

CASE NO.

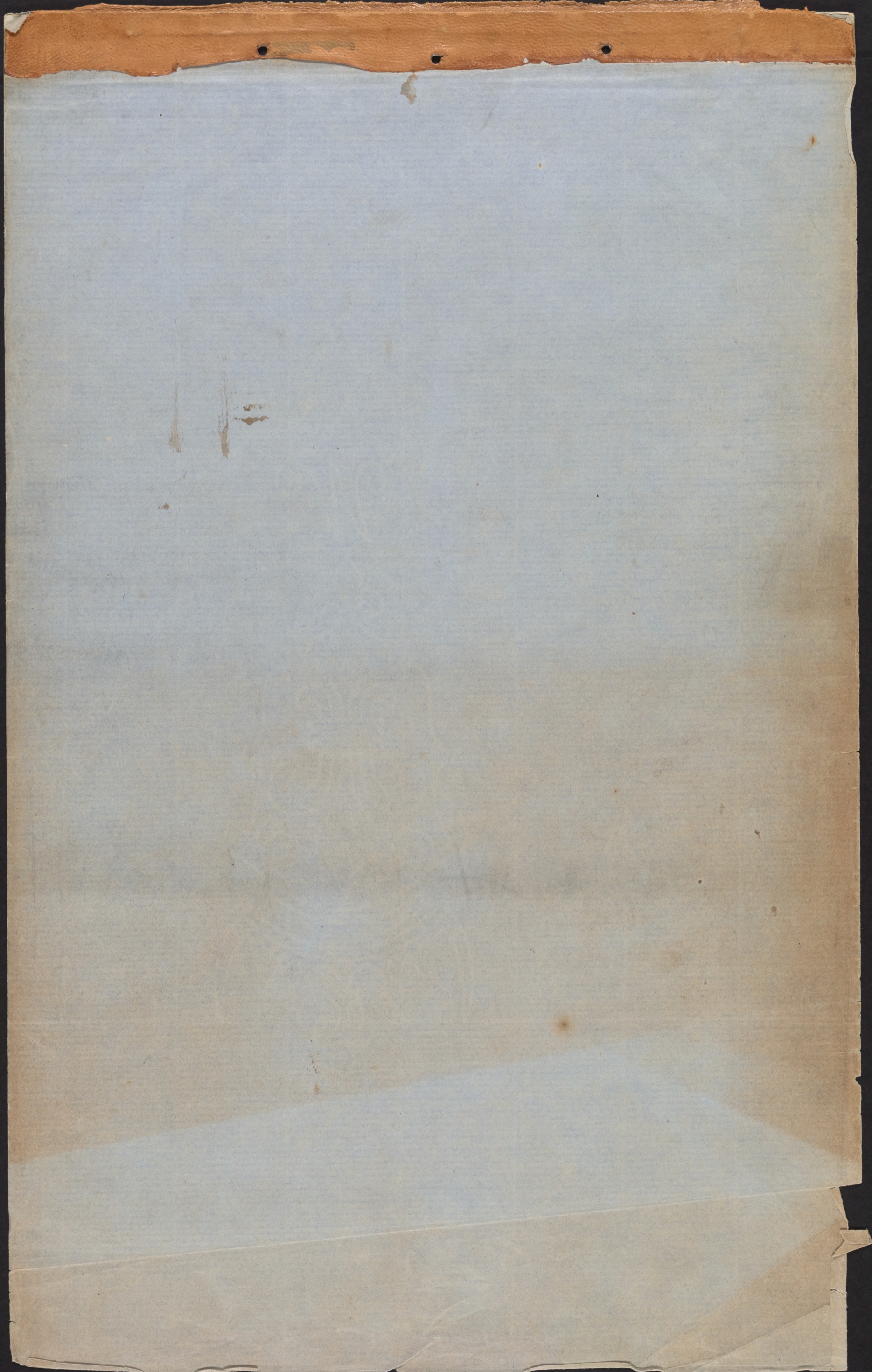
61

NORTHERN DISTRICT

LAGUNA de SAN ANTONIO GRANT

BARTOLOME D BARTOLOME

CLAIMANT



10-1-1911

10-1-1911

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PAGE 1

TRANSCRIPT
OF THE
PROCEEDINGS

IN CASE

NO. 44

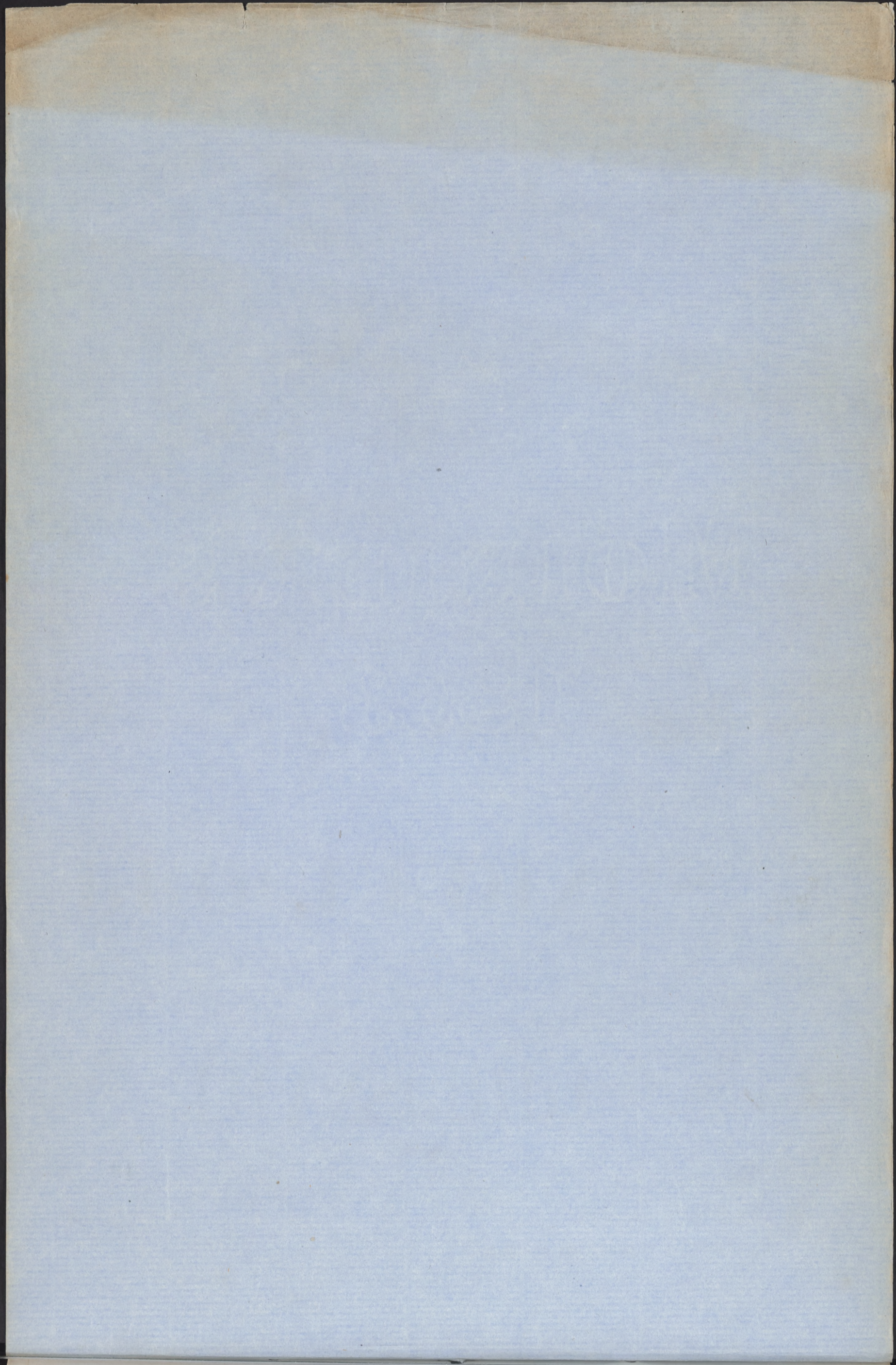
Bartolomé Bojorguez CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Laguna de San Antonio"



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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Be it Remembered, that on this *fourteenth day of February*, 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 *Bartolome Borjorguez* for the Place named "*Laguna de San Antonio*," was presented, and ordered to be filed and docketed with No. *44* 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 March 5th 1853.

In Case No 44 *Bartolome Borjorguez*, for the place named "*Laguna de San Antonio*," the deposition of *John Martin*, a witness in behalf of the claimant, taken before Commissioner *Harry J. Thornton*, was filed. (vide page *Six* of this Transcript.)

San Francisco March 17th 1853.

In the same case the deposition of *W^m A. Richardson*, a witness in behalf of the claimant, taken before Commissioner *Harry J. Thornton*, with argument *H. J. T.*, No 1 annexed thereto was filed. (vide page *6* of this Transcript.)

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San Francisco Aug. 8th 1853.
On motion of the United States Associate
Law Agent Case no. 44 was ordered to
be placed on the Final Docket.

Case No. 44 Bartolome Boprguy, for the
place named "Laguna de San Antonio"
called: Submitted on briefs on both sides.

San Francisco Oct. 12th 1853.
In the same case Commissioner Alpheus
Fitch delivered the Opinion of the Board
concerning the location, and the Decree
of final confirmation: (vide page
29 of this Transcript.)

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To the Honorable the Commissioners for settling private Land Claims in California.

The petition of Bastonie Bojorquez was-ident of the County of Marin & State of California, respectfully sheweth.

That being a Mexican by birth he presented his petition on the 17th of May 1837 to Mariano G. Vallejo, then Commander General of the Territory of California, begging leave to occupy the tract of land hereafter described as settler, & that said M. G. Vallejo permitted him to do so on the 16th of May 1839, by a written licence of that date. That your petitioner afterwards to wit on the 20th of May 1844 & after an occupancy of nearly seven years presented a petition to Michelletena, then Governor of California, soliciting for himself a grant of the tract of land so occupied by him, comprising six sitios de ganado mayor & known as Rancho de Saguma de San Antonio.

That said solicitation was referred by said Governor to the Secretary of State to report thereon, & by him transmitted to Jacob P. Reese the Judge of Sonoma for the purpose of inquiring of the bordering land holders, whether said land was unoccupied & liable to be granted. That said Judge of Sonoma on the 3rd of Septbr 1844, reported that the land petitioned for was waste land, & did not belong to any village, corporation, or individual, & could be granted under due subjection & conformity to the boundaries of the bordering land owners the N. W. side.

That said Secretary of State returned the last mentioned report once more to said Judge of Sonoma in order to summon & hear said bordering land owners & to report on the extent of the expected boundaries. That no further report was made thereon by said Judge of Sonoma.

That your petitioner thereafter to wit on the 29th of July 1845, made & presented a second petition to

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Petition.

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Pro Pico then Governor ad interim of both Californias, for the same tract of land, the first petition for which did not meet any definite decision of Don Manuel Micheltorena in the preceding year. That said Governor Pro Pico, after due inspection of the petitions & reports thereon, by virtue of the authority vested in him as Constitutional Governor by a decree dated the 25th of November 1845 declared the said Bartolome Bojorgez, the owner of said tract of land & directed the proper document, conferring title to be executed & delivered to said Bojorgez. That said Pro Pico on the 5th day of November 1845 made & delivered to said Bojorgez a full and formal grant of said land. That said grant was submitted to the Departmental Assembly at Angles for confirmation & by the same on the eight of May 1846 referred for report to the committee on vacant lands. And that the committee being favorably reported thereon on the 22nd of May 1846, the said Assembly in the session of the 3rd of June 1846 did approve & confirm said grant. That the originals of said petitions, license, references, reports & decrees & a copy of said grant together with the records of said action of the Departmental Assembly with a map of the premises are now on file among the archives of California, now in the possession of the Surveyor General of the United States for the State of California, & translations of said documents are herewith exhibited & prayed to be taken as a part of this petition, & that the said original grant is now in the possession of your petitioner & ready to be offered in evidence when the same is required. That your petitioner has resided resided upon said land from the year 1837, to the present time, & that from said year 1837 he has always been in the exclusive peaceable & acknowledged possession of the six sitios de ganada mayor, first above specified. That the

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said land is situate in the County of Marin & that its boundaries are as follows.

1st. a straight line running N. 58° East, passing through the two rocks known as Los dos Piedras lying near each other upon opposite sides of the road leading from San Rafael to Bodega.

2^d. Commencing in said first line at the distance of two leagues north easterly from Los dos Piedras running south easterly at right angles to said first line three leagues.

3^d. From the termination of the 2^d line south westerly parallel with the first line two leagues.

4th. From the termination of the 3^d line north westerly parallel with the second line - three leagues to the place of beginning.

That the whole territory included in the boundaries measures six square leagues and is known as Rancho de Saguna de San Antonio.

Your petitioner therefore claims to be the owner of said tract of land & prays that your Honorable Board may confirm his claim & title to it.

Clarke, Taylor & Beckwith.
Attorneys.

Filed in Office February 17th 1852.

Geo. Fisher.
Secy.

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San Francisco March 5th 1853.

On this day before Comr H. J. Thomson came John Martin a witness on the part of the claimant, Bartolome Bojorquez, petition No 44 & was duly sworn, his evidence being given in English.

Question by Claimant.

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

Deposition of
John Martin.

Answer. My name is John Martin, my age is sixty six years, & my residence is Marin County, California.

Quest 2. Are you acquainted with the ranch Sangua de San Antonio claimed by Bartolome Bojorquez, & if yea, state what you know of its occupation & cultivation.

Answer. I am acquainted with the said Rancho. It was occupied by the grantee before it was granted to him, & has been in his possession for upwards of thirteen years. He had a house & lived in it with his family from that time till now, having on it his stock of cattle, horses &c.

John X Martin.

W. S. San Agent present.

Sworn to & his mark made before me this 5th of March 1853.

Harry J. Thomson.

Comr.

Filed in Office March 5th 1853.

Geo. Fisher.

Sey.

San Francisco March 17th 1853.

Deposition of
Wm A. Richardson.

On this day before Comr H. J. Thomson came Wm A. Richardson, a witness in behalf of the claimant Bartolome Bojorquez, petition No 44 and was duly sworn, his evidence being given in English.

Questions by Claimant.

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Quest 1st What is your name, age & place of residence?
Ans. My name is W^m A. Richardson, my age fifty eight years & I reside on my rancho of Saucilote, in Marin County.

Quest 2^d Look at the document now shown you, purporting to be a grant from Pio Pico to Bartolome Bojorquez, of the land called Laguna de San Antonio. State what you know in regard to the genuineness of the signatures thereto.

Ans. I am well acquainted with the handwritings of Pio Pico & José M^o Covarrubias, having often seen them write. Their signatures wherever they appear upon said document, are genuine.
W^m A. Richardson.

U. S. Law Agent was present.
Surrender acknowledged before me
this 17th of March 1853.

Henry J. Thurston.
Comr. &c.

Filed in Office March 17th 1853.

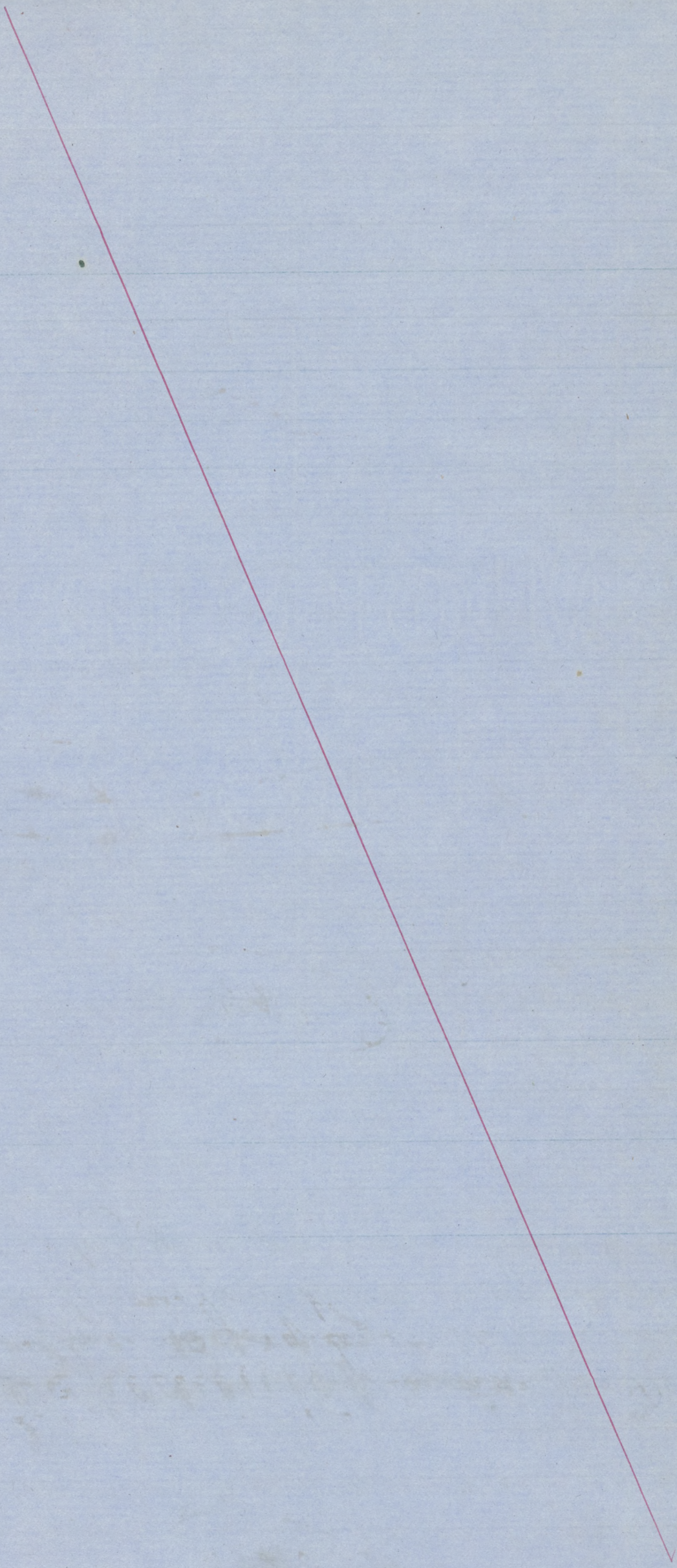
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Secy.

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44

1. D. D. 18

9

1845

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Expediente promovido por Don
Bartolome Bojorquez en pretencion
del terreno nombrado "Laguna de
San Antonio"

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[Large decorative flourish consisting of multiple overlapping loops and a long, wavy tail extending downwards.]

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Sello cuarto Dos Reales
Habilitado provisionalmente por la Aduana
Maritima del puerto de Monterey en el
Departamento de las Californias para los
años de mil ochocientos cuarenta y cuatro
y mil ochocientos cuarenta y cinco

Micheltorena

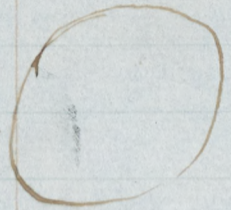
Pablo de la Guerra

Por Aus. del admin.

Guillermo Edw. Hartwell

J. D. 12.

Expediente



E. J. Gobernador

Monterey 29/10 de 1844. } de esta frontera del Norte; ante
Inf. del Sio. } Q. E. con el mas profundo res-
del despacho. } peto hago presente;
tomando antes } que como consta p. el docu-
mentos si los tiene } mento adjunto, el Sr Direc-
p. Necesarios } tor de Colonizacion. D. Ma-
Micheltorena } rian. G. Vallejo, se ha servido
} concederme desde el año de
1837 el terreno conocido con el nombre de
Laguna de S. Antonio q. comprende seis
sitios, entre los linderos q. demarca el
adjunto diseño: esto es: al S. E. con Juan
Martin. al N. O. con las dos piedras al
S. O. con los Tomales y al N. E. con Juan
Moranda teniendo ya siete años de ocu-
pacion en otro paraje habiendo constru-
ido en el varias fincas deseando asegu-
rar mi propiedad a Q. E. luego Q. E.
Vistos los antecedentes que me reficose
sirva mandar de me otorgue el Titulo de
Conseccion en forma p. que asi mismo
pueda cumplir con los demas requisitos
de ley y asegurar a mi crecida familia
el unico recurso con q. cuenta p. la
subsistencia.

P. D. A. Q. E. suplica se sirva mandar

J. O. D. 14

secretar como pido, en lo que recibire justi-
 -cia y merced. Dios este
 Sonoma Mayo 20 de 1844.

Bartolomé Boforquez

Com o =

Dispone el Excmo Sor Gobernador que se la
 presente instr^{ta} al Juez de Sonoma p^a
 que informe sobre su contenido previa
 citacion de los colindantes.

Monterey 2 de Agosto de 1844
 Man^t. Jimeno

Juzgado de 1^a Nominacion de Sonoma
 el terreno q^o solicita el Interesado es baldio
 No pertenece a Pueblo, corporacion ni
 Individuo alguno y puede concederse
 sujetandose con las linderas de su Co-
 -lindante del N. P. Cuanto expreso en
 su Solicitud es cierto.

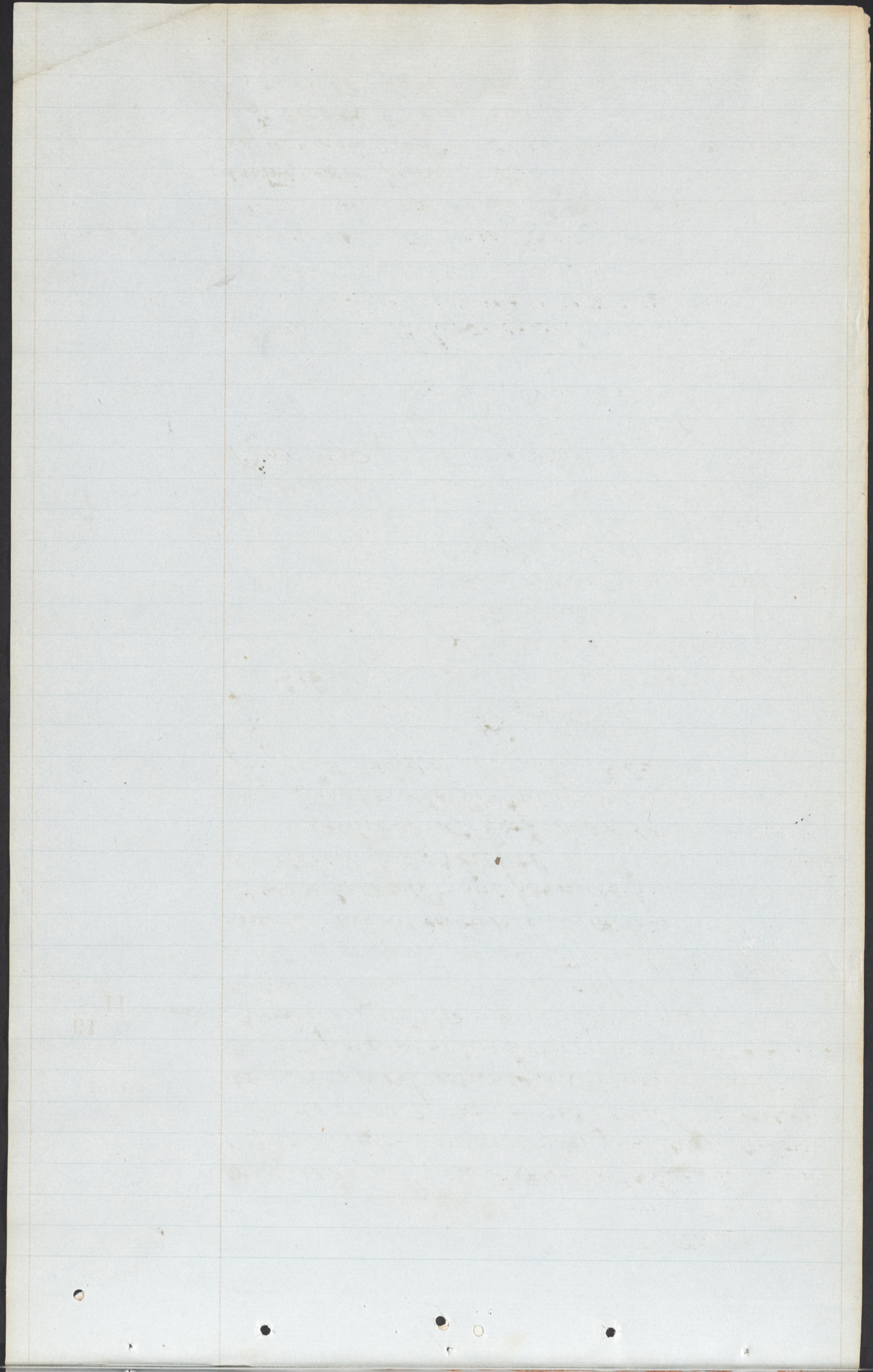
Sonoma Sept^r. 3^o / 1844
 Jacobo P. Leebe

Buelva el exped^{te} al Sor Juez de Sonoma
 p^a que haga citar a los colindantes, y
 digan bajo su firma lo que les cubrenca,
 p^a que todo se tenga presente al tiempo
 de dar su disposicion el B. G. Gobernador.

Monterey A^{re}. 11 de 1844

Man^t. Jimeno.

None follows
 map



B

Y. D. D. N

Gov: Comandte: Jral

Sonoma Mayo } Bartolo Bohorquez radicado
 de 183 q. } en S. Franco. antes Q. S. como
 Puede el inte: } mejor convengan digi: que ha-
 resado en es: } ben dome resuelto a estable-
 ta instas por: } cerme y radicarne en esta
 ocer el paraje } jurisdiccion con mis bienes
 q. solicitas del } de orientes y no teniendo
 Gobierno Político } en que verificarlo por falta
 el titulo correspon } de un terreno propio para el
 diente entendien } objeto — solicito que V. S.
 dase el presente } me permite poner mis dichos
 decreto como mis } bienes — Laguna
 de S. Antonio de las Parias del poondas
 cuyo terreno esta } baldio y no pertenece de la
 propiedad de } alguna

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en concepto de que soli
citara,

Ni } Por tanto
 M. S. Waller } A. V. S. suplico se sirva
 } en est. de que serame
 reconocido.

Sonoma Mayo 1^{ya} de 183^{ya}
 Arregli del inter^{do}
 Gregorio p. f. urie

Ba en papel comun por falta de sellado
 E. S. Gobernador

Bartolome Bohorquez Soldado retirado de
 la compania presidencial de S. Franco. y vecino
 de esta Jurisd^{em} ante V. S. con el mas pro-
 fundo respeto hace presente.
 que a causa de la distancia q. media
 entre este punto y la Capital donde no
 tiene ningun relacion habia esperado
 p. elevar a las manos de V. S. el
 presente memorial que se presentara

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una ocasion muy oportuna p^a no esponer los documentos tan interesantes q^e tiene el honor de acompañar y en los q^e se halla cifrada la unica espelaz^a del espont^e y su familia.

El año p. p.^o dirigió el suplicante la adjunta instancia al E. S. General D. Man^{te}. Micheltovenary no ha sido resuelta por q^e tuvo à bien el Sr. Secretario del despacho de aquel tiempo pedir informes q^e solo le tenían al tiempo de dar la posesion juridica; pues refiriendo el interesado à los linderos de sus colind^{tes} sin expresar aquellos parece muy suficiente el informe q^e dio el Alcalde de esta Jurisd^{om} de q^e el terreno comprendido entre otros linderos era Baldio: y al dar la posesion juridica el Duez que lo hiciese habia de tomar las declaraciones de los colind^{tes} segun le ha observado constantemente.

P. Q. A. V. Enuego se digna mandar se le otorgue el correspond^{te} titulo de concecion p^o poder con los demas requisitos legales dispensandose el uso del papel comun p^o falta del Sellado correspond^{te}
Sonoma Julio 29/845

Bartholome Bohorquez

Angeles Noviembre 25 de 1845
Lista la Volicitud con que da principio este expediente, el informe del Duez de Paz de Sonoma con todo lo demas que se tuvo presente y ver convino: de conformidad con la ley de 18 de Agosto de 1824 y reglamento de 21 de Noviembre de 1828. declaro dueño del terreno nombrado "Laguna de S^{ra}."

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Antonio al Ciudadano Bartolome Bohorquez cuyo terreno colinda al S. E con tierras de Juan Martin, al N. O. con las dos piedras al S. O. con los Canales, y al N. E con Juan Miranda y es de la Estension de Seis Sitios de ganado Mayor Librele el titulo correspondiente y presese este expediente para someterlo a la aprobacion de la Excm^a Asamblea departamental. Pío Pico Gobernador provisional del departamento de las Californias. Asi lo mande, decreto y firme de que doy fe

Pío Pico
Jose M. Covarrubias

Pío Pico vocal decano de la Asamblea departamental y Gobernador provisional de las Californias.
Por cuanto el Ciudadano Bartolome Bohorquez ha pretendido para su beneficio personal y el de su familia el terreno nombrado "Laguna de San Antonio" colindante al S. E con Juan Martin, al N. O con las dos piedras al S. O con los canales y al S. E con Juan Miranda practicadas previamente las averiguaciones necesarias en uso de las facultades que me son conferidas a nombre de la Nacion Mexicana he venido por decreto de este dia en concederle el mencionado terreno declarandole la propiedad de el por las presentes letras, de entera conformidad con la Ley de 18 de Agosto del 1824 y reglamento de 21 de Noviembre de 1824. al reserva de la aprobacion de la Excm^a Asamblea departamental y bajo las condiciones siguientes. 1^a

Pueda buscarlo sin perjudicar las traversías
caminos y servidumbres lo disputara libre
y es claramente destinado al uso y
cultivo que mas le convenga pero tendra
en el caso habitada y bienes servientes
2^o Solicitara del Juez respectivo que le
con las mayorías de la posesion juridica en virtud de este
necesarias en despacho, por el cual se demarcaran los líni-
-deros respectando el derecho legal de los
colindantes.

3^o El terreno de que se hace donacion es de
la Extension de Seis sitios de Ganado Ma-
-yor segun esplica el diseño. que obra en
el expediente. el Juez que diese la posesion
lo hara medir conforme a Ordenanza.

En consecuencia mando que teniendo
el presente título por firme y val edro
se tome razon en el libro a que corresponde
y se entregue al interesado para su resguar-
-do y demas fines.

Dado en la Ciudad de los Angeles en este
papel comun por falta de Sellado a
Veintinueve de Noviembre de Mil ochocientos
cuarenta y cinco.

Quede tomado razon de este título en
el libro a que corresponde.

Angeles Mayo 8 de 1846

Dado Cuenta en Sesion
de hoy a la Asamblea Departamental
con este expediente, le mando pasar
a la Comision de terrenos baldios

Pi Piei
Resid^{te}
Agustin Overa
D. P.

17

E. J.

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La Comision de terrenos Baldios a
escaminado el preste. Exped^{to} promovido p^o
el S^o Bartolome Bohorquez del terreno
nombrado Laguna de San Antonio. y q^{ue} le
fue concedido p^o el Gob^o Sup^o de este de-
partamento con arreglo a las leyes de la
Materia, en esta virtud pone a la deli-
veracion de V. E. la proposicion Sig^{ta}.
Se apruebe la concecion hecha al Ciudad^o
Bartolome Bohorquez del parage Laguna
de San Antonio, en Donoma en la es-
tencion de seis sitios de Ganado mayor
segun titulo librado con fha 25 de O^{to}
del año p^o p^o de conformidad con la ley
de 18 de Agosto de 1824 y el Art^o 5 del regla-
ment^o de 21 de Fe^o de 1828.

Sala de Com^o en la Ciudad de los An-
geles Mayo 22/1846

J. Ariello

Angeles Jun^o 3 del 1846.

La Cañon Asamblea Departamental
en Sesion de este dia aprueba la proposi-
cion del dictamen anterior.

Office of the Surveyor General of the Uni-
ted States for California

J. Samuel D. King Surveyor General
of the United States for the State of Cali-
fornia and as such now having in my
Office, and under my charge and custody
a portion of the Archives of the former
Spanish and Mexican Territory or De-
partment of Upper California do hereby
certify that the fifteen preceding and
herewith annexed pages of tracing paper

numbered from One to fifteen inclusive) and each of which is verified by my initials C. D. K. exhibit true and accurate copies of certain documents now on file and forming part of the said Archives in my Office.

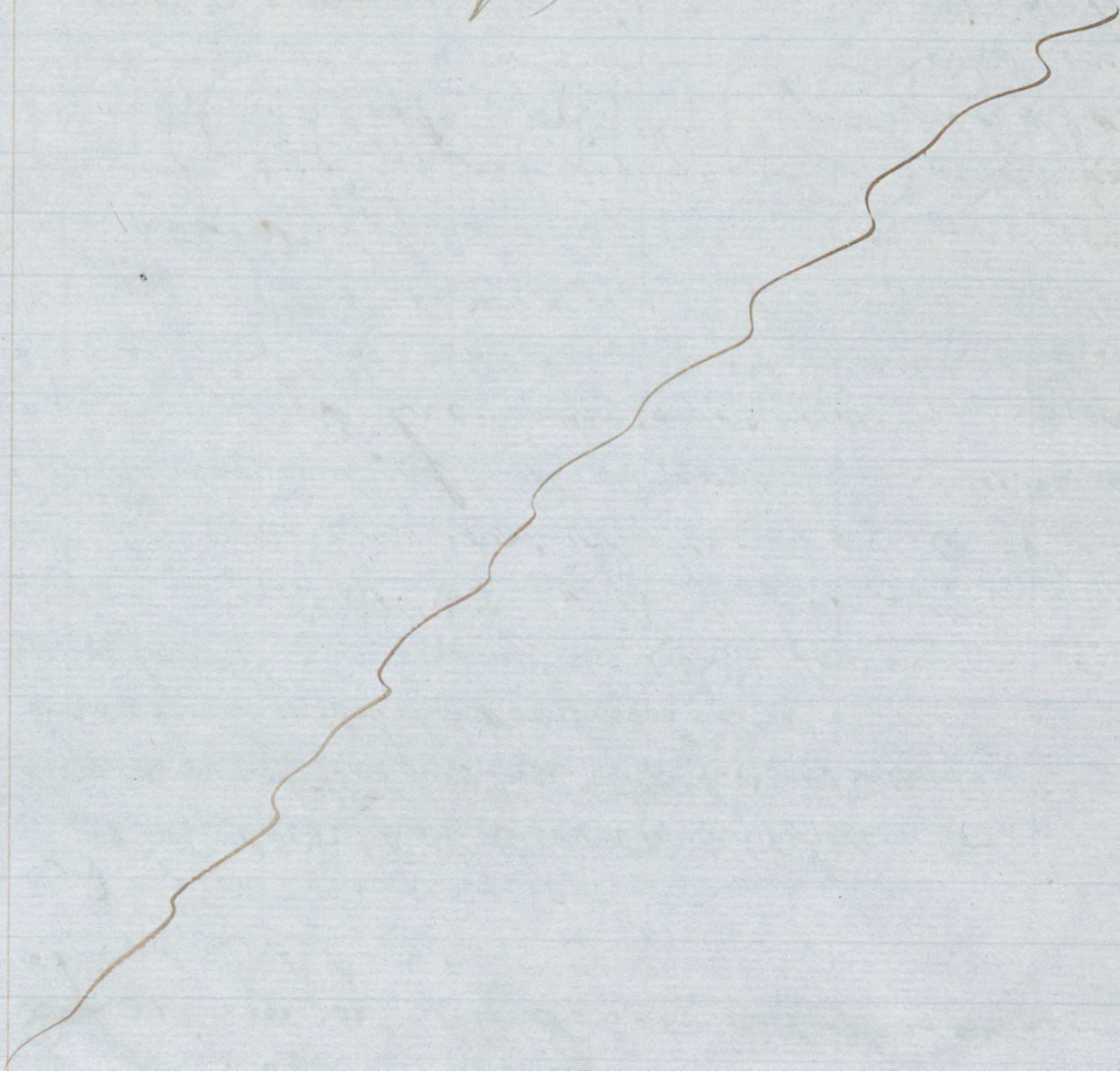
In Testimony whereof I have hereunto signed my name officially and affixed my private Seal (not having a Seal of Office at the City of San Francisco) this 4th day of December A. D. 1851

Saml. D. King

Survy: Genl. Cal.

Filed in Office
Feb: 17. 1852
Gen: Fisher Secy.

16.90



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Pío Pico vocal decano de la Asamblea
Departamental y Gobernador provisional
de las California.

Doc. H. J. Y.

N.º 1. -

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Por cuanto el Ciudadano Bartolomé
Bojarquez ha pretendido para su beneficio
personal y el de su familia el terreno
nombrado Laguna de San Antonio colin-
-dante al S. E. con Juan Martín al
N. O. con las dos Piedras, al S. O. con
los Zanales y al S. E. con Juan Miranda
practicadas previamente las averigua-
-ciones necesarias en uso de las facultades
q.º me son conferidas a nombre de la
Nación Mexicana he venido por decreto
de este día en concederle el mencionado
terreno declarándole la propiedad de él
por las presentes letras de entera confor-
-midad con la ley de 18 de Agosto de 1824
y reglamento de 21 de Noviembre 1828
a reserva de la aprobación de la Exma
Asamblea Departamental y bajo
las condiciones siguientes.

1.º Podrá cercarlo sin perjudicar las
travesías, caminos y servidumbres lo
disputará libre y exclusivamente desti-
-nándolo al uso y cultivo que mas le
conviengan; pero tendrá en el caso habi-
-tada y bienes servientes.

2.º Solicitará del Jefe respectivo le dé
la posesión jurídica en virtud de
este despacho por el cual se demarcaran
los linderos con las mojoneras necesarias
respetando el derecho legal de los colin-
-dantes.

3.º El terreno de que se le hace donación
es de la estension de Cero Oitros de
Jana de Mayor segun esplica el
diseño q.º obra en el expediente.

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el Juez que diese la posesion lo hará
medir conforme a Ordenanza.

En consecuencia mando que te-
nendose el presente titulo por firme
y valedero se tome razon de el en el
libro a que corresponda y se entregue
al interesado para su resguardo y demas
finis. Dado en la Ciudad de Los Angeles
en este papel comun por falta del Sellado
a Veinte uno de Noviembre de mil ocho
cientos cuarenta y cinco.

Pio Pico

Jose M^a Covarrubias

Queda tomada razon de este titulo
en el libro respectivo

90
360

Covarrubias

Filed in Office 17th Nov. 1853

Geo Fisher Secy

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1845-

Proceedings at the instance of Bartolome Bohorquez, who solicits a parcel of land called Laguna de San Antonio.

483.

Fourth Seal. two reals.

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Translation
C.

Provisionally authorized by the maritime Custom House of the port of Monterey, in the Department of the California for the years 1844 & 1845.

Michelmorena (his rubric) Pablo de la Guerra.

Monterey August the 1st 1844. by apt Collector. W^m E. Hearnell.

Excellent Sir Governor!
I Bartolome Bohorquez, a resident of this Northern frontier, before Y. E. with a due sense of profound respect do represent. That as the annexed document shows, the Honorable signed Michelmorena Director de Colonizacion Don Mariano G. Vallejo, has been pleased to grant to me, ever since the year 1837, the parcel of land known under the name of Laguna de San Antonio, comprising six sitios within the boundaries marked out in the annexed sketch, to wit, towards the S. E. bordering on Juan Martin, towards the N. W. on the two rocks, towards the S. W. on las Famalez & towards the N. E. on Juan Miranda; & whereas I can already reckon seven years occupancy on said location, & as I have made various improvements thereon & wish to secure my property, I request of Y. E. that after due inspection of all the aforesaid mentioned circumstances, you may be pleased to order that the formal title deed of grant may be awarded to me, so that I may likewise comply the remaining legal requisites & secure for my numerous family

the only resource they rely on, for their support.
Therefore I request of my Y. E. to be pleased to decree
as I ask, in which I shall receive favor & justice.
Thus I make oath.

Sonoma, May 20th 1844.

(Signed) Bartolomé Pajonquez.

His Excellency the Governor directs that this petition
be referred to the Judge of Sonoma, who previously
surrounding the coterminal neighbors, shall
report on the same. Monterey Aug 2^d 1844.

Manuel Simero.

Justice's Court Sonoma.

The land which the party solicits is public (baldio)
it does not belong to any Public, corporation or pri-
-vate individual, & it may be granted, restricting
it to the boundaries of the neighbor on the N.W.
side. Whatever the party states in his memorial
is true.

Sonoma September 3rd 1844.

(Signed) Jacoba P. Leese.

Let the expediente be returned to the judge of So-
-noma, in order that he may cause the bordering
landowners to be summoned, & state under sig-
-nature, what they may think to the purpose,
so that all may be borne in mind at the time that
his Excellency the Governor's may give his de-
-cision. Monterey September 11th 1844.

(Signed) Manuel Simero.

To the Honorable Commandante General.

May 6th 1839.

The party concerned
in this memorial may
possess the location
he requests with the

I, Bartolomé Pajon-
-quez settled in San
Francisco, declare before
your Honor in the best
form that in as much

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understanding that as I have resided to establish & for
 he is to select from myself within this jurisdiction with
 the Political Govern. my movable property & as I have
 - must, the comes - no means for the want of a suitable
 - pending lotte deo tract of land, I request V. Honor to
 the present decree allow me to place my said move-
 being customary. - able property on the tract of land
 signed, designated as Laguna de San
 M. G. Vallejo. Antonio, on the west side, which
 tract of land is vacant & does not
 belong to any body. Therefore,
 I beg your honor to be pleased to
 grant me my petition, in return
 for which I will be duly thankful.

Sonoma May 17th 1837.

At the parties request.
Signed Gregorio.

Done on common paper, there not being here any
stamped sheets.

Most Excellent Sir Governor!

Bartholomew Dominguez a retired soldier of the mil-
 -itary company of the presidio of San Francisco, and
 a resident of this jurisdiction, represents before V. E.
 with a sense of profound respect. That in account
 of the distance between this place & the capital, where
 he has no acquaintances, he has been waiting for an
 opportune occasion of submitting before V. E. the
 present memorial, so as not to risk the impor-
 -tant documents he has the honor to enclose and
 whose is centered the only hopes of the memo-
 -rialist & those of his family. During last year
 the memorialist addressed the annexed petition
 to his Excellency General Manuel Micheltorena &
 said petition has not met any decision because
 the Secretary of State of that period thought fit

to ask for reports which are only made at the time of giving judicial possession; the memorialist referring in his petition to the boundaries of the adjoining land owners, without specifying them the report of the Alcalde of this jurisdiction appears quite sufficient in declaring that, the land comprised within said boundaries was unoccupied, but in giving lawful possession the Judge who should do so was to take the deposition of the adjoining neighbors as it has been done in every instance. Therefore he begs of V. E. that you may be pleased to order the corresponding title deed be issued as to enable him to accomplish all the other legal requisites, excusing him the use he has made of common paper for want of the proper stamped sheets.

Sonoma July the 29th 1845.

Signed, Bartolomé Bohorquez.

Angeles November 25th 1845.

After examining the petition at the head of these proceedings, the report of the justice of the peace of Sonoma, together with whatever else was thought to the purpose, in conformity with the law of August the 18th 1824 & the regulation of November the 21st of 1828 I declare the citizen Bartolomé Bohorquez to be the owner of the tract of land called Laguna de San Antonio, which tract of land borders towards the S. E. on lands of Juan Martin, towards the N. W. on Las dos Piedras towards the S. W. on Los Tamales, & towards the N. E. on Juan Miranda, the same being of six square leagues (sitios de ganaderia mayor). Let the proper title deed be issued to him, & let these

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proceedings be kept in order to have them submitted to the approval of the Most Excellent the Assembly of the Department

Pio Pico Governor ad interim of the Department of both Californias thus did order, decree & sign, all which I attest.

(Signed) Pio Pico

(Signed) José M. Cervera
Secretary.

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PAGE 24

Pio Pico senior member of the Assembly of the Department & Governor ad interim of both Californias.

Whereas the citizen Bartolomé Bojorquez has solicited for his personal benefit & that of his family, the tract of land called Laguna de San Antonio, bounded on the S. E. by land of Juan Martin, on the N. W. by las Piedras, on the S. W. by los Tamales, on the S. E. by Juan Miranda, all the necessary investigations having been performed, by virtue of the authority in me vested I have thought proper in the name of the Mexican Nation to grant him by a decree of that day's date the aforementioned tract of land, declaring by this patent the same to be his property in entire conformity with the law of August the 18th 1824 & the regulations of November the 21st 1828 subject to the approval of the Excellent Departmental Assembly under the following conditions.

1st He may fence it without obstructing the roads paths, & sendries; he shall enjoy it fully & exclusively appropriating it to the use or cultivation that may best suit him, but he shall have a house which shall be inhabited & some personal property on it; 2^d He is to select of the

respective Judge to give him judicial possession by virtue of this patent, by whom the boundaries are to be marked, placing thereon the necessary land-marks, respecting the legal rights of his bordering neighbors. 3rd The tract of land of which donation is made is of six leagues (sitios de ganado mayor) as appears from the sketch accompanying these proceedings: the Judge who may give possession of it, will cause it to be measured according to ordinance.

Therefore, I order that the present title deed being held as firm & valid, the same be entered in the corresponding book & be returned to the party concerned for his own security & every other purpose.

Given in the city of Los Angeles on common paper through want of stained sheets this 25th day of November 1845.

A proper entry of this title was made in the corresponding book.

Angela May the 8th 1846.

Hannay submitted these proceedings to the Excellent Departmental Assembly in their session of to-day they referred the same to the committee on public lands.

(Signed) Pio Pico. President.

(Signed) Agustín Oberra.

Excellent Sir!

The committee on public lands have examined these proceedings at the instance of citizen Bartolomé Bojórquez, for the parcel of land called Laguna de San Antonio, granted to him by the Superior Government of this Department in conformity with the laws on the subject, &c

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61 ND
PAGE 26

committee submits to your Excellency's deliberation the following proposition. They approve the grant made to the citizen Bartolomé Bojorquez, of the place called Laguna de San Antonio in Sonoma, of six sitios de ganado mayor, according to the title ded issued on the 25th day of November year last past, in entire conformity with the laws of August the 18th 1824 & the 3th article of the regulations of the 21st of September 1828.

Hall of the Committee in the city of Los Angeles on the 22nd day of May 1846.

(Signed) E. Arguillo.

Angeles June 30th 1846.

The most Excellent the Departmental Assembly did in their session of to-day approve of the proposition of the preceding opinion.

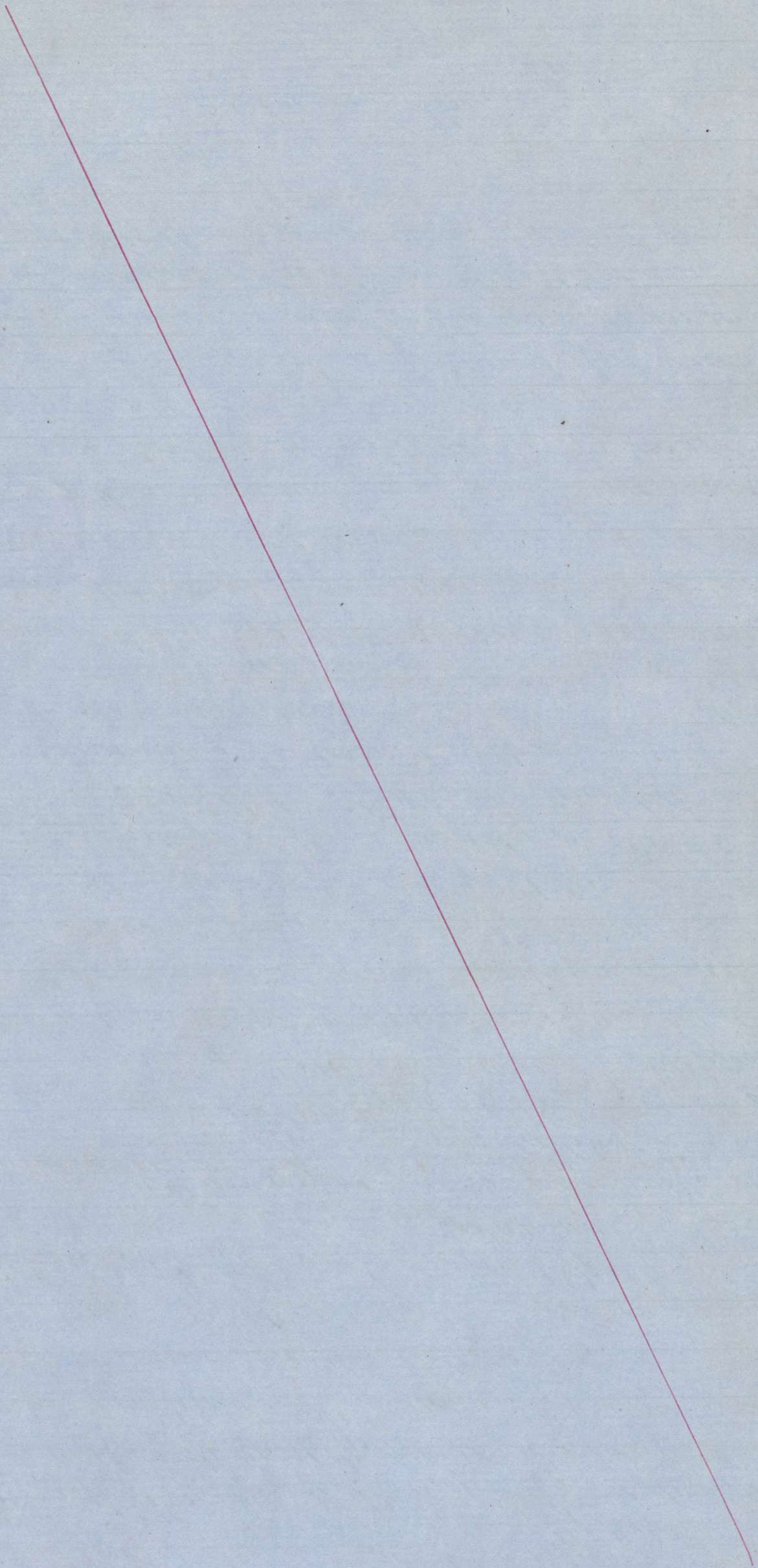
E. C.
RP

I, George Fisher Secretary of the Board of United States Commissioners to ascertain & settle the private land claims in the state of California, hereby certify the foregoing to be a true & correct translation of a Spanish document on file in this Office in Case No 44, Bartolomé Bojorquez, & in my keeping & custody as such Secretary.

Witness my hand this 1st August 1853.

Filed in Office February 17th 1852.

Geo: Fisher.
Secy.



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Bartolome Bojorquez 3 Saguna de San Antonio.
Claimant. 3 6 square leagues of land in
Maricopa County.

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PAGE 27

Opinion by
Alphus Felch.

It appears from the papers in the
Archives of the former Government in California,
traced copies of which are given in evidence that the
applicant first went into possession of the land
in question, under a permission for temporary oc-
cupancy given to him by the Director of Coloni-
zation in May 1839. In May 1844 he petitioned
to Governor Micheltorena for a grant of the land.
Several orders for information were made, on which
reports were received & other proceedings were had -
when on the 25th November 1845 an order of conces-
sion was made by Pri Pico Governor ad interim,
on the same day a document was issued to the par-
ty (the original of which duly proved is filed in
the case) in the usual form of a title subject to the
approval of the Departmental Assembly. Evidence
of the approval of the Assembly on the 22nd May
1846 is also filed. The land described in the
grant seems to be defined with such certainty as
to limits & boundaries as to admit of no difficulty
in surveying it according to its terms. The grant
contains a condition of judicial survey & possession
& requires that monuments should be placed to de-
fine the limits between the land granted & those
of his adjoining neighbors. There is no reservation
of a surplus to the Government, & the terms of grant
are such as to cover all the land within the defined
limits. The Deposition of John Morton shows that
the claimant has lived on the premises for some
thirteen years & has a house & cattle & horses upon
the place. There has been a substantial compliance
with the terms of the concession & the title must
be confirmed.

Filed in Office Oct 12 1853.

Geo: Fisher.

Secy.

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PAGE 28

Bartolome Bojorquez }
vs }
The United States. }

In this case on hearing the proofs & allegations, it is adjudged by the Commission that the claim of the said petitioner is valid, & it is therefore decreed that the same be confirmed. The land of which confirmation is hereby made are known by the name of "Laguna de San Antonio," being the same on which said petitioner resides & bordering towards the south-east on lands known in November A. D. 1843 as the lands of Juan Martin, towards the North-west on Las dos Piedras, towards the South-west on Los Tamales & towards the North-east on lands known at the date last mentioned as the lands of Juan Miranda - the said premises being of the extent of six square leagues, reference for more particular description thereof to be had to the original grant and to the map a copy of which from the archives is filed in this case.

Alphus Felch. }
Thompson Campbell. }
R. Aug. Thompson. }

Amor...
Amor...

290 Filed in Office Oct 12th 1853.

Geo. Fisher,
Secy.

4140 = 4 1/2 folios

Office of the Board of Commissioners,

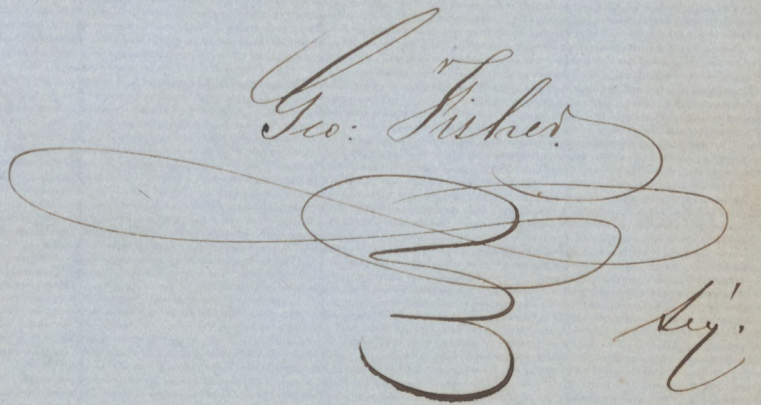
To ascertain and settle the Private Land Claims in the State of California.

61 ND
PAGE 29

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* pages, numbered from 1 to *30*, 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. *44* on the Docket of the said Board, wherein *Bartolomé Bojorguez* is the Claimant against the United States, for the place known by the name of "*Laguna de San Antonio*."

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

Geo. Fisher



Geo. Fisher



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U. S. DISTRICT COURT,

Northern District of California.

No. *61* — *61 ND*

THE UNITED STATES,

vs.

61

Barcelon *Bojorquez*

TRANSCRIPT OF THE RECORD

FROM THE
BOARD OF U. S. LAND COMMISSIONERS.

In Case No. *44*

Filed, August 5th 185*4*
John A. Moore,
Clk.

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61 ND
PAGE, 30

Office of the Attorney General of the United States,

Washington, 26th October 1854.

Bartolome Boporquez

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 13th day of July 1854 the appeal in the district court of the United States for the Northern district of California will be prosecuted by the United States.

Cushing

Attorney General.

U.S. Dist Court
S.D. of California

Bartolomeo Pozoquez
claims

vs

The United States

No. 61

Appeal Notice

Filed Dec. 2 1834

Wm. A. Morrison

Attorney

61 ND

PAGE, 31

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

The United States
Appellants

vs

Antoine Lopez

No. 61.

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

That a transcript of the said Records was
filed in this Court on the 1st day of
May 1854. That a notice of Appeal
was filed on the 1st day of May, 1854.
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,

A. Hassell
Asst U.S. Atty

U. S. District Court

No 61

The United States
Appellants

vs

Bartholome Rogeyuez

Petition

Filed June 27, 1855,
by Chevers
Deputy

61 ND

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A. G. Russell
Supt. U. S. City

District Court of the United
States Northern District of California

The United States
Appellants
vs
Bartolome Bojorguez

No. 61 / L.C. Docket No. 44

Bartolome Bojorguez the Appellee
and Claimant in the above entitled cause in
answer to the Petition therein filed avers and
says that his title to the said claimed is valid.

He therefore prays that the de-
cision of the Board of Land Commissioners
be affirmed and the title of the said claimant
be decreed to be valid.

J. Charles Atty.
for Claimant.

U. S. District Court

No. 61.

The United States

Appellants

vs.

Bartolomeo Rajerquez

Answer

Filed June 27, 1855.

by Charles
Deputy

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PAGE 35

J. Clarke Atty
for Plaintiff

At a *Sated* Term of the District Court of the
UNITED STATES OF AMERICA, for the Northern District of Cali-
fornia, held at the *Court Room* in the City of SAN
FRANCISCO, on *Monday* the *24th* day of
November in the year of our Lord one thousand
eight hundred and fifty-*six*.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States
v.
Bartolme Bojorquez

Case No 61.

Transcript No 44.

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

On Motion of the District
Attorney, it is ordered, adjudged and
decree'd, that the Claimants have leave
to proceed under the Decree of this Court
heretofore rendered in this case as an
Final Decree.

Ogden Hoffman
U. S. Dist Judge

No 61

United States District Court, Northern
District of California.

The United States

vs. }

Bartolme Bajorquez

Case No. 61.
Transcript No 44.

order

Filed Nov: 24. 1856

J. A. Munroe

CLERK.

J. W. H. Chivers

DEPUTY.

C.

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PAGE, 37

61. ND
PAGE. 38

California Land Claims:

Attorney General's Office

6 October 1856,

Sir:

In the case of the claim of Bartolome
Bojorquez, confirmed to the claimant by the
Commissioner, case no. forty-four (44) appeal
will not be prosecuted by the United States.

I am

Respectfully

Christy

Wm. Blanding Esq.

U. S. Attorney

San Francisco.

61. ND
PAGE. 39

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

The United States

v.

Case No. 61.

Bartolome Bojorquez

Transcript No. 44.

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

Nov 24, 1856.

Wm Blanding ^{Dist. Atty}
J. C. Baker
Att. for Claimant

No. 61
United States
District Court.

The United States
vs. } lease
No. } No. 61.
Fr. No. 44.
Bartolome Bayonquez

Stipulation

Filed Nov: 24, 1856,
W. H. Chaves,
Deputy

(No 45)

To the Honorable, The Commissioners of the United States
to ascertain and settle Private Land Claims in the State
of California—

Your Petitioner Thomas B. Valentine, a
Citizen of the United States, and of the City of San Francisco
gives notice, that he claims the following tract of land
in the County of Sonoma, State of California, by virtue of
a grant from the Mexican Government, to wit; about seven
thousand acres, bounded as follows: on the Eastern side
by the Petaluma Creek; on the North by the Crossing and
marsh of said Petaluma Creek, and by a line thence to the
Laguna of San Antonio; West by the Creek of San Antonio,
and South by the land of Alexander Speck, James George
and others, which said tract, together with a greater quantity
was, on the 8th of November 1844, granted by Manuel Mich-
elena, then Constituted Governor of California, and as such
authorized to make said grant to Juan Miranda, the
original of which is in the Archives of the former Government,
and a copy of which is hereto attached marked Exhibit A.
Further, that said Juan Miranda died intestate, and that
on the 19th day of August 1850, the said land, from the
uncertain and then newly allotted County lines, being sub-
posed to have been in the County of Marin, the Honorable
Probate Court of said County appointed B. R. Buckelew, and
John Black Special administrators, to sell said land,
and that on the 19th of September 1850 said land was by
them sold to petitioner for the sum of ten thousand
five hundred and fifty Dollars cash by public vendue,
which sale was fully confirmed on the 23rd of September,
and deed ordered, which was made; all which fully
appears by the records of said Probate Court, hereto filed
marked Exhibit (B) and it was duly conveyed as appears

by copy of deed marked (C); and said sale was further
ratified, and confirmed by the heirs at law by receiving
the proceeds of sale, as fully appears by copy of receipt herewith
filed marked (D); the originals of which will be produced
and proven on final hearing.

No survey was ever made but possession had
long been in said Miranda before said grant.

Your petitioner is aware of no conflicting or adverse
claims, or claims.

Having sold what he purchased, as above set forth
except the portions now claimed, he prays to be confirmed in
his right to same, relying on documents set forth and
such witnesses as may be called to explain the same.

Oliver Tompkins & Straw
attorneys for Claimant

Filed in Office July 17th 1852

(Motion to Discontinue)

Board of W. S. Land Com

Thomas B. Valentini

@

The United States

=====

45

The Counsel for the Claimant
in this case moves the Court that the petition herein filed
be withdrawn and the case dismissed.

July 6th 1855

Brooks, atty. for
Claimant

(No 812)

Before the Board of Commissioners to ascertain and settle
Private Land claims in California.

Thomas B. Valentus, James A. Shobe, A. J.
Barney, Alexander Speck, James George, W. Cumley
and James A. Redway, give notice that they claim
a tract of land in said State, to wit; the tract called
the Rancho of San Antonio three square leagues in extent,
originally granted to the late Juan Miranda on the
8th of October 1844 and occupied by him in his lifetime,
and which by operation of law, and mesne conveyances,
has vested in these claimants; said land is bounded
by the lake and creek called San Antonio, and
with the Cofing and Estuary and Creek of Petaluma.
The original grant of said land is not in the possession
of these claimants. A Certified Copy thereof and of
the preceding steps to the same, as they exist in the
archives of the former government of California is herewith
presented as part of this petition, and these claimants ask
leave to introduce such further evidence as they may
be able to obtain, and as may be necessary to establish
this their claim, and that they be confirmed therein.

By their attorneys
Wm Carey Jones

Filed in Office March 3 1853.

Before the Board of
U. S. Land Commissioners

Thomas B. Valentus vs

The United States

The Counsel
for the petitioner

Claimant in this cause moves the Court that the petition
herin filed be withdrawn and the Cause dismissed

July 6 1853 3

Brooks Atty for Claimant

To the Honorable, the Board of U. S. Land Commissioners
appointed to settle private land claims in California

61 ND
PAGE 44

The petition of Charles White respectfully represents,
That, on or about the tenth day of August A. D. 1840, Juan
B. Alvarado, then Gov. of California, in the name of the
Mexican Nation, by virtue of the laws then in force, the
Customs and usages of the Country affecting grants
of land in California, granted in full property unto An-
tonio Ortega the tract of land and Rancho known by
the name of "Arroyo de San Antonio", bounded ~~and~~ on
the South by the Rancho of Camilo, on the North by the
oak grove of the Misericordia, on the East by the Eastern
of Petaluma, and on the West by the Laguna of San
Antonio, ~~as~~ described more fully in the papers and
maps relating to the said grant of land, the originals
being in the hands of your petitioner, ready to be
produced and proved, and Copies of the same are
hereunto filed as part of this petition -

And your petitioner further shows, that about
or during the month of November A. D. 1852, the said
Antonio Ortega sold and conveyed unto your petitioner
all of the above described Rancho and lands by good
and sufficient deed duly acknowledged and authenticated
the original being in the possession of your petitioner ready
to be produced and proved, and a copy of the same
your petitioner prays leave to file as part of this petition
so soon as the said Copy can be prepared -

And your petitioner further shows, that the
said Antonio Ortega occupied the said ^{Lands &} Rancho from
the date of said grant until within a recent time
past, either by living upon the land as himself, or

causing his employees and ~~House~~ servants to live upon said land, and attend upon his stock and cultivate the said lands -

And your petitioner further shows that he has been informed that one Thomas B Valentine has filed a pretended claim before your Honorable Board to the said lands, or to some part or portions thereof, but of its nature or value your petitioner is ignorant; and your petitioner therefore prays the careful investigation of this his claim before any Confirmation shall be made of any other pretended claim to said lands -

Respectfully submitted for such action as the Justice and nature of the claim may require -

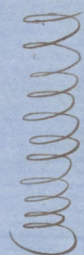
E. C. Crosby
Of Counsel for Plaintiff

Filed in Office Feb'y 7th 1853 -

The Administrators of
Charles White Dec^d.

vs

The United States



N^o 558

In this case, on hearing the proofs and allegations it is adjudged by the Commission that the claim of the petitioner is valid, and it is therefore decreed that the same be confirmed - The land of which Confirmation is made is situated in the County of Sonora, and is known by the name of Laguna, ^{Arroyo} de San Antonio, being the same which was granted by Gov. Alvarado to Antonio Ortega on the 10th of August 1840, and is bounded as follows, on the South by the Rancho of Camillo; on the North by the Roblar

de la Misericordia; on the East by the Estero de Petaluma and on the West by the Laguna de San Antonio, containing about four square leagues - For a more particular description, reference to be had to the Original Expediente and map filed among the papers in the Case

D. Aug. Thompson
S. B. Farwell 3 Commissioners

Filed in Office June 26. 1855

U. S. Surveyor General's Office
San Francisco California

I, John C. Hays, U. S. Sur. Gen'l for California, and as such having in my custody the papers of the late Board of Land Commissioners "to ascertain and settle the private land claims in California" do hereby certify the foregoing to be true copies of certain papers on file in my Office, to wit; N^o. 45, is a true copy of the petition and motion to dismiss on file in Case N^o. 45, on the Docket of said Board - N^o. 812 is a true copy of the petition and motion to dismiss on file in Case N^o. 812 on the Docket of said Board, and N^o. 558 is a true copy of the petition and Decree of Confirmation on file in Case N^o. 558 on the Docket of said Board.

Given under my hand and official seal
at the City of San Francisco, this 15th day
of January A. D. 1857

John C. Hays U. S. Sur Genl. Cal.



U. S. Sur Gen^l Office
San Francisco, California.

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I James W. Mendeville, United States Surveyor General for the state of California, and as such having in my office and in my charge and custody the papers of the late Board of Commissioners to ascertain and settle Private Land Claims in California, do hereby certify the foregoing to be ^{full, true and correct} ~~true~~ copies of certain original papers on file in my office, to wit: No 45 is a full, true and correct copy of the original petition and motion to dismiss, on file in case No 45 on the Docket of said Board, No 812 is a full, true and correct copy of the ^{original} petition and motion to dismiss on file in case No 812 on the Docket of said Board, and No 558 is a full true & correct copy of the ^{original} petition and decree of confirmation on file in case No 558 on the Docket of said Board.



In testimony whereof I have hereunto set my hand & affixed my official seal this 12th day of April AD 1858.

J. W. Mendeville
U. S. Sur Gen^l for Cal^a

S

Certified copies
of
Papers on file
in
Cases Nos 45, 812 & 538
Before U. S. Board
of Land Commissioners.

Filed January 31. 1857.
James B. McWhorter
Clerk
of Henry G. Hamell
for the

61 ND
PAGE 48

Col. Shafter

2600

The United States }
vs } L. C. No 44
Bartolome, Bayquer }
} Sub. Court
} No. 61

Claim to the tract of land
called Laguna de San Antonio.

In this cause, the Surveyor
General of the United States for
the State of California, having
brought into Court, his official
Survey of the tract of land her-
etofore confirmed to the said
Claimant, by a Decree of this Court
rendered Sept. 10th 1855, in this
Cause: Now on Motion of J. Clarke
Attorney for the Claimant of the
District Attorney of the U. States
~~being pursuant and admitting~~
~~due service of notice of said~~
~~Motion~~, it is ordered that the
said District Attorney show cause on
the part of the United States
on Monday the 30th day of May
next, at the opening of the

count on that day, why the
said Survey should not be con-
firmed by this Court, and why
a final Decree of Confirmation
incorporating said Survey, should
not be rendered in said cause
having resumed to said Dist-
ric Attorney, to move at said
time, without further notice
to vacate this order

61

The U. States
v
Bartolomew Bojurgues

L. C. No 44, D. C. No 61

Order to Show Cause

Filed May 17, 1859.

W. H. Chesnut
Clerk

The U. States
is } No 61
Benito Benigno

Claim to six leagues of land
called "San Antonio"

It being suggested to
the Court that the Surveyor
General of the United States
for the State of California
has made and approved a
survey of the land claimed
in this cause, and a decree
of confirmation hereof rendered
herein, it is now in motion
of J. Clarke Pettibone for Claim-
ant, and that J. W. Marshall
- with Surveyor General, do forth
with return said survey into
this Court, and that the same
be filed, for the further action
of the Court thereon.

U. S. Dist Court
U. S. Dist of Cal.
61

The U. States
vs
Baroloma Buzinguez

No 61

Filed May 30, 1859,
W. D. Chivers,
Clerk.

Order for return
of Jury

Bartholomeo Rajorques

vs

The U. S.

61 ND
PAGE 54

A final decree of confirmation
having been made in this case
the survey of the lands ^{the claim to} ~~so~~ ~~con-~~
~~ferred~~ which was confirmed
has been brought into court
for its approval.

To the location and survey
by the Surveyor General the
U. S. make no objection
The Counsel who has hitherto conducted the case
On the part of the original
claimant who was the original
grantee ~~the Counsel who~~ ~~was~~ ~~attached~~ ~~to~~ ~~the~~ ~~cause~~ appears
and also assents to the
survey - But objections to
it are made by other Counsel
who represent parties to whom
the original claimant has
conveyed a portion of the
land claimed by him -
It is admitted that Rajor-
ques the original grantee
has parted with his whole

interest in the land -
 The parties represented there
 for by ~~the~~ the Counsel who
 has hitherto conducted the
 case, are assignees or vendees
 of a part of the land -
 while ~~the~~ as also ^{are} the parties
 represented by the Counsel
 who object to the survey.

It is claimed that these
 last are the owners of the
 greater portion of the premises
 but this allegation is denied
 I understand it however to
 be admitted that the claim
 survey is opposed by gulle
 men who represent at least
 one 3^d of the lands - ~~while~~
 and that those who assent
 to the survey are not the
 owners of more than 2/3ds
 of the interest of the original
 grantee -

The question then is - Can
 the Court confirm and approve

The Surveyor on the consent
of the U.S., and the
counsel representing 2/3 ds
of the interest of the claimants
or all the parties holding
the remaining third entitled
to be heard in opposition
to the Survey —

The importance of the ques-
tion arises from the fact
that if these latter have
a standing in Court they
must be allowed to take
testimony, to bring the cause
to a hearing and probably
to appeal if dissatisfied,
from the decision of the
Court thus retarding in
definitely the issuance of
the ~~say~~ patent: to the great
damage of their co-owners
who are content with the
Survey as made by the
Surveyor or Genl.

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It was not questioned that
 on the argument that the
 duty of receiving and con-
 firming or modifying the sur-
 veys of the Surveyor General
 of lands conferred to the
 claimants by the decree of
 this Court imposed upon
 it by the recent decision of
 the Supreme Court in the
 case of the U. S. vs Topeka,
 involved the necessity of
 permitting parties ~~interested~~ to
 make objections to such
 survey, and to take testi-
 mony and to be heard, in
 support of them.

The U. S. are heard through
 the District Attorney - The
 question is ~~can~~ claimants
 The question presented in this
 case is - Can the Court re-
 fuse to hear all or any of
 the parties deriving title from
 the original grantee in whose

name the claim has been
prosecuted - when it appears
that the original grantee
has parted with his entire
interest in the suit -

If this were a regular
suit in Chancery the answer
would seem obvious -

The decree confirming ^{or correcting} the
survey which the Court is
now to make - is declared
by the Supreme Court to be
the final decree in the
suit - It is certainly a
decree which must naturally
affect the rights of all par-
ties interested in it -

Made in equity proceedings
as is of pendente lite the
complainant disposes of all
his interest in the suit must
abate - "It is very clear" says
Mr. Story, that no party
"can stand before the Court
"for a decree who has no

6

"further interest in the suit
"either formal or real"

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PAGE 59

Hoyie v. Carr. 1 Sam. p. 178

3 P. Wms 348

9 Ves. R. 76

And where the interests of
new parties intervene pendente
lite having derivative titles
under the Plaintiff then the
suit may abate or become
"defective" — *ib.* and cases
cited —

But this abatement is a
mere interruption or suspen-
sion of the suit until the
proper parties, ~~men~~ who have
derived their interests by pur-
chase or transfer pendente
lite can be brought before
the Court by a supplemental
bill — *ib.*

1 Simons R. p. 179

Stroy's Eq. Pl. § 155

In the case at bar no appli-
cation is made for leave to

7
bring in new parties to
the suit - But it is ad-
mitted as has already been
stated, that the original
claimant has parted with
all interest in the lands -

It has appeared to me
that the parties who have
acquired an interest and
who have obtained derivative
titles under the Plaintiff
pendente lite, have a right
to be heard in this proceeding
especially at all courts as
against other parties who
have acquired precisely
similar titles to, it may be
the larger portion of the
land - but whose whole
precedes. To say that the
grantees of the claimant
who have acquired the great
~~or~~ portion of his portion
shall for that reason, not
be exclusively entitled to appear

would be to apply but
 establish a rule, anomalous
 and impracticable - For
 those who have acquired the
 greater portion of ^{the} land in
 extent, but may have the
 less ~~proportion~~ proportion in value -
 or the various grantees of
 the claimants may have
 an equal interests - In both
 of which cases the rule sug-
 gested could not be applic.
 Nor can the fact that the
 Counsel, who now appears
 for the grantees owners of
 $\frac{2}{3}$ ds of the lands, formerly
 represented the original
 Mexican grantee. affect
 the decision of the question
 For that gentleman now
 represents, not the original
 grantee who has no further
 interest, but a portion said
 to be the majority of those
 who have derived title from him

Though I feel very reluctant
 to subject this to any other
 cause, ~~to unnecessary protracted~~
~~long~~ delays which may possi-
 bly be unnecessary or redun-
 dant, yet I have been un-
 able to discern any
 ground on which, under
 the circumstances of this
 case I can refuse to hear
 and to pass upon, the ob-
 jections to the survey which
 may be made by either
 of the parties who have
 appeared —

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Those objections must be
 stated in writing and filed
 in Court — the Court on
 being informed of their nature
 can make such further
 order as to the taking of
 testimony in support of them
 as the nature of the objections
 and the circumstances of the

No. 61.

U. S. Dist. Court.

The United States,

- vs. -

B. Paparquez,

Opinion.

Filed June 10, 1859.

W. A. Church,

Clerk.

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Printed.

March 1859

State of California

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

The United States
vs
Bartolome Bojorques

No. 61.

Appeal from U. S. Land
Commission, No. 44.

It appearing to the Court
on affidavits submitted, that J. M. Brown and certain
other parties named in said affidavits are interested in the
grant set forth in the petition in the above entitled cause
and in the survey and location thereof, by title derived
from the claimant, It is hereby

Ordered, That E. D.
Baker, and Shafter, Park, & Meydenfeldt be allowed to
enter their names as Attorneys of said Bojorques in so
far as the said Brown and the other parties referred to
in said affidavits have succeeded to his rights,
and that said Attorneys be allowed
~~to be present~~ present to the Court
their objections in writing to said
survey and location on or before
Thursday morning June 16th at 11
A.M. and that Mr. Clark attorney
for the other representatives of Bojorques
be notified of the time and place
of presenting said objections.

Edw. Hoffman
Dist Judge

No. 61

The United States,

vs

Bartolome Bojorges.

order allowing E. D. Baker &
Shafter, Park & Heydenfeldt to
appear for Brown & others.

Filed June 11, 1859,

H. St. Charles
Clerk

C

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E. D. Baker &
Shafter, Park & Heydenfeldt
Attys for Brown & others.

The United States
vs
B. Boforgney } No 61
S. b. 44 -

In this case instructions were issued by my predecessor for the final survey of the rancho "Sagrada de San Antonio", addressed to B. B. Thompson Dep. Surveyor, who duly returned a survey thereof - It being against the rules of the Department, for the Deputies to receive pay from any party, other than the U. S. for running the exterior lines of the Ranchos; and Mr Thompson having been so accused the survey was suspended, until the facts could be elicited -

It having been proved to my satisfaction that the charge was groundless - I have approved the survey, and herewith file a copy thereof -

J. W. Mansfield
U. S. Sur. Gen^l

Hon. Ogden Hoffman
U. S. Dist Judge
Northern District
California

No. 61.

U. S. Dist. Court.

The United States.

— vs —

B. Bojorguez,

Statement of U. S. Sur. Genl.
accompanying plat,

Filed June 21, 1853,

W. G. Cherrill,
Clerk,

The United States }
vs. }
Bartolomeu Bajiugas }
vs. }
The District Court }
of the United States }
for the Northern }
District of California.

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And now come J. M. Allen Brown
Charles Hopkins & others successors in
part to the rights of the said Bajiugas
& object to the survey made & reported
by the Surveyor General, of the lands
embraced in the grant referred
to in the Petition in the above entitled
Cause - & disclose & state the
particular objections following
to wit.

1. Said lands as surveyed do
not extend to or border on towards
the South East on lands owned
by Juan Martin on the 25th
May of Nov. 1845.
2. Said lands so surveyed
as of said do not extend
to or border on "Las Tomasas" towards
the South West.
3. Said lands so surveyed as
of said do not extend to or
border on towards the North East
on lands owned by Juan Miranda
on the 25th of Nov. 1845.
4. Because the said Survey does
not embrace the whole of the area

Contained within the visible boundaries named in said grant, & in the decree confirming the same.

B. Because the said Survey includes a less quantity of land than the amount granted & confirmed to the said petitioner.

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Shafter Park & Hayfield
Catherine Benson Perrine
Walker Gaston Lewis & Co.

N^o 61
The United States
vs
Bartholome Bejaques
Objctions to
Survey.

A copy of this with
dealy served on me
this 20th of June 1859
for Alaska
Atty for Claimants

Filed June 27. 1859.
W. A. Cheres
Clerk

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Shafter Park & Heydel
Atty for Bejaques

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At a *Special* Term of the District Court of the
UNITED STATES OF AMERICA, for the Northern District of
California, held at the Court House, in the City of SAN FRANCISCO,
on *Thursday* the *14th* day of
July in the year of our Lord one thousand
eight hundred and fifty-nine,

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States
app^r

vs.

Bartolome Bajiques

app^r

No. 61.

On motion of Mr
Shafter. Ordered that J. M. Brown et als
Successors of Bartolome Bajiques
proceed to take testimony before one of
the Commissioners of the Court in support
of their objections to the Survey on file -
and the taking of said testimony to be
proceeded with with due diligence
& a notice to parties.

No. 61.
District Court of the United States

IN AND FOR THE

Northern District of California.

The United States

vs.

B. Bobrquez

Order *to take testimony*
in regard to survey

Filed *July 14*, 1859.

W. A. Chace Clerk

By

Deputy.

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

Clerk's Office,

of the said Court.

I hereby Certify the foregoing to be a true copy from the Minutes

By

Deputy.

Clerk.

UNITED STATES DISTRICT COURT,
Northern District of California,

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The United States

vs.

San Francisco, Aug 19 1859.

Bartholome Bajorquez

On this day, before *Curtis McAllister* a
Commissioner of the United States for the *Northern* District of Cal-
ifornia, duly authorized to administer oaths, &c., &c., came

Robt C. Mathewson a witness produced on behalf of the
Smith's protesting against survey in above cause,
in Case No. , being an appeal from the Board of Commissioners to ascer-
tain and settle the Private Land Claims in the State of California, in Case
No 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:

O. L. Shafter x U.S.
W. H. Price on behalf of Protestants,
J. Clark on behalf of Respondents

QUESTIONS BY

O. L. Shafter for U.S.

Ques. Your name, age, occupation &
place of residence?

Ans. *Robt C. Mathewson* - I am near
40 years of age - I have been
connected with the Office of the
U.S. Surveyor General for the last
4 or 5 years - I reside in San Fran

Ques 2 - Do you know Mr Benitz?

Ans 2 - I do

Ques 3 - Were you with Mr Benitz about
a fortnight ago on a ridge of
Mountains near the Lagunas of
San Antonio, referred to in
Benitz's deposition?

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Ans 3 - I was

Ques 4 - Did you ascertain the di-
rection of that chain of hills & if
so state what it was?

Ans 4 - I did ascertain the direc-
tion of the ridge pointed out by
Mr Benitz - It was 30 degrees
south of West or North of East -

At that time ^{we} were on the southern
boundary of the Rancho Lagunas
de San Antonio between the two
corners -

Ques 5. Have you examined the desiccio for-
ming a part of the Expediente in
the case of Juan Martin v The
United States, & on file in the Sur-
veyor General's Office?

Ans 5 - I have

Ques 6. Have you examined the
Map in the Expediente in the case
of George Cornwell v The United
States & on file in the same Office &
forming part of the title papers of
the grant known as the Sulepulle
grant & certified copy of which

is contained in "Exhibit B" now

is contained in "Exhibit B" now shown you?

Ans. 6.

I have examined the map contained in the certified Exhibit -

Ques 7

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Have you made any official survey of the Grant to Juan Martin's of the Sulefulla Grant?

Ans 7

I have made a survey of the Juan Martin Grant, & a partial survey of the Sulefulla Grant, including the northern boundary -

Ques 8.

When did you locate or find the northern boundary of the Juan Martin Grant to be? And what were the evidences of its location upon which you acted or formed your opinion?

Ans 8.

I located the north boundary of the Grant on the ridge between the valley of the Arroyo de San Antonio on the north, & the valleys of the Cañada de Novato & Colonguishi on the south - I acted & formed my opinion from the papers of the Grant, and the evidences of all the persons living there, there seems to be no dispute by any one with regard to that boundary -

Ques 9.

State whether the ridge upon which you located the northern

line of the grant to Juan Martin is or is not the same ridge pointed out to you by Benitz as the southern line of the Laguna San Antonio or Bajonquez Grant?

Ans 9.
Ques 10

It is the same ridge. Have you examined the survey of the Bajonquez Grant made under John C. Kay's Survey or General and returned to & now on file in the office of this Court?

Ans 10.

I have never examined the survey thoroughly. I have seen. I have seen where the south east & south west corners are & the southern line runs -

Ques 11

Assuming the ^{true} southern line of the Bajonquez Grant to be along the ridge before spoken of by you, is the survey referred to in the last interrogatory right or wrong & give your reasons for your opinion?

Ans 11.

Assuming that ridge to be southern line of the Bajonquez Grant, the southern line of the survey does not run along it -

The south east corner of the survey being north of the ridge, and the south west corner south of it - that is it cuts diagonally across the ridge instead of following it - They can't be

identical because Benitz pointed

of following it - They can't be

identical because Beniz pointed
this ridge out as the ridge repre-
sented on the Desires as the south-
ern line of the Grant to Baguquey
& the line of the survey ^{runs} ~~cuts it~~
diagonally across it -

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Aug 12 How far north of the ridge
is the south easterly corner of
the survey under Hays before
referred to?

Aug 12 In the direction of the North
Eastern boundary (South 23° East
is the direction) the distance is
about one league - And the
direction that Beniz places the
Eastern boundary (which would
be nearly south) the distance
would be less than a league -

Aug 13 How far to the south of the
ridge is the south westerly corner
of the said survey?

Aug 13 I have not measured it, it is
on the Southern slope of the ridge -

Aug 14 State whether that survey
or the South westerly part of it, does
or does not infringe upon the
Sulafulle Grant?

Aug 14 It infringes on the Sula-
fulle Grant -

Aug 15 State whether there is any
Grant within your knowledge
information or belief that would
cover or call for the triangle of
land lying between the ridge of

which you have spoken and the Southern line of the Survey made under Hays except it be the grant to Bajorguez?

Ans 15.

I believe there is - It is a Sobrante Grant called ^{suas} Bacoche - Which if confirmed will take up the land bounded by the Juan Martin - the Olimpale - the Me'rand and the Laguna San Antonio.

Quest 16

Does that Sobrante grant assume that there is any ungranted land lying between the Bajorguez Grant & the Juan Martin?

(Quest objected to on the ground that the grant speaks for itself)

Ans 16.

In my opinion a Sobrante calls for what's left if there is any -

Cross Examination

Quest.

What is the Northern Boundary of the Juan Martin Grant according to the decree of confirmation?

Ans.

I believe it is a narrow Canada adjacent to the low hills -

Quest 2

Is a ridge of mountains spoken of at all in the grant to Juan Martin, either as decree of confirmation as the Northern boundary of his Grant?

Ans 2

I think not

Aug 2
Aug 3

I think not

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Is not the south western corner of the survey of San Antonio made by the Surveyor General of which you have spoken, less than a mile south of the summit of the mountain?

Aug 3

Oh yes - I think less than half a mile -

Aug 4

^{Lagunade} If in surveying the track of San Antonio according to the direction that Mr Benito testified was given to him by Pajonquez you were to extend the Eastern line of said track westerly along the Rancho "Robla de la Misericordia" until you reach a point where a westerly line at right angles would cut "dos pedros" making said line to run westerly, the northern boundary of the "Laguna de San Antonio", what would be the distance in a straight line from said northern line at its easterly part, & running parallel with the Eastern line of Laguna de San Antonio as so drawn, to the top of the ridge of the mountain constituting as you say Juan Martin's northern boundary.

Aug 4,

It would be about four leagues according to this survey -

Widener

Atty for Protestants gives in all of
the files in the Surveyor General's
Office in the case of

Juan Martin v The United States
Geo Cornwell " "
Knight et al " "

& the records in the US Dist Ct in
the same cases on appeal, and
also all the files in the Surveyor
General's Office in the case of
Bartholome Baguerquez v The U.S
& the records in the same case
in the Dist Ct on appeal

Robert C. Mathewson

Subscribed & sworn to before me this
19th day of August AD 1859.

Caleb McEllister
U.S. Court

Atty for Protestants also gives in evidence
the records ^{files} in the case of Juan
Miranda v The U.S. remaining in
the office of the U.S. Surveyor Gen-
eral

Caleb McEllister
U.S. Court

"Exhibit B"
C. M. C.

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\$5.00

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

I, JOHN C. HAYS, 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, by virtue of the power vested in me by law, Do hereby Certify, that the _____ preceding, and hereto annexed page of tracing paper numbered ~~from one~~ to _____ inclusive, exhibits a true and accurate copy of a map attached to a document entitled, "Espediente Promovido por el Sr. Juan Martin en pro de la posesion del terreno que se espansa," now on file and forming a part of the said archives in this office.

In Testimony Whereof, I have hereto signed my name officially and caused my Seal of Office to be affixed, at the City of San Francisco, this Eighth day of September 1857

John C. Hays

U. S. Surveyor General for California.

Extract from the 2nd Section of the Act of Congress "providing for the Survey of Public Lands in California, and for other purposes," Approved, March 3d, 1855.

"The Secretary of the Interior is hereby authorized to cause an official Seal to be prepared for the Office of the said Surveyor General, [California] and any copy or extract from the plats, field notes and other records and documents on file in his office, when attested as such by the said Seal and the signature of the Surveyor General, shall, in all judicial matters, have the same force and effect as the original."

No 61-ND
443d

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

The United States

~~Robt. C. Mathews~~
Bartolome Papirquez

deposition of Robt. C. Mathews
on a witness produced, on
behalf of plaintiffs protesting
against the survey

Filed Aug: 19. 1859.

H. A. Chaves,

Clerk,

UNITED STATES DISTRICT COURT,
Northern District of California,

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The United States

vs.

Bartholome Proforgues

San Francisco, Aug 18 1859

On this day, before *Cutler McAllister* a
Commissioner of the United States for the *Northern* District of Cal-
ifornia, duly authorized to administer oaths, &c., &c., came

William Benitz a witness produced on behalf of the
Benitz protesting against survey in above Cause
and for the United States,
in Case No. , being an appeal from the Board of Commissioners to ascer-
tain and settle the Private Land Claims in the State of California, in Case
No 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 :

J. K. Rice & United States
O. L. Shafter, on behalf of Protestants,
J. Clark on behalf of Respondents.

QUESTIONS BY

Atty for Protestants

Quest. Your name, age & place of
residence?

Ans 1 - *William Benitz* - Am 44
years of age - I reside at Fort
Rose - Sonoma Co -

Quest 2 - When did you come to
California - and where have

you resided ever since?

Ans 2. I came to California in the year 1842 - I have resided at Port Rose Sonoma (ever since

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Ques 3 - Do you know Bartolome Boforgues, & how long and where have you known him?

Ans 3. I know him - I have known him since 1843 - I have known him in the Prodega County Calz.

Ques 4. Are you a professional Surveyor?

Ans 4. I am not - I was topographical draftsman, but never learned to survey.

Ques 5. Did you know of a petition presented by Bartolome Boforgues to the Governor of Upper California in the year 1844 for a grant of six square leagues of land under the name of Laguna San Antonio and situated in the present Counties of Sonoma & Marin?

Ans 5. I knew of the petition for said tract -

Ques 6. Did you know of the grant in pursuance of said petition made by Governor Pio Pico to Bartolome Boforgues, made on the 20th Nov 1845 for six square leagues of land?

Ans 6. I knew of the grant in the year 1845 -

Quest 7

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Have you seen the Descrio forming part of the Expediente on file in the Office of the Surveyor General and forming part of the title papers of said Bajorquez under said Grant?

Ans 7

I have seen the Descrio -

Quest 8.

By whom was that Map made?

Ans 8.

It was made by myself.

Quest 9

At whose request was it made and when?

Ans 9.

It was made at the request of Bartolome Bajorquez in the year 1844 -

Quest 10

Are you acquainted with the locality represented by that Map, and how recently have you visited it?

Ans 10.

I am acquainted with that locality and have visited it two weeks ago -

Quest 11

What is the direction of the chain of hills along the summits of which the southern line of the aforesaid Descrio runs?

Ans 11.

(Quest objected to on the ground that the Map speaks for itself).

I cannot tell exactly ~~at~~ the line, but it runs from east to west as far as I can judge - I had no compass with me -

Quest 12 -

When you were on the ground a fortnight ago, did you see

The Compass put on that chain of hills for the purpose of ascertaining their direction & did you examine the Compass?

Aug 12. I saw the compass put on & examined the compass -

Ques 13. Who was with you at the time?

Aug 13. Mr Matheson U.S. Surveyor - Mr Brown & Bartolome Bajorguez

Ques 14. Did you make a minute in noting of the directions of the hills as indicated by the compass - ?

Aug 14. I did

Ques 15. Was that memorandum correct, and if so state, what it was -

Aug 15. The memorandum was correct - It was "S 85 W - N 85 E"

Ques 16. Are the points of compass correctly indicated by the arrow on the original desicno before referred to?, and if not how did the mistake happen?

(Ques objected to as leading)

Aug 16. I found that the points of the compass are not correctly indicated by the arrow in the desicno.

The mistake happened from the small pocket compass that I had when I made the desicno in 1844 - it was very weak and would not work -

Aug 17

Did Bartolome Pajonquez reside upon the land included in the desimo, and if so for how long a time, and how did he improve and occupy it?

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Aug 17

He resided upon the land at the time that I made the desimo, and had occupied it for many years previous, and has lived on it I believe ever since - He had stock Corners fields on it, some of which are noted down on the Map.

Aug 18

State whether the hills referred to in your answer to ~~question~~ ^{in that strength} ~~the~~ Interrogatory & on which you saw the compass set, & which you have testified run nearly East & West, ^{are} the same chain of hills along the summits of which the South-west line of the desimo runs?

Aug 18

I believe ~~it is~~ the same chain of hills along the summits of which I located the southern line on the desimo -

Aug 19

On the original desimo connects with the Pajonquez Grant the south westerly corner of the land granted is represented as lying between the forks of two streams near their junction - Now look upon the Exhibit marked "A" & say whether the two streams represented on the Map contained

in that Exhibits are ^{or are not} the same stream represented on the Desiño aforesaid?

Aug 19. (Cues.) objected to as leading I believe these are the two streams where the ranch corners.

Aug 20. Did you make an actual survey of the Pajonquez Ranch before you made the Desiño spoken of?

Aug 20. I did not

Aug 21. State whether you made an actual survey or not, ^{of the grant} to Juan Martin?

Aug 21. I never had anything to do with the grant to Juan Martin.

Aug 22. Did you make any survey of the Ranch known as the "Soulafulle"?

Aug 22. I did not make a survey of that Ranch never heard of it until late years.

Aug 23. At the time you made the Desiño referred to, state whether you did or did not have any personal knowledge of the northern boundary of the Mexican grant to Juan Martin?

Aug 23. I had no ^{personal} knowledge of it - but it was shown to me by Matolone Pajonquez.

Aug 24. What directions, or instructions did Pajonquez give you if any, with regard to the

location of his southern boundary

location of his southern boundary as coinciding or otherwise, with the northern boundary of Juan Martín?

Aug 24

Bartolome Bajorquez showed me a range of hills and told me they were the boundaries of Juan Martín, and wished to make them as his boundaries on the south.

Cross Examination

Quest.

Was the range of hills of which you last spoke a straight line for two leagues, or did they vary in direction at any place?

Ans 1.

They vary a little in their course, but their general direction is the one I have stated.

Quest 2

Are you well acquainted with the Rancho of Juan Martín and with the house in which he lived?

Ans 2.

Previous to making this map for Bajorquez, I had been to San Raphael & going there had passed Juan Martín's house.

Quest 3

In going from the house of Bajorquez to San Raphael & passing the house of Juan Martín on the way - did you travel upon the road which is laid down upon the Descrip. of Bajor-

Aug 3 quiz as "Camino de San Raphael"
I did

Quest 4 Had you been often along
that road?

Aug 4 I had been along that road
once ^{before} I made that Desiño,
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& I have been along there three
or four times since -

Quest 5 In passing along that road
could you see the location of the
Arroyo de San Antonio as far
as it is represented in said Desi-
ño?

Aug 5 I could not see the water, but
could see where it runs -

Quest 6 Had you travelled over the
road called in the Desiño, "Cam-
ino de Bodega" & which purports
to pass between the "dos Pedros"
or two rocks?

Aug 6 I had travelled that road
once before I made the Desiño.
I lived at Bodega & going to
San Raphael passed over the
whole road between the two rocks
&c -

Quest 7 State if those two rocks were
not at that time, the most con-
spicuous & noted objects in
that whole region of Country?

Aug 7 They were always considered
as land marks & known by
every body in that Country -

Quest 8 Where were you at

Ques 8. Where were you when you made the deslino?

Ans 8. I was on some points of hills which I can point out on the deslino - I drew it as I went over the hills - First on the ~~point of hills~~ east of the house of Juan Bajorquez next on a hill back of A Bajorquez from which the two creeks at the south west corner of the deslino may be seen - also on a hill west of B. Bajorquez's house

Ques 9. Look at Exhibit A & the scale & state whether the junction of the Creeks of which you have testified is not more than two & a half ~~leagues~~ ^{leagues} west of ^{the} western boundary of the Rancho of Juan Martin?

Ans 9. It is a little over two and one third leagues -

Ques 10. State whether the locality of the houses of B. J. & A Bajorquez & the other objects which are there laid down in the vicinity of those houses, are correctly located in said deslino?

Ans 10. I believe the houses are as nearly located as I could make out, only I located them too near the Eastern line, or the Eastern line too near the houses, I don't know which.

Aug 11

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State the distance from the two rocks to the northern boundary of Juan Martin at which you have stated you were two weeks ago in company with the U.S. Surveyor & a compass?

Aug 11.

I never knew the distance, when I made the decision. Bartolome Pajinquez told me it was three leagues.

Aug 12

What did he say he wanted in regard to the shape & size of his track?

Aug 12

He wanted a piece of land two leagues by three, he showed me the Eastern boundaries, & told me that the boundaries should run in such a course until the boundaries should run off square with the two rocks - Showing me the Skells how it should run & then square off with the two rocks and make six leagues.

Aug 13

Do you not know that among the old Californians when a ridge of hills was the recognized boundary between two tracts of land, that ridge was not understood by them as a mere mathematical line having no breadth, but as embracing the whole breadth of the range.

Aug 13.

It was always understood

that they ran up to the top of the

that they ran up to the top of the hills, each one taking half

Quest 14

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Was not the compass which you say you had with you at the time you made the *desiño*, as good as the compasses which were ordinarily used in the country at the time?

Ans 14

I do not know, as I never saw another one in the country. The needle traversed on the pivot in my compass - It was very weak.

Quest 15

Were you aware at that of the variations of the Compass?

Ans 15

I was not - I merely used it to show a westerly or southerly direction - I could not depend upon it.

Quest 16

Having as you say travelled the whole road from "Dos Piedras" to Juan Martin's house could you have been greatly mistaken with regard to the general direction of that road?

Ans 16

I have travelled the whole road, but ^{took} no particular notice of its general direction.

Drees Resumed

Quest 17

Did you go to the two rocks at the time you made the *desiño*?

Ans 17

I did not

Ques 2

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Have you ever measured from the West line of the Ranch of Juan Martin to the Junction of the two streams on "Exhiber A"?

Ans 2

I never did -

Ques 3

Do you know the actual distance between them?

Ans 3

No

Ques 4

When you made the Desiño of Bajonquez did you measure from the point represented in the Desiño as the south east corner of the Grant Northwardly to the point where the East line is represented as crossing the Arroyo de San Antonio?

Ans 4

I did not measure it -

Ques 5:

State whether you did or did not make any measurements at the time of making the Desiño?

Ans 5:

I made no measurements whatever

Wm. Benitz

Subscribed & sworn to before me this
19th August, 1859

Charles McAllister
Notary

Exhibit A
L. Kelly

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

The United States

Bartholome Bojorges

}
}

Have taken notice that
on Thursday, the 18th day of August 1859 at 2 o'
clock P.M. of that day, before Commissioner ^{McAllister} ~~Clark~~
at his Office, the undersigned will proceed to take
the testimony of ^{Bennitz, & others,} in the
matter of the survey of the Rancho claimed herein
and the location thereof.

Dated San Francisco Aug. 8th 1859.
Shyler Park & Keyserfeldt
Attys for Brown & Co.

J. J. Clark Esq,

5.00

No.

In U. S. District Court
Northern District.

The United States

Bartolome Bojorges

Notice of taking Depositions

Due service of the within
notice admitted.

Same com. to Reynoldson
10/10/93

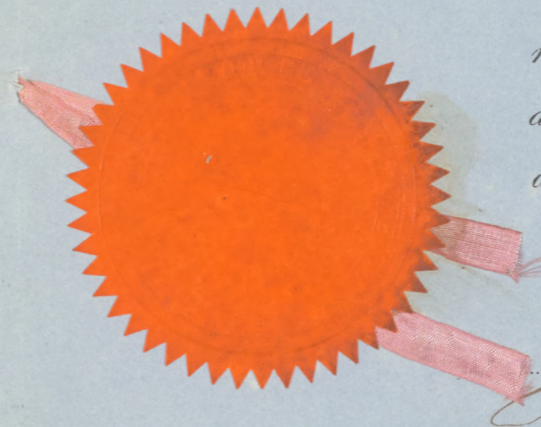
61 ND

PAGE

Shafter Park & Keydenfeldt
Atty for Brown v. etc.

I, JOHN C. HAYS, 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, by virtue of the power vested in me by law, Do hereby Certify, that the _____ preceding, and hereto annexed page of tracing paper numbered ~~from one to~~ ~~to~~ ~~inclusive~~, exhibits a true and accurate copy of a map attached to an expediente entitled, "Expediente Promovido por el Comandante Don Ramon Mesa en prosecucion del parage conocido con el nombre de Soula julle," now on file and for manuscript of the said archives in this office.

In Testimony Whereof, I have hereto signed my name officially and caused my Seal of Office to be affixed, at the City of San Francisco, this *Eight* day of *September* 1857



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

Extract from the 2nd Section of the Act of Congress "providing for the Survey of Public Lands in California, and for other purposes," Approved, March 3d, 1855.

"The Secretary of the Interior is hereby authorized to cause an official Seal to be prepared for the Office of the said Surveyor General, [California] and any copy or extract from the plats, field notes and other records and documents on file in his office, when attested as such by the said Seal and the signature of the Surveyor General, shall, in all judicial matters, have the same force and effect as the original."

No 61 - ND

44 B

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

The United States

Bartholome Pajonquez

Deposition of Myronitz
a witness produced on be-
half of plaintiffs protesting
against the survey

Filed Aug: 19. 1859.

H. A. Chenevix,
Clerk.

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UNITED STATES DISTRICT COURT,
Northern District of California,

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PAGE 100

The United States

vs.

Bartholomeo Bajorquez

San Francisco, Aug 27 1859

On this day, before *Butler McAllister* a
Commissioner of the United States for the *Northern* District of Cal-
ifornia, duly authorized to administer oaths, &c., &c., came

Henry H. Harmon a witness produced on behalf of the
Grants in favor of the Survey
in Case No. , being an appeal from the Board of Commissioners to ascer-
tain and settle the Private Land Claims in the State of California, in Case
No 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:

J. Clarke for Grants in favor of the Survey
O. L. Shafter for Grants against Survey

QUESTION BY

J. Clarke

Ques 1. Your name, age, & place of residence?

Ans 1. *Henry H. Harmon* — I am 23 years of age — I reside in Petaluma — I have been surveying off & on ever since I have been in the form by, that is my profession, & I have

been regularly engaged in it since 1852, in this country -

Ques 2- State if you have examined the desirio constituting a part of the original record in this case, and also if you have examined the plat of survey returned and filed in this case by the Surveyor General J. W. Mauldville &.

Ans 2 I have examined both

Ques 3 State you familiar with the localities designated on the desirio &.

Ans 3- I am I know all of them

Ques 4- State whether the said plat of survey corresponds with the said desirio in point of location, or whether it varies therefrom to any extent & if so to what extent &.

Ans 4- It varies a little, & that is on the San Antonio creek, instead of the Eastern line being straight a gap is cut out of the Eastern line by the creek - In other respects the two are as near identical as possible -

Ques 5- State whether it is possible to locate ~~the~~ tract of land delineated in the desirio, in any different manner from that ~~which~~ which it is represented by the Plat of survey, with the exception of

the gap made by the Creek?
I think not.

Ans 5,
Quest 6.

What starting point to you take in making the survey & how do you pursue said survey to make it conform to the desins?

Ans 6.

I would start at the two rocks and from the desins I get the distance & course to the corner of the two lines - I take the line of the arrow on the desins as may beie North and measure the angle between it, and the external line of the desins -

Quest 7

Does the lines which you ascertain in that way exactly correspond into the lines of said survey?

Ans 7
Quest 8

They do -
How do you ascertain the distance from Dos Pedros along the northern line to the North East corner?

Ans 8.

I would ascertain it by the scale on the desins - There is a small difference between the northern line of the Plot of Survey & that of the desins - The difference is about 15 or 17 chains too far east, there is on

the plot. With this exception the two lines are identical -

Ques 9

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State whether the natural objects delineated upon the desicño and the road and the houses ^{more plainly shown} the same relative position on the plat of survey, if correctly laid down upon it?

Ans 9

I think they would -

Ques 10

State if you have seen the desicño of the Sulphur Ranch marked ^{on the dep. of Beniz?} by ~~the~~ Attorneys

Ans 10

I have -

Ques 11

Do you know the forked creek, delineated on the Western part of said desicño?

Ans 11

I do

Ques 12

If the Bajorguez track should be located with the same form exhibited by its desicño, and with its southwestern corner at or near the forks of said creek, what would then be the position of its Eastern line relatively to the Laguna of San Antonio & the houses represented on said desicño as being near said Laguna?

Ans 12

I am under the impression that it would leave Bajorguez house

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full two miles to the East of the line
& outside of the tract -

Ques 13. What effect would it have on
the other natural objects in the
designs?

Ans 13. It would change them
relatively in the same way

Ques 14 State if you know the bound-
aries of the Miranda Rancho?

Ans 14 I do -

Ques 15 State how its boundaries ne-
cessitate the gap, which appears
in the Eastern line of said plat
of survey?

Ans 15 The Miranda Rancho is
bounded on the East & South by the
Petaluma Creek, on the South &
West by the Arroyo San Antonio &
the Laguna San Antonio & on the
North & West by a line starting
from the ~~Arroyo San Antonio~~ the
Paso de los Petaluma & running
south West to the Laguna San
Antonio -

Cross Examination

Ques. Did you ever see a grant by
the Mexican Government to

Miranda?

Ans 1.

I have seen an Expediente & desio headed the Miranda Raza. Don't know that I have seen any others -

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Ques 2

Did you ever see a paper signed by a Mexican Governor purporting on its face to be a grant of land to Juan Miranda, and if so, when & where did you see it, and tell where it is now?

Ans 2

All that I have seen is an Expediente & desio. I have never seen a grant to Juan Miranda.

Ques 3.

Have you ever measured on the land, the distance between the house of Pajonquez & the Eastern line of his grant as designated in his desio?

Ans 3.

I have not measured it myself on the land.

Ques 4

Have you ever measured the distance between any one of the natural or artificial objects delineated on the desio, and any one of its four exterior lines?

Ans 4

I have -

Ques 5;

State what the objects were

from which you have measured and
to which lines you measured?

Ans 5. I have measured from the
to the N.E. corner
two rocks - I have measured from Pa-
Jorguey house which ^{is} on the Eastern line

Quest 6. I renew the question -

Ans 6. I have never measured the distance
from any of the natural or artificial
objects on the desins to any of the
lines -

Quest 7. Do you know the position of
the South West corner of the Bayon-
quez grant, as it is located by
the survey of the Surveyor General

Ans 7. I do

Quest 8. Do you know the location of the
Suluyule Ranch on the land inde-
pendent of any map or desins?

Ans 8. I do not

Quest 9. Do you know whether the Bayon-
quez grant as laid down on the
desins in that case, infringes
on the Suluyule Grant or desins?

Ans 9. I do not -

Quest. Direct Examination resumed
State what have been your
means of judging of the ^{actual} positions

* distances from each other of
the various objects delineated
on the design?

Ans 1.

I have travelled over the
land a great many times &
done some measuring between
the points - I have been on the
whole Western line of the Kabla
Ranch & nearly the whole of the
Eastern line of the Bajinguey

Cross examination resumed

Quest.

Have you ever measured
the distance between the Paso
de Agua & the house of Bajinguey,
or between the Paso & the two rocks?

Ans 1.

I have not

Quest 2

Have you ever measured the
distance between the Corral repre-
sented on the Bajinguey design
as lying in a Cañada & the house
of Bajinguey? I have not. But I

Ans 2

~~do not~~ have measured from the Eastern Corral
to what line have you measured

Quest 3.

~~on the design~~ ^{on} from a right line
East to the Laguna, & thence

Ans

along the Western design of the Corral

Aug 3.

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Aug 3.

Along the meanderings of the creek.
What was the distance from
the most easterly Corral on a
right line to the Laguna l.

It is about three years since
I measured the line, & I can't
tell the distance now -

Aug 4

Have you ever examined the
desires to see whether the dis-
tance is correctly represented there?

Aug 4

I have not

Henry W. Harmon

Subscribed & sworn to before me this
27th August AD 1839

Cutter McAllister

U.S. Surveyor

United States District
Court, Northern
District of California

No. 61

The United States

Bartolome Baforguez

Dep of Henry S. Harmon
Witness produced by Dep
endants in favor of Harvey

Filed Sept. 24. 1859.

W. H. Chivers,
Clerk.

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Fee \$5.15.

LAND SURVEYS.

The United States vs. J. A. Sutter, No. 319.—Order that survey be returned.

The United States vs. Juana Brines, No. 130.—Order that survey be returned, and that ten days be allowed to the United States to make objections.

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The land granted is described in the petition and grant as of six leagues in extent, and bordering towards the southeast on Juan Martin, towards the northwest on the two rocks (las dos piedras), towards the southwest on las Tomales, and towards the northeast on Juan Miranda.

The diseño, which is drawn with somewhat more than usual skill, shows that the tract solicited was a right angled parallelogram three leagues in length and two leagues in width. The survey returned into Court preserves the form of the tract indicated by the diseño, with the exception of a deflection in the eastern line, which is made to run along the arroyo de San Antonio, and along the margin of the Laguna of the same name, so as to correspond with the western boundary of Juan Miranda, as indicated on the diseño of the latter.

The survey is objected to on the ground that the southern line is improperly located; that it should be run more to the south or less to the west; and as it is admitted that the tract must be a parallelogram with all its angles right angles, that it must be two leagues wide by three leagues long, and that its northerly line must pass through the noted natural object known as "las dos piedras;" the only mode in which the survey could be altered to meet the objection, would be to swing round the parallelogram on "las dos piedras," as on a pivot, in such a way as to preserve the parallelism of the boundaries, but to give the proposed direction to the southern line—to which, by the location suggested, the northern line would be made parallel, and the eastern and western lines perpendicular. The reasons for this change are chiefly contained in the deposition of Mr. Benitz.

This witness testifies that he made the diseño presented by the claimant. That the southern line was desired by him and intended by the witness. He represented as a range of hills, the general direction of which is considerably to the south of the direction of the southern line as run by the Surveyor General.

He further states that the compass used by him was defective, and that the points of the compass as laid down on the diseño are inaccurate.

On this testimony the Court is asked to adopt the range of hills as the southern boundary, and preserving, as before stated, the dimensions of the tract and the directions of the lines relatively to each other, to locate the surveys by adopting the range of hills as a base, and erecting the parallelogram upon it.

It has already been stated that the tract is described in the grant as bordering towards the S. E. on Juan Martin. The range of hills is not mentioned as the southern or southeastern boundary. In Juan Martin's grant the northern boundary is described as "a narrow cañada ad-jacent to the low hills," and Mr. Matthewson, a witness called in opposition to the survey, states that there sobrante between the Juan Martin, Bajorque, Mivanda and Olim-pale ranches has been granted, and that all the land, if any, which lies between Juan Martin and Bajorque would be embraced by it.

It appears, therefore, that the range of hills claimed to be the southern boundary of this tract is not called for by the grant itself or the accompanying diseño, nor by the grant or diseño in the case of Juan Martin, and that a sobrante grant has been made, which will include what low land may be found between the southern boundary of Bajorques and the northern boundary of Juan Martin. Thus indicating that the grant to the former was described as bordering on the lands of the latter; it was not contemplated that the southern boundary of the one should necessarily be identical with the northern boundary of the other—but that when the lands were measured a sobrante might result, which could be granted to a third party. If, however, the evidence of Mr. Benitez were the only means of arriving at the true direction of the southern boundary, it ought, perhaps, to be located in accordance with his statement as to the desires of Bajorque and his own intentions in drawing the diseño.

But the diseño itself seems to afford indications of the true direction of that line which I think should outweigh the evidence of Mr. Benitz, as to his intentions in drawing it. In the first place, the lines as surveyed precisely correspond with the direction as shown by the arrow or compass mark on the diseño. But to this indication, perhaps little importance should be attached, and especially in this case, in view of the statement of Mr. Benitz that his compass was probably inaccurate.

2d. The eastern extremity of the southern line, as surveyed, or the southeastern corner of the tract is placed at a distance to the south of the Arroyo de San Antonio, nearly exactly corresponding with the position of the corresponding corner of the tract delineated on the diseño. The eastern line, moreover, starting from this corner, and running northwardly, strikes as located by the survey of the arroyo, at some distance from the laguna, out of which it issues—corresponding in this respect, also, to the indication on the diseño. Whereas if the southern line was depressed as proposed, the southeast corner would be at a distance from the arroyo far greater than is represented on the diseño; and the eastern line would not strike the arroyo, but the laguna, or would strike the arroyo, if at all, at or near the point where it issues from the laguna.

3d. It is evident that the northern line must pass through the point called "las dos piedras." It must also be at right angles to the eastern boundary. It is also clear that the tract intended to be delivered was three leagues in length by two in width. If, then, the range of hills be taken as the southern boundary, and the eastern boundary be drawn from the eastern extremity of the southern line so located, and be produced until it reaches a point from which the northern line may be drawn at right angles to it, so as to pass through the "las dos piedras," the length of such eastern line would be about four leagues—contrary to the obvious and clear indications of the diseño which shows, as before stated, the length of the tract to be only three leagues.

For these reasons I am of opinion that it has not been so satisfactorily shown that the location is erroneous as to justify me in setting it aside.

In this, as in similar cases, it is difficult and almost impossible for the Court, obliged to learn through depositions, the natural features of a tract which it has never seen, and of which no topographical map is exhibited, to arrive at any certain or satisfactory conclusions as to the true locality of various lines. That duty, is properly confided to the Surveyor who on the ground compares the calls of the grant and the indications of the diseño with the natural monuments of the country before him, and who assisted by information obtained on the spot, and such as may be derived from consulting the grants and diseños of colindantes or adjoining proprietor is able to give a just location to the survey than this Court can hope to arrive at.

In the case of Haydel vs. Du Fresno—17 How. 30.—it is remarked by the Supreme Court: "Great confusion and litigation would ensue if the judicial tribunals, State and Federal, were permitted to interfere and overthrow the public surveys on no other ground than an opinion that they could have the work in the field better done, and divisions more equitably made than the Department of Public Lands could do."

These observations apply with much force to the cases which are now being brought before this Court. By the law of 1861, as well as by the nature and circumstances of the case, much discretion is confided to the Surveyor-General. Before the Court should disturb or set aside a survey made by him, it ought to be satisfied that the decree of confirmation has been plainly departed from, or that some clear and obvious error has been committed. I do not consider that the evidence justifies such a conclusion with regard to the survey and location before the Court. An order overruling the objections and approving the survey must therefore be entered.

COURT PROCEEDINGS.

MONDAY, Oct. 24th, 1859.

United States District Court.—HOFFMAN, J.
THE ALLEGED SMUGGLING AFFAIR.

The United States vs. Diamonds, etc.—The United States District Attorney filed a libel of information to-day against a box of diamonds, a case of surgical instruments, a pair of balance scales, etc., seized as foreign goods smuggled by Alfred Borel.

LAND SURVEYS.

The United States vs. J. A. Sutter, No. 319.—Order that survey be returned.

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The survey is objected to on the ground that the southern line is improperly located; that it should be run more to the south or less to the west; and as it is admitted that the tract must be a parallelogram with all its angles right angles, that it must be two leagues wide by three leagues long, and that its northerly line must pass through the noted natural object known as "las dos piedras;" the only mode in which the survey could be altered to meet the objection, would be to swing round the parallelogram on "las dos piedras," as on a pivot, in such a way as to preserve the parallelism of the boundaries, but to give the proposed direction to the southern line—to which, by the location suggested, the northern line would be made parallel, and the eastern and western lines perpendicular. The reasons for this change are chiefly contained in the deposition of Mr. Benitz.

This witness testifies that he made the diseño presented by the claimant. That the southern line was desired by him and intended by the witness. He represented as a range of hills, the general direction of which is considerably to the south of the direction of the southern line as run by the Surveyor General.

He further states that the compass used by him was defective, and that the points of the compass as laid down on the diseño are inaccurate.

On this testimony the Court is asked to adopt the range of hills as the southern boundary, and preserving, as before stated, the dimensions of the tract and the directions of the lines relatively to each other, to locate the surveys by adopting the range of hills as a base, and erecting the parallelogram upon it.

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But the diseño itself seems to afford indications of the true direction of that line which I think should outweigh the evidence of Mr. Benitz, as to his intentions in drawing it. In the first place, the lines as surveyed precisely correspond with the direction as shown by the arrow or compass mark on the diseño. But to this indication, perhaps little importance should be attached, and especially in this case, in view of the statement of Mr. Benitz that his compass was probably inaccurate.

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U. S.

vs

Bartolomeo Bajorques }
}

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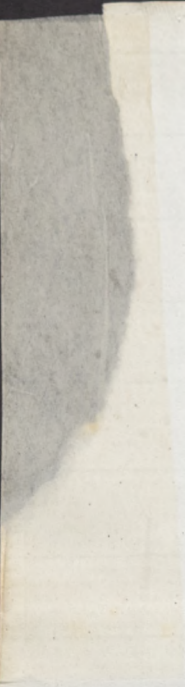
A review of this case comes up on objections filed to the survey of the Rancho ^{of Laguna} de San Antonio made by the Surveyor General - The land granted is described in the petition and grant as of 5 leagues in extent and "bordering towards" "the S. E. on Juan Martin" "towards the N. W. on the" "two rocks (las dos piedras)" "towards the S. W. on las" "Lomas" and towards "the N. E. on Juan Miranda" -

The diseño which is drawn with somewhat more than usual skill shows that the tract solicited was a right angled parallelogram 3 leagues in ^{length} width

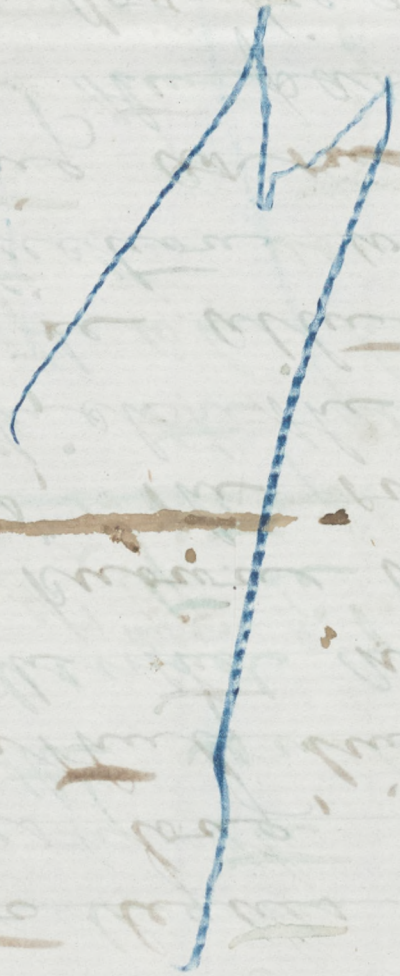
2
And two leagues in width
The survey skinned into
Court records preserves the
form of the tract as deca-
ted by the diseno with the
exception of a deflection
in the eastern line, which
is made to run along the
arroyo de San Antonio and
along the margin of the Sa-
guna of the same name
so as to correspond with
the western boundary of
Juan Miranda as indi-
cated on the diseno of the
latter.

The survey is objected to
on the ground that the
southern line is improperly
located - that it should
be run more to the south
or less to the west - and
as it is admitted that
the tract must be a paral-
elogram with all its angles
right angles - that it must

be two leagues wide by three
 leagues long, and that
 the northerly line must pass
 through the noted natural
 object known as "las dos
 piedras", the only mode
 in which the survey
 could be altered to meet
 the objection would be
 to swing ~~as on a pivot~~
 round the parallelogram
 on "las dos piedras" as on
 a pivot in such a way
 as to preserve the parallel
 ism of the boundaries but
 to give the ^{proposed} ~~right~~ direction
 to the southern line -
 to which by the location
~~proposed~~ ^{suggested} the northern line
 would be made parallel
 and the eastern and wes
 tern lines perpendicular.
 The reasons for this change
 are ^{chiefly} contained in the ^{best}
^{deposition} ~~report~~ of Mr. Roubt



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111
111
111

111

4 This witness testifies that he made the division ~~pre~~ sented by the claimant that the southern line was desired by him and intended ^{by the witness} to be represented by ~~the witness~~ as a range of hills, the general direction of which is considerably to the south of the direction of the southern line as run by the survey or General -

He further states that the compass used by him was defective and that the ~~some~~ points of the compass as laid down on the divisions are inaccurate. On this testimony the Court is asked to adopt the range of hills as the southern ^{boundary} and preserving as before stated the dimensions of the tract and the relative directions of

5

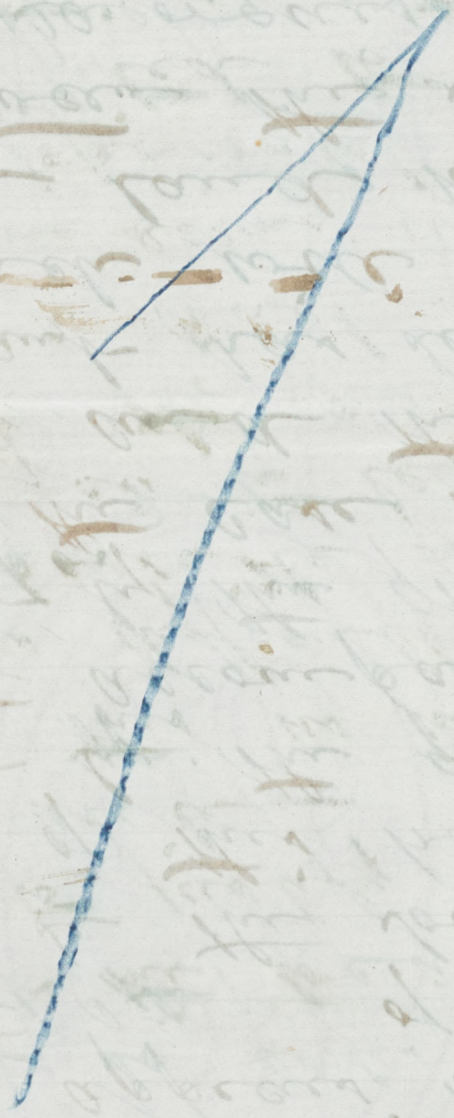
The lines relatively to each other to locate the survey by adopting the range of hills as a base and erecting the parallel & ground upon it -

~~The~~ It has already been stated that the tract is described as ~~to be~~ the grant as bordering towards the S. E. on Juan Martine. The range of hills is not mentioned as the southern or S. Eastern boundary.

In ~~the~~ ^{the} ~~grant~~ ^{the} Juan Martine's grant ^{the northern boundary, described as} "a narrow cañada adjacent to the low hills," ~~and~~ ^{and} ~~also appears from~~ ^{the testimony of Mr. Matthew} ~~son~~ ^{son} a witness called in opposition to the survey ^{states} that there is a route between the Juan Martine, Bajorgue, Miranda and ^{Alanchos} Olmpale, has been granted - and that all the land if any which

lies between Juan Martin
and Bajorgue would be
embraced by it—
It appears therefore that
the range of hills claimed
to be the southern bounda-
ry of this tract is not called
for by the grant itself or
the accompanying division
nor by the grant or division
in the case of Juan Mar-
tin and that a separate
grant has been made
which will include what
low land may be found
between the southern boundary
of Bajorgue and the nor-
thern boundary of Juan
Martin— This indicates
that tho' the grant to the
latter former was described
as including on the lands
of the latter it was not
contemplated that the southern
boundary of the one should

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ON 10
APR 1857

Le only 3 leagues

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For these reasons I am of opinion that it has not been so satisfactorily shown that the location is erroneous as to justify me in setting it aside—

In this as in similar cases it is difficult and almost impossible for the Court obliged to leave thro' depositions the natural features of a tract which it has never seen and of which no topographical map is exhibited to arrive at any certain or satisfactory conclusion as to the true location of various lines

That duty is properly confided to the surveyor who on the ground compares the calls of the grant & the indications of the deed with the natural monuments

13

1 more equitably made
2 than the Department of
3 Public Lands could do"

13 1/2

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These observations apply
with much force to the
cases which are now being
brought before this Court.
By the law of 1857 and well
by the nature and ^{circumstances} necessity
of the case much discre-
tion is confided to the
Surveyor General. Before
the Court should disturb
or set aside a survey
made by him it should
^{ought to be} satisfied that ~~some~~
^{of configuration} the decree has been ^{plainly} clearly
departed ^{from}, or that some
clear and obvious error
has been committed.

I do not consider that the
evidence justifies such a
conclusion with the regard
to the survey & location before
the Court.

necessarily be identical
with the northern bounda-
ry of the other - But that
when the lands were meas-
ured a mistake might
result which could be
granted to a third party.

It however the evidence of
Mr Bentz was the only
means of arriving at the
true direction of the south-
ern boundary, it ^{perhaps to} ~~ought~~
may ^{perhaps to} properly be located
in accordance with his
statement as to the desires
of Bagorque and his own
intentions in drawing the
desiño -

7th 1/2 But the desiño itself seems
to afford indications of
the true direction of that
line which I think should
outweigh the evidence of
Mr Bentz as to his in-
tentions in drawing it -

13

In the first place the lines as surveyed precisely correspond with the direction as shown by the arrow or compass mark on the diagram.

But to this indication perhaps little importance should be attached - and especially in this case in view of the statement of Mr. Benítez that his compass was probably inaccurate.

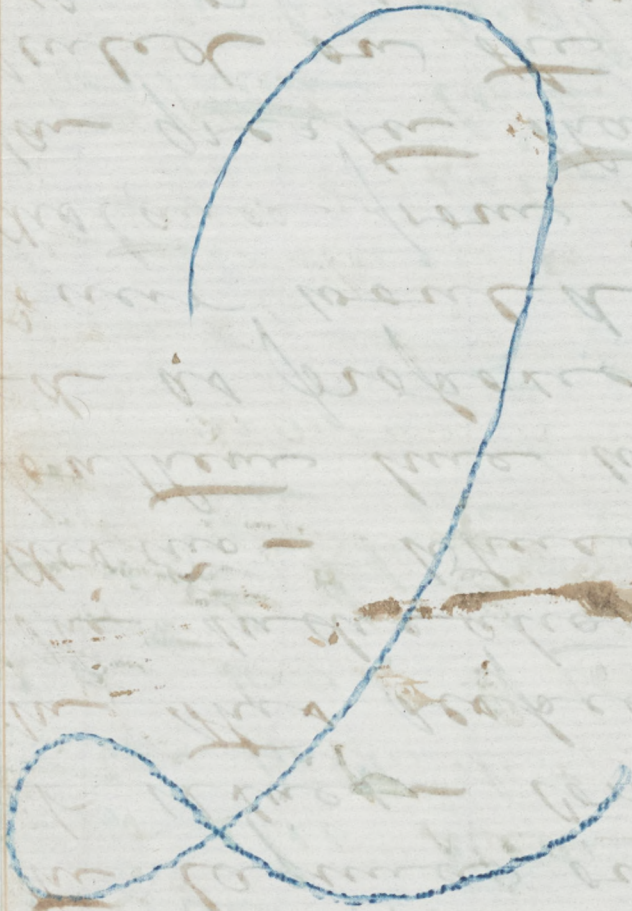
2nd The South Eastern extremity of the southern line as surveyed, or the South Eastern corner of the tract is placed at a distance to the south of the Arroyo de San Antonio nearly exactly corresponding with the position of the corresponding corner of the tract delineated on the diagram.

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The eastern line moreover starting from this corner and running northwardly strikes as laid down located by the survey the arroyo at some distance from the Laguna out of which it issues - corresponding in this respect also to the indication on the Diseno - whereas if the southern line were depressed as proposed the S. E. corner would be at a distance from the arroyo far greater than is represented on the Diseno - and the eastern line would either not strike the arroyo at all, but the Laguna would strike the arroyo if at all at or near the point where it issues from the Laguna -

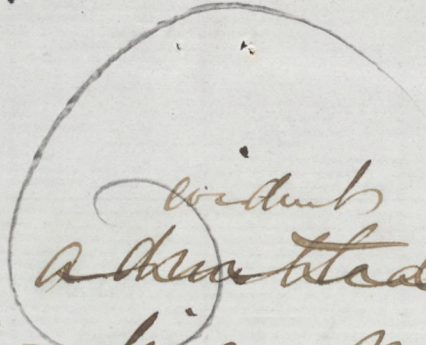
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1811
10

3^{de}

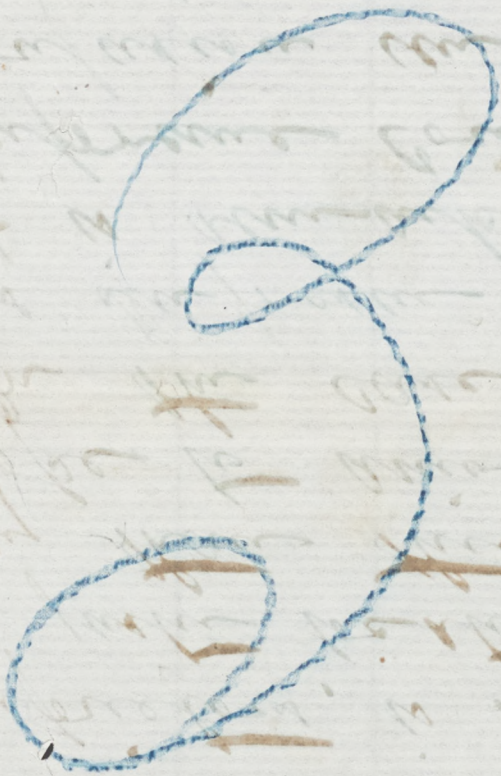
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It is ^{widened} admitted that the northern line must pass thro' the point called "las dos piedras" - It must also be at right angles to the eastern boundary - If that is also clear that the tract intended to be delineated was 8 leagues in ^{length} ~~width~~ by 2 in ^{width} - ^{the range of hills, be taken as the southern boundary and} ~~then~~ the eastern boundary ^{Eastern} be drawn from the ~~SE~~ ^{extremity of the southern line so located} corner, ~~as proposed~~, and be produced until it reaches a point from which the northern line may be drawn at right angles to it so as to pass through the "las dos piedras" the length of such Eastern line would be about 4 leagues - Con- tray to the obvious and clear indications of the dis- which shows as before stated the length of the tract to

of the country before him
and who assisted by in-
formation obtained on the
~~spot~~ spot, and such as
may be derived from consult-
ing the grants and divisions
of landowners or adjoining
proprietors, is able to give
a just location to the sur-
vey than this Court can
hope to arrive at.

In the case of *Haydel*
vs *du Presne* 17 How. 30
it is remarked by the
Supreme Court. "Great
" confusion and litigation
" would ensue if the judi-
" cial tribunals state and
" federal were permitted
" to interfere and overthrow
" the public surveys on
" no other ground than an
" opinion that they could
" have the work in the field
" better done and divisions



An Order overruling the objections
and approving the survey must
therefor be entered

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No 61.

Opinion on
Surrey.

Filed Oct. 24, 1893.
W. H. Chace
Clerk

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At a Special Term of the District Court of the UNITED STATES OF AMERICA, for the Northern District of California, held at the Court House, in the City of SAN FRANCISCO, on Monday the seventh day of November in the year of our Lord one thousand eight hundred and fifty-nine,

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States

vs.

Bartolome Poyorquez

No 61; S. C. 44.

"Laguna de San Antonio"

This cause came on to be heard upon exceptions to the survey, and was argued by counsel for the respective parties, and due deliberation had in the premises; wherefore, it is now ordered, adjudged and decreed that the survey made of the land claimed in this case, by the U. S. Surveyor General for California, under the final decree heretofore entered herein, the field notes of which survey were approved by said Surveyor General on the 19th day of May, 1859, and a certified copy of the plat of the same was filed in this Court pursuant to its order on the 21st day of June 1859, be and the same is hereby approved, and declared to be in conformity ^{with} the said decree, and is adopted and ratified by the Court as the final survey of the land claimed herein. And it is further ordered that a certified copy of this order be served upon the said U. S. Surveyor General for Cal^a for his information and guidance.

Ogden Hoffman
Dist. Judge

W. S. Marshals
San Francisco, Nov. 1859

I have made personal service of this order,
on this day, by copy on J. W. Mandeville
the W. S. Surveyor General for California
P. L. Solomon
W. S. Marshal

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

Clerk's Office,

I hereby Certify the foregoing to be a true copy from the Minutes
of the said Court.

..... Clerk.

By

..... Deputy.

61
District Court of the United States

IN AND FOR THE

Northern District of California.

The United States

vs.

Antoine Rogozney

Order adopting survey
approved May 19, 1859.

Filed Nov 27, 1859.

M. A. Cheney
Clerk.

By

Deputy.

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

Dactotome Bojorquez	}	Land Comm ⁿ No. 44.
The United States.		Dist. Court. .. 61.

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I John M. Brown of law-
ful age depose and say, that the claimant in the above
entitled action on the 3^d day of May 1859 by his deed of
that date conveyed to this affiant in due form of law
all of his right, title and interest in & to the Rancho
"Laguna de San Antonio," containing six square leagues
of land more or less, situate in the Counties of Marin
& Sonoma, State of California - it being the same land
granted by the Mexican Government to said Bojorquez
in the year 1845, and confirmed to said Bojorquez by
the above Court & in the above entitled proceeding
therein on the day of 185 . And this
affiant further says, that on the 20th day of November
1851 the said Bojorquez conveyed in due form of law
to Pedro Bojorquez & Juana Bojorquez & six others, eight
ninths of said rancho undivided. And this affiant
further says that on the 18th day of May 1857, the said
Juana conveyed her ninth to this affiant, and on the
17th of Oct. 1857 the said Pedro Bojorquez conveyed his
ninth of said rancho to this affiant - And the said
claimant and the said Pedro & the said Juana
were in possession at the respective dates of the said
several conveyances - & by virtue thereof this affiant
is now the owner of $\frac{1}{3}$ of said rancho undivided
and as such is interested in the survey & location
thereof. That this affiant is dissatisfied with the
survey reported by the Surveyor General, & desires &

proposes to contest the same before this Court &
therefore prays that he may be permitted to
appear in the case by his Attorneys.

John W. Brown

Sworn to, and subscribed

May 30, 1859, before me,

M. H. Chesebrough,

N. S. Comm.

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B. Baforguez
vs.
The United States
Affidavit

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The United States }
vs }
Bartolomeo Borsaney }
United States Dist Court " 41

State of California }
County of San Francisco }

Charles Hopkins being duly

sworn deposes and says he resides in
Sonoma County said State

That he is owner in the Borsaney Ranch situated
in the Counties of Marin and Sonoma said State
to the extent of one half of one ninth and one
half of one eighteenth of said entire Ranch
That Charlotte Williams is owner also in said
Ranch to the full amount of one half of one
ninedeaved ninth and ^{also} one half of one
eighteenth of said entire Ranch

That J M Brown is owner in said Ranch to
the full extent of three ninths of said entire
Ranch

That Angel Borsaney is owner of the undivided
one ninth of said entire Ranch

That J W Walker is owner in said Ranch
to the full extent of the undivided one ninth
of said entire Ranch of one ~~part~~ second part

That Gaston and Johnson and others are
as the owners of the one ninth of said entire
Ranch

That Freeman and others are the owners
of the one half of the undivided one
ninth of the said entire Ranch

That said interests above described
were derived by the said several owners
from the said Bartolomeo Borsaney and
his immediate grantees

And this report further says he together
with the said J. M. Brown is authorized for
the settlement of this issue and fully
empowered to employ counsel and
otherwise represent the the above named
interest of the said several owners in
this cause

And for the purposes above named
he hereby does authorize and empower
Col. B. Baker and Messrs. Shaptes Park and
Bydunfelt to represent in this cause the
above named owners and their several
interests

From to & subsequent } James Hopkins
June 3d. 1859. before }
W. H. Chesnut, }
N. J. Com. }

No. 61.

United States District
Court.

Northern District.

Bartolomeo Bopprig

²
The United States

Affidavit of Chas Hopkins.

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Office of the Board of Commissioners,

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

San Francisco, Aug. 5, 1854

John A. Monroe Esq.

Clerk of the U. S. District Court for the

Northern District of California.

Sir;

I herewith transmit you, pursuant to the requirements of the Act of Congress, approved August 31st, 1852, a Transcript of the Record of the Proceedings and of the Decision of this Board, of the Documentary Evidence and of the Testimony of the witnesses upon which the same is founded, in Case No. 44 on the Docket of the said Board, wherein

Bartolome Boyerquez is the Claimant against the United States, for the place known by the name of "Laguna de San Antonio"

and request your receipt for the same.

I am, Respectfully,

Your Obedt Servant,

G. Fisher.