CASE NO.
340

NORTHERN DISTRICT

CAMPO de los FRANCESES GRANT

JUSTO JERIOS. et al

CLAIMANT

LAND CASE 340 ND 268 pgs.
9

DEC 5 1962

MAR 1 8 1963

APR 1 1963

JUL 1 2 1963

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788

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TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 788.

Justo Larios, et, al. — CLAIMANTS.

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Campo de los Franceses."

788

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Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

Be it Remembered, that on this Second day of March, 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 Justo Larios, et al.,
for the Place named
"Campo de los Franceses,"
was presented, and ordered to be filed and docketed with No. 788, 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 9, 1855.

Case No. 788, Justo Larios et al. for the place named "Campo de los Franceses," was ordered to be placed at the foot of the 4th Class Cases on the Trial Docket.

San Francisco March 20, 1855.

In the same case, the Counsel for the Claimant moved for a postponement thereof, upon the facts set forth in the following affidavit, to wit:

(Vide page 7 of this Transcript.)

Which motion was taken under advisement by the Board.

San Francisco, March 22, 1855.

Case No. 788 was assigned for hearing on the 3d day of April next.

San Francisco April 10, 1855.

Case No. 788 was submitted on briefs and taken

under advisement by the Board.

In the same Case, the Counsel for the Claimant filed the following Stipulation, to wit:

(Vide page 9 of this Transcript.)

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In the same Case, the deposition of Victor Prudon, a witness in behalf of the Claimant, taken before Commissioner R. Asy. Thompson, was filed:

(Vide page 165 of this Transcript.)

San Francisco April 24, 1853.

In the same Case, Commissioner R. Asy Thompson delivered the Opinion of the Board, rejecting the claim:

(Vide page 154 of this Transcript.)

And the following Order was made, to wit.

(Vide page 160 of this Transcript.)

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Petition.

To the Honorable Board of Commissioners for settling Private land claims in the State of California.

Your petitioners Juste Lanos, Miguel Navarez, José Antonio Bernal, José Jesus Mesa, Geronimo Higuera, Teodosio Flores, Juana Mesquita widow of Rafael Feliz dec'd, Basiliza Bernal widow of Juan Martin dec'd. and José Ramon Gulnack, respectfully show unto your Honorable Board, that a certain tract of land was granted to Guillermo Gulnack and his family and eleven families more, by Don Manuel Micheltorena on or about the thirteenth day of January A. D. 1844, as will fully appear by reference to the said grant and the Expediente thereof presented to this Honorable Board by Charles M. Weber now on file with the Secretary thereof and numbered No 255

That the said Dn. Manuel Micheltorena was at the time of making said grant acting Governor of said California under the Government of Mexico, with full and extraordinary power to make the grant aforesaid.

That your said petitioners were included in the eleven families and were part to to wit, nine (9) thereof, named in the concession and grant made as aforesaid, that the said grant was headed in the name of the said William Gulnack, but that each of your petitioners was equally interested with said Gulnack in said grant and had an equal share therein, and that the said share of the said grant and of said lands referred to therein and thereby granted, belonging to each of these petitioners was one undivided twelfth

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part thereof. All of which will fully appear by reference to the Expediente and documentary testimony relating to said grant and said lands heretofore presented to said Board or filed with the Secretary thereof by the said Charles M. Weber as aforesaid, and also by certain written certificates of the said Don Manuel Micheltorena to and in favor of these petitioners, fully recognizing and certifying the said rights of these petitioners in the premises, copies and translations of which certificates being herewith presented and respectively marked B. and C.

That the quantity of land granted as aforesaid to the said William Gulnack and these petitioners and whereof each of these petitioners is the owner of one twelfth part, except as hereinafter mentioned is eleven square leagues.

That the description, bounds & locality of the said land so granted as aforesaid are as follows to wit: The land known by the name of Campo de los Franceses, Campo Francese or French Camp, situated to the East of the San Joaquin River, and between said River and McClunds Laguna.

That as your said petitioners are informed and believe the said Charles M. Weber has heretofore presented to said Hon. Board a claim to the entire ownership of the whole of said lands granted as aforesaid, without regarding and contrary to the rights, title, interest and property of your petitioners in and to the same as aforesaid, and that the said Charles M. Weber claims the whole of the said lands as owner thereof by purchase from the

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said William Gulnack.

Whereas your petitioners, declare and charge the fact to be that the said William Gulnack never was authorized or empowered by your petitioners or any of them to convey or dispose of the right, title, interest or property, or either of them in or to the said land, or any part thereof to any person or in any way whatsoever.

That as your petitioners are informed and believe the said lands have been surveyed and the map or plat of the same is now on file as aforesaid.

That each of your petitioners has heretofore conveyed and sold to Agustin Juan of the Pueblo de San José a part of his right, title, interest and property in & to the said lands as fully appears by the petition and other documents this day filed by said Juan relating thereto.

Wherefore your petitioners present their said claim to said lands to the said Board, and pray that the said Board will pronounce in favor of the same except the part thereof conveyed as aforesaid to said Juan as the same shall appear by the petition of said Juan to this Board in the premises.

That said Board will confirm the validity of their petitioners said claim and their right and title to said lands and premises &c.

Dated at San Francisco March 1st 1853.

N W. Chittenden
Robert Simson.
Attorneys & counsel of claimants

Filed in Office March 2d 1853. Geo: Fisher. Secy

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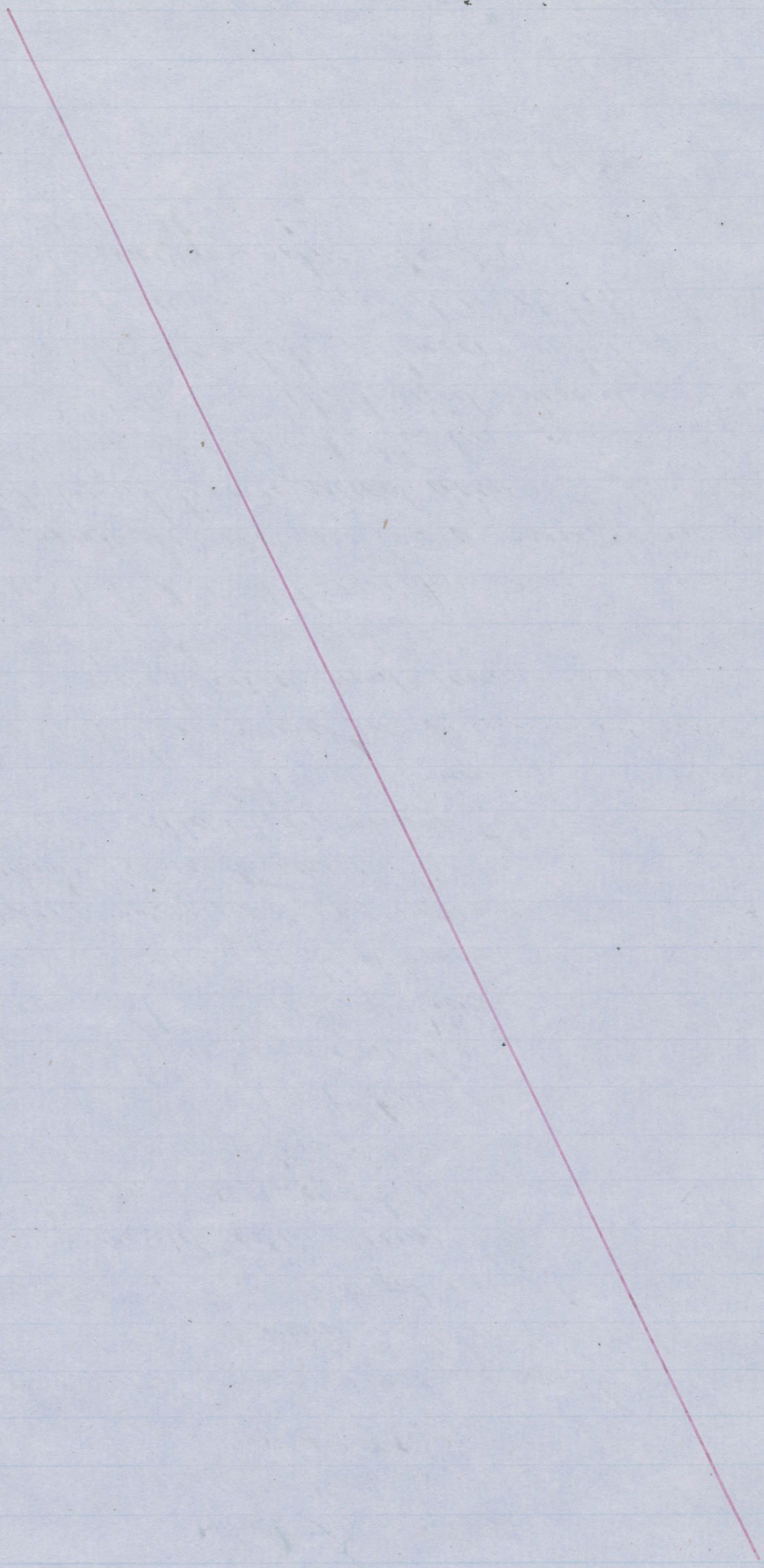

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U. S. Board of Land Commissioners for
settling private land claims in California—

No 788.

Affidavit

Robert Ewing being duly sworn
deposes and says that he is claimants attorney
in cause number 788. now pending before
this Commission and wherein Ysidro Linares +
others are claimants. That deponent has
been retained as such attorney through medi-
um of one Agustin Juan who is the Attorney
in fact and Agent of the said claimants.

That the deponent has heretofore
communicated with the claimants and with
the witness to be produced in the said cause
by means of the said Juan who alone is
completely acquainted with the names, per-
sons and places of residence of the said cla-
imants and witnesses.

That said cause 788 and also cause
789 wherein the said Juan is claimant in-
volve the same questions of law and fact.

That the said Juan is now absent
from the State of California, having been de-
tained, and being now detained as deponent is
informed and believes, as a prisoner in the
Republic of Mexico under accusation of a polit-
ical offence against the laws of that Republic,
and that when the said Juan left California
via to visit said Mexico it was his intention
to be absent from California but a short
time and then return thither.

That the deponent cannot prepare
the said cause for submission to this Board
without the presence of the said Juan or
without his written direction in answer to
letters long since sent to him, respecting the
conduct of said cause and respecting the said

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names and places of residence.

That ex deponent is informed & believes the said Swan has been prevented from returning to California and from replying to said letter by reason of his said imprisonment and also by reason of the revolutionary disturbances prevailing in said Mexico.

That the said witnesses are mostly obscure persons residing in parts of the country widely distant from each other and can only be brought before the Board by this deponent at great expense, whereas ex deponent verily believes the said Swan on his return can bring them hither with very little trouble and expense.

That this deponent has examined the case of the claimant in said cause and considers the claim thereon to be well grounded.

Robert Benson.

Subscribed and sworn to
before me this 20th day
of March A. D. 1855.
S. B. Farwell.
Comr.

Filed in Office March 20 1855.
Geo. Fisher.
Secy.

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Stipulation.

Before the U. S. Board of Land Commissioners for settling private land claims in California.

Justo Lanis, Miguel Narvaez, José Antonio Bernal, José Isabel Mesa, Geronimo Higuera, Teodoro Flores, Juan Mesquita widow of Rafael Feliz deceased, Basiliza Bernal, widow of Juan Maples deceased and José Ramon Galindo.

Case No 788.

For the place called Campo de los Franceses.

It is hereby consented and agreed by and between the parties in this cause that all the testimony and evidence oral and documentary heretofore taken in case No 255. wherein Charles M. Weber is claimant and in case No 789. wherein Agustin Juncan is claimant be admitted and taken as testimony and evidence in this cause.

J. H. McKune.
U. S. Law Agent.

Robert Emmison
N. W. Whittenden.
Claimants Attorneys.

Filed in Office April 10/1855.
Geo: Fisher.
Secy.

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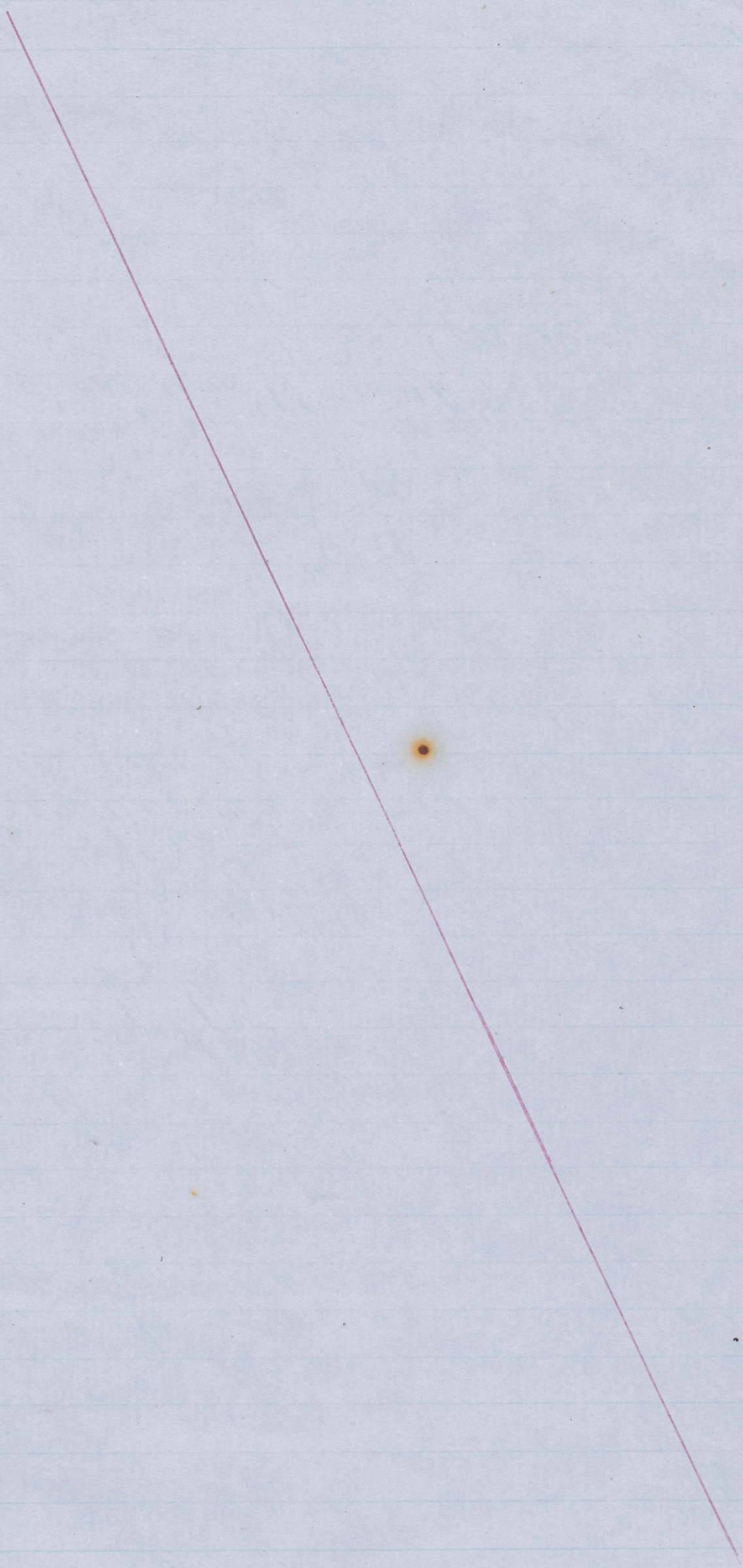

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Affidavit & Certificate.

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State of California
County of San Francisco } ss.

On this twenty fourth day of May A.D. 1853 before me a Notary Public in and for the County aforesaid personally appeared Jose Maria Covarrubias to me known, who being by me duly Sworn and the instrument hereunto attached being by me exhibited to him did depose and say that he was well acquainted with Manuel Micheltorena while Governor of California under Mexican Authority, and that he, the deponent, was at that time and is now a resident of California, that he has often seen the said Micheltorena write and is familiar with his hand-writing signature and rubrica - that the instrument aforesaid and hereunto attached is in the hand-writing of the said Micheltorena and that the signature and rubrica of the said Micheltorena affixed thereto are the proper genuine signature and rubrica of the said Micheltorena while Governor of California.

L. S.

In witness whereof I have hereunto set my hand and affixed my Official Seal the day and year above written.

L. N. Sloat.
Notary Public.

Recorded in Book G. page 107
& 108 San Joaquin County Recds.
May 26, 1853 at 9 Oclk A.M. = B. F. Lee, Deputy Recorder.

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Sello Cuarto Dos Reales.

Habilitado provisionalmente por la Aduana Marítima del Puerto de Monterey, en el Departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

Michelltorena Pablo de la Guerra.

No. 1 R. T.

L. S.

Excelentísimo Sor.

Yo abajo firmado y Miguel Narvaez, Jose Antonio Bernal, Jose Jesus Mesa, Tiburcio Gomez, Geronimo Higuera, Compañeros de Galvez, agraciados en la concesion y donacion del Campo Frances con once sitios de ganado mallor, suplicamos á V.E. que en consideracion de que el titulo queda en manos de Guillermo Galvez, se sirva V.E. darnos una constancia que somos unas de las familias agraciadas en el titulo, de lo que recibiremos gracia y Justicia.

San Jose Guadalupe Dbre. 15 de 1844.

Justo Larios +

Este Gobierno esta impuesto de que los ciudadanos Justo Larios, Miguel Narvaez, Jose Antonio Bernal, Jose Jesus Mesa, Tiburcio Gomez, Geronimo Higuera, estan incluidos en las once familias agraciados en la concesion y donacion de once sitios de ganado mayor en el paraje nombrado Campo Frances como esta mencionado en el Espediente á

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Nombre de Guillermo Gulnac.
Monterey Diciembre 18 de 1844.
Manl. Michelena

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Filed in Office April 10, 1855.
Geo. Fisher
Secy.

A4

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Affidavit & Certificate.

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State of California }
County of San Francisco } ss:

On this twenty fourth day of May A.D. 1853 before me a Notary Public in and for the County aforesaid personally appeared Jose Maria Covarrubias to me known, who being by me duly sworn and the instrument hereunto attached being by me exhibited to him did depose and say that he was well acquainted with Manuel Micheltorena while Governor of California under Mexican authority & that he, the deponent, was at that time and is now a resident of California, that he has often seen the said Micheltorena write and is familiar with his handwriting signature and rubrica — that the instrument aforesaid and hereunto attached is in the hand writing of the said Michaltorena and that the signature and rubrica of the said Michaltorena affixed thereto are the proper — genuine signature and rubrica of the said Michaltorena while Governor of California.

L. S.

In witness whereof I have hereunto set my hand and affixed my official seal the day and year above written.

L. N. Sloat.
Notary Public.

Recorded in Book G. pages 109 & 110 San Joaquin County Records May 26, 1853, at 9 o'clk. a m.

B. F. Lee, Dep'y. Recorder.

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Sello Cuarto Dos Reales.

Habilitado provisionalmente por la Aduana Marítima del puerto de Monterey en el Departamento de las Californias por los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.
Micheltorena. Pablo de la Guerra.

L. S. J.

Exmo. Sor.

Ante V.E. comparesco y digo á mi nombre y de Teodosio Flores, Rafael Feliz, Juan Martin y de Tomas Lin se sirva V.E. darnos un certificado por escrito que somos compañeros de Gulnac en la concesion y donacion del parage del Campo Frances, con once sitios de ganado mayor, aun cada de nosotros solteros, pero si un salado de casados.

San Jose de Guadalupe Dbre 18 de 1844.
José R. Galnac.

Los cinco individuos nombrados en la peticion que antecede, á saber: Teodosio Flores, Rafael Feliz, Jose Ramon Gulnac, los tres Ciudadanos Mejicanos y Juan Martin, Escoses, y Tomas Lin del Norte America estan comprendidos y agraciados en el titulo encabezado á nombre de Guillermo Gulnac, el cual titulo consta de once sitios de ganado mayor en el Campo Frances. Monterey Diciembre 27 de 1844.

Manl. Micheltorena.

Filed in Office April 10, 1855, Geo. Fisher, Secy.

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Fourth Seal, Two Reals.
Provisionally qualified by the Maritime Custom House of the Port of Monterey in the Department of the Californias, for the years eighteen hundred and forty four and eighteen hundred and forty five.
Micheltorena. Pablo de la Guerra.

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C.
Translation.

Ald.a Mant.a
de Mont.y

Seal

Most Excellent Sir.

I the undersigned and Miguel Narvaez Jose Antonio Bimal, José Jesus Mesa, Tiburcio Gomez Geronimo Higuera, copartners of Gulnack, Juvvid, (agnciado) in the concesion and grant of the French camp (Campo Frances) with eleven square leagues (once sitios de ganado mayor) pray that in consideration that the title remains in the hands of William Gulnack, your Excellency may be pleased to give us a testimonial that we are part of the families found in the title, by which we will receive favor and justice.

San José 6.re Dec.bre 15/844.

(Signed) Justo Larios +.

This Government is aware of the fact that the citizens Justo Larios, Miguel Narvaez, José Antonio Bimal, José Jesus Mesa, Tiburcio Gomez, Geronimo Higuera, are included in the eleven families found in the concession and grant of eleven square leagues in the place known by the name of French camp as is set forth in the espediente in the name of William Gulnack.

(Signed) Mant. Micheltorena.

Monterey, Dec.br 18/844.

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Fourth Seal, Two Reals.

Originally qualified by the Maritime Custom House of the Port of Monterey, in the Department of the Californias for the years one thousand eight hundred and forty four and one thousand eight hundred and forty five.

Ad Maritime
Seal

Most Excellent Sir.

Before your Excellency I appear and say in the names of myself and of Federic Flores, Rafael Feliz, Juan Martin, and of Thomas Sirs. May it please your Excellency to give us a certificate in writing that we are copartners of Gulnack in the concession and grant of the place known as the French Camp, with eleven square leagues, since situs de ganado mayor. Although three of us are unmarried but are about to be married.

Sn. José de Gva Dbe 18/844

/Signed/ José Ramon Gulnack.

The five persons named in the foregoing petition, viz; Federic Flores, Rafael Feliz, José Ramon Gulnack, the three Mexican citizens, and John Martin, Scotchman, and Thomas Sirs of North America are comprehended and joined in the title headed in the name of William Gulnack, which title consists of eleven square leagues in the French Camp.

Monterey, Dbe 21. de 1844.

/Signed/ Man. Micheltorena.

Filed in Office March 2/1853.

Geo. Fisher.

Secy.

1/235

09

To the Honorable Commissioners to Settle Private Land Claims in California

Petition

The
Petitioners Charles Wilson respectfully
shows

That on the 13th day of January A.D. 1844 Manuel Victoria Governor of California by virtue of authority in him vested granted Guillermo Gulnac the tract of land called Campo de las Francesas situate in the present county of San Joaquin containing 11 square leagues of land, as set forth in the grant and corresponding map: all of which is shown by the Expediente also copy of which is herewith marked A with a translation thereof marked B. the Petitioners also submits herewith also copy of the original grant marked C with a translation thereof marked D.

That said grant of land was duly approved on the 15th day of June A.D. 1846 also copy of which approval is submitted herewith marked E with a translation thereof marked F.

That the Petitioner who was then a naturalized Citizen of Mexico on the 3rd day of April 1875 purchased the said tract of land of the said Guillermo also copy of his letter of naturalization is submitted herewith marked G. with a translation thereof marked H and also a copy of the conveyance from Guilnac marked I with a translation thereof marked J

That said tract of land has never been surveyed by the Surveyor General of the United States but it was duly surveyed by proper authority in 1850 a copy of which survey is submitted herewith marked K

That the Petitioner and the said Guilnac were both naturalized

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have done and performed all the conditions of said grant necessary to make it a valid and absolute title in fee.

That the said Gutierrez and the Petitioner occupied the said land until the said Gutierrez conveyed his title to the Petitioner as aforesaid and that since the date of said conveyance the Petitioner hath been and now is in the quiet peaceful and ~~uninterrupted~~ possession of said tract of land.

That he and those who hold under him have made immense improvements on said land to the amount of many millions of dollars. That at the present time more than one thousand families and many thousand persons occupy the said tract of land as holding under him. That he knows of no conflicting claims.

That he relies for confirmation of title upon the original papers copies of which are submitted herewith and upon such other and further proofs as he may be advised are necessary.

Wherefore he prays the Commissioners to confirm to him the aforesaid tract of land.

By his Attorneys
Halleck Peachy & Billings

Filed in Office May 31st 1852
Signed
Geo Fisher
Secretary

Recorded in Record of Petitions Volume 1 Pages 122 and 123
Signed
George Fisher
Secretary

2/255

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Deposition of John A Sutter

San Francisco December 1st 1852
On this day before Commissioner Hiland Hall came John A Sutter a witness in behalf of the Claimant Charles M Weber Petition Number 255 and was duly sworn his evidence being given in English

The United States Associate Law Agent was present

In answer to inquiries by Counsel for the Claimant the witness testified as follows

My name is John A Sutter my age is 49 years and I have lived in California since 1839. In the latter part of 1844 William Gulnac applied to me for the Judicial possession of the Rancho of Campo de los Franceses where the City of Stockton now is and I gave it to him

J A Sutter

Notice acknowledged and no questions asked

R Greenhow
Associate Law Agent

Sworn and Subscribed before me
Hiland Hall
Commissioner

Filed in Office December 1st 1852
Signed Geo Fisher
Secretary

Recorded in Ev Book Vol 2 page 352
Signed Geo Fisher
Secretary

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Deposition of Walter Herron

Office of the Board of Land Commissioners for California San Francisco May 31st 1852
On this day before me Harry I Thornton one of the Commissioners for ascertaining and settling Private Land Claims in California came Walter Herron a witness produced in behalf of the Claimant Charles M Weber whose Petition is number 255 on the Docket of said Commissioners and after

being duly sworn testifies as follows
Direct Exam by the United States Atty
testifies as follows

1 Question What is your
name age and place of residence
Answer My name is Walter
Warren age is (33) thirty three years Resides
in the City of Stockton State of California
2 Question Do you know
the Rancho called Campo de las Franciscas.
claimed by Charles Weber and if so where
is it situated and what do you know about
its occupation
Answer I do know the Rancho
spoken of it is situated in the county of San
Joaquin it was first occupied by Captain
Weber in 1847 who brought on it about
of about one thousand or nine hundred cattle
this is the first I know about its occupation
Weber since continued to occupy it.
Question
of the improvements made by Captain
Weber and those holding under him
I know that was about one million and
a half
3 Question What offices
you held in the County of San Joaquin in
the year 1856
Answer Was County
Surveyor
4 Question Was this Rancho
on Survey by you or under your direction as
County Surveyor
Answer It was
5 Question Examine the map
marked Exhibit K and plat with the petition
in this case and say whether it is a true copy
of the Survey made under your direction
as county Surveyor and whether it rep
resents the land claimed by Captain
Weber
If a true copy & represents the land as pointed

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Questions by the Law Agent

1 Question at whose request was the survey made

answer at the request of Captain Weber who pointed out the land to be surveyed the survey was made as he requested

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I did not have the title papers with me at the time of the survey but I heard them read on several occasions I endeavoured to make the survey according to his request and as near as I could judge it corresponded with the title

2 Question By what claimants mean Weber were the explorations made to which you have referred above

answer By persons living in the City of Stockton mostly and by persons living on the Rancho

3 Question How long previous to Mr Webers taking possession are you known the land to have been occupied

answer I passed through the Rancho nearly a year previous and did not see any person living on it

Walter Herron

The Law Agent of the United States present

Sworn to and Subscribed before me this 31st of May 1852

Harry I Thornton

Commissioner &c

Filed in Office May 31st 1852

Signed

Geo Fisher

Secretary

Recorded in Evidence Volume 1 Page 526

Signed

Geo Fisher

Secretary

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Deposition of Antonio Maria Pico

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San Francisco January 8th 1853

On this day before Commissioner Harry I Thornton came Antonio Maria Pico a witness in behalf of the claimant in the above Petition Number 255 and was duly sworn his evidence being interpreted by the Secretary

The United States Associate Law Agent was present

My name is Antonio Maria Pico my age is forty four years I reside in San Jose and have lived in California all my life

I am acquainted with the signatures of Manuel Micheltorena Manuel Jimeno Pio Pico and Jose Matias Moreno their signatures to the papers before me marked No 1 are genuine

I am also acquainted with Guillermo Galvan Ysabel Galvan Jose M Galvan and Panfilo Galvan I saw them sign the paper now before me marked No 2

And the signature of Antonio Ma Pico as alcalde to the same paper is my own signature the signatures of M. Galvan Antonio Suñol Dolores Pacheco and Jose Fernandez are also genuine

Antonio Ma Pico

United States Law Agent present

Sworn to and subscribed before me this 8th of January 1853

Harry I Thornton
Commissioner

Filed in Office January 8th 1853

Signed
George Fisher
Secretary

Recorded in Evidence Book 2 page 426

Signed
Geo Fisher
Secretary

4/253

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Deposition of William Buzzell

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Office of Commissioners of Land claims in California

This day before Commissioner Robt A Thompson came William Buzzell a witness in behalf of Claimant Charles M Weber Number 253 who after being duly sworn deposed as follows

Questions by Mr Halleck attorney for the Claimant

1 Question What are your name age and place of residence

Answer My name is William Buzzell my age is thirty six years and I reside at Santa Cruz in Santa Cruz County and State of California I have lived in California since 1842

2 Question Do you know the Rancho called French Camp if so where is it situated

Answer I do know the Rancho It is situated where Stockton now is

3 Question When were you first on the Rancho and what do you know relative to its first settlement

Answer

I was first on it in 1842 In 1844 my father in law and a number of others settled there In the fall of 1844 I had offers from Mr Gulnac to go on my self and settle there but was prevented from so doing by the death of my father in law and the breaking out of the Micheltorena war.

In 1844 there were three or four houses on the Rancho with corrals and stock on the place The cattle horses and stock belonged to Gulnac and the settlers there The settlers were driven away In the spring of 1845 Captain Weber offered me land and stock if I would go on but I did not consider it safe at that time on account of the Indians

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They had killed Lindsay there the same spring

4 Question What was the state of the country then in reference to Indian hostilities in 1845 and 1846

Answer The Indians were very hostile it was necessary for persons going through that country at that time to go armed and with company

5 Question State what you know of the settlement of the Rancho under Captain Weber

Answer

In the fall of 1847 I moved on to the Rancho with my family Captain Weber was there at the time with a company of men and stock and was making improvements It was intended for a settlement He built them houses close together on account of danger from the Indians,

From that time on the settlement increased pretty fast By 1848 it got to be quite a city I should think there were a hundred families there by the end of that year By the close of 1849 the land was pretty much all occupied by settlers under Captain Weber

He held out inducements for persons to settle there I got six or eight town lots for moving there at an early day with my family He generally gave premiums in land to the early settlers

6 Question What was the character of the improvements made there by Captain Weber himself during that period

Answer He built houses and corrals and farmed it some In 1847 we had wheat growing there In the spring of 1848 Captain Weber and the men under him put in spring crops,

5/333

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the taking our crops and during in one field which contained some fifteen or twenty acres in 1849 there were houses at several different places on the Rancho which were built by Captain Weber

7 Question Do you know whether he gave any claims to settlers outside of the Town

Answer I know he did I recollect some and I know that other persons did

8 Question When you were last there about how many persons do you think were holding claims on this Rancho under Captain Weber by gift or purchase

Answer I moved away from that place in 1850 I was there in 1851 the last time I cannot tell the number but there were a number of hundreds It was quite a large city

There were also settlers outside of the city at the time I moving away they all held their lands under Captain Weber so far as I know they held the lands which I claimed of Captain Weber to other settlers

9 Question State what you know about Captain Weber's preparation for the settlement of the Rancho in 1845 and 1846

Answer I was at his place in the spring of 1845 when he was collecting and purchasing cattle to put on the place as he told me at the time

10 Question What was Captain Weber doing in 1846 and the early part of 1847

Answer About the beginning of hostilities here in the Mexican war Captain Weber was taken prisoner by the Mexicans after he was released he

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served as a captain in the american service

11 Question Considering the state of the country in 1846 and the early part of 1847 do you think it possible for him to have made a settlement on the Rancho at that time

Answer I do not

12 Question Where were Captain Webers cattle collected previous to taking them on to the Rancho

Answer In the Pueblo Valley

13 Question What is the condition of the country for travelling between the Rancho and the valley

Answer At that time you could not take cattle across except when the waters were down in the fall of the year there were not more than three months in a year when it would be safe crossing with them

14 Question Do you know of Captain Webers losing his horses in 1846 or 1847

Answer I know that he lost horses but do not know the particulars

15 Question Examine map marked K and the initials S A F. filed with the deposition of James Williams in this case and point out the places where Captain Webers corrals were built in 1847 and 1848

Answer The main one was built on section 29 on the lot of land near where the letter T occurs in the word Stockton on the map another was built on section 83 another on section 86 the other one I think was on section 16

16 Question Point out on said map the land which you said was cultivated in 1847 and 1848.

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Answer Sections 19 and 6

17 Question Point out on the same the spot where your father and Kelsey's house was built

Answer It was on section 13

18 Question Look at the traced copy of the map filed with the copy of the Espediente in this case and marked with the initials R.T. and state whether the land represented on the map marked R above referred to is included in the boundaries as represented on said traced map

Answer They are

19 Question Point out what other sections on map marked R were occupied by settlers near Weber between 1847 and 1850

Answer In 1847 Living near Weber on section 19 in 1848 Lived on section 6 on which a man by the name of Buckland in 1847 who also lived near Weber brought him out

The following sections were settled between 1847 and 1850 by settlers near Weber to wit Sections 28. 40. 83. 90 61. 71. 81. 89. 82. 72. 62. 52. 41. 29. 17. 5 18. 30. 42. 36. 63. 73. 74. & 84. Perhaps with 64. 54. 43. 31. 7. 8. 20. 32. 44. 55. 65. 75. 85. 92. 86. 76. 66. 56. 45. 33. 21. 9. 10. 22. 34. 46. 57. 12. 11. 23. 24. 25. 26. 27. 35. 36. 37. 38. 39. 47. 48. 49. 50. 14. 15. 1. 2. 3.

Question by United States Law Agent How many families and Indians settled on the tract

Answer Some four or five their names were Kelsey John Kelly James Williams and Sanders

Question by Same How many houses did they build and how much land did they cultivate and at

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about time did they settle respectively

Answer They built four or five houses four certainly they were prevented from cultivating by the Indians Nelson made preparations to put in a crop but was taken sick and died. They settled there in the fall of 1844 they remained until the breaking out of the Micheltorena war when they left after the war Lindsey returned in the Spring of 1845 and was killed by the Indians the Micheltorena war lasted from the fall of 1844 to the Spring of 1845 and further this deponent saith not

William Buzzell

Sworn and subscribed before me this 5th day of September 1853

R. Aug. Thompson
Commissioner

Filed in Office September 5th 1853
Signed
Geo Fisher
Secretary

Recorded in Evidence B Vol 3 page 133
Signed
Geo Fisher
Secretary

Deposition of James Williams

Office of Commission of Land Claims in California

This day before Commissioner Alpheus Felch came James Williams a witness in behalf of claimant Charles M. Weber Number 255 who after being duly sworn deposed as follows

Question by Mr Halleck attorney for the claimant

Question What are your name age and place of residence,

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Answer My name is James Williams my age thirty eight years and I reside in Santa Cruz County in the State of California I have lived in California ever since the 10th November 1843

2 Question Do you know the Rancho called French Camp if yea where is it situated

Answer I know the Rancho It is in the place where Stockton is now situated

3 Question When was you first on that Rancho

Answer I was on it in February AD 1844 the first time

4 Question Who occupied the Rancho during the year 1844 and what improvements were on it at that time

Answer

A man by the name of Linsay and myself and David Kelsey were on it and we built four or five houses on it and remained until Linsay was killed by the Indians and Kelsey died

Kelsey had his family on the place and had some horses and mules which he worked Mr Linsay had about thirty tame cows on the Rancho William Gulnac had also some cattle there which Linsay and myself took care of there were about one hundred head in all of the cattle on the place

Mr Gulnac had a corral on the Rancho Linsay and myself put out a garden on the [illegible] bank of the sloughs and Mr Gulnac planted some fruit sprouts but I do not know when he planted them

5 Question From whom did you receive the land on which you and the persons above named settled

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Answer From Mr Gulnac I made arrangements with him to go on to the land in July 1844 I went on some time in the latter part of that month but remained only about a week at that time.

Some time in the latter part of August Lindsay and myself went on to the place to remain a few weeks after August or Mr Kelsey moved on with his family a number of Kelsey came on with Mr Kelsey and assisted about building and attended to things on the place the same as the other persons who were there Mr Gulnac had some horses there and had some men there who attended to them

6 Question

What terms were promised by Mr Gulnac to the several settlers on the place

Answer He promised to Lindsay and myself a league each we were not to take any of the land lying immediately on the Bay where he calculated there would be a village or town built on the water but might take it further back

Lindsay and myself selected our land on the north side of what is now the City of Stockton we erected a house and a good strong corral on this land

7 Question How long did you remain there and what occurrences took place the same year

Answer I was there I should think four months when the Micheltorena revolution came on I went with Captain Sutter to support the Mexican Government Lindsay also went in the same party with me He returned to the Rancho a few weeks before I did when I returned to the Rancho I was sent off for provisions and went on to Sutters

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Fort and before I got my business arranged to go back to the place news came that the Indians had killed Linsey and took all the stock which both he and Sutter had on the place and had driven it to the mountains. They also robbed the house of all the tools and articles which Linsey and I had in it and then burnt the house.

[illegible] departures in the fall of 1844 with the small pox. I think it was in February or March 1845 that the Indians committed these depredations.

8 Question What was the state of the country then during the remainder of the year 1845 in regard to the hostility of the Indians and the difficulty of settling there

Answer

It was thought to be very dangerous. The Indians were very hostile. Captain Sutter sent me out with twenty three men against the Indians. We had one man killed and five wounded by the Indians in an engagement. The Indians reported to Captain Sutter that thirty six of their number were killed and wounded in the battle. We got the two thirds of the Cattle back which they had taken from Linsey when they killed him.

9 Question What do you know of Mr Sutter's efforts to get settlers on the land during the time of which you have spoken

Answer I know that he was very anxious to get settlers to go on. I heard him say if men would go on and settle he would furnish them flour from his mill at home on account of its being so far out of the way and so difficult to get provisions and they might pay it

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they got able and if not it would make no difference

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10 Question What was the state of the Country in 1846 and what were the settlers in the region of country where the Rancho is situated engaged in at the time

Answer It was a state of war and almost everybody was engaged in it.

11 Question Could Mr Gulnac have done anything more to make his settlement at the Rancho than he did during the years 1844. 1845 and 1846

Answer I do not know that he could do more than he did I know that he was very industrious in trying to get settlers

12 Question Do you think in the then state of the country he could have got Mexicans or Californians to settle there

Answer I think not I know he was trying to get any persons he could to settle there but no Mexicans or Californians did settle there I frequently heard them when speaking of the place speak of the danger of the Indians there and they cautioned me that there was danger of their killing me

13 Question Do you know of any efforts by Mr Gulnac or others to sow wheat on the place

Answer I brought seed wheat to sow twenty acres and got one a plough made at Captain Sutter's for Mr Kelsey calculating to get seed wheat of Mr Gulnac to sow there the Indians and the Revolution in the Country and the Invasion of Sutter interrupted these arrangements

14 Question Was there any other settlement on the Rancho at that time

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Answer There was none nearer than Sutters Fort which was about fifty or fifty five miles distant

15 Question Do you know clearly Mr Weber the present Claimant

Answer Yes

16 Question What do you know about his settling on these Ranchos

Answer I know that claiming it for several years and has put a considerable amount of cattle and horses on it some of my relations have settled on it and I think the arrangements made with them by Mr Weber were favorable

I was there in 1848 and I saw a large amount of stock on the place Captain Weber was there with a number of other men taking care of the place In 1849 there were quite a number of buildings on it and a great many settlers the settlers seemed to be well pleased with their arrangements with Weber

17 Question Under whom did the settlers hold their lands at the several times you have mentioned

Answer In 1844 they claimed under Gulnac in 1848 and 1849 they claimed under Weber

18 Question Please examine the map heretofore presented to you marked K Map of Survey filed in this case and referred to in the deposition of W Herron and also marked with the initials A.F. and point out thereon the place where you and Lindsay first built your houses and also where Kelsey first built his house

Answer

Kelsey built his house at the head of what was called French Camp Slough in the place marked on the map as station 30 and at the that on the slough just at the end of the word navigation

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as represented on the map Lindsay and my self built our first house at a spot as there represented on the map as in section 20 and it stands at the spot where the first letter of the word Stockton is placed on said map We afterwards built another house about three hundred yards from the first and in a direction nearly north It must have been just within the limits of section 19 as represented on the map

Questions by Mr Grimshaw associate Law Agent

Question Did Gulnac ever reside on the land

Answer Not permanently with his family He was there personally with his stock a considerable time and his sons were there with him

2 Question Did he build any house there for his residence

Answer He said not he intended to stop with us until he had a house for himself which he intended to build

3 Question How much time was he on the land altogether

Answer I cannot tell He was there from two days at a time to two weeks at a time off and on for about a year

4 Question How many families did Mr Gulnac settle on the land

Answer The only persons who settled near him were Mr Kelly Mr Kelsey Mr Lindsay and myself

5 Question Did you or any of your settlers make contracts with Mr Gulnac if so what were the contracts

Answer I was under a contract with him I was to go and settle on the place and he was to give me a league of the land north of where Stockton is –

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Johnston Heirs to give Lewis and Keller and Kelsey land but I cannot know what the terms of their Contracts were

Question Does Mr Graves make any further attempt to locate on the land after the terms were agreed upon by the Heirs

Answer I cannot say

What land

Question by Mr Howard's Law Agent

Question How many persons did Graves locate on the land whereon they have any houses and they build and how much land did they cultivate and at what time and they live

Answer Have already stated the number and names of the persons who settled and the time when they settled They built log houses and cultivated the land except planting a few fruit trees

James Williams

This deposition is taken subject to objection on the part of the Land agent whereby it is agreed by the counsel the same may make to any questions or answers thereon at the hearing of the case in which it is taken subscribed and sworn to
before me at San Francisco
this fifth day of September A.D. 1853

Apsley Peck
Commissioner

Filed in Office September 6th 1853
Signed
Geo Fisher
Secretary

Recorded in Book B Volume 2 Page 438
Signed
Geo Fisher
Secretary

Deposition of Peter Lassen

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PAGE 36

Office of the Board of Commissioners &c &c
This day before Commissioner Alpheus Felch came Peter Lassen a witness in behalf of Claimant Charles M. Weber number 255 who after being duly sworn deposes as follows

Questions by Mr Peachy attorney for the Claimant

1 Question What are your name age and place of residence

Answer My name is Peter Lassen my age is over fifty three and I reside in Butte County in California I have lived in California since the year 1840

2 Question How long have you been acquainted with the Rancho called Campo de los Franceses situated in San Joaquin County and claimed in this case by Captain Weber

Answer

I knew a place in 1842 which was called French Camp It was on the North East side of the San Joaquin River where there was a laguna I think the place (French Camp) was seven miles from the River measured along the old trail from the River and running in a northerly direction

The place received its name of French Camp from a French trapping party in the employment of the Hudson Bay Company having a rendezvous there.

3 In the Spring of 1843 I went out with cattle from San Jose to the Cosumne River and passed through the place called French Camp. William Gulnac was with me and we had our cattle together

Gulnac wanted me to stop at that place and offered me a part of the land. I do not know whether he had got a Grant for it then or not.

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He was then looking out for a place to settle. I would not stop there because the Indians were unruly and it was not safe to be there.

Gulnac was also afraid to stop there and took his cattle on with mine to the Cosumnes. In the fall of 1844 or the first days of 1845 I was at French Camp again and there were four or five houses which had been built there.

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[illegible] 1843. I went to the war under Micheltorena and returned there again in the spring of 1845. A man by the name of Lindsay who lived at the place had been with me to the war, had returned a few days before and had been killed there by the Indians and the house where he lived had been burnt.

The fire was not entirely extinguished when I arrived there. The houses which I saw there when I passed on my way to the war were inhabited. The Kelsey family living in them and I [illegible] they were settlers near Gulnac.

32 Question. Did you ever have any conversation with Mr Gulnac about the settlement of these lands, if yea state what they were and when they took place

Answer

I had conversations with him on the subject. He spoke to me about it when we went up with the stock as before stated.

In the fall of 1843 I separated my cattle from Gulnac's and he left his at Sutter's at Sacramento City until he could arrange his place at French Camp. In 1844 or the beginning of 1845 we got cattle at French Camp for beef. I saw [illegible] there at that time.

Questions by Mr. Greenhow Associate Law Agent

Question

When you passed the French Camp in the fall of 1844 or the beginning of 1845 were you on the way to join Governor Micheltorena in his expedition to Los Angeles

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Answer I was

2 Question How many families did you find established at French Camp at that time

Answer I cannot say how many families there were but there were four houses all of which were occupied as was the house that Lindsay lived in which I presume was Gulnac's establishment

3 Question Did you join Micheltorena at the Mission of La Soledad

Answer I did

4 Question When did you next visit that part of the Country after the time when you found the house burning

Answer I have not been there since

5 Question Did you when ~~you was in that part of the Country~~ know or hear of any place called Laguna de McAlvar or McAlvars Lake

Answer I never did

6 Question Did you know any place west of the San Joaquin River called Campo de Franceses

Answer I did not

7 Question Do you know any other place called French Camp

Answer I do Between Feather River and the Sacramento at the Butte Mountain there is a place so called It is generally called the French Camp by the Buttes

8 Question Did you ever hear of any name being given to the Slough or water on which the City of Stockton stands

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41 When you settled in San Joaquin County
Answer Never and

Subscribed and Sworn to
before me this 12th day of
November 1853

Alpheus Felch

Commissioner

Filed in Office November 14th 1853
Signed
Geo Fisher
Secretary

Recorded in Lib B Volume 3 Page 397
Signed
Geo Fisher
Secretary

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PAGE 39

Deposition of W. H. Fairchild

Office of the Board of Commissioners &c &c this day before Commissioner Alpheus Felch came William H Fairchild a witness in behalf of Claimant Number 255 who after being duly sworn deposes as follows

Questions by Mr Howard attorney for Claimant

1 Question What are your name age and place of residence

Answer My name is William H Fairchild my age is thirty three years and reside at Stockton California

2 Question Are you acquainted with the tract of land called Campo de los Franceses? If so when did you first become acquainted with it

Answer I am acquainted with it and have been ever since October 1847

3 Question Who was occupying it at that time and what was the extent of the improvements on the place

Answer It was occupied at that time by Captain Weber and some other persons

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There were probably forty or fifty acres of the land in cultivation and four or five houses and corrals and other necessary improvements on the place.

There were as I think three families known living and farming nearly located there I am not positive but there were four the number of persons there in all was probably twenty or twenty five twelve or fourteen of these were men.

4 Question What was the position of the houses and improvements which were there at that time

Answer

Captain Weber had a house on the Peninsula where the City of Stockton now stands There were three other houses on the other or south side of the lake and right where the heart of the said City now is The lake was called McLeans Lake.

The City of Stockton is about one and a half mile from the San Joaquin River McLeans lake empties into the San Joaquin River There was also a house and corral at the French Camp about five miles from the City of Stockton in a southwardly direction which were occupied a greater portion of the time by Captain Weber and his men.

Mr Joseph Buzzell had a house and Corral and twenty acres in cultivation on a fork of the lake about half a mile from the present City.

33

Mr Bucklin had a house and Corral and about twenty acres in cultivation about a mile and a half from Stockton There were some other Corrals on the place.

Captain Weber had one on the north side of the Calaveras & there was one other on the place

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Questions by Mr Greenhow associate Law Agent.

1 Question How old did these houses appear to be when you first saw them

Answer There were only two houses built on the place when I came there one of them I judge was built the year previous and the other that summer

2 Question Was the place which you call McLeans Lake known by that name when you went there

Answer I do not know that it was I do not recollect when I first heard it called so It was ever since I first heard it called by any name I never heard it called by any other

3 Question Do you own any land within the limits of the tract claimed by Captain Weber in this case

Answer I do I claim to own two hundred and fifty one acres It is situated about five miles from the city and in addition a little north of east

I obtained it of Captain Weber He made a present of it to me He gave to many others in the same way

William H. Fairchild

Mr Greenhow objects to all the questions and answers above except the last and to the last the Claimants Counsel objects

Subscribed and sworn to before me this 12th day of November 1853

Alpheus Felch Commissioner

Filed in Office November 14th 1853

Geo Fisher
Secretary

Recorded in Lib B vol 3 page 401

Geo Fisher
Secretary

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Deposition of Juan B Alvarado

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Office of the Board of Commissioners &c
This day before Commissioner Alpheus Felch came Juan B Alvarado a witness in behalf of the claimant Charles M Weber Number 255 who after being duly sworn deposes as follows his evidence was given in the Spanish Language and interpreted by the Secretary

Questions by Mr Howard attorney for the claimant

1 Question What are your name age and place of residence

Answer My name is Juan B Alvarado my age is forty four and I reside at Contra Costa County in California

2 Question Please state what was the usage and custom of any of the Governors of California in giving further time to the grantees of land to comply with the conditions of settlement and occupation where they had been obstructed by Indian hostilities

Answer When persons who had grants were disturbed by the Indians they were permitted to retain their lands and were not disturbed by the Governors who had all due consideration for them in consequence of their peculiar position

3 Question Do you know of any instances in which lands were denounced for want of occupation and the denunciation refused in consequence of the grantee being impeded in making his settlement by Indian hostilities

Answer I do not recollect any such case

Juan B Alvarado

Mr Greenhow Associate Law Agent was present at the taking of this deposition but propounded no questions to the witness

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Sworn and subscribed before me this 12th day of November 1853
Alpheus Felch
Commissioner
Filed in Office November 14th 1853
Signed
Geo Fisher
Secretary
Recorded in Liber B volume 3 Page 402
Signed
Geo Fisher
Secretary

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Deposition of Dan'l Murphy

Office of the Board of Commissioners &c &c
This day before Commissioner Thompson Campbell came Daniel Murphy a witness in behalf of claimant Charles M Weber Number 235 who after being duly sworn deposed as follows

What is your name age and place of residence

My name is Daniel Murphy I am twenty seven years of age and reside in Santa Clara County

Are you acquainted with the Rancho called Campo de los Franceses situated in San Joaquin County and claimed by Charles M Weber

Yes I am acquainted with said Rancho I have known it since the latter part of 1844 or the beginning of 1845

State what portion of the settlement occupation and improvements on the Rancho from your first acquaintance with it to the present time

There was from houses at the time I saw it the time I saw it in the latter part of 1844 or the beginning of 1845 which was the first time I saw it There was a corral there and cattle and horses,

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some of the houses were occupied by Mr Livisey and his men Indians one house was thus occupied I did not go to the other houses on account of the small Pox

There was another at that time north of McLeans Lake where Mr Williams lived The same was about two miles north of the Calaveras Creek There was another house at French Camp this house was not occupied I was there again in 1846

I went through a portion of the Ranch with some of the Navy Officers to fight the Indians off about a month or two after this time I returned again through the ranch and stopped at the Calaveras Smith Napoleon Smith then informed me that he was going to settle there with Mr Weber with some fifteen or sixteen families

I was not there again until 1848 I met Smith on the Ranch and he told me he was going to settle there with some fifteen or sixteen families.

In 1848 they had already laid out there Stockton some four houses and at Stockton there were several families living around in the vicinity there was cattle and horses on the place and I think a Mr Buckley had some in cultivation and also a Mr Buzzle together with two or three corrals.

The town was laid out right where Stockton is now In 1848 when I was there the following families resided there to wit Buckley Buzzle Laird and Thompson I cannot recollect the names of any other persons In the winter of 1849 I should think the town contained one thousand inhabitants and perhaps more.

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There was quite a little village there. The name of Stockton was given to this town after the Americans took possession of the country, the first I knew of the name was in the fall of 1846.

Do you know the place on the Rancho called the French Camp and if so describe it.

I know the place it is at the head of the slough and the ground around there is a little hill of some three or four hundred acres.

The country around the hills is level. This place called the French Camp is well and generally known by that name. I first knew this place in the latter part of 1844.

From French Camp to Calaveras Creek in a straight line I think it is not over seven miles and is about five miles from the City of Stockton.

Look at the map now shown you which is a part of document marked A the map being marked R. Tanda, if you can designate on this map the place known as the French Camp.

Yes I can designate that place the French Camp is at the head of the slough near the words Campo Franceses where they are written on said map.

Did you know any place at McClouds Lake in 1844 or at any other time known as the embarcadero and if so describe its position and indicate it on this map if you can.

I heard of that name. It was right at the head of McClouds Lake and was right where Stockton now stands. The exact location of said embarcadero as near as I can get at it was about where

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Main Street which is in said City of Stockton I mean where said street approaches the water

Were there any causes in existence from the year 1844 for two or three years afterwards tending to impede the settlement and occupation of the country in the neighborhood of French Camp

Yes I think there were the Indians were very hostile there it was an exposed frontier position and there were a great many Indians in the neighborhood the Indians would cross over a portion of the farm on their way to the mountains from the forks of the San Joaquin River,

This was the only pass in that neighborhood where they could cross the Slough Mr Lindsay along with us in the Micheltorena war we left Mr Gulnac in the way up there he also went with us,

Micheltorena had in his army about twenty five foreigners and Americans down from the north and about two hundred civilized Indians I know that a few days after Lindsay returned home he was killed and all the stock there on the Rancho was driven off

Pretty much all the people in the north turned out with Colonel Fremont I don't recollect the month when he started south it was in the year 1846 Fremont took with him about four hundred men

About fifty of this number had accompanied him over the plains the rest from the northern country Fremonts force consisted pretty much of Americans there were some Germans.

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Captain Weber during the war with the United States and Mexico was in the service of the United States he was a volunteer I think he was left to guard the Pueblo of San Jose

Questions by Law Agent

On your first visit to the French Camp were you on your way with the people from the Sacramento to your home the Mokelumne

I was

Did you at that time hear of any place in the country called the Lower Lake

Heard it called by that name at that time

Did you see at the French Camp any fort or preparations for defence against the attacks of Indians

I did not

Do you conceive that a small number of persons such as you found at French Camp could have maintained their position without further aid

I don't know whether they could or not

How many of the people settled at French Camp went away with you to your home Mokelumne

One of the number being there joined Mokelumne three others to wit Gulnac Williams and Buzzelle [illegible] were compelled to leave on account of the small pox before that time also joined Mokelumne [illegible] that Gulnac had resided at French Camp

33

In 1846 did you see any person residing on this land

I saw no person except Mr Smith the Gentleman I have already stated lived on the Rancho

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Did you ever hear of any settlement being on the place at any time between the end of the Mexican war and the occupation of California by the United States

Mr Lisiny must have been there in 1848

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What became of Mr Lisiny and of the settlement after his return

Henry Lisiny was killed I dont know what become of the settlement

Saml Murphy

Sworn to and subscribed before me this 16th day of November 1853
Thompson Campbell
Commissioner

Filed in Office November 16th 1853
signed
Geo Fisher
Secretary

Recorded in Lib B Volume 3 Page 413
signed
Geo Fisher
Secretary

Deposition of J M Murphy

San Francisco November 19th 1853
This day before Commissioner Thompson Campbell came J. M. Murphy a witness in behalf of the Claimant Charles M Weber Number 255 and after having been duly sworn deposes and says as follows

Question What is your name age and place of residence

answer My name is John M Murphy I am twenty eight years of age and reside in San Jose

Question Do you know whether Charles M Weber ever put stock on the Rancho called Campo de los Franceses and if so state all you know about it

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Answer — Sometime in the Summer or Fall of 1847. Mr. Weber took up about two thousand head of cattle, I went with him up to the Sonoma. I know he had cattle there since that time up to 1850, at which time I think he sold the most of them. He was living there at the same time and had good many people there with him

Special Law Agent present.

L. W. Murphy

Sworn to & subscribed
before me this 19th
day of Nov. A.D. 1853

Thompson Campbell
Comr.

Filed in office Nov. 19. 1853
(Signed) Geo Tucker Jr.

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255

Deposition of Napoleon B. Smith

Board of Commissioners &c
San Francisco, Nov 23 1853

This day before Comd R. Aug. Thompson came Napoleon B. Smith a witness in behalf of claimant Charles M. Weber Petition No 255 and after being duly sworn deposes as follows:

Testimony in behalf of claimant
Grant Touchy & Heron Attys for claimant
R. Grunhon Asst Law Agent

Witness states his name to be Napoleon B. Smith, age thirty nine years and

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residing in Contra Costa County California

Question by claimants attorney

Do you know of any efforts on the part of Charles M. Weber the claimant to settle and occupy the land called Campo de los Franceses claimed in this case, if so, state what they were

Answer. In June or July 1846 I made a verbal contract with Mr Weber to settle a number of families on the Ranch. In November or December of the same year I met the emigration and made arrangements with several families to go and settle on it. There were I think seven families and my brother and myself and several young men, all of whom were to receive portions of the land on condition of making the settlement. We went on the land and commenced building houses and making other preparations to spend the winter, when I received a letter from Col. Fremont stating that the parties would not be safe there, and that was absolutely necessary that we should move down to Santa Clara, so as to receive the protection of his troops. We remained there during that winter and at the close of the war I again attempted to make the settlement but the families I had engaged had made other arrangements

Question by Same

State if you know what services were rendered by the claimant Captain Weber during the war

Answer. Capt Weber took a very active part on the side of the United States during the war. He

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commanded a company of volunteers in Col Bonnets battalion and was in active service during the war. I was not in his company but was present with him in the battle of Santa Clara.

Cruition by Mr. Grunion

Was Mr. Gribner a party to any arrangement made by you for the settlement of said lands

Answer. He was not to my knowledge.

Cruition by same

Did you know anything of Capt Webb's title to the land in question at the time of the arrangements you spoke of

Answer — I did; I had been on the Ranchs and saw where a house had been burned which I was told had been occupied by a man by the name of Lindsey, who had been killed by the Indians and his house burned, and who was a tenant of Capt Webbs. The place near the house stood was called French camp.

Cruition by same

Did you ever make any agreement with Mr. Gribner for settling this land.

Answer, I did not

Cruition by same

Did you ever hear that Mr. Gribner had any Title to said land

Answer. I never saw the title but I understood that the land was first granted to him

Cruition by same

Did you or your party make any settlement on the land

Answer. We pitched our

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Tents then and commenced cutting timber & build houses; we remained a week or two there when we were recalled by the letter of Capt Fremont before spoken of. Most of us were encamped where the city of Stockton now stands. I do not recollect that any particular name was given to the slough that runs up to Stockton. I never understood that Mr. Gulnac made any settlement on the place. I never was on the ranch again until 1848. when I passed through it; about two years ago I was in Stockton and recognized it as the place where I had encamped. I saw some families on the ranch in 1848 who I understood were placed there by Capt Weber

N. B. Smith

Sworn to and subscribed
before me Nov 23, 1853

R. Amy Thompson

Filed in office, Nov. 23. 1853
(Signed)

Geo. Fisher Gray

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255 United States of America
State of California } ss

Deposition of Caleb Herriman

San Francisco June 2, 1852

This day personally came before Peter Sott, a commissioner for taking testimony to be used before the Board of U. S. Land Commissioners in said state, Caleb Herriman

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a witness on behalf of the United States in case No. 255, on the Docket of said Board, wherein Charles M. Weber is claimant, and said witness being duly sworn on oath deposed in English as follows, to-wit:

The claimants counsel is present.

Questions by the U.S. Law Agent

1st Question, What is your name age and residence?

Answer. My name is Caleb Herriman, my age 48. years my residence is the county of San Joaquin, California

2d Question. How long have you resided in California and at what point?

Answer I have been in California since the spring of 1847. I lived in Yerba Buena the fall of 1847. I moved from here to Stockton and have lived near there ever since

3d Question Were you acquainted with William Gutrae, if yea, how long have you known him?

Answer. I know him and have known him off and on for 4 or 5 months in the fall of 1847. and the spring of 1848. I have not seen him since

4th Question, Had you any conversation with Gutrae concerning a grant of land on the San Joaquin river if yea, when, where and what was the substance of that conversation?

4th Question objected to by claimants counsel as L.L.

Answer I had a conversation with him in July or August, 1848, at a

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camp some two & miles above what Jamestown now is. I was telling him of some land Mr. Weber had given me to settle upon he told me he did not think my land of any great value, that he, (Embree) was the man who had transferred it to Weber and that he thought Weber had lost the original grant which he gave him, and had surveyed so as to include land which was not in the original grant he said he had transferred it to Weber because the time was nearly expired within which he was required to put families on it, and he could not do it, and it was of no account to him. He told me the land he gave Weber the title for laid between McClondes lake and the San Joaquin.

5th Question. State when you first saw the claim and whether there was then any vestige of former cultivation and, if any, its character and extent?

5th Question objected to by Claimants Counsel

Answer. I arrived in the place now called Stockton in the latter part of September or early in October 1849. There was one tule building on the north side of the slough, where the shipping goes up, that was the only building to my knowledge there tucked I saw no sign of cultivation

6th Question. If there had been any other cultivation or improvement there, would you not from your knowledge of the country and from travelling over it, probably have known it?

Answer There was no appearance of cultivation there, and if

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and if thin had ben or any other im-
provement there what I have named,
I would have most likely known it.

7th Question. Describe the
house you have mentioned and state who
occupied it when you went there

Answer. I should think
it was from 25 to 30 feet square, one
story high, It did not look very old
It was a very good little house and they
do not last long. There were two white
men and 3 Indians living in it, one
of the white men was James McGee,
and the other was called Ande Baker,
one old Indian was called Juan, one
Lorenzo and the other I do not recollect
There was a Mexican white man there
encamped named William Fairchild

8th Question State whether
they were there on business of their own
or whether they were occupying the place
for Graham or Weber?

Answer, Ande Baker
was a hunter under wages from Captain
Weber, McGee and the three Indians were
Vaqueros to take care of the stock for
Weber. Weber kept a store and lived
at that Time at the Pueblo of San José

9th Question Did you
ever help to survey the ranch in question
and do you derive your knowledge of it
in part from that source?

Answer. I volunteered to
carry the chain some three or four times
I was not regularly so employed, my
knowledge of the place is derived from
riding over it at almost every point
of the compass and not from any survey

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Cap examined by claimants Counsel.

1st Inution. Where you
went to the place in 1897 how much
and what kind of stock was on the
Ranch and to whom did it belong?

Answer. I could only state
the amount of stock from what the
Yaquinas told me, they said there was
from 1500 to 2000 head of cattle and
400 or 500 head of horses. I was
informed that it belonged to Charles
Weber.

2d Inution. Were there
any Corrals on the ranch, if yea, state
all about them?

Answer. There was an
enclosure there where he used to herd
his cattle, a small fence from one slough
to another some few rods, I knew of
no other,

3d Inution. Have you
any knowledge of the occupation or
Cultivation of that ranch previous to
your going there?

Answer. No. I knew
nothing about it before that.

4th Inution Was Weber
on the ranch when you went there, if
nay, how often and how much was
he there after that?

Answer. He was not
there when I went there, a week or so
after I arrived there he came there
with a launch load of provisions for
his hands, he remained a few days
and then went by land to the Trinity,
I knew him to make visits there but

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never knew him to stay there permanently until the fall of 1848. when he built and has lived there ever since

5th Interrogatory Did you accept of the offer of a piece of land, and when and where was the offer made and what reason did he give, if any, for making it?

Answer. I accepted of it but he afterwards gave it away to another person. I never had possession of it. he made the offer to me in Stockton when he came there with the launch load of provisions mentioned. I understood him that his object was to get settlers in there

6th Interrogatory. How long did you remain at Stockton when you first went there, and what was your employment

Answer. I was there about 4 months and was engaged in building 3 or houses in the city of Stockton, one for myself, one for Mr. Thompson, none for Weber. I then went away and was gone about 3 months.

7th Interrogatory. Was it during the 4 months you was first there, or subsequently that you went on the ranch in question

Answer. It was during those first four months

8th Interrogatory. While you were first there 4 months, did Weber have other men, besides those you have named, to come on to the ranch in his employ?

Answer. I recollect but one. his name is Hamlet, he came from the Pueblo of San Jose, a man called Willard Briggle moved in and settled about a mile north of where Weber's house is

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on the slough

9th Interr. In what survey was it that you volunteered to carry the chain?

Answer. Major Herron was the surveyor, who had surveyed before I got there, and the stakes of his survey were there I was carrying chain in running off some fractions between Stockton and the San Joaquin

10th Interr Who was present at this conversation between you and Upbaugh?

Answer. There were a number of people there, but I did not know their names, we were nearly all strangers to each other, it was in the diggings

11th Interr Have you any interest in the confirmation or rejection of this claim?

Answer. I have no interest in it any way

Caleb Herriman

Subscribed and sworn to
before me on this 2d day
of June A.D. 1854

Peter Tait, Commissioner
for taking Testimony &c

Filed in Office June 2d 1854

(Signed)

Geo Fisher Jeay

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61 255 United States of America
State of California } ss

Deposition of
Bennett O'Neal

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San Francisco June 3. 1854

This day personally came before me Peter Low, a commissioner for taking testimony to be used before the Board of U. S. Land Commissioners in said State, Bennett O'Neal, a witness on behalf of the United States in case No 255, on the docket of said Board wherein Charles M. Weber is claimant and said witness being duly sworn on oath deposes in English as follows, To wit;

The counsel for claimant is present

Interrogated by the U.S. Law Agent

1st Interrogatory What is your name, age and residence?

Answer. My name is Bennett O'Neal, my age 54 years, my residence San Joaquin County, California

2d Interrogatory How long have you lived in California and where have you mainly resided in that time?

Answer. I have been in California at different times as a trapper as far back as 20 years, but I came to live here permanently about June 1846 and since that time I have lived chiefly in San Joaquin County.

3d Interrogatory Are you acquainted with William Gulnac, if yea, how long have you known him and what has been your intercourse with him?

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Answer. I am acquainted with him, and have known him twenty odd years. I have lived about his house a good deal, and he about my camp and my house in the ordinary manner we are very intimate and always very friendly

4th Question Are you acquainted with the district of country between the San Joaquin and the Calaveras rivers, if yea, how long have you known the same and what are your means of knowledge?

Answer. I have been more particularly acquainted with that country since 1856. I travelled over many years before. My means of knowledge are that I have travelled, and camped, and hunted over it in various directions for several years.

5th Question objected to by Claimants Counsel P.L.

5th Question, State if you know whether Gutierrez ever occupied any part of the country in that district. If yea, what has he told you of his reasons for not occupying it. State also what he told you concerning his sale of the land, to Webb, state the substance of such conversations as you may have had with him concerning said claim at different times and about what time those conversations occured?

This answer is objected to by Claimants Counsel P.L.

Answer. He never lived in that part of the country. He told me he went there to settle, got as far as Punch Camp, that he started with about 70 head of cattle some of which he got through to that point, but that he died

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not state them because he could not get the families to go with him to make good his claims, and that he could not procure them, nor convey them, that he had not the means to do these things, he conversed from time to time in 1846, 1847 and now in some part of 1848. I asked him once what he got for his land and he told me he had sold it to Capt. Weber for a little grocery bill of some 60 dollars which he owed at Weber's store in San José and some other little things, that the land was of no account to him, Lyman told me the time within which he was required to locate the land had nearly run out and that he could not do anything towards it in the time. He said he could get single men to go there, but not families. When Lyman was asked why he did not go there afterwards and settle, that Weber would give him land, he said it would do no good, he would have to pay the government for it, that Weber's claim could not hold it, that he himself had lost the land in 1845, I think that was the year for he told me in 1846. He said when he sold to Weber there was only some 40 or 45 days yet to run in which the land had to be settled.

6th Question, State whether or not there was any difficulty with the Indians in that district of country in those years, and were they peaceable or hostile?

Answer, I never knew of there being in any ways troublesome there, except that they would steal horses, There were no settlers in there in 1846

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were any house, and in 1847 there were no Indians there of any account, they lived away out in the mountains and in the Calaveras. There was never anything like Indian difficulties put about there that I ever knew of.

7th Interr., State whether or not in the years 1844. 1845. & 1846. there would have been any difficulty in 11 families maintaining a settlement upon the land in question?

7th Interrogatory objected to by claimants counsel, ruling was not taken
P.L.

Answer. I know nothing of 1844 and 1845, but from the summer of 1846, when I came, 11 families might have settled there without any difficulty there were no Indians there, and it would have been an advantage to settlers to have had some Indians there.

8th Interr., How many families had been settled on the land claimed, by Lyndsay and by Weber in this case, before the 1st of August, 46, if there was any what was the character of the settlement?

Answer. There were no families or people living there in 1846. and no houses.

9th Interr., Were you acquainted with one Lindsay, if yea, when did you know him, what was his business and when did he die, and under what circumstances, state under whom and for what purpose did he settle? and whether he lived north or south of McAlmo's Laguna?

9th Interrogatory objected to by claimants Counsel
P.L.

Answer. I have seen Lindsay at Sutters fort in 1843. or 1844

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I have seen him once down at McClond's Lake, when he lived there. the place where he lived was towards the Calaveras, in rather a northeast course. he disappeared and no one knew what became of him, as to the character of his settlement there under whom and for what purpose he settled I only know from information I know he had a little Indian camp there.

Cross examined by claimants counsel:

1st Question How much now you at the land claimed in this case, in 1846, and what was you employed in?

Answer, I was papering back and forth from Sutters fort. It was not location time. It was time of war, we stopped there 3 days. I papered probably four times through there in that year

2d Question Have you any personal knowledge of this tract, except what you obtained by papering it a few times and camping there on your way from Sutters down towards the Bay?

Answer, In 1846 that was the only means I had of any personal knowledge of the tract, and in the fall of 1846, I went south with Fremonts battalion, and returned in the Spring of 1847. I do not pretend I have any personal knowledge respecting the settlement of the claim in question previous to the latter part of June or early in July 1846. that was the first I knew of the locality

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with reference to settlement and the like

his
Bennett + O'Neal
mark.

Subscribed and sworn
before me on this 3d
day of June A.D. 1854

Peter Lott, Commissioner
for taking Testimony &c

Filed in office June 3. 1854.

(Signed) Geo Tinkham Gray

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755 United States of America
State of California } ss

Deposition of
George Brichmer

San Francisco June 3. 1854

This day personally came before
Peter Lott a Commissioner for taking Testimony
to be used before the Board of U.S. Land
Commissioners in said State, George Brichmer
a witness on behalf of the United States
in case No 755, of the Docket of said
Board, wherein Charles M. Weber is
claimant, and said witness being duly
sworn on oath deposed in English as
follows: Viz:

The counsel for claimant is
present

Questions by U.S. Law agent:

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1st Intrim. What is your name, age and residence?

Answer. My name is George Bucknell, my age 39 or 41. I don't know positively which; my residence San Joaquin County, California

2d Intrim. Are you acquainted with the claim of land near Stockton called the "Grimes claim", if yea, how long have you known it, and as to your knowledge of the Country?

Answer. I am acquainted with said claim, have known it since 1849 and I am intimately acquainted with that part of the County.

3d Intrim. Do you know the position of McLane's lake, if yea, what quantity of land is there between that lake and the San Joaquin River bearing East?

Answer. There must be as much as 15 leagues of land in the triangle formed by the lake, the river and a line drawn directly from the head of the lake in a South westerly course to the river.

Objected to by Claimants attorney as irrelevant P.L.

4th Intrim. What is the character of the land south of McLane's lake as compared with that between the lake and the San Joaquin River?

Answer. The land south of the lake is worth double as much as the land is between the lake and the river

George Bucknell

Subscribed and sworn to before me on this 3d day of June A.D. 1852

Peter Lott Commissioner for taking testimony &c

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Filed in Office June 3. 1854
(Signed) Geo Pinkham Secy

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Deposition of
Ebenezer Sly

United States of America
State of California } ss

San Francisco June 7. 1854

This day personally came before Peter Tait a Commissioner for taking testimony to be used before the Board of U. S. Land Commissioners in said State Ebenezer Sly, a witness on behalf of the United States in case No 255. on the docket of said Board wherein Charles Weber is claimant, and said witness being duly sworn on oath deposed in Englisk, as follows, to wit:

The counsel for claimant is present

Questions by the U. S. Law Agent

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

Answer. My name is Ebenezer Sly, my age 68 years, my residence San Joaquin County California

2d Question. How long have you known the land claimed in this case, in and about Stockton, and what were the improvements then when you first knew it?

Answer. I came through when Stockton is on my way to San Jose

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in October, 1847. I was in company with Jno Sears who left this town today I stopped there at that time part of a day and a night all the improvements I saw was a little sort of a tule camp

3d Question. If there had been other improvements there must you have seen them?

Answer. I should have been likely to have seen them I think.

4th Question. Are you acquainted with C. M. Weber, and when did he live when you first knew the land in question, and what connection had he with said land?

Answer. I am acquainted with him. He was at Stockton when I first came there and offered me 160 acres of land within one mile of Stockton if I would settle there. He was trying to get emigrants to settle there. I did not think he lived there the next time I saw him he was attending store at San José

5th Question. Were you ever with Mr. Weber on the land near Stockton, and what did he say to you concerning his northern boundary?

Answer. Yes he was with us from Stockton out to the side of what he claimed, he came to the Calaveras river and said his land came to that, and said the land was his, and that the land on the other side was government land that if we liked government land better than his we might settle acrop the river. He afterwards had a conversation with me in which he claimed land on the north

5th Question objected to by claimants Counsel.

P.L.

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side of the Calaveras and upon my saying that he had only claimed on the south side in 1847. that I had it from his own lips, he replied that his lines were not then established. He had forbid on cutting timber at French camp when I first settled, and then I moved over on the north side of the Calaveras.

6th Question. What families of you company settled in San Joaquin Valley in 1847, and how long did they remain there?

Answer. Mr. Campbell Mr. Simon, settled there with their families and I presume they are there yet.

7th Question. What Indians were there in 1847, and were they peaceable or not?

Answer. I never saw any Indians there except the Wayneros who were there, and I know of no Indian difficulties there or of any danger in settling there on their account.

Cross examined by claimants counsel;

1st Question. Do you still claim land on the North side of the Calaveras river, which is also claimed by Mr. Weber in this case?

Answer. Yes, I am on the same land that is in controversy here, I claimed about 160 acres.

2 Question. Do any other members of your family also claim land

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in the same tract claimed by Weber?
Answer. I think not,
my children claim outside of Weber's
claim I believe

Ebenezer Sly.

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Subscribed and sworn to
before me on this 7th day
of June A.D. 1854

Peter Sott. Commissioner
for taking Testimony

Filed in Office June 7. 1854

Signed) Geo Burke Gray

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United States of America
State of California } ss

Deposition of
John Sly

San Francisco June 7. 1854

This day personally came
before Peter Sott, a commissioner for
taking testimony to be used before the
Board of U.S. Land Commissioners in said
State, John Sly, a witness on behalf of
the United States in case No 255 on the
docket of said board wherein C Parks Jr.
Weber is claimant, and said witness being
duly sworn on oath deposed in his behalf
as follows; to wit;

The claimants Counsel is present

Questions by U.S. Law Agent

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1st Question What is your name, age and residence?

Answer. My name is John Sly, my age 74 years my residence San Joaquin County California

2d Question How long have you lived in California and at what point chiefly?

Answer. I came in the fall of 1846. and have lived chiefly at Stockton and vicinity

3d Question What new the settlements in and about Stockton when you first knew the place and state particulars?

Answer. When I first knew the place there was one or two families there. I did not go about much and cannot say very much about it. There was grain raised then and some improvements, this was in the year 1848. I never knew anything to be certain about the place before 1848. I passed backward and forth through there but can state nothing positive respecting the place before 1848.

4th Question Was you acquainted with Capt C. M. Weber and when did you become so, and how long have you known him?

Answer. I knew the man when I saw him. I think I have known him by sight since the year 1846.

5th Question. Were you acquainted with William Gulnac, if yea, how long have you known him

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and what business connection have you had with him?

Answer. I knew him I first knew him in the latter part of 1847. I worked 9 months in his blacksmith shop

6th Question. What have you heard him say respecting the grant upon which the claim in this case is predicated?

Answer I have heard him say a great deal, but I cannot recollect much of it. I have heard him say that Weber had no more right to it than himself or any other man, that he had not fulfilled the first point of the mexican laws.

7th Question. On which side of McClands lake were the improvements which you saw there in 1848. and how far from said lake?

Answer. On the north or northeasterly side. I do not know the distance but it is somewhere about a mile or a mile and a half from what might be called the lake.

8th Question. Whose improvements were they who sowed the grain and what have said Weber to do with it?

Answer. I do not know whose improvements they were, I do not know who sowed the grain nor do I know that Weber had anything to do with it or not. I was told that they were mormons who lived there but I did not hear much about it as I never inquired

1st Question objected to by claimants counsel as calling for hearsay testimony and for the declarations of a party

R. L.

The statements of what the witness was told objected to as illegal

R. L.

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his
John + Sky
mark

Subscribed and sworn to
before me on this 7th day
of June A.D. 1854

Peter Tate Commissioner
for taking testimony &c.

Filed in office June 7. 1854

(Signed) Geo Hinton Gray

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255 United States of America
State of California } ss

Deposition of
Nicholas B. Gann

San Francisco June 7. 1854

This day personally came before
Peter Tate, a Commissioner for taking
testimony to be used before the Board
of U.S. Land Commissioners in said State,
Nicholas B. Gann, a witness on behalf
of the United States in case No 255
on the Docket of said Board, wherein
Charles M. Weber is claimant, and
said witness being sworn on oath de-
posed in English, as follows - to wit:

Mr Connell for claimant is present

Questions by the U.S. Law Agent

Qst Question What is your

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name, age and residence?

Answer, My name is Nicholas B. Gann, my age 46. years my residence San Joaquin County California

2d Question. How long have you resided in California and at what point chiefly?

Answer, I came to California in 1847. I lived in San Jose valley awhile, then in Santa Cruz valley. I have lived in and around Stockton since the fall of 1849. I stopped a day or two in Stockton in 1847

3d Question. How long did you remain in the San Joaquin valley in 1847 who was with you and in what part of the valley did you stop?

Answer, I came to Stockton on the 10th day of October and left on the 12th for San Jose valley, I was with a considerable crowd of Emigrants, I was in what was called Kappes company I stopped in Stockton on my return on the 14th and then again passed through there on the 5th of November

4th Question State particularly the character of the settlement in Stockton in 1847?

Answer, When I first came in the settlement was quite small Capt Weber had a tide house there, some Vaqueros, a Mayordomo and 2 Indians. There was a part of a house which had been occupied by one Lindsay, who had been placed there to take care of the ranch, he had been

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killed by the Indians as I was told and the house partly burned. I saw no other houses then at that time, my family was sick and I did not go about much.

7th Question. Where did Capt Weber live at that time?

Answer. Capt Weber was there at that time and there were 2 white men there with him. I cannot say whether he lived there or not.

8th Question. On which side of McClands lake were the ruins of the partly burned house you mention situated?

Answer. It was on the north side of what was called McClands lake

9th Question. What tribe of Indians inhabited that valley in 1847, what were their habits and character as to peacefulness?

Answer. I am not able to give any account of the Indians there. There were 2 squaws and they were the only ones I saw. I understand there were Indians scattered around there.

10th Question. Besides the settlement you have named, was there any other in that vicinity in 1847?

Answer. I saw no other as I passed round there.

Cross Examined by Claimants Counsel.

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1st Question. Did any of the emigrants of your company stop at Stockton at that time?

Answer. Geo. Capp Weber made a proposition to the whole company to stop and settle them, and promised to give 160 acres of land to each family as many as 7 or 8 families stopped with the intention of settling under Weber if they could not do better. I do not know how long they stayed there, some left in 10 or 12 days, some remained over the winter. The families I think all left. I do not know that any of them remained there permanently, the families. There was a man who went in there with his family but he did not belong to my company

Nicholas B. Gunn

Subscribed and sworn to before me on this 7th day of June A.D. 1854

Peter Lott. Commissioner for taking Testimony &c

Filed in office June 7. 1854

(Signed) Geo Pinkham Clerk

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255 United States of America
State of California } ss

Deposition of Wm B. Wood

San Francisco June 14. 1854

This day personally came before Peter Lott, a Commissioner for taking Testimony

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to be used before the Board of U.S. land Commissioners in said State; William B. Hood, a witness on behalf of the United States in case No. 255 on the docket of said Board wherein Charles M. Weber, is claimant, and said witness being duly sworn or oath deposed as follows, to-wit;

Mr Connell for claimant is present.

Testimony by U.S. Law Agent

Qd Question. What is your name, age and residence?

Answer. My name is William B. Hood, my age 40 years my residence San Joaquin county, Cal.

2d Question Are you acquainted with Charles M. Weber and the lands claimed by him in this case?

Answer Yes. I am acquainted with both

3d Question, Look at papers marked Exhibit N.G.Z No 1 N.G.Z. No 2 and N.G.Z. No 3. and each attached to this deposition and made a part thereof and say whether they contain accurate descriptions of the scrip of county at and in the vicinity of the land claimed by Weber in this case, stating herein your means of knowledge as fully and at large as though particularly interrogated thereunto?

3d Questions objected to by claimants counsel as leading the Witness

P.L.

Answer. I copied this traced copy N.G.Z. No 2, from the paper

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H. G. Z. No1. of the Township and range lines and noted on my copy the points where the river San Joaquin intersects those lines and also the Calaveras and Mormon Slough. I also marked on my copy Nebris north boundary by the words "Nebris claim" boundary" another mark "A" is marked as a boundary of Nebris claim as laid down in No 1. on an east and west line. And also a point marked "Bench Camp" which is marked "Aetna" on No 1. The Base line runs near Bench Camp a little south of it running East and west. The principal black lines running at right angles through said map No 2 represents the township lines. I laid down the river on No 2. by the scale of miles on map No 3. The squares upon on No 3. marked in pencil are equal to those on No 2. I mean the small squares on No. 3. near the corner where Stockton is laid out. I find the river San Joaquin varies, about a mile on the range line in map No 3. from the representation of it in No 1. at the point "b" on my copy No 2. and at point "B" in said copy No 2. the river in No 1 and No 3. is at the same point. The Bench Camp slough at "E" on No 2 varies about 1/4 to 1/2 mile, being that distance further north in map No 3. than in No 1. Stockton slough at "J" on No 2. is a half mile further north, on No 3. than it is on No 1. and Calaveras river at point marked "G" is 3/4 of a mile further north on No 3. than

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on 202. I have been over a portion of the country represented by these maps and the localities appear to be correct I live in the neighborhood in the land represented on the map, and have lately travelled over the San Joaquin at 2 different points. my knowledge of the courses and distances I derive from the map of the Surveyor General.

4th Question Look at the map marked "K. & J." and filed in this case, and compare it with "G. J. No 2" above mentioned and points out where the place marked "Stockton" on map "K. & J." will properly come by that representation on map No. 2.?

Answer. I cannot upon examination make any satisfactory comparison of points on the 2 maps for the reason that I cannot know how far the basis of the map "K. & J." may depart from that of the township surveys of the government

5th Question, At what point on map 202. is the Laguna Mc Clond, and is there more than one laguna of that name in that district of country?

Answer It is at the point marked "H" on said map 202, and I know of no other lake of that name in that region of country.

6th Question Are you acquainted with the direction and distance of Stockton City from the laguna, Mc Clond, if yea, state it?

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Answer, As near as I can tell from Wilkes map it runs through the northern part of the incorporated limits of the city of Stockton

7th Question, Are you acquainted with various Tribes of Indians and Indian character generally and with the character of the portion of Tribe inhabiting the San Joaquin District, if yea, what is your means of knowledge and what the character of the said tribe?

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Answer, I have travelled through the country of hostile Indians, Apaches, Camanches &c, on the confines of Texas, Mexico and Mipmi and I have travelled among the mountains of California and seen a good many Indians in San Joaquin Valley. I came to the country in 1850, and since that time I have always considered the Indians in the San Joaquin valley as harmless.

William B. Wood

Subscribed and sworn to before me on this 15th day of June A.D. 1854

Peter Sah
Commissioner &c

Filed in Office June 15th 1854

(Signed)

Geo Tinkham Jeay

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Deposition of Hans Patton

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23-24

United States Land Commission
San Francisco June 23. 1854.

On this day before Commissioner Stephens Felch came Hans Patton, a witness in behalf of the United States in case No. 255, in which Charles M. Weber is Claimant, who, after being duly sworn deposed as follows,

Questions by Mr. Blandiny Associate Law Agent.

1st Question Please state your name, age, and place of residence and your occupation

Answer. My name is Hans Patton, my age is fifty seven years my residence is Benicia, and my occupation is that of a surveyor. I have followed that business almost thirty years

2d Question. Look at the documents now here exhibited to you marked "H. P. Z. No 1" "H. P. Z. No 2" and "H P Z. No 3" attached to the deposition of William B. Hood heretofore taken and filed in this case, — compare the scope of country therein laid down with the words of description contained in the translation of the grant under which the claim in this case is set up, and say whether eleven leagues can be located according to the calls of the grant?

(Mr. Howard objects to this question)

Answer. I have examined said documents. The grant as I understand it calls for the San Joaquin river on the East. There appears to be considerable difference in the laying down of the

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PAGE 81

river on these three maps. The naval map which is document H.G.Z. 103 seems to be the most reliable and is the most accurate I have traveled over the land. The river at the portion of it represented on the map runs in an eastwardly direction, and could not form the boundary of a tract of land so large as eleven leagues

3d Section. What are your means of judging on this point?

Answer. My having traveled across the Country and along the river. My opinion that the eleven leagues cannot be so located as to extend to the river is founded chiefly on the map in connection with my knowledge of the course of the river

Mr. Howard objects to this answer.

H. Patton

Subscribed and sworn to before me this twenty-third day of June, AD 1854

Alphons Zirkel
Commissioner

Filed in office June 23 1854

(Signed) Geo Fisher Gray

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Deposition of John A. Sutter

United States of America
State of California } ss

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Depo of J. A. Sutter.

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San Francisco June 23, 1854

This day personally came before Peter Lott, a Commissioner for taking testimony to be used before the board of U. S. Land Commissioners in said State John A. Sutter a witness on behalf of the United States in case No. 255 wherein Charles M. Weber, is claimant and said witness being duly sworn on oath deposeth in English as follows, To wit:

The counsel for claimant is present

Questions by the U. S. Law Agent

1st Question What is your name, age and residence?

Answer. My name is John A. Sutter, my age 51 years, my residence Sutter County, California

2d Question. In your former deposition in this case you state that William Gulnac applied to you for individual possession of the Rancho of Campo de los Francesco, when Stockton now is, and that you gave it accordingly State now how you came that possession

Answer. I do not remember exactly the circumstance, I think if I am not mistaken, it was one when I was passing said ranche, on my way to Monterey I was on a journey, and did not spend much time, and I did about as I usually did, I rode with Gulnac and several persons he had with him as colonists there, and a man in my employ who was in company with me named Thomas Smith, and one James Smith, and some Indian Vaqueros.

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340 ND
PAGE 83

we started a little north of the French Camp and rode to the Mill Lake, then accross to the San Joaquin, and we rode out towards the hills, we rode some 7 or 8 miles from north to south, we did not ride far east, we did not pretend to measure the land, it had not then been surveyed we did not ride near the Calaveras river, The time was in the fall of 1846.

Cross Examined by Claimants Counsel.

This 1st Section objected by Law Agent as not relating to Examination in chief P.L.

1st Section Do you know the names of any of those persons settled there by Gideon?

Answer. One was Kelsey, one Lindsay, and several whose names I do not remember. I believe Joseph Boggs was there, but I do not know the time that he left there.

Re-Examined by U.S. Law Agent

1st Section When were Kelsey and Lindsay settled, how often have you seen them there, and what do you know of their settlement?

Answer. They were settled at what is called the French Camp; I have not seen them there often, they were building houses there, they were not there a long time, the Indians were troublesome.

2d Section Were not the Indians in that valley, Digger Indians?

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Answer. They were Mountain Indians, some Christian Indians who ran away from the Mojave were amongst them and they were very bad

3rd Question. Do you know of your own knowledge that the Indians then were hostile, if so, state what circumstances of hostility you know of?

Answer. I know that they were hostile. They stole all the cattle and horses, and they killed Lindsay, and Juan Walker, my secretary and wounded another man at the same time, named Fallen, and another man was wounded, whose name I cannot now remember

4th Question. How did you know these things, was it from your own knowledge or from information?

Answer. I know of my own knowledge, I was at Lindsay's house, and saw that it was broken open and that Lindsay was killed the next day after his death, and I know my secretary was killed. I started a party down there the day after Lindsay was killed to quell these Indian depredations

E. A. Sutter

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Subscribed and sworn to
before me on this 23d day
of June A.D. 1854

Peter Lott Commissioner
for taking Testimony &c.

Filed in office June 23. 1855
(Signed) Geo Fisher Grey

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United States of America
State of California } ss.

Deposition of
Robert W Noble

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San Francisco July 24, 1854

This day came before Peter Late Commissioner for taking testimony for the Board of U. S. Land Commissioners in said State, Robert W. Noble, a witness on behalf of the United States in case No 255 on the docket of said Board, wherein Charles M. Weber is claimant and said witness being sworn deposes as follows.

The claimants Counsel is present

Question by U. S. Law Agent

1st Question What is your name, age and residence?

Answer. My name is Robert W. Noble, my age 47 years, my residence San Joaquin County California

2d Question Are you acquainted with the district of country in the neighborhood of the city of Stockton in San Joaquin County?

Answer. I am with pretty much all of the country south and west of Stockton, and out to French Camp and the San Joaquin I do not know much about the part north of Stockton

3d Question. Have you ever been to the city of Mexico, if yea, have you ever by yourself or your agent examined the public archives in that

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city, to ascertain whether there was any record of a grant or a confirmation of a grant to William Gulnac, or C. M. Weber, and state with what search you have had the archives so searched?

Answer. I have lived in the city of Mexico many years ago. I was in the Republic of Mexico in 1850. I requested a friend there living in Guanajuato to ascertain if the Gulnac grant of land in California was recorded in the archives of Mexico. In the year 1851 he wrote me that he had applied to Miñas Leda, then a Senator in the Mexican Congress, to have the archives examined to ascertain if said record was there, and that he had examined and found the archives in such a state of confusion that he could not ascertain whether there was any such grant there, he could find none

A. W. Webb

This answer objected to by claimants Counsel P.L.

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Subscribed and sworn to before me on this 24th day of July AD 1854.

Peter Tate, Commissioner &c

Filed in Office July 24, 1854

(Signed) Geo Fisher Jacy

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Deposition of
John C Hays

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United States of America }
State of California } ss

Deposition of John C Hays

San Francisco Augst 11. 1854

This day came before Peter Lott Commissioner for taking testimony to be used before the Board of U. S. Land Commission in said state, John C Hays a witness on behalf of the United States in case No 255 on the docket of said board, wherein C. M. Weber is claimant, and said witness being sworn deposes as follows;

Claimants Counsel present

Question by U.S. Law Agent

1st Question What is your name, age and residence?

Answer. My name is John C. Hays, my age 38 years, my residence San Francisco County, California

2d Question Did you as United States Surveyor General for the State of California, order a survey of the land claimed in this case by C. M. Weber, if yea, what branch of the public service required it?

Answer. I did officially order such survey in order to separate the public lands from the private claim in that vicinity. I am instructed by the Government under an act of Congress to make such surveys

3d Question objected to by claimants Counsel so far as

3d Question. Did you previous to ordering said survey have any conversation with any of the parties

Relates to any conversations had with claimant Weber.

P.L.

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intention in prosecuting this claim, if yea, with whom?

Answer. Yes I had a conversation with Mr. Peachy an attorney in the case, and with Maj' Hammond

4th Question. Was it at the instance of either of those gentlemen that you ordered said survey, if yea, which one of them?

Answer. I did not order it at the instance of either of them, Major Hammond applied to me verbally to have a survey of the tract made I told him I could not make it under an application from him, but that as I was then having lands in that neighborhood surveyed, I thought I could have this survey made, that it would be no pay for me to do so. I ordered the survey sooner perhaps than I should have done, in consequence of this application; Major Hammond recommended one Jasper Deane as a competent surveyor who lived in Stockton, but I did not know him and did not appoint him when I was ready to have the survey made I appointed Jasper S. Whitney who was the County surveyor of San Joaquin County, a deputy United States Surveyor, who under my instructions made the survey,

5th Question. Did you consult with said Hammond or Peachy as to that appointment?

Answer. I did not I think I told them I had appointed him, or that I intended to do so

6th Question. Has said

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Whitney done any acts such as your deputy?

Answer. As he has not as yet done any acts

7th Question. As Surveyor General have you been in the practice of surveying private ranches before their confirmation, for the purpose of segregating them from the Public domain, if so, under what act of Congress do you deem yourself authorized so to do?

Answer. I have done it only in one or two instances before, the act of Congress passed some one or two years ago, the date of which I do not recollect, I consider myself as authorizing such surveys. The instances I speak of are some in this county between the city and San José, where some two or three claims were surrounded by public land, and I surveyed the claims in order to ascertain the extent of the Government land

Cross Examined by Claimants Counsel

8th Question. Where the public lands found in Mexican or Spanish grants. Can they be surveyed or ascertained without running the lines of those grants?

Answer. No, they cannot, we are compelled to run the lines of the grants, if we wish to separate the public domain from them

Re Examined by U. S. Law Agent

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This Qs Instrm objected to by claimants Counsel as irrelevant
P. L.

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1st Instrm, Are you interested in any Spanish or Mexican land claims in California, if yea, state your interest as to each case?

Answer, I am interested in two Mexican claims, one is the Cayuguas Grant in this county on which I have been living and the other the Peralta claim in Alameda County. I have no interest in the grant in this case, or any others in the State,

2d Instrm What is the extent of your interest in the grants above named

Answer, I am not disposed to answer that question unless I am compelled to do so

3d Instrm. How do you ascertain the extent of a claimants rights, without there is a survey of confirmation of his claim, so as to segregate said claim from the Government land?

Answer, In separating the Government land from the Spanish claims, I do not pretend to determine the extent of the claimants rights but merely the extent of his grant and claim as deduced from the title papers

Res examined by claimants counsel

1st Instrm. Were you interested in the Cayuguas and Peralta grants before you became Surveyor General?

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Answer. Geo. long before I was living on the Coppinger grant, nearly a year before.

Cross examined by U.S. Law Agent.

Qu Section. To what extent was you interested in said claims before you became Surveyor General?

Answer. I am not inclined to answer though the record will show.

John C. Hays.

Subscribed and sworn to before me, on this 11th day of August AD 1854.

Peter Tate,
Commissioner &c

Filed in Office August 11, 1854

(Signed) Geo Pinkus Secy

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340 ND
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This 1st Section objected to by claimants counsel as irrelevant

P. L.

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Deposition of J. J. Warner

United States Land Commission
San Francisco Aug 10, 1854

On this day before the Commissioners sitting as a Board, came J. J. Warner, a witness in behalf of the United States in case No. 255. in which case Charles W. Webb is claimant, who after being duly sworn deposed as follows:

Questions by the U.S. Law Agent

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Question 1st. Have you been acquainted with the character of the Indians in the San Joaquin River valley, in the district of country where the town of Stockton is now situated? If yea, state when you were acquainted with, and what was their character?

Answer. I was one of the party of hunters during the fall of 1832 engaged in catching beaver on the San Joaquin River for the entire distance of the valley of the river, and again in the latter part of the summer of 1833. on which occasion the Indians were peaceable and docile. We travelled singly and alone through all that section of the country suffered from no hostile demonstrations or attacks from the Indians, since 1833. I had no personal acquaintance with the Indians in that section of the country

Question 2. Are you acquainted with the signature of Name Michel Torna former Governor of California, if yea, state your means of knowledge and look at his name as it appears attached to the grant filed in this case, and the Patrie thereto affixed, and say whether in your opinion they are genuine?

Answer. I am acquainted with his signature having seen him sign his name to documents which I had in my possession for some years. I have no reason to doubt that the signature attached to the above described paper is genuine.

Question 3. Look at document No 2 annexed to the deposition of Antonio Maria Pico, and filed in this

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case, and at the last word in the seventh line from the bottom of the first page, thereof, and say what word was originally written in that place and what word was since written over it?

Answer. The word "und" apparently was first written, and the word "la" subsequently was written thereafter.

Cross interrogatories by the claimants counsel

1st Cross Inter. What was the effect of the civil war during the time of Pochetoma, and the war between the United States and Mexico, upon the disposition of the Indians who resided in the valley of the River San Joaquin, and the adjacent country towards the settlements?

Answer. From general report throughout California at that time it was inimical and hostile. I have no personal knowledge of any hostile action on the part of the Indians, but from common report I know that there were acts of hostility

Direct examination by the U.S. Law Agent resumed

Question 1st What hostile acts do you refer to?

Answer. I am unable to refer to any particular hostile acts, and my knowledge is predicted upon the facts mine of troops and military forces being sent there in consequence of some acts of the Indians, than from a recollection of any particular acts

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of the Indians, there being but little intercourse at that time between Los Angeles my residence and the valley of San Joaquin except by the way of Monterey and San José

J. J. Warner.

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Subscribed and sworn to before the Commissioners sitting as a Board, this 15th Augt 1854.

Attest

Geo Fisher Grey

Deliverd in Office August 15 1854

[Signed]

Geo Fisher Grey

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255 United States of America } ss
State of California

Deposition of Jarpar S Whitney

San Francisco Augst 10, 1854

This day came before Peter Lott Commissioner for taking testimony to be used before the Board of U.S. Land Commission Jarpar S. Whitney, a witness on behalf of the claimant C. M. Weber, in case No 255 on the docket of said Board, said witness being sworn deposed as follows:

The U. S. Law Agent present

Question by claimants counsel

1st Question What is your

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name, age and residence?

Answer. My name is Jasper S. Whitney. my age 27 years, my residence, San Joaquin County California.

2d Question — Are you acquainted with the tract of land claimed in this case?

Answer. I am.

3d Question. Are you a practical surveyor?

Answer. I am. I am a deputy surveyor for the U. S. Surveyor General for the State of California

4th Question. Did you ever execute a survey of the land claimed in this case, if yea, state in what manner and from what data?

Answer. I have made such a survey from data furnished me from the office of the U. S. Surveyor General of California, consisting of the diseño and the amount of land granted with instructions to obtain what information I could either oral or documentary and to make my survey according to these data, and such information. As to the manner of the survey, I commenced at the intersection of the Inlet of the San Joaquin River, with the north bank of McClanes Laguna, as that was the best known natural point on the diseño, I meandered southerly along the inlet, across French Camp Slough the other well known point, then subtracting the distance between these points four 3½ leagues Spanish. I obtained the sum of the distances to be one north of McClanes Lagoon.

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and south of French Camp slough. I then found the corresponding distances on the diseño and established the following proportion As the sum of three distances on the diseño is to the distance actually to be run, north and south, of these two points, so is one of these distances on the diseño to the corresponding distance actually to be run; in accordance with this proportion I completed the meandering of the Isle line, and established the northeast and southwest corners. I run the northern and southern boundary lines in accordance with the course shown on the diseño, 3½ leagues Spanish in length, and the eastern line parallel with the general course of the western or Isle line and three, 3½ leagues Spanish in length,

The diseño which I used in making the survey is a facsimile, an exact copy of the original diseño in the Surveyor Generals office, and a facsimile of the one in the expediente marked "Exhibit A. to depo. of J. S. Whiting. P.L."

5th Interr. What governed you in adopting the line of the Isle for the western line of the Survey?

Answer. The face of the diseño and the instructions of the Surveyor General. The northeast and southwest corners are established in the topography of the diseño, on the edge of the Isle, and that necessarily makes the west line to run along the Isle,

6th Interr. What moved

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be the length in exact measurement in chains of 3½ leagues Spanish?

Answer. It would be 7 2 9 chains & 16. links

7th Interr. How far did you survey & lines north of McClinds lake and south of Trinch Camp?

Answer. It extended 194 chains north of McClinds lake and 310 chains south from Trinch Camp Slough. which is the most southerly stream upon the diagram

8th Interr. State how long you have been a practical surveyor and whether you are a graduate of any scientific school. if yea, what one?

Answer. I have been 7 years a practical engineer and surveyor I was educated at Bowdoin College in Maine.

Exp. Examined by U.S. Land Agent

9th Interr How long have you been deputy surveyor for the United States Surveyor General in California?

Answer. Since the 12th day of July last

2d Interr Were your instructions in writing, if yea, give their contents?

Answer. They were in writing. I received some verbal explanations of them when they were given

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to me. I received two seperate instructions of the first the certified copy marked "A P L" and of the 2d "B. P L" hereunto filed, on two copies.

3d Question Why did you not take the river San Joaquin for a meander boundary instead of the Dole?

Answer. Because the map or diseño accompanying my instructions showed that none of the lines reached the river, but that on the contrary the North west and south west corners were on the edge of the Tule.

4th Question Were you governed wholly in that matter by the termination of the dotted lines on said diseño touching the Tule, if any, what other principle governed you?

Answer. I was not wholly governed by the dotted terminations of those lines, I saw that said dotted lines reached the Tule, and proved by measurement on the diseño that they were correct

5th Question. What public service required this survey?

Answer. The segregation of Private lands from the public domain of the United States, in order to sectionize the lands of the government.

6th Question Is the Surveyor General proceeding at this time or has he been, to survey and sectionize the public lands in this vicinity?

Answer. The land

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has been investigated in that vicinity as to the sectionizing Lonly and give hearsay evidence.

7th Question. Was not the survey you made at the instance and for the benefit of interested parties in this case?

Answer. I surveyed it under Col. Hays for the government that is for as I am state.

8th Question. A part of your instructions being to survey the land between the river San Joaquin on the East and the Laguna de Tulare why did you not obey that part of your instructions?

8th Question objected to by claimants' counsel as not showing the substance of the whole instructions and especially that part respecting the diseño

P. L.

Answer. Because immediately following in the instructions I was told to be governed by the accompanying map or diseño and moreover because it was an impossibility

9th Question. Why did you not start at the edge of the Lake or Mc Clendi lake instead of as to much?

Answer. I was misunderstood, if the Commissioner has written that I did commence as your question suggests. I said I commenced at the intersection of the Miles of the said river with the north bank of Mc Clendi lake, and I wish my answer as to appear

The Commissioner has interlines the words "Miles of the" in 2d page of this deposition as he knows the witness did testify as

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this course, 2 Lats Com.

10th Question How did you establish the north east corner of this Survey?

Answer. By taking the course of the western boundary from the decision, and running on that course 3½ leagues Spanish from the north west corner.

11th Question How did you establish the south east corner?

Answer. I run from the north East corner Southerly on a line parallel with the general course of the line of the Isle. 3½ leagues and connected 3½ leagues from the south west corner.

12th Question. What is the General direction of McClinds lake Compared with the course of the San Joaquin river opposite your survey?

Answer. It is very nearly at right angles to the course of the river where they intersect, but the river is so crooked about there it is difficult to judge its course

13th Question What is the general course of McClinds lake?

Answer. The General course by Compass is South 73½° West

14th Question How far is it from that point where you commenced the survey to the north west corner of the Survey?

Answer. It is

194 chains

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15th Question What is the direction of McClonds lake as laid down on the diseño

Answer. I should judge it to be about south 70° west.

16th Question In making your survey to correspond with the diseño and the courses marked thereon, did you adopt a true or magnetic north and give your reasons why?

Answer. I adopted the magnetic north, because there is no variation marked on the diseño.

17th Question Set down the courses, direction and distance you ran on the Isle line?

Answer They will appear on the map marked "C. B." to be filed in this case

18th Question What is the distance from the San Joaquin river to the south east corner of your survey?

Answer. I never measured it but from the diseño I should judge it to be about a half league.

19th Question. What is the distance from the point where you commenced the survey to the junction of the Laguna McClond with the San Joaquin river?

Answer. I never measured it, it is impracticable. I should judge it to be over a mile, but how much over I cannot say

Re Examined by Claimants Counsel

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1st Interrog. What is the character of the land owned by Cole on the banks of the San Joaquin adjoining your survey in this case?

Answer. It is wet, marshy, overflowed land, generally impassable with boat and there patches over which a person can with difficulty wade about. Its width varies from 1 to 3 miles as near as a cursory view can determine, but I do not intend to speak accurately

2d Interrog. Is the line of the Isle as shown on the map, distinctly marked by natural features on the ground?

2d Interrog objected to by law agents as leading P.L.

Answer. The line of Isle which I take to comprise such is quite distinct

Exam'n Examined by U. S. Law Agent

1st Interrog. What is the character of the land surveyed and what is your estimation of its value?

Answer. I have reported it as 1st 2d & 3d rate to the Surveyor Generals' office it varies in different parts. I can form no satisfactory estimate of its general value, some parts have sold as high as $25 per acre and some is comparatively valueless

2d Interrog. What information did you obtain in addition to that furnished you by the Surveyor General enabling you to make the survey and from whom did you obtain it?

Answer. I cannot say

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that I obtained any such. I was aware of the position of McClimas Lagoon and the French Camp slough and that was all I deemed necessary

3d Question Was C.M. Weber with you at any time while you were making your survey?

Answer He was not.

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Re Examined by Claimants Counsel

1st Question How many settlers are there on the land in question claiming under C.M. Weber? and how many squatters?

Answer. The land embraces the city of Stockton where all claim under Weber I believe and the occupants of 3/4 of the land out of the city claim under him, and as to the squatters I do not know. I know more about the others because I have as County Surveyor surveyed their lands for them. There are not many squatters in it so far as I know

Cross Examined by U.S. Law Agent

1st Question. About how much land heretofore claimed by C.M. Weber and sold by him to others is left out of this last survey

1st Question objected to by claimants counsel as irrelevant

P.L.

Answer. There is quite a large piece of the old survey left out by this, most of which is held by deed from Weber, but very little of it was purchased, they were deeds of gift to settlers. It would be perhaps

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a certain spot of the old survey on the Calaveras side

Jasper J. Whitney

Subscribed and sworn to
before me on this 10th day
of August, AD 1854

Peter Lott
Commissioner &c

Filed in office August 11. 1854

(Signed)

Geo Parker Gray

No. 788.

Deposition of V. Prudon

United States Land Commission
San Francisco April 10, 1855.

On this day before Commissioner R. Aug. Thompson, came Victor Prudon, a witness in behalf of the claimant in Case No. 788, who after being duly sworn, deposed as follows:

Testimony in behalf of claimant.

Present Claimants Attorney and United States Law Agent.

In answer to question witness states that his name is Victor Prudon, his age forty five years and his residence San Francisco.

Question by claimants Atty.

Look at the papers now shown you marked Nos. 1 and 2 and with the initials R.T. and state in whose handwriting are the two instruments com-

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mencing near the bottom of the first page of each of said papers and ending on the second, and whose signatures and rubrics are attached thereto?

Answer. Both of said instruments are in the handwriting of Gen. Micheltorena and the signatures and rubrics thereto attached are the genuine signatures and rubrics of the said Micheltorena. I held an official position under him and frequently saw him write and sign his name.

V. Prudon.

Sworn to and subscribed
before me April 10, 1855
R. Aug. Thompson
Com'r.

Filed in Office April 10, 1855.
Geo. Fisher
Secy.

Ley 1188.
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1843

Expediente promovido por Dn Guillermo Gulnac en Solicitud del Paraje que se Expresa.

N.o 340.

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1111

2 Sello Cuarto Dos Reales:
Habilitado provisionalmente por la Aduana Maritima del puerto de Monterey, en el Departamento de las Californias para el año de mil Ocho cientos cuarenta y tres.

Micheltorena Manuel Castañares

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(Sello)

Exmo. Sor. Gobernador del Departamento de ambas Californias

Santa Barbara Julio 29. de 1843
Hallandose en marcha el Gober nador q^e. suscribe con direccion à Monterey y Sacramento podrà ocurrir el interesado al primer punto recaviendo antes el informe de la prefectura del primer Distrito.
Michelt^a.

Guillermo Gulnac Mexicano p^r. naturalisacion de profeccion Herrero y Residente en el pueblo de S. Josè de Guadalupe ante la notaria justificacion de V. E. en la forma mas legal que à mi derecho convenga paresco y digo: q^e. hace el termino de Veinte y un años q^e. existo en el pais, casado con muger mexicana hace diez y Ocho años en cuyo Enlase, he tenido y tengo siete hijos à quienes, antes que la divina providencia corte mi vital aliento quiero dejarles una proporcion suficiente p^a. que puedan mantener con aquel honor q^e. corresponde à todo hombre de bien p^a. esto cuento con la Cantidad de dos cientas cabezas de Ganado mayor. 40
3 Bestias entre mulas, yeguas y Caballos al mismo tiempo hay otros sujetos de la misma clase mia tambien casados

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con Mejicana que le comprometen estar en mi compañia pª formar como una clase de pueblo en el pais.
Para beneficio esta y pª la seguridad y fomento de los terenos de qª hago mencion; y algunos otros qª tambien tienen los sugetos que se comprometen à vivir en mi compañia, solicito qª V. E. se sirva ampliarme el derecho de poder abitar, pª el objeto indicado, el terreno que demuestra el diseño que acompaño compuesto de once sitios de Ganado mayor sirviendose al mismo tiempo recibir el Documento. qª in chuyo dando pª el pies respectivo de aquella parte
4 en donde sello Quarto Dos Reales habilitado provicionalmt pª la Aduana maritima del puerto de Monterey en el Departamento de las Californias para el año de mil ocho cientos cuarenta y tres.

Michel Torena Manuel Castanares.

acredita estar el terreno baldio y sin pretendiente alguno.

(Sello) Por tanto - A. V. E. suplico se digne asseder à favor del interesado de la qª recibirè gracia y merced: jurando no ser de malicia y lo necesario
pueblo de S. Josè Julio 14 de 1843
Guillermo Gulnac

Exmo Sr Gobernador

Don Guillermo Gulnac Mejicano naturalisado pretende en la presente instancia se le conceda pr. V. E. el terreno nombrado Campo Frances que se halla al Este
5. del Rio Sta Joaquin; y estar prefectura impuesto del Informe que da Don

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Juan. A. Rutta Juez inmediato a
dho paraje no encuentra inconviniente
en que se le conceda este al espresado
Gulnac se fuese del Superior agrado
de V. E.

Monterey Obre 18 de 1843.
José R. Estada.

(8 Nº) Monterey Octr 2 de 1843.
Diríjase informe por los conocimtos
practicos que posee del terreno el C. Corl
D. Mariano Guadlpe Vallejo.
Michelta

6 Juzgado del Distrito
del Rio Sacramento } Yo certifico que el
terreno por qual el señor Don Guillermo
Gulnack, ciudadano de la Republica
Mejicana quiere pedir al Gobierno no
es ocupado de ninguna persona
Nueva Helvecia Junio 8 de 1843
J. A. Sutter

Nº 1. Here follows a Map.

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8. (8ª) Monterey Oct. 26 de 1842.

No habiendo informado el D. Vallejo habeo manifestado carecer del conocimiento de las posesiones del D. Sutter Refiere el D. Rio de Este Gobno

Micheltorena

Excmo Sor Gobernador

Aunque Dn Guillermo Gulnac es acreedor para que se le atienda à su solicitud pero sera conven.te sabeo de la estencion que pide es para la formacion de la Colonia que menciona, por que en este caso parece preciso que se espresen los nombres de las personas que la formen para que en el titulo se esplique que el terreno es para beneficio de todos; pero se pretende el paraje para el solo beneficio de muchas estenciones y a su exemplo pidiran otras y dentro de poco no quedara terreno para los demas que quieren habecindarse por el Rio de San Joaquin.

por lo Espuesto. V.E. dispondra lo que q. le pareciere por conviniente.

Monterey Noviembre 28th de 1843.

Manl Jimeno.

Monterey Enero 10 de 1844.

Conforme en un todo con lo informado pr el D. Rio de mi Despacho espide el el interesado si a pr Colonia y estendose en un caso el titulo cuando a los nombres de los asociados y si individualmte pide limitese prudencialmente.

Micheltra

Monterey 12 de Enero de 1844

Vista la peticion con que da principio este Espediente, los informes que parecen

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con todo lo demas que se tubo presente
y ver convino, de conformidad con las
leyes y reglamentos de la materia se le
10 concedien Once sitios de ganado mayor
á Dn Guillermo Gulnak para su beneficio
personal y el de su familia y el de once
familias mas, entre el Rio de San Joa=
quin al Este y la Laguna que llaman
de Mz Claud, sugetandose á las con
=diciones que se estipularen.
Librese el correspondiente despacho
tomese razon en el Libro que corresponde
CE. E. O. Gobernador asi lo mando de=
creto y firmio.

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Office of 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 under my charge and cus
tody a portion of the Archives of the former
Spanish and Mexican Territory or De=
partment of Upper California by virtue
of the power vested in me by law, Do
hereby Certify, that the 10 preceding
and hereunto annexed pages of facing
paper numbered from One to Ten 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 here
unto signed my name Officially and
caused my Seal of Office to be affixed
at the City of San Francisco Cal this

115 — Eighteenth day of November 1853

John C. Hays

U. S. Surveyor General
for California

Filed in Office Aug 11th 1854

Geo: Fisher Deputy

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Translation of Expediente

Stamp Fourth Two Reales

Provisionally authorized by the Maritime Custom House of the Port of Monterey in the department of the Californias for the year eighteen hundred and forty-three

(Sgd) Micheltorena (Sgd) Manuel Castañares

Maritime Custom House of Monterey

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To his Excellency the Governor of the Department of both Californias

Santa Barbara
July 25th 1843.

The Governor who subscribes being at this time on the way going to Monterey and Sacramento — the person interested may apply at the first named point obtaining first the report of the Prefecture of the first District

(Signed)

Micheltorena

I Guillermo Gulnac, a Mexican by naturalization, by profession a blacksmith and resident in the Pueblo of San José de Guadalupe, before the well known jurisdiction of your Excellency, in the most legal and favorable manner, appear and say that for the term of twenty-one years I have lived in this Country, was married to a Mexican woman eighteen years ago, in which union I have had and have seven children to whom before the Divine Providence cuts short my vital breath, I wish to leave sufficient property to enable them to maintain themselves with that honor which corresponds to every man of good character. For this purpose I have the number of two hundred head of large cattle, forty animals between mules, mares and horses. At the same time there are others of my dep also married to Mexicans, who bind themselves to be in my company for the purpose of forming a kind of Pueblo in

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in the County. In order to carry this into effect and for the security and increase of the property of which I make mention and also of some cattle which is held by the persons who bind themselves to live in company with me. I request that your Excellency will be pleased to extend to me the right to occupy for the purpose indicated, the land shown on the map which I transmit herewith, consisting of eleven square leagues, having the goodness at the same time to receive the document which I enclose from the proper magistrate of that part of the County, in which it is shown that the land is vacant and is not claimed by any person

Wherefore, I pray Your Excellency to have the goodness to grant this in favor of the person mentioned from which I will receive grace and favor, swearing that this is not done from malice and whatever else may be necessary

Pueblo of San José July 14, 1843

(Signed)

Guillermo Gulnac

To his Excellency the Governor

Don Guillermo Gulnac

a naturalized Mexican requests in the present petition that there be granted to him by Your Excellency the land named "Campo Frances" which is situated to the east of the river San Joaquin and this Magistrate having examined the report given by Don Juan A Sutter, the magistrate named to said place finds no objection to this

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being granted to the said Grhae if it should be the superior pleasure of Your Excellency

Monterey, September 1843

(signed)

José Ramon Estrada

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Monterey Oct 5. 1843

Let the Señor Colonel, Don Mariano Guadalupe Vallejo be pleased to report from the practical knowledge of the land which he may possess

(signed)

Micheltorena

Juzgado of the District of the Sacramento River

I certify that the land which Señor Don Guillermo Grhae a citizen of the Mexican Government is not occupied by any person

Nueva Helvetia June 8. 1843

(signed)

J. A. Sutter

Dept of the Depot of the California

Monterey Oct 20. 1843

Señor Vallejo not having informed as he has made known that he has no knowledge of the pretensions of Señor Grhae let the Secretary of this Government report

(signed)

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Wichelena

To his Excellency the Governor

Although Don Guillermo Galvan is entitled to have his petition attended to, yet it would be proper to know whether the extension which he requests is for the formation of the colony which he mentions, for in this case it appears necessary that the names of the persons who form it should be expressed in order that in the title it may be explained that the land is for the benefit of all; but if he petitions for the place for himself alone, the extent is very great and after his example others will petition and within a short time there will be no land left for others who may wish to settle on the river San Joaquin

For this and any other reasons Your Excellency will decide that which you may think proper

Monterey November 28. 1843

(Signed)

Manuel Jimeno

Monterey January 1. 1844

In entire conformity with the report of the Secretaryship of my office let the person interested say if it is for the colony, and in this case let the Title be issued,

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mentioning the names of the parties and if he requires it (for himself) individually let him ask for it within prudent limits.

(Signed)

Micheltorena

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Monterey January 13th 1844

Having seen the petition with which this expediente commences, the reports which precede together with all other things which were represented and deemed proper to be considered, in conformity with the laws and regulations in the matter, eleven square leagues are granted to Don Guillermo Hyman for his own personal benefit and that of his family, and also that of eleven other families, between the rivers San Joaquin on the east and the Laguna called that of Mc Lond, subject to the conditions which may be stipulated. Let the corresponding title be issued and let note be made in the proper book. His Excellency the Governor thus ordered decreed and signed.

Filed in office May 31. 1852

(Signed) Geo Fisher Secy

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por 788.
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C

Chas. M. Weber
Copy of Title

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Sello primero Ocho Pesos:
Habilitado provisionalmte. por la Aduana maritima del puerto de Monterey en el Departamento de las Californias, para los años de mil Ocho cientos cuarenta y cuatro y mil Ocho cientos cuarenta y cinco.
firmado) Micheltorena #
firmado Pablo de la Guerra.

(Sello) Manuel Micheltorena General de Brigada del Ejercito Mexicano, ayudante General de la plana Mayor del mismo, Gobernador Comandante General de ~~la plana Mayor del mismo, Gobernador~~ é Inspector del Departamento de las Californias.

Por Cuanto Dn. Guillermo Gulnak, mexicano por naturalizacion ha pretendido para su beneficio personal el de su familia y el de Once familias mas el terreno conocido con el nombre de Campo de los Franceses, en Estencion de Once sitios de Ganado Mayor, entre el Rio de San Joaquin al Este y la Laguna que llaman de Mc. Cloud practicadas previamente las diligencias y averiguaciones conceints. segun lo dispuesto por leyes y Reglamentos usando de las facultades que me son conferidas á nombre de la Nacion Mexicana he venido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras, sugetandose á la aprobacion de la Exma. Asamblea Departamental y bajo las condiciones siguientes.

1a No podra venderlo, enagenarlo ni hipote=

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cado, el que se le adjudica, imponer censo vinculo prenda ni otro gravamen alguno.
2ª podrá cercado sin perjudicar las haveçias, caminos y servidumbres; lo disputara libre y esclusivamente destinandolo para el uso ò cultivo que le convenga, pasando de un año fabricara casa y estara habitando las familias que menciona.
3ª cuando se le confiera la propiedad del terreno solicitara del juez respectivo que le de la posecion juridica en virtud de este despacho por el cual se deslinden los linderos, en cuyos limites se pongan à mas de las mojoneras algunos arboles frutales ò silvestres de alguna utilidad.
4ª El terreno de que se hace mencion es de once sitios de ganado mayor segun Esplica el diseño respectivo. El juez que diere la posecion lo hara medir conforme à Ordenanza, quedando el sobrante que resulte à los Reyes para los usos convinientes.
5ª Si contraviniere à estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consecuencia mando que sirviendole de titulo el presente y teniendose por firme y Valedero, se tome razon de el en el libro respectivo, y se entregue al Interesado para su resguardo y demas fines.
Dado en Monterey à treçe de Enero de mil Ocho-cientos cuarenta y cuatro.
formado / Manl. Gimeno. Rio
formado / Manl. Michelena.

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Queda tomada razon de esta Concesion
en el Libro respectivo á fs. 5.
formado y Firmado

Filed in Office May 3/d 1852

Geo: Fisher Secy

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Translation of Title

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Stamp Duty 8 Dollars

Provisionally authorized by the Maritime Custom House of the Port of Monterey in the Department of the Californias for the years 1844 and 1845

(Signed) Micheltorena (Signed) Pablo de la Guerra

Maritime Custom House of Monterey

I Manuel Micheltorena General of Brigade of the Mexican Army adjutant General of the Staff of the same, Governor Commandant, General and Inspector of the Department of the Californias

Whereas, Don Guillermo Cottner, a Mexican by naturalization, has asked for his own personal benefit, for that of his family and eleven other families for the land known by the name of "Campo de las Tranquitas", in extent eleven square leagues, between the Rio de San Joaquin on the east and the laguna called Mallard; having previously made the examination and verifications concerning it as directed by the laws and regulations, using the powers which are confided in me in the name of the Mexican nation, I have granted to him the said land declaring to him the ownership of it by these present letters, subject to the approval of the Most Excellent Departmental Assembly and under the following conditions:

1st He cannot sell, alienate or hypothecate what is granted to him, impose tax, entail mortgage, or other incumbrance;

2d He may inclose it without prejudice to the cross-roads,

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roads and servitudes. he shall enjoy it
fully and exclusively, making such use
or cultivation of it as he may see fit, but
within one year he will build a house,
and the aforementioned families shall
inhabit it

3ro When the ownership
of the land is confirmed to him, he will
ask the respective magistrate to give him
the juridical possession in virtue of this
dispatch, by whom the boundaries
shall be marked out and in their limits
shall be placed besides the bounds, some
fruit tree or wild one of some utility.

4th The aforesaid land
is eleven square leagues as shown in the
respective map. The magistrate who may
give the possession will have it measured
conformably to ordinance leaving the surplus
which may revert to the nation for its
convenient uses

5th If he shall contravene
these conditions he will loose his right to
the land and it will be denounceable by
another

In consequence I order
that serving as a Title this present letter
and being held as firm and valid, note
be taken of it in the respective Book,
and it will be given to the party in-
terested for his security and for the use

Given in Monterey this
13th day of January AD 1844
signed
Manuel Micheltorena

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(Signed) Warren Jenney
Secretary

Note is taken of this grant in the Register Book at folio 5

(Signed) Jenney

Filed in office 31st May 1862

(Signed) Geo Parker Seay

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1311

Lor 188.
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Pio Pico Gobernador Constitucional del Departamento de Californias

(Sello) La Exma Asamblea Departamental en Sesion de hoy tubo à bien decretar lo siguiente.

"F"
Copy of Approval.

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Se aprueba la Concesion hecha à favor de Don Guillermo Gulnak del parage conocido con el Nombre de Campo de los "Franceses" en Estencion de Once sitios de Ganado mayor, entre el Rio de San Joaquin al Este, y la Laguna que llaman de "Mc Claud" que le fue concedido por el superior Gobierno Departamental segun titulo librado con fecha trese de Enero de mil Ochocientos cuarenta y cuatro, de Entera conformidad con la ley de 18 de Agosto de 1824. y Reglamento supremo de 21 de Noviembre de 1828" y para resguardo de la parte de Don Guillermo Gulnak, lo hago asi saber.

Dado en la Ciudad de Los Angeles Capital del Departamento de Californias, en papel comun por falta de sellado à quince dias del mes de Julio de mil Ocho cientos cuarenta y seis.

(firmado) Pio Pico

Firmado: José Matias Moreno
Srio Intº

Filed in Office May 31st 1852

Geo. Fisher Secy

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Translation of Approval

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Pio Pico, Constitutional Governor of the Department of California.

The Most Excellent Departmental Assembly in Session of this day has thought proper to decree the following:

"Approved, the grant made in favor of Don Guillermo "Gulnak, of the place known by the name of "Campo "de las Francesas" in extent eleven square leagues, be- "tween the river San Joaquin to the east, and the La- "guna, which is called that of "McClond" which "was granted to him by the superior Departmental "Government, according to the Title issued, dated "January 13th one thousand eight hundred and "forty-four in entire conformity with the law "of August 18th 1824, and the supreme regula- "tion of November 21 1828"

And for the security of the party Don Guillermo Gulnak, I thus make it known

Given in the City of Los Angeles the Capital of the Department of California, on common paper for want of stamped, on the fifteenth day of the month of June one thousand Eight hundred and forty-six

(Signed) Pio Pico

(Signed) José Matias Moreno
Secretary ad interim

Filed in Office May 31st 1852

(Signed) Geo Fisher Gray

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Sello cuarto Dos Reales:

Habilitado provisionalmte por la Aduana Maritima del puerto de Monterey, en el Departamento de las Californias para los años de mil Ochocientos cuarenta y uno y mil Ochocientos cuarenta y cinco.

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Copy of Letter of Naturaleza

firmado) Micheltorena
" " Pablo de la Llena
por Ausa del Sr Admor

(Sello) firmado) Guillo: Edo Hartnell

Manuel Micheltorena, General de Brigada del Egercito Mejicano, Capitan General de la Plana Mayor del mismo Gobernador Comandante Gral é Inspector del Departamto de Californias

Rcgdo a fojs 9.

Habiendo D. Carlos Maria Weber, Originario de Alemania, cumplido con las condiciones y requisitos que previene la Ley respectiva que arregla el modo con que debe concederse la Carta de naturaleza á los Estrangeros y acompañado los documentos que lo acreditan declaro al Referido D. Carlos Maria Weber por las presentes naturalizado en la Republica Mejicana en virtud de la autoridad que por aquella ley se me confiere.

Monterey Febrero 20 de 1844

firmado) Manl Micheltra
firmado) Manl Jimeno

Rubd.

Filed in Office May 31st 1852

Geo: Hyde Decr

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Translation of letter of Naturalization of Weber.

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Stamp 3rd cl. Two Reales

Provisionally authorized by the Maritime Custom House of the Port of Monterey in the Department of the Californias for the years 1844 and 1845.

Signed. Micheltorena For Pablo de la Guerra
(Sgd) Wm Edwd Hartnell

Maritime Custom House of Monterey

Registered in folio 9
Rubric of Jimeno

Manuel Micheltorena, General of Brigade of the Mexican army Acpptant General of the Staff of the same, Governor Commanding General and Inspector of the Department of Californias

Don Carlos Maria Weber, a native of Germany having complied with the conditions and requisites provided by the Imperial law, which regulate the manner in which the letter of naturalization should be granted to foreigners and having transmitted the documents which show it, I do, by these presents declare the said Don Carlos Maria Weber, naturalized in the Mexican Republic in virtue of the authority which is, by that law confered on me

Monterey February 20, 1844

(Rubric)

Manuel Micheltorena

(Signed)

Manuel Jimeno
Secretary

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I

Copy of Conveyance

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Pello Quinto Meeu Real
Habilitado provisionalmt. por la Aduana
Maritima del puerto de Monterey, en el
Departamento de las Californias para
los años de mil Ochocientos cuarenta
y Cuatro y mil Ochocientos cuarenta
y cinco.

(Firmado) Micheltorena (Firmado) Pablo de la
Guerra

Por ausa. del admor
Guillo. Edo. Hartnell

Sello

En el Pueblo de San Josè Guada
lupe à los tres dias del mes de Abril de
mil Ochocientos Cuarenta y cinco: ante
mi Antonio maria pico Alcalde de 1o. Nom
inacion del juzgado de Esta municipali
dad y ante los testigos de asistencia con
quien no actuo en la forma establecida
ames de los instrumentales de que al pie
se hara mencion: parecio de presente el
Ciudadano Guillermo Gulnac y dijo: que
por si y à nombre de sus sucesores y here
deros y quien de Ellos hubiere titulo, Voz
y causa vende y da en publica venta
y enagenacion perpetua la seccion que
posee en el Rancho llamado el Campo
de los Franceses à D. Carlos Maria Ul
=bar Mejicano por naturalisacion y Vecino
de dicho pueblo el que adquirio por titulo
dado por el Exmo señor Governador y
Comandte. Gral de este Departamento
D. Manuel Micheltorena con fha. tres
de Enero de mil Ochocientos cuarenta
y Cuatro como consta de los documentos
q. ha presentado y doy fe he visto el
cual Rancho con todo el derecho que

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PAGE 129

del le pertenesia le bendo al Espresado
Dn Carlos Maria Ybar en la Cantidad
de doscientos pesos mita plata y mta
efectos los que se le entregaron al men=
=cionado Vendedor en el Acto de la venta
dando desde esta fecha por concluido
el contrato y por tanto cede todo el derecho
de propiedad, consecion y posecion
que tiene de dicha parte del terreno
al mencionado D. Carlos Maria Ybar
y desde hoy en adelante y para siempre
se desapodera, quita y aparta à sus
herederos y sucesores del dominio y pose
cion y otros cualesquiera derechos que
le competan al mencionado terreno los
cede à favor del comprador para q.
lo posea y goce pacificamente y haga de
el, el uso que le convenga, entre y se
apodere de dicho terreno y tome la pose
cion que le corresponde y por derecho
le compete y à la firmesa y Validacion
de lo que en Virtud de Esta Venta
hace obliga el Otorgante su persona y
Bienes habidos, y por haver, y con ellos se
somete al fuero y Jurisdicion de los seño
res Jueces que del Caso deben conocer
de qualquiera estado que sean para
que à su cumplimiento le competen y
Estechen como por Sentencia pasada en
autoridad de cosa Juzgada, Renuncia
todas las leyes à su favor; en cuya Virtud
asi lo Otorgo y firmo por ante mi y los tes
tigos de Asistencia en defecto de Escriba
no Publico siendo los Instrumentales lo-
S. S. Antonio Amol, Dolores Pacheco y
Jose Fernandez.

(firmado) Guillermo Zulueta R

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firmado) Antonio Mª Pico
" " Antonio Pinol
firmado) Dolores Pachl
firmado) Josè Fernandez.

Digo yo Mª Isabel Serena y hijos que convinimos y aprobamos la venta echa por mi Esposo del antenio terreno à favor de Dn Carlos Mª Urbay y para resguardo lo firmamos ante Dos testigos de q. doy fè en el pueblo de S. Josè 3 de Abril de 1845.

firmado) Isabel + Serena de Gilnack
" Pamfilo Gilnack
" Josè R. Gilnack
" Antº Mª Pico
" Antº Pinol
" Vº Galindo

Filed in Office May 31st 1852

Geo: Fisher Deputy

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1144 755

Translation of Conveyance

Fifth Seal. Half Real

Provisionally authorized by the maritime Custom House of the Port of Monterey in the Department of the Californias for the years 1844 and 1845

(Signed) Nicholas Gutierrez

Maritime Custom House of Monterey

(Signed) Pablo de la Guerra

By reason of the absence of the Administrador

(Signed) William Ed. Hartnell

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In the town of San José Guadalupe, on the third day of April A.D. 1845. before me Antonio María Pico first alcalde of the said Municipality and before the appearing witnesses with whom I act in due form besides the witnesses to this instrument whose names are mentioned at the end appeared and presented himself citizen William Gulnac, and declared that in behalf of himself, his heirs and successors and for any or either of them, who may have any right, title or interest thereon, that he sold and passed in the sale and perpetual alienation all the rights and property he possessed in the Rancho known and called "El Campo de los Franceses", to Don Carlos María Weber, a naturalized citizen of Mexico, and a resident of the said Pueblo, which (Rancho) he acquired by a grant made to him by his Excellency the Governor and Commandant General of this Department, Don Manuel Nicheltorena, under date of the 13th day of January A.D. 1844 which appears by the documents which he has presented and to which I certify I have seen, which said Rancho together with all the rights belonging thereto, he sells to the aforementioned Don Carlos María Weber for the sum of Two hundred dollars, one

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half in silver, and the other half in goods which now paid to the said vendor at the time of the act of sale thereby making the said sale from this date completely executed, in consideration whereof, he cedes all right of property, conception and possession, which he has in the said land to the said Don Carlos Maria Weber, and from this time, henceforth and forever, he divests himself, his heirs and successors of the property, Dominion, Possession and all other rights whatsoever in the above mentioned land which he cedes in favor of the said purchaser, that he may possess and enjoy it peaceably and devote it to such uses as he may think proper, and may enter and take possession of the said land which belongs to him, and to give firmness and validity to what in virtue of this sale the said vendor has done, he binds his person and goods both present and future, and with them he submits to the tribunal of the judge having jurisdiction thereof in whatever state they may be and for its completion to be held and considered as a sentence passed in the authority of a thing adjudged; and he renounces the benefit of all laws in his favor, in virtue whereof this document was made and signed before me and the undersigned apisting witnesses, in the absence of a Notary Public, the witnesses being Antonio Cuñal, Dolores Sachico, and José Fernandez

(Signed) Guillermo Gilmore

(Signed) Antonio Mª Pico

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(Signed) Dolores Pachico

(Signed) Antonio Sunol

(Signed) Jose Fernandez

We the undersigned Maria Isabel Cesena and children hereby declare that we agree to and approve of the sale made by my husband of the above mentioned land to Don Carlos Maria Weber, and for his security we sign the document before the existing witnesses to whom I give faith, in the Pueblo de San José, on the 3d day of April, 1845.

(Signed) Isabel Cesena de Galvez
(") Josefa Galvez
(") José R. Galvez
(") Antonio Sunol
(") Antonio Ma Pico
(") Ma. Galindo

Filed in office May 31st, 1852

(Signed)

Geo Fisher Jnr

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1848 255

Instructions for Survey A. P. Ls.

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U. S. Surveyor Generals office
San Francisco July 12, 1854

Sir; It being deemed important to the Government that the lines which separate the public lands from those claimed by individuals between the base line and the 3rd tier of townships north and between ranges 5 & 8 east should be ascertained and marked upon the ground, you are hereby furnished with such information as this office affords in relation to the limits of the tracts in those townships which are believed to be claimed by individuals

You are hereby directed to proceed to those Townships and after making all enquiries as you may deem necessary to ascertain the true limits of the public lands you will proceed to run and mark such lines as from the knowledge acquired you may have good reason to believe will be lines of the public domain and connect the same as far as practicable with any other lines heretofore run under the direction of this office

You will carefully preserve all documentary evidence of any kind which may be put in your possession affording any information in relation to these boundaries and enter in your notes such other important information in relation to the same, as may come orally to your knowledge, making due return thereof together with your field notes and your report, in which you will state in full your reasons for assuming the various lines you may survey under these instructions for the consideration and decision of this office

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As in some cases the lines which you may run may depend upon the true area of a grant in conjunction with its other boundaries you are hereby authorized to ascertain such other boundaries and its area for a full understanding of the matter at this office. In every such case you will run those lines in the same manner as if they were undisputable lines of the public lands and then obviate in any event the necessity for a resurvey

The boundaries separating the public from private lands should be carefully meandered and the courses and distances ascertained in chains and links Each course to be designated with the corresponding initial letters and numbered in regular succession

The variations of the needle should be accurately observed as frequently as possible and the survey made with reference to the meridian. Your chain must be tested by the standard in this office

Great care should be taken in all measurements and observations so as to preclude the necessity of a revision in the field at any time hereafter

Your field notes are to be accompanied by accurately protracted maps and in case of any area being ascertained by a correct taking of the courses and the contents resulting therefrom calculations from figures of decimals as in the system of Davis & Gunter

All observations and calculations in detail having reference to the ascertainment of the lines of any area of a

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150. 255 tract should be entered in your field book

I herewith enclose a copy of the instructions for the survey of Oregon, applicable also in this State which will show you more fully the mode required by the Department. Your affidavits as well as those of your assistants should be entered before commencing the work and after its completion

Wherever reference is made to Spanish or Mexican measure, you will consider the vara equal to thirty-three English inches and the square league as containing 4.340.4 27/100 acres

The lines of private grants should be exhibited in connection with those of the public survey as often as possible with a view to locate them hereafter with all precision

Very Resp'y &c

John C. Hays
U.S. Sur. Gen'l Cal

To
Wm. Jasper J. Whiting, Dep Sur.

P.S. I herewith enclose a copy of the lines run in the general survey in the neighborhood of the tract in question, also your appointment and the requisite oath and bond which are to be executed and returned to this office

John C. Hays.

Filed in office August 11. 1854

(signed) Geo Hinkle Secy

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1552 255
Instructions for
Survey
SB R.L.

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U. S. Surveyor Generals' Office
San Francisco, July 12, 1854

Sir: In connection with your instructions of today for the survey of the lines separating public from private lands, I herewith transmit for your knowledge and government a copy of a map, the original of which is annexed to a grant embracing within limits mentioned in your instructions. The "Expediente" in the matter on file in this office purports to show a grant for eleven square leagues between the rivers San Joaquin on the east and what is called the Laguna de Mc Cloud in favor of Guillermo Gulnac.

For want of a description of more definite boundaries the said copy of a map will serve as a guide to indicate that tract. That copy together with all the information you may be able to obtain in reference thereto will enable you to separate the tract from the public domain

Should you ascertain that there are other grants within the limits referred to in your instructions you will endeavor to obtain all possible information in relation to them and report the facts to this office for further action in the segregation of similar tracts

Very Respectfully &c
John C. Hays
U. S. Sur. Genl Cal

Jasper S. Whiting Esq
U.S. Dep. Sur. California

Filed in Office August 11th 1855

(Signed)
Ira Divine Secy

15-3

1574

No 788

Justo Larios et al

vs

The United States

Opinion

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The petitioners in this case to-wit: Justo Larios, Miguel Narvaez, Jose Antonio Bernal, Jose Juan Mesa, Geronimo Higuera, Teodocio Flores, Juana Margarita widow of Rafael Pelis deid, and Jose Ramon Gilroe, allege that they are a part of the eleven families referred to in the grant made D Guillermo Gilroe by Gov. Micheltorena on or about the 18th day of January, 1844. and for whose benefit jointly with said Gilroe the said grant was made, and that as such they now entitled each to one undivided fifth part of the land thereby conceded. They further allege that each of the above named petitioners had previously conveyed to Agustin Jovan a portion of their respective rights, titles and interests in said lands, which portion by reference to the petition of said Jovan before this Commission, appeared to have been one undivided two-third parts of their respective interests with the exception of Juana Margarita widow of Rafael Pelis and Eusebia Bernal, widow of Juan Martin deid who it is alleged in said last mentioned petition conveyed to said Jovan their whole interest in the premises — The present claim is for the remaining interest of the said petitioners in the land known as the Campo de las Pramuses and is founded on the following documents:

1st A petition of which the following is a translation:

"Most Excellent Sir: I the undersigned and Manuel Narvaez, Jose

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Antonio Bernal, José Jesus Mesa. Tiburcio Gomez, Geronimo Higuera copartners of Gulnac favored in the concession of French Camp with eleven square leagues, pray that in consideration that the title remains in the hands of William Gulnac, Your Excellency may be pleased to give us a testimonial that we are a part of the families favored in the title for which we will receive favor and justice

San José Gpe Dec 15. 1844.

(signed) Justo Larios +"

To this petition is annexed on the same paper the following certificate:

"This government is aware of the fact that the citizens, Justo Larios, Miguel Narvaez, José Antonio Bernal, José Jesus Mesa, Tiburcio Gomez, Geronimo Higuera are included in the eleven families favored in the (concession) and grant of (eleven square leagues) in the place known by the name of French Camp as set forth in the expediente in the name of William Gulnac

Monterey Dec 18. 1844

(signed) Manuel Micheltorena"

2d A similar petition purporting to be presented to José Ramon Gulnac in his own name and those of Teodocio Flores, Rafael Feliz, Juan Martin and Thomas Peres and praying for a like recognition of their rights under the grant to Gulnac dated Dec 18. 1844, to which is added the certificate of Gov. Micheltorena to the same effect in reference to their ap-

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plication as the one above quoted dated Dec. 21. 1844

The bodies of both those certificates as well as the signatures thereto are proven to be in the genuine handwriting of Governor Manuel Micheltorena by the deposition of Victor Prudon, and from the appearance of the writing and signature there can but little doubt that they were written by him. We might at once proceed to consider the legal effect of these documents and the rights acquired by the claimants under them, but there are circumstances connected with other portions of them calculated to create strong doubts of their genuineness and authenticity which we do not feel at liberty, & shall not without notice

The stamped paper upon which they are written is of a different texture and of a different water mark from that found in other papers of same kind, of unquestionable authenticity for the same year. The "rubrica" of Don Pablo de la Guerra attached to the certificate of "naturalization" differs so much from the rubrica of that gentleman found in the genuine papers as to leave little or no doubt of its being (an imitation) and that of Gov. Micheltorena to the same document is sufficiently unlike his usual rubrica to create strong doubt of its genuineness. The printed part of the certificate has evidently been executed with a different type and form from that found in the genuine papers with which it has been compared and the custom house seal on the same is made with a different die. Both the petition though purporting to be made at different times and by different parties are written by the

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same hand and with the same ink, and the appearance of the writing itself is very similar to that presented when a former manuscript had been obliterated by means of an acid and new writing substituted; This is particularly remarkable where the names of "Justo Larios" and "José R. Iglesias" appear as signed to said petitions.

We have deemed it proper to notice these suspicious circumstances apparent upon the face of the documents though we do not consider them essential to the decision of the case.

In the opinion of the Board in case No 255 by which are the land claimed in the present case now confirmed to Charles M. Weber, alias of Inclusa, the original grantee, we held that the effect of the grant was to vest the legal estate in Inclusa, subject to the condition that it should within one year be inhabited by eleven families. There is nothing in the grant itself nor in the expediente to show that any particular families were intended, but the grant was at liberty to select such families as might be willing to go upon the land and settle it in discharge of the condition. The evidence in the case shows that such was his understanding as he made various attempts to have the lands settled by different parties. It is true that the report of the Secretary contained in the expediente recommends that in case the land is solicited for the founding of a colony) the names of the eleven families should be inserted, but no final immediately afterwards the decree of Concepcion entered and the grant issued conveying the lands to Inclusa and declaring the

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ownership to be in him subject to the conditions.

It is very clear from the wording of the grant and the whole proceedings in the matter that the intention and effect of the grant was to vest the estate in Gilmore. Consequently the present claimants could acquire no legal rights in the premises, even admitting the genuineness and authenticity of the documents on which they base their claim. It will be observed that the certificate of the Governor is of the most vague and indefinite character; it does not profess to convey any new title, or rights in the parties, but merely declares that they are comprehended and favored in title to William Gilmore for eleven square leagues in the Punch Camp. This, if it amounts to anything, would only confer upon the parties an equitable interest according to the terms of the grant by which in order to entitle themselves to its benefit they should show that they had complied with the conditions by entering upon and inhabiting the premises

Again If the claimants in the present case were entitled to an equitable interest in the land, a confirmation to Gilmore or his aliens Heirs, would not affect their right but would create a trust in their favor to the extent of that contract which might be properly and legitimately asserted before the local Tribunals of the Country.

As the case is presented to us we do not consider that the parties have shown such an interest either legal or equitable as would entitle them to a confirmation by this Commission

A decree rejecting the same will therefore be entered

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Filed in Office April 24. 1855

Signed / Geo. Dishon Secy

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No 788 Justo Larios et al
vs
The United States

Decree

In this case on hearing the proofs and allegations it is adjudged by the Commission that the claim of the petitioners is not valid and it is therefore decreed that their application for a confirmation thereof be and the same is hereby denied

A. Augt. Thompson
S. B. Barnell
Commissioners

Filed in Office April 24. 1855

(Signed) Geo Dishon Secy

Order

And it appearing to the satisfaction of the Board that the land hereby adjudicated is situated in the Northern district of California it is hereby ordered that two transcripts of the proceedings and of the decision in this case and of the papers and evidence upon which the same are founded be made out and duly certified by the Secretary one of which transcripts shall be filed with the clerk of the United States district Court for the Northern district of California and the other be transmitted to 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 One hundred & sixty — pages, numbered from 1 to 160, 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. 788 on the Docket of the said Board, wherein Justo Larios, et, al, are the Claimants against the United States, for the place known by the name of "Campo de los Bruneses."

In Testimony Whereof, I hereunto set my hand and affix my private Seal (not having a Seal of Office) at San Francisco, California, this Nineteenth day of November A. D. 1855, and of the Independence of the United States of America the ~~seventy~~ eighty-ninth

Geo. Fisher.

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U. S. DISTRICT COURT,

Northern District of California.

No. 340 — 340

THE UNITED STATES,

vs.

Justo Soares, et. al.

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 588

Filed, December 1. 1855

[illegible] Clerk.

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United States District Court
Northern District of California

No 340

Justo Larios, Miguel Narvaez
José Antonio Barnal, José Jesus Mesa
Geronimo Higuera, Teodosio Flores,
Juan Mesquita, widow of Rafael Feliz,
deceased, Basiliza Barnal, widow
of Juan Martin, deceased, and
José Ramon Gulnack

vs

The United States of America.

The United States Land Commission to ascertain and settle private land claims in the State of California having rendered its decision in the above case designated on the Docket of said Commission as No 788 against the claim and title of the said claimants to the place or land called Campo de los Franceses, situated in said District, Notice is hereby given that it is the intention of the said claimants to prosecute their appeal from the said decision

April 1st 1856

Robert Symon
Claimants Attorney

No 340

United States Dist. Court
Northern Dist. of California

Justo Larios, Miguel
Narvaez - et al

vs

The United States of America

Claimants Notice of intention
to prosecute appeal

Campo de los Franceses

Filed April 16, 1856,
Chas. A. Sumner,
Deputy.

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In the District Court of the United States, Northern District of California.

Lusta Lanas et. als. Appellants
vs
The United States Appellee

Case No 340.
"Campo de los Franceses"
Francisco No 988.

To William Blanding Esq. United States District Attorney for the Northern District, California.

The depositions of sundry witnesses, to be used in the trial of the aforesaid cause in the District Court, for the claimants and Appellants, will be taken before John A. Mancer Esq, United States Commissioner, at his Office in the City of San Francisco on the 19th inst between the hours of 10 o'clock A.M. and 4 o'clock P.M. of said day and the taking of the same to continue from day to day between the hours aforesaid until finished.

San Francisco March 15, 1857.

Sloan & Wortman
Attorneys for Appellants.

Case No 340

In District Court U.S.

Northern District, California

Justin Lenian et: als:
Appellants

As

The United States
Appellees

Notice for taking depositions.

(Copy)

Service accepted
Mar 14. 1857.

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Sloan & Hentman
for Appellants

UNITED STATES DISTRICT COURT,
Northern District of California.

Justo Larias & als
vs
United States San Francisco, March 19 to 1857

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ON this day, before Levi Stewart a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came José Noriega a witness produced on behalf of the Claimants.

in Case No. 340, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 788 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows—his evidence being interpreted by L. H. Bloud — a sworn interpreter

PRESENT: U. S. Dist. Atty & Bloud & Hutchinson for Claimants.

QUESTION BY Counsel for Claimts

1st — Q What is your name age & place of residence?

Answer. José Noriega, 57 years of age and reside at San José

I am acquainted with the land claimed in this case known as the Cuesta de los Franciscos. and have known it for 18 years. A party of Canadians in the employ of the English Company at Columbia came there every year to hunt and from thence the name is derived. The company consisted of about eighty men. The land was first occupied by a colonization Company formed by a man named Gabilan. They went

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there in the year 1844. I know all the members of the Company and will try to give their names Guillermo Gulnac and his two sons, ~~José~~ Teodosio Flores, José ~~Jesus Lopez~~, Ignacio Gomez, Rafael Felix, Miguel Narvaes, Justo Larios Geronimo Higuera, José Antonio Bernal, Tomas Sims, Juan Martin Gulnac son the eldest was named José Ramon - The others were Children - I saw four or five of them in 1844 making a tule house. This was after the issuance of the title. I passed through there several times from 1844 to 1846. On some occasions as the head of a company accompanied by the Governor looking for Indian Robbers I passed by there - and at other times taking Cattle to Sutter at Sacramento - I saw always some of the Company in possession of the land. Sometimes two or three at a time but different ones. The others were in San Francisco quite sowing wheat to furnish bread for their families. There was an American called Sims in the house taking care of some Cattle & horses, the Indians made an attack and killed Sims burnt the house, slaughtered some cattle and carried the rest off to the Mountains, devastating completely the settlement I saw the remains of the house had been which

I saw the remains of the horse which

hunt, and gathering the neighbours I pursued the Indians, whom I found in large force and succeed in recovering part of the cattle and found the rifle of Sins on one of the dead Indians after the battle. I think this was about the end of the year 1844 or beginning of 1845. The families were afraid to return on account of the Indians continuing to overrun the place.

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Sometime before the formation of the Company Gulnac informed me of his desire to settle this land, but did not done do it alone on account of the Indians and said he wished to form a company to settle it. Gulnac formed the Company at San José and I living near Gulnac's house witnessed spontaneously on one occasion the above named persons meeting there as members of the Company to carry out the project of Colonization. They met very often. Gulnac was to ask for the title and they were to be all equally interested. Miguel Narvaez applied to me for some cattle in exchange for others cattle that were more distant from the Campo in order to furnish his quota. I know that sometime afterwards when they discovered that Gulnac had not inserted

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their names in the title, Justo Larias and Gilmaes, don José went to Monterey and got certificates of their interest from Governor Micheltoreno - I have never seen the certificates, it was generally known they had gone and got them - In the summer of 1844 the Company left San José to settle on the land. I think the Company was formed under the direction of the Judge at San José. because I once saw a list of the above prepared to be presented with the petition and intended to be laid before the Justice at San José - I always heard Lins was unmarried & he left no family or relations of any discription. Juan Martin is dead, leaving his widow Barcelea Bernal Martin and several children - Teodosio Flores is dead - leaving no wife - he had one brother & one sister - José Maria Flores & David Flores are his brothers - Rafael Feliz is dead - he left a wife & several children -

I think the rest of the Company are living José Noriega

Sworn to & subscribed
March 19. 1857 before me.
Jno A Monroe
U.S. Commissr

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Antonio Bernal sworn says
I am 35 years of age and my residence is in the City of San Josè. Guellermo Gulnac formed a Company in 1844 to settle a place called Campo de los Francesas - Counting Gulnac the Company numbered 12. Their names were Josè Ramon Gulnac Josè Antonio Bernal, Rafael Felis, Tomas Sins or Sinsey, (he was an American) Juan Martin, (called the Carpenter with whom I worked) Miguel Monroez - Teodosio Flores, Justo Larios, Tomasio Gomez, (a Hatter) and Simeon Heguira - and Josè de Jesus Mesa - of Monte Diablo - I saw the settlement in 1844; - houses built of Tule and a Corral - at the place called Campo Francesas. Different members of the Company were living there while others were sowing wheat at San Francisquito to provide sustenance for the Camp - I was taking cattle to Sutter and per account of Jose Monega, ~~and~~ in 1844. (In the beginning of the year 1845) on my return from one of these trips I saw the house built. On two occasions I saw members of the Company there - I saw Gulnacs son, Teodosio Flores Geronimo Heguira, Josè antonio Bernal Thomas Sins or Sinsey, and others whose names I do not recollect - The members of the Company were coming and going

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all the time. The Indians killed Lins, hunt the house, and stole the cattle & horses. This was sometime from the last of 1844 to the middle of 1845. Afterwards you could not go there on account of the bands of Indians who were constantly roving through the Country.

Soon after the company was dispersed from the Rancho, Justo Larios and José Ramon Gulnac went to Monterey and procured certificates from the Governor of their interests in the grant, they having discovered that Gulnac had procured the title in his own name, without having the names of the other members of the company inserted. I never saw the certificates but Larias and José Ramon Gulnac told me immediately on their return from Monterey what the object of their journey had been and that they had procured certificates of their interest. The Company met several times in Gulnac's house before asking for the title. I was present at several of them - The title was to be obtained for the benefit of the Company

Before José Ramon Gulnac & Justo Larios went to Monterey there were meetings at the houses of José Ramon Gulnac and Justo Larios, I saw five of them & the rest had gone

away, the rest having previously met at the house of Lainas

his
Antonio + Bonal
mark

Sworn to & subscribed
before me March 17. 1857.
Levi Moore
U.S. Consul.

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No 340.

U. S. Dist. Court.

Ignacio Sanchez et als

—vs—

The United States.

Depositions of
Noriega & Bernal.

Filed March 31. 1857.
W. H. Chevers
Deputy.

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UNITED STATES DISTRICT COURT,
Northern District of California.

Justo Larios et al
ads
The United States

San Francisco, March 20 1857

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ON this day, before John A Monroe a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came Eusibio Sibriano a witness produced on behalf of the Claimants.

in Case No. 340, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 788 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows—his evidence being interpreted by

I H. Blood a sworn interpreter

PRESENT: Sloan & Hartman for Claimants
W. S. Dist atty. –

QUESTIONS BY Attorney for Claimants

My name Eusebio Sibriano. 31 years of age residence Pueblo de San José.
I know the land called "Campo de los Franceses" in San Joaquin Co.
Before the Company was formed for the settlement of this land. I knew of a meeting of eleven persons Californias and others at the house of Guillermo Gulnac in San José and heard read a list of the persons with a petition to the Governor Micheltorena asking for a title to said tract of land for the benefit of Gulnac and seven other families whose names were upon the list. At the head of the list was Guillermo Gulnac and afterwards the names of Theodosio Flores, Rafael

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Felix, Juan Martin (the Carpenter) Thomas Lyns or Lindsay (the American) Justo Sainos José Gulnac, Miguel Navarez, José Jesus Misa José Antonio Bernal, Tiburcio Gomez (the halter) Geronimo Higuera, I Knew all these men personally as well as their families. They were all present at the meeting as well as many other persons who were looking on but the names of the above mentioned were read as those agreed upon to be interested in this Company— Before the month of August 1844 Higuera, Flores, and Rafael Felix left the Pueblo of San José to commence the settlement of the Campo de los Franceses and in the month of August of the same year G. Gulnac and his two sons, J. H. Bernal, Thomas Lynds followed with the same object. I think they were about four months there I do not recollect about the exact length of time. They abandoned the "Campo" because the Indians burnt the house there, robbed all the cattle and killed Lindo who was then living there. I think in the same year (1844) Justo Sainos and José Gulnac having discovered that the names of the Company were not set forth as agreed upon in the title received by Gulnac from the Govenor, went to Monterey and procured from Micheltorena certificates of their being equally interested in the grant of the "Campo de los Franceses". I have seen several times the certificate procured by Justo Sainos from Micheltorena in the possession of Justo Sainos and would know it if I saw it.

Ques- Look upon paper here shown you marked No 1 R T. the petition upon which is signed Justo Sainos + and the certificate on which date

Monterey December 15th 1844 Signed
Manuel Micheltorena and State whether
you have ever seen said document before and
When and under what Circumstances.—
Ans I had this document in my possession twice
340 ND once in the year 1846 and again in the year
PAGE 160 1847— I received this document from Justo
Larios having advanced to him small sums
of money and for security of which loans he
placed this document in my possession and
when the money was repaid I returned to him
the said document which he had left with
me as security.
I have never seen before today document here
shown me marked No. 2 R. F.
I know the hand writing of Micheltorena &
have seen him write once in Monterey at his
house— The two Certificates in the two docu-
ments above mentioned are in the hand writing
of Manuel Micheltorena— They Signature and
the rubricks to said Certificates are the Signatures
and rubrickas of Manuel Micheltorena and
in his own proper hand writing— I have not
the least doubt respecting the genuineness of
the Signatures to Said Certificats—
Theodosio Flores is dead— he left no widow
or Children— His brother Dionis Flores and his
sister Juana Flores intermarried with Salvio
Pacheco are living— Juan Martin is dead
he left a widow named Balvina Bernal
de Martin and Several Children—
Rafael Felix is dead— he left a widow called
Juana Nisqueli Feliz and Several Children
He knows no relatives that Thomas Lunds

or Lindsay left at the time of his death—
I would have known if he had left any
relatives due being well known to all the
residents of San José and never married
to my knowledge—

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Sworn to subscribed before me
this 25th march 1857— Eusebio Sibrian
Inot Munroe U.S. Commiss.

R. C. Hopkins being duly sworn says—

I am clerk in the Surveyor Genral's office
of the U.S. and in connection with another
am keeper of the archives thereof— I came
here today as a witness in this Case under a
Supoena "duces tecum" bringing with me
the documents marked No. 1 & 2 R.T. and
which had been testified to by the preceding
witness Eusebio Sibrian— These documents
are on file in Case No 788 of the late Land
Commission— I compared these documents
with Copies in the transcript of this Case
from the Board of Land Commissioners and
find the Copies therein contained to be
Correct on pages 12, 13, 16 and 17 of said
Transcript

Sworn to subscribed before me R. C. Hopkins
25th day March 1857.
Inot Munroe U.S. Commiss.

José Feliz being duly sworn testifies as follows

My name is José Feliz— my 63 years of age,
my residence is at the Pueblo of San José
I know the tract of land called the "Campo
of las Francesas"

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Guillermo Gulnac asked me to make one of a Company that he was forming to settle said tract of land about the year 1844 I refused to join because my children were all girls - I knew of the Company that was formed to settle said tract living in the next house to Gulnac. The Company was composed of eleven families or persons besides Gulnac - I know them all personally; at the head of the list was Gulnac who made the petition for the tract of land; ~~of them~~ the others were Rafael Felis, Thomas (the American killed by the Indians) Geronimo Higuera - José Antonio Bernal, José Ramon Gulnac, Justo Lairos, Imbucio Giniez, José Jesus Mesa, Miguel Narvaez, Juan Martin Teodosio Flores -

I saw the above persons at different times, making preparations to leave San José for the settlement of the tract of land called Campo de los Franceses. I saw Teodosio Flores, Higuera, Thomas (the American) Gulnac his sons leaving the Pueblo of San José for that San Jose - To the best of my recollection they occupied the land for about 3 or 4 months.

They abandoned the Campo de los Franceses on account of their dread of the Indians who killed Thomas (the American) stole their Cattle and horses and burnt their house - About the year 1844 José Ramon Gulnac & Justo Lairos having discovered that Guillermo Gulnac had received the title for the Campo de los Franceses in his own name without stating the names of the other Eleven interested with

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with him in said tract, went to Monterey and Proved of Governor Micheltorena Certificate of ~~their being~~ the eleven above mentioned being equally interested with said Guillermo Gilroy in said tract.

I saw these Certificates from Micheltorena in the hands of José Ramon Gilroy and Justo Larios after their return from Monterey.

José his X mark Felis

Sworn to & subscribed
before me this 20th day
of March 1857
Jno A Munroe
U.S. Commrs.

No. 340.

U. S. Dist. Court.

Insto Larios. et als.

-vs-

The United States.

Depositions of
Sibrian. Hopkins,
and Fells.

Filed March 31, 1857.
W. H. Sherrer,
Deputy.

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

Justo Sanoz et. als.: } Case No 340
vs } For "Campo de los Franceses"
The United States } Transcript No 788

To the Honorable the Judge of said Court.

The petition of Justo Sanoz Miguel Narvaez, José Antonio Bernal, José Segus Meza, Geronimo Higuera, Ysbureio Gomez, José Ramon Galluach, also David Flores, and Juana Flores de Packeco, heirs at law of Teodocio Flores deceased, Juana Mesquita Feliz, the widow of Rafael Feliz deceased, and Urbano Feliz, Rosaria Feliz, Celia Feliz, Mercario Feliz Dinfroza Feliz and José Feliz, the children and heirs at law of Rafael Feliz deceased, also Basilisa Bernal de martin, Mary Martin, Abelina Martin, Soledad Martin and Joseph Martin the widow and heirs at law of Juan Martin deceased, respectfully represent that the above cause is now pending in this Court on appeal from the decision of the Board of Land Commissioners in California whereby the claim of the Appellants was rejected as appears by the record and proceedings therein; that a transcript of the record in said case was filed in this Court on the 1st day of December 1856: that notice of the intention on the part of the claimants to prosecute said Appeal was duly filed herein on the 16th day of April 1856: that the land claimed by the petitioners lies in said District.

Your petitioners further represent

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that sometime in 1845. Tomas Luis (alias Thomas Lindsay) who was one of the Company for whose use and benefit the grant of land mentioned in this Case was made, was slain by the Indians, and died leaving no wife, children, or heirs at law him surviving as they are informed believe and charge to be true, and they are advised, believe and charge that his right and interest in said land thereby survived and vested in the other parties in interest or their heirs re=spectively.

They further represent that Rafael Feliz and Juan Martin, two of said company have died leaving their respective widows and children their sole heirs at law as aforementioned them surviving; that Teodocio Flores has also died leaving no wife, children nor parents him surviving but that David Flores his brother, and Juana Flores de Pacheco his sister are his only heirs at law; that Figur=-cio Gomez whose name was by mistake omitted in the petition presented before said Board is still living and entitled to an equal undivided interest of one eleventh in said land as one of said company; that the right to, and interest in said tract of land now vesting in the petitioners as aforesaid, consist of the undivided ten elevenths thereof in the manner following viz: In the said widow and heirs of Rafael Feliz, one undivided eleventh; in the widow and heirs of Juan Martin aforesaid one undivided eleventh, in the heirs of Teodocio Flores aforesaid one undivided eleventh; and in each of the other petitioners one undivided eleventh of said land.

Your petitioners pray that said

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cause may be accordingly revived in their names: that the decision of said Board may be reversed and that this Court may grant a decree herein pronouncing the claim of said petitioners to be valid, and confirming the same

Sloan & Kleinman
Attorneys for petitioners

No 340

In U. S District Court

Northern District California

Sesto Sarios et als.

vs.

The United States

Petition

Filed May 4th. 1857.

W. H. Chesnut.

Deputy.

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Sloan & Hartman

Attys for Petitioners

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Justo Sarios et al } No 340.
v
The United States }

On reading and filing the petition of Justo Sarios, Miguel Narvaez, José Antonio Bernal, José Jesus Mesa, Geronimo Higuera, Liburcio Gomez, José Ramon Gulnac, David Flores, Juana Flores Pacheco, Juana Mesquita Feliz, Urbano Feliz, Rosario Feliz, Celia Feliz, Mercario Feliz, Sinforosa Feliz, José Feliz, Basilisa Bernal de Martin, Mary Martin, Adelina Martin, Soledad Martin and Joseph Martin, in this case and on motion of the attorney for the appellants, it is ordered that the said cause be revived and prosecuted in the names of said petitioners as set forth in their said petition.

No. 340

Dist Court. U. S

N. D. California

Justo Larios et ux

vs.

The United States

Order.

Order to revive suit in name of parties mentioned in petition this day filed.

Filed May 4. 1857.

W. H. Chevers.

Deputy.

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UNITED STATES DISTRICT COURT,
Northern District of California.

San Francisco, April 7. 1857.

ON this day, before Cutler McAllister a Commissioner of the United States for the ~~Northern~~ District of California, duly authorized to administer oaths, &c., &c., came James. Butler a witness produced on behalf of the ~~Donee~~ Claimants - in Case No. 340, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 788 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — ~~his evidence being interpreted by a sworn interpreter~~

PRESENT:

Sloan & Hartman for Claimants and The U.S. Dist Atty.

QUESTIONS BY Plnts Attorney -

Ques- Your name, age & occupation -

Ans- James Butler - I am a draftsman in the U.S Surveyor generals office in this City -

~~Quest~~ - The documents testified to by the Witnesses Juan. B. Alvorado and Jose de Jesus Pico heretofore in this suit, were brought by me from said Surveyor Generals office and are on file in case No 788. of the late land Commission, and Copies of these documents ~~12 & 13~~ are on pages 12 & 13 and 16 & 18, in the transcript of this case in the office of the Clerk of the

United States District Court for the
Northern District of California.

I have today compared said copies in said transcripts with the originals and find said copies in said transcript to be correct. —

Subscribed & Sworn to James Butler
before me this 7. April 1857 —
= Cutler McAllister
US Commr

District Court of the
United States for the
Northern Dist. of
California
No 340 —

The United States
vs
Louis Lanier et al

Deposition of James Butler
in behalf of the Claimants

Filed May 5. 1857.
W. H. Chevers.
Deputy

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UNITED STATES DISTRICT COURT,
Northern District of California.

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San Francisco, April 7 1854.

ON this day, before Cutler McAllister a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came Juan B. Alvarado a witness produced on behalf of the claimants in Case No. 340, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 788 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows ~~his evidence being interpreted by a sworn interpreter~~

PRESENT: Sloan & Hartnett for Claimants & the U.S. Dist Atty —

QUESTIONS BY

The Atty for Claimants —

Ques 1 What is your name, age & place of residence —?

Ans 1 Juan B. Alvarado — I am 48 years of age — I actually reside in Oakland Alameda County —

Ques 2 — What official Station did you ever occupy in the department of the California under the European Government —?

Ans 2 — I occupied the office of Governor of California, & some other offices I was Governor from 1838. to 1842 — and political Chief in 1837 —

Quer 3- Who succeeded you as Governor of California?

Ans 3- General Manuel Michel-torrena-

Quer 4- Are you acquainted with the handwriting, signature and rubric of Manuel Michelltorrena

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Ans 4. Yes- I am acquainted with them-

Quer 5- Look upon the document here shown you marked No 1 R. G. and state in whose handwriting is the certificate in said document and whose signature and rubric are signed thereto-

Ans 5. I have examined the certificate upon the document marked No 1 R. G. now shown me, and find the certificate to be in the handwriting of Michel-torrena, and also the signature & rubric attached to the certificate to be, his genuine, ~~as certificate~~ signature & rubric-

Quer 6- Are you acquainted with the rubric of Pablo de La Guerra?

Ans 6 I am-

Quer 7- Look upon the same document just now shown you; and state whose rubric is thereon written near the top of the first page to the "habilitated" part on the right hand side-?

Ans 7- I have examined the rubric referred & find it to be the rubric of Pablo de la. Guerra-

Quer 7- Look upon document here shown you marked No 2. R. G- and

State in whose handwriting is the certificate in said document, and whose signature and rubric are signed thereto.

Ans 7 — I have examined the certificate upon the document marked No 2 R. L. now shown me, and find the certificate to be in the handwriting of Micheltorena, and also the signature and rubric to be the genuine signature and rubric of Micheltorena

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Ques 8. Look upon the same document just now shown you and state whose rubric is thereon written near the top of the first page to the "habilitated" part on the right hand side —?

Ans 8. I have examined it, the rubric is Pablo de la Guerras rubric —

Sworn to & Subscribed before me this 7 April 1857 — Juan B. Alvarado
— Cutler McAllister
U.S. Commr

United States Dist-
rict Court for the
Northern District
of California

No 340

The United States

vs

Justo Larios et al

Deposition of Juan B.
Alvarado a Witness pro-
duced on behalf of the
Claimants

Filed May 5. 1857.
W. H. Chevers,
Deputy.

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UNITED STATES DISTRICT COURT,
Northern District of California.

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San Francisco, April 7 1857.

ON this day, before Cutter McAllister a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came Jose de Jesus Pico a witness produced on behalf of the Claimants in Case No. 340, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 788 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — his evidence being interpreted by J. N. Blood a sworn interpreter

PRESENT:

Sloan & Hartman for Claimants
& U.S. Dist Atty

QUESTIONS BY

Atty for Claimants

Ques 1 Your name, age, and place of residence —

Ans 1 — Jose de Jesus Pico — 57 — San Luis Obispo —

Ques 2 Are you acquainted with the handwriting, signature, and rubric of Manuel Micheltorena

Ans 2 — I am acquainted with them all — I have seen him write and received letters from him — Micheltorena lived in my house several days

Ques 3 — Look upon the two documents

marked "No 1 R.F." and No 2 "R.F" and state in whose handwriting, are the certificates thereon, and whose genuine signatures, and rubric are signed to the same?

Ans 3. I believe the Certificates are in the genuine handwriting of Manuel Michelorena, and the signatures and rubrics thereto signed are the genuine signatures and rubrics of Michelorena

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Question 3. Look upon the same documents and state whose rubricks is written upon each, near the right hand corner of top of page, near the habilitated part.

Answer. I believe them to be the genuine rubricks of Pablo de la Guerra and am well acquainted with his rubricks.

Subscribed & Sworn to before me this 7 April 1864

Cutler McAllister
U.S. Commr

J. de Jesus Pico

United States District Court for the Northern District of California

No 344

The United States

vs

Justo Larios et al

Deposition of Jose de Jesus Rios a witness produced on behalf of the Plaintiff

Filed May 5. 1857.

W. H. Chevers.
Deputy.

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UNITED STATES DISTRICT COURT,
Northern District of California.

Suets Savis et al
vs
The United States

San Francisco, October 28th 1857

ON this day, before J Edgar Guymes Special Deputy appointed by the Dist Court a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came Daniel Murphy Thomas Brodley & José R. Juliac a witness produced on behalf of the United States

in Case No. 340, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 788 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — his evidence being interpreted by a sworn interpreter

PRESENT: C. L Gould representing the U.S. Dist Atty and E W. P Sloan Esqr for Claimants

QUESTIONS BY

1st Ques What is your name age and place of residence?
1st Ans My name is Daniel Murphy, 29 years old and I reside in Santa Clara County. I am a farmer.
2nd Ques. Do you know Lusibio Sibriano and how long have you known him?
2nd Ans. I have known him since 1845.
3rd Ques. Is he a man of pecuniary means?
3rd Ans. I do not know that he has any means ~~that I know of~~
4th Ques. What was his pecuniary condition when you first knew him?
4th Ans. He had nothing when I first knew him.
5th Ques. Was your acquaintance with the

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him such as would have enabled you to know his pecuniary condition?

(Question withdrawn)

6th Ques. What were your means of knowing his pecuniary condition?

6th Ans— I was very well acquainted with him and knew him to be a poor boy living in San José—

7th Ques. Since you just knew him has he been enabled to make loans of money?

7th - Ans— Never that I know of

8th Ques. Among the people of this County what was their habit when small loans were made with regard to the kind of security offered?

(Ques-Objected on the grounds that it is not pertinent)

8th Ans— Generally a horse, a serape or spur or something of that kind was offered for security—

9th Ques. What was and is the reputation of Eusebio Libriano for truth and veracity among his neighbors?

(objected to because the witness has not stated what it is)

9th Ans— About middling—

Cross Examination

10th Ques— In reply to the 7th question in your first Examination do you wish to be understood as saying that Eusebio Libriano to your knowledge never had made any loans of money or that you never knew of his having done so?

10th ans— I never knew of his making any loans and always have known him as living on somebody else

(The latter part of the answer objected to as

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not being responsive to the question)
11th Ques. Did you live during the period
mentioned in the town of San José or in
the County?
11th Ans. Both
12th Ques. Did you have any business connections ~~transactions~~ with Libriano during that time?
12th Ans. No Sir. Hee never done any business that I know of and it would be very hard for me to have any business with him
(The latter part of the answer objected to as not responsive to the question)
13th Ques. What business did you follow in the town of San José during the period mentioned?
13th Ans. I use to buy horses & cattle there and anything that came along that I could make a dollar from
14th Ques. Was you at the same time farming in the County?
14th Ans. Raising stock there
15th Ques. How near to the town of San José?
15th Ans. My place is 12 miles from the town. Sometime I lived there sometimes further.

Ian Mosby

Sworn to & subscribed before me this
28th day of October A.D. 1857

J. E. Garlington
Special Commissioner

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Thomas Bodley being duly sworn deposes and says in answer to the questions propounded

1st Ques- What is your name age, occupation and place of residence?

1st Ans. My name is Thomas Bodley, 36 years old- have been for the last 4 years under Sheriff of Santa Clara County ~~and~~ I reside in San José-

2nd Ques- Do you know Eusibio Sibriano and how long have you known him & where

2nd Ans- I have known since the latter part of 1849 & the beginning of 1850 in Santa Clara County-

3rd Ques- During your acquaintance with him has he been a man of pecuniary means?

3rd Ans- He has not so- He has always been considered a hanger on

4th Ques- Has he been engaged in any business since you knew him?

4th Ans- No visible business but a pretty good stroker at election

5th Ques Since you knew him has he been in a condition to make loans of money?

5th Ans- Not within my knowledge

6th Ques. What means have you had of knowing his pecuniary condition- State them fully

6th Ans- I have been the collector of taxes

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for the last four years - have frequently had occasion to be called upon for small loans of money - have paid his board and advanced the sums of money when I had occasion to use him - He never paid any taxes during that time in the County -

(The whole of the foregoing testimony objected to on the ground that it is incompetent, irrelevant)

Cross Examination waived

Sworn to & subscribed before me this 28th day of October A.D. 1857

J. W. B. Dudley

J. Edgar Guyne Special Commissioner

Examination adjourned until tomorrow at half past nine o'clock October 29 1857

J. Edgar Guyne

Special Commissioner

San Francisco Oct 29th 1857

Examination resumed at half past nine O'clock A. M.

José Ramon Gulnac being duly sworn deposes and says (his testimony being interpreted by the Commissioner) consent of all parties

1st Ques What is your name age & place of residence

1st Ans. My name is José Ramon Gulnac, 31 years old and I reside in the County of San Luis Obispo

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2nd Ques. Who was your father and where did he reside from the year 1840 up to the time of his death

2nd Ans. My father was Guillermo Gulnac and he resided in the Pueblo of San Jose ~~of~~ until he died ~~either~~ He died in 1851 or 1852 I do not remember what year of these two —

3rd Ques. Did your father petitioned for any land in California if so when, what land, did he get the land?

3rd Ans. My father petitioned for some land near Stockton in the year 1843 or 1844 for a colony named then "Campo de los Franceses" now called Stockton and got the title.

4th Ques. ~~Did your father taken~~ What did your father do concerning that land after he got that title?

4th Ans. He sold it. At first he placed cattle there in charge of a man who was killed by the Indians, and then he sold his grant —

5th Ques. From what place ~~was~~ were the cattle taken how many were there, was anyone with your father and if yes, who was he —

5th Ans. They were taken from San Josè to Sacramento where Sutter lived and thence to the Campo de los Franceses, I do not remember the quantity little more or less than 100 head my father and myself were the only persons interested in the cattle who drove the cattle to the "Campo de los Franceses" Leodocio

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Flores and an American called "Thomas" was hired by my father to drive the cattle - My father paid off Flores and the American Thomas staid behind to take of the cattle which he did until killed by the Indians -

6th Ques - Did any other person assist in driving the Cattle from Sutter's fort down to the Campo de los Francesa -?

6th Ans - Yes Sir there were my two brothers with us, a hired man named Joaquin Higuera José Buenaventa Salinas (a negro) and there Peter Lassing who drove his cattle in company with us but he was going North - He was from San José -

7th Ques. Mention those persons who joined your father at Suters fort?

7th Ans - From Sutters, my father myself two brothers, Flores, Ramon Peliz who joined us on the road he was from Sonoma Antonio Bernal and two Indians went to the Campo de los Francesas from Sutters Fort -

8th Ques - Did your father ever invite any person to come and live on the ranch -

(Objected to as leading)

8th Ans - He invited several

9th Ques - In what place did he give the invitation and what did he say?

(Objected to as incompetent)

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9th Ans- He invited them in San José I do not remember whom, also into the Campo de los Franceses-

10th Ques- About how many persons did he intvite?

10th. Ans- I do not remember the number but he asked permal to go and live there

10th Ques- Were they single persons or heads of families-

11th Ans- The most of them were head of families

12th Ques- Did any of them go of yea, give the names-

12th Ans- Theodosio Flores under wages, Bernal, the american Thomas,— These three were the only ones-

13th Ques- Do you know Justo Linas, Miguel Narvaez, José Antonio Bernal, José Jesus Nieto Geronimo Negrete Eubocio Gomez, Theodosio Flores, Jose Feliz & Juan Martin—

13th ans- I know them all

14th Ques- Did those men or any of them settle upon the ranch if yes which of them and under what circumstances and by whose authority did he go there?

14th Ans. None of them went to live there I did not see any of them myself—

15th Ques- Did anyone of them stay there for any length of time, if yes which one

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and under what the circumstances did he go there—

13th Ans— No one else but Thomas the American Did not see any other one—

16th Ques. Did any one accompany your father when he went to ask for the Grant?

16th Ans. I was the only one—

17th Ques— Where did you go to get it?

17th Ans— At Monterey—

18th Ques. In what year?

18th Ans— In 1843

19th Ques. Did you ever afterwards go to Monterey on any business touching this Grant?

19th Ans— After I got the title I never went back—

20th Ques. Did you ever go to Monterey or any other place to get a certificate touching the title of this Grant?

20th Ans. No Sir never

21st Ques. Did you ever go to Monterey in company with Justo Larios?

21st Ans— Never Sir—

22nd Ques. Did you ever return from Monterey to your home in Company with Justo Larios?

22nd Ans— No Sir never—

23rd Ques. From the time your father & you went after the grant until Gov. Nicholtorena left this Country did you

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have in your possession a certificate signed by the Governor touching the title to this Ranch.'

23rd Ans. No Sir-

24th Ques- Did you ever see such a certificate

24th Ans- I saw one in the hands of Don Juan Augustin - I only know him by that name - he is a frenchman-

25th Ques- How long have you known him and where have you known him to reside?

25th Ans- I believe it was in 1861 that he first came to the Pueblo and that I knew

26th Ques- Describe his personal appearance?

26th Ans- He came there and represented himself as lawyer - He is a middle size man, not stout - The first time I saw him he had no mustache the second time he had a little - he is not a dark complexion or dark - he is half a half - I do not remember the color of his hair

27th Ques- By what name is he generally called?

27th Ans- I only know him by the name of Juan Augustin

28th Ques- ~~By what~~ At your first interview with him upon what business did you she Converse?

28th Ans- He came to see me, to reclaim other persons

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~~my~~ rights for Stockton
29th Ques- Who commenced the conversation and what was first said?
29th Ans- He commenced to talk- He told me that I had claims to Stockton as a Poblador and that he was going to reclaim it for the Colony!
30th Ques- When & where did you next see him
30th Ans. I saw him afterwards either in 1852 or 1853- when he came back- In 1851 he told me that he was going ~~back~~ to Mexico. I saw him the second time in San José.—
31st Ques- The second time he called on you upon what business did he come?
31st Ans- The second time I met him was in the street he paid me a visit and told me he was going to Mexico.
32nd Ques- When & where did you next see him and on what business did you claim speak?
32nd Ans- after his return from Mexico he showed me a title in my name- I told him that I did not like it- He insisted upon my keeping this as a secret- This was either in 1852 or 1853 in San José
33rd Ques- What name was signed to this paper shown you

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33rd Ans- It had the name of Michaltorena ?

34th Ques Do you know the contents of the paper ?

34th Ans- It was a title ~~deed~~ touching the land of Stockton

35th Ques- Can you describe it more particularly ?

35th Ans- ~~I began to~~ I took it in my hand, began to read it not liking it I returned it to him & paid no more attention to it-

36th Ques. Was there any other names in this paper besides yours ? if yes what names

36th Ans. No other but I myself

37th Ques- Did he ask you to do anything in relation to this paper if so, what ?

(Objected to as incompetent irrelevant)

37th Ans- He wished me to come up here & swear that I had given him that paper - I refused - I told him that I did not wish to swear about this paper - He strongly insisted upon my doing it all one evening at last we quarrelled he went his way to return another day to my house - went to my ranch - and have never seen him since

38th Ques. You say he strongly insisted - in

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what way and in what manner?

38th Ans- I do not remember every thing he told at that time, he told me that there were others who were going to swear the same way that he wished me to do- He told me not to mention this to any one to keep it to myself and he told me that if this claim was confirmed that I should have a good interest in this case- I refused to swear to it- He told me not to fear any thing as he had some good lawyers in San Francisco Then I told him that we should see each other another day & I went to my ranch-

38th Ques What particular fact did he wish you to swear to-

38th Ans- He only wished me to swear about that paper-

39th Ques- What thing about that paper did he wish you to swear to-

39th Ans- He wanted me to swear that this paper came from my hands to his-

40th Ques Did he ask you to swear as to the mode in which the papers came into your hands?

40th Ans. Yes Sir-

41st Ques- What was it he asked you to swear to?

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41st Ans- He wished me to swear that I gave him the paper-
42nd Ques- What was it, he asked you to swear as to the mode in which the paper came into your hands?
42th Ans- That it was a title that the General had given to me and that this paper ~~was~~ was in ~~may~~ the trunk of my father- I refused to do this-
44th Ques- What General do you mean
44th Ans- General Nicholl Arena
45th Ques- Did he ask you to swear as to the manner in which the paper left your father's trunk? (Objected to as leading)
45th Ans ~~Next Ques~~ Yes I had found the paper there and had taken it out-

(All the foregoing questions and answers, the statements of the person called Don Juan Augustin are objected to on the ground of incompetency, inelevancy and because it is hearsay there appearing to be no reason why the said Juan Augustin may not be called and examined on oath touching the same matters of pertinent to the issue)

Cross- Examined

46th Ques- Do you know Charles Mc Arthur and for how long have you

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Know him?
46th Ans- I am acquainted with him since 1842 ?
47th Ques- In your first examination you said that you father had sold the Campo de los Frances- to whom did he sell it?
47th Ans- He sold it to Don Charles M. Weber
48th Ques When did you last see Don Carlos M. Weber
48th Ans- Here at this town- He is here ~~47th~~ during my examination -
49th Ques- Do you know Richad P. Hammond
49th Ans. No Sir- ~~I know~~ Mr Hammond being shown to him- he says that he knows him by sight since yesterday
50th Ques- How long have you lived in the County of San Luis Obispo?
50th Ans- Over three years-
51st Ques When did you last leave San Luis Obispo?
51st Ans- The 6th of October 1857. I returned ~~52th~~ to San Jose
52th Ques- Where have you been in the meantime?
52th Ans- I have been twice here since the 6th of October
53th Ques- At whose request did you come here

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to be examine as a witness?
53rd Ans. Mr C. M. Weber
54th Ques. How long since that request was made?
54th Ans. About the 25 or 29th ultimo by brother came down there and asked me to come up here ~~and~~ to give my testimony by request of Mr Weber
55th Ques. Did you ever communicate to Mr Webber the fact that you had Conversation with Juan Augustin touching the Campo de los Franceses?
55th Ans. Before Mr Webber spoke to me about it I never communicated it to him
56th Ques. When did Mr Weber first speak to you on the subject?
56th Ans. ~~Since~~ 4 years ago since Mr Webber ~~spoke~~ spoke to me about this. He has a paper from me.
57th Ques. What is the character of the paper
57th Ans. I testified before a Notary Public touching what Dr Juan Augustin had told me?
58th Ques. Was that testimony reduced to writing?
58th Ans. It was.
59th Ques. Is that written testimony the paper you speak of?

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59th Ans- It is just what I mean
60th Ques- Do you remember the time you gave the testimony
60th Ans- I do not remember the exact date-
61th Ques. Did you subscribe this paper
61th ans- I am not certain but I think I did-
62th Ques- Was you sworn to it?
62th Ans- Yes Sir-
63th Ques- Who drew up the paper-
63th Ans- I do not know who it was whether a Notary Public or not-
64th Ques- Was it written in English or Spanish
64th Ans- I believe in English
65th Ques- Was Mr Webber present when you swore to your affidavit?
65th Ans. Yes Sir he was-
66th Ques- Were you in Company with your father the first time he took his cattle to the Campos de los Frances"
66th Ans- Yes Sir-
67th Ques- From what place did you start ~~from~~?
67th Ans- From San José
68th Ques- Where did you cross the Bay
68th Ans- From San Jose to the Pastias- to the Pescadero on the Rio Joaquin- From thence to French Camp- From French Camp to "San jon de los Novas"- From thence by

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Mokelumne River passed across the
Cosumnes River thence to Sutter — and
from Sutter's back again to French Camp
6th Ques. Why did you drive the Cattle three
French Camp across those rivers up to Sutters
back & across those rivers to French Camp
again —
6th Ans. I do not know it was my father
who directed the way
7th Ques. How long did you remain at
French Camp after you returned from Sutters
Fort with the Cattle?
7th Ans — A very few days I was unwell
and returned to San José
7 1st Ques. Have you ever made that your
residence?
7 1st Ans — I returned there and stayed there
only a few days. I found the Indians
72nd Ques Were you there when the
Indians killed "Thomas"?
72nd Ans — No Sir —
73rd Ques. The second time you went to
French Camp who was there?
73rd Ans — No one —
74th Ques — What became of the Cattle if
there was no one there?
74th Ans — I mean by saying that I had
been there twice — is that before I went to

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Sutters with the cattle was once and when we returned to Bunch Camp from Sutters that's twice -

75th When Thomas was killed what became of the Cattle?

75th Ans - The Indians carried them off -

76th Ques - Do you know anything else about the death of Thomas except what you heard?

76th - Ans - I heard that the Indians killed him

77th Ques - In answer to the 8th direct question you said that your father invited persons to come and settle there - was this before or after he received the title?

77th Ans - I do not remember but I think it was after he had the title -

77½th Ques - Did not your father form a Company with others to settle that Ranch before he presented his petition to Genl. Vinchillanes for his title?

77½ Ans - My father after he had petitioned went once on a trip and invited some persons to form a Colony to go and live there - But no one of the invited ones went there - One or two Mexicans and the deponent Thomas were the only ones who went there, whom I saw - Antonio Bernal was also there -

78th Ques. Was not this Company formed before your father presented his petition?

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77th Ans- I do not know about that -
78th Ques- Sir you ever read the petition of your father or did you ever hear it read?
78th ans- I recollect of hearing it read - it is so long a time ago I do not remember it?
79th Ques- Do you remember the fact that that petition states that his father had formed a Company-
79th Ans- I recollect that it was made for a colony-
80th Ques- Do you not remember that the petition solicits a concession of the land for the petitioner and eleven others?
80th Ans- Yes I recollect that it was for the petitioner & eleven others-
81st Ques- Do you remember if the "vista la petition" states the same thing-
81st ans- Yes Sir for himself and 11 other head of families
82nd Ques- Who were the eleven-
82nd Ans- The invited Guillermo Galvan, José Galvan, Justo Lario, Miguel Narvaez Teodosio Flores, José Juan Musa Antonio Bunal Juan Martinez. I Recannot remember them all - there were more than 11 families invited to go there but none went
83th Ques- How long after your father

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presented the petition did he receive the titulo?
84th Ans- He presented his petition in the
latter days of 1843 & received the title in
the beginning of 1844.
85th Ques- Do you not recollect that ~~Chaplin~~
the petition was ~~granted~~ presented the Govern-
ment required the names of the Colony to be
furnished before making the grant?
85th Ans- No Sir I do not recollect-
86th Ques- In what year did you first meet
Don Juan Augustin-
86th Ans- Either 1851 or 1852-
87th Ques- Is the certificate that you saw in
hands of Dn Juan Augustin was in the first interview?
87th Ans- No Sir a year afterwards-
87½th Ques- was it in the 2nd Interview or the
third one? it was during
87½th Ans- The third Interview of conversation
88th Ques- What was the subject of the first
interview?
88th Ans- The first time I saw him was
Concerning Stockton and my claims to it as
Poblador
~~89th Ques- How long was it before the first~~
~~2nd~~
~~third interview~~
89th Ques- How long was it after the
first interview before they had the second?
89th Ans- One or two months- about a little while
after.

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90th Ques- How long between the second & third-
90th Ans- About a year- a little more or less-
91st Ques- Was it on the third interview that you saw the title in your favor signed by Nicholloena?
91st Ans- Yes Sir-
92d. Ques- Did you ever see a paper of that kind in the hands of Juan Augustin before the 3rd Interview?
92d. Ans No Sir-
93rd Ques- Did you ever make a conveyance to Juan Augustin for your interest in that ranch or part of it?
93rd Ans Before I had seen that paper I had given him a conveyance-
94th Ques- How long before?
94th Ans- A little more or less than a year before I saw the paper-
95th Ques- Was it during one of those previous ~~Ques~~ interviews that you made that conveyance?
95th Ans- I do not recollect whether it was the first or second interview-
96th Ques- Is that the only writing that you gave him?
96th Ans No Sir-
97th Ques- Did you ever give him a ~~procuracion~~ power of attorney?
97th ans- I mean by conveyance a power of attorney- "tres pado"- I mean "poder"
~~(Excepting that the word conveyance is used the customs~~

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and when I ~~stated~~ stated that I had given Juan Augustin a Conveyance I meant a power of attorney—

98th Ques— Were you present when your father sold to Don Carlos Weber?

98th Ans— I was not present when he sold he showed me the bill of sale—(la venta) I was witness to the sale—

99th Ques— Did you sign it in anyother light than as a witness?

99th Ans— I signed the sale so that I could not reclaim any thing— I remember signing it only once—

100 Ques In whose presence did you sign it?

100 Ans— My father & mother brother and the one who now holds the title—

/

Examination adjourned until tomorrow at 10 o'clk A. M. October 30th 1857

J. D. Graham

Special Commissioner

Examination resumed San Francisco October 30th 1857—

~~Ques 101~~— At this point Counsel for the Claimants called upon the Insp. C. M. Weber & Rich'd P. Hammond for the original affidavit which the witness says he made—

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who stated that the original was lost and could not be produced and that it never was in their hands since it was published- A copy was then produced hereto attached which was agreed to be used in lieu of the original and is admitted to be a copy

On the 16th day of June, 1853, before me, Thomas L. Vermule, a justice of the peace of the county of Santa Clara, in the State of California, at my office, in the city of San Jose, personally came Jose Ramon Gulnack, who is a resident of said county, and who is personally known to me, and who, being by me first duly sworn according to law, did upon his oath solemnly declare—I am acquainted personally with Augustin Jouan, who represents certain claims to the Rancho de los Franceses, in the county of said San Joaquin, in said State. I was acquainted with the Augustin so far back as the year 1848 or 1849, that is, had a knowledge of him by sight, but had no communication with him at either of these periods. The first time that I was approached by Augustin Jouan, on business, was in June or July of the year 1852. I was at the last mentioned period solicited strongly by the said Augustin Jouun to give him a power of attorney to manage and control and claim a certain interest in said rancho, which he insisted I had therein. He said that I was an injured man, and had rights which others had dispossessed me of, and that if I would give him the power of attorney he would pay all the costs that might accrue in the management or claim of my supposed interest in the rancho, and that I would make an independent fortune out of the matter. Under these representations made to me by the said Augustin, I consented to give him a power of attorney, and shortly afterwards he presented two instruments in writing to me. One of them was a power of attorney concerning my supposed interest in the said rancho, and another of said papers was a conveyance to the said Augustin of the whole of my supposed interest in the said rancho—both of which papers, at the solicitation of the said Augustin, I signed.

He did not pay me anything for the supposed interest which I conveyed to him, but said to me that if he succeeded in recovering my supposed interest in said Rancho, he would give to me two-thirds of what might be recovered, and one-third he would keep for his own use. About six weeks ago the said Augustin Jouan again came to me and showed and exhibited to me, for the first time, a paper which I had never before seen, and of the existence of which paper I had then so far, no knowledge whatever. This paper bore date, 18th day of December, 1844, and purported to be signed by Manuel Micheltoreno, late Governor of the Department of the Californias, and which certificate purported to be set forth that the grant of the Rancho aforesaid, which was made in the name of my (now deceased) father, William Gulnack, as the only grantee named therein, was, in fact, made for the benefit and behoof of eleven other families, who, and each of whom, had equal rights in said grant with the said William Gulnack, although the said William Gulnack was the only grantee named therein. The said Augustin said to me that it would be necessary to establish and show by proof that this certificate of the said Micheltoreno was actually in existence in 1844, and that he wanted me to establish its existence at that period and ever since that period, by my own evidence, as a witness; and at the further solicitation of the said Augustin, I did give to him a written statement that the said paper above named, as signed by Micheltoreno, had existed from the year 1844, down to the present time, and that since my father's decease I had found the said certificate of Micheltoreno in a trunk of my father's, and among other papers of his in said trunk, and that my father, William Gulnack, at the time he sold the said Rancho to Charles M. Weber, did not show or deliver the said certificate of Micheltoreno to the said Weber, but retained and secreted the same.

This is the substance on the written statement which was given by me to the said Augustin, as I recollect it from the paper being read to me before I signed it, but if this statement of the contents of said written statement so given by me as aforesaid is not entirely correct, the original statement in the hands of said Augnstin will show for itself. The said Augustin then said to me that I must swear to the matter contained in that statement which I had given to him, whenever I should be called to any court for that purpose, which proposition to swear to the contents of said statement as given by me to the said Augustin as aforesaid, I absolutely refused to accede. The written statement which I signed and gave to the said Augustin at his solicitation, as also set forth, was and is untrue in point of fact, and was written by the said Augustin or gotten up by him to support the claim which he made to said Rancho, the said Augustin well knowing at the time that the statements contained therein were untrue, in point of fact, and that the whole matter was a fabrication gotten up by himself.

JOSE RAMON GULNACK.

County of Santa Clara, ss:

On the 16th day of June, A. D., 1853, personally appeared before me Jose Ramon Gulnack, known to me to be the same whose name is signed to the foregoing affidavit, who, having had the same translated to him by a competent and sworn interpreter, and being duly sworn upon his oath, saith, that the above statement is true.

Given under my hand, at the city of San Jose, the day and year just above written.

THOMAS L. VERMULE, J. P.

Ques 101- Did you not state in the affidavit mentioned by you yesterday that you signed two documents for Don Juan Augustin in 1852. One of which was a conveyance of his interest in the said ranch and the other a power of attorney?

Ans 101- I ~~believe~~ recollect said that I of having signed two papers

Ques 102. Did you testify truly yesterday when you said you signed but one?

Ans 102- You did not ask me whether I had signed a list. I said that I signed a power or trespass

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Ques 103. When you said yesterday that you had given Juan Augustin a "traspaso" and afterwards said by "traspaso" you meant a "poder" what idea do you mean to convey?

Ans 103 – I do not know the affference a "traspaso" or a "poder" is the same thing to me – I have not much acquaintance with these things –

Ques. 104 – Do you not know the meaning of the word "Sale" (Venta)

Ans 104 – A "Venta" is a "venta" –

Ques 105. When he gives his title of his own property to another man what does he called that?

Ans 105 – I have very little experience in these things and do not really know whether such a paper would be a "poder" or a Sale" for me it would be a sale – but I do not swear that it is a sale for I do not know what these transactions are called –

(At this point of the Examination Mr J. M. Crane was called in as Interpreter and acted as such)

Ques 106. At the time you signed that affidavit did you know the affference between a power of attorney & a sale

Ans 106 – I do not know because I do

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know whether it was a power of attorney or a Sale—

Ques 107- Did you ever know understand the Difference between a mere sale and a Power of attorney

Ans 107- According to my views a power and a sale not having been paid as in this case is one and the same thing

Ques 108- Did you understand the contents of that affidavit of which the foregoing is a Copy at the time you were sworn to it and you signed it—?

Ans 108- I do not know what I signed for I signed it privitly because my mother ordered me—

~~Ques 109~~— The witness explain that the paper he signed by the solicitation of his mother was for the lands in San Francisco but the affidavit that he signed X for Charles in San Jose in 1853 of which the foregoing is a copy In Weber was one voluntarily and that he knew the contents of said affidavit at that time—

Ques 109- In that affidavit that you made for C M. Weber you state that you signed for Juan Augustin. that one was a power of Attorney & the other was a Conveyance in the Land- If you understood the diffrence between those two then, how does it happen

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that you do not understand it now.
Ans 109. I recollect signing two papers
whether they were both powers or both Conveyances I do not remember—

Direct resumed

Ques 110— Can you read write or speak the ~~Spanish~~ English language?
Ans 110— No Sir—
Ques 111— Witness is shown a document purporting to be signed by José R Guinaca and Manuel Micheltorena and marked on the margin "No 2 R J" and is asked if he signed said document if so at what date—
(Question objected to because it refers to a subject matter which properly pertains to the examination in chief & not to the re examination of the witness after he has been cross Examined)
Ans 111— I think it is my signature— it is very pale it appears to be mine— It appears to be and it appears not to be the paper is very old— I will not swear that it is my signature— ~~I am the same as~~
The above named document being read to the witness by the Interpreter says that he will swear ten thousand times that he never signed ~~that document~~ such a paper as that— At that time in 1844

I was 18 years old and not of age and there was no necessity of my ~~asking~~ requiring ~~for a~~ such a petition for my father who was never dead had a title for those lands - for I myself was interested in it - My father was the head of the ~~family~~ colony as far as his family was concerned -

Cross Examination resumed

Quest 112. The witness is shown a Document marked "Doc No 2 annexed to the deposition of Antonio Maria Pico in the record No 255 transmitted to the Surveyor General's office by the Board of Commissioners and his attention is called to the name of José R. Gulnac near the foot of the 4th page of said document and is asked if that is genuine signature

Ans 112 - It appears to me that it is but I ~~prefer~~ prefer to read the whole before I swear to it -

Ques 113 - Are you perfectly certain that it is your signature without reading the whole Document

Ans 113 - It appears to me to be mine but I will not swear to it without reading the Document

Ques 114 - Are you acquainted with hand writing with Panfilo Gulnack?

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Ans 114 - Ithinkis three years since his death and I do not remember his signature

Ques 115 Look at the name of Pamfilo Galvan written above your own signature on said document and state whether you recognize it as his genuine signature?

Ans 115. It appears as his signature but I cannot swear to it -

Ques 116. Do you recognize the handwriting of the six lines written on said document just above said signatures

Ans. 116. I seen said document before but I cannot remember whose handwriting it is -

Ques 117. Do you recognize the handwriting of the body of the instrument on the 1st 2nd & 3rd pages

Ans 117 - I do not know whose handwriting it is whether my father brother or some one belonging to the house -

Ques. 118 - Do you mean to say that it is in the handwriting of some of the family -

Ans 118 - I cannot swear to it - I cannot remember I do not know who wrote it -

Ques 119 - Does it look like the handwriting of your father or any ~~one of them~~ member of your family

Ans. 119 - It is so long a time since I saw the handwriting of my father that I do not

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recollect - I have a poor memory
Ques 120 - Please describe the difference between the signatures on the first document and the signature of on the 2nd document which has been shown to you?
Ans 120 - The signature on the 2nd document appears to be mine but the one on the 1st document is not mine for I never signed said document you can find a difference if you choose -
Ques 121. Do you remember of having signed document No 2.
Ans 121 - Yes Sir -
Ques 122. Do you remember of whether Salvador Antonio Maria Lugo & Antonio Maria Pico were present when you signed it and whether they signed it themselves as subscribing witnesses?
Ans 122 - I do remember whether they were present or not - or whether their names were there or not - when I signed it -

Sworn to subscribed
before me this 30th Day
A.D. 1857

José R. Leduc

J. Ogan Guymon

Special Commissioner

340.

U. S. Dist Court

Justo Lanos et al
vs
The United States

Depositions of Daniel Murphy, T. Brodley & P. R. Zulueta

Filed October 30th 1867

H. D. Gallagher
Deputy

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

The United States
Appellant. No 298.
vs.
Charles M. Weber.

Stated Term. May 1. 1856

An appeal from the decision of the United States Commissioners appointed by the President of the United States for and with the consent of the Senate, under the Act of Congress of the 3d March 1851 entitled an "Act to ascertain and settle the Private land claims in the State of California

The appeal in the above stated case coming on for hearing before the United States District Court for said District, at a stated term thereof, from a decision of said Commissioners on the Record of the same, the proofs, petition and answer and the United States Assistant District Attorney having appeared for the Appellants, and Counsel for the Appellees having also appeared, and it being made manifest to the satisfaction of the Court that the lands in this case claimed is situated in said Northern District, on full

consideration

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consideration, it is ordered, adjudged and decreed that said claim is valid

It is further ordered, adjudged and decreed that the decision of said Commissioners in this case heretofore rendered, is in all things affirmed

It is further ordered adjudged and decreed, that the land, the title to which is hereby confirmed, is of the extent of Eleven Square leagues and no more, is "Situate in the County of San Joaquin in said State and District and described in the Grant as consisting of Eleven Square leagues and called "Campo los Franceses" lying between the San Joaquin river and "Laguna de McLeod" to be Surveyed according to the grant, and the Map accompanying the Espediente on file in this Case reference being had thereto

(signed) Ogden Hoffman Jr
U S Dist Judge

Filed May 1. 1856.
John A Monroe Clerk
By W. H. Chevers
Deputy.

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I John A Monroe Clerk of the District Court of the United States for the Northern District of California Do Hereby certify the foregoing to be a full true and correct copy of the Original now on file and remaining of Record in my Office

In testimony whereof I have hereunto set my hand and affixed the Seal of the said Court this 20th day of December A D 1853.

John A. Monroe Clerk
By Hague Gyrne Deputy

Case No 344

In the Dist Court of the U.S

Justo Lanis et als

vs

The United States

Deed in Case No. 298

Filed Decr. 21st 1857

J. Ryan Gryme

Deputy

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In the District Court of the United States,
Northern District of California.

Justo Larios et. als:
Appellants
Vs.
The United States
Appellees.

Case No. 344.
"Campo de los Franceses"
Land Commission No. 788.

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Adolfo Sellman of the County of Alameda and State of California, being duly sworn upon his oath says that he is acquainted with Juana Mesquita Feliz, and that she is the widow of Rafael Feliz deceased, that he is also acquainted with the children and heirs at law of said Rafael Feliz who are respectively named Urbano Feliz, Seinforozo Feliz, José Feliz, Mercario Feliz, Rosario Feliz, and Celia Feliz, and all of whom are yet living.

Affiant further says he is well acquainted with David Flores and his Sister Juana Flores de Pacheco who is intermaried with Sabrio Pacheco, and that the said David and Juana are the only surviving heirs at law of Teodosio Flores deceased, and who at his death left no widow, or children as next of kin him surviving except as aforesaid

Adolfo Sellmann.

Sworn to and subscribed before me this 5th day of December A.D. 1857.

J. B. Kenney

Case No. 344.

In District Court U. S.
Northern District.

Justo Larios et: als:
Appellants
vs.
The United States.
Appellees.

Affidavit of
Adolfo Sellman.

Filed Dec 21st 1857
J. Edgar Jaynes
Deputy Clerk

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Justo Larios et al

IN LAND CASES.

Dist. Court No. 340

Land Com. No. _____

BE IT REMEMBERED, that on this 11th 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 United States 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: Wm H Sharp Esq, U. S. atty, for U.S. and E. W. F. Sloan Esq for claimants

QUESTIONS IN BEHALF OF THE United States.

Question 1st,

State your name, age, place of residence and occupation.

Ans.

R. C. Hopkins - of lawful age - residence San Francisco - occupation Keeper of

the Spanish and Mexican archives in the custody of the Surveyor Gen'l. of the U. S. for California.

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I now produce from the files of the Land Commission two original papers filed in case N°. 288 on the docket of said Board, in which Justo Larios and others are claimants. Said papers purport to be certificates given by Gov. Micheltorena to the parties therein mentioned.

Exhibit Hopkins N°. 1, to be filed with this deposition, is a photographic copy of said original papers.

The rubricas of Micheltorena and Pablo de la Guerra to the habilitation of the paper on which said original documents are written do not appear to me to be the genuine rubrics of those officers; and the Custom House seal appearing thereon appears to me to differ from any other seal found in the archives or in the papers of the Land Commission. With the handwriting

of the petitions found in said documents I am unacquainted. The certificates, however, signed by Governor Micheltorena are, I think, in his own handwriting.

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Cross Examination.

I produce the original deed from Gulnac to Weber for the Rancho Campo de los Franceses, filed in case No. 255 on the docket of the Land Commissioners on Jany 8. 1853, marked "Doc No. 2, annexed to the deposition of Anto. Ma. Pico," in which the vendor, Gulnac, says: "Vende y da en publica venta y enagenacion perpetua la accion que posee en el Rancho llamado el campo de los Franceses" — the word "la" in above quotation, immediately preceding the word accion appears to have been changed from the word "una", having originally read "una accion". The ink with which the alteration of "la" from "una" was made is darker than the rest of the writing.

Subscribed and sworn
before me this 11th day
of June 1862.

W. D. Sheard.
U. S. Com.

B. C. Hopkins.

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No. 340

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

Justo Larios et al

DEPOSITION OF

R. C. Hopkins

on part of United States

Filed June 11. 1862,

W. H. Chevers,

Clerk.

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SELLO CUARTO DOS REALES.

Habilitado provisionalmente por la Aduana marítima del puerto de Monterrey, en el Departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

Micheltorena. Pablo de la Guerra.

N.° 2 R.S.

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Exmo. Sor.

Ante V. E. comparesco y digo, a mi nombre y de D. Teodoro Flores, Rafael Feliz, [illegible] Martin y de Tomas Diaz, se sirva V. E. darnos en solicitud por escrito, q. somos compañeros de Gulnac en la denuncia [illegible] por [illegible] con un sitio de ganado mayor, [illegible] de [illegible] solteros, pero [illegible] de casarnos.

Sn. José de Gpe. Dire. 18 de 18[illegible]

José [illegible] Gulnac

Los cinco individuos nombrados en la peticion q. antecede [illegible] Teodoro Flores, Rafael Feliz, José Ramon Gulnac, todos ciudadanos mexicanos y Juan Martin, [illegible]

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y formar lista de los norteamerica-
nos comprendidos y agraciados
en el titulo encabezado a nombre
de Guillermo Wulfe, el cual
titulo consta de once sitios
de ganado mayor en el
campo Nacer. Monterrey Di-
ciembre 27. de 1.826.

Man.l Iglesias Pª

49

SELLO CUARTO DOS REALES

Habilitado provisionalmente por la Aduana marítima del puerto de Monterey, en el departamento de las Californias, para los años de mil ocho cientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

Micheltorena. Pablo de la Guerra.

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familias agraciadas en las concesiones y
donaciones de once sitios de ganado
mayor en el paraje nombrado
Campo Flores como será mencio-
nado en el Expediente y Mensura
de Guillermo Graham —

Monterey Diciembre
17. de 1.844 —

Manuel Escobedo

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U. S. District Court

The United States

vs

Justo Larios et al

Exhibit Hopkins No. 1.

Filed June 11, 1862.

W. A. Clevert.

Clerk

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Justo Lucios et als
vs
The United States } No 340. ND

The Expediente in this case shows that on the 14th January July 1843 William Gulnac presented a petition to the Governor setting forth that he was married to a Mexican woman by whom he had a numerous family for which he desired to provide before his death — & that he was possessed of 200 head of cattle and mules horses and mares to the number of 40 — He further stated that three more others of his class also married to Mexicans who had bound themselves to be in his company for the purpose of forming a kind of Pueblo in the country and that in order to carry this into effect, and for the security and increase of his property, and that of the persons who had agreed to live in company with him he asked permission to occupy eleven leagues as shown by the map &c

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On this petition the usual informes were asked — ~~The de~~ ~~Boots~~ ~~due~~ to ~~all favorable~~ — From this language of the report it would seem that the ~~the~~ officers considered the application as made by Gutiaz alone, for a title to be issued to himself —

The report of Estrada commences as follows. "Don Guillermo Gutiaz a naturalised mexican requests in the present petition that there be granted to him by your Excellency the land named "Campo de los Franceses" &c and it concludes by stating that "This Prefecture finds no objection to the land being granted to the said Gutiaz" &c

From a ~~letter~~ ~~from~~ ~~the~~ ~~Prefecto~~ whose informe is also annexed to the petition ~~it~~ it is that the land which Senior Don Guillermo Gutiaz ~~solicita~~ ~~of the Govern~~ ~~as~~ as a citizen of the Mexican Republic asks of the Government is vacant."

I mean however of those the Governor asked as usual a report

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3 suggests that "although Gulnac
" is entitled to have his petition
" attended to, yet it would be
" proper to know whether the extension
" he solicits is for the formation
" of the colony he mentions - for
" in that case the names of the
" persons who form it should be
" expressed in order that in the ti-
" tle it may be expressed that
" the land is for the benefit of
" all, but if he petitions for the
" place for himself the extent is
" very great" &c

On this report Gov Michelorena issued an order requiring the persons interested to say whether the land was asked for a colony and in that case that the title should mention the names of the partners - but if he requests it for himself individually that he ask for it within more moderate limits -

It does not appear that this order was complied with - On the contrary it seems to have been waived for about 12 days after a decree of concession issued

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4 ~~setting forth~~ declaring that eleven square leagues of land are granted to Don Guillermo Gulnac for his personal benefit and that of his family and that ~~that~~ of ~~eight~~ eleven other families"—
The names of these families are not mentioned
On the same day the title issued It recites that whereas Don Guillermo Gulnac has solicited for his personal benefit and that of his family and that of eleven other families the land known &c I have conceded to him the land mentioned, declaring to him the ownership of it &c—
The Conditions are in the usual form ~~but~~ and refer exclusively to Gulnac as the sole grantee ~~on~~ He shall not sell mortgage or alienate it &c
He may enclose it &c
He shall ~~solicit~~ the judicial possession &c
If he contravenes these conditions he shall lose his right and the land will be denounceable by another.

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5 A claim for the eleven leagues thus granted was presented by C. M. Weber who had succeeded to the rights of Juhaas which was confirmed and a patent has been issued ~~in the name~~ to the Claimants —

A claim was also presented to the Board in the names of Justo Sainos and others the present appellants, demanding a confirmation on the ground that they included in the eleven families ~~for whose~~ named in the concession And that each of them was equally interested in the grants and had an equal share therein with Juhaas therein — ~~and that each was entitled to an undivided twelfth part of the land~~ —

This claim was rejected by the Board mainly on the ground that the effect of the grant was to vest the legal estate in Juhaas subject to the condition that it should be inhabited by eleven other families — and that there was nothing in the grant or expediente to show that any

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6

particular families were intended but the grantee was at liberty to select such families as might be willing to go upon the land and settle upon it in discharge of the condition.

Pending this decision of the Board an appeal to this Court has been taken.

Additional testimony has been introduced with a view of identifying the eleven families as those whom Gilmore proposed to settle upon the land or who agreed to form his Company.

Evidence has also been taken tending to show that some of the Appellants settled upon a portion of the land —

But these inquiries in the view I take of the case are immaterial for I consider that the claimants by acquired by the grants no interest which entitles them to a decree of confirmation in this Court —

That by the the legal estate vested in Gilmore by the Concession & title is evidently from the Appellants

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from

7 terms of those documents and by
the previous proceedings —
In the informes of the officers the
qualifications of Salvac above are
referred — The petition is
treated as an application for a
grant to him alone, and the
Governor is informed that there
is no objection to making the
grant to him of the land he
solicits —
Had it been supposed that
the grant was to be in effect
to him and eleven others per-
sons it is reasonable to presume
that their qualifications as to citi-
zenship &c would have been
inquired into and reported
upon —
The decree of concession explicitly
declares that the land is
conceded to Guillermo Salvac
and the title uses the same
expression and declares to him
its ownership —
The conditions too, all refer
to acts to be done by or instructions
imposed on him alone —
and the last one declares that

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8 in case of their breach he shall lose his right to the land and it may be demanded by another—

As observed by the Supreme Court of this State in Bumgeyer vs Schultz "language could hardly be used more absolutely excluding the idea that any other person than Gulnac were to be invested with the title—

It is urged however that Gulnac tho' vested with the legal title took, for the use of the other members of the Company jointly with himself— that he was there for their trustee, and that as such they have an equitable interest which should be recognised and confirmed—

~~His position~~

But this view assumes that in making the grant the Government not only intended ~~but duly~~ to provide secure the settlement upon the land of a certain number of families, but also that their names were made known to him

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I ~~am~~ that those individuals and none others were the direct and immediate objects of his bounty and that he intended the land to be distributed amongst them and Gulnac in equal proportions.

But I can discover nothing in the grant or expediente to countenance this idea —

~~to~~ That Jimeno thought it desirable to make a joint grant to all the persons referred to by Gulnac, (if the whole quantity solicited were granted) is clear from his report — But the fact that the Governor did not adopt his suggestion but granted the tract to Gulnac alone without inserting the names of his associates or even requiring them to be made known justifies the inference that he was satisfied with Gulnac's assurances that he would effect a settlement, and he secured the performance of his promise to do so by ~~sol~~ making it a condition of the grant that

11 within a year the land should be inhabited by the families ~~&c~~ mentioned by the grantee —

If the clause in the grant which seeks that it is for the benefit of the grantee & his family and that of eleven other families — ~~I perceive no reason why this~~ is to be construed as giving to ~~to~~ those families an equitable interest in the land it is not perceived why the family of Salinas should be excluded, or why the interest should be treated as having rested in eleven individuals, and not as the grant declares in their "families" —

In that case it would be necessary to ascertain who composed the families referred to — and amongst these that of Salinas contesting as he says in his petition of eleven years should be included —

But it has now been held that the clause almost invariably inserted in Mexican grants which stating that the land has been

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1 scheled for the personal benefit
of the grantee and that of
his family, gave to the latter
any interest in the legal or equita
ble in the land — and in
the case of Reneyesa vs Schultz
where the point was expressly
adjudged otherwise by the
Supreme Court of this State.

But the question raised in
this case arose, and
seems to have been decided
in the case of U. S. vs Sutter.
In the petition Sutter states that
he is under the necessity of enlarging
his enterprise by establishing 12 families
and he therefor solicits eleven lea
gues of land in his Establishment
of New Helvetia" —
The grant precisely in the language
of that to Gulnac recites that "Don
4 Augusto Sutter has solicited for his
4 personal benefit and that of
4 twelve families eleven leagues of
4 land &c" and it proceeds to
grants the land to the said
Senor Don Augusto Sutter "for him
and his families"

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12 ~~under this grant it was~~
It was held by the Board that this language merely indicated the purpose for which the grant was made — and that though it ~~was~~ for the benefit of the grantee and that of his selling it conferred no rights either legal or equitable on ~~those~~ persons any more than a similar mention of the family of the grantee would the latter with any rights ~~in~~ independently of the former —

This decision has been acquiesced in by all parties — and the claim for eleven leagues has been confirmed by the Supreme Court to Sutter alone —

If ~~however~~ then the claimants possess any equities they can arise only from their having settled on the land and received from Suñas an allotment of certain portions of it in fulfillment of the conditions of the his grant —
~~If such is the case the rights~~

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12

But these rights are properly
Cognizable in the ordinary tri
bunals-
This position of the claimants
does not substantially differ from
that of an assignee of an original
grantee— And it has been
held by the Supreme Court
that a second patents cannot
to issue to an assignee for
a part of the land confirmed
to the grantee, but that he
must assert his rights against
the latter in the ordinary
Courts of the Country
U. S. vs Bolland
1 Black's R 339-

In the whole my opinion is
that the decision of the Board
should be affirmed

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The United States

v.

Justo Larios et al

Opinion rejecting claim.

Filed June 22nd. 1863.

W. H. Reed,

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 Tuesday the 28th day of July in the year of our Lord one thousand eight hundred and sixty-three

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States

v.

Justo Larios et al

No. 340

This cause came on to be heard on the appeal of the claimants from the final decision of the Board of Commissioners to ascertain and settle the private land claims in the State of California, under the Act of Congress approved March 3. 1851, upon the transcript of the proceedings and decision of said Board and upon the further evidence taken in this Court by order of the Court; and it appearing to the Court that the said transcript was duly filed according to law: Now Therefore, the cause having been regularly brought to a hearing, counsel for the respective parties present and heard, and due deliberation had in the premises, It is Ordered, adjudged and decreed that there is no error in the decree of the said Board, and that the said decree be and the same hereby is affirmed. And it is further Ordered, Adjudged and decreed

that the claim of the said Soto Lanos and others is invalid, that the same be and hereby is rejected, and that the petition of said claimants for a confirmation be and the same hereby is dismissed.

John J. Hoffman
Dist Judge

No. 341

UNITED STATES DISTRICT COURT
Northern District of California.

The United States
v.
Soto Lanos et al

Decree rejecting Claim.

Filed July 28, 1863
W. H. Clement
Clerk.

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The President of the United States of America, **To**

Jose Ramon Estudillo, Carlos Estudillo, William Wilson Bodley, Antonia Maria Pico, Jose Fernandez, George Frazer and Daniel Murphy.

Greeting:

WE COMMAND YOU, that all and singular business and excuses being laid aside, you and each of you appear and attend before the Judge of the District Court of the United States of America, for the Northern District of California, at a Stated Court, to be held at the Court Room in the City of San Francisco, in and for the said Northern District of California, on the 28th day of October at 2 o'clock in the after noon, to testify and give evidence in a certain cause pending in the said Court, and then and there to be tried between

The United States and Justo Larios et al, on the part of the United States: No 340

And this you, or any of you, are not to omit, under the penalty, upon you, and every of you of two hundred and fifty dollars.

WITNESS, the Hon. OGDEN HOFFMAN, JR., Judge of the District Court of the United States, at the City of SAN FRANCISCO, the 22 day of Octo in the year of our Lord eighteen hundred and fifty-seven

John A Monroe *Clerk.*

By Edgar Lyons *Deputy.*

San Francisco Oct 22. 1857. I hereby specially deputize ~~Richard R. Hammond~~ Chas M. Weber Esq to serve the within writ.

P. L. Solomon
U. S. Marshal

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U. S. District Court.
Northern District of California.

The United States
vs.
José Larios et al

SUBPOENA.

Filed 185

Clerk.

Deputy.

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MARSHAL'S RETURN.

I have served this writ personally by copy on José R. Galvan, Carlos Galvan Thomas Bodley, Antonio M. Pico, José Fernandez, Geory Frazer and Daniel Murphy.

San Francisco *this* twenty second *day of* October 1857.

P. L. Solomon *U. S. Marshal.*

Chas M. Weber *Deputy.*

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U. S
vs
Justo Larios

Sloane—

In this case the same land has been confirmed to other parties the U. S. have therefore no proprietory interests—

The claim has been presented on behalf of the 12 families for whose benefits the grant of Campo de los Franceses was made—

We claim. that it appears therefrom the face of the papers that the grant was made for the benefits of Galvez and eleven other families

Della Torre—

It is evident that the Mexican Gov't intended to make the grant to Galvez—
The insertion of the names of the families was waived— perhaps because Galvez was unable to name them.

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The proofs of occupation and settlement by any of these colonists is too shadowy and inconclusive to cause their rights to attach to any particular land.

340.

U. S. Dist. Court.

The United States.

—vs—

Justo Larios, et al.

Notes Argument

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U. S. District Court

The United States
ads
Jose Lucas et al } No 340.

San Francisco Oct 22. 1857.

Gent:

You are hereby notified that I will examine Jose Ramon Gulnac, Carlos Gulnac, William Wilson, ~~~ Bodley, Ant M.a Pico, Jose Fernandez, George Frazer and Daniel Murphy in the above case, on the part of the United States, on Wednesday next the 28th instant, at 2 O'clock P.M. before Special U.S. Commissioner J. Edgar Symes Esq, at the Office of the Clerk of the U.S. District Court for the Northern District of California.

Yours &c.
P. Della Torre
U. S. Atty

Messrs Sloan & Hartman
for Claimants

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U. S. District Court

The United States

ads

Santo Lanios et al

Notice

Due service of copy within admitted this 22 Oct 1857.

Keen & Hartman
Attys for Claimants

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Abstract.

Justo Larios et. als: Appellants
vs
The United States
Appellee

Case No 340
"Campo de los Franceses"
Transcript No 788.

Abstract of Case.

On the 4th day of May 1857. and order of this Court was entered permitting the claimants to file an amended petition, and naming the suit in the names of the following persons Justo Larios, Miguel Narvaez, Jose Antonio Bernal, Jose Jesus Mesa, Jeronimo Higuera, Silvencio Gomez, Jose Ramon Salmas, Daniel Flores and Juana Pacheco Flores heirs at law of Teodosio Flores deceased. Juana Margarita Feliz, widow and Urbano Feliz, Rosario Feliz, Celia Feliz, Mercario Feliz, Sinforoza Feliz and Jose Feliz children and heirs at law of Jose Feliz deceased. Basilisa Bernal de Martin widow, and Mary Martin, Abelina Martin, Soledad Martin and Joseph Martin children and heirs at law of Juan Martin deceased.

The Petition represents that this cause is now pending an appeal in this Court on appeal from the decision of the Board of Land Commissioners rejecting the claim of Petitioners. That the Transcript was filed in this Court on the 1st day of December 1855. and the notice of appeal was filed on the 16th day of April 1856. and that the land lies in the Northern District of California. — That sometime in 1845 Tomas Lins

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(alias Thomas Lindsay) who was one of company for whose use and benefit the grant of land mentioned in this case was made was killed by the Indians leaving no wife children or heirs at law, and that his right, in the land, summons to his co grantees or their heirs. That Raquel Ortiz and Juan Montes two of the company have also died leaving their widows and children above named. That Benesio Flores is also dead leaving no widow children or parents him surviving, but leaving his brother and sister his heirs. That Silvestre Gomez whose name was by mistake omitted in the petition presented before the Board of land Commissioners is still living and is entitled to one eleventh in said land as one of the company. ~~That the original grantee [illegible] living one each entitled to one eleventh part, and~~ That the widow and heirs of ~~Juan Montes~~ That the widow and heirs of Raquel Ortiz are entitled to one eleventh. The widow and heirs of Juan Montes to one eleventh, The heirs of Benesio Flores to one eleventh, and each of the other petitioners to one undivided one eleventh part of the land granted.

The prayer is for a reinstatement of the suit - a reversal of the decision of the Board and a confirmation to the Petitioners.

The original petition in the case represented among other things.

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Justo Larios et al:
v:
United States.

U. S. District Court. No: 340.
Northern District of California

The appellants in this case seek a confirmation of their claims to the same tract of land which was confirmed to Charles M. Weber in No: 298, according to the extent of their interest therein. They set up and rely upon the same expediente and titulo. All the testimony taken in that case, both on behalf of the Claimant and the United States is contained in the record in this case, together with additional evidence, which will be noticed hereinafter more particularly.

The expediente commences with the petition of Guillermo Gulnac dated 29th July 1843, in which it is stated, that a company had been formed, but neither the names nor number of persons, who compose it, are mentioned

In obedience to the usual marginal order, the land was reported to be vacant, and subject to be granted.

On the 26th of October 1843 a special reference of the matter was made to the Secretary of State - Manuel Jimeno.

On the 28th of November 1843 Jimeno reported that "Although Gulnac is entitled to have his "petition attended to; yet it would be proper to Know "whether the extension, which he requests is for the for- "mation of the colony, which he mentions; for in this case

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"it appears necessary that the names of the persons, who "form it, should be expressed, in order that, in the title, "it may be explained that the land is for the benefit of "all; but if he petitions for the place for himself alone, "the extent is very great, and after his example others "will petition, and within a short time there will be no land "left for others, who may wish to settle in the San Joaquin valley."

This report received the unqualified approval of the Governor, who on the 1st of January 1844, made the following order, viz:

"In conformity with the report of the Secre- "tary, let the person interested say, if it is for the colony- "and in this case let the title issue mentioning the names "of the partners; and if he requests for himself indivi- "dually, let him ask for it within proper limits."

The document next in order, as the expediente now stands, is the decree or act of concession, dated 13th January 1844, in which it is declared that:

"Eleven square leagues of land are granted to Guiller- "mo Gulnac for his own personal benefit, and that of his "family, and also that of eleven other families" - with a direction, that the titulo be issued accordingly.

1st

A company was formed consisting of Gulnac and eleven other persons, who all acquired a joint and equal right in Equity to the same land by the same act of concession.

2nd

The decision of the Court in the case of Charles M. Weber is conclusive against the Government, touching

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the merits of the claim to a confirmation of the whole tract, so far as the same depends on the question of settlement and occupancy by the company-

3rd

The jurisdiction of the Commission and this Court, under the provisions of the law of Congress of 1851, extends to the claim of right asserted by the appellants in this case, notwithstanding the final decree of confirmation in the case of Charles M. Weber.

I.,

So far as the Act of concession can be regarded as conferring a legal title to eleven leagues of land, — Fulnac might, with propriety, be considered a — trustee, and the other members of the company cestuis que trust or beneficiaries - They would, none the less however, take their beneficial estates or interests in the land directly from the Mexican Government, and by means of the same Act of concession.

It was suggested in argument by Counsel for the U. S., that this is an Empresario-grant; That the entire right and title to the whole tract of land vested in Fulnac, who, in consideration thereof, undertook, at his own expense, to introduce and settle colonists thereon, who were to receive directly from him conveyances of such portions, as he might think proper to make, or as they might agree upon-

It is evident, however, that neither Fulnac nor the Government understood the matter in that light.

We cannot, by applying the term "empresario" change the real character of the concession.

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Gulnac does not, in his petition promise the Government, that he will <u>thereafter</u> select, introduce and settle upon the land solicited, a colony of persons.

On the contrary he says, that he and a number of others of the same class have <u>already</u> formed a company.

He was a blacksmith-of limited means. Some of the others, as the testimony shows, were mechanics also.

<u>In presenting the petition, he acted as the agent of the company.</u> That the Government understood his petition in that light, is manifest from the report of Jimeno.

Why should he be required to express the names of the persons, who formed the colony, when, as suggested, he was to exercise the powers and discretion of an "empresario" in making his own selection, within a reasonable period, at his pleasure?

But it is a mistake to suppose that under either of the Colonization laws of Mexico, the whole land designated for colonization is to be granted in property to the "Empresario"; and that the Colonists are to receive their respective titles from him as their vendor.

The Colonization law of 1823 Art. 19. contains this provision: "To each empresario who introduces "and establishes families in any of the provinces desig- "nated for colonization, there shall be granted at the "rate of three haciendas and two labors, for each two hun- "dred families so introduced by him; but he will lose the "right of property over said lands, should he not have "populated and cultivated them in twelve years from "the date of the concession. The premium cannot ex- "ceed nine haciendas and six labors, whatever may

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be the number of families he introduces.

(i White Recop. 590.)

The Colony of Austin was founded in Texas in conformity with the provisions of said law and under the decree of Yturbide of February 18. 1823. That decree prescribes the quantity of land which the emigrants shall respectively receive, and authorizes Austin, in union with the Governor of Texas, to put each colonist in possession of his land, and to issue to him his title in the name of the Government.

Thus, it will be perceived, that, in granting land to the colonists, Austin was to act as the agent of the Government.

As to himself the decree proceeds thus:

"In the fourth place, and in conformity with said "colonization law there is granted to Austin, for the "expenses which he has been at, a quantity of land "in proportion to his families, agreeably to the provisions "of the 19th article of said Law, and under the conditions "of said article" (i White Recop. 592. 593.)

The provisions of the law of the 18th of August 1824 are very brief, expressed in these words: Article 14 "The "law guarantees the contracts which the Empresarios may "make with the families, which they bring at their own "expense, provided they are not contrary to the laws."

(i White Recop. 602.)

This article has, I believe, received no practical construction by the action of the Mexican Authorities in California. But it is evident that Gulnac does not, in his petition, present himself before the Government in the character of an empresario.

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He does not speak of introducing emigrants from abroad, at his own expense. He does not claim to be a man of extensive means or influence. His pretentions are much more humble. He is a simple blacksmith of very limited means. He has united with others of the same class; (some of whom, as the testimony shows, are mechanics likewise) and as their spokesman he petitions on behalf of the company; but he omitted to mention their names. It is necessary, says Jimeno, that their names should be expressed, "in order that in the title it may "be explained that the land is for the benefit of all."

It is true, that no paper is, now, to be found in the expediente containing the names of his associates.

But it does not necessarily follow, that they were not furnished. There was ample time for that purpose before the concession was made; and it is to be presumed, that they were furnished in some satisfactory form — because the Government did grant the eleven leagues of land to Gulnac "for his own "personal benefit and that of his family, and also "that of eleven other families".

Gulnac did not present another petition for a less quantity, and for his own benefit alone. Nor did the Governor grant a less quantity to him alone. The whole quantity was granted, not to the use of Gulnac only, but to the use of himself and eleven others.

I say then that by the express terms of the concession each acquired an equal right with Gulnac to enter and occupy, independent of the subsequent action of Gulnac.

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Even the immediate death of Gulnac and his family could not have divested that right of the other members of the company.

I have attempted to show, in what light the Government must have understood the petition of Gulnac, by the action taken on it.

It is evident that Gulnac never entertained any other view of the action of the Government. This appears from the language used to express his interest in the instrument of conveyance to Weber. He describes it as "una accion", — one share — which he possesses in the rancho. What was the extent of that share? He does not attempt to define it with reference to the whole. The presumption is, that it was an equal share, and no more.

It is manifest, that Weber knew he bought and received a conveyance of one share only; and by reference to the number of persons composing the company he was bound to know the extent of that share. He afterwards conceived the idea of claiming all, and hence the erasure of "una" and the substitution of "la" (Vide Deposition of Mr Hopkins.)

That alteration was evidently not made at the time of executing the conveyance; for it is in different ink, and has never been explained by him.

It is true that the legal effect of the conveyance may not have been materially changed by the alteration, when it is shewn, that the interest of Gulnac was actually limited. But the words "una accion" necessarily implied the existence of other shares or interests

in the same land.

II.

Some observations were made by counsel for the U.S. touching the effect of occupancy by some of the members of the company only. If any one did not, in person, enter and inhabit, would he lose his right?
And if he lost his right, what would be the effect as to the rights of the other members?

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Whatever view may be taken of the nature of the concession, these questions were settled in the case of Weber v. United States.

If that grant was made to Fulnac alone in the character of an Empresario, in order that he might, at his own Expense, and in fulfillment of his supposed engagement, introduce and settle upon the land a colony of eleven other families of his own selection, then, assuredly, he alone was answerable for the performance of the conditions, upon which the right to a perfect title depended. And in that view the decision of the Court in the case just referred to, must be deemed conclusive. This proposition is too plain, to admit of argument.

On the other hand, if I am not in error in supposing that a joint and equal right of entry and settlement vested in the whole company, by virtue of the concession itself, it seems to me, that the decision in Weber's Case is equally conclusive upon the questions suggested.

Regarding Weber as standing in the shoes of Fulnac, the decree of confirmation

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must have been pronounced upon the strength of the title papers alone, wholly irrespective of the fact of inhabitancy; or that fact must have been regarded as sufficiently established by the evidence to warrant a confirmation of title without reduction in quantity.

Now, whether the members of the company were joint-tenants, tenants-in-common, or even partners in a joint adventure, a possession by one, two or more would, in law, be regarded as the possession of all.

"The possession of tenants in common is one and "undivided; neither can alone support an action of tres-"pass. The possession of one, therefore, is the possession "of all, and if one enters generally, without saying for "whom, it will be implied, that he enters according to "law, that is to say, for himself and others".-

Carothers v. Dunning's Lessee 3. S. & R. 381.

If the omission, of any one, individually, to enter and occupy, had worked a forfeiture of his right, the Government alone could have taken advantage of it. Such forfeiture by one could not enlarge the right or estate of another co-tenant.

Between the abstract claim, therefore, as a unit and the Government the question of forfeiture is no longer an open one.

As to the members of the company inter sese nothing is concluded by that decision.
(Thurn et al. v. U. S. 1 Hoffm. R. 300)

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The jurisdiction of the commission and of this Court extends to the claim here presented, under the law of Congress of March 1851.

That law provides that:

"each and every person claiming lands in California "by virtue of any right or title legal or equitable "derived from the Spanish or Mexican Government "shall present the same" &c (S. 8)

And it is also made the duty of the Board of Commissioners to hear and determine the same.

It has been suggested, that this Court will not undertake to decide upon conflicting claims or titles as between private litigants, and the Perchman case has been referred to as an authority in point. In that case the Attorney General called the attention of the Supreme Court to proof of a conveyance from Perchman to one Sanchez, and insisted that the claim could not for that reason be confirmed to the former. Here, there is no such question.

The appellants in this case do not claim adversely to Weber by virtue of mesne conveyances either from him or his vendor. They claim to hold by a Mexican Grant. They derive their right, whether legal or equitable, directly from the Mexican Government. There was no adverse holding as between them and Gulnac, and there could not have been any. They all claimed Equal shares or interests, in Equity, in the same tract of land, and under the same act of concession.

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They, therefore, come directly within the provisions of the law of Congress referred to.

Suppose Weber had failed to present his claim to the Board of Commissioners either in his own name or in the name of Gulnac - his vendor; or having presented it, had failed to introduce the title papers or other necessary evidence, the land would be deemed a part of the public domain, and, as such, subject to sale under the laws of the United States, whatever may have been the rights of these appellants, in case they had made a similar omission.

The right of these appellants to present their claim and the jurisdiction of the Court to hear and determine it, cannot be made to depend upon the action of Weber. The fate of his case was unknown, when their claim was presented. And even if they could have anticipated the success of his case, with the possibility of charging him, by a bill in equity, as their trustee, they were not compelled to rely alone on a remedy so remote, precarious and uncertain. *

*Thorn et al. v. U. S. Hoffm. Reps. 300. 301.

IV.

Although, by the conveyance from Gulnac to Weber, only one interest or share, either at Law or in equity, passed to the latter, yet, Gulnac himself may well be regarded as a trustee for all, by the express terms of the concession, in which there is such a clear declaration of uses, as to preclude him from asserting a beneficial interest in the whole tract.

The beneficiaries, it is true are not described by name in the concession. But there is no question about their identity. Setting out with the ascertained fact, that the company had been formed, it is only necessary to enquire, who

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were its members: and upon that point there is no conflict in the testimony.

They were: Justo Larios, Miguel Narvaez, José Antº Bernal, José Jesus Mesa, Tiburcio Gomez, Geronimo Higuera, Teodosio Flores, Rafael Feliz, José R. Gulnac, Juan Martinez, Tomas Linsay, as stated in the depositions of José Flores, Antonio Bernal and José Noriega, witnesses examined on behalf of the appellants.

It appears by the testimony of these witnesses that the formation of the company took place at the house of Gulnac in San José, where a meeting of the members was held on several occasions. The place, in which they contemplated making a settlement was then on the frontier, more or less exposed to Indian incursions.- At the same time it was visited in the winter-season by a number of Canadian Frenchmen in the employment of the English NorthWest Company (whose trading-post was on the Columbia) and hence the name:-

"Campo de los Franceses"-

Allured, therefore, by the prospect of trade and, yet, admonished by the fear of Indian hostility, they were desirous to secure the right of settlement at the specified point, and also form it with numbers sufficient to promise comparative safety. They succeeded in procuring a grant of the land; but their settlement was broken up by an Indian raid in the spring of 1845, at which time Linsay was slain.

It appears from the deposition of J. A. Sutter that Gulnac took possession with several other

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persons who were with him as colonists. But he did not remain there himself. He continued to reside in San José. This is stated by several witnesses, whose depositions appear in both cases.

Amongst the depositions taken in this case on the part of the U. S. is that of José Roman Gilnac, who was introduced by Weber, and examined at his special solicitation. This witness had, long since, conveyed away his interest under the grant, and become the partisan of Weber. On his direct examination he so testified as to give some color to Weber's theory of a grant of the whole interest to Guillermo Gilnac, with the right of inviting whomsoever he pleased to come and settle.

But on cross-examination he admitted the formation of the company, and proceeded to mention the names of: Guillermo Gilnac, José Gilnac, Justo Larios, Miguel Narvaez, Teodosio Flores, José J. Mesa, Antonio Bernal, Juan Martinez, and Tomas (Linsay) the American, stating that he had forgotten the others.

During his examination in chief he mentioned the names of at least five of these, as persons, who accompanied his father when he first placed cattle on the ranch, viz: Flores, Feliz, Bernal, himself and Linsay. (vide answers to questions 7. 8. 9. 10. 11. 12.).

We have then the concurrent testimony of witnesses on both sides as to the identity of nine, and the uncontradicted testimony of witnesses for the appellants as to that of the remaining three.

If the names of those three had not been correctly

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given, why was not the error corrected? There has been ample opportunity. Weber has always been willing to assist and zealous in serving the United States in this matter. But he has not even attempted to prove that the company consisted of others, than those mentioned by the appellants.

I insist, that there can be no reasonable doubt as to the number and identity of the parties, for whose benefit the concession was made.

Again, it appears from the testimony of Noriega, that the settlement was made during the year 1844, and was broken up in the following winter.

In the mean time he passed several times on his way to and from Sutter's Fort, when he always saw some two or more of the company in possession; there being different ones at different times.

There is no proof, that they were all there on the land at one and the same time. Some were engaged in sowing grain at the San Francisquito for the use of the families. Gulnac had no claim to superior merits on the score of settlement or occupation.

The possession seems to have been common. Gulnac went there with the cattle, but immediately came away. Linsay alone lost his life, by attempting permanently to remain.

Linsay having died without heirs, his share accrued to the other parties by survivorship, as in case of a joint tenancy at common law:

"If a royal donation be made to two or more persons "conjointly, and one of them die without heirs, his

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"portion accrues to the surviving donee" -

(5 Febers Part II. Lib II. Chap. II. S. 3. No 115. page 1140.)

It was clearly the intention of all to make common cause, not only in procuring the concession, but in performing the conditions. Whatever was done by one towards the advancement of the joint enterprise, was regarded as done by all, and enured to the benefit of all. All acquired an equal beneficial estate in the lands as if therein expressly named.

It was never questioned, that if a title passed by the grant to "Fernando de la Mesa Arredondo and son" it vested in both of them; yet the name of the son is not mentioned in the title papers.

(6. Peters Rep. 692. 693.-)

The description of the grantees is similar to that of a commercial firm, and differs but little from the style of Arredondo & Co. He may have had but one son; or he may have had several others, who were not connected with him in business- In either case the identification of his co-grantee depended alone upon proof of relationship.

The identity of the beneficiaries mentioned in the grant now in Question, depends upon the same kind of proof, however it may differ in degree.

If a party can take a direct legal estate, without being expressly named in the Grant, he can certainly take an equi-

table or beneficial Estate.

(10 Vesey Rep. 537.)

(1 Mylne & Craig 401.)

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These Claimants - deriving their rights, whether legal or equitable, from the Mexican Government, were, as I conceive, bound to present the same for adjudication under the law of March 1851.

It was for Congress to create the jurisdiction, and declare, what character of right, title or claim should be confirmed; also to prescribe, what should be the force and effect of a decree, and of a patent issued pursuant thereto.

After final action here, if it should appear, that Weber possesses an advantage over these claimants, which he cannot conscientiously retain, they may, then, have a remedy by Bill; but the reception of a patent by him could not divest this Court of the jurisdiction to hear and determine the claim of the appellants, founded as it is, not upon a contract with him, but on the action of the Mexican Government.

If we can regard Gulnac as, in some sort, a trustee for the other members of the company, it does not follow that Weber became so by his purchase. The former only conveyed to the latter one share, to wit: the extent of his own beneficial interest in the tract. Gulnac had no power to convey anything beyond that, and it is evident, that he did not undertake to convey any more.

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If he became a trustee by the terms of the grant, he must have continued to be so, notwithstanding his conveyance to Weber.

The decree of confirmation in favor of Weber should have been for <u>one undivided eleventh only</u>, as it was in each of the cases 73 and 322 for an undivided half.

Suppose in 73, the successors of Pacheco had obtained a decree of confirmation for the whole, instead of a moiety, would it have prejudiced the claim of Peralta, or dispensed with the necessity of prosecuting it to a final confirmation? Clearly not. * Nor would it have converted them into trustees for Peralta to any extent. So far as the latter is concerned, the land would be deemed public, and he could have no relief in a Court of Equity.

E. W. F. Sloan,
Atto for Claimants

* Vide <u>Thurn v. U.S. 1 Hoff. Rep. 299.</u>

(No. 340)

Justo Larios et al

vs.

United States.

No. 340

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Brief for apps Pls.
E. W. F. Sloan

1

Justo Larios et al.
— vs. —
The United States

No. 340.

Abstract of Case.

That on the 13th of Jany. 1844 a grant was made to Wm Gulnack for the benefit of himself & eleven others (refer to Weber vs. U.S. Commission No. 255,) that the petitioners are included in the eleven beneficiaries and are entitled to an equal share with Wm Gulnack in the tract of land mentioned, (see certificate signed by Micheltorrena & marked B & C.)

p. 3.

Testimony False claims to grant

That Charles M. Weber claiming to be the vendee of Gulnack has filed a claim before the Board of Commissioners setting forth the expediente and all the title papers except the two certificates mentioned accompanied also by a map and survey of the land granted all which are referred to in this case.

The exhibits and testimony in case 255 were filed in this case by stipulation of the Counsel

p. 9

Affidavit of Covarrubias on page 11, deposing that the signature & rubric of Micheltorrena to the certificate

dated Dec. 18, 1844 are genuine.

p. 11 & 12 (See affidavit & certificate)

Affidavit of Covarrubias deposing to same facts as to certificate dated Dec. 27.

p. 15 & 16 / 1844

p. 19 Petition of C. M. Weber to Commission

p. 22. Deposition of Walter Herron. - knows of occupation of the land in question by Weber in 1844. who had thereon about 1000 head of cattle. The value of the improvements made by Weber & those holding under him was about one and a half million. Witness was County Surveyor in 1850. Exhibit K. is a map of his survey, made at request of Weber. Witness had no title papers with him at time of survey, but believes the survey corresponds with the title

p. 21 Deposition of J. A. Sutter that he gave juridical posession in the fall of 1844.

p. 24 Deposition of A. M. Pico, knows signatures of Machetorena, Jimeno, Pio Pico & Moreno & their signatures to the papers before me marked No. — are genuine, also knows the signatures of Wm. Gulnack Isabel Gulnack, José R Gulnack & Pamfilo Gulnac. Witness saw them sign the paper before me marked

No. 2.

No. 2.

The signature of A. M. Pico to the same paper is mine and genuine, also those of Galindo, Sunol, Pacheco, & Fernandez.

P. 25. Deposition of William Buzzell

knows the ranch called French Camp is the site of the town called Stockton first knew it in 1842, in the fall of 1844 witness' father in law & others settled there, had offers from Gulnack himself to settle there, but was prevented by the death of his father, at that time there was 3 or 4 houses, corrals, & stock on the place which belonged to Gulnack & the settlers there in 1845, Capt Weber offered me land & stock if I would settle there, but I did not go for the Indians were hostile, they were very troublesome then in 1845 & 1846 persons could not go through the country without arms & in company. I went there in 1847 under Weber & remained there until 1850, during which time a large number of families settled there. I was there in 1845 when Weber was collecting cattle to put upon the place.

The following families (Kelsey, John Kelsey, James Williams & Lindsay) settled there under Gulnack, they built 4 or 5 houses there, the Indians prevented them

from cultivating any of the land, remained there until the breaking out of the Micheltorrena war. After the war Lindsay returned in the Spring of 1845 & was killed by the Indians

p. 31. Deposition of James Williams

first knew the ranch in Feby. 1844, a man named Lindsay myself & David Kelsey went on to it & built 4 or 5 houses, remained there until Lindsay was killed Kelsey had his family there, I had some horses & mules, Lindsay had about 20 tame cows. Wm. Gulnack also had some cattle there which Lindsay & I took care of. There were on the place in all about 100 head of cattle. Gulnack had a corral there & Lindsay & I planted some peach seeds Gulnack agreed to give Lindsay & myself one league each. Kelsey died in the Fall of 1844 & a small part in Feby. or March 1845 the Indians attacked the place killed Lindsay & drove off all the cattle. We pursued the Indians with 23 men & recovered about 13 head of cattle.

I know Charles M. Weber & he settled there afterwards. I was there in 1848 & saw quite a number of people living there.

Deposition of Peter Lafont.

I knew the place called

p. 38 French Camp in 1842 on the east side of the San Joaquin river, where there was a Laguna, it took its name from a French trapping party in the employ of the Hudson Bay Company. In the Spring of 1843 I went from San José to the Cosumnes river with cattle. Wm. Gulnack accompanied me with his cattle as far as the French Camp, & asked me to stop there with him & offered me part of the land. Gulnack went with me to the Cosumnes.

I was at the French Camp again in the latter part of 1844 or first part of 1845 & saw 4 or 5 horses there.

After the Micheltorena war was there again & saw that Lindsay had been killed & his house burnt, the fire was not extinguished when I arrived there.

p. 41 Deposition W. H. Fairchild

I first knew the place in 1847 Jas Buzzell had a house & corral & cultivation of 20 acres about ¼ mile from Stockton.

Knows the Lake called Mc Leod's Lake & the locality generally

p. 44 Deposition of J. B. Alvarado.

It was the custom when lands were granted in places subject to Indian disturbances not to claim forfeiture because the grantee quit the possession, but to allow him to return again & claim his title whenever he could.

p. 45. Deposition of Dave Murphy.

Knew the ranch in the latter part of 1844 & beginning of 1845. At the embarcadero on McLeods Lake in 1844 there were 4 houses, there was also a corral there & some cattle & horses, one of these houses was occupied by Lindsay & his men, another by Williams, the site of Stockton is about the embarcadero of McLeod's Lake

Deposition of J. M. Murphy

p. 50 In 1847 Weber settled at French Camp with about 2000 head of Cattle.

Deposition of S. B. Smith

p. 57. In July 1846, made a verbal contract with Weber to settle a number of families on the ranch, near the end of the year met the emigrants and induced about 7 families to settle there, besides my brother & myself & 2 or 3 young men. all of whom were to receive portions of the land, on condition of making settlement. Left the land in consequence

of the men & when he returned the families were gone having made other arrangements.

I know of no other settlements made by Weber, when first he went there, saw where a house had been burnt & understood it was Lindsay's.

We only pitched our tents there.

Deposition of Caleb Heniman.

p. 55 I knew Wm Gulnack in the fall of 1847 & Spring of 1848. have never seen him since, had a conversation with him about the Spring of 1848. about that time told him that Weber had given me some land to settle there, he said he was the man who had transferred the land to Weber that Weber lost the original grant & had a survey made to include land not within the original grant. I first saw the place in Oct. 1847. there was one tall building there on the South side of the slough. there was no appearance of any other improvement or cultivation.

There were 2 white men there then, James McGee & Andy Baker, Wm Gee was Webers hunter under wages, Baker & the others were Vacqueros

Deposition of Burnet O'Neal.

p. 61. Knew Wm Gulnack since 1846

knows the country from the San Joaquin to the Calaveras.

Gulnack never lived in that part of the country. that Gulnack once told him that he went with about 70 head of cattle to French Camp, but that he did not settle there because he did not get the necessary number of families to go with him, that he sold his claim to Capt. Weber in payment of Grocery bill of sixty Dollars & some other little things of no value. never knew any difficulties or troubles with the Indians there. does not know about 1842 or 1845, but in 1846, 11 families might have easily settled there. first saw Lindsay at Sutter's Fort in 1843 afterwards at McLeod's where he occupied a house afterwards he disappeared & no one knew what became of him.

Deposition of Geo. Bricknell

P. 67. Knows the claim in this case & the position of McLeod's Lake, there is as much as 15 leagues of land in the triangle formed by the river, the Lake & a line drawn directly from the head of the Lake in a South course to the river

Deposition of Ebenezer Sly.

p. 68. First went to Stockton in Oct. 1847. saw Weber there who offered him 100 acres within a mile of Stockton if he moved settle there,- went with Weber from Stockton to the Calaveras, said that was his boundary in that direction, but that his lines were not then established.

p. 71 Deposition of John Sly.

First saw the place in 1846. there were 1 or 2 persons living there, but never knew much of the place until 1848.

Worked in Wm Gulnacks black smith shop in 1847 heard him say he had not fulfilled the conditions of the grant & that Weber had no title to the land.

Deposition of Nicholas Garvin

p. 75. First went to Stockton in 1849 & have lived there since, was there in 1847, a day or two, saw some Vaqueros there, saw part of a house which one Lindsay had occupied, heard he has been killed & his house partly burned. saw no other house at that time, there were others with me, Capt Weber promised to give each of us 160 acres if we would settle there.

Deposition of Wm D. Wood.

p. 78. Knew Weber & this land,- He looks

at the papers marked X. Y. Z. Nos. 1, 2 & 3 attached to his deposition & after pointing out and identifying the various objects on these maps, says he knows the country thereon represented & the localities seem to be correctly laid down.

p. 83 Deposition of Hans Patten.

Testifies as to the maps & the various localities

p. 85 Deposition of J. A. Sutter.

As I was passing the ranch on my way to Monterey, was called on to give juridical declaration, did not spend much time, rode round the ranch in company with Gulnack & several other persons who were with him as colonists also with Thomas Smith whom witness had in his employ. There was one named Kelsey, one Lindsay & several others whose names he does not remember, Kelsey & Lindsay were settled at what is called French Camp. I did not remain long, the Indians were troublesome, they killed Lindsay & stole the horses & cattle I was there the day after Lindsay was killed

p. 88. Deposition of Robt. H. Table

Knows the Country in the neighborhood of Stockton, lived in the city of

Mexico, many years ago, was in the Republic of Mexico in 1850. employed a friend to ascertain whether Gulnacks grant was in the archives of Mexico he applied to Nunras Lado a senator of the Mexican Congress & was informed by him that the archives were in such confusion that it was impossible to ascertain whether there was such a grant or not.

Deposition of Jno. C. Hays

p. 90 Testifies as to the survey.

Deposition of J. J. Warnee.

p. 95 The signature of Micheltorena to the grant is genuine, there is an alteration in the conveyance from Gulnac to Weber, the word "una" has been erased & "la" substituted.

Deposition of Jasper S. Whiting

p. 97 Made survey of the ranch under deputation of Jno. C. Hays.

(X) Deposition of Victor Prudon.

p. 107 Looking at papers now shown me marked No. 1 & 2 with the initials R. G. both of these instruments are in the handwriting of Micheltorena & the signatures & rubrics thereto attached are genuine. I held an official position under him & frequently saw him sign his name

p. 110 On page 110. Petition of Wm.

Gulnack & marginal decree of Micheltore=
na. July 29. 1843

p. 111 Report of Estrada
Sept. 18. 1843
(X) these depositions taken in case
No. 788.

p. 112 Order of Micheltorena Oct. 5. 1843
" " Report of L. A. Sutter June 8. 1843.
p. 113 Order of Micheltorena Oct. 26. 1843
" " Report of Jimeno Nov. 28. 1843
" " Order or decree of Micheltorena Jany.
10. 1844

p. 113-4 Decree of concesion 13 Jany. 1844.
117 to 121 Translation of Espediente from p.
117 to p. 121

123-4 Original Titulo dated Jany. 13. 1844.
signed by Micheltorena & Jimeno

127-8 Translation of same.
131. Certificate of approval by the
Dep. Ayo. dated 13 June 1846.

133 Translation of same.
136. Letter of naturalization to Weber
dated Feby 20. 1844.

138. Translation of same.
p. 140-1 Conveyance from Gulnack to
Weber. - dated 3rd. April 1845.

p. 144-5 Translation of same.
p. 148-9 Instructions for survey from
Surveyor Genl. to Deputy. July 12. 1834.

Depositions in favor of claimants

In the District Court of the U. S.
Northern District of Calif.

Insto Larios, Appellants
vs
United States, Appellees

Case No. 944
"Campo de los Franceses"
Land Commission No. 788

Adolfo Sellman of the County of Alameda and State of California, being duly sworn upon his oath says that he is acquainted with Juana Mesquita Felis, and that she is the widow of Raphael Feliz deceased, that he is also acquainted with the children and heirs at law of said Raphael Feliz, who are respectively named Urbano Feliz, Sinforozo Feliz, José Feliz, Mercario Feliz, Rosario Feliz and Celia Feliz and all of whom are yet living

Affiant further says he is well acquainted with David Flores and his Sister Juana Flores de Pacheco who is intermarried with Sabino Pacheco, and that the said David and Juana are the only surviving heirs at law of Teodosio Flores deceased, and who at his death left no widow, or children as next of kin surviving except as aforesaid

Sworn to & subscr. before me this 5th Day of December 1857.
J. B. Kenney
Not. Publ.

(signed) Adolph Sellmann

Seal

Turn over

filed Dec. 21st 1857 [illegible]

to No. 1 José Noriega

Second instruction of same.

Opinion of Board containing copy of the application to Genl. Micheltorena by the other parties in interest for a memorial of the tract, and of the certificates signed by him setting forth their names.

Depositions in re "U.S. applee vs. Justo Larios et al" pending in U.S. District Court S.D.C. Applee

Deposition of José Noriega (on file)

No 1. José Noriega

I am acquainted with the land claimed in this case known as the "Campo de las Francesas." & have known it for 18 years.

A party of Canadians in the employ of the English Company at Columbia came there every year to hunt & from thence the name was derived.

The Company consisted of about eighty men. The land was first occupied by a colonization Company formed by a man named Gulnac. They went there in 1844.

I knew all the members of the Company, and will try to give their names.

Guillermo Gulnac & his two sons Teodosio Flores, José Jesus Meza Estevan Gomez, Rafael Feliz, Reginel Narvaez, Justo Larios

Geronimo Higuera, José A. Bernal
Tomas Lins, Juan Martin.

The eldest son of Gilroy was named José Ramon, The others were children. I saw four or five of them in 1844 making a tule house.

I passed through there several times from 1842 to 1846. On some occasions as the head of a Company - commissioned by the Governor looking for Indian Robbers I passed there. At other times taking cattle to Sutter at Sacramento. I always saw some of the Company in possession of the land, sometimes two or three at a time, but (at different times,) different ones.

The others were in San Francisquito, sowing wheat to furnish bread for their families.

There was an American called Lins, in the house taking care of some cattle & horses. The Indians made an attack and killed Lins, - burned the house slaughtered some cattle & carried off the rest to the mountains, - devastating completely the settlement.

I saw the remains of the house which had been burnt, and gathering the neighbors I pursued the Indians overtook & succeeded in recapturing part

of the cattle. I found the rifle of Lins on one of the dead Indians after the battle.

I think this was about the end of 1844 or beginning of 1845. The families were afraid to return on account of the Indians continuing to overrun the place.

Sometime before the formation of the company Guenac informed me of his desire to settle this land. but did not dare to do it alone on account of the Indians, & said he wished to form a company to settle it.

Guenac formed the company at San José & I, living near Guenac's house witnessed, particularly on one occasion the above named persons, meeting there as members of the company to carry out the prospect of colonization.

They met often. Guenac was to ask for the title and they were all to be equally interested. Reginel Stevens applied to me for some cattle in exchange for other cattle that were more distant from the Campas, in order to furnish his quota.

I know that some time afterwards when they discovered that Guenac had not inserted their names in the

title.- Jnats Larios and Galvan's son José went to Monterey and got certificates of their interest from Governor Merchel Torrenas

I have never seen the certificates it was generally known that they had gone & got them.

In the summer of 1844 the Company left San José to settle on the land. I think the company was formed under the direction of the judge, because I once saw a list of the share (parties) prepared to be presented with the petition, and intended to be laid before the Justice in San José.

It always understood that Lario was unmarried, and he left no family or relations of any kind.

Juan Martin is dead leaving his widow, Basilisa Bernal & several children. Teodosio Flores is dead leaving no wife.- had one brother & sister Juana Flores & David Flores.

Rafael Feliz is dead he left a wife & several children. I think the rest of the company are dead.

No 2

Antonio Bernal

Deposition of Antonio Bernal.

I reside in San José, Galvan formed a company in 1844, to settle the land mentioned. Counting Galvan, the

company numbered twelve. Their names were José Ramon Quenac, José Antonio Bernal Rafael Feliz, Tomas Lins, or Linsey Juan Martin, a carpenter with whom I worked, Reginel Narvaez, Teodosio Flores, Inats Larios, Ciburcio Gomez, a hatter Geronimo Higuiera, & José J. Necea of Monte Diablo.

I saw the settlement in 1824 houses built of tule & corral at the place called the Campo de las Francesas.

Different members of the company were living there, whilst others were sowing wheat at San Francisquito to provide sustenance for the camp.

I was taking cattle to Sutter for account of José Noriega, in 1824. In the beginning of 1825, on my return from one of these trips I saw the house burned, on the two occasions I saw members of the company there. I saw Quenac's son, Teodosio Flores, Geronimo Higuiera, José A. Bernal Thomas Lins or Linsey & others whose names I do not remember.

The members of the company were coming and going all the time.

The Indians killed Lins, burned the house, stole the cattle & horses.

this was same time from the last of '24
to the middle of 1825. Afterwards you
could not go there on account of the bands
of Indians constantly roaming through
the country.

Soon after the Company was
dispersed from the rancho, Justo Larios
& José R. Gulnac went to Monterey &
procure certificates from the Governor
of their interests in the grant. they having
discovered that Gulnac had procured the
title in his own name, without having
the names of the other members of the
Company inserted.

I never saw the certificates
but Larios & Gulnac both told me on
their return from Monterey, what the
object of their journey had been, that they
had procured certificates of their interests

The Company met several
times in Gulnac's house before asking
for the title, I was present at several
of their meetings, the title was to be
obtained for the benefit of the Company.
Before José R. Gulnac & Larios went
to Monterey there were meetings at the
houses of Jose R. & Larios. I saw five
of them,- the rest had gone away. The
rest having previously met at the house

of Larios

N.° 3

Eusebio Sibrian

Deposition of Eusebio Sibrian.

Resident of San José, I know the land, called the Campo de los Franceses, in San Joaquin County. Before the Company was formed for the settlement of this land, I knew of a meeting of eleven persons. Californians & others at the house of G. Gulnac at San José & heard read a list of the persons, and petition to Governor Micheltorrena asking for a title to said tract of land, for the benefit of Gulnac & eleven other families whose names were upon the list, at the head of the list was G. Gulnac & afterwards the names of Teodosio Flores, Rafael Feliz, Juan Martin, the Carpenter, Tomas Lins or Linsey, - the American, Ignacio Larios José, Gulnac, Miguel Narvaez, José J. Reza, José Antonio Reynal, Silvestre Gomez the hatter Geronimo Negrete.

I know all these men personally as well as their families, - they were all present at the meeting, - as well as many others who were looking on.

But the names of the above mentioned were read as those agreed upon to be interested in this Company

Before the month of August
'44. Higuera, Flores & R. Feliz left San
José to commence the settlement of the
Campo de las Francesas, And in the month
of August 1844, J. Gulnac & his two sons
also J. A. Bernal & Tomas Lins followed
with the same object. I think they were
there about four months, I do not remem-
ber the exact length of time. They aband-
ed the Campo because the Indians burned
the house there, stole the cattle & killed
Lins who was living there.

I think in the same year
1844 Justo Larios & José Gulnac having
discovered that the names of the Company
were not set forth in the title received
by Gulnac of the Governor as agreed upon
went to Monterey & proceeded from
Micheltorena, certificates of their being
equally interested in the land.

I have seen, several times
the certificate procured by Justo Larios
from the Governor (Micheltorena) &
would know it if I saw it.

Question. Look upon paper
No. 1. R. D. the petition which is signed
Justo Larios & the certificate dated Monterey
18 December & signed Manuel Miche^{la}.
& state whether you have seen said docu-

ment before, & when & under what cir=
cumstances?

Ans. I had this document in
my possession twice, once in 1846. & again
in 1847. I received this document from
Justo Larios,- having advanced to him
small sums of money & for security
of which he placed this document in
my possession,- And when the money was
repaid he returned the document. I have
never seen before to day the document
No. 2 R. D. here shown me.

I know the handwriting of
Nicholas having seen him once write
in his house at Monterey. The two
certificates above mentioned are in his
handwriting. The signatures & rubrics
are genuine & in his own proper hand=
writing.

I have not the least doubt
as to the genuineness of these signatures.

Teodosio Flores is dead, he
left no widow or children. His brother
David Flores,- and Juana Flores his
sister intermarried with Salvio Pacheco.

Juan Martin is dead,- left
a widow called Basilisa Bernal, & several
children.

Rafael Feliz is dead, left a

widow called Juana Mesquita Feliz & several children.

I know of no relatives left by Lins at the time of his death. If he had left any I would have known it. he being well known in San José to all the residents & never married to my knowledge.

No 4
R. C. Hopkins

Dep. of R. C. Hopkins, proves that papers No. 1 & 2 are accurate copies of originals in office of Surveyor Genl. which under subpoena duces tecum he brought & showed the witnesses &c.

No 5
José Feliz

Deposition of José Feliz

I am 63 years old & a resident of S. José I know the land & its name. G. Gulnac asked me to become one of a company which was forming to settle said tract of land, about 1844. I refused to join because my children were all girls. I know of the company which was formed, living in the house next to Gulnac. It was composed of eleven families or persons besides Gulnac. I know them all personally At the head of the list was Gulnac who signed the petition for the land. The others were Rafael Feliz, Damaso, - the American killed by the Indians, J. Higuera

José A. Bernal, José R. Gulnac, Justo Larios, Leucio Gomez, Jose Jesus Vieza, Miguel Narvaez, Juan Martin, Teodosio Flores. I saw these persons, at different times making preparations to leave S. José for the settlement of the land, & saw Do. Flores Higuera. Damas the American, Gulnac & his sons leave San Jose for that purpose, To the best of my recollection they occupied the land for about three or four months. They abandoned the campo de las P. on account of their dread of the Indians who killed Damas the American stole their cattle & horses & burned their house, about 1844. José Ramon Gulnac & Justo Larios having discovered that G. Gulnac had received the title, in his own name, without stating the names of the other eleven interested with him in the tract, went to Monterey & procured of Govr. Micheltr. certificates of the eleven above mentioned, being equally interested in said tract. I saw these certificates of Michltr. in the hands of J. R. Gulnac & Justo Larios, after their return from Monterey.

No 6

Juan B. Alvarado.

Deposition of Juan B. Alvarado.

I was Governor of Cal. from 1838 to 1842 Political Chief in 1837.

Manuel Michel[a] succeeded me as Governor. I am acquainted with the handwriting, signature & rubrica of Michel[a]

I have examined the certificate marked No. 1. R.S. now shewn me & find the certificate to be in the handwriting of Michel[a] & also the signature & rubric thereto attached to be his genuine signature & rubric.

I also am acquainted with the rubric of Pablo de la Guerra. I have examined the rubric annexed to the habilitated part near top & right hand side & find it to be his genuine rubric.

(Same in regard to document No. 2 throughout)

Deposition of José Jesus Pico.

No 7
Jose Jesus Pico

I reside in San Louis Obispo. I am acquainted with the handwriting, signature & rubric of Gen. Michel[a]. I have seen him write, have received letters. - Genl. Michel[a] has remained in my house for several days.

Looks at documents Nos. 1 & 2 and testifies that the handwriting is his that the signatures & rubrics are his also & genuine.

The rubrics on these docu-

ments on the right side near the cap are the genuine rubrics of De la Guerra I have often seen him write & know his rubric.

No 8

James Butler

Deposition of James Butler who brought the documents Nos. 1 & 2 R.E. testified the same as Hopkins & that copies were in Transcript pages 12, 13 16 & 18

No 9

Adolph Sellmann

p. 17

Translation of J. L. petition No. 1 R.S.

Translation of Exhibit No 1 annexed to Hopkins testimony June 11, 1852

Most Excellent Sr.

I the undersigned & Miguel Narvaez, José Antonio Arenal, José Jesus Noe, Dionicio Gomez, Gerónimo Negrete, Copartners of Gulnac favored in the concession & grant of the French Camp. with 11 square leagues, pray that, in consideration that the title remains in the hands of Wm Gulnac, your excellency may be pleased to give us a testimonial that we are part of the families found in the title, by which we will receive favor & justice

San José Gte Decr 15, 1844.

José Larios X

His Government is aware of the

fact that the citizens Ignacio Larios, Reginel Narvaez, Jose Mª Bernal, Jose Jesus Mesa Fabricio Gomez, Gerenimo Higuera are included in the eleven families favored in the Concepcion & grant of eleven square leagues, in the place known by the name of the French Camp. as is set forth in the expediente in the name of G. Gulnac.

Manl. Michel Lw.

Monterey Decr. 18th 1844

No. 2 R.G.O. 18

Translation of Exhibit No 2 annexed to Stoplin's testimony June 11. 1862

Most Ex. Sr.

Before your excellency I appear and say in the names of myself & of Deodasio Flores, Rafael Feliz Juan Martin & Tomas Lins. May it please your Excellency to give us a certificate in writing, that we are copartners of Gulnac in the concepcion & grant of the place known as the French Camp. with 11 square leagues although three of us are unmarried but are about to be married.

San José De Gpe Decr. 18. 1844

José Ramon Gulnac.

The five persons named in the foregoing petition namely. Teodosio Flores Rafael Feliz, José Ramon Gulnac the three Mexican citizens & John Martin Leachman & Tomas Linn of North American, are comprehended & joined in the title headed in the name of William Gulnac, which title consists of eleven square leagues in the French Camp.

Monterey Decr. 21. 1844

Manuel Michel a.

The two last were annexed to Hopkins testimony of June 11/62