

CASE No.

379

NORTHERN DISTRICT

RANCHO del ojo de AGUA de la COCHI GRANT

BERNARD MURPHY

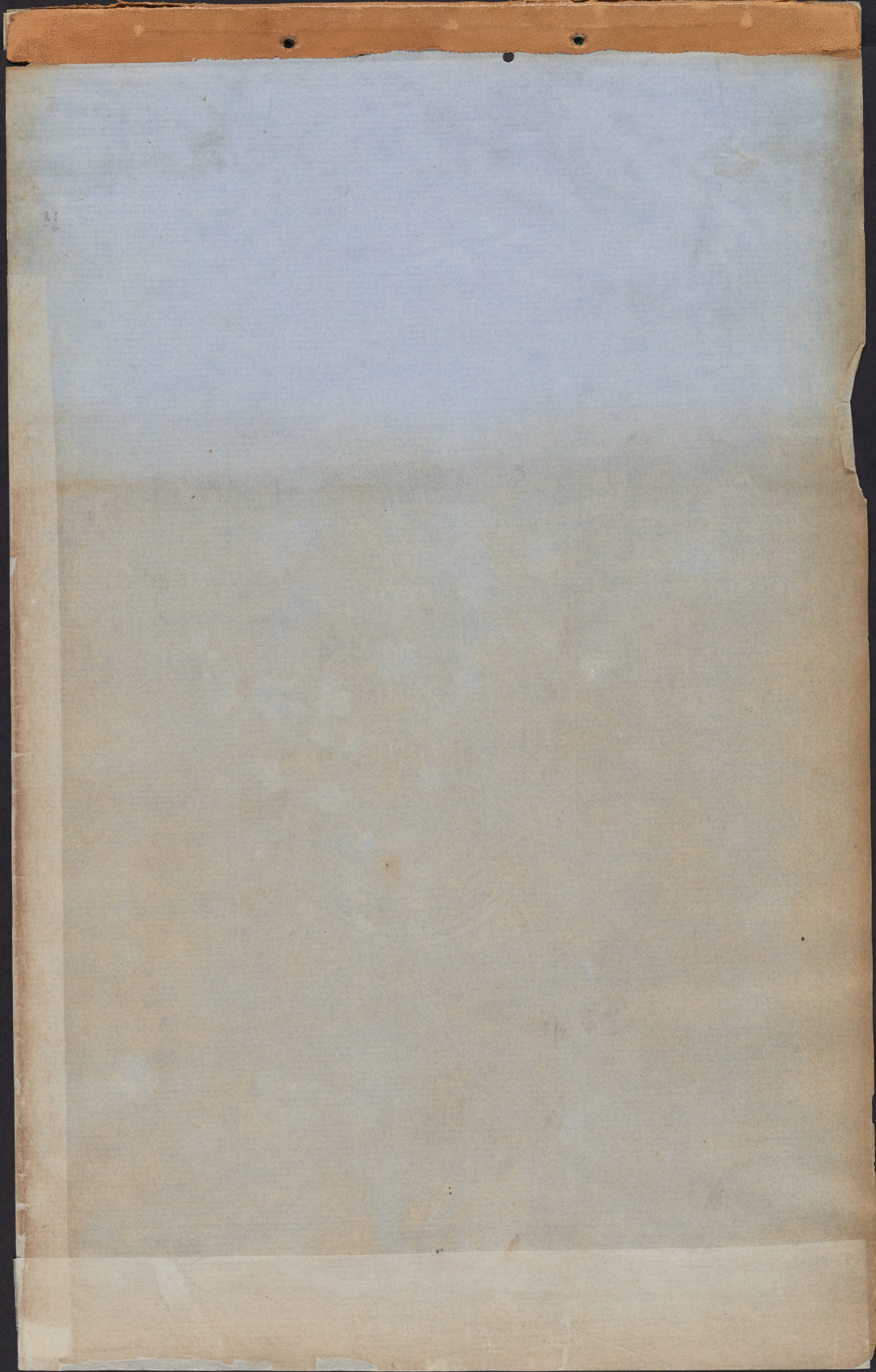
CLAIMANT

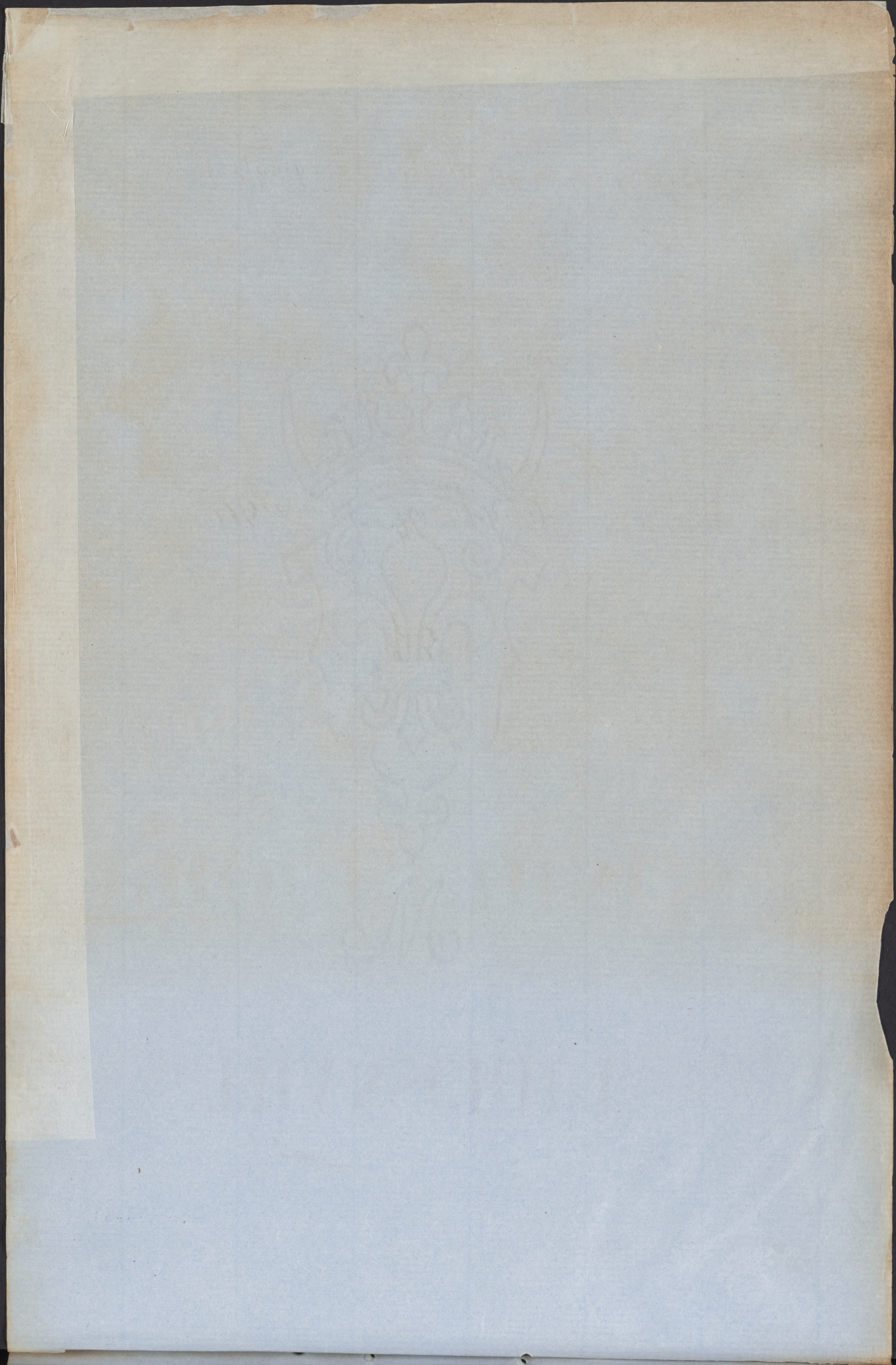
LAND CASE 379 ND

47 pgs.

DEC 19 1962

U.S.A.
52% (OILY FISH)
FLOWER BOND
Plymouth





TRANSCRIPT
OF THE
PROCEEDINGS

IN CASE

NO. 95

Bernard Newophy CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

Rancho Del Ojo de Agua de la Cochi.

95

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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Be it Remembered, that on this ninth day of 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 Bernard Murphy for the Place named the Rancho del Ayode agua de la boche was presented, and ordered to be filed and docketed with No. 95 and is as follows, to wit;

(Vide page 3 of this Transcript.)

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

San Francisco May 4th 1852

In Case No 95 Bernard Murphy the Deposition of Antonio Maria Pico a Witness in behalf of the claimant taken before Commissioner Heiland Heall was filed and is in the words and figures as follows to wit.

(Vide page 5 of this Transcript)

Los Angeles Sept'r 27th 1852

In Case No 95 the counsel for the claimants filed a Motion that this case be placed on the Trial Docket to wit (Vide page of this Transcript)

San Francisco Feby 14th 1853

An Motion of the U States Law Agent
Ordered That the following case be placed
on the Trial Docket to wit N^o 95 Bern-
nara Murphy "Cjo de agua de la Leochi"

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San Francisco Feby 14th 1853

Case N^o 95 Bernara Murphy for the
place named "Cjo de agua de la Leochi"
called: The counsel for the claimant Mr
Jones read the Petition and the papers in
evidence: The United States Associate Law
Agent filed his Brief: Case Submitted and
taken under advisement by the Board

San Francisco Feby 21st 1853

In Case N^o 95 Bernara Murphy for the
place named "Cjo del Agua de la Leochi"
Commissioner Heiland Hall delivered the
Opinion and the Decree of Final Confirmation
of this Board

Ordered that the Opinion and the Decree of
Final Confirmation of this Board, delivered
this day, in this case be recorded on the
Journal

Which Opinion and the Decree are in
the words and figures as follows to wit
(vide page 25) of this Transcript)

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Petition.

To the Honorable The Commission to Ascertain and settle Private Land Claims in the State of California:

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Bernard Murphy, a citizen of said State, gives notice that he claims, by virtue of a grant from the Mexican Nation, a tract of land therein called the Rancho del ojo de agua de la Colchi, situated in the County of Santa Clara, and supposed to contain two sitios de ganado mayor or square leagues (Mexican measure) according to the boundaries expressed in the grant thereof, and the map or plan accompanying the same.

Said land was granted to Juan Maria Hernandez on the 4th day of August 1835, by Jose' Figueroa, Political Chief, or Governor of California, and as such authorized to make said grant in the name and on behalf of the Mexican Nation. - Said grant was approved by an act of the Territorial Deputation, passed on the 19th day of August 1835.

Said land is derived to the claimant by conveyance made on the 27th day of May 1845 by said grantee to Chas. M. Weber, and by subsequent conveyance from said Weber to claimant.

Said land has ^{been} duly occupied and cultivated.

A copy of said Grant marked "A" is herewith presented, and the original will be produced and proved as may be required, as well as the originals of said several conveyances; and a certified copy of the said act of the Territorial Deputation of California approving said grant, and the map accompanying the same, is herewith presented marked B.

The Claimant relies on the documentary testimony above mentioned, and such other proof as he may obtain,

James Tompkins & Stride
Attorneys for Claimant,

Filed in office March 9th 1852

Gas. Fisher
Secy.

2
95

28,

Office of the Board of Commissioners
of California Land Claims

San Francisco May 4th 1852.

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Deposition of
Antonio M^o. Pico.

On this day before me Heland Hall one of the Com-
missioners for ascertaining and settling private Land
Claims in the State of California, came Antonio
Maria Pico, a witness produced in behalf of the
Claimant Bernard Murphy, whose petition is
No. 95 on the docket of the Board, and was duly
sworn, his evidence being given in the Spanish
Language was interpreted by the Secretary.

The Law Agent was notified & attended.

In answer to questions propounded by the Counsel
for the Claimant the witness testified as follows;

My name is Antonio Maria Pico, my age is
forty two & I reside in the town of Jose; am a
Native Californian & have always resided here.

I know the Rancho ofo del agua de la
Cochi - It is situated about six leagues South of the
town of San Jose - I have known the rancho
from the year 1832 - The ranch was granted to Juan
Maria Hernandez about the year 1835. Hernandez
built an adobe house on the land immediately
after the grant was made & lived in it himself -
until he sold it - to Bernard Murphy as I believe -
Murphy has lived there since - & I believe his people
live there now - Hernandez had cattle and horses
there and cultivated the ground & built cattle yards.
Murphy has occupied it in the same way. The
land was assessed to Murphy when I was tax assess-
or for Santa Clara County in the year 1851. I
think I did as alcalde make a favorable report
upon the petition of Hernandez for the land, but
the expediente will show how the fact is. -

In answer to questions put by the Law Agent
the witness testified as follows, that Hernandez, as he
believes, built the house on the land within a
year after the grant - He cultivated fields to
the extent of about 500 varas each way - That

he believes the nearest part of the rancho to the sea coast is more than ten leagues.

Simons subscribed
before me

Antonio M. Pico

Island Hall

Com^o

Filed in office May 4th 1852.

Geo. Fisher

Sec.

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7
Translation
of title

95
20,
First Seal. Six Dollars. Provisionally qual-
ified by the administration of the Maritime Custom
house of Monterey of Upper California of 1834 and
1835.

Figueras

A. Ramirez

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Jose Figueras Brigadier General, Commandant
General, Inspector and Political Chief of the Territory
of Upper California.

Seal Whereas Juan Maria Hernandez has
solicited for his benefit and that of his family, the
tract known by the name of Ops de Agua de la
Cochi, bounding with Char. Castro, at the S. E.
and with Juan Alvarez, at the N. W. at the N. E. with
the low hills and at the S. W. with the right bank
of the creek de las Lagas, having previously
taken the steps and made the investigation con-
cerning the same, according to what is provided
by the laws and regulations, using the powers which
are conferred on me, in a decree of this day, and in
the name of the Mexican Nation, I have conceded to
him the tract mentioned, declaring to him the
ownership of it by the present letters, said concession
being understood with entire conformity to what
is provided by the laws, and with reserve of the ap-
probation or disapprobation of the Most Excellent
Senatorial Deputation, and under the following
conditions.

1. That he shall submit himself to those
which may be established by the regulation which
is to be formed for the distribution of vacant lands;
meanwhile neither he nor his heirs shall have power
to divide or transfer that which is adjudicated, impose
annuity, entail, pledge, upon it although it should
be for pious cause, mortgage, or other burthen, nor
pass it in mortmain.

2. He may enclose it without prejudice to
the roads cropping and easements; enjoy it freely
and exclusively, appropriating it to the use or cul-
tivation which best suits him; but within a

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year at the most he shall build a house and it shall be inhabited.

3. When the property shall be confirmed to him he shall solicit the respective judge to give him prudent possession in virtue of this dispatch, by which shall be marked the boundaries, in the limits of which he shall put beside the land marks some fruit trees or useful wild ones

4. The tract of which donation is made is of two sites of ganada mayor, more or less, as is explained in the map which is with the record. The judge who shall give the possession shall cause it to be measured conformably to ordinance for designating boundaries. The surplus which shall result remaining to the nation for its convenient use

5. If he contravene these conditions, he shall lose his right to the land, and it shall be denounceable by another. Wherefore, for do, that this present serving him as a title, be held firm and valid, account be taken of it in the proper books, and this be declared to the party for his security and other ends. Given in Monterey, 4 August 1835

Jose Figueroa, S^o del Castillo Secreto, Sec.
Addition - 6. Condition. He shall not hinder the common use of it to the inhabitants of the Pueblo of San Jose Guadalupe, in respect of pasturing, waters, fire wood and lumber, & be subject to pay the tax which may be imposed, if it shall result to pertain to the promoters of the Pueblo, when its boundaries shall be regulated.

Monterey ut supra. Figueroa.
This document is recorded in the book of records of titles at folio 75 which is in the Secutary's office under my charge. Aug 17, 1835. Castillo.

I certify the foregoing to be a true and correct translation of the Spanish document of the same tenor and date, now exhibited to me & filed in case No. 95, Bernard Murphy.

Filed in office Feb. 19, 1853. Geo. Fisher, Secy.
Geo. Fisher, Secy.

Translation
of Approval.

August 27, 1835. In session of this day, the Excellent Deputation directed to be referred to the Commission on vacant lands.

Riquerosa Jose Maria Mal^o Sec.

Most Excellent Sir, The Commission on vacant lands charged with the record which was ordered to be drawn on the claim of the Citizen Juan M^o Hernandez, for the place named 'Op de agua de la Cochi, do not find in it any objection, it being in all conformable to the law of 18 August 1824 and article 5 of the regulations of 18th Nov^r 1828, offers to the consecration of Your Worship the following proposition: I approved the concession made to the Citizen Juan M^o Hernandez of the place named Op de Agua de la Cochi, conceded 14 August 1835 -

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Monterey 28th Aug 1835. Jose Castro,

Aug. 19th 1835. In session of this City was approved by the E. Deputation the preceding report and this expediente is directed to be sent to the Senor Political Chief for its conclusion.

José Castro, José Maria Maldonado,

I certify the foregoing to be a true and correct literal translation of the Sac. Simile Copy of the Expediente, authenticated by the W. S. Surveyor General, which authenticated Sac Simile Copy is on file in this office in case no. 95

Bernard Murphy,

Geo Fishw
Secy,

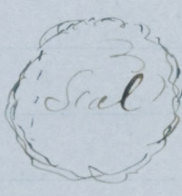
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Sello Primero Seis Pesos

Habilitado provisionalmente por la Administracion de Aduana Maritima de Monterrey de la Alta California para los años de mil ochocientos treinta y cuatro y ochocientos treinta y cinco.
Figueras A. Ramirez

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Jose Figueras General de Brigada Comandante Gral. Ynspectos, i Jefe Politico del Territorio de la Alta California



Original Grant.

Por cuanto Juan M. Hernandez ha pretendido p. su beneficio personal i el de su familia el terreno conocido con el nombre de ojo de agua de la Cochi, colindante con Carlos Castro, por el S. E. i con Juan Alvarez por N. O. por el N. E. con las lomas bajas i por el S. O. con la orilla derecha del arroyo de las Lagas; practicadas todas las diligencias i averiguaciones concernientes segun lo dispuesto por leyes i reglamentos; usando de las facultades que me son conferidas, en decreto de este dia i a nombre de la Nacion Mexicana he venido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras entendiendose dicha Concesion con entera conformidad a lo dispuesto por las leyes a reserva de la aprobacion o desaprobacion de la Enca Diputacion Territorial i del Supremo gobierno i bajo las condiciones siguientes.

1.ª Que se sometera a las q. establecere el reglamento que se ha de formar p. la distribucion de terrenos baldios i que entretanto ni el agraciado, ni sus herederos podran dividir ni enagenar el que se le adjudica, imponer censo, vinculo fianza aunque sea por causa p.riadora ni pasarlo

a manos muertas

2^a Podrá cercarlo sin perjudicar las traversías, Caminos i servidumbres, lo disfrutara libre i exclusivamente destinando al uso o cultivo q' mas le acomode; pero dentro de un año a lo mas fabricara casa i estara habitada.

3 - Cuando se le confirme la propiedad solicitara del juez respectivo q' le de posesion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondra a mas de las mchoneras algunos arboles frutales o silvestres de alguna utilidad.

4 - El terreno de que se le hace donacion se de dos sitios de ganado mayor sobre pero mas o menos segun esplica el diseño q' corre en el expediente. El juez que diere la posesion lo hara medir conforme a ordenanza para señalar los linderos quedando el sobrante que resulte a la Nacion para los usos convenientes.

5 - Si contraviniere a estas condiciones perdara su derecho al terreno i sera denunciabile por otro.

En consecuencia mando que sirviendo de titulo el presente i teniendose por firme i valido se tome razon de el libro a que corresponde i se entregue al interesado para su resguardo i demas fines. Dado en Monterrey a cuatro de Agosto de 1835

Juan Figueroa ^{serio}
 Jefe del Castillo
 Higuite

Adicion:

Condicion. No podra impedir el aporreamiento comun de los habitantes

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del Pueblo de S. Jose Guadalupe en or-
den de pastos, aguas, leña Madera
i sujeto a pagar el Canon que se le im-
ponga si resultare pertenecer a los eji-
dos de dicho pueblo cuando se arreglen
sus limites. Montuni pta ut supra
Riquerra

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Queda tomada razon de este
documento en el libro de acintos de li-
tulos sobre adjudicacion de terrenos a fajas
suenta y cinco q. obra en la Secretaria de mi
Cargo. Montuni Agosto siete de mil ocho-
cientos treinta y cinco
Carrillo

Filed in Office Feb 19th 1853
Geo. Fisher
Secy

(S.D.K.)

B.
approbation
& maps

Agosto 27 de 1835
En sesion de este dia
acorda la E. Diputacion pasar a la
Comision de terrenos baldios.
Riquerra
Juan Maria Maldz

(2 S.D.K.)

Exmo Sr
La Comision de terrenos
baldios impuesta del expediente que se
manda practicar por peticion del Cie-
dadano Juan Ma Hernandez, yroal pa-
raje nombrado Ojo de Agua de la Coche-
no encontrando en el Oficio alguna
q. aser siendo en todo conforme a la
Ley de 18 de Agosto de 1824 y Art. Quinto
del Reglam^{to} de 21 de Abril de 1828

Ofrece a la deliberacion de Vuesencia la sigte.
Proposicion

Se aprueba la Consecion echa al Ciudadano
Juan Ma. Hernandez del Paraje nombrado
Ojo de agua de la Boche Comidido en 14 de
Agosto de 1835

Montemey 28 de Agosto de 1835

Juan Castro

Agto 19 de 1835

En sesion de hoy apro-
vo la E. Dip^{ta} el an^o dictamen y se acco-
do pase el expediente al S. G. Politico p^r su
conclusion

J. Castro

Juan Maria Maldo

See following map

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Office of the Surveyor General
of the United States for California

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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 portion of the archives of
the former Spanish and Mexican
Territory or Department of Upper
California, do hereby certify that the
three preceding and herunto annexed
pages of tracing papers numbered
one, two and three and each of which
is verified by my initials (S.D.K.)
exhibit true and accurate copies of
certain documents filed with a accom-
panying part of "Expediente sobre el
paraje nombrado Ojo de agua de la
boche solicitada por Juan Maria
Hernandez 29" & which forms part
of the said Archives in this Office.

In testimony whereof I have
herunto subscribed my name and
affixed my private seal (not having
a seal of Office) at the City of San
Francisco Cal this second day of
March 1852

Samuel D. King
Sur Genl

Filed in Office March 9th 1852
Geo. Fisher
Secy.

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Sello Cuarto Dos Reales

Conveyance

Juan M. Hernandez

to

Carlos M. Weber

Habilidad provisionalmente para la Aduana Maritima de Monterey, en el Departamento de las Californias para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco

Michistana

Pueblo de la Guerra Pa. aus. del Admin. Guill. E. de Hartnell

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En el Pueblo de San Juan Guadalupe a los veinte y siete dias del mes de Mayo de mil ochocientos Cuarenta y Cinco (1845) Ante mi Antonio Maria Pico, Alcalde de 1.ª Promocion del Juzgado de esta Municipalidad y ante los testigos de asistencia con quienes actuo en la forma establecida en el Instrumental de of. al fin se hara mencion: presento el Ciudad. Juan Maria Hernandez y dijo: que por si y a nombre de sus sucesores y herederos y quien de ellos hubiere titulo, vos y causa, vende y da en publica venta y enajenacion perpetua la accion que posee en el Rancho llamado y conocido con el nombre de Ojo de agua de la Cochi, colindante con Carlos Castro por el S. E. con Juan Alvarez por N. O. por el N. E. con las tierras bajas a por el S. O. con la villa deucha del Arroyo de las Magas, a Don Carlos Maria Weber, Mexicano por naturalizacion y vecino de dicho Pueblo, el of. adquirio por titulo dado por el finado General D. Jose Piquerra entonces Gobernador de este Departamento con fha. Cuatro de Agosto de mil ochocientos treinta y cinco. Como consta de los Documentos of. ha presentado y doy fe he visto. El qual Rancho con todo el derecho of. a el le pertenecia, le vende al expresado Carlos M. Weber en la Cantidad de

mil cuarenta pesos, los q^e se le entregaron al mencionado vendedor en el acto de la venta. Dando desde esta f^{ha} por concluida el Contrato, y por tanto sede todo el derecho de propiedad, consorcio y posesion q^e tiene de d^{ha} parte del terreno al mencionado D. Carlos Maria Weber y desde hoy en adelante y para siempre se desapodera, quita y apueta a sus herederos y sucesores del dominio posesion y otros cualesquiera derechos q^e le competan al mencionado terreno. Lo cede a favor del Comprador para q^e lo posea y goce pacificamente y haga de el, el uso que le convenga, entre y se apodere de dicha terreno y tome la posesion q^e le corresponde, y por derecho le compete. Y a la firmada de esta venta hace, obliga el otorgante su persona y bienes habidos y por haber, y con ellos se somete al fuero y jurisdiccion de los Señores jueces que del caso deben saber, como de qualquiera estado que sean para que a su cumplimiento le compelan y estrechen como por sentencia pasada en autoridad de cosa juzgada. Remite todas las Leyes a su favor en cuya virtud asi lo otorgo y firmo, por ante mi y los testigos de asistencia en defecto de Escribanos Publicos, siendo los Instrumentales los Sr. Salvo Pacheco, Dolores Pacheco y J^use Fernandez

Juan Maria Hernandez

Dolores Pacheco

testigo

Salvo Pacheco

Antonio Ma Pico

testigo

José Fernandez

State of California

County of Santa Clara

On the Fifth day of March,

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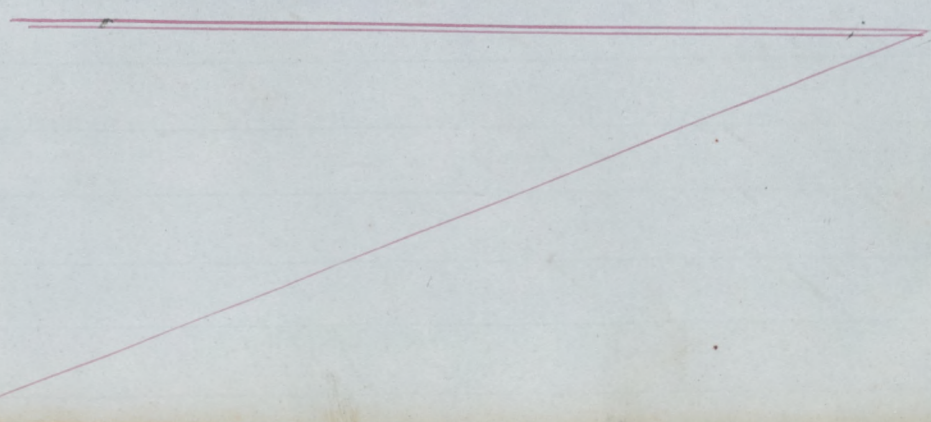
A. D. 1852 personally came before me a Notary Public in and for the said County Antonio Maria Pico, personally known to me to be the person whose name is subscribed to the foregoing instrument as a witness thereto, and by me duly sworn says he was present at the time of the signature of Juan M. Hernandez to the foregoing Conveyance, that the said Juan M. Hernandez whose name is subscribed to the foregoing Conveyance as a party thereto is the person who executed the same and that he said Antonio Maria Pico subscribed his name to such Conveyance as a witness thereof and that said Hernandez acknowledged the same to be his act and deed.

Witness my hand and private seal, having no notarial seal provided, this the day and date above written

P. O. Missa
Notary Public

Recorded in Book of Deeds "D" pages 423, 424, & 425 at 2⁴⁰ o'clock P. M. Recorder's Office Santa Clara Co. California
J. J. Richardson
Recorder

Filed in Office Feby. 19th 1853
Geo Fisher
Secy.



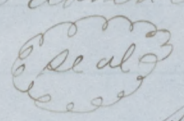
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Translation of
Conveyance from
Hernandez
to
Weber.

Fourth Seal. two Reals.

Provisionally qualified by the Maritime Custom house of the Port of Monterey, in the Department of the Californias, for the years 1844 and 1845, Micheltona Pablo de la Grana on account of the absence of the adm^r by ^{mo} E. Nautual.



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At the Pueblo of San Jose' Guadalupe on the 27th day of May Eighteen hundred and forty five, before me, Antonio Maria Pico, first Alcalde of the Court of this municipality, and before the witnesses, with which I act under the established form, together with the instruments of which mention shall be made at the end - personally appeared Citizen Juan Maria Hernandez and said: That for himself, and in the name of his successors, and heirs, and those persons claiming under them, legally he sells and makes a public sale and perpetual conveyance of the action which I possess on the Rancho called & known by the name of "C'o de agua de la Coche" bounded with Charles Castro on the S. E. & with Juan Alvariz on the N. W. - on the N. E. with the low hills, and on the S. W. with the right banks of the creek of "Las Lagas" to Don Carlos Maria Weber, a Mexican by Naturalization and resident of said Pueblo, which he acquired by a title given by the late General Sr. Jose Siguera then Governor of this Department under date of the fourth of Aug. Eighteen hundred and thirty-five, as it proved by the documents which he has presented, and which I certify I have seen. - which Rancho with all the right that belonged to him, he sells to the said Don Carlos Maria Weber, in the sum of fifteen hundred dollars, which were delivered to him the said vendor at the act of sale. Considering the contract as conclusive from this date, wherefore he cedes all the right of ownership, conception, and possession which he had of said part of the tract to the said Sr. Charles Maria Weber, and from this day thereafter and forever he disables

himself, quits and withdraws the dominion, possession and any other right whatever competent to him on the tract mentioned. He cedes in favor of the purchaser that he may possess and enjoy it peacefully, and may apply it to the use that may suit him, that he may enter and take hold of said tract and the corresponding possession which is competent by right. And for the firmness of this sale the vendor obliges himself personally and with his present and future property, and with them submits himself to the tribunal and jurisdiction of the judges that may have to do with the case of whatever kind they may be, that they may compel and bring him to its fulfillment as a sentence given under the authority of an adjudicated cause - He renounces all the laws in his favor, in virtue of this he thus granted and signed before me, and the present witnesses for want of a Notary Public, those to the instrument being Citizens Salvo Pacheco, Dolores Pacheco and Jose Hernandez.

"Dolores Pacheco" witness "Sal. Pacheco" "Juan Maria Hernandez"
 "Antonio M. Pico"
 Assistant - "Jose Hernandez"

Filed in office February 19, 1853
 Geo. Fisher
 Secy.

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Deed. Chas. M.
Weber
to
Bernard Murphy.

This indenture made and entered into between Bernard Murphy of the first part and Chas. Weber of the second part, both of the District of the Pueblo of San Jose on the seventh day of December of one thousand eight hundred and forty six, for and in consideration of the sum one thousand five hundred dollars to him in hand paid, the receipt whereof is hereby acknowledged for a certain tract of land marked and bounded as follows to wit:

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Beginning at the line of Don Carlos Castro at the South East and from thence bounding on the North West by the farm of Dr. Juan Alvisay, at the North East by the Low Hills, and at the South West by the right side of the river de los Ylagas; as what has been given by the Mexican Government to Juan M^o. Hernandez, Resident of the said Pueblo, and by him deeded to Chas. Weber, which the said Charles Weber doth bargain and sell unto the said Bernard Murphy and his heirs or successors or any other individual that the said Bernard Murphy should think fit to possess the said land, and will warrant & defend to the said Bernard Murphy or his heirs or successors forever against the claim or claims of any person or persons whatever.

And for witness whereof I give my name and seal in this Pueblo of San Jose on this seventh day of December of One thousand eight hundred & forty six.

Witness
Jas. M. Weeks
Francis Lightstone

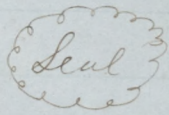
Charles M. Weber,

State of California
County of Santa Clara

On the 5th day of March A.D. 1852 personally came before me a notary public in and for the said County Francis Lightstone personally known to me to be the person whose name is subscribed to the foregoing conveyance as a witness thereof, and being by me duly sworn, says that Chas. M. Weber, whose name is subscribed to such conveyance as a party thereto, is the person who executed the same, and that he subscribed his name to such conveyance as a witness thereof, at the request

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of the said Weber and that he was present at the time of such signature



Witness my hand & private seal
having no Notarial seal provided
this the day and date above written,

J. O. Minus

Notary Public

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Filed 2 ⁴⁰/₆₀ O'clock P. M. 5 March A. D. 1852

J. F. Richardson

Recorder

Recorded in Book of Deeds D page 425 1426 at
2 ⁴⁰/₆₀ o'clock P. M. 5 March A. D. 1852 Recorder's office
Santa Clara County Cal.

John F. Richardson

Recorder

Filed in office Feb. 19. 1853

Geo. Fisher

Secy.

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No. 95. Bernard Murphy Claimant.

Opinion.

The claimant, Bernard Murphy, petitions the Board to have confirmed to him his claim to a tract of land called 'Op de ajua de la Cochi' situated in the County of Santa Clara of the extent of two square leagues, more or less. In support of his claim he produces a grant from Governor Figueroa to Juan Maria Hernandez, dated the 4th of August 1835. The execution of the grant is duly proved & its genuineness is confirmed by the public Archives of the former Government. The Archives also show that the grant was approved by the Senatorial Deputation the 27th of August 1835 - It is not proved that judicial possession of the land was given, but the evidence shows that Hernandez complied with the terms of the grant requiring a house to be built & inhabited within a year, and that the land has been occupied by him and those claiming under him, from that time to the present. The claimant shows proper mesme conveyances from the original grantee to himself. The grant comes within the principle of many of those which have been favorably acted upon by the Board & we accordingly confirm it, to the extent of two square leagues, holding as in former cases that nothing can be claimed under the words more or less, the surplus land being reserved to the Nation. Commissioner Thornton concurs in the result.

Island Hall.

No. 95. Bernard Murphy Claimant.

Decree.

This board on full consideration having come to the conclusion that the claim is valid make the following decree of final confirmation, viz:

It is decreed that the said claim be confirmed to the extent of two square leagues, being the same land described in the grant, and of which the possession was proved to have been long enjoyed: Provided that the said quantity of land granted and now confirmed to the

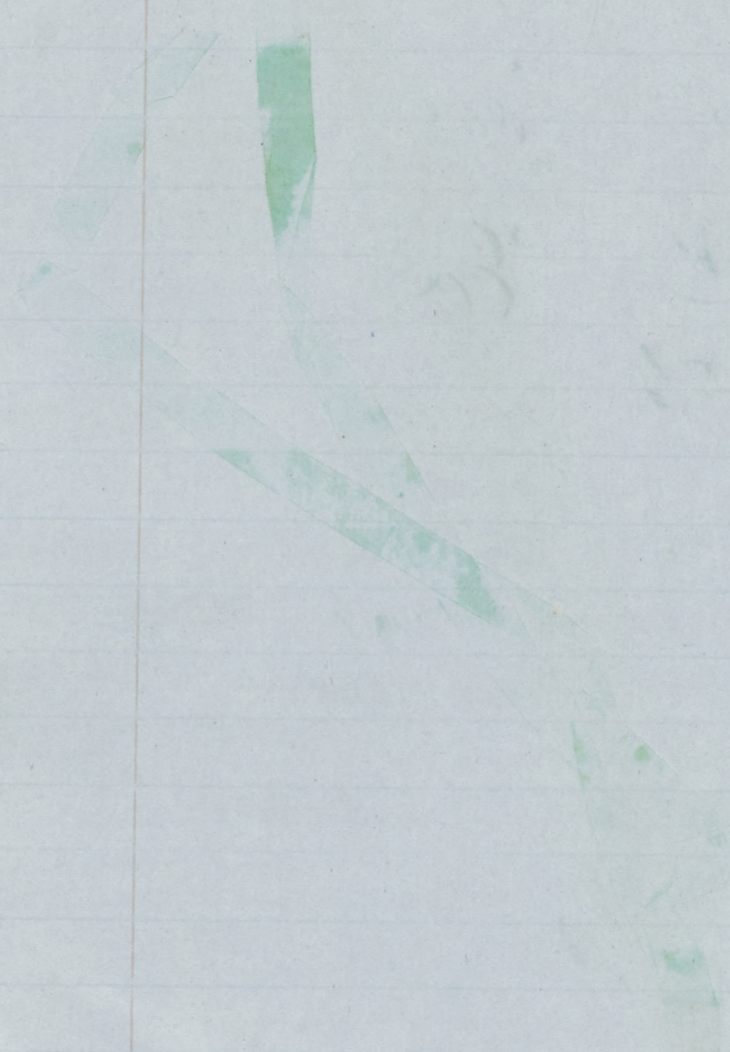
claimant be contained within the boundaries called for by the said grant or map to which the grant refers; and if there be less than said quantity within the said bounds then we confirm to the claimant that less quantity.

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PAGE 23

Given under our hands this 21. day
of February 1853.

Wm. Hall }
Wm. J. Thornton } Commrs.

Filed in office February 21. 1853.
Geo. Fisher
Secy.



Office of the Board of Commissioners,

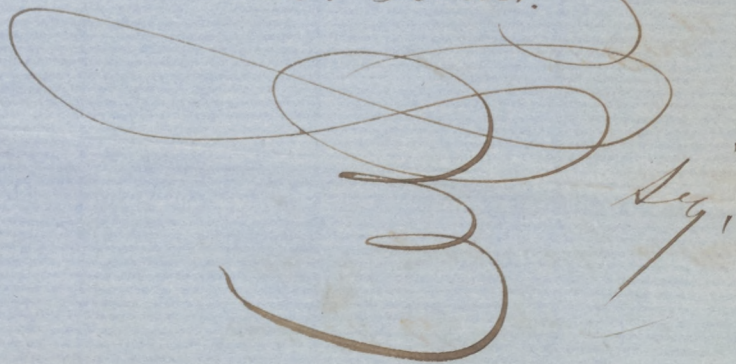
To ascertain and settle the Private Land Claims in the State of California.

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
following *twenty six* pages, numbered from
26, both inclusive, to contain a true, correct and full Tran-
script 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. *95* on the Docket of the said Board,
wherein

Bernard Murphy is
the Claimant against the United States, for the place known by
the name of *Rancho ^{ad} Op de Agua de la Cochi*

In Testimony Whereof, I hereunto set my hand
and affix my private Seal (not having a Seal
of Office) at San Francisco, California, this
twenty first day of *June*
A. D. *1854*, and of the Independence of the
United States of America the seventy-*eight*

Geo. Fisher.



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379

U. S. DISTRICT COURT,

Northern District of California.

No. 379.

379

THE UNITED STATES,

vs.

W

Bernard Murphy

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 95

Filed, *January 12,* 1856

J. A. ...
...



Bernard Murphy
decd
The United States

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It is admitted that the
said claimant Bernard Murphy
has died since the decision of
this case by the United States
Land ^{Comptroller} and that Martin J. C. Murphy
is his only child and heir at
Law - January 12, 1885 -

A. Russell

Asst U.S. Atty -
Thornton Williams & Thornton
for claimant -

U.S. Dist. Ct. North
District -

No: ~~377~~ 379

U. States

Murphy -

Stipulation

Filed 14th Decy 1856

J. M. Mearns

Clk

379 ND
PAGE 26

It is admitted in this case
that the paper above exhibited
and marked original Grant
is the original of the copy contained
in the transcripts of this case,
and was withdrawn from the
custody of the Secretary of Board
of Land Commissioners by ~~order~~
permission of said Board to
be ^{fully proved} used as evidence in this
Court —

A. Russell Asst. U.S. Atty

Thornum William Thornum
Atty for claimant —

Witness

Geo. P. Johnston

U. S. Commissioner

United States District Court
Northern District of California

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San Francisco January 12th 1856.

On this day, before Geo. Pen. Johnston a Commissioner of the United States for the Districts of California, duly authorized, to administer oaths he he came Thomas O. Larkin a witness produced on behalf of the Claimant, in Case No. 397 being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 95 on the Docket of the said Board of Commissioners, and was duly sworn and testified, as follows;

[Handwritten signature]

The U.S. of America

vs $\frac{3}{2}$ Case No 95 in Board of Land Commrs Appeal

Bernard Murphy

Present: U.S. Atty on behalf
of the United States - S. J. Williams Esqr on
behalf of the Claimant -

Questions by J. J. Williams Esqr - What
is your name age place of residence and
how long have you resided in California?

My name is Thomas O. Larkin, I am fifty
three years of age, I live in San Francisco
and have resided in California since 1832.
Are you acquainted with the hand-writing
of José Figueroa & of Francisco del Castillo
Negrete if you look at the document now
shown to you marked "Original Grant" and
say whether or not their signatures where
they occur in and upon said document
are their true and genuine signatures?
I am acquainted with their signatures was
acquainted with the two men and I think
the signatures are their true and genuine
signatures. —

Seen to & subscribed }
before me this 12th }
day of January A.D }
1856. }
} Thomas O. Larkin

Geo. P. Johnston
U. S. Commissioner

United States Dist Court
Northern District of Cal^a

No: 379

The United States

vs

Bernard Murphy

Deposition of Thomas O.
Larkin on behalf of Claim-
ant.

Filed 14th January
A.D. 1836

Geo A Moore
Clerk

379 ND

PAGE 30

In the District Court of the State
Northern District of California -
Martin J. C. Murphy Heir of
Bernard Murphy
Ads No: 393
The United States

The Answer of ^{Martin J. C.} ~~Request~~
Murphy to the petition filed in the
above case -

For Answer to said Petition
the said Murphy answers & says
it is true that the Land described
in the Transcript, from the United
States Land Commission, filed in
this case, lies in the Northern Dis-
trict of California and within the
jurisdiction of this Court - But
denies ^{the allegation} that his title to the same
is invalid, and avers that his
claim is valid, and prays this
Honorable Court, that the decision of the
Board of Commissioners confirming
his claim may be affirmed, and
that this Court will decree his
title to the said ^{Land} to be valid

~~Bernard Murphy~~
Thornton Williams Thornton
for Claimant

No ~~577~~ 379

U.S. Dist. Ct. Portland.

U. States

vs

Murphy

Answer

Filed 14th July.

1856

J. W. A. Mearns

Att

379 ND

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

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PAGE 33

The United States
Appellants
Master J. C. Murphy & Co
Bernard Murphy dec'd
Appellee
No. 379

The Petition of the United States by
their Attorney represents: that this cause
is an application for a review of the
decision of the Board of Commissioners
whereby the Claim of the said Appellee
was confirmed as appears by reference
to the records in the case:

That a transcript of the said Records
was filed in this Court on the 1st
day of January, 1875: that a notice of
Appeal was filed on the 21st day of
Nov. 1874 and that the land claimed
lies in the said District.

That the said claim is invalid.
Wherefore Appellants pray that the
said Decision of the Board be reversed
& that this Court decree the said
title to be invalid.

Respectfully
S. W. Ingr

W. S. Dis P atty

No ~~397~~ 379

U.S. Dist. Ct. North Dist.

U States

vs

Murphy

Petition

Filed 14th Aug.

1858

J. A. Munroe

clerk.

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PAGE 34

The United States

vs

No 379

Martin J. C. Murphy

379 ND

PAGE

35

This cause coming on this day to be heard on the Transcript of the proceedings and decision of the United States Land Commission, the pleadings and further evidence taken under the order of this Court was argued by Counsel, In consideration whereof this Court is of opinion that there is no error in the decision of the United States Land Commission -

It is therefore adjudged ordered and decreed that the claim of the said Martin J. C. Murphy is valid and the same be and is hereby confirmed -

The Land of which confirmation is made lies in the County of Santa Clara, and is known by the name of Ojo de agua de la Coche and is bounded by the Rancho of Carlos Cortes on the S. E. with that of Juan Alvarez on the N. W. with the low hills on the N. E. and on the S. W. with the right bank of the Arroyo de las Llagas. containing two square leagues ~~and with some other land~~ For more particular description reference to be had to

backed to the front, and the rest
contained in the Expedients

379 ND
PAGE 36

Adam Hoffmann
U. S. District Judge

No 379

U. S. District Court
Northern District of California

The United States

vs

Martin J. C. Murphy
Heir of Bernard Murphy
decd

Deceit

Filed January 18. 1856,
N. H. Chew,
Deputy.

379 ND

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At a *Stated* Term of the District Court of the UNITED STATES OF AMERICA, for the Northern District of California, held at the *Court Room* in the City of SAN FRANCISCO, on *Tuesday* the *18th* day of *November* in the year of our Lord one thousand eight hundred and fifty-*six*.

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States.

v.

Bernard Murphy

Case No 379.

Transcript No. 95.

The Attorney General of the United States having given notice that no appeal to the Supreme Court of the United States will be prosecuted in this case and a stipulation having been entered into by the District Attorney, that no further appeal shall be taken on the part of the United States, and for leave to the claimants to proceed under the decree of this Court heretofore rendered in their favor.

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

Ogden Hoffman
U. S. Dist Judge

379

United States District Court, Northern
District of California.

United States

vs.

Bernard Murphy

Case No 379.

Transcript No 95.

Order vacating
Appeal —

Filed Nov: 18. 1856

J. A. Munroe,
CLERK.

J. W. H. Chivers,
DEPUTY.

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PAGE 39

Handwritten notes on the right side of the page, including the name "Bernard Murphy" and other illegible cursive text.

California Land Claims.

Attorney General's Office

17 October 1856,

Sir:

In the case of the claim of Bernard Murphy, confirmed to the claimant by the Commissioners, case no. ninety-five, (95), appeal will not be prosecuted by the United States.

I am

Respectfully,

Clatney

Wm Blanding Esq

U. S. Attorney

San Francisco.

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PAGE 41

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

The United States

v.

Case No 379.

Bernard Murphy

Transcript No. 95.

In pursuance of
notice from the Attorney General of the
United States herewith annexed, it
is hereby stipulated and agreed, that
no further appeal shall be taken in
this case on the part of the United
States, and that the Claimants have
leave to proceed under the decree of
this Court heretofore rendered in ^{this} ~~the~~
favor as on Final Decree.

Nov 15, 1856

Wm Blomding

U.S. Dist's Atty.

Thornton Williams & Thornton
attys for claimant

U. S. 379
District Court.

United States

v. } lease
No 379.

Bernard Murphy

Stipulation

Filed Nov. 18, 1856
W. A. Cheever,
Deputy Clerk

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PAGE 42

The United States

vs No 379
Martin J C Murphy

379 ND
PAGE 43

This case was presented in the name of Bernard Murphy - since which time said Bernard has died, leaving the said Martin J. C. Murphy his only child and heir at law - vide Stipulations filed in this court - Reading of Files -

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379
The United States
vs
Martin J. Murphy

—
Indef

379 ND
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The United States

. M

Martin J. C. Murphy

The appellee in this case by a written consent of file among the maps signed by the respective Council is admitted to be the only child and sole heir of Bernard Murphy in the name of which latter this case was pending before the Commission, & who since the decision made by said Commission, has died. The real party is therefore the said Martin J. C. Murphy, claiming as sole heir at law to his Father Bernard Murphy. The latter ~~deceased~~ ^{will} of latter is deranged by mere conveyance, from the original grantee Juan Maria Hernandez. The ~~original~~ Grant is dated 4 Aug 1835 & was issued by Gov. Figueroa to the said Hernandez. The original grant was produced before the Commission, and by written consent of Council pieces in the case is admitted to be genuine and to have been taken from the files in this case by permission of the Board of Commissioners for the purpose of being used as evidence elsewhere. It is in proof that the grant received by the Territorial deputation on the 27th Aug 1835. There was no Judicial delivery of the

premises. There are described in
the grant as the tract known by the name
of Op de agua de la Cochibounding
with Chas. Castro at the S E, corner
with Juan Alvarez at the N. W., at the
N. E with the low hills, and at the S W with
the right bank of the Creek de los Segos.
In the fourth condition annexed to the
grant the land is described as being
two sitios de ganancia mayor menudales,
as explained in the map which is in the
record. The said evidence, together
with the fact that the grantee built a house on
the land very soon after the date of the
grant & resided in it until he died, seen
by him, and a possession taken and held
by the vendee, & that claiming under
them to the present time.

In view of all the testimony in this case
the Court concludes that this claim should
be enforced. A decree must therefore
be entered affirming the decree of the
Board of Com. in favor of the vendee.

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PAGE 47

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims in the State of California.

San Francisco, *July 10th* 1856

Sir;

I am directed by this Board to 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 the said Board, of the Documentary Evidence and of the Testimony of the witnesses upon which the same is founded, in Case No. 95. on the Docket of this Board, wherein

Bernard Murphy is the Claimant, for the place known by the name of "*Rancho del Ojo de Agua de la Cochis*" Which Transcript I have the honor to accompany herewith, and request your receipt for the same.

I am, Respectfully,

Your Obedt Servant,

Geo. Fisher

To the Hon. *J. A. Monroe Esq*
Attorney General of the United States,

Washington, D. C.
Clerk of the U. S. Dist Court for
the Northern Dist. of Cal.

Office of the Attorney General of the United States,
Washington, September 11th 1854.

Bernard Murphy
vs.
The United States.

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 10th day of June 1854 the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Oliver

Attorney General.

No 19.

U. S. District Court
Southern District of Cal.

The United States,

vs.

Bernard Murphy.

Notes of appeal from City Court.

Filed for file 1854

L. S. Jones

Clk.

In the District Court of the United States
for the Southern District of California
Hereinafter S. T. Ogden Esq.

Borned Murphy } N. 19.
or, } N. of Transcript 95.
The United States }

On motion of P. Ord Attorney of the
United States for the Southern District of
Cal., and in suggesting to the Court
that ~~the~~ a transcript ~~from~~ of the
proceedings & decision of the Comm^{rs},
to ascertain and settle the private land
claims in the State of Cal., ~~has been~~ was
filed in the Office of the Clerk of the
Court ~~at the~~ on the 27th of June 1854,
and ^{that} a notice of ~~proposed~~ intention to
present an appeal ^{in said case} in the Court of
the States, by the Atty Genl. of the
States, ~~filed~~ from the decision of said
Comm^{rs}, was filed in said Clerk's
Office, on the 7th of November 1854;
and that the land ^{in question}, being in the Southern Dist of Cal.,
it is ordered that the District Attorneys
of the States, have leave to withdraw
at any time hereafter, the said papers
in said case, and the same may
be transmitted to the Clerk of the District
Court for the Southern Dist of Cal.
P. Ord
Dir. Atty U.S.

No. 19

Jun 23^o 1855.

J. E. San.
D.K.

Bernard Murphy
vs & In District Court of U. States for the
The United States Southern District of California

On Motion of J. J. Williams of counsel for
Claimant in the above entitled cause, and upon
suggesting to the Court, that the transcript of the
proceedings & decision of the United States Land
Commission in this cause & notice of appeal by the
United States have been seasonably filed in the
Office of the Clerk of this Court, and that the land
claimed by the said Murphy lies in the Northern District
of California, and the said Murphy by his said
counsel now offering to file a stipulation that
the United States, shall not lose their right to an
appeal from the said decision of said Commis-
ion, by reason of the removal of this cause & the pa-
pers therein, to the District Court of the United States
for the Northern District of California -

It is therefore ordered by the Court that the Clerk of
this Court, transmit to the Clerk of said District
Court of U. States for said Northern District of California
all the papers on file in ~~this cause~~ ^{his} Office, in relation
to this cause -

N^o 19

Bernard Murphy

Ads

The United States

Order of Removal of
Court Northern Dist of Cal

Filed Sept 21. 1853.

C. C. Farr,
clk.

Bernard Murphy } In U.S. District Court for
ads } the Southern District of California
The United States } No. 19. (No. of Transcript from Land Comm. 93)
Special September Term, 1855.

It is stipulated by & between Bernard
Murphy, Claimant in the above entitled ^{cause} by Thornton &
Williams counsel for Claimant and P. Ord, District
Atty of U. States, ^{for the Southern District of California} that the transcript and decision
of the United States Land Commission for California
filed in the Clerk's Office of this Court on the
27th day of June AD 1854 and the notice of intention to
prosecute the appeal by the U. States, filed in said
Clerk's Office on ^{or about} the 7th day of November AD 1854, and all
other papers in this cause, may be removed to the
Office of the Clerk of the District Court of the U. States
for the Northern District of California & there filed,
and that thereupon, the said filing of the said Transcript,
notice of appeal, & other papers, shall have the same force
and effect as if the said Transcript & said notice of ap-
^{& other papers} peal, had been originally filed in said Clerk's Office
by said Commissioners & the Attorney General of the U. States,
And it is further stipulated that the said United States
shall not in any wise, through the said removal of said ^{papers in this}
cause, be prejudiced in their right of prosecuting an
appeal in the proper Court from the decision of the said
Commissioners

Thornton & Williams
counsel for Claimant
P. M. Dittler, U.S. D.C.
September 21st 1855.

No 19
~~ND~~

379 ~~ND~~

Bernard Murphy

Ads

The United States

Disputations in Case as
to removal to Neth^r Ditch of
California

Filed Sept 21. 1855.

J. E. San,
Att.

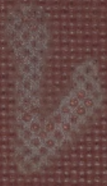
50

19 No 19 + 3.79

Bernard Murphy

The United States

Es de agua de la Coche



Loose items, not numbered (4 items + container)