CASE NO.

153

NORTHERN DISTRICT

AGUA CALIENTE GRANT

MARIANO G. VALLEJO

CLAIMANT

LAND CASE 153 ND

159 pages.

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 741

Mariano G. Vallejo CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Agua Caliente."

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* Second day of March, *Anno Domini One Thousand Eight Hundred and Fifty-*three, *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 Mariano G. Vallejo, *for the Place named* "Agua Caliente", *was presented, and ordered to be filed and docketed with No.* 741 *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 April 11th 1854.

Case no. 741, Mariano G. Vallejo for the place named "Agua Caliente", was called, and, for want of Counsel for the claimant, ordered to be placed at the foot of the Calender of the 1st Class Cases on the Trial Docket.

San Francisco July 18th 1854.

Case no. 741 was submitted under the rule of March 21st last.

San Francisco Aug. 1st 1854.

In the same Case Commissioner Alpheus Felch delivered the Opinion of the Board rejecting the claim;

(Vide page 5 of this Transcript.)

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San Francisco Aug. 15th 1854.

In the same Case, on Motion of the U. S. Law Agent, the following order was made, to wit;

(vide page 6 of this Transcript)

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Petition

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To the Honorable Commissioners to Settle Private Land Claims in California

The petitioner Mariano G Vallejo respectfully represents,

That On the 13th day of July A.D. 1840 Juan B Alvarado Governor of California, by virtue of authority in him vested, to Lazaro Piña the tract of land called "Agua Caliente" in the present County of Sonoma with the boundaries described in the Grant and the Map in the Expediente filed in the Archives of the Former Government now in charge of the U.S. Surveyor General, which grant was approved by the Departmental Assembly and the possession given in due form

That On the 4th day of December A.D. 18 , the said Lazaro Piña sold and conveyed the said tract of land to the petitioner all of which is fully shown by the Original title papers the Expediente and the deed of transfer, which he begs leave to file as evidence in support of this claim

And the petitioner further represents, that he and those under whom he holds, have been for some fourteen or fifteen years, and that the petitioner now is in the possession and occupation of said tract of land

Wherefore he prays the Commissioners in the final hearing of this petition and the evidence accompanying in its support, to confirm to him the said tract of land

By his Atty

Hallock Peachy & Billings

Filed in Office March 2d 1853

Geo Fisher
Secy

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PAGE 5

No 741
Claim of M G Vallejo
To
"Agua Caliente"

To the U. S Surv Agent

Sir: Please to take notice that we are no longer Attys in this case, our names being hereby withdrawn from the record

San Francisco Feby 14th 1854

Very respectfully
Your Obt Servts

Halleck Peachy & Billings

Received Notice

R Greenhow Apt. Surv Agent

Filed in Office Feb. 14. 1854

Geo. Fisher
Secy

5—

Mariano G Vallejo
vs
The United States } In the place called "Agua Caliente" situated in Sonoma County —

Opinion

This claim is founded on an alleged grant made by Governor Juan B Alvarado to Luzano Piña on the 13th day of July 1840 and a subsequent conveyance of the premises by said Piña to the petitioner No such grant or conveyance is given in evidence and no proof is offered tending to show that either Piña or the petitioner ever had any interest in the premises claimed — There can of course be no confirmation of the claim

Rejected

Filed in Office Aug 1. 1854
Geo. Fisher Secy

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Mariano G Vallejo
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 petitioner is not valid, and it is therefore decreed that his application for a confirmation thereof be denied

Alpheus Felch
R. Aug. Thompson
S. B. Farwell } Commissioners

Filed in Office Aug 1. 1854

Geo Fisher
Secy

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And it appearing to the satisfaction of this Court that the land hereby adjudicated is situated in the Northern District of California, it is hereby Ordered that two transcripts of the proceedings and of the decision in this case and of the papers and evidence upon which the same are founded be made out, and duly certified by the Secretary One of which transcripts shall be filed with the Clerk of the United States District Court for the Northern Judicial District of California and the other be transmitted to the Attorney General of the United States.

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Office of the Board of Commissioners,

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

I, George Fisher — Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing Six — pages, numbered from 1 to 6, 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. 741 on the Docket of the said Board, wherein Mariano G. Vallejo is — the Claimant against the United States, for the place known by the name of "Agua Caliente"

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

Geo. Fisher

In the United States District
Court for Northern Dist of California

M. G. Valleyo
v.
United States } Transcripts No. 153.

To the United States District Attorney

Sir

Please take notice that the claimant in this case appeals from the decision of the United States Land Commission rejecting his claim and will present his petition to the District Court for a review of the same, and for a confirmation of his claim upon further evidence to be adduced

Blanding Calhoun & Ward
for claimant.

July 5th 1855

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In the U. S.
District Court.

M. G. Vallejo.
v. } Transcript
No. 153.

United States

Filed July 6, 1855.
by Chaves
" " Deputy.

Notice of appeal.

" "

Service acknowledged this ~~June~~
July 6, 1855.

A. Wassell
Asst. U. S. Atty.

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One

Mariano G. Vallejo
v. } Transcript No. 153.
The United States

To the Judge of the District Court for the Northern District of California

The Petition of Mariano G. Vallejo respectfully showeth

That your Petitioner on the Second day of March in the year of our Lord One thousand Eight hundred and fifty three filed his claim in the United States Land Commission for California for the Confirmation of his title to a tract of land or Rancho situated in the present County of Sonoma and known as the "Agua Caliente" tract; that his claim was founded upon a Grant of said Tract by Juan B. Alvarado, then Governor of California to Lazaro Peña, on the Thirteenth day of July in the year of our Lord One thousand Eight hundred and forty and by said Lazaro Peña conveyed to your Petitioner by deed dated the Fourth day of December in the year of our Lord One thousand Eight hundred and forty nine:

That on the hearing of the case by the Board of Land Commissioners, the claim was rejected for want of proper proofs and not upon the merits and your Petitioner for a description of the land claimed and the title thereto, specially refers to the Petition filed in the claim presented to the Board:

That the Transcript from the

Land Commission was filed in this Court on the Ninth day of January in the year of our Lord One thousand Eight hundred and fifty five and notice of appeal has been regularly served upon the United States District Attorney.

Your Petitioner therefore prays this Honorable Court for a review of the decision of the Board of Land Commissioners, a reversal of the same and that his Title to the said Tract may be confirmed by the proper decree.

Blanding, Calhoun & Wise
for Claimant

No 153

In The United States District Court

M. G. Vallejo

vs. } Transcripts No 153.

The United States

Petition on Appeal.

Blanding Calhoun & Blair
Attys for Claimant

Filed July 6, 1855.
by Chever
Deputy

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Clerk's Office
July 5, 1855
Transcribed
Copy

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

The United States
ads
M. G. Vallejo

D. C. 153 : L. C. 744.

The United States by their attorney deny the validity of the title set forth in the petition of the appellant and pray that the decision of the United States Land Commission be affirmed and that the said title be decreed invalid

San Francisco Feb 12, 1857

Wm Blanding
U. S. Atty.

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U. S. Dist Court

The United States

ads

M. G. Vallejo

Answer

Filed February 12. 1857.
W. H. Chunet,
Deputy.

three

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Wm Blanding
U. S. Atty.

[Translation]

Pio Pico Provisional Governor of the Department of the California —

The Most Excellent Departmental Assembly at this days session has decided upon the following —

"Approval is given to the grant made by the Superior Government of the Department, under date 13th of July 1840, in favor of the Citizen Lazaro Piña, of the place of the "Agua Caliente, in extent of two and a half leagues long and a quarter of a league wide —

And for security on behalf of the Citizen Lazaro Piña, I thus make it known —

Given at the City of Los Angeles upon this common paper for want of stamped, on the eighth day of October, one thousand eight hundred and forty five —

Pio Pico

José Ma Covarrubias

Secy.

The Undersigned certifies, that having legitimately and formally purchased from the Citizen Lazaro Piña, the tract of land of the "Agua Caliente, to which the preceding approval of the Departmental Assembly of Alta California has reference. I grant and transfer all the rights which I have in the land mentioned to Don Andres Hoeppener, who shall make such use thereof as may be most convenient to him.

And for the necessary purposes and uses, I give this at Sonoma, the 12th of August 1846.

M. G. Vallejo

(Witness)
A. A. Henderson
Assist. Surgeon,
U. S. Ship Portsmouth,

Jacob P. Leese

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PAGE 18

Office of the Surveyor General,

Of the United States, for California.

I, **J. W. MANDEVILLE,** Surveyor General of the United States for the State of California, and as such, having in my office, and in my charge and custody, a portion of the **Archives** of the former **Spanish** and **Mexican** Territory or Department of **Upper California,** as also the papers of the late Board of Commissioners "to ascertain and settle private Land Claims in California;" by virtue of the power vested in me by law, **Do Hereby Certify** that the three preceding, and hereunto annexed pages of tracing paper numbered from one to three inclusive, exhibit a true and accurate copy of a document together with the endorsements thereon, as the same appears on file in case No. 760 - on the Docket of said Board of Commissioners -

In Testimony Whereof, I have hereunto signed my name officially and caused my Seal of Office to be affixed, at the City of San Francisco, this 8th day of June A.D. 1858.

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

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

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

Extract from an Act of the Legislature of the State of California, "concerning certified copies of certain Instruments in Writing."
[Approved, April 29th, 1857.]

"SEC. 1. Copies of all papers, lately belonging to the United States Board of Commissioners for the settlement of private land claims in California, and on file in the office of the Surveyor General of the United States for the State of California, and all copies of documents and papers belonging to said Surveyor's office, which copies shall have been duly certified to be true copies by said Surveyor, shall be received and read in evidence, in the same manner, and with like effect as the originals."

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U. S. District Court.

United States

v. } L. C. 741. D. C. 153.

M. G. Vallejo

Traced copy of Approval of Departmental Assembly, and Translation

Filed Aug: 31. 1858.
W. H. Chever,
Clerk.

Exhibit "S." W. H. C

Ysla Octubre 14 de 1859.

Lazaro Piñar

Por no haber papel Sellado, tiene en Comun

Sor. Comante. Gral.

Sonoma octubre 13. de 1839.

Se concede al interesado el terreno q. solicita, á reserva de solicitar del gobno. político los títulos de estilo

Por M. G. Vallejo

Lazaro Piña Sargento 2.o de Artilleria Permanente Ante V.S. con el debido respeto y en la mejor forma me presento y digo: Que hallandome con numerosa familia, y teniendo algunos bienes de Campo cabresco de un terreno en que poder Yacticarme para asegurar en lo futuro la precisa subsistencia en cuanto me sea posible; para cuyo efecto he registrado y solicito un terreno en la Estencion de dos leguas y media y un cuarto de legua de ancho, conocido con el nombre de la Agua caliente, situado al N. O. de San Solano, lindando al Sudueste con el Arroyo que separa la propiedad del Sor. Comand.te Gral D. Mariano Guadalupe Vallejo, al Sudeste con la Poblacion de Sonoma, al Norte, con las Lomas y Cerros que median y dividen el Rancho de Jorge Yount, y al Noroeste, con el Rancho de Don Juan Wilson: por lo Tanto.

A V.S. Suplica se sirva aceder á mi solicitud en la que recibirá merced y gracia, Juró no ser de malicia y necesario &c.

Son

Pio Pico Gobernador Interino del Departamento de las California.

La Excma Asamblea Departamental en sesion de hoy ha acordado lo siguiente.

"Se aprueba la concesion hecha por el Superior Gobierno del Departamento con fecha 13 de Julio de 1840 en favor del Ciudadano Lazaro Piñal, del parage de la Agua Calienta en estencion de dos y media leguas de larga y un cuarto de legua de ancho.

Y para resguardo de la parte del Ciudadano Lazaro Piñal lo hago asi saber. Dado en la Ciudad de los Angeles en este papel comun por falta de sellos a ocho de Octubre de mil ocho cientos cuarenta y cinco.

Pio Pico

José Mª Covarrubias

Secretario

El

(2)

Sor. Prefecto del 1er Distrito en la Alta California

Exmo. Sor Gobernador

Lazaro Piña Mejicano por nacimiento, sargento 2o de Artilleria Permanente y Residente en este Departamento ha veinteun años, ante V.E. como mejor halla lugar en derecho, digo. Que habiendose me consedido por el Sor. Comandante General, (a reserva de solicitar del Gobierno los titulos de civil posesion) como consta del Documento que acompaño.

Que el interesado en terreno conocido con el nombre de Tejaxuda, lecabar la propiedad del Cuyo diseño tambien acompaño:

Por lo A.V.E. Suplico se sirba proveer en justicia á fin de que me sea librado por el Gobierno del Departamento el titulo de propiedad del Terreno que solicito, sirviendose admitirme este en papel Comun por no ser en este punto del sello que Corresponde.

Sonoma Junio 25 de 184

Lazaro Piña

Visto lo contenido en esta instancia y el parecer del Sor. Comandte General elevese al Exmo Sor Gobor del Departamento ante quien por via de informe expongo.

San Juan de Castro 9 de Julio de 1840.

Jose Mª Villar

(8)

largo y un cuarto de legua de ancho.

Sala de Comisiones Angeles
Octubre 7 de 1845

Franco de la Guerra

Nazario Botello

Angeles Octubre 8 de 1845

En sesion de hoy se aprobo por la Exma Asamblea Departamental la proposicion del dictamen precedente mandando se diera el espediente original al E. S. Gobernador para los fines convenientes

Pio Pico
Presidte

Agustin Olvera
Srio

En la fecha se libro á las parte la copia respectiva

Exmo Sor

La Comision de Terrenos valdios ha visto con el necisario detenim.to el esped.te promovido por el C.o Lazaro Piña en pretencion del parage conocido por de "la agua caliente" y no existiendo en todo el otro docum.to que indique la estencion del parage dho, sino la solicitud del interesado, pues el diseño que corre en el referido espediente no se halla sujeto a Escala alguna y el decreto de concesion no espresa la cantidad de sitios de que fue hecha la concision funda su dictamen de aprobacion en solo la estencion solicitada que es de dos y media leguas de largo y un cuarto de legua de ancho, pues no es de suponerse haya agraciado el Gob.o al interesado en mayor estencion que la solicitada y por consig.te la Comision somete ala decision de VE la proposicion siguiente

Se aprueba la concesion hecha por el Sup.r Gob.o del Depart.o con fha 13 de Julio de 1840 en favor del C.o Lazaro Piña, del parage dela Agua Caliente en estencion de dos y media leguas de

(6)

El Sor Don Juan B Alvarado Gob.dor Constitucional del Departam.to de las California's así lo mandó decretó y firmó doy fee —

Angeles Octubre 3 de 1845

Dado cuenta en sesion de hoy con este expediente de la Exma Asamblea Departamental le mando pasar á la comision de terrenos baldios

Pio Pico

Presed.t

Agustin Olvera

(3)

No. 760.

T. M. Leavenworth

Agua Calicute.

Approval of Grant with Transfer

Filed in office Feb 20 1855.

Geo Fisher
Secy

Recorded in Book of Rec: of Gr: Vol XVI pages 531 & 532.

Recorded in Book "C" page 85.

L. W. Boggs

Record in Monterey Expd June 3. 1849 & the order for a title the other opposite to be put on a map and then

A.

Filed for record Dec 29 1848.
L W Boggs
alcalde

Texas 13 de Julio de 1840

Vista la peticion con que da principio este espediente, el parecer del S. Comandte Gral y el informe del S. Prefecto del 1er Distrito con todo lo demas que se tubo presente y ver combino, de conformidad con las leyes y Reglamtos de la materia declaro al Ciudno Lazaro Piña diseño en propiedad del pasage conocido con el nombre de Agua Caliente, colindante al Sudeste con el arroyo del rancho de Petaluma, al S. E. con el Pueblo de Sonoma al N. con las lomas y Llanos que median y dividen el rancho de Jorge Yunte - y al N O. con el rancho de Don Juan Wilson - Librese el despacho correspondiente tomese razon en el libro respectivo y dirijase este espediente á la Exma Junta Departamental para su aprovacion.

07

(2)

que suscribe certifica: que habiendo comprado legítima y formalmte. al C. Lázaro Piñón el terreno de la Agua-Caliente, a que se refiere la ant. aprovacion de la Asamblea Departamental de la Alta Calif.a cedo y traspaso todos los derechos que tengo al mencionado terreno, en favor de D. Andrés Hoeppener, quien hará del el uso que mas le convenga. Y para los fines y usos necesarios doy este en Sonoma á 12 de Agosto de 1846.

M. G. Vallejo

(Testigo p.)

A. A. Henderson
assist Surgeon
U.S. Ship Portsmouth

Jacob P. Leese

Wm Blanding Esq

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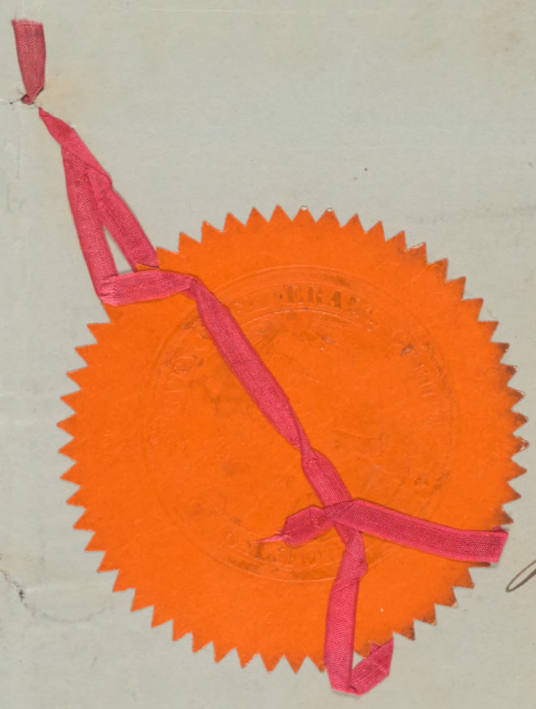
Office of the Surveyor General,

Of the United States, for California.

I, **J. W. MANDEVILLE,** *Surveyor General of the United States for the State of California, and as such, having in my office, and in my charge and custody, a portion of the* **Archives** *of the former* **Spanish** *and* **Mexican** *Territory or Department of* **Upper California,** *as also the papers of the late Board of Commissioners "to ascertain and settle private Land Claims in California;" by virtue of the power vested in me by law,* **Do Hereby Certify** *that the eight (8) preceding, and hereunto annexed pages of tracing paper numbered from one to eight inclusive, exhibit a true and accurate copy of Expediente Number 229. entitled as follows – Expediente promovido por el Ciudadano Lazaro Peña en pertencion del terreno conocido con el nombre conocido la Agua Caliente.*



In Testimony Whereof, *I have hereunto signed my name officially and caused my Seal of Office to be affixed, at the City of San Francisco, this 7th day of June A.D. 1858.*

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

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

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

Extract from an Act of the Legislature of the State of California, "concerning certified copies of certain Instruments in Writing."
[Approved, April 29th, 1857.]

"SEC. 1. Copies of all papers, lately belonging to the United States Board of Commissioners for the settlement of private land claims in California, and on file in the office of the Surveyor General of the United States for the State of California, and all copies of documents and papers belonging to said Surveyor's office, which copies shall have been duly certified to be true copies by said Surveyor, shall be received and read in evidence, in the same manner, and with like effect as the originals."

U. S. Dist. Court.

United States.

v. } D.C. 741. D.C. 153.

M. G. Vallejo

Exhibit "A" "N.A.C."

Hand copy of

Expediente No 229.

and

Translation.

Filed Aug: 31. 1858.

W. H. Chunn,

Clerk

Third seal, two reales — For the Years One thousand Eight hundred and twenty six and Eight hundred and twenty seven. Let it serve for the years one thousand Eight hundred and twenty eight and one thousand Eight hundred and twenty nine. Let it serve for the years one thousand eight hundred and thirty and one thousand eight hundred and thirty one. Let it serve for the Years One thousand eight hundred and thirty six and one thousand Eight hundred and thirty seven. Let it serve for the Years one thousand Eight hundred and thirty eight and one thousand Eight hundred and thirty nine

In the Pueblo of Sonoma in Upper California on the 4th day of the month of December 1839 before me Captain D. Salvador Vallejo Military Commander exercising civil jurisdiction and Witnesses, D. Lazaro Pina resident of said Pueblo says That for himself and his heirs, sons and successors, and whom of them might have title, vote and cause in any manner whatsoever he sells and

gives in real sale and perpetual alienation by right of inheritance for always and ever to D. Mariano G. Vallejo also resident of the same Pueblo of Sonoma and to his assigns the tract of land of la Agua Caliente in extent two and a half leagues in length and one quarter in width, a little more or less as is shown in the title deed accompanying this writing which belong to him in possession and ownership, bordering on las Guidacas Petaluma the village of Sonoma and la Sonomia to the North as is shown in the said respective title deeds of ownership by which it belongs to him the grantor in possession and ownership who declares and assures not to have sold or pledged it and that it is free from any tribute, bill, benefice, entail, patronato, bond or any other encumbrance perpetual, temporal, especial, general, tacit and expressive, and as such he sells it with all its revenues, expenditures, buildings uses, customs, privileges, servitudes and other appurtenances which it has had, has, and belongs to it according to law for two thousand dollars which he

has received in lawful money and moveable property being this last delivered by Francisco Lalapa, which the same he confesses to have received half by half.

He renounces the law of 9th tito. 1o. partida 5a. and he likewise declares that the just price and the value of the said land is the aforesaid sum of Two thousand dollars and that it is not worth more, nor did he find anybody willing to give him so much for it and if it may or can be worth more of the excess in a little or large sum he makes in favor of the purchaser and his heirs and successors, gift and entire donation, perfect and irrevocable in vigour with public exhibition before a judge, and other legal firmnesses, and he renounces the law 2d tito. 1o L. 10. N.R. treating of contracts of sale exchange and others in which there is damage in more or less than the half of the just price and the four years, preferring to demand its recision or supplement to its just value which he considers as if they were effectively repealed.

And from to day henceforward

forever he dispo~~sses~~, releases, quits and parts himself and his heirs and successors of the dominion and ownership possession, title, vote, recourse and any other right whatsoever which might stand in competition to the said tract of land of la Agua Caliente.

He cedes, renounces, transfers it in the real, personal, useful, mingled, direct and executive causes of action in the purchaser and in whom may represent his cause in order that he may possess enjoy exchange alienate use and dispose of it at his option as a thing of his own acquired by legitimate and just title.

And he confers on him irrevocable power for free, independent and general administration and constitutes him attorney proctor in his own cause, that under his authority he may enter and possess himself of the aforesaid land and seize the real tenancy and possession which by right stands in opposition to him, and that he shall not need to take it he asks me to give him a copy of this writing,

with which, without any other act of seizure has to be looked upon as being taken, and seized and transferred and in the mean time he is constituted its tenant holder and possessor in legal form.

And I bind myself that said land shall be certain, secure and effective to the purchaser and nobody shall disturb him nor institute law-suit upon his ownership, possession, enjoyment and usufruct nor against it appear any incumbrance, and if he shall be disturbed, sued or there shall appear any incumbrance, the grantor and his heirs and successors shall presently be required conformable to law to rally to his defence, and follow it up at their expense in all instances and tribunals until executed and to leave the purchaser and his assigns in its free use and quiet and peaceable possession; and not being able to obtain it they shall give him other equivalent in value of buildings, site rent and commodities and in default thereof they shall restore the sum he has disbursed for the useful necessary and voluntary improvements, which

in reason hereof he may have to the highest value and estimate at the time acquired and with all the costs ~~xxxx~~ expenditures damages, interests or deteriorations consequent thereon, for all of which he will have to be enabled to execute solely in virtue of this writing and merely by him who may possess it, or whom may represent him to whom is yeilded its import and he is relieved from other proof.

And for the observance of all the foregoing, he binds his person and property which he has or may have and he vests full power in the Judges and tribunals of the Nation who ought to take cognizance of this affair conformable to law that they may constrict him to its fulfillment as by definitive sentence of a competent Judge passed in authority of suit adjudged and consented which as such he admits it

Lazaro Piña

Before me Salvador Valles

Attesting Witnesses

Capktano Juarez, Francisco Jalapa

Miguel Alvarado, Juan No. Padilla.

U. S. Dist Court

U. S. } L.C. 741
v. } D.C. 153
M. G. Vallejo

Translation of
Deed from Piña to
Vallejo

Sello tercero dos reales — Para los años de mil ochocientos veinte y seis y ochocientos veinte y siete = Volga para los años de mil ochocientos veinte y ocho y mil ochocientos veinte y nueve = Volga para los años de mil ochocientos treinta y mil ochocientos treinta y uno = Volga para los años de mil ochocientos treinta y seis y mil ochocientos treinta y siete = Volga para los años de mil ochocientos treinta y ocho y mil ochocientos treinta y nueve = En el pueblo de Sonoma de la alta California a los cuatro dias del mes de Diciembre de mil ochocientos treinta y nueve, ante mi el Capitan D Salvador Vallejo Comandante militar ejerciendo la jurisdiccion civil y testigos; D Lazaro Peña vecino de dicho pueblo dijo: que por si y en nombre de sus herederos hijos y sucesores y de quien ellos hubieren dos y causa en cualesquiera manera; vende y da en venta real y enagenacion perpetua por juzo de heredad para siempre jamais al Sor D Mariano G Vallejo vecino tambien del mismo pueblo de Sonoma y a los suyos, el terreno de la agua caliente en cantidad de dos leguas y media de largo y una cuarta de ancho poco mas o menos, segun esplica el titulo que acompaña esta escritura, los que le pertenecia en posesion y propiedad, colindante con los Guilicos, Petaluma, la poblacion de Sonoma y la serrania al norte; segun contra por dichos titulos de pertenencia respectivos por los quales le corresponde

2ª

en posesion y propiedad al otorgante, el cual declara y asegura no tenerla vendida ni empeñada, y que está libre de titulo, memoria Capellania Vinculo patrimonio, fianza y de otro gravamen perpetuo temporal, especial, general, tanto y espeso, y como tal se lo vende con todas sus entradas, solidas, fabricas, usos costumbres, regalias, servidumbres y demas cosas anexas que has tenido tiene y le pertenecen segun derechos, por dos Mil pesos que tiene recibidos en pesos fuertes y bienes semovientes, siendo estos ultimos enhazados por Francisco Jalapa, ~~de~~ que el mismo confiesa haber recibido, mitad por mitad, y renuncia la ley 9ª tit.º 1º partida 5ª, y asi mismo declara que el justo precio y verdadero valor del referido terreno, es la cantidad antes dicha de dos mil pesos y que no vale mas, ni hallo quien tanto le halla dado por el, y si mas vale o valer puede, del exceso en poca o mucha suma, hace a favor del comprador y de sus herederos y sucesores gracia y donacion pura, perfecta é irrevocable, en sanidad con insinuacion y demas formas legales, y renuncia la ley 2ª tit.º 1º. L. 10 N. R. que trata de los contratos de venta, ~~trueque~~ y de otros en que hay ~~lesion~~ lesion en mas o menos de la mitad del justo precio y los cuatro años que prefina para pedir su rescision o suplemento a su justo valor, los que da por pasados como si efectivamente lo estubieran, y desde hoy en adelante para

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2ª

siempre se desapodera, desista quita y aparta
y a sus herederos y sucesores del dominio o
propiedad, posesion, titulo, vos reciuo y otro
~~Cualquiera~~ Cualquiera derecho que le compete al
enunciado terreno de la agua ~~ta~~ Caliente Lo
Cede, renuncia, hasipara en la acciones
reales y personales utiles, mixtas. ~~directas~~ directas
y efectivas en el Comprador y en quien la
suya represente. para que la posea, goze,
Cambie, enagene, use y disponga de ella a
su eleccion como de cosa suya adquirida
con ligitimo y justo titulo y se confiesa
poder irrevocable con libre franca y general
administracion y constituye procurador actor
en propia causa para ~~causa~~ que de su autoridad
entre y se apodere del nominado terreno,
y posesinda la real tenencia y posesion que por
derechos le compete; y para que no necesite tomarlo.
Mi pide que le dé copia de esta escritura. Con
la cual sin otro acto de aprehension hasta
ser visto haberla tomado, aprehendido y
transferidola; y en el interin se constituye seguidor
tino tenedor precario posedor en legal forma
y se obliga a que dicho terreno. sera cierto, seguro
y efectivo al comprador y nadie inquietara
mi movera pleyto sobre su propiedad
posesion, goce disfrute, ni contra el ejercicio
gravamen alguno; y si se le inquietara
moviere o aparecera, luego que el otorgante y sus

mobiliar o aparciera, luego el otorgante y sus

herederos sucesores sean requiridos conforme a
derecho, saldran a su defensa y lo seguiran a
sus espensas en todas instancias y tribunales
hasta ejecutoriarlo, y dejar al comprador
y a los suyos en su libre uso y quietud
pacifica posesion; y no pudiendo conseguirlo
le daran otro igual en valor de fabrica
sitio, renta y comodidades, y en su defecto lo
restituiran la cantidad que ha desembolsado
, las mejoras utiles precisas y voluntarias
que a la razon tengo al mayor valor y
estimacion que con el tiempo adquiera
y todas las costas, gastos, daños interes o
menoscabos que se le siguieren i resultaren; por
todo lo cual ha de poder ejecutar solo en
virtud de esta escritura y juramento del que
la pasa, o de quien le represente en persona
dispensa su importe y la relevan de otra
prueba, y a la observancia de todo lo referido
obliga su persona y bienes habidos y por
haber; y confiera amplio poder a los señores
jueces y tribunales de la Nacion que de este
negocio deban conocer conforme a derecho, para
que le apresisen a su cumplimiento, como por
sentencia definitiva de juez competente pasada en
autoridad de cosa juzgada y consentida que por
tal la recibe = Lazaro Piña = Ante Mi =
Salvador Vollyo = De Asistencia = Cayetano Juarez =
De Asistencia = Francisco Jalapa = Miguel Alvarado =
Juan N Padilla =

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PAGE 42

3d

siempre se desapodera, disista quita y aparta
y a sus herederos [illegible]

State of California,
County of Sonoma. } ss.

I hereby certify that the foregoing is, to the best of my knowledge and belief a full true and correct copy of a record in Book H of Sonoma County Records on pages 41 & 42.

Given under my hand and Seal of office this 10th day of July A.D. 1858.

Joel Miller,
County Recorder in and for said County.

Copy of Records

153.

U. S. Dist. Court

Wm. McPherson Hill
Sonoma

Dec & Oakes $300

United States

v. } L.C. 741.
D.C. 153.

M. G. Vallejo

Certified Copy of
Deed from Piña to
Vallejo.
and
Translation.

Filed Aug: 31. 1858.
W. H. Chenoweth
Clerk

Dist 153 ND
PAGE 44

$ 3.10 Paid by Oakes

UNITED STATES DISTRICT COURT,
Northern District of California,

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The United States
vs.
M. G. Vallejo.

San Francisco, Sept: 3. 1858,

On this day, before W. H. Chevers a Commissioner of the United States for the ——— District of California, duly authorized to administer oaths, &c., &c., came T. M. Leavenworth a witness produced on behalf of the Claimant in Case No. 153, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No 741 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — ~~his evidence being interpreted by a sworn interpreter~~

PRESENT: Mr Blanding for the Claimant, and the U. S. Dist. Atty.

QUESTION BY Claimants Counsel,
What is your name, age, and place of residence.
Answer,
T. M. Leavenworth, about 50 years of age, and resides in Sonoma County, Cal.
2nd,
Are you acquainted with the

Agua Caliente Rancho in Sono=
=ma County.

Answer,

I am.

3rd.

Did you ever own any part of that Rancho.

Answer,

I did.

4th

Did you present a claim to the Board of Land Commission for your portion of the ranch.

Answer.

I did.

5th.

What has been the decision in your case.

Answer.

It was confirmed both by the Land Com: and the Dist: Court. and the appeal dismissed by direction of the U. S. Atty: Genl. and a final decree entered by this Court.

6th

In the prosecution of your claim did you make a search for the Grant to Lazaro Peña. of the

Agua Caliente Ranch.

Answer.

I did.

7th.

Where was that search made, or in what way.

Answer.

In the Archives under the control of the U. S. Surveyor General for this State. I made inquiries of Governor Alvarado. of Genl. Vallejo, and of an officer who was local Alcalde at Sonoma about the time the Grant was made. I dont recollect his name, also of ~~[illegible]~~ Hepner. of whom I purchased, and of other persons whose names I do not now remember. The result of this search was that Peña got the Grant. went down to Mexico with it. and it was lost. it could not be found. He was Killed in battle in Mexico. Cherubusco I think. He was an officer of the Mexican Army.

8th.

Is Hepner alive now.

Answer.

He is dead.

Questions 4th & 5th objected to by Dist. Atty as seeking to est=
=ablish by parol, matters which should be proved by the Record.

Questions 7th & 8th objected to because there is no proof that there ever was a Grant to Lazaro Peña. and because in answer to 8th question. the witness is permitted to "state" "the result of" "the Search", which is equivalent to giving his opinion upon the fact. & uncertain statements of persons who have not been examined.

Thos. Cravenworth

Sworn to. and subscribed September 3rd. 1858. before me,
W. H. Chevers.
U. S. Comm'r.

No. 153.

N. S. District Court.

The United States,

vs.

Mariano G. Vallejo,

Deposition of
T. M. Leavenworth,

Filed Sept. 3, 1858.
W. H. Chevers,
Clerk

Seven

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U. S. Dist Court,
Northern Dist of Cala.

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United States
v.
M. G. Vallejo

Transcript No. 153
D. C. No 741

It is hereby stipulated that the following Deposition of Salvador Vallejo, taken in the case of T. M. Leavenworth, (Transcript No 760, D. C. No 333) is admitted as evidence in this case, with a right reserved to the U. S. to recall the Deponent for re-examination as claimants witness, if required by the Dist. Atty.

P. Della Torre
U. S. Atty

Wm Blanding
Clto Atty

Nov 9. 1858.

No. 760.

United States Land Commission
San Francisco March 30 1855.

On this day before Commissioner R. Aug. Thompson, came Salvador Vallejo, a witness on behalf of the Claimant in Case No. 760, who after being duly sworn, deposed as follows, his evidence being interpreted by the Interpreter for the Board.

Present Claimant's Attorney and U. S. Law Agent

In answer to question Witness states that his name is Salvador Vallejo, his age forty years and residence Napa County California.

1st Question - by Claimant's Counsel -

Do you know Lazaro Piña, if yes how long have you known him?

Answer - I have known him for more than twenty years in Monterey and Sonoma. He resided in that valley on the Rancho called Agua Caliente from the year 1839 or 1840 until a short time before the American occupation of California.

2d Question by same, What improvement if any did he make on said Rancho and what was the character of his occupation?

Answer - In the year 1840 he built an adobe house on the land in which he lived with his family, he enclosed fields in the same year and sowed them in wheat, corn and beans, he had the year before erected corrals, and had put about three hundred head of Cattle on the place.

3 Question by same - Do you know the Arroyo formerly called the Arroyo del Rancho de Petaluma.

Answer. Yes. I know it. It is now known as the Rio de Sonoma, and divides the Rancho of Petaluma from the town of Sonoma, and from the Rancho of Agua Caliente.

Cross examined by U. S. Law Agent.

Question by same - Do you know the boundaries of said rancho of Agua Caliente, and if yea, how do you know them?

Answer. Yes I know them, before Piña made his petition for the land I went on the place with him for the purpose of examining and fixing upon the boundaries.

2 Question by same - Examine the map contained in the Expediente now shown you, marked Exhibit No. 1. R. T. and hereto annexed, and point out on the same the position of the house, and improvements described in your answer

to question No. 2 of your examination in chief -

Answer - The house was situated near where the words "Casa del Ranchó" occur on the map on the right hand side of the road leading from the Pueblo of Sonoma and about 400 yards from said road and 600 or 1000 yards from an Arroyo that runs between the house and the Pueblo. The sowings were on the opposite side of the road near the River and near the Southern Corner of the Ranchó.

(Signed) Salvador Vallejo.

Sworn to and Subscribed before me March 30' 1855.

(Signed) R. Ang. Thompson Comr.

I, George Fisher Secretary to the Board of U. S. Land Commissioners, do hereby that the foregoing is a true and correct copy of Salvador Vallejo's deposition on file in this Office in Case No. 760, T. M. Leavenworth Claimant for Agua Caliente.

Witness my hand this 7th July A. D. 1855.

Geo. Fisher.

3

No. 760.

T. M. Leavenworth,

Agua Caliente.

Deposition of Salvador Vallejo taken before Commissioner R. Ang. Thompson.

Filed in Office March 30 1855.

(Signed) Geo. Fisher
Sec.

Recorded in Ex. B. vol 11 p. 685.

(Signed) Geo. Fisher
Sec.

153

U. S. Dist. Court

United States

v. } Transcript No 746. D. C. No 153.

M. G. Vallejo –

Deposition of Salvador Vallejo.

Filed January 3. 1859.
W. H. Chevers,
To be filed Clerk
W. H. Chaney

Eg W

UNITED STATES DISTRICT COURT,
Northern District of California,

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The United States
vs.
M. G. Vallejo.

San Francisco, May 28. 1859.

On this day, before me. W. A. Chevers a Commissioner of the United States for the ——— Districts of California, duly authorized to administer oaths, &c., &c., came José Matias Moreno. a witness produced on behalf of the Claimant in Case No. 153, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No 741 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — his evidence being interpreted by Richard Tobin. a sworn interpreter

PRESENT: Wm Blanding. Counsel for Claimant, and the U. S. Atty for the U. S.

QUESTIONS BY Claimants Counsel.

1st.

What is your name, age and place of residence?

Ans.

José Matias Moreno. Forty years of age. and resides in San Diego.

2d.

Look at Expediente No. 229. "Agua

Caliente Ranch. of which a traced copy is filed in this case, marked Exhibit "A" H. H. C. the original of which is now produced from the archives, and now shown you. and say whether you recognise the signatures thereto and which of them.

Answer.

The signatures of Pio Pico, Agustin Olvera, Narciso Botello, and Francisco de la Guerra in this document, I know to be genuine, the other signatures in the document I do not know.

Cross examination waived.

José Matías Moreno

Sworn to and subscribed May 28th, 1859, before me,
M. O. Ahrens,
U. S. Commr.

No. 153.

D. S. District Court.

The United States.

vs.

M. G. Vallejo.

Deposition of
Jose Matias Moreno.

Filed May 28. 1859.
W. H. Chevers,
Clerk

Nine

UNITED STATES DISTRICT COURT,
Northern District of California,

The United States
vs.
M. G. Vallejo.

San Francisco, May 28, 1859.

On this day, before me, W. H. Chevers a Commissioner of the United States for the _____ Districts of California, duly authorized to administer oaths, &c., &c., came Juan B. Alvarado, a witness produced on behalf of the Claimant _____ in Case No. 153, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No 741 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — his evidence being interpreted by Richard Tobin, a sworn interpreter

PRESENT: Wm. Blanding, Counsel for the Claimant, and Peter della Torre, U. S. Attorney.

QUESTION BY Claimant's Counsel.

1st

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

Ans.

Juan B. Alvarado, 50 years of age, and resides at San Pablo, Contra Costa County California.

2?

Look at Expediente No. 229. to the "Agua Caliente" Ranch of which a traced copy is filed in this case marked exhibit "A. W. H. C." the original of which is now produced from the Archives and now shown you and say whether you recognise the signatures thereto, and which of them?

Answer.

With regard to all the signatures in this Expediente excepting those of Agostin Olvera, Narciso Botello, and Francisco de la Guerra, I know them to be all genuine, and with regard to the signatures of the said Olvera, Botello, and de la Guerra I believe them to be genuine, because I have seen them often, but as I have never seen either of those persons I have named, sign their names, I cannot be positive.

3?

Look at document now shown you purporting to be "Certificate of approval" of the Departmental Assembly of a grant for the same place (Agua Caliente) to Lazaro Peña, and say if you know the signatures, attached thereto, and whether they are genuine or not a traced copy of which is attached hereto marked "Exhibit B." W. H. C.?

Answer

Answer.

I know all the signatures on this paper to be genuine, with the exception of the signature of A. H. Henderson.

4th.

Do you know anything of the issuing of a grant referred to in said last document if so state what you know!

Answer

I understand that it refers to a grant which I made as Governor, to Lazaro Peña of the land called "Agua Caliente." I did make a grant to the said Peña for the lands known by the name of Agua Caliente. I think in the year 1840.

5th.

State if you remember what were the contents of the grant?

Answer.

As I remember the grant was for a piece of land two leagues and a half long by about a quarter of a league wide, bounded on one side by Wilson's ranch, on another by Petaluma Creek on another by Juarez ranch and on the other by the lands of Sonoma.

6th.

Was the grant in the usual form?

Answer.

It was a grant in the usual form with the usual conditions.

Cross examination waived.

Isaac B. Thomas

Sworn to and subscribed
May 28. 1859. before me,
W. A. Cheney.
N. P. Com'r.

No. 153.

N. O. Dist. Court.

The United States.
vs
M. G. Vallejo.

Deposition of
Isaac B. Thomas.

Filed May 28. 1859.
W. A. Cheney,
Clerk

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Mr. Blanding

$2.00

Indice de los terrenos adjudicados y personas a quienes se les ha concedido.

+ + + + + + +	+ +	+ + + + + + + +	+ + +
Agua Caliente.	Con.do	al Ciudadano Lazaro Pina	229.
+ + + + + + + + + + +	+ + +	+ + + + + + + + +	+ + +
+ + + + + + +	+ + +	+ + + + + + + + +	+ + +

En este indice hay el numero de 433. Expedientes; pero por equivocacion se paso en la numeracion del 329. al 340, habiendo seguido en la misma.

Manl. Jimeno

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

I, J. W. MANDEVILLE, Surveyor General of the United States for the State of California, and as such, having in my office, and in my charge and custody, a portion of the Archives of the former Spanish and Mexican Territory, or Department of Upper California, as also the papers of the late Board of Commissioners to ascertain and settle the private land claims in California; by virtue of the power vested in me by law, Do Hereby Certify, that the One preceding, and hereunto annexed page, of tracing paper, numbered ~~from~~ one ~~to~~ ——— inclusive, exhibit a true, full and correct copy, of a portion of a Document, as the same appears on file among said Archives.

EXAMINED AND FOUND CORRECT.

W. C. Hopkins
Keeper of Archives.

In Testimony Whereof, I have hereunto signed my name officially, and caused my Seal of Office to be affixed, at the City of San Francisco, this 30th day of May 1859

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

U. S.
District Court.

United States

v. } No 153.

M. G. Vallejo

Traced Copy of
Entrach from
Simenos Index.

Filed June 3. 1859.
W. H. Chevers,
Clerk.

Eleven

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THE PENA CLAIM CONFIRMED.

The United States vs. *M. G. Vallejo.*—This is a claim to the Pena ranch, in the northern part of Sonoma county. Judge Hoffman confirmed the claim to-day and delivered the following opinion:

This case has been submitted without argument, the district not disputing the genuineness or validity of the claim. The original grant is not produced. Its non-production, however, is not a ground for suspicion, for the grantee was killed during the war, and after searching, the grant could not be found.

The expediente is found in the archives, duly numbered as its date required, and the grant is noted with its approximate number, the names of the grantee and of the land granted in Jimevio's index. A duplicate of confirmation by the Departmental Assembly is also attached to the expediente, dated October 8, 1845, and in reference to the journal of that body, the report in reference to the committee on vacant lands, the report of that committee and the resolution of approval are found duly recorded. The signatures to all the documents in the expediente are proved to be genuine, and all the preliminary proceedings and the issuance of the grant appear to have been strictly regular.

The occupation of the tract by Pena, the grantee, from a date long anterior to that on which the grant was approved by the Assembly, is also shown. The proofs of the validity of this claim are thus far as ful and as reliable as could be offered in support of any grant made by the former government of this country. There can be no doubt but that it should be confirmed. The contents of the lost grant are proved not only by parol testimony, but by the concession and the approval of the Departmental Assembly.

The claim has been presented by M. G. Vallejo. The conveyance from Pena to him appears to have been made before the grant was obtained by the former.

This Court has no jurisdiction to inquire in the preseat proceeding into any questions of private right between the heirs or devisees of the grantee and the present claimant. The decree of confirmation must, therefore, be made to M. G. Vallejo, claimant, or to the legal representatives of the decea ed grantee, whoever they may be, and without prejudice to the rights of any one who may be lawfully entitled under him.

U. S
vs
M. G. Vallejo —

No. 153

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PAGE 66A

This case has been submitted without argument, the Attorney Gen. not disputing the genuineness or validity of the claim. The original grant is not produced — ~~But~~ Its non production however is ~~not a~~ ground for suspicion for the grantee was killed during the war and after search the grant could not be found.

The Expediente is ~~however~~ found in the archives — duly numbered ~~and~~ its date registered — and the grant is noted with its appropriate number, the names, of the grantee, and of the land granted in Simeno's index —

A certificate of confirmation by the Departmental Assembly is also attached to the Expediente, dated Oct. 8th 1845 and on reference to the

journal of that body the report, reference to the committee on vacant lands, the report of that committee and the resolution of approval are found duly recorded — The signatures to all the documents in the expediente are proved to be genuine and ~~thus~~ all the preliminary proceedings, and the issuance ~~appear to~~ of the grant appear to have been strictly regular.

The occupation of the tract by Peña the grantee from a date long anterior to that on which the grant was approved by the Assembly as also shown — ~~and~~ ~~the~~ proofs of the validity of this claim ~~appears~~ ~~has~~ are thus for as full and as reliable ~~as~~ could be offered in support of any grant made by the former government of this country — ~~I have~~ There can be no doubt ~~tha~~ but that it should be confirmed — The contents

of the lost grant are proved not only by the parol testimony but by the concession and the approval of the departmental assembly—

The claim has been presented by M. G. Vallejo — ~~the papers~~ ~~proven to have~~ The conveyance from Peña to him appears to have been made before the grant was obtained by the latter form.
This court has no jurisdiction to inquire in the present proceeding into any questions of private right between the heirs or ~~and~~ devisees of the grantee and the present claimant — The decree of confirmation must therefore be made to M. G. Vallejo claimant or to the legal representatives of the deceased grantee whoever they may be, and without prejudice to the rights of any one who may be lawfully entitled under him —

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The United States
vs.
M. G. Vallejo

Filed July 5, 1859.
W. H. Chenes,
Clerk.

twelve

U. S. District Court,
Northern District of California

United States, Appellee, v. M. G. Vallejo, Appellant,	No 153 Agua Caliente

Stated Term, July 5. 1859.

On Appeal from the final decision of the Board of Commissioners to ascertain and settle land claims in the State of California

Decree.

This cause came on to be heard on appeal from the final decision of the Board of Commissioners to ascertain and settle private land claims in the State of California, under the Act of Congress approved March 3. 1851, upon the Transcript of the proceedings and decision of said Board, and upon the evidence adduced in this Court, and Counsel for the respective parties having been heard,

It is ordered, adjudged, and decreed, that the decision of the said Board be and the same is hereby vacated, annulled, and reversed.

And it is further ordered, adjudged, and decreed that the claim of the Appellant is a good and valid claim, and that the same be and is hereby confirmed.

The land of which confirmation is made is situated in the present county of Sonoma and is of the extent of Two leagues and a half in length by a quarter of a league in width and known by the name of "Agua Caliente", and is bounded on the South-West by the Arroyo of the Rancho of Petaluma, on the South-East by the Town of Sonoma, on the North by the Hills and Mountains which intervene and separate the Rancho of George Yount, and on the North-West by the Rancho of Mr. John Wilson, being the same land which was granted to Lazaro Peña by Governor Alvarado: reference being had for a more particular description, to the Petition of Lazaro Peña, dated 14th October, 1839; the decree of concession by Governor Alvarado, dated 15th July 1840; the Map in the Expediente, and the Approval of the Departmental Assembly, certified copies of which are on file in the case.

Provided, that this confirmation of the above land to the said M. G. Vallejo

shall be without prejudice to the rights of the legal representatives of Lazaro Peña, the original Grantee, or whoever may be entitled to said lands under him; and said confirmation to said Valley's shall enure to the benefit of any person or persons who may own or be entitled to said land by any title, either at law or in equity, derived from the original Grantee, by deed, devise, descent or otherwise

Ogden Hoffman
Dist Judge

No. 153.

U. S. Dist Court

Northern District of California

United States

v.

M. G. Vallejo

No 153

Decree.

Filed July 13. 1859.

W. H. Chevers,

Clerk.

Hoover

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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 House, in the City of San Francisco, on Wednesday the Twenty sixth day of October in the year of our Lord one thousand eight hundred and fifty-nine,

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States
vs.
M. G. Vallejo.

No. 153 : L.C. 741.

In this case, on application of J. R. Wise Esq, Acting U. S. Atty, it is ordered that an appeal in behalf of the United States from the final decision of this Court, rendered in said cause at the present term, be and the same is hereby granted, and that a certified transcript of the pleadings, evidence, depositions and proceedings in the said cause be sent to the Supreme Court without delay.

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District Court of the United States

IN AND FOR THE

Northern District of California.

The United States

vs.

M. G. Vallejo

Order granting appeal to U. S.

Filed October 26 1859.

W. A. Chevers, Clerk.

By

Deputy.

fourteen

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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.

UNITED STATES OF AMERICA, ss.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

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

Greeting:

Whereas, lately, in the District Court of the United States, for the Northern District of California before you, in a cause between M. G. Vallejo, Appellant, and the United States Appellee, the decree of the said District Court was in the following words, to wit:

"It is ordered adjudged and decreed that the decision of the said board be and the same is hereby vacated, annulled and reversed.

And it is further ordered, adjudged and decreed that the claim of the appellant is a good and valid claim and that the same be and is hereby confirmed.

The land of which confirmation is made is situated in the present County of Sonoma and is of the extent of two leagues and a half in length by a quarter of a league in width, and known by the name of Agua Caliente and is bounded on the southwest by the arroyo of the rancho of Petaluma, on the southeast by the town of Sonoma, on the north by the hills and mountains which intervene and separate the rancho of George Gount, and on the northwest by the rancho of Mr John Wilson, being the same land which was granted to Lazaro Peña by Governor Alvarado, reference being had for a more particular description to petition of Lazaro Peña, dated 14th October, 1839; the decree of concession by Governor Alvarado, dated 13th July, 1840; the map in the expediente, and the approval of the

departmental assembly, certified copies of which are on file in the case; provided, that this confirmation of the above land to the said M. G. Vallejo shall be without prejudice to the rights of the legal representatives of Lazaro Peña, the original grantee, or whoever may be entitled to said lands under him; and said confirmation to said Vallejo shall inure to the benefit of any person or persons who may own or be entitled to said land by any title, either at law or in equity, derived from the original grantee, by deed, devise, descent, or otherwise."—

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as by the inspection of the transcript of the record _____ of the said District Court, which was brought into the Supreme Court of the United States, by virtue of an Appeal agreeably to the act of Congress, _____ in such case made and provided, fully and at large appears.

And whereas, in the present term of December, in the year of our Lord one thousand eight hundred and fifty one the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and was argued by counsel: **On consideration whereof,** it is the opinion of this Court that the original grant to Lazaro Piña is a good and valid grant and that the same should be confirmed: Whereupon it is now here ordered, adjudged and decreed by this Court that the decree of the said District Court in this cause, in so far as it confirms the original grant be and the same is hereby affirmed."—

3rd March.

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

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

COSTS OF _____
Clerk ..... $ _____
Attorney ... $ _____
$ _____

~~Taxed by~~ Wm. H. Carroll
Clerk of the Supreme Court of the United States.

No. 99, December Term, 1861

MANDATE

SUPREME COURT UNITED STATES.

No. 153

U. States vs. Vallejo

Filed September 15, 1862
A. R. Ellmer,
Clerk.

Fee paid Oct 20 1862

Adolfen

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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 Monday the 15 day of September in the year of our Lord one thousand eight hundred and sixty-two

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States
v.
Mariano G. Vallejo

No. 153

And now come the United States by their attorney W. H. Sharp, who presents the Mandate of the Supreme Court of the United States in the above entitled cause, and moves that the same be filed, Whereupon It is Ordered, that the said Mandate be filed and made a part of the record of the Court in this cause; and that the claimant have leave to proceed in conformity to the Opinion and decree of the said Supreme Court.

Ogden Hoffman
Dist Judge

No. 153.

UNITED STATES DISTRICT COURT

Northern District of California.

The United States.

v.

Mariano G. Vallejo.

Order to file Mandate U. S. Supreme Court,

Filed September 15, 1862

W. H. Chevers,
Clerk.

fifteen

U. S. Dist Court

United States
v.
M. G. Vallejo } Transcript No. 153
D. C. No 741

To
The Dist Atty.

Please take Notice that Salvador Vallejo will be examined as a Witness in this Case on Wednesday next, Nov 3. at 12 M. before H. H. Cheever, Esq. U. S. Commissioner, at his Office.

Respectfy
Wm. Blanding
Claimants Atty

Oct 30. 1858.

U. S. Dist Court

U. S.
v
M. G. Vallejo

Copy Notice

Recd Saturday
Oct 30th 1858

(Translation)

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Espediente instituted by the Citizen Lazaro Piña, petitioning for the tract of land known by the name *Conoci la –

Agua Caliente

229

* these two words = Conoci la = to be found in the tracing copy from which this translation is made, are evidently written by mistake and are superfluous –

$12.

Mr. Prefect of the 1st District in Upper California —

I, Lazaro Peña, a Mexican by birth, second sergeant of the Permanent Artillery, and a resident of this department for twenty one years, before your lordship as may be most in accordance with law, represent; that, there having been granted to me by the Commandant General (with reservation of soliciting from the Government the usual titles, as appears from the document which I annex) the tract of land known by the name of the "Agua Caliente, and wishing for my greater protection and security to acquire the ownership of the said land, the sketch whereof I also annex: I pray your lordship will be pleased to make such lawful provision, that the title of ownership of the land for which I petition may be issued to me by the Government of the Department, having the goodness to receive this upon common paper.

Most Excellent Mr. Governor,
Having seen the contents of this application and the opinion of the Commandant General, let it be carried up to the Most Excellent Governor of the Department, before whom by way of report, I make known, That the party interested in this petition possesses the legal requisites entitling him to be heard, and that the land which he applies for is vacant, and can be granted to him as owner, leaving it to your Excellency's deliberation —

San Juan de Castro
9th of July 1840.

José Mª Villar.

as there is none of the proper stamp to be had at this place –

I make the necessary oath &c.

Sonoma June 25th. 1840.

Lázaro Piña.

Mr. Commandant General

Mr. Commandant General.

Sonoma, October 13th 1839.

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Concession is made, to the party interested, of the land he applies for - with reservation of petitioning from the political Government, the usual cites.

Mariano G. Vallejo

I, Lazaro Piña, second sergeant of Permanent Artillery, Before your lordship, with due respect and in all proper form, present myself and say: That finding myself with a numerous family and having some field property =bienes de campo= I am in want of a piece of land where I can settle myself, in order to secure so far as may be possible, for me, the necessary subsistence for the future — To this end I have examined and do petition for a tract of land of two leagues and a half in extension and a quarter of a league in width, known by the name of the "Agua Caliente, Situated to the North West of Saint Solano, bordering on the South West with the rivulet =arroyo= which separates the property of Mr. Commandant General Don Mariano Guadalupe Vallejo, On the South East, with the Town of Sonoma, On the North with the hills and mountains which intervene and separate the "Ranchos of George Yount, and on the North west with the Ranchos of Mr. John Wilson, Therefore

I pray your lordship will be pleased to accede to my petition, in which I shall receive benefit and favor.

I swear it is not in bad faith and whatsoever is necessary &c.

Sonoma —
October 14th 1839.

Lazard Piña

In the absence of Stamped paper, this comes upon common —

Here follows a sketch
of the land —

Monterey 13th July 1840.

The petition with which this Espediente is commenced, the opinion of the Commandant General and the Report of the Prefect of the First District having been seen together with everything else which was considered and proper to observe; in conformity with the laws and regulations upon the matter, I declare the Citizen Lazaro Piña to be the owner in proper right of the place known by the name of - Agua Caliente, conjoining on the Southwest with the rivulet "Arroyo" of the "Rancho" of Petaluma, on the Southeast with the Town of Sonoma, On the North with the hills and mountains which intervene and separate the rancho of George Yount and on the North west with the "rancho" of Mr. John Wilson,

Let the suitable warrant issue, account thereof be taken in the proper Book and let this Espediente be directed to the Most Excellent Departmental "Junta" for its approval

Mr. John B. Alvarado, Constitutional Governor of the department of the Californias, so ordered, decreed and signed the same,

I certify -

Angeles October 3rd 1845.

Report having been made upon this Expediente, in today's session of the Most Excellent Departmental Assembly; it was ordered to be passed to the Commission on vacant lands.

Pico Pico
Presid.t

Agustin Olvera
Sec.t.

Most Excellent Sir

- The Comision on vacant lands has examined with all the deliberation necessary the "espediente" instituted by the Citizen Lazaro Piña, peltitening for the place known by the name of the "Agua Caliente" and as there does not appear in it anywhere other document which indicates the extent of the place mentioned, than the petition of the party interested - for the sketch making part of the said "espediente" is not made to conform to any scale whatsoever, and the decree of Concession does not express the number of leagues = sitios = of which it was composed - The Commission founds its opinion of approval, upon solely the extent petitioned for, which is of two and a half leagues in length and a quarter of a league in breadth for it is not to be supposed that the Government has favored the party interested with a greater extent than that peltitioned for, and therefore the Commission submits for the decision of Your Excellency, the following proposition -

Approval is given to the grant made by the Superior Government of the Department, under date 13th July 1840 in favor of the Citizen Lazaro Piña, of the place called the

Agua Caliente, in extent of two and a a half leagues long and a quarter of a league wide

Commission Chamber,
Angeles October 7th 1845.

Francisco de la Guerra Narciso Botello

Angeles October 8th 1845

At this day's session the Most Excellent Departmental Assembly approved the foregoing proposition of the opinion, ordering that the original "expediente" be returned to His Excellency the Governor for the convenient purposes —

Pico Pico
President

Agustin Olvera
Secrty.

At this date the respective copy was issued to the party interested —

Index.

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

M. G Vallejo vs United States } Transcript No. 153.

To the United States District Attorney

Sir

Notice of appeal

Please take notice that the claimant in this case appeals from the decision of the United States Commission rejecting his claim and will present his petition to the District Court for a review of the same, and for a confirmation of his claim upon further evidence to be adduced.

Blanding Calhoun & Wise
for claimant.

July 5th 1855

(Endorsed)

Filed July 6. 1855
John G. Monroe
Clerk
By W. H. Chevers
Deputy Clerk

Mariano G. Vallejo
vs.
The United States

Transcript No. 153.

To the Judge of the District Court for the Northern District of California.

The Petition of Mariano G. Vallejo respectfully showeth.

Petition on appeal

That your Petitioner on the Second day of March in the year of our Lord One thousand Eight hundred and fifty three filed his claim in the United States Land Commission for California for the confirmation of his title to a tract of land or Rancho situated in the present County of Sonoma and known as the "Agua Caliente" tract: that his claim was founded upon a Grant of said Tract by Juan B. Alvarado, then Governor of California to Lazaro Peña on the Thirteenth day of July in the year of our Lord One thousand Eight hundred and forty and by said Lazaro Peña conveyed to your Petitioner by deed dated the Fourth day of December in the year of our Lord One thousand Eight hundred and forty nine:

That on the hearing of the case

[illegible] the Board of Land Commissioners the claim was rejected for want of proper

by the Board of Land Commissioner. the claim was rejected for want of proper proofs and not upon the merits and your Petitioner for a description of the land claimed and the title thereto, specially refers to the Petition filed in the claim presented to the Board.

That the Transcript from the Land Commission was filed in this Court on the Ninth day of January in the year of our Lord One thousand Eight hundred and fifty five and notice of appeal has been regularly served upon the United States District Attorney.

Your Petitioner therefor prays this Honorable Court for a review of the decision of the Board of Land Commissioners, a reversal of the same and that his Title to the said Tract may be confirmed by the proper decree.

Blanding, Calhoun & Wise
for claimant

(Endorsed)

Service Acknowledged July 6. 1855.
S. Glassell
Asst. U. S. Atty.

Filed July 6. 1855.
John S. Monroe Clerk
By
W. H. Chevers
Deputy Clerk

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

The United States ads M. G. Vallejo	D. C. 153: L. C. 741.

Answer

The United States by their Attorney deny the validity of the title set forth in the petition of the appellant and pray that the decision of the United States Land Commission be affirmed and that the said title be decreed invalid.

San Francisco Feby 12. 1857

Wm Blanding
U. S. Atty.

(Endorsed)

Filed February 12. 1857.
John A. Monroe Clerk
By
W. H. Chevers
Deputy Clerk

Pio Pico Governador Interino del Departamento de los Californios.

La Exma Asamblea Departamental en sesion de hoy ha acordado lo Siguiente.

Copy of approval of Departmental Assembly

"Se aprueba la concesion hecha por el Superior Gobierno del Departamento con fecha 13 de Julio de 1840. en favor del Ciudadano Lazaro Peña, del paraje de la Agua Caliente en estencion de dos y media leguas de larga y un cuarto de legua de ancho.

Y para resguardo de la parte del Ciudado Lazaro Peña lo hago asi saber. Dada en la Ciudad de los Angles en este papel comun por fatta de sellado a ocho de Octubre de mil ochocientos cuarenta y cinco.

Pio Pico
José Mª Covarrubias
Srio

El que suscribe certifica: que habiendo comprado legitima y fomalmte al C. Lazaro Peña el terreno de la Agua-Caliente, a que se refiere la antt. aprovacion de la Asamblea Departamental de la Alta Califa cedo y traspaso todos los derechos que tengo al mencionado terreno, en favor de D. Andres Hoeppener quien hará del el uso que mas le convenga.

Y para los fines y usos necesa

5

doy este en Sonoma a 12 de Agosto de 1846.

M. G. Vallejo

(Testigo p.)
A. A. Henderson
assist Surgeon
U. S. Ship Portsmouth

Jacob. P. Leese.

Record in Monterey
June 3 1849
the order for a title
the within

No. 760.
T. M. Leavenworth

Agua Caliente.
Approval of Grant
with Transfer

Filed in office Feb 20 1855.
Geo. Fisher
Secy.

Filed for record
Dec 29 1848.
L. W. Boggs
Alcalde
Recorded in Book
"C"
L. W. Boggs
page 85.

Recorded in Book of
Rec: of Ev. vol XVI
pages 531 & 532.

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

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I, J. W. Mandeville, Surveyor General of the United States for the State of California, and as such, having in my office, and in my charge and custody, a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California, as also the papers of the late Board of Commissioners "to ascertain and settle private Land Claims in California;" by virtue of the power vested in me by law, Do Hereby Certify that the three preceding, and hereunto annexed pages of tracing paper numbered from one to three inclusive, exhibit a true copy of a document together with the endorsements thereon, as the same appears on file in case No. 760 in the Docket of said Board of Commissioners.

Seal

In Testimony Whereof, I have hereunto signed my name officially and caused my Seal of Office to be affixed, at the City of San Francisco, this 8th day of June A. D. 1858.

J. W. Mandeville
U. S. Surveyor General for Califor-
-nia.

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

(Approved March 3d 1855)

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

Extract from an Act of the Legislature of the State of California, "concerning certified copies of certain Instruments in Writing."

(Approved, April 29th 1857)

"Sec. 1. Copies of all papers, lately belonging to the United States Board of Commissioners for the settlement of private land claims in California, and on file in the office of the Surveyor General of the United States for the State of California, and all copies of documents and papers belonging to said Surveyor's office, which copies shall

have been duly certified to be true copies by said Surveyor, shall be received and read in evidence, in the same manner, and with like effect as the originals."

Translation of approval of Departmental Assembly

Pio Pico Provisional Governor of the Department of the Californias -

The most Excellent day's session has decided upon the following -

"Approval is given to the Grant made by the Superior Government of the Department, under date 13th of July 1840, in favor of the citizen Lazaro Peña, of the place of the "Agua Caliente, in extent of two and a half leagues long and a quarter of a league wide -

And for security in behalf of the citizen Lazaro Peña, I thus make it known -

Given at the City of Los Angeles upon this common paper for want of Stamped, on the eighth day of October One thousand eight hundred and forty five -

Pio Pico

José Mª Covarrubias
Secy

The undersigned certifies, that having legitimately and formally purchased from the Ciudadano Lazaro Peña, the tract of land of the "Agua Caliente, to which the preceding approval of the Departmental Assembly of Alta California has reference I grant and transfer all the rights which I have in the land mentioned to Don Andres Hoeppener, who shall make such use thereof as may be most convenient to him.

And for the necessary purposes and uses, I give this at Sonoma, the 12th of August 1846.

M. G. Vallejo

(Witness)
A. A. Henderson
Assist. Surgeon
U. S. Ship Portsmouth

Jacob P. Leese

(Endorsed)

Filed Aug: 31. 1858.

W. H. Chevers
Clerk.

Espediente promovido por el Ciudadano Lázaro Piña en pretencion del terreno conocido con el nombre la Agua Caliente.

(229.)

Sor. Prefecto del 1er Distrito de la Alta California

Copy of Espediente No. 229.

Eftmo Sor. Gobernador.

Visto lo contenido en esta instancia y el parecer del Sor Comandte. General elevase al Eftmo Sor. Gobernador del Departmto. ante quien por via de informe espongo que el interesado en esta solicitud obtiene los requisitos legales pa. ser atendido, y que el terreno que pretende se halla baldio y puede serle concedido en propiedad dejandolo á la deliberalidad de V. E.

San Juan de Castro

Lázaro Piña Mejicano por nacimiento, sargento 2o. de Artilleria Permanente y residente en este departamento há veinteun años, ante V. S. como mas halla lugar en derecho, digo: Que habiendoseme concedido por el Sor. Comandante General, (á reserva de solicitar del Gobierno los titulos de estilo como consta del documento que acompaño) el terreno conocido con el nombre de la Agua Caliente, y deseando, para mi mayor resguardo y seguridad, recabar la propiedad del citado terreno, cuyo Diseño tambien acompaño.

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9 de Julio de 1840

José Mª Villar

A V. S. suplico se sirva proveer en justicia á fin de que me sea librado por el Gobierno del Departamto. el título de propiedad del terreno que solicito, sirviendose admitirme este en papel comun por no haber en este punto del sello que corresponde. Juro lo necesario &c.

Sonoma Junio 25 de 1840

Lazaro Piña.

Sor Comandte. Gral.

Sonoma Octubre 15 de 1839.

Se concede al interesado el terreno que solicita, a reserva de solicitar del Gobierno político los títulos de estilo.

Mno. G. Vallejo

Lazaro Piña Sargento 2º de Artilleria Permanente ante V. S. con el debido respeto y en la mejor forma me presento y digo Que hallandome con numerosa familia, y teniendo algunos bienes de campo caresco de un terreno en que poder radicarme para asegurar en lo futuro la precisa subsistencia en cuanto me sea posible; para cuyo efecto he registrado y solicito un terreno en la estencion de dos leguas y media y un cuarto de legua de ancho, conocido con el nombre de la Agua Caliente, situado al N. O. de San Solano, lindando al Sudueste

con el Arroyo que separa la propiedad del Sor. Comandte Gral D. Mariano Guadalupe Vallejo, al Sudeste con la poblacion de Sonoma al Norte, con las lomas y cerros que median y dividen el Rancho de Jorge Yount, y al Noroeste, con el Rancho de Don Juan Wilson por lo tanto. A V. S. suplica se sirva acceder á mi solicitud en la que recibire merced y gracia, Juro no ser de malicia y lo necesario &c.

Sonoma Octubre 14 de 1839.

Lazaro Piña.

Monterey 13 de Julio de 1840
Por no haber papel sellado tiene un comun.

Vista la peticion con que da principio este espediente, el parecer del Sor. Comandte Gral y el informe del S. Prefecto del 1er Distrito con todo lo demas que se tubo presente y ver combino de conformidad con las leyes y reglamentos de la materia declaro al Ciudno Lazaro Piña dueño en propiedad del parage conocido con el nombre de Agua Caliente, Colindante al Sudeste con el arroyo del rancho de Petaluma, al S. E. con el Pueblo de Sonoma al N. con las lomas y cerros que median y dividen el rancho de Jorge Yount y al N. O. con el rancho de Don Juan Wilson Librese el despacho correspondiente tomese razon el libro respectivo y dirijase este espe-

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diente á la Eptma Junta Departamental para su aprovacion.

El Sor. Don Juan B. Alvarado Gobernador Constitucional del Departamt.o de las Californias así lo mandó decretó y firmó doy fé.

Angeles Octubre 3 de 1845

Dado cuenta en sesion de hoy con este espediente de la Eptma Asamblea Departamental se mando pasar á la comision de terrenos baldios.

Pio Pico
Presidte.

Agustin Olvera
Srio.

Eptmo Sor.

La comision de Terrenos baldios ha visto con el necesario detenimto. el espediente promovido por el Cl. Lazaro Piña en pretencion del parage conocido por de "la agua caliente" y no existen en todo el otro documento que indique la extencion del parage dicho sino la solicitud del interesado pues el diseño que corre en el referido espediente no se halla sujeto á Escala alguna y el decreto de con-

cesion no expresa la cantidad de sitio de que fue hecha la Comision funda su dictamen de aprobacion en solo la estension solicitada que es de dos y media leguas de largo y un cuarto de legua de ancho, pues no es de suponerse halla agraciado el Gob.º al interesado en mayor estension que la solicitada y por consiguiente la Comision somete á la decision de V. E. la proposicion siguiente.

Se aprueba la concesion hecha por el Sup.r Gob.º del Depart.º con fha 13 de Julio de 1844 en favor del Ciudadano Lazaro Piña, del parage de la Agua Caliente en estension de dos y media leguas de largo y un cuarto de legua de ancho.

Sala de Comision. Angeles Octubre 7 de 1845.

Fran.co de la Guerra

Narciso Botellas

Angeles Octubre 8 de 1845

En sesion de hoy se aprobó por la Eptma Asamblea Departamental la proposicion del dictamen precedente mandando se devuelva el espediente original al E. S. Gobernador para los fines convenientes

Pio Pico.

Presidte.

11

Agustin Olvera
Srio.

En la fecha se libro á la parte las Copias respectiva.

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

I, J. W. Mandeville, Surveyor General of the United States for the State of California, and as such, having in my office, and in my charge and custody, a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California, as also the papers of the late Board of Commissioners "to ascertain and settle private Land Claims in California;" by virtue of the power vested in me by law, do hereby certify that the eight (8) preceding, and hereunto annexed pages of tracing paper numbered from one to eight inclusive, exhibit a true and accurate copy of Espediente Number 229 entitled as follows - Espediente promovido por el Ciudadano Lazaro Piña en pretencion del terreno conocido con el nombre conoci la Agua Caliente.

(Seal) In testimony whereof, I have hereunto signed my name officially and caused my Seal of Office to be affixed, at the City

of San Francisco, this 7th day of June A.D. 1858.

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

Translation of Espediente in No 229.

Espediente instituted by the Citizen Lazaro Peña, petitioning for the tract of land known by the name* conocila-

Agua Caliente

229

* These two words = conoci la = to be found in the traced copy from which this translation is made, are evidently written by mistake and are superfluous –

17

Most Excellent Mr. Governor Having seen the contents of this appli-cation and the opinion of the comman-dant General let it be carried up to the Most Excellent Gov-ernor of the Department, before whom by way of re-port, I make known. That the party interest-ed in this petition pos-sesses the legal requisite en-titling him to be heard and that the land which he applies for is vacant, and can be granted to him as owner,

Mr. Prefect of the 1st District in Upper California –

I, Lazaro Peña, a Mexican by birth, second sergeant of the Permanent Artillery, and a resident of this Department for twenty one years, before your lordship as may be most in accordance with law, represent: that, there having been granted to me by the commandant General (with reservation of Soliciting from the Government the usual titles, as appears from the document which I annex) the tract of land known by the name of the "Agua Caliente, and wishing, for my greater protection and security to acquire the ownership of the said land, the sketch whereof I also annex: I pray your lord-ship will be pleased to make such lawful provision, that the Title of ownership of the land for which I petition may be issued to me by the Government of the Depart-ment, having the goodness

leaving it to your Excellency's deliberation

San Juan de Castro 9th of July 1840.
Jose Mª Villar.

to receive this upon common paper, as there is none of the proper Stamp to be had at this place -

I make the necessary oath &c.
Sonoma June 25th 1840
Lazaro Peña.

Sonoma October 13th 1839.

Concession is made to the party interested, of the land he applies for with reservation of petitioning from the political Government the usual titles.

Mariano G. Vallejo -

Mr Commandant General.

I, Lazaro Peña, second sergeant of Permanent Artillery, Before your lordship, with due respect and in all proper form, present myself and say: That finding myself with a numerous family and having some field property = bienes de campo = I am in want of a piece of land where I can settle myself, in order to secure so far as may be possible, for me, the necessary subsistence for the future - To this end I have examined and do petition for a tract of land of two leagues and a half in extension and

a quarter of a league in width, known by the name of the Agua Caliente, situated to the North West of Saint Solano bordering on the South West with the rivulet = arroyo = which separates the property of Mr. Commandant General Don Mariano Guadalupe Vallejo on the South East, with the Town of Sonoma. On the North with the hills and mountains which intervene and separate the "Rancho" of George Yount and on the North West with the Rancho of Mr. John Wilson. Therefore I pray your lordship will be pleased to accede to my petition, in which I shall receive benefit and favor.

I swear it is not in bad faith and whatsoever is necessary &c.

Sonoma

October 14th 1839

Lazaro Peña.

In the absence of Stamped paper this comes upon common —

Here follows a sketch of the land

Monterey 13th July 1840.

The petition with which this Espediente is commenced, the opinion of the commandant General and the Report of the Prefect of the First District having been seen, together, with everything else which was considered and proper to observe; in conformity with the laws and regulations upon the matter, I declare the Citizen Lazaro Peña to be the owner in proper right of the place known by the name of Agua Caliente, conjoining on the South west with the rivulet = arroyo = of the "Rancho" of Petaluma, on the South-east with the Town of Sonoma, on the North with the hills and mountains which intervene and separate the rancho of George Yount and on the North West with the "rancho" of Mr John Wilson.

Let the suitable warrant issue, account thereof be taken in the proper Book and let this Espediente be directed to the most Excellent Departmental "Junta" for its approval.

Mr. John B. Alvarado, constitutional Governor of the Department of the Californias, so ordered, decreed and signed the same

I certify—

Angeles October 3rd 1845.

Report having been made upon this Espediente, in to day's session of the most Excellent Departmental Assembly; it was ordered to be passed to the Commission on vacant lands.

Pio Pico
President

Agustin Olvera
Secy—

Most Excellent Sir

—The Comission on vacant lands has examined with all the deliberation necessary, the "Espediente" instituled by the Citizen Lazaro Peña petitioning for the place known by the name of the "Agua Caliente" and as there does not appear in it anywhere other document which indicates the extent of the place mentioned, than the petition of the party interested—for the sketch making part of the said "espediente" is not made to conform to any scale whatsoever, and the decree of concession does not express the number of leagues = Sitios = of which it was com=

posed the commission founds its opinion of approval, upon solely the extent petitioned for, which is of two and a half leagues in length and a quarter of a league in breadth for it is not to be supposed that the Government has favored the party interested with a greater extent than that petitioned for and therefore the Commission submits for the decision of Your Excellency, the following proposition—

Approval is given to the grant made by the Superior Government of the Department under date 13th July 1840 in favor of the citizen Lazaro Peña, of the place called the Agua Caliente, in extent of two and a half leagues long and a quarter of a league wide

Commission Chamber
Angeles October 7th 1845.

Francisco de la Guerra. Narcisco Botellas

Angeles October 8th 1845

At this day's session the Most Excellent Departmental Assembly approved the foregoing

proposition of the opinion ordering that the original "espediente" be returned to His Excellency the Governor for the convenient purposes –

Pio Pico
President
Agustin Olvera
Secr y.

At this date the respective copy was issued to the party interested –

(Endorsed) Filed Aug: 31. 1858.
W. H. Chivers
Clerk

~~~~~~

Sello tercero dos reales – Para
~~~~~~

Certified copy of deed from Peña to Vallejo.

Sello tercero dos reales - Para los años de mil ocho cientos veinte y seis y ocho cientos veinte y siete = Valga para los años de mil ocho-cientos veinte y ocho, y mil ocho cien-tos veinte y nueve = Valga para los años, de mil ocho cientos treinta y mil ocho cientos treinta y uno = Valga para los años de mil ocho cientos treinta y seis y mil ocho cientos treinta y siete = Valga para los años de mil ocho cientos treinta y ocho y mil ocho cientos trein-ta y nueve = En el pueblo de Sonoma de la Alta California á los cuatro di-as del mes de Diciembre de mil ocho-cientos treinta y nueve ante mí el Capitan D. Salvador Vallejo, Comandante Militar ejerciendo la Jurisdiccion civil y testigos; D. Lazaro Piña vecino de dicho pueblo dijo: que por sí y en nombre de sus herederos hijos y sucesores y de qui-en ellas hubiere vos y causa en cual-esquiera manera; vende y da en ven-ta real y enagenacion perpetua por Juro de heredad para siempre jamas al Sor. D. Mariano G. Vallejo. veci-no tambien del mismo pueblo de Sonoma y á los suyos el terreno de la agua Caliente en cantidad de dos leguas y media de largo y un cuarto de ancho por mas ó menos

segun esplica el titulo que acompaña esta escritura, los que les pertenecia en posesion y propiedad colindante con los Guilocas, Petaluma, la poblacion de Sonoma y la serrania al norte; segun consta por dichos titulos de pertenencia respectivas por los cuales le corresponde en posesion y propiedad al otorgante, el cual declara y asegura no tenerlo vendido ni empeñado y que está libre de titulo, memoria capellania vinculo patronato, fianza y de otro gravámen perpetuo temporal, especial, general tanto y espreso y como tal se lo vendo con todas sus entradas, salidas, fabricas, usos, costumbres, regalias, servidumbres y demas cosas anexas que ha tenido tiene y le pertenece segun derecho. por dos mil pesos que tiene recibidos en pesos fuertes y bienes semovientes siendo estas ultimas entregadas por ⁿ Francisco Jalapa, lo que el mismo confiese haber recibido mitad por mitad, y renuncio la ley 9.ª tit.º 1.º partida 5.ª y así mismo declaro que el justo precio y verdadero valor del referido terreno, es la cantidad antes dicha de dos mil pesos y que no vale mas ni hallo quien tanto

le halla dado por el, y si mas vale ó valer puede, del ascenso en poca ó mucha suma, hace á favor del comprador y de sus herederos y sucesores gracia y donacion pura, perfecta é irrevocable, en sanidad con insinuacion y demas formas legales y renuncio la ley 2.º tit.º 1.º - L. 10 - N.R. que trata de las contratas de ventas que y de otras en que hay lesion en mas ó menos de la mitad del justo precio y las cuatro años que prefino para pedir su resision ó suplemento á su justo valor, los que da por pasados como si efectivamente lo estuvieran y desde hoy en adelante para siempre se desapodera desiste quita y aparta y á sus herederos y sucesores del Dominio ó propiedad, posesion, titulo, vos recibo y otro cualquiera derecho que le competa al enunciado terreno de la Agua Caliente Lo cede, renuncia, traspasa en las acciones reales y personales utiles, mixtas directas y ejectiones en el comprador y quien la suya represente para que lo posea, goce, cambie, enagene, use y disponga de ella á su eleccion como de cosa suya adquirida con lejitimo y justo titulo y se confiesa poder irrevocable con libre fianza y general administracion y constituye

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procurador autor en propia causa para que de su autoridad entre y se apodere del nominado terreno presinda la real tenencia y posesion que por derecho le compete: y para que no necesite tomarlo me pide que le de copia de esta escritura con la cual sin otro acto aprehension ha de ser visto haberla tomado, aprehendido y transferidola: y en el interin se constituye inquilino tenedor precario poseedor en legal forma y se obliga á que dicho terreno sera cierto seguro y efectuo al comprador y nadie inquietará ni movera pleito sobre su propiedad posesion gose disfrute ni contra el egercicio gravamen alguno; y si se le inquietare moviere ó aparciere luego que el otorgante y sus herederos suceres sean requeridos conforme á derecho saldran á su defensa y lo seguiran á sus espensas en todas instancias y tribunales hasta ejecutoriarlo y dejar al comprador y á los suyos en su libre uso y quietud pacifica possecion; y no pudiendo conseguirlo le daran otro igual en valor de fabrica sitio renta y comodidades y en su defecto la restitucion la cantidad que ha desembolsado las mejoras utiles precisas y voluntarias que á la razon tengo al mayor valor

y estimacion que con el tiempo adquirio y todas las costas gastos daños intereses ó menoscabos que se le siguieren é irrogaren por todo lo cual ha poder ejecutar solo en virtud de esta escritura y puramente del que la posea ó de quien le represente en personas difiere su importe y lo releva de otra prueba y á la observancia de todo lo referido obliga su persona y bienes habidos y por haber y confiere amplio poder á los señores jueces y tribunales de la nacion que de este negocio deban conocer conforme á derecho para que le apresisen á su complemento como por sentencia definida de juez competente pasado en autoridad de cosa pagado y consentido que por tal la recibe.

Lazaro Piña = Ante mi Salvador Vallejo - de Asistencia = Cayetano Juarez de Asistencia = Francisco Jalapa = Miguel Alvarado = Juan N. Padilla.

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State of California
County of Sonoma. ss.

I hereby certify that the foregoing is to the best of my knowledge and belief a full, true and correct copy of a record in Book F. of Sonoma County Records on pages 41 & 42

Given under my hand and seal of office this 10th day of July A.D. 1858.

(Seal.)

Joel Miller
County Recorder in and for said County.

Translation of deed from Peña to Vallejo.

Third seal. two reales. For the Years One thousand eight hundred and twenty six and eight hundred and twenty seven. Let it serve for the years one thousand eight hundred and twenty eight and one thousand eight hundred and twenty nine. Let it serve for the years one thousand eight hundred and thirty and one thousand eight hundred and thirty one. Let it serve for the years one thousand eight hundred and thirty six and one thousand eight hundred and thirty seven. Let it serve for the years one thousand eight hundred and thirty eight and one thousand eight hundred and thirty nine.

In the Pueblo of Sonoma in Upper California on the 4th day of the month of December 1839 before me Captain D. Salvador Vallejo Military Commander exercising civil jurisdiction and Witnesses. D. Lazaro Peña resident of said Pueblo says: That for himself and his heirs, sons and successors, and whom of them might have title, vote and cause in any manner whatsoever he sells and gives in real sale and perpetual alienation by right of inheritance for

always and ever to D. Mariano G. Vallejo also resident of the same Pueblo of Sonoma and to his assigns the tract of land of la Agua Caliente in extent two and a half leagues in length and one quarter in width, a little more or less as is shown in the title deed accompanying this writing which belong to him in possession and ownership, bordering on las Guidacas Petaluma the village of Sonoma and la Sonoma to the North as is shown in the said respective title deeds of ownership by which it belongs to him the grantor in possession and ownership who declares and assures not to have sold or pledged it and that it is free from any tribute, bill, benefice, entail, patronato, bond or any other encumbrance, perpetual, temporal, especial, general, tacit and expressive, and as such he sells it with all its revenues, expenditures, buildings, uses, customs, privileges, servitudes and other appurtenances which it has had, has, and belongs to it according to law for two thousand dollars which he has received in lawful money and moveable property being this last delivered by Francisco Jalapa, which the same he confesses to have received half by half.

He renounces the law of 9th tit. 1o partida 5a and he likewise declares that the just price and the value of the said land is the aforesaid sum of Two thousand dollars and that it is not worth more, nor did he find anybody willing to give him so much for it and if it may or can be worth more of the excess in a little or large sum he makes in favor of the Purchaser and his heirs and successors, gift and entire donation, perfect and irrevocable in vigour with public exhibition before a judge, and other legal firmnesses, and he renounces the law 2d tit 1o L. 10 N. R. treating of contracts of sale exchange and other in which there is damage in more or less than the half of the just price and the four years, preferring to demand its recision or supplement to its just value which he considers as if they were effectively repealed.

And from to day henceforward forever he disposes, releases, quits and parts himself and his heirs and successors of the dominion and ownership, possession, title, vote, recourse, and any other right whatsoever which might stand in competition to the

said tract of land of la Agua Caliente.

He cedes, renounces, transfers it in the real, personal, useful, mingled, direct and executive causes of action in the purchaser and in whom may represent his cause in order that he may possess enjoy exchange, alienate use and dispose of it at his option as a thing of his own acquired by legitimate and just title.

And he confers on him irrevocable power for free, independent and general administration and constitutes him Attorney Proctor in his own cause, that under his authority he may enter and possess himself of the aforesaid land and seize the real tenancy and possession which by right stands in opposition to him, and that he shall not need to take it he asks me to give him a copy of this writing, with which, without another act of seizure has to be looked upon as being taken, and seized, and transferred and in the meantime he is constituted its tenant holder and possessor in legal form.

And I bind myself that said

land shall be certain, secure and effective to the purchaser and nobody shall disturb him nor institute law-suit upon his ownership, possession, enjoyment and usufruct nor against it appear any incumbrance, and if he shall be disturbed, sued or there shall appear any incumbrance, the grantor and his heirs and successors shall presently be required conformable to law to rally to his defence, and follow it up at their expense in all instances and tribunals until executed and to leave the purchaser and his assigns in its free use and quiet and peaceable possession; and not being able to obtain it they shall give him other equivalent in value of buildings, site, rent and commodities and in default thereof they shall restore the sum he has disbursed for the useful necessary and voluntary improvements, which in reason thereof he may have to the highest value and estimate at the time acquired and with all the costs, expenditures, damages, interests or deteriorations consequent thereon, for all of which he will have to be enabled to execute solely in virtue of this writing and merely

by him who may possess it, or whom may represent him to whom is yielded its import and he is relieved from other proofs.

And for the observance of all the foregoing, he binds his person and property, which he has or may have and he vests full power in the Judges and tribunals of the Nation who ought to take cognizance of this affair conformable to law that they may constrict him to its fulfillment as by definitive sentence of a competent Judge passed in authority of suit adjudged, and consented which as such he admits it.

Lazaro Piña.

Before me Salvador Vallejo
Attesting Witnesses.
Cayetano Juarez, Francisco Jalapa,
Miguel Alvarado. Juan N. Padilla.

(Endorsed)

Filed August 31. 1858.
W. H. Chevers
Clerk.

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United States District Court.
Northern District of California.

The United States,
vs.
M. G. Vallejo.

San Francisco. Sept: 3d 1858.

Dep: of T. M. Leavenworth

On this day, before W. H. Chevers a Commissioner of the United States for the Districts of California, duly authorized to administer oaths, &c. &c., came T. M. Leavenworth a witness produced on behalf of the Claimant in Case No. 153, being an appeal from the Board of Commissioners to ascertain and settle the Private Lands Claims in the State of California, in Case No. 741 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows;

Present: Wm. Blanding for the Claimant, and the U.S. Dist: Atty.

Question by Claimants Counsel.

Ques:

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

Ans:

T. M. Leavenworth, about 50 years of age and reside in Sonoma County, Cal.

Ques: 2.

Are you acquainted with the Agua Caliente Rancho in Sonoma County?

Ans:

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I am.

Ques: 3.

Did you ever own any part of that rancho?

Ans:

I did.

Ques: 4.

Did you present a claim to the Board of Land Commission for your portion of the ranch

Ans:

I did

Ques: 5

What has been the decision in your case?

Ans:

It was confirmed both by the Land Com. and the Dist: Court. and the appeal dismissed by direction of the U.S. Atty. Genl. and a final decree entered by this Court.

Ques: 6.

In the prosecution of your claim did you make a search for the Grant to Lazaro Peña. of the Agua Caliente Ranch?

Ans:

I did.

Ques: 7.

Where was that search made, or in what way?

Ans:

In the Archives under the control of the U. S. Surveyor General for this State, I made enquiries of Governor Alvarado, of Genl. Vallejo, and of an officer who was local Alcalde

at Sonoma about the time the Grant was made.

at Sonoma about the time the Grant was made. I don't recollect his name, also of Hepner, of whom I purchased, and of other persons whose names I do not now remember. The result of this search was that Peña got the Grant, went down to Mexico with it, and it was lost. He was killed in battle in Mexico, Cherubusco I think. He was an officer of the Mexican Army.

Ques: 8

Is Hepner alive now.

Ans:

He is dead.

Questions 4th & 5th objected to by Dist: Atty. as seeking to establish by parol, matters which should be proved by the record.

Questions 7th & 8th objected to because there is no proof that there ever was a grant to Lazaro Peña, and because in answer to 8th question, the witness is permitted to state "the result of the search, which is equivalent to giving his opinion upon the fact, & unsworn statements of persons who have not been examined.

T. M. Leavenworth

Sworn to, and subscribed
September 3d 1858, before me.
W. H. Chevers.
U. S. Commr.

39 (Endorsed)

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Filed Sept. 3d 1858.

W. H. Chevers
Clerk.

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U. S. Dist. Court.
Northern Dist. of Cala.

United States
vs.
M. G. Vallejo.

Transcript No. 153
D. C. No. 741.

Stipulation

It is hereby stipulated that the following Deposition of Salvador Vallejo, taken in the case of T. M. Leavenworth, (Transcript No. 760, D. C. No. 333) is admitted as evidence in this case, with a right reserved to the U. S. to recall the Deponent for reexamination as claimants witness, if required by the Dist. Atty.

P. Della Torre
U. S. Atty.

Wm. Blanding
Clts Atty.

Nov. 9th 1858.

No. 720.

United States Land Commission,
San Francisco March 30th 1855.

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On this day before Commissioner R. Aug: Thompson, came Salvador Vallejo, a witness on behalf of the Claimant in Case No. 760, who after being duly sworn deposed as follows: his evidence being interpreted by the Interpreter for the Board,

Dep: of Salvador Vallejo

Present: Claimants Attorney and U.S. Law Agent.

In answer to question Witness states that his name is Salvador Vallejo, his age forty years, and residence Napa County, California

1st Question by Claimants Counsel.

Do you know Lazaro Peña, if yea how long have you known him?

Ans:

I have known him for more than twenty years in Monterey and Sonoma. He resided in that Valley on the Rancho called Agua Caliente from the year 1839 or 1840 untill a short time before the American occupation of California

Ques: 2d by same.

What improvement if any did he make on said Rancho and what was the character of his occupation?

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Ans:

In the year 1840, he built an Adobe house on the land in which he lived with his family, he enclosed fields in the same year and sowed them in wheat, corn and beans, he had the year before erected corrals, and had put about three hundred head of battle on the place.

3rd Question by same.

Do you know the Arroyo formerly called the Arroyo del Rancho de Petaluma?

Ans:

Yes. I know it, It is now known as the Rio de Sonoma, and devides the Rancho of Petaluma from the town of Sonoma, and from the Rancho of Agua Caliente.

Cross examined by U.S. Law Agent.

Question by same.

Do you know the boundaries of said Rancho of Agua Caliente, and if yea, how do you know them?

Ans:

Yes, I know them, before Peña made his petition for the land I went on the place with him for the purpose of examining and fixing upon the boundaries.

2d Question by same.

Examine the map contained in the Expediente now shown you, marked Exhibit No. 1. R. S. and hereto annexed, and point out on the

same the position of the house, and improvements described in your answer to question No. 2 of your examination in chief?

Ans:

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The house was situated near where the words "Casa del Rancho" occur on the map on the right hand side of the road leading from the Pueblo of Sonoma and about 400 yards from said road and 600 or 1000 yards from an Arroyo that runs between the house and the Pueblo. The sowings were on the opposite side of the road near the River and near the Southern corner of the Rancho.

(Signed) Salvador Vallejo.

Sworn to, and Subscribed before me March 30th 1855.

(Signed) R. Aug. Thompson. Commr.

I, George Fisher Secretary to the Board of U. S. Land Commissioners, do hereby that the foregoing is a true and correct copy of Salvador Vallejo's deposition on file in this office in Case No. 760 T. M. Leavenworth, Claimant for Agua Caliente

Witness my hand this 7th July A.D. 1855

Geo: Fisher.
Secy.

(Endorsed)
Filed January 3d 1859
W. H. Chevers. Clerk.

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United States District Court,
Northern District of California.

The United States.
vs.
M. G. Vallejo.

San Francisco May 28th 1859

On this day, before me, W. H. Chevers, a Commissioner of the United States for the Districts of California, duly authorized to administer oaths, &c. &c. came Jose Matias Moreno, a witness produced on behalf of the Claimant in Case No. 153, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 741 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows— his evidence being interpreted by Richard Tobin a sworn interpreter

Dep: of José Matias Moreno

Present: Wm. Blanding, Counsel for Claimant, and the U.S. Atty. for the U.S.

Questions by Claimants Counsel.

Ques: 1st

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

Ans:

Jose Matias Morena, Forty years of age, and reside in San Diego.

Ques: 2.

Look at the Expediente No. 229 "Agua Caliente" Ranch, of which a traced copy is filed in this case, marked Exhibit "H" W. H. C. the original of which is now produced from the archives, and now shown you and say whether you recognize the signatures thereto and which of them?

Ans:
The signatures of Pio Pico, Agustin Olvera, Narciso Botello, and Francisco de la Guerra in this document, I know to be genuine, the other signatures in the document I do not know.

Cross examination waived.

Jose Matias Moreno

Sworn to, and subscribed
May 28th 1859, before me.
W. H. Chevers
U. S. Commr.

(Endorsed)
Filed May 28th 1859.
W. H. Chevers.
Clerk.

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United States District Court,
Northern District of California.

The United States,
vs.
M. G. Vallejo.

San Francisco May 28th 1859.

Dep: of Juan B. Alvarado

On this day, before me W. H. Chevers, a Commissioner of the United States for the Districts of California, duly authorized to administer oaths, &c. &c. came Juan. B. Alvarado, a witness produced on behalf the Claimant in Case No. 153, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 741 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows:— his evidence being interpreted by Richard Tobin, a sworn interpreter.

Present: Wm. Blanding, Counsel for the Claimant, and Peter Della Torre, U.S Attorney.

Question by Claimants Counsel.

Ques: 1st.

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

Ans:

Juan. B. Alvarado, 50 years of age, and reside at San Pablo, Contra Costa County California

Ques: 2.

Look at Expediente No. 229, to the "Agua Ca-
-liente" Ranch of which a traced copy is filed
in this case marked Exhibit A. W. H. C. the
original of which is now produced from the
Archives and now shown you and say
whether you recognise the signatures thereto,
and which of them?

Ans:

With regard to all the signatures in this
Expediente excepting those of Agostin Ol-
-vera, Narciso Botello, and Francisco de
la Guerra. I know them to be all genuine,
and with regard to the signatures of the
said Olvera, Botello, and de la Guerra, I
believe them to be genuine, because I have
seen them often, but as I have never seen
either of those persons I have named, sign
their names, I cannot be positive.

Ques: 3.

Look at the document now shown you pur-
-porting to be "Certificate of approval" of the
Departmental Assembly of a grant for the
same place (Agua Caliente) to Lazaro
Peña, and say if you know the signatures
attached thereto, and whether they are ge-
nuine, or not, a traced copy of which is atta-
-ched hereto marked "Exhibit B." W. H. C.?

Ans:

I know all the signatures on this paper
to be genuine with the exception of the sig-
-natures of A. A. Henderson.

Ques: 4.

Do you know anything of the issuing of a grant referred to in said last document if so state what you know?

Ans:

I understand that it refers to a grant which I made as Governor to Lazaro Peña of the land called "Agua Caliente" I did make a grant to the said Peña for the lands known by the name of Agua Caliente, I think in the year 1840.

Ques: 5.

State if you remember what were the contents of the grant?

Ans:

As I remember the grant was for a piece of land Two leagues and a half long by about a quarter of a league wide, bounded on one side by Wilsons ranch, on another by Petaluma Creek, on another by Gountz's ranch, and on the other by the lands of Sonoma.

Ques: 6.

Was the grant in the usual form?

Ans:

It was a grant in the usual form with the usual conditions.

Cross examination waived.

Juan. B. Alvarado.

Sworn to. and subscribed
May 28th 1859. before me.

May 28th 1859. before me.

W. H. Chevers.
U. S. Commr.

(Endorsed)
Filed May 28th 1859.
W. H. Chevers.
Clerk.

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Copy of Extracts from Jimeno Index.

Indice de los terrenos adjudicados y personas á quienes se les ha concedido.

x x x x x x x	x x	x x x x x x x x	x x x
Agua Caliente	Cond.a	al Ciudadano Lazaro Piña	229
x x x x x x x	x x	x x x x x x x x x x x ————	x x x
x x x x x x x	x x	x x x x x x x x x x x ————	x x x

En este indice hay el numero de 433 Expediente; pero p.r equivocacion se paso en la numeracion del 329 al 346 habiendo seguido en la misma.

Man.l Jimeno.

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

I, J. W. Mandeville, Surveyor General of the United States, for the State of California, and as such, having in my office, and in my charge and custody, a portion of the Archives of the former Spanish and Mexican Territory, or Department of Upper California, as also the papers of the late Board of Commissioners to ascertain and settle the private land claims in California; by virtue of the power vested in me by law, Do hereby certify, that the one preceding, and hereunto annexed page, of tracing paper, numbered one inclusive, exhibit a true, full and correct copy, of a portion of a document, as the same appears on file among said Archives.

Examined and found correct.
R. C. Hopkins
Keeper of Archives.

In Testimony Whereof, I have hereunto signed my name officially, and caused my Seal of Office, to be affixed, at the City of San Francisco, this 30th day of May, 1859.

(Seal.)

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

(Endorsed,
Filed June 3. 1859.
W. H. Chevers, Clerk.

United States District Court
Northern District of California.

The United States
vs
M. G. Vallejo

No. 153.

Opinion confirming claim

This case has been submitted without argument, the District Attorney not disputing the genuineness or validity of the claim. The original grant is not produced. Its non production however is not a ground for suspicion for the grantee was killed during the war and after search the grant could not be found.

The Expediente is found in the Archives - duly numbered as its date required - and the grant is noted with its approximate number, the names of the grantee, and of the land granted in Jimenez index -

A certificate of confirmation by the Departmental Assembly is also attached to the Expediente, dated Oct. 8th 1845 and on reference to the Journal of that body the report, reference to the Committee on vacant lands, the report of that Committee

and the resolution of approval are found duly recorded.

The signatures to all the documents in the Expediente are proved to be genuine and all the preliminary proceedings, and the issuance of the grant appear to have been strictly regular.

D The occupation of the tract by Sena the grantee from a date long anterior to that on which the grant was approved by the Assembly is also shown. The proofs of the validity of this claim are therefor as full and as reliable as could be offered in support of any grant made by the former Government of this country. There can be no doubt but that it should be confirmed. The contents of the lost grant are proved not only by parol testimony but by the concession and the approval of the Departmental Assembly.

The Claim has been presented by M. G. Vallejo. The conveyance from Pena to him appears to have been made before the grant was obtained by the former.

This Court has no Jurisdiction to enquire in the present proceeding into any questions of private right between the heirs or devisees of the

grantee and the present claimant. The decree of confirmation must therefor be made to M. G. Vallejo claimant or to the legal representatives of the deceased grantee wherever they may be, and without prejudice to the rights of any one who may be lawfully entitled under him.

(Endorsed)
Filed July 5. 1859.
W. H. Chedes, Clerk.

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

Decree

United States,
Appellees.
v.
M. G. Vallejo,
Appellant.
} No. 153.

Agua Caliente
States Term, July 5. 1859.

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

Decree.

This cause came on to be heard on appeal from the final decision of the Board of Commissioners to ascertain and settle private land claims in the State of California, under the Act of Congress approved March 3. 1851. upon the Transcript of the proceedings and decision of said Board, and upon the evidence adduced in this Court, and Counsel for the respective parties having been heard.

It is Ordered, adjudged and decreed, that the decision of the said Board be and the same is hereby vacated, annulled and reversed.

And it is further ordered, adjudged and decreed that the claim of the Appellant is a good and valid claim, and that the same be and is hereby confirmed.

The land of which confirmation is made is situated in the present County of Sonoma and is of the extent of Two leagues and a half in length by a quarter of a league in width and known by the name of "Agua Caliente", and is bounded on the South-West by the Arroyo of the Rancho of Petaluma, on the South-East by the Town of Sonoma, on the North by the Hills and Mountains which intervene and separate the Rancho

of George Yount, and on the North-West by the Rancho of Mr. John Wilson, being the same land which was granted to Lazaro Peña by Governor Alvarado: reference being had for a more particular description, to the Petition of Lazaro Peña, dated 14th October 1839, the decree of concession by Governor Alvarado, dated 13th July 1840, the Map in the Expediente, and the Approval of the Departmental Assembly, certified copies of which are on file in the case.

Provided, that this confirmation of the above land to the said M. G. Vallejo shall be without prejudice to the rights of the legal representatives of Lazaro Peña, the original grantee, or whoever may be entitled to said lands under him; and said confirmation to said Vallejo shall enure to the benefit of any person or persons who may own or be entitled to said land by any title, either at law or in equity, derived from the original grantee by deed, devise, descent or otherwise.

Ogden Hoffman
Dist Judge

(Endorsed) Filed July 13. 1859.
W. H. Chevers, Clerk.

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 Wednesday the twenty sixth day of October in the year of our Lord one thousand eight hundred and fifty nine.

Present: The Honorable Ogden Hoffman, District Judge.

Order granting appeal

The United States vs. M. G. Vallejo } No. 153 L. C. 141.

In this case, on application of T. R. Wise Esq. Acting U. S. Atty, it is Ordered that an appeal in behalf of the United States from the final decision of this Court, rendered in said cause at the present term, be and the same is hereby granted, and that a certified transcript of the pleadings, evidence depositions, and proceedings in the said cause be sent to the Supreme Court without delay.

(Endorsed)
Filed October 26, 1859.
W. H. Chevers, Clerk.

At a Stated Term of the District Court of the United States of America for the Northern District of California, held at the Court Room in the City of San Francisco, on Monday the 15th day of September in the year of our Lord one thousand eight hundred and sixty two.

Present: The Honorable Ogden Hoffman, District Judge.

Order to file Mandate U. S. Supreme Court.

The United States
v.
Mariano G. Vallejo.
No. 153.

And now comes the United States by their Attorney W. H. Sharp, who presents the Mandate of the Supreme Court of the United States in the above entitled cause, and moves that the same be filed, Whereupon It is Ordered, that the said Mandate be filed and made a part of the record of the Court in this cause; and that the Claimant have leave to proceed in conformity to the opinion and decree of the said Supreme Court.

Ogden Hoffman
Dist. Judge.

(Endorsed)
Filed September 15. 1862.
W. H. Chevers,
Clerk.

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United States of America, S.S.
The President of the
United States of America,
To the Honorable the
(Seal) Judge of the District Court
of the United States, for the
Northern District of California,
Greeting:

Mandate Supreme Court U.S.

Whereas, lately in the District Court of the United States, for the Northern District of California, before you in a cause between M. G. Vallejo, Appellant, and the United States, Appellees, the decree of the said District Court was in the following words, to wit:

"It is Ordered, adjudged and decreed that the decision of the said board be, and the same is hereby vacated, annulled and reversed.

And it is further Ordered, adjudged and decreed, that the claim of the Appellant is a good and valid claim and that the same be and is hereby confirmed.

The land of which confirmation is made is situated in the present County of Sonoma, and is of the extent of two leagues and a half in length by a quarter of a league in width, and known by the name of Agua Caliente, and is bounded on the South-

west by the Arroyo of the rancho of Petaluma, on the Southeast by the town of Sonoma, on the North by the hills and mountains which intervene and separate the rancho of George Yount, and on the Northwest by the rancho of Mr John Wilson, being the same land which was granted to Lazaro Peña by Governor Alvarado, reference being had for a more particular description to petition of Lazaro Peña, dated 14th October 1839; the decree of concession by Governor Alvarado, dated 13th July 1841: the Map in the expediente, and the approval of the departmental Assembly, certified copies of which are on file in the case: provided, that this confirmation of the above land to the said M. G. Vallejo shall be without prejudice to the rights of the legal representatives of Lazaro Peña, the original grantee, or whoever may be entitled to said lands under him; and said confirmation to said Vallejo shall inure to the benefit of any person or persons who may over be entitled to said land by any title, either at law or in equity derived from the original grantee, by deed, devise, descent or otherwise, as by the inspection of the transcript of the

record of the said District Court, which was brought into the Supreme Court of the United States, by virtue of an appeal agreeably to the act of Congress, in such case made and provided, fully and at large appears.

And Whereas, in the present term of December, in the year of our Lord, one thousand eight hundred and sixty one the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and was argued by Counsel:

On consideration whereof, it is the opinion of this Court that the original grant to Lazaro Pina is a good and valid grant and that the same should be confirmed; Whereupon it is now here ordered, adjudged, and decreed by this Court that the decree of the said District Court in this cause, in so far as it confirms the original grant be and the same is hereby affirmed."

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

Witness the Honorable Roger

Witness the Honorable Roger

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

Wm. Thos. Carroll,
Clerk of the Supreme Court
of the United States.

(Endorsed)

Filed September 15.
1862.

W. H. Chever,
Clerk.

I, W. H. Chevers, Clerk of the District Court of the United States for the Northern District of California, do hereby certify that the foregoing pages numbered from one to sixty three inclusive contain a true, full and correct Transcript of the record of the proceedings had in said Court, since the filing of the Transcript from the Board of U. S. Land Commissioners, now on file and remaining of record in my office in the case of The United States vs. Juan and J. Vallejo No. 153.

In Witness Whereof I have hereunto set my hand and affixed the seal of said Court this 19th day of February A.D. 1864.

W. H. Chevers,
Clerk.

No 6.

Offered in Evidence
by Deft
Clerk

Office of the Board of Commissioners,

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

San Francisco, Dec 30th 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. 741 on the Docket of the said Board, wherein M. G. Vallejo is —

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

and request your receipt for the same.

I am, Respectfully,

Your Obt Servant,

Geo. Fisher

3 sy.