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THE OLD WORLD AND THE NEW

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> the royal lands *baldias* [vacant lands] that may lie outside the lands assigned to the new settlement in common with the residents and natives of the adjoining and neighboring pueblos, which bounty and privilege shall continue as long as they are not changed or alienated by His Majesty, in which case they shall conform to that which is provided by the grants issued in favor of the new possessors or owners.[6]

An excellent description of the town of Arispe, originally founded in 1646 as a mission pueblo and designated as the capital of the Interior Provinces in 1776, was prepared by Mascaró in 1781. The town had been transformed from a tiny mission village into a settlement of stature. Several paragraphs of Mascaró's work discussed the problems of an adequate water supply for irrigation and the need for protection against flooding during periods of heavy rainfall.[7]

Although the Plan of Pitic was formally adopted after the first two pueblos in Alta California were founded (San José in 1777 and Los Angeles in 1781), it was used as a guideline for founding the Villa de Branciforte between Monterey and San Francisco in the mid-1790s. The Plan, because it was a restatement of the municipal ordinances contained in the Laws of the Indies, and embodied the regulations used for town founding throughout the frontier provinces of New Spain, is a key document to be studied in understanding Spain's well-established rules for civilian settlement.

[6] Discussions of the Plan of Pitic can be found in Richard Greenleaf's "Land and Water in Mexico and New Mexico 1700-1821," *New Mexico Historical Review* 47 (1972):96-104; Michael C. Meyer, *Water Law in the Hispanic Southwest* (Tucson: University of Arizona Press, 1984), 31-37.

[7] See Janet R. Fireman, *The Spanish Royal Corps of Engineers in the Western Borderlands: Instrument of Bourbon Reform, 1764-1815* (Glendale: A. H. Clark Co., 1977), Appendix G, 216-26.

The Plan of Pitic: Galindo Navarro's Letter to Teodoro de Croix, Comandante General de las Provincias Internas

JANE C. SANCHEZ

The correspondence translated below discusses the need for formation of the Plan of Pitic for an area in which the laws of the *Recopilación de Indias de 1680* could not be applied *in toto*. The correspondence also contains many suggestions about what should be included in the plan, most of which were implemented. Like many legal papers of the period, it draws an accurate picture of the legal values of the colonial culture.

Señor Comandante General: Because of the petitions and reports the military and political governors of this province sent Your Lordship on August 12, 1778, and August 30, 1779, it was commanded that upon transferring the Presidio of San Miguel de Horcasitas to the area of Pitic, a settlement of Spaniards and Indians was to be built under its shelter to contain the Seris and withstand the assaults of the Tiburones and Tepocas, about which measure both governors were informed on March 25, 1780.

Military [Commandant] don Jacobo Ugarte y Loyola answered that being about to come to this capital, he would inform Your Lordship verbally about the matter on his arrival, as it appears he did. Afterwards, he proposed in a communiqué of July 18 that to avoid disorder it would be opportune to divide the land among the Spaniards and Indians, indicating to one the north bank and to the others what is south of the river. He added that some inhabitants had gathered for the formation of the town and there were many others who wanted to assemble and only awaited distribution of land to them to begin work and to plant their crops. For this, he requested that they remit to him the corresponding instructions. To start the settlement in the best possible manner, Your Excellency might dispose that the *ingeniero extraordinario* Manuel Agustín Mascaró go there for three or four months. On the 29th of the said July, he was informed that the instructions would be made and given to him as requested and that

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there were 3,000 pesos for the expenses the new settlement might incur. Your Lordship could not issue a larger amount on the Royal Treasury because of his orders to save as much [money] as possible, owing to the huge expenses the war was causing His Majesty. If this sum was not sufficient using all possible economy and omitting for now the less urgent expenditures, he should advise Your Lordship to exhaust all means to allocate the greater sum that was absolutely necessary for the execution of the project.

Finally, he was also told that the storing of lumber and materials completed, with news of prior preparations made, Your Lordship would arrange for the *ingeniero extraordinario* don Manuel Agustín Mascaró to come to lay out the settlement. In his official letters of August 6, September 1, and November 10, 1780, the governor insisted that he be given the instructions for the distribution of land, and that the engineer come to lay out the settlement and regulate the expenditures its establishment might cause. Your Lordship disposed on 18 September that having completed the inspection of the Church of Charay to which he was commissioned, the *ingeniero extraordinario* Manuel Agustín Mascaró is to go to Pitic on the orders of *Señor* Loyola to undertake the work of the new settlement.

On November 6 of the same year, he likewise ordered that of the 4,000 pesos designated for the building of the Presidio of Altár in possession of Paymaster don Andrés Cavallero, the 3,000 pesos that should be spent on the expenses of the new settlement be turned over to *Señor* Loyola, making sure that the paymaster of Pitic receives them, and that their distribution be according to the governor's orders, submitting the corresponding report in a timely manner.

The said assets placed at *Señor* Loyola's disposition, and being at his order, the *ingeniero extraordinario* don Manuel Agustín Mascaró immediately proceeded to survey the terrain. Having selected the plain lying to the north of the river as the most appropriate site for the new settlement, he outlined and developed a plan of the place and rules that should be followed in its foundation and establishment.

To better guarantee its subsistence, he planned to build a main irrigation ditch, so that extracting waters from the river in abundance they be conducted in such a way that the new town using what they might need for domestic uses, the remainder might beneficially be used to irrigate the lands on the plain. Those particulars not found clearly and distinctly in the file are detailed in the five plans I have in hand,

and which were turned over to Your Lordship in confidence by the engineer. They should be added so that there may be consistency in what follows.

Señor Loyola believed wisely and sensibly that the projected irrigation ditch was the work of greatest importance and urgency to carry out the new settlement and guarantee its progress. So they should undertake it first, because fertilized by irrigation, the lands on the plain, which according to report are good-sized, the desire to possess and enjoy them as owners would not only attract many settlers who go about seeking lands they lack, but also quickly provide them with the necessary subsistence for their families with almost certain short season crops, and at a low cost, which this advantage promises them. They would be indirectly obligated to settle, so that they would never think of losing it, of leaving such a useful and suitable domicile, and dedicate themselves to improving it. Through the natural desire all have to advance their fortune, they would visibly receive the progressive increase and prosperity as far as it can be extended. We must hope that in a short while they may be sufficient to contain the Seris, suppress the depredations of the Tiburones and Tepocas, to contribute with their production to the provisioning of the Real de la Cieneguilla and others that lack them, and to the punishment of the other enemy nations who impede their development and cultivation.

For which prudent considerations, and because without this help the progress of the new settlement would be very slow and the fund of 3,000 pesos too small to attain such a large objective, the governor immediately proceeded to employ it in construction on the ditch and of a small chapel to serve temporarily for the administration of sacraments and attendance at divine worship. Both works are almost finished, all that is lacking is the acequia outlet, which must be solidly built to avoid the damage that floods from the river would occasion, and the said engineer has gone to direct it. According to the account the governor presented, the said sum has been invested, plus 225 pesos and two *reales*, and a surplus of nine *granos*, which he supplemented from his own assets. On January 12 of the next year Your Lordship commanded that he be reimbursed, reserving to himself the determination of the division from which this large expenditure should come.

With the only funds designated for the founding of the new town already exhausted, it remains only to dictate the rules or instructions that should be observed in distributing lands and building

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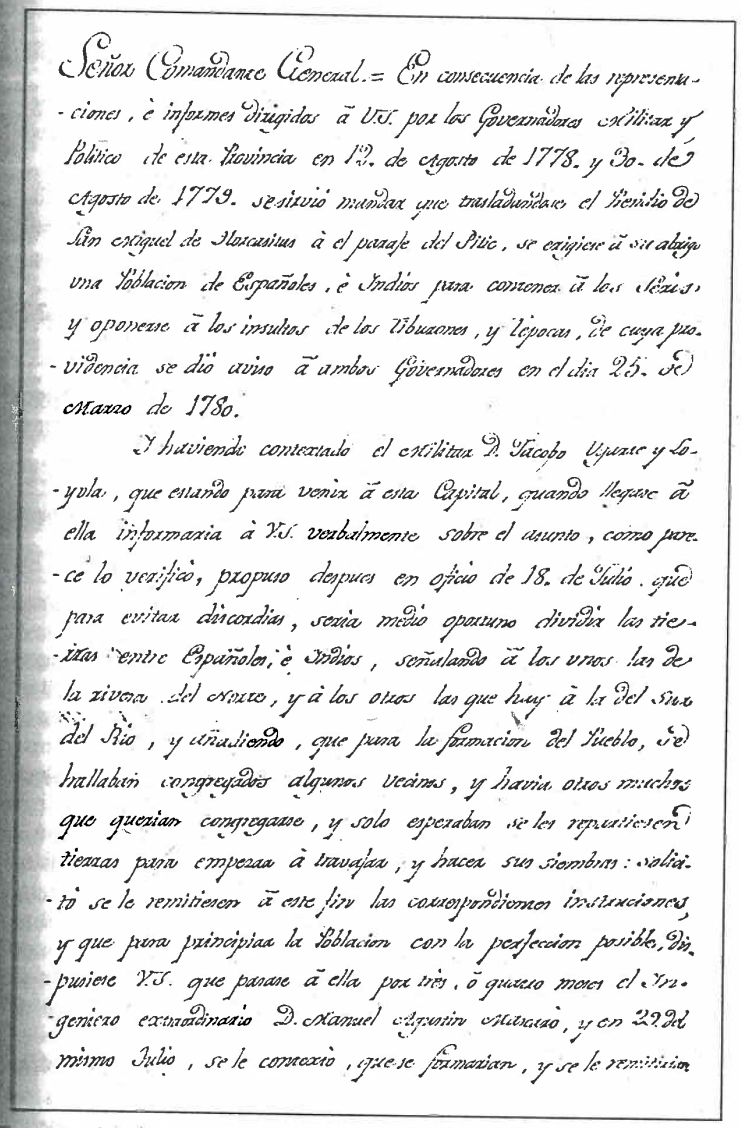
lots to the inhabitants. Also, the most appropriate and adaptable economic means must be prescribed, so that each person may carry out the tilling and cultivation of the tract granted him in ownership and the building of the house or structures for his dwelling and the other private and special uses of each owner. All must contribute as their skills permit to the other works of common and public use, the defense of their lives and property, and the punishment of the enemies who would disturb their calm, happiness, and progress.

Doubtless these [services] would be prompter and more certain if there were a means for the colonists to be advanced the aid that the clearing of the woodlands, tilling, and cultivation of the new lands indispensably demand. It not being possible, [however,] for the government to facilitate them under the present circumstances because the immense expenses of the war have obligated their reduction. There remains only the recourse of diligently urging the merchants and men of means there may be in the province to make them the said advances without interest, or with the most moderate that the citizens of the new settlement can support, which will be repaid with the fruits of their industry and labor. Although these means cannot be expected to produce the whole desired effect, it is necessary nevertheless to adopt them, for there is no other more effective [way] under the present setup.

The difficulty of pacifying the Seris—who are found congregated on the south bank of the river, enjoying the same lands they presently possess, even though it is uncertain whether [the lands] have been divided into parcels, they would move to establish a single pueblo on the opposite bank with the Spaniards and others who wish to settle in the one planned—makes it necessary to leave them in their actual place, forming a district or village from the new community which will keep a continual watch over their always suspect and unpredictable conduct, and repeated transgressions that they have committed. In order not to give them reason to renew them, it will be advisable that, reserving to them the best lands closest to their domicile considered sufficient for the number of families assembled, they be distributed to them in allotments if that has not already been done. That way, each knowing he owns those assigned to him, all may dedicate themselves to their cultivation with the assurance that their improvements and fruits will belong to them.



Señor Comandante General.= En consecuencia de las representa-
-ciones, è informes dirigidos á V.S. por los Governadores militar y
Politico de esta Provincia en 13. de Agosto de 1778. y 30. de
Agosto de 1779. se sirvió mandar que trasladandose el Presidio de
San Miguel de Horcasitas á el parage del Pitic, se erigiese á su abrigo
una Poblacion de Españoles, è Indios para contener á los Seris,
y oponerse á los insultos de los Tibuanos, y Lipocas, de cuya pro-
-videncia se dió aviso á ambos Governadores en el dia 25. de
Marzo de 1780.

Y haviendo contestado el militar D. Jacobo Ugarte y Lo-
-yola, que estando para venir á esta Capital, quando llegase á
ella informaria á V.S. verbalmente sobre el asunto, como pare-
-ce lo verificó, propuso despues en oficio de 18. de Julio, que
para evitar discordias, seria medio oportuno dividir las tie-
-rras entre Españoles, è Indios, señalando á los unos las de
la ribera del norte, y á los otros las que hay á la del sur
del Rio, y añadiendo, que para la formacion del Pueblo, se
hallaban congregados algunos vecinos, y havia otros muchos
que querian congregarse, y solo esperaban se les repartiesen
tierras para empezar á trabajar, y hacer sus siembras: solici-
-tó se le remitiesen á este fin las correspondientes instrucciones,
y que para principiar la Poblacion con la perfeccion posible, Dis-
-pusiese V.S. que pasase á ella por tres, ó quatro meses el In-
-geniero extraordinario D. Manuel Agustin Mascaró, y en 22 del
mismo Julio, se le contestó, que se formasen, y se le remitirian

First page of Galindo Navarro's letter to Teodoro de Croix, Arispe, December 22, 1782. Archivo General de Indias, Seville, Guadalajara 518.

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Under the idea that they must subsist on their crops, stock raising, industries, and personal labors, without ceasing for now the rations they are receiving, they shall continue to be provided for at the expense of the Royal Treasury for a very limited time in my opinion, and till the governor, according to the circumstances, considers it appropriate to free it of this duty. For, although the annual expenditure it causes is not much, it is of the greatest seriousness because of the bad example it produces among the adjoining nations, these may see only the fact of the contribution without examining or understanding, due to their lack of enlightenment and knowledge, the just and pious ends to which this concession is directed. They may see it as weak and as a lack of forces to subdue the pride of the nation that enjoys it, as a tribute to the fear their hostilities inspire in us, and the price with which we buy [the] promise that has never been kept to abstain from committing them, that from the beginning may be seen the fatal consequences that could result.

The most immediate [of these], documented by experience, is the difficulty of establishing tributes among the neighboring [tribes] who can support them, and who have refused to admit them voluntarily, as was proposed to them. They allege poverty, lack of crops and of means to support them. Moreover, it is not unlike their kind, vulgar and common, who mutter and complain in their gatherings and meetings that the Seris, to whom as miserable and harmful enemies rations are given, and who live without working, are better treated and have better luck than the others, who for their faithfulness, peacefulness, and application they try to tax with the burden of tribute.

For that reason the imposition and establishment of this royal decree demands the greatest and most prudent precautions. In my opinion, it is very important to extinguish beforehand the cause of the said inequality, to dispel in this way the erroneous notion formed about it by those who do not understand that it is a pure result of our sovereign's piety and of his love of humanity. Without this, it would have been easy to exterminate or relegate to a distant island the small number of Seris, who were considerably diminished by the last expedition their depredations caused, and [which] obliged them to surrender.

Since they have not yet introduced or established industry or useful arts in this province, the inhabitants' subsistence depends on agriculture, cattle raising, mining, and placers from which they benefit.

Neither of the latter have been discovered on the tract assigned for the new settlement or in its vicinity. So it is essential to do business on the supposition that the fortune and advancement of the colonists must necessarily be founded on agriculture and livestock. For this reason they should be assigned the allotments and pastures that are considered sufficient for their maintenance and that of their families. But at the same time they must also provide the means to increase them so that their greater number provides a sufficient force to resist, contain, and punish the assaults of enemies from within and without.

One hopes to attain this advantage by the procreation and multiplication of the founding settlers or by the addition of others who ask to join, attracted by the fertility of the soil and by the advancements achieved by those who have dedicated themselves with care and application to their cultivation. With these considerations it also becomes necessary to reserve some useful land, which as surplus may be granted and distributed to them so they may settle, for without it, they would search elsewhere, [and] whose expediency may likewise lead to agricultural progress. Limiting the allotments of the first grant to those necessary for the subsistence of each colonist's family and offering to increase them based on the industry and application with which they apply themselves to their improvement and cultivation, and of the number of children and useful hands they can employ on them, it seems likely that the desire or greed to acquire ownership of larger tracts and possessions might stimulate them to develop and extend insofar as possible the cultivation of the first that were distributed to them. That far from considering the multiplication of their children and families a burden, they might seek it as a sure means of increasing their patrimony. Especially, when they are sure of not leaving them exposed to beggary, because on the surplus lands they would find their subsistence guaranteed with the allotments they would be given when they came of age, and separate from their parents [they] will be in a position to cultivate them for themselves.

These considerations make it clear that because of the diversity of weather and circumstances all the rules prescribed in the laws of the kingdom for similar establishments cannot be adapted to the new settlement. This is especially so regarding the distribution of houses, building lots, land, *caballerías, peonías*, and Indian *encomiendas* that law 1, title 12, book 5 [book 4] of the *Recopilación [de Indias]*

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disposes.[1] This was revoked regarding *encomiendas*, which have all been incorporated into the crown. [Furthermore,] the building lots and land included in each *peonía* and *caballería* embrace so much area that with a few of each being distributed and granted, all useful land would be occupied.

Its cultivation monopolized by the first holders, industry and application would lack the stimulus and encouragement of acquiring larger possessions. The hope would therefore cease that the number of colonists would increase in time to what is needed to repel and punish the enemies, which is the primary object of the new development. So, without departing from the legal dispositions so far as they be adaptable, it is necessary to dictate the other precautions and measures that according to circumstances may be conducive to its success. And under this rule of action I am going to propose those I consider most appropriate and opportune.[2]

[Editor's Note: Navarro herein includes a copy of the Plan of Pitic.[3]]

[1] Law 1, book 4, title 12 defines a *peonía* as a building lot fifty Castilian feet wide and a hundred long, a hundred *fanegas* cultivable land for wheat or barley, ten for corn, two *huebras* for an orchard, forty to plant other dry land trees, pasturage for ten swine, twenty cows, twenty mares, five hundred sheep, and a hundred goats. A *caballería* is a building lot a hundred feet wide and two hundred long. In all else it equals five *peonias*.

[2] Galindo Navarro was *Asesor,* a lawyer appointed to assist the lay judge with his advice in the conduct of legal proceedings.

[3] For a transcript of and comments on the AGN Californias, tomo 9 version of the Plan of Pitic, see Joseph P. Sánchez, ed. and trans., "El Plan de Pitic de 1798 y las nuevas poblaciones proyectadas in las Provincias Internas de la Nueva España," *Colonial Latin American Historical Review* 2 (1993):449-67. A comparison of the Archivo General de la Nación, Mexico (AGN), Sección Californias, tomo 9 copy of the Plan of Pitic and Archivo General de Indias, Guadalajara (AGI) 518 copy in Seville shows that the main body of the text in both documents contains only minor differences in verb tense, orthography, and spelling. The AGI copy, however, continues after the Mexican text, which ends with number 24, as translated below. More important is an introductory paragraph added to the Mexican copy only. This paragraph reads: "Instruction approved by His Majesty that was drawn up for the establishment of the New Villa of Pitic in the Province of Sonora, commanded to be adapted to the other projected new settlements and those that may be established in the district of this Comandancia General." The copy of the Plan of Pitic in the Archivo General de las Indias, Guadalajara 518 does not contain the above paragraph, and there is no reference to the king's promulgation or approval of the plan. Pitic was modern

These are the general rules, adapted where feasible to the dispositions of the laws of the Kingdom, that I believe should be communicated to the commissioner to observe in establishing the new settlement of Pitic.[4] They are also applicable to any others that one may attempt to found. But even though it becomes immediately clear that some less important and specific provisions will be indispensable to all, it is impossible to dictate those that may be suited to each new establishment without having practical knowledge of the terrain on which it will be established, the quality and circumstances of its settlers, and without making various other combinations which time and experience are successively revealing.

For all, it seems to me Your Lordship could, if you wished, approve and command that those that I propose herein be remitted to the commissioner who shall be appointed for his observance and execution. Or you could, notwithstanding, resolve what might be to your liking.

Arispe, December 22, 1782. Galindo Navarro.

Arispe, January 20, 1783. Pass on a copy of the preceding opinion and instruction and the plans cited to Intendant Governor don Pedro Corbalan so that he, or someone he appoints to his satisfaction, may dispose the fulfillment of the articles it contains, and [which] may be adaptable to the present condition of the new Settlement of Pitic, which is declared from now on to be a villa called San Pedro de la Conquista del Pitic, cautioning that he should advise me if he feels one of the *ingenieros extraordinarios* at this capital should go there so that I may arrange it.

Hermosillo.

[4] There is some debate about the plan's publication date. The AGN Californias copy and the Dwinelle English translation are dated November 14, 1789. Dwinelle and several other writers in English state that it was promulgated for all New Spain on that date. I have not, however, found a single instance where a Spanish or Mexican writer so states. The New Mexico copy, dated January 20, 1800, is probably the plan referred to in the Spanish Archives of New Mexico, series 1, number 1171, order for the establishment of Socorro and other towns along the main highway from El Paso to Santa Fe, which in the end they did not execute. It states: "All shall be executed in the form prescribed by the Instruction H. M. approved—a copy of which I remit to Your Excellency—the Advisor of this superior Government having issued it for the construction of a new settlement in the Province of Sonora."

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Regarding the construction of the church, which said minister's report of last December 4 addresses, and which is attached to this report, and for whose construction the sum of 5,100 pesos was granted by royal order of April 10, 1777, having built a temporary [chapel] that can fulfill the needs under the present circumstances, it is not so urgent as the [more] important development of the said settlement. Likewise, the ditch outlet and its canal are built and ready to irrigate its extensive and fertile lands with abundant water. On these useful works, and in the temporary chapel, except for 113 pesos, four reales in reserve, the sum of 4,000 pesos has been spent that should have been designated for the construction of a presidio for the company that was transferred from San Miguel de Horcasitas to Pitic. That of the said church shall be suspended for now. Advise the intendant governor that with the 5,100 pesos destined for this object, issuing it on the proceeds from the income from the fee from the mescal, he must dispose [instead] the construction of the essential dwelling places for the officials of the said presidial company, and that of a room to hold the provisions of their residence, seeking the greatest economy of these works. He shall be mindful that if the company is transferred, they may serve for the inhabitants who wish to buy them or for other public purposes of the said villa. The remainder of the said sum, separating that which may be considered [necessary], shall be invested in helping the poorest settlers with the most necessary assistance, so that they may begin cultivation of the lands distributed to them, keeping account of everything carefully. This must be presented in this Superior Government, imposing the obligation, if they consider it proper, that each contribute annually a moderate sum that the intendant himself shall regulate. This shall be deposited for the construction of the church, and they must contribute their personal work when the construction is begun. All that the said intendant governor disposes about the help and grants that are conceded to the new settlers of the Villa del Pitic must be published beforehand by edict, so that it comes to the attention of all in order that they may wish to reside in it. ==De Croix

Attached for Your Lordship is a copy of the advisor of the general commandancy's last December 22 opinion, which includes the instructions giving the rules for the establishment of the settlement of Pitic and the land distribution that must be made to the settlers. So that by my decree of the 20th of this month, a copy of which follows the said opinion, Your Lordship, or a person to your satisfaction and

confidence, may dispose the discharge of the articles that make up the instruction cited and may be adaptable to the present circumstances of the new settlement. And if for this purpose Your Lordship feels that one of the *ingenieros extraordinarios* in this capital should go [there], let me know so I may provide for it.

In the above-mentioned [document], my decree will advise Your Lordship [of] my decision to use the 5,100 pesos designated for building the Pitic church for the important preferential purposes that are explained in my disposition, whose exact and prompt execution in all its parts I trust to Your Lordship's well known zeal, conceding to you the authority that according to the circumstances and knowledge you may acquire, you may adopt yours, choosing the best means of greatest opportunity for the success of the important goals to which they are directed.

I enclose for Your Lordship the five plans Engineer Manuel Mascaró developed so that you may have them at hand, and they may serve to govern your dispositions, advising you also that I am sending the corresponding order to the commandant of the Presidio of Pitic, advising him also to have at Your Lordship's disposal the remainder of the 4,000 pesos employed in the construction of the ditch, its outlet, and in the temporary chapel, and that he make available to Your Lordship or to your commissioners the aid they request of him and that they need for the perfect conclusion of the projected works.

May God keep Your Lordship many years. Arispe January 24, 1783. El Caballero de Croix. Don Pedro Corbalan [Rubric]. They are copies of the originals, to which I certify. Arispe February 24, 1783. Christoval Corvalan. [Rubric]

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