

CASE No.

456

NORTHERN DISTRICT

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PORTION of RANCHO de NAPA GRANT

MARGARET McENERNEY

CLAIMANT

LAND CASE 456 ND pgs. 20

FEB 6 1963

U.S.A.  
25% COTTON FIBRE  
Plover Bond  
Permanently

546  
456  
No. 456

U. S. District Court,  
DISTRICT OF CALIFORNIA.

In re petition of  
Margaret McEnerney  
vs.

for Confirmation of claim of  
petition of Ranche de Napa  
IN ADMIRALTY.

PAPERS IN THE CASE.

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PAGE 2

In the United States District Court in and for the District of California.

To the HON. OGDEN HOFFMAN,

Judge of said Court:

Now comes Margaret M. Emery and presents this petition and claim for certain lands situate in Napa County, California, the same being a portion of that tract of land commonly known as the "Rancho de Napa," which petition and claim is made by authority of an Act of Congress, approved June 20th, 1884, entitled "An Act authorizing claimants to the Rancho de Napa, in Napa County, California, to prove up their title," of which Act a true copy is hereunto annexed marked Exhibit "A," and made a part of this petition.

That in accordance with said Act your petitioner respectfully represents:

That on the 21st day of September, A. D. 1838, Juan B. Alvarado, then Political Chief of Upper California, granted to one Salvador Vallejo a tract of land known as "Napa," which tract of land is situate in the County of Napa, State of California, and is the same tract of land named in the said Act of Congress as the "Rancho de Napa."

That said grant was presented to the Departmental Assembly of Upper California, and was by that body duly and legally approved on the 23rd day of September, 1838.

That on the 8th of February, 1844, juridical possession of the lands granted as aforesaid was delivered to the said Salvador Vallejo.

That the tract of land thus granted to said Vallejo was never presented as an entirety to the Board of Commissioners created by Act of Congress of date March 3rd, 1851, for confirmation, although portions of said land were presented to said Board in accordance with the requirements of said last named Act, and the portions and parcels thereof thus presented were finally confirmed thereunder.

That the exterior boundaries of said Rancho were finally surveyed in October, 1858, by C. C. Tracey, U. S. Deputy Surveyor, and the survey thereof finally approved by the proper authorities. That said Rancho was by said survey segregated from the public domain, and the boundaries

thereof thus established, conformed to the boundaries of said Rancho as defined in the original title of Salvador Vallejo.

That the boundaries thus established have ever since been recognized by all parties and the United States as the true boundaries of said Rancho.

That the boundaries of said Rancho as established by said survey are as follows:

"Commencing at a large, dead oak standing on the right bank of the Arroyo Napa, established by the Mexican authorities at the time of giving juridical possession, as one of the corners of said Rancho, thence (variation  $16^{\circ}$  E.) S.  $22\frac{1}{2}^{\circ}$  W. along the division line between the Rancho de Napa and the Rancho Entre Napa, 302.61 chains to the center of Carneros Creek, the center of said Creek at said point being the common corner of said Rancho de Napa and the Rancho Entre Napa; thence up the center of said Creek, following its meanderings, to a stake marked "N. No. 3," in a mound of stones, which stake is set where the old trail from Napa to Sonoma crossed said creek at the upper crossing; thence N.  $14\frac{1}{2}^{\circ}$  E. 427 chains to the S. W. corner of the Caymus Rancho; thence N.  $14\frac{1}{2}^{\circ}$  E. 140 chains to the center of Napa River; thence down the center of Napa River, following its meanderings, to the junction of Napa River and Napa Creek; thence up Napa Creek to the place of beginning.

That your petitioner is the claimant and owner of the following described portion of said Rancho:

All that certain piece of land or lot of land situated in the County of Napa, State of California and being a portion of Lot No 43 of the Cedula de Salvador and more particularly described as Block No 31 of Sawdip addition to the Town of Napa City according to the map of Napa City and additions now on file in the office of the County Recorder of Napa County

compiled and drawn by W. A. Sear in the year 1869,  
State of California, and con.

claiming six acres of land

more or less

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That said lands are included within the exterior boundaries of said "Rancho de Napa."

That your petitioner derains title to said land last above described through the original Mexican grantee, the said Salvador Vallejo.

That "Exhibit B" hereto annexed and made a part of this petition, exhibits the deraignment of title from said Salvador Vallejo to petitioner.

That the deeds set forth in said deraignment of title are of record in the Recorder's office, of said Napa County, and are sufficient in form and legal effect to, and do vest in the petitioner the title of said Vallejo to that portion of said Rancho now in petitioner's possession.

That neither the claim of petitioner, nor that of his predecessors in title, to that portion of said Rancho now in his possession has ever been passed upon by proper authority.

That the claim of the original grantee to said lands was good and valid under the Mexican

laws relating to such cases.

That there is not now, nor has there ever been, any valid adverse claim to said land which petitioner claims or any part thereof existing under the pre-emption, homestead or other laws of the United States.

That there is not now, nor has there ever been any person or persons having or holding any portion of said lands under valid claims under the pre-emption, or homestead, or other laws of the United States.

That there are no persons entitled to receive releases from this claimant to any portion of said land in his possession, as provided by said Act of June 20th, 1884.

That petitioner is in the sole and exclusive possession of the lands to which he seeks for a confirmation of his title, and he and his predecessors in title have been in such sole and exclusive possession since the year 1844.

Wherefore your petitioner prays for a decree of this Honorable Court, confirming the claim of petitioner to the lands herein petitioned for, and for such other general and special relief as may be meet in the premises. And your petitioner will ever pray.

*Estes & Nelson*  
*+ Spencer & Manning*  
Attorneys for Petitioner.

## EXHIBIT "A."

An Act authorizing claimants to the Rancho de Napa, in Napa County, California, to prove up their title.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the claimants to the lands situated in Napa County, California, known as the Rancho de Napa, who deraign title through the original Mexican grantee of said Rancho, and whose claims or those of their predecessors in title have not been hitherto passed upon by proper authority, are hereby permitted and authorized to present their claim to said lands in the District Court of the United States, for the district of California, within one year next after the passage of this Act, and not afterward, for examination; and upon the hearing of said case if it shall appear to said Court that the claim of the original grantee was good and valid under Mexican laws relating to such cases, and that the claimants are entitled to have such confirmation, the said Court shall by decree confirm said claim: *Provided*, that no lands shall be confirmed to said claimants to which there are any valid claims existing under the pre-emption, homestead, or other laws of the United States, at the date of the passage of this Act; nor shall any decree of confirmation affect any valid adverse right of any other person or persons, or give to the confirmees, or any of them, any claim upon the United States for compensation for any land such confirmees may loose by pre-emption, homestead, or other claims or rights as aforesaid: *Provided further*, that said claimants before filing their claim shall execute releases to any person who may have or hold any portion of said lands under valid claims under the pre-emption, homestead, or other laws of the United States, at the date of the passage of this Act to the portions of said lands so held respectively; and before rendering a decree of confirmation the said Court shall ascertain that said releases have been duly executed.

SECTION 2. That the United States and any party in interest are hereby granted the right of appeal to the Supreme Court of the United States, within six months next after any decree shall be entered, in the manner allowed in other cases of appeal; and the said Court in the examination of the claims presented by any person under this Act shall be governed, so far as applicable, by the provisions of the Act passed March 3rd, A. D. 1851, entitled "An Act to ascertain and settle private land-claims in the State of California."

SECTION 3. That the United States Surveyor General for California is hereby directed, upon the filing in his office by said claimants of a certified copy of a final decree of confirmation under the provisions of this Act, to cause said claim to be surveyed as other claims of like nature are now surveyed under existing laws and, upon the approval of said survey, by the proper authority a patent shall issue to said claimants in the usual form.

*Approved June 20th, 1884.*



Exhibit

Don Salvador Vallejo and Maria Luz  
Carrillo Vallejo, his wife  
to  
John E. Brown

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Deed.

PAGE

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Dated.

August 8th 1850

Cons<sup>t</sup> 800<sup>00</sup>

Grants 10e Lots 43, 47, and 48 of the  
Rancho de Salvador situated in Napa  
County State of California

Recorded in Liber A of Deeds page 87,  
records of Napa County State of California  
on August 9th 1850.

John E. Brown

to

James M. Hartman

Deed.

Dated.

January 17th 1853

Recorded in Liber B of Deeds page 308  
records of Napa County on January 27th  
1853

James M. Hartin and Sarah Jane  
Hartin, his wife

to

Thomas Earl

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PAGE

Deed.

Dated

March 27th 1853

Recorded in Series B of Deeds page  
408 records of Napa County, on October  
4th 1853.

Thomas Earl

to

John Sawyer

Deed.

Dated

February 5th 1858

Recorded in Series D page 406 records of  
Napa County on February 5th 1858.

John Sawyer, G. W. Donald and G. R.  
Worthington, by his attorney in fact, G. W.  
Donald.

to

Margaret W. Emery.

Deed.

Dated.

February 3 1872.

Recorded in Liber 2 of Deeds page 113  
records of Napa County on February  
7th 1872.

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U. S. District Court  
in and for the  
District of California

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In the Matter of the  
Application of Margaret  
Mc Eweeney for a  
confirmation to her  
of a portion of the  
Napa Ranch.

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Petition

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Filed June 19th 1883  
Southard & Hoffman  
Clerk

Wm. D. Grimwood  
Deputy Clerk

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1 In the District Court of the United  
2 States, District of California.

3 In the Matter of the Petition  
4

5 of  
6 Margaret Mc Omerney  
7 for confirmation of a portion  
8 of Rancho de Napa

9  
10 Now comes the United States  
11 by S. G. Hilborn its attorney and  
12 answers the petition of Margaret  
13 Mc Omerney on file herein and  
14 for answer thereto denies  
15 generally and specifically each  
16 and every allegation in said  
17 petition contained.

18 S. G. Hilborn

19 United States Attorney  
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No. 456.

United States District Court

DISTRICT OF CALIFORNIA.

In the Matter of the Petition  
of Margaret McCreney  
*Plaintiff*

vs.  
for confirmation of portion  
of Rancho de Napa  
*Defendant*

Answer and Opposition  
of United States

Filed July 7th. 1883

Southard Hoffman Clerk

*Chas. Drumwood*  
Deputy Clerk

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PAGE 12

S. G. HILBORN,  
UNITED STATES ATTORNEY  
For the District of California.

Service of within ..... day of ..... 188... and receipt of a copy  
thereof admitted, this .....

Attorney for .....

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

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PAGE

In the Matter of the Petition of Margarethe Enemy  
for confirmation of title to land in Napa County  
California part of the Rancho de Napa under  
Act of Congress passed June 20<sup>th</sup> 1884 } No 456

To the Honorable Ogden Hoffman  
Judge of said District Court

Your petitioner Otto H Frank  
by his Attorney E J H Moore respectfully asks  
leave of Court to file his intervention herein on the  
following grounds to wit;

That said Otto H Frank is a conferee  
by a prior decree of this Court and is now the owner  
in fee simple of the same land whereof said Margarethe  
Enemy asks for confirmation in his favor and such con-  
firmation would interfere with this petitioner and  
his rights.

Otto H Frank  
by E J H Moore  
his Attorneys

No. 456  
U. S. District Court  
District of California

In the Matter of the  
Petition of Margt McEnerney

Petition of Otto A Frank  
for leave to intervene

Filed July 24 1885  
Southard Hoffman  
Clerk  
Thos D Grimwood  
Deputy Clerk

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E. J. Malloree  
Atty for Intervenor



1 In the District Court of the  
2 United States,

3 District of California

4 In the matter of the Petition  
5 of Margaret Mc Emerney  
6 for Confirmation of title  
7 to portion of Rancho de  
8 Uapa in Uapa County  
9 California under the  
10 Act of Congress passed  
11 June 20<sup>th</sup> 1884

No. 456

13 Petition of Intervenor Otto H.  
14 Frank.

16  
17 Now Comes Otto H Frank  
18 by leave of Court first obtained  
19 and for petition of intervention  
20 herein alleges,

21 I

22 That he is the owner in fee  
23 of the land and all thereof  
24 which the said petitioner Margaret  
25 Mc Emerney asks to have confirmed  
26 to her the same being within the  
27 boundaries of the Rancho de Uapa  
28 in Uapa County of this State,

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That said Rancho was formerly granted to Don Salvador Vallejo by the Mexican Government September 21<sup>st</sup> 1838,

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PAGE 16

That on December 20<sup>th</sup> 1851 said Salvador Vallejo sold and conveyed by Deed to one Herman Wohler" all his right title and interest in and to all the land belonging to said Rancho de Tapa and all lands appertaining to the Rancho of that name granted to the said Vallejo by the Mexican Government which had not been before that date to wit December 20<sup>th</sup> 1851 sold and conveyed by him Vallejo by deeds which have been before that day duly recorded in the County Records Office of said Tapa County.

McCaughey

That said Deed from said Vallejo to said Wohler was thereupon on said December 20<sup>th</sup> 1851 duly recorded in said County Records Office in Book B of Deeds at page 109.

That thereafter on March 20<sup>th</sup>

PAGE

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1 1852 said Herman Wohler sold  
2 and conveyed by deed to his Inter  
3 venor "All his right title and  
4 interest in and to all the lands  
5 belonging to the Rancho de Napa  
6 and all lands appertaining to the  
7 Rancho of that name granted  
8 to Don Salvador Vallejo by the  
9 Mexican Government which  
10 had not been before that day  
11 to wit March 20<sup>th</sup> 1852 conveyed  
12 by said Salvador Vallejo or by the  
13 said Herman Wohler by deeds which  
14 had been before that day duly  
15 recorded in the office of the county  
16 Recorder of "Napa County" which  
17 said deed from said Wohler was  
18 afterwards on the 22<sup>nd</sup> day of  
19 April 1852 duly recorded in the  
20 Office of the said County Recorder  
21 of said Napa County in Book B. of  
22 Deeds at page 160.

23 That on June 12<sup>th</sup> 1858 the  
24 Honorable the U.S. District  
25 Court of California confirmed  
26 to said Otto H. Frank the lands  
27 described by the same description  
28 contained in said last named

1 deed, and on appeal afterwards  
 2 taken by the United States from  
 3 the aforesaid Decree of Confirmation,  
 4 said appeal was duly dismissed,  
 5 and said Decree is now final.

6 That said Confirmation accrued  
 7 to the benefit of this Intervenor who  
 8 by means thereof under the aforesaid  
 9 Deed from said Herman Bohler  
 10 became and he now is the owner  
 11 in fee, and entitled to the posses-  
 12 sion of said lands.

13 That the lands for which  
 14 said petitioner Margaret Mc  
 15 Eweeney herein asks for confir-  
 16 mation are a part of said lands  
 17 so confirmed to this Intervenor.

18 This Intervenor further plead-  
 19 ing herein denies all and singular  
 20 the allegations contained in  
 21 said petition filed herein by  
 22 said petitioner after <sup>and including</sup> the following  
 23 words on page two line seventeen  
 24 thereof to wit: "that your petitioner  
 25 is the claimant and owner of  
 26 the following described portion  
 27 of said Ranch" &c excepting that  
 28 he Fraud admits to be true that

25 the  
26 of  
27 he  
28 FN

1 portion of said petition which  
2 alleges as follows viz,

PAGE  
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3 That the claim of the original  
4 grantee was good and valid  
5 under the Mexican law relating  
6 to such cases.

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7 This intervenor therefore prays  
8 that the aforesaid petition by  
9 said Margaret Mc Euenly  
10 may be dismissed and that  
11 her claim for Confirmation  
12 be disallowed.

13 E J & J H Moore  
14 Atty for Intervenor O W Frank



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No 456  
In the U.S. Dist Court  
District of  
California

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In the matter of  
the Petition  
of  
Margaret M. Enemy

Intervention by  
Otto H. Frank

Service by Copy of within  
Intervention this 28 August  
1885 admitted

Spencer H. Hennery  
attys for Margaret M. Enemy

Fees paid 16 1885

Spencer H. Hennery  
456 ND  
PAGE 20  
Otto H. Frank

E. J. & J. H. Moore  
attys for Intervenor  
Otto H. Frank