CASE NO.

84

NORTHERN DISTRICT

LA PASTORIA GRANT

MARTIN MURPHY

CLAIMANT

LAND CASE 84 ND pgs. 109

No 7

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PAGE 1

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 90

Martin Murphy CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"La Pastoria".

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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

The Petition of Martin Murphy *for the Place named*

"La Pastoria"

was presented, and ordered to be filed and docketed with No. 90 *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 January 13' 1853.

In Case No. 90 Martin Murphy for the place named "La Pastoria" the Counsel for the Claimant filed the following agreement to wit:

(Vide page 8 of this Transcript)

San Francisco March 3d 1853.

In the same Case the deposition of William J. Lewis, a witness in behalf of the Claimant, taken before Commissioner Harry I. Thornton was filed;

(Vide page 5 of this Transcript)

San Francisco March 15 1853.

In the same Case the Counsel for the Claimant filed the following Agreement, to wit;

(Vide page 8 of this Transcript)

San Francisco Sept. 2d 1853.

Case No. 90 Called: The Counsel for the Claimant read the Evidence; argued, submitted and taken under advisement.

In the same Case the Counsel for the Claimant filed the following Stipulation, to wit;

(Vide page 9 of this Transcript)

San Francisco Jan. 24 1854.

In the same Case Commissioner Thompson Campbell delivered the Opinion of the Board confirming the Claim;

(Vide page 42 of this Transcript)

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Petition

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Before the Honorable The Commission to ascertain and settle Private Land claims in the State of California.

Martin Murphy, a citizen of said State gives notice, that he claims, by virtue of a grant from the Mexican Nation, a tract of land situated in Santa Clara County, and part of the Rancho de la Pastoria, and bounded and described as follows, to wit: Beginning at a stake marked S at the intersection of the Eastern line of Yrigos Rancho with the Bay of San Francisco, thence along Yrigos' Eastern line on a true course of S. 15°. 23' W. (magnetic South) 128.50 chains along Yrigos Eastern line to a stake marked O at his South Eastern corner, thence on the same course 70.70 chains to the middle of the lower road leading from San Francisco to Santa Clara, thence along the middle of said road S. 60°. 22' E. 8.33 chains, thence S 15°. 23' W. (magnetic South) 96 chains to the middle of the upper road leading from San Francisco to Santa Clara, thence along the middle of said road S 68°. 52. E 24.00 chains S. 77°. 52' E 25 chains; S. 82°. 7' E. 42 chains and S. 79°. 37 E. 13.74 chains; thence N. 15°. 23' E. (magnetic North) 290 chains to the Bay at a stake marked "N°. 9" thence following the several courses of the shores of the Bay N. 80°. 37' W. 11.39 chains. N 79°. 37' W. 48.00 chains N. 66°. 37' W. 48.03 chains. and N 68°. 7' W. 14.93 chains to the place of beginning; contents, 320 7/4

acres or 739 of a league more or less —
Variation of the needle 15°. 23. —
Beginning at a red road stake marked O, at the South East corner of El Rancho de Yrigo, thence following Yrigo's Southern line on a true course of N 74°. W. 96.48 chains to a stake, thence S. 16°. 19' W. 32.41 chains to a stake on the north side of the lower San Francisco Road, thence on the same course, 103.12 chains to a stake 50 yards west of Creighton's house, thence on the same course 21.93 chains to a stake on the lower side of the upper San Francisco Road, thence following the northern boundary of said road 1 chain from and parallel to the lines of Sounders Galloway and Ackerman, Bryan Frost, and Dentis by the following true courses and distances S 65°. 7' E. 25.97 chains S 62°. 59' E 30.54 chains, S. 75°. 37' E. 47.52. chains — S. 65°. 53' E 4.21 chains to a stake at the west line of M. Murphys former purchase, thence along his western boundary to the place of beginning. containing 16.88½ acres, more or less.

Said land was granted, together with a greater quantity, on the 2d day of January 1842, to Don Francisco Estrada, by Don Juan B. Alvarado, Constitutional Governor of California, and therein authorized to make said grants, in the name and on behalf of the Mexican Nation.

On the day of 184, said

Grantee died intestate, without issue whereby said land vested in his father the late Don Jose Mariano Estrada, who on the 29th of March, 1845, conveyed and transferred said land to Don Mariano Castro, who by two several deeds executed the first on the 8th day of January 1851, and the other on the 21st day of April, 1851, conveyed the above described tracts to the present claimant.

Said land has been duly improved and cultivated, and is now improved and cultivated, and quietly enjoyed by the Claimant.—

Claimant relies on the above documentary testimony, and the proofs concerning said grant existing in the archives, and such others testimony as he may obtain

A copy of the Original grant, and copies of the mesne conveyances are herewith presented.

Jones Pomeroy & Shode
Attorneys for Claimant

Filed in Office March 3d 1852
Geo. Fisher

San Francisco March 3 1853
On this day before Com. Harry I. Thornton came W. L. Lewis - a witness in behalf of the Claimant - Martin Murphy petition No. 90 and was duly sworn, his evidence being given in English

Questions by Claimant

Quest. 1. What is your name, age, & place of residence & business or pursuit.

Answer, William I. Lewis is my name, my age is about forty one years and my residence is San Jose, and my business is that of civil engineer, and I am at present Surveyor of Santa Clara.

Question 2nd. Are you acquainted with the Rancho del Refugio, and if so state what you know about it, and its occupation.

Answer. I am acquainted with this Rancho, and the map which is now shown to me being the same which is attached as document No. 3 to the deposition of Antonio Sunol taken in case No. 257, is a correct copy on a reduced scale of a plat made under my direction of the said Rancho, the survey having been made by me according to the boundaries pointed out to me by Mr. Sunol the witness above mentioned, I know that it is occupied by Mariano Castro, Martin Murphy & others.

Quest. What do you know if any thing of the portion of the Rancho which is occupied by Martin Murphy

Answer. I made two surveys of parts of

this Rancho for said Murphy. the first I made on the 28th & 29th of October 1850, at the request of Castro the grantee and the said Murphy: I also made a second survey at the request of the same parties of another portion of the said Rancho on the 7th & 9th of April 1851. The land of which I made those surveys all lies within the bounds of the Rancho of Castro called Rancho del Refugio.

Quest. Please look upon and examine the two maps now shown to you marked Exhibit No. 1 and 2. and filed herewith, and state whether those maps contain a correct delineation of the lands surveyed as they purport.

Answer. I have examined the two maps marked as Exhibit No. 1 & 2 & filed herewith. Those maps were made under my directions from field notes of surveys made by me and they are there delineations of the land shown to me by Castro & Murphy

Wm. J. Lewis

W. S. Lang Agent Present.

Sworn to & subscribed before me this 3d of March 1853.

Henry D. Thornton
Com. &c.

Filed in Office March 3rd 1853.

Geo. Fisher Sec

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Agreement

Commission on Land Claims in California

Martin Murphy, Claimant No. 90.

It is agreed that the deposition of Antonio Sunol, taken on the 13th January, 1853, in case No. 257, wherein Mariano Castro is claimant, may be used by either party in the above named case No. 90, wherein Martin Murphy is claimant, as if the same had been taken therein.

San Francisco, 13th January 1853.

R. Greenhow, U.S. Land Agent

Jones, Tompkins & Shode
Attys for Claimant Murphy

Filed in Office Jany 13 1853. Geo. Fisher Secy

Commission on Land Claims,
Case No. 90, Martin Murphy, Claimant,

Agreement of Counsel

It is agreed that the deposition of Antonio Sunol taken in case No. 257 may be applied and used in the above case No. 90, as if taken in said case.

15 March 1853.

Robert Greenhow
U.S. Land Agent

Jones Tompkins & Shode for Claimants

Filed in Office March 15th 1853. Geo. Fisher Sec

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Stipulation

A transcript of the documentary evidence and by deposition filed in case No 257 and mentioned in the stipulation is extant in the appendix to this transcript, made by order of the Board and certified by the Secretary on the 4th day of September, 1855

No. 90 Martin Murphy Claimant
Stipulation

The Claim presented in this case, is for a part of the Rancho de Refugio, or Pastoria de Borregase, and it is hereby stipulated between the U.S. Dist Agent, & the counsel for the Claimant, that this case be now submitted, and that the evidence documentary, and by deposition taken in case No 257, in which the said Rancho above named is claimed by Mariano Castro, be also considered as if taken in this case. The determination of this case to be postponed until the case of said Mariano Castro be submitted.

San Francisco. Septr 1853.

V. E. Howard
H. I. Thornton & Wm C. Jones
by said Thornton

Geo: Fisher

Filed in Office Septr 2nd 1853.
Geo. Fisher Sec

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"Span Expediente"
Returns

Espediente.

promovido por los señores Dn Mariano y Dn Francisco Estrava en solicitud del parage conocido con el nombre de la Pastoria.

1841.

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Espediente.

promovido por los señores Dn Mariano y Dn Francisco Estrada en solicitud del parage conocido con el nombre de la Pastoria.

1841.

Pastoria

Señor Prefecto del 1er distrito.

S. Juan de Castro Nero 10 de 1840.

Informe el administrador de Sta Clara sobre lo que respecta el establecimiento de su cargo. Vecinado este informe pasé al Juez de paz de S. José.

Alvarado.

de que expongalo que estime por justo.

Castro.

El C. José Mariano Estrada, ante V.S. como mas haya lugar en derecho digo: que a consecuencia de tener agrenciado en el paraje de Sta Clara, titulado la Pastoria, mas de mil cabezas de Ganado mayor, que conduge a este sitio por tener lo á mi inmediato encistado deando me encargue en administracion de dicho establecimto he de menecer de V.S. tenga a bien elevar la presente Solicitud al Gobno Departamental ofin de que se me conceda en plena libertad para establecer un rancho en Compañia de mi hijo Francisco que se encuentra sin propiedad con que subsistir: en el concepto de que el mencionado terreno constará de dos sitios de Ganado mayor poco mas ó menos. P. tanto a V.S. suplico se sirva proveer como llebo pedido de lo que recibiré la mor Gracia. Juro lo necesario. Se

José Estrada.

Señor Prefecto del 1er Distrito.

El administrador de este Establecimiento, que subscribe se cree encargado de dar el informe que se pide en el anterior decreto, respecto de que el pretendiente es su padre legitimo: V.S. en su vista, se servirá determinar lo mas justo.

Santa Clara. 5 de Febrero. de 1840.

José R. Estrada.

Sor. Prefecto del 1er distrito.

En cumplimiento del Superior decreto de V.S. que antecede: digo que los interesados obtienen los requisitos legales para ser atendidos, que el terreno que pretende es conocido por la Se- Mision de Sta Clara y se alla ocupado con bienes: es quanto puedo informar en caso lo que creo dar el mejor dictado. San José de Alvarado. Febro. 15 de 1840.

Dolores Pacheco.

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Exmo. Sor.

En la presente instancia, solicita Don José Maximino Estrada se le confiera en propiedad el terreno de Sta Clara titulado La Partonia, para establecer en el su hijo Fran.co Estrada.

Esta Prefectura no encuentra inconveniente alguno en que se conceda al interesado la Gracia q. solicita siempre q. sea de la aprobacion de V. E.

San Juan de Castro. Febr. 19 de 1841.

José P. Castro.

Monterey. Feb.o 23 de 1841.

Pase este Espediente al actual encargado del establecimto de Sta Clara, deseando el interesado agregar el ali.cuo del terreno que pide.

Alvarado.

Exmo. Sor.

En cumplimiento de su Superior decreto q. antecede di-go hallarse en el mismo lugar que mi antecesor dice en su informe por en el solicitamos hallegado mio; todo lo espresaré que al tiempo que mi dho. antecesor estubo en este establecimiento se hallaba el terreno que se pretende ocupado con mas de 3000 borregas; pero los bienes que en el existen en la dha son muy pocos, pues no haciendo mas de siete borregas incluso q. Don José Estrada a favor de Dna Salvad Ortega con respeto el Ganado mayor q. en dho terreno existe, tengo derallado concluir con el en mantener semonarias para la pentes tan luego como llegar el buen tiempo; por estar otro ganado atado en las San-tas y no que se reconocen al rodeo por lo cual puede concederles a las pretendientes, siempre que Si: y exci Justo.

Sta Clara. fro. 24 de 1841.

Ygnacio Alvarez.

Monterey. Enero. 15. de 1842.

Vista la peticion con que dió principio este espediente el informe del Sr. Prefecto del.o distrito, y del Ad.or del establecimiento de Sta Clara y todo lo demas que se tuvo presente y ver convino, de conformidad con las

leyes y reglamentos de la materia, declarò á D. Franco Estrada, dueño en propiedad del terreno conocido con Pastorias de las Borregas, colindante con el terreno de Dn José Peña, con el de Dn Prado Mesa y la Punta del Roblar en estension de Dos Sitios de Ganado mayor segun demuestra el adjunto diseño, estiendase el despacho correspondiente tomese razon en el libro respectivo y dirijase este Espediente á la Suma Junta Departamental para su aprobacion. El Sor. Don Juan B. Alvarado, Gobernador Constitucional del Departamento de las Californias, así lo mandó decretó y firmó de que doy fé.

bare following dimensions!

Juan B. Alvarado, Gobernador Constitucional del Departamento de las Californias.

Por cuanto Dn Francisco Estrada ha presentado para su beneficio personal y el de su familia el parage conocido con el nombre de la Pastoria, colindante con el terreno de Dn José Peña con el de Dn Prado Mesa, y la punta del Roblar; practicadas previamente las diligencias y averiguaciones consecuientes segun lo dispuesto por leyes y reglamentos de la materia, declaró al referido Dn Franco Estrada dueño del terreno mencionado, declarando le la propiedad de él por las presentes letras, sujetandose á la aprobacion de la Suma. Junta Departamental. y á las condiciones siguientes.

1a Podra cercar lo sin perjudicar las travesias caminos

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caminos y servidumbres, lo disfrutará libre y exclusivamente destinándolo al uso ó cultivo que mas le acomode pero dentro de un año fabricará casa y estará habitada.

2. El terreno de que se hace mencion es de dos sitios de ganado mayor poco mas ó menos, segun explica el diseño respectivo. El o Juez que tiene la posesion lo hará medir conforme á ordenanza quedando el sobrante que resulte á la nacion para los usos convenientes.

3. Cuando se le confirme la propiedad de él se extenderá del Juez respectivo que le dé posesion jurídica en virtud de este Despacho por el cual se demarcarán las tierras en cuyos límites quedará á mas de las mojoneras, algunos arboles frutales ó silvestres de alguna utilidad.

4. Si contravenjere a estas condiciones perderá su derecho al terreno y será denunciable por otro.

En consecuencia mando que teniéndose por firme y valedero el presente título se tome razon de él en el libro respectivo, y se entregue al interesado para su resguardo y demas fines. Dado en Monterey a quince de Enero de mil ochocientos cuarenta y dos.

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

I Samuel King, Surveyor General of the United States for the State of California, and as such now ~~[illegible]~~ now having in my Office and under my charge and custody a portion of the archives of the former Spanish and Mexican Territory, Department of Upper California, do hereby certify that the nine preceding and annexed pages of tracing paper numbered from One to nine inclusive, and each of which is verified by my initials (S. King) exhibit true and accurate copies of certain documents now on file and forming part of the archives in this Office.

In testimony Whereof, I have hereunto subscribed my name, officially and affixed my private seal (not

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having a seal of office) at the City of San Francisco Cal.
this 25th day of January. 1852. Samuel O. King.
Surveyor Gl. Cal.

Filed in Office. March 3d - 1852.

Geo. Fisher
Secy.

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Translation of Espediente "B"

Espediente

Carried on by Mesrs Mariano and Francisco Estrada on application for the place known by the name of "La Pastoria"

1841

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Mr Prefect of the 1st District.

San Juan de Castro Jany 16 1840. Let the Administrator of Santa Clara report regarding the Establishment under his charge which being done pass it to the Justice of the Peace of S. Jose in order to state what he may deem just
Castro

Citizen José Mariano Estrada before Your Worship in form of law says: That in consequence of more than a thousand head of black cattle having been found of the place of Santa Clara called "la Pastoria" which I conveyed to this place for having them under my close care, when I took charge of the administration of said Establishment, I should deserve that Your Worship be pleased to elevate the present application to the Departmental Government, in order that it may be granted to me in ample liberty, to settle a rancho in company with my son Francisco, who is without property to

subsist on; under the understanding that the said tract should consist of two leagues more or less.—

Therefore I pray your worship be pleased to order as prayed whereby I shall receive favors. I swear &c usually &c.

Jose Estrada—

Mr. Prefect of the 1st. District

If the subscribers. Administrator of this Establishment be exonerated from going a report asked in the foregoing order. in consideration of the solicitant being his father. In view thereof Your Worship will be pleased to determine what is just.

Santa Clara Feby 5th 1840

Jose R. Estrada

Mr Prefect of the 1st. District

In compliance with the preceding superior order of your worship. I say that the parties interested have the requisites of law to be attended to — that the tract of land they seek to obtain is known as that of the Ex-mission of Santa Clara, and is occupied with cattle stock — This is all I can inform.

S. José de Alverado Feby 13th 1840.

Dolores Pacheco

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Mt. Excellent Sir

In the present petition Don José Mariano Estrada solicits that the tract of land of Santa Clara named "La Pastoria" may be conferred to him in ownership to settle therein his son Francisco Estrada. —

This Prefectship does not find any inconvenience in the favor he solicits, being granted to the party interested, provided it be of your worship approval.

San Juan de Castro Feby 19th 1841.

Monterey Febry 23rd 1841

Let this Expediente be passed to the actual trustee of the Establishment of Santa Clara the party interested to annex thereto a design of the tract asked for. —

Alvarado

Mt. Exct Sir

In compliance with the foregoing superior order I say: I am in the same position as my predecessor mentions in his report for the solicitant being my ally. —

I shall but express that at the time my said predecessor was in this establishment, the tract asked for was occupied with more than 300 lamps, but the stock existing therein at present is very short for it does not reach more

borregas

than 490 lamps – inclusive 100 which Don José Estrada left for Dona Solidad Orlega

With regard to the black cattle, existing in said tract, I have enumerated to have done with them by slaughtering weekley for the folks, so soon that good weather comes on; for said cattle being hiding in the willing thicket – will not come out when they are run after – wherefore it can be granted to the solicitants, provided you deem it just –

Santa Clara Febry 27th 1841.
Ygn.o Alvires

Monterey Jany 13th 1842.

In view of the petition wherewith this Espediente begins, of the report of Mr. Prefect of the 1st District and of that of the Administration of the Establishment of Santa Clara, and all other that was represented and ought to be viewed – in conformity with the laws and regulations on the matter, I declare Don Francisco Estrada owner in property of the tract of land called "Pastoria de las Borregas" bounded by the land of Don Jose Pena, by that of Don Prado Mesa, and "la Punta del Roblar" to the extent of two leagues (sitios de Ganado Mayor") as shown by the annexed design. Let a proper despatch be issued, a registry made in the respective Book, and this ~~Exxxxxxx~~ Espediente be directed to the Mr. Excellent-

Departmental Board for its approval. For Don Juan B. Alvarado Constitutional Governor of the Department of the Californias thus commanded, decreed, and signed which I testify.

Juan B. Alvarado, Constitutional Governor of the Department of the Californias.

Whereas Don Francisco Estrada has sought to obtain for his personal benefit and that of his family the place known by the name of "La Pastoria" bounded by the land of Don Jose Pena, by that of Don Prado Mesa, and "La Punta del Roblen; all the steps and investigations concerning thereto having been previously made and taken, according to the disposition of the laws and regulations on the matter, I declare the said Don Francisco Estrada owner of the tract of land above mentioned declaring to him the ownership thereof by the present letters, subject to the approval of the Most Excellent Departmental Board, and to the following conditions

1st. He may enclose it without injuring the passages, roads, and servitudes, he may enjoy it freely and exclusively, applying it to such use and cultivation, as may suit him best; but within one year he shall build a house, and the same shall be inhabited

2nd. The tract of which mention is made, is of two leagues (sitios de ganado mayor) a little more or less, as shown by the respective design - The Judge giving the possession shall cause it to be measured according to ordinance the surplus thereof to be left to the nation for other convenient purposes

3rd. When the ownership thereof is confirmed, he shall apply to the proper Judge to give him juridical possession by virtue of this Despatch - whereby the boundaries shall be marked out, in the limits of which he shall put besides the land marks some fruit or useful wild trees.

4th. If he shall contravene this conditions he shall forfeit his right to the tract, and shall be denounceable by others.

Whereupon I command that the present title being held as firm and valid, a registry thereof be made in the proper Books, and it be delivered to the party interested for his safety and other purposes.

Given in Monterey on the 15th of January 1842,

Filed in Office March 19 1853.
Geo. Fisher Sec

Spanish Does follows

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A

Title

Sello 1º Seis pesos
Habilitado provisionalmente por la Aduana marítima de Monterrey para los años de 1839 y 1840
Alvarado — Antonio Mª Osio
Valga para el año de 1842
Alvarado — Antonio Mª Osio

Seal

Juan B. Alvarado Gobernador Constitucional del Departamento de la California.

Por cuanto Dn Francisco Estrada ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de Pastoria de las Borregas, colindante con el terreno de D José Peña por la parte del Sauzal de las Borregas, con el rancho de D Prado Mesa, y con la Laguna situada en la punta del Rollar; practicadas previamente las diligencias y averiguaciones concurrientes segun el dispuesto por leyes y reglamentos, usando de las facultades que me son conferidas a nombre de la Nacion Mejicana, he venido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras sugetandose a la aprobacion de la Excma Junta Departamental y bajo las condiciones siguientes

1ª Podra cercarlo sin perjudicar las travesias caminos y servidumbres; lo disfrutará libre y exclusivamente destinandolo al uso o cultivo que mas le acomode, pero dentro de un año fabricará casa y estará habitada.

2ª Solicitará del Juez respectivo que le dé posesion jurídica en virtud de este despacho por el cual se demarcaran los linderos en cuyos límites podrá amas de las mojoneras algunos arboles frutales o silvestres de alguna utilidad.

3ª El terreno de que se hace donacion es de dos Sitios de ganado mayor poco mas o menos segun se publica el diseño que obra agregado en el expediente. El Juez que diere la posesion lo hará medir conforme a ordenanza,

quedando el sobrante que resulte a la Nacion para los usos convenientes

4ª Si contraviniere a estas condiciones perderá su derecho al terreno y será denunciable por otro.

En consecuencia mando que teniéndose por firme y valedero este titulo se tome razon de él en el libro respectivo y se entregue al interesado para su resguardo y demas fines. Dado en Monterrey a quince de Enero de mil ocho cientos cuarenta y dos.

Juan B. Alvarado
Manl Jimeno
Srio

Queda tomada razon de este titulo en el libro de acientos sobre adjudicacion de terrenos baldios a fs. 9
Jimeno

El Exmo Sr Gobernador ha dispuesto se tome razon de esta concesion en la Prefectura del 1er distrito
Jimeno

Monterrey Enero 16 de 1842
Tomese razon — Estrada

Se tomó razon de este supr. titulo a f. 4 del cuaderno respectivo.

Prefectura del 1er Distrito. Monterrey Enero 16 de 1842 — Manl Castañares

Por acuerdo del Gobierno Departamental de California se acordó el dia de hoy que al Indigena de Sta Clara llamado Iñigo se le extendiese la concesion del terreno que ocupa siendo los linderos desde su casa hasta el primer ojo de agua incluive llamado las Animas y desde el Saucal hasta los Eltros; y para la debida constancia se anota en este titulo. Monterrey 14 de Febrero de 1844

Manl Michelta.

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Como heredero del finado Francisco Estrada digo que cedo voluntariamente a favor del ciudadano Mariano Castro los dos Sitios que se expresan en este titulo. Buena=vista 17 de Marzo de 1845

Jose Mª Estrada

Filed 10 10/60 O clk A.M. 2d June AD 1851
J. T. Richardson
Recorder
J. Flournoy
Dep y Recr.

Recorded in Book of Deeds C page 416 in the Recorder's Office San Jose at 10 10/60 O clk AM 2d June AD 1851
J. T. Richardson, Recorder
J. Flournoy
Dep y

Filed in office March 3d 1852
Geo: Fisher
Secy

Translation of the Title "A"

First Deal - Six Dollars
Provisionally qualified by the Maratime Custom House of Monterey for the years 1839 & 1840.
Alvarado Antonio Ma Osio

Valid for the year 1842.
Alvarado Antonio Ma Osio

Deal

Juan B. Alvarado, Constitutional Governor of the Department of the Californias.

Whereas Don Francisco Estrada has sought to obtain for his personal benefit and that of his family a tract of land known by the name of "Pastoria de las Borregas" bounded by the land of Don Jose Peña, on the side of the "Sansal de las Borregas (Lamps Willow Thicket) by the Rancho of Don Prado Meza, and the, Lagoon situated in the "Punta del Boblar" (oak trees point) all the steps and investigations concerning thereto having been previously taken and made according to the dispositions of laws and regulations, exercisesing the powers conferred upon me in the name of the Mexican Nation, I have granted to him the above mentioned tract of land, declaring to him the ownership thereof by the present letters, subject to the approval of the Most Excellent Departmental Board, and under the

following conditions;

1st He may enclose it without injuring the passages, roads, and servitudes; he may enjoy it freely and exclusively, applying it to such use or cultivation as may suit him best,

2nd He shall apply to the proper Judge to give him Juridical possession by virtue of this Dispatch, whereby the boundaries shall be marked out, in the limits of which he shall put besides the land marks some fruit or useful wild trees.

3rd The Tract of which donation is made is of two leagues (sitios de ganado mayor) a little more or less as shown by the design which is annexed to the Expediente. The Judge giving the possession shall cause it to be measured according to ordinance the surplus thereof to be left to the nation for other convenient purposes.

4th If he shall contravene these conditions, he shall forfeit his right to the tract, and shall be denounceable by others.

Wherefore I command that this title being held firm and valid a registry thereof be made in the respective books; and it be delivered to the party interested for his safety and other purposes.

Given in Monterey on the fifteenth of January 1842. Juan B. Alvarado

Manuel Jimeno Secy

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A registry is made of this Title in the Book of Registry on adjudication of vacant lands, at fo 9 –

Jimeno

His Excellency the Governor has directed a registry to be made of this grant in the office of the Prefect of the 1st District

Jimeno

Monterey January 16th 1842.
Let a registry be made
Estrada

A registry is made of this Supr. title at f.o 4 of the proper Book –
Office of the Prefect of the 1st District
Monterey January 16th 1842.
Manl. Castanares

With the advise of the Departmental Government of Californias, it was resolved this day that to him the Indigenious of Santa Clara, called Yrigo, the grant of the tract of land, which he occupies be enlarged – being the boundaries from his house to the first "Ojo de Agua" (spring of Water) inclusive called "las Animas" and from the "Sausal" (willow thicket) to the Estero (lake); and for due proof thereof it is noted in this title.
Monterey Feby 14th 1844.
Manuel Micheltorena

28

84 ND
PAGE 29

As an heir of the late Francisco Estrada I say that I willingly yield in favor of Citizen Mariano Castro the two leagues mentioned in this title

Buenavista March 17th 1845

José Mª Estrada

Filed in Office March 16 1853
Geo. Fisher Sec

"Spurious Doc following"

2ta 3ª 9º

29

84 ND
PAGE 30

Veinte y Siete de Enero de mil ocho cientos cuarenta y sis
Comparecieron ante mi y los testigos de asist.a en quien
actuo por falta de escribano publico, los Señores D.n Jose
Mariano Estrada y D. Mariano Castro, y dijo el primero
q.e teniendo Cedido al segundo el derecho que tiene en el
terreno Concedido a su hijo D. Fran.co Estrada ya defunto
por el titulo que antecede, pedia se le autorizase jurídicamente
dicha seccion como yo Ygnacio Esquer Regido de Casa
y encargado del Segundo Juzgado lo verifico, interponiendo
mi autoridad judicial, para que se tenga por firme
y valedera la referida Seccion — lo firmaron con
migo y los de asistencia

Jose Mar.no Estrada
Ygn.o Esquer

asist.a
Ricardo del Castillo

asist.a
Antonio Mendez

I, the undersigned, do hereby Certify that
an exact copy of the foregoing title & accompanying
document is recorded in the Government Archives
in the Secretary of State's office.

Monterey 17 October 1849
Wm. E. P. Hartnell
Gov.t Translator

Filed for Record at 10 10/60 O'clk A.M 2d June
AD 1851

S. T. Richardson, Recorder
S. Flournoy
Dep.y Rec.r

Recorded in Book of Deeds "C" page 418 &
419 at 10 10/60 O'clk A.M 2 June AD 1851
Recorder Office Santa Clara County, Cal
S. T. Richardson
Recorder S. C. C.

30

84 ND
PAGE 31

Filed in Office March 30. 1852
Geo: Fisher
Secy

31

Translation of the Transfer "C"

84 ND
PAGE 32

On the twenty seventh of January 1846. before me and the Assistant Witnesses with whom I act for want of a Notary appeared José Mariano Estrada and Mariano Castro: and the former said that having yielded to the latter the right he has to the tract of land granted to his son Francisco Estrada now deceased, by the foregoing title, he asked that said transfer might be juridically attested to him - as I, Ignacio Esquer, manager of the house, & Deputy of the Sey.d Majistrate - do so interposing my judicial authority - that said transfer may be held firm and valid - Together with myself and the Witnesses they signed this

José Mar.no Estrada
Ygn.o Esquer
Witness

Witness
Nicaso del Castillo

Antonio Mendez

Filed in Office March 19 1883,
Geo. Fisher
Sec

33

84 ND
PAGE 33

"D"
Transferred

Power of Attorney

Mariano Castro To Peter Davidson

City of San José Dec. 6, 1850

Know all men by these presents that I Mariano Castro of the County of Santa Clara in the State of California reposing especial trust and confidence in Mr. Peter Davidson of Santa Clara County and State aforesaid have made ordained, authorised, nominated and appointed, and by these presents do make, ordain authorise nominate and appoint him the said Peter Davidson, my true and lawful attorney for me and in my name, and for my own proper use and benefit, to take the sole and entire charge and management of my farm known as "El Rancho del Repugio" lying and being situate in the county and state aforesaid, to use, cultivate, rent, bargain sell and convey, or otherwise dispose of of the same, and to do all lawful acts or things whatever concerning the above named premises as fully and entirely in every respect as I myself might or could do, were I personally present at the doing thereof

In testimony whereof I have hereunto set my hand, and affixed my

33

seal, the day and year first above written

his
Mariano x Castro (Seal)
mark

Done in presence of
Wm Bartlett
James T. Reed

State of California }
Santa Clara County } ss

Be it remembered that on this the 6th day of December A.D. 1850 Before me personally appeared Mariano Castro personally known to me to be the person described in and who executed the foregoing instrument and acknowledge that he executed the same freely ~~and~~ voluntarily and for the uses and purposes therein mentioned. In testimony whereof I have hereunto set my hand and affixed my private seal (there being as yet no official seal, the date last above written.

John T. Richardson
(Seal) Recorder in & for said County

Filed 11½ o'clock A.M. 6 December 1850.

J. T. Richardson Recorder

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State of California }
Santa Clara County } ss

I do hereby certify that the foregoing is a true and correct copy of a Power of Attorney from Mariano Castro, to Peter Davidson as it appears of Record in Deed Book B page 163 of the Archives of my office.

In testimony whereof I have hereto set my hand & affixed my private seal, there being as yet no Official Seal this the 26th day of December A.D. 1851.

John T. Richardson
Recorder in and for said County.

Mariano Castro to Martin Murphy

This Indenture made and entered into on this 8th day of January in the year of our Lord, One Thousand Eight hundred and fifty one by & between Mariano Castro & Primitiva his wife of the County of Santa Clara and State of California of the first part, and Martin Murphy Junr. of said County & State of the second part; Witnesseth, that the said part of the first part for and in consideration of the sum of twelve thousand Dollars to them in hand paid by the said party of the second part, the receipt

whereof they do hereby acknowledge, have given, granted, bargained and sold, and by these presents do give, grant bargain and sell unto the said party of the second part, and to his heirs and assigns forever, a certain peice or parcel of land, situate, lying and being in the county and state aforesaid, and bounded as follows, viz: Beginning at a stake marked D at the intersection of the Eastern line of Yniego Rancho with the Bay of San Francisco, thence along Yniego's Eastern line on a line of South 15°. 23'. West (Magnetic South) 128. 50. chains along Yniego's Eastern line to a stake marked O, at his South East corner, thence on the same course 70.70 chains to the middle of the lower road leading from San Francisco to Santa Clara, thence along the middle of said road S 60.22. E 8.33 chains, thence S. 15°. 23' West (Magnetic South) 96 chains to the middle of the upper road leading from San Francisco to Santa Clara, thence along the middle of said road S. 68°. 52'. E 24 00 chains S. 77°. 52' E. 25 chains. S. 82°. 7' E 42 chains and S 79°. 37' E 13.74 chains thence North 15°. 23' E (magnetic North) 290 chains to the Bay at a stake marked N°. 9. thence following the several courses of the shore of the bay N. 80°. 37 W 11.39 chains N. 79° 37 W 48.60 chains N°. 66°. 37' W 48.03. chains and N°. 68°. 7 W 14.93

chains to the place of beginning, containing 32'07/4 acres or 1/39 of a league, as surveyed on the 28th & 29 of October 1850, by Wm. J. Lewis, County Surveyor, variation of the needle 13° 23' which said survey is duly recorded in the County Surveyors office in the City of San José.

Together with all and singular the rights, privileges and appurtenances thereunto belonging or in anywise appertaining. To Have and To Hold the said tract of land and bargained premises unto the said part of the second part, and unto his heirs and assigns forever. And the said Mariano Castro for himself his heirs, Executors, Administrators and assigns doth covenant and agree to, and with, the said Martin Murphy Jun., his heirs, Executors Administrators and assigns, that the before recited tract of land, he and they will warrant and forever defend against the claim or claims of all persons whatever; In witness whereof the said Mariano Castro and Trinidad his wife have hereunto set their hands and seals the day and year first above written.

Mariano his X mark Castro (Seal)

signed sealed and delivered in presence of J. T. Richardson,

Trinidad her X mark Castro (Seal)

37

State of California
Santa Clara County } 3

On this the 8' day of January A.D. 1851, before me personally came Mariano Castro and Trinidad his wife, both personally known to me to be the persons described in and who executed the foregoing conveyance and acknowledged that they executed the same freely and voluntarily and for the uses and purposes therein mentioned, and the said Trinidad being by me examined seperate and apart from her husband and the contents of said conveyance being translated and explained to her declared that she executed the same freely and without undue influence of her husband, and that she did not wish to retract the execution of the same, given under my hand and private seal (there being as yet no official seal) the date last above written.

John E. Richardson
Recorder in & for said County.

Seal

Filed 3 3/4 O'clock P.M., P.M. 8th January 1851.

J. P. Richardson Recorder
J. Flourney Dep.

State of California }
Santa Clara County } ss.

I do hereby certify that the foregoing conveyance from Mariano Castro Ex Ux. to Martin Murphy Junr. recorded in Book of Deeds C pages 211 & 212. is a true and correct copy from the Archives of my office.

In testimony whereof I have hereunto set my hand and affixed my private seal there being as yet no official seal this the 26th. day of December A.D. 1851.

John A. Richardson
Recorder in and for said County

Mariano Castro. By Atty. D. M. Murphy Junr.

This Indenture made this twenty first day of April in the year of our Lord One Thousand Eight hundred & fifty one, Between Don Mariano Castro by his Attorney in fact Peter Davidson of the County of Santa Clara and State of California, of the first part and Martin Murphy Junr. of said County and State of the other part. Witnesseth: that the said party of the first for and in consideration of the sum of Five Thousand

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Dollars lawful money of the United States in hand paid, the receipt whereof is hereby acknowledged hath granted, bargained and sold, and by these presents doth, give, grant, bargain and sell unto the said Martin Murphy Junr. his heirs and assigns, all that certain peice or parcel of land, situate lying and being in the county and State aforesaid, and bounded as follows to wit: Beginning at a redwood stake marked O at the south east corner of El Rancho De Ynegó, thence following Ynegó's Southern line on a true course of N 74°. 37' W 96.48 chains to a stake, thence S 16°. 19' W 32.41 chains to a stake on the north side of the lower San Francisco road; thence on the same course 103.12. chains to a stake fifty yards west of Creightons house, thence on the same course 21.93 chains to a stake in the lower side of the Upper San Francisco road, thence following the northern boundary of said road one chain from and parallel to the lines of Saunders, Galloway and Ackerman Bryant Frost and Lewis, by the following true course and distances S. 65°. 7 E 25.97 chains, S. 62.59 E. 30.54 chains, S. 75. 37 E 47.52 chains S. 65.53 E 4.21 chains to a stake, at the west line of M. Murphy, former purchaser, thence along his western boundary to the place of beginning, containing one thousand six hundred and eighty eight and one

half acres: Together with all and singular the rights privileges and appurtenances thereunto belonging or in anywise appertaining.

To have and to hold the land hereby conveyed with all the rights privileges and appurtenances unto the said Martin Murphy Junr. his heirs and assigns forever. And the said Don Mariano Castro for himself his heirs executors administrators and assigns the aforesaid tract of land and appurtenances, unto the said Martin Murphy Junr. his heirs or assigns against the claim or claims of all and every person or persons whatever (except the Government of the United States) doth and will forever warrant and defend by these presents; In witness whereof the said Don Mariano Castro by his Attorney in fact, Peter Davidson has hereunto set his hand and seal the day and year first above written.

Don Mariano Castro (Seal)
By his Attorney in fact,
Peter Davidson

Signed sealed and delivered in presence of
William B. Smith

State of California
County of Santa Clara } ss

Be it remembered

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that on this 21st day of April in the year of our Lord One thousand Eight hundred and fifty one Mariano Castro by his Attorney in fact Peters Davidson known to me to be the person described in and who executed the above and foregoing Instrument; personally appeared before me a Notary Public in and for said County and acknowledged to me that he executed the same freely voluntarily and for the uses and purposes therein mentioned.

In testimony whereof I have hereunto set my hand affixed my official seal at office this day of April A.D. 1851.

William L. Smith
Notary Public

Seal

Filed 11 O'clock A.M.
21st April 1851

J. P. Richardson
Recorder &c

State of California
Santa Clara County

I do hereby certify that the foregoing conveyance from Mariano Castro by Peters Davidson his Attorney in fact. To Martin Murphy Junr is a true and correct copy from Books of Deeds "B". pages 302, 303 & 304 of the Archives of my Office.

In testimony whereof I have set my hand and affixed my private seal (there being as yet no official seal) this the twenty sixth day of December A.D. 1851.

John T. Richardson
Seal Recorder in and for said County.
Fees $9.40

Filed in Office March 3rd 1852
Geo. Fisher Sec.

Martin Murphy
by
The United States

Part of the Rancho de la Pastoria

Opinion by Commissioner Thompson Campbell

The Petitioner in this case claims four thousand eight hundred and ninty five and three fourths acres as part of the Ranch de las Pastoria, which he alleges was on the 2nd day of February 1842, granted by Governor Alvarado to Don Francisco Estrada.
The Petitioner claims through divers mesne conveyances as follows as follows: First by Deed of conveyance from José Moriano Estrada father and heir of Francisco Estrada deceased, to Don Mariano Castro, bearing date the 27th of March 1845.
Secondly, by two several deeds executed by the Mariano Castro to the Petitioner

the first bearing date the 8' day of January A.D. 1851, and the other bearing date on the 21st day of April 1851.

The foregoing mesne conveyances are all properly proved and authenticated.

By a stipulation on file it is agreed between the Land Agent, and the Counsel for the Claimant, that the claim presented in this case is for a part of the Rancho Refugio or Pastoria del Borregas, and that the evidence documentary and by deposition taken and filed in case in Case No 257 in which the said Rancho is claimed by Mariano Castro be considered as taken and filed in this case.

The question of Title and all other questions arising on the evidence is fully considered and decided in the opinion filed in Case No. 257 to which reference is now made.

The right of the Petitioner in the case under consideration to a confirmation of her claim to the extent of the quantity called for in the two deeds of evidence, already referred to we think is clearly established.

A Decree in conformity with this Opinion and subject to the exception of the place called Las Animas owned by the Indian Yuigo, as explained in opinion filed in said Case No. 257 will be accordingly entered.

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84 ND
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Martin Murphy
vs
The United States

Decree

In this case on hearing the proofs and allegations it is adjudged by the Commission that the claim of the said petitioners is valid, and it is therefore decreed that the same be confirmed. The lands of which confirmation are hereby made are a part of the place known by the name of "Pastoria de las Borregas" which place is bounded and described as follows to wit: bounded by the tract of Don Jose Pena, on the side of "Sansal de las Berregas" by the rancho of Don Pridu Mesa and the Laguna, situated at the "Punta del Roblar" the tracts of which confirmation are hereby made contain in all (4) four thousand eight hundred and ninty five and three fourths acres, and is a part of the said Rancho "Pastoria de las Borregas" referance for further description of the lands hereby confirmed to be had to two deeds executed by one Mariano Castro to the Petitioners in this case and to be found in document marked "D" and filed as evidence in the case. The place belonging to the Indian Yuigo and known as "Las Animas" is excepted from the confirmation, and for further description of the premises of which confirmation are hereby made, and of the place of which they form a part, referance is made to the claim filed in case No. 257, and to the document there refered to.

Alpheus Felch
Thompson Campbell
R. Aug Thompson, Commrs.

Filed in Office Jany 24 1854. Geo. Fisher Sec

Office of the Board of Commissioners,

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

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I, George Fisher, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing forty four pages, numbered from 1 to 44, both inclusive, to contain a true, correct and full Transcript of the Record of the Proceedings and of the Decision of the said Board, of the Documentary Evidence and of the Testimony of the Witnesses, upon which the same is founded, on file in this Office, in Case No. 90 on the Docket of the said Board, wherein Martin Murphy is the Claimant against the United States, for the place known by the name of "La Pastoria".

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

Geo. Fisher
Sec.

84 n

U. S. DISTRI

Northern D

No. 84

THE UNITED STATE

84ND

vs.

Martin Murp

TRANSCRIP

BOARD OF U. S. LA

In Case No. 40

Filed, Sept 13th 185

John A. Morris
Clerk

Appendix to

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 90.

Martin Murphy CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"La Pastoria."

1

257

Deposition of Antonio Suñol

San Francisco Jan. 13. 1853

On this day before Com. Harry J. Thornton came Antonio Suñol, a witness in behalf of the claimant, Mariano Castro, petition No 257, and was duly sworn, his evidence being interpreted by the Secretary

97 N

84 ND
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The U. S. Associate Law Agent was present

Questions by claimant

Question 1st What is your name, age and place of residence, and how long have you resided there?

Answer. My name is Antonio Suñol, my age is fifty-five years and I reside in the Town of San José, where I have lived thirty-three years

Question 2d Are you acquainted with the handwriting of Juan B. Alvarado, Manuel Jimeno, José Mariano Estrada, Manuel Micheltorena? If you, examine the documents now here filed as Exhibit No 1. to this deposition, and say whether the signatures of the above named persons wherever they occur in and upon said document are their genuine signatures

Answer. I am acquainted with the handwriting of all the persons named in the above interrogatory, having seen them write. I have examined the document described and say that their signatures wherever they occur, in and upon said document, are their genuine signatures

Question 3d Examine the document now here shown to you and filed herewith marked Exhibit 2 and say if the signature of José Mariano Estrada where it appears on the said document is his genuine

signature

Answer. It is the genuine signature of said Estrada where it is written on the said document as shown to me, and marked as above mentioned.

Question 4th Were you acquainted with Francisco Estrada and his family, and if so, state when he died and who are his relatives

Answer. I was acquainted with Francisco Estrada and his family. I do not know when he died; I knew his father and mother and brothers and sisters all of whom survived the said Francisco Estrada

Question 5th Did Francisco Estrada leave any wife or children?

Answer. He left no widow or children at his death.

Question 6th What was the name of the father of Francisco Estrada

Answer. His name was José Maria Estrada.

Question 7th Was he the same person whose signature you have proved.

Answer. He was

Question 8th Are you acquainted with the Rancho called Pastoria de las Borregas, and if yes, state to whom it was granted, and what you know in regard to its possession, occupation and cultivation

Answer. I am acquainted with the said Rancho; it was granted to Francisco Estrada, and that he occupied it. In 1842 in pursuance of an order from the Governor, I measured the land of

which the said grantee was in possession; in doing which I acted in the capacity of sub-prefect, I made a written report of my proceedings in the matter of the measurement of this Rancho, and recorded them in my book of proceedings had by me as sub-prefect and transmitted this report to the Governor

Question. Where is the entry or record of the proceedings which you say you made?

Answer. I delivered the book containing them to the justice of the peace of the Town of San José by the order of Gov. Micheltorena.

Question. Were you not ever present at any survey made of this land, since your measurement as above stated of it, as a public officer, and if yea, what was your object in being at such survey and what did you do on that occasion?

Answer. I did not ever see any actual survey of the land after my measurement of it as sub-prefect, but I accompanied a surveyor to the same land and pointed out to him the limits which I had first established.

Question Look at the map or sketch now shown to you and to be attached hereto as Exhibit No 3, and say whether or not it is a correct delineation of that measurement before made by you and of which you have spoken above; and state what lines and objects mentioned in the said map were noted and made by you, in your measurement

Answer. So far as I

ran the land the map or sketch now shown me as above, it appears to be correct. I ran the line from the present marked X on said map to the point marked y, leaving the house about fifty varas on the right of the line and between the line and the creek. I ran the line in the way I did, because of the meandes of the creek. I then went to the house and ran a line from the said house of Pablo to the laguna marked on the map point A—, then I began a line at the point marked H on said map, where this is an arm of the Estuary then surrounding with rushes, (Tulares) and ran it to the same point above mentioned marked A at the laguna, thence I run a line to point B on said map, at the edge of the chamisal or thicket, from said point B, I run the line to the arroyo de San Jose de Cupertino to the point marked on the map C. I did not proceed any further in my measurement

Question Do you know whereabouts on the land, the house of the Indian Inigo was situated in the year 1844, and if yes, state if it is properly placed or located on the map exhibited above

Answer I believe it put on the map, where it was in 1844

Question Do you or not know the distance and direction, from that house of Inigo to the spring called Las Animas, and also how far the said spring is from the house of Mr. Whitman

Answer. I do, the direction is north east, and the distance about a half of a league more or less, and the said spring

Question What improvements

is distant from Mr. Whitman's about three or four hundred varas

Question. What improvements, if any, were on the land in 1842?

Answer. The grantee had at that time on the land a small house and he and his father-in-law cultivated some land upon it. The grantee Francisco had his cattle on the land.

Question. Had or not the grantee and persons claiming under him had possession of this land ever since the grant?

Answer. The grantee and those claiming under him have been in possession ever since that time

U. S. Land Agent present

Antonio Suñol

Sworn to and subscribed before me this 13th day of Jany 1853

Harry J. Thornton
Comr &c.

Filed in Office Jany 13. 1853.
(Signed)
Geo Fisher Jecy

257
Deposition of José Fernandez

San Francisco Jan. 15th 1853

On this day before Comr. Roland Hall came José Fernandez a witness in behalf of the claimant Mariano Castro petition No 257, and was duly sworn his evidence being interpreted by the Secretary

The U. S. Associate Law Agent was present

Testimony by Claimant

Int. 1st What is your name, age and place of residence? If you say that you reside in California, state how long you have resided here

Ans. My name is José Fernandez, I am fifty-three years of age, I reside in the county of Santa Clara, California and have lived in California thirty-five years.

Int 2d Are you acquainted with the Ranchos called Pastoria de las Borregas? If yea, state where it is situated and to whom it was granted

Ans. I am acquainted with it. It is situated in the County of Santa Clara about three or four miles northwest from the Inspire of Santa Clara. It was granted to Francisco Estrada

Int 3d Do you know anything of any measurement of this land? If yea, state what you know.

Ans. Yes, I know that a measurement was made of it, I think about the year 1842 or 1843. Don Antonio Suñal who was at the time sub-prefect of San José received an order from the Governor to measure it. I was then Secretary of the Prefecture. I went upon the ground with Suñal, assisted in the measurement and kept an account or memorandum of the lines. As Secretary I drew up the paper myself which contained a statement of the mea-

sured in the archives of the Prefecture.

which contained a statement of the measurement and made a copy of it to be retained in the archives of the Prefecture.

Int 4. What became of this copy and the original?

Ans. The original was sent to the Governor. The copy was deposited in the archives?

Int. 5. Do you know whether that copy is still in the archives?

Ans. I do not. I was alcalde in 1849 and it was then in the archives

Int 6. Was any one living on the land at the time it was measured? if yes, who?

Ans. Francisco Estrada, had a house on the land and was living there himself.

Int 7. How long did he continue to live there?

Ans. Until his death, which occurred about the year 1845.

Int 8. Did any one live there after his death? If yes, who?

Ans. Mariano Castro, and his family occupied the land after the death of Estrada and have lived upon it ever since

Int 9. Can you state what lines were run at the time of the measurement you have spoken of? If yes, state them.

Ans. We commenced on the north side at the Estuary and run a line in front of the house of Secundino Robles to the edge of the chemisal = leaving the house less than twenty varas on the right hand = We then went partly

on this line to a point about five hundred varas from the said house towards the place begun at. From that point we run a line towards Santa Clara to a point called Lagunitas. This line passed about forty varas from the house of the Indian named Luiz – After this we went to the estuary overgrown with rushes and run a line from there to the chemisal grande, passing by the before mentioned lagunitas. From thence we run the line to the Sanjon de Cuapuchino

In answer to further questions by counsel for the claimants the witness testified as follows – when the land was surveyed in 1842. or 1843 the house of Luizo was in a southerly direction from the Spring of Las Animas about two miles distant

José Fernandez

Sworn and subscribed before me

Roland Hall
Comr.

Filed in Office Jany 15th 1853

(Signed) Geo Fisher Jerey

257
Deposition of Antonio Sunal

San Francisco Jan 15th 1853

On this day before Comr Harry J. Thornton came Antonio Sunol a witness in behalf of the claimant Mariano Castro, petition No 257, and was duly sworn, his evidence being interpreted by the Secretary

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Evidence being interpreted by the Sentry

Interrogatories of claimant

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

Ans. My name is Antonio Suñol, I am fifty-five years of age and reside in San Jose California where I have lived thirty-five years.

Int. 2. Did you ever search the old records of the jurisdiction of San Jose for the record of the measurement of the Rancho called Pastoria de las Borregas readily as sub prefect? If yes, state when and whether or not you found it?

Ans. About six months ago, I searched the records referred to for this measurement. I found the book which formerly contained it, being the same book in which it was put by me when sub prefect, and which was delivered by me to the alcalde, but this measurement was not in it. Some twelve or fourteen of the leaves had been cut out and amongst them the leaves which had contained this measurement

Int 3. Did you know by whom they had been cut out?

Ans. No.

Int 4. What care has been taken of these records since 1844?

Ans. Until 1846, they were well taken care of, after that time they came into the hands of American Alcaldes and were kept carelessly, People were permitted to have access to them and to take them away. I have myself seen persons examining them and taking them away

Int 5. Do you know whether many of them were missing?

10

84 ND
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Ans. I think a great many are gone. I have on other occasions searched for papers which had been there without finding them

Antonio Suñol

U. S. Law Agent present

Sworn to and subscribed before me this 15th day of January. 1853

Harry J. Thornton
Comr

Filed in Office Jany 15th 1853

(Signed)

Geo Fisher Grey

257

Deposition of Anto. Ma Pico

San Francisco Jany 17. 1853

On this day before Comr Hiland Hall came Anto. Ma. Pico, a witness in behalf of the claimant Mariano Castro petition No 257 and was duly sworn, his evidence being interpreted by the Secretary

The U. S. Associate Law Agent was present

Questions by claimant

Int. 1. What is your name, age and place of residence? If you state that you reside in California for how long a time?

Ans. My name is Antonio Maria Pico. I am forty four years of age and reside in San Jose California. I was born in California and have lived in California all my life, and

Int 2. Have you or not

since 1832 in San José.

Int 2. Have you or not held any public office in California? If yes, state what offices and when?

Ans. From the year 1835 to 1849 I held some office in the jurisdiction of San José, that of Prefect, Alcalde or Juez or Justice of the peace

Int 3. Were any of the archives or records of the jurisdiction of San José ever in your charge?

Ans. Yes, whenever I held any of these offices, the records and papers belonging to the office were in my charge.

Int 4. Amongst the records in your charge at any time, did you ever see any record of the measurement of the Rancho called Pastoria de las Borregas?

Ans. Yes. About the year 1844 when I was alcalde I received the records of Don Antonio Suñal sub-prefect and amongst them was a book containing amongst other things the measurement of this Rancho made by Mr. Suñal.

Int. 5. Did you ever read this measurement? If yes, can you state what it was?

Ans. I saw and read the order of the Governor to Mr. Suñal to make the measurement and I read enough of the act to know that it was a measurement of the land. I cannot state what the measurements were, I only know that it was a measurement of the Pastoria de las Borregas.

Int 6. How long was this Book in your charge?

Ans. About two years

Int. 7th What did you do with it?

Ans. I delivered it with the other records of the office to Dolores Pachecco who succeeded me as alcalde

Int 8. Was this measurement contained in the Book when you delivered it to Pachecco?

Ans. Yes.

Int 9. Do you know where this Book is and whether it now contains this measurement?

Ans. The Book, I suppose, is in the Juzgado, or amongst the records at San José though I don't know. I have never searched for this measurement I have searched for other papers which ought to be there and many of them are missing, and portions cut out of the books.

Int 10. Are you acquainted with the signatures of Jgno. Segura, Vicanor de Castillo and Antonio Mendez? If yes, look at the paper now shown you marked Exhibit No 2. attached to the deposition of Antonio Sunol on file in this case, and say whether or not the signatures of those persons are genuine?

Ans. I am acquainted with the signatures of the said several persons, on said paper and believe them to be genuine

Antonio Mª Pico

Sworn & subscribed before me Heland Hall, Comr.

Filed in Office Jany 17. 1853
(Signed) Geo Fisher Jecy

15

Geo Bishop Gray

Mayor's Office, City of San Jose
State of California & County of Santa Clara

Certificate of the Mayor of San Jose

I certify that the Archives of the Pueblo de San Jose are at this time in my possession and that I have made search in said Archives for the measurement of the Ranch called "Potrero de las Borregas" - The books of the Prefecture of said Pueblo for 1841 and 1842. I have also examined and can find neither anything relating to said Rancho.

Witness my hand and the seal of said City this 28th day of January A.D. 1853

Seal

Tho: White
Mayor of San Jose

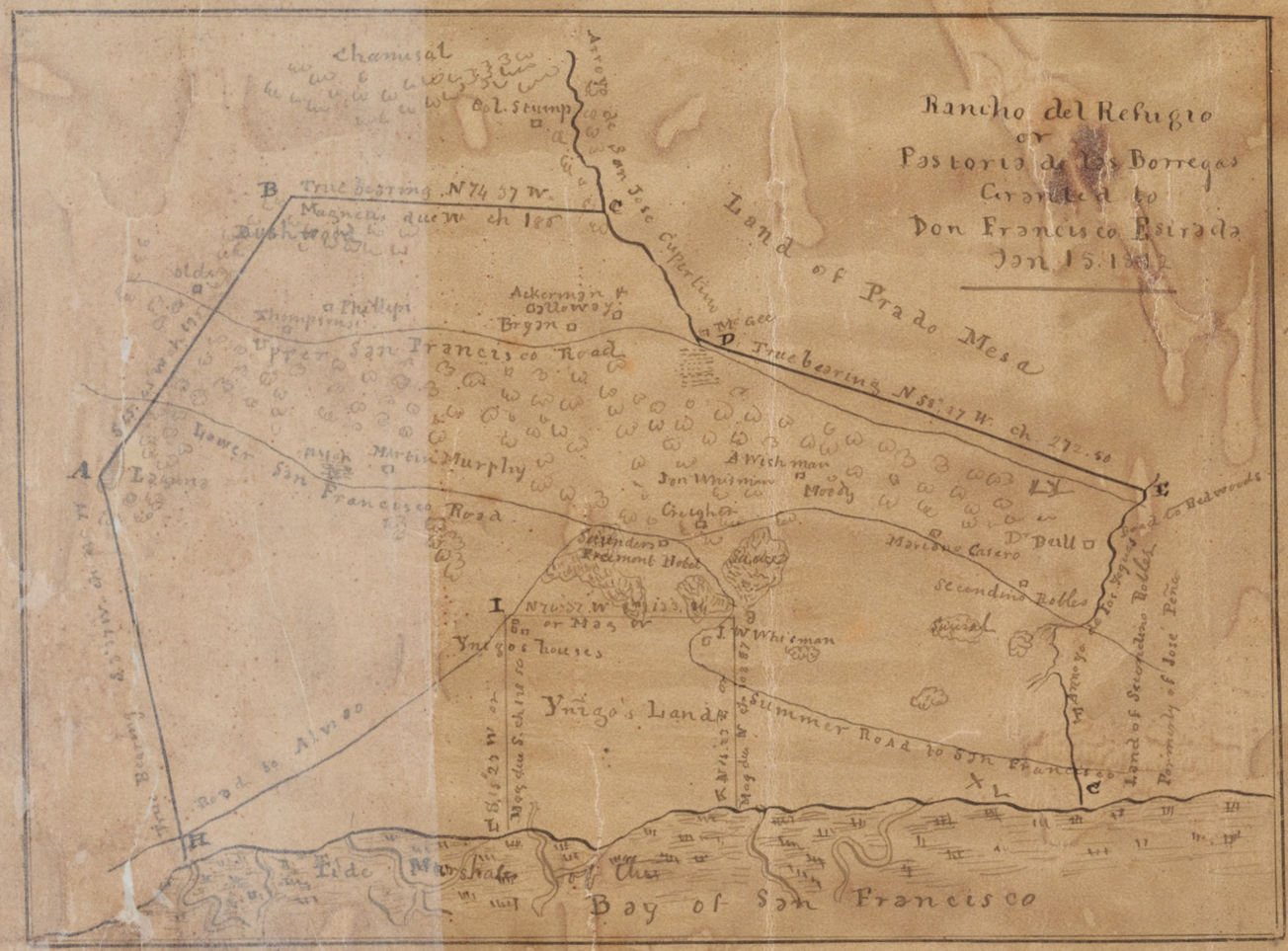
Filed in office Sept. 1st 1853

(Signed) Geo Bishop Gray

257

Mariano Castro
Rancho del Refugio
Pastoria de las Borregas

Doc: No. 3 and bottom
depos: of Ant. Linot
taken before Court
Harry I. Thornton
Filed in Office
Dec 19th 1855
Ign Pedrorena
Clk



TRACT - Rancho de Refugio (02) "Pastoria de las Borregas"

Survey

1842

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84 N.D.

p. 61

"La Pastoria"

Martin Murphy, Clmt

SANTA CLARA Co.

176-R.

Sello 1º seis pesos:
Habilitado provisionalmte por la Aduana maritima de Monterey para los años de 1839 y 1840.
Alvarado # Antonio Mª Osio.

Doc: H. L. Y. No. 1. annex to Dcpo: of Antonio Ainol taken before Comr H. L. Thornton.

Sello 3º Valga para el año de 1842
Alvarado Antonio Mª Osio.

Juan B. Alvarado Gobernador Constitucional del Departmto de las Californias.

Por cuanto Dn Francisco Estrada ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de Pastoria de las Borregas, colindante con el terreno de Dn José Peña por la parte del Sur al de las Borregas, con el Rancho de Dn Prado Mesa y con La Laguna situada en la punta del Roblar: practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y Reglamentos usando de las facultades que me son conferidas à nombre de la Nacion Mexicana he venido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras sugetandose à la aprovacion de la Excma junta Departamental y baxo las condiciones sigtes

1ª Hecho deslindo sin perjudicar las haberias caminos y servidumbres; lo disfrutara libre y exclusivamte destinandolo al uso ò cultivo que mas le acomode pero dentro de un año fabricar

casa y Estara habitada.
2ª Solicitara del juez Respectivo que le de posesion juridica en Virtud de Este despacho por el cual se demarcaran los linderos en cuyos limites pondrà à mas de las mojoneras algunos arboles frutales ò silvestres de Alguna utilidad.
3ª El terreno de que se hace donacion es de dos sitios de ganado mayor poco mas ò menos segun esplica el diseño que corre agregado en el Espedte. El juez que diere la posesion lo hara medir conforme à Ordenanza quedando el sobrante que resulte à la Nacion para los usos convinientes.
4ª Si contraviniere à estas condiciones perderà su derecho al terreno y serà denunciable por otro.

En Consecuencia mando que teniendose por firme y Valedero este titulo se tome Razon de el en el libro Respectivo y se Entregue al interesado para su resguardo y demas fines.
Dado en Monterey à quince de Enero de mil Ochocientos cuarenta y dos.

Juan B. Alvarado
Manuel Jimeno
Rio.

Queda tomada Razon de Este Titulo en el libro de Asientos sobre adjudicacion de terrenos Baldios @ S/a C.
Jimeno

El Exmo Sr Gobernador ha dispuesto se tome Razon de Esta concesion en la prefectura del 1er Distrito.
Jimeno.

Tomese Razon

17

Monterey Enero 16 de 1842
Tomese Razon
Estrada

De torno Razon de este supo titulo à fo 4. del Cuaderno Respectivo.
Prefectura del 1er Distrito Monterey Enero 16 de 1842.

Por acuerdo del Gobierno Departamental de California, se acordo el dia de hoy que al Indigena de Sta Clara llamado Yñiga se le estendiese la concesion del terreno que ocupa siendo los linderos desde su Casa hasta el primer ojo de Agua inclusive llamado las animas y desde el Sausal hasta los Esteros y para la devida constancia se anota en este titulo.
Monterey 14. de Febrero de 1844.
Manl Michelta

Como heredero del finado Francisco Estrada dijo: que cedo voluntariamte à favor del Ciudadano Mariano Castro los dos sitios que se espresan en este titulo
Buena Vista 14. de Marzo de 1845.
Josè Mª Estrada

Filed in Office Jany 19th 1853.
Geo: Fisher Secy

18

cientos cuarenta y seis compareciron ante

14

No 257.

Doc No 2

H. L. L. annex

to the Depo: of

Antonio Suñol

taken before

Comr Thornton

84 ND
PAGE 55

En Veinte y siete de Enero de mil Ocho cientos cuarenta y seis comparecieron ante mi y los testigos de Asistn con quienes actuo por falta de Escribano publico, los Señores Dn José Mariano Estrada y D. Mariano Castro y dijo el primero q. teniendo sedido al segundo el derecho que tiene en el terreno concedido á su hijo D. Ygnacio Estrada ya difunto por el titulo que antecede pedia se le autorisase judicialmte dicha sesion, como yo Ygnacio Esquer Regidor decano y encargado del segundo juzgado lo verifico, interponiendo mi Autoridad judicial para que se tenga por firme y valedero la Referida Sesion lo firmaron conmigo y los de Asistencia.

José Marno Estrada

Asnstn — Ygnn Esquer

Vicente — asistn

Del Castillo — Antonio Mendez

I the undersigned do hereby certify that an Exact copy of the foregoing Title & accompanying document is recorded in the Government Archives in the Secretary's of States Office

Monterey 14th October 1849

W. E. P. Hartnell
Govt. Translator

Filed in Office Jany 13th 1853

Geo: Fisher Secy

Office of the Board of Commissioners to ascertain and settle private land claims in the State of California.

I George Fisher Secretary to the Board of Commissioners to ascertain & settle private land claims in the State of California, do hereby certify the foregoing nineteen pages numbered from one to nineteen, both inclusive, to contain true, correct and full copies of certain papers filed in Case No. 257, wherein Mariano Castro is the Claimant vs. The United States for the place named "Ranchs del Refugio & Pastoria de las Borregas", and which are made a part of the evidence in Case No. 90 wherein Martin Murphy is the Claimant vs. The United States for the same land, by stipulation entered into between the U.S. Law Agent and the Counsel for the Claimant, Martin Murphy, which stipulation is extant on page 9 of the Transcript in the said Case No. 90, filed in the United States District Court for the Northern District of California on the 13th September, A.D., 1854, to which Transcript these copies are hereby made an appendix, by order of this Board.

9

In testimony whereof I have hereunto signed my name, officially, and affixed my private seal (not having a seal of office) at San Francisco, California, this fourth day of September, A.D., 1855, and of the

Independence of the United States of America the eighteenth.

Geo: Fisher

Secy.

No 84

N. D. Dist. Court.

The United States,

— vs —

Martin Murphey,

Depositions of Witnesses taken in N. D. Land Com.

Filed September 4. 1855,

by Sherrod,

Deputy

Office of the Attorney General of the United States,

Washington, 30th November 1854.

Martin Murphy
vs.
The United States. } 90.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 30th day of August 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.

No. 84

U. S. District Court.

Northern District

The United States

vs.

Martin Murphy

Appeal Notice.

La Paloma

Sept 13.

Filed January 8. 1850.

Wm. A. Monroe,

Clerk

84 ND

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

Martin Murphy
ads No: 84
The United States

This Respondent for answer to the Petition filed in this case, answers and says; It is true, that the Land in the said petition mentioned, lies within the Northern District of California and within the jurisdiction of this Court:

But he denies that it is true, as alleged in said petition, that his title to the said Land is invalid, but avers that the same is valid and prays that the decision of the said Board of Commissioners confirming his claim, may be affirmed and that his title thereto may be deemed to be valid.

Martin Murphy
by his counsel
Thornton, Williams & Thornton

No: 84

U. S. District Court
Northern District —

Martin Murphy
ads
The United States

Answer

Filed June 30, 1855,
by Owens
Deputy.

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PAGE 72

Th: Toms: & Th:

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

The United States.
Appellants.
vs
Martin Murphy
Appellee

No: 84

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 13th day of September 1854: that a notice of Appeal was filed on the 8th day of January 1855 and that the land claimed lies in the said District. That the said claim is invalid.
Wherefore Appellants pray that the said decision of the Board be reversed & that this Court decree the said title to be invalid. Respectfully &c,

A. Wassell
Asst. U.S. Atty.

No: 84
District Court
U.S. Northern Dist —

The United States
vs
Martin Murphy

Petition

Filed June 30, 1850,
by Chevers
Deputy.

ND
PAGE 74
A Glapell

84 ND
PAGE 75

At a Stated 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 Saturday the first day of September in the year of our Lord one thousand eight hundred and fifty-five,

Present:

The Honorable OGDEN HOFFMAN, Jr., District Judge.

Martin Murphy, ads. The United States.	No 84 — on the Docket of U. S. Dist. Ct, & No 90 in Land Commission.

It appearing by the stipulation on the record from the U. S. Land Com. on file in this case, that the evidence taken in Case No 257 on the Docket of said Board of Commissioners, and No 97 on this docket, (The U. S. vs. Mariano Castro) is to be used in the above entitled cause, and the transcript thereof not containing the said evidence, it is ordered that the said transcript in said case No 90, (No 84) be delivered to George Fisher, Esq. Secty of the Board of Land Commissioners for the purpose of inserting therein the said depositions pursuant to said Stipulation.

No. 84

United States District Court, Northern District of California.

The United States,

—vs.—

Martin Murphy,

Order to deliver transcript to Secty. of Land Com to insert evidence as per stipulations in said transcript.

Filed September 1st 1855

John A. Monroe, Clerk.

By W. H. Chevers Deputy.

84 ND

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California Land Claims.

Attorney General's Office

17 October 1856.

Sir;

In the case of the claim of Martin Murphey, confirmed to the claimant by the Commissioners, case no. ninety (90), appeal will not be prosecuted by the United States.

I am,

Respectfully,

Cushing

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

In the District Court
of the United States

Northern District of California

The United States
vs
Martin Murphy

Case No. 84.
Transcript No. 90.

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

Wm Blanding
U.S. Dist Atty

Nov 15. 1856.

Thornton Williams & Thornton
Attys for Claimant

U. S. 84

District Court.

United States

v. } Case No. 84.

Martin Murphy

Stipulation

Filed Nov. 18, 1856,
W. H. Chevers
Deputy.

84 ND
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At a Stated Term of the District Court of the UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the City of SAN FRANCISCO, on Tuesday the 18th 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. Martin Murphy	Case No. 84. Transcript No. 90

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 favor.

On motion of the District Attorney, it is ordered, adjudged and decreed, That the Claimants have leave to proceed on the decree of this Court heretofore rendered in this favor as on Final Decree.

Ogden Hoffman
U. S. Dist Judge

No. 84.

United States District Court, Northern District of California.

United States

vs.

Martin Murphy

Case No. 84.

Transcript No. 90.

Order vacating appeal.

Filed Nov. 18th 1856,

J. A. Monroe,

Clerk.

By W. H. Chevers

Deputy.

84 ND

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U. S. Dist. Ct

The U. S. vs Martin Murphy } No. 84 " Pastoria de las Borregas

I Warwick Billing, on oath state that a final survey of the tract of land confirmed to claimant in above case has been made by U. S. Surv. Genl — and that the same is erroneous according to my knowledge of the locality, information and belief.

I further state that I am one of the attys in claim of Robert Walkinshaw et al — vs Posolmie y Positas de las Animas — that the land confirmed to Martin Murphy in Pastoria de las Borregas was by the decree not to interfere with the land confirmed to said Walkinshaw et al: but that the survey made by U. S. Surv. Genl. for said Murphy has been or made as to take in a very large portion of the land confirmed to Walkinshaw et al.

Sworn to and subscribed Dec. 6. 1859. before me, W. H. Chevers, N. P. Com.

Warwick Billing

84

U. S. District Court

The United States

v

Martin Murphy

Affdt F. Billings
filed by U. S. on
order to return survey.

Filed Dec: 6. 1859.
W. A. Cheever,
Clerk

84 ND
PAGE 84

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

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States
vs.
Martin Murphy

No. 84: L.C. 90.
"La Pastoria"

Upon affidavit of F. Billings Esq, filed by Tully R. Moe, Acting U.S. attorney, under the rule heretofore adopted by the Judge of the District Court of the United States for the Northern District of California, it is ordered that the U.S. Surveyor General for Cala, return to this office a certified copy plat of the official survey made by him of the land claimed in this case under final decree.

San Francisco, Dec 6. 1859.

W. H. Chevers,
Clerk

84.

District Court of the United States

IN AND FOR THE

Northern District of California.

The United States

vs.

Martin Murphy

Order to return survey.

Filed Dec. 6th 1859.

W. A. Rhoades Clerk.

By

Deputy.

84 ND

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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.

District Court of the United States
Northern Dist. of California

The United States }
v. } No. 84
Martin Murphy }

– Part of Rancho "Pastoria de las Borregas" –

And now come the United States, by their Acting District Attorney, Tully R. Wise and except to the Survey of the land claimed in this case, known as Part of "Rancho de Pastoria de las Borregas" – a plat of which Survey was filed in the Clerks Office of said Court on the 18th day of January 1860.

And for objection to the confirmation and approval of the said Survey the United States, by their said Attorney, allege as follows:

That, by the very terms of the Decree of Confirmation in this case, the place belonging to the Indian Inigo, confirmed to Robert Walkinshaw and others – being No. 410 in this Court – is to be first regarded, and the survey of the land in this case is expressly confirmed so as not to interfere with the boundaries of that Rancho, originally granted as afore-

said to the Indian, Inigo, and confirmed to Robert Walkinshaw and others.—

That the land of the Inigo grant is bounded by a line running from the Estero or Bay of San Francisco, passing by well defined clumps or groves of willows, crossing the old main road (Camino real) from San Francisco to San José, and keeping on in a straight line until it strikes the old dry road, (Camino desecho), thence following said old dry road (in the direction towards San José) across a small Creek (Arroyito) to the intersection of an old Road connecting the old dry road with the old main road, thence down this road to the old main road, thence, in an Easterly direction, to a well defined willow grove, thence to a lone tree, and thence to the Estero, — which boundaries are laid down, and clearly designated in the deseño or map which accompanied the petition of the said Inigo for the Grant, and is referred to in the Grant, and in the Decree of Confirmation — a traced copy of which is on file in the said Inigo case, to which reference is made. —

That the survey, now objected to, of the land, in this case confirmed to said Murphy has been made in violation of the said decree of confirmation; because it was made before any survey was made of the Inigo rancho, and does not regard the real boundaries of the Inigo rancho, but absorbs more than two thirds of the land belonging to the Inigo tract -

Further the United States allege that the tract of land confirmed to said Murphy is a portion of the land granted by the Mexican Government to one Estrada - the original Grant having been presented in the case of Mariano Castro, (in this Court No 97.) who derived title from Estrada - the said Murphy deriving title from said Castro, and having presented his separate petition to the Land Commissioners

That the said Grant is only for two leagues, as has been decided in the said Mariano Castro's case by this Court - That Murphy's tract is only a portion of said two leagues - and that these

two leagues are within exterior boundaries containing a much larger quantity -

That the present wrong, now objected to, was made on the assumption that the Grant to Estrada was for the whole quantity within the boundaries, and not for two leagues.

And the United States alleges that this Survey contains more land than the said Murphy is entitled to under the said Grant, and his title derived therefrom and more than under his decree of confirmation - and further that the survey embraces land which is not included in the said Grant and cannot therefore be embraced within the decree of confirmation to said Murphy.

Further the United States allege that, according to the decision of this Court, the Grant to Estrada is only for two leagues within the exterior boundaries therein named, and that the said two leagues are to be measured off after the lands granted to the Indian Inigo have been first measured off - and then the said two leagues

are confirmed to Castro, excepting the lands conveyed by Castro to Murphy, which are separately confirmed to him.

And they say that this Survey was made in utter disregard of this decision and decree of this Court. — It has been made without reference to the quantity of two leagues, and without regard to the lines of the Inigo tract. It embraces too much land, and land not included within the Grant to Estrada, or the decree of confirmation — And it is otherwise erroneous.

Wherefore the United States pray that the said Survey be rejected, and that the Surveyor General be directed by order of this Court to make a new survey in accordance with the Grant and decree of confirmation, and return a plat of the same when made to this Court for approval

Sully R. Rose
Acting U.S. Atty.

San Francisco
Sept. 19th 1860.

No. 84

U.S. Dist. Court.

The United States

vs.

Martin Murphy.

Exceptions to Survey.

Recd copy within this 20th Jany 1860.
Thornton, Williams & Thornton

Filed January 20, 1860.
W. A. Cheever
Clerk

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Tully R. Wise
Actg Dist Atty.

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United States of America,)
Northern District of California.) SS.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,
To the Marshal of the United States for the Northern District of California,

GREETING:—

WHEREAS, objection has been made to the official survey and location of the land finally confirmed, in case No. 84, to Martin Murphy known as "La Pastoria", and situated in the County of Santa Clara in said District.

NOW THEREFORE YOU ARE HEREBY COMMANDED, in the name of the President of the United States of America, to give due notice to all parties having, or claiming to have, an interest in such survey and location, that they be and appear before the District Court of the United States for said District, sitting in Land Cases, on or before Wednesday, the 26th day of September A. D. 1860, at 11 o'clock, A. M. (if that day shall be a day of jurisdiction, and if not, on or before the next Wednesday thereafter,) then and there to intervene for the protection of such interest, or their defaults will be taken. And what you shall have done under this writ do you then and there make return thereon.

WITNESS, the Hon. OGDEN HOFFMAN, Judge of said Court, at San Francisco, in said District, this 22 day of August A. D., 1860.

W. H. Chevers.

CLERK.

The within Monition was received by me on Wednesday the 22nd day of August 1860, and in obedience thereto I have given due notice, as therein commanded, by causing the publication of said notice, for Four consecutive Wednesdays, in the San Francisco Herald, commencing on the 29th day of August 1860; and for Four consecutive Saturdays, in the San Jose Tribune a paper published nearest the land, commencing on the 25 day of August 1860.

Dated San Francisco, Aug. 22nd 1860

P. L. Solomon U. S. Marshal.

No. 84

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

THE UNITED STATES.

V.

Martin Murphy,

MONITION.

Returnable Sept. 26. 1860.

Issued August 22. 1860.

Filed Sept. 26. 1860.

W. A. Chaves
Clerk.

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PAGE 93

United States District Court.
Northern District of California.

The United States
vs
Martin Murphy

Land Commission No.

In this Court No. 84.

Part of Rancho "Pastoria de las Borregas"

Robert Walkinshaw et al (the said Robert Walkinshaw being now dead and represented by his executor John Young) allege that they are the claimants and owners of the Rancho called Posolmi y Posita de las Animas No 410 in this Court — and they claim to have an interest in the proceedings in the above entitled case, and are desirous of intervening for the protection of such interest.

They allege that by the very terms of the Decree of confirmation in the above case, the place belonging to the Indian Inigo, being the said rancho called Posolmi y Posita de las

Animas confirmed to them the said Robert Walkinshaw and others is to be first regarded, and the survey of the land in the above case is expressly confirmed so as not to interfere with the boundaries of the rancho Posolmiy Posito de las Animas confirmed as aforesaid to them the said Robert Walkinshaw and others.

That the survey in the above case of Martin Murphy has been made in violation of the said decree of confirmation because it was made before any survey was made of the said rancho of Posolmiy Posito de las Animas and does not regard the boundaries of said rancho but absorbs more than two thirds of the land belonging to the said rancho and confirmed to them, the said Walkinshaw & others.

That the said ranches confirmed respectively to said Murphy and Walkinshaw and others are adjoining - that on the original grant under which the said Murphy claims ~~that is an~~ there is an express reservation of the land for the Indian

Inigo under whom the said Walkinshaw and others claim - and confirmed to them, which reservation, affirmed in the decree in favor of said Walkinshaw and others, the survey in the above case disregards and violates.

That the survey of said Posolmi y Posita de las Animas has since been made and is on file in this court to which exceptions have been made by the claimants, the said Robert Walkinshaw and others.

The said Walkinshaw and others as the owners of the adjoining rancho of Posolmi y Posita de las Animas and entitled to have their land first surveyed - and to be protected from any encroachment or interference on the part of the land claimed by said Murphy as a part of the rancho Pastoria de las Borregas, pray to be allowed to intervene in the above entitled case to protect their interest.

By their attorneys
Hall McAllister & Billings
Edw F Mally

I. Frederick Billings on oath state that I am one of the attorneys of record in the case of The United States vs Robert Watkinshaw and others No 410, in this court - and have been so since its inception before the Land Commission - and the facts and allegations set forth in the foregoing petition are peculiarly within my knowledge and the same are true, to the best of my information and belief.

Frederick Billings

Sworn to and subscribed this 27th September 1860. before me,

W. A. Cheves
U. S. Com.

U. S. Dist Ct. 84.
Northern Dist of Cal

The United States
vs
Martin Murphy

Land Case - No. 84

Petition of Intervention
Robt. Walkinshaw et al

Filed Sept. 27, 1860.
W. H. Chevers,
Clerk.

84 ND
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Halleck Peachy & Billings
& E. Stanly.

United States District Court.
Northern District of California —

The United States
— vs —
Martin Murphy

Part of "Pastoria de las Borregas"

Land Commission No.

In this Court No. 84

And now come Robert Watkins hand and others (the said Watkins hand being dead and represented by his executor John Young) claimants owners and confirmees of the rancho called Posolmiy Posita de las Animas, (case No 410 in this court) intervenors in this case and except to the survey of the land claimed in this case known as part of "Rancho de Pastoria de las Borregas" a plat of which survey was filed in the clerks office of said Court on the day of 1860.

And for objection to the confirmation & approval of the said survey Robert Watkinshaw and others by their attorneys allege as follows.

That by the very terms of the Decree of confirmation in this case the place belonging to the Indian Inigo, confirmed to Robert Watkinshaw & others, being No 410 in this Court, is to be first regarded and the survey of this land in this case is expressly confirmed so as not to interfere with the boundaries of that rancho originally granted as aforesaid to the Indian Inigo & confirmed to Robert Watkinshaw and others.

That the land of the Inigo grant is bounded by a line running from the estero or bay of San Francisco passing by well defined clumps or groves of willows, crossing the old main road (Camino real) from San Francisco to San Jose, and keeping on in a straight line until it strikes the old dry road (Camino desecho) thence following

said old dry road (in the direction towards San José) across a small creek (arroyito) to the intersection of an old road connecting the old dry road with the old main road, thence down this road to the old main road, thence in an Easterly direction along & near said old main road to a well defined willow grove, thence to a lone tree and thence to the esteros which boundaries are laid down & clearly designated in the diseño or map which accompanied the petition of the said Inigo for the grant, and is referred to in the grant, and in the decree of confirmation - a traced copy of which is on file in the said Inigo case - to which reference is hereby made:—

That the survey now objected to of the land in this case confirmed to said Murphy has been made in violation of the said decree of confirmation, because it was made before any survey was made of the Inigo rancho, and does not regard the real boundaries of the Inigo rancho - but absorbs more than two thirds of the

land belonging to the Inigo tract:—

Further, the said Robert Walkinshaw and others allege that the tract of land confirmed to said Murphy is a portion of the land granted by the Mexican Govt. to one Estrada — the original grant having been presented in the case of Mariano Castro (in this Court No. —) who derived title from Estrada — the said Murphy deriving title from said Castro — and having presented his separate petition to the Land Commissioners:—

That the said grant is only for two leagues as has been decided in the said Mariano Castro case by this Court — That Murphy's tract is only a portion of said two leagues — and that these two leagues are within exterior boundaries containing a much larger quantity.

That the present survey now objected to, was made on the assumption that the grant to Estrada was for the whole quantity within the boundaries and not for two leagues,

And the said Robert Watkinshaw and others allege that this survey contains more land than the said Murphy is entitled to under the said grant, and his title derived therefrom and more than under his decree of confirmation.

And further that the survey embraces land which is not included in the said grant and cannot therefore be embraced within the decree of confirmation to said Murphy.

Further the said Robert Watkinshaw and others allege that according to the decision of this court the grant to Estrada is only for two leagues within the exterior boundaries therein named - and that the said two leagues are to be measured off after the lands granted to the Indian Jugo have been first measured off - and then the said two leagues are confirmed to Castro excepting the lands conveyed by Castro to Murphy which are separately confirmed to him.

And they say that this survey was made in utter disregard of this decision and decree of the Court — It has been made without reference to the quantity of two leagues — and without regard to the lines of the Dnigo tract —

It embraces too much land — and land not included within the grant to Estrada, or the decree of confirmation — And it is otherwise erroneous.

Wherefore the said Robert Walkins hand and others pray that the said survey be rejected and that the Surveyor Genl, be directed by order of this Court to make a new survey in accordance with the grant and decree of Confirmation

By their attorneys

Halleck Peach & Billing

Edw Stanly

Land Cases No. 84

U. S. Dist. Ct

The U. S.

vs.

Martin Murphy.

Pastoria de las Borregas

Expediente to Survey

by

R. Wellmanhaus et al

Petitioners

Filed Sept. 28. 1860.

W. H. Chevers.

Clerk

Halleck Peachy & Billings

& Ed. Stanly.

At a Stated Term of the District Court of the United States of America for the Northern District of California, held at the Court Room in the City of San Francisco, on Tuesday the 16th day of December, in the year of our Lord, One thousand, eight hundred, and Sixty-two.

Present,

Hon: Ogden Hoffman, District Judge,

The United States
vs
Martin Murphy

No 84 –

In the matter of the Survey and location of the Lands finally confirmed to Martin Murphy Jr.

This cause came on this day to be heard and was argued by Counsel, And thereupon, and in consideration thereof, It is ordered, adjudged and decreed that the official survey of the lands confirmed in the above entitled case, be and the same is hereby confirmed and approved. The survey hereby approved is the same, made by R. C. Tracy Deputy Surveyor

in May 1857, containing Four Thousand Eight Hundred and Ninety-four 35/100 (4894 35/100) acres of land, and approved by J W Mandeville United States Surveyor General of the State of California, on the 26th day of March 1858, a copy of which, certified to by the said J. W. Mandeville on the 24th day of December 1859, was filed in the Clerk's Office of this Court on the 18th day of January 1860, and which said copy is hereunto annexed, marked "Approved December 15th 1862. Ogden Hoffman Dist. Judge".

And it is further ordered adjudged and decreed that the exceptions filed in this cause, to the said Official Survey be and the same are hereby overruled —

Ogden Hoffman
Dist Judge

U. S. Dist. Court.

The United States.

vs.

Martin Murphy.

Decree approving Official Survey.

Filed Dec: 16. 1862.

W. H. Chevers.
Clerk

Office of the Board of Commissioners,

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

San Francisco, Sept. 13 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. 90 on the Docket of the said Board, wherein

Martin Murphy

the Claimant against the United States, for the place known by the name of

La Pastoria

and request your receipt for the same.

I am, Respectfully,
Your Obt Servant,

Geo. Fisher
By