

CASE No.

110

SOUTHERN DISTRICT

CHUALAR GRANT

MARIANO MALARIN, EXR. VC

CLAIMANT

LAND CASE 110 SD

173 pgs.

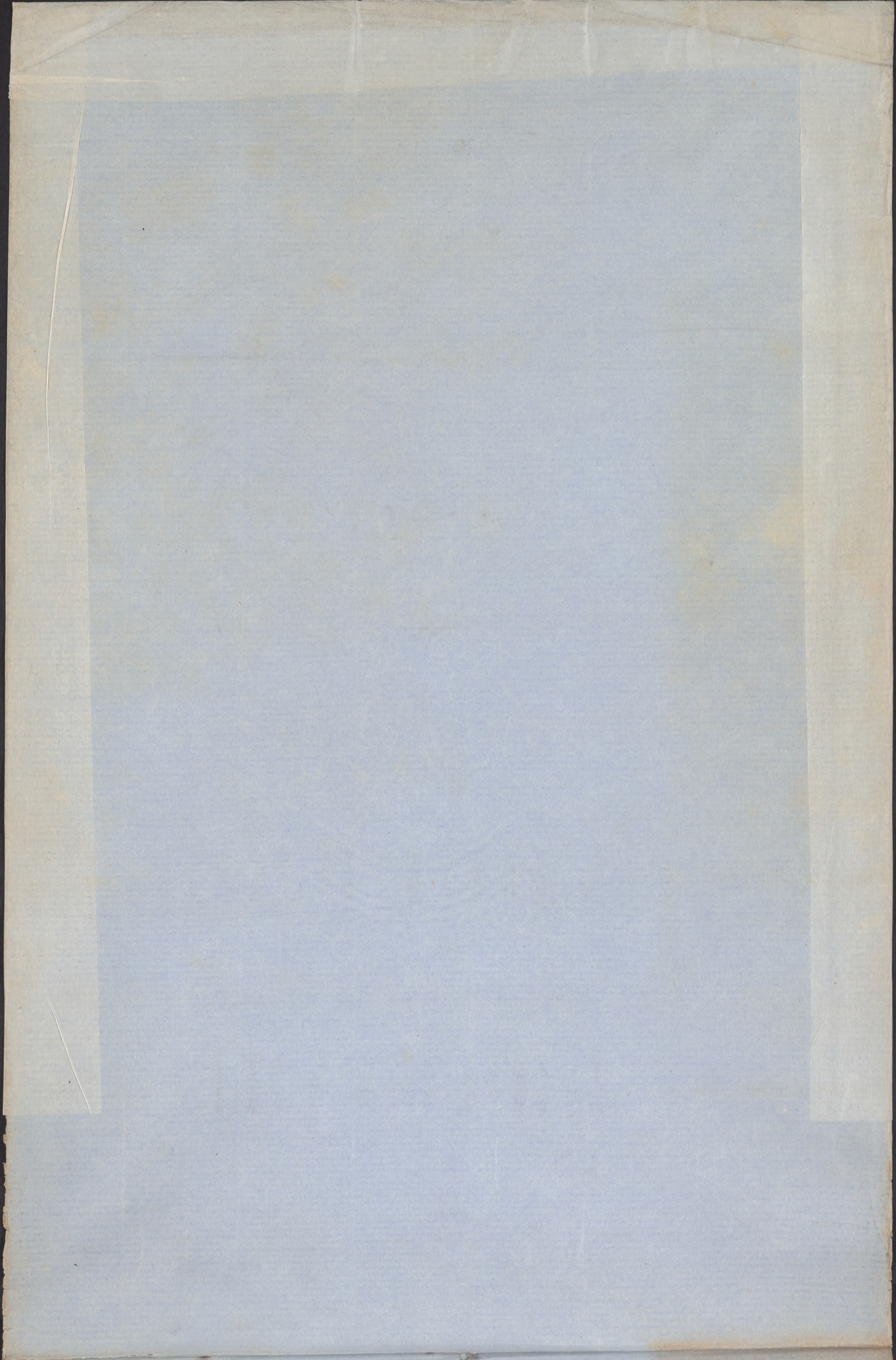
FEB 26 1963

Permanized
Plover Bond
25% COTTON FIBER
U.S.A.



Arthur Deane

100



110 SD
PAGE 1

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 154

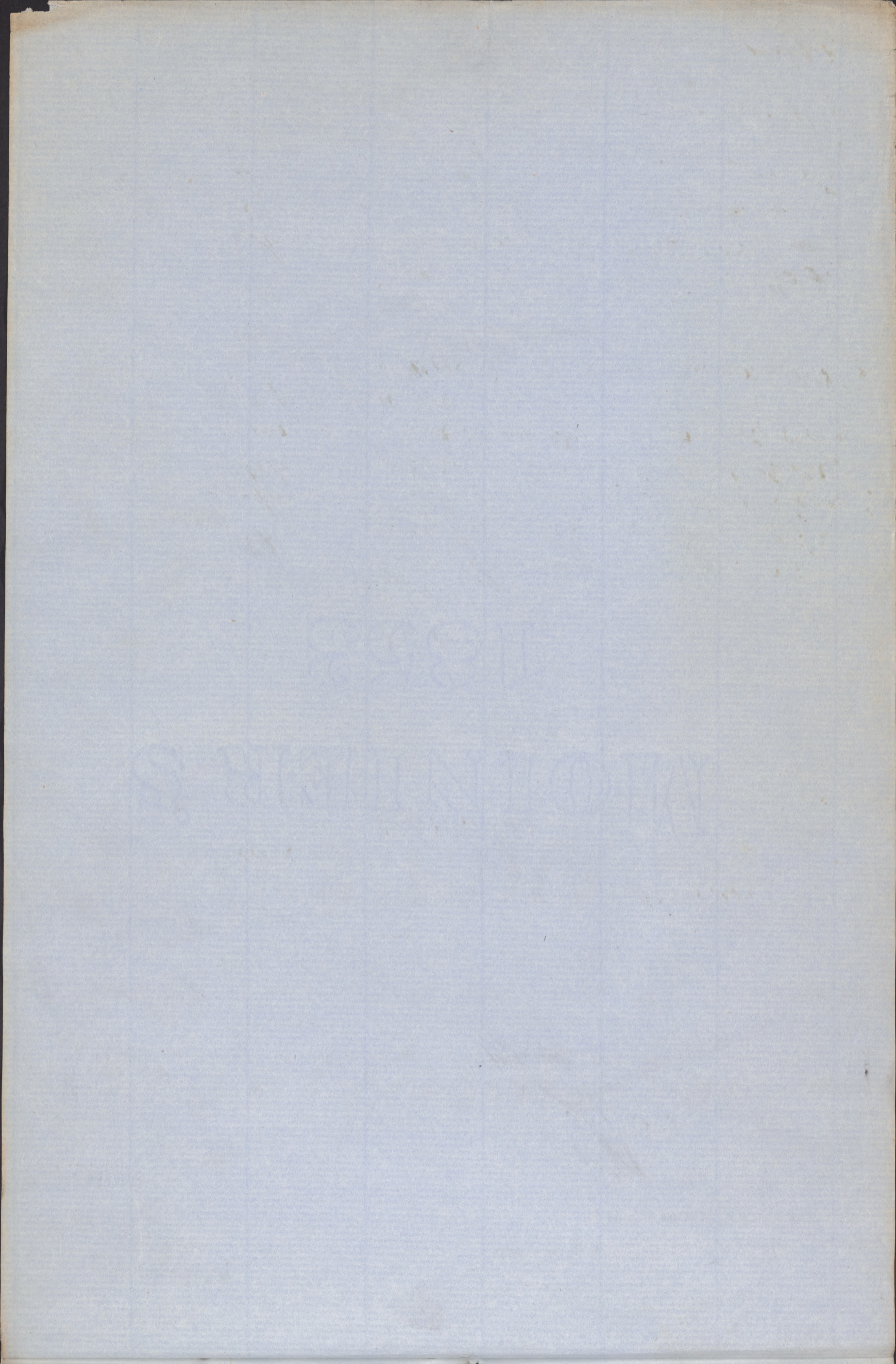
Mariano Malarin, Ex. &c. CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Chualar."



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

110 SD

PAGE. 2

Be it Remembered, that on this second day of April, 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 Mariano Malain Executor of "Chualar" for the Place named was presented, and ordered to be filed and docketed with No. 1521 and is as follows, to wit;

(Vide page 4 of this Transcript.)

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

San Francisco April 7. 1852
In the same case the Deposition of David Spence, a witness in behalf of the Claimant, taken before Commissioner, Hiland Hall, was filed, and is in the words and figures as follows, to wit—
(Vide page 8 of this Transcript.)

San Francisco March 29. 1853.
In the same case, the Deposition of David Spence, a witness in behalf of the Claimant, taken before Commissioner Harry A. Thornton, with Document marked H.A.T. n.º 1 annexed thereto, was filed, and is in the words and figures as follows, to wit—
(Vide page 9 of this Transcript.)

2 San Francisco, Apt. 18, 1853.

In the same case, the counsel for the claimant presented an amended petition ordered to be recorded and filed among the papers in the case —

Which amended petition is as follows, to wit:

(Vide page 6 of this Transcript.)

San Francisco, Sept 23, 1853.

This case called, submitted on briefs on both sides, and taken under advisement by the Board.

In the same case, the counsel for the claimant, Mr. Waller, filed the following motion, to wit:

(Vide page 7 of this Transcript.)

San Francisco, Feby 14, 1854.

In the same case, Commissioner, Alpheus Felch, delivered the Decision of the Board upon the motion, heretofore, to wit: on the 23^d September, last, filed by the claimant's counsel, granting the said motion.

Whereupon the following Order was made, to wit:

(Vide page 7 of this Transcript.)

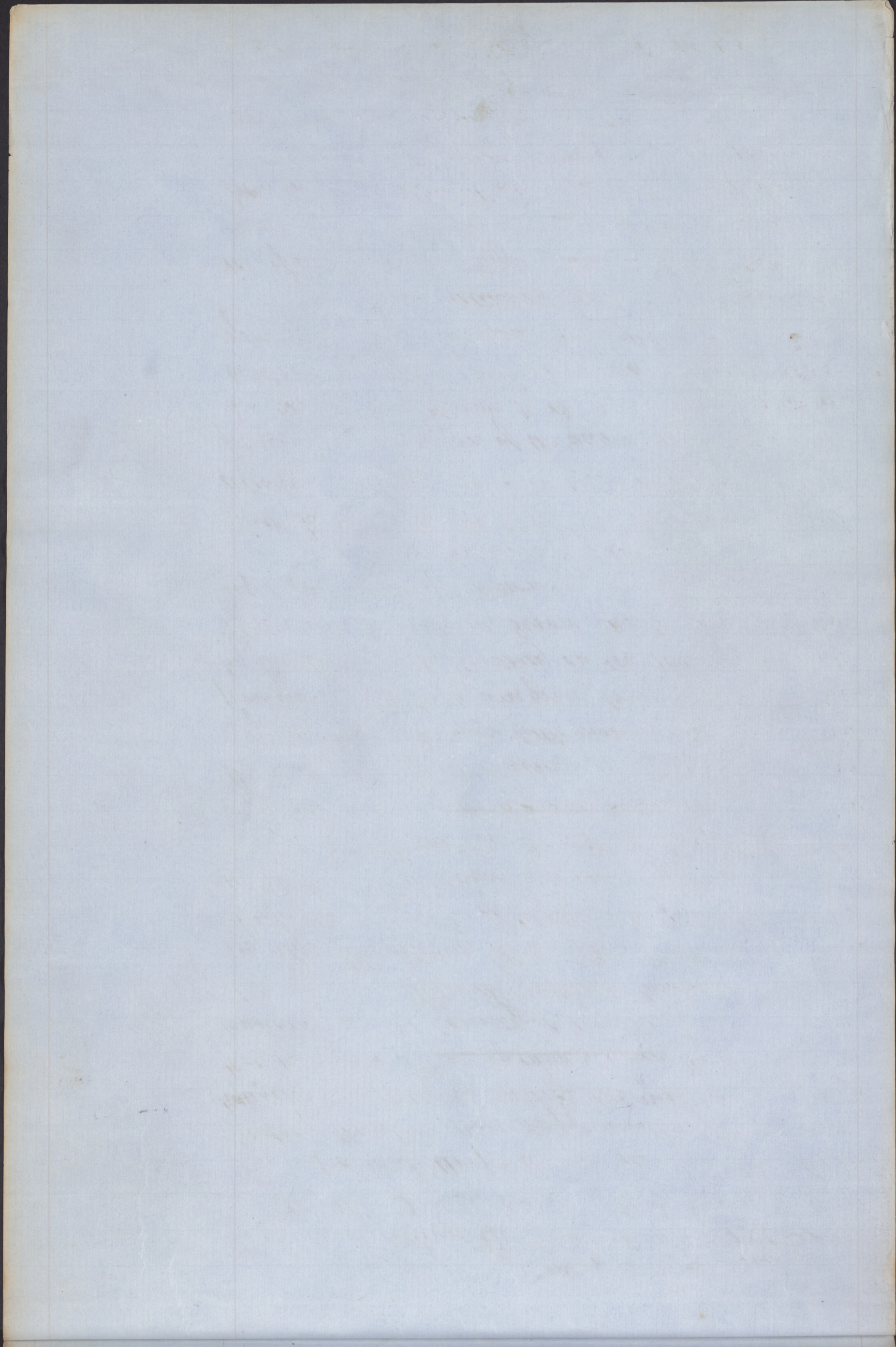
In conformity to which order the Secretary filed the certified copy of the Deposition of David Spence, the copy of Juan Malerin's Will and a Translation thereof as decreed in the said Order, which Deposition is in the words and figures as follow, to wit — (Vide page 10 of this Transcript.)

110 SD

PAGE 3

San Francisco, Feby 21, 1854.
In the same case, Commissioner,
Thompson Campbell, delivered the Opin-
ion of the Board, confirming the claim.
(Vide page 44 of this Transcript.)

San Francisco, Aug. 15, 1854.
In the same case, on motion of the
U.S. Law Agent, the following Order was
made, to wit:
(Vide page 46¹/₂ of this Transcript)



To the Honorable the Board of Commissioners to settle land claims in California.

Petition.

110 SD
PAGE 5

Mariano Malvarin Executor of the Estate of the late D. Juan Malvarin of Monterey, State of California, respectfully represents to your Hon. Body, that he claims a tract of land known by the name of "Chualar" in the County of Monterey and aforesaid State, granted under the Mexican Government on the 7th day of September A. D. 1839 by D. Manuel Jimeno acting as Governor of California: that said grant to the late D. ^{Juan} Malvarin was approved by the Departmental Legislature on the 20th of May A. D. 1840 and the boundaries agreed to by the neighbors: the quantity of land claimed in the grant aforesaid is of two square leagues, little more or less: the judicial possession of which was given to said Juan Malvarin by the Alcalde of Monterey on the 10th of December 1840. All that stated before can be seen by the title and judicial possession.

Your petitioner would represent that ever since he obtained the grant of said lands, he has always remained in quiet, undisturbed and peaceable possession of the same, that there are no conflicting claims to the said lands, or any controversy about their boundaries for twelve years since they were first established.

Your petitioner files herewith full copies of his original papers and a translation of the same, to which he would respectfully refer your Honors, and states that he will present his original papers and proofs thereof to your Honors for
5 their inspection and approval.

Wherefore your petitioner respectfully prays your Hon. Board to confirm his grant

5
aforesaid to the said "Chualar" and to accept his
title to be valid.

And he, your petitioner, will ever pray
(Signed) Mariano Malarin.

110 SD
PAGE 6

Filed in Office April 2^d, 1852

(Signed) Geo. Fisher

Secretary.

6

To the Honorable Commissioners to Settle Private
Land Claims in California.

Amended Petition. The amended petition of Mariano Malasin Executor
H. in Claim 154.

110 SD
PAGE 7

The petitioners, Josefa Estrada, widow, and
Isabel, Mariano, Concepcion, Remona, Urbano,
Mariano, Refugio, Josefa, Cristina and Ygnacio
Malasin, children of Juan Malasin, deceased, respect-
fully represents;

That on the 7th day of September A. D.
1839 Manuel Jimeno, Governor of California, by
virtue of Authority in him vested granted to said
Juan Malasin the tract of land called "Chualar" in
the present county of Monterey, with the boundaries
described in said grant, containing two square
leagues a little more or less, which grant was ap-
proved on the 26th day of May, A. D. 1840, and the
Judicial possession given on the 10th day of Dec.
A. D. 1840; all of which is shown by the original
title papers on file in this case.

And the petitioners further represent that
the said Juan Malasin died in the latter part of
1848, leaving the petitioners his widow and only
children, as is fully shown by his last will and
testament proved in this case.

That the said Juan Malasin and the
petitioners have been for some fourteen years, &
that the petitioners now are, in the quiet, peaceful
and undisputed possession of the said tract of land.

The petitioners rely for confirmation of
title upon the original papers on file in this
case, the Archives of the former government
and the evidence already adduced, and such
other and further proofs as they may be

7
amended are necessary.

Wherefore they pray the Commissioners to confirm to them the said tract of land.

By their Attorneys

(Signed) Halleck, Peachy & Billings.

Filed in Office April 11th 1853.

(Signed) Geo. Fisher,

Secretary.

No. 154.

Claim of M. Malasin Executor &c.

Motion to substitute Amended Petition. Moved, That the amended petition filed in this case on the 11th of April 1853 be admitted and considered as a substitute for the original petition.

(Signed) Halleck, Peachy & Billings,
Atty for claimant.

Filed in Office Sept. 23rd 1853.

(Signed) Geo. Fisher

Secretary.

Motion and
Order of Court.

On Motion of A. C. Peachy, it was ordered by the Board, that the will of Juan Malasin as filed and proved in case no. 152 may be filed in cases nos. 151 & 154 - and shall be considered as being in evidence in said cases and as proved to the same extent as it is proved in the case in which it was originally filed. - It is further ordered that the Secretary shall file certified copies of said will in Cases 151 & 154, together (with) certified copies of the depositions by which the same is proved in the case in which the said depositions were taken.

Filed in office Feb. 14th 1854

(Signed) Geo. Fisher, Secy.

J

San Francisco April 7th 1852

Deposition of
David Spence.

110 SD

PAGE 9

On this day before Meand Hall one of the Commissioners for ascertaining and settling private land claims in the state of California, came David Spence a witness in behalf of the claimants in case number 154 in the docket of the Commissioners, and was duly sworn.

The Law Agent was duly notified and attended by Mr. Greenhow.

In answer to inquiries propounded in behalf of the claimants, the witness testified as follows:

My name is David Spence, my age is 53 and I reside in Monterey, where I have resided for the past twenty eight years. I am acquainted with the handwriting of Manuel Furiendo, Francisco G. Arce, Alvarado, Juan Malarin, Sumecindo Flores, G. de la Torre, Terano Gonzalez, and I know their signatures, an original paper now shown me relating to the title, and judicial possession of the claimant bears upon it the signatures of the said several persons, which signatures I have no doubt are genuine. My own genuine signature appears upon said paper in several places. I gave judicial possession of the land as Alcalde, as stated in said paper. I have compared said original papers with paper marked C. filed in the office of the Secretary of the Board, and I find the latter to be a true copy of said original. I know the land described in the papers. The late Juan Malarin was in possession before judicial possession was given. There was then a wooden house on it. He and his heirs have cultivated and kept stock on the land ever since, and I

9

Know of no conflicting claim.

Sworn subscribed } (Signed) David Spence
before me,

(Signed) Isaac Adams,
Commissioner.

110 SD
PAGE 10

10

Filed in office April 7th 1852
(Signed) George Fisher,
Secretary.

San Francisco March 29th 1853.

On this day before Commissioner J. J. Thomson
Deposition of came David Spence, a witness in behalf of the
David Spence, claimant Mariano Malarin, petition no. 154 and
was duly sworn - his evidence being given in
English

In answer to enquiries by the counsel for
the claimant, the witness testified as follows;

My name is David Spence, my age is 55 years
I reside in Monterey and have lived in California
about 29 years.

I have examined the document attached
to my deposition in case no. 152 marked Exhibit
no. 1 and dated Sept. 1st 1848 and purport-
ing to be the last will of Juan Malarin; it is
a genuine document. It was executed in my
presence, and the signature of D. Spence is my own
signature; all the other signatures are also genuine.
Juan Malarin died a short time after executing
this will; he left no other children than those
mentioned in this will. The widow and children
there mentioned are still living.

The Rancho called "Guadalupe" and

mentioned in this will as containing a little more than six leagues is made up of four separate grants, called "Guadalupe", "Llanos de los Coahuas", "Sanjones" and "Chualar", all of which tracts lie together and constitute the rancho called "Guadalupe". My own rancho lies next to this land, and I am perfectly well acquainted with it.

110 SD
PAGE 11

I have examined the document attached to this deposition and marked exhibit No. 1 purporting to be the grant for "Chualar", the signature of Manuel Bimend is his true and genuine signature. I am well acquainted with his handwriting, having often seen him write. The entire document is in his handwriting.

My Law Agent presents (Signed) D. Spence.

Sworn to and subscribed }
before me this 29 of March 1853 }

(Signed) Harry J. Thornton,

Filed in Office Mar. 29 1853 Commissioner,

(Signed) Geo. Fisher
Secretary.

San Francisco March 29 1853.

On this day before me H. J. Thornton came Deposition of David Spence, a witness on behalf of the claimant, Mar- David Spence, lano Malerin, petition number 152, and was duly sworn, his evidence being given in English.

11

In answer to inquiries by the counsel for the claimant, the witness testified as follows:

My name is David Spence, my age is 55 years, I reside in Monterey and have lived in California about 29 years.

I have examined the document attached

11

110 SD
PAGE 12

to this deposition and marked Exhibit No. 1, and dated September 1, 1848, and purporting to be the last will of Juan Malain. It is a genuine document. It was executed in my presence, and the signature of J. Spence is my own signature; all the other signatures are also genuine. Juan Malain died a short time after executing this will; he left no other children than those mentioned in this will. The widow and children there mentioned are still living. The rancho called "Guadalupe" and mentioned in this will as containing a little more than six leagues is made up of four separate grants, called "Guadalupe", "Hano de los leones", "Sanjones", and "Chualar", all of which lie together and constitute the rancho called "Guadalupe". My own Rancho lies next to this land and I am perfectly well acquainted with it.

12

Swoon and subscribed } J. Spence,
before me this 25th March 1853 }

Henry J. Thomson Commissioner &c.

I, George Fisher, Secretary to the United States Land Commission to ascertain and settle the private land claims in the State of California, do hereby certify that the foregoing is a true and correct copy of a document in case No. 152 wherein J. Malain Malain claims the Rancho of Guadalupe now on file in this Office,

In testimony whereof I have hereunto subscribed my name. Office of the Secretary of the above named Commission San Francisco Cal. this 14th day of February A. D. 1854

Filed in office Feb. 14 1854. (Signed) George Fisher,
Signed Geo. Fisher Secy. Secretary.

12

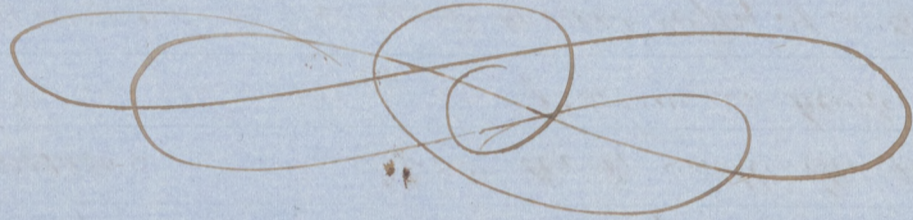
Doc. Marked
-C"

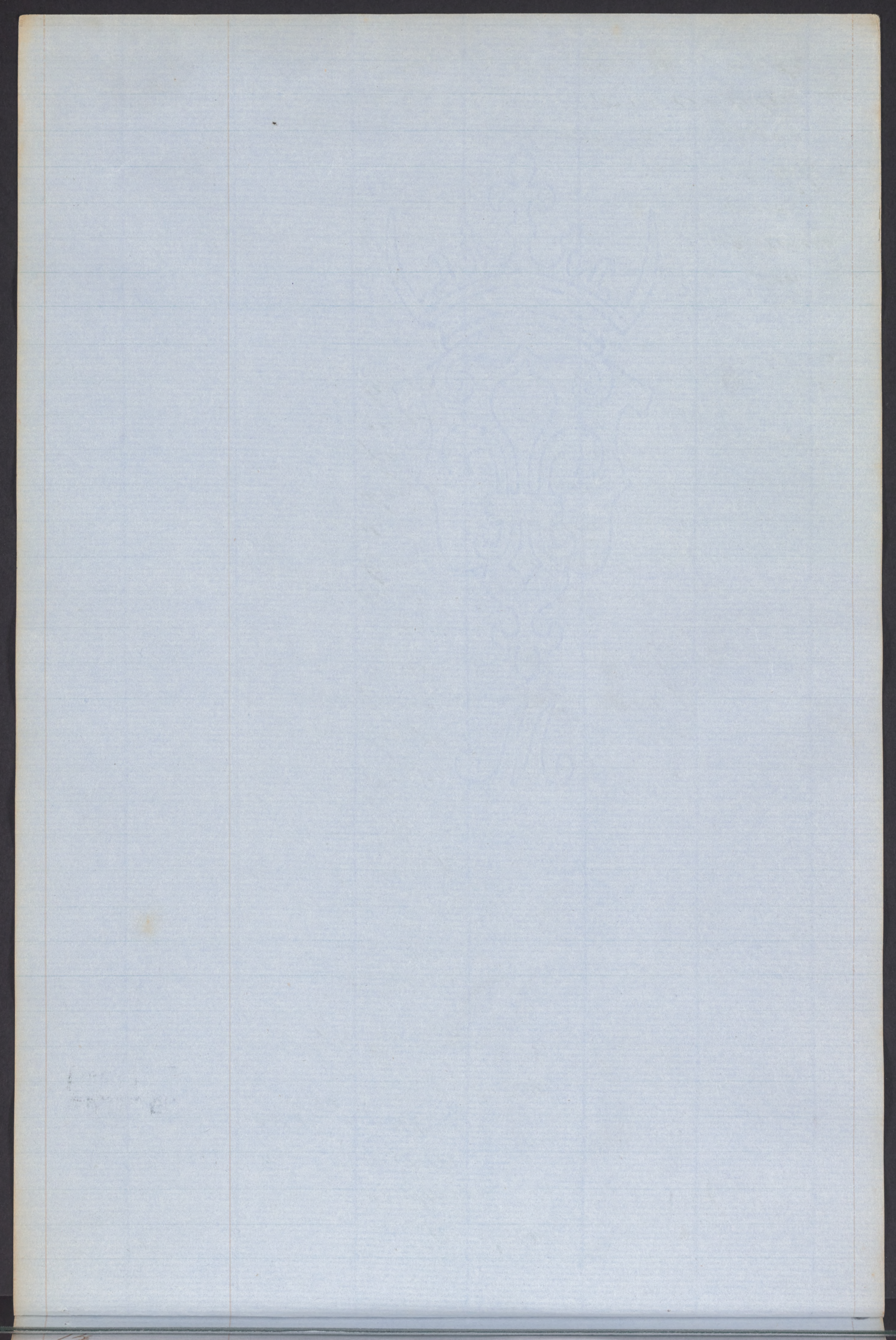
Monterey

1848

110 SD
PAGE 13

Conscecion y posesion del
Rancho llamado Chualar al Ciudadano
Juan Malarin dado el dia 10
de Diciembre de 1848.





Sello \$^o Seis Pesos
 Habilitado provisionalmente por la Aduana
 Maritima de Monterrey para los años de
 1839 y 1840.

Alvarado.

Antonio M. Osio

110 SD
 PAGE 14

L. S.
 Manuel Jimeno Casarin pri-
 mer vocal propietario de la Ex-
 ma Junta del Departam^{to} de las Cal-
 ifornias en ejercicio del gobierno del
 mismo.

Por cuanto D.^a Juan Malerin
 ha pretendido para su beneficio
 personal y el de su familia el
 terreno conocido con el nombre del
 Chualar, colindante con el rancho
 de D.^a David Spence, con el de el
 Ciudadano Gabriel de la Torre, con
 el rio de Monterrey, y Sierra de
 Santa Fe que ha conseguido,
 para agregarlo al rancho que
 ocupa; practicadas previamente
 las diligencias y averiguaciones
 convenientes segun lo dispuesto
 por leyes y reglamentos; usando
 de las facultades que me son
 conferidas a nombre de la Nacion
 Mexicana he venido en concederle
 el mencionado terreno del Chualar,
 declarandole la propiedad
 de el por las presentes letras,
 sujeto a la aprobacion de la

Exoma. Junta Departamental, y á las condiciones siguientes.

1.^a Podrá cercarlo sin perjudicar los tranvías caminos y servicios, lo disfrutará libre y exclusivamente destinándolo al uso ó cultivo que mas le acomode.

110 SD

PAGE 15

15 2.^a Cuando se le confirme la propiedad, solicitará del juez respectivo, que le dé posesion jurídica, en virtud de este Despacho, por el cual se demarcarán los linderos, en cuyos límites pondrá unas de las mojoneras, algunos arboles frutales de alguna utilidad.

3.^a El terreno de que se le hace donacion para agregarlo al que ocupa, es de dos sitios de ganado mayor, mas ó menos, segun se plica el diseño que corre en el Expediente, el juez que diere la posesion lo hará medir conforme á ordenanza para señalar los linderos quedando el sobrante que resulte á la Nacion para los usos convenientes.

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

En consecuencia mando que sirviendole de título el presente, y terminado por firme y valiendo se tome ragon en el Libro á que corresponde, y se entregue al interesado para su resguardo, y armas firmes. Dado en Montevideo á siete de Septiembre de mil ochocientos treinta y nueve.

Mano. Jimeno.

Francisco C. Arce, Oficial 1.^o

Queda tomada razon de este Despacho
en el Libro de acientos sobre adjudica-
cion de terrenos baldios a f.^a 10.^o
Arce.

110 SD
PAGE 16

Sello Tercero Dos Reales.

Habilitado provisionalmente por la Adu-
ana Maritima del Puerto de Monterrey,
en el Departamento de las Californias,
para los años de mil ochocientos cuarenta
y mil ochocientos cuarenta y uno.
Alvarado. Antonio Maria Osio.

J. P. Juan B. Alvarado Goberna-
dor del Constitucional del Departa-
mento de las Californias.

La Exma Junta Departamental
en acuerdo del dia (veinte y seis) 26
de Mayo del presente año de 1840, a-
probo el dictamen de la Comision de A-
gricultura que concedio en el Expediente
instruido sobre el terreno Chualar,
adjudicado a D. Juan Malarin por
seccion que en su favor hicieron los Srs.
Estrada en 6 de Set. de 1839; cuyo ar-
ticulo con que concluyo dice asi.

Se aprueba la concesion hecha
por el Gobierno Departamental del para-
je nombrado el Chualar en la persona
de D. Juan Malarin."

Y en cumplimiento del decreto
de 12 de Junio ultimo, constante en el

Expediente referido se libra el presente testimonio a la parte interesada para su seguridad y constancia.

Monterrey 23 de Julio de 1840
Alvarado

Man. Jimeno
Eris.

110 SD
PAGE 17

17

Sello Tercero Dos Reales.
Habilitado provisionalmente por la Aduana
Maritima del puerto de Monterrey, en el
Departamento de las Californias, para
los años de mil ochocientos cuarenta y uno
ochocientos cuarenta y uno.

Jimeno. Antonio Maria Eris.

El Ciudadano, Juan Malarin
ante V. con el debido respecto dice: que
haviendo obtenido la concepcion propia del
terreno conocido con el nombre de Chualar,
ocurre ante V. p.^a q. se sirva darle la po-
sicion juridica conforme esta prevenido en
el articulo 2.^o del titulo de dicho terreno
q. se le expedio en 7 de Sepre. del año pp.^o
que devidamente acompaño, e igualmente
la confirmacion respectiva, p.^a todo otro los
efectos deseados. Por Tanto.

A. V. suplica se sirva ponerlo en la
posicion que solicita en lo q. recibirá jus-
ticia &c.

Monterrey Dre. 7 de 1840.
Juan Malarin.

Monterrey 7 de Dict. de 1840

110 SD
PAGE 18

Por presentado y admitido, procedi-
se por mi el presente Juez de Paz á la
Medicion Señalam^{to}. de linderos y pose-
cion judicial q. solicita el interesado en
esta instancia. Acordandose para ejecu-
tarlo el dia diez del presente mes para lo que
se citaron con boleto de comparendo á los
colindantes. Asi go el Juez de Paz Con-
stitucional lo deciente mande y firme ~~en~~
con los de asista.

D. V. Spence.

ast.
Juan^{do} Flores.

ast.

En la fha presente el C. Juan Ma-
larin se le notificó el auto q. antecede y
entendido dijo: lo oye y que se dá por ci-
tado firmando conmigo y los de ast.

Spence.

ast.
Juan^{do} Flores.

ast.

En la misma fha se libraron las
boletas que se mandan en el antec^{do} au-
to y p. Const. lo anoto y rubrico

D. S.

Rubric.

Sello Terreno Dos Reales.
Habilitado provisionalmente por la Aduana
Maritima del puerto de Monterrey, en el De-
partamento de las Californias, para los

Años de mil ochocientos cuarenta y mil
ochocientos cuarenta y uno.

De orden. Antonio Maria Osio.

Rancho de Guatara 18 de Dic.^o de 1840

110 SD
PAGE 19

19

Presentes los Colindantes David Spence,
Gabriel de la Torre, y Teodoro Gonzalez,
nombró por medidores a los C. C. Guadalupe
Cantua y Serafino Gavino, p.^a la medi-
cion señalam.^{to} de linderos y posesion del C.
Juan Malarin quienes por la aceptacion
y juram.^{to} procederán al desempeño de su
encargo. Asi yo el juez de Paz Constitucio-
nal de Monterey lo decreté mande y firmé
con los de as.^a

David Spence.

as.^a
Juan^o Flores.

as.^a

En la misma fha presentes los C. C.
Guadalupe Cantua y Serafino Gavino,
se les notificó el auto de su nombram.^{to} y
de él entendidos dijeron lo oyen: que acepta-
ron jurando por Dios Nuestro Señor y
la Señal de la Santa Cruz conforme a de-
creto, de usarlo fiel y legalmente a to-
do su leal saber y entender sin fraude con-
tra persona alguna, y no firmaron por
no saber, lo hizo yo con los testigos de
asistencia.

Spence

as.^a
Juan^o Flores

as.^a

110 SD
PAGE 20

Y encontinente yo el referido Juez mande traer á mi presencia el cordel con que se han de medir las tierras, y los expresados medidores lo tomaron y ante mi con una vara ^{de medir} usaron el Mexicana midieron cincuenta varas para hacer la medida, y lo firmo con los de ast.^a

Spence.

ast.
Juan D. Floris.

ast.

En el mismo paraje, día mes y año, siendo las nueve del día yo el Sello Tercero Dos Reales.

Habilitado provisionalmente por la Aduana Maritima del Puerto de Monterey, en el Departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

Reimeno.

Antonio Maria Osio.

= presente Juez Constitucional mande á los medidores nombrados se dispongan p.^a la medida de tierras que se le han de hacer al C. Juan Malvarin y puestos en los tres Encinos punto del Monte linderos de David Spence, se comensó la medida tirando el cordel por el orilla del Monte hasta los Sausitos linderos de Gabriel de la Torre veinte y dos Cordales de á cincuenta varas, y de la misma medida hasta los diez alisos en el llano E. 1/4 S. ochenta y cuatro Cordales, y desde los alisos E. 1/4 N. E. (dejando afuera un chupadero) hasta el Saues en la boca de la Cañada ciento

cincuenta y seis corrales, quedando dho.
 Cañada lindero de Teodoro Gonzalez hasta
 el alamo, cuarenta corrales más p. la
 Sierra, tirando N. O. hasta volver á los
 linderos del Sr Spence seis mil varas,
 y en línea recta hasta volver al punto
 del Monte en donde empezamos las me-
 didas doce mil quinientas varas, re-
 sultando p. las medidas echas dos si-
 tios de ganado Mayor, poco más ó
 menos. En cuyas Audiencias mande se
 formaran las mociones correspondientes
 que señalen los linderos que le pertenecen,
 y lo firmaron conmigo los colindantes,
 el interesado y los testigos de asisten-
 cia.

Dho. Spence. G. de la Torre.
 Juan Malaxin.
 Teodoro Gonzalez.

as^a
 Gum.º Flores as^a

En el Rancho de Chualar á
 los diez días del mes de Diciembre de
 mil ochocientos cuarenta, yo el juez
 de Paz de Monterrey, después de prac-
 ticadas las medidas del mencionado
 rancho, por lo que resultó tener dos si-
 tios de ganado =

Sello Fiscal Dos Reales.

Habilitado provisionalmente por la Adu-
 ana Marítima del puerto de Monterrey,
 en el Departamento de las Californias,
 para los años de mil ochocientos cua-

venta y mil ochocientos cuarenta y uno.

Heimund. Antonio Maria Esio.

= de Ganado Mayor, y presentes los colindantes D^o David Spence, D. Gab^o de la Torre, y D. Teodoro Gonzalez, siendo estos conformes con lo demas q^e consta de autos, mande que entrase en posesion del mencionado rancho el Sr. Juan Malarin bajo las medidas citadas y formalidades acostumbradas en estos casos, lo q^e verifico inmediatamente arrancando cercas y haciendo mostraciones como dueño del terreno de que se le ha dado juridica posesion, cuya validacion la autorizo firmando con los colindantes interesados y de asistencia.

D^o Spence. G. de la Torre.

Juan Malarin. Teodoro Gonzalez

as^a
Germ^o Flores.

as^a

Monterey 14 de Dicre 1840.

Fomase razon en el libro de posesiones y devolvase este Expediente original al interesado, para que le sirva de titulo. Asi yo el Juez de Paz Sr. David Spence lo decrto mande y firme con los de asistencia

D^o Spence.

22

as^a
Germ^o Flores.

as^a

En la misma fha. se tomo razon en la foja 11 del libro respectivo y se de

22

resolvió el Expediente original al Sr. Juan
Malarin fojas útiles en cumplimiento
de lo mandado en el antecedente
auto, y para constancia lo pase por
esta que rubrico.

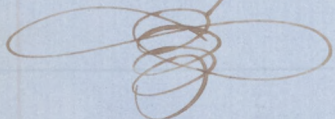
110 SD
PAGE 23

Dubrie.

23

Filed in Office Apr. 2^a 1853.
(Signed) Geo. Fisher
Sry

Doc. No. 1. N.º 1.
Annex to the
Deposition of
David Spence



110 SD
PAGE 24

Sello Fucero Los Reales.

Habilitado provisionalmente por la Aduana Ma-
ritima del puerto de Monterrey, ^{en el Depar-} ~~para los años~~
tamento de las Californias para los años de mil
ochocientos cuarenta y mil ochocientos cuarenta y ms.
Acuerdo. Antonio Maria Osio.

Excmo. Sr. Manuel Jimeno Casarín, 1.º Vocal
Excmo. Sr. propietario de la Excmo. Junta Departam-
ental en ejercicio del Gobierno del mismo.
Por cuanto Dr. Juan Malvarín ha pretendido p.
su beneficio personal y el de su familia la es-
tension del terreno nombrado Chasalar al para-
ge que ocupa de Guadalupe, colindante con el
rio de Monterrey, con el rancho de Dr. David
Spence, Sierra de San José y los Sanjones;
practicadas previamente las diligencias y a-
periguaciones concernientes segun lo dispuesto
por leyes y reglamentos: usando de las facult-
ades que me son conferidas a nombre de la
Nacion Mexicana he tenido por decreto de este dia
en concederle el terreno mencionado declarandole
la propiedad de él por las presentes letras, sug-
tandose a la aprobacion de la Excmo. Junta
Departamental y a las condiciones siguientes.
= Podrá cercarlo sin perjudicar las trabe-
cias, caminos y servidumbres lo disfrutara
libre y esclusivamente destinandolo al uso ó
cultivos que mas le acomode. = 2.ª Cuando se
le confirme la propiedad solicitará del juez
respectivo que le dé posesion juridica en vir-
tud de este despacho por el cual se demar-
carán los linderos en cuyos limites pondrá
ámas de las mojones algunos arboles fru-
tales ó silvestres de alguna utilidad = 3.ª

El terreno de que se hace donacion es de dos sitios de ganado mayor, poco mas o menos segun explica el disenio que corre en el Especifico. El Juez que diere la posesion lo hara medir conforme a ordenanza, quedando el sobrante que resulte a la Nacion para los usos convenientes = 4.^a Si contraviniere a estas condiciones perderá su derecho al terreno y será denunciado por otro. = En consecuencia mando que sirviendole de titulo el presente y testimoniandose por firma y valdero se tome razon de él en el libro a que corresponda y se entregue al interesado para su resguardo y demas fines. = Dado en Monterrey a siete de Septe. =

Sello Tercero dos Reales.

Habilitado provisionalmente por la Aduana Maritima del Puerto de Monterrey, en el Departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

Himeno. Antonio Maria Osio.
G. J. = de mil ochocientos treinta y
S. J. = nueve = Manuel Jimeno =
Francisco C. Arco = Oficial Primero.

Es copia fielmente sacada del original,
que obra en la Fria del gobierno.

Man. Jimeno.

Filed in Office Mar. 29th 1853.

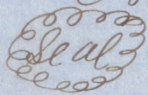
(Signed) Geo. Fisher,
Secy.

Seal of the First class Six Dollars.

Authorized provisionally by the collector of the Custom house of Monterey for the years 1839 & 1840.

(Signed) Alvarado. (Signed) Antonio Maria Osio.

D.
Translation.



Mmanuel Jimeno Casain, primer vocal propietario of the Most Excellent Departmental ~~Gov~~ =
the Legislature of California, Acting as Governor of the same.

Whereas D. Juan Malvarin has solicited for his personal benefit and that of his family the land known by the name of Chualar, bounded by the Ranchos of Gabriel de la Torre and David Spence, by the River of Monterey and the mountains of Santa Fe which he has to unite it with the rancho occupied by him; the requisite proceedings and investigations having been previously taken and made with conformity with the laws and regulations; I have in virtue of the powers conferred upon me, in the name of the Mexican Nation, granted unto him the said land of Chualar, declaring unto him the ownership thereof by these present letters, subject to the approval of the Most Excellent Departmental Legislature and on the following conditions:

1st He may enclose it without prejudice to the crossings, roads and privilege, he shall enjoy it freely and exclusively, destining it to the use and cultivation which may best suit him:

2^a When the ownership is confirmed to him he shall solicit the respective Magistrate to give him judicial possession in virtue of this Title, and said Magistrate shall designate the boundaries, on the limits of ~~itself~~ he shall besides the land-marks place some fruit-trees or wild ones of some utility:

3^a The land whereof donation is made to him

to unite it with that he now occupies, consists of two square leagues (dos sitios de ganados mayores) little more or less, as appears by the plot annexed to the proceeding. The magistrate who gives possession shall cause it to be measured according to law in order to designate the boundaries, and the surplus which may result shall remain for the Nation for the necessary uses.

27

110 SD
PAGE 27

4th. If he transgress these conditions he shall lose his right to the land and it may be denounced by another.

I consequently command that these presents serving him for a title, and being held to be firm and valid, be recorded in the corresponding book, and delivered to the party interested for his safety and further uses. Given in Monterey on the seventh day of September Eighteen hundred and thirty nine.

(Signed) Manuel Jimeno.

(Signed) Francisco Arce - 1st officer.

A record of this title has been made in the book of entries of titles upon the adjudication of lands applied to.

(Signed) Arce.

Seal of the Third class - Two reals.

Authorized provisionally by the collector of the Maritime Custom-house of Monterey in the Department of California for the years One thousand Eight hundred and forty and One thousand Eight hundred and forty one.

(Signed) Alvarado (Signed) Antonio M^o. Pico.

Seal

Juan B. Alvarado Constitutional Governor of California.

27

110 SD
PAGE 28

In a resolution of the 26th of May of the present year 1840, the most Excellent Departmental Legislature, approved the proposal of the Committee of Agriculture, who examined the Expediente of the land Chualar, adjudged to D. Juan Malarin, by a concession made in his favor by Mess. Estrada on the 6th of September 1839 which last article says the following:

The grant made by the Departmental government of the land known by the name of "Chualar" to Don Juan Malarin is approved.

And in the fulfillment of the decree of the twelve of last June as appears in the aforesaid Expediente; the present testimony is given to the party interested for his safety. Monterrey 23^d of July 1840.

(Signed) Alvarado.

(Signed) Manuel Jimeno, (Secretary.)

To the Justice of the Peace of Monterrey. -

Juan Malarin a Mexican citizen says, That having obtained the proper grant of the land known by the name of Chualar, he requests that you would be pleased to give him judicial possession thereof, in conformity with the requirements of the 24th Article of the title to said land, which was given on the seventh day of September of last year, and which is duly accompanied together with the respective approval, in order that the whole may produce the desired effect; and therefore I request that you would be pleased to give me the possession which I solicit, whereby I shall receive favor and justice.

Monterrey 7th December 1840.

(Signed) Juan Malarin.

Monterey 7th December 1848.

110 SD
PAGE 29

29 Considered as presented and admitted, I, the present Justice of the Peace, will proceed to effect the measurement, designation of boundaries and judicial possession solicited by the party interested in this petition; fixing as the day for putting it into execution the tenth day of the present month in order to which the neighboring land-holders shall be summoned. Thus I, the Constitutional Justice of the Peace did decree, Command and sign with the assisting witnesses,
 (Signed) David Spence.
 (Signed) Gumeo Flores.

On the same date the summons ordered in the foregoing decree were dispatched, and in testimony thereof I note it down and sign with my scroll.
 D. S.

Rancho del Chualar December 10th 1848, Being present the neighboring land-holders, David Spence, Gabriel de la Torre and Pedro Gonzalez, I appointed as measurers Citizens Guadalupe Cantua and Serapio Gavino for the measurement, designation of boundaries and judicial possession of the C. Juan Malarin, who after accepting the appointment and taking oath will proceed to comply with their commission. Thus I the Constitutional Justice of the Peace of Monterey did decree, Command and sign with the assisting witnesses.

Assisting witness. (Signed) David Spence,
 Gumeo Flores.

29

110 SD

PAGE 30

On the same date being present citizens Guadalupe Cantua and Serafin Savino, the decree of appointment was notified to them, and having understood it said that they accepted it and did accept it, and swore by the Lord our God and the sign of the cross that they would exercise the functions of said appointment faithfully and legally to the best of their knowledge and ability, without fraud towards any person, and they did not sign because they said that they could not write and I signed with the assisting witnesses.

Assisting witness (Signed) Spence.
Gumecindo Flores.

At the same moment I the said Justice ordered the cord wherewith the land was to be measured to be brought into my presence, and that the measurers should make of the length of fifty varas and I signed with the assisting witnesses.

Assisting witness (Signed) Spence.
Gumecindo Flores.

Immediately in presence of me the said Magistrate, the said measurers took a hempen cord, and with a common Mexican vara rod measured off fifty varas to make the measurement with, and I signed with the assisting witnesses.

Assisting witnesses. (Signed) Spence.
Gumecindo Flores.

30

On the same spot, day, month and year being at nine o'clock of the day, I the present Constitutional Justice commanded the appointed measurers to get ready for measuring the land.

to Citizen Juan Malario, and placing themselves on the three oak trees, a point of the woods, situated on the boundaries of David Spence, the measurement was commenced going to the Sancitos, the boundaries of Gabriel de la Torre, to where twenty-two coras of fifty varas were counted; and from the Sancitos until the ten alisos on the plain going $\text{E } \frac{1}{4} \text{ S}$. Eighty four coras of fifty varas were counted; from said ten alisos going $\text{E } \frac{1}{4} \text{ N. E.}$ (remaining out one Chapadero) until the Sanco in the entrance of the Cañada one hundred and fifty six coras; remaining the said Cañada the boundaries with Teodoro Gonzales until the Alamo situated forty coras more towards the hills; going N. W. until the boundaries of Mr. Spence six thousand varas ~~was~~ counted, and going in a straight-line until the point of the woods where the measurement was commenced, twelve thousand five hundred varas were counted — The land measured — consists of two square leagues little more or less; at which points I ordered the corresponding landmarks to be formed to designate the boundaries belonging to him, and the interested party, together with the neighboring land holders and the assisting witnesses signed with me.

(Signed) Gabriel de la Torre, (Signed) David Spence.

" Juan Malario,

" Teodoro Gonzales.

Assisting witness, Sumecinas Flores.

In the Rancho of Chualar on the tenth day of December Eighteen hundred and forty, I the Justice of the Peace of Monterey, after having concluded the

measurement of the said farm, which gave a result of two square leagues, and being present the owners of the immediate adjoining ranchos citizens David Spence, Gabriel de la Torre and Teodoro Gonzalez, and agreeing to all that appears in the proceedings, I commanded that Sr. Juan Malarin should enter into pacific possession of said rancho according to the aforementioned measurement, and the formalities customary in like cases, which he put into execution immediately, tearing up grass, and making demonstrations as owner of the land whereof possession has been given to him; the validity of which I authorize and sign with the owners of the adjoining farms, the party interested and the assisting witnesses.

(Signed) Gabriel de la Torre. (Signed) David Spence.

" Juan Malarin.

" Teodoro Gonzalez.

Assisting witness Benecinto Flores.

Monterey 14th December 1840

Let a record be made in the book of possessions, and let this original Expediente be returned to the party interested in order that it may serve him for a title, Thus I, the Justice of the Peace, Citizen David Spence did decree, command and sign with the assisting witnesses.

Assisting witness. (Signed) David Spence.

Benecinto Flores.

On the same date a record was made in the eleventh folio of the book ordered in the foregoing decree, and the original expediente was returned to citizen Juan Malarin, consisting

32

of seven useful folios, in testimony whereof I write
it down and sign with my scroll.

Signed with Pontecis scroll.

110 SD

PAGE 33

33

Filed in Office April 24 1852

(Signed) George Fisher,
Secretary.

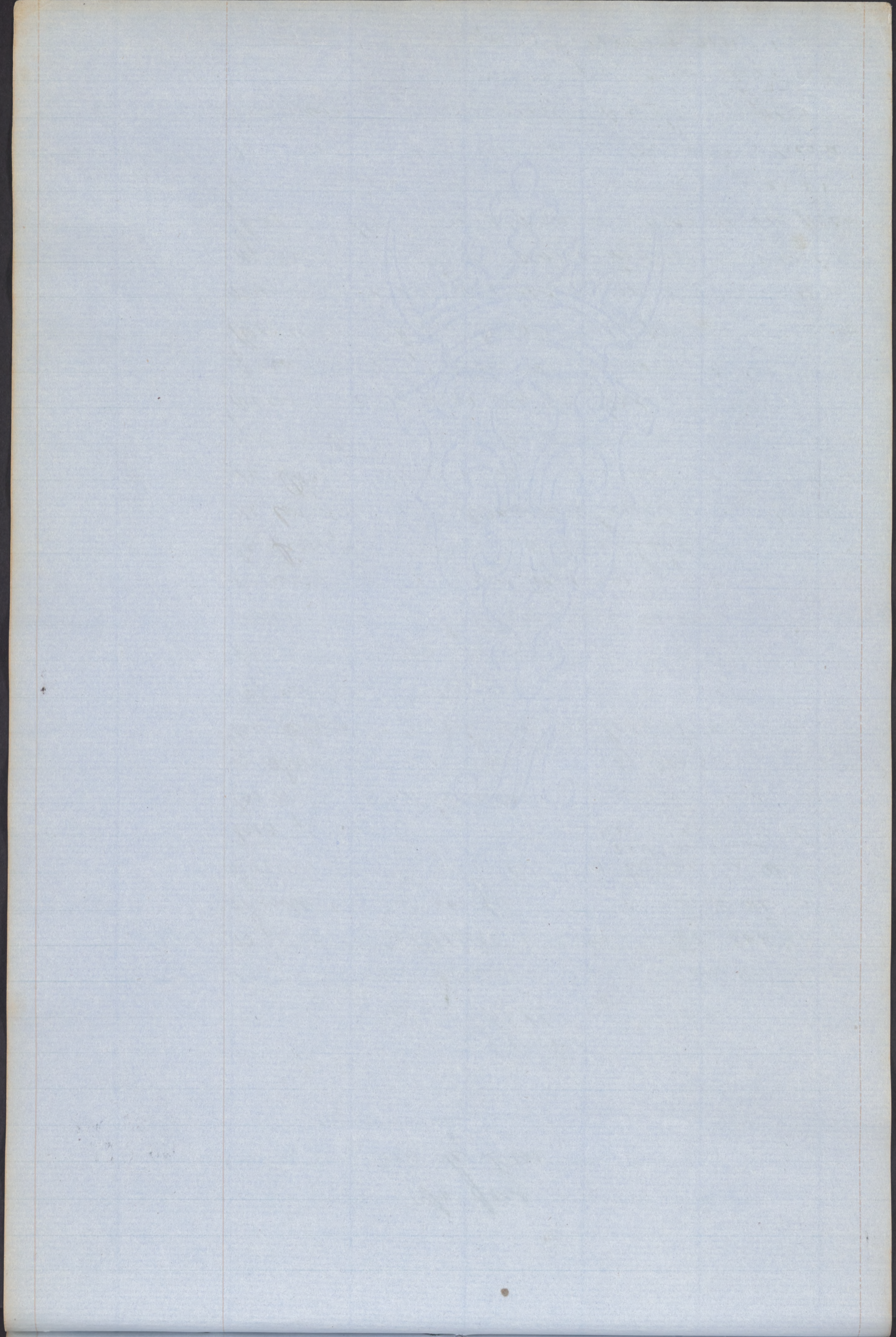


33

Doc marked
No 1.

110 SD
PAGE 34

Testamento of Juan Mal-
arin otorgado el 1.^o de Septiembre
de 1848.



En el nombre de Dios Todopoderoso,
Amen. Yo Juan Malarin, natural
de la Ciudad de Lima, y vecino de este
puerto, hijo legítimo de legítimo matrimo-
nio de D. Nicolas Malarin y de Doña
Cecilia Tiron difuntos, naturales tam-
bien de Lima, hallandome por la divina
misericordia bueno y sano, y en mi ento-
ro juicio, creyendo y confesando, confirme-
mente creo y confieso, el misterio de la
Trinidad, Padre, Hijo y Espiritu Santo,
tres personas que aunque ^{realmente} distintas tienen
los mismos atributos, y diversas misterios
y Sacramentos que creo y confieso mues-
tra Santa Madre la Iglesia Católica,
Apostólica Romana, en cuya verdadera
fé y creencia he vivido, vivo y protesto
morir, como Católico fiel cristiano, to-
mando por mi interesora y protectora á
la Siempre Virgen é inmaculada Reina
de los Angeles, Maria Santísima, Madre
de Dios y Señora nuestra, del Santo An-
gel mi custodio, los de mi nombre y de-
voción, y de mas de la Corte celestial,
para que impetren de nuestro Señor y
Redentor - Jesu Christo, que por los infinitos
meritos de su preciosísima vida, pasión
y muerte me perdone todas mis cul-
pas, y lleve mi alma a gozar de su pre-
sencia: temeroso de la muerte, que es
tan natural y precisa á toda criatura
humana, como incierta su hora, para
estar prevenido con disposición testamen-
taria cuando llegue; resolver con maduro

acuerdo y reflexion todo lo concerniente al descargo de mi conciencia; evitar con claridad las dudas y pleitos que por su defecto pueden suscitarse despues de mi fallecimiento, y no tener á la hora de este, algun cuidado temporal que me obste pedir á Dios de todas veras la remision que espero de mis pecados: otorgo, hago y ordeno mi testamento en la forma siguiente:

Encomiendo mi alma á Dios, nuestro Señor, que de la nada lo creó, y mando el cuerpo á la tierra de que fué formado; el cual hecho cadaver, quiero se amortaje del habito de Nuestro Serafico Padre San Francisco, y sepulte en donde mis dolientes consigan.

Es mi voluntad que el dia de mi entierro, siendo hora, y si no en el inmediato se celebre por mi alma misa cantada de cuerpo presente.

Declaro me hallo casado legitimamente con D.^a Josefa Estrada, en cuyo matrimonio hemos procreado y tenemos por nuestros hijos legitimos á Isabel, Mariana, Concepcion, Ramona, Urbano, Maria, Refugio, Josefa, Cristina y Ygnacio Malarin, menores en la edad pupilar, menos el Lic. mi hijo Mariano y Concepcion que es casado, de los cuales y de los demas que procrearemos constante él, usando de las facultades que me confiere la Ley 3. tit. 16. de la Partida 6, nombro á mi hijo Lic. D. Mariano Malarin, por tutor y curador de mis menores hijos. Por lo que

suplico al Señor Juez ante quien se presente testimonio de esta Clausula, apruebe y confirme este nombramiento.

Declaro tener una casa en esta poblacion, que es en la que habito.

Item, Declaro tener un Rancho llamado "Guadalupe" el cual contiene seis sitios poco mas ó menos, de ganado Mayor, con dos casas de adobe, una techada con teja y la otra con tule, y dos corrales.

Item, Declaro tener tres mil reses, poco mas ó menos, entre rodeaderos y chichiguo.

Item, Declaro tener un poder de D. Anastasio Carrillo Setenta y seis yeguas, las que tengo con la tercera parte de la naciencia desde el año de 1843 y consta por su carta que esta inclusa en este mi testamento.

Item, Declaro tener en el poder del hijo de Juan Rosales una manada aburrada, por el sueldo que consta en el libro de cuentas del Rancho; y todas las yeguas, mulas y caballos que tengan mi fierro son de mi propiedad, menos el burro que pertenece á D. Antonio M^o. Osio.

Item, Declaro deberme el Gobierno Mexicano la cantidad de siete mil doscientos ochenta y dos pesos seis reales tres grs como consta por el certificado del S. Tesorero que va incluso en este mi testamento.

Item, Declaro tener en mi rancho quinientas borrigas de mi pertenencia, y ciento y setenta que estan unidas á las mias son de la propiedad de D. David Spence.

Para cumplir todas lo que contiene este testamento, nombro por mis albaceas

testamentarios, á mi esposa D.^a Josefa Estrada, á mi hijo, el Lic. D. Mariano Malavín, y á mi hijo político D. Rafael Estrada que se halla casado con mi hija Concepcion, y cada uno in solidum, y les confiero amplio poder para que luego que fallase se apoderen de mis bienes.

110 SD
PAGE 38

38

Hago presente á mis referidos albaceas, que si posterior á la fecha que otorgo este testamento adquiriere alguna deuda, ya sea p.^o documento mio, ó que aunque sea sin este, la acredite persona de conocida probidad, con quien puedo tener cuenta corriente, sea pagado de mis bienes.

Instituyo por mis unicos y universales herederos á los expresados Usadel, Mariano, Concepcion, Ramona, Urbano, Maria, Refugio Josefa, Cristina, y Ygnacio Malavín, mis diez hijos y de la referida D.^a Josefa Estrada mi mujer, y á los demas descendientes de legitimo matrimonio que tubiere al tiempo de mi muerte y deban heredarne, para que los hayan y lleven por su oram y grado, segun su representacion y lo dispuesto por las Leyes, con la bendicion de Dios y la mia.

(Y por el presente revoco y anulo todos los testamentos y demas disposiciones testamentarias que antes de ahora se formalizara por escrito, de palabra ó en otra forma, para que ninguno vuelga ni haga fe judicial ni extra-judicialmente excepto este testamento que quiero y mando se estime y tenga por tal y se observe y cumpla todo su contenido como mi ul-

—tina deliberada voluntad, ó en la via y forma que mejor lugar haya en derecho. Asi lo otorgo y firmo á primeros de Septiembre de mil ochocientos cuarenta y ocho; siendo testigos de su otorgamiento los vecinos de este lugar D. David Spence, D. Santiago Watson, Don José Amesti, D. Salvador Murrás y D. Rafael Sanchez.

D. Spence
Santiago Watson
Salvador Murrás

Juan Malarin
Rafael Sanchez
José de Amesti.

José Abrego, Tesorero Departamental de California.

Tesoreria Departamental de la Alta California

Certifico: que por el ajuste hecho por esta oficina al Sr. Ministro asante del Supremo Tribunal de Justicia de este Departamento, D. Juan Malarin alcanza la cantidad de siete mil doscientos ochenta y dos pesos, seis reales, tres granos. —
(# 7282. 6. 3.)

Monterey Junio 30 de 1846.
José Abrego.

D. George Fisher, Secretary to the United States Land Commission to ascertain and settle the private land claims in the State of California, do hereby certify that the foregoing is a true and correct copy of a Spanish document in Case N^o. 132, wherein Mariano Malarin claims the rancho of Guadalupe, now on file in this office.

39

110 SD
PAGE 40

40

In testimony whereof I have hereunto subscribed my name,
Office of the Secretary of the
above named Commission,
San Francisco, Calif. This
fourteenth day of February
A. D. 1854.

(Signed) Geo. Fisher
Secy.

Filed in Office Feby 14th 1854.
(Signed) Geo. Fisher
Secy.

In the name of Almighty God, Amen!

Translation of
Malain's will.

110 SD
PAGE 41

I, Juan Malain, born in the city of Lima, and a resident of this Port, legitimate son of the lawful wedlock of Don Nicholas Malain and of Dona Cecilia Tiron, deceased, natives also of Lima, being by the grace of God of sound mind, and full judgment, believing and confessing, as I firmly believe and confess, the mystery of the Trinity, Father, Son and Holy Ghost, Three Persons, who though really distinct have the same attributes; and the other mysteries and ~~statements~~ which I believe and confess, Our Holy Mother, the Catholic Apostolic Roman Church, in whose true faith and belief, I have lived, live and hope to die, as a faithful Catholic Christian, taking for my intercessor and protector the Ever Virgin and immaculate Queen of the Angels, Mary most Holy, Mother of God and Our Lady, of the Holy Angel my Guardian, those of my name and devotion, and the others of the Celestial Court, that they impetrate of our Lord and Redeemer, Jesus Christ, that by the infinite merits of his precious life, passion and death, he pardon me all my sins, and take my soul to enjoy his presence; fearing death which is natural and necessary to every human creature; and as its hour is uncertain in order to be provided with a ~~certamen-~~ tary disposition when it comes; to resolve with mature consideration and reflection whatever rests on my conscience; to avoid with clearness the doubts and disputes which may arise for want of it after my death, and to not have at the hour of (my death) any temporal care which might interfere with my asking of the God of All Truth the remission which I hope of my sins: I declare, make and ordain my will in the following form;

41

Recommending my soul to God, our

Lord who made it from nothing and consigning
the Body to the Earth of which it was formed, which
body I desire may be embrowned in the dress of
our Seraphic Father San Francisco, and buried where
my fall-heaven may assign it;

110 SD
PAGE 42

42 It is my will that on the day of my
burial, if there be time, and if not on the next day,
there be celebrated for my soul "Misa Cantada de
Suepro presente";

I declare that I am legitimately mar-
ried to Dona Josefa Estrada, in which wedlock we
have begotten and have as legitimate children
Isabel, Mariano, Concepcion, Ramona, Urbano,
Maria, Refugio, Josefa, Cristina and Ignacio
Malarin, minors subject to guardianship, except the
Licentiate, my son Mariano and Concepcion who
is married, of whom and the others whom I may
beget, be it known, I, using the power conferred on
me by Law 3 tit 16 of Partida 6 appoint my
son the Licentiate Don Mariano Malarin, tutor and
guardian of my minor children. Wherefore I pray
the Judge before whom testimony of this beause may
be presented to approve and confirm this appointment.

I declare that I own a house in this
Town, which I now inhabit;

Item I declare that I own a Rancho called
"Guadalupe", which contains a little more than six
square leagues, with two adobe houses, one covered
with tile and the other with tule, and two corrals.

Item. I declare that I have three thousand
head of cattle, a little more or less, including great
and small.

Item. I declare that I have in the possession
of Don Antonio Canillo seventy six mares of which

he is to have one third of the increase since 1843, as shown by his letter which is included in this my will:

Item. I declare that I have in the possession of the son of Juan Rosales a band of mares with Jack, as shown by the entry in the book of accounts of the Rancho; and all the mares, mules and horses which have my iron are my property except the Jack which belongs to Don Antonio Maria Osio:

Item. I declare that the Mexican Government owes me the sum of \$ 7282, 67.3 as shown in the certificate of the Treasurer included in this my will;

Item. I declare that I have in my Rancho 500 sheep belonging to me, and 170 with the others which belong to Don David Spence:

To carry into effect what is contained in this will, I appoint for my testamentary executor, my wife Doña Josefa Estrada, my son the Licentiate Don Mariano Malarin, and my son in law Don Rafael Estrada the husband of my daughter Concepcion, and each one in solidum, and I confer on them ample power to take possession of my property immediately after my death.

I direct my said Executors that if subsequent to the date of this will any debt is contracted, whether by my written document, or proven by the testimony of a person of known probity, it will be paid from my property.

43 I constitute as my only and general heirs the said Isabel, Mariano, Concepcion, Ramona, Urbano, Maria, Refugio, Josefa, Cristina and Ignacio Malarin, my ten children and my said wife Doña Josefa Estrada, and the other legitimate descendants which I may have at the time of my death, and who may be entitled to inherit, to have and to

hold, according to the order, grade and representation of each, and as provided by law, with the blessing of God and of me.

And I revoke and annul all wills and testamentary dispositions made by me heretofore in writing, by word of mouth or in any other manner, that they shall have no validity in court or extra judicially, except this will alone which I pray and direct to be considered, received and observed in all its parts as my last will in the way and form of law.

Thus I order and sign this first day of September A. D. 1848, being witnesses of its execution the residents of this place Don David Spence, Don Santiago Watson, Don Jose Amest, Don Salvador Munros and Don Rafael Sanchez.

(Signed) David Spence, (Signed) Juan Malacian.
 " Santiago Watson.
 " Salvador Munros.
 " Jose Amest - Rafael Sanchez.

110 SD

PAGE 44

44

44

110 SD
PAGE 45

Opinion of the Malaria, Heirs of Juan Malasini
Board delivered by deceased.
Commissioner Thomas
van Campbell. The United States

Josefa Estrada, widow and
Isabel, Mariana, Concepcion
Ramona, Urbano, Maria, Ref-
ugio, Josefa, Cipriana Ignacio

"Chualar"
Two square leagues.

The petitioners in this case
consist of the widow and children of Juan Malasini
deceased, and have established by satisfactory proof
their kinship, as they have alleged it to exist in their
Amended petition filed in pursuance of an order
of this Commission.

The grants upon which
they rely as evidence of their claim was granted
to their ancestor, Juan Malasini, on the 7th day of
September A. D. 1839 by Manuel Jimenez at that
time acting Governor. On the 26th day of May
A. D. 1840 said grant was duly approved, and
on the 10th day of December of the same year Judicial
possession was given by the proper officers. It is
proved by the deposition of David Spence that
the late Juan Malasini was in possession of the
land described in his grant before he received
the Judicial possession of the premises, and at
that time, that there was a wooden house on
the land. And he further states that the said
Malasini and his heirs have cultivated and
kept stock on the land ever since.

45

The grant was made
in September 1839, and the possession was
given on the 10th day of December 1840. The
proof shows that substantial improvements

had been made on the premises before possession was given and that the land had been cultivated. The evidence in this case is not dissimilar to the testimony in Number 151 which has been confirmed, and for the same reasons I think the proof in this case establishes a substantial compliance with the conditions upon which the original grantee took his grant. It is recited in the grant that it was sought for the purpose of uniting it with his Rancho, which he then occupied and was doubtless made in augmentation of that Rancho, called "Guadalupe", but the proof shows merits which would entitle the parties to a confirmation independent of its connection with any other grant.

The description of the land as given in the grant together with the record of Judicial measurement, sufficiently identify and locate the land, so that there will be no difficulty in ascertaining the precise tract granted. A Decree in conformity with this opinion will be accordingly entered.

Filed in Office Feb. 21st 1854
(Signed) J. P. Fisher, Secy.

Doña Extrata Ibarra, and
Decree of Confirmation Mariana, Isabel, Concepcion
Ramona, Refugio, Josefa, Chris-
tina, Ignacio Malarin Heirs
of Juan Malarin, deceased.

The United States

In this case on hearing the proofs and allegations it is adjudged by the Commission that the claim of the said petitioners is valid, and it is therefore decreed that the same be confirmed. The lands of which confirmation is hereby made are known by the name of "Chualar" and bounded and described as follows, to wit: Commencing at three oak trees, called a pocket of the woods situated on the boundary of of Maria Spence and running One thousand and One hundred varas to the San citor, the boundary of Gabriel de la Torre, thence running East $\frac{1}{4}$ South Four thousand and Two hundred varas to the ten axes on the plain, thence running East $\frac{1}{4}$ North East seven thousand and Eight hundred varas to the Saucer in the Entrance of the Canada, thence running towards the hills two thousand varas to the Alamo; thence running North West Six thousand varas and thence in a straight line to the point of the woods, being the place of beginning, the distance of Twelve thousand five hundred varas, containing in all two square leagues a little more or less.

47 It is hereby further decreed that Confirmation of the said described claim is made to the said petitioners in the following proportions, to wit: to Josefa Estrada the widow of Don Juan Maluin deceased, the one undivided half of said place called Chualar and to the other legal heirs of Juan Maluin deceased the remaining one undivided half to hold the same as tenants in common.

(Signed) Alpheus Felch

(Signed) Thompson Campbell,

(Signed) A. Aug. Thompson

Filed in office Feb 21 1854

(Signed) Geo. Parker, Secretary.

Commissioners

And it appearing to the satisfaction of this Board that the land hereby adjudicated is situated in the Southern District of California it is hereby

Ordered: that two Transcripts of the Proceedings and of the decisions in this case and of the papers and evidence upon which the same are founded, be made out, and duly certified by the Secretary, one of which Transcripts shall be filed with the Clerk of the United States District Court for the Southern District of California, and the other be transmitted to the Attorney General of the United States.

Office of the Board of Commissioners,

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

George Fisher, Secretary to
 the Board of Commissioners to ascertain and settle the Private
 Land Claims in the State of California, do hereby certify the
 foregoing *forty six* pages, numbered from
 1 to *6 1/2* both inclusive, to contain a true, correct and full Tran-
 scription 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, Case No. 154 on the Docket of the said Board,
 wherein *Mariano Malvarin*, Executor
 of the last will and testament of
 the said *Malvarin*, claims against the United States, for the place known by
 the name of "*Chualar*"



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

Geo. Fisher
[Signature]

110 110

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

No. 110. *Quat*

THE UNITED STATES,

^{vs.} 110

Mariano Malarin Exr. Ge.

"Chualar."

TRANSCRIPT OF THE RECORD

FROM THE
BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 154.

Filed, *November 8th* 1854.

J. E. Farr,
Clerk.

50

110 110

N^o 154



82
N^o 110.

U. S. District Court
Southern District.

The United States
vs.
Mariano Malerin
Exr.

Notice of appeal from Atty. Gen.

Filed Feb^y 27th 1857

53

J. E. Farr
clerk.

110 SD

PAGE 51

In the United States District Court for the
Southern District

110 SD
PAGE 52

The United States, appellants

vs.

The Heirs of Juan Malerin, appellees

} Answer of appellees

Mariano Malerin as executor of the estate of Juan
Malerin, Josefa Estrada de Malerin, widow, and Isabel
Malerin, Mariano Malerin, Concepcion Malerin,
Ramona Malerin, Urbano Malerin, Maria
Malerin, Refugio Malerin, Josefa Malerin
Cristina Malerin, and Zynario Malerin, children
and heirs of Juan Malerin deceased, the appellees,
appear by their Attorneys and for answer to the
petition of the United States filed herein, say:

That their title to the land called "Circular"
as set forth and described in their amended petition
to the Board of Commissioners, and in the documentary
and other evidence filed in this case, is a
good & valid title. The land claimed is situated
in the Southern District of California.

Wherefore they pray this Honorable Court
to affirm the decision of the Board of Commissioners
and to decree their title to be valid

Hallam Peckey & Billings
Atty for appellees

Marshall cert for services

\$3.00

The United States, appellants

Vol 110

vs.
The heirs of George S. Marshall
appellants

Sum of appelles

Edward Hunt
W.S. Marshal

Filed this answer on Pord n 1 Dist. Atty. by delivering
to him a copy of the same at his office this
Dec 5th 1855

Filed October 20th 1855.

D. B. Van Cleave
By J. M. Van Cleave
Deputy

61

PAGE 53

110SD

Wm. A. Beachy & P. A. Becking
Attys for appellants.

110 SD
PAGE 54

Office of the Attorney General of the United States,

Washington, 17th January 1855.

Mariano Malarin *et* al.

vs.

The United States.

154.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 28th day of September 1854, the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Clarking

No 110.

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

The United States,

vs.

Mariano Malvarin, Esq.,

appeal notice.

Filed March 8th 1835.

J. C. Carr.
Clerk.

55

110 SD
PAGE 55

~~No. 110~~
of the United States
for the ~~United States~~ District Court, for the Southern
District of California.

~~The United States, appellants~~
~~vs.~~
Mariano Malarin ^{deceased} and
The Heirs of Juan Malarin, ~~appellees~~
~~vs.~~

No. 110.

Transcript No. 154

The United States
The petition of Rufinus Ord, Attorney of the United
states for the southern District of California, for
and in behalf of the United states respectfully
represents: That on or about the 2^d day of
April A.D 1852 Mariano Malarin ^{alleged} executor of the
estate of Juan Malarin deceased, petitioned the
United states Land commissioners for the State of
California, claiming the tract of land ^{in Monterey County, Cal.} called
"Chualar" ^{of the extent of two square leagues a little more or less.} in an amended petition for the same
land, ^{was} filed on or about the 11th day of
April A.D 1853, in the name of the widow and
^{to wit: Josefa Estrada, widow, & Isabel, Mariana, Concepcion, Ramona, Urbana, Maria, Refugio, Josefa, Christina & Pascasio} children of said Juan Malarin, deceased. ~~That~~
That on or about the 21st day of February A.D 1854 the
said commissioners confirmed the said claim;
That thereafter, to wit, on or about the 28th day of
September A.D 1854, the Honorable Caleb Cushing,
Attorney General of the United states, received
a duly certified transcript of the proceedings,
with the evidence and decision of said Commissioners,
in said cause; That thereafter, to wit, on or about

the 27th day of February A D 1855 the said Attorney General of the United States filed or caused to be filed with the Clerk of this Honorable Court, a notice of the intention of the United States to prosecute the appeal in said cause; that on or about the 8th day of November A D 1854 the said Board of Commissioners filed or caused to be filed in the office of the Clerk of this Honorable Court a duly certified transcript of their proceedings with the evidence and decision in said cause; that the land claimed lies in the southern district of California and within the jurisdiction of this Honorable Court.

And this petitioner denies generally ^{the allegations of said petitioners ~~and said Commissioners~~} that ~~that~~ ^{And petitioner further denies that} the said claimants have any valid right or title to said land, claimed as aforesaid

Wherefore the said petitioner prays that the said claimants, ^{Mariano Malarin, Executor, and} Josefa Estrada de Malarin, Ygnacio Malarin, Mariano Malarin, Concepcion Malarin, Ramona Malarin, Urbano Malarin, Maria Malarin, Refugio Malarin, Josefa Malarin, Cristina Malarin, and Ygnacio Malarin, or their attorney may be served with ^{copy} ~~copy~~ of this petition; and that after due proceedings had, the said decision of the said Commissioners may be reviewed, reversed and set aside, and that this

Honorable court will decree the said
claim or title to be invalid. With costs and
general relief.

110 SD
PAGE 58

58

J. D. M.
Attorney of the United States
for the Southern District of Cal.

No 110
Mariano Malaspina Esq. &
Heirs of Juan Malaspina del.

vs

The United States

Petition of M. States
for Review

Filed October 20th 1835-

P. C. Law Clerk

Oct. 21 By J. W. Allen Dep.

59

P. Ord. M. S. Atty

110 SD

PAGE 59

No 110.

110 SD

PAGE 60

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

The United States Appellant

vs

Mariano Malumie Ex^r Appellee }

Claim for Chalar.

And now on this 24th day of December A. D. 1855
the parties appear, the appellant by P. Ord
U. S. Dist. Atty for the Southern District of
California, and the appellee by his Atty
Frederick Phillips, and on motion of the
Appellee Atty, it is,

Ordered, that either party may take such
further testimony as they may wish in
the above entitled cause.

No. 110.

The United States
Appellants

vs

Manano Malanin
Respondent

Appellee

Order allowing further
testimony.

Filed Dec 21st 1895

L. Egan, Clerk
by Amingau Dec 5

63

110SD

PAGE 61

Walter H. H. H. H.
per Appellee.

The N.Y. Appellants vs. Heirs of J. Malerin, Appellees.

110 SD

PAGE 62

The transcript in this case contains

- I Petition to Commissioners by M. Malerin as Exec^r p 4.
- II Amended Petition in names of heirs pp 6 & 7
- III Deposition of D. Spence pp 8 & 9.
- proves genuineness of signatures to grant, approval, and judicial possession; that grantee, Malerin, was in the possession of this land and had a wooden house on it before the judicial possession was given; grantee and his heirs have cultivated the land and had stock on it ever since.
- IV 2^d Deposition of D. Spence pp 9 & 10.
- proves Malerin's will, and that this land constituted a part of the "Guadalupe Rancho" mentioned in the will; witness also proves genuineness of Jimeno's certificate to copy of grant
- V 2^d Deposition of D. Spence, (Repeated) pp 10 & 11.
- VI Original grant, certificate of approval and Record of Judicial Possession. (proved by Spence) pp 12 to 22.
- VII Copy of grant certified by Jimeno. pp 23 & 24.
- VIII Translations of grant, certificate of approval and of Judicial Possession pp 25 to 32.
- IX Malerin's will (proved by Spence) pp 33 to 39
- X Translation of Malerin's will. pp 40 to 43.
- The names of widow and heirs are given in the will, and the "Guadalupe Rancho" there spoken of is proved by Spence to be made up of the several tracts called "Guadalupe", "Llano de las Corneas", "Sanjones", and "Chualar".
- XI Opinion of Commissioners pp 44 to 45
- XII Decree of confirmation pp 46

Proceedings in N. S. Dist. Court.

- 1st Transcript from Commission filed Nov. 8th 1854
2^d Notice of appeal ————— " Feb'y 27th 1855
3^d Petition for Review ————— " Oct. 20th 1855
4th Answer ————— " Oct. 20th 1855
5th Expediente of Malvar ————— "
6th Translation of Expediente ————— "

The Expediente in this case contains:

- 96 The petition of Josefa Vallejo, for her sons, Jose Antonio & Joaquin Estradas, for this land dated August 5th 1834; Map of the land asked for; the reports of local authorities; testimony of witnesses; decree of grant by Gov. Figueroa, dated January 5th 1835; Grant issued January 5th 1835; Approval of Territorial Deputation August 29th 1835; Transfer by first grantees, Jose Antonio Estrada and Joaquin Estrada, of their interest in said land, to Juan Malvarin, dated Sept 6th 1839; Petition of Juan Malvarin for new grant to himself of this land, dated Sept 6th 1839; Decree of grant by Gov. Jimeno, dated Sept 7th 1839; Approval of departmental Junta dated May 26th 1840; Certificate of approval, issued July 23^d 1840; copy of title, dated Sept. 7th 1839.

Note. When this claim was presented to the Commission the Expediente would not be found, it being indexed in the name of Mrs Vallejo and her sons the Estradas; Malvarin's name, appearing only at the end of the Expediente & not on the title page, was not indexed by the Surveyor General with the name of this Expediente. The production of the Expediente now, and its contents, fully explains the entire case, and the map, with the description

in the grant and in the proceedings of judicial possession, remove all difficulty as to the location of the land.

110 SD

PAGE 64

It will be noticed that the land granted to the Estradas was bounded by the "Rincon de Buena Esperanza, Monterey River, Rancho of the Carmel, and the Sierra of Santa Fee", and the quantity limited to "one square league a little more or less", but the land granted to Malarin under the same name, "Chualar" was bounded by "Monterey River, the Rancho of Don David Mene, the Sierra of Santa Fee, and the Sanjones", and the quantity limited to "two square leagues a little more or less". This difference of boundaries and quantity accounts for the issuing of the new title, instead of a simple transfer of the previous title in the Estradas. The judicial possession is for the lands of Chualar as described in this new grant to Malarin.

The title is a complete and perfect one, having every requisite required by the Laws or Regulations in force at the time of the grant.

It will be noticed that this claim based Nos 108 & 109, form a single Rancho, as described in Malarin's will, and the three claims ought properly to be considered and decided together.

No 110

The United States, appellants.
vs.
Heirs of J. Malanin, appellees.

Index of Case

Filed Aug 4th 1856.

110 SD

PAGE 65

98

J. E. Lang
Att.

Hallam Beachy & Billings
Attys for appellees.

110 SD
PAGE 66

1839

Expediente promovido por
el Sr. Don Juan Malariu en pre-
tension del Pajage que antes posehian
Las Señoras Estradas llamado el Chualar

176

Jurisdiccion
de Monterrey

N^o 58.

2
Año de
1834

110 SD
PAGE 67

Expediente

Sobre el paraje nombrado El Chualar

solicitado por

D^a Josefa Vallejo

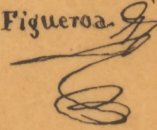
a nombre de sus hijos menores

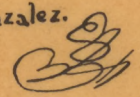
Jose Antonio y Joaquin Estrada

46

SELLO TERCERO DOS REALES.

Habilitado provisionalmente por la Administracion de la Aduana Maritima de Montevideo para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Figueroa. 

Rafael Gonzalez. 

110 SD
PAGE 68

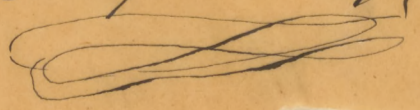
Señor. Cefe Sup. Político.

Montevideo do-
tubre 18 de 1834.
De conformidad
con las leyes de
la materia y por
me d. L. Ayunta-
miento de esta ciu-
dad se la intere-
sada en en. mi-
tansa obtiene los
requisitos preve-
nidos para sea a-
tenidos en sus soli-
citudes. si el terreno
q. pretende esta
comprendido en las
20. leguas limitro-
fas a diez titulos
q. expresa la ley
de 18. de agosto
de 1824. y si
si es de regadio
temporal o abru-
vadero, si perte-
nece a la propie-
dad de algun
particular, Union
Corporacion o

7
Josefa Vallejo de esta vecindad a nombre
de sus dos hijos menores José Antonio y José Joa-
quin Estradas ante V.S. respetuosamente comparece
y dice que interesada en buscar por todos los medios
posibles la suerte de su dichos dos menores y los
demas de su familia; y tratando de adelantar
alguna heredad de bienes de Campo que un ha
dejado un finado D. Agustin Vallejo solicito para
este objeto y su beneficio personal un paraje
llamado el Chualar que se halla distante de diez
a doce leguas de este Pto. al efecto acompaña
a V.S. el dicho Compendio para que
si lo tuviere a bien se sirva dar tramite a esta
mi solicitud para conseguir la propiedad
del mencionado sitio a favor de mis citados
dos hijos. Por tanto.

Suplico se sirva proveer como pido en la
que recibire grana jurando lo necesario
D.

Montevideo Agosto 5 de 1834.

Josefa Vallejo


Pueblo con todo lo demás q. sea concerniente a ilustrar la materia. El Sr. D. José Figueroa Gen. de Brigada Com. Gen. Imp. y Jefe Sup. Político de la Alta California an' lo mando decreto y firmo de q. doy fe!

José Figueroa

Aguilón P. Zamorano
Tric.

Muere Ayunt. Constitucional

La Comisión Encargada en Colonización y Terrenos Baldíos habido la solicitud que presenta D. Josefa Valles, relativa a concecion de un terreno, y en cumplimiento al Superior Decreto q. acompaña, opina esta Comisión, q. la Dña. Valles es Mexicana por nacimiento, que el terreno que pretende no esta comprendido en las

El presente provisionalmente por la Administracion de la Aduana Maritima de Matanzas para las lras de mil
ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Figueras, J.

Antonio Casales, J.

veinte Leguas Limitrofes, y siembras oier
vitorales q. Capria la Ley, y A. y Agente
y A. M. que es or temporal y alrebadeno
y sea reconocido, por Valdivia, aunque la Mi-
sion y la Soledad, y el Carmelo, lo anocu-
pado con algunos Ganados, por cuyo
motivo, la Comision Ofere ala delibera-
cion y este Yunque Ayunt. la proposi-
siones siguientes.

1a

Puede adjudicarsele, a D. Josefa
Valleso el Ferreo pretendido en Varon
or considerarse Valdivia, y con respecto haber
lo ocupado las Misiones y el Carmelo y So-
ledad con algunos Ganados puede parar
este Expediente a q. los P. M. y M. M. M.
siones expongan lo q. ayen sobre el par-
ticular.

Mont. Oct. 22. y A. 234.

Jose Antonio Romanos Jose Aguilar

Por. Gefe Superior Politico

El Y. Ayuntamiento de esta capital con
el objeto de dar a V. S. el informe que se

siro pedir en su superior decreto de 18 del
proximo pasado mes paso esta. solicitud a la
comision de colonizacion, quien presento el
dictamen que ~~se~~ antecede, y en acuerdo de
este dia reprovo la parte que dice pase a
informes a los Padres de las Misiones de la
Soledad y el Carmelo; Como su contenido
es lo que en el particular debe informar
esta Corporacion. acordó en sesion de hoy se
devuelva el expediente a las superiores ma-
nos de S.S. Reproduciendo a queb. entodas sus
partes.

Monterrey Noviem. 28 de 1834.

Manuel Jimenez
Casarin

José Aquilata
Ex. Secret.

Monterrey Nov. 14 de 1834.

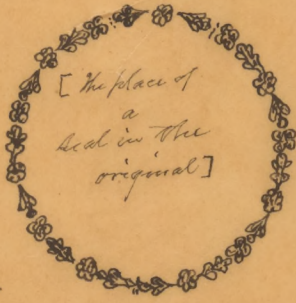
Informen los comisionados de secularizacion de la etli-
sion de S. Carlos y etlia. Sta. de la Soledad sobre los
particulares a q. se contrae este expediente.

Figueroa

For

SELLO TERCERO

**Para los años de mil
seis y ochocientos**



DOS REALES.

**ochocientos veinte y
veinte y siete.**

[Place of a stamp in the original for 1828 - 1829]

[Do - 1830 - 1831]

[Do - 1832 - 1833]

[Do - 1834 - 1835]

Comandante General y Jefe Sup. Pol.º

Y terrenos llamados el Chualar que cita este expediente y sobre el que se sirva V.S. pedirme informe; no hay inconveniente para que se conceda á los solicitantes, por no necesitarlo la Misión de S.º Carlos, en virtud de ocupar tierras suficientes para el repartimiento que pueda hacerse á sus indigenas. Monte rey Nov.º 20 de 1834.

Jos Joaquín
Cromer
D.º

Puebls de la Soledad Dic.º 4 / 1834.

Este Pueblo no hace uso ninguno del pasado que se solicita en esta instancia ni lo necesita para nada.

Jos Estrada
D.º

Monte

San Jose Nov 16 or 1834.

Para el Alcalde o Jefe Capital
 ante quien la parte a D^a Josefa Vallejo
 a nombre de sus hijos menores D^o Don Ant^o
 y D^a Joaquin Estrada procuraria una infor-
 macion a tres testigos idoneos q^e seran entre
 rogados sobre los puntos siguientes. 1^o Si
 la solicitante es mexicana p^a nacimiento y
 si es casada con hijos: si es o tuvo conve-
 to N^o Si el terreno q^e pretende pertenece
 a la propiedad o algun particular, si
 son Corporacion o Pueblo: si es un regalo
 temporal o abutadero y q^e obtencion tendra. 3^o
 Si tiene bienes o campo p^a poseerlo o po-
 sibilidad de adquirirlos. Cada uno q^e sea
 hecho a su presencia para conclusion. El Sr D^o Don Jose Pi-
 gueroa General o Brigada Comand^{te} del Inspecto y
 Jefe Superior Politico de la Alta California asi lo man-
 do secreto y firmo en q^e doy fe.

José Figueras

Agustin P. Zamorano
Jefe.

Mon-

SELLO TERCERO DOS REALES.

Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterrey de la Alta California, para los años de mil ochocientos treinta y cuatro y cuatro y mil ochocientos treinta y cinco.

Monterrey 29 de Dbre de 1834, A. Ramirez

Tomar la informacion que se manda en el anterior Superior Decreto. Tuvo el Alcalde Constitucional lo visto mande y firme con los de asistencia con quienes actua en la forma establecida.

Manuel Jimeno

De

José Joaquín
Cromer

Carair

De

José Fernandez

En la fha presente la parte de Doña Josefa Valles se le notifico el anterior auto y entendida dijo: lo oye y firmo con mior y los testigos de ante Doy fe.

Carair

Josefa Valles

De

José Joaquín
Cromer

De

José Fernandez

En la fha presente el C. Felipe Vazquez se le recibio juram^{to} en toda forma de derecho por el que ofreció decir verdad en lo que supiere y fuere preguntado, y siendo

sobre el interrogatorio de que habla
el anterior Superior decreto del Gov. Jefe
Político Dijo: que conoce a Doña Josefa
Vallijo que es Mexicana por nacimiento
casada tiene hijos y es de buena condu-
ta. que tambien conoce el terreno que
pretende y no pertenece a la propiedad de
ningun particular Mision Pueblo y ni
a Corporacion alguna, pues aunque ante-
riormente habia algunos bienes de la Mision
de San Carlos, pero en la actualidad no
se ocupa, que es de regadio temporal y
abrevadero, y que tendra de longitud co-
mo una y media legua y de latitud, la
misma estension, poco mas o menos, por
ultimo que la intercedida tiene bienes de
campo con que poblar el mencionado ter-
reno, que lo dicho es la Verdad a cargo
del juramento que tiene hecho en
el que se asintió y ractifico leida
que le fue esta su declaracion, espresó
ser casado mayor de veinte y cinco

Habilitado provisionalmente por la Administración de la Aduana Marítima de Monterrey de la Alta Cacería, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Figuras

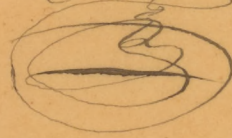
A. BARRERA.

7 años, de esta vecindad, y de
 oficio labrador, no firmó por que
 dijo no sabía hacer lo mismo
 con los testigos de antes.

Manuel Jimeno

Casam

Jon Tragan
 Comercio



José Fernandez

En la misma presente el Sr. Don Antonio Castro se le recibió juramento en toda forma de derecho por el cual afirmó decir verdad en lo que supiere y fuere preguntado y siendo sobre el mismo interrogado de que habla el Superior Decreto del Sr. Jefe Político de fecha 16 del corriente Dijo: que conoce a Doña Josefa Valles que es Mexicana por nacimiento casada tiene hijos y es de buena conducta. Que también conoce el terreno que pretende y no pertenece a la propiedad de ninguna particular persona, Pueblo y ni a Corporación alguna, que tendrá de longitud como una y media

13

segunda y de latitud la misma es-
tension, que es de regadio temporal
y abastaderos, que ultimam^{te} la indicada
San Valles tiene bienes de campo con
que poblante, que lo dicho es la verdad
a cargo del juram^{to} que tiene hecho
en el que se afirma y v^{er}ifico lida
que le fue esta su declaracion, expuso
ser casado mayor de veinte y cinco años
de esta vecindad de oficio labrador, y
firmo con miso y los testigos de asis-
tencia.

Manuel Jimeno
E. Oramin

José Joaquín
Cromver

(S)

José Ant. Centof
José Fernandez

En la misma presente Gregoria Japia
se le recibio juram^{to} en toda forma de
deuote por el cual ofrecio decir verdad
en lo que supiere y fuere preguntado
y siendo sobre el contenido del inter-
rogatorio del anterior Superior Decreto

SELLO TERCERO DOS REALES.

Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterrey de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Figuerogas

A. Ramirez.

Del Sr. Jefe Político Dijo:
 Que conoce a ^{la} Doña Josefa Vallejo
 que es Mexicana por nacimiento, casada
 que tiene hijos y es de buena conducta,
 que tambien conoce el terreno que pretende
 y no pertenece a la propiedad de
 ningun particular, Misión Pueblo y a
 a Corporacion alguna, que es de regadio
 temporal y abrevadero y tendra de lon-
 gitud como una y media legua, y de
 latitud la misma extension poco mas
 o menos. Por ultima que la indicada Doña
 Vallejo tiene bienes de campo con que su-
 bliste que se dicta en la Ciudad a cargo del
 juramento que tiene hecho en el que se afir-
 mo y ratifico leida que le fue esta su de-
 claracion, expreso ser Soltero mayor de
 veinte y cinco años de esta vecindad, y de
 oficio labrador, y no firmo por que dijo
 no saber, lo hire yo con los de antes.

Manuel Jimeno
Cararin

Jose Pagan
Comerio

Jose Fernandez
Cotton

May 23 de Dbre de 1834.

Concluida la anterio^r informa-
cion vuelva el expediente al Gen.
Cespe Politico pa su Resolucion. Asi
yo el Atalme Constitucional lo decreto
mande y firme con los de asist^a.

Manuel Jimen

Carasin

Jose Joaquin
Cromwell
E

E

Jose Fernandez
E

Monterey Enero 5 de 1835

Vista la peticion con q^e se principio este expediente de in-
forme a la autoridad municipal de esta Capital: de la
comisionados de las Muecas de S. Carlos y de la Soledad las ex-
posiciones de los tertigu con los lo demas q^e se tuvo presente
y sin combato ni confusidad con lo dispuesto p^o las leyes y re-
glamentos de la materia se declara a D^o Josefa Valljo a
nombre de sus hijos menores D^o Jose Ant^o y D^o Joaquin G-
taada dueño en propiedad del terreno conocido con el nom-
bre del Chaulan, Colindante con el Rancho nombrado

SELO TERCERO DOS REALES.
Habiendo prevenido por la Administracion de la Aduana Meridiana de Monterrey de la Alta California para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.
A. Romoza.

Reciben a Blanca Esperanza Rivero, Monterrey y Francisco
Carmelo y Sima, y Sta. Fe: licen a despacho correspondiente, lo
mismo en el libro respectivo y dejar a disposicion de la dicha
apreciacion a la S^{ma} Diputacion Jurisdiccional en cuyo caso la intencio
la a quien se le haga saber en secreto presentara inmediatamente
su titulo p^o q^o le devolva. El Sr. D^{no} Sr. Figueroa Gene
ral Brigada Comandante General Inspector y Jefe Policia
la alta California asi lo mando secreto y firmo y q^o se fce.

Jose Figueroa

Agustin Zamorano
Jefe

José Figueroa General de Brigada de la Rep^{ca}
Mexicana, Comandante genl Inspector y Jefe Po-
litico del Territorio de la Alta California

Por cuanto D.^a Josefa Valleso, Mexicana
por nacimiento a nombre de sus hijos
menores D. José Antonio y D. Joaquín
Entrada he pretendido p^a beneficio de
esto y el de sus familias el terreno com-
cado con el nombre del Censual colindante
con el Rancho de ~~San~~ nombrado Rin-
con de Buena Esperanza, Rio de Monte-
rrrey, Rancho del Carmelo y Sierra de
Sta Fe; practicadas previamente las di-
ligencias y averiguaciones concernientes
segun lo dispuesto p^a Leyes y Reglamen-
to; mando de las facultades q^e me son
conferidas a nombre de la Nación Me-
xicana p^r decreto de este dia he venido
en concederles el terreno mencionado, de-
clarandoles la propiedad de el p^r las
presentes letras, entendiendose esta con-
sacion con entera conformidad a lo dis-
puesto p^a las leyes, a reserva de la apro-
vacion o desaprovacion de la Ilma. Depu-
tacion Territ. y del Supremo Gobierno
y bajo las condiciones siguientes.

1^a Que se someteran a las que esta-
bleciere el Reglamento q^e se hade formar
para la Distribucion de terrenos baldios
y q^e cuantanto ni los agraciados ni sus
herederos, podran dividir ni enagenar

47
 el q se les ~~adjudicaron~~ imponer censo, vin-
 culo. fianza, hipoteca ni otro gravamen
 aung. sea por causa piedadosa ni pa-
 sarlo a Manos Muertas.

2^a Podran cercarlo sin perjudicar
 los travesa y Caminos y Servidumbres
 lo disfrutaran libre y exclusivamente
 destinandolo al uso o cultivo y mas les
 acomode; pero dentro de un año a lo
 mas fabricaran casa y estara habitada.

3^a Cuando se les confirme la propiedad
 Solicitaran del Juez respectivo que les
 de posesion juridica en virtud de este
 despacho por el cual se demarcaran los
 linderos en cuyos limites pondran a
 mas delay. Prohorar algunos arboles
 frutales o silvestres de alguna utilidad.

4^a El Jefe de que se les hace do-
 nacion de un sitio de ganado mayor
 poco mas o menos segun explica el
 disenyo y corre en vel Expediente el
 Juez q. diere la posesion lo hara me-
 dir conforme a Ordenanza para
 señalar los linderos, quedando el sitio
 q. Resulta a la Nacion por los usos
 convenientes.

5^a Si Contraviniere a estas condicio-
 nes perderan su derecho al terreno y
 sera denunciado por el Jefe.

En consecuencia Mando que circun-
 dolo de titulo el presente y teniendose
 por firme y valioso, se tome razon

en el libro á q. corresponde y se
entregue á los Intervenidos para su res-
guardo y demás fines Dado en Mon-
terrey á cinco de Enero de mil ochocientos
treinta y cinco = José Figueroa - Agustín
V. Lemorano Secretario

110 SD
PAGE 83

Agosto 27 de 1835.

En sesion de este dia acordó la E. Dip.ⁿ pasar á
la Comis.ⁿ de terrenos baldios

Figueroa

José María
Maldonado.

+

Mis

Exmo. Sr.

La concesion de terrenos baldios, impuesta del expediente q. se mando practicar por pretencion de D. Josefa Vallejo, q. hizo al paraje nombrado Chuulax, no encontrando en el objeion alguna q. haxer y siendo en todo conforme a la Ley de 18 de Agosto de 1824 como al art. 5. del Reglamento de 21 de Nov. de 1828. Ofrese a la deliberacion de V. E. la siguiente proposicion.

Se aprueva la concesion hecha a D. Josefa Vallejo del paraje nombrado Chuulax Concedido en 5 de Enero de 1835.

Monterrey 28 de Agosto de 1835.

Jose Castro

Ag. 29. de 1835.

En sesion de hoy aprovo la E. Diputacion el ante. Dictamen y se acordó pasar el expediente al S. Efe. Político p. su conclusion

J. Castro

Jose Maria Maldonado

110 SD

85

21.

Los Ciudadanos q. abase firmamos ha-
cemos abandono del sitio nombrado el Chualar q. se nos
concedio en 5 de Enero de 1835 en favor del Ciudadano
Juan Malarin y jr. a resguardo del interesado damos este
en Monterrey a 6 de Septiembre de 1839

José Antonio
Estrada

Joaq. Estrada

que se acompaña, de conformidad
 con las leyes y Reclamos, declaro al
 Cid^{no} Juan Malvarin dueño en
 propiedad del parage nombrado el
 Chualan colindante con el Rio de
 este punto, el rancho de Don
 David Espen y Sierra de Sta
 Fé y los Sanjones, todo conforme
 me se les habia conseedo a la
 tra Estrada segⁿ el Documento que se
 acompaña con Jha. b de Sbae
 del corriente año El Sr. D^{no}
 Man. Simen Casarin primer
 Vocal propietario de la E. Junta
 del Departam^{to} de las Californias
 en ejercicio del Gob.^{no} del mismo
 así lo mando decretar y firmo.

Man. Simen

Francisco C. Arce
 Oficial Primero

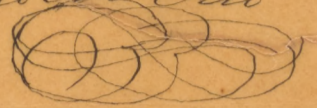
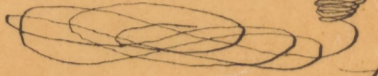
Man-

23
24
Lello Terens dos Seals.

Calificación provisional. te por la Aduana Marítima
de Monterey para los años de 1839 y 1840

Atarado

Antonio M. Qui



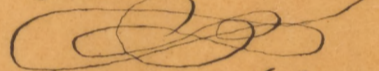
Monterey Mayo 22 de 1840.



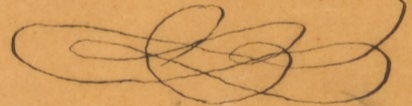
Dada cuenta á la E. Junta Departamental
acordo en sesion de hoy que por á la Comision
de agricultura.

José Fernando

Qui



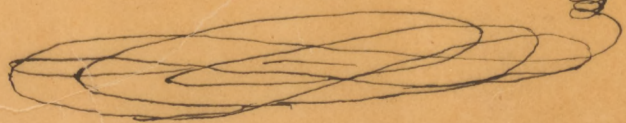
En veinte y seis del mismo lo devolvio' la comision
con el dictamen que acompaña Fernando,



Monterey 12 de Junio de 1840.

En vista de la aprobacion otorgada en veinte y
seis del mes pasado por la E. Junta Departamental,
vizese testimonio de ella á la parte de D. Juan
Malarin en confirmacion del terreno Cualax
que obtuvo en veinte de Setiembre del año proxi-
mo anterior. El Sr. D. Juan B. Alvarado Gobern.
Constitucional del Departam. de las Californias
asi lo provayo y firmo, sigue doi fe.

Atarado



25

110 SD
PAGE 89

176#

ES

24.

La Comision de agricultura y Comercio
Unidas encargada p.^a V. E. de dictami-
nar los Expedientes presentados p.^a el
Excmo. Sr. Gobernador en la Seccion
anterior. Visto lo actuado e infor-
mes y demas q. se ha podido, pro-
pone a la deliberacion or V. E. los
art. siguientes.

art. 1.^o Se aprueba la conecion hecha p.^a
el Gobierno departamental con
para ser nombrado el f. p. alar en
la persona de D. Juan Malarin

2.^o Que se devuelva al Excmo. Sr. Goberna-
dor el Expediente p.^a los fines con-
benientes.

Monterrey Mayo 25 de 1840.

Jose Rafael Gonzalez

J. Arriola

Mon

May 26 de Mayo de 1840.

En sesion de este dia aprobó la E. Junta Departamental los dos articulos con que concluye el dictamen anterior.

Man. Jimeno
Presid^{te}

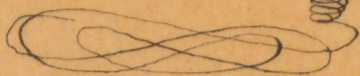
José L. Fernandez
Seci.

En 23 de Julio del 40 se libro testimonio.

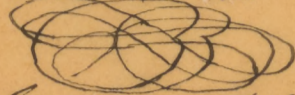
SELLO TERCERO DOS REALES.

Habilitado provisionalmente por la Aduana marítima del puerto de Monterrey, en el Departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

Alvarado.



Antonio María Osio.



Manuel Jimeno Casarin primer vicario de la Exma. Junta del Departamento de las Californias en ejercicio del Gob. del mismo. = Por cuanto D. Juan Nalatin ha pretendido para su beneficio personal y el de su familia el parage conocido con el nombre del Chualar, colindante con el Rio de Monterrey, con el Rancho de D. David Espino, Sierra de San José y los Saujones practicadas porviam. te las diligencias y averiguaciones concernientes segun lo dispuesto por leyes reglamentos: usando de las facultades que me son conferidas a nombre de la Nacion Mexicana he venido por decreto de este dia en concederle el terreno mencionado declarandole la propiedad de él por las presentes libras sujetandose a la aprobacion de la Exma. Junta Departamental y a las condiciones siguientes = 1.ª Podrá cercarlo sin perjudicar las trabecias caminos y ser si demobres lo disfrutara libre y esclusivam. te destinandole al uso a' cultivo que mas le acomode, pero dentro de un año fabricara casa y estera habitada. = 2.ª Cuando se le confirme la propiedad solicitara del Jues respectivo que le de posesion juridica en virtud de este despacho por el qual se demarcaran los linderos en cuyas linderos pondra a mas de las majoneras algunas arboles frutales o silvestres de alguna utilidad. = 3.ª El terreno de que se le au. donacion es de doguio de ganado mayor poco mas o menos segun esplica el dicario que corre en el expediente el Jues que chire la posesion lo hará medir conforme a' ordenanza quedandole el sobrante que resulte a' la Nacion segun las usas convenientes. = 4.ª Si contra viniere a' estas condiciones pres-

28

29

para su derecho al terreno y sera denunciado por otro =
= En consecuencia mando que sirviendole de titulo el
presente y teniendo se por firme y verdadero se tome
razon de el en el libro que corresponde y se en
bregue al interesado para su resguardo
y demas fines. = Dado en Monterrey a die-
ta de Septiembre de mil ochocientos trein-
ta y nueve = Manuel Jimeno = Fran. C.
Aree oficial primero.

Es copia fielmente sacada del original de que certifico y aparece en
mente el Expediente respectivo que abra en la Secretaria del Gob. no
que esta a mi cargo

Man. Jimeno

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

I, JOHN C. HAYS, Surveyor General of the United States for the State of California, and as such, having in my office and in my charge and custody a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California, by virtue of the power vested in me by law, Do hereby Certify, that the twenty nine preceding, and hereunto annexed pages of tracing paper numbered from one to twenty nine inclusive, exhibit a true and accurate copy of a certain document entitled "(1839) Expediente promovido por el Sr. Don Juan Malvarin en pro de la continuacion del parage que tanto poseian los Senores Estradas llamado el Actualar (176)" now on file and forming part of the said archives in this office.

In Testimony Whereof, I have hereunto signed my name officially and caused my Seal of Office to be affixed, at the City of San Francisco, this nineteenth day of October — 1855.



John C. Hays

U. S. Surveyor General for California.

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

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

No 110 SD
Pd 154
The United States, appellants
vs.
Heirs of Juan Malasia, appellees

Expediente

94

Filed Aug 4th 1856

J. E. Carr
110 SD
PAGE 95
Cek.

Walter B. Rieby & P. B. Hickey
Attorneys for appellants

IN THE DISTRICT COURT OF THE UNITED STATES,

FOR THE SOUTHERN DISTRICT OF CALIFORNIA,

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

110 SD

PAGE 96

Mariano Malasin Esq & Co

APPELLEE

VS.

UNITED STATES,

APPELLANT.

No. 110.

(No. 154 of Transcript.)

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 11th day of January A. D. 1856.

P. Ord
Dist. Atty.

No. 110.

U.S. District
Southern District of California

Mariano Malarin & Co. et al
appellees

vs.

The United States
appellants

Writ of Appeal S.C.

Filed March 4, 1888

C. E. Cannon

120

By William Dwyer

110 SD

PAGE 97

1839.

Expediente moved by Senor Don Juan Malasia asking for the place which formerly the Senores Estradas possessed called "El Chualar".
176.

Juris diction of Monterey, No 58, Year 1834.

Expediente respecting the place called El Chualar asked for by Doña Josefa Vallejo in the name of her minor sons Jose Antonio & Joaquin Estrada
45.

Stamp Third Two Reals.

Provisionally authorized by the Administration of the Maritime Custom House of Monterey for the years 1834 & 1835.

Higuera

Rafael Gonzalez

Senor Political Superior Chief.

Josefa Vallejo of this neighborhood in the name of her two minor sons Jose Antonio and Jose Joaquin Estradas respectfully appears before Your Excellency and says: that being interested in seeking by all possible means the support of her said two minors and the rest of her family, and expecting hereafter an inheritance of some cattle which her late husband Don Ygnacio Vallejo left her, she solicits for that object and her own personal benefit a place called El Chualar which is distant ten or twelve leagues from this port. For which purpose I send herewith to Your Excellency the corresponding map in order that you may give the proceedings

to this my petition to procure the ownership
of said place in favor of my said sons.

Wherefore I pray Your Excellency to grant
as I ask by which I shall receive grace, securing
what is necessary &c.

Monterey August 5th 1834.
Josefa Vallejo

Monterey October 18th 1834

In conformity with the laws on the matter
the Illustrious Ayuntamiento of this Capital
will report, if the party interested in this
proceeding has the requisites to entitle her
to be attended to in her petition; if the land
which she asks for is included within the
20 border leagues or the ten littoral expressed
in the law of August 18th 1824; if it is
irrigable, dependant on the rains or pasture
land; if it belongs to the property of any private
person, Mission, Corporation, or pueblo, with
all else calculated to throw light on the
matter. Senior Don Jose Figueroa, Genl.
of Brigade, Commandant General, Inspector,
and Political Chief of Upper California
thus ordered decreed and signed, of
which I certify

Jose Figueroa
Agustin V. Zamorano
Secretary.

Illustrious Constitutional Ayuntamiento
The Committee on Colonization and vacant
lands has seen the petition which Doña
Josefa Vallejo presented relative to a

grant of land, and in compliance with the superior decree which is herewith, it is of opinion that the said Vallejo is Mexican born, that the land which she asks for is not included within the 20 border leagues, and is within the ten littoral. which the law of August 18th 1824 expresses; that it is dependent on the trassons and pasture lands, and may be regarded as vacant, although the Missions of Soledad and Carmelo have occupied ~~them~~ with cattle. Wherefore the Committee offer to the deliberation of this Illustrious Ayuntamiento the following propositions:

1st The land asked for may be adjudicated to Doña Josefa Vallejo as it is considered vacant;

and with respect to the Missions of Carmelo and Soledad having occupied them with ^{some} cattle, this expediente may be passed to the Missionary Fathers of said Missions to report what they have on that particular.

Monterey October 28th 1834.

Jose Antonio Romero
Jose Aquila.

Senior Superior Political Chief.

The Illustrious Ayuntamiento of this Capital with the object of giving to your Excellency the report which you were pleased to ask in your superior decree of the 18th ultimo, passed this petition to the Committee on Colonisation which presented the foregoing report, and in session of this day the part

which may pass for the reports of the Fathers of the Missions of Soledad and Carmelle was rejected; and as its contents are what in that particular this Corporation ought to report, agreed in session of this day to return this Expediente to the superior hands of Your Excellency reproducing that in all its parts.

Monterey November 8th 1834.

Manuel Jimeno Casarin

Jose Aquila

Secretary.

Monterey November 14th 1834

102 The Commissioners of Secularisation of the Missions of San Carlos and of Our Lady of Soledad will report on the matters in this Expediente
Figueras.

Senior Commandant General and Superior Paternal Chief.

The land called El Chualar referred to in this Expediente and about which your Excellency is pleased to ask my report: There is no objection to granting it to the petitioners, as the Mission of San Carlos does not need it, because it occupies sufficient lands for the distribution it has to make to its Indians.

Monterey November 20th 1834

Jose Joaquin Gomez.

Pueblo of la Soledad December 4th 1834

This pueblo makes no use of the place asked for in this proceeding, nor does it need it.
Jose Estrada.

Monterey December 16th 1834

Pass this to the Alcalde of this Capital before whom ^{the party} Dona Josefa Vallejo will appear in the name of her minor sons, Don Jose Antonio and Don Joaquin Estrada, will produce the evidence of three competent witnesses who will be interrogated on the following points: 1st if the petitioner is Mexican by birth, if she is married with children, and is of good conduct: 2^d if the land asked for belongs to the property of any private person, Mission, corporation or pueblo; if it is irrigable, dependent on the waters or pasture land, and what is its extent: 3^d if she has cattle to stock it, or the possibility of acquiring them. Having finished this return the expediente for its decision. Senior Don Jose Figueroa, Genl of Brigade, Commandant General, Inspector, and Superior Political Chief of Upper California, thus ordered, decreed and signed, of which I certify.

Jose Figueroa

Agustin T. Zamorano
Secretary.Monterey December 23^d 1834.

Let there be taken the testimony which is ordered in the foregoing superior decree. Thus of the constitutional Alcalde decree order and sign, ~~and~~ with those of my assistance with whom I act in the established form.

Manuel Pinedo Casarin.

of assistance

Jose Joaquin Gomez

Jose Fernandez.

On this present day the party Doña Josefa Vallejo was notified of the foregoing decree and understanding it she said she heard it and signed with me and the witnesses of assistance, of which I certify.

— Casarin

Josefa Vallejo

104

Jose Joaquin Gomez

Jose Fernandez.

On this day appeared citizen Felipe Masquez, and was sworn in due form to tell the truth so far as he might know and should be asked; and being asked the interrogatories in the foregoing superior decree of the Political Chief he says: that he knows Doña Josefa Vallejo, that she is Mexican by birth, married, has children and is of good conduct. That he also knows the land asked for and that it belongs to the property of no private person, Mission, Pueblo or Corporacion; that although formerly it had some cattle of the Mission of San Carlos, now it is unoccupied; that it is irrigable, dependent on the seasons and pasture land; that its length is about a league, a half and its width about the same a little more or less. Lastly that the party interested has cattle with which to stock it. That what he has said is the truth under the oath he has taken, and it being read he affirms and ratifies it as his declaration. He says he is married, over 25 years of age, is of this neighborhood, and a laborer by trade. He does not sign not knowing how. I sign it with the

witnesses of assistance.

Manuel Jimeno Casarin

Jose Joaquin Gomez

Jose Fernandez

110 SD

PAGE 104

On the same appeared citizen Jose Antonio Castro, and was sworn in due form to tell the truth as to what he knew and was asked, and being asked the interrogatories in the superior decree of the Political Chief dated the 16th inst, he says: He knows Dona Josefa Vallejo, she is Mexican born, married, has children and is of good conduct; He also knows the land asked for, that it does not belong to the property of any private person, Mexican, Pueblo or Corporation, that it is about a league & a half in length and the width of the same extent, that it is irrigable, dependent on the narrow and fracture land. Lastly that the said Señora Vallejo has cattle with which to stock it: that what he has said is the truth under the oath which he has taken, and being read he affirms and ratifies as his declaration, says he is married, is over 25 years of age, lives in this vicinity and by profession a laborer; and he signs with me and the witnesses of assistance.

Jose Antonio Castro

Manuel Jimeno Casarin.

Jose Joaquin Gomez

Jose Fernandez.

105

On the same day appeared Gregorio Tapia and was sworn in due form to tell the truth so far as he knew and was asked, and being

asked the interrogatories of the foregoing Superior decree of the Political Chief, he says: that he knows Senora Josefa Vallejo, she is Mexican born, married and has children and is of good conduct; that he also knows the land asked for, and that it does not belong to the property of any private person, Mission, Pueblo or Corporation; that it is irrigable dependent on the seasons and pasture land; that it is in length about a league and a half and in width about the same extent a little more or less. Lastly, the said Senora Vallejo has cattle with which to stock it: That what he has said is true under the oath he has taken and being read he affirms and ratifies as his declaration; He says he is a bachelor, over 25 years of age, and of this neighborhood; and he does not sign as he does not know how; I sign with those of assistance.

Manuel Jimeno Casarin

Jose Joaquin Gomez

Jose Fernandez

Monterey December 23^o 1834

Having completed the foregoing proceedings, return the Expediente to the Political Chief for his action. Thus of the Constitutional Alcaldes have decreed, ordered and signed with those of assistance.

Manuel Jimeno Casarin

Jose Joaquin Gomez

Jose Fernandez.

Monterey January 5th 1835.

Having seen the petition at the beginning of this Expediente, the report of the Municipal authority, that of the Commissioners of the Missions

of San Carlos and Soledad, the testimony of the witnesses, and all else presented and proper to be seen, in conformity with what is directed by the laws and regulations on the matter, I declare Doña Josefa Vallejo for her minor sons Don Jose Antonio and Don Joaquin Estrada, owners in property of the land known by the name of Chualar bounded by the Rancho called Rincon de Buena Esperanza, Monterey River, Rancho of the Carmello, and the Sierra (mountain range) of Santa Fe; let the corresponding despatch issue, take note of it in the respective, and direct this expedient for the due approval of the Most Excellent Territorial Deputation in which case the party interested, who will be notified of this decree, will present anew her title in order that it may be revalidated.

Senor Don Jose Figueroa General of Brigade, Commandant General, Inspector and Political Chief of Upper California thus ordered, decreed and signed, of which I certify

Jose Figueroa
Agustin V. Lamoreaux
Secretary

Jose Figueroa, General of Brigade of the Mexican Republic, Commandant General Inspector and Political Chief of the Territory of Upper California.

Whereas Doña Josefa Vallejo, Mexican by birth, in the name of her minor sons Don Jose Antonio and Don Joaquin Estrada, has petitioned, for their benefit and that of their

families, for the land known by the name of Amalar bounded by the Rancho called Rincon de Buena Esplanza, Monterey River, Rancho of the Carmel, and Sierra de Santa Fe; the ~~present~~ proceedings and examinations concerning it being previously made as directed by the laws and Regulation, using the powers conferred on me in the name of the Mexican Nation by decree of this day I have granted to them the said land, declaring to them the ownership of it by the present, said grant being understood as in entire conformity with what is directed by the laws, ~~and~~ subject to the approval or disapproval of the most Excellent Territorial Deputation and of the Supreme Government and under the following conditions:

- 1st They will submit themselves to the conditions which the Regulation which is to be formed for the distribution of vacant lands may establish, and in the meantime neither the grantees nor their heirs can divide, alienate what is granted to them, impose tax, mortgage, pledge hypothecation or other encumbrance although it should be for pious purposes, or pass in mortgage.
- 2^d They may enclose it without prejudice to the crossings, roads, & easements, and enjoy it freely and exclusively, making such use or cultivation of it as may best suit them; but within one year at most they shall build a house and it shall be inhabited.
- 3^d When the ownership is confirmed to them they will ask the respective Magistrate to give them judicial possession in virtue of

this dispatch by whom the boundaries shall be marked out, and in the limits they shall place besides the monuments some fruit trees or wild ones of some utility.

4th The land which is granted is one square league a little more or less as the map which is in the Expediente explains; the Magistrate will give the possession will have it measured conformably to Ordinance in order to mark out the boundaries, leaving the surplus to the nation for its convenient uses.

5th If they should contravene these conditions they will lose their right to the land and it will be denounceable by another.

Wherefore I order that the present serving as a title and being held as good and valid, not be taken of it in the corresponding books, and that it be delivered to the party interested for their security and other ends. Given in Monterey the 5th of January 1835.

Jose Figueras
Agustin V. Zamorano
Secretary.

August 27 1835

In session of this day the most Excellent Deputation ordered this passed to the Committee on Vacant Lands.

Jose Figueras
Jose Maria Maldonado
Secretary.

Most Excellent Seniors.

The Committee on vacant lands, charged with the expedients ordered to be formed on the petition of Doña Josefa Vallejo for the place called Chualar, finding no objection to make to it, and it being in every thing in conformity with the Law of August 18th 1824 and the 5th Art of the Regulation of Nov. 21st 1828, offers to the deliberation of your Excellent body the following proposition:

Approved the grant made to Doña Josefa Vallejo of the place called Chualar granted January 5th 1835.

Monterey August 28th 1835
Jose Castro.

110

August 29th 1835

In session of this day the Most Excellent Deputation approved the foregoing report, and it was agreed to pass the expedients to the Political Chief for his action.

J. Castro
Jose Maria Maldonado
Secretary.

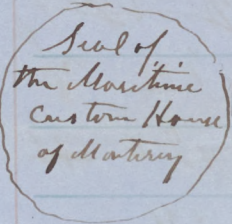
The the undersigned citizens give up the place called Chualar which was granted to us on the 5th of January 1835, in favor of citizen Juan Malarin, and for the security of the party interested we give this in Monterey the 6th of September 1839.

Jose Antonio Estrada
Joaquin Estrada.

stamp third Time Reads.

110 SD
PAGE 110

Provisionally authorized by the Maritime Custom
House of Monterey for the years 1839 & 1840
Alvarado Antonio Maria Osio.



Most Excellent Sir

Juan Malasim neighbor and resident of this Port of Monterey before your Excellency in due form appears and says: That as Don Jose Antonio and Don Joaquin Estrada have given up, ~~the~~ the annex certificate which I accompany herewith, shows, the place which was granted to them on the 5th of January 1835, by the name of Chualar, I come to your Excellency to give it to me as an addition to my place of Guadalupe as being next to it.

Wherefore I pray Your Excellency to grant me said place as not belonging to any corporation or private person, and is very useful to me as the small place I have is not sufficient for my cattle, by which I shall receive grace & justice.

Monterey September 6th 1839
Juan Malasim.

111

Monterey Sept 7th 1839.

Having seen the petition which begins this Expediente, and the document which accompanies it, in conformity with the laws and regulations, I declare citizen Juan Malasim owner in property of the place called Chualar, bounded by the River of this Port, the

Rancho of Don David Spence and the Sierra of Santa Fe and the San Jones, in entire conformity with what was granted to the Senores Estradas, according to the document which goes herewith dated ^{6th of} September of this year. Senor Don Manuel Jimeno Casarin First Moral Proprietario of the Californias exercising the Government of the same, thus ordered decreed and signed.

Manuel Jimeno.

Francisco C. Arce
First Clerk.

112

Monterey May 22^d 1840
Submitted to the Most Excellent Departmental Junta in session of to day and passed to the Committee on Agriculture.

Jose Z. Fernandez
Secretary.

on the 26th of the same the committee returned it with the accompanying report.
Fernandez.

Monterey June 12th 1840.
In view of the approval passed on the 26th of the ^{last} month by the Excellent Departmental Junta, let certificate (testimonio) of it issue to the party Don Juan Malvarin in confirmation of the land Chualar which he obtained on the 20th of September of last year. Senor Don Juan B. Alvarado, Constitutional Governor of the Department of the

californias thus decreed and signed, of which I
certify.

Alvarado.

110 SD
PAGE 112

Most Excellent Senior

The Committee on agriculture and
commerce, charged by Your Excellency to report
on the expedientes presented by the Governor in
the anterior session, in view of the present,
the reports and all else to be seen, proposes
to the deliberation of Your Excellency the
following articles:

Art 1st approved the grant made by the ^{Departmental} Government
of the place called Chualar to the person of
Don Juan Malvarin.

2^d Return to the Most Excellent Senior Governor
the Expediente for the convenient ends.

Monterey May 25th 1840.

S. Arquello
Jose Rafael Gonzalez.

Monterey May 26th 1840.

In session of this day the Most Excellent
Departmental Junta approved the two articles
with which the the foregoing report
concludes.

113

Manuel Jimeno.
President.

Jose I. Hernandez.
Secretary.

On the 23^d of July 1840 Certificate was issued.

Manuel Jimeno Casarin First Varol
of the Most Excellent Junta of the Department
of the Californias in exercise of the Government
of the same.

110 SD
PAGE 113

114 Whereas Don Juan Molinar has asked for
his own benefit and that of his family the
place known by the name of Chualar, bounded
by the River Monterey, by the Rancho of Don
Sanct Spence, Sierra of San Jose and the
San Jose, the proceedings and examinations
concerning it being previously made according
as directed by the laws and regulations;
using the powers which are conferred on me
in the name of the Mexican I have by decree
of this day granted him the said land, declaring
to him the ownership of it by these present
letters, subject to the approval of the Most
Excellent Departmental Junta and to the following
conditions:

1st He may enclose it without prejudice to the
crossings, roads and easements, enjoy it
freely and exclusively making the use and
cultivation of it which may best suit
him.

2^d When the ownership is confirmed he will
solicit of the respective Magistrate to give
him the judicial possession by virtue of this
despatch by whom the boundaries will be
marked out in the limits of which he will
place besides the land-marks some ^{fruit} trees or
forest trees of some utility.

3^d The land of which donation is made is two
square leagues a little more or less as the
map which goes in the expediente explains;

The Magistrate who may give the possession will have it measured conformably to ordinance leaving the surplus which may result to the nation for its convenient uses.

4th If he should contravene these conditions he will lose his right to the land and it will be denounceable by another.

Wherefore I order that the present serving as a title and being held as good and valid, note be taken of it in the corresponding book, and it be delivered to the party interested for his security and other ends.
Given at Monterey the 7th of September 1839.

Manuel Jimeno

Francisco C. Arce.

First Clerk.

This is a copy faithfully taken from the original of which I certify and which appears in the respective Expediente which is in the office of the Secretary of the Government under my charge.

Manuel Jimeno

No 110

The United States, Appellants

vs.

Heirs of Juan Malerin, Appellees

Translation of Residencia

Filed Jan'y 4th 1856.

J. E. Carr
Clerk.

116

110 SD

PAGE 115

H. A. Peckham & Billings
Attors for Appellees

United States District Court
Southern District of California

Mariano Malarin
Executor of the Estate of Juan Malarin Dec^d
Appellee

December Term 1855

vs
The United States
Appellants

No 110
Transcript from
Land Commission of 1854

This Cause coming
on to be heard on an appeal from the decision of the commis-
sioners to ascertain and settle the private Land Claims in the State
of California under the Act of Congress approved March 3^d 1851
Upon the Transcript of the proceedings, ^{and decision} and the papers and evidence
on which said decision was founded, and it appearing that said
Transcript has been filed according to law, and Counsel for the respec-
tive parties having been heard: It is ordered, adjudged and Decreed
that the decision of the Commissioners be affirmed, and that the claim
of the said Appellee is good and valid, and the same is hereby con-
firmed to the said Mariano Malarin Executor as aforesaid to the extent
of two square leagues and no more within the boundaries described in
the grant and map to which it refers, and more fully described in
the Act of judicial possession, Provided that if the quantity within
said boundaries be less than the said quantity of two square leagues
then Confirmation is hereby made of such less quantity

Francis M. Ogilvie
U.S. Dist. Judge

No 110

U.S. Dist Court
South West Cal

M. Malami Ex^{re}
appellor

vs
The United States
appellants

Decree

Rec^d 24th Nov 1854 p^{er} 61

Filed March 3 1856

118 L. E. Can^{er}

by Morgan De Fey

The United States
Appellants

No 109

"Quater"

Mariano Malerin & Co.
Appellee

110 SD

PAGE 118

It being suggested to the Court that the survey of the land claimed in this case made under final decree and approved by the United States Surveyor General for California does not conform to said decree and is erroneous and that said survey will be to the injury of the party applicant: an application of Isaac Newman Attorney of the Appellee it is ordered that the said surveyor General return to this Court the plat of said approved survey, and it is further ordered that a certified copy of this order be served upon the Surveyor General for his information.

123

Fletcher McKeighly
U.S. Dist Judge for the Dist of Cal

No 109
110

Mariano Malerin Esq.

At

The United States

"Chualar"

Order for the return
of money

Filed Feb 4, 1862

John Malerin

Att

124

110 SD

PAGE 119

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

The United States
Appellants

D.C. No 109

vs

Mariano Malerin &?
Appellee

"Chualar"

D.C. No

110 SD

PAGE 120

Now comes the said Appellee by his
Attorney Isaac Hartman and suggests to
the Court that the sum of the premises
claimed by the Appellee in this cause
heretofore made by the Surveyor General
of the United States for the State of Cali-
-fornia, is not made in conformity
with the final decree in the cause and
that said Appellee will be injured there-
-by, and the said Appellee now moves
the Court for an order upon said
Surveyor General directing him to return
into Court forthwith the appraised part
of the money advanced for the further
action of this Court

Isaac Hartman
Attorney for Appellee

No 109
111

Mariano Malerin Esq

At
The United States

"Chancery"

Motion for the
return of money

Filed Feb 4, 1862

John Doherty
Clerk

122

110 SD

PAGE 121

Return

for Applicant

In the District Court of the United States
Southern
FOR THE ~~NORTHERN~~ DISTRICT OF CALIFORNIA.

110 SD

PAGE 122

The United States,

IN LAND CASES.

Dist. Court No. 109 or 110

Land Com. No. 154

Mariano Malvarin
Executor &c.

BE IT REMEMBERED, that on this third day of April A. D., 1862,
at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS,
a Commissioner duly appointed by the Circuit Court of the United States for the Dis-
tricts of California to take acknowledgments of bail and affidavits, and also to
take depositions of witnesses, in civil causes depending in the Courts of the United
States, pursuant to the Acts of Congress in that behalf, personally appeared
Clement Cox a witness produced in behalf of
the Claimant in the above entitled cause, now
pending in said Court under the Acts of Congress to ascertain and settle the private land
claims in the State of California, who, being duly sworn, testified as follows: his
evidence being interpreted by taken by consent.
a sworn interpreter.

PRESENT :

Mass Hartmann Esq
Counsel for Claimant. and D. C.
Whiting Esq Counsel for the U. S.

QUESTIONS IN BEHALF OF THE

Question 1st,

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

My name is Clement Cox,
my age is 32 years, and I

reside in San Francisco.

Q.

What is your occupation or profession?

126

Ans.

I am a ^{Surveyor} and Civil Engineer.

Q.

State what knowledge you have of the final survey of the land claimed in this case called the Rancho of "Chualar," made by the Surveyor General of the U. S. or one of his deputies. Whether you assisted in making the same and in what capacity and upon what data the same was made. Whether the same was run for quantity or according to the act of judicial profession, and anything or everything else you may know concerning the same?

Ans.

I was employed by James E. Turrell the Deputy Surveyor as his assistant in making

the survey referred to. The

the survey referred to. The lines as first run followed the description given in the judicial paper, but it was found that they embraced a larger quantity of land than called for by the orders of the Surveyor General. It was then cut down to quantity.

Cross Examination
Questions by Counsel for
the U. S.

Ques: 4.

What do you mean by
quantity?

Ans.

The quantity of land named
in the grant, and the in-
structions of the Surveyor
General.

127

5.

How and from whom did
you ascertain the quantity

named in the juridical
paperation?

128

Ans.

From David Spence, the
Professor McCulloch who gave
the juridical paperation. He
was present and pointed
out the lines of juridical
paperation to us.

b.

Did he exhibit to you any
record or documentary
evidence of the juridical
paperation?

Ans.

No sir, it was merely verbal.

Direct examination resumed
Questions by Counsel for
Plaintiff.

Ques: 7.

State what papers or copies
of papers were furnished
you ~~containing~~ by the

Supervisor General submitting

110 SD
PAGE 125

Surveyor General, containing
a description of the land
to be surveyed?

Ans.

In the instructions was an
extract from the decree
giving a description of the
land, and also a translation
of the juridical paper.

8.

What was the quantity of land
contained within the lines of
juridical paper?

Ans.

I think there were three or
four thousand acres surplus
I don't think any more.

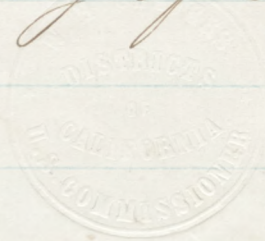
Deposition closed.

Clement box

Subscribed and sworn to this
3rd day of April A. D. 1862, before me

A. D. Chivers,

U. S. Com^r



No 110

UNITED STATES DISTRICT COURT

Southern
~~Northern~~ District of California.

IN LAND CASES.

THE UNITED STATES

v.

Marius Malarin,
Executor, etc.

DEPOSITION OF

Clement Cox
on part of *Claimants.*

Filed

14th

186

2

John Wheeler

Clerk.

110 SD

130 PAGE 127

U. S. Dist Court
Southern Dist California.

The United States } No. 109 or 110.
- vs - }
M. Malarin Esq } "Chualar"

110 SD
PAGE 128

To the Hon G. M. Haight U. S. Dist
Judge.

In consequence with an order
from your honorable Court dated
July 4th. 1862. I herewith file a certified
Copy of the plat of the Rancho "Chualar"
Confirmed to M. Malarin Esq. I
would state for the information of the
Court that in compliance with the act
of Congress of June 14th 1860, the approval
of this plat was advertised and retained
in Office for four weeks and no objections
made thereto as will fully appear by
reference to annexed certificate.

The
law having been fully complied with,
the plat and survey according to
Sec 5 of said act was finally deter-
mined by said publication and by
the same Section is declared to have
the same effect and validity in law
as if a patent for the land so surveyed
had been issued by the United States

133

It became my duty therefore according
to said Section 5. "to transmit, with-
out delay the plat or survey of the said
claim to the General Land Office"
for the issuance of a patent, I have
Complied therewith and the plat,
descriptive notes &c. of this survey
are now in the General Land Office
for patent

U. S. Sur Genls Office } Very Respectfully
San Francisco Cal } Your Obedt Servant
March 4th 1862 } E. J. Peale,
U. S. Sur Genl.

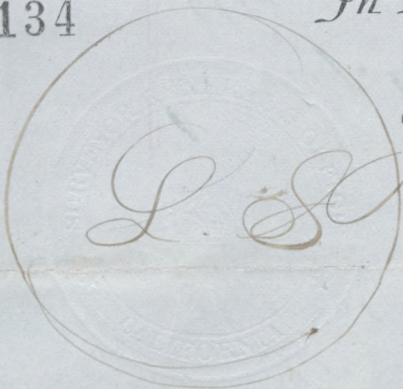
Office of the Surveyor General of the United States, }
FOR CALIFORNIA. }

110 SD
PAGE 130

I, J. W. MANDEVILLE, United States Surveyor General, for the State of California, do hereby certify that the Rancho "Chualar"

confirmed to *M. Malarin & Co*
has been surveyed by this office, and that the survey and plat was approved by the U. S. Surveyor General, on the *Third* day of *May* *1859* ~~1860~~; that I have caused to be published, once a week, for four weeks successively, in two newspapers, to wit: the "*Pacific Sentinel*" published in the County of *Santa Cruz*, State of California, being the newspaper published nearest to where the said Rancho is located, the first publication being on the *Twenty first* day of *September* *1860*, and the last, on the *Twelfth* day of *October* *1860*; also, in the *Los Angeles Star* a newspaper published in the *City* and County of *Los Angeles*, State of *California*, the first publication being on the *Twenty ninth* day of *September* *1860* and the last on the *Twentieth* day of *October* *1860*, a notice that the said land had been surveyed, and a plat made thereof, and the survey and plat approved by me. And I do further certify, that the said survey and plat were retained in my office during all of said four weeks, and until the expiration thereof, subject to inspection; and I further certify, that no order for the return thereof to the U. S. District Court, has been served upon me.

134



In Testimony Whereof, I have hereunto signed my name officially, and caused my Seal of office to be affixed, at the City of San Francisco, this *First* day of *January* *1861*.

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

U. S. Surveyor General's Office
San Francisco March 11th 1862

I certify the above to be a full true, and correct copy of the Original record of this office

E. M. Peale
U. S. Surveyor General.

No 110 SD
BL 154

United States Dist Court
South District Cal

Mahand Malarin &
ad. appellee
The United States
appet

Plat of Survey

Filed March 25, 1862
John O'Whelan
clerk

135

110 SD
PAGE 131

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

110 SD
PAGE 132

The United States	}	D.C. No 110
Appellants		
vs	}	"Quales"
Mariano Malain &		
Appellee		S.C. No 154

Now comes the said Appellee by his At-
-turney Isaac Hartman, and excepts to
the final survey of the land claimed in
this case, made by the Surveyor General
of the United States for the State of Cali-
-fornia. The lines of said final survey
to which exceptions are hereby taken are
more particularly described as follows,
to wit,

Beginning at the point marked mit-
-nells post, N.P. 09 S 6 $\frac{1}{2}$ ° E 5.20 chs from corner.
Thence to Aliso tree marked c 8, old corner.
Thence to Post c 7 & sec 7 & 12.
Thence to Post c 6.
Thence to line oak c 5.
Thence to oak tree c 4.
Thence to oak tree c 3.
Thence to Post S.E. U.S. & C. 2.

Gave a true copy of the within upon
P. C. Whitney U.S. Dist. Atty in the town of
Monterey on the 4th day of March 1862

H. D. Barrows
U.S. Marshal

Deputy. Jacob B. Leese.

Service 2.00
Travel 1.25
Copy 3 p. 30
\$ 2.42

State of California
Southern District of Cal^a

Isaac Hartman
being duly sworn upon his oath says
that the foregoing receipts are true
as he is informed and verily believes

Isaac Hartman

Sworn to & subscribed before me this
8th day of April A.D. 1862

John Wheeler
Clerk

No 110

Mariano Mulcaim Esq

At

The United States

Exemptions to Summary

~~~~~

Filed Feb 26, 1862

John Wheeler  
Clk

Noted by pub. <sup>2nd</sup> <sub>off</sub>

110 SD

138

PAGE 134

Wartman for  
Appellee.

NOTICE is hereby given, that the final survey of the lands claimed by the parties to the record in this case has been returned into Court and objected to. All parties in interest in said lands are therefore hereby admonished to appear and intervene for the protection of their interests under the rules of the Court.  
JOHN O. WHEELER, Clerk.

Mont April 2, 1862—3w.

United States of America }  
Southern District of California }

110 SD  
PAGE 135

John McElroy being duly sworn deposes and says that he is one of the Editors and publishers of the Pacific Sentinel, a newspaper published in Santa Cruz, in the Southern Judicial District of California, and that he published in his newspaper the annexed notice, for three successive weeks, the first publication being made on the second day of April, A. D. 1862 and the last on the 18th day of April A. D. 1862

John McElroy

Subscribed before me  
this 17th April 1862  
John O. Wheeler  
Clerk U. S. Dist. Court Santa Cruz Cal.



No. 110

W. S. Dub Lumb  
South Dakota

McLarami &

"

The United States

Off of publication

Filed April 17, 1862

John Whalen

140

110 SD  
PAGE 136

UNITED STATES DISTRICT COURT,  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA. }

110 SD

PAGE 137

*The United States appellants*  
*Mariano Malarin 3<sup>rd</sup> appellee*

No. 109 or 110

"Chualan"

It being suggested to the Court that the survey of the land claimed in this case, made under final decree, and approved by the U. S. Surveyor General for California, does not conform to said decree and is erroneous and that said survey will be to the injury of the Party

applicant

on application of Isaac Hartman, Attorney of the Appellee

it is ordered that the said Surveyor General return to this Court

the plat of said survey, and that the appellee

be allowed 20 days, from and after the return thereof, to file exceptions thereto; and it is further ordered that a certified copy of this order be served upon the said Surveyor General for his information.

I. S. K. OGIER, U. S. District Judge.

UNITED STATES OF AMERICA, SOUTHERN DISTRICT OF CALIFORNIA. }

COUNTY OF LOS ANGELES. Monterey

*John D. Whelan*  
I, J. C. Sims, Clerk of the United States District Court for the Southern District of California,

do hereby certify that the above and foregoing is a full true, and correct copy of the original order, made and entered on the 4<sup>th</sup> day of February, 1862,

in said case, No. 109 on the docket of said Court, wherein Mariano

Malarin 3<sup>rd</sup> is the claimant against the United States, as appears of record in my office.

In witness whereof I herewith set my hand and affix the seal of said Court this the 4<sup>th</sup> day of

February, 1862  
*John D. Whelan*, Clerk.



UNITED STATES OF AMERICA, }  
SOUTHERN DISTRICT OF CALIFORNIA. }

THE PRESIDENT OF THE UNITED STATES,

To. ~~J. W. MANDAVILLE~~, U. S. Surveyor General, for California—Greeting:

You are hereby notified that the United States District Court, for the Southern District of California, at the Intermediate Term of said Court, 1862, in case No. 109 on the

docket of said Court, wherein Mariano Malarin 3<sup>rd</sup> is the claimant against the United States, made and caused to be entered an order, of which the above and foregoing is a certified copy herewith transmitted to you for your information, and you are hereby required to take notice of the same.

Witness the Hon. ~~ISAAC S. K. OGIER~~, Judge of the United States District Court, for the Southern District of

California, this the 4<sup>th</sup> day of February, 1862.

Attest my hand and the seal of said Court the day and year last above written John D. Whelan, Clerk.



The within order served on  
E. F. Beale U.S. Surveyor General  
at San Francisco on the 12<sup>th</sup>  
day of Feb'y, 1862 by delivering  
a <sup>true</sup> copy of the same to the  
said U.S. Surveyor General.

Henry D. Barrows  
U.S. Marshal  
S. Dis. Cal.

20710

Merrill Malvern  
H. M.

and

The United States

"Chualar"

Order for the Return  
of Property.

Received Feb'y 12  
Filed April 20/62

John Robinson Clerk

142

110 SD

PAGE 138

United States District Court South & West of San Jose

Mariano Malarii & co

No 108

110 SD

PAGE 139

vs  
The United States

Claim for Expenses

on Sept 25 Survey

Be it known that on this day July 29<sup>th</sup> 1863 at my  
office in the town of Monterey, County of same, State of Cali-  
fornia at 4 o'clock P.M. before me John Wheeler Clerk of  
District Court of San Jose & Ex Officio U.S. Commissioner duly author-  
ized to take depositions to be used in the Courts of the  
United States came Teodoro Gonzalez a witness on behalf  
of Claimants in the above entitled cause now pending  
in the said U.S. District Court of San Jose who being duly  
sworn was duly examined, and his testimony given  
through John A. Gallagher a sworn Interpreter

Present David Jacks on behalf of Claimants  
and J. Whiting Dubletty on behalf of the United  
States

Question by Commissioner

Ques: What is your name age, residence & occupation

143

Ans: Teodoro Gonzalez, 61 years of age, reside in mon-

terey & am a Rauchero

144

Questions by David Jacks on part of claimant

110 SD

PAGE 140

Quest. Are you acquainted with the Rauchos called  
Zangones

Ans. Yes I do

Quest. How do you know it

Ans. Since I came to this Country I know the  
Rauchos of Zangones by the Mission Priests

Quest. Do you know of the Judicial Possession  
of that Rauchos

Ans. I do. the Judicial Possession was  
given by David Spence who was Alcalde. He gave  
the Possession to Juan Malarin

Quest. Was the Rauchos at that time not the  
property of Estrada?

Ans. I thought I was speaking of the Rauchos

of Chualar, The juridical possession of the Zanjones  
was given by Spence as Alcalde to Gabriel de la  
Lorre, which said Rancho adjoins mine to a  
certain point

110 SD

PAGE 141

Ques. Do you recollect where the juridical pos-  
session of the Zanjones commenced

Ans. At the river

Ques. From thence where did it run

Ans. From the river the line ran along my line

Ques. From thence where did it then, or from the river  
in what direction did the line run

Ans. They started from the willows near the river  
and run to the three sequoia trees, and from there to the  
mouth of the Cañada adjoining my Rancho, taking in  
the three springs which are within the mouth of the  
Cañada, and then the survey stopped, they did not then  
measure any more on the Zanjones, but went on to measure  
the Chualar

145

Ques. Did they measure more than one line after

Juynos

110 SD  
PAGE 142

Ans. They measured from the three willows to the three  
Sycamores, thence to the mouth of the Cañada. And then  
continued the measurement of the Chualar adjoining my  
boundary

146

Ques. (Witness is here shown Exhibit "A. D. G."). Look  
on Exhibit. And say where the line was run from the  
Cañada

Ans. After they got to the mouth of the Cañada  
they turned back and measured along my line to the  
river, and along the river to the place of beginning  
- I can fix no point on the river where the line above  
mentioned ran to. I recollect now that it reached  
the river at a point about half way between my  
house & that of Gabriel de la Torre, and from thence  
along the river to the point of beginning

Ques. Is your house the same house that was on  
the Rancho at that time and marked on "Exhibit  
B. D. G." now shown you as "Gonzalez House"

Ans. It is the same

Ques. What became of the ownership of the Gonzales afterwards

Ans. Gabriel de la Torre sold to John Malariu

110 SD  
PAGE 143

Ques. In what year was the juridical possession given

Ans. So many years since that I cannot recollect,

Ques. Who has been in possession of the Rancho since that time to this

Ans. First Gabriel de la Torre, then Juan Malariu and then David Jacks

Ques. What kind of possession has it been - peaceable and quiet?

Ans. Quiet and peaceable

Prof Examination

Questions by W. S. Dist Atty.

147

Ques. Were you one of the assisting witnesses



When the judicial possession was given by David  
Spence

148

110SD  
PAGE 144

Ans. No I was not, I was there present by  
virtue of citation, being an adjoining land owner

Ques. Who was present beside yourself

Ans. Gabriel de la Torre, Juan Malarin, Lu-  
delupe Cantua, Julian Guerrero

Ques. Was the measurement of your Rancho  
made on the same day

Ans. It was

Ques. Was judicial possession given you  
on that day also

Ans. Yes

Ques. Was the measurement and judicial  
possession of the Chualar given on the same day

Ans. I do not know, but they commenced to

measure the Chualar along my lands into the hills  
And I stated I did not follow them up

110 SD

PAGE 145

Ques Did you know of the judicial possession  
of the Chualar was given on the same day that  
the Zanjones was given or not.

Ans I do not know, but they continued meas-  
uring when I left them

Ques At what point on map marked Exhibit  
A "L.G." did you separate from the party

Ans At the mouth of the Cañada

Ques Was that before they ran the line down  
to the point between the two houses or after

149

Ans They measured all the lines of the Zanjones  
up to the Cañada before I separated from them & then  
they continued into the hills

Ques; Who was the owner of the Zanjones on  
the day of that measurement

Ans Gabriel de la Torre

Ques Who was the owner of the Chualar on that day

Ans Juan Malasim

110 SD

PAGE 146

Ques How long after that was it that delo  
Torre sold out the Ganjones

150

Ans I cannot say. I think it was about  
2 years more or less

Ques Do you know whether there was ever  
any other measurement of those two ranches Chualar  
& Ganjones - other than those you have spoken of

Ans None except those made by the S. Genl of  
U.S.

Ques Do you know the quantity of land in  
the Ganjones Ranch

Ans No I do not know

Ques Do you know how much land there  
is in the Chualar

Ans I do not know

Ques Was it stated at the time Spence was giving judicial possession how much land he was giving

110 SD  
PAGE 147

Ans I do not know

Re: Examination

Ques How far along the line of the Chualar did you go with them when they were giving judicial possession

(Quertion objected to on the ground that witness has stated that he stopped at the mouth of Cañon & did not go with them in the measurement of the Chualar

Ans I stopped at the mouth of the Cañada and they went on into the hills

Deodoro Gonzalez  
Promissory Subscribed before me this 29<sup>th</sup> day of July A.D. 1863

151

John Whelan  
Alcalde of Bull Gulch  
U.S. Comm

United States of America,  
District of California

110 SD

PAGE 148

John Whelan

W. D. G. S. G. do hereby certify the above to  
be a full true and correct copy of original on file  
in case No. 108, Mariana malaria in the United States  
now in my office

Witness my hand & seal of said Court  
at Monterey July 29<sup>th</sup> 1863

John Whelan

W. D. G. S. G.



152

No 110  
U of Dub Grant  
I Dub Grant

M Malarum St  
United States

Dep of Commerce

Filed July 29, 1863  
John D. Hull

153

119 SD

PAGE 149

of David D. Clark

Abrahan Malaren

No 115

110 SD

PAGE 150

The United States

It is hereby stipulated that the depositions of John Ruards & Marcius Malaren taken before John D. Wheeler, Clerk of the Court in the Case of M. Malaren No 108, may be copied and such certified copies made by the Clerk of the District Court and used in this case as if they had been taken herein.

Monterey August 13 1862

P. C. Whiting  
U. S. Dist. atty

David Jackson

No 110

U. S. Dist Court

South Dist Cal

Mariano Malarin

vs  
The United States

Step in to Deposition filed  
in Case No 108. and to be  
used herein

Filed August 11<sup>th</sup> 1863

John S. Wheeler  
Attorney for the Plaintiff

110 SD  
155 PAGE 151



United States District Court South Dist California

Mariano Salas & Co

110 SD  
PAGE 152

The United States

No 108

Be it known that on this  
1<sup>st</sup> day of August at the City of Monterey in the South  
Dist of California came before me John Whelan Clerk  
of the United States District Court for the Southern District  
of California and G. Whiting U.S. Commissioner duly author-  
ized to take depositions in Civil Cases to be used in the  
United States Courts John Ruards Attorney in behalf  
of the Claimant in the above entitled Cause now pen-  
ding in the District Court of the U.S. for the South Dist  
Cal. who being duly sworn testified as follows

That David Jacks in behalf of Claimant  
and G. Whiting U.S. Attorney on part of the United  
States,

Question by Commissioner

What is your name age residence and  
occupation

158

Ans. John Ruards, 41 years, Monterey, No Occupation

Questions by David Jacks on part of Claimant

Ques Are you acquainted with the Rancho of  
Zanjones in Monterey County

110 SD  
PAGE 153

Ans Yes, I have been there several times

159

Ques Do you know where a Cypress tree on  
said Rancho marked S. G. is, and if so describe  
on Diagram marked Exhibit "A. 54" as near as  
you can its locality

Ans. I saw a Cypress tree at the point  
marked S. on said diagram. This was in the month  
of April 1862. I had the U.S. Surveyors mark on it  
and as well as I can remember on one side of  
it was R. P. M. and on the other side of it S. G.

Ques How or by what means did you find the tree

Ans By starting from the boundary on the River  
of the Rancho of Gonzalez in the direction indicated  
on the diagram of the Zanjones Rancho, which I had  
before me at the time - by diagram I mean the plat  
of survey

Ques Was there a Cañon near there, and if so show its locality on the Exhibit, and state how far the mouth of it was from the tree

110 SD

PAGE 154

Ans. The tree was I think - according to the best of my recollection - about a 1000 yards from the mouth of the Cañon

Ques Did you look for a Chupadero or spring at the mouth of the Cañon - and if so - did you find one, and if so how far was it from the tree marked S. G., and would said spring be within the boundaries of the Jansines, or beyond and on the outside thereof - and was there any elder tree where you looked for the Chupadero or spring

Ans - I found a spring about some 15 or 1600 yards distant from the sycamore tree up in the Cañon. The spring was not in the Cañon itself, but on the rising ground there, and about 100 yards distant from the spring in an easterly direction there was a lone elder tree. I do not know whether it was within the boundaries of the Rancho, as I do not know said boundaries, but from the diagram I should say it was outside and on Gonzales' Rancho. The sycamore tree was by the side of a big gulch. We had

160

along with us an abstract of the Juridical possession of the Gaugines to guide us in looking for the tree and a poplar which is mentioned, but the latter we could not find, We had also an abstract of the juridical possession of the Chualar, I think this spring is the one descended in the juridical possessions of the Chualar & Gaugines as I could not find any other in the neighbourhood

161

Pass Examination

Ques At whose request did you go there  
And who was with you - if any one

Ans I went there with David Sacks, he requested me to accompany him to look at certain boundaries, and surveyors marks on the Rauchos  
No one else was along

Ques Did you know any thing about the boundaries of those Rauchos before you went there

Ans No I did not, The first boundary at the river was pointed out to me by the people there at Gonzales

Ques. How much time did you spend in looking for these springs

110 SD  
PAGE 156

Ans. I think we were there after arriving at the Sycamore tree about 4 hours looking for those boundaries

Ques. Do you mean you were on that portion of the Rancho near the Sycamore tree looking for the springs 4 hours

Ans. Yes

Ques. Were you riding or walking

Ans. After leaving the Sycamore, about a few hundred yards, going towards the Cañon we unhitched the horses and tied them and then went on foot all the time until we started back

Ques. Did you graze your horses & take any lunch

162 Ans. Yes it was good grazing and we let them graze and when we came back we took some lunch  
The whole time occupied about 4 hours

Ques Was there plenty of water there

Ans Yes there was at the place where we hitched our horses enough for them & us, there was a stream running

110 SD

PAGE 157

163

Ques Did you see plenty of watering places for stock in that vicinity and in the vicinity of the Eastern portion of the Zungones & Chullar towards the hills

Ans At that time all the lakes on the plains were full of water & all the mountain streams were running them, but on the hills the only spring of the kind as called in Spanish Chupaderos to be found at that time was the one we found

Ques What kind of spring are called Chupaderos

Ans Permanent springs on the surface - not running, where the cattle come at sometimes, and do not find enough to drink, and have to suck the water out of the holes. Generally there are willows around such springs

Ques Were there willows near this

Ans There were some Cor of Willows around it

110 SD

PAGE 158

Ques Might there not have been other Springs  
such as the Spaniards Called Chupaderos on the  
Eastern Portions of those Ranchos, than the one you  
speak of

Ans Yes there might have been, although I  
went upon the elevations in that vicinity and could  
neither see nor find any - Yet for all that there  
might have been some

J. R. Murd

Sworn to & subscribed before me  
this 7<sup>th</sup> day of August 1853

164

John D. Whelan  
Notary Public  
for the State of California

United States of America  
San Diego California  
I, John D. Whelan  
Notary Public for the State of California, do hereby certify the

proving to be a full true and correct copy of Original  
on file in Case No 108. Mauana Malama Etc in the  
United States as same now appear in my office.

110 SD  
PAGE 159



In Witness Whereof I hereunto set my hand  
and affix the seal of said Court at  
Monterey this 17th day of Nov 1853

John S. Wheeler  
Clerk of said Court

165



711 110  
W. S. Dub Court  
South Dub Galo

M Malorum 4

Mulder Race

Depot Records

Piled Aug 4 1863

J. D. Whitwell

166 110 SD  
PAGE 60

United States District Court South Dist California

Marcus Malarm Et

vs

No 110

"Chualar"

110 SD  
PAGE 161

The United State

John Whelan being duly sworn deposes and says, that he was occupied in the Clerk's Office of the U. S. Dist Court South Dist California during the latter portion of and up to the final adjournment of the Regular December Term A. D. 1855, thereof, that a number of decisions were rendered at said Term in said Cases, that in many of said Cases no formal decrees were drawn up and signed until long subsequent to said decisions, that on the sixth day of March 1856, being the day immediately preceding the final adjournment of said Term, deponent was directed by the then Clerk of said Court to draw up decrees in all cases in which decisions had been rendered during the said term, that deponent engaged James H. Lauder to assist him, that said Lauder examined the papers in said Cases and dictated to deponent the substance of the same, who drew them up, that the said decrees were signed the next day by the Court, without reading or examination by him, as he and the Clerk were hurrying their preparations to leave, and did so leave early on that day in the stages for San Pedro on their way to Washington, that among the Cases in which decrees were so drawn and signed was the aforesaid Case of Marcus Malarm Et vs The United

States, in the place called "Chester". And deponent  
further says that neither the Claimants or their attorneys  
in said Cause were present at the drawing up or signing  
of said Deeds. Nor were said Claimants nor their attorneys  
or any other person - including the Court itself - with the  
exception of Deponent and said Auditor, at that time  
aware of the terms of said Deeds.

110 SD  
PAGE 162

172

Given to and subscribed before me *John P. Wheeler*  
the 9<sup>th</sup> day of March A.D. 1864  
*D. Deane*  
Notary Public

The United States

vs.

Mariano Malamin

No. 110

"Chualar"

No. 110

Chualar

Deposition of J. O. Wheeler

On motion of J. R. Gitchell

Deposition of J. O. Wheeler

Filed on motion of  
J. R. Gitchell atty. for  
appellee. this 14<sup>th</sup> day  
of March 1864

John O. Wheeler  
Clerk

By Geo. B. Van Nest  
Deputy Clerk

173

110 SD

PAGE 163

Los Angeles January 11<sup>th</sup> 1856  
 Court met pursuant to adjournment  
 Present Hon. J. S. K. Ogier Judge  
 P. Ord U. S. Atty.  
 G. E. Can Clerk  
 C. Hunter Marshal

110 SD  
 PAGE 164

Heirs of Malerin  
 Appellees  
 ads. } No 110  
 The United States  
 Appellants }

On this day in this case  
 the opinion of the Court was delivered  
 confirming the claim of the appellees  
 herein and a decree was ordered to be  
 entered in the records of this Court  
 in accordance therewith.

See Record of decrees Book A. page-

5<sup>th</sup> February 1857  
 J. B. R. Cooper  
 appellee  
 ads. } No 1  
 The United States  
 Appellants } "El Sur"

167

Now on this day comes the  
 parties aforesaid by their respective  
 attorneys. the appellants by P. Ord U. S.

Dis. Atty. and the appellee by Halleck Peachy and Billings Esq's. his attorneys whereupon the attorney of appellants reads and files a stipulation of the parties and a letter of the U. S. Atty. General stating that an appeal will not be prosecuted by the United States in said cause. and moves the court to dismiss the appeal. heretofore taken in this cause. and that said appellee have leave to proceed under the decree of the Land Commissioner in his favor. which motion being heard and fully understood

It is therefore ordered that said appeal be dismissed and said appellee have leave to proceed under the decree of the Land Commissioner heretofore rendered in his favor as a final decree

On motion of P. Ord United States Disb. Atty. Halleck Peachy and Billings Esq's. Attorneys of the claimants. being present. and by stipulation the same proceedings. and the same orders are had and made in the following cases as of the last preceding case numbered "one to wit:

Nos. 3. 7. 25. 26. 39. 41. 49. 53. 56. 57. 64. 72. 73.  
83. 84. 97. 108. 109. 110. 115. 118. 149. 168  
177. 188. 200. 215. 221. 223. 230. 240. 241. 244.  
254.

110 SD  
PAGE 166

John O. Wheeler Clerk of the United States District Court for the Southern District of California. do hereby certify that the foregoing is a full true and correct copy of the minutes of said court so far as they relate to the foregoing case on the days specified.

Witness my hand and the Seal of said Court at Los Angeles. this 14<sup>th</sup> day of March A.D. 1864

John O. Wheeler Clerk  
by George B. Vandross Deputy

No 110

Chualar

in motion of J.R. Hitches  
atly. for appellee the  
within transcripts was filed  
this 14<sup>th</sup> day of march  
1864

of Geo. O. Wheeler  
by Geo. S. Van Ness

The United States  
vs.

Mariano Malamin

No 110

"Chualar"

Transcripts from  
minutes of Dis. Court

Filed on motion of  
J.R. Hitches Esq. atly.  
for appellee this 14<sup>th</sup>  
day of March 1864  
Geo. O. Wheeler Clerk  
By Geo. S. Van Ness  
Deputy



United States District Court Southern District  
of California  
New Mexico vs. Wright Judge  
Regular June Term AD 1865  
Mariano Malarin &

110 SD  
PAGE 168

No 110

The United States

"Chualar"

Now on this 13th day  
of June AD 1865 this Cause having been heretofore  
argued and submitted on the Exceptions filed  
by Claimant and appelle to the approved plat  
of survey of the lands claimed herein being  
Rancho "Chualar" situate in the County of Monterey  
District aforesaid. And it being shown to the  
Court that a plat of said survey made and  
approved by the United States Surveyor General  
for the State of California was filed in this Court  
under its own order on the 25th day of  
March AD 1862 and was accepted by  
Claimants which said Exceptions were filed  
herein on the 26th day of March AD 1862  
and said Exceptions having been argued by  
Counsel for Claimants and by the U.S. District  
Attorney for said District on behalf of the United  
States, and the same being fully understood  
his Honor adjudged and decreed that  
the said Exceptions of Claimants to the said  
approved plat of survey of the Rancho of  
"Chualar" be and the same are hereby  
overruled and denied, and it is further

110 SD  
PAGE 169

Ordered adjudged and decreed that the  
said approved plat of survey be and is hereby  
affirmed and made a part of this decree.

And it is further ordered that a certified  
copy of this decree and of said plat of survey  
be transmitted to the Surveyor General of  
the United States for California for his infor-  
mation.

Thus done and signed in open Court this  
12th day of June A.D. 1865

175

Fletcher M. Haight,  
Judge of the Court for said Territory

No 110  
U. S. Dist Court  
Rocky Mt. Dist Colo

M. M. Laramie et al

The United States

Chustae

Dece confirmng  
Survey

Filed Jan 12 1865

J. M. Wheeler  
Clerk

The United States appellants  
vs  
The Heirs of Malamin, appellees.

110 SD  
PAGE 171

The claim in this case is founded upon a grant from Mexico the Governor ad interim of California, to Grand Malamin, bearing date the 7<sup>th</sup> day of September 1839, and was approved by the departmental Assembly on the 24<sup>th</sup> May 1840 and judicial possession was given on 10<sup>th</sup> December of the same year. The genuineness of the grant, the approval of the departmental Assembly and the judicial possession are all fully proven. Full compliance with all the conditions of the grant by the Original grantee is shown, the boundaries of the land are well described in the grant and map, and the judicial possession was given within those boundaries. ~~The petition~~  
The Original grantee is proven to have succeeded and the present claimants claim as his ~~successors~~ heirs, their heirship is fully proven and they are therefore entitled to a confirmation and a decree will be entered accordingly.

The United States  
by  
Hus of Malamin

178

110 SD  
PAGE 172

Objections

Manuel Malani, for Chualar

1. That the grant purports to have been made according to a map, belonging to the expediente. That this map is not shown, and that the land cannot be identified, located & surveyed <sup>without</sup> reference to said map.

2. That the description of the land in alleged grant is vague and indefinite. (See p. 13 & 14.)

(The grant at p. 23, appears to be a copy by Simons, showing boundaries different from the original.) X.  
3. That the alleged act of judicial possession, is not executed according to law. It has but one assisting witness. That ~~it is not made according to~~ <sup>it is not made according to</sup> follow the alleged grant. That it is for ~~the same~~ <sup>vague and indefinite</sup>.

4. That ~~the~~ <sup>there is no sufficient</sup> evidence of the performance of the conditions of the grant.

(~~Get a Certified Copy of Copy of this case~~)

The place Chualar, granted to Rosa Mallojo for her two minor children by Gov. Figueroa

5<sup>th</sup> June 1835, of 2 leagues & 1/2 p.m.o. according to map.

abandoned by Don Antonio & Juana Estrella, 6<sup>th</sup> Sept 1839, in favor of Manuel Malani

Apparated by Simons L. Malani - Sept. 7, 1839 (1839) - 1839, quantity in grant 2 sq leagues, as explained by maps & papers by them on 10. Dec. 1840.

110 SD

179

PAGE 173

X. The boundary "Sanjans", is added in the copy of grant by Simons.