CASE NO.

358

NORTHERN DISTRICT

FLUGGE,S RANCHO OR BOGA GRANT

THOMAS O. LARKIN

CLAIMANT

LAND CASE 358 ND 308 pgs.

DEC 12 1962

358 ND
PAGE 1

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 129.

Thomas O. Larkin CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Tlingés Kaneho" or "Boga."

358 ND
PAGE 2

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* twenty fourth *day* March, *Anno Domini One Thousand Eight Hundred and Fifty-*two, *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 Thomas O. Larkin *for the Place named* "Flugge's Rancho or Boga" *was presented, and ordered to be filed and docketed with No.* 129 *and is as follows, to wit:*

(Vide page 5 *of this Transcript.)*

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

San Francisco May 1st 1852.

In case no. 129. Thomas O. Larkin for the place named "Flugge's Rancho or Boga", on motion of the Counsel for the claimant, the following order was made, to wit;

(Vide page 55 of this Transcript.)

San Francisco Dec. 15th 1852.

In the same case a communication was received from the U. S. Surveyor Genl. for California, transmitting a copy of the Map and Field notes of Survey of the said rancho, and is as follows, to wit;

(Vide page 56 of this Transcript)

San Francisco Jany 4th 1853.

In the case the deposition of John Bidwell, a witness in behalf of the claimant, taken before Commissioner Harry I. Thornton, was filed;

(Vide page 6 of this Transcript.)

2

358 ND
PAGE 3

San Francisco January 19 1853.

In the same case the deposition of W. E. M. Howard, a witness in behalf of the Claimant, taken before Commissioner Harry I. Thornton with documents marked H. I. T. No. 1 & 2, annexed thereto, was filed;

(vide page 9 of this Transcript)

San Francisco February 2 1853.

In the same case the deposition of W. E. M. Howard, a witness in behalf of the Claimant, taken before Commissioner Harry I. Thornton, with document marked H. I. T. No. 1. annexed thereto, was filed;

(vide page 10 of this Transcript)

San Francisco May 9 1853.

In the same case the deposition of Henry L. Ford, a witness in behalf of the Claimant, taken before Commissioner Alpheus Felch, was filed;

(vide page 12 of this Transcript)

San Francisco Aug. 13 1853.

In the same case the deposition of David C. Alexander, a witness in behalf of the Claimant, taken before Commissioner Alpheus Felch, was filed;

(vide page 14 of this Transcript)

San Francisco Sept. 13 1853.

Case no. 129, called; The counsel for the Claimant read the evidence - argued, submitted and taken under advisement by the Board.

San Francisco January 24 1854.

In the same case the deposition of Henry McVicker, a witness in behalf of the Claimant, taken before Commissioner Thompson Campbell, was read;

(vide page 16 of this Transcript)

In the same case the counsel for the Claimant,

358 ND
PAGE 4

filed the following Motion and Affidavit, to wit:

(vide page 73 of this Transcript)

which Motion was taken under advisement by the Board.

San Francisco February 28th 1854.

In the same case Commissioner Thompson Campbell delivered the decision of the Board upon the Motion of the Counsel, heretofore, to wit on the 24th January last filed asking leave to introduce the deposition of Henry McVicker as evidence in this case — Motion granted and Ordered, That the case be placed at the foot of the docket.

San Francisco, July 14th 1854.

In the same case the deposition of Jacob P. Leese, a witness in behalf of the Claimant taken before Commissioner Peter Sott, was filed;

(vide page 17 of this Transcript)

San Francisco Oct. 14th 1854.

In the same case the deposition of Alexander Godey, a witness in behalf of the Claimant, taken before Commissioner Peter Sott, was filed;

(vide page 21 of this Transcript)

San Francisco January 9th 1855.

Case No. 129 was submitted on briefs and taken under advisement by the Board.

In the same case the depositions of John A. Sutter and Nicholas Gray, witnesses in behalf of the Claimant, taken before Commissioner Peter Sott, the last with documents marked "Exhibit N. S. & N. G.", annexed thereto, were filed;

(vide pages 22 & 26 of this Transcript)

San Francisco July 17th 1855.

In the same Case Commissioner S. C. Farnell delivered the Opinion of the Board confirming the claim;

(vide page 91 of this Transcript)

And the following order was made, viz:

(vide page 93 of this Transcript)

4

Petition.

358 ND
PAGE 5

To The Board of Commissioners for ascertaining and settling Private Land Claims in the State of California

Your Petitioner Thomas O Larkin of the City and County of San Francisco in the State of California respectfully represents to your Honorable Board That he claims a certain tract of land on the westerly side of Feather River sometimes called Sluggs Ranch sometimes Boga and sometimes the Feather River Ranch containing Five (5) leagues of land more or less situated in the County of Butte in said State of California. that he claims the same in fee by virtue of a grant made to Charles William Slugg under the authority of the Mexican Government by Manuel Micheltorena Governor Commandante General and Inspector of the Departmental of the Californias bearing date the (21st) Twenty first day of February one thousand Eight Hundred and forty four (1844) and approved by the Territorial Deputation on the thirteenth (13th) day of June one thousand Eight Hundred and forty five -

Your Petitioner further represents that the said grantee Charles William Slugg on the twenty first (21st) day of January one thousand Eight Hundred and forty seven (1847) transferred all his right title and interest in and to said land to the above named Thomas O Larkin who is now the sole owner and proprietor thereof -

Your Petitioner would further represent that the boundaries of said tract of land have been designated

358 ND
PAGE 6

and defend and that the Said Grantee and those Claiming under Him have been in the Peaceable possession thereof ever Since, and that he has no Knowledge of any interfering Claim -

Your Petitioner presents him with a copy of the original Grant of Said land in the Spanish Language together with a translation of the Same and will Make further proof of title if required by the Board -

Your Petitioner prays your Honorable Board to take into Consideration his claim to said tract of land and decree his title to be valid and decree his title to be valid and confirm the Same -

And Your Petitioner will ever pray.

Thomas O Larkin
by his attorney & Counsel
A C Whitcomb -

San Francisco March 24, 1852.

Filed in Office March 24, 1852
(signed)
Geo Fisher Secy

Deposition of John Bidwell

San Francisco Jany 4, 1853.

On this day before Comr Henry D Thornton came John Bidwell a witness in behalf of the Claimant Evidence Thomas O Larkin petition No 124 and was duly Sworn his Evidence being given in English. The U S. Associate Law Agent was present

7

358 ND
PAGE 7

Questions by Claimants -

Question 1st -

What is your Name age and place of residence & how long have you resided there and what has been your Employment in Surveying & drafting Maps.

Ans -

My Name is John Bidwell, My age is thirty three and My residence is Chico Butte County & I have resided in California more than Seven years in Sacramento Valley and I have been Engaged much of My time in Surveying and Making Maps -

Question 2d -

Do you know the Rancho called the Simino Ranch - The Ranch of Larkin's Children in the Sacramento River and the Ranch called the Muggy Ranch on the west Side of Feather River -

Ans -

I am acquainted with those Ranches & have known them ever since the year 1843 - I mean the land which they occupy.

Question 3.

When were these Ranches occupied how & by whom -

Ans -

In the Spring of 1844 I visited the Ranch of Larkins Children it was then occupied by a Man by the Name of John Williams and had been so occupied for some time previous -

There was a dwelling house in which there resided Several families and there was stock upon the place at that time, and it has been

358 ND
PAGE 8

occupied ever Since down to this time -

I was Employed in 1849 by Mr Larkin to build for him a house on the Suggs Ranch which I did in the Spring of 1848 Not being able to do it sooner A Man by the name of Yates was put in the house & occupied the place from 1848 until Some Short time Since under Mr Larkin - The house which I built was burnt and Yates built another - Go to the Arimo Ranch I saw a House upon it which was occupied in 1848 - I know that the house So occupied had been built before that time -

J. Bidwell

W S Law Agent. Present -

Sworn to & Subscribed before me this 4th of Jany 1853.

Henry D Thornton Comm &C.

Before Judge Thornton -

January 4, 1853 -

It is hereby agreed by Counsel that the deposition of John Bidwell taken this day before His Honor H. D Thornton may be used in each of the following three Cases Viz No 129, No 130 & No 131 being three Cases pending -

Robert Greenhow
Asst Law Agent of U S.

James Wilson for the Petitioners -

Filed in Office Jany 4, 1853.
(signed) Geo Fisher Secy.

9

Deposition of W H H Howard

358 ND
PAGE 9

San Francisco Jany 19. 1853

On this day before Comr Harry I Thornton came W H H Howard a witness in behalf of the Claimant Thomas O Laykin petition No 129 and was duly Sworn his Evidence being given in English -

Questions by Claimant.

Question 1st -

What is your Name age and place of residence and how long have you resided there -

Ans -

My Name is W H H Howard my age is thirty three years and my residence is San Francisco California where I have resided for eleven or twelve years.

Quest 2. -

Are you acquainted with the hand writing of Manuel Micheltorena and Manuel Jimino, and if you look upon the document now shown you which is marked as Exhibit No 1 to this disposition and filed as part hereof and state whether the Names of those persons where they are written in & to said document are their genuine Signatures -

Answer -

I am acquainted with the hand writing of the said persons Micheltorena and Jimino and upon Examining said document I State that their Signatures to the same are genuine -

Question 2d. -

Are you acquainted with the hand writing of Pio Pico and Juan Bernardo - If you look upon the Document now here shown you marked as Exhibit No 2

to this deposition and filed herewith and
Say whether the Names of said persons
whose they are Signed to & upon said
document are their genuine Signatures -
Ans -

I am acquainted with the hand-
writing of said Pico & Bandini having
seen them write and upon Examining the
said document I state that their Signatures
whose they appear on the same are their
genuine hand writing -

Wm H M Howard -
U. S. Land Agent present

Sworn & Subscribed before me
this 14th of Jany 1853.
Harry I Thornton.
Comr -
Filed in Office Jany 14, 1853.
(Signed)
Geo Fisher Secy

358 ND
PAGE 10

San Francisco Feby 2. 1853.

Deposition of W D M Howard.

On this day before Comr H I Thornton came Wm H M Howard a witness on behalf of the Claimant Thomas A Lark in Petition No 124 and was duly sworn his Evidence being given in English -

In answer to interrogatories propounded to Wm H M Howard by Counsel for the Petitioner in the above Case the Witness says - That he resides in the City of San Francisco that he has resided in

W

358 ND
PAGE 11

California for the last Eleven or twelve years that his age is thirty three years - The witness further says that he is well acquainted with the handwriting of Charles W Fluggo and David W Alexander and Abel Stearns, having often seen them write persons write & Subscribe their names -

The Signature of said C W Fluggo and of the said David W Alexander & Abel Stearns to the paper now exhibited to me are the genuine Signatures of those several persons.

Said paper is an original deed given by the said C W Fluggo to Thomas A Hankin dated January 21, 1844 of a Rancho on Feather River which said Fluggo Executes as grantor and said Alexander & Stearns sign as attesting witnesses - Said paper is Marked Exhibit No 18 filed herewith - and annexed to this deposition -

Wm D M Conrad.

Service acknowledged
R A Greenhow
Asst Law Agent -

Sworn to and Subscribed
before me this 2d of Feby 1853
Henry D Thomas
Comr &c.

Filed in Office Feby 2, 1853
Signed
Geo Fisher
Secy.

12

358 ND
PAGE 12

Deposition of H L Ford -

Office of Board of Commissioners of Land Claims in California -
San Francisco Aug 4. 1853.

This day came before Wm Thos Veech one of the Commissioners to ascertain & settle the private land Claims in California Henry L Ford a Witness produced on behalf of the Claimant Thomas A Larkin Claim No 174 on the docket of the Commissioners and after being duly sworn deposed as follows -

The U S Law Agent was notified and attended -

Question by Mr Whitcomb Attorney for the Claimant -

1 Question -

What are your name age and place of residence -

Answer -

My Name is Henry L Ford My age is thirty years and I reside in Solano County in the State of California

2 Question -

Do you know the tract of land called the Suggs Ranch?

Answer -

I know a tract of land generally known by that name lying on the Putah River on the western bank and a little North of the Mountains known as the Butte Mountains.

3 Question -

What do you know about

358 ND
PAGE 13

the taking or giving possession of said Ranch?
Answer -

On the first of July or latter part of June 1844 - I was at New Helvetia in Sacramento Valley. About that time Mr. Flugge and Capt Sutter and two other Gun whose Names I don't recollect. Started to go as Mr Flugge told me, out to the land and to give him Judicial possession of it - He said Captain Sutter was going up with him to his Rancho to give him Judicial possession. Capt Sutter was at that time Alcalde of the Northern or Sacramento District -

4 Question -

Did you visit the Ranch after that time?

Answer -

I was on it or passed over it in 1845. 1846 and 1847 and almost every year since - I saw a small house that was built on it 1847 - I think in the month of July -

Henry L Ford.

Mr Howard Law Agent -
was present at the taking of this Deposition but declined putting any question to the Witness He objected to the testimony of the Witness in answer to the third Question so far as the Witness states what was said by Mr Flugge and the testimony is taken subject to that objection.

Subscribed and Sworn to before me at San Francisco this Ninth day of August A.D. 1853 -

Alpheus Felch Commissioner

14

Filed in Aug 9, 1853.
(signed)
Geo Fisher Secy.

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358 ND
PAGE 14

Deposition of David W Alexander

Office of the Commissioners of California Land Claims -
San Francisco Aug 12. 1853.

This day before Commissioner Alpheus Felch came David W Alexander a witness in behalf of Claimant Thomas A Larkin Case No 174 and after being duly sworn deposed as follows -

Q[uestion] by Mr Whitcomb Attorney for Claimant -
Q[uestion] -
What are your name age and place of residence?
Answer -
My name is David W Alexander My age about forty one years and I reside at Los Angeles in California -
2 Q[uestion] -
Where was you about the Month of January A.D 1847.?
Answer -
I was at Los Angeles -
3d Q[uestion] -
Look at the paper here presented to you Marked "Doc No. 5 No 1" and annexed to the deposition of Wm R Hoard & filed in this Case and State whether you know the persons whose Names appear as Subscribed thereto and if so whether their Signatures are genuine and also whether

15

358 ND
PAGE 15

you Subscribed said instrument as a Subscribing Witness -

Answer -

I know Abel Stearns whose Name appears thereon as a Subscribing Witness - The Signature of said Stearns thereto is genuine - I have often seen him write

I know C. M. Flugge and have seen him write and have had much correspondance with him - He is now dead - His Signature as said paper is genuine to the best of My Knowledge and belief - My own Signature as a Subscribing Witness appearing thereon is My own genuine Signature -

I have a faint recollection of the execution of the instrument - I recollect being requested by Mr Flugge to step into his Store at Las Angeles and Sign a paper as a Witness - I cannot positively state that this was the one - but to the best of My Knowledge it is -

David D. Alexander

Mr Brenham Assistant Law Agent was present at the taking of this Deposition but declined to put any interrogatories to the Witness -

Subscribed and Sworn before me at San Francisco this twelfth day of August AD 1853 -

Alpheus Felch
Commissioner

Filed in Office Aug 13, 1853 -
(Signed)
Geo Fisher Secy.

16

Deposition
of
Henry McVicar -

358 ND
PAGE 16

United States Land Commission -

San Francisco Jan 16 1854.

On this day before Commissioner Thompson Campbell came Henry McVicker a witness in behalf of Claimant Thomas O Larkin Case No 124 who after being duly sworn deposed as follows -

1 Quest -

What is your Name Age and place of residence?

Ans -

My Name is Henry McVicker - I am forty years of age and I reside in Monterey County -

2 Quest.

Are you acquainted with the Pluggo Ranch so called and if so what do you know of its occupation and Cultivation and Settlement?

Ans -

I am well acquainted with said Ranch It is situated on Feather River on the left hand side going up about the Mouth of the River - I cant say about its occupation I have seen Pluggo on the Ranch in the Summer the last of the Summer I think at that time there was a house and Corral there was one white Man there, there were potatoes planted but the season was so dry they did not Come up - This was in the Year 1844 - There was Cattle on the place there was also a horse and Mares - I Came to California on the 5 Aug 1836 -

Questions by Associate Law Agent - None -

Henry McVicker

17

358 ND
PAGE 17

Henry Mae Dicker

Sworn to & Subscribed
before me this 4th day
of January AD 1854.

Thompson Campbell
Comr.

Filed in Office Jan 24, 1854.
(Signed)
Geo Fisher Secy

United States of America
State of California } ss.
San Francisco July 14, 1854.

This day personally came before Peter
Lott Commissioner for taking Testimony
to be used before the Board of U. S.
Land Commissioners in said State, Jacob
P Leese a witness on behalf of the Claimant
Thomas O Larkin in Case 129 on the docket
of said Board - said witness being sworn
deposed as follows.

Deposition of J. P. Leese -

The U S Associate Law Agent first sent

Questions by Claimants Counsel -

1st Question -

What is your Name age and
residence?

Answer -

My Name is Jacob P Leese
My age 45 years, My residence Monterey
County California -

2d Question

Where did you reside in 1844
1845 & 1846 - and what Offices if any did you
hold under the Mexican Government -?

Answer -

I lived during those years in the town of Sonoma in this State during all of 1844 and till June 1845 - I was first Alcalde of Sonoma -

3d Question -

Was you acquainted at that time with Charles M. Fluggo if you who did he was what was his Character and state what you know of his having a Rancho on the west side of Feather River if you what you know of his selling it and when and to whom -

Answer -

I was acquainted with said Fluggo - He was a man of very good Character and was acting as our agent for Capt Sutter and attending to his business - all I know of his owning a Ranch as described is by the Common report and general understanding that he had a Ranch on the Feather River - It was generally known and called "Fluggos Ranch"

I know in the same manner by Common report that he sold his Ranch to Thomas O Larkin - I first heard of such a sale in the year 1844 -

4th Question -

Are you acquainted with the hand writing of Manuel Nicheltorena and Manuel Jimino if you State your means of knowledge and look at the document marked "Exhibit No 1 to the deposition of M D M Howard in No 124 N. D. S." and filed in this Case and State whether these Signatures in said document are genuine? -

358 ND
PAGE 19

Answer -

I am acquainted with the hand writing of Micheltorena and Jimeno have seen them both write and had communications from them and I believe these to be their genuine signatures -

5th Question -

Was you acquainted with Walter Colton and William R Garner and William S Johnson, and with their hand writing respectively: if yea state your means of knowledge?

Answer -

I know them all very well and knew each of their handswriting - I have seen them all write -

6th Question -

What Office did said Walter Colton and said Garner hold in 1847? -

Answer -

Walter Colton was Alcalde of Monterey that year and said Garner was his Secretary? -

7th Question -

Did said William S Johnson hold or exercise the functions of any office in the year 1850?

Answer -

He was the Recorder of Monterey County at that time -

8th Question -

Look at the document marked "Doc. H. I. J. No 1. annexed to the depo - of W D M Howard before Commr Thornton and filed in this Case and State whether the names of Walter Colton & William R Garner as therein written and the

358 ND
PAGE 20

Name of William S Johnson as thereon. En-
dorsed, are the Genuine Signatures of these three
persons?
Answer -

Yes, these are the Genuine Signa-
tures of these persons all of them -
Qt Question -

Were you acquainted with
Pio Pico and Juan Bandini and with
their respective hand writing - if yea State
your Means of Knowledge and look at the
document Marked "Exhibit No 2 to the
deposition of W.D.M Howard to No 124
N. S. T" and filed in this case and State
if their Names as therein written are their
Genuine Signatures?
Answer -

I Knew them both and Knew
their respective hands writing - I have seen
Pio Pico write frequently and have seen
letters from Juan Bandini, and I believe
those to be their genuine Signatures -

D. P Leese -

Subscribed and Sworn to
before me on this 14th day
of July A.D 1852.

Peter Lott Com. &C.

Filed in Office July 14, 1852.

(Signed)

Jno Fisher Secy.

21

Deposition of Ab'l Body

358 ND
PAGE 21

United States of America
State of California } ss.
San Francisco Oct 12. 1854.

This day came before Peter Lott Commissioner for taking testimony to be used before the Board of U.S. Land Commissioners in said State. Ab'l Bradley a witness on behalf of the Claimant Thomas O. Larkin in Case No 124 on the docket of said Board and said Witness being sworn deposed as follows -

The U.S. Associate Law Agent is present -

Questions by the Claimant in person -

1st Question -

What is your name age and residence?

Answer -

My name is Ab'l Bradley my age 36 years. my residence in Santa Clara County California -

2d Question -

When did you first come to California and in what business?

Answer -

I first came to California in January 1844 - I was with Col Fremont's Exploring Expedition -

3d Question -

State whether you have been acquainted with a Rancho on Feather River called "Boga" or "Flugges Rancho which belonged to Charles M Flugge and did you know him?

Answer -

I know said Rancho and said

358 ND
PAGE 22

Fluggo – I was there at the Rancho in the Rodeo Season of 1845 & 1846 – I saw Mr Fluggo there and another Man with him they were living in a Shanty there – There were some horses there about the place belonging to Fluggo. there were some Cattle there I Killed one and Fluggo made me pay for it – Fluggo told me that was his place and I had heard of his having a place there in 1844. when I afterwards met Fluggo in Los Angeles in 1846 he told me he had left the Ranch on account of his Eye Sight having failed him –

4th Question –

State where said Rancho is situated as near as you can?

Answer –

It is situated on the West bank of Feather River some 20 or 25 Miles above Hock Farm. the place of Capt Sutter –

4th Cross

Subscribed and Sworn
to before me at this 12th day
of October AD 1854 –
Peter Lott Comm &c.

Filed in Office Oct 14, 1854
(Signed)
Jno Fisher Secty.

United States of America
State of California } ss.
San Francisco January 6, 1855

Deposition of J A Sutter – This day came and was sworn before Peter Lott Commissioner for taking testimony before the Board of U S Land Commissioners in said State, John A

358 ND
PAGE 23

Sutter a witness on behalf of the Claimant Thomas O Larkin in Case No 124 on the docket of said Board and being said Witness deposed as follows -

The U S Associate Law Agent was present -

Questions by Claimants Counsel -

1st Question -

What is your Name age and residence?

Answer -

My Name is John A Sutter. My age 52 yrs. My residence in Sutter County California -

2d Question -

State how long and where you have lived in California and what Offices if any you held under the Mexican Govern = ment from 1834 to 1846 -

Answer -

I have lived fifteen years and a half in California all the time up on the Sacramento River - From 1834 to 1846 I was Military Commandant of the Northern Frontier and was during the same time clothed with Civil power as an Alcalde or Justice of Peace -

3d Question -

State you acquainted with the Rancho called Boga or Flugg Rancho on the west bank of Feather River formerly belonging to Chas W Flugg and did you know said Flugg from 1844 to 1846?

Answer -

I knew said Rancho and also said Flugg very well from 1844 to 1846.

358 ND
PAGE 24

4th Question -

State whether government to said rancho with said Flugg in 1844 and as Alcalde of that district put him in possession of said rancho?

Answer -

I did go and put him in possession of said rancho in 1844 I was acting as Alcalde of the District -

5th Question -

State whether said Flugg was in your employ at Sun Velentia in 1843 and part of 1844 and whether in the latter year he left your employ to establish said Ranch?

Answer -

Said Flugg was in my employ several years and in 1844 he went to take charge of said rancho - I paid him off when he left my employment with horses and cattle with which I understood he intended to stock said ranch - He took people up with him when he went up with the stock and I believe they went on to the ranch but I did not go up and did not of course see them there -

6th Question -

When did said Flugg leave Feather River, where did he go and when?

Answer -

I think he left there in 1845 on account of his health. he became very sickly on account of the climate and went to the South I think he remained only about a year on the ranch -

7th Question - Look at the documents now

358 ND
PAGE 25

Shown you Marked A S L as an Exhibit to this deposition, and Say whether it is the original Certificate given by you Emig a Map in Said document between pages 1 and 2 thereof - State whether the Signature of your Name thereto is your genuine Signature, or if Said paper is a Copy, State whether it is a correct Copy of Said Certificate given by you and whether you Signed Said original? -
Answer -

This is a traced copy of the Map & Certificate and the Certificate thereon was Signed by me - I Suppose the original is in the archives which bears my genuine Signature this is a true Copy of that original?

Cross - Examined by W S Associate Law Agent -

1st Question -

Under what authority did you proceed to give the Judicial possession of Said Rancho?
Answer -

I acted in this as in other cases under the general authority and instructions from the Mexican Government -

2d Question -

What form was used by you in giving this possession -
Answer -

There was very little ceremony used - I acted in this case as I did in others - I went in person on the land with the Claimant, we rode about on the place and I told him that I gave him lawful possession of his land - This was after I had seen the Map which I had certified -

A. H. Sutter -

Subscribed and Sworn to
before me on this 2d day
of January AD 1855
Peter Lott Commissioner
Filed in Office Jan 4. 1855
(Signed)
Geo Fisher Secy.

358 ND
PAGE 26

United States of America
State of California } ss.
San Francisco Jany 3. 1855.

Deposition of Nicholas Gray

This day came before Peter Lott Commissioner for taking testimony to be used before the Board of U.S Land Commissioners in said State Nicholas Gray a witness on behalf of the Claimant Thomas O Larkin in Case No 124 on the docket of said Board and said witness being sworn deposed as follows -

The U.S Associate Law Agent is present.

Questions by Claimant in person -

1st Question -

What is your name age and residence?

Answer -

My name is Nicholas Gray My age 54 years, My residence in Oakland Alameda County, California -

2d Question -

Are you acquainted with the Rancho called "Pluggs" or Boga Rancho on Teatho River. If you State its locality describe it and State also whether you ever surveyed said rancho and if you State under what authority and what circumstances

358 ND
PAGE 27

who it was, and who was with you ?
Answer -

I Know the Rancho named in
his on the west bank of Feather River it
Contains about 5 leagues of land and is
situated 4 or 5 miles about a town of Hamil
ton in Butte County -

In the Summer of 1852
I surveyed said Rancho - I received an
order and instructions from the then Surveyor
General of the United States for California
Samuel H King to make said survey -

I was sworn as a Special
Surveyor for the purpose - I had with me
as Chain Carriers and Assistants Henry T
Moore, N. A Graves and John H Whipple, and
these were also sworn before a Justice of the
Peace of that County to discharge their duty
faithfully -

On the 1st of May 1852 The
Board of U S Land Commissioners made
an order directing said rancho to be Survey=
ed and this was the basis of the order by
the said Surveyor General,

3d Question -

Did you after Surveying said
Rancho, make a return of your Survey and
field Notes thereof to said U. S. Surveyor
General and was it approved by him - If you
look at the document now shown to you
marked H P L as an Exhibit to this deposi=
tion and state whether it contains a true
copy of your field Notes and report to the
Surveyor General thus made and returned ?

Answer -

I did make such report and
return of my field Notes that Same Summer
to Samuel H King then the Surveyor General

358 ND
PAGE 28

as aforesaid which Report and Return were Examined and Approved by him Decr 8. 1852 and this Document now shown to me Contains a true and Correct Copy of said Report and Field Notes —

4th Question —

Look also at the Map here to fore filed in this Case and now Marked "B. P. L." as an Exhibit to this deposition and State whether it is a true and Correct Copy of the Map of your said Survey as made by you at the Completion of said Survey and returned to said Surveyor General?

Answer —

When I Made My said Report and Return of My field Notes to the Surveyor General — I returned the Map of My Survey with them and this is a true Copy and Correct Copy of that Map and it is so Certified by said Surveyor General —

This deposition is here temporarily Suspended in order to Enable the Witness to produce a paper Containing his original instructions from said Surveyor General —)

P. Lapp Comr —

January 4th 1855

This deposition is again resumed as follows.

5th Question —

Have you in your possession the original order and instructions of the Surveyor General to Make the Survey in this Case if you produce them?

Answer —

I have the said instructions and

29

358 ND
PAGE 29

I have filed them with this deposition Marked "G. P. L." as an Exhibit hereto —

Q. 2nd Question —

Have you the order?

Answer —

I have a certified copy of it from the Secretary of this Commission and I file it herewith Marked "I P L" as an Exhibit hereto —

Cross. Examined by the U S Associate Law Agent —

Q. 1st Question —

State what is the Shape of said Rancho, and how much land it Contains?

Answer —

It is 14 Miles long on Feather River and will average about 2 Miles in width — It Contains 21,454 11/100 Acres.

Peter Gray

Subscribed and Sworn to
before me on this 8th day of
January A.D. 1855.

Peter Lott
Commissioner

Filed in Office Jan. 1, 1855 —
(Signed)
Geo Fisher Secy

31

E"

Original Grant.

Exhibit No. 1 to the Depo of W. D. M. Howard in No. 12 C. Jany 19/53 Geo. Fisher Secy

10 X 11

358 ND
PAGE 30

Sello primero Ocho pesos:
Habilitado provisionalmt.e 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.
Micheltorena   Pablo de la Guerra

(Sello) El Ciudadano Manuel Micheltorena General de Brigada Mexicano Ayudante General de la plana Mayor del mismo Gobernador Comandt.e Gral é Inspector del Departamento de Californias.

Por cuanto Don Carlos Guillermo Flugge Mexicano por naturalizacion ha pretendido para su beneficio personal la obtencion de cinco sitios de Ganado Mayor al lado Occidental del Rio de las plumas y en el Centro en un terreno que llaman Bogas, debiendo ser su primer lindero desde el grado 39. 33. 45. de latitud Norte segun esplica el diseño respectivo; practicadas previamt.e las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y Reglamentos, usando de las facultades que me son conferidas à nombre de la Nacion Mexicana he venido en concederle el terreno mencionado sugetandose à la aprovacion de la Exma Asamblea Departamt.l y à las condiciones siguientes.

1a Deberá prudencialmt.e tratar bien à la Indiada que por dicho terreno se halle establecida infundiendoles confianza ideas de sociabilidad y civilizacion como tambien religiosas de Catholisismo y no se les impidirá el uso que por el mencionado parage hagan como siembras pesca &c.

2a No podrá venderlo enagenarlo ni hipotecarlo imponer senso vinculo ni otro gravamen alguna.

3a Cuando se conforme la propiedad del solicitante del juez respectivo que le de posesion juridica en virtud de este

358 ND
PAGE 31

32

despacho por el cual se le demarcaron los linderos en cuyos limites pondrá á mas de las mojoneras algunos Arboles frutales ó silvestres de alguna utilidad.

4ª El terreno de que se hace donacion es de un sitio de ganado mayor segun demarca el diseño que corre en el espediente respectivo. El juez que diere la posesion lo hara medir conforme á Ordenanza que= dando el sobrante á la Nacion para los usos que le convenga.

5ª Si contraviniere á estas condiciones perderá su derecho al terreno y será denunciable por otro.

En consecuencia á mandado que tenga la providencia y Vale dero el presente se tome razon de él en el libro respectivo y se entregue al interesado para su resguardo y demas fines.

Dado en Monterey á veinte y seis de Octubre de mil ocho cientos cuarenta y cuatro.

Manl Michelena

Manl Jimeno Srio.

Queda tomada razon de este despacho en el libro respectivo @ fojs 6.

Jimeno

Leido en Oficio Diario 5 de 1853.

Geo: Fisher Secy.

33

"H"

Translation of Grant

358 ND
PAGE 32

The Citizen 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 Californias -

Whereas Charles William Flugge Mexican by Naturalization has petitioned for his personal benefit for a tract of land consisting of five "Sitios of ganada Mayor" Situate on the westerly Side of Feather River in the Centre of which there is a piece of land called Boga the first boundary of the Said land beginning at 39. 33. 45, degrees North latitude as appears from the corresponding plan the Necessary preliminaries and investigations having been gon through as directed by the laws and regulations putting into Effect the authority in me vested in the Name of the Mexican Nation I have come to the Conclusion to grant unto the petitioner the above mentioned lands. to be subject to the approval of the Most Excellent Departmental Assembly. and to the following Conditions -

Firstly - He shall with all prudence give good treatment to the Indians who are Settled about the Said lands by giving them ideas of Sociability & Civilization as well of the Catholic Religion and the use which they may make about the Said land such as planting fishing &c. Shall not be permitted to them

Secondly - He Shall not sell or dispose of it Nor Mortgage or impose rent tax or any other incumbrance whatsoever -

Thirdly - When the title of ownership Shall have been confirmed to the petitioner

34

358 ND
PAGE 33

he shall apply for legal possession to the corresponding authority by virtue of this decree by whom the boundaries shall be marked out, within the limits of which he shall put besides the land marks some fruit or forest trees of some utility -

Fourthly - The land which is hereby granted consists of five sitios de ganado Mayor as is represented in the plan attached to the corresponding dispatch -

The Judge who should give possession shall order it to be measured in conformity to ordinance and the surplus to remain to the Nation for convenient purposes.

Fifthly - Should the petitioner violate these conditions he shall lose his right to the land & shall be liable to be denounced by another -

In Consequence I order that the present being had firm and valid record be taken thereof in the respective book and that it should be delivered unto the petitioner for his security & other purposes.

Given in Monterey this twenty first day of February one thousand Eight Hundred and forty four -

(Signed) Manl Micheltorena

(Signed) Manuel Jimeno Secy -

One record has been taken of the above decree in the respective book folio -

(Signed) Jimeno -

I Certify the foregoing is a true and correct translation -

San Francisco December 21. 1853.

(Signed)

Geo Fisher Secy.

Vid Testn. Secy.

35 T. G. D. K.

Espediente

Promovido por Don Guillermo Skluzy

en Solicitud del paraje nombrado

Rio de las Plumas.

Año de 1844

Numero 319

358 ND
PAGE 34

2. Y. D. K

Dn Carlos Guillermo Skluzy

358 ND
PAGE 35

36 J. J. D. K. Sello tercero Un peso:
Habilitado provisionalmente por la Aduana Marítima del puerto de Monterey, en el Departamento de las Californias, para el año de mil ochocientos cuarenta y tres.
Micheltorena Manuel Castañares

$ M

A. Su Excelencia el señor Comandante General y Gobernador de ambas Californias.

Monterey Dbre 31. de 1843. Inf. el S. Dn del despacho pidiendo antes los q. necesitare al Efecto.
Michelta

Carlos Guillermo Fluggc de Hannover y residente en este Departamento hace dos años ante V. E. con el debido respeto y digo: Que hallandome deseoso de conseguir un terreno Baldio situado sobre el lado occidental del Rio de las Plumas y estendiendo se sobre el dicho Rio de latitud del Norte 39º 33'. 45". hasta el grado 39º 26'. 45". y formando encima de esta linea un cuadrado una Legua de Ancho q. le damos Boga-

4. J. D. K. segun consta el adjunto diseño. A. V. E. suplico se digne acceder à esta solicitud en lo que recibiré merced.
Monterey y 22 de Diciembre de 1843
Carlos Guillermo Fluggc

Como dispone el Escmo Sor Gobernador pase la precedente instancia al Sr. Sutter como encargado de la frontera del Rio del Sacramento p.a que informe sobre su contenido.
Monterey 4 de Enero de 1844
Man.l Jimeno

El terreno que solicita en este pedimiento el señor Don Carlos Guillermo Fluggc y que se representado en el adjunto diseño esta desocupado y doy esta Certificacion para los fines que convengan.
Nueva Helvetia Enero 24 de 1844.
Juzgado del Distrito del Rio Sacramento } J. A. Sutter

37 d. G.D.R

Exmo Sr Gobernador

Estoy bien informado que el terreno que se pretende esta sobre el Rio de las plumas en donde hay mucha Indiada que po= dria resentirse sino se les hiciera ver prime ro que se hara proceder à la Colonizacion de aquellos terrenos y deberian ser preferidos en consederseles los terrenos que tienen cen pados y los que necesiten para el beneficio de ellos y de sus familias, infundiendoles esta confianza podrian ser mas bien utiles à sus colindantes; que no prejudicia la Superior discernimto de V.E. resolvera lo conveniente.

358 ND
PAGE 36

12 Monterrey Febrero 20 de 1844

Manuel Simeno

Monterrey Febo 21. de 1844

Espidasele el titulo advirtiendo en el las prudencias q. debe usar tratando bien à las Indias infundiendoles confianza

6. G.D.R ideas de sociabilidad y Civilizacion como tambien religiosos de para q. poco à poco conos-can el bien q. à ellos mismos resulta de la compania y amistad.

Michelena

Monterey 21 de Febrero de 1844

Vista la peticion con que da principio este Espediente, los informes que preceden con todo lo demas que se tubo presente y ver con vino de conformidad en las leyes y reglamen tos de la materia, declaro à Don Carlos Ymo Veluzge dueño de cinco sitios de ganado menor al lado Occidental del Rio de las plumas y en el Centro de un terreno que llaman Boga delrenglon ser su primer lindero desde el grado 30. 33. y 45. de la latitud Norte. Libese el correspondte

y. G.D.R.

Here follows

Map

S. S. D. R. A la Excelentisima Asamblea Departamt.
del Departamento de Alta California
Carlos Guillermo Yelligge ciudadano mexicano
por naturalizacion con el debido respecto ante
la Excelentisima Asamblea Departamental
se presenta diciendo: Que habiendo recibido
del Señor General Manuel Micheltorena
la concesion de cinco sitios de ganado ma
yor al lado Occidental del Rio de las plu
mas en un terreno que llaman Boga segun
consta en el titulo aqui incluso dado en
Monterey á Veinte y cinco de Yebrero de mil
ocho cientos cuarenta y cuatro.
A la Excelentisima Asamblea Departa=
mental humildimente suplica que
se sirve dar la Aprobacion á la dicha
donacion y que admita este pedimien
to en papel comun por falta del sellado
Angeles y 23. de Mayo
de 1845 = Carlos W. Yelligge

358 N.D
PAGE 37

Angeles Mayo 26 de 1845.
Dado cuenta á la Exma Asamblea
en sesion de hoy, con esta Solicitud y titulo
adjunto se pasó á la comision de terrenos
Baldios.
Pio Pico Presidte. # Agustin Olvera.
Suo.

S. S. D. R. Escmo Sor.

La Comision de terrenos Bal
dios habiendose hecho cargo con toda la
escrupulosidad posible del Espediente
formado en virtud de la Solicitud hecha
pr. Dn. Guillermo Yelligge con fha 22 de
Diciembre de 1843. sobre el paraje nombra
do Boga situado al lado Occidental del
Rio de las plumas q. le fue concedido pr.
titulo regalmente librado pr. el Gobierno del
Departamento con fha 2 de Yebrero de
1844. y resultando del Examen verifica
do q. la concesion espresada en favor
de Dn. Carlos Guillermo Yelligge fue e
jecutada con total arreglo á lo q. sobre
el particular disponen las leyes; la comision
en consecuencia de lo referido pone á la de
liberacion de V. E. la siguiente proposicion

39

Espedte. Continued

Se aprueba la consecion hecha por Cud. Mejicano pr. naturalizacion Carlos Guillermo Flugge del parage nombrado Boga situado al lado occidental del Rio de las plumas con sedido en propiedad el dia 21 de Febrero de 1844 de entera conformidad con lo prevenido en la ley de 18 de Agt. de 1824 y el Articulo 5o. del Reglamento de 21 de Novbre. de 1828.

358 ND
PAGE 38

Sala de Comisiones en la Ciudad de los Angeles Julio 2 de 1845.

Ignacio del Valle

10. S. D. K. Angeles Junio 13 de 1845.
En sesion de este dia se aprobo por la Honorable Asamblea la proposicion del dictamen antecedente mandando se devuelva el espediente respectivo al Exmo. Sor. Gobernador para los fines correspondtes.

Pio Pico. Presdte.

Agustin Olvera Srio.

Se libro al agraciado el comprobante respectivo.

11. S. D. K. Manuel Micheltorena Gral. de Brigada del Ejercito Mexicano Ayudte. Gral. de la plana Mayor del mismo, Gobernador Comandte. Gral. é Inspector del Departamto. de Californias.

Por cuanto Dn. Carlos Guillermo Flugge Mejicano por naturalizacion ha pretendido para su beneficio personal la estencion de cinco sitios de Ganado Mayor al lado Occidental del Rio de las plumas y en el centro un terreno que llaman Boga" debiendo ser su primer lindero desde el grado 89„ 33 y 45. de latitud Norte segun esplica el diseño respectivo practicadas previamte. las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos usando de las facultades que me son conferidas à nombre de la Nacion Mejicana he venido en concederle el terreno mencionado sujetandose à la aprobacion de la Exma. Asamblea Departamental, y à las condiciones sigtes.

1ª Deberá prudencialmt. tratar bien á los Indios q.e p.r dho terreno se halle establecida mpundiendoles ideas de Confianza y de 12. S.D.R. Socialidad y civilisacion como tambien religiosas de Catolicismo y no se les impida ra el uso q.e por el mencionado paraje hagan como siembras pesca &c.

358 ND
PAGE 39

2ª No podrá venderlo enagenarlo ni hipotecarlo ni imponer sobre dho Solo ni dho gravamen

3ª. Cuando se le confirme la propiedad solicitará del juez respectivo que le de posesion judicial en virtud de este despacho por el cual se le demarcaran los linderos en cuyos limites podrá á mas de las Mojoneras algunos Arboles frutales ó silvestres de alguna utilidad

4ª El terreno de q.e se hace donacion es de 5. sitios de ganado mayor segn. esplica el diseño respectivo. El juez q.e diere la posesion lo hará medir conforme á Ordenanza q.e dando el sobrante que resulte á la Nacion para los usos q.e la convengan.

En consecuencia mando que lo 13. S.D.R. mencionado se pr. forme y Valedero el presente se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines.
Dado en Monterey á 21 de Febrero de 1844.

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

I Samuel D. King Surveyor General of the United States for the State of California and as such now having in my Office and under my charge and Control a portion of the Archives of the former Spanish and Mexican Territory & Departments of Upper California do hereby Certify that the thirteen preceding and hereunto annexed pages of Tracing paper numbered from One to thirteen inclusive and each of which is verified by my initials S.D.R. exhibits true and Accurate Copies of

41

certain Documents on file and forming part of the said Archives in this Office

(&c. or) In testimony whereof I have hereunto signed my Name Officially and affixed my private Seal (not having a seal of Office) at the City of San Francisco, Cal. this fifth day of May 1852

Dam[l] D. Long
Surv[r] Gen[l] Cal[a]

Filed in Office May 5th 1852

Lev: Fisher Deery

358 ND
PAGE 40

42

43

Record of Proceedings at the instance of Don Guillermo Fluggo soliciting the location named "Rio de las Plumas"

1844.

No 344.

Translation of "J"

358 ND
PAGE 41

To His Excellency the Hon Commander General and Governor of both Californias

I Carlos Guillermo Fluggo a Native of the Kingdom of Hanover and residing in this Department since two years appear before Y.E. with due respect and say that in as much as I find myself desirous to obtain a tract of land lying in the said Situated on the Northern Side of Feather River and Stretching along (Sobre) the Said River from 39° 33' 45" Northern latitude to 39° 48'. 45" and forming on this line a Square one league in breadth It is called Boga as it is pointed out by the adjoining Sketch I entreat Y.E. to deign to accede to this request whereby I could secure mercy -

(Signed)
Carlos Guillermo Fluggo

Monterey, December the 22nd. 1843 -

Monterey Dec. the 31. 1843.

Let the Secretary of Government Report asking beforehand for what reports he may want for the purpose -

(Signed)
Micheltorena -

358 ND
PAGE 42

Conformably to the determination of His Excellency the Governor directs the preceding instance to be transmitted to Senor Sutter as the party in Charge of the frontier of the Sacramento River in order that he report about its Contents -
Monterey January the 4th 1844.

(Signed) Manuel Jimino.

The track of land Solicited in this petition by Senor Don Carlos Guillermo Fluggo and represented in the adjoined Sketch. is unoccupied and I give this Certificate for any Convenient Ends.
New Helvetia - January the 24th 1844.

(Signed) J. A. Sutter -

Court of the Sacramento River District

Excellent Sir Governor -

I am well informed of the fact that the land Solicited lies along (solone) the Feather River where there is a Numerous Indian population that might fail resentment if it was not made visible to them beforehand that the colonization of those lands is about to be undertaken and they ought to be prepared in the grants of the lands which they have in occupancy and those they may want for their benefit and that of their families by infusing this confidence in their Minds they may more likely be useful than prejudicial to the parties whose lands border on theirs -

Your Excellencys Superior disernment will resolve what may be

358 N.D
PAGE 43

45

Conveniente -
Montevy Febreary the 20. 1844.
(Signed) Manuel Jimino -

Montevy Febreary the 21. 1844.
Let the title be issued and not
he is to be informed that he shall make
use of produce, treating kindly the Indian
population, infusing into their minds con-
fidence ideas of Sociability and Civilization
and likewise religious ideas of Catholicism
to the End that by slow degrees they may
become aware of the welfare resulting to
them from the Citizenry and friendship -
(signed)
Michel Torena -

Montevy Febreary the 21st 1844.
After having seen the pe-
tition at the head of this record of pro-
ceedings the preceding reports and other
steps which have had and ought to be issued
in Conformity with the laws and regulations
as the matter I declare Don Carlos
Guillermo Fuggo the owner of two
Square leagues (Sitio de Ganados Mayor)
on the Western side of the Feather River
and on the Centre of a track of land called
Boga. Its first Coindant to be reckoned
from 39° 33' 15" Northern latitude -
Let the Corresponding be issued -
(The remainder is wanting)

Manuel Michel Torena General of Brigade
in the Mexican Army Adjutant General
in the Staff of the Same - Former Com-
mander General & Inspector of the Department

358 ND
PAGE 44

of the Department of California -

Whereas Don Carlos Guillermo Fluggo a Mexican by Naturalization has solicited for his personal benefit the Extent of five Square leagues (Sitios de ganado Mayor) on the Western Side of the Trathen River and on the Centre of a track of land called Boga its first Boundary to be from 39° 33' 45" Northern latitude as the respective Sketch Explains the investigations thereunto Concerning having been previously accomplished according to the prescriptions of the laws and regulations, in the Exercise of the authority in me vested in the Name of the Mexican Nation I have found Expedient to grant to him the mentioned track of land Subject to the approval of the Supt Excellent Departmental Assembly and to the following Conditions -

1st - He shall prudentially treat with Kindness the Indians who are settled about said land infusing into their minds ideas of Confidence Sociability and Civilization and likewise religious ideas of Catholicism and they are not to be persecuted or debarred from the use they may make about the aforementioned localities such as sowing fishing &c.

2d - He shall have not sell alienate or Mortgage it, improvement or any other Encumbrance -

3d - When the property be confirmed to him he shall solicit the proper Judge to give him the judicial possession by Virtue of this patent by whom the boundaries shall be marked out to him on the

358 ND
PAGE 45

limits of which he shall put besides the land marks some fruit trees or forest trees of some utility -

4th - The tract of land granted is of five Square Leagues (Sitios de ganado Mayor) as the respective Sketch Explains -

The Judge who should give the possession shall cause it to be Measured according to ordinance and the residue resulting is to remain to the Nation for Convenient uses -

Consequently I order that the present document being had as form and valid the same be Entered in the respective book and be delivered to the party Concerned for his Security and other Ends -

Given in Monterey February the 21st 1844 -

To the Most Excellent Departmental Assembly of the Department of Upper California -

Carlos Guillermo Fluggo a Mexican Citizen by Naturalization appears with due respect before the Excellent Departmental Assembly saying that having received from the Hon Ignacio Manuel Micheltorena the grant of five Square leagues (Sitios de ganado Mayor) on the Western side of the Feather River a tract of land called Daga as it appears by the title herein Enclosed given in Monterey on the twenty fifth day of February one thousand Eight Hundred and forty four -

He humbly Entreats the Excellent Departmental Assembly to grant its approval to said donation and to admit this petition written on Common paper

358 ND
PAGE 46

in the want of Stamped Paper -

(Signed) C. N. Fluggo -

Angeles May the 23d 1845 -

Angeles May the 26. 1845 -

Account having been
Remanded to the Ecclesiastical Assembly in this
days Session with this Petition and aforesaid
title all was Referred to the Committee on
Vacant Lands -

(Signed) Pio Pico -
President -

(Signed)
Augustin Olvera
Secretary -

Ecclesiastical Sir -

The Committee on Vacant Lands having
Noticed with all possible Scrupulosity
the Record of proceedings at the instance
of Don Guillermo Fluggo under date of
the 22d day of December 1843 about the
location called Bolsa situate on the
western side of Feather River which
was granted to him by a title by Gallos
signed by the Government of the Depart-
ment under date of the 21st February 1844
and it resulting from the Examination
that the Expressed grant in favor of Don
Carlos Guillermo Fluggo was Executed
in total Conformity with what the laws
direct on the Subject the Committee in
Consequence of what has been related Sub-
mits to Y. Excellency's deliberation the
following proposition -

" The grant made to the Mexican
Citizen by Naturalization Carlos Guillermo

49

Flugge of the location named Boga situate at the western side of the Feather River made in fee on the 21st day of February 1844 is approved in entire conformity with the provisions of the Law of August the 18th 1824 and the 5th article of the regulation of November the 21st 1828—

Hall of Committees in the City of Los Angeles June the 2d 1845—

(Signed)

Ignacio delValle.

358 ND
PAGE 47

Angeles June the 13th 1845—

In this day's Session the Honorable Assembly approved the proposition of the preceding Opinion ordering that the respective Record of Proceedings be returned to His Excellency the Governor for corresponding ends—

(Signed)

Pio Pico
President—

(Signed)

Agustin Olvera
Secretary.

The respective Title (comprobante) was issued to the grantee—

I certify that the foregoing is a true and correct translation—
San Fran^co December 21, 1853.

(Signed)
Geo Fisher Secy.

Filed in Office Jany 5, 1852.

(Signed)
Geo Fisher Secy

50

57

Pio Pico primer Vocal de la Exma Asamblea y Gobernador interino del Departamento de Californias.

IF

La Exma Asamblea Departamental en sesion

Approval of del dia 13 de Junio del presente año acordo lo siguiente: Se aprueva la concesion hecha al Ciu-

Dept. assembly dadano Mexicano por naturalizacion Carlos Guil-

Exhibit No. 2. to lermo Flugge del parage nombrado Boga situ-

depo: of W. Howard ado al lado Occidental del Rio de las plumas

to No. 129. concedido en propiedad el dia 21 de Febro de 1844. de entera conformidad con lo preveni-

H. S. T.

Jany: 7th/53. do en la ley de 18 de Agosto de 1824. y el artlo

Geo. Fisher Secy 5o del reglamento de 21 de Noviembre de 1828.

358 ND
PAGE 48

Y para resguardo del interesado se estiende el presente en papel comun por falta del sellado en la Ciudad de los Angeles à diez y siete de Junio de mil Ocho cientos cuarenta y cinco.

Pio Pico

Juan Bandini Srio del Despacho

Filed in Office Janry. 5th 1852

Geo: Fisher Secy

Pio Pico, Senior Member of the Most Excellent Departmental Assembly and Governor ad interim of the Department of the Californias -

Translation of Exhibit No. 2 to depo. of W. Howard H. S. T.

The Most Excellent Departmental Assembly in session of the 13th day of June of the present year resolved as follows: The grant made to the naturalized citizen Carlos Guillermo Flugge of the place named "Boga", situated on the West side of Feather River, granted in property on the 21st of Feby, 1844, in entire conformity with the law of the 18th August 1824 and the 5th art. of the Regulation of 21st Nov. 1828 is approved. And for the security of the party interested the present is delivered to him on common paper for the want of sealed, in the city of Los Angeles the 26th day of June 1845 = (Signed) Pio Pico = (Sigd) Juan Bandini, Secy of State =

Filed in office Jany. 5th 1852 - Geo: Fisher, Secy -

5-2

53

Sello Primero. Ocho Pesos.

Mi Chatterno — Pablo de la Guerra

"C"
Translation

The Citizen Manuel Michaltorena Brigadier General of the Mexican Army Adjutant General of the Staff Mayor of the Forces, Commandant General and Inspector of the Department of California

358 ND
PAGE 49

Seal

Whereas Charles Williams Scotch Mexican by Naturalization, has petitioned for his personal benefit for a tract of land containing four square leagues for black Cattle Situate on the Westerly side of Salinas River and in the Centre of which there is a place of land called Baga having its first Boundary from the latitude of 39. 33.45, degrees North as appears from the corresponding plan. the necessary preliminaries and investigations having been gone through as directed by the laws and regulations Exercising the Authority in me vested in the Name of the Mexican Nation I have just granted to him the above mentioned land he abiding by the decision of the Honorable Departmental Assembly and binding himself to the following conditions —

Firstly — He ought with all prudence to treat well the Indians who have settled on the said lands by giving them ideas of Sociability, Obedience and Civilization as well as of the Catholic Religion and not impede in them the use which they may make of the aforesaid lands for sowing fishing &C —

358 ND
PAGE 50

Secondly - He will be able to Sell or dis=
pose of it Nor Mortgage it impose tax or
any other incumbrance whatsoever afore=
Thirdly - When the title of ownership shall
have been completed to the petitioner he will
Solicit of the proper Judge to give him
Juridical possession thereof in virtue
of this grant for the which the boundaries
thereof shall be Marked out within the limits
of which besides the usual land Marks fruit
bearing and forest trees of same utility
shall be planted -
Fourthly - The land which is hereby
granted consists of five pastures for black
Cattle as is represented in the plan accompa
nying the respective Espediente - The Judge
giving the possession shall have it measured
in Conformity to the Ordinance the overplus
remaining to the Nation for such uses as may
be deemed most proper -
Fifthly - If he shall contravene these Condi=
tions he shall lose his right to the land and
it shall be able to be denounced by another -
In Consequence I order that these presents
heirs of themselves duly firm and valid record
thereof shall be taken in the proper book and
that they be delivered to the party interested for
his Security and other purposes.
Given in Monterey this twenty
first day of February One thousand Eight
Hundred and forty four -
(rubric) Manl Michelena -
(rubric) Mont Jimeno Sro -
New Record of this grant has been
taken in the proper book fo 6 -
(rubric) Jimeno -
Filed in Office March 24, 1852. Wm Fish Secy

55—

"19"

Order of Survey

358 ND
PAGE 51

In Case No 124. Thomas O Larkin
Fluggs Ranch —

On Motion of the Counsel for the Claimant the following order was granted to wit —

For the purpose of determining with precision and certainty the limits and boundaries of the land claimed by Thomas O Larkin in his petition No 124 pending before the Commissioners —

It is on Motion of the Counsel for the Claimant Ordered that an initiatory Survey under the Superintendence of the United States Surveyor General of California be made of the land known by the Name of Fluggs Rancho to the Extent of Three Sitios de ganado Mayor on the westerly side of Feather River and stretching along the said River from 39° 33' 15" North latitude to 39° 41' 45" also of North latitude as is represented in the plan accompanying the respective Expediente Locating the said Quantity of Tres Sitios according to the Claims of said Larkin and having reference to the Sketch or plan annexed to the said Expediente but in such manner as to confine such location within the said limits and to include in the Survey so to be made the said Quantity of Tres Sitios —

But this order is not in any manner to determine as against the United States either the question of title the construction of the grant the location boundaries or extent of the land to which the Claimant may be Entitled —
Filed in Office May 1. 1852
(sgd) Geo Fisher Secy

56

358 N.D
PAGE 52

U S Surveyor Generals
Office -
San Francisco Cal Dec. 14, 1852

Communication of Surv. Genrl.

Hauble
Commissioners to ascertain
private Land Claims in
California -

Gentlemen -

I herewith transmit Copy of an Approved Map of the Survey of Hays's Rancho. Thos O Larkin Claimant and a Copy of the field notes appertaining thereto. All which has been Executed under the instructions of this Office dated upon your order dated May 1st 1852.

I am very respectfully
Your Obt Servant

Sam D King
U S Surv Genl Cal.

Filed in Office Dec. 15, 1852.
(Signed)
Geo Fisher
Secy

5-7

Field Notes of "Flugge Rancho" On the Feather River Claimed by Thos O Larkin Surveyed in July & August 1852. by. Nichs Gray

358 N.D
PAGE 53

Field Notes of Survey. A.P.L. Exhibit to Depo. of N. Gray

I Nicholas Gray Surveyor do solemnly swear that in pursuance of an order from the Hon'ble Board Land Commrs. and Instructions Surveyor General of Calif'a bearing date the 21st May 1852 I have faithfully surveyed the Claim so called the "Flugge Rancho" owned by Thos O Larkin Esq on the Feather River and do further swear that the Notes are the true field Notes of such Survey

Nicholas Gray

Subscribed & sworn to before me this 28th day of August 1852 at San Francisco

Chas Baum
Notary Public

Nicholas Gray having been appointed to survey a private land Claim called the Flugge Rancho on Feather River. The

54

358 ND
PAGE 54

the undersigned Employed by said Surveyor as Assistants in the Capacities of Chainmen Axemen &c do Solemnly Swear that we will faithfully Chain over the Ground and mound Ground by proper Levelling with Plumb and tally pins whether Sticking or dropping the Same. that we will truly report the true distances to all Notable Objects and the true length of all lines that we may Assist in Measuring and will mark distinctly and Correctly the Letters and Corners that we may be required by said Surveyor from time to time in planting the Corners whether the Same be posts or Mounds Either of Earth or Stone. together with such other Services as we Shall be Called to perform by said Surveyor in the discharge of his Surveying duties to the best of our Skill and ability So help us God.

Henry T Monro
N. A. Crain
John R Whipple

Sworn and Subscribed Before me
this 22d July 1852.

Rene C Baker
Justice of the Peace, Hamilton

Sworn and Subscribed Before me.

In pursuance to an order from the Honble Board Land Comrs California and the Instructions from Saml R King Surveyor Genl and at the request of Thomas O Larkin Esq the owner and Claimant of the Mexican grant of five leagues of land on Feather River - I Nicholas Gray Commenced the Survey the 15 July 1852 by assuming a point on Feather River

59

as the Aginning point viz Lat 39°33'45" North, about 4 Miles North of the Town of Hamilton in Butte County Calw and after ascertaining the Variation of the Magnetic Needle of My Compass Made by Dollins London. to be Eastwardly 15° 55' I run a guide line. (to arrive at the Northerly point viz 39° 28' 45" North, in the Level Open plains which guide line starts from a point Two Miles West of the aforesaid point as above and run the Courses & Distances as follows.

	Chs Lks	
N 31° E	166.00	N 31° E thence Open plain or prarie -
N 40° W	240.00	thence Surface undulating
N 15° E	255.00	Continue in the Valley of "Any Bayou" running South West - Thence
N 62½ E	45.00	To Hawkins House on the Creek, thence
N 29½ E	65.00	Thence
North	48.00	Cross path E & W
	64.00	" Road N. E. Last 2 clear plain - Next two Trees
	80.00.	One Mile
	16.00	Cross road E. & W.
	30.00	Ascend Mountain Level on top -
	80.00	On top " "
	17.00	Descend Mountain level on top
	80.00	1st Mile on Table land No Timber -
	80.00	2d Mile Gently rolling for Pine & Oak -
	41.00	Cross road N. E.
	80.00	3d Mile opposite Goodmans & Ankins Store in an

60

358 ND
PAGE 56

		open valley. No timber, Same Chestnut of oak to the Crossing of road -
	24.00	Cross the road N. E.
	8 11.00	6 links wide. Gently rolling, thin Soil. Reddish Color. Pine and Oak.
	15.00	Stopped and ran East to avoid Creek to the left -
East.	11.00	Stopped & Continued the Course North
North	8 11.00	Land and timber about the Same Quality
	10.00	To road and along with it
	8 11.00	To the right of the road Land the Same Kind. Also timber -
	8 11.00	Along the road
	24.00	Cross road N.E. Set Stake on the Northern Boundary of the tract - Latitude Commences with Observations & Measurement found to be two Inches by 2 01 55/100 Chains to be taken off the Southern portion of the tract -
	49.00	Distance between Lat 39° & 40° for 15 Minutes is 14 Miles 14 Chains & 40 lks -

August 21st at Ohio on South Side River -
Made Sundry observations with Sextant and Theodolite for Latitude & Variation in Connection with Wm Eddy Esqr State Surveyor Land for Cala.

61

358 ND
PAGE 57

The town of Aphir was found to be in Lat 39° 31' 55" North and Therefore Measured North 2 Miles 8 Chains & 59 Lks to Corresponding with the beginning Corner of the Flagg Claim by viz - 39° 33' 45" North and I planted a Square post Marked Lat 39° 33' 45" N & T M. there set in the ground at the bank near opposite stony point from which post or Monument a white Oak Marked T M. bears N 84° W 125 Lks & a Pine Tree Near Ruined Shanty Marked T bears N 46° E 212 Lks and East End Table Mountain bears N 21° W and the top of the point opposite at Stony point bears S 62° E from this Mound I began and took the Meanders of Feather River by Course and distance viz -

N 23° E	8.00	
N 45° E	8.00	Opposite Stones to the left
S 55½ E	23.00	20 L North to Bens Ranch
S 75° E	27.00	
S 44° E	5.00	
S 83° E	30.00	21 L North Ravine or Bayo or Gully
S 63½ E	36.00	
N 55½ E	24.00	
S 84½ E	15.00	13 L Oregon Gulch Creek White Rock
S 60° E	22.00	18 L Gully
S 42° E	22.00	8 L "
S 58° E	28.00	14 L " 25 L Gully
N 70° E	31.00	12 L "
N 44½ E	33.00	8 L " 14 L " 3 L Gully
N 55° E	10.00	8 L "
N 16° E	14.00	12 L "
N 33½ E	36.00	12 L "
N 40° E	36.00	3 L Opposite Mouth Middle fork

62

358 ND
PAGE 58

R 28 E	28.00	
R 35 W	43.00	
R 13 W	43.00	
R 43 W	8.00	White & Ores Stone at Potts Bar Co Flemings
R 30 W	17.00	1 " & Gully
R 13 W	11.00	5 " " & Gully
R 44 W	6.00	
R 27 W	21.00	
R 5 W	16.00	
R 24 W	28.00	26 & Gully
R 40 W	11.00	5 " " 9 & Gully
R 38 W	43.00	
R 44 W	21.00	
R 34 W	12.00	
R 30 W	83.00	
R 18 W	48.00	8 & Gully 14 & Gully 8 & Gully
R 9 W	24.00	
R 1 E	21.00	5 " "
R 9 E	20.00	
R 8 E	18.00	
R 9 W	25.00	
R 14 W	23.00	
R 26 W	21.00	Opposite Mouth North fork at Muggins ville
R 19 W	21.00	
R 47 W	13.00	
R 30 W	22.00	
R 44 W	15.00	
R 6 W	14.00	
R 46 W	18.00	
R 44 W	22.00	
R 25 W	24.00	5 " & Gully
R 55 W	23.00	
R 14 W	18.00	
R 8 W	37.00	2 "
R 26 W	22.00	5 "

63 R 41 W 20.00

358 ND
PAGE 59

R 40° W	25.00	
R 18° W	5.00	
R 36° W	47.00	111 V
S 91/2 W	14.00	
R 46 1/2 W	24.00	4 V
S 74° W	13.00	
R 48° W	9.00	Opposite Nelsons Bar on East Branch
R 11° W	46.11 11	Damming & fluming Company
R 13° W	26.111	
R 20 1/2 W	17.00	—
R 69 1/2 W	16.00	
R 42 1/2 W	12.00	
R 29 1/2 W	15.111	
R 31° E	15.00	Cap to Horn Dry Gulch Country
R 35° W	13.00	
R 20° W	15.00	Opposite East branch (Month)
R 12° W	8.00	
R 13° W	33.00	
R 9° E	14.00	
R 14° E	16.111	
R 5° W	21.00	
R 5° E	28.00	
R 9° W	27.00	
R 17 1/2 E	20.00	
R 7° W	29.111	Chaparral - Few pines. Many broken -
R 25 1/2 E	14.111	
R 3° E	23.111	
R 17° E	4.111	
R 28° W	14.111	
R 7° W	14.00	
R 10° E	15.00	
R 25 1/2 E	30.111	
R 31 1/2 W	15.111	Chaparral & Many Broken
R 4° W	20.111	
R 35° E	23.111	
R 10° E	21.00	
R 21 1/2 W	17.00	

358 ND
PAGE 60

N 2° W	18.00	– Marked a pine tree ✝ 12 Inches diameter on the bank Feather River – No other tree convenient in a very deep Canon. Current very swift River about 3 Chs wide at present low water. water rises in rainy season 40 feet. this pine tree is the N. E Corner of the Fluggs Rancho and I now run due west –
West	39.00	✝ Road
	47.00	Marked a pine tree 6 In dia. ✝ Marked a red Oak tree 18 In dia ✝, 39° 48' 45" N. which tree is Chs East of the road to the Butte Saw Mill –
	127.00	Corner. N W. of the Rancho near the bank of Butte Creek running S W Marked a Spruce pine ✝ at 39° 48' 45" N 30 Inches dia – from which pine a Red Oak tree Marked ✝ B.T. bears S 75° E. 15 Lks from this Corner after Marking the line by blazing the trees along the same – I run the western boundary of the tract after making divers calculations & tabling so as to Enable me to conform to the Calls of the grant &c.
		From this Spruce pine Corner I run due South –
South	45.00	Cross road from Marks to Butte Creek Saw Mill
	98.50	Set Stake from which a pine

98.00 Set Stake from which a pine

65

		tree bears N 50° W 11 Lks
		& a pine S 55° E 28 Lks
		Marked ¼
	78.50	A post of Manzanita from which a red Oak 4 dia. N 22° W. 30 Lks.
		Red Oak 1/4 S 17° 27
		Lks (Note SW. Sect. N 1. in map
		Run East
East	64.00	Cross dry creek running South
	92.00	" road
	120.00	To River bank high steep bluff 200 feet high rock mound from which pine tree marked ¼ bears 11° W 333 Lks. Land gently rolling. Soil thin. Pine & Oak. Pine of good size. From the Manzanita post run South.
South	30.00	Set a Stake from which a pine tree bears S 40° E 35 Lks. Marked ¼
		Pine N 45° E. 40 " ¼
	14.50	Cross Spring Branch
	40.00	Marked Red Oak ½
	80.00	Stake N 66° E 27 Lks Pine ¼
		S 62° E 50 " Red Oak
East	38.00	Cross Spring branch
	40.00	Marked Red Oak ½
	64.00	Marked Cross Creek
	80.00	Stake, N 16° E 25 Lks Pine ¼
		S 38° W 15 Manzanita
	13.50	Cross road
	33.82	To a mound of rocks on the high bluff on river

358 ND
PAGE 61

358 ND
PAGE 62

		Do thro Commons. Land
		gently rolling. Pine and
		Oak Timber. thin Soil.
		From the S W. Cor No 2 ran
South	40.00	Marked a Red Oak &
	42.00	Ascended into Open Chaparral
	80.00	Erected a Mound Stones
	80.00	" "
	40.00	Marked a Pine Tree &
	67.50	To the S W Corner Cor No 3
		at a White Oak & In Pile
		Marked T II L from which
		a White Oak bears N 65° E
		53 lks
		N 6° W. 163. N. Oak &
		Pine from S W Corner Cor
		No 3. Pine
S 40° E	43.00	To the Edge of Prairie. took
		Angle across to other Side
	64.00	Cross Dry Creek
	80.00	Set Stake in Hollow
	10.00	Cross a path at foot Mountain
	20.00	To top Mountain took an
		top took Angle
	24.00	Descended across to other side
	95.00	Ascend another - Took Angle
	80.00	Set Stake - No trees
	8.00	Ascend Mountain. took
		Angles to other Sides -
	21.00	Ascend another Knob on top
	23.00	Descend Mountain
	35.00	Cross Road
	80.00	Set Stake No Trees
	80.00	Set Stake. few Trees Scattering
		Other broken & hilly -
	29.00	Cross Slough -

67

	24.00	Cross path –
	50.00	Set Marked a live Oak 1 M. Broken few oaks scattering pine
	2.00	Cross path
	11.00	" dry gully – gold diggings
	34.00	" path
	41.00	" dry gully
	59.00	" road
	77.00	Set a Stake at the S. W Corner Lot No 4 S. 43½° E 51 Lks White Oak B. at. S 68° W 25 " ¼ at the head of Fair view valley From this Corner raw
S 11° E	11.00	Marked a White Oak East of the line 25 Lks. & W Continue S 4° E
	3.00	Opposite Ross Store and Blacksmiths Shop
	80.00	Marked a White Oak 3 M.
S. 11° E	29.00	Cross road
	37.00	" path
	40.00	Set a Stake opposite Glovers garden. Centreville
	45.00	Cross road
	44.00	" "
	80.00	Set Stake, no trees Convenient
	58.00	Cross a path
	80.00	Set a Stake. No trees Convenient
	31.00	To Quartz Lead
	71.00	Cross road
	80.00	Established Corner to S. W Lot No 5 per map – S. 8° E 45 Lks Pine B. at. S 27° W 50. " ¼ Thence from
S 58° W	3.00	Cross Road
	30.00	" path

358 ND
PAGE 63

65

358 ND
PAGE 64

	53.00	" Path
	63.00	" Angon Gulch
	64.00	" Road
	80.00	Set a Stake on the Side To Olo Mountain
	5.00	Ascend Table Mountain to top
	38.00	Descend do Took bearing across to South Table Mountain & the distance of Triangulation viz 111 Chains
	28.00	Cross Ravine
	58.00	" Path
	80.00	Set Stake
	111.00	Cross Ravine Creek & Road
	25.00	Ascend South Table Mountain
	64.00	To the Top - Cairn top Mound Stones. Notes on time Course do Set Table Mountain S 58° W -
	80.00	To the Elk Mountain -
	54.00	To Jack Mountain Established the S. W Corner Lot No 6 & the S W Corner of the Tract - Set a Stake in the ground and Marked a forked white Oak & bearing S 12° E 24 lks, No other tree convenient
		Thence East
East	133.50	To the place of beginning on the right Bank Rocky River along the foot of the South Table Mountain rolling Surface, thinly timbered Oak & Pine pines -
		From the S W corner Lot No 6

69

		per map, at white Oak corner Row
East	14.00	Descend bottom of dry creek
	27.00	Cross dry creek
	41.00	Ascend to the Table Level
	70.00	Cross path
	123.00	Cross road
	124.00	Descend hollow
	139.00	Ascend hollow & cross path
	145.00	To bank river, marked small pine F 14
		From the S. W. corner Lot No. 4, Row
East	34.00	Cross Spring valley branch
	37.00	" road
	45.00	Ascend Quartz Mountain
	65.00	Cross road on top
	145.00	To river bank at high cliff, marked a white Oak tree F 14.
		From S. W. corner Lot No 5 at corner No 8 Row East to river –
	40.00	To top of hill and descend
	50.00	Cross gully & ascend mountain
	80.00	Marked a forked white Oak on the mountain side F.M. –
	20.00	To top mountain and descend
	80.00	Marked Pine tree 1 2 No
	11.00	Corner on the river after making some allowance for roughness for the surface marked a Pine tree bearing from stake N 4° W 103 lks F 14

358 ND
PAGE 65

& Live Oak ~~ S 33° E 50 Lks - From Corner No 3 S Ne Lot No 5 Random South

South	5.50	Crops road
	65.00	" ravine
	70.00	" Gully
	75.00	" "
	80.00	Marked White Oak mo + m
	10.00	Crops road
	14.00	" gully
	40.00	" Oregon gulch
	50.00	Marked White Oak 2 M
South	13.00	Crops road
	47.00	To River Bank apposite Smiths Bar - Marked a Heoly tree corner - S 68° E 10 Lks to a W Oak & S 51° E is the bearing of the flag staffs apposite side river at Smiths Bar -

Nicholas Gray

358 ND
PAGE 66

U. S Surveyor Generals Office
Dec. 8. 1852

The foregoing field notes for the Initiatory survey of Fluggs Rancho Thos O Larkin Claimant having been duly examined and found to be in conformity with the instructions of this Office of the 21st of May based upon the order of the Board of Land Commissioners dated May 17th 1852 are hereby approved

(Signed) Saml D King
Sr Genl

Filed in Office Dec 15. 1852. - (opt) Geo Fisher Secy.

I Certify that the foregoing is a true copy of the original notes of Fluggs Rancho. Thos O Larkin Claimant - Saml D King Sr Genl

San Francisco Dec. 4. 1852.

71

Know all Men by these presents that I Charles W Flugge of the City of Angeles in Upper California in Consideration of the Sum of Two Thousand and Eight Hundred dollars to me in hand paid the receipt whereof is hereby acknowledged have this day and do by these presents grant bargain sell and convey unto Thomas O Larkin of Monterey in California aforesaid all and singular the following piece parcel and tract of land to wit, a certain tract of land lying and being situate on the west side of Feather River (a tributary of the Sacramento) in the Centre of a certain tract of land called Boga and described as follows, Commencing at the said River near Latitude 39 deg 33 Min and 45 Seconds, North running thence in a westerly direction one league from the said River thence in a Northerly direction five leagues up and parallel with the said River thence in a Southerly direction five leagues down and along the said River to the place of beginning Containing five square leagues of land as will more fully appear more fully by reference to the original title deed made in due form of law and duly recorded at Monterey in California, in the Book of State (page 6) all of which will more fully appear by a reference to the said deed and Record.

Doc H 25 Not Annd to the deposition of W. D. M. Howard —

358 ND
PAGE 67

And I the said Charles W Flugge do hereby further Covenant and agree to and with the said Thomas O Larkin to warrant and defend all and singular the said premises together

358 ND
PAGE 68

with all and singular the privileges and appurtenances thereunto in anywise appertaining or belonging unto him the said Thomas A Larkin against all legal Claims and demands of all persons whomsoever.

In Testimony whereof I the said Charles M Fluggo have hereunto set my hand and affixed my seal this the twenty first day of January in the year of our Lord one thousand Eight hundred and forty seven.

C. M Fluggo Seal

In the presence of
Daniel M Alexander
Abel Stearns.

Having received sufficient proof of the authenticity of this document is entered and on record at this Office the twelfth day of April one thousand Eight hundred and forty seven.

Walter Colton
Alcalde of Monterey

William R Garner
Secretary.

Filed in Office Feby 2, 1853
(signed)
Geo Fisher
Secy

73

Case No 124.
U. S. Land Commission
for California.
County of San Francisco.

Thomas O Larkin Claimant
for Flugge Rancho.
vs
The United States

Affidavit

Thomas O Larkin Claimant in the above Entitled Cause. Being duly Sworn deposes and says that Since the Submission of the above Cause and within the last few days he has discovered New Evidence in the testimony of Henry McVicker taken "de bene esse" before this Commission and herewith presented which he is advised is Material for him in this Case.

And deponent further says that to the best of his information & belief the said Henry McVicker has been for the last three or four years an Inhabitant of Pimpsa County State of California (which is distant from the residence of this deponent) and that this deponent was not aware until within a few days of the taking of the said testimony and long since the Submission of this Cause that the said McVicker had Entrusted upon the land Claimed herein and only learned from him the facts stated in the said testimony in a Casual Conversation with him about Charles M Flugge the grantee herein.

And deponent further says that he desires to file the said testimony in this Cause and before this Commission as the

358 ND
PAGE 69

358 ND
PAGE 70

Said McVicker is not in good health and has been most of the time for the last three or four years as this deponent is informed under the care of a physician and further saith not.

Thmas O Larkin

Subscribed & Sworn to before me this 24th of January AD 1854.

Thmpson Campbell Comr.

Filed in Office Jan 24. 1854.

Signed

Geo Fisher Sec'y

Case No 174.

U. S Land Commission for California

Thomas O Larkin Claimant for Pluggs Ranch

vs

The United States.

Before a Full Board January 24. 1854.

Motion.

Motion by Claimants Counsel upon the affidavit of Claimant and the testimony of Henry McVicker taken in this Case de bene esse to open the above Submitted Case so far as to file the said testimony in this Cause.

Filed in Office Jan 24. 1854.

(Signed)

Geo Fisher Sec'y

E. Allen of the Board

775

358 ND
PAGE 71

Office of the Board
of Commissioners of
California Land Claims -
Saturday May 1st 1852.

In Case No 124.
Thomas O Larkin et.
Fluggs Rancho

On Motion of Counsel for the Claim-
ant the following order was Granted to wit -
For the purpose of determining
with precision and certainty the limits and
boundaries of the land claimed by Thomas
O Larkin in his petition No 124 pending be-
fore the Commissioners it is on Motion of
the Counsel for the Claimants ordered
that an initiatory Survey under the Superin-
endence of the United States Surveyor
General of California be made of the
land known by the Name of Fluggs
Ranch to the extent of "Five Sitios de
ganado Mayor" on the westerly side of
Feather River and Sutters along the said
River from 39° 33' 45" North latitude 35°
48' 45" also of North latitude as is
represented in the plan accompanying the
respective Expedients locating the said
quantity of Five Sitios according to the
claim of said Larkin and having reference
to the Sketch or plan annexed to the said
Expedients but in such Manner as to
confine such location within the said
limits and to include in the Survey so to
be made the said quantity of Five Sitios
But this order is not in any
Manner to determine as against the United
States either the question of title the
Construction of the grant the location

JPL
Exhibit to the
deposition of
Nicholas Grut

Janry 8. 1855

358 ND
PAGE 72

Coincidences or Extent of the land to which the Claimant may be Entitled -

I Certify the foregoing to be a true Copy of the original on file in this Office May 1st 1852.

(Signed) Geo Fisher
Secy

Filed in Office June 1, 1855 -

(Signed) Geo Fisher Secy

Office of the Surveyor
General N.S
San Francisco Cal.
21st May 1852.

Sir.

At the request of the parties interested you are hereby appointed to Execute the Preliminary Survey of the tract called "Suggs Ranch" Claimed by Thomas O Larkin on Feather River directed by the order of the Board of Land Commissioners of the 1st Inst of which a copy is Enclosed.

Your Survey as a matter of Course will Conform to the order of the Board by Commencing on the West bank of Feather River at a point where the Same is intersected by the parallel of 39° 33' 45" North Latitude and running up and with said Bank on to the Same as intersected by the parallel of 39° 48' 45" and running back so as far as may be necessary to Embrace the area of four Sitios or 21.701 38/100 acres -

H: P L -
Exhibit to the deposition of Nicholas Bay.
Jany: 8. 1855.

358 ND
PAGE 73

You will therefore first accurately ascertain the points on the east bank of Feather River where the Eastern Meridian and parallels of latitude intersect the same and having done so you will proceed to accurately measure Meander the bank of the River between those points you will then calculate the course and length of each line which would connect together the western projection of each end of the lines and the area of each of those ends as bounded by such Calculated line

This will give you the courses and lengths of the lines which if run would form a continuous line connecting the upper and lower ends of the tract upon the River and touching the Extreme western part of each end thereof and also the area Embraced by the ends East of such lines -

Having ascertained this area. It is to be deducted from the area of the grant and the difference is to be obtained by running the back lines of the tract parallel to said Connecting Calculated front lines and at such distances therefrom as will make the Entire Survey Embrace the area called for by the grant and order and give the tract as uniform an depth as practicable -

You will Establish Each Corner and Mark Each line in the manner required in Executing the public Surveys Except that instead of Marking your posts and bearing trees with Sectional Numbers you will designate Each with the letters T. O L. and Number the Corner posts in regular Numerical order. Your field

358 ND
PAGE 74

Book will be Kept in the Same Manner and furnish all the information required in performing Public work, Carefully Noting the Variation of the Needle to ascertain which you should make frequent observations -

Your Survey will be Made with reference to the true Meridian & by Chains & links and as your Chain is not true you will have to present it with your Notes in order that it may be tested by the Standard in this Office but before going out you Should test its accuracy by the best Means in your power

You Should be very particular in your Running and Calculations so as to preclude the Necessity of a revision of the work in the field at any time hereafter.

Yourself and Assistants will have to qualify in the Same Manner as if Executing public work & the Evidence thereof returned with your Notes.

The Notes when returned will have to be accompanied by an accurately protracted Map of the Survey on a Scale of 10 Chains to the inch and also by your tabling and by all other observations or Calculations in detail having reference to the Ascertainment of any of the lines or the area of the tract -

Before Executing the Survey you will if advised of there being any interfering Claimants under alleged Spanish or Mexican Titles to any part of the Tract Notify them in writing of the time when you will be running any line in which they may be interested and you will Make full and accurate Entries in your field book of any objections which may be

358 ND
PAGE 75

made to any of the lines and preserve and return to this office any protests or documents which may be offered to you for that purpose.

You will also survey and return the notes of any lines which any opposing parties may contend to be the true lines of separation and for which they may be willing to compensate you and where any line is an agreed line that fact must be noted and the manner in full of the persons consenting thereto.

Understanding that you have made an arrangement with the Claimants as to your compensation it will only be necessary for me to state that under no circumstances will this Office be responsible for or compensate you for any services connected with the execution of this order.

Enclosed you have a copy of the original Map or plan of the tract as now file in this office with the papers in the case, and also a copy of the general instructions in relationship to executing the public Surveys

Very Respectfully
Sam R King
Sr Surl.

Mr Nicholas Mays

Filed in Office Jan 6. 1855 -
Signed
Geo Fisher
Secy.

81

358 ND
PAGE 76

Brief of Claimant.

To the Hon Board of
U. S. Land Commissioners
for California.

Thomas O. Larkin Your
Memorialist or petitioner presents to Your
Hon Board as Claimant and owner in the
case of Land Claims before Your Commission
Numbered One Hundred and twenty Nine (129)
which includes the documents belonging to a
Grant or Tract of Land Known as the Boga
or Flugge Rancho Situated on the west
bank of the Feather River (Rio de las
Plumas) Butte County California. Between
the Latitudes North 39° 33' 15" and 39° 48'
15" Containing five Square Leagues "Cinco
Sitios de ganado Mayor") Five Leagues on
the River by one League in the rear.

The Abstract of Title and the
Evidence in the Case being as follows to wit.

Charles W Flugge. Memorial and Petition
to his Excellency Richeltuma for a Tract
of land Between Lat North 39° 33'. 15" and
39° 48' 15" on the Rio de las Plumas
Feather River. Dated December 22 1843
Spanish.

Geo Richeltuma Requests information re-
lating to the premises from his Secretary
Manuel Jimeno who Makes Report of John
A Sutter Commandante of the Forties
and Alcalde of Sacramento Valley, both
report in favor of the Petitioner and that
the land was Vacant (Valdio) Dated
December 31, 1843. January 4, 1844. February 20

82

358 ND
PAGE 77

1844. February 21, 1844. Monterey and January 27, 1844. Sacramento District -

"""

Petition with Conditions issued to Charles W. Flugge by Governor of Alta California Dated February 21, 1844. de las Angeles.

"""

Flugge. Petitions to the "Asamblea Departamental" de Alta California for a renewal and confirmation of his grant. Dated May 23 1845 - Las Angeles.

"""

The Assembly refers the case to the Committee of Public Lands who report in favor of the Petitioner dated May 26, 1845. June 2 and June 13, 1845 - Las Angeles.

"""

The Assembly confirms the Governors grant to Flugge and issues the Title of Confirmation to him. Dated June 14, 1845 in the Capitol.

"""

Flugge the Grantee, sells grants and conveys the tract of land on Rancho of Los Vegas to your Petitioner Thomas A Larkin for Valuable Consideration, Dated January 21, 1847 City of Las Angeles.

"""

J. C. Whitcomb as Petitioners Attorney presents the Case with documents to your Board when your Petitioner was absent from this State. Dated March 24, 1852. San Francisco California

358 ND
PAGE 78

U. S. Surveyor General for California Samuel R King by request of your Board reports the case from his archives to the Board and instructs Nicholas Gray as his Deputy to Survey the Rancho according to Certain directions -
Dated. San Francisco.

"""

Deputy Surveyor Gray and his Sworn Assistants Completed the Survey and his reports accompanied by a Map and field Notes are made to Mr King who approves of the same -
Dated August 28, 1852. San Francisco.

"""

Your Petitioners Attorney Submits the documents to your Board & returns from the Same.
Dated. San Francisco.

"""

Your Petitioner requests the Board to re-open the Case to enable him to take further Evidence that was previously unknown to his Attorney -
Dated January 24, 1854. San Francisco.
Motion granted Case to go to the foot of the docket. February 28, 1854.
Your Petitioner requests the Board to re-open

"""

- Proof of his Knowledge of the Rancho Testimony was directed Mine to another Rancho on the Sacramento River called "Larkins Children Rancho" (Mr Bidwell Made the Maps for both Ranchos in 1843 & 1844 - Evidence in Case 129 Numbered immaterial and unimportant as he Made the Road in 1848.

Evidence of John Bidwell January 4, 1853.

"""

84

Evidence of W. D. M. Howard February 2. 1853

Proves the handwriting and Signatures of Governors Micheltorena and Pico and their Secretaries Manuel Jimeno and Juan Bandini proves the Signature of Fluggo in the transfer of the grant to Larkin and the Signatures of Abel Stearns and David W. Alexander subscribing witnesses to the same.

358 ND
PAGE 79

Evidence of H. L. Ford Aug. 9. 1853.

Proves his personal knowledge of the Land, saw it in 1845, 1846 & 1847 saw Sutter leave New Helvetia with Fluggo for the Rancho to put him in possession saw a house on it at the latter part of 1847 — Evidence only Corroborates other Evidence.

Evidence of David W. Alexander August 12. 1853

Proves the hand writing and Signature of Charles W. Flugge in his deed or Title of the Rancho to Thomas O. Larkin in Jany 21. 1847 by his knowledge of Flugge's signature and his own and the Signature of Abel Stearns subscribing witness to the deed Proves Flugge's death.

Evidence of H. McVicker January 16. 1854.

Proves his knowledge of the Rancho and seeing Fluggo on the same with a house corral and servants and with Cattle horses and mares in 1844, also same year saw some proof of Cultivation thereon —

Evidence of Jacob P. Leese 1854

Proves hand writing and Signature of Walter Colton Alcalde of Monterey and his Secretary William R. Garner in April 12. 1847 to the transfer of the grant from Fluggo to Larkin

Evidence of Alex Godey. Oct 12. 1852.

Proves his Knowledge of the Rancho and Living and with Fluggo in the winter of 1844 & 1845 when he saw a Servant house people and Cattle there.

"

358 ND
PAGE 80

Evidence of I. A. Sutro Jan - 6. 1855

"

Proves his knowledge of Fluggo and the Rancho in 1843 & 1844 Sold Fluggo horses and Cattle to carry to the Rancho in 1844 as Alcalde of the District went over the land with Fluggo and gave him possession thereof proves Fluggo leaving the place from the fact of the Climate being unhealthy to live proves his official Signature to the Map in 1843 or 1844.

"

Evidence of Nicholas Gray January.

Proves his instructions from Surveyor General King to Survey the land proves his Survey Map and field Notes.

"

Soon after your Petitioner returned from the Atlantic States to California 1853, he found that his Attorney Mr Whitcomb had taken the Evidence of such witnesses in the Case as were brought to his knowledge from his limited acquaintance among old Residents in the Country - An perusal of this Evidence by your Petitioner he deemed it insufficient for his Case. he asked and obtained from Your Board the knowledge of obtaining further and more Conclusive Evidence - January 24 & February 25. 1854.

Your Petitioner is of the opinion that the Attorney Mr Bidwell Made a Mistake in stating that Yates was in the house he testified to - as there is reason to

suppose that Yates wrongfully or by Error located himself at another place and not on the Rancho in question.

358 ND
PAGE 81

The original Claimant and Grantee Charles W Flugge was a Native of the Kingdom of Hanover and a Citizen of Mexico by Naturalization, a person of a peculiar and sensitive mind, gent retired and of strict business habits, philosophical in his views and actions, which appear in certain unusual conditions in his grant from Micheltorena

Character and business of Charles W Flugge.

about the winter of 1844 & 1845, from ill health, in Sacramento Valley and dissatisfaction in certain business transactions with Lieut Now (Col) Fremont and his party he removed to Yerba Buena now San Francisco thence to the Pueblo de Los Angeles where he entered into commerce and reestablished his health - not being able to return to his Rancho on account of the climate there and other causes he on the 21st January 1847 in the Pueblo de Los Angeles sells conveys his Rancho for a valuable consideration to your Petitioner. In 1849 or 1850 he left California returned about 1852 and died in or near the Pueblo de las Angeles.

Position and business of Mr Larkin

Between 1845 and 1850 your Memorialist was extensively and fully occupied in California as U. S. Consul, Naval Agent Naval Store Keeper and other important Government employ (Each employ not paying its respective expenses) in 1846 & 1847 he was a Prisoner of war - In 1851 he was

87

358 ND
PAGE 82

Engaged in the City of Washington Settling his Official accounts. In paying hundreds of thousands of Dollars of Government Stores at times in his Charge and having to erect Stone Houses for Government use and being under Heavy Bonds and his different Commissions all prevented him at the proper time from attending to his Rancho on Feather River - On his return to California from the United States the strange and anomalous state of the Country in the Sacramento and Feather River Valleys from the great influx of population to the Places rendered it impossible to occupy his Rancho and the State of the Hostile Indians & the Robbers rendered it dangerous.

mm

In the grant or track of land Embraced in Case No 29 now before Your Honorable Board your Memorialist claims he has a valid legal and Equitable right which he founds on the proofs and documents he now submits to the Board as herein mentioned in Brief as well as to the documents at large as proved by well known and respectable persons of the ten to twenty years residence in California -

Charles M Fluggo under the law of Mexico was entitled as a Citizen of the Republic to Eleven Leagues of land taken from any public Vacant land "Baldios" No one could take it from him Except by a long and formal denouncement which does not appear done or attempted. He had a right and power to convey and transfer his land both by the laws of Mexico and of the United States -

358 ND
PAGE 83

Manuel Micheltorena who Governor of the Department of Alta California granted the land to Flugge the Asamblea Departmental of the Country ratified his Grant and Confirmed it to Flugge who conveyed granted and transferred it as herein recited.

~~~

First Condition of the Grant—

The first condition of the grant to infuse into the minds of the wild Indians on the Rancho confidence sociability Civilization and religious ideas of Catholicism was unusual unnecessary and unnatural to a grant in California and an impossibility from that period to the present—

~~~

Second Condition

Under the Laws of the United States it is impossible to Carry out the Second Condition for did the laws of Mexico compel it.

~~~

Third Condition

Commandante and Alcalde Sutter of the Sacramento to Whom gave the Juridical possession to the Grantee as far as his means and the time would allow.

~~~

The boundaries are well defined and marked out by the River and the Latitude as certified by Sutter on the Map Made by Mr Bidwell one of which he made prior to the grant, the other afterwards.

~~~

The Grantee resided on the Rancho had his house Servants horses Cattle and Commenced cultivation thereon within a year
~~~

89

358 ND
PAGE 84

from the date of the grant which was not obliged any on his part by the terms or reading of said grant this Relief from ill health did at a subsequent period convey the land to your Petitioner.

The Rancho has full and easily defined boundaries, on the Eastern side the Feather River, on the Western the Public Domain and the Northern and Southern sides or Ends a certain and defined latitude.

These sides being certain and immoveable the five leagues or one Sitio de grant da Mayor have been segregated with ease and certainty from the Public Domain.

Your Petitioner purchased this land legally in good faith, with money that could have been better used to him. More profitably expended. He has had in charge Eight Years, has had a map & survey had & surveyed under a U.S. Deputy Surveyor, has each and every year paid State and County taxes on the land, and now respectfully submits the same to the consideration and attention of your Honorable Board for confirmation, and as in duty bound Your Petitioner will ever pray

Thomas O Larkin.

San Francisco California
January 1st 1855.

Filed in Office January 2. 1855.
(Sgd) Geo Fisher Sec'y

90

91

179

Thomas O. Larkin
vs
The United States

For a place called "Boga" situate in the County of Butte containing four square leagues

358 ND
PAGE 85

Opinion of the Board delivered by Commissioner S. B. Farwell.

The claimant in this case has offered in evidence in support of his claim a traced copy of an expediente and map of Charles Bluyya which appears by proper certificate to be on file in the archives of State in the office of the Surveyor General of the United States and a grant ofered in pursuance thereof by Governor Micheltorena on the 21st day of February 1844. Also a deed of conveyance from the said Bluyya dated the 21st day of January 1847

The grant and deed aforesaid are properly authenticated and the proofs are satisfactory as to the performance of the conditions, and the description given in the grant together with the map that accompanies the expediente to which the grant refers are such as to leave no difficulty in locating the land

We are of the opinion that this claim is valid and a decree will be entered accordingly

Delivered in office July 17. 1855

(Signed)

Geo Pinkney Geary

92

129

358 ND
PAGE 86

Thomas O. Larkin
vs
The United States

Decree of Confirmation

In this case on hearing the proofs and allegations it is adjudged by the Commission that the claim of the said petitioner is valid and it is therefore decreed that his application for a confirmation thereof be allowed

The land of which confirmation is hereby given is called "Boga" situate in the County of Butte, and containing five square leagues, and to be located in accordance with the calls of the grant, and the boundaries as delineated on the map accompanying the expediente to which reference is made

The Southern boundary line indicated on the same map by the line marked 39 deg. 48 min 45 sec. North latitude being on the north side of Feather river and to be of sufficient width to contain five square leagues

P. Aug Thompson
S. B. Farnell

Commissioners

Filed in Office July 17, 1855

(Signed)

Wm. Tecumseh Sherman

93

Order

And it appearing to the satisfaction of this 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

358 ND
PAGE 87

(٥)

358 ND
PAGE 88

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 Ninety three — pages, numbered from 1 to 93, 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. 129 on the Docket of the said Board, wherein Thomas O. Larkin is —

the Claimant against the United States, for the place known by the name of "Flugge's Rancho" or "Boga."

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

Geo: Fisher

No. 358

U. S. DISTRICT COURT,

Northern District of California.

No. 358

THE UNITED STATES,

vs.

Thomas O. Larkin.

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 124.

Filed, December 24, 1855

J. A. Monroe,

Clerk

358 ND
PAGE 89

Office of the Attorney General of the United States,

Washington, 11 Feb. 1856.

129 "Fluggs Ranchs or Boya"

Thomas O Larkin Claimant

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 14 day of January, 1856, the appeal in the district court of the United States for the Northern district of California will be prosecuted by the United States.

Attorney General.

No — 358 —

United States

ads

Thomas O'Sullivan

Appeal Notice

No — 129

Filed April 4. 1856.

Chenoweth,

Deputy.

358 ND
PAGE 90

358 ND
PAGE 91

No 129 Thomas O. Larkin
vs.
The United States

In this case on hearing the proofs and allegations, it is adjudged by the Commission that the claim of the said petitioner is valid, and it is therefore decreed that his application for a Confirmation thereof be allowed.

The land of which confirmation is hereby given is called "Boga" situate in the County of Butte, and contains five Square leagues and to be located in accordance with the calls of the grant and the boundaries as delineated on the Map accompanying the expediente to which reference is made. The Southern boundary line indicated on the said Map by the line marked 39° 33" 45' North Latitude, and the Northern boundary by that marked 39° 48" 45' North Latitude, being on the West side of Feather River, and to be of sufficient width to contain five Square leagues

R. Aug. Thompson
S. B. Farwell
Commissioners

358 ND
PAGE 92

(Endorsed)

N° 129 Thomas O. Larkin — Bogo
Decree of Confirmation — Filed in office
July 17th 1855 — Geo. Fisher Sec'y —
Recorded in 3 vol of Decisions p 143 Ex D & G.
Geo Fisher Sec'.

Office of the Surveyor General
of the United States for California

I, John C. Hays, Surveyor General of the United States for the State of California, and as such having in my charge and custody, the papers of the late Board of U. S. Commissioners to ascertain and settle the private land Claims in California, Do hereby certify the foregoing to be a true copy of a document filed in case n° 129 on the docket of said Board wherein Thomas O. Larkin is claimant against the United States

Given under my hand and official Seal, at the City of San Francisco, Cal. this twenty eighth day of November A D 1856

John C Hays
U. S. Sur Gen Cal

358 ND
PAGE 93

United States
v.
Thomas O. Larkin } Dist Court
No. 358.

It being apparent that an error was committed in copying into the Transcript of the record in this case, the decree of the Board of Commissioners, it is agreed that the foregoing certified copy of said decree may now be filed in this case, correcting said error and as true copy of said decree —

Wm Blanding
Dist Atty.

N° 129

Thomas O. Larkin

"Boga

Decree of Confirmation

Filed in Office July 17th 1855

Geo Fisher Sec

Recorded in Book of Decisions
Ex D & G — p. 143

Geo Fisher Sec

$2,50

No. 358
U.S. Dist. Ct: North. Dist.

The United States

vs

Thomas O. Larkin

Certified copy of
decree of Land Com-
missioners

Filed Febry 2. 1857.
W. H. Chevers,
Deputy.

358 ND
PAGE 94

358 ND
PAGE 95

California Land Claims.

Attorney General's Office
24 December 1856.

Sir:

In the case of the claim of Thomas O. Larkin, confirmed to the claimant by the Commissioners, case no. one hundred and twenty-nine, (129), appeal will not be prosecuted by the United States.

I am,
Respectfully,
C. Cushing

Wm. Blanding Esq.
U.S. Atty, San Francisco.

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

The United States
v
Thomas O. Larkin
} No 358: Ir 129.

358 ND
PAGE 96

In pursuance of a notice from the Attorney General of the United States, hereunto annexed, it is hereby stipulated and agreed that the appeal heretofore taken in this case from the decision of the United States Board of Land Commission be dismissed: and that the notice of intention to prosecute said appeal filed in this Court by the Attorney General be withdrawn, and that the claimant have leave to proceed under the decree of the said Land Commission in his favor, as under Final Decree.

Wm Blanding
U.S. Atty.

Thornton Williams & Thornton
Attys for Claimant

No. 358.

U. S. District Court

The United States

v

Thomas O. Larkin

No 358; Js 129

Stipulation

Filed Febry 9. 1857.
W. H. Chevers,
Deputy.

358 ND
PAGE 97

358 ND
PAGE 98

At a stated Term of the District Court of the United States of America for the Northern District of California, held at the Court Room in the City of San Francisco on Monday the ninth day of February in the year of our Lord one thousand eight hundred and fifty seven:

Present:

The Hon: Ogden Hoffman, District Judge.

The United States
v
Thomas O. Larkin
} D.C. 358: L.C. 129.

The Attorney General of the United States having given notice that no appeal will be further prosecuted in this case, and a stipulation having been entered into by the United States Attorney for the dismissal of the appeal from the decision of the United States Land Commission heretofore rendered in favor of the claimant: On motion of the District Attorney it is Ordered adjudged and decreed that the appeal pending in this Court be dismissed, and that the claimant have leave to procure under the decree of the said Land Commission heretofore rendered in his favor, as under final decree.

Ogden Hoffman
U. S. Dist. Judge

No. 358.

U. S. District Court

The United States

v

Thomas O. Larkin

D.C. 358
L.C. 129

Order

Filed Febry 9 1857.
W. H. Chevers,
Deputy.

358 ND
PAGE 99

358 ND
PAGE 100

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

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States
vs.
Thomas O. Larkin.

No. 358; L.C. 129.
"Flugges Rancho".

It being suggested to the Court that the survey of the land claimed in this case, made under final decree and approved by the U. S. Surveyor General for California, is erroneous; on application of Zully R. Mix Esq, Acting U.S. Atty, it is ordered that the said Surveyor General return to this Court a certified copy of the plat of said approved survey, and that the United States be allowed fifteen days from and after the return thereof to file exceptions thereto; and it is further ordered that a certified copy of this order be served upon the said Surveyor General for his information.

W S Marshals Office
San Francisco, Nov: 8th 1859

I have this day made personal service by copy of this order on J W Mandeville the W S Surveyor General for California

P. L. Solomon
W S Marshal

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

Clerk's Office,

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

.....*Clerk.*

By .....*Deputy.*

3585

District Court of the United States
IN AND FOR THE
Northern District of California.

The United States
vs.
Thomas O. Larkins

Order to return survey and allowing U. S. 15 days to file exceptions.

Filed Nov: 7 1859.
M. A. Gilmore *Clerk.*
By .....*Deputy.*

358 ND
PAGE 101

U. S. District Court.

The United States
v.
Thomas O. Larkin

No. 358; L. C. 129
"Flugges Ranche"
or "Boga".

358 ND
PAGE 102

And now come the United States by their acting Attorney Jully R. Wise, and except to the official survey made, of the land finally confirmed herein, by the U. S. Surveyor General for California under final decree; a certified copy plat whereof was filed in this Court, pursuant to its order, on Dec 7, 1859.

And the United States aver:—

1st That the said survey is erroneous, because it locates the land confirmed outside the limits fixed by said final decree.

2d. That the said survey is erroneous, because if the quantity of land granted and confirmed be included within larger exterior boundaries, the said survey does not include certain portions of said land elected by the claimant, which election was determined by sales made by him during the pendency of his claim before the late Board of Land Commissioners.

3d. That the said survey is erroneous, because four leagues of the tract granted to Flugge was afterwards denounced by the brothers Fernandez,

358 ND
PAGE 103

who obtained a grant therefor by denouncement from the Mexican government in 1846, filed their claim therefor before the Board of U. S. Land Commissioners, by whom it was confirmed, also confirmed on appeal by the U. S. District Court, further appeal dismissed by the United States, a survey made under final decree, and a patent from the U. S. duly issued upon said survey; which said four leagues so surveyed and patented to Fernandez brothers is a part of the same land confirmed to the claimants herein and should have been included within his survey - whereas said survey of the lands confirmed herein excludes the said four leagues patented to Fernandez, and includes five other leagues to the south, instead of including the said four leagues, and but one other league to the south, to make up quantity.

4th That the said survey is erroneous, because the said five leagues granted and confirmed were to be located within exterior boundaries containing a much greater area of land, the location of which five leagues was determined by the location of the Fernandez grant as aforesaid; whereas the said survey includes land to the south which has been settled upon and occupied under the authority of the United States, and was so settled and occupied prior to the date of the making of said survey.

Wherefore the United States pray that the said survey be set aside as erroneous, and that the said Surveyor General & be ordered to cause a resurvey of said land to be made in conformity with the true intent and meaning of said final decree.

358 ND
PAGE 104

San Francisco Dec 22, 1869

Jully R Wise
Acting U. S. Atty

358

U. S. Dist Court.

The United States

v.

Thos O. Larkin

Exceptions to survey
by United States

Recd copy within
this 22d day of Dec
1859,
Thornton Williams & Thornton

Filed Dec. 22 1859.
W. A. Chevers
Clerk

358 ND
PAGE 1057

358 ND
PAGE 106

At a Stated Term of the District Court of the UNITED STATES OF AMERICA, for the Northern District of California, held at the Court House, in the City of SAN FRANCISCO, on Friday the ninth day of March, in the year of our Lord one thousand eight hundred and ~~fifty-nine~~ sixty, for the trial of land cases.

Present:

The Honorable ~~OGDEN HOFFMAN, District Judge.~~ M. Hall McAllister, Circuit Judge.

United States
vs.
Thomas O. Larkin

"Flugge, or Boga,"
D. L. No 358
L. L. No 129.

On motion of J. B. Crockett Attorney for the claimant, it is ordered that the United States have thirty days from this date within which to take & file their testimony in support of their exceptions to the survey returned into this court by the Surveyor General, in the above cause; & that the claimants have ten days thereafter within which to take & file rebutting testimony & that the proofs be closed on the respective sides, within the several periods aforesaid —

No. 358

District Court of the United States

IN AND FOR THE

Northern District of California.

The United States,

vs.

Thomas O'Larkin,

Order allowing U. S. 30 days to close proofs, & Defts 10 days thereafter to close proofs.

Filed March 9th 1860,

W. H. Chevers, Clerk.

By ..... Deputy.

8

358 ND

PAGE 107

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

Clerk's Office,

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

..... Clerk.

By .....

..... Deputy.

UNITED STATES DISTRICT COURT,
Northern District of California,

358 ND
PAGE 108

The United States
vs.
Thomas O. Larkin

San Francisco, Mch 19 1850

On this day, before me Jno B. Williams — a Commissioner of the United States for the _____ District of California, duly authorized to administer oaths, &c., &c., came John Bidwell a witness produced on behalf of the United States in Case No. 358, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No 129 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — his evidence being ~~interpreted by~~ given in English ~~a sworn interpreter~~

PRESENT: Jully R. Bixe Esq. Acting U.S. atty, and J. B. Crockett Esq for claimant.

QUESTIONS BY Acting U. S. atty.

Question 1

State your name, age and residence.

Answer 1.

John Bidwell, lawful age, residence Butte County. Have lived in Cala since 1841.

Question 2.

Please examine the copies of the

358 ND
PAGE 109

diseños in this case on file, and state whether you made that portion which was intended to apply to the petition of Flugge?, and if so which of the two does the grant refer?

Answer 2.

I can't tell to which the grant refers, I first made one map for Mr. Flugge and sent it to him; he wrote to me and requested me to make another as he wished one to accompany his petition, and to keep the other. In three days I always made two copies of the diseños - one to go into the archives and the other for the claimant to keep. I can't state which of these he decided use for his petition, but I remember particularly of his requesting me to include the bottoms on Pecan river near the two rancherias.

Question 3.

At the time you made these diseños for Flugge was it or was supposed that Sutlers Northern line would be as is laid down on the same plat? and was not the land asked for by Flugge to extend from Sutlers Northern line as there laid down with respect to the natural objects delin-

ORIGINAL SURVEYS DRAWING

eated more than with respect

called more clearly attention with respect to any supposed line of latitude?

Note. Counsel for Claimant objects to this question as incompetent and irrelevant.

358 ND
PAGE 110

Answer 3.

I supposed the parallel of latitude was correctly taken, and that if it should the land would consequently conform as well to the one as to the other; that is to the degree of latitude as well as to the natural objects.

Question 4.

Please examine the copy of the diagram accompanying the explanation and state whether the land designed to be patented for use at the quantity on the Southern Pacific Railroad as is shown between the two parallels of latitude, absolute so far as extent, on Grafton River is concerned without regard to the parallels being accurate except in their distance from each other?

Answer 4.

It was intended to be five leagues on the Feather which was supposed to run nearly North and South.

358 ND
PAGE 111

Question 5.

Please state as near as you can the distance from the Northern line of the Boga marked 39°, 48', 45" to the foot-hills of the Sierra Nevada?

Answer 5.

I intended in putting his down, to begin at Sutter's Northern line as laid on Vioget's map, and run North on the river five leagues. I have become acquainted with that country since and would suppose it to be between ~~four or~~ three and four Spanish leagues: that is my judgment.

Question 6.

Please state if to your knowledge the land delineated on the diseño was granted to Flugge and if so whether he occupied it and how long? &c

Answer 6.

He never occupied it himself: after Larkin bought it he employed me to build a house upon it. He employed me in 1847 but I did not built it until 1848

Question 7.

What became of that tract of land afterwards?

358 ND
PAGE 112

Answer 7.

It was sold to Thomas O. Larkin by Flugge.

Question 8.

Are you acquainted with Thomas O. Larkin's handwriting and if so please state whether his signature to the exhibit now filed with your deposition and marked A is genuine?

Answer 8.

The letter is not in his handwriting. The signature is I think his genuine signature.

Question 9.

Please examine the trace copy of the espediente in case No. 109 in the land Commission and now marked exhibit B. and state if the diseño therein is a copy

of one originally made by you and for whom?

Answer 9.

It was made by me - I made it at the request of Sutter for Fernandez

358 ND
PAGE 113

Question 10.

State whether the lands intended to be delineated by this diseño were intended by you to include the whole or any part of the land delineated by the diseño in the Flugge case; and whether you intended that Sutter's northern line should be identical on both diseños with reference to natural objects?

Answer 10.

The Fernandez map was made by me in considerable haste - no order was given to Flugge's land as he had not acquired it according to the conditions of his title - Sutter's right to it had been forfeited - I intended to embrace the best lands on Feather river

~~and~~ in the Fernandez diseño

358 ND
PAGE 114

~~and~~ ~~does~~ in the Fernandez diseño and do not think I had particular reference to making it identical with Sutter's northern boundary. I dont remember that I had any design to make the southern boundary correspond with Sutter's northern boundary.

Question 11.

Was it not your intention in delineating the Fernandez diseño to show the country between the foothills and Sutter's northern line as vacant and capable of being granted entirely disregarding the previous grant to Flugge, that grant at that time being considered void and about to be denounced by Fernandez?

Counsel for claimant objects to the question first as immaterial incompetent, leading and as assuming facts not proven.

Answer 11.

I had ~~it~~ no intention about it myself. I made it entirely at the re-

quest of Capt. Sutter. I knew it would conflict with Flugel's map of Captain Sutter and a Justice of the Peace and he was the proper officer to certify as what were vacant lands when petitions were opened to him, asking for such information.

358 ND
PAGE 115

Question 12.

Please examine the traced copy of the Fremont grant, from the Surveyor Generals office, marked exhibit C. to your deposition and state any facts within your knowledge connected with it?

Answer 12.

I do not know any thing except the marking of the Map until after the county changed hands.

~~Question 13.~~

Cross Examination.

Question 1.

What is the distance between the North line of the Fremont claim as exhibited on the Map made by you and the foot hills

made by you and the foot hills

of the Sierra Nevada on the north?

Answer 1.

The north line comes to the foot-hills and perhaps goes a little into them.

358 ND
PAGE 116

Question. 2.

What is the distance between the said North line of the Fernandez map, and the South line of the Flugge map as shown by the said maps?

Answer 2.

~~I would say that if the Fernandez map had been made with reference to the Flugge map, that~~
I think it would be 8 or 9 leagues.

Question 3

In making the Fernandez map under what instructions did you act & from whom?

Answer 3

I was requested by Capt Sutter to make the map for Fernandez. I was at that time in Sutters service. It was left to my judgment & I was instructed by Sutter to embrace in it the best land on Feather river. In making the Map my

~~Question 4~~

object was to embrace the best land without regard to the Flugge or any other grant.

358 ND
PAGE 117

Question 4

In making the map for Flugge was it or not your purpose to make his southern line identical with Sutters Northern line?

Answer 4.

It was.

Direct Resumed.

In making the two diseños did you intend the two Rancherias depicted on each, viz: the Rª de Boya and the Rª de Danker, to represent identically the same two Rancherias.

Answer.

I did.

Examination closed.

J. Bidwell

Sworn to & subscribed before me this 19th Mch, 1860
Jno B Williams
U.S. Comr

358

U. S. District Court.

The United States

v

Thomas O. Larkin

Depos John Bidwell
for United States

Filed March 20, 1860
W. A. Chever,
Clerk

9

358 ND
PAGE 118

No. 1.

358 ND
PAGE 119

Sow Frau 19th June 1857.

Dr. Sir -

I have to thank you for your favor of the 6th inst. (recd. yesterday) though I do not know as I can give a satisfactory reply to your inquiry.

In 1852 Surveyor Genl King ordered a survey of my Feather River Grant to be made, locating it between two lines of Latitude described in the papers on file in the U.S. Land Comsn. The survey was made by Dep Surveyor Gray who found the Southern or lower line less than a mile above Thompsons Flat. His survey was accepted and approved of by Mr. King & filed with the other papers in the case in the Land Comsn. The case was confirmed by the Comsrs. & the U.S. Dist. Ct. & dismissed by the Atty Genl. Learning that Surveyor Genl Hays thinks the Grant should be located some miles below Thompsons Flat, I have been taking Counsel & filing briefs before him previous to making a formal request or demand for a final survey.

You will at once see that my opinion on the subject of the proper location of my Grant goes for nothing, as the whole matter lies

with the Surveyor Genl— I am informed that Govt. has surveyed the land below the Grant of Messrs. Moore Markham, & that persons have pre-empted or laid School land warrants on it. If this survey has been made by Govt. & persons have taken up the land in accordance with it, it does appear unjust for the Govt. to put my claim over them, whether I wish it or not. For some years I cheerfully paid taxes in your county, but latterly under the State law declaring all lands not patented public lands, & on account of the general opinion that lands not segregated from the public lands could not be taxed, I have not paid.

358 ND
PAGE 120

I should prefer that there were no question concerning the location of the grant that we might definitely judge of its value— I suppose if the grant is to be entered at all in your County it might be put down at $2. pr. acre.

Will you do me the favor to address me again with your views & opinion on the subject. I am with respect

Your obt. Svt.

Thomas O. Larkin

J. N. Bellard Esq.
Assr. Butte Co.

358 ND
PAGE 121

SAN FL
1
JUN
CAL.

J. M. Edwards Esq
Assessor
Oroville
Butte County.

358

The United States

v.

Thomas O. Larkin

Exhibit A, to
Depo Jno Bidwell
for U. S.

4

Filed March 20, 1849
W. Carey Jones
Clerk

10

358 ND
PAGE 122

358 ND
PAGE 123

Sor. - Juez. de paz y comandante militar D.n Juan
agustin Sutter.

Mariano Dionicio Zenon Fernandez
nos por nacimiento y vecinos de Monterey

Certifico que el terreno que solicitan los Sores Fernandez. esta Valdio. q.e Nueva Helvecia Mayo 1. de 1846.

J. A. Sutter

Y. Res pectuosamente nos presentamos Decimos, q.e habiendo visto un terreno baldio en las inmediaciones de este establecimiento asia al Oeste y para la parte de Cuenca nombrada Como consta por el diseño q.e á Compañado de Cuatrocientos de ganado mallor

pido se digne Concedernos el. informe para poder Corresponder los tramites con el Exmo. Sor. Gobernador deste departamento

Por tanto Suplicamos se sirba Exceder lo q.e pedimos de lo que recibiremos Gracia.

D.s - Nueba Helvecia 1.a de Mayo de 1846

Mariano Zenon Fernandez

Dionicio Zenon Fernandez

Sor. Subprefecto del 2o. Distrito

358 ND
PAGE 124

Placcino, y Dionisio Leon Fernandez, Mexicanos por nacimiento, y vecinos de Monterey. Ante v. con el debido respeto y como mas halla lugar, en derecho se presentan, y dicen „ Que habiendo bisto un terreno baldio en las inmediaciones del Establecimiento del Sacramento, asi al norte y para la parte de la cierra nevada. Y como dho terreno se halla en el partido de su mando, solicitamos la informacion de v. acompañandole, una representacion, y dicen que hicimos al encargado de justicia de dho. Establecimiento, del que obtubimos, una certificacion, y para darle el giro que nos combiene pedimos se digne v. concedernos el informe que combenga para que pedamos con toda inteligencia seguir los tramites correspondientes, segun estilo. &.

A V. Suplicamos se cirva conceder lo pedido, de lo que se recibirá merced, y gracia Jurando lo necesario. &a.

Yerbabuena 8, de Mayo de 1846.

Placcino y Dionisio L. Fernandez.

Yerbabuena Mayo 12 de 1846.

En vista de la presente, y certificacion del Encargado del Establecimto. sobre el pedido de cuatro sitios de ganado mayor: por lo q. solicite dos indibiduos q. conoscan el terreno y dieron los certificados q. acompaño; pues no se practicaron como se debe pr. no haber autoridad, por el rumbo pedido; pero los interesados q. tienen los requisitos necesarios. Por lo q. pasando al Sr. Sorprefecto del 2o. distrito resolbera lo q. tenga á bien y sea para el fin q. me por le combenga en uso de mis facultades. Franco. Guerrero

358 ND
PAGE 125

Sírvase V. recibir la presente en pa-
pel común por no haber del sellado que
corresponde

358 ND
PAGE 126

Yó, el que abajo firmo, digo:
Que en virtud de las averiguaciones practicadas, y con los peritos correspondientes, y haciendo mencion del paraje que Los Señores, D. Ignacio, y D. Dionicio, Z.Z. Fernandez solicitan en las inmediaciones del Establecimiento del Sacramento. Certifico, Cer valdeo, y de que nunca ha tenido, ni aun, tiene tan poco dueño, ni acreedor, de dho, paraje; y para constancia, doy el presente escrito, en Yerbabuena, el dia 15 de Mayo, de 1846.

J. Reading

358 ND
PAGE 127

Yo el abajo firmado, Certifico que el Paraje de que hacen mencion los Señores Don Maximo y Don Dionisio D Fernandez, se halla completamente valdio, y que hasta la presente no ha tenido dueño, ni ha sido pedido por persona alguna.

Y para que conste doy el presente hoy dia de la fecha

Yuba Buena
Mayo 15. 1546.

Guillermo Hinckley
" " "

PREFECTURA
DEL SEGUNDO
DISTRITO

358 ND
PAGE 128

Por Srio del Despacho

Don Dionicio y Martin Fernandez solicitan en la presente instancia se les conceda en propiedad un terreno constante de cuatro sitios de ganado mayor que se halla en las inmediaciones del Rio del Sacramento para el Norte colindando con las lomas bajas de la Sierra Nevada con el Rio de las Plumas y con el terreno de D.n Juan Aug Sutter

Esta Pref.a en vista de los informes practicados que acredita hallarse baldio dicho terreno y satisfecha que los pretendientes reunen las cualidades que previene la ley, no encuentra embarazo p.a que el Gob.no Departamental les

358 ND
PAGE 129

concedá la propiedad de los cuatro sitios de ganado mayor que piden y en virtud los recomienda a VS para que poniendolo en el Superior conocimiento del mismo, interponga su respetos p.a que sean agraciados preferentemente á cualesquiera extrangeros.

Monterey Mayo 27 de 1846.

Juan Castro

Angeles Junio 12 de 1846.

Vista la peticion conque dá principio

No 100

Dionisio Fernandez

Expediente

Filed in Office March 19 1852

Wm. Heath Davis Secy.

358 ND
PAGE 130

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

I, **J. W. MANDEVILLE,** *Surveyor General of the United States for the State of California, and as such, having in my office, and in my charge and custody, a portion of the* **Archives** *of the former* **Spanish** *and* **Mexican** *Territory, or Department of* **Upper California,** *as also the papers of the late Board of Commissioners to ascertain and settle the private land claims in California; by virtue of the power vested in me by law,* **Do Hereby Certify,** *that the* ~~Eight~~ *preceding, and hereunto annexed pages, of tracing paper, numbered from one to* ~~Eight~~ *inclusive, exhibit a true, full, and correct copy, of* an original document, together with the endorsements thereon, as the same appears on file in case No. 109 on the docket of said Board of Commissioners.

EXAMINED AND FOUND CORRECT.

Keeper of Archives.

In Testimony Whereof, *I have hereunto signed my name officially, and caused my Seal of Office to be affixed, at the City of San Francisco, this* 19th *day of* March *18*56

J. W. Mandeville U. S. Surveyor General, for California.

From 123 To 131 Inclusive.

358 N.D.

Mr. Williams
$10.00

358 ND
29 Bk

The United States
v.
Thomas O. Larkin

Exhibit B.
to deposition of
John Bidwell for U.S.

Filed March 20, 1860
W. A. Chevers,
Clerk

11

358 ND
PAGE 131

358 ND
PAGE 132

Pio. Pico Gobernador Constitucional del Departamento de Californias

GOBIERNO DEL DEPTO DE CALIFORNIAS

Por cuanto los Ciudadanos mejicanos de nacimiento Maximo y Dionisio Lenon Fernandez han pretendido para sus beneficios personales un terreno baldio á las inmediaciones del rio del Sacramento colindante al norte con las faldas de la Sierra nevada, al Sur con terrenos de Don Juan A. Sutter y al Este con el rio de las plumas; practicadas previamente las deligencias y averiguaciones consernientes segun lo dispuesto de conformidad con la ley de 24 de Agosto de 1824 y reglamento de 21 de Noviembre de 1828 he venido en decreto de este dia en uso de las facultades que me estan conferidas á nombre de la nacion Mejicana en concederles el espresado parage declarandoles la propiedad de el por las presentes letras a reserva de la aprobacion de la Exma. Asamblea Departamental y bajo las condiciones siguientes.

1ª Podran cercarlo sin perjudicar las travesías caminos y servidumbres, lo disfrutaran libre y esclusivamente destinandolo al uso o cultivo que mas les acomode.

2ª Solicitaran del Juez respectivo la posesion Juridica en virtud de este despacho por el cual se demarcaran los linderos con las mojoneras necesarias.

3ª El terreno de que se les hace donacion es puramente el de cuatro sitios de ganado mayor conforme al diseño que corre en el espediente. El Juez que diere la posesion lo hara medir con arreglo a ordenanza dejando el sobrante que resulte a la Nacion para los usos convenientes.

En consecuencia mando que haciendose el pre-

358 ND
PAGE 133

sente titulo por fisme y valedero se tome razon de el en el libro respectivo y se entregue a los interesados para su resguardo y demas fines. Dado en la Ciudad de los Angeles en este papel comun por absoluta falta del sellado á doce de Junio de mil ochocientos cuarenta y seis.

Pio Pico

José Marias Moreno
Srio Gnl.

Queda tomada razon de este Superior despacho en el libro respectivo.

Moreno

3

Títulos de propiedad del rancho concedido á los Ciudadanos Madrino y Dionisio y Fernando

Año de 1846

No. 109

Dionisio Hernandez et al

4 Leas. Butte Co.

Recorded in Rec. of Land vol. 1 p. 238 & 239. Geo. Fisher Recr.

B.

Title

Filed in Office March 19th 1852

Geo. Fisher Recr.

Doc B. annexed to Depo of Thomas O Larkin Taken before Comr. Alpheus Felch.

By Geo. Fisher Recr

Ford Atty for Petitioner

358 ND
PAGE 134

358 ND
PAGE 135

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

I, **J. W. MANDEVILLE,** *Surveyor General of the United States for the State of California, and as such, having in my office, and in my charge and custody, a portion of the* **Archives** *of the former* **Spanish** *and* **Mexican** *Territory, or Department of* **Upper California,** *as also the papers of the late Board of Commissioners to ascertain and settle the private land claims in California; by virtue of the power vested in me by law,* **Do Hereby Certify,** *that the three preceding, and hereunto annexed pages, of tracing paper, numbered from one to three inclusive, exhibit a true, full, and correct copy, of an original document, together with the endorsements thereon, as the same appears on file in case No 109, on the docket of said Board of commissioners*

EXAMINED AND FOUND CORRECT-

Keeper of Archives.

In Testimony Whereof, *I have hereunto signed my name officially, and caused my Seal of Office to be affixed, at the City of San Francisco, this 17th day of March 1860.*

J. W. Mandeville U. S. Surveyor General, for California.

From 136 to 136 inclusive

358 U.S.

M. Williams
Certificate of Exhibits

358

The United States
v
Thomas O. Larkin

Exhibit C.
to deposition of
Jno Bidwell for U.S.

Filed March 20, 1860
W. A. Shevers,
Clerk.

12

358 ND
PAGE 136

358 ND
PAGE 137

To the Constitutional Governor of the Department of the Californias.

Gov.t Seal

Whereas Macsimo and Dionisio Lenon Fernandez, Mexican citizens by birth, have solicited for their personal benefit a tract of unoccupied land in the vicinity of the river Sacramento, bounded on the North by the slopes of the Sierra Nevada; on the South by John A. Sutter's lands; and on the East by Feather River, and the required steps having been taken and information obtained concerning said land in conformity with the provisions of the Law of 18th Aug 1824 and Regulation of 21st November, 1828, I have resolved, by decree of this date, in the exercise of the powers in me vested in the name of the Mexican People to grant them (the said Macsimo & Dionisio Lenon Fernandez) the aforementioned tract hereby declaring them proprietors thereof, subject to the approbation of the most excellent Departmental Assembly, and under the following conditions:

1st They may enclose it without obstructing the crossings, roads and rights of way; they shall enjoy the free and exclusive possession thereof, dedicating it to the cultivation or use

1

358 ND
PAGE 138

which they shall deem convenient.

2d " They shall solicit of the proper Judge the Judicial possession thereof in virtue of this patent (despacho) by "whom (which) the limits will be marked out with the requisite land marks.

3d " The tract hereby granted is purely four square leagues of land (suitable for the raising of Cattle and horses) (Cuatro Sitios de ganado Mayor) according to the plan accompanying the "espediente"

The Judge who shall give possession shall cause it to be measured according to Ordinance leaving the surplus, which there may be, (for) to the State for the proper purposes.

Therefore order that (inasmuch as) the present title being (is) held as firm and valid (it) be entered in the corresponding books, and delivered to the parties concerned, for their security and other ends —

Given in the City of Angeles (on common paper, for absolute want of the proper stamps) the 12th day of June, 1846,

Pio Pico

Jose Matias Moreno
Secretary pro. tem.

358 ND
PAGE 139

This Superior patent has been
Entered in the corresponding book R.
Moreno

Translation from the Original by
Joseph H. Scull
State Translator

Exd. C
R. P.

Endorsed,

No 109.
Dionisio Fernandez et al. Alex. Butte Co.

Translation of Title.
Feldin Office, March 19th, 1852.
Geo Fisher,
Sec'y.

Recorded in record of evidence Vol. 9,
page, 225.
Geo Fisher Sec'y.

Translation of title & espediente Rancho
granted to Maximo and Dionisio Fernandez — 1846 — by Pio Pico.

E.

3

Translation No. 1.

358 ND
PAGE 140

To the Justice of the Peace and
Military Commandant, D. Juan Au=
=gust Sutter

I certify that the land solicited by the Mesrs. Fernandez is vacant
New Helvetia
May 1st 1846
(Signed) J. A. Sutter

Maximo and Dimicio Zenon Fernandez, Mexicans by birth, and citizen of Monterey present ourselves with great respect & say, that having seen vacant land in the neighborhood of this establishment towards the North and towards the Sierra Nevada as will appear by the accompanying Map of four Sitios de ganado Mayor, or four square leagues

We respectfully ask for the necessary information to be transmitted to his Excellency the Governor of this Department

Wherefore we pray that what we ask may be granted by which we shall receive mercy.

New Helvetia 1st May, 1846
(Signed) Maximo Zenon Fernandez
(") Dicimio Zenon Fernandez.

Translation No. 2.
Yerba Buena
May 12th 1846
Having seen this document and testimony of the person in charge of the establishment in relation to the application for four square

To the Sub Prefect of the 2d District

Maximo and Dionisio Zenon Fernandez Mexicans by birth, and citizens of Monterey, respectfully appear and would state, That having seen a vacant tract of land in the neighborhood of the

5. Leagues. I have requested two persons who know the land to inform me about the same and they gave the annexed certificate. The information has not been duly taken on account of there not being an authority to that effect but the petitioners are qualified, therefore I shall refer the matter to the Prefect of the 2d District who shall resolve as he may deem proper and will give to the proceedings the convenient course by virtue of his powers.

(Signed)

Fran.co Guerrero

358 ND
PAGE 141

establishment of the Sacramento to the North and by the side of the Sierra Nevada and as said land is situated on a place under your Jurisdiction we solicit information of you relative to the land referred to in the accompanying petition and Map which we have made to the person charged ad interim of the said establishment from whom we obtained a certificate and in order to give it the most convenient course we beg of you to grant us the proper information that we may duly proceed to the corresponding proceedings as it is customary.

Therefore

We beg that Your Honr may be pleased to grant us what we have asked; by which we shall receive mercy and favor.

Swear what is necessary &c

Yuba Buena 8th May 1846.

(Signed) Maximo y Dionisio L Fernandez

Please receive this document upon common paper, for there is none of the proper stamps

Translation — No. 3

I the undersigned say; that in virtue of the investigation & report made in relation to the land asked for by Mess.rs Maximo & Dionisio L Hernandez

358 ND
PAGE 142

in the neighborhood of the establishment of the Sacramento

I certify that the same is vacant & has never been occupied and that there is no owner of said place in proof of which I give this writing at Yerba Buena May 15. 1846

(Signed) P. B. Reading

Translation No. 4

I the undersigned certify that the place described by the Mexs Mariano & Dionisio Fernandez is entirely vacant and without an owner, nor has it been asked for by any one

In testimony whereof I give this writing, the day of its date.

Yerba Buena May 15th 1846

(Signed) Guillermo Hinckley.

Translation No. 5

Prefect of the 1st District

To the Secretary of State

Don Dionisio and Mariano Fernandez, solicit by their documents the concession in ownership of the four square leagues of land in the neighborhood of the River Sacramento, bounded on the North by the low hills of the Sierra Nevada by Feather River and the lands of Don Juan A Sutter

7.

358 ND
PAGE 143

This Department of the Prefect in view of the evidence that the said land is vacant and that the applicants possess the legal qualifications. Can discover nothing which should prevent the Governor of this Department from granting the ownership of the said four Square leagues. They are therefore recommended to Your Excellency. And with great respect would state that their petition should be granted in preference to any Stranger.

Monterey May 27. 1846.

(Signed) Manuel Castro

Angeles June 13th. 1846.

Having examined the petition which begins

.....

I Certify the foregoing to be a true and correct translation from the Original Spanish Document on file in this Office, in Case No. 109 Dionisio Z. Hernandez et al;

U. S. Land Commission for California

San Francisco July 26th 1852.

Geo Fisher.

Sec'y

(Endorsed;)

No. 109

Dionisio Z. Hernandez et al

358 ND
PAGE 144

E.

Translation of Exped.to

Filed in Office July 26. 1852

Geo Fisher

Sec St.

Recorded in Record of Evidence

Vol 19. Page 223

Geo Fisher

Sec St.

109

C.

358 ND
PAGE 145

United States of America }
State of California } Ss.

San Francisco, June 23d 1854

This day personally came before Peter Latt 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 claimant, Dionisio Z. Fernandez in case No. 109 on the Docket of said Board, and said witness being duly sworn on oath deposed in English as follows to wit;

The U. S. Law Agent is present.

Questions by Claimants Counsel.

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

Answer — My name is John A. Sutter, my age 71 years, my residence Sutter County California.

2d Question — Look at the document marked "C. Expediente" and filed in this case and state what you know of the genuineness of the various signatures thereon written

9

10

Answer.

358 ND
PAGE 146

And your means of Knowledge?

On the first page the signature of my own name to the Marginal certificate is my genuine signature written by me at the date of the certificate. On the same page the signature of Dionisio Lenon Fernandez is his genuine signature. I Know him have received letters from him and Know his hand writing. On pag No 2 the name of Francisco Guerrero is his genuine signature. I Know him and his handwriting, having frequently transacted business with him and seen him write. On page No 3, the name of P. R. Reading is the genuine signature of Pearson B. Reading. He was my Secretary for about 2 years, and I Know his writing well, have often seen him write. On page No 4 the name of Guillermo Hinckley is the genuine signature of William Hinckley (called in Spanish Guillermo) I Know his handwriting well, have seen him write and have transacted business with him. Such other signatures as appear in this document I am not acquainted with.

Cross-Examined by U. S. Associate Law Agent.

358 ND
PAGE 147

1st Question. Was your intercourse with these persons whose sig'natures you say you know of so frequent a character as to enable you to testify without doubt as to those sig'natures and without having your attention particularly directed to their writing at the time you last them write?

Answer. Yes. I testify without any doubt and my knowledge of these persons and their business and my intercourse with them make me very certain of their sig'natures.

2d Question. How often have you seen these persons write their names, or have you received letters from them?

Answer. So far as Hinckley and Geeslers are concerned I have very often seen them write and received letters from them. I cannot say how many times. Reading was my Secretary 2 years and the others Fernandez I have rec'd letters from not so often but several times.

J. A. Sutter.

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

Peter Lott Commissioner
For taking Testimony &c.

11.

12 (Endorsed) No 109.

Dennis & Z Fernandez et al

Butte County,

Deposition of John A. Sutter taken

before Com[r] Peter Lott.

Filed in Office June 23[d] 1852

Geo. Fisher

Sec[y]

Recorded in Co[y] B. Vol 4 p

Ed p[d] Ed 645

Geo Fisher

Rec[r]

358 ND
PAGE 148

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

358 ND
PAGE 149

I, J. W. MANDEVILLE, Surveyor General of the United States for the State of California, and as having in my office, and in my charge and custody, the papers of the late Board of Commissioners to ascertain and settle the private land claims in California; by virtue of the power vested in me by law, Do Hereby Certify, that the Twelve preceding, and hereunto annexed pages, numbered from one to Twelve inclusive, exhibit a true, full, and correct copy, of three (3) documents, together with the endorsements thereon, as the same appear on file in case No. 109, on the docket of said Board of Commissioners.

EXAMINED AND FOUND CORRECT-
Keeper of Archives.

In Testimony Whereof, I have hereunto signed my name officially, and caused my Seal of Office to be affixed, at the City of San Francisco, this 19th day of March 1860.

J. W. Mandeville U. S. Surveyor General, for California.

358

U. S. District Court

The United States

vs

Thomas O. Larkin

Translation of Expediente & Grant to Fernandez. filed by U.S.

Filed March 20, 1854

W. A. Chever.

Clerk

13

358 ND
PAGE 150

Mr. Williams
#6

UNITED STATES DISTRICT COURT,
Northern District of California,

358 ND
PAGE 151

The United States

vs.

Thomas O. Larkin

San Francisco, Mch 23 1860

On this day, before me Jno B. Williams a Commissioner of the United States for the ——— Districts of California, duly authorized to administer oaths, &c., &c., came Marc de Kirwan a witness produced on behalf of the United States in Case No. 358, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No 129 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: Inlly R. Wise Esq, acting U. S. atty
J. B. Crockett Esq for claimant.

QUESTION BY acting U. S. atty.

Question 1

State your name, age, place of residence and occupation?

Answer.

My name is Marc de Kirwan. I live in Sutter County, I am forty three years of age, I am a farmer.

Examined by Claimants counsel
on his bona fide.

Witness says.

I live on the land embraced in the
survey in controversy in this case; I claim
under the certificate of the United States,
given to me in the United States Land
office at Marysville in March 1856
against a school land warrant or in
exchange of a school land warrant which
I had located on the same land since
December 1852). That is my only title.
It is to my interest that the survey in this case should
be defeated if the certificate I have
mentioned cannot hold against it.
I claim three hundred and twenty acres
under my certificate. ~~It is hard to tell~~
~~the value of the land.~~

Question

What is the value of the land you claim?

Note. Objected to by U.S. because the
controversy in this case is as to the loca-
tion of the grant and not the value of any
portion of it.

Answer.

It is hard to tell the value of the land.

Question.

What do you estimate the land you
claim there to be worth?

(Note. Objected to by U.S. as incompetent
Answer.

358 ND
PAGE 152

Just as things stand now it may be worth

358 ND
PAGE 153

just as things stand now it may be worth four dollars an acre all round including improvements.

Question.

How much is it worth including the improvements in your opinion?

(Note counsel for U.S. objects to the question as irrelevant).

Answer.

I suppose a couple of dollars more per acre. Perhaps more. I was not prepared for these questions as I have no idea of selling the property.

Question.

If the title was not in dispute is not the land claimed by you including the improvements worth in your opinion as much as five thousand dollars? and if not how much less than five thousand dollars?

(Note counsel for U.S. objects to question as irrelevant)

Answer.

The values as stated already could certainly not be got now, because nobody would buy at any price, and as to stating the price it could be worth with a clear title to the land it is impossible for me to say, in circumstances

are selling markets every where. I cannot form an opinion on a thing I do not know before hand.

358 ND
PAGE 154

Question.

How much has your place cost you up to this time including the improvements? (Note counsel for U.S. objects to the question as irrelevant.)

Answer.

I guess at your right to ten thousand dollars is about the amount this property has cost me now.

Question.

How much of that sum has been expended in the improvements? (Note counsel for U.S. objects to the question as irrelevant.)

Answer.

I could not tell how much amount expended to my Bosses. Every day in the year almost there are expenses, for building fencing &c - and perhaps the improvements cost me two thousand dollars. I do not know.

Question.

You have said that some portion of the land claimed by you is worth twenty five dollars per acre. How much of it is worth that price?

of it is worth that price?

(Note. Counsel for U.S. objects to the question as irrelevant).

358 ND
PAGE 155

Answer

I cannot say sir - I never looked over the ground so carefully as to be able to know just how many acres would be worth that. They are very fine.

The examination of the witness on his own direct having closed - the Counsel for claimant objects to the competency of the witness on the ground of interest.

Question 2.

When did you first go upon the land where you now reside and which is now covered by the survey in this case?

Answer 2.

I settled there in the year of October 1852, having bought out some settlers who had possession of the land since 1849.

Question 3.

State whether or not at that time you made any inquiries as to whether the land was covered by any Mexican grant and what information you obtained on that point?

Note Counsel for claimant objects to the question as incompetent and hearsay.

358 ND
PAGE 156

Answer 3.

I made inquiries in the summer of 852 in the land office here (San Francisco) and at Mr. Larkin's office (Thomas O. Larkin's office) in San Francisco, and I was told at both places that the Sluggs grant was located above Hamilton city on Feather river - and that this land appeared to be vacant land. I knew at the same time that another settler of the name of George Campbell had seized of Mr. Larkin himself a similar interest. I did not learn it from Mr. Larkin himself, but from a gentleman who had his power of attorney at the time Larkin being in the Eastern States as I understood.

Question 4.

After making the purchase as you have stated, did you or not take any steps to pre-empt on your own account the land covered by that purchase? and if so what steps did you take?

~~Answer.~~

~~Counsel~~ State Counsel for claimants objects to the question as incompetent and irrelevant.

Answer 4.

358 ND
PAGE 157

Answer 4.

In December 1852 I located on that land through the county Surveyor of Butte a school land warrant of three hundred and ~~ninety~~ acres. Said location was recorded in Butte County Clerk's office in March 1853 I believe then in 1855 the land having been surveyed by the U.S. Surveyors as public land, in April I believe, I ~~[illegible]~~ made a declaration in the United States land office in Benicia to cover that land with pre-emption claim rights. At that time there were some doubts in the public mind about the validity of school land warrants against pre-emptors, and in order to secure myself against any speculator I then made that declaration as a pre-emption myself for such part of the land as my improvements were on. It stood so for a year. In March 1856, official plats of the survey were returned in the United States land office of Marysville by the Surveyor General of California, that land declared then vacant land and the United States Register in that office took the school land warrant from me

358 ND
PAGE 158

and gave me in exchange a United States certificate giving me ~~title~~ final title to that land. In 1858 the Surveyor General for the State of California in his report to the Governor, he stated that ~~these reports to the~~ locations were final. I mean the location of mine under certificate No. 10, school land warrant one hundred & eleven was a final location in the United States land office. That land is the same that is now included in the Flugge survey.

Question 5.

At the time you speak of - was the Flugge ranch located by the Surveyor General of California, ? and does the plat ~~Surveyor~~ now filed marked exhibit number 1 to your deposition entitled to by the Surveyor General of California show this location?

~~Answer 5.~~

~~At the time inquired~~

Note. Counsel for claimant objects to the question as irrelevant and immaterial.

Answer 5.

358 ND
PAGE 159

At the time I received the United States certificate from the Register in Marysville (in April 1856) it was known in the country that the location of Flugge point was to be made or was already made in the Mountains about Oroville on the Feather river. This plat shown me - exhibit no. 1. on the plat marked yellow. Number 62, shows the Boya or Flugge point just as we understood the location was made.

(Both Counsel for claimant objects to the answer as not responsive to the question and as hearsay)

Question 6.

At the same period had there been any other points located by the Surveyor General, between the Boya or Flugge mound and your own land?

Answer 6.

Yes sir - there was one or two unappropriated located below that from Hamilton city down to the northern line of my farm under the name of Fremonday point or Rancho.

Question 7.

Was the location of the Fernandez point spoken of afterwards changed by the Surveyor General and how.

358 ND
PAGE 160

Answer 7.

Yes sir it was changed and removed about six miles further north.

Question 8.

Subsequent to that removal has there been any survey made by the Surveyor General of the land in which you are included and when was that survey made?

Answer 8.

There have been different surveys below my place in Township sixteen - surveys had been already made in Township seventeen - and finally in the last summer a deputy Surveyor came on the ground, surveying it again for the purpose of locating the same Boyd on which I have alluded to.

Question 9.

Please examine exhibit Number 2 to your deposition being a certified plat from the Surveyor Generals office and state

the Surveyor Generals office and state whether your location is correctly shown thereon, and the lines of the different claims before spoken of?

358 ND
PAGE 161

Answer 9.

My location is right - the rest of it is correct to the best of my knowledge. There is only a portion of the Fernandez claim there.

Question 10.

Had you any knowledge directly or therein prior to the survey made last summer of the Fr Hyde claims, that you were included in any Mexican grant?

Answer 10.

No sir. None at all.

The counsel for the United States here closed, and the Counsel for claimants says he does not wish to cross examine the witness. Whereupon this deposition closed.

M. McKinney

Sworn to & Subscribed
before me this 23d Mch 1860
Jno B. Williams
U.S. Com

358

U. S. District Court.

The United States

v

Thos C. Larkin

Deposition of
Marc DeKirwan
for United States

Filed March 23. 1860
W. H. Chevers
Clerk.

14

358 ND
PAGE 162

358.

U. S. District Court.

The United States

v.

Thomas O. Larkin

Exhibits 1 & 2 to deposition of Marc De Koiwan for United States.

Filed March 23. 1850

W. A. Chenery.

Clerk

358 ND
PAGE 163

15 & 16

358 ND
PAGE 164

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

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

GREETING:—

WHEREAS, objection has been made to the official survey and location of the land finally confirmed, in case No. 358, to Thomas O. Larkin known as Buzze Rancho on Boga, and situated in the County of Butte in said District.

NOW THEREFORE YOU ARE HEREBY COMMANDED, in the name of the President of the United States of America, to give due notice to all parties having, or claiming to have, an interest in such survey and location, that they be and appear before the District Court of the United States for said District, sitting in Land Cases, on or before Wednesday, the 3d day of October A. D. 1860, at 11 o'clock, A. M. (if that day shall be a day of jurisdiction, and if not, on or before the next Wednesday thereafter,) then and there to intervene for the protection of such interest, or their defaults will be taken. And what you shall have done under this writ do you then and there make return thereon.

WITNESS, the Hon. OGDEN HOFFMAN, Judge of said Court, at San Francisco, in said District, this 27th day of August A. D., 1860.

W. H. Chevers

CLERK.

The within Monition was received by me on Monday the 27th day of August 1860, and in obedience thereto I have given due notice, as therein commanded, by causing the publication of said notice, for ..... consecutive Wednesdays, in the San Francisco Herald, commencing on the 29th day of August 1860; and for 4 consecutive Saturdays, in the Butte Democrat a paper published nearest the land, commencing on the 1st day of September 1860.

Dated San Francisco, Aug. 27th 1860.

P. L. Solomon U. S. Marshal.

(D)

No. 358.

UNITED STATES DISTRICT COURT,

Northern District of California.

IN LAND CASES.

THE UNITED STATES.

V.

Thos. O. Larkin

MONITION.

Returnable Oct. 3. 1860.

Issued Aug. 27. 1860.

Filed October 3. 1860.

W. A. Chever

Clerk.

17 358 ND
PAGE 165

358 ND
PAGE 166

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

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States,

v.

Thomas O. Larkin.

IN LAND CASES.

District Court No. 358,

Land Com. No. 129

AND now at this day the United States Marshal having made return upon the Monition heretofore issued in this cause, that he had given due notice as therein commanded; on motion of the Attorney for the United States, proclamation was made that all parties having, or claiming to have, an interest in the survey and location of the land finally confirmed in the above entitled cause, appear and intervene for the protection of such interest; the United States Attorney, and John B. Williams appeared for the United States, and Brockett & Brittenden for the Claimants, and no other parties appearing

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

No. 358.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

V.

Thomas. O. Larkin,

ORDER ON RETURN OF MONITION.

Filed October 3d, 1860.

W. H. Revell

Clerk.

18

358 ND

PAGE 167

The U. S
vs
Thomas O. Larkin

No. 358. ND
March 16. 1861.

1 358 ND
PAGE 168

Objections to survey on the part of the U. S.

The Rancho which has been surveyed was originally granted to one William Hugge under on the 21 February 1844—

The tract solicited is described in the petition as situated "on the East side of Feather River and extending along the said river from North latitude 39° 33' 45" to the parallel 39° 46' 45"— forming on this line a square one league in breadth and called "Boga" as appears by the accompanying diseño—

On the 21st February 1844 the Governor by his decree of concession declared Hugge the owner of five square leagues on the western side of the Feather River and in the center of a tract called Boga His first boundary to be from the parallel of latitude 39° 33' 45" N.

The formal title issued on the

358 ND
PAGE 169

2

same day describes the land in the town a similar map to be annexed and the fourth condition states that the land is "of the extent of 5 square leagues as the respective diseño explains."

On the 13th June 1845 the grant was approved by the Departmental assembly and on the 26th June of the same year a certificate of the approval was given to the grantee—

The diseño which accompanies the expediente petition was drawn by John Bidwell and it represents the land solicited with unusual accuracy and certainty a tract on the west bank of Feather river is delineated 5 leagues in length and one in breadth as shown by the scale. At its southern boundary a straight line marked "Latitude North 39°. 33'. 45" is drawn— while on the north ~~and beyond the limits of the tract solicited and outside the square~~ ~~which includes the map~~

on the margin of the paper the words "latitud 39° 48' 45" are written —

It would seem from this discription that the precise tract intended to be granted could be located with entire certainty. It is said however that the Southern boundary of the land as surveyed is not the parallel of latitude 39° 33' 45" which is much further to the North — and it is suggested that the land should be bounded on the South by that parallel wherever the same on accurate observations be found to be —

It is not proved in this case where that line of latitude is in fact situated — I do not however understand it to be claimed that the land has been located with reference to it — with the imperfect instruments and inaccurate observations upon which the former inhabitants of the country were

I 358 ND
PAGE 170

I 358 ND
PAGE 171

4

obliged to rely it would be surprising if the latitude of any points had been determined with entire accuracy — But the diseño shows unmistakeably what was the situation of the line conceded and called the parellel of North latitude 39°. 33'. 45" — ~~On this diseño the land granted to Suggs is defined with great accuracy~~ —

It represents other ranchos lying below it on the river — Four Indian rancherias ~~were~~ lying on the other side of the river also designated two near the upper and two near the lower lines of the tract — Near the centre is represented an Indian Village called "Boga" from which the rancho derived its name, and what is still more unmistakable the Stonyat creek is laid down as flowing into the Feather River at a point somewhat to the South of the Centre of the tract.

358 ND
PAGE 172

On comparing the course of the river as ~~delineated~~ represented on the diseño with its delineation on the returned plat of survey it will be found to be laid down on the same with great accuracy — Almost every bend can readily be recognised and identified and the portion of along which the rancho was intended to be located can be determined with ~~great~~ entire certainty —
As then the situation of the Southern boundary is thus determined by natural objects it must be ~~to~~ located with reference to them, notwithstanding that the grantor by reason of imperfect observations or inaccurate calculations may have ~~supposed the line to be a parallel of latitude~~ made an error in designating it as a particular parallel of latitude —
If any authority be needed on a point so clear it will be found in the case of U. S vs Sutter — where the Supreme Court x dis

358 ND
PAGE 173

regarded a similarly erroneous designation of a parallel of latitude and located the line by reference to natural objects and in accordance with the testimony showing where it was in fact run upon the ground.

It is further objected to the survey that the same land was afterwards granted to the Bathes Remainders.

It appears that after the grant to Flugge the Bathes Remainders applied to Suther for a certificate to the effect that certain lands on the Yea Chin River north of Suthers line and extending to the foot hills of the Sierra Nevada were vacant — Suther supposing that Flugge had abandoned his claim grant directed Bidwell to make a map for the Remainders embracing the vacant lands on the west bank of Yeatha Noco — This Bidwell accordingly did and the map was made so as to include a tract of

358 ND
PAGE 174

tending from what was supposed to be Suttes north line to the foothills, and including the place called Boga and all or the greater part of Huggs land together with lands to the north of the latter & extending to the foothills—

The claim of Fernandez has been confirmed surveyed & patented— It is located 5 leagues to the north of the supposed northern line of Sutter as now surveyed and the claim. The Sacramento survey now under consideration embraces these five leagues lying between the Southern line of Fernandez & the Northern line of Sutter—

It is urged that inasmuch as the grant of Fernandez delineated on the plan included the whole or the greater part of the tract granted to Hugg and inasmuch as the grant of the former has been located on the Northern part of the tract embraced in the plan, Huggs grant should be so located as to

358 ND
PAGE 175

Coow the same lands— it being apparent that the Goovernmt has made two grants of the same lands— the first grant having been treated as abandoned—

This suggestion might possibly have been made with some force with regard to the location of Fernandez' grant— But the location of that grant has been finally made without the interposition of this Court— the survey has been approved & the patent issued— The only question now to be considered is, what lands were granted to Flugge— nor can the location of his grant be affected by the circumstance that without any denouncement or even notice to him— his grant tho' confirmed by the Departmental assembly was treated as forfeited & a portion of his land embraced within the limits of another grant granted to another.

358 ND
PAGE 176

9 The location of the Phegley Rancho is fixed by the terms of the grant & the delineation of the diseño — and nothing is necessary but to find the true situation of the line marked on the diseño "latitud North 39°. 33'. 45" " and measure thence to the north ward five leagues in length by one in width along the Feather river

It is further objected that Larkin the claimant has sought to [illegible] his land further up the river than the present survey: that he has represented such a location to be that called for by the grant & claimed by him, and that various persons have made settlements on the southern portion of what is now traced in the survey —

There can If under the grant and within the limits of the diseño any election could be exercised by Larkin as to the

10 precise location of the quantity granted he might possibly be bound now make his election in accordance with previous representations on the truth of which others have innocently acted. But Whether or not such representations and claims would amount to an election so as to estop him from subsequently making any other it is unnecessary to inquire for his grant permits no right of election whatever — It designates in terms, the "first town league" — the "second" The petition is the second — the petition and decree show the width of the tract viz one league and quantity will determine the northern boundary — I am unable to perceive how with such a designation of the precise land which the Land Office or this Court can exercise any discretion in the subject. The land granted and none other must be surveyed — no matter what may

358 ND
PAGE 178

the wishes of the present owners
or what might have been the
erroneous
notions or representations of
Mr Larkin as to its location.

But in locating this line it appears to have been supposed that the Northern line of Sutter's rancho was intended to be the Southern line of the grant— It is true that Mr Bidwell states that he meant the East on the division to have for its Southern boundary the land of Sutter— But neither the petition or the grant make any mention whatever of Sutters land— The position of the line which the grant declares to be the "first boundary" must when be determined by ascertaining where is the true parallel 39° 33' 45" North or by finding by means of natural objects the position of the line so marked and which the grantor erroneously supposed to be the parallel mentioned That the latter course must adopted is clear— But on

358 ND
PAGE 179

Comparing the line as drawn on the diseno with the Southern boundary of the land surveyed it is I think manifest clear that the tract has been laid too far to the South ward —

The Hoquiam River which is perhaps the most mistakable object delineated on the diseno is represented as the latter as falling into the Pacific Ocean South of the centre of the tract leaving: the part below the junction being considerably less in extent than that above it — But in the tract surveyed the Hoquiam prior to the junction of these streams is considerably above the centre of the tract leaving by far much the larger portion of the land below it again

The lands of the river below the point of junction are laid down on the diseno with much accuracy and can be recognized

358 ND
PAGE 180

and identified on the plot tho' the latter is on a much larger scale — It can readily be seen by comparing the two, at what point on the river the southern boundary of the diseño was run. And its position can further be ascertained by reference to the rancherias Honcut & Bubu which are noted on the diseño as ~~imme-diately~~ to the north of it & the rancheria Toms-cha ~~as to the south~~ which is represented as lying to the south of it and not within the tract solicited — It would seem that the most southern of these rancherias has been included, in the survey — But ~~no doubt~~ ~~But can I think exist of the bends of the stream to follow~~ But the more reliable indication is the course of the river — By tracing its course from the junction of the streams on both maps it will be found that the

358 ND
PAGE 181

Southern line of the Survey is not drawn at the land where the line of latitude is drawn on the diseño but considerably below it.

This I consider clearly wrong.

It would seem that the Surveyor has taken the Southern line of the Fernandez rancho for his point of beginning & surveyed South for quantity whereas the grant explicitly directs that the Southern line marked on the diseño 29°. 33'. 45" shall be the "first boundary" but makes no mention whatever of a northern boundary.

If commencing as the grant directs the 5 leagues should embrace any portion of the land patented to Fernandez it is a result naturally to be expected when a 2d grant asks for and obtains land already granted to another. He may esteem himself for

15 (if Flugge's be the better title) that within the limits of his diseño was included a tract sufficiently large to allow his four leagues to be located in great part without interfering with Flugge — and that he has been allowed so to locate it as the ~~absent~~ cover the remainder of the tract ~~which it is evident that the Government so~~. But it cannot be claimed that in order to give Fernandez his whole four leagues the Flugge grant is to be pushed further down the river than the point so explicitly referred to in the grant plainly delineated on the diseño as its southern boundary —

It has already been said that neither ~~the~~ grant nor ~~the~~ petition in any way mention the grant of Sutter or his supposed northern line as forming ~~the~~ southern boundary of ~~the~~ tract —

The parallel of latitude mentioned in Sutters grant as his

358 ND
PAGE 183

Northern boundary is 39° 41' 45" N. while the parallel mentioned in this grant as its Southern boundary is 39° 33' 45" Has This last cannot therefor have been designated in this grant on the supposition that it formed the Northern line of Suttes —

But even if the parallel on this diseño bore the same as that designated on Suttes grant as his Northern boundary it would merely show that the draughtsman supposed that Suttes' line would be identical with the line drawn on this diseño as the Southern boundary — Whether it be so or not cannot now be determined The position of the line touched on this diseño with the figures 39° 33' 45" is absolutely fixed by unmistakeable natural objects nor can it be moved further South so as to coincide with Suttes Northern line As suggested because the two might have been supposed to be identical

tical —

But on referring to the diseño of Sutter we find ~~the~~ his northern boundary delineated by a parallel of latitude marked 39° 32' 45" — His grant as we have seen describes it at the parallel 39° 41' 45" north latitude — But the line itself as shown by the natural objects with reference to which it is drawn corresponds exactly with that drawn on Fluggé's diseño as his southern boundary — It crosses the river like the latter to the north of the mountains called the Tres Picos and at about the same distance above the mouth of the Yuba River which is laid down on both maps — It thus appears that altho' the supposed northern line of Sutter was probably ~~located~~ the same ~~precisely where~~ as the southern line of Fluggé ~~Sutter's~~ & it both ~~was~~ fixed by natural objects, & Fluggé's line must on the ~~[illegible]~~ theory of the claimants be made to correspond with what is delineated on both diseños as their common boundary

Not with Sutter's northern line as it may have been fixed by surveys by the U.S. Whether it has been correctly located, or whether it has been drawn more to the south in obedience to other calls in his grant, or because to reach it would exceed the quantity granted we cannot now determine — But its final location cannot affect its supposed & intended location with reference to which alone Fluggé's grant was made

358 ND
PAGE 185

tract —

It is stated by the counsel for the sellers that when the original location of this tract was made in accordance with Larkin's wishes and representations far to the North and so as not to include the tract ~~it~~ now surveyed, the survey was approved — and ~~that~~ both by the Surveyor General & the authorities at Washington — and all that portion of the present survey below Hoacat creek was sectionized and offered for entry as vacant public land — Relying upon this action of the Government and the representations of Larkin, various persons located School land warrants & preemption claims upon it — ~~the~~ when the land had been ~~it~~ officially surveyed as vacant public land the warrants were surrendered to the Register of the Land Office and ~~the~~ certificates issued to the holders —

358 ND
PAGE 186

After all these proceedings were had the authorities at Washington after examining it would seem for the first time the location that had been made, determined to withhold their approval and a new survey was ordered which is now before the Court.

The precise tract of land along the Feather River which was granted to Flugge is so clearly indicated on the diseño that it is difficult to imagine how the first survey which was fatal to the claim was on a part of the river far to the north of any portion of it drawn on the diseño could have been acquiesced in. What was Mr Larkin's motive for asking for such a location we can only conjecture — The pretext on which it was claimed was that the land was to be measured from the parallel mentioned

358 ND
PAGE 187

Whereon on accurate observations it should be found to run and thus, ~~whether the land does~~ notwithstanding that the track would thus be located on a totally different part of the river from that so clearly indicated on the design — To illustrate how completely far the first location procured by Larkin was from the track delineated on the design it is enough to say that the Southern boundary was more than 5 leagues from the mouth of the Honcut Creek which his design represents as falling into the Feather River considerably to the South of the centre of the track —

It is much to be regretted that by omitting to enquire into and correctly determine the true location of this grant and by treating the first & utterly inadmissible survey as proper and offering for preemption

lands on the South of the
Survey as vacant public
lands the Government has
induced innocent parties to
settle upon and improve
at great expense lands
which are now found & the
Government itself asserts to
be within the grant—
However much I may re-
gret the hardship and the
injustice to which these set-
tlers are to be subjected I
am unable to afford them
a remedy— My duty is to
locate the land granted
to Phugge— and that loca-
tion is so plainly indicated
by the terms of the grant
and the delineation on the
diseño that no discretion
whatever is left to me—

The present survey must be
set aside and a new
Survey made commencing
at the Southern line as in-
dicated on the diseño by the
natural objects thereon represen-

358 ND
PAGE 188

21

Northward

led — and running thence
along the river 5 leagues
& the width of the tract
so lying along the river to
be one league —

358 ND
PAGE 189

U. S. No. 358.

vs

Thos' O. Larkin

Opinion

March. 16th

1861

Filed March 16. 1861.

W. A. Shepard.

Clerk.

I 358 ND
PAGE 190

358 ND
PAGE 191

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

The United States
v. } No. 358.
Thomas O. Larkin. "Boga."

To the Hon. Ogden Hoffman,
Judge of the District Court of the
United States for the Northern District
of California:

The petition of the
United States, by their attorney William
H. Sharp, respectfully shows, -

That the
above entitled cause is now pending
in said District Court under the act
of June 14. 1860: that the said cause
came regularly to a hearing upon
exceptions duly filed by the United States
to the survey of the land confirmed;
~~and~~ that on March 16: 1861, the opinion
of the Court was filed by which an
order was directed to be entered rejecting
the survey and ordering a new one
to be made in accordance with said
opinion, and that said order has
not yet been entered.

That a new survey in accordance with said opinion would give but partial relief to the United States, and through them to the settlers who appear by their counsel in aid of the U.S. Attorney, as provided by said law.

358 ND
PAGE 192

Your petitioners therefore pray for a rehearing in said cause, upon the following grounds:

1st That new and important evidence has come to the knowledge of your petitioners since the trial and submission of said cause with reference to the actual location of the northern line of the land granted to John A. Sutter, which northern line is the southern line of the land granted in this case, and which is improperly located by the rejected survey at the line known as the Third Standard North.

2nd That the opinion of the Court fixes said northern line of Sutter and the southern line of the land confirmed in this case at about one league north of said line known as Third Standard North; whereas, by the proof recently discovered said line should be about eighteen miles north

from the junction of the Feather and Yuba rivers, about fourteen miles north from the line known as Third Standard North, and about ~~ten~~ eleven miles north from the line indicated by the said opinion rejecting the survey.

358 ND
PAGE 193

3d. That your petitioners expect to prove by the maps in the Sutter case known as B. P. I, and A. P. I, by the grant made to John A. Sutter in 1841 by Governor Alvarado, and by the testimony of John Bidwell, who prepared the original diseño in this case, and who was in the employ of said Sutter at the time, the location of the northern line of the land granted to Sutter as aforesaid, and known as "Lindero Latitud Norte 39°. 41'. 45", and that said line was the southern line of the land petitioned for and granted in this case.

Wherefore your petitioners, by their attorney aforesaid, pray that your Honor certify this petition.

Wm. H. Sharp
U. S. Atty.

Northern District of Cala. ss.

John B. Williams

of said District being duly sworn, on oath says, that he is the attorney employed by the settlers occupying portions of the land surveyed to the claimant in this case, and that he is informed and believes that the proof mentioned in the foregoing petition is within reach of the process of the Court, and can be produced if the cause is reheard.

358 ND
PAGE 194

Subscribed and sworn to before me this 2d day of ~~July~~ Dec A. D. 1861.

Jno B Williams

W. H. Chever
U. S. Comm'r.

Leave is given to U. S to move for a rehearing as above scheduled

Ogden Hoffman
U. S. Dist Judge

358

U. S. Dist Court

The United States

v.

Thos. O. Larkin

Petition for rehearing & to take further testimony.

Filed Dec: 4. 1861.
W. H. Chevers.
Clerk.

19

358 ND
PAGE 195

358 ND
PAGE 196

At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the City of San Francisco, on Wednesday the 26th day of February in the year of our Lord one thousand eight hundred and ~~fifty~~ sixty two.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States
v
Thomas O. Larkin.
} No. 358.

This cause came on to be heard upon the motion for a rehearing made by the United States in accordance with their petition filed in the cause Dec. 4. 1861; and counsel for the respective parties having been heard and due deliberation had in the premises, It is Ordered, that the said cause be and hereby is opened for further testimony on behalf of the United States, and for rebutting testimony on behalf of the claimant, such testimony to be subject to all legal exceptions as to relevancy, competency &c.

Ogden Hoffman
U. S. Dist Judge

358

UNITED STATES DISTRICT COURT,
Northern District of California.

The United States

vs.

Thomas O. Larkin

Order opening cause for further testimony.

Filed February 26. 1862,
J. D. Thelen,
CLERK.

By

DEPUTY.

20

358 ND
PAGE 197

Towne & Bacon, Printers, 125 Clay Street, corner Sansome.

358 ND
PAGE 198

U. S. District Court.

The United States

v. } No. 358.

Thomas O. Larkin

San Francisco, ~~March~~ May 5th 1862

It is hereby stipulated and agreed that Exhibits U.S. Nos. 1. 2. 3. 4. 5 and 6 are true and correct copies from the Record in the case of The United States vs John A. Sutter, claiming New Helvetia on file in this Court in case No. 319; and they are hereby admitted in this case with all the force and effect they have in said case No. 319, subject to all objections as to relevancy.

Crockett & Cutting
attys for claimant

358

U. S. District Court

The United States

v.

Thomas O. Larkin

Stipulation
admitting Exhibits
U. S. 1. 2. 3. 4. 5. 6.

Filed May 5, 1862.
W. H. Chevers,
Clerk

21

358 ND
PAGE 199

358 ND
PAGE 200

Stamp 3d. Two Reals.

Provisionally authorized by the Maritime Custom House of the Port of Monterey in the Department of the Californias for the years Eighteen hundred and forty and Eighteen hundred and forty one.

Jimeno. Antonio Maria Osio.

(Custom House Seal.)

To His Excellency the Governor of this Department.

John Augustus Sutter a native of the Swiss Republic, naturalized in the Mexican Republic and at present settled in this Department before the notorious justice of your Excellency with due respect says.

That since his arrival to this country wishing to cultivate a portion of the many existing tracts of vacant land obtained your Excellency's Superior approval for the purpose to settle himself on the Land which he now occupies,

358 ND
PAGE 201

associated with some industrious families who were willing to follow him and as an assiduous labour already promises flattering expectations to his settlement individually, and advantages to the Department in general, considering that the good example of those who follow him has already awakened similar ideas in the other inhabitants of the country. At the same time this settlement from its position proves to be a strong barrier against the incursions of the savage Indian Tribes into the Villages, and as a School of civilization, either to the wild natives or to those under the care of the Missions, who during the long time they have been submitted, have not been useful members of society, as your Petitioner at this time has the satisfaction that they are, which is due to his indefatigable exertions. For all these reasons, he finds him-

358 ND
PAGE 202

-self under the neccessity of en-
-larging his enterprise by establish-
-ing twelve families and to solicit
the kindness of your Excellency that
you may be pleased to grant him
eleven leagues of land in his
establishment called "La New Hel-
-vetia" New Helvetia situated
towards the North according to
the land represented in the sketch,
which he has the honor to present
to your Excellency. The Land which
is periodically overflown in
Winter is not comprised in the
aforesaid Eleven leagues. Your
petitioner protests to your Excellency
and to the Mexican Nation that
he shall keep faithful the Laws
of Colonization in force, and all
those about the matter. Therefore
he supplicates Your Excellency that
exercising the power vested in
you, you will be pleased to grant
him his petition and to interpose
at the same time your powerful
influence before the Supreme

Government of the Nation, that its Superior approbation may be obtained. Your petitioner will receive a favor and benefit and the country will improve its agriculture.

358 ND
PAGE 203

Monterey June 15th 1841.

Excellent Sir.
John A. Sutter.

Whereas Don Augusto Sutter a native of the Swiss Republic and naturalized in the Mexican Nation has solicited according to the Law of 18th August 1824, and the ordinance of the 21st November 1828 for his personal benefit and that of twelve families, eleven leagues of land on the borders of the River Sacramento, in the vacant lands of the Northern frontier, in order to colonize and foster them, for which end

358 ND
PAGE 204

he has sufficiently proved his assiduity, good behavior and all other qualities required in those cases. Having already anticipated his increased efforts, his constant firmness and his truly patriotic zeal in favor of our institutions having reduced to submission a number of savage Indians, born in those frontiers, and this Government being sufficiently informed that the mentioned Land does not belong to the property of any private individual town or corporation, and that in consequence thereof it is specified in the aforesaid Laws, and in conformity with the power conferred on me, in the name of the Mexican Nation. I have granted to the said Señor Don Augusto Sutter by these present letters for him and his settlers the said Land called La Nueva Elveccia (New Helvetia) subject to the approval or dis-

358 ND
PAGE 205

approval of the Supreme Government and of the Excellent Departmental Assembly under the following conditions:

1st: He may fence it without injury to the crossings, roads and servitudes and above all to the trade and navigation of the Rivers.

2nd: He shall maintain the Native Indians of the different tribes on those places in the free enjoyment of their possessions without troubling them, and he may only reduce them to civilization through prudent measures and a friendly intercourse, he shall not cause them hostilities of any kind without previously obtaining authority from Government.

3rd: The land of which donation

358 ND
PAGE 206

is made to him is of the extent of Eleven Sitios de ganado mayor (Eleven square leagues) as exhibited in the sketch annexed to the proceedings without including the Lands overflown by the swelling and current of the Rivers. It is bounded on the North by Los tres picos, (the three Summits) and the 39°41' 45" North Latitude. On the East by the borders of the "Rio de las Plumas" (Feather River) on the South by the parallel of 38°49'32" of North Latitude and on the West by the River Sacramento.

4th: When this property shall be confirmed unto him, he shall petition the proper Judge to give him the possession of the Land, in order that it may be measured agreeably to ordinance, the surplus thereof remaining for the benefit of the Nation for convenient

purposes.

Therefore I order that this Title being held as firm and valid, the same be entered in the proper Book, and that these proceedings be transmitted to the Exc'a the Departmental Assembly.

Thus d, John B. Alvarado Commandant General of the Department of the Californias have ordered and signed to which I certify.

E. C.
R. P.

Monterey June 18th 1841.

358 ND
PAGE 207

358

U. S. District Court

The United States

v.

Thomas O. Larkin.

Exhibit U. S. No. 1
Expediente of John
A. Sutter for New Helvetia

Filed May 5, 1862.
W. H. Chevers.
Clerk

22

358 ND
PAGE 208

358 ND
PAGE 209

Stamp 1st. Six Dollars.

Provisionally authorized by the Maritime Custom House of Monterey for the years 1839 and 1840.

Alvarado. Antonio Mª Osio.

Valid for the year 1841 and 1842.

Alvarado. Antonio Mª Osio.

(Seal)

Juan B. Alvarado Constitutional Governor of the Department of the Californias.

Whereas Dn Augusto Sutter a native of the Swiss Republic and naturalized in the Mexican Nation has solicited, according to the Law of 18th of August 1824 and the Ordinance of 21st of November 1828 for his personal benefit and that of twelve families, eleven leagues of land on the borders of the river Sacramento, in the vacant lands of the Northern frontier, in order to colonize and foster

358 ND
PAGE 210

them, as required in said re-
-gulations, for which end he
has sufficiently proved his ac-
-tivity, good behavior and all
other qualities required in these
cases having already anticipated
his great efforts, his constant
firmness, and his truly patriotic
zeal in favour of our institutions
having reduced to submission
a number of savage Indians born
in these frontiers, and this Go-
-vernment being sufficiently in-
-formed, that the mentioned land
does not belong to the property
of any private individual, town
or Corporation, and that in con-
-sequence thereof it is specified
in the aforesaid Laws - And
in conformity with the powers
conferred on me, in the name
of the Mexican Nation I have
granted to the said Señor Don
Augusto Sutter by these presents
for him and his settlers the said

land called La Nueva Helvecia

358 ND
PAGE 211

land called La Nueva Helvecia (New Helvetia) subject to the approval or disapproval of the Supreme Government and of the most Excellent Departmental Assembly under the following conditions.

1st: He may fence it without injury to the crossings, roads and servitudes and above all to the trade and navigation of the rivers.

2nd: He shall maintain the Indians of the different tribes on those places in the free enjoyment of their possessions without troubling them, and he may only reduce them to colonization through prudent measures and a friendly intercourse - he shall not cause them hostilities of any kind without previously obtaining authority from Government.

358 ND
PAGE 212

3rd: The land of which donation is made to him is of the extent of Eleven Sitios de ganado mayor (Eleven square leagues) as exhibited in the sketch annexed to the Expediente, without including the lands overflowed by the swelling and current of the rivers — It is bounded on the North by (Los tres picos) the three summits and the 39° 41' 45" North latitude: on the East by the borders of the (Rio de las Plumas) Feather river, on the South by the parallel of 38° 49' 32" of North latitude and on the West by the river Sacramento.

4th: When this property is confirmed unto him, he shall petition the proper Judge to give him the possession of the land, in order that it may be measured agreeably to ordinance

the surplus thereof remaining for the benefit of the nation for convenient purposes.

358 ND
PAGE 213

Therefore I order that this title being held firm and valid the same be entered in the respective book, and that it be delivered to the party interested for his security and other purposes.

Given in Monterey on the Eighteenth day of June Eighteen hundred and forty one.

Juan B. Alvarado

Manuel Jimeno.

Secy.

358

U. S. District Court

The United States

v.

Thomas O. Larkin

Exhibit U. S. No. 2
Grant from Alvarado
to John A. Sutter.

Filed May 5, 1862.
W. H. Chevers,
Clerk

358 ND
PAGE 214

23

Manuel Micheltorena Brigadier General of the Mexican Army, Adjutant Gen.l of the Staff, Governor General in Chief and Inspector Gen.l of the Department of the Californias.

358 ND
PAGE 215

Whereas Don Juan Augustus Sutter a Mexican Naturalized Citizen and his son John A. Sutter, have solicited for the personal benefit of themselves and family the surplus of Land within his Rancho named New Helvetia as laid down in the Map which accompanies the grant, and the usual investigations and inquiries in relation thereto required by law and regulations having been complied with, by virtue of the authority conferred upon me, In the name of the Mexican Nation and for the good conduct and services which the said Sutter has rendered and is rendering at the present time. I have con-

-ceded to them the mentioned Land, declaring in them the ownership thereof by these presents, subject to the approval of the most Exc't the Assembly Department under the following conditions:

358 ND
PAGE 216

1st: They may enclose it without interfering with the paths, roads and servitudes. They shall enjoy it exclusively and freely appropriating it to the uses of cultivation which suits their convenience.

2nd: They can request the proper Juez that he give them lawful possession by virtue of this Decree, so that the boundaries may be defined, at the limits of which them may be placed besides the Land marks some fruit trees, or useful kind of forest trees.

3rd. The land of which mention is made consists of Twenty two square Leagues described upon the map which accompanies the grant.

358 ND
PAGE 217

4th: The Juez who gives the possession shall have the Land surveyed according to Law. remaining the surplus that may result at the disposal of the Nation for its convenient uses.

5th: Therefore I command that these presents investing the title in them, and holding the same as firm and valid shall be handed in for Record in the proper Book, and shall be delivered to the parties in interest for their security and other purposes.

Executed on this ordinary paper, having no stamped paper appropriate.

Santa Barbara February

358

U. S. District Court

The United States

v.

Thomas O. Larkin

Exhibit U. S. No. 3
Grant from Micheltorena
to John A. Sutter.

Filed May 5. 1862.
W. H. Chevers.
Clerk

24

358 ND
PAGE 218

Feb 1845.

Manuel Micheltorena
Copy
Juan Bautista
Copy & witness.

358 ND
PAGE 219

Whereas I John A. Sutter of Hock Farm Sutter County State of California party of the first part have been for many years in possession of all that tract or body of Land situate and lying and being in the State of California and within the following boundaries to wit. Commencing on the North by the three Peakes, or what is commonly called Sutters Buttes at a Point on the East Bank of Sacramento River in Latitude 39°. 41'. 45" thence running with the parallel of said Latitude to the "Rio de las Plumas" or Feather River, thence down and along the meanders of said "Rio de las Plumas" or Feather River to its pinction with Sacramento River, thence up and along the Eastern bank of said Sacramento River to the place or point of beginning, and which said Land

embraced in a grant from the Mexican Government bearing date Monterey 18th day of June Eighteen hundred and forty one.

358 ND
PAGE 220

And whereas notwithstanding his possession of said Land and his grant thereof, various persons have from time to time intruded thereon, and are continuing to do so, and taking possession of various portions thereof and asserting a claim thereto to the great annoyance and injury of the said John A. Sutter, and whereas the said John A. Sutter is anxious to be released from the trouble expense and vexation of maintaining his lawful right to the Land aforesaid, and whereas Henry E. Robinson, John S. Fowler, Eugene F. Gillespie and John Mc Dougall parties of the second part are willing to accept his said title and to assume upon themselves the labour, expense

358 ND
PAGE 221

and trouble of maintaining the lawful right and title of the said John A. Sutter, to the aforesaid tract of land, of preserving and securing it against all intruders and all persons whatsoever, and whereas as a further consideration of this conveyance the said parties of the second part agree and hereby bind themselves to pay over to the said John A. Sutter, one sixth part of the nett proceeds of the said tract or parcel of land aforesaid (with the reservation hereafter to be stated) when and as the same may be from time to time sold, and whereas also Ann Sutter the wife of the said John A. Sutter is willing to become a party to this conveyance, and by it relinquishes all the right title and interest in and to the said tract or parcel of Land before described expressly upon the condition and none other that the said parties of the second part shall convey to

her the said Ann Sutter such title as they may acquire by this Deed, to her sole seperate and exclusive use forever all that portion of the said track or parcel of Land known as "Hock Farm" lying and being on Feather River and fronting on the West side thereof running the distance of six miles along and on said River, and four miles back therefrom &c., &c., A more full description of which will appear by a reference to a Deed this day executed to her the said Ann Sutter by the parties of the second part. and whereas the said parties of the second part in further consideration for this Deed have also agreed to pay at or before the sealing and delivery of this Deed the sum of Six Thousand Dollars the receipt by the said John A. Sutter is hereby acknowledged. Now this Indenture Witnesseth that for and in consideration of the

358 ND
PAGE 222

358 ND
PAGE 223

premises above mentioned I John A. Sutter and Ann Sutter his wife of "Hock Farm Sutter County. State of California, of the one part have granted, bargained, sold, aliened, remised, released and confirmed and by these presents do fully and absolutely grant, bargain, sell, alien, remise, release, and confirm unto Henry E. Robinson, John S. Fowler. Eugene F. Gillespie and John Mc Dougall parties of the second part and their heirs and assigns forever all that tract or lot of land as heretofore described being the same as granted by the Mexican Government bearing date on the 18th day June Eighteen hundred and forty one lying on Feather and Sacramento Rivers, together with all and singular the hereditaments and appurtenances to the said tract or parcel of land and premises belonging and in anywise appertaining together with all the stock, utensils, and other things belonging on said

358 ND
PAGE 224

tract or parcel of Land, and the remission and remissions, remain-der and remainders, rents, issues, and profits thereof and of every part and parcel thereof and also all the Estate, right, title and interest, property, possession, claim and demand whatsoever of the said parties of the first part and each of them of and in and to the same or any part or parcel thereof, and the said John A. Sutter and Ann his wife do hereby convey grant and assign unto the parties of the second part whatever right title and interest they may have in any part other tracts or parcels of Land which they may have or possess in the State of California. But the said John A. Sutter excepts and reserves from this conveyance such parts and parcels of Land as has been granted or sold heretofore by him and for which he has executed

his Deeds, which were for valuable considerations, and which has been paid to him, and which Deeds have been duly and properly Recorded.

358 ND
PAGE 225

To Have and to Hold the said tract or parcel of land and premises and all interests in other Lands hereby conveyed with all their rights, members and appurtenances unto the said party of the second part their heirs and assigns forever to the only proper use and behoof of the parties of the second part their heirs and assigns forever.

In testimony whereof the said parties of the first part and parties of the second part have hereto set their hands and affixed their Seals, on this first day of July in the year of our Lord one thousand eight hundred and fifty.

John A. Sutter (Seal)
A. Sutter Re Dubled (")
Henry E. Robinson (")

John S. Fowler (Seal)
Eugene J. Gillespie (")
John Mc Dougall (")

358 ND
PAGE 226

Signed Sealed and delivered
in presence of
E. B. Zabeshu
J. C. Zabeshu for the signature
of John A. Sutter. Henry E. Robinson
John S. Fowler John Mc Dougall
Witness on the part of Ann Sutter.
G. W. Lawrence, Wm T. Warren.

State of California }
County of Sacramento } S. S.

I hereby certify that on
this the first day of July A. D.
1850 personally appeared before
me a Notary Public in and for
said County John A. Sutter, H.
E. Robinson, John S. Fowler. Eugene
J. Gillespie and John Mc Dougall
known to me to be the persons
described in and who executed the

annexed conveyance and acknowledged that they executed the same freely and voluntarily for the purposes and uses therein mentioned.

358 ND
PAGE 227

Witness my hand and Notarial Seal this the day and year aforesaid.

Wm. S. Jackson (Seal)
Notary Public.

State of California }
County of Sutter } S.S.

On this the 8th day of July A.D. 1850 personally appeared before me a Deputy Recorder in and for the said County John A Sutter known to me to be the person described in and who executed the annexed conveyance and acknowledged the same to be his free and voluntary act for the uses and purposes therein mentioned.

In testimony whereof I hereunto affix my name

and seal the day and date aforesaid.

G. W. Lawrence
Dept Recorder
for Sutter County.

(The official Seal not executed)

G. W. L.

358 ND
PAGE 228

State of California }
County of Sutter } S. S.

On this the 9th day of July A.D. 1850 personally appeared before me a Dept Recorder in and for the said County, Ann Sutter wife of John A. Sutter known to me to be the person whose name is subscribed to the annexed conveyance as a party thereto and being examined by me privately and apart from her husband and having the contents of said conveyance fully explained to her, she acknowledged that she executed the same freely and voluntarily without fear or compulsion or

under influence of her husband, that she did not wish to retract the execution of the same. In testimony whereof I hereunto set my hand and affix my * private seal (as yet no official seal provided) the day and date aforesaid.

358 ND
PAGE 229

G. W. Lawrence
Dept Recorder
for Sutter County.

* The official seal not yet executed.

Recorded July 11th A.D. 1850 at 2.40' oc P. M.

Thos J. Aby Dept Recorder.

State of California }
County of Sacramento } S.S.

I hereby certify that the above and the foregoing is a full true and correct copy of Deed from John A. Sutter & Wife to Henry C. Robinson, John S. Fowler, Eugene F. Gillespie and John Mc

Dougall as Recorded in Book "D" of Deeds pages 268. 269. 270 and 271. Records of Sacramento County. The words "to time" on the 14th line interlined in copy but not in original.

358 ND
PAGE 230

In testimony whereof I hereunto subscribe my name and affix my seal of office at Sacramento City this nineteenth day of April A. D 1851.

John L. Craig
Recorder Sacramento County.

358

U. S. District Court

The United States

v.

~~John A. Sutter~~
Thomas O. Larkin

Exhibit U. S. No. 6
Deed from Sutter
to Robinson, Fowler, et al.

Filed May 5, 1862.
~~W. H.~~ Chevers
Clerk

358 ND
PAGE 231

27

358 ND
PAGE 232

Robinson, McDougal
Gillespie & Mesick
To
Edward Dugan

Deed

This Indenture made this Thirteenth day of August A.D. One Thousand Eight Hundred and fifty-three, Between Henry E. Robinson, John D. McDougal, Eugene D. Gillespie, and William D. Mesick of the State of California parties of the first part and Edward Dugan of the County of Sutter State aforesaid party of the second part Witnesseth That the said parties of the first part for and in Consideration of the sum of Six hundred and forty eight Dollars and Thirty seven cents (648.37) to them in hand paid by the said party of the second part the receipt whereof is hereby acknowledged and the further Consideration, that the said Edward Dugan has this day executed to the said parties of the first part, his Certain Bond bearing even date herewith for the payment of the further sum of one Thousand nine Hundred and forty five Dollars and Thirteen Cents being the balance of the purchase money for the herein Conveyed premises payable according to the Conditions of the above named bond having sold and Conveyed and by these presents do sell and convey unto the said party of the second part and to his Heirs and assigns forever, All that Certain tract piece or parcel of land lying on the west

358 ND
PAGE 233

bank of Feather River and bounded and described as follows to wit: Commencing at the Corner of section sixteen (16) fifteen (15) twenty-one (21) and twenty two (22) from which a forked live Oak 18 Inch Diameter Marked T 16 N.R. 3. E. S. 15 bears N. 68 E 110 links a leaning live oak 18 Inches Diameter Marked T. 16. N. R. 3. E. S. 22 bears S 37° E. 82 Links, a White oak 20 Inches Diameter marked T 16 N. R. 3. E. S. 22 bears S. 1/2 ° E 86 links: Thence running due west (Magnetic Variation 16°30' E) with line dividing 16 from 21 forty (40) chains to 1/2 section Corner, it being said Dugans N. W. Corner from which a live oak twelve inches Diameter marked T 16 N. R. 3. E. S. 21 bears S. 56° E 82 links, a pine oak 18 Inches Diameter marked T. 16. N. R. 3. E. S. 16, bears 32 1/4° E 50 links, thence South sixty (60) chains to a post for said Dugans S. W. Corner from which a White Oak 30 inches Diameter marked with three hacks bears N. 33 1/4° E 144 links a forked live oak 36 inches diameter blazed and marked bears S. 82° E 118 links thence east (Crossing line between sections 21 & 22 at (40) forty chains, entering low Bottom at fifty-nine (59) Chains one hundred and five (105) Chains to a post on west bank of Feather River set and marked for said Dugans S. E. Corner thence up Feather River with its Meanderings N. 14 3/4° E 7.00 chains, N. 19 1/2° E 26.00 chains, N. 79 1/4 W 11.00 chains N. 83 1/2° W 9.00 chains S. 87 W. 11.80 chains, S 76 1/2° W. 10.25 chains N. 56° W. 21.70 Chains

358 ND
PAGE 234

N 35¼° W. 4.00 chains N. 21¼° W. 12.51 chains, to a post in a line dividing fractional section 15 from 22 marked for said Dugans N. E. Corner from which a White Oak 24 Inches Diameter marked section 22 bears S. 78¼° W 14 links, a White oak 22 Inches diameter marked section 15 bears N 62¼° W. 22 links thence West 8.95 chains to the place of beginning, Containing Five hundred Eighteen 7/10 acres, together with all and singular the tenements and appurtenances thereunto belonging or in anywise appertaining, To have and to hold the above bargained and Conveyed premises unto the said party of the second part his heirs and assigns forever, And the said parties of the first part do hereby Covenant that the said premises are free and clear from all and every incumbrance made or Constituted by them and that the said premises unto the said party of the second part his heirs or assigns, they will forever Warrant and defend against the claim of all and every person claiming, or to claim by, through or under them.

Witness our hands and seals the day and year first above written.

In presence of

Henry E. Robinson
and John M. McDougal
per Eugene F. Gillespie Atty. in fact
Eugene F. Gillespie
Wm S. Mesick

State of California
County of Yuba ss.

On this Thirtieth day of August A.D. 1853 personally appeared before me a Notary Public in & for the County of Yuba John McDougal and Henry E. Robinson by their Attorney in fact Eugene F. Gillespie W. S. Mesick and Eugene F. Gillespie known to me to be the persons described in and who executed the foregoing Conveyance by their said Attorney and themselves the said Gillespie known to me to be the Attorney in fact of the said Robinson and McDougal and acknowledged to me that they executed the same freely and voluntarily and for the uses and purposes therein mentioned,

358 ND
PAGE 235

Witness my hand and seal the day and date last above written

S. M. Miles Notary Public
In and for Yuba County.

Filed for Record August 16th A. D. 1853 at 9 o'clk. A. M. and duly recorded at request of the grantee.

State of California
County of Sutter ss.

I. C. E. Wilcox Co: Recorder in & for Sutter County do hereby certify that the above and foregoing is a full true and Correct Copy of an Instrument of Writing as the same now remains of record in my Office, in Book "D"

of Deeds Sutter County Records at pages 71. 72, and 73,

Witness my hand and official seal this thirty-first day of July A.D. 1861.

C. E. Bileaxm Co. Recorder
By L. J. Stabler Dep. Recorder

358 ND
PAGE 236

State of California
County of Sutter
Deed

Eugene F. Gillespie
Et: al:
To
Edward Vaughan

Certified Copy

358 ND
PAGE 237

358

U. S. District Court

The United States

v

Thomas O. Larkin

Exhibit Gillespie No. 1
for United States.
to deposition of C. Bielawski.

Filed May 5. 1862.
W. H. Chevers.
Clerk

34
358 ND
PAGE 238

Land Commissioners aforesaid; together with the endorsements thereon, being the deposition of John J. Vioget, filed Feb. 23d, 1855, as the same now appears on file among the archives of said Board in my office, and in my charge and custody.

In testimony whereof, I have hereunto signed my name officially, and caused my Seal of Office to be affixed at the City of San Francisco, this 6th day of December, 1860.

[SEAL.]

J. W. MANDEVILLE,
U. S. Surveyor-General for California.

Examined and found correct,
R. C. HOPKINS, Keeper of Archives.

358 ND
PAGE 239

EXHIBIT NO. 3.

TO DEPOSITION OF GEORGE FISHER.

This agreement, made this thirteenth day of January, in the year eighteen hundred and forty-three, by and between Capt. John A. Sutter, proprietor of Nueva Helvetia, of the first part, and Theodor Cordua, of Mecklenburg Schwerin, and Chas. W. Flugge, of Hanover, of the second part, witnesseth: That the said Capt. John A. Sutter, the said party of the said first part, has this day leased and to farm let, and by these presents does lease and to farm let, unto the said Theodor Cordua and Chas. W. Flugge, the said party of the said second part, a certain piece or tract of land included in Captain John A. Sutter's territory, granted to him from and by the Government of California, situate in Upper California, and bounded and described as follows: southwardly by a small stream emptying into Feather River, and called Jubu or Jupu River, from the rancheria now and at present opposite to its mouth—the same rancheria being called Jubu or Jupu Rancheria; westwardly by Feather River, and northwardly by a certain line forming Capt. John A. Sutter's northern boundary; in short, that tract of land which, from the Jubu or Jupu River, draws toward the northern and northeastern mountains, and which is owned by Capt. John A. Sutter, for the time and period of nine years from this date. And the said Capt. John A. Sutter, for himself, his heirs, executors, administrators or assigns, does hereby covenant and agree with the said Theodor Cordua and Charles W. Flugge, the said party of the said second part, to renew, after the expiration of the above mentioned nine years, this lease for the then next following nine years—that is, from the thirteenth

day of January, of the year eighteen hundred and fifty-two, to the thirteenth day of January, in the year eighteen hundred and sixty-one; and the said Theodor Cordua and Charles W. Flugge do hereby covenant and agree with the said Capt. John A. Sutter, to leave all improvements then and before the expiration of the said period of the mentioned eighteen years, built on the above mentioned and described premises; also the houses, outhouses, etc., to the disposal of the said Capt. John A. Sutter, or to his heirs, executors, administrators or assigns, and to give up quiet and peaceable possession of the said premises to him, the said Capt. John A. Sutter, or to his heirs, administrators or assigns, in case the said Capt. John A. Sutter should, at the expiration of the above period, wish to dispose of the above premises in a different manner, and therefor demand possession of the same. For all the improvements left on the above premises the said Theodor Cordua and Charles W. Flugge are entitled to no remuneration.

In testimony of the above the said parties have hereunto set their names and seals the day and year above written.

358 ND
PAGE 240

J. A. SUTTER.
THEODOR CORDUA. [SEAL]
CHARLES W. FLUGGE. [SEAL]

I, Charles W. Flugge, a party of the second part mentioned in the above agreement, do, by these presents, give up all my right, title, interest and claim, which I until now have had to the premises therein described, and transfer the same to Mr. Theodor Cordua, of Mecklenburg Schwerin, the other party of the second part mentioned in the above agreement.

In testimony thereof, I have hereunto set my name and seal this twenty-fifth day of May, in the year eighteen hundred and forty-three.

C. W. FLUGGE.

Witness—JOHN SINCLAIR.

I, Theodor Cordua, do, by these presents, give up all my right, title, interest and claim, which I until now have had to premises therein described, and transfer the same to Messrs. Wm. Forster, ————Nye and Charles Covillaud.

In testimony thereof, I have hereunto set my name and seal this day.

New Mecklenburg, 23d January, 1849.

TH. CORDUA, [SEAL]

Witnesses—JAMES B. LEWIS,
M. ATKINSON.

358 ND
PAGE 241

OFFICE OF THE SURVEYOR-GENERAL
Of the United States for California.

I, J. W. Mandeville, Surveyor-General of the United States for the State of California, and as such, having in my office, and in my charge and custody, the papers of the late Board of Commissioners to ascertain and settle the private land claims in California; by virtue of the power vested in me by law, do hereby certify, that the four preceding and hereunto annexed pages, numbered from one to four, inclusive, exhibit a true, full and correct copy of an original document, marked Doc. No. 1, annexed to the deposition of John A. Sutter, and filed in Case No. 248, on the docket of the Board of Land Commissioners aforesaid, together with the indorsement thereon, as the same now appears on file among the archives of said Board in my office and in my charge and custody.

In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed, at the City of San Francisco, this first day of December, 1860.

J. W. MANDEVILLE,
U. S. Surveyor-General for California.

Examined and found correct.

R. C. HOPKINS,
Keeper of Archives.

358 ND PAGE 242

Q. 6. Do you know his handwriting?

A. I do.

Q. 7. Examine the map now shown you, marked "Exhibit Von Schmidt, No. 2," and the signature of J. Vioget thereon, and state whether or not you believe that to be the genuine signature of Vioget.

A. It looks like it; it bears resemblance to his handwriting; at the same time it is different from his signature I have seen of later years; it is smaller—more cramped.

[Question and answer objected to by Mr. Williams, on the ground that it is not shown that the witness is an expert in the matter of signatures; and objected to by Mr. Johnson, on the ground of irrelevancy.]

CROSS-EXAMINED BY MR. WILLIAMS.

Q. 8. In your answer to sixth question you state that you know Mr. Vioget's handwriting—state your means of information.

A. I have received letters from him, and have seen him sign his name to accounts and receipts.

Q. 9. State particularly in what manner his name was signed.

A. I have seen him sign it in various ways—sometimes J. J. Vioget, sometimes J. Vioget.

Q. 10. Did you ever see him sign his name prior to the American possession?

A. Yes; and my impression is he signed it J. Vioget.

358

U. S. District Court

The United States

v

Thomas O. Larkin

Exhibit U. S. No. 4
Lease from Sutter
to Cordua & Flugge.

Filed May 5, 1862,
W. H. Chevers
Clerk

358 ND
PAGE 243

25

358 ND
PAGE 241

that he executed the same as his free act and deed, for the puposes therein mentioned.

STEPHEN J. FIELD,
First Alcalde of Marysville.

OFFICE OF THE SURVEYOR GENERAL }
of the United States, for California. }

I, J. W. Mandeville, Surveyor-General of the United States for the State of California, and as such, having in my office, and in my charge and custody, the papers of the late Board of Commissioners to ascertain and settle the private land claims in California, by virtue of the power vested in me by law, do hereby certify, that the seven preceding and hereunto annexed pages, numbered from one to seven inclusive, exhibit a true, full, and correct copy of certain original documents filed in case No. 147, "Rancho de Honcut," on the docket of the Board of Land Commissioners aforesaid, together with the indorsement thereon, as the same now appears on file among the archives of said Board in my office, and in my charge and custody.

In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed, at the City of San Francisco, this 1st day of December, 1860.

[SEAL.] J. W. MANDEVILLE,
U. S. Surveyor-General for California.

Examined and found correct.

R. C. HOPKINS, Keeper of Archives.

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~~EXHIBIT A. P. C. No. 4.~~

This indenture, made the eighteenth day of January, in the year one thousand eight hundred and fifty, between John A. Sutter, Captain of Hock Farm, California, party of the first part, and Charles Covillaud, José Manuel Ramirez, Theodore Sicard, and John Sampson, of Jubaville, parties of the second part, witnesseth, that the said party of the first part, for and in consideration of the sum of ten thousand dollars, lawful money of the United States of America, to him in hand paid by the said parties of the second part, at or before the ensealing and the delivery of these presents, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, aliened, remised, released, conveyed and confirmed, and by these presents doth grant, bargain, sell, alien, remise, release, convey and confirm,

358 ND PAGE 245

unto the said parties of the second part, and to their heirs and assigns forever, all that certain piece or tract of land included in the territory granted to the party of the first part by the Government of California, and bounded and described as follows: southwardly by a small stream emptying into Feather River, called Juba River; westwardly by Feather River, and northwardly by a line forming the northern boundary of the property of the party of the first part, which line is in latitude thirty-nine degrees, thirty-three minutes, and forty-five seconds, and which line commences at Feather River, at the rancheria of Huncut, and extend to the lands of Theodore Cordua's ranch; eastwardly by a straight line, running from the lands of said Cordua's ranch at right angles to the abovementioned northwardly line to the Juba River; together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law, as in equity, of the said party of the first part, of, in, or to the above described premises, and every part and parcel thereof, with the appurtenances, unto the said parties of the second part, their heirs and assigns forever; and the said party of the first part and his heirs, the said premises, in the quiet and peaceable possession of the said parties of the second part, their heirs and assigns, against the said party of the first part, his heirs, and against all and every person and persons whomsoever lawfully claiming or to claim the same, shall and will warrant, and by these presents forever defend.

In witness whereof, the said party of the first part hath hereunto set his hand and seal, the day and year first above written—J. A. Sutter—[SEAL.]

Sealed and delivered in the presence of S. B. Colby, J. W. Wadleigh, Stephen J. Field.

State of California, Sacramento District, Town of Jubaville, ss. On this nineteenth day of January, one thousand eight hundred and fifty, personally appeared before me, John A. Sutter, known to me to be the person described in, and who executed the within deed, and acknowledged that he executed the same for the purposes therein mentioned, and that the same was his free act and deed—Stephen J. Field, First Alcalde of Yubaville.

State of California, County of Yuba, ss. On this twenty-first day of January, A. D. one thousand eight hundred and fifty-six, personally appeared before me, a Notary Public in and for Yuba County, John A. Sutter, personally known to me to

be the individual described in, and who executed the within conveyance, and who acknowledged to me that he executed the same freely and voluntarily for the uses and purposes therein mentioned.

In witness whereof, I hereunto set my hand and seal of office, the day and year in this certificate above written—E. Dupre—[SEAL] Notary Public, in and for Yuba County, California.

Received for record, January 22d, 1856, at three o'clock and thirty-five minutes P. M., at request of J. M. Ramirez. Recorded, January 23, 1856, at eleven o'clock and twenty minutes A. M.—D. C. Benham, Recorder, by G. M. Odell, Deputy.

I, W. H. Wickersham, Recorder of Yuba County, hereby certify that the foregoing is a full, true, and correct copy of a deed, with the certificates of acknowledgment now of record in my office, in Deed Book No. 10, on pages 262 and 263 of the Records of Yuba County.

Witness my hand and official seal, this 28th day of November, A. D. 1860,

W. H. WICKERSHAM,
Recorder Yuba County, California.

358 ND
PAGE 246

358

U. S. District Court

The United States

v.

Thomas O. Larkin

Exhibit U.S. No. 5
Deed from Sutter
to Coutland et al,

Filed May 5, 1862.
W. H. Chevers,
Clerk

358 ND
PAGE 247

26

In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

358 ND
PAGE 248

The United States,

v.

Thos. O. Larkin

IN LAND CASES.

Dist. Court No. 358

Land Com. No. 129

To Messrs Crockett & Crittenden

You are hereby notified that the testimony of John Bidwell, R. C. Hopkins and C. Ridlamski

in the above entitled cause in behalf of the United States

will be taken before me, the undersigned, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, commencing on Monday the 10th day of March A. D. 1862, at 11 o'clock a. M., and continuing from day to day until finished, at my office No. 17, U. S. Court Rooms; and you are hereby further notified to then and there appear and propound such questions to the said witness as you deem fit.

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

W. A. Chevers

U. S. COMMISSIONER.

No. 358

Service of copy of the
within acknowledged
March 5. 1862
Crockett Mullenden

358 ND
PAGE 249

In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

358 ND
PAGE 250

The United States,

v.

Thos. O. Larkin

IN LAND CASES.

Dist. Court No. 358,

Land Com. No. 129

BE IT REMEMBERED, that on this 10th day of March A. D., 1862, at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, personally appeared John Bidwell 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: W. H. Sharp Esq. U.S. Atty for the U.S. and J. B. Crockett Esq. for Claimant.

QUESTIONS IN BEHALF OF THE United States

Question 1st,

Are you the same Mr. Bidwell who was examined in this case March 19th 1860?

Ans.

Yes sir.

358 ND
PAGE 251

2.

Examine the original diseño in this case produced from the U. S. Surveyor General's office and bearing the signature of Micheltorena, a copy of which is filed in the transcript herein, and state from what data you made said diseño?

Ans.

I made it from the original map of Vioget ~~and~~ retained by Locker in his possession in connection with personal observations.

I copied from Vioget's map as far as I then understood, marked off the parallel of thirty nine degrees thirty three minutes and forty five seconds (39°-33'-45") North and ~~about~~ above that line I was guided by my own observation.

3.

In drawing said diseño was it or not your intention=

358 ND
PAGE 252

=tion that the Southern line of the land petitioned for by Bugge was to be identical with the Southern line of the tract asked for by Sutter, or did you intend that the Southern line of Bugge should intersect the Feather river at the precise point or bend of that river, where the line 39°-33'-45" crosses it on the diseño?

Ans.

I understood and do know also that Mr. Bugge understood that his Southern line would be identical with that of Sutter's Northern line. I also thought from the best information that I had at the time that the line would fall not far from the point represented on the diseño, and also I judged from merely traveling over the land, not actual measurement)

358 ND
PAGE 253

that the North line of Pluggé's grant would not extend far above the two rancherias — "Bayo" and "Daischera". After the diseño was made however Mr. Pluggé believed that his land might extend further up and requested me to strain the diseño so as to show a greater length on Feather river.

At that time Pluggé was Luther's right hand man and it was clearly understood between Pluggé and myself that the land solicited by Pluggé and drawn by the diseño was to begin where Luther's Northern line should actually be, and to locate the Northern line of Luther on the diseño according to the best means of information I then had.

358 ND
PAGE 254

4.

At the time that you drew this diseño had you access to or had you previously seen the original grant, or a copy of it from Governor Alvarado to John A. Sutter for eleven leagues of land dated 18th of June 1841?

Ans.

I cannot say that I had ever seen the original grant or a copy of it up to that time.

5.

You have stated that in making Flugge's diseño you were assisted by the map of Vioget which Sutter retained in his profession, Examine the document now shown you to be attached to this deposition and marked Exhibit Docket No. 1. and state whether or not it is a substantially correct copy of

the said Vioget map?

Ans.

I recognise it to be a copy of the map made by Vioget. The original of this exhibit was made in 1843 by Vioget from one of the maps made by him in 1841, and is upon a reduced scale Vioget not having paper large enough to make a copy the same size as the original. I have often seen the original of this exhibit.

358 ND
PAGE 255

Q.

Please examine the document now shown you and produced from the U.S. Surveyor General's office a copy of which is to be attached to this deposition and marked exhibit "Bidwell No. 2". State if you know what it is when and by whom it was made?

made?

Ans.

It is a map of the Sacramento valley and was made by me at the request of Governor Michelthorena in the Fall of 1844. I delivered it to Michelthorena or his Secretary of State Manl. Jimens, since which time it has not been in my possession and I now notice some few additions, such as the names and boundaries of certain grants, which were not there at the time I so delivered it.

358 ND
PAGE 256

7.

In making the map of which Exhibit Redirect No. 2 is a copy State how you obtained the data of that portion which is marked "Terrens de Sutter"?

Ans.

I took it from Sutter's map in Monterey, given to me by Jimens then Secretary

of Shake. The archives were kept at Monterey at that time. I got it for the purpose of making a diseño for the expediente of Sutter's twenty two league grant.

8.

On Vioget's map of which Exhibit Bidwell No. 1. is a copy, and also on the original diseño of Bluggs is a line marked "39° 33'-45" " but which does not appear on the original of Exhibit Bidwell No. 2. Shake whether or not the Northline of the tract marked Terreno de Sutter on the original of Exhibit Bidwell No. 2 was intended to be identical with the lines marked 39°-33'-45" on the original of Exhibit Bidwell No. 1 and the original diseño of Bluggs?

358 ND
PAGE 257

Higgs?

Ans.

It was intended to be the same. The Sutter map in the archives had it on.

358 ND
PAGE 258

9.

State whether you recollect having come here in 1858, testified in the District Court of the 15th Judicial District of the State of California, in a suit between Moore Henshaw and Ord Plaintiffs and Nicholas Raffetals defendants, if so whether the notes of ~~the~~ testimony given ~~by~~ you at that time as shown by Exhibit Dicred No. 3 to be attached to this deposition, are correct?

Ans.

I think they are substantially correct

Counsel for claimant excepted at the time to each of the foregoing questions

358 ND
PAGE 259

and answers as incompetent irrelavant, and as inadmissible to explain, add to or contradict the grant, and the decree of confirmation.

X

Cross Examination
Questions by Counsel for Claimant.

Ques: 10.

Did all the natural objects exhibited on the original diseno in this cause, exist on the ground at the time the said diseno was made?

Ans.

They did.

11.

Does the said diseño exhibit correctly the several rancherias thereon delineated, and the mouth of the Concut creek in relation to Sutter's North line as you then understood it to be?

Ans.

I do not pretend to absolute accuracy, but they are located as correctly as the data in my possession at the time enabled me to do.

358 ND
PAGE 260

12.

Does the said diseño represent correctly the land which both Flugge and yourself, at the time, understood to be that which he was petitioning for?

Ans.

It does represent it, as I then understood it.

Direct examination resumed
Questions by Counsel for the U. S.

Ques: 13.

Examine the original of Bidwell No. 2, and state whether the signatures of ~~Nicholas Arenas~~ Manuel Jimenez and Pablo de la Guerra are

their genuine signatures?

Ans.

I am satisfied that the signature of Simeno is genuine. also the rubrica to the signature of de la Sueeka is genuine, and I have no doubt that the whole signature is his.

Deposition closed.

J. Bidwell

Subscribed and sworn to this 10th day of March A. D. 1862 before me.

W. H. Chever

U. S. Com. —

358 ND
PAGE 261

No 358.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

Thomas O. Larkin,

DEPOSITION OF

John Bidwell.

on part of United States.

Filed May 5th 1862,

W. H. Chevers.

Clerk.

28 358 ND
PAGE 262

358

U. S. District Court

The United States

v.

Thomas O. Larkin.

Exhibit Bidwell No. 1.
for United States.

Filed May 5. 1862,
W. H. Chevers.
Clerk

29

358 ND
PAGE 263

358

U. S. District Court

The United States

v.

Thomas O. Larkin

Exhibit Bidwell No. 2.
for United States.

Filed May 5. 1862.
W. H. Chevers
Clerk

30

358 ND
PAGE 264

State of California } District Court
County of Butte } 15th Judicial District

Wm Wareham & Co
vs
Nicholas Roff et al

358 ND
PAGE 265

Depos Testimony (as taken by the Judge)

Maj John Bidwell

Stated that the object of the testimony of this Witness & Co. & Shown that the land now Claimed by Plffs. in their Complaint, is different from that Claimed or described in the Grant from the Mexican Govt.

Evidence objected to by Plffs. and taken by Consent of Counsel. And held under advisement by Court.

Made the original Map of which Copy is shown in Depos- of Bodie

Bee Starting point on South. was Suttes North line.

At time Map was made it was supposed Suttes N line would be about 3 Leagues South of Boga Rancheria, Rancheria lay 1/2 mile North of Township 17 in Township 18. The North line of Suttes Came above and included the most Northern of the 3 principal Butte Mountains.

358 ND
PAGE 266

Dont know anything of the Mound or Hill
shown on original Map. Suppose it was for
Foot Hills. Grant was intended for 4 Leagues
& one in width. I made no survey of ground
at time. I cant remember a tree represented
by Suttes North line. In fall of 43 I made
Map. from Suttes N line to foot hills to
Fluggs. Supposed to embrace all land between
Suttes & foot hills. Fluggs got a Grant for
5 Leagues, being land on Map. He did not occupy
his Claim did not meet with success. A
Fernandez wished land. Sutter told Leese
he might get this land. & I made him a
Map of the land. The Map to Fernandez was
made from Memory & very hurriedly,
After examination. I find that the distance
from the Boga Ranch to Suttes, as spotted with
land was 4 Leagues

State of Cal
County Butte

Dist Court 15th
Judicial Dist

Moore Newham & Ord
Vs
Nicholas Roff & others

358 ND
PAGE 267

John A. Sutter Sworn on the part of N. Roff & others. Ever & Wilkins atty"

Quest By Do you know of a Mexican Grant known as the Fernandez Grant & if so where is it located

Ans Do. It is located on my Northern boundary on the West bank of Feather River, I mean by my boundary, the Northern boundary of John A. Sutters Grant"

Quest At what point does that Grant (the Fernandez) Commence & in what direction did it run

Ans It began where Sutters Northern boundary line intersected Feather River & runs along the Feather River a Northern direction 4 Leagues long and on League wide from the River. The Western boundary line follows the meandering of Feather River

Quest Do you know of any Grant located upon the same tract of land prior to the Fernandez Grant. & if so what was & is it called"

Ans The Fluggs Grant had been located on the same tract of land Commencing at the same point as the Fernandez Grant & running in the same direction along Feather River, one league wide and five Leagues long."

358 ND
PAGE 268

Ques B State all you know in relation to the locations of the Fluggs Grant

Ans When the Fluggs Grant was located, Fluggs was in My employ as Secretary, When he had his title. I gave him possession and considered him the owner but he neglected to fulfill the Conditions of the Mexican Government relative to Grants to occupy the land within one years time. He left this section of the Country without occupying the land, and went to San Francisco first & from there to Monterey & Los Angelos & made. Fluggs never obtained his land from the Government Land & never had it surveyed

Ques A State all you know in relation to the location of the Fernandez Grant."

Ans The brothers in law to the two Fernandez Came to the Sutters Fort & I believe Maj Bidwell was present and inquired if there was any public land to locate. Maj Bidwell & myself both informed him, that the Fluggs Grant was subject to location, & the brothers in law

358 ND
PAGE 269

Q. Did the Thos Fernandez took out a Certificate in the name of the Thos Fernandez that the Pluggs Grant was vacant & unoccupied,

Maj Bidwell made them a map of the land

Q. Did you accept an official position under the Mexican Government at the time the Plugge and Fernandez Grants was made if so what was that position?

Ans I did & was Military Commander of the Northern Frontier & was charged with the Civil, Military and Criminal jurisdiction of the Sacramento Valley. My jurisdiction extended over the lands in question

Q. State the manner of locating & denouncing Mexican Grants established by Custom at the date of locating the Fernandez Grant

Ans The Mode of locating Grants was to apply to me as the Primary Mexican Officer for a Certificate. that the land was vacant and unoccupied. The manner of denouncing was by applying to me as the Primary Mexican officer for land within my jurisdiction obtaining a Certificate showing the land petitioned for was vacant and unoccupied and whether the lands had been previously granted or not. The mode of applying for them was the same. and when they had been previously Granted. this was termed a denunciation

Quest State at what time the Pluggs Grant &
the Fernandez Grant was located,

358 ND
PAGE 270

The Pluggs Grant was located some time in A D 1844
& the Fernandez Grant was located some
time in the Spring of A D 1846,

Do you know whether the conditions of
the Fernandez Grant under the Mexican Govmnt
was complied with,

So far as I know they
was not. The Fernandez did not occupy the
land nor did they ever have possession, nor
did they ever apply to me for possession of
the same as was required of them under
the laws and Customs of the Mexican
Govmnt at that time

Sworn and subscribed
before me this 13th day
of Jan A D 1858, being
carefully cautioned to the
witness & sworn by him
before being subscribed,

J. Saunders Smith J P
Sutter County

358 ND
PAGE 271

State of California }
County of Butte }

I, M. H. Darrach Clerk of the District Court of the 15th Judicial District in and for Butte County State aforesaid do hereby Certify the foregoing to be true Copies of the Testimony of Maj. John Bidwell. And the Deposition of Jno. A. Sutter, in the Cause of Moore & Henshaw & Ord vs Nicholas Hoffsted now on file in my office.

In testimony whereof I have hereunto set my hand and affixed the Seal of said Court on this the 21st day of November A.D. 1859

M. H. Darrach Clerk
By J. A. Marple Dpt

No 3. A certified copy of the testimony of Major John Bidwell and Genl John B. Sutter in the case of Moore Hempstead & others vs Pacheco Reff & others

358 ND
29 B

Exhibit Bidwell No. 3.

U. S. District Court.

The United States

v.

Thomas O. Larkin

Exhibit Bidwell No. 3.
for United States.

Filed May 5. 1862,
W. H. Chevers,
Clerk.

31

358 ND
PAGE 272

358 ND
PAGE 273

In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Pat. O. Larkin

IN LAND CASES.

Dist. Court No. 358

Land Com. No. 129

BE IT REMEMBERED, that on this 15th day of March 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 C. Bielawski 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: H. H. Sharp Esq. U. S. Atty for the U. S. and J. B. Crockett Esq for Claimant

QUESTIONS IN BEHALF OF THE United States.

Question 1st,

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

Ans.

My name is Casimir Bielawski

I am forty seven years of age, I reside in San Francisco, I am principal Draughtsman in the office of the U. S. Surveyor General.

358 ND
PAGE 274

2.

How long have you been employed as Draughtsman in the U. S. Surveyor General's office?

Ans.

About eight years.

3.

What are the duties of your employment?

Ans.

I have to examine the field notes of the U. S. Deputy Surveyors, returned to the office of Surveys of public lands and private grants, compile the maps therefrom, which after they are approved by the Surveyor General, are under my personal supervision.

4.

Examine the plat now shown you marked Exhibit Dickinson No. 1, to be attached to this

358 ND
PAGE 275

Exh. 1, to be attached to this deposition, and state who made it, and what it represents topographically?

Ans.

I made the map myself. It represents the true course of the Sacramento, the Feather the Yuba ~~and~~ the American and ~~river~~ the Bear rivers, and Auburn creek.

5.

From what data did you lay down the courses of the streams you have mentioned and of the placer on said exhibit marked "Goat Hills"?

Ans.

From maps of official surveys on file in the U. S. Surveyor Generals office.

6.

Examine the original of Exhibit Bidwell No. 1. said original being Map A. P. L. to the deposition of John J.

358 ND
PAGE 276

Weigert filed in the case of the U. S. vs. John A. Sutter No. 319, and state whether you have located on Exhibit Bielawskie No. 1. the line on said map A. P. L. marked "Lindero Latitud Norte 38° 41' 32"?

Ans.

I located that line on Exhibit Bielawski No. 1, in two different maps, ~~One~~ ~~by~~ first by the difference of latitude between that line and the junction of the Sacramento and Feather rivers on map A. P. L. and second by the difference of latitudes between said line and the junction of the Sacramento and American rivers on map "A. P. L."

7.

Answer the same question with regard to the line on said map A. P. L. marked "Latitud 38° 45' 42"?

Ans.

"Latitud 38° 43' 45"?

Ans.

I located the line of this latitude also in two maps in the same manner.

358 ND
PAGE 277

8.

Answer the same question with respect to the line on said maps S. P. L. marked "Latitud 39° 1' 45"?

Ans.

The line of this latitude is represented by a due East and West line going through the junction of the Sacramento and Feather rivers, precisely as it is represented on said maps S. P. L.

9.

Answer the same question with respect to the line on maps S. P. L. marked "Leuders Latitud North 39° 33' 45"?

Ans.

This line I located in two different maps, first by the

difference in latitude between that line and the junction of the Sacramento and Feather rivers, and marked "N. P. L."

358 ND
PAGE 278

Second, by the difference of latitudes between said line and the junction of Feather and Yuba rivers and marked "N. P. L."

10.

In locating these lines did you pay any regard to the lines of latitude as actually ascertained by observation, or merely as certain lines ~~passing~~ laid down on map N. P. L, as crossing the Sacramento and Feather rivers at certain points?

Ans.

I located those lines on Exhibit Bidwell No. 1, as the same lines, are shown on map N. P. L, without regard to actual latitudes.

11.

Actual Latitudes.

X

11.

What is the actual distance in a North & South direction between the line marked on A. P. L. "Luiders Latitud North 38° 41' 32" " and the line on the same map marked "Luiders Latitud 39° 33' 45" " as shown by the scale of Map A. P. L.

358 ND
PAGE 279

Ans.

Fifty one and one half miles.

12.

Judging by the scale on map A. P. L. can you tell what mile is used in estimating the miles of Latitude on said map?

Ans.

I find after a careful examination of the map A. P. L. that one minute of difference of Latitude, represents one English Statute mile.

13.

State the actual distance ~~between~~ North and South, between the lines marked respectively "38° 41' 32" and

"39° 33' 45" " as you have
located them on Exhibit
Dielamski No. 1.

358 ND
PAGE 280

Ans.

The distance in a due North
direction between the two lines
marked "A, A." on Exhibit Dielamski
No. 1, is fifty two miles and
seventeen chains, and the dis-
tance between the two lines
marked "B. B" is fifty one
miles and seventy three chains.

14.

Examine Exhibit U. S. No. 1
and Exhibit U. S. No. 2, being
copies of the expedients and grant from Juan
B. Alvarado to John A. Sutter
and locate on Exhibit Dielamski
No. 1, the lines expressed in
the third condition of the
grant to wit. "39° 41' 45" North
latitude," and "38° 49' 32" North
latitude" ?

Ans.

I located them in two different

ways, drawing the lines "C. C."

358 ND
PAGE 281

Arroyo, drawing the lines "C. C." eight miles North of the lines "A A" and the lines "D. D" eight miles North of the lines "B. B." Eight miles being the difference in Northing between the lines shown as Linderos on the map S. P. L. and the lines of the grant, as expressed in the third condition thereof.

15.

Look at the Copy of the diseño in this case the original of which is verified by the signature of Michelorena and Locate on Exhibit Reclamado No. 1, the place shown on said diseño as the "Rancheria de Nuncut"!

Ans.

I have located it by ~~measuring~~ the distance, measured on the diseño between the mouth of the Arroyo de Nuncut and the Rancheria de Nuncut. By measuring on the diseño the

358 ND
PAGE 282

distance from the mouth of the Guba river to the Rancheria de Nancut the location of said rancheria would fall on Exhibit Bielumski No. 1, Starting at the point on the mouth of the Feather river, by the scale of the map, it would be Nancut Creek. Measuring from the

16.

Examine Exhibit Gillespie No. 1 being certified copy of a deed from Robinson and others to Edward Dugan dated August 13th 1853, and state whether you have located the land conveyed by said deed on Exhibit Bielumski No. 1?

Ans.

I located said tract of land it is colored yellow and marked "Dugan" on said exhibit.

Counsel for claimant objects and objected at the time to each of the foregoing questions and answers as

irrelevant and incompetent

358 ND
PAGE 283

Cross Examination
Questions by Counsel for
Claimant.

Ques: 17.
Please locate on Exhibit Delaw-
ski No. 1 according to the
scale of the diseño in this
cause, and measuring from
the mouth of the Feather
river, the line marked on the
diseño Starke 39° 33' 45" ? and
also measuring from the
mouth of Honcut creek as
shown on the diseño?

Ans.
Measuring from the mouth
of the Feather river, it would
cross the said river, at the
letter X. Measuring from
the mouth of Honcut creek
it would cross the Feather
river about where the South

line of Dugan's tract shaded yellow strikes the river.

358 ND
PAGE 284

Deposition closed

C. Bielawski

Subscribed and sworn to before me this
15th day of March A.D. 1862 before me

W. A. Cleves,
U. S. Com'r

No. 358

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

Thomas O. Larkin

DEPOSITION OF

of C. Bielawski

on part of United States

Filed May 5th 1862,

W. H. Chevers

Clerk.

3 2 358 ND
PAGE 285

358 ND
PAGE 286

At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the CITY OF SAN FRANCISCO, on Wednesday the 29th day of October in the year of our Lord one thousand eight hundred and sixty-two.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States

v.

Thomas O. Larkin

No. 358.

This cause came on to be heard upon the testimony taken in pursuance of the order of this Court of Feby 26. 1862, and counsel for the respective parties having been heard and due deliberation had in the premises, It is now ordered and adjudged that the decision of the Court rendered March 16. 1861 be and the same hereby is reaffirmed.

No 358.

UNITED STATES DISTRICT COURT

Northern District of California.

The United States.

V.

Thomas O. Larkin.

Order entered affirming decision of Court made March 16, 1861.

Filed October 29. 1862

W. H. Chevers.

Clerk.

35

358 ND
PAGE 287

358 ND
PAGE 288

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 Saturday the 15 day of November in the year of our Lord one thousand eight hundred and sixty-two

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States

v.

Thomas O. Larkin

No. 358.

This cause came on to be heard on exceptions of the U. S. to the official survey of the land confirmed to the claimant, on the testimony and evidence taken in pursuance of said exceptions, and on the further evidence taken by the ~~of the~~ order of the Court of Feby 2d. 1862, and counsel for the respective parties having been heard, and due deliberation had, it is now by the Court ordered, adjudged and decreed that the said exceptions be and the same hereby are in part sustained, and that the official survey, shown by the plat filed Dec 7th 1859, be and the same hereby is set aside as erroneous. And it is further ordered that the Surveyor General of the U. S. for Cala correct and reform the said survey and location, and return a plat showing the same, in conformity with this order, to this Court for its approval. And it is further ordered that the said survey

and location be corrected and reformed as follows: the southern line to be run, as indicated on the diseno in the expediente marked "7. S. D. K", and authenticated by the signature and rubric of Micheltoa, by the natural objects thereon represented, and thence northwardly along the Feather river five leagues – the width of said tract lying along the river to be one league, making five square leagues & no more.

And it is further ordered that a certified copy of this order be served upon the said Surveyor General by the U. S. Marshal.

Ogden Hoffman
Dist. Judge

No. 358

UNITED STATES DISTRICT COURT
Northern District of California.

The United States
v.
Thomas O. Larkin

Order rejecting survey & directing new survey

Filed November 15, 1862
W. H. Chevers, Clerk.

36

358 ND
PAGE 289

I hereby certify that I this day served a certified copy of the within order on the U. S. Surveyor General by leaving a copy thereof with the Chief Clerk.

Dated San Francisco November 18th 1862

Chas W. Rand
U. S. Marshal
pr. Geo. J. Work
Deputy

358 ND
PAGE 290

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

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States

V.

Thomas O. Larkin

No. 358

This cause having came on to be heard on objections to the survey and location, by the Surveyor General of the U. S. for California, of the land heretofore confirmed to the said Thomas O. Larkin; and the Court having, by its final decree made and entered this 15th day of January A. D. 1863 approved the location made by said Surveyor General in pursuance of the order of the Court made Nov 15. 1862, Now on application of W. H. Sharp Esq, U. S. Attorney, It is Ordered, that an appeal in behalf of the United States from said final decree be and the same is hereby granted; and that a certified transcript of the record in said cause be sent to the Supreme Court of the United States without delay.

No 358

UNITED STATES DISTRICT COURT

Northern District of California.

The United States

v.

Thomas O. Larkin

Order granting appeal in behalf of U. S.

Filed January 15, 1853.

W. H. Chevers

Clerk.

358 ND
PAGE 291

358 ND
PAGE 292

At a Stated Term of the District Court of the United States of America, for the Northern District of California, held at the Court Room in the City of San Francisco on Thursday the 15th day of January A. D. 1863.

Present: Hon Ogden Hoffman, Dist Judge.

The United States

vs.

Thomas O. Larkin

No. 358.

This cause came on to be heard on the exceptions of the United States to the official survey of the land confirmed to the said Thomas O. Larkin, a certified copy plat whereof was duly filed December 7. 1859; and the cause having regularly been brought to a hearing, Counsel for the respective parties present, and due deliberation had in the premises, ~~It is now~~ was by the Court Ordered, Adjuged and Decreed that the said exceptions of the United States be in part sustained, and that the Surveyor General of the U. S. for California cause a plat of location to be made in conformity with the order of the Court made and entered

November 15. 1862.

And it appearing to the Court that the said Surveyor General, in pursuance of said order, has returned to the Court a plat of location of the land confirmed to said Larkin which said plat was filed January 12. 1863, it is ~~further~~ now Ordered adjuged and Decreed that the tract shown by said plat within the lines shaded brown, and containing 22. 184 11/100 acres, is a good and valid location of the land confirmed to Thomas O. Larkin, and that the said location be and the same hereby is approved and confirmed.

And it is further Ordered, that the said plat filed January 12. 1863, and marked "Approved January 15th 1863, Ogden Hoffman, Dist Judge" be attached to and made a part of this decree, for a more full and particular description of the land now finally confirmed to the said Thomas O. Larkin.

Ogden Hoffman
U. S. Dist Judge

358 ND
PAGE 293

358

U. S. Dist. Court

The United States

vs

Thomas O. Larkin

Final Decree

Filed January 15, 1863
W. H. Chevers
Clerk

358 ND
PAGE 294

358 ND
PAGE 295

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 ..... the ..... day of ..... in the year of our Lord one thousand eight hundred and sixty- .....

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States

v.

Thomas O. Larkin

No. 358

And now at this day, on application of W. W. Sharp Esq, U. S. Attorney, It is Ordered, that the United States have leave to send up in the transcript of the record on appeal the copies of the nine plats or maps on file in the case in this Court, ~~in lieu of~~ instead of ~~such~~ copies of the same to wit.

Exhibit B. P. L. to deposition of Mr Gray.
Two diseños attached to original papers.
Plat of survey made by U. S. Surveyor General
Exhibits 1 and 2 annexed to depos of De Kirwan
Exhibits 1 and 2 annexed to depos of Bidwell
Exhibit 1 annexed to depos of Bielawski.

April 14, 1863.

Ogden Hoffman
Dist Judge

No. 358

UNITED STATES DISTRICT COURT

Northern District of California.

The United States

v.

Thomas O. Larkin

Order allowing maps on file to form part of record on appeal

Filed April 14, 1853.

W. A. Chevers,

Clerk.

358 ND

PAGE 296

358 ND
PAGE 297

UNITED STATES OF AMERICA, ss.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Honorable the Judges of the District *Court of the United States, for the* Northern *District of* California

Greeting:

Whereas, lately, in the District Court of the United States, for the Northern District of California before you, _____ in a cause between The United States appellant and Thomas O Larkin appellee wherein on the fifteenth day of January A.D. 1863 a decree was entered approving the official survey made by the Surveyor General as shown by plat filed in said District Court 12 January 1863 and marked "approved January 15th 1863 Ogden Hoffman dist judge".

358 ND
PAGE 298

as by the inspection of the transcript of the record _____

_____ of the said District

Court, which was brought into the Supreme Court of the United States, by virtue of an appeal

agreeably to the act of Congress, _____

_____ in such case made and provided, fully and at large appears.

And whereas, in the present term of December, in the year of our Lord one thousand eight hundred and sixty four the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and ~~was argued by counsel.~~ **On consideration whereof,** on the motion of Mr Attorney General Speed of Counsel for the appellants - it is now here ordered, adjudged and decreed by this Court that this cause be and the same is hereby dismissed. 16 Jan:

You, therefore, are hereby commanded that such ________________ proceedings be had in said cause, ________________________________

as according to right and justice, and the laws of the United States ought to be had, the said appeal notwithstanding:

Witness the Honorable Salmon P. Chase Chief Justice of said Supreme Court, the first Monday of December in the year of our Lord one thousand eight hundred and sixty four.

COSTS OF

Clerk ...... $

Attorney ... $

$

Taxed by

D. W. Middleton

Clerk of the Supreme Court of the United States.

No. 131. December Term, 1864.

No. 358

MANDATE

SUPREME COURT UNITED STATES.

U. States vs. Larkin

Filed June 29th 1865
Geo. C. Graham Clerk
per Jas. C. Haverin Depy.

358 ND
PAGE 300

358 ND
PAGE 301

At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the CITY OF SAN FRANCISCO, on Monday the 26th day of June in the year of our Lord one thousand eight hundred and sixty-five

Present;

The Honorable OGDEN HOFFMAN, District Judge.

The United States

v.

Thomas O. Larkin

No. 402

It appearing that a Mandate of the Supreme Court of the United States has been transmitted to this Court by which the Appeal herein taken from the Decree of this Court made and entered on the 15th day of January A.D. 1863 has been dismissed by said Supreme Court—

Now therefore on Motion of H. H. Haight counsel for claimants— It is Ordered by the Court here that said Mandate be filed and that the Decree of this Court made in this cause on the 15th day of January A.D. 1863 confirming the Official survey made by the Surveyor General as shown by the plat filed herein January 12th 1863 be and hereby finally confirmed—

No. 358

No. 2

United States District Court,

Northern District of California.

The United States

V.

Thomas D. Jackson

Order that Mandate issue Supreme Court be filed & Decree of Jan. 15th 1863 do stand finally confirmed

Filed June 26th 1865

Geo. H. Gorham

Clerk.

By Wm. A. Sullivan

Deputy

358 ND
PAGE 302

UNITED STATES OF AMERICA,
STATE OF CALIFORNIA.

358 ND
PAGE 303

COUNTY OF SAN FRANCISCO.

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

The United States

vs.

Thos O. Larkin

The President of the United States of America,

TO John Redmond

GREETING:

You are hereby required, That all and singular business and excuses being set aside, you appear and attend before the District Court of the United States for the Northern District of California, to be held at the Court House in the City of San Francisco, on the Tenth day of March A. D. 1862, at 11 o'clock, A. M., then and there to testify in the above stated cause now pending in said District Court, on the part of the above named United States And for a failure to attend you will be deemed guilty of a contempt of Court, and liable to pay all loss and damages sustained thereby to the party aggreived,

Witness, the Hon. OGDEN HOFFMAN, JUDGE OF THE DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, this Third day of March in the year of our Lord one thousand eight hundred and sixty two and of our independence the eighty-sixth

Attest, W. H. Reed *Clerk.*

By *Deputy Clerk.*

MARSHAL'S RETURN.

I have served this Writ personally ~~by copy~~ on John Bidwell in the City of San Francisco, by reading the within Original Subpoena to him,

this 5th day of March, 1862.

Wm Rabe U. S. Marshal.

By Edw D Knight Deputy.

(No. 3737) NB

District Court of the United States

FOR THE

Northern District of California.

The United States

vs.

Alex C. Larkin

SUBPŒNA

FOR

Defendant

Filed 18

Clerk.

By 358 ND PAGE 304 Deputy.

11 a.m. - Saturday 5th

(Copy.)

358 ND
PAGE 305

General Land Office

April 2d 1859.

Sir –

This office has had under examination the Survey approved by you on the 25th March 1858 of the "Boga" claim, finally confirmed to Thomas O. Larkin.

In this survey the prominent natural objects refered to in the grant and delineated on the "map accompanying the Expediente" have been disregarded in locating the claim, and certain lines of latitude named in the grant and decree have been adopted as controlling calls, and the claim located accordingly.

The reference in the grant and decree to these lines of latitude is understood by this office to be merely descriptive of the "plan" or "map" accompanying the Expediente", and as having no bearing upon the question of location. The map (Diseno) itself, is a plain one, and the natural objects represented thereon, to wit: "Feather River" "Arroyo Honcut", and "Los Pinos" are in our opinion amply sufficient to determine

the locality - The survey is rejected, and the case remanded for re-examination, and you are hereby instructed to cause a new survey to be made in accordance with the grant and decree.

358 ND
PAGE 306

In locating the claim you will be governed by the natural objects before mentioned as delineated on the map, (Diseno) and will give to it the form and proportions shown by said map and required by the decree of confirmation.

Very respectfully
Your obt Svt.
Thos. A Hendricks
Commissioner

D. W. Mandeville, Esq
U. S. Surveyor General
San Francisco
Cal

Copy Instructions of Land Office as to Survey of Boca Rancho.

Brazil
"
Tennessee } E. No. 1, 45,

358 ND
PAGE 307

358 ND
PAGE 308

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

San Francisco, Dec. 10th, 1855

J. A. Monroe Esq.
Clerk of the U. S. District Court for the
Northern District of California.

Sir;

I herewith transmit you, pursuant to the requirements of the Act of Congress, approved August 31st 1852, a Transcript of the Record of the Proceedings and of the Decision of this Board, of the Documentary Evidence and of the Testimony of the witnesses upon which the same is founded, in Case No. 129 on the Docket of the said Board, wherein

Thomas O. Larkin, et al,

the Claimant against the United States, for the place known by the name of "Ruggés Rancho"

and request your receipt for the same.

I am, Respectfully,
Your Obt Servant,

Geo: Fisher

3