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1<sup>ST</sup> PRIZE  
(OPEN)  
\$ 200.00

Seaport to Annexation - and Beyond:  
Alviso and San Jose, 1820's - 1980's

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## INTRODUCTION

Alviso, a town that bordered San Francisco Bay, was annexed by San Jose in 1968 after Alvisan voters approved the proposal. A long struggle had preceded this vote. San Jose wanted Alviso partly to gain a deep water seaport, and Alvisans who favored annexation believed that this was the only solution to their city's problems. However, the idea of a deep water port for San Jose preceded this annexation struggle by many decades, so this goal was not original. In addition, annexation did not end the story because court litigation began that same year and lasted until 1974. Also, Alvisan resentment of San Jose began not too long after the consolidation of the two cities, and has never ended. The annexation story and its aftermath witnessed many colorful incidents, thus making it one of the liveliest parts of San Francisco Bay Area history.

## SEAPORT AND FIRST LAND BOOM IN ALVISO

The history of the seaport in Alviso and the idea of a deep water port for San Jose originated in the nineteenth century. The value of a Port of San Jose was recognized as early as 1820 when native Californians (Indians) transported hides to San Francisco by boat. During the 1820's, Alviso was the leading seaport of Upper California, and was a bigger port than San Francisco. Its landing place, the Embarcadero de Santa Clara, was about a half mile up the Guadalupe River. It did a thriving business in Spanish and Mexican days with American, Russian, and other vessels. In the mid-nineteenth century, it continued to be a major sea-

port, growing in importance as San Jose's seaport and shipping center, and attaining maximum importance during the gold rush. The Embarcadero was a jumping off place for gold seekers coming from Monterey and southern California, who chose the water route to the Mother Lode rather than overland past Mission San Jose and east across John Livermore's ranch. Quicksilver from New Almaden was among the products shipped from the port.<sup>1</sup>

Also, during the mid-nineteenth century, Alviso's first land boom began. In 1849, it was thought that Alviso was destined to become a great city, and it was laid out that year. Agreements were made that year to lay out and sell lands, and auction others. One of the agreements allowed Jacob D. Hoppe and Charles Marvin to lay out and sell lots on land owned by Guadalupe Berryessa, and lots unsold as of August 1, 1851, would be auctioned, with the Berryessas equally sharing the proceeds with the others. A similar agreement was made between Hoppe and Marvin, and John Martin and his wife. Marvin's rights and responsibilities in the original agreements with both the Berryessas and the Martins were later acquired by Peter H. Burnett shortly after he was elected Governor of California. The group hoped for a business center and a canal that would be dredged to San Jose. Hoppe and Marvin were to lay out the lots and have maps of the area made, but government surveyor Chester S. Lyman completed the survey of the Embarcadero de Santa Clara. Lyman's survey became known as the town of Alviso.<sup>2</sup>

Before and after the Lyman survey, from the 1840's until the San Francisco-San Jose Railroad was completed in 1864, Alviso was very active. Hoppe and Burnett bought more bayside land along the Guadalupe River's north side in January, 1850, and they and two others bought and sold land

from each other later that year. Also, homes and hotels were built in Alviso, and a plaza was set apart. Furthermore, warehouses were built there in 1849 and 1850, and the first store was built in 1850.<sup>3</sup>

Also, during the Alviso land boom, Alviso became the hub for San Francisco Bay transportation. Prior to the coming of the railroads, Alviso was San Jose's main link to San Francisco. Sailing sloops had frequently arrived since the 1820's. Then, in the summer of 1847, the Russian-built steamboat, the Sitka, was brought to the San Francisco Bay. She had previously been brought from Alaska to the Russian trading post at Fort Ross. Consigned to and launched by one of the early merchants, William Alexander Leidesdorff, the Sitka was California's first steamboat, and was also the first steamboat to visit the Embarcadero, doing so on November 16, 1847. The Sitka sank in the bay in early 1848, and was raised and spent her last days traveling the Sacramento River with gold-seekers as the schooner Rainbow. This vessel thus also introduced steam navigation to California's inland waterways. Later, the Sacramento became the first regular Alviso-San Francisco steam packet, beginning service in December, 1849, while its ads in the Alta California were nearly daily beginning in January, 1850.<sup>4</sup>

Subsequently, a new and shorter route began to be used by vessels that visited Alviso. The first vessel to use it was the sloop Salodina, which arrived in 1851. By the time that the steamboat Boston came shortly thereafter, this new route was called Steamboat Slough. It was soon regularly used by the Jenny Lind. The Jenny Lind, the Firefly, and the New Star carried both freight and passengers on the San Francisco Bay. Jenny Lind freight rates were a very high eight dollars per ton, but two million board feet of lumber were shipped through Alviso in 1851.<sup>5</sup>

Of the vessels that participated in Alviso's days as the hub for bay transportation, tragedy struck the Jenny Lind. This was one of the most disastrous accidents that had ever occurred on California's coast. In April, 1853, en route from Alviso to San Francisco after a pleasure excursion to San Jose, this steamer's boiler exploded. The explosion occurred a few miles off the western shore of Las Pulgas (the fleas) Rancho, now the site of San Carlos. About 150 people, including several women and children, were on board. There were forty dead and about twenty wounded. Every death was caused by steam alone, nearly all of which poured into the cabin. Several of the dead were prominent San Joseans, and among the seriously burned was Hoppe, who died several days later of his wounds in San Francisco.<sup>6</sup>

One of the other effects of the Jenny Lind disaster was that it helped doom the town of Ravenswood, even though the town was not laid out until 1854. This was the first town in modern San Mateo County, and was a bayside real estate promotion. It was visualized as a shipping point for redwood lumber from the sawmills in the hills to the west of the village, and was the main bay port between San Francisco and Alviso during the 1850's. Ravenswood Avenue in Menlo Park was so named because it led to the Ravenswood area, and was aided by a trail that cut across the field to Bay Road and the landing. Isaiah C. Woods bought 2,000 acres of the Las Pulgas grant and joined Daniel Hale Haskell in the operation of Adams & Co. This company was California's pioneer express company and began in 1849, thus preceding Wells Fargo by three years. It added banking to its express interests in the early 1850's. Woods became the bank's president. Woods and the bank were the chief promoters of Ravenswood, and reportedly financed the Jenny Lind. This vessel was the only

side-wheeler that went to Ravenswood with passengers and freight.<sup>7</sup>

Though the Jenny Lind explosion helped doom Ravenswood, the final cause of the town's collapse was the failure of Adams & Co.'s bank in the financial crisis of 1855. Prior to official announcement of the bank's closing, Woods took the bank's gold. However, Maurice Dooley, a stage-coach owner who had \$80,000 in gold on deposit with the bank, forced Woods to return his share of the gold. Later, in 1856, Ravenswood vanished without a trace, but left its name on what is now called East Palo Alto. There were two subsequent efforts to revive Ravenswood as a town, but these also collapsed.<sup>8</sup>

#### ALVISO'S DECLINE AND THE RAILROADS

Later, the Alviso land boom collapsed and the deep water port of Alviso declined, due to such factors as the state capital being moved from San Jose, and the coming of the railroads. The entry of the railroads during the 1860's doomed the Alviso passenger boat lines, of which there were four sail companies and one steam company by 1861. Also, though the coming of the railroads harmed Alviso shipping, Alviso's busy port days continued for several years after their initial entry.<sup>9</sup> Bob Gross also says that the coming of the railroads was one of the causes of the collapse of the land boom, but that it did not cause the port to decline. He claims that the decline of the port was really caused by Alvisan leaders working against the railroads.<sup>10</sup>

The railroad factor spanned several years. Though Alviso was made a port of entry by Congress in 1862,<sup>11</sup> the completion of the short line San Francisco-San Jose Railroad to San Jose on January 16, 1864, seriously crippled the town's function as a port by bypassing the town. Charles

McLaughlin and Alexander H. Houston had been awarded the contract to build and fully equip this railroad on October 24, 1860. Ironically, McLaughlin was the stagecoach king south of San Francisco, and this railroad eventually put his stage line out of business. The railroad was soon incorporated into the Southern Pacific system.<sup>12</sup>

On December 13, 1862, before the San Francisco-San Jose Railroad was completed, the Western Pacific Railroad was incorporated. This railroad is unrelated to the present one of the same name. H. M. Newhall of San Jose, Peter Donahue, Timothy Dame, Alexander Houston, and other San Francisco-San Jose Railroad officers organized the railroad to be built from San Jose to Sacramento to connect with the Central Pacific Railroad. On October 31, 1864, the Central Pacific conveyed to the Western Pacific all rights to build such a railroad, which would bring the transcontinental railroad into San Francisco through a connection with the San Francisco-San Jose Railroad at San Jose. The planned route extended from San Jose through Niles Canyon, Altamont Pass, and Stockton to a Central Pacific connection at Brighton, near Sacramento. The Central Pacific later leased the Western Pacific in 1867. Subsequently, on September 6, 1869, the first Western Pacific train arrived in San Jose. The Central Pacific operated the Western Pacific from May 15, 1869, until it was consolidated with the San Francisco Bay Railroad on November 2 of that year. This corporation was then absorbed by the Central Pacific on June 23, 1870.<sup>13</sup>

The final blow concerning Alviso's prosperity was the coming of the South Pacific Coast Railroad, which built the Alviso Steam Railroad. The South Pacific Coast Railroad was incorporated by James G. Fair and A. E. Davis in California in March, 1876, to build a three-foot gauge common carrier railroad from Dumbarton Point to Santa Cruz, via Alviso, Santa

Clara, and Felton. The summit tunnel was holed through on April 11, 1880, and this railroad was opened on May 15 of that year when the first through passenger service between Alameda and Santa Cruz was begun. This new, narrow-gauge, competitive bridge route completed or was part of the shortest, fastest route between San Francisco and Santa Cruz. The railroad was a feeder to the scow landings at Alviso and Dumbarton, channeling practically all of the Santa Clara Valley's cattle, wine, and bulk grains into low-cost water portage to San Francisco.<sup>14</sup>

Part of the building of the South Pacific Coast Railroad involved the construction of the narrow-gauge Alviso Steam Railroad. Alviso had declined after the San Francisco-San Jose Railroad was completed, but the subsequent growth of agriculture in the greater region caused a temporary increase in shipping there. The South Pacific Coast Railroad responded in 1876-1878 by building this line to link Alviso to its main line in San Jose. Also, faster boat service was inaugurated for fruit shipments. However, it was far more practical for goods to be transported to the main railroad lines and thence to San Francisco or Sacramento by rail because these boats were small and had to be unloaded and the goods reshipped from San Francisco.<sup>15</sup>

Upon its opening, which followed the completion of the Alviso Steam Railroad, the South Pacific Coast Railroad began to compete with the Southern Pacific Railroad, but the Southern Pacific won in 1887. That year, the Southern Pacific obtained a 55-year lease of the South Pacific Coast's property through its subsidiary, the Pacific Land Investment Company. A new corporation, the South Pacific Coast Railway, consolidated all South Pacific Coast properties into one corporation. Thus, in one transaction, the Southern Pacific abolished all of its competition with-

in Santa Clara, Santa Cruz, and Alameda counties.<sup>16</sup>

#### NEW CHICAGO

After the port of Alviso declined, several years passed before efforts were made to revive it as a deep water port of San Jose. In 1890-1891, the New Chicago development came and failed. The dreams of Hoppe and the others in the first land boom had thus not been forgotten. P. H. Wheeler, a former superintendent of the Otay Watch Company near San Diego, thought of the plan, and was searching for a new site for the company in the fall of 1889. The company expired that year. Wheeler chose Alviso as the new site, believing that it was destined to be a great port and settlement, and that it was ripe for speculation and promotion. His associates in this venture were Mayor Paul Austin of San Jose, a real estate broker; A. C. Darby and J. C. Roberts, two other real estate brokers; John W. Rea, a local political boss and a member of the powerful California Railway Commission; John Richards, a local attorney; and George A. Penniman, another local investor and a wealthy fruit grower in the Santa Clara Valley. Penniman became the secretary of the corporation that was formed by this group.<sup>17</sup>

The plan was for a town named New Chicago at the port of Alviso, or to pattern the new town as much as possible after Chicago. One of the endeavors in this regard was the naming of the streets and avenues after those of Chicago. Industrial growth, such as heavy iron, was also part of the plan. Though the new city was to be industrially diversified, it was to also have a port and be centered on port-related functions. Chicago and Alviso were each at the end of a great body of water bordered by a vast agricultural hinterland.<sup>18</sup>

The actual port development plan entailed a broad-gauge railroad from San Jose to Alviso to replace the existing narrow-gauge Alviso Steam Railroad, as well as the costly task of straightening and dredging Steamboat Slough. The argument for the new railroad was that coal and other bulky items could be delivered in San Francisco from Alviso by rail cheaper than at San Francisco wharves. The work on Steamboat Slough, the water route from Alviso to San Francisco Bay, was to be done by the River, Harbor, Canal Dredging and Land Company, with which Wheeler was associated. The company proposed raising capital by selling shares in the company, then making a written guarantee to do the work and cover any additional costs. An effort to show the feasibility of the dredging plan was made to eliminate skepticism and hasten stock sales. The chief spokesman in this effort was the company's resident authority on dredging and supervisor of the proposed project, General Albert Boschke.<sup>19</sup>

Much effort was put into this venture. New Chicago lots were first sold in the spring of 1890, and shares in the company were sold. However, skepticism arose again due to little beyond promises to show that the proposed developments would occur, and sales of lots abruptly ended as a result. Minor improvements, such as a bridge over Steamboat Slough, did not reduce the skepticism. In 1891, Wheeler tried to renew interest in the venture by finishing plans to bring his defunct watch factory to Alviso. The Wheeler group planned to sell stock in the San Jose Watch Company, which was the new name of the Otay Watch Company, then attract employees and allied businesses to the area, and subsequently sell the appreciated land at a large profit. By September, 1891, the watch company, which was the most important structure of New Chicago, was com-

pleted, and the machinery was firmly set in place after being released from its southern California location. It was released after Frank Kimball, an investor in the Otay Watch Company, made a deal with the project's backers.<sup>20</sup>

Despite the efforts, the undertaking failed economically. The available money was spent on the construction of the new watch factory building. This meant that, after the building was completed, there were insufficient funds for the salaries and necessary production materials. After only a few watches were made, Kimball, who still had a lien against the machinery, pulled out of the deal. The factory thus closed. Promised general improvements for the project still failed to appear, and this caused land sales to slacken. Also, dredging for Steamboat Slough, which was necessary for the development of the revived port, never began. Boschke and his associates vanished. Wheeler was sued, but he declared bankruptcy and left the community. In 1893, the watchmaking equipment was sold to a Japanese firm, which continued making watches stamped "San Jose Watch Company" under Wheeler's superintendency. Finally, in 1929, San Jose bought the rest of the lots of the New Chicago development as part of the outfall for the city's sewer system.<sup>21</sup>

#### THE 1912 ANNEXATION

By 1912, long after the New Chicago project had collapsed, much interest had been revived in the deep water port goal. The Port San Jose Committee worked for such a goal. This committee was chaired by William G. Alexander, and comprised the San Jose Chamber of Commerce, the Merchants' Association, the Real Estate Dealers' Association, the Wholesale Grocers' Association, and the Retail Grocers' Association. The plan,

which was to have San Jose annex the land from its northern limits to the mouth of the Guadalupe River in anticipation of the construction of such a port, originated at a Chamber of Commerce meeting in June of that year. The secretary, Joseph T. Brooks, informed the managing board of the Interstate Commerce Commission's decision in the Santa Rosa case. This decision endangered San Jose's terminal rate because it forced the railroads to either allow Santa Rosa a terminal rate or take it from San Jose. The chamber's managing board feared that the rate would be taken from San Jose, and thus decided to work with the other organizations of the Port San Jose Committee to continue the terminal rate to San Jose. San Jose believed that a harbor at the Guadalupe River's mouth would solve the terminal rate question as well as provide a much cheaper means than the railroads for transporting goods to and from the Santa Clara Valley.<sup>22</sup>

The project's advocates were fortunate because of an action by Congressman E. A. Hayes of California. Earlier that year, Hayes had caused to be inserted in an appropriation bill a measure for the survey of a waterway for nearly a mile from the mouth of the Guadalupe to deep water. By the time that the strip of land was actually annexed late that year, the preliminary survey had been made, and covered a waterway 300 feet wide, 4,150 feet long, and 18 feet deep at low tide, running out from the river's mouth. San Jose proposed building, to this point, a fine road and possibly a rail line to transport goods to and from ships when they arrived at the deep water port.<sup>23</sup>

Several steps were taken in bringing about the annexation. Late that year, James P. Sex and other San Joseans submitted a petition to the San Jose city council that called for such proceedings. None of the

land was part of any incorporated town or city. The city council then unanimously decided to ask the Santa Clara County board of supervisors to hold a hearing for any objections to the proposal. A hearing was then held, but no objections were expressed, and the board consented to the annexation. Afterwards, W. F. James on behalf of the petitioners presented to the San Jose city council a certified copy of the supervisors' resolution approving the proposal. Subsequently, the city council unanimously decided to call a special election on the matter. At the election, on November 27, 1912, San Joseans voted 4,225-76 to gain political jurisdiction over the strip of land. Then, on December 2, the annexation became official when William Alexander acted as the official messenger to file with the California secretary of state the certificate of annexation. San Jose had previously been an interior town that had few shipping facilities, but this annexation converted it into a tidewater city with such facilities that could satisfy most of the demanding shippers.<sup>24</sup>

San Jose clearly had its neighbors in mind as far as the port project was concerned. During the annexation election campaign of 1912, San Jose protested against Sunnyvale's plan for getting to the water that would have effectively thwarted San Jose's port plans. However, the annexation would not have interfered with other cities' plans to get to deep water. In fact, the campaign managers repeatedly declared that San Jose would aid communities that wanted to get to the same harbor. It was proposed to build municipal wharves and docks for San Jose, yet allow ample room for other cities to do likewise. Also, after the election and after the annexation certificate was filed, William Alexander called for federal and state aid as well as the co-operation of San Jose and its neighbors. Alexander also stated that the project would benefit all of Santa Clara County.<sup>25</sup>

### THE FEDERAL GOVERNMENT AND THE ALVISO PORT PROJECT

Several years after the 1912 annexation, the federal government approved the project, but eventually deauthorized it. The Department of War's Board of Engineers for Rivers and Harbors recommended it in 1932, and amended the recommendation in 1933. The recommendation included a channel from near Dumbarton Point to the mouth of the Guadalupe River, with a turning basin at its southerly end; as well as a channel across San Bruno Shoal. Congress approved the recommendation by passing the Rivers and Harbors Improvement Act of 1935, and authorized funding with the War Department and Army Appropriations Act for Fiscal Year 1937. However, though the San Bruno Shoal channel was built while the other channel was not constructed, funding was never actually appropriated for either part of the project.<sup>26</sup>

Then, in 1975, Congress deauthorized the project. The Water Resources Development Act of 1974, in part, required the Secretary of the Army, acting through the Chief of Engineers, to annually submit to both houses of Congress a list of recommendations concerning certain water projects. Of the projects for improving rivers and harbors and other waterways for navigation and other purposes that had been authorized for at least eight years but not actually funded during that period of time, the Army Secretary had to list those that he recommended for deauthorization. This act also said that a project on the list would automatically be deauthorized unless the House Public Works Committee or the Senate Public Works Committee adopted a resolution to continue the authorization within 180 calendar days of continuous session of Congress after the list was submitted. The Alviso port project was on the list that Army Secretary Howard H. Callaway submitted on June 16, 1975, and this

list was referred to the House Public Works and Transportation Committee on June 19. No state or federal officials objected to the recommendation to deauthorize the Alviso project. The project was automatically deauthorized because no resolution was adopted. Only the unfinished part of the project was affected.<sup>27</sup>

#### THE INFEASIBILITY OF A DEEP WATER PORT AT ALVISO

Several reasons have been given why a deep water port at Alviso is infeasible. For example, a report prepared for the San Francisco Bay Conservation and Development Commission<sup>28</sup> was released in 1968, and called the development of such a port in the San Jose-Alviso area a long-range possibility at best. One of its reasons was that there were expansion possibilities at existing ports. Another reason included the advantages of large concentrated port complexes that resulted from containerization and large ships. The other reason included the subsidence problems in the extreme South Bay. However, the report did recommend a barge terminal in the area.<sup>29</sup>

Specific arguments against a deep water port at Alviso were also pointed out by former Mayor Ron James of San Jose, now the president and chief executive officer of the Greater San Jose Chamber of Commerce. Much of the land is occupied by the Leslie Salt Company and the San Francisco Bay National Wildlife Refuge. Also, that part of the bay is too shallow because of too much silt. Finally, constant dredging would be required to remove the silt, and this would be economically infeasible because not enough income could be derived from such a port.<sup>30</sup>

ANNEXATION STRUGGLES (1958-1968)

Long before Congress deauthorized the Alviso port project, San Jose began to try to annex the entire town. One of its reasons was the old goal of gaining a deep water port. This annexation desire was evident for several years, and came to a head in the late 1950's over an Alviso city reorganization measure and the first consolidation effort. Alviso voters rejected the reorganization measure on May 4, 1959, but approved it on May 2, 1960. The proposal called for Alviso to change from being a special charter city to being a general law city. The change would enable the town to increase its maximum tax base to \$1 on each \$100 valuation in order to finance public works projects without having to win voter approval. As a special charter city, Alviso's maximum tax rate was twenty-five cents on each \$100 valuation. Some of the measure's opponents reportedly favored the merger of Alviso and San Jose. Ben Stone, a leader of the consolidation forces, said that the measure was placed before the voters to cloud the consolidation issue. Stone was a real estate broker who owned property in Alviso, but was not an Alviso resident.<sup>31</sup>

The first effort to merge or consolidate Alviso and San Jose began long before the Alviso city reorganization election of 1959. This and subsequent efforts of the consolidationists, including three special elections, were regulated by California's Municipal Consolidation Act of 1913.<sup>32</sup> In September, 1958, some Alvisans petitioned the San Jose city council for permission to circulate a consolidation petition in Alviso to force its city council to call a consolidation election. The San Jose city council adopted a resolution to refer the request to the city attorney and the Research Department, but nothing came of this. Later, in

early 1959, another petition with a similar goal was submitted by Alvisans to the city council. The city council acknowledged receipt of the second petition and approved the petitioners' intentions on March 2, 1959, with a resolution. However, this petition drive failed to get enough signatures.<sup>33</sup>

The pro-consolidation Alvisans did not quit, and submitted several more petitions to the San Jose city council over a period of several years. The city council again approved the intentions of the petitioners with several resolutions. The efforts of the consolidationists resulted in special elections on February 21, 1961; April 10, 1962; and January 9, 1968. The Alvisans rejected the consolidation proposal in the first two elections, but approved it in the third.<sup>34</sup>

The Alvisans and San Joseans who favored consolidation had different reasons for their goals. The Alvisans said that their town could not afford all of the public improvements, facilities, and services that Alviso needed for property development and the welfare of its people. Some of these were flood control and street improvements. The Alvisans also noted that San Jose was financially and otherwise better able than Alviso to provide these services. They further claimed that San Jose would benefit from the development of Alviso, and from the elimination of Alviso's substandard conditions.<sup>35</sup>

In contrast to Alviso's reasons, San Jose city officials had a broad vision when it came to the annexation of Alviso. One of these officials was A. P. "Dutch" Hamann, who was more responsible than anyone else for San Jose's unrestrained growth of the 1960's. Hamann, who was the San Jose city manager from March 27, 1950, until November 30, 1969, saw Alviso as the Sausalito of the South San Francisco Bay or as another San Diego

Harbor. He envisioned a mainly residential area, with some industry at the southern end and a great marina-recreational-port development along the bay front. Hamann said that development of Alviso would be very difficult, but that it could become a tremendous asset if it was done right.<sup>36</sup>

The idea of a boat harbor at Alviso was also part of Hamann's vision, though it was not unique. Hamann said that the Port of Alviso could become a fine small boat facility.<sup>37</sup> Santa Clara County Supervisor Sam P. Della Maggiore expressed interest in such a harbor in 1961, but hoped that it would be a county harbor.<sup>38</sup> In 1963, San Jose resident Jean M. French also expressed interest in an Alviso boat harbor for the county. She noted that the county was losing much revenue because many boat owners were going to the Sacramento Delta area. Also, French predicted that several boat owners would be going to Santa Cruz when it completed a small craft harbor.<sup>39</sup> In fact, Alviso's boat owners still dream of using their boats,<sup>40</sup> and the Alviso marina is owned by Santa Clara County.

The struggles over consolidation were colorful and interesting. For example, both consolidation supporter Tony P. Santos and consolidation opponent Garland Oliver<sup>41</sup> expressed dissatisfaction with the 1961 election. Santos said that bonds for proposed improvements would never be approved by the voters, and that no one would buy them if they were approved. In contrast, Oliver, who opposed consolidation mainly because he distrusted San Jose, blamed the election for delaying planned municipal improvements in Alviso. After the election, a pro-consolidationist said that his side would be ready to try again if Alviso councilmen broke their promises. Another effort was made, and Santos said that this

campaign was more likely than the previous one to succeed because people were alienated by such empty promises.<sup>42</sup> This second effort failed in the 1962 election.

A few years passed before the third consolidation effort was attempted. The campaign of 1967-1968 was different than the others because a corporation was founded to support consolidation and signed a legally binding contract with the City of San Jose. The idea of such a corporation and such a contract arose as early as May, 1967, when Evan C. Zanker suggested these things. The non-profit Alviso Improvement Corporation (AIC) was founded the following August, with William D. Zanker as its president and Evan Zanker as a director. The major landowners who formed this corporation believed that consolidation was the last and only hope for Alviso's redevelopment. However, some believed that their real goal was to increase their property values, then sell out to San Jose.<sup>43</sup>

The corporation and San Jose signed their contract on November 1, 1967. The San Jose city council had authorized the execution of such a contract with a resolution the previous October 20. The two sides thus made certain commitments that were effective if consolidation occurred before June 30, 1968. Evan Zanker said that the corporation would remain as a legal entity until the contract was fulfilled, and would hold San Jose accountable for promises regardless of changes in that city's municipal administration. The contract was thus established to provide a basis for litigation if San Jose broke its promises.<sup>44</sup>

The contract incorporated most of the offers made in two San Jose city council resolutions, which were adopted in 1959 and 1967. Rather than binding commitments, the offers in the resolutions were intentions of the city council if consolidation occurred. However, these offers

were binding commitments in the contract. In the contract, the Alviso Improvement Corporation agreed to turn over to San Jose certain Alviso lands for public street purposes while San Jose promised a wide variety of municipal services for Alviso. San Jose's promises included such things as fire and police protection, library services, storm drain improvements, street improvements, and service to the Alviso municipal water system. San Jose also promised to take over this water system and not allow the rates to be higher than those paid by customers of San Jose's Municipal Evergreen Water System. Furthermore, San Jose promised, within legal bounds, not to raise these rates as long as the Alviso system remained in its current state.<sup>45</sup>

The consolidation campaign of 1967-1968 was virtually uncontested until a few days before the election, and the consolidation proposal was then approved in a relatively short period. The proponents pointed out the benefits that the contract guaranteed for Alviso, and said that they would be delivered at no cost to the Alvisans. They also argued that consolidation would assure better financing for future business development and growth, and that this would provide more jobs and better opportunities in Alviso. In contrast, the opponents argued that Alvisans would have a better chance of having their problems solved if they did not consolidate. Their reasoning was that they would have more difficulty being heard by San Jose's city council due to San Jose's greater population. The Alvisan voters narrowly approved the consolidation proposal on January 9, 1968. Later that month, the Alviso and San Jose city councils unanimously approved such consolidation with a resolution and an ordinance, respectively. Then, on March 12, the consolidation became official when San Jose's consolidation ordinance was filed with California Secretary of State Frank M. Jordan.<sup>46</sup>

AFTERMATH OF CONSOLIDATION:

THE COURT STRUGGLE

Before the consolidation of San Jose and Alviso became official, the 1968 special election was challenged in court. This legal struggle would last until 1974. In Canales et al. v. City of Alviso et al., Jesus Canales, Everardo C. Resendez, and Arthur M. Baros sued the cities of Alviso and San Jose. The plaintiffs went through the California court system twice, then were finally stopped by the U.S. Supreme Court's refusal to review the case. Judges Stanley R. Evans and John E. Longinotti of Superior Court in Santa Clara County upheld the election's legality in the trial of 1968. Evans presided over a vote recount while Longinotti presided over the other issues in the case. The plaintiffs appealed the Evans-Longinotti decision, but were rebuffed by Associate Justice Norman Elkington of the Court of Appeal's First Appellate District (San Francisco) on November 26, 1969. However, they scored a victory when Justice Raymond E. Peters of the Supreme Court overturned the Evans-Longinotti decision on September 17, 1970. Peters specifically recommended a new trial to determine the legality of each vote, and to retry the other issues in the case.<sup>47</sup>

The plaintiffs began their second struggle through the state court system with this new trial. Judge Marshall S. Hall of Superior Court in Santa Clara County presided over this trial, and upheld the election in November, 1971. The plaintiffs appealed the Hall decision, but Judge P. J. Taylor of the Court of Appeal's First Appellate District rebuffed them on August 21, 1973. Later, they lost their last effort in the state court system when the Supreme Court denied their petition for a review

of Judge Hall's decision on October 18, 1973.<sup>48</sup>

After their state court options were exhausted, the plaintiffs petitioned the U.S. Supreme Court to issue a writ of certiorari to the California Court of Appeal's First Appellate District. This was a request for a review of the second Canales case. The Supreme Court denied the petition in April, 1974. One of the main avenues or writs by which cases reach the Supreme Court on appeal is by certiorari, or a writ granted by the Court as a matter of discretion. The Court thus issues such a writ if it believes that an important federal question is involved in a case. By issuing such a writ, the Court notifies the lower or state court that it has granted review of its decision, but that it would not necessarily hear oral argument. If the Court had granted the plaintiffs' request, the Court of Appeal's First Appellate District would have been ordered to submit its records of the case for review.<sup>49</sup>

The charges in this litigation fall into two categories. One involved precinct election board malconduct, and illegal and fraudulent voting. The other category involved inducements to Alviso's voters made by San Jose city officials. The prosecution charged that several people had voted illegally, and that deduction of these votes from the legal vote total for consolidation would have reduced that total below that of the opposition. However, the courts ruled that some of these voters had voted legally, and that a majority of legal votes was cast for consolidation. Although they disagreed on who the illegal voters were and on the numbers, they ruled that some had voted for consolidation and others had voted against it, but that it was unknown how the others had voted.<sup>50</sup>

One of the more interesting aspects of the issue of illegal votes was the prosecution's claim that the election resulted in a tie vote, and

that such a vote annulled the election. Part of the Evans-Longinotti decision said that eleven of the accused voters were actually guilty. According to these judges, one of them voted for consolidation and another voted against it, while there was no evidence how the other nine voted. The election resulted in a 189-180 vote, and the prosecution argued that a tie vote would result if these nine were deducted from the vote total in favor of consolidation. The prosecution argued that all nine voted for consolidation, with some of its evidence being their signatures on the consolidation petition. Justice Peters decided that this was substantial evidence that the nine voters had voted for consolidation.<sup>51</sup>

The prosecution claimed that a tie vote should annul a consolidation election. It cited section 7½b of Article XI of California's constitution as well as California Elections Code sections 20024 and 20089. The constitutional provision required a majority vote for consolidation. Elections Code section 20024 said that, if illegal votes had been given to a winning candidate, the election could not be annulled unless the deduction of those votes reduced that candidate's legal vote total below that of the opponent. Section 20089 required that most of the sections of the code that applied to challenges to candidate elections, such as section 20024, had to be applied as much as possible to vote recounts in ballot measure elections.<sup>52</sup>

The prosecution had a weak tie vote argument. It said that applying Elections Code section 20024 to the vote recount in the consolidation election according to the terms of section 20089 would cause the pro-consolidation vote to fall below the constitutionally-required majority. San Jose pointed out that section 20024 referred to the winning candidate's vote total falling below that of the opponent, not tying it,

meaning that this section was irrelevant to a tie vote.<sup>53</sup>

Related to the charges of illegal votes were the charges of precinct election board malconduct and fraudulent voting. According to the plaintiffs, one of the board's wrongdoings was accepting illegal votes with the knowledge that these people did not legally reside in Alviso. The prosecution claimed that many of these voters told the board that they had not lived there within 54 days of the election, and that board judge Gertrude Read knew that the others had not lived there for many years. In fact, section 1 of Article 2 of California's constitution made a 54 day residency requirement for voting in a precinct. Based upon the California Elections Code, the prosecution also complained about the acceptance of these votes because the voters were on challenge lists and were allowed to vote without taking oaths of residence. Section 14252 of this code required lists of voters who were challenged. Each list needed such things as names and addresses, and the grounds of each challenge. Section 14244.5 required an oath of residence of people who were challenged for non-residence.<sup>54</sup>

Testimony in court by precinct election board inspector Verne M. Sutcliffe and board judge Gertrude Read raise questions about the accuracy of the prosecution's argument on fraudulent voting and the board's malconduct. Sutcliffe did receive two challenge lists, one of which was unsigned. She only recalled seeing the unsigned list, and said that the voters were on it. She also said that she did not require them to take the oaths. However, she and Read did not entirely agree on whether they were legal residents of Alviso. Also, Sutcliffe's testimony revealed that she complied with Elections Code section 14240, which regulated challenge procedures. Sutcliffe noted that she could not challenge

anyone on the unsigned challenge list or require an oath because of a lack of accompanying evidence that constituted probable cause to justify a challenge. She also discussed a dispute with some of the voters over whether or not they were legal Alviso residents and thus entitled to vote. She noted that she then called the office of the Santa Clara County Registrar of Voters, and was told to allow them to vote as long as they were on the register.<sup>55</sup>

In addition to the voting and precinct board charges, the Canales plaintiffs also charged that attempts to induce Alvisans to vote for consolidation were directly or indirectly made by San Jose. These alleged inducements involved various municipal services and improvements, job offers, and San Jose's dangerous building ordinance.<sup>56</sup> Elections Code sections 12003, 12004, 12005, and 29130 all prohibited such inducements to affect elections.<sup>57</sup> The municipal services and improvements were promised in the San Jose-Alviso Improvement Corporation contract. The prosecution claimed that these showed that San Jose would not serve all of its citizens equally. However, San Jose and Alviso said that San Jose only promised to carry out her municipal duties if consolidation occurred.<sup>58</sup>

The job inducement charge was that San Jose offered jobs to Alviso's volunteer firemen and regular city employees in order to persuade them to vote for consolidation. The prosecution claimed that City Manager A. P. "Dutch" Hamann; Hamann's administrative assistant, Harry Hoenes; and San Jose Fire Chief Ron Le Beau made the offers before the election. One of the prosecution's more interesting points about the job offers was that Alviso Fire Chief Robert H. Perkins testified that the fire department offer was conditioned on not being opposed to consolidation. Per-

kins claimed that Hoenes said this, but Hoenes denied saying or doing anything of the kind. Hamann admitted offering jobs, but said that he was trying to explain the San Jose-Alviso Improvement Corporation contract and section 1106 of San Jose's city charter. Hamann's explanation was partly confirmed when Perkins said that Hamann explained the charter section to him.<sup>59</sup>

The charter had been adopted in 1965, and this section specified the treatment of regular or full-time employees of cities that were consolidated with San Jose. In reference to such employees, the original section just said "officers and employees." This section did not specifically say "full-time officers and employees" until it was amended in 1969, the year after the court struggle began. The section said that those whose jobs had equivalents in San Jose's classified service would be placed on eligible lists for those jobs and would be qualified for appointment to them. Thus, no civil service exam would be required.<sup>60</sup>

The prosecution accused San Jose of violating this section by saying that the firemen would not have to take civil service exams. It said that the charter did not waive such exams for volunteer firemen, and that this section gave priority on the San Jose eligibility lists to employees of a consolidated city. San Jose Personnel Director Donald S. Macrae clarified this point by noting that the charter gave priority to those on the transfer eligibility list over those on the open list. The prosecution said that the firemen were not Alviso employees, but Perkins' and Judge Hall's statements indicated otherwise. Perkins said that some of them were on a list for insurance purposes. Judge Hall, who presided over the second Canales trial, said that this and the fact that they were employees in a public service made them Alviso employees.<sup>61</sup>

The other inducement charge concerned San Jose's dangerous building ordinance, which had been adopted in 1965. The prosecution said that the San Jose city council had urged City Manager Hamann not to enforce the ordinance after consolidation where it would cause undue hardship. As evidence, the prosecution cited the part of a 1967 city council resolution that called for such caution, and noted that it was incorporated in the San Jose-Alviso Improvement Corporation contract. The prosecution also said that this would be a five-year moratorium. However, the plaintiffs' arguments about the ordinance were faulty. The resolution also noted that buildings only became illegal when they were a nuisance or a health hazard. This part was included in the contract as well. The prosecution also blundered with their moratorium charge. The 1967 resolution and the contract offered cautious enforcement, but never specified a number of years. The only time that San Jose specified a five-year period was in a 1959 city council resolution that said that Alvisans would have about five years to adjust to San Jose building codes. This 1959 resolution comprised the city council's intentions if consolidation occurred, rather than binding commitments.<sup>62</sup>

#### AFTERMATH OF CONSOLIDATION:

##### CONGRESSMAN GUBSER'S ACCUSATION

Before the Canales struggle was over, the prosecution was struck by a congressman's accusation, and San Jose was challenged by much discontent from Alvisans. Prior to the Evans-Longinotti decision, Congressman Charles S. Gubser of California requested Economic Opportunity Director R. Sargent Shriver to investigate the misappropriation of Economic Opportunity funds. The Economic Opportunity Act of 1964 had launched Presi-

dent Lyndon B. Johnson's "War on Poverty" by creating such things as the Office of Economic Opportunity (OEO) in the Executive Office of the President. Among the amendments to this act was the establishment of a legal assistance program under the OEO director's authority.<sup>63</sup> Only part of Gubser's claim affected the Canales plaintiffs, the charge being that they had used attorneys Harold A. Galloway and Stephen V. Manley from the Legal Aid Society of Santa Clara County. This public law agency for low-income people, which changed its name to Community Legal Services then returned to its original name, was funded with OEO monies until about 1971.<sup>64</sup> Though nothing came of this part of Gubser's charge, the incident did publicize a local application of a major federal program.

#### AFTERMATH OF CONSOLIDATION:

##### ALVISAN DISCONTENT WITH SAN JOSE

Unlike the Gubser accusation, the Alvisan discontent with San Jose was much more important and has never ended. Over the years, the Alvisans have accused San Jose of breaking promises that it made in its contract with the Alviso Improvement Corporation. This resentment has manifested itself in such things as an uproar over street and storm drain improvements, and disannexation efforts. The street and storm drain uproar centered on the accusation that San Jose violated its promise of such improvements. San Jose had agreed to spend a minimum of \$300,000 worth of these improvements in residential and downtown Alviso within three years after consolidation. No maximum figure was given in the contract.<sup>65</sup>

Bob Gross, a major advocate of development in Alviso with a business but not a home there, argues that the \$300,000 figure is artificial, or that one cannot justify reducing or eliminating street expenditures.

For example, he notes the contract's inclusion of a minimum but no maximum figure, as well as the fact that the street improvements never have been completed. He further argues that San Jose has not spent money wisely on Alviso streets, as when it filled chuckholes with improperly prepared asphalt.<sup>66</sup>

The Alvisan displeasure with the broken street and storm drain promise was demonstrated by such things as the establishment of toll bridges and the filing of a lawsuit. In late March and early April, 1973, Alvisans charged non-Alvisan motorists for entering Alviso in an effort to raise money for street improvements.<sup>67</sup> City Manager Francis J. (Ted) Tedesco<sup>68</sup> called this project innovative, but he never carried out his promise to drive through and pay the toll.<sup>69</sup> Bob Gross notes that the people who were involved in this project were not residents of Alviso during the consolidation campaign, and that they are not there now.<sup>70</sup>

Also, in late March, Alvisans Paula L. Hernandez and Ofelia C. Tapia filed a class action suit against the City of San Jose and its councilmembers. The plaintiffs accused San Jose of failing to uphold its responsibility for maintaining and repairing streets and storm drainage in their neighborhood. They said that, as a result, a nuisance within the meaning of California Civil Code section 3479 now existed. This section partly defined a nuisance as something that was harmful to health or an obstruction to the free use of property, and which led to the interference with the enjoyment of life or use of such things as streets. The plaintiffs claimed that the nuisances included unpaved streets that were marked by "moon-like craters," as well as inadequate storm drainage that could not prevent flood damage.<sup>71</sup>

This case was dismissed by Santa Clara County Superior Court Judge

Bruce F. Allen in April, 1978, because it had not been brought to trial within five years of being filed. Clause b of section 583 of the Code of Civil Procedure called for the dismissal of a case under such a condition, except when the parties had filed a written stipulation that the time may be extended. However, no such stipulation was filed.<sup>72</sup>

The disannexation efforts that stemmed from Alvisans' discontent were made in 1973 and 1979. Santa Clara County's Local Agency Formation Commission (LAFCO)<sup>73</sup> was petitioned in June, 1973, by the Alviso Ad Hoc Committee for approval to circulate a petition to disannex the former city of Alviso from San Jose. The Alvisans wanted to reincorporate their city. LAFCO subsequently granted two requests of the committee to delay consideration of the matter. However, it refused to let it go beyond the September meeting.<sup>74</sup>

The procedure to disannex part of a city required several steps. At the September meeting, Deputy County Counsel Robert Owens, the counsel to LAFCO, explained that the California Government Code required State Lands Commission approval prior to LAFCO action whenever tidelands were involved in disannexation. Alviso had thousands of acres of tidelands. Following LAFCO approval, a petition to force the city council to call an election on the matter was required. Such a petition required a majority of voters at the last municipal election. In the disannexation election, a majority of voters in the disannexation area as well as a majority of those in the rest of the city were needed for approval of the proposal.<sup>75</sup> Such an election could not have been called in San Jose until the consolidation lawsuit was settled in 1973, when the California Supreme Court refused to review Judge Hall's decision of November, 1971.<sup>76</sup>

The committee withdrew its petition to LAFCO at the September meet-

ing. However, the background to this involves City Manager Tedesco's cost benefit report on Alviso as well as the San Jose city council's endorsement of the petition. In late July, the committee staged a sit-in at City Hall, and made two demands that it wanted met prior to the hearing on the consolidation election before Judge Taylor in August. It requested that the cost benefit ratio study be released, and that the city council decide for or against conceding the consolidation lawsuit. In March of that year, the city council had authorized Tedesco's office to prepare such a study as well as a report on the procedure for disannexing Alviso. Also, during that meeting, the city council rejected by a tie vote a motion to concede the consolidation lawsuit.<sup>77</sup>

Shortly before the court hearing, the city council responded to the ad hoc committee's demands. It released the cost benefit study. However, instead of conceding the consolidation lawsuit, the city council endorsed the petition to LAFCO. The study was done by Tedesco's "Alviso Task Force," and examined programs and timing for providing the necessary immediate improvements that Alviso needed. Part of the report suggested that Alviso be converted into an industrial area and that its residents be assisted in relocating. Alvisans marched on City Hall that fall to protest the report and demonstrate that they had lost faith in San Jose's promises.<sup>78</sup>

However, the report did not make the first or last suggestion of relocating Alvisans. Santa Clara County Supervisor Sam P. Della Maggiore made such a suggestion in the summer of 1961, and also said that Alviso should be rebuilt from scratch.<sup>79</sup> Later, in late 1983, San Jose Mercury-News columnist Steve Lopez also suggested relocation.<sup>80</sup> San Jose resident Bryan Neff favorably responded to Lopez's idea, and suggested for-

getting that Alviso ever existed.<sup>81</sup> However, San Josean Warren Doleshel rejected Neff's remark. First, he said that Alviso was a remnant of a very historically rich area. Secondly, he noted that a sense of community still thrived there. Finally, he declared that nature, tranquility, and people could still successfully co-exist in Alviso, while the Santa Clara Valley no longer had such traits.<sup>82</sup>

The city council's endorsement of the ad hoc committee's petition to LAFCO followed the release of Tedesco's cost benefit ratio study. However, the city council said that the endorsement was only good if San Jose won the consolidation lawsuit, and that the San Jose-Santa Clara Water Pollution Control Plant land was to be excluded from any disannexation. The committee was upset by San Jose's decision to keep the water pollution control plant land because it wanted all of Alviso to be disannexed. Then, at LAFCO's September meeting, the committee requested that the matter be removed from the LAFCO agenda because it first wanted to negotiate with San Jose the boundaries of the disannexation area. LAFCO granted the request.<sup>83</sup>

Nothing came of this first disannexation effort, and several years passed before another effort was made. The second effort was made in 1979<sup>84</sup> when the Alviso Improvement Corporation (AIC) filed a petition to force the city council to place the disannexation issue on the ballot at the next possible citywide election. The original boundaries of Alviso, with no liabilities for Alvisans, were requested for such a disannexation. AIC president Bob Gross said that the real motive behind the petition was to call attention to Alviso's complaints since consolidation, and get results from the city council.<sup>85</sup> The city council denied the request.

### CONCLUSIONS

The disenchantment with San Jose still persists in Alviso, and the bad jokes about the former town add to it. However, the Alviso story demonstrates how unjust the jokes are. This is a story of persistence. Alviso started out as a major deep water port, and enjoyed many years as the center of western American shipping. Then, however, this role was shattered, but efforts were made by San Jose to revitalize the town's greatness, and these dreams have never ended. In the 1950's, San Jose added the goal of annexing the town to its attempts to restore its notability. Thus, the persistence of restoring Alviso that had begun six decades earlier was now combined with an annexation desire. The complexities of life that face real people every day now rapidly accelerated in both Alviso and San Jose. The annexation and court struggles led to such things as the disappearance of a town in California, and a new interpretation of California Elections Code section 20089. During the Canales litigation, Supreme Court Justice Peters ruled that the section's "recount of votes cast" phrase was not limited to the mechanical process of counting ballots, but also required consideration of the question of the legality of a vote that was cast by a non-resident.<sup>86</sup>

The Alvisan resentment of San Jose still persists in the complaints about flood control and street repairs not being completed, as San Jose had promised. These matters continue to challenge the San Jose city council in its budget and other policy deliberations. Along with the challenges, the dream of restoring Alviso that began in the 1890's is still carried on by such people as Bob Gross. The deep water port idea has been abandoned, but efforts to revive the marina and establish a recreational area are very much alive. This dream is nearly a century old, but persistence may yet pay, since the efforts have never been abandoned.<sup>87</sup>

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28. California's McAteer-Petris Act of 1965 created this commission and authorized its termination in 1969. The state legislature made changes in the act in 1969, one of which was the re-establishment of the commission.

California, McAteer-Petris Act, Statutes (1965) 2: 2940-2947;  
Statutes (1969) 1: 1395-1408.

29. Clifford W. Graves, Associate Planner, Ports; Maritime Commerce in the San Francisco Bay Area, prepared for the San Francisco Bay Conservation and Development Commission, January, 1968, p. 151. A copy is in the San Francisco Room of the San Francisco Public Library.

30. Interview. Ronald R. (Ron) James. November 18, 1985. James was Mayor in 1966-1971, thus serving when the consolidation of Alviso and San Jose became official, and when the lawsuit over the 1968 consolidation election began.

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San Jose City Council Minutes, July 5, 1966, p. 1.

"Ron James Mayor For Year; Mrs. Shaffer Loses Again," San Jose Mercury, 6 July 1966, p. 13.

"Mineta Succeeds James As San Jose's Mayor," San Jose Mercury, 1 July 1971, p. 10.

31. "Alviso Spurns Reorganization," San Jose Reporter, 6 May 1959, p. 1.  
" 'Ghost' City Fights San Jose," San Francisco News-Call Bulletin, 12 March 1960, p. 3.  
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32. California, Municipal Consolidation Act of 1913, Statutes (1949): 136-141.

33. Charles Goodman, staff writer, "Will Alviso Merger Set Area Pattern?," San Jose Mercury-News, 28 September 1958, p. 22.  
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34. Notices of Intention, presented to the San Jose city council on October 31, 1960; July 25, 1966; and May 29, 1967. File No. 02057: City of Alviso Consolidation. File No. 6859: City of Alviso - Consolidation - third petition, 1966. File No. 7350: Consolidation City of Alviso, 1967-1971. San Jose City Clerk's Office.  
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 "Alviso Says 'No' Again," San Jose Mercury, 11 April 1962, p. 61.  
 "9 Votes Wed Alviso To S.J.," San Jose Mercury, 10 January 1968, p. 1.  
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35. Notices of Intention, presented to the San Jose city council on March 2, 1959; October 31, 1960; July 25, 1966; and May 29, 1967.  
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36. Nancy Spiller, "Bay Area Journal/Slough Death In San Jose," New West, February 13, 1978, p. NC-23.  
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"Hamann Has Some Big Plans For Little Alviso," San Jose Mercury, 12 January 1968, p. 21.  
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37. "Annex Alviso? What's Behind Plan?" San Jose Reporter, 16 March 1959, p. 1.
38. Santa Clara County Board of Supervisors. Minutes, July 31, 1961. Minute Book 33, p. 184.
39. Jean M. French, "Let's Bring Alviso Back," letter to the editor, San Jose Mercury, 25 February 1963, p. 14.
40. J. H. Evans, "The Dreamers of Alviso," Sea & Pacific Skipper, November, 1983, pp. 25-27.

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"New S.J.-Alviso Merger In Wind," San Jose Mercury, 24 August  
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42. "Alviso Is Still Alviso; No Merger," San Jose Mercury, 22 February  
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44. "9 Votes Wed Alviso To S.J.," San Jose Mercury, 10 January 1968, p. 1.  
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45. Contract between City of San Jose and Alviso Improvement Corporation, November 1, 1967. File No. 7350: Consolidation City of Alviso, 1967-1971. San Jose City Clerk's Office.  
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Continuing Appropriations, Statutes at Large 80, p. 233 (1966).  
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64. "Alvisans Hit Back At Gubser," San Jose Mercury, 29 February 1968, p. 1A.  
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65. Contract between City of San Jose and Alviso Improvement Corporation, November 1, 1967. File No. 7350: Consolidation City of Alviso, 1967-1971, San Jose City Clerk's Office.
66. Interview. Robert W. Gross. December 10, 1985.

67. "Irate Alviso Set To Take Its Toll," San Jose Mercury, 24 March 1973, p. 25.  
"Alviso Gate Golden - Ask Toll Shakers," San Jose Mercury-News, 25 March 1973, p. 1.  
"San Jose Sued By Alviso," San Jose Mercury, 31 March 1973, p. 32.  
"Alviso Patches Its Own Streets," San Jose Mercury-News, 1 April 1973, p. 69.
68. Tedesco served from February 15, 1973, until he was forced out of office in 1978. His resignation was accepted by the city council on August 15, 1978, and was made effective on November 15. Tedesco was put on administrative leave beginning August 16.  
  
Francis J. (Ted) Tedesco, Oath or Affirmation of Office and Allegiance, City Manager, February 15, 1973. City Manager Oath of Office File. San Jose City Clerk's Office.  
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"Council '4' Oust Tedesco," San Jose Mercury, 16 August 1978, p. 1A.
69. "Irate Alviso Set To Take Its Toll," San Jose Mercury, 24 March 1973, p. 25.  
"Alviso Gate Golden - Ask Toll Shakers," San Jose Mercury-News, 25 March 1973, p. 1.
70. Interview. Robert W. Gross. December 10, 1985.
71. Notice of Motion and Motion To Dismiss Action For Lack of Prosecution (C.C.P. Section 583(b) ), signed by defense attorney H. R. Lloyd, Jr., dated March 30, 1978. Amended Complaint For Declaratory Relief, Permanent Injunction and Damages, signed by prosecution attorney James Rumble, dated July 30, 1973. Complaint For Declaratory Relief, Permanent Injunction and Damages, signed by prosecution attorney James Rumble, dated March 30, 1973. Declaration of Ofelia Tapia, executed on March 30, 1973. Declaration of Paula L. Hernandez, executed on March 30, 1973. Paula Hernandez and Ofelia C. Tapia, et al. v. City of San Jose, et al. (1973). Santa Clara County, California, Superior Court, Case No. 0288094. Santa Clara County Clerk's Office.  
California, Civil Code, sec. 3479.  
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72. California, Amendment of Section 583 of the Code of Civil Procedure, Statutes (1972) 1: 1883-1884; Code of Civil Procedure (1972), sec. 583.  
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73. The Knox-Nisbet Act of 1965 created such a commission in every county of the state. California, Knox-Nisbet Act, Statutes (1965) 2: 1916-1924.
74. Local Agency Formation Commission, Minute Book, July 5 and August 1, 1973. Volume 4, pp. 486-487; 497.  
"Not Enough Just To Leave S. J.," San Jose Mercury, 10 September 1973, p. 13.  
"Alviso Makes Formal Bid To 'Divorce' San Jose," San Jose Mercury, 7 June 1973, p. 93.  
"Alviso Secession Process Delayed," San Jose Mercury, 6 July 1973, p. 4.
75. Local Agency Formation Commission, Minute Book, September 5, 1973, Volume 4, p. 506.  
" 'Free Alviso' Movement Caught Up On A Legal Snag," San Jose Mercury, 6 September 1973, p. 4.  
California, amendment of Government Code section 35500.1, Statutes (1965) 3: 4770; Government Code (1965), sec. 35500.1.  
California, addition of Section 35501 to the Government Code, Statutes (1949), p. 127; Government Code (1949), sec. 35501.  
California, addition of Section 35505 to the Government Code, Statutes (1949), p. 128; Government Code (1949), sec. 35505.  
California, amendment of Government Code Section 35507, Statutes (1957), p. 1925; Government Code (1957), sec. 35507.
76. "Ruling Clears Way For Disannex Try," San Jose Mercury, 19 October 1973, p. 77.  
San Jose City Council Minutes. August 13, 1973, p. 14.
77. San Jose City Council Minutes. March 26, 1973, p. 11. July 30, 1973, p. 31.  
"Move Alvisans Out, S.J. Report Urges," San Jose Mercury, 11 August 1973, p. 4.  
"Alvisans Stage Protest In Council Chambers," San Jose Mercury, 31 July 1973, p. 17.  
"Alvisans End City Hall Sit-In," San Jose Mercury, 1 August 1973, p. 4.
78. Alviso; Background and Recommendations. A report presented to the San Jose city council by City Manager Ted Tedesco. Copies are at San Jose City Clerk's Office, File No. 9123; California Room of the San Jose Public Library; and Santa Clara Valley Water District library.  
"San Jose Council Decides To Sever Ties With Alviso," San Jose Mercury, 14 August 1973, p. 19.  
"Move Alvisans Out, S. J. Report Urges," San Jose Mercury, 11 August 1973, p. 4.  
Nancy Spiller, "Bay Area Journal/Slough Death In San Jose," New West, February 13, 1978, p. NC-24.
79. "Build A New Alviso - From Scratch, Says Supervisor," San Jose Mercury, 1 August 1961, p. 3.

80. Steve Lopez, "Let Alviso Wash Down the Drain," San Jose Mercury-News, 13 November 1983, pp. 1B; 2B.  
Steve Lopez, "Pride Won't Be Alviso's Salvation," San Jose Mercury-News, 27 November 1983, p. 2B.
81. Bryan Neff, untitled letter to the editor, San Jose Mercury-News, 19 November 1983, p. 9B.
82. Warren Doleshel, "Alviso Offers Sense Of Community," letter to the editor, San Jose Mercury-News, morning edition, 1 December 1983, p. 10B.
83. San Jose City Council Minutes. August 13, 1973, pp. 14-15.  
Local Agency Formation Commission, Minute Book, September 5, 1973. Volume 4, p. 506.  
"S. J. Faces Suit By Alvisans," San Jose Mercury, 18 August 1973, p. 1.  
"San Jose Council Decides To Sever Ties With Alviso," San Jose Mercury, 14 August 1973, p. 19.  
"S.J. OK's 'Free' Alviso," San Jose News, 14 August 1973, p. 1.  
"Not Enough Just To Leave S. J.," San Jose Mercury, 10 September 1973, p. 13.
84. By the time of this second disannexation effort, the state legislature had made changes in the Government Code. Sections 35000-35951, some of which were the disannexation rules, were repealed in 1977. These were replaced by the Municipal Organization Act of 1977, which comprises the current Government Code sections 35000-35500.  
  
California, repeal of Government Code sections 35000-35951, Statutes (1977) 2: 4693.  
California, Municipal Organization Act, Statutes (1977) 2: 4693-4738; Government Code (1977), sec. 35000-35500.
85. San Jose City Council Minutes. September 4, 1979, p. 11.  
"Leaving S. J. Seems Great Idea," San Jose Mercury-News, 16 September 1979, pp. 1B; 2B.  
"Frustrated Alvisans Campaign To Get Out Of San Jose," San Jose Mercury, 5 September 1979, p. 1B.
86. California, Elections Code, sec. 20089.
87. "Million-Dollar Dreams; Puddles In the Streets," San Jose Mercury, 22 November 1976, p. 19.  
"The Other Side of Alviso," San Jose Mercury-News, morning edition, 31 August 1985, pp. 1D; 2D.  
Interview. Robert W. Gross. December 10, 1985.  
Interview. Ron James, President and Chief Executive Officer. Jim Tucker, executive director of Economic Development Department. Greater San Jose Chamber of Commerce. November 18, 1985.

TO WHOM IT MAY CONCERN:

As you read this manuscript, I just would like to point out some matters that may seem confusing, but really do make sense. In the footnotes, they may be repetitious when it comes to citing court records, but there is a reason for the style that I used. Most of these records are unpublished, so I did the best that I could. I first identify the particular document, then I cite the name and year of the court case to which the document relates. Then, I name the court in which the case was heard, along with the case number. Then, I tell where the document can be found, such as Santa Clara County Clerk's Office; the records of the California Court of Appeal; and the records of the California Supreme Court. Many of the documents are compiled in the Clerk's Transcript. There were two trials, one in 1968 and one in 1971, so there are two Clerk's Transcripts. The names of each trial are the same (Canales et al. v. City of Alviso et al.). One Clerk's Transcript has records from the 1968 trial in Superior Court. The other Clerk's Transcript has copies of these same records as well as records from the 1971 trial in Superior Court. Both trials were held in Santa Clara County Superior Court. The pagination slightly varies, so one document in one Clerk's Transcript is not on the same page in the other Transcript. There were also two Reporter's Transcripts, one from each trial. It seems to me to be necessary to include all of this information in citing every document, despite the repetition, because it would be confusing if I merely named the document. The question would arise over which trial is involved, or which Clerk's Transcript or which Reporter's Transcript is involved, or which court is involved.

Another matter that may seem confusing is in Footnote 32, which cites the Municipal Consolidation Act of 1913. The citation notes that it was enacted in 1949, and the Statutes of that year shows that this is the correct title of the act. I checked the California Government Code, which reveals that this act is primarily derived from the Municipal Annexation Act of 1913, and I saw this act in the 1913 Statutes. So, in coming up with a name for this act in 1949, the legislature replaced "Annexation" with "Consolidation" but kept the year 1913 in the title.

Another point of clarification involves the discussion of the court struggle. I summarize this on pages 20-21. In this summary, and again on page 29, I note that the California Supreme Court refused to review Judge Hall's decision. I note that Judge Hall was the Superior Court judge who presided over the second Canales trial, so it might seem odd that the Supreme Court would review or refuse to review a trial court decision rather than an Appeal Court decision. Actually, the Supreme Court is an appellate court, and if it agrees to review a trial court decision, it sets aside the Appeal Court decision and makes its own decision. This is standard procedure.

Where I mention judges on pages 26, 29, and 30, it must be understood that all of these were involved in the Canales litigation. On pages 28-29, I do mention another case that was filed, but these judges had nothing to do with it. This other case was dismissed because it was never brought to trial. No other cases are discussed or involved in this Alviso story.

Also, I mention Bob Gross on page 5 and identify him in the corresponding Footnote 10. Later, I mention him on page 27 as an advocate of development in Alviso, but I don't repeat the identification of him in the corresponding Footnote 66 because I don't believe that it is necessary, even though I haven't mentioned him in the previous 22 pages.

My final point of clarification is that, where City of San Jose records are cited in the footnotes, I put down what I see on the files. Each file has a number, but not all of them are titled, and some of the titles are similar to each other, so they seem somewhat repetitious. However, the specific title must be cited, or it is more difficult to gain access to that particular document.

Well, that is all of the points that may seem confusing in reading this manuscript, but I believe that it was necessary to clarify them. The way I put together this work makes sense to me, so I just wanted to make sure that they didn't confuse you. Thank you for your consideration.

Sincerely,

*Kevin*

Mr. Kevin R. Fish

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