CASE NO.
418
NORTHERN DISTRICT

PUNTA REYES GRANT
BETHUEL PHELPS

CLAIMANT

LAND CASE 418 ND 248 pgs.

JAN 1 1 1963

525

Dup

418 ND
PAGE 1

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 525

Bethuel Phelps — CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Punta Reyes."

418 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-second *day of* January *,*
*Anno Domini One Thousand Eight Hundred and Fifty-*three*, before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following Proceedings were had, to wit;*

The Petition of Bethnel Phelps
for the Place named
"Punta Reyes"
was presented, and ordered to be filed and docketed with No. 525 *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 January 11. 1853

Case No. 525, Bethnel Phelps for the place named "Punta Reyes" was ordered to the foot of the docket.

San Francisco October 27. 1853

In the same case the depositions of William A. Richardson and Salvador Vallejo, witnesses in behalf of the claimant, taken before Commissioner Alpheus Felch, the last with document marked A. F. No 1, annexed thereto, was filed

(vide pages 7 & 9 of this transcript)

San Francisco Oct 10. 1854

Case No 525 was ordered to be placed at the foot of the 25 days cases on the trial docket

San Francisco Nov 19. 1854

In the same case the deposition of John B. R. Cooper a witness in behalf of the claimant, taken before Commissioner Peter Sett with document marked

marked "Exhibit P L" annexed thereto, was filed.

(vide page 12 of this transcript)

San Francisco November 28th 1854

Case No 285 was ordered to be placed at the foot of the 3d class cases on the trial docket.

418 ND
PAGE 3

San Francisco December 4th 1854

In the same case the deposition of Jose Fernandez a witness in behalf of the claimant taken before Commissioner Peter Tatt, with a map marked Exhibit A P L was filed

(vide page 31 of this transcript

San Francisco December 7th 1854

In the same case the depositions of James Black, Pablo Briones, José Francisco Westgate and Gregorio Briones witness in behalf of the United States taken before Commissioner Peter Tatt, were filed.

(vide pages 15, 24, 25 & 27 of this transcript)

In the same case the deposition of John Coby, a witness in behalf of the claimants taken before Commissioner Peter Tatt was filed.

(vide page 29 of this transcript)

San Francisco January 23, 1855

In the same case the deposition of John H. Foster, a witness in behalf of the claimant, taken before Commissioner Peter Tatt, was filed.

(vide page 19 of this transcript)

San Francisco January 9, 1855

In the same case the depositions of Jonny Black and John Marsh, witness in behalf of the claimants taken before Commissioner Peter Tatt, were filed.

(vide page 20 & 22 of this transcript)

San Francisco January 15, 1855

In the same case the deposition of Domingo Feliz, a witness in behalf of the claimants taken before

3

Commissioner Peter Late, was filed"
(vide page 24 of this transcript)

San Francisco Jany 16. 1855
In the same case the counsel for the claimant filed an authenticated copy of the deposition of David Spence, a witness in behalf of the claimant in case No 666 taken before Commissioner R. Clay Thompson on the 1st November 1853. with an authenticated copy of the document marked Exhibit No 2, R.T. and a translation thereof, annexed thereto.
(vide page 33 of this transcript)

418 ND
PAGE 4

San Francisco Jany 23. 1855
In the same case the deposition of Manuel Castro a witness in behalf of the claimant taken before Commissioner Peter Late was filed.
(vide page 46 of this transcript

San Francisco Jany 29. 1855
In the same case the deposition of Juan Bolcanedo a witness in behalf of the claimant taken before Commissioner Peter Late, was filed
(vide page 30 of this transcript)

San Francisco Jany 9. 1855
In the same case the deposition of Stephen Smith a witness in behalf of the claimant, taken before Commissioner Peter Late, was filed.
(vide page 39 of this transcript

San Francisco Feby 28. 1855
In the same case the counsel for the claimant filed the following documents, viz:
1st Authenticated copy of the deposition of Mariana Bonilla, a witness in case No 666 (vide page 47 of this transcript)
2d Authenticated copy of the deposition of Wm Reynolds a witness in case No 666. (vide page 37 of this transcript)
3d Authenticated copy of the deposition of Jose Abrego a witness in case No. 666 (vide page 49 of this transcript)
4th "Exhibit A No 6" annexed to the deposition of Jose Abrego, (vide page 131 of this transcript
5th "Exhibit A No 6" annexed to the depos-

4

sition of William Reynolds ; (vide page 141 of this transcript)

San Francisco March 13 1855

In the same case the Counsel for the claimant filed the following stipulation to wit

(vide page 147 of this transcript

418 ND
PAGE 5

case No 525 was submitted on Briefs and taken under advisement

San Francisco March 27, 1855

In the same case the counsel for the claimant filed the following stipulation to wit

(vide page 148 of this transcript)

San Francisco Aug 7, 1855

In the same case Commissioner S B Farnell delivered the opinion of the Board confirming the claim.

(vide page 149 of this transcript)

N and the following order was made to wit ; page 153

San Francisco Nov. 27 1855.

In the same case the Counsel for the claimant filed the following Motion, to wit:

(vide page 150 of this Transcript)

San Francisco Feby 5 1856,

In the same case Commissioner S. B. Farnell delivered the decision of the Board upon the Motion of the claimants Counsel filed heretofore, to wit on Nov. 27 1855 granting the same,

Whereupon it was Ordered, That the Decree of Confirmation heretofore entered in this Case be amended and that the decree now filed be substituted therefor.

(Vide page 151 of this Transcript.)

Petition

Before the Commissioners to Settle Land Claims in California.

Bethnel Phelps gives notice that he claims a tract of Land in said State by virtue of a right and title derived from the Mexican Government. Said tract is situated in the present County of Marin is known by the name of the Rancho of Punta Reyes and is of the Extent of Eight Square Leagues or Sitios de ganado Mayor, of Four thousand four hundred and twenty Eight acres Each Sitios

418 ND
PAGE 6

Said tract was granted On the 17th of March 1836 to James Richard Berry by Don. Nicolas Gutierrez Governor or Political Chief of the Territory of California and authorized to make said grant in the name and behalf of the Mexican Nation, Surveyed Measurement and Population of the said land was made and given On the 16th June 1840 by the proper Magistrate.

Said Land was Conveyed on the 14th of February 1844 by said grantee to Stephen Smith, and by said Smith to the Claimant by deed of 25th of September 1845

Said Land has been occupied according to Law. The Original of the said grant and the act of the said juridical powers, and Copies of said Mesne Conveyances with translations of the same are herewith presented, and prayed to be taken as apart of this petition.

The Original will be produced and proved as may be required,

Jones Hopkins & Shafter
Attys for Claimant

Filed in Office 1st May 29th 1853
Geo. Fisher Secy

Recorded in Vol 1 of Petitions on pages 492 & 493
Geo. Fisher Secy

6

Deposition of Wm A Richardson

Office of the Board of Commissioners &c &c &c

This day before Com. Alpheus Felch came Wm A Richardson a witness in behalf of the Claimant Bethuel Phelps No 335 who after being duly sworn deposeth as follows

418 ND
PAGE 7

Interrogatories by Mr. Jones Atty for claimant

1. Interrogatory. What is your name age and place of residence?

Answer. My name is William A Richardson. My age fifty eight and I reside at Sausalito in Marin County California.

2d Interrogatory. Do you know the late James Richard Berry? if so when and where did you know him and what did you know of his connection with the Mexican Government

Answer. I knew him. He came to me in the early part of 1834 with recommendations to me from the then Commandante of California Don Nicolas Gutierrez to pass him over to the North side of the Bay of San Francisco. I was then Captain of the Port of San Francisco. I was requested in the recommendation to pass him over in order to select some lands granted to him for his services as a Colonel in the Mexican Army and I did so.

He returned to my house at Yerba Buena about three weeks afterwards on his route to Monterey. He came back again about a month after that with his pass to the latter port upon which of his Land at Punta de Reyes which is in what is now Marin County I knew him from that time until his death

3 Interrogatory. Are you acquainted with the Land claimed in this Case called "Punta de Reyes"? and if you please state what you know of its occupation.

Answer. I am acquainted with the Land. I saw the previous occupation

418 ND
PAGE 8

of it given to Mr. Berry. I saw the commencement of it, but did not remain until it was finished, previous to that I sold to Mr Berry fourteen or fifteen heifers and went with him with these heifers as far as Mr. Reed's farm where he obtained more cattle and took them all to the Punta de Reyes. This was in 1836. Mr Berry at that time lived on the Rancho Punta de Reyes. He had his house there at that time, it was built at the Entrance of his farm and he continued to live there with his servants until his death. He visited around among his friends, but the Rancho was his permanent residence and the only residence which he had.

4th Question. Could you now identify on the ground the place where the said Possession or measurement commenced? -

Answer. I could. I can now locate it from memory from Garcia's house within a few yards. The starting point was exactly where Mr. Berry had his house at that time on the Main Road at the entrance to his farm. A little small rivulet was his boundary on the west bank of which his house was built - Said Rivulet empties on to the marshy land at the head Tomales Bay

5th Question. Are you acquainted with the hand writing of Nicolas Gutierrez and Francisco de Castro Negrete? if so look at the document now shown to you marked "Exhibit No 1 with the initials "A F" annexed to the deposition of Salvador Vallejo this day taken in this case and state whether the signatures appearing on the third page of said document are theirs - are the true and genuine signatures of said Gutierrez and Negrete respectively.

Answer. I have looked on said Document said signatures are the true and genuine signatures of Gutierrez and Negrete respectively. I am acquainted with the hand writing of both of them -

418 ND
PAGE 9

6. Question. Do you know the Estuary where Semantoes Vessel was wrecked if yes please describe it locately.

Answer. I know the place. It is on the South West side of Rancho Punta de Reyes. I know the locality and could point it out on the ground. I reckon a distance to Semantoes when his Vessel was cast away at that place.

Wm. A Richardson

We know Apostle Law Agent Attorney at the taking of this deposition and propound nee no interrogatories to the Witness

Subscribed and Sworn to before me at San Francisco this 27th day of October A. D. 1853

Stephens Felch
Comm. Spines

Filed in Office Oct. 27. 1853
Geo. Fisher Secy

Recorded in Ev. B Vol 3 p 302
Geo. Fisher Secy

Deposition of Salvador Vallejo

Office of the Board of Commissioners &c &c &c

This day before Comr. Stephens Felch Came Salvador Vallejo a Witness in behalf of Claimant Bolivar Phelps No. 323 to be often being duly Sworn deposed as follows

Questions by Mr. Jones Attorney for Claimant

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

Answer. My name is Salvador Vallejo, My age is Fifty Years and I reside in Napa County in California

2d Question. Are you acquainted with the land claimed in this Case, called Punta de Reyes? if yes please state what you know of the possession and occupation.

Answer. I am acquainted with the place. I have known it to be occupied by One Berry whose first name I do not know. He lived on the place until his death

I knew of his living on the place from 1838 until he died. He had a house there on which he lived, and he had also Corrals, some fences horses and Cattle, and cultivated some of the ground.

3d Question. Do you know anything of Juducial poseesion of the place having been given

Answer. I do. I gave juducial poseesion of the place to Benj. I was civil Magistrate of Sonoma and gave the juducial poseesion in that Capacity

4 Question. Look on the document now presented purporting to be a record of the act of Juducial poseesion Marked Exhibit No 1. with the Words A & and annexed to this deposition, and State whether it Contains a record of the proceedings in giving such Juducial poseesion? and whether the Signatures appearing thereon as the Signatures of Jasme Richard Benjs Salvador Vallejo, Pedro Sola, Cayetano Juarez, Francesco Segueira, Gregorio Briones & Rafael Garcia are the true and genuine Signatures of those persons respectively

Answer. I have Examined the Document. The Signatures appearing thereon as theirs are the true and genuine Signatures of the Several persons named in the enunciation. I am acquainted with their hand writing having seen them & each of them write frequently I saw them see Sign this document

5 Question. When you measured the ground in giving the poseesion did you place any Stakes or Marks or Monuments and on the points now be described in the record?

Answer. I placed One and Mark and Ordered the Others to be placed. The One I placed was a post on the Sea Shore at the Second point in the Survey The Other points were Marked in the other Monuments which I Ordered to be placed

11

418 ND
PAGE 11

there: There was in the survey only two points, there being a land in the sea which surrounded the land, except on one side— We made the measurement all around the land, but put no monuments on the beach except the one above mentioned. The points can now be ascertained on the ground I could point them out if I was there. There is an Estero or Bay at the point where I put the post as above stated which is known by us as the "Estero de Lamantin"— It has that name from the circumstance of Lamantins having run his vessel in there and been ship wrecked.

The Estuary is included within the limits of the place as surveyed by me.

Questions by Mr. Greenhow appearing as Law Agent.

1 Question. At what point did you begin your measurement or survey

Answer. At the mouth of the Estero de Ballenas, that is to say where the Ballenas Creek empties into the Tomales Bay— We measured directly from that point to the place where we placed the post mentioned. It was a rainy day, and I do not know the points of the Compass

Questions by Mr. Jones

1 Question— Look at the document above mentioned marked "Exhibit No 1" and state whether the Creek mentioned on page 11 as the Tokeglome is the same Creek as that called by you in your last answer, the Ballenas.

Answer. They are the same streams— The Indian name is Tokeglome, but we know the stream by the name of Ballenas—

Question by Mr. Greenhow

1 Question. Does the stream which the Indians called Tokeglome Empty into the

12

Bay a Estero of Tomales?

Answer. I does

Salvador Vallejo

This testimony was given in the Spanish language Mr. Fisher the Secretary of the Board acting as interpreter.

Subscribed and sworn to before me at San Francisco this 27th day of Oct. A.D. 1853.

Alpheus Felch Commissioner

Filed in Office 27. 1853

Geo. Fisher Secy

418 ND
PAGE 12

Deposition of John B R Cooper

United States of America }
State of California } ss:

San Francisco No. 9 - 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 John B R Cooper a witness on behalf of the Claimant, Bethuel Phelps in Case No. 225 On the Docket of said Board, and said witness being sworn deposed as follows

The U. S Associate Law Agent is present

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

Answer. My name is John B R Cooper, my age 61 years, my residence Monterey California.

2 Question. Do you know the Rancho claimed in this Case and granted to James Richard Berry, if yes, when did you first visit said Rancho?

Answer. I know the Rancho I first visited it in the fall of 1841 — I think it was in the Month of October or November —

3d Question. Do you know the location of the House then on the Rancho, if yes, point out on the map now shown

418 ND
PAGE 13

year, being a true Copy of an Expedient
now in the Office of the U.S. Surveyor General
for Californie and attached to this Depos-
ition and marked "P L" the located of
said house?

Answer. The house was in the
Valley or Canada about three leagues
from that point on the Map where is
shown a house and marked Rancho de
Sausal. The located of the house was at
the point where the letter N is found in the
words "Canada de Bemlenes". It was in a
Northern direction from the house of
Sausal

5th Question. Was James Richard
Berry at that time occupying the Rancho
of you, in what manner.

Answer. He was in
the occupation of said Rancho had called
and houses on the same.

5. Question. Is the house
marked On this Map as the Rancho de
Sausal correctly located with reference to
the Meanderings of the boundary?

Answer. I think it is as well
as I can recollect, it was On the West side
of the Estuary, known by the name of
Bemlenes and close to the Sea Shore.

6 Question. From what circum-
stance do you fix the date given in your
Answer to Question?

Answer. Because it was
at the time that I lost my Canoe and I came to that place
to offer him assistance

7th Question. Do you
know the location and boundaries of the
tract known as Punta de los Reyes pan-
ted to Antonio Maria Osio, if you describe
the same

Answer. I know the tract, which
was always Called Punta Reyes and I
know all boundaries Except on the East

It is bounded on the South and South Westerly and on the West by the Pacific Ocean and On the North and North Easterly by the Estuary of Tomales— I do not know the line On the East which divides it from the Bony Lands.

418 ND
PAGE 14

Cooper Examined by A. S. Apodaca Law Agent

1 Question. Did you ever visit said Rancho after 1841 if yea, what kind of a house was it you refer to in your answer to 3d interrogatory in Chief herein

Answer. I never was as far as the house since 1841— I have been but On the Lands— The house I spoke of was a wooden house, some 15 feet by 10 feet, One story high

2d Quest. State the position of said house with reference to the Natural Objects you have named?

Answer to 2d— It was in the Lands de Bonlines about 3 leagues, North Westerly from Sanora house and from One to two Miles South Easterly from the head of the Estero of the Estuary of Tomales

3d Question. How do you know the boundaries of this Rancho as you have stated them?

Answer. I know them by going up and down the Coast there for some 15 years and by hearing the people always call it the Point Reyes thence as far as the Estuary of Tomales and from hearing persons so

Re Examined by Claimants Counsel

1 Question. Where did Rafael Garcia and his family live when you visited this Rancho in 1841?

Answer. He lived with his family in the house where I stated and near the same house I refer to in my answer to 5th Question in Chief herein

John. B. R Cooper

15

Subscribed and Sworn to before me on this
9th. day of November A.D. 1854
Peter Sole Commr. &c

Filed in Office Nov. 10 1854
Geo. Fisher Secy

Recorded in Ex B Vol 5 p 628
Geo. Fisher Secy

418 ND
PAGE 15

Deposition of James Black

United States of America
State of California } ss.
San Francisco Dec. 30 1854

This day came before Peter Sole Commissioner for taking testimony to be used before the Board of U.S. Land Commissioners in said State James Black a witness on the part of the United States in Case No. 525. On the Docket of said Board: wherein Bolinas Rancho is Claimant - and said witness being duly & sworn deposes as follows.

The claimants Counsel Geo. Southworth is present.

Interrogatory U.S. Land Agent.

1 Interrogatory. What is your name age and residence

Answer - My Name is James Black. My age 48 years, my residence in Marin County California, which I have been for the last 20 years.

2d Interrogatory. Are you acquainted with James Richard Berry, and with the Rancho Called Punta Reyes, Originally Claimed by said Berry and now Claimed by Bolinas Rancho in this Case, if yes, how long have you known them, and what has been the Character of your acquaintance with them?

Answer. I am acquainted with said Berry he has been there some seven or eight years I was once acquainted with him, he sometimes stopped at my house two or three months at a time. I am acquainted with the place Called Punta Reyes. I have known it since about 1835 I have often been on said place and like I cannot

418 ND
PAGE 16

Say that I am very well acquainted with it. I live about five Miles from what I have ever Heard to be the boundary of said Ranch, the Nearest boundary to my house

3d Question. Had said Berry a family, and where did he reside when you first knew him?

Answer. He has no family that I know of, and when I knew him, he had no regular place of abode that I know of. He has a house and a Corral at the Estero Tomales On the lands now claimed by Garcia, where he sometimes lives, and he used to stay about at Other places. Said house and Corral are about two miles from the boundary of Punta Reyes, if I am Correct as to the locality of said boundary.

4th Question. When was the first house built on the lands called Punta Reyes?

Answer. I knew a small house to be built on said place in 1836 or 1837 by Captain Snooks who had a man living in the house, who was Employed to take Care of his Cattle. I am not positive about the year but according to my best recollection it was about the time I have stated

5th. Question. Describe said house and State what it was used for?

Answer. It was a House built of round logs & poles about as thick as a Mans thigh, and plastered over with clay, the sides of this house were about 7 feet high to the roof, and the building was about 12 by 15 or 20 feet in size. The roof was made of Tule thatch. It was used as the residence by the Man Domo of Capt Snooks of whom I have Spoken

6th. Question. If said Berry had ever been on said Ranch of Punta Reyes after you became acquainted with him was you acquainted with him such that you must have known it?

Answer. Mr. Berry had his Cattle

418 ND
PAGE 17

on Punta Reyes from 1837 to 1840 and he used to stay during those years somewhere down there but I cannot say exactly where he stayed whether he lived in a house or not. I never saw a house on Punta Reyes, and cannot say that he had one.

7th Question. How many cattle had Berry there, and what part of the Ranch did they range on?

Answer. I knew his cattle in 1837 & 1838, he then had about fifty head and they ranged just in the neighborhood of Berry's house on Garcias land, at the head of the Tomales. He afterwards drove them up to the North Western part of the Punta Reyes Ranch.

8th Question. Explain what you mean by saying Berry used to stay somewhere down there during those two years

Answer. I saw him on one occasions when he told me he was going down to the point and was gone 8 or 10 days

9th. Question. Did not Berry make Garcias Ranch his home during & did he not uniformly return to his cattle there?

(9th Question Objected to by Defendants)

Answer. He made Garcias place his home during part of the years 1837 & 1838 that was about the time he took his cattle on to the Punta Reyes

Cross Examined by Defendants Counsel

1 Question. Do you know when and where Jose Y Samaniegos vessel was wrecked of you, state where?

Answer. I think that vessel was wrecked in 1841 to the west of my house up. It was wrecked on the South Easterly side of Punta Reyes

2d Question. Where was Garcias house at the time of said wreck?

418 ND
PAGE 18

Answer. Garcia's family then lived at the Bemines but he had some Indians living down where his house no is who were placed there by him late in 1840 or early in 1841.

3rd Question. State with as much accuracy as you can the precise locality of the place called the Bantines—

Answer. It is an inlet of the Sea and an Estero Called Punta Bemines and by some the Bay of Bemines It is in a South Easterly direction from Punta Reys

4th Question. State the precise locality of the house you have spoken of as Binys house On Garcia's land?

Answer. On the Map in the Espediente in this Case as near as I can indicate there house stood about half way between the Junction of the Canada de Tomales and the Canada de Bemines (On the East side of the Same Canada de Bemines at the below C at the Beginning of the word Canada de Bemines, As I am not well acquainted with this Map, I would judge being the house was about 1 Mile and a half or two miles in a Southerly direction from the Coping of the Estero which was near the junction of the two Canadas before mentioned

5th. Question. Does for this house you Speak of, the home of Beny, and did you know of his having any other house at that time?

Answer. I knew of no other house of Benys he Had but little at the house I have Spoken of. he lived generally around among the Indians

6th. Question. Please State the precise locality of Cape Saroks house of which you Speak?

Answer. It stood on the South side of Punta Reys on the main Road going down to the point, a little West of the head of the Estero at the Mouth of

19

which Lumber was Vessel was wrecked

James Black

Subscribed and Sworn to before me at this town
this 30th. of Dec. 1854 Peter Sole Commissioner

Filed in Office Dec. 23rd 1854
Geo. Fisher Secy

Deposition of John H Foster

418 ND
PAGE 19

United States of America }
State of California } ss.

This 30th. day of December 1854 came and
was Sworn before Peter Sole Commissioner for taking
Testimony in the Bounds of U S Land Commission
in Said State John H Foster a witness on the
part of the Claimant Bethel Phelps in case
525. On the Docket of said Board, and said
witness deposed as follows

The U. S. Special Law Agent is present

Question by Judge Southard for Claimant

Question. 1 What is your name
age and residence?

Answer. My name is John
H Foster my age 32 years and my residence
in Marin County California

2d Question. Do you know
the Rancho Claimed in this Case, if yes, how
long have you known it What is its
boundaries?

Answer. I know said Rancho
I first knew it nearly two years ago It is
bounded On the North by the Lands claimed
by James Black On the East by the Rancho
of San Geronymo, On the South by the Rancho
Corte Madera by Bring On the West by Rancho of
Punta de Los Reyes—

3d Question. Look on the map
now shown you and marked "A D L" Exhibit to
deposition of Jose Arenas in this Case and
state if the Lands included within the red lines
as marked upon said Map represent the lands
Claimed in this Case

Answer. Yes Sir.

4th. Question. Did you make the map

418 ND
PAGE 20

marked "A S L" as represented and is the Scale upon said Map Correct?

Answer. I deem the map and the Scale upon said Map is a Correct one.

5th. Question. How long is said Rancho from North to South and how wide from East to West—

Answer. It is four leagues long two leagues wide and Contains 8 leagues of Land.

6th. Question. How far is the Southern line from the Punta de Bonetes and why did you locate the line at that point?

Answer. 2 Leagues. I understand the Grant to be for four leagues long and two wide so as to include all the Canada Bonetes y Tomales, Except 2 leagues granted to Rafael Garcia which was to be measured from the Center of said Canada to the Punta de Bonetes.

7th. Question. What data did you have for locating the lines

Answer. I located the lines from the grant the Expediente of Approval of the Departmental Assembly dated Sept. 9th 1835 and the decree of the Supreme Tribunal dated Monterey Feby 29. 1844

John H. Foster

Subscribed and Sworn to before me on this 30th day of December 1854

Peter Lott Commissioner

Filed in Office June 3. 1855.

Geo. Fisher Secy

Recorded in Rec. B Vol 11 p 208

Geo. Fisher Secy

Deposition of Jas. Black

United States of America
State of California } ss.
San Francisco June 5. 1855

This day Came and was Sworn before Peter Lott Commissioner of Testimony before the U. S. Land Commission in said State James Black a witness for the Claimant Bolthasar Phelps in Case No. 325. before said Board and said witness deposes as follows.

Said testimony deposited as follows.

21

The U. S Special Land Agent present.
Questions by Attorney for Claimant
1st. Question. What is your name age and residence?
Answer. My Name is James Black My age 45 years, My residence in Marin County California where I have lived for the last 20 years.
2d Question. In your answer to the 3d Question of the U.S. Land Agent in your deposition taken in this Case on the twelfth day of December A.D. 1854 before Peter Tate Commissioner, you stated that "he (Berry) had a house and a Corral at the Estero Tomales on the land now claimed by Garcia" please state whether or not at the time Berry had this house there was not a law suit and difficulty between Berry and Garcia in regard to the Ownership of said Land and the location of their Ranches
Answer. I only know that there was a law suit between them from report also I do not know of my own knowledge
2d Question. When did you first know of Garcia residing with his family at Banderas and how long did he continue to reside there?
Answer. Garcia came to reside at Banderas in 1834 or 1835 and continued to reside there until the year 1841
3d Question. To what place did he remove in 1841
Answer. To the Estero Tomales
4th Question. What is the distance between the place where Garcia resided near Banderas to the Estero de Tomales?
Answer. It is about from three to four leagues
5th Question. On which side of the creek that enters into the Estero de Tomales was the house you have spoken of as Berry's House in your deposition taken before Peter on the 20th of Dec. 1854 as above referred to?
Answer. It was on the North East side

James Black

Subscribed and Sworn to before me on this
8th day of January A.D. 1855
Peter Lott Commissioner
Filed in Office Jan 9. 1855
Geo. Fisher Secy
Recorded in Rec. B Vol 11 p 220
Geo. Fisher Secy

Deposition of John Marsh

United States of America
State of California } ss:

418 ND
PAGE 22

On this 8th day of January 1855 Came before Peter Lott Commissioner for taking testimony in the U. S. Land Commission in said State John Marsh a claimant for Claim in case No. 525 in said Board and being sworn testifies as follows - The claim in the case is Bolton Phelps.

The U. S. Special Law Agent is present Questions by Claimants Counsel

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

Answer. My name is John Marsh am 53 years of age and reside in the County of Contra Costa State of California

2d. Question. Are you acquainted with the Rancho of Bolenas, and how long have you known said Rancho?

Answer. I am acquainted with the Rancho and have known it since the month of January in the year 1838 when I was there last

3d Question. Do you know any thing of the occupation and cultivation of the said Rancho by Rafael Garcia, if so, state what you know of such occupation and cultivation

Answer. In the year and month last mentioned Rafael Garcia was living there with his family in a new house built of timber, the house was situated near a small stream of fresh water on the west side of Bolenas Bay two miles from the beach or above where two

2.3

418 ND
PAGE 23

Marks (□□) are indicated upon a map marked "A P S" exhibit to deposition of Jose Fernandez dated Nov. 30 1854 and filed in this case. He had a small piece of land under cultivation planted with potatoes and other vegetables. He had several hundred head of Cattle I dont know how many. The cattle ranged upon the mesa (table land) running up the Coast from his house to the west ward—

4th. Question. What land did Garcia claim at the time referred to?

Answer. He claimed the Land about his house and the table land last mentioned known as the mesa

Cross Examined by U. S. Associate Law Agent

1st Question. How long did Garcia live on the said Land and how often did you see him there?

Answer I do not know how long he lived there. I only saw him there on the two days which I mentioned

2d Question. How do you know Garcia built the house?

Answer. I know it from his telling me so.

John Marsh

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

Peter Lott Commissioner

Filed in Office Jan. 9. 1855

Geo. Fisher Secy

Recorded in Ev. B Vol 11 p 221

Geo. Fisher Secy.

Deposition of Pablo Briones

United States of America
State of California
San Francisco Dec. 20. 1854

This day came before Peter Dott Commissioner for taking Testimony to be used before the Board of U. S. Land Commissioners in said State Pablo Briones, a witness on behalf of the United States in Case No 225- On the docket of said Board, wherein Bethuel Phelps is Claimant, and said witness being sworn deposed as follows

Judge Sutherland is present as Counsel for Claimant -

Interrogatories by U. S. Law Agent

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

Answer. My name is Pablo Briones My age is Sixty Four, years, My residence is Marin County California

Question 2 Are you acquainted with J. R. Berry and with the Rancho Claimed in this Case, if you how long and what was the Character of your acquaintance State whether said Berry ever lived upon said Rancho or was Occupied the same - State all you know about the matter

Answer. I am acquainted with said Berry and with the said Rancho - I became acquainted with the said Berry in 1838 and the Rancho in 1837 - with said Berry I was not intimate - I have spoken to him sometimes, I was passing acquaintance he lived sometime at the Rancho and always had stock on it ever since 1840 to the time of his death and his Cattle were there effects in the charge of his Major Domo Rafael Garcia - For about two years said Berry had a house on Garcias land beside there by Garcias permission this was about the latter part of 1839 or Early in 1840 - I do not recollect the time precisely -

Cross Examined by Claimants Counsel

1st Question. Had Captain Snook a house on the Land claimed in case No. 772 as indicated by the Map in the Espediente in that case?

Answer. Yes he had a house a corral near the house of the Estero, about where the picture of a house stands on said Map in "772 near the words "Rancho de Snook"

418 ND
PAGE 25

2d Question. Did said Snook live in said house with his family?

Answer. He lived there with his family about a month I think it was about the year 1840

3d Question. Did Snook about the time he lived there or shortly there after sell his Rancho to Antonio Maria Osio

Answer. I understood that he sold it to Osio And I know Osio soon came there and took possession of the place

Pablo Briones

Subscribed and sworn to before me on this 20th day of December A.D. 1854

Peter Lott Commissioner

Filed in Office Dec. 23d 1854

Geo. Fisher Secy

Recorded in Ev. B Vol 11 p 102

Geo. Fisher Secy

Deposition of Francis Uesgoe

United States of America }
State of California }

San Francisco Dec. 20. 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 Francis Uesgoe, a witness on behalf of the United States in Case No 525. On the Docket of said Board And said witness being sworn deposed as follows—

Bethuel Phelps is Claimant

The Claimant's Counsel Judge Teetheran is present

418 ND
PAGE 26

Questions by U. S. Surveyor

Question 1st What is your name age and place of residence?

Answer. My name is Frances Wescott My age is fifty three years I reside in Marin County

Question. 2nd Are you acquainted with J R Berry and Watt the Rancho Claimed in this Case, If you know him and when were the Circumstances of your acquaintance with them, and State whether Said Berry now lives on Said Rancho Or ever occupied the Same. State all you know about the matter

Answer. I was acquainted with J. R. Berry - I knew him from 1834 or 1835 to the time of his death. I am also acquainted with the Said Rancho and I have known it ever Since the year 1835 I was large acquainted with Said Berry I never knew Said Berry to live on this Rancho and he never had a house on Said Rancho - I knew that he called home On Said Rancho in 1839 or 1840

Garcia drove them on there at Berrys request and I think received pattern of the increase for taking care of them. Berry owned Stock at Garcias Jacks Marins or Jim Blacks, he died at Jacks Marins. I was One of the Witnesses to his Will

Crop Examined by Claimants Counsel

1st Question. Did you ever know of Berry having any house, of you, where was it Situated?

Answer. I knew of his having a house On the Same that Garcia now claims - I was about two Miles South of the Estero of Tomales - that house was built I think in 1836 I helped to build it

2nd Question. Had Berry any Cattle Company about his house in 1836?

27

Answer. Yes, he had about 50 head cattle & small Corral

3d Question. When did Bruce reside in 1856 When the horses were killed by Berry?

Answer. He lives at Banlines Bay?

Jose Franco. Mesgol

Testimony taken & sworn to before me
December 30th. 1854

Peter Sole Comr.

Filed in Office Dec 22. 1854
Geo. Fisher Secy

Recorded in Rev. B Vol 11 p103
Geo. Fisher Secy

418 ND
PAGE 27

Deposition of Gregorio Briones

United States of America
State of California } ss:
San Francesco Dec. 20. 1854

This day came before Peter Sole Commissioner for taking Testimony to be used before the Board of U. S. Land Commissioners in case State Gregorio Briones & Others on behalf of the United States in Case No. 535 on the Docket of said Board Wherein Bethuel Phelps is Claimant, and said Gregorio being sworn deposed in Spanish which is interpreted by the interpreter to said as follows

Judge Bethuel is present as Counsel for Claimant.

Questions by U S Dist Agent.

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

Answer. My Name is Gregorio Briones, My age is forty seven by the grace of God, My residence is in Monterey

Question 2d. Are you acquainted with J R Berry and with the Rancho Claimed in this Case if you know any and what was the Character of your acquaintance with him, and state whether said Berry was living on said Rancho or not Declare the time state all you know about the matter.

418 ND
PAGE 28

Answer. I became acquainted with Isaac Berry in 1839. I have known said Rancho to be recognized as his since 1831. My acquaintance with said Berry was only a passing one. I never saw him living On the place, nor was I aware of his having a house on it.

I have hunted on the land and would have seen if he had one there He occupied the place with about two hundred head of Cattle, which according to the best of my recollection I saw there in 1840. After he Commenced thus to occupy a part of it till the time of his death after which the Cattle remained On the place and was in the charge of Rafael Garcia, by an Agreement with William Foules the English Consul, I understood the Consul was to pay him for taking Care of the Cattle. I do not know whether that Agreement was in writing or not

Cross Examined by Claimants Counsel

1st Question Is your Memory of dates good?

Answer. No. It is very poor

2d Question. Does Captain Snook live on said land with his family, if so when and how long?

Answer. I hope Snook lives there with his family 20 days or a month I do not remember to the year, and when he left there he Exchanged the place with Antonio M Osio for a Company in Los Angeles Snook has a few Cattle and horses there on the place

Gregorio Briones

Subscribed and Sworn to before me this 20th day of December A.D. 1854

Peter Sote Commissioner

Filed in office Dec 22d 1854

Geo. Hoshen Deputy

Recorded in Rec. B Vol 11 f. 104

29 Deposition of John Paty

United States of America }
State of California } SS.
San Francisco Dec. 21. 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 John Paty a witness on behalf of the Claimant Bethuel Phelps in Case No 525 On the docket of said Board and said witness being sworn deposed as follows

418 ND
PAGE 29

The U. S. Law Agent is present
Questions by Claimants Counsel

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

Answer. My name is John Paty My age 47 years, My residence Honolulu Sandwich Islands.

2d Question. Are you acquainted with the Rancho granted to James R Berry in this Case if you know of it?

Answer. I know that said Berry had a ranch. I was at his house on his Ranch in 1841 I came up there by land to find the wreck of Lamantour's vessel and Hope Voyage, Lamantour and One Mr. Reed who is since deceased were with me. We stopped at Berry's house, which stood as near as I can locate it on this Map Marked Exhibit 1 to this deposition and heretofore filed in this Case, about half way between the letters R in "Road to San and O the first being the Capital R in "Road to San Rafael" and the Other the O in "Olemas Creek". The house was On the Northerly Side of said Creek

Garcia's house where we stopped at night going and also when returning, was Close On the West Side of Bunlones Bay near a creek, the spot is indicated On this Map by two Square dots thus "□□". The wreck was just at the Entrance of the Estero On its Eastern Side and may be indicated on this Map as being 2¾ inches a little West of North from the P in the words "Pacific Ocean"

418 ND
PAGE 30

On Said Map, at the place on the Westerly side part of Said Map where the Estero is indicated by Some dotted lines. My errand up there was to help Sam Brown to get off his Cargo which I afterwards did. When we had Landed ourselves at the location of the wreck there was a small house just South of Tomales Bay which was unoccupied when we were up there, and as we passed it, it was pointed out as Capt. Snooks house
I saw no other houses in the Ranch besides Berry and Garcia's which I have mentioned Garcia was living there with his family, and had Stock there and a Corral.
This was the Only Visit I ever made to the Ranch in question.

Cross Examined by U. S. Surveyor

1st Question. How do you ascertain with Such Exactness where to locate the house you Saw, On the Map Shown you, give the Compass on the Scale, with the distance Lines of Said Map. How Can you give location and distance, at this time with Such Exactness?

Answer. The Scale of this map I understand to be 400 rods to 1 inch and the Scale of 1 league is a little over 3 inches and I do not pretend to be so very Exact, but I recollect that Soon after we passed Berry's house we crossed the Creek and of the San Rafael Road is Correctly laid down here it would make my ideas of the location tolerably Correct.

2d Question. How do you know the house you Saw was on Berry's Ranch?

Answer. I only know it by hearSay. It was called Berry Ranch

3d Question. Describe the house Berry and State whether he was living in it when you were there?

Answer. It was a Wooden house made I think with bowrds One Story high and about 15 by 20 feet in Size. Berry was

Not there when I were - I think he were at Sacrecteto, at any rate he were not at home he have no family -

John Daly.

Subscribed and sworn to before me this 21st day of December A.D. 1854

Peter Dott Commissioner

418 ND
PAGE 31

Filed in Office Dec. 22nd 1854

Geo. Fisher Secy

Recorded in Rec. B Vol 11 p 105

Geo. Fisher Secy

Deposition of Jose Fernandez

United States of America
State of California } ss
San Francisco Nov 30 - 1854

This day Came before Peter Dott Commissioner for taking testimony to be used before the Board of U.S. Land Commissioners in said State Jose Fernandez a witness on behalf of the Claimant Bolivar Phelps in Case No 535 on the Docket of said Board, and said Witness being sworn deposeth in Spanish which is interpreted as follows.

The U.S. Law Agent is present.

Questions by Mr. Sutherland for Claimant

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

Answer. My name is José Fernandez My age 55 years My residence in Santa Clara County California.

2nd Question. Are you acquainted with the Rancho called "Arroyo de Barranes y Tomales" in Marin County, of your State if you know the boundaries of said Rancho and how you know them?

Answer. I am acquainted with said Rancho I was Juez on the said Rancho in 1837 - I have known the Rancho since that time - I know the boundary on the side next to the Rancho of Rafael Garcia - I do not know personally the boundaries on the other sides I know this boundary which adjoins Garcia, from Garcia's having told me so, and from having been there, Garcia told me this Rancho bounded on his, but did not show

418 ND
PAGE 32

me the exact point.

3rd Question. State whether you know what was the extent of the land petitioned for by Berry and how you know it

Answer. I know that Berry solicited a grant of Land four leagues long and two leagues wide bounded on two sides by the mountains which form the two sides of the Canon in which the land was represented as lying - I know this from having been told so in 1837 by Juan Garcia and Juan Berry

4th Question. Are you the same Jose Fernandez who signed the information which accompanied the petition of Berry?

Answer. Yes - I am the same person

5th. Question. Look at the Map now shown to you marked "A. G. L. Exhibited in this deposition, and state whether the boundaries of Juan Rancho as marked thereon exhibit a correct description of the Land as petitioned for by Juan Berry and which you in formation aforesaid related to.

Answer. I did not go all over the Land, but according to my understanding of it this is a correct description of the land which Berry petitioned for and upon which I gave the information

6th Question. State what you know of the occupation and Cultivation of Juan Rancho by Juan Berry?

Answer. From the time I was there in 1837 Berry lived there till the time I heard of his death - I do not know anything about the cultivation Berry had Called there He had a small wooden house in which he lived and I Camped It was in the rainy season about January or February 1837. That I was there.

Cross Examined by U. S. Law Agent

7th Question. Where have you resided since the year 1836

Answer. I have resided ever since 1836 at Santa Clara about three days journey

33

418 ND
PAGE 33

from said Ranch of Canada de Baulines

2d Question. When did you first visit the land claimed in this case

Answer. I never was there but once, that was the time I have mentioned in 1837

3d Question. On business did you visit said Rancho at that time?

Answer. I went to San Rafael to get a horse of mine which Ignacio Pacheco had there, and at San Rafael Berry invited me to go and look at the Rancho of which I have made report.

4th Question. How long were you absent at Santa Clara on that trip?

Answer. I do not remember the number of days, it might have been a week more or less.

5th. When did you first become acquainted with said Berry?

Answer. It was late in 1835 or early in 1836 at Santa Clara that I first knew him. I do not know what his business was but I understood he lived across the bay

6th. Question. How often did you see him from that time till you visited the Ranch in 1837?

Answer. I saw him often I saw him at Monterey, at Santa Clara and at the Pueblo of San Jose I do not know about his business Except that Early in 1836 he went to Monterey to petition for the land.

7th. Question. How long did you stay at said Ranch when you visited there in 1837.

Answer. I think I went one day and returned the next – I was there about one day. I do not recollect the time of day I arrived there or the hour I left. It is so long since that I recollect very little about it. I am not going to state more than I remember.

8th. Question. What did you do while you were there?

Answer. I do not know what

I dare I suppose I was riding on horseback it was about all we had to in those days

9th Interlin. What is the shape of said Rancho

Answer. It is a square with mountains on either side that is all I saw

418 ND
PAGE 34

10th Interlin. How do you know the extent and location of those Lands?

Answer. Not was a Surveyor would know it, it is so rough and hilly. I do know what any man would want with such land. I went to see it and whatever I know was learned by going there.

11th Interlin. Were the mountains the boundary of the Rancho if you, how do you know it, and state what the form of the lines was which those mountains embraced between them?

Answer. I never saw the boundaries on the sides where the mountains are and I do not know them. So far as I saw the Canada is longer than it is wide, I dare not swear to it.

12th Interlin. How long and how wide do you know said Rancho to be

Answer. I do not know the length or breadth but I know how much he petitioned for

13th. Interlin. Do you know any One boundary of said Rancho, if you, which One?

Answer. I know none of the boundaries of said Rancho except the one adjoining the Lands of Rafael Garcia, when I was there in 1837 said Garcia pointed out to me as the line between him and Berry and Berry was present. I do not recollect the direction or course of that line.

14th. Interlin. Were that line pointed out to you on the first or second day of your visit to said Rancho

Answer. I do not remember which day.

35

15th. Question. Did Sais line run
across and lengthwise of Sais Canadas?
Answer. I do not know, they
just told me here is the line
16th Question. Where were you
when that line was pointed out to you?
Answer. We were on a hill on
the side of the Canada next to San Rafael
17th. Question. State for one in
which direction from the house which Berry
had on the ranch did this Concession Ocean
Answer. I do not know how
far it was it was about half way between
Berry's house and Garcia's
18th Question. Can you point
out on the map which has been Exhibited
to you the place where you were when you
heard that Concession
Answer. I cannot. I do not
know anything about maps. I know Berry's
house was within the land claimed by him
19th. Question. How do you know
Berry's house was within Sais land
Answer. I know it because
Berry told me that was the land upon
which I have reported
20th Question. How came
you make report of the land without knowing
its locality?
Answer. I was the only person
at Monterey from about San Francisco
and I was called upon to make the reports
I did not know the locality personally
but there were some persons there who informed
me that the land was occupied by Berry
and was vacant (valdio) and Jose Ramon
Estudillo and some one else (who name I
do not now remember) said to me that
I could sign the report with my opinion
as that it would be right. I do not
now recollect the names of those who
informed me that the land was vacant
and occupied by Berry

418 ND
PAGE 36

21st Question. Do you know the Canada de Bonenes at Reese Ranch?

Answer. I know the part of it where I was.

22d Question. Do you know the Canada de Tinoles at the Stone Ranch

Answer. I have heard the place mentioned but I never saw it

23d Question. Is there a Stream of water running through the Canada de Bonenes?

Answer. I think perhaps there is One, though I do not remember to have seen it. It is so long since I was there that I remember my visit almost like a dream

24th. Question. Was there any Stream of water near to Berry's house?

Answer. I do not know. I Cannot remember. If I have seen one I Cannot remember

25th. Question. Have Berry a family when you were there?

Answer. No.

26th Question. Describe the house Berry lives in?

Answer. It was a small affair about Large Enough to hold his bed and a heap of cured meat he had there - It was made of split red wood poles set in the ground and leaned to a pone at the top like the Comb of a roof. There was nothing more about it as a Covering Except the red wood split poles or posts of which it was made It was perhaps 6 Paces or 8 yds in length and low here to stoop to get into it

27th. Question. Did you and Berry and Garcia all sleep in the house the Night you were there?

Answer. Berry slept in the house and I and the Indians slept out under a tree.

28th. Question. Do you know. Of your own knowledge that Berry ever

37

418 ND
PAGE 37

were there before or after that time

Answer. I do know that he was there before I went there, not that I saw him, but because the house was there, and the lumber should that of had been cut and split before that time I know that he was there afterwards. I did not see him there, I knew it from information

Jose Sunday

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

Peter Dove Commissioner

Filed in Office Dec. 4 1854

Geo. Fisher Secy

Recorded in Rec B Vol 11 f 35

Geo. Fisher Secy

Deposition of J. B. Alvarado

United States of America
State of California ss
San Francisco June 26. 1855

This day Came before Peter Dove Commissioner duly Authorized to take testimony to be used before the Board of the U. S. Land Commission in Case titled Juan B Alvarado, a Claimant On behalf of the Claimants Bolton Phelps. in Case No. 535 On the Docket of said Board and said testimony being sworn Reposed in Spanish, which was interpreted by the interpreter to said Board as follows -

The U. S. Opposite Counsel Agent is present

Dunleavy Claimants Counsel

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

Answer. My name is Juan B Alvarado, my age 46 yrs and residence in Contra Costa County California.

2d Question. Look at the document now shown to you marked "A B S" as an exhibit to this deposition and State whether you have seen the Original of which this purports to be a Copy, and whether this is a Correct Copy of said Original. State also

418 ND
PAGE 38

Whether you are acquainted with the hand writing of Dance Spence Jose Joaquin Gomez and Jose Maria Maldonado, and if you state your means of knowing them, State also Whether the Signatures of those persons as they appear in Said Original Document are genuine State also whether your own Signature thereto is genuine, and what Office you held at the date which appears on the 14th page of the Document shown to you?

Answer. I Saw the Original of this Document yesterday in the Archives of the U. S Surveyor Generals Office and this is a Correct Copy of it. I know the hand writing of said Spence, Gomez and Maldonado I have often Seen Each of them write, and their Signatures in Said Original Document answering to page 14 in this Copy are genuine, and my own Signature thereon Written by me.

I was at that time (September 1836) a Deputy to the Surveyor Depositary, and as such Deputy was then acting as President of that body, and Said Maldonado was then Secretary of the Same Depositary.

3d Question. Look at the document now shown to you marked "D J L" as an Exhibit to this Deposition, and State whether you are acquainted with the hand writing of Nicolas Guerrero and Francisco del Castillo Negrete, if you, State your means of knowledge and also whether their Signatures as they appear on the 3d written page of Said Document are genuine

Answer. I am acquainted with the hand writing of both of these persons named. I have often Seen them both write and their Signatures here, one of Guerrero and two of Negrete are genuine

4th Question. State whether the act of Confirmation in Said Original Documents in the Surveyor Generals Office Corresponds to this Copy On page 14 of "D J L"

418 ND
PAGE 39

just Exhibited to you was a Confirmation of the grant last Shown to you Marked "B P S"

Answer. I believe Same opposed referred to, is the Approval of the grant to Berry last shown to me which calls for a tract of Land 4 Leagues long and two leagues wide

Geo B Alvarado

Subscribed and Sworn to before me on this 26th day of January A D 1855

Peter Sole Commissioner

Filed in office Jan 29 1855

Geo. Fisher Secy

Recorded in Rec. B Vol 11 fo 296

Geo. Fisher Secy

Deposition of Stephen Smith

United States of America
State of California } ss
San Francisco Feb. 5 1855

This day came before Peter Sole Commissioner duly acting testimony to be used before the Board now sitting at San Francisco in said State, Stephen Smith, a witness on behalf of the Claimant Rafael Pico in case No 335 On the Docket of said Board and said witness being Sworn deposed as follows

The U. S Law Agent is present

Questions by Mr Pacheco for Claimant

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

Answer. My name is Stephen Smith my age is 70 years my residence Bodega California

2nd Question. Look at the two Documents now shown to you Marked Exhibit 1 and 2 as annexed to this deposition and heretofore filed in this case and State what you know about the execution of said documents?

Ans. The document Exhibit No 1 is a deed from James Richard Berry to me I saw him sign his name where it appears in said Document as his having Executed

418 ND
PAGE 40

the Same and I signed my name on the left side of the Same page as witness the execution. And I also saw Edward Spence and Wade Cain of Richard sign their names as Witnesses, where they appear below Same Signatures of Berry - This was done at Monterey on the 14th day of February 1844 "Exhibit 2" is a deed given by me to Beth Nel Phelps I and my wife Francis Smith Signed it and these are our genuine Signatures, We Signed in the presence of Witnesses and although I do not recollect distinctly what Witnesses Signed it I have no reason to doubt that Alcalde Noble and Wm. T. Moore whose names are Signed as Witnesses were present.

I know said Noble and I know there was a man about there of the name of Moore. We died there on the 25th day of September 1848 and afterwards acknowledged it before Mc Kinstry the Alcalde of San Rafael.

I am present and declare to Corp Examine.

J. A. McKenne
U. S Surv Agent

Subscribed and Sworn to before me on this 5th day of February 1855

Peter Lott Commissioner.

Filed in Office Feb. 9. 1855

Geo. Fisher Secy

Recorded in Rec B Book 11 p. 308

Geo. Fisher Secy

Deposition of Domingo Feliz

United States of America }
State of California } ss
San Francisco Jany 10th 1855

This day Came before Peter Lott Commissioner for taking testimony to be used before the Board of U. S. Land Commissioners in said State Domingo Feliz a witness on behalf of the Claimant in Case 525 on the docket of said Board, and said witness being Sworn deposed in Spanish which was interpreted by the interpreter of said Board

41

les follows.

"The U. S. Special Law Agent is present
Questions by Claimant

1st Question. What is your
Name Age and place of residence?

Answer. My Name is
Domingo Feliz. My age 35 years my
residence in San Francisco Recently
Telefonica.

2d Question. Do you know
the Rancho called Tomales de Bunlines
and Tomales if yea, how long have you
known it and state if you know what
are its boundaries

Answer. I know said Ran
cho and have known it about 14 years. It is
bounded on the South in part by the Ran
cho of Rafael Garcia on the Tomales
Bunlines there is a small lake (Laguneta)
where marks. The Northern Corner of said
Rancho is where the roads from Tomales
to Sonoma cross. On the West by a
range of mountains which divides the
Ranch from that of Petaluma Rancho, and
the boundary On the Eastern side towards
San Rafael in another range of moun
tains for which I know no name

3d Question. State what your
means are of knowing these boundaries
and look at the map which is filed in
this Case and marked "X P L" as an Exhib
it to this deposition and state whether it is
a Correct delineation of said tract of land

Answer. My Father was
Married to James Richard Berry
four years. Berry was the Owner of said
Rancho, and my father pointed out
these boundaries to me, he told me they
were the boundaries of Berry's Rancho. My
father and I used to hunt elk over these
Ranches and I have been over them several
times. And Rafael Garcia told me that
Laguna was On the boundary between
him and Berry. "These are the Bounces of

418 ND
PAGE 42

my knowledge on the subject. The pattern of this map embraced in the parallelogram in yellow lines gives a true description of said Rancho - it is four leagues long and two leagues wide.

4th Question. Where did Rafael Garcia reside when you first knew this Rancho?

Answer. He lived near the head of Banlenes Bay where two little square marks appear on said map, and his family lived there with him.

Map Examined by U. S. Law Agent

1st Question. Where have you resided during the 14 years that you have known this Rancho?

Answer. I have always lived in San Francisco County on the Sanchez Rancho about 10 leagues distant from this Rancho in question.

2d Question. How often have you visited said Rancho of Berry since you first knew it?

Answer. I have been there about six times I was there first about 14 years ago and all the visits I made were during the first four years of my acquaintance with it, when my father lived many years down there.

3d Question. How many times did your father point out these boundaries to you?

Answer. Two or three times

4th To what purpose did he show them to you?

Answer. I cannot tell I know nothing about this

5th Question - For what purpose did he show them to you?

Answer. He was passing over the Land together and I inquired of him where the boundaries were and he told me I had no particular motive except general curios-

Shad no particular motive except general interest

43

418 ND
PAGE 43

6th Question. Where was you on the Ranch when he first showed you the boundaries?

Answer. We were in the Cañada not far from Berry's house the first time I asked him, we were going to count some stock, near where the words "Olmus Creek" are written on said map.

7th Question. What led to the conversation between you and your father at that time and what was said?

Answer. When I was there I was thinking of Garcia's ~~boundary~~ boundary and I asked my father where Garcia's boundary was and he told me, and described Berry's boundary to me as I have described them in this deposition, and that was substantially all that was passing between us on the subject at that time.

8th Where was you on the Ranch the next time you talked with your father on this subject, and what was said and done on that occasion—

Answer. The next time we talked about it we were at Berry's house we were at breakfast and I asked my father if Garcia's Ranch extended up to that place and he told me it did not, it only came up to the Lagunita. That was all that was said at that time.

9th Question. Where was you on the Ranch the 3d time you talked about said boundaries and what was then said?

Answer. I cannot remember the particular places, where all the conversations occurred, I was going about on the ranch with my father and we were talking about these things— I recollect we were out on the Ranch the 3d time we talked about it but I cannot recollect the precise place. These were the only times my father mentioned the boundaries to me, and substantially all he said to me

418 ND
PAGE 44

on the Subject As I have Stated &c.

10th Question - Is there any Mark on On the Surface of the Earth Corresponding with the Yellow line you have noticed on the Map of you, described Said Mark, and if May how do you know the Shape of the Rancho was a parallelogram with right Angles.

Answer - I Saw no Artificial land Marks The only Marks I Saw were the Lagunitas On the South, the Arm of the Estero On the North and the Sonoma Roads and the Sierra On the West and On the East - according to the information I have, I thought the Rancho was in a Square form about four leagues long and two leagues wide, but I did not Supppose it was so perfectly and regularly formed as the Yellow line would represent it

11th Question. What Constitutes the Corners of the Rancho according to what you Saw or were told you?

Answer. I did not Show me the Corners. he told me the boundaries On the Sides as I have mentioned He told me the top of the Sierra divided the Rancho from Santa Rosa, he did not Say what part of the Sierra was the boundary On the East

12th Question. Are the directions of the ranges of hills on each Side of the Canada Correctly laid down on Said Map.

Answer. It appears to be Correct to my Eye.

13 Question. If you Father told you that the crest of the Sierra on the East was the boundary, how came you Say that the line as laid down from any that Side of Said Parallelogram and Cropping Said Range is the Correct boundary

Answer. He pointed out the Mountains and told me they was the boundaries, but he Said Nothing to me about

45

straight lines. It might be if the Rancho was measured with exactness that the lines would run as the yellow lines are laid down

14th Question. Point out on said map where your father told you the ranges of hills were which formed the Eastern and Western boundaries of said Ranch?

Answer. On the West the Sierra were those lying west of the Olmas Creek through which the Westerly yellow line runs, and those which my father showed me. On the East I understood to be along here where a black dotted line runs with the words "Road to San Rafael written on part of it.

15th Question. Point out on the map the Laguna you mention and state whether it is grown over with Tule

Answer. It is this little spot at the word "Olmas L" and I cannot say whether it is grown over with Tule It was a small lake when I saw it say 50 or 100 varas across

16th Question. How far were you from said Laguna when your father told you that was the boundary

Answer. We were perhaps a half league distant from it.

Domingo Feliz

The Law Agent objects to the foregoing deposition being read in Evidence on the ground that it is secondary and otherwise incompetent testimony.

Peter Lott Commissioner

Subscribed and sworn to before me on this 10th day of January A.D. 1855

Geo. Fisher Secy

Filed in Office Jan 15, 1855

Geo. Fisher Secy

Recorded in Ev. B Vol 11. p234

Geo. Fisher Secy

418 ND
PAGE 45

#6
Deposition of
Manl. Castro.

United States of America }
State of California - - } ss.

On this 19th day of January Manuel Castro appeared before Peter Lott Commissioner for testimony in the Board of the U S Land Commission in said State and being Sworn On behalf of Claimant, Bolton Skelps testifies as follows the Spanish being interpreted into English

418 ND
PAGE 46

"The U. S Special Law Agent is present

Question 1st By Judge Sutherland for Claimant. What is your Name age and place of Residence?

Answer. My Name is Manuel Castro and thirty three years of age and I reside in Monterey County State of California

2d Question. Look at the Deed marked & dated herewith Subscribed to you and annexed to this Deposition marked "A P L" and say whether or not you recognize said Document and if so, whether or not your Signature thereto as an attesting witness is genuine, State generally all that you know Concerning said Deed.

Answer. I know said deed the body of the document is in my own hand writing. I see James Richard Berry, Stephen Smith as parties and Denver Spence and Allen Richardson as witnesses to said deed It was signed at Monterey On the date that it purports to be on date. The Signature of Manuel Castro is my own - It is genuine

Manuel Castro

Subscribed and Sworn to before me On this 19th day of January A.D. 1855
Peter Lott Commissioner

"Filed in Office Jan 23. 1855
Geo. Fisher Secy
Recorded in Co B Vol 11 f 258
Geo. Fisher Secy

4 Certified copy of deposition of Mariano Bonello

418 ND
PAGE 47

Office Of the Board of U. S.
Land Commissioners &c. &c.

San Francisco January 5. 1854

This day before Commissioners Alpheus Felch came J. Mariano Bonello a witness in behalf of Claimant & Randall Petition No. 666 who being duly Sworn his Evidence being given in Spanish was interpreted by the Secretary as follows

Questions by Wm. Williams Atty for Claimant

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

Answer. My name is Jose Maria Bonello my age Forty Seven and I reside in the County of Luis Obispo in California

2d Question. What Office did you hold in 1844

Answer. I was Secretary to the Superior Court of Justice of California at Monterey (Superior Tribunal)

3d. Question. Do you know what has become of the Records of that Court

Answer. I do not. I left the archives in the Charge of the President of the Tribunal, Juan Malarin

4 Question. Look on the Document now shown to you marked "Exhibit No. 2" with the indices P J and annexed to the deposition of Denis Spence heretofore taken and filed in this case and State what you know in regard to the Controversy and its decision mentioned therein

Answer. I recollect perfectly well the circumstances of the Case and the decision. The document now presented is the decision of the Court.

5th. Question. What Office did Jose Maria Castanares hold at the time of the date of said Document?

418 ND
PAGE 48

Answer. He was Municipio Fiscal
Suplente - Suspicion - Attorney General of
Said Court

6th Question. Under the Mexican
Laws have Salvador Vallejo as Military
Commandante the Authority to give juridical
possession of Lands

Answer. He has not
Questions by Mr Greenhow a procede
Law Agent

1 Question. Were a certain not
the Governor of the Department or the
Prefect of a District have Commenced
and pushed Whether Military or Civil, or
holding no Official position to give juri
dical possession of Lands.

Answer. They Could
not Commission any one to give such posse
sion Except a Justice of the peace or an Alcalde

J Marcus Boneelle

Mr. Greenhow a procede Law Agent was present
Subscribed and Sworn to before me this
Fifth day of January A.D. 1854

Alpheus Felch Commissr

Filed in Office Jany 5th 1854
Geo. Fisher Secy

I George Fisher Secretary of the U S Land
Commission to ascertain and settle private
land Claims in the State of California do
hereby Certify the foregoing to be a true
and Correct Copy of a paper filed Jany 5
1854 in Case 616 On the Docket of the
Commissioners, Andrew Randall vs The
United States - being the deposition of
Marcus Boneelle

In Witness whereof I have
hereunto Signed my Name of Office in
the City of San Francisco this 19
Jany A.D. 1855

Geo. Fisher Secy

Filed in Office Feby 28. 1855
Geo. Fisher Secy

Geo. Fisher Secy

4th Deposition of Jose Abrego

(Certified copy)

418 ND
PAGE 49

United States of America
State of California } ss.
San Francisco Dec. 30. 1854

This day Came before Peter Dott Commissioner for taking Testimony to be used before the Board of U.S. Land Commissioners in said State Jose Abrego, a witness on behalf of the Claimant Antonio Randall in case 666 On the Docket of said Board and said witness being sworn deposed as follows

The U. S. Advocate Geo Hyde is present

Questions by Claimant Dr Randall

1st Question. What is your name age and residence

Answer. My Name is Jose Abrego, My age 41 years My residence in Monterey.

2d Question. Are you acquainted with the hand writing of Gregorio Castanares, if yea, look at the Document now shown to you marked A P L Exhibited in this Case, and State whether his Signature to said Document is genuine?

Answer. I am acquainted with Castanares hand writing. I have often seen him write and I believe this to be his genuine Signature

3d Question. State what office said Castanares held in November 9th 1844

Answer. He was Second Alcalde in the City of Monterey

4th Question. State what you know of the Occupation of the Rancho of the Rancho of Punta Reyes by Antonio Maria Osio.

Answer. I know that he moved from Monterey with his family in 1844 or 1845 to go and live on said Rancho. He was On his Rancho about two years with his family. I received letters from him while he was there. I was not myself on the Rancho. Osio moved his family back to

Monterey when the war broke out and Continueed to occupy said Ranch with his Stock - He had a Mayor Domo there and occupied it till it was Sold to Don Ramdall. Osio himself frequently was on the Ranch often he moved his family back to Monterey.

418 ND
PAGE 50

Cross Examined by U. S. Land Agent

1st Question. What was said Osio Engaged in during the year 1844 and afterwards.

Answer. He was Employed from about that time in taking Care of said Ranch. I do not know Exactly how he Employed himself there, he was not a work ing Man himself, and I was not there and do not know what he did.

2d Question. Have you any personal knowledge of his being On his Rancho?

Answer. I never saw him there the letters received from him were dated the year 1845. Friendly letters which represented that he was On the Rancho and Expressing a wish to see his friends in Monterey

Jose Abrego

Subscribed and Sworn to before me On this 30th day of October A.D. 1854

Peter Sole Com.

Filed in Office Dec. 31. 1854

Geo. Fisher Secy

I George Fisher Secretary to the U.S. Land Commission to ascertain and settle Private Land Claims in the State of California do hereby Certify the foregoing to be a true and Correct Copy of a paper filed Dec. 31 1854 No 666 Of the Docket of the Commission, entitled Ramdall vs The United States being the deposition of Jose Abrego - In Witness whereof I have hereunto Signed my name at Office in the City of San Francisco this 19. May 1855.

Geo. Fisher Secy

Filed in Office Feby 28. 1855
Geo. Fisher
Secy

51 Certified copy of deposition of Wm Reynolds

418 ND
PAGE 51

United States of America
State of California } ss
San Francisco Nov. 11. 1854

This day came before Peter Sole Commissioner for taking testimony to be used before the Board of U. S. Land Commissioners in said State William Reynolds a witness on behalf of the Claimant Andres Pico in case No 666 on the Docket of said Board and said witness being Sworn deposed as follows

The U. S. Law Agent is present
Questions by J. J. Williams Esq Atty for Claimant.

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

Answer. My name is William Reynolds my age 39 years my residence in Marin County California

2d Question, What did you reside in 1849 and what Office if any did you hold at that time?

Answer. After the 17th of March A. D. 1849 I was in Marin County near the Mission of San Rafael I was elected 1st Alcalde of the District in October of that year.

3d Question. Look at the Document now shown you and state what you know in relation thereto, the Document marked A P L and Exhibited in this deposition.

Answer. I think this is a Copy of an Original Document which in 1849 was among the Archives of San Rafael in my Custody - Last Spring I was present I was present when the Recorder was taking this Copy from the said Original and upon my attention being Called to it, by Dr. Randall I looked at this paper and saw no difference between it and said Original

Cross Examined by the U. S Law Agent

1 Question. How often and on

52

418 ND
PAGE 52

what occasion have you had your attention
called to said Original Document
Answer. The first time I saw it
looked at it in the Archives as a matter of
curiosity in 1849 upon hearing Murphy say
there was such a Document there -
The second time was Once I think in the Spring
or Early Summer of 1850 when Gary Jones came
over there and called my attention to it by
asking to see it, he translated it to me, and
the Only other time I recollect seeing it
was when Dr. Randall called my attention
to it as before stated when the Recor-
der was hearing it.
4th Question. Did you ever
Compare the said Original with this Copy
Now shown to you?
Answer. I saw them togeth
er and Examined them both - I did not read
it Over word for word but was Satisfied
that it was a Copy at the time - This
was when Dr. Randall called my attention
to it as before stated.
Wm Reynolds
Subscribed and Sworn to before me on this
11th day of November A.D. 1854
Wm Tell Clem. &c

"Filed in Office Nov. 11th 1854
Geo. "Fisher Secy

I George "Fisher Secretary to the U. S Land
Commission to ascertain and settle Private
Land Claims in the State of California
do hereby Certify the foregoing to be a true
and Correct Copy of a paper filed in Office
Nov. 11. 1854 - Deposition of William Reyn
olds in Case No 666 on the Docket of the
Commission, Andrew Randall vs The United
States - In Witness Whereof I have hereto
Signed my name at Office in the City of
San "Francisco this 19th Jany A.D. 1855
Geo. "Fisher Secy
"Filed in Office "Feb 28 1855
Geo. "Fisher Secy

Geo. Fisher Secy

A Sleepy of Depos. of D Spence

Case No. 6666

Office of the Board of Comm
ioners &c &c.

This day before Comr. Robt. A Thompson came David Spence a witness in behalf of Claimant Andrew Randall No. 6666 who after being duly Sworn deposed as follows -

418 ND
PAGE 53

Testimony on behalf of Claimant

Present H. S. Thomlin Esqr. Atty for Claimant and R Greenhow Esq Assc. Do Agnt

In Answer to question witness States that his name is David Spence his age fifty five years and residence Monterey California

Question by Claimants Atty

Look at the papers shown and marked as Exhibits No. 1 and 2 herewith filed and identified with the initials R T and State whether the Signatures of Manuel Michel Lorenz and Manuel Jemeno whose they purport to be genuine or not?

Answer. I am acquainted with hand writing of said Michel Lorenz and Jemeno, having often seen them write and I have no doubt of the genuineness of the Signatures where they occur in said Documents

Question by Same. State what you know of the Country referred to in Exhibit No. 2

Answer I know that there was a litigation between the parties therein referred to before the tribunal, and I know likewise that Juan Milain was the Prosecutor of the tribunal at that time

D Spence

Sworn and subscribed before me Nov. 1. 1853

R Acty. Thompson Comr.

I certify the above, to be true and correct Copy of the Original, now on file in this Office.

Geo. Fisher Secy

Filed in Office Jan 16. 1855 Geo. Fisher Secy

5-5-

2

150.

A. P. L. Exhibited in depo of James Clow = mem Sept-29 1852.

418 ND
PAGE 54

Espediente

Promovido por D. Antonio Maria Osio

En pretencion del paraje conocido con el

Nombre de "punta de Reyes"

322

418 ND
PAGÉ 55

56 2. S.D.N. Sello tercero Dos Reales:

Habilitado provisionalmente por la Aduana marítima del puerto de Monterey en el Departamento de las Californias para los años de mil Ocho cientos cuarenta y mil Ocho cientos cuarenta y uno—

Ximeno Antonio María Osio

Sello

Monterey En.o 4 de 1822 —

De conformidad con lo que pide el interesado en esta Representacion se le concede el terreno mencionado en concepto de que p.a obtener el título que corresponde pueda presentara demarcacion formando el diseño respectivo y corriendo los trámites de estilo

Alvarado

Exmo Sor Gobernador

Antonio M.a Osio de esta vecindad ante V.E. con el debido respeto y derecho haya lugar dice: que ha interesado en esta solicitud dado el Gobierno cuatro sitios para ganado mayor en la punta de Reyes segun mencionado en y quedan en aquellos parajes concepto de que he mas tenero que el p.a obtener el título concedido vengo en suplicar à V.E. se digne se presentara demarcacion mandarme el que haya para formando el diseño dicho para y fin del objeto respectivo sin exceder del maximum que prefija la ley.

por falta de autoridad competente aun no se ha dado la posesion de dichos cuatro sitios y sin perjuicio de estos especificandolos asi merecere de la venignidad de V.E. se sirva acceder à mi solicitud y provisionalm.te estenderme el titulo de propiedad y tem luego como se midan aquellos terrenos presentaré el diseño correspondiente de todo lo que se alle Dalaio y pido jura V.a Monterey Octubre 3. de 1822.

Antonio M.a Osio

57

2. L. D. R.

418 ND
PAGE 56

Here follows
Map

4. L. D. R.

Sello Cuarto Dos Reales:
Habilitado provicionalmte por la Adua-
na maritima del puerto de Monterey
en el Departamento de las Californias
para el año de mil Ochocientos cuarenta
y tres.
Micheltorena Manuel Castañares

(Sello) (Sello)

Exmo Sor Gober.

Antonio Mª Osio de esta
Vecindad ante V. E. con el
debido respeto y derecho que
haya lugar se presenta y dice
que en 28 de Septiembre
de 1839 compro de Dn
José Snook dos sitios de
ganado mayor que tenia
concedidos en la punta de Reyes jurisdic-
cion de Sn Francisco. y en donde despues
habiendo comisionado, vi que tenia una
grande estencion de terreno y que sin perju-
dicar à nadie por ser valdio podia pedirlo
Al efecto hice mi solicitud al E. S. G.

Monterey Oct. 26.
de 1842. Infe el
S. Srio [?] del Despa-
cho.
Michelt.ª

418 ND
PAGE 57

antecesor de V. y me concedio sin pasar del maximum, los sitios que hubiera a mas de los dos comprados como consta de la Adjunta peticion.

Da ados años ahora que lograva de la satisfaccion de poseer pacificamente un Rancho que comensava à fundar con cerca de quinientas Reces y ha la Voz que estava listo para llevar mayor numero desde el pueblo Sn Josè supe por el Sor Capitan Dn Salvador Vallejo que el mismo habia dado posecion y del S. S. D. K de todo mi terreno à Dn Jaime Ricardo Beni: Este aviso lo tuve en presencia de V. E. el Sor Gobernador à quien à luego me quejè en lo verbal del despojo violente de mi propiedad; y su contestacion fue decirme que motivo à las diferencias habidas entre el Gobierno y commandancia gral; Un medida prudente tomara la de que yo aguardara à V. E. que se halla proximo à llegar.

Como he dicho antes ha à dos años E. S. que supo atrazos de mucha consideracion por lo que muy encarecidamte suplico à V. E. se digne mandar entender el titulo de propiedad à mi favor en la estencion conforme provisionalmte se me concedio y que al Sor Beni se le haga entender de que no tiene derecho alguno en la punta de Reyes por ser nula en todas sus partes la posesion dte alli le dieron y sugetarlo à los sitios que le fueron dados en la Canada del Estero de Tamales como terminantemte lo espresa el Expedte que al efecto se formo en el año ventiseis: en el cual se halla el diseño respectivo: y à primera

se halla el diseño respectivo: y á primera

S-4 6.S.D.K

vista se advierte que aun la misma naturaleza quiso dividir los dos Ranchos poniendo una cienaga de por medio. Por tanto a. V.E. Ruego acceda á mi pedido por lo que recibiré gracia y justicia, Juro &c

Monterey Octubre 3 de 1843

Antonio Ma Osio.

418 ND
PAGE 58

Sr Gobernador

por todo lo practicado en los Espedtes respectivos, como por la concesion hecha á D. Jaime Ricardo Beni, y á Dn Rafael Garcia y por la confirmacion de la Comicion Departamental en 5. de Septbre de 1836, resulta que al Sr Beni se le concedieron ocho sitios de ganado mayor, en el paraje llamado Cañada de Gamales y Baulenes y al Sr Garcia otros dos sitios en el mismo paraje de los Baulenes sin tener accion alguna al demas teneno inmediato; y mucho menos al paraje que se le ha concedido y reclama el Sr D. Antº Mª Osio que esta dividido por ma cienaga Co cuanto puedo informar á V. E. en cumplimto al superior decreto de 26. del presente mes.

(Note. see reference to this evidence in this certificate — Sr. Secy)

Monterey Octubre 28. de 1843.

Manl Jimeno

Monterey Octe 28. de 1843.

Como opina el Sr. Srio del Despacho á favor y en justicia al S. Osio y estando Valdio el teneno Espidasele el titulo y decrete las providencias q. pide.

Michelª

Monterey 30. de Novembre de 1843.

Vista la peticion con que da principio este Espedte los informes que preceden con todo lo demas que se tubo presente y de ver

61 S.L.D. 12

418 ND
PAGE 59

conmio (Sello tercero Dos Reales:
Habilitado provicionalmente por la Aduana
maritima del puerto de Monterey en el
Departamento de las Californias para
los años de mil Ocho cientos cuarenta y
mil ocho cientos cuarenta y uno
Inmero Antonio Maria Osio

(Sello) =vino de conformidad con las leys
y Reglamentos de la materia; de
clard à Dn Antl Mn Osio dueño en
propiedad del paraje nombrado punta
de Reyes, colindante con Dn Jaime R.
Beni, Dn Rafael Lucia, siendo sus limites
por los demas partes el Mar y Estero de Tamales
en estension de Once sitios de ganado mayor
sin comprender los dos sitios que se le habian
concedido à Dn Jose Sloke. Libre el
correspondte despacho tome Razon en
el Libro respectivo y dirijase este espedte
à la Exma Asamblea Departamtl para
su aprobacion. El Exmo Sr Gobernador
asi lo mando decreto y firmio de que doy
fee.

Michelt

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 having in my Office and under
my charge and control a portion of the Archives
of the former Spanish and Mexican Territory
or Department of Upper California do hereby
certify that the eight preceding and hereunto
attached pages of tracing paper numbered
from One to eight inclusive and each of which

from One to eight inclusive and each of which

61

is verified by my initials (S. D. K.) exhibit true and accurate copies of certain documents on file and forming part of the said Archives in this Office: And I do further Certify that upon an examination of the said documents it is apparent that the word "Ohio" being the first word in the ninth line from the bottom of the sixth page of said annexed Copies, and included therein on Red. Lines, has been written on an erasure in lieu of some word originally written in said place.

418 ND
PAGE 60

Seal

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 26th day of March A. D. 1852

Saml. D. Kmf
Asst. Genl. Clk

Sealed in Office March 1st 1853

Geo: Fisher
Secy

Translation of Espediente.

418 ND
PAGE 61

Seal of the third Class Two Reals
Authorized provisionally by the Administration
of the Maritime Custom House of Monterey
in Upper California for the years Eighteen
hundred and thirty four and Eighteen
hundred and thirty five
(Signed) Castro — (Signed) Angel Ramirez

Sen Superior Political Chief

I James
Richard Beny a foreigner naturalized
in the Mexican Republic, before your
Excellency with due respect, and as the
law may permit me, do say: that being
desirous to dedicate myself to the
agricultural pursuit of this territory,
which was the object of my coming
to this Country from the interior of the
Republic, and finding myself favored
by the Colonization Laws to that effect
I apply to your Excellency in order that
you may be pleased to grant me a
tract of Land on the North side of
San Francisco, designated in the
annexed plat which I duly accompa
ny; this Land is unoccupied and does
not belong to any private person, Corpo
ration or Pueblo, and consequently may
be colonized, and I claim the privile
ges of the Colonization Laws in mak
ing this petition, and therefore request
that your Excellency will be pleased
to accede to my petition, causing
the necessary steps to be taken whereby
I shall receive favor — swearing not
to act through malice and that

which is necessary
Monterey 25th November 1835
(Signed) James Richard Berry

Marginal Decree
Monterey November 27th. 1835

In Conformity with
the Laws on the subject, the Ayuntamiento of San Francisco will report
whether the party interested in this
Memorial proposes the qualifications
required to be attended to in regard
to his request; whether the land asked
for be Comprized within the 20 Frontier
Leagues, Or the 10 Leagues from the
Sea Coast, mentioned in the Law of
the 18th of August 1824 whether it
be irrigable, dependent on the precarious
Calcains (de temporal) or suitable
for watering and pasturing Cattle (de
abrevadero) whether it belong to any
private person, Corporation or Pueblo;
and whatever Else may be conducive
to illustrate the matter.
Don. Jose Castro a member of the
Most Excellent Senatorial Deputation
and Political Chief ad interim of
Upper California did thus Command
decree and Sign whereof I give
testimony—

(Signed) Jose Castro
(Signed) Franco de Castillo Negrete
Secretary

Señor Superior Political Chief
In Compliance with the
Superior Decree of the 27th of November
of last year annexed to the foregoing

65

418 ND
PAGE 63

petition presented by the foreign naturalized in the Mexican Republic, James Richard Berry, the Ayuntamiento of this Demarcation reports as follows; the party interested proposes the requisite qualifications in order to be attended to: the land which he asks for is not comprised within the 20 borracy Leagues, although it is near to the Mission Establishment, but is within the 10 Leagues from the Sea Coast referred to by Law; it consists of irrigable land, land dependant on the seasons, and land suitable for watering and pasturing Cattle, and does not belong to any private individual Corporation or Pueblo and is entirely unoccupied, all of which circumstances induce the Ayuntamiento to believe that there is no objection whatever in granting it to him.

San Francisco February 29th. 1836

(Signed) Jose Joaquin Estudillo

(Signed) Francisco Sanchez

Secretary.

Monterey March 14th 1836

Let this be presented to the first Alcalde of this port, before whom the party interested Mr Richard Berry will produce the testimony of three Competent Witnesses who shall be interrogated on the following points:

1st Whether the petitioner be a Mexican citizen by birth: whether he be married and have Children; whether he be of good Conduct.

418 ND
PAGE 64

2do Whether the lands asked for belong to any
private individuals, Mision, Corporation or
Pueblo as indicated by the foregoing report:
whether it be inigable, subject to periodical
rains, or suitable for watering and pasturing
Cattle, and what Extent it may Compass
3to. Whether he has any cattle wherewith
to stock it, or the facility of obtaining
any.

These steps being taken the Espediente
will be returned to be decided upon.

Señor Don Nicolas Gutierres, Political
Chief ad interim of the Territory dio
this Command decree and sign whereof
I Certify

(Signed) Nicolas Gutierres

(Signed) Franco del Castillo Negrete
Secretary

Monterey March 16th 1836

Fees $1-

Let the party interested
be notified to procure the witnesses who
are to be Examined on the points Compre
hended in the foregoing Superior decree:
let the testimony asked for be taken and
when finished, let the Espediente be
returned to the Superior Political Chief
in order that the proper decision be given

Thus I the Constitutional Alcalde of
the first denomination of this Port dio
decree Command and sign with Capisting
witnesses

(Signed) Jose R Estrada

assisty. Witness Apostg Witness

(Sgd) Jose Maria Madonado. Santiago Aguilar

On the same date the foregoing decree was
notified to Mr. Richard Berry who on

notifico to Mr. Richard Berry who an

67

understanding it Said, that he heard it, and that he presents Mrpes. Joaquin Gomez, Rafael Garcia, and Jose Fernandez, and signed with me and the assisting witnesses

(Signed) James Richard Berry
(Signed) Estrada

assisting Witness — assisting Witness
Jose Maria Maldonado. Santiago Aguilar

418 ND
PAGE 65

On the Same date Jose Fernandez being present he was Sworn, according to Law and promised to tell the truth with respect to what he knew and might be asked, and on being asked his name, State age and residence, Said: that his name was above mentioned, that he was married was thirty Six Years of age and a resident of this Municipality — On being questioned on the foregoing interrogatory, Said:

1. That the party interested is a foreigner Naturalized in the United States of Mexico and that therefore he Considers him as a Mexican, that he is not married and his Conduct is good.

2. That the Land which he asks for is not owned by any one, that it is of the Nature Comprised in the two last points of the question, and that its Extent is of about four leagues in length and two in breadth a little more or less.

3 That he has the means of procuring the Sufficient Number of Cattle to Stock it; that what he has Said is the truth according to the Oath which he has taken and On his declaration being read to him he affirmed and ratified it Signing with me and the assisting Witnesses —

(Signed) Jose Fernandez

(Signed) Jose Ramon Estrada

Assisting Witness
Jose Marcos Maldonado.

Assisting Witness
Santiago Aguilar

418 ND
PAGE 66

On the same date, Rafael Garcia being present he was sworn according to Law, and in virtue of his oath promised to tell the truth with respect to what he knew and might be asked and on being asked his name, age, and residence, said; that his name was the one mentioned, that he is married, is thirty nine years of age and a resident of San Francisco

On being asked the same as the foregoing witness, he said:

1. That he Consents the petitioner to be a Mexican, since he has his letter of Naturalization, that he is not married nor has any Children, and that he is of good Conduct

2. That the land is not owned by any one, and that he Considers it as Vacant; that it has the three qualities mentioned in the question, and that its Extent is four leagues in length by two in breadth—

3. That he has no Cattle, but that he has the means of obtaining a Sufficient quantity to stock it, that what he has said is the truth in accordance with the Oath which he has taken; and on his declaration being read to him; he affirmed and ratified it, and signed with me and the assisting witnesses—

(Signed) Rafael Garcia

Signed Jose R Estrada

Assisting Witness
Jose Marcos Maldonado

Assisting Witness
(Signed) Santiago Aguilar

418 ND
PAGE 67

Immediately afterwards, Citizen Joaquem Gomez being present, the oath was administered to him according to Law, on the Strength of which he promised to See the truth with respect to what he knew and might be asked, and on being asked his name, State, age and residence he Said; that his name was the one Mentioned; that he is married, that he is a native of Guadalajara aged forty nine Years. On being interrogated the Same as the two preceding Witnesses he Said:

1 That the party interested has a letter of Naturalization of the United Mexican States, and that Consequently he acknowledges him to be a Mexican Citizen: that he is not Married nor has any Children, and that he is of good Conduct.

2. That the Land asked for does not belong to any private person, Pueblo, Pueblo or Corporation, and that he Considers it as unoccupied: that the Land Consists of the three Leagues Mentioned in the question, but that the irrigable portion is the Smallest and that its Extent according to his belief is two leagues in breadth and four in length.

3. That he does not know whether the petitioner has any Cattle, but that he does know that he has the means of Obtaining a Sufficient quantity to Stock Said Land with: that what he has Said is the truth in Conformity with the oath he has taken, and on his declaration being read to him, he affirmed and ratified it Signing with me and the assisting Witnesses

(Signed) Jose Joaquin Gomez

70

(Signed) Jose R. Estrada

Apostg Ldemp. Apostg Ldemp

(Sgd) Jose Marco Maldonado. Santiago Aguilar

418 ND
PAGE 68

Monterey March 17th. 1836

In view of the petition which Commences this Espediente, the testimony of the witnesses, the report of the Municipal Authority and all the rest which was born in mind and was necessary to Examine; Mr. James Richard Berry is in Conformity with the Laws and regulations on the Subject declared to be the respectful owner of the Land designated in the plat, Subject to the Conditions which shall be Stipulated and with the reserve of the approval of the Most Excellent Territorial Deputation—

Let the Corresponding despatch be made out, which Shall Serve the party interested as a title, to whom this decree shall be made known. Señor Don Nicolas Gutierrez- Lieut Colonel, Commandant General Inspector and political Chief of Upper California, did this Command, decree and Sign, whereof I give testimony

(Signed) Nicolas Gutierrez

(Signed) Franco. de Castillo Regalado
Secretary

On the 31st of March this was signed to the Committee on Lands

(Signed) Maldonado
Secretary

Most Excellent Sir

The Committee on Colonization and Vacant Lands to whom was

71

referred the Espediente which forms the
grant made by the Political Chief in favor
of Citizen James Richard Berry of the place
named "Tamaules and Bonlines, makes
known that in the grant made to citizen
Refugio Garcia of the Land of the same
Name, there appears to be a mistake, because
this person (Garcia) asked for two Sitios
in the Canada de Bonlines, as appears by
the Espediente on file in the office of the
Secretary of the Political Government, and
besides, in the declaration of said Garcia
on the 8th. Folio of the present Expediente,
he declares that the Land asked for by
Berry does not belong to any private person
and that he acknowledged it as vacant;
this proves that the Tamaules & Bonlines
granted to said Berry are not granted to
the beforementioned Garcia, but only two
Sitios in the Canada of said Bonlines
and that therefore the Land asked for by
and granted to Berry remains vacant;
in witness whereof and in order not to
injure the parties, the Land asked for may
be granted to Berry, leaving citizen Garcia
in possession of two Sitios in the
Canada de Bonlines—

With respect to the
grant made to the party interested in this
Expediente by the Supreme decree of the
17th of March last, the Committee has no
other objection to make, Except its having
been granted under the Conditions which should
be stipulated, and believing that there
Can be no. Others than those stipulated
in the Law on the Subject, it is of opinion
that the party interested Cannot be subjected

418 ND
PAGE 69

72

418 ND
PAGE 70

to any more restrictions than those mentioned in said Law - Whereupon the Committee concludes by submitting to the consideration of your Excellency the following propositions

1st The grant made by the Political Chief on the 17th of March last of the Land called Tumacas & Buenaventura to citizen James Richard Berry, is approved with the Exception of two Sitios already granted to citizen Rafael Garcia in the Canada de Bolinas, from its Centre towards the point of the same name.

2d Said Berry shall not be subject to any other restrictions than those stipulated in the Law and Regulations of Colonization.

Monterey September 9th. 1836
(Signed) Jose Joaquin Gomez. David E Spence

Monterey Sept. 9th 1836

In Sesion of to day, the Most Excellent Diputation approves the foregoing Opinion with the two propositions with which it closes, and ordered that this Espediente be sent to the Political Chief for its Conclusion

(Signed) Juan B Alvarado

(Signed) Jose Maria Maldonado
Secretary

Filed in the office Jan 3. 1855

Geo Fisher Secy

1. 73

418 ND
PAGE 71

No.
Original Grant
and Juridical
Delivery.

Inhibit No 1. Ap.
annexed to the
Deposition of
Salvador Vallejo.

Jurisdicion de Sonoma

Espediente Instruido pª medir y dar
posecion de ocho Sitios de ganado
Mayor en el Rancho punta de Reyes
el dia 16 de Junio de 1842.

Juez.

El C. Salvador Vallejo.

Testigos. { Cayetano Soares.
Pedro Soto.

74

418 ND
PAGE 72

Sello Primero Seis pesos.

Habilitado provicionalmente por la Administracion de la Aduana Marítima de Monterrey de la Alta California para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Figueroa. A Ramirez.
Gutierrez A Ramirez.

Revalidado para el bienio de 1836 y 1837.
Nicolas Gutierrez Teniente Coronel de Caballeria permanente, Comandante General, Inspector y Gefe Superior Politico Interino del Territorio de la Alta California.

Por cuanto Don Jaime Ricardo Berry mejicano por adhesion ha pretendido para su beneficio personal y el de su familia cuatro leguas de longitud y otras de latitud en la parte del norte de San Francisco: practicadas previamente las diligencias y averiguaciones convenientes segun lo dispuesto por leyes y reglamentos de la materia, usando de las facultades que me son conferidas en decreto de este dia y a nombre de la Nacion Mejicana he venido en concederle el terreno mencionado declarando le la propiedad de él por las presentes letras y a reserva de la aprobacion de la Diputacion Territorial y bajo las condiciones siguientes:

1ª Que se someterá a las que estableciere el reglamento que para su deslinde formare para la distribucion de terrenos baldios y que entretanto no enagenare ni sus herederos podrán dividir ni enagenar el que se les asigna

418 ND
PAGE 73

2. 75

imponer Censo, Vinculo, finca hypoteca ni otro gravamen aunque sea por causa piadosa ni pasarlo á manos muertas.

2º Podrá cercarlo sin perjudicar las travesías, Caminos y Servidumbres lo disfrutará libre y exclusivamente destinando lo al uso y cultivo que mas le convenga pero dentro de un año á lo mas fabricará casa y estará habitada.

3º Solicitará del Juez respectivo que le dé la posesion Juridica en virtud de este despacho por el cual le señalarán los linderos en cuyos límites, poseerá además de las mejoneras algunos arboles frutales ó silvestres de alguna utilidad.

4º El terreno de que se hace donacion es de cuatro leguas de latitud y otras leguas de longitud segun explica el diseño que corre en el Espediente. El que diere la posesion lo hará medir conforme á ordenanza quedando el sobrante que resulte á la nacion para los usos convenientes.

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

En Consecuencia mando que sirva como de título el presente y teniendose por firme y valedero, se tome razon de él en el libro que corresponde y se entregue al interesado para su resguardo y demas fines.

Dado en Monterey a diez y siete de Marzo de mil ochocientos treinta y seis.

Nicolas Gutierrez.

76

Fco del Castillo Negrete. Secretario.
Queda tomada razon a fojas 99 y sentado con el n° 96 en el Libro que corresponde que obra en la Secretaria de mi cargo. Monterey. Marzo 17 de 1836.

Castillo.

418 ND
PAGE 74

Señor Juez de Paz de este Pueblo.
El C. Jaime Berri vecino de esta Jurisdiccion dueño del Rancho de la Punta de Reyes como mejor proceda en dro. ante V. paresco y digo: Que como consta del titulo que presenté con la solemnidad y juramento necesario, tengo ocho sitios de ganado mayor debajo de los linderos que espresa dho. titulo y pr. que necesito pr. que en todo tiempo conste hasta donde llegar que si me perjudican o perjudico á alguno de los circunvecinos se servira V. mandar que precediendo las diligencias de testimonio de identidad, vista de ojos y reconocimiento, se proceda con citacion de los circunvecinos á la medida de dhas. tierras pr. cuyo efecto nombro ahora y para cuando el caso llegue pr. medidor el C. Gregorio Brion vecino de esta jurisdiccion Inteligente en materia de medida y otro que sea intentado nombro otro medidor y haciendo lo echo asi: el que nombren con el regidor Briones pr. mi nombrado, aparezcan acepten y juren y en su conformidad se proceda á dhas. medidas. P. Y. A V. S. que haciendolo pr. presentado dho. documento se sirva mandar

como Melo pedido y ellos que sean
se me devuelvan dhos. recaudos con
las diligencias originales que se hicieren.
Para resguardo de mi drs. esto escrito
y lacto lo necesario.

Soriano. Junio 15. de 1862.

Juan N. Berry

418 ND
PAGE 75

En el pueblo de Soriano á los 15 dias
del mes de Junio de mil ochocientos
cuarenta y dos ante mi D. Salvador
Vallejo Comandte Militar y Juez de esta
Jurisdiccion se leyo esta peticion y vista
la Sumaria presentada con el documento
que expresa y mando que con citacion
de las circunstancias de haga informacion
de identidad, Vista de ojos y reconocimientos de dhas. tierras d.g. estos
presto á asistir personalmente. Asi lo
proveyo, mandó y firmó con los de
mi asistencia.

Salvador Vallejo. ante. Pedro Soto
asistencia Cayetano Suarez.

En el espresado pueblo en el mismo
dia mes y año. Yo el referido Juez
con los de mi asta para proceder a
la Sumarizacion de identidad hice
comparecer ante mi el Ciudadano
Jose Berreyra, vecino de esta Jurisdiccion de oficio labrador de cual
recibi juramento que hizo por Dios
y la Señal de la Cruz en forma de
derecho por el cual prometio decir
Verdad y siendo preguntado por el
conocimiento que tiene hecho de
las tierras para ser terrenos y
linderos pertenecientes al D. Juan
Berri dijo que hace seis años

78

418 ND
PAGE 76

es vecino de esta Jurisdiccion y sabe
que las tierras, parajes, terminos y linderos
pertenecientes al Rancho del C. Jaime Berri
dijo que hace seis años que es vecino de
esta jurisdiccion y sabe que las tierras
pertenecientes a dho. Rancho que han
pastoreado en ellas sus ganados que las
a visto y reconocido varias veces y que
les ha visto y reconocido varias veces
y que para prueba de lo que tiene
dho esta pronto a ir a dhas tierras con el
presente Juez y señalarle hasta donde
llegan en que se afirmó y ratificó á
cargo del juramento que tiene echo
esta pronto a ir y declaro ser de 25
años de edad y no tocarle las generales
de la ley y lo firmo con migo y las de
mi asta.

Salvador Valejo.

asta Pedro Soto. asta Cayetano Juarez
Cruz de Sute Berreyesa. = En el
expresado pueblo el mismo dia mes
y año Yo el Juez actuando por receptoria
con las de mi asta. hise comparecer
ante mi el C. Pablo Briones vecino
de esta jurisdiccion de oficio labrador
del cual recibi juramento que
hizo por Dios y una señal de cruz
en forma de dro. por el cual prometio
decir verdad que tiene de las tierras
parajes y linderas pertenecientes a ellas
y al Rancho de Punta de Reyes
dijo que hace cinco años es vecino
de esta jurisdiccion y sabe que las
tierras pertenecientes a dho Rancho
son de la propiedad del D. Jaime
Berri que haya Salvador y Juan

f. 79

que les ha labrado y han pastado en ellos sus ganados que las ha visto y reconocido varias veces y para prueba de lo que tiene dho. esta pronto á ir con el presente Juez y señalar le hasta donde llegan en que se afirmó y ratifico en cargo del juramento que tiene echo y declaro ser De 18 años de edad y no tocarle las generales de la ley y lo firmó conmigo y los de assa.

Salvador Vallejo.

assa. Pedro Soto. assa. Cayetano Tovares.

En el espresado Pueblo el mismo dia mes y año yo el Juez con los de mi assa. hize comparecer ante mi al C. German Piño vecino de esta Jurisdicion de oficio labrador y habiendolo le hecho puntar el juramento acostumbrado ofreció decir verdad al preguntado pr. el reconocimiento que tiene de las tierras parajes terminos y linderos pertenecientes al rancho de punta de Reyes dijo: que sabe tiene 5 años es vecino de esta Jurisdicion y sabe que las tierras de dho. Rancho pertenecen a Dn. Jaime Berri que ha cultivadolas y actualmente en ellas sus ganados que les ha visto y reconocido varias veces: que lo dho. es la verdad á cargo del juramento puesto declaro ser de 20 años de edad y no tocarle las generales de la ley y lo firmó conmigo y los de mi assa.

assa. Salvador Vallejo.

Pedro Soto. Cayetano Tovares.

En el Campo de las tierras pretendidas á dho. Rancho á los diez y seis dias del mismo mes y año Yo el Juez actuando pr. receptoria con dos testigos de assa, pr falta de escribano publico

86

418 ND
PAGE 78

los testigos pr. mi examinados presentes el C. Jaime Berri dueño de dhas. tierras los colindantes y circumvecinos procedí a ver y reconocer las tierras de dho. rancho y para mayor claridad puesto á caballo en compa. de todas las partes y testigos referidos mandé á los susodichos me señalasen los parajes terminos y linderos segun las señales que an declarado en sus disposiciones y en su conformidad guiaron á la parte del sur hasta llegar á la playa de alli siguiendo pr. la orilla de la playa se dió vuelta viendo y reconociendo el sitio hta. llegar a dicho primero lindero quedando el rancho todo circumvalado pr. el mar cuyos parajes yo el referido pues vi y reconocí con los de mi asa. testigos examinados y papeles presentados y cotejado con estas siendo reconocimiento ser cierta la identificacion de las mencionadas tierras y para que conste pr. diligencia lo firmo con los de mi assa. y demas que supieron firmar doy fée.

Salvador Vallejo.

assa. Pedro Soto. asa. Cayetano Juarez

Franco. Obizo. Gregorio Briones

Rafael Tarbin

Immediatamente yo el Juez dijo que pa. proceder á las medidas entendidas en estos autos mandó se notifique al C. Jaime Beri el titulo de las tierras para que notifique el nombramiento de medidor, como asi mismo de acuerdo los Colindantes nombren su parte al suso. teniendo ser intelig.tes en materia de medidas

5. 81

y echo esto estoy pronto para otras medidas asi lo provey, mandé y firmé con los de asistencia.

asta. Salvador Vallejo.

Pedro Soto. asta. Cayetano Juarez.

En el mismo dia, mes y año yo el Juez ley y notifiqué el auto de su uso segun y como en el se contiene al C. Jaime Berri y sus colindantes en sus personas que conozco y haviendolo hoido y entendido dijeron lo hallegen y que por su parte nombran por medidor al C.º Fr.co Higuera y el interesado ratifican su nombramiento en el C. Gregorio Berri ambos inteligentes y de legalidad a quienes se les notifique les paresean aceptan y juren por Dios y en su conformidad se proseda à dhas medidas con este mandato asi lo firmaron ante mi y los de mi asta.

Gregorio Briones. Fr.co Higuera.
asta. Pedro Soto. Salvador Vallejo.
asta. Cayetano Juarez.

418 ND
PAGE 79

En el pueblo de Sonoma à los quince dias del mismo mes y año yo el Juez actuando por receptoria con dos testigos de asistencia por falta de escribano publico ley y notifique el auto que antesede de su haso y nombramiento de medidores à los C. Gregorio Briones y Francisco Hig.ra vecinos de esta jurisdiccion en sus personas que conosco y haviendolo hoido y entendido dijeron que aceptaran el encargo de medidores que se les confia y juran à Dios y una señal de cruz que usaron de su encargo fiel y legalmente segun su leal saber y entender conforme de su

418 ND
PAGE 80

fiel y legalte segun su leal saber y entender como es de su obligacion y a satisfacion de los interesados y haviendolo asi respuesto lo firmaron con migo y los de assa.

Salvador Vallejo

assa. Pedro Soto. Cayetano Soares.

Gregorio Briones. Franco Rojo.

Inmediatamente se hizo saber el auto que antecede a las partes y entendidos dijeron que se dan por citados y lo firmaron con migo y los de assa.

Salvador Vallejo.

Pedro Soto. assa. Cayetano Soares.

En el mismo dia mes y año se hizo constancia de comparendo a los solicitantes para que compareciesen en el mencionado Rancho y para constancia lo firmé con los de mi assistencia.

assa. Salvador Vallejo.

Pedro Soto. assa. Cayetano Soares.

Estando en el Campo del mencionado Rancho a los diez y seis dias del mes de Junio de mil ochocientos cuarenta y dos presente la parte interesada y circunvecinos a dhas. tierras se hizo comparecer ante mi y los de assa. a los CC. Gregorio Briones y Franco Rojo unos vecinos nombrados y aquienes mande tomasen un cordel y midieron cuarenta Vs de cuatro jalones cada uno los que verificaron ante a vista y presencia de las interesados y circunvecinos y para que conste mando se ponga por diligencia y se proceda a dhas. medidas lo que esta mandado se certifico en mismo principio lo con los de mi assa.

Salvador Vallejo.

C. 83

418 ND
PAGE 81

atta. Pedro Soto. atta. Cayetano Suarez.
En el mismo dia, en el campo de la
punta de Reyes dho. dia del mismo mes
y año yo el Juez de esta Jurisdiccion ac-
-tuando por receptoria con dos testigos
de asta. por falta de escribano publico
presentes los CC. Eugenio Briones y Fran.co
Mig.l medidores nombrados por las partes
interesadas y colindantes mandé proceder
á la medida de ocho sitios de ganado
Mayor que pertenecen á dho. rancho
segun el titulo presentado en cuyo
obedecim.to se dió principio á dha. medida
comenzando desde el desembarque del
de Tothelgueri rumbo O.E. hasta llegar
á la playa con siete mil ochocientos
y veinte v.s y de alli tomando rumbo
N.te llegamos á la punta con quince
mil v.s de alli costeando la costa rumbo
E.te llegamos á la punta con los cuales
en treinta mil seis cientas luego tom-
-ando la orilla de la playa rumbo
S.te llegamos con treinta mil al
parage de donde se dió principio. Por
todo lo cual y en señal de verdadera
posecion y ceremonial acostumbrado
arrancó piedras y yerbas y tiró por
los cuatro vientos en manifestacion
de su legal y legitima posesion me-
tiendo por si en consecuencia el referido
Juez mando que para mas claridad
de los linderos que van espresados
se conozcan por termino y lindero
el camino real (donde se tomó la primera
medida) hasta llegar á la playa que-
dando comprendido el sitio en toda la
punta de reyes en los terminos que ya

418 ND
PAGE 82

van espresados teniendo esta circumferencia ochenta y tres mil ochocientas veinte v.s para que en todo tiempo conste, reconozcan por terminos y linderos de sus tierras por las de unos circunvecinos de ellas. y de haberse efectuado estas medidas quieta y pacificamente sin contradiccion de persona alguna. lo pido por testimonio y yo el referido Juez con las de mi asista. lo doy de haberse pasado como obra. y que las espresadas medidas se han practicado a todo el leal saber y entender de los medidores, sin dolo, ni fraude ni engaño contra de ninguna persona y para mayor claridad y ratificacion de lo que tienen echo lo firmaron con migo y los de mi asistencia.

asa. Salvador Vallejo.

Pedro Soto. asa. Cayetano Soares.

En virtud de hallarse concluido este Espediente en que consta haberse le dado posesion juridica al Rancho nombrado punta de Reyes a solicitud de Dr. Leyeras de este pueblo al C. Jaime Berri que lo tomo por si: entreguesele valor parte el original pa. los usos que le convengan con los documentos que presenta. El C. Salvador Vallejo Juez de esta jurisdiccion actuando por receptoria con dos testigos de asista. por falta de Escribano publico asi lo proveyo mando y firmo a diez y seis de junio de mil ochocientos cuarenta y dos.

Salvador Vallejo. asa. Pedro Soto. Cayetano Soares.

Recorders office. Jany 22. 1853.

Geo. Fisher. Secy.

B

Translation of Grant & Juridical Possession

Court of Justice of Sonoma

Record formed for measuring and giving possession of Eight Sitios for cattle in the Rancho of Pentin de Reyes the 16th day of June 1842

418 ND
PAGE 83

Judge. The Citizen Salvador Vallejo

Witnesses { Cayetano Juarez / Pedro Soto

Nicolas Gutierrez Lieutenant Colonel of permanent Cavalry, Commander Genl. Inspector and Superior political Chief ad interim of the Territory of Alta California.

Whereas Mr. James Richard Berry a Mexican by adoption, has solicited for his personal benefit and that of his family four leagues in length and two in breadth to the North of San Francisco, the necessary steps and investigations, having been previously taken and made in accordance with the Laws and regulations on the subject, I have by virtue of the powers conferred upon me granted unto him by a decree of this date, in the name of the Mexican Nation the Lands mentioned declaring unto him the Ownership thereof by these presents letters subject to the approval of the Most Excellent Deputation and under the following Conditions—

1st That he shall abide by those which may be established, by the regulations to be formed for the distribution of Vacant Lands, and that in the mean time, neither the grantee nor his heirs shall sell or alienate the lands granted to

418 ND
PAGE 84

them, impose ground rent, entail reversion, Mortgage or any other burden, although it May be for pious purposes, nor transfer it in Mortmain.

2d. He may Enclose it without Obstructing the ropings, roads and privileges he shall Enjoy it freely and Exclusively destining it to the use and Cultivation which May best suit him, but within one year he shall build a house and it must be inhabited.

3d. He shall solicit the respective Justice to give him juridical possession by virtue of this title, by whom the boundaries shall be designated, at the limit where of the grantee shall besides placing the Landmarks, plant some fruit trees or wood Ones of some utility.

4th. The land where of donation is made Consists of four leagues in length and two in breadth as appears by the map annexed to the Espediente.

The Justice who gives possession, will cause it to be measured according to law, leaving the Openings which may result, to the nation, for the necessary purposes.

5th. If he transgress these Conditions, he shall forfeit his right to the Land, and it may be denounced by another.

Consequently Command that these presents serving him as a title and being held as firm and valid as record thereof be made in the Corresponding book and this be delivered to the party interested for his Security and further Effects.

Given in Monterey On the 17th of March 1836

Nicholas Gutierrez. Francisco del Castillo Negrete
Secy

It is recorded on page 99 and marked with No. 96 in the Corresponding Book that is in the Office under my Charge Monterey this 17th. March 1836
Duty $10— (Signed) Castillo

418 ND
PAGE 85

To the Justice of the Peace of this Town
The citizen James Berry neighbor of this jurisdiction Owner of the Rancho of Punta de Reyes in the best legal form before you appears and says: that as it appears from the title which I do Exhibit with the Solemnity and necessary Oath that I have Expressing for Cattle under the limits Expressed under said title, and as I wish to prove at all times their true Extent and whether I enter [illegible] fere with or am interfered with by any of my Neighbors, You will be pleased to decree that under the Customary proceedings of identity, personal Examination and Cognizance of the fact, they may proceed with presence of my Neighbours to measure said land, to which Effect I hereby appoint Ysn whenever it may take place as Surveyor the Citizen Gregorio Briones a resident of this jurisdiction Acquainted with Surveying or any other interested party may appoint Another Surveyor, and having so done, the One that they may appoint accompanying the said Briones by me appointed, they may appear accept and take their Oath and with their Conformity they may proceed to said measurements - I therefore beg of your Honor that having before presented this Document you may be pleased to

decree as I request and after having performed the same, they may return to me this document with the proceedings for my own safety and all that may be necessary.
Sonoma June 12th. 1842

(Signed) Jaime Rª Berry

418 ND
PAGE 86

In the town of Sonoma on the 14th. day of June 1842 before me the Citizen Salvador Vallejo Military Commandant and Judge of this Jurisdiction, this petition with the accompanying document was presented and read and I order that with Citation of the neighboring, they may proceed to the identity, Cognizance and Examination of said Lands to which I am ready to depose personally. So I decreed, ordered and Signed with the witnesses

(Signed) Salvador Vallejo

Witness
Pedro Soto

Witness
Cayetano Juarez

In the aforesaid town this same day Month and year I the said Judge with the witness of assistance in order to proceed to the information of identity I caused the Citizen Victo Berryessa to appear before me a neighbor of this jurisdiction a farmer by trade who took oath in the name of God and the Sign of the cross in legal form by which he promised to say the truth and being questioned for the knowledge that he has of the lands places termenos and limits belonging to the Citizen James Berry, he said that he had been for the last six years a neighbor of this Jurisdiction, and that he knows that the

418 ND
PAGE 87

lands belonging to the Rancho belonged to the said Berry, that his Cattle has pastured there, that he has seen them and recognized them many times, and that in proof of what he says is ready to go with the said Judge and point out then Extent or limits to which he affirmed and testified anew the Oath administered him declaring to be 25 years of age and not within the Excep tion of the Laws, he signed with me and my Witness.

(Signed) Salvador Vallejo

Witness
Pedro Soto

Witness
Cayetano Juarez

In the aforesaid Town the same day Month and year, I the Judge with my Witness made appear before me the Citizen Pablo Briones a Citizen of this jurisdiction a farmer by trade to whom I administered the Oath that he made in the name of God and the Sign of the Cross in legal form by which he promised to say the truth, and being questioned for the knowledge that he has of the lands places termes and limits belonging to Rancho Punta de Reyes, he said that he has been for the last five years a neighbor of this jurisdiction, and that he knows that the Lands of said Rancho are the property of Mr. James Berry, that he has worked them, and that his Cattle have there been pastured; that he has seen them and recognized them many times in proof of which he is ready to go with the present Judge and mark then Extent to which he affirmed and

testified under the oath that he has made declaring to be 18 years of age and not under the Exclusion of the laws; and he signed with me and the witness—

(Signed) Salvador Vallejo

Witness Witness

Pedro Soto x Cayetano Juarez

418 ND
PAGE 88

In the aforesaid town the same day month and year I the said Judge with the witness made to appear before the Citizen German Pena a neighbor of this jurisdiction a farmer by trade and having adminstered him the customary oath he offered to say the truth and being questioned for the knowledge he has of the lands, places termonos and limits belonging to the Rancho of the Punta de Reyes he said that for the last five years he has been a neighbor of this jurisdiction and that he knows that the lands of the said Rancho belonged to Mr. James Berry who has cultivated and his cattle pastured therein, that he has seen them and recognized them many times, that what he says is the truth under the oath administered, declaring to be under twenty years of age and not be impeached by the Laws, he signs with me and my witness.

Salvador Vallejo

Witness Witness

Pedro Soto x Cayetano Juarez

Being on the field of the lands belonging to said Rancho on the 16th day of the same month and year I the Judge acting as receptor with two witness of

acting as receptor with two witnesses of

91

418 ND
PAGE 89

of assistance for the want of a Public notary the witnesses by me Examined the citizen James Berry owner of said lands being present the adjoining neighbors and others of the neighborhood, I proceeded to see and Examine the Lands of the said Rancho and to do it more properly I did on horse back accompanied by all the parties and witnesses alluded to, Ordering the said witnesses to point out the places terminus and limits according to their declarations and depositions and in conformity of which they guided on to the South until they reached the beach, thence following the Margin of the beach we made a tour seeing and Examining the place until we reached the spot from whence we started the Ranch remaining all surrounded by the sea, which places I the said Judge saw and recognized with my witnesses, the witnesses Examined the papers presented and Compared with this the said recognition the identification of the mentioned Lands being true and to prove this act I sign with my witnesses and others who know how to sign, in my presence —

Salvador Vallejo

Witnesses	Witnesses
Pedro Soto	Cayetano Juarez
Franco. Higuera	Gregorio Briones

Rafael Garcia

Immediately I the Judge say that in order to proceed to the measure Expressed in this protocol, I ordered to notify to the Citizens James Berry the title of the lands

92

418 ND
PAGE 90

So he may ratify the appointment of Surveyor as well as the adjoining neighbors at the same time may appoint theirs on their part they being required to be well informed in Surveying, and that done I am ready for the said measurement so I decreed, Ordered and Signed with my Witnesses

Salvador Vallejo

Witness
Pedro Soto

Witness
Cayetano Juarez

In the same day month and year I the Judge read and notified the said decree as it is contained therein to the Citizen James Berry and the adjoining neighbors in person whom I know and having heard and understood they said that they heard, and that on their part the Citizen Francisco Yguerra and the interested party ratifies the appointment of the Citizen Gregorio Briones both intelligent and most worthy to whom will be notified to appear to accept and to swear and in conformity to proceed to said Measurement as it is ordered, so they signed before me and my Witnesses

Gregorio Briones

Francisco Sotelo

Witness
Pedro Soto

Witness
Cayetano Juarez

Salvador Vallejo

In the Town of Sonoma on the 15th day of the same month and year I the Judge acting with with two witnesses of assistance for the want of a Public Notary

93

418 ND
PAGE 91

I read and notified the preceding decree appointing as Surveyors to the Citizen Gregorio Briones y Franco Ygueria neighbors of this Jurisdiction being present and whom I know, and having heard and understood it, they said that they accepted the appointment of Surveyors with which they are Entrusted, and they Swear before God and the sign of the Cross that they will acquit themselves faithfully and legally to the best of their knowledge and ability as it is their duty and to the satisfaction of of the interested parties - And having so answered, they signed with me and my Witnesses.

Witness   Witness
Pedro Soto   Cayetano Lopez
Salvador Vallejo
Gregorio Briones   Franco Hig^o

Immediately the preceding decree was notified to the parties who having understood it they said that they consider themselves Summoned and they sign with me and my Witnesses.

Salvador Vallejo
Witness - Pedro Soto. Wit. Cayetano Lopez

The same day, month, and year I summoned all the neighbors to appear on the mentioned Rancho and in proof thereof I signed with my witnesses

Salvador Vallejo
Witness   Witness
Pedro Soto   Cayetano Lopez

94

418 ND
PAGE 92

Being in the fieco of the Said Rancho on the 16th day of the month of June 1842 the interested party being present and the adjoining neighbors to Said Land I made appear before me and my Witneses the citizens Gregorio Briones y Franco Yguicino Surveyors appointed whom I ordered to take a line and to measure fifty varas of four Castilian hanes which they did in sight of the interested parties and neighbors, in proof I ordered it to be recorded and to proceed with Said measure as it is ordered which I certify signing with my Witneses.

Salvador Vallejo

Witness
Pedro Soto

Witness
Cayetano Juarez

Being in the field of Punta Reyes to day thursday of the Same month and year I the Judge of this Jurisdiction acting with two Witneses of assistance for the want of a Public Notary, the Citizen Gregorio Briones y Franco Yguino being present as Surveyors appointed by the interested parties and adjoining Neighbors - I ordered to proceed to Measurement of Eight Sitios In Cattle which belonged to the Said Ranch according to the title presented and in Obedience of which they Commenced the Measurement, beginning at the mouth of the Creek of Tokeyome towards the West until reaching the beach with Seven thousand Eight hundred and twenty varas - From thence in a Northern

twenty varas — from thence in a Northern

95

direction we arrived at the point with fifteen Thousand varas, from thence Coasting along in an East South East direction we arrived at the point Tomales with Thirty thousand Six hundred varas, afterwards taking the margin of the beach in a South East direction we arrived with thirty thousand varas to the Spot at which we had begun for all of which and in proof of true possession, usages and Customs, he took Some Stones, and pulled up some grass and threw them to the four winds as a proof of his true and legal possession that he took it for himself—

In Consequence the said Judge ordered, that to Express the limits more Clearly than already Expressed they may recognize for termines and limits the Highway (where the first measure was taken) until reaching the beach the Spot Embracing all the Punta de Reyes in the terms that are already Expressed having in Circumference Eighty three thousand Eight hundred and twenty varas, and so that at all times it may be proved and they may be recognized for termines and limits of the lands, by the adjoining neighbors, and that said measurements have taken place quietly and pacifically without a Contradiction of any person, he asked for a testimony and I the said Judge with my Witnesses do give it of having taken place as it is Expressed and that the said measures have taken place to the best knowledge and abilities

418 ND
PAGE 93

418 ND
PAGE 94

of the Servigns without loring fraud or deception of any person, and to elucidate and ratify what they have done they Sign here with me since my Attorney

Salvador Vallejo

Witness
Pedro Soto

Witness
Cayetano Gomez

In virtue of this Protocol being finished being accomplished by which it is proved the Juridical possession has been given of the Rancho called Punta de Reyes distant twenty leagues from this town to the Citizen Jaime Berry who took it by himself, do deliver this Original to the party In the use that he may find him with the documents that he presented—

The Citizen Salvador Vallejo Judge of this Jurisdiction acting with two witnesses of assistance In the Want of a Public Notary, So I decreed ordered and Signed on the 16th day of June 1842—

Salvador Vallejo

Witness
Pedro Soto

Witness
Cayetano Gomez

Filed in Office Jany 22nd 1853
Leo Fisher Secy

8.97 1.S.D.K.

S^n^ Francisco. 1836.

418 ND
PAGE 95

Espediente

Promovido en solicitud al terreno q. indica el adjunto diseño. por el ciudadano

Jaime Ricardo Berry

1836.

73.

Folios altered see map. See Norfol. nº 312 see book of assembly San Fran^co^ Oct. 7. 1851.
— R^d^ de Zaldo —

98 J.D.K. Sello tercero Dos reales.

Habilitado provisionalmente por la administr-
-acion de la Aduana Maritima de Monterrey
de la alta California para los años de mil
ochocientos treinta y cuatro y ochocientos
Treinta y cinco. Castro. Angel Ramirez.

418 ND
PAGE 96

Monterrey. Nbre.
29 de 1833.
De conformidad
con las leyes de
la materia inf.
orme el Ayunt
amiento de Sn.
Francisco si el
interesado en
esta instancia
obtiene las siguientes
precauciones para
ser atendido
en su solicitud.
Si el terreno que
pretende esta com
prendido en las
20 leguas limitrofes
o 10 litorales que
previene la ley
de 18 de Agosto
de 1824: si
de regadio temporal
ò abrevadero. Si
pertenece a la propi
edad de algun
particular corpor
acion o pueblo
con todo lo demas
que sea conveniente
à Ilustrar la materia.

Sr. Gefe Sup.or Politico.
Jaime Ricardo Berry
estrangero naturalizado en
la Republica Mejicana
ante V.S. con el debido respeto
y conforme haya lugar
en derecho digo: que siendo
mis deseos dedicarme à los
travajos de la agricultura
de este Territorio cuyo ha
sido el objeto de mi viaje
al Pais desde el interior
de la Republica y encont
randome favorecido por
el terreno que las leyes de colonizacion
para este efecto ocurro
à V.S. con el fin de que
se sirva concederme un
terreno en la parte norte
de San Fran.co el que và
marcado en el adjunto
diseño que debidamente
acompaño. Este
terreno es baldio. no
pertenece como propiedad de
ninguna particular corpor
acion ni Pueblo. por
consiguiente es colonizable
a cuyas leyes me acojo
para dirigir esta solicitud
Por tanto A V.S.

8. 99

U Sor. Don Jose Castro	Suplico se mande a estar
Vocal de la Exma.	como pido dandole a esta
Asamblea Depar	mi instancia el giro corres
amental i Gefe	pondiente en que recibiré
Politico Interino	gracia jurando no ser
de la Alta Califor	de malicia y necesario
nia asi lo mando	Monterrey. 25 de
decreto y firmo	Noviembre de 1835.
de que doy fee.	Jaime Ricardo Berri.

V.P.R.

418 ND
PAGE 97

José Castro.

Tᵒ del Castillo Negrete. Srio.

1 SDR.

Sello tercero Dos Reales.

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

Castro. Angel Ramirez.

Revalidado pᵒ dicha adminᵒⁿ pᵃ los años de 1836 y 1837.

Angl Ramirez.

Sor Gefe Supor Politico.

En cumplimᵗᵒ de lo prevenido pr el supᵒʳ decreto de fha. 17. de Noviembre del año ppᵈᵒ que se halla de la precedente solicitud que hace el estrangero naturalizado en la republica megicana Jaime Ricardo Berri este Ayuntamiento de esta demarcacion dice lo siguiente que el suplicante obtiene los requisitos prevenidos pᵃ ser atendido. El terreno que pretende no esta comprendido en las 20 leguas limitrofes linderas de esto inmediato al establecimᵗᵒ Ruso y en las 10 litorales que previene la ley que es de regadio, temporal y abrevadero y no pertenece á la

100

propiedad de ningun particular corpor-
-acion ni pueblo y es enteramente
baldio circunstancias todas por las cuales
creo no haber embarazo alguno porque
se le conceda.

S.n Juan Febrero 29. 1836.

Joaquin Estudillo Fran.co Sanchez.

418 ND
PAGE 98

S.E.K.

Monterrey Marzo 14 de 1836.

Pase al Alcalde 1.o de este puerto ante quien la parte de D.n Ricardo Berry producira una informacion de tres testigos idoneos que seran interrogados sobre los puntos siguientes. 1.o Si el solicitante es el Mejicano por nacimiento si es casado y tiene hijos si es de buena conducta. 2.o Si el terreno que pretende pertenece a la propiedad de algun particular Mision, corporacion ó pueblo con motivo el informe antecede si es de regadio temporal ó abrevadero y que extension tendrá 3.o Si tiene bienes de Campo con que poblarlo ó posibilidad de adquirirlo. Evacuadas estas diligencias vuelva el Espediente para la resolucion. El Sor D.n Nicolas Gutierrez Gefe Politico Interino del territorio de la alta California asi lo mando decreto y firmo de lo que certifico.

Nicolas Gutierrez.

Fr.co del Castillo Negrete. Srio.

Here follows a map or plan.

Here follows a map or plan.

9. 101 y. 2DK.

Sello tercero Dos reales.

Habilitado provicionalmente por la Aduana Maritima de la Alta California para los años de mil ochocientos treinta y seis y mil ochocientos treinta y siete.

Gutierrez. A. Ramirez.

Monterrey Marzo 16 de 1836.

418 ND
PAGE 99

Derechos. 4 ps. Notifiquese al ocurs-ante presente los testigos que se han de examinar bajo los puntos q. corresponde el antecedente Superior decreto. tomese la informacion que se pide y concluida vuelva el Expediente al S. Jefe Superior Politico para que surta los efectos que haya lugar. Asi yo el alcalde Constit-ucional de 1o nominacion de este puerto lo decreté mandé y firmé con testigos de asistencia.

José R. Estrada.

Asa. José Maria Maldonado. Santiago Aguilar.

En la fha. se le notifico el auto q. ante-cede á Dn Ricardo Berri y entendido dijo lo oye y que se presentan á los S. Dn Joaquin Gomez. Dn Rafael Garcia y José Fernandez y lo firmó con-migo y los de asta.

Estrada. Jaime Ricardo Berri.

José Maria Maldonado. Santiago Aguilar.

81DK. En la misma fha. pren. José Fernandez se le recivio juramento que hizo en forma de derecho bajo el cual ofrecio decir verdad en lo que supiere y fuere preguntado y siendolo por su nombre estado, edad y vecindad dijo: llamarse como queda dicho que es casado de treinta y seis años y vecino de esta Municipalidad.

102

Preguntado. Por el interrogatorio que antecede dijo:

Al 1º Que el interesado es estrangero y tiene su naturalizacion en los Estados Unidos mejicanos y que por tal lo tiene por mejicano: que no es casado ni tiene hijos y que su conducta es buena y responde.

418 ND
PAGE 100

Al 2º Que el terreno que pretende no pertenece a ninguna propiedad que es de las demas circunstancias relativas del contenido de la pregunta y que su es poco mas ó menos de cuatro leguas de largo y dos de ancho y despoblado.

Al 3º Que si tiene posibilidad de adquirir el ganado suficiente para poblar lo que lo dho. es la verdad a cargo del juramento que tiene hecho en el que se afirmo y ratifico leida que le fué su declaracion y lo firmo conmigo y los de asista. Lo testado = nore. Siete Renglones = Vº.

José R. Estrada. José Fernandez
José Maria Maldonado Santiago Aguilar.

1 DK

Sello tercero Dos reales.

Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterrey de la Alta California para los años de mil ochocientos treinta y seis y mil ochocientos treinta y siete.

Gutierrez A Ramirez.

En la misma fha presente Rafael Garcia se le recibio juramento en forma de derecho bajo el cual ofrecio decir verdad en lo que supiere y fuere preguntado y siendolo por su nombre estado, edad y vecindad dijo llamarse

418 ND
PAGE 101

llamarse como dicho es: que es casado de treinta y nueve años y vecino de S.n Francisco.

Pregunta. Conforme le fué el antecedente interrogatorio dijo: A lo 1.o que el solicitante lo conoce mejicano por tener su cuenta de naturaleza que es casado tiene hijos y que es de buena conducta y reputado. A lo 2.o Que no pertenece á propiedad ninguna y que lo reconoce por baldio: que tiene las circunstancias del contenido de la pregunta y que su extension es de cuatro leguas de largo y otras de ancho y contesta. A lo 3.o Que no tiene bienes de campo y si posibilidad de adquirirlos suficientes para poblarlo: que lo dicho es la verdad á cargo del juramento que tiene hecho en el que se afirmó y ratificó leida que fué su declaracion y lo firmó con migo y los de ass.a

José R. Estrada. Rafael Garcia.
de ruego. José Maria Malvaez. de ruego.
Santiago Aguilar.

U. S. D. R. Incontinenti presente el C. Joaquin Gomez se le recibió juramento en forma de derecho bajo el cual ofreció decir verdad en lo que supiere y fuere preguntado y siendo lo por su nombre estado, edad y vecindad dijo llamarse como dicho es: que es casado de pais Guadalajara y de edad de sesenta y dos años. Preguntado por el mismo interrogatorio que lo fueron los dos antecedentes testigos dijo.

A la 1.a Que el solicitante obtiene carta de naturaleza en los Estados unidos

418 ND
PAGE 102

Mejicanos por cuya circunstancia lo
reconoce por ciudadano mejicano: que
no es casado ni tiene hijos y que es
de buena conducta y responde.

A lo 2º. Que el terreno que pretende
no pertenece á ninguna propiedad
particular mision pueblo ni corporacion
y que lo tiene por valdio: y que las
tres circunstancias del contenido de
la pregunta tiene el terreno de que
responde aunque de regadio unos
poco y que su estension segun lo
que sabe que pretende es de dos
leguas de ancho y cuatro de largo
y contesta.

A lo 3º. Que no sabe que solicita
tiene bienes de campo pero que le consta
obtiene bastante posibilidad de adquirir
los necesarios para poblar el mencionado
11. SDK. terreno: que lo dho. es la verdad a cargo

Sello tercero Dos Reales.

Habilitado provicionalmente por la
Administracion de la Aduana
Maritima de Monterey de la Alta
California para los años de mil
ochocientos treinta y seis y mil ocho
-cientos treinta y siete.

Gutierrez. A. Ramirez.

del juramento que tiene hecho en el
que se afirmo y ratifico leida que se
fue su declaracion y lo firmo con
migo y los de asta.

José R. Estrada. Juan Joaquin Gomez
de asta. Jose Maria Maldonado. de asta
Santiago Aguilar.

En la fha. concluida la informacion
anterior se devuelve al Sr. Gefe Político

en 6 fojas utiles en cumplimiento de lo mandado en auto de esta fha. y lo anoto y rubrico para su debida Constancia.

Monterey Mbre. 19. de 1836.

Vista la peticion con que dá principio este Expediente la informacion de testigos, el informe de la autoridad municipal con todo lo demas que se tuvo presente i ver convenio de conformidad con las leyes y reglamentos de la materia se declara a Dn Jaime Ricardo Berry dueño en propiedad del terreno que indica el dibujo sujetandose a las condiciones que se estipularon i a reserva de la aprobacion de la Suma Diputacion Territorial. Extiendase el correspondiente despacho que le sirva de titulo al interesado a quienes se le haga saber este decreto. El Sor Dn Nicolas Gutierrez Teniente Coronel comandte General Inspector i Gefe Politico de la Alta California asi lo mando decreto i firmo de q. doy fe.

Nicolas Gutierrez

Fco del Castillo Negrete. Srio.

En 31 de Marzo pasó a la Administracion de terrenos Mandado.

Sello tercero Dos reales.

El infrascripto Diputado provisionalmente por la Asamblea Municipal de Monterey de la Alta California para los años de mil ocho cientos treinta y seis y mil ochocientos treinta y siete.

Gutierrez A Ramirez

E. Sr

418 ND
PAGE 103
1828 K.

13. S. D. K.

418 ND
PAGE 104

111

La comision de colonizacion y terrenos baldios a quien se pasó el espediente que forma la concesion hecha por el Sr. Gefe Politico con fecha del C. Jaime Ricardo Berry del paraje nombrado Tamales y Bambinis, espone que en la concesion hecha al C. Rafael Garcia del terreno del mismo nombre parece que hay una equivocacion por que este solicito dos sitios en la Cañada de Bambinis segun se vé en el espediente que existe en la Secretaria del Gefe Politico y a mas en la Relacion del mismo Garcia visible a 85 fte del presente Espediente declara que el terreno que pretende Berry no pertenece á propiedad ninguna y lo que reconoce por baldio: esta prueba que los Tamales y Bambinas concedidos al referido Berry se los han denunciado Garcia y solo dos sitios en la Cañada de los espresados Bambinas y que por lo mismo queda baldio lo que han pretendido y tiene concedido Berry. en tal virtud y para no perjudicar á los agraciados puede concederse á Berry el paraje pretendido dejando en posesion al C. Garcia de dos sitios en la Cañada de Bambinas. En

11 de 26. cuanto á la concesion hecha al interesado en este Espediente por Superior decreto de 14 de Marzo ultimo no tiene la comision q. hacer otra objecion: que el concedido que se disputan sobre

13. 107

418 ND
PAGE 105

y enjuto no ser otras que las que
dencasen la ley de la materia aun-
que el interesado no puede quedar
sujeto á mas obligaciones que las pres-
critas en aquella. Por lo espuesto
la Comision concluye sujetandose
á la deliberacion de V. E. las proposiciones
1ª Se aprueba la concesion hecha al
C. Gefe Superior Politico en 14 de Marzo
ultimo del terreno nombrado Jamalej
y Baulines al C. Jaime Ricardo
Berri a espension de dos sitios que tiene
concedidos al C. Rafael Garcia en la
Canada de Baulines desde el cuarto
abra la puerta del mismo nombre.
2ª Que el agraciado Berri no quede
sujeto a mas obligaciones que á las im-
puestas en la ley y reglamentos de
colonizacion.

Monterrey. Setiembre 5. de 1836.
Jose Joaquin Gomez. David Spence.

Monterrey. Sept. 9. de 1836.
En sesion de hoy aprovo la S. Diputacion
el antecedente dictamen con las adi-
ciones en que concluye y devuelvo
para este Superior al C. Gefe Politico
para su conclusion.

Juan B. Alvarado. Presidente
Jose Maria Maldonado Secr.

Office of the Surveyor General of the
United States for California.
San Jose May. 11.

Surveyor General of the United
States for the State of California
and as such having in my office

1118

418 ND
PAGE 106

and in my charge and custody a portion of the archives of the former Spanish and Mexican Territory or Department of Upper California by virtue of the power vested in me by law Do hereby certify that the fourteen preceding and hereunto annexed pages of tracing paper numbered from one to fourteen inclusive and marked with the letters "A. D. K." exhibit a true and correct copy of a certain document now on file and forming part of the said archives in this office.

In testimony whereof I have hereunto signed my name and caused my seal of office to be affixed at the City of San Francisco this 4th day of September 1854.

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

Filed in office. Nov. 10. 1854.

Geo. Fisher.
Secy.

Translation of Espediente of Antonio Maria Osio in case No. 666

418 ND
PAGE 107

Seal of the third clap Two Rials
Authorized provisionally 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

(Signed) Simeno (Signed) Antonio Maria Osio

Custom House Seal

Most Excellent Senor Governo

I Antonio Maria Osio, a resident of this place, before your Excellency with due respect and as the Law may allow me do say; that the Government having given four sitios for Cattle in the Punta de Reyes, and there remaining in that part more land than that which is granted, I request that your Excellency will be pleased to grant me for the same purpose, what may be vacant, not Exceeding the maximum fixed by Law.

For want of competent authority the posession of said four sitios has not yet been given, and nevertheless, hoping that you will do so, I request of your Excellency benignly that you will be pleased to accede to my petition and grant me provisionally the title of ownership and as soon as those lands are measured. I will present the Corresponding plat of all that may be vacant and I ask for.

I swear &c.

Monterey October 3d 1840

(Signed) Antonio Maria Osio

110

418 ND
PAGE 108

Marginal Decree.

Monterey January 4th 1842

In Conformity with what the party interested in this Memorial asks for, the land mentioned is granted to him, with the understanding, that in order to obtain the Corresponding title, he shall present himself again, making the respective plot and taking the customary proceedings

(Signed) Alvarado

Sale of the Fourth Class Two Rites Authorized provisionally by the Maritime Custom House of the Port of Monterey in the Department of the Californias for the year Eighteen hundred and forty three.

Custom House Seal

Most Excellent Sir Governor

Govt Seal

I Antonio Maria Osio, a resident of this place, with due respect and as the Law may allow me present myself and say, that on the 28th of September 1839, I bought from Mr. Joseph Snook two sitios de ganado Mayor, which had been granted to him in the Punta de Reyes (in the jurisdiction of San Francisco, where after having Examined it, I found that it Comprised a large Extent of land, and that being desirous I might injuring any one, ask for it, To that Effect I made a petition to His Excellency the Governor. Your Excellency's predecessor, and he granted me the sitios which it might Contain, Not Exceeding the Maximum besides the two sitios which I had purchased

418 ND
PAGE 109

as appears by the annexed petition

It is now going on two years, since I obtained the satisfaction of quietly possessing a Rancho which I began to stock with nearly five hundred head of Cattle, and just when I was ready to convey a large from the Pueblo of San José I understood from Captain Don Salvador Vallejo that he himself had already given possession of my land to Mr. James Richard Berry-

This information was given to me in presence of his Excellency the Governor, to whom I immediately complained bitterly of the spoliation of my property, and his answer was, that on account of the disputes which had taken place between the Government and the Commandancia General, he considered the most prudent measure to be for me to await the arrival of your Excellency who was shortly Expected.

As I began said Most Excellent Sir, it is now going on for two years, that I am suffering loss of much Consideration, and therefore most Earnestly request that you would be pleased to Order a title of ownership to be made out in my favor, to the Extent which was provisionally granted to me, and that Mr Berry be informed that he has no right whatever in the Pueblo de Reyes, since the possession there given to him is null in all its parts, and that he be restricted to the Sitios which were given to him in the Ranada del Estero de Tamales, as the Expediente formed to that Effect in the year 1836 determinately Expresses, wherein the Corresponding plot

418 ND
PAGE 110

Exists, and at first sight it appears that nature itself meant to divide the two ranchos by placing Mountains between them. I therefore request your Excellency to accede to my petition, whereby I shall receive favor and justice, Swearing &c

Monterey Octobre 3rd 1843

(Signed) Antonio Maria Osio

Marginal Decree.

Monterey Octobre 26th. 1843

Let the Government Secretary Report

(Signed) Micheltorena

Señor Governor

From all the proceedings had in the respective Especientes, as well as from the approved of the Most Excellent Departmental Junta of the 5th of September 1836 it results that Eight Sitios of ganado Mayor were granted to Mr Berry, in the place called Cañada de Tamales y Bambines, and the two Sitios in the same place of the Bambino to Señor Garcia, without any right to the other Contiguous land and much less to the place granted to and Claimed by Señor Don Antonio Maria Osio, which is divided by Mountains-

This is all I have report to your Excellency in fulfilment of the Superior decree of the 26th of the present year.

Monterey Octobre 28th 1843

(Signed) Manl. Jimeno

Monterey Octobre 28th 1843

In accordance with

Note.
Respecting this read see the Surveyor Genl's Certificate
W.E.P.H.

113

the opinion of the Government Secretary in favor and in justice to Mr. Osio, and the land being vacant, let the title be made out and the proceedings asked for, be declared.

(Signed) Micheltorena

---

418 ND
PAGE 111

Monterey 30th. of November 1843

In view of the petition which commences this Espediente, the foregoing reports and all the rest which was born in mind and was necessary to be observed in accordance with the laws and regulations on the subject - I decree Don. Antonio Maria Osio, to be the proper owner of the place Called Punta de Reyes, bounded by Mr. James R Berry and Don Rafael Garcia, its limits being in the other parts, the Sea and the Creek of Tamales, to the Extent of Eleven Sitios de ganado Mayor, without Comprehending the two Sitios which were granted to Mr. Joseph Snook - Let the Corresponding title be made out, be recorded in the respective Book, and let this Espediente be forwarded to the Most Excellent Departmental Assembly for its Approval - Hes Excellency the Governor thus Command, decree and Signs - Whereof I give testimony.

(Signed.) Micheltorena

I the undersigned do hereby Certify the foregoing to be a true and faithful translation & a fac simile Copy of the Original attested to by Saml. D King Esqr. Surveyor General of California

Monterey Augst 25th 1852

Wm. E. P Hartnell. State Translator

1114

Filed in Office March 13. 1855
Geo. W. Fisher Secy

418 ND
PAGE 112

115 -

Exhibit No 2. R. y L. annex to Depo: of David Spence in No 666

418 N.D
PAGE 113

Secretaria del Des=
=pacho de Gobierno.

El Gobierno por su decreto de 29. de Febrero ultimo dispone se ponga en ejecucion lo acordado por el Tribunal superior de justicia de este Departamento lo que à la copia dijo: El Fiscal de este superior Tribunal hace presente à V. E. que ha examinado los Espedtes de los señores Dn Rafael Garcia Dn Jaime Ricardo Beni y Dn Antonio Mn Dio y nota en ellos que los dos sitios concedidos por el Gobierno del Departamento al Sor Garcia, son en la Canada de Baulenes medidos de su centro à la punta del mismo nombre. Garcia se conformo con esta concesion pues fundò en estos limites su casa y no tubo embarazo en informar como valdio el Resto en la pretencion que dedujo el Sor Beni. El Gobierno Departamental en la pretencion que hace Beni de Ocho sitios en el terreno de Tamales y Baulenes le tiene concedido esta gracia; prevenTendiendose que los Ocho sitios sean medi-dos de los linderos de los dos de Garcia en adelante. Garcia con posterioridad à estas concesiones abandono su posesion y se situo mas adelante resultando por consecuencia que ocupò en esta nueva fundacion terreno de la propiedad de Beni. Este individuo tambien para no menoscabar de sus Ocho sitios la parte que le quito Garcia, abanzo hasta la propiedad del Sor Dio resultando de todos estos trastornos perjudicado Dio notablemente: La posesion dada al Dn Beni de Ocho sitios que le previenen concedidos fue por el Comandte Militar Dn Salvador Vallejo y no por el juez à quien la ley le da-

418 ND
PAGE 114

Esta facultad, por consiguiente, no resi=
=diendo en el Comandte Militar autoridad
competente sea nula y de ningun valor la
citada posesion y el interesado para lega
lizar en todo tiempo los documentos de su
propiedad debe recabar la posesion de la
autoridad competente. Las medidas
de estos ocho sitios las encuentra esta
Fiscalia inclusas, pues se bè por el diseño
presentado para la posesion que constan
de 7820, Varas del Este al Oeste, 15000
al Norte, 20600, al E. S. E. y 20,000 al
S. E. cuya figura regular deja ver la im=
perfeccion del terreno y dà lugar à frecuentes
litis por los colindantes. Todo lo que notania
V. E. por el diseño que de estas medidas
tengo el honor de acompañar.
La Fiscalia tambien ha notado con sor
=presa la desigualdad por lo mismo debe
hacer presente que el diseño de posesion
debe ser conforme el presentado al Gobierno
para obtener la concesion.
El denuncio que hace el Sr Osio no es
como creè con equivocacion el Sr Beni
de el Resto de sus ocho sitios deducidos
los dos que cedio al Sr Knox sino del
Valor que resulta despues de la exacta
medicion de los Ocho sitios que pertenecen
al Sr Beni: por todo lo relacionado la
Fiscalia de mi cargo opina.
1o Que el Sr Garcia debe ocupar los dos
sitios que le fueron concedidos en la cañada
de Baulenes medidos del centro de esta
à la punta del mismo nombre que son los
legalmente concedidos y que el fundo en
2o Que de los limites de Garcia se midan ex
actamente al Sr Beni por un Agrimensor

418 ND
PAGE 115

los ocho sitios que le estan concedidos al Sr Snook ó que de lo contrario recabe nuevo titulo por solo seis sitios que le corresponden para evitar diferencias en lo subsecuto:

2º Que si el Gobierno del Departam.to quisiese agraciar al Sr Otis puede hacerlo con el Resto del terreno que resulte despues de la exacta medida del de Garcia y Berri: 3º Que como de las medidas de estos sitios el beneficiado lo es el Sr Otis el sea quien pague los gastos del Agrimensor

4º Que el Sr Berri recabe la posesion de su terreno de la autoridad que corresponde y que se ponga el diseño de posesion igual al presentado al Gobierno Departamental al tiempo de pretender el sitio—

6º Que el juez competente obligue á estos individuos con arreglo á la Ley de Colonizacion á que al momento de recibir sus posesiones pongan sus mojoneras que demarquen sus limites para evitar muchos litis.

Este es Sr el parecer de esta Fiscalia mas V.S. resolverá lo que crea de mas justicia.

Monterey Febrero 29. de 1844.

Como por los Expedientes á que se refiere el Sr Fiscal no aparece ninguna denuncio hecho por D. Antonio Otis de terreno alguno del Sr Berri y solo si del sobrante despues de medido con exactitud el del referido Sr Berri y parece que equivocadamente se entiende por este Sr el derecho de Ocupacion de su terreno teniendo presente esta Sala que haciendo cesion de dos sitios al Sr Snook y encontrado en los

Conta que este hizo de dhos dos sitios á Dn Antonio Osio, no debía ygnorar cual era la parte que cedio y que fue vendida resultando de esto el no poder ocupar ni una parte de dhos dos sitios determinados dejará el Sr Bern en pacifica posecion de Ellos á la parte que ocupa á Dn Antonio Osio y queriendo evitar nueva questiones aprueba el parecer del Sor Fiscal en todos sus partes y firma =

Juan Malarin

José Mariano Bonilla Secretario

Y lo transcribo á V. de Orden del E. S. Gobernador para que con citacion de colindantes se proceda á la medicion que se indica.

Dios y Libertad Monterey Diciembre 28 de 1844.

(signed) Manuel Jimeno

Sor encargado de justicia del pueblo de San Rafael }

418 ND
PAGE 116

I George Fisher Secretary to the United States Land Commission to ascertain and settle the private Land Claims in the State of California, do hereby certify that the foregoing is a true and correct Copy of a Spanish Document in Case No 666. Andrew Randall claiming "punta de los Reyes: now on file in this Office.

Filed in Office June 16. 1855 Geo: Fisher Secy

In Testimony whereof I have hereunto signed my name Officially of the above named commission.
San Francisco California this 21st day of November A. D. 1853. Geo: Fisher Secy

119

Translation of Exhibit No. 2 R. T. annexed to Depo. of David Lust, Spencer No666

418 ND
PAGE 117

Government Secretary's Office

"This Government by a decree dated the 29th. of February last, commands that the Sentence of the Superior Tribunal of Justice of this Department, whereof the following is a Copy, be Carried into Execution—

Most Excellent Sir— The Fiscal of this Superior Tribunal makes known to your Excellency that he has Examined the Especimens of Mrps. Refugio Garcia, James Richard Beny and Antonio Maria Osio, and remarks thereon that the two Sitios granted by the Departmental Government to Sinon Garcia lie in the Canada de Bunlings, measured from the Centre to the point of the same name— Garcia agreed to this grant Since he established his house within its limits and without any objection reported as Vacant the remainder of the land asked for in the petition of Mr. Beny.

"The Departmental Government, in the petition made by Beny for Eight Sitios in the Land of Samuels and Bunlings, grants this favor, but with the understanding that Said Eight Sitios be measured from the boundaries of the two Sitios of Garcia formed. Garcia posterior to these grants, denounced his possession and located himself within formed and Consequently occupied in this new Settlement, land belonging to Beny— "This latter person also in order not to lose any part of his Eight Sitios by reason of the part taken away from him by Garcia advanced on the land

418 ND
PAGE 118

of Sinn Osio, Causing by these Operations Considerable damage to Osio —
"The popepin given to Mr. Bury of the Eight Sitios granted to him, was by the Military Commandant, Don. Salvador Vallejo, and not by the Magistrate authorized by law to that Effect, and consequently as the Military Commandant has no Litigious authority, Said popepin is null and of no Effect, and the party interested in order to legalize at all times the document of his property, must obtain popepin from the Competent Authority —
"The Measurement of these Eight Sitios is found by the Fiscal to be incorrect for it appears by the plot presented for popepin, that they Contain 7820 Varas from East to west — 15000 Varas the North 30.000 to the E. S. E. and 30.000 to the S. E. which Segure not being a regular one —, shews the imperfection of the Land and gives room for frequent law Suits between the adjoining Land owners —
All of which your Excellency will perceive by the plot of these measurements which I have the honor to accompany
"The Fiscal has likewise remarked with Surprise the dissimilitude and Consequently must say that the plot of popepin ought to Conform in all its parts with the one presented to the Government for obtaining the grant —
"The denouncement made by Sinn Osio is not as Mr. Bury Erroneously supposes of the remainder of his Eight Sitios, deducting the two which he granted to Mr. Snook, but of the vacant land

418 ND
PAGE 119

which may result after the Exact
measurement of the Eight Sitios which
belong to Mr. Berry. From nee of which
premises, the Fiscal's Office under my
charge, is of opinion — 1st That Simon
Garcia must occupy the two Sitios
which were granted to him in the boundaries
de Banlines, measured from the centre
of Isla Cananea, to the point of the same
name, which are the Sitios legally granted
and which he located in the beginning
2d That from the boundaries of Garcia
there be Exactly measured to Mr Berry
by a Surveyor, the Eight Sitios granted to
Mr. Snook, or that On the Contrary he obtain
a new title for two Sitios only which
belong to him, in order to avoid disputes
in future — 3d That in case the Depart
mental Government wishes to favor Simon
Osio, it may do so without the remainder
of the Land which may result upon the
Exact measurement of Garcia's and
Berry's Land. 4 — That as the person benefit
-ed by the measurement of the Sitios is
Simon Osio, he pay the Expense of the Survey.
5th. That Mr. Berry obtain the posession
of his lands from the Competent Authority and
reform the plot of posession, to Conform
with the One presented to the Departmental
Government at the time of asking for the
land — 6th. That the Competent Magistrate
Oblige these individuals in accordance
with the Laws of Colonization, to place them
Land Marks at the moment of receiving
posession, in Order to assignate, their boundaries
and Obviate many disputes — This is
the Opinion of this Fiscal's Office, but Your

122

Excellency will resolve what you may
Consider most Agreeable to Justice.
Monterey February 28th. 1844
José Ma Castañares

---

418 ND
PAGE 120

Monterey February 29th. 1844.

As it does not
appear from the Expedientes referred to
by the Fiscal that Don Antonio Osio has
made any Announcement of any of Mr
Berry's Land, but only of the Surplus
often Measuring Exactly the Land of
said Mr Berry; and it appearing that
this gentleman Erroneously questions the
right of occupation of his Land; this
Tribunal bearing in mind that he
Ceded two Sitios to Mr. Brook and Consen
ted to the Sale made by this person of
said two Sitios to Don Antonio Osio, he
Ought to know which was the part he
Ceded, and which was Sold and
Consequently that he Cannot occupy
any part of said designated Sitios —
Mr. Berry will be Left in peaceable
possession thereof the part who occupies,
Don Antonio Osio, and wishing to prevent
any New disputes, it (this Tribunal) appears
in all its parts the Opinion of the Fiscal
Agrees —

Juan Malarin

José Maria Bonilla
Secretary

123

And I transcribe it to you by order of
his Excellency the Governor, to the end
that the adjoining Land Owners being
Summoned, the mentioned Survey be
Carried into Effect

God and Liberty

Monterey December 28th. 1844

Manuel Jimeno

418 ND
PAGE 121

To the person Acting as Justice of the Peace
in the Pueblo of San Rafael

I the undersigned do hereby Certify the
foregoing to be a true and faithful
Translation of the Original Certificate
in possession of A Randall Esq.
Monterey September 4th 1852

Wm. E. P. Hartnell
State Translator

Filed in Office Jan 16 1855

Geo. Fisher
Secy

6. 125

Sello Cuarto Dos Reales.
Habilitado provisionalmente por la aduana Maritima del puerto de Monterrey en el Departamento de las Californias para los años de mil ocho cientos cuarenta y Cuatro y mil ochocientos Cuarenta y cinco.

(Seal)
Deed from Berri to Smith.

418 ND
PAGE 122

Micheltorena   Pablo de la Guerra.
Interino. Ynst.° Sol.° Alvarado.

Conste por este documento que Yo, Jaime Ricardo Berry, Mejicano naturalizado y vecino de la jurisdiccion de Sonoma siendo deudor a Don Estevan Smith de varias Cantidades que me ha facilitado le cedo y confiero el derecho q. tengo adquirido en el parage nombrado Punta de las Reyes que me concedio el Gobierno del Departamento en 1836 y como acredita el titulo respectivo que me comprometo a entregar con inclusion de los demas Documentos concernientes igualmente le cedo todos los bienes de campo, como son ganados Vacunos y caballar que actualmente existen de mi pertenencia en el terreno expresado, para que cuando guste el Sor. Smith de su propia autoridad entre en posesion de ellos como de cualquiera bienes raices y muebles que tambien halla en el, entendiendose que esta cesion i donacion es en pago, i lo que le debo al Sor. Smith con lo cual creo haberle satisfecho y me eximo de cualquiera otra responsabilidad y por lo mismo renuncio y hago dimision de mi dho. Rancho ó intereses, obligandome a no hacer nunca reclamo de

126

418 ND
PAGE 123

de Mos y el Sor. Smith á cuyo decreto
y lo demas por referido y para que
se cumpla y sea valedero con esta
publica, solemne que ahí se muestra
voluntad lo firmamos delante de
los testigos en Monterey a catorce
de Febrero de mil ochocientos
cincuenta y dos.

Jaime Ro Berri.

Stephen Smith. Testigo Manuel Castro.

Testigo. David S. Spence.

Testigo William Richardson.

Filed in Office. Oct 8. 1853

Geo. Fisher.

Secy.

127 C

Translation of Deed from Berry to Smith

418 ND
PAGE 124

Deed Fourth Two Rials

Provisionally supplied by the Custom House of the Port of Monterey in the Department of the Californias for the years of one thousand eight hundred and forty four and one thousand eight hundred and forty five

(Signed) Michel Rena
Pablo de la Guerra
ad interim
Guillermo Eo. Hartnell

Custom House Seal

I declare (Caveat) by this document that I Isaac Ricardo Berry a naturalized Mexican, and resident of the Jurisdiction of Sonoma, being debtor to Don Estevan (Stephen) Smith, for various sums with which he has aided me, that I cede and Confer the right which I have acquired in the place called Punta de Reyes, which the Government of the Department granted to me in 1836 as shown by the title thereto which I promise to deliver including all other documents Concerning it — I also cede all the property of the field such as Cattle and horses, which actually Exist belonging to me on the said land So that whenever it shall please Mr. Smith of his own Authority he may enter in possession of them as also of whatever properties and Chattels which also he may find there —

It being understood that this cession & grant is in payment of what I owe to said Smith with

128

418 ND
PAGE 125

I believe to have satisfied him and
relieving me from all other responsibility
and for this I renounce and give up (hago
renuncion) my said farm and property
obligating myself never to reclaim them
and the said Smith to hold these and
the other as recited, and that this shall
be complied with and be valid as a
solemn public document, which thus
shows our determination - see sign it
before three witnesses in Monterey on the
fourteenth of January One thousand
Eight hundred and forty four -

(Signed) Stephen Smith — Jesus R.a Berry
witness witness

Manuela Castro Dav. Spence
witness — Guad.a Richardson

Conveyance from Stephen Smith & wife To Bethuel Phelps

Know all men by these presents that
we Stephen Smith and Manuela Smith
his wife, of Bodega, Territory of California
United States of America, for and in
Consideration of fifteen thousand dollars
($15.000) to us paid by Bethuel Phelps
of Benicia in said California the
receipt whereof is hereby acknowledged
have given, granted bargained sold and
conveyed, and by these do give grant
bargain sell and convey unto the said
Bethuel Phelps his heirs and assigns
forever, all that certain tract and parcel
of land or Rancho known as and called
the Rancho de la Punta de Reyes
lying and being in the District of Sonoma
in said California in area four
leagues from East to West and two

418 ND
PAGE 126

leagues from North to South by Oregon
grant, and bounded Northwardly by the
"Estero de los Tamales", and Westwardly
by the Pacific Ocean, Meaning hereby
to Convey the same, and all that kind
of Land granted by the Mexican Govern
ment, under date of March the Seventeenth
day A.D. Eighteen hundred and Thirty six
to James Richard Berry a resident of the
Province of Sonoma, and transferred
by the said James Richard Berry, unto
the said Stephen Smith by deed dated
the fourteenth day of February A.D.
Eighteen hundred and forty four at
Monterey in said California, and there
recorded agreeably to the provisions of
the Law — The said Original grant and
the said transfer deed being hereunto
delivered to the said Phelps and made
a part of this deed —

Together with all
the Cattle tenements Cows horses, and
other animals thereon and belonging to
said Stephen Smith.

To Have and to Hold
the above bargained and Conveyed
premises, with all the appurtenances
unto the said Bethuel Phelps his heirs
and assigns to his and their only proper
use and behoof forever. And we the
said Stephen Smith and Mariana
his wife for ourselves our heirs Executors
and Administrators do Covenant with the
said Phelps his heirs Executors, and
assigns, that we are
lawfully seized in fee of the aforesaid
premises; that they are free from all

131

418 ND
PAGE 127

incumbrance, that we have good right to sell and convey the same to the said Phelps his heirs and assigns and that we will warrant and defend the same to the said Phelps, his heirs Executors and Administrators, and assigns forever against all lawful claims whatsoever —

In testimony whereof we the said Stephen Smith and Manuela his wife at Bodega aforesaid have hereunto subscribed our names and affix'd our seals this twenty fifth day of September A.D. One thousand Eight hundred and forty Eight —

Signed Sealed and delivered in presence of
Alexander Noble
Wm. Fuller

Stephen Smith [Seal]
Manuela F. Smith [Seal]

Territory of California
District of Sonoma } ss:

On this the first day of November A.D. Eighteen Hundred and forty nine, personally appeared the said Stephen Smith, and the said Manuela Smith, who signed and sealed the foregoing instrument, and acknowledged the same to be their proper act and deed — the said Manuela Smith having first been Examined privately and apart from her said husband by me —

Manuel D. McIntosh Dist
Alcalde. District of San Rafael

Filed in Office Jany 22d 1853
Geo. Fisher Secy

131

Certified copy of A. P. L. Exhibit to Depo: of José Arego on the 30th day of October A.D. 1874. in Case No. 666.

418 ND
PAGE 128

Sello Quinto Medio Real
Habilitado provisionalmente 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.

Michel Torena

Pablo de la Guerra
por Ausa del Admor
Guillo Edo Hartnell

Sello

Gregorio Castañares Regidor Decano y Alcalde segundo en turno de Esta Capital.

Certifico hallarse en Este Juzgado à fojas veinte tres del libro de Conciliaciones una del tenor siguiente;

En Monterey de la Alta California à los siete dias del mes de Mayo de mil Ocho cientos cuarenta y cuatro comparecieron ante mi Gregorio Castañares Regidor Decano y Alcalde 2o en turno de Esta Demarcacion, el Sor Dn Anto Ma Osio con su hombre Bueno Dn Pedro Chabolla y Dn Jaime Beni con el suyo Dn Jorje Allen demandando el primero al Sr Juez sobre perjuicios q. temia sufridos en su ganado por no poderlo poner à su vista y cuidado en Razon à estar aqui siguiendo un juicio ante el Supo Real sobre posesion de Terrenos de ambas partes y q. por consig. la falta de Administracion por su misma persona en estos sus intereses lo habrian hecho perder las Ventajas de haber tenido que entregar los referidos intereses à mitad de utilidades en manos agenas. El Sor Osio dice por convenio à Dn Jaime Beny q. desestima de su demanda siempre que le allanare

418 ND
PAGE 129

à pagar en una 3ra parte los gastos q.e ori ginara la medida que tenia q.e hacer en los terrenos q.e demarco el sup.e Fiscal de justicia, Oido esto por el referido Dn Bernabé en convenir y hacerse responsable al pago dcho. Con lo q.e concluyo este juicio firmandolo yo con las partes y los hombres buenos. = Gregorio Castañares =
Antonio Ma. Osio - Jaime Rda Beni
à pedimiento de Dn Ant.o Ma. Osio. doy la presente Copia sacada fielmt.e de su Original p.a los fines q.e le convengan
Monterey Noviembre 9. de 1844
G. Castañares
Filed in Office Oct. 31. 1854
Geo: Fisher Secry.

S.S.

I George Fisher Secretary to the U. S. Land Commission to ascertain and settle private land Claims in the State of California do hereby Certify the foregoing to be a true and correct Copy of a paper filed Oct. 31. 1854 in case No. 666. on the Docket of this Commission Andrew Randall v.s. the United States for the place called "punta de Los Reyes" and marked A.R.L. exhibit to Depo: of José Abrego on the 30th day of October A.D. 1854

In testimony whereof I have hereunto signed my Name at Office at the City of San Francisco Cal. this 19th day of January. A.D. 1855.

Geo: Fisher Secry

Filed in Office Feby 28. 1855

Geo: Fisher Secry

133

In Testimony whereof I have hereunto signed my name Office of the above named Commission Dan Francisco California, this 4th day of November A.D. 1853.

Geo: Fisher Deery

418 ND
PAGE 130

Filed in Office Jan: 16. 1855.

Geo: Fisher Deery

135-

"Translation of Exhibit "A.P.C." to the depo. of Jose Arrego -

418 ND
PAGE 131

Seal of the 5th Dep. One half Real
Authorized provisionally by the Maritime
Custom House of the Port of Monterey in
the Department of the California, for the
Years Eighteen hundred and forty four
and Eighteen hundred and forty five.
(Signed) Michel Torena
(Printed) Pablo de la Guerra
(Signed) In the absence of the Collector
Wm Edwd. Hartnell

Custom House Seal

Gregorio Castanares, Senior Regidor and
Second Alcalde by turn of this Capital
Do certify that there Exists in this Juzgado
at folio twenty three of the Book of
Conciliation One of the following tenor

In Monterey of Upper California
On the Seventh day of the month of March
Eighteen hundred and forty four, appe
ared before me Gregorio Castanares
Senior Regidor and 2d Alcalde by turn
of this Jurisdiction, Señor Don Antonio
Maria Osio with his Lawyer Don Pedro
Chabaya and Mr James Berry with
his lawyer Mr. Geo. Allen, the first
Claiming of the third, damages sustained
in his Cutter, on account of not being
able to place it under his Lights and
Care by reason of being him following up
a Law suit before the Superior Tribunal
respecting the possession of Lands belonging
to both parties, and that Consequently
the want of administration of his property
by his own person had made his lose
the advantages of delivering such
property to another on half profits -

136

418 ND
PAGE 132

Señor Osio proposed to Mr. James Berry that he would desist from his demand on condition that he (Berry) would help him to pay One third part of the Expences to be incurred in the Measurement which had to be made of the Land designated by the Superior Court of Justice - Said Mr Berry on hearing this agreed to become responsible for said payment, whereupon this Conciliation was Concluded -
I do grant it with the parties interested and the Referee
Antonio Maria Osio Gregorio Castanares
James Richard Berry.

At the petition of Don Antonio Maria Osio I give the present Copy - Faithfully taken from the Original in the Enclosed which may Suit him -
Monterey November 9th. 1844
(Signed) G. Castanares

I the undersigned do hereby certify the foregoing to be a true & faithful translation of the Original Certificate in the possession of A Randall Esq -
Monterey 6th. September
1855 E. P. Stallcup
State Translator

Filed in Office March 13. 1855
Geo. Fisher Secy

137

Stephen Smith
To
Bethuel Phelps

"Know all men by these presents, that we Stephen Smith and Mariano Smith his wife, of Bodega, County of California United States of America for and in Consideration of "Fifteen Thousand dollars ($15.000) to us paid by Bethuel Phelps of Benicia in said California the receipt where of is hereby acknowledged, have given granted, bargained Sold and Conveyed and by these presents, do give, grant, bargain Sell and Convey unto the said Bethuel Phelps his heirs and Assigns forever all that Certain tract and parcel of land or Rancho known as and Called the "Rancho de la Punta de Reyes lying and being in the District of Sonoma in said State of California, Extending in area four Leagues from East to West and two Leagues from North to South by Original grant and bounded Northward by the "Estero de los Tamales" and Westward by the Pacific Ocean—
Meaning hereby to Convey the same and all that tract of Land granted by the Mexican Government under date of March the Seventeenth day of A.D. Eighteen hundred and thirty Six to James Richard Berry a resident of the District of Sonoma—and transferred by the said James Richard Berry unto the said Stephen Smith by deed dated the fourteenth day of February A.D. Eighteen hundred and forty four at Monterey in said California, and there recorded especially to the provisions of the Law—

418 ND
PAGE 133

418 ND
PAGE 134

"The said Original grant, and the said transfer deed being herewith delivered to the said Phelps and made a part of this Deed

"Together with all the Cattle, tenements, Cows, horses, and other Animals thereon and belonging to said Stephen Smith—

"To have and to hold the above bargained and Conveyed premises, with all the appurtenances unto the said Bethuel Phelps, his heirs and assigns, to his and their only proper use and behoof forever—

And we the said Stephen Smith and Manuela his wife, for our selves, our heirs Executors and administrators do Covenant with the said Phelps, his heirs Executors Administrators and assigns, that we are lawfully seized in fee of the foregoing premises that they are free from all incumbrance that we have good right to sell and Convey the same to the said Phelps his heirs and assigns, and that we will warrant and defend the same to the said Phelps his heirs Executors Administrators and assigns forever against the all lawful claims whatsoever

In testimony whereof we the said Stephen Smith and Manuela his wife at Borrego aforesaid hereunto subscribed our names and affix our seals, this Twenty Fifth day of September A.D. One Thousand Eight hundred and forty Eight—

Anno Forty Eight —

41

139

Depod Sealed and delivered in presence of Alexander Noble Wm F Menear

Stephen Smith Seal

Manuela F Smith Seal

418 ND
PAGE 135

State of California
Desbed of Sonoma

On this the first day of November A.D. Eighteen hundred and forty Nine personally appeared the said Stephen Smith and the said Manuela Smith who depod and dealed the foregoing instrument and acknowledged the same to be their proper act and deed, the said Manuela Smith having first been Examined privily and apart from her said husband before me

Manuel Ed Mc Intosh 1st Alcalde, Dist of San Rafael

(Endorsed)

Filed for Record July 12th. 1850 at 5 o'clock P.M.

R.B. Butler Dep. Recorder

Recorded in Book E Pages 88 & 89

R.B. Butler Dept Recorder
Sonoma County —

Exhibit 2 to deposition of Stephen Smith Feb. 5th. 1855 —

Filed in Office Oct. 8. 1853

Geo. W. Fisher Secy

1411

141

A. Dn Rafael
Zarcia en 21 de
Abril de 1845

El Exmo. Sr Gobernador del Departamento con fha 28 de Diciembre ultimo me transcribe una disposicion del superior Tribunal de justicia ordenandome que cumpla esactamente con cuanto dicho superior tribunal tuvo à bien resolver à cerca del Terreno concedido à Dn Antonio Mn Osio en la punta de Reyes, en la punta del Estero de Tamales à Dn Jaime Ricardo Beni y Vt en la cañada de Baulenes; y creyendo el Dor Beni que à el pertenece el Terreno en que V. hoy se halla à comensado una pinca que debera ser de mucho costo lo a hecho presente à este juzgado pidiendome el que avise à V. la disposicion del superior tribunal para que dicho el tiempo de la medicion de terenos resulta como ese que à el pertenece el lugar en que V. esta fabricando no alega ignorancia y si que tenga V. presente lo espuesto que esta à perder su trabajo el que fabrica en fundo ajeno.

En consecuencia de lo espuesto debo decir à V. que cuanto trabajo emprenda en la punta del Estero de Tamales, todo lo perderà V. se en la medicion que debo hacer de los terenos mencionados resulta que donde V. haya puesto alguna pinca pertenece à Dn Jaime Ricardo Beni.

Lo que aviso à V para su conocimiento previniendole el que a luego me acuse el recibo de Este

Dios Ge

A. P. L.
Exhibit to deposition of William Reynolds
Nov. 11. 1857
in case el No. 666

418 ND
PAGE 136

418 ND
PAGE 137

Office of the County Recorder of Marin County State of California.

I James L. Poindexter Recorder of the County of Marin State of California and as such now having as a part of said Records of my Office a portion of the Archives of the former Mexican Country or Department of Upper California do hereby Certify that the two preceding and hereunto annexed pages of Manuscript paper numbered one and Two and both of which are verified by my initials (J.L.P.) exhibit a true and correct copy of the writing upon pages, the Seventh and eighth pages, of a Book of Records which is on file and forms part of the said Archives of this Office.

In Testimony whereof I have hereunto set my hand and Official seal this Seventh day of March in the year One thousand Eight hundred and fifty four in San Rafael Marin County.

(Seal)

Jas. L. Poindexter
Recorder

Daniel L. Sayles
Dep't

Filed in Office Nov. 11th 1854
Geo: Fisher Secy

I George Fisher Secretary to the U.S. Land Commission to ascertain and settle private Land claims in the State of California, hereby certify the foregoing to be a true

143

418 ND
PAGE 138

and correct copy of a paper purporting to be an authenticated deed copy signed "Jas. L. Pondexter Recorder, Daniel L. Sayles Dep'y filed Nov: 11. 1854 in case No 666 on the Docket of this Commission Andrew Randall v.s The United States for the place called Punta de los Reyes and marked "A. P. L. Exhibit to Depo: of William Reynolds: Nov: 11. 1854

In Testimony whereof I have hereunto signed my name at office at the City of San Francisco Cal: this 9th day of January A. D. 1855

Geo: Fisher Dep'y

1444

1145

Copy of Translation of Extract "A. P. L." to dispatch of Com. Reynolds Nov. 4 - 1852 in No. 6666

418 ND
PAGE 139

"His Excellency the Governor of the Department under date of the 28th of December last transcribes to me a decree of the Supreme Tribunal of Justice Commanding me to Comply Exactly with what and said Supreme Tribunal has seen fit to resolve with respect to the Land granted to Don Antonio Maria Osio, in the Punta de Reyes, at the point of the Estero de Tamales to Mr. James Richard Berry, and to you in the Cañada de Bambenes; and Mr Berry believing that the land on which you at present are about to make improvements of great value belong to him, he has notified the same to this Juzgado, requesting me to inform you of the decree of the Supreme Tribunal, in order that at the time of surveying the Land it should turn out as he supposes, that the place in which you are building belongs to him you may not allege ignorance, but as the Courts bear in mind how liable a person is to lose his labor who builds on an other person's land

It is consequently my duty to inform you that you will lose all the labor which you may undertake at the point of the Estero de Tamales if in the Survey which is to be made of said Lands it should appear that the place on which you have made any improvements belongs to Mr. James Richard Berry

Which I inform you, for your government Commanding you to acknowledge the receipt of this Communication

146

immediately

Sold

418 ND
PAGE 140

I George Fisher Secretary to the U. S Land Commission to ascertain and settle private Land claims in the State of California, hereby certify the foregoing to be a literal, true and correct translation of a certain paper purporting to be an authenticated Mexican Copy from the Office of the Recorder of Marin County California, which Copy is filed in Case No. 666 on the Docket of this Commission entitled on date of Nov. 11. 1854 entered Randall vs. the United States in the place named Punta de Reyes and marked "A D L" Exhibit to deposition of William Reynolds Nov. 11 — 1854

In testimony whereof I have hereunto signed my name — at Office at the City of San Francisco, Cal — this 4th day of January A.D. 1855

Geo. Fisher
Secy

Filed in Office March 13. 1855
Geo. Fisher Secy

141

Stipulation No. 525 On the Calendar of the Board

Bethuel Phelps
vs
The United States

Before the Board of
U.S. Land Commissioners
for ascertaining & settling
private Land Claims in
California

418 ND
PAGE 141

It is hereby stipulated and agreed by and between the United States and the above Claimant, that a certified Copy of the translation of the Expediente of Antonio Maria Osio to the Rancho of Punta de Reyes in Case No. 666 on the Calendar of this Board, shall be filed and used in Evidence in this Case as fully as if said Expediente and Original translation had been Originally filed in this Case, said Original translation of said Expediente having been filed in the Office of the Secretary of said Board on the 13th day of March 1855.

Thos. H. Sutherland
Atty for Claimant

San Francisco
March 13th 1855

Louis Bleuming
Asso. Law Agent

Filed in Office March 13. 1855
Geo. Fisher
Clerk

148

418 ND
PAGE 142

Bethuel Phelps
vs
The United States

Before the Board of U.S Land Commissioners for ascertaining & settling private Land Claims in the State of California

It is hereby stipulated and agreed by and between the United States and the above Claimants that x certified Copies of the annexed described depositions and Exhibits on file in Case No. 666 on the Calendar of said Board may be filed and be used as Evidence in this Case, as fully as if said depositions and Exhibits had been Regularly taken and filed in this Case viz:-

Deposition of William Reynolds filed in Office of the Secretary of the Board Nov. 11th 1854-

Deposition of J Mariano Bonilla filed in Office of Secretary aforesaid January 5th. 1854-

Deposition of Jose Arego filed in Office of Secretary aforesaid October. 31st 1854

Deposition of Dennis Spence filed in Office of Secretary aforesaid November 1st 1853-

Exhibit No. 2 R "annexed to deposition of said Dennis Spence "filed in Office of the Secretary aforesaid November 1st. 1853—

Exhibit A P L Exhibit to deposition of William Reynolds and filed in Office of Secretary aforesaid November 11-1854

Exhibit to Deposition of Jose Arego taken on the 30th day of October 1854 and filed in Office of Secretary aforesaid on the 31st Oct-1854-

"Filed in Office
March 27. 1855
Geo. Fisher
Secy

"Thos. H. Sutherland Atty
for Claimants
Louis Blanchard. Assn. Law Agent
January 15th. 1855—

1/525

149

Opinion of Bovee by Com. Fuller

Bethnel Phelps
vs
The United States

For a place called "Punta Reyes" situated in the County of Marin and Containing Eight Square leagues—

418 ND
PAGE 143

The petitioner in this case claims title from One James R Berry and has offered in Evidence in support of his Claim a Traced Copy of an Espediente of the said Berry dated March 25th 1835, for the land, and a grant ispeed in pursuance thereof by Governor Victoria dated the 17th day of March 1836 and also a deed of Conveyance from the said Berry to the Claimant all of which documents are properly authenticated

The grant in this Case is for Eight Square leagues of land and it appears from the records in this Case that Salvador Vallejo a Local Military Commander gave possession of the same on the 16th day of June 1842 to the grantee, which fact was represented to the Govern and the Departmental Assembly, and action had thereon by them and the proceedings in judicial measurement set aside, and an approval by the departmental assembly of the grant for the Eight leagues specified in the grant, and grants issued to Other applicants for the balance of the Land.

We think this a valid claim and see no Objections to a Confirmation for the Eight leagues specified in the grant, and to be located agreeable to the Calls thereof and the map—

accompanying the Espediente, and a decree will be Entered accordingly

418 ND
PAGE 144

Filed in Office August. 7. 1855

Geo. Fisher Secy

No 525.

Decree of Confirmation—

Bethuel Phelps
vs
The United States } In this case on hearing the proofs and allegations it is adjudged by the Commissioner 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 Point Reyes, situate in the County of Marin, and contains eight square leagues, being four leagues in length and two in width and to be hereafter located agreeable to the map accompanying the Espediente on file in the case.

(Sign'd) R. Aug. Thompson.
(") S. B. Farnell.

Filed in Office Aug. 7. 1855.

Geo. Fisher
Secy

418 ND
PAGE 145

Decree

Bethuel Phelps
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 Tomales y Baleenas situated in the County of Marin and containing eight square leagues, being four leagues in length and two in width to be hereafter located according to Law, with reference to the grant and in accordance with the approval of the Departmental Assembly had on the 9th day of September 1836 and the decree of the Supreme Tribunal of the 29th of February 18xx, and also with reference to the maps accompanying the Expediente.

Alpheus Felch
R. Aug Thompson
S.W. Farwell.

Filed in Office Feby 5th 1856
Geo Fisher Sec

152

No 525.

Bethuel Phelps
vs
The United States. } Before the Board of U.S. Land Commissioners,

418 ND
PAGE 146

Motion to Amend Decree

And now comes the claimant by Thos. W. Sutherland, his Attorney and moves the Board to amend the decree of confirmation heretofore entered in this case as follows, to wit,—

In this case on hearing the proofs and allegations it is adjudged by this 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 by which confirmation is hereby given is called "Tamales y Bandini" situated in the County of Marin and contains eight square leagues, being four leagues in length and two in width, commencing two leagues from the Punta de Bandinis and to be hereafter located agreeable to the calls of the grant and in accordance with the approval of the Departmental Assembly of 9th September 1836 and the Decree of the Superior Tribunal of the 29th day of February 1844, and subject to the prayers of the case hereinafter entitled—

Thos. W. Sutherland.
Atty for claimant

Filed in Office Nov 27 1855.
Geo. Fisher
Secy

153.

418 ND
PAGE 147

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 decisions in this case and of the papers & 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.

418 ND
PAGE 148

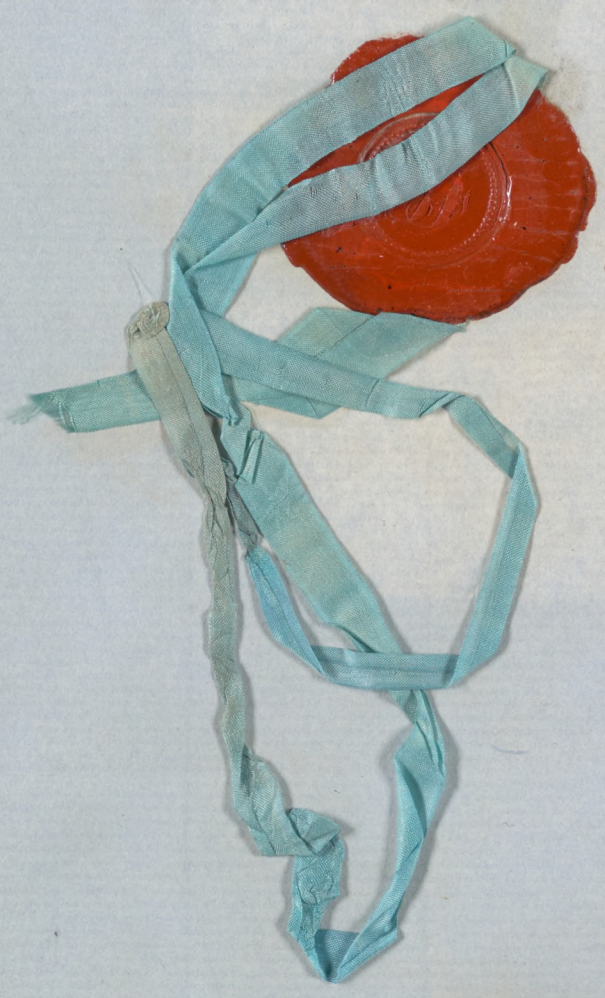
Office of the Board of Commissioners,

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

I, George Fisher — Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing One hundred & fifty three pages, numbered from 1 to 153, 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. 525, on the Docket of the said Board, wherein

Bethuel Phelps is —

the Claimant against the United States, for the place known by the name of Punta Reyes —



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 third day of February A. D. 1856, and of the Independence of the United States of America the ~~seventy~~ eightieth

Geo: Fisher.

Secy.

ND

U. S. DISTRICT COURT,

Northern District of California.

No. 418

THE UNITED STATES,

vs.

Bethuel Phelps

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 525

Filed, July 26 1856

Wm M Moore

Clk

418

418 ND
PAGE 149

Office of the Attorney General of the United States,

Washington, 15 April, 1856.

525.) "Punta Reyes"

Bethuel Phelps, 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 17th day of March, 1856, the appeal in the district court of the United States for the Northern district of California will be prosecuted by the United States.

Caleb Cushing

Attorney General.

John A Brown Esq

Clerk U. S. D. C.

No 418

U. S. Dist. Court.

The United States

vs

Bethuel Phelps.

Appeal Notice.

Filed June 2. 1856.

Chenes,

Deputy.

418 ND
PAGE 150

418 ND
PAGE 151

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 22nd day of December in the year of our Lord one thousand eight hundred and fifty-seven.

Present:

The Honorable **OGDEN HOFFMAN**, *District Judge.*

The United States
v.
Bethuel Phelps

No. 418. L. C. 528.

The Attorney General of the United States having given notice that appeal will not be prosecuted in this case:

On motion of P. Della Torre Esq. U. S. attorney, it is Ordered, adjudged and Decreed that claimant have leave to proceed under the decree of this Court heretofore rendered in his favor, as under Final Decree.

Ogden Hoffman
U. S. Dist. Judge

418

United States District Court, Northern District of California.

The United States

vs.

Bethuel Phelps

ORDER.

Vacating appeal

Filed Dec 22d 1857

John A. Monroe CLERK.

By Hagan Haynes DEPUTY.

418 ND
PAGE 152

418 ND
PAGE 153

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 22nd day of December in the year of our Lord one thousand eight hundred and fifty-seven.

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States

v.

Bethuel Phelps

No. 418 – L. C. 525.

Decree.

This cause came on to be heard on appeal from the final decision of the Board of Commissioners to ascertain and settle the private land claims in the State of California under the Act of Congress approved on the 3d of March, A. D. 1851, upon the transcript of the proceedings and decision of the said Board of Commissioners, and the papers and evidence on which the said decision was founded; and it appearing to the Court that the said transcript has been duly filed according to law, it is by the Court hereby ordered, adjudged and decreed ~~upon the consent of the attorney for the United~~ that the said decision be and the same is in all things hereby affirmed; that the claim of the said appellant is a good and valid claim, and that the same is hereby confirmed in accordance with the decree of the said Board of Commissioners.

Ogden Hoffman

U. S. Dist Judge

418

United States District Court, Northern District of California.

The United States

vs.

Bethuel Phelps

~~ORDER.~~

Decree of Confirmation

Filed December 22d 1857

John A Monroe CLERK.

By Kagan Byrne DEPUTY.

418 ND
PAGE 154

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

418 ND
PAGE 155

The United ~~States~~, Appellant
vs
Bethuel Phelps, Appellee.

Appeal from Land Com'r
L. C'r No. 525.
District Court No. 418.

Solomon Heydenfeldt,
O. L. Shafter, T. McM. Shafter, and T. W. Park come and move that an order may be made in the above entitled cause making them parties thereto against the United States, and extending to them the benefit of the proceedings that have hitherto been had therein, and allowing them to be heard in any proceedings that may hereafter be taken in said cause, either as parties or as attys of ~~said~~ Phelps.

Solomon Heydenfeldt,
O. L. Shafter
T. McM. Shafter
T. W. Park.

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

The United States, Appellant,

vs

Bethuel Phelps, Appellee.

418 ND
PAGE 156

I. O. L. Shafter, depose and say, that the Mexican grant set forth in the petition in the above entitled cause, has been confirmed by the final decree of said Court. That prior to said confirmation the said Bethuel Phelps conveyed the lands named in said grant, and all his rights therein in full ownership to Andrew Randall. That on the decease of said Randall in the Summer of 1856 Elizabeth T. Randall, his widow, was appointed administratrix on his Estate, and that afterwards ~~on the 18 day of~~ August 1857 the said administratrix conveyed the said lands to Solomon Heydenfeldt, I. McM. Shafter, T. W. Park, and this affiant in fee simple, the said grantees being the highest bidders for said property at a public sale thereof theretofore had in the County of Marin by order of the Probate Court of said County. And this affiant further says that he knows of no person or persons who now claim any rights under said grant except himself and his Co tenants above named.

O. L. Shafter

Sworn to & subscribed
June 3rd. 1859. before me,
W. H. Aikens,
U. S. Comr

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

The United States, Appellant
v
Bethuel Phelps, Appellee.

Appeal from Land Commission
L. C. No. 525.
Dist. Ct No. 418.

418 ND
PAGE 157

It appearing to the Court that Solomon Heydenfeldt, O. L. Shafter, I. McM. Shafter, & T. W. Park, have succeeded by regular conveyances to all the right, title and interest of Bethuel Phelps under the Mexican grant set forth in the petition in said cause, and that they are now in possession of the lands named in said grant, It is hereby Ordered, ~~the District Attorney being present in Court assenting thereto~~ - That the said Solomon Heydenfeldt, O. L. Shafter, I. McM. Shafter, & T. W. Park, ~~be made parties to the said record in the right of said Phelps: And that as such they shall be entitled to the benefit of the proceedings that have heretofore been had in said cause, and to the benefit of such proceedings as may be hereafter had therein~~ & allowed to appear as attorneys in said cause on behalf of the claimant.

No. 418.

United States District Court.
Northern District.
Cal.

The United States

vs

Bethuel Phelps.

Motion, affidavit, & order of Court.

Filed June 3. 1859.
W. H. Chevers.
Clerk.

418 ND
PAGE 158

Shafter, Park & Key, Denfeld & Allys.

418 ND
PAGE 159

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 Second day of December in the year of our Lord one thousand eight hundred and fifty-nine,

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States.
vs.
Bethuel Phelps.

No. 418.
"Punta Reyes."

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 S. Heydenfeldt. Esq: of Counsel for the Claimant, it is ordered that the said Sur: General return to this Court a certified copy of the plat of said approved survey, and that the claimant be allowed ten 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,

No. 418.

District Court of the United States

IN AND FOR THE

Northern District of California.

The United States.

vs.

Bethune Phelps

Order to return Survey, etc.

Filed December 2, 1859.

W. A. Shepard, Clerk.

By ..... Deputy.

418 ND

PAGE 160

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.

418 ND
PAGE 161

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. 418, to Bothwell Phelps, known as "Punta Reyes", and situated in the County of Marin 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 31st 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 third day of October A. D., 1860.

W. A. Reed

CLERK.

4 insertions

The within Monition was received by me on Wednesday the third day of October 1860, and in obedience thereto I have given due notice, as therein commanded, by causing the publication of said notice, for Four consecutive Wednesdays, in the San Francisco Herald, commencing on the Tenth day of October 1860; and for Four consecutive Saturdays, in the Sonoma County Democrat a paper published nearest the land, commencing on the Sixth day of October 1860

Dated San Francisco, Oct. 31 1860.

P L Solomon
U. S. Marshal.

No. 418.

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

THE UNITED STATES.

V.

Bethuel Phelps.

MONITION.

Returnable October 31, 1860.

Issued Oct: 3rd 1860.

Filed Oct: 31 1860.

W. A. Chevers
Clerk.

418 ND
PAGE 162

418 ND
PAGE 163

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.

Bethuel Phelps.

IN LAND CASES.

District Court No. 418,

Land Com. No. 525,

AND now at this day on application of Shafter, Park & Heydenfeldt, Attorneys for Claimant IT IS ORDERED, that the Surveyor General of the United States for California return into this Court, on or before Wednesday, the 31st day of October A. D. 1860, his Official Survey and Plat of the land finally confirmed in the above entitled cause, known as "Punta Reyes", and situated in the County of Marin in said District; AND IT IS FURTHER ORDERED, that the United States Marshal for this District serve upon the said Surveyor General, without delay, a certified copy of this order, and make due return hereon.

Served personally by copy on J. W. Mandeville
U.S. Surveyor General for California
San Francisco
Oct 3d 1860

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

No. 418

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

THE UNITED STATES,

v.

Bethuel Phelps.

ORDER TO RETURN SURVEY.

Returnable 31st October 1860.

Issued October 3d, 1860.

Filed October 4, 1860.

W. H. Chevers *Clerk.*

418 ND
PAGE 164

418 ND
PAGE 165

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

The United States
v
Bethuel Phelps.
} No. 418.

The petition of O. L. Shafter Jas. McM. Shafter, T. W. Park & Sol. Heydenfeldt respectfully shews, That the survey of the land finally confirmed herein was approved by the Surveyor General of the United States for California on 10 May 1860, that the date of the first publication by the said Surveyor General under the provisions of the 1st. Section of the Act of June 14 1860 was October 3rd 1860, that the petitioners have an interest in the survey and location of said land denied from the Claimant - being the whole thereof. as appears by the affidavit of Jas. McM. Shafter hereto annexed.

Wherefore your petitioners pray that an order may issue in due form directing the said Surveyor General to return into this Court the plat of his said official survey according to the rules and practice of this Court, and that the mention of this Court issue in due form to the U. S. Marshal Commanding him to give notice to all parties in interest that objection has been made to the survey and

location of the land finally confirmed herein by publication as by the Statute required.

And your petitioners will ever pray &c.

Dated San Francisco Oct. 5th 1860

Shelters Park Heydenfeldt

Pro Lessee.

418 ND
PAGE 166

418 ND
PAGE 167

United States District Court
Northern District of California

The United States
v
Belknap Phelps

No. 418.

Jas. McM. Shafter, having been sworn, says. That he has examined the survey and location of the land claimed in this Case, and that the same is erroneous, in that it does not correspond to the calls of the grant or decree referred to therein.

And affiant further says that O. L. Shafter, T. W. Park & Sol. Heydenfeldt, and affiant, are the successors in interest of the said Belknap Phelps by assignment of title from him; and that the U. S. Surv. Gen. for Cal. has duly advertised the plat of said survey and location Commencing on the 3d day of October 1860 in the City & County of San Francisco

Subscribed & Sworn to before me this 3 Oct. 1860.

Jno. B. Williams
U. S. Com.

J. McM. Shafter

No. 418.

In the U. S. Dist. Court

The United States

vs

Bethuel Phelps

Petition & (affidavit) &
Return of Survey.

Filed October 3. 1860,
W. A. Stevens,
Clerk

418 ND
PAGE 168

Clapton Pack & Kleinpeter
Attys.

The United States District Court.
Northern District of California.

418 ND
PAGE 169

The United States. vs. Bethuel Phelps. } No 418.

The Petition of Alonzo A Sharp by his Attorney Reuben H Lloyd respectfully shows to the court that your Petitioner holds a bond for a deed for a portion of the Rancho called "Baulinas" heretofore claimed by Gregorio Briones - That said Rancho "Baulinas" is bounded & or has one common line with as your Petitioner is informed and believes and so charges, with the lands claimed in this cause called "Punta Reyes" - That your Petitioner is directly interested in the location of said common line. - That the Survey of the land claimed in this cause has been returned to this Court, & is now before this court for adjudication & settlement in pursuance of an order for that purpose - Whereupon the premises considered your Petitioner

prays that he may be allowed to intervene in this cause to protect his interest herein and so he will ever pray &c.

Reuben H Lloyd.
atty for Petitioner

418 ND
PAGE 170

State of California
City & County of San Francisco } ss.

H A Sharp

being duly sworn deposes & says on oath that he has read the foregoing Petition that the same is true of his own knowledge except as to such matters as are therein stated on his information & belief and as to such matters he believes it to be true.

H A Sharp

Sworn & subscribed to before me this 31st October 1862

W. H. Reed,
U. S. Com.

418.

U. S. Dist. Court.

The United States.

—vs—

Bethuel Phelps.

Pet. of Intervention

L. A. Clark.

Filed Oct. 31, 1860.

D. D. Chaves.

Clerk.

418 ND
PAGE 171

R. D. Lloyd,

Atty—

418 ND
PAGE 172

The United States
Bettinet Phelps
v
The United States
Bettinet Phelps.

In the District Court of the
United States. Southern
District of California.
No. 418.

The above named Bettinet Phelps, the Claimant in this Case objects to the Survey returned herein by the Surveyor General of the United States for California, and makes and files the following Exceptions thereto.

The Survey is not in accordance with the decree herein, nor does it agree with the grant upon which said decree is founded in the following particulars,

1st. The grant and decree include the Cañada Tamales y Bandinas, and the Survey excludes said Cañada.

2d. The grant and decree is for Eight leagues of land, the Survey includes only three leagues Eight hundred and Seventy three acres nearly.

3d. The grant is the oldest in date to any that surround it, but in the Survey it is postponed to every junior grant which touches it on the North, East South, & West, the

Samales y Baulines confirmed to Rafael Garcia. The Nicasio confirmed to James Black & B. R. Buckelew, the San Geronimo, the Canada de Herrera, Punta de Quintin, Sanchito, & Las Baulinas.

418 ND
PAGE 173

Said claimant therefore prays that the aforesaid survey may be set aside, and a new survey ordered in accordance to the decree and grant herein.

By Shafter & Hoy respectfully
Sol attys.

No. 418.

In U. S. Dist. Court.

The United States

vs

Bethuel Phelps

Objections to Survey by Claimant.

Filed Oct: 31, 1860.
W. H. Clerc'd.
Clerk

418 ND
PAGE 174

Shafter & Heydenfeldt
Attys for Claimant

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 31st day of October in the year of our Lord one thousand eight hundred and sixty.

418 ND
PAGE 175

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States,

V.

Bethuel Phelps,

IN LAND CASES.

District Court No. 418.

Land Com. No.

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 Attorney for proclamation was made that all parties having, or claiming to have, an interest in the survey and location of the land finally confirmed in the above entitled cause, appear and intervene for the protection of such interest; The U. S. Attorney appeared for the U. S. and Shafter, Park & Heydenfeldt for Claimants, and themselves.

R. A. Lloyd appeared for Solomon A. Sharp, and filed intervention in that behalf.

No other party appearing,

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

No. 418.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

v.

Bethuel Phelps.

ORDER ON RETURN OF MONITION.

Filed October 31, 1860

W. A. Clevers.

Clerk.

418 ND
PAGE 176

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 24th day of August in the year of our Lord one thousand eight hundred and ~~fifty~~ eighty nine

418 ND
PAGE 177

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States
v
Bethuel Phelps
} No 418.

And now at this day, on motion of N. H. Sharp Esq, U. S. attorney, it is ordered, that the United States have ten days further time within which to take their testimony.

418

UNITED STATES DISTRICT COURT,

Northern District of California.

The United States

vs.

Bethuel Phelps

Order allowing Wds. 10 days further time.

Filed August 24th 1861,

W. H. D. Adams

CLERK.

By

DEPUTY.

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

418 ND
PAGE 178

418 ND
PAGE 179

U. S. Dist: Court
Nor: Dist: of California.

The United States
vs.
Bethuel Phelps
} D. C. 418: L. C. 525.

It is hereby stipulated that the transcripts in the cases entitled "The United States vs. H. W. Halleck No. 392." "The U. S. vs. Rafael Garcia No. 68," "The U. S. vs. Gregorio Briones No. 189" "The U. S. vs. Andrew Randall No. 236," and "The U. S. vs. Andrew Randall No. 385" and the evidence contained therein, and all papers on file in the office of the U. S. Surveyor General for California, connected with this cause, or with any of the cases herein named, may be used and read in evidence in this cause, subject to all legal exceptions.

Sol A Thurston
as to the above person

San Francisco
Oct: 9th 1861.

Shafter, Park & Heydenfeldt
for Claimant.

W. H. Sharp, U. S. atty
by Jno. B. Williams, in aid.

No. 418

U. S. Dist. Court

The United States

vs.

Bethuel Phelps

Stipulation admitting Transcripts Nos. 392, 68, 184, 236 and 385, and other documents in evidence in this case.

Filed Oct. 9. 1861.

W. A. Cheever,

Clerk.

418 ND
PAGE 180

418 ND
PAGE 181

No. 418

U. S. Dist: Court

The United States

vs.

Rathuel Phelps

Exhibit Matthewson No. 1.
annexed to deposition
of R. C. Matthewson

Filed Nov: 6. 1862.
W. H. Clevers.
Clerk

418 ND
PAGE 182

In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

418 ND
PAGE 183

The United States,

v.

Bethuel Phelps

IN LAND CASES.

Dist. Court No. 418

Land Com. No. 525

BE IT REMEMBERED, that on this third day of January 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 Parrott a witness produced in behalf of the Claimants in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: ~~his evidence being interpreted by~~ ~~a sworn interpreter~~.

PRESENT: S. McM. Shafter Esq. for Claimant, W. H. Sharp Esq U. S. Atty. for the U. S.

QUESTIONS IN BEHALF OF THE Claimants

183

Question 1st,

What is your name age and place of residence?

Ans.

My name is John Parrott, my age is fifty years. I reside in

San Francisco.

2.

Did you ever reside in Monterey California, if so during what time?

418 ND
PAGE 184

Ans.

I visited Monterey in the month of June 1845. I resided there from that time until the August following.

3.

Where have you resided since that time?

Ans.

Principally in San Francisco.

4.

What was your business at Monterey and in California, at and since 1845?

Ans.

I entered that Port as Supercargo on board of the Brig ~~Alcalde~~ Rakader, my business since that time has been principally banking and real estate business.

5.

Do you know what paper

418 ND
PAGE 185

was used by the Government officers in Monterey, in 1845-~~1846~~ and subsequent, if you state your information and the means by which you acquired it?

Ans.

The paper that I observed used in the Custom house, and public offices was Italian paper which was called "Medio Florida" made of Linen in Genoa. The Spaniards never used Cotton paper. I sold a considerable quantity of the paper & speak of it to the Government, that paper was marked "Picardo"

6.

Examine the paper marked "Exhibit 1, A. H." purporting to be signed by Pio Pico, and state if you have any knowledge of such paper having been in California in 1846 or at any other time prior to the Conquest of California by the U. S. either in public or private use or otherwise?

418 ND
PAGE 186

Ans.

The paper that was in use
prior to my arrival I do not
remember the marks upon
it. I have no recollection
of seeing paper with the
marks upon this exhibit
in use at all.

7.

Was you in the habit of
doing business in California
or of visiting public offices.
To what extent, that if such
paper as that in this
exhibit had been in use,
you would have seen and
known it?

Ans.

I have no recollection of
seeing paper of this mark,
notwithstanding I did business
with the public offices.

8.

Look upon paper purport-
ing to be a letter from
Gregorio Briones to Governor
Pio Pico dated "Ens. 3/1846"
produced by R. C. Hopkins
from the office of the U. S.

Surveyor General, say whether any such paper was in use in California in 1846, or any knowledge you may have in regard thereto?

418 ND
PAGE 187

Ans.
To the best of my recollection
~~knowledge~~
There was none in 1845. I cannot say about 1846. This paper was made in the United States.

9

Look at the signatures of Pio Pico and Jose Ma. Covarrubias to the said Exhibit 1. M. M. and say with what instrument they were made?

Ans.
I think Pio Pico's was written with a steel pen, Covarrubias is the same.

10.

Were there any such pens in use in California, at the date of those papers?

Ans.
Not that I recollect of.

Cross examination waived

Victor Prouty

Sworn to and Subscribed this
third day of January. A.D. 1862
before me.

W. O. Stevens.

N. S. Corn

418 ND
PAGE 188

No. 418.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

Bethuel Phelps.

DEPOSITION OF

John Parrott

on part of Claimant.

Filed Nov. 6th 1862,

W. H. Chevers.

Clerk.

418 ND
PAGE 189

418 ND
PAGE 190

In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Bethuel Phelps

IN LAND CASES.

Dist. Court No. 418

Land Com. No. 525

BE IT REMEMBERED, that on this 14th day of October A. D., 1861, at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, personally appeared R. C. Matthewson a witness produced in behalf of the Claimant 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: S. M'M. Shafter Esq for Claimant. S. H. Sharp Esq for himself and W. H. Sharp Esq. U. S. Atty.

QUESTIONS IN BEHALF OF THE Claimant

Question 1st,

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

Ans.

My name is R. C. Matthewson

my age is 42 years, I reside in San Francisco, My occupation is that of Engineer and Surveyor.

2.

418 ND
PAGE 191

What connection if any have you had with the surveys made under the direction of the U. S. Surveyor General, of the several ranchos in Marin County, California?

Ans.

I believe I surveyed all the ranchos in that county with the exception of the Sausalito ranchos. I made these surveys as Deputy Surveyor acting under the orders of the U. S. Surveyor General.

3.

In making the surveys of the Punta de los Reyes Labranza, the Tamales y Baulenes, the ranchos of Garcia and Berry, the portion of the Nicasio claimed by P. R. Buckelew, the San Jeronimo

418 ND
PAGE 192

and the Rancheros, did you become acquainted with the location and topography of said Ranchos?

Ans.

I did.

4

Do the printed map marked Mathewson Exh. 1. to be annexed to this deposition a correct delineation of said last mentioned ranchos, as surveyed by you?

Ans.

It is.

5.

State whether commencing at a point marked ~~"C"~~ "A" at the junction of the Arroyo San Geronimo and Sticapio there is a range of mountains running to the Southeast until it intersects the line of the San Geronimo Rancho at its Northern point?

Ans.

There is such a range of mountains marked by a pencil line

418 ND
PAGE 193

6.

State whether there is another range commencing at the Northern end of the Sierra de Paulenes and running in a Southeasterly direction to Tamaulipas. If you describe such range of mountains, as to height and extent?

Ans.

There is such a range of mountains which lie on the opposite side of the Arroyo San Geronimo, from the range described in the preceding question, from which rise higher and higher in a Southeasterly direction to Tamaulipas, where they attain a maximum height.

7.

Which of these two ranges are the higher, in that part of them lying within the part of the Tamaulipas spoken of, and the Ranch surveyed to Rafael Garcia?

Ans.

418 ND
PAGE 194

Ans.

That in the part of the Tecapic lying to the North-east of the San Geronimo. I should suppose these last were twice as high as the other.

8.

How high is the dividing line between the Taumales and Paulenas hays, above said hays?

Ans.

I should think it was less than one hundred feet.

9.

What is the nature of the country lying between said hays?

Ans.

It is partly a narrow valley, and partly rolling land, bounded on each side by hills.

10.

What is the nature of the land to the South and West of the Odessus Lake?

Ans.

A narrow portion of it near

Clemens Lake is valley land, the rest is rolling hills, ~~and~~ and mountain, There is a range of hills running in a Westerly direction parallel to the Clemens Lake and ~~Bad~~ ~~bay~~ Baumales bay.

418 ND
PAGE 195

Cross Examination
Questions by Counsel for Intervenor Sharp.

Ques: 11.

Shake if you know who was the author of this map, Exhibit Matthewson No. 1.?

Ans.

I think it was compiled by Leander Ransom, from the notes of my surveys in the Surveyor Generals office.

12.

Shake how many leagues are included in your survey of the ranch claimed in this case?

Ans.

About three leagues and one fifth – a very little less.

Direct examination resumed

418 ND
PAGE 196

Direct examination resumed
Questions by Counsel for Clmt.

Ques 13.

Why did you include in this survey only about three leagues and one fifth, when the grant and decree require a much larger quantity?

Ans.

My reasons for so doing are given fully in a report which I returned to the Surveyor General with the Field notes and plats of the survey of this ranchs, and the surveys of the surrounding ranchos, to which I refer and make part of this answer.

Cross Examination resumed.
Questions by Counsel for Intervenor Sharp.

Ques: 14

State upon what principles these surveys were made, that is the grant of Palmillas y Paulenes, the Paulenes, claimed by Briones and

Rafael Garcia's grant?

Ans.

Garcia's grant was surveyed to the extent of two leagues under instructions from the Surveyor General. That of Gregorio Briones was surveyed by boundaries out of which the two leagues embraced in the survey as returned were selected by Volney E. Howard and Solomon H. Sharp in the office of the U. S. Surveyor, the ranchos being confined to the extent of two leagues by the Surveyor General, the attorneys for claimant always contending for the extent of their boundaries and beyond the two leagues, ~~and~~ if cut down to two leagues they selected it in the manner as surveyed and approved by the Surveyor General. And the ranchos Damales y Paulenes was surveyed to include what was left after the surrounding ranchos were surveyed as stated, the quantity only amounting to about three leagues and one fifth, instead

418 ND
PAGE 197

amounting to about three leagues and one fifth, instead of six or eight leagues as claimed by the owners of the grant.

15.

418 ND
PAGE 198

To what extent ~~did~~ if any did you follow the jurisdictional survey found in the record of the grant of Daunales y Paulenes, or the report of the Fiscal purporting to adjust the boundaries between this ranch and that of Garcia?

Ans.

I did not follow it at all the jurisdictional proceedings having been given at Punta de las Reyes, which was afterwards declared by the Superior Tribunal to be null and void. ~~In this survey I~~

16.

What importance did you attach to the decree of the Superior Tribunal found in the record of this case, in making these surveys?

Ans.

I attached so much importance

418 ND
PAGE 199

do it, that I included the two leagues from the head of Tomales Bay, of which juridical possession was given to Garcia, in my original survey of this rancho, but was ordered by the Surveyor General to leave them out and include them in a separate survey to Garcia.

17.

Do you recollect what were the exterior limits of the rancho Baulines surveyed to ~~Garcia~~ Briones?

Ans.

It was bounded by a line commencing on the Pacific Ocean, running by the Laguna Lasimo to the summit of the ridge lying Southwest of the Always San Geronimo, thence following that ridge in a Southeasterly direction to an oak marked "B.T" which is the Northern point of the survey returned.

18.

How far North is the line you last speak of from the the

you last speak of, the the

one approved by the Surveyor General?

Ans.

About three miles.

19.

418 ND
PAGE 200

Do you recollect about how much land was contained within the natural boundaries called for in the grant?

Ans.

I do not recollect, but I think there was something more than a league ~~cut off~~ and a half cut off.

20.

State whether the natural objects called for in the grant were found by you on the ground?

Ans.

They were, the boundaries of the ranch being in my opinion well defined.

21.

Can you state how the line of the Baudenes grant returned by you and approved by the Surveyor General on the side next to the Sanchez and

adjoining that of Richardson, corresponds with the survey of that ranch made by Lewis and approved by the Surveyor General.

Yes.

It is identical with it.

R. C. Matthewson

Subscribed and sworn to this 14th day of October A. D. 1881. before me

W. A. Chevers

U. S. Com.

418 ND
PAGE 201

No 418.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

Bethuel Phelps.

DEPOSITION OF

R. C. Matthewson

on part of Claimant.

(Cr. Ex. Matthewson)

Filed Nov: 6th 1862,

W. H. Chevers.

Clerk.

418 ND
PAGE 202

In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

418 ND
PAGE 203

The United States,

v.

Bethuel Phelps

IN LAND CASES.

Dist. Court No. 418

Land Com. No. 325

To Mc. Dougall and Sharp, and W. H. Sharp U. S. Atty

You are hereby notified that the testimony of Hopkins and R. C. Matthewson, Pablo Figueroa

in the above entitled cause in behalf of the Claimants

will be taken before me, the undersigned, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, commencing on Wednesday the 9th day of October A. D. 1861, at 11 o'clock, A. M., and continuing from day to day until finished, at my office No. 14 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 may deem fit.

Witness my hand and official seal at the City of San Francisco, in said District, this 4th day of October A. D. 1861.

W. A. Shepard

U. S. COMMISSIONER.

No. 418

Due service of the
within admitted this
4th day of Oct 1861
W H Sharp
US atty
Wm Dougals & Sharp
attys for same
Intervenors

418 ND
PAGE 204

In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

418 ND
PAGE 205

The United States,

v.

Rebhuel Phelps

IN LAND CASES.

Dist. Court No. 418

Land Com. No. 525

BE IT REMEMBERED, that on this 14th day of October A. D., 1861, at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, personally appeared R. C. Hopkins a witness produced in behalf of the Claimants in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: ~~his evidence being interpreted by a sworn interpreter.~~

PRESENT: S. M. M. Shafter Esq. for Claimants, ~~V. E. Howard Esq. for~~ and W. H. Sharp Esq U. S. Atty, S. H. Sharp for himself.

QUESTIONS IN BEHALF OF THE Claimants

Question 1st,

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

Ans.

My name is R. C. Hopkins, I am

of lawful age, I reside in San Francisco, and my occupation is that of Keeper of the Spanish Archives in the Office of the U. S. Surveyor General, which position I have held for the last six years.

418 ND
PAGE 206

2.

State whether the three documents now exhibited by you are papers on file in the office of the U. S. Surveyor General as a part of such Spanish Archives?

Ans.

Yes. All of said documents to wit: the one marked "Expedients" &c, is on file among the archives which belong to the Secretaria of the former Mexican Government of California, the other being a letter from Gregorio Briones to Governor Pio Pico, this latter also belong to the said Secretaria. The third document to wit: Exhibit W. H. annexed to the deposition of William H Richardson is from the

file of papers of the late Board of U. S. Land Commissioners, now in the custody of the U. S. Surveyor General, and is a grant to Gregorio Briones for the place named Saulenes.

418 ND
PAGE 207

3.

In whose handwriting is the body of the second document spoken of by you, to wit: a letter from Briones to Pio Pico?

Ans.

It is I think in the handwriting of Juan Francisco Coronel.

4.

What was the residence and occupation of the said Coronel at the date of said letter?

Ans.

He was at or near the date of the letter referred to, I think a clerk of Vicente Sanchez a Justice of the Peace in Los Angeles. I arrive at the knowledge of this fact from finding in the archives a correspondence of said Sanchez about the date of said letter in the same hand-

writing as this letter of Briones, and by comparing the hand-writing of this letter with the signatures of Francisco Coronel where found in the archives, I am led to believe that this letter is in his handwriting.

418 ND
PAGE 208

5.

Are the signatures of Pio Pico and José M.ª Covarrubias or either of them, on the paper you call a grant of Bandenes to the said Briones genuine, and how do these signatures compare with other signatures of those persons, found on original papers in the office of the U. S. Surveyor General?

Objected to on the ground that the witness has never seen Pio Pico write, and the grant to Briones being finally confirmed is <u>res adjudicata</u>.

Ans.

As I have heretofore stated in many cases before the Court the archives show that Pio Pico used several forms of

418 ND
PAGE 209

"Ps" in signing his name, the "P" used in the signature to this grant is such as he at present uses in signing his name. I think I have never been able to find but two signatures in the archives similar to this — one is his signature to the grant to Francisco Pico of Las Calaveras, the other I have now forgotten. Signatures similar to that of this grant occurs repeatedly on papers filed by the claimants before the Board of U. S. Land Commissioners. I think this signature was made by Govr. Pio Pico. The signature of José Mo. Covarrubias resembles his signatures, but to my eye appears somewhat thicker than his signatures usually are.

6.

Are there any papers on file in said Surveyor-General's office written upon paper similar to that upon which the said Peinas grant was written, if so how many and

what are they?

Ans.

This grant is written upon paper bearing the water mark of "Patenti". I think I have seen but two documents in the archives written upon similar paper, one being the grant to Francisco Pico of Las Calaveras, and the other the grant to Manuel Castro of Laguna Seche. These two documents were filed by the claimants before the Board of U. S. Land Commissioners. I think these are all the documents I have seen written upon this paper.

418 ND
PAGE 210

Cross Examination

Questions by Counsel for Intervenor, Sharp.

Ques: 7.

State in what index if any the grant to Briones is found?

Ans.

The expediente of the grant to Briones is not found upon any original index ~~found~~ in the archives. It is referred to

in an index compiled in the

in an index compiled in the office of the U. S. Surveyor General in the summer of 1853.

8.

Do you know in whose handwriting is the endorsement on the back of that expediente?

Ans.

It is in the handwriting of Luis Mª Cervantes, signed with his rubrica, and who was at that date Secretary of State.

418 ND
PAGE 211

9.

Can you state in whose handwriting is the concepian on page 1st of said expediente dated November 27, 1845, commencing "Vista la peticion"?

Ans.

It is also in the handwriting of Luis Mª Cervantes.

10.

Can you state how long to your knowledge, the expediente has been on file in the archives of the office?

Ans.

To my knowledge it has been on file ever since I have been

in the office, ~~and Sam~~

11.

State whether or not the expedients in this case of Briones has every appearance of being one of the regular expedientes in the office?

Objected to as irrelevant and incompetent.

Ans.

It has, so far as I can judge. I mean to say that it has been regularly filed.

418 ND
PAGE 212

Examination adjourned until Friday January 2 1863.

San Francisco Cal
January 2 1863

January 2d 1863

Examination of R. C. Hopkins resumed from 14th October last.

Present:

S. M. M. Shafter Esq for claimant, H. H. Sharp Esq U. S. Atty for U. S. S. H. Sharp Esq for himself.

418 ND
PAGE 213

Questions by Counsel for Intervenor Sharp.

Ques: 12.

Please state in what part of the expediente of Gregorio Briones the "concepcion" "Vista la Peticion," is written?

Ans.

It is written on the 10th and is finished on the 11th pages. It immediately follows the certificate of Timothy Murphy The concepcion is dated November 27th 1845.

13.

According to the usage and customs of the Mexican government as shown by the

Archives under your charge, in whose custody would the expediente be, at the time of the concesion?

Ans.

418 ND
PAGE 214

In the office of the Secretary of State.

14.

Where would it remain after that period?

Ans.

If the approval of the Departmental Apendly had not already been obtained, it would be sent to that body for it's approval, it would then be returned to the Archives of the office of Secretary of State, where it would remain.

15.

But whether approved or not, did not the expediente remain among the Archives of the Government for granting

of lands?

of lands?

Ans.

It did.

16.

418 ND
PAGE 215

Where was the expediente of Gregario Briones found, when you first became acquainted with it?

Ans.

It was found in the Archives, in what was clased as the "Unfinished Expedientes".

17.

Has it among the archives deposited with the authorities of the United States after the change of Flags?

Ans!

It was,

18.

What was the usage and customs under the Mexican Government as to attaching the signatures of the Governor and Secretary to the decrees of concessions and the office copies of the

grants?

Ans.

In the expedientes of the first grants made under the laws of Colonization it was usual for the Governor and Secretary to sign the decrees of concession; after the time of Governor Figueroa however not more than one half of the decrees of concession were signed either by the Governor or Secretary of State. The office copies of the grants were not signed either by the Governor or Secretary.

418 ND
PAGE 216

19.

Were the decrees of concession treated as of equal validity whether signed or unsigned?

Ans.

Judging from the archives they were by the Mexican government.

Answered Supplemental

418 ND
PAGE 217

20.

What evidence if any do the archives ~~contain~~ under your charge, contain of the appointment of Salvador Vallejo as Civil Magistrate?

Ans.

In the archives there is on file a correspondence between Salvador and his brother M. G. Vallejo dated I think, in 1839. In this correspondence Salvador Vallejo states that Governor Alvarado had appointed him Justice of the Peace, and that it required him to do certain things which interfered with his duties as a Military officer. ~~&~~ and asked his brother ~~to~~ ~~let~~ what he was to do. From that time there is evidence that he acted as Justice of the Peace, such as records of judicial

possession, and ~~provisional~~ permission to occupy lands provisionally, on the Northern sides of the Bay.

418 ND
PAGE 218

21.

Under the usage and customs of the Mexican government as shown by the Archives, what was the effect of these provisional licenses to occupy lands, issued by a Justice of the Peace or a Civic Magistrate?

Objected to as incompetent.

Ans.

They were usually required to make the prospective petition to the Governor for the land, being permitted under the permission to occupy the land until the action of the Governor was had in the matter.

22.

22.

Is there among the Archives under your charge an expediente of the grant to J. R. Berry?

Ans.

There is. His signature to the petition is spelled ~~Raot~~ ~~Lmo~~ "Saime Ricard Berry," wherever his name occurs in this expediente it is spelled in the same way.

418 ND
PAGE 219

23.

State whether there is a map attached to the application for a grant in the said expediente?

Ans.

There is.

24.

State whether you perceive any alteration in the said map if so what is it?

Ans.

The palace marked on said

418 ND
PAGE 220

maps as "Cañada de Baulenas" is an erasure apparently of some word of seven letters. There also appears to have been a line drawn across said Cañada de Baulenas, about the center, which has been erased. On the word "Tomales" found directly underneath the word "Terrens" in the Northern portion of the maps appears to have been written over a place where some other word had been erased.

25.

How do you translate the words on said maps, on both sides of the Cañada de Tomales "Terrens que se Solicita"?

Ans.

The land that is which is solicited.

26.

What do you understand the blue shade in said map to represent?

Ans.

418 ND
PAGE 221

It appears to represent valleys.

27.

What do you understand the dashed lines on the map, except what is represented as Canada de Tunales, to represent?

Ans.

It appears it must represent boundary, division, limit or extent.

Direct examination resumed
Questions by Counsel for Claimant.

Ques: 28.

You speak of the conception found attached to the exp-

418 ND
PAGE 222

=edients of Gregorio Briones, is this conception in the ordinary form used by the Mexican Governors, or does it differ from such forms?

Ans.

As far as it goes it is in the ordinary form, but it appears to be incomplete. There is not found in this conception the formal words in which concessions were closed, which are as follows. "Let the corresponding "title issue, and let it be "delivered to the interested "party for his security and other ends."

29.

Is there any record or trace of a grant remaining in the archives to Gregorio Briones, of the land mentioned in this expediente?

418 ND
PAGE 223

Ans.

None save what is found in this expediente, except the grant which was presented by the Claimant to the Board of Land Commissioners.

30.

Are there other diseños among the archives in cases where grants issued from the Mexican Governments, which diseños appear to have been made by the same person as that in the case of L.P. Berry?

Ans.

There are several expedientes the petitions in which were made about the year 1835, containing maps I think made by the same person who made the maps in the Berry expediente.

31.

Look at the signature of Louise Berry to the affi-

418 ND
PAGE 224

davit or statement in the alleged act of juridical posession by Salvador Vallejo, in the case of Rafael Garcia vs. The United States, No. 68, and compare the same with signatures of Lainie Ricardo Berry among the archives of which you have spoken and state whether the signatures are the same, and if in your opinion the signature of Laime Barry is the true signature of Lainie Ricardo Berry?

Ans.

I do not think they are the same, nor do I think of Laime Barry, written in pencil in the said act of juridical posession was written by James Richard Berry. I speak of the signatures on the original papers filed in the archives.

Cross Examination resumed

Cross Examination resumed
Questions by Counsel for
Intervenor S. A. Sharp

Ques: 32.

418 ND
PAGE 225

Look at the signature of
Perry as it appears with
others at the conclusion
of the act of juridical deposit
and say how it compares
with the other signatures
of which you have spoken,
and whether you believe
it to be genuine or not?

Ans.

It resembles the signatures
of which I have spoken
and I think it is genuine.

Deposition closed.

R. C. Hopkins.

Subscribed and sworn to this
2nd day of January A.D. 1863 before me.

W. H. Reed
U. S. Com. [illegible]

No 418.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

Bethuel Phelps.

DEPOSITION OF

R. C. Hopkins.

on part of Claimants.

Filed January 3. 1863.

W. H. Chevers.

Clerk.

418 ND
PAGE 226

418 ND
PAGE 227

United States of America.

The United States vs Bethuel Phelps } In the District Court of the United States for the Northern District of California

It is hereby stipulated, that the form or draft of decree, herewith filed is in substantial accordance with the opinion of this Court, filed herein March 9th A.D. 1864 and the parties herein consent that said decree be entered herein by this Court, modifying the said survey, in accordance thereto.

Shafter, Park & Heydenfeldt
for Claimant

Jol A Shafter
for Some Intervenors

Delos Lake
U.S. Atty

Jas Stevens Collins

No 418.

U. S. District Court.

The United States.

vs.

Bethuel Phelps.

Stipulation that order modifying official Survey is in accordance with opinion of the Court.

Filed February 20. 1865.

H. A. Cheever.

Clerk

418 ND
PAGE 228

418 ND
PAGE 229

United States of America

The United States
vs
Bethuel Phelps

In the District Court
of the Northern District
of California

This cause coming on for hearing, and the proofs, arguments of Counsel and all things being duly and on reading and filing the stipulations herein alleged considered, It is by said Court, ordered, adjudged and decreed, that the survey returned in this case be so modified that the north western line thereof shall commence at a point where the Canada Cervo, intersects the eastern line of the Rancho Punta de los Reyes Sobrante, thence up the centre of the Canada Cervo to the top of the ridge, thence north westerly along said ridge* ~~to a right line~~ to a point where the South easterly line of lands belonging to Daniel and Allen Clark, crosses the road upon the top of said ridge, thence North easterly along said line of Clark, to the Creek of Tokalumne or Daniels Creek, thence up said Creek, to a line where the forty second course of said survey joins said stream, and in all other respects said survey is confirmed.

*Amendment by order of Court June 21st 1865 See Minutes

Ogden Hoffman
Dist Judge

No 418.

U. S. District Court,

The United States.

vs.

Bethuel Phelps.

Stipulation and Order Modifying Official Survey.

Filed Feby 20. 1865.

N. A. Cheever.

Clerk

418 ND
PAGE 230

418 ND
PAGE 231

The United States } In the District Court of the
vs. } United States for the
Bethuel Phelps, } Northern District
of California

In this case it is stipulated that the survey approved by Lawson Surveyor-General of the United States for the State of California on the 15th day of July 1868 is in conformity to the decree modifying the original decree and survey made herein, and that an order may be entered by this Court affirming the same.

Shafter, Park & Hayden for Claimant
Sol A. Sharp
for Intervenors.
Delos Lake
District Attorney
for the United
States. For Said
Northern District.

418

U.S. Dist. Court

Nor. Dist. Cal.

The United States

vs

Bethuel Phelps

Stipulation

418 ND
PAGE 232

Filed Aug 30th 1865
Euclid Gorham Clk
By Daniel Sullivan
Deputy

418 ND
PAGE 233

At a stated term of the District Court of the United States for the Northern District of California held at the Court Room in the City of San Francisco on the 30th day of August A.D. 1865.

Present

Hon. Ogden Hoffman
District Judge

The United States
v.
Samuel Phelps
No.

And now on this day it appearing to the Court, that the Surveyor General of the United States for the State of California has returned to the Court, his survey and location of the land confirmed herein made in pursuance of the order of the Court of the 20th day of February A.D. 1865. and of an order modifying the same of the 21st day of June A.D. 1865 and which survey and location

is shown by the certified copy plat filed August 30th A 1865.

And counsel for the respective parties having been duly notified and having filed their stipulation herein. It is ordered, adjudged and decreed, that the survey and location of the land confirmed in this cause, the field notes of which survey were approved by S. Wilson United States Surveyor General for California on the 15th day of July A 1865, is a good and valid survey of the land confirmed to the said ~~Bethuel Phelps~~ claimant herein and that the survey and location be and the same is hereby approved. And it is further ordered, adjudged and decreed that the certified copy-plat of said survey and location filed August 30th A 1865, and marked "Approved August 30th 1865. Ogden Hoffman District Judge" be attached to and made part

418 ND
PAGE 234

of this decree, for a more full and particular description of the tract of land of the area of thirteen thousand six hundred forty four and sixty six hundredths acres, now finally confirmed to the said Bethuel Phelps.

418 ND
PAGE 235

Ogden Hoffman
Asst Judge

No. 418 — ND

U.S. Distr. Court

525 Bd.

The United States

vs

Bithuel Phelps

Final Decree

Approving Survey

418 ND

PAGE 236

Filed Aug 30 1865

Geo. C. Gorham Clk

By Daniel F. Sullivan

Deputy

In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

418 ND
PAGE 237

The United States,

v.

Bethuel Phelps.

IN LAND CASES.

Dist. Court No. 418.

Land Com. No. 525.

To W. A. Sharp, U. S. Atty.
and
McDougal & Sharp.

You are hereby notified that the testimony of

John Parrott.

in the above entitled cause in behalf of the

Claimant

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 Tuesday the 3rd day of Dec; A. D. 1861, 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 may deem fit.

Witness my hand and official seal at the City of San Francisco, in said District, this 27th day of November A. D. 1861.

W. A. Clevers

U. S. COMMISSIONER.

418.

Dec: 3rd. 1861.

I hereby admit Service
of a copy of within
notice this 27th
November. 1861.

W H Shaff
U. S. Atty.

Sol A Shaff
for himself.

Served on D. C. Howard
by leaving a copy at
his office Nov 27th 1861
F. M. Dunn.

418 ND
PAGE 238

418 ND
PAGE 239

The United States)
~) In the District Court
Samuel Phelps) of the United States
) for the Northern District
) of California.

June. 22d A 1864.

It is hereby stipulated in the above entitled cause that the claimant have leave to withdraw his exceptions & objections to the Survey, approved by the Surveyor General of the United States, for California, May 10th A 1860, and that said Survey shall stand affirmed, or the cause dismissed by the Court for want of jurisdiction, as to the Court shall seem proper.

Shafter, Park & Heydenfeldt
Atty's for Claimant.

Sol A Sharp
In proper person

Wm H Sharp
U. S. Atty

District Court
U-S
Northern District

The United States
v
Bethuel Phelps

Stipulation

418 ND
PAGE 240

418 ND
PAGE 241

At a Stated Term of the District Court of the United States of America for the Northern District of California held in the City of San Francisco on the day of 1864

Present, Hon Ogden Hoffman Dist. J.

The United States
vs
Bethuel Phelps
} No 418

This day came the parties by their attorneys, and file a stipulation in this cause signed by the counsel for each of the parties whereby the objections to the official Survey heretofore filed, are withdrawn, and it is agreed that the said Survey be confirmed,

It is therefore ordered adjudged & decreed, that the official survey of the land confirmed, the field notes whereof were approved by the Surveyor General of the United States May 10th 1860 and

containing 14.172 $\frac{85}{100}$ acres is a goods & valid survey of the land confirmed to the said Bethuel Phelps and that the said survey be and the same is hereby approved and confirmed.

418 ND
PAGE 242

And it is further ordered adjudged and decreed that the said certified copy plat filed in this Court November 28. 1860 and marked "

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 Bethuel Phelps

418 ND
PAGE 243

Office of the Attorney General of the United States,

Washington, 15 April, 1856.

525 "Punta Reyes"

Bethuel Phelps. 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 17th day of March 1856, the appeal in the district court of the United States for the Northern district of California will be prosecuted by the United States.

Cushing

Attorney General.

John A Norman Esq

Clerk U. S. D. C.

418 ND
PAGE 244

San Francisco, Cal.
June 27. 1859.

Hon. J. W. Mandeville
U. S. Surveyor General

Sir: - Between the head of Tomales and that of Baulines Bay situated in Marin County, and embraced in the district which I have been appointed to survey, extends a narrow cañada, about ten miles in length, watered by two arroyas called the "Olemos Loke" and the "Cieno," the former of which flows in a north-westerly direction into Tomales, and the latter in a south-easterly direction into Baulines Bay. From the documents accompanying your Instructions, after a careful examination of the subject, I think there can be no doubt that the land lying in this cañada was known to the Mexican Authorities by the name of "Tomales y Baulines," while that stretching out westwardly to the coast was called "Punta de los Reyes."

Five of the Grants which I have been instructed to survey, according to the documents referred to above, are located upon these lands as follows: 1. To James Richard Berry, March 17. 1836, for Eight square leagues in Tomales y Baulines. 2. To Rafael Garcia, March 19. 1836, for Two square leagues in Tomales y Baulines. 3. To Jose Francesco Snook, in the year 1839, for Two square leagues on Punta de los Reyes. 4. To Antonio Maria Osio, in the year 1843, for Eleven square leagues on Punta de los Reyes. 5. To Gregorio Briones, in the year 1846, for Two square leagues in Las Baulines.

It appears to me after a thorough investigation of all the documents and diseños in the different cases that the Garcia grant is located upon the same land as the Berry grant in Tomales y Baulines; that juridical possession was given Garcia when his grant is located in Tomales y Baulines; that juridical possession was given Berry not in Tomales y Baulines where his grant is located, but on Punta de los Reyes; that while occupying the land on Punta de los Reyes, Berry sold Two of his Eight leagues to Snook; that these are the same Two leagues for which Snook afterwards obtained a grant; and finally that Osio's grant was for the sobrante and included all that remained of these lands after the proper location of the lands granted to Berry and Garcia.

418 ND
PAGE 245

In consequence of these contradictory transactions the subject was ultimately referred to the judiciary, and in the year 1844, the Superior Tribunal decided that the juridical possession given the parties was illegal and void, that Garcia must vacate Berry's land in Tomales y Baulines and locate himself on the land granted him in Las Baulines where he formerly resided; and that Berry must vacate the land of Ocio, on Punta de los Reyes, and locate himself on the land granted him in Tomales y Baulines, then occupied by Garcia. It appears, however, that this decree has never been carried into effect; for Garcia occupies until this day, the land in Tomales y Baulines decided to belong to Berry, and the land in Las Baulines decided to belong to Garcia, on which he formerly resided, and to which he is ordered to return, is the same land which was afterwards granted to Briones and on which he now resides.

The following is, therefore, the conflicting condition of affairs at present. Berry's grant according to his title papers and the decree of the Superior Tribunal is located in Tomales y Baulines, where Garcia now resides, while according to his juridical possession it is located on Punta de los Reyes on lands decided to belong to Ocio. Garcia's grant by his title papers and juridical possession is located in Tomales y Baulines, where he now resides, on land decided to belong to Berry, while by the decree of the Superior Tribunal it is located in Las Baulines on land granted to Briones and on which he at present resides. Briones's grant, according to his title papers is located on land decided by the Superior Tribunal to belong to Garcia. Ocio's grant according to the decision of the Superior Tribunal is located on land of which juridical possession was given to Berry. And finally Snook's grant by his title papers is located on land adjoining Berry's, while by his juridical possession it is located at the extremely of Punta de los Reyes - distant at least ten miles.

But what renders the confusion still more compounded are the facts, strange as they may appear - that when Berry applied for the land in Tomales y Baulines, Garcia who then lived at Las Baulines, testified that the land was vacant, and that when Garcia subsequently obtained a grant for the very same land in Tomales y Baulines, Berry assisted in giving him juridical possession! Under these circumstances, being unable to reconcile absurdities or perform impossibilities, I made the surveys, as nearly as possible, in conformity to the different grants, leaving some uncertain lines to be run hereafter upon receiving further instructions. When the juridical possession is not in accordance with the grant and diseño, I rejected it altogether, conformably to the decree of the Superior Tribunal, as in the grants of Berry and Snook, but when the decision of the Superior Tribunal varied from the grant and diseño, as in the grant of Garcia, I had to make the survey in accordance with the latter inasmuch as the former gives no boundaries or description upon which to base a survey. The Berry grant, having no definite boundaries, is made to include all the land which remains in Tomales y Baulines after all the other grants which have definite boundaries are surveyed.

418 ND
PAGE 246

The field notes, plats, and tablings which I submit accompanying this report, are as follows. 1. The Berry grant in Tomales y Baulines, containing 21269 47/100 acres or 4 4/5 Square leagues. 2. The Garcia grant in Tomales y Baulines, on the same land as a part of the Berry grant, containing 8877 41/100 acres, or 2 Square leagues. 3 The Snook grant on Puntas de los Reyes, containing 8877 67/100 acres or 2 Square leagues. 4 The Ozio grant on Puntas de los Reyes, containing 42020 25/100 acres, or 9 1/2 Square leagues. 5. The Briones Grant on Las Baulines, containing 16741 20/100 or 3 3/4 Square leagues.

In all these surveys, with the exception of that of the Briones, the quantity of land included is either equal to or less than that called for in the Grants. On the Briones Map that portion included between the Pacific Ocean on the South-west and the red-shaded line, commencing at Station 31, on the Coast, and terminating at Station 1, at the head of Baulines Bay, contains two square leagues, and is the portion selected by Briones. It excludes about 4490 acres, and includes only 1041 acres of the land he sold as part of the Rancho, but he says he has given Warranty deeds for the part included and only quit claim deeds for that excluded. The portion included by the original boundaries on each side of Baulines Bay and the dotted red line, commencing at the mouth of the Arroyo Hondo, near Station 21, and running N 46 3/4 E, 300.64 chains to Station 36 at an Oak tree, on the summit of the ridge, also contains 2 Square leagues, and is the survey contended for by the parties who purchased the Morgan and Corrus portions of the grant. This line would include 5184 acres and exclude only 347 acres of the portion sold.

I am very respectfully
Your Obdt. Servt.

R. C. Matthewson
U. S. Dep. Surveyor.

Punto de los Reyes &c

Statement of R. L. Matteson to accompany his return of Survey June 27th 1859

418 ND
PAGE 247

ND
PAGE
418 ND
PAGE 248

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

San Francisco, Feby 23d, 1856

J. A. Moore 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. 5-25 on the Docket of the said Board, wherein Bethuel Phelps is the Claimant against the United States, for the place known by the name of "Punta Reyes" and request your receipt for the same.

I am, Respectfully,
Your Obt Servant,
Geo. Fisher