

CASE NO.

12

NORTHERN DISTRICT

EL PRIMER CANON

OR

RIO DE LOS BERRENDOS GRANT

J. F. DYE

CLAIMANT

ALSO AVAILABLE ON MICROFILM

Domestic
FLOWER BOND
50% COTTON FIBER
U.S.A.

Transcript of the Proceedings

in

Case No 132.

"E. L. Primer Carrow"

or

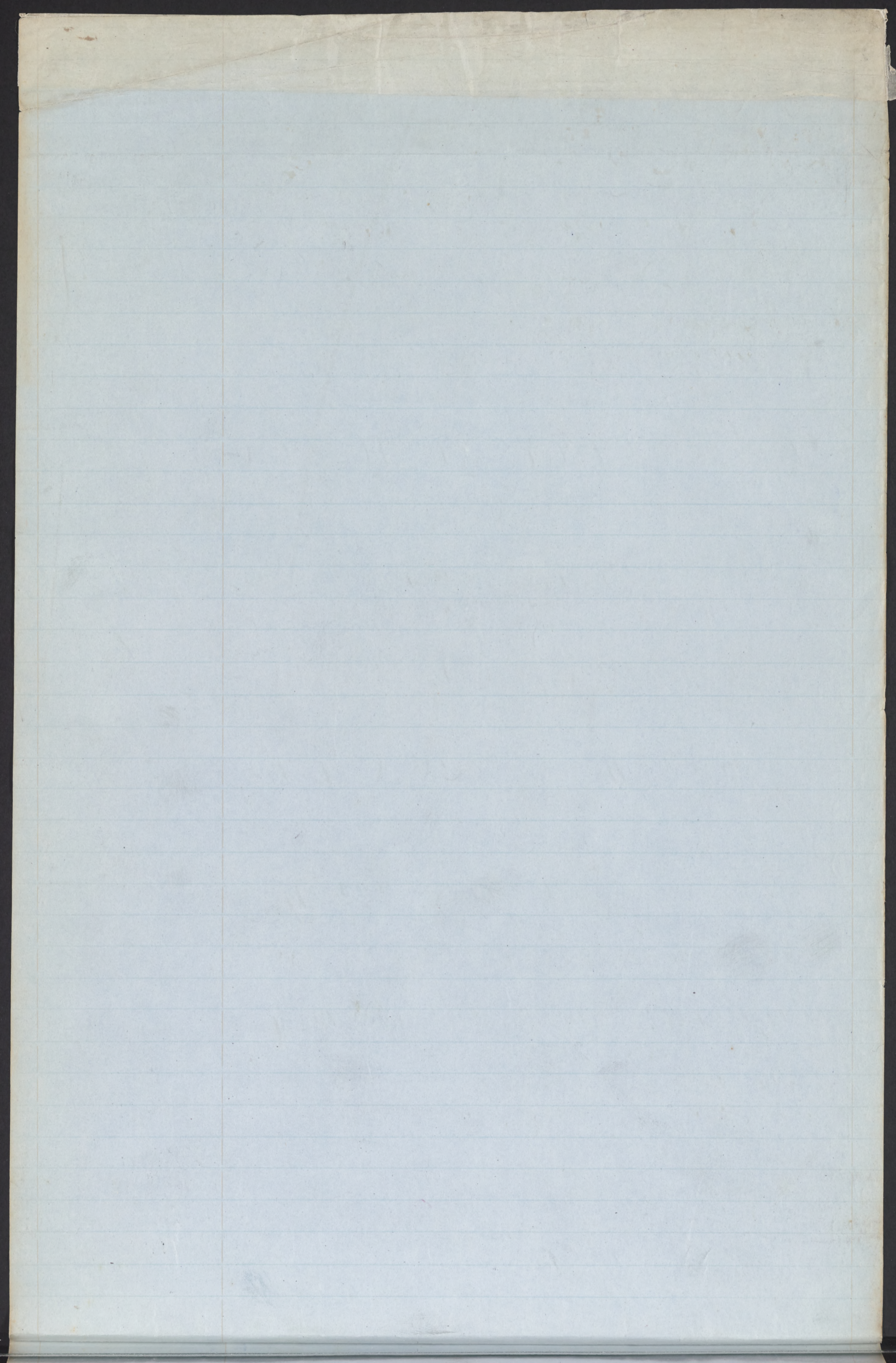
"Rio de las Berrendas"

J. D. Loya, Claimant

vs

The United States Defendant

CASE NO. 12 ND 7
PAGE NO. 1



CASE NO 12 ND
PAGE NO. 2

Office of the Boards of Commissioners
to ascertain and settle the Private Land
Claims in the State of California

Be it remembered that on this Tuesday
March 23^d Anno Domini One Thousand
Eight Hundred and Fifty two before the
Commissioners to ascertain and settle the
private Land Claims in the State of Califor-
nia, sitting as a Board in the City of
San Francisco in the State aforesaid in
the United States of America the follow-
ing proceedings were had to wit:

The Petition of J. P. Lye, Docketed No 102
and is as follows: Viz.

J. P. Lye, Claimant

vs

The United States, Defendant

To the Honourable Land Commissioners to
settle Private Land Claims in California.

The Petition of J. Francisco Lye, re-
spectively shows:

That on the 18th day of January A.D.
1844 the Petitioner applied to the Gov-
ernor of California for the tract of land

2

known by the name of "El Primer Carron" or "Rio de las Berrindas", situate in the then jurisdiction of Sacramento, and the now County of Butte,

CASE NO. 12 IND
PAGE NO. 3

That the said petition passed through the usual forms, and received the approval of the subordinate authorities, and that the Governor of California on the 23^d day of May A.D. 1844, made a decree that title issue to the petitioner for the said tract of lands: all of which is shown by the Expediente an exact copy of which is submitted herewith marked "A" with a Translation marked "B".

That on the 23^d day of May A.D. 1844 M. Micheltorena, Governor of California, by virtue of authority in him vested, granted to the Petitioner the aforesaid tract of land containing Six square Leagues, with the boundaries described in the grant and set forth in the corresponding map in the Expediente; a copy of which grant is submitted herewith marked "C" with a translation marked "D".

The Petitioner further shows that the said tract of land has not been surveyed by the Surveyor General of the United States, but that it was surveyed by the authorized Surveyor of the Northern Department of California, in 1847, a copy of the field notes of which survey with a map are submitted herewith marked "E".

The petitioner further shows that he has been ever since he received the said grant, and now is in the quiet, peaceful and undisputed possession and occupation of the said tract of land:

That, he knows of no conflicting claims: He relies for confirmation of

3

title upon the original papers, copies of which are submitted herewith, upon the original documents and minutes in the archives, now under the charge of the Surveyor General; and upon such other and further proofs as he may be advised are necessary.

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

By his Attorneys
Hallett Peachy & Billings

CASE NO. 12 ND
PAGE NO. 4

Filed in Office March 23^d 1852

Geo. Fisher
Secy

Upon which Petition the following subsequent proceedings were had, to wit:

Tuesday April 6th 1852

In Case No 122 Francisco Lye the Deposition of Wm G. Clark, a witness in behalf of the claimant, taken before Commissioner Hiland Hall was filed and is in the words and figures as follows, to wit: (Vide pages of this Transcript) 9. 10.

Thursday April 8th 1852

In Case No 122, Francisco Lye the Deposition of P. B. Reading a witness in behalf of the claimant, taken before Commissioner Hiland Hall, and is in the words and figures as follows, to wit: (Vide pages of this Transcript) 10. 11.

Friday April 23^d 1852

In Case No 122, S. F. Lye the Deposition of William B. Ide a witness in behalf

4

of the Claimant taken before Henry J. Thurston
Commissioner, was filed and is in the
words and figures as follows, to wit: (Vide
pages of this Transcript. 12. 13.

CASE NO. 12 ND

PAGE NO. 5

Friday Sept 3^d 1852.

In Case No 122, J. P. Dye, for the place
called "El primer Canon", the parties litigant
filed the following stipulation relative
to placing this case on the Trial Docket,
which is as follows to wit;

We agree that the above entitled cause
be put on the Trial Docket, with
the stipulation which is hereby entered
into, that either the Land Agent or the
Claimant may introduce further
testimony previous to the argument
of the case.

Walter Peachy & Billings
Attys for Claimant,
Geo W. Cooley
W.S. Land Agent

Friday September 3rd 1852

The following cases were ordered to be placed
on the Trial Docket, subject to the
stipulations filed by the parties litigant,
to wit: No 122, Francisco Dye "El primer
Canon"

No 141, J. M. Alvisu "Milpetas"

Monday Sept 20th 1852

In Case No 122, Francisco Dye, for the
place named "El primer Canon", the Dep-
osition of Ignacio del Valle, a witness

5

in behalf of the Claimant, taken before Commissioner Harry I. Thornton, with Document No 1, was filed and is in the words and figures as follows to wit; (Vide pages of this Transcript 14. 15)

CASE NO. 12 ND
PAGE NO. 6

Wednesday Sept^r 29th 1853.
Case No 122, Francisco Lye, for the place called "El primer Canon", near the Rio de los Berrendos, called, The Counsel for the Claimant, Mr Halleck read the papers in evidence, and submitted the same upon written argument. The U.S. Land Agent filed his written argument, also. Taken under advisement by the Board.

In the same Case, the parties litigant filed an agreement relative to the admission of an extract from the Deposition of John Butler, in Case No. 123, as Evidence in this Case in behalf of the Claimant, which agreement is in the words and figures as follows, to wit; (Vide pages of this Transcript, 21. 22.)

Saturday Decr 18th 1853.
In Case No 122; Francisco Lye, for the place named "El primer Canon", or "Rio de los Berrendos" Commissioner Harry I. Thornton delivered the opinion of the Board.

6

In the same Case, Commissioner Heiland Hall delivered his opinion.

CASE NO. 12, ND.

PAGE NO. 7

In the same Case Commissioner Henry J. Thornton delivered the Decree of Final Confirmation of this Board.

Ordered that the several opinions delivered this day, and the Decree of Final Confirmation of this Board, also delivered this day, in this case, be recorded on the Journal.

Which opinions and decree are in the words and figures as follow, to wit:

Commission to ascertain and settle private Land Claims in the State of California. Session at San Francisco,

L. F. Oye, Claimant,

vs

The United States.

Opinion of the Board by H. J. Thornton. No 122, "El primer Canon" or "Rio de los Berrendas".

The Claim in this Case presented is for six square leagues of land, in virtue of a grant made to the Claimant, of the title in fee, on the 20th of May 1844, by Governor Michelorena, who was at the time Governor of the Department of the Californias, and duly authorized to

grant, the vacant Lands in this Province, under the Decree of the Mexican Congress, of the 18th of August 1804, and the Ordinance of the 21st of November 1828.

The original grant, is introduced as Evidence, and its genuineness fully established.

CASE NO. 12 ND
PAGE NO. 8

By the Expediente filed as Evidence, and properly authenticated from the Public Archives of the former Government of the Country, as well as by the recitals in the grant itself, it appears that the proper measures and examinations as required by the Laws and Regulations, had been taken previously to the issuance of the grant.

The objections to a decree in favor of the validity of the Claim, are, first, the want of any evidence of approval by the Departmental Assembly, of the Grant, by the Governor; and secondly, an insufficient compliance, with the Conditions subsequent, annexed to the grant.

We think, for the reasons assigned by this Board, which are fully given in the opinion filed in the Case of Cruz Cervantes, No 56, heretofore decided that the objections now here urged, are insufficient, and that the claim is valid, and ought to be confirmed, to the extent of six square leagues, in accordance with the principles prescribed for our government, in the 11th Section of the Act of Congress of the 3^d of March 1851, organizing this Board. In the result, above announced Commissioner Hall concurs.

/Signed/ Henry J. Thornton
Commissioner

No 122, J. F. Dye, Claimant

CASE NO. 12ND
PAGE NO. 9

I agree that the Opinion of Commissioner Thornton, given in this case, furnishes sufficient reasons for the Confirmation of the Claim, though in a portion of them I do not concur.

Signed, Willard Hall
Commissioner

J. F. Dye Claimant

vs

The United States

No 122, Decree of Final Confirmation.

This Board upon full consideration of the various grounds affecting the validity of the said claim, having come to the conclusion that the same is valid, therefore now proceeds to make and does hereby make the following decree or report of final Confirmation. *Rec.* It is ordered that the said claim be confirmed to the extent and quantity of six square leagues, and no more, being the same lands described in the grant, and map or design referred to therein, and which was possessed by the claimant; provided, that the said quantity of land granted, and now here confirmed be contained within the boundaries called for in the said grant, and map to which the grant refers; and if there be less than the said above named quantity of six square leagues within the said bounds, then we confirm to him the said less quantity, it being apparent, that the map contains more than the minimum of two hundred

9

varas, prescribed by the Ordinance of the
21st November 1828.

/ Signed / Willard Hall
/ " / Henry J. Thornton
Commissioners

CASE NO. 12 ND
PAGE NO. 10

W. G. CHARD

San Francisco April 7th 1852.
On this day before Willard Hall one of the
Commissioners for ascertaining and settling
Private Land Claims in the State of California
came William G. Chard a witness produced
in behalf of the Claimant in the case
of the Petition of J. D. Lye being No 122
on the Docket of the Commissioners and
was duly sworn.

The Land Agent was notified and attended by
R. W. Greenhow. In answer to questions
put by the Counsel for the Claimant the
witness testified as follows:

My name is W. G. Chard, my age is forty
four years. I have lived in California more
than 20 years, since the latter part of 1845
I have resided on the Sacramento River at
Behama. I know the Rancho of J.
D. Lye called "El Primer Canon" or "Antelope
Creek" it contains about six square leagues
of land, I believe. I know that said
Lye occupied it in 1845 with Cattle and
horses and built a house and corral on
it. I was there about the latter
part of October A. D. 1845, and assisted
Mr Lye in parting out my Cattle from
his. I myself saw the improvements
above mentioned. Lye has lived
on said tract of Land and occupied it
even since 1845, except a short time

during the war, and occupies it at the present time. In 1844 and 1845 the Indians were very troublesome in that part of the Country and the settlers were sometimes obliged to unite in order to protect their stock, and defend themselves from attack.

No one else than My Dece has to my knowledge ever occupied or claimed the said Tract of Land.

Hee had a grant for the Land given him by the Governor in 1844.

W. G. Chad

I swear and subscribed
Before me.

Holland Hall

Gov.

Filed in Office April 7th 1852

Geo. Fisher

Secy

San Francisco April 8th 1852

On this day before me Holland Hall one of the Commissioners for ascertaining and settling Private Land Claims in the State of California came Pierson B. Redding a witness produced on the part of the Claimant in the Case of the Petition of W. G. Dece being No. 122 on the Docket of the Commissioners and was duly sworn.

The Land Agent was notified and attended by R. W. Greenhow

in answer to enquiries put by the Counsel for the Claimant. The witness testified as follows: My name is Pierson B. Redding; my age is thirty five years; I have lived in California since the month of November 1843, and now reside at Cottonwood Creek

on the Sacramento River. I know the Tract of Lands called "El Primer Canon" or "Rio de los Berrendos," belonging to J. P. Lye, it lies on the East Bank of the Sacramento River.

CASE NO. 12 ND

PAGE NO. 12

I know that J. P. Lye has occupied said Lands since October or November 1840.

He then put on Black Cattle and Horses & Stock, has, as I think been kept there ever since. I have passed the Land two or three times a year and have always found Stock on it. I was on the Land in 1846 & found a Log House on it, and a corral. The house was then occupied and I think had been built the previous year. Mr Lye resides on the place at the present time, & is cultivating the Land & keeping horses and cattle on it.

P. B. Redding

Sworn & subscribed

Before me

Neiland Hall

Com^r.

In answer to enquiries propounded by the Law Agent, the witness says that at present about fifty acres have been plowed and sowed to barley. There is a ditch on one side of the cultivated land and a brush fence on the other both together enclosed the cultivated Land.

I have not seen the Land cultivated previous to this year. I furnished Mr Lye seed two years previous, which I suppose was sown on the Land.

P. B. Redding

Sworn to and subscribed

Before me, Neiland Hall.

Filed in Office April 8th 1852. Geo. Fishen Secy

San Francisco April 23^d 1852
 Office of the Board of Commissioners of
 California Land Claims

CASE NO. 12 ND
 PAGE NO 13

On this day before Harry J. Thouton one
 of Commissioners for ascertaining and
 settling private Land Claims in California
 came Wm. B. Ide a witness produced
 in behalf of the Claimant J. D. Loye
 whose petition is filed No 122,
 on the Docket of said Commissioners.

The witness being duly sworn testified
 as follows. The United States Land
 Agent was notified and attended by
 Mr Greenhow.

Questions by Counsel for Claimant

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

Ans. My name is Wm. B. Ide, age fifty
 six years, and my place of residence is at
 Ide's Rancho, Sacramento Valley in California,
 and I
 have lived in California about six years
 and a half.

Quest 2 Do you know J. D. Loye, the Claim-
 ant in this case, and if so state what
 you know about the land claimed by
 him in this case, and its occupation.

Ans. I do know him. In December
 1845 I was at his Rancho called Loye's
 Rancho on Antelope Creek. At that time
 Mr Loye the Claimant, was preparing to
 build a house on the said Rancho of

13.

which he was in the possession, having around him upon the Rancho horses and cattle and that he resides there still.

CASE NO. 12, ND.

PAGE NO. 14

Quest 3. How near do you reside to Lye's Rancho?

Ans. My house is about a mile from this on the opposite side of the river. (The Sacramento river)

Quest 4. Did you ever survey this Rancho and if so, when?

Ans. I did survey it in 1847 in the month of July.

Quest 5. Have you examined the map attached to exhibit (E) of the petition filed in the Office of the Secretary of the Board of Land Commissioners by the Claimant, and which petition is No 122, on the Docket of said Board, if so say whether it is the original Map of the Survey, made by you in 1847?

Ans. I have examined it, and know it to be the map made by me in conformity with the courses and distances actually measured by me in making the said Survey.

Quest 6. You will examine the papers before you, and say whether or not they are the original field notes of courses and distances of the said Survey and whether they are correctly copied in Exhibit (E) of the Claim filed as above mentioned?

14

Aus. I have examined the said papers and know them to be a part of the field notes as taken by me, and my signatures to the said papers are genuine.

I have examined the copies in Exhibit ("E") and I know them to be correct copies of the papers now here shown to me.

Wm B. Ide

I was sworn to and subscribed before me the Land Agent declines to cross interrogate he being notified and attending this 25th April 1852.

Henry J. Thornton
Counsel

Filed in Office April 23rd 1852.

Geo D. Fishen
Secy

Office of the Board of Commissioners of California Land Claims
Los Angeles Sept 20th 1852.

On this day before Henry J. Thornton one of the Commissioners for ascertaining and settling private Land Claims in the State of California came Ignacio del Valle a witness produced in behalf of Claimant Francisco Dye whose Petition is No 122 on the Dockets of the Board.

The United States Land Agent was notified and attended. The evidence was given in Spanish & interpreted by Mr Greenhow by consent of the Counsel.

1st Question. What is your name

CASE NO. 12 ND.
PAGE NO. 15

15. age and place of residence?

CASE NO. 12 ND
PAGE NO. 16

Ans. . . . My name is Ignacio del Valle; my age is 44 years, I reside in Los Angeles, and have resided in California 27 years.

2nd Question. Examine the signatures to the paper annexed to this deposition and marked A to I, and say if you are acquainted with the signatures?

Ans. . . . I am acquainted with the signatures of Manuel Micheltorene and Manuel Jimenez; their signatures to this paper are genuine, and their usual signatures to official documents.

L. Agent United States. Ignacio del Valle presents.

Sworn to and subscribed
before me this 20th of Sept
1852.

Henry J. Plimpton
Com^r &c.

Filed in Office Sept 20th 1852
Geo Fisher
Secy

Sello Primero Ocho pesos

Em?

Document
No. 1.CASE NO. 12 ND.
PAGE NO. 17

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



El Sr. Michetta, General de Brigada del Ejército Mexicano, Ayudante General de la Plana Mayor del mismo; Gobernador Comandante General e Inspector del Departamento de las Californias.

Por cuanto D. Francisco Dye, Mexicano por naturalizacion, ha pretendido para su beneficio personal, y el de su familia el Termino conocido con el nombre del Rio de los Berrendos, colindante con los margenes del Rio Sacramento, comenzando los linderos desde la boca del Rio Berrendos, hasta donde se midan, tres sitios de largo y dos de ancho, que son seis sitios de ganado mayor, por el parte del Norte, practicadas previamente las diligencias y averiguaciones convenientes segun lo dispuesto por Leyes y reglamentos; usando de las facultades que me son conferidas a nombre de la Nacion Mexicana, he venido en concederle el Termino mencionado, declarandole la propiedad de el por las presentes letras,

sugiriéndose a la aprobación de la Excm^a.
Asamblea Departamental y bajo las con-
= diciones siguientes.

1^a No podrá venderlo, enagenarlo, ni
hipotecarlo, imponer censo, vínculo, fianza,
ni otro gravamen alguno.

2^a Podrá cercarlo sin perjudicar las
travesías, caminos y servidumbres; lo disfrutará
libre y esclucisamente, destinándolo al uso
o cultivo que mas le acomode, pero dentro
de un año fabricará casa y estará habi-
= tada.

3^a Solicitara del Juez respectivo, que le
de la posesion juridica en virtud de este
Despacho, por el cual se demarcarán los
línderos en cuyos límites pondrá a mas
de sus mojoneras, algunos arboles frutales
o silvestres, de alguna utilidad.

4^a El terreno de que se hace donacion
es de seis sitios de ganado mayor. El Juez
que diere la posesion lo hará medir con-
= forme a ordenanza, quedando el sobrante
que resulte a la Nacion para los usos
convenientes.

5^a Si contraviniere a estas condiciones,
perderá su derecho al terreno y sera denun-
= ciable por otro.

En consecuencia mando que sir-
viéndole de Título el presente y teniéndose
por firme y valdero, se tome razon de
el en el Libro respectivo y se entregue al
interesado para su resguardo y demas fines.

Dado en Monterrey Mayo veinte
y dos, de mil ochocientos cuarenta y
cuatro.

Man^{te}. Micheltorene

Man^{te}. Jimenes
León.

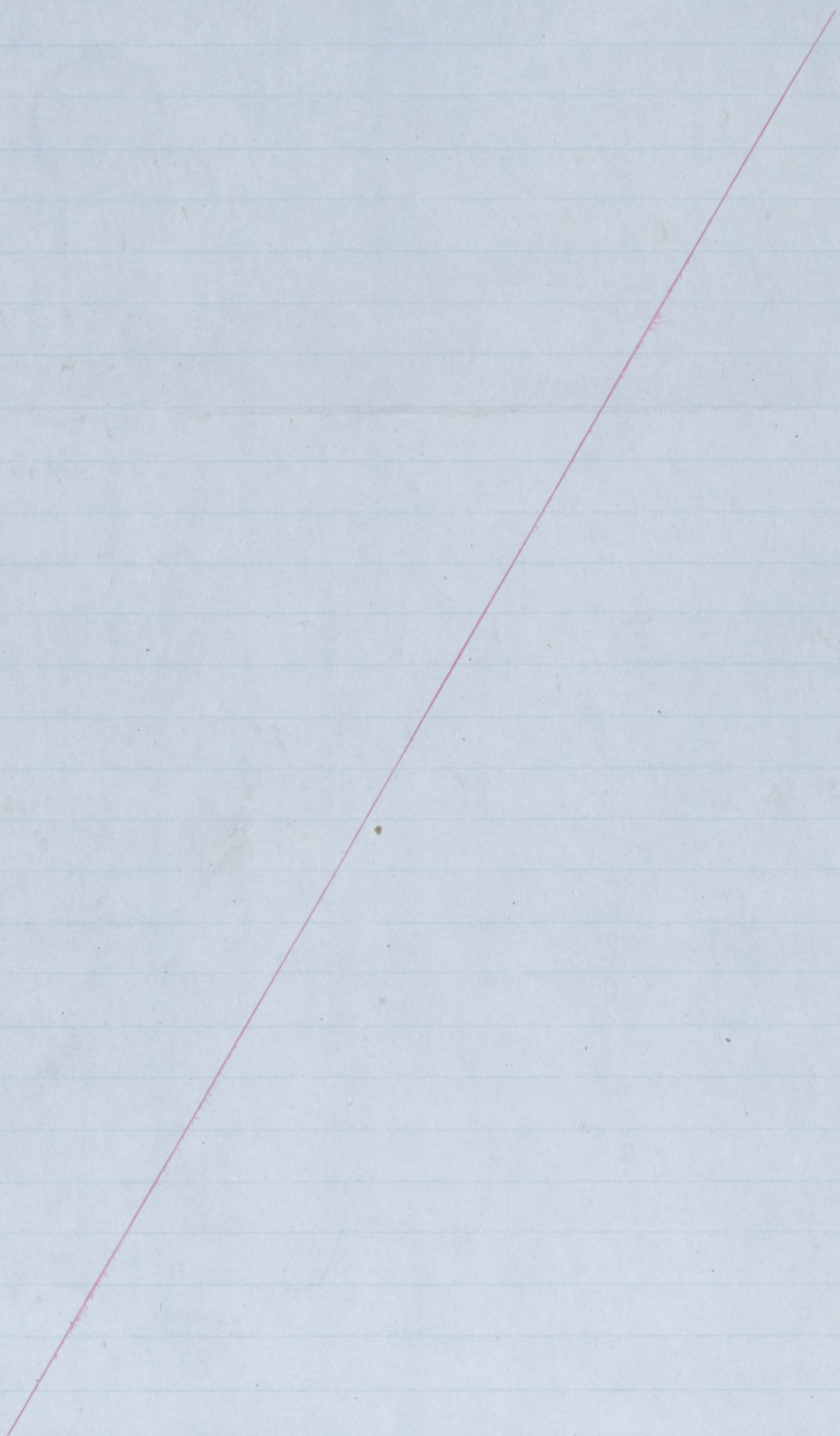
18

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

CASE NO 12 ND

PAGE NO 19

Filed in Office Sept. 20th 1852,
Geo. Fisher
Secy.



Stamp Fish. Dept. Eight Dollars

Stamp Dues, Eight Dollars

D

Translation
of Title

Provisionally authorized by the maritime
Custom House of the Port of Monterey,
in the Department of the Californias,
for the years One thousand eight hun-
dred and forty four and one thousand
eight hundred and forty five.

(Signed) Pablo de la Cueva

(Signed) Micheltorena.

CASE NO. 12 ND
PAGE NO. 20Maritime
Custom House
of Monterey

Citizen Manuel Micheltorena
General of Brigade of the
Mexican Army, Adjutant Gen-
eral of the Staff of the same,
Governor, Commanding General and In-
specter of the Department of the Califor-
nia.

Whereas Don Francisco Loya, a Mexican
by Naturalization, has, for his own
personal benefit and that of his family,
petitioned for the lands known by the
name of Rio de Las Berrendas, adjoining
the margins of the river Sacramento,
the boundaries commencing at the mouth
of the river Berrendas, thence north three
leagues in length, and two in breadth,
in all six "sitios de ganado mayor" (six
square leagues) the proper measures
and examinations being previously
made as required by laws and reg-
ulations: using the faculties con-
ferred on me in the name of the Mex-
ican Nation, I have granted him the
aforesaid land, declaring to him the
ownership of it by these presents,
subject to the approval of the most
Excellent Departmental Assembly and
under the following conditions.

1st. He may not sell it, alienate, or mortgage it, subject it to any tax, entail, pledge, or other incumbrance what soever.

2nd. He may enclose it without prejudice to the crossings, roads and servitudes, and enjoy it freely and exclusively making such use or cultivation of it as he may see fit, but within one year he shall build a house on it and it shall be inhabited.

3rd. He shall request the proper magistrate to give him juridical possession in virtue of this order, by whom the boundaries will be marked out, in which he shall place, besides the bounds, some pits or forest trees of a useful character.

4th. The lands granted in donation is six "sitios de ganado mayor" (six square leagues) The magistrate who may give the possession will cause it to be measured in conformity with the ordinance, leaving the surplus which may result to the nation for its convenient uses.

5th. If he contravene these conditions he will lose his right to the lands and it may be denounced by another person.

In consequence of order, that these presents serving him for a title, and being held as firm and valid, note be made of them in the proper book and they be delivered to the party interested for his security and other purposes.

Given in Monterey, May Twenty second, One thousand eight hundred

21

and forty four.

/signed/ Manuel Micheltorena
/signed/ Manuel Jimenez
Secretary.

CASE NO. 12 ND
PAGE NO. 22

Vote has been made of this Title in the
proper book.

/signed/ Jimenez

Filed in Office March 23^d 1852.

Geo. Fishen

Scertify the foregoing to be a true and correct translation
of the Spanish original documents. Geo. Fishen

Secy

(Agreement between the parties litigant
relative to the admission of an Extract
from the Deposition of John Gutter in
Case No 183.)

It is hereby agreed that the following
extract from the Testimony of John A.
Gutter taken before the W.P. Board of
Commissioners to settle Private Land Claims
in California, in the Claim of Samuel Neal
be transferred and read as testimony in
the case of S. P. Lye No 122.

Neal requested me to give him judicial
possession of the said Land granted.
The request was made to me in the
Spring of 1848, and for the reasons
which I have frequently given in other
cases pending before the Boards, I
was not able to comply with his request.

There were several of these cases
and my action in them all was the
same, and influenced by the same state
of facts. They all solicited judicial

22

possession about the same time.
The cases I now remember were Wm
Johnson, Samuel B. Hensley, P. B. Reading,
Job F. Dye, Mayor John Bidwell,
Theodore Swards, W. G. Chard Theodore
Coardua. There may be others, whose
names I do not now recollect.

CASE NO. 12 ND
PAGE NO. 23

(signed) S. A. Sutter

May 13th 1852.

Subscribed & sworn to before me
James Wilson

Commissioner

This agreement being signed on the
part of the United States by the Law
Agent, and on the part of the Claimant
by the Atty of Claimant
Los Angeles Sept 29th 1852

Robert Greenhow
Acting Law Agent

Walter Peachy & Billings
Atty for Claimant

Filed in Office Sept 29th 1852.

Geo Fisher
Deey

~~Open to all persons~~

3048900

23

CASE NO. 12 ND
PAGE NO. 24

Espediente promovido por Dn.
Francisco Dye en pretension de un
Terreno en el Rio Sacramento.

414

En.

24

Sello cuarto Dos Reales.

Document
A.

Habilitado provisionalmente por la
Aduana Maritima del Puerto de Mon-
terrey, en el Departamento de los California
para los años de mil ochocientos cuarenta
y cuatro y mil ochocientos cuarenta y cinco
Micheltorana. Pablo de la Guerra

CASE NO. 12-NDI
PAGE NO. 25



Excmo. Sr. Comandte. Gral.

Monterrey
22 de En. de
1844.

Espidan
el Titulo.
Michelt.

Francisco Day, naturalizado
en la Republica Mexicana,
ante V. E. con el debido respeto
y como mas halla lugar en
derecho represento y digo. Que
siendo dueño de un número
considerable de ganado Bueva
y Caballas, y careciendo de
un terreno para el adelanto de
dichos bienes, y la subsistencia
de mi familia, espongo; que
entre los margenes del rio del
Sacramento, y la orilla de las
lomas, se halla uno enteramente
valdío, con el nombre de primer
Cañon, de donde pido se me
concedan seis sitios de ganado
mayor, de norte al sur, por la
orilla de dicho rio, de cuyo
terreno acompaño el respectivo
diseño. Por tanto

A. V. E. suplico se digné concederme
el mencionado terreno que
solicito de lo q. recibere
merced y gracia jurando no

25

ser de sualicia y lo necesario.

Monterrey Mayo 20 de 1844

Fran^{co} Dye.

CASE NO. 12ND
PAGE NO. 26

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 ochocientos cuarenta y cuatro y cuatro y mil ochocientos cuarenta y cinco.

Micheltorua.

Pablo de la Guerra



Exmo. Sr. Comandte Gral.

Monterrey
En ¹⁸ de 1844
Jefe del G.
Serv. del
Despacho
tomando los
of. necessary
Michelt^a

Francisco Dye naturalizado en la Republica Mexicana ante V. E. con el debido respeto y como mas halla lugar en derecho represento y digo; que siendo dueño de un numero considerable de ganado vacuno y Caballar y careciendo de un terreno para el adelanto de dichos bienes y la subsistencia de mi familia espongo. que entre las margenes del rio del Sacramento y la orilla de las lomas se halla uno enteramente baldio con el nombre de primer Cañon de donde pido se me concedan diez Sitios de ganado ^{mayor} de Norte a Sur por la orilla de dho. rio de Cayo terrenos acompañe el respectivo diseño Por tanto.

A. V. E. suplico se dignes concederme

26

el mencionado terreno q. solicito de lo que
recibire merced y gracia jurando no ser
de malicia y lo necesario &c.

Monterey Eus. 18 de 1844
Fran^{co} Dye.

CASE NO. 12-ND
PAGE NO. 27

Como dispone el Excmo. Gov. Gobernador
pase este expediente al Gov. Gutter p. q.
se sirva informar sobre su contenido.

Monterey 22 del Eus. de 1844
Manl. Jimeno

Excmo. Gov. Gobernador

El interesado, acompaña una carta
del Gov. Gutter, en la que informa que
el terreno pretendido esta baldio p. como
este esta en el Rio del Sacramento á donde
tiene determinado V. E. hacer una visita, oro
que podra quedar pendiente este asunto
hasta que aquella se verifique, y tambien
hasta que no se forme un Plan exacto
de lo que contenga el los terrenos del Sacra-
mento y San Joaquin, por ser intererentes como
limitrofes á la Nacion Americana.

El sup^{or} dicernimto de V. E. dispondra
la que sea mejor.

Monterey, Abril 29 de 1844
Manl. Jimeno

Monterey Ab. 30 de 1844.

Conf.
Michetta

Monterey, Mayo 22 de 1844.

Vista la peticion con que
da principio este expediente, los informes
que se han tomado con todo lo demas

que se tubo presente de conformidad
con los leyes y reclamo de la materia.

27

que se tubo presentes de conformidad con las leyes y reglamentos de la materia, declaro a Dn. Francisco Dye, diceño de seis sitios de ganado mayor en el Sacra-

CASE NO. 12
PAGE NO. 28 END

-mto por el arroyo que llaman los Perreños Libres de correspondte despacho y Tomas razón en el libro respectivo y entregue al interesado pa su resguardo y demas fines.

El E. G. Gobernador así lo mandó y firmo Dye fe. ^{decretó} Michetta

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

I Samuel D. King, Surveyor
General of the United States for the State
of California, and as such now having
in my Office and under my charge and
control a portion of the archives of the former
Spanish and Mexican Territory or Depart-
ment of Upper California, do hereby certify
that the seven preceding and herewith annexed
pages of tracing paper, numbered from one
to seven inclusive, and each of which 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.

In testimony whereof I have herewith
signed my name, officially, and
affixed my private Seal (not
having a Seal of Office) at the City
of San Francisco Cal. this second
day of March 1852.

Sam. D. King
Surv. Gen. Cal.

Filed in Office March 23^d 1852

Geo: Fisher
Secy.

Camp Fourth. Two Reals

B
Translation
of Expediente

Provisionally authorized by the Maritime
Custom House of the Port of Monterey,
in the Department of the Californias, for
the years One Thousand eight hundred
and forty four and one thousand eight
hundred and forty five.

/Signed/ Micheltorena /Signed/ Pablo de la Guerra

CASE NO. 12 ND
PAGE NO. 30

Maritime
Custom House
of Monterey } To His Excellency the Comman-
ding General.

Monterey May 22^{do} }
1844. }
Leads the Ditta de }
issued. }
/Signed/ Michelt^o }
in Land, represents and says; that he is }
the owner of a considerable number of }
neat cattle and horses, and is in want }
of a land for the increase of the said }
property, and for the subsistence of his }
family; that between the banks of the }
Sacramento river and the edge of the }
hills, there is a land entirely vacant, }
known by the name of Primer Canon, }
of which he prays that there be gran- }
ted to him six "sitios de ganado mayor" }
(six square leagues) from North to South, }
on the banks of the river aforementioned }
of which land he transmits the corres- }
ponding map.

Wherefore he prays Your Excellency to
have the goodness to grant him the
land he petitions for. By which he
will receive favor and grace, and he

swears that he does not act from malice,
and whatever else may be necessary.

Monterey May 20th 1844
/Signed/ Francisco Leye

CASE NO. 12ND
PAGE NO. 31

Stamp Fourth. Two Reales

Provisionally authorized by the Maritime
Custom House of ^{the ports of} Monterey, in the Depart-
ment of the Californias, for the years one
thousand eight hundred and forty four
and one thousand eight hundred and
forty five.

/Signed/ Micheltorena. /Signed/ Pablo de la Guerra

Maritime
Custom House
Monterey

To His Excellency the Comman-
ding General.

Monterey Jan'y
18. 1844.
Let the Secre-
tary of State
report, calling
for such infor-
mation as he
may require.
/Signed/ Micheltorena

Francisco Leye, naturalized
in the Mexican Republic, before
Your Excellency, with due re-
spect, and in the manner
most favorable in law, repre-
sents, and says that he is the
owner of a considerable number
of neat cattle and horses and
in want of a land for the
increase of his said property,
and the subsistence of his
family; that between the
margin of the river Sacramento
and the edge of the hills there
is a place entirely vacant, with
the name of El Primer Canon,

of which he prays there may be granted to him ten sitios de ganado mayor (ten square leagues) extending from North to South on the Banks of said River, and he transmits the corresponding map of said lands.

CASE NO. 12 ND
PAGE NO. 32

Wherefore he prays Your Excellency, have the goodness to grant him the lands before mentioned, by which he will receive favor and grace.

He swears that he does not act from malice and whatever else may be necessary.
Monterey January 18th 1844.
Signed/ Francisco Loyo

In compliance with the directions of His Excellency the Governor, let this Expediente be referred to Senor Butten that he may be pleased to report upon its contents.
Monterey January 20th 1844.
Signed/ Manuel Jimenez

To His Excellency the Governor
The person interested transmits a letter from Senor Butten in which he reports that the lands petitioned for is vacant, but as it is situated on the Sacramento river, which place Your Excellency has determined to visit, I think this matter may be left undecided until the visit is made, and also until a correct map, can be formed of the lands of Sacramento and San Joaquin, in as much as they are of importance from the fact of their bordering on the lines of the American Nation.

Your Excellency's Superior discernment

will direct that which may be best.
 Monterey April 29th 1844.
 /Signed/ Manuel Jimenez

CASE NO. 12 ND
 PAGE NO. 33

Monterey April 30th 1844.
 Approved
 /Signed/ Micheltorena

Monterey May 22^d 1844.
 Having seen the petition with which this Expediente commences, the reports which have been made, with all other matter which was presented, in conformity with the laws and regulations on the subject, I declare Don Francisco Loya, owner of six "sitios de ganado mayor" (six square leagues) on the Sacramento, along the Arroyos called "los Berundos". Let the corresponding title be issued, let note be made in the proper book, and deliver it to the person interested for his security and other purposes. His Excellency the Governor thus ordered, decreed, and signed:
 I certify.

/Signed/ Micheltorena
 Ex^o
 R. A.

Filed in Office March 23^d 1852.
 Geo. Fishen
 Secy

I certify the foregoing to be a true and correct translation of the foregoing Spanish Documents
 Geo. Fishen
 Secy

Field Notes of Survey of J. P. Dye's Ranch
 situated on the Sacramento River in Latitude 41°
 North, on the East side of the D^o River, Commencing
 at the mouth of Antelope Creek - July
 24th, 1847.

E.

Copy of Notes
 of Survey and
 Map.

CASE NO. 12 ND
 PAGE NO. 34

Stations	Direction	Degrees	Minutes	chains	links	Amount off sets out	Amount off sets in	Stations	Direction	Degrees	Minutes	chains	links	Amount off sets out	Amount off sets in
								30	N.W.	1	15	21	59	4.50	
1	N.W.	52	05	15	95		742	31	N.W.	13	45	21	59	21.50	
2	S.W.	73	40	46	74		27.37	32	N.W.	7	45	24	73	26.00	
3	N.W.	50	30	9	00	1.23		33	N.W.	60	30	29	64	24.82	
4	N.W.	31	20	7	68	1.25		34	S.W.	77	00	24	80	24.60	
5	N.W.	13	32	7	21	.75		35	S.W.	88	15	12	45	4.00	
6	N.E.	70	05	6	40	.50		36	N.W.	76	15	3	56	25	
7	N.E.	38	30	48	38		96.76	37	N.W.	65	45	2	42		
8	N.W.	16	05	36	97		92.42	38	S.W.	64	15	10	64	2.50	
9	N.W.	39	15	6	01		4.00	39	S.W.	89	00	51	00	87.00	
10	N.W.	77	20	23	09	14.00		40	N.W.	87	00	43	85	32.00	
11	S.W.	86	45	7	05			41	S.W.	75	15	21	65	5.50	
12	S.W.	84	20	30	00	12.00		42	N.W.	88	45	9	72	1.00	
13	N.W.	54	30	3	69		5.00	43	S.W.	67	10	5	66	1.00	
14	N.W.	38	30	30	02		90.00	44	S.W.	80	15	6	00	1.00	
15	N.W.	17	45	5	56		40.00	45	S.W.	72	00	42	54	42.00	
16	N.W.	44	56	3	00			46	S.W.	73	45	8	25	6.00	
17	N.E.	28	40	24	72		139.96	47	S.W.	85	45	12	10	1.50	
18	N.E.	38	55	4	02			48	N.W.	75	30	7	73	1.30	
19	N.E.	60	15	2	46		32.00	49	N.W.	72	45	23	13	4.00	
20	N.E.	33	00	7	30		50.00	50	N.W.	58	45	21	70	3.50	
21	N.W.	3	45	18	27		91.55	51	N.W.	56	45	16	25	2.00	
22	N.W.	55	00	29	19		185.10	52	N.W.	83	48	4	05	1.40	
23	S.W.	79	00	1	66		125	53	N.W.	33	00	12	80	5.50	
24	N.W.	54	10	18	40		126.60	54	N.W.	54	15	11	06	4.50	
25	N.W.	35	30	15	00		90.00	55	N.W.	59	37½	8	00		
26	N.W.	2	30	14	74		34.20	56	N.E.	66	00	549	62		
27	N.W.	9	15	12	90	15.00		57	S.E.	51	00	632	25		
28	N.E.	33	45	04	30	6.00		58	S.W.	60	00	496	32		
29	N.E.	27	00	13	56	5.00									
				422	51		2973	11,0863				2665.66			
												422 51			
												2588.17			

to S.W. corner of
 State, from
 which a eye tree
 10 in in diameter
 bears. S.W. 42° 08'
 links to the
 place of
 beginning
 369.16

February 25th 1848

The foregoing are the field notes of J. P. Oyer's land lying and being within the 40th and 41st Degrees of North Latitude on the east bank of Sacramento river in Upper California taken in accordance with the Description contained in Michelton's deed, (bearing date May 22^d 1844) to the said Oyer containing 26611.47 Acres, English or Six Span or Mexican Leagues.

The above is hereby certified by
 (Signed) Wm B. Ide
 Land Surveyor, in and for
 the Northern Department of
 Upper California.

CASE NO. 12 ND
PAGE NO. 36

Stations	Course	Degrees	Minutes	Distances	Diff Lat N x	Diff Long E	Departure x East	Departure - West
1	NE	48	30	28.08	18.60		21.03	
2	SW	54	40	2.63		1.46	2.06	
3	NE	32	45	10.93	9.19		5.91	
4	SE	48	30	7.00	4.64		5.24	
5	NE	22	15	4.35	4.02		1.64	
6	NW	2	30	13.00	12.99			57
7	NE	22	45	15.00	13.73		6.04	
8	NW	26	30	6.70	5.99			2.99
9	NW	40	45	16.04	12.15			10.47
10	NW	15	45	15.66	15.08			4.25
11	NW	35	15	11.80	9.63			6.81
12	NW	36	48	9.36	7.50	113.52		5.80
13	SW	87	30	12.30	113.52	.53		12.20
14	NW	49	30	36.68	23.82			27.89
15	SW	2	45	19.50	19.48			.93
16	NE	33		14.59	12.24		7.94	7.94
17	NE	8	50	13.98	13.82		2.15	
18	NE	35	30	4.57	3.72		2.65	
19	NE	16	30	9.74	9.34		2.74	
20	NW	65	30	4.13	1.71		3.76	3.76
21	NW	15		9.58	9.25			2.48
22	NW	53	30	8.80	5.23			7.07
23	NW	32		6.97	5.91			3.69
24	NW	61	30	4.22	2.02			3.71
25	NW	1	30	6.49	6.49			.17
26	NW	83	45	9.56	1.13			9.50
27	NW	69	15	6.57	2.33			6.14

CASE NO. 12 ND
PAGE NO 37

28	N.W.	32	45	11.19	9.41	116.49	6.05
29	N.W.	5	15	6.93	6.90		.64
30	N.W.	8		14.45	14.31		2.01
31	N.W.	61	45	8.14	3.86		7.17
32	N.W.	14	45	19.72	19.07		5.02
33	N.E.	11	30	16.27	15.94	3.24	
34	N.W.	33	15	11.39	9.53		6.24
35	N.E.	39		9.56	7.43	6.01	
36	N.W.	50	15	14.87	9.39		11.49
37	N.W.	13	30	8.77	8.53		2.05
38	N.W.	42	30	11.27	8.31		7.61
39	N.W.	⁶⁵ 32	¹⁵ 30	14.18	5.93	118.61	12.87
40	N.W.	32	30	4.17	3.51	3.51	2.24
41	S.W.	87	15	5.78	364.62	28	5.77
42	N.W.	35	45	17.02	13.82		9.94
43	N.W.	57	45	21.87	11.67		18.51
44	N.W.	85		4.17	4.5		5.15
45	N.W.	67		25.62	10.01		23.57
46	N.W.	17	15	8.49	8.11		2.25
47	N.E.	14	30	7.93	7.69	1.98	
48	N.W.	34		10.79	8.92		6.03
49	N.W.	64	45	13.09	5.59		11.84
50	N.W.	82		3.54	.50		3.51
51	N.W.	3	30	8.19	8.18		.50
52	N.W.	38	45	12.17	9.40		7.62
53	N.W.	21		23.00	21.47	108.89	8.24
54	N.E.	87		57.13	2.99	457.51	57.05
55	N.W.	39	30	30.88	23.85	5.78	125.71
56	N.W.	60	50	18.90	9.05		16.36
57	N.E.	80	15	12.59	12.39	2.25	
58	N.W.	70	30	15.89	5.29		14.94
59	N.W.	73	30	12.69	3.44		11.60
60	N.E.	86		12.52	.88		12.49
61	N.E.	60		778.60	506.63		75.03
62	S.E.	51		632.25			14.924
63	N.W.	60					224.27
							2.25

The above is the meander of Antelope commencing at the mouth, 222.02.

W. B. Ide

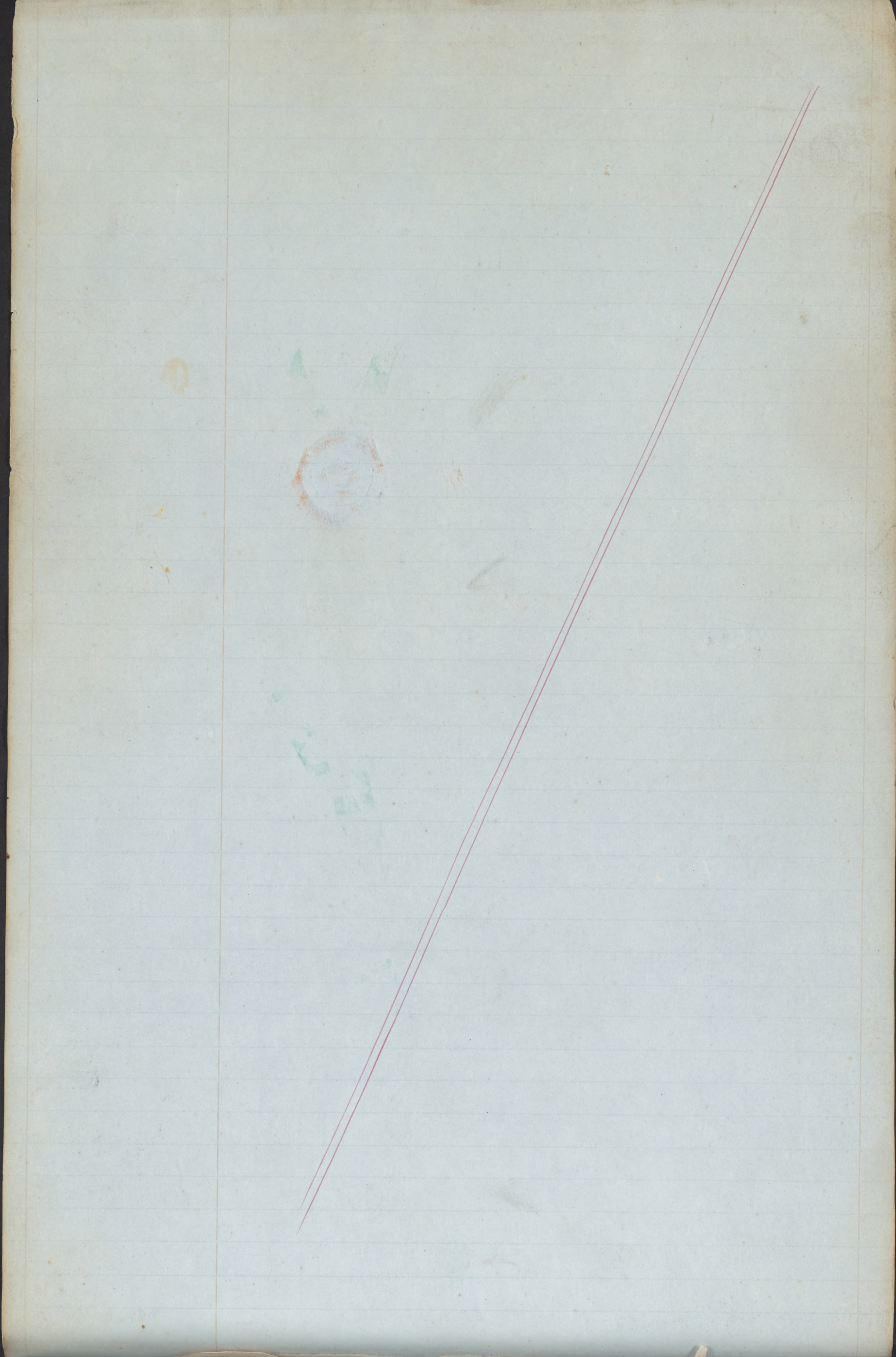
CASE NO. 12ND
PAGE NO. 38

1	N.W	30	15	8.37	7.60	4.89
2	N.W	56	15	10.00	5.56	8.31
3	N.W	61		51.04	24.75	44.64
4	N.W	87		29.40	1.52	29.34
5	N.W	30	48	10.00	8.89	25.11
6	N.W	48		9.56	6.39	7.11
7	S.W	76		5.00	.121	4.85
8	N.W	84		11.31	1.18	11.25
9	N.W	70	30	15.81	5.28	14.90
10	N.W	54		14.75	8.67	11.94
11	N.W	89	30	10.54		
12	N.W	74	30	6.12		
13	N.W	32	15	25.60		
14	N.			27.42	207.50	
15	N.E	12	30	37.09		
16	N.E	28	15	11.12		
17	N.W	3	15	40.00		

The above is a meander of the West
Creek on J. J. Dye's ranch commencing at
the Sacramento river taken in July 1847
by W. B. Ide.

Lands Surveyor in and
for the Northern Department
of Upper California

Filed in Office March 23^d 1852
Geo Fisher
Secy



CASE NO 12 IND
PAGE NO. 39

I George Fisher Secretary of the Board
Commissioners to ascertain and settle the
Private Land Claims in the State of California
do hereby certify the foregoing 39 pages
numbered from 1 to 39 both inclusive to
contain a true, correct and full Transcript
from the Journal of Proceedings of said Board,
of the Original Depositions of Witnesses,
and of the Documentary Evidence on file in
my Office in Case No 122 J. F. Oye
Claimant against the United States for
the place called "El Primer Canon" on
"La de las Perrenas"
Testimony whereof I herewith set
my hand and affix my private Seal not
having a Seal of Office
at San Francisco, California
this 15th day of January
A. D. 1854, and of the
Independence of the United
States of America the seventy
seventh.

12

[Blank white tape]

[Green ribbon]

Attorney General's Office
17th March 1854.

✓ J. F. Dye, Claimant
vs.

CASE NO. 12 ND The United States.
PAGE NO. 46

You will please take notice that an appeal in the above case, from the decision of the Commissioners to ascertain and settle the private land claims in the State of California, to the District Court of the United States for the Northern District of California, will be prosecuted by the United States.

Charles
Attorney General
U. S.

U. S. District Court

The United States

vs

J. F. Dye

Notice of Appeal.

Filed April 13, 1834
by Schell D.C.

CASE NO 12, ND

PAGE NO 47

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

The United States }
 } No 12
J. H. Dye }

The respondent in answer to
the petition filed in this case, answers & says: It
is true that the lands mentioned in said petition
and in said transcript of the proceedings before
the said Board of Commissioners lie within said
Northern District of California, and within the
jurisdiction of this Court.

But this Respondent
denies that his title to the said lands is
invalid - and avers that the same is valid
and prays that the decision of the said
Board be affirmed and his title be decreed
to be valid

J. H. Dye
by Stanley & King
his Atty's:

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

No 12 -

The United States

vs
Job F. Dye

Answer

Filed July 5, 1855,

by *Chaves*

Def 5

CASE NO. 12 ND

PAGE NO. 49

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

The United States
Appellants
vs
Job. F. Dyer } No. 12.

The Petition of the United States by
their Attorney represents; that this Cause
is an Application for a review of the
decision of the Board of Commissioners
whereby the Claim of the said Appellee
was confirmed as appears by reference
to the records in the Case.

That a transcript of the said Records
was filed in this Court on the 24th
day of January 1854 that a notice
of Appeal was filed on the 15th
day of April 1854 and that the
land claimed lies in the said District.

That the said Claim is invalid.
Therefore Appellants pray that the said
decision of the Board be reversed and that
this Court decree the said title to be invalid.

Respectfully etc. A. Russell
Asst U.S. Atty.

U.S. Dist. Court

No. 12.

The U. S.

vs

Jos. F. Dyer -

Petitioner

Laid June 20, 1855,

by Chevers
Deputy.

CASE NO. 12 ND

PAGE NO. 51

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 tenth day of February, in the Year of our Lord one thousand eight hundred and fifty seven.

Present:

The Hon: Ogden Hoffman. District Judge

The United States	} No 12: Tr 122.
J. J. Dye	

The Attorney General of the United States having given notice that no appeal to the Supreme Court of the United States will be prosecuted in this case, and a stipulation having been entered into by the United States Attorney for vacating the order granting an appeal to the Supreme Court of the United States and for leave to the claimant to proceed under the decree of this Court heretofore rendered in his favor: on motion of the District Attorney it is Ordered, adjudged and decreed that the order granting an appeal in this case to the Supreme Court of the United States be, and the same is hereby vacated, and the claimant has leave to proceed under the decree of this Court rendered in his favor as under final decree.

Ogden Hoffman
U. S. Dist Judge

5, No. 12

U. S. District Court

The United States

^r
J. J. Dyer

No. 12: Tr 122

order

Filed Feb 10. 1857.
W. H. Cheverus,
Deputy.

CASE NO. 12 ND

PAGE NO. 53

CASE NO. 12 ND
PAGE NO. 54

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

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States

vs.

Wm. F. Dye.

D. C. No. 12.

L. C. No. 122.

On reading, and filing
the affidavit of J. D. King that the
survey made by the U. S. Surveyor General
for California of the land finally
confirmed herein, is erroneous filed
by the Claimant, and in pursuance
of the Rule heretofore entered, it is
ordered that the said Surveyor General
for California, return to this office
a certified copy plat of his official
survey of the land finally confirmed
in this case.

W. A. Cheever,
Clerk.

Clerk's Office, U. S. Dist. Court,
Northern District of California,
San Francisco, Feby 8, 1860.

CASE NO. 12 ND

PAGE NO. 55

U. S. Marshals Office
N. Dist. of California

I hereby certify that I have this the 8th of Feb. 1860. served a certified copy of the within order on J. W. Mandeville U. S. Surveyor General, for California, in the City of San Francisco.
San Francisco }
Feb. 8th 1860 }

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

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.

2.

No 12,

District Court of the United States

IN AND FOR THE

Northern District of California.

The United States

vs.

John F. Dye

Order to return
Surrey

Filed February 8, 1899,

W. A. Chess, Clerk.

By _____ Deputy.

CASE NO. 12 ND
PAGE NO. 56

CASE NO. 12 ND
PAGE NO. 57

United States District Court for the Northern
District of California

J. F. Dye } District Court No 12
 } Land Claim No 122
The United States. }

On this 8th day of February A.D. 1860 personally
appeared before me Samuel D. King who being duly
sworn deposes and swears that he is of Counsel for
J. F. Dye, to whom the Rancho "El Primer Cañon
near the Rio delos Barrenos", claim No 122 on the
Docket of the late Board of Land Commissioners, and
No 12 on the Docket of the said District Court, has
been confirmed, and that from information derived
from the said J. F. Dye he believes that the survey
of the said Rancho is made under the order of
the United States Surveyor General for California,
is promoung, and, at the request of the said Dye,
desires that a Copy of the plat of the said Survey may
be ordered to be sent to the said Court for its
action thereon.

Samuel D. King

I have to, and subscribed
this 8th February, 1860. before me,
W. H. Cheverest,
N. C. Comm.

1.

No 12.

U. S. Dist. Court,

The United States,

— vs —

Job. F. Dyer,

Affidvt of S. D. King
to return Cussey,

CASE NO. 12 ND

PAGE NO. 58

Filed Feby 8, 1860,

A. H. Chevers,

Clerk,

CASE NO. 12 ND

PAGE NO. 59

California Land Claim.

Attorney General's Office

24 December 1856.

Sir:

In the case of the claim of J. F. Dyer, confirmed to the claimant by the Commissioners, case no. one hundred and twenty-two, (122), appeal will not be prosecuted by the United States.

I am,

Respectfully,

Anthony

Amos Blauding Esq.

U. S. Attorney, San Francisco.

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

The United States of America
vs
J. J. Dye.

No 12: Tr 122.

In pursuance of a notice from the Attorney General of the United States, hereunto annexed, it is hereby stipulated and agreed that an order be entered of record in this case, vacating the order of appeal heretofore granted and that the claimant have leave to proceed under the decree of this Court heretofore rendered in his favor, as under Final Decree.

Wm Blanding
Dist Atty

Shanty King,
Att for claimant

4 No 12 —
U. S. District Court

The United States

v

J. J. Dye —

No 12 : Tr 122.

Stipulation

CASE NO. 12, ND

PAGE NO. 61

Filed Febry 10. 1857.
W. H. Cheves,
Deputy.

United States of America,)

CASE NO 12 ND

SS.

PAGE NO 62

Northern District of California.)

THE UNITED STATES
IN LAND CASES
Northern District of Calif
STATES DISTRICT

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. 12, to *Job. A. Dye* known as *El primer cañon*, and situated in the County of *Butte* in said District.

NOW THEREFORE YOU ARE HEREBY COMMANDED, in the name of the President of the United States of America, to give due notice to all parties having, or claiming to have, an interest in such survey and location, that they be and appear before the District Court of the United States for said District, sitting in Land Cases, on or before Wednesday, the *10th* 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 *4th* day of *September* A. D., 1860.

M. A. Chivers

CLERK.

The within Monition was received by me on
Tuesday the 4 day
of September 1860, and in obedience thereto
I have given due notice, as therein commanded, by causing
the publication of said notice, for 4 consecutive
Wednesdays, in the San Francisco Herald, commencing
on the 5th day of September
1860; and for 4 consecutive Saturdays, in the
Butte "Democrat"
a paper published nearest the land, commencing on the
8th day of September 1860.

Dated San Francisco, Oct 10th 1860
P. L. Solomon
U. S. Marshal.

CASE NO 12 AND
PAGE NO. 63

3, Butte Democrat
No. 12

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

THE UNITED STATES.

v.

Job. F. Dye,

MONITION.

Returnable Oct: 10 1860.

Issued Sept: 4 1860.

Filed Oct: 10 1860.

W. A. Chace

Clerk.

CASE NO. 12 ND
PAGE NO. 64

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 *teenth* 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.

John F. Dye,

IN LAND CASES.

District Court No. *12*

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 in behalf of the United States, and Edward Stanley for the Plaintiff, and ~~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.

4.

No. 12.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

v.

Job. F. Dye.

ORDER ON RETURN OF MONITION.

CASE NO 12 ND

PAGE NO. 65

Filed October 10. 1860.

W. H. Chesid.

Clerk.

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

The United States } No: 12,
 } In the matter of
Job F. Dye } the survey of "El
 } Primer Canon. —

And now comes the claimant, and by his Attorney Edward Sturdy, excepts to the survey made in this case. —

1.

The said survey has not been made according to the claim of said Dye, nor according to the decree made in this case, nor according to the grant.

2.

The original grant calls for a tract having a length of three leagues, upon the river, with a breadth of two leagues, making an area of six ~~leagues~~ square leagues, and such description corresponds with the showing of the *deseno*, (See Exhibit hereto attached

marked "A." which describes, forms part of the paper in this case: and the specification of the lengths of the front and side lines, and of the area included thereby, necessarily make those side lines to run back at right angles, to the general course of the front line, and that fact is also clearly in conformity to the showing of the descript.

The survey now before the Court shows, that instead of giving the tract the required front of three leagues, it has a front in a direct line of full four leagues, with a most irregular width a depth, varying from less than one to more than two leagues and with side lines, so running back as to form angles of about 45, and 135, degrees with the general course of the front-line.

The accompanying diagram "B." will show what is believed to be the difference between the lines of the present survey, and those which it is thought were intended by the grant and confirmation to be its boundaries: the blue shade showing the lines of the

CASE NO 12 ND

PAGE NO 68

Survey, and the red, those which should
govern the location of the claim —

Edw. Stanley
atty for claimant

5.7 No: 12 ND

122, Bd

The United States

Job: F. Dye -
Exceptions to Survey
by Claimant. —

Filed Oct: 12, 1860.

W. A. Chevers,
Clerk

CASE NO 12 ND

PAGE NO. 69

(1860)

Edw. Stanley atty

5² No: 12

In the Dist. Court of
the W. State for the
Northern Dist. of

Cal CASE NO 12 ND

PAGE NO. 71

The United States

vs
Job T. Dye

Notice for closing
proofs & -

Due notice of this
notice admitted -

Calhoun Dickinson

W. S. Atty.

Dec: 9th 1860
Filed December 12, 1860,
W. D. Cheney,
Clerk

CASE NO. 12, ND,
PAGE NO. 72

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 *12th* day of *December* in the year of our Lord one thousand eight hundred and sixty.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States. } No. 12.
v.
Job. F. Dye.

On reading, and filing notice of motion, and on motion of Mr. Stanley, Counsel for Plaintiff, the U. S. Attorney being present, and consenting thereto, ordered that the proofs in this case be declared closed, and the cause is hereby set for hearing on the 7th day of January next.

6 No. 12.

UNITED STATES DISTRICT COURT

Northern District of California.

The United States,

v.

Job. F. Dye,

*Order closing proofs,
etc.*

CASE NO. 12 ND

PAGE NO. 73

Filed *December 12,* 1860.

W. A. Chever,

Clerk.

U. S.

CASE NO. 12 ND

PAGE NO. 74

12 ND

109.

L. T. Dye

This case comes up on objections filed to the survey of the Surveyor General —

The grant described the land as known by the name of Rio de los Remedios adjoining the margins of the Rio Sacramento the boundaries commencing at the mouth of the Rio Remedios three north & sea leagues in length and two in breadth "in all six square leagues"

The decree of the Board confirmed to the claimant the land described in the grant and decree to the extent of six square leagues and no more —

The appeal from this decree to this Court was dismissed by order of the Attorney General —

In comparing the survey as returned into Court with the description contained in the grant and the delineation on the decree

A very marked discrepancy is
 perceived -

The dicho delineates a tract of
 a ~~rectangular~~ rectangular form, ~~then~~
 bounded on one side by the
 Sacramento River along which
 it runs from the mouth of the
 Riverados creek a distance of
 3 or 3 leagues - and by two
 lines drawn ^{nearly} at right angles
 to the general course of the
 river - while the fourth boundary
 is parallel to the general
 course of the river and at
 the distance of about two leagues
 as shown by the scale on the
 dicho

In the survey referred into
 Court the ~~distance~~ ^{length} along the
 river seems to be considerably
 greater than three leagues
 while no attempt appears to
 have been made to preserve
 or even to approximate to a
 rectangular form in the general
 shape of the tract -

The only construction offered suggested by the District Attorney in support of the survey is, that perhaps it was so made in order to conform to the lines of public surveys—

But this object can readily be attained without materially departing from the location and shape of the grant as indicated by the survey. But I am not aware of any principle of law or any decision of the Courts which could authorize the U. S. where the tract of land conceded by the former government is accurately defined and susceptible of absolute identification to substitute another tract with different boundaries in order that certain lines of public surveys may be adhered to— But in ~~the~~ most cases, this case, I do not perceive any difficulty in preserving the general form and location of the tract and at the same conforming to a reasonable degree with the lines of the public surveys

I think the survey and location returned unto Court & should be set aside - and a new survey made as follows Beginning at the Junction of the Berrendos Creek ^{with} ~~and~~ the Sacramento running thence along the Sacramento river in a Northerly direction 3 leagues to a point on the Sacramento 3 leagues distant from the point of beginning - the Northerly and Southerly town lines to be drawn from these two points respectively and at right angles to the general course of the river - and the back or fourth line to be drawn parallel with the general course of the river and at the distance of two leagues from it or as near thunto as may be necessary to make the whole area of the tract six square leagues and no more - It being the object and design of this order to cause to be surveyed to the claimant a tract extending along the Sacra

Mento 3 leagues in length &
two leagues in width as shown
on the diseño —

The said survey when made is
to be returned to this Court for
examination and approval.

No. 12,

U. S. Dist. Court,

The United States,

— vs —

Job. F. Dye.

Opinion respecting
survey, and ordering
a new Survey.

Filed January 11, 1861,

W. A. Chivers,

Clerk

CASE NO. 12, ND

PAGE NO. 79

CASE NO. 12 ND
PAGE NO. 80

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 thirteenth day of January in the year of our Lord one thousand eight hundred and sixty-one.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States v. Job F. Dye	}	No. 12. Exceptions to Survey
---------------------------------------	---	---------------------------------

This case coming on to be heard, on exceptions filed to the Survey, on the part of the Claimant and Counsel for the Claimant, and the District Attorney on the part of the United States having been heard, it is ordered that said exceptions be sustained,

And it is further ordered, that the said Survey be annulled and set aside,

And the said Court, does order, adjudge, and decree, that a new Survey be made, as follows

Beginning at the junction of the Benavides Creek with the Sacramento, thence along the Sacramento River, in a Northerly direction, to a point on the Sacramento three leagues distant, from the point of beginning. The Northerly and Southerly boundaries to be drawn from these two points respectively and at right-angles to the general course of the River, and the back

a fourth line to be drawn parallel with the general course of the River, and at the distance of two leagues from it or as near thereto as may be necessary to make the whole area of the tract six square leagues and no more.

It being the object and design of this order to cause to be surveyed to the claimant, a tract extending along the Sacramento, three leagues in length, and two leagues in width as shown in the diseño - The said survey when made is to be returned to this Court for examination and approval.

Order of the Court
H. S. Dick Judge

J. No. 12.

UNITED STATES DISTRICT COURT

Northern District of California.

The United States,

v.

Job. F. Dye.

Order respecting
survey, & directing
new survey to
be made.

Filed January 12. 1861.

W. H. Chevers,

Clerk.

CASE NO. 12 ND

PAGE NO. 82

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

United States

John F. Dye

No. 12.

In this case it is hereby
stipulated and agreed, that the survey,
a certified copy of which was filed in
this Court, on the 22nd day of
March 1861, may be approved and
confirmed, and a final decree be
entered in conformity therewith.

Calloun Benham

W. S. Atty.

March 30. 1861.

8. No. 12

In the District Court
of the United States
for Northern District

The United States

vs
Job F. Dye

Shipment for
decree approving final
survey

Filed April 5, 1861.
W. H. Cheves,
Clerk.

CASE NO. 12 ND

PAGE NO. 84

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 Friday, the fifth day of April in the year of our Lord one thousand eight hundred and sixty one.

Present.

Am: Ogden Hoffman, District Judge

The United States

vs
Job F. Dye

No. 12
El Primer Canon, or
Rio de los Borrendos.
Final Decree.

It appearing to the Court, that the land claimed in this case, was confirmed to Job F. Dye, the claimant, by a decree of this Court of July 23rd 1855: that on the 10th day of February, 1857, an order was entered vacating the appeal: that on March 16th 1860, a plat of survey was returned by the Surveyor General of the United States, in pursuance of an order of Court: that on the 10th day of October 1860, after other proceedings according to law, proclamation was

duly made, as prescribed by law and the rules of this Court, for all persons to intervene, who were interested in the land surveyed: That on the 12th day of January 1861, an order was made, respecting the survey, and ordering a new survey:

That on the 22nd day of March 1861, the Surveyor General of the United States for the State of California, returned to this Court, a certified copy of the Survey made in pursuance of said order of January 12th 1861, which was duly filed by the Clerk of this Court, and to the correctness of which the Atty. Gen. appears as appears by his certificate filed

Now therefore, this cause having regularly come to a hearing, Counsel for the United States having been heard, and due deliberation and examination had in the premises; It is advised, adjudged and decreed, that the land heretofore confirmed to Job F. Dye, known as the Rancho "El primer Cañon, a Rio de los Paredos", lying in the Northern District of California, and containing within its exterior boundaries, the area of Twenty six thousand, six hundred and thirty seven two Acres 26,637²/₁₀₀ = be and the same is hereby finally confirmed. -

And it is further ordered, adjudged and decreed, that the land hereby finally confirmed to the said Job F. Dye, is the same land, surveyed by C. C. Tracy, Deputy United States Surveyor, under instructions from the Surveyor General of the United States for the State of California, the field notes whereof were approved by said Surveyor General on the 21st day of March 1861. and a certified copy of the original plat whereof was returned by him to this Court, and filed by the Clerk, on the 22nd day of March 1861, which said survey is hereby approved, confirmed and adopted by this Court, as the official survey of the land hereby finally confirmed to the said Job F. Dye and is marked

"Approved

O. W. Hoffman
April 5th 1861

And it is further ordered that the said certified copy of the original plat of said official survey, filed in this Court as aforesaid on the 22nd day of March 1861. be attached hereto, for a more particular and exact description of the exterior boundaries of the land surveyed as aforesaid, and heretofore finally confirmed to the said Job F. Dye.

O. W. Hoffman
U. S. Dist Judge

No. 12
U. S. State Dist. Court
Northern District of
California -

The United States

John T. Dye

El Pinar Cañon on
Río de los Borrendos.

Trial Decree

CASE NO 12 ND
PAGE NO. 88

9, 12 ND
122 Bd.
U. S. District Court.

The United States

v.

Job. F. Dye

Final Decree.

Filed April 5, 1861,
W. A. Chivers,
Clerk.

CASE NO 12 ND
PAGE NO. 89

The United States } District Court
of Mexico } U. S. Justice
J. Francisco & Oye } Milton S. -
appellee } Trust of California

The appellee claims under a
Grant of Michellman's Govern-
^{or} at time, dated 30. May 1844,
All the usual ^{usages} ~~proceeding~~ the
time of a grant ~~was~~ ~~then~~ ~~made~~ had,
the genuineness of the signa-
ture to the grant is established
and the certificate of the Sur-
or General U. S. is given to the
correctness of the copy of the
of the records of file, from the
original in his office. The
grant is for the land known
by the name of Rio de los Be-
rendos adjoining the margin
of the river Sacramento, the
boundaries commencing at
the mouth of the river Beren-
dos thence with three leagues
in length and two in breadth
in all six sitios de ganado (six
square leagues) and the usual
conditions are annexed to the
grant. The testimony of William

of Chandantrass in this case
establishes the fact that appellee
in the latter part of 1848 occupied
the tract of land in controversy
called "El Pinar Cañon" or "Ante-
lope Creek, Mohel Canyon, about
six square leagues, ~~and that in~~
the same ^{year, or thereabouts} built a house and
canal on the land, and ~~re-
sided on the land~~ ^{thereon} from that
time until the ~~present~~ ^{present} ~~except~~
for a short period during the
war. Peire B. Redding con-
firms the testimony of last nam-
ed witness and identifies the
ranch called El Pinar Ca-
non as the one known also by
the name of "Rio de los Ber-
rendos." William B. Ide
confirms the fact of appellee's
having built ^a house in 1848
and his occupancy of the
premises, and further states
that in 1847 he surveyed the
land and identifies the
map on file in the transaction
of the record and the free
notices accompanying ^{them}

These originally made by
himself.

John A. Suttle another wit-
ness, swears that applica-
tion was made to him by
appellee for purchase of pos-
session of the land which this
man did not give for the same
reason, he ~~states~~ ^{has} heretofore
stated in his testimony in
the case of Sammie J. Hendry
& others, application from

whom as well as the appellee
by judicial possession
were made about the same

^{(1868) (1868)}
time. It is by the written
agreement of Council of file
in the transcript that the
reference by the witness to
testimony in other cases is
made. Among those cases
that of Sammie J. Hendry has
been decided by this Court
at its present term. And it
is ~~in~~ ⁱⁿ the the decision as
signed by Chief Justice, ^{in that case} for not
having delivered possession
to General Patton, who Policia-
led for ^{the} military
movements.

CASE NO. 12 ND

PAGE NO. 93

in the country
movements, in which witness
Cargy participated, and as
the close of which ^{commander} ~~C~~ Shackles
with the American, came into
the possession of the country, where
the land was situated, and
the ~~first~~ witness in consequence
thereof, continued his func-
tion, as one of the Mexicans
to the authorities.

No argument of this case
has been had before this
Court, no specific objection
is mentioned in the opinion
of the Commissioners, or having
been urged against this claim.

The case therefore after travel-
ling through the Record con-
cluded, that only two objections
could have been made, viz, the
~~was~~ failure to obtain ^{and to present} proce-
dure possession, ~~at~~ the op-
pinion of the Department
of War. In the case of the ~~the~~ ~~S.~~
Army, ~~C~~ ~~of~~ the United
States, this case has decided
on the invalidity of the ^{objection} ~~objection~~
and of the ~~are~~ no facts in

CASE NO. 12 ND
PAGE NO. 94

came to prove that appellee
this ~~case~~ has ever abandoned
his claim, the principles set
forth in that case must apply
to the present, and the decision
of the Commission, in favor
of the claim must ^{therefore} be affirmed.

The United States } District Court
Appellants, } U.S. for the N.
M } West District
Francis D. Byr } of California
appellees

This cause came on to be heard
at a stated term of the Court
on appeal from the final de-
cision of the Commission, to
ascertain and settle the private
land claim, in the State of
California under the Act of Congress
passed on the 3^d day of March 1857,
upon the transcript of the proceed-
ings and decision, and the pa-
pers and evidence on which said
~~decision~~ ^{decision} was founded, and it
appearing to the Court that said
transcript has been duly filed,
and counsel at both sides pre-
sented, and appellee having
appeared

appeared whereupon it is hereby
 ordered, adjudged and decreed
 that the said decree and
 decision of the said Commission
 be and the same is hereby in
~~affirmed~~
 all things affirmed, and is
 hereby further ordered and
 adjudged and decreed that the
 claim of the appellee, the said
 Francisco Lopez be confined to the
 extent and quantity of six square
 leagues, and no more, being to the
 land described in the grant and
 of which he is proved to be in
 possession, Provided that the
 said quantity of land granted
 and now confined be con-
 tained within ^{the} boundaries
 called for by said grant and
 the map of the same in the name
 of the land in this case, and
 if there be less than the same
 above named quantity of
^{same} leagues within the said
 boundaries, then the same
 be granted, it being con-
 sidered and adjudged to

CASE NO. 12 ND

PAGE NO. 96

Wm. W. Lewis & J. Freeman
Bye

21

3.

Sixth Corner
Northern part
of California

No 12

The United States }
J
G. F. Byrd }

Opinion & Decree
Judgment &

CASE NO 12 ND

PAGE NO. 97

July 23 1855

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

The United States } No. 12.
vs }
Job F. Dye }

Sir, You will please take
notice, that on Wednesday the
12th of December^{next} at 11 o'clock
A. M. or as soon thereafter as
Counsel can be heard, a motion
will be made to fix a time within
which the proofs in this case shall
be closed, and the case heard.

Edw. Stanley
Atty: for Claimant
To
Calhoun Benham Esq
Dec: 15th 1860 -

Dis: Atty: of the U. States.

No. 12 n.d.

In the Dist. Court of
the U. States for
the Northern Dist.
of Cal.

The U. States

vs
Jol. F. Dye

Notice for closing
proofs &c

CASE NO. 12 ND

PAGE NO. 99

This decree describes Mr. Stanley's maps.

CASE NO. 12, ND
PAGE NO. 100

W. D. Dist. Court
W. D. of California.

The United States
vs.
Job T. Dye } No. 12.

And now at this day come
the United States by their At-
torney Calhoun Debraun and
the claimant by his Attorney
Edward Stanley and both par-
ties being heard upon the ex-
ceptions heretofore filed to the
survey returned on the 16th of
March A. D. 1860, it is now
by the Court here ordered ad-
judged and decreed that the
said survey is erroneous and
that the same be and the same
survey is annulled.

And it is further order-
ed adjudged and decreed by
the Court here that the
tract of land claimed in the
above-entitled cause be sur-
veyed as follows, that is to
say:

[over]

Commencing at the junction of Antelope Creek and the Sacramento River at station 36 on the survey heretofore returned in this cause thence up the said creek and its branches following the lines of said survey to station 75 at a Sycamore tree, thence East along the line of said survey 5⁷⁴ chains, thence N. 47° E. 348 chains, thence N. 43° W. 632 chains, thence S. 47° W. to the said river, thence meandering with said river to the place of beginning - So as to include six square Spanish leagues of land and no more - The Surveyor locating the back line (while preserving its ~~length~~ and course and distance) so as to produce that effect.

1220