CASE NO.

46

NORTHERN DISTRICT

ARROYO de LAS NUECES

y

BOLBONES GRANT

JUANA SANCHEZ de PACHECO

CLAIMANT

LAND CASE 46 ND pgs. 343

MAR 19 1963

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TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 168

Juana Sanchez de Pacheco CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Arroyo de los Nueces y Bolbonés"

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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* sixth *day of* April, *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 Juana Sanchez de Pacheco *for the Place named*

"Arroyo de los Nueces y Bolbones"

was presented, and ordered to be filed and docketed with No. 168 *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 Jan. 8th. 1853.

In Case No. 168, Juana Sanchez de Pacheco, for the place named "Arroyo de los Nueces y Bolbones" the deposition of Antonio Maria Pico, a witness in behalf of the Claimant, taken before Commissioner Harry I. Thornton was filed, and is in the words and figures as follows to wit:

(Vide page 11 of this Transcript)

San Francisco Mar. 8th. 1853.

In Case No. 168 Juana Sanchez de Pacheco, for the place named "Arroyo de los Nueces y Bolbones" the Counsel for the Claimants filed the following Stipulation to wit: (Vide page 6 of this Transcript)

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San Francisco March 10th 1853

In Case No. 168 Juana Sanchez de Pacheco, for the place named "Arroyo de los Nueces y Bolbones" the deposition of H. W. Halleck, a witness in behalf of the Claimant, taken before Commissioner Hiland Hall, was filed and is in the words and figures as follows to wit:

(Vide page 5 of this Transcript)

San Francisco. Mon. 14th 1853.

Ordered on Motion of the United States Law Agent that Case No. 168 Juana Sanchez de Pacheco for the place named "Arroyo de los Nueces" be placed on the Trial Docket.

San Francisco March 28th 1853

Case No. 168 Juana Sanchez de Pacheco for the place named "Arroyo de los Nueces y Bolbones" called: the Counsel for the Claimant, Mr. Halleck, read the petition and the papers in Evidence, the Unites S. Associate Law Agent read and filed his Brief: Submitted and taken under advisement by the Board.

San Francisco apl. 11th 1853

In Case No. 168 Juana Sanchez de Pacheco for the place named "Arroyo de los Nueces y Bolbones", Commissioner Hiland Hall delivered the Opinion and the Decree of final Confirmation: which Opinion and Decree are as follows to wit:

(Vide page 32 of this Transcript)

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Petition

To the Honorable Commissioners to Settle private land Claims in California.

The petitioner, Juana Sanches de Pacheco, respectfully shows: That on the 15th day of May A.D. 1834 she applied in due form for the tract of land included between the Arroyo de las Nueces & the Sierra de Salgones; that said application having been duly examined & reported upon, on the 11th day of July A.D. 1834, José Figueroa, Governor of California, by virtue of authority in him vested, granted to the petitioner the said tract of land, situate in the present County of Contra Costa, containing two square leagues, a little more or less, as shown by the corresponding map & described in the title papers; which grant was duly approved on the 22d day of July A.D. 1834; & that the aforesaid Governor Figueroa accordingly issued to the petitioner the formal title for the said land on the 31st day of July A.D. 1834; all of which is shown in the Expediente a certified copy of which is submitted herewith marked A. with a translation marked B. That the said land has not been surveyed by the Surveyor General of the United States, but that its boundaries are fully described in the title papers, & are well known. That the petitioner has been for about 20 years, & now is, in the quiet, peaceful & undisputed possession & occupation of the aforesaid tract of land.

That she knows of no conflicting claim; That she relies for confirmation of title upon the original papers copies of which are submitted herewith, upon the records of the Archives now in the charge of the Surveyor General, & upon such other & further proofs as she may be advised are necessary;

Wherefore she prays the Commissioners to confirm to her the aforesaid tract of land.

By her Attys.
Halleck, Peachy & Billings.

Filed in Office April 6th 1852.
Geo. Fisher.
Sec

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San Francisco Jany 8th 1853.

On this day before Comr Harry I Thornton came Antonio Maria Pico a witness in behalf of the Claimant Juana Sanchez de Pacheco petition No 168, & was duly sworn, his evidence being interpreted by the Secretary.

The U. S. Associate Law Agent was present.

Deposition of Antonio Maria Pico.

My name is Antonio Maria Pico, my age is 44 years; I reside in San José & have resided in California all my life.

I know the Rancho claimed by Juana Sanchez de Pacheco, it is situated in the County of Contra Costa. It was granted to Mrs Pacheco by Govern- or Figueroa in 1834. Mrs Pacheco or her servants & vaqueros have occupied it ever since, with a house & with cattle & horses; they have cultivated a small portion of it. Her grand children live on it now.

Antonio Mª Pico.

U. S. Law Agent present.
Sworn & subscribed before me
this 8th of Jany 1853.

Harry I. Thornton.

Filed in Office Jany 8th 1853.

Geo. Fisher.
Secy.

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San Francisco March 10th 1853.

On this day before Comr Hiland Hall, came H. W. Halleck a witness, in behalf of the claimant Doña Juana Sanchez de Pacheco, petition No 168, & was duly sworn, his evidence being given in English.

The U. S. Law Agent was present.

Deposition of H. W. Halleck.

My name is H. W. Halleck; I reside in San Francisco, I have lived in California between 6 & 7 years; I held the Office of Secty of State from 1849 to end of 1849 & as such had charge of the Government Archives. On August 1849 Doña Juana Sanchez de Pacheco, the claimant in this case applied to me for a copy of the expediente of her Rancho called, "El Arroyo de los Nueces y los Golgones," saying that she had lost the original.

I am now her Agent & Atty, & represent her in this claim. She is an old woman, lives in San José, & from age & infirmity cannot appear before the Commissioners. I have understood from her for the last 4 years that the original title has been lost, & as her Agent I swear that to the best of my knowledge & belief said original is not now in existence, & that the title in the Expediente filed in this case is a true copy of said original, the same being a certified copy from the Records of the former government.

H. W. Halleck.

Sworn & Subscribed
Before me
Hiland Hall.
Comr.

Filed in Office March 10th 1853.

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Geo: Fisher.
Secy.

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No 168.

Before the U. S. Land Commission

In the claim of Juana Pacheco.

"Arroyo de las Nueces y Suiza de Bolbones."

Stipulation

It is this case it is agreed between the Counsel of the Claimant & the Law Agent of the United States, that all the laws, decrees, ordinances, & regulations, whether of Spain or Mexico, & especially, the colonization law of Mexico passed on the 18th August 1824 & 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 & duly proven.

Hallett, Pacheco & Billings.
Counsel for Claimant.

R. Grundon.
Asst Law Agent U. S.

Filed in Office March 8th 1883.
Geo Fisher.
Secy.

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Jurisdiccion de Año de
Sn Josè Guad.e No. 40 1834.

Espediente

Sobre el terreno comprendido entre el Arroyo de las Nueces y los Bolbones

Solicitado Por

Da. Juana Sanchez de Pacheco.

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236.

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Sello tercero dos Reales.

Habilitado provicionalmente por la administracion de la Aduana Maritima de Monterey para los años de Mil Ochocientos treinta y cinco. Rafael Gonzalez
Sor. Gefe. Sup.r Politico. Seguerda

Expediente

Monterey Junio 2 de 1834.

De conformidad con las leyes de la Materia informe el ayuntamiento del Pueblo de San Josè Guadalupe, sila interesada en esta instancia obserè los requisitos prevenidos para ser atendida à su Solicitud ò el terreno q.e pretende esta comprendido entas Deinte leguas limitrofes ò Diz litorales que espresa la ley de 18 Agosto de 1824. Si es de Regadio.

Juana Sanchez, Viuda del finado Miguel Pacheco vecino y resdente en el Pueblo de S.n Josè de Guadalupe; ante V. S. en debida forma se presenta y eschone: que hallandose dueña de algun numero de ganado mayor vacuno y caballar cuyos intereses son el unico socorro de que depende el mantenimiento de su familia; carece de la propriedad de un terreno en que establecer sus dhas Propriedades; en esta virtud, ocurre à la recta Justicia de V. S. à fin de que en uso de sus facultades, se digne agraciarle ~~~ con la concesion del terreno que contiene, el diseño que acompaña: Por tanto A. V. Suplica provea segun Juzgue de Justicia y de su Sup.r Agrado en que recibira merced. Pueblo de San Josè de Guadalupe 15 de Mayo de 1834. Juana Sanchez de Pacheco.

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temporal ó abrevadera, si pertenece à la pro=
=piedad de algun particular, Mision
Corporacion ó Pueblo con todo lo demas
que sea conveniente á ilustrar la Materia
El Sôr. D. Josè Seiguera general de
Brigada, Comandte General y Gefe
superior Politico de la Alta California
Asi lo mandó, decretó y firmó
Josè Seiguera
Augustin V. Zamorana. Srio
En cumplimiento al Supremo decreto qe.
antecede, Digo; qe. la parte interesada
obtiene los requisitos prevenidos para ser
atendida en su Solicitud, qe. el terreno
qe. pretende no esta comprendido en las veinte
leguas limitrofes ni en las diez litorales qe. espresa
la ley de 18 de Agto. de 1824. es de temporal
y abrevadero, y no pertenese à propiedad
particular, Mision, corporacion, ni Pueblo.
Pueblo de S. Josè Guadpe. Junio 17 de 1834
Pedro Chaboya. Josè Fernandez.
Monterey Junio 30 de 1834.
Pasè ál. Alcalde de esta Capital ante quien
la parte de Doña Juana Sanchez. de
Pacheco producirá una informacion de
sus testigos, à donde se hallen interrogados
sobre los puntos siguientes: 1º Si la
Solicitante es Mejicana por nacimiento
si es casada y tiene hijos, si es de buena
conducta. 2º Si el terreno que pretende
pertenece á la propiedad de algun par=
=ticular, Mision Pueblo ó corporacion.
si es de regadio temporal ó abrevadero y que
estencion tendrá. 3º Si tiene breñales de
campo con qe. poblarlo ó posibilidad de
adquirirlos. Evacuadas estas diligencias
vuelva el expediente para su resolucion
El Sôr D. Josè Seiguera general de
Brigada commandte general Inspector

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y Gefe Superior Politico de la Alta California. Asi lo mandó decreto y firmó de que doy fè. José Figueira Agustin V. Zamorano. Monterey Julio 8 de 1834 En cumplimto del Supo decreto del Sor Gefe Supo Politico de fha 30 del mes (Sello tercero dos Reales) Habilitado provicionalmente por la Administracion de la Aduana Maritima de Monterey para los años de Mil Ocho Cientos Treinta y cinco Figueira — Rafael Gonzalez. — Pp. tomese la informacion de tres testigos idoneos que seran interrogados sobre los tres puntos que menciona dicho Supo decreto. Asi yo el Alcalde Constitucional lo decreté, mandé y firmé con testigos de Asistencia. en la forma establecida Doy fè. De ass. Manuel Jimeno Casarin José Antonio Romero — José Joaquin Gomez. En la fecha presente la parte de Doña Juana Sanchez de Pacheco. se le notificó el acto que antecede y entendido dijo que lo oye y no firmó pr no saber. Lo hizé yo con los testigos de Asistencia. Conste José de ass. antonio Moreno José de ass. joaqn Gomez. Sello tercero Dos Reales. (Habilitado provicionalmente por la Administracion de la Aduana Maritima de Monterey para los años de mil ocho cientos treinta y cuatro y Mil ocho cientos y treinta y cinco. Figueira. Rafael Gonzalez) 260 En fha presente el Vecino José le recibio juramto en toda forma de derecho por el cual ofrecio, decir verdad en lo que supiese y fuese preguntado y siendo por su nombre, estado, edad, empleo, patria y religion. Dijo. llamase como queda

11 No 168-1

Here follows Maps

12 No 168-1

Here follows

Maps

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dicho que es casado de treinta y Siete años Labrador natural del Pueblo de San Josè Guadalupe en este Territorio y C. A. R. (interrogado) Sobre los tres puntos que menciona el referido Sup.r decreto del Sor Jefe Politico de fha 30 del mes pp.r Dijo. que conoce à Doña Juana Sanchez de Pacheco que es Mejicana por nacimiento viuda y tiene hijos, y es de buena conducta: que tam=bien conoce el terreno que pretende dicha Dña. Pacheco y no pertenece à la propiedad de ninguna particular, Mision, pueblo ó rancheria corporacion ninguna, que dicho terreno no es de regadio, y si es de temporal y a=brevadero, y que le tendrá de longitud poco mas ó menos de dos leguas y media y de latitud como dos leguas, que ul=timamente la espresada Dña Juana Sanchez de Pacheco tiene brenes de Campo con que poblar el mencionado terreno. Que lo dicho es la verdad. ha Cargo del juramto: que tiene hecho en el que ratificó, leida, que le fué esta su declaracion y no firmió porque dijo no saber lo hizo yo con los testigos de Asis=tencia. Casarrubias.

De asistencia
José Antº Romero

de asistencia
José Joaquin Lopez

En la fha presente el vecino Manuel Peña de le recibio juramto en toda forma de derecho por lo cual ofreció. decir la verdad en lo que supiese y fuese preguntado y siendolo por su nombre estado, edad, empleo, patria y religion Dijo: Llamarse como queda dicho, casado de Veinte y Ocho años, Labrador, natural del Presidio de San Diego en este terri=torio y C. A. P.

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(Interrogado) Sobre los tres puntos que menciona el dicho Sup.r decreto del

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Sor Jefe Politico de esta 30 del mes p.p.
dijo: que conoce á Doña Juana Sanchez
de Pacheco: que es viuda, y tiene hijos
y es de buena conducta, que es Mexicana
por nacimiento. que. (Sello tercero dos reales
Habilitado provicionalmente por la
administracion de la Aduana Maritima
de Monterrey para los años de Mil ocho
cientos treinta y cuatro y mil ocho cientos
treinta y cinco.
Vergara — Rafael Gonzalez)

tambien conoce el terreno que pretende
y no pertenese á la propiedad de
ningun particular, Mision, pueblo y no
ha corrobacion ninguna, que dicho terreno
no es de regadio y si de temporal o
abrevadero, y tendra de longitud por
mas ó menos de dos leguas y media
y de latitud como dos leguas, que
fultan.te lo espresada Doña Juana
Sanchez de Pacheco tiene brenes de comp.
con que poblar el espresado terreno, que
lo dicho es la verdad ha cargo del
juram.to que tiene hecho con el que se
ratifico, leida que le fue esta su decla-
=racion y firmo conmigo y los testigos de
asistencia. Doy fee.
Casarin — Man.l Peña
de asst.e — de asst.e
Josè Ant.o Romero. — Josè Joaquin Gomez
En la fha presente el vecino Josè Fran.co
Palomares se le recibio juram.to en
259 toda forma de derecho por el cual ofre-
=ciò decir verdad en lo que supiese
y fuese preguntado, y siendolo por su
nombre, estado, edad, empleo, Patria
y Religion. Dijo llamarse como queda

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dicho que es casado, de Veinte y seis años labrador; Natural del Pueblo de San Josè Guadalupe en este territorio y C. de S. P. (Interrogado) Sobre los tres puntos que menciona el repetido Supr. decreto del Sor Jefe Politico de fha 30 del Mes ppo. Dijo que conoce à Doña Juana Sanchez de Pacheco que es Mejicana por Nacmto. viuda tiene hijos y es de buena conducta, que tambien conoce el terreno que pretende dicha Dra. Pacheco y no pertenece à la propiedad de ninguna particular, Mision Pueblo y nò ha corporacion ninguna, que dicho terreno no es de regadio y sì de temporal y abrevadero, y que tendrá de longitud poco mas ò menos dos leguas y de latitud como dos leguas. Que ultimamente el mencionado terreno puede poblarse con los bienes de campo que tiene la espresada Doña Juana Sanchez de Pacheco, que lo dicho es la verdad. ha Cargo del juramto. que tiene hecho en el que lo afirmó y ratificó leida, que le fuè esta sw. (Sello tercero Dos Reales. Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterey para los años de Mil Ocho Cientos Treinta y cuatro y Mil ocho cientos treinta y cinco.

Sr. Ejecutora. Rafael Gonzalez.)

declaracion y no firmó por que dijo no saber hacer lo hice yo con los testigos de Asistencia. Doy fee. (Rubrica.

de Asst. de Asstes.

260 Josè Antº Romero. Jose Joaquin Gomez

Monterey Julio 8 de 1834.

Concluidas las antecedtes. diligencias vuelva el espedte. al Sor Jefe Supo.

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Politico para su resolucion. Asi yo el Alcalde Constitucional lo decreté, mandé y firmé con los de Asistencia con quienes actuo por falta de escribano publico que no lo hay seg.te dicho. Doy fee.
Manuel Jimeno Casarin.
de Asst.a de Asst.a
Josè Ant.o Romero Josè Joaquin Gomes.
Monterey Julio 11. de 1834.
Vista la peticion con que dió principio este espediente el informe de la autoridad municipal del pueblo de San Josè Guadalupe las esposiciones de los testigos con todo lo demas que se tubo presente y ver convino: de conformidad con lo dispuesto por las leyes y reglamentos de la Materia se declarò à Doña Juana Sanchez de Pacheco duena en propiedad del Terreno comprendido entre el Arroyo de las Nueces y Sierra de los Golgones, colindante con los citados parajes y con los ranchos de las juntas, San Ramon y Monte del Diablo y sujeto à las condiciones que se estipularen. Dirijase este expediente à la Exma. Diputacion para la debida aprovacion. El Sor. D.n Josè Figuera general de Brigada, Commandante General, Inspector y Jefe Superior politico del Territorio de la Alta California. Asi lo mandó decretó y firmó de que doy fee.
Josè Figuera. Agustin O. Zamorano
Monterey Julio 12 de 1834.
En Sesion de este dia acordó la Exma. Diputacion pase à las comisiones unidas de Hacienda y Guerra el oficio del Sor. Habilitado provisionalmente por la administracion de la Aduana Maritima de Monterey para los años de mil Ocho-

266 Sello tercero Dos Reales.

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cientos treinta y cuatro y mil ocho cientos treinta y cinco.
Figueroa. Rafael Gonzales.
Colonizacion y terrenos Baldios.
Figueroa. Josè Maria Maldonado.

Excmo: Sor.

Las Comisiones unidas de Colonizacion y terreno Baldios, han visto con esmero la escrupulosidad con q. se mando practicar este espediente, no encontrando en el estravio alguno y viendo en todo conforme con la Ley de 18 de Agosto de 1824 y el Articulo 5to del Bando de 21 de Noviembre de 1828.

Por lo dicho concluye la comision ofreciendo à la deliberacion de esta Excma Diputacion la siguiente proposicion.

Sea aprobada la concecion hecha à Dona Juana Sanchez de Pacheco del paraje comprendido entre el Arroyo de las Nueces y los Bolbones. Concedido en 11 de Julio de 1834. Monterey Julio 15 de 1834.
Josè Ortega. Santos Ant. Carillo
Josè. M. Estudillo.

Dada Cuenta à la E. Diputacion en Sesion de hoy, con el antecedente dictamen Aprovò la inclusa proposicion en que concluye cuya letra es como sigue.

238 Se aprueva la concesion hecha à D. Juana Sanchez de Pacheco, del paraje comprendido entre el Arroyo de las Nueces y los Bolbones. Concedido en 11 de Julio de 1834.

Y en su consecuencia se desvuelve el Espediente al S. Gefe Superior Politico p. su curso. Monterey Julio 22 de 1834.
Josè Figueroa. Josè Maria Malbonado.

(Sello tercero) Dos Reales. Administracion de
Habilitado provisionalmente por la Aduana
Maritima de Monterey para los años de
Mil Ocho Cientos treinta y cuatro y Mil
Ocho Cientos treinta y Cinco.
Figuera Rafael Gonzalez)

Monterey Julio 31 de 1834
En Vista del Acuerdo de la Excelentisima
Diputacion Territorial del dia 22. del
que avava en conformacion del Terreno
comprendido entre el Arroyo de las Nueces
y los Golgones pretendido por Doña Juana
Sanchez de Pacheco: libresse el Titulo
respectivo. tomese razon en el libro à que
corresponde y entreguese à la interesada
para su resguardo y demas fines: El
Sr: Dn. Josè Figuera General de Bri=
=gada, Commandte. General, Inspector
y Gefè Superior Politico de la Alta
California. Asi lo firmó decreto de
que doy fè.
Josè Figuera. Agustin O. Zamorano.

Josè Figuera, General de Brigada de
la Republica Mexicana, Commandte
General Insp.te y Gefè Superior Politico
del Territorio de la Alta California.
Por-Cuanto Dª. Juana Sanchez de Pa=
=checo Mexicana p.r Nacimiento ha
pretendido p.r su beneficio personal y
el de su familia. El terreno compren=
=dido entre el Arroyo de las Nueces
y la Sierra de los Golgones: colindante
con los Citados parajes y los Ranchos de
la Junta Dr. Ramon y Monte del
Diablo: practicada previamente las

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diligencias y averiguaciones concernientes
segun lo dispuesto: ps. leyes y reglamentos
usando de las facultades q. me son
conferidas y de conformidad con el
acuerdo de la Excma. Diputacion Terri=
=torial del dia 22 del Corriente aprovando
la Concesion del citado Terreno compren
=dido entre el Arroyo de las Nueces y
Sierra de los Golgones. echa en 11 de
este Mes à la referida D.a Juana Sanchez
de Pacheco: a Nombre de la Nacion
Mejicana he venido en conferirle el
terreno mencionado, declarandole la pro=
=piedad de el por las presentes letras, su=
=jeta à las condiciones siguientes.
1a Que se someterá à la q. establece
el Reglamento que se ha de formar p.a=
la distribucion de Terrenos Baldios.
y q. entretanto ni el agraciado. ni sus
herederos podrán dividir, ni enagenar
el que se le agudica: imponer censo
Vinculo, fianza, reversion, ni otro gravamen
aun q. sea p.a Causa piadosa, ni pasarlo
à manos muertas.
2a Podrá cercarlo sin perjudicar las
travesias, caminos, y servidumbres: lo
disfrutará libre y esclusivamente des=
=tinandolo al uso ó Cultivo q. mas le
acomode: pero dentro de un año à lo mas
fabricará Casa, y estará habitada.
3a Solicitará del Juez respectivo le dé
posecion juridica en Virtud de este
despacho, por el cual se demarcaran
los linderos en cuyos limites pondrá á
mas de las Mojoneras algunos arboles
frutales ó Silvestres de alguna utilidad.
4a El terreno de que se hace mencion
es de dos sitios de ganado mayor sobre
poco mas ó menos segun espresa el

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diseño q.e corre en el expediente. El Juez que diera la posecion lo hará medir conforme á Ordenanza hará señalar los linderos. quedando el Sobr.te y Nueva á la Nacion p.r los usos convenientes 5.ta Si contraviniese á estas condiciones perderá su derecho al terreno y será denunciable p.r otro.
En consecuencia mando que teniendose p.r prueba y Valedero este Titulo se tome Razon de el en el Libro á q.e corresponde y se entregue á la interesada p.r su resguardo y demas fines.
Dado en Monterey á 31 de Julio de 1834.
Jose Figueras
Agustin V. Zamorano. Srio

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 & Mexican Territory or Department of Upper California do hereby Certify that the Nineteen preceeding and hereunto annexed pages of Tracing paper numbered from one to Nineteen inclusive and each of which is verified by my initials (S.D.K) exhibit true and accurate copies of Certain Documents on file and forming part of the said Archives in this Office.
In Testimony whereof I have hereunto signed my name officially and affixed my private Seal (not having a Seal of Office) at the City of San Francisco Cal. this 30th day of March A.D. 1852.
(Signed) Saml D. King
Surveyor Gen.l Cal.
Filed in Office Surv.r Gen.l Cal.
April 6th 1852
Geo. Tinsha Secty.

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Stamp Third, Two reales.

Provisionally authorized by the administration of the Maritime Custom House of Monterey, for the years eighteen hundred & thirty four & eighteen hundred & thirty five.

Signed/ Figueroa. Signed/ Rafael Gonzalez.

Translation of Espediente.

Monterey June 2nd 1834.

In conformity with the laws on the matter, let the Ayuntamiento of the pueblo of San José Guadalupe report whether the person entrusted in this petition possesses the prescribed qualifications to be attended to in her petition whether the land petitioned for is included in the twenty leagues from the boundary or ten from the sea specified in the law of Aug 18 1824 whether it is irrigable, depending on the seasons or pasture land — whether it belongs to the ownership of any individual, mission corporation or pueblo, with all other information which may conduce to

To the Superior Political Chief.

Juana Sanchez, widow of the deceased Miguel Pacheco, resident & settled in the Pueblo of San José de Guadalupe, before your Honor in due form, as pursuant & represents, that being the owner of a number of neat cattle & horses which property is the only source which depends the maintainance of her family, she is in want of a piece of land to establish her said property, in virtue of which, she applies to the superior justice of your Honor, that in the exercise of your powers, you would be pleased to favor her with the grant of the land contained in the map which she transmits. Wherefore she prays your Honor, to determine as you may think just, & your superior pleasure — in which she will receive favor —

Pueblo de San José Guadalupe, 13th of May 1834.

Signed/ Juana Sanchez de Pacheco.

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upon the matter.

Señor Don José Figueroa, General of Brigade, Commanding General, & Governor of the Superior California, thus ordered, decreed & signed—to which I certify.

(Signed) José Figueroa.

(Signed) Agustin V. Zamorano. Secretary—

In compliance with the foregoing Superior decree, I say, that the party interested presents the prescribed qualifications to have her petition attended to—the land petitioned for is not included within the twenty leagues from the boundary, nor in the law from the sea-shore, referred to in the law of Aug 18 1824—it is land depending on the seasons, & pasture land, & belongs to no private ownership, nor to that of any mission, corporation or pueblo.

Pueblo de San José Guadalupe June 17/1834. (Signed) Pedro Chabaya.

(Signed) José Fernandez. Secretary—

Monterey June 30/1834.

Pass this to the Alcalde of this Capital, before whom the party Doña Juana Sanchez de Pacheco, will produce the information of three fit witnesses, who will be questioned upon the following points—

1st Whether the petitioner is a Mexican by birth, whether she is married & has children & whether she is of good conduct. 2d Whether the land she petitions for belongs to the ownership of any private individual, mission, pueblo, or corporation: whether it is irrigable, depending on the seasons, or pasture land, & what its extent is. 3d, Whether she has cattle with which to stock it or a possibility of acquiring such.

These examinations being made, this expediente will be returned for its decision.

Señor Don José Figueroa, General of Brigade, commanding General, Inspector & Governor of the Superior California, thus ordered, decreed & signed, to which I certify.

(Signed) José Figueroa.

(Signed) Agustin V. Zamorano. Secretary.

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Monterey, July 8th 1834.

In compliance with the Superior decree of the Superior Political Chief of the 30th of last month, let the information be taken of three competent witnesses who will be questioned upon the three points which said Superior decree mentions. I the Constitutional Alcalde thus ordered, decreed & signed, with assisting witnesses in the established form. I certify

Assisting witnesses
Signed/ José Antonio Romero. (Signed/ Manuel Pena
Signed/ José Joaquin Gomez. (Signed/ Simeno Casarin

On this same day the party, Doña Juana Sanchez de Pacheco, was notified of the foregoing act, & having understood it, she said that she heard it, & did not sign because she did not know how, & did so with the assisting witnesses.

Assisting witnesses (Signed/ Casarin.
Signed/ José Antº Romero.
Signed/ José Joaquin Gomez.

In the same date, present the resident José Sibrian, oath was received of him in due form of law, by which he promised to speak truth, in that which he might know & be asked - & being questioned as to his name, state, age, occupation, county & religion, he said he is called as aforesaid, is married, thirty seven years of age, a farmer, native of the pueblo of San José Guadalupe in this Territory & Apostolic Roman Catholic. Questioned upon the three points specified in said superior decree of the Superior Political Chief, dated the 30th ultimo, he answered - That he is acquainted with Doña Juana Sanchez de Pacheco, that she is a Mexican by birth, a widow, & has children, & is of good conduct, he also knows the land petitioned for by said Señora Pacheco, & that it does not belong to the ownership of any private individual, Mission, Pueblo, or corporation whatever, said land is not irrigable, but does depend on the rains & is pasture land, that its length is about two & a half leagues a little more or less, & its breadth about two leagues, & lastly that the said Señora Juana Sanchez

de Pacheco has cattle (bienes de campo) with which
to stock the aforesaid land. That what he has said
is the truth, by the oath which he has taken & this
his declaration having been read to him he ratified
it, & did not sign because he said he did not know
how; & did so with the assisting witnesses.
Assisting Witnesses (Signed) Casanin.
Signed) José Antº Romero.
Signed) José Joaquin Gomez.
On the same date, present the resident Manuel
Pena, an oath was received of him in due form
of law, by which he promised to speak the truth
in all that he might know & be asked, & being ques-
-tioned as to his name, state, age, occupation,
country & religion, he said — he is named as
before stated, is married, twenty eight years old,
a farmer, native of the presidio of San Diego in
this Territory, & a practical Roman Catholic.
Questioned upon the three points referred to in
the superior decree of the Political Chief, dated
30th ultº, he answered — that he is acquainted
with Doña Juana Sanchez de Pacheco, that she
is a widow, has children, & is of good conduct, &
that she is a Mexican by birth — That he also
knows the land petitioned for & that it does not
belong to the ownership of any individual, mission,
pueblo, or corporation whatever; that said land is not
irrigable, but is dependent upon the seasons & pasture
land; its length may be two & a half leagues, more
or less, & its width two leagues; & lastly that the said
Doña Juana Sanchez de Pacheco has cattle (bienes
de campo) with which to stock the land aforesaid,
that what he has said is true by the oath which
he has taken, & this declaration been read to him
he ratified it & signed with me & the assisting
witnesses. I certify. (Signed) Casanin.
Assisting witnesses (Signed) Manuel Pena.
(Signed) José Antº Romero.
350 (Signed) José Joaquin Gomez.

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In the same date, I went the resident José Francisco Palomares, & the was received of him in due form of law, by which he promised to speak truth in all that he might know & be asked - & being questioned as to his name, age, state, occupation, country & religion, he said - he is called as has been stated, he is married, twenty six years old, a farmer, native of the Pueblo of San José Guadalupe in this Territory, & apostolic Roman Catholic.

Questioned upon the three points mentioned in the aforesaid superior decree of the Political Chief, date the 30th ult°, he said - that he is acquainted with Doña Ynana Sanchez de Pacheco, that she is a Mexican by birth, a widow, has children, & is of good conduct. That he also knows the land petitioned for by said Doña Pacheco, & that it does not belong to any individual, mission, pueblo, or corporation whatever. That the said land is not irrigable, but is dependent upon the seasons & pasture land - its length may be two leagues, more or less, & its breadth about two leagues; & lastly that the said land may be stocked with the cattle that the afore mentioned Doña Ynana Sanchez de Pacheco has; - that what he has said is the truth, by the oath which he has made, by which he affirmed & ratified this, his declaration having been read to him, & did not sign, because he said he could not, & I did so with the assisting witnesses. I certify. Signed/ Casanova.

Assisting witnesses
Signed/ José Ant° Romero.
Signed/ José Joaquin Gomez.

Monterey July 8th de 1834.

The foregoing examinations being concluded, let this espediente be returned to the Superior Political Chief for its decision.

I, the Constitutional Alcalde, thus decreed, ordered, & signed with those of my assistance, with whom I act for want of a Notary Public (there being none) according to law. I certify.

Assisting witnesses (Signed) Manuel Jimeno Casanova
Signed/ José Ant° Romero. Signed/ José Joaquin Gomez.

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Monterey, July 11th 1834.

Having seen the petition with which this Expediente commences, the report of the municipal authority of the Pueblo of San José Guadalupe, the depositions of the witness with all other things borne in mind & dum-ed in proper to be seen, in conformity with that re-quired by laws & regulations on the matter Doña Juana Sanchez de Pacheco is declared owner in fee of the land included between the Arroyo de las Nuas & the Punta de los Golgones, bounded by the said places, & by the ranchos of San Ramon, Las Juntas, & Monte del Diablo; & subject to the conditions which may be stipulated yet. Let this expediente be directed to the Most Excellent Deputation for its due approval.

Signed Don José Figueroa General of Brigade Commanding General, Inspector & Governor of the Territory of Upper California, thus ordered, decreed & signed, to which I certify. Signed Agustin V. Zamorano — Secretary —

Signed José Figueroa.

Monterey July 12 1834.

In session of this day the Most Excellent Depu-tation, directed that this be passed to the united Committees on Colonization & Vacant Lands.

Signed José Maria Maldonado Signed Figueroa.

Secretary —

Most Excellent Sir.

The joint Committees on Coloniza-tion & Vacant Lands have maturely considered the circumstances with which this, this expediente was ordered to be formed, & not finding in it any deviation, & being in all things in conformity with the law of August 18 1824 & article 5 of the regu-lation of November 21 1828.

For the aforesaid reasons, the committee con-cludes by offering to the deliberation of this Most Excellent Deputation the following proposition.

320 They approve the grant made to Doña Juana

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Sanchez de Pachuco, of the place included between the arroyo de las Nueces & the Bolbones, granted on the 11th of July 1834.
(Signed) Carlos Antº Monterey July 15th 1834.
Carrillo. (Signed) José D. Ortega.
(Signed) José A. Estudillo.
The foregoing report having been transmitted to the Most Excellent Deputation, it approved the only proposition with which it concludes, which is to the letter, as follows.
They approve the grant made to Doña Juana Sanchez de Pachuco of the place included between the Arroyo de las Nueces & the Bolbones, granted on the 11th of July 1834. And in consequence the espediente is returned to the Superior Political Chief for its further disposition.
Monterey July 22 1834. (Signed) José Figueroa.
(Signed) José Maria Maldonado. Secretary.
Monterey, July 31 1834.
In view of the resolution of the Most Excellent Territorial Deputation of the 22nd of this month, confirming the (grant of the) land included between the Arroyo de las Nueces & the Golgones, petitioned for by Doña Juana Sanchez de Pachuco, let the proper title be issued, let note be made in the corresponding book & let this be delivered to the person interested for her security & other purposes. Señor Don José Figueroa, General of Brigade, Commanding General, & Inspector and Governor of Upper California, thus ordered, decreed, & signed to which I certify.
(Signed) José Figueroa.
(Signed) Agustin V. Zamorano. Secretary.
José Figueroa, General of Brigade of the Mexican Republic, Commanding General, Inspector & Governor of the Territory of Upper California.
Whereas, Doña Juana Sanchez de Pachuco, a Mexican by birth, has for her own personal benefit & that of her family, petitioned for the land included between the Arroyo de las Nueces & the Sierra de los Golgones, bounded by said places & by the

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ranchos of Las Pulgas, San Ramon & Monte del Diablo; the proper measures & examinations being previously made as required by laws & regulations by virtue of the powers which are conferred on me, & in conformity with the resolution of the Most Excellent Territorial Deputation of the 22nd inst approving the grant of said land included between the Arroyo de las Nueces & the Sierra de los Golgones, made on the 11th of this month to the said Doña Juana Sanchez de Pacheco; in the name of the Mexican Nation I have granted her the aforesaid land, declaring to her the ownership of it by these presents, subject to the following conditions. — 1st She shall submit to those conditions which may be established in the regulation to be made for the distribution of vacant lands, & in the meantime, neither the grantee nor her heirs can divide or alienate that which is granted her, subject it to tax, entail, pledge, mortgage, or other incumbrance, even for religious purposes, or convey it in mortmain. 2nd She may enclose it without prejudice to the crossings, roads, & servitudes, & enjoy it freely & exclusively, making such use or cultivation of it as she may see fit, but within one year at furthest, she shall build a house & it shall be inhabited. 3rd She shall ask the proper magistrate to give her juridical possession in virtue of this title by whom the boundaries shall be marked out, in the limits of which she shall place, besides the bounds some fruit or forest trees of a useful character.
4th The land of which mention is made is two square leagues, a little more or less, as shown by the map which goes with the espediente. The magistrate who may give the possession will cause it to be measured in conformity with the ordinance, for the purpose of marking out the boundaries leaving the surplus which may result, to the Nation for its convenient uses. 5th If she contravene these conditions, she will lose her right to the land,

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and it may be denounced by another person.
In consequence Order that this title being held
as firm & valid, note be made of it in the corres-
-ponding book, & it be delivered to the person
interested for her security & other purposes.
Given in Monterey on the 31st of July 1834.
(Signed) José Figueroa.
(Signed) Agustin V. Zamorano. Secretary-

E. C.
R. P.

I, certify the foregoing to be a true &
correct translation of an authenticated fac-
-simile copy of the Original Spanish Docu-
-ment on file in the Office of the U. S. Surveyor
Genl, which authenticated "Copy" is on file in
this Office in Case No 168, Juana Sanchez
de Pacheco, for the place named Arroyo de las
Nueces y Bolsones.

Geo. Fisher
Surv.

Filed in Office April 6th 1852. Geo. Fisher.
Secy.

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Opinion.

No 168. Juana Sanchez de Pacheco, claimant.

The claim is for a tract of land of two square leagues in extent called "El Arroyo de los Nueces y Los Golgones" situated in the County of Contra Costa. It appears by an official copy from the public archives now in the Office of the Surveyor General that the claimant in May 1834 petitioned the Governor of the Territory of California for the land now claimed, that after a reference of her petition to the local authorities & their favorable report on the same, Governor Figueroa by decree of the 11th of July 1834 declared the claimant to be the owner of the land asked for, & transmitted the papers to the Territorial Deputation; that such Deputation on the 22nd of the same month approved of the grant; & that a title paper was issued to the claimant by the Governor on the 31st of the same month in due & usual form. It is also shown that the land has been occupied by the claimant by herself or servants; having a house upon it, raising cattle & horses & cultivating a small portion of it from that time to the present. The original grant is not produced but the Counsel for the claimant testifies to his belief of its loss, & that the claimant is unable to appear before the Commissioners to testify by reason of age and infirmity.

From the circumstances stated in the deposition of the Counsel there seems no reason to doubt that the original grant has been lost or destroyed.

The original draft of the grant duly signed by the Governor & attested by the Secretary is found in the Archives, & as the claimant appears to have been in possession under it from the time it was made, we perceive no valid objection to the confirmation of the claim, & we accordingly confirm it. Commissioner Thornton concurring in the result.

Hiland Hall.

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No 168. Juana Sanchez de Pacheco, Claimant.

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

Decree of Final Confirmation

It is decreed that the said claim be confirmed to the extent & quantity of Two Square Leagues, being the same land described in the grant of which an official copy from the office of the United States Surveyor General for California was given in evidence, & the same land of which the possession was proved to have been long enjoyed. Provided, that the said quantity of Two Square Leagues be contained within the boundaries called for in the said grant, & if there be less than the said above named quantity within the said bounds, then we confirm to the claimant that less quantity.

Given under our hands this 11th day of April 1853.

Hiland Hall.
Henry I. Thornton } Commissioners.

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Filed in Office April 11th 1853.
Geo. Fisher
Secy.

4153/4 = 4111/2 feet

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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 thirty three pages, numbered from 1 to 33, 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. 168 on the Docket of the said Board, wherein Juana Sanchez de Pacheco is the Claimant — against the United States, for the place known by the name of Arroyo de las Nueces y Bolbones

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

Geo: Fisher.

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"Arroyo

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No 46-

United States

vs

Juana Sanchez de Pacheco

On suggestion of the death of the claimant Juana Sanchez de Pacheco and on the petition of the parties herein after named and motion of A Plenticenden, their Attorney, ~~It is~~ made in Open Court it is Ordered that the claim be revived in the names of Roza Pacheco, Encarnacion Pacheco, Francisca Pacheco, Juan Soto and Petra Pacheco his wife, Sylvania Pacheco, Joaquin Ysidro Castro and Trinidad Pacheco his wife, Antonio Pacheco, Miguel Pacheco and Maria Ygnacia Pacheco minors appearing by their guardian Sebastian Peralta, Daniel Bowen a minor appearing by his guardian Joaquin Ysidro Castro, Juan Peralta, Francisco Garcia and Maria Antonia Peralta, his wife, Mariano Miranda and Maria de los Angeles Peralta his wife, and Joaquin Ysidro Castro and Frances Lightner Executors of the last will and

testament of the said Juana Sanchez de Pacheco, deceased, and that all proceedings in this cause be conducted in the names of said parties.

October 17. 1854.

U. S. Dist. Court.

No 46

The United States

vs.

Juana Sanchez de Pacheco,

Order that this claim be received in the name of Juana Sanchez de Pacheco, &c

Filed Oct. 17. 1854.

Benj. Hayes Clerk

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

Whereas the Commission Constituted for the purpose of ascertaining and settling Private land claims in the State of California by the act of Congress of the United States of America, approved on the 3d of March 1851 entitled "An act to ascertain and settle the Private land claims in the State of California," did on the 11th day of April 1853, by their decision of that date, decide against the claim of Juana Sanchez de Pacheco as the same was presented by said Claimant, which Claim is No 168 on the docket of claims before said Board and is for land lying in the said Northern District—

And Whereas the said Claimant has died since the date of said decision, and has by her last will and testament devised said land to Rosa Pacheco, Encarnacion Pacheco, Francisca Pacheco, Petra Pacheco, Sylvania Pacheco, Trinidad Pacheco, Antonio Pacheco, Miguel Pacheco, Maria Ygnacia Pacheco, Daniel Bowen, Juan Peralta, Maria Antonia Peralta, and Maria de los Angeles Peralta, now the said devisees together with Juan Soto, husband of the said Petra Pacheco,

Joaquin Ysidro Castro, husband of the said Trinidad Pacheco, and guardian of the said Daniel Bowen, a minor, Sebastian Peralta, guardian of the minors the said Antonio Pacheco, Miguel Pacheco, and Maria Ygnacia Pacheco, Francisco Garcia husband of the said Maria Antonia Peralta, Mariano Miranda husband of the said Maria de los Angeles Peralta, & Joaquin Ysidro Castro and Francis Lightstone Executors of the last will & testament of the said Juana Sanchez de Pacheco, being desirous that the said District Court should review the said decision, hereby give notice that it is their intention to prosecute the Appeal from said decision as is provided by the 12th Section of an Act Entitled "An act making appropriations for the civil & diplomatic expenses of the Government for the year ending the 30th June 1853 and for other purposes" which act was approved on the 31st of August 1852.

A. P. Crittenden
Atty. for Parties named.

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U. S. District Court.

No 46

United States.

~vs~

Juana Sanchez de Pacheco.

Notice by Claimant of intention to prosecute the Appeal. —

Filed Oct. 17, 1854

Inv. A. Inverarity

Clk

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No 46 Rosa Pacheco,
Encarnacion Pacheco } Appellants
and others
vs
The United States - Respondent

On motion of the appellants by A Plenttenden, their attorney, it is ordered by the Court that they have leave to take further evidence on their own behalf therein, as they are advised may be useful in support of their claim upon giving reasonable notice to the attorneys for the respective parties.

No. 46 two

U. S. Dist. Court.

Rosa Pacheco, et als.

— vs —

The United States.

Order allowing further evidence to be taken.

Filed Oct. 17, 1864.

J. Summerville
Clk

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

Your Petitioners Rosa Pacheco, Encarnacion Pacheco, Francisca Pacheco, Juan Soto & Petra Pacheco his wife, Sylvenia Pacheco, Joaquin Ysidro Castro and Trinidad Pacheco his wife, Antonio Pacheco, Miguel Pacheco & Maria Ygnacia Pacheco, the three last minors appearing by their guardian Sebastian Peralta, Daniel Bowen a minor appearing by his guardian Joaquin Ysidro Castro Juan Peralta, Francisco Garcia & Maria Antonia Peralta his wife, and Mariano Miranda and Maria de los Angeles Peralta his wife, and Joaquin Ysidro Castro and Francis Lightstone, respectfully represent to this Honorable Court that Juana Sanchez de Pacheco did heretofore as will fully appear by the transcript of the proceedings had before the Board of Commissioners to ascertain and settle the private land claims in the state of California now on file in this Court, present before the said Board while holding its sessions in the city of San Francisco, a claim for the land

lying in the State of California and in the Northern District and described in the said transcript, being Claim No: 168 on the list of Claims presented to the said Board under and by virtue of the act of Congress approved on the 3d. of March 1851.

That the claim of the said Juana Sanchez de Pacheco to the said land is founded upon a deed of Concepion thereof made to her, under authority of the Mexican Government by José Figueroa as Superior Political Chief of the Territory of Upper California, on the 11th of July 1834, approved by the Territorial Deputation on the 22d. of July 1834, and on a final grant and Concession of said land to her made by said Figueroa in the Capacity aforesaid and under the authority aforesaid on the 31st of July 1834, which said deeds, approved and granted are fully set forth with the proofs and testimony in the transcript aforesaid.

That the Claim of the said Juana Sanchez de Pacheco is for the whole of the tract of land included within the boundaries specified in said deed and grant, which boundaries include about

two and a half square leagues more or less.-

That on the 11th of April 1853 the said Board rejected said Claim in part, confirming it to the extent and quantity of two square leagues only, as will appear on reference to the decree of said Board Contained in the Transcript aforesaid.

That after the decree of said Board was made, to wit, on or about the 6th of September 1853 the said Claimant Juana Sanchez de Pacheco died.

That by her last will and testament she devised the said tract of land to your petitioners Rosa Pacheco, Francisca Pacheco, Encarnacion Pacheco, Trinidad Pacheco wife of your petitioner Joaquin Ysidro Castro, Sylvania Pacheco Daniel Bowen, Antonio Pacheco, Miguel Pacheco, Maria Ygnacia Pacheco, Juan Peralta, Maria Antonia Peralta, wife of your petitioner Francisco Garcia, Maria de los Angeles Peralta, wife of your petitioner Mariano Miranda, and Petra Pacheco, giving to Each of said devisees a certain interest therein which is specified in said last will and testament which interests

have not been divided nor set apart.

That by her said last will & testament the said Juana Sanchez de Pacheco appointed as Executors thereof your petitioners Francis Lightstone, called therein Francisco Lightstone, & Joaquin Ysidro Castro.

That the said last will & testament has been duly admitted to Probate by the Probate Court of the County of Santa Clara in the State of California, of which County the said Juana Sanchez de Pacheco was at the time of her death, and for a long time previous thereto had been a resident, and your petitioners Francis Lightstone & Joaquin Ysidro Castro have duly qualified as Executors and now produce and shew to the Court their letters testamentary.

That your petitioner Sebastian Peralta has been by said Probate Court of Santa Clara County, duly appointed and has qualified as the guardian of the minors Antonio Pacheco, Miguel Pacheco, and Maria Ygnacia Pacheco & here shews to the Court his letters of Guardianship.

That your petitioner Joaquin Ysidro Castro has been, by the same Court

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duly appointed & has qualified, as the Guardian of the Minor Daniel Bowen & here shows to the Court his letters of Guardianship.

That under the said last will and testament of the Claimant Ivona Sanchez de Pacheco her right & claim to said tract of land as the same is described in the deed of Conception & grant aforesaid is now vested in those of your Petitioners, named herein to whom said land is devised as aforesaid by said last will and testament.

Your Petitioners therefore pray that the said Claim be revived in their names and that your Honorable Court will review the decision of the said Board, decide on the validity of their claim, and confirm the whole of said tract of land to the Devisees under the said last will & testament.

A. P. Crittenden
Atty. for Petitioners

U. S. District Court

No 46

United States
vs
Juana Sanchez de Pacheco

Petition

Service of a copy of the within petition ack-
-nowledged -
October 17. 1854 -

Filed Oct. 17, 1854
Inv. A. Moore
Clk

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The United States — Respondt
vs
Rosa Pachecs
and others } Appellants

Testimony taken on behalf of the above appellants — Claimants — before John A. Monroe U.S. Commissioner for the Northern District of California this 20th day of October AD 1854.

Present:

The Claimants by their Attorney — A.P. Crittenden — and the U.S. District Attorney by Andrew Glassell —

James Alex. Forbes being first duly sworn deposes and says —

My name is James Alex Forbes: My age is forty nine years ~~old~~ — My residence is Santa Clara County —

Question

. Were you acquainted with Juana Sanchez de Pachecs — & if so for how long? —

Answer —

I was — I knew her twenty four years ago, and knew her until the time of her death which occurred about a year ago —

Question

Do you know the Tract of land — claimed in this case, called

the Arroyo de los Nueces y. Balbon-es? if you know is it situated?

Answer.

I am acquainted with the tract of land lying on the East side of the Arroyo or Stream of Nueces and bounded on the East by the Mountains called Balbones or Cobgones - It is North of the Thirty Seventh Parallel of Latitude - lying in an Easterly direction from San Francisco - and comprised in what I believe to be the limits of Eastern Castro County.

Question

Do you know the boundaries of this tract of land & if so, how & when did you first become acquainted with them?

Answer:

I am acquainted with the boundaries: In the Spring of 1884. I was requested by the deceased Juana Sanchez de Pacheco to accompany her on to that tract of land for the purpose of making a sketch of that tract of land, for the purpose of petitioning the Government for the concession of the tract of land to her - I accordingly accompanied her on and made a sketch of said land - The sketch which I then made was the same one of which a copy appears in the record in this case which I now have before me;

Question:

Is there or is there not any difficulty in tracing upon the ground the boundaries of said tract as they are designated in this map and the grant?

Answer:

There is no difficulty: On the Northern boundary is a line running from the low hills near the Laguna del Monte Diablo: thence due West until it touches the Arroyo de Nueces – and is the dividing line between this land and the land of the Monte Diablo Ranch – of Salvio Pacheco — The Eastern boundary is the ridge of hills aforesaid of Balbones or Golgones; The Western boundary is the Arroyo de Nueces; The Southern boundary is a line running from the intersection of the Arroyo de las Nueces and that called Angosta due East up to the aforesaid Sierra de Golgones and along a ridge of low hills which commences at the point of intersection of the aforesaid two streams —

Question –

Do you know or anything about the occupation of this land by Juana Sanchez de Pacheco? If yea: state it —

Answer

I do know — that her son under her orders built a corral

CASE 46 ND
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and house - and placed a large number of cattle on the place, and that her family have been in possession ever since - The cattle were placed there within a month after the concession - as I believe: - Hartnell Romualdo - went to work there within a month after I made the said Sketch and he commenced building a corral immediately ———

Cross examined —

Question:

What were your data, & by what authority did you mark out the above boundaries - as the limits of the said Rancho?

Answer —

I was requested as I have aforesaid by Juana Sanchez de Padilla, to make the Sketch, and I made it according to the directions of her son -

Question:

Have you any interest in the confirmation of this claim?

Answer:

None whatever ——

Jos Alex Forbes

Sworn to & subscribed before
me this 20th day of Oct. A.D. 1854

Levi A. Morrow

W. L. Coons

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

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

I, Jno A Munroe a commissioner duly appointed by the District Court of the United States, for the Northern District of California, under and by virtue of the Acts of Congress, entitled "An Act for the more convenient taking of Affidavits and bail in civil causes, depending in the Courts of the United States," passed February 20th, 1812, and the Act of Congress, entitled "An Act, in addition to an Act, entitled 'An Act for the more convenient taking of affidavits and bail in civil causes, depending in the Courts of the United States," passed March 1st, 1817, and the Act entitled "An Act to establish the Judicial Courts of the United States," passed September 24th, 1789, **Do hereby Certify,** That the reason for taking the foregoing *deposition* is, and the fact is, the witness is — material and necessary in the cause in the caption of the said deposition named, and that the said Deposition was taken in Pursuance of an order of Court made on the 17th day of October A.D. 1854—

~~**I further Certify,** That notification of the time and place of taking the said *deposition* signed by me, was made out and served on the~~

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~~to be present at the taking of the *deposition* and to put interrogatories, if he or they might think fit~~

I further Certify, That on the — 21st day of October in the year of our Lord one thousand eight hundred and fifty-four I was attended by the attorney for the Claimants & the U.S. Dist. Atty who appeared by Andrew Glassell and by the *witness* who was of sound mind and lawful age, and the *witness* being by me first carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, and the *deposition* being by me reduced to writing, in the presence of the *witness* and from his statement and after carefully reading the same to the *witness* he subscribed the same in my presence. I have retained the said *deposition* in my possession for the purpose of delivering

the same with my own hand — to — the Court for which the same was taken.

And I do further Certify, That I am not of Counsel nor Attorney for either of the parties in the said *deposition* and caption named, nor in any way interested in the event of the cause named in the said caption.

In testimony whereof I have hereunto set my hand and seal, this 21st day of October in the year of our Lord one thousand eight hundred and fifty-four and of the Independence of the United States the seventy ninth

Jno A Munroe

United States Commissioner, duly appointed by the District Court of the United States, for the Northern District of California.

Vol. No. 46

Five

United States District Court,

For the Northern District

of California

The United States

vs.

Rosa Pacheco

Deposition on the part of the

Claimant taken before

Inv. A. Moore

United States Commissioner, on the

20th day of October 1854

Filed the 20 day of Oct 1854

Inv. A. Moore

Clk

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Office of the Attorney General of the United States,

Washington, 11th September 1854.

Juana Sanchez de Pacheco

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 30th 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 46 Dix

U. S. Dist. Court,

The United States,

—vs—

Rosa Pacheco,
et als.

Notice to prosecute
appeal.

Filed Oct: 21. 1854,

John. A. Quitman,
Clerk.

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U. S. District Court

Rosa Pecheco & als
vs
United States.

Testimony before Comm'r
Taken Oct. 24
A.D. 1854

James Alexander Yount being duly sworn as Interpreter duly sworn José Fernandez who said he was fifty five years of age and resides in Santa Clara. I am acquainted with the tract of land known as Arroya de las Nueces y Bolbones. I have known it since 1826. Francisco Pecheco first occupied. the son of Juana Sanchez de Pecheco.

He first occupied it in 1833 He took some cattle there and built a small wooden house. I think he built the house between the years 1833 & 1834. I know that the grant was made to ~~Francisco~~ Juana Sanchez de Pecheco. The house was built before the grant. They built the house when the cattle were taken there. Francisco Pecheco occupied the house. He did not cultivate any land to my knowledge. He lived some seasons in San José and some seasons on the Ranch. He went to the Ranch to brand his cattle & to

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them several months -
When he was absent no one was on the Rancho - no one took care of the cattle - but Pacheco himself - His nephews, relations of the family and friends assisted him when necessary - The sons of ~~Juan Soto~~ ~~Mr Pacheco~~ Jacob Soto - and which are grand sons of Juana Sanchez de Pacheco have lived there - She never lived there - but I have seen her go there - I dont Know whether others have lived there or not - Since the year 1835 I have not been there - I went in that year to assist Francisco Pacheco in the branding of cattle & he was then living there - I have seen the owners of the Rancho go there in the branding season, & from that Know they were there -

Cross - Examined -

I have been on the Rancho in 1835 and never before or since, I there assisted in branding cattle - Juana ~~Francisca~~ Sanchez de Pacheco at that time was living in the Pueblo of San Jose -
I have no interest in this matter - José Fernandez

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Vicente Suarez - duly sworn says - I am forty one years of age and live in San Jose. Know the Rancho called the Aruya de las Nueces - Have known it since 1833.

The deceased Francisco Pecheco first occupied it - In 1833 I stopped in the house with him and he then had a house and cattle ~~with him~~ on the place. The cattle belonged to his Mother Juana Sanchez de Pecheco - Dont Know how long he lived there. I used to go there with him in certain seasons to herd cattle -

~~Francisco Pecheco is dead -~~

I was on the Rancho with him for three months -

I was there last Sunday and have been there a good many times - Sometimes the Son in Law of Mrs. Pecheco and sometimes his sons staid on the Rancho -

Cross Examined.

We ~~they~~ were at work on the Rancho - building a Corral to tame horses - I know who the cattle belonged to because I helped brand them and put her mark on them - The son and all the grand children who were there employed

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me - I have no interest in this suit -

Direct resumed -

The cattle remained on the Rancho up to the present time - She commenced with about five hundred head of cattle -

Vicente Lorenzo
[his mark]

Sworn to before me this
24th day of October A.D. 1854
Jno. A. Monroe
U.S. Comm.

United States of America, } ss.
District of California

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

I, Inc A Moore a commissioner duly appointed by the District Court of the United States, for the Northern District of California, under and by virtue of the Acts of Congress, entitled "An Act for the more convenient taking of Affidavits and bail in civil causes, depending in the Courts of the United States," passed February 20th, 1812, and the Act of Congress, entitled "An Act, in addition to an Act, entitled 'An Act for the more convenient taking of affidavits and bail in civil causes, depending in the Courts of the United States," passed March 1st, 1817, and the Act entitled "An Act to establish the Judicial Courts of the United States," passed September 24th, 1789, **Do hereby Certify,** That the reason for taking the foregoing *deposition* is, and the fact is, the witness es are material and necessary in the cause in the caption of the said deposition named, and that ~~he~~ the said Deposition was taken in Pursuance of an order of Court Made on the 17th day of October A D 1854-

~~**I further Certify,** That notification of the time and place of taking the said *deposition* signed by me, was made out and served on the~~

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~~to be present at the taking of the *deposition* and to put interrogatories, if he or they might think fit~~

I further Certify, That on the 24th day of October in the year of our Lord one thousand eight hundred and fifty four I was attended by the atty for the Claimants & the U.S. Dist. attorney who appeared by Andrew Glassell and by the *witnesses* who were of sound mind and lawful age, and the *witness es* being by me first carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, and the *depositions* being by me reduced to writing, in the presence of the *witnesses* and from their statement and after carefully reading the same to the *witnesses* they subscribed the same in my presence. I have retained the said *depositions* in my possession for the purpose of delivering the same with my own hand to the Court for the which the same were taken.

And I do further Certify, That I am not of Counsel nor Attorney for either of the parties in the said *depositions* and caption named, nor in any way interested in the event of the cause named in the said caption.

In testimony whereof, I have hereunto set my hand and seal, this 24th day of October in the year of our Lord one thousand eight hundred and fifty four and of the Independence of the United States the *seventy* ninth

Inc A. Moore

United States Commissioner, duly appointed by the District Court of the United States, for the Northern District of California.

Seven

Vol. No. 46

United States Dist. Court,

For the Northern District

of California

The United States

vs.

Rosa Pacheco et als

Deposition on the part of the

Claimants taken before

Inv. St. Moore

United States Commissioner, on the

24 day of Oct 1854

Filed the 24 day of Oct 1854

Inv. St. Moore

Clk

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Office of the Board of Commissioners
of California Land Claims
San Francisco May 6th 1852.

Samuel D. King Esq
Surveyor General.

Sir, There is pending before the Board of Commissioners a petition in favor of "Juana Sanchez de Pacheco" being No 168 on the Docket of the Board, claiming a tract of land under a grant from Governor Figueroa to the Petitioner dated July the 31st, 1834 which tract of land is called "Arroyo de las Nueces" y Bolbones and is described as follows, "It lies between the "Arroyo" (Creek) of "las "Nueces" and the "Sierra de los Golgones" comprising two square leagues.

Will you please inform the board whether the Mexican Archives in your office show that such a grant was made, whether it was approved by the territorial or departmental deputation and when; whether the papers relating to said grant appear in all respects fair and genuine and whether any particular circumstance have come to your knowledge calculated to cast suspicion on the fairness and validity of the claim

Very Respectfully Yours.

(signed) Wm. Fisher
Secy

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Surveyor Generals Office
San Francisco May 27/1853

To the Secretary of the Commissioners
of California Land Claims.
Sir

In reply to your inquiry
No 160 I have the honor to state that there
is among the Archives in this Office an Ex-
-pediente No 36 purporting to show that such a
grant was made as is specified in your inquiry
Said document shows the approval of
the Territorial Deputation July 22nd 1834.
The papers in that case appear to be
fair and genuine and I know of nothing
among said Archives calculated to cast
suspicion thereon

Very Respectfully Yours
W. King
for Sam'l K. King
Surveyor. General.

I George Fisher, Secretary of the Board of
United States Commissioners to ascertain and settle
the private Land claims in the State of California
hereby certify that the foregoing is a full true
and correct copy of a paper on file among the
Archives of said Board and in my care and
custody as such Secretary
Witness my hand this 17 day of
Nov. 1853

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Geo: Fisher.

3

Sept

No. 168

Juana Sanchez de Pacheco

Arroyo de la Nueces

Report of the U. S. Surv. Gen.

Filed in Office May 28th 1832

(signed) Geo. Fisher

Sec'y

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Fees $1.00

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U.S. Dist. Court

Juana Sanchez de Pacheco

vs

United States

Arroya de la Nueces

Testimony taken before
Lin A Monroe U.S. Commissr.
Nov. 2d 1854.

Present. A Glassell
for the U.S. Dist Atty. &
R.D. Baker ~~for Claimants~~
A.P. Crittenden for Claimants.

William Welch a witness
produced sworn and examined
on behalf of the United States
says,

I am 27 or 28 years of age
reside in Contra Costa. I have
lived there 13 or 14 years.
Know the Ranch claimed by
Juana Sanchez de Pacheco.
have known it 13 or 14 years.
I lived near it. I lived on the
side of the Nueces creek and
kept the cattle for my father
There never was any improve-
ments until the Americans
came. The cattle run on the
hills. The widow Pachecos lived
at San José. A house was built
four years ago. There was no
house until then. I am quite

time there was no house, till that time. The cattle of the widow Pecheco were on the place. First knew of her having cattle there 13 or 14 years ago. No one lived on the place to take care of them. Every year a vaquero would come from San José and mark the cattle. The cattle were wild and were not watched. I never saw a sign of a house on the place

Cross-Examined. I was born at San José. My father's name was Wm Welch & my mothers Antonia ~~Bandinda~~ Galinda de Welch. My fathers place was called Rancho de Welch. I now live with my father. The Rancho de las Nueces is separated from my fathers Ranch by the Creek de las Nueces. There is no dispute between the heirs of Pecheco & my father. Don't know how large the Pecheco Ranch is. The creek I speak of is the Arroyo de las Nueces. It is one of the boundaries of the widow Pecheco's Ranch. The Rancho of Salvio Pecheco is one of the other boundaries. Don't know the other boundaries. My father got the grant before I went there. Know all the Pecheco family. Don Francisco Pecheco on the Ranch. Sometimes the boys of

Juan Soto & the family come to help mark the cattle
They gathered the cattle every year to mark them - Dont Know whether they ever sold any or not - Dont Know whether there was a house there before I went there or not - Sometimes my father lived at San Jose, but all the time he Kept a man on the Rancho - I have no interest in this claim - The Court called on me to give testimony - I was subpoened and the subpoena was handed to me by a person whose name I dont Know - The person who gave me the subpoena lives the other side of my house on the Pacheco Rancho - across the Creek from me. I have told the person who gave me the subpoena that I knew what I have testified to - The person who subpoened me paid me for coming - He gave me ten Dollars - that is all - He pays my board and expenses -

his
William X Welch
mark

Sworn to & Subscribed
before me this 2d Dy of November
A.D. 1854

Juan A. Munras
W.S. Cowan

Eight

U. S. Dist Court

Juan Sanchez de Pacheco &
Rosa de Pacheco
vs
The United States

Deposition of
Welch

Filed Nov. 2, 1854
John A Rowe Clk

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The President of the United States of America,

To Boss - Joseph Swanson - Dr Marsh.
Wm Welsh - & Mrs Welsh -

U. S. SUBP.

GREETING:

We Command You, that all and singular business and excuses being laid aside, you and each of you appear and attend, before John A. Monroe a Commissioner appointed by the District Court of the United States of America for the Northern District of California, at his office, in the U. S. Court Room, Merchant Street, in the City of San Francisco, in the said Northern District of California, on the 1st day of November at 11 o'clock in the fore noon, to testify all and singular what you and each of you may know in a certain cause now depending wherein the United States of America and Dna Sanchez de Pacheco are parties on the part of the U. S. -

And this to you, or either of you, are not to omit, under the pains and penalties of the law.

Witness, OGDEN HOFFMAN, Junior, Esq., Judge of the said District Court of the United States, at the City of San Francisco, the 27th day of October in the year of our Lord one thousand eight hundred and fifty-four

Wm Stevenson Clerk.

By Alex. M. Schell Deputy

Served personally on Boss, Joseph Swanson
Wm Welsh & Mrs Welsh on the 30th day of
October 1854 in Contra Costa County
(Do March not found)

W. H. Richardson U.S.M.
By E. M. Smith
Special Deputy

U. S. District Court, &c.

Marshal's Return.

No 46

The United States of America,

vs.

Dona Sanchez de Pacheco

SUBPŒNA.

Filed Nov 3d 1854
Jno A Monroe Clk

1 defendant E. M. Smith

1. Serve this subpoena
Oct 2d 1854
W. H. Richardson
U.S.M.
By E. M. Smith, Dy

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U. S. Dist. Court.
Northern District of California.

The United States, — No 46. Being an
— vs — appeal from the
Rosa Pacheco, et als. U. S. Board of Land
Commissioners for
the State of California in Case No 168
on the Docket of said Board of Land
Commissioners, —

Deposition of José
Joaquin Moraga taken in behalf of the
claimants on the 15th day of November, 1854
before W. H. Chevers, a U. S. Commissioner
for said Court.

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

Answer. José Joaquin Morada. I am going on Sixty years of age. I live in Contra Costa County.

2d Question. Do you Know the Rancho owned by Juana Sanchez Pacheco, called "Las Nuecs y Baltones". If you how long have you known it.

Answer. I Know said Rancho, and have known it since 1832.

3d Question. Do you Know any thing about the occupation of this Rancho

by the late Juana Sanchez Pacheco, or her family. If yea, state all that you know about it.

Answer, All her life time she occupied it, and her son, who is now dead. They entered onto it with cattle, about the year 1832, or 1833, and the son took care of it, until he died, which I think took place in the year 1842, but I am not certain. It has always been so occupied up to this time. They put a small house there, not a large one, but sufficiently so to live in. Some Indians came, and burned it down. They put the house there about the time the cattle were placed there, about the year 1832, or 1833, and used to live in it, come & go occasionally. Before the house was burned down, it was up for one or two years, perhaps more. I am not certain as to the length of time. The grand sons of Doña Juana Pacheco used to come there, and take care of the cattle. The cattle were the property of Doña Juana Sanchez de Pacheco. After the said house was burned down, they built a stick house to live in while they were taking care of the cattle, and since then, her grand children have

built a house. Which is still on the

built a house, which is still on the Rancho.

4th Question. Were there any Indians about there from 1832 to 1840. If yes, were they hostile or friendly?

Answer. Between those years there were hostile Indians about there. Even after the year 1840. I think there were hostile Indians about there. It was very dangerous for families to live about there at that time, and on that account we kept together as much as possible.

Cross examined by U. S. Dist. Atty.

1st Question. How often have you been on the said Rancho & when?

Answer. I have been on the said Rancho an infinite number of times, and during the time she occupied the Rancho.

2d Question. How long at a time did Juana Sanchez de Pacheco ever live on the said Rancho and when?

Answer. She used to come there and stop three or 4 days at a time, to attend to her business, then go home again. She has been in the habit of so

CASE 46 ND
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doing since she has claimed it, until she died.

3^d Question. Where were you living during the time Juana Sanchez de Pacheco occupied the said Rancho, as you have said, & what was your occupation.

Answer. I was living part of this time at Temascal of San Antonio, 5 or 6 leagues from said Rancho, and part of the time at my own Rancho, which is about 4 leagues from said Rancho, I am a Ranchero myself.

witness José Joaquin his + mark Moraga

~~[illegible]~~

The above testimony was given in Spanish and translated into English by J. Alex. Yoell, who was duly sworn to translate.

Sworn to & Subscribed before me this 15th of November, A.D. 1854.

W. H. Chevers
U. S. Com^mr.

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José Castro being duly sworn on the part of the Claimants, deposes and says.

1st Question. What is your name, age, & place of residence.

Answer. My name is Jose Castro, age 46 years. I reside in Monterey.

2d Question. Have you ever held any office or offices in California. If yea what offices, and when.

Answer. I have held various offices. The principal offices are Political Chief, Prefect, and latterly Commander in Chief. Political Chief ~~and~~ in the years 1834 & 1835. Prefect in 1839 and part of 1840. I was Commander in Chief in 1845 & 1846.

3d Question. Do you know anything of any decree made by any authority in California, requiring the inhabitants to reside in the Pueblos? If yea, state when any such decree was made, why it was made, and by whom, and the nature of it.

Answer. I as Political Chief & as Prefect gave an order to the Alcaldes subordinate to the ~~those~~ those offices, that they should require the neighboring Rancheros who were troubled by the

Indians to live in the Pueblos in consequence of the persecutions of the Indians. I gave this order when I was political Chief in 1834 & 1835, and again when I was Prefect in 1839 & 1840. There were like orders given by Figueroa, Micheltorena & Alvarado. These orders were given to preserve the innocent lives of the women & children & of the Indians themselves.

4th Question. Up to what period were these orders in force.

Answer. Up to the time the country was taken possession of by the Americans.

5th Question. Do you know where the Rancho of the late Juana Sanchez de Pacheco, called "Las Nueces y Bolbones" is situated?

Answer. I do know about where it is situated, though I have never been on the Rancho.

6th Question. Do you know anything of the state of that part of the Country in regard to it being exposed to the hostilities of the Indians, from the year 1832 down to 1846, If yea. State what you know

Answer I do know what the State of the

Answer. I do Know What the State of the
Country was during that period.
It was considered one of the most dan-
-gerous parts of the Country. The country
was considered dangerous on account
of the Indians, even to within a league
of the Pueblos.

7th Question. Do you Know What was
considered by the Government
of California requisite on the part of
a Grantee of land, in order to comply
with the condition usually inserted
in Grants, in regard to occupancy, or
inhabitancy. If you, state it.

Answer. I do Know. Only the occupation
of the land with cattle, sheep or
horses & the occasional presence
at times, of the owner, was recognised
as sufficient possession ~~as~~ or culti-
-vation.

8th Question. Do you Know of any instance
in which the Govt considered
land to have been abandoned when
the owner kept his cattle upon it?

Answer. Never, by no authority.

9th Question. Were the orders you have
spoken of as being made by
yourself and others, in writing?

Answer. Some were in writing, and
some by word. 10 or 12 of the
Neighbors would come with representations
& orders would be given to the Judges.
some in words & some in writing.
10th Question. When in writing. To whom
were they delivered & what
became of them.
Answer. When in writing. They
were sent to the Alcaldes
and Judges. Sometimes they were
kept by the Alcaldes & sometimes
by the complainants themselves.

Cross examined by U. S. Dist. Atty.

Question 1st. Were the decrees & orders of which
you have spoken enforced.
Answer. The orders were given at the request
of the parties themselves who made
their complaints to the authorities, and
asked for troops, to protect them from
the Indians & there being none at the
disposal of the authorities. Orders were
given to the Alcaldes to permit them
to gather or assemble in the Pueblos.
for the security of their families, without
forfeiting their right in any manner,

These are the ordinances of which I have spoken.

Question 2d. How do you know that the Government considered sufficient occupation to comply with the conditions of the grants in such cases.

Answer. Because when not in office myself, being near & intimate with the authorities, I knew their decisions in matters of justice & for that reason I knew what they decided with respect to the lands.

José Castro

The above testimony was given in Spanish and was translated into English by J. Alex: Doell, who was duly sworn to translate.

Sworn to & Subscribed before me this 15th day of November, 1854.

W. A. Shevert.
U. S. Commr.

U. S. Dist. Court
Dime

No 46

The United States

— vs —

Rosa Pacheco et als

Depositions of
Miraga &
José Castro

Filed Nov. 16. 1854
Wm Stevens
Clk

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UNITED STATES DISTRICT COURT,
Northern District of California.

San Francisco, Novr 30th 1854.

ON this day, before W. A. Chevers a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came James Alexander Forbes a witness produced on behalf of the Claimants in Case No. 46, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 168 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: The Claimants by their Attorney A. P. Crittenden, and the U. S. District Attorney by A. Glassell. Esqre

QUESTION BY Claimants Atty.

Question 1st.

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

Answer

James Alex: Forbes. My age 49 years. My residence is Santa Clara County.

Question 2nd

Are you acquainted with William Welch.? if yea, how long have you known him.

Answer.

I am. I have known him since he was quite a small boy. He is the son of Wm Welch, deceased, and his mothers name is Maria Antonia Galindo.

Question 3d.

How has he lived since you knew him.

Answer.

For a short time, at the Mission of Santa Clara, up to 1845 on a rancho about two leagues to the north of San Jose, in Santa Clara County, and previous to that time, on the land or rancho granted to his father, situated in Contra Costa County, near the town of Martinez, he lives somewhere in that vicinity now.

Question 4th.

Do you know his general reputation in point of veracity in the community in which he has lived, and now lives, If yea. what is it.

Answer

I know his general reputation, and know it to be bad. I know that the manner in which his father treated him had a tendency to destroy all moral sentiment in him.

Question 5th.

Would you believe him on oath,

Answer.

I would not, were he in any way interested.

Question 6th.

Do you know of any interest, or feeling which might influence him in this case.

Answer.

I know he cherishes animosity, which his father had before him, against

the deceased Juana Sanchez de Pacheco. and her Son. arising out of a transaction concerning cattle, which the latter had with the deceased Welch, the father of this individual in question.

Question 7th.

Is William Welch the father, living or dead.

Answer.

He died in the year 1845.

Question 8th.

Is it true that William Welch, the Son has lived for 13 or 14 years last past in Contra Costa County on the Rancho granted to his father?

Answer.

He has not lived there permanently for that length of time, But he has from the year 1845, or in that vicinity.

Question 9th.

You have spoken in a former deposition of the boundaries of the tract of land claimed in this case, by the heirs of Doña Juana Sanchez de Pacheco. State if you please, whether or not there is any natural object which determines the starting point of the Southern line,

Answer.

There is a natural object, at the commencement of that boundary. I think it is so denominated on the sketch of the land in question, That natural object is called the "Sugerito" which means an grafted tree, and in fact, there is a grafted tree at the commencement of that boundary as far as my recollection serves. I think

it is a laurel. It is universally known by that name among the people of the country. It stands on the eastern side of the stream, known by the name of the Arroyo del Injerto, or stream of the grafted tree, and near its junction with another little stream running from the Northward called the Arroyo de las Nueces, and immediately at the commencement of a low range of hills, which run eastwardly towards the mountains called Golgones, which low hills form the Southern boundary of this tract. The arroyo de las nueces aforesaid, had at the time I made the sketch of the said tract, several sloughs or ditches running into the Arroyo del Injerto. this grafted tree stands near the Southernmost.

Question 10th.

Do you know anything about this section of country being unsafe in consequence of the hostility of Indians. If glad, state it.

Answer

I know that all that section of country lying north of the Mission San José was unsafe for families, or for less than 3 or 4 persons together. That particular tract was a hiding place of the Indians. I knew of two individuals who were killed by the Indians on that tract. This was the principal route by which the Indian tribe of horse thieves, came into the settlements

and left. This state of things continued up to the year 1843.

Question 11th

Do you know of any order, or permission from the Authorities of California, for families owning land in exposed situations like this, to live in the Pueblos.

Answer. from the alcalde of San José
I know of a permission, which was tantamount to an order, for families in those exposed situations, to retire to the Pueblo San José, or to the Missions in the vicinity. I know it from general report. It was generally acted upon.

Question 12th.

Do you know of any instance in which the authorities objected to families leaving their land under such circumstances, or of any instance in which the Govmt forfeited their land for so doing.

Answer.

I do not, had such an instance occurred in that part of the country, I would have heard of it.

Cross examined by U. S. Dist: Atty.

Question 1st

What are your means of ascertaining & general reputation
What is the character, of said Wm Welch for truth?

Answer.

I have known him intimately since he was a boy, I knew the whole family, every individual of them. & Moreover my avocations were such as to cause me to ~~know~~ be intimately acquainted

with the native California population.
and to ascertain their reputation.

Question 2d.

How do you know that he now entertains any animosity against the present claimants in this case.

Answer.

Because I have heard conversations in the family, in which he expressed a decided animosity against said Pacheco family.

J. A. Heaton

Sworn to and subscribed before me
this 30th day of November. 1854.

W. A. Chevers
U. S. Commissioner.

No. 46 ten

U. S. Dist. Court.

The United States,

—vs—

Rosa Pacheco. et als.

Deposition of J. A. Forbes.

Filed Nov 30. 1857.

John. a. Monroe.

Clerk,

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

The United States
Appellants
vs
Ysaac Sanchez de Pacheco
Revived in name of Rosa Pa-
checo et al
No. 46.

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 Record
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
the said District.
That the said claim is invalid.
Wherefore Appellants pray that the said
decision of the Board be reversed &
that this Court decree the said title
to be invalid. Respectfully &c

W. Hassell
Asst U.S. Atty.

Wolfe

U.S. Dist Court

No 46

The U. States

vs

Juana S. de Pacheco

Petition

Filed July 7, 1855.

by Chaves

Deputy

CASE 46 ND

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

The United States
Appellee
vs
Juana S. De Pacheco
Record in name of
Rosa Pacheco et al

No. 46.

The United States by their Attorney deny the validity of the title set out in the petition of the said Appellants: & pray that the decision of the Board of Commissioners be affirmed, & that the said title be decreed to be invalid.

A. Blasdell
Asst. U.S. Atty

U.S. Dist Court

No. 46

The U States

vs

Juana S. de Pacheco

et al

Answer

Filed July 7. 1855

by Chenes

Deputy

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Glassell

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

The United States
vs
Rosa Pacheco et als

Joaquin Ysidro Castro being duly sworn deposes and says that he is one of the parties in this case and one of the executors of Dña Juana Sanchez de Pacheco, decd; that in the year 1842 or 1843 he saw in the possession of the said Dña Juana Sanchez de Pacheco the original title or grant made to her by Don José Figueroa, a copy of which appears in the transcript of the record in this case; that he read the said original and that he believes that the copy set forth in said transcript is a true copy thereof; that not long after he last saw the said original in the year 1842 or 1843 he understood from the said Dña Juana Sanchez that it was lost or mislaid and so afterwards

always understood from her and from the members of her family; that he has himself made diligent search for it but has been unable to find it and that it is not amongst the papers of said Doña Juana Sanchez which have come into the hands of her executors Frances Lightstone and this deponent.

Sworn & subscribed
before me the 17th
July 1855

Joaquin J Castro

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

No 46 Fourteen

U. S. District Court

The United States
vs
Rosa Pacheco et als

Affidavit of
Joaquin Guido Castro

Filed July 17, 1856.
by W. H. Chevis
Deputy.

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

The United States
vs Appellants
Rosa Pacheco et als
Appellees
} No 46—

For answer to the petition of the Appellants
filed herein, the said Appellees deny
that their claim is invalid, but say
that the same is good and valid, and
pray its confirmation to them to the
full extent of the land embraced within
the boundaries specified in the decree
of concession and the grant which
are set forth in the transcript of the
record in this case—

A P Catlenden
Atty for Appellees—
Rosa Pacheco et als

Thirteen

No 46
U. S. District Court

The United States
vs
Rosa Pacheco et als.

Answer

Filed July 17, 1855.
by W. H. Chevers
Deputy.

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A P Cuttenden

CASE 46 ND
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UNITED STATES DISTRICT COURT,
Northern District of California.

Rosa Pacheco, et al,
— vs —
The United States San Francisco, Sept: 15th 1855.

ON this day, before John. a Browne a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came Alexander Forbes. Esq — a witness produced on behalf of the Claimants,
in Case No 46, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No 168 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: A. P. Crittenden Esq. Counsel for Clts and the U. S. Dist: Atty by A. Glassell. Esq.

QUESTION BY Claimants.

Were you acquainted with Dña Juana Sanchez de Pacheco, decd and the members of her family? If yea, since when?

Answer

I was acquainted with Dña Juana Sanchez de Pacheco from 1829 till her death - and have been acquainted with her family since the same time 1829 -

2d -

Can you give the names of all her children? If yea, please state them.

Answer.

She had seven daughters and one son Her son's name was Francisco. He

daughters were named Rosa, Dolores Encarnacion, Francisca, Sylvena and Tomasa and Trinidad.

3d -

Are any of her children dead? If yea, which of them -

Answer

Francisco and Tomasa are dead.

4th

Did Francisco & Tomasa leave any children? ~~who~~ If yea, what are their names?

Answer.

They both left children - Tomasa ~~Dow~~ married a man named Thomas Bowen, and left one child who is now living - named ~~Tomas~~ Daniel Bowen. Francisco left ~~four~~ three children ~~who~~ who are all minors & now living. Their names are Antonio, Miguel and Maria Ygnacia - He had several more children, who, to the best of my recollection are dead.

5th

Are any of the daughters of Dona Juana Sanchez de Pacheco married? If yea, to whom?

Answer.

All of the daughters have been married. Those now living are all widows with the exception of Trinidad who is married to Joaquin Ysidro Castro. Juan Soto the husband of Petra Pacheco died within the last two months.

Did you ever see the original grant of the tract of land claimed in this case to Dña Juana Sanchez de Pacheco? If yea, when, where and in whose possession?

Answer

I saw it in the Autumn of 1834, in the hands of the late Dña Juana Sanchez de Pacheco herself in her house in San José.

7th

Did you ever read it?

Answer

I did. She showed it to me in consequence of my having made the petition for the land for her, and the sketch of it. She showed it to me that I might see whether it was in proper order.

8th

Do you know what has become of it?

Answer

I do not.

9th

Please examine the paper purporting to be a copy of the grant and which appears on pages 19, 20 & 21 of the Transcript in this case, (the same bearing date the 31st of July 1834 and purporting to be signed by Jose Figueroa and by Agustin V Zamorano

Secy) and say whether or not it is a true copy of the original grant which you examined

Answer.

I have examined the paper referred to and believe it to be a true copy of the original grant which I saw. I would mention that I knew all about this grant and the circumstances under which it was made. I knew Dña Juana well, was with Gov Figueroa at her house and present at the first conversation between herself & Gov Figueroa about land in the course of which he told her to apply for a grant. I drew up the petition for her, and before doing it went upon the land and made a sketch of it; afterwards, as I have stated, I examined the grant to see if it was correct.

10th

What is your age & where do you reside—

Answer.

I am fifty years of age & reside in Santa Clara — I have lived in California since 1829—

11th

Have you any interest in this claim or in the event of this suit—direct—or indirect—

CASE 46 ND
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Answer
None whatever – I never had
any interest in it –

Jas. Alex Forbes

No 46. Septr

U. S. Dist. Court.

The United States.

— vs —

Rosa Pacheco et als.

Deposition of
Alex. Forbes.

Filed Sept 15. 1855.
by Chenet.
Deputy.

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Be it remembered that heretofore to wit on the 26th day of September A.D. 1853. there was filed in the Probate Court of Santa Clara County State of California a paper purporting to be the last Will and Testament of Juana Sanchez de Pacheco deceased. Which is in the words and figures following to wit

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En el nombre de dios todopode roso Amen.

Yo Juana Sanchez de Pacheco declaro lo siguiente ser mi ultima voluntad y testamento. A mi hija Petra declaro que la di cincuenta reses de mi ganado, como tambien a cada una de mis hijas siguientes las he dado igual cantidad de ganado, es decir Sylveria, Francisca. Trinidad, Encarnacion, y Rosa y Paulina. dejo a Daniel Bown mi nieto cincuenta reses y tambien seis vacas mansas. a los hijos de mi hijo Francisco el difunto les dejo Cincuenta reses y seis vacas mansas entre los tres. y el resto de mi ganado declaro que se repartira entre todas mis hijas. dejo la casa que habito en la ciudad de San Jose en la calle del Mercado o Pachecos a las tres hijos que deji mi antedicho hijo Francisco, junto con el solar y huerta. dejo a los siguientes mis hijos, y nietos, a cada una de mis hijas, quinientas acres de tierra de mi Rancho de San Miguel en el Condado de Contra Costa a saber Rosa, Francisca. Encarnacion, Trinidad, Sylveria, y mi nieto Daniel Bown, y a los tres hijos de mi hijo difunto Francisco dejo quinientas acres entre los tres, tambien dejo a los tres hijos de mi difunta hija Paulina, quinientas acres entre los tres. Declaro que el sobrante de mis terenos de mi rancho antedicho seran repartidos entre mis hijas y nietos por iguales partes pero los tres hijos de la antedicha Paula se contara por una como tambien los del difunto mi hijo Francisco se contara por una y Daniel Bown por una tambien. Nombro por albaceas de esta mi ultima

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voluntad y testamento mi dicho Joaquin Isidro Castro de San Pablo y Francisco Lightston de San Jose para que hagan como he dispuesto. Asi firmo en la ciudad de San José hoy dia Veinte y seis de Agosto de 1853. Declaro que me debe mi hija Trinidad mil pesos que entregara a mis albaceas para destribuir. Fecha ut supra. palasras "entre los tres" antes de firmar Juana Sanchez + de Pacheco
linea 15. hoja 1a marca

Witneses. J. Alexander Goell. Jose H. Scull.

Codicilo puesto por mi orden hoy dia 30 de Agosto 1853. Mando que no se exijira de mis albaceas Joaquin Isidro Castro y Francisco Lightston, ninguna fianza a respeto de lo antecedente mi testamento. Dejo cincuenta pesos de limosna a las Iglesia Catolicas en esta ciudad de San Jose, mando que se mi entiera adentro de la Iglesia Catolica de Santa Clara y que se mi diga una misa mayor para el bien de mi alma. La casa que habito y que antes tenia dejado a mis nietos con la huerta y solar es decir a los hijos de mi hijo Francisco, dejo a beneficio de todos mis hijos y nietos, los tres hijos de Francisco representando una parte, los tres hijas de mi hija Paulina una parte, y mi nieto Daniel Bowen otra parte, y cada una de mis hijos una parte y para que tenga la fuerza competente lo firmo hoy dia 30 de Agosto 1853.
"palasras "hijos" en las dos lineas interliniadas fueron hechas antes de firmar tambien las palaseras huerta y solar"
Witness Juana Sanchez + de Pacheco
marca.
J. Alexander Goell
Jose H. Scull

In the Matter of the Probate of the last will & codicil of Juana Sanchez de Pacheco deceased, set for Probate at the Court House in the City of San Jose this 26th day of Sept.

1853.

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J. H Scull one of the subscribing witnesses being sworn says, that the name signed to the will of Juana Sanchez de Pacheco as a Witness is his true name that he subscribed the same in the presence of the other subscribing Witness. She, the testatrix signed her name with a cross, she not being able to write, the name was written by Mr Goell the other subscribing Witness, that the Contents of the said Will was read over to the testatrix by this Witness before the testatrix signed the same, that the testatrix at the time of signing the Will and before was of sound mind & disposing memory, that she was as far as I. witness could see free from restraint or influence at the time of making said Will.

Joseph. H. Scull

Sworn and subscribed to in open Court this 26th Sept. 1853. attest. H.C. Melone Clerk By Jno. B. Hanson D.C.

J. A. Goell one of the subscribing witnesses to the aforesaid Will being duly sworn saith that he is a subscribing Witness to the last Will & Codicil of Juana Sanchez de Pacheco dec'd. presented to this Court for Probate, that he was present with the other subscribing witness at the Execution of the same, and that the contents of the same was read over and made known to the testatrix in the presence of this Witness and the other subscribing Witness before the testatrix signed the same and by the request of the said testatrix. I witness wrote the name of the testatrix to the Will and she the testatrix signed the same with her mark that the testatrix was of sound mind & disposing memory at the time of Executing the same, that she (the testatrix) was free from restraint or influence at the time of Executing the same

J. Alexander Goell

Sworn to in open Court this 26th day of Sept. 1853. attest. H.C. Melone Clerk

By John B. Hanson D.C.

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It is therefore ordered by the Probate Court that the said last Will & Codicil of Juana Sanchez de Pacheco deceased filed in Court for Probate this day be probated and Recorded and that Letters of Executorship issue to Joaquin Isidro Castro and Francisco Lightston in pursuance of the Will this day admitted to probate under the seal of this Court with the Will annexed

J. W. Redman
Probate Judge of Santa Clara Co. Cal

H.C. Melone Clerk. attest by John B Hanson D.C.
Filed Sept 26th 1853. H.C. Melone Clerk By Jno B. Hanson D.C.

And on the 26th day of September A.D. 1853 that being a day of a Term of said Probate Court among other proceedings the following were then and there had and entered on the minutes of said Court. To wit.

"In the matter of the Probate of the last Will & Codicil of Juana Sanchez de Pacheco deceased.

A paper purporting to be the last Will & Codicil of Juana Sanchez de Pacheco Deceased having been filed for Probate in the Probate Court of this County and this day being set for the Probate of said Will, and the Court being satisfied that Public notice had been given of the day set for hearing the Probate of said Will, and that citations had issued to the Heirs & Executors named in said Will in accordance with Law, and the death of the testatrix being satisfactorily proved to the Court by the evidence of F. Lightston and that She was on the age of Eighteen and not under restraint, and the evidence of subscribing witness being heard and no opposition appearing and the Court being satisfied that said Will was duly executed and that the Testatrix at the time of its Execution was of sound mind and disposing Memory and not under restraint.

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It is therefore ordered by the Probate Court that the said last Will & Codicil of Juana Sanchez de Pacheco deceased filed in Court, for Probate this day, be probated and recorded in this Court together with the evidence of the subscribing witnesses taken in writing.

It is also ordered that Letters Testamentary do issue to Joaquin Isidro Castro and Francis Elizabeth Lightston the Executors named in said Will, who came forward and in open Court took the oaths required by Law.

It is further ordered by the Court that the following persons to wit. Asa Brown Peter Davidson, and J. M. Murphy be and they are hereby appointed appraisers of said Estate.

State of California
County of Santa Clara } S.S.

I John. B. Henson County Clerk of Santa Clara County and Ex officio Clerk of the Probate Court of said County do hereby certify that the foregoing is a true and perfect Transcript of the Will & Codicil of Juana Sanchez de Pacheco deceased. The testimony of the subscribing Witnesses thereto. The certificate of the proof thereof, and the order admitting the said Will to Probate, and granting Letters Testamentary as taken from the Records of said Probate Court, and I do further certify that in accordance with the said order, Francis Lightston and Joaquin Isidro Castro, the Executors named in said Will were duly qualified (there being no bond required of them in said Will) and that Letters Testamentary were duly issued to them in accordance with the said order, and that the same have not been revoked or annulled.

In Testimony Whereof I have hereunto set my hand and affixed the Seal of said Probate Court this 2nd day of October A.D. 1855.

Jno B. Henson Clerk

No 46

U. S. District Court

The United States
vs appellants
Rosa Pacheco & others
appellees

Civil Appeal

Will of Doña Juana
Sanchez de Pacheco
and Petate

Filed Mch 27. 56

Filed March 27, 1856.
J. Clement
Deputy.

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Probate Court of Santa Clara County. September Term. 1853. To wit:

September 26th A.D. 1853

In the matter of the Probate of the last Will & Codicil of Juana Sanchez de Pacheco deceased

A paper purporting to be the last Will and Codicil of Juana Sanchez de Pacheco deceased having been filed for Probate in the Probate Court of this County. and this day being set for the Probate of said Will and the Court being satisfied that Public notice had been given of the day set for hearing the Probate of said Will and that citations had issued to the Heirs & executors named in said Will in accordance with law, and the death of the testatrix being satisfactorily proved to the Court, by the evidence of F. Lightston and that she was over the age of Eighteen and not under restraint. and the evidence of the subscribing Witnesses being heard, and no opposition appearing and the Court being satisfied that said Will was duly executed and that the Testatrix at the time of its execution was of sound mind and disposing memory and not under restraint.

It is therefore adjudged by the Probate Court that the said last Will & Codicil of Juana Sanchez de Pacheco deceased filed in Court, for Probate this day be probated and recorded in this Court together with the evidence of the subscribing Witnesses taken in writing.

It is also ordered that Letters Testamentary do issue to Joaquin Isadore Castro and Francisco Lightston the Executors named in said Will, who came forward and in open Court took the oaths required by Law.

It is further ordered by the Court that the following persons to wit: Asa Borden Peter Davidson and J. M. Murphy be and they are hereby appointed appraisers of said Estate.

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State of California
County of Santa Clara } ss.

I, John. B. Henson County Clerk and Ex-officio Clerk of the Probate Court in and for the County and State aforesaid do hereby certify that the foregoing is a true and correct copy of the Original Order admitting the Will and Codicil of Juana Sanchez de Pacheco deceased to Probate and the order appointing the Executors of said Will as the same now appears of records in said Court. And I do further certify that in accordance with said order Letters Testamentary were duly issued to the said Joaquin Isidro Castro and Francisco Lightston upon said Estate, and that the same have not been revoked or annulled, and I do also further certify that no bond was filed by the said Executors it being expressly stated in the Codicil to the Will that no bond should be required of them

In Testimony Whereof I have hereunto set my hand and affixed the seal of said Probate Court this 8th day of August A.D. 1855.

PROBATE COURT SEAL
SANTA CLARA CO.

Jno. B. Henson Clerk

Letters testamentary

To

Joaquin Ysidro Castro
& Francisco Lightstone

No 46 twenty
U. S. Dist. Court

The United States
vs Appellants
Rosa Pacheco & others

Cross Appeal

Letters testamentary
to Joaquin Ysidro Castro
& Francis Lightstone
~~Guardians of~~
Executors of Dona
Jerma Sanchez de Pacheco

Filed March 27. 58

Filed March 27. 1858
by Chenel,
Deputy

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In Probate Court of Santa Clara County.
September Term AD 1853.
In vit: Monday September 26th 1853.
Before the Hon.e Joshua W. Redman Probate Judge.
In the matter of the Guardianship
of Daniel Bourn Minor Heir of
Juana Sanchez de Pacheco Deceased

Daniel Bourn a Minor over the age of Fourteen years, came personally into open Court and chose Joaquin Isidro Castro as his Guardian, and prays the Court to appoint the said Castro his Guardian—

Thereupon the Court orders that the said Joaquin Isidro Castro be, and he is hereby appointed Guardian of the said Minor Daniel Bourn, and also orders that the said Castro do enter into Bonds as said Guardian in the sum of Ten Thousand Dollars, within ten days from the date of this order, to be approved by the Court, as required by law.—

State of California }
County of Santa Clara } ss.

I John B. Henson County Clerk and Ex officio Clerk of the Probate Court of Santa Clara County. do hereby certify that the above is a true and perfect transcript of the original orders made by said Probate Court on the 26th day of September AD 1853. in the above entitled Estate as the same now appears on the records of said Court. And I do further certify that the said Joaquin Isidro Castro has given bond and been qualified and that Letters of Guardianship have issued to him, in accordance with the foregoing order, and that the same have not been revoked.

In Testimony Whereof. I have hereunto set my hand and affixed the seal of said Probate Court, at the city of San José this 25th day of September A.D. 1855;

Jno. D. Newson Clerk

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No 46 Eighth
U. S. Dist. Court

The United States
vs Appellants
Rosa Pacheco & others
Appellees
Cross Appeal —

Appointment of
Joaquin Ysidro Castro
Guardian of
Daniel Bowen —

Filed Mar 27, 56.

Filed March 27, 1856.
J. Chever,
Deputy.

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In Probate Court of Santa Clara County
October Term AD 1853.
Tuesday Monday October 24th 1853.
Before the Hon. Joshua W. Redman Probate Judge
In the matter of the Guardianship
of the minor heirs of the Estate of
Juana Sanchez de Pacheco Deceased

José Antonio de Pacheco aged Fifteen years and Miguel de Pacheco aged 14 years, males and minor heirs of the aforesaid Estate came personally into open Court and prays the Court to appoint Sebastian Peralta as their Guardian—

Thereupon it is ordered by the Court that the said Sebastian Peralta be and he is hereby appointed Guardian of the said José Antonio and Miguel Pacheco—and the said Sebastian Peralta now files a petition praying to be appointed Guardian of Maria Ygnacia Pacheco, infant heir of the said Estate, under the age of Fourteen years. &c

Thereupon the Court also appoints the said Sebastian Peralta, Guardian of the said Infant Maria Ygnacia Pacheco— and orders that he enter into Bonds as Guardian of the said Infant and Minor heirs of the aforesaid Estate, to wit: José Antonio, Miguel and Maria Ygnacia Pacheco. in the sum of Sixteen thousand dollars as required by law, within ten days from the date of this order—

State of California }
County of Santa Clara } ss.

I John B. Newson County Clerk and Ex Officio Clerk of the Probate Court of Santa Clara

CASE 46 ND
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County, do hereby certify that the above is a true and perfect transcript of the original orders made by said Probate Court on the 24th day of October AD 1853 in the above entitled Estate, as the same now appears on the records of said Court, and I do further certify that the said Sebastian Peralta, has given Bond and been qualified, and that Letters of Guardianship have issued to him, in accordance with the foregoing order, and that the same have not been revoked.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Probate Court, at the City of San José, this 25th day of September AD 1855.

Jno. B. Benson Clerk

No 46 Nineteen
U. S. Dist. Court

The United States
vs appellants
Rosa Pacheco & others
appellees

Cross Appeal

Appointment of
Sebastian Peralta
Guardian of
Jose Antonio Miguel
& Maria Ygnacia Pacheco

Filed March 27. 56

Filed March 27, 1856.
J. B. Chenes,
Deputy.

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In the name of God All powerful- Amen-
I, Juana Sanchez de Pacheco, declare the
following to be my last will and testament.
I declare that I give to my daughter
Petra fifty head of my cattle and the
same number of cattle to Each one of my
daughters here named, that is to say-
Sylvena, Francisca, Trinidad, Encarnacion,
Rosa and Paulina. I leave to Daniel Bowen,
my grandson, fifty head of cattle and six
~~cows~~ gentle cows; to the children of my son
Francisco, deceased, I leave fifty head of
cattle and six gentle cows between the
three, and the rest of my cattle I wish
divided among all my daughters. I
leave the house which I occupy in the
City of San José in Merchant st Pacheco
Sheet to the three sons left by my said
son Francisco, as also the lot and garden.
I leave to Each one of my daughters, viz:
Rosa, Francisca, Encarnacion, Trinidad,
Sylvena and to my grandson Daniel
Bowen five hundred acres of land of
my Rancho of San Miguel in the County
of Contra Costa, and to the three sons
of my deceased son Francisco I leave
five hundred acres to be divided between
them, and also to the three sons of my

deceased daughter Paulina five hundred acres between the three. I declare that the remainder of the land of my said Rancho shall be Equally divided among my children and grandchildren, but the three sons of the said Paula shall count as one, and also the children of my deceased son Francisco shall count as one, and Daniel Bowen as one also. I name as Executors of this my last will and testament my son in law Joaquin Ysidro Castro, of San Pablo, and Francis Lightstone, of San José, that they may do as I have directed. I sign this in the City of San José this 26th day of August 1853. I declare that my daughter Trinidad owes me one thousand dollars which she will deliver to my Executors for distribution — Date as above

Witnesses
J. Alexander Yoell
José H Scull.

her
Juana Sanchez + de Pacheco
mark

Codicil drawn by my order 30th of August 1853. I direct that no security shall be required of my Executors Joaquin Isidro Castro and Francis Lightstone, in regard to this my testament. I leave fifty

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dollars in alms to the Catholic Church in this City of San José. I direct that my body be intered in the Catholic Church of Santa Clara and that a high mass be said for the good of my soul. The house which I inhabit, and which I have before left to my grandsons, with the lot and garden, that is to the sons of my son Francisco, I leave to all my children and grandchildren, the three sons of Francisco representing one part, the three children of my daughter Paulina one part, and my Grandson Daniel Bowen another part, and Each one of my children one part, and that this may have force I sign it this 30th of August 1853.

Witness
J. Alexander Foell
José H Scull.

her
Juana Sanchez + de Pacheco
mark

No 46 Seventeen

U. S. Dist. Court

Rosa Pacheco & others
appellants
vs
The United States
appellees

and

The United States
appellants
vs
Rosa Pacheco & others
appellees

Translation of last will
of Juana Sanchez de
Pacheco —

Rec Nov 29. 52

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Filed March 27, 1856.
J. Chevers,
Deputy.

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N° 46.

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

The United States, Appellants
vs
Rosa Pacheco et als- Respondents

And

Rosa Pacheco et als, Appellants
vs
The United States, Respondents

Transcript from Board of Commissioners N° 168—

On appeal by both parties 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 by both parties from the final decision of the Board of Commissioners to ascertain and settle the private land claims in the State of California under the Act of Congress Approved on the 3d of March A.D. 1851, upon the transcript of the proceedings and decision of the said Board of Commissioners, the papers and evidence on which the said decision was founded, the petitions of both parties as appellants

and their answers as appellees, and upon the further evidence given in this Court by leave of the Court, and it appearing to the Court, after argument of Counsel for the respective parties, that there is Error in the said decision of the Board of Commissioners in this, that by said decision the claim is confirmed only to the extent and quantity of two square leagues of land whereas the same should be confirmed to the extent and quantity included within the boundaries specified and designated in the grant and map therein refered to, it is by the Court hereby Ordered, adjudged and decreed that the said decision be, and the same is, hereby reversed and in all things annulled.

And the Court now proceeding to render such decision and judgment as should have been rendered herein, it is Ordered, Adjudged and Decreed that the claim of the said Rosa Pacheco, Encarnacion Pacheco, Francisca Pacheco, Petra Pacheco, Sylvenia Pacheco, Trinidad Pacheco, Antonio Pacheco, Miguel Pacheco, Ygnacia Pacheco, Daniel Bowen, Juan Peralta, Maria Antonia Peralta, and Maria de los Angeles Peralta, the devisees named

in the last will and testament of Juana Sanchez de Pacheco, deceased, is a good and valid claim and that the said claim be and the same is hereby confirmed to the said devisees in the proportions to which they may be severally entitled under the said last will and testament, to the extent of the boundaries specified in the decree of concession and grant to the said Juana Sanchez de Pacheco and the map to which the said grant refers, which said decree, grant and map appear in the Espediente which is set forth in the transcript on file in this case.

Ogden Hoffman
Dist Judge

Nº 46 — 22

District Court of the
United States —

The United States
vs. Appellants
Rosa Pacheco et als
Appellees

And

Rosa Pacheco et als
vs Appellants
The United States
Appellees —

Decree

Filed Sept: 22. 1856.
Chevers,
Deputy.

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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 twenty fourth day of March in the year of our Lord one thousand eight hundred and fifty-seven.

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States
v
Rosa Pacheco et al

D. C. 46; L. C. 168.

In this case, on application of the United States District Attorney made in open Court, it is ordered by the Court that an appeal in behalf of the United States from the final decision of this Court, rendered at the present term, be, and the same is hereby granted; and that a certified transcript of the pleadings, evidence, depositions and proceedings in the said cause be sent to the Supreme Court of the United States without delay.

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United States District Court, Northern District of California.

The United States

vs.

Rosa Pacheco et al

ORDER.

granting appeal

Filed March 24, 1857

John A. Monroe,

CLERK.

By W. H. Chevers,

DEPUTY.

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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 14th day of August in the year of our Lord one thousand eight hundred and fifty-~~seven.~~ eight,

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States
v.
Rosa Pacheco, Encarnacion Pacheco, Francisca Pacheco, Juan Soto and Petra Pacheco his wife, Sylveria Pacheco, Joaquin Isidro Castro & Trinidad Pacheco his wife, Antonio Pacheco, Miguel Pacheco and Maria Ygnacia Pacheco, minors, by their guardian Sebastian Peralta, Daniel Bowen a minor by his guardian Joaquin Isidro Castro, Juan Peralta, Francisco Garcia and Maria Antonia Peralta his wife, Mariano Miranda and Maria de los Angeles Peralta his wife, and Joaquin Isidro Castro and Francis Lightstone Exrs. last will of Juana Sanchez de Pacheco, deceased.

D. C. 46. L. C. 168.

In this case on application of P. Della Torre Esq. U. S. attorney, it is ordered that an appeal in behalf of the United States from the final decision of the Court, rendered in said cause at the June 1856 term, be and the same is hereby granted, and that a certified transcript of the pleadings, evidence, depositions and proceedings in the said cause be sent to the Supreme Court of the United States without delay, and the appellants are ordered to serve the usual citation according to law.

Ogden Hoffman
Dist Judge

46

United States District Court, Northern District of California.

The United States

vs.

Rosa Pacheco et al

ORDER.

granting appeal

Filed August 14, 1858

W. H. Chevers

CLERK.

By

DEPUTY.

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The United States of America,

To Rosa Pacheco, Encarnacion Pacheco, Francisca Pacheco, Juan Soto and Petra Pacheco, his wife, Sylveria Pacheco, Joaquin Isidro Castro and Trinidad Pacheco his wife, Antonio Pacheco and Maria Ignacia Pacheco, minors by their guardian Sebastian Peralta, Daniel Bowen, a minor, by his guardian Joaquin Isidro Castro; Juan Peralta, Francisco Garcia and Maria Antonia Peralta his wife; Mariano Miranda and Maria de los Angeles Peralta, his wife, and Joaquin Isidro Castro and Francis Lightstone, Exrs last will of Juana Sanchez de Pacheco, deceased,

Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden in Washington on the first Monday in December next, pursuant to an order of appeal granted on the fourteenth day of August A.D. 1858, by the District Judge of the District Court of the United States for the Northern District of California, in a certain suit wherein the United States are plaintiffs and you are defendants on

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appeal, to show cause, if any there be, why the decision in the said appeal mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness my hand and seal at San Francisco this fourteenth day of August in the year of our Lord one thousand eight hundred and fifty eight.

Ogden Hoffman
Dist Judge

46

U. S. District Court.

The United States

v.

Rosa Pacheco, et al

Citation.

Due service of within citation, by U. S. Marshal, admitted this 16 day of August A.D. 1858.

A P Crittenden

Atty for Claimants

Filed Aug: 16. 1858.

W. H. Chevers,

Clerk;

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A P Crittenden

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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 August in the year of our Lord one thousand eight hundred and fifty-eight.

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States
vs
Rosa Pacheco & others

No 46 U. S. Dist. Court

And now at this day come the said Claimants Rosa Pacheco, Encaracion Pacheco, Francisca Pacheco, Juan Soto and Petra Pacheco, his wife, Sylvena Pacheco, Joaquin Ysidro Castro and Trinidad Pacheco, his wife, Antonio Pacheco, Miguel Pacheco and Maria Ygnacia Pacheco, minors by their Guardian Sebastian Peralta, Daniel Bowen a minor, by his Guardian Joaquin Ysidro Castro, Juan Peralta, Francisco Garcia and Maria Antonia Peralta, his wife, Mariano Miranda and Maria de los Angeles Peralta his wife, by their attorney A. P. Crittenden and present the mandate of the Supreme Court of the United States dismissing the appeal made herein in behalf of the United States to the said Supreme Court, whereupon and on motion of said claimants by their said attorney, It is Ordered that said mandate be filed and made a part of the record of this Court in this cause and that the said claimants may proceed under the decree of this Court heretofore rendered in favor of the claim of said claimants as under final decree—

Ogden Hoffman
Dist Judge

No 46.

United States District Court, Northern District of California.

The United States.

vs.

Rosa Pacheco et al,

Order to file Mandate U. S. Sup. Court &c,

Filed August 16. 1858

W. H. Chevers

Clerk.

2

Deputy.

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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 August in the year of our Lord one thousand eight hundred and fifty-~~seven~~ eight,

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States
v.
Rosa Pacheco & others,
No. 46.

On motion of said claimants by their attorney, A. P. Crittenden Esq. and after hearing P. Della Torre Esq. U. S. attorney, it is Ordered by the Court that the order made in this cause on Saturday the 14th day of August instant, granting an appeal on the part of the United States on motion of the U. S. attorney, be, and the same is hereby set aside and vacated, without prejudice to the United States.

Ogden Hoffman
Dist Judge

46

United States District Court, Northern District of California.

The United States

vs.

Rosa Pacheco, et al,

ORDER.

Vacating order granting appeal.

Filed August 18, 1858,

W. H. Chevers

CLERK.

By

DEPUTY.

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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 Northern District of California _____

greeting:

Whereas, lately, in the District Court of the United States, for the Northern District of California before you, _____ in a cause between The United States, appellants and Rosa Pacheco & others, devisees under the last will and testament of Juana Sanchez de Pacheco, deceased, appellees, wherein a decree was rendered in favor of the said appellees - whereupon the said appellants prayed an appeal, which was duly allowed by the said District Court to remove the said cause to the Supreme Court of the United States —

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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~~ _____

agreeably to the act of Congress, and the rules of the said Supreme

Court _____ in such case made and provided, fully and at large appears.

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And whereas, in the present term of December, in the year of our Lord one thousand eight hundred and fifty seven 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,~~ and it appearing that the said appellants have failed to have their cause filed and docketed in conformity to the rules of this court, it is now here ordered and decreed by this court, that this appeal from the District Court of the United States for the Northern District of California, be and the same is hereby docketed and dismissed, and that this cause be and the same is hereby remanded to the said District Court. — Jan: 11th

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 Roger B. Taney Chief Justice of said Supreme Court, the first Monday of December in the year of our Lord one thousand eight hundred and fifty seven.

COSTS,

Clerk,.....$

Attorney,....$

$

~~Issued by~~

Wm. Thos. Carroll

Clerk of the Supreme Court of the United States.

No. 226,

No. 228, December Term, 1857.

MANDATE

SUPREME COURT UNITED STATES.

W. States vs Pacheco's devisees

Filed August 16, 1858.

W. A. Aubrey, Clerk.

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United States of America,

To Rosa Pacheco, Encarnecion Pacheco, Francisca Pacheco, Juan Soto and Petra Pacheco his wife, Sylveria Pacheco, Joaquin Isidro Castro and Trinidad Pacheco his wife, Antonio Pacheco, Miguel Pacheco and Maria Ygnacia Pacheco, minors, by their guardian Sebastian Peralta, Daniel Bowen, a minor, by his guardian Joaquin Isidro Castro, Juan Peralta, Francisco Garcia and Maria Antonia Peralta his wife, Mariano Miranda and Maria de los Angeles Peralta his wife, and Joaquin Isidro Castro and Francis Lightstone, Exr. last will of Juana Sanches de Pacheco dec.d

Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden in Washington on the first Monday in December next, pursuant to an order of appeal granted on the nineteenth day of August A.D. 1858. by the District Judge of the District Court of the United States for the Northern District of California, in a certain suit wherein the United States are plaintiffs and you are defendants on appeal, to show cause, if any

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there be, why the decision in the said appeal mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness my hand and seal at San Francisco this nineteenth day of August in the year of our Lord One thousand eight hundred and fifty eight.

Ogden Hoffman
U. S. Dist Judge

46.

U. S. Dist Court.

The United States

v.

Rosa Pacheco et al

Citation

Due service of within citation, by U. S. Marshal, admitted this 19th day of Aug A. D. 1858.

A P Catlenden
Atty for claimants

Filed Aug: 19. 1858,
W. H. Chevers,
Clerk

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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 Thursday the 19th day of August in the year of our Lord one thousand eight hundred and fifty-~~seven~~ eight.

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States
v.
Rosa Pacheco, Encarnecion Pacheco, Francisca Pacheco, Juan Soto and Petra Pacheco his wife, Sylveria Pacheco, Joaquin Isidro Castro & Trinidad Pacheco his wife, Antonio Pacheco, Miguel Pacheco and Maria Ygnacia Pacheco, minors, by their guardian Sebastian Peralta, Daniel Bowen a minor by his guardian Joaquin Isidro Castro, Juan Peralta, Francisco Garcia and Maria Antonia Peralta his wife, Mariano Miranda and Maria de los Angeles Peralta his wife, and Joaquin Isidro Castro and Francis Lightner, Exrs last will of Juana Sanchez de Pacheco, deceased

D.C. 46: L.C. 168.

In this case on application of P. Della Torre Esq. U.S. attorney, it is ordered that an appeal in behalf of the United States from the final decision of the Court rendered in said cause at the June 1856 term, be and the same is hereby granted, and that a certified transcript of the pleadings, evidence, depositions and proceedings in the said cause be sent to the Supreme Court of the United States without delay; and the appellants are ordered to serve the usual citation, according to law.

Ogden Hoffman
U. S. Dist Judge

46

United States District Court, Northern District of California.

The United States

vs.

Roza Pacheco et al

ORDER.

granting appeal.

Filed Aug: 19, 1858

W. H. Sherery

CLERK.

By 4

DEPUTY.

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No 46.

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

The United States vs. Rosa Pachecs et als. } Transcript from Board of Commissioners No 168.

On appeal by both parties, from the final decision of the Board of Commissioners to ascertain and settle private land claims in the State of California.

Decree.

This day came the said Rosa Pachecs, et als, by A. P. Crittenden, their Attorney, and presented the mandate of the Supreme Court of the United States, dated the first Monday of December. A.D. 1859. wherefrom it appears that the decree of this Court heretofore entered in this cause, has been by the said Supreme Court reversed, and the cause remanded to this Court for further proceedings to be had therein in conformity to the opinion of the said Supreme Court; and the said mandate having been duly filed in this Court, and on motion of said Rosa Pachecs and others, by their said Attorney, due notice thereof having been given to Calhoun Benham Esq. District

Attorney of the United States for the Northern District of California, and the said Benham appearing on behalf of the United States this Court now proceeding to enter a final decree in the cause, in conformity to the opinion of the said Supreme Court, It is by the Court here adjudged, ordered and decreed, that the claim of the said Rosa Pacheco, Encarnacion Pacheco, Francisca Pacheco, Petra Pacheco, Sylvina Pacheco, Trinidad Pacheco Antonio Pacheco, Miguel Pacheco, Ygnacio Pacheco, Daniel Bowen, Juan Peralta, Maria Antonia Peralta, and Maria de los Angeles Peralta, the devisees named in the last will and testament of Juana Sanchez de Pacheco, deceased, is a good and valid claim, and that the said claim be, and the same is, hereby confirmed to the said devisees in the proportions to which they may be severally entitled under the said last will and testament, to the extent and quantity of ~~five~~ four square leagues of land within the boundaries described in the grant to said Juana Sanchez de Pacheco, deceased and the diseño or map therein referred to, which grant and map appear in the expediente, which is set forth in the transcript on file in this cause, Provided said quantity of ~~five~~ four square leagues, be contained within

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the said boundaries, and if there be less than said quantity of ~~five~~ four square leagues of land within said boundaries, then there is so confirmed to said devisees such less quantity;

And it is further ordered, adjudged and decreed, that the said claimants have leave to proceed under this as a final decree.

Ogden Hoffman
U. S. Dist Judge

No 46.

U. S. District Court

The United States.

v.

Rosa Pacheco. et al.

Final Decree.

Filed October 6. 1860

W. A. Chevert

Clerk

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UNITED STATES OF AMERICA, SS.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Honorable the Judges of the District Court of the United States, for the Northern District of California _____

greeting:

Whereas, lately, in the *District* Court of the United States, for the *Northern* District of *California* _____ before you, _____ in a cause between *The United States, appellants, and Rosa Pachecs and others, devisees, under the last will and testament of Juana Sanchez de Pachecs, deceased, appellees, the decree of the said District Court was in the following words, viz:-*

"This cause came on to be heard at a special term of the Court on appeal by both parties from the final decision of the Board of Commissioners to ascertain and settle the private land claims in the State of California, under the act of Congress approved on the 3d. of March A. D. 1851, upon the transcript of the proceedings and decision of the said Board of Commissioners, the papers and evidence on which the said decision was founded, the petitions of both parties as appellants, and their answers as appellees, and upon the further evidence given in this Court by leave of the Court, and it appearing to the Court, after argument of counsel for the respective parties, that there is error in the said decision of the Board of Commissioners in this, that by said decision the claim is confirmed only to the extent and quantity of two square leagues of land, whereas the same should be confirmed to the extent and quantity included within the boundaries specified and designated in the grant and map therein referred to, it is by the Court hereby ordered, adjudged and decreed, that the said decision be, and the same is hereby, reversed and in all things annulled.

And the Court now proceeding to render such decision and judgment as should have been rendered herein, it is ordered, adjudged and decreed that the

the claim of the said Rosa Pacheco, Encarnacion Pacheco, Francisca Pacheco, Petra Pacheco, Sylveria Pacheco, Trinidad Pacheco, Antonio Pacheco, Miguel Pacheco, Ygnacia Pacheco, Daniel Bowen, Juan Peralta, Maria Antonia Peralta, and Maria de los Angeles Peralta, the devisees named in the last will and testament of Juana Sanchez de Pacheco, deceased, is a good and valid claim, and that the said claim be, and the same is hereby confirmed to the said devisees in the proportions to which they may be severally entitled under the said last will and testament, to the extent of the boundaries specified in the decree of concession and grant to the said Juana Sanchez de Pacheco, and the map to which the said grant refers, which said decree, grant and map appear in the expediente which is set forth in the transcript on file in this case".

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 fifty nine 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 reversed, and that this cause be and the same is hereby remanded to the said District Court for further proceedings to be had therein in conformity to the opinion of this Court. Mar: 12th

You, therefore, are hereby commanded that such further _____ proceedings be had in said cause, in conformity to the opinion and decree of this court as according to right and justice, and the laws of the United States, ought to be had, the said appeal notwithstanding:

Witness the Honorable Roger B. Taney Chief Justice of said Supreme Court, the first Monday of December in the year of our Lord one thousand eight hundred and fifty nine.

~~COSTS~~,

~~Clerk~~,.....$

~~Attorney~~,....$

$

~~Taxed by~~

Wm. Thos. Carroll

Clerk of the Supreme Court of the United States.

No. 146.

No. 123, December Term, 1859.

MANDATE

SUPREME COURT UNITED STATES.

U. States vs Rosa Packeco et al

Filed October 6, 1860

Wm. Thos. Carroll

Clerk

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H. S. Magraw Esq.

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SUPREME COURT OF THE UNITED STATES.

1846 No. 123.—December Term, 1859.

The United States, Appellants,
vs.
Rosa Pacheco et al., devisees under the last will and testament of Juan A. Sanchez de Pacheco, deceased.

Appeal from the District Court of the United States for the northern district of California.

Juana

Mr. Justice CATRON delivered the opinion of the Court.

On the 31st of July, 1834, there was granted to Madam Pacheco a rancho of land, "included between the Arroyo de las Nueces and the Sierra de Golgones, bounded by the said places, and bounded by the ranchos Las Juntas, San Ramon, and Monte Diablo." This description was accompanied by a diseno, better defining the exterior boundaries than usual. But the grant has the following condition, amongst others: "The land of which mention is made is two square leagues, a little more or less, as shown by the map, which goes with the espediente. The magistrate who may give the possession will cause it to be measured in conformity with the ordinance, for the purpose of marking out the boundaries, leaving the surplus which may result to the nation for its convenient uses."

The board of commissioners held that this condition must govern as to quantity, and decreed two square leagues.

In the district court that decree was reversed, and the land as above described, and as it is represented on the plan, was decreed to the claimants, regardless of any exact quantity. From this decree the United States appealed. The validity of the grant is not disputed; the contest respects quantity only.

The plan presented by the party, and referred to in the grant, will furnish a guide to the surveyor, as respects boundaries, within which the survey shall be made. But in ascertaining the quantity intended to be given, we think neither the general description, nor the call for "two square leagues," found in the condition of the grant, can be relied on, as they are inconsistent, and plainly contradict each other, and the adoption of the one must necessarily reject the other. To find the true quantity intended to be granted, we are compelled to rely on other title-papers and proofs.

The map shows, when taken in connection with the evidence of witnesses, explaining its contents, that the body of land petitioned for and

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granted was something more than two leagues long, and about two leagues wide. To this effect the parol evidence is conclusive; and the map is equally so on its face, however inaccurate it may possibly be found when the objects called for, and laid down on the map, are sought on the ground. Nothing could be more manifest than that the grant was intended to give to Madam Pacheco a rancho of at least two leagues on each side line, making four leagues in superficies. And as the plan is part of, and accompanies the last title-paper, we feel bound to give it due weight, in reaching the undoubted equity of the claim.

This court is not dealing with a legal title; none such can exist until there is a survey, the land severed from the public domain, and the public title transferred by a final grant from the United States into private ownership.

What precise tract of land is to be surveyed and granted to Pacheco's heirs, "according to the principles of equity," must be ascertained in this proceeding, to the end that the United States may grant the legal title, in satisfaction of the treaty; and a concession by leagues being the rule, and one extending to indefinite out-boundaries the exception, we hold that it was intended in this case to grant equal to *two leagues square*, situate within the given out-boundary; that is to say, four leagues in one tract, if so much is found in the general description and diseno.

The decree of the district court is therefore reversed, and the cause remanded to that court, to be further proceeded in according to this opinion.

46.

U. S. Dist. Court.

The United States.

—vs—

Rosa Pacheco, et al.

Opinion of the U. S. Sup. Court.

Filed October 6. 1860.
W. A. Cheever
Clerk

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U. S. Dist Court

The United States

vs.

Rosa Pacheco et als.

The petition of the United States by Calhoun Benham their Attorney respectfully shows that the rancho confirmed in the above entitled cause was surveyed by the U. S. Surveyor General and the survey thereof approved on the 15th of December A. D. 1860 and that a notice and publication under the 1st section of the Act of June 14. 1860. was first made by said Surveyor. on 19th Dec. 1860.

That the said United States an interested in said survey and in having the same modified because it includes as they allege public lands of the United

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States

Whereupon the said United States pray that the said Surveyor be ordered to return the said survey into Court and that the same be modified in accordance with the special exceptions and suggestions hereinafter to be filed

Calhoun Benham
U. S. Atty.

Sworn to and subscribed
this 16th January, 1861 before me,
W. H. Cheever.
U. S. Com.

46.

U. S. Dist. Court.

The United States.

vs.

Rosa Pacheco, et al.

Pet. & affdvt of
U. S. Attorney to
Return Duces.

Filed January 16, 1861.
W. H. Chevers.
Clerk

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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. 46, to Rosa Pacheco et al. known as "Arroyo de las Nueces, y Bolbones", and situated in the County of Contra Costa 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 6th day of February A. D. 1861, 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 16th day of January A. D., 1861.

W. A. Chevers

CLERK.

No. 46.

UNITED STATES DISTRICT COURT,

Northern District of California.

IN LAND CASES.

THE UNITED STATES.

V.

Rosa Pacheco et al.

MONITION.

Returnable February 6th 1861.

Issued January 16th 1861.

Filed February 6th 1861.

W. H. Chevers

Clerk.

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The within Monition was received by me on Wednesday *the* 16th *day of* January *1860, and in obedience thereto I have given due notice, as therein commanded, by causing the publication of said notice, for* 3 *consecutive Wednesdays, in the San Francisco Herald, commencing on the* 23rd *day of* January *1860; and for* 3 *consecutive Saturdays, in the* Contra Costa County *a paper published nearest the land, commencing on the* 19th *day of* January *1860.*

Dated San Francisco, ~~February 15~~ Feby 6th *1860.*

P L Solomon

U. S. Marshal.

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W. S. Dist. Court

The United States

Rosa Pacheco et al.

George Stone, being duly sworn according to law deposes and says that the ranch conformed to the claimant in the above-entitled cause, has been surveyed by J. W. Mandeville U. S. Surveyor General. He further says that the survey so made includes a tract of land 160 acres in extent now occupied and claimed by him under and by virtue of the preemption laws of the United States, which said tract is public land of the said States. He further says said survey is not in conformity with the decree of the Court in said case, nor with the title

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– paper upon which said decree is based.

Sworn to and subscribed
before me this 11th day
of January, A. D. 1861.

George Stone

Thos B Williams
U. S. Commissioner

46.

U. S. Dist. Court

The United States

vs.

Rosa Pacheco et al.

Affidavit of
Geo Stone

Filed January 16, 1861.
W. H. Chevers.
Clerk.

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Dennen U. S. Atty

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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 16th day of January in the year of our Lord one thousand eight hundred and sixty-one.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States,

V.

Rosa Pacheco, et al.

IN LAND CASES.

District Court No. 46.

Land Com. No. 168.

AND now at this day on application of Calhoun Benham, Attorney for the United States, IT IS ORDERED, that the Surveyor General of the United States for California return into this Court, on or before Wednesday, the 6th day of February A. D. 1861, his Official Survey and Plat of the land finally confirmed in the above entitled cause, known as "Arroyo de las Nueces, y Bolbones" and situated in the County of Contra Costa 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.

U S Marshal's Office
San Francisco Jan 16th 1861

I have this day made personal service of this Order on J. W. Mandeville U S Surveyor General for California by delivering to him a certified copy thereof

P. L. Solomon
U S Marshal

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

No. 46

THE UNITED STATES,
v.
Rosa Pacheco, et al,

ORDER TO RETURN SURVEY.

Returnable February 6th 1861.

Issued January 16th 1861.

Filed January 30, 1861.

W. H. Chevers, *Clerk.*

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

United States
vs
Rosa Pacheco et als. } No 46
Arroyo de los Nueces Rodones
Golden Field Williams
Caldwell, John Baker, & John B. Elwell

being duly sworn depose each for himself,
that the Surveyor General of the United States
for California, has made & approved a final
survey of the lands confirmed to the claimants
in the above entitled cause, & that the
deponents are severally interested in said
survey in this towit, that they severally
claim & are entitled in severalty, each to
a portion of the lands so confirmed, by
virtue of mesne conveyances from the
original grantee down to deponents severally,
& each of them is & for a long time past
has been in possession, under said conveyances
of the lands so claimed by them severally;
and they aver that said approved survey
is erroneous in this towit that it does not
conform either to the original grant nor
to the said decree of confirmation & that
the ~~said~~ Southern line of said survey is
particularly erroneous, & is so run as to
exclude from said survey, the whole of
some & a large portion of the other lands
claimed & occupied by deponents respectively

under the conveyances aforesaid & which were in fact sold & conveyed by the original grantee, as a part of the lands embraced in the grant & which are in fact embraced in the grant & decree of confirmation, whilst the said survey erroneously includes a large body of public land, which was not included in the grant or decreed of confirmation. They further depose that if the said Southern line was properly run, it would include all the lands claimed by the deponents severally under their respective titles derived from the said grantee.

Golder Field
John Baker
William J. Caldwell
J. B. Ellwell

On this Tenth day of January A.D. One Thousand Eight Hundred and Sixty One personally appeared before me. Golder Field John Baker. W. J. Caldwell and J. B. Ellwell and made oath and subscribed to the foregoing affidavit - and said under oath that the facts set forth in the said affidavit are true and correct.

C. E. Wilmon (Seal)
Justice of the Peace
of Township No Three
Contra Costa County

No 46.

U. S. District Court

Arroyo de los Juveces Bolbones

United States

vs

Rosa Pacheco et als

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Interventions of
Holden Field
W. J. Caldwell
Jno Baker
I. B. Elwell

Crockett & Crittenden
Attys for Intervenors

Filed February 6, 1861,
N. B. Clarke,
Clerk

Crockett & Crittenden
attys for above
intervenors

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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 28th day of February in the year of our Lord one thousand eight hundred and sixty-one,

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States,

V.

Rosa Pacheco. et al.

IN LAND CASES.

District Court No. 46,

Land Com. No.

AND now at this day the United States Marshal having made return upon the Monition heretofore issued in this cause, that he had given due notice as therein commanded; on motion of Calhoun Benham Attorney for 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;

Calhoun Benham. U.S. atty appeared for the U.S. A. A. Carpentier & Robert Emison appeared for the claimants, Crockett & Crittenden appeared in behalf of G. Field, W. S. Caldwell, John Baker, and J. B. Elwell, and filed their intervention,

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. 46.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

v.

Rosa Pacheco et al.

ORDER ON RETURN OF MONITION.

Filed February 6, 186/.

W. H. Chevers

Clerk.

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

United States
vs
Rosa Pacheco et als

No 46. N.D.
No 118. L.C.

Golder Field, William J. Caldwell John Bates, and J. S. Elwell, who have intervened for the protection of their rights in the above entitled cause, now come by Crockett & Crittenden their attorneys & aver that the Survey made by the United States Surveyor General for California, of the lands embraced in the decree of confirmation in the above entitled cause, which survey has been approved by said Surveyor General & a copy of the plat & field notes of which has been returned into this court, is erroneous & ought to be set aside & for causes of exception to said survey they allege & set forth the following to wit

1st That survey does not conform either to the original grant, the map or diseño therein referred to, or the final decree of confirmation -

2nd That the said tract as granted & confirmed, has for its Southern ~~bound~~ boundary a line commencing at a point ~~in the Arroyo Yaquito~~ ~~notorious & well known point, called~~

~~Reserve as the "Cerrito Cuate"~~ in the Arroyo del Yorgito, near to a notorious & well known place called "Cerrito Cuate", & running thence in a straight line in a Southerly direction, to a point near the top of the mountains, whereas in the said apposed survey, the said South line begins at a point several miles to the Northward of said "Cerrito Cuate" & runs towards the East, not in a straight line, but with numerous angles & offsetts, beyond what would be necessary in order to conform to the government subdivisions & some portions of the said South line, are to the South of the true line, whilst other portions of it, are far to the Northward of the true line ~~& does not embrace~~

3. That by deed dated the 15th day of November 1852 Juana Sanchez de Pacheco, the grantee of said land conveyed to Ygnacio Cabrera a part of the land mentioned and described in the grant to her and the diseño therein referred to and bounded and described as follows, to wit: Commencing at the South West corner of said Rancho, (called in said deed the Rancho of San

" Juan) being a point on the Arroyo

Miguel,) being a point on the "Arroyo del Agrento" near the "Cerrito Gual" thence following said Arroyo to its junction with the "Arroyo de las Nueces", thence following said Arroyo to the foot of the hill North of a Spring near the "Corral" of said Cabrian and about 1000 yards from the same bears South 72° East, thence South 72° East three miles, thence South 15° East one and three fourth miles to the Southern line of said Rancho, thence North 75° West following the Southern boundary of the Rancho to the place of beginning, containing one half league of land; That parcels of said described tract of one half league of land are now held and owned by these intervenors respectively under title derived from said Cabrian; that since the date of the said deed the said Cabrian and these intervenors have been in possession of said tract of one half league of land; that the whole thereof lies within the boundaries of said Rancho as

the same are described in said grant, diseño and decree of confirmation; yet the greater part of the land so ~~the~~ held and owned by these intervenors respectively is by the said approved Survey wrongfully excluded and forms no part of said Rancho.

4. That within the boundaries described in said grant to Juana Sanchez de Pacheco and the diseño therein referred to and the decree of confirmation there is included a greater quantity of land than four leagues; that by the said deed to Ygnacio Libran, under which these intervenors hold, the said Juana Sanchez de Pacheco Elected to take, as part of the four leagues to which she was entitled under the grant, the tract of land described in said deed; and that said Election is binding upon the claimants in this case, and these intervenors insist that said tract shall

be included in the survey,
5th. And these intervenors say
that before the making of the
said deed to Ygnacio Sibrian
the said Juana Sanchez de Pacheco
in the year 1850 caused a survey
to be made of said Rancho and
the boundaries thereof to be actually
run and marked on the ground
and also delineated by a plat;
~~that~~ the said survey lying within
the boundaries described in the
grant, diseño and decree of
confirmation, and including the
whole of the said tract of land
conveyed by said deed to said
Sibrian, and by said survey, as
well as by said deed, elected
to take said tract of land as
part of the four leagues of land
to which she was entitled.

Wherefore these intervenors
pray that the said official
survey be rejected and set
aside, and a new survey be
ordered to be made of the four
leagues of land confirmed to
said claimants, to include
the said tract of land conveyed

as aforesaid to said Sibrian, and now held and owned by these intervenors, the Southern boundary of said survey to be a line drawn in the manner ~~described~~ alleged in the 2nd of the foregoing Exceptions to be the proper location of said line.

Crockett & Cutlender
Atty's for Intervenors.

No 46.

U. S. District Court

The United States
vs
Rosa Pacheco et als

Exceptions of
Field, Caldwell
Baker & Elwell —

Filed Febry: 16. 1861.
W. H. Chevers
Clerk.
Crockett & Cuttenden
Attys for Intervenors

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This Indenture Made this fifteenth day of November A.D. 1852 by and between Juana Sanchez de Pacheco of the County of Santa Clara and State of California of the first part and Ignacio Vibian of the County of Contra Costa and State last aforesaid of the second part Witnesseth that the said party of the first part for and in consideration of the sum of four thousand Dollars in hand paid by the said party of the second part at or before the ensealing of these presents the receipt whereof is hereby duly acknowledged hath bargained sold and conveyed and by these presents doth bargain sell convey and confirm unto the said party of the second part his heirs and assigns the following described piece or parcel of land lying and being in the County of Contra Costa and State aforesaid and bounded and described as follows to wit:

Commencing at the South west corner of the Rancho of San Miguel being a point in the "arroyo del Pinjerto" near the "Cerrito Cuate" thence following said arroyo to its junction with the "arroyo de Las Nueces" thence following said

arroyo until the foot of the hill North of a spring near near the "Corrall" of Ignacio Vibrian and about 100 yards from the same bears South 72° East thence South 72° East three Statute miles thence South 15° East one and three fourths Statute miles to the Southern line of said Rancho thence North 75° West following the Southern boundary of said Rancho to the place of beginning Containing half a league

To Have and To Hold said premises with the appurtenances unto the said party of the second part his heirs and assigns forever, (And the said party of the first part for himself his heirs and assigns hereby covenants and agrees with the said party of the second part his heirs and assigns that she is lawfully seized of the premises aforesaid, that the premises are free and clear from all encumbrances whatsoever and that she will forever warrant and defend the same with the appurtenances unto the said party of the second part his heirs and assigns against the lawful claims of all persons whomsoever

In Testimony whereof the said party of the first part hath hereunto

set her hand and seal at the City of San Jose County and State first aforesaid this the day and year aforesaid Juana Sanchez de Pacheco (Seal) by marca

Executed in presence of
word "port" interlined
before signing
Freeman G McKinney
Joaquin Y Castro

State of California
County of Santa Clara } ss

Be it Remembered that on this 13th day of Novr 1852 before me the Undersigned Notary Public in and for said County personally came Juana Sanchez de Pacheco to me well known to be the person described in and who signed the foregoing deed and acknowledged to me that she executed the same freely and voluntarily and for the uses and purposes therein set forth

In Witness whereof I have hereunto set my hand and seal of office this the day and year last aforesaid (Seal)

J Alexander Yoell
Notary Public

Filed for Record the 26th day of Oct

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1853 at 2½ O'Clk P.M. at Request-
Ygnacio Sibrian and Recorded the
same day at 3½ O'Clk P M
Thomas J Brown
County Recorder
By L M Brown Dep't

State of California }
County of Contra Costa } ss I, L. C. Wittenmyer
County Clerk & ex officio County Recorder
in and for the County aforesaid do hereby
certify that the above and foregoing is a
full true and correct copy of the Record
of a Deed Recorded in my office in Book
of Deeds Volume 3 pages 445 & 446
and that the interlineation of the words "And the said
party of the first part for" on the 15th line of the 2 page
of this Copy of the Record was made by me and are
a part of said instrument

Witness my hand and the Seal
of the County Recorder of said
County this 2d day of February
AD 1861

L C Wittenmyer County Recorder
By J. J. Alsop Deputy Recorder

No. 46

U. S. Dist. Court
Nor. Dist. of Cal.a

The United States
vs.
Rosa Pacheco et al.

Exhibit Abbott
No. 2 to Depo.n
of S. B. Abbott

Filed April 17, 1861,
W. H. Akerson,
Clerk

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Juanna Sanchez de Pacheco
To
Ygnacio Sibrian

Deed

Copy of Record

1.80 copying
1.00 Certificate
$ 2.80

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Copy of the field Notes taken by Lieut R. S. Williamson, U. S. Topl Engr & Deputy County Surveyor, during the Survey of the Rancho de San Miguel near Monte Diablo.

The following description of the Compass lines run during this Survey is intended as an Index to the copy of the Compass Notes which follow; and it will be readily understood by reference to the accompanying Map of the Rancho.

Line No 1 Commencing at a point on the Westernmost of the two beds into which the Arroyo de las Nueces, divides itself; thence running nh this bed to its junction with the Easternmost bed; thence down this last bed to a point nearly opposite the Starting point; thence east to the Starting point.

Line No 2 Commencing at the point where the Bed of the Arroyo de las Nueces divides itself into two beds. thence nh the Nueces, till it is joined by the Arroyo del Ingerto; thence nh the chico which is the South-western corner of the Rancho de San Miguel.

Line No 3 Commencing at a point of the Arroyo del Cerro, thence down the Cerro till it joins the Arroyo del Pinal; thence nh the Pinal, till it is joined by its first large branch.

Line No 4 Commencing at the junction of the Arroyo del Cerro with the Arroyo del Pinal, thence down the Arroyo Seco, which is formed by the junction

Line No 4 Continued

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of the two first mentioned Streams, to a point in its Bed, near where it sinks; thence to a point in the Bed of a dry Creek, which point is also the extremity of a Spur of the Sierra Galgones, and the North Eastern Corner of the Rancho de San Miguel; thence to an ash tree in the Bank of the Arroyo de las Nueces, which tree is the North Western Corner of the Rancho de San Miguel; thence to the point where the Nueces divides itself into two beds, which last point is the same as Station 1 of Line 2.

Line No 5 Commencing at the junction of the Arroyo del Cero, with the Arroyo del Pinal; thence following near the base of the low hills to a point on the Nueces, which point is the same as Station 25 of Line 2.

Line No 6 Commencing at the tree on the Bank of the Nueces, which is the terminus of Line No 2, and the South Western Corner of the Rancho de San Miguel; thence to the point of the Ridge of the Spur of the Sierra Galgones, Nearest the Source of the Arroyo del Pinal, which point is the South-Eastern corner of the Rancho de San Miguel. this line being the Southern boundary of the Rancho.

Note All bearings given are compass bearings, or magnetic bearings.

Variation of the Compass 15° 40' East

Stations	Line No 1

Tract No 1

Station	Bearing	Distance	Remarks
1	S 37½ E	438 ft	
2	S 31¾ E	262½ "	
3	S 29¼ W	290½ "	
4	S 38¼ E	1067 "	
5	S 89½ E	482 "	
6	S 21½ E	770 "	
7	S 12¾ E	990 "	
8	S 15 E	3495 "	
9	N 84 E	157 "	
10	S 12 E	783 "	
11	N 75¾ E	842½ "	
12	S 66½ E	835 "	
13	N 4¼ W	248½ "	
14	N 88½ E	486 "	
15	S 60 E	546½ "	
16	S 51¾ E	1477 "	
17	N 32½ W	1250 "	Station 17 is where bed of Nueces divides in two.
18	N 66¼ W	706½ "	
19	N 63 W	1004 "	
20	N 49½ W	900 "	
21	N 32½ E	437½ "	
22	N 32½ W	247 "	
23	N 18 E	840 "	
24	N 31¾ W	801 "	
25	N 28 W	1218 "	
26	N 18½ W	1042½ "	
27	N 48¾ W	855 "	
28	N 6 W	1140 "	
29	N 29¾ W	1075 "	At Station 30 Cross to 31 on Eastern mark
30	N 76¼ W	1350 "	bed of Nueces and from there run to
31	S 17 W	897 "	the starting point.
1			

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Sini 702

Station	Bearing	Distance	Remarks
1	S 42½ E	816½ feet	
2	S 47⅓ E	1005 "	
3	S 18 E	138 "	
4	S 18¾ E	501 "	
5	N 60 E	157 "	
6	S 87 E	992 "	
7	S 38½ E	401½ "	
8	S 6¼ E	500 "	
9	S 65¾ E	203 "	
10	S 5 E	1521 "	
11	S 35 E	345 "	
12	S 10½ W	828 "	
13	S 2 W	517½ "	
14	S 63¾ E	243 "	
15	S 34 E	414½ "	
16	S 3 E	126 "	
17	S 66¾ W	81 "	
18	S 17¼ W	1078 "	
19	S 29 W	349 "	
20	S 13¾ E	885 "	
21	S 13½ W	839½ "	
22	S 53 W	535 "	
23	S 6⅛ W	1246 "	
24	S 30½ E	1067 "	
25	S 17¾ E	378½ "	
26	S 6¼ W	1020 "	
27	S 26 W	358½ "	
28	S 17¼ E	1650 "	
29	S 5¾ E	589 "	
30	S 15½ W	716½ "	
31			

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Line No 2 (Continued)

Station	Bearing	Distance	Remarks
31	S 36½ W	310 feet	
32	S 7¾ W	181½ "	
33	S 31° E	65 7 "	
34	S 4½ W	990 "	
35	S 31 E	241 "	
36	S 56¾ E	153½ "	
37	N 77¾ E	150 "	
38	S 69¼ E	440 "	
39	S 28½ E	1550 "	The course from 39 to 40 lapsed through a bed of tule. From 39 to 44 the line runs some distance from the Creek on account of rough ground.
40	S 39¼ E	800 "	
41	S 25¾ E	312 "	
42	S 39 E	1000 "	
43	S 37½ E	1144 "	
44	S 66 E	996 "	
45	S 47¼ E	475 "	
46	S 23 E	227½ "	
47	S 11½ E	347 "	Station 48 is a blazed tree at foot of hill
48			which is South-Western Corner of Rancho

Line No 3

Station	Bearing	Distance	Remarks
1	S 87° W	634 feet	
2	S 86¼ W	562 "	
3	N 58¾ W	776 "	
4	N 59½ W	323 "	
5	S 38 E	338 "	Station 5 is junction of Cerro de Pinal &
6	S 2 W	594 "	
7	S 89¾ E	373 "	
8	S 58¼ E	547½ "	
9	S 21¾ W	350 "	
10	S 83¾ E	714½ "	
11	South	295 "	

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Line No 3 (Continued)

Station	Bearing	Distance	Remarks.
12	S 88° E	786 feet	
13	S 56½ E	456 "	
14	S 55° E	752 "	
15			Station 15 is at the mouth of the branch of the arroyo del Pinal.

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Line No 4

Station	Bearing	Distance	Remarks
1	N 15½° W	510½ feet	
2	N 31 W	285 "	
3	N 12¾ W	353 "	
4	N 50 W	400 "	
5	N 38 E	123 "	
6	N 9¾ W	852 "	
7	N 26 W	307½ "	
8	S 66 W	295 "	
9	N 67¾ W	978 "	
10	N 47¾ W	988½ "	
11	N 28½ W	1896½ "	
12	N 15¼ W	1097½ "	
13	N 17¼ W	253 "	
14	N 41½ W	718 "	
15	N ½ W	2264 "	
16	N 24¾ W	1459½ "	
17	N 27¼ W	786 "	
18	N 35 W	636 "	
19	N 45¼ W	1650 "	
20	N 56 W	850 "	
21	N 52½ W	1980 "	
22	N 63 W	1004 "	
23	N 53½ W	4566 "	
24	N 1¼ W	750 "	

Line No 4 (Continued)

Station	Bearing	Distance	Remarks

24	N 1¼ W	750 "	

Line No 4 (Continued)

Station	Bearing	Distance	Remarks.
25	N 52° E	1497 feet	
26	S 52 W	1497 "	Station 26 is North East Corner of Rancho.
27	S 1¼ E	750 "	" 27 is same as 25,
28	S 30¼ W	756½ "	Station 28 is same as 24
29	N 43¾ W	1511½ "	" 29 is Ash tree at North West Corner of Rancho
30			" 30 is where the bed of Nuaces divides

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Line No 5

Station	Bearing	Distance	Remarks
1	N 88° W	1719½ feet	
2	N 88 W	1673 "	
3	N 87½ W	1340½ "	
4	N 87 W	6400 "	
5	N 42¾ W	2626 "	
6	N 23 W	500 "	
7	N 43½ W	500 "	Station 7 is opposite middle of a Laguna,
8	S 61¾ W	1257½ "	
9	S 48½ W	1993 "	
10	S 31¼ E	1070 "	
11			Station 11 is same as Station 25 of line 2.

Line No 6

This line passing over hills was not measured with the chain, but was determined by fixing the position of four of its points, viz, the two extremities, and the summits of two hills intermediate points of the line, These Stations are marked by large piles of Stones, and are shown upon the map by small flags. their directions from each other was observed, the Compass being taken to them: their distances were ~~taken~~ obtained by observing the bearings of two

peaks in the Sierra de las Galgones, whose positions had been previously determined by bearings from Stations in the valley. Below is given the bearings from the various Stations to these two peaks, and also the Bearings taken from the two hills on line No 6.

Determination of the positions of the two peaks in the Sierra de Las Galgones.

Peak No 1

Station	Line	Bearing
13	4	S 87⅞ E
1	3	N 54 E

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Peak No 2

Station	Line	Bearing
11	2	S 74¼ E
1	3	S 84¼ E

Station 1 of Line 6 is the hill at the termination of line 2.

At Station 2 of line 6 the following bearings were taken.

To Station 1	S 86¼ W.
" Peak 2 of Sierra Galgones	N 61¾ E.

At Station 3 of line 6 the following bearings were taken

To Station 1	S 86¼ W
" Station 2	S 86¼ W
" South East Corner of Rancho	S 86¾ E
" Peak 1 of Sierra Galgones	N 12⅝ E
" Peak 2 of " "	N 49⅛ E

Martinez
November 15th 1850.

R. S. Williamson
Lieut U.S. Topl Engineers
Deputy County Surveyor
for Contra Costa County.

A True copy of the original

Case No.

U. S. Dist. Court

Dist. of Cal.

The United States

vs.

Rancho Pinole et al.

Exhibit Williamson

No. 2 to Dep. of

R. S. Williamson

Filed April 15, 1861.

W. H. Chevers

Clerk

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Williamson 2

I do hereby certify that the above map and the within field notes are the same returned to me by R S Williamson Deputy County Surveyor for Contra Costa County

Warren Brown County Surveyor of Contra Costa County.

Exhibit Williamson No 2

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Rancho Pinoles et als

IN LAND CASES.

Dist. Court No. 46

Land Com. No. 168

BE IT REMEMBERED, that on this 16th 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 James B. Abbott a witness produced in behalf of Intervenor Field et als, 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: A. P. Crittenden Esq. for said Intervenor. ~~A. A. Leppien Esq for Claimants~~ and Calhoun Benham Esq. U. S. Atty

QUESTIONS IN BEHALF OF THE ~~Claimants~~ Intervenors

Question 1st,

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

Ans.

My name is James B. Abbott, my age is 27 years, and I reside

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in Pacheco Contra Costa County.

2.

Are you the County Surveyor of Contra Costa County?

Ans.

I am.

3.

Were you been present during the examination of Wm. R. S. Williamson, and have you seen the original map and field notes of the survey of which he has spoken?

Ans.

I was present during his examination, and saw the said original map and field notes.

4.

Where do those original field notes, and that original map belong, and by whom have they been produced here for the purposes of this examination?

Ans.

They belong to the records of the County Surveyors office, Contra Costa County, and were

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produced by me, and are now in my Custody.

5.

Can those originals be left here in evidence, or must they be returned to the office of the County Surveyor?

Ans.

They must be returned to the office of the County Surveyor.

6.

Who was County Surveyor of Contra Costa County in 1850, when this survey was made?

Ans.

I know from the records in my office that Warren Brown was the Surveyor at that time.

7.

Are you acquainted with the signature of Warren Brown?

Ans.

I am acquainted with it, so far as it is connected with the records in my office

8.

Examine the certificate endorsed on those original field notes now before you, purporting

to be signed by Warren Brown County Surveyor of Custer County, and say whether or not that is his genuine signature?

Ans.

It is.

9.

Examine exhibit Williamson No 2, and say whether the certificate thereon is a true copy of the certificate on the original field notes?

Ans.

It is a true copy.

10.

Are the original field notes and the original map of Williamson's survey attached together or are they disconnected?

Ans.

They are attached together.

11.

Examine the map now shown you marked Exhibit Abbott No. 1. and state by whom that map was drawn?

Ans.

I don't know by whom it was

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drawn, it was furnished from the Surveyor Generals office by the parties, and has certain lines drawn on it by myself in blue.

12.

Who made the blue lines upon this map, which together with the Arroyo del Ingles and Arroyo de los Nueces include the space marked "portion of "the San Miguel Rancho, Sur= "veyed for Ignacio Sibrian in August A. D. 1860."?

Ans.

I drew the lines.

13.

What do those lines represent?

Ans.

They represent the boundaries of a tract of land which I surveyed in August 1860, for Ignacio Sibrian according to the calls of a deed made the 15th day of November 1852 by Juana Sanchez de Pacheco, to Ignacio Sibrian.

14.

How did you make that survey?

Ans.

I commenced the survey at the Northwest corner of the tract to be surveyed on the east bank of the Arroyo de las Nueces at a point from which the foot of a hill which is North of a spring about a hundred yards from where the corral of Ignacio Ribrian stood, bears South 72° East, thence I ran South 72° East three miles, thence South 15° East to the Southern line of the rancho, thence North 78° 9' West to the mojo on the Cerito Cuate, and thence in the same course to the Arroyo del Ingerto, thence down the Arroyo del Ingerto to its junction with the Arroyo de las Nueces, thence down the Arroyo de las Nueces to the place of beginning.

15.

Were you determine the Southern boundary of the rancho?

Ans.

For the Southern boundary of tract. I find the Southern boun-

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dary I took a line from a flagstaff or corp on the Cerito Cañada to the first station established East by Williamson's survey, that station is on top of a hill and I found there the pile of stones erected by Williamson, that is one of the highest hills in that range. I ran that Southern line from this last station to the Cerito Cañada and thence on the same course to the Arroyo del Injerto. This line forms about half of the Southern boundary of the whole rancho.

16.

Examine the paper now shown you marked Exhibit Abbadie No. 2, and state whether or not that is a copy of the deed to Ignacio Sibrian to which you have referred as far as it relates to the description of the land, and whether or not the lines of your survey correspond with the lines mentioned in that deed, or if they differ, in what respects they differ?

Ans.

So far as it relates to the descrip-
tion this is a copy of the deed
referred to. The Northern line of
this survey corresponds with that
called for in the deed, the Eastern
line corresponds in course with
the Eastern line mentioned in the
deed, but exceeds it in length from
a half to a quarter of a mile.
The Eastern line in the deed calls
for it to extend to the Southern
line of the rancho, but I found
that the given distance of a
mile and three quarters did
not reach the Southern line as
marked out by Williamson, ~~and~~
The Southern line does not corres-
pond with the course mentioned
in the deed, there being a differenc
of three degrees and nine minutes.

17.

Have you ever run the east
~~of the Southern boundary of~~
this rancho, that is, Eastwardly
from the Station established by
Williamson to which you have
referred?

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Ans.

I have run it and it is delineated in blue upon the map Exhibit Abbott No. 1.

18.

~~How did you determine that~~ portion of the Southern line?

Ans.

From that station I run South 73° 40' East ~~to a point~~ 2241 5/100 chains to the summit of a well defined hill, that is shown on Williamson's survey as the Southeast corner of the rancho.

19.

How far from that South ~~east~~ ~~West~~ corner is the head of the Arroyo del Pinal?

Ans.

About one quarter of a mile in a Southwest direction.

20.

What is that Arroyo del Pinal now called in the country?

Ans.

The upper part of it is called Pine Canon.

21.

Into what does that Arroyo del

Pinal cropby?

Ans.

That together with the Arroyo del Cero, and other arroyos form what is called Dry Creek or Arroyo Seco, which flows at the foot of the mountains that is at the West base of the Sierra de Los Golgones which during the Summer is dry.

22.

Look at Exhibit Williamson No. 1. and state whether or not the position and general direction of the Arroyo del Pinal, Arroyo del Cero and Arroyo Seco are correctly delineated thereon?

Ans.

The map is a very good sketch of the country and I think those principal streams are laid down with considerable accuracy.

23.

Look at the copy of the original deseño on page 11 of the transcript on file in this case, and say what stream or arroyo upon the ground corresponds in

position with the upper portion of the stream marked on the legend "Arroyo Seco."?

Ans.

The Arroyo del Pinal or Pine Creek.

24.

On Exhibit ~~No. 1.~~ Abbott No. 1. What is intended to be represented by those straight lines in blue which starting from the South east corner of the rancho as established by you, run first Northeasterwardly and then Northwesterwardly and intersect the plat of survey made by the Surveyor General at a point on the line between "Post S. R. 18" and "Post S. R. 19."?

Ans.

They are intended to represent the dividing ridge ~~between~~ or main spurs of Mount Diablo, there is no place where there is a greater distance than twenty chains between this line and the dividing ridge, and there the dividing ridge is to the Eastward of the lines.

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Do there any marked divide along the general course of the line which you have delineated on Exhibit Abbott No. 1, as the Southern line of the rancho?

Ans.

There is, the waters on one side flowing to the North and Northwest, and on the other to the Southwest. If I were to follow that divide exactly I would cross the Southern line several times, without being at any point more than half a mile distant. I mark on this Exhibit a dotted line to represent the summit of the dividing ridge.

26.

Look at the said copy of the deseño on page 11 of the transcript on file in this case, and state what range or ridge exists corresponding to the one, part painted green on the deseño and marked "Sierra de ~~Divisadon~~ Divisoria"?

Ans.

There is nothing but the dividing ridge of which I have spoken.

27.

Look at Exhibit Williamson No. 1. and state whether or not it shows ~~correctly~~ the topography of the land included in his survey, & with sufficient accuracy to give a correct idea of the location of streams and the character of the country?

Examination adjourned until tomorrow at 10 o'clk A. M.

San Francisco.
April 17th 1861.

Examination of Jas. B. Abbath resumed from yesterday.

Present:

All the parties.

Ans.

I think it does.

28.

Is there any range of hills running Eastwardly from the junction of the Arroys de los

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Success with the Arroyo del Inglito, or from any point nearer to that junction than the line run by you as the Southern line?

Ans.

No sir.

29.

On the East bank of these Arroyos from their junction to the Cerritos Canada is the land flat or hilly?

Ans.

It is mostly flat lands; there are some low hills; ~~it~~ generally for about a mile and half Eastwardly the land rises gradually. It is farming land, the main part of it is plaughed every year.

30.

What is the character of the land over which runs the line of the official survey, from "past S. P. 1" to "past S. P. 2" is it hilly or flat land: does it follow any dividing ridge?

Ans.

I know that it does not follow any dividing ridge, the entire

line is flat land.

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31.

Answer the same question as to the land and the line marked Mount Diablo base line from the corner marked "Dry run" to the arroyo del Hojeda?

Ans.

From the Dry run Westward a little over a quarter of a mile the line runs over a low hill, from there to the arroyo, it is flat land, ploughed.

James B. Abbott

Sworn to and Subscribed April 19. 1861. before me,

W. A. Chenery

U. S. Com.

No. 46.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

v.

Rosa Pacheco, et al.

DEPOSITION OF

Jas. B. Abbott.

on part of Intervenors

Fidel. et al.

Filed April 17. 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.

Rosa Pacheco et als

IN LAND CASES.

Dist. Court No. 46

Land Com. No. 168

BE IT REMEMBERED, that on this 16th 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 Robert S. Williamson a witness produced in behalf of Intervenor, Field et als, 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: A. J. Cuthbertson Esq. for said Intervenors. W. W. Carpenter Esq. for Claimants, and Calhoun Benham Esq. U. S. Atty.

QUESTIONS IN BEHALF OF THE Claimant

Question 1st,

What is your name, age and place of residence?

Ans.

My name is Robert S. Williamson my age is 36 years, and I being

CASE [redacted] ND
PAGE [redacted]
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an officer of the U. S. Army. I have no permanent place of residence. I am stationed at present in San Francisco.

2.

Did you ever make a survey and map of the land called San Miguel or Arroyo de las Nueces y Bolbones, granted to Juana Sanchez de Pacheco, and situated in the present county of Contra Costa, if yes, when?

Ans.

I did make such a map and survey and to the best of my recollection it was in the Summer of 1850.

3.

Have you now before you the original of that map, and the original field notes of that survey? ~~being the originals of which copies~~

Ans.

Yes sir.

4.

Examine the map now exhibited to you, marked Exhibit William

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son No. 1." and say whether or not it is a correct copy of your original map, which is now before you?

Ans.

This is a correct copy of the original.

5.

Examine the paper now shown you marked Exhibit Williamson No. 2. and say whether or not it is a correct copy of your original field-notes, now before you?

Ans.

I believe this to be a true copy.

6.

State how you run the Southern line of that survey?

Ans.

The hill near the Arroyo del Injerto was pointed out to me by Librian Perea, as the ~~South~~ West corner, and was the only hill in that vicinity that abutted against the creek, no measurement by chain was made along that line, but the direction of the line was determined by bearings taken at various points in the

valley and on the banks of the creeks. The line is a straight line to a prominent peak marked A. on Exhibit Williamson No. 1. and from that peak in a straight line to the head of the Arroyo del Pinal.

7

From the Eastern extremity of this Southern line, have did you run the Eastern and Northeastern lines of the survey?

Ans.

This line was determined in the same way as the Southern line, the peaks being connected by straight lines, and was intended to represent the watershed of that spur or range.

8.

Does the Southern line from the Arroyo del Injerto to the prominent peak you have mentioned follow the general direction of a distinct chain or range of hills?

Ans.

Yes it does.

3)

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9.

When you made that survey was there a man with you by the name of Juan Soto?

Ans.

There was a man, next neighbor, who pointed out to me the two termini of the Northern line, and I believe that that man's name was Juan Soto.

10.

Examine the paper now shown you marked Exhibit Williamson No. 3. and state whether or not the lines of your survey ~~compare to the~~ agree with the lines therein described?

Ans.

They do.

11.

Examine the copy of the desēno which appears on page 11 in the Manuscript on file in this case, and state what there is on your map which corresponds with what is marked on the desēno as the Rivera Derivoria?

Ans.

The Rivera on the desēno is intended to represent the same

range along which my Southern line runs.

P. S. Williamson
Lieut. U. S. Topl. Engrs.

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Sworn to and Subscribed this
16th. April 1861. before me,
H. Ed. Clemens,
U. S. Comr.

No. 46

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

v.

Rosa Pacheco.

DEPOSITION OF

Robt S. Williamson

on part of Intervenor Fieldsdale.

Filed April 17. 1861.

W. H. Chever.

Clerk.

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Rosa Pacheco et als

IN LAND CASES.

Dist. Court No. 46

Land Com. No. 168

BE IT REMEMBERED, that on this 16th 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 Samuel J. Tennent a witness produced in behalf of Intervenor Field et als 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: A.P. Crittenden Esq. for said Intervenors. H. H. Carpentier Esq. for Claimants, and Calhoun Benham Esq. U. S. Atty

QUESTIONS IN BEHALF OF THE said Intervenors

Question 1st,

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

Ans.

My name is Samuel J. Tennent my age is 42 years, and I reside

in Eureka Co. Nev. I am by profession an M. D.

2.

Examine the paper now shown you marked Exhibit Williamson No. 3, and state whether or not you were a witness to the execution of the paper, whether that is your genuine signature as a subscribing witness, and whether you saw Juan Soto put his mark thereto?

Ans.

I witnessed the execution of the paper, my genuine signature is appended to it as a witness, I wrote the words "Juan Soto his mark" at his request, and he then and there made the mark of the cross between the words.

3.

Is Juan Soto living or dead?

Ans.

He is dead, he died several years ago.

Saml. L. Clements

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Sworn to and Subscribed April
16th. 1861. before me.
M. A. Chevers
N. P. Com:—

No. 46

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

v.

Rosa Pacheco et als

DEPOSITION OF

Sam'l J. Tennent

on part of Intervenors

Field et als

Filed April 17. 1861.

W. H. Chever

Clerk.

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In the District Court of the United States.

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Rose Pacheco et als

IN LAND CASES.

Dist. Court No. 46

Land Com. No. 168

To W. H. Carpentier & Robert Simson
for Claimants, and Calhoun Benham
Esq. U. S. Atty. for the U. S.

You are hereby notified that the testimony of

R. S. Williamson, Robert Allen
and others

in the above entitled cause in behalf of the

Intervenor Field et als

will be taken before me, the undersigned, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, commencing on Monday the 15th day of April A. D. 1861, at 11 o'clock, A M., and continuing from day to day until finished, at my office No. 14 U. S. Court Rooms; and you are hereby further notified to then and there appear and propound such questions to the said witness as you may deem fit.

Witness my hand and official seal at the City of San Francisco, in said District, this 9th day of April A. D. 1861.

W. H. Chevers

U. S. COMMISSIONER.

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San Francisco April 9th 1861

Service of a copy of the within notice is hereby acknowledged.

H. W. Carpentier
for Claimants

Denlam
U.S. Atty

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Rosa Pacheco et als

IN LAND CASES.

Dist. Court No. 46

Land Com. No. 168

BE IT REMEMBERED, that on this 15th 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 John G. Dilton a witness produced in behalf of Intervenor Field et als. 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: J. B. Crockett Esq for said Intervenors. H. H. Carpentier Esq. for Claimants and Calhoun Benham Esq. U. S. Atty.

QUESTIONS IN BEHALF OF THE ~~Claimants~~ said Intervenors

Question 1st,

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

Ans.

My name is John G. Dilton, my age is 30 years, and I reside in

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Amador valley, Contra Costa County.

2.

Are you acquainted with the rancho of San Miguel Contra Costa County, confirmed to Rosa Pacheco et als, sometimes called the "Rancho de las ~~Ans.~~ Juecces y Bolbones" recently surveyed by James T. Stratton Deputy U. S. Surveyor?

Ans.

I am.

3.

Were you present at any conversation with respect to the said survey between the said Stratton and James W. Mandeville U. S. Surveyor General for California, and if so state the said conversation, when and where it occurred?

Ans.

I was present at such a conversation ~~at~~ said Mandeville's office in this city — it was early in November 1860. Mr. Stratton was up surveying the said ranch, and he got around to the

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South corner of Salvio Pacheco's ranch, instead of following the lines of the San Miguel ranch he turned and run a West course across the exterior boundaries of Pacheco's grant, down into Monte Diablo Valley, so as to include the land I lived on. I remonstrated with Sheldon the surveyor, at the time against including the lands I occupied, and I concluded to see the Surveyor General on the subject. I came to San Francisco for that purpose, Sheldon also came to San Francisco, and we met at the Surveyor General's office. Before we met there I had explained to the Surveyor General that Sheldon was including in the survey, my lands and others, that ought not to be included. When Sheldon came in the Surveyor General asked him whether my lands were inside or outside of the boundaries of the San Miguel rancho, otherwise called Rancho Arroyo de las Nueces y Bolsones. Sheldon said that things were so mixed up there that

he could not tell. Shratton then produced a copy of the survey which is generally called Major Allen's survey, and they examined it together. After examining the Allen survey, Manderside told Shratton that he had gone outside of the lines of Allen's survey, which he ought not to have done, and that in making the said survey he must conform to Allen's survey. Thereupon Shratton said that he would correct the said survey, so as to leave out my land, which he afterwards did.

4th.

Examine the paper now shown to you marked Exhibit Tilton No. 1. to be annexed to your deposition, and state whether or not it is a copy of the survey, which you have designated as Allen's survey?

Ans.

To the best of my knowledge this is a copy of that survey produced by Mr. Shratton on that occasion.

Jno G. Tilton

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Sworn to and Subscribed April 15th 1861 before me.

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

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The further examination of witnesses in this cause is, on motion of Mr Crockett, postponed until tomorrow at 10 o'clock. A. M.

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

No. 46.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

v.

Rosa Pacheco et al.

DEPOSITION OF

John G. Tilton.

on part of Intervenors.

Field et al.

Filed April 17. 1861

W. H. Chevers.

Clerk.

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Exhibit Williamson No 3 -

I Juan Soto of the County of Santa Clara and State of California do for the information of those concerned, voluntarily make the following statement.

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In the month of April in the year of Our Lord One thousand eight hundred and ~~fifty~~ three I was commissioned by Donna Juana Sanchez de Pacheco to examine a tract of unappropriated land situated in the Valley of & on the face of Monte Diablo, otherwise called Sierra Golgones, with a view of defining the limits of said tract of land and of furnishing the said Dona Juana Sanchez de Pacheco with land marks boundaries and data upon which to predicate a petition to the Legitimate authorities of the government of Mexico, for a grant to her of the same. That pursuant to this commission or trust I did on behalf of the said Donna Juana Sanchez de Pacheco, proceed to said Valley and Mountain and select for the purpose before mentioned a piece parcel or tract of land which is now known as the Rancho San Miguel.

I selected for the Northern Boundary of said tract of land, the line claimed by — Sublet — Pacheco as the southern boundary of the Rancho claimed by him. Following this line westerly until it intersected the Arroyo Nueces its western extremity: I proceeded from this point up the Arroyo Nueces to the mouth of the Arroyo del Ingesto, a stream emptying into the Arroyo Nueces, and up the Arroyo del Ingesto, from its mouth to a certain prominent hill adjacent to the eastern bank of this stream, making the bed of these two streams, within the limits mentioned, the western boundary of the tract of land I was selecting. Establishing on the summit of this hill my south-west corner, I selected for a southerly boundary, a line running easterly in its general course as near as I could judge, without instruments, to determine its direction, and I fixed its course and its departure from a right line by certain hills leading towards the southern slope of the Mountain, and I terminated the easterly course of this line, defined in its general course by the hills,

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before mentioned, at a point above, and near, the source of the Arroyo del Penal, being met at this point by a spur or ridge of Monte Diablo or which was better known at that day, as Sierra Colgones. This line, thus defined, I designated as my Southern boundary. Changing at this point my direction and following the course of this spur which led up the Mountain Northeasterly I continued my line along it to the summit of that peak which is the more Southerly of the two main peaks of said Mountain. From this elevation I changed again my course and descended along a well defined ridge leading down in a northwesterly direction. I followed the same until said ridge intersected the northern boundary line first mentioned. This line traversing the two spurs or ridges of the Mountain completed the boundary of the tract of land selected by me, for Dona Juana Sanchez de Pacheco.

I do further state I reported to Dona Juana Sanchez de Pacheco the selection I had made, and explained to her the boundaries I had fixed to the tract of land she was desirous of obtaining; that the petition made in the name of Dona Juana Sanchez de Pacheco for the grant of this tract of land, and the map or plott defining it, had reference to, and were predicated upon, the preliminary survey or examination made by me of said tract of land and the boundaries defined by me are those asked for in general terms in the petition, and granted to the said Dona Juana Sanchez de Pacheco accordingly.

Furthermore on the 1st of November in the Year of our Lord One thousand eight hundred and fifty, I accompanied Lieut R.S. Williamson of the Corps of Topographical Engineers of the United States Army who had been engaged to make a survey of the same tract of land, in the preliminary examination which he made of the same; that I pointed out to him the boundaries originally selected by me; and that I have examined the map or plot of the survey

since made by said Williamson and believe it to be correct, defining as it does accurately the boundaries of the said tract of land now known as the rancho San Miguel

Witness
Sam. J. Emmons
Ft Leighton

his
Juan + Soto
mark

(SS)

State of California }
County of Santa Clara } ss.

On this the 22nd day of November A.D. 1850 before me a Notary Public in and for said County personally came Juan Soto to me known to be the person described in the foregoing instrument and acknowledged that he executed the same freely and voluntarily for the uses purposes therein mentioned

Given under my hand and Notarial Seal the day and year above written

C J Ryland
Notary Public

No. 46.

U. S. Dist. Court
Nor. Dist. of Cal.

The United States
vs.
Rosa Pacheco et al

Exhibit Williamson
No. 3 to deposition
of R. S. Williamson

Filed April 17, 1861.
W. H. Cleveland
Clerk

Williamson No 3

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Rosa Pacheco

IN LAND CASES.

Dist. Court No. 46

Land Com. No. 168

To H. W. Carpentier & Robt. Samson and W. H. Sharp Esq. U. S. Atty.

You are hereby notified that the testimony of C. E. Ryland William Welch, Pacheco, Galindo and others

in the above entitled cause in behalf of the Intervenor J. Field et al,

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 21st day of May A. D. 1861, at 11 o'clock, A. M., and continuing from day to day until finished, at my office No. 14 U. S. Court Rooms; and you are hereby further notified to then and there appear and propound such questions to the said witness as you may deem fit.

Witness my hand and official seal at the City of San Francisco, in said District, this 15th day of May A. D. 1861.

W. A. Chevers

U. S. COMMISSIONER.

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Service of copy admitted this
13. day of May 1861 –

Robert Simpson
Wm H Clark
Dist. Atty.

Left copy at St. Pt. Carpenters office May
13. 1861 –

H C.

Stilson 21 May/61

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Rosa Pachecs

IN LAND CASES.

Dist. Court No. 46

Land Com. No. 168

BE IT REMEMBERED, that on this 21st day of May 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 Galindo a witness produced in behalf of Antervenor J. Field et al 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 Robert Purnie a sworn interpreter.

PRESENT: A. B. Crockett for said Antervenor. H. H. Carpentier and Robt. Simson for Arcanista, and W. H. Sharp U. S. Atty for the U. S.

QUESTIONS IN BEHALF OF THE Antervenor Field et al,

Question 1st,

What is your name, age and place of residence?

Ans.

My name is Francisco Galindo my age is 38 years, and I reside

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for Contra Costa County.

2.

Are you acquainted with the Ranchs generally known as the Ranchs of San Miguel in Contra Costa County, or Arroyo de las Nueces y Bolbones.

Ans.

I am.

3.

Are you acquainted with it's boundaries?

Ans.

I am.

4.

Question and answer objected to by Counsel for Claimant on the ground that the boundaries of the said rancho are fully set forth and designated in the original title papers now file in the cause.

4.

How is it bounded Towards the West?

Same objection as the last.

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Ans.

It is bounded on the West by Las Nueces and the Welch rancho.

5.

How is it bounded towards the South?

Same objection as the last.

Ans.

The boundaries on the South are two small hills known as the Cerritos ~~with~~ with the Pozas de las Nueces between them.

6.

From the two little hills or Cerritos, what direction did the boundary line take towards the East?

Same objection as the last.

Ans.

Towards the East the line runs from the Cerritos to some rocks that are on the ~~hill~~ mountains of Balcones. I have been told that that was the line, but I don't know it of my own knowledge. I was not present

CASE 46 ND
PAGE 234

when the Survey was made and never saw the papers.

7.

By whom were you told that these were the boundaries, and how did you learn that these were the boundaries?

Ans.

I knew it from the deceased Welch, in going from ~~San~~ Ramon ~~to~~ the Welch Ranch through San Ramon towards San José, in 1844, he, Welch told me that this was the boundary of Juana Pacheco.

Objected to by Counsel for Claimant as hearsay.

8.

What Welch was it?

Ans.

William Welch.

9.

Do you know what boundaries were claimed by Juana Pacheco on the South?

Same objection as to question.

3.

8

Ans.

The Arroyo Seuces, and the two Lomitas of which I have spoken. One of her grandsons — Francisco Librian lived at the foot of the hills, one of the ~~pressures~~ and that is as far as I know she claimed down to there.

10.

How far are the Lomitas from the Arroyo ~~Seuces~~ Seuces?

Ans.

It might be a mile, but I cannot say, I never took notice of the distance.

11.

What were the Rodeo boundaries of the said San Miguel rancho, towards the South?

Objected to on the ground that it has nowhere appeared that said rancho had any Rodeo boundaries, or that such a thing as Rodeo boundaries exist.

Question withdrawn.

12.

Were there any Rodeo boundaries on the said ranche of San Miguel, if so what was the said Rodeo boundary towards the South?

Ans.

The cattle did not go to the South, because there were no cattle there. We did not go to the South for cattle, because there were very few cattle there. The cattle pastured chiefly towards the North in the direction of the line of Lucio Pachecos.

13.

Were the boundaries which you have described well known in the neighborhood as the boundaries of said ranche, or otherwise?

Ans.

I believe that all the neighbors know the boundaries, I mean the neighbors that bounded on the said ranche.—

H)

those that lived there many years ago.

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Cross Examination waived.

Francisco Galindo

Sworn to and Subscribed May 21st. 1861. before me,

N. T. Chenes S.
U. S. Commr.

No. 46.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

v.

Rosa Pacheco, et al.

DEPOSITION OF

Francisco Galindo.

on part of Intervenors

Field, et al.

Filed May 21, 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
vs.
Rosa Pacheco, et al.

No 46. N. D.
"Arroyo de los Meces y Bolbones"

You will please take notice, that on Wednesday, the 19th day of June inst, at the opening of the Court on that day, or as soon thereafter as Counsel can be heard, we shall move the Court for an order fixing the time within which the proofs shall be closed, and for the hearing, in the above entitled cause.

Dated San Francisco June 15th 1861.

Crockett & Brittenden
Attorneys for Intervenors
Golden Field [illegible] others.

To
Wm H. Sharp Esq.
U. S. District Attorney
[illegible] H. W. Carpentier
& Robert Simpson.
Attorneys for claimants.

No 46.

U. S. District Court.
"Arroyo de los Nueces y Baldwin"

The United States.

vs.

Rosa Pacheco et al

Notice of motion.

Filed June 26. 1861.
N. H. Chevers.
Clerk

Due service of a copy of within admitted June 15th 1861.

Robert Sinton
Atty of F D Atherton

Wm H Sharp
Per G T Sharp

Wm Carpentier, at Offices - 15th

Nor: Dist: of Cal.

I W. W Wiggins do depose and say, that I served the within notice on W. W. Carpentier Esq. by leaving a copy thereof at his office, with an individual in charge thereof, on the 15th day of June 1861. and was informed that said Carpentier was absent from the City.

W. W. Wiggins.

Subscribed and sworn to before me, this 26th day of June 1861.

N. H. Chevers
U. S. Com:-

over till Wednesday

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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 26th day of June in the year of our Lord one thousand eight hundred and sixty one.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States.
v.
Rosa Pacheco. et al.

D. C. 46.
L. C. 168.

On reading and filing notice of motion and affidavit of service and on motion of Mr Crockett of counsel for the Mercurious Field. et al. it is ordered by the Court that the testimony in this cause be closed in ten days from this day.

46.

UNITED STATES DISTRICT COURT

Northern District of California.

The United States,

V.

Rosa Pacheco et al

Order to close proofs in ten days.

Filed June 26. 1861.

W. H. Chevers.

Clerk.

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This Indenture made the Eighteenth day of December in the year of Our Lord one thousand Eight Hundred and fifty eight Between David Glass and Eliza Jane Glass his wife of first part and Joshua B Elwell all of County of Contra Costa State of California of the second part, Witnesseth that the said parties of the first part for and in consideration of the sum of Three Thousand dollars lawful money of the United States of America to them in hand paid by the said party of the second part at or before the ensealing and delivery of these presents the receipt whereof is hereby acknowledged have granted bargained sold aliened remised released conveyed and confirmed and by these presents do the grant bargain sell, alien remise release convey and confirm unto the said party of the second part and to his heirs and assigns forever, All that tract of land being a part of the "San Miguel" Rancho as surveyed by David Small Co Surveyor of Contra Costa County and being and situate in Contra Costa County as follows to wit; commencing at 6 rods and eight feet East of South of a witness tree at a stake and running North 64° East 144 rods to the corner and then South 61 East 160 one hundred and

sixty rods to a stake at the corner and then South 66° 15' W 236 1/20. Two hundred and thirty six & one twentieth rods to the corner at a stake, Thence North 26° West 122. One Hundred and twenty two rods to the place of beginning Containing one hundred and fifty two and ninety two one Hundredths & Sixtieth acres of land for particular reference see map of land on record with county Surveyor being the same tract of land whereof the deed of conveyance is recorded page 287. Book 5 of Deeds in Records of Contra Costa County's office, Also all that certain piece of land conveyed by Ygnacio Silviera and wife to David Glass on 30th January 1858, Conveyance of Record Book 6th page 276, of Book of Deeds Records office of Contra Costa County, Commencing at South West Corner of the tract of land hereinbefore described running South 33° West 104 One hundred and four rods to Golden Fields line thence South 44° East Sixty four rods and four links along Golden Fields line, thence North 34° East Eighty rods and Sixteen links, thence South 24° East Fifty six rods, thence North 66° East Five rods and two links, thence North 26 West one

hundred and twenty two rods to place of beginning containing thirty eight acres and thirteen one hundred and sixtieths acres In all 191 acres more or less. Together with all and singular the tenements hereditaments and appurtenances thereunto belonging or in anywise appertaining and the reversion and reversions remainder and remainders, rents issues and profits thereof And also all the Estate right, title, interest dower and right of dower, property possession claim and demand whatsoever as well in law as in equity of the said parties of the first part of in or to the above described premises and every part and parcel thereof with the appurtenances to have and to hold all and singular the above mentioned and described premises together with the appurtenances unto the said party of the second part his heirs and assigns forever. And the said parties of the first part for themselves their heirs executors and administrators do hereby covenant promise and agree to and with the said party of the second part his heirs and assigns that they have not made done committed executed or suffered any act or acts thing or things whatsoever

whereby or by means whereof the above mentioned and described premises or any part or parcel thereof now are or at any time hereafter shall or may be impeached charged or incumbered in any manner or way whatsoever. In Witness whereof the said parties of the first part have hereunto set their hands and seals the day and year first above written

Signed sealed and delivered in presence of } David Glass (Seal)
E J Glass (Seal)

State of California
County of Contra Costa } ss

On this Eighteenth day of December AD One thousand Eight Hundred and fifty eight before me E F Weld a Notary Public in and for said County personally appeared David Glass and Eliza Jane Glass his wife personally known to me to be the individuals described in and who executed the annexed instrument as parties thereto and acknowledged to me that they executed the same freely and voluntarily and for the uses and purposes therein mentioned, And the said Eliza Jane Glass wife of the said

David Glass having been by me first

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David Glass having been by me first made acquainted with the contents of said instrument acknowledged to me on examination apart from and without the hearing of her husband that she executed the same freely and voluntarily without fear or compulsion or undue influence of her husband and that she did not wish to retract the execution of the same. In Witness whereof I have hereunto set my hand and affixed my official seal the day and year first above written

(Notarial Seal)

E F Weld
Notary Public

Filed for record at request of J B Elwell December 18th 1858 at 4 O Clock PM. Recorded December 24th 1858 at 10 Clock AM

L C Whitemyer
County Recorder

State of California
County of Contra Costa } ss

I L C Whitemyer County Clerk and Ex officio County Recorder in and for the aforesaid County, hereby Certify that the foregoing is a true full

46.

U. S. Dist. Court.

The United States.

vs.

Rosa Pacheco, et al.

Deed from Glass, and wife to J. B. Elwell.

Filed March 14, 1862.

W. H. Chevers, Clerk

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Deed

David Glass & wife

To

Joshua B Elwell

(Certified Copy of Record)

And Certified Copy of the Deed of Record and Certificate as the same appears of Record in my Office at Page 26 & 27 of Vol 7 Book of Deeds of said County now in my Custody

Witness my Hand and the Seal of the County Court of said County. Official this Fourth day of April A.D. 1861.

E. G. Williamson
County Clerk

This Indenture made this thirteeth day of January A.D. One thousand Eight hundred and Fifty eight between Ygnacio Sibrian and Maria Antonio Moreno de Sibrian his wife residents of Contra Costa County California parties of the first part and David Glass. of the same place party of the second part Witnesseth that the said parties of the first part for and in consideration of the sum of three Hundred & Eighty dollars and seventy five cents lawful money of the United States of America to them in hand paid by the party of the second part at or before the ensealing and delivery of these presents. the receipt ~~of which~~ whereof is hereby acknowledged have granted bargained sold released remised and conveyed and by these presents do grant bargain sell release remise and convey unto the said party of the second part and to his heirs and assigns forever. all that certain tract or parcel of land situate in the County of Contra Costa and being on the Rancho de San Miguel

Commencing at the South West Corner of a lot of land purchased of Ygnacio Sibrian & his wife by David Glass. & Surveyed by

Daniel Smale County Surveyor of Contra
Costa County on the 14th day of Decem
-ber AD 1856 & run South 3 3 West one
hundred & four rods. to Greder Fiellas
line. thence South 44 East sixty four
rods & 14 links along Greder Fiellas line
thence North 54 East Eight rods & six-
-teen links thence South 24 East Fifty
six rods. thence North 66 East Five
Rods and two links. thence North 26
West one hundred and twenty two Rods
to the place of beginning Containing this-
-ty Eight acres & thirteen ~~one~~ hundred
& sixty. together with all and singular
the tenements hereditaments and appurten
-ances hereunto belonging or in any wise
appertaining and the reversion and reversions
remainder and remainders rents issues &
profits thereof. To have and to hold the
above mentioned and described premises
together with the appurtenances unto the
said party of the second part and to
his heirs and assigns forever and the
parties of the first part covenant & agree
that they will warrant and defend the
right title and interest in and to the
above premises against the acts and
deeds of the said parties of the first part

and all persons excepting the United States— In witness whereof the parties of the first have hereunto set their hands & seals the day & year first above writt -en—

his mark.
Ygnacio / Sibrian [L.S.]

her mark
Maria Antonia Morena de Sibrian [L.S.]

Signed & Sealed in the
presence of Henry Gee.

State of California }
County of Contra Costa }

On this Thirtieth day of January. A.D. One thousand Eight hun -dred & fifty Eight before me L M Brown a Justice of the Peace for Town ship No 2 of the above County. personally appeared Ygnacio Sibrian and Maria Antonia Morena de Sibrian his wife to personally known to be the individuals des cribed in and who executed the within Instrument and acknowledged to me that they executed the same freely and voluntarily and for the uses and purposes therein mentioned and the said Maria Antonia Morena de Sibrian wife of said Ygnacio Sibrian. being personally known to me

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to be the ~~Husband~~ person described in & who signed the within deed and after being made acquainted with the contents thereof acknowledged on an examination had apart from and without the hearing of her husband. that she executed the same freely and voluntarily. without fear or compulsion or undue influence of her husband and that she does not wish to retract the execution of the same

In witness whereof I have hereunto set my hand this Thirtieth day of January A D 1858.

L M Brown
Justice of the Peace for Township No 2.

The words excepting the United States interlined on 16th line also the words claiming by from through or under the said parties of the first part unto the said party of the second part his heirs and assigns forever. Erased on 2d page before signing. also the words & his wife interlined on 1st Page

L M Brown J P

The word "and" Erased in the Record also the word "Said"

Filed for Record at request of David Glass Febuary 1st 1858 at 11 O'clock A M — Recorded Febuary 3d 1858

L C Mitenmyer Co Recorder

By M B Harrison Deputy.

By M B Harrison Deputy.

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State of California
County of Contra Costa } ss

I L C Wittenmyer County Clerk and Ex officio County Recorder in and for the aforesaid County do hereby certify the foregoing to be a true full and correct copy of the Record of a Deed as the same appears on pages 276 & 277 of Vol 6 Book of Deeds of the Records of Contra Costa County now in my Custody -

Witness my hand and the seal of the County Recorder of said County affixed this 4th day of April A D 1891

I L C Wittenmyer
County Recorder

46.

U. S. Dist. Court.

The United States.

vs.

Rosa Pacheco. et al.

Deed from Sibrian and wife to David Glass.

Filed March 14, 1862.
W. H. Chevers.
Clerk

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Deed

Ignacio Sibrian
& wife
To
David Glass

Certified Copy of Record

Esta Escritura hecha hoy día Treinta y uno de Julio de mil ocho cientos Cincuenta y cinco entre Ignacio Sibrian por la primera parte y Francisco Sibrian por la segunda parte a testigua Que la primera parte por y en consideracion de la suma de Seis Cientos pesos pagados por la segunda parte en i antes de poner nuestras sellos en las presentes el recibo de la cual se encuentra por esta reconcido he contratado ajustado y vendido cedido exonerado y confirmado a la segunda parte sus herederos y succesores todo aquel Cierto padazo de tierra situado en el Condado de Contra Costa y Estado de California principiando en un punto en donde la linea Este esta dividendo mi parte de tierras en el Rancho de San Miguel con el Rancho de San Ramon en donde dicha linea intercede con el arroyo del Ingerto dicho punto es conocido con el nombre del "Cerrito Cuate" siendo un pequeno cerro conteniendo una pila de piedras con una cruz desde alli al norte a la largo de las orillas del dicho arroyo hasta un arbol hachado y cortado en las cazallas desde alli al este en el lado sud siguiendo una cadena de limitas hasta un arbal hachado en una cadena y desde alli el sud siguiendo w. bajando hasta

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a donde la dicho linea sud junta con la linea primera y a mencionado la cual divide el Rancho San Miguel con el Rancho de San Ramon y desde alli siguiendo hasta llegar al punto que principio dicha tierra Contiene desde el ultimo punto Nombrado corriendo hacia el Norte cuatro cientos yardes Mas O Menes y de dicho ultimo punto corriendo en la direccion este como Mil dos cientos yardes Para que tenga y posea de las arriba concedidas y descriptas propiedades la dicha segunda parte sus herederos y sucesores para el uso de el y ellos para siempra

En testimonio de la cual la parte de la primera parte ha puesto su primo y fijado su sello el dia arriba primero escrito ~~[illegible]~~ Ignacio + Sibrian

Sella doy entregado en presencia de Cyprian Thurn

La interlineacion en la primera pagina "situado en el Condado de Contra Costa y Estado de California fue encertado antes de firmar — Cyprian Thurn

State of California
County of Contra Costa } On this 31st day of July 1855 before me the undersigned a

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Notary Public duly commissioned for & in the said County personally appeared Ygnacio Sibrian to me personally known to be the individual described in & who executed the fore going instrument & acknowledged that he executed the same freely and voluntarily & for the purposes & uses therein mentioned

In testimony of which I hereunto this Thirty first day of July One thousand eight hundred & fifty five set my hand and official seal

Notarial seal

Geo F Worth
Notary Public

Know all men by these presents that I Antonio Moreno de Sibrian wife of Ignacio Sibrian do hereby give grant release and quit claim in consideration of the sum of one dollars to me in hand paid unto Francisco Sibrian his heirs and assigns all my right title & interest in & to the property conveyed by said Ignacio Sibrian to the said Francisco by his deed of the date of 31st of July 1855 the same being a certain portion of the San Miguel Ranch so called situate in the County of Contra Costa more fully described in the Deed of said Ignacio to the said Francisco Sibrian of the Date aforesaid. In Witness Whereof

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I do hereby set my hand and seal this 1st day of Augt 1855

Antonio + Moreno de Febrian
her
Mark

Signed sealed and delivered in presence of Cyprian Thurn

attest
Cyprian Thurn

State of California }
County of Contra Costa } Before me the Undersigned a Notary Public duly commissioned for and within said County on this first day of Augt 1855 appeared Da Antonio Moreno de Febrian personally known to me to be the person whose name is subscribed to the instrument above written & being made acquainted with the contents of the same did acknowledge on examination apart from and without the hearing of her husband that she executed the same freely and voluntarily without fear or compulsion or undue influence of her husband & that she does not wish to retract the execution of the same

Given under my hand and official seal at Martinez this first day of Augt 1855

Geo T Worth
Notary Public

Seal
Notary

The two preceding Instruments one written

in the Spanish Language and signed by Ignacio Libran & the other in English signed by Antonio Moreno de Libran were both written upon one and the same sheet of paper & were filed for record at request of M I Chase Augt 2nd 1855 at 10 Oclock A.M. In the original instrument written in Spanish & signed by said Ignacio Libran on page 1st in line 11th the words "situado en el Condado de Contra Costa y Estado de California" are interlined in line 12 of same page the words "Mis terrenos comd" are erased in line 22nd of same page the words "con la" are erased & in line 23rd of same page the words "el Rancho" are interlined and in last line of said page the word "ciento" is interlined

In the original acknowledgment of the Inst signed by said Antonio Moreno de Libran the word "above" is is interlined

Thomas A Brown Co. R.

State of California }
County of Contra Costa }

I, L. C. Wittenmyer County Clerk and ex officio County Recorder in and for said County do hereby certify that

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the above and foregoing is a full true and correct Copy of the Record of an Instrument Now of Record in my Office in Book of Deeds volume 4 pages 356 & 357

Witness my hand and the seal of the County Recorder of said County of Contra Costa this fifteenth day of February A.D. One Thousand eight hundred and Sixty One

L C Wittenmyer
County Recorder
By J J Alsop
Deputy Recorder

46.

U. S. Dist. Court.

The United States.

vs.

Rosa Pacheco.
et al.

Deed from Ygnacio Sibrian to Francisco Sibrian.

Filed March 14. 1862.
W. H. Chevers.
Clerk

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5

Ygnacio Sibrian
To
Francisco Sibrian

Deed
Copy of Record

$3,70

Imrie

ƒl 2.50

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

E. F. Beale

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* an original map taken from an expediente entitled "Jurisdicion de San Francisco. No – Año de 1833 ——
" Expediente. Sobre el parage nombrado
" Sn Ramon – Solicitado pr. Su cultivo y
" vencinos por Bartolo Pacheco y –
" Mariano Castro – 50 – " As the
said appears on file among
said Archives

EXAMINED AND FOUND CORRECT.
E. C. Kewen,
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* 8th *day of* July *18* 61

E. F. Beale, **U. S. Surveyor General, for California.**

46. ND

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U. S. Dist. Court.

The United States.

vs.

Rosa Pacheco.
et al.

Certified traced copy
map from Surv. Genl;

Filed March 14. 1862.
W. H. Clerest.
Clerk

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This Indenture made and entered into
on this Twentieth day of November A.D. one
Thousand Eight Hundred and Fifty Seven By and
Between Ygnacio Sibrian and Maria Antonia
de Sibrian wife of the said Ygnacio Sibrian
parties of the first part Residents of the County
of Contra Costa & State of California, and John
Baker of the same County & State party of the second
part Witnesseth that the said parties of the first
part for and in consideration of the sum of One
Thousand Dollars lawful money of the United
States to them in hand paid by the party of the
second part, at or before the ensealing and delivery
of these presents, the receipt whereof is
hereby acknowledged, have Sold bargained
released conveyed confirmed & quitclaimed
& doth by these presents, Sell bargain release
convey confirm & quit claim unto the party of
the second part and to his heirs and assigns
forever all that certain tract piece or parcel of
land described as follows to wit, being apart of
the San Miguel Ranch commencing at the S. W.
corner of Golden Fields Land at a Forked White Oak
Tree Standing on the Bank of San Ramon Creek
Run N 33½° W. 12 Rods down the Creek, then N. 50°
W. 22 Rods 5 Links thence N 57° W. 14 Rods N. 62° W.
32 Rods, thence S 79° W. 9 Rods 14 Links thence N 74° W.
17 Rods thence N. 50° W. 15 Rods to a Small dry
Creek where it empties into the San Ramon Creek
at a Small Oak Tree, thence N. 36½ E. 161 Rods
to a Stake Witness Tree bearing N 49° W 15 Rods
thence S. 46½ E. 206¼ Rods to a tree thence S
11° W. 16 Rods to a tree thence S. 61 W 13½ Rods to
the place of Begining. Containing 120 acres of

Land being the same land that was intended to be conveyed by a Deed from the parties of the first part to the parties of the Second part bearing date the Eleventh day of December one Thousand Eight Hundred and fifty five & recorded in the Recorders office of Contra Costa County on Book of Deeds on page 243 in Vol 5 on the 17th day of December A D 1855 Together with all and singular the Improvements appurtenances thereunto belonging or in anywise appertaining to have and to hold the same together with all the Improvements appurtenances property possession claim and demand Whatever as well in Law as in Equity to the said party of Second part & to his heirs and assigns forever

In Witness whereof We have hereunto set our hands and Seals This 20th day of November A.D, 1857.

Sealed & delivered in the presence of

A Weil

Ygnacio his x mark Sibrian seal

Maria Antonia her x mark Moreno de Sibrian seal

State of California }
County of Contra Costa }

On This 20th day of November A.D, 1857, Personally appeared before me L M Brown a Justice of the Peace for Town Ship no 2 of the abov County Ygnacio Sibrian & Maria Antonia Moreno de Sibrian known to me to be the persons described in and ~~and~~ who executed the foregoing Instrument & who acknowledged to me that he executed the same freely and voluntarily and for the uses and purposes Therein mentioned

and Maria Antonia Moreno de Sibrian wife of the said Ygnacio Sibrian after being made acquainted with the contents of said conveyance by me, acknowledged on an examination apart from and without the hearing of her Husband that She executed the Same freely and voluntarily without fear or compulsion or undue influence of her husband and that She does not wish to retract the execution of the Same

In Wituess whereof I have hereunto Set my hand this 20th day of November AD. 1857

L. M. Brown
Justice of the Peace
For Township No. 2

Filed for Record December 26 AD 1857 at Request of John Baker at 12 O'clock, M.
Recorded December 29th AD 1857

L C Wittenmyer Co Recorder
By M B Harrison Deputy

State of Californica }
County of Contra Costa } ss I L C Wittenmyer County Clerk & ex officio County Recorder in and for said County do hereby certify that the foregoing is a true full and correct copy of the Record of a Deed, of Record in my office in Book of Deeds volume 6 page 201

$2.00

Witness my hand and the seal of the County Recorder of said County this 31st day of December AD 1860

L C Wittenmyer County Recorder
By J E Alsop Deputy Recorder

46.

U. S. Dist. Court.

The United States.

vs.

Rosa Pacheco.
et al.

Deed from Sibrian
and wife to
John Baker.

Filed March 14. 1862.
W. H. Chevers.
Clerk

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Ygnacio Sibrian &
Wife
to
John Baker
Deed

Filed for record December
26th A.D. 1857 at request of
John Baker at 12 o'clock
M Recorded Dec 29th A.D. 1857
in Book 6 of Record of Deeds
page 201 & 202 of Records of
Contra Costa County
Jo. Wittenmyer
By M.B. Harrison
Deputy

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This Indenture made the twentieth day of July AD one thousand eight hundred and Sixty Between Ygnacio Soto of Contra Costa County and State of California party of the first part and Ygnacio Silvan of the Same County & State party of the Second part, Witnesseth, that the said party of the first part for and in consideration of the sum of three thousand dollars lawful money of the United States of America and of divers other valuable considerations thereunto moving, and the receipt whereof is hereby acknowledged as paid by and received from the said party of the Second part, has granted bargained and sold and by these presents doo grant bargain and sell and convey and confirm unto the said party of the Second part his heirs and assigns forever all that certain tract of land situate in said County of Contra Costa and State aforesaid and being that certain part of the Rancho situate therein and known and described as the Rancho "San Miguel" or Rancho de las Nueces y los Golgones or "Arroya de las Nueces y Bolbones" originally

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granted by Governor Jose Figueroa and the Departmental Assembly to Doña Juana Sanchez de Packco and which certain part intended hereby to be conveyed is described as follows to wit, Commencing at the South West corner of said Rancho being a point in the Arroya del Injerto near the Cerrito Cuarto thence following said Arroya to its junction with the Arroya de las Nueces, thence following said Arroya last named unto the foot of the hill north of a spring near the Corral of said party of the second part, and about one hundred yards from where the same stood on the 15th day of November 1832 bears South 72° East, thence South 72° East three Statute miles, thence South 15° East one and three quarters Statute miles to the Southern line of said Rancho, thence North 75° West following the Southern boundary of said Rancho to the place of beginning containing half a league of land more or less to said boundaries excepting and reserving therefrom three two certain lots of said described

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premises heretofore conveyed by the said
party of the first part, respectively to M.S.
Chase by deed dated February 4th 1860
and of Record in the Recorders office
of said County in Vol 7 of Deeds
pages 532 and 533, and to Eugene
Laroche by deed of the date Novemb
17th 1859 and of record in the Recorders
office aforesaid in Vol 7 of Deeds
pages 444. The premises intended to
be conveyed hereby being the same
with the exceptions and reservations
as aforesaid which was conveyed to
the said party of the first part by deed
of the date of March 10th 1859 by said
party of the second part jointly with
his wife Dona Antonia Moreno de Silvian
and which deed last named is now
of Record in the Recorders office afore-
said in Vol 7 of Deeds pages 174,
175 & 176 and to which for further
description reference may be had, To
have and to hold the afore granted
premises together with all and sing-
ular the tenements and improvements
thereon, also the right title interest
property possession and claim thereof
of said party of the first part and

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privileges and appurtenances thereunto belonging, unto the said party of the second part his heirs and assigns forever. In Witness whereof the said party of the first part has hereunto set his proper hand and seal the day and year first above written

Signed Sealed and delivered in the presence of, the words "of said party of the first part" were interlined before signature on the 12th line from top of this page

Cyprian Thum
Witness to Sworn interpreter

Ygnacio Soto (Seal)

State of California
County of Contra Costa } ss

On this Twenty first day of July A.D. one thousand Eight Hundred and Sixty before me E F Weld a Notary Public in and for said Contra Costa County duly commissioned and sworn personally appeared the within named Ygnacio Soto whose name is subscribed to the annexed Instrument as a party thereto personally

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known to me to be the individual described in and who executed the said annexed Instrument and who then and there acknowledged to me that he executed the same freely and voluntarily and for the uses and purposes therein mentioned and that he did not wish to retract the execution of the same

In Witness whereof I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written

(Notarial seal)

E P Reid
Notary Public

Recorded at the request of Ygnacio Silveira July 21st 1860 at 10 Minutes before 3 O Clock P M

L C Wittenmyer
County Recorder

By J T Olsen
Deputy Recorder

State of California }
County of Contra Costa } ss

I L C Wittenmyer

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County Clerk and Ex officio
County Recorder in and for the
aforesaid County, do hereby certify
that the foregoing is a true full
and correct copy of the Record
of an Instrument and certificate
as the same appears on pages
186 & 187 of Vol 8 Book of Deeds
of the Records of said County now
in my custody,

Witness my Hand and the
Seal of the County Recorder
of Said County this Fourth
day of March A.D. 1862

L. C. Wittemyer
County Recorder

46.

U. S. Dist. Court.

The United States.
vs.
Rosa Pacheco.
et al.

Deed from G. Soto.
to
Ygnacio Sibrian.

Filed March 14. 1862,
W. H. Chever.
Clerk.

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Deed

Ygnacio Soto
To
Ygnacio Sibrian

Certified Copy of
Record

3 sets

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This Indenture made this fifteenth day of November AD 1852 by and between Juana Sanchez de Pacheco of the County of Santa Clara and State of California of the first part and Ignacio Cibrian of the County of Contra Costa and State last aforesaid of the second part, Witnesseth that the said party of the first part for and in consideration of the sum of Four thousand Dollars in hand paid by the said party of the second part at or before the ensealing of these presents the receipt whereof is hereby duly acknowledged, hath bargained sold and conveyed and by these presents doth bargain sell convey and confirm unto the said party of the second part his heirs and assigns the following described piece or parcel of land lying and being in the County of Contra Costa and State aforesaid and bounded and described as follows to wit; Commencing at the South West corner of the Rancho of San Miguel being a point on the arroya del "Ynjuto" near the "Cerro Coate", thence following said Arroya to its junction with the Arroya de "Las Nueces" thence following said Arroya until the foot of the hill North of a Spring near the "Corral" of Ignacius Cibriano and about 100 yards from the same bears

South 72° East, thence South 72° East Three Statute miles, Thence South 15° East one and three fourth Statute miles to the Southern line of said Rancho. Thence North 75° West following the Southern boundary of said rancho to the place of beginning, Containing half a league, To Have and to Hold said premises with the appurtenances unto the said party of the second part his heirs and assigns forever and the said party of the first part for herself her heirs and assigns hereby covenants and agrees with the said party of the second part his heirs and assigns that she is lawfully seized of the premises aforesaid, that the premises are free and clear from all incumbrances whatsoever and that she will forever warrant and defend the same with the appurtenances unto the said party of the second part his heirs and assigns against the lawful claims of all persons whomsoever. In Testimony whereof the said party of the first part hath hereunto set her hand and seal at the City of San Jose County and State first aforesaid this the day and year aforesaid.

Executed in presence of word "part" interlined before signing
Fremont
Joaquin
Wm Kenny
Castro

Juana Sanchez de Pacheco (Seal)
her
mark.

CASE 46 ND
PAGE 277

State of California
County of Santa Clara } ss

Be it remembered that on this 15th day of Novr 1852 before me the undersigned Notary Public in and for said County personally came Ygnacia Sanchez de Pacheco to me well known to be the person described in and who signed the foregoing deed and acknowledged to me that she executed the same freely and voluntarily and for the uses and purposes therein set forth.

In Witness whereof I have hereunto set my hand and seal of office this the day and year last aforesaid.

(Seal)

J. Alexander Covell
Notary Public.

Filed for record the 26th day of Oct 1853 at 2½ O Clock PM at request Ygnacio Sibrian and Recorded the same day at 3½ O Clock PM

Thomas A Brown
County Recorder
By L M Brown Dpt.

State of California
County of Contra Costa } ss

I L C Pettemyer
County Clerk and ex-officio County Recorder in
and for the aforesaid County do hereby cer-
tify the foregoing to be a true full and
correct copy of the Record of a Deed
and Certificate as the same appears on
pages 445 & 446 of Vol 3 of the Records
of Deeds of said County now in my
Custody —

Witness my hand and the seal
of the County Recorder of said
County affixed this 4th day of
April A.D. 1861

L C Pettemyer
County Recorder

Deed
Maria Soledad de Pacheco
To
Ignacio Silvaan
(Certified copy of
Record)

446.

U. S. Dist. Court.

The United States
vs.
Rosa Pacheco, et al.

Deed from Maria S.
de Pacheco to
Ignacio Silvaan.

Filed March 14, 1862.
W. H. Chevers
Clerk.

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This Indenture CASE 46 ND PAGE 279

Made the Nineteenth day of December In the year of our Lord one thousand Eight Hundred and fifty six Between Francesco Sibrian and Rosario Abrisode Sibrian his wife Residents of the County of Contra Costa and State of California parties of the first part and Golder Held of the same State and County party of the second Part Witnesseth that the said parties of the first for and in consideration of the sum of $1800 Eighteen Hundred dollars lawful Money of the united States of America to them in hand paid by the said party of the second part on or before the ensealing and delivery of these presents the receit where of is hereby Acknowledged have remised released and quit Claim and by these presents does remise release & Quit Claim unto the said party of the second part and to his Hiers and assigns forever all their right title Interest and Claim to two certain Tracts or lots of Land Situated lying and being In the County of Contra Costa and State of California Known as a part of the Rancho San Maguel Described as Follows viz

according to Survey Made by Daniel Small County surveyor of the county of Contra Costa Made on the ninth 9th day of December Eighteen Hundred and fifty six to wit Commencing at the North East corner of said Tract and Running S 80 W 294 W Two Hundred and ninety four rods to a Stake At the Corner of San Maguel Rancho on the top of a Mountain and thence S 79 E 294 Two Hundred and Ninety four Rods to the Corner & thence North one Hundred and ten Rods to the place of biginning Containing in all One Hundred and one Acres and Ten one Hundred and sixtieth parts of an Acre of Land For a More particular & definite description reference Can be Made to the Record of the County Surveyor as aforesaid

The second part or parcel of Land discribed as Follows Beginning at a Forked Oak Tree about three Rods

46.

Francisco
Ygnacio Sibrian
& wife
To
Golden Field

Deed—

U. S. Dist. Court.

The United States.

vs.

Rosa Pacheco.
et al.

Deed from Sibrian
and wife to
Golden Field.

Filed March 14. 1862.
W. H. Chevers.
Clerk

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From the creek generally known as the San Ramon Creek
From thence 13½ thirteen and a half Rods North 61 East to
an Oak Tree from thence 16 sixteen Rods and 5 five links
North Eleven degrees East to an other Oak Tree at the point
of the Hill From thence 5 links less than one Hundred
and sixty two Rods North by Eighty Eight and one
Quarter of a degree East to an Oak Tree from thence 64 Sixty
Four Rods and four links South forty four East to a stake
About seven Steps to an Oak Tree From thence Eighty
Rods and Sixteen links North Fifty Four East to a
Stake From thence two links less than 95 Rods South
Twenty four degrees East to a stake From thence 204 Two
Hundred and four Rods South Seventy Nine and one
Half degrees West to an Oak tree on the side of a Hill from
Thence Eighty Nine Rods South by Eighty one degrees West
To a Cross set on the top of a hill from Thence four links
less than three Rods South by thirty five degrees West to
A stake on the line of the San Maguel Rancho From thence
Forty two Rods to the Middle of the Creek passing by one
of the Stakes of the San Maguel Rancho two Rods and
~~6 years North by fifty five~~ West Following the
Meanderings of the Creek opposite the Tree Mentioned at the be-
ginning of this description and thence to the place of begining the
Variations as Follows First twenty six Rods and twelve links
North by two East Thence thirty two Rods North by Eight East
From thence thirty five Rods and ten links North by two and one
Half West The said parties of the first part for and in Con-
sideration of the above Sum of Money paid do Warrant
And defend the said party of the second part in his Title
In and to the above described premises against all Claims Made
By through or under them or their Heirs or any persons What
Soever Excepting the Claims of the Government of the United States
Together with all and Singular the Tenements hereditaments and
Appurtinances there unto belonging or in any wise Appertaining
And the reversion and reversions remainder and remainders rents
Issues and profits There of and allso all the Estate Right Title Inter-
est of said parties to the property possession Claim and demand
What soever as well in law as in Equity of the said parties
of the first part of in or to the above described premises and
Ever part and parcel There of With the appurtenances To
To have and to hold all and Singular the above mentioned and

Described premises together with the appurtenances unto the
Said party of the second part and to his Heirs and assigns
Forever In Witness Where of the said parties of the first part
Have here unto Set their hands and seals the day and year first
Above Written

Signed sealed and delivered — Francisco Sibrian his Mark — Seal
in the presence of — Maria del Rosario Sibrian her Mark — Seal
M M Mentlo
Francisco Soya

CASE 46 No 3
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State of California
County of Contra Costa } ss

On this ~~the~~ 19th day of December One Thousand Eight Hundred and fifty six 1856 personally appeared before Me M M Mentlo an acting Justice of the Peace for Township No two Contra Costa County California Francisco Sibrian and Rosario Alurso de Sibrian wife of said Francisco Sibrian ~~To me Known to having been by me~~ be the same persons described in and who executed the above deed &c acknowledged the same And the said Rosario Alurso de Sibrian wife of Francisco Sibrian having been by me made acquainted with the Contents of the Above deed and by me examined Seperate & apart and from the hearing of her Husband She acknowledged that she acknowledged That She Executed the same Freely voluntarily and without Compulsion or undue influence of Her Husband duy and date abave written

M M Mentlo
Justice of the Peace

The followins lines were interlined
Befor Assigned beginning at Top
14 18 36 44 49 65

Filed for Record at the Request of M M Mentlo December 26 1856 at 12 M and Recorded December 29th 1856 at 4 P M. the

following words "money" and "delivery" "said" "a" "acres" parts of "on Rods" "degrees" "one of the" interlined in original instrument the words "second" "Contra County" "the" "to me personally" erased in the original instrument

C Yager
County Recorder

CASE 46 ND
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State of California }
County of Contra Costa } ss I, L. C. Willemayer
County Clerk & ex officio County Recorder in and for said County do hereby certify that the foregoing is a true full and correct copy of the Record of a Deed of Record in my office in Book of Deeds Volume 5 pages 298 & 299

In Witness my hand and the seal of the County Recorder of said County this 31st day of December AD 1860

L C Willemayer
County Recorder

By J J Alsop
Dept Recorder

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91.

The United States
vs
Rosa de Pacheco et als
46 ND

The survey in this case objected to on behalf of certain parties claiming an interest in the S. West corner of the Rancho by deed from the original grantee — A portion of the land conveyed to them has not been included in the survey

In the grant the land is described as "included within between the arroyo de las Nueces & the Sierra de Golgones bounded by the said places and by the Ranchos of Las Juntas San Ramon & Rincon del Diabolo —

The 4th condition describes it as "2 square leagues" (decided by the Supreme Court to have been erroneously substituted for 4 square leagues) a little more or less as shown by the map which goes with the Expediente

The diseño being distinctly represents a tract of land bounded on the West & East by the arroyo de las Nueces & the Sierra de Golgones respectively on the North by a line drawn from the

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Creek to the Sierra and in ~~the~~ cited "linea divisoria" and on the south by a chain of hills inscribed "Sierra Divisoria" Then cannot be any doubt that this Sierra was intended as the southern boundary of the tract — It is identified by the witnesses as a well defined ridge or watershed running from a couple of hills or cañons near the Buttes, to the Sierra de los Golgones —

The true southern line of the official Survey has been ~~also~~ considerably north and apparently at an arbitrary distance from this unmistakable natural boundary — I think it clear that as against their own grantors the claimants have no right to elect a location of the land which shall not include all of the tract conveyed by them ~~which lies~~ lying within the exterior limits of the Rancho grant. & disinc The claimants of the residue of the Rancho are the only parties who have formally appeared in support of the Survey —

But the Counsel who ~~represented~~ appeared for them is also interested in, or represents the adjoining Rancho of San Ramon
On the interests of the owners of that Rancho (who have not intervened in this suit) he objected to any location of the low water line by which it should be made to extend to the west until it meets the Arroyo del Puerto —
Admitting this objection to be well taken just the survey would nevertheless be erroneous — for the true line of the "Sierra division" is wholly neglected as a Southern boundary — That boundary being fixed in the official survey at a considerable distance to the north of the Sierra towards the western end and at an equal distance to the south of it, towards the Eastern end — Whereas the indications of the Sierra are clear that its course should be followed throughout the whole course of the Southern boundary As near as may be

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It is claimed on the part of the owners of San Ramon that the Southern line should stop ~~at a point~~ before reaching the "Ingerto" and ~~thence~~ that the boundary from that point is a line drawn a little west of north until it strikes the Arroyo de las Nueces a short distance above ~~the~~ its junction with the "Ingerto."

In support of this location the division of San Ramon is exhibited - On ~~which~~ this is delineated a ~~the~~ strip of land in question ~~is a narrow piece of land~~ lying on the East of the Ingerto and extending Northward to a point above the junction of the creeks

But the same piece of land is undoubtedly included with in the division in the case at bar.

The Rancho of San Ramon has not been surveyed nor have its owners made themselves parties to this proceeding - No testimony as to the boundaries of that Rancho has been taken nor any information on the

except
subject afforded ~~other than~~ the
the mere production of the
diseño — It is by no means
certain that the piece of land
in question ~~the~~ delineated on
the diseño of San Ramon was
intended to be included within
the tract actually granted
The diseños which accompany
the petitions addressed to the
Governor not unfrequently rep-
resent large districts of country
far larger than it was intended
to include even within the
exterior boundaries of the tract
the grant duly granted was to
be taken — They ~~were~~ some
times evidently indicated ~~as~~
~~then~~ the region of country where
the land was situated rather
than the limits of the tract
sought — It is suggested
that the Diseño of San Ramon
includes a quantity of land
several times greater than
to which it is alleged the
grant is limited — However this
may be it is obviously impossi-
ble to declare, ~~that~~ ~~this~~ in
the absence of all information
as to the true boundaries of San

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Ramon or of the any chekows
of location which its owners
may have made and which
would prevent them pow
Croping the creek that this
strip of land should not
tho' clearly within the limits
of the claimants diseño and
heretofore conveyed by them to
third parties, should not be
included within the survey
merely because the same strips
as represented on the diseño
of San Ramon.

It certainly does not lie in
the mouths of the claimants to
object that the land they have
sold and conveyed as part of
their Rancho is not within its
limits - and this in order that
by excluding it they may complete
their quantity of four leagues
by embracing lands not conveyed
by them.

I think therefor that the
survey should be reformed
by running the line as the
same was located by Mr
Wellmanson of the Topographical
Engineers - & do not and as
laid down on the map attached

CASE 46 ND
PAGE 290

to his deposition -

I do not understand that the ~~western~~ location of the made by him of the ~~western~~ portion Eastern portion of the Southern line, of of the Eastern and Northern lines is disputed

In the coming in of that survey the owners of San Ramon will have an opportunity to appear, and to show that the modified survey improperly embraces a portion of their land - It will then be possible with both parties before the Court definitively to settle the disputed boundary between the Ranchos -

46.

U. S. Dist. Court.

The United States.

vs.

Rosa Pacheco, et al.

Opinion
respecting Survey.

Filed March 22, 1862.
W. H. Chevers,
Clerk

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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 Thursday the 15th day of May - AD 1862.

Present.

The Hon. Ogden Hoffman District Judge

The United States
vs
Rosa Pacheco & others
No 46

This cause came on to be heard upon Exceptions to the Official Survey of the land confirmed, a certified copy of the plat of which survey was filed in this Court January 22d 1861, and Counsel for the respective parties having been heard and due consideration had, it is hereby Ordered and Adjudged that the said survey is Erroneous and the same is hereby annulled and set aside.

And it is further Ordered that the Surveyor General of the United

States for California cause a new survey to be made without delay in conformity with this order and return a plat of the same to this Court for confirmation and approval.

And it is further ordered that the said survey shall be made as follows, to wit: Commencing at the point on the "Arroyo del Ingerto" marked "Post S M 1. Beginning" on said plat of official survey filed January 22d 1861, and running thence South Eastwardly along the Eastern bank of said Arroyo and following its meanderings to the point where the proper Southern line of said land commences, as said line is represented on the plat of the survey of said land made by Robert S Williamson, a copy of which plat is on file in this cause marked "Exhibit Williamson No 1 to deposition of Rbt S Williamson", and which is the same point at which, on "Exhibit Abbott No 1 to Depos of J B Abbott" on file in this cause, the line marked thereon "Line No 3 S. 78. 9' E" leaves the said "Arroyo

CASE 46 ND
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del Ingerto," thence following the said Southern boundary of said land along the lines and courses delineated on said "Exhibit Williamson No 1" and "Exhibit Abbott No 1," to the Eastern Extremity of said boundary line, thence North Eastwardly, Northwardly, and Northwestwardly along the Crest or watershed of the mountain range following the broken line delineated on said two last named Exhibits to the intersection of said line with the line of the official survey between the points designated on the plat of said official survey as "Post S M 18" and "Post S M 19," and thence following the lines and courses of said official survey, in the order of their numbers to said "Post S M 1. Beginning." Provided, that if the Survey so made shall include more than four leagues of land the Excess above four leagues shall be taken off the Northern and North Eastern part of the land included in the survey unless the Claimants shall otherwise Elect, but by no Election of the Claimants shall any

portion of the land be Excluded which is Embraced within the boundaries of the tract of land described in the deed "Exhibit No 2 to depo^n of J. B. Abbott" as said boundaries are represented on the plat "Exhibit Abbott No 1 to depo^n of J. B. Abbott", nor any land be Excluded which is within the boundaries of the land confirmed, as represented on the plat "Exhibit Williamson No 1" and which has been sold and Conveyed by Juana Sanchez de Pacheco.

And for the more full understanding of this order and the ascertainment of the lines herein referred to, reference is made to the Deposition of Robert S Williamson and the Exhibits No^s 1 and 2, therein referred to, and to the Deposition of J B Abbott and the Exhibits No^s 1 and 2 therein referred to, all which are on file in this Cause and are hereby ordered to be delivered, with a copy of this order, to said Surveyor General and to be by him returned to this Court with the plat of survey now ordered to be made.

And it is further ordered that

when the survey shall have been so made and the plat thereof returned and filed in this court, notice of such filing shall be given by the claimants in this case to the attorney of the claimants of the adjoining land of San Ramon -

San Francisco 15th May 1862.

Ogden Hoffman
Dist Judge

No 46.

U. S. District Court

The United States
vs
Rosa Pacheco et als

Order
for new Survey —

Filed May 15. 1862.
W. H. Chevers.
Clerk

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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 fifth day of December in the year of our Lord one thousand eight hundred and sixty-two.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States

v.

Rosa Pacheco et als.

No. 46.

Now on this day, on motion of H. W. Carpentier for the claimants, and all parties to the cause being present by their respective attorneys and consenting thereto, it is ordered and decreed that the order rejecting the official survey herein and directing a new survey to be made, entered in this Court on the fifteenth day of May A.D. 1862. be and the same hereby is set aside and vacated.

No. 46.

UNITED STATES DISTRICT COURT

Northern District of California.

The United States,

v.

Rosa Pacheco, et al.,

Order vacating order of 15th May, 1862, respecting Survey.

Filed December 5, 1862

W. H. Chevers,

Clerk.

CASE 46 ND
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PAGE 300

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 of said Court in the City of San Francisco on Friday, the 5th December A. D. 1862,

Present

The Honorable Ogden Hoffman
District Judge.

The United States
vs
Rosa Pacheco vothers } No. 46.

This cause came on to be heard upon exceptions to the official survey of the land confirmed a certified copy of the plat of which survey was filed in this Court on January 22d 1861. and Counsel for the respective parties having been heard, and due consideration had, it is hereby ordered and adjudged that the said survey is erroneous and the same is hereby annulled and set aside,

And it is further ordered that the Surveyor General of the United States for the State of California, cause to be made

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a new survey of said land in conformity with this order and return a plat of the same to this Court for confirmation and approval.

And it is further ordered — the several parties consenting thereto — that said survey shall be made as follows: to wit: Beginning at a point in the middle line of the arroyo marked on said plat of official survey filed January 22.d 1861. "Post S.M.1. Beginning" — and running thence South Eastwardly along the middle line of said arroyo and following the meanderings thereof to the point where the Southern line of said land begins as said line is represented upon the plat of survey of said land made by Robert L. Williamson, — a copy of which plat is on file in this cause, marked "Exhibit Williamson No. 1, to deposition of Robert L. Williamson," and which is the same point at which on "Exhibit Abbott No. 1. to Deposition of J. B. Abbott," on file in this case, the line marked thereon "Line No. 3. S. 78°. 9'. E." leaves the said Arroyo del Ingeito and from said last mentioned point running Eastwardly along the Southern line of said land as laid down and represented upon said "Exhibit Abbott

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No. 1. to depos.n of J. B. Abbott" to the point where said Southern line meets the line marked "Line No. 2. S. 15° E" upon said Exhibit Abbott No. 1. Thence running by or parallel to the lines of the United States public surveys Southwardly and Eastwardly unto the Eastern boundary line of said official survey in such manner as to include within the Exterior lines of said land the exact extent of four square leagues,

And for the more full understanding of this order and the ascertainment of the lines herein referred to, reference is made to said deposition of said Robert L. Williamson and to the Exhibits No. 1 and 2 therein referred to and also to said deposition of said J. B. Abbott and the Exhibits No. 1 and 2, therein referred to, all of which are on file in this cause and are hereby ordered to be delivered with a copy of this order to the said Surveyor General, and to be by him returned to this Court with the plat of survey now ordered to be made.

Ogden Hoffman
Dist Judge

To be entered by consent

A. P. Crittenden
For Field & others

Wm. H. Sharp
U. S. Atty.

46.

U. S. Dist: Court.

The United States,

vs.

Rosa Pacheco, et al.,

Order rejecting Official Survey, and directing a new survey;

Filed Dec: 5. 1862.
W. H. Chevers, Clerk

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At a Stated Term of the Dist 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 20th day of January, A.D. 1863.

Present:

Hon. Ogden Hoffman, Dist Judge.

The United States

v.

Rosa Pacheco et al, heirs of Juana Sanchez de Pacheco, deceased

No. 46.

This cause came on to be heard on exceptions to the official survey of the land confirmed to the said claimants, a certified copy plat whereof was duly filed January 22. 1861; and the cause having been regularly brought to a hearing, Counsel for the respective parties present, and due deliberation had in the premises, it was by the Court ordered, adjudged and decreed that the said survey was erroneous, and that the Surveyor General of the United States for California cause a new survey to be made in

conformity with the order of the Court made and entered December 5. 1862.

And it is further Ordered, adjuged and decreed, that the official survey of the land confirmed, made in pursuance of said order of Dec 5. 1862, the field notes whereof were approved by said Surveyor General January 17. 1863, and containing 17.782 $\frac{42}{100}$ acres, is a good and valid survey of the land confirmed to the said claimants, and that the said survey be and the same hereby is approved and confirmed.

And it is further Ordered, adjuged and decreed that the certified copy plat of said survey, filed January 19. 1863, and marked "approved January 20th 1863, Ogden Hoffman, Dist Judge," be attached to and made a part of this decree for a more full and particular description of the land now finally confirmed to the said claimants.

Ogden Hoffman
Dist Judge

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U. S. Dist. Court

The United States

v.

Rosa Pacheco et al

Final Decree

Filed January 20. 1863.
W. A. Cleveland,
Clerk.

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Reading 26.

The U. S.
vs
Rosa Pacheco — 46 ND

In this case appeals have been taken — both by the U. S. and by the claimants The Board confirmed the title to the land to the extent of two leagues — and the claimants insist that they are entitled to a confirmation of the tract granted by metes and bounds and irrespective of quantity — both regard to the validity of the grant no question seems to be raised — In the brief filed on the part of the U. S it is observed that "on the general question of the validity of the whole grant it is not designed to repeat objections and arguments which this Court has so often decided to be untenable" —

The validity of the title being thus admitted under the principles laid down under former adjudications of this Court the only question is as to the extent to which it should be confirmed —

The petition was presented to

Gov. Figueroa on the 15th
May 1834 - & the usual order
of reference for information was made
after receiving the report of
the ayuntamiento of San Pe
dro Guadalupe a further
reference was made to the
Alcalde of Monterey directing
him to cause witnesses to be produced by
& examine the petitioner
as to his qualifications, & the
as to whether the land
was vacant as to its clay
and nature & as to whether
she had the means of
stocking it with cattle.
The Alcalde accordingly
took the depositions of the
witnesses by which it appeared
that as stated by 2 of them the land
was 2 & 1/2 leagues "a little
more or less" long and about 2
leagues broad, and as deposed
by the third, that it was
2 leagues long more or less
and about 2 leagues broad.
Upon receiving these reports
the Governor made the usual
usual order of concession de
claring the petitioner "owner of
the land between the Arroyo
de las Nueces & the Sierra de
los Golgones bounded by the
said places & by the Ranchos
of San Ramon Las Juntas &
Monte del Diablo — and

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~~the~~ Arroyo de las Nueces
& ~~the~~ Sierra de los Golgo
nes, ~~proceeds to~~ grants ~~to~~
~~him~~ her " ~~the~~ aforesaid land
" declaring to him the own
" ship of it by these presents.
" and subject to the follow
" ing conditions "

The fourth Condition is as
follows

" The land of which mention
" is made is 2 square leagues
" a little more or less as shown
" by the map which goes with
" the Expediente — The magistrate
" who may give the possession
" will cause it to be mea
" sured for in conformity with
" the ordinance for the purpose
" of marking out the boundaries
" leaving the surplus ~~to be~~
" which may result to the
" nation for its Government
" use. "

Contended on the part of the U. S.
It is ~~[illegible]~~ that by this Con
dition the quantity of land
is limited to 2 leagues a little
more or less — ~~and that the~~
~~Magistrate is bound to have~~
~~the ground duly measured & its~~
~~boundaries marked — the~~
~~surplus being reserved to the~~
~~nation —~~

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directing the Expediente to be sent to the most Excellent deputation for their ~~final~~ approval - The grant ~~was~~ what would seem to be such compliance with the Colonization Laws was withheld until the approval of the Assembly had made the grant definitively valid On the 11th July 1834 the Assembly ~~approving~~ passed a resolution approving "the grant of the place between made "to Doña Juana Sanches de "Racheco of the place including "the Arroyo de las nueces & "the Robbones granted 11 July 1834"

3/9 On the 21st July the Governor after referring to the resolution of approval ordered the title to issue accordingly issued on the same day

The grant after reciting that Doña J. S. de Racheco had petitioned for the land included between the Arroyo de las nueces and the Sierra de los Golgones bounded by the said places & the Ranchos of los Juntas San Ramon & Monte del Diablo, and after referring to the resolution approving the grant of the land ~~as~~ between

It is urged on the part of the claimants that the original order of Concession, the resolution of approval and the description of the land in the grant itself clearly show the intention to have been to grant the land as delineated on the design and described in the grant and that the limitation of the quantity in the 4th Condition and that if the 4th Condition be construed to limit the quantity that it is repugnant to the rest of the grant inconsistent with the previous Concession and resolution of approval and probably introduced by mistake.

If such was the intention of the Governor when he made the Concession and of the Assembly when they approved it, & the final title issued with an express reference, and in avowed Conformity with the resolution of approval should if possible be so construed as to give effect to it. The inquiry then for is did the Governor intend by the fourth Condition to limit the quantity of land granted or was the mention of quantity to be treated as merely a mistake in shewing the extent of the land which should as at common law yield

to boundaries, when the latter are distinctly mentioned? When such construction is necessary to give effect to the intention of the parties?

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(4)

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In the case of the U. S. v. Knight it was held by this court that where land had been granted by specific boundaries, which included in fact about 5 leagues, and the condition specified the tract as 4 leagues a little more or less the grant could not be construed to embrace the larger quantity. But in that case it appeared that the petitioner himself as well as the witnesses produced by him had represented the land as only "3 or 4 leagues in extent" the governor thus for en limiting the grant to the quantity so had been represented to be included within the boundaries either tract nearly named into effect the understanding and intentions of all parties or else if the representations of the petitioner

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tent ~~and the real extent of the land was known to the parties~~ and ~~that~~ the parties to the deception could not in a court of equity be allowed ~~the~~ the fruits of their fraud -

It seemed to us in that case that ~~every principle~~ justice would be satisfied and every substantial right protected by limiting the extent of ~~the~~ land to the quantity which the Governor intended to grant and the petition asked for. But ~~the~~ the case at bar is different -

The Governor was fully apprised of the extent of the land not only by ~~not only~~ the testimony of ~~the~~ witnesses produced before the Alcalde ~~does the extent of the land appear to be much larger than the quantity mentioned in the condition~~ but the diseño ~~itself~~ which was submitted both to Governor & the assembly but and which is referred to in the condition shows ~~that~~ the lan ~~quantity~~ of

land ~~is about~~ included within the boundaries to be of about the extent mentioned by the witnesses — The boundaries mentioned ~~by the Governor~~ in the ~~grant~~ petition, the resolution of approval and the grant are the same as those indicated on the map and the Governor in all probability decided his description of the land from that source — It is clear that he from this fact as well as the express language of the condition that the Governor intended to grant the land "as shown by the map," and that map contains a scale which must independently of the ~~information~~ ~~testimony of the~~ witnesses have apprised the Governor that the quantity was greater than 2 leagues —

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In this as in all analogous cases the only object of the Court should be to carry out the intentions of the granting power. When there for we find the land granted by specific boundaries, and those boundaries represented to the grantor to contain a certain quantity. When the grantors attention has been directed to the point; and an ascertaining that the quantity is the same as that represented he upon the same proceeds to grant all the land within those boundaries and upon the map which clearly indicates the quantity. Under all these circumstances we must consider that the intention was to grant all the land included within the boundaries notwithstanding that in the subsequent condition of the quantity ~~contained~~ may be erroneously

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stated.
That conditions applicable only to one species of grants were often inserted by mistake in ~~others~~ grants of a different species is notorious. In this case the ~~designation~~ ~~quantity is probably mentioned by mistake "as 2 leagues"~~ the mention of 2 leagues as the extent of the granted land is perhaps owing to the fact that the clerk who drafted the documents ~~4 feet~~ ~~coins~~ forgot that a tract two leagues broad by 2 wide contained 4 ~~squ~~ and not two square leagues. However this may be, we think it clear that in this case all the land within the boundaries was intended to be granted and as ~~as~~ there is no proof ~~is offered~~ or suggestion that the land so included exceeds in extent the quantity testified to by the witnesses

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

The United States
v.
Rosa Pacheco & others. } Brief

Upon the general question as to the validity or not of this whole claim it is not now designed to repeat the objections and arguments which this court has so often decided to be untenable.

The point to which this brief is particularly directed concerns the form of ~~the form~~ of the decree — the quantity of land to be adjudged to the claimant — in the event that this court confirms anything to ~~the claimant.~~ him.

In the brief filed herein by the counsel for the claimant it is contended that the decree in this case should be according to the metes and bounds, referred to & described in the proceedings & orders to the issuing of the final title — and that the quantity

of land which may be contained within those bounds, shall not be limited by the condition annexed to this final title - that the land granted contains ~~two~~ Two leagues - more or less -

Now it is settled by the decisions of this court made in two cases: The U.S. v Geo. C. Yount - and the U.S. v that the specification of quantity - set forth in the conditions of a grant made under the Mex. Colonization System is not merely descriptive - aiding the landmarks in defining the particular land intended to be granted - but that it is a limitation of the quantity contained within those boundaries - which is intended to be granted.

But, it is contended, this grant differs from the ordinary grants which come under the rulings above referred to, in this, that the quantity is nowhere expressed or conditioned, except in the definitive title made, by the

Governor, in accordance with the approval of the Departmental Assembly.

But it cannot be maintained that this difference is material to take this case out of the effect and application of the decisions above cited. For the proceedings previous to the final definitive title are, in fact nothing but the steps designed for the procurement and attainment of that title - and the words and meaning of that final title constitute the exclusive evidence of the intention of the granting power - And unless there is some latent or patent ambiguity as to the meaning of this final title it cannot be varied or explained by other evidence - But even if it could be altered or explained by other evidence - this definitive title must be presumed to have been made upon a full consideration and review of all the previous proceedings, and upon that review is a definitive declaration of the actual intention of the granting power - ultimately de

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fixing and fixing the rights of the government & the grantee—

If this position is well taken the condition limiting the quantity and the provision for the Sobrante, which appear annexed to the final title in this case show that it was the intention of the granting power to limit the grant to the specific quantity of Two square leagues within the described boundaries—

A. Russell—
Acting U. S. Dist. Atty

U.S. Dist. Court

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Abstract

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The United States - Appellants
vs
Rosa Pacheco & others - Appellees.

&

Rosa Pacheco & others - Appellants
vs
The United States - Appellees

In this case both parties have appealed from the decision of the Board of Land Commissioners - Both have given notice and filed their petitions &c.

The United States appeal because the claim was confirmed by the Board, and the claimants appeal because the confirmation by the Board was only for two leagues of land and the claimants insist that they are entitled to a confirmation of the tract granted, by metes and bounds, inspective of quantity.

The grant was made by Govr Figueroa on the 31st of July 1834 to Doña Juana Sanchez de Pacheco, and it was confirmed by the Deputation on the 22d of July 1834.

The certified copy of the Espediente from the office of the Surveyor Genl.

shows all the proceedings preliminary to the grant, and contains a copy of the grant, and of the proceedings of the Territorial Deputation.

The original grant was not produced. Its loss is shown by the deposition of Capt. Halleck and affidavit of Joaquin Ysidro Castro - and its existence and contents by the same, by the deposition of J. Alex[r] Forbes (taken Sept[r] 15th 1855) and by the Expediente.

Occupation of the land by the grantee and those claiming under her from the year 1833, & prior to the grant, down to the present time, is proved by several witnesses examined before the Board and in this Court - See depositions of Forbes (taken Oct 20th 1854) José Fernandez, Vicente Juarez, Moraga, and José Castro.

One witness, Welch, has been examined by the United States in this point - but his deposition amounts to nothing - See also deposition of Forbes taken Novr 30th 1854.

Juana Sanchez de Pacheco, the grantee died in Septr 1853 leaving a will in which she ~~disposed of~~ devised

this land to her children, ogrand children and appointed Joaquin Ysidro Castro and Francis Lightstine her executors. A certified copy of the will (with a translation, it being in Spanish) and of the Probate has been filed. Both executors qualified and the requisite legal evidence ~~of~~ of their appointment is filed. All parties in interest are before the Court the devisees and executors. Some of the devisees being minors appear by their guardians who have filed the proper evidence of their authority. The claim has been served and all the parties interested ask a confirmation of the claim to the heirs.

Under the decisions of the Supreme Court and the repeated adjudications of this Court, there can be no objection to a confirmation of the claim. The only question which can arise is as to the extent of the confirmation, whether it shall embrace all the land within the designated boundaries or be limited in quantity to two leagues.

This depends upon the intention of

the granting power and that intention is to be collected from the grant and all the proceedings preceding it and upon which it was founded. If the intention was to grant all the land within the boundaries designated it will all pass to the grantee though the supposed quantity of land may be expressed in the grant and it may turn out upon a survey that the actual quantity is much greater. The principle that in such a case a surplus does not vitiate the grant but that all the land is conveyed, is too well settled to need a reference to authorities.

The claimants insist that it is manifest from the grant that it was the intention of the government to give the grantee all the land within the boundaries specified and that the designation of quantity in the final title was not intended as a limitation.

A copy of the expediente appears in the transcript and ~~off~~ on it are set forth all that was done preliminary to the issuing of the

final title. The proceedings were before Govr Figueroa, who was generally much more observant of all the requirements of the Colonization law and regulations than any of his successors, and they were so carefully conducted in this instance as to draw from the Territorial Deputation the remark that the Espediente "had been made with great care and without any departure from but in every respect conforming to, the law of 18 August 24 and the 5 Art. of the regulations of 21 Novr 1828." (See proceedings of Deputation in the Espediente).

The petition of Doña Juana Sanchez de Pacheco, the grantee, is for the land "shewn in the map." It makes no reference whatever to quantity. The map referred to is was attached to the petition and is the same mentioned in all the subsequent proceedings and referred to in the grant.

The petition was referred by Govr Figueroa to the Ayuntamiento of San José which reported that the petitioner had the necessary qualifications,

that the land was not within the coast or border leagues, was tillable and pasture land, and did not belong to any individual, Mission, Corporation or Pueblo.

The subject was then referred to the Alcalde of Monterey that the petitioner might produce before him "three witnesses to prove whether she is Mexican by birth, married, has children, and is of good character, whether the land is the property of any person, Mission, pueblo or corporation, and is tillable, irrigable or pasture, and what is its extent; and whether the petitioner has cattle to stock it."

The three witnesses were produced and examined before the Alcalde. As to the Extent of the land, two of them testified that it was about 2½ Leagues long and 2 Leagues wide, and one of them that it was 2 Leagues Square.

The Alcalde reported upon this point that it was about 2½ Leagues long and 2 Leagues wide, and his report was in all respects favorable to the petitioner.

Upon this report Govr Figueroa made a decree of concession to the petitioner in the ordinary form, declaring her "the owner in propety of the land comprised between the Arroyo de las Nueces and the Sierra de los Golgones, bounded by these places and by the ranchos of Las Juntas, San Ramon and Monte del Diablo."

This decree makes no reference to quantity whatever and is clearly and unequivocally a concession of all the land within the boundaries designated. Those boundaries are all marked on the map and were taken from it. The Govr, satisfied from the testimony before him in regard to the extent of the land asked for, thought proper to concede it all and did concede it all.

The Espediente, concluding with this decree was then referred by the Govr to the Territorial deputation. A committee of the Deputation in making their report commented upon the proceedings in the case in the language quoted above and presented to the Deputation a proposition "to approve

the concession to the petitioner of the place comprised between the Arroyo de las Nueces and Los Bolones" and this proposition was adopted by the Deputation.

The approval contained no restriction of quantity. It was as broad as the concession. It was an approval of the grant of all the land within the boundaries specified.

This course of proceeding, in submitting the expediente and decree of concession to the Deputation, before issuing the formal grant or evidence of title is not the course usually pursued in California. Ordinarily the grant was issued immediately upon the decree of concession being made and then all the papers were submitted for approval. Figueroa was the only Gov who followed the course adopted in this instance and it is believed that even he did not do so invariably. Yet it was strictly the correct practice and its observance in this case has an important influence upon the question now presented to the Court.

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The regulations of Nov. 21. 1828 mark out in their order the steps to be taken in making a grant - A petition must be presented (Art 2.), the Govt must then take the necessary informations (Art. 3.), and "this being done, the Govt will accede or not to such petition, in exact conformity to the laws on the subject and especially to the law of 18 August 1824" (~~Last Sect~~ 4.), but "the grants made to families or private persons shall not be held to be definitively valid without the previous consent of the territorial deputation, to which end the respective documents shall be forwarded to it" (Art 5.)

Now the ordinary mode in which the Govt "acceded to the petition" was by entering such a decree of concession as was entered in this case, and the effect of the approval of the territorial deputation was to make the grant "definitively valid".

Here the petitioner asked ~~for~~ not for 2 Leagues of land or any other named quantity, but for a tract, having determined and defined

boundaries, clearly marked out upon the map which formed part of the petition; the Govt acceded to the petition by declaring the petitioner owner of the land solicited, stating its boundaries from the map itself, and the Deputation approved the grant as it was made, and thereby gave it "definitive validity".

Had the proceedings stopped here no question could have arisen. Not a doubt could have been entertained as to what was granted, and the title of the grantee would have been complete.

But the 8th Art. of the regulations says, "The definitive grant asked for being made, a document signed by the Govt shall be given, to serve as a title to the party interested, wherein it must be stated that said grant is made in exact conformity with the provisions of the laws &c."

The document referred to in this article was issued to the grantee. It refers to the decree of confirmation, and confirms to the grantee by description the land comprised between the Arroyo

de las Nueces and the Sierra de los Golgones - In the 4th Condition it says The land mentioned is two leagues de ganado mayor, more or less, as shown in the map. The judge who shall give the possession shall have it measured in conformity to the ordinance and the boundaries marked leaving the sobrante which remains to the nation for its convenient uses."

Here is the first mention made of quantity by the authorities whose action was necessary to make a perfect the grant, and it is submitted that this mention of quantity was not intended to control the grant and cannot be so construed.

The very terms in which it is expressed shows this. The ordinary form of this clause is that the "judge who shall give the possession shall have it measured in conformity to the ordinance leaving the surplus &c" - But here it is to be measured "in conformity to the ordinance and the boundaries marked leaving &c". What boundaries? Of course those boundaries which are specified in the decree

of concession and marked in the map. None others are spoken of anywhere in the proceedings.

From this condition alone it is apparent that this is a grant by boundaries, the map being referred to for the description of the land and the judge being required to measure the land in conformity to the boundaries marked in the map. If there could be any question upon the point from this clause unconnected with the other proceedings, there certainly can be none when it is considered that the petition was for the land as shewn in the map, that the decree of concession specified those boundaries and granted the land by reference to them without regard to quantity, that this decree was confirmed by the Departmental Junta as it was made, and that after the confirmation by the Junta Govr Figueroa indorsed upon the papers an order that "in view of this confirmation the title shall be recorded and delivered to the party." (See his order of July 31, 1834).

manifestly this title, based upon the confirmation was to be in conformity to it -

It may be said that upon this construction of the grant there could be no surplus, and the clause in relation to a surplus would be unmeaning. But this clause is in conflict with the other which declares that the survey shall be according to the boundaries marked, and is in conflict with the intention of the grantor as manifested in all these proceedings. That intention must prevail and whatever is inconsistent with it must be disregarded.

This was an ordinary clause and a proper one where the grant was for a given quantity of land and it was inadvertently inserted in this grant without observing that it was inapplicable and could have no effect.

In the case of Fremont the Supreme Court in rejecting one of the conditions of the grant as a nullity remarked, that (and it is a remark which may be well applied here) "that conditions

appropriate to one description of grant, from clerical oversight, or some other cause, were sometimes annexed to others!"

These words "leaving the surplus which remains to the nation &c" were indeed mere words of form inserted in every grant - even where the grant was clearly and beyond all dispute a grant by metes and bounds, and where no quantity was anywhere mentioned. It is believed that not an exception can be found.

"As an instance of the use of this reservation under circumstances where it was clearly absurd, and in proof of the assertion that they are mere words of course, signifying nothing and furnishing no evidence of the grantor's intention, the Court is referred to Case No 102, on the docket of this Court - The United States vs Antonio Lunt + others. In that case there cannot be the slightest pretence that the grant is anything but one by metes and bounds, yet one of its conditions reads as follows:

"3d. The land which is donated to

them is of the extent which is shown in the map accompanying the Expediente with its appropriate limits. The Judge who may give the possession shall have it measured in conformity to the ordinance in order to designate the boundaries, leaving the surplus which remains to the nation for its convenient uses!"

The indiscriminate use of this clause of reservation can only be explained upon the supposition that it was considered absolutely unmeaning, or, if at all significant, meant only that a party should not claim anything outside of the boundaries assigned him whether by the grant or upon a measurement. Certainly such use destroys its force ~~as an expression of an intention that~~ and prevents any inference being raised by it as to the intention of the grantor.

There is nothing then ~~to~~ in this ~~is~~ case favoring the idea that this grant is not one by metes and bounds except the mere words that the "land mentioned is two leagues more

or less," and these words, in the connection in which they stand and in view of all that preceded the making of this "document" in which they are found, are clearly not restrictive. In effect the quantity had been ascertained, not by actual measurement but by the statements mouth of persons acquainted with the locality. The mode in which it was ascertained is immaterial. It is enough that it was ascertained to the satisfaction of the Governor who, relying upon the information he had obtained, acted upon it, decreed the land by boundaries to the grantee & submitted his decree to the Junta by whom it was confirmed. Having made the concession in this form, upon information taken, it is not to be presumed that without cause or motive, he should have wished or intended to make a different grant when he came to issue the document signed by himself which was to serve as a title.

Indeed it would have been a violation of his duty and beyond his power to change the extent of the grant at this stage

of the proceedings. The grant was already made by the decree of concession, and it was confirmed by the Junta. The assent of both these branches of the government whose concurrence was necessary had been given, and the grantee had the right to demand what the 8th regulation declares "shall be given" "a document signed by the Governor to serve as a title to the party." A title to what? To the land granted or to some other tract which might be substituted by the Gov at the last moment?

If the Governor could, in disregard of all the previous proceedings, restrict the grant in quantity, he could enlarge it; he could change it in any respect; and he could thus evade the law and rid himself altogether of the supervising authority of the Junta.

If he did intend to change the grant, it was a fraud upon the Junta which approved it, and the declaration made by the "document" itself of the previous confirmation by the Junta was a falsehood.

This document says "in conformity with the resolution of the most Excellent Territorial Deputation of the 22d Inst. approving the grant of said land included between the Arroyo de las Nueces and the Sierra de los Golgones made on the 11th of this month to the said Doña Juana Sanchez de Pacheco, in the name of the Mexican Nation, I have granted to her the aforesaid land, declaring to be her the ownership of it &c" ——

Yet if this grant be one of "two leagues" of land, it had never been petitioned for as stated by the Governor and it had never been approved by the ~~Dept~~ Territorial Deputation! for the petition, decree of concession, approval, order for title to issue, all, relate to a grant of a tract of land designated by its boundaries and with no reference to quantity.

If there were mention of quantity in this final "document" it is a restriction the grant rests upon the mere act of the Governor. It has no connection with what precedes it, ~~and~~ the recitals of the "document" are all false, and the proceedings of the Gov a fraud.

A construction which would lead to such consequences is clearly erroneous and improper.

It is a settled principle that "the mention of a quantity of acres, after a certain description of the subject by metes and bounds, or by other known specification, is but matter of description and does not amount to any covenant" to. See cases cited 4 Kent. Com. 466.

Applying this principle all difficulties are removed; the proceedings are regular, and the action of the govern legitimate and in strict conformity to the law.

It is to be remarked too that in the very sentence which speaks of quantity, it is declared that the land is that "shewn in the map." Now on referring to the map it is found to contain a clear designation of the land by boundary. On the West appears the Arroyo de las Nueces, on the East the Sierra de Golgones, and on the North and South are drawn lines, fixed by reference to natural objects and marked as the boundary or di-

viding lines. On its face it is declared to be a "map of a vacant place situated to the S. W of Monte del Diablo and asked for by Doña Juana Pacheco". There is no mention of quantity or extent upon it. The map is a clear and precise designation of the land. There can be no mistake about the boundaries of the land. To prove this more clearly Mr Forbes, who was on the ground and drew the map, has been examined in this Court as a witness, and his testimony shows that the boundaries delineated in the map can be readily traced on the ground.

Which shall ~~prevail~~ govern, the boundaries laid down in the map and according to which the land was petitioned for, conceded, the concession confirmed, and the title ordered to issue? Or the quantity, only mentioned after the title was in law complete, and in the document signed by the Govr and which did not constitute the title but was the mere evidence of his right to which the party was entitled and mentioned to as mere matter

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of form, or perhaps to show that the quantity was less than Eleven leagues and that it was within the power of the Govr to make the grant?

A P Catlender
Atty for Rosa Pacheco
& others —

It should be remarked that this ~~case~~ claim was confirmed to the Extent of two leagues by the first Board of Land Commissioners. Had the confirmation been made by the Board as last constituted upon the principles laid down, it would would have been for all the land within the boundaries.

A P Catlender
Atty &c —

To the Hon.

No 46

U. S. Dist. Court

The United States

vs

Rosa Pacheco +

others —

Brief

N. P. Conlendon

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