CASE NO.
177

NORTHERN DISTRICT

PART OF ENTRE NAPA GRANT

JULIUS MARTIN

CLAIMANT

LAND CASE 177 ND pgs. 187

FEB 22 1963

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TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 323.

Julius Martin CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR part of THE PLACE NAMED

"Entre Napa"

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Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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

The Petition of Julius Martin for part of the Place named "Entre Napa", was presented, and ordered to be filed and docketed with No. 323 and is as follows, to wit;

(Vide page 3 of this Transcript.)

Upon which Petition the following subsequent Proceedings were had in their chronological order, to wit;

San Francisco, January 15th 1853.

In Case No. 323, Julius Martin for part of the place named "Entre Napa", the deposition of José de la Rosa, a witness in behalf of the claimant, taken before Commissioner Harry I. Thornton, with document marked "H. I. T. no 1," annexed thereto was filed:

(Vide page 4 of this Transcript)

San Francisco Sept. 13th 1853.

Case No. 323 Called; on motion of the Counsel for the Claimant, ordered to the foot of the Docket.

San Francisco, May 4th 1854.

In the Same Case the deposition of J. P. Walker, a witness in behalf of the claimant, taken before Commissioner Peter Lott, was filed:

(Vide page 5 of this Transcript)

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San Francisco July 7th 1854.
In the Same Case the deposition of Ramon G. de la Riva, a witness in behalf of the United States, taken before Commissioner Peter Lott, with a map marked "P.L." annexed thereto, was filed:
(Vide page 7 of this Transcript)

San Francisco July 8th 1854.
In the Same Case the deposition of Emile A. d'Hemecourt, a witness in behalf of the United States, taken before Commissioner Peter Lott, was filed:
(Vide page 12 of this Transcript)

San Francisco, Aug. 1st 1854.
Case No. 323 was submitted on Briefs.

San Francisco, Sept. 1st 1854.
In the Same Case Commissioner Alpheus Felch delivered the Opinion of the Board rejecting the Claim:
(Vide page 55 of this Transcript)
And the following order was made, to wit:
(Vide page 57 of this Transcript)

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Petition.

To the Honorable Commissioners to settle Private Land claims in California —

The petitioner Salvador Martin respectfully represents that in December 1835, Nicolas Higuera petitioned for the tract of land in the present County of Napa called "Entre Napa" which Manuel Chico Governor of California by virtue of authority in him vested granted to said Higuera on the 9th day of May AD 1836 all of which is shown by the Espediente, a certified copy of which is submitted herewith marked "A" with a translation marked B. the petitioner also submits a copy of the original title marked "C" with a translation marked "D". —

That the said grant was duly approved by the Territorial Deputation and the possession given in due form, a copy of which possession is submitted herewith marked "E". with a translation marked "F". —

That on the 13th day of November AD 1841 said Nicolas Higuera and his wife Maria Antonia Higuera Vasquez sold and conveyed to Mathew Fellow a part of said Rancho called "El Rincon de las Carneros" as more particularly described in the deed of conveyance, a copy of which is submitted herewith marked "G" with a translation marked "H".

That on the 1st day of July AD 1850 the said Mathew Fellow and his wife Manuela Briones sold and conveyed to this petitioner the said "Rincon de las Carneros" a copy of which deed of conveyance is submitted herewith marked "I" with a translation marked "J". —

The petitioner also submits herewith a map and notes of survey of said tract of land made by the duly authorised Surveyor of Napa County marked "K". —

And the petitioner further represents that the said Higuera and Fellow and the petitioner have been for more than 16 years and the petitioner now is in the quiet and undisputed possession of said tract of land.

That he knows of no conflicting claim. That he relies for confirmation of title upon the original papers copies of which are submitted herewith. upon the original documents now in the hands

of the heirs of said Higuera and which he expects to be able to produce on the hearing of his Claim upon the records and Minutes in the archives of the former Government of California and upon such other and further proofs as he may be advised are necessary.

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Wherefore he prays the Commissioners to confirm to him the aforesaid tract of land.

By his Attys.
Halleck Peachy & Billings —

Filed in Office Sept. 11. 1852.
(signed)
Geo Fisher Secy.

San Francisco Jany 15, 1853.

Deposition of José de la Rosa

On this day before Comr Henry I Thornton came José de la Rosa a witness in behalf of the claimant Julius Martin petition No 323 and was duly sworn his evidence being interpreted by the Secretary.

The U. S. Associate Law Agent was present.

My name is José de la Rosa. my age is 61 years I reside in Sonoma and have resided there over 21 years.

I know the Rancho called "Entre Napa" it is in Napa Valley and was granted to Nicolas Higuera in 1834. he built a house on it and corrals had cattle and horses on it. cultivated a portion of the land he continued to occupy it until his death he died in 1852 before his death he sold portions of it to Joseph P Thompson and others.

I know the signatures of Mariano Chico Francisco del Castillo Negrete, Salvador Vallejo Cayetano Juarez Apolinario Miranda. Jacob P Leese their signatures to the papers before me marked No 18 are genuine

José de la Rosa —

U. S. Law Agent Present.
Sworn to & subscribed before me
this 15th of Jany 1853.
Henry I Thornton Commr &c.

Filed in Office Jany 15, 1853.
(sgd)
Geo Fisher
Secy

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United States of America
State of California } ss

San Francisco May 4, 1854.

Deposition of J. P. Walker

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This day personally came before Peter Lott a Commissioner for taking testimony to be used before the Board of U. S. Land Commissioners in said State Joel P. Walker a witness on behalf of the claimant in Case No 323 on the docket of said Board wherein Julius Martin is claimant and the said Witness being duly sworn on oath deposed in the English language as follows to wit

The U. S. Law Agent is present.

Questions by Attorney for Claimant.

1st Question –

What is your name, age and present residence?

Answer.

My name is Joel P. Walker My age 54 years, My residence Sonoma County California –

2d Question –

Are you acquainted with the boundaries of the tract of land claimed in this case by Julius Martin ie the tract called Entre Napa. If yea, state them, Also look at the plat or map in the document marked X and filed in this case and state whether the boundaries of said Martin's claim are therein correctly delineated?

Answer.

I am acquainted with the boundaries of Martin's Claim in "Entre Napa" and this map is a correct representation of them. The tract lies between the arroyo de las Carneros" and Napa Creek Nicolas Higuera who sold the land to Fellows told me the boundary commenced at a certain tree he sent his grand son to show me the tree the beginning corner: he told us to run an East course to a Spring at the point of the hills, and that the land lying south of that line was what he sold to Fellows. The tree was at the Carneras Creek at the lower Fork. The tree was marked as a corner tree –

3d Question –

On what occasion, when and for what purpose was you running or examining the

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boundary of said land!

Answer:

Some time in the year 1851 my brother Joseph R Walker who was acting for Julius Martin came to my house and informed me that he had come to get Nicolas Higuera to point out the corner of the land, and also to have the tract surveyed for Mr Martin – He requested me to go with him: I went to Higueras house and it was at that time that Higuera gave me the information. We went then on the land with sd Higuera's grand son and found the tree – Higuera himself afterwards came and showed us the tree. John E Brown the County Surveyor made the Survey and this plat is the one he made of that Survey. The tract is called Rincon alias Carneros!

4th Question –

Who lived on this tract when that Survey was made –

Answer – No person.

5th Question –

Who has had possession since that time!

Answer.

There are several persons on it now. Nicora Frias. Edward Wilson and Mc Duffey and others I do not know.

6th Question –

How long have you known the premises and where do you reside! –

Answer –

I live 2½ or 3 miles from the place and have since 1848 lived in the neighborhood and am well acquainted with the place.

Cross. Examined by U. S. Law agent.

1. Question –

Are you a practical Surveyor!

Answer – I am not.

2d Question.

How then do you know this map to be a correct delineation of the land which you have sworn to in this case! –

Answer. I saw the Survey made

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I know the lines of the creek and I think I could make as good a map of the land myself altho I do not profess to be a practical surveyor. I think the map a correct representation of the land.

3d Question

Are you interested in this claim.

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Answer.

No! in no way.

Joel P. Walker.

Subscribed and sworn to before me this 4th day of May AD 1854.

Peter Lott Commissioner for taking Testimony &c.

Filed in Office May 4. 1854.
(signed) Geo Fisher Secy.

United States of America.
State of California } ss.
San Francisco July 7. 1854.

Deposition of Ramon G de la Riva.

This day personally came before Peter Lott Commissioner for taking testimony to be used before the Board of U. S. Land Commissioners in said State, Ramon G de la Riva a witness in behalf of the United States in case No 323 on the docket of said Board wherein Julius Martin is Claimant and said witness being duly sworn on oath deposeth in English as follows.

The Claimants Counsel is present.

1st Question

What is your name age and residence!

Answer.

My name is Ramon G de la Riva, my age 31 years. I reside in Los Angeles County California.

2d Question

Did you ever reside in the County of Napa. if yea. how long and were you acquainted with Joel P Walker while you lived there?

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Answer.

I lived in Napa County from February 1850 to June 1853 and I knew Joel P Walker while I lived there.

3d Question.

Were you acquainted with the Rancho of Entre Napa formerly claimed by Nicolas Higuera. if yea what was the character of your acquaintance with it.

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Answer.

I was acquainted with it I lived on it all the time I lived in Napa County

4th Question.

State whether the said Joel P Walker converses in Spanish language.

Answer.

He was not able up to the time I last knew him. some 14 months since. to hold a conversation in Spanish. he could speak a few words enough perhaps to buy a few articles. I acted as interpreter for him when he went to survey the land claimed in this case and he then told me he did not understand enough of the language to know what Higuera said at that time.

5th Question.

Were you acquainted with Nicolas Higuera if yea. State whether he could speak the English language.

Answer.

I was acquainted with him and he could not speak a word of English.

6th Question.

Was you ever present at a conversation between Nicolas Higuera and Joel P Walker with reference to the land claimed by Salvador Martin within the Entre Napa tract. if yea. State when where. who was present. what occasioned the conversation and what circumstances attended it.

Answer.

I was present at such a conversation between said parties. It was some three years ago or possibly a little more. It was on the place of Las Carneras. Captain Walker a brother of Joel P and John E Brown and one or two sons of Joel P Walker were present. A deed

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which Capt Walker held from Julius Martin gave rise to the Conversation. The circumstances were that Capt Walker had a deed from Mateo Fellom to Julius Martin and he Capt Walker said that he held that interest or that he represented Julius Martin I do not know what was the transaction between them Nicolas Higuera told Joel P Walker and Capt Walker that he had sold a Mile to the same Mateo Fellom on the waggon road (the main road from Sonoma to Napa) then Capt Walker and Joel P Walker replied that they had bought the whole place according to the deed then Nicolas Higuera denied it and said he only sold one Mile of land. They talked in this way for a long time and they Could not agree and at last Captain Walker said he was going to run the line that he knew what he had bought, then the Old Man (Higuera) went back to his house and I went with him –

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(This answer objected to as hearsay testimony by Claimants Counsel as containing the declarations of the grantor and conversations between third persons and for other reasons of substance.

7th Question.

Who acted as interpreter in the Conversation you have just repeated?

Answer.

I did at the request of Capt Walker, Joel P Walker and John E Brown the Surveyor who were there at that time –

8th Question –

State whether Capt Walker claimed to act as the Agent of Julius Martin at that time and whether he then and there exhibited deeds and whether the two papers now shown you and marked Exhibit No 1 and Exhibit 2 to your deposition were there exhibited by him?

8th Question objected to by Claimants Counsel as in part irrelevant & in part leading –

P.D.

Answer –

He did not say that he was agent or was not but he exhibited on that occasion the paper marked "Exhibit 2" a deed signed by Nicolas Higuera and his wife the other paper Exhibit 1st I

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do not recollect to have seen.

9th Question.

State whether Either Joel P Walker or Capt Walker was a partner of Julius Martin at that time?

Answer.

I do not know whether they were Either of them at that time partner of said Martin.

10th Question.

What was the point of land between the Carneras Creek and the Napa River near their junction called?

Answer.

It was always called "La Bolsa" de los Carneras. When I was there

11th Question.

Look at the Map marked "Exhibit B" annexed to deposition of Ramon G de la Rivera P.L" and state whether it correctly delineates the land between the two streams just mentioned as far as it extends?

Answer.

This map is a correct description of the land between said Streams according to my recollection of the way the land lies.

12th Question.

Are you acquainted with the wagon roads crossing the tract of Entre Napa and with the point of hills and location of the high lands in said Rancho East of the said Roads. If yea point out on said map the location of said roads and describe said high lands?

Answer.

I am acquainted with said roads hills and high lands and it seems to me that the road as laid down on the map is correctly laid down, there is another road running further up in the hills which passes by Nicolas Higuera's house and runs to Napa.

13th Question

Do you know of a Surveyor running off the land in the "Bolsa" before mentioned for sd Martin. If yea who was he and was he

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forbidden to do so to survey it if yea by whom and when did this occur?

Answer.

At the same time I have before spoken of, when the Walkers and John E Brown were there together, said Brown surveyed the land in the Bolsa. he was forbidden to do so by me as a messenger, sent by Nicolas Higuera and I went and told him and Capt Walker in the presence of one Joseph Green that Nicolas Higuera protested against their surveying said land.

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14th Question.

Look again at the document marked Exhibit 1. annexed to "your deposition" and state whether from the words of description contained therein, you think with your knowledge of the country you could locate the quantity of land called for in said document? —

Answer.

I will say that I do not think I could locate a piece of land properly from this description or any other because I am no surveyor and therefore there is no use in my reading the document.

Cross Examined by Claimants Counsel.

1st Question.

What is the name of the land between the Arroyo de los Carneros and the Napa river?

This 1st Question objected to as not Cross Examination by U S. Law agent.

"P L"

Answer.

By taking the whole grant it is called Rancho de Napa Abajo so far as I recollect the point between the two streams near their junction I was told when I lived there was called the Bolsa and as Nicolas Higuera told me the place which was called "Rincon de los Carneros" was about where the road crosses the Arroyo of "los Carneros" at the point marked on said Map as "Ford at the lower Corral" because at the time when the Mission was there they left some sheep about at-

that point. the Corral was South of the road.

2d Question

How far is it from the said post mentioned on the Arroyo de las Carneros to the foot of the hills laid down on said road map a North Easterly course along the road as laid down on said Map!

Answer.

I think it is about 2 miles. it may be more or less.

Ramon G. de la Riva.

Subscribed and Sworn to before me this 1st day of July AD 1854.

Peter Lott Commissioner for taking testimony &c

Filed in Office July 1. 1854.
(Signed) Geo Fisher Secy.

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United States of America
State of California } ss.
San Francisco July 1. 1854.

Deposition of Emile A d'Hemecourt

This day personally came before Peter Lott Commissioner for taking testimony to be used before the Board of U. S. Land Commissioners in said State Emile A d'Hemecourt a witness on behalf of the United States in case No 323 on the docket of said Board wherein Julius Martin is Claimant, and said witness being duly sworn on oath deposed in English as follows to wit.

The Claimants Counsel is present.

Questions by U. S. Law Agent.

1 Question —

What is your name age and residence!

Answer — My name is Emile A. d'Hemecourt, my age 38 years. I reside in Napa County. California —

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2d Question.

What is your profession what Office do you now hold, and State whether you are acquainted with the Rancho of Entre Napa formerly owned by Nicolas Higuera in Said County of Napa. State herein the Character of your acquaintance with Said Rancho.

Answer.

I am a Surveyor by profession. I am now County Surveyor of Napa County. I am acquainted with the Rancho named I have had in my possession the Expediente of the title thereof and have Surveyed the Rancho.

3d Question

Are you acquainted with the Spanish language. If yea, look at the words of description in the document marked Exhibit 1 to deposition of Ramon G de la Riva "B.L" and filed in this Case and State whether from your knowledge of the Country the land intended to be granted by said document can be located by the words of description therein!

Answer.

I am acquainted with the Spanish language well Enough to read it but cannot keep up a conversation in it very well with a Spaniard. I can speak it so as to make myself understood.

From my knowledge of the Country I could not by these words of description locate the Mile Square of land called for because in the deed it mentions only a road and an indefinite point of hills, and then there is but one line mentioned in the deed, and I do not know how from only one line of description to Enclose 640 acres of land.

4th Question

What is the distance from the point where the road crosses the Carneros Creek to the first point of hills on said road to the East!

Answer.

It is two miles —

5th Question

Look at the map marked Exhibit 3 annexed to deposition of Ramon G de la

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Rincon "P L" and say whether it correctly delineates the land it purports to represent and particularly with respect to the road laid down and the hills East of the Carneros creek?

Answer.

I made a map of which this appears to me to be a traced copy and it is a correct description of the land it represents and the said road and hills as here laid down are correctly delineated –

Cross Examined by Claimants Counsel.

1st Question.

Do you know which place is called "Rincon de los Carneros"?

Answer.

I understand all the land forming the delta between the Carneros creek and the Napa River to be the "Rincon" without any definite limit to the North.

Eno A d'Hemecourt.

Subscribed and Sworn to before me on this 8th day of July AD 1854.

Peter Lott Commissioner &c.

Filed in Office July 8. 1854
(Signed) Geo Fisher Secy

15 1. S. D. K.

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Jurisdiccion de Sonoma.

Espediente promovido en Solicitud del parage q. indica el Diseño p.

Nicolas Higuera

C 153.

Note) This copy is arranged in the same manner as is the Original document, but the writing in page 7 of this copy is a continuation of a copy on page 3 pages 4. 5. & 6. being copies of two pages inserted inside of the Original Sheet which forms pages 2. 3. & 7 & 8. of this Copy

J. D. King Sr. Genl.

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2. S. D. R. Sello Tercero Dos Reales: Habilitado provisionalmente por la Aduana Maritima de Monterey de la Alta California para los años de mil ocho cientos treinta y cuatro y mil ocho cientos treinta y cinco.

Castro. Angel Ramirez.

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Monterey Eno. 22 de 1836. De confor midad con las leyes de la Materia informe el ayuntamiento de Sn. Francisco si el contenido en esta instancia obtiene los requisitos que previene la ley de 28 de Agosto de 1824 para ser atendido en su solicitud si el terreno que pretende pertenece à la propiedad de algun particular mision ò pueblo si es de regadio, temporal ò abrevadero y q. estencion tendra

Sor. Gefe sup. Politico
Nicolas Higuera radicado en esta frontera ante V. como mas haya lugar en derecho Espone q. ha trasladado hace algun tiempo sus bienes semovientes que tenia en San Francisco al otro lado del puerto à este pueblo de Sonoma con Objeto de establecerse con su familia y careciendo de un Terreno propio que cultivar y le proporcione su subsistencia futura y siendole el que va marcado en el Diseño adjunto que consta de una Legua cuadrada en el parage de Napa A. V. S. suplico se sirva concederselo atendiendo à esta solicitud con su acostumbrada benignidad de que vivirè eternamt. reconocido
Sonoma 30 de Dbre. de 1835.
Nicolas Iguera.

Evacuados estas diligencias pasarà al Mayordomo de la Comision de Sn. Francisco p. q. le proponga lo que crea conviniente.
El Sor. Dn. Nicolas Gutierrez Tente. Coronel de Caballeria del Egercito permanente, Comandte. General, Inspector y Gefe Politico de la Alta California asi lo mandò decretò y firmo de q. doy fee.
Nicolas Gutierrez
Franco. del Castillo Negrete Srio.

Sor. Gefe sup. Politico
En cumplimto. de lo prevenido p. el superior Decreto de fha 22 de Enero del presente año que se halla en la presente solicitud que hase el ciudadano Nicolas Higuera del Terreno de Napa. El Ayuntamiento de esta demarcacion dice lo siguiente: que el interesado obtiene los requisitos necesarios:

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p.ª ser atendido: El terreno que pretende no esta comprendido en las 20 leguas limitrofes y si de las 10 litorales, es de Regadio, temporal y abrevadero: dicho parage lo ocupaba la Mision de San Solano en la actualidad ignora.

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323-

Here follows Map

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5. S. D. R. Administracion de San Francisco de Asis:
Con fha once del pp.º Marzo mè remitio el Sor Alcalde de Sn Franco. estos dos Espedientes para informe segun el superior decreto que se halla al margen de dhos espedientes y como yo no tengo conocimiento de esos terrenos por no pertenecer à la de mi cargo y sabedor de que pertenecen à esta Mision de S. Solano; solo S. puede informar acerca de lo Espuesto en virtud de ser administrador de dhos:
Dios y Libertad. pueblo de Dolores diez i seis de Abril de 1836. Gerumdo. Flores.
Sr. adminr. de S. Solano.
El administrador de S. Francisco de Asis con Oficio de fha 16 del corriente me acompaño los dos Espedientes promovidos por los C. C. Ygnacio pacheco y Nicolas Higuera pa. qe. informe segun lo pide en su Oficio de citados: y para facilitar el curso de ellos dire que los terrenos que solicitan no estan ocupados ni por los naturales de este pueblo ni por el fondo ò semovientes: qe. estan à mi cargo pues aquellos tienen ya sus Ranchos establecidos en comun, y este ocupa desde el paraje de Soscol hasta el Estrecho de Carquines sin tercera alguna por su localidad por respecto à las personas qe. lo solicitan obtienen los requisitos pa. ser atendidos; y los terrenos no estan comprendidos en las veinte leguas limitrofes asi en las diez litorales que espresa la ley de 18 de Agosto de 1824 à pesar de qe. asi lo informa el Ilustre Ayuntamiento de Sn. Francisco de Asis: Los tres documentos adjuntos dichos tengo el honor de acompañar à V. Sª. fines que convengan.
Dios y Libertad.
Sonoma Abril 24 de 1836. Antonio Ortega
S. Gefe superior politico de la Alta California
Es copia de los dos documentos qe. se hallan incorporados en el espediente de Ygnacio pacheco à los que me remito.
Monterey Mayo 5 de 1836.
Castillo.
7. S. D. R. Sello Tercero Dos Reales: Habilitado provisionalmente por la Administracion de la Aduana maritima de Monterey de la Alta California

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para los años de mil ocho cientos treinta y cuatro y mil ocho cientos treinta y cinco.

Castro: Angel Ramirez

Este Ayuntamiento si estara ocupado pr. aquel pueblo pr. lo que es de parecer ——— informe el comisionado ò mayordomo de Sonoma

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Pueblo de S. Franco. Marzo 11 de 1836.

José Joaqn. Estadillo.

Franco. Sanchez Serio.

Monterey Mayo 9 de 1836.

Vista la peticion con que da principio este espediente el informe del Ayuntamiento de Sn. Francisco Solano con todo lo demas que se tubo presente y ver convino de conformidad con lo dispuesto en las leyes y reglamentos de la materia se declaro al Cno. Nicolas Higuera dueño en propiedad del Terreno conocido con el

8. S. D. K. nombre de entre Napa segun esplica el diseño que corre en el Espediente. Librese le el despacho correspondiente tomese razon en el libro respectivo entreguesele al interesado pa. reservese este espedt. para dar cuenta à la E. Diputacion para su aprobacion. El Sor. Dn. Mariano Chico Gefè superior politico de la alta California asi lo mando decreto y firmo de lo que certifico.

Mand. Chico

Franco. del Castillo Negrete. Serio.

En 31 de Mayo pasò à la Comn. de Terrenos Valdios. Maldonado Serio.

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

I, Samuel D. King Surveyor General of the United States for the State of California and as such now having in my Office and under my charge and Custody a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California — do hereby certify that the Eight preceding and hereunto annexed pages of tracing paper numbered from One to Eight inclusive and each of which is verified by my initials (S. D. K.) exhibit true and and accurate Copies of certain documents

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and forming part of the said Archives in this Office.

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(Seal) In Testimony whereof I have hereunto signed my name officially and affixed my private seal (not having a seal of Office at the City of San Francisco Cal. the 31st day of July 1852.

Saml. D. King
Surveyr. Genl. Cal.

Filed in Office Septbr. 4th 1852
Geo Fisher Secry

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Stamp Third. Two Rials.

Provisionally authorized by the administration of the Maritime Custom House of Monterey of Alta California for the years 1834 and 1835.
(Signed) Castro. (Signed) Angel Ramirez.

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"B"

Translation of Espediente

Monterey January 22nd 1834.

In conformity with the laws relating to the matter the Ayuntamiento of San Francisco will report if the petitioner possesses the requisites provided in the law of August 18, 1824 to entitle his petition to be attended to, if the land asked for belongs to any private person Mission or Pueblo if it is irrigable dependent on the seasons or pasture land, and what may be its extent.

These requirements being finished this will be passed to the Mayor Domo of the Ex Mission of San Francisco in order that he may report what he may deem convenient.

Señor Don Nicolas Gutierrez, Lieut Colonel of Cavalry in the permanent army, Commandant General Inspector and Political chief

Senor Superior Political Chief.

Nicolas Higuera settled in this frontier before Your Excellency in the manner provided by law represents, That some time ago he has removed the stock which he had in San Francisco on the other side of the Port to this pueblo of Sonoma for the purpose of establishing himself here with his family, and having need of a private land for cultivation and for his future subsistence, and being such that which is marked out in the map adjoined which comprises one square league in the place of Napa,

Wherefore he prays Your Excellency to be pleased to grant the request with your accustomed benignity, for which he will live eternally grateful.

Sonoma December 31st 1835.

(Signed)
Nicolas Higuera.

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of Upper California thus ordered decreed and signed of which I certify —

(Signed)

Nicolas Gutierrez.

(Signed)

Francisco Castillo Negrete }
Secretary }.

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Senor Superior Political Chief.

In compliance with the Superior decree of the 22^d of January of the present year on this petition of Citizen Nicolas Higuera respecting the land of Napa the Ayuntamiento of this Communication says the following

That the petitioner possesses the requisites necessary to be attended to that the land asked for is not comprehended in the 20 border leagues but is in the littoral leagues it is irrigable dependent upon the seasons and pasture land, said place was occupied by the Mission of San Solano but this Ayuntamiento is ignorant whether it is now occupied by that Pueblo but the Commissioner or Mayor domo of Sonoma can inform —

Pueblo de San Francisco }
March 11. 1836 }

(Signed)

Jose Joaquin Estudillo.

(Signed)

Francisco Sanchez }
Secretary }

Administration of S Francisco de Asis —

Under date of the 4th of March last the Alcalde of the Pueblo of San Francisco sent me two Expedientes for report in compliance with the Superior decree in the margin of those Expedientes and as I have no Knowledge of those lands inasmuch as they do not belong to my charge and as I Know that they pertain to that of the ex Mission of San Solano you alone can report upon the matter being the administrator of said lands.

God and Liberty Pueblo of Dolores April 16th 1836.

(Signed) Gumdo Flores.

To the administration of San Solano.

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The Administrator of S. Francisco de Asis in an Official Note of the 14 of the present month sends me the two Espedientes moved by citizens Ignacio Pacheco and Nicolas Higuera to report as asked in his said Official (Communication) and in order to facilitate their advancement I will say that the lands asked for are not occupied by the Natives of this Mission nor by the stock or cattle under my charge, for the former have their ranchos established in common and the latter occupy the place of Jascal to the Straits of Carquines where they trouble no one by their location. With respect to the persons who petition they possess the requisites to entitle them to be attended to and the lands are not included in the 20 border leagues but are in the 10 littoral which are referred to in the law of August 18th 1824, according to the Report of the Illustrious Ayuntamiento of San Francisco de Asis. The three aforesaid annexed documents I have the honor to send herewith to your Excellency for the ends which you may please.

God and Liberty Sonoma April 24. 1834.

(Signed)

Antonio Ortega.

Senor Superior Political Chief of Upper California

These are true copies of the two documents sent to me and incorporated in the Espediente of Ignacio Pacheco.

Monterey May 5. 1834.

(Signed),

Castillo.

Monterey May 9th 1834.

Having seen the petition at the beginning of the Espediente, the report of the Ayuntamiento of San Francisco, that of the Administrators of the Missions of San Francisco de Asis and of San Francisco Solano, with all else presented and proper to be seen, In conformity with what is provided in the laws and regulations on the matter, Nicolas Higuera is declared owner in fee of the land known by the name of Cerro Napa as explained by the Map which goes with the Espediente.

Let the corresponding dispatch issue, take note of it in the respective book

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deliver it to the party interested and reserve this Expediente in order to report to the Excellent Deputation for its approbation.

Senor Don Mariano Chico, Superior Political Chief of Upper California thus ordered and signed of which I certify.

(Signed) Mariano Chico.

(Signed) Francisco Castillo Negrete
Secretary.

On the 13th of May passed to the Committee on vacant lands.

(Signed) Maldonado
Secretary.

Filed in Office Sept 4, 1852
(Signed) Geo Fisher Secy.

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"D"

Translation of Title.

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Stamp First. Six Dollars.

Provisionally authorized by the administration of the Maritime Custom House of Monterey in Upper California for the years 1834 and 1835.
(sgd) Figueroa. (sgd) A Ramirez.

Rehabilitated for the two years of 1836 and 1837.
Gutierrez A Ramirez.

Citizen Colonel Mariano Chico Representative of the Nation. Governor and Commanding General of Upper California.

Civil Government of Upper California

Whereas Citizen Nicolas Higuera a Mexican by birth has for his own personal benefit and that of his family petitioned for a title more than one square league in the place known by the name of Napa. all the proper measures and Examinations concerning them having been previously made as required by laws and regulations on the matter using the powers which are conferred on me in a decree of this day and in the name of the Mexican Nation I have granted him the aforesaid tract of land declaring to him the ownership thereof by the present letters, subject to the approval of the Most Excellent Deputation and under the following conditions viz;

1st. That he shall submit to those (conditions) which may be Established by the regulation which is to be formed for the distribution of Government lands and in the meantime neither the grantee nor his heirs can divide or alienate the tract which is hereby granted to them, or impose any ground rent. Entail pledge, mortgage or other incumbrance Even for religious purposes or convey it in Mortmain.

2d. He may enclose it without detriment to the crossings roads and Easements and Enjoy it freely and Exclusively making of it such use and cultivation as may best suit him but within one year at farthest he shall build a house on it and it shall be inhabited

3d. He shall apply to the proper Magistrate to give him juridical possession by virtue of this title by

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whom the bounds shall be marked out in the limits of which he shall place besides the land marks some fruit or useful forest trees.

4th. The land of which donation is made is a little more than one square league as shown in the sketch attached to the Espediente.

The Magistrate who may give the possession will cause it to be measured in conformity with the ordinance leaving to the Nation for its convenient uses the surplus which may result.

5th. If he contravenes these conditions he shall forfeit his right to the land and it shall be liable to be denounced by another.

In consequence I order that this present serving him for a title and being held as firm and valid, note be made of it in the corresponding book and it be delivered to the person interested for his security and other purposes.

Given in Monterey on the ninth of May one thousand eight hundred and thirty six.

(Signed) Manuel Chico

(Signed) Francisco del Castillo Negrete
Secretary

Note has been made on folio 112 and marked with the number 118 of the corresponding book which exists in the Secretary's office in my charge.

Monterey May 24th 1836.

(Signed) Castillo.

Filed in Office Sept 4. 1852.

(Signed) Geo. Fisher Secy

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Juzgado de Sonoma

Espediente instruido pa. medir y dar posecion de un sitio de ganado mayor en el Rancho de Napa abajo al C. Nicolas Higuera el dia 11 de Enero de 1842.

Juez.
El C. Salvador Vallejo.
asoa. asoa
Apolinario Miranda # Cayetano Jores.

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Sello primero seis pesos: Habilitado provisionalmente por la administracion de la Aduana maritima de Monterey de la Alta California pª los Años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Figueroa   A. Ramirez

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Revalidado pª el bienio de 1836 y 1837.

Gutierrez   A. Ramirez

El Cº Coronel Mariano Chico, Representante de la Nacion, Gefe superior politico y Comandte. General de la Alta California.

(Seal) Por cuanto el Cº Nicolas Higuera mejicano por nacimiento, ha pretendido para su beneficio personal y el de su familia un sitio de ganado mayor poco mas en el parage conocido con el nombre de Napa; practicadas previamente las diligencias y averiguaciones convenientes à lo dispuesto por las leyes y reglamentos

Dros $20/ de la materia, usando de las facultades que me son conferidas en decreto de este dia y à nombre de la Nacion Mejicana he venido en concederle el terreno mencionado declarandole à la propiedad de el por las presentes letras y à reserva de la aprobacion de la Ecsma Diputacion y bajo las condiciones siguientes.

1ª Que se sometarà à las que establiciere el Reglamento que se ha de formar para la distribucion de Terrenos Valdios y que entre tanto ni el agraciado ni sus herederos podran dividir ni enagenar el que se les adjudica imponer censo vinculo, fianza, hipoteca, ni otro gravamen aunque sea por causa piadosa ni pasarlo à manos muertas.

2ª Podrà cercarlo sin perjudicar las travecias caminos y servidumbres; lo disfrutarà libre y esclusivamente, destinandolo al uso ò cultivo que mas le acomode; pero dentro de un año fabricarà casa y estarà habitada.

3ª Solicitarà del juez respectivo q. le de la posecion juridica en virtud de este despacho por el cual se demarcaràn los linderos en cuyos li-

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=mites pondran à mas de las mojoneras algunos a=
=boles frutales ò silvestres de Alguna utilidad.

4ª El terreno de que se hace donacion es de un sitio de Ganado Mayor poco mas segun esplica el Diceño que corre en el Espediente. El juez que diere la posecion lo hara medir conforme à Ordenanza, quedando el sobrante que resulte à la nacion para los usos convinientes.

5ª Si contravinere à estas condiciones perdera su derecho al terreno y serà denunciable p.r otro

En consecuencia mando que sirviendole de titulo el presente y teniendose por firme y valedero se tome razon en el libro que corresponde y se entregue al interesado para su resguardo y demas fines. Dado en Monterey à nueve de Mayo de mil ocho cientos treinta y seis.

Mar.no Chico.

Fran.co del Castillo Negrete Srio.

Dros. 10 p.s Queda tomada razon à fojas 112 y señalado con el numero 108 del Libro que corresponde y obra en la Secretaria de mi Cargo.

Monterey Mayo 20 de 1836

Castillo.

Sor Juez de Paz de la Frontera.

El ciudadano Nicolas Higuera vecino de esta jurisdiccion, dueño del Rancho de Napa abajo como mejor proceda de derecho ante V. parezco y digo q.e como consta del titulo q.e presento con la solemnidad y juram.to necesario tengo en mi dho Rancho un sitio de ganado mayor poco mas abajo de los linderos q.e espresa dho titulo y por q.e necesito para q.e en todo tiempo conste hasta donde llegan: ya me perjudican ò perjudico ha alguno de los circumvecinos se servira V. mandar q.e precediendo las diligencias acostumbradas de identidad vista de ojos y reconocimiento se proceda con citacion de los circumvecinos à la medida de mis tierras para cuyo efecto nombro desde ahora y para cuando el caso llegue por medidor al Ciudadano. Rafael Narvaez vecino de esta jurisdiccion inteligente en materias de medidas y otro q.e sea interesado nombre a otro medidor por parte suya y haviendolo hecho asi los q.e nombren con el referido Rafael Narvaez

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por mi nombrado aparescan acepten y juren y en conformidad se proceda à dhas medidas
Por tanto à V.E. suplico que haviendo por presentado dho documento se sirva mandar hacer como llevo pedido y hecho q. sean se me devuelvan dhos Recaudos con las Diligencias originales que se hicieron para resguardo de mi derecho este escrito y todo lo necesario a ruego de mi Sor padre.

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En el pueblo de Sonoma à los diez dias del mes de Enero de mil ochocientos cuarenta y dos ante mi el ciudadano Salvador Vallejo comandante general y juez de esta jurisdiccion se leyo esta peticion, y por tala huve por presentado con el documento que espresa y mando q. con citacion de los circumvecinos se haga informacion de identidad, vista de Ojos y reconocimiento de dhas tierras à q. estoy pronto a asistir personalmente. Asi lo provello, mando y firmo con los de mi Asoa.

Aso. Salvador Vallejo. Aso.
A. Polinario Miranda # Cayetano Jores.

En el espresado pueblo de Sonoma à los diez dias del mesmo mes y año yo el referido juez con los de mi Aso. para proceder à la informacion de identidad hizè comparecer ante mi al ciudadano Ramon Mesa vecino de esta Jurisdicion de Oficio labrador del cual recibi juramto. que hizo y la señal de la Sta. Cruz en forma de derecho por el cual prometio decir verdad y siendo preguntado por el conocimnto. q. tiene de las tierras, parages y terminos y linderos pertenecientes al Rancho de Napa abajo digo q. hace ocho años q. existe en esta frontera y sabe q. las tierras pertenecientes a dicho sitio son del ciudadano Nicolas Higuera y q. tiene por linderos el Arroyo de los Carneros el Arroyo de Napa y el camino real abajo poco menos q. dhas tierras à visto y reconocido varias veces. y desde q. las poseè el referido Higuera las ha labrado y cultivado y han pasteado en ellos sus ganados y para prueba de lo que tiene dicho esta pronto à ir à dhas tierras con el presente juez y señalarle los parages, terminos y linderos

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y a donde llegan en que se afirmo y ratifico a cargo del juramt.o q.e tiene hecho: Declaro ser de veinte y cinco años de edad y no tocarles las generales de la ley y lo firmo con migo y los de asist.a

A. Polinario # Salvador Vallejo # Ramon Mesa Aso. + Cayetano Jores.

En seguida hise comparecer ante mi y los de Ass.a al ciudadano Jorge Roè y haviendolo hecho prestar juramento de costumbre ofrecio decir verdad y preguntado por las tierras, parajes terminos y linderos pertenecientes al Rancho de Napa abajo dijo: q.e hace ocho años q.e es vecino de esta poblacion y sabe que las tierras pertenecientes à dho Rancho son de la propiedad de Nicolas Higuera y tiene por Linderos los mismos q.e su mismo q.e su antecesor testigo acaba de declarar q.e las ha visto y reconocido varias veces y q.e es cuanto tiene q.e decir quedando conforme con la declaracion anterior y declaro ser de cuarenta y nueve años y no tocarle las generales de la Ley y la firmo conmigo y los de ass.a segun derecho.

José Roè

Salvador Vallejo # Polinario Miranda. Ass.a
Cayetano Jores. Ass.a

A continuacion hizè comparecer ante mi y los de Ass.a al ciudadano Angel Bohorquez y haviendolo hecho prestar juramento de costumbre ofrecio decir verdad y preguntado por las tierras parajes, terminos y linderos pertenecientes al Rancho de Napa abajo dijo que hace tres años que es vecino de esta jurisdiccion y sabe que las tierras pertenecientes à dho Rancho son de la propiedad del ciudadano Nicolas Higuera y tiene por Linderos los que su antecesor testigo acaba de declarar q.e las ha visto y reconocido varias veces y q.e es cuanto tiene q.e decir y a cargo del juramt.o q.e tiene hecho en q.e se afirmò y ratifico declaro ser de treinta años de edad y no tocarle las generales de la Ley y lo firmo conmigo y los de Ass.a

Angeles Bohorquez +

Salvador Vallejo.

A. Polinario Miranda # Cayetano Jores Ass.a

Estando en el Campo, en el parage de Napa abajo à los diez dias del mes de Enero de mil ...

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ocho cientos cuarenta y dos: Yo el juez actuando por receptoria con dos testigos de Asa. por falta de Escribano publico los testigos por mi examinados presente el ciudadano Nicolas Higuera dueño de dhas tierras y los ciudadanos Cayetano Joares y Apolinario Miranda, los colindantes y circumvecinos procedi à ver y reconocer las tierras de dho rancho y para mayor claridad puesto a caballo en compa. de todos las partes y testigos referidos mandè à los susodichos me señalasen los parages linderos y terminos de ellos segun las señales q. han declarado en sus deposiciones. y en su conformidad guiaron à la parte del este q. mira de dho rancho costeando el Estero hacia el Sur hasta llegar à el Arroyo de los Carneros de alli se prosiguio reconociendo tomando el Arroyo arriba q. corre al O.E. hasta llegar al Corral del paso de abajo de alli tomamos el rumbo N. hasta llegar al Arroyo de Napa para la parte de O.E donde se concluyo el reconocimiento y vista de Ojos de dhas tierras hasta donde los testigos dijeron ser los ultimos parages, terminos y linderos de dhas tierras cuyos parages yo el referido juez vi y reconoci con los de Asa., testigos examinados y papeles presentados y cotejados los autos del referido reconocimiento ser cierta la identificacion de las mensionadas tierras segun y como declararon dhos testigos y para q. conste se puso por diligencia y lo firmo con los de mi Asa. y demas q. supieron firmar doy feè.

Salvador Vallejo.

À. Polinario Miranda # Ramon Mesa +
Cayetano Jores Asa. Jorge Roè.

Jacob. P. Leese.

En inmidiatamente yo el Juez digo q. para proceder à las medidas contenidas en estos autos mando se notifique al ciudadano Nicolas Higuera el titulo de las tierras para q. ratifique el nombramient.o de medidor como asi mismo que de de acuerdo y todos los colindantes nombren por su parte al suyo deviendo ser intelligente en materias de medidas y hecho esto estoy pronto à señalar dia para dhas medidas asi lo proveyo mandè y firmè con los de Asa. Salvador Vallejo.

En el mismo dia mes y año yo el referido Juez ...

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A. Polinario Miranda # Cayetano Soares. Asst.
En el mismo dia mes y año yo el referido Juez ley y notifique el auto de su uso segun y como en el se contiene al Ciudadano Nicolas Higuera y a sus colindantes y en sus personas que conos co haviendolo oido y entendido dijeron lo ollen haviendo nombrado al ciudadano Dolores Cantua por medidor y el referido Higuera ratifico su nombramiento en el ciudadano Rafael Narvaez y ambos intelligentes en materias de medidas à quienes les notifiquè parescan acep tan y juren y à consequencia se proceda à dhas medidas como esta mandado asi lo formaron con una señal de la Sta Cruz ante mi y los de Asst. Doy fee.

Dolores Cantua X. Rafael Narvaez
Salvador Vallejo
A. Polinario Miranda # Cayetano Soares Asst.

En el pueblo de Sonoma en el mismo dia mes y año yo el Juez actuando por receptoria con dos testigos de Asistencia por falta de Escribano publico ley y notifique el auto y nombramiento de medidores à los ciudadanos Rafael Nar vaez y Dolores Cantua vecinos de este pueblo en sus personas q. conosco y habiendolo oido y enten dido dijeron q. aceptan el encargo de medido res q. se les confia y juran à Dios y à una señal de la Sta Cruz en forma de derecho que usaran de su encargo fiel y legalmente segun su leal saber y entender y dhas medidas las verificaron con fidelidad y exactitud como es de sus obliga ciones y a satisfaccion de los interesados y havien dolo asi respecto lo formaron conmigo y los de mi asst.

Rafael Narvaez + Dolores Cantua +
Asst. Salvador Vallejo Asst.
A. Polinario Miranda # Cayetano Soares.

Immidiatamente se hizo saber el auto q. antecede à la parte interesada Ciudadano Nicolas Hi guera los medidores Rafael Narvaez y Dolores Cantua y entendidos dijeron q. se dan porci tados y lo formaron con el presente Juez y los de As.

Dolores Cantua # Rafael Narvaez +
Salvador Vallejo

A. Polinario Miranda # Cayetano Soares Asos.
En el mismo dia mes, y año se libraron voletas de
comparendo à los colindantes Cayetano Soares
Dn. Luis Lis para que comparescan el proximo
dià once en el mencionado Rancho de Napa
abajo à las ocho de la mañana de este dia y p.a
constancia lo firmè con los de mi asistencia

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Aso. Salvador Vallejo aso.
A. polinario Miranda # Cayetano Soares.
En el Rancho de Napa abajo à los once dias del
mes de Enero de mil ocho cientos cuarenta y dos
presentes las partes y circumvecinos à dhas
hice comparecer ante mi y los de mi Aso.
Ciudadanos Cayetano Soares /y Apolinario
Miranda. à los mididores nombrados à quienes
mande tomasen un cordel de cañamo y midie
sen cincuenta varas de cuatro palmos castella
nas lo que verificaron à Vista y presencia de
los interesados y circumvecinos y para q.e conste
mando se ponga por diligencia y se proceda à
dhas medidas como esta mandado lo q.e certifico
asi mismo firmandolo con los de mi Aso.
Aso. Salvador Vallejo aso.
A. Polinario Miranda # Cayetano Soares
Estando en el campo de las tierras pertenecien
tes al Rancho de Napa hoy martes del mismo
mes y año yo el juez de esta jurisdiccion actuan
do por receptoria con dos testigos de Aso. por
falta de Escribano publico presentes los medi
dores Ciudadanos Rafael Narvaez y Dolores
Cantua nombrados por las partes interesadas
y colindantes mande proceder à la medida
de un sitio de ganado mayor poco mas q.e
corresponde del Rancho de Napa Abajo segun
el Titulo presentado en cuyo obedecimiento prin
cipiè à dhas medidas comensando desde la
Casa para la parte al Este; Costeando al Estero
hasta al Sur hasta llegar al Arroyo de los Car
neros y prosiguiendo el Arroyo Arriba asi al N.E
hasta llegar al Corral del paso de Abajo: donde
se contaron diez y ocho mil varas castellanas
de alli tomando el rumbo N. donde se pusieron
tres mohoneras hasta llegar al Arroyo de Napa
donde se puso la ultima mojonera. y se con

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-taron veinte y cuatro mil varas. donde quedo delineado un sitio de ganado mayor poco mas por todo y en señal de la verdadera posecion y seremonial acostumbrada arranco piedras y llerbas y tiro por todos los cuatro vientos en manifestacion de su legal y ligitima posecion que tomo por si y para q. en todo tiempo conste reconoscan p. terminos y linderos de sus tierras los demas circumbecinos de ellas y de averse efectuado dhas medidas quieta y pacificamt. lo pidio por testimonio y yo el referido juez con los de mi assist.a lo doy de haverse pasado como dho es: y que las espresadas medidas han sido practicadas à todo su leal saber y entender de los medidores segun de pusieron sin dolo fraude ni engaño contra ninguna persona para mayor seguridad y ratificacion del juramento q. tienen hecho lo firmaron conmigo y los de mi asistencia.

Rafel Narvaez + Dolores Cantua +

Salvador Vallejo asst.

A. Polinario Miranda # Cayetano Soares.

En vista de hallarse concluido este Espedt. en que consta haverse dado posecion juridica del Rancho nombrado Napa abajo à cinco leguas de este pueblo al Cuidadano Nicolas Higuera entreguesele à la parte el Original para los usos q. le convengan con los documentos q. espresa. El cuidadano Salvador Vallejo comandante Militar de esta frontera y juez de este jurisdiccion actuando por receptoria con dos testigos de asistencia por falta de Escribano publico asi lo proveyo mandò y formè à once dias del mes de Enero de mil ocho cientos cuarenta y dos.

Asst. Salvador Vallejo

A Polinario Miranda # Cayetano Soares Asst.

Filed in Office Jany. 18th 1853

Geo. Fisher Secy.

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4 [illegible]

Translation of Judicial Possession

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To the Justice of the Peace of the Frontier

I Citizen Nicholas Higuera a resident of this Jurisdiction, owner of the Rancho of Napa Abajo as I may best proceed in law before you appear and say that as appears by the title which I present with the necessary solemnity and oath. I have in my said rancho a little more than one square league within the boundaries mentioned in said title and as it is necessary for me that it should in all times appear where they extend to and whether my neighbors trespass upon my land or I on any of theirs you will be pleased to order that after taking the necessary information of identity view and Examination and the Colindants being summoned the measurement of my lands be carried into Effect for which purpose I appoint measurer and for when the time may arrive Citizen Rafael Narvaez a resident of this jurisdiction skilful in this matter of measurements and let any other person who may be interested appoint another measurer on his part and having done so let those whom they may appoint and the aforesaid Rafael Narvaez by me appointed appear accept and take the oath and in conformity thereto let the said measurement be proceeded to.

Wherefore I pray you that admitting said document you will be pleased to order as prayed and afterwards that said documents be returned to me with the original proceedings which may be made for the security of my right this petition and whatever else may be necessary.

At the request of my Father.

In the pueblo of Sonoma on the 11th day of the month of January 1842 before me Citizen Salvador Vallejo Military Commandant and Magistrate of this Jurisdiction this petition was read and being seen I admitted it with the documents therein mentioned and I order that the Colindants being summoned information be taken of identity view and Examination of said lands at which I am ready to assist personally.

I thus provided ordered & signed with those of my assistance.

Salvador Vallejo.

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Assisting Witnesses
Apolinario Miranda
Cayetano Juarez

In the aforesaid pueblo of Sonoma on the tenth day of the same month and year I the Magistrate aforesaid with those of my assistance in order to proceed to the information of identity, caused to appear before me Citizen Ramon Mesa a resident of this jurisdiction by occupation a laborer of whom I received an oath which he made by the sign of the Holy Cross in due form of law by which he promised to speak the truth and being questioned as to the land and places terms and boundaries pertaining to the rancho of Napa Abajo he said that for eight years he has lived on this frontier and knows that the lands belonging to said place are the property of Citizen Nicolas Higuera and that their boundaries are the arroyo de las Carneras the arroyo of Napa and the lower main road a little less, that he has seen and examined said lands several times and that since the said Higuera has owned them he has worked and cultivated them and his cattle have pastured on them and for a proof of that which he has said he is ready to go to said lands with the present Magistrate and point out to him the places terms and boundaries and how far they extend all which he affirmed and ratified under the oath which he has made he declared that he was twenty five years old and that the legal exceptions do not affect him and he signed it with me and those of assistance

Ramon Mesa
Salvador Vallejo

Assisting Witnesses.
Apolinario Miranda
Cayetano Juarez.

In continuation I caused to appear before me and those of my assistance Citizen Jorge Rio and having made him take the customary oath he promised to speak the truth and being asked for the lands places terms and boundaries belonging to the rancho of Napa Abajo he said that for eight years

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he has been a resident of this town and he Knows that the lands belonging to said rancho are the property of Nicolas Higuera and that its boundaries are the same which the preceding witness has just declared that he has seen and examined them several times and that this is all he has to say agreeing with the foregoing declaration, and he said he was forty nine years old and the legal Exceptions not to affect him and he signed with me and those of my assistance according to law.

Jorge A &c.
Salvador Vallejo.

Assisting Witnesses
Apolinario Miranda
Cayetano Juarez

In Continuation I caused to appear before me and those of my assistance Citizen Angel Boyorques and having made him take the customary oath he promised to speak the truth and being asked for the lands, Possessions and boundaries pertaining to the Rancho of Napa Abajo he said that for three years he has been a resident of this jurisdiction and Knows that the lands pertaining to said Rancho are of the property of Citizen Nicolas Higuera and its boundaries are those which the preceding witness has just declared that he has seen and examined them on various occasions and this is all that he can say under the oath which he has made which he affirms and ratifies he declared that he was thirty years old and that the legal Exceptions do not affect him and he signed it with me and those of my assistance.

Angel Boyorques +
Salvador Vallejo

Assisting Witnesses
Apolinario Miranda
Cayetano Juarez

Being in the field in the place of Napa Abajo on the tenth day of the Month of January one thousand Eight hundred and forty two, I the Magistrate acting by Commission with two assisting witnesses for want of a Notary public, the witnesses to the examined being present Citizens Nicolas Higuera

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owner of the lands and Citizens Cayetano Suarez and Apolinario Miranda the adjoining land owners and residents. I proceeded to see and Examine the lands of said rancho and for greater clearness. Mounting on horseback with all the parties and witnesses referred to. I ordered the first named to point out to me the places terminations and boundaries of them according to the signs they have declared in their dispositions and in compliance they led the way to the East side which looks from said rancho. Coasting the Estero towards the South until reaching at the Arroyo de los Carneros, thence we continued Examining going up the arroyo which runs to the west to the Corral del paso de abajo. thence taking a northerly direction till reaching the arroyo of Napa on the west side where the Examination and view of said lands as far as the witnesses said were the farthest places terminations and boundaries of them was concluded. which place I the said Magistrate saw and Examined with those of assistance. the witnesses Examined and papers presented and the acts of the aforesaid Examination being compared that the identification of the aforesaid lands was certain according to the declarations of said witnesses and in testimony it was officially recorded and I signed it with those of my assistance and others who knew how. I certify.

Salvador Vallejo
Ramon Mesa +
Jorge Roe
Jacob P Leese

Assisting Witnesses
Apolinario Miranda }
Cayetano Suarez }

I Immediately I the Magistrate said that in order to proceed to the Measurements referred to in these acts I order that Citizen Nicolas Higuera the owner of the lands be Notified that he may ratify the appointment of Measurer and also that all the Colindantes by common consent appoint one on their part it being proper that he should be skillful in the Matter of Measurements and after this being done I shall be ready to designate a day for said Measurements.

designate a day for said Measurements.

41

I thus provided ordered and signed with those of my assistance.

Salvador Vallejo.

Assisting Witnesses
Apolinario Miranda
Cayetano Juarez

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On the same day month and year I the aforesaid Magistrate read and notified the act in the usual way and fath as it is to Citizen Nicolas Higuera and his Colindants in their persons whom I Know as it appears above, and having heard and understood it they said that they heard it & having appointed Citizen Dolores Cantua as Measurer and the aforesaid Higuera ratified his appointment of Citizen Rafael Narvaez both skilful in matters of Measurements who were notified to appear, accept take oath and thereupon to proceed to said Measurements as ordered thus they signed it with a sign of the Holy cross before me and those of assistance I certify.

Dolores Cantua +
Rafael Narvaez +
Salvador Vallejo

Assisting Witnesses
Apolinario Miranda
Cayetano Juarez

In the pueblo of Sonoma on the same day Month and year I the Magistrate acting by Commission with two assisting witnesses for want of a Notary Public and made Known the proceedings and appointment of Measurer to Citizens Rafael Narvaez and Dolores Cantua residents of this Pueblo in their persons whom I Know and having heard and understood it they said they accept the charge entrusted to them and they made oath by God and the sign of the Holy Cross in due form of law that they would discharge their office faithfully and legally and will perform said Measurements with fidelity and accuracy as they are bound to do and to the satisfaction of the parties interested and having so replied they signed it with me and those of my assistance.

Rafael Narvaez +
Dolores Cantua +

Assisting Witnesses
Apolinario Miranda } Salvador Vallejo.
Cayetano Juarez

Immediately afterwards the foregoing proceedings was made known to the party interested Citizen Nicolas Higuera, the measurers Rafael Narvaez and Dolores Cantua and having understood it they acknowledged notice and signed with the present Magistrate and those of Assistance –

Dolores Cantua +
Rafael Narvaez +

Assisting Witnesses
Apolinario Miranda }
Cayetano Juarez

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On the same day month and year summons were issued to the Colindantes Cayetano Juarez and Don Luis Leis that they should appear on the elventh day of the month in the aforesaid rancho of Napa abajo at eight o'clock in the morning of the day, and in testimony I signed it with those of my assistance,

Salvador Vallejo.

Assisting Witnesses.
Apolinario Miranda }
Cayetano Juarez

In the Rancho of Napa abajo on the Eleventh day of the month of January one thousand eight hundred and forty two being present the parties and the adjoining neighbors of said (lands) I caused to appear before me and those of my assistance Citizens Cayetano Juarez and Apolinario Miranda the appointed measurers whom I ordered to take a hempen cord and to measure off fifty varas of four Castillian palmos, which they did in the sight and presence of the persons interested and the neighbors and in testimony I order that it be officially recorded and that said measurements be proceeded as is ordered to which I certify also signing it with those of my assistance –

Salvador Vallejo

Assisting Witnesses
Apolinario Miranda }
Cayetano Juarez

Crispiano Suarez

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Being on the fields on the lands belonging to the Rancho of Napa Abajo this day Tuesday of the same month and year. I the Magistrate of this jurisdiction acting in virtue of my office with two assisting witnesses for want of a Notary public being present the measurers citizens Rafael Narvaez and Dolores Cantua appointed by the parties interested and colindantes. I ordered them to proceed to the measurement of one square league a little more which corresponds to the rancho of Napa Abajo according to the title presented in pursuance thereof they commenced said measurements beginning from the house towards the East side, crossing the Estero towards the south till reaching the Arroyo de los Caminos and following up the arroyo westerly to the Corral del paso de abajo where there were counted Eighteen thousand Castillian varas thence taking a Northerly direction where three land marks were placed, till reaching the Arroyo of Napa where the last land mark was placed, and there were counted twenty four thousand varas by which was marked out a little more than one square league; finally under sign of true possession & accustomed ceremony he the grantee pulled up stones and grass and threw them to the four winds in manifestation of his legal and legitimate possession which he personally took and that it may in all time appear and they be recognised as the terminations and boundaries of his lands by the other neighbors to them and that said measurements were quietly and peaceably made he asked for a record and I the aforesaid Magistrate give it that everything passed as has been said, and that the said measurements have been executed to the best knowledge and understanding of the measurers as they deposed without fraud or deceit against any person and for greater security and the ratification of the oath which they have made they signed with me and those of my assistance —

Rafael Narvaez
Dolores Cantua
Salvador Vallejo.

Assisting Witnesses
Apolinario Miranda
Crispiano Suarez

In view of this Espediente being concluded wherein it appears that Juridical possession of the rancho named Napa Abajo, distant five leagues from this pueblo has been given to Citz. Don Nicolas Higuera let the original together with the document referred to be delivered to the party for his convenient uses,

I Citizen Salvador Vallejo Military Commandant of this frontier and Majistrate of this Jurisdiction by command with two assisting witnesses for want of a Notary public thus provided ordered and signed on the eleventh day of the month of January one thousand eight hundred and forty two

(sgd) Salvador Vallejo

Assisting Witnesses.

(signed) Apolinario Miranda

(") Cayetano Juarez

Filed in Office Sept 4. 1852.

(signed) Geo Fisher Secy

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45

Exhibit. No. 2.

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Conozcan todos hombres por estos presentes, Que llo Nicolas Higuera hi mi Esposa Maria Antonia Vasques del Distrito de Sonoma y territorio de Alta California por y en consideracion de la Suma de Seis Cientos pesos moneda de plata à mi en mano pagado el recivo de que llo aqui admito: Hi llo este dia he dado y vendido à Mateo Kellon de el mismo Territorio y à sus herederos y susecores para siempre; una cierta cantidad de terreno, estando siendo y situado en el distrito y Territorio lla nombrado en el Valle de Napa conteniendo mas ò menos un milla cuadrada de terreno en el paraje conocido como el Rincon de los Carretos; empesando en el camino de las Carretas y acabando à la punta de la Loma al Oriente. Para tener y guardar lo mismo con todo sus apertenencias, privilegios y derechos à tal terreno perteneciendo à el dicho Mateo Kellom y à sus herederos para siempre. El dicho Nicolas Higuera y su Esposa por ellos mismos, sus herederos y susecores à que se comprometen à y con Mateo Kellom sus herederos y susecores à guardar y para siempre defender el titulo à dicho Terreno de los justos cargos ò reclamos de quelquia persona ò personas que sean reclamando o que quiere reclamar.

En Testimonio de que el dicho Nicolas Higuera y su Esposa maria Antonia han aqui puesto sus firmas y rubricas. el 13 dia de Noviembre de 1847. 1847

Nicolas his X mark Higuera (seal)

Maria her X mark Antonia Vasques (seal)

Territory of California.
District of Sonoma

Personally appeared before me the undersigned Alcalde of said District Nicolas Higuera and Maria Antonia his Wife both being known to me to be the persons whose names are subscribed to the foregoing instrument of writing as having executed the Same and severally acknowledged the same to be their act and Deed for the purposes therein mentioned

41

Given under my hand at Office in Sonoma this 18th day of November. 1847

Lilburn W. Boggs.
Alcalde

Filed in Office Septr. 10th 1853.

Geo: Fisher. Secry.

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47

"He"

Conveyance from Heiguera & wife to Fellows

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Know all Men by these presents that I Nicholas Heiguera and my wife Maria Antonio Vasquez of the District of Sonoma and Territory of Upper California for and in Consideration of the sum of Six hundred dollars in Specie in hand paid, and the receipt whereof is hereby acknowledged I the aforesaid have this day granted and sold to Mateo Fellow of the same territory and to his heirs and successors forever a certain quantity of land lying, being and situate in the district and territory already named in the Valley of Napa containing more or less one Mile Square of land in the place known as the Rincon de los Carneros Commencing at the wagon road and ending at the point (punta) of the hill on the East.

To Have and To Hold the same with all its appurtenances, privileges and rights to the said land appertaining to the said Mateo Fellow and to his heirs forever. The said Nicolas Heiguera and his wife for themselves their heirs and successors to which they Covenant to and with Mateo Fellows his heirs and successors to protect and forever defend the title to said land from the just claims or demands of any person or persons whatever claiming or who may claim the same.

In Witness whereof the said Nicolas Heiguera and his wife Maria Antonio have hereunto affixed their Signs Manual and marks this 13th day of November of 1847.

Nicholas his X mark Heiguera (Seal)

Maria Antonio her X mark Vasquez (Seal)

Filed in Office Sept 4, 1852.
(signed) Geo Fisher Secy.

49.

Exhibit 1.

Conoscan todos los hombres por estos presentes que yo Mateo Fellen y mi Esposa Manuela Briona del Distrito de Sn. José y Territorio de la California por y en consideracion de la suma de dos mil pesos moneda de plata en mano pagado el recibo que de yo aqui admito he yo este dia dado y vendido à Julio Martin del mismo territorio y a sus herederos y sucesores pa. siempre una cierta cantidad de terreno, estando siendo y situado en el distrito de Sonoma del mismo Territo. el Valle de Napa conteniendo mas o menos una milla cuadrada de terreno en el paraje conocido como Rincon de los Carneros empezando en el camino de las Carretas y acabando à la punta de la Loma al Oriente para tener y guardar lo mismo con todos sus pertenencias privilegios y derechos à tal terreno, perteneciendo al dicho Julio Martin y sus herederos pa. siempre. He vendido à dho Julio Martin el referido Terreno con toda la existencia y Estencion de derechos que me dan mis titulos.

En testimonio de que yo Mateo Fellen y Manuela Briona, mi Esposa hemos aqui puesto nuestras firmas y rubricas en el dia 1o. de Julio de 1850.

Mateo Fellen

Manuela X (her mark) Briona Fellen

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State of California }
County of Santa Clara }

Personally appeared before me the undersigned Judge of the County and State aforesaid Mateo Fellon and Manuela Briona his Wife both of whom are personally known to me to be the same whose names are subscribed to the above and foregoing instrument of Writing as having signed the same and acknowledged the same to be their Act and Deed for the purposes therein contained.

Given under my hand and seal this 5th July 1850.

J. W. Redman
County Judge of the County of Santa Clara.

Filed in Office Septbr. 10th. 1853.
Geo: Fisher Secy.

"K"

Survey.

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Survey of Land made for Martin in the tract formerly granted to Nicolas Higuera in Napa County California, said Survey being bounded by the following courses and distances to wit: Commencing at the lower ford on the Arroyo de los Carneros and running N. 45° E 41 Chains. thence N 79 1/2 E 117 Ch 50 links thence South 21 1/2° W 34 Ch 50 L, thence S 1/2 W 15 Ch thence S 33 1/2 E 17 Ch 50 L, thence N 84 1/2° E 7 Ch 50 L. thence S 64 1/2° E 37 Ch 25 L. thence S 28 1/2 E 19 Ch 50 L. thence S 3 1/2° E 5 Ch, thence S 34 1/2° W 25 Ch 25 L, thence S 51 1/2° W 37 Ch. thence S 44 1/2 W 26 Ch 75 L, thence S 40 1/2 W 44 Ch 50 L, thence N 16 1/2 E 14 Ch 50 L. thence N 6 1/2 E 15 Ch 50 L to the Arroyo Carneros. thence N 11 1/2 W 19 Ch 14 L, thence N 39 1/2 W 13 Ch 90 L. thence N 86 1/2 W 5 Ch 75 L. thence N 24 1/2 W 21 Ch. thence N 89 1/2° W 13 Ch 38 L, thence N 27 1/2 W 28 Ch 25 L. thence S 4 1/2 W 18 Ch 25 L thence N 28° W 32 Ch 33 L. thence N 35 1/2° W 19 Ch 86 L thence 48 3/4° W 19 Ch 82 L to the place of beginning

Run according to the true Meridian declination of the Needle 16° 30' E.

Distances computed by four pole chains.

Surveyed July the 9th 1850
By
John E Brown C. S. N. C.

	A.	R.	P.
Content of land within these boundaries ----------	1772.	3.	33
Content of offset along Carneros	31.	1.	16
Whole Content ----	1804.	1.	09.

Filed in Office Sept 4, 1852.
(signed) Geo. Fisher Secy.

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5-5

4 J"

Conveyance from Fellow & wife to Martin.

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Know all Men by these presents,

That I Mathew Fellom and Manuela Briones my wife of the district of San Joseph Territory of Upper California for and in Consideration of the sum of Two thousand ($2000.) dollars in Silver in hand paid the receipt whereof is hereby acknowledged have this day conveyed and sold to Julio Martin of said Territory and to his heirs and successors forever a certain tract of land lying and being situated in the district of Sonoma of same territory on Napa Valley containing more or less a square mile of land on the place as known as las Carneros beginning at the wagon road and ending at the point of the hill to the East to hold and keep the same with all its appurtenances privileges and rights to said land belonging to said Julio Martin and heirs forever.

I sold to said Julio Martin the said land with all the Existences and Extension of rights which the titles give to me.

In testimony whereof I Mathew Fellow and Manuela Briones my wife have set our hands and Seals on this 1st day of July AD 1850.

(signed) Mateo Fellom
(") Manuela Briones Fellom.

Filed in Office Sept 4. 1852.

(signed) Geo Fisher Secy.

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Julius Martin
vs
The United States

For a part of the place called Entre Napa in Napa County containing one mile square of land.

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Opinion by Comr Felch

The petitioner claims a part of the Rancho of Entre Napa, which Rancho he alleges was granted in 1836 by Governor Manuel Chico to Nicolas Higuera who was judicially put into possession of the premises with well defined boundaries and who fully performed the conditions of his grant.

In proof of title in himself in the portion of the premises claimed in this case the petitioner has presented first a conveyance from said Higuera and wife to Mateo Fellom dated November 13, 1847 and second a conveyance from said Fellom and wife to him dated July 1, 1851.

Both these conveyances are defective in the description of the premises granted and both in my judgment are void for uncertainty.

The premises are described in the conveyance made by Higuera as a certain quantity of land lying being and situated in the District and Territory already named in the Valley of Napa containing more or less one mile square of land in the place known as the Rincon de las Carneras commencing at the wagon road and ending at the point of the hill on the East". The description in the second conveyance is substantially the same and not more definite in its terms.

There is nothing in the description to define any point on the road where the premises are to begin or the direction in which it is to be located any of the lines by which it is bounded or any defined monuments by which the location can be made by a surveyor.

The rule is of universal application that if the description in a conveyance is so uncertain that it cannot be known what estate was intended the conveyance is void.

4 Phil Ev (Cow & H. Notes) 524 4 Mass R

5-1

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245. 4 Dev R. 373. 1 Cow R 285. 4 Iredell Eq Rep 85. 15 Pet 173. ib 223. ib 283. ib 334. 12 Pet. R 157. 11 How R 63. ib 125. 13 How R 265. 11 How R 554. 8 How R 319. 5 How R. 26. 14 How 76. 3 Pet R. 96.

This rule we think applies in its full force to the conveyance under which the Claimant derives title.

This conveyance being thus ineffectual and inoperative the Claimant has failed to show any interest or title to any portion of the premises and is not consequently entitled to a decree in his favor.

There is nothing in the other Evidence given in the case to avoid this result and his petition must therefore be denied. Rejected.

Filed in Office Sept 19. 1854.
(Signed) Geo. Fisher Secy.

Julius Martin
vs
The United States

"Part of Napa"

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 Sept 19. 1854.
(Signed) Geo Fisher Secy.

Order.

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And it appearing to the satisfaction of this Board 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 is 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 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 Fifty seven pages, numbered from 1 to 57, 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. 323 on the Docket of the said Board, wherein Julius Martin is

the Claimant against the United States, for the place known by the name of "Part of Entre Napa"

In Testimony Whereof, I hereunto set my hand and affix my private Seal (not having a Seal of Office) at San Francisco, California, this Thirty first day of January A. D. 1855, and of the Independence of the United States of America the seventy-ninth.

Geo: Fisher

Sec.

U. S. DISTRICT COURT,
Northern District of California.

No. 177

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THE UNITED STATES,

177

vs.

Julius Martin

ND

TRANSCRIPT OF THE RECORD
FROM THE
BOARD OF U. S. LAND COMMISSIONERS,
In Case No. 323

Filed, February 5th 1855

John A. Monroe,
Clerk

To Hon. S. W. Inge
United States District Attorney } &c.
for the Northern District of
California.

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Notice is hereby given that the Claimant for confirmation of title to-wit Julius Martin, in case Number Three hundred and twenty three (No 323) before the board of United States Land Commissioners, for the State of California organized under the act of Congress of the third of March 1851. and acts supplemental thereto, for the adjustment of land titles in California, will appeal from the decision in the said case rendered by said board of Land Commissioners, and file the record in said case as required by law

Stanly & King
Counsel for Claimant—

No 177

Julius Martin

v

The United States

Notice of appeal

Case No 323.

Due service of this notice acknowledged –

I accept service of the within notice April 19th 1854

P. W. Page [illegible]
U S Atty.

Filed April 19, 1855.
by W. H. Chevers
Deputy.

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Docket No. 177.

Julius Martin
vs.
The United States. } Appeal.

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To the Honble Ogden Hoffman Junr. Judge of the United States' Court for the Northern District of California.

The petition of Julius Martin a Citizen of California, respectfully represents -

That under the provisions of the Act of Congress of the 3d March 1851, he presented a petition to the Commissioners appointed under said act to examine claims to land in California praying for a confirmation of his claim to the tract of land therein described being part of the Rancho of "Entre Napa," situate in the present County of Sonoma California, under a grant from Governor Chico dated 9th May 1836 to Nicolas Higuera and accompanied it by evidence of his title; and to which for more full and particular description he begs leave to refer -

That his said claim, being designated as No 323, on the Docket of the said Commissioners, was rejected by them on the 19th September 1854; that the said land is situate within the limits of the Northern District of California; that a transcript of the proceedings and decision of the Commissioners in the case, was filed in the Office of the Clerk of the Court for that District on the 5th February 1855; and on the 19th of April 1855, notice was filed with the said Clerk that your petitioner appealed from such decision.

Your petitioner prays for a rehearing

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of the Case upon this appeal: that the said decision of the Commissioners may be reversed and annulled; and that the Court will make such decree and order, as may be necessary and proper to recognize, confirm, and declare valid, his title and claim to the premises mentioned and referred to in his said petition and evidence of claim.

And your petitioner will ever pray &c

San Francisco
1st June 1855.

Stanly & King
Atts for claimant

No 177.

Julius Martin } Land
vs } Appeal.
United States }

Part of "Entre Napa"

Petition for review.

Received a Copy this day 11 June 55.

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S. W. Inge
U. S. Dist Atty
per John A. Godfrey

Filed June 11. 1855.
by C. Cheevers. Deputy

Shattuck & King for claimant

In the United States District Court: Northern District of California

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Julius Martin
vs } No 177
The United States

To Hon S. W. Inge U. S. District Atty:

You are hereby notified that on Friday July 27th 1855. I shall proceed to take the deposition of Matthew Fallon in the case above named — at the office of the U. S. Commr:

Julius Martin
by Stanly & King
his attys:

In the U. S. District Court: in the Northern District of California

No 177 - Julius Martin

vs

The United States

Due service of this notice admitted

A. G. Cassell
asst U.S. atty

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UNITED STATES DISTRICT COURT,
Northern District of California.

Julius Martin
vs
United States

San Francisco, July 27th 1855

ON this day, before Jno A. Monroe a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came Matthew Fallon a witness produced on behalf of the Claimant in Case No. 177, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 323 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: Edward Stanley for Claimant & Jno A. Godfrey for the United States

QUESTION BY E Stanley—

Are you acquainted with the Rancho Entre Napa, formerly owned by Nicholas Higuera?

Answer Yes - I have known the Ranch since about the year 1844. Exhibit hereto annexed is a correct representation of that part of the Rancho known as Rincon de los Carneros. I purchased that part of the Ranch, commencing at a point where the waggon road crosses the carneros and running to the point of the hills East, as represented on the Map, from thence

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~~to the~~ along Napa River to its Junction with Carneros creek, and from thence along the Carneros creek to the place of beginning. Nicholas Higuera took me all around and showed me the land described between the river and the creek.

In making out the deed before Governor Boggs who was justice of the peace, a question arose as to the quantity of land. Governor Boggs was dictating in English and an American Sergent in ~~English~~ Spanish and Higuira asked if I would be satisfied with the land within the limits described that he did not know how much it was — I said yes — neither of us knew how much land there was and we put it down one mile more or less. I sold the whole of the land to Julius Martin and he paid me for it. The Waggon road where the measurement commenced was near where Salvador Vallejo's Claim lies — the point of the hills is a very prominent point

Cross Examined. I have no interest whatever in this claim —

Sworn to before me
27th July 1855 — Mathew Fellom
Jim A Monroe
U.S. Commissr.

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323 Bd.

U.S. District Court

Julius Martin
vs
The United States

Depositions in
case No 177

Filed Sept. 13th 55
Jno A. Monroe
Clk.

Fuller

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United States District Court
Northern District of California

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Julius Martin
vs
The United States

San Francisco Sept 12th 1855

On this day before me Charles Halsey a Notary Public of said State of California duly authorized to administer oaths &c &c came Jno. E. Brown of the city and county San Francisco in said State a witness produced in behalf of the claimant in the case No 177 being an appeal from the board of Commissioners to ascertain and settle the private claims of land in the State of California in case No 223. on the Docket of said Commissioners — and the said John E Brown being duly sworn testifies as follows —

I have been acquainted with the land claimed in this case since early in the year 1850 — I have read the deposition of Mathew Fallon in this case to which is annexed a copy of the survey of the land in question made by me in July 1850 — I believe the said copy is a correct one The copy of said survey is marked "Exhibit A. J. A Monroe. U S Commr" and attached to Mathew Fallons deposition. My first acquaintance with the land in question

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was early in the year or Spring of 1850 at which time I was appointed Agent of said Nicholas Higuera with power from him to survey and sell his land. He then took me all over his Rancho of "Entre Napa" pointing out what he wished sold and what he wished to keep: and at that time informed me that he had sold all the land South of a line leading from the ford over the Arroyo de los Carneros to the point of the hills on the east referred to in said Map referred to, I was surprised to hear that he had sold this large body of good land and enquired to whom he had sold — he replied that he had sold it to his son in law Fallon "before you Yankees came into the country" as he said — Afterwards in the early part of July 1850 I was called upon by Capt Joseph Walker to make a survey of the land in question — When we went to survey it Nicholas Higuera went with us to the point on the los Carneros at the ford of said creek where the "Wagon Road" from Napa to Sonoma crosses and the same marked on the plot and informed me that that place was the beginning corner of the land he sold to Fallon. We then ran

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to the "point of the hills" on the East near Napa River and stopped at a point where the said Nicholas Higuera planted the flag staff, and told me that it was the place referred to in the deed to Fallon from him — The "point on the hills" where the said Higuera planted the flag staff is that marked on the map annexed to the deposition of Mathew Fallon — the said point of the hills is a very prominent object near Napa River — the hills terminate there — and the tract known as the Rincon de los Carneros South of the line first described is a rolling country containing no high hills, the point of the hills called for it will be almost impossible to mistake for any other object — I am acquainted with Ramon de la Rosa who testifies in this case — He claimed to have a deed from Nicholas Higuera executed in either 1850 or 1851 for this land — the said Ramon de la Rosa was a man of infamous character and from his general character I would not believe him under oath — The statement of the said De la Rosa in his deposition in which he says he acted as interpreter for me — is not true — Capt Walker who had been in California for many years spoke the Spanish language and interpreted for me. I never swore Ramon de la Rosa —

as there was no necessity or authority
for me doing so —
I have no interest of whatsoever kind
or nature in this claim of land —

Sworn to this 12th day
of September 1855 before me
Charles L. Halsey
Notary Public &c.

Jno. E. Brown

It is hereby stipulated that the above
affidavit be considered and used for
all purposes as a regularly taken dep-
osition before the U.S. Commissioner
— this Sept. 13, 1855. A. G. Russell
actg. U.S. Atty

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

No 177 Julius Martin vs The United States

Deposition of Jno: E. Brown

Filed Sept 13. 1855, J. Stevens Deputy

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United States District Court
Northern District of California

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Julius Martin
vs
The United States

San Francisco Sept: 8th 1855

On this day before me Samuel Moore a Notary Public of said State of California, duly authorized to administer oaths &c came George C. Yount of the County of Napa in said State, a witness produced on behalf of the Claimant in Case No: 177. being an appeal from the Board of Commissioners to ascertain & settle the private land claims in the State of California in case No 323, on the Docket of said Commissioners: and said Yount being duly sworn testified as follows —

I am & I have been, acquainted with the land known as the Rincon de los Carneros, in the County of Napa, & claimed by Julius Martin in this case. I have known the land and the County thereabouts since the year 1835 before it was granted to Nicholas Higuera.

I have examined the traced copy of the map of the Rincon de los Carneros, attached to the

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Deposition of Matthew Fallon taken in this case on the 27th July 1855: Said Copy marked "Exhibit A. J. A. Monroe U. S. Com^r": The point on Los Carneros Creek (or Arroyo de los Carneros) described as the "Wagon Road", is a well Known ford on said Arroyo & has been since I knew the place: the point of the hills on the East, is a well Known natural object, near Napa River, and the land described in the plot referred to, purporting to have been surveyed by John E. Brown on the 9th July 1850, and lying between Napa River, and the Arroyo de los Carneros, South of the line from the Wagon Road to the point of the hills, is that part of the County which has been Known, since 1835, as the "Rincon de los Carneros".

At the wagon road, in the arroyo, there was a ford: It was on the Road from Napa to Sonoma.

I knew Ramon G de la Riva, who formerly lived in Napa & was a witness in this case. He was a man of very bad character.—

I have no interest in this case in any way & have no claim or interest in the land claimed.— [signature]

Subscribed & sworn to before me this 8th day of September AD 1855

Samuel W. Moore
Notary Public

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

Julius Martin
vs
The United States

It is hereby stipulated that this affidavit shall be read in evidence on the trial of this case and all objection to want of notice & other formalities are waived: it is to be regarded as the regularly taken Deposition of the Witness George C. Yount —

A. Glassell
Asst U.S. Atty

Sept: 13th 1855

No 177

In the United States District Court Northern District of California

Julius Martin
vs
The United States

Deposition of Geo: C. Yount

Filed Sept 13. 1855
by Chevers
deputy

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U. S. District Court
Northern District of California

Julius Martin
vs Case No. 177. Dist Court - Case No. 323 - Land Commission
The United States

San Francisco. Cal. January 17th 1856.-

On this day before Geo. Pen. Johnstone a Commissioner of the United States for the Districts of California duly authorized to administer oaths &c &c came José S. Berreyesa ______ a witness produced on behalf of the United States Appellees in Case No. 177. being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 323. on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows; his evidence being interpreted by B. F. Mahan a sworn Interpreter.-

Present; U. S. Law Agent on behalf of the United States - Edwd Stanley Esqr on behalf of Claimant and appellant;-

Questions by U. S. Law Agent

"What is your name age and place of residence?"
"My name is José S. Berreyesa, I am thirty seven years of age, and I reside in Martinez Contra Costa County California". - "Are you ac-

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quainted with the Rancho originally granted to Nicolas Higuera, and do you know where the Rincon de los Cãneros is:- point out the same if it is on the map now shown you attached to the deposition of Matthew Felom, filed in this cause - and if not on said map state where it is?"- I am acquainted with the Rancho granted to Nicolas Higuera, I do know where the Rincon de los Cãneros is: the Rincon de los Cãneros is not shown on the map attached to the deposition of Matthew Fellom it lies north of the wagon road, as marked on the map - the road runs over a portion of the hills which form the said Rincon de los Cãneros."- "What has the point of land between Napa River and the Arroyo de los Cãneros as shown on the map been called, and how long has it been so known, and has it ever been known as Rincon de los Carneros?"

(Objected to by Claimant's Counsel as leading.-)

The point of land between Napa River and the Arroyo de los Carneros has been called and known as the Bolsas de los Carneros I lived in Sonoma from 1837 to 1849 and it was always known to me during that time by that name I did not know the land before 1837 - It has never in my knowledge been known

as the Rincon de los Carneros - Bolsas is understood to mean necks or strips of land partially surrounded by water - Rincon is understood to be a point of plain or level land surrounded by hills or mountains partially not altogether." -

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Cross Examination by Edwd Stanley Esq Atty for Claimant. -

"How many acres or how much land is comprised in the tract of land or that part of it you call Rincon de los Carneros?" "I think it comprehends or embraces a little less than a mile square." "How much land is comprised in what you call the Bolsas de los Carneros?" "I cannot make an estimate of the quantity because it is composed of several strips of land about the contents of which I can make no proper calculation; - I do not know how many Bolsas there are - there are several." "Do you know what part of the land formerly owned by Higuera was purchased by Matthew Fallon?" "I have understood from Higuera and Fallon that the said Higuera had sold to Fallon one mile square of the land situated at the Rincon de los Carneros." "Do you know whether Matthew Fallon ever lived on or had possession of any part of the land on the Map South of the line from the wagon-road to the point of the hills?" "Fallon never has lived

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upon or cultivated any part of the land contained within the boundaries of the Rancho of Nicolas Higuera that I know of." "What was the Rancho of Higuera called?" "It was called Napa - part of the valley of Napa." "Does any part of the land known by you as the Rincon de los Carneros come south of the Wagon Road?" "No part of it does." "I mean there was none of it to the south of the old Road, it was north of the old ford." "Was any part of the Rincon de los Carneros on the west side of the Arroyo de los Carneros?" "The Arroyo de los Carneros runs through the Rincon and a part of it lies to the east and a part to the west of the Arroyo." "What persons have you conversed with about this Rincon de los Carneros and these other localities on the map?" "or have you had any conversation with Mr Joseph Green who claims a piece of land inside of this map?" "I have never had any conversation with Mr Green about any of the land represented on the map - nor about the Rincon de los Carneros." "At whose request did you come here to testify?" (Objected to by U.S. Law Agent as immaterial.) "I came here to testify at the request of Nicolas Frias - who is a grand-son of Higuera." "By what name is the land known which is described in

this map?" "The lower part of it next to the River, is known as the Bolsas, and the upper portion is known, a part of it, as Huichica and the other part as the end of Napa Valley."

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Direct Examination resumed by U. S. Law Agent.

"Is not the part known as Huichica on the west side of the Arroyo de los Carneros?" "It is." "Is not the line which is drawn on the map from the wagon Road to the point of the hills the southern boundary of Napa Valley?" "I never have known any particular southern boundary to Napa Valley - it ends where it spreads out into the plain." "Have you ever had any conversation with J. E. Brown as to the location of the Rincon de los Carneros, and if so when and where and what was said?"

(Objected to by Claimants Counsel as hearsay).

Mr Brown on yesterday evening went to the St Francis Hotel in San Francisco - and spoke to me in relation to the land of the Rincon de los Carneros, and asked me if I could draw him a sketch of it I told him I could and did so - Brown also asked me to explain to him what were Bolsas and what was a Rincon and I told him what the two terms meant - we then

made an appointment to meet this morning at ten o'clock at Mr Brown's on private business of my own, we did meet at the time appointed and Brown asked me if I was going to testify in this case to-day - and I told him I was - Brown also asked me yesterday evening what I knew to be the Bolsas de los Carneros and the Rincon de los Carneros - I told him the locality of the two. -

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Cross Examination resumed by Edwd Stanley Esq Claimants Counsel. -

"Do you know Ramon G de la Riva, if so what is his general reputation?" "I know him I never had an opportunity to become acquainted with his general reputation." "From what you have heard from others what was Riva's character for truth and veracity?" "I never heard anything about his reputation for truth & veracity." -

Sworn to & subscribed before me this 17th day of January A.D. 1856

Ysidro S. Berreyesa

Geo. Pen. Johnston
U. S. Commissioner

U. S. District Court
Northern Dist of California

No 177

Julius Martin
v
The United States

Deposition of José S. Berreyesa a witness produced on behalf of the United States

Filed Jany 21. 1856.
J. Chevers,
Deputy

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U. S. District Court
Northern Dist. of California

Julius Martin
vs. Case No. 177. Dist. Court - Case No. 323 - Land Commission
The United States

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San Francisco Cal. Jany 17th 1856

On this day before Geo. Pen. Johnston a Commissioner of the United States for the Districts of California, duly authorized to administer oaths &c &c came Sisto Antonio Berreyesa, Juan Lisalda and Nicolas Frias witnesses produced on behalf of the United States Appellees in Case No. 177 - being an appeal from the Board of Commissioners to ascertain and settle the private Land Claims in the State of California, in Case No. 323, on the Docket of the said Board of Commissioners, and were duly sworn and testified as follows: their evidence being interpreted by B. F. Mahan a sworn Interpreter -

Questions by U. S. Law agent.

"What is your name age and place of residence?"
"My name is Sisto Antonio Berreyesa, I am thirty six years of age and live in the County of Napa, State of California." "Are you acquain-

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ted with the Rancho Entre Napa formerly owned by Nicolas Higuera; if yea do you know where the place called Rincon de los Carneros is; state where it is, and look at a map annexed to the deposition of Matthew Fallon and filed herein and state what the point of land therein shown was called." I am acquainted with the Rancho Entre Napa; I know where the place called Rincon de los Carneros is; it is situated above the (paso) ford of the Arroyo de los Carneros; I don't know any other name for the land comprehended in the map than hills and plain.–"

Cross Examination by Edwd Stanley Esqr Counsel for Claimant.–

"How long have you been acquainted with land represented on the map?" "I have known it for fourteen years".– "I was born in San Francisco, and have been raised in San Francisco and San Jose;– for the last fourteen years I have lived in Napa County, that part of country now known as Napa County;– I now live eight or nine leagues north of Napa City and have lived there for about eleven years last past;–" the deceased Nicolas Higuera told me the place I have heretofore described as the Rincon de los Carneros was that place about thirteen years ago at the house of Higuera.–

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I can neither read nor write - Nicolas Higuera's house, I think, was about three miles from the Rincon de los Carneros; - I have not had any conversation with Joseph Green nor with Edward Cotterell nor with Joseph Mount nor with anybody else about the Rincon de los Carneros; I came here to testify at the request of Nicolas Frias came with him at his request, but had no conversation with him about the Rincon de los Carneros. -"

Sworn to & subscribed before me this 17th day of January A.D. 1856 — Sisto Antonio his mark Berreyesa
Geo. Pen. Johnston
U. S. Commissioner

Juan Lisalda being sworn deposes and says - as follows -

Questions by U. S. Law Agent

"Are you acquainted with the Rancho Entre Napa formerly owned by Nicolas Higuera; if yea, do you know where the place called Rincon de los Carneros is; state where it is; and look at a map annexed to the deposition of Matthew Vallom and filed herein and state what the point of land therein shown was called. -" I am acquainted with the Rancho Entre Napa; I know

where the place called the Rincon de los Car-
neros is; going from Napa to Sonoma on the
north of the road the Rincon de los Carneros
lies; I don't know the name of any of the land
on the map filed in this cause annexed to
the deposition of Matthew Fallon." "What is

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your name, age, and place of residence?"
"My name is Juan Lisalda, I am thirty six
years of age or thereabouts - I live on Cache Creek
at the house of Tolfore - I have lived there about
a year and two or three months; I was born
in San Diego Co: California; I have lived
in the section of Country where I now live
about fourteen years."

Cross Examination by Edward Stanley
Esqr atty for Claimant -

"Can you either read or write?" "I cannot" -
"Who told you the place you know as Rincon
de los Carneros was so called?" "When I first
went to the Sonoma country - I went as a soldier
and the government cattle was pastured on
the place called Huichica - I was about
there and learned that the place I have tes-
tified about was called the Rincon de los Car-
neros - it has been a long time since but I
don't know how long since I first went there -
I don't know in what year I was born; I
know Ramon G. de la Rivas - I don't know

where he now is - when I was last in San

where he now is — when I was last in San Francisco, I was told that he was going to the lower country: I never had any conversation about the Rincon with Riva with Green, with Cotterell, or with Frias — except that Frias requested me to come and give my testimony in this case."

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Sworn to & subscribed before me this 17th day of January A.D. 1856
Geo. Pen. Johnston
U.S. Commissioner

Juan his + mark Lisalda

Nicolas Frias being duly sworn deposes and says as follows:

Questions by U.S. Law Agent.

"What is your name age and place of residence?" My name is Nicolas Frias I am twenty eight years of age and I live in the County of Napa three miles from Napa City."

"Are you acquainted with Matthew Fallom the person to whom Nicolas Higuera sold a part of his ranch and under whom the claimant in this case holds his right, and with his signature if you state what

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chances you have had for knowing his signature and look at the document marked "Exhibit A. G.P.I." now here shown you and annexed hereto and state whether the name thereto affixed is the genuine signature of the said Fallon." "I know Matthew Fallon and am acquainted with his signature - I have seen letters from him written to my grandfather Nicolas Higuera, I have never seen him write; (Introduction of "Exhibit A" as evidence objected to by Claimants' Counsel.) the signature to the paper marked "Exhibit A. G.P.I." Mateo Felon is the genuine signature of Matthew Fallon - I am acquainted with Ramon G. de la Riva know his signature and have seen him write the signature of Ramon G. de la Riva on the paper marked "Exhibit A. G.P.I." R. G. de la Riva is his genuine signature - I don't know the signature of Gilroy nor do I know him; - Riva formerly lived about Napa - he does not live there now - he has been away from there about two years - he lives now somewhere about Los Angeles." "Are you acquainted with the Rancho originally granted to Nicolas Higuera and do you know where the Rincon de los Carneros is. - Point out the same if it is on the map and if not state where it is?" "I am acquainted with the

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Rancho originally granted to Nicolas Higuera;
I know where the Rincon de los Carneros is;
the Rincon de los Carneros is above the ford
~~as represented on the map~~ on the Arroyo
de los Carneros – I don't understand the
map shown me." "What has the point of
land between Napa River and the Arroyo de
los Carneros as shown on the map been called;
and how long has it been so known and
has it ever been known as the Rincon de los Carneros?"
(Objected to by Claimants Counsel as leading.)
"The point of land between Napa River and
the Arroyo de los Carneros as shown on the
map has been called Napa."

Cross Examination by Edward Stanley Esq.
Counsel for Claimant.

"Have you any interest in this contro=
versy?" "I have none, – I have never sold
any land ~~and~~ belonging formerly to Nicolas
Higuera." "Did you ever hear that Ramon
G. de la Riva was accused of forging your
grandfather's (Higuera's) will?" "I never did."
"I have heard it said that many believed that
Riva had not acted rightly in the matter
but had tried to steal the Rancho – I heard
nothing about the will in connection with the
will – my grandfather did leave a will – I
don't know what became of the will, whether it was prova-

ed or not; – my grandfather died between two and three years ago; – Riva left the country shortly after my grandfather died; – Riva married Encarnacion Higuera an aunt of mine – and she went with him down the country; I do not know exactly where the land is that Halom bought of my grandfather, but my grandfather told me he had bought a mile square at the ford." "Where is the land that Halom claimed under his purchase from the old man Higueras?" "It is situated at the ford." "Is it above or below the ford?" "I believe it is above the ford but, I am not well informed upon the subject; I lived upon the Rancho Entre Napa about sixteen years; I do not remember when my grandfather sold to Halom – nor do I know when Halom sold to Martin." "Do you know whether de la Riva sold any part of the Rancho Entre Napa to any body and if so to whom?" (Objected to by U. S. Law Agent as irrelevant.) "I do – he sold some to one Mr Wilson – and he sold other portions but how or to whom I can't say." "Are you or any of your relations interested in the land in controversy?" (Objected to by U. S. Law Agent.)

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"My mother is interested in a portion of the

"My mother is interested in a portion of the land in controversy – her name is Marta Frias de Higuera."

Nicolas Frias

Sworn to & subscribed before me this 17th day of January A.D. 1856

Geo. Pen. Johnston
U. S. Commissioner

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I, the undersigned, certify that I have always understood that the tract of land purchased by me of Nicolas Higuera was one mile square; but if the laws ascertain it to be more or less, I have purchased all that which is described in my titles.

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San Ysidro, July 30, 1850.
(Signed) Mateo Fellom

Before me (sign) Juan Gilroy
(Signed) R. G. de la Riva.

The above is admitted to be a correct translation of the paper purporting to be signed by Mateo Fellom & referred to in the deposition of Nicholas Frias: not waiving objections to the evidence

July 17/55 Smith & King for J. Martin

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Yo abajo firmado, certifico, que siempre he estado entendido que el terreno comprado por mi a Nicolas Figuera, era una milla en cuadro, pero si las leyes le encuentran mas o menos, he comprado todo lo que resan mis titulos

Sn Pedro 30 de Julio de 1850

Mateo Felom

Ante de Me Juan Gilroy

R. L. de la Riva

Exhibit A G.R.S.

Exhibit A

G. P. J.

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Filed for record
April 16th AD
1857 At 2 o'clock
PM — & recorded
in Book A page
291 Archives
of Napa County —
M. H. N. Kendig Recorder
by Geo. N. Cornwell Deputy

Recording fee $1.00

U. S. District Court
Northern Dist of Cala

No. 177

Julius Martin
vs
The United States

Depositions of Sisto Antonio Berryesa, Juan Lisalda & Nicolas Frias, witnesses produced on behalf of the United States

Filed Jany 21. 1856.
[illegible] Chears
Deputy.

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Exhibit A

Filed for record April 16th AD 1857 at 2 o'clock [illegible] recorder

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District Court of the United States
For the Northern District of Calª

Julius Martin
vs } Case No. 177. Dist Court - Case No. 323 Land Comⁿ
The United States

San Francisco Calª
January 16th 1856

On this day before Geo. Pen. Johnston a Commissioner of the United States for the Districts of California duly authorized to administer oaths to be came Edward Cotterill a witness produced on behalf of the United States appellees in Case No. 177, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 323, in the docket of the said Board of Commissioners and was duly sworn and testified, as follows;

Present; U. S. Law Agent on behalf of the United States - Edwᵈ Stanley Esqr on behalf of claimant and appellant.-

Questions by U. S. Law Agent -

"What is your name, age, and place of residence?" My name is Edward Cotterill my age is thirty five years and I reside in

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Napa Valley and have resided there since the year 1849." "Are you acquainted with Ramon G. de la Rive a witness in this case if yea how long have you known him and are you acquainted with his general character for truth and veracity in the community where he resides? What is that reputation good or bad and judging from such reputation would you believe him on oath?" "I am acquainted with Ramon ~~de~~ G de la Rive, I have known him since the fall of 1850 - I am acquainted with his general character for truth & veracity where he resides, have had a good deal of dealing with him - his reputation is very fair and I would believe him on oath." "Are you acquainted with J. E. Brown former County Surveyor of the County of Napa and also a witness in this case and Joel P. Walker also a witness in this case and with their respective characters for truth and veracity in the communities where they respectively reside if yea what are they good or bad and judging from that public reputation would you believe them respectively on their oaths?" "I am acquainted with J. E. Brown & Joel P. Walker

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I am acquainted with their respective characters for truth and veracity in the community in which they live — the reputation of both of them is bad - neighbors one J. E. Brown is a land swindler and the other Joel P. Walker is a lying old hypocrite, and I don't think I would not believe them on oath." "Would or would you not believe them on oath?" "I would not." "Were you acquainted with Nicolas Higuera in his life-time and state whether or not he could talk English state also whether Brown could talk Spanish and whether these persons could converse together without an interpreter?" "I was acquainted with Nicolas Higuera — he could not talk English — I am almost confident that Brown could not talk Spanish when he came to the valley but am not certain he came to the valley in the Spring of 1850 — and he and Higuera could not converse together without the aid of an Interpreter." "Did you ever converse with said Higuera concerning the land he had sold to Mateo Fellom if yea state when and where and what he said?" (Objected to by Counsel for Claimant on accot of inadmissibility.—)

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"I have conversed with Higuera concerning the land he had sold to Mateo Fellom in August 1851 at the "Embarcadero" at the mouth of the "Carneros" - I was there and shipped and sold his grain for him - he told me that the next year he should should sow about 200 fanegas - I then asked him if he had sold that land the land on which he was living and farming he lived about three quarters of a mile from the "Embarcadero" up the creek where his buildings were - his answer was as nearly as I can recollect that he had not sold it if he had that he would not have been there at that time - he also said that the piece that he had sold was up above at the point of the hills he spoke in a general way and I don't think he said anything about the quantity sold or mentioned the name of the person to whom he had sold it."

"Who held possession of the land shown in the map filed herein, annexed to the deposition of Matthew Fellom, comprising an area of 1804 acres 1 Rood and 9 poles up to the time of the death of Higuera and who has since occupied it?" "The old man (Higuera) held possession until he was taken sick - he then moved back to the old adobe which

is about three miles from that place on his old Ranch where he died - but his daughter Martha Higuera continued in possession of the place which he left and still lives there." "How long have the witnesses in this cause (J. E. Brown & J. P. Walker) heretofore mentioned, lived in the community in which you have lived?" "Brown lived there about four years, and Walker I have known there nearly five years." "Was your knowledge of their respective characters as testified heretofore gained while they so lived there?" "It was."
"~~What occupation was it, if any~~

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Cross Examination by Edwd Stanley Esqr Atty for Claimant.-

"When you speak of the reputation of Ramon G de la Riva do you speak from your own knowledge or from what people generally say about him?" "I speak from my own knowledge - I have had several dealings with him - I came to this Country in July 1848." "What dealings had you with de la Riva?" "I bought cattle, horses, and grain from him at different times - I was then merchandising with Joseph ~~[illegible]~~ Mount and supplied de la Riva with provisions that is he traded with me

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"Did you ever hear anything against Brown except that he was shrewd in land trades?" "I only know of Brown by his general reputation and what people said about him he could'nt be believed on oath where his interest was involved - he would deal fair if he was obliged to - he traded in nothing but land and was looked upon as tricky." "Are you friendly with Brown?" "I was as friendly with him as I ought to be with any such man - I have nothing either for or against him." "How long had Nicolas Higuera been living at the Embarcadero when you had the conversation with him in August 1851?" "He had lived there long enough to raise the crop which I have spoken of shipping and selling." "At the time you conversed with Higuera in August 1851, did you know that Martin had purchased a tract of land of him (Higuera?)" "I saw Martin in 1850 in Napa City and he had been drinking and bragging around and said that he would take in all the land from the old ford to Napa City in a claim which he had purchased." "Had Nicolas Higuera lived at the adobe where you say he finally

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went to and lived before he moved to the place where he raised the crop of which you speak?" "He had lived there." "Did you ever hear that Ramon G. de la Riva was accused of forging a will, or any other forgery?" "No." "What is the connection between yourself and Joseph Mount at this or any former time?" "At present we have no connection - formerly we were partners in the mercantile business." "Did Mount ever buy any of the Higuera land from Higuera or any-body else?" "He and I purchased a piece of the Higuera land outside of Martin's claim in partnership from Encarnacion the daughter of Nicolas Higuera." "Did de la Riva ~~ever~~ ever negociate any trades for land for you in that neighborhood?" "He never did." "Did de la Riva ever negociate for land for any-body else in that neighborhood from the heirs of Higuera?" "Never, in my knowledge." "How many persons in your knowledge are interested in the land in controversy, claimed by Martin in this cause?" "Martha Frias Higuera and Joseph Grson and I suppose two squatters named Wm Hanley and Alderson ~~##~~ McGimsey." "When did

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you and Mount dissolve partnership in business?" "A year ago, the first day of last October:- and I am not directly or indirectly interested in the result of this suit; I am now engaged in farming and stock-raising." "Do either of the daughters of Nicolas Higueras owe you anything?" "They do not.-" "When did you settle with them?" "I never had anything to do with but one of them - the one from whom I bought the land I have heretofore mentioned, (Encarnacion) I paid her three thousand dollars the greater part in cash, for eight hundred acres which afterwards turned out to be about a thousand acres:- I do not remember who either wrote or witnessed the deed - De la Riva was in town the day the deed was executed I don't know how he came, I think he came on horseback - De la Riva lived with one of the daughters of Higueras but I don't know whether he was married to her or not - the daughter's name with whom he lived was "Encarnacion" the one from whom I bought land.-" "Had you had any conversation with de la Riva about the purchase you afterwards made

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of the land from "Encarnacion" before you purchased it?" "I had". - "What was the subject and substance of your conversation with De La Riva?" "He said that he thought there was a piece of land there for which there was no claimant which he said he thought belonged to "Encarnacion" and asked me to see the County Surveyor - which I did and reported to De la Riva & Encarnacion accordingly - they then wished me to sell the land as she thought she had better have the money than the land - then I did not think of buying it myself - the price Encarnacion put on the land was five dollars per acre I afterwards spoke to Mr Mount about it and we concluded to buy it. - No money was paid to De La Riva for the land I don't know whether De La Riva picked up the money or Encarnacion when it was paid to her." "Are any of your connections interested in the land in controversy?" "They are not." - "What were the reports you heard about De la Riva having been connected with the will of the old man, Higuera?" "I heard that he had influenced Higuera

to make the will in favor of his daughter, there was a controversy in Court about the claim of a woman who lived with Higuera & pretended to be his wife for her share of the land.—

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Direct Examination resumed by U. S. Law Agent.—

"When you speak of your knowledge of the reputation of De La Riva for truth & veracity, do you speak from your own knowledge, or on the ground of his reputation with the men with whom he had had dealings?" "I speak from both but more particularly from my own transactions with him."— "When you heard the declaration of Martin in Napa City in 1850 that he would take in Napa City in the claim which had bought was he drunk or did he know what he was saying?" "He was a little tight but knew what he was about."— "Have you and Mount divided that tract of land which you bought from Encarnacion?" "We have."—

Sworn to & subscribed before me this 16th day of January A.D. 1856 } Edward Cotterill

Geo. Pen. Johnston U. S. Commissioner

Edward Cotterill recalled for examination on Thursday the 17th day of January A. D. 1856.—

Cross Examination resumed by Edward Stanley Esqr Atty for Claimant.—

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"Did you have at any time business or partnership transactions with de la Riva?" "I have had business but no partnership transactions with him."— "Was not the land purchased by you from Encarnacion Higuera lying immediately north of the ~~road~~ ford at the Wagon Road as shown on the Map annexed to the deposition of Halom in this cause filed?" "The line of the land purchased by Murnt and myself starts from the ford,— and the land lies to the north & east of that line = from the ford to the point of the hills as drawn on the map."— (Defendants or Claimants Counsel Objects to the testimony of Edward Cotterill on the ground that he is interested in the land in controversy.)

(Direct examination resumed by U. S. Law Agent.)

"Have you any interest in the land below the line last above mentioned?" "I have none and don't expect to have any— as long as it is in dispute my cattle run on it

mount runs the extreme point of the land near the ford embracing about 115 acres - I own the next piece adjoining. -

Sworn to & subscribed before me this 17th day of January A.D. 1856.

Edward Cotterill

Geo. Pen. Johnston
U. S. Commissioner

United States Dist Court
Northern District of California
No 177.

Julius Martin
vs
The United States

Deposition of Edward Cotterill on behalf of the United States

Filed Jan 21. 1856,
J. Chevers,
Deputy

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

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Julius Martin
vs } Case No. 177. Dist Court — Case No. 323. Land Commission
The United States

San Francisco Cal January 18th 1856.

On this day before Geo. Pen. Johnston, a Commissioner of the United States for the Districts of California, duly authorized to administer oaths before came Joseph Mount, William Russell and James Hornback witnesses produced on behalf of the United States, appellees in Case No. 177. being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 323,. on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows:

Present; U. S. Law Agent on behalf of the United States — Edwd Stanley Esqr on behalf of Claimant and Appellant.

Questions by U. S. Law Agent.—

"What is your name, age, and name and place of residence?" "My name is Joseph Mount, I am forty nine years of age and I reside at Napa City in the County of Napa State of Cala—

"Are you acquainted with Ramon ~~de~~ de la Riva, a witness in this case; if yea, how long have you known him, and where, and are you acquainted with his general character for truth and veracity in the community where he resides?" "What is that reputation?" "Good or bad?" "and judging from such reputation would you believe him on oath?"

"I am acquainted with him; I become acquainted with him in the Fall of 1850, and have known him ever since. This was in Napa city. I am acquainted with his general character for truth and veracity in the neighborhood where he resides. His reputation in these respects was good. I would believe him on oath." ~~and J. C. Walker~~

"Are you acquainted with J. C. Brown, & former County Surveyor of the county of Napa, and Joel P. Walker, ~~and~~ ~~Joseph P. Walker~~, and also ~~a~~ witnesses in this case, and with their general character for truth and veracity in the community where they reside ~~s~~; if yea, what is it, good or bad; and judging from that public reputation, would you believe them on their oath.—

I am acquainted with J. C. Brown and Joel P. Walker: with Walker since the Fall of 1849, and with J. C. Brown, since the Fall of 1850; I was acquainted with them

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1849, and with J. E. Brown, ...

of 1850; I was acquainted with them in Napa; I am acquainted with their character for truth and veracity in the community where they resided; In regard to J. E. Brown, his character is not very good, it is doubtful; I would not believe him on oath where his interests or prejudices are concerned; ~~I am acqu~~ In regard to Joel P. Walker, I would not say anything about his character for truth and veracity; he is always attending to other people's business rather than his own."

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Cross Examination - "Do you claim any land in the rancho formerly owned by Nicholas Higuera, called entre Napa? I do. From whom did you purchase?" "I purchased, in connection with my former partner, Edward Cottrell, of one of the heirs of Nicholas Higuera, Encarnacion, daughter of Nicholas Higuera;" "Did de la Riva negotiate this trade for you?" "I have talked before the trade with de la Riva; but my partner, Mr. Cottrell, better understanding the Spanish language, made the negotiation with Encarnacion Higuera." "In the conversation you had with de la Riva did you talk about the price of

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the land?" "I did talk about the price of the land, but we came to nothing definite." "Did de la Riva write the deed or witness it?" "I think not." "Was not present when the money was paid, nor when the deed was executed." "If you know or have heard ~~any~~ charges against de la Riva respecting his forging a will of Nicholas Higuera, say what you know respecting the same." Objected to by the U. S. Law Agent. "I never heard any charges of ~~Nicholas Higuera~~ de la Riva forging a will of Nicholas Higuera; I have understood that there was a will executed by Johnson Horrell, which was proved in the Probate court of Napa or Sonoma; I understood that the will was admitted to Probate; It was said that the will was executed when Nicholas Higuera was in an unconscious state; Never heard of de la Riva's having participated in the execution of this will; do not say this from personal knowledge; I do not know where Encarnacion is now; I do not know where Rincon de los Carneros is;" (Witness is here shown map annexed to the deposition, of Matthew Fellows, and he is asked whether the land he claimed with Cottrell does not

Fellona, and he is asked whether the land he claimed with Cottrell does not lie immediately north of the line from the wagon road to the point of the hills?)

"I cannot answer it from that map."

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(Witness is here shown map marked exhibit "A" "G. P. J.") "I say that the land bought by myself and Cottrell commences at the old Ford on the Carneros, and runs directly north; and another line runs from the same Ford to the point of the hills on the east; at the southern point it would make my land form a triangle; I do not know anything about the correctness of the map; I do not think the map is correct." "Beginning at the Ford of the lower corrall, in what direction does the line run of Salvador Vallejo's land?" "I do not know; I do not know whose land adjoins mine on the West; I came to this country in 1849; the daughters of Higuera are not in debt to me." "Were they ever in debt to you?" "There is one of them that has had a small account with me; I kept a grocery, dry good, and general variety store in Napa; that one was Martha; the account was small and has been settled; Encarnation never had an account with me, nor with Mount & Cottrell."

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"By my request, the Deputy Clerk of Napa County, Mr. Fortinbury, Charles T. Briggs, Manuel Castro, a native Californian, as interpreter, was sent by me, and paid the money, and brought me the papers in the name of Mount & Cottrell, for the land bought by us, specially referred to by me on the map." "The whole sum of three thousand dollars in cash was paid, and the deeds returned, duly witnessed; de la Riva never received any of this money that I know of; there was no understanding between Cottrell and myself that I was to to share the loss, if we lost the land;" "Did you ever hear of Martin's claim to the land in dispute before you purchased of Incamanin?" "I did by rumor." "Are you friendly with Brown?" "I am on speaking terms with him. I have never had any quarrel with him; I knew him once to make a false statement before a Grand Jury in relation to myself, and another in the case of Macauley, who was hung by the mob; I never had a law suit with him; there was a law suit with him in the name of our firm, but I was not in the State at the time; I was in Eutaw at the time; I might have been in Eutaw,

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or I might not have been there; I was in the East at the time." "Are you a Mormon?" "I am not known as such; I have no claim upon the Church, nor ~~have they~~ has the Church a claim upon me." "Do you believe Jo. Smith was a prophet?" Objected to by the U.S. Law Agent. "I believe Jo. Smith was as much of a prophet as Mahomet." "Do you believe Mahomet was a prophet?" "I have very little faith in the prophets." "Do you believe that polygamy is lawful?" "I do not; I was in Eutaw; did not leave a family there, nor bring a family with me from there; I went there for cattle." "Were you ever a member of the Mormon Church?" Objected to by U.S. Law Agent. "I was. I came here at the request of Joseph Green."

Direct Examination resumed. "Are you now a member of the Mormon Church?" "I have stated that they have no claim upon me as a society, nor have I upon them, to my knowledge." "Have you a wife and family that reside with you?" "I have, at Napa city." "What is the name of the lawyer whom you say executed the will?" "~~Thompson~~ Johnson Horrill." "Did he draw up the will as a lawyer?" "He drew up the will as a lawyer, and Nicholas Higuera signed it." "Did you hear any

reflection upon Horrell in connection with the Will?" "I did not."

Joseph Mount

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Sworn to & subscribed before me this 18th day of January A.D. 1854

Geo. Pen. Johnston
U.S. Commissioner

William Russell, being duly sworn, deposes and says as follows: - "Am 33 years of age; reside at Napa city, and have resided there since 1848; follow gardening and teaming;" "Were you acquainted with Nicholas Higuera in his lifetime, and state whether or not he could talk English; state also whether Brown could talk Spanish anytime during the year 1851; and whether those persons could converse together without an interpreter?" "I was acquainted with Nicholas Higuera; he could not talk English; Mr. Brown could not during 1851 talk Spanish well enough to be

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understood; he could say a few words; Higuera and Brown could not talk together without an interpreter; I acted as Spanish interpreter for Brown in the Spring of 1850; I talk Spanish as well as Americans generally; I can converse in Spanish readily; I interpreted several times for Brown, but do not recollect with whom; I recollect once asking Nicholas Higuera some questions concerning land that Brown had purchased from Higuera, for Brown;"

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Cross Examination by Edwd Stanley Esqr Atty for Claimant.

"When did you first learn Spanish?" "When I first came to this country in 1844; in the conversation of Brown with Higuera Brown spoke three or four words of English to one of Spanish - he could not hold a conversation in Spanish with any one; I came here to testify at the request of Mr Joseph Green who claims a piece of the land in controversy."

William Russell

Sworn to & Subscribed before me this 18th day of January A.D. 1856

Geo. Pen. Johnstone
U. S. Commissioner

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James Hornback being duly sworn deposes and says as follows:

Questions by U. S. Law Agent.–

"What is your name age and place of residence?" "My name is James Hornback, my age is fifty-four years, and I live in Napa County California I am a farmer and stock raiser."

"Are you acquainted with Ramon G. de la Riva a witness in this case, if yea How long have you known him and are you acquainted with his general character for truth and veracity in the community where he resided?– What is that reputation good or bad, and judging from such reputation would you believe him on oath?" "I know Ramon G. de la Riva and have known him about four years I was acquainted with his general character for truth and veracity in the community in which he resided – it is pretty hard to say what it was some people spoke well of him some spoke against him – it is a hard question whether I would believe him on oath or not – I don't know that I would have any reasons to disbelieve De la Riva on oath – in saying that

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it was a hard question whether I would believe de la Rivas on oath I did not mean that it was a hard question to decide whether I would believe him or not but that it was a question I did'nt like to answer." "Are you acquainted with J. E. Brown former County Surveyor of the County of Napa, and with Joel P. Walker, witnesses in this case?" "And with their characters for truth and veracity in the community where they ~~they~~ resided, if yea what were they good or bad and judging from that public reputation would you believe them on their oaths?" "I am acquainted with J. E. Brown and Joel P. Walker and I am acquainted with their character for truth and veracity in the community where they have resided — their respective character were not good — I should be doubtful about believing them where their interests were concerned." —

Cross Examination by Edwd Stanley Esqr Counsel for Claimant. —

"At whose request did you come here testify?" "At the request of Joseph Green who has been here several days

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during the taking of these depositions - and who has a tract of land on the Carneros and I believe embraced within the land in controversy; I came to this country in 1850; I have heard reports about the will of Higuera in connection with De la Rivas:- some people thought that he had acted badly about Higuera's will a great many thought he had, not - there was something about the old woman who lived with Higuera ~~ha~~ claiming to be his wife &c:- I lived close by Walker and a mile and a half from Napa City where Brown lived and I did'nt form an opinion of their character from what ~~they~~ their enemies said about them but from a personal knowledge of their trades and dealings - Brown I considered not fair in a trade of any kind; I am the father-in law of Edward Cotterell a witness in this case and a former partner of Joseph Mount; I have seen Higuera during his life time, but was not acquainted with him; Brown has owned and sold a good deal of land about where I live at different times:- it is about two years ago this winter

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I think when I first heard, that Julius Martin, and John Walker, or Joseph Walker, had a claim to the land in dispute."

James his X mark Hornback

Sworn to & subscribed,
before me this 18th
day of January A.D. 1856
Geo. Pur. Johnston
U. S. Commissioner

U. S. District Court
Northern Dist of Cal^a

No. 177 ND
323 Bd

Julius Martin

vs

The United States

Depositions of Joseph Mount, William Russell and James Hornback, witnesses produced in behalf of the United States

Filed January 21. 1856
J. Cheevers,
Deputy.

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

No 177

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Julius Martin
v
The United States

No 323 Land Com:

On this Second day of February A. D. 1856, before me Edward S. Benson — a Notary Public in and for the County of San Francisco personally appeared Turner G. Baxter of Napa County in said State to me personally known, who being duly sworn deposes & says

Qu: 1 — Do you know Ramon de la Riva, a witness in this case who formerly resided in Napa County, and if yea state whether you know his general character and whether from your knowledge of his general character you would believe him on oath? —

Ans: I do know said de la Riva, since the summer of 1850, or thereabouts, when he first came to Napa Valley: he was at one time acting as agent of Nicholas Higuera: his general character was bad, he had the reputation of being a swindler: and from my knowledge of his character, I would not believe him on oath where he was interested. —

Qu: 2nd — Are you acquainted with J. Evans Brown formerly County Surveyor of Napa, & if so what

is his character for integrity & veracity, & would you believe him on oath?

Ans: I have known Brown since 1849: his character for integrity & veracity is unsuspected & I would believe him on oath as soon as any man. I have lived in Napa ever since 1849, & in 1851 I kept a hotel there for eight or ten months & since then running a steamboat, which enabled me to see a great many people—

Qu. are you acquainted with the tract of land formerly owned by Nicholas Higuera, and sold by him to Matthew Fellom and by said Fellom to Julius Martin, and if so, what was said piece of land called?—

Ans. I am acquainted with said land: it lies near Napa City, between Los Carneros Creek and Napa River. It was always known as the "Rincon de los Carneros". I know this from the old Californians who resided in Napa; I spoke Spanish & could converse with them— The paper hereunto annexed marked "T. G. B." correctly represents said land—

Qu. Have you any interest in this controversy

Ans. None whatever—

Sworn to before me
this 2nd day of Feby: 1856— T. G. Baxter

E. S. Lawson

[illegible]

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Rinconda de los Carneros
Survey (½ size)
1854.
E. A. d'Hemecourt.
177 N.D.
p 121
"ENTRE NAPA or Rinconda de los Carneros"
Julius Martin, Claimant.

Napa Co.

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T. G. B.
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State of California, County of Napa.

I, undersigned County Surveyor for the County of Napa certify that the above diagram showing the position of the South point of the Hills West of Napa City, and of the Old Cart road leading from Napa City to Sonoma is true and correct. In faith whereof I have hereto set my hand in Napa City this 28th day of June AD 1854

Em A d'Hemecourt
County Surveyor
Napa County.

[Exhibit No 3 annexed to deposition of Ramon G de la Rivas
P.L."]

[Reduced to one half the scale of the Original]

A. D. Pratt

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It is hereby stipulated that the above affidavit be considered and taken for all intents and purposes as a regularly taken deposition. At the same time the Attorney for the United States excepts generally and specially to the several answers of the said affiant on the ground that such evidence is irrelevant and incompetent.

San Francisco March 12th 1856

A. Hussell,
Asst. U.S. Dist. Atty.

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No 177

Deposition of

Turner G. Baxter

Julius Martin

vs

The United States —

No 177 ND 323 B2

In the District Court of the United States for the Northern District of Cal:

Julius Martin

vs

The United States

Deposition of

T. G. Baxter —

Filed March 31st 56

Jno A Monroe

Clk

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

No 177 Julius Martin
Vs.
The United States

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On this the 12th day of February AD 1856 before me Louis Bruck a Notary Public for the County of Napa and State of California personally appeared Dr. W. W. Stillwagon of said County and State to me personally Known to be the person who being duly Sworn doth aver and say

Query 1st. Where do you reside and what is your profession

Answer 1st. I reside in Napa County and am by Profession a Physcian

Query 2nd. Did you Know one Ramon del a Riva who formerly lived with Nicholas Higuera in Napa County if yea - what is his character for veracity and integrity generally and would you believe him on oath -

Answer. 2nd. I Knew the said Ramon Del a Riva, his Character is very bad indeed and I have no hesitancy in saying that I would not believe him on oath -

Query 3rd. Do you Know J Evans Brown and what is his general Character for veracity and would you believe him on oath

Answer. 4th. I Know J Evans Brown and his Character is very Good and I would have full confidence in anything he would say under oath -

Sworn and Subscribed to before me the 12th day Feby 1856 - } William W. Stillwagon

L Bruck
Notary Public

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It is hereby stipulated that the foregoing affidavit be considered and taken to all intents and purposes, as a regularly taken deposition.

at the same time the Attorney for the United States excepts generally and specially to the several answers of the said affiant on the ground that such evidence is irrelevant and incompetent —

San Francisco March 12th 1856

A. Glassell
Asst. U.S. Dist Atty.

Deposition of
Dr. W. W. Stillwagon

Julius Martin
vs
The United States

No: 177 In the District Court of the United States for the Northern District of California

Julius Martin
v.
The United States

Deposition of
W. W. Stillwagon

Filed March 31st 56
[illegible]
Clk.

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

No 177

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Julius Martin
vs
The United States
} No 323 Land Com.

On this Twenty fifth day of January A. D. 1856 before me Charles Dickinson a Notary Public in and for the County of San Francisco, personally appeared Edward McGarry of Napa County to me personally known, who being duly sworn deposes & says —

Int. 1. Do you know Ramon de la Riva, a witness in this case, on the part of the United States and if yea, state whether you know his general character, and whether from your knowledge of his general character, you would believe him on oath. —

Ans. I know a man by that name who formerly lived with Nicholas Higuera on his Rancho in Napa County, & there never having been any other man of that name, that I know of, I suppose it is the same person: his general character was bad & from my knowledge of that character I would not believe him on oath. —

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2nd Do you know J. Evans Brown, formerly County Surveyor of Napa County, and if so how long have you known him, and what is his character for integrity and veracity, & would you believe him on oath.

Ans: I have known him since 1850: his character for integrity and veracity is good: I have lived in Napa County since that time and had much business with him, and would believe him on oath as soon as any man I know –

3rd.– What office have you held, if any, in Napa County, and have you thereby been able to learn public opinion, as to the character of persons residing there

Ans: I have been Senator from that County for two years, and once in the Assembly, and was elected County Treasurer, qualified and resigned, and of course was often thrown in communication with the Citizens of the County.

4th Do you know Joseph Green of Napa County, who claims part of the Ranch of Entre Napa formerly owned by Nicholas Higuera, and if so was he formerly the Clerk of Joseph Mount & Edward Cotterill –

Ans: I know said Green: he was

Clerk for said Mount & Cotterill for

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clerk for said Mount & Colter for about two years —

5th. Have you any interest in this controversy:

Ans: None whatever —

Edw. McGarry

Sworn and Subscribed to before me this 25th day of January AD 1856
C Dickinson
Notary Public

It is hereby stipulated that the above affidavit be considered and taken for all intents and purposes as a regularly taken deposition. At the same time the Attorney for the United States excepts generally and specially to the several answers of the said affiant on the ground that such evidence is irrelevant and incompetent
San Francisco March 12th 1855

A. Glassell, Asst. U.S. Dist Atty.

No 177

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

Julius Martin
vs
The United States –

Deposition of Edw. McGarry

Filed March 31st 56
Jno A. Monroe
~~U. S. Commissioner~~
Clk.

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25/ay

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

No 177

Julius Martin
Vs
The United States –

On this the Sixth day of February 1856

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before me Louis Brueck a Notary Public in and for the County of Napa and State of California personally appeared before me Anderson Farley of said County and State to me personally Known who being duly Sworn deposes and Says –

Query — Where do you reside

Answer — In Napa County, have resided there since 1847 –

Query — Did you Know Ramon de la Riva formerly of Napa County, and what is his general Character for veracity and integrity and would you believe him on oath –

Answer, — I did Know Ramon de la Riva who once lived with Nicholas Higuera, his Character was very bad and I would not believe him on oath –

Query — Are you in any way interested in this Suit –

Answer — In no way whatever am I interested –

Sworn & Subscribed before me
this the 6th day Feby 1856

Anderson Farley

L Brueck
Notary Public

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It is hereby stipulated that the above affidavit be considered and taken for all intents and purposes as regularly taken deposition. At the same time the Attorney for the United States excepts generally and specially to the several answers of the said affiant on the ground that such evidence is irrelevant and incompetent.

San Francisco March 12th 1856.
A. Glassell
Asst. U.S. Dist. Atty.

No: 177 – In the District Court of the U. S. Northern District of California

Julius. Martin

vs.

The United States

Anderson Fowler

Deposition

Filed March 31st 56
Jno. A. Monroe
Clk

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

Julius Martin
v
The United States
} No: 323. in the Land Commission.

On this 13th day of February A.D. 1856 before me Gilbert A. Grant a Notary Public in and for the City of San Francisco personally appeared Jacob P. Leese of Monterey, to me personally known, who being duly sworn deposes & says.—

Question 1st Are you acquainted with the Rancho called Entre Napa, formerly owned by Nicholas Higuera, if so how long have you known it?

Ans: I know the said Rancho, and have known it about fifteen years. I formerly owned the Rancho called Huichica, as represented on the accompanying plot, lying on the Western side of the Arroyo de los Carneros

Question 2 Do you know what part of Rancho of Entre Napa if any, was called Rincon de los Carneros.—?

Ans: I do. It is the tract of land lying on the

Northeast side of the Arroyo de los Carneros — and between the Arroyo aforesaid and Napa Creek; and extending down to the intersection of the Carneros and Napa Creeks. It is in a triangular form and the plat herewith annexed and marked "J.A.J." appears to be a very fair representation of the tract.

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Question 3. Did you ever hear from Nicolas Higuera that he had sold said land? And if so to whom?

Answer. I never heard from him that he had sold it, — for I never had any conversation on the subject with him

Question 4. Have you any interest in this case?

Answer. None whatever.

J. P. Leese

State of California
County of San Francisco } ss.

Subscribed and sworn before me this thirteenth day of February, A.D. 1857

[signature]
Notary Public

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State of California, County of Napa.

I, undersigned County Surveyor for the County of Napa certify that the above Diagram showing the position of the South point of the hills West of Napa City, and of the old Cart road leading from Napa City to Sonoma is true and correct.

In faith whereof I have hereto set my hand in Napa City this 28th day of June AD 1854.

Em. A. d'Hemecourt
County Surveyor
Napa County.

["Exhibit 3, annexed to deposition of Ramon G de la Rivas P.L."]

[Reduced to one half scale of the Original]

Rinconda de los Carneros
Survey (1/2 size)
1854
E. A. d'Hemecourt.
177 N. D
p. 136
"ENTRE NAPA, or Rinconda de los Carneros"
Julius Martin, Clmt.
Napa Co.

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Plat refered to in the annexed deposition of Jacob P. Leese

Gilbert H. Grand,
Notary Public

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It is hereby stipulated that the foregoing affidavit be considered and taken for all intents and purposes as a regularly taken deposition: at the same time the Attorney for the United States excepts generally and specially to the several answers of the said affiant on the ground that such evidence is irrelevant and incompetent. —

San Francisco March 12th 1856.

A. Glassell
Asst. U.S. Dist. Atty.

No 177 ND

323 Bd

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

Julius Martin

v

The United States

Deposition of Jacob P. Leese —

Filed March 31st 56,
Jno A Monroe
Clk.

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State of California, County of Napa

I undersigned County Surveyor for the County of Napa certify that the above diagram showing the position of the South point of the Hills West of Napa City, and of the old Cart road leading from Napa City to Sonoma is true and correct. In faith whereof I have hereunto set my hand at Napa City this 28th day of June AD 1854

Eum H d'Hemecourt
County Surveyor
Napa County

[Exhibit No. annexed to deposition of Ramon E de la Riva. P.L."]

[Reduced to one half of Scale of the Original]

Rinconda de Los Carneros
Survey
1854
E. A. d'Hemecourt.
122 N.D
p. 140
"Entre Napa, or" Rinconda de los Carneros"
Julius Martin, Clmt
Napa Co.

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No: 177

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

Julius Martin
vs.
The United States

On this the Sixth day of February AD 1856 before me Louis Brucck a Notary Public in and for the County of Napa and State of California. personally appeared before Nathan Coombs of Napa County & State aforesaid to me personally known who being duly Sworn deposes and Swears -

Query. 1st Where do you reside and how long have you resided there

Answer - Reside in Napa Valley - and have lived here since 1846 -

Query. 2. - Have you had an opportunity of learning the general public opinion of residents in that Cy and how - or in what way

Answer I think I have had a good opportunity of learning public opinion in Napa County. as I am one of the original Proprietors of Napa City. and have been rather extensively Engaged in different kinds of business since 1850, - and represented Napa County in the State Assembly last year

Query 3 Did you know Ramon del a Riva a witness in this case who formerly resided in Napa County, and if yea, State whether you know his general character and would you from your knowledge of his character believe him on oath.

Answer I did know one Ramon del a Riva who lived in Napa County with Nicholas Hegneaw. and his character was very bad and I would not believe him on oath,

Query 4 Did you know J Evans Brown formerly County Surveyor of Napa County and what is his character for integrity and veracity and would you believe him on oath.

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Answer. 4th I have Known J Evans Brown Since about February 1850 and have had much business with him. he is a good business man and has a character of being Shrewd and Smart but a man of undoubted integrity and veracity and I would have the fullest confidence in all he would state on oath –

Query 5th – Examine the map annexed herewith with your name endorsed thereon and state whether you Know the land described therein and how long you have Known it and what it has been generally Known by –

Answer 5th I have examined the Map and Know the land described – have Known the land Since 1846 – and Known always as the Rincon de los Carneros

Query 6th What part do you say was called Rincon los Carneros

Answer 6th That part described below the road and the point of the hills. next to junction of Arroy de los Carneros and Napa River –

Query 7 Did you ever hear Nicholas Higuera Speak of the land you have described as Rincon de los Carneros.

Answer I have heard Higuera Speak of that land –
In the Summer of 1848. I applied to Higuera to purchase a portion of this land near the junction of the Arroy de los Carneros and Napa River – in fact it included the junction of the Creek and River aforesaid. and he refused to sell it. as he did not own it, he said he had sold it to his Son in law Matthew Fallon –

Query. 8th – Are you in any way interested in this Suit

Answer. 8th I am not in any way whatever –

Sworn & Subscribed to before me this 6th day Feby 1856 – } Nathan Coombs

[illegible] Brück
Notary Public

No. 177 N.D. In the District Court of the United States for the Northern District of California
323 ND

Deposition
Nathan Coombs

Julius Martin
vs.
The United States
Filed March 31st 56
Jno A. Monroe
Clk.

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It is hereby stipulated that the above affidavit be considered and taken for all intents and purposes as a regularly taken deposition.

At the same time the Attorney for the United States excepts generally and specially to the several answers of the said affiant on the ground that such evidence is irrelevant and incompetent

San Francisco March 12th. 1856

A. Glassell,
Asst. U.S. Dist. Atty

State of California } ss

No: 177

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

Julius Martin
v.
The United States } No 323 L. Com:

On this 19th day of January A.D. 1856, personally appeared before me Charles J. Dickinson a notary public in and for the County of San Francisco, Martin E. Cooke of Sonoma County, to me personally known who being duly sworn deposes & says—

1st. Do you know the tract of land claimed by Julius Martin in this case?

Ans: I do

2nd How long have you known it?

Ans: Since the Early part of the year 1850

3rd What was the tract of land referred to called, if by any name state it, and whether it was known generally by that name?

Ans: It was called & generally known by the name of "Rincon de los Carneros." It was a part of the Rancho Entre Napa formerly owned by Nicolas Higuera, the land was conveyed

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Cymirito One Polon & G Fallon to Jerlius Martin I know the County thereabouts very well I have been on the land often & passed it many times in going from Sonoma to Napa

4th Look at the sketch annexed hereunto, marked "A." and say whether the land described as forming a "delta" between the Arroyo de los Carneros and the Napa River, is the same of which you speak as being known as the "Rincon de los Carneros"?

Ans: It is the same land which I have always understood as the "Rincon de los Carneros"

5th Are you acquainted with Ramon de la Riva, who formerly lived in Napa County, and are you acquainted with his general character if so, what was his character?

Ans: I knew Riva and am acquainted with his general character it was very bad

6th Have you any interest in this case

Ans: Not any whatever:

7 Do you know Joseph Green, If so what was his business? Ans. I know Green I think he was clerk

for Messrs. Mount & Cottrell in Napa

Martin E. Cooke

Sworn & Subscribed before me this day & year first above written

C. Dickinson
Notary Public

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Sketch "A"

Rinconda de los Carneros
Sketch

187 N.D.
P. 146
"ENTRE Napa or Rinconda de los Carneros."

Julius Martin, Chmt

Napa Co.

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It is hereby stipulated that the above affidavit be considered and taken for all intents and purposes as a regularly taken deposition at the same time the Attorney for the United States excepts generally and specially to the several answers of the said affiant, on the ground that such evidence is irrelevant and incompetent

San Francisco March 12th 1856 –

A. Glassell
Asst. U.S. Dist Atty

No. 177 ND
323
In the District Court of the United States for the Northern District of California

Julius Martin
vs
The United States –

Deposition of Martin E. Cook

Filed March 31st 56
Jno A. Monroe
Clk.

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

Julius Martin
vs
The United States

No 323

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On this Sixth day of February AD1856 before me Louis Bruck a Notary Public in and for the County of Napa in the State of California, personally appeared C Hartson of Said County and State to me personally known who being duly sworn deposes and says

Int- Do you know Ramon d la Riva a witness in this case who formerly resided in Napa County and if yea; State whether you know his general Character; and whether from your knowledge of his general character you would believe him on oath

Ans. I have known said de la Riva since the Month of August AD1851. his Character General Character is bad, very bad. I would not believe him on oath when he is interested

Int 2d are you J Evans Brown, formerly County Surveyor of Napa & if so what is his character for integrity and veracity & would you believe him on oath?

Answer. I have known said Brown since the Month of July AD1851 and have had much dealing with him, he is a very shrewd business man, but a man of undoubted integrity and I would rely upon his oath with full confidence.

I am the County Judge of Napa County and I have no interest

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in this controversy whatever

C Hartson

Sworn to before me
this Sixth day of Feby AD 1856

L. Rivers
Notary Public

It is hereby stipulated that the above affidavit be considered and taken for all intents and purposes as a regularly taken deposition. At the same time the Attorney for the United States excepts generally and specially to the several answers of the said affiant on the ground that such evidence is irrelevant and incompetent –

San Francisco March 12th 1856

A Glassell
Asst. U. S. Dist. Atty

Julius Martin
vs.
The United States

Deposition of
Judge C. Hartson

No 177

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

Julius Martin
v.
The United States

Dep: of Judge Hartson

Filed April 23. 1856,
Chevers,
Deputy.

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

No: 177

Julius Martin
vs
The United States

{ No. 323 L. D. Com.

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On this the Sixth day of Feby 1856 before me L. Bruck a Notary Public in and for the County of Napa, personally appeared before me Angus L. Boggs of Napa County to me personally ~~Appeared~~ known who being duly sworn deposes and says -

Query 1st How long have you lived in Napa County and what is your profession

Ansr - I have resided in Napa County since Sept 1850 and I am a Merchant

Query 2nd Do you know J Evans Brown formerly County Surveyor of Napa County and if so, how long have you known him and what is his Character for integrity and Veracity & would you believe him under Oath.

Answer I have known him since 1850 his Character for integrity and Veracity is good and I would believe him under Oath as soon as any man I know

A. L. Boggs

Sworn and Subscribed to before me this 6th day Feby 1856 }

L. Bruck
Notary Public

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It is hereby stipulated that the above affidavit be considered and taken for all intents and purposes as a regularly taken deposition. At the same time the Attorney for the United States excepts generally and specially to the several answers of the said affiant on the ground that such evidence is irrelevant and incompetent.

San Francisco March 12th 1856

W. Glassell
Asst. U. S. Dist. Atty

No 177 Boggs

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

Julius Martin

vs.

The United States

Deposition

Angus L. Boggs

Filed April 23, 1856,
Cheevers,
Deputy.

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

No: 177

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Julius Martin
vs
The United States

No 323. L. Com:

On this the 6th day of February AD. 1856 before me Louis Brueck a Notary Public in and for the County of Napa personally appeared Dn. Salvador Vallejo of Napa County to me personally known, who being duly sworn deposes & says—

Q. 1. Do you know Ramon de la Riva? a witness in this case on the part of the United States and if yea, state whether you know his general character and whether from your knowledge of his general character you would believe him on oath.—

A: I know Ramon de la Riva for 5 years do not believe what he says on oath, his general character is bad.

Q. 2. Are you acquainted with the tract of land formerly owned by Nicolas Higuera and sold by him to Matheo Fallon and by said Fallon to Julius Martin and if so state whether the land is correctly represented on a Map anext hereto and marked with my name

Ans: Yes, I know that tract of land for 25 years, and it is correctly represented by the anext map, with my name on the face.

Q. What was that tract of land generally called and known by?

A. El rincon de los Carneros.

Salvador Vallejo

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Sworn to before me this day the sixth day of February A.D. 1856

L. Brock
Notary Public

Rinconda de los Carneros
Survey (½ site)
1854
E. A. d'Hemecourt
177 N. D
p. 156
"Entre Napa, or Rinconda de los Carneros
Julius Martin, Clmt.

Napa Co.

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State of California, County of Napa.

I undersigned County Surveyor for the County of Napa, certify that the above Diagram showing the position of the South point of the Hills West of Napa City, and of the old Cart road leading from Napa City to Sonoma is true and correct. In faith whereof I have hereto set my hand in Napa City this 28th day of June A D 1854.

Em. A. d'. Hennecourt
County Surveyor
Napa County.

["Exhibit 3 annexed to deposition of Ramon G. de la Riva. P.L."]

[Reduced to one half of scale of the Original]

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It is hereby stipulated that the above affidavit be considered and taken for all intents and purposes as a regularly taken deposition. At the same time the Attorney for the United States excepts generally and specially to the several answers of the said affiant on the ground that such evidence is irrelevant and incompetent.

San Francisco March 12th 1856

A. Glassell,
Asst. U.S. Dist. Atty.

No 177

Deposition of

Salvador Vallejo

Julius Martin

vs.

The United States

No 177 ND

323 Bd.

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

Julius Martin

vs.

The United States.

Dep: of Salvador Vallejo

Filed April 23. 1856.

Chevers.

Deputy.

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Julius Martin

No 177 v.

The United States

State of California } ss

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

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On this 27th day of March A. D. 1856 personally appeared before me James H Bristow a Notary Public in and for the County of San Francisco, M. G. Vallejo of the County of Sonoma, to me personally known who being duly sworn deposes and says-

I have examined the Deposition of Martin E. Cooke of Sonoma County, taken before Charles S. Dickinson a Notary Public in and for the County of San Francisco, in the case above-named on the 19th day of January 1856: And I have examined the plan a sketch of the land annexed to said deposition: I have known the tract of land referred to for more than twenty years and ever since I have known it, the piece of land, at the junction of the Arroyo de los Carneros, and the Napa River, and lying between said Arroyo and River,

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as described in the deposition of Mr Cooke, has always been known and called as "Rincon de los Carneros."

I have no interest in this case and further deponent saith not —

M. G. Vallejo

Sworn to and subscribed before me day and date first above written. —
James H Bristow
Notary Public

It is hereby stipulated that the above affidavit be considered & taken for all intents and purposes as a regularly taken deposition. At the same time the Attorney for the United States excepts generally and specially to the answer of the said affiant, on the ground that such evidence is irrelevant and incompetent —

San Francisco March 28th 1856 —

A. Glassell
Asst. U.S. Dist. Atty.

No 177

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

Julius Martin

v

The United States

Deposition of
M. G. Vallejo –

Filed April 23. 1856,
Chiness.
Deputy.

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It is hereby stipulated that the above affidavit

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No 177

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

Julius Martin
Appellant
vs
The United States
Appellees

Stated Term
Sept: 2. 1856.
Decree of
Confirmation

This cause coming on this day to be heard upon the transcript of the proceedings and decision of the Board of Land Commissioners of the United States to ascertain and settle the private land claims in the State of California, and all the papers and evidence in the cause, and the pleadings filed in this Court, and Counsel having been heard on the part of the United States and for the Claimant.

In Consideration of all which, the Court is of opinion that there is error in the decision of the said board, and that the same should be, and is hereby reversed.

And this Court doth order, adjudge and decree that the title of the said Claimant to the land described in the said transcript and papers is valid, and

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the same is hereby confirmed to the Claimant.

The land of which confirmation is hereby made is that part or portion of the tract originally granted on the 9th of May 1836, to Nicholas Higuera, which is embraced between Napa River on one side and the Arroyo de los Carneros on the other, and bounded on the North by a line drawn from the ford where the waggon road crosses said Arroyo, to the point of the hills on the East, and designated as being the "Rincon de los Carneros": it being the same land, which was conveyed by said Nicholas Higuera to Matthew Fallon by deed dated 13th November 1847, and by the said Fallon, conveyed to the Claimant in this case, by deed dated on the first day of July 1850.

Provided always that the said tract so as above described be contained within the limits of the land originally granted as aforesaid to Nicholas Higuera, — reference being had to the said grant and the deseño on file in this case.——

Ogden Hoffman
U. S. Dist Judge

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U. S. Dist: Court.

The United States,

— v —

Julius Martin.

Decree.

Filed Sept: 2, 1856.
W. H. Chevers,
Deputy.

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Attorney General's Office
31 Jany. 1857.

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Sir:

Referring to your letter of the 19th of November 1855, I write to inform you that, on examination of the several transcripts in the land cases appertaining to the estate of Entre Napa, it appears that the grant to Higuera was a valid one, and that the United States have no further interest in the cases. I have therefore concluded to dismiss the appeal, and hasten to give you notice, in order that you, in behalf of the contesting parties whom you represent, may have opportunity to sue out an injunction according to law, if cause exists.

I am,
Respectfully.
C. Cushing

Hon Edward Stanly.

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

The United States

v

Julius Martin

D.C. 177; L.C. 323

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In pursuance of a notice from the U. S. Attorney General it is hereby stipulated and agreed that no further appeal be taken in this case on the part of the United States, and that the claimant have leave to proceed under the decree of this court heretofore rendered in his favor as under Final Decree.

San Francisco May 15. 1857

Gravely & King for
Claimant

Wm Blanding
Dist. Atty

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U. S. District Court

The United States
v
Julius Martin

stipulation

Filed May 15. 1857.
W. H. Chevers.
Deputy

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At a Stated Term of the District Court of the UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the City of San Francisco, on Friday the 15th day of May in the year of our Lord one thousand eight hundred and fifty-seven.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States
v
Julius Martin

D.C. 177: L.C. 323.

The Attorney General of the United States having given notice that appeal will not be prosecuted in this case on the part of the United States, and a stipulation to that effect having been entered into by the U. S. Attorney:

On motion of the District attorney it is Ordered adjudged and decreed that the claimant have leave to proceed under the decree of this Court heretofore rendered in his favor, as under Final Decree.

Ogden Hoffman
U. S. Dist Judge

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United States District Court, Northern District of California.

The United States

vs.

Julius Martin

ORDER.

Vacating appeal

Filed May 15th 1857

John A. Monroe,

Clerk.

By W. H. Chevers

Deputy.

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Court No 177. Land Commr No 323

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Julius Martin vs The United States } In the United States for the Northern District of California

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For "Los Carneros" Part of Napa Rancho

Page of Transcript	
21.	Translation of petition of Nicolas Higuera, 30 Decr 1835. to Governor, decree of reference & reports.
25	Grant of the Rancho by Govr Chico to N. Higuera 9 May 1836. (Translation)
35	Translation of proceedings respecting juridical possession
47.	Deed dated 13 November 1847 from Higuera and wife to Mateo Fallon.
51.	Notes of Survey made by County Surveyor 9 July 1850.
53.	Deed dated 1 July 1850 from Fallon & wife to Julius Martin
3.	Petition of Julius Martin to Land Commissioners
4	1855 Jany 15 - Deposition of Jose de la Rosa.
5	1854 May 4. " " Joel P. Walker.
7	" July 7. " " Ramon G. de la Riva
12	" July 8 " " E A de Hennecourt
55. 56	Opinion and Decree of the Board rejecting the claim for want of precise description in the Deeds of the land conveyed.

Additional Evidence

1856. 17 Jany. Deposition of Jose S. Berreyesa

" 18 " " " Joseph Mount

" " " " " Wm Russell

" " " " " James Hornback

" 17 " " " Sisto Antonio Berreyesa

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1856. 17 Jany.	Deposition	of	Juan Lesalda.
" " "	"	"	Nicolas Frias
" 16 "	"	"	Edward Cotterill
1855 12 Sept	"	"	John E. Brown
" 27 July	"	"	Mathew Fallon
" 8 Septr	"	"	George C Yount
1856 25 Jany	"	"	Edward McGary
" 2 Feby	"	"	Edward S. Benson
" 6 Feby	"	"	Salvador Vallejo
" " "	"	"	Judge C Harston
" " "	"	"	Nathan Coombs.
" " "	"	"	Andrew Farley
" " "	"	"	Angus L. Boggs.
" 13 "	"	"	Jacob. P. Leese

Certified copy of judgment in Novem 1853 obtained by Joseph Mount & Edwd Cotterill against John E Brown for $478 debt &c.

1856 19 Jany	Deposition	of	Martin E. Cooke
" 12 Feby	"	"	Dr W.W. Stillanger

Court No 177.

U.S. District Court
for the Northern
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Julius Martin
vs
The United States

For "Los Carneros" part of
Napa –

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U. S. District Court Northern District of California

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The United States vs. Julius Martin | No 177. N. D. No 323 L C.

List of papers on file

1855	
February 5.	Filed Transcript from U. S. Land Commission in Case No. 323.
April 19.	Filed Notice of Appeal by Claimant.
June 11.	Filed Petition for Review by Claimants.
Sept 13.	Filed Notice to take testimony (service admitted.
" "	Filed Deposition of Mathew Fallon
" "	Filed Stipulation to admit testimony of Geo C. Yount.
" "	Filed affidavit of Geo C. Yount. (deposition)
" "	Filed Stipulation to admit testimony of John E. Brown
" "	Filed affidavit of John E. Brown (deposition)
1856.	
Jany 21.	Filed Deposition of José S. Berreyesa
" "	Filed Deposition of Edward Cotterill
" "	Filed deposition of S. A. Berreyesa
" "	" " " J. L. Frias
" "	" " " N. Frias.
" "	" " " J. Mount
" "	" " " W. Russell

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1856		
Jany 21.	Filed deposition of	I. Hornback.
March 31.	" " "	E McGarry.
" "	" " "	N. Coombs
" "	" " "	J. P. Leese
" "	" " "	W. W. Stillwagon
" "	" " "	Martin E. Cook.
" "	" " "	T. G. Baxter
" "	" " "	Anderson Farley.
April 23.	" " "	Salvador Vallejo. with consent
" "	" " "	C. Hartson " "
" "	" " "	M. G. Vallejo " "
" "	" " "	A. L. Boggs " "
Sept 2.	Filed Decree of Confirmation	
1857.		
May 15.	Filed Stipulation that appeal be vacated	
" "	" order vacating appeal	

February 2d 1882

L. C. / N. D. } No 323

The U.S.

vs

Julius Martin

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Carmany

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Proof for ... papers
by 4/2 p 8.

66.

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Julius Martin
vs
The U. S

This claim of the appellant in this case is founded on a grant made in 1836 by Governor Manuel Chico to Nicolas Higuera The authenticity of this grant is fully proved nor does its validity appear to have been questioned either by the Board or the law agent of the U. S – The original grant and the expediente from the archives are produced and the ~~formal~~ record of the act of Judicial delivery of possession is also exhibited showing that ~~the~~ ~~land~~ ^Higuera was formally put into possession ~~with~~ his land ~~the~~ boundaries whereof were definitely established by proper authority ~~There seems to be no doubt that~~ It is also shown that the Conditions of the grant were fully complied with by Higuera who ~~have~~ appears to have enjoyed the uninterrupted possession of the grant except those portions

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which he may have sold
until his death — ~~would~~ appears
~~He valid duty~~ There ~~seems~~ then
to be no doubt as of ~~to~~ the
validity of the original grant
as against the U. S. nor do
I understand it to be disput
ed on their behalf —

This fact having been ascertain
ed, it would seem that the chief duty of ~~this~~ Court
~~would seem to have been~~ is
~~accomplished~~ performed and that the
claim should be confirmed —
~~The~~ It is however opposed
nominally on behalf of ~~the~~ the
U. S. but really in behalf
of parties claiming under
Higuera and affirming ~~the~~ the
validity of ~~the~~ the original grant,
but denying ~~the~~ the rights of the
present claimant, Martin to the
portion of the land alleged to
have been conveyed ~~by~~ to him —
The real controversy is therefor
between the claimant and
third persons and this Court
is ~~to decide~~ asked in effect
to decide ~~between~~ parties ~~between~~
whose ~~rights~~ interests by the very terms
of the act its decree cannot

affect.

If under cover of proceeding instituted to ascertain the rights of the U.S. to the lands ~~held~~ claimed under grants of the former government all persons claiming adverse interests could come into ~~the~~ our court ~~for a settlement~~ and obtain an adjudication upon ~~of~~ their conflicting titles it needs no argument to show that ~~the decision of~~ this class of cases would soon assume ~~a complexity~~ so complicated and embarrassing a form as to indefinitely protract their final determination — In the mass of adverse claims which might be presented for the same land and in the innumerable questions which might arise of fraud accident or priority or of heirship devise partition succession purchase &c under the Spanish or American laws the great object for which ~~these~~ proceedings were instituted and the jurisdiction conferred upon the Board and on this Court, would in ~~so~~ many cases be wholly

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lost sight of — and the time and labor of the Court would be devoted to trying a complicated series of cross ejectments in a suit not dissimilar to a proceeding in rem — But if this Court were to undertake to adjudicate upon the rights of adverse claimants as between themselves the very nature of the proceeding would require it to permit all such claimants to intervene in every suit — The impracticability of allowing this right was demonstrated in the opinion delivered by Mr Commr Thornton in Case No 2 before the Board and for the reasons there assigned this Court has heretofore decided that after ascertaining the validity of the original grant as against the U. S. it would not attempt to adjudicate upon the rights of various claimants under the original

~~[illegible]~~
but would decree in favor of the party presenting ~~the~~ the application provided he showed a primâ facie right to the Confirmation of his claim - In this way ~~the~~ alone could the ~~the~~ enquiries before this Court be limited to the questions ~~the~~ the act intended it should decide while all questions of mere private rights would be settled before the ordinary judicial ~~for~~ tribunals of the Country to which all parties have access -

The only question then to be determined in this case is Do the ~~Custue~~ conveyances to the claimant ~~in this case~~ show such a primâ facie right in him as entitles him to a decree in his favor ~~without~~ ~~forger~~ or are they so clearly void as to make it ~~incumbent~~ incumbent on us to reject his claim altho' we are satisfied that the land in no event can be the property of the U. S.

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The claim was rejected by the Board on the ground that the description of the land in the mesne conveyances by Higuera to Fallon & wife & by the latter to the claimants was vague and uncertain — and that therefore nothing passed by the deeds.

The description is as follows

"a certain quantity of land lying
"and being & situated in the dis
"trict and Territory already named
"in the valley of Napa contain
"ing more or less one mile square
"of land in the place known
"as the Rincon de las Carneras
"Commencing on the wagon
"road & ending at the point of
"the hill on the East.

Much additional testimony has been taken in this Court. Had that testimony been before the Board it is not certain that their decision might not have

It is I think sufficiently established by the proofs that the Rincon de las Carneras is a triangular

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piece of land embraced between Trapanica ~~Creek~~ on one side and the Arroyo de las Carneras on the other — These two streams come together at an acute angle at the south thus forming the apex & two sides of a triangle — The precise limits of the Rincon on the north seem not very definite — but the limits boundaries of the land in that direction are indicated in the conveyance with tolerable distinctness — The old cart wagon road crosses a line drawn from the old wagon road to the point of the hills on the East would nearly form the base of the base of the triangle above described and I think sufficiently shows the intended limits of the grant in that direction — If then the grant had been of the Rincon, commencing at the line above stated I do not perceive that any debatable ~~would~~ doubt could exist as to the precise tract intended to be conveyed — But the words of

the grant are "a quantity
"of land containing more or
"less one mile square in the
"place known as the Rincon
"de las Carneras commencing &c"
was this then a grant of one
mile square out of the larger
quantity contained in the Rincon
or did the grantor intend to
convey the Rincon from the line
~~1st~~ mentioned adding a rough
estimate of its supposed extent.
I incline to the latter view.
If the parol testimony taken
be deemed admissible there
cannot I think remain any
doubt on the point ~~as to the grantor's inten~~
and the equitable rights of the
claimants as against ~~the original~~ his
grantor & his heirs to ~~have~~ have ~~obtain~~
the land according to the limits
originally intended would seem
indisputable —
The looseness and inaccuracy of
the estimates of the area of land
formed by the ~~old~~ ~~Californ~~ Mexican
population of the country is no-
torious — and there is nothing
improbable in the supposition

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that a piece of land containing in fact 1800 acres should be described as containing a "square mile more or less" — If the intention had been to restrict the grantee to the precise quantity of one mile on the line mentioned the words "more or less would hardly have been introduced — The fact that they are in the deed shows that the grant was not intended to be of any specific quantity of land but of some tract present to the mind and before the eyes of the parties — That tract or piece of land must ~~could only~~ have been the Rincon limited on the North by the line mentioned in the grant.

It is unnecessary however to discuss the question further for no decision of ~~this~~ Court ~~on this~~ point can ultimately bind the the parties who alone are the contestants. I think it clearly our duty to confirm the as against the U.S. claim to the ~~extent~~ whole Rincon south of the line mentioned without prejudice

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however to the rights of any third parties having or pretending to have any ~~a House~~ title to the ~~the the~~ same land or to any part of it —

Sept 5th 1856

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vs

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Office of the Board of Commissioners,

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

San Francisco, Jany 31st 1855

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. 323 on the Docket of the said Board, wherein Julius Martin is the Claimant against the United States, for the place known by the name of "Part of Entre Napa"

and request your receipt for the same.

I am, Respectfully,

Your Obt Servant,

Geo: Fisher