in their 1908 decision.

Like *Tameling*, the ruling in *Jacquez* is demonstrative of how the process of territorialization is "coupled with extraterritorial economic, social, and political networks and coalitions" (Berdegué 2015, 129). In it, Judge Holbrook reasons that the courts cannot uphold the continued exercise of *Hispano* rights without imperiling broader patterns of development, settlement, and extraction across the country (Jacquez 1908). Furthermore, Holbrook refused to recognize the Beaubien Concession as a legal conveyance of rights since the "essential elements of a conveyance are wanting" (Jacquez 1908, 2) – i.e. it lacked a 'legal description' of the commons, delineated in Township, Range, and Section (Colorado Department of Local Affairs 2025). In doing so, Holbrook exemplified the way in which institutions of statutory law work to erase the preexisting norms, authorities, and standards vis-a-vis property on frontiers (Rasmussen and Lund 2018). For those who lived in the Culebra River villages when Beaubien drafted the concession, a specific delineation of the commons through Township, Range, and Section was not necessary considering they had already come to know its bounds through their continual use of it. Nor would it be of use to their descendants, who inherited the

knowledge of its bounds from their parents and neighbors (“Eugene Tepley Notes”). However, *Jacquez* was building off *Tameling*, once again reinforcing a crucial pattern across land grant litigation where “as soon as the land [grants] entered the world market, the[ir] informal understandings could not practically be given the force of law” (Montoya 2002, 189).

Yet even though they had secured this win, Costilla Investment fell to the same financial fate as Freehold, selling its holdings to Costilla Estates Development Co. in 1908 (Hicks 2005).

However, Costilla Development seemed to be less focused on enclosing the Sierra (Stoller 1993). While they did post ‘no-trespassing’ signs along the Sierra and establish a leasing system for those who wanted to graze livestock, these were rarely enforced by agents of the company or local officials (Mondragon-Valdez 2000; Stoller 1993). In fact, it seems that Costilla Development only imposed leases when “the flocks were large enough to be of commercial significance,” sparing most landowners from these payments (Stoller 1993, 88). Interestingly enough, this arrangement parallels the current access-rights to the Sierra granted through *Lobato*, which stipulates that grazing and wood harvesting can only be done for household, non-commercial purposes (*Lobato II* 2003).

Where Costilla Development concentrated their efforts, instead, was in reservoir construction. In December of 1909, the company publicized its efforts to construct an enormous, 100,000-acre-foot reservoir along Ventero Creek – one of the tributaries to Culebra Creek (Monte Vista Journal 1909). There was a problem, however, both for the company and for the locals. The proposed location for the “Sanchez Reservoir” (see figure 10) directly overlapped with a large section of the land grant’s original Vega (see figure 11). Thus, Costilla Development was posed with a similar problem that Freehold faced (and indeed what all extralocal landowners and speculators face on frontiers): a contradiction between development plans and the preexisting property regime. Nevertheless, because Costilla Development did not share the same plans for inducing European

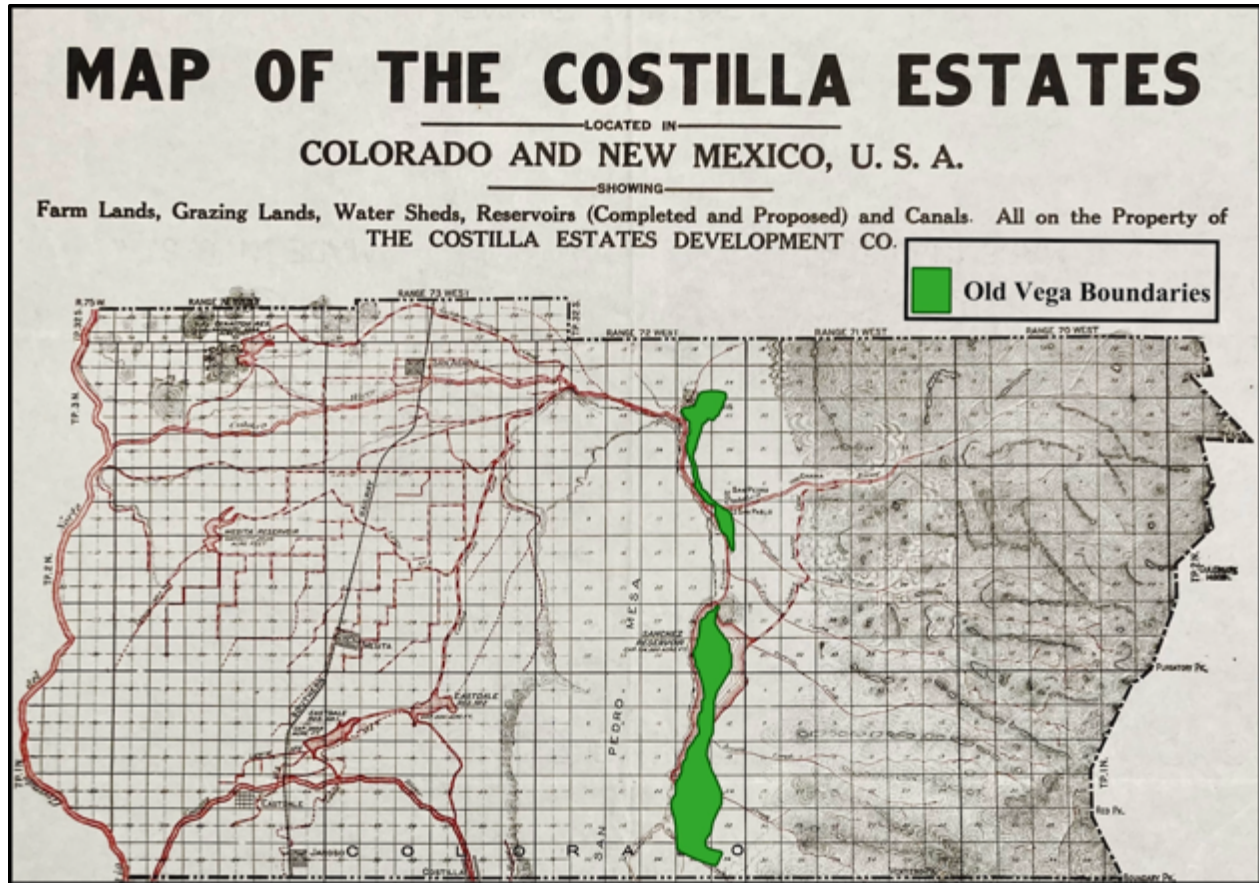


Figure 11: "Map of the Costilla Estates" produced by Edmund Van Diest sometime after 1908, showing the overlap of the Old Vega boundaries with the Sanchez Reservoir site.

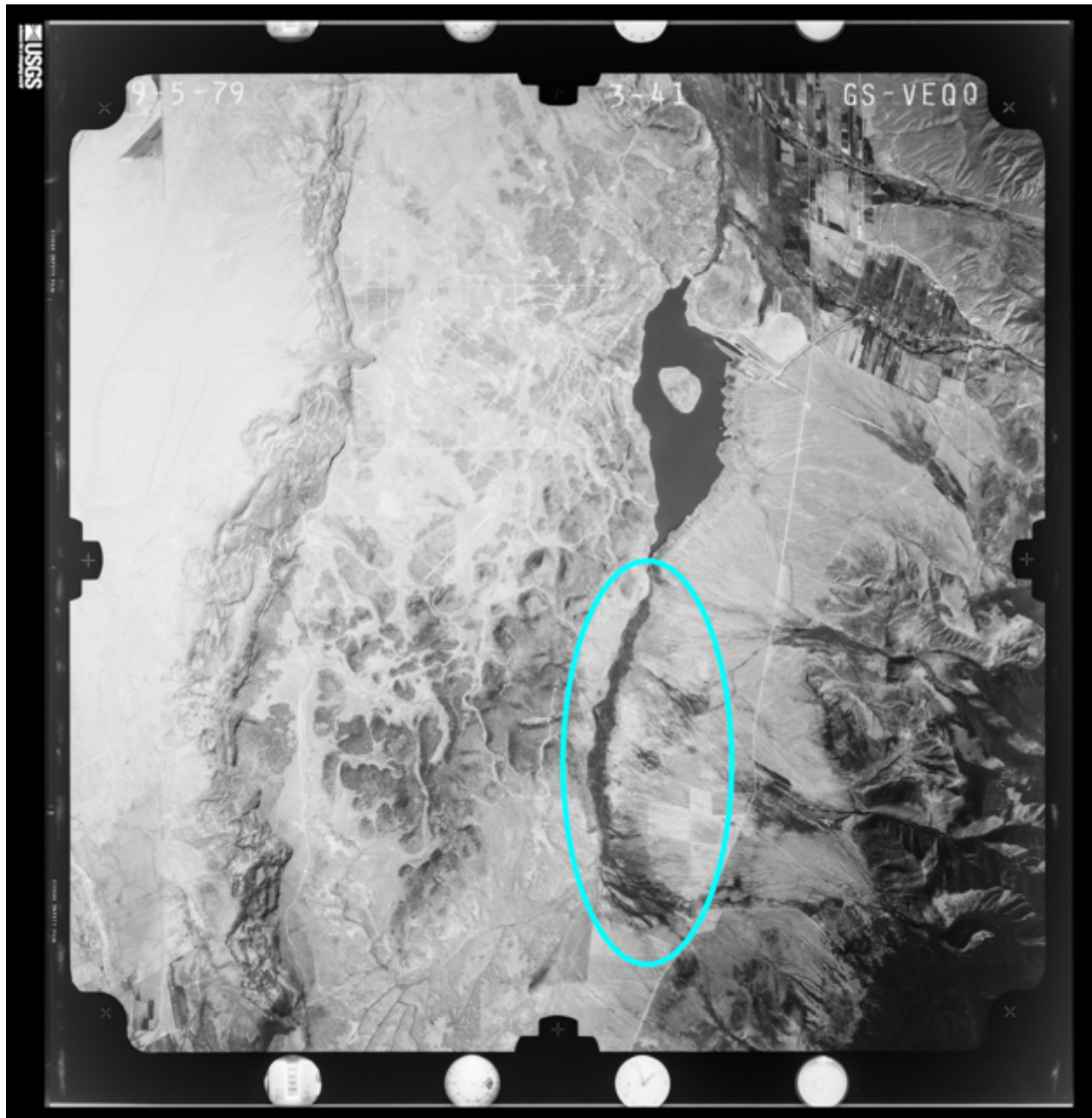


Figure 12: Aerial imagery of Costilla County from 1959 (source: EarthExplorer, single frame aerial images). The southern remnants of the Old Vega are circled in blue.

With the southern portion of the Vega underwater or otherwise enclosed within property boundary of the San Luis Power and Water Company (an affiliate of Costilla Development, see: Knox 2003; Davidson and Guarino 2015), the *pobladores* began developing “a symbiotic relationship with the farmers by using their cultivated fields for winter grazing,” in which “the farmers got their fields fertilized and the stockmen their sheep fed” (Stoller 1993, 84). An additional adaptation to this

change was an increased reliance on the Sierra's spring and summer meadows to support their practice of transhumance (Stoller 1993). Figure 13 (below) provides an example of these adaptations to transhumance during the land company years, reconstructed from Telesfor Vialpando's oral history collected in 1977 for the high school magazine in San Luis, *Adobe*:

We would bring [the sheep] from the Sierra (mountains) in midfall and we would stop in the chamizal (sagebrush) east of San Luis by the cemetery...We would remain there until the snow cover was heavy. We would move to the farms in Mesita where we stayed till spring. When the farmers began planting, we would move out towards the foothills. Around May the 10th, the lambing would start. We always did this east of El Rito at the little ranch that used to belong to Mage Mondragon (Chavez 1977, 4).

Mr. Vialpando's testimony corroborates both the 'symbiotic relationship' between farmers and livestock herders described by Stoller above and also the uninterrupted, normalized use of the Sierra during this period. Thus, even in the face of losing 1,000 acres of their Vega, the *pobladores* were able to make do and maintain their traditional system of land tenure – that is, so long as they had access to the Sierra (Stoller 1993).

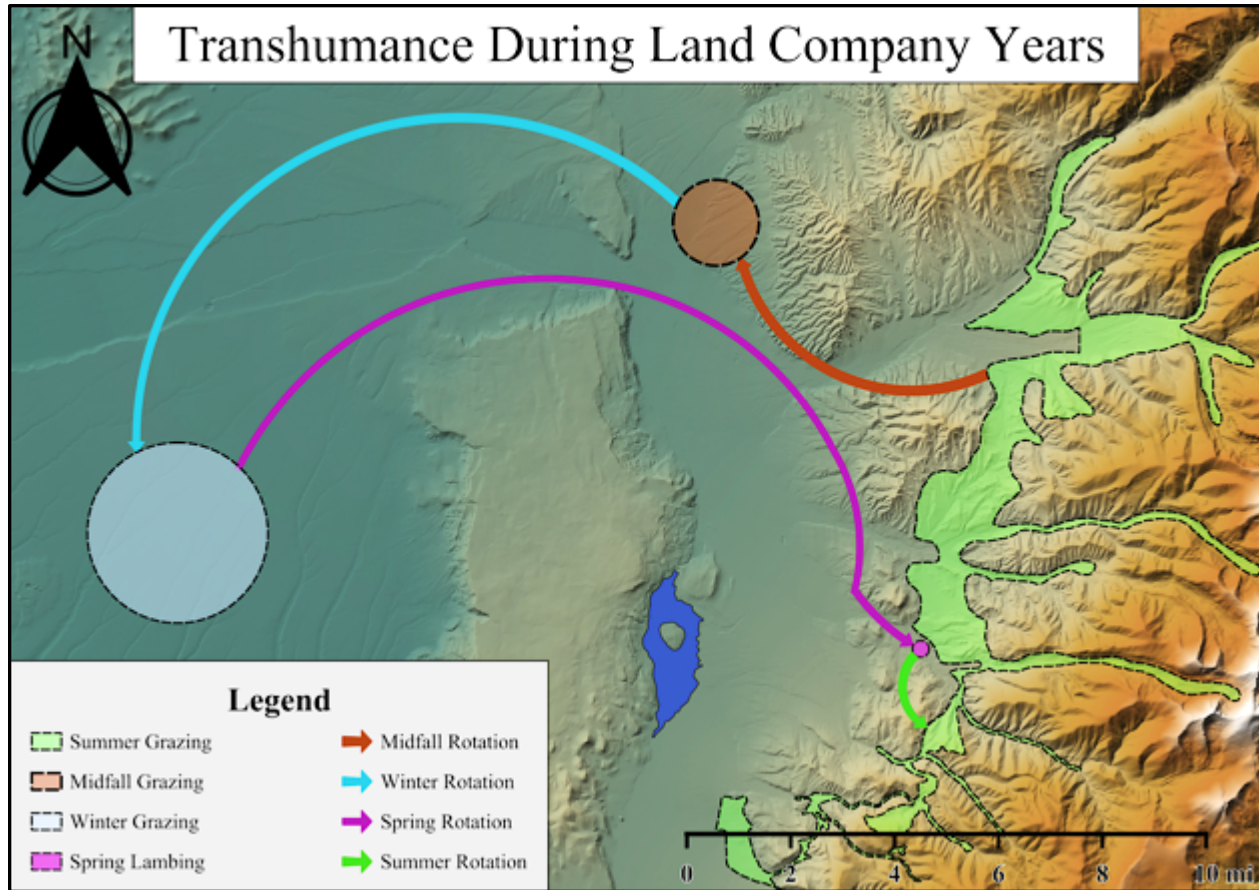


Figure 13: Reconstructed map of transhumance patterns as they may have existed during the land company years, showing rotation routes, grazing areas for each season, and lambing sites. These patterns have been reconstructed using the oral history of Telesfor Vialpando recorded by Teresa Chavez in 1976 and published in the local student magazine, *Adobe*.¹³

The lack of (or more often: failure of) enforcement on the Sierra by Costilla Development and its successor, the Costilla Land Company, allowed the “institutional debris” of the preexisting order to remain (Rasmussen and Lund 2018, 395). In other words, the collectively governed system of communal use continued – a persisting enactment of the land grant’s original property regime that had been shattered by the quadruple-blow of the Confirmatory and Incorporation Acts and the *Tameling* and *Jacquez* decisions. The continuity of this practice was rather remarkable for land grants in the 20th century. For instance, in the Tierra Amarilla Grant – only some 50 miles away from the

¹³ Since Mr. Vialpando only mentions the general location of ‘the Sierra’ for summer grazing, I mapped the grazing areas by referencing the Upper Culebra Watershed Assessment’s (2023) maps of riparian meadows and preferred grazing areas (based on slope-steepness), along with my own analysis of terrain using the Terrain Ruggedness Index.

Sangre de Cristo Grant – the territorialization of private property was so effective and ubiquitous that “by the 1930s few land grant residents believed the stories of Tierra Amarilla’s common pastures” (Correia 2013). Yet for the Culebra River villages, the commons never ceased to exist in practice, even well into the 20th century (The Advertiser 1907; The Alamosa Daily Courier 1937; The Lafayette Leader 1958; *Taylor v. Jaquez* 1960; Quintana personal communications 2024; Rael personal communications 2024).

These continual performances of property by the *pobladores* were “open and notorious,” without effective interruption since the days of Freehold, and “pursuant to an intended, but imperfectly executed, grant” (Lobato 2002). In other words, these performances satisfied the requirements for an “easement by prescription” (Lobato 2002). Thus, by the end of the land company years, these extralocal actors established a powerful institutional territory of property over the Sierra – but the material territory remained defined and enacted by the *pobladores*. Consequently, the land companies’ successes in the courts established the precedent Jack Taylor needed to enclose the Sierra. Crucially however, their failures to rupture the local connectivities with the landscape and the traces of the past also laid the groundwork for the eventual (albeit piecemeal) return of the commons in the *Lobato* decision.

5. Taylor Ranch: Breaking the Impasse (1960 – 2002)

There is no doubt that the conflicts between extralocal land prospectors and the community presented challenges to their structures of property and relations to the landscape. The land companies had waged a war of attrition in the courtrooms, legally asserting the predominance of U.S. private-property relations. Despite their success at the bench, however, they almost invariably failed to realize these wins on the landscape. While the “emergent American legal order overlay the

older Mexican framework, containing it and supplanting it as the source of property rights,” it did so “without eliminating the sense of right or the capacity for effective resistance of the Mexican settlers” (Hicks 2005, 409). Put differently, the land companies had inscribed a territory of American property relations within the courts but could not successfully perform them on the landscape. As Keith Lindner (2013) writes:

Hispano claims persisted, and Hispanos re-asserted control and use of resources during times when the company was unable to keep them out... Until Taylor’s arrival in 1960, the Sangre de Cristo grant was characterized by an uneasy impasse, and private property remained an uncertain achievement (Page 16).

Their shortcomings here underscore the critical fact that legal conveyances of ownership – as was given in *Tameling* and other such cases – can only materialize inasmuch as they are recognized *and* enforced by actors on the ground. Across other former land grants in the Southwest, Anglo formulations of property rights were similarly rejected by the *Hispano* settlers (Correia 2013). Nevertheless, the developers, prospectors, and American settlers in those regions did not hesitate to physically enforce their property ownership (Correia 2013). The land companies of the Sangre de Cristo, on the other hand, held more reservations about utilizing such strategies. This was not, of course, born out of some altruism on the behalf of these companies. For Freehold, their desire to attract European emigrants to the region necessitated good optics (Hicks 2005), which the patterns of violence and resistance seen across the other former land grants were not conducive to (Correia 2013). Furthermore, the other companies after Freehold “hoped that the local Hispanos would provide a willing labor pool for its colonies and for development of the grant’s mineral and timber resources” (Hicks 2005, 408). Thus, they needed the settlers to stay in place, which was unlikely to happen if they were fully dispossessed of the land.

However, as Lindner hints at with the phrase, “Until Taylor’s arrival,” this impasse did not last forever. In February of 1960, Costilla Land was facing delinquent taxes on their property holdings and decided to sell 77,000 acres of the mountain tract to Jack Taylor for less than seven

dollars an acre, who established Taylor Ranch (see figure 14) (Goldstein 2003). Eight months later, Costilla Land – the last of Freehold’s successors – dissolved (*Eubanks v. Aldemo Albert* 1965). Taylor, a wealthy lumber baron from North Carolina, did not have the same grand plans for colonizing the region with European emigrants that the land companies did. His goals were much simpler: the establishment of a commercial logging operation on the mountain (Miller 1960a). And while Freehold and its successors were tasked with monitoring over 500,000 acres of land, Taylor need only surveil 77,000 acres – still a monumental task, but certainly a more feasible one.

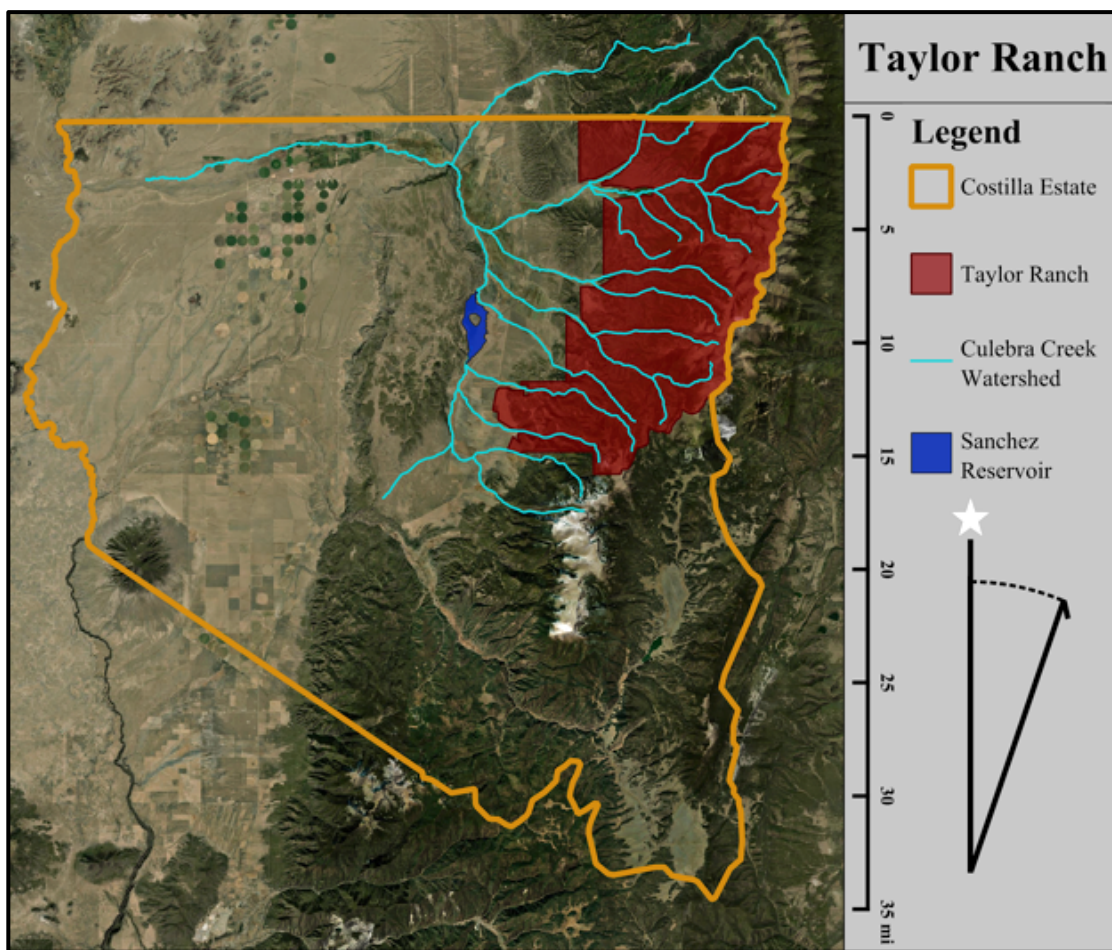


Figure 14: Map of the Taylor Ranch and Costilla Estate boundaries.

Taylor pursued a strategy that was rarely, if ever, employed by the land companies: corporeal discipline, an exclusionary performance of property that is mobilized against human and non-human bodies in often-violent ways through murder, assault, and forced displacement (see: Simmons et al.

2019), and in restrictive ways through fences, other formal or informal barriers¹⁴ to movement, and surveillance (see: Blomley 2007; Blomley 2013).¹⁵ With the land company years representing an exception, corporeal discipline is almost ubiquitous during frontier moments, being used by “takers” for the express aim that “land be rendered to economy” (Simmons et al. 2019, 251). It achieves this conversion by physically erasing the vestiges of preexisting territories and economies that manifest through the continual presence of bodies (Blomley 2007; Blomley 2013; Rasmussen and Lund 2017)

Taylor’s liberal usage of corporeal discipline – combined with aggressive litigation in the courts – enabled him to experience greater success than the land companies in reconciling the disconnect between the Sierra’s statutory and material territory of property (Lindner 2013). When asked about how his approach differed from previous owners – that is, what made his performance of property more successful – Taylor characterized the land companies as being too permissive, arguing that in contrast, “I merely had the fortitude to do what’s necessary” (quoted in: Trillin 1976). Indeed, he achieved what the land companies could not: enclosure of the Sierra commons. However, the frontier did not die with the construction of fences along the Sierra, it only changed character. Taylor never fully ruptured the deeply-rooted connectivities with the landscape, and so his goals for economic enjoyment continued to be legally and physically frustrated by the locals.

5.1. The Impacts of Enclosure

Among the most involved individuals in the current-day local resistance to CVR’s actions along the Sierra is Joseph Quintana: a member of the La Sierra Environmental Guardians Committee, a multigenerational descendant of the original *pobladores*, and also perhaps the most agile, fit 69-year-old I have ever met. While we walked up and down the foothills adjacent to the old

¹⁴ Barriers need not be traditional walls and at times may not even be physically present on the landscape. Today on the Sierra, one form of corporeal discipline used by CVR is the lack of remediation on key access roads to grazing areas or prime forest stands for wood harvesting, which restricts access and usage (Quintana personal communications 2024). Moreover, threats of harm and civil lawsuits can also function as a deterrent.

¹⁵ Blomley (2007) also uses the term “spatial discipline” to describe the same phenomena. I opt for “corporeal discipline” to underscore its designated target – i.e. the body and the movement of it.

Taylor Ranch fence line (see figure 15), he recounted the history of Taylor Ranch and detailed the current social and ecological concerns related to CVR's actions (and simultaneously left me in the dust on a few occasions as I, a huffing-puffing college student, watched him scale the steep slopes of the arroyos with ease). Almost poetically, Joseph's earliest memory from his childhood is the day his family became dispossessed of the mountain. He was four, maybe five, accompanying his parents on an excursion to the Sierra to harvest wood. Having loaded up their haul of wood, they made their way back down to their home in one of the many creek-lined canyons of the Culebra basin. During their descent, Joseph recounts being stopped on the road by Taylor's recently-hired ranch-hands and told, "This is the last time we would be doing this." For Joseph's father, and for many others, they were right. Growing up with the mountains almost in their backyard – but barred from accessing it – Joseph says he had a different relationship with the Sierra than his parents did: "The mountain was something they relied on for survival. But for me, it was something I longed for."



Figure 15: Image of the Taylor Ranch fence-line with the original barbed wire design. The graded road alongside was established by Taylor Ranch initially, but regraded by Cielo Vista Ranch in 2020 (see Section 6.3.2. for more information on the fence road).

Indeed, the Sierra was critical for the survival of locals' agropastoral livelihoods, and Taylor's enclosure of it threw those livelihoods into disarray (Goldstein 2003). Even by 1960, the majority of residents relied upon firewood to heat their homes and grazing on the Sierra was still widely practiced (Miller 1960a). To their detriment, Taylor employed violent and restrictive forms of corporeal discipline in addition to aggressive litigation to prevent the locals from exercising their rights (Lindner 2013). Fences were established, barriers placed on roads, ranch-hands hired to violently remove anyone who crossed the property line, and horses were shot out from under riders

trespassing on the property (Miller 1960b; Rocky Mountain Daily News 1961a; Rocky Mountain Daily News 1961b; Trillin 1976; Lindner 2012b).

Despite the callous attitude Taylor took towards the locals and their rights, he still had the wherewithal to acknowledge the problems posed by a “little cloud on [his] title” (Trillin 1976, 122). That ‘cloud’ being the express language in his deed, which stated: “All the land hereby conveyed being subject to...claims of the local people by prescription or otherwise to right to pasture, wood, and lumber...but not subject to rights granted by the party of the first part [i.e. Beaubien]” (quoted in: “Eugene Tepley Notes,” 9). In other words, this deed reiterated the legal illegitimacy of the Beaubien Concession from *Jacquez* while simultaneously recognizing that the locals’ continued and uninterrupted usage of the Sierra had established the legal groundwork for potential claims to an easement by prescription. Thus, by virtue of agreeing to the sale Taylor also understood that – for the time being – he did not have absolute dominion over the mountain tract. However, he sought to rectify this through filing a ‘quiet-title suit’ in 1960, which was enabled by the Colorado Torrens Title Registration Act (Goldstein 2003).

Legally, Torrens title actions work to extinguish any adverse claims to a property and establish it in fee simple absolute (Golten 2005). However, Torrens requires an explicit process of notification for every interested party, a process that Taylor did not follow, sowing the seed that would eventually reverse enclosure (*Lobato II* 2003). This seed, however, took much time to grow and it was not ripe for harvest when the courts ruled in favor of Taylor’s Torrens action in 1967 – granting him that total dominion over the mountain tract that he desired. Critically, the courts used the precedent set in both *Tameling* and *Jacquez* to invalidate the locals’ claims to the Sierra via adverse possession (*Sanchez v. Taylor* 1967). Following this, there was little room for recourse locals at the time and the agropastoralist livelihoods that had been practiced for over a century by that point began to falter (Goldstein 2003). Figure 16 (below) depicts the impacts of exclusion for the practice of transhumance using the example of Mr. Vialpando’s seasonal rotations. As can be seen, the

majority of summer grazing areas fell within the boundaries of Taylor Ranch – and consequently, local farmers had to drastically cull their herds (see figure 17).

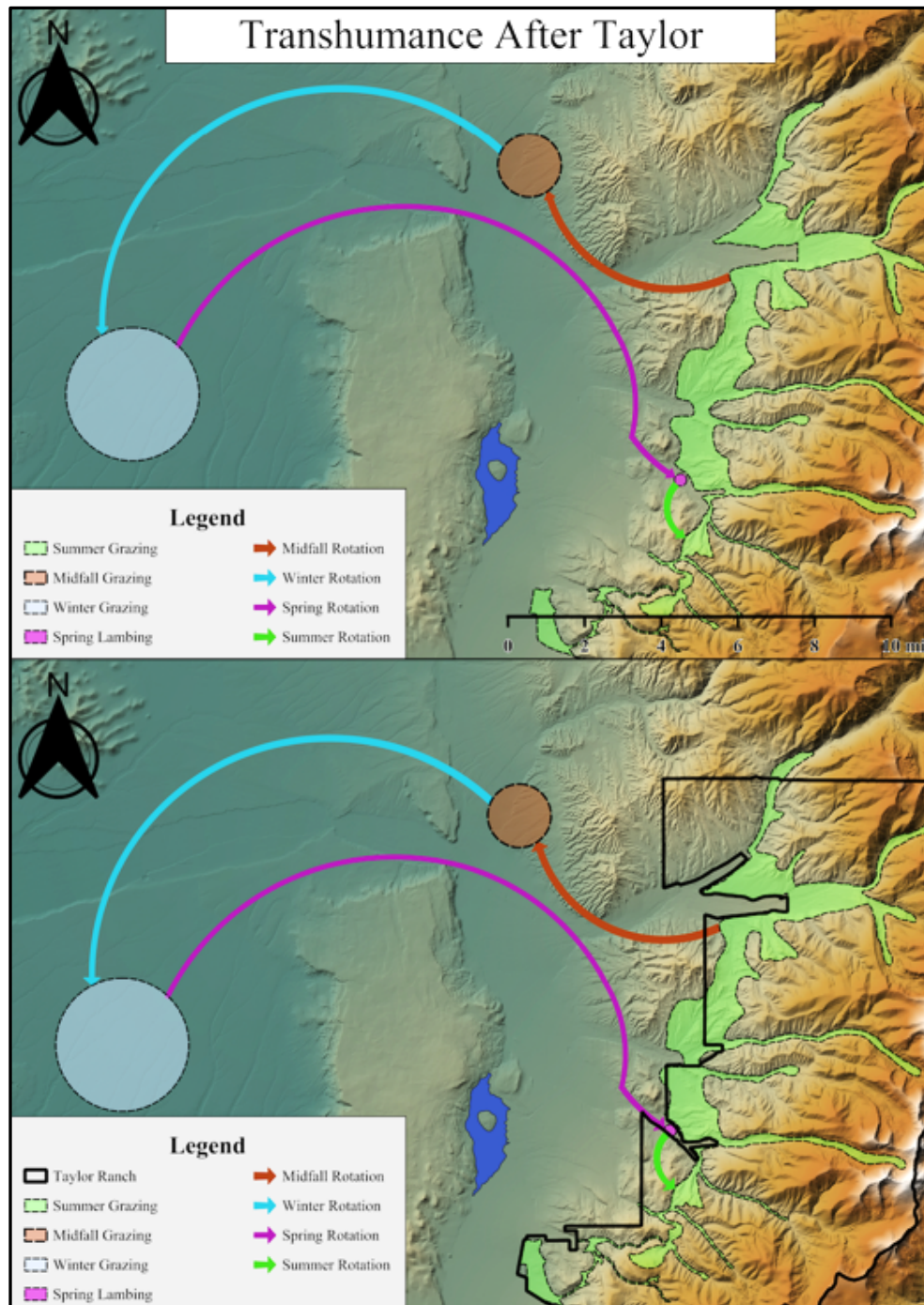


Figure 16: Reconstructed map of an example transhumance patterns in Costilla County before and after the enclosure. As can be seen, most of the summer grazing areas became sequestered behind the Taylor Ranch property line.

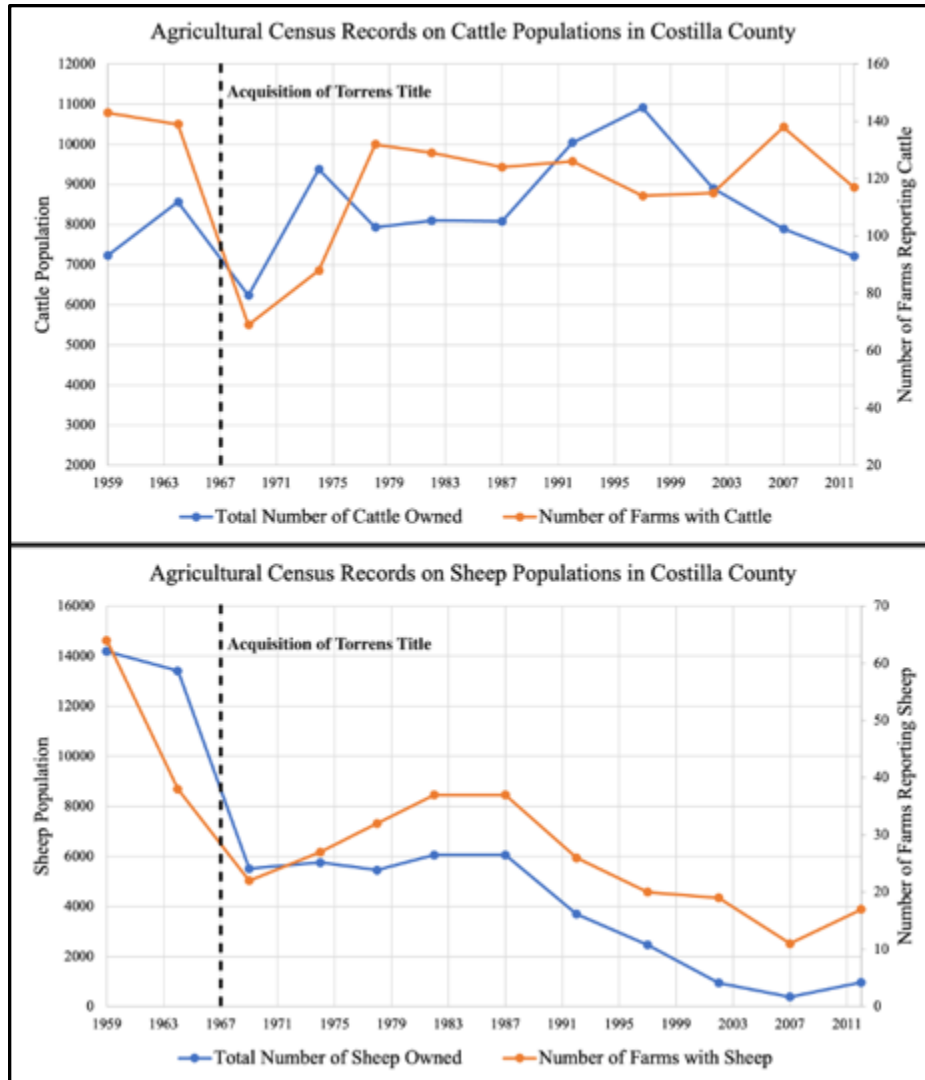


Figure 17: Time-series graphs of agricultural census records on sheep and cattle populations in Costilla County, along with the number of farms that own either type of livestock. As is shown, the ownership of both livestock types declined significantly after the Torrens action.

5.2. *Lobato v. Taylor: An Imperfect Restoration of Rights*

Taylor's performances were disastrous in their economic, cultural, and socio-environmental ramifications for the community (Goldstein 2003). They ruptured traditional relations with the landscape, barricaded access to its resources, damaged its ecosystem through industrial logging, and the ranch's enforcers attacked locals who tried to exercise their rights (Lindner 2013). But as a consequence of this, they also incurred substantial opposition and counter-performances from the multigenerational locals and a web of extralocal legal, environmental, and activist organizations

(Pirkey 2012). No doubt Taylor demonstrated fortitude with his enrollments of private property relations along the Sierra, but so too did those who resisted him. And in 1981, a new round of litigation began, first under the name *Rael v. Taylor* (“*Rael*”).

At the heart of *Rael* was the Torrens action and the Beaubien Concession, with landowners averring that “Taylor's title was void because he served notice of the 1960 Torrens action primarily via publication, in violation of due process” (Cohen 2022, 859). With respect to the validity of their alleged rights to the Sierra, the plaintiffs took a two-pronged approach. First, they reiterated that the Treaty of Guadalupe-Hidalgo had guaranteed the continuation of their communal use rights to the Sierra, which had been violated by enclosure (Cohen 2022). With the judiciary’s hostile disposition towards such claims, however, they also relied upon the Beaubien Concession – asserting that it had constituted an express or implied easement (Cohen 2022). Notably, their inclusion of the Beaubien Concession in their arguments indicated a recognition that the Treaty claims were likely to fail as a result of the *Tameling* decision (Cohen 2022).

The landowners’ legal strategy described above can be construed as an act of ‘institutional bricolage,’ whereby “rules, institutions, forms of organization, and techniques and artifacts of governance... become recycled and recontextualized in the territorialization of frontiers” (Rasmussen and Lund 2018, 391). This is not necessarily a novel process and has been employed elsewhere on resource frontiers by marginalized stakeholders to reassert their rights under the new statutory territories of property imposed by extralocal landowners (Rasmussen and Lund 2018). Its effectiveness, and its reason for continued use, lies in the fact that most successful processes of territorialization necessitate an appeal to the logic, language, and grammar – i.e. the “particular state language” – of a society’s dominant institutions (Rasmussen and Lund 2018, 393). Thus, by arguing for their access-rights from the standpoint of a procedural due process violation, “[T]he Hispano plaintiffs ha[d] accepted the validity of U.S. law – a concession that earlier land struggle movements would not make” (Montoya 2000, 130-1).

However, María Montoya, a prolific scholar of Spanish-Mexican land grants, both laments and commends the strategic employment of this claim – assigning it an “artificiality” because of its substitutive role for the “real nature of the plaintiffs’ grievance” (Montoya 2000, 131). To her, translation of their grievances into the state language of American common law generated a sort of “artificiality” due to its substitutive role for the “real nature of the plaintiffs’ grievance” (Montoya 2000, 131). Nevertheless, she also highlights its savviness for appealing to “what the court can surely deliver: enforcement of an Anglo-American system of individual property entitlement” (Montoya 2000, 131-2). And deliver the courts did. The *Rael* litigation began making its way through the courts, and in 1994 the Supreme Court of Colorado found that the Torrens action was suspect (Cohen 2022). However, they could not make a definitive decision based on the evidence at the time, remanding the case back to the lower courts for further discovery in relation to the Torrens action (Cohen 2022). This is when the case took on the name, *Lobato v. Taylor*, which bounced around Colorado’s lower courts for another eight years (Cohen 2022). Then, in 2002 the Colorado Supreme Court officially ruled in favor of the multigenerational landowners, asserting the illegitimacy of Taylor’s Torrens action and restoring their access-rights.

What is unique about *Lobato* compared to the *Jacquez* litigation that came almost 75 years before it is that – rather than making a decision based on the merits of Mexican property law or the Treaty of Guadalupe-Hidalgo – the courts construed a right to the land based on an American common law through an implied easement from the Beaubien Concession (Cohen 2022). Notably, however, they did still appeal to standards of Mexican property law and the structure of land grants, but “not as a *source* of legal rights but to elucidate the intent and expectations of the original parties and settlers of the Grant” to evidence the ‘implied’ nature of Beaubien’s Concession (Golten 2005, 465). Connecting this to the Torrens action, their basis for restitution was that the Taylor’s quiet-title suit was simply an illegitimate, unconstitutional extinguishment of easements – not, say, “an example of Anglo land expropriation that can be understood only within the context of...the American

concept of Manifest Destiny and the Treaty of Guadalupe Hidalgo and the land thievery engineered by a late-nineteenth-century cartel known as the Santa Fe Ring” (Trillin 1976, 126). The Court’s complex legal maneuvering in this decision was ultimately born from the precedent set by the *Tameling* decision 126-years prior. While it is unlikely that any other formulation of their decision could avoid the trap created by *Tameling*, the restitution which they granted was not capable of restoring a ‘true’ land grant common (Cohen 2022). Instead, the *Lobato* ruling created a frankensteinian property regime where traditional use-rights were grafted onto the still-privately-owned landscape using common law standards around ‘individual property entitlement’ (Lindner 2013).

In hindsight, it appears that Montoya’s ambivalence towards the strategy of institutional bricolage was warranted, as numerous problems have subsequently resulted from the Court’s amalgamation of property rights in *Lobato*. The Court did not restore rights to the community at large, nor did they restore them on the basis of family lineage. According to the majority opinion, “practical purposes” necessitated that easement appurtenant¹⁶ be granted on an individual basis for “landowners who are able to trace the settlement of their property to at least the time of William Gilpin's ownership of the Taylor Ranch” (*Lobato II* 2003).¹⁷ In other words, the rights inhered to an easement appurtenant are not tied to a person *per se*, but rather to the particular property parcels. These easements, however, do not guarantee access to all lands within Taylor Ranch (now called Cielo Vista Ranch). Instead, they only apply to those identified in the Torrens action (see figure 18), meaning that there are still thousands of acres where access-holders can face punitive trespassing actions. Additionally, the Court did not guarantee all rights that were historically exercised on the

¹⁶ Stone & Sallus LLP (2023) provide the following definition: “This type of easement is closely linked to owning a specific piece of land. It benefits the land itself (called the *dominant* estate) [in this context, the properties settled during or before Gilpin’s ownership of the mountain tract] by granting access or usage over an adjacent property (known as the *servient* estate) [the Taylor Ranch property]. When a property changes hands, this easement automatically transfers along with it.”

¹⁷ Those who own these properties are commonly referred to as “access-holders” in various documents related to this matter. In legal documents, they are frequently referred to use the acronym “ARH.”

Sierra. Only the ones explicitly mentioned in the Beaubien Document were reinstituted – those being livestock grazing, firewood gathering, and timber harvesting – excluding other activities such as hunting, fishing, foraging, and recreation. And to confound matters more, the Court stipulated that such rights could only be exercised insofar as they constituted “reasonable use” – a qualifier which they ultimately did little to define (Lindner 2012b, 209).

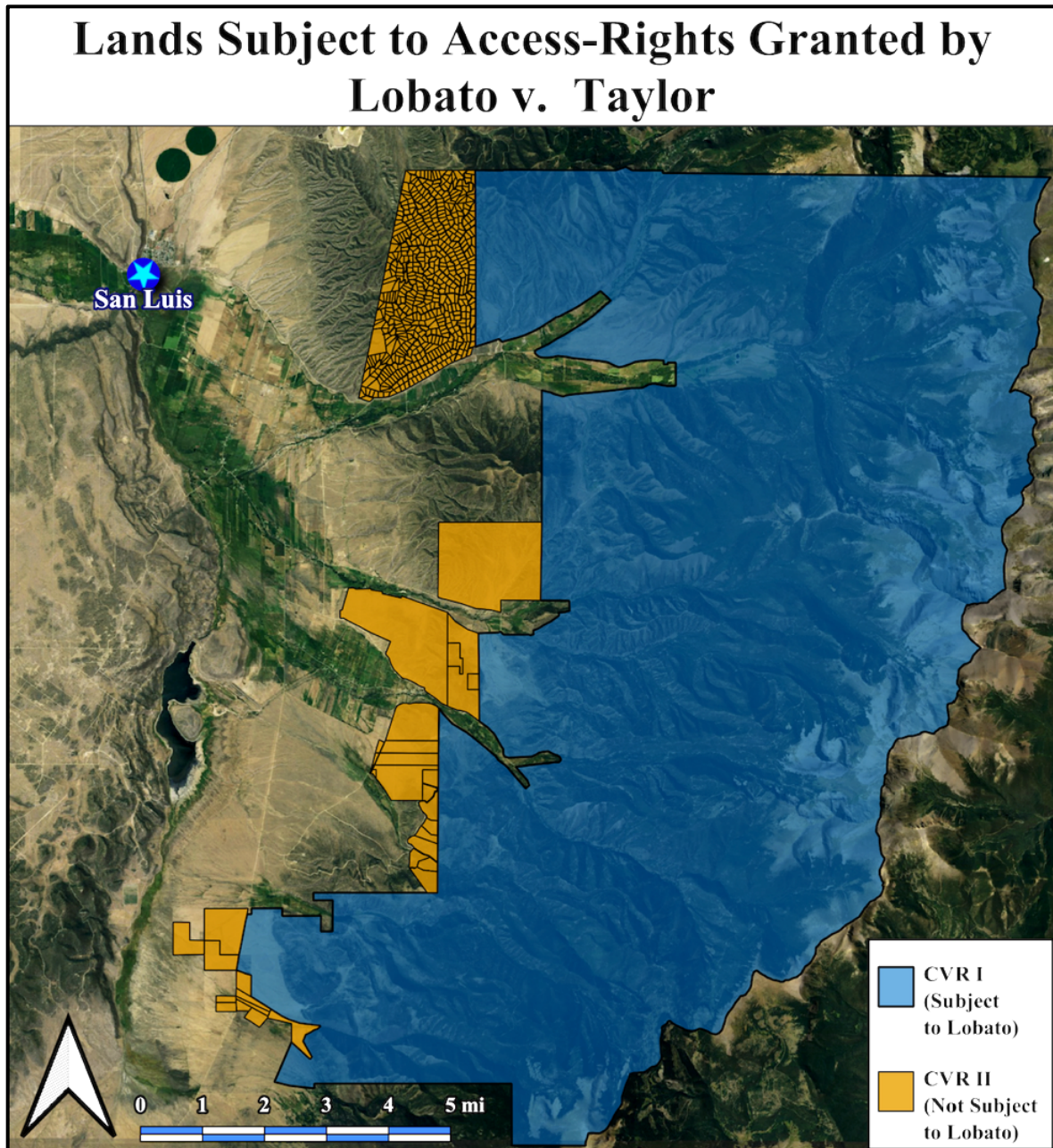


Figure 18: Map of CVR I and CVR II showing which areas locals have access-rights to and which areas they do not.

There is no doubt that *Lobato* constituted a monumental step forward to address some of the injustices that Taylor brought to the Sierra, but it was not a panacea for conflict. Many access-holders perceive its restitution to be incomplete, a feeling best encapsulated by a statement one access-holder made to me: “I can’t collect piñon [nuts], but I can go in and just take the whole tree out? It doesn’t make sense to me” (personal communications 2024). On the other hand, the subsequent owners of Taylor Ranch feel that *Lobato* went too far, framing it is an egregious infringement upon their private property rights (Curtin 2005). So, *Lobato* ultimately instituted a territorial regime of paradoxical property relations characterized by ambiguity and hostility. A series of ongoing disputes and competing performances have since arisen from this arrangement, each with the aim to clarify and assert different understandings of access and use. The following section will detail the most recent iterations of these disputes, starting from William Harrison’s 2017 purchase of the ranch for \$105 million.

6. Cielo Vista Ranch: The Post-*Lobato* Frontier (2017 – Present)

What makes the *Lobato* decision so peculiar is that rather than institutionally foreclosing the land grant’s frontier (like so many other similar cases did for this and different grants), the Court essentially enshrined it into the deeds of the dominant and servient estates.¹⁸ The post-*Lobato* frontier is a rather idiosyncratic one, owing to the idiosyncrasies of the *Lobato* decision itself (Lindner 2013; Cohen 2022) and to the nature of CVR’s current economic aspirations: conservation and recreation. With respect to the former, *Lobato*’s establishment of easements appurtenant means that both the extralocal landowners replete with their plans for economic enjoyment, along with

¹⁸ Reminder that easements appurtenant establish a dominant estate – tied to particular parcels of property – that has rights to access and use of the servient estate. In this context, the local access-rights holders are the dominant estate, whereas CVR is the servient estate.

(many of) the locals, have legally-recognized, inviolable rights to the land. Thus, an ‘unmaking’ of access-rights holders’ property rights with the landscape is not legally possible, nor is it possible for those rights-holders to ‘unmake’ CVR’s ownership and property rights.

The inability to wholly unmake either parties’ formulation of rights may seem to negate the characterization of the Sierra as a frontier. But as will be shown, the reality is that there are still competing formulations for how the property should be managed, organized, and engaged with – with each party often seeking to subjugate or dominate over the other. This leads us to a novel chain of question that I have not yet seen explored in the literature on resource frontiers. That is: what happens when a resource frontier is enshrined into law and two parties with often-competing ideas of how the property should be managed and organized must coexist with each other? What matters remain contested between these parties, and why? And how are these contestations enacted upon or through institutional structures and the everyday practices of the landscape’s actors?

I argue that the fundamental underpinning of frontiers, that being contested valuations of the landscape and its resources, still persists on the Sierra post-*Lobato*, which shapes competing prescriptions for management of the property and the use of its resources. However, the two most prominent manifestations of the post-*Lobato* frontier are novel compared to its previous iterations due to the fact that they must work within the framework of the Colorado Supreme Court’s decision. The first of these manifestations is the friction between CVR’s desired ‘fixity’ for access-rights and rights-holders’ desire for more ‘fluidity’ in their engagement with the Sierra. CVR endeavors for a spatial and legal fixity of these rights, one that delineates specific regulations on how rights can be exercised – e.g. how many livestock can be grazed, what types of wood can be harvested, how this harvested wood can be put to use, etc. (see: *Lobato* “CVR Rules Filing” 2022) – along with restricting which areas of the Sierra can be accessed for use, and how those areas can be accessed. CVR seeks this for a rather straightforward reason: fixity enables a more standardized and

practical process of oversight and management, which benefits their desired vision for the property: conservation.

On the other hand, a fluidity of access and use is desired by rights-holders because it is more amenable to their economic, socio-cultural, and affective connectivities. Fluidity, here, refers to adaptable forms of self-governance that enable a greater attendance to rights-holders' connectivities, the corporeal elements of their relation to the Sierra – e.g. the unique struggles older folk face in the exercise of their rights – and their own desired ways for managing or exercising access and use. Individual rights-holders engage with the Sierra for different reasons and in different ways. In this sense, the friction between fixity and fluidity parallels the Sierra's frontier during the land company years where informal (i.e. locally-formulated) structures of property rights among the *pobladores* conflicted with Freehold et al.'s desires for a strictly delineated and demarcated property regime.

Through my exploration of this contradiction, I will examine its manifestations both in courtrooms and on the ground, demonstrating how CVR's practices (or proposed practices) for managing the mountain tract often conflict with locals' connectivities to the Sierra and how they wish to manage the land and the exercise of their rights (or vice versa). Ultimately, these contestations are not necessarily competing territorializations of wholly distinct property regimes that seek to unmake the other. Rather, I contend that these are legally and spatially contested orderings of fixity and fluidity vis-à-vis access-rights on the post-*Lobato* frontier. Often, they are rooted in distinct territories of property on an ideological level, but now they must work within the property regime established by *Lobato*. What results from these contested orderings of the access-rights in many ways mirrors patterns on traditional resource frontiers like, say, fence-construction and fence-cutting. However, it also introduces more innovative strategies for the materialization of one's desired organization of the property like, for example, the ubiquitous surveillance technologies

employed to establish self-governance on rights-holders' fluidity through anxieties around 'becoming criminal.'

The second manifestation of the post-*Lobato* frontier emerges from conflict over the level of agency (or lack thereof) that each party wishes to exercise in the management, organization, and transformation of the Sierra's landscape and its resources. Of course, this matter of agency does arise in the contests between fixity and fluidity through the legal arguments made by both parties and their physical performances of property enacted to materialize their desired formulations of access and use. However, I will engage in a more specific analysis of agency as it relates to the ongoing legal battles over CVR's construction of the 'High Fence' (see figure 19) and this demarcation's impacts on locals' affective connectivities – i.e. their emotional connections with the landscape, how they make sense of it, and how they make sense of their place within it. This entanglement of affective disruptions and the marginalization of locals' agency in actions that will have long-term consequences drives a displacement *in-situ*. That is, a perceived and experienced rupture in one's socio-environmental and emotional relations with a landscape, which carries a "sense of loss and alienation" (Halstead 2020, 644). Taken together, the emergence of displacement *in-situ* and the contested orderings of fixity and fluidity demonstrate the novel effects of an institutionalized frontier – like the one that was created after *Lobato*.



Figure 19: Image of CVR's 'High Fence.'

The approach I take towards examining the post-*Lobato* frontier blends ethnography with textual analysis of legal matters and GIS analysis through deep-mapping's framework of a "genealogy of emplacement," which is, "an investigation into space and place that seeks to understand the ways in which place is made through everyday practice as that occurs in relation to structure" (Corrigan 2015, 63). Given that this is an ethnography, it is important to acknowledge that what follows is not a 'reflection of Reality,' one that is somehow unbiased and wholly objective. Instead, this analysis should be seen as my refraction of multiple realities – realities which come from individuals involved in the disputes with CVR. I do not find that such recognition cheapens the nature of this analysis. Rather, understanding stakeholder-involved disputes like this necessitates acknowledging that people hold multiple, coexisting, often-contradicting formulations of reality

(Neumann 2009). And in order to assess paths forward for action, it also requires attending to how those realities arise.

I began ethnographic fieldwork on these contestations in March of 2024, meeting with many access-rights holders and attending townhall sessions about the ongoing litigations with CVR. Among my key collaborators are the leaders of the La Sierra Environmental Guardians Committee: Joseph Quintana, Eli Rael, Frank Vigil, and Bernadette Lucero – all of whom have been publicly engaged in activism, litigation, and pursuing legislation against CVR. I have spent hours with them, getting to know them, traveling along CVR’s property line, understanding and listening to how the actions of CVR have affected them. I also have chatted with separate individuals at events, sat with people around coffee tables, and taken long car rides around the county with others. Most notably, however, might be what I have not done: I have never set foot across the boundary into Cielo Vista Ranch. Despite the majority of my collaborators having access-rights, the many lawsuits filed by CVR (Schmelzer 2024) and the current rules around “agents” – i.e. the legal term for individuals who can accompany access-rights holders onto the property – have created anxieties around bringing individuals to the ranch (“Cordova” personal communications 2024). Moreover, given the context of these litigations and the anxieties around them, I have opted to use pseudonyms for the majority of my interlocutors unless they meet two conditions: 1) express permission to use names, *and* 2) have already been published in news articles speaking on similar matters.

Ultimately, I endeavor for a rigorous and critical analysis of these matters – and at the same time, candor is required. To quote John Reed (1919): “In the struggle my sympathies were not neutral” (pg. 15). This analysis will ultimately center the voices and perspectives of the access-rights holders I spoke with. Furthermore, the rights-holders that I spoke with were commonly individuals involved in legal battles and social activism against CVR. That fact, however, does not entail the exclusion of other perspectives, nor an uncritical acceptance of my interlocutors’ voices. Both the

inclusion of other views and a critical lens remain crucial. Furthermore, it is pertinent to acknowledge that – while I find many of CVR’s actions problematic as a result of my sympathies – I do not believe Harrison is some nefarious villain driven solely by greed. As I will show, he is an individual with his own economic and affective interests in this landscape, and it is just a matter of reality (and of property) that these frequently conflict with those same interests of access-rights holders.

6.1. CVR v. Alire: Access-Rights as a “Burden”

In 2017, William Harrison (the current owner of CVR) and his lawyers brought forth *CVR v. Alire*, a new piece of litigation with averments and proposed resolutions that demonstrated a desire to restructure access-rights and reorganize the Sierra in accordance with their notions of fixity. Their filings in this case challenged both the very foundations of the *Lobato* decision and how the courts dealt out and defined use-rights for access-holders. Given *Alire*’s introduction shortly after Harrison’s purchase of CVR, it was – to put it mildly – not a productive way to establish goodwill with the rights-holders. Nevertheless, this case, along with an open letter written by Harrison and addressed to access-rights holders, provides critical insight into how CVR constructs access-holders in relation to the ranch’s interests in managing the Sierra, which in turn informs an understanding of their subsequent and ongoing attempts to introduce a fixity of rights to the landscape. Furthermore, the litigation demonstrates one of the key underpinnings of the post-*Lobato* frontier: a difference in how these parties value the Sierra’s landscape and its resources.

6.1.1. Grazing Burdens and the Friction Between Different Valuations of the Sierra’s Meadowlands

In *Alire* and other similar documents or statements, CVR has consistently positioned the access-rights (and thus access-rights holders) as being destined to deplete the Sierra’s resources to

“the detriment of all profit rights¹⁹ and the Ranch itself” (*Alire* “Opening Brief” 2017, 63). Even in an open-letter written by Harrison, which tended to have a milder tone than the legal briefs, he characterizes the current situation of ‘unregulated’ use as a “race to the bottom where everyone loses” (Harrison 2018, 2). Legally, they appeal to both alleged instances of resource-depletion and a sort of worst-case scenario in which the rate of subdivision in the dominant estate would be maintained, thereby leading to well over 15,000 individuals having access-rights to the ranch²⁰ (Harrison 2018; *Alire* “Decision” 2018). The former of these reasons does seem to have grounding in reality, but the latter seems unlikely considering that Costilla County’s population peaked at around 7,500 individuals in the 1940s and only sits at 3,500 as of the most recent census (U.S. Census Bureau).

CVR’s allegations of resource-depletion burdening the landscape demonstrate the competing economic interests the parties in this case maintain and their contradictory valuation of the Sierra’s resources. These allegations are, importantly, not without cause in the context of CVR’s property interests and desires for management of the landscape. Put simply, CVR seeks a preservation and conservation of the landscape’s natural resources, while access-rights holders seek to use these resources – and that conflict seems to be most magnified in relation to cattle grazing (*Alire* “CVR Opening Brief” 2017). The situation on Salazar meadows (see figure 20) can illustrate this well. This riparian meadow is by far the Sierra’s largest and most grazed meadow (Upper Culebra Watershed [UCW] Assessment 2023; “Cordova” personal communications 2024). However, due to its ease of access and preferability of slope for livestock (UCW Assessment 2023), it is also the most burdened by overgrazing according to the ranch (*Alire* “CVR Opening Brief” 2018), researchers (Lindner

¹⁹ In this context, profit rights are synonymous with access-rights.

²⁰ If a parcel in the dominant estate is subdivided, the totality of rights offered by the easement appurtenant is transferred to the subdivided parcels unless the courts rule that apportionment must occur. In Harrison’s open letter, he states: “For a bit of context, the number of easement holders has grown from ~170 to ~5,000. At that rate, 50 years from now we could have over ~15,000 easement holders” (2018, 1). This is then echoed by CVR’s arguments in *Alire* that “Such analysis [about current burdens] does not even take into account the future subdivisions of the 6,400 dominate estate parcels. Without apportionment, such future subdivision will obviously exacerbate the overburdening of the Ranch” (2018, 49).

2012b; UCW Assessment 2023), and even other access-rights holders (“Cordova” personal communications 2024).

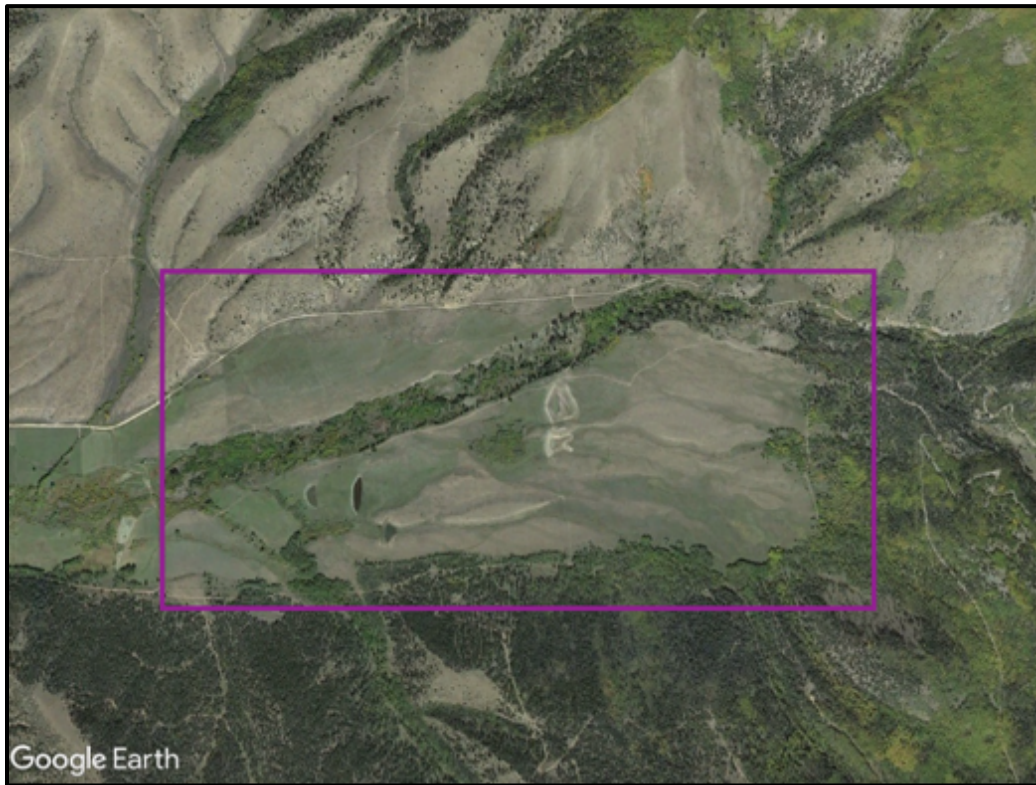


Figure 20: Image of Salazar Meadows outlined with the purple box (source: Google Earth).

The changes in land cover on Salazar meadows do lend credence to the idea of overgrazing – although there are other important factors to consider. Figure 21 (below) shows the change in total acreage of different land cover types over time on the Salazar meadows using data gathered in the “Upper Culebra Watershed Assessment,” which supports CVR’s averments of overgrazing (2023, 497-504). As is shown, the acreage of bare ground land cover and sage brush land cover increased significantly (+230% and +69%, respectively) between 1985 and 2009, while the acreage of grass cover decreased markedly (-53%) in that same time frame. The linkage between increase of bare ground and decrease of grass cover should be discernable. The reason for increased sagebrush, however, is less apparent at first glance. Ecologists elsewhere have shown that the encroachment and subsequent domination of sagebrush (or other similar woody brushes) in meadowland ecosystems can correlate to overgrazing *or* soil drought (Cotter 1963; Shinn 1977). Thus, the

decrease in grass cover and growth of bare ground and sagebrush on the Salazar meadows are likely a result of overgrazing and increased rates of drought since 2002 (for data on drought, see: Brice forthcoming).

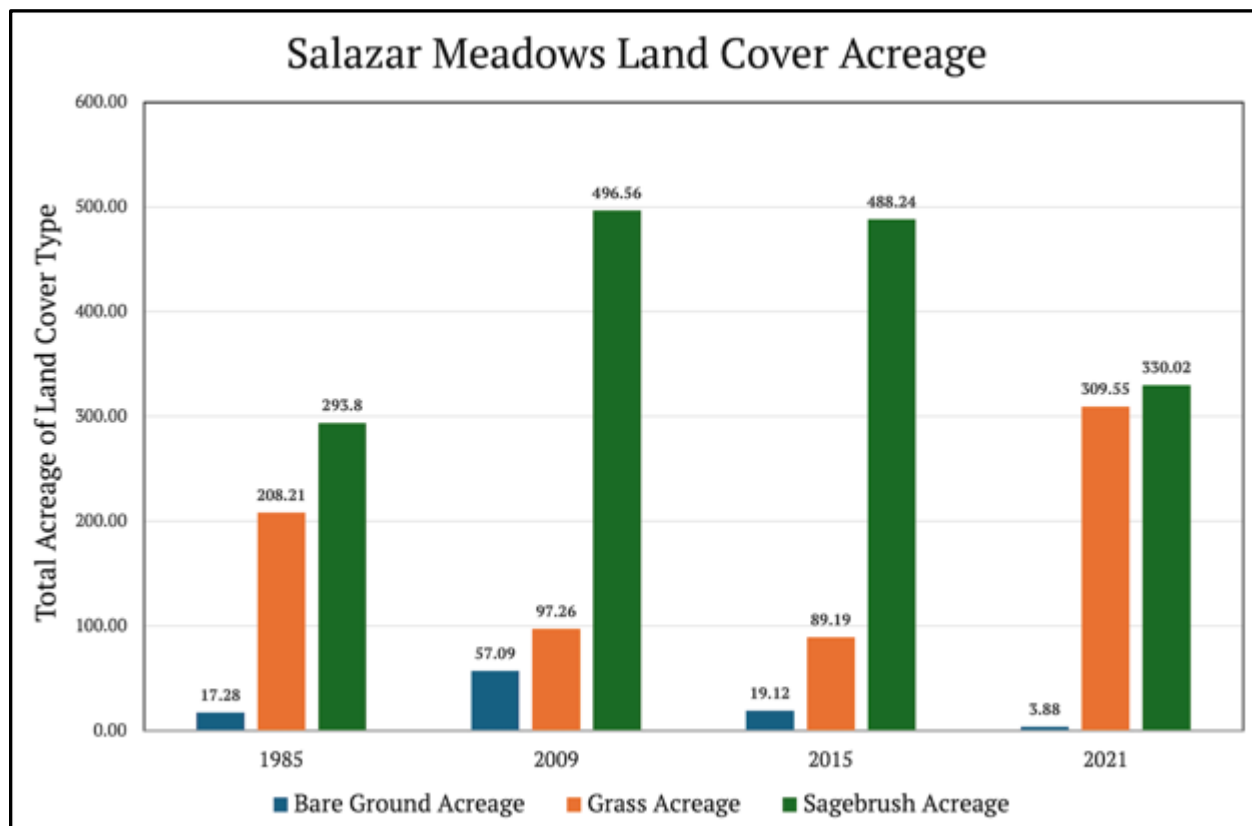


Figure 21: Bar-charts depicting the amount of acreage for different land cover types on Salazar Meadows across different years.

It is crucial to note, however, that the rights-holders' livestock are not the only grazers on this landscape. Instead, they share the Sierra and its meadows with large herds of elk, deer, and even CVR's own personal inventory of bison (UCW Assessment 2023; Woods 2023). This is notable because CVR's own contracted assessments of the Sierra's grazing lands have demonstrated that depleted grass cover in lower-elevation meadows is "probably, primarily attributable to heavy elk use" (Roath 2007, quoted in: Lindner 2012b, 220). That fact, however, is not apparent in CVR's grazing management plans (Lindner 2012b) – which underscores a different valuation of the Sierra's meadowlands between the parties that must share them.

CVR values the grazing potential of these meadows insofar as they provide forage for the landscape's natural wildlife (Lindner 2012b), which accords with their 30,000-acre conservation easement with the "Rocky Mountain Elk Foundation" (see figure 22). This easement obliges the ranch to practice habitat stewardship for elk (Rocky Mount Elk Foundation 2025) – with a possible indication of CVR's commitment to these terms being the incredible growth of grass cover across the Sierra's meadows since their purchase in 2017 (see figure 21, above, also see: UCW Assessment 2023, 497-504). Consequently, CVR has an economic and mission-oriented interest in maintaining forage for elk,²¹ which is problematized by the rights-holders' economic interests in these grazing lands. This is echoed by Harrison's own open letter, in which he states, "I would like to improve the ranch...I think a proper management program would benefit everyone with rights to the ranch. But if I do it, if I spend money to improve the health of the ecosystem, and the health of native grasses improve, we need to make sure we don't have abuses or overuse" (2018, 2). What Harrison defines as 'abuse' or 'overuse,' however, is not always concurrent with how rights-holders define it.

²¹ Conservation easements provide a litany of tax credits and other economic benefits (see: Gustanski 2011).

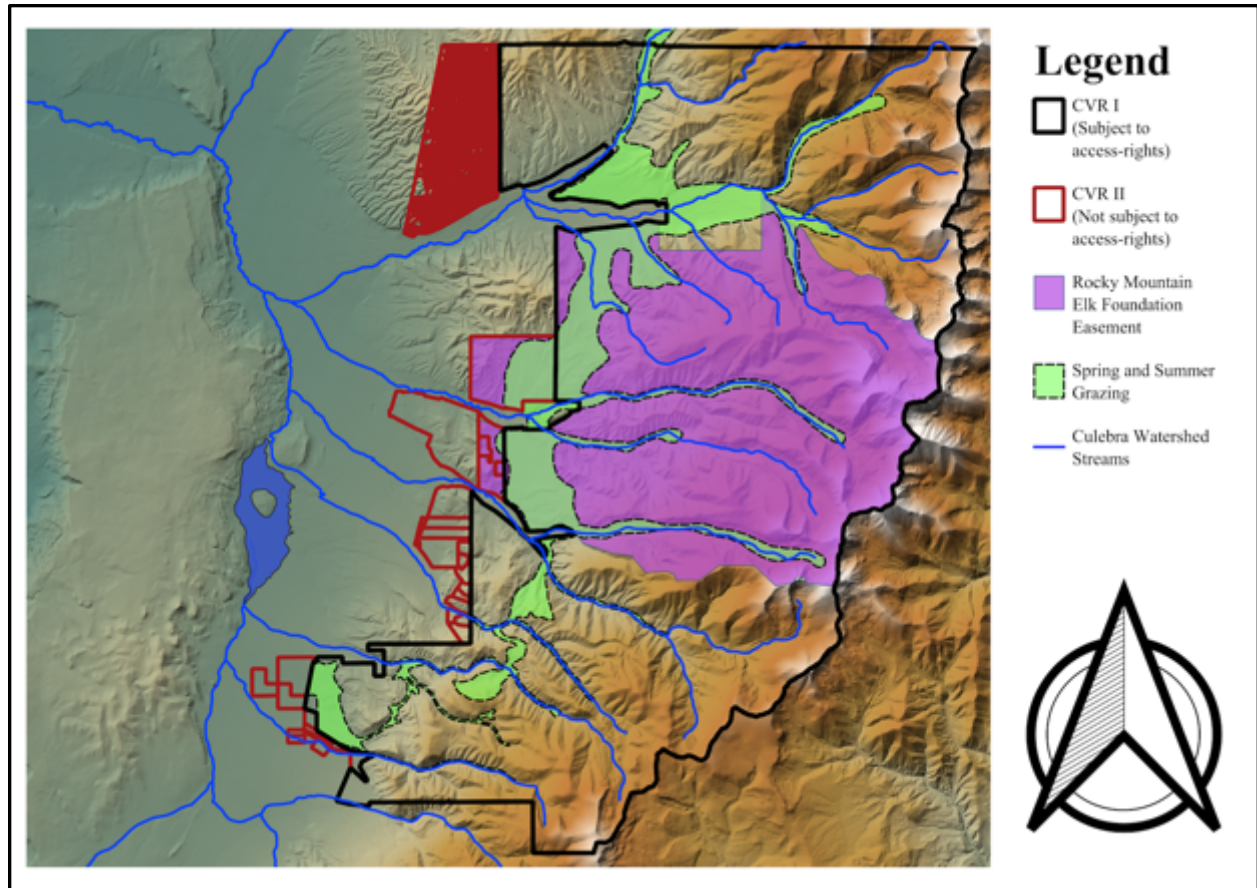


Figure 22: Map showing CVR's conservation easement (purple) compared to spring and summer grazing areas along the Sierra (green).

As opposed to CVR, rights-holders value these grazing lands in relation to their access-rights – the exercise of which benefits their economic, socio-cultural, and affective connectivities. One of my interlocutors, “Montoya,” illustrates the value of these lands for rights-holders, explaining:

He [Harrison] doesn't want our cows there. I probably wouldn't either if I was him. But our cows have a right to be there, and I don't have enough pasture or water on my land to feed them in summer and grow enough hay for winter. My water-rights are shit, so it's already hard to get the hay for winter. If I can't bring them up there [to the Sierra], I'd have to get rid of most of them.

These comments demonstrate the enduring economic connectivities of rights-holders to the Sierra, with its meadows being a critical source of forage that enables the maintenance of larger livestock herds than the *varas* alone could often support. With junior water-rights holders like Montoya, this reliance often intersects with – and becomes magnified by – the modern water-rights regime of prior

appropriation. For them, the reduced amount of water allocated to them as a result of their junior water-rights increases reliance on the landscape's meadows for summer pasture.

Furthermore, many rights-holders do not view their use of the Sierra's resources as a one-way relationship of extraction. With respect to how people configure their sense of place in the landscape – i.e. how they describe their affective connectivities with the Sierra – I have heard on a few occasions individuals mention that grazing and wood-harvesting by rights-holders reduces wildfire risks on the Sierra. In this manner, they frame the relationship of use with the Sierra as one of reciprocity. “Cordova,” who is more ambivalent on the matter of overgrazing, remarked that “I don’t doubt that there’s overgrazing around Chama Canyon [which the Salazar meadows are a part of]. But peoples’ livestock also eat the sagebrush and that stuff’s a huge fire risk, so they’re also helping the mountain.” While Cordova only uses the Sierra for firewood harvesting (having sufficient land and water-rights for his livestock), he still underscores the rhetoric of reciprocity that often buttresses rights-holders’ affective connectivities with the Sierra.

The potential for cattle-grazing as a wildfire mitigation strategy in sagebrush ecosystems has been well-studied and there is scientific grounding for rights-holders’ claims (Strand et al. 2014; Orr et al. 2023). The efficacy of this strategy is, however, ultimately dependent on the scope and management of grazing (Strand et al. 2014), and as mentioned above overgrazing can increase the prevalence of sagebrush. So, it is possible that some rights-holders graze in a manner that increases fire risk, while many others graze in a manner that decreases it, or vice versa. Nonetheless, this ambiguity is not something that CVR appears to find workable for their ideal management of the property, as is evidenced by Harrison’s open letter and their legal filings in *Alire* that describe their concerns around the ranch becoming ‘overburdened.’

6.1.2. The Legal Fixity of CVR’s Proposed “Apportionment” Remedy

In light of these contradictory valuations of the landscape and CVR’s proprietary and economic concerns, they proposed that the courts “apportion” access-rights (*Alire* “CVR Opening Brief” 2017, 44). In legalese, this essentially means that the scope of one’s access-rights – i.e. how many cattle or sheep they can graze or how much wood they can collect – should be divided “in proportion to the subdivision of the original benefited *vara* strip parcel” (*Alire* “Decision” 2018, 60). For grazing, CVR argued that the courts should determine the grazing capacity of the original *vara* strips benefitted by the Beaubien Concession and then apportion the number of livestock that can be grazed according to the size of subdivided lots within that parcel (*Alire* “CVR Opening Brief” 2017). This would, of course, significantly reduce the number of livestock that could be grazed by any single access-rights holder and greatly impact their economic connectivities to the Sierra that support their livelihoods (see figure 23 for an example).

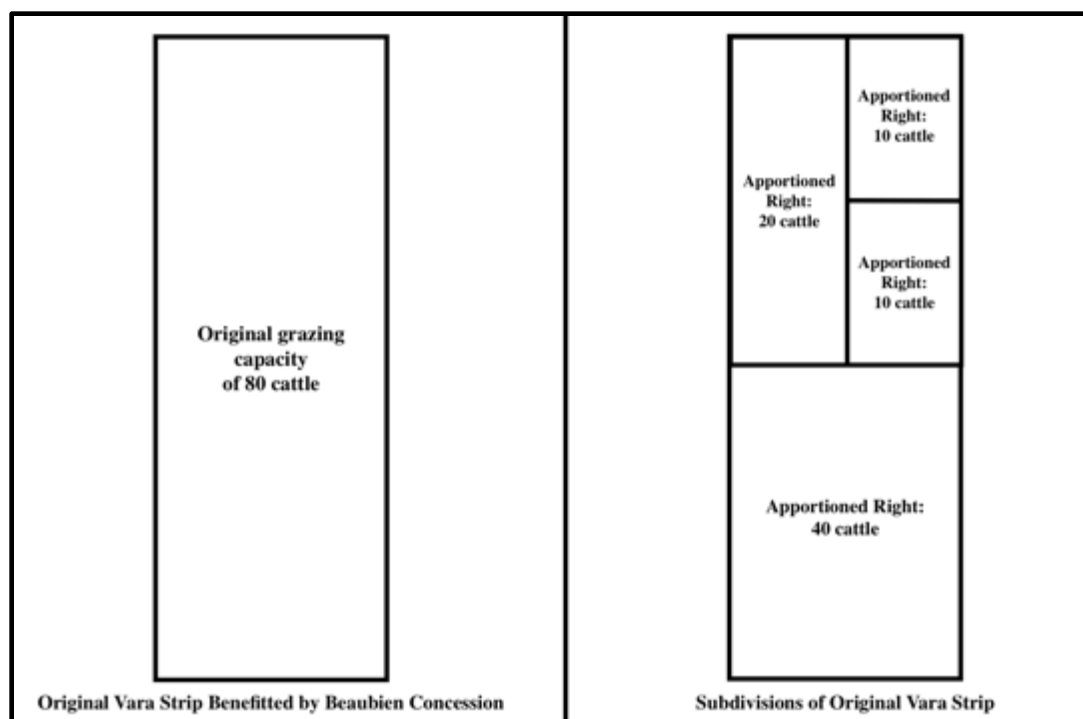


Figure 23: Example of CVR’s apportionment remedy as it would pertain to cattle-grazing on the Sierra.

Furthermore, CVR's apportionment remedy appears to rely on an ahistorical understanding (intentionally or not) of the original settlement patterns – which is that these *varas* were never meant to be the primary, year-round grazing locations for the original *pobladores* (Stoller 1993; Mondragon-Valdez 2000). Instead, they were primarily used for cultivation of subsistence crops and winter hay, which is a continuing reality for many (“Montoya” personal communications 2024). The fact that many use them as year-round pasture today is not a historically-contiguous practice but is rather a result of population decreases leading to the consolidation of vacant *varas* by landowners (“Valdez” personal communications 2024; also see figure 24 for an example of *vara* strip consolidation). Moreover, this year-round grazing is, in my observations, most common on the flats of Upper Culebra watershed where most irrigation ditches have senior water-rights – as opposed to more traditional transhumant strategies still being practiced by individuals living along the canyons of the Sierra where junior water-rights are more common (McConnell personal communications 2024).

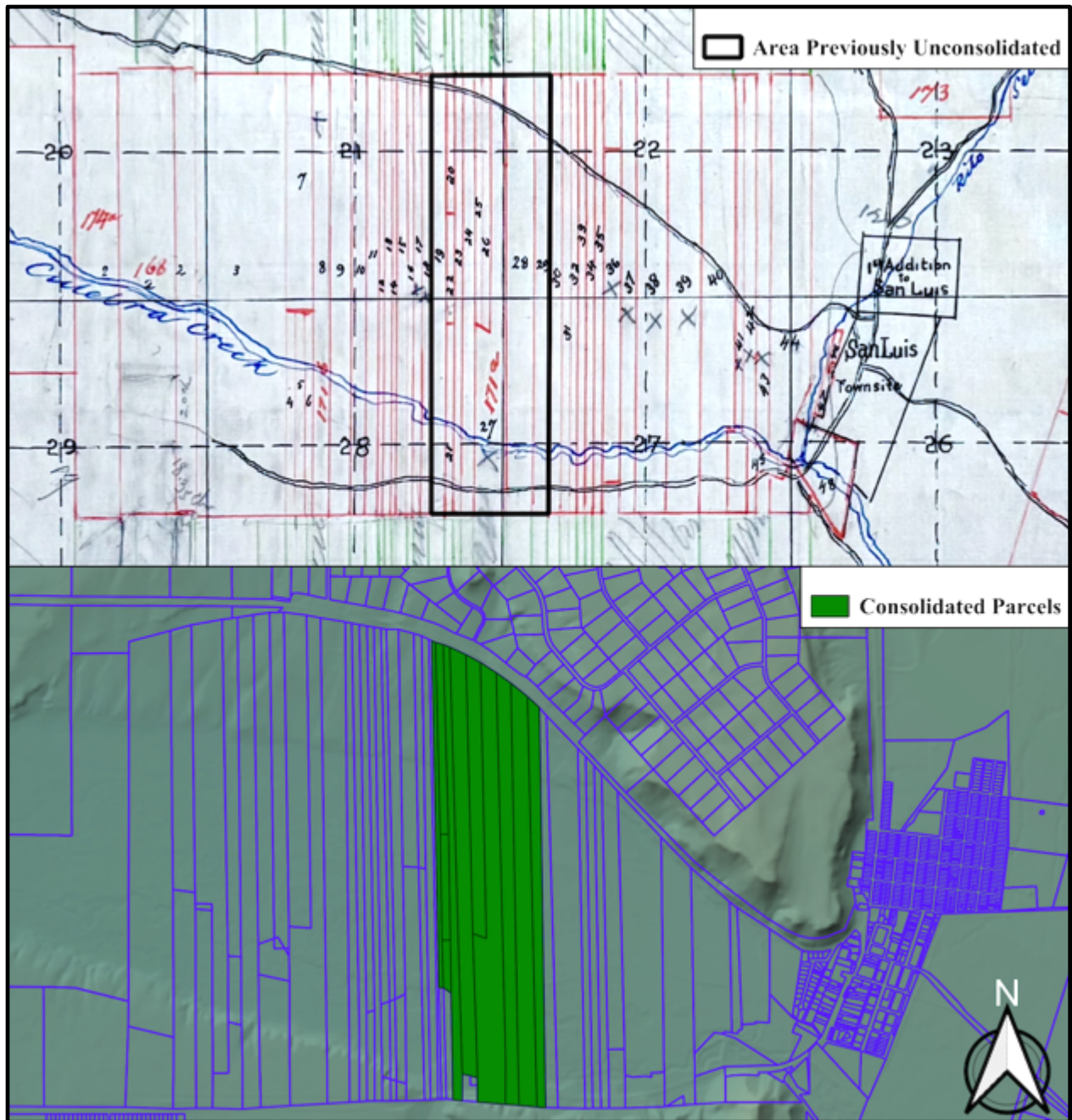


Figure 24: Comparison of maps to demonstrate parcel consolidation. (Top) Plat map of the varas, produced by Edmund Van Diest sometime between 1880 to 1890 – each vara strip is labeled with a number, and each number corresponds to a different owner. (Bottom) Current property parcels of Costilla County as of 2024, showing an example of property consolidation.

In the end, the courts ruled against CVR in *Alire*, refusing to apportion the access-rights and additionally choosing not to set regulations on access or use from the bench (*Alire* “Decision” 2018). The latter part of this decision is also critical because any court rendering of regulations would have

likely removed the agency of rights-holders from this process. Ultimately, this case provides valuable insight into how competing valuations of the Sierra's resources intersect with realities of the landscape's previous territories of property (e.g. *varas* for cultivation, not pasturage) and modern-day realities of the American legal system (e.g. extraterritorial decisions on water usage establishing previously-foreign notions senior and junior water-rights).²² Together, these factors consequently function to continue a resource frontier where contested formulations of fixity versus fluidity persist. Furthermore, although this particular manifestation of the post-*Lobato* frontier was primarily relegated to the courtroom, it ultimately laid the foundations for subsequent disputes that would play out on the ground.

6.2. *Fixity and Fluidity after Alire*

As mentioned previously, a central component of the post-*Lobato* frontier is the disconnect between local desires for fluidity of access and use and CVR's desire to fix such matters around strict parameters, which was catalyzed by the ambiguity of the courts' definition for 'reasonable use' in *Lobato* and further magnified by the lack of clarification in *Alire*. Ultimately, the court's refusal in *Alire* to establish regulations from the bench with respect to access and use was simultaneously a win for rights holders and an act that ultimately magnified hostilities between them and CVR. Critically, it prevented a juridical rendering of fluidity from the bench that was likely to neuter the organic and idiosyncratic nature of locals' connectivities. However, it also did not establish any recognized decision-making body to oversee the creation of such regulations and definitions. So, there existed a situation wherein, "[CVR] didn't really have a right to tell us what we could do, and we didn't have a right to tell them that they couldn't tell us what to do" ("Martin" personal communications 2025).

This situation mirrors that across other frontiers where the legitimacy or predominance of any single authority is not fully guaranteed, requiring extralocal landowners to rely on informal

²² See Perramond (2018) for further research on the problems created by water-rights adjudication in former land grant communities of northern New Mexico.

schemes of enforcement – most frequently corporeal discipline – to protect (i.e. enact) their property interests (Rasmussen and Lund 2018). And for better or for worse, Cielo Vista Ranch has innovated upon the corporeal discipline enacted by its predecessor in Taylor Ranch. Monitoring of the property is now primarily done through cameras and drones, replacing some of the ranch-hands' duties. However, CVR still mobilizes their ranch-hands to confront residents who they accuse of violating the rules for access and use. Moreover, residents are no longer beaten and expelled for 'trespassing.' Instead, CVR serves them with civil lawsuits for crossing the immaterial, often-unmarked boundaries of CVR I into CVR II (Schmelzer 2024). They have no right to an attorney in those litigations, forcing individuals to pay the high rates, look for pro-bono lawyers, represent themselves, or settle. Ultimately, these actions (some of which have since ceased) have all been in service enforcing the reasonable use standard from *Lobato* and the additional, unilateral rules that adopted related to where, when, and how people could access and engage with the Sierra's resources.

6.2.1. Dictating Entrance

The friction between the fluidities of access-rights holders' use of the Sierra and CVR's economic interests in the mountain tract is highlighted by CVR's restriction on access-gates, (either proposed or enacted). As will be seen, the main catalysts for this particular manifestation of the post-*Lobato* frontier around gates is the reality of Costilla County's aging population, which is disproportionately impacted by CVR's corporeal discipline, and the conflicting interests between both parties for managing their inventoried herds of animals – livestock for access-rights holders and bison for CVR.

6.2.1.1. Restrictions on Gates and the Matter of Inventoried Herds

As it stands, there are dozens of properties that abut the (fenced) boundaries of CVR I. However, there are only nine total gates across the ranch's western perimeter, meaning many of

these adjacent access-holders may have to travel well over a few miles to reach the nearest official entry point. Due to this, dozens of informal access-gates were established by these adjacent owners between 2002 and 2017 before Harrison purchased the tract (CVR Report 2018; McConnell personal communications 2025). However, all of these gates were shut down upon Harrison's purchase, leaving only the nine recognized by the courts (McConnell personal communications 2025). This was especially problematic for older folk who drive livestock up to the meadows for grazing, which is often still done on horseback ("Gallegos" personal communications 2024). For them, the corporeal impacts of CVR's access restrictions were especially heightened (*Lobato* "Exhibit A" 2022).

As noted by political ecologists elsewhere, "growing older intersects with existing inequities, compounding daily challenges, and creating new schisms of disparity in old age" (Rishworth and Elliot 2022, 32). "Eusebio" is one such gentleman who testified in court that the physical difficulties brought on by a recent stroke was compounded by the closure of gates near his property, ultimately making it "more difficult for him to exercise his rights" (*Lobato* "Exhibit A" 2022). Another individual had approached the ranch manager about this matter to request an access gate closer to his property. According to the manager, "He used the excuse that he is an elderly person, so things should be made easier for him to have access with his cattle" (CVR Report 2018, 1). The manager denied his request, finding this 'excuse' unsatisfactory. The ranch did propose a compromise by which access-rights holders could establish a single gate per mile of fence, so long as they match the "quality and strength" of the existing fence and were "closed and locked at all times when not in active use for the purpose of ingress or egress" (*Lobato* "Exhibit A" 2022, 5). However, this would still incur financial burdens for those rights-holders, as the CVR's fence in many areas is sophisticated in its design and strength (see figure 25) would likely be expensive to establish.



Figure 25: Example of one of CVR's gates that rights-holders would have needed to match the strength and quality of with their own finances.

CVR has argued this restriction of gates is necessary for a couple of reasons, one of which to prevent trespassing “through a gate created by an Access Right Holder” – with the ranch manager citing a trend where “individuals use websites to publish ways to trespass onto the Ranch in a manner meant to evade detection” (*Lobato* “CVR Rules Filing” 2022, 4). As someone attending Colorado College – a place where many students hike Colorado’s ‘fourteeners’ on the weekends – this reasoning immediately stuck out to me. This is because the websites that the ranch manager speaks of (even though he does not name them) are almost certainly the online chatrooms and blogs detailing how to ‘poach’ the 14,047-foot-high Culebra Peak (i.e. hiking it without permission)

through “Operation Dark Snake” (Steve 2014). The impetus for this poaching is the \$150-fee CVR charges to summit Culebra, which many dedicated hikers view as an affront to the sport.²³ With that in mind then, it seems that the trespassers CVR speaks of in their justifications are not individuals trying to graze livestock or harvest wood without rights to access. Instead, they are people who infringe upon the profits of CVR’s recreation operations. If one is to take CVR’s pretext for the gate restrictions at face-value, it then seems that access-rights holders are having said access restricted because of actions unrelated to them. The reason for this skeptical “if,” however, is because none of the discussed routes for Operation Dark Snake involve entrance onto the ranch through the private property of access-rights holders. Rather, they involve entrance onto the ranch’s property through public lands to the east in Huerfano County, Colorado.

If one does not accept CVR’s need to prevent fourteenner poachers through gate closures, then what other reasons might there be for this restriction of fluidity? According to one individual I spoke with, “They just want to make things harder for us” (“Gallegos” personal communications 2024). Operating under this argument, it would seem that CVR is making savvy use of near-universal legal principles in American property law to materialize their limits on access-rights. As mentioned previously, the process of territorialization requires “a particular state language...of which other forms of political organizations avail themselves,” which works to legitimize the relations between people, resources, and landscapes that actors desire (Rasmussen and Lund 2018, 393). By invoking the need to prevent trespassers, CVR appeals to their ‘right to exclude’ – the “*sine qua non*” of property law as it exists in the U.S. (Merrill 1998, 730) – in an attempt to restrict the fluidities of individuals that they cannot legally exclude.

²³ Frankly, I am ambivalent towards this matter. The accessibility of the outdoors is certainly an important principle to uphold. At the same time, however, CVR appears to use revenue from these fees for land and trail maintenance (AllTrails 2025). And for what it is worth, many hikers have claimed that the arduous, often multi-day trek required to poach the peak is far more burdensome than paying the fee (u/Wolfman92097).

However, the fence's restriction of movement to and from the property does not just affect the ranchers alone – it also impacts the fluidity of their livestock. While discussing the various impacts of CVR's performances, Joseph Quintana pointed out that “the cows have a memory, too, and it's being disrupted by gate closures and the fence” (personal communications 2024). I remember feeling some skepticism upon first hearing this but, being a suburbanite from northern Virginia, I chose to defer to the man who had grown up around these animals. As it turns out, “Cattle studies suggest that livestock quickly explore a new pasture and develop map-like representations of the locations,” which becomes “stored in the animal's long-term memory” (Lyons and Machen 2024, 1).

This idea of non-human memories of the landscape is further corroborated by other happenings reported by the ranch manager, occurring six years prior to my conversation with Joseph. After CVR employees reinstalled fencing along a neighboring access-holder's farm, the individual asked if a gate could be established because it was “the only way his cattle knew how to get onto CVR” (CVR Report 2018, 1). Again, however, this was denied with the ranch manager telling the access-rights holder that “he was going to have to use the gates identified by the court. He could not make a gate to make it easier” (CVR Report 2018, 1). Even the compromise whereby they could have one gate per mile – so long as it was kept closed and locked unless in immediate use – impacts the fluidity of livestock across the landscape. Abutting access-rights holders will often leave their gates open so that their livestock can come and go from the mountain at their leisure, which allows their stock to drink from the streams running through their properties (*Lobato* “Exhibit A” 2022; “Gallegos” personal communications 2024). Thus, the memory of livestock and their ability to act on that memory can be crucial for maintaining their health.

CVR's other purported reason for the gate restrictions – which is “to ensure that livestock, whether it be livestock that belongs to an Access Rights Holder or the Ranch Owner, do not escape” (*Lobato* “CVR Rules Filing” 2022, 5) – directly contradicts this need for more fluidity

expressed by access-rights holders in order to achieve their desired management of livestock. It does not, however, contradict CVR's desired management for their own inventoried animal herds:

American bison. It is unclear when CVR reintroduced bison to the landscape, but nowadays one can spot a herd of over 50 bison in the southern portion of the ranch (see figure 26). These animals are larger, stronger, and more agile than cattle, requiring higher and more durable fences to keep them contained (Upper Culebra Watershed Assessment 2023; Hisey and Olsen 2024). It then stands to reason that informal gates may be more susceptible to breakage by bison. Frankly, it is my opinion that this rationale holds more merit than their trespassing justification. And since both CVR and access-rights holders have stated that they do not want bison breaking out of the ranch – with at least one of CVR's abutting neighbors relaying to me that bison have entered his property to feast on his grass – there does appear to be agreement on the presence of a problem (“Martinez” personal communications 2024; *Lobato* “Exhibit A” 2022).



Figure 26: Bison grazing along the southern portion of Cielo Vista Ranch (photo taken by author).

However, the solution to the bison problem is where that agreement ends. As indicated by their gate closures and filings in legal documents, CVR found that the solution lay in restricting the

number, type, and operation of gates to the ranch. The access-rights holders proposed a different remedy: “To the extent CVR wants gates closed so its bison stay on its property then it should corral its bison” (*Lobato* “Exhibit A” 2022, 6). Nevertheless, this proposal mirrors CVR’s in the way that it likely contradicts the desired fluidity for Harrison’s inventoried herd. Although Harrison wishes to keep his bison within the perimeter of CVR, that does not mean he wishes for them to be confined in a corral within the ranch itself. He has frequently reiterated a commitment to the project of conservation – a project which environmental anthropologists have described as an engagement in ‘virtualism’ (Carrier and West 2009). That is, a process by which “people who are guided by a vision of the world act to try to shape that world to bring it into conformity with their vision” (Carrier and West 2009, 7). While it is not possible to definitively know what Harrison’s vision for bison reintroduction is without speaking to him directly (a task much easier said than done), Andrew Isenberg (1997) argues that bison reintroduction emerges from “a nostalgic urge to recreate a facsimile of the frontier” (pg. 179),²⁴ with these animals functioning as a “symbol of untamed wilderness, the frontier, and masculinity” (pg. 181). Corralling bison, then, would constitute an affront to this symbolism, this vision, for the landscape.

Interestingly enough, the easements appurtenant establishing CVR as the servient estate may provide more leverage to the access-rights holders in this situation. In their legal filings on the subject of gates (see: *Lobato* “Exhibit A” 2022), the access-rights holders have appealed to the precedent set in the 1998 Colorado Supreme Court decision *Lazy Dog Ranch v. Telluray Ranch Ranch Corp.* (*Lazy Dog*), which holds that the servient estate may not engage in actions that “unreasonably interfere with the enjoyment of the easement by its owner for its intended purpose” (*Lazy Dog* 1998). Consequently, the access-rights holders argued that the gate restrictions and the “number of bison competing for food” hold potential to interfere with their rights and the rights-by-proxy of

²⁴ Isenberg’s use of frontier in this context is related to the colloquial imaginaries of the ‘Wild West’ instead of the academic conception of it that I have been employing in this manuscript.

their cattle to pasture (*Lobato* “Exhibit A” 2022, 25). Thus, the establishment of rights subjects – a key process on frontiers (Rasmussen and Lund 2018) – remained a contested matter. In the legal domain, these rights subjects (in this context, the ‘right to enjoy’) still pertain to the human actors involved. Materially, however, a decision by the courts on the extent of interference would ultimately be mobilized against the non-human actors on the Sierra. In other words, if the competition for pasture or the removal of gates to keep bison within CVR’s perimeter is found to interfere with the enjoyment of access-rights, then it is those bison and their relations with the landscape that will be erased and unmade.

Ultimately, the contradictory desires among these parties around gates underscores the persisting conflict around how the Sierra’s territory of property should be organized and managed. In general, the access-rights holders require greater fluidity – due to the needs of their bodies and/or the needs of their livestock – which CVR desired to restrict. The increased burden for older folk resulting from the gate closures demonstrates how the body constitutes a key site upon which contestations over property are experienced (Blomley 2007). And the friction between each parties’ management of their inventoried herds further highlights how the post-*Lobato* frontier incurs competing organizations of the mountain tract driven by the diverging property interests of the parties. So far, I have focused on the actions of CVR to restrict entrance to the Sierra and their justifications for it. Just as important for understanding the post-*Lobato* frontier, however, is what access-rights holders did to resist this and reassert their fluidity.

6.2.1.2. Fence-Cutting and Gate Vandalization as a Performance of Property

It should not come as a surprise that the stringency and fixity of entrance to CVR was met with a great deal pushback. Particularly common, and by no means unprecedented in this region (Lindner 2012b), is the act of fence-cutting and re-establishment of informal gates (CVR Report 2018; “Montoya” personal communications 2024). While such actions are not sanctioned in *Lobato*, and are prohibited by general property law, their legality has little bearing on the individuals engaging

in these counter-performances of property. In 2018, several miles of fence were cut along different areas of CVR's western perimeter and ranch employees closed more than 20 informal gates on adjoining properties over the period of six months (CVR Report 2018, 1). When asked about this phenomenon, one of my interlocutors, "Ernest," argued: "It's not surprising people are doing this. Some people feel like if they have rights to the property, they can access it however they like. And if they [CVR] aren't gonna cooperate, then, yeah, some might take matters into their own hands." Nevertheless, he went on to clarify his position here: "I'm not saying whether that's good or bad. But that's just how it is, ya know?"

Like the vast majority of access-holders, Ernest himself has never cut any fences or established illegitimate gates, but that fact does not preclude his ability to understand this phenomenon. Personally, I sympathize with the pragmatic approach that Ernest takes towards this matter. Moralizing claims about the act of fencing or fence-cutting matter little to those enacting these practices. More fruitful, I believe, is to remain with "how it is, ya know?" That is, to look at why these enactments occur, what relations of property they try to establish, and how they are experienced by stakeholders on the ground. As a private property owner, Harrison is well within his legal rights to fence his property.²⁵ Nevertheless, on a landscape where competing understandings of property exist and where fences remain symbolic of historical dispossession, it should not be surprising that they are targeted for removal. Sure, it may be easy to write off such occurrences as simple acts of vandalism – which, of course, they are legally defined as. However, merely reducing fence-cutting and other similar practices to their legal definition belies their performative nature. Because *Lobato* created a hybrid system of property with a piecemeal restoration of usufruct rights, these occurrences may result from a desire to reestablish and further assert local understandings of fluidity in engagement with the Sierra commons.

²⁵ What form his fences take is a different matter, which is subject to ongoing litigation between CVR and the county over the High Fence. This will be explored later.

Much more than simple vandalism, these acts can be viewed as efforts to make and remake the physical and relational boundaries of the mountain tract. I find it hard to believe that anyone engaged in such acts does so senselessly or without reason. Reason does not presume justification or legality, of course, but it is critical to understand the possible motivations behind these actions if one seeks to comprehend the post-*Lobato* frontier. To cut a fence, to establish an informal gate, is to perform a formulation of property-rights whereby “I, the fence-cutter, have rights to access this landscape, and you, the fencer, do not have rights to dictate if, how, or where, I can do that.” In this manner, fence-cutting or establishing informal gates seek to remake the physical boundaries of the Sierra and their relational nature vis-à-vis who has the (locally and/or statutorily recognized) right to define said boundaries. In fact, there is a long tradition of fence-cutting and other similar acts across the world arising in response to the enclosure of commons (Gard 1947; Blomley 2007; Correia 2013; Blomley 2013).

A notable analog to this contemporary situation can be located in the hedges established in 14th and 15th century Britain during the nationwide process of enclosure. Nicholas Blomley (2007) argues that while the hedge constituted a formidable barrier to the continued exercise of communal grazing practices, “its very materiality made it vulnerable to those who opposed privatisation” (pg. 5). It was this ‘very materiality’ that established a potent “citational quality” for the hedge, construing it not just as a mere barrier but as a symbol for the broader processes of enclosure and dispossession that left the British commoners in economic destitution (Blomley 2013, 27). Thus, “As a marker of ownership, it signaled an illegitimate encroachment upon common right” (Blomley 2007, 15). Consequently, the removal of hedges became one of the key forms of resistance against the process of enclosure (Blomley 2007; 2013).

Like the hedge, the closure of gates by CVR also constitutes a marker of ownership that became perceived as an ‘illegitimate encroachment upon common right’ – a common right that CVR is legally obligated to honor due to *Lobato*. And where the hedge represented “an affront to freedom,

and a means of imposing order” (Blomley 2007, 16), CVR’s gates restrictions presented an affront to the fluidities of rights-holders’ connectivities with the Sierra through their impacts on peoples’ bodies and their livestock management strategies. Thus, it stands to reason that the same motivating factors behind the commoners’ removal of hedges may be analogous to the intentions of many access-rights holders who engage in fence-cutting or the establishment of informal gates. Of course, not all of these instances may be ideologically-driven. Instead, many may simply be an opportunistic act meant to reduce the rigor of the workday and make livestock management easier. But even in such cases, they work to remake the physical and relational boundaries of CVR while simultaneously performing particular formulations of an individual’s perceived entitlement to access and use.

Taken together, the conflict over gates, the manner by which they affect the fluidities of the Sierra’s human and non-human actors, and the resistance against them all serve to demonstrate the continuation of a resource frontier post-*Lobato* where rights-subjects, boundaries of access, and the predominance of either parties’ property relations continue to be negotiated and contested. Ultimately, however, this particular manifestation of the post-*Lobato* frontier may have been brought to a close in May of 2024, after a hearing before a special master led to an agreement between CVR and the access-rights holders in which CVR pledged to pay for the construction of more than 40 gates that met the standards they desire for strength and quality (Brovisky-Eaker 2024). Nevertheless, I do not believe that this fact negates the existence of a frontier when other manifestations of it still persist. It does, however, demonstrate the potential capacity for collaboration between the parties that *could* finally bring this unremitting, 161-year-long battle to an end.

6.2.2. A Panopticon in the Woods: CVR’s Surveillance of Conduct and Movement across the Sierra

In addition to the since-resolved contestations around access-gates that represented a form of corporeal discipline related to entrance to the Sierra, CVR has also engaged in a variety of actions mentioned to restrict the fluidities of engagement and movement across the mountain once individuals

have entered. But whereas the closure of gates presented a visible and physical form of corporeal discipline, the forms of it that I examine here are more hidden and yet simultaneously more pernicious, more intangible and yet in many ways far more effective at restricting access and use. That is, I discuss CVR's surveillance technologies, the impetus for them, and how they use them for monitoring and enforcement.

In this exploration, I argue that CVR's surveillance technologies enforce fixity on the landscape by establishing what I call 'hidden panopticon,' which generates a self-regulating sense of anxiety around being watched and 'becoming criminal.' The more that access-rights holders are worried about being watched, confronted, or facing six-figure lawsuits (*CVR v. [REDACTED]* 2024), the less likely they are to exercise their rights to the ranch. Thus, even though these surveillance technologies do not do much to institute a physical restriction to access and use of the landscape, they still function as social instrument of fixity that governs the landscape through anxieties around their unknown presence and the constant possibility of being surveilled. Moreover, there was also litigation on these surveillance strategies, the types of enforcement they incur, and their impacts on access-rights holders. However, the courts ultimately ruled that CVR has a right to employ them (*Lobato* "Order on Motion to Protect Landowner Rights" 2022); and thus, the hidden panopticon is still a critical aspect of ongoing contestations on the post-*Lobato* frontier.

For some background, the 'panopticon' originated with Jeremy Bentham in the 1780s as a conceptual design for prisons (see figure 27) in which all the cells are constructed in a circle around a single guard tower in the center (Simlai 2021). However, the view of the guard is obscured from prisoners – the effect of which is that all prisoners must assume that they are being watched at all times. In turn, they are essentially coerced into self-regulating behavior, as they never know when one act of deviation from the rules, no matter how big or small, may lead to their punishment (Simlai 2021). Michel Foucault expanded upon Bentham's imaginative design to use it as a metaphor

for institutionalized methods of discipline, dubbing the process by which inmates – or any member of society for Foucault – internalize the omnipresence of the watcher’s gaze and engage in self-regulating behavior as ‘panopticism’ (Elmer 2012). Foucault’s concept of panopticism has since found relevance in modern surveillance studies, employed as an analytical device to understand the “the potential political effects of a ubiquitous form of institutional power... a landscape that could at any time impart in an individual a likelihood of surveillance” (Elmer 2012, 24).

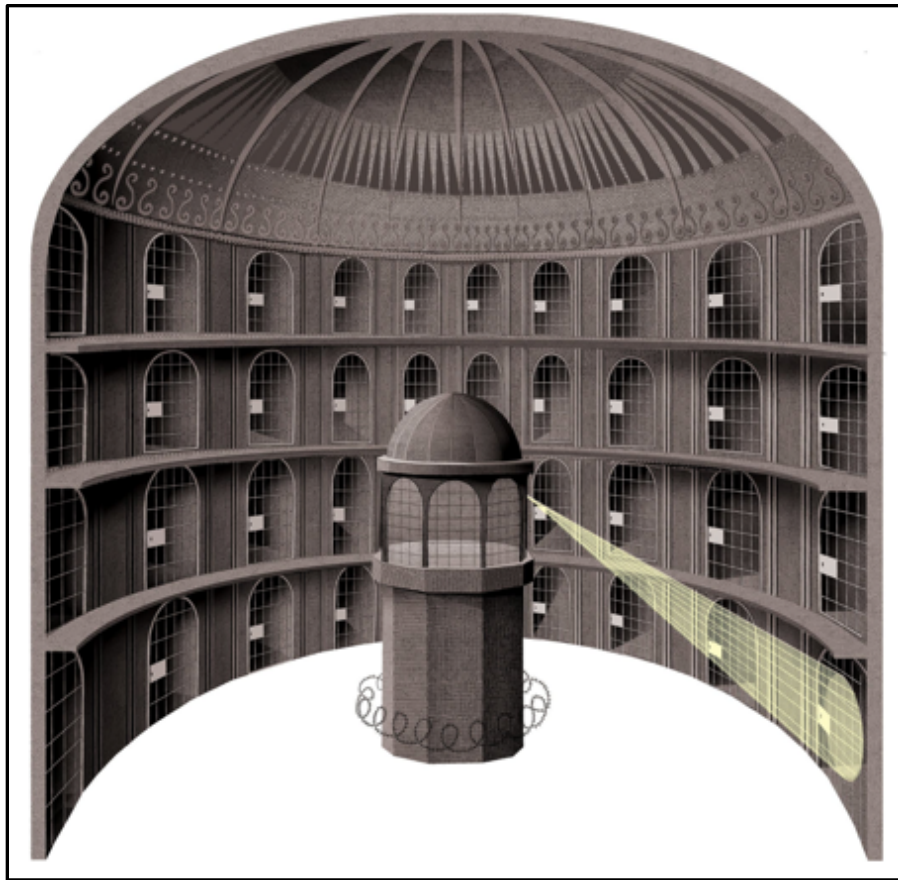


Figure 27: Artistic rendering of the panopticon by Adam Simpson (published in Shone 2013).

The metaphor of the panopticon and its corollary effect of panopticism is, I believe, a salient framework to approach the surveillance mechanisms enacted by CVR and their impacts on access-rights holders. The strategies employed by CVR involve the use of drones, cameras on every access gate, monitoring by ranch employees, and the use of “Stealth Cams” (see figure 28) hidden throughout the property (Lobato “Exhibit A” 2022; “Montoya” personal communications 2024).

CVR argues that these uses are required in order to ensure conformance with the access-rights granted in *Lobato* and gather evidence against individuals who do not comply (*Lobato* “CVR Rules Filing” 2022). However, several access-rights holders have alleged that CVR is weaponizing these strategies against law-abiding individuals in order to intimidate and deter them from accessing the ranch. I contend that the answer may be somewhere in between.



Figure 28: One of CVR’s “Stealth Cams” hidden in a web of pinyon trees (photo taken by author).

Researchers elsewhere have noted the coercive and fear-inducing potential that surveillance technologies have in conservation areas (Adams 2019; Simlai and Sandbrook 2021), arguing that such technologies work “in tandem with other instruments of governance, such as laws associated with forest use, moulding citizens into behaving in a certain desired way, becoming docile subjects as per the desired norm” (Simlai 2021, 20). Along the Sierra, CVR utilizes surveillance as part of its strategy to discipline access-rights holders who do not conform to the rules of *Lobato* (or what CVR says the rules of *Lobato* are). And between 2018 and 2021 – before being ordered to stop by the courts – CVR and its ranch-hands acted upon this surveillance in a “quasi-law enforcement” manner (Judge Kenneth Plotz, quoted in: Perdoni 2022).

During this period, it was not uncommon for access-rights holders to be tailed by ranch-hands while exercising their rights, making them feel unsafe and, according to one such rights-holder, “like a criminal” (*Lobato* “Exhibit A” 2022, 9). Most of these encounters occurred while rights-holders scouting for firewood without having an axe in hand or vehicle to load firewood on (*Lobato* “Exhibit A” 2022). This was, according to the unilateral rules set by CVR, an illegal extension of access-rights not covered in *Lobato*. However, in 2021 Judge Plotz of Colorado’s 12th Judicial District issued a scathing order against CVR, barring them from enforcing rules against scouting and criticizing their confrontations with rights-holders:

What I found in these videos, contrary to the defendant’s assertions, is that when the landowners are approached by the ranch owners and the ranch owners’ representatives, they’re often treated as second-class citizens... If anybody has ever watched videos, and audios, and heard testimonies of encounters with the police, they would find as I do that those encounters with the [ranch-hands] are amazingly similar to police encounters with citizens...I find that is demeaning to the people being contacted, and it concerns me. (quoted in: Perdoni 2022)

So, with the courts having settled the matter of direct confrontations²⁶ around scouting – ostensibly leaving the sole purpose of surveillance to prevent poaching, illegal trespassing, or blatant commercial use – it may seem appropriate now to invoke the oft-heard axiom in surveillance discourse, “If you have nothing to hide, you have nothing to fear,” against any further complaints around these technologies. However, statements like this belie a critical issue associated with surveillance technologies in conservation areas, that being the invasion of privacy (Simlai and Sandbrook 2021). For example, a few access-rights holders have relayed to me on different occasions that they now feel uncomfortable even using the bathroom on the Sierra because of the cameras. One of them, Cordova, was rather candid with his remarks: “I don’t like idea that I could be taking a leak in the woods and wind up with my junk on a random guy’s computer because I

²⁶ At least legally-speaking, that is. Some rights-holders still report being confronted and tailed by ranch-hands (public forum comments 2024).

didn't see the hidden camera." While this got a chuckle out of me in the moment, it still effectively underscores the general sense of anxiety created by CVR's surveillance systems even among people doing nothing illegal. This is, in effect, a disruption of peoples' affective connectivities, leading to a situation where people have begun to associate use and access with fear of being monitored.

These fears around the invasion of privacy appear to be particularly heightened for rights-holders with children or grandchildren, as indicated by "Marcus" no longer "feel[ing] comfortable about bringing my granddaughter up to the mountain anymore because of those cameras." He went on to elaborate, saying, "We're up there for hours sometimes, and if she's gotta use the bathroom I'm worried some perv might catch her on camera." Nowadays, he brings her up to the mountain less often, and even when he does, it is for shorter periods of time – a fact that, according to Marcus, "she's not happy about, but I'm not sure what else to do."

As trivial as it may at first seem, concerns about using the bathroom highlight the impact of CVR's surveillance on peoples' affective connectivities with the landscape. For resource-users in conservation areas, there is a loss of autonomy and sense of control that comes with the sense of always being at risk of being watched (Simlai 2021). Whether it be due to the fear of the unknown created by hidden cameras or the loud buzzing of drones over the heads of rights-holders making them feel "like criminals," many people have begun to associate use of the Sierra with feelings of anxiety (*Lobato* "Exhibit A" 2022, 3). Consequently, and as is the case in other conservation areas (Simlai 2021), they have begun self-regulating and self-restricting their conduct and fluidities, even when they align with the law.

The impacts that surveillance has on the youth, which are underscored by Marcus's comments, can be particularly disheartening. In one of my conversations with Cordova, he explained that the intergenerational sharing of knowledge and experience with the Sierra is critical for forming the socio-cultural connections with the landscape. However, the fears around surveillance and its

repercussions have interrupted that. During the townhall, one elderly woman, “Benita,” echoed this concern: “We’re a community of senior citizens used to doing things that we can’t do anymore. And now we always have to tell our grandchildren: ‘no you can’t do that, no you can’t ride up there [to the Sierra], no, no, no, no.’” Here, Benita seems to be talking about the ability to recreate on the Sierra – an act that is not included under the rights granted by *Lobato*. Despite hiking, riding around on the already-graded roads, picnicking, or simply taking senior photos on one of the Sierra’s meadows carrying little potential to cause harm to the ecosystem, CVR has taken a hardline stance against these actions (Harrison 2017; CVR Report 2018; *Lobato* “CVR Rules Filing” 2022). Thus, through the ubiquity and fear around surveillance, the ranch has in some ways offloaded the task of monitoring and regulating to the very access-rights holders it sought to monitor and regulate.

Unfortunately, it is difficult to foresee a compromise on this matter like there was with the access-gates. The establishment of surveillance technologies does not – in any legal sense – interfere with peoples’ ability to exercise their access-rights (*Lobato* “Order on Motion to Protect Landowners Rights” 2022). Furthermore, these technologies have proven to be a valuable tool for CVR in tracking and monitoring individuals without access-rights entering the ranch (*CVR v. [REDACTED]* 2024; *CVR v. [REDACTED]* 2025) and individuals with access-rights who are going beyond the scope of use allowed by *Lobato* – perhaps best characterized by an instance of elk poaching caught on one of their “Stealth Cams” (*CVR v. [REDACTED]* 2024) or the time where someone was found to be collecting firewood with a sign on their truck that read “WOOD 4 SALE” (*CVR v. [REDACTED] et al.* 2024).²⁷

6.2.3. *Concluding Remarks on Fixity and Fluidity*

In their sum, these contestations over gate closures, surveillance technologies, and a litany of other forms of corporeal discipline not mentioned here demonstrate an ongoing, contested process

²⁷ While these cases are available on publicly-accessible legal databases, I have elected to redact the names of defendants to avoid exposing their information any further.

between CVR and access-rights holders for the ordering of access-rights on the Sierra. The fluid employments of access-rights are crucial for many individuals who require a more adaptable approach to use of the Sierra's resources. However, this fluidity is significantly more difficult for CVR to account for in their desired management and oversight of the property. The parallels with the past here are notable, with the informality of the *pobladores* settlement patterns frustrating the land companies' attempts to reterritorialize the landscape in accordance with their development and settlement-based machinations. In this manner, there are still "competing claims to authority, legitimacy, and access" that characterize frontiers (Rasmussen and Lund 2018, 391). Nevertheless, what is novel about this particular manifestation of the post-*Lobato* frontier is that neither party is necessarily seeking to erase the other's claim to the property. Rather than an '*unmaking*' of authority or legitimacy, these are attempts by rights-holders and CVR to *marginalize* the other's authority or legitimacy and assert the predominance of their own.

Furthermore, the disputes over surveillance technologies underscore a key force driving and escalating contestations on the post-*Lobato* frontier: mistrust. CVR's restrictions on access-rights, attempted or realized, have led many to see Harrison's current ownership as yet another wealthy despot trying to infringe upon their connectivities to the Sierra. And the prevalence of surveillance technologies certainly does not help this image. On the other hand, instances of trespassing and abuse of access-rights are a key reason that CVR has begun employing these technologies. For instance, it is not especially surprising that the ranch began installing security cameras at each of the official gates following a period of about six months in 2018 where there were 16 instances of the locks on access-gates being stolen or broken (CVR Report 2018). Ultimately, these ongoing contestations over fixity and fluidity highlight one of the ways in which the hybrid existence of communal and private property rights on the Sierra has not ended conflict but instead altered it.

6.3. The High Fence: Agency and Affective Connectivities

Whereas the above discussion of fixity and fluidity demonstrate continued battles over the governance of individuals on the Sierra, other disputes involve the governance of the mountain landscape as a whole – best exemplified by the conflict surrounding CVR’s ‘High Fence.’ “My wife made sure we put the house at an [NW-SE] angle,” Eli Rael relayed to me while we sat on his porch one July day. “I didn’t get it in the moment, but I went along with it.” From that direction, they could spend their mornings outside with a scenic view of the Sierra, their fields, and the piñon forests flanking their land along the slopes of El Rito Canyon. “Seems like she had the right idea,” I replied, looking out at the vista, being met with an enthusiastic “Oh yeah!” As we spoke, he reminisced on the mornings where he came outside and witnessed herds of elk grazing on his grass. I stared out at the pastures imagining what that may have looked like, conjuring faint apparitions of the ungulates across my sightline. I had to do so because that day, and for a while now according to Eli, there were no elk. In fact, most of what he sees in the mornings nowadays is the glare emanating off the metal of CVR’s High Fence (see figure 29).



Figure 29: Image of CVR's High Fence along El Rito Canyon (photo taken by author).

“His fence has ruined our view,” Eli remarked, directly assigning responsibility to CVR’s current owner, William Harrison. Eli’s property had been successfully encircled by the High Fence before a county moratorium was emplaced that prevented construction (Board of County Commissioners 2023). This not only cut off a critical migration corridor for the region’s elk (see figure 30), but it has also made it more difficult for Eli to access the mountain. “It feels like we’re in a prison,” he said, further commenting on the situation, “He can’t fence us in, so he’s fencing us out.”

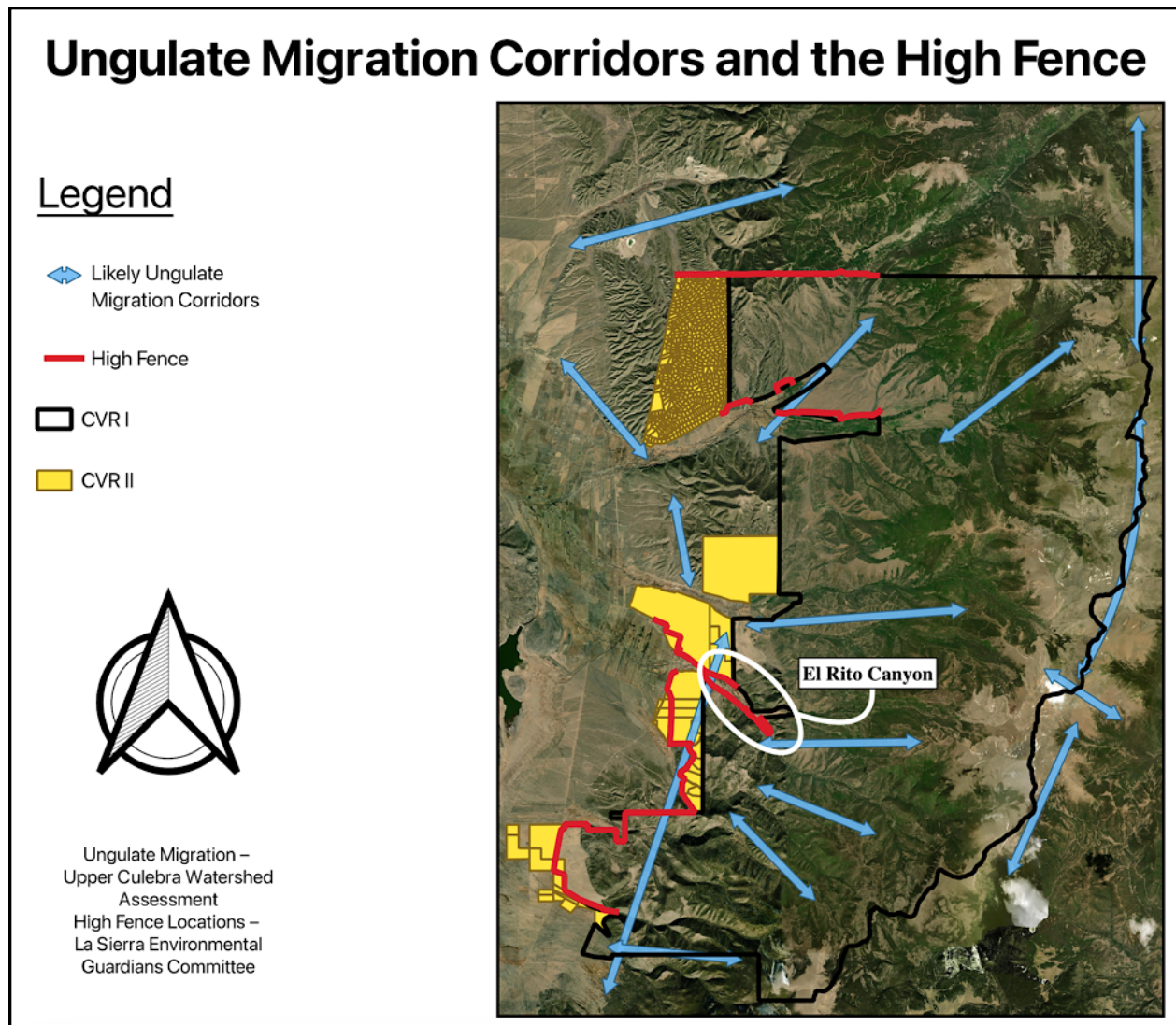


Figure 30: Map demonstrating the overlap between ungulate migration corridors and the High Fence locations. El Rito canyon is circled in white. Locations for ungulate migration corridors provided by the Upper Culebra Watershed Assessment (2023, 528).

Eli's comments above are indicative of a 'displacement in situ' – a situation in which rapid and severe transformations to landscapes are wrought upon local communities by extralocal forces in a manner that often contravenes their economic and affective connectivities to the landscape (Feldman et al. 2003; Laschefski 2024). This concept is crucial for the place of the High Fence in the broader context of the post-*Lobato* frontier. CVR's performance of property through the High Fence has created ecological, aesthetic, and relational disruptions across the ranch's perimeter. Combined with the ranch's enormous financial resources and the fact that this matter is legally detached from

the access-rights case (meaning that those impacted have significantly less legal leverage), I contend that the conflict surrounding the High Fence is driven by rights-holders' desires to assert agency in these transformations of the landscape and thereby maintain their affective connectivities – that is, their emotional connections with the landscape, how they make sense of it, and how they make sense of their place within it.

The aesthetic blight of the High Fence and its impacts on the presence of wildlife across the landscape affronts peoples' emotional connections with the landscape, as highlighted by Eli's comments. Furthermore, the fence road – bulldozed alongside the High Fence without regard for topography – has created potent fears around erosion and deposition, incurring additional emotional impacts and subsequently complicating how people make sense of the landscape and its future. Lastly, the impacts of the High Fence on cultural traditions like piñon-picking and the Morada procession, along with the perceived lack of agency among community members with respect to the establishment of these demarcations, contravenes peoples' sense of place in the Sierra and their place in the decisions being made that will impact its future. With these disruptions, several residents came together and formed the La Sierra Environmental Guardians Committee in order to assert and reclaim agency in this contestation.

6.3.1. Relational Ruptures: Building Fences around “Our Spiritual Center”

Around 2021, locals in Costilla County began to notice the construction of an eight-foot-tall fence around CVR's property line (Vigil personal communications 2024). Almost immediately, this demarcation was met with backlash from the community due to its impacts on locals' cultural and affective relations with the landscape. Among the first loci of resistance was in the village of San Francisco, specifically located around *La Morada* (see figure 31). This structure was hand-built over a century ago as a meeting-place for the local chapter of *Los Hermanos Penitentes* – a Catholic fraternal organization that was introduced to the American Southwest in the 16th century and spread across the American West (Smith 2000). However, a decline around the turn of the 20th century has left

only few chapters remaining in the Upper Rio Grande region of northern New Mexico and southern Colorado (Smith 2000; 2015). Today, San Francisco's Morada is the last of its kind with an active membership in the state of Colorado (Perdoni 2021).

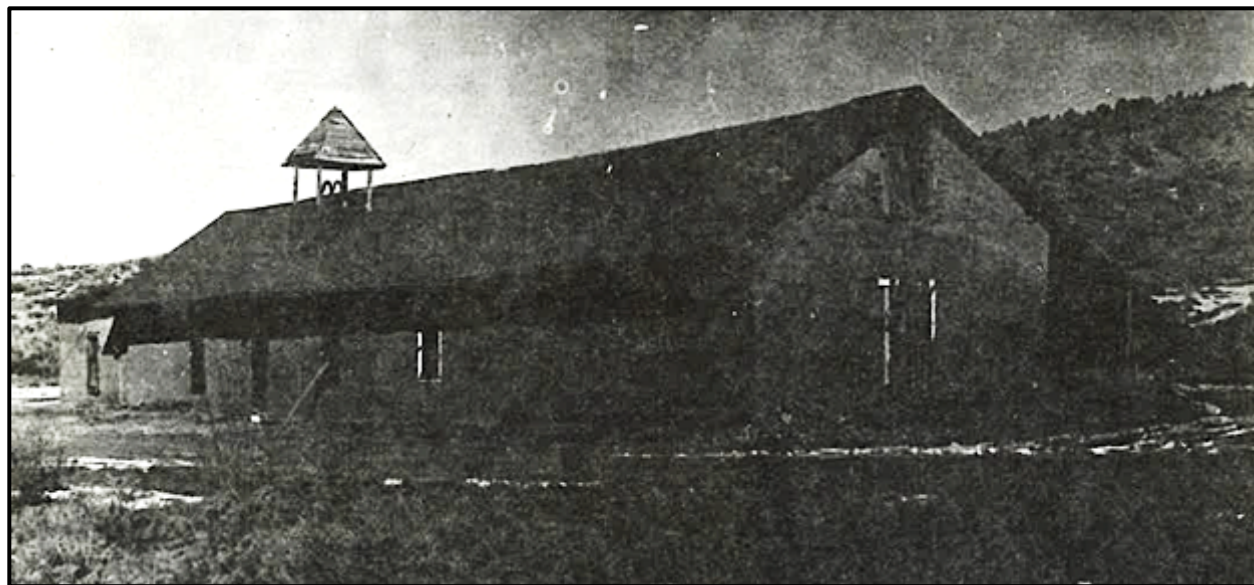


Figure 31: Photo of La Morada, published in the student magazine Adobe (1977).

Los Hermanos Penitentes and their religious rituals have been vital to the culture of the Culebra River villages, functioning as an “important link to our past” in the region (Mae 1977, 34; Smith 2000; Smith 2015). Their traditions revolve around Holy Week, where the members (*Hermanos*) go to the Morada on Holy Wednesday and do not return home until the “Gloria, laus et honor” hymn is completed on Palm Sunday (Mae 1977). Each day of the week involves different traditions, but among the most important is the Stations of the Cross procession on Good Friday where the *Hermanos* carry a wooden crucifix up the hill behind the Morada (Mae 1977; Perdoni 2021). This procession up the *Calvario* trail has been conducted every year since the 1870s (Perdoni 2021). Nowadays, however, it is being disrupted by the High Fence, which sits only 100 to 200 feet away from the Morada (see figure 32).

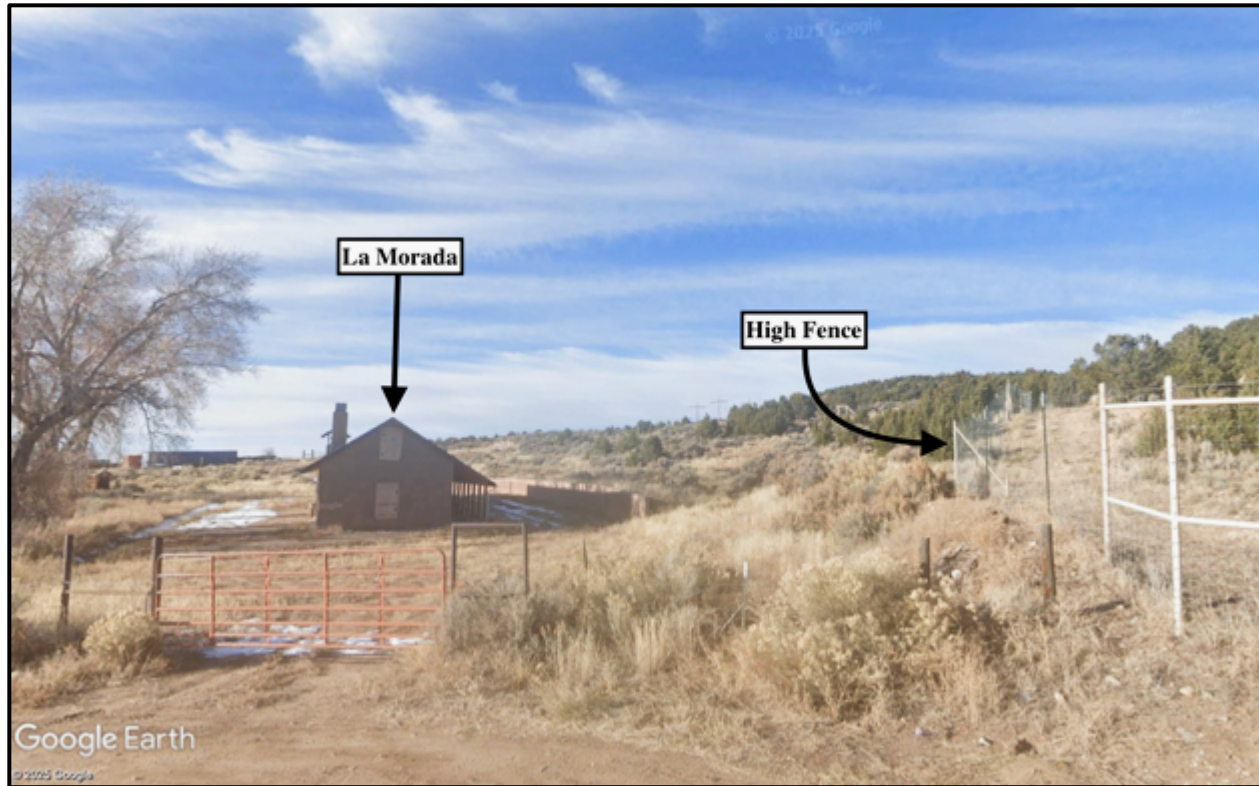


Figure 32: The Morada as of 2025, with the High Fence visible nearby (source: Google Earth Street View).

The property adjacent to the Morada, known as the Meadowbrook Property, was purchased by CVR in 2015 (Costilla County Assessors Portal 2025), subsuming the *Calvario* within the boundaries of CVR II (see figure 33). This did not create immediate problems for the *Hermanos*, as they acquired an easement to continue using the property for their procession – an easement that CVR is still bound to honor (Perdoni 2021). However, the construction of a fence does not (legally) constitute an inherent ‘dishonoring’ of easement rights, so to speak (that is, as long as the rights-holders have the ability to enter through it, see: *Fortner v. Eldorado Springs Resort Co.* 1924). Thus, when CVR started constructing the High Fence in 2021, they were well within their rights to do so and the locals had little to no legal recourse to prevent it.

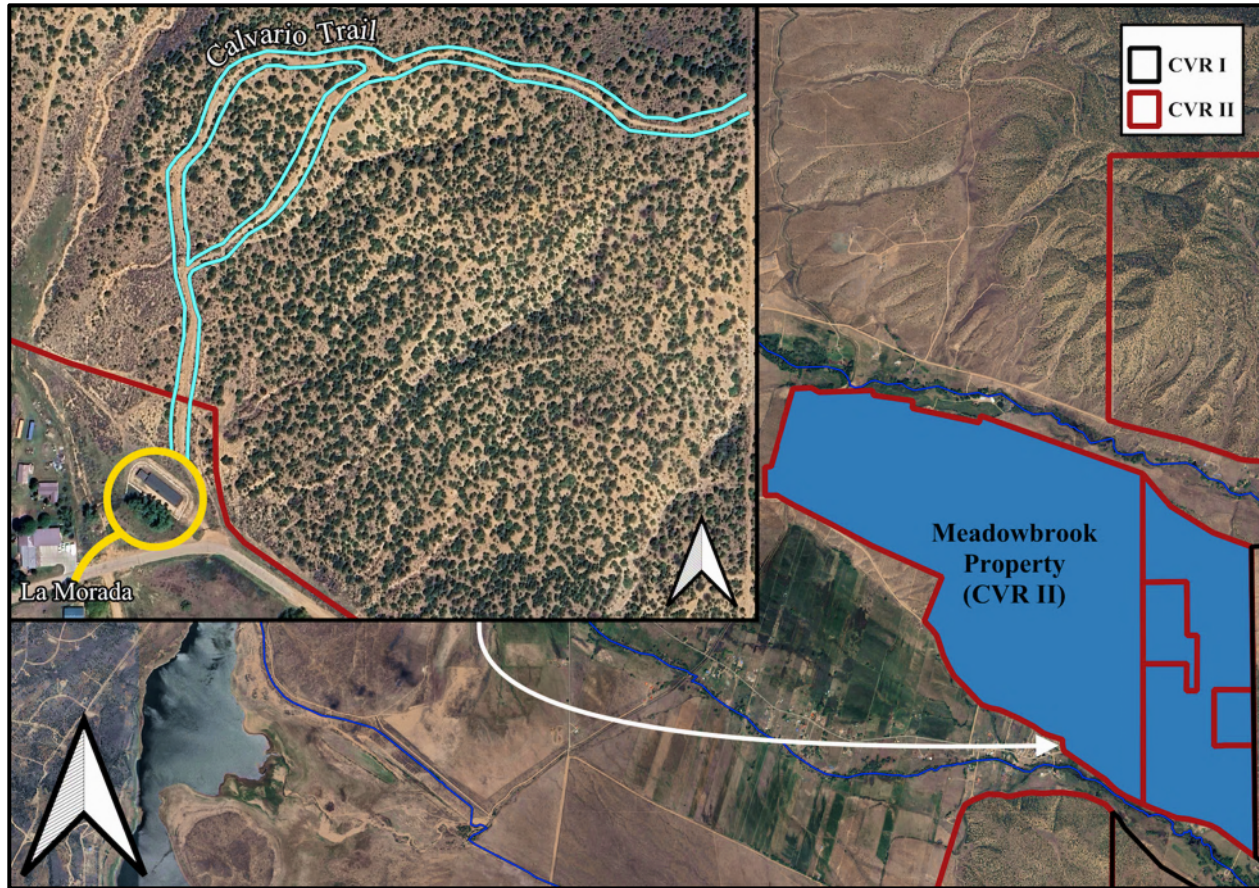


Figure 33: Map depicting the overlap between the *Calvario* procession trail and CVR's property boundary.

That the Morada was one of the first areas where the High Fence began construction is particularly significant, epitomizing the conflict between CVR's performance of property and locals' affective connectivities with the landscape. The cultural importance of this structure and the religious traditions located around it have magnified the aesthetic offensiveness of the High Fence. Despite CVR leaving an opening for the processioners to pass through on their pilgrimage (see figure 34), that did not do much to prevent backlash. For many in the region, the High Fence is an eye-sore on the landscape, something "so obtuse, so awful" that it incurs a potent emotional impact on those that must live with it ("Benita" public forum comments 2024). Furthermore, by constructing it without any form of consultation with the community, CVR preemptively stripped them of the agency they feel the right to have vis-à-vis management of the Sierra. Kate Perdoni

(2021), a journalist with Rocky Mountain PBS, published a video on the High Fence's effects on the *Hermanos's* procession that demonstrates this well.



Figure 34: Image of the gate left by CVR for processioners to cross through.

In the video, Perdoni speaks with Arnie Valdez and Charlie Maestas, two members with *Los Hermanos Penitentes* for decades. As Mr. Valdez describes, “Without the fence being here, it was a very open process, but now [gesturing at the small gate left for the processioners], it’s kind of a psychological impact” (quoted in Perdoni 2021, 2:45 – 2:55). For a primarily agricultural community, it is likely that the narrow opening for the processioners (see figure 34, above) evokes the feeling of a livestock pen – one that funnels them through the high walls of the fence and affronts the religiosity of the event. Highlighting this offensive nature of the fence, Mr. Valdez went on to contrast the procession with the threshold people must past through as the “sacred and the profane” (quoted in: Perdoni 2021, 3:00 – 3:06).

Mr. Maestas expands upon these comments: “Stuff’s kinda changing, but this is the worst that I’ve seen...It’s getting pretty sad. The Morada means the traditional, historical, spiritual. It’s kind of like a feeling, a spiritual feeling connected to the holy place. And it’s part of my life.” At this

point in the video, Mr. Maestas's voice begins to crack and he notes the tears forming in his eyes, ultimately needing a break to regain his composure. After a moment, he continues, "So I would like people to know, we're here in this corner of the world – God's country – and all of a sudden everything kind of changes. Without even letting the people know what's going on...I feel like my freedom is being violated" (quoted in: Perdoni 2021, 3:20 – 4:45).

Taken together, Mr. Valdez and Mr. Maestas's comments highlight the entanglement of affective connectivities with agency (Siqueiros-Garcia et al. 2022). The rapid change to the landscape with the fence and the fact that it was done without consultation has been disruptive and despairing for many. For Mr. Valdez, it has introduced a profanity to the landscape that they hold a religious connection to through the *Penitente* procession. And when Mr. Maestas says he feels like his freedom is being violated, he is talking about his ability to have a say in how the Sierra is being managed – a form of power that many find is critical to maintain after the years of Taylor Ranch ("Cordova" personal communications 2024). Seen elsewhere, the introduction of forms of disturbance and degradation that disrupt peoples' traditional practices ultimately "affects people's agency and their corresponding sense of agency" (Siqueiros-Garcia et al. 2022, 9).

This situation, as Mr. Valdez and Mr. Maestas describe it, connects well to the concept of displacement *in-situ*. As its qualifier indicates, displacement *in-situ* (i.e. "in place") does not entail the forms of physical removal traditionally associated with the term. Rather, it can be better seen as a affective and socio-political displacement from the landscape. To elaborate, Huw Halstead (2022) argues that "people habitually enculturate their local environments by assigning meaning to potentially 'perishable' features of their natural and built landscapes: be they trees, streams, fields, paths, houses, places of worship, or ancient settlements" (pg. 644). When connectivity – be it economic, socio-cultural, or affective – to these 'perishable features' becomes disrupted or 'disoriented,' it results in "place loss," which Halstead uses interchangeably with displacement *in-situ*

(2022, 645). This sense of rupture is further exacerbated by the dismantling or rejection of agency – where, consequently, a loss of meaning becomes magnified by the loss of control over how meaning is made (Ahlquist 2015; Siqueiros-Garcia et al. 2022).

Importantly, displacement *in-situ* and the affective impacts it entails are not reducible to some “naïve, nostalgic sentimentality,” but instead constitute an emergent condition rooted in “real, tangible changes to inhabitants’ everyday bodily and sensory experiences of place” (Halstead 2020, 644). Mr. Valdez and Mr. Maestas demonstrate this with their comments in Perdoni’s short-documentary. However, there are many more people affected by the High Fence in similar manners. This was apparent at the town hall with Attorney General Phil Weiser, when well over 100 residents crowded into the Centennial School multi-purpose room in the middle of a growing-season workday. There, “Benita” (mentioned previously in the surveillance section) spoke about her desire for a “mental health approach” towards understanding and addressing the High Fence, which currently surrounds her village of El Rito. “That fence is so awful,” she states, “that mentally we feel like we’re being surrounded...It keeps us from picking piñon like we used to. I used to go up and pick piñon in the foothills in my community. It’s all fenced now.”

Examining Benita’s comments reveals not nostalgia, but instead an embodied response – both cognitively and physically – to a recent, tangible rupture in her relationship and emotional connection with the Sierra. Of course, there are many individuals that are apathetic towards the issue, one rights-holder saying, “It’s his property, I don’t give a damn what he does with it” (“Josefine” personal communications 2024). Some apparently even like the fence, with Cordova relaying to me: “Like half the people you talk to, they’re like, ‘oh I like the fence. It keeps my cows up there, I don’t have to go and push them back up ever.” However, for many of the individuals who see the Sierra as “our spiritual center,” the lack of agency in the decision-making processes that

transform its aesthetic and relational character is an untenable, unacceptable condition (Quintana personal communications 2024).

Thus far, I have focused on the fence's impacts on peoples' emotional perceptions of the landscape, its impacts on their socio-cultural activities, and the resultantly diminished sense of agency to demonstrate the strictly human dimensions of displacement *in-situ* arising from this demarcation. These conditions as I have described demonstrate the effects of an institutionalized frontier that are at first novel when compared to traditional 'frontier moments' – where physical displacements are more common, e.g. Taylor Ranch. However, it also demonstrates how they simultaneously mirror those moments through the socio-cultural and affective ruptures they incur. Nevertheless, there is also an ecological impact of this High Fence that has further contributed to displacement *in-situ* by severing peoples' connections with the wildlife of the Sierra and sowing uncertainties and fears about the far-reaching ecological impacts – both spatially and temporally – of the High Fence.

6.3.2. *Ecological Ruptures of the Demarcation*

Something I was initially surprised about with respect to the High Fence's backlash is just how often people centered the impacts it has on wildlife. However, it soon became clear to me that the visibility of wildlife (and now the often lack thereof) was an integral component of peoples' affective connectivities with the Sierra. As Eli and I sat on his porch talking about the High Fence back in July, I asked if he missed the elk that would frequently graze on his pasture. He responded to this affirmatively and emphatically, stating, "I liked the elk. I never cared when they ate my grass, wildlife's important to me. I got beavers over in the creek and everyone's always telling me to get rid of them, but I keep them around because I like them." For Eli – whose property in El Rito sits right in the path of an elk migration corridor – watching the elk foraging on his pasture was a common and welcome occurrence in the mornings. That routine, that connection with the landscape, has

since been disrupted as the High Fence was constructed and El Rito, disrupting the migration corridor (see figure 35). And the way in which he spoke about these changes indicated a sense of loss.



Figure 35: Image of an elk herd being blocked by the High Fence, taken near the migration corridor going through El Rito canyon (see figure 30, above). (Photo taken by Eli Rael and published in a report lobbying for legislation against the High Fence)

Eli is not alone in this, however, and many other residents have noted their concerns towards the impacts of the High Fence on wildlife. One morning during the turn of the spring season, I was sat around a coffee table with three other locals – all 70 years or older, having lived through the 62-year-long era of Taylor Ranch and now living through another frontier. When asked about how this situation compared to Jack Taylor’s fencing of the ranch, one of my interlocutors, “Maria,” responded, “Well Taylor Ranch had a four-foot fence. You know and elk can jump that and the wire, you know the turkeys can get through that. The beavers, the badgers, all of those

animals up there can get through it. But now they're just fenced in. It's like prison. It's like a prison fence.” What she describes is a sort of vicarious distress for how the new barrier is being experienced by the wildlife (see figure 35, above, and 36, below) – tying her affective connectivities to the Sierra with the landscape’s wildlife. And her further comments speak to this: “At the end of the day, I mean, gosh, just for the animals themselves. If a little animal is stuck on the other side of the river behind the fence, which has these three-inch wires. Well, nothing except the chipmunks can get through the wire. Do they care? Does anybody care?”



Figure 36: Photo of a deer herd being separated by the High Fence despite a fence jump being nearby. What look to be juvenile deer are trapped on the other side of the fence (photo provided by Bernadette Lucero).

However, the ecological concerns about the High Fence are not limited to the biotic. Abiotic processes like soil erosion have become increasing sources of anxiety for locals because of the fence road graded across CVR’s property line (see figure 37). This road is necessary for the construction of CVR’s fence, which, highlighting their own ecological concerns of the property, they claim is

required for the conservation of their bison herd (*Board of the County Commissioners of Costilla County v. Cielo Vista Ranch I et al. [BOCC v. CVR]* 2023 “Order on Preliminary Injunction”). However, the downstream effects of the fence road represent anything but conservation to the people living nearby it. One of these individuals is Joseph Quintana, who I did a walking tour with back in May to see the fence road along the Vallejos Creek foothills (see figure 38).



Figure 37: Image of fence road along the Vallejos Creek foothills, which can be seen extending to across the landscape in the background.



Figure 38: Location of fence road walking tour circled in red.

Before reaching the fence road atop the ridges of the foothills, we had first to walk through its fallout: the deepening arroyos, with walls reaching heights of 20 feet and fallen trees littering its dried bed. Traversing the natural trail, Joseph drew particular attention to the quality of the soil, having us graze our hands along the tall banks of the wash to get a feel for its fragility. The slightest touch could cause clumps of dirt to fall, providing us with a clear idea of what might happen when the area is inundated with water. Joseph noted that before the fence road, the rain washed more uniformly across the rolling foothills, and thus the arroyos were much shallower. Today, however, he says the roads act like funnels, channeling greater volumes of water into the ravines where the arroyos begin – ultimately causing their walls to collapse and creating major floods which have damaged Joseph’s property and carry sediment onto the roads and into the acequias and the creeks downstream (see figure 39). While I do not have the capability to concretely demonstrate a causal relationship between the fence road and increased runoff, geomorphologists elsewhere have noted

that, “[Unpaved] roads can interfere with drainage density, as they create and intercept river channels, leading to a rapid and concentrated runoff” (Almeida et al. 2019, 10).

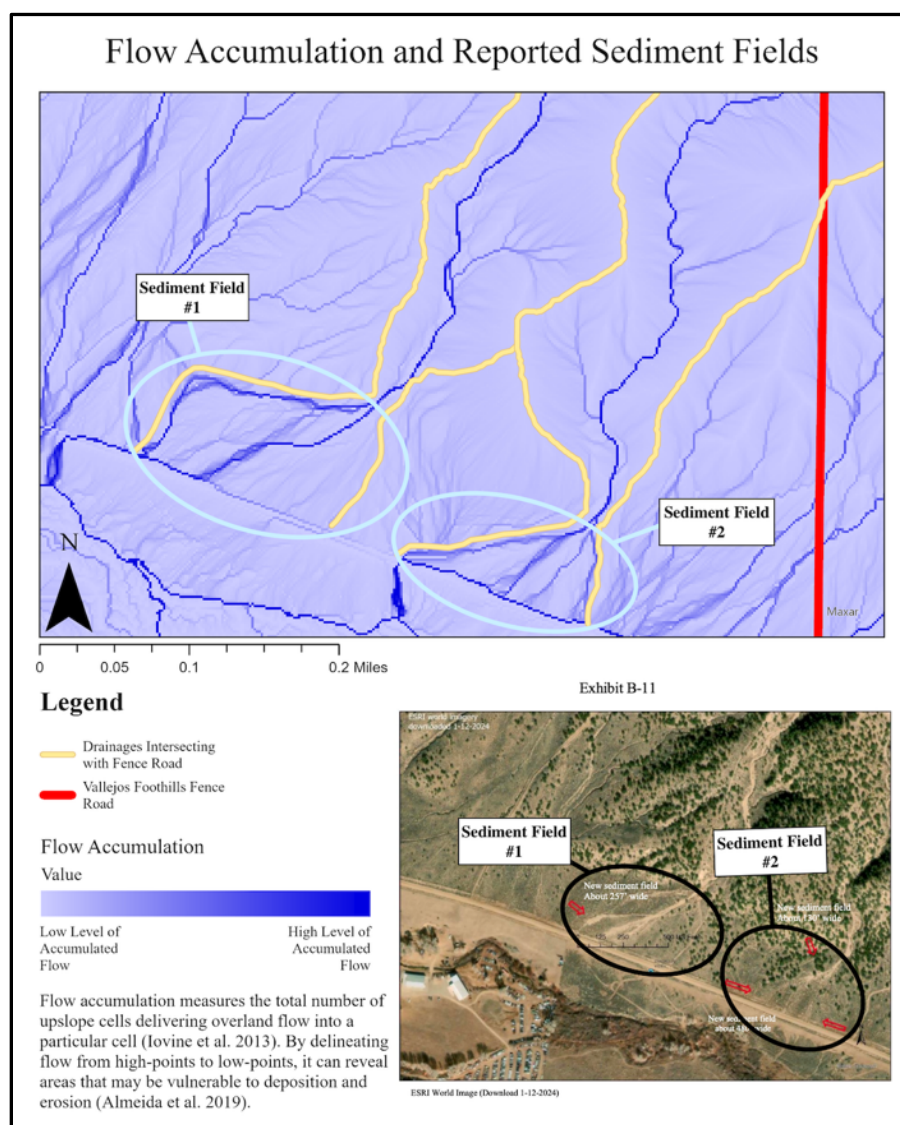


Figure 39: Map of flow accumulation along the arroyo drainages that intersect with the fence road. Flow accumulation measures the total number of upslope cells delivering overland flow. Thus, by delineating flow from high-points to low-points, it can reveal areas that may be vulnerable to deposition and erosion. Two sediment field areas are circled in blue and labeled, which sit at the base of two arroyos (outlined in yellow) that intersect with the Vallejos Foothills fence road (in red). These sediment fields – which were identified by the La Sierra Environmental Guardians Committee as appearing after the fence road – are also shown in the inset image

The Vallejos Creek foothills are among the steepest foothills along the Sierra (Quintana personal communications 2024), and consequently are some of the most prone areas for soil erosion and deposition (see figure 40). Joseph recalled the day in 2021 when he saw the machinery grading

the road atop these foothills, mentioning a sense of incredulity and dread at the sight of what was happening. This notion of ‘dread’ is important because it highlights a key characteristic of the High Fence and fence road’s affective ruptures. When I mentioned Benita’s comments earlier, it was to underscore the responses to these demarcations that occur in the present moment and are often rooted in the past. However, perceptions of the fence road demonstrate that these ruptures extend beyond the contemporary or historical to encapsulate uncertainties over the future. “It will take a hundred years to fix the damage he caused in three,” Joseph said, looking down at the fence road from atop the ridge (see figure 41 for an example of soil degradation along the fence road). “I don’t know why they’re doing this. They say ‘oh it’s for conservation,’ but this doesn’t look like conservation to me.”

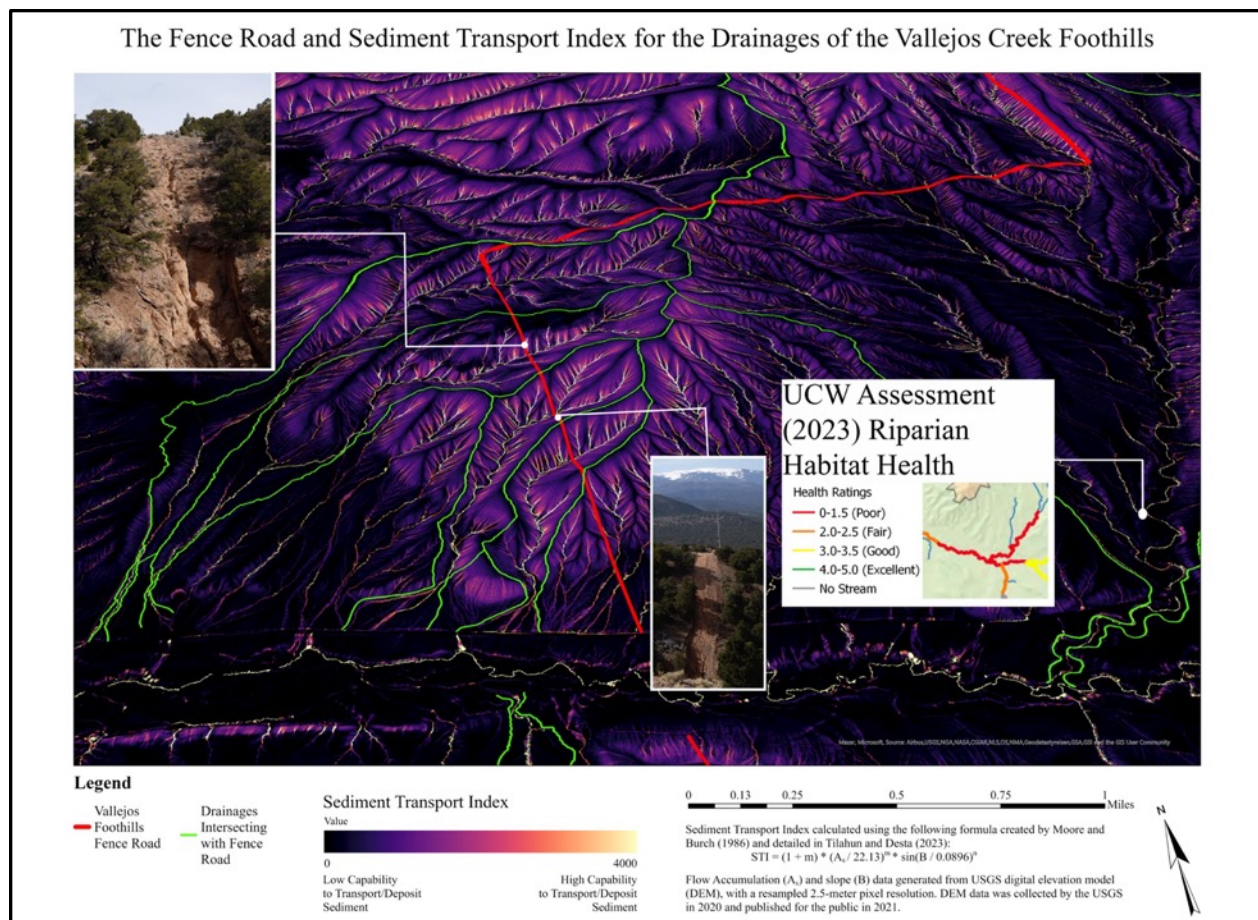


Figure 40: Sediment Transport Index map along the Vallejos Creek foothills. Map shows areas with a low/high capacity for transporting sediment, with many of the arroyos intersecting with the

fence road having a high capacity. The left-most and center insets show photos taken by the author at different points along this stretch of the fence road. The right-most inset is from the UCW Assessment (2023), showing a cropped map of riparian habitat healthiness for this stretch of the Vallejos creek. In this right-most inset, Vallejos creek is shown to already have poor or fair health ratings for this stretch of the stream, which is likely to be worsened by increased deposition of eroded sediments.

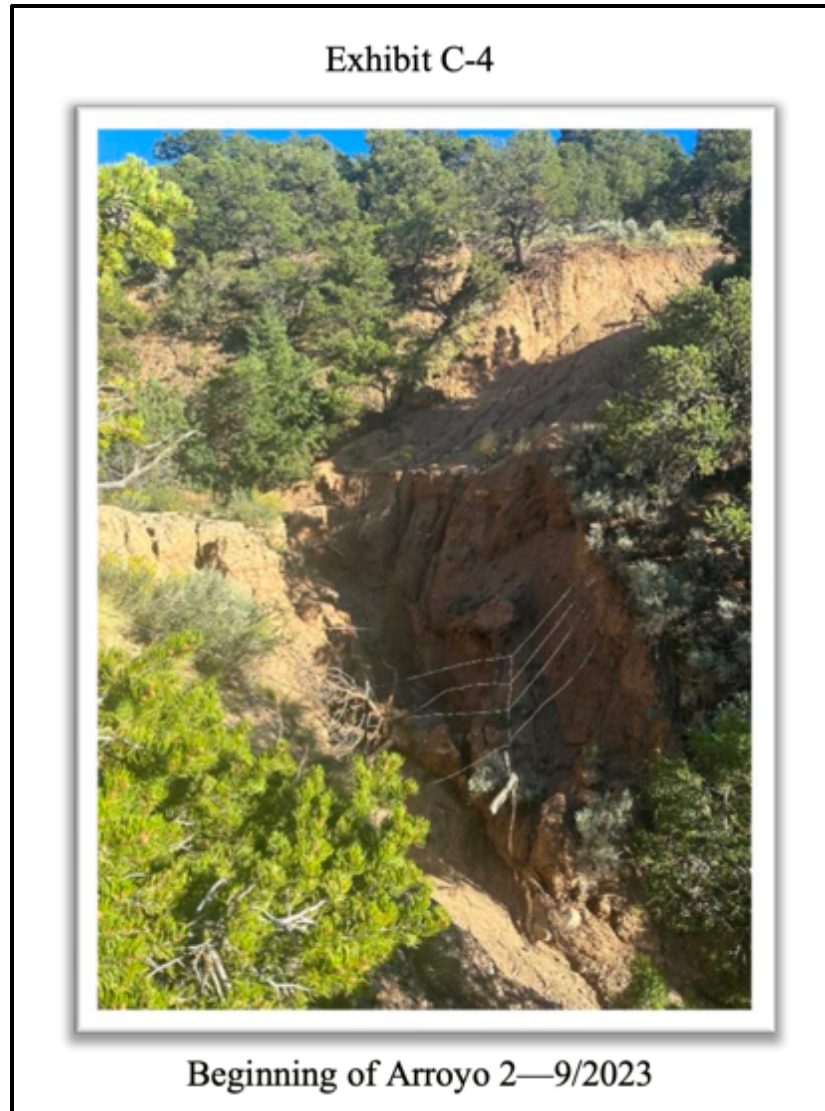


Figure 41: Image showing the severity of erosion in the areas where the fence road intersects with the arroyos (photo provided by the La Sierra Environmental Guardians committee).

In sum, the ranch had marginalized the agency of locals in the construction of something CVR feels is necessary for their desired management of the property, which is simultaneously something that the locals fear they will have to deal with the fallout of for decades to come. Consequently, the emotional geography of the High Fence – that is, how this feature of the

landscape is perceived and articulated affectively (Bondi et al. 2006) – reveals itself through discourses of relational ruptures, the marginalization of agency, ecological precarity, and disproportionately-experienced burdens. Just as important as this loss of agency, however, is how people have worked to reassert it.

6.3.3. *Reasserting Agency*

In response to the displacement *in-situ* brought about by the High Fence, locals have sought a variety of avenues to reaffirm their power in decision-making over the management of the Sierra. One of the first instances of this was an effort to push the Costilla County Board of County Commissioners (BoCC) to enact local legislation that would further halt the High Fence’s construction. In September of 2023, the county did just that, promulgating Resolution 2023-14, which placed a moratorium on the construction of fences greater than four-feet in height with a continuous length greater than 1,000-feet – along with halting the grading of slopes with a steepness greater than 7% (“Moratorium Resolution”). In the resolution they noted that this moratorium is necessary because the High Fence “will destroy the cultural heritage of the citizens of Costilla County” and its ecological ruptures constitute a “public health emergency effecting wildlife, the natural habitat, and the watershed” (“Resolution 2023-14,” 1-2).

Despite their moratorium, CVR continued its construction of the High Fence with increasing rapidity, an act that the Chief Administrative Officer of the BoCC characterized as “a middle finger in our face” (quoted in: Schmelzer 2024). To many, CVR’s continued construction essentially signified a position that – despite the downstream impacts of the High Fence – the county and the people it represented had no right in the decision-making process around management of the Sierra (“Maria” personal communications 2024). To rebuke this, the BoCC quickly filed a lawsuit against CVR (*BoCC v. CVR* 2023), seeking a preliminary injunction from the courts on further construction of the fence. This injunction was granted by the courts on October

13th, 2024, and since then construction has stopped. What did not stop, however, was CVR's legal attempts to continue building the High Fence. They filed a countersuit in *BoCC v. CVR* and an additional piece of litigation against the Costilla County Board of Adjustment (BoA) who rejected CVR's request for exception to the county's resolution (*CVR v. BoA* 2024). These litigations still continue today, significantly depleting the financial resources of the county government (Romero personal communications 2024).²⁸

While the county and CVR battle it out in the courts, individuals at the La Sierra Environmental Guardians Committee began generating noise in the public sphere through various forms of outreach. Their efforts started small, with the story of the High Fence first being published in just a few local newspapers but have since snowballed into greater success. In describing the Committee's strategy, Bernadette Lucero said:

Well, you know how we've gotten some attention is we've sent press releases to every known newspaper, from Rocky Mountain News to the Wall Street Journal to the New York Post, to everywhere, to the local newspaper, to the Valley Courier. Until we got Robin Collier from a radio station in Taos to come and interview us, and he blasted it on his radio station. From there, a newspaper from Taos wrote an article about this. And from there, the Valley Courier gets pressure. The gal [who is a journalist at the Courier] calls and says, I want to apologize that we haven't put your article up or got any coverage. You know what I'm saying? That's what it took. Her deadline for the story was at 5:00 that day, and we got her a tour [of the fence road] at 3:00.

This snowballing has gone beyond the local news of the San Luis Valley, with articles being written about the High Fence in the Denver Post (Schmelzer 2024), Wall Street Journal (Najmabadi 2024), and variety of other newspapers. Ultimately, the noise they generated was one of the key factors causing Attorney General Phil Weiser to visit Costilla County for his townhall session.

²⁸ Steven Romero is one of the county commissioners for Costilla County.

Their greatest success, however, was the lobbying efforts leading to the Colorado House of Representatives passing H.B. 25-1023, “A Bill for an Act Concerning Local Government Review of Certain Fencing Projects,” on February 6th, 2025 (Wilson 2025). This bill, should it pass through the State Senate, would necessitate local government approval before the construction of “a contiguous fence of a certain size in the Sangre de Cristo land grant lands” – reaffirming the agency of locals in management of the Sierra (H.B. 25-1023 2025, 1). Joseph Quintana remarked on the significance of this achievement in a conversation I had with him back in March, saying: “Our group hasn’t got any money and we’re still fighting this, and now we might win.”

7. Conclusion: Possibilities for Collaboration

These persistent disputes demonstrate the *Lobato* decision did not close the Sierra’s frontier, but rather gave it a new, institutionalized form in which contestations still exist between parties with different formulations of how the property managed. The core of these contestations remains similar to that of the traditional resource frontier – that being the differential valuations of the landscape’s resources, along with competing claims to authority in governing rights and governing the landscape. Furthermore, locals’ connectivities have persist as the central frustrating force for the Sierra’s extralocal landowners. What is novel about the post-*Lobato* frontier, however, is how it is experienced, negotiated, and contested within the framework of that court ruling.

The friction between fixity and fluidity certainly mirrors the battles over access-rights that preceded the *Lobato* decision, but what occurs nowadays is not the territorialization of new rights that incur an erasure of old ones. Rather, it is a contested negotiation involving the desire for a fluid interpretation of the access-rights granted in *Lobato* or a strictly-delineated fixity and restriction of those rights. Flexible self-governance in the exercise of access-rights is crucial for many individuals due to the often-diverse methods and reasons for engagement with the Sierra’s resources. As I have

shown, however, this flexibility impedes CVR's desired management and oversight for the mountain tract – leading them to employ material and self-restrictive forms of fixity. That some compromises have been made, however, is promising.

The matter of self-governance of access-rights is then mirrored in the disputes over landscape governance arising from the High Fence. And while physical displacement of rights-holders is no longer possible, CVR's actions marginalized the community's agency in decision-making processes unrelated to access-rights. With the High Fence, the displacement *in-situ* brought about by its relational and ecological ruptures effectuates similar impacts on locals' socio-cultural and affective connectivities with the landscape, along with increasing fears around uncertainty and vulnerability. Nonetheless, it is these same connectivities that ultimately led to successful reassertions of agency through legal and social mechanisms of pressure.

Ultimately, it can be easy to romanticize these land-rights struggles and to find inspiration in the Culebra villages' concerted and continuing acts of resistance. To be frank, these contestations make for a remarkable story. For academics and journalists, as long as these battles continue, there is much that is ripe for analysis and argument. But for those living it, people are tired; and while many will no doubt continue to struggle, most ultimately wish there could be some end in sight. The material consequences of this ongoing frontier are hard to ignore. These conflicting performances and organizations of property have very real, very material impacts on the people, animals, and soils of Costilla County. A common statement during discussions of these matters is how the lawyer fees for the legal battles between the county and CVR have “nearly bankrupted” the local government (Lucero personal communications 2025). While this is hyperbole, it does speak to the truth that well over \$150,000 has been spent by the county during this litigation (Romero personal communications 2024). And for Cordova:

It's like we have to fight when we've been in the ring for 80 years now. And there's a fresh opponent stepping in the ring every decade with more money, more resources. A fresh mentality, not all worn down like the rest of us. And so, you know, it's just

our time in the ongoing battle, right? And it's like, if I had some kind of money, I would bet that in ten years he's probably going to be gone and we're going to have another billionaire that owns that mountain and we'll be fighting with him.

There is, however, a small glimmer of hope that the Sierra's frontier could be closing. In my conversations with various access-rights holders, several expressed openness to working with CVR for the establishment of a shared management plan for the Sierra. For their part, CVR recently hired a community liaison who was already met with several individuals and organizations to discuss the socio-cultural divide driving these legal battles and material struggles (Quintana personal communications 2024; "Josefine" personal communications 2024). One promising possibility was posed to me by Joseph Quintana and Frank Vigil. They expressed that they would like to do forest-stand assessments in key areas used by rights-holders and provide recommendations to the ranch to close off roads to certain stands that need time to recover. This program, if implemented, would enable greater agency among rights-holders in the management of the Sierra's resources and simultaneously benefit CVR's practice of conservation.

Another proposal would simultaneously enable greater fluidity of rights and reduce the likelihood of individuals abusing their current access-rights. This involves the establishment of 'recreation days' for rights-holders, allowing them to engage in recreational activities like hiking, bike-riding, picnicking, etc. once every month so long as they notify the ranch beforehand (Quintana and Vigil personal communications 2025). Frank and Joseph posit that this would benefit the development of rights-holders socio-cultural and affective connectivities (not their exact words, of course), establish goodwill between them and CVR, and reduce the prevalence of people using scouting as an excuse to joyride around the mountain. Ultimately, it remains to be seen whether these collaborative projects will be enacted, but after 161 years of conflict and competition it certainly does not hurt to be optimistic.

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