CASE NO.
82

SOUTHERN DISTRICT

SAN JACINTO NUEVO Y POTRERO GRANT

THOS. W. SUTHERLAND, ET AL

CLAIMANT

LAND CASE 82 SD page 98

FEB 2 0 1963

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TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 263

Thos. N. Sutherland, Guardian, &c., CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"San Jacinto Nuevo y Potrero."

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Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

Be it Remembered, *that on this* tenth day of June, *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 Thomas W. Sutherland, Guardian &c *for the Place named* "San Pedro Nuevo y Potrero" *was presented, and ordered to be filed and docketed with No.* 263 *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;

Los Angeles October 14th 1852.
In Case No. 263 Thomas W. Sutherland, Guardian &c. for the place named "San Pedro Nuevo y Potrero", the deposition of Santiago Argüello, a witness in behalf of the Claimants, taken before Commissioner Ricardo Wall, with documents marked L. M. A & R. M. A annexed thereto was filed;

(Vide page 4 of this Transcript)

Los Angeles November 12 1852
In the same Case the deposition of Abel Stearns a witness in behalf of the Claimants, taken before Commissioner Ricardo Wall, was filed;

(Vide page 5 of this Transcript)

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San Francisco September 13th 1853.
In the same case the deposition of J. J. Warner a witness in behalf of the claimant, taken before Commissioner Thompson Campbell was filed;
(vide page 6 of the Transcript)

San Francisco Sept. 16th 1853.
Case No. 263 called: The counsel for the claimant and the evidence; argued, submitted and taken under advisement by the Board.

San Francisco December 2 1853
In the same case Commissioner Thompson Campbell delivered the opinion of the Board rejecting the claim;
(vide page 19 of the Transcript)

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Petition.

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To the Honorable the Board of Commissioners for ascertaining & settling private Land claims in the State of California

Thomas W. Sutherland a resident of the city of San Francisco, in the State of California, Guardian of Victoria, Isabel, Miguel, & Helena, minor children of Miguel de Pedrorena & Maria Antonia Estudillo de Pedrorena, both, late of the County of San Diego, in said state, deceased – respectfully represents to your Hon Board that he claims in his capacity of Guardian of said minor children, a certain tract of land called San Jacinto Nuevo & the Potrero belonging to it; containing the number of sitios de ganado mayor, as shown by the map in the Expediente herewith filed – situated in the County of San Diego, in said State of California – that he claims the same as aforesaid in fee, by virtue of a grant made to Miguel de Pedrorena, under the authority of the Mexican Government – by Pio Pico, Governor of the California, bearing date the 14th day of January 1846 – & approved by the Territorial Deputation on the 4th day of August 1846. Your petitioner would further represent that juridical possession of said land was given to the said grantee on the day of & the boundaries thereof designated & defined & that the said minor children, have, ever since the death of their parents, been in peaceable thereof & that he has no knowledge of any interfering claim to the said "San Jacinto Nuevo y Potrero"

Your petitioner presents herewith the expediente containing the documentary evidence of the claim to said land – in the Spanish Language together with a translation of the same, & will make further proof of title if required by the Board.

Your petitioner your Hon. Board to take into consideration his claim, in his said capacity of Guardian to the said tract of land & decree his said title to be valid & confirm the same. And your petitioner will ever pray.

Sutherland & Carr
Attorneys for Petitioner.

Filed in Office June 10th 1852
Geo: Fisher. Secy.

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Los Angeles, October 14, 1852.

On this day before me Hiland Hall one of the Commissioners for ascertaining & settling private land claims in the State of California, personally appeared S. Arguello, a witness produced in behalf of Thomas W. Sutherland as guardian of Victoria, Isabel, Miguel, & Helena, minor children of Miguel de Pedrorena & Maria Antonia E de Pedrorena, both deceased, the claimants of the Rancho of San Jacinto Nuevo, which is number 263. on the docket of said Commissioners, who being duly sworn, testified as follows. The Associate Law Agent was notified & attended.

Deposition of Santiago Arguello

Question 1st What is your name, age & place of residence.
Answer. My name is Santiago Arguello, I am eighty years of age & reside near the boundary line between the State of California & Lower California in Mexico. The Rancho of To-Juan, upon which I reside being divided by said line.
Question 2nd Do you know the handwriting and signatures of Pio Pico, José Mª Covarrubias, Arguello & Narcisio Botello.
Answer I know the hand writing & signatures of Pio Pico, José Mª Covarrubias & Narcisio Botello, having been associated with them in public business, & seen them write very frequently. The Arguello referred to is myself.
Question 3d, Look at the document or grant now shown you marked K. & filed herewith as part of this deposition purporting to be a grant for the Rancho of San Jacinto Nuevo, & say whether said grant purporting to be signed by Pio Pico, José Mª Covarrubias & Arguello is genuine, & the signatures thereto genuine.
Answer. I know that my signature, Arguello, is in my own hand writing & that the other signatures are also genuine. The document is a genuine one.
Question 4th Look at the document now shown you purporting to be a certificate of an act of approval of the Departmental Assembly of California, marked L. & filed herewith as part of this deposition, & say whether the signature of Narcisi Botello is genuine or not.
Answer I know his signature very well, it is his

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signature of the document is a genuine one.

Question 5th. In whose hand writing is the document marked L.

Answer. It is in my own hand writing on the day on which the said document was signed to wit the 8th day of July A. D. 1846. I was President of the committee on vacant lands of the Departmental Assembly & drew up said document & gave it to Narciso Botello to sign as Secretary. The grant of Lo Geo to Miguel de Pedrorena of the Rancho of San Jacinto Nuevo y Potrero was approved by the Excellent Departmental Assembly on the said 8th day of July one thousand eight hundred & forty six. Narciso Botello was Secretary of the Departmental Assembly & member of the body on that day.

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J. Arguello.

Sworn & Subscribed
Before me
Hyland Hall. Comr.

Filed in Office Oct 14th 1852.
Geo: Fisher
Secy.

Deposition of Abel Stearns.

Los Angeles Nov 12th 1852.

On this day before Comr H. Hall, came Abel Stearns a witness in behalf of the claimants Thomas W. Sutherland, Guardian &c, petition No 263. & was duly sworn, his evidence being in English.

The U. S. Associate Law Agent was present.

In answer to inquiries by Counsel for the claimant the witness testified as follows.

My name is Abel Stearns, my age is fifty four years & I reside in Los Angeles. I have resided in California over twenty three years. I know the rancho called San Jacinto Nuevo y Potrero, – It is situated in the County of San Diego. I was at the place in 1844. Miguel de Pedrorena had a stock of cattle there, I received four hundred head from him by purchase. He had cattle there

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until 1847, when in consequence the disturbance in the country & the hostility of the Indians they were taken away.

Sworn & subscribed Before me

Abel Stearns.

Hiland Hall Comr.

Filed in Office Nov 12th 1852.

Geo: Fisher Secy.

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Deposition of J. J. Warner.

Office of Commissioners of Land Claims in California.

This day before Comr Thompson Campbell came J. J. Warner a witness in behalf of Claimant - Thomas W. Sutherland, Guardian &c No 263. who after being duly sworn deposed as follows.

What is your name age & place of residence.

My name is J. J. Warner, I am forty five years of age & reside at San Diego.

Do you know whether Miguel Pedrorena is dead & if so when did he die.

He is dead & died in the Spring of the year 1850. He left a widow since deceased, & four children now living whose names are as follows, Victoria, Miguel, Isabel, & Elena.

Associate Law Agent present.

J. J. Warner.

Sworn to & subscribed before me this 13th day of September A. D. 1853.

Thompson Campbell.
Comr.

Filed in Office Sept 13th 1853.

Geo: Fisher.
Secy.

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Año de 1846.

Jurisdicion del Partido de S.n Diego.

Espediente promovido por el Sor D.n Miguel de Pedoreno en solicitud del paraje de S.t Jacinto nuebo

245.

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Ilmo. Sor. Gobernador.

Angeles. Diciembre de 24 de 1845.

Pasa al Sor. Sub Inspector

Segundo la parte de Dn José Antonio Estudillo

Miguel de Pedrorena, comerciante y establecido en este Departamento hasto bastante años, ante V.E. con el debido respeto comparezco y digo que satisfecho con lo estoy y será probado si necesario fuere, de que en el rancho de San Jacinto resulta terreno sobrante algunbanco pues comprende mayor numero de sitios de los que el Superior gobierno le concedio ruego.

Dn José Antonio Estudillo

Sobre lo contenido en esta instancia.

Pico.

A V.E. que tomando en consideracion la necesidad que tengo de un paraje en donde poder enguenar algunos bienes de campo y he adquirido en mayor numero y estan expuestos a perderse por falta de Sobre en donde se multiplique le digne conceder me en propiedad conforme á la ley de 18 de Agosto de 1824 todo lo que resulta sobrante del referido San Jacinto Leyen y como mas infuto en todas sus partes, incluyendo el pretero, el diceno que debidamente acompaño en la inteligencia que de ella no resulta perjuicio de tercero q. a mi no hara V.E. un beneficio q. me conceda y que hace tambien en poner lo del mismo Departamento q. necesita tanto de que sus tierras sean ocupadas por propietario que siempre preferirán ser utile al Gobierno; suplico á V.E. igualmente que se sirva Leyen expedir la generalidad que se a concedido á mi solicitud sea extendido el titulo bajo la demarcacion de San Jacinto mera en todo lo q. recibiré gracia de dispensando el uso del papel comun por falta de sellado q. no lo hay.

Angeles. Diciembre 24 de 1845.

Miguel de Pedrorena.

Ilmo Sor.

Vento al Superior Decreto marginal de V.E. de 19 de Dbre

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último puesto en la antecedente Solicitud, y en lo q. se refiere el sobrante q. resulta en las mediciones del paraje de S.n Jacinto expondré: que presente D. José A. Estudillo como dueño del paraje mencionado q. hecho cargo de la presente Solicitud, expondé que nada tiene q. objectar nuevo terreno sobrante del q. tiene concedido, por lo q. resulta no presentarse inconveniente á la concesion de este paraje con inclusion del potrero de S.n Jacinto por ser terreno valdio q. comprenden tambien aquellos bienes. En este concepto resulta q. el terreno solicitado es baldio q. puede acederse á esta Solicitud, sin embargo de lo expuesto V.E. con mejor acierto resolverá lo q. fuere de su Superior agrado.

S.n Diego Enero 2 de 1846. J. Arguello.

2637-1-2

Sea.

Los Angeles. Enero 14 de 1846.

Vista la Solicitud con que da principio este Espediente el informe del Gobierno del Prefecto de S.n Diego con los documentos que se tuvo presente y ver convenir, de conformidad con la ley de 18 de Agosto de 1824 y reglamento de 21 de noviembre de 1828. Declaro á D.n Miguel de Pedoreña dueño en propiedad del terreno nombrado S.n Jacinto, conforme demuestra el diseño q. obra en este espediente. Líbrese le al agraciado el titulo respectivo y asciérese el espediente para lo meterlo á la aprobacion de la H. Asamblea. Pío Pico Gobernador provisional de las Californias así lo mandé, de certé y firmé de que doy fe.

Pío Pico.

José A.n Covarrubias. Srio.

Renovado en 1845

Rio Dico real decreto de la Asamblea Departamental y Gobernador provisional de las Californias.

Por cuanto Dn Miguel de Coloreno ha presentado para su beneficio personal y el de su familia el terreno nombrado Sn Jacinto nuevo con adelante del Potrero del mismo nombre, practicadas previamente las diligencias consecuientes usando de las facultades que me han conferidas á nombre de la nacion Mejicana, he resuelto por decreto de este dia en conceder le el expresado terreno q. Potrero, en conformidad con la ley de 18 de Agosto de 1824 y reglamento de 21 de Noviembre de 1828 á reserva de la aprobacion de la Exma Asamblea Departamental y bajo las condiciones siguientes.

1º Podrá cercarlo sin perjuicio las travesias caminos y servidumbres lo disfrutará libre y exclusivamente pero lo tendrá ocupado con casa habitada y usos de servicios apro de evitar el dominio.

2º Solicitará del Juez respectivo le dé la posesion juridica en virtud de este despacho por el cual se demarcarán los linderos con las mojoneras necesarias.

3º El terreno de que se hace donacion con inclusive de Potrero de Sn Jacinto en el q. demuestra el diseño q. corre en el expediente. El Juez que diere la posesion lo hará medir conforme á ordenanza, quedando lo sobrante, impuesto las medidas de los linderos de Dn José Antº Estudillo y dejará aviso á este Jobno del numero de sitios de ganado mayor q. contiene.

En consecuencia mandó q. teniendose el expresente titulo por firme y valedero, se tome de él en el terreno que corresponde y se entregue al interesado para su resguardo y demas fines. Dado en la ciudad de los Angeles en este papel comun por no haber del sellado á catorce de Enero de mil ochocientos cuarenta y dos.

Nicolas Tomaltamaron de este Superior Despacho en el

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el libro respectivo. Angeles. Mayo 8 de 1846.

Dado Cuenta en Sesion de hoy con este á la este Espediente á la V. E. H. D. se mandó pasar á la comision de terrenos baldios. Pto Pico Pico. Agustin Olvera

Señor.

La comision de terrenos baldios encargada de examinar el presente Espediente promovido por Dn Miguel Pedroza del paraje conocido con el nombre de Sn Jacinto mucho con inclusion de su potrero en la Jurisdicion de Sn Diego q. le fué concedido por el Supmo Gobno Departamtal pr su beneficio y el de su familia con arreglo á las leyes de la materia en este concepto pone á la deliberacion de VE. la proposicion de siguiente.

Se aprueba la concesion hecha de Dn Miguel Pedroza casado con Mejicana del paraje conocido con el nombre de Sn Jacinto mucho, con inclusion de su potrero en estencion de lo q. señala el diseño que corre agregado al espediente segun titulo librado con fecha 14 de Enero de 1844 q. crea el declamar Gentilicio por ley del presente año de conformidad con la ley de 18 de Agosto de 1824 y art.o 5 del reglamento de 21 de 9bre de 1828.

Sala de Comis.n en la ciudad de las Angeles. Julio 16 de 1846. S. Arguello.

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

I Samuel D. King, Surveyor Gl of the United States for the State of California and as such now having in my office and under my charge and control a portion of the archives of the former Spanish and Mexican territory le Department of Upper California do hereby certify that the ten preceding and hereunto annexed pages of tracing paper numbered from one

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to ten inclusive and each of which is verified by my initials (S.D.K.) exhibit true and accurate copies of certain documents now on file and forming part of the said archives in this office.

In testimony whereof I have hereunto signed my name officially and affixed my private seal (not having a seal of office) at the City of San Fran.co Cal. this 19th day of May 1852.

Samuel D. King.
Surveyor Gl Cal.

Filed in office. June 10th 1852.
Geo. Fisher.
Secy.

Nº 263.
fo 14 vuelta

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

(Seal) Por cuanto Dn Miguel de Pedoreña ha presentado para su beneficio personal y el de su familia el terreno nombrado de Potrero del mismo nombre, practicadas previamente las averiguaciones convenientes, usando de las facultades que me son conferidas á nombre de la nacion Mejicana en virtud en acuerdo de este dia en concederle el terreno mencionado y Potrero, adelantando le la propiedad de él por las presentes letras de conformidad con la ley de 18 de Agto de 1824 y reglamento de 21 de Noviembre de 1828 á reserva de la aprobacion de la Sama Asamblea Departamental y bajo las condiciones siguientes.

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1º Podrá cercarlo sin perjuicio las travesias caminos y servidumbres, lo disfrutará libre y exclusivamente pero lo tendrá ocupado con casa habitada y bienes semientes á fin de evitar el abandono.

2º Solicitará del Juez respectivo le dé la posesion judicial en virtud de este despacho por el cual se deslindarán las linderas con las mojoneras necesarias.

3º El terreno de que se le hace donacion consiste del Potrero de San Juanito en el que demuestra el asiento que corre en el Espediente. El Juez que diere la posesion lo hará medir conforme á ordenanza las mecciones dándole las linderas de Dn José Antonio Estudillo, y dará aviso á este gobierno del numero de sitios que comprende.

En consecuencia mandó que teniendose por el presente titulo por firmé y valederó, se tomen razon de él en el libro á que corresponda y se entregue al interesado para su resguardo y demas fines. Dado en la ciudad de los Angeles en este papel comun por no haber del sellado que corresponde, á catorce de Enero de mil ocho cientos cuarenta y seis. Pío Pico.

José Mª Covarrubias Srio.

queda tomada razon de este titulo en el libro respectivo
Angeles. Fecha ut supra. Coronel.
El Excmo. Sor. Gob.or dispone, se tome razon de este Sup.
Despacho en la Sub-Inspectoria del partido de S.n Diego.
Coronel.

San Diego. Febrero 7. de 1846.
Queda tomada razon de este Despacho
a 82. del libro respectivo. Argüello.

Filed in Office. Oct. 14th 1852.
Geo. Fisher.
Secy.

Narciso Botello, Diputado Secretario de la H. Asamblea
Departamental de California.
Certifico q. en sesion de este dia, aprobó la Excma.
Asamblea la concesion hecha por el Gob.no Departamental
a favor de D.n Miguel T. Castro del paraje conocido
S. Jacinto mas ó menos en posesion en extension de lo que
señala el informe que como agregado al Espedte segun titulo
librado á un beneficio y el de su familia con fha 14 de
Enero del presente año, sin q. exceda del maximum señalado
p.r la ley y p.r que el interesado pueda ocurrir al S.S. G.nal
p.r el titulo de aprobacion respectivo, libro la presente en
cumplto al acuerdo de la dicha H. Asamblea. Interinidad
de los Angeles a 8 de Julio de 1846.
Narciso Botello.
Filed in office. Oct. 14th 1852.
Geo. Fisher.
Secy.

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Most Excellent Señor Governor.

Miguel de Pedrorena, a merchant established in this department for many years comes before your Excellency in due form & with due respect appears & states. That satisfied as I am & it can be proven should it become necessary, that there is in the Ranche de San Jacinto an excess of land of that which was adjudicated to Mr José Antonio Estudillo that comprises a great number of sitios of those that the Supreme Government granted to him, & pray that your Excellency will take into consideration the necessity that I have for a paraje whither I can have in grass to some cattle property of considerable quantity which I have acquired & which are now likely to be wasted for want of room where they might increase, & request that you will design to grant me the ownership in conformity with the law of the 18th of August 1824 of all that land that result to be an excess of the five mentioned San Jacinto in accordance as will be shown in all parts of it including the Potrero, the plan which duly accompanies this is intelligence sufficient to show that no damage would result to a third party & for myself your Excellency would do me a benefit that would be recognized & which would also be of advantage to the department, that requires so much that its lands should be occupied by owners that would always seem to be of utility to the Government, I also request of your Excellency that should it happen as I hope from your generosity that you should accede to my petition, that you will extend me the title under the denomination of San Jacinto Nuevo, to all of which I will receive a favor. Swearing &c, Excusing the use of common paper there being no stamped.

Angeles Dec 27. 1845. Let this pass over to the Señor Prefect of San Diego to the end that he may see Don José Ant.o Estudillo & inform himself circumstantially in the contents in this instance.

Seal

Angeles, Dec 24th 1845.

Miguel de Pedrorena.

6 Translation.

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Most Excellent Sir.

In attention to the superior marginal decree of your Excellency, dated the 27th of last December, placed in the preceding request & that in which the excess resulting in the measurement of the paraje,

de San Jacinto was prefinged for, I will state that being present Don José M. Estudillo as owner of the place mentioned & having made him understand the present petition, he replied that he had no objection whatever, it being an excess of the land that he had granted to him, by which the result is, that it would not appear inconvenient to grant the paraje including also the Potrero of San Jacinto it being vacant land which is also comprised in the same property. In this instance the result is that the land petitioned for is vacant & the petition might be acceded, notwithstanding all that is set forth your Excellency with better judgment will resolve things as will suit your superior pleasure.

San Diego, Jany 2d, 1846.

J. Argüello.

Angeles Enero 14 de 1846.

Having seen the foregoing petition at the beginning of this expediente, with the information from the Prefect of San Diego with others that might be interested & it appearing suitable. In conformity with the law of the 18th of August 1824 & the regulation of the 24th of Nov 1828, I hereby declare Don Miguel de Pedrorena to be the owner in person of the land named San Jacinto, in conformity demonstrated with the plan accompanying this Patent. Deliver to the party formed the respective title & reserving the patent I submit it to the Most Excellent Departmental Assembly.

Pio Pico, Provisional Governor of the California thus I command, decree & sign of which I hereby give faith.

Pio Pico.

José Mª Covarrubias. Secy.

Pio Pico, vocal over of the Departmental Assembly & Provisional Governor of California.

Whereas Don Miguel de Pedrorena has pretended to for his personal benefit & that of his family the land called San Jacinto Nuevo, including the Potrero of the same name, the previous measures & arguments having been taken & in use of the facultiés conferred upon me in the name of the Mexican Nation I have concluded by a decree of this day to grant the

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the aforesaid land & Potrero, declaring it to be his property by these presents in conformity with the law of the 18th August 1824 & regulation of the 27th of November 1828, reserving it for the approbation of the Most Excellent Departmental Assembly, & under the following conditions.

1st He can enclose it without prejudice to the crossings, roads, high ways & services; he will enjoy it freely and exclusively, but he shall have it occupied with a house, inhabited & some cattle property, to the effect that may avoid denouncement.

2nd He will request the respective Magistrate to give him judicial possession thereof by virtue of this despatch by which he will mark out the limits with the necessary land marks.

3d. The land which is donated to him including the Potrero of San Pascuale is the one that is shown upon the plan accompanying the expediente. The Justice that shall give the possession thereof, will have it measured conformable to the ordinance, the measuring to begin from the lines of Don José Antonio Estudillo & he will make a return to this Government of the number of sitios of ganado mayor that it contains.

In consequence, whereof, I command that he holds this title firm & valid, record shall be made thereof in the corresponding register & it shall be delivered to the party interested for his security & other ends.

Given in the City of Los Angeles on this common paper there being no stamped, on the fourteenth day of January in the year Eighteen hundred & forty six.

This superior despatch is recorded in the respective book.

Angeles May 8th 1846.

A report was made to the Most Excellent Departmental Assembly at a session of this day, with this patent it was ordered that it should be transmitted to the Commission on vacant lands.

Pico Pico. President. Agustin Olvera. Secy.

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Sir.

The Commission on vacant lands charged with the examination of the present patent asked to by D. Miguel de Pedrorena of the land known by the name of San Jacinto Nuevo, including the Potrero in the jurisdiction of San Diego, & which was granted to him by the Superior Departmental Government for his benefit & that of his family in accordance with the laws on the subject to this effect I place for your Excellency's deliberation the following proposition.

Approval is made of the grant made to Don Miguel de Pedrorena (married to a Mexican woman) of the land named San Jacinto Nuevo including the Potrero, the extension of which corresponds with the plan accompanying the patent, according to the title delivered dated the fourteenth of January of this year, as stipulated in conformity with the number of sitios by the law of the 18th August 1824 & Article 3rd of the regulation of 21st of Novbr 1828.

Commissioners Room, City of Los Angeles. Aug. 4th. 1846.

S. Argüello.

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Filed in Office June 10th 1852.

Geo: Fisher. Secy.

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Thomas W. Sutherland
Guardian of Victoria, Isabel,
Miguel, & Helena, minor children
of Miguel de Pedrorena & Maria
Antonia Estudillo de Pedrorena
deceased —

vs

The United States.

San Jacinto
Nuevo —

Opinion by Comr
Thompson Campbell.

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The petitioner in this case, represents himself as Guardian of the minor children of Miguel de Pedrorena & his wife Maria Antonia Estudillo, deceased, & as such guardian he claims a tract of land called San Jacinto Nuevo by virtue of a grant which he alleges was issued to Miguel de Pedrorena in his life time, bearing date January 14th A.D. 1846. The said petitioner further alleges that said grant was duly approved by the departmental Assembly on the 4th day of August A.D. 1846. It is further alleged by said petitioner that juridical possession of the premises in question was duly given, & the boundaries thereof were designated & defined. In support of the foregoing avver-ments & allegations, the petitioner has introduced and placed on file, first, the original grant properly proved & authenticated, secondly, a certificate of the approval made by the Departmental Assembly, thirdly, a traced copy of the Espediente, & fourthly, the depositions of witnesses. The foregoing documents & depositions embrace all the testimony adduced by the petitioner in this cause. There is no proof that any juridical measurement was ever made. As the petitioner claims in the capacity of guardian, proof of his authority should have been pro-duced, but as the petitioner will have an opportunity of filing his letters of guardianship in the District Court of the United States, & as the case depends upon the decision of

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another question, which goes to the merits of the whole claim, I have deemed it better to consider the case at present on its merits, rather than decide it on the technical question, of want of proof of authority to act as guardian. The description of the land claimed is the material & by far the most important question in the decision of this case. The land selected by the original grantee was the remante of a tract which had been granted to one José Antonio Estudillo, & is designated by the said grantee in his petition to the Governor as follows, "all that land that result to an excess of the foresmentioned San Jacinto in accordance as will be shown in all parts of it, including the Potrero," the plan which duly accompanies this is intelligence sufficient to show that no danger would result to a third party," this is all the description given by the party in his petition. The grant which followed, is not more definite, the only description there given is for the land called San Jacinto Nuevo "including the Potrero of the same name. The 3d condition of the grant describes the tract granted as being the one shown on the map which accompanied the expediente including the Potrero of San Jacinto, which last named place is represented on a separate map. There is nothing in the grant that indicates the the quantity or the boundaries of the land granted, & none juridical measurement was ever made, we must look to the map referred to for a description of the boundaries by which the tract granted is to be separated from the adjoining lands. After a careful examination of the map, which accompanies the expediente & which is executed with considerable skill, I have been unable to bound the land in question. The map does not represent a single natural boundary, or physical object, by means of which the particular tract could be designated. The names of Ranchos are written on the map, but their location is equally indefinite, & although lines are drawn

360 representing what is understood to be old San Jacinto,

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meaning the Estudelle grant & new San Jacinto, the grant under consideration, there is no point where a survey or could begin to measure the land called by the name of new San Jacinto, & although it would seem that the grant was intended to be by metes & bounds, without regard to quantity still it is essential that the metes & bounds should be plainly designated, either in words or descriptively on the map. In this case there is neither a description in words or by natural objects, & the map being the only means afforded whereby the identity of the precise tract granted, can be identified & located, the claim set up by the petitioner must be denied for want of certainty in the description. The Potrero which is made a part of the grant is liable to the same objection & is not designated on the map, so as to be ascertained with any degree of certainty. I have examined the papers & map on file in the old San Jacinto grant, but have been unable to derive any aid from the description there given. It is unnecessary to examine the other questions which arise in the case, as the want of identity is fatal under any view of the case. A confirmation is therefore denied.

Filed in Office Decr 27th 1853.

Geo: Fisher.

Secy.

---

82 SD

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Decree.

Thomas W. Sutherland,
Guardian of Victoria, Isabel,
Miguel & Helena, minor
children of Miguel de Pedroreña,
& Miguel, Antonio, Estudille de
Pedroreña.

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4/263

vs

The United States.

In this case on hearing the proofs & allegations, it is adjudged by the Commission that the claim of the said petitioners is not valid, & their application for a confirmation thereof is therefor denied.

Alphens Felps.
Thompson Campbell.
R. Aug. Thompson. } Commissioners

Filed in Office December 27 1853.
Geo: Fisher.
Secy.

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PAGE 23

60

3590 = 36 folios

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PAGE 24

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 Twenty Two pages, numbered from 1 to 22, 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. 263 on the Docket of the said Board, wherein Thomas N. Sutherland, Guardian, &c. — is — the Claimant against the United States, for the place known by the name of "San Jacinto Nuevo y Potrero."

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

Geo: Fisher.

Sec'y.

82

U. S. DISTRICT COURT,

Southern District of California.

No. 82. Docket

THE UNITED STATES,

vs.

82

Thos. W. Sutherland,

Guardian &c

Juan J. M. y Potrero

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 265

Filed, September 20th 185

W. H. Carter

No. 265

82.

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No. 263.

In the Matter of the application of Thomas W Sutherland Guardian of the heirs of Miguel de Pedrorena deceased for confirmation of the title to the Rancho of San Jacinto Nuevo y Protrero in the County of San Diego and State of California.

Thomas W Sutherland Guardian of the heirs of Miguel de Pedrorena
vs
The United States

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

Sir

Please take notice that the claimants in the above entitled cause appeal from the decision of the Board of Commissioners for ascertaining and settling private Land Claims in the State of California rejecting their claim to the title to the Rancho of San Jacinto Nuevo y Protrero in the County of San Diego, said decision having been rendered by said Board on the 27th day of December AD 1853.

Thos W Sutherland
Atty for claimants

To Charles E Carr Esq
Atty of the U S Dist Court for
the Southern Dist of California

Dec 13/54

82. No. 82.

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

No. 263.

Thomas W Sutherland Guardian of the heirs of Miguel de Pedroreña decd

vs

The United States

Notice of appeal

Thos W Sutherland atty for Claimts

Filed Dec. 13. 1854.

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J. E. Lane Clk

In the

Thos W. Sutherland Guardian &c Appellant vs United States } United States District Court for the Southern District of California.

No 82 on the Docket of said Court.

Appeal from the final decision of the Board of Commissioners to ascertain & settle Private Land Claims in the State of California, taken on 20th September 1854 by the said Board having filed with the Clerk of said Court a certified Transcript of their proceedings & decision, of the papers & evidence upon which the same are founded, in the said cause being No 263 on the docket of said Board.

Notice is hereby given that Thos W. Sutherland Guardian of Victoria, Isabel, Miguel & Helena, infant children of Miguel de Pedrorena & Maria Antonia, ~~both~~ ~~deceased~~ his wife both dec'd, Appellant in the above entitled cause & claimant before the said Board in a claim for a tract of land situated in the said Southern District & known by the name of "Los Laurelitos Nuevo" & the "Potrero"

filed before said Board on the 10th June 1852 & being on its Docket No 263, will prosecute the appeal herein from the final decision of said Board entered on the 27th December 1853 against & adverse to the claimant —

J Lancaster Brent
Atty for Appellant

Mch 6/55

29 82

U. S. Dist. Court.
Southern Dist. of Cal.

No 82 2

Sutherland, Guardian
&c Appellant

vs

United States

Notice of intention
to prosecute
Appeal

Filed March 6th 1855.

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PAGE 29

C. E. Carr,
Clk.

Expired
Mar

No 82

Thomas W. Sutherland Guardian &c Appellant
vs
United States

In the U. S. Dist. Court for the Southern Dist of the State of California

To the Hon Isaac S. K. Ogier District Judge of the United States within & for the Southern District of California —

The petition of Victoria Pedrorena, Isabel Pedrorena, Miguel Pedrorena & Helena Pedrorena all infants & children of Miguel de Pedrorena & Maria Centurion his wife both dec'd citizens of the United States & residents of said District by Thomas W. Sutherland, Guardian of said Infants duly appointed & qualified as such in virtue of the decree of the Probate Court of San Diego County in the State of Texas having jurisdiction over the persons of said Infants in virtue of their residence in said County, respectfully shewetha that on the 14th January 1846, Pio Pico Senior member of the

Departmental Assembly & Governor pro tem. of the Californias then forming a part of the Republic of Mexico, by virtue of authority in him vested by Law granted in fee to ~~the father~~ Miguel de Pedrorena then living a tract of land situated in the County of San Diego in said District & in the jurisdiction of this port, known by the name of San Jacinto Nuevo & Tolteca of the same name, & duly made a delivery to the said Pedrorena a formal deed of conveyance of the same bearing date as aforesaid which said grant was afterwards approved by the Assembly —

Land Commission further represent that said grant was a concession according to metes & bounds the extent ~~of the~~ & description of which was then an accumulated marked out by a survey made out & filed in the archives

of the Government & referred

of the Government & referred to a more a part of said grant & that said concession embraced the quantity of seven ~~leagues~~ Mexican leagues containing the limits of a tract of land called "San Jacinto Viejo" the boundary of which was well known as the base of the said concession. You petitioner prays that after the date of the said concession & grant the said grantee took possession of the granted premises & faithfully complied with all the conditions of his said grant except the one concerning the obtaining of the judicial possession thereof which said condition it was impossible to fulfil owing to the said Pedroreña being severely wounded subsequent to said grant & the 7th July next thereafter & owing to the fact that the Judge authorized to give said judicial possession absented himself from his

district — by they were that
the said Theodorus held possession of said tract of land
until his death ~~which~~ and
after his death by your petitioners
~~name~~ and still hold
possession of the same —
They are that the said
Theodorus died
intestate leaving your petitioners
as his only children and
heirs at Law —
They further represent that
on the 10th June 1852 upon petitions
by their said Grandsons filed
their petitions, before ~~said~~ the
~~Board~~ Land Commissioners
appointed under an act of
Congress entitled "An act
to ascertain and settle the
Private Land Claims
in the State of California"
approved March 3rd 1851 while
sitting as a Board together
with the testimony upon which
they relied a true copy whereof
~~the said~~ ~~from~~ to wit on the
27th December 1853 the said

commissioners decided upon the validity of their said claim & rejected it & that afterwards to wit on the 20th September 1854 ~~the said~~ an appeal from the decision of said claim was taken by the said commissioners having filed with the Clerk of this Hon. Court, a certified transcript of their proceedings & decision of the papers & evidence upon which the same was founded, & that afterwards within six months to wit on the 5th March 1855 your petitioner filed a notice with the said Clerk of their intention to prosecute said appeal —

Your petitioner now makes particular reference to said certified transcript & prays that the same may be made a part of this petition —

Your petitioner further avers that this said claim is entire according to

Law & Equity & that the
final decision of said Board
is erroneous —
Wherefore these petitioners
pray that your Hon: first
may review the said decision
& decide upon the validity
of their said claim & declare
it to be void & approve the
same & for such other
general or further relief
as the nature of their case
may require & Law & Equity
grant — And as in duty
bound your Petitioners
will ever &c

Lancaster Brewer
of counsel for Petrs

U.S. Dist. Court for the
South. Dist of Cal.
No 82
Thos. W. Lutheduan
Gunnison et al
Appellants
vs
United States

Petition for
Review -

San Lucito Nueva y
Potrero -

Filed March 10th 1855
C.C. Carr.
Clk.

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R. A. Brent, Atty
for Petitr

Dec 10/55

United States of America,
Southern District of California. } SS.

TO **The President of the United States,**

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Pacificus Ord, attorney of the United States for the Southern District of California.

GREETING:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against ~~you, and each of you,~~ the United States in the District Court of the United States, in and for the Southern District of California, on the tenth day of March in the year of our Lord one thousand eight hundred and fifty-five at the City and County of Los Angeles, in said District, by

Thos W Sutherland, Guardian et al

praying the said Court to review, upon the grounds therein set forth, the decision of the U.S. Land Commissioners to ascertain and settle the private land claims in the State of California, of their claim to a certain tract of land called San Jacinto Nuevo & Potrero of the same name, in the County of San Diego, in said District, to the extent of eleven Mexican leagues; which said claim was presented to said Commissioners on the 18th day of June 1852, and by them rejected on the 27th of December 1853.

and that you, ~~and each of you,~~ are required to appear at said Court, in said City, within ten days after the service hereof, if served on you within the County of Los Angeles, and within twenty days if served on you in the County of San Diego or San Bernardino, and within forty days if served on you in any other County of said State, exclusive of the day of service, and answer said petition, or that ~~judgment by default will be taken against you, and each of you, and the prayer of the said petitioner will be granted, with costs.~~ the plaintiffs will apply to the court for the relief demanded therein.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the Seal of the said Court, this Thirteenth day of March in the year of our Lord one thousand eight hundred and fifty-five at Los Angeles aforesaid.

J. E. Carr
Clerk.

Rd 15th March

No 82.

United States of America,

Southern District of California,

U. S. District Court.

Thos W. Sutherland, Guardian et al, Appellant's

vs.

The United States.

SUMMONS.

Received March 15th 1855

Edward Hunter
U S Marshal

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Marshal's Cost

Copying summons	90
Serving "	3.00
Serving petition	3.00
	6.90

Mts 15/55

I served this summons along with the proper copy of the petition upon Petitioners Counsel, Attorney of the United States for the Southern District of California in the County of Los Angeles, by leaving with their in Person a true copy of this Summons at his Office in the Southern District of California or the Pueblo day of March A. D. 1855 Hire

Sworn to and subscribed before me, this 15th March 1855.

J. E. Ann. Clerk.

Edward Hunter
U S Marshal.

In the District Court of the United States, for the Southern District of California. Los Angeles - Los Angeles County.

No. 82.

Thomas W. Sutherland Guardian, of Victoria Pedrorena, Isabel Pedrorena, Miguel Pedrorena, & Helena Pedrorena, infants & Minor Children of Miguel Pedrorena & Maria Antonia, his wife, deceased. Appellant.

vs.

The United States.

(No. 263 of Transcript)

Answer of the United States to the petition of Appellant, praying the Court to review the decision of the U. States Land Commissioners.

The answer of Pacificus Ord, Attorney of the United States for the Southern District of California, in behalf of the United States, to the petition of ~~Thomas W. Sutherland Guardian~~ Victoria Pedrorena, Isabel Pedrorena, Miguel Pedrorena, & Helena Pedrorena, all infants and children of Miguel Pedrorena and Maria Antonia his wife, both deceased, Citizens of the United States, and residents of said District, by Thomas W. Sutherland, Guardian of said Infants (filed March 10th 1855.) alleging that on the 10th of June 1852, they, by their said Guardian, filed their petition, before the Land Commissioners

appointed under an act of Congress, entitled "An act to ascertain and settle the private "land claims in the State of California", approved March 3rd 1851, while sitting as a Board, claiming a tract of land, situated in the County of San Diego in said District, known by the name of "San Jacinto Nuevo" a Potrero of the same name, of the extent and description, and according to the Metes and bounds which were shown and accurately marked out by a survey made out and filed in the Archives of the Government and referred to and made a part of the grant, and that the Concession embraced the quantity of Eleven Mexican leagues, taking the line of a tract of land called "San Jacinto Viejo", the boundary of which was well known, as the base of the said Concession; and that afterwards, on the 27th December 1853, the said Commissioners decided upon the validity of their said claim, and rejected it: and praying this Honble Court to review the said claim, and declare it to be valid, and approve the same, and for general relief.

And the said Attorney, answering said

petition, in behalf of the United States, denies generally, all and singular, each and every allegation in the said petition contained; and he denies specially:-
"That on the 14th of January 1846, Pio
"Pico, Senior Member of the Departmental
"Assembly, and Governor pro tem, of the
"Californias, then forming a part of the
"Republic of Mexico, by virtue of authority
"in him vested, granted in fee to Miguel
"de Pedrorena then living, a tract of land
"situated in the County of San Diego in
"said District, and in the jurisdiction of
"this Court, known by the name of "San
"Jacinto Nuevo" a Potrero of the same name,
"& duly made & delivered to the said
"Pedrorena, a formal deed of Conveyance of
"the same bearing date as aforesaid which
"said grant was afterwards approved by
"the Assembly. That said grant was a
"concession according to Metes & bounds, the
"extent and description of which were
"shown and accurately marked out by
"a Survey made out and filed in the
"Archives of the Government & referred to
"& made a part of said grant, & that
"said concession embraced the quantity
"of Eleven Mexican leagues, taking the

"line of a tract of land called "San Jacinto
"Viejo" the boundary of which was well
"known, as the base of the said Concession.
"That after the date of the said Concession
"and grant, the said grantee took
"possession of the granted premises, and
"faithfully complied with all the conditions
"of his said grant, except the one concerning
"the obtaining of the judicial possession
"thereof, which said condition it was
"impossible to fulfil, owing to the said
"Pedrorena being severely wounded subse=
"=quent to said grant, and the 7th July
"next thereafter, and owing to the fact
"that the Judge authorized to give said
"judicial possession absented himself from
"his District, but they aver that the said
"Pedrorena held possession of said tract
"of land until his death, and after his
"death your petitioners have and do still
"hold possession of the same. That the
"said Pedrorena died intestate, and
"that your petitioners are his only children
"and heirs at law. That the said claim
"is valid according to law and equity,
"& that the final decision of said Board
"is erroneous", as alleged in said petition.

And the said Attorney of the United States, in pursuance of the provisions of the said act of Congress approved the 3d of March 1851, herein fully sets forth the grounds on which the said claim is invalid - Viz:-

1. That the said alleged grant of Pio Pico, dated the 14th of January 1846, was made in violation of the 4th Article of the Colonization law of Mexico, of the 18th of August A D 1824, in this;- that the land granted, as alleged by claimants, was and is within ten leagues of the Sea Coast. And there is no evidence shown by said claimants, that the Supreme general Executive power of Mexico previously approved of the Colonization of the public lands in Upper California, lying within ten leagues of the Sea Coast. And it is denied that the previous Consent of said Supreme general Executive power of Mexico, in such case, was ever had.

II. That at the date of the said in alleged grant, the said land, or lands, were occupied by, and in the possession of the Neophytes of Upper California; and particularly by the Neophytes of San Gabriel

San Juan Capistrano, & San Luis Rey, — and could not therefore be colonized.

III. That the said alleged grant has not the conditions required by, and is not made in entire conformity with the said law of Mexico, of the 18th. of August 1824, and the regulations for the Colonization of the Territories of Mexico, of the date of the 21st. of November 1828.

IV. That the said alleged grant of land by Pio Pico, dated the 14th. of January 1846, to said Miguel de Pedrorena, does not contain any description of the locality, extent, and boundaries of the land claimed, by which it can be identified and surveyed. That the map or maps referred in said alleged grant, as shown by said claimants, do not show with certainty, the locality, extent, and boundaries of the land claimed; and the said tract or tracts of land cannot be identified and surveyed, by said map or maps. That the said alleged grant, and map or maps referred to therein, are vague and indefinite, and void for uncertainty.

V. That it appears by the said map or maps shown by said claimants, that the extent of the lands, claimed as afore=

=said, and called "San Jacinto Nuevo" and 'Potrero' exceed eleven square leagues. That the said Pio Pico had no lawful authority to grant to the said Miguel de Pedroena, a tract or tracts of land of the extent, as shown by said alleged Map or Maps, and claimed as aforesaid. And the said alleged grant is therefore void.

VI. That the said alleged grant is not executed upon the lawful stamped paper.

VII. That there is no sufficient evidence that the said alleged grant was ever approved by the Departmental Assembly of California, and the Supreme Government of Mexico. And it is denied that the said alleged grant was ever approved by the said Departmental Assembly of California, and the Supreme Government of Mexico.

VIII. That the document shown by said claimants, purporting to be a Certificate of Narciso Botello, of the approbation by the Departmental Assembly of California, of the said alleged grant of Pio Pico, and dated July 1846, is not executed upon the lawful stamped paper. That

That it is not signed by the President of the Departmental Assembly, as required by law. That it is not authenticated according to law. And that it is of no validity.

IX. That the said claimants show no definitively valid grant a title to the said lands. And it is denied that the said Miguel de Pedrorena ever had a definitively valid grant a title to said lands, claimed as aforesaid.

X. That the said alleged grant of said Pio Pico, of said date, as shown by said Claimants, does not purport to grant in fee to the said Miguel de Pedrorena a tract of land called "San Jacinto Nuevo y Potrero" as alleged in said petition of said claimants.

XI. That there is no evidence that the said Miguel de Pedrorena ever performed the conditions of the said alleged grant, and the requirements of the law. And it is denied that the said Pedrorena ever performed the conditions of the said alleged grant, and the requirements of the law.

XII. That there is no evidence that the said Miguel de Pedrorena ever received

or applied to the lawful authorities for the judicial possession of the said lands, alleged to have been granted as aforesaid. And it is denied that he ever received, or applied to the lawful authorities for the judicial possession of the said lands, alleged to have been granted him, as aforesaid, by said Pio Pico.

XIII. That there is no evidence that the said Miguel de Pedrorena, ever occupied the said lands, with an inhabited house, and movable property, within one year from the date of the said alleged grant; and that he cultivated the said land, as required by the conditions of the said alleged grant, and the law. And it is denied that he ever improved, occupied, and cultivated the said lands, as required by the conditions of the said alleged grant, and the law.

XIV. That there is no evidence that the said claimant Thomas W. Sutherland, was and is the legal Guardian of the said Minor children and heirs of said Miguel de Pedrorena, ~~dead~~ Wife, deceased, as alleged.

And it is denied that the said Thomas W. Sutherland, claimant is the legal Guardian of the said alleged Minor Children and only heirs of the said Miguel de Pedroena & wife deceased, as alleged in said petition.

Wherefore, the premises considered, the said Attorney, respondent in behalf of the United States, prays that the said claimants may be served with copies of this answer; and that after due proceedings, this Honorable Court will decide the said claim of said petitioners for said tract a tract of land, to be invalid; and to decree costs against them. And general relief

P. Ord (of Monterey County)
Attorney of the United States
for the Southern District of Calᵃ.

I served this answer on J L Brent Atty by leaving with him a certified copy at Los Angeles in the southern district of California this March 28 to 1855

Edward Hunter
U S Marshal

Sworn to and Subscribed before me this 29th day of March 1855.
C. E. Carr
Clk

No 82.

United States Dist. Court.
Southern Dist. of California.

Thos. W. Sutherland,
Guardian, etc.
Appellants.

vs.

The United States,
Appellee.

Answer of Appellees.

Filed March 29th 1855.
C. E. Carr.
Clk.

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Answer

$3.00

Marshal's cost-fees

Docket 2 p 55

Thos W. Sutton Law Guardian of the Infant Children of Miguel de Redondo
vs
United States

No — 82
N. S. Dist. Court for the Dist. of California

And now come the Plaintiffs & move the Hon: the District Court for an order to take further evidence herein.

Francis Thomas
Atty for Plffs

Ap. 9/55

No 82 5

U. S. Dist. Court

J. W. Sutherland et al.

vs

United States

—

application to tax particu=lars

—

Filed April 9th 1855.

C. E. Carr
Clk.

82 SD

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

Thos. W Sutherland, Guardian
vs.
The United States.
To
Thos. W Sutherland, Guardian & his Attorney.

No. 82.
Bansapt
No. 263.

Take Notice that the above entitled cause will be brought to hearing by the United States, on Friday the 19th day of October A.D. 1855, or as soon thereafter as the same can be heard by the Court.

Los Angeles
October 11th 1855.

P. Ord
U.S. Dist Atty.

Oct 11/55

No. 82. 6

Thos. W. Sutherland
vs.
The United States.

Motion of hearing by
Ct Cls.

Filed Oct 11th 1855
B. C. Pam
Clk

82 SD
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Proved as alleged.

H. H. N.º 1.

En el Pueblo de San Diego de la Alta California á los veinte y seis de Marzo de mil ochocientos quarenta y tres: ante mi á la solicitud del Sor. Don Jose Antonio Estudillo vecino de esta demarcacion, afin de que se le dé la correspondiente posecion del sitio y ranchо llamado San Jacinto concedido por el Gob.no de este Departamento cuyo titulo acompaño en esta citada solicitud. Pase con los testigos de asistencia al espresado sitio y procedi á dar la posecion indicada previa citacion de colindantes arreglandose al repetido titulo q.e se le ha conferido por el Exmo. Sr. Gobernador Interino del Departamento D.n Manuel Jimeno con fecha veinte y un de Diciembre de mil ochocientos quarenta y dos.

C. Indicial Possession

El ciudadano Jose Maria Orozco Juez de Paz Suplente en esta Demarcacion, asi lo provei mandó y firmó ante los testigos expresados de asistencia con quienes actuo por receptoria en este papel comun por falta del sellado correspondiente segun derecho doy fee.

Jose Maria Orozco.

De A. José Lopez. de A. Jose Maria Alvarado.

En el rancho de San Jacinto á las veinte y seis de Marzo de mil ochocientos quarenta y tres; Yo el mismo Juez para la practica de estas diligencias nombre dos hombres cordeleros, á quienes hice saber en nombram.to el que aceptaron bajo juramento que otorgaron ofreciendo desempeñar fielmente la encargo lo que autorizo y firmo con los testigos de mi asistencia, segun derecho

José Maria Orozco.

de A. José Lopez de A. José Maria Alvarado.

En el mismo dia mes y año estando en el parage de San Jacinto á efecto de verificar las medidas y posecion á D.n José Antonio Estudillo del sitio nombrado San Jacinto previos todos los requisitos de ley, y estando ante mi los testigos de asistencia y cordeleros hice medir un cordel que contenia Sien varas y á los extremos unos sauces de palo: previa observacion y calculo por mi disposicion se tiró el cordel desde el ojo de agua de San Mignelito, lindero de Temecula rancho al Sur se midieron cuatro leguas hasta la casa de dicho parage habiendo faltado de otros tres cordeles los que se agregan para la Sierra del ojo de agua caliente; se siguio para el rumbo del norueste en donde se midieron cuatro leguas hasta la rinconada de Vida para Turpa, se siguio para el Este donde se midieron tres

leguas y media en que remataron con la rinconada de .... en donde se fijaron las mohoneras y no habiendo manifestado objeciones algunos que suspendieron las medidas fueron concluidas las medidas del Rancho de San Jacinto á satisfaccion del interesado el cual ordeno posiera las respectivas mojoneras en las puntas correspondientes; y quedo entendido habiendo marcado aquellos en señal de posecion lo que autorizo y firmo con los testigos de asistencia segun derecho doy fé.

José Maria Orocho.

José Maria Alvarado d. A. Jose Maria Alvarado.

José Lopez En el dicho dia mes y año habiendose concluido las diligencias de este espediente perteneciente al Rancho de San Jacinto dexde testimonio á Don José Antonio Estudillo interesado en ellas p.a su seguridad y usos que le convengan. El ciudadano Jose Maria Orocho Juez de Paz Suplente de esta demarcacion asi lo proveyo y firmo con los testigos de asistencia. Segun derecho. doy fé.

Jose Maria Orocho.

d. A. José Lopez de A. Jose Maria Alvarado.

En el mismo dia mes y año quedo librado al interesado el testimonio que se refiere en el auto anterior y para constancia lo rubriqué

Filed in Office Sept. 8. 1852.

Geo. Fisher Secy.

I, Charles E. Carr Clerk of the District Court of the United States for the Southern District of California. Hereby certify the above and foregoing to be a true and correct Copy of Pages 23 and 24 of Transcript No. 115. (wherein Jose Antonio Estudillo is claimant against the United States for "San Jacinto,) on file in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said Court at Los Angeles this the 12th day of December A.D. 1855.

C. E. Carr Clk.

Dec 17/85

No. 233 — 4082

U. S. Dist Court
South Dist Cal.

J. W. Sutherland appt
vs.
The U States.

Copy of Judicial
Possession

Filed, Dec 17th 1885.
J. E. Carr
Clk.

Thos W. Sutherland, Recd. Applt
vs.
The United States, Appee } No 82.

Deposition of Jose Maria Estudillo, a witness for appellant taken in open Court on the trial of said cause, who being duly sworn answers to questions ~~for the~~ of Counsel for the several parties, as follows.
(David Spence was sworn as Interpreter.)

{ }

ques. What is your name age and place of residence.
ans. My name is Jose Maria Estudillo my age is 24 years, my residence is in San Diego
ques. Are you acquainted with the Map of land called San Leanito Pozo of Nuevo, one of which is claimed in this cause, and if so, state your means of knowledge.
ans. I am. I ~~have been~~ went there frequently when my father was alive, and I have been living there for the last year.
ques. Look upon the Map, marked "C.E.C. No 1." and state whether it is a correct representation of the said tract of land of which you say you have knowledge. (objected to by the Deft. Atty. allowed by the Court)
ans. It is.
ques. Look upon it and state where

is the point called "Ojo de Agua de San Miguelito" ~~at~~ the Mountain of the Agua Caliente, & the House of the Ranche of San Jacinto Viejo" (objected to by the Usaty.)

Ans. — The "ojo de agua" is at the point marked on the map, "Santa Rosanita" which I have known by the name of San Miguelito ~~which "ojo de~~ the Mountain of Agua Caliente is ~~marked on the map~~ situated where it appears marked on the map, Milpa de Agua Caliente. The house of San Jacinto Viejo, is where it is marked Casa de Agua on the map.

Ques. Look upon the map contained in the Transcript, and state if you recognize the Exterior lines thereon together with the names of the adjoining tracts of land as a correct delineation of the two said tracts of land.

Ans. — I know them to be correct.

Ques. Look upon that map and mark in pencil the points called "Ojo de Agua de San Miguelito" the Sierra de Agua Caliente and the old house of San Jacinto Viejo".

Ans. — I have marked them Nos 1 2 & 3 respectively.

Ques. — Where does the road from Guevavia come in to the tract of San Jacinto Viejo.

Ans. It comes in by San Miguelito

Ques. How near is the Ojo de San Miguelito to the said Road.

Ans. — about 5 or 6 varas from the

aguagite on the left side.

Ques. What do the dotted lines contained on the map in the transcript in front of the words "napa" and "San Gorgonio" represent, as to the character of the land.

Ans. The dotted lines represent mountains and hills.

Ques. Do you know any thing about the occupation of San Jacinto ~~Lieg~~ mere by Miguel de Pedrorena, if so, state what you know.

Ans. In 1844 more or less in the place called the Corral de Pilares there was a small house, of the kind called jacal, where they had a dairy, which I understood had been there for a short time previously, and during the time my father was there it was always occupied by cattle of Don Miguel de Pedrorena.

Ques. Examine the diagram marked C.E.C. No. 1. and state whether its exterior lines are similar to those contained in the map contained in the Expediente in the transcript.
(objected to by U.S. Dist Atty)

Ans. I believe them to be the same.

(The map here offered in evidence, and objected by the United States Attorney, ~~to the admissement~~ objection overruled by the Court.

Cross Examined by U.S. Atty.

Ques. What is your profession or occupation.

Ans. I am a farmer

Ques. How long have you lived on the Rancho

of San Jacinto Tejo —
Ans. — ~~I have been going and coming a little more~~ Since my interests have been there, I have lived there about one year — going & coming — But whilst my father was alive I went there once or twice. I was then small yet.

Ques. How long have you lived there continuously.
Ans. Sometimes one sometimes two months at a time.
Ques. — What interests have you there.
Ans. — ~~I have a~~ There are ~~these~~ the cattle belonging to the succession of my father, to Rosario de Aguirre and to my self —
Ques. How far is it from San Jacinto Tejo, marked on the map in the transcript to San Bernardino, marked on the map in the transcript.
Ans. — By the road it is about 8 or 9 leagues, — in a straight line it may be four or five.
Ques. How far is it from San Jacinto Tejo to the place called Napa, as marked in said map.
Ans. By the Road it may be about 11 or 12 leagues — and I suppose in a straight line it may be something less
Ques. — How far is it from San Gorgonio marked in said map to Napa as marked in said map.
Ans — I never was in the Sierra of San Gorgonio and I don't know —

Ques. Was San Jacinto Nuevo ever occupied, if yea, state when, by whom, and in what manner.
Ans. It was occupied, by my father, by Miguel Pedrorena and J. A. Aguirre so that all the land would be occupied with cattle, I think in 1844.
Ques. Is this the only manner in which the Placer of San Jacinto Nuevo was occupied?
Ans. As I have stated before there was a small house and dairy on the place
Ques. Who built that house and dairy
Ans. My father ordered his servants to build the house.
Ques. How far is that house from San Jacinto Viejo.
Ans. The house does not exist now, It was about a league & a half or two leagues.
Ques. Who occupied that house
Ans. ~~My father's~~ vaqueros who were under the care of my father but were paid by Pedrorena & Aguirre.
Ques. When was that house built.
Ans. I don't remember but think it was in 1845.
Ques. Did you ever see Pedrorena on that Ranch.
Ans. I never saw him
Ques. Had Miguel Pedrorena any cattle on the ~~Ranchito~~ Placer of San Jacinto Nuevo

at any time, if yea, when were the pins placed there and by whom
Ans. Yes — they were placed there by my father, about the years 1844 or 1845.
Ques. — How many had he there at that time.
~~Ans. — About a thousand head~~ he put them there
Ans. More than a thousand head —

Ques. How do you know that the map in the transcript is a correct delineation of the place called San Jacinto Mess.
Ans — I know it by the names of the different points marked on the map
Ques. How do you know that the points or places as delineated in the map marked "C.E.C. No 1." are truly and correctly laid down in said map.
Ans. — With respect to the exactness of the map I cant say but I know all the points and places laid down in it.
Ques. How do you know that the dotted lines in the map in the transcript in front of the words "Sapa" and "San Gorgonio", represent mountains & hills.
Ans. Because I know the mountains and I know the lands. I have not been on the Mountains of San Gorgonio, I have seen them from a distance.

Ques. — Do you know when the map marked "C. E. C. No 1" was made —
Ans. — I do not — I first saw it about a year ago —

Reexamined in chief —
Ques. In what part of San Jacinto Nuevo was the Corral del Pillar situated?
Ans. I have marked No 4, in pencil on the map in the transcript.
Ques. Are you acquainted with the place called the Potrero claimed in this cause, if so, describe the same, its extent and how bounded.
~~Ans. Yes I am.~~ (Question objected to as to its extent, by the U. S. Atty) + preliminary
Ans. Yes I am. It is a large plain surrounded by ~~hills~~ rocky hills and inside it has ~~water~~ water and trees. It is about three leagues distant from the House of San Jacinto Viejo, and about one league in extent. The widest part is about half a league, other parts are narrower.
Ques. What are the names of the hills on each side of the Potrero —
Ans. — One side are the Hills of San Jacinto, on the other the lands of the Yamas or Cahuillas, and the other the Mountain of San Gorgonio.
Ques. Was Miguel Pedroza named

if so when & to whom.
Ans. — He was married in the year 1843. to my sister Maria Antonia Estudillo
Ques. — Where was she born.
Ans. — In San Diego, California.

José Mª Estudillo

Sworn and subscribed before me this 17th of Dec 1855.

J. E. Carr
Clk.

No 82.

U. S. Dist. Court. South. Dist. of Cal.

Thomas W. Sutherland Guardian &c. appelt.
vs.
The United States. appellee.

Deposition of José Maria Estudillo

Filed Dec 17th 1855.
J. E. Carr Clk.

Dec 11/55

In the District Court of the United States
for the Southern Dist. of Cal.
Thomas W. Sutherland Guardian.
Appellant.
vs
The United States, Appellee

No. 82.
On appeal from
the U.S. Land Com.

Be it remembered that on the trial of this Cause, the Appellant ~~offered~~ propounded the following questions, to Jose Maria Estudillo, a witness in their behalf, which said questions, and ~~answers~~ Answers, and the Map therein referred, marked C.E.G. No. 1, also offered in evidence by said appellant, were objected to, by P. Ord, Atty for the United States, appellee, on the ground - That ~~it~~ it was not shown that the said Witness was competent to prove the correctness of the Map referred to by him - that the questions were leading - ~~That~~ There was no evidence showing by whom, when & where ~~the~~ the said Map was made, ~~by a~~ And that it was made by a person having adequate or competent ~~from~~ knowledge. That the said evidence was secondary, hearsay & illegal - which objections were overruled by the Court, & said evidence admitted.

Question. "Look upon the Map, marked "C.E.G. No. 1", and State whether it is "a correct representation of the said"

"tract of land" (~~Meaning the land~~ tract of land called San Jacinto Viejo y Nuevo, ~~of which is claimed in the~~ meaning the claimed in this cause) "of which you say you "have knowledge"?

Answer. "It is."

Question. "Look upon it and state "where is the point called "Ojo de agua "de San Miguelito", the Mountain of the "Agua Caliente, & the House of the Rancho "of San Jacinto Viejo"?

Answer. "The Ojo de Agua is at the "point marked on the Map, "Santa "Margarita", which I have known by the "name of San Miguelito. The Mountain "of Agua Caliente is situated where it "appears marked on the Map Milpa "de Agua Caliente. The House of San "Jacinto Viejo, is where it is marked "Tanja de Agua on the Map".

Question. "Examine the Diagram "marked C. E. C. No. 1. and state whether "its exterior lines are similar to those "contained in the Map contained in "the ~~Exa~~ expediente in the Manuscript".

Answer. "I believe them to be the "same" (The Map here offered is made)

Question. "Are you acquainted with "the place called the Potrero claimed"

"in this Cause, if so, describe the
"Same, its extent and how bounded".

Answer. "Yes I am. It is a large
"plain surrounded by rocky hills, and
"inside it has water and trees. It
"is about one league in extent.
"The widest part is about half a
"league, other parts are narrower."

(The Map above referred to will be found at page of Record)

Therefore the said United States, by
said Attorney, present this their bill
of Exceptions, & pray that the Same
be Signed & Sealed by the Court.

Samuel R Ogden
U S Dist Judge

(Seal)

Dec 17/55

No. 82.

Robt. W. Sutherland Guardian &
appellant

vs

The United States,
appellee.

Appellees Bill of Exceptions

Filed Dec. 17th 1855.

Cunningham.

J. E. Carr
Clk

Thos M. Sutherland Ward^a Appl^t
vs No 82.
The United States.

Testimony of Daniel Lexton a witness on the part of Appellant, was sworn and testified in Open Court as follows

Ques. What is your name age and place of residence.
Ans. My name is Daniel Lexton age 37 — residence Mission of San Gabriel —
Ques. Where were you living during or at the time hostilities broke out between the United States & Mexico, were you acquainted with Miguel Pedrorena, and what part did he take in the war. (Objected to by the U. S. Atty)
Ans. I was living in the town of Los Angeles. I was acquainted with Miguel Pedrorena, He joined the Americans.
Ques. Was not ~~H~~ in 1844 & 1845. the Rancho of San Pascuale considered frontier and exposed to the Indians
Ans — It was.

Cross examined by U.S. Atty —

Ques. How long have you known Miguel Pedrena.

Ans. I have known him since the year 1842.

Ques. Do you know the Country or place of his birth —

Ans. He has frequently told me that he was a Spaniard by birth. He was born in England under the flag of Spain.

Ques. Do you know about what time he came to California.

Ans. I do not.

Ques. Did you ever hear him say he was not a Mexican Citizen

Ans. I never heard him speak about his Citizenship.

Daniel Dexter

Sworn to & subscribed before me this 17th of Dec 1855.

[illegible] Clk.

Dec 17 1855

No 82. 8

U. S. Dist Court
South. Dist of Cal.

Thos W. Sutherland
Guardian Appelt.

— vs —

The United States
appee.

Deposition of Daniel
Lexton

Filed Dec 17th 1855.

C. E. Carr
Clk.

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

Thomas W. Sutherland,
Guardian &c
Appellant
vs
The United States
Appellees.

Case No. 82.

Transcript 263.
"San Jacinto Nuevo y Potrero".

Translation of Testimonial of Approval of Departmental Assembly. See page 14, of Transcript.

Narciso Botello, Deputy Secretary of the Excellent Departmental Assembly of California.

I certify, that in Session of this day the Most Excellent Assembly approved the Grant made by the Departmental Government in favor of Don Miguel de Pedrorena of the tract known as San Jacinto Nuevo, including its Potrero, to the extent of what the map shows, which runs attached to the Espediente, according to the Title issued for his benefit and that of his family, with date the 14th of January of the present year, provided it does not exceed the maximum prescribed by law, and in order that the interested party can apply to the Supr Governor for the proper title of approbation I issue the present in compliance with the Resolution of the said Excellent Assembly, — At the City of Los Angeles, July 8th 1846.

Narciso Botello.

Dec 18/55

Case No. 82.

U. S. Dist. Court, Southern District of California.

Thomas W. Sutherland, Guar.
Appellant.

Vs

The United States.
Appellees –

Translation of Testimonial of Approval
Page – 14.

Filed Dec. 18th 1855.
V. Man.
Clk

In the United States District Court, in and for the Southern District of California

Thomas W. Sutherland Guardian etc Appellant vs The United States Appellee	Case No 82 Translation of Judicial possession from Case No 233. Transcript No 115. "FFF No 1"

In the Pueblo of San Diego, of Upper California on the 26th of March, 1843 in compliance to the Petition of Señor Don José Antonio Estudillo, resident of this demarcation, to the end that I should give him the corresponding possession of the tract and Rancho called San Jacinto, granted by the Government of this Department, the title of which he presented with the said Petition. ~~Pass with the~~ I passed with the assisting witnesses to the afore said tract and proceeded to give the aforesaid possession, after previous citation to adjoining owners, it being regulated by the aforementioned title which was ~~confirmed~~ conferred upon him by the Most Excellent Señor Governor ad interim of the Department, Don Manuel Jimeno, with date 21st of December, 1842.

I the Citizen José Maria Osuna Supplemental Justice of the Peace of

this demarcation so provided, ordered and signed before the aforesaid assisting witnesses with whom I act as a deligate on this common paper, for want of the proper stamped, according to law, I attest

José María Orzuna

Ass.t José Lopez Ass.t José María Alvarado.

At the Rancho of San Jacinto, on the 26th of March, 1843, I, the same Judge for the execution of these proceedings appointed two men cord bearers, to whom I made known their appointment, which they accepted under oath which they took offering to fulfil their charge faithfully, which I authenticate and sign with the witnesses of my assistance according to law,

José María Orzuna

Ass.t José Lopez - Ass.t José Ma. Alvarado

On the same day, month and year, being at the Rancho of San Jacinto, for the object of completing the measurements and possession to Don José Antonio Estudillo of the tract called San Jacinto, all the requirements of law being previously complied with, and the assisting witnesses and cord bearers being before me, I caused to be measured a cord which contained one hundred varas, and at the extremities (had) handles of sticks; after observation

and calculation, at my direction the cord was run from the spring of San Miguelito, the boundary of Temecula, course southerly; there were measured four leagues, as far as the house of said tract, there being three cords short, which are added towards the Sierra of the hot spring; it was continued, course NW, where there were measured four leagues as far as the converging passage towards Jurupa; it was continued towards the East, where there were measured three leagues and a half, which terminated at the angle of - - — where the land marks were fixed, and there having been no objections manifested that the measurements should be suspended, the measurements of the Rancho of San Jacinto were concluded to the satisfaction of the party interested, whom I directed to place the respective land marks at the proper points, and it remained understood, they having been marked in token of possession, which I authenticate and subscribe with the assisting witnesses according to law; attest,

Jose Mª Ozuna

Ass.t Jose Lopez - Ass.t Jose Mª Alvarado.

On the aforesaid day month and year the notes of proceedings of this expediente pertaining to the Rancho of San Jacinto being concluded

let a testimonial thereof be given to Don José Antonio Estudillo, the interested party in them, for his security and the uses which may suit him. I, the Citizen José María Ozuna, Supplemental Justice of this demarcation, do order and subscribe with the assisting witnesses, according to law, I attest

José Mª Ozuna

Asst. José Lopez, Asst. José Mª Alvarado

On the same day month and year the testimonial referred to in the preceding order was issued to the party in interest, and in attestation I made my scrol

Case No 82

Thos. W. Sutherland
Guardian
Appellant
vs
The United States
Appellee

Transcript of Trial Proceedings
from Case 233 ——

Filed Dec 18th 1855
J. S. Lane
Clk.

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Dec 18/55

California Land Claims.

Attorney General's Office

8 December 1851.

Sir:

In the case of the claim of Thos. W. Sutherland, Guardian &c. rejected by the Commissioners, case no two hundred and sixty-three, (263), but confirmed on appeal by the District Court, appeal will not be prosecuted by the United States.

I am

Respectfully.

Clifford

Pacificus Ord Esq.

U. S. Attorney

Los Angeles.

No. 82.

Thomas W. Sutherland, Guardian &c.

vs.

Ph. N. Staly.

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Hon Jno S. H. Ogden Judge

December Term AD 1880

In the Dist Court of the United States within and for the Southern Dist of Cal.

The United States
Appellants
vs
No 82
Thos H Sutherland Guardian
Appellee

In pursuance of a letter from the Attorney General of the United States herewith annexed giving notice that in the above cause the appeal in the Supreme Court will not be prosecuted by the United States. It is hereby stipulated and agreed by and between the parties that the order granting an appeal to the Supreme Court heretofore made in the above cause be vacated and that the decree of the Court heretofore rendered in this cause may by order of the Court be made final

P. Ord
Dist Atty.

Byron Norton
atty for appellee

Feb 23/57

U. S. Dist Court
South Dist Cal a

No 82

The United States
appellant
vs
Thos R Southerland Guardian re
appellee

Filed Feby 23d 1857
C Sims
Clk

Stipulation
to vacate order
of appeal to Supreme Court

IN THE DISTRICT COURT OF THE UNITED STATES,

FOR THE SOUTHERN DISTRICT OF CALIFORNIA,

Los Angeles, ... **December Term, 1855.**

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Rob. W. Sutherland, Guardian.

..... APPELLEE,	No. 82.
VS.	(No. 263. of Transcript.)
UNITED STATES, APPELLANT.	On Appeal from the United States Land Commission.

On motion of P. ORD, Attorney of the United States for the Southern District of California, it is hereby

ORDERED by the Court, that an appeal be granted the United States, to the Supreme Court of the United States, from the judgment of this Court against the said United States in the above entitled cause, rendered on or about the 24th day of December A. D. 1855.

P. Ord
Dist Atty.

Dec 7/56

No. 82.

U.S. Dist Court
South'n Dist of California

Thos W Sutherland, Guardian
appellee
vs
The United States
Appellants

Notice of Appeal S.C.

Filed Mch 4th 1856
E. E. Cain clk
by O. Morgan Depy

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

Thomas W. Sutherland, Guardian of Miguel, Victoria, Isabel, and Helena, minors children of Miguel Pedrorena, deceased, and of Maria Antonia Estudillo, his wife, Appellant, vs The United States, Appellees.	Case No. 82. "San Jacinto Nuevo, y Potrero."

This cause coming on to be heard on appeal from the final decision of the United States Board of Land Commissioners to ascertain and settle the private land claims in the State of California, under an Act of Congress, approved March 3d, 1851, on a Transcript of the proceedings and decision of said Board and of the papers and evidence upon which said decision was founded; and it appearing to the Court that said Transcript has been duly filed, according to law, and Counsel for the respective parties having been heard;

It is ordered, adjudged, and decreed, that the said decision of the said Board be, and the same hereby is, reversed; and it is further adjudged and decreed, that the claim of the above named Appellant is good and valid, and that the same be confirmed to

his said wards, as follows, to wit:

The lands hereby confirmed are the sobrante or surplus, remaining within the boundaries of the tract called San Jacinto as the same are described and represented in the map contained in the Expediente and refered to in the Grant, over and above certain lands granted to José Antonio Estudillo within the same boundaries; to the extent of Eleven Square leagues; and if the said sobrante or surplus within said boundaries shall be less than Eleven square leagues, then confirmation is hereby made of such less quantity; the measurements of the lands hereby confirmed to be commenced from the line of said Estudillo, as fixed by the Act of Judicial Possession to him, to which reference is hereby made.

Samuel K Ogden

Case No 82

U. S. Dist. Court South'n
Dist of California

G. W. Sutherland, Guard'n
Appellant
vs
The U. States
Appellees.

Decree.

Filed February 14th 1856.
J. E. Carr
Clk.

7 Recorded on Page 201

No. 82.

Thomas W. Sutherland. Guardian &c
Claimant.

Objections.

1. That at ~~the~~ and before the date of the alleged grant of Pio Pico, to Miguel de Pedroreno, ~~the~~ he, the said Pedroreno was not a Citizen of Mexico; and ~~had~~ not, therefore, the lawful capacity to take & hold the land alleged to have been granted. That he was a foreigner by birth, & was never a citizen of Mexico naturalized.

2. That Pio Pico had no lawful authority to grant the land as alleged, to said Pedroreno, he not being a Citizen of Mexico by birth or naturalization at the date of the alleged grant. That the alleged grant was & is, therefore, void.

No. 82.

Objections in addition to those in answer to petition for review

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

Thomas W. Sutherland Guardian of Victoria, Isabel, Miguel, & Helena, minor children of Miguel de Pedrorena & Maria Antonia Estudillo, his wife,
Appellant
vs
The United States,
Appellee.

Case No. 82.

Transcript No. 263

Claim for "San Jacinto Nuevo y Potrero".

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No.	Page.	
1.	3.	Petition to Commission
2.	4.5.	Deposition of Santiago Arguello
3.	5.6.	Deposition of Abel Stearns
4.	6.	Deposition of John S. Barnes
5.	8.	Petition of Miguel Pedrorena to Governor, with marginal order of reference to Sub-Prefect at San Diego.
6.		Map
7.	9.	Report of Sub-Prefect.
8.	9.	Decree of Grant by Gov. Pico.
9.	10.	Title.
10.	11.	Order of Assembly, referring grant to Committee on Vacant Lands
11.	11.	Report of Committee
12.	11.12.	Certificate of Surveyor General
13.	13.	Title. {original} same as No. 9.
14.	14.	Order to Record Grant in Sub-Prefecture of San Diego
15.	14.	Certificate of Record in Sub. Prefecture.

traced entries

Case No 82.

In the U. States Dist. Court
for the Southern Dist.
of California

Thos. B. Sutherland, Claimant.
vs
The United States.
Appellee.

Subpoena Duces tecum No 263.

In the District Court of the United States for the Southern District of California
Hon Lucien S. Ogier Judge
December Term AD 1856

The United States
Appellant
vs
Thos W Sutherland Guardian
Appellee

No 82

The Attorney General of the United States having given Notice that the appeal to the Supreme Court from the decision of this Court in the above entitled cause will not be prosecuted by the United States, and a Stipulation having been entered into by the United States District Attorney and the Attorney of the Claimants that the Order granting an appeal to the Supreme Court heretofore made in this cause be vacated and that the decree of this Court heretofore rendered in this cause may by order of the Court be made final. It is Ordered adjudged and decreed that the order granting an appeal to the Supreme Court heretofore made in this cause be and the same is hereby vacated and that the Claimants have leave to proceed under the decree of this Court heretofore rendered in this cause as under a final decree

Lucien S. Ogier
U S Dist Judge

Dec term 1856

No 82

Vacating appeal

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Thomas W Sutherland Guardian. Appellant
vs
The United States. Appellees

The claim in this case is founded upon a grant from Governor Pico to Miguel de Pedroreno bearing date 14th January 1844, and approved by the Departmental Assembly on the 4th day of August 1846. — The genuineness of the grant is fully as is the approval of the Departmental assembly. Judicial possession is alleged to have been given, but there is no proof to sustain the allegation — The parol testimony shows a substantial compliance with the conditions of the grant as to occupation —

The Grant purports to be for the solar te of the place called San Jacinto ~~granted~~ Nuevo including the Potrero of the same name —

The principle and indeed the only question in the case is raised by the objection that the grant is so vague and indefinite that the land granted cannot be identified nor its extent ascertained. —

The Petition of Pedroreno was for the solarte which resulted in the place called San Jacinto, of the land granted to Estudillo on the 21st Dec 1842 by Manuel Jimeno, the Governor ad interim —

The 3rd Condition of the grant, describes the land as that which is shown upon the map accompanying the expediente, including the Potrero of San Jacinto, and directs the Alcalde to commence the measurement at the boundaries of Estudillo

If from the map referred to the particular tract intended to be granted can be ascertained and identified, under the principle laid down in the case of Blake vs. Doherty 4th Cond. Rep. by the Supreme Court, the grant of the place by name, of San Jacinto, is valid.

In order fully to understand this case reference must be had to the Grant from Governor, to Jose Antonio Estudillo —

Estudillo petitioned the Government for ~~the place known by the name of San Jacinto~~ for leagues of land in the Rancho of San Jacinto, belonging to the ex Mission of San Luis Rey. accompanying his petition with a map of the tract; the Governor made the grant ~~for eight~~ leagues and juridical possession was given, and the boundaries fixed. ~~The examiners who delivered this opinion in the Case. The Grant reserved the Domain to the Nation~~ — Pedroeno when he petitioned for the Solicitude arising from this measurement to Estudillo, presents a map of the whole tract of San Jacinto with marked and definite exterior boundaries, including the tract measured to Estudillo, and showing his lines — and it is according to this map that the Governor grants. the map was before him, exhibiting a large tract of land within exterior boundaries, and its more particular description, fixed by the lines of which appears to be a Bilateral survey. It is true that the land marked in that survey as the tract of Estudillo does not correspond with the juridical possession which was given to him, but I do not consider that of importance in this case — for the

map which accompanies Pedrorenos petition, and which is referred to in the grant to him, for a description of the land, shows the whole tract ~~of which we think became~~ ~~was called San Jacinto the Rancho of San Jacinto, before either of the grants were made~~ of land called San Jacinto, ~~the~~ ~~the track on the map is surrounded by a dotted line, this dotted line is shown~~ ~~from the testimony of Estudillo, who says~~ ~~that he knows the land well, from having lived upon, represents mountains and hills.~~ ~~on these sides of the land, there are written upon the map, the names of seven~~ It is bounded on the north, ~~Jurupa~~ Jurupa & San Bernadino on the east by San Gregorio, on the west by Jurupa & Temecula, ~~the~~ tract as represented on the map is surrounded on all sides by a dotted line, the witness Estudillo says he is well acquainted with the land and the general appearance of the country around says, that near this dotted lines exists upon the map are mountains and hills, ~~known by the names as marked upon the map Jurupa, San Bernadino~~, the names marked upon the map, Jurupa &c. follow along this dotted line and evidently are intended as the names of the different ranges of hills and mountains, which the witness says surrounds the tract; ~~from~~ this I think is sufficient to identify the particular land intended to be granted. ~~besides which there is~~

The land granted is the Sobrante of San Jacinto, and it is to be known after the grant as San Jacinto Viejo, I do not agree with

Commission in their understanding of the term (Sobrante) used, they say in a given case to which reference has been made in this case, that this grant to Pedroseno, was for the Sobrante resulting within the lands measured when judicial possession was given to Estudillo, I do not think, when a grant was made of a certain quantity of lands within certain limits, the officer who gave the possession by measure of within the limits the quantity granted and what was remained within his measurement, & within these limits was the Sobrante, he never undertook to measure the whole tract. Nor did he ever attempt to fix monuments upon the exterior boundary. I look upon this grant, there as a mere grant of the land known by the name of San Jacinto as shown by the map which accompanys the expedente, ~~[illegible]~~ expedition is ~~[illegible]~~ that within these limits there is contained some twenty five leagues of land, that the Governor had no authority to grant such a quantity and that therefore the grant is void, ~~I think this doctrine can not be maintained, the custom of all the Governors was to make grants of this character, the fact made a sketch of the land he wished to acquire showing his exterior boundaries, the exact quantity contained in it was not known.~~

~~This is not~~ There is one requirement of the grant which must be noticed, the condition of the grant requires the judge who shall give the possession to commence at the boundaries of Estudillo

that boundary line is fixed by the judicial possession and it must be from the line as so fixed that the measurement to Pedroeno must commence, there is no quantity specified in the grant: and it must therefore be subject to the limitation fixed by law to wit, eleven leagues.— ~~this grant on the~~ the grant includes what is called the Potrero de San Jacinto, this potrero is within the limits shown in the general map of the place called San Jacinto — the land within these limits and exclusive of the land granted to Estudillo contains more than the maximum quantity, as shown by the map, then is fixed by the Colonization law, no judicial possession of the land has been given and the surveyor in locating the land must be governed by the doctrine laid down in the Fremont case, the survey must commence at the boundaries of Estudillo as shown in the judicial possession and survey the land in one body; according to the mode of his surveys of public land.

The petition in this case is presented in the name of J. R. Sutherland. There is nothing to show his authority to act in such capacity, ~~and under indication~~ and there was some question in my mind whether this court to take notice of the case as the person having in this case but I am inclined to look upon these cases as exempt from the general rules of

law as to the pleading, they are in the nature of special proceedings, and as the main and indeed the only intention of the under which these proceedings are had is to ascertain what are public and what private lands in California, I ~~do not see reason in any case to doubt~~ shall be determined to consider the case and decide it upon its merits.

A decree will be entered according to the decisions of the commission confirming the claim