CASE NO.
276
NORTHERN DISTRICT

LAGUNA de PALOS COLORADOS GRANT
JOAQUIN MORAGA

CLAIMANT:

Land Case 276 ND

ALSO AVAILABLE ON MICROFILM

5-90

Duplicate

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TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 5-91.

Joaquin Moraga CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Laguna de Palos Colorados."

Office of the Board of Commissioners

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Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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Be it Remembered, that on this fifteenth day of February, Anno Domini One Thousand Eight Hundred and Fifty-three, before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following Proceedings were had, to wit;

The Petition of Joaquin Moraga, for the Place named "Laguna de Palos Colorados," was presented, and ordered to be filed and docketed with No. 590 and is as follows, to wit;

(Vide page 3 of this Transcript.)

Upon which Petition the following subsequent Proceedings were had in their chronological order, to wit;

San Francisco January 9th 1854.

In Case No. 590, Joaquin Moraga for the place named "Laguna de los Palos Colorados", the depositions of Antonio Maria Castro and Juan B. Alvarado, witnesses in behalf of the claimant, taken before Commissioner R. Aug. Thompson, were filed:

(Vide pages 5 & 6 of this Transcript.)

San Francisco, January 10th 1854.

In the same Case the counsel for the claimant filed the following Affidavit and Motion, to wit:

(Vide pages 35 & 36 of this Transcript.)

San Francisco January 11th 1854.

In the same Case the deposition of Antonio Maria Peralta, a witness in behalf of the claimant, taken before Commissioner R. Aug. Thompson, was filed:

(Vide page 7 of this Transcript.)

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San Francisco January 17th 1854.

In the same Case Commissioner Alpheus Felch delivered the opinion of the Board upon the Motion of the Counsel for the Claimant, heretofore filed, to wit, on the 10th inst, asking Leave to amend the petition of the Claimant, by inserting the names of the heirs of Juan Bernal, deceased, as claimant in this Case, sustaining the said Motion, and granting the Leave to amend.

San Francisco December 5th 1854.

Case No. 590, was ordered to be placed at the foot of the 3d Class Cases on the Trial Docket.

San Francisco December 18 1854.

In the same Case the deposition of José Noraya, a witness in behalf of the Claimant, taken before Commissioner Alpheus Felch, was filed;

(Vide page 11 of this Transcript)

San Francisco, December 19 1854.

Case No. 590 was submitted on briefs and taken under advisement by the Board.

In the same Case the deposition of Gregorio Briones, a witness in behalf of the Claimant, taken before Commissioner Peter Sott, was filed;

(Vide page 4 of this Transcript)

San Francisco Jan. 23d 1855.

In the same Case Commissioner R. Aug. Thompson delivered the opinion of the Board confirming the Claim;

(Vide page 37 of this Transcript)

and the following order was made, to wit;

(Vide page 38 of this Transcript)

3 Petition

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Before the Commission to Settle Private Land Claims in California

Joaquin Moraga a citizen of said State gives notice that he claims a tract of land situated in the present County of Contra Costa in said State known by the name of "Sequan or the "Palos Colorados" with the boundaries described in the grant thereof -

The claimant acquired an incipient right to said Land by occupation of the same and also making the proper application for the grant thereof as early as the year 1838; that in the year 1835 said application was referred by the Governor to the Territorial Deputation of California & said Deputation on the 18th October said year Authorized and gave its Consent to the grant petitioned for; and afterwards, to wit on the 10th of August 1841 Don Juan B Alvarado Governor of California accordingly granted said Land to this Claimant and Juan Bernal, and the Right of said Bernal therein has been since acquired by this Claimant Said Land has not been Surveyed by the Surveyor General of the United States:

There is no conflicting claim to said Land or any part thereof in the knowledge of the Claimant

The Original grant and a testimonial of said proceedings Consent and Authorization are herewith presented with translations of the same and prayed to be taken as a part of this petition and also a certified Copy of the Original Map or draws presented with his petition for said land

By his Attorneys
Jones, Crockett & Baker

Filed in Office Feby 15. 1853
Geo. Fisher Secy

Recorded in Vol 1 Of Petitions on pages 574. 575

Geo. Fisher
Secy

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S- Deposition of
J. B. Alvarado

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Case No. 595
Office of the Board of U S Land Commissioners
San Francisco Jan 9th 1854

On this day before Commissioner R A Thompson Came Juan B Alvarado a Witness in behalf of Claimant Joaquin Moraga No. 590 who after being duly Sworn, deposed as follows, his Evidence being interpreted by the Secretary

Present Claimants Atty and United States Agent Law Agent.

Witness States that his name is Juan B Alvarado, his age Forty four years and residence Contra Costa County California

Question by Claimants Atty. State if you held the Office of Governor of California under the Government of Mexico, and if so during what period

Answer. I was Governor and Political Chief of California under said Government from the year 1837 to the year 1842 c

Question by Same. Look at the document now shown you marked A and with the initials R T hereunto filed as Exhibit No 1. and State what you know of its Execution and the genuineness of the Signatures which appear thereon

Answer. I recognize said Document and the Signatures thereon as genuine; it was Executed by me and signed at the time it bears date and was delivered to the interested parties about the same time. I am well acquainted with the Signatures of Manuel Micheltorena and Manuel Jimeno - I have often seen them write - Their Signatures On said Document are genuine

Juan B Alvarado

Sworn and Subscribed
Before me Jan 9. 1854
R. Aug Thompson Comr

Filed in Office Jan 9. 1854
Geo. Fisher Secy

Recorded in Ev. B Vol 3 p 625
Geo. Fisher Secy

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Deposition of
A M Castro

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Case No. 590

Office of the Board of U S Land Commissioners &c

San Francisco Jan 9. 1854

On this day before Commissioner R Hecq Thompson Came Antonio Maria Castro a witness in behalf of Claimant Joaquin Maraqo No 590 who after being duly Sworn deposed as follows his Evidence being interpreted by the Secretary

Present Claimants Atty. And the U. S. Solicitor Law Agent

Witness States his name to be Antonio Maria Castro his age Fifty three years and his residence in the County of Contra Costa California

Questions by Claimants Attorney.

Are you acquainted with the place or Rancho Laguna de los Palos Colorados Claimed by Joaquin Maraqo And Juan Bernal and if So State where the said Rancho is Situated how long you have known it by whom it has been Occupied and nature and Extent of the Occupation, improvement and Cultivation of the Same

Answer - I know said Rancho and have known it for about Thirty Seven years - it is Situated about Seven leagues East of the town of Martinez - It was first Occupied by Joaquin Maraqo about twenty years a little More or less - He and Juan Bernal Occupied it in partnership, and lived on it with their families. They lived on the place at that time two wooden houses in which they lived with their families; they also have Corrals and about a thousand head of Cattle and about four hundred head of horses - They also Enclosed and Cultivated about One hundred Acres of the Land - They have Continued to live on the place with their families to the present time Except Juan Bernal who died about five or Six years ago - His family still lives there - He left a widow and four Children who are still living - His widow is named Encarnacion Soto de Bernal, the names of his

Encarnacion Soto de Bonal, the names of his

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Children are Guadalupe Nicholas, Jesus and Maria de los Reys Bonal.

Question by Same. Are you acquainted with the boundaries of said Land if so describe them.

Answer. I know the boundaries but cannot describe them all by Name - One boundary is the Arroyo that runs through the Canada del Reloj. The Rancho is almost surrounded by Mountains - I know the Arroyo de San Pablo, the "Cerro Antiguo" and Cuchilla de los Tramposas they are all well known points and Objects, & Contains About three leagues or three and a half Square leagues (Sitios de ganado Mayor)

Antonio Ma[illegible] Castro
his X mark

Sworn to and
Subscribed before me
Jan 9th 1854 R Aug. Thompson

Filed in office Jan 9. 1854 Geo. Fisher Secy
Recorded in Rec. B Vol 3 p 624
Geo. Fisher Secy

Deposition of A. M. Peralta

United States Land Commission
San Francisco Jan. 11. 1854

This day before Commissioner R A Thompson came Antonio Maria Peralta a witness on behalf of Claimant Joaquin Maraga Case No 590 who being duly sworn deposed as follows his Evidence being interpreted by the Secretary

Present Claimants Atty & U S Asst Law Agent

United States his name is Antonio Maria Peralta his age Forty One and residence Contra Costa County

Question by Claimants Atty - Do you know the Rancho called de los Palos Colorados Claimed in this Case, if so, State where it is situated how long you have known it and and by whom and how it has been occupied

Answer. I know said Rancho and have known it called as a Rancho since 1836. I knew the Lands long before. It adjoined

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the Rancho of San Antonio and Guillermo Castro and Others - among which is San Ramon - It was first occupied by Joaquin Moraga and Juan Bernal about the year 1836 - They first built a wooden house in which they lived together, in the same year 1836 - they placed on the Land Stocks of Cattle and horses, built houses, and Enclosed a portion of the Land which they Cultivated.

They took their families to reside on the Rancho shortly after they Stocked it - And a few years I do not Recollect how long, they built two adobe houses in which they lived seperately with their families - they also built another Wooden House - They & their families have Continued such Occupation and cultivation up to the present time - Juan Bernal died five or six years ago - he left a widow and four Children - His widow is called Encarnacion Soto Bernal, his Children are called Guadalupe, Nicolas, Juan and Maria de los Reyes -

Question by Same. Do you know the boundaries of said Rancho, if so, State them and the Names of any Conspicuous and well known Objects in said boundary

Answer - I know the boundaries - It is seperated from the Rancho of San Antonio by the Sierra on the Summit of which near the Meddle of the line a land mark was fixed by carving a Stone; at the North the Ojo de Aqua is a land mark & the heads of the Creek of San Pueblo is another at the South he has been told that the Pinole guards the boundary and the Trumpas on the East

Ant° Ma Peralta

Sworn to and Subscribed
before me Jan. 11th. 1841
R Aug Thompson Com

Filed in Office Jan. 11 - 1854 Geo Fisher Secy
Recorded in Ev. B Vol 3 p. 638
Geo. Fisher Secy

Geo. Fisher Secy

9 Deposition of Gregorio Briones

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United States of America }
State of California } ss

San Francisco Dec. 16. 1854

This day came before Peter Lott Commissioner for taking testimony to be used before the Board of U. S Land Commissioners in said State Gregorio Briones a witness on behalf of the claimant Jose Maria Amaya in case No 590. on the Docket of said and said witness being sworn on oath deposes in Spanish which is interpreted by the interpreter to said Board as follows;

The U S Law Agent is present

Questions by claimants Counsel

1st Question. What is your name age and residence.

Answer. My Name is Gregorio Briones my age 57 years, My residence in Marin County California

2d Question. Are you acquainted with the Rancho called Palos Colorados, claimed in this case if yea, how long have you known it, and state also where it is situated and how much Land it Contains?

Answer. I am acquainted with said Rancho I have known the place twenty years, the place is situated in Contra Costa County, and when I saw the place, Amaya occupied about three leagues

3d Question. Describe the boundaries of said Rancho -

Answer. On the South it is bounded by the Lands of the Mission of San Jose, and a place known by the name of "las Trampas" On the North by the Arroyo de San Pablo, and the Ojo del Agua del Coral Viejo, On the East by the Cumbres de las Trampas, and on the West by the first Mountains "Primeras Puntas" de Los palos Colorados"

4th Question. State how you know these boundaries.

Answer. When Amaya was entending to petition for the Land, he took me, as we were old friends, and showed me the boundaries which I have described, and told me these were the boundaries he was about to petition for -

5th Question. Look at the Map in the

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in the Document now shown you Marked "A, P & "
as an Exhibit to this deposition and herein you file
in this Case, and State whether you recognize the Natu
ral Objects there laid down, and whether you consider
Said Map a correct delineation of said Rancho

Answer. Yes. I recognize the Spring, the
Arroyo, the Mountains &c. and they are laid down with
Correctness, as it respects Courses and distances and
taking this Map as a representation of the Land
I think it will be found Correct. It is about the
Shape of the Rancho, and I think contains about
3 Sitios a little more or less.

Cross Examined by U. S. Land Agent

1st Question. Are you acquainted with the
Science of Map Marking and with topographical
Measurements

Answer. No. I only have knowledge Enough
to recognize the principal points in a Map of Lands
that I have seen and been Familiar with.

2d Question Have you any other knowle
dge of the boundaries of said Land than such as
you derived from the information given you
by Moraga?

Answer. No. I only know them from
his telling me what they were.
I have frequently seen the Objects named as bounda
ries. I have hunted all around there, and been on the
boundaries at different times. I never went all round
Said boundaries at One time with a view of tracing
them, and I never Saw them Measured. I only know
the quantity of Land by Simply Estimating it by
a View of the Eye

Gregorio Briones

Subscribed and Sworn to before me on this 16th
day of December A.D. 1854

Peter Lott Commissioner &c

Filed in office Dec. 19. 1854

Geo. Fisher

Secy

11 Deposition of Jose Moraga

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United States Land Commission

San Francisco Dec. 16 1854

On this day before Commissioner Felix Scott Came Jose Moraga in case No. 590 who after being duly sworn deposed as follows his Evidence being interpreted by the interpreter of the Board.

1. Question. What are your name age and place of residence?

Answer. My name is Jose Moraga My age 34 years and residence within Contra Costa County On the Rancho Pulgas Colorados

2 Question, Were you present to day at the taking of the deposition of Gregorio Briones in this case, if you, State whether the Statements made in his deposition are correct

Answer,

I was present when said testimony was taken and believe the same to be true

Jose Moraga

The Law Agent is present and declines to Cross Examine

Subscribed And Sworn to before me this Sixteenth day of December 1854

Alpheus Felch
Commissioner

Filed in Office Dec. 18 1854

Geo. Fisher Secy

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END

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Expediente

Promovido por los Ciudadanos Joaquin Moraga y Juan Bernal en pretencion del paraje conocido con el nombre de Lagunas de los Palos Colorados

1841

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2. Sello tercero Dos Reales:
Habilitado provicionalmte. por la Administracion de la Aduana Maritima de Monterey de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

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Figueroa — A. Ramirez

Montry. 10. de Sep. de 1835. De conformidad con las leyes y Reglamentos de la Materia informe el Ayuntamiento del pueblo de S. José Guadalupe si el interesado en esta instancia obtiene los requisitos prevenidos para ser atendidos en esta solicitud si el terreno que pretenden esta comprendido en las beinte leguas limitrofes ó diez litorales qe. espresa la Ley de 18 de Agosto de 1824. si es de Regadio temporal ó abrevadero si pertenece à propiedad de algun particular Mision ó pueblo con todo lo demas que crea conducte.

Sr. Gefe superior politico
Los Ciudadanos Joaqn. Moraga y Juan Bernal vecinos del pueblo de S. José ante V. S. como mas haya lugar en derecho parecen y dicen que teniendo à sus Antecesores echo la solicitud del paraje nombrado laguna de los palos Colorados en jurisdiccion de S. Fran. Co. cuya solicitud se considera en el Archibo de Monterey y pr. si aya padecido alguno Estravio y no llamar la supr. atencion quiero qe. esta me fuese Valida para seguir la instancia del citado terreno, cuyo diseño acompaño afin se nos conseda para la seguridad de nuestros bienes de Campo de donde depende la subsistencia de Ntras familias. Por tanto A V. S. rendidamte. se suplica probea a fabor de los interesados para qe. se espera &c

crea conduct.te y se espera de

15 à ilustrarla Pueblo de S. José Guadalupe
materna. Crea Agt.o 20 de 1835.
enada que sea Joaquin Moraga
pasara al R.. Juan Bernal
G. mo quien se servira aponer lo q.e le ocurra
sobre el particular. El Sor D.n José Castro
primer Vocal de la Ecsma Diputacion
Territorial y Gefe politico interino del terri
torio de la Alta California asi lo mando
decreto y firmo de lo que doy fè.
José Castro
Fran.co del Castillo Negrete
Reunido Este Ayuntam.to en secion Ordi
naria de hoy: se dio cuenta de una repre
sentacion, de los cuidadanos Joaq.n Mora
ga y Juan Bernal solicitando el terreno
2 nombrado: Sello Tercero Dos Reales:
Habilitado provicionalmte por la Administra
cion de la Aduana Maritima de Monterey
de la Alta California para los años de
mil Ocho cientos treinta y cuatro y mil
Ocho cientos treinta y cinco.
Castro Angel Ramirez
laguna de los palos colorados; y en cumpli=
miento del Soberano Decreto del señor Gefe
politico espone este Ayuntam.to lo sig.te
q.e los interesados tienen los Requicitos p.a ser
atendidos en su solicitud: que el terreno
que pretenden no Esta comprendido en las
20 leguas limitrofes y si en las 10 litorales
q.e no es de regadio si no de temporal y
abrevadero que no pertenece à ningun parti
cular, corporacion ò pueblo; lo que cree puede
concedersele, el terreno indicado: Pueblo
de S. José 26. de Sep.e de 1835.
Antonio M.a Osio
pasa este Espedte. à manos del R.P.

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Ministro de la Mision de S. José.

Reo

Ygnacio Martinez

Leandro Robin. Seto. José Beneyesa

5. Sor Gefe superior politico de este territorio

El terreno q. en este Espediente se solicita no ha pertenecido hasta hoy à ningun particular y como al mismo tiempo no me parese ser necesario ni util à esta Corporacion yo celebrare mucho el que V. S. aparee con el a los que lo solicitan q. amas de ser Mexicanos han prestado servicios muy utiles à la patria.

Mas como en este terreno se comprende una parte de la Sierra de la bondad de V. S. que al Estender los titulos de posecion à estos sres. mande se exprese en ellos el q. en ningun tiempo embarazen à esta Mision el q. corte las maderas que necesita.

Por lo que mira à las calidades del terreno y otras cosas que ilustran esta materia, parese no hay que añadir à lo q. el Y. Ayuntamto. de S. José Guad. ha Espuesto.

Esto es Sor Gefe superior politico lo unico que me ocurre informar à V. S. conforme al superior decreto de 10 del corriente

Sam José y septiembre 30 de 1835.

Fr. J. Ma. de Jesus Gonz.

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6. Here follows { Map }

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y. Sello tercero Dos Reales:
Habilitado provicionalmente por la Administracion de la Aduana Maritima de Monterey de la Alta California para los años de mil Ochocientos treinta y cuatro y mil Ochocientos treinta y cinco

Castro Angel Ramirez

590-Leg-1

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Monterei Dbre 10 de 1835.

Vista la peticion con que da principio este Espediente la informacion de testigos con todo lo demas que se tuvo presente y fue conveniente. De conformidad con la Leyes y Reglamentos de la Materia se declaran los Cres Joaquin Moraga y Juan Bernal dueños en propiedad del terreno nombrado La Jasma de los palos colorados sujetandose á las condiciones que se estipularen. pase este Espedte á la E. Diputacion. pa su deliberacion y aprovado q. sea libresele el despacho correspondte q. le sirvia de titulo al interesado á quien se le hara saber este decreto El Sñr Dn Jose Castro primer vocal de la E. Diputacion y Gefe politico interino de la Alta California asi lo mando decreto y firmo de q. doy fee.

Jose Castro

Rubd. del Castillo Negrete

Monterey 13 de Obre de 1835.

En sesion de este dia se acordo por la Excma Diputacion pase este Espedte á la comision de terrenos Baldios.

Jose Castro Presidte

Excmo Sñr

La Comision de terrenos Baldios impuesta del Espediente que se mando practicar pr solicitud que hasen los Ciudadanos Joaqn Moraga y Juan Bernal del terreno

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nombrado laguna de los palos Colorados no encontrando en el Objeto con alguna que hacer creido en todo conforme á la ley de 18 de Agosto de 1824. como al Art.º 5.º del Reglamento de 21 de Abril de 1828. apoyo á la deliberacion de V. E. la siguiente proposicion.

Se Aprueba la Concesion hecha á los Ciudadanos Joaq.n Moraga y Juan Bernal del paraje nombrado Laguna de los palos Colorados Concedido en 10 de Oct.e de 1835.

Mont.y 12. de Oct.e de 1835.

Salvio Pacheco.

Mont.y. 12. de Oct.e de 1835.

En Sesion de Este dia aprovo la Comisionado el dictamen que antecede con su aprovacion.

José Castro

Man.l Jimeno pres.te

y Juan B. Alvarado Gobernador Constitucional del Departam.to de las Californias.

Por Cuanto los Ciudadanos Joaq.n Moraga y Juan Bernal han pretendido para sus beneficios personales y el de sus familias y Obtuvieron por decreto de 10 de Octubre del año de 1835. la concesion del paraje conocido con el nombre de Laguna de los palos Colorados, colindante al Pte. con el Arroyo de S. pablo linea Recta al Oriente con el hoyo de Agua Inclusive que se halla inmediato al Corral antiguo, al Sur con el Establecimt.o de S. José del poniente con la Arena hasta la Cumbre, y al Oriente con la Cuchilla de las tempas: practicadas previas las diligencias y averiguaciones con

de los tiempos: practicadas previam-
las diligencias y averiguaciones conve-
nientes segun lo dispuesto por leyes y Regla-
mentos usando de las facultades que me
son conferidas à nombre de la Nacion Meji-
10 cana he venido en concederles el terreno
mencionado declarandoles la propiedad
de el por las presentes letras sugetandose
à las condiciones siguientes.

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1a Podrà cercarlo sin perjudicar las tra-
vesias caminos y servidumbres lo disfru-
tara libre y esclusivamente destinandolo
al uso ò cultivo que mas le acomode
pero dentro de un año fabricara Casa y
estara habitada.

2a Solicitaran del juez respectivo que
les de posecion juridica en virtud de este
despacho por el cual se demarcaran los
linderos en cuyos limites pondrà à mas
de las mojoneras algunos arboles fruta-
les ò silvestres de alguna Utilidad.

3a El terreno de que se hace mencion es
de tres sitios de ganado mayor poco mas
ò menos. El juez que diere la posecion lo
hara medir conforme à Ordenanza que-
dando el sobrante que resulte à la Nacion
para los usos convinientes.

4a Si contraviniere à estas Condiciones
perdera su derecho al terreno y sera denun-
ciable por otro.

11 En consecuencia mando que
teniendose por firme y valedero este titulo
se tome Razon de el en el libro à que cor-
responde y se entregue al interesado para
su resguardo y demas fines.

Dado en Monterey à treinta y uno de
Julio de mil Ochocientos cuarenta y
cinco.

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Office of the Surveyor General
of the United States for California.

I. John. C. Hays Surveyor General of the United States for the State of California and as such, having in my Office and in my charge and Custody a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California by Virtue of the power vested in me by law, Do hereby Certify that the 11. preceding and hereunto annexed pages of having paper numbered from One to Eleven inclusive exhibit a true and accurate copy of a certain document now on file and forming a part of the said Archives in this Office.

(Seal) In testimony Whereof I have hereunto signed my name & officially and caused my Seal of Office to be affixed at the City of San Francisco this twenty Eighth day of December 1853.

John C. Hays
U. S. Surveyor General for California

Filed in Office Jany. 9. 1854

Geo. Fisher Secry

21 Translation of Espediente

Expediente. Record of Proceedings instituted by the Citizen Joaquin Moraga & Juan Bernal in Solicitation of the place known by the name of Laguna de los palos Colorados"
1841 No. 249

Stamp Third Two Reales
Provisionally authorized by the administration of the Maritime Custom House of Monterey of Alta California for the years 1834 & 1835
(Signed) Figueroa (Signed) A Ramirez

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Sor Superior Political Chief
The Citizen Joaquin Moraga and Juan Bernal residents of the Pueblo of San José before your Honor, as best they may in law, appear, and represent that heretofore addressed to your predecessor the petition for the place named "Laguna de los Palos Colorados" in the Jurisdiction of San Francisco, which petition is thought to be in the Archives of Monterey, whereby they have suffered some damage & not desiring to weary your superior attention, I wish this present would be made united to me so as to prosecute the petition for the mentioned Land, the plat (diseno) whereof I annex so that you may concede it to us, for the security of our real property whereupon depends the subsistence of our families
Wherefore your Honor is humbly besought to decide in favor of the Petitioners. Favor which I hope &c.
Pueblo of S José Guadalupe Augt. 20th 1835
(Signed) Joaquin Moraga
" Juan Bernal

Monterey 10th Sept. 1835
In Conformity with the Laws and regulations on the Matter let the Ayuntamiento of the Pueblo of S José Guadalupe report whether the interested party in this petition has the provisions requisites to be attended to in this their petition, whether the Land they petition for, is comprised in the twenty square leagues or the littoral leagues mentioned in the Law of 18th August 1824, whether it is irrigable, arable or wooded, whether it belongs to

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the property of some particular individual Mission
or Pueblo with all other information which it
may deem conducive to illustrate the matter, this
being accomplished, the petition shall be referred
to the Rev Father Minister who will please report
that which may occur to him on the subject
matter. The Sor Don Jose Castro first
member (vocal) of the most Excellent Territorial
Deputation and Political Chief ad interim of the
Territory of Alta California thus Orders decrees &
Signs in testimony whereof -

(Signed) Jose Castro
" Franco del Castillo Negrete Secty

This Ayuntamiento being Assembled in to day's Ordi
nary Session, there was reported a representation
of the Citizens Joaquin Moraga & Juan Bernal
petitioning for the Land Named "Laguna los
Pulos Colorados" and in Compliance with the
Supreme Decree of the Sor Political Chief, this Ayun
tamiento reports the following; that the petitioners
possess the requisites to be attended to in their petition;
that the land which they petition for is not compre
hended in the 20 border leagues, but it is so in the
10 Littoral leagues; that it is not irrigable but
it is arable & Cultivated; that it does not belong
to any private individual, Corporation or pueblo;
wherefore it is of the Opinion that the land in
question can be granted to them.
Pueblo of S Jose 25 Sept 1835
(Signed) Antonio Ma Pico. Leandro. Rohen
" Ygnacio Marinez.
Jose Bareyza Secty
See this Espediente be opened to the Rev Father
Minister of the Mission of S Jose
(Signed) Pico
Sor Superior Political Chief of this Territory
The land which is petitioned for in these
proceedings (Expediente) has not belonged until
this day to any individual and as at the same
time it does not seem to me to be necessary or
useful to this Corporation I would hereby comm
end that you grant it to those who petition for
it, who besides being Mexicans have remained very

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useful services to the Country.
Moreover as in this land there is comprised a portion of the range of Mountains (Sierra) the only place wherein Wood can be cut, I hope from the beneficence of your Hons. that on the issuing of the titles of Propiem to these gentlemen you will Commande that there be Expressed in them (the titles) that at no time shall they hender the Mejicanos in the Cutting of the Wood it may need

With regard to the qualities of the Land and other things allusing this matter, it seems to me there is Nothing to add to that which the Illustrious Ayuntamiento of S Jose Guadalupe has represented

This Sr Superior Political Chief is the only thing that occurs to me in giving information to your Hons Agreeably to the Superior Decree of 10th Instt
San Jose Sept. 30th 1835.
(Signed) Fm Jose Mª de Jesus Gomez
(Here comes the Plat in the Original)

Stamp Third Two Reales
Provisionally authorized by the administration of the Maritime Custom House of Monterey of Alta California for the years 1834 & 1835
Castro Angel Ramirez
Monterey Oct. 10th 1835
In consideration of the petition which gave rise to these proceedings (Expediente) the information of Witnesses and all that is found proper be ongoing thereto, In Conformity with the Laws & regulations On the Matter I promise the Citizens Joaquin Moraga & Juan Bernal ownership in fee of the Land named Laguna de los palos Colorados, they subjecting themselves to the Conditions that may be stipulated—
Let this "Expediente" be referred to the Most Excell Deputation for its deliberation Whence shall be approved, let the Corresponding patent be issued which shall serve as title to the interested party, to whom this decree shall be made known—
The Sor Jose Castro first member of (Vocal) the Most Excell Deputation & Political Chief and

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interim of Alta California thus Orders decrees &
Signs in testimony whereof
(Signed) Jose Castro
Franco del Castillo Negrete Secty
Monterey 10th Oct. 1835
In to day's Sesion it was agreed by the Most
Excell. Deputation that this Espediente be referred
to the Commision On Vacan Lands
Jose Castro Presdt

Most Excell Sir

The Commision On Vacant Lands
having taken cognizance of the Expediente
which was Ordered to be investigated upon the
petition made by the Citizens Joaquin Moraga
& Juan Bernal for the Land named "Laguna
de los Palos Colorados" Not finding any objec-
on to make thereto it being Entirely in Conformi
ty with the Laws of 18th August 1824 and also
with the 8th article of the Regulations of 21st
of Nov. 1828 Offers to the deliberation of your
Excly the following proposition

The Concepsion Made to the Citizens
Joaquin Moraga & Juan Bernal of the place
named Laguna de los Palos Colorados" Made
On the 10th Oct. 1835 is Approved
Monterey 12th Oct. 1835
Salvio Pacheco

Monterey 12th Oct. 1835
In Sesion of to day, the Most Excell Deputation
Approved the preceding decree with its proposition
Manuel Jimeno — Jose Castro Presdt.

Juan B Alvarado Constitutional Governor of the
Department of the Californias
Whereas the Citizens Joaquin Moraga & Juan
Bernal have Solicited for their personal benefit
and that of their Families, and obtained by
decree of 10th Octob of the year 1835 the
Concepsion of the place known by the name of
"Laguna de los Palos Colorados" bounded on
the North by the Arroyo of S Pablo, on a straight
line, the East by the Spring of water, exceeding
the Same, which is adjoining the Old Canal, on
the South by the Establishment of S Jose, on the West

the South by the Establishment of Jose, on the West

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by the range of Mountains (Sierra) as far as the Summit & On the East by the Cerchillos of "Los Kampas" the proper Steps and Mensuregolems being previously had & taken as provided by Laws & Regulations using of the powers which are Confined upon me in the Name of the Mexican Nation I have Conceded to them the Land Mentioned, declaring unto them the Ownership thereof by these presents. they Subjecting themselves to the following Conditions—

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1st. It may Enclose it without doing injury to the crop roads, roads & Servitudes he may enjoy it freely & Exclusively, destining it to the use or Cultivation which may best Suit him but within One year he Shall build a house and it Shall be inhabited—

2d. They Shall Solicit of the respective Magistrate to give them juridical possession, in Virtue of this patent, by which Shall be Marked out the boundaries he Shall place besides the Land Marks Some fruit trees or fruit trees of some utility

3d. The Land mentioned is of three (Sitios de ganado Mayor) Square leagues More or less; the Magistrate who Shall give the possession Shall Cause it to be measured Conformably to Ordinance, leaving to the Nation the (Sobrantes) Surplus resulting therefrom, for its Convenient uses

4th. If he Contravenes these Conditions, he Shall lose his Right to the Land and it Shall be denounceable by another.

In Consequence I command that this title being heard as firm and valid, Entry be made of it in the Corresponding Book and then it be delivered to the interested party for his Security and other Ends—

Given in Monterey On the 31st July 1841

Filed in Office Jany 9 1854

Geo. Fisher Secy

de Monterey para los años de 1839 y 1840.
Antonio María Osio.

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Sello 1º Seis pesos.

Habilitado provisionalmte por la Aduana marítima de Monterrey para los años de 1839 y 1840.

(Seal) Alvarado. Antonio María Osio.

Juan B. Alvarado Gobernador Commandante del Departamento de las Californias.

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A

Grant, approbation and Map originals

Por cuanto los ciudadanos Joaquin Moraga y Juan Bernal, han pretendido para sus beneficios personales y de sus familias y obtuvieron por decreto de 10 de Octubre del año de 1835 la concesion del paraje conocido con el nombre de la laguna de los Palos Colorados, colindante al norte con el ojo de Agua inclusive que se halla inmediata al Corral antiguo, al Sur con el establecimiento de San José al Poniente con la Sierra hasta los cumbres y al Oriente con la cuchilla de las Trampas: usando de las facultades que me son conferidas á nombre de la nacion Mejicana les declaro la propiedad de él por las presentes letras, sugetandose á las condiciones siguientes.

Exhibit nº 1.

1ª Podran cercar lo sin perjudicar las travesias caminos y servidumbres: lo disfrutarán libre y esclusivamente destinandolo al uso ó cultivo que mas le acomode pero dentro de un año fabricaran casa y estará habitada.

A.P.L. Exhibit to the Deposition of Gregorio Briones Dec. 16. 1851.

2ª Solicitarán del Juez respectivo que le de posesion juridica en virtud de este despacho y de la aprobacion que han obtenido de la Diputacion en cuya posesion se deslindarán los linderos en cuyos límites pondrán á mas de las mojoneras algunos arboles frutales ó silvestres de alguna utilidad.

3ª El terreno de que se hace mencion es de tres sitios de ganado mayor poco mas ó menos, segun explica el diseño que corre en el espediente.

El Juez que diere la posesion lo hará medir conforme á ordenanza quedando el sobrante

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que resulte á la nacion para los usos convenientes.

2º Si contraviniere á estas condiciones perderán su Derecho al terreno y será denunciable por otro.

En Consecuencia mando que teniendose por firme y valedero el presente titulo, se tome razon de el en el libro respectivo y se entregue á los interesados para su resguardo y demas fines. Dado en Monterrey a diez de Agosto de mil ocho cientos cuarenta y uno.

Juan B. Alvarado.

Manl Jimeno. Srio.

Puesta tomada razon de este despacho en el libro de asientos respectivos.

Jimeno.

El Exmo. Sr. Gobernador ha dispuesto se tome razon de esta Concesion en la Prefectura del 1er Distrito.

Jimeno.

En el Convenio que en esta pta. han celebrado los Ciudadanos Joaquin Moraga y Candelario Valencia ante el E.S. Gobernador Comandte Gral. Dn Manuel Micheltorena, segun consta de la Acta que al efecto se forma y de la que se dio testimonio á las partes se han sujetado á lo siguiente. Que desde la vertiente al ojo de Agua contando trescientas varas para el Poniente colindará al nacimiento del arroyo de San Pablo como era el lindero del Sor. Valencia para su terreno y el del Sor. Moraga para el suyo, dejandose cien Vs en cuadro de terreno al primero dentro a que le corresponde al segundo para el fin de cultivar lo y mas se formara una Presa en el expresado Ojo de Agua para que por igual cantidad de ella tenga uno y otro el uso que les convenga.

J. B. Michelto.a Manuel Jimeno. Srio.

Sello tercero Dos Reales.

Habilitado provicionalmente por la Aduana Maritima del puerto de Monterrey en el Depart.o

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Habilitado provicionalmente por la Aduana
Marítima del puerto de Monterrey, en el Departamento de las
Californias, para los años de mil ocho cientos cuarenta
y mil ocho cientos cuarenta y uno.

Jimeno. Antonio María Osio.

(Seal) Juan B. Alvarado, Gobernador Constitucional del Departamto de las Californias.

La Exma. Diputacion en sesion ordinaria del dia 12 de Obre. de 1835 aprobó el dictamen de la Comision de agricultura que convoco en el Espediente promovido por los Ciudadanos Joaquin Moraga y Juan Bernal, sobre el terreno conocido con el nombre de los Palos Colorados cuyo raticulo con que concluye dice asi. Se aprueba la concesion hecha á los ciudadanos Joaquin Moraga y Juan Bernal del paraje nombrado laguna de los Palos Colorados concedido en 10 de Octubre de 1836.

Y en conformidad de dha. concesion estiendo la presente para resguardo de los interesados en Monterrey a 9 de Agosto de 1841.

Alvarado.

Manuel Jimeno. Secd.

Sello tercero Un Real.

Habilitado provicionalmente por la Aduana Marítima del puerto de Monterrey en el Departamto de las Californias, para los años de mil ocho cientos cuarenta y mil ocho cientos cuarenta y uno.

Jimeno. Antonio María Osio.

(Seal) Manuel Jimeno Secd del Gobierno del Departo de las Californias.

Certifico que el diseño que se demuestra á la Vuelta es igual al original que existe en la Secretaria de mi cargo agregado al Espediente de los ciudadanos Joaquin Moraga y Juan Bernal. Y para Constancia de los interesados estiendo la presente en Monterrey a diez de Agosto de mil ocho

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cientos cuarenta y uno.

Name Given.

Helen Johnson a major or. Utah.

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Filed in Office. Feby. 15. 1853.

Geo. Fisher. Secy.

[illegible]

House of Monterey for the years 1839 & 1840
Alvarado Antonio Ma. Osio
Be valid for the years 1841 & 1842
Antonio Ma. Osio

Seal

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Juan B Alvarado Constitutional Governor of the Department of Californias.

Whereas citizens Joaquin Moraga & Juan Bernal have solicited for their personal benefit and of their families & obtained by decree of 10th of October in the year 1835 the Concesion of the place known by the name of "Laguna de los palos Colorados" (Lagoon of the Red Woods) bounded at the North by the Arroyo de San Pablo (San Pablo creek) straight line to the East inclusive of an Ojo de agua (Spring of water) which lies contiguous to the "Corral antiguo" at the South by the Establishment of San Jose, at the West by the Sierra (Mountain ledge) up to the top of it, & at the East by the "Cuchilla de las Trampas" using the powers which are conferred on me in the name of the Mexican Nation I declare to them the Ownership thereof by the present subject to the following Conditions

1st. They may Enclose it without injuring the crop ways, roads & Easements, and may Enjoy it freely & Exclusively designing it for the use & cultivation that suits best them: but within One year they shall build a house and it shall be inhabited

2d. They shall solicit the proper Judge to give them juridical possession by virtue of this despatch and of the approval, which they have obtained from the Excellent Deputation; in which possession the boundaries shall be marked out, in the limits of which they shall put besides the land marks some fruit or useful wild trees.

3d. The tract of land of which mention is made is of three Sitios de Ganado Mayor a little more or less as Explained in the Sketch which runs with the Espediente. The Judge giving the possession shall cause it to be measured according to Ordinance the surplus thereof to be left for the proper uses of the Nation

3 Translation of Grant "13"

Seal

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590-Sup-2

1st Seal Six Dollars

Provisionally qualified by the Maritime Custom House of Monterey for the years 1839 & 1840

Alvarado Antonio Ma Osio

Be valid for the years 1841 & 1842

Antonio Ma. Osio

Juan B Alvarado Constitutional Governo of the Departmente of Californias.

Whereas citizens Joaquin Moraga & Juan Bernal have solicited for their personal benefit and of their families Poblaciones by decree of 18th of October in the year 1835 the Concession of the place known by the name of "Laguna de los palos Colorados" (Lagoon of the Red Woods) bounded at the North by the Arroyo de San Pablo (San Pablo creek) straight line to the East inclusive of an Ojo de agua (Spring of water) which lies Contiguous to the "Corral antiguo" at the South by the Establishmente of San Jose, at the West by the Sierra (Mountain range) up to the top of it, & at the East by the "Cuchillas de los Trampas" using the powers which are conferred on me in the name of the Mexican Nation I declare to them the Ownership they may by the presente subject to the following Conditions

1st. They may Enclose it without injuring the crops ways, Roads & Easements, and may Enjoy it freely & Exclusively designing it for the use & Cultivation that suits best them: but within One year they shall build a house and it shall be inhabited

2d. They shall solicit the proper Judge to give them juridical possession by virtue of this dispatch and of the approval which they have obtained from Mt. Excell Deputation; in which possession the boundaries shall be marked out, in the limits of which they shall put besides the land marks some fruit & useful wood trees.

3d. The tract of land of which mention is made is of three Sitios de ganado Mayor a little more or less as Explained in the Sketch which runs with the Espediente. The Judge giving the possession shall cause it to be measured according to Ordinance. The Surplus thereof to be left for the proper uses of the Nation

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4th If they should contravene these Condiciones they shall lose their right to the Grace & it may be denounceable by another

Wherefore I Order that the present title being heard Sum and Voiced entry thereof be Made in the proper Book & it be delivered to the parties interested for their Security & other Ends

Given at Monterey On the 10th of August 1841

Juan B Alvarado

Manl Jimeno Sria

An Entry of this Despatch is made in the proper Book of Registry

Mt. Excelle Sr Governa has Ordered that an Entry be made of this Concession in the Office of Prefect of the 1st District.

Jimeno

By the agreement which On this date Citizen Joaquin Moraga and Candelario Valencia have Executed before the Mt. Excelent Sr Governa Commandancy General Don. Manuel Micheltorena as proved by the Record which was formed for the purpose & of which a Testimony does given to the parties they have Submitted to the following: That from the Water Fall of a Spring of Water (Nacimiento de un Ojo de Agua) Counting three hundred Varas towards the West with direction to the rese of the Arroyo de San Pablo, the boundary of Sr Valencia's land & that of Mr Moraga's shall begin, leaving a hundred Varas square of land to the former in that which belongs to the latter for the purpose of Cultivating the Same and besides to shall be formed in the said Spring So that each of them may Equally have the use of the Water

Mechelta

Manl Jimeno Secy

(Cont. to page 15)

(Cont. to page 15)

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(Sealed paper)

Juan B Alvarado Constitucional Govnor of the Departmene of Calefornea

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The Mt. Excelld Departamen at the Ordinary Sesion of the 12th day of October 1835 approved the Opinion of the Commitee On Agriculture which took Cognizance of the Expediente got up by the Citizens Joaquin Moraga & Juan Bunel for the Race of Land known by the Name of the "Laguna de los Palos Colorados) Lagoon of the Red Woods) the Article with which it Concluedes, is thus

" The Concepsion made to Citizens Joaquin Moraga & Juan Bunel of the place Called "Laguna de los Palos Colorados" Conceded on the 10th of October 1835 is approved and in Conformidem of said Concepsion I grant the pusent in the Name of the Nation enclosed At Monterey on the 9th of August 1841

Alvarado

Manl Jimeno
Secy

Filed in Office Feby 15th 1853

Geo. Fisher
Secy

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END
PAGE

Affidavit
35 ~~Deposition~~ of
Joaquin Moraga

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United States Land Commision For the
State of California
Joaquin Moraga
vs } No. 590
The United States }
For the place called
"Laguna de los Palos Colorados"

Joaquin Moraga being duly Sworn Says that the Rancho above Named was granted by the Governor of California John B Alvarado in the Year 1841 to himself and Juan Bernal. That long prior to the date of the grant above mentioned they had taken possession of said Rancho by the Consent of the Mexican Government, and at the date of said grant lived upon it with their Families, and that deponent has resided thereon to the present time. That Juan Bernal resided upon said Rancho with his family until his death which was Five or Six Years Since, and that his family Consisting of his Wife and four Children have Continued to reside upon said Rancho up to the present time That the Names of the said Widow and heirs are as follows: Maria Encarnacion Soto de Bernal Widow of Juan Bernal Guadalupe Bernal, Nicholas Bernal, Juan Bernal and Maria Reyes Bernal Children and heirs of Juan Bernal deceased. That said Widow and heirs are now joint Owners with deponent of said Rancho

Deponent further Says that William Carey Jones his Counsel who filed the petition in this Case erroneously Stated in said petition that the interests of Bernal in said Rancho had been acquired by this deponent, and claimed the said Rancho Wholly in the Name of deponent

That such a Statement was never authorized by him, nor does he believes by the Widow and heirs of the said Bernal and That Justice requires that the Widow and heirs of the said Juan Bernal Should be made parties to said petition In an undivided half of said Rancho

his
Joaquin X Moraga
mark

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Sworn to and subscribed before me
this 10th day of A.D. 1854

R. Aug. Thompson Clerk

Filed in Office Jan 10, 1854
Geo. Fisher Secy

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Before the United States Land Commissioners
for California.

Joaquin Maraga
vs
The United States

No 590.

For the place called
"Laguna de los Palos Colorados"

Motion

The Petitioners in this Case moves this Hon.
Commission for leave to amend the Original
petition filed herein, by inserting the names of
Incarnacion Soto de Bernal Widow of Juan
Bernal deceased, Guadalupe Bernal, Nicolas
Bernal, Juan Bernal and Marco Reyes Bernal
Children of Juan Bernal deceased as joint
owners and petitioners for the above named
Rancho. This Application is founded upon
the Affidavit herewith filed & upon the Evi-
dence on file in this Case

By his Attorneys.

Hastings, Thomas & Morse

Filed in Office Jan. 10 1854
Geo. Fisher Secy

Recorded in Journal Vol 3 page 554
Geo. Fisher Secy

37 Opinion

Joaquin Moraga and the
Heirs of Juan Bernal
vs
The United States

For the place called
"Laguna de las Pulgas" Colo
Contra Costa Co

This case was originally filed in the name of Joaquin Moraga alone, but upon the affidavit of the claimant telling forth that the grant was originally made to him and Juan Bernal jointly that the widow and children of said Bernal were now tenants in common and joint owners with him of the premises claimed, and that the petition had been filed in his name alone through the mistake and misapprehension of his Counsel, leave was granted by the Board to amend the petition so as to make the heirs of the said Bernal parties claimants in the petition

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The Expediente in the Archives a Certified Copy of which duly certified is filed in the case, shows that the Original grantee petitioned the Governor for the Land on the 20th of August 1835. and that Officers after the proper references and informes On the subject entered a decree on the 10th of October of the same year conceding to them the Land prayed for, which decree was duly approved by the Territorial Deputation on the 12th of the same March the formal title with the proceedings of the Territorial Deputation approving the grant duly certified by the Governor, appended thereto, was Executed by Juan B Alvarado and delivered to the parties On the 10th of August 1841. The Originals of those documents were filed in the Case & their genuineness and authenticity established by the testimony. The proof shows a full compliance with the Conditions of the grant and the boundaries are described in the grant and delineated On the Map to which reference is made, with sufficient certainty to obviate any difficulty in their identification and location. It is also in proof that the quantity of Land embraced by them is about three leagues not exceeding three and a half. The validity of the title is fully established by the testimony and a decree of Confirmation should be entered.

Filed in Office
Jany 23. 1855
Geo. Fisher
Secy

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Decree

Joaquin Moraga et al
vs
The United States

In this case on hearing the proofs and allegations it is considered by the Commission that the Claim of the petitioners is valid It is therefore decreed that the same be confirmed to the said petitioners.

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The Land of which confirmation is made is situated in the County of Contra Costa and is known by the name of "Laguna de los Palos Colorados" being the same which was granted to Joaquin Moraga and Juan Bernal by Gover Juan B Alvarado on the 10th. of August 1841 and which has been held by them and the heirs of said Bernal ever since and is bounded as follows: On the North by the Arroyo de San Pablo, a straight line to the East so as to include the Spring of water near the "Corral Viejo" at the South by the Establishment of San Jose, at the West by the Summit line of the Sierra and on the East by the "Cochilla" de los Campos" containing three Spanish leagues a little more or less — For a more particular description reference to be had to the Original grant and map contained in the Expediente filed in the case

Alpheus Felch
R. Aug. Thompson
S. B. Farwell
Commissioners

Filed in Office Jan. 23. 1855
Geo. Fisher Secy

And it appearing to the Satisfaction of the Board that the Lands hereby adjudicated are situated in the Northern District of California It is hereby ordered that two transcripts of the proceedings and decision in this case and the papers and evidence upon which the same was founded be made out and duly certified by the Secretary one of which transcripts shall be filed with the Clerk of the U. States District Court for the Northern District of California and the other be transmitted to the Attorney General of the United States —

Claims Matter & the Attorney General of the United States.

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Office of the Board of Commissioners,
To ascertain and settle the Private Land Claims in the State of California.

I, George Fisher — Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing Thirty eight — pages, numbered from 1 to 38, both inclusive, to contain a true, correct and full Transcript of the Record of the Proceedings and of the Decision of the said Board, of the Documentary Evidence and of the Testimony of the Witnesses, upon which the same is founded, on file in this Office, in Case No. 5-90 on the Docket of the said Board, wherein Joaquin Moraga is —

the Claimant against the United States, for the place known by the name of "Laguna de los Palos Colorados."

In Testimony Whereof, I hereunto set my hand and affix my private Seal (not having a Seal of Office) at San Francisco, California, this Twenty first — day of August A. D. 1855, and of the Independence of the United States of America the ~~seventy~~ eightieth.

Geo. Fisher.
Sec'y

U. S. DISTRICT COURT,

Northern District of California.

No. 276

THE UNITED STATES

vs.

Joaquin Moraga

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No.

Filed, October 1 — 1855

J. R. Morrison

Clerk.

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NI

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Office of the Attorney General of the United States,

Washington, 10. October, 1855.

59 "Laguna de Palos Colorados."

Joaquin Moraga, claimant

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 1st day of August, 1855, the appeal in the district court of the United States for the Northern district of California will be prosecuted by the United States.

Caleb Cushing

Attorney General.

No. 276 —

United States Dist. Court
Northern Dist of California

United States
vs
Joaquin Moraga.

Notice of Appeal in
Case No. 590.

Filed Nov: 22. 1855.
J. Chevers
Deputy.

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To the Honorable District Court of the United States in and for the Northern District of California

The United States
Appellants
vs
~~Godoy et Counts~~
Joaquin Murieta
} No. 276

The Petition of the United States by their Attorney represents: That this Cause is an application for a review of the decision of the Board of Commissioners whereby the claim of the said Appellee was Confirmed as appears by reference to the records in the Case:

That a transcript of the said Records was filed in this Court on the 1st day of May 1853: That a notice of appeal was filed on the 1st day of Aug. 1853 and that the land claimed lies in the said District.

That the said claim is invalid.

Wherefore Appellants pray that the said decision of the Board be reversed and that this Court decree the said title to be invalid. Respectfully &c—

S. W. Inge
U. S. Dist. Atty

No. 276

U.S. Dist. Court

The U. States

v

~~Gordon & Coombs~~
Joaquin Maraga

Petition

(No 1)

Filed Feby 26. 1856
by Chevers
Deputy

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A. Harnell

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District Court of the United States
for the Northern District of California

Joaquin Moraga et al

vs

The United States

} No 348.

276?

And said Claimants by their attorneys, come and deny each & every of the allegations of the Appellants Petition herein, and say that the decision of said Commission is just, as appears from the testimony taken in said cause and the decision of said Commission thereon—

Bates & Lawrence
Attys for Respondent

No 276.

U. S. Land Com'r

Joaquin Moraga et al

vs

United States

Appellant

Answer of Petitioners

(No 2,)

Filed Feby 26, 1856

J. Ames

Deputy

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Bates & Laumeister

attys for Claimt

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Mem for decree

The land of which confirmation is the tract known as Laguna de los Palos Colorados situated in Contra Costa County being the same land granted &c & & & & & bounded as follows (Insert boundaries in Grant) containing three sq. Leagues a little more or less = for a more particular description reference to be had &c

Provided ~~that the said decree be and it is hereby adjudged that~~ that the said titles be confirmed and the tract hereby confirmed to the claimants be held to them subject and in strict conformity with the agreement between Joaquin Moraga & Candelaria Valencia a copy of which is on file attached to the original title on file in this case

Mem for Alice

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PAGE 2 42A

No. 276.

U. S. Dist. Court.

The United States,

— vs —

Joaquin Moraga,

Decree.

Filed March 24. 1856.

Chas. Lewis

Dep. Clk.

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PAGE 42 B.

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California Land Claims.
Attorney Generals Office
26 Jan'y. 1857.

Sir:

In the case of the claim of Joaquin Moraga et al: confirmed to the claimants by the Commissioners, Case no. five hundred and ninety. (590). appeal will not be prosecuted by the United States.

I am,
Respectfully.
C Cushing

Wm. T. Blanding Esq
U. S. Attorney
San Francisco.

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In the District Court of the U. S.
for the Northern District of Cala

The United States

v } D.C. 276 : L.C. 590.

Joaquin Moraga et al

In pursuance of a notice from the U. S. Attorney General, hereunto annexed, it is hereby stipulated and agreed that no further appeal be taken on the part of the U. S. in this case; and that claimants have leave to proceed under the decree of this Court heretofore rendered in ~~this~~ their favor, as under Final Decree.

San Francisco April 8 1858.

P. Della Torre
U. S. Atty

C. A. Lawrence
Attorney for Claimants

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590

U. S. District Court

The United States

v

Joaquin Moraga et al

Stipulation

Filed April 8. 1858.
W. H. Chevers.
Clerk.

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At a Stated Term of the District Court of the UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the City of SAN FRANCISCO, on Thursday the eighth day of April in the year of our Lord one thousand eight hundred and fifty ~~seven~~ eight,

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States
v
Joaquin Moraga et al

D.C. 276; L.C. 590.

The Attorney General of the United States having given notice that appeal will not be prosecuted in this case; and a stipulation to that Effect having been entered into by the U. S. Attorney;

On motion of the District attorney, it is ordered adjudged and decreed that claimants have leave to proceed under the decree of this Court heretofore rendered in their favor, as under Final Decree.

Ogden Hoffman
U. S. Dist Judge

No. 276.

United States District Court, Northern District of California.

The United States

vs.

Joaquin Moraga et al

ORDER.

Vacating appeal

Filed April 8th 1858,

W. H. Chevers

CLERK.

By

DEPUTY.

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At a Stated Term of the District Court of the UNITED STATES OF AMERICA, for the Northern District of California, held at the Court House, in the City of SAN FRANCISCO, on Monday the 29th day of August in the year of our Lord one thousand eight hundred and fifty-nine,

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States
vs.
Joaquin Morago

D. C. No
L. C. No

On motion of Mr Lawrence Counsel for Claimant. It is ordered by the Court that the Surveyor General of the United States for the State of California Return into this Court the Survey by him made, and approved, of the land claimed in this case, and that a Certified Copy of this order be forthwith Served on the said Surveyor General, and on the U. S. Attorney for this District.

BOOK
D

No. 276.

District Court of the United States

IN AND FOR THE

Northern District of California.

The United States,

vs.

Joaquin Moraga,

Order Return Survey,

Filed Aug. 29, 1859.

W. H. Chevers Clerk.

By ..... Deputy.

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District Court of the United States for the Northern District of California.

Clerk's Office,

I hereby Certify the foregoing to be a true copy from the Minutes of the said Court.

..... *Clerk.*

By ..... *Deputy.*

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United States District Court
Northern District of California.

The United States } No. 276.
vs.
Joaquin Moraga } "Laguna de las
et al. } Palos Colorados."

Northern District of California ss.

The petition of James Magee and John P. Coulter respectfully shows, that a final survey has been made in the above entitled case under directions of the United States Surveyor General for California, that said survey was approved by said Surveyor General on the 19. day of November 1866, that said Surveyor General has made publication that said survey has been approved by him and that the plat of said survey is now in his office, which said publication was first made on the 20. day of Nov.r 1866, that the said Joaquin Moraga one of the grantees and confirmees of the said Rancho being confirmed has died intestate leaving as his heirs at law four children and the descendants of a deceased child, him surviving, that by purchase from two of said children and deeds of conveyance duly executed and recorded

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your petitioners have become and are the owners of the undivided two fifths of the interest of the said grantee in said Rancho,

And your petitioners represent that during the time when Don Manuel Michaltorena was Governor of this province the northern boundary line of said Rancho was duly surveyed by competent Mexican authority and juridical possession of said Rancho as to said Northern boundary duly given to the claimants, and that the said approved survey excludes from said Rancho about fifteen hundred or two thousand acres of the most valuable part of said Rancho which was included therein under said original survey and juridical possession, and that also about two thousand acres has been cut off and excluded on the eastern part of said Rancho, all against the wishes and in spite of the protests of all the owners in common of said Rancho.

And your petitioners allege that said survey so approved as aforesaid is erroneous and that they are greatly prejudiced thereby.

Wherefore your petitioners pray

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that said final survey may be ordered & returned to this Court in order that justice may be done in the premises.

H. H. Carpenter
Atty. for Petitioner

James Magee and John P. Counter being duly sworn say that they have read the foregoing petition and know the contents thereof and that the same is true.

James Magee
J. P. Counter.

Sworn to and subscribed before me this first December, 1860.

W. A. Clevers.
N. P. Com.

U. S. Dist. Court.

No. 276.

The United States

vs.

Joaquin Moraga

et al.

Petition for return

of Survey

26th Dec:

Contra Costa.

Filed Dec: 3rd, 1860.

W. H. Chevers,

Clerk.

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9.

Land Case Dec

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At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the CITY OF SAN FRANCISCO, on Monday the Third day of December in the year of our Lord one thousand eight hundred and sixty.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States,

V.

Joaquin Moraga.

IN LAND CASES.

District Court No. 276.

Land Com. No. 590.

AND now at this day on application of A. N. Carpentier, Attorney for Mazet & Courtee IT IS ORDERED, that the Surveyor General of the United States for California return into this Court, on or before Wednesday, the 26th day of December A. D. 1860, his Official Survey and Plat of the land finally confirmed in the above entitled cause, known as "Laguna de Palos Colorados," and situated in the County of Contra Costa. in said District; AND IT IS FURTHER ORDERED, that the United States Marshal for this District serve upon the said Surveyor General, without delay, a certified copy of this order, and make due return hereon.

U S Marshal Office
San Francisco Dec 3rd/60

Served personally by Copy on J W Mandeville
U. S. Surveyor General for California this 3rd
Day of December 1860

P. L. Solomon
U. S. Marshal
By S. Lawton
Deputy

No. 276.

UNITED STATES DISTRICT COURT
Northern District of California.
IN LAND CASES.

THE UNITED STATES,

v.

Joaquin Moraga,

ORDER TO RETURN SURVEY.

Returnable 6th Dec. 1860

Issued 3d Dec. 1860

Filed 5th Dec. 1860

W. H. Chevers, *Clerk.*

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In the District Court of the
United States for the Northern
District of California

The United States
vs
Joaquin Morgandal } No 276

The petition of Lucy R
Jones and William B. Ogden
to this Honorable Court respect-
fully represents,

That the survey of the
Rancho Laguna de las
Palos Colorados was ap-
proved by the Surveyor
General of the United States
for the State of California
on the day [illegible] A.D.
1860 that the first publication
of such approval was made
by said Surveyor General
on the 20 day of November
1860 under the first section
of the act of congress of June
14 1860, Your petitioners would
further represent that they
are interested in said survey
and said Rancho in the

following manner, said Lucy
R. Jones is seized in fee
of the undivided one half
of one thousand acres
of said Rancho, situate
on the Eastern Extremity of
a tract of land being one
fifth of said Rancho con-
=veyed by said Joaquina
Moraga & others to Thos
Jones Lawrence and Rhodes
in March 1855 and by
virtue of mesne con-
=veyances from said
Grantees to petitioner,
said William B. Ogden
is seized in fee of Six
hundred & forty acres of
said Rancho, situate on
the Western extremity of
said tract of land con-
=veyed by Joaquina Mo-
=raga & others to said
Jones Lawrence & Rhodes
& by virtue of mesne con-
=veyances from said Jones
Lawrence & Rhodes to peti-
=tioner,

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your petitioners further
represent that said survey
excludes a large portion of
the land held by each of
your petitioners under
said conveyance from
said original confirmee
of said Rancho, to Jonas
Lawrence & Steadc,

Your petitioners further
represent that said Rancho
has been (two or) three times
surveyed by the United
States Surveyor & deputies
& that each of said sur-
-veys has embraced the
the lands conveyed to
each of your petitioners,

Your petitioners would
further represent that said
rancho was granted to
said confirmees by
boundaries, as they are
confirmed & verily believe
& that the lands of your
petitioners are each em-
-braced within the boun-
-daries called for in the

No. 276 ND
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original grant of said Rancho,

Your petitioners further say, that they are informed and verily believe that ~~the lands of your petitioners~~ that said survey excludes a large portion of the lands claimed by your petitioners for the purpose of defeating said conveyance and the warranty therein to Louis Lawrence & Rhode

Your petitioners further say that ~~in ejectment~~ to recover possession of the premises above mentioned as being the portion of said Rancho said Lucy R. Louis in Ejectment brought suit in the Circuit Court of the United States for the District of California in and for the Northern District vs Mrs Hunsacker & Houghton the settlers thereon & that the same was tried before a

Jury at the July term of

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Jury at the July term of said court for 1860 and that the defendants asked for defense upon the ground that said Rancho did not embrace the lands claimed by said Lucy R. Jones that after hearing the proofs ~~thereof~~ the jury forthwith returned a verdict in favor of said Lucy R. Jones, whereupon judgment was duly ren= =dered in said court on the 31st day of August A.D. 1860 in favor of said Lucy R. Jones against said defendants for possession of the whole of said premises embraced in the deed of conveyance to said Plain= =tiff and a large portion of which is left out in said survey

Your petitioners pre= =sent represent that the said M.B. Ogden com= =menced suit in the same court against

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J. D. Learned & others being the settlers upon said 640 acres of said Rancho, claimed by him as above mentioned, that the same is more fully appearing in said court, that the defendants of all of said defendants have been entered therein except one defendant who claims one hundred & sixty acres of said land only,

Your petitioner further represents that said County embraces from 1500 to 2000 acres of the Rancho Acalanes belonging to Elam Brown including his house and mills and all of his valuable improvements which said rancho he holds under a Spanish title which has been finally confirmed and for which he has had a patent of the United

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States government, for
more than two years last
past, that in order to sur=
=vey the said lands, be=
longing to said Brown
under said patent said
Surveyor General has taken
off from said Moraga
Rancho about two thousand
acres from the land of said
rancho within its well de=
=fined and natural boun=
=daries which are given
in the grant and petition
Eight hundred acres of
which belong to your
petitioners under said
conveyance from Jo=
=aquin Moraga & others to
James Lawrence Strode

Your petitioners further
represent that there are three
well defined natural boun=
=daries given in said
original petition for the
said Rancho, the grant
thereof being the arroyo
de San Pablo on the West

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adjoining the lands of said W.B. Ayard. Thence in a right line on the North to the canal Antiguo near the ojo de agua which is a well defined boundary and on the East adjoining & bounding the lands of said Lucy K. Jones by the "cuchilla de las Trampas" a range of hills beyond the "arroyo de las Trampas" which is given as the boundary of said survey on the East, And your petitioners further say that the only indefinite boundary of said Ranch is on the South, where it is bounded by the establishment of the Mission, which is indefinite and uncertain,

Your petitioners further say that said survey or grant has wholly disregarded the natural boundaries of said Ranch

on the East & on the West

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on the East & on the West adjoining the lands of your Petitioner as by your Petitioners can be informed through the representations of interested persons, for the purpose of depositing the said convey ance of said Moras and others to Jones Lawrence & Steele,

Your Petitioners further say that said survey of said Ranch upon the East, goes beyond the Exterior line claimed by said Lucy R, Jones both to the North and to the South of said Petitioners land, but that the same is made to include said ranch when it strikes the lines of the land claimed by said Lucy R, Jones so as to reject thereform nearly the whole thereof,

Wherefore your Pe=

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-titioners may that such survey may be rejected or reformed so as to embrace the lands of your petitioners & for such other and further relief as may seem meet in the premises

E. R. Lawrence
atty for Petitioners

United States of America
Northern District of California
} S.S.

E. R. Lawrence attorney for N. B. Ayard & said Lucy R. Jones the petitioners above named & Lucy sworn says that he has read the foregoing petition and knows the contents thereof, that the same is true, except as to matters stated to be on information & belief and as to those matters he believes it to be true that he is better acquain-

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ted with said part thereof said petitioner & therefore makes this affidavit

C. A. Lawrence

Sworn & subscribed to before me this 2nd day of January 1886

W. A. Reed
N. P. Com'r

276.

In the District Court of the U.S.
for the Northern District of Cal.

The United States

vs

Joaquin Moraga
et al

Intervention of
Levy R. Jones
W. B. Agard.

Filed January 2. 1861.
W. A. Clerest.
Clerk.

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C. A. Lawrence
Atty for Intervenors

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U. S. Dist. Court. Northern Dist. of California.

The United States } No. 276.
vs
Joaquin Munoz et al } Laguna de los Palos Colorados.

H. W. Carpentier being duly sworn says that, as he is informed & believes the Solvante or Surplus of the Ranchos of San Antonio, San Pablo, Pinole, Moraga and Valencia was granted in 1841 by the Mexican Government to Juan José & Victor Castro, that said grant has been finally confirmed & the grantee by the proper tribunals of the United States, that said grant was for all the land lying within the exterior boundaries of said Ranchos that might result as a surplus after the survey of said Ranchos, of which the Rancho confirmed to the claimants in this case is one, that said grant for the Solvante is now in part owned in common by Edm Adams, John B. Frisbie, Felix Buisac and this affiant, and that this affiant is the attorney of said Adams, Frisbie & Buisac.

Affiant further says that said persons are interested in the survey in this case and that the same is erroneous.

Wherefore he asks to intervene on behalf of said persons.

H. W. Carpentier

Sworn to and subscribed before me December 26. 1860.

N. D. Cheney.
U. S. Com'r.

U. S. Dist. Court

No. 276

The United States

vs.

Joaquin Moraga et al.

Intervention of

Elton Adams et al

Filed January 2, 1861.

W. A. Clement.

Clerk.

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United States District Court

Northern District of California.

The United States

vs

Joaquin Moraga

et als.

No. 276.

"Laguna de los Palos Colorados".

José Moraga, John P. Coulter, James Mogee, Louis Mann, Samuel J. Tennent and Horace W. Carpentier, who, as successors in interest of the original confirmees, have intervened in this case, allege that the survey herein is erroneous and present the following objections thereto,

1. That in the year 1844, by Judicial decree of Micheltorena then Governor of California, the dividing line between said Ranchos and the Ranchos of Acalanes, was fixed and determined, and said line was afterward surveyed and judicial possession given to the respective grantees, by competent mexican authority, up to said line, and that the survey in this case excludes from said Ranchos about two thousand acres of the most valuable part thereof which according to said order of Micheltorena and said judicial possession were included within said Ranchos.

2. That the true northern boundary of

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said ranchos as fixed by said decree and judicial location was as follows, thence up the arroyo of San Pablo, thence in a straight line to the east so as to include the spring of water near the "Corral Antiguo" (old cattle pen), that the same is declared to be the northern boundary line in the decree of confirmation, in the final grant, and in the decree of this court finally confirming said grant, but that about 2000 acres of the most valuable portion of said Ranchos, lying on the south side of said northern boundary has been excluded therefrom by said final survey.

3. That the Eastern boundary of said Ranchos is the "Cuchilla de los Tampas" (Ridge of the Tampas Mountains), but that about fifteen hundred acres of valuable land lying westwardly of said mountain ridge has been excluded from said ranchos by said final survey.

4. That tracts of land almost utterly worthless and that are not within the limits of said ranchos have been included in said survey, on the western side and the southeastern corner thereof.

5. That said survey was made and said land located contrary to the wishes and against the interests of all of the owners in common of said ranchos.

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6. That the said Ranchos as located and surveyed is worth less than one half of what it would be worth if located according to said decree of Michiltorena and judicial possession and so as to include the lands up to the Cuchilla de las Trampas.

Wherefore said intervenors pray that said survey be set aside and vacated and that another survey be ordered, and that by the order of this court the said Surveyor General be directed to include within said Ranchos the lands up to the line drawn from the San Pablo creek thought to the eastward so as to include the Spring of water near the Corral antiguo, and also up to the Ridge of the Trampas hills on the east, and that the lands not properly belonging to said ranchos on the west and the southeast be excluded therefrom.

J. W. Carpentier
for said intervenors

U. S. Dist. Court.

No. 276.

The United States

v.

Joaquin Moraga et als.

Objections to Survey
~~of Moraga et al.~~

Filed January 2, 1861.

W. H. Chevers,

Clerk.

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United States of America,) ss.
Northern District of California.)

THE PRESIDENT OF THE UNITED STATES OF AMERICA,
To the Marshal of the United States for the Northern District of California,

GREETING:—

WHEREAS, objection has been made to the official survey and location of the land finally confirmed, in case No. 276, to Joaquin Moraga known as "Laguna de Palos Colorados", and situated in the County of Contra Costa in said District.

NOW THEREFORE YOU ARE HEREBY COMMANDED, in the name of the President of the United States of America, to give due notice to all parties having, or claiming to have, an interest in such survey and location, that they be and appear before the District Court of the United States for said District, sitting in Land Cases, on or before Wednesday, the 26th day of December A. D. 1860, at 11 o'clock, A. M. (if that day shall be a day of jurisdiction, and if not, on or before the next Wednesday thereafter,) then and there to intervene for the protection of such interest, or their defaults will be taken. And what you shall have done under this writ do you then and there make return thereon.

WITNESS, the Hon. OGDEN HOFFMAN, Judge of said Court, at San Francisco, in said District, this Third day of December A. D., 1860.

W. C. Reeves.

CLERK.

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No 276.

UNITED STATES DISTRICT COURT,
Northern District of California.
IN LAND CASES.

THE UNITED STATES.

V.

Joaquin Moraga,

MONITION.

Returnable 26th Dec; 1860.

Issued 3d Dec; 1860.

Filed January 2nd 1861.

W. H. Revere

Clerk.

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The within Monition was received by me on Monday *the* 3rd *day of* Dec *1860, and in obedience thereto I have given due notice, as therein commanded, by causing the publication of said notice, for* 4 *consecutive Wednesdays, in the San Francisco Herald, commencing on the* 5th *day of* December *1860; and for* 3 *consecutive Saturdays, in the* Contra Costa Co Gazette, *a paper published nearest the land, commencing on the* 8 *day of* Dec *1860.*

Dated San Francisco, Dec 26th *1860*

R L Solomon

U. S. Marshal.

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District Court of the United States
for the Northern District of California

The United States vs Joaquin Moraga & others } D. C. No 276. L. C. No 590. Laguna de Palos Colorados.

A Plantenden being sworn says that he is the owner of a tract of abmt 750 acres of land. Part of the land included in the survey in this case which has been returned to this Court, bounded and described as follows: Commencing at a point on the Centre line designated by H A Higley on the map of a survey made by him of said Laguna de Palos Colorados as distant due West from the Centre of the Laguna de los Palos Colorados 838 rods, and running due South 200 rods to a Stake on the Southern parallel line as designated by said Higley on the map aforesaid; thence due West with the parallel line aforementioned 300 rods

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to a stake; thence due North 400 rods to a stake in the Northern parallel line aforementioned; thence due East along the said parallel line 300 rods to a stake; thence due South 300 rods to the place of beginning; and that he claims said described tract of land under said Joaquin Moraga, Guadalupe Bernal, Ramon Higuera & Encarnacion Higuera.

A P Catlin

Subscribed & sworn to before me this 26th day of December A.D. 1860.

F. W. Higgins
Notary Public.

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U. S. District Court

The United States
vs
Joaquin Moraga
et als —

Intervention of
A P Crittenden

Filed January 2, 1861.
W. H. Chevers
Clerk.

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U. S. Dist. Court.
N. Dist of Cal.

The United States
vs.
Joaquin Murafa.
et al.

No. 276.

Edson Adams, John B. Frisbie, Felix Bissac and H. W. Carpentier who, as owners of the Rancho "Sobrante," have intervened in this case, present the following objections to the final survey herein.

1. That said survey excludes about 3500 or 4000 acres on the northerly and easterly side which ought to be included within the same.

2. That said survey includes about 3500 or 4000 acres on the westerly and southerly side thereof that ought to be excluded therefrom and which of right belongs to said Sobrante Rancho.

3. That said survey is so made as to leave a strip of land on all sides of it belonging to the Sobrante whereas it should be so located as to leave the Sobrante in a compact form.

Wherefore intervenors pray that said survey be annulled and a new survey ordered, conformably to the rights of said intervenors.

H. W. Carpentier
for intervenors

U. S. Dist. Court.

No. 276.

The United States

vs.

Joaquin Moraga

et al.

Objections to Survey

of Adams et al.

Filed January 2. 1861.

W. H. Chevers.

Clerk

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At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the CITY OF SAN FRANCISCO, on Wednesday the second day of January in the year of our Lord one thousand eight hundred and sixty-one.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States,

V.

Joaquin Moraga,

IN LAND CASES.

District Court No. 276,

Land Com. No. 590,

AND now at this day the United States Marshal having made return upon the Monition heretofore issued in this cause, that he had given due notice as therein commanded; on motion of A. W. Carpentier, Attorney for Moraga et al & Adams et al, proclamation was made that all parties having, or claiming to have, an interest in the survey and location of the land finally confirmed in the above entitled cause, appear and intervene for the protection of such interest; the U. S. Attorney appeared for the U. S. E. A. Lawrence appeared for the Claimant, and for Lucy R. Jones, and H. B. Agard, A. P. Crittenden appeared in his own behalf. T. A. Brown appeared for Elam Brown, and on motion is hereby allowed 5 days to file intervention. Porter & Sawyer appeared for Daniel Small, and allowed 5 days to file intervention. A. W. Carpentier appeared for Moraga et al, and for Adams et al. No other party appearing,

whereupon IT IS ORDERED, that the default of all parties not appearing as aforesaid be and the same is hereby entered.

No. 276.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

V.

Joaquin Moraga,

ORDER ON RETURN OF MONITION.

Filed January 2nd, 1861.

W. H. Chever

Clerk.

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United States District Court
Northern District of California.

The United States — No. 276
vs.
Joaquin Moraga et als. — "Laguna de los Palos Colorados"

Northern District of California ss: The petition of José Moraga, John P. Coulter, James Magee, Louis Mason, Samuel J. Lamont and Horace W. Carpentier, respectfully shews, that Joaquin Moraga and Juan Bernal the original grantees in the above entitled cause are both deceased, that by several mesne conveyances from the respective descendants and heirs of said persons, duly executed and recorded, Your petitioners have become the owners as tenants in common of the greater part or the whole of the said Rancho Laguna de los Palos Colorados, confirmed to the claimants in this case, in about the following proportions, to-wit, the said Moraga the undivided one tenth, the said Coulter one tenth, the said Magee one tenth, the said Mason one tenth, the said Lamont one tenth, and the said Carpentier one half thereof; that the final survey in said cause as approved by the Surveyor General for California

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has excluded from said Rancho about three thousand acres of the most valuable land included within the grant, and lying upon the northern and eastern portions thereof, that the County in common of said Rancho are unanimous in their desire to have the said lands thus excluded included within said rancho, that the portion of said Rancho so excluded from the official survey thereof is of great value, to wit, of the value of fifty thousand dollars, and embraces the original location, the house, improvements and sowing fields of one of the said grantees, and that said portion was adjudged to be included within said Rancho by the decree of final confirmation. And your petitioners say that said final survey is erroneous and that they are greatly injured thereby.

Wherefore they ask that they may be allowed to intervene in this cause and contest said survey in order that justice may be done in the premises.

H. W. Carpenter
for Petitioners.

State of California
City and County of San Francisco } ss

John P. Cowden being duly sworn says that he is one of the petitioners

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above named and that the foregoing petition is true as he verily believes.

J. S. Courtenay

Subscribed and
sworn to before me
this 11th day of
December A.D. 1865

P. P. Cornwall
Notary Public

U. S. District Court

No. 276.

The United States

vs.

Joaquin Moraga

et als.

Intervention of

José Moraga & others

Filed January 2, 1861,

W. H. Chevers,

Clerk,

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In the district court of the United States for the Northern District of California

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The United States } Case No 276
vs } Laguna de Palos Colorados
Joaquin Moraga }

Elam Brown being duly sworn deposes and says that he claims an interest in the Rancho "Laguna de Palos Colorados" being case No 276. and in the survey and location thereof. Affiant acquired his interest in said Rancho by purchase from Joaquin Moraga one of the original Grantees and his two sons Francisco and Jose Moraga. and by their conveyance to affiant made on the twenty second day of February 1853 a copy of said conveyance is hereto attached more than half of the land conveyed to affiant. and described in such conveyance he now owns he therefore prays that he may be permitted to intervene in relation to the survey thereof for the protection of his said interest.

Subscribed & sworn to before me 5th January 1861, Elam Brown
E. F. Weld
Notary Public, in and for
Contra Costa County.

Upon the facts set forth in the foregoing affidavit & appearing from the conveyance a copy of which being hereto attached the said Elam Brown

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by his attorney Thomas A Brown prays
to be permitted to intervene in the above
entitled cause for the protection of his
interest in the premises —

Thomas A. Brown
Attorney for petitioner —

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Know all men by these presents that we Joaquin Moraga of the County of Contra Costa and my two sons Francisco and Jose in consideration of the sum of four thousand ($4000.) Dollars to us in hand paid by Elam Brown of the aforesaid County the receipt whereof we do hereby acknowledge have bargained sold and quit claimed and by these presents do bargain sell and quit claim unto the said Elam Brown and to his heirs and assigns forever all our and each of our right title and interest estate claim and demand both at law and in equity as well in possession as in expectancy of in and to all that certain tract or piece of land situate lying and described as follows to wit all that portion of land and wood within the boundary of Moragas Rancho and known with the name of Canada or Sierra de los Palos Colorados Red wood Mountain bounded on the north by the timber growing on the side of ridge of the said Canada or valley running with said Canada so far and south west as the Red wood timber continues thence running south west including all the Red wood on said Farm thence west and north to the place of beginning being part of the Rancho known by the name of Laguna de los Palos Colorados or Red wood Schools in Contra Costa County California granted by Governor Alvarado to Moraga & Bernal in the year eighteen hundred and forty one

And I Joaquin Moraga and my two sons Francisco and Jose do hereby for ourselves our heirs executors administrators and assigns covenant promise and agree to and with the said Elam Brown his heirs and assigns that is to say that said E Brown his heirs and assigns shall and may peaceably and quietly have hold and enjoy the said lands tenements & hereditaments and every part and parcel thereof without the let suit

trouble direction or disturbance of the Joaquim Moraza by him or assigns or by or by any other person or persons lawfully claiming or to claim from by or under us or in trust for any of us and further agree between the parties that I Joaquim Moraza my heirs and administrators shall have the privilege of cutting on the above described premises of Red wood & first pine wood and timber for fence and for our own exclusive use, forever. But not for sale. And said Clem Brown his heirs and assigns are bound to have always good character and respectable tenants not to commit any kind of depredation on my property and to act in good faith in preventing intruders upon my Rancho. The within deed is only to convey all that land covered with said Red wood trees and other timber growing in said described premises of the Rancho de la Laguna de Los Palos Colorados.

In witness whereof, we the undersigned hereunto set our hands and seals before witnesses this twenty second day of February A D one thousand Eight Hundred and sixty three

Witness for Joaquim, Moraza Ls
Francisco and Jose Moraga Francisco Moraga Ls
J C Coffinberth Jose Moraga Ls

Witness as to the Signature of
Joaquim Moraga acknowledgment of
Francisco and Jose Moraga
L H Hastings
M R Barber

State of California

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County of Contra Costa

On this day the first day of March AD, 1853 personally appeared before me the undersigned County Recorder in and for said county Joaquin Moraga Ignacio Moraga and Jose Moraga each personally known to me & each for himself acknowledged to me that he executed signed sealed & delivered the foregoing deed to Elam Brown freely & voluntarily and for the purposes and uses therein mentioned

{L S}

Witness my hand & official seal the day and date above written at office in Martinez

Thomas A Brown
County Recorder

Filed for Record the 14th day of March 1853 at 12 oclock M. at request of Elam Brown Recorded the same day at 3 oclock P.M.

Thos A Brown Co Recorder
By L M Brown Depty

Vol 3 page 10. 11.

State of California }
County of Contra Costa } I L C Wittenmyer County Recorder of Contra Costa County do hereby certify that the foregoing is a full true & correct copy and transcript of an instrument on Record in my office in volume B Books of Land titles

Pages 10. & 11 as the same now appears in said Record

Witness my hand and official seal at office in Newton this 5th day Dec 1871.

S. C. Wittemeyer
County Recorder

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Deed

Morgan & Morgan

to

Elam Evans

22 February 1858

No. 276.

1st Court of the United States for the Northern District of California

The United States
vs
Longinos Murrega
No 276—

Rancho Laguna de Palos Colorados — Affidavit of Elam Brown

Intervention of Elam Brom.

Filed Jany 5, 1861.
W. H. Clement.
Clerk

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At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the CITY OF SAN FRANCISCO, on Monday the seventh day of April in the year of our Lord one thousand eight hundred and sixty-two.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States.

V.

Joaquin Moraga. et al.

No. 276.

And now at this on motion of H. W. Carpentier Counsel for the intervenors Moraga. et al. and Adams. et al. it is ordered by the Court that he have fifteen days farther time to take testimony herein.

276.

UNITED STATES DISTRICT COURT

Northern District of California.

The United States.

V.

Joaquin Maraga, et al.

Order allowing Carpenter 15 days further time to take testimony.

Filed April 7. 1862

W. H. Chevers.

Clerk.

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The United States
vs.
Joaquin Moraga et al.

It is stipulated that Elam Brown the intervenor by the deed dated Febry. 22. 1853 attached to his petition for intervention in this case acquired all the right, title and interest which Joaquin Moraga, Jose Moraga and Francisco Moraga could convey by metes and bounds in severalty, in and to the lands described in said deed, and that said copy may be used as the original. It is also stipulated that the intervenor Horace W. Carpentier has succeeded to all the right, title and interest of Juan Bernal deceased in and to the Rancho Laguna de las Palos Colorados.

H. W. Carpentier
for Intervenor Moraga et al.
Thos. H. Brown
Atty for E. Brown
Wm H. Sharp
U. S. Atty.

C. A. Lawrence
Atty for Jones & Ayad
Intervenors
for Claimants

276.

U. S. District Court.

The United States,

vs.

Joaquin Moraga.

Stipulation of Counsel.

Filed July 30. 1862.

J. A. Shepard.

Clerk.

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Office of the Surveyor General,

OF THE UNITED STATES, FOR CALIFORNIA.

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I, **E. F. BEALE,** *Surveyor General of the United States for the State of California, and as such, having in my office, and in my charge and custody a portion of the* **Archives** *of the former* **Spanish** *and* **Mexican** *Territory, of the Department of* **Upper California,** *as also the papers of the late Board of Commissioners to ascertain and settle the private land claims in California: by virtue of the power vested in me by law,* **Do Hereby Certify,** *that the annexed preceding, and hereunto annexed page, of tracing paper, numbered from one to inclusive, exhibit a true, full, and correct copy of an original Mapa found in an Expediente Expediente promovido por los ciudadanos Joaquin Maraya y J. Bernal, en solicitud del Paraje Conocido con el nombre de Laguna de las Palas Colorados as the same is found on file among said Archives 1841*

EXAMINED AND FOUND CORRECT.

Keeper of Archives.

In Testimony Whereof, *I have hereunto signed my name officially, and caused my Seal of Office to be affixed, at the City of San Francisco, this 8th day of May 1862*

E F Beale,

U. S. Surveyor General, for California.

Case 276 ND

U. S. Dist. Court

The United States

vs.

Joaquin Moraga

Exhibit Hopkins
No. 1. to deposition of
R. C. Hopkins,
for Intervenor Moraga, Claimant.

Filed October 15, 1862.
W. A. Chevers,
Clerk.

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Sor. D. Ant.º M.ª Peralta

S. Leandro Sp.ª 29/847.

Estimado Compañero.

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Suponiendome el q.
la circular q. hace los dias mande p.
el Rancho a Amador, no halla lle-
gado a suy manos, esperiva a q. com-
parezcan el dia de mañana en el Ran-
cho de los Acalanes q. el Gov.no dio al C.
Candelario Valencia y todos los Colin-
dantes q. dho titulo espresa cuales
son, Rancho del Pinol, S. Pablo
~~S. Antonio~~ S. Antonio; en esta virtud lo comunica
a V. A. q. q. mañana temprano nos reu-
namos en la Cieneja de S. Ant.º q. q.
presencien las Medidas y posecion de dha

Rancho, del q. ha hecho Sedim.to Dho
agraciado a D. Guillermo Leidesdorff q.
vá a pocesionarse del, y h.ta ntra. vi-
ta queda a V. su affmo. Compañero
Q. B. S. M.

José Joaq.n Estudillo

Exhibit [illegible]

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U. S. Distt. Court,

The United States,

—vs—

Joaquin Moraga.

Exhibit Peralta
No 1. to dep: of
A. M. Peralta,

Filed Oct. 15, 1862,
W. H. Chevers,
clerk

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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The United States,

v.

Joaquin Maraga

IN LAND CASES.

Dist. Court No. 276

Land Com. No. 590

BE IT REMEMBERED, that on this 12th day of June A. D., 1862, at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, personally appeared José de Jesus Martinez a witness produced in behalf of the Antes. Maraga Claimants in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: his evidence being interpreted by A. D. Splivalo a sworn interpreter.

PRESENT: J. H. Carpentier for Antes. Maraga et als. E. A. Lawrence for Antes Jones & Agard, J. A Brown for Antr. E Brown and W. H. Sharp U. S. Atty for the U.S.

QUESTIONS IN BEHALF OF THE Antes Maraga et als.

Question 1st,

What is your name, age, and place of residence?

Ans.

My name is José de Jesus Martinez, my age is 37 years

I reside in Contra Costa County.

2.

Do you know the Cuchilla de las Trampas, if so describe it?

Ans.

I do. It is situated to the Southwest of the San Ramon valley. The Arroyo de las Trampas is to the Southwest of it & below in the valley.

3.

Were you ever present at any judicial measurement of the Moraga Rancho or the Acalanes Rancho, or of the boundary between them or of any part thereof, if so state when, and whatever you may know about it?

Ans.

I What I know is about the time when I was subpoened by the Judge of Contra Costa, to assist at the giving of possession of the land sold by Valencia to

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William Leidesdorff, that is the rancho of the Mcallanes. It was about the year 1846 or 1847. As soon as we had all assembled the Judge stood up and said, that Don. Leidesdorff should be recognised as the owner of the rancho Mcallanes, which had belonged to Candelario Valencia. As soon as he was recognised owner of the land the Judge ordered me to measure one hundred varas square near the Lavasal and Ojo de Agua which said 100 varas square the Judge said also belonged to Wm. Leidesdorff, besides the rancho which was one league long by three quarters wide.

4.

Where is the Ojo de Agua you mention?

Ans.

It is a large spring between

the houses of the Widow Bernal and Nathaniel Jones.

5.

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Was any other measurement that you know of, made at that time?

Ans.

After the ranch was confirmed I have seen Surveyors around there, but I paid no attention to them. At that time there was no line run between the two ranchos.

6.

What if anything did the Judge say about the boundary between the two ranchos?

Ans.

After we had measured we started off – all of us about twenty or thirty – towards the arroyo San Pablo, when the Judge stopping said "All "the difficulty here is about "the Spring, so let this side

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"be for Valencia, and this for Moraga." This occurred about 300 or 400 varas. I am not sure which, from the Spring.

7.

Do you know where the Corral Antiguo was?

Ans.

The first corral I saw, which was in 1833 or 1834, was between McKee and Jones, and below the house of Moraga.

8.

Was anything said at the time by Estudillo about the common use of the Spring between the two ranchos, if so what?

Ans.

After reading the bible in a loud voice, Estudillo said there was an agreement between Valencia and Moraga, by which they agreed to place a dam across the creek, so that flows from the Spring, so that both parties named have

the benefit of the maker.

9.

Do you know where ~~D~~ Elam Brown's mill now is, and the public highway with the Telegraph line passing by it? If so, on which side of said mill and objects, is the said Spring?

Ans.

I ~~do~~ do. The Spring is to the West of the mill, and to the South of the road. The said Spring is about a mile distant from Brown's mill, from the house of the Nidan Ranch to the Spring is about three hundred varas.

10.

Is Brown's mill and residence within the ranchs of Mesaga or the Scallanes ranchs, as they were then described by the Judge?

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Ans.

According to what the judge said the mill and residence of Brown may be within the ranch of Maraga, but not within the Scallanes, as belonging to Candelario Valencia.

11.

Where was the house of Candelario Valencia on his ~~house~~ ranch?

Ans.

The first house he had, was within the one hundred varas square we measured, but this was burned by the Indians, he afterwards made a shanty near the Lausal.

12.

Where did Elam Brown ~~live~~ first have his house?

Ans.

About 1/2 the West of Jones. and 1/2 the West of the Spring.

13.

Which side ~~of it~~ was it of

the line as designated by Estudillo?

Ans.

On the Acallanes side.

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14.

Do you know the Arroyo de Galindo?

Ans.

I do. It begins in the Canada where Ramon Briones lives, and it flows in to the Arroyo San Pablo, at about 1000 varas West of the old house of Wm. Smith.

15.

Do you know the creek in that neighborhood that used to be called Arroyo Rio Grande?

Ans.

I do. It is the same as the San Pablo creek, which empties into the sea at the waters of the bay of San Pablo.

16.

How far is it from the afore-

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said Spring, and house of Mrs. Bernal to the junction of the Arroyo Salinas, with the Arroyo Grande?

Ans.

I cannot say exactly, but I think it must be at least three miles or over.

Counsel for Intervenor Brown objects to all the testimony of this witness, and to every question propounded in relation to any boundary between the Moraga ranchs and the ranchs of Leidesdorff or Valencia, on the ground that it is incompetent, irrelevant and that it does not appear that the action of the Alcalde was at the request, or ~~consent~~ by consent of any of the parties interested. ~~and the said testimony is wholly incompetent.~~

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Cross Examination.

Questions by Counsel for Intervenor Brown.

Ques: 17.

How long have you been acquainted with the boundaries of the Maraga ranch?

Ans.

I knew them personally before 1840,

18.

Describe the Western boundary particularly?

Ans.

It is the Western ridge of the Redwood hills.

19.

Describe the Southern boundary, between the Maraga ranch and in the direction of Guillermo Castro's?

Ans.

It is the Portezuelo de ~~the~~ Las Trampas, and the ridge of hills running from there

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towards the Redwoods.

20.

Is not the Cuchilla de las Trampas the dividing ridge between the Arroyos of Alameda and San Lorenzo on the South, and the waters of the San Ramon, and the Arroyo las Nueces on the North?

Ans.

The Cuchilla de las Trampas is not, it is towards San Ramon.

21.

State where the Cuchilla de las Trampas is situated with reference to the San Ramon valley. Is it not the dividing ridge, or a ridge of hills, lying between that valley and the valley of San Leandro and San Lorenzo?

Ans.

It is situate between these Valleys and divides them as stated in the question. It runs

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Northeasterly and Southwesterly. I think it is over five leagues long from the house of Romero at its Northern extremity, to the house of Castro. to where the creek is crossed by a high road leading to the rancho of Amador.

22.

Does not the Arroyo de las Trampas rise in the ridge of hills called the Cuchilla de las Trampas, and flow in a Northerly direction therefrom?

Ans.

There are two Arroyos called Las Trampas which take their source at the Picacho de las Trampas, one flows into the San Ramon, and the other into the Las Nueces, and they all meet at the Las Juntas. The Arroyo de las Trampas which flows into the Las Nueces, after

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leaving the Rancho de las Rampas plains in a Northwesterly direction.

23.

Has not this arroyo las Rampas which flows into the Las Nueces, always known as the Eastern boundary of the Noriega ranch, or on that side of the ranch what has been known as the boundary since you have known the ranche?

Ans.

I am not sure, ~~but I know~~ whether the arroyo de las Rampas or ~~the arroyo called that, to have~~ the Cuchy de las Rampas was ~~the~~ the Eastern boundary.

24.

State where the old man Noriega resided on the ranche, and where he made his first improvements, state also whether Juan Bernal ever resided on the ranche, if so state at what time and at what place?

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Adds.

Examination adjourned until
10 o'clock A.M.

San Francisco
June 13th 1862.

Examination of José de Jesus
Martinez resumed from yester-
day.

Present:

All the parties.

Ques: 24 is repeated to the
witness.

Ans.

Joaquin Moraga did live on
the ranch, his first improvements
on the place, were below at the
foot of the hill where José
Moraga lived a few months ago,
near the Redwoods. Juan Bernal
never lived on the ranch.

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25.

At what time did the widow of Juan Bernal first reside at the place you have mentioned near the Ojo de Agua?

Ans.

I do not exactly remember when, but I think it was after 1848.

26.

Did any of the Maraga family or any of the Bernal family ever occupy the land near the Ojo de Agua, prior to the sale and delivery of the Scullanes ranch to Leidesdorff about which you have testified?

Ans.

Not none of either of those families resided there.

27.

Who if any person had occupied that place prior to that time?

Ans.

Candelaria Valencia.

28.

What time did he first occupy

the place, and how long did he remain there?

Ans.

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I do not exactly remember the time but it was before 1838. He lived there until the Indians burned his house. I think the house was situated where they afterwards measured the one hundred varas square. At the time he went there he built a corral at the forks of the creek below Brown's mill. He had his father's cattle on the ranch.

29.

Did you ever know or hear of Moraga or Bernal claiming the land about the Spring, or where Brown's mill is situated, until after the difficulty between Moraga and Valencia, about which you have testified?

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Ans.

I never did. I was too young at that time, Valencia always occupied that place before that time.

30.

What is the meaning of "Acullanes," the name of Valencia's ranch, or what was the name derived from?

Ans.

It is an Indian name, derived from the Ranchería which was on that place, and situated near the Sausal near the Ojo de agua, and to the North of it. It was also near the place where the Widow Bernal afterwards built her house.

31.

Did any of the Kanagas or the Bernals ever make any improvements on the Ranch, at any other place than in the Valley where the house

of Moraga was situated near the Redwoods?

Ans.

They did not, prior to 1848.

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32.

Describe what you mean by the Las Trampas, the origin of the name as applied to the Cuchilla and hills about which you have been testifying, and where they were situated?

Ans.

The place called Las Trampas is a Rancho to the East of the house of José Moraga. "Las Trampas" means traps and the place was so called because there was a Chaparral where the said traps to catch ~~bears and~~ elks were situated.

33.

How are the Las Trampas situated with reference to the source of the stream called the Arroyo de las Trampas

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which flows into the Las Juntas, and that which flows into the arroyo San Ramon?

Ans.

They were situated right between the two sources of the Las Trampas creek.

Direct Examination resumed
Questions by Counsel for
Intervenor Moraga Adams et al

Ques: 24.

In your answer to ques: 28. you speak of a corral near where Brann's mill is now situated, State whether that was the most ancient corral in that section of country, and to whom it belonged?

Ans.

It was the most ancient for in that place Bruno Valencia, and Francisco Valencia the

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father of Candelario, Valencia,
first herded and loaned their
cattle. The corral belonged
to Bruno and Francisco
Valencia, and not to Candelario.

35.

About how far was it from
this corral to the Ojo de Agua?

Ans.

About a mile.

36.

Where did Manaya's track,
with reference to the Ojo de
Agua?

Ans.

To the South, on the other
side of the hill, they seldom
came near the Ojo de Agua, be-
cause there was too much
water.

37.

~~Please explain what you~~
~~mean~~

Cross Examination resumed
Questions by Counsel for

11

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Intervenor Brown.

Que: 37

Was not the corral near Brown's mill, that you have spoken of built by the Valencias at the time the rancho Acadians was founded?

Ans.

Yes. it was, when the old man Valencia brought his cattle to the ranch. Candelaria Valencia was one of the family of the old man Valencia at the time.

38.

Are there not many different Ojo de Aguas on different parts of the Tevaga ranchs?

Ans.

There are many.

39.

Is there not one large spring or "Ojo de Agua" near the source of the San Pablo creek?

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Ans.

Yes it is called "Las Pasas."

Q.

State whether that Las Pasas is on the ranch of Moraga ?, and describe the place where they are situated?

Ans.

The Las Pasas are on the Western boundary of the Moraga ranch, it is the Southwest corner of the ranchos as I have always understood it, because I had occasion to ask the old man Moraga about it. These Las Pasas are the source of the San Pablo creek.

Deposition closed.

Jose de J. Bautista

Sworn to and subscribed June 13th 1862. before me.

W. A. Shoard.

U. S. Commr.

No 276.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

Joaquin Maraga.

DEPOSITION OF

José de Jesus Martinez,

on part of Intervenors

Maraga, Adams, et al.

Filed October 15, 1862,

J. H. Reveres,

Clerk.

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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The United States,

v.

Joaquin Moraga,

IN LAND CASES.

Dist. Court No. 276.

Land Com. No. 590.

To W. H. Sharp, U. S. Atty,
E. A. Lawrence, A. Abrittencen,
and Thos. A. Brown,

You are hereby notified that the testimony of John LaCroze, R. C. Hopkins, Antonio M.a Peralta, Calvin Pacheco, José Martinez,

in the above entitled cause in behalf of the intervenors José Moraga, et al, and Adams, et al,

will be taken before me, the undersigned, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, commencing on Thursday the 12th day of June A. D. 1862, at 11 o'clock A.M., and continuing from day to day until finished, at my office No. 17, U. S. Court Rooms; and you are hereby further notified to then and there appear and propound such questions to the said witness as you deem fit.

Witness my hand and official seal at the City of San Francisco, in said District, this 3rd day of June A. D. 1862.

H. H. Clement

U. S. COMMISSIONER.

276.

Service of copy of
within notice is hereby
admitted this 3rd
June, 1862,

Wm. H. Sharp
U. S. Atty.
E. A. Lawrence
"
A. P. Crittenden

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Copy of within notice forwarded by me
on the 3rd. June. 1862. by mail to Thos.
A. Brown, at Martinez. Cal.
W. D. Chevers,
U. S. Com.

In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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The United States,

v.

Joaquin Moraga

IN LAND CASES.

Dist. Court No. 276

Land Com. No. 390

BE IT REMEMBERED, that on this 12th day of June A. D., 1862, at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, personally appeared R. C. Hopkins a witness produced in behalf of the Intervenors Moraga, Adams &c in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: ~~his evidence being interpreted by a sworn interpreter.~~

PRESENT: H. W. Carpentier for int: Moraga et als. E. A. Lawrence for intrs. Jones & Ayers. T. A. Brown for Int: E. Brown and W. Sharp U. S. Atty for the U. S.

QUESTIONS IN BEHALF OF THE Intervenors Moraga et als.

Question 1st,

What is your name age place of residence, and occupation?

Ans.

My name is R. C. Hopkins I am of lawful age, I reside in San Fran.

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circo, and my occupation is that of Keeper of the Spanish archives in the office of the U. S. Surveyor General for California.

2.

Please examine the documents now shown you marked Exhibit Hopkins No. 1. purporting to be a certified traced copy of the original diseño found in the expediente in this case, and state whether you have carefully compared it with it's original and what you have to say about it's correctness?

Ans.

I have carefully compared said exhibit with it's original found in the expediente, and find the same to be an accurate and carefully traced copy of said original.

3.

Please to examine what purports to be a traced copy of the same contained in the transcript on file in this case between pages fifteen and

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seventeen thereof, and state whether it agrees with the copy testified to by you in the preceding answer?

Ans.

It does not.

4.

State whether in so far as it is unlike the other said traced copy, it is incorrect?

Ans.

It is so far incorrect.

5.

Please look at the decree contained on page 28 of the transcript, commencing with the words, "en el con-venio" and state whether you have now present, the original thereof, contained in the archives in your custody, and if so, whether the same bears the official signatures of Bricke-hoven and Jimens?

Ans.

I have and said original

bears the official signatures of Michelorena and Manuel Jimeno Secty. of State.

6.

Please state what the letters "V. B." preceding the signature of Michelorena on said document stand for, if you know? and what they mean?

Ans.

They stand for the words "Vista Bueno." which is equivalent to "approved." It was customary to use that form in officially approving documents, accounts, etc.

7.

Look at what purports to be a copy of a map following page 20 in the transcript and state whether you have now present from the archives in your custody, the original of it?

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Ans.

I have.

8.

State what if any certifi=
cate is contained upon said
original?

Ans.

On the back of said map
there is a certificate signed
by Manl. Jimeno to the effect
that the same is a correct
copy of the map found in
the expedients. This certificate
is found copied in the
transcript on page 29, im=
mediately preceding the copy
of the map.

Cross Examination

Questions by Counsel for
Intervenor Brown.

Ques: 9.

Can you from any writing
on the original of Exhibit
Hopkins No. 1, or otherwise

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shake when said original was filed with the expediente in the archives?

Ans.

There is no date upon said maps or any thing else showing the time it was filed in the archives, if taken seperately from the expediente.

10.

Please examine the curved line running through the compass mark on the original of Exhibit Hopkins No 1. Also the words "Ojo de Agua" with the figure representing the spring and small stream connected with it, and shake whether that curved line figure of the spring, and the words "Ojo de Agua" seem to be traced or written, with the same ink employed in drawing the other lines and figures and in making other words ap=

pearing on said original, if not state the difference?

Ans.

The ink used in tracing these lines figures the reference to does not appear to be as dark as the ink used in making the other words and lines upon the map. The topography of the map, ~~is in Carmine, and~~ ~~in ink.~~ except that of the lake and the "Ojo de Agua" is drawn with Lead pencil, not in ink,

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Direct examination re-
sumed.

Questions by Counsel
for Intervenor Nonaga chal.

Ques: 11

There is no lake in the descr
mentioned in Ques 3. State
whether you can tell in
any manner, about what
time it was executed, and
if so your means of knowledge

and the manner in which you arrive at your conclusions.

Ans.

I can form an approximate judgment ~~&c~~ of the date of said document from the rubrics of Manl. Jimeno. I should say that this was perhaps signed in 1843, possibly in 1844, but not later than this last. Manl. Jimeno commenced to ~~&c~~ altered the form of his rubrics in 1842 or 1843, from that time making it less elaborate than before.

The signature of Michelorena to the decree referred to appears to be in different ink from that of the body of the document and the signature of Manl. Jimeno, and ~~&c~~ The decree referred to is written upon the back of the original Ritula in this case. The signature of Manuel Jimeno

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appearing upon the original
bills referred to ~~xx~~ is I
think of an earlier date, than
his signature appearing to
the decree following said
bills

Deposition closed.
R. C. Hopkins.

Sworn to and Subscribed June 12th
1862. before me,
W. A. Cheves
N. P. Com

No. 276.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

Joaquin Moraga.

DEPOSITION OF

R. C. Hopkins,

on part of Intervenors

Moraga et al. + Adams et al,

Filed October 15, 1862,

H. H. Chevers,

Clerk.

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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The United States,

v.

Joaquin Moraga

IN LAND CASES.

Dist. Court No. 276

Land Com. No. 390

BE IT REMEMBERED, that on this 12th day of June A. D., 1862, at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, personally appeared Antn. Maria Peralta a witness produced in behalf of the Antns. Moraga, Adams chal in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: his evidence being interpreted by A. D. Splivalo a sworn interpreter.

PRESENT: H. W. Carpentier for Antns. Moraga chal. E. A. Lawrence for Antns. Jones & Agard. S. A. Brown for Antn. E. Brown, and W. H. Sharp U. S. Atty for the U. S.

QUESTIONS IN BEHALF OF THE Antns. Moraga chals.

Question 1st,

What is your name, age, and place of residence?

Ans.

My name is Antonio Maria Peralta, my age is between fifty and sixty

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years, and I reside in San Antonio Alameda Co.

2.

Do you know the rancho Laguna de los Palos ~~Los~~ Colorados, if so how long have you known it?

Ans.

I do. I have known it for about thirty years.

3.

What are its boundaries if you know them?

Ans.

I only know that said ranch is colindante with the Pescaderos; the other boundaries I do not know.

4.

Were you ever present at any survey or juridical posession of said rancho or any part of it, or boundary, if so, when, and by whose order?

Ans.

I was present when juridical posession was given to Livermore, on the 30th Sept.

1847. Alcalde Estudillo was present & assisted by his order.

5.

What was the name of the rancho that Leidesdorff had?

Ans.

It was the rancho he bought from Candelario Valencia. The "Necalanes" was it's name.

6.

How do you fix in your memory the date when this posession was given. Have you any written document of it as produce it?

Ans.

I have a written document. Here it is.

Here the witness presents a letter in the Spanish language which is annexed to this deposition and is marked Exhibit Peralta No. 1.

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7.

Did you at the time appointed in this citation from Estudillo, attend upon the giving of posession of the Rancheros ranchos?

Ans.

I did.

8.

What office did you hold at that time?

Ans.

I was Second Judge, Estudillo being First Judge.

9

Who were present at the time of giving that posession?

Ans.

The three ~~Antonios~~ Moragas, who have since died, I think Ramon Briones, Josie Marking & Joaquin Estudillo, and many others whose names I do not remember. The old man Joaquin Moraga was one

of this three Noriegas who was present. Leidesdorff was present, I do not recollect whether Candelario Valencia was present or not.

12.

Please state what was done there?

Counsel for Intervenor Brown objects to the testimony of this witness, on the ground that it is irrelevant and incompetent in this case.

Ans.

There were measured off within the land of Moraga, one hundred varas square.

13.

Where was this one hundred varas measured?

Ans.

Near a small grove to the East of the ranch, where the Ojo de Agua takes its source.

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12.

Where is that "Ojo de Agua" ? with reference to the house where ~~Juan~~ the widow of Juan Bernal lately resided?

Ans.

To the North of the first Adobe house that Juan Bernal built, where his widow resided at first. I do not know where she resided lately.

13.

For what purpose was the one hundred varas of land measured, within the rancho Palos Colorados?

Ans.

To be given to Candelario Valencia, by order of the Governor. Candelario Valencia and Joaquin Moraga had a difficulty before the Government and it was settled by giving said one hundred varas square. They might have been

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given by order of the Prefect but I don't know whether it was by order of him or somebody else.

14.

What if anything was said by Estudillo at that time to Leideadorff, or Noraga with regard to the boundaries between them?

Ans.

From the source of the Ojo de Agua there were measured about 300 varas to the West-ward, I am not sure whether there were 300, 400, or 500 varas measured. Estudillo ahead at the end of the line and stretching out his arms said "This side belongs to Valencia and this to Noraga".

13.

State what if anything was said by Estudillo about the common use of the Spring by the owners of the Mo ranchos?

Ans.

I do not remember whether he said anything or not.

16.

For what purpose was Leides=dorff present at that time?

Ans.

I do not know, perhaps to receive posession as the keeper from Candelaria Valencia.

17.

Do you know where Brann's mill is, or the little settlement called La Fayette?

Ans.

I know where Brann's mill is, but I do not know where La Fayette is.

18.

Was this Ajo de Agua of which you speak North or South of Brann's mill?

Ans.

It was is to the West of it=towards where the Rancho

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19.

Who made the measurement that you have spoken of?

Ans.

José Martinez measured the one hundred varas square.

20.

Was the house of Juan Bernal on the Northerly or Southerly side of the line you have mentioned, as measured at that time?

Ans.

It was to the South.

21.

How far was the house from the Ojo de agua?

Ans.

About one or two hundred yards more or less, I do not exactly remember.

Counsel for Intervenor Bruno objects to all the foregoing testimony, and to each and every question, pre-

pounded in relation to what transpired while himself the Alcalde, and Leiva daff were present, on the grounds that the testimony is incompetent and irrelavant and for the further reason, that it does not appear that either Juan Bernal or Candelaria Valencia were present.

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22.

Where was Juan Bernal at the time of giving that perfacion?

Ans.

I do not exactly remember where he was. I know he was blind and did not walk about.

23.

Do you know the Arroyo de las Trampas, and the Cuchilla de las Trampas?

Ans.

I do.

24.

Where is the Cuchilla de las Grampas?

Ans.

About a league South from the Ojo de Agua. I cannot exactly describe it's position here, but going there I could easily point it out. ~~The Cuchilla de las~~

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Cross Examination
Questions by Counsel for Intervenor Lones, & Agard.

Lones: 25.

Where is the Cuchilla de las Grampas situate with reference to the Arroyo de las Grampas and the Arroyo de San Ramon?

Ans.

It is situate between them.

26.

Where was the boundary of the Moraga Rancho on the San Pablo creek?

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Ans.

I do not know. I know nothing about the boundaries except that the Peraltas were colindantes. The Records ought to show.

27.

Did not the Moraga and Peralta ranchos join near the source of the San Pablo creek?

Ans.

They did not.

Questions by Counsel for Intervenor Brown.

Ques: 28.

Describe the boundary line between the Moraga rancho and the Peralta rancho?

Ans.

I do not know his boundary line, what I know is that Moraga petitioned for land

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colindante with the Peraltas and the boundary line of the Peraltas on that side, is the Cuchilla de San Antonio.

29.

Describe what you call the Cuchilla de las Trampas, what is it, and what particular place was, 20 years ago, known as the Cuchilla de las Trampas?

Ans.

It is a long ridge of mountains.

30.

Is it not the dividing ridge between the waters of the Alameda and San Lorenzo creeks, and the waters if the San Ramon and Las Nueces Creeks?

Ans.

I do not remember.

31.

Did Juan Bernal ever reside at the place where his widow has resided since

his death, near the Ojo de Agua
you have spoken of?

Ans.

No, he never lived there.

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32.

In your answer to ques: 8,
you state that you were
second Judge and Estudillo
first Judge, do you mean
to say that Estudillo was
Judge of the first Instance,
and that you were judge of
the second Instance, or do
you mean to say that
Estudillo was First Alcalde
and you Second Alcalde, or
what do you mean?

Ans.

I mean that Estudillo was
first Alcalde and I the
second.

Deposition closed.

Ant° M°. Peralta

Sworn to and subscribed June
12th. 1862. before me.
W. H. Chever.
N. P. Com:

No. 276.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

Joaquin Moraga.

DEPOSITION OF

Antº Mª Peralta

on part of intervenors

Moraga et al v Adams et al.

Filed October 15, 1862,

W. H. Chevers,

Clerk.

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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The United States,

v.

Joaquin Moraga

IN LAND CASES.

Dist. Court No. 276

Land Com. No. 390

BE IT REMEMBERED, that on this 13 day of June A. D., 186 2, at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, personally appeared Salvio Pacheco a witness produced in behalf of the Intervenors Moraga chals. in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: his evidence being interpreted by A.D. Splivalo a sworn interpreter.

PRESENT: H. H. Carpentier for Intervenors Moraga chals. E. A. Lawrence for Intvs Jones & Ogard. P. A. Brown for Intv. E. Brown. and W. H. Sharp U. S. Atty for the U. S.

QUESTIONS IN BEHALF OF THE Intervors Moraga chals.

Question 1st,

What is your name, age, and place of residence?

Ans.

My name is Salvio Pacheco I am over sixty years of age,

I reside at Mount Diablo Contra Costa County.

2.

Look at the document now shown you marked Exhibit Hopkins No. 1, being a traced copy of the original diseño in the expedients of the rancho Laguna de los Palos Colorados, and state if you know, who made the original?

Ans.

I made the original diseño myself.

3.

For what purpose did you make it?

Ans.

To attach to a petition for the rancho.

X

4.

The grant in this case describes the ranchos as bounded on the East by the Cuchilla de las Trampas, do you know what Cuchilla it is and where is it?

Ans.

I do I know the Cuchilla.

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It is a ridge of hills running North and South, or nearly so. It lies between the Valley of San Ramon and the Arroyo de las Trampas. It begins on the South at the Portezuelo of the Las Trampas, and runs North at Las Juntas near the ranch of Welch.

5.

Point out on said Exhibit the Cuchilla de las Trampas?

Ans.

The witness here points out the black marks on the Easterly portion of the Exhibit, representing a mountain range. From the point marked "Las Trampas" to the place marked by the Commissioner "A" and says "This is it."

6.

Where is the object situated, marked on the said Exhibit "Corral Antiguo"?

Ans.

It is situate near the Arroyo de las Brampas and near the Ojo de Agua, called the Scallanes, on account of an Indian Rancheria which was near by.

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7.

Do you know where the Widow of Juan Bernal lately had her house, if so how far was said Corral from said house?

Ans.

I do, It was about 500 varas distant more or less.

8.

In whose handwriting are the words "Corral Antiguo" on said exhibit, and the other words thereon?

Ans.

In my own.

9.

What were you when you

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made the diseño spoken of?

Ans.

I was in the Pueblo of San Dª Lodé where we had all come to make up the petition and diseños.

10.

If the Cuchilla de las Pramas is the Eastern boundary of the said Rancho, is or is not the Arroyo de las Pramas included in the said rancho?

Ans.

I think it must be included within the rancho.

11.

Do you know where Brown's mill is?

Ans.

I do.

12.

Where is the stream marked on said Exhibit "Arroyo Seco" with reference to said mill?

Ans.

It begins at la Cañada and runs by Brown's Mill into the Las Trampas. It was called the Arroyo Seco, because it was dry in the Summer.

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Cross Examination
Questions by Counsel for Intervenor Brown.

Ques: 13.

Were the black lines drawn upon this diseño intended by you at the time you made the diseño, to represent the exterior boundaries of the ranchs Laguna de las Palos Colorados?

Ans.

They were. The black lines are colorings ~~H~~ intending to represent hills. They were made with a lead pencil.

14.

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14.

At about what time and under whose direction was this diseño made?

Ans.

I do not remember the year. I made it at the request of Joaquin Novaya.

15.

Have you examined the original diseño of which this purports to be a copy, at any time since you made it?

Ans.

I have not. These are copies.

Deposition closed.

Salvio Pacheco

Subscribed and sworn to this 13th day of June A.D. 1862 before me

W. A. Shevenell

U. S. Comm.

No 276.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

Joaquin Moraga.

DEPOSITION OF

Salvio Pacheco,

on part of Intervenors

Moraga, Adams et al,

Filed October 15, 1862.

W. H. Chevers,

Clerk.

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U. S. Dist. Court.

The United States

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vs

Joaquin Moraga et als.

It is stipulated and agreed that Joaquin Moraga and Juan Bernal died before the entry of the final decree herein, and that "The Heirs and representatives of Joaquin Moraga deceased and of Juan Bernal deceased" may be substituted as claimants and confirmees, in said final decree and in all subsequent proceedings to be had herein.

H. W. Carpentier
for Intervenors
A P Catlin
Intervenor

Wm H Shortt
U. S. Atty.

For the purposes of this motion or confirmation of survey only —
C. A. Lawrence Atty for
Claimants & Intervenors Ayudo Jones

No 276

The United States

vs.

Joaquin Moraga et als.

Stipulation

Filed Oct: 20. 1862.

W. H. Chevers.

Clerk.

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At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the CITY OF SAN FRANCISCO, on Monday the twentieth day of October in the year of our Lord one thousand eight hundred and sixty-two.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States

V.

Joaquin Moraga et als.

No. 276.

It appearing to the Court that, at the time of the entry of the final decree of confirmation herein, Joaquin Moraga and Juan Bernal, the grantee of the Rancho claimed in this case, were both deceased, and on filing a stipulation consenting thereto, it is ordered that the final decree of confirmation herein be amended, nunc pro tunc, as of the date of its original entry, by the substitution of "the Heirs and representatives of Joaquin Moraga deceased and of Juan Bernal deceased," as claimants and confirmees, and that all subsequent proceedings be had in the name of the said Heirs and Representatives.

Ogden Hoffman
U. S. Dist Judge

No. 276.

UNITED STATES DISTRICT COURT

Northern District of California.

The United States.

V.

Joaquin Moraga. etal.

Order amending decree of confirmation by the substitution of Heirs & Representatives of Clts. and Consent to Same.

Filed October 20th 1862

W. H. Chever.

Clerk.

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U. S. Dist. Court.

The United States

vs

Joaquin Moraga et al.;

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It is stipulated that a copy of the Plat of Survey of the Rancho Laguna de las Palos Colorados, made by H. A. Higley U. S. Dep. Surveyor, may be filed and considered in evidence in this case, and that said survey correctly shows the exterior boundaries of said Rancho.

Higley

H. W. Carpenter
for Intervenors

Ed. Lawson
for Claimants & Intervenors

A. P. Catlin
Intervenor

Wm. A. Maskell
U. S. Atty

I stipulate that the Map. referred to made by Higley may be used in evidence

Higley

Thomas A. Brown
Atty for T. Brown

No. 276.

The United States
Dist Court

The United States
vs.
Joaquin Moraga et al.

Stipulation
admitting plat of
survey of rancho
"Laguna de los Palos
Colorados." made by
H. A. Stigler, etc.

Filed Oct: 23. 1862.
W. H. Chevers.
Clerk

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Joaquin Maraga

IN LAND CASES.

Dist. Court No. 276

Land Com. No. 390

BE IT REMEMBERED, that on this 29th day of April A. D., 1862, at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, personally appeared John La Croge a witness produced in behalf of the Antrs Jones & Agard in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: his evidence being ~~interpreted by a sworn interpreter~~ taken by consent.

PRESENT: E. A. Lawrence Esq. for Antrs. Jones & Agard. D. F. Brown Esq. for Antr. E. Brown.

QUESTIONS IN BEHALF OF THE Antrs. Jones & Agard

Question 1st,

What is your name, age place of residence and profession?

Ans.

My name is John La Croge.

I am of lawful age. I reside in San Francisco, and am by occupation a Surveyor.

2.

State what you know in regard to the survey of the Ranchos claimed in this case, Certified copy plat of which is now shown you?

Ans.

I made the survey, under instructions from the U. S. Surveyor General. The land embraced in this survey is clearly within the calls of the ~~last~~ decree which constitutes part of my instructions

3.

What was the initial point of the survey and why did you select that point as the starting point?

Ans.

It is a point on the ridge West of San Leandro Creek, which had been established by a preliminary survey of Mr. Higley.

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4.

Why did you not follow that ridge in running the line from Post No. 1 to Post No. 2?

Ans.

I made a survey of the ranch in which I threw that line further to the West, and my impressions are now that I changed the line to cut off an excess of land.

5.

Is not the ridge upon which you fixed the starting points shown upon the diseños herein, as the Western boundary of the ranchs?

Ans.

It is.

6.

Is San Pablo Creek represented upon the diseños as one of the boundaries of the ranchs?

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Ans.

I cannot tell whether the black line running from the word "de" in "Arroyo de San Pablo" through the letter "O" in "Ojo de Agua" is intended to represent the San Pablo creek. In my instructions the San Pablo creek was mentioned as one of the boundaries of said rancho, I think on the North.

7.

From your knowledge of the locality, should you judge that the survey made by you was a correct survey of the lands embraced in said rancho?

Ans.

I think not entirely, I made a survey and returned it to the Surveyor General's office and he ordered me to change it.

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I do not know why the change was made. The ranch was changed on the East side; On the West side, I think there is no reason why the ranch should not be extended to the junction of the San Pablo Creeks. My survey extended down to the junction of the creeks and I moved the lines from No. 2 to No. 3 to it's present position to cut off the excess of land in the survey, as there was no one to represent that portion of the land and no objection made, and I think at the request of Dodie Noriega.

On first running the line on the West I followed the line of Mr. Higley. On the ~~first survey~~ first survey I run the Eastern boundary along the Cuchilla de los Grumpas, it was sub-

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subsequently run Westward to the Trampas creek, and line "F" was run arbitrarily for quantity

8.

Why did you run the lines of your first survey in the manner you have indicated?

Ans.

I attempted to follow the preliminary survey of Mr. Wigley but was limited by quantity, and made the change I have mentioned on the West. Mr. José Moraga and one or two others living on the ranch, were with me at the time I made the survey

9.

Cross Examination

Questions by Counsel for Intervenor Brown.

Ques: 9

Is the land embraced

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within the official survey
wholly within the exterior
boundaries of the rancho
as delineated on the diseño
accompanying the expediente
herein?

Ans.

I think that it is.

10

What is the general course
of the arroyo San Pablo
from it's source to what
is marked upon the official
survey as "Mount Diablo
base line"?

Ans.

The stream delineated on
the survey is a branch
of the San Pablo and falls
into the main San Pablo
creek West of the present
survey. The main San Pablo
creek heads in a Southerly
direction and runs Northerly,
until it effects a junction
with a branch of the San

Pablo, it then runs in a Northwesterly direction.

Deposition closed

Jno. LaCroze,

Subscribed and sworn to this 29th day of April A.D. 1862 before me.

H. H. Sheveral,
U. S. Com.r

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San Francisco
June 2d 1862

Examination of John La Croze re-opened by consent

Present:

E. A. Lawrence for Intervenors Jones & Agard. H. W. Carpentier for Intervenors Moraga et als, and T. H. Brown for Intervenor E. Brown, and W. H. Sharp U. S. Atty for the U. S.

Cross Examination.

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Questions by Counsel for
Intervenors Moraga et als.

Ques: 11.

In your answer to ques: 6,
did you have reference to the
copy of the diseño contained
in the transcript?

Ans.

I did.

12.

Do you find the San Pablo
creek correctly represented
on the copy of the diseño
now filed marked "Exhibit
Hopkins No. 1."?

Ans.

There is a pencil line over
the words "Arroyo de San
Pablo" which I think is
intended to represent the
San Pablo creek, as it represents
its general course and situa-
tion on the ground.

13.

State whether the creek
shown on said Exhibit run-

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ning from Las Trampas
point "Corral Antigo" correctly
represents in it's general
situation courses and direction
the Las Trampas, Las Nueces
or Walnut creek, as you found
said object upon the ground?

Ans.

I think that it does.

14.

State whether the present
village of La Fayette is
situated at or near the
junction of the Arroyo de
los Trampas, and the Arroyo
Seco, as marked on said
Exhibit?

Ans.

It is.

13.

Is the Cuchilla de los Trampas
as shown on said Exhibit
a well defined and unmis-
takeable landmark?

Ans.

It is.

16.

State whether you found on the ground the object marked and said Exhibit "Las Trampas"

Ans.

I did.

17.

State whether you found on the ground a high ridge of mountains running Westerly from Las Trampas to about where the San Leandro Creek passes out through the gorge of the mountains, and if so state whether in your opinion said ridge is correctly delineated on said exhibit as the Southern boundary of said ranchs?

Ans.

My recollection does not serve me at present, as to the ridge mentioned, but I know that the mountains run down and form a very narrow valley on the Southern

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boundary of the ranchs.

18.

On the official survey made by you in this case, and approved by the Surveyor General, the Las Trampas Creek appears to be made the Eastern boundary of the rancho from Station No. 10 to about Station No. 76. State why that was so fixed for the boundary?

Ans.

It was made so by order of the Surveyor General who directed me to make that creek the Eastern boundary. The first survey that I made of the rancho I ran the Eastern boundary on the ridge, East of the Trampas Creek. Afterwards the Surveyor General ordered me to change it to its present location.

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19.

Did the Surveyor General attach his approval to your first survey?

Ans.

I think he did.

20.

Is the plat now in court a copy of the said first survey?

Ans.

It is not, as far as concerns the Eastern boundary.

21.

State whether in your judgment the Eastern boundary as fixed in the official survey, running up the Las Trampas creek, is the true Eastern boundary of said ranchs?

Ans.

I think it is clearly within the boundaries of the ranch, and is not as far East as I would have located the

Eastern boundary of the ranch.

22.

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State whether any person interested or claiming to be interested in the ranchs Laguna de las Palas Colorados requested you to restrict the Eastern boundary to the Las Trampas Creek?

Ans.

There was no application made to me by parties claiming to be owners of the Ranchs Laguna de las Palas Colorados, to restrict the survey to the Las Trampas Creek.

23.

State whether any of the owners of the ranchs, requested you to run the Eastern line further East, than the said creek?

Ans.

They did. Hon. José Maraga Mr. ~~McGee~~, Magee, and Mr. Whiting were with me when I ran the line up the ~~Compass~~ ridge leading to the Trampas mountains, which line they claimed to be the Eastern boundary of the ranch. They claimed to be owners of the rancho. They were the only owners of the ranch with the exception of Mr. Carpentier, ~~who~~ with me, when I made the survey.

24.

Please state what ~~point~~ if any on copy plat of official survey filed herein, corresponds to the point of junction of the Arroyo de los Trampas and the Arroyo Seco, as shown on said Exhibit Hopkins No. 1?

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Ans.

The point immediately under the letter "C" in the word "Creek" of "Nueces Creek."

25.

State whether "Arroyo Seco" as shown on said Exhibit was included within your survey?

Ans.

It was not.

26.

State whether the object marked "Ojo de Agua" on said Exhibit was included within your survey?

Ans.

It was not.

27.

Please describe as near as you can on said Exhibit where you fixed the Northern boundary?

Ans.

I should think that the

Northern boundary was somewhere ~~near~~ South of the letter "A" in "Arroyo Seco", near the black ridge.

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28.

State whether you run the Northern line in accordance with the description thereof contained in the grant for said rancho now shown you, dated July 31st 1841, and the final decree in this case.

Ans.

I do not think I ran the line as far to the North as described in the grant and decree, I ran until I intercepted the Southern boundary of the Arzullanes rancho, which had been surveyed approved and patented, believing that I had no right to ~~crop on~~ extend my survey into that rancho I adopted it's Southern boundary for the Northern boundary of the rancho

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Laguna de las Palas Colorados.

29.

State whether you were requested by any of the claimants to run the Southern line according to the grant and decree?

Ans.

I do not remember at present. There was a great deal of conversation about the Southern boundary, and it is possible that I may have been asked.

30.

Please state about how much land is included between the Southern boundary of the survey and the Southern boundary of the decree, and the quality of the land?

Ans.

I do not know that I ever was over the Northern boundary described

in the decree, and am therefore unable to state the quantity of land, or its quality.

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Questions by Counsel for Intervenor Brown.

Ques: 31.

Do you know the tract of land described in a deed of conveyance made by Joaquin Moraga, Luis Moraga, and Francisco Moraga to Elam Brown bearing date the second day of February 1853, a copy of which filed in this case is now shown to you; if so, please designate on Exhibit Hopkins No. 1, where said land is situated and whether the whole or any part thereof is included in your official survey?

Ans.

It is situated between the

words
the "Sierra de las Palas Colorados" and "Ojo de Agua" ~~as marked on Exhibit~~ and the "Arroyo Perm^e" as marked on said Exhibit Hopkins No. 1. and extending in a Northerly and Southerly direction as far as the black line under the words "Sierra de las Palas Colorados". I believe the land as conveyed is embraced in the official survey.

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Ques 32.

Do you know the location of the black line on Exhibit Hopkins No. 1. drawn under the words "Sierra de las Palas Colorados" or any natural objects located at that place which that black line is intended to represent? If so state.

Ans.

I think it is intended as the main dividing ridge between the Rancho of San Antonio and the Rancho Palas Colorados.

Ques 32

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Does the western boundary of the official survey in this case extend as far to the westward as this ridge?

Ans.

I think not.

Ques. 33.

Do you know of any ridge or natural object on the land which the black line lying between the compass mark on said exhibit and the object marked "Laguna Peinte" is intended to represent?

Ans.

There is a ~~cluster~~ range of hills running in an easterly and westerly direction at that place. I was never at the Laguna. I think I run the northerly line of the survey just on the northerly side of that ridge.

Quest. 34.

State if you know the direction in which the object marked on the said Exhibit "Las Tampas," is situated from the end of station 77 on the copy plat of official survey.

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Ans.

I think course 78 in an easterly direction leads to the Tampas mountain.

2 Ques. 35.

Is not the Village of Lafayette situated within the survey of the Acalanes Rancho?

Ans.

Partly within and partly without. but more of it within the survey of the Moraga.

Jno. La Croze.

Sworn to and subscribed June 24th 1862. before me.

W. A. Shepard.

N. P. Ass'n.

No. 276.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

v.

Joaquin Moraga.

DEPOSITION OF

John La Croze.

on part of Intervenors

Jones Agard. et al.

Filed October 25. 1862.

W. H. Cleveland.

Clerk.

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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The United States,

v.

Laquin Moraga

IN LAND CASES.

Dist. Court No. 276

Land Com. No. 390

To H. H. Sharp U. S. Atty. H. F. Carpenter, A. P. Crittenden, and Thos. H. Brown

You are hereby notified that the testimony of N. C. Smith & Candelario Valencia

in the above entitled cause in behalf of the Intervenors Jones & Agard and Claimants

will be taken before me, the undersigned, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, commencing on Thursday the 12th day of June A. D. 1862, at 11 o'clock A. M., and continuing from day to day until finished, at my office No. 17, U. S. Court Rooms; and you are hereby further notified to then and there appear and propound such questions to the said witness as you deem fit.

Witness my hand and official seal at the City of San Francisco, in said District, this 6th day of June A. D. 1862.

W. D. Shafter

U. S. COMMISSIONER.

No. 276.

San Francisco
June 6th 1862
Service of a copy
of the within this
day acknowledged.
Thomas A. Brown
Wm. H. Sharp
U. S. Atty.
A. P. Crittenden

Copy of within Notice
left by me at the office
of H. H. Carpenter, on the
6th June. 1862.
Edwd. B. Cotter

Copies left at the office of
E. R. Carpenter & A. P. Crittenden

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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The United States,

v.

Joaquin Moraga

IN LAND CASES.

Dist. Court No. 276

Land Com. No. 390

BE IT REMEMBERED, that on this 12th day of June A. D., 1863, at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, personally appeared H. C. Smith a witness produced in behalf of the Intervors. Jones Agard & Alt. in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: ~~his evidence being interpreted by a sworn interpreter.~~

PRESENT: E. A. Laurence Esq for Intervs. Jones, Agard & Alt. H. H. Carpentier for Intrs. Moraga et als, J. A. Brown for Intr. Brown, and W. H. Sharp U. S. Atty for the U. S.

QUESTIONS IN BEHALF OF THE Intervenors Jones & Agard,

Question 1st,

What is your name, age and place of residence?

Ans.

My name is Henry C. Smith I am 36 years of age, and I

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reside in Nevada Territory.

2.

Are you acquainted with the Maraga rancho, if yea, how long have you known it, State your means of knowledge?

Ans.

I know it, I have known it since the Spring of 1876. My knowledge of it, is from living on it at that time, and subsequently being there often.

3.

Are you acquainted with the Cuchilla de las Trampas, if yea, look at Exhibit Hopkins No. 1, filed in this case, and state where the same is situated thereon, in reference to what is thereon designated as the Arroyo de las Trampas?

Ans.

I am acquainted with the Cuchilla de las Trampas, It is Southeasterly from the Arroyo de las Trampas as laid down on Exhibit Hopkins No. 1.

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4.

Is the Cuchilla de las Grampas designated on Exhibit Hopkins No. 1?

Ans.

It is. It is the most Eastern range of hills, designated thereon on the East side of the Arroyo de las Grampas.

5.

To what point did Joaquin Moraga claim the lands on the East as belonging to his rancho, or occupy them?

Objected to on the ground that the witness has not by his testimony shown that he has any knowledge on the subject.

Ans.

To the Cuchilla de las Grampas.

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Cross Examination
Questions by Counsel for
Intervenor Brown.

Jones: 6.

Do not I what you have described as the Cuchilla de las Grampas the dividing ridge from which the waters flow in a Southerly direction into the South arm of the bay of San Francisco, and in a Northerly direction into the North arm of the bay of San Francisco and creeks of Lagunes?

Ans.

Not immediately at the point that is designated as the Cuchilla de las Grampas.

7.

Do not the dividing ridge mentioned in the last question now, and has it not been since you have been acquainted with that place, called

the Cuchilla de las Trampas?

Ans.

It has.

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Questions by Counsel for Intervenor Moraga et al, and Adams et al.

Ques: 8.

Is not the Cuchilla de las Trampas that ridge of hills running in a Northerly and Southerly direction on the Easterly side of the Arroyo de las Trampas, and between said Arroyo, and the creek and valley of San Ramon?

Ans.

It is, as I have always understood it to be.

9.

Do you know where the little village of La Gayetta is situated?

Ans.

I do,

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10.

Does not a spur or continuation of the Cuchilla de las Trampas extend up Northwardly nearly to said village?

Ans.

It does.

Questions by Counsel for Intervenor Brown.

Ques: 11.

Do you mean to say that the dividing ridge lying East of the Las Trampas creek, and between that creek and the San Ramon valley, is the Cuchilla de las Trampas or is it a spur of the Cuchilla de las Trampas?

Ans.

I mean to say that it is a spur of the Cuchilla. The highest part of the mountain.

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Main is South of that.

Deposition closed.

Henry C. Smith

Sworn to, and Subscribed June 12, 1862. before me,

W. A. Chevers,

U. S. Comm.

No. 276.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

Joaquin Moraga.

DEPOSITION OF

H. C. Smith.

on part of Intervenors

Jones, Agard & Ctt:—

Filed October 25, 1862,

W. H. Chever,

Clerk.

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U. S

vs

Joaquin Moraga et als

No. 276.
ND

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"Laguna de los Palos Colorados."

The Official Survey is objected to in this case

1st Because it does not embrace all the land within the 4 terior boundaries of the grant

2dly If this be disallowed, that the 3 leagues granted should be located within the exterior limits at the election of the grantees or those entitled to represent them.-

The third condition of the grant declares that the land granted is of the extent of 3 square leagues a little more or less and it directs that it be measured by the Judge conformably thereto to the Ordinances leaving the surplus to the Nation.

The decree of Confirmation describes the boundaries of the land con- in the language of the grant and it declares its extent

2

~~undetermined~~ to be
"three square leagues (a little
"more or less" — reference for
a more particular description
to be had to the original grant
& map contained in the ex
pediente" —

The question of construction is
thus presented by the decree
precisely as it arises on the origin
al papers, and must ~~now~~ be
determined ~~as~~ in the same man
ner as if the rights of the claimant
under this grant were now for
the first time to be passed u-
pon —

It would seem that under
the decision of the Supreme
Court in Pratts' case the ques
tion is no longer an open one
and the documents must be
resorted to the quantity specifi
cally mentioned —
But independently of that
authority, the case is not
fall within the class which it
was supposed by this Court
that the words poco mas ó menos
might ~~decide~~ be admitted to

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to have a practical operation to enlarge the quantity specifically mentioned.—

Where all the boundaries were plainly and definitely described and the land within ~~those~~ them ~~boundaries~~ granted it was originally supposed by this Court that ~~all~~ the words "poco mas ó menos" should be construed to embrace such fractional part of a league (the unit of measurement) over and above the quantity specifically mentioned, as might be found within the exterior limits.— ‡

But in the present case the quantity within the exterior limits is about 5 leagues — & even that limitation is established by assigning to the call for the Establishment of San José, on the South, a definiteness which ~~it,~~ as indicated by the diseño ~~probably~~ it does not possess—

~~It is not shown, and probably it almost certainly was not the fact that the boundaries of the Establishment of San José were staked on the side of this ranch or were fixed with any degree~~

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4-

I think it clear therefor that the claimants must be confined to the quantity of 2 square leagues.

It has been decided by the Supreme Court that in the location of a specified quantity of land within the exterior limits of a tract of large dimensions the claimant is entitled to an election; to be exercised in such a manner however as not unreasonably to impair the value of the adjacent public land, or to give to the tract a form unnecessarily injurious to the interests of the U. S.

In following this rule this Court has determined that the election of the claimant is made by his buildings cultivations & occupation, and by his sales of the land to purchasers for value — And that he is not at liberty to now give to the grant a location which would will not include his houses corrals & cultivated fields -

5

or ~~would~~ will exclude portions which he had conveyed to purchasers. ~~[illegible]~~

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The propriety and even the necessity of these rules have, it is believed, been generally recognised by the Bar and the suitors; but their application to the present case presents a question of no little difficulty—

The grant was originally made to two persons Joaquin Moraga and Juan Bernal—

In 18— Moraga sold to Elam Brown all his interest in a tract of land 1000 acres in extent ~~and~~ described by metes and bounds.

He subsequently conveyed to the parties one (1/5) sixth of the whole tract comprised within the exterior limits of the grant— ~~such~~ to be taken in the centre of the tract running from East to West.

These conveyances were probably made under the idea then not uncommon that the grantees

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were ~~the~~ entitled to all the land embraced ~~embraced~~ within the exterior boundaries—

They of course were in practice upon the rights of Bernal his co-~~te~~ grantee, who ~~has~~ remained Co-tenants with the purchasers from ~~Isabel~~ Moraga— ~~But upon~~ a partition the parties ~~had~~ would ~~be~~ ~~entitled~~ to the ~~location~~. But those purchasers, thus representing ~~the rights of~~ Moraga have evidently the rights to be heard on the question of location ~~as between themselves~~ and ~~Moraga~~ If Moraga was the sole owner of the Rancho the Conveyances would operate as a location and election pro-tanto of the grant. Equity and good conscience ~~now~~ compel him now to insist that the location shall be made so as to protect his grantees, ~~and he~~ as between whom & himself his election of the location has already been made

The intervention ~~between~~ therefore may justly be regarded as

existing in the name & with all the rights of Moraga upon the location they he contends for.

On the other hand Bunal has an equal voice in the location matter, and objects with much reason, that the location of the tract in a compact form so and in one entire tract sold so as to include the 1000 acres sold by Moraga will unjustly deprives him of his right to have his interests consulted in the location & may greatly impairs the whole value of the Rancho of which he is the half owner

The purchasers too, under the second conveyance by Moraga urge that a large part of the land sold to them will be excluded if the land be located as desired by Brown and their rights though subordinate to those of Brown, whose deed was prior in date, are nevertheless not to

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8 wholly ignored
On the other hand the U. S.
might justly contend that the
land sold to Brown should
not be excluded - It is stated,
though it does not appear in
evidence, that the tract sold
to Brown possessed at the
time of the sale great value
by reason of the timber upon
it. This has since in great part
been cut down - The U. S might
therefore very reasonably object
that contend that the neither
of the claimants should be
permitted to sell or use a
part of their lands, & by
that it of what constituted
its chief value, and then
elect a location which
leave to the U. S the exhausted
land which the one of grantees has
appropriated and used so long
as it possessed any value -
These latter considerations
are suggested merely as an illus
tration of the difficulty of deter
mining the general question
involved - For as before observed

9 It is not in proof that the land sold to Brown was originally owned with timber — nor that the timber has been cut down nor have the U. S. interested in this proceeding —

But the rule of decision to be adopted must be such as would meet the difficulties of the hypothetical but any probable state of facts which has been supposed.

It would seem then that the right of Brown to insist that in the name of Mora the land purchased by him shall be included, and of the U. S, if the facts are as supposed, to insist to demand the same location, ought if possible to be recognised — while on the other hand to impair and perhaps in great part destroy the value of Rimal's portion of the rancho, by a location which he has had no voice in electing would be plainly unjust — The case then in effect presents the same question as if a grant for 3 leagues within bounda

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10 ties Containing 6 leagues had
been made to two persons
who had ~~settled~~ on ~~different~~
~~sides of the track~~ built
houses and made their estab
lishments at ~~diffrents~~ ends
of the tract — Any location of
the three leagues in one entire
tract would necessarily leave
out the houses and settlements
of one or the other of the grantees
and by what rule are we to de
termine which shall be included
or excluded? —

It seems to me that in excep
tional cases of this kind separate
locations should be made and
~~the boundaries laid off in the middle~~
each grantee have a league & 1/2
located so as to embrace his
establishment —

The rule which requires grants
to be surveyed ~~located~~ in one entire tract
is proper and necessary to be
observed in ordinary cases —
But in those like the case sup
posed, where it would work
a manifest injustice if not
absurdity, it ought to lead to

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// the exigency of the particular circumstances— more especially when neither the interests of the U. S. nor of any private parties can be thereby be injured, but would rather as in the case at bar be promoted —

It cannot be supposed that the Mexican authorities contemplated that the 3 leagues granted would perpetually be held by the grantees as joint tenants— At some period a partition would necessarily be made— If then the proper officer called to measure the land had found the grantees established at either end of the tract, and each desirous of retaining his establishment and effecting a partition, it cannot I think be doubted that it would have measured off to each, his quantity including his houses fields &c and cut off the remainder in the middle of the tract.

~~If this be so, the U. S. ought not to adopt the same mode~~ The United States ~~could~~ can have no motive in such a case to

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112 wish upon the Standard of a general rule that the grant shall located in one en tire tract, when to them it is indifferent whether two grants of one & a half leagues each had been made to different parties, or a single grant of 3 leagues made to both jointly—

It has therefore appeared to me proper, as the only mode in which the conflicting rights can be respected and justice be done, to allow the 1000 acres conveyed to Brown to be separately located if within the exterior limits of the tract and the remainder of the Rancho to be located at the election of the other representatives of Moraga, and those of Ynigal who are understood to unite in the election.—

The exterior limits within which the location is to be made remain to be determined.

The boundaries mentioned in the grants and adopted in the decree

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13 are "On the north the arroyo
6 de San Pablo a straight line to
6 the East so as to include the
4 Spring of water near the "Coral
11 Antiguo," at the South by the Es-
6 tablishment of San José, at the
6 West by the Summit line of the Si
4 erra, and on the East by the
11 Cuchilla de las Trampas"

The diseño represents the arroyo de San Pablo extending from the Mountains the "ojo de agua," & the Coral Antiguo" adjacent, the ridge of Las Trampas and the Sierra de las Palos Colorados On Comparing it with the to pographical map made by Hig ley these objects are readily identified

There would thus seem to be no difficulty in determining by the grant and diseño the boundaries of the tract—

But within these limits is included a considerable portion of a ~~tract~~ rancho surveyed & patented to Juan Bowa under a grant made in 1834 to Candelario Valencia.

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14 The claimant of this rancho insists that ~~no~~ the Rancho Laguna de los Palos Colorados "shall not be located upon any portion of the land patented to him.

It appears that the dispute between the owners of these two ranchos is of not only of ancient date but was definitively settled by their own agreement and under the authority of the former goverment

On the grant to Moraga & Bernal is endorsed a note in which it is stated "that" by the agreement which on that day was made by Moraga & Valencia before the Governor Micheltorena as appears by the written instrument which was drawn up to that effect and of which a testimonio or certificate was given to the parties - they have submitted to the following - that from the ouflow of the spring of water, counting 300 varas towards the West in the direction with to the source of the arroyo de San Pablo the boundary of Señor Valencia for his land

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15 " and that of Señor Moraga for
" his, shall commence leaving 100
" varas square of land to the former
" in the land which belongs to the
" latter for cultivation — and moreover
" a dam shall be made in said
" Ojo de agua by which an equal
" quantity of water may be used
" by each for the purposes which
" may suit him" —

A similar endorsement was made on the grant to Valencia but it seems to have been overlooked in both cases by the Board when framing its decrees. It is objected on the part of the representatives of Valencia that this note is inadmissible in evidence and that the Governor had no authority to settle the dispute by granting ~~a~~ part of land to ~~Valencia~~ Moraga for which a title had already been ~~issued~~ issued to Valencia.

~~The endorsements or memorandum~~
~~in question~~

But these objections are wholly untenable — The endorsements are in the land

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16 17

writing of Jimeno, signed by him and countersigned by Mechelena with the letters "V. G." or "Visto Bueno" added in token of approval — They are found on the original titles issued to the parties — The very papers therefore which the Representative of Valencia produced as evidence of his title contained evidence of its boundaries as fixed by the Governor and assented to by Valencia — For the endorsement could not have been made unless Valencia had produced his title to Jimeno —

It is therefore the best and most indubitable evidence of the agreement made by the parties in presence of and with the approbation of the Governor —

But even if the Governor had fixed the boundary without the consent of the parties and by his own authority the conclusiveness of the act would be unquestionable —

The archives show numerous cases where the Governor not only did

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termined disputed boundaries by summoning the parties before him and ~~settling~~ deciding the controversy as appeared to him to be just but where after making a formal grant he subsequently on application of a party whose equitable rights were superior to the grantee has withdrawn from the latter and granted to the 2d applicant a portion of the land —

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Thus in the case of the Pastoria de los Borregos, a part of the land granted to Estrada was excepted out of the tract and granted to the Indian Gingo —

~~As in the boundaries of~~

In the case of the grant to Prado Mesa, a large portion clearly within its limits was granted to the Indian Gorgonio whose prior equities arising out of a long continued occupation were thus recognised & enforced —

In the rancho of Santa Teresa a ~~portion~~ small tract was in like manner given to Alvires, who urged his previous occupation of it, by the

16 C

Departmental assembly tho' it was confessedly within the limits of the Rancho already granted to Bernal —

In the case of the contiguous Rancho of Noguera & Alviso the boundary of the latter was after grant issued, reformed by the Governor so as not to include land of which Noguera had long been in possession but for which he had obtained no grant —

Many more ~~instances~~ similar instances might be cited — That de claris enough have been mentioned to prove the frequent, notorious and undisputed exercise of authority in such cases by the Governor. That boundary lines as settled whether by agreement before the Governor or by his decision of the dispute,

The settlement of the dispute whether by agreement of the parties or the decision of the Governor was evidenced either by the Expediente which contained their petitions documents the reports called for by the Governor & his determination, or as in

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17 this case by an indorsement on the "titulo" of ~~to~~ ~~toth~~ each party— A similar indorsement of the Exception out of the Estrada grant in favor of Suigo was made on the titulo of the former, and probably in many other cases which cannot now be recalled by name. No doubt seems to have been entertained of the Governor's authority in the matter, and the Sub Officer giving Judicial possession would assuredly have measured the land in accordance with the Governors determination of its boundaries—

If then in this case the Governor had in fact adjusted the boundary by assigning to Moraga a portion of the land previously granted to Valencia I should have entertained no doubt of the validity of the act—

But in truth the grant to Valencia did not embrace the land in question— His diseño very clearly shows that the land he solicited and received was three quarters of a league lying between the

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18 Arroyo de San Pablo and the
Arroyo de Galindo far to the
north of the Ojo de Agua which
formed Moraga's northern limits
It is difficult to understand
how under this grant, as explained by the diario
that of boundaries could have
arisen between him and Mora
ga - ~~And it is impossible to con~~
~~ceive under what construction~~
~~of his grant & diario or of the~~
~~agreement between him & Moraga~~
~~the official survey which has~~
~~been approved and under which~~
~~a patent has been issued could~~
~~have been made - It was made~~
~~at a time when official surveys~~
~~were not subjected to the revision~~
~~of this Court~~

The most probable explanation
of the controversy ~~upon the Govt~~
~~part~~ is, that Galindo claimed
the use of the spring, & had
~~probably~~ made some cultivations
adjacent to it. This spring was
as we have seen included in
Moraga's grant The dispute
was settled by allowing both par
ties to use the ~~land~~ water in common

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and by giving to ~~him~~ Palmeria 100 varas square out of Moraga's land — The very terms of the Agreement show that it was not ~~to~~ Palmeria but Moraga who was deprived ~~out~~ of land — If then the Counsel ~~was~~ right in supposing that the Governor had no authority to take away land already granted ~~it~~ Moraga would alone be entitled to question ~~the~~ his authority — ~~And~~ If as ~~above~~ contended the agreement be wholly rejected Palmeria's position is still worse for his ~~grant~~ claim shows that his land was ~~also~~ far to the North of the disputed line & that under his grant he had no right whatever to come within some miles of the spring.

It is rejected that ~~the~~ a patent has already issued for Palmeria's land as surveyed — But this is but a quit claim by the U. S. and issued after a proceeding to which Moraga ~~was~~ was not a party and ~~had no right to be~~ in which he was not heard — If by a palpably erroneous survey lands have been included in

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20 in one Rancho which belong to another it is not perceived on what ground this Court can refuse to locate the 2d Rancho according to its calls notwithstanding that it may include lands already erroneously patented to the petr. Moraga has done nothing or omitted nothing by which his rights can have been prejudiced or forfeited or impaired. He asks that the exterior boundaries of the tract granted to him by the Mexican goverment within which his 3 leagues are to be taken may be declared - and I see not how the Court can refuse to do so whatever disposition the U. S. may have attempted to make of the land or any portion of it.

Assuming then that the claimants has the right to elect 3 leagues within the boundary fixed by the agreement between Valencia & Moraga, we proceed to consider what was the location of the line thus agreed upon.

21 The indorsement on the grant declares that from the overflow or outlet of the spring counting 300 varas towards the west with direction towards the source of the Arroyo de San Pablo" the common boundary "shall seguir" leaving 100 varas square to Castro out of Moragas land —
The grant as has been seen des cribed the northern boundary as "the San Pablo creek – a straight "line to the East so as to include "~~the~~ spring near ~~the~~ Corral Antiguo"
The ~~modification~~ change of ~~the~~ the ~~the~~ line agreed on, ~~probably~~ probably there for Consisted in making it commence at the overflowings or outlet of the spring & run towards the source of the San Pablo —
But even on this hypothesis it is difficult to understand for what purpose 300 varas only were measured along ~~the~~ a line which was more than a league in length — or why, ~~the~~ the 300 ~~vara line was not itself declared to be the boundary~~ it is stated ~~not~~ that the 300 vara line ~~was~~ is to be the

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boundary, but that the boundary should commence after measuring 300 varas from the Spring towards the San Pablo—

It appears that in 1847 Valencia having sold the Rancho to Fields Wolff the Alcalde of San José gave to the latter a possession of the tract & measured the boundary— This, though it seems to have been done in the presence of Moraga and Fields Wolff and the adjoining proprietors does not appear to be recorded by the usual record of the proceedings— nor does it appear to have been made from the statements of the witnesses, a formal measurement and judicial delivery of the possession of either Rancho— The whole proceeding alluded to by claimants the boundary line directed in the agreement between Moraga and Valencia & the location of the 100 varas thereby conveyed to the latter—

According to the witnesses 100 varas square was first measured off near the Spring— & line 300 varas long was then

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23 measured from the outlet of the spring towards the Lake Ho and the decide declared the land on one side to belong to Moraga and on the other to Liedesdorff.

It is objected that this testimony is inadmissible — But tho' the proceeding had not the formality and does did not possess the have the conclusive effect of a regular judicial measurement yet as a practical construction and carrying into effect of the agreement of the parties, by a judicial officer after formal citation of the neighbors and in presence of Moraga & Liedesdorff who had succeeded to Valencia's rights it seems to me entitled to consideration

~~Parol~~ testimony

as to the location of the line however it affords no more definite information than the ~~terms~~ description in the indorsement upon the grant — for that declares that the boundary shall commence after Counting 600 Varas from the

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valley of the Spring toward the source of the San Pablo— And this is precisely what the witnesses state was in fact done by the Alcalde— space Where the 100 varas were to be taken the agreement is silent. That Valencia was to receive that quantity of land somewhere in the vicinity is clear— I know of no other means of determining its location than to accept the statements of the witnesses as to the place where the 100 varas was measured— at which as they declare Valencia had a house and had made some cultivations.

~~It is admitted~~

Proof has been offered on the part of the owners of the Acalanes grant that the Corral auto was built by Valencia when he first founded his rancho & the land in the vicinity was claimed & occupied by him. But it is plain that it was not included in the 3/4 ths of a league granted to him: for that

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25 as the diseño very clearly shows lay ~~between the Arroyo~~ far to the north between the Arroyos San Pablo and Galindo—
It is equally plain that the Corral antiguo and the spring were included within Moraga's grant— and that after a controversy before the Governor the spring or rather the outlet was left to the common use of both parties while the boundary was to run from the outlet to the source of the San Pablo—
The construction of the Corral & the occupation by Galindo were probably the foundation of a pretext for the dispute between him and Moraga— While the fact that neither the spring nor the Corral was within his grant but both within that of Moraga, compelled him to acquiesce in a settlement by which the common use of the water was allowed to both parties and a small piece of land which he actually occupied was conceded

26 to him out of the land of
Moraga
How with the diseño of Alviso
and the agreement endorsed on
the grant before him the Surveyor
could have located as he has
done the Real Ames Rancho it
is not easy to conjecture — But
as before observed I can perceive
in that circumstance or in the
fact that a patent has issued
for the land so surveyed, no
reason or justification for this
Court to decline to locate the
Moraga Rancho in accordance
with the Calls of the grant the
indications of the diseño and
the boundary as agreed upon by the
parties in the presence of the
Governor.
My opinion is that the quantity
to be surveyed to the claimants
is 9 square leagues of land &
no more — to be located as
follows — Viz
The 1000 acres conveyed to Brown
to be first surveyed and located
of, and so far as it is within
the extreme limits of the ~~tract~~
grant

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27 the remainder of the 3 leagues at the election of the claimants to be located within said exterior limits in a compact form & in one entire tract said exterior limits on the north to be a line drawn from the source of the Rio Rabbo to the outlet or outflowing of the spring of water near the "Corral Antiguo" the remaining exterior limits to be located substantially as laid down in the map of H. A. Hegler U. S. Deputy Surveyor — but excepting from said Surveyed tract one hundred varas square of land to be located near the spring as described in the depositions of Martinez and R. M. Peralta to which reference is duly made

No. 276.

U. S. District Court.

The United States.

vs.

Joaquin Moraga.

Opinion rejecting official Survey.

Filed January 3, 1863.
W. H. Sheard.
Clerk.

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U.S. District Court for California.

The United States
vs. No. 276.
Joaquin Maraja et als

It is stipulated and agreed that the final survey to be made in this case shall not embrace any of the lands heretofore included within the final survey and patent of the Rancho Acalanes which was finally confirmed and patented to Elam Brown and that an order of this court be entered in conformity with this Stipulation.

H. W. Carpentier
Atty. for Claimants & Intervenors

Shurtleff & Brown
Atty's for Elam Brown

U. S. District Court

The United States
vs
Joaquin Noriega
et al

Stipulation

Filed May 15th 1871
Edw'd B Cotter Clerk
By J D Grimwood Deputy D.C.

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U. S. District Court for the District of California.

The United States } No. 276.
vs.
Joaquin Moraga et als.

On filing stipulation consenting thereto, it is ordered that the decision heretofore made in this case directing the manner in which the survey herein shall be made, be so modified as to exclude from the final survey herein all the lands that have been included in the final survey and patent of the Rancho Acalanes finally confirmed to Elam Brown.

And it is further ordered that the claimants and intervenors have leave hereafter to apply for further modifications of the said decision as they may be advised.

Ogden Hoffman
Dist Judge

U. S. District Court

No. 276

The United States

v

Joaquin Miranda et al.

Order modifying decision
heretofore made herein &c

Filed May 15th. AD 1871
Edw B Cotter Clerk
By A D Grimwood Dpty D.C.

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U. S. District Court
District of California

United States
vs
Joaquin Moreyra
} No. 276

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At the request of Edson Adams one of counsel in the above entitled cause I appear as his Attorney this 26th day of June 1871.

Henry P Irving

To
Edward B. Carter Esq
Clerk of said Court
etc etc

No 276

U. S. District Court
District of California

The United States

vs.

Joaquin Moraga

Notice of appearance
of Henry P. Irving
Atty. for Intr. Edson

Filed June 27th 1871
Edwd. D. Carter
Clerk

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U.S. Dist Court, Dist. of California

United States vs Los Palos Colorados } No. 276.

Please take notice that on Wednesday March 4th 1874 at the hour of eleven oclock A. M. of that day I will move the Court for an order dismissing the motion of Thos A. Brown Atty for Elam Brown, for a rehearing of the petition for a resurvey & for an order that the order for resurvey be made final & that said order issue.

Respectfully
Joseph Naphtaly

We acknowledge service upon us of a copy of the above notice this 2d of March 1874.

Shurtleff & Levy
attys Moraga's heirs —

E. A. Lawrence

Henry P. Irving
Atty for E. Adams

276.

No 276

United States

vs

Joaquin Hernandez

Notice of motion

Filed March 4th 1874
Edw R Cotter Clerk
By W Grimwood
Deputy Clerk

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United States District Court
District of California

United States
vs.
Los Patos Colorado
} In matter of survey
No 276.

Please take notice that on Wednesday February 25th 1874 at 11 o'clock A. M. at the Court Room of said Court I will move the Court to dismiss the motion of Thos A. Brown Atty for Elam Brown for a rehearing of the petition for a resurvey. Said motion will be made on the records.

Respectfully
J. Naphtaly

We acknowledge service of a copy of the above notice 23 Feby 1874
Campbell Dep U States

No
276

United States

v

Joaquin Amaya
et al

Notice of motion

Filed March 4th 1874.
Edw Bolter Clerk
By N D Grimwood
Deputy Clerk

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U. S. No 276
vs
Joaquin Moraga

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Williams — Motion to a
bend decree — & interlocutory
Decree of 1861 — pursuant to
leave given in the order.
The plat shows that the
Acalanes rancho overlaps
the Moraga — & the Cañada
de Pinole overlaps the Aca
lanes by 3000 acres

Grant made by Alvarado in
1831 to Joaquin Moraga &
Bonal — for 3 leagues more
mas ó menos — No mention
made of quantity in petition
nor in decree — Tract con
firmed by metes and bounds —
It was found that the Aca
lanes conflicted with the
Moraga — An order was
made directing the land to
be surveyed so as not to

Walap vs Reclames—

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The Claim Confirmation was ~~was~~ limited to the league on the authority of the West decision That case has since been overruled

U. S. vs Hallock 1 Wall. 435
U. S vs Billings 2 Wall 448
2 Wall 710
Spiar vs McDowell 6 Wall 376

Act 7/1864 13. Stat at L. 334

2 Wall 567
U. S vs Higuera 5 Wall 834

Carpenter—

Language of Land Commission Opinion & decree— Language of Dist Court in Opinion & decree—

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Irving— for Servante grantees.

The owners of Moraga Rancho & of Acalanes Rancho, after contesting their boundaries suddenly agree—
The boundaries of the Moraga Rancho as described in the decree must control this question—

If the Acalanes has "captured" a part of the Moraga Rancho it was in a proceeding to which we were not parties. They have no right to litigate it now the Moraga Rancho as against us— They cannot indemnify themselves upon us—

The decree is not definite— it is only in such cases that it controls—
The grant covers the Servante how could it have been fenced by metes & bounds.

4

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Williams—

Col. Ivins contends that we shall include in our survey lands conveyed by older grants and older patents—

The Moraga Rancho fought the Acalanes with the utmost pertinacity & we only acquiesced after resistance was useless—

A tract of 800 acres called the Redwood tract conveyed by Moraga to Elam Brown was argued by the previous decision to be ~~conveyed~~ surveyed separately—

I have since argued the title to that Land & we desire that we may be left at liberty to include or include it as we see fit.

5

L. Sharp.

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Ct. Going claims under a grant more which give him the Rancho after the measurement of the Palos Colorados the Pinole & the Salencia (Alcalanes) —

Brown

The Stipulation consenting to the exclusion of the Alcalanes last is signed by Carpentier & who then represented the Rancho — including Wm Adams Ct. Going's client —

This Stipulation has stood for 3 years — It was agreed to by all the parties and in perfect good faith.

276.

U.S. District Court
Dist of Cal

The United States

vs

Joaquin Moraga
et

Notes of Argument.

Filed April 16. 1874
Edw'd B Cotter Clerk
By H. D Grimwood
Deputy Clerk

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United States. Land Court of
vs. United States Surveyor Gen'l of Cal
Joaquin Moraga and Juan Bernal. 3

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In the matter of the survey of the Rancho Laguna de los Palos Colorados in Contra Costa County, confirmed to Joaquin Moraga and Juan Bernal. The affidavit of Edson Adams states, that he is interested and the owner of a large undivided interest, ~~fully appears to~~ ~~the half~~ of the Sobrante of San Pablo, which is the Sobrante of the following Ranchos viz. San Pablo, El Pinole, Laguna de los Palos Colorados, Acalanes and San Antonio. That said grant Laguna de los Palos Colorados, is a grant for three leagues, more or less. That by a decree rendered March 24th 1856, by this Honorable Court, it was adjudged, ordered and decreed, in the case of the United States vs. Joaquin Moraga and Juan Bernal, that, "the land of which confirmation is made, is situate in the county of Contra Costa, and is known by the name of Laguna de los Palos Colorados, being the same that was granted to Joaquin Moraga and Juan Bernal, by Governor Juan B. Alvarado on the 10th of August 1841, and which has been claimed by the present claimants since that time, and which said land has the following boundaries, to wit: On the North

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by the Arroyo of San Pablo, a straight line East, so as to include the spring of water, near the corral Antiguo; at the South, by the establishment of San Jose; at the West by the summit of the Sierra, and on the East by the Cuchilla de las Trampas, containing three leagues more or less." By said decree, it was expressly "provided that the said lines shall be in conformity with an agreement between Joaquin Moraga and Candalaria Valencia, a copy of which is attached to the original on file in this case". That on May 15th 1871 in the case of the United States vs. Joaquin Moraga, et. al. an order was made in the following words, "On filing stipulation consenting thereto, it is ordered that the decision heretofore made in this case directing the manner in which the survey herein shall be made, be so modified, as to exclude from the final survey herein, all the lands that have been included within the final survey and patent of the Rancho Acalanes, finaly confirmed to Elam Brown, and it is further ordered that the claimants and interveners have leave hereafter to apply for further modifications of the said decision, as they may be advised." That at the time, said last mentioned order was made, the Acalanes Rancho had been surveyed, and embraced within its limits a considerable portion

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of land that properly belonged to the Rancho Laguna de los Palos Colorados. In any survey that shall be made of the Rancho Laguna de los Palos Colorados, the boundaries of the same should be controlled by the agreement aforesaid made between Joaquin Moraga and Candalaria Valencia. Should the land now embraced in the survey of the Acalanes Rancho, which properly belongs by virtue of said agreement, not be included in a survey of the Rancho de los Palos Colorados, then in order to obtain the three leagues of land, decreed to the Rancho Laguna de los Palos Colorados, it will be necessary to include in the survey, so much of the lands belonging to the Sobrante of San Pablo, as has been improperly included in the survey of the Acalanes Rancho, and thus this affiant will be injured to that extent, unless your Honor shall decree and order the survey of the Rancho Laguna de de los Palos Colorados, to include within its boundaries of the same, that portion of the Acalanes Rancho, that in violation of the agreement between Joaquin Moraga and Candalaria Valencia, was included within the boundaries of the Acalanes Rancho.

We therefore ask that your Honor will so modify your decree of May 15th 1871 as to conform to the original decree of March 24th 1856 which recognises the agreement

made between Joaquin Moraga and
Candalaria Valencia.

Subscribed and Sworn to Edson Adams
before me this 13th day
of March 1874

J. H. Bland
Notary Public

276.
U.S. District Court
Dist of Cal

In
the United States
vs
Joaquin Moraga

Affidavit of Edson
Adams

Filed April 16th 1874
Chas W. Slack Clerk
By H. H. Harwood
Deputy Clerk

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In the District Court of the United States for the District of California.

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The United States
vs
Joaquin Moraga et als

Decree. Case No. 276 ND.
Rancho "Laguna de los Palos Colorados".

Exceptions having been taken to the Survey of the Rancho "Laguna de los Palos Colorados" confirmed to the claimants in this case, which said survey was approved by the United States Surveyor General for California, November 19. 1860, and a certified Copy of which is on file in this Court, and the said survey having been duly ordered to be returned into this Court and duly returned in pursuance to such order, and the exceptions to said survey having been argued by the Counsel for the respective parties and this Court having given its opinion rejecting said survey, and an order having afterwards been made modifying the order to be entered rejecting such survey, and leave having been given to the parties thereafter to apply to this Court for such further modifications as they might be advised, of the order to be entered rejecting said survey and for a resurvey of said

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ranchos, and this Court having afterwards heard the parties interested in such further modifications, and having duly considered the premises;

It is now ordered, adjudged and decreed that the said survey be and the same is hereby disapproved, rejected and set aside. And it is further ordered that the Surveyor General for California immediately cause a new survey to be made of the said Rancho Laguna de los Palos Colorados, in conformity to this order, and return the same to this Court without delay for confirmation and approval. It is further ordered, adjudged and decreed that said Rancho be surveyed in a compact form, and in one entire tract, so as to contain three square leagues of land and no more, the location thereof to be selected by the claimants within the following exterior boundaries of the Grant heretofore confirmed to the claimants herein, to-wit: On the North by a line drawn from the source of the San Pablo Creek to the outlet or overflowing of the Spring of water near the Corral antiguo, the remaining exterior limits to be located as laid down in the map of A. A. Higley United States Deputy Surveyor, filed in this Case on the

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23rd. day of October 1862, ~~x~~ provided however, that the claimants may at their election locate the tract of One thousand acres more or less known as the "Red Wood tract", and heretofore sold and conveyed by Joaquin Moraga to Elam Brown, as a separate tract or parcel of land, the said tract to be located within the metes and bounds described in the deed of said Moraga to said Brown, but no part of said tract shall be thus located and surveyed, which is not within the said exterior limits of the Rancho as hereinbefore mentioned and described, and in case the claimants shall elect to make a separate location of the said "Red Wood tract" as aforesaid, then the remainder of the said land confirmed to the claimants and to the extent, including said "Red Wood tract" of three square leagues and no more shall be located within the said exterior limits at the election of the claimants, but in a Compact form and in one entire tract. And provided further, that neither of said surveys and locations shall include any lands embraced within the final survey and patent of the Rancho "Acalanes" finally confirmed and patented to Elam

Brown. <u>And provided further</u>, that neither of said surveys shall include a certain tract of land to the extent of One hundred varas square to be located near the Spring as described in the deposition of Martinez and A. M. Peralta on file in this Court, and to which reference is hereby made.

276. N. D.

U. S. District Court
District of California

The United States
-vs-
Joaquin Moraga
Et als.

Draft Decree

Filed July 21st AD 1864
Edw. R. Potter Clerk
By W. H. Grimwood
Deputy Clerk

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The U. S.
vs
Joaquin Moraga

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The questions raised in the present application were presented to the Court and fully considered more than eleven years ago — a very long and elaborate opinion was prepared & and an order made directing a survey to be made within certain exterior boundaries therein described of the land claimed, to the extent of 3 square leagues and no more —

The exterior boundaries thus designated included some unclaimed lands already patented to the owners of adjoining Ranchos. A stipulation was therefore entered into between all

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2 The parties in interest that the Survey should be made so as not to include any of the lands already patented to other parties — And an order pursuant to this stipulation was made on the 15th May 1871.

It is this order that appears to be appealed from this order giving to the Claimant and Intervenors leave to apply for such modification of the original order as they might be advised —

No advantage was taken of this provision until very recently — The claimants now ask this Court for an order amending the original order by striking out the limitation of quantity — & directing the Survey to be made so as to include

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2 all the land within the
exterior boundaries (except
that patented to adjoining
owners) without regard
to quantity —

The application should
in my opinion be refused.

1st That practicable no
application was contemplat-
ed by, or suggested to, the
Court when permission to
apply for it was given
nor now be recalled to,
but it can hardly have
been intended to give leave
to apply at any future
time for a rehearing of
the principal and most
important point in the
cause, which had been
carefully decided & was
supposed finally decided
more than eight years
previously

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4 2° If the Court were open for discussion I should be compelled to reiterate my former decision

The grant to for 3 leagues "a little more or less" within certain designated boundaries —

In the decrees of the Board and of this Court the boundaries are set forth as ~~granted~~ in the words of the grant, and the ~~Lands~~ tract granted as containing 3 leagues a little more or less — In the decree of this Court the words "a little more" seem to have been accidentally omitted

Whatever might have been the construction of this designation of quantity if the extent of land within the exterior boundaries had not exceeded the specified quantity by more than

5

a fraction of a league and if the Supreme Court had not passed upon the question I do not feel at liberty while the decision in U.S. vs Fossatt remains unreversed to depart from the rule thus laid down and to allow ~~give~~ in this case to the words "more or less" a latitude of interpretation not heretofore allowed by this Court in any former case—

It had been supposed by the Court that when these words were used in connection with a description of quantity & when the exterior bounda ries were clearly described ~~the words a little more or less~~ they might be deemed to have been intended by the granting down to convey ~~by~~ deeds not greater

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6

than a practice of the
mile of measurement (or
one league) which
might be found within
the external boundaries—
This view was
denied by the Supreme
Court to be erroneous
and the grant was held
to embrace the quantity
of acres mentioned &
no more—
But it was never sup-
posed that this Court
that where the quantity
contained within the extern
boundaries exceeded by
more than a league
the quantity mentioned
and where the surplus
was described by the grant
the words "more or less"
could operate to
pass all the land within
the external boundaries

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7

In the case at bar the land contained within the exterior boundaries mentioned in the grant is largely in excess of three leagues. and the Location is vested

The question is one of presumed intention on the part of granting power and it was [illegible] in the opinion delivered by this Court in 1853 that the Governor could not be deemed to have intended to grant a tract of leagues in extent under a description of a tract "in extent 3 leagues a little more or less" which he understood to be measured by the surplus vested to the nation —

It is urged however that the decision in U. S. vs Fossatt was upon the

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8 Construction of the lan
guage of the grant
~~Both~~ there the question is
upon the construction of
the terms of the decree

But the decree is known
in the precise language
of the grant the Con
struction given by the
Court to similar terms
in Mexican grants ceded
as before stated upon
the presumed intention
of the Governor the
decree ~~in this case~~ was mad
ed in conformity with
this presumed intention
And if in this case the
Governor can not be pre
sumed to have intended
more than 5 Leagues under
the description of "3 Leagues
a little more or less"
& the Court cannot be
presumed to have so ~~decided~~ in

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9 When framing a decree to give effect to his intentions and embodying his precise language such was the order taken by this Court when passing upon the point eleven years ago — and even if it be erroneous it seems to me too late now to question it — for as before remarked the leave given to apply for a modification of the decree can hardly be deemed to have contemplated a motion to vacate the decree in the principal point covered by it —

It is also urged that ~~inasmuch~~ as the parties have consented that the decree shall be made so as not to include the lands embraced within

the patents of adjoining ranchos, the remaining land[#]
But ~~those~~ be the lands so excluded were clearly within the exterior boundaries of Laguna de Palos Colorados —
If any portion of the land embraced within those boundaries have been erroneously included within the survey of contiguous ranchos that circumstance does not alter the nature of the original grant ~~to the~~ ~~claimants~~ to ~~the claimants~~ Moraga & Bernal —
This, as we have seen was for ~~lands~~ a tract with specified boundaries, and of the extent of 3 leagues a little more or less"
The boundaries contain 5 leagues — and on the grounds above stated the grant & the decree in

pursuance of it

not exceeding a league the quantity specified and which should therefore be allowed under the words "more or less."

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it must be construed to be
a tract of 3 leagues in
length & no more—

The property of no holding
would be obvious if the
same person was the ow
ner of Palos Colorados and
of all the adjoining ranchos
for by ~~drawing~~ drawing
the latter to be surveyed
so as to encroach upon
the limits of the Palos Colo
rados he might reduce
the distance of the latter to
a quantity less than one lea
gue, and then claim the
~~adjacent~~ as under the rule
of construction adopted by
this court, when the excess
is less than the unit of
measurement— He would
thus become owner of land to which under the
construction always given
to similar grants he could

12 make no pretension.
That each the ~~four~~ ranchos may in this case belong to different persons can make no difference — The illustration or hypothetical case shows the necessity of construing each grant by itself and according to the claimant the rights under it to which he may be entitled irrespective of any rights he may in other ranchos.

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An order will be entered conformably to this opinion
The rights of Elam Brown to the tract of 1000 acres ~~conveyed to Elam Brown~~ referred to in the previous opinion having since been conveyed to ~~become the property~~ of the present owner of the Palos Colorados ~~the same~~ that tract may be included in the survey or excluded at his election

276 ND.

U.S. District Court
Dist of California

The United States

vs

Joaquin Moraga &c

Opinion

Filed May 8th 1874.
Edw B Cotter Clerk
By N D Grimwood
Deputy Clerk

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U. S

vs

Jogmn Moraga et al

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In the decision heretofore de-
livered when the Survey of
the Rancho Confirmed to
the Claimants in this case
was under examination the
lines of the Survey were in
part adopted by Consent of
all parties as substantially
conforming to the description
of the exterior boundaries
contained in the grant & ap-
proved in the final decree
It was now suggested that
those lines are in some re-
spects erroneously located
on this point no evidence
is offered - I see no objection
however to instructing in the
order and directing for a
new survey the descrip-
tion of those lines as given

2

in the decree — leaving the Surveyor General to locate them as may be just and to adopt or modify the lines of the Highly Survey according as the same may or may not be found to conform to the calls of the decree — always accepting the north line as described and determined in the opinion heretofore delivered — which description and determination cannot now be disturbed

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U.S. District Court
Dist of Cal.

The United States

vs

Joaquin Moraga

Opinion on Motion
to Modify draft decree

Filed July 24th 1874
Edw B Cotter Clerk
By P D Grimwood
Deputy Clerk

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In the District Court of the United States District of California

The United States
vs.
Joaquin Miraga
et al

Please take notice that on Friday the 24th day of July 1874 at the opening of the Court on that day, or as soon thereafter as counsel can be heard I will move the Court that the draft of a decree ordering a survey of the Rancho Los Palos Colorados be amended with reference to the specification of the exterior limits within which said Rancho is to be located, or that the said exterior limits may be substantially in accordance with the decree of this Court of March 24. 1856 confirming said grant & I will then submit to this Honorable Court for its approval and signature ~~a~~ a decree a copy of which is hereto annexed & made part ~~hereof~~ of this notice.

Respectfully
J Hapgood

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I acknowledge Service of
a copy of notice & decree
this 22d July 1874

Henry P Henry
Atty for E Adams
William J Thornton
Louis Shuck
for some claimants.
H. H. Carpenter
Walter Van Dyke
United States Atty

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In the District Court of the United States
For the District of California

The United States
vs.
Joaquin Moraga
et als
} Decree.

Exceptions having been taken to the Survey of the Rancho Laguna de los Palos Colorados confirmed to the claimants in this case, which said survey was approved by the United States Surveyor General for California November 19, 1860 and a certified copy of which is on file in this Court, and the said survey having been duly ordered to be returned into this Court and duly returned in pursuance to said order, and the exceptions to said survey having been argued by Counsel for the respective parties and this Court having given its opinion rejecting said survey and an order having afterwards been made modifying the order to be entered rejecting such survey and leave having been given to the parties thereafter to apply to this Court for such further modifications as they might be advised, & the order to be entered rejecting said survey and for a resurvey of said Rancho

and this Court having afterwards heard the parties interested in such further modification and having duly considered the premises.

It is now ordered, adjudged and decreed that the said survey be and the same is hereby disapproved, rejected and set aside.

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And it is further ordered that the Surveyor General for California immediately cause a new survey to be made of the said Rancho Laguna de los palos Colorados, in conformity to this order, and return the same to this Court without delay for confirmation and approval.

It is further ordered, adjudged and decreed that said Ranchs be surveyed in a compact form and in one entire tract, so as to contain three square leagues of land and no more. The location thereof to be selected by the claimants within the following exterior boundaries of the grant heretofore confirmed to the claimants herein, to-wit: On the North by a line drawn from the source of the San Pablo Creek to the outlet or overflowing of the spring of water near the Corral Antiguo, on the South by the establishment of San Jose, on the west by the summit line of the Sierra; on the East by the Arcilla de las Trampas, provided however that the claimants may

at their election locate the tract of One Thousand acres more or less known as the "Red Wood" tract and heretofore sold and conveyed by Joaquin Moraga to Elam Brown as a separate tract or parcel of land, the said tract to be located within the metes and bounds described in the Deed of said Moraga to said Brown, but no part of said tract shall be thus located and surveyed which is not within the said exterior limits of the Rancho as hereinbefore mentioned and described; and in case the claimants shall elect to make a separate location of the said Red Wood tract as aforesaid, then the remainder of the said land confirmed to the claimants and to the extent, including said "Red Wood" tract of three square leagues and no more shall be located within the said exterior limits at the election of the claimants, but in a compact form, and in one entire tract. And provided further that neither of said surveys and location, shall include any lands embraced within the final survey and patent of the Rancho Acalanes finally confirmed and patented to Elam Brown And provided further that neither of said surveys shall include a certain tract of land to the extent of One hundred Varas

276. N. D.

U. S. Dist. Court

The United States

vs

Joaquin Arnaga
et als

Notice of proposed draft of
Decree

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Filed July 24" AD 1874
Edwd B Cotter Clerk
By A. W. Grimwood
Deputy Clerk

square to be located near the spring as ascribed in the deposition of Boring and A. M. Shattu on file in this Court and to which reference is hereby made

In the District Court of the United States
for the District of California

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The United States
vs
Joaquin Berraga et al } Decree
Case No 276 N.D.

Rancho "Laguna de los Palos Colorados"

Exceptions having been taken to the survey of the Rancho "Laguna de los Palos Colorados" confirmed to the Claimants in this case, which said survey was approved by the United States Surveyor General for California, November 19. 1860 and a certified copy of which is on file in this Court, and the said survey having been duly ordered to be returned into this Court and duly returned in pursuance to such order, and the exceptions to said survey having been argued by the Counsel for the respective parties and this Court having given its opinion rejecting said survey and an order having afterwards been made modifying the order to be entered rejecting such survey, and leave having been

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given to the parties thereafter to apply to this Court for such further modifications as they might be advised, of the order to be entered rejecting said survey and for a re-survey of said rancho, and this Court having afterwards heard the parties interested in such further modifications, and having duly considered the premises, It is now Ordered, adjudged and decreed that the said survey be and the same is hereby disapproved, rejected and set aside. And it is further Ordered that the Surveyor General for California immediately cause a new survey to be made of the said Rancho "Laguna de los Palos Colorados" in conformity to this Order, and return the same to this Court without delay for confirmation & approval.

It is further ordered, adjudged, and decreed that said Rancho be surveyed in a compact form and in one entire tract, so as to contain three square leagues of land and no more, the location thereof to be selected by the claimants within the following exterior boundaries of the grant heretofore confirmed to the claimants

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herein, to wit: On the North by a line drawn from the source of the San Pablo Creek to the outlet or overflowing of the spring of water near the Corral Antiguo, On the South by the establishment of San José, on the West by the summit line of the Sierra, on the East by the Cuchilla de las Trampas, provided however that the claimants may at their election locate the tract of one thousand acres more or less known as the "Red-wood tract", and heretofore sold and conveyed by Joaquin Moraga to Elam Brown, as a separate tract or parcel of land, the said tract to be located within the metes and bounds described in the deed of said Moraga to said Brown, but no part of said tract shall be thus located and surveyed, which is not within the said exterior limits of the Rancho as hereinbefore mentioned & described, and in case the claimants shall elect to make a separate location of the said "Red-wood tract" as aforesaid, then the remainder of the said land confirmed to the claimants and to the extent, in the

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-ding said "Red-wood tract" of three square leagues and no more shall be located within the said exterior limits at the election of the claimants, but in a compact form and in one entire tract, And provided further that neither of said surveys and locations shall include any lands embraced within the final survey and patent of the Rancho "Acalanes" finally confirmed and patented to Elam Brown. And provided further, that neither of said surveys shall include a certain tract of land to the extent of One Hundred varas square to be located near the spring as described in the deposition of Martinez and A. W. Peralta on file in this Court, and to which reference is hereby made.

July 27. 1874

Ogden Hoffman
Dist Judge

No 276 N. D.

U. S. District Court
District of California

The United States

-vs-

Joaquin Moraga
et al.

Decree ordering new survey

Filed July 27th A.D. 1854
Edw. B. Cotter Clerk
By. W. D. Simmwood
Deputy Clerk

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Until Bk. 1. P. 699 Judgts & Decrees

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United States District Court.
District of California.

The United States } No. 276.
vs
Joaquin Moraga et al.

On Motion of Solomon A. Sharp Esq. of Counsel for the claimants, It is ordered that an appeal be and hereby is granted and allowed by this Court to the Circuit Court of the United States for the District of California, from the Decree of this Court made and entered on the 27th day of July 1874, rejecting the survey heretofore made and returned into this Court and ordering a new survey of the land confirmed to the claimants in this case.

Dated August 7. 1874.

Ogden Hoffman
Dist. Judge

276. N.D.

U.S. District Court
Dist of California

The United States

vs

Joaquin Moraga et al

Order allowing appeal
to U.S. Circuit Court &c

Filed August 7th 1874
Edw R Cotter clerk
By S.W. Grimwood
Deputy Clerk

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In the District Court of the United States in and for the District of California.

The United States
vs.
Joaquin Moraga et als.
} No. 276.

Notice is hereby given to all whom it may concern that an appeal to the Circuit Court of the United States in and for the District of California from the decree of the U. S. District Court entered on the 27. day of July 1874, rejecting the survey and ordering a new survey to be made in this case, has been granted, ordered and allowed in this case by the said District Court and that the said appeal will be prosecuted.

August 7. 1874.

Shark & Lloyd
Attys for ~~the~~
the Claimants

To Walter Van Dyke Esq
U. S. Attorney
H. W. Carpentier Esq.
H. P. Irving Esq.
J. A. Brown Esq. Attys for Intervenors
& The Clerk of this Court.

Due service of the within notice of Appeal admitted, August 7, 1874

Walter Van Dyke
United States attorney
H. W. Carpenter
for Intervenors & Claimants
Henry P. Irwin
Atty for Edson Adams
Thurston Brown
Atty for Elam Brown
& others

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No 276 N D

U. S. District Court

Dist of Cal

The United States

v

Joaquin Moraga

et al

Notice of Appeal

Filed August 18th A.D. 1854

Edw. D. Coates

Clerk

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Carmany

The U. S
vs
Joaquin Moraga et al } 276 ND

1/1

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The claimants in this case petitioned on the 30th Aug. 1835 for the place called "Laguna de los Palos Colorados".

The petition was referred to the Ayuntamiento del Pueblo de S. José Guadalupe and also the Rev. Padres for their reports — On receiving these reports which were favorable José Castro Primero Vocal of the Assembly and Political Chief ad interim made his concession on the 10th Oct 1835 and directed that when the Departmental Assembly should have approved the grant the corresponding title should issue

On the 12 October 1835 the concession was approved but the "title" does not seem to have issued until the 31st July 1841 —

All the foregoing facts appear from the Expediente on file in the archives of the former government —

The claimants have also produced the original title deed to them which bears date on the 10th of Aug. 1841 — to which

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is attached a map or deseño certified by Jimeno Secretary of the Government to be a copy of that ~~at~~ accompanying the expediente [The translation of this certificate seems to be omitted.] There also accompanies this document the certificate of approval by the Departmental assembly and a note or record of an arrangement between Moraga & Candelaria Valencia who seems to have been a colindante or conterminous owner, fixing their and providing for the use in common of an ojo de agua or spring of water ~~which~~ which is on the land —

The authenticity of all these documents is fully proved and it is shown that in 1836 the parties went upon the land built houses corrals, & placed cattle upon it and cultivated a considerable portion —

The boundaries of the tract are given with some precision in the original grant and it appears in evidence that the limits ~~of~~ of the rancho are well known to those residing in its vicinity —

The claim was confirmed by the Board and we think

3

this decision should be affirmed

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The U. S

By

Joaquin Moraga

Plaintiff

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U. S. Dist-Court

United States

v

Joaquin Moraga
et al

Indict

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Robt Lawson
Atty for Claim

Case No. 276. N.D.

RP 291 and 292 missing -

Pages run 290, 293, 294, 295 etc.

Error was made and too many pages to rub out to make correction. (M. Davis' work)

DVC L.

U. S.
vs
Joaquin Moraga } Objections to Survey —

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Carpentier appears for his own interest in an undivided 1/2 of the rancho — also for some of the heirs —

Brown appears in support of the Survey on behalf of Elam Brown a purchaser under claimants of the "Acalanes rancho"

Carpentier —

Our boundaries on the N. the Law Rancho — thence a straight line East so as to include the ojo de agua and the corral antiguo — we claim that the Acalanes is the land between the two creeks at their junction

Brown

We claim that at the time of the decree of Confirmation & Sup. Ap. approval the line of hills was bounda ry on the East. The grant was made 10 years afterwards The "Acalanes" was the name of

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& Huchenia. And Valencia had been in possession for a long time We deny that Micheltorena had any rights to make this certificate or to determine these boundaries

Com.rs & Wells' notes. Dep.rs & Eng.rs
Vol IV. p. 239

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U. S. Dist. Court.

M. S.

—vs—

Moraga.

Sobrs Argument.

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In the U. S. District Court

The United States,
vs.
Joaquin Moraga

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Application for an order directing a Survey of the Rancho Laguna de Los Palos Colorados.

An opinion was filed in this case directing that the Survey heretofore made, be set aside, and a new Survey was ordered to be made, and directing that the North line of the Survey should run from the San Pablo Creek, Eastwardly, so as to include a Spring of Water, and also, directing that the Survey should embrace a tract which Joaquin Moraga, one ~~half~~ of the Grantees had sold and conveyed to Elam Brown, one of the Intervenors (Known as the Red Wood tract).

The survey of the Rancho "Palos Colorados," as directed in said order, would have included several hundred acres of land which was embraced in the "Rancho Acalanes" which embraced 3/4 of one

Leagues of land, and was granted to C. Valencia on the 1st of August 1834, and was finally confirmed to Elam Brown in 1853, and was finally surveyed and Patented, to Elam Brown on the 18 day of May 1858. A Motion was made by Elam Brown for a rehearing, and afterwards on the 15th of May 1871. The claimants and Intervenors in the Rancho Palos Colorados, and also the intervenors in the "Castro Sobrante" Rancho, represented by W. W. Carpentier, their Attorney, and the Attorney for Brown, being all the parties interested in the case, stipulated that the previous order of this Court should be so modified as to exclude from the final survey of the Rancho Palos Colorados, all the lands which had been embraced in the final survey and Patent of the Rancho Acalanes, upon filing that Stipulation, upon motion an order was made and entered by this Hon Court on the 15th of May 1871, substantially as follows, "That the decision heretofore made in this case directing the

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"manner in which the survey herein
"shall be made be so modified as to
"exclude from the final survey
"herein, all the lands that have been
"included within the final survey
"and Patent of the Ranchos Acalanes
"finally confirmed to Elam Brown.
"And it is further ordered, that
"the Claimants, and Intervenors
"have leave hereafter to apply
"for further modification of the
"said decision as they may be ad-
"vised"

I understand that the Claim-
-ants, of the Ranchos Palos Colorados
desire a further modification of
the first decision, so that they shall
not be restricted to three Leagues
in their location, but do not object
to the order made on the 15th of May
1871. As stated by Counsel in argu-
-ment of this case, the Stipulation
made on the 15th of May 1871, was the
result of a full and fair settle-
-ment between the Claimants, under
the Ranchos Palos Colorados, and
Elam Brown, the owner of the Rancho
Acalanes, as to a disputed boundary,
mutual concessions were made,

Brown conveyed his interest in the Rancho Palos Colorados, and received a release of interest in the Acalanes Ranchos, and the litigation was settled, the question affected none but the claimants of those two Ranchos, the land in dispute, appertained to either the Rancho Acalanes or the Rancho Palos Colorados, and the claimants of these Ranchos agreed upon the boundary, that is that the survey of the Palos Colorados, should not overlap the lines of the Rancho Acalanes, as finally surveyed, and Patented - None of the parties object to that settlement, or to the order of this Court, made upon it on the 15th of May 1871, but Edson Adams one of the claimants of the Castro Sobrante Grant, so called, and he was a party to the Stipulation, and through his then Attorney Mr. Carpenter, consented to the order, at the time, the Stipulation was made, and the order of the 15th of May 1871, was entered, Mr. Carpenter was the Attorney for Adams, they both being intervenors as claimants in the Castro Sobrante Grant, and Col Irving who now

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represents Mr Adams did not enter an appearance for him in this case until sometime after the order was made, Mr Adams now desires, through his present Attorney to undo that which, through his former Attorney he stipulated should be done in this case,

But it is contended that Mr Adams as a claimant in the Castro Sobrante Grant, cannot object to the Location of either the Ranchos Acalanes, or Palos Colorados, so long as those Ranchos are kept within their exterior boundaries, for by the very terms of that Grant, as finally confirmed, it is confined to lands which were not included within either the Acalanes, or Palos Colorados,

The Language of the Decree of Confirmation of the Sobrante Grant in which Mr Adams, claims is as follows, "The land of which confirma-
"tion is hereby made is situated in
"the Counties of Contra Costa, and Al-
"ameda, and is the Surplus (Sobrante)
"which on the 23rd day of
"AD 1841, the date of decree of Conces-
-sion to the present Claimants, existed

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" lying between the tracts known as
" Ranchos of San Antonio, San Pablo,
" Pinole, Moraga & Valencia, reference
" being had to the original Expedientes,
" See Case No 403,

The San Antonio Rancho was grant-
-ed to Peraltas, The San Pablo No 390,
was granted to Castro, The Pinole No
205, was granted to Martinez, The Mo-
-raga Rancho, or the Palos Colorados No.
276, was granted to Joaquin Moraga
and Bernal, Valencia was the Grantee
of the Ranchos Acalanes, Case No 31,
also the Rancho Boca La Canada
del Pinole, case No 138, an adjoining
Rancho was granted to Mamilla Valen-
-cia,

From the Boundaries of the several
Coterminus Ranchos, named in the
Sobranto Grant, and, Constituting
its boundaries as the Ranchos are
described in the several grants ~~descen~~
-~~tions~~ and Decrees of Confirmation,
I have compiled the annexed dia-
-gram, for the purpose of assisting in
demonstrating the correctness of my
statement, that the Claimants of the
Sobranto Grant, cannot object to
the location of either the Acalanes,

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Ranchos, or the Palos Colorados, so long as they are kept within their exterior boundaries. The diagram, represents the boundaries of the Ranchos, San Antonio, San Pablo, Pinole, Moraga & Valencia, as they were known in 1841, as near as can be ascertained from the original grants & diseños & Decrees of Confirmation,

It will be seen that the Sobrante Grant lies towards the North from the Acalanes and Palos Colorados Ranchos, The line marked in red extending from "A" to "B" represents the North line of the Rancho Palos Colorados, as the survey of that Rancho, was directed to be made by the first decision, the decision as modified by the order of this Court, on the 15th of May 1871, Excludes that part of the Rancho "Acalanes" lying South of the red line, marked on the diagram "land in dispute," from the survey of the Rancho Palos Colorados, This disputed land is claimed to be included within the exterior boundaries of the Acalanes Rancho, and is actually within its final survey, and Patent, and it is claimed by the owners of the Rancho Palos Colorados,

to be within the exterior boundaries of that Rancho. The land actually can-not be reached or included in the Sobrante Grant, for the reason that it is included, in one or the other of the Ranchos Acalanes, or Palos Colorados, the exterior lines of both forming the boundary of the Sobran-te Grant, that only purporting to be a Grant, of the overplus, or Sobrante lying between the Ranchos named,

On behalf of the Intervenor Elam Brown, the owner of the Acalanes Ran-cho it is submitted that the order di-recting a final survey of the Rancho Palos Colorados, should contain the directions embodied in the order of the 15th of May 1871, referred to, and that such survey shall not embrace any portion of the land included in the Rancho Acalanes, as finally surveyed & Patented. And that the objections, of the Intervenor Edson Adams to the order made, on the 15th of May 1871 as stated, should be overruled upon the grounds that he is concluded by said order, it having been entered by his consent also upon the ground that the land excluded by said order from

the Palos Colorados, Could not in any event be included within the Sobrante Grant.

Respectfully Submitted
Thomas H. Brown
Att'y for Elam Brown
Intervenor

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MAP OF EAST BAY RANCHOS

Sketch

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"Laguna de Palos Colorados"
Joaquin Moraga, Chief

Contra Costa Co

561-R

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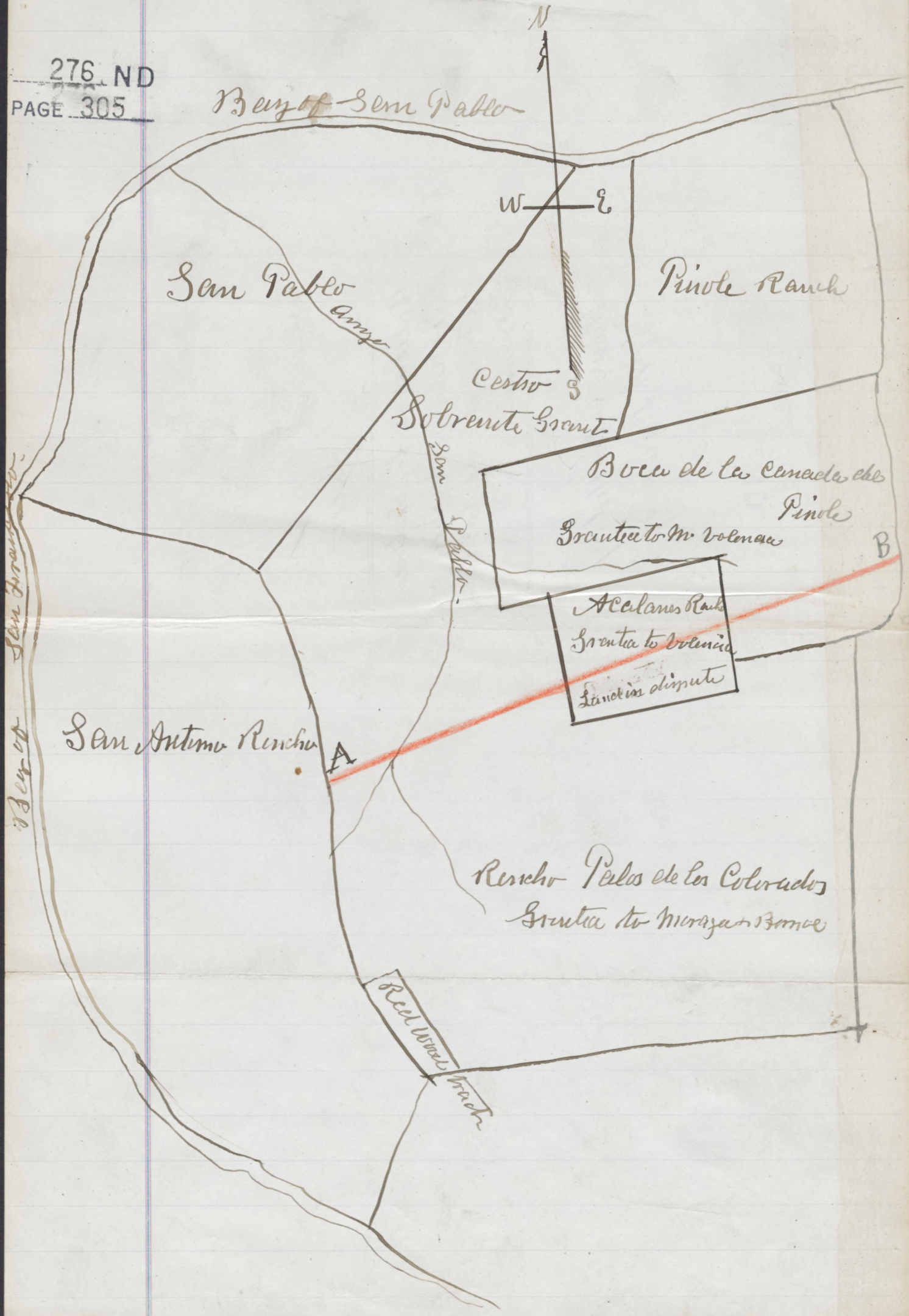

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59 B

U. S. District Court

The United States
Reft
vs
Joaquin Moroga
Deft

Application for an Order directing a Survey of the Rancho de Los Palos Colorados

Mem submitted by
Thos A. Brown Esqr

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April 24/74

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In the District Court of the United States in & for the Northern District of California

The United States

v.

Joaquin Moraga et al
Claimants

Take notice that a motion will be made in the above entitled cause, before the said Court at the Court Room thereof in the City & County of San Francisco on the 8th day of April 1867 at the opening of Court on that day to dismiss the motion heretofore made herein by Elam Brown & all for a rehearing of the motion to set aside the survey herein. Said motion will be based upon the papers & files in said cause which will be used upon the hearing hereof —

San Francisco March 20, 1867

E. W. Lawrence
Atty for Claimants
for Jones & Ogier

To
Thos. A. Brown
Atty for Elam Brown
H. W. Carpentier
Atty in person & for Defts

District Court of U.S.
for Northern Dist

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The United States

~ v ~

Joaquin Moraga
et al

Notice of Motion to
Dismiss &c

Service of notice of which
the within is a copy admitted
March 21, 1867
E R Carpenter
for US Atty

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E. A. Lawrence
Atty for Claim^t
for Tomas & Agard -

Mch 21. 1867 3 Pm mailed copy of within, post paid,
enclosed addressed "Thomas A. Brown Esq Attorney
at Law, Martinez Cal." — J.B. Congdon

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In the District Court of the United in, and for the Northern District of California

United States
vs
Joaquin Moraga
et al

No 276

It is order that the papers in the above entitled cause be withdrawn by the clerk for exhibition in the Superior Court of the State of California and to be returned in his custody until returned to this Court

Dated April 5th A.D. 1897

M. W. Morrow
Judge

We think suggests the following modifications of the Order of Survey.

The land to be surveyed so as to include the lands embraced within the decree of final confirmation except the portion thereof included within the final survey and patents of the Rancho Acalanes and the Rancho Bolsa de la Cañada del Pinole.

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In Veraza Case

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In the U. S. District Court

The United States
Plaintiff
vs
Joaquin Moroga
Defendant.

The claimant in this case sought a confirmation by metes & bounds. The quantity was not mentioned in his petition to the Land Commissioners. The Board confirmed the claim by metes & bounds, stating in its opinion that there was probably three leagues & a half of land within the exterior boundaries. This Court without mention of quantity in its opinion affirmed the decision of the Land Commissioners and entered a decree in which the boundaries were described with precision, and the quantity was therein declared to be "three leagues more or less". A decree or deed in this form is for the whole land unless there be such an excess or deficiency as to create the presumption of fraud. This is an elementary principle of the Common Law. See Lomax's Digest "Verbum deficiency" — Mann & Toles vs Pearson 2 Johnson Rep 37. — As Mr Carpentier

is about to leave the State on important business & will be sometime absent, we hope that the Court will excuse us for asking for an early decision of this motion

Williams & Thornton

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U. S. District Court

The United States

vs

Joaquin Moraga

Mem submitted by J. J.

Williams Esqr

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April 24/74

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The United States
vs
Joaquin Moraga et al.

In the District Court of the United States for the Northern District of California

It is stipulated that intervenors Agard and Jones and others holding with them are the claimants of ~~the interest of Joaquin Moraga~~ a tract of land running through the Rancho Laguna de Las Palas Colorados from East to West including the Laguna and lying to the north and south thereof equal distances, and being a strip of land one mile & thirty chains in width, under a warrantee deed from Joaquin Moraga one of the grantees and confirmees herein, and that further proof of their right to intervene is waived.

H. W. Carpentier for
Intervenors Adams, Carpentier
Dibble & Tennent.

C. A. Lawrence
Atty for Jones & Agard
& for Claimants
& Petitioners
Intervenors

Wm H. Sharp
U. S. Atty

U. S. District Court
Northern District of Cal.

The United States

v

Joaquin Moraga et al

Stipulation —

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E. A. Lawson
For Claimants

Sketch of East Bay RANCHOS.

Sketch

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"Laguna de Palos Colorados"

JOAQUIN MORAGA, Clmt

Contra Costa Co.

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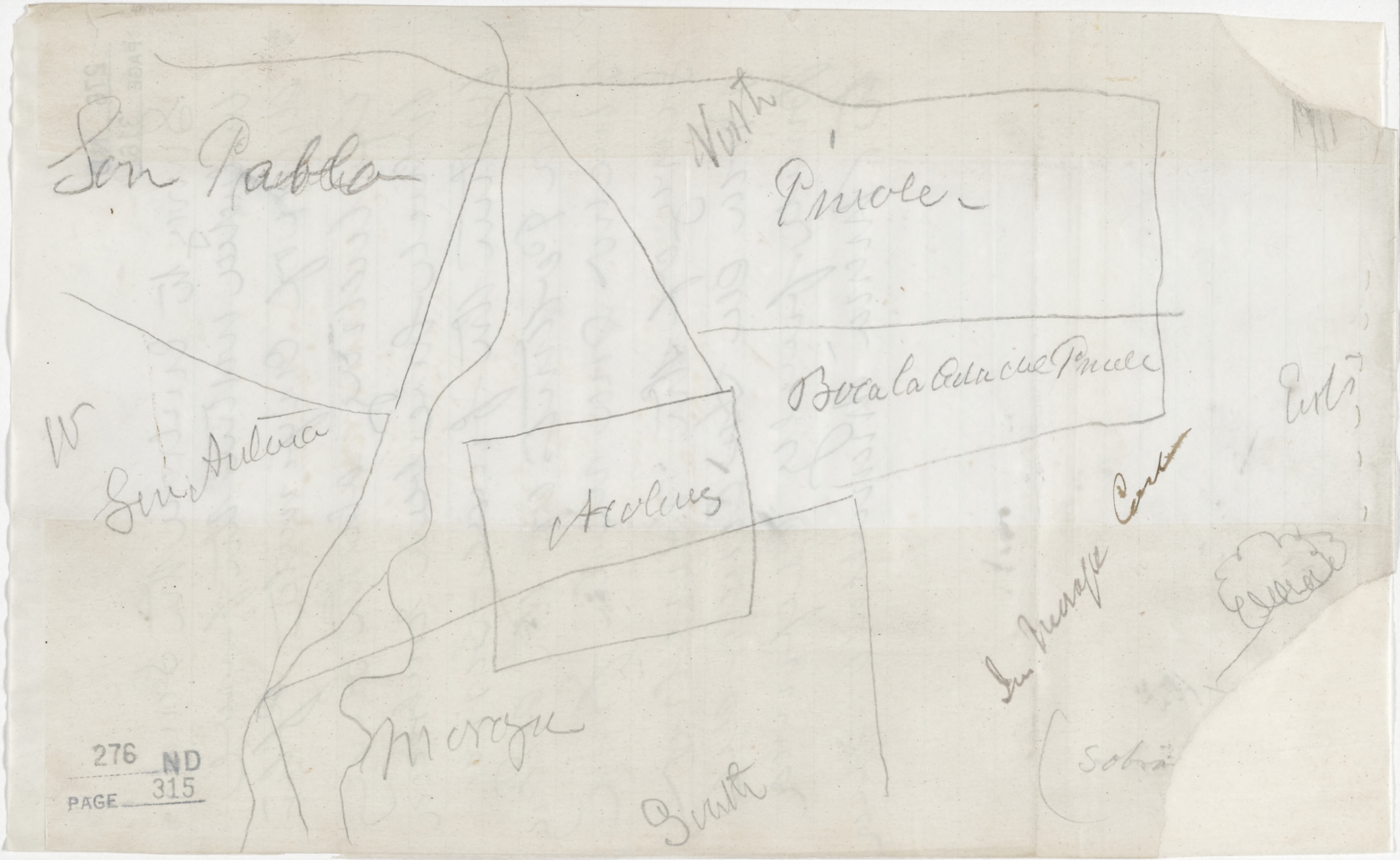

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Survey to embrace the lands
included within the former
decree of Confirmation after
excluding all the lands
which have been embraced
within the former survey
and patents of the adjoining
Pueblo and in the final
survey of the Rancho
Boca de la Canada del
Pinole finally confirmed
to Maria Manuela Valencia

The United States
vs
276 Juaquin Maraga et al.

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In the United States
District Court Northern
District of California
Stated Term March 24. 1856.

This cause coming on this day to be heard upon the transcript of the proceedings and decision of the Board of land commissioners and the papers & evidence on which the same was founded and the pleadings filed in this Court and counsel having been heard on the part of the United States and for the complainants, In consideration of all which the Court is of opinion that there is no error in the decision of the said Board and that the same should be and hereby is affirmed And the Court doth adjudge order and decree the title of the said claimants to the land described in the said transcript is valid and same is

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hereby confirmed.

The land of which confirmation is made is situated in the County of Contra Costa and is known by the name of "Laguna de las Palos Colorados" being the same that was granted to Joaquin Moraga and Juan Bernal by Governor Juan B. Alvarado on the 10th of August 1841 and which has been claimed by the present claimants since that time and which said land has the following boundaries, to wit: On the Northerly the arroyo de San Pablo, a straight line east, so as to include the spring of water near the "corral antiguo" at the south by the establishment of San Jose, at the west by the summit of Sierra, and on the east by the cuchilla de las trampas, containing three leagues more or less and for a more particular description reference is had to the original grant and map contained in the expediente filed in this case, copies of which are contained in the transcript

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and Provided that the said lines be in conformity with the agreement between Joaquin Moraga and Candellario Valencia a copy of which is attached to the original title on file in this case.

Ogden Hoffman Jr
U. S Dist Judge

Endorsed
Filed March 24. 1856.
Chevers
Deputy

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United States of America.

DISTRICT COURT OF THE UNITED STATES,

DISTRICT OF CALIFORNIA.

I, EDWARD B. COTTER, Clerk of the District Court of the United States for the District of California, do hereby certify the annexed to be a copy of the original decree of confirmation in the cause therein entitled

now on file, and remaining of record in my office; that I have compared the same with said original, and that the same is a correct transcript therefrom, and of the whole of said original.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, at San Francisco, this 9th *day of* January *A. D.* 1875.

Edward B. Cotter *Clerk.*

By _____

Deputy Clerk.

276.

U.S. District Court
Northern Dist of Cal

The United States

-vs-

Joaquin Moraga et al

Certified Copy of Decree
of Confirmation.

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$2.00

§ Either from the argument of the Counsel for respective parties that a survey, be made as directed by the "to embrace the ends the lands included within the final decree of Confirmation but not to embrace any of the lands which have been included within the former survey on a Point of the Rincon de Los Ladrones nor any of the lands embraced in the former survey of the Rancho Boca de la Cuesta de Pinos —"

James A Bowie

In Moraga Case

&

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590 B1

U.S.
v
Iturralde

Request of
Order for
Surety

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The United States
B
Joaquin Moraga et al

In the United States District Court, Northern District of California

Stated Term, March 24, 1856.

This cause coming on this day to be heard upon the Transcript of the proceedings and decision of the Board of Land Commissioners and the papers and evidences on which the same are founded and the pleadings filed in this court and counsel having been heard on the part of the United States and for the complainants, Upon Consideration of all which the Court is of opinion that there is no error in the decision of the said Board and that the same ~~is to be~~ should be and hereby is ~~confirmed~~ affirmed And the Court doth adjudge and decree the title of the said claimants to the land described in the said Transcript is valid and same is hereby confirmed

The land of which confirmation is made is situated in the County of Contra Costa and is known by the name of "Laguna de los Palos colorados" being the same that was granted to Joaquin Moraga and Juan Bernal by Governor Juan B Alvarado on the

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10th of August 1841. and which has been claimed by the present claimants since that time, and which said land has the following boundaries to wit. On the north by the Arroyo de San Pablo from ~~its~~ mouth by a straight line east, so as to include the spring of water near the canal on the ~~south~~ south by the establishment of Sanchez, on the west by the summit of Sierra on the east by the Cañada de las Trampas containing three leagues more or less, said for a more particular description reference is had to the original grant and map contained in the ~~file~~ files in this case, copies of which are contained in the transcript; and Provided that the said lines be in ~~accordance~~ accordance with the agreement between Joaquin Moraga and Candelaria Valencia a copy of which is attached to the original title on file in this case.

Ogden Hoffman Jr
U. S. Dist Judge

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The United States
vs
Joaquin Moraga et als.

Intervenors representing the interest of Juan Bernal, one of the original grantees, insist that the intervenor, Elam Brown, claiming a tract by metes and bounds under a quit-claim deed from Moraga only, cannot be heard on the question of the location of the claim, to the prejudice of the cotenants in the whole Rancho; and refer to Stark vs. Barrett 15. Cal. R. 368, and following, where the question is fully discussed and the law of this State established.

H. W. Carpenter

The United States
vs
Joaquin Moraga
et als.

Mem. of Authority.

Carpenter

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U. S. Dist Court —
for the Northern District of California.
The United States
vs
Joaquin Moraga } No 276 —

No 1. Petition of Atty General —

No 2. Answer of Petitioner

No 3. Transcript — from Land Com'n,
page 102. Minutes of the Board —
" 3 Petition of Claimant to Land Board.
" 5 — Deposition of Govr Alvarado.
proving Execution of grant —
" 5, 6, 7. Deposition of Antonio M. Castro
proves occupancy & cultivation & the building of wooden houses by claimants 20 years ago. also the boundaries —
" 7, 8. Deposition of A. M. Peralta.
swears to occupation of Rancho since 1836 — the death of Bernal & the names of his heirs — the Boundaries of the Rancho —
page 9, 10. Deposition of Gregorio Briones
proves occupation. cultivation & Boundaries —
page 11. Deposition of Jose Moraga —
same as above —

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pags 13 to 20. Expediente from Surveyor Genls. Office

pags 20 to 27. Translation of same.

pags 27 to 31. Spanish Grant, appro-
bation and map —

pags 31. to 31. Translation of same —

pags 35 & 36. Affdt of Joaquin Mora-
ga, & Motion to make Bond by
his partis claimants —

pags 37. Opinion confirming
the claim —

pags 38. Decree of confirmation —

E. A. Lawrence
Atty for claimant.

UNITED STATES OF AMERICA,
STATE OF CALIFORNIA.

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COUNTY OF SAN FRANCISCO.

In the District Court of the United States for the Northern District of California.

United States.

vs.

Joaquin Moraga,

276.

The President of the United States of America,

TO Antonio Maria Peralta, Salvio Pacheco and José Martinez.

GREETING:

You are hereby required, That all and singular business and excuses being set aside, you appear and attend before the District Court of the United States for the Northern District of California, to be held at the Court House in the City of San Francisco, on the 12th day of June A. D. 1862, at 11 o'clock, A. M., then and there to testify in the above stated cause now pending in said District Court, on the part of the above named Witnesses. And for a failure to attend you will be deemed guilty of a contempt of Court, and liable to pay all loss and damages sustained thereby to the party aggreived,

Witness, the Hon. OGDEN HOFFMAN, JUDGE OF THE DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, this Third day of June in the year of our Lord one thousand eight hundred and 62, and of our independence the eighty-6th.

Attest,

W. H. Chevers, Clerk.

By Deputy Clerk.

ND

MARSHAL'S RETURN.

I have served this Writ personally by copy on Saloio Pacheco
in the city of San Francisco,

this 12th day of June, 1862, at 8 A. M.

W. B. Rabe U. S. Marshal.

By James B. Randall Deputy.

(Civil) 1148

District Court of the United States

FOR THE

Northern District of California.

United States

vs.

Joaquin Arrazza,

SUBPŒNA

FOR

Pacheco, Peralta,
and Martinez,

Filed 18

Clerk.

By Deputy.

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U. S. Dist. Court Nor. Dist. of California

The United States
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Joaquin Moraga
No 276

Please take notice that on Monday October 20th 1862, on the opening of the Court on that day, or as soon thereafter as Counsel can be heard, this case will be brought to a hearing upon the Survey and exceptions thereto, filed herein.

Dated San Francisco Oct 10th 1862

A Plantenden
for himself

To
W H Sharp, U. S. Atty
W H Carpentier, for himself and as Atty for Moraga, Canter, McGee, Mason, Tennent, Adams, Tibbe & Brissac
E A Lawrence, Atty for Lucy R Jones and Wm B Agard Claimant
J A Brown, Atty for Elam Brown

No 276

U. S. Dist. Court

The United States
vs
Joaquin Moraga

Copy of
Notice of hearing —

Received Copy
Oct 11 1862
Wm M Shaw
U S Dist Atty
per G Z P

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17½

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Office of the Board of Commissioners,
To ascertain and settle the Private Land Claims in the State of California.

San Francisco, August 21st 1855

J. A. Monroe Esq.
Clerk of the U. S. District Court for the
Northern District of California.

Sir;

I herewith transmit you, pursuant to the requirements of the Act of Congress, approved August 31st, 1852, a Transcript of the Record of the Proceedings and of the Decision of this Board, of the Documentary Evidence and of the Testimony of the witnesses upon which the same is founded, in Case No. 590 on the Docket of the said Board, wherein

Joaquin Moraga is

the Claimant against the United States, for the place known by the name of Laguna de los Palos Colorados

and request your receipt for the same.

I am, Respectfully,
Your Obt Servant,

Geo: Fisher