CASE NO.

37

NORTHERN DISTRICT

LAS MILPITAS GRANT

MARIA ALVISA

CLAIMANT

LA ND CASE 37 ND pgs. 332

MAR 2 8 1963

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TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 141

Maria Alvisu CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Las Mulpitas"

/

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Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

Be it Remembered, that on this thirteenth day of March, Anno Domini One Thousand Eight Hundred and Fifty-Two, before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following Proceedings were had, to wit;

The Petition of José María Alvizu
for the Place named
"Milpitas,"
was presented, and ordered to be filed and docketed with No. 141 and is as follows, to wit;

(Vide page 3 of this Transcript.)

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

San Francisco July 15th 1852

In case No 141 José María Alvisu Las Milpas, the deposition of Alexander Forbes a Witness on behalf of the Claimant taken before Commissioner Hedana Heall was filed and is in the words and figures as follows to Wit

(Vide page 7 of this Transcript

Las Angeles Septr 3d 1852

In case No 141 José Ma Alvisu for the place called "Milpitas" the parties litigant filed the following Stipulation relative to placing this case on the Final Docket to Wit

(Vide page 39 of this Transcript

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Las Angeles Septr 3d 1852

The following case was Ordered to be placed on the Trial Docket subject to the Stipulation filed by the parties litigant to Wit No 141 (Vide page 39 of this Transcript

Las Angeles Septr 28th 1852

In this case No 141 the counsel for the Claimant files the following Motion to Wit (Vide page (see below) of this Transcript)

San Francisco Feby 14th 1853

On Motion of the U States Associate Law Agent Ordered That the following case be placed on the Trial Docket to Wit No 141. José Maria Alviso "Milpitas"

San Francisco Feby 14th 1853

case No 141. José Maria Alviso for the place named "Las Milpitas" Called, The counsel for the Claimant Mr Halleck read the Petition and the papers in Evidence; The United States Associate Law Agent filed his Brief. Case submitted and taken under advisement by the Board

San Francisco March 8th 1854

In case No 141 José Maria Alviso for the place named "Las Milpitas" the counsel for the Claimant filed the following Stipulation to Wit (Vide page 39 of the Transcript)

San Francisco March 14th 1853

In case No 141 Jose' Maria Alviso for the place Nama Las Milpitas, Commissioner Heiland Hall delivered the Opinion and the decree of Final Confirmation of this Board

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Ordered that the Opinion and decree of Final Confirmation of this Board delivered this day in this case be recorded on the Journal Which Opinion and decree are in the Words and figures as follows to Wit

(Vide page 41 of this Transcript)

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To the Honorable Commissioners to settle Private Land claims in California.

Petition

The petitioner, Jose Maria Alviso, respectfully shows: That on the 1st. day of March A. D. 1830 he applied for permission to occupy the place called "Milpitas" in the then Jurisdiction of San José and now County of Santa Clara, which was granted to him -

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That his claim was afterwards submitted by the Governor to the subordinate authorities and received their favorable reports;

That on the 23d. day of September A. D. 1835 José Castro, Governor ad interim of California, by virtue of authority in him vested, granted to the petitioner the aforesaid tract of land containing one square league with the boundaries described in the title papers and map;

That the said grant was submitted to the Deputation of California which body on the 25th. day of September A. D. 1835 passed it to the Committee on vacant lands;

That on the 26th. day of September A. D. 1835 the aforesaid Committee approved the said grant, and that on the same day it was approved by the Most Excellent Deputation; all of which is shown by the original Espediente a copy of which is submitted herewith marked "A" with a translation marked "B";

That on the 28th. of September and the 2d. of October A. D. 1835 formal titles for the aforesaid tract of land containing one square league were issued by the said José Castro to the petitioner, copies of which are submitted herewith marked "C" with translations marked "D"

That the aforesaid titles were recorded at the time in the proper Book of records as shown by an Authenticated copy of the record submitted herewith, marked "E", with a translation marked "F."

The petitioner further shows that since the 1st. day of March 1830 he has been and now is, in the quiet peaceful and undisputed possession of the aforesaid tract of land;

That it has not been surveyed by the Surveyor General of the U. S. but that its boundaries are fully defined in the title papers and well known, and have been verified by the County Surveyor of Santa Clara County;

That he knows of no conflicting claim;

That he relies for confirmation of title upon the original papers, copies of which are submitted herewith; upon the minutes and records in the Government Archives now in charge of the Surveyor General; and upon such other and further proofs as he may be advised are necessary.

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

By his Attorneys
Halleck, Peachy & Billings.

Filed in office March 30th 1852.
Geo. Fisher, Secretary.

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Office of the Board of Commissioners
of California, Land claims,
San Francisco July 16th 1852.

Deposition of
Jas. Alexander Forbes.

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On this day before Wm. Carey Jones one of the Commissioners for ascertaining and settling private land claims in California, came James Alexander Forbes, a witness produced in behalf of the claimant Jose Maria Alviso, being No 141 on the Dockets of the Commissioners, and being duly sworn testified as follows:

The United States Law Agent was notified to attend.

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

Answer. My name is James Alexander Forbes; my age is 47 years; I reside in Santa Clara, and have resided in California 23 years.

2d Question - Are you acquainted with the signatures of Juan Alvires; Jose Figueroa, Augustin V. Zamorano Salvio Pacheco, Friar Rafael de Jesus Moreno, Antonio Mario Pico, Jose Maria Gonzales, Jose L. Fernandez, Juan B. Alvarado and Jose Castro? and if so say whether their signatures to the documents before you, marked "H" are genuine, and whether the documents are genuine and originals.

Answer - I am well acquainted with the signatures of Juan Alvires, Jose Figueroa, Augustin V. Zamorano, Salvio Pacheco, Friar Rafael de Jesus Moreno, Antonio Mario Pico, José Maria Gonzales, José L. Fernandez, Juan B. Alvarado, and José Castro, having often seen them write; their signatures to the documents before me are genuine, and the documents are genuine and originals, the map in the espediente was made by me, at the time the espediente was formed, and the land asked for by the claimant; it correctly represents the land described in the grant; the land described in this map or sketch contains about one square league.

3d Question - What do you know about the possession and occupation of this tract of land by the claimant?

Answer - I know of my own personal knowledge that the claimant, José Maria Alviso, has been in the

occupation and possession of this tract of land 20 years, without interruption, he having had a house on the the land all that time, and having lived on it with his family for 20 years; he has constantly occupied it with horses and cattle, and cultivated portions of the land. He still occupies it, and has several houses on it.

9 4th Examine these title papers now before you, and say whether by the usages and customs of the country, they are good and valid titles?

They are in conformity to usage and customs.

5th Did you know of these papers during their progress and execution?

Answer- I was acquainted with these papers during their progress and execution at their several dates between the years 1830 and 1835.

In answer to interrogatories propounded by the U. S. Law Agent deponent saith, that the quantity of land generally cultivated and enclosed by Alviso never exceeds fifty or sixty acres, and that his cattle were lately of the number of three thousand head; That the usage and custom, expressed above, mean that Alviso's title was according to the other grants of land made in California.

Jos. Alex. Forbes

Subscribed & Sworn
before me July 16th
Leland Hall
Commr.

Filed in office July 17th 1852
Geo. Fisher
Secretary.

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Especiente.

Exhibit annexed to the deposition of James Alex. Forbes.

"A"

Espediente.

promovido por el Lind.o José M.a Albisu en Solecitud Del paraje de

Milpitas.

Juris dicion de
S.n José Guadupe.

Año de
1821.

Espediente

Sobre el paraje nombrado Milpitas, Solecitado por el

C.no José María Albisu.

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Sello tercero ——— (Sen.) ——— Dos reales.
Para los años de mil ochocientos veinte y seis
y ochocientos veinte y siete.

Mexican Seal

Mexican Seal

Mexican Seal

Mexican Seal

Sor Jefe Supor Politico.

El ciudadano José Ma Alviso ante
V. S. como mas haga lugar en Derecho se
presente y espone; q. posee el numero
de seis cientos cabezas de Ganado mayor y
una manada de treinta yeguas; bugas bienes
he mantenido desde el mes de mayo del año
de 1830 en un terreno perteneciente á la Jurisdicion
del pueblo de Sn José por concesion del ajunt-
amiento del mismo lugar, lo uno consta por
un Documento con fha. 10 de Mzo de 1830 que
con el Diseño del citado Diseño paraje acompaña
para el fin de solicitar la concesion del referido
terreno en propiedad, en los limites q. espresa el
Diseño en atencion á mis bienes ya espresados
y fincas que ha puesto en el repetido sitio, que
constan de dos casas de pared, una huerta de
cuenta arboles frutales, una viña de seis cientos
cepas, y demas tierras cercada y cultivadas
para mis siembras de trigo &. Por tanto:
A. V. S. rendidamente suplico se digne de
proveer como llevo pedido, jurando no ser de
malicia que es gracia &. Mision de Santa
Clara y Nov.bre 1. de 1834

José Ma Alviso.

Monterey. Nov.e 29 de 1834.

De conformidad con las leyes de la ——
materia, informe el ayuntamiento ——
del pueblo de San José Guadalupe ——
si el contenido en esta instancia obtiene las requi-
sitos prevenidos para ser atendido en su solicitud,
si el terreno q. pretende esta comprendido en las
20 leguas limitrofes ó diez litorales q. expresa

la ley de 18 de Agosto de 1824. si es de regadio temporal ó abrevadero; si pertenece á la propiedad de algun particular, Mision, Corporacion, ó Pueblo, con todo lo demas que crea conveniente á ilustrar la materia. Hecho que sea pasada el expediente á los RR. PP. Ministros de la Mision de Santa Clara y de San José, para que espongan lo que les ocurra sobre el particular. El Sor. Don José Figueroa, General de Brigada, Comandante General y Inspector y Gefe Politico de la alta California, asi lo mando Decretó y firmó. De que doy fee.

José Figueroa.

Agustin V. Zamorano.
Srio.

En cumplimiento del superior Decreto que antecede el interesado es Vo del pais por nacimiento, casado con sabrados bienes de campo para obtener titulo el terreno q. pretende no esta comprendido en las 20 leguas limitrofes y si ales litorales q. espresa la ley de 18 de Agosto de 1824 es de regadillo temporal y abrevadero, esta en ejidos de esta poblacion, su rumbo mas proximo desta mas ó menos dos leguas y es cuanto ocurre ha este Ayuntamiento pasar por informe.

Pueblo de S. José Guadalupe. Dbre 16 de 1834.

Regidor Decano.
Marcesmo Martinez.

Salvio Pacheco. = Srio.

Sor. Gefe Superior Politico.

El terreno q. en este Espediente se solicita no me parece ser comprendido en la ley de 18 de Agosto de 1824; ni tampoco, pertenecer á la propiedad de algun particular ó corporacion; si es de regadio ó temporal, si tiene ó no abrevaderos no puedo asegurar lo; por. si. q. lo solicita

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es Digno De Dé el.

Sn José y Dbre 27 de 1834.

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Mau.l Maria y Jesus Gomez.

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Sello tercero (seal) Dos reales.

Para los años de mil ochocientos veinte y seis, y mil ochocientos veinte y siete.

{ seal } Sta Clara. Dbre 23 de 1834.

{ seal } El citio ó el Rancho q.e el interesado pret-
{ seal } -ende no pertenece á esta Mision, segun
{ seal } estos informados, se ló puede Decir que que q.e el Sugeto es Digno De lo q. pretende.

Fr. Ruf. de Jesus Moreno.

Monterey. Julio 14 de 1835.

Pasé el alcalde De Sn José Guadalupe auto q. la parte de José Maria Alviso produzca una ynformacion De tres testigos idoneos q. seran interrogados sobre los puntos siguientes. Primera, si el Solicitante es Ciud.no Mejicano p.r nacimto, si es casado y tiene hijos, si es de buena conducta, si de Regadio temporal ó abrevadero y q. estension tendra Dereca, si tiene bienes de campo con q. poblar ló ó posibilidad de adquerir los. Evacuadas estas Deligencias, buelva el espediente pa su resolucion.

El Sor Dn José Figueroa, General de Brigada Comand.te General, Inspector y Gefe Politico Del territorio De la Alta California, asi lo mando Decretó y firmo ló que Doy fé.

José Figueroa. Fco Del Castillo Negrete. = Srio.

El =

Sello 4.o una quartilla.

Habilitado provisionalmente por la Republica Mexicana pa los años de 1834. y 1835. =

en el territorio de las Californias.
Echeandia.   Martinez

El ciudadano José Mª Albisu se presenta á V. haciendole presente que teniendo como Doscientas Cabezas de Ganado bacuno, una manada, con trenta caballos mansos y cuyos bienes se les pierden y extravian por falta De Sitio.

Suplico por tanto, con todo rendimto. me conceda el parage ó sitio De las Milpitas, que es en Donde siembra el Ayte. Ignacio Higuera, de cuya gracia que Dará agraciadá. SS. Mision de Sta Clara. 1º de Marzo de 1830.

José Mª Albisu.

16 Pueblo de Sn José Guadalupe." Consedo á la presente instancia el parage q. solicita en la inteligencia De no perjudicar su colindante. 15

Guares.

17 Sr. alcalde Constl. Del pueblo de Sn José. Cudo. Juan Albisu.

Here follows two Maps or Plans of the "Sitio"

Sello Tercero Dos Reales.

Habilitado provicionalmente por la Administracion de la Aduana Maritima de Monterey, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Figueroa. Rafael Gomez.

Ciudadano Antonio Maria Pico, Alcalde Constitucional Del pueblo de S.n José de Guadalupe, actuando por receptoria con Dos testigos de asistencia a falta De Escribano publico.

16 En cumplimiento del Superior Decreto De 11 de Julio proximo pasado para que se reciba informacion De tres testigos presentados por la parte Del C. José Maria Alviso, procedase por mi á ratificar la señalandose para ello, el proximo Lunes Diez y siete del corriente, haciendose saber al citado Alviso para q. presente en este Juzgado á los sujetos que tengan las requisitos De la ley; asi lo proveí mandé y firmé por este auto con las de mi asistencia.

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Antonio Ma Pico. asistencia.
Gabriel de la Torre.

asstte. José R. Hernandez.

En el Pueblo de S.n José Guadalupe a los Diez y siete Dias del mes de agosto del año de mil ochocientos treinta y cinco, presente el Ciud.o Maria Alviso, por testigo el ciud.o Sebastian Peralta en su persona q. conozco y respetado por hombre de bien le recibi Juramento que hizo por Dios nuestro Señor y la Señal de la Sta Cruz de Decir Verdad en lo q. se le interrogase y habiendolo hecho sobre su nombre estado y ejercicio; Dijo; llamarse Sebastian Peralta, de estado casado con D.a Maria Gregoria Cibrian, De oficio labrador.

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Preguntado; si el C. José Ma Alviso es ciud.dano Mejicano por nacimiento, si es casado tiene hijos y es de buena conducta q. Dijo q. ne

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que el repetido Alvizo hà sido y es reputado en todas partes por Mejicano De nacimiento, que es casada casada con Mejicana llamada Doña Juana Galindo; que tiene hijos Mejicanos bastantes, y que jamas à Dado nota de su persona, pues siempre se hà reputado por hombre de bien.

Preguntado; Si el terreno conocido con el nombre De las Milpitas que pretende Alvizo, pertenece alguna persona, Mision, pueblo ò Corporacion, si es de realengo temporal ò aberadero, y que estension tendra ? Dijo que el terreno por que se le pregunta no pertenece, à Mision, pueblo ni Corporacion alguna pues solo lo ha ocupado el citado Alvizo y no otro particular; que es de realengo y tendra una legua poco mas ò menos por cada viento.

Preguntado; Si el repetido Alvizo tiene bienes de campo con que poblar Dicho terreno, ò posibilidad de adquirirlos ? Dijo que tiene suficientes bienes De campo con que poblar el terreno mencionado, como De facto ya le tiene poblado asi De —

Sello tercero Dos reales.

Habilitado provicionalmente por la Aduana Marituna Del puerto de Monterey para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Figueroa. Rafael Gonzales.

— de Genero Mayor como De menos, que es cuanto puede manifestar en cumplimiento las preguntas que se le han hecho y habiendolo manifestado q. las Generales de la ley no le tocan, no firman por no saber; lo verifico el repetido Alcalde con las de su asistencia.

Asa.

Antonio Mª Pico. — Gabriel de la Torre

Asa. Jose T. Hernandez.

En el mismo Dia, mes y año, presente la parte De C. José Maria Alvizo, por testigo al C. José Pinto, en su persona que conozco y reputado por hombre de

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bien, le recibí juramento que hizo por Dios nuestro Señor y la Señal de la Sta Cruz de decir verdad en lo que fuere interrogado, y habiendo lo hecho sobre su x

94 Sello Tercero Dos reales.

Para los años de mil ochocientos Veinte y seis y mil ochocientos Veinte y siete.

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(Seal)

{{ Seal }}

{{ Seal }} x Sobre su nombre, estado y ejercicio Dijo
{{ Seal }} llamarse José Pinto, casado con Doña
21 María Cecilia Arteaguita, De oficio
{{ Seal }} jornalero.

{{ Seal }} Preguntado. Si el C. José Mª alviso es Mexicano por nacimiento, si es casado, tiene hijos y es de buena conducta? Dijo; que el referido Alviso ha sido y es reputado en todos puntos por Mexicano, que es casado con Doña Juana Galindo; tiene hijos Mexicanos y q. Jamas a dado nota De su persona, pues siempre se ha tenido por hombre de bien.

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Preguntado: Si el terreno conocido con el nombre de las Milpitas, que pretende Alviso Corresponde a algun particular, Merced, pueblo ó Corporacion, Si es de realengo, temporal ó abenquado y que distancia tendra? Dijo que el terreno por
22 que se le pregunta no es de Merced, pueblo, ni Corporacion alguna, pues realmente lo ha ocupado el citado Alviso; que es de realengo y tendra una legua poco mas ó menos por cada rumbo.

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Preguntado.. Si el Dicho Alviso, tiene bienes de Campo Conque poblar el terreno mencionado ó posibilidad de adquirirlos,? Dijo que tiene Suficientes bienes para de Campo Conque poblar aquel sitio, como De facto ya lo tiene poblado, asi de Ganado Mayor como de menor; que es Cuanto puede manifestar en cumplimiento de las preguntas que se le han hecho; en las que
23 se le han hecho, y ratificando lo dicho que les fueron y habiendo manifestado que las Generales de la ley no le tocan. Dijo ser de cincuentas años

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De edad, no firmando por no saber, verificandolo el citado Alcalde con los de mi asistencia.

Antonio Mª Pico. asta. Gabriel de la Torre.
asta. José Z. Fernandez.

Inmediatamente presento el C. José Alviso á Francisco Pacheco por testigo idoneo, en mi persona que conozco, le recibí juramento por Dios nuestro Señor y la señal de la Sta Cruz, de decir verdad en lo q. se le interrogare y habiendolo lo sido sobre su nombre, estado y oficio Dijo: llamarse Francisco Pacheco. casado con Doña Paula Sepulveda y de oficio labrador.—

Preguntando: Si el C. José Maria Alviso es

Sello tercero. Dos reales.

Para los años de mil ochocientos treinta y seis y mil ochocientos veinte y siete.

y Mexicano por nacimiento, si es casado, tiene hijos y es de buena conducta? Dijo: que Alviso es sin duda Mejicano de nacimiento, casado con Mejicana Doña Juana Galindo, que de este matrimonio tiene cuatro ó cinco hijos y que jamas a oido decir nada contra su buena conducta y fama pues siempre ha sido respetado y honorado.

Preguntado si el terreno conocido con el nombre De las Milpitas, que pretende Alviso, es de alguna particular Mision, pueblo ó Corporacion, si es de regadio, temporal ó abrevadero y que estension tendra? Dijo: que el terreno porque se le pregunta no sabe pertenece, a Mision, pueblo ó Corporacion alguna, pues solo oido lo ha poseido sin contradiciones De ninguna persona

Sello Cuarto una cuartilla.

Habilitado provisionalmente por la Aduana Maritima Del puerto de Monterey de la alta California para los años de mil ochocientos treinta ay cuatro y mil ochocientos treinta y cinco.

Figueroa A. Ramirez.

que es de regadio y tendrá cada de una legua por cada viento.— Preguntado: Si Dicho

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Si Dicho Alviso tiene bienes De campo con que poblar aquel terreno ó posibilidad De adquerir los? Dijo que es publico y notorio los bienes de campo que posee Alviso con que tiene poblado el Sitio que se menciona 31 26 asi De Ganado Mayor como De menor, que es cuanto puede manifestar en cumplimiento De las preguntas que de le han hecho, y habiendolo manifestado que las Generales De la ley no le tocan, Dijo ser De edad De veinte y nueve años no firmando por no saber y lo Verifico el citado Alcalde con los de su assa.

assa. Antonio Mª Osio. Gabriel De la Torre.
assa. José Z. Fernandez.

En seguida, hice saber á la parte Del C. José Mª 32 Alviso que habiendose contenido de este Juzgado el papel Del sello tercero estaba en obligacion para no Demorar su asento, De al mandar ó presentar estas Diligencias al Señor Gefé Superior politico en la ciudad de Monterrey, a satisfaccion De la Administracion De la Aduana dos reales y medio hay 27 De Diferencia con el valor de este pliego al que Debia habersele Continuado estas actuaciones, para que sea habilitado como corresponde, y habiendolo protestado hacer lo asi lo pongo por Diligencia De que Doy fé con las De mi asistencia. 33

assa.
Antonio Mª Pico. Gabriel De la Torre.
assa. José Z. Fernandez.

X Inmediatamente habiendose recibido la informacion Sello Cuarto una Cuartilla.
Habilitado provicionalmente 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.
Seguenza. A. Ramirez.
De los tres testigos presentados por el C. José Mª Alviso, evacuados los tres puntos que Demanda el superior Decreto De catorce Del presente mes y año 34

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19 X

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yo el Alcalde Constitucional Del Pueblo De S.n José de Guadalupe, actuando por receptoria con los testigos De asistencia a falta De Escribano Publico, Despues De Devolviese este Espediente Cerrado al Señor Gefe Superior Politico, con obedecimiento Del repetido Decreto; lo asi lo verifiqué hoy veinte y tres de Agosto de mil ochocientos treinta y cuatro cinco.

Antonio M.a Pico. asss.

29 asss. Jose Z. Fernandez. · Gabriel de la Torre.

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 cuatro y mil ochocientos treinta y cinco.

Castro. Angel Ramirez

Monterey. Nbre 23 de 1835.

Vista la peticion con que da principio este Espediente el informe de la autoridad municipal de esta Capital la exposicion De los testigos con todo lo Demas q. de Auto presente i ver Combino de conformidad con lo Dispuesto por las leyes y reglamentos de la materia, se Declara à José M.a Alviso, Dueño en propiedad del terreno Conocido con el nombre de Milpitas, sujeto à las condiciones que se estipularen, tomese el Despacho correspondiente, tomese razon De el en el libro respectivo y Dirijase este Espediente para la debida aprobacion De la E. Diputacion Territorial. El Sor Dn José Castro, primer Vocal de la E. Diputacion i Gefe Politico Superior interino De la alta California asi lo mando Decreto i firmo con De que Doy fee.

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José Castro.

Monterey Sept.bre 25 de 1835.

En Sesion de hoy de este Dia se mandó pasar à la comision De terrenos Baldios.

37. Castro.

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Sr.

La comision De terrenos Valdios impuesto Del Espediente que se mando practicar p.r Solicitud Del Ciudadano Josè Mª Alvizo Del paraje nombrado Milpitas y no encontrado en el Objecion alguna que hacer Siendo en todo Conforme à la ley de 18 de Agosto de 30 1824 Como al articulo 5º del reglamento De 25 Novre de 1828 opere à la Deliberacion De V.E. la siguiente proposicion

Se aprueba la concesion echa al Ciudn Josè Mª Alvizo Del terreno nombrado Milpitas Concedido en 23 de Sept.bre de 1835. Sugetandose à las Condiciones que se estipularon en caso pertenezca a las Ejidos del pueblo de S. Josè.

Monterey 26 de Sept.bre de 1835.

Salvio Pacheco.

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Queda tomada razon a f.s 45.

Monterey Sept.bre 26 de 1835.

En Sesion de este Dia, aprova la Junta Deputacion la proposicion antecedente, Disponiendo buelvan el Espediente al Sr Gefe Politico, para los fines Consiguientes.

Josè Castro. Juan B. Alvarado.
Sept.e Secretario.

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Seal in office. July 17. 1852.

39. Folios.

Geo. Fisher.
Secretary.

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"B"

Translation of Espediente.

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Stamp Fourth. One Cuartilla.
Provisionally authorized for the Mexican Republic for the years 1827 and 1828, in the Territory of Calfa.
(Signed) Echeandia (Signed) Martinez

Citizen José Mª Alviso appears before You and makes representation that he porpeses about two hundred head of neat cattle, a band of mares, with thirty tame horses, which property wanders off and is lost for want of a place.

Wherefore, with all earnestness he prays that there may be granted to him the place or "sitio" of "Las Milpitas", which is where Ygnacio Higuera zowed, for which favor he will remain grateful

S. S. S. Mission of Santa Clara, March 1st 1830. To his honor the Constitutional alcalde of the Pueblo of S. Jose Citizen Juan Alvirez. (Signed) Jose Maria Alviso.

(Marginal order on the above)

Pueblo of San Jose March 10th 1830.

I grant to the present petitioner the place he asks for, with the understanding, not to prejudice his Colindante.

(Signed) Alvirez.

Stamp Third (Seal) Two Reals
For the year one thousand eight hundred & twenty six and Eight hundred and twenty seven.

Stamp for the years 1828 & 1829

To The Governor.

Citizen, Jose Maria Alviso before your Excellency, in the most favorable manner in law, presents himself and represents: that he porpeses the number of six hundred head of large Cattle, and a band of thirty mares, which property, since the month of March in the year 1830, he has kept on a land belonging to the jurisdiction of the Pueblo of San Jose by grant from the Ayuntamiento of that place, as appears by a document dated March 10th 1830 which together with the map of the place referred to be transmitted

Stamp for 1830 & 31

Stamp for 1832 & 33

for the purpose of soliciting the grant in fee of the
Stamp for 1834 05 aforesaid land, with the limits shown on the
map; referring to his beforementioned property,
and the improvements which he has put in that
place, they consist of two wood walls houses, an orchard
of sixty fruit trees, a vinyard of six hundred vines,
10 and other lands fenced and cultivated for his
wheat crops, etc.

Wherefore he earnestly prays your Excellency
to be pleased to provide as he has requested, swear-
ing that this is not done with evil intent, that it
is a favor &c.

Mission of Santa Clara November 1st 1834

(Signed) Jose Ma. Alviso.

(Marginal order on the above)

Monterey Nov. 29th 1834. In conformity with the
laws on the matter let the Ayuntamiento of the Pueblo
of San José Guadalupe report whether the person
14 referred to in this petition possesses the qualifications
for his petition to be attended to, whether the land
petitioned for is included in the 20 leagues from
the boundary of the ten littoral leagues expressed
in the law of August 18th 1824; if it is irrigable
depending on the season, or pasture land, if it
belongs to the property of any individual Mission,
Corporation or pueblo, with every thing else that
it may think will conduce to explain the matter.
This being complied with, it will pass this expedi-
ente to the Rev. Fathers, Ministers of the Missions
15 of Santa Clara, and San Jose, that they may set
forth whatever they may know on the subject.

Senor Don Jose Figueroa, General of Brigade
of the Mexican Army, Commanding General, Inspector
and Political chief of Upper California, thus ordered,
decreed, and signed to which I certify.

(Signed) Jose Figueroa.

(Signed) Augustin V. Zamorano.

Secretary.

4/141

23

In compliance with the foregoing superior decree I say: that the person interested is a citizen of the Country, by birth, married, with more than the requisite quantity of property to obtain a place, the land he petitions for is not included in the twenty leagues from the boundary, but is in the ten from the sea shore, espriped in the law of August 18th, 1824, it is imgable, depending on the season and pasture land, is within the common lands of this town, its nearest boundary is distant about two leagues, more or lep, and this is all that this Ayuntamiento can report.

Pueblo of San José de Guadalupe
December 16th 1834

First Regidor
(Signed) Salvio Pacheco (Signed) Maximo Martinez.
Secretary.

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PAGE 23

To the Superior Political Chief

17 It appears to me that the land petitioned for in this espediente is not included in the law of August 18th 1824, neither does it belong to the property of any individual or corporation; I cannot certify whether it is imigable land, depending on the seasons, or if it has or has not water for cattle; but I can say that he who solicits deserves it.

San José December 27th 1834
(Signed) Friar José Maria de Jesus Gonzalez.

Santa Clara Dec. 23d 1834.

The place or rancho which the person interested 18 petitions for, does not, as I am informed, pertain to this Mission. I can only say that the person deserves that which he petitions for.

(Signed) Friar Rafael de Jesus Moreno.

Monterey July 14th 1835

Let this be referred to the Alcalde of the pueblo of San José Guadalupe, before whom the party.

José María Alviso, will produce the deposition of three competent witnesses, who will be questioned upon the following points. First whether the petitioner is a Mexican citizen by birth, if he is married and has children, if he is of good conduct. Second: If the land he petitions for belongs to the property of any individual, Mission, town, or corporation; whether it is inigable, depending on the season, or pasture land, and what its extent may be. Third: If he has property, (bienes de campo) sufficient to stock it, or the possibility of obtaining it. These examinations being made let him return the espediente that it may be acted upon.

Senor Don José Sigueroa, General of Brigada Commanding General, Inspector & Superior Political Chief of upper California, thus ordered decreed & signed to which I certify.

(Signed) José Sigueroa
(Signed) Francisco del Castillo Negrete.
Secretary.

Stamp Third. Two Reals.
Provisionally qualified by the administration of the Maritime Custom house of Monterey for the years 1834 and 1835.
(Signed) Sigueroa (Signed) Rafael Gonzales.

Citizen Antonio María Pico, Constitutional Alcalde of the Pueblo of San José de Guadalupe acting with two assisting witnesses for want of a Notary Public.

In compliance with the Superior decree of the 14th of July last that information be taken of three competent witnesses presented by the party, Citizen José María Alviso, at the verification of the same be proceeded to by me, designating Monday next, the sixteenth inst., and informing the said Alviso that he may present in this Court the persons who, possess the legal qualifications: I thus provided, ordered,

25

and signed, by this order, with those of my assistance.

Asst. Witness (signed) Antonio Ma. Pico.

(sgd) Gabriel de la Torre

(sgd) Jose Z. Fernandez.

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22 In the Pueblo of San Jose Guadalupe on the 16th day of the month of August in the year one thousand, eight hundred and thirty nine, citizen José Maria Alviso presented as a witness Sebastian Peralta, in person, whom I know and respected a competent person and I received from him an oath which he made by God our Lord and the sign of the Holy Cross to speak truth in all that he might be asked: and having been questioned as to his name, estate and employment, he said he is

23 called Sebastian Peralta, his estate, married to Dona Maria Gregoria Cibrian, by occupation a laborer.

Question - Is citizen Jose Maria Alviso, a Mexican by birth, is he married, has he children, and is he of good conduct?

Answer - The said Alviso has been and is, in all places, reputed a Mexican by birth: he is married to a Mexican called Juana Galindo: he has children enough Mexicans: that he has never given cause for scandal, but has always been reputed a man of good character.

Question - Does the land known by the name of

24 "Las Milpitas" which Alviso petitions for, belong to any person, mission, pueblo, or corporation: is it irrigable, depending on the seasons, or pasture land, and what may be its extent?

Answer - The land which he is questioned about does not pertain to any Mision, pueblo or corporation, for the said Alviso alone has occupied it, and no other individual: it is irrigable, and is a league more or less in each direction.

Question: If or the aforesaid Alviso calls with which to stock said land, or a possibility of acquiring them?

Answer - He has sufficient cattle to stock

25. the above-
=said land, as he actually has stocked it with both large and small cattle; and this is all that he can show in compliance with questions put to him, and having shown that the legal exceptions do not affect him, he did not sign because he did not know how, the aforesaid Alcalde acted it with those of his assistance.

Asst Witness (Signed) Antonio Ma. Pico.
(Sgd) Fabricio de la Soza
(Sgd) Jose Z. Fernandez

On the same day, month and year, the party citizen José Maria Alviso, presented as a witness
26 citizen José Pinto, in person, whom I know, and I received of him an oath, which he made by God our Lord and the sign of the Holy Cross to speak truth in all that he might be asked; and being questioned as to his name, state and employment, he said that he is called José Pinto, is married to Doña Maria Cecilia Arnesquita, by trade a soap-maker.

Question - Is citizen José Maria Alviso a Mexican by birth, is he married, has he children, and is his conduct good?

27 Answer - The aforesaid Alviso has been and is in all places, reputed a Mexican citizen by birth, he is married to Doña Juana Galindo, he has children all Mexicans, he has never given cause for scandal, for he has always been reputed a man of good character.

Question Does the land known by the name of "Las Mulpitas" which Alviso petitions for belong to any individual, mision, pueblo or corporation; is it inigable, depending on the season or part-time land, and what may be its extent?

28 Answer - The land about which he is questioned does not belong to any ~~mision~~ pueblo, or corporation, for the said Alviso only has occupied it; It is inigable, and extends one league, more or less.

27

in each direction.

Question - Has said Alviso cattle with which to stock the beforementioned land, or possibility of acquiring them?

Answer - He has sufficient cattle to stock that place, as he at present actually has it stocked, with both large and small cattle. And this is all that he can show in compliance with the questions put to him, which he affirms and ratifies, they having been read to him: and having shown that the legal exceptions do not affect him, he said he was fifty years old, and did not sign because he did not know how, the aforesaid Alcalde verifying it with those of his assistance.

Asst. Witness (signed) Antonio Ma. Pico,
(signed) Gabriel de la Torre
(signed) José Z. Fernandez.

30 Immediately afterwards citizen José Alviso, presented Francisco Pacheco, as a competent witness, whose person I know & I took an oath from him, by God our Lord and the sign of the Holy Cross to speak truth in all that he might be asked: and being questioned as to his name, estate and employment, he said he is named Francisco Pacheco, is married to Doña Paula Sepulveda, and by occupation a laborer.

Question - Is citizen José Maria Alviso a Mexican by birth, is he married, has he children and is he of good conduct?

31 Answer - Alviso is without doubt a Mexican by birth, is married to a Mexican named Doña Juana Galindo, and has by this marriage four or five children, and he has never heard any thing against his good reputation and fame, but has always been respected for his honorable conduct.

Question - Is the land known as "las Milpitas" which Alviso petitions for, the property of any individual, Mission, pueblo or corporation, is it irrigable depending on the seasons or pasture land, and what may be its extent?

32 Answer – He does not Know that the land about which he is questioned, belongs to any mision, pueblo or corporation, but Alviso alone has possesed it without contradiction from any person: it is inigable and extends about one league in each direction.

Question – Was said Alviso cattle with which he stock that land or possibility of acquiring them?

Answer – It is public and well Known with what cattle Alviso has stocked the aforesaid place, as well large as small: – and this is all that he

33 can show in answer to the questions put to him, and having showd that the legal exceptions do not affect him, he said he was twenty nine years old; not signing as not Knowing how, and the said Alcalde verified it with those of his assistance.

Assisting witneses (signed) Antonio Mª. Pico.
(signed) Gabriel de la Torre.
(signed) Jose Z. Fernandez.

In continuation I informed the party, Citizen Maria Alviso, that the paper of the third stamp in this Juzgado, having been exhausted, he would be obliged, in order not to delay his business on send-

34 ing or presenting these official acts to His Excellency the Governor, in the Capital, Monterey, to satisfy to the administration of the Custom-house three and a half reals, the difference between the value of this sheet and that on which these acts ought to have been continued, that they may be authorized as they should be: and he having publicly promised to do so, I make official record of it to which I certify with those of my assistance.

Assist. Witneses signed Antonio Maria Pico
(signed) Gabriel de la Torre
(signed) José Z. Fernandez

35 In continuation, the information being taken of the three witneses presented by Citizen José Maria

29

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PAGE 29

Alviso and the three points specified in the Superior decree of the fourteenth of last month, being answered, I, the Constitutional Alcalde of the pueblo of San José de Guadalupe, acting in virtue of my office with two assisting witneses, for want of a Notary Public, directed that this espediente be returned, sealed, to the Governor, in obedience to the aforesaid decree, which was so done this twenty third of August one thousand eight hundred and thirty-five.

Asst. Witneses. (Signed) Antonio Ma. Pico.

(Signed) Gabriel de la Torre

(Signed) Jose Z. Fernandez.

Stamp Third. Two Reals.

Provisionally authorized by the Administration of the Maritime Custom house of Monterey of Upper California, for the years one thousand eight hundred and thirty four and one thousand eight hundred and thirty-five.

(Signed) Castro (Signed) Angel Ramirez.

Having seen the petition with which this espediente begins, the report of the municipal authority of this Capital, the depositions of witneses, together with all other information which was presented and deemed proper to be seen, in conformity with that provided by the laws and regulations on the matter, José Ma. Alviso is declared owner in fee of the land known by the name of Milpitas, subject to the conditions which may be specified: let the corresponding title be issued, let note be taken in the proper book, and direct this espediente to the Excellent Deputation for its due approval.

Señor Don José Castro, first "Vocal" of the Excellent Deputation, and superior political Chief ad interim of Upper California, thus ordered, decreed and signed, to which I certify.

(Signed) José Castro.

Monterey Sept. 25th 1835

30

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En sepion of this day it was ordered to be referred to the Committee on vacant lands.

(signed) Castro.

To his Excellency -

The committee on vacant lands having examined the espediente which was ordered to be made on the petition of citizen José Maria Alviso for the place named "Milpitas"; not finding any objection to make to it, being in entire conformity with the Law of August 18th 1824, and also with Article 8th of the Regulation of November 21st 1828, presents for the decision of your Excellency the following proposition: "Approved, the grant made to citizen ~~to citizen~~ José Maria Alviso of the land named "Milpitas", granted on the 23rd of September 1835, subject to the conditions which may be stipulated, in case it pertains to the common lands of the Pueblo of San José".

Monterey 26th Sept. 1835

(signed) Salvio Pacheco.

Note has been made on fol. 75.

41

Monterey Sept. 26th 1835

En sepion of this day the Most Excellent Deputation approved the foregoing proposition, ordering that this espediente be returned to his Excellency the Supt. Political chief for the convenient purposes.

(signed) José Castro.

(signed) Juan B. Alvarado
Deputy Secy.

I certify the foregoing to be a true and correct translation from the original Spanish document on file in this office annexed to the deposition of Jas. Alexander Forbes in case No. 121 Jose Ma. Alviso.

Geo. Fisher,
Secy.

Filed in office March 30th 1852
Geo. Fisher
Secy.

41

1 Case 141
31 39 - 8 folios
1st copy

"C"

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N. 141.
Las Melpitas.
Grant.
José Mª Alviso.
1 plano.

Exhibit annexed to the deposition of Sal. Alex. Forbes.

Sello Primero ~ Seis pesos.
Para los años de (Seal.) mil ochocientos treinta y
Dos y ochocientos treinta y tres.

(Seal.) José Castro, primer vocal de la D. Diputacion
Territorial é Gefe P. Politico Del territorio de la Alta California

gobierno Politico de la Alta Calif.

Por cuanto José Mª Alviso, Mejicano pr nacimiento, há pretendido para su beneficio particular i el de su familia el terreno conocido con el nombre De Melpitas, cuyos linderos son una legua al S. á N. y media a E. y O. practicadas previamente las diligencias y averiguaciones convenientes segun lo dispuesto pr leyes y reglamentos, usando de las facultades que me son conferidas con el Decreto de la D. Diputacion territorial a veinte y seis de esta mes i año aprovando la concesion Del terreno de Melpitas al ciudadano José Mª Alviso he venido en concederle á nombre de la nacion Mejicana el terreno mencionado declarando le la propiedad de él pr las presentes letras, sujeto á las condiciones siguientes.

2 f.

1ª Que se someterá á las que establezca el reglamento q. se ha de formar pa la distribucion de terrenos Baldios i q. entre tanto ni el agraciado ni sus herederos podran dividir ni enagenar el q. se les adjudica imponer censo, vinculo, finiga, ipoteca ni otro gravamen aunque sea pr causa piadosa ni pasarlo á manos muertas.

2ª Podra cercar lo sin perjudicar las veredas caminos y servidumbres, lo disfrutará libre y esclusivamente destinando lo al uso ó cultivo q. mas le acomode pr dentro de un año á lo q mas fabricará casa q. estará habitada.

3. Solicitará Del Juez respectivo q. le de la posesion Juridica en virtud De este Despacho, pr el cual se demarcaran los linderos en cuyos límites, establecerán á unas de las mojoneras algunas arboles frutales ó silvestres De alguna utilidad.

3 fols

4ª El terreno de q. se hace mencion es de una legua ó latitud i media de longitud q. equivale a medio Sitio de Ganado Mayor, segun esplica-

el Diseño que corre en el espediente. El Juez que Diere la posesion lo hara medir conforme á ordenanza quedando el Sobrante a favor De la Nacion pª los usos convenientes. Dros. 20 p.s

5. Si contraviniere á estas condiciones perderá su Derecho al terreno y sera Denunciable por otro.

En consequencia mando q. teniendose del titulo el presente i teniendolose pr firme y valedero, se tome razon de el en el libro respectivo y corresponde i se entregue al interesado pª su resguardo y Demas fines. Dado en Monterrey á veinte y Siete de Setiembre de mil ochocientos treinta y cinco. — 4 f. ol'a

José Castro.

Srio

Fco Del Castillo Negrete.

Secretario —

Queda tomada razon a foyas Setenta i Sinco i Señalado con el Nº Setenta y tres en el libro q. Corresponde que obra en la Secretaria De mi cargo. Monterey. 28 de Setiembre de 1835.

Dros 10 p.s

Srio Castillo. =

Sello tercero Dos reales.

Habilitado provisionalmente por la administracion De la Aduana Maritima De Monterey De la Alta California, parà los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Castro. Angel Ramirez.

5.

{ Place of the seal } Por cuanto José Mariá albisu, Mejicano pr nacimiento, ha pretendido se le haumente Del terreno consedido en veinte i ocho de 9bre p.p.do hé venido en uso à las facultades q. me son conferidas en aumentarle media legua de longitud así al poniente; qe con este aumento queda el terreno De Melpitas con la estencion De un sitio de Ganado Mayor. El Sor Dn José Castro, primer vocal De la E. Diputacion Territorial Dros. 4 p.s

2-
33

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6.

i Gefé S Politico interino Del territorio De la alta California asi lo mando, Decreto i firmo. De y. Doy feè.

José Castro.

Secretario.

Manl Del Castillo Negrete.

Herefollows maps-

Filed in Office July 17, 1852. Geo. Fisher Secy

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1 S.D.N.

III.

Copy of (Record) — Title —

José Castro primer vocal de la E. Diputacion Territorial i Gefe Superior Politico interino del Territorio de la alta California. N.73. Por cuanto José Mª Alvisu Mejicano P. Nacimiento ha pretendido pª su beneficio personal y el de su familia el terreno conocido con el nombre de Milpitas cuyos linderos son una legua de S. á N. y media de O. á P.; practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto pr. leyes y reglamentos usando de las facultades q. me han conferidas y de conformidad con lo dispuesto pr. la E Diputacion Territorial en dicto de veinte y seis de este mes y año aprobando la concesion del terreno Milpitas al Cno José Mª Alvisu he venido en conferirle á nombre de la Nacion Mejicana el terreno mencionado declarandole la propiedad de él pr. las ~~letras~~ presentes letras y sujeto á las condiciones siguientes: — 1ª Que se someterá á las q. establezca el reglamento q. se ha de formar pª la distribucion de terrenos baldios y q. entretanto ni el agraciado ni sus herederos podrán dividir ni enagenar el que se les adjudica ni imponer censo vinculo fianza hipoteca ni otro gravamen alguno que sea pr. causa piadosa ni pasarlo á manos muertas = 2ª Que podrá cercarlo sin perjudicar las travesias caminos ó servidumbres lo disfrutará libre y exclusivamente destinandolo al uso ó cultivo q. mas le acomode pr. dentro de un año á lo mas fabricará casa y estará habitada. = 3ª Solicitará del Juez respectivo q. le posesion juridica en virtud de este despacho pr. el cual se deslindarán los linderos en cuyos vertices establecerán á mas de las mojoneras arboles frutales ó silvestres de alguna utilidad. = 4ª El terreno de q. se hace mencion es de una legua de latitud y media de

34 2 S.D.K.

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PAGE 34

longitud q. equivale á medio sitio de ganado mayor segun espresa el dicho q. corre en el Espediente, El juez q. dicte la posesion le hará medir conforme á ordenanza quedando el sobrante á favor de la Nacion p.r los usos convenientes.=2.da Si contravinieren á estas condiciones perderá su derecho al terreno y será denunciable por otro = En consecuencia mando q. cumpliendose p.r parte y valedero el presente titulo se tome razon de él en el libro q. corresponde y se entregue al interesado para su resguardo y demas fines. Dado en Monterey á 28 de Septiembre de 1835. = José Castro = Fran.co del Castillo Negrete = Fecha la toma de razon = Castillo.

Nota = En 2 de Nov.e del mismo año se le aumentó media legua de longitud p.r q. formara un sitio de ganado mayor asi al Poniente = Castillo.

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 Department of Department of Upper California do hereby certify that the two preceding and hereunto attached pages of tracing paper numbered one and two and each of which is verified by my initials (S.D.K.) exhibit a true and accurate copy of the writing upon two pages of an unbound book entitled "Titulos" on file and forming part of the said Archives in this office.

In testimony Whereof I 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 20th day of March 1852.

L.S.

Sam.l D. King
Sur. Gen.l Cal.

Filed in office March 30th 1852 — Geo. Fisher
Secy.

35

First Stamp — (Seal) Six dollars.

For the years 1832 & 1833.

D

Translation of Title & increase.

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PAGE 35

Translation of Exhibit annexed to the depo. of Jasper Alex. Forbes.

Jose Castro, first member of the Excellent Deputation Sentorial and Superior Political chief ad interim of the Sentory of Upper California.

(Seal)

Whereas Jose Maria Alvisa, a Mexican by birth, has, for his own personal benefit and that of his family, asked for the land known by the name of Milpitas the boundaries of which are one league from South to North and a half a league from East to West; having previously taken the steps and made the examinations concerning it according as directed by the laws and regulations; using the faculties which are conpened on me, and in conformity with the decree of the most Excellent Deputation of the 26th of this month and year approving of the grant of land, the "Milpitas" to Citizen Jose Maria Alviso, I have conpened on him in the name of the Mexican Nation the said land, declaring to him the ownership of it, by these present letters, and subject to the following conditions:

43

1st That he will submit to what may be established in the regulations which are to be formed for the distribution of vacant lands, and that in the mean time neither the grantee nor his heirs can divide or alienate what is granted to him, nor impose tax, entail bond or mortgage, or other incumbrance even though it be for pious purposes, or pass it in mortmain.

44

2d. He may enclose it without prejudice to the cropings, roads and servitudes, enjoy it freely and exclusively, making such use and cultivation as may best suit him, but within one year at most he shall build a house and it shall be inhabited

3d. He will ask the respective Magistrate to give him the juridical possession in virtue of this Despatch by whom the boundaries shall be marked out, and

in their limits besides the usual landmarks, there shall be established some fruit trees or wild ones of some utility.

45 11th The land granted is one league long, and half a league wide, equal to half a square league, as explained with map which goes with this Expediente. The Magistrate who may give the juridical possession will have it measured in conformity with ordinance, leaving the overplus in favor of the Nation for its convenient uses.

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

In consequence I order that the present title being held as firm and valid, note be taken of 46 it in the corresponding book, and it be given to the party interested for his security and other purposes. Given in Monterey Sept. 28th 1835.

(signed) José Castro.

(signed) Francisco del Castillo Negrete, Secy.

Recorded on folio number seventy-five and marked No. seventy-three in the corresponding book in the Secretary's office under my charge.

Monterey, Sept. 28th 1835

(signed) Castillo, Secy.

Stamp Third - For Reals - Provisionally authorized 06 for the years 1834 & 1835. Monterey Oct. 2d 1835.

Whereas Jose Maria Alviso, a Mexican by birth, 47 has asked for an addition to the land granted to him on the 28th of September last, I have granted to him an addition of half a league in width on the West; that with this addition the land of "Milpitas" will be in extent one sitio de ganado mayor (one square league). Citizen Jose Castro first Member of the Territorial Deputation, and superior Political Chief ad interim of the Territory of Upper California, thus ordered, decreed, and signed of which I certify.

9/148

37

(signed) Jose Castro.

(signed) Francisco del Castillo, Negrete, Secy

I certify the foregoing to be a true and correct translation from the Original Spanish Document on file in this office, annexed to the Deposition of James Alexander Forbes, in case No. 141 Jose M.a Alviso.

Geo Fisher
Secy.

Filed in office March 30th 1852
Geo. Fisher
Secy.

F
Translation of Record of Title.

José Castro, first member of the Excellent Deputation Territorial and Governor ad interim of the Territory of Upper California.

Whereas José Maria Alviso, a Mexican by birth, has for his own personal benefit, and that of his family, asked for the land known by the name of "Milpitas", the boundaries of which are one league from South to North, and a half a league from East to West; having previously taken the steps, and made the examinations concerning it according as directed by the laws and regulations, by virtue of the powers which are conferred on me, and in conformity with the decree of the most Excellent Deputation of the 26th of this month and year approving of the grant of land, the "Milpitas", to citizen José Maria Alviso, I have conferred on him in the name of the Mexican Nation the said land, declaring to him the ownership of it by these present letters, and subject to the following conditions;

1st That he will submit to the conditions which may be established in the regulations which are to be formed for the distribution of vacant lands, and that in the mean time neither the grantee nor his heirs can divide or alienate what is granted him, nor impose tax, entail bond, mortgage or other incumbrance, or pass it in Mortmain.

51

2d" Shemay enclose it without prejudice to the cropings roads and servitudes, enjoy it freely and exclusively, making such use and cultivation as may best suit him, but within one year at most he shall build a house and it shall be inhabited.

3d" We will ask the respective Magistrate to give him the juridical posesion in virtue of this patent, by whom the boundaries shall be marked out, and in their limits besides the usual landmarks there shall be established some fruit trees or wild ones of some utility.

4th" The land granted is one league long and half a league wide; equal to half a square league as explained by the map which goes with the Espediente. The

52

Magistrate who may give the juridical possesion will have it measured in conformity with ordinance, leaving the overplus in favor of the Nation for its convenient uses.

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

In consequence I order that the present title being held as firm and valid, note be taken of it in the corresponding book, and it be given to the party interested for his security and other purposes.

Given in Monterey - Sept. 28th 1835

(signed) Jose Castro.

53

(signed) Francisco del Castillo. Negrete Secy.

Note taken of it

(signed) Castillo.

Note - On the 2d of October of the same year an increase of a half a league on the West was added so as to form a square league

(signed) Castillo.

+ I certify the foregoing to be a true and correct translation from the authenticated Fac Simile Copy of the Spanish Document on file in the United S. Surveyor's Gen'ls office, which Fac Simile Copy is on file in this office in Case No. 141 Jose Maria Alviso

Filed in office March 30th 1852. Geo. Fisher Secy.

Geo. Fisher, Secy.

Geo. Fisher, Secy.

No 141

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Before the U. S. Land Commissioners.
In the claim of J. M. Alviso No. 141.

Stipulation.

54

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

Wallace, Peachy & Billings
Attys for Claimant.
Geo. W. Wooby
U. S. Law Agent.

CASE 37 ND
PAGE 39

Filed in office Sept. 3d 1852.
Geo. Fisher Secy.

No. 141

Stipulation

Before the U. S. Land Commission.
In the Claim of Jose Maria Alviso to Las Milpitas.

In this case it is agreed between the Counsel of the Claimant, and the Law agent of the United States, that all

55 the laws, decrees, ordinances and regulations, whether of Spain or Mexico, and especially the Colonization law of Mexico passed on the 18th of August 1824, and the regulations made by the Supreme Executive power of Mexico on the 21st November 1828, shall be considered as having been offered in evidence in this cause and duly proved.

Wallace, Peachy & Billings
Counsel for Claimants
R. Greenhow
Apt Law Agent.

Filed in office March 8th 1853.
Geo. Fisher
Secy.

41

No. 141 José María Alviso Claimant.

Opinion.

56

CASE 37 ND
PAGE 40

The claimant petitions this Board to confirm his claim to a place called "Las Milpitas" situated in the County of Santa Clara & containing one square league

It appears from documentary evidence that the claimant as early as the year 1830 had obtained written permission from the Authorities of the Pueblo of San Jose to occupy the place called "Las Milpitas" with cattle and horses, and that in 1834 he had erected his houses on it, had an orchard of fruit trees, a vinyard, and had lands fenced and under cultivation, and had

57 also a stock of cattle & horses; that in November 1834 he petitioned the Governor for a grant of the land he was thus occupying, & that after a reference of the petition to the Ayuntamiento of San Jose; to the Fathers of the Mission of Santa Clara and San José, and the examination of witnesses, a decree was made by José Castro, Governor ad interim, declaring the claimant Jose Maria Alviso to be the "owner in fee of the land known by the name of Milpitas," and directing the title to be issued and the expediente to be passed to the Territorial Deputation for its approval.

58 It further appears that the expediente was submitted to the Territorial Deputation and that the issuing of the title was approved by that body on the 26th of September 1835 - Two days after this approval on the 28th of the same month a grant was issued to the claimants in due form, reciting the approval of the Deputation & describing the land as being one league in length, by half a league in breadth - Four days after the issuing of this title, on the 2d of October 1835, another title paper, less formal, but duly signed by the Governor

59 and the Secretary, was issued to the claimant, granting him an additional half a league in width by one in length on the west of the first half league, making the whole quantity granted of the place called "Milpitas" to be one square league.

It also appears from the testimony in the

case that the claimant has resided on the land with his family & been in the occupation of it, both for purposes of cultivation and the raising of stock, for more than twenty years, and that he is still living on it.

The only objection, to which the claim seems liable, that has not heretofore been considered in other cases and overruled, is the issuing the second grant within so short a period after the making of the first. This second grant as well as the first is noted on the book of titles in the public Archives as having been made; and there would seem to be no question in regard to the genuineness and good faith of the proceeding.

60

In the petition of Alviso to the Governor the quantity of land in las Milpitas is not stated, but all of the three witnesses who were examined by the Alcalde of San Jose & whose testimony was reported to the Governor, estimate the quantity to be about one square league. This testimony formed a part of the espediente which was submitted to the Territorial Deputation, and the approval of that body would seem to authorize the Governor to issue a title to that extent.

61

On the whole nothing is found in the case, which would appear to justify us in refusing a confirmation of the claim to the extent of one square league, and we make a decree accordingly. Commissioners Thornton Concurring in the result.

Heiland Wake.

62

No. 141. Maria Alviso Claimant

Decree.

This Board on full consideration, having come to the conclusion that the claim is valid, now proceeds to make their decree of final confirmation of the same as follows, viz -

It is decreed that the said claim be confirmed to the claimant to the extent and quantity of one square league, being the same land described in

43

63

the grants to the claimants dated September 28th and October 2d 1835 which were proved in this Case and the same land of which the possession was proved to have been long enjoyed – Provided that the said quantity of one square league, now confirmed to the claimant, be Contained within the boundaries called for by the said grants and the map to which said grants refer, and if there be less than the said quantity of one square league within said bounds, then we confirm to the claimant that less quantity.

Given under our hands this 14th day of March 1853.

Wm. Wall
Harry J. Thornton } Commrs.

Filed in office March 14th 1853
Jno. Fisher
Secy.

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CASE 37 ND
PAGE 43

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 Forty four pages, numbered from 1 to 44, 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. 141 on the Docket of the said Board, wherein Maria Alviso is the Claimant – against the United States, for the place known by the name of Las Mipitas

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

Geo: Fisher.
Sec'y.

31

37 NA

CASE 37 ND
PAGE 44

Office of the Attorney General of the United States,

Washington, 11th September 1854.

José Maria Alvisa

vs.

The United States.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 10th day of June 1854, the appeal in the district court of the United States for the Northern district of California will be prosecuted by the United States.

Caleb Cushing

Attorney General.

No 37.

N. D. Dist: Court.

The United States

—vs—

José Maria Alonza.

Notice to prosecute appeal.

Filed Oct: 21. 1854.

Jno: A. Monroe,
Clerk.

Fees

CASE 37 ND
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To the Honorable District Court of the United States in and for the Northern District of California.

The United States
~~Applicants~~ } No 87.
vs
Jose Maria Alvisa

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 day of ; that a notice of Appeal was filed on the day of And that the land claimed lies in said District.

That the said Claim is invalid.

Wherefore Appellants pray that the said decision of the Board be reversed and that this Court deem the said title to be invalid. Respectfully &c,

A. Wasserman
Asst. U.S. Atty

U.S. Dist. Court

No. 37.

The U. States

vs

Jose Maria Alviso

Petition

Filed June 27, 1853,

by Cheever

Deputy

Hassell

No 37.

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

The United States, appellants } Transcript No 141.
vs.
José. Maria Alvisu appellee } Answer of Appellees.

Maria Juana Galindo de Alvisu, widow, and Maria Josefa, Maria del Carmen, Maria Antonia, Maria Jesus, Maria Agustina, Francisco Gabriel, Juan José, and Maria de los Angeles, children, of José Maria Alvisu deceased, appellees in the above entitled cause, appear by their attorneys and for answer to the petition of the United States filed herein, say:

That their title to a certain tract of land called "Milpitos," as set forth and described in the petition of the said José Maria Alvisu to the Board of Commissioners and in the documentary and other evidence filed in this case, is a good and valid title. The land claimed is situate in the Northern District of California.

And they pray this Honorable court to affirm the decision of the Board of Commissioners, and to decree their title to be valid.

Hallett Peachy & Billings
Attys for appellees.

No 37.

The United States appellants
vs
J. M. Almira, appellee

Answer of appellee

Filed Feby 25, 1856.
by Cleaves
Deputy.

Lisle

Hallett Peaslee & Billings
Attys for appellee.

No 37.

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

The United States, appellants
vs.
José María Alviso, apellee
} Transcript No 141.
claim to "Milpitas",
one square league in Santa Clara Co.

On the suggestion of the death of José María Alviso, appellee in the above entitled cause, it is moved by the United States Dist. Atty for the Northern District of Cala., that the cause be revived by naming María Juana Galindo de Alviso, widow, and María Josefa, María del Carmen, María Antonia, María Jesus, María Agustina, Francisco Gabriel, Juan José, and María de los Angeles, children of the said José María Alviso deceased, parties appellees.

It is hereby stipulated and agreed between the parties in the above entitled cause by their Attys, that the said José María Alviso has departed this life since the filing & decision of the claim in the above entitled cause before the Board of Land Commissioners; that he died intestate, leaving his widow and only children, the parties named in the foregoing motion, which motion, it is further agreed, may be granted and entered upon the order of this court.

Halleck Peachy & Billings
Attys for Appellees.
A. Gleeson,
Asst. U.S. Dist. Atty

No 37

The United States, appellants
vs.
J. M. Alviso, appellee

Motion to remand, &
stipulation

Filed Feby 25. 1856,
B. Thurston
Depty.

Yours

CASE 37 ND
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No 37.

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

The United States, appellants
vs.
José María Alviso, remind in name of Heirs of J. M. Alviso deceased
appellees

} Claim for Los Milpitas
Transcript from
Board of Com.rs
No 141.

Stated Term, March 3d 1856

On appeal from the final decision of the Board of Commissioners to ascertain and settle Private Land claims in the State of California.

Decree

This cause came on to be heard at a stated term of the court 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 an 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, and counsel for the respective parties having been heard, it is by the court hereby ordered, adjudged and decreed that the said decision be, and the same is, hereby in all things affirmed, and

It is hereunto further ordered, adjudged & decreed that the claim of the appellees is a good and valid claim, and that the said claim be, and the same is, hereby confirmed to the extent and quantity of one square league, being the same land described in the grants, and of which the possession was proved to have been long enjoyed: Provided that the said quantity of one square league now confirmed to the claimants be contained within the boundaries called for in the said grants and the map to which the grants refer; and if there be less than that quantity within the said boundaries, then we confirm to the claimants that less quantity.

Ogden Hoffman Jr
U. S. Dist Judge

No 37

In the United States District Court
for the Northern Dist. of Cala.

The U. States, appellants
vs
Heirs of J. M. Ahuisu, appellees

Decree

Filed March 3. 1856.
W. H. Chevers
Deputy

CASE 37 ND
PAGE 54

CASE 37 ND
PAGE 55

California Land Claims.

Attorney General's Office,

4 Nov. 1856.

Sir:

In the case of the claim of José Maria Alviza, confirmed to the claimant by the Commissioners, case No. one hundred and forty-one (141), appeal will not be prosecuted by the United States.

I am,

Respectfully,

Wm. Blanding Esq
U. S. Attorney.
San Francisco.

CASE 37 ND
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In the District Court of the United States
Northern District of California

The United States
v
Jose Maria Aloiza

Case No 37
Transcript 141.

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

Wm Blanding
Dist Atty.

Halleck Peachy & Billings
Attys for claimant.

No. 37

United States

Dist Court

The United States

vs

Jose Maria Alviza

Case No. 37

Transcript 141

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stipulation

Filed Dec. 15. 1856.

W. H. Chevers.

Deputy Clerk

Eight

CASE 37 ND
PAGE 58

At a Stated Term of the District Court of the UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the City of San Francisco, on Monday the 15th day of December, ~~November~~ in the year of our Lord one thousand eight hundred and fifty-six.

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States
v.
Jose Maria Aloiza

Case No 37
Transcript No 141

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

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

Ogden Hoffman
U. S. Dist Judge

No 37.

United States District Court, Northern District of California.

The United States

vs.

Jose Maria Aloiza

Case No 37
Transcript No 141

order

Eight

Filed Dec 15, 1856,

J. A. Munroe,

CLERK.

by W. H. Chevers

DEPUTY.

CASE 37 ND
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U. S. District Court for the Northern District of California.

The United States
v.
The Heirs of José Maria Alviso
} For the Ranchos of Milpitas.

State of California
County of San Francisco ss. Horace W. Carpentier being duly sworn says that the grant in the above entitled case, was for one Spanish league of land in a square form, or for a tract of land "one league in longitude by one league in latitude", as appears by the papers on file in said cause, and that the final decree of this Court herein was for one league of land, provided, that quantity should be found within the boundaries therein mentioned, that a final survey has been made under said decree and approved by the Surveyor General for the State of California, that the tract of land embraced in said survey is not square, but very irregular in form, and contains four thousand eight hundred and seven 72/100 acres, and embraces as this deponent is informed and believes a large tract of land not embraced within the original grant to José Maria Alviso. And deponent says

that said survey is erroneous.

Sworn and Subscribed before me
this 28th day of December 1859

E. P. Peckham
Notary Public

H. W. Carpenter

Sworn to and subscribed
this 28th Dec: 1859, before me,
W. ~~A.~~ Chevers.
U. S. Com.

37

U. S. District Court

The United States
v.
Heirs José Ma. Alviso

Affidavit of H. W.
Carpenter that survey
is erroneous.

Filed Dec: 28. 1859.
W. H. Chevers,
Clerk

[illegible]

CASE 37 ND
PAGE 62

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.
Heirs Jose Mc Alvisa

D. C. 57; L. 2, 141,
"Miepitas"

On affidavit of W. W. Carpenter ~~filed~~ that the survey made in this case under final decree by U. S. Surveyor General for Cala is erroneous, filed by Jully R. Wise acting U. S. attorney, in pursuance of the rule heretofore entered, it is Ordered, that the said Surveyor General return to this office a certified copy plat of the official survey made by him of the land finally confirmed herein.

San Francisco Dec 28. 1859
W. A. Alvord Clerk.

Served personally by Copy on J. W. Mandeville U.S. Surveyor General in the City of San Francisco this 29th day of December 1859

P L Solomon
U S Marshal
By S Lanskin
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.*

37

District Court of the United States

IN AND FOR THE

Northern District of California.

The United States

vs.

Rancho Laguna de Alvarado

Order to return survey,

Filed Dec. 29, 1859.

W. H. Chevers, *Clerk.*

By .....*Deputy.*

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CASE 37 ND
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United States District Court
Northern District of California.

The United States
vs
The ~~Heirs of~~ José Maria Alviso

No 37
For "Las Milpitas"

The petition of Nicolas Berreyesa respect-fully Shows that a final Survey has been made in the above entitled Case under the directions of the U. S. Sur-veyor General for California, that said Survey was ap-proved by said Surveyor General on the 19th day of November 1857, that the said Surveyor General has made publication that said Survey has been approved by him and that the same is now in his office, which said publication was first made on the 26. day of September 1860, that your petitioner is the owner of the Rancho called "Las Milpitas" under title derived from the Mexican Government, that the Arroyo Las Milpitas which is a deep creek and conspicuous landmark is the boundary between the Rancho of your petitioner and the Rancho confirmed to the Claimants in this case, that the said approved Survey includes about 1500 or 1800 acres of land belonging to the Rancho of your said petitioner and which never was in-cluded within the Rancho claimed in this case, and that the same also includes 300 or 400 acres of land more than was confirmed to the claimants by the final decree of the Court in this case, and that said Survey is

CASE 37 ND
PAGE 65

erroneous.

Wherefore your petitioner prays that the said Survey may be ordered to be returned to this Court in order that the same may be set aside and justice done in the premises.

H. W. Carpentier
Atty. for said Petitioner

County of San Francisco } ss: Horace W. Carpentier being duly sworn says that he is the attorney for Nicolas Berreyesa in this case and that as he is informed and believes the facts stated in the foregoing petition are true.

H. W. Carpentier

Subscribed & sworn before me this 4. Oct. 1860.

W. H. Chevert,
N. P. Com.

U. S. District Court
Northern Dist. of California

L. C. No. 37.
141

The United States

— vs. —

~~Heirs of~~ José María Alviso

Filed October 4. 1860.
W. H. Chevers,
Clerk.

Eleven

CASE 37 ND
PAGE 67

At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the City of San Francisco, on Thursday the Fourth 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.

José María Alviso.

IN LAND CASES.

District Court No. 37.

Land Com. No. 141.

And now at this day on application of A. W. Carpentier Attorney for Nicolas Berreyesa et al It is Ordered, that the Surveyor General of the United States for California return into this Court, on or before Wednesday, the 24th day of October A. D. 1860, his Official Survey and Plat of the land finally confirmed in the above entitled cause, known as "Las Milpitas" and situated in the County of Santa Clara 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.

No. 37.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

V.

José M.a Alvisó,

ORDER TO RETURN SURVEY.

Returnable 24th October 1860.

Issued 4th Oct. 1860

Filed Oct: 4. 1860

W. A. Chever.

Clerk.

Indore

CASE 37 ND

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I hereby personally by copy one J. W. Mandeville Surveyor General for California, U. S. Solicitor and U. S. Marshal By L. D. Sherman Deputy

Oct 4th 1860

CASE 37 ND

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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. 37, to José María Alviso known as "Las Mlepitas", and situated in the County of Santa Clara 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 24th 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 Fourth day of October A. D., 1860.

W. H. Chevers,

CLERK.

1021

No. 37

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

THE UNITED STATES.

V.

José M.a Alviso.

MONITION.

Returnable October 24th 1860.

Issued October 5th 1860.

Filed Oct. 24th 1860.

W. A. Reed
Clerk.

Thirteen

CASE 37 ND
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The within Moxition was received by me on Thursday *the* fourth *day of* October 1860, *and in obedience thereto I have given due notice, as therein commanded, by causing the publication of said notice, for* three *consecutive Wednesdays, in the San Francisco Herald, commencing on the* Tenth *day of* October 1860; *and for* three *consecutive Saturdays, in the* San Jose "Tribune" *a paper published nearest the land, commencing on the* tenth *day of* October 1860.

Dated San Francisco, Octr 24th 1860.

R. L. Solomon
U. S. Marshal.

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At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the CITY OF SAN FRANCISCO, on Wednesday the 24th 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.

José María Alviso.

IN LAND CASES.

District Court No. 37

Land Com. No. 141

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 the United States proclamation was made that all parties having, or claiming to have, an interest in the survey and location of the land finally confirmed in the above entitled cause, appear and intervene for the protection of such interest; the U. S. Attorney, and John B. Williams appeared for the U. S. & V. Carpentier appeared in behalf of Berreyesa, Tracy, and Thurn, and for himself, 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. 37.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

v.

José M. Alviso.

ORDER ON RETURN OF MONITION.

Filed October 24. 1860.

W. H. Chevers

Clerk.

CASE 37 ND

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Thurber

CASE 37 ND
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United States District Court
Northern District of California.

The United States } No. 37.
vs
José Maria Alviso } "Las Milpitas".

Northern District of California ss.

Horace W. Carpentier being duly sworn says that Nicolas Berreyesa F. P. Tracy, C. Thurn and this affiant are the owners of the Rancho known as "Las Milpitas" granted to said Nicolas Berreyesa by the Mexican Government, that said Rancho is bounded on the north by the Rancho confirmed to the claimant in this case, that as he is informed and believes, the arroyo Las Milpitas is the boundary between the two said Ranchos, that by the final survey returned in this case a large tract of land is included therein, lying on the south side of said arroyo and belonging to the Rancho so granted to said Berreyesa and not to the Rancho confirmed in this case, that the grant and confirmation in this case is for quantity and that said survey includes a much larger quantity than was granted or confirmed to the said claimant, that this affiant is the attorney of the said Berreyesa, Tracy and Thurn, that they and this affiant are interested in the survey herein and that the same is erroneous.

Wherefore he asks that they may be allowed to

interest for the protection of their interests in the premises.

H. W. Carpenter

CASE 37 ND
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Subscribed and sworn to for said interest
this 24. day of October 1900.

W. D. Cheever.
U. S. Com.

U. S. District Court
Northern District of Cal.

No 37.

The United States
vs.
José Mª Alviso

Petition for Intervention

H. W. Carpentier & Attys.

Filed Oct. 24. 1860.
J. A. Chenet.
Clerk

Fourteen

CASE 37 ND
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U. S. District Court.

Northern District of California.

The United States vs. José Maria Alviso — No. 37. "Las Milpitas."

On behalf of Nicolas Berreyesa, Ignacio N. Carpentier, J. P. Leese and Cipriano Flores, intervenors, the following grounds of objection to the survey are specified and assigned,

1. That the survey herein does not conform to the grant.

2. That said survey is not in accordance with the decree of confirmation.

3. That said grant and decree were for quantity, that the quantity expressed was one square league, but that said survey embraces several hundred acres of land more than one square league of mexican measurement.

4. That said grant and confirmation were for a piece of land in a square form with north and south, east and west bounding, but that the survey is of an irregular tract of land, with some of its sides, twice as long as others, with acute angles, and without any regard to the points of the compass.

5. That said survey includes a large tract of land, to wit, over 1000 acres, lying on the south side of the "arroyo de las Milpitas", whereas said arroyo is and ever since long before the date of the grant to the claimants herein has been the boundary between the lands and possessions of the claimant herein and

of the said Nicolas Berreyesa.

6. That said survey includes about 1000 acres of land, to wit all of the land embraced in said survey lying to the south of said arroyo, which was never granted to or claimed by the claimant in this case but was granted to and claimed and owned and possessed by the said Nicolas Berreyesa.

Wherefore said intervenors pray that said survey be set aside and annulled, and for an order directing the Surveyor General, in any future survey of said rancho, to limit the same on the South by the said arroyo Milpitas, and not include more than the just quantity of one league of land.

H. W. Carpentier
for intervenors

U. S. District Court
No. 37.
The United States
vs
Jose Maria Alviso.
Petition & Survey
of Nicolas Berreyesa Rancho

Filed Oct. 29, 1860.
W. H. Chevers
Clerk
By Green

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CASE 37 ND
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In the District Court of the United States
for the Northern District of California.

The United States
v.
José Maria Alviso.

} N°. 37: L. C. 141.

And now come the United States, by Calhoun Benham their attorney, and except to the official survey of the land finally confirmed herein, a certified copy of the original plat whereof was filed in this Court, pursuant to its order, on the 5th day of November, 1860.

And the United States aver,

1st That the said survey is erroneous, because it does not conform to the calls of the final decree of confirmation.

2d That the said survey is erroneous, because the land granted and confirmed was one square league and no more, whereas the said survey includes the quantity of 4807 72/100 acres.

Wherefore the United States pray that the said survey be set aside as

erroneous, and a new survey ordered to be made, which call include the quantity of one square league and no more, and which shall conform to the true intent and meaning of the said finial decree.

Dated San Francisco Nov 7, 1860

Calhoun Benham

U. S. Atty.

37

U. S. District Court

The United States

v.

José María Alviso

Exceptions to survey
by United States

Filed Nov. 7. 1860.
W. A. Chevers.
Clerk

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Calhoun Benham
U. S. Attorney

CASE 37 ND
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In the District Court of the United States for the Northern District of California

The United States } In Land Com.
vs. } Case No. 141 &
Jose Mc Alvso } in the Dist. Court
owned in the name } No. 37
of his wife and
children }

We hereby substitute and appoint S. B. Houghton as the Attorney for the Claimants in the foregoing entitled cause, February 4th 1861

Hallett Peachy & Billings
Attys for Claimants

37.

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

The United States

vs.

One Manuel Alviso
owned in the name
of his heirs ——

Substitution of
S. C. Houston as
Atty for claimants

Filed Febry 4. 1861,
W. A. Shearer,
Clerk

Eighteen

In the District Court of the United States

CASE 37 ND FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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The United States,

v.

IN LAND CASES.

Dist. Court No. 37.

Land Com. No. 141.

Widow and Heirs of José María Alvisu.

To Calhoun Benham, U.S. Att'y, John B. Williamson and H. H. Carpenter.

You are hereby notified that the testimony of Francisco Alvisu and Antonio María Pico.

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 Tuesday the 23d day of April A. D. 1861, at 10 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 15th day of April A. D. 1861.

W. A. Sherwood

U. S. COMMISSIONER.

37.

Copy of the within
notice received by
me this day.
San Frcs. April 15th 1861.

C Burbank
U S Atty
by Williams

Served by leaving
copy at office of
H. H. Carpentier.
this 16th April. 1861.
by me.
W. H. Chesnut
U. S. Com.

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Widow and Heirs of José Maria Alviso.

IN LAND CASES.

Dist. Court No. 37.

Land Com. No. 141.

BE IT REMEMBERED, that on this 23rd day of April 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 Francisco Alviso 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 George Fisher, a sworn interpreter.

PRESENT: Mr Houghton. Counsel for the Claimants.
Calhoun Benham. Esq. U.S. Atty for U.S.

QUESTIONS IN BEHALF OF THE Claimants.

Question 1st,

What is your name, age, and place of residence.

Ans.

Francisco Alviso. 67 years of age, and reside in Contra Costa County.

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2.

Do you know the Rancho Milpitas in Santa Clara County. if so. how long have you known it. and by whom has it been occupied?

Ans.

I know said Rancho. have known it more than fifteen years. dont recollect how long I have known it. I cannot recollect dates. It has been occupied by the late José Maria Alviso.

3

Do you know an Arroyo upon said Rancho formerly known by the name of "the Arroyo del Finado" "Martinez"?

Ans.

I do.

4

Are you acquainted with the boundaries of this Rancho.

Ans.

I am.

5.

Does that Rancho include that Arroyo within its boundaries, or not.

(Question objected to by U.S. Atty as leading, as asking the opinion of the witness, and as incompetent.)

Ans. It is within the enclosure of the Rancho.

6. What is the Eastern boundary of said Rancho?

Ans. At the foot of the hill, there is a tree where there is a small arroyo.

7. What bounds the rancho on the East side?

Ans. The tree of which I have already spoken, and at a little distance from it, there is a grove of trees called "Las Iririses."

8. Is that grove of trees known by any other name?

Ans. I don't know. I have always known it as the "Monte de las Iririses."

9. How far is the "Monte de las Iririses" from the tree of which you have spoken

at the foot of the hills.

Ans.

About a league. less than a league.

10.

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PAGE 88

Is that true of which you have spoken, on the North, or South Side of the Arroyo del Finado Martinez?

Ans.

~~On the North Side~~ On the North Side.

11

Do you Know the "Arroyo del Agnage".

Ans.

I do.

12.

Is the true you have spoken of, and the Arroyo del Agnage on the Same Side of the Arroyo del Finado Martinez, or is one on one Side, and the other on the other?

Ans.

They are both on the Same Side of the Arroyo del Finado Martinez.

13.

Are there any hills about Said Rancho?

Ans.

There are.

14.

Upon which Side of the Rancho

are the hills?

And.

On the East Side.

15.

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PAGE 89

Who occupied the land lying South of the Arroyo del Fenaldo Martinez, and between that Arroyo and the Arroyo Agnage?

And.

The cattle of the late José Maria Alvisu.

16.

State if you know, about what time that Rancho was first founded.

And.

When I first went there, it was already founded. They had a house and Corrals. It was twenty odd years ago.

17.

Who lived there when you first went there?

And.

Juan Antonio Fernandez, and a widow Woman named Dolores Amesquita. They were taking care of it for José Maria Alvisu.

18.

Do you know upon what part of that Rancho Nicolas Berreyesa

lived?

Ans. He lived on the East side of the Arroyo del Finado Martinez.

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19. Do you know when, and how he went there.

Ans. I know he went there, but dont recollect when. He went with the permission of José Maria Alviso.

20. Do you know of any Rodeos having been made on that Rancho on the side of the Arroyo del Finado Martinez, upon which the house of Berreyesa stood.

Ans. I know that same Rodeos were had there.

21. Who made those Rodeos?

Ans. The late José Maria Alviso, with his ~~Rodeos~~ Vaqueros.

22. State if you know whether Nicolas Berreyesa, at the time he was living

on that Rancho. owned any horses, or cattle?

Ans.

He had some cattle. and horses.

23.

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State. if you know. where he kept those horses. and cattle in the hills. or upon the plain?

Ans.

He kept them in the hills.

24.

How far was the house. in which Nicolas Berreyesa lived distant from the foot of the hills.

Ans.

It might be some fifty Varas.

25.

State. if you know. why it was that Berreyesa kept his cattle. and horses in the hills?

Ans.

Because it was upon those conditions that the late José Maria Alviso granted him permission to go upon the land. that he should keep his horses. and cattle in the hills. and not upon the plain.

26.

State. if you know whether when Alviso

made Rodeos in the plain upon the same side of the Arroyo on which Berreyesa's house stood, he obtained permission from Berreyesa, or not?

Ans.

He Alviso made Rodeos about 400 varas from Berreyesa's house, on the same side, as Berreyesa's house. He did not ask permission from Berreyesa, because he did not need it.

27.

Do you know of any Rodeos having been made, upon the hills South of the Arroyo del Rinado Martinez, and East of Berreyesa's house?

Ans.

~~I do. The were made by the late Alviso.~~ I have never seen any made there.

28.

Did you ever live upon the Rancho "Milpitas." if so. When?

Ans.

I did. At several times. The first time about two years, and the last time about six years. I do not recollect the dates.

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29.

Was it before, or after the Americans took possession of California, that you lived there?

Ans.

Before.

30.

State whether it was before, or after the Americans took possession of California, that these Rodeos were made by Alvisu, that you have spoken of.

Ans.

Before.

31.

Do you know whether Alvisu made any Rodeos there after the Americans took possession of the Country?

Ans.

I do not know.

32.

Down to what time did Alvisu continue to make Rodeos at the place you have mentioned, near Berreyesa's House.

Ans.

I do not recollect the date, but two years after the discovery of gold in this Country, he gave a Rodeo there.

and I was present.

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Cross examined by the U. S. Attorney.

33. What relation was the late José María Alviso to you.

Ans. He was my brother.

34. You say you are acquainted with the boundaries of the Rancho claimed in this case. Describe those boundaries as they existed when you first knew it.

Ans. Beginning at a point on the other side of the Arroyo, opposite Alviso house, on the side towards Higuera's house, thence towards an oak tree, on the other side of the Arroyo de las Milpitas, thence along said Arroyo Southward, thence towards the "Monte de las Iriricas", thence to that little tree, which was mentioned in the beginning of this deposition, standing at the mouth of a little gulch, thence all along the foot of the hills to

Alviso's house &c.

Alvisu's house.

35

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Q. How did you ascertain those to be the boundaries?

Ans.

Because I lived on the Rancho, and I saw them measured, I dont know by whom, but I believe they were Californians. It was a long time before the Americans took possession of the country.

I dont know how much land is embraced within those boundaries. but I know that Alvisu petitioned for one league of land. and I believe there is a league within those boundaries.

his
Francisco + Alvisu.
mark.

Sworn to, and Subscribed April 23. 1861. before me.

W. A. T. Chevers,
U. S. Comm'r.

Over.

Direct examination Resumed.

36.
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Aud.

Do you know the Arroyo de la Penitencia?

I do. Formerly it was called the Penitencia. Now they have given it the name of Milpitas. It is on the West side of the Rancho.

his
Francisco + Alviso.
mark

Sworn to and Subscribed this 23rd April. 1861. before me.

W. A. Clement.
U. S. Comm'r.

No. 37.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

v.

Widow and Heirs of José María Alviso.

DEPOSITION OF

Francisco Alviso

on part of Claimants.

Nineteen

Filed April 24. 1861.

W. H. Chevers.

Clerk.

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In the District Court of the United States

FOR THE Northern DISTRICT OF CALIFORNIA.

The United States,

v.

Jose Maria Alviso.

IN LAND CASES.

Dist. Court No. 37

Land Com. No. 141.

BE IT REMEMBERED, that on this 14 day of Oct A. D. 1861 at San Francisco in the District aforesaid, before me, ~~John R. Williams~~ Cutter late Commissioner 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 Antonio Maria Peralta a witness produced in behalf of The United States — in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows:

Thomas A. Dewett sworn as Interpreter

PRESENT:

Wm H. Sharp, U. S. Atty, by J. B. Williams
S. O. Houghton for Claimants
H. H. Carpentier for Intervenors

QUESTIONS IN BEHALF OF THE United States

Question 1st,

Your name, age, and place of residence?

Ans'l -

Maria Antonio Peralta - am 54 years of age - I reside in San An-

Antonio –

Ques 2 –

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State whether you know Nicholas Berryesa & whether you know Jose Maria Alviso & if so how long have you known either of them &.

Ans 2 –

I know Nicholas Berryesa & Jose Maria Alviso – Both of them are my Cousins & have known them ever since we were young –

Ques 3 –

State whether you know the Rancho of Milpitas confirmed to the Claimants in this case & if so how long have you known the lands in that neighborhood.

Ans 3 –

I know the land – I know the limits of the one & of the other – I have known the lands in that neighborhood many years, have known it since about 1810 or 1815 –

Ques 4

Do you know the Arroyo called

Las Milpitas, if so state where it rises and how it runs?

Ans 4

I know the Arroyo Milpitas - It commences on the top of the Mountain & runs into the plain -

Ques 5.

Do you know anything about the boundaries of the Rancho of Jose Maria Alviso, if so, state what and your means of information? You may confine your answer to the Southern boundary?.

Ans 5.

The Southern boundary of Jose Maria Alviso is the arroyito de las Milpitos, to the a line from where it ends to the Peninsula -

Jose Maria Alviso himself told me two or three times these are my means of information -

Ques 6

Were you familiar with the occupation of Alviso, and of Nicholas Berryesa, if so, state

Whether they occupied up to some recognized boundary line between them, and what was that line?
(Question objected to as leading)

Ans 6.

From Jose Maria Alviso I became acquainted with the boundary line that divided both Ranchos, Nicholas never told me anything about it -

Ques 7.

On what occasion did Alviso ever tell you that the Arroyo Milpitas and the line as you have mentioned was the Southern boundary of his Rancho?

Ans 7.

I don't remember whether it was in 1838, in 1839 or in 1840, it was sometime during those three years - I came ~~coming~~ from the Pueblo of San Jose to ~~his~~ this Rancho, it being very rainy weather, I went to ~~the Jose~~ his house, & it was on that occasion that he told me -

In those days, we the

natives were accustomed to talk of our Ranchos Cows horses &c. just as the Americans do nowadays of dollars—

Ques 8.

What did ~~Antonio~~ José Maria Alviso say on that occasion about the Creek being his Southern boundary?

(Question objected to as leading)

Ans 8.

What I have stated, that from the Arroyito to the Penitencia was his Southern boundary!

Cross Examination

Ques by Atty for Claimants

Ques 9.

How long have you resided at San Antonio, your present place of residence?

Ans 9—

Why do you want to know how long I have lived there - I have lived there a great many years

It is not necessary for any body to ask how many years I have lived there, - These are questions that have nothing to do with the case, I came to testify to what I have testified and nothing more -

Why do you ask me that question?

I have lived there since 1820 -

Ques 10 -

Who was present beside yourself and Jose Maria Alviso at the time he gave you this information about his Southern boundary line?

Ans 10 -

No body was present - He and I were talking together alone in his own house -

Ques 11.

State what brought on this conversation between yourself and Alviso, in relation to his boundary line?

Ans 11

As I have stated before - We (the natives) were accustomed to speak

of horses, cows & ranchos, just as the Americans now talk of lands and dollars -

Ques 12.

In that conversation did Alires say anything about any of the other boundary lines of his Rancho &

Ans 12 -

No. He did not speak to me of the other boundary lines of the Rancho - He only spoke to me of the boundary line of which I have testified -

I only asked him in regard to the line between him and his neighbor -

Ques 13 -

Had he no other neighbors at that time, whose lands adjoined his Rancho, on the North East and West - &

Ans 13.

On the North he had as neighbor he had one of the Higueras, and on the South he had Nicholas Berryesa -

Ques 14

Why did you only a

Where his Southern
line was?

Ans 14 -

During the Conversation, I happened to ask him about his Southern boundary line, We were talking of this that and the other -

Ques 15.

How do you know that this conversation took place in either of the years 1838, 1839 or 1840?

Ans 15.

Not remembering exactly in what year it was, I stated for that reason, that this Conversation took place in 1838, 1839 or in 1840 -

Ques 16

Did not this Conversation take place before 1838?

Ans 16.

I do not remember - If I should remember I should state the day, Month, and year -

All I can say is that it took place before the year 1840 -

Ques 17

Did not this conversation take place since 1840?

Ans 17

I don't remember.

Ques 18.

In what year, did Nicolas Berryesa first go to live upon the Rancho Milpitas where he now resides?

Ans 18.

I do not remember.

Ques 19.

Did he go to live there before 1840?

Ans 19

Yes. A great many years before but I don't remember in what year.

Ques 20.

How many years before 1840, 5 or 10 or 20?

Ans 20.

I don't remember. ~~A great~~ many years before.

Ques 21.

Do you know when Nicholas Berryesa first went to live there?

Ans 21.

I saw him there, but I don't rem-

ember in what year he went there-

-Ques 22-

Who lived at that place before Berryesa went there, if any one?

Ans 22-

I don't remember- It is so many years since that I don't remember-

Ques 23,

Do you know whether any one lived there before Berryesa?

Ans 23,

No. I don't remember- I have known those lands, since I was very young-

Ques 24

Did this conversation about Alviso's Southern line ever occur at all between Jose Maria Alviso and yourself?

Ans 24

During those three times we happened to speak of the Southern line as I have stated-

Ques 25,

What three times do you refer to in your last answer?

Ans 25-

Those three times upon which

I happened to converse with him about lands Cattle &c—

Ques 26

You have stated when one of these conversations occured, at what time and place did the other two take place?

Ans 26—

As to these I can't say— He was a relation of mine, I lived on my Ranch in San Antonio & he lived on his— I used to go very often to the Pueblo of San Jose, it was very warm weather, and during these times we happened to converse on this subject, we would talk over different matters—

Ques 26—

Did either of these conversations occur before or after a conversation which you say took place prior to 1840?

Ans 26 ~~they~~ took place before 1840—

Ques 27

Do you mean to say that all three of these conversations took

place before 1840-

Ans 27-

~~From 1840~~ Previous to 1840-

Ques 28.

In none of these three conversations, was anything said either by Alviso or yourself about any of the other lines of his Rancho?

Ans 28-

Nothing was said about any of the other lines of his Rancho-

Ant°. M°. Pexadra

Sworn and Subscribed to before me this 15 day of October A.D. 1861-

Cutler McAllister

U.S. Commr

No 37

U. S. District Court
Nor Dist of California

The United States

-vs-

Jose Maria Alviso

Deposition of Antonio Mª Peralta for United States

Filed Oct. 9. 1861.
W. A. Shevers.
Clerk

Twenty

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In the District Court of the United States

FOR THE Northern DISTRICT OF CALIFORNIA.

The United States,

v.

Jose Maria Alviso

IN LAND CASES.

Dist. Court No. 37 —

Land Com. No. 141 —

BE IT REMEMBERED, that on this 14 day of October A. D. 1861, at San Francisco in the District aforesaid, before me, Hunter McAllister WM. B. WILLIAMS, 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 Maximo Martinez — a witness produced in behalf of the United States — in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows:

Thomas A. Jewett sworn as interpreter —

PRESENT:

Wm H. Sharp U. S. Atty by L. B. Williams,
S. O. Houghton for Claimant
A. M. Carpentier for Intervenors,

QUESTIONS IN BEHALF OF THE United States —

Question 1st,

Your name, age, and place of residence?

Ans't.

Maximo Martinez - I am 68 years of age - I reside upon my

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Rancho El Corte de Madera, in San Mateo County - Have lived upon my Ranch since 1833.

Ques 2 -

Do you know the place in the Pueblo of San Jose called Milpitas, occupied by the families of Jose Maria Alviso and Nicolas Berryesa, & if so, since what year have you known said place?

Ans 2

I know the land, this creek was called formerly Milpitas, Higuera used to live there, he is now dead - The Creek is now called Los Coches - I have known the place since I was very young -

Ques 3.

Do you know the tract of land occupied by Jose Maria Alviso in his life time?

Ans 3.

I know the land - I helped to found the Ranch -

Ques 4.

State who was Alviso's Colindante on the North & what was their dividing lines?

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Ans 4.

Jose Higuera was his Colindante on the North - ~~From this Arroyo~~ ~~Calls & now~~ Between the Arroyo now called Los Coches & Jose Higueras, there is a little Arroyo to that runs from the hills, this was known as Alviso's boundary line -

A dispute arose between Alviso & Higueras about that line, I don't know how it was settled -

Ques 5.

Who was Alviso's Colindante on the South, or in the direction of the Salas, and what was the "lindero" between them?

Ans 5.

Nicolas Berryesa was - I knew from Alviso that the Arroyo of Hilpitas was the boundary line between himself and his Colindante Nicolas Berryesa -

I helped Alviso to found the Rancho and through him I became acquainted with these boundaries - He told me many a time where his boundaries were -

Ques 6

How far towards the West, or in the direction of the Plain of San Jose did Alviso occupy, and what was his "limites" on that side?

Ans 6

From the Arroyo Milpitas to a thicket (Monte) called Monte de los ~~Lios~~ Irineos, to the North point of said thicket, the line runs. I learned this from Alviso himself.

Ques 7,

Describe how this Monte is situated with respect to the Milpitas Creek and the Penetencia Creek?

Ans 7

~~From this thicket Northwards to the~~ The Penetencia Creek runs Northerly ~~to~~ West of this thicket. The Milpitas runs from the top of the Mountain to this thicket. This thicket runs from the end of the Milpitas to the Penetencia & separates them.

Ques 8,

How far towards the East, or

in the direction of the Sierra

in the direction of the Sierra Madre did Alviso occupy, and what was his limits on that side?

Ans 8

He occupied the land as far to the East as the "lomas altas"—

Ques 9.

Do you mean by the "lomas altas" the range of high hills which bound the Ranchos of ~~Agua Caliente Las Llanitas~~ Vulgencio Higuera, José Higuera, José Maria Alviso and Nicholas Berreyesa on the east, and which range runs in the same direction with the Sierra Madre?

Ans 9

They are the same range—

The first range of hills are smaller than those further back all these mountains or hills were occupied by Alviso with his cattle—

Ques 10

Before the Americans occupied the Country do you know of any dispute between Jose Maria Alviso, and Nicholas Ber-

yes. With respect to the "Lindo" dividing them which you have stated to be the Arroyo Milpitas?

(Question objected to as leading)

Ans to-

I heard of it they both told me about it - Alviso ~~was~~ was envious & wanted to take more land than belonged to him, & wanted to prejudice the Berryesa - A great many maps have been given to Alviso, ~~they have taking~~, two surveys have been made, and more land have been given to Alviso - They have been taking more and more land until they have almost got to the "Agua Caliente" -

I don't know who have been giving him so many maps and titles -

Ques 11.

Before the Americans came here in 1846 & 1847 did the Mexican authorities allow Alviso to disturb Nicolas Berryesa in his occupation of the land south of the Milpitas creek?

(Objected to as incompetent)

Ans.

I never knew that Alviso had any question before the government with relation to the boundary with Berreyesa. The dispute was between them. I know this from both of them.

Ques 12

Then I understand that although this dispute was between them, yet Nicolas Berreyesa always continued to occupy the land claimed by him as you have stated?

(Objected to as incompetent and leading)

Ans.

Yes, he continued to occupy the land until lately, when he was ejected, but he is still living there.

Ques 13.

Do you recollect in what year Nicolas Berreyesa first occupied the land south of Milpitas creek?

Ans. " "

I dont remember exactly, but it was before 1833.

Ques 14,

Do you recollect in what year Alviso

founded his ranch?

Ans.

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It was before 1833.

Ques 15.

Who occupied first - Alviso on the north of the Milpitas or Berreyesa on the south?

Ans

Alviso occupied fisit - Berreyesa then with his (Alviso's) consent - asked Alviso how far his lands extended, and Alviso said, as far as the Milpitas. Berreyesa wanted to know how far Alviso's lands extended so he (Berreyesa) should not prejudice Alviso. Berreyesa then made his petition, and Alviso himself presented it to the Alcalde.

Ques 16.

Why was the petition of Berreyesa presented to the alcalde?

Ans

Because Berreyesa wanted a small Rauchito, - He asked Alviso how far his (Alviso's) Rauch extended.

Ques 17

"Did Berreyesa get his petition granted"?

Ans.

The Ayuntamiento granted his petition, like ~~the~~ all the others. ~~They~~ loaned the land to him (en calidad de prestamo). Alviso held his land by the same kind of title from the Ayuntamiento ~~in 1833~~ before he got his grant.

In 1833 Alviso asked Figueroa for a title in property like all others.

Ques 18.

How far is your Rancho from the Milpitas?

Ans

I never have measured it and I cannot calculate it — its about thirty miles.

~~Examination adjourned to~~

Examination adjourned until tomorrow Wednesday Oct 2nd 1861 at 10. o'clock A. M.

San Francisco Oct 2nd 1861.
10 o'clk A.M.

Examination of Máximo Martínez ~~Held~~ this day continued.

Present: The same parties as on yesterday.

Cross Examination. on behalf of claimant

Ques 19th.

In what year did José Mª Alviso found the Rancho Milpitas?

Ans.

I don't remember in what year. It was before the year 1833.

Ques 20th.

At the time he founded the rancho had he any children?

Ans

He had children.

Ques 21st.

How many years is it since you have been upon that rancho?

Ans.

I don't remember the date.

Ques 22nd

How long is it since the Arroyo that you say was formerly called Milpitas has had its name changed

to the name of Arroyo delos Coches?

Ans.

I have come here to testify on behalf of Mr Carpentier; If the gentleman on the other side wants to know anything he can bring his own witnesses. I believe he is displeased.

Ques 23rd

How long is it since the Arroyo that you say was formerly called Milpitas has had its name changed to the name of Arroyo delos Coches?

Ans.

I don't Know when its name was changed. This is the first time that I have heard this name of Los Coches.

Ques 24th.

Did you ever Know of any Arroyo called by the name of Arroyo del finado José Maria Martinez?

Ans.

This the same Arroyo where the Berreyesas live now.

My father rowed there, that is the reason it was called Las Milpitas of the deceased Martinez

Ques 25th

Is not the house in which Nicolas Berreyesa always lived, on that rancho near the hills a short distance South from the Arroyo del finado Martinez

Ans

Yes sir, it is the same place where the house now is. He built several small houses.

Ques 26th

Did he have more than one house on that land, at the time the Americans took possession of California in 1846?

Ans.

He had more than one house.

Those of his children who were married had also houses there.

He had two or three houses.

Ques 27th.

How many times have you been at the place where Berreyesa's house stands upon that rancho, since 1846?

Ans.

I have ~~been~~ been there a great many times — I have never counted them.

Ques 28th.

Of what materials were the houses constructed which Berreyesa had upon that land in 1846?

Ans.

Of wood.

Ques 29th.

When was it that these maps, that you speak of, by which Alviso took more land towards the Aguage were made, before, or since the Americans took possession of the country?

Ans.

I have never seen the maps. The Berreyesas have told me about them.

I don't remember when I saw the maps.

Ques 30th.

Did you ever ~~see~~ any of the maps?

Ans.

No. I have never seen the maps. I only know this from the Berreyesas.

Ques 31st.

Was not the dispute which you say arose between Alviso and Berreyesa before the time that Alviso obtained a

grant from the Government for the rancho of Milpitas?

Ans.

It was before. After they were in possession this dispute arose.

Ques 32nd

I do not ask you anything about anyone's possession; state whether this dispute arose before or after the grant was made to Alviso of the Rancho Milpitas by the Mexican Government in legal?

Ans.

It was after. Alviso wanted to take more land than was granted.

Ques 33rd.

How do you know that it was after the grant was made?

Ans.

I knew it from their papers and documents. I was Regidor of the ayuntamiento at that time, and gave informes.

Ques 34th.

What is the date of the grant of Alviso?

Ans.

I don't know. The title shows it.

Ques 35th.

Did you ever see and read the

Did you ever see and read the grant made to Alviso?

Ans.

No sir, I neither read or saw it.

Ques 36th.

You say that the Ayuntamiento of San José gave Berreyesa the right to occupy the land where he lives on the Milpitas rancho, by what you denominate a title en calidad de préstamo, did you ever see and read whatway contained in that préstamo title?

Ans.

I never saw or read it. But I know very well whatitwas, because the Government ordered it to be given by the Ayuntamiento.

Ques 37th

Were not these lands known at the time this préstamo title was made, as the Ejidos of the Pueblo of San Jose?

Ans.

I have never seen the regulation ~~xx~~ ~~the~~ establishing the Pueblo: these lands were occupied with the cattle of the community. I mean the cattle ~~that~~ of the people that lived on the

Pueblo.

Ques 38th.

What tract of land did the Ayuntamiento of San José authorize Berreyesa to occupy; what was its extent and what were the boundaries?

Ans.

From the Arroyo Milpitas to the South as far as the Agüage, to the Sausal on the West and to the hills on the East.

I Know this from the Berreyesas themselves.

Ques 39th.

Which one of the Berreyesas gave you this information?

Ans.

Nicholas Berreyesa, the father of the family. I often spoke with him about this affair.

Ques 40th.

Have you any other knowledge about this matter of which you have last spoken except that which you learned from Nicolas Berreyesa?

Ans.

I Know this from Nicholas Berreyesa, as well as from Alviso.

Both of them have told me about

their limits of Berreyesa.

told of them have told me about
their limits of Berreyesa.

Ques 41st.

What did Alviso tell you about the limits of Berreyesa and when and where did he tell it to you, and who else was present?

Ans.

He told me that his boundaries reached as far as the Arroyo Milpitas. He told me this when he founded the Rancho.

I was assisting Alviso to found the ranch, and was there at his house, on his rancho. He told me this several times.

Ques 42nd

Who occupied the place South of the Arroyo del finado Martinez and lived at the place near the footof the hills where Berreyesa now lives, before Nicolas Berreyesa went to live there?

Ans.

No one lived there before Berreyesa, until this time.

During the summer season my father sowed, cultivated and lived there, and after raising the crop, left for the

Pueblo. Some indians were living with us.

He had a shed there, for the purpose of taking care of the crop.

Ques 42nd.

While you were assisting Alviso to found the Rancho, did you live upon the rancho, and who else assisted to found it, and where did they live?

Ans.

No, I did not live there, he was my friend, and I went to assist him to found it.

He took some indians from the Mission of Santa Clara to assist in founding the ranch.

Ques 44th.

You say you assisted in founding the rancho, please tell us all that you did?

Ans.

I helped to build a house, a corral and to sow.

Ques 45th.

Were not these things done before 1833?

Ans.

Before 1833.

Ans.

Before 1833.

The Ayuntamiento loaned the lands by order of the Government to him as well as to others.

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Ques 46th

Did Alviso ever tell you since 1833 where his Southern boundary line was, if so, when was it, and where were you at the time he told you?

Ans.

He has told me so, both, before and since, I was there at his rancho, working with him.

Ques 47th.

What work have you ever done for Alviso upon that rancho since 1833?

Ans.

Since 1833 I have not done any work for Alviso. I only worked for him at the time I helped to found the rancho.

Ques 48th.

At the time you were assisting Alviso to found that rancho was his family living upon the rancho?

Ans.

No sir, they did not. He was

Mayordomo of the Mission Santa Clara, and had his family there.

Quer 49

You say that Alviso was envious and wanted to get more land than belonged to him, South of the Creek near which Berreyesa lived. state how you know that.

Ans.

I know it, because I saw it. I knew that from the first, that the Arroyo was his boundary line, and that he wanted to get more land afterwards.

~~Quer 50th.~~

Cross Examination

Questions by Mr Carpentier on behalf of Intervenors.

Counsel for Claimant objects to the right of Mr Carpentier to cross examine the witness on the ground that he has been representing during this examination the U. S. on whose behalf this witness is produced. The witness having stated during his cross-examination, that he was a witness for Mr Carpentier.

The Commissioner states that

Mr Carpentier.

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The Commissioner states that Mr Carpentier was not present at any of the direct examination of this witness, and that the questions on said direct examination were put and propounded to the witness on behalf of the U. S. by Jno B Williams appearing for the U.S. Dist Atty.

During the cross examination of this witness no one has appeared except Messrs Carpentier and ~~Hoult~~ Houghton.

For a further objection to the cross-examination of this witness by the Intervenors, ~~Mr Carpenter~~ Atty for Claimant states that the notice served upon him for the taking of this deposition of this witness stated that said witness ~~would~~ would be produced on behalf of the U. S. and the Intervenors.

Mr Carpentier Atty for the Intervenors states that this is the first time that he has heard of any notice being ~~given~~ given by ~~Mr~~ any one for the taking of this deposition.

Ques 50th.

Were you ever Mayordomo of the Mission Santa Clara?

(Objected to as irrelevant & calling for new matter. ~~Does~~ about which no testimony has been given by this witness)

Ans.

I was. After Alviso.

Ques 51st

Did not Guillermo Castro or his father Carlos Castro live ~~at~~ on the Milpitas before Berreyesa went there?

(Objected to on the same grounds as the preceding Question)

Ans.

I don't remember. I believe he once roved there, after my father. I am not certain about this. I think he never lived there.

Ques 52.

Between the years 1833 and 1846 were you in the habit of visiting either Alviso or Berreyesa at their residence near the Milpitas Creek?

(Objected to as leading and not proper cross-examination relative to any matter testified to by this witness)

(to any matter testified to by this witness)

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Ans. 52nd.

We were in the habit of visiting each other; were friends as well as countrymen.

Ques 53rd

Up to what boundary between him and Alviso did Berreyesa occupy?

(Objected to as leading.)

Ans.

Berreyesa occupied his land from the Arroyo Milpitas to the South.

Ques 54th.

Up to what boundary between him and Berreyesa did Alviso occupy?

(Objected to as above.)

Ans.

He occupied his land from Milpitas Creek, North.

Ques 55th

Was there between 1830 and 1840. a little grove near the mouth of the Milpitas Creek or Westerly from the mouth?

(Same objection.)

Ans.

Yes, near the Irrirrises below towards the west.

Ques 56th.

You have just said in conversation

with Mr Houghton, that you now remember all about the dispute between Alviso and Berreyesa, tell all about it?

Ans.

Berreyesa once sowed some land on the North of the Arroyito, and Alviso told him that his boundary did not extend any further than the Arroyito: That that land North of the Arroyito belonged to him; and that Berreyesa should confine himself on the other side of the Arroyito. I mean the Milpitas Arroyito where Berreyesa lives.

Ques 57th.

Has Berreyesa always lived where he now does, near the Milpitas Creek on the South side of it, ever since 1833 or 1834 and if not where else has he lived? and for what periods?

(Objected to as leading)

Ans.

Before the year 1833 to the present time. He has constantly lived there.

Ques 58th.

How has Berreyesa occupied the land South of the Milpitas Creek

13

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Ans

Hee occupied it with Cattle, horses, houses, corrals &c, and rowed there,

Ques 5th.

Did Mr Carpentier ever told you to come here as a witness in this case, or did he ever speak to you of being a witness in this case or in any other one?

Ans.

No sir. Here gentlemen have called me. Mr Carpentier has never spoken to me about this matter.

Carlos and Antonio Berreyesa requested me to come as their witness.

Both of them are sons of Nicolas Berreyesa.

his
Máximo ⊙ Martinez
mark.

Subscribed and Sworn to before me this 2d day of October A.D. 1861—

Cutler McAllister
U.S. Commr

No 37

U. S. District Court
for Dist of California

The United States

-vs-

Jose Maria Alviso

Deposition of Maximo
Martinez for United States

Filed Oct. 9. 1861.
W. H. Chenery.
Clerk

Twenty one

CASE 37 ND
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UNITED STATES DISTRICT COURT,
Northern District of California,

The United States
vs.
Jose Maria Alviso

San Francisco, Novr 6 — 1861.

On this day, before Caleb McAlister a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came Thomas Campbell a witness produced on behalf of the The United States in Case No. 37, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No 141 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — ~~his evidence being interpreted by a sworn interpreter~~

PRESENT:

Wm H. Sharp U. S. Atty by J. B. Williams
S. O. Houghton for Claimant

QUESTIONS BY U. S. Atty

Ques 1,
Your name, age, and place of residence?

Ans 1,
Thomas Campbell, I am nearly 45 years of age — I reside in San Jose — I am an Orchardist

by profession —

Ques 2,

How long have you lived in California, and how long in the San Jose Valley?

Ans 2,

I have lived in California since 1846, and in the San Jose Valley since March 1847 —

Ques 3,

Do you know the Milpitas Rancho claimed in this case by the heirs of Jose Maria Alviso, and if so when and under what circumstances did you first know it? —

Ans 3,

I know the Rancho — I first became acquainted with it in the months of July 1847 — I was acting as Chain carrier for the Surveyor Mr Hutton, who was surveying the Pueblo lands now known as the 320 acre lots of the Pueblo of San Jose — The rancheros owning lands adjoining to those Pueblo lands, were notified by Burton the Alcalde of San Jose to show the lines of their Ranchos to the Surveyor — I was running on the West side of the Milpitas or Alviso Rancho Alcalde Burton showed the Mr

lines for Alviso, saying that he was authorized by Alviso to show the lines -

(All that part of the above answer in which the witness speaks of the statements made by Burton and other persons, objected to as hearsay).

Quest 4

Was Nicolas Berryesa present and if so, did he also point out his west line?

(Question objected to as leading, incompetent and irrelevant).

Ans 4

He was present, and also pointed out his west line with the assistance of Alcalde Burton -

Quest 5.

Did Nicolas Berryesa, and Burton at that time point out the place on the west line which divided the Ranchos of Alviso and Berryesa?

(Same objections as to the last preceding question)

Ans 5

They did -

Ques 6

describe, by natural objects, if you can, the course of the West line of both Ranchos, & the place pointed out as dividing one from the other? Question objected to, as calling for statements made by third parties in relation to Aloisos lines in his absence.

Ans 6

In starting from the South side of the Berryesa or the Aguage Creek, we saw in a North west ward direction, to a place apparently when the Wilpitas Creek had overflowed or scattered forming a gravel bed - On the North side of that bed of gravel, the water had apparently concentrated and cut out a channel of considerable depth, at the head or South end of that channel was the corner shown to us by Nicolas Berryesa, and

Alcalde Burton as the South West corner of the Alviso Grant and North West corner of the Nicholas Berryesa Grant, from that point in running the West line of the ~~Berryesa~~ Alviso Grant, we ran more to the left, in running a North West course, than we had run in running the West line of the Berryesa, passing through a Willow Grove, from the Willow Grove to the Penitentia Creek to a tree with across, I can't recollect whether the tree was a live oak or a ~~oak~~ Sycamore. ~~The above answer objected to.~~ That part of above which states what was done and said by Nicolas Berryesa on that occasion, objected to as hearsay, incompetent and irrelevant by

Ques 7.

Can the place which you have described as forming the South West corner of Alviso's Ranch, and the North

West corner of Berryessa's Rancho the Willow grove, and the Marked tree on the Penitencia Creek or either of them, now be identified on the ground?

Ans/

The corner dividing the ranchos of Alviso & Berryessa is easily identified, as for the Willow grove, and the tree on the Penitencia Creek, I am not positive that I could identify them—

Ques 8.

Can you state whether those points were shown on the Map made by Hutton?

Ans 8.

I don't recollect, whether they are or not — Nor do I know where the original Map is —

Ques 9.

In answer to Ques 3rd — You have said that Alcalde Burtons, at the time the survey was made stated that he was authorized by Alviso to show the lines of Alviso's Rancho

did you hear that statement disputed by any person present at the time?
(Question objected to as immaterial and irrelevant)

Ans 9.

I did not

Cross Examination
Ques for Claimants

Ques 10-

How large was the willow thicket you have spoken of, and where was it located, in what direction from the house in which Henry Robinson now resides?

Ans 10-

It was a willow grove of several acres, I can't recollect the particular size, from my recollection at present it was East or South East of the house where Robinson now lives

Deposition Closed

Thomas Campbell

Subscribed & Sworn to before me this 6th day of November A D 1861.

Cutler McAllister
U.S. Commr

No 37

United States District Court for the Northern District of California

The United States
vs
Jose Maria Alviso

Deposition of Thomas Campbell for United States

Filed Nov. 7 1861.
W. H. Chevers,
Clerk

Twenty two

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

José María Alviso

IN LAND CASES.

Dist. Court No. 37

Land Com. No. 141

To S. O. Houghton and W. W. Carpenter

You are hereby notified that the testimony of

L. T. Stratton

in the above entitled cause in behalf of the United States

will be taken before me, the undersigned, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, commencing on Friday the 2 day of May A. D. 1862, at 11 o'clock A M., and continuing from day to day until finished, at my office No. 17, U. S. Court Rooms; and you are hereby further notified to then and there appear and propound such questions to the said witness as you deem fit.

Witness my hand and official seal at the City of San Francisco, in said District, this 26 day of April A. D. 1862.

W. A. Sheard

U. S. COMMISSIONER.

{U. S. Marshals' Office
{Nor: Dist. of Calª

Served Personally on H.W. Carpenter, and S. O. Croughton, Apl. 28th 1862.

Wm Rabe
U S Marshal
per David R McKee
Deputy

Clerks Fee.

CASE 37 ND
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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

José María Alviso

IN LAND CASES.

Dist. Court No. 37

Land Com. No. 141

BE IT REMEMBERED, that on this 2d day of May 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 James T. Stratton a witness produced in behalf of the United States in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: ~~his evidence being interpreted by a sworn interpreter.~~

PRESENT: U. S. Atty and Jno B. Williams for U. S.; and S. O. Houghton for claim't.

QUESTIONS IN BEHALF OF THE United States

Question 1st,

State your name, age, residence and occupation.

Ans.

James T. Stratton, age 31, residence Alameda County, occupation Surveyor.

2d.

How long have you practiced Surveying in California, and in what capacities?

Ans.

For the last 12 years in California, during part of which time I have been U. S. Depy Surveyor, and have been County Surveyor of Alameda Co.

3d

Look at the paper now shown you marked "Exhibit Stratton No. 1," and to be annexed to this deposition, and state what it is and who made it.

Ans.

It purports to be a topographical map of the Milpitas Rancho confirmed to José María Alviso in this case, and was made by myself from actual survey.

4th

Look at the copy in the transcript of the original diseño accompanying the espediente in the case, which copy is marked in pencil "141-1," and state whether you had a copy of said diseño on the ground when you made the survey shown by Exhibit Stratton No. 1.

Ans

Ans

I had.

5.

Is the ~~place~~ stream shown on said diseño as the "Arroyo que seseca cuitas Estacines" shown on Exhibit Stratton No. 1, and if so, how, and by what means did you identify it.'

Ans.

It is shown on said Exhibit as the Arroyo de los Coches, and I identified it as being the first creek north of Alviso's house flowing across the plain into the Estero, in nearly the manner in which it is shown on the diseño.

6.

Answer the same question with respect to the arroyo marked on said diseño "Arroyo de San José".

Ans.

It is shown on said Exhibit as the Arroyo de la Penetencia, and was identified as being the first creek running west of and parallel with the mountains.

7th

Answer the same question with respect to the stream shown on the right of said diseño as running from the hills and spreading a short distance from the place marked "Montecito".

Ans

It is shown on said Exhibit as the Arroyo Las Milpitas, and was identified as being the first large creek south of Alviso's house, which runs nearly across the plain as shown on the diseño

8th

Answer the same question with respect to the hills marked "Lomas altas" on said diseño

Ans.

They are represented on Exhibit Stratton No. 1 by the hills marked "Main ridge", and in which the Arroyos "Los Coches" & "Milpitas" take their rise.

9th

Answer the same question with respect to the two houses marked on said diseño.

Ans

Their locality is shown on Exh Stratton No 1

to the place marked "Alviso's house"

by the place marked "Alviso's house".

10th

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Did you find on the ground the tree on said diseño ~~the tree~~ marked "Limites del terreno de la Mision de San Jose"?

Ans

There is no tree now standing at the point indicated, nor in that vicinity.

11th

Locate on Exhibit ~~Th~~ Stratton No. 1 the position of that tree as indicated on said diseño.

Ans

On Exhibit Stratton No. 1 I have drawn a dotted line between Alviso's house and the junction of the Esteros to represent the line on the diseño marked "Linea Divisoria", and have located the tree as indicated on said diseño.

12th

State about the area contained between the Milpitas creek extended to the Penetencia, the Penetencia and Esteros to their junction, the said dotted line, and the south surveyed line of the

Inlacitas Rancho to where the dotted line commences near Alvisu's house, and the crest of the range of high hills

Ans.

About 5,180 acres; or about 1200 acres more than a square league.

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How ~~much~~ much between the dotted line and the line of the Inlacitas and the esteros?

Ans.

About 480 acres.

Cross examination waived for the present with the privelege of recalling the witness within the time for closing proofs, if claimants atty desires to cross examine on the matters brought out on direct examination.

Exam. closed.

Jas. T. Shallon

Subscribed & sworn to before me this 2d day of May A. D. 1862

W. H. Reed,
N. P. Com.

No 37

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

José María Alviso

DEPOSITION OF

James T. Stratton

on part of United States

Filed May 2nd, 1862,

W. H. Chevers,

Clerk.

Twenty Three

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

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States

v.

José Maria Alviso

No 37

And now at this day, on application of W. H. Sharp Esq, U. S. Attorney, the atty for claimant W. S. O. Houghton Esq, being present and heard — It is Ordered, that the proofs in the above cause be closed on both sides within sixty days, at the expiration of which time the cause may be set for hearing.

37

UNITED STATES DISTRICT COURT

Northern District of California.

The United States

V.

José Maria Alviso

Order to close proofs in sixty days.

Filed May 2nd. 1862

W. H. Chevers,

Clerk.

U. S. Dist Court.

The United States

v.

José María Alviso

CASE 37 ND
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3
2 No. 37. ND
141 Bd

It is hereby stipulated & agreed that the annexed map be filed without further proof as Archive Exhibit No: 1, in behalf of Carpentier et al.

San Francisco

Jno B Williams
atty in aid of U.S. atty

H. W. Carpentier
for self & others.

H. W. Carpentier Esq
for.

CASE 37 ND
PAGE 157.

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

I, J. W. MANDEVILLE, *Surveyor General of the United States for the State of California, and as such, having in my office, and in my charge and custody, a portion of the* Archives *of the former* Spanish *and* Mexican *Territory, or Department of* Upper California, *as also the papers of the late Board of Commissioners to ascertain and settle the private land claims in California; by virtue of the power vested in me by law,* Do Hereby Certify, *that the* _____ *preceding, and hereunto annexed page , of tracing paper, numbered from one to* _____ *inclusive, exhibit a true, full, and correct copy, of* the Original Diseño attached to and forming part of the original Espediente, now on file among the Archives aforesaid, in my custody, entitled "Espediente "promovido por el Y. Ayuntamiento de San Jose en pretencion "del Senalamiento de termino para el Fundo legal, "de dicha poblacion, 1839. No. 339. Z "

EXAMINED AND FOUND CORRECT-

Keeper of Archives.

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

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

37

U. S. District Court

The United States

vs. 37 ND

Jose Maria Alviso.

Archive Exhibit No. 1
for Carpenter trial

Filed June 2. 1862.
W. A. Shreve,
Clerk

Twenty five

In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

CASE 37 ND

PAGE 159

The United States,

v.

Luis Maria Alviso

IN LAND CASES.

Dist. Court No. 37

Land Com. No. 141

To W. H. Sharp U. S. Atty., and H. W. Carpentier

You are hereby notified that the testimony of Dito L. de la Roza, Francisco Bernal, Juan Bernal, Pedro Alsua, and Joaquin Higuera

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 16th day of July A. D. 1862, at 12 o'clock, M., and continuing from day to day until finished, at my office No. 17, U. S. Court Rooms; and you are hereby further notified to then and there appear and propound such questions to the said witness as you deem fit.

Witness my hand and official seal at the City of San Francisco, in said District, this 11th day of July A. D. 1862.

W. A. Clements

U. S. COMMISSIONER.

No. 37.

San Francisco
July 11th 1862
Service of a copy of
the within is hereby
acknowledged.
Wm H Sharp
U. S. Atty
H. W. Carpentier
for Intervenors

CASE 37 ND
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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

José María Alviso

IN LAND CASES.

Dist. Court No. 37

Land Com. No. 141

BE IT REMEMBERED, that on this 15th day of July A. D., 1852, 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 Pico Livio de la Rosa 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 R. D. Splivalo a sworn interpreter.

PRESENT: S. O. Houghton Esq. for Claimant. W. H. Sharp U. S. Atty. for the U. S.

QUESTIONS IN BEHALF OF THE Claimant

Question 1st,

What is your name, age and place of residence?

Ans.

My name is Pico Livio de la Rosa, my age is 38 years, I

reside in Santa Clara County.

2.

Are you acquainted with the rancho Milpitas in Santa Clara County, if so how long have you known it?

Ans.

I do. I have known it since 1849.

3.

Do you know the location of the arroyo marked upon the diseño and designated by the name of the "Arroyo del Penado Robbineg," and which is designated on the map now shown you by the name of "Arroyo Las Milpitas"

(The witness is here shown Exhibit Stratton No. 1.)

Ans.

I do.

4.

Are they the same, or different streams?

Ans.

They are the same streams.

5.

State if you know who occupied the land lying South of the Arroyo Malpaitas when you first knew that rancho, if you know who occupied it at that time state in what manner it was occupied, and how long that occupation continued?

Ans.

It was occupied when I first knew the rancho by the late Don José Maria Alviso, he occupied it with cattle, up to the time of his death in 1853.

6

What acts of possession and control, if any, were exercised by Alviso over the land lying South of the Arroyo Las Malpaitas, during the period you have mentioned?

Ans.

He occupied it with his cattle,

and his vaqueros, who looked after his cattle there, and exercised the possession and control of a man who kept the ranch on the premises.

7.

Do you know of any rodeos having been given by any one South of the Arroyo Chulpichas, if so state by whom those rodeos were given, and whose cattle were gathered in such rodeos?

Ans.

So Administrator of the ranch of Jose Maria Alvisa I myself have given rodeos at said place, the cattle gathered were those of José Maria Alvisa.

8.

Please point out on that map, Exhibit Stockton No. 5. as near as you can the place where those rodeos were had?

Ans.

The witness points out a place on the map between the house of Berreyesa and the Southern boundary of the ranch as laid down upon the map, and marks said place with a circle in red writing thereon "Rodeo." and says, "That is the place where the rodeos were held."

9.

Can say that you made those rodeos as Administrator of the estate of Alviso, State whether you were acting for yourself, or were you employed for Alviso?

Ans.

I was employed by Alviso to give those rodeos.

10

State about how many times rodeos were made at the place indicated by you during the period you

have mentioned either by yourself or by any other persons in the employment of Alvisa and under his direction?

Ans.

I cannot say precisely how many, but they were numerous.

11

Did you ever know of any rodeos being held by Alvisa or by any other person under his direction, at any place South of the Arroyo Milpitas other than the place you have marked as the rodeo ground, for the purpose of gathering the cattle of Alvisa, which ranged to the South of that Arroyo?

Ans.

I do not know of any rodeos having been given in any other place than the one I have marked.

12.

Did you ever know of any leases being given by Nicholas Berreyesa on the plains South of the arroyo las Milpitas, and between that arroyo and the South boundary of the rancho as shown upon the map?

Ans.

I did not.

13.

State if you know, where Nicholas Berreyesa, kept his cattle during the period you have mentioned?

Ans.

He kept his cattle about five miles distant from his house, on the hills.

(Here the witness points to the hills on the map Exhibit Stockton No. 1, east of the house of Berreyesa as the place where Berreyesa's cattle were kept.)

14.

State where you resided from 1849 up to the time of Alviso's death in 1853?

Ans.

In the house of Alviso on the Milpitas ranch.

15.

State if you know the place where the house of Nicholas Berreyesa stood, and if you know how he was occupying that place, if you do know state how you acquired that knowledge?

Ans.

Berreyesa's house stood here, (Witness points to the place on Exhibit Sketch No. 1, marked "Old Adobe House of Berreyesa") He occupied said place through the kindness of Luis Maria Alviso, who was his friend and therefore allowed him to put his house there, because

he had no other place where to put his family. He also allowed him to keep some cattle with a condition however that his cattle should never come into the plain, but that it should always be kept in the hills. I knew all this through Rosé Maria Alvias, who told me so.

16.

At the time this statement was made to you, was Nicolas Berreyesa present or was there any one present besides yourself and Alvias, if there were others present name them?

Ans.

Berreyesa was not present, the family of Alvias were. Alvias made the above statement to me very often.

17.

State if you were ever present at any conversation

between Berreyesa and Alviso when anything was said by either Alviso or Berreyesa relative to the manner in which Berreyesa held the place where his house stood, and ~~when~~ how he came there?

Ans.

No, I have never been with Berreyesa and Alviso together.

18.

Did you ever heard Nicolas Berreyesa at any time, say how he first came to occupy the place where his house stood?

Ans.

I never did.

19.

During the time that you had charge of Alviso's cattle did any one ever dispute the right of Alviso to make rodeos at the place marked

by you on the map?

Ans.

CASE 37 ND
PAGE 171

Upon one occasion when giving a rodeo, Alonso being present, the old man Barrera sent one of his sons to ~~[illegible]~~ & ask him why he held his rodeo there, Alonso answered, because that was his land, This was all that ever happened.

2d.

During the time that you lived upon that ranche, and made rodeos at the place pointed out by you, did either Alonso or yourself ever ask permission of any person to make rodeos at that place, or did you make rodeos without asking permission of any one?

Ans.

We always gave rodeos in that place without asking any ones permission.

21.

What was the custom among the rancheros in that vicinity relative to making rodeos, could the owner of one rancho enter upon the lands occupied by any of his neighbors even for the purpose of gathering his own cattle without first asking permission of a person upon whose lands he went for that purpose? State what custom did prevail in that vicinity relative to making rodeos upon neighboring ranchos?

Ans.

As, whenever any one had to gather cattle in another's rancho, he always had to ask permission from the owner of the land, but the way of giving rodeos was

phio; if one ranchero wished to gather his cattle which were upon another's ranch, he would ask the owner of the ranch where his said cattle were, to give him a rodeo, which rodeo would be given by the owner of the ranch upon which the rodeo was held, and in case the said owner of the ranch had not sufficient people to give the rodeo the rancheros soliciting the rodeo, would lend his people to the owner of the ranch to give the rodeo.

The foregoing testimony is objected to by the U. S. Atty. as irrelevant, hearsay and incompetent, irrelevant, because the knowledge of the witness is limited to the year 1849 and subsequently, hearsay, because the witness

derived his knowledge from the late Doña Maria Alviso, and incompetent because the land granted must be determined by documentary proof, and not by proof of rudes boundaries.

Cross Examination
Questions by U. S. Atty.
Ques: 22.

Had you any knowledge of the Milpitas rancho prior to the year 1849?

Ans.

I had not.

Deposition closed.

Fito L. de la Roza.

Subscribed and sworn to this 16th day of July A.D. 1862 before me

W. A. Cheever,
U. S. Com.—

No. 37.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

José María Alviso

DEPOSITION OF

P. L. de la Rosa,

on part of Claimant.

Answer 21st

Filed July 23, 1862,

W. H. Chevers,

Clerk.

CASE 37 ND
PAGE 176

In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

José Maria Alviso

IN LAND CASES.

Dist. Court No. 37

Land Com. No. 141

BE IT REMEMBERED, that on this 16th day of July A. D., 1852, 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 Pedro Mesa 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 H. D. Splivalo a sworn interpreter.

PRESENT: S. C. Houghton Esq. for Claimants, H. H. Sharp U. S. Atty. for the U. S.

QUESTIONS IN BEHALF OF THE Claimants

Question 1st,

What is your name, age, and place of residence?

Ans.

My name is Pedro Mesa, my age is 51 years, I reside in

Santa Clara County.

2.

Do you know the rancho Milpitas in Santa Clara County, if so state how long you have known it?

Ans.

I do, I have known that land ever since I can remember,

3.

Do you know the place upon that rancho, upon which the house stand in which Nicolas Berreyesa resided for several years?

Ans.

I do.

4.

State if you know how Berreyesa first went to live there, if you do know state how you acquired your knowledge?

Ans.

On one occasion, when present with Nicolas Berreyesa, José Maria Alviso and Joaquin

Reyguera, when possession of Joaquin Reyguera's ranch was given, I heard Berreyesa say to Alviso, why do you drive me altogether into the hills, Alviso answered you may have your house in the plain, but as to your cattle you must always keep it in the hills. It was in this manner that I first knew that Berreyesa was living there through the permission of Alviso.

5.

Did Berreyesa at that time question Alviso's right to impose these terms upon him, and compel him to conform to them?

Ans.

He did not. He conformed to what Alviso said to him, and never said anything afterwards. When the conversation above stated occurred

Alexias also asked to him, while
I live you can roam the
plain around your house,
and I will not prejudice
you, but you must keep your
cattle in the hills.

6.

During the time that Berreyesa
had his house at that place
how far was it from the
ranche Milpitas to the
place where you resided?

Ans.

I think about five or six
miles.

7.

Do you know where rodeos
were given by Alexias upon
that part of his ranche lying
South of the Arroyo las
Milpitas, on the side towards
the ranche of Pala, if so
state where?

Ans.

I do. There is one Arroyito

coming down from the hills which after a little distance spreads out. (Witness here draws a blue line on Exhibit Sheldon No. 1. marked "Arroyito") and near by, about the red circle marked "Rodeo," was the place where Alonso used to give his rodeos.

8.

By whose cattle were the lands between the Arroyo Milpitas and the Arroyo ~~Hondo~~ Agua, occupied, from the time that Barreda first went to live at the place you have named down to the time of Alonso's death?

Ans.

It was occupied only by the cattle of Alonso, and some of the cattle of the Pueblo.

9.

During the same period

where did Nicolas Berreyesa keep his cattle?

Ans.

Some few cattle which he had brought from San José he always kept in the hills, East of his house.

10

When Alviso made rodeos at the place you have named, did he make them without the permission of Berreyesa, or did he first have to obtain permission from him. State whether you occupied any official position of such a nature as enabled you to possess a peculiar knowledge in relation to that matter?

Ans.

Alviso always gave his rodeos at that place without asking any one's permission; the position I occupied at that time

was Juez de Campo (Judge

was Juez de Campo (Judge of the Plains) and when Rodeos were given on Mondays either to the North or South of the Pueblo I always notified the neighboring rancheros among them Alviso, but not Berreyesa.

The foregoing testimony so far as proof of rodeo boundaries is concerned, is objected to by the U. S. Atty, as incompetent.

Cross Examination
Questions by U. S. Atty.
Ques: 11.

In answer to ques: 4, you make a conversation between Alviso and Berreyesa, at the time possession was given to Joaquin Higuera, in what year was that?

Ans.

I do not recollect about the time, but it was when Pico was Alcalde, — perhaps about the years 1841 or 1842,

12.

Who was Alcalde before Pico?

Ans.

I do not remember.

13.

Do you recollect when Pedro Chabaya was Alcalde?

Ans.

I do. I cannot recollect exactly the time.

14.

How far from the Milpitas ranche did you live ~~from~~ at the time Pedro Chabaya was Alcalde?

Ans.

I lived in the Pueblo of San José about four or five miles distant.

15.

Do you not know that while Pedro Chabaya was Alcalde, he gave Nicolas Berreyesa permission to occupy land between the Pala rancho and the land occupied by Alvisos?

Ans.

I do not.

16.

Did you never hear of any such permission having been granted while you lived at the Pueblo?

Ans.

I never did.

17.

Do you not know that Juan Alvirez who was Alcalde before Pedro Chabaya, gave permission to José Maria Alvisos to occupy his land?

Ans.

I remember that he was Alcalde, but I do not know of

his giving permission to Alvisos

18.

At the time possession was given to Joaquin Higuera which was of the Pala ranch some distance to the South of the Wilpikas, what gave rise to the conversation between Nicolas Berreyesa and Alvisos, which you have stated in your answer to ques: 4. and what had the giving of the possession of the Pala ranch to ~~the~~ ~~did~~ do with the dispute between Berreyesa and Alvisos?

Ans.

It happened in this way. Alvisos being Calindante of the ranches of Pala showed his papers to those who were giving possession of the ranch to Higuera, and on Berreyesas

seeing those papers, he spoke to Alviso as I have stated.

19.

Then Alviso at that time claimed that his Southern boundary was the Southern boundary of the Pala ranch?

Ans.

He did.

20.

In what year were you "Judge of the Plains" as stated by you in answer to ques: 10?

Ans.

I don't remember in what year, but I remember that Dolores Pacheco was Alcalde.

21.

Did Nicolas Berreyesa ever hold any rodeos?

Ans.

I never knew of his giving a rodeo, or where he gave it.

22.

If Berreyesa had cattle in the

hills as you have stated in answer to ques: 4. Why was he not summoned when Alcias gave his reasons?

Ans.

Because he was not a Colindante of the Pueblo. Besides, the ground he occupied was not recognized as his own, but as Alcias who had 3000 head of cattle on the land. When I speak of the lands not recognized as belonging to ~~Alcias~~ Berreyesa, I mean to say that they were not recognized as the lands of Berreyesa by the authorities of the Pueblo.

Deposition closed.

Pedro Naranjo

Sworn to and Subscribed
July 16. 1862. before me.
W. T. Chevers.
U. S. Com.

No 37.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

José M. Alviso.

DEPOSITION OF

Pedro Mesa

on part of Claimant.

Twenty Seven

Filed July 23, 1862,

W. H. Chevers.

Clerk.

CASE 37 ND
PAGE 189

In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Rose Maria Alvisos

IN LAND CASES.

Dist. Court No. 37

Land Com. No. 141

BE IT REMEMBERED, that on this 16th day of July 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 Juan Bernal 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 H. D. Splivalo a sworn interpreter.

PRESENT: S. O. Houghton Esq. for Claimants, and W. H. Shuck U. S. Atty. for the U. S.

QUESTIONS IN BEHALF OF THE Claimants

Question 1st,

What is your name, age and place of residence?

Ans.

My name is Juan Bernal, I am about 45 years of age

I reside in Santa Clara County.

2

Do you know the rancho Milpitas in Santa Clara County if so how long have you known it?

Ans.

I do, I have known it for twenty years.

3.

Do you know the place where Nicolas Berreyesa had his house and what rancho?

Ans.

I do.

4

During the time that Nicolás Berreyesa has lived there, where has he kept his cattle, in the plain or on the hills?

Ans.

On the hills.

5.

Whose cattle occupied the plain between the Arroyo

2

Aguage and the Arroyo Pulgaitas?

Ans.

Jose Maria Alviso's.

6.

Who made rodeos of cattle between those two arroyos on the plain?

Ans.

José Maria Alviso.

7.

Did you ever know of any rodeos being made by Nicolas Berreyesa on the plain between those two arroyos?

Ans.

I never did.

8.

Did you ever know of any one other than Alviso holding rodeos there?

Ans.

I did.

The foregoing testimony

is objected to as incompetent
and irrelevant

Cross examination waived.

Deposition closed.

his
Juan + Bernal
mark

Subscribed and sworn to this
16th day of July A.D. 1862 before me

W. A. T. Cheever,
U. S. Com.

No. 37.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

José M.a Alvisu.

DEPOSITION OF

Juan Bernal

on part of Claimant.

Twenty eight

Filed July 23. 1862,

W. H. Chevers,

Clerk.

CASE 37 ND
PAGE 194

In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Josè Maria Alviso

IN LAND CASES.

Dist. Court No. 37

Land Com. No. 141

BE IT REMEMBERED, that on this 16th day of July A. D., 1852, 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 Francisco Bernal 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. D. Splivalo a sworn interpreter.

PRESENT: S. O. Houghton Esq for Claimants. H. H. Sharp U. S. Atty for the U. S.

QUESTIONS IN BEHALF OF THE Claimants

Question 1st,

What is your name, age, and place of residence?

Ans.

My name is Francisco Berna, I am about 38 years of age,

I reside in Santa Clara County.

2.

Do you know the rancho Milpitas in Santa Clara County, if so how long have you known it?

Ans.

I do, I have known it ever since I can remember

3.

State if you know when Nicolas Berreyesa first went to live on the rancho Milpitas?

Ans.

I do.

4

State what stock Nicolas Berreyesa has kept his cattle during the time he had his house on that rancho?

Ans.

Up in the hills to the East of the house about five miles distant, where he also had his corrals, and a little house, he also gave his rodeos and branded his cattle

where.

5.

Whose cattle occupied the plain to the South of the Arroyo de las Milpitas, and between that arroyo and the Arroyo Agrazge?

Ans.

Alviso's.

6.

Point out on the map Exhibit Stratton No. 1, the place where Alviso made rodeos of his cattle to the Arroyo Milpitas?

Ans.

At the end of the "Arroyito" as marked by Pedro Mesa, and about the red circle, marked by de la Rosa, there is a little rising ground where Alviso gave his rodeos. Many used to go to that place even the Berreyesas, for amusement to lasso and brand cattle, for Alviso had about 300 head.

7.

How far did you live from that place where the rodeos were held, and were you often present at those rodeos?

Ans.

I lived in the Pueblo of San José, I went there nearly always, when rodeos were given, Many others also went for Alviso had many cattle and employed many men.

8.

When you went there did you go to work for Alviso and assist him in branding his cattle and did the other persons, whom you say went there, go for the same purpose?

Ans.

I was paid by Alviso for gathering and branding his cattle; of the others who went some were paid and others

were not; the most of them were employed by Alexis and paid, for he needed many.

9

Did you ever know of any rodeos being made by Nicolas Berreyesa, anywhere about there on the plain?

Ans.

The Berreyesas never had any cattle on the plains, and never held any rodeos about there.

The foregoing testimony is objected to as irrelavant and incompetent.

Cross Examination
Questions by U. S. Atty.

Ques: 10.

In answer to ques: 3, you state that you know when Nicolas Berreyesa first went to live on the rancho of Milpitas, but you do not

state at what time, In what year did he first go there?

Ans.

I do not remember.

11.

How many years ago about was it?

Ans.

I don't remember, it was many years ago.

12.

Can you not state somewhere near when it was? Who was Alcalde, or fix some circumstance?

Ans.

I do not remember. I never take notice, I remember the old man Berreyesa living there, but I do not know why he lived there.

13.

Have not Berreyesa and his family lived on the place called Milpitas as long as you can recollect?

as you can recollect?

Ans.

I first saw him living in the Mission of San José and afterwards I saw him on the Milpitas ranch.

Deposition closed

his
Francisco + Bernal
mark.

Subscribed and sworn to this 16th day of July A.D. 1862 before me

W. A. Cheever,
U. S. Com.

No. 37.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

José Maria Alviso.

DEPOSITION OF

Fran^co^ Bernal

on part of Claimant.

Twenty nine

Filed July 23, 1862,

W. H. Chevers.

Clerk.

DISTRICT COURT OF THE UNITED STATES,

Northern District of California.

CASE 37 ND

PAGE 202

The United States

VS.

José Mª. Alviso

San Francisco, November 9th 1860

On this day, before me, WILLIAM H. CHEVERS, a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came Francisco C. Berreyesa

a witness produced on behalf of ~~the~~ Nicolas Berreyesa et als Intervenors in Case No. 37, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 141 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows—his evidence being interpreted by a sworn interpreter, to wit.: By James W. Weeks

PRESENT:

H. P. Carpentier Esq. Counsel for Intervenor, and Calhoun Benham Esq. U. S. Atty. for the U. S.

QUESTION 1ST, By Counsel for the Intervenor,

What is your name, age, and place of residence?

Ans.

My name is Francisco C. Berreyesa, my age is 35 years, and I reside on my Father's rancho in Santa Clara County.- The rancho Milpitas

27.

How long have you lived there?

Ans.

About twenty six years.

5th

Do you know what is the boundary between the said rancho, and the rancho of José Maria Soviso. If so shake it?

Ans.

I do, the boundary is the Arroyo de los Meilpithas.

4th

Who has been in the possession of the land on the South side of said Arroyo, and between it and the Agnaya Creek, during the last twenty six years?

Ans.

Don Nicolas Berreyesa.

5th

How has he been in possession?

Ans.

By occupying the same with his Animals, stock, houses, and fencing.

6th

Has any one else, besides Berreyesa and those holding under him, occupied any of the lands South of the Meilpithas Creek, during said period, prior to the Americans squatting on it?

Ans.

No one, except by the permission of

2

my father Nicolas Berreyesa.

my father Nicolas Berreyesa,

7th

Did you ever have any conversation with José Maria Alviso in his lifetime, concerning the boundary between said ranchos?

Ans.

I have.

8th

State it?

Ans.

I with my brother had lassoed a calf on the North side of the Milpitas creek, where Chrysostom Galindo had some sowing, Alviso came up and scolded with us for lassoing the calf and said, on the other side of the creek we might do as we pleased, but it was not right for us to harrass the cattle on that side of the creek on his land. He complained of cattle being molested on his land, but said on the other side of the creek we could do as we pleased.

9th

Is Nicolas Berreyesa ~~th~~ sane in mind?

Ans.

He is not, He is demented. It is about four or five years, since he has been completely demented, and he had been for two or three years before that partially insane.

10th.

Have you any interest in the ranchos of Nicolas Berreyesa?

Ans.

I have none, but my Father has.

Cross Examination waived.

Francisco G. Berreyesa

Sworn to, and subscribed before me this 9th November, A.D. 1860.

W. A. Shepard.
U.S. Commissioner.

No. 37.

U. S. Dist. Court.

The United States.

— vs —

José Maria Alviso.

Dep: of F. C. Berreyesa
on survey
in behalf of the intervenors
Berreyesa, Carpentier,
et al.

$2.50.

No. 37.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

V.

José María Moisen.

DEPOSITION OF

Francisco Berreyesa.

on part of the intervenors

N. Berreyesa et al.

Filed October 15, 1862,

W. H. Reed,

Clerk.

Thirty one

 10 folios

DISTRICT COURT OF THE UNITED STATES,

Northern District of California.

CASE 37 ND

PAGE 208

The United States

VS.

Nicolas Berreyesa
José Maria Alviso.

San Francisco, November 9th 1860

On this day, before me, WILLIAM H. CHEVERS, a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came James W. Weekes

a witness produced on behalf of ~~the~~ Nicolas Berreyesa et als Intervenors in Case No. 37, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 141 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows— ~~his evidence being interpreted by a sworn interpreter, to wit.: By~~

PRESENT:

H. W. Carpentier Esq. of Counsel for Intervenors, and Calhoun Benham Esq. Dist Att'y for the U. S.

QUESTION 1st, By Counsel for the Intervenor

What is your name, age and place of residence?

Ans.

My name is James W. Weekes, my age is 48 years, and my residence is the County of Santa Clara,

2

How long have you resided in Santa

Clara County?

Ans.

Ever since it has been a County, and many years before, I went there in the year 1832, and have resided most of the time, in what is now Santa Clara County, ever since.

3rd.

Are you acquainted with the ranchos of José Maria Alviso, and Nicolas Berreyesa?

Ans.

I am.

4th.

How long have you known the ranchos of Nicolas Berreyesa?

Ans.

Since it was first settled by the Berreyesas, I think in 1834.

5th.

How long have known the rancho of José Maria Alviso?

Ans.

Ever since I went there to settle. I knew both Alvisos and Berreyesa, in Santa Clara, before they went on their ranchos. Each of them were Mayor domos, one in Santa Clara and the other in the Mission of San José.

6th.

Which rancho was first settled?

Ans.

That of Nicolas Berreyesa.

7th.

Have you ever lived on either of said ranchos?

Ans.

I have, - on both of them. I have lived a few days at a time with Gulnac on Berreyesa's rancho, and I have worked on Alviso's, farming and at carpenter work.

8th.

About how long ago?

Ans.

I lived on the Alviso rancho about 1835, when Mr. Forbes was farming there, and on the Berreyesa rancho about 1836 or 1837 when Mr. Gulnac was carrying on the distilling business there. I have been often to both of those places before and since, and I have always been acquainted with the ranchos and their occupants.

9th.

Were these ranchos adjoining each other?

Ans.

Yes sir.

10th.

Do you know what was the boundary between them?

Ans.

I have always learned that the Creek of Milpitas was the boundary between them. Alviso claimed South

to the Milpitas Creek and Berreyesa claimed from the Milpitas Creek to the Aguaja Creek.

11th

How have you learned that this was the boundary?

Ans.

Mer. Berreyesa informing me himself many years back, and I believe Mer. Alviso informed me of himself, and by such party occupying the land adjacent to the creek for agricultural purposes, and building houses, and by such party having peaceable possession, and I never heard of any dispute about it whilst Alviso lived.

12th

Where did Mer. Gulnac live?

Ans.

Mer. Gulnac lived near the Milpitas Creek, near where Mer. Berreyesa's first residence was. Mer. Gulnac had sowing fields on the banks of the Creek. he had his distillery some two or three hundred yards from the banks of the creek, up near the foot of the hills.

13th

By whose permission did Mer. Gulnac occupy that place?

Ans.

Mer. Gulnac occupied that place by permission of Mer. ~~Gulnac~~ Berreyesa.

as his tenant.

14th

Who had the possession and was recognised as the owner of the land on the South side of the Milpitas Creek?

Ans.

Nicolas Berreyesa and family.

15th

Has his possession as long as you have known the place, actual and exclusive, as against Alviso, and those holding under him, on the South side of said creek?

Ans.

I always understood the South side of the creek to be in the possession of the Berreyesas, where their residences and improvements have been, and I never knew of any interference with their possession until a few days back.

16th

State whether Nicolas Berreyesa has lived upon his said rancho continuously from the time when he first took possession of it up to the occupation of this country by the Americans?

Ans.

He has continuously, up to the present time.

17th

Has he a family?

Ans.

Yes sir. A large one. I think there must be some ten or twelve children.

18th.

Where were they born and brought up?

Ans.

Some of them were born on the ranch, and they have all been brought up there.

19th.

Did Berreyesa have considerable planting fields on the ranch?

Ans.

As much so as any other Ranchero, enough for his own use and some to spare.

20th.

On what part of the rancho were these planting fields?

Ans.

They were bordering on the creek and different patches from the foot hills, to where the creek spreads out.

21st.

Did Berreyesa have cattle and horses, if so, where did he pasture them?

Ans.

He had, and he pastured them on the ranch. The corral was close by his houses. He had pretty large

heeds of cattle and horses, but I dont know how many.

22

How did Alviso occupy his ranchs?

Ans.

In the same manner as Berreyesa.

23.

Where were his sowing fields?

Ans.

Bordering on the San Mygiel creek close to his houses.

24.

Where did he pasture his cattle?

Ans.

Between the creeks, he had the corral close to his house, his cattle ranged to the top of the hills.

25.

How far South did the exclusive possession of Berreyesa extend?

Ans.

No farther than the Agnaja creek, up to the Agnaja creek.

26.

Look at the plat of Survey of the rancho confirmed to Luis Maria Alviso, returned to this Court by S. H. Meanderville U. S. Surveyor General for California, and state whether you recognise the position of Berreyesa's house, and of the Malpitas creek, as shown on said plat?

Ans.

I do. I recognise the location of Berreyesa's house, and I think the creek ~~marked~~ on the map to the North of the house is intended for the Milpitas creek.

27.

Please to describe as well as you can, the Milpitas creek?

Ans.

It is a creek that has its source from the hills, of considerable size, it runs down into the plain in a serpentine course, in a Westerly direction, it spreads and sinks in the plain, before it reaches the Penetencia creek. The larger portion of its course ~~it~~ is a deep creek, with well defined banks, and is a well defined landmark.

28.

Is any of the land included in said survey, as shown by said plat of survey, on the South side of the Milpitas creek?

Ans.

There is a large tract of it, as shown by the location of Berreyesa's house, and the creek which I understand to be intended for the Milpitas

29.

Does it include the place where Berreyesa has resided ever since

he went upon the ranch?

Ans.

It does. It included his house corrals, and his running fields, and a large tract of Berreyesa's land.

30.

Have you ever held any office or position in the Pueblo of San José?

Ans.

I have, several. I was Clerk under Hooker, at the time when he received the archives of the Pueblo of San José, under the American Government, immediately after the American occupation, & myself had charge of the archives and papers of the Pueblo.

31.

Do you recollect at that time to have seen among said archives any official documents concerning the Rancho of Nicolas Berreyesa?

Ans.

I recollect of having seen a document on stamped paper, (similar to those papers, on which petitions and other papers are written) which purported to be a petition asking for the ~~purchase of the~~ ranches of Berreyesa. There may have been decrees upon it, but I do not recollect of any.

I was afterwards Alcalde of

said Pueblo. The document to which Mr Geyer was not at that time in the archives. I served previously as Clerk to Capt: Burton when he was Alcalde, and it was not there then. I searched for it and found not find it.

32.

Do you understand the Spanish language?

Ans.

I do.

Cross Examination,
Questions by Counsel for the U. S.

Ques 33.

Do you recollect a map, made somewhere about 1836 or 1837, showing the land claimed by the Pueblo of San José, and if so state fully what you know about it?

Ans.

I recollect a map being drawn up about that time, by Mr. Gulnac, showing the boundaries of the Pueblo lands, by order of the Government, surveyed by a Commission. I think it was later than 1836 or 1837. I was Mr. Gulnac's companion at the time the survey was made. I believe that original map is now in the U. S. Surveyor Generals office for California. I was present and saw the map made.

34.

A copy of that map certified to by the U. S. Surveyor General, is now on file in this Court in the case of the United States vs José Higuera, No. 228. Examine this copy now shown you and state whether you recognize it as a copy of the original to which you have referred?

Ans.

I recognize this as a copy of the original to which I refer, with the exception of the Blue shading, and the red lines, showing the Higuera ranch.

35.

Examine that portion of said map which shows the houses of José Higuera, José Maria Alires, and Nicolas Berreyesa, and state whether the position of those ranchos to each other is correctly laid down on it, as their position and occupation of them is understood to be, at the time this map was made, by yourself and the residents of that part of the country generally?

Ans.

It is. The arroyo Penitencia was always considered the Northern boundary of all these ranchos. so far as I am aware. The arroyo between Berreyesa and Alires I have

always known as Neilpaitan. That between Alviso and Agnews was always called San Miguel, higher up in the mountains it is called Las Coches. The place called "Tularcitos" on this map is a mile more or less South East of Alviso's house.

James W. Weekes

Sworn to, and subscribed this 9th day of November, A.D. 1860.

W. H. Chevers,
U. S. Commissioner.

No. 37.

U. S. Dist. Court.

The United States.

—vs.—

José María Alviso.

Dep. of Jas. H. Weeks on survey in behalf of the intervenors Berreyesa, Carpentier et al.

Filed Oct. 15. 1862.

W. H. Chevers.
Clerk.

Hurley

$6.00

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

18.

United States
vs
José María Alviso

No. 37. ND
Objections
to Survey.

October 27. 1862.

On the 28th September José Mª Alviso
so obtained from the Governor a
grants of a track of land called
"Milpitas" described in the first parts
of his title papers as of the extent
of one league from North to South
and 1/2 a league from east to
west, and in the 4th condition as
one league in latitude and 1/2 a
league in longitude as shown by
the map. &c. &c.
On the 2d October 1835 another
title paper was issued to him by
which there was granted to him
an additional half league in
width by a league in length
lying on the west of the 1/2 league
first granted making in all
one league of land
No boundaries whatever mentioned
in the title papers—
Nor can there necessarily arrived
to the desire to ascertain the
location of the land
The desire shows a track of land

2 bounded on the East by a
range of hills near the base of
which towards the North is the
house of Segura and towards
the south the houses of Alviso
who had already at the time he
applied for a grant then for resi
ding on the land for a consid
erable period, by permission of
the authorities of the Pueblo -
The Western boundary is also
tero and took not named
on the diseño but ascertained
and admitted to be the Arroyo
de la Resistencia - On the North
the tract is bounded by a line
drawn near a large tree at
which on the first diseño present
ed it stopped - but on the
second, made after the augmen
tation was obtained it is produced
to the west across the Penitencia
ia so as to include the of ad
ditional 1/2 league granted to
Alviso -
On the South a similar line
is drawn marked "hidero al Sur"
or Southern boundary - It Com
mences at a grove marked

"Monteito" and is drawn at right angles to the course of the hills striking the latter at a point a short distance to the South of the point where the arroyo Pilpitas issues from them — This arroyo the named on the map the "Arroyo del Juado Martinez" is identified with the Pilpitas creek — The distance between these lines as shown by the scale is 5000 varas or one league — and it is evident from the terms of the grant that they were intended to be drawn so as to give to the tract that length.

The distance from the hills to the Pentencia, is only about 3000 varas, but as an additional ½ league was granted and the northern boundary produced beyond that across or to the West of that creek there seems to be no reason why it may not be carried to obtain the requisite quantity.

4

Shortly after this grant was issued complaint was made by Alegiera, Alviso's neighbor on the north that a portion of his land was included in the diseño of the latter.
The dispute was finally settled by the adoption of an agreed line drawn considerably to the South of the line delineated on the diseño — This boundary is not now in controversy.
The only dispute relates to the Southern boundary —
On the official survey this line has been run from the monte ato a due East to the hills striking the latter more than a mile & 1/2 to the South of the point where the Milpitas issues from them.
The quantity thus included in the official survey exceeds by more than one square league 400 acres — notwithstanding that it does not extend to the West of the Pimitera.
The line was no doubt adopted in obedience to the indications of the diseno which

5 shows by the Compass mark that the Southern boundary was intended to run East & West.

But I think it plain that this indication or call should not be received as controlling—

It is evident that the draughtsman of the Decree supposed that the Range of hills ran due North and South, and he has so laid them down on his map— As the track was to have the extension of one league from North to South he has bounded it by lines running East and West— But he meant that those lines should run at right angles to the true course of the hills—

Then the Range of hills is found to run to the West of North & to the East of South the obvious intention of the decree is satisfied by making a corresponding deflection in the course of the side lines, so as to preserve their perpendicularity to the mountain Range— which

6

formed the Eastern boundary of the tract.

Again the Southern boundary line is represented as striking the hills at right angles to ^ at the distance of about 15 chains to the South of the points of where the Milpi las issues — But if run due East from the Monte alo it is in the official survey it will form with the hills an acute angle & will strike them more than a mile and a half to the Southward of the Milpitas —

If however a line be run from the Monteito at right angles to the course of the hills it will strike them within a few chains of the points indicated on the diagram as the Easterly termination of the Southern boundary —

It will however in one respect fail to conform to the diagram for it will cross the Milpitas twice leaving a portion of that stream to the South and a portion to the North of it whereas the diagram represents that

/ ~~Rocks~~ as showing the line as drawn wholly to the south of the Milpitas—

But the ~~Examination~~ points of beginning and ~~the~~ of termination of this line will very accurately conform to the indications of the diseño — for it will strike the hills, as before stated at or near the points represented, and it starts at the mountain at a point the distance shown on the diseño from the point where the Milpitas loses itself in the plain—

It is not probable that ~~the~~ it was intended accurately to delineate the course of the Milpitas — If that stream is represented on the diseño as making a considerable bend to the North, shortly after leaving the hills — whereas it in fact ~~bends~~ makes a much more marked bend ~~considerably~~ to the South — at least such is its present course as shown on the topographical map of Stratton.

8 A number of witnesses were
examined to prove the boun-
daries of the land actually occu-
pied by Alviso, and by Berreyesa
his neighbor on the South —
And their declarations as to
the dividing line between them
This testimony is as usual
unreliable and conflicting —
On the one side it is asserted
that Alviso's possession extended
far to the South of the Malpi
las and that he gave todos
south of the house of Berreyesa
who it is stated was allowed by
Alviso to build upon his land.
This last statements is on its
face extremely improbable —
On the other hand it is testified
that the Mulpelas creek was
recognised by both as the boun-
daries between their lands —
This again is improbable for
the Mulpelas creek is nowhere
mentioned as a boundary
and the diseño shows that
the line inscribed "limites al
sur" was drawn to the South
of it —

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9

The only safe guide we can adopt in locating the track is the representations on the diseño - and if that be consulted there does not appear to be much room for controversy. I think that the Southern line should be drawn from the Monticello at right angles to the general course of the hills - The quantity of one square league may then be completed by increasing the width of the track towards the East so as to embrace a portion of the foot hills, or towards the West by cropping the Peninsula at the election of the claimants.

An order to that effect will be asked.

No. 37.

U. S. District Court.

The United States.

vs.

José Mª. Alviso.

Opinion rejecting Survey.

Filed October 27, 1862.

W. A. Clemens,

Clerk.

CASE 37 ND
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At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the CITY OF SAN FRANCISCO, on Saturday the fifteenth day of November in the year of our Lord one thousand eight hundred and sixty-two

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States
v.
José María Alviso

No. 37

This cause came on to be heard on objections to the official survey of the land confirmed to the said Alviso, which survey is shown by the certified copy plat filed November 5. 1860, and counsel for the respective parties having been heard, and due deliberation had in the premises, It is now Ordered, adjudged and decreed that said objections be and the same hereby are sustained, and that the said official survey be and the same hereby is set aside as erroneous.

And it is further ordered that the Surveyor General of the U. S. for Cala cause a new survey to be made of the land confirmed, in accordance with this order, and return a plat of the same to this Court for its approval.

And it is further Ordered that the new survey and location be made as follows:

The southern line shall be run from the centre of the "Montecito" at a right angle as near as may be to ~~with~~ the general course of the hills, and as near as may be to the point shown on the diseño on file in the case which accompanied the grant where the line marked "Lindero al Sur" strikes the foot of the hills, to which diseño reference is to be had: The northern line shall be the southern surveyed line of the Rancho Tulucitos: The eastern and western lines to be run at the election of the claimant so as to include the quantity of one square league and no more.

And it is further ordered that a certified copy of this order be served upon said Surveyor General by the U. S. Marshal.

Ogden Hoffman
Dist Judge

No. 37

UNITED STATES DISTRICT COURT

Northern District of California.

The United States

v.

Jose Ma. Alviso

Order rejecting survey and directing new survey.

Filed November 15, 1862

W. H. Chevers, Clerk.

Shirley Rice

CASE 37 ND

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I hereby certify that I have this day served a copy of the within order (duly Certified) on the U. S. Surveyor Genl. by leaving a copy with the Chief Clerk

Charles W. Macondray
U. S. Marshal
N. D. Cal.
By W. H. Sloan Deputy

Dated San Francisco
November 17th 1862

CASE 37 ND
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U. S. Dist. Court Northern District Cal.

U. S.
vs.
J. M. Alviso

D.C. No 37.

In the matter of the Survey of Las Milpitas —

To the Hon Ogden Hoffman U. S. Dist. Judge,

To accompany the plat of Survey filed from this office on the 17th January last, I would make the following Statement

Under the late Decree two Surveys have been ordered by this office - one on the part of the claimants by Deputy Healy, another on the part of the United States, by Deputy Stratton —
as there appeared some difference of opinion, as to the construction of the decree, and as Each party claimed a right to have a Survey under the act of June 2d 1862, I complied with their requests and so ordered, presuming that your honor would have the better opportunity of judging as to the correct location of the Claim, by having both Exhibits

before you.

Deputy Healy's Survey, has not as yet been returned to this Office, and I propose to place the same on file as soon as possible after the return thereof —

Very Respecty
Your Obdt Servt
E. F. Beale
U. S. Surv. Genl

No. 37.

U. S. District Court.

The United States.

—vs—

José María Alviso.

Letter from E. F. Beale.
U. S. Surv. General.

Filed January 22. 1863.
W. H. Stevens.
Clerk

CASE 37 ND
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In the District Court of the United States
Northern District of California.—

The United States
vs
Jose Maria Alviso.

Case No. 37.—

The intervention of Charles Allen, Ellen E. Allen and William C. Toole shows to the Court. That said Charles Allen is the administrator of the Estate of Charles White and the husband of Ellen E. White.

That said Ellen E. White, prosecuted a claim in this Court for the Rancho Pinoncelos Esteros. That such proceedings were had in this Court that on or about the da day of said claim was finally confirmed.—

That said Ellen E. White, now Ellen E. Allen is the confirmee thereof.— That in pursuance of the decree of confirmation the U.S. Surveyor General for the State of California caused a survey & plat of said Rancho to be made, which was officially approved by him on the 19th day of October 1858.

That in pursuance of the act of Congress of June 14th 1860, entitled an act to amend an act &c. in regard the Survey &c of Private L.C. &c. the said Sur. General gave public notice (as required by §1. of said act) that he had caused the same to be surveyed, and a plat thereof to be made and approved by publishing a notice thereof in the usual form, in the San Jose Tribune, a news-

paper published nearest said Rancho to wit at San Jose, Santa Clara Co. Cal. and in the San Francisco Herald, a newspaper published in San Francisco for four weeks successively. Commencing such publication in the month of September 1860. as will more fully appear by said Surv. Generals Certificate now on file in this office. — That no objection was made to said Survey, by any person, nor was the same ordered into Court. —

That said Survey became final in pursuance of E. 6. of said Act, and on the 20th day of December 1860. said U.S. Surveyor General, forwarded a certified copy of said Plat &c. to the Gen. Land Office at Washington for a Patent. —

That one of the boundaries of the said Rancho, or confirmed to said Ellen E. White, is the Pinetenaida Creek.

That on the 11th day of February 1862. there was filed in this Court, in said Case No 37. a plat and Survey of the adjoining lands confirmed to said Alviso.

That said last mentioned Plat and Survey embraces and includes a large amount of land to wit about 1000 acres more or less so confirmed to said Ellen E. White, and included in said approved Survey, of great value to wit, of the value of $10,000 or thereabouts. —

That relying upon the validity of said Survey said Ellen E. White, has sold a great quantity of land next to said Creek to Interveners O'Toole and others. —

CASE 37 ND
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That in truth and in fact the said Lands, so Confirmed to said Alviso do not Embrace or include according to the Grant or Deseno, any Lands as Embraced in the said final Survey of the said "Rancho Rincon de Las Esteros". and none of such Lands should be included in the Survey of the Lands confirmed to said Alviso.

Wherefore said Charles Allen, Elden E. Allen, and said William O'Toole pray leave to intervene, and object to the confirmation of said Survey in Case No 37.

W. W. Ston.
Atty for Chas Allen.
William O'Toole, Et al

Charles Allen, W. O'Toole, and Elden E. Allen (formerly Elden E. White) by leave of the Court first had and obtained, Except to the Survey and Plat filed in this Court in Case No 37, Entitled "The United States vs. Jose Maria Alviso."

Because said Survey and Plat are not in accordance with the Grant, Deseno, or final decree of Confirmation in said Case No 37. The claimants are Entitled to but one league of land and according to their title papers should make up the quantity

CASE 37 ND
PAGE 239

by including land on the Southerly side of Milpitas Creek, and no play Crossing the "Arroyo de la Penitencia" or tapping over and taking lands finally confirmed and Surveyed to said Ellen E. Aden - nee White. -

W. W. Stow
Atty for Exceptors.

We admit due Service of the annexed Petition for Intervention and Exceptions, and Consent that the Same may be filed.

Williams & Thornton -

Wm. H. Sharp
U. S. Atty
by Jno. B. Williams
S. O. Houghton

No 37.

In U.S. Dist. Court

The United States

vs

Jose Maria Moros.

Intervention of
Chas Allen. et al

Filed March 5. 1863.

W. A. Reed Clerk.

Thirty seven and
Thirty eight

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

The United States
vs
The Heirs of
Jose Ma. Alviso
No. 37—

And now come the claimants in the above entitled cause and except to the Modified Survey returned into this Court by the Surveyor General of the United States, for the State of California under order heretofore entered in this cause, and assign as grounds of exception, that certain of said Survey, are in accordance with the original grant, decree, or final decree of confirmation, or decree directing modification of former survey. That one of said Surveys, overlaps upon a finally surveyed claim of other parties, and that the other survey locates this claim or a large portion thereof within and upon the hills adjoining, instead of completing

CASE 37 ND
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the quantity conveyed to these claimants by including lands to the South of the Milpitas creek.

S. O. Houghton
Atty for Claimants

37

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

The United States
vs. } No 37
The Heirs of
Jose Ma. Alviso

Answer
Exceptions to Mofras'
Survey

Filed March 6. 1863.
W. H. Chevers.
Clerk.

Thirty nine

CASE 37 ND
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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Louis Maria Alviso

IN LAND CASES.

Dist. Court No. 37

Land Com. No. 141.

BE IT REMEMBERED, that on this 6th day of April A. D., 1863, 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 James S. Sheridan a witness produced in behalf of the United States in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: his evidence being ~~interpreted by a sworn interpreter~~ taken by consent

PRESENT: H. H. Sharp U. S. Atty. for the U. S. Shaw & Patterson for Dnt: Allen and S. O. Houghton Esq for Claimant

QUESTIONS IN BEHALF OF THE United States

Question 1st,

Are you the same James S. Sheridan who has heretofore been examined in this case?

Ans.

I am.

When you made your survey in this case, in ascertaining the centre of the Monkecitis did you or not understand from Mr. James Murphy, whether any portion of that Monkecitis had been cut away?

Objected to as incompetent and hearsay, and because no proper foundation has been laid for the question

Ans.

He stated while I was making the survey to determine the centre of the Monkecitis, that a very few scattering bushes only had been grubbed up near its Southern extremity but that they never extended any further in a Southerly direction than a point which I assumed to be its Southerly extremity.

Answer objected to as incompetent and hearsay.

3.

On running the South line of your survey how did you construe the qualification "as near as may be" found in the order directing a new survey?

Ans.

It was undoubtedly intended to cover the ground of any discrepancy met with in declaring the three calls in the description, ~~to~~ which are the centre of the Montecito, the general line of the base of the hills, and the point at their base ~~xx~~ a short distance South of the Mission Creek where it issues from the mountains. It so happens that the three calls do exactly agree as ~~not~~ the Southerly boundary of my survey runs exactly at right angles to the general line of the base of the mountains passing exactly through the centre of the Montecito and cutting the line of the base

of the mountains exactly at the point indicated on the copy of the diseño furnished me by the U. S. Surveyor General.

4.

The order directs the Eastern and Western lines to be run at the ~~direction~~ location of the Claimants. State why you run into the hills for quantity?

Ans.

The Claimants, represented by José G. Urrideas who has the principal charge of the ranchs, refused to elect, expressing ~~them~~ himself as dissatisfied with my location of the Southern line, and I did as I pleased.

Each of the foregoing questions and answers objected to as irrelavant, incompetent and hearsay.

Crop Examination waived

Deposition Closed.

Jas. H. Swanson

Subscribed and sworn to this

Subscribed and sworn to this
6th Day of April A.D. 1863 before me
W. A. Chevers
U. S. Com.

No 37

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

Loss Maria Alviso

DEPOSITION OF

James D. Strasson

on part of the United States.

Forty

Filed April 6th 1863,

W. H. Loveland

Clerk.

CASE 37 ND
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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

José Maria Alviso

IN LAND CASES.

Dist. Court No. 37

Land Com. No. 141

BE IT REMEMBERED, that on this 8th day of April A. D., 1863, 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 William L. Adams a witness produced in behalf of the United States in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: ~~his evidence being interpreted by a sworn interpreter~~.

PRESENT: H. H. Sharp U. S. Atty. for the U. S. Shaw & Patterson for Ent. Allen and S. O. Houghton Esq for Claimant

QUESTIONS IN BEHALF OF THE United States.

Question 1st,

What is your name, age, and place of residence?

Ans.

My name is William L. Adams, my age is 28 years, I reside in

Santa Clara County.

2.

Do you know the place called Manteciks not far from the house of Mr. James Murphy if so how long have you known it?

Ans.

I do I have known it since 1853. I have known the same place since 1846. but did not know its name until 1853.

3.

When did you last see the Manteciks?

Ans.

Last Sunday.

4.

State whether that Manteciks has been cut away any since you first knew it, and if so describe in what manner?

Ans.

It has been cut away on the side towards the road running from Oakland to the Mission San José, ~~and has been cut~~

which is
~~xxxx~~ on the West 270 yards,
On the North it has been
cut away altogether about
350 yards, from where the
Brush is green at present.
On the South there has been
none cut away, to my knowledge, but there
are openings there varying
from 60 feet to ten rods in
width. About 700 yards from
from there, there was a thicket
which has disappeared, this
thicket was between the Monte=
cito and the Chabaya ranch.
A grove of willows are, about
800 yards from the Montecito,
between it and the hills, has
been cut away and disappeared..

5.

Is there or not a road running
through the first opening
South of the Montecito?

Ans.

There was formerly but at
present it is fenced in.

6.

How long ago did you first
know of that road?

Ans.

I knew it in 1852.

Qu. 1852 did that road have the appearance of an old or a new road?

Ans.

It appeared to be an old road.

Cross Examination
Questions by Counsel for the U. S.

Ques: 8.

Was not the Canada you have described as being 800 yards from the Manantials you mention, a little clump of willows standing at the spread of the arroyo which comes out of the hills towards the Southerly side of the Milpitas ranche, and sometimes called the Berrenesa creek?

Ans.

I cannot say whether it did

or not, but the creek as far

or not, but the creek as far as I am acquainted with its runs towards the Lagoon.

9.

Did you ever follow that creek from the base of the hills to where it spreads?

Ans.

I never followed it all the way down.

10.

Were you ever at the spread of that creek?

Ans.

I passed along where I supposed it had spread.

11

Are you acquainted with the premises occupied by James Murphy to the North and East of the Penetencia creek, and do you know the location of his house?

Ans.

I am acquainted with them premises & know the location of his house.

12.

Do you not know that the Millions and Brush of various kinds forming thickets extended from Robinson's field in a Southerly direction about one mile, having only narrow openings through it, running in various directions?

Ans.

No sir. A Skirt of a Brush or thicket running about 880 yards more or less, about 700 yards of which now exist. It does not extend more than 500 yards in a Southerly direction.

13.

Did not the brush extend in a Southerly direction beyond where Murphy's house stands?

Ans.

No sir, It never did since I have known it.

Deposition closed.

W A Adams

Subscribed and sworn to this

8th day of April A.D. 1863 before me

8th day of April A.D. 1863 before me

W. H. Chesebrough,

U. S. Com:

No. 37

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

Jose Maria Alviso

DEPOSITION OF

William L. Adams

on part of the United States.

Filed April 9, 1863,

W. H. Chevers,

Clerk.

2 copy Trs

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

José Maria Alviso

IN LAND CASES.

Dist. Court No. 37

Land Com. No. 141

BE IT REMEMBERED, that on this 8th day of April A. D., 1853, 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 James Murphy a witness produced in behalf of the United States in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: ~~his evidence being interpreted by a sworn interpreter~~.

PRESENT: W. H. Sharp U. S. Atty for the United States. Shaw & Patterson for Ant. Allen, and S. O. Haughton Esq. for Claimants

~~QUESTIONS IN BEHALF OF THE~~

~~Question 1st.~~

Witness examined on his Voir dire

Questions by Counsel for Claimant.

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Ques: 1.

Do not the lines of the land claimed in this case extend over and include a portion of the tract of land which you claim to own?

It is admitted by Counsel for the U. S. that the witness occupies and claims under the United States a tract of land a portion of which is included in the survey made by S. V. Thompson and which survey has been rejected by the Court.

Ans.

When I went there first, they did not claim it but since I went there the surveys have extended over a portion of it.

2.

Has not an action for the recovery of the possession of ~~the~~ a tract of land claimed to be a part of the Milpitas rancho instituted against you, by John Trimble, and have you

not by reason of the inhibition of that suit, surrendered to said Trimble a possession of the land claimed by him therein?

Ans.

Ques.

3.

Do you not yet claim to own that tract of land, and intend to assert your claim to it?

Ans.

I do.

Counsel for claimants objects to any testimony of this witness upon the ground that he has shown by his testimony that he has a direct interest in the result of this controversy.

Examination in Chief
Questions by Counsel for the U.S.

Ques: 1.

What is your name, age, and

place of residence?

Ans.

My name is James Murphy, my age is about fifty four years. I reside in Santa Clara County.

2.

Do you know the place called the Mankecito through which the South line of the official survey in this case runs?

Ans.

I do. I have known the Mankecito, since 1849, My house is about 700 yards from it.

3.

In the deposition of Henry Robinson taken March 31st 1863, he states that the South end of the Mankecito to the extent of some seventy five yards had been grubbed or ploughed out by you or under your direction. Please state whether or not such is the fact?

Ans.

~~There might have been some~~ scattering brush. The Mankecito

or Thicket through which the South line of the survey runs has never been cut by me, away, nor by any one else that I know of. Immediately South of the Monkeito runs a road through an opening varying from fifteen to one hundred in yards in width. South of this road grew a thinner and different kind of thicket from that composing the Monkeitos, and some of this last mentioned land has been cleared away by me, and some again while further South.

4.

How far in a Southerly direction does this particular thicket or kind of brush extend, or did extend when you first knew it?

Ans.

It extends about two miles, in that direction with occasional openings.

5.

How much of the Monkeito

if any has been cut away on the South side?

Ans.

There has none of the bunch that I call the Montecito ~~has~~ been cut away on the North, but some straggling growth in that direction has been.

Cross Examination
Questions by Counsel for the United States.

Ques: 6.

State if the map now shown you marked Exhibit Murphy No. 1, was drawn by you to represent the thicket of Brush or Montecito at the Southern corner of the rancho Milpitas?

Objected to because the sketch was drawn by the witness with no intention to have it attached to his deposition.

Ans.

Ans.

It was.

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7.

Did you not draw the long straight line on that exhibit passing through the Lawsal, to represent the location of ~~the land~~ the line recently run by Mr. Stratton?

Ans.

There are two long straight lines, one of which represents the Stratton's line, which is so marked.

8.

Was there not a good deal of Brush running South from the Southern end of the place you have marked Lawsal?

Ans.

There was some very thin scattering brush along there, but there was considerable of a thicket about 75 yards from there. That thicket was not over a rod and a half wide, and perhaps six rods

Cont.

Q.

Will you please mark on that map as near as you can the location of your house and also the Northern and Southern sides of the map?

Objected to because the Witness has already stated to that he & the Counsel present that he did not intend the map to be a part of his examination.

Ans.

No sir. I am not a draughtsman to make a map to go before the Court. I just drew the map to give you an idea of where the Canal is.

Deposition closed.

James Murphy

Subscribed and sworn to this 8th day of April A.D. 1863 before me

N. D. Reed

U. S. Com.

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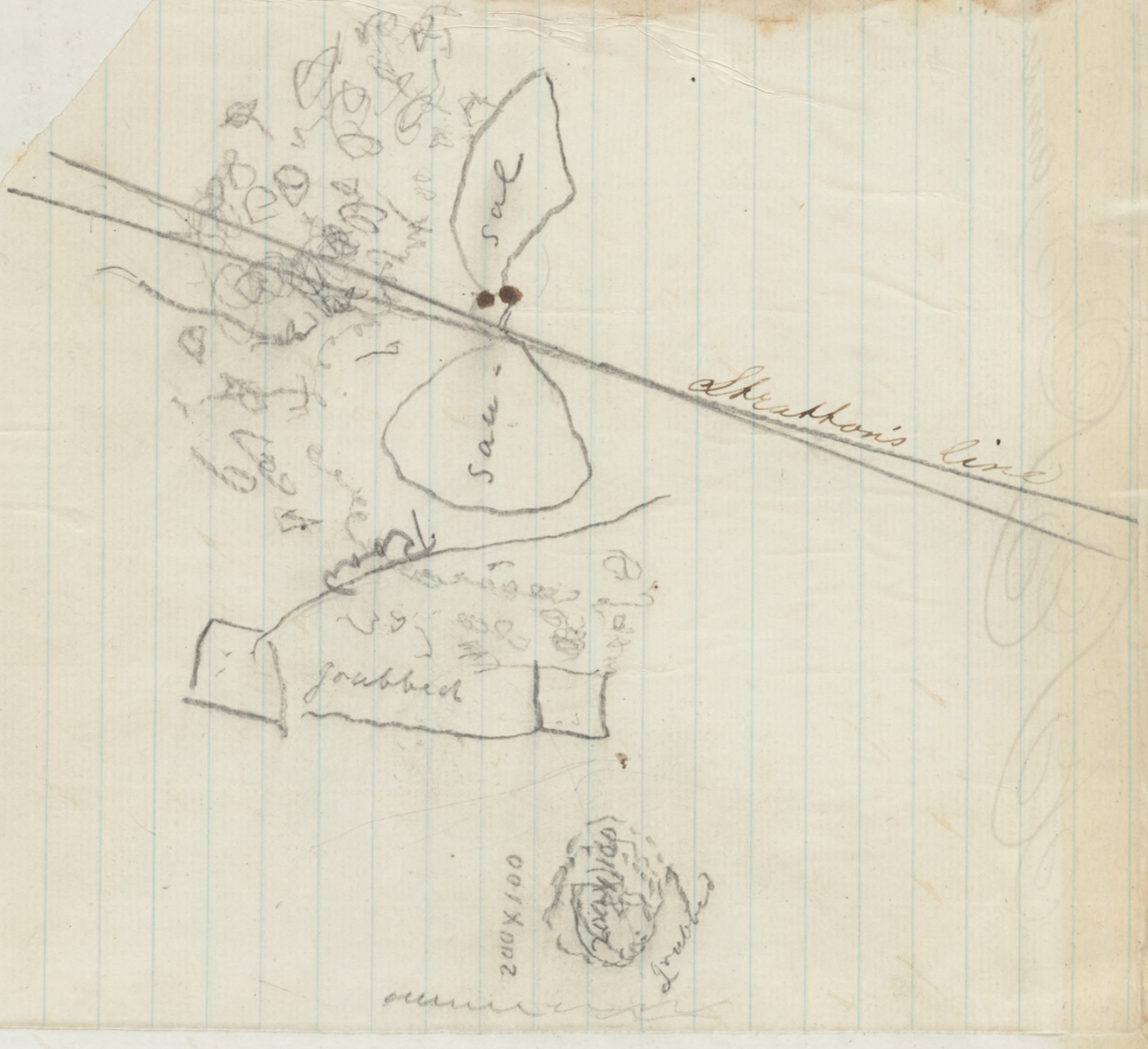
Exhibit Murphy No. 1.



Southern Corner of Rancho Milpitas

Sketch

1860's

James Murphy

37 N.D.

p. 266

"Las Milpitas"

Jose Maria Alviso, Clmt

Santa Clara Co.

82R.

ND

No. 37

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

Luis Maria Alviso

DEPOSITION OF

James Murphy

on part of the United States + Exhibit Murphy No 1.

Filed April 9. 1863

W. H. Chevers

Clerk.

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Josè Maria Alviso

IN LAND CASES.

Dist. Court No. 37

Land Com. No. 141

BE IT REMEMBERED, that on this 31st day of March A. D., 1863, 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 Francisco Munoz 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 Lucio M. Prince a sworn interpreter.

PRESENT: S. O. Houghton Esq for Claimant, Shaw & Patterson for Int: Allen, and W. H. Sharp U. S. Atty. for the U. S.

QUESTIONS IN BEHALF OF THE Claimant

Question 1st,

What is your name, age and place of residence?

Ans.

My name is Francisco Muñoz I am forty years of age, I reside

in the city of San Luis.

2.

Are you acquainted with the Milpitas ranchs in Santa Clara County granted to Luis Maria Alviso? if so how long have you known it?

Ans.

I am. I have known it since 1849.

3.

Do you know the place called Monteceito in the Southwestern part of the said ranch?

Ans.

I have known it as long as I have known the ranch.

4.

How does it's present extent compare with it's extent when you first knew it, is the Monteceito larger or smaller?

Ans.

It is much smaller.

5.

Which side of it has been cleared away, or disappeared?

Ans.

The side next to James Murphys on the Southeast.

6.

How much further did it extend in a Southerly or Southeasterly direction?

Ans.

About 400 varas - perhaps a little more.

Cross Examination
Questions by Counsel for the U. S.

Ques: 7.

What was the cause of the disappearance of the Southeastern portion of the Monticito?

Ans.

It was cut down, by James Murphy.

8.

Has any portion cut down by any other than James Murphy, to your knowledge?

Ans.

No.

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9.

Does the Monteceito exist now as it did in 1849, except the alteration that you have stated was made by Mr. Murphy?

Ans.

~~It does not~~ Much of it has been cut down, but the Monte=cito exists as it did in 1849.

10.

Has any of it been cut down by any person other than James Murphy?

Ans.

No sir.

11.

When did you come to California and from what country did you come?

Ans.

I came from Chile in 1849, I have lived in Santa Clara County ever since, on the Milpitas ranche, except one year when I lived in Santa Cruz.

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I have been employed as Major Doms and in other capacities on the ranchos. I am no longer in their employ.

Deposition closed.

Juan Cisco Ybarra

Subscribed and sworn to this 31st day of March A.D. 1863 before me

N. H. Chevers.

U. S. Com'r.

No 37

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

Jose Maria Alviso

DEPOSITION OF

Francisco Munoz

on part of Claimant

Forty four

Filed April 24. 1863.

N. H. Reed

Clerk.

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

José Maria Alviso

IN LAND CASES.

Dist. Court No. 37

Land Com. No. 141

BE IT REMEMBERED, that on this 21st day of March A. D., 1853, 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 Henry Robinson 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. O. Haughton Esq for Claimant. Shaw & Patterson for Dist. Atty. and W. H. Sharp U. S. Atty. for the U. S.

QUESTIONS IN BEHALF OF THE Claimants

Question 1st,

What is your name, age, and place of residence?

Ans.

My name is Henry Robinson, my age is 56 years, I reside

about four miles from San José in Santa Clara County.

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2.

Are you acquainted with the Milpitas ranchs in Santa Clara County, granted to Luis Maria Arias, if so how long have you known it?

Ans.

I am, I have known it since the Spring of 1851.

3.

Do you not own a portion of the said Milpitas ranchs?

Ans.

I do.

4.

Do not the whole of that portion owned by you included in the recent survey of James T. Shelton, a copy of the plat of which was filed in this case Jany. 17th. 1863?

Ans.

It is.

5.

Do you know the place

called Manbecito in the South-
western part of the said rancho?

Ans.

I do, I have known it since
May 1851.

6.

How does it's present extent
compare with it's extent
when you first knew it?

Ans.

It was larger when I first
knew it, than it is now.

7.

What portion of it has disap-
peared?

Ans.

The South end.

8.

How much further South
did it extend when you
first knew it, than now?

Ans.

I cannot state exactly how
much of it has been grubbed
or ploughed
out, but a good deal has
been.

9.

By whom was it grubbed or

ploughed out?

Ans.

By Mr. James Murphy, or
Father he had it done.

Cross Examination
Questions by Counsel for the
U. S.

Ques: 10.

Has the Manzanita been cut
away by any person other
than Mr. Murphy to your
knowledge?

Ans.

It has. On the West side
I cleared away about fifty
yards of straggling growth
which was in my field. None
has been cut away on the
North side since 1857. Before
I went there in 1857 some of
it had been grubbed out. Mr.
Murphy has been clearing it
away gradually since 1857.

11.

Can you state how much
has been cut away on the

South side since 1857?

Ans.

I could not.

12.

Cannot you give some idea of the extent it has been cut away on the South side?

Ans.

Probably about 75 yards to my own knowledge - a rough guess at that.

Defendants

Direct examination resumed

Questions by Counsel for Claimant.

Ques. 13.

Do you know the location of a picket fence running from a point on the Benetencia creek a short distance South of the house where James Murphy now resides, in an Easterly direction towards the hills?

Ans.

I do.

Please state how far that Monticello or thicket of brush was from the place now occupied by that fence when you first went to reside in that neighborhood, that is to say, how near did that thicket approach the place where said fence now stands?

Ans.

I cannot state the distance I have already stated that I thought about 75 yards of the Monticello had been cut down, to my knowledge, and I have no doubt there may more of it. I ploughed that field this season and encountered stumps which had not been grubbed up very near the fence indicated.

Cross Examination resumed
Questions by Counsel for the U. S.

Ques: 15.

How far is it from the

How far is it from the North end of the Nantucaike to the house of Murphy?

Ans.

About three quarters of a mile I should suppose. it may be a little further.

Deposition closed.

Henry Robinson

Subscribed and sworn to this 31st day of March A.D. 1863. before me

N. D. Stevens.

U. S. Com:—

No. 37

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

José Maria Alviso

DEPOSITION OF

Henry Robinson

on part of Claimant

Filed April 24. 1863,

W. H. Chevers

Clerk.

CASE 37 ND

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

José María Alviso

IN LAND CASES.

Dist. Court No. 37

Land Com. No. 141

BE IT REMEMBERED, that on this 31st day of March A. D., 1863, 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 José Antonio Chabaya 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 Louis N. Prince a sworn interpreter.

PRESENT: L. O. Haughton Esq for Claimant, Shaw & Patterson for Dist. Atty. and W. H. Sharp U. S. Atty. for the U. S.

QUESTIONS IN BEHALF OF THE Claimant

Question 1st,

What is your name, age, and place of residence?

Ans.

My name is José Antonio Chabaya. I am about 30 years

of age, & reside on the Alviso ranch in Santa Clara County.

2.

Are you acquainted with the Milpitas ranch in Santa Clara County granted to Luis Maria Alviso, if so how long have you known it?

Ans.

I am, I have known the ranch over 20 years, ever since I could ride on horseback.

3.

Do you know the place called Montecito in the Southwestern part of the said ranch?

Ans.

I do. I have also known it for about twenty years.

4.

How does its present extent compare with its extent when you first knew it, is the Montecito larger or smaller

Ans.

I understand it to have been much larger before, as the

road has been cut away.

5

Which side of it has been cleared away, or disappeared?

Ans.

Towards the South.

6.

How much further than it does now, did it extend in a Southerly direction?

Ans.

More than 400 yards, I should say.

Cross Examination

Questions by Counsel for the U. S.

Ques: 7.

What was the cause of the disappearance of the Brushwood on it's South side?

Ans.

It has been cut down and burned

8.

By whom?

Ans.

I did not see who has taken it away, but it is not the same now as when I first knew it

9.

Has not the Mayfields been cut away on the North, East, and West sides also?

Ans.

I think it has.

10.

Were you acquainted with the Guipitas ranche before the Americans took possession of the country?

Ans.

I was.

11.

Was not that ranche bounded on the South by the lands of Nicolas Berreyesa?

Objected to as new matter.

Ans.

When I knew the ranch it was bounded by the ranche of Joaquin Higuera or Pala

Rancho.

12.

Did not Nicolas Berreyesa live between the Pinipitas ranchos and the Pala rancho?

Ans.

He did.

13.

Whose land did Nicolas Berreyesa live upon?

Ans.

The land of Luis Maria Alviso.

Direct examination resumed

Questions by Counsel for Claimant.

Ques: 14.

Look at Exhibit Sheahan No. 1, and show which end of the Montecito has been cut away?

Ans.

On the side to the South.

15.

Has any of it been cut away at the Northern end?

Objected to as having
been already answered by the
witness.

Ans.
Some trees had been cut down
around the Mandeiks as it
now exists.

Deposition closed
José Antonio Chabolla.
his
mark

Sworn to and subscribed
March 31. 1863. before me.
N. A. Cheves.
U. S. Com'r.

No 37

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

V.

Luis Maria Alviso

DEPOSITION OF

Luis Antonio Chabaya

on part of the Claimant

Forty-five

Filed April 24. 1863

W. H. Chevers,

Clerk.

CASE 37 ND

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Rosa Maria Alviso

IN LAND CASES.

Dist. Court No. 37

Land Com. No. 141

BE IT REMEMBERED, that on this 31st day of March A. D., 1863, 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 Chas. T. Healy 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. O. Houghton Esq. for Claimant, Shortt & Patterson for Intr. Allen, and W. H. Sharp U. S. Atty. for the U. S.

QUESTIONS IN BEHALF OF THE Claimants

Question 1st,

What is your name, age, place of residence and occupation?

Ans.

My name is Charles T. Healy, I am of lawful age, & reside

in San Jose, my occupation is that of a Surveyor.

2.

State if you have made a resurvey of the rancho Las Milpitas in Santa Clara County, under the order of the United States District Court, directing a resurvey thereof, if you have done so state whether you found a thicket of Brush or Monteeito at or near the most Southern corner of that rancho, and state if you made then or since any examination to enable you to determine whether that thicket was ever of greater extent than it now appears?

Ans.

I have made a survey of the Milpitas rancho under instructions from the U. S. Surveyor General, & found a thicket called the Monteeito near the most Southern corner. I do not know of my own knowledge whether

that thicket is changed in

that thicket is changed in extent or not. I was told when upon the ground by parties who had resided in the vicinity for many years that the Monteciks formerly extended much further to the South, but as it is now a cultivated field I could discover no traces.

3.

Are you acquainted with James Murphy?

Ans.

I am.

4.

Where does he reside?

Ans.

He resides near the Milpitas ranches.

5.

Do you know whether or not he is the party residing the first official survey in this case in the name of the United States, through Counsel employed by him?

Objected to as irrelevant

Ans.

I cannot answer positively as to Counsel employed by him, but there is no doubt about his resisting the said survey.

6.

Did you have any conversation with him in regard to the said Montecito, If so what was it?

Objected to by the U. S. as calling for hearsay evidence, and because Mr. Murphy is within the jurisdiction of the Court, and can be called and examined as a witness himself.

Ans.

I did. He first told me that it formerly extended a few rods further to the North, than now, and afterwards as I was measuring towards the Southern extremity of the Montecito, for the purpose of ascertaining it's length and breadth, as I included a

small growth inside of his

small growth inside of his field, he said, that if I considered that the Montecito I might go out to the other mellons, lying about half a mile to the South - as they once extended in that direction a great distance. He did not say, that I remember, how far.

7.

Look at the plat of survey made by James T. Stratton, filed in this case Jany. 16th 1863, and state whether the said Montecito is correctly marked on said map?

Ans.

It is, except that it is longer from North to South, than is represented on the map.

8.

On the plat of survey made by yourself, filed in this case Feby. 11th 1863, the said Montecito is not marked. How does your Southern line in its passage through

said Montecito, correspond with Stratton's line through the same, Confine your answer if you please, to so much of said lines as pass through the Montecito?

Ans.

They correspond very nearly at that point. I think my line is a few feet further South than his.

9.

Is there not a Sawail to the North of, and adjoining the said Montecito?

Ans.

The Northern portion of the Montecito is almost detatched from the main body, and is composed mostly of Willows, while the main body of the Montecito is composed of different kinds of Brush and Shrubs, with the names of which I am not familiar.

10

In ascertaining the middle line of the Montecito did you

includes the said millams as a portion of it?

Ans.

I did.

11.

Had you left out the Millams as not being a part of the Monkeicks proper, how much further would it have thrown your middle line, South?

Ans.

I think about five chains.

12.

How much more Valley land would your survey then have included?

Ans.

About Seventy acres, provided the line was run to the same points at the foot of the mountains.

13.

Who were the persons in the vicinity who informed you that a portion of the Monkeicks on the South had been cleared away?

Ans.

I do not remember the names of all of them, there being several on the ground. I remember Mr. James Murphy, alias Mr. Robinson, and I think Mr. Trimble, & have since been told by Francisco Muñoz that the Monteiths formerly extended, perhaps a quarter of a mile further South, than it now does.

Cross Examination
Questions by Counsel for the United States.

Ques: 14.

In answer to ques: 11. you state that had you left out the Millonds forming the Northern portion of the Monteiths your middle line would have been thrown five chains further South: Do you mean to say that your survey is incorrect in that particular?

Ans.

Ans.

I do not. I meandered entirely around the Brush and Willows, including them all as the Manitoulin, and ran the line through the centre thereof.

15.

Does the dotted line on the plat of Strathcona's survey marked "General course of foot of hills" agree with the East line of your survey and if so do those lines show correctly the general course of the foot of the hills?

Ans.

They do very nearly.

16.

The order for a new survey under which your survey and Strathcona's were both made directs "that the Southern "line shall be run from the "centre of the Manitoulin at "a right angle as near as "may be to the general course

CASE 37 ND
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" of the hills, and as near as
" may be to the points shown
" on the diseño accompanying
" the grant, filed in the case,
" makes the line marked Lindero
" al Sur, strikes the foot of
" the hills;" You have already
stated that the general course
of the hills is correctly shown
by the East line of your survey,
and that your Southern
line passes through the centre
of the Monticito. Please
explain the reason of the
discrepancy between your
Southern line and that run
by Thurston under the same
order?

Ans.

I consider that the reference
to the diseño in the order
justified my running a line
so as to include the whole
of the Pilpitas Creek, inas-
much as the line was not
required strictly to be run
at right angles to the line of the
of the hills.

14.

17.

Look at the diseño referred to in the order and state whether you can ascertain from a scale upon it, the distance from the place where the Milpitas Creek is represented as issuing from the hills to the point at the foot of the hills where the Southern line terminates?

Ans.

Assuming the diseño to be correct it would be about four hundred varas.

18.

What is the distance by your survey, and Sheatkon's respectively?

Ans.

The distance by Sheatkon's survey is about 350 varas, by mine about 800 varas.

19.

Why did you regard the calle for the Milpitas Creek on the diseño as a more certain guide for the running

of the Southern line, than the place where the Southern line terminates at the foot of the hills, as ascertained by the scale on the diseño?

Ans.

Because it did not appear to me probable that the line on the diseño would be drawn as including the entire arroyo, if it in fact crossed it more which I required to do if I ran a line to the foot of the hills only 350 varas from the point where it issues from the hills. and I thought it more probable that the scale was incorrect, knowing it to be so at other points than that natural objects should be represented inside of the boundaries, when they were out.

20.

Is the Milpitas creek shown correctly upon the diseño?

Ans.

Ans.

It is not. There is a bend to the South about half way, between the hills and where it spreads in the plain, whereas upon the diseño it is shown to bend to the North.

21.

If you were to correct the course of the Milpitas Creek upon the diseño, would not that ~~Linares~~ Creek cross the line marked Linares at Sur, very nearly in the same manner that the Milpitas creek is actually surveyed crosses Stratton's South line?

Ans.

Assuming the point where the creek issues from the foot of the hills to be correct, it would. On the other hand assuming the point midway between the hills and where it spreads in the plain to be correct it would not. It is impossible to apply close

to maps
mathematical calculation,
made manifestly without
reference to so doing.

22.

Why then did you adopt
the creek as your guide
which is so inaccurately laid
down upon the diseno in
it's general course, when the
point where it leaves the
hills can be accurately iden=
tified upon the ground?

Ans.

Because as I said before it
did not appear to me probable
that natural objects would
be represented inside of the
line when they were not, how=
ever incorrectly they might
be located, and I did not
know why I could properly
assume one portion of the creek
to be more correctly located
than another.

23.

Had you read the opinion
of the Court upon which the
order for a new survey was

based?

heard?

Ans.

I had not. I never saw it.

24.

Please read the opinion of the Court and state whether under that opinion you would have run your Southern line as it was run in your survey?

Objected to because the decree ~~in the~~ or order for a new survey is the only guide to the Surveyor.

Ans.

In the opinion the expression "at right angles to the general course of the hills" is not qualified by "as near as may be" as in the order. Therefore had I been guided by the opinion only, I should not have felt at liberty to run the line otherwise than at right angles.

25.

~~Why did you not state in your~~

~~survey~~ Is the house of Nicolas Berreyesa included within your survey?

Ans.

It is. The old ranch house.

26.

Is it included within Sheehan's survey?

Ans.

It is not.

27.

Why did you include in your survey lands lying West of the Penchencia Creek?

Ans.

I was required to do so by the Claimants. The order permitting them to make such selection.

Deposition closed.

James T. Healy

Subscribed and sworn to this 31st day of March A.D. 1863 before me

H. A. Clemens.

U. S. Com.

No. 37

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES

v.

Luis Maria Alviso

DEPOSITION OF

Chas. T. Healy

on part of Claimant

Copy sin

Filed April 24. 1863.

N. H. Reed

Clerk.

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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 Tuesday the Eighth day of September in the year of our Lord 1863:

Present:

Hon Ogden Hoffman, Dist Judge.

The United States

v. No. 37

Heirs of José Mª Alviso.

This cause came on to be heard on objections to the surveys of the land confirmed herein, made in pursuance of the order of the Court entered November 15. 1862, and shown by the certified copy plats filed January 17. 1863, and February 11. 1863; and Counsel for the respective parties being present and due deliberation had in the premises, It is Ordered, adjudged and decreed that the survey made by Deputy C. T. Healy, and shown by the plat filed February 11. 1863 is not a good and valid survey, and the same is hereby disapproved.

And it is further Ordered, adjudged and decreed, that the survey and location of the land confirmed made by Deputy James T. Stratton, the field notes whereof were approved by the Surveyor General of the United States for California on the 13th January 1863, and which survey is shown by the certified copy plat filed in the cause January 17, 1863, is a good and valid survey, and the same is hereby approved.

And it is further Ordered, adjudged and decreed, that the said certified copy plat filed January 17, 1863, and marked "approved Sept 8th 1863, Ogden Hoffman Dist Judge" be attached to and made part of this decree for a more full and particular description of the Four thousand four hundred and fifty seven 46/100 acres of land now finally confirmed to the claimants herein.

Ogden Hoffman
Dist Judge

37 ND
141 Bd.

U. S. District Court

The United States

vs

Heirs J. M. Alvord

Final Decree

Filed Sept. 8. 1863.
W. H. Chace Jr.
Clerk

CASE 37 ND
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At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the CITY OF SAN FRANCISCO, on Wednesday the 18th day of November in the year of our Lord one thousand eight hundred and sixty-three,

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States

v.

José Maria Alviso and Horace W. Carpentier, Charles Allen Ellen E. Allen and William C. Toole Intervenors —

No 37 —

In the matter of the Survey and Location of the Rancho Milpitas —

This cause having come on to be heard on objections to the Survey and location of the land heretofore confirmed to the said José Maria Alviso, Claimant; and the Court having by its decree entered November 15th 1862, ordered a modification of the said Survey and by its final decree entered on the Eighth day of September 1863, approved said Modified Survey. Now on Motion of said Claimant, by his Attorney It is ordered that an appeal on behalf of said Claimant from said final decree be and the same is hereby granted and that a certified Transcript of the record in said cause be sent to the Supreme Court of the United States, without delay —

Ogden Hoffman
Dist Judge

No 37.

UNITED STATES DISTRICT COURT

Northern District of California.

The United States

V.

José María Alviso
et als

Order granting
Appeal on
behalf of Claimant—

Filed Nov. 18 1863.

W. H. Chevers
Clerk.

Forty eight

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At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the CITY OF SAN FRANCISCO, on Tuesday the 23rd day of February in the year of our Lord one thousand eight hundred and sixty-four.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States.

v.

José Maria Alviso. and H. W. Carpentier. Charles Allen. Ellen. E. Allen. + William O'Toole. Intervenors.

No 37.

In the matter of the Survey. and location of the Rancho "Milpitas."

This cause having come on to be heard on objections to the Survey. and location of the land heretofore confirmed to the said José Maria Alviso. Claimant. and the Court having by its decree entered November 15. 1862. ordered a modification of the said Survey. and by its final decree entered on the 8th day of September 1863. approved said modified Survey. Now on motion of said Claimant. by his attorney. it is ordered that an appeal on behalf of said Claimant from said final decree be. and the same is hereby granted. and that a certified transcript of the record in said cause be sent to the Supreme Court of the United States. without delay.

No 37.

UNITED STATES DISTRICT COURT

Northern District of California.

The United States.

V.

José María Alviso.

Order granting Appeal in behalf of the Claimant.

Filed February 23, 1864

W. H. Chevers,

Clerk.

Forty nine

UNITED STATES OF AMERICA, ss.

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THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Honorable the Judges of the District *Court of the United States for the* _____ *District of* California

GREETING:

Whereas *lately, in the* District *Court of the United States for the* Northern *District of* California, *before you,* _____ *in a cause between* The United States Appellants and Jose Maria Alviso Appellee, wherein the decree of the said District Court entered in said cause, on the 8th day of September 1863, is in the following words, viz:

"This cause came on to be heard on objections to the surveys of the land confirmed herein, made in pursuance of the order of the Court entered November 15, 1862, and shown by the certified copy plats filed January 17, 1863, and February 11th, 1863; and Counsel for the respective parties being present, and due deliberation had in the premises, it is ordered, adjudged and decreed that the survey made by deputy C. T. Healy, and shown by the plat filed February 11, 1863, is not a good and valid survey, and the same is hereby disapproved. And it is further ordered, adjudged, and decreed that the survey and location of the land confirmed, made by deputy James T. Hatton, the field-notes whereof were approved by the surveyor general of the United States for California, on the 13th January, 1863, and which survey is shown by the Plat-

fied copy plat filed in the cause January 17, 1863, is a good and valid survey, and the same is hereby approved. And it is further ordered, adjudged, and decreed that the said certified copy plat filed January 17th, 1863, and marked "Approved Sept. 8th, 1863, Ogden Hoffman, Dist. Judge" be attached to, and made part of, the decree, for a more full and particular description of the four thousand four hundred and fifty-seven 66-100 acres of land now finally confirmed to the claimants herein."

as by the inspection of the transcript of the record _____ of the said District _____ Court, which was brought into the Supreme Court of the United States by virtue of an appeal agreeably to the Act of Congress, _____ in such case made and provided, fully and at large appears

And whereas, in the present term of December, in the year of our Lord one thousand eight hundred and Sixty-eight, the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and was argued by counsel: On consideration whereof, It is now here ordered, adjudged and decreed by this Court, that the decree of the said District Court in this cause be, and the same is hereby affirmed,

And it is further ordered that this cause be, and the same is hereby remanded to the District Court of the United States for the District of California.

11th Jan: 1869.

You, therefore, are hereby commanded that such ——— *proceedings be had in said cause,* ———

as, according to right and justice, and the laws of the United States, ought to be had, the said Appeal *notwithstanding:*

Witness *the Honorable* Salmon P. Chase, *Chief Justice of said Supreme Court, the* first *Monday of* December, *in the year of our Lord one thousand eight hundred and* sixty-eight.

COSTS OF— 6

Clerk . . . $

Attorney . . $

$

Taxed by D. W. Middleton

Clerk of the Supreme Court of the United States.

"37." 37 N.D.

No. 3, December Term, 186 .

37 ND

141 Bd

MANDATE

SUPREME COURT UNITED STATES

United States

vs.

Jose Maria Alviso

Filed June 1st: AD 1869
on Motion of Delos Lake
Esquire U.S. Dist Attorney
Geo E Whitney Clerk
By A D Grimwood
D. C.

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UNITED STATES OF AMERICA, ss.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Honorable the Judge of the District Court of the United States for the _____ District of California _____

GREETING:

Whereas, lately, in the District Court of the United States for the Northern District of California, before you, _____ in a cause between The United States, Appellants, and Jose Maria Alviso, Appellee, wherein the decree of the said District Court, entered in said cause, on the 8th day of September, 1863, is in the following words, viz: "This cause came on to be heard on objections to the surveys of the land confirmed herein made in pursuance of the order of the court entered November 15, 1862, and shown by the certified copy plats filed January 17, 1863, and February 11, 1863; and counsel for the respective parties being present, and due deliberation had in the premises, it is ordered, adjudged and decreed that the survey made by deputy C. T. Healy, and shown by the plat filed February 11, 1863, is not a good and valid survey, and the same is hereby disapproved. And it is further ordered, adjudged, and decreed that the survey and location of the land confirmed, made by deputy James T. Stratton, the field-notes whereof were approved by the Surveyor General of the United States for California, on the 13th January 1863, and which survey is shown by the certified copy plat filed in the cause January 17, 1863, is a good and valid

37 N.D.

survey, and the same is hereby approved. And it is further ordered adjudged and decreed that the said certified copy plat, filed January 17th 1863, and marked "approved September 8th 1863, Ogden Hoffman, dist. Judge," be attached to, and made part of, this decree, for a more full and particular description of the four thousand four hundred and fifty-seven 66-100 acres of land now finally confirmed to the claimants herein."

as by the inspection of the transcript of the record _____ of the said District Court, which was brought into the Supreme Court of the United States by virtue of an appeal _____

agreeably to the act of Congress, _____ in such case made and provided, fully and at large appears

And whereas, *in the present term of* December, *in the year of our Lord one thousand eight hundred and* sixty eight, *the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and was argued by counsel:* On consideration whereof, It is now here ordered adjudged and decreed by this Court that the decree of the said District Court in this cause, be, and the same is hereby affirmed.

And it is further ordered that this cause be, and the same is hereby remanded to the District Court of the United States for the District of California. 11th January 1869

You, therefore, are hereby commanded that such _____ proceedings be had in said cause, _____ as according to right and justice, and the laws of the United States, ought to be had, the said appeal notwithstanding: _____

Witness, the Honorable Salmon P. Chase, Chief Justice of said Supreme Court, the first Monday of December, in the year of our Lord one thousand eight hundred and Sixty-eight. _____

COSTS OF— _____

Clerk . . . $ _____

Attorney . . $ _____

$ _____

Duplicate

~~Taxed by~~ D. W. Middleton

Clerk of the Supreme Court of the United States.

37 N.D.

No. 3 December Term, 1868.

Duplicate MANDATE

SUPREME COURT UNITED STATES.

U.S. vs. Ohrie.

Received & filed April 16th 1870

D. W. Middleton Clerk

By P. H. Grimwood D.C.

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U. S. District Court

The United States
v.
José María Alviso

No. 37

San Francisco, Jany 17. 1863.

To S. O. Houghton
Jno J. Williams Esqs. } attorneys for claimant.

Gentlemen.

Please take notice that the Surveyor General of the U. S. for California has returned to the Court his official survey of the land confirmed to the claimant in this cause, made in pursuance of the order of the Court dated ~~May~~ November 15. 1862; and that on Friday next, the 23d. day of Jany instant, at 11 O'clock A. M, or as soon thereafter as counsel can be heard I will move the Court that said survey be approved and a final decree entered in the cause.

Yours &c
Dan'l H. Sharp.
U. S. Atty.

37

U. S. District Court

The United States

v.

Jose Maria Alviso

Notice of motion to approve survey

CASE 37 ND
PAGE 322

A copy of the within was served on me this day and Rec'd John B. Williams Notice that U.S. Houghton Esq is attorney of record. January 19. 1863. J. B. Williams

Deposited in Postoffice this 19th January, 1863 a copy of within notice directed to U.S. Houghton Esq. San Jose.

John B. Williams.

No 37

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1 Transcript
2 Notice to pros: appeal from Atty Genl.
3 Petition
4 Ship: to revive suit in name of heirs
✓ 5 Order to " " " " " "
6 Answer
✓ 7 Decree
8 Ship: & Order vacating appeal
9 Affdvt of H. W. Carpenter to return survey
10 Order to return survey
11 Pet: & affdvt to return survey
12 Order to return survey.
13 Monition & Order on return thereof
14 Intervention of Carpentier etals
15 Exceptions of Carpentier etal to survey
✓ 16 Plat of survey
17 Ex of U S. to survey
18 Sub atty for Amts.
19 Dep: of Francisco Alviso
20 " " J. M. Peralta
21 " " Maxime Martinez
22 " " Thos. Campbell
23 " " J. B. Stratton
✓ 24 " " Exhibit Stratton No 1. (Map)
25 Archive Exhibit No. 1.
26 " " T. L. de la Rosa
27 " " Pedro Mesa
28 " " Juan Bernal
29 " " Francisco Bernal
30 " " J. W. Weeks
31 " " J. C. Barreyesa
✓ 32 Opinion rejecting survey
✓ 33 Order " "
✓ 34 Plat of location
35 Letter from U. S. Surveyor Genl.

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✓ 36 Plat of location from U.S. Sur Genl.
37 Intervention of Chas. Allen et al
38 Consent.
39 Claimants exceptions to modified survey
40 Dep Jas. F Stratton
41 " James Murphy & Ex: Murphy Jr (also
42 " B F L Adams
43 " Henry Robinson
44 " Dran^o Munoz
45 " S. A. Chaboya
46 " C. F. Healy
✓ 47 Decree approving survey
48 Order granting Appeal for Claimants
49 " " " " "

CASE 37 ND
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In the District Court of the United States in and for the Northern District of California

The United States vs. Jose Ma Alviso } Land Com. No 141 — Dist Court No 37 —

Now come the claimants in the above cause by their attorney and move the Court that the testimony in support of the objections on behalf of the United States and on behalf of Nicolas Berryessa, T. P. Tracy, C. Thom and H. W. Carpentier to the survey of Las Molpitas confirmed to the above named defendant, be ordered by the Court to be closed upon a day to be fixed by the Court —

S. O. Houghton
Atty for claimants —

To Calhoun Benham Esq. Dist Attorney of the U. S. and H. W. Carpentier Esq.

Please take notice that the defendants will call up the above motion in the said Court at the opening of the Court on the 4th day of February 1861 or as soon thereafter as Counsel can be heard —

S. O. Houghton
for claimants —

(37 ND)
Land Case
No 141.

The United States
vs.
Jose Mª Alviso

Motion & Notice

Copy

CASE 37 ND
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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

José Mª Alviso

IN LAND CASES.

Dist. Court No. 37

Land Com. No.

To S. O. Houghton & H. H. Carpenter

You are hereby notified that the testimony of Thomas Campbell in the above entitled cause in behalf of the United States will be taken before me, the undersigned, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, commencing on Wednesday the 6th day of Nov^r, A. D. 186/, at 11 o'clock, a M., and continuing from day to day until finished, at my office, No. 4 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.

Dated at San Francisco, in the District aforesaid, this 30th day of Octr A. D. 186/.

Archibald McAllister

U. S. COMMISSIONER.

Acopy of the within notice served on me this 30th day of Oct 1861.

H. W. Carpentier
Atty for Intervenor

Served by delivering at the Post Office a copy of the within notice, addressed to S. O. Houghton Esq. San José, Cal.

Oct 30th 1861.

Thomas M. Jewett

(Original)
No. 337 NDS

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

THE UNITED STATES,
v.
Jose Ma Alviso

NOTICE.

To Lander & Callister

U. S. COMMISSIONER.
CASE 37 ND
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U. S.-
vs
José Mca Alviso 3

J. J. Williams

Healy's survey does not strike the hills at the point described on the ground and as laid down on the diseño

2d- He does not commence at the centre of the "Montecito" as it existed at the date of the grant-

he proves that a portion of the Montecito towards the South has been cut away.

Militia

Rules of argument

CASE 37 ND
PAGE 331

The United States
vs
José Maria Alviso

The original claimant in this case having died during the pendency of the suit, it has been revived and continued by in accordance with a stipulation to that between the parties in the name of his widow & heirs—

No objection has been urged against the validity of the claim and as it was confirmed by the Board and no reason have been alleged in this Court for reversing their decision we do not conceive it necessary to recapitulate the testimony in this case—

It is sufficient to say that the land appears to have been in the possession of the deceased claimant for more than 20 years prior to his death. He seems to have lived on it with his family and cultivated and raised stock upon it after the manner of his country men—

The genuineness of the original grant is fully established &

Office of the Board of Commissioners,

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

San Francisco, June 23 1854

John A. Monroe Esq.
Clerk of the U. S. District Court for the
Northern District of California.

Sir;

I herewith transmit you, pursuant to the requirements of the Act of Congress, approved August 31st, 1852, a Transcript of the Record of the Proceedings and of the Decision of this Board, of the Documentary Evidence and of the Testimony of the witnesses upon which the same is founded, in Case No. 141 on the Docket of the said Board, wherein José Maria Alviso is the Claimant against the United States, for the place known by the name of Milpitas and request your receipt for the same.

I am, Respectfully,
Your Obt Servant,

Geo: Fisher
Recr