CASE NO.
114

SOUTHERN DISTRICT

EL CAJON GRANT

THOMAS W. SUTHERLAND,
GUARDIAN, VC

CLAIMANT

LAND CASE 114 SD 70 pgs.

Anything Desired

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 262

Thomas W. Sutherland, Guardian &c. CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"El Cajon,"

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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

The Petition of Thomas W. Sutherland, Guardian, etc; for the Place named "El Cajon", was presented, and ordered to be filed and docketed with No. 262, and is as follows, to wit;

(Vide page 3 of this Transcript.)

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

Los Angeles, Oct. 14th 1852.

In Case no. 262, Thomas W. Sutherland, Guardian &c, for the place named "El Cajon", the deposition of Santiago Argüello, a witness in behalf of the claimant, taken before Commissioner Hecaiah Hall, with documents marked H. H. C. no. 2. E & F, annexed thereto was filed.

(Vide page 5 of this Transcript.)

San Francisco, Sept 13 1853.

In the same Case the deposition of J. J. Warner, a witness in behalf of the claimant, taken before Commissioner Thompson Campbell, was filed;

(Vide page 7 of this Transcript.)

San Francisco, Sept. 16 1853.

Case no. 262, called, Submitted on Briefs on both sides and taken under advisement by the Board,

San Francisco March 14 1854.

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

(Vide page 43 of this Transcript)

San Francisco, Aug 15 1854.

In the same Case, on Motion of the United States Law Agent, the following order was made, viz:

(Vide page 49 of this Transcript)

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Petition

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To the Hon. the Board of Commissioners for ascertaining and settling Private land claims in the State of California

Victoria, Isabel, Miguel and Helena Manrichez of Miguel de Pedrorena, and Maria Antonia Estudillo de Pedrorena. The former a Naturalized Citizen and the latter a Native of the State of California - both late of the County of San Diego in said State, deceased - respectfully represent to your Hon. Board that they claim as said Manrichez children a certain tract of land called El Cajon containing eleven sitios de ganado mayor, situated in the County of San Diego in said State of California, that they claim the same as of vested in fee by virtue of a grant made to Mr Maria Antonia Estudillo de Pedrorena under the authority of the Mexican Government by Pio Pico Governor of the State of California bearing date the 23d day of September 1845 and approved by the Territorial Deputation on the 3d day of October 1845 - Your petitioners would further represent that peaceable possession of said land was given to the said grantee on the 11th day of September 1846 and the boundaries thereof designated and defined, and that the said Manrichez children have, ever since the death of their parents been in peaceable possession thereof and that they have no knowledge of any interfering claim to the said Rancho del Cajon -

Your petitioners present herewith the Expediente containing the documentary evidence of the claim to said land, in the Spanish language together with a translation of the same and will make further proof of title if required by the Board -

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

Shelton & Hall
Attorneys for Petitioners

Filed in Office June 10th 1852
Geo. Fisher Secy

4.

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Deposition of
S Arguello

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Los Angeles October 14. 1852

On this day before me Roland Hall one of the Commissioners for ascertaining and settling private land claims in the State of California personally appeared ~~by~~ Santiago Arguello a witness produced on behalf of Thomas W Sutherland guardian of Victoria, Isabel, Miguel and Helena Maria Children of Miguel de Pedroreno and Maria Antonia Ede Pedroreno both deceased, the claimants of the Rancho of El Cajon which is numbered 262 in the Docket of said Commissioners, who being duly sworn testifies as follows - The Associate Law Agent being notified and attended -

Question 1st What is your name age and place of residence
Answer. My name is Santiago Arguello. I am forty years of age and resided near the boundary line ~~of~~ between the State of California and Lower California in Mexico The Rancho of Ti Tuan upon which I resided being awarded by said line

Question 2d Do you know the hand writing and signatures of Pio Pico Jose Ma Covarrubias, S Arguello, Santiago E Arguello Jose A Guyon and Jose Antonio Arguello
Answer. I know the hand writing and signatures of all of them, having seen all of them write their names very frequently. S Arguello is my own name and Santiago E Arguello and Jose Antonio Arguello are my sons

Question 3d. Look at the document now shown you Marked E and filed herewith as part of this deposition purporting to be a grant of the Rancho of El Cajon and say whether said grant purporting to be signed by Pio Pico Jose Ma Covarrubias and yourself is genuine and the signatures thereto genuine
Answer. I know that my signature is in my own proper hand writing and that the other signatures are also genuine - The document is a genuine one

Question 4th - Look at the document now shown you purporting to be an act of approval of the Department

Assembly of California marked F and filed herewith as part of this petition and say whether the signatures of Pio Pico and Jose Ma Covarrubias are genuine?
Answer - The documents and signatures are both genuine
Question 5th. Look at the document now shown you marked C No 3 and filed herewith as part of this petition and say whether the signatures of Santiago E Argüello Jose A Gongora and and Jose Antonio Argüello are genuine or not
Answer - I know them all to be positively genuine
Question 6th. What do you know concerning the occupation of the Rancho El Cajon by the late Marcos Antonio E de Pedrorena, the original grantee
Answer. I know that the settled upon the Rancho with his husband in the year One thousand Eight hundred and forty five - they built houses and corrals for the stock upon the Rancho and occupied the same with their family and cattle since that time until the time of their death and have annually raised large crops therefrom
Question 7th When did Marcos Antonio E de Pedrorena die
Answer. He died in the Spring of the year One thousand Eight hundred and forty One - His husband Don Miguel Pedrorena died on the last of march (1852) Explain hundred and forty (Question by Same Agent)
Question 1st - Is the land referred to as the Cajon within ten leagues of the coast? Ans. I think a portion of the Ranch is within ten leagues of the sea and the other portion beyond that distance. Ques - Do you know how much land was cultivated and the quantity of stock placed upon said Ranch by the original grantee?
Answer. I do not positively know what number, but I know they had cattle and sheep there and raised large quantities of grain. It was one of the best cultivated Ranchos in the county about San Diego during the life of the original grantee

Sworn & Subscribed
Before me
Roland Hull Com

Filed in office
Oct. 14th 1852
Geo. Fisher Sec

J Argüello.

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Deposition of J J Warner

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Office of Commissioners of Land Claims in California

This day before Com. Thompson Campbell came J J Warner attorney in behalf of claimant Thomas W Sutherland year claim No. 202 who after being duly sworn deposed as follows -

What is your name age and place of residence

My name is J J Warner My age is forty two and I reside at San Diego

Do you know of Maria Antonia Estudillo de Pedrorena is dead and if so when died she died

I know she is dead I think she died in the Summer of 1851

Did she leave any Children and what were their names

She left four Children Victoria Isabel Margarita and Elena

J. J. Warner

Sub Agent (Opposite) present

Sworn & subscribed Before me the 13th day of Sept. 1853

Thompson Campbell Com.

It is hereby stipulated that this deposition may be read in evidence in Case No. 332

Filed in Case Office Sept. 13. 1853

Geo. Fisher Secy

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San Francisco January 15th 1853

9

B
Espediente

[1 P.D.C.]

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1844

Espediente promovido por Dª
Maria Antonia Estudillo de
Pedrorena, en solicitud del terre-
no nombrado el Cajon -

de 57

[2 S.D.K.]

Exmo Sor Gobernador

Narciso Botello de esta vecindad, ante V.E. con el respeto debido y en los terminos mas conformes me presento y digo: que por carta particular q.e de S.n Diego me dirige el Sor D.n Miguel de Pedroena, entre otras cosas, me hace encargo de tramites ante V.E. á nombre de su S.ra Esposa D.a M.a Ant.a Estudillo, el adjunto expedte promovido en solicitud del parage nombrado el Cajon perteneciente á la Mision del citado S.n Diego; en tal virtud deseoso de obsequiar los encargos de mi amigo, suplico á V.E. se sirva tomar en consideracion los buenos informes q.e en dho expedte constan en fabor de la S.ra Estudillo, y declararle la propiedad de él, con cuanto mas razon, cuanto que ofrece dar á la expresada Mision alguna cantidad como p.r via de gratificacion, apesar de hallarse valdio el parage referido; pues aunque en el informe de la Secret.a de Gobierno fha 1 de Dbre del año pp.do se hace referencia de un titulo provicional sobre el mismo terreno, dado al Sor D.n Manuel Dias, este parece, y aun se debe creer asi, que carecia de los requesitos de la ley como se ve bien claro, tanto p.r el informe de la mencionada Secret.a, cuanto p.r los del Padre Mtro; y alcalde de S.an Diego, que en un = — — — — —

— — — — — — — — — — [3 S.D.K.]

= guno de ellos aparece noticia de haberse expeditado la solicitud del S.r Dias (si es q.e la hubo) conforme está prevenido —

Aparece igualmente en el referido expediente un decreto del gobernador antecesor de V.E. relativo á que cuando ambos (esto es D.n

Miguel Pedroreno y Dn. Manuel Dias) puedan hallarse juntos en este Departamento, comparezcan ante el Gobierno á deducir sus dros, quizá á virtud de hallarse ausente el ultimo; mas como hasta hoy son pasados ya seis meses y el Sor Dias aun no ha vuelto, cuya espera tan dilatada no puede menos de serle gravosa á la parte interesada pr estar pendiente de su resultado ocasionandose de ello, no solo el perjuicio particular sino el gral, ó mejor dicho, la riqueza nacional pr hacerse perder tiempo á un terreno que debia hacerse producir, espero del celo y acreditada justificacion de V.E se sirva pulsar estas razones y determinar como llevo pedido pr creerlo asi de justicia; teniendo á bien admitirme en este papel comun por falta del sellado respectivo

Angeles Junio 21 de 1845

Narciso Botello

[2 A.D.K.]

Exmo Señor.

Maria Antonia Estudillo de Pedroreno avecindada en este Puerto ante V.E. me presento como el derecho me lo permite, exponiendo que hallandome con una cantidad considerable de ganado mayor, Lanar y caballada, y careciendo de un terreno pa el fomento y adelanto de estos, teniendo el consentimiento debido de mi esposo D. Miguel Pedroreno pa solicitar de la Superioridad la propiedad de un sitio pa el fin indicado; á V.E pido

Monterey Obre 21 de 1844
Infe al S. Sro del Despacho
Michelto

y suplico á bien concederme el parage conocido con el nombre del cajon perteneciente á la Mision de Sn Diego, cuyo parage en el dia ocupa la Mision con una corta cantidad de bienes de campo; acompañando en esta un informe del R. P. Fr Vicente S. Olibas, Mtro actual de la dha Mision y encargado de las temporalidades de la misma, y del Sor Alcalde 1o de este Pueblo, todo con el fin de evitar demora en los tramites, y el de que si V.E. acsediere a mi suplica tenga a bien estenderme el titulo de propiedad correspondiente. Por tanto a V.E. pido y suplico se digne acseder á mi solicitud de lo que recivire gracia — no acompañando el diseño del terreno por no tenerlo concluido, el q. ofresco acompañar — sirviendose admitir la presente solicitud en este papel comun por falta del sellado — — — — —

— — — — — — — — — [5 S.D.K.]

que corresponde protestando no ser de malicia
&a Pto de S. Diego 11 de Noviembre de 1844
Ma Anta Estudillo de Pedrorena

Exmo Sor Gobernador

Segun los buenos informes que se acompañan á este expediente parece tener merito para que se le conceda el terreno que pretende á la Sra Da Ma Anta Estudillo de Pedrorena, y mas cuando puede dejar esta Señora á beneficio de la Mision de S. Diego la cantidad que esta le adeuda á su esposo D. Miguel Pedrorena, que aunque no sé á cuanto llegará su importe; pero es lo unico con que se le podrá pagar segun informa el R. P. Olibas. El inconveniente que se

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puede presentar para que se ejecute la concesion que se pretende es, que á Dn Manuel Dias se le ha dado un despacho provicional del mismo terreno, y como este Señor.— — — — —

— — — — — — — [6 S.D.K.]

no se halla aqui no se le podra correr traslado de este expediente para ver las ventajas que se podran sacar á beneficio de la Mision, por ser la poseedora del terreno; pero la superior disposicion de V. E. será lo que mejor convenga — Monterey cuatro de Diciembre de mil ochocientos cuarenta y cuatro —

Manl. Jimeno

Monterrey Dbre 4 de 1844

Teniendo derecho que alegar los S.S. Dias y Pedrorena a un mismo terreno, cuando ambos puedan hallarse juntos en el pais — ocurrirán á deducirlo ante este Superior Gobo Departamental pa atenderlos en justicia —

Micheltna

[7 S.D.K.]

Mision de Sn Diego 11 de Noviembre d 1844

En cuanto á la solicitud que hace Da Ma Antonia Estudillo de Pedrorena para conseguir la propiedad del parage del Caxon perteneciente a esta Mision de mi cargo, devo decir que el sitio, que solicita, está ocupado po la Mision con una corta cantidad de bienes de campo; y en caso de cederse deve ser preferida la que solicita, por que su Esposo, siempre que lo he ocupado ha contribuido al sosten de la Mision, y que se le puede conceder en cambio de lo que la Mision le

adenda, que es lo unico con que puede pagar sin perjuicio, por que se compromete la solicitante á no impedir que sigan en dho sitio los bienes de la Mision —

Es cuanto tengo que informar en atencion á la presente solicitud, dada en la misma Mision en dicho dia mes y año en este papel comun por falta del sellado que corresponde —

Fr. Vicente P. Olivas

El abajo firmado Alcalde 1o de este Pueblo y a peticion de Dn. Ma. Ant.o Estudillo de Pedrorena certifico que el parage de la Mision de Sn. Diego llamado el Cajon está por ahora ocupado con un corto numero de ganado de la Mision y que nada puede perjudicarla el q.e se lo concedan á la solicitante mediante que no pretende ympedir a la Mision que sigan sus bienes en dicho Rancho siendo p.r otra parte muy ventajoso que se situen en su ynmediacion personas que tengan bienes para que florezca de nuevo este punto —

Dios y libertad Sn. Diego —
12 de Noviembre de 1844 —
Juan Ma. Marron

Here follows a sketch or rough map marked — — — — } [8 S.D.K.]

[9 S.D.K.]

Exmo Sor Gobernador
Manuel Dias, de esta vecindad ante V.E

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Angeles Setiembre 12 de 1845 —
Agreguese al espediente promovido p.r D.a Maria Antonia Estudillo de Pedrorena en solicitud del terreno del "Cajon" —

con el respecto debido parece y dice — que allandose el Rancho del "Cajon" demasiado distante del lugar de mi residencia, y considerando que a la Sra D.a M.a Ant.a Estudillo de Pedrorena que vive en S. Diego le es mas util poseer dicho terreno, le cedo todo el derecho que a el tengo ya sea como primer solicitante ó ya como propietario en virtud del titulo que el Sor General Micheltorena me otorgó: siempre que el Superior Gobierno del Departamento se sirva concederme algun otro terreno que yo solicitare y sea mas conveniente = — — —

— — — — — — — — — — — — [10 S.D.K.]

= para mi en lo que recibire gracia y justicia
Jr.a Monterey Agosto 10 1845 —
Man.l Dias

No hay papel sellado —

Angeles Setiembre 23 de 1845 —

Vista la solicitud con que da principio este espediente, los informes del R. P. Ministro de de la Mision de San Carlos y Alcalde 1.o del Puerto del mismo nombre, la cesion que hace D.n Manuel Dias á favor de la parte interesada del derecho que tener pueda al terreno que se pretende, con todo lo demas que se tubo presente y ver convino, de conformidad

— — — — — — — — — — — — [11 S.D.K.]

— con la ley de 18 de Agosto de 1824 y

reglamento de 21 de Noviembre de 1828, declaro á Da. Maria Antonia Estudillo de Pedrorena – dueña del terreno nombrado "Cajon" inmediato á la predicha Mision de Sn. Diego y demostrado en el diseño respectivo, con la condicion de que la agraciada pagará á Dn. Miguel de Pedrorena la cantidad de pesos que dicha Mision le adeuda, y no perjudicará los bienes de campo que esta tiene actualmente en el terreno que se le concede y los que naturalmente vayan procreando – Librezele el titulo correspondiente, y reservese el espediente para someterlo á – – – – – – – – – – – – – – – – [12 S.D.K.] la aprobacion de la Exma. Asamblea Departamental – Pio Pico Gobernador Interino del Departamento de las Californias asi lo mandé decreté y firmé de que doy fé –

Pico

Exmo. Sor.

La Comision de terrenos valdios habiendo visto y examinado con la detension posible las diligencias y averiguaciones constantes en el presente expediente, encuentra q. estan practicadas con total arreglo á las leyes de la materia y q. fueron suficientes pa. q. el Supr. Gobo. en uso de sus facultades adjudicara en propiedad el parage del Cajon, de la comprehension de Sn. Diego, en favor de la Sra. Da. Ma. Antonia Estudillo de Pedrorena; en tal virtud á la deliveracion de V.E. sugeta las siguientes proposiciones –

1a. Se aprueba la concesion hecha p. el Superior –

[13 S.D.K.]

Gobierno de este Departamento, del parage nombrado el Cajon, en favor de la Sra Da Maria Antonia Estudillo de Pedrorena, en titulo librado fecha 23 del corriente mes, de entera conformidad con la ley de 18 de Agosto de 1824 y el Reglamento de 21 de Noviembre de 1828 —

~~Da~~ La interesada cuidará de cumplir con los requisitos prevenidos en el Art.o 12 del citado reglamento de 1828 p.a poder disponer libremente de su propiedad en esta parte —

Sala de Comisiones Ciudad de los Angeles Setiembre 30 de 1845 —

Fran.co de la Guerra Narciso Botello

Angeles Octubre 3 de 1845 —

En sesion de hoy aprobaron por la Ex.ma Asamblea Departamental las dos proposiciones con que concluye el antecedente original al Ex.mo Sr Gobernador para los fines convenientes —

Rio Pico
Presidente

Agustin Olvera
Srio

[14 S.D.K.]

En 3 de octubre se libró copia á la interesada —

Queda tomada razon de este titulo en el libro á que corresponde —

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

I. Samuel D. King, Surveyor General of the United States for the State of California and as such now having in my office and under my charge a portion of the Archives of the former Spanish and Mexican territory or Department of Upper California, do hereby certify that the fourteen preceding and hereunto annexed pages of tracing paper numbered from one to fourteen inclusive and each of which is verified by my initials (S.D.K.) exhibit true and accurate copies of certain documents on file and forming part of the said Archives in this office —

In testimony whereof I have hereunto signed my name officially, and affixed my private seal (not having a seal of office) at the City of San Francisco. Cal, this 15th day of May 1852

U. S.

(Signed) Saml D King
Surv Genl Cal.

Filed in office June 10th 1852
(Signed) Geo: Fisher
Secy

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Translation of Expediente

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(1844)

Expediente had at the instance of Dn Maria Antonia Estudillo de Pedrorena Soliciting a tract of Land called "El Cajon"

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Most Excellent Sir Governor

I Narciso Botello of this vicinity before your Excellency with due respect and in form most conformable to law present myself and state that by a private letter, that from San Diego, Sir Don Miguel de Pedrorena directed to, amongst other matters he requested me to transmit to your Excellency in the name of his wife Dona Antonia Maria Estudillo the annexed Expediente cancerning the petition of the place called El Cajon belonging to the Mission of Sta San Diego; therefore being desirous of obeying the instructions of a friend I supplicate that your Excellency, will please to take into consideration the reports as appear in said Expediente in favor of Madam Estudillo and declare to her the ownership thereof in as much as she proposes to give to the Mission a certain sum by way of compensation notwithstanding that the aforesaid place is now lying vacant, for although in the information from the Secretary of the Government dated the 4th of December of last year reference is made of a provisional title upon the same land given to Mr Diaz (Manuel) this appears and should be thought thus, that it wanted the requisites of the law and it is very clearly shown both from the information received from the mentioned Secretary and of the Padre Minister and Alcalde of San Diego, as in the name of them it appears that the petition of Mr Diaz was Expediente (if he was had one)

There appears also in the said Expediente annexed a decree of the Governor who preceded your Excellency as to when both (that is Don Miguel Pedrorena and Don Miguel Diaz) might find themselves together in this Department they should appear before this Government

to plead their rights, perhaps it was in consequence of the latter being absent, but as at present there has already passed six months and Senor Duez has not returned whose delay cannot do less than be prejudicial to the party interested for wearing the results, the being desirous to have the lands not only for particular ends but for most generally in properly speaking to enrich the nation as time is lost to land which should be made to produce - I hope from the zeal and accredited justification of your Excellency you will order these reasons proven and determined as I have requested, thinking that it would be but just accepting the admission of this upon common paper there being no stamped as correspondes

Angeles June 4th 1845

Narciso Botello

Most Excellent Sir

Maria Antonia Estudillo de Pedrorena a resident of this port before your Excellency represents as right permits me telling truth, that being possessor of a considerable number of cattle and sheep and horses and requiring a piece of land to place and foster them on having the consent of my husband Don Miguel de Pedrorena to petition the Secy. Authority the Ownership to a place for the above purposes I ask that you Ex be pleased to grant me the place known by the name of El Cajon belonging to the Mission of S Diego which place is occupied by the Mission with a small quantity of cattle - accompanying herewith an information from the Revinues Father Vicente Olivas actual Minister of the said Mission and who is charged with the secular revenues of the same and also of the first Alcalde of this Town, all for the purpose of avoiding delay in the necessary steps, and that should your Excellency deem it proper, grant me the title of Ownership as corresponds wherefore I ask and supplicate that your Excellency will deign to accede to my request, whereby I shall

receive a favor, not accompanying the plan of the lands in consequence of its not being furnished, but I promise to present it hereafter accepting the admission of this present petition upon common paper there being no stamped as corresponds, stating that this is not done for an evil design

Port of San Diego Nov. 11th 1844

Ma Antª Estudillo de Pedrorena

Monterey Dec. 4th 1844

Let the Secretary of the Department report.

Micheltorena

Most Excellent Senor Governor

According to the good information accompanying this Expediente it appears to be meritorious that the land might be granted to Senora Doña Maria Antonia Estudillo de Pedrorena inasmuch as she relinquished for the benefit of the Mission of San Diego the sum of money due by said Mission to her husband Don Miguel Pedrorena and although I do not know how much it might amount to, it is the only way according to information received from the Padre that this can be paid. The only inconvenience that can be offered in the execution of the grant in question is that D. Manuel Diaz has received a provisional title to the same land, and as this gentleman is not here, further steps can not be taken so as to see if anything can be learned out in favor of the Mission, the being the proprietary thereof. But the superior determination of your Excellency will be better suited

Monterey December fourth Eighteen hundred and forty four

Manuel Jimeno

Monterey December 4th 1844

It being that Mr Diaz and Mrs Pedrorena claim the same tract of land when both of them shall be able to come together they shall appear and plead before the

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before the Supreme Departmental Government in order that they may be attended to according to Justice

Michelorena

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Mission of San Diego Nov. 11/44

With regard to this application made by Doña Maria Antonia Pedrorena to procure the Orchard of the place del Cajon belonging to this Mission under my charge. I have to state that the place that she solicits is occupied with a few cattle belonging to the Mission, and in case of making a grant she the petitioner should be preferred because her husband has always been employed by me and has contributed for the support of the Mission and it could be granted for the debt that the Mission owes to him, which is all that can be paid without prejudice because she the petitioner bind herself not to prevent the cattle of the Mission from remaining at the place. This is all I can inform you in relation to the present petition. Given in the same on the same day month and year on this common paper there being no Stamped that corresponds

F. Vicente Olivera

The undersigned first Alcalde of this town and at the request of Doña Maria Ant.a Estudillo de Pedrorena certifies that the place of the Mission of San Diego called El Cajon is now occupied by a few cattle belonging to the Mission and they are in no way prejudiced by granting the petitioner, and in attention to this, that she does not intend to prevent the cattle of the Mission from remaining on said Rancho, On the other hand it would be advantageous that there should live in the vicinity persons having property in order that this place again flourish

God and Liberty San Diego Nov. 12/1844

Juan Mª Marron

Most Excellent Senor Governor

Manuel Diaz of this Vicinity before your Excellency with due respect appears and says. That I find the Rancho de Cayon to be quite distant from my place of residence and in consideration of its being more useful for Doña Maria Estudillo de Pedrorena who lives in San Diego, that she should possess said Land I relinquish all right, that I have to it, Either in the Capacity of first petitioner thereof or as proprietor in virtue of the title which Genl. Micheltorena granted me provided that the Supreme Government of the Department deign to grant unto me some other land that I may petition when it may suit my convenience by which I will receive a Favor and Justice

Monterey August 10th 1845

There is no stamped paper

Manuel Diaz

(The following order was written on the margin of the above petition)

Angeles Sept 12th 1845

Let this be attached to the Espediente at the instance of Doña Maria Antonia Estudillo de Pedrorena in petitioning for the Land of Cayon

Angeles Sept 23d 1845.

Having seen the petitioning at the commencement of this Espediente the information from the R P Ministro of the Mission of San Diego and the 1st Alcalde of the Port of the same name, the relinquishment made by Don Manuel Diaz in favor of the party interested of the right he had to said Land under sole calculation with all other matters connected therewith - In conformity with the laws of the 18th of August 1824 and the regulations of the 21st November 1828 I hereby declare Doña Maria Antonia Estudillo de Pedrorena Owner of the land called Cayon immediate to the aforesaid Mission of San Diego

and administration upon the respective plans, under condition that the grantee shall pay to Don Miguel de Pedrorena the sum of dollars that Doña Mariana Estudillo owed him & she shall not enjoy the property that it actually has upon the same that it grantee and that naturally continue to procreate.
Let corresponding title be issued & respe. the Expediente to submit it to the approval of the Most Excellent Departmental Assembly. Pio Pico Governor pro tem of California, thus I command decree and sign to which I give faith

Pico

Most Excellent Sir

The commission on vacant Lands having seen and examined with possible care the proceedings as appear from this Expediente find that they are here in total accordance with the Decrees on the subject, and that they were sufficient in order that the Supreme Government in use of its powers should grant in Ownership the place del Cajon to Doña Maria Antonia Estudillo de Pedrorena. Therefore the Committee submit for the deliberation of your Excellency the following proposition
The Commission approves of the grant made by the Superior Government of the Department, of the place called El Cajon in favor of Doña Maria Antonia Estudillo de Pedrorena in the title issued bearing date 23rd of this month in entire conformity with the Regulation of August 1824 and the regulation of Nov 21st 1828
2d The party interested will take care to comply with the requisites as set forth in article 12th of the said regulation of 1828 in order that she may dispose of freely of the property in this part
Commission room. City of Los Angeles Sept. 30th 1845.
Fran.co de la Guerra Nanceso Bolaños

Angeles Oct. 3d 1845

At a Session of this day the two propositions that conclude the foregoing Opinion was approved by the Most Excellent Departmental Assembly, Ordering that the Original Espediente should be returned to the Most Excellent Governor for his convenience

Pio Pico
Presidente

Augustin Olvera
Secy

On the 3d of October a copy of this was delivered to the party interested

This letter remains recorded in the Legislating Correspondence

I certify the foregoing to be a true and correct translation –

Office of the Secretary to the U. S. Land Commission &c
San Francisco this 24th of July 1854
Geo. Fisher
Secy

Filed in Office June 10th 1852
Geo. Fisher
Secy

25

Document "E" annexed to the Deposition of Santiago Arguello

114 SD
PAGE 26

Sello Primero Ocho Pesos

Habilitado provisionalmente por la Aduana maritima del puerto de Monterey, en el Departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

Micheltorena Pablo de la Guerra

ADA. MARITMA DE MONTRY. Placa of Eagle

Pio Pico primer vocal de la Exma Asamblea y Gobernador interino del Departamento de las Californias.

Por cuanto Doña Maria Antonia Estudillo de Pedrorena, ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre del Cajon, inmediato á la Mision de San Diego; practicadas previamente las deligencias averiguaciones concernientes segun lo dispuesto por leyes y reglamentos de la materia, usando de las facultades que me son conferidas á nombre de la Nacion mejicana, en decreto de este dia he venido en concederle el terreno mencionado, declarandole la propiedad de él por las presentes letras, á reserva de la aprobacion de la Exma Asamblea Departamental, y bajo las condiciones siguientes.

1a Podrá cercarlo sin perjudicar las travecias caminos y servidumbres, lo disfrutará libre y exclusivamente destinandolo al uso y cultivo que mas le acomode, pero dentro de un año fabricará casa en él y estará habitada

2a Pagará la agraciada á Dn Miguel de Pedrorena la cantidad de pesos que la Mision

de San Diego le adeuda, cuyo pago hará constar en los documentos al efecto necesarios, y no perjudicará en manera alguna los bienes de la Mision de San Diego, que actualmente existen en el terreno que se le ha concedido y los que naturalmente vagan pareciendo, reservando el derecho á la referida Mision de mantener en dicho terreno los expresados bienes mientras dure reunida su comunidad.

3a Solicitará del Juez respectivo, de la posesion jurídica en virtud de este despacho, por el cual se demarcarán los linderos con las mojoneras necesarias.

4a El terreno de que se hace donacion es el que espresa el diseño q. corre agregado al espediente respectivo; pero de ninguna manera perjudicará la apreciada á las personas que dentro de sus linderos tengan tierras legalmente concedida. El Juez que la posesione lo hará medir con arreglo á ordenanza, y dará aviso á este Gobierno del numero de sitios de ganado mayor que contenga.

En consecuencia mando que teniendose por firme y valedero el presente titulo, se tome razon de él en el libro á que corresponde, y se entregue á la interesada para su resguardo y demas fines. Dado en la Ciudad de los Angeles á veintes de Setiembre de mil ochocientos cuarenta y cinco.

(Signado) Pio Pico

(do) José Mª Covarrubias
Srio

27

Queda tomada razon de este superior despacho en el libro respectivo —

Angeles fecha ut supra

(Signed) Covarrubias

El Exmo Sor. Gobernador dispone se tome razon de este titulo en la Sub-Prefectura de San Diego —

(Signed) Covarrubias

San Diego Octe. 11 de 1845 —

Queda tomada razon de este Supr. Despacho afs. 1o y vuelta del libro respectivo

J. Argüello

Filed in office October 14th 1852.

(Signed) Geo: Fisher

Secy

28

Stamp Third Eight Dollars
Provisionally authorized by the Maritime Custom House of the Port of Monterey in the Department of California for the years 1834 and 1835
(Signed) Machetorena (Signed) Pablo de la Guerra

Juan

Pio Pico Senior Member of the Most Excellent Assembly and Governor pro tem of the Department of the California

Whereas Mrs Ma. Antonia Estudillo de Pedrorena has petitioned for her personal benefit and that of her family, for the tract known by the name of "Cajon" near the Mission of San Diego the relative Mamanotiales as required by the laws and regulations in relation to the matter having been previously had, in the exercise of the authority upon me in the name of the Mexican Nation, by a decree of this day I have determined to grant to her the said tract of land, declaring her by the present letters the Ownership thereof, subject to the approval of the Most Excellent Departmental Assembly and under the following Conditions

1st She may enclose it without prejudice to the roads high ways and rights of way. She shall enjoy it freely and exclusively putting it to the use and cultivation that may be most convenient to her but within one year she shall erect a house upon it and it shall be inhabited.

2nd The grantee shall pay to Don Miguel Pedrorena the amount of money which the Mission of San Diego owes him which payment shall be made to appear on the vouches necessary for that purpose and she shall not enjoy in any manner the stock of the Mission of San Diego which at present exists upon the land which has been granted to her and its natural increase reserving to the said Mission the right to continue upon said land the said stock as long as it may convenience as a community—

3rd She shall select the proper Juez to give him juridical possession, by virtue of this patente, by whom the boundaries shall be designated by the necessary Land Marks
4th The land of which a grant is made, is that which the plat attached to the respective Expediente expresses but in no way shall the grantee disturb the persons who have lands legally granted within her boundaries
The Juez who may give the possession shall cause it to be measured in conformity with law and shall inform this Government of the Number of Sitios de ganado Mayor it contains.
Therefore I Order that the present being filed from and Bale a record thereof be made in the corresponding Books, and that it be delivered to the interested party for his security and other purposes
Given in the City of Los Angeles September 23rd 1845
(Signed) Pio Pico
(Signed) Jose Mra Covarrubias Sec'y

The Most Excellent Governor Orders that this title be recorded in the Office of the Sub Prefect of San Diego
Covarrubias

San Diego Oct. 17th 1845
This Superior patent remains on record on Folio 1st and its reverse of the respective Books
(Signed) J Argüello

I George Fisher Secretary to the U.S. Land Commission to ascertain and settle the private Land claims in the State of California, hereby certify that the foregoing is a faithful and correct translation of a Spanish Document in case No. 262 wherein Thomas W Sutherland Guardian to claims the Rancho Cajon now on file in this office. In testimony whereof I have hereunto signed my name Office of the Secretary of the above mentioned Commission
Geo. Fisher Sec'y

31

Document H annexed to the Deposition of Santiago Argüello

Pio Pico Gobernador Interino del Departamento de las California

La Exma Asamblea Departamental en sesion de hoy ha decretado lo siguiente

1o " Se aprueba la concesion hecha por el Superior Gobierno de este Departamento del parage nombrado el Cajon, en favor de la Señora Doña Maria Antonia Estudillo de Pedorena en titulo librado fha 23 del corriente mes, de entera conformidad con la ley de 18 de Agosto de 1824, y el reglamento de 21 de Noviembre de 1828 —

2o La interesada cuidará de cumplir con los requisitos prevenidos en el articulo 12 del citado reglamento de 828 para poder disponer libremente de su propiedad en esta parte " —

Y para resguardo de la parte de la Señora Maria Antonia Estudillo de Pedorena lo hago asi saber = Dado en la Ciudad de los Angeles a tres de Octubre de mil ochocientos cuarenta y cinco, en este papel comun por falta del sellado —

(Signed) Pio Pico
(") José Ma Covarrubias
Srio

Filed in Office October 12th 1852
(Signed) Geo. Fisher
Secy

32

Pio Pico Governor for the time being of the Department of California—

"The Honorable the Departmental Assembly at the session of this day has decreed the following

1st That the Grant made by the Supreme Government of this Department for the place called Cayon in favor of Dona Maria Antonia Estudillo de Pedrorena in title upon on the 23rd day of the present month be approved fully in accordance with the Law of August 18th 1824 and the regulation of 21st of November 1828

2nd That the said Dona Maria Antonia Estudillo de Pedrorena shall take care to comply with the requisites as set forth in Article 12th of the said regulations of 1828 in order that she may freely use the property in this part—

And for the safety of said Dona Maria Antonia Estudillo de Pedrorena, Thus I decree— Given at the City of Los Angeles on the third day of October 1845 On this common paper for want of Stamped paper

Pio Pico

Jose Ma Covarrubias

Sn

I certify the above to be a true and correct translation

Office of the Secretary of the U. S Land Commission San Francisco Feb. 24th 1854

Geo. Fisher Secy

Filed in Office

34

Document "C No. 2" annexed to the deposition of Santiago Arguello

"H. H."

Testimonio del parage ó Espediente de posesion practicado en favor de la Señora Da. Maria Antonia Estudillo de Pedrorena del sitio conocido con el nombre del Cajon

Año de 1845

En el Pueblo de San Diego Territorio de California á los nueve dias del mes de Setiembre de mil ochocientos cuarenta y seis, ante mi á la solicitud de la Señora Doña Mª Antª Estudillo de Pedrorena á fin de que se le dé la correspondiente posesion del sitio y Rancho llamadose el Cajon, concedido por el Exmo Sor Gobernador de este Departamento y en virtud de no haber en el pais un Agrimensor examinado que remida el enunciado terreno; pasese Pº mi y los testigos de mi asistencia al espresado sitio, y con total arreglo á las primeras medidas que seran practicadas cuyo diseño agregó al expediente la interesada: procedase á dar la posesion indicada arreglandose al titulo ó despacho que se le ha conferido por el Gobierno con fecha veinte y tres de Setiembre de mil ochocientos cuarenta y cinco y aprobacion de la Exma Asamblea Departamental con fecha 3 de Octubre de mil ochocientos cuarenta y cinco. El ciudadano Santiago E. Argüello Juez 1º de Paz y de 1ª Instancia de este referido Pueblo asi lo dispuse mandé y firmé con los testigos de mi asistencia en este papel comun por falta del Sellado = Santiago E. Argüello = asistª José Antº Argüello = asistª José Antº Gongora = En el mismo dia mes y año cité al mayordomo del Rancho de Señora Doña Apolinaria Lorenzana, como unica colindante el que manifestandole el objeto á que me dirigia al punto del Cajon pues iba á remedirlo y poner en pacifica posesion de él á la Señora Doña Mª Antonia Estudillo de Pedrorena, y no habiendo objecion por parte del Mayordomo, que presensio como colindante

lo firmo por diligencia que autorso y firmo
con los Testigos de mi asistencia segun derecho
= Santiago E. Arguello = Asist.a José Antonio
Arguello = Asist.a José Antonio Gongora =
En el parage del Cajon á diez de Setiembre de
mil ochocientos cuarenta y seis yo el propio
Juez para la practica de estas mismas deligen-
cias y en presencia del mayordomo quien no
manifesto oposicion ninguna que suspendiesen
las medidas nombré dos oficiales cordeleros
que por no saber firmar se omitieron sus
nombres, á quienes les hize saber su nom-
bramiento, el que aceptaron bajo de juramento
que otorgaron ofreciendo desempeñar fielmente
su encargo lo que autorso y firmo con los
testigos de mi asistencia segun derecho =
Santiago E. Arguello = Asist.a José Antonio
Arguello = Asist.a José Ant.o Gongora = En el
mismo dia mes y año estando en el parage
del Cajon y el mayordomo de la Sra Dña
Apolinaria Lorenzana, reconociendo ambos por
sus linderos á efecto de verificar las medidas
y posesion que corresponde á la Señora D.a
Ill.a Antonia Estudillo de Rodriguez del sitio
nombrado el Cajon previos los requisitos de ley
y estando ante mi y los Testigos de asistencia
y los oficiales cordeleros, hize medir un cordel
que tenia cien varas y acia á sus estremos
unos sancos de madera previa observancia y
calculo por mi disposicion se tiró el cordel a
empesando desde la parte mas al E. mil varas
mas adelante de la misma donde se puso mo-
jonera de piedras con rumbo al Oeste, se midi-
eron sinco mil varas hasta las Casas, y desde
las casas hasta la mesa con rumbo oeste

treinta grado Sur se midieron quince mil varas poniendo la mojonera al empezar la Mesa de la Avena, tomando esta medida como el mayor largo del Rancho, de E á O. y para cuadrarlo por ser asi la configuracion del Terreno se tomo la parte mas practicable, que es desde las Casas rumbo al Sur, dies mil varas - poniendo la mojonera al pie de una lomita y de las casas para el Norte se midieron siete mil quinientas varas hasta la Cañada de la cuesta en el camino real de Sta Ysabel donde se puso mojoneras de piedra dentro de cuyos linderos quedan los parages que gozan sin interrupcion la india Ines, y Doña Apolonaria Lorenzana quedando en favor del Rancho once sitios de ganado mayor segun el mejor calculo que se pudo hacer, con lo que se concluyeron las medidas de este sitio á satisfaccion de la interesada y colindantes, en cuya estension de terreno se comprende los once sitios de que se hace donacion en su Titulo concedido á la Señora Doña Ma Antonia Estudillo de Rodriguez, á quien ordené pusiese las correspondientes mojoneras en los puntos donde corresponde, y marco en señal de posesion, y quedó entendida, lo que pongo por diligencia que autorizo y firmo con los Testigos de asistencia segun derecho - Santiago E. Arguello - Asista José Ant.o Arguello - Asista José Ant.o Gongora = San Diego Setiembre once de mil ochocientos cuarenta y seis; desele Testimonio á la parte de las presentes diligencias en papel comun por falta del sellado que corresponde = Santiago E Arguello Juez 1.o de Paz y de 1.a Inst.a de este Puerto

y su Jurisdiccion asi lo decreté mande y firmé por ante los testigos de mi asistencia segun derecho — Santiago E. Argüello — Asista José Ant.o Argüello — Asista José Antonio Gongora —

Concuerda con su original á que me remito que existe en el Libro de Instrumentos Publicos llevado en Ambos Juzgados en el presente Año; está fielmente sacado y concertado escrito en estas fojas de papel comun por falta del sellado; que autorizo y firmo con los Testigos de mi asistencia en el Pueblo de San Diego á once de Setiembre de mil ocho cientos cuarenta y seis — Doy fe

En testimonio de verdad —

(Signed) S. E. Argüello

Asta
José Ant.o Argüello

Asta
José A Gongora

Filed in Office October 14th 1852
(Signed) Geo. Fisher
Secy

39

Authentic Copy regarding the place or of Especiente of posepsion given in favor of the Dona Maria Antonia Estudillo de Pedrorena of the place known by the name of the Cajon

Year of 1846

In the Village of San Diego Territory of California on the Ninth day of September One thousand Eight hundred and forty six in Compliance with the Solicitude of the Dona Ma. Anta Estudillo de Pedrorena to the end that shall be given the corresponding posepsion of the place and Rancho called the Cajon. Conceded by his Excellency the Governor of the Department, and in Consequence of there being no regular Surveyor in the County who can measure the said Lands. I will proceed together with my Assistant Witnesses to the above mentioned place and in that Conformity with the first Measurers that were made, a Map of which the interested party has allreched to the Especiente, I will give the posepsion mentioned, serving as a guide the letter or despatch which has been given her by the government, bearing date the twenty third of September A.D. 1845 = And approval of the Most Excellent Departmental Assembly bearing date the three of October A.D. 1845 = I the Citizen Santiago E. Argüello 1st Justice of the peace, and Judge of first Instance of this above mentioned Village thus disposed commanded and signed with the Witness of my Assistance on this common paper for Want of Sealed paper = Santiago E. Argüello = Assistance Jose Antonio Argüello = Assistance Jose Antonio Gongora

On the same day month and year I called the Steward of the Rancho of Lady Dona Apolenaria Sonegueno being the Only person whose lands are Contiguous to that in question. The Steward appeared and making known to him the Object which led me to the place of the "Cajon" as I was going to remeasure it, and put

in peaceable possession of the Lady Doña Maria Estudillo de Pedrorena, And there being no Objection on the part of the Stewards, who was present as adjoining Land Owner I noted this as part of the proceedings which I authorize and sign with the witnesses of my Assistance according to Law - Santiago E Arguello - Assistance Jose Ant.o Arguello = Assistance Jose Ant.o Gongora

In the place begun on the 10th Sept A.D. 1846. I the said Judge in Order to carry on those same proceedings and in the presence of the Stewards who did not put any Objection the Measurement being continued I name two Cord bearers who as they did not know how to sign their names, they were omitted. I made them acquainted with their Appointment which under Oath they accepted of going to discharge the duties of their employment faithfully which I gave Authority to and signed with the witnesses of my Assistance according to Law Santiago E Arguello = Assistance Jose Ant.o Arguello Assistance Jose Ant.o Gongora.

On the same day month and year being at the place of the "begin" and the Stewards of the Lady Doña Apolonaria Sinengenas, and each party knowing their boundaries, for the purpose of carrying into effect the measurement and possession which corresponds to the Lady Dn Ma. Ant.a Estudillo de Pedrorena of the place called the begin all the legal steps having been first had and being present before me the witnesses of Assistance and Cord bearers - I caused a Cord to be measured of one hundred varas in length and tied to its extremities two wooden stakes, previous observed them and calculated by my Order the Cord was extended Beginning from the East most to the E of one thousand varas in advance of the mine where a land mark of stone was placed in a Westerly direction there were measured five thousand varas to the houses, and from the houses to the Estate land with direction West Westerly

degrees South, there were measured fifteen thousand varas placing the Land marks at the commencement of the Table or Mesa of the Wood or the Oaks, taking this measurement as the greatest length of the Rancho from E to W and to square it that being the figure of the Land the most practicable part is taken, which is from the houses Nineteen to the South ten thousand varas placing the Land Mark at the foot of a little hill and from the houses North there were measured Seven thousand five hundred varas to the valley of the Cecelvity in the Main road of Santa Isabell where a Land mark of Stones was placed, between which boundary lines, remain the places which are enjoyed without exception by the Indian Woman Ynes and Dona Apolonia Lorenzenas remaining to of the Rancho Eleven leagues of Land according to the greatest calculation that could be made, with which were concluded the measurement of this place to the satisfaction of the said Antonio Estudillo de Pedrorena and the adjoining land owners in which extension of land are comprised the Eleven leagues of which donation was made in the title conceded to the lady Dona Maria Antonia Estudillo de Pedrorena, who I ordered to place to corresponding Land Marks at the points where they belong and which I marked as a sign of possession and she under stood me which I give authority to and sign with the witnesses of my assistance according to Law Santiago E Argüello = Assistant Jose Ant.o Argüello Assistant Jose Ant.o Gongora

San Diego Eleventh day of Septbr A D 1846

Let authentic Copy be given to her of these present proceedings On common paper for want of the corresponding sealed paper. Santiago E Argüello

First Magistrate and Judge of First Instance of this Village and its jurisdiction. And thus I decreed commanded and signed before the witnesses of my assis

lance according to Law - Santiago E Arguello
Assistance Jose Antonio Arguello. Asst. Jose Anto Gongora

This agrees with its Original to which I have referred which exists in the Book of Public Instruments carried out in both Offices that of Magistrate and Juez of 1st Instance in the present year - it is faithfully copied and corrected written on these leaves of common paper for want of sealed paper, to which I give authority and sign with the ~~assistance~~ Witnesses of my Assistance in the Village of San Diego on the Eleventh of September One thousand Eight hundred and forty six which I certify - In testimony of truth

S. E. Arguello

Assistance. Jose Anto Arguello. Asst. Jose Anto Gongora

I certify the foregoing to be a true and correct translation - Office of the Board of Comrs de San. Franco the 23rd day of July 1854

Geo. Fisher
Secy

Filed in Office Sept. 8th 1852
Geo. Fisher
Secy

43

Victoria Pedrorena Ysabel Pedrorena
Meguel Pedrorena and Helena Pedrorena
heirs of Meguel de Pedrorena and Maria
Antonia Estudillo Pedrorena deceased

vs

The United States

El Cajon 11 Square Leagues

114 SD
PAGE 42

This claim was Oregnally filed in the name of Thomas W Sutherland as Guardian of the said petitioners but at the submission of the case leave was granted to substitute the names of the children instead of the name of their guardian - The said petitioners deduce title to the lands in question by virtue of a grant made to their mother by Governor Pio Pico and which bears date the 23rd of September 1845 - This grant has been proved to be genuine, and its due execution satisfactorily established The approval of said grant by the Departmental Assembly on the 3rd day of October A D 1845 has also been satisfactorily shown - The petitioners have also placed on file a duly authenticated Record of judicial measurement made on the 11th of September A D 1846. It is proved by the deposition of Santiago Argüello that he knew that Maria Antonia Estudillo de Pedrorena the Orgnal grantee settled upon the Rancho called "El Cajon" with her husband in the year 1845 - that they built houses, and corrals for their stock upon it, that they occupied the land with their family from that time until the time of their death, and that they annually large crops there from, he further states in reply to question by the Govt Agent that they raised large quantities of grain and during the life time of the grantee it was the best cultivated Rancho in the country about San Diego It is also in proof that the said Meguel Pedrorena died in March 1850 and that Maria Antonia Estudillo de Pedrorena died in the Spring of 1851 and that the petitioners in this case are their children

The evidence in this case shows superior merits so far as the performance of conditions are concerned. It appears that the grantee in company with her husband moved on the Rancho the same year in which the grant was made, that they made large and valuable improvements besides they cultivated on a large scale raising large quantities of grain, and the witnesses testifies that it was one of the best cultivated Ranchos about San Diego. They continued to occupy it in the same way up to the time they both died. the one dying in 1850 and the other dying one year afterwards leaving their children at that time minors to inherit their property. The grant in this case is very extensive being the maximum which the law allowed to be given to one person. And the fact that the grant was made to the wife instead of the husband, is a little singular, while the wife under the Mexican law could depend and hold property in her own right, this is the first case which has come under my notice where a grant was made to the wife in her own right, while her husband was still living. The history of this case as revealed in the hacienda copy of the Espediente, which is on file as evidence in this case, shows that the Rancho called "Cayon" had been previously granted to one Manuel Diaz previous to the grant made to Maria Antonia but it also appears that he relinquished all right which he might he might have under such provisional grant. It further appears that this Ranch called El Cayon belonged to the Mission of San Diego and that said Mission occupied the same with stock, when Maria Antonia applied for the grant in question. The Espediente also shows that said Mission was largely indebted to Miguel de Pedrorena the husband of the said grantee for services which he had rendered and according to the statement of the Rev. Father of the Mission they had no means of paying this debt otherwise than

allowing the wife of their creditor to receive a grant of the same rancho on the condition that she should pay over to her husband the sum due him by the Mission. The grant was therefore made in conformity with the foregoing understanding and an express condition was annexed to the effect that the grantee should pay to Miguel Pedrorena the amount of money which the Mission of San Diego owed him at that time - And it was further provided that the payment should be made appear in the vouchers necessary for that purpose. No voucher corresponding with this condition of the grant has been produced, but I think it may be presumed that the grantee compromised the claim with her husband on terms mutually satisfactory - The most difficult question in this case is the location and identity of the land claimed - The only description of the land granted as given in the body of the grant is in the following words. The tract of land known by the name of Cajon near the Mission of San Diego - The 4th condition annexed to the grant is in the following words to wit The land of which a grant is made is that which the plat attached to the expediente expresses, but in no way shall the grantee disturb the persons who have lands legally granted within his boundaries - The Judge who may give the possession shall cause it to be measured in conformity with laws and shall inform the Government of the number of sitios de ganados mayor it contains It is clear from the language used in this condition, that the grant was intended to be by metes and bounds with one regard to quantity, and that the bounds were described on the map referred to in the condition The officer making the measurement is enjoined to make it in conformity with laws, but the principal object which the Government had in view, was to ascertain the quantity which the limits as expressed on the map contained. This brings us to the consideration of the pretended measurement a record of which has been filed

in the cause – A question of considerable difficulty and one which has never either been discussed by counsel or decided by this Commission, as at present constituted would be raised by the record of judicial measurement which has been filed, if such measurement was essential and indispensable for the segregation of the land granted from the public domain.

The record shows that the judicial possession of the land in question was given on the 11th day of October 1846. This presents the question whether the judicial act of measurement made at that period of time, was of any binding force or effect, and whether the party could at that time do any act that could in any way change the condition of this claim – But as this record of admitted could in no way decide the description given in the grant and as it is evident the officer who made the measurement did not confine himself to the boundaries as laid down on the map, the question therefore of its competency is wholly immaterial and need not be decided – Besides the object of the measurement required, was for the purpose of ascertaining the quantity of land embraced within the boundaries already defined by the map which by reference is made part of the grant – It may however be stated that the mode of measuring the lands adopted by the officer for the purpose of ascertaining the exact quantity contained within the limits as delineated on the map, was calculated to embrace more land than those limits contained – He proceeded to run the greatest length of the Rancho from East to West, and then squared it by placing the divisions on the map and forming the square from the extreme points made in the measurement – the square so formed would at several points embrace land entirely without the boundaries as laid down on the map and consequently would embrace a much larger quantity of land than was intended

to be covered by the grant - The map referred to does not represent a tract of land in a square form but the shape is irregular and shows that the tract granted is surrounded by hills and most likely is a valley as an arroyo is represented on the map as running through the whole extent - The Officer making the measurement ~~represented the quantity to be 5 leagues~~ leagues, as the measurement from the manner of making it would necessarily embrace more land than lies within the limits of the map, it may safely be assumed that the quantity within those limits will fall short of the maximum of the Land - The delineation of the land and the natural objects as laid down on the map I think clearly and locate the Rancho with sufficient certainty to enable the Officer making the survey to define its limits with accuracy -

The petitioners we think are entitled to a decree of confirmation and the same will accordingly be entered

Filed in Office March 14th 1854
Geo. Fisher Sec'y

48

Victoria Pedrorena Ysabel Pedrorena
Miguel Pedrorena and Helena Pedrorena
heirs of Miguel de Pedrorena Marco
Antonio Estudillo Pedrorena – deceased

vs

The United States

In this case in hearing the proofs and allegations it is adjudged by the Commission that the claim in this case is valid – And it is therefore decreed that the same be confirmed

The lands of which confirmation are hereby made are known by the name of "El Cajon", are situated near the Mission of San Diego and are the same upon which the said Miguel de Pedrorena and the said Marco Antonio Estudillo de Pedrorena resided in their lifetime and are known and described as follows, to wit, On the West by the Sierra del Portuguese and Sierra de la Mesa on the East, by the Sierra del Cajon on the North, and South by the hills, reference for further description of the metes and bounds, to be had to the map which forms a part of the true copy of the Expediente and which is filed as evidence in the cause

Alpheus Felch
Thompson Campbell
R. Aug Thompson

Commissioners

49

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 decision in this case, and of the papers and evidence upon which the same are founded, be made out, and duly certified by the Secretary, one of which Transcripts shall be filed with the Clerk of the United States District Court for the 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.

I, George Fisher, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing forty nine — pages, numbered from 1 to 49, both inclusive, to contain a true, correct and full Transcript of the Record of the Proceedings and of the Decision of the said Board, of the Documentary Evidence and of the Testimony of the Witnesses, upon which the same is founded, on file in this Office, in Case No. 262 on the Docket of the said Board, wherein Thomas N. Sutherland, Guardian &c — is

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

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.

Sec.

114

U. S. DISTRICT COURT,

Southern District of California.

No. 114, Docket

THE UNITED STATES,

vs. 114

Thomas W. Sutherland,
Guardian &c.
"El Cajon."

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 262.

Filed, November 8th 1854.

C. E. Fair
Clerk.

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No 262

Office of the Attorney General of the United States,

Washington, 17th January 1855.

Thomas W. Sutherland, Guardian &c.
vs.
The United States.
} 262.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 30th day of October 1854, the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Cushing

Attorney General.

No. 114.

U. S. District Court
Southern District.

United States
vs.
Thos. N. Sutherland
Guardian &c.

Notice of Appeal from Atty. Gen.

Filed Feby 27th, 1855.
C. E. Carr.
Clk.

Duplicate

Office of the Attorney General of the United States,

Washington, 17th January 1855.

Thomas W. Sutherland, Guardian &c.
vs.
The United States.
} 262.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 30th day of October 1854, the appeal in the district court of the United States for the district of California will be prosecuted by the United States.

Cushing

Attorney General.

The United States
Appellants
vs
The Heirs of Pedrorena
Appellees

The appellees are minor children & heirs of Miguel de Pedrorena and Maria Antonia Estudillo Pedrorena deceased. Their claim is predicated upon a grant made by Governor Pio Pico to their Mother dated 23. September 1845. This grant received the approval of the Departmental Assembly on the 3. day of October 1845, and subsequently in ~~September~~ October 1846 Judicial possession was delivered to grantee.

The genuineness of all the documentary title is maintained by the testimony in the ~~cause~~ cause, and it is proved that the grantee settled upon the land with her family in the year 1845, built houses, & Corrals for their stock, and occupied the land with their family and cattle since that time until the time of their death, and have annually raised large crops thereon.

The Mother died in the Spring of 1851 & the Father in March 1852. Their son in testimony that the Rancho in question was one of the best existing in the County about San Diego, & lastly the present attachment of-

-tellers are the mining claimants of the grantee. The land in question within the ten leagues, ~~but~~ ~~in a case like the present presents~~ ~~superior claims upon the Equity~~ ~~& consider this by reason of the free performance of conditions~~ but under the decisions of this Court the circumstance does not of itself invalidate the claim. The grant covers the tract known by the name of "Cajon" near the mission of San Diego and in the fourth clause annexed to the grant it is stated, that the lands of which a grant is made, with the value the Plat attached to the respective expedients expresses, but in no manner shall the grantee disturb the persons who have lands legally granted within her boundaries. The phraseology of this condition indicates an intention to grant the tract by metes, bounds, and that same was described in the map referred to. The decree of the Commissioners therefore ~~to the~~ ~~[illegible]~~ in favor of the validity of the claim to the land comprehended within the lines described by the map referred to in the grant must be affirmed.

The United States
Appellants } Sitting Court U.S.

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Victorien Pedrorena, Pablo Pedrorena, Miguel Pedrorena & Helena Pedrorena heirs of Miguel de Pedrorena & Maria Estudillo Pedrorena — deceased } for the Southern Dist. of California

This cause coming on to be heard at a stated Term of this Court on appeal from the final decision of the Commissioners to ascertain and settle private land claims in the State of California on a Transcript of the proceedings & documents of the papers and evidence on which said decision was founded and it appearing that said transcript has been duly filed according to law and counsel for the respective parties having been heard, It is ordered adjudged & decreed that the decision of said Commissioners be and the same is hereby approved; and it is further ordered adjudged and decreed that the claim of appellees is a good & valid claim and that the same is hereby confirmed to the tract of land known as "El Cajon" for a description of the boundaries of which reference will be had to the map & general copies of which are on file in the Record of this case.

No 114

The United States

vs

Heirs of Pedrorena

El Cajiro

Decree

Filed Sept 28th 1855

P. E. Dana Clk

By J. W. Roff Dep

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U.S. District Court for the
Southern District of California

The Heirs of Miguel Pedrorena
ads
The United States.

No. 114.
(Transcript No. 262.)

The respondents for answer to the petition filed in this cause answers and says. It is true that the land mentioned in said petition and in said transcript of the proceedings before the said Board of Commissioners lies within said Southern District of California and within the jurisdiction of this Court.

But the respondents deny that their title to the said land is invalid. and aver that the same is valid. and pray that the decision of the said Board of Commissioners be affirmed. and their title be decreed to be valid.

Thos. W. Sutherland, guardian
and Attorney for respondents.
By E. O. Crosby of Counsel

No. 114.

U. S. District Court for the Southern District of California

Heirs of Pedro Nuby by Thos W. Sutherland Guardian &c

vs

The United States.

Answer of respondents

Filed Sept 27th, 1855.

C. E. Carr
Clk.

Cooley &

Thos. W. Sutherland
Atty for respondents

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

No. 114.

The Heirs of Miguel Pedroreno. appellees
Thos. W. Sutherland Guardian &c.
ads
The United States. Appellants.

N. 114.
(Transcript No. 262).

To the Hon. Isaac S. K. Ogier judge -

The petition of Pacificus Ord attorney of the United States for the Southern District of California for and in behalf of the United States respectfully represents; That on the 10th day of June A.D. 1852, The Heirs of Miguel Pedroreno. by Thos. W Sutherland their guardian petitioned the Board of U.S. Land Commissioners claiming Eleven square leagues of land called Cajon in San Diego. County. California. That on the 14th day of March A.D. 1854 the said Commissioners confirmed the said claim - That on the ~~14th~~ 8th day of ~~March~~ November A.D. 1854 the said Commissioners caused a transcript of their proceedings and decision in said cause to be filed in the office of the clerk of this court. That thereafter on the ~~14th~~ 30th day of ~~March~~ October A.D. 1854. C. Cushing attorney Genl. of the U States received a certified transcript of the proceedings and decision of said Board of 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 U States. filed or caused to be filed a notice of intention of the United States

to prosecute the appeal in said cause. That the land claimed is in the Southern District of California and within the Jurisdiction of this Hon'l Court.

Wherefore this petitioner prays that the said Appellee may be cited to answer this petition; and that the said decision of the said Commissioners may be reversed, reversed, and set-aside, and that this Hon'l Court will decree the said claim or title to be invalid - and for general relief. ~~& prayer~~.

P. Ord
Attorney of the United States for the Southern District of California.

No. 114.

Thos. W. Sutherland
Guardian &c.
ads.
The United States.

Petition of U S Atty for
review.

Filed Sept 27th 1855.
C. E. Carr
Clk.

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P. Ord U S Dist Atty

No. 114.

Heirs of Pedroreno.
ads
The United States

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Pages 18. to 24. } Translation of espediente containing all the foregoing original papers as found in the archives in the Surveyor Generals office -

Page 25. to 28. } Original Grant in Spanish delivered to the grantee. dated September 23. 1845.

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Page 33 - Translation of above -

Pages 34. to 38. } (Spanish) Proceedings of Juridical Possession

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Page 7. Deposition of G. G. Warner. proves genuineness. of papers &c.

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No. 114.

U.S. Dist Court, So Dist Cala

Heirs of Pedrorena

vs

The United States.

Index to Transcript

Filed Oct 3rd 1855

A E Carrillo

By S W Roberts Dep

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Thos W. Sutherland

Atty for appellees

In the ~~U. States~~ District Court of the United States for the Southern District of California. Special Term Sept 1855, Los Angeles.

Thos. W. Sutherland, Guardian ads The United States.	No. 114. (Transcript No. 262.)

On motion of P Ord Attorney of the United States for the Southern District of California, it is 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 United States, in the above entitled cause, rendered on or about the 28th day of September A D 1855.

P. Ord
U S Dist Atty.

No. 114.

U.S. District Court
Southn. District of Calif.

The United States, Appelts.

vs

Thos. W. Sutherland Guardian,
Appellee

Order for appeal to Supreme
Court on motion of Pom.
U.S. Atty.

Filed October 18th 1855
A. E. Carrillo
By D. W. Pinto Dep

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

Land Case No 114 S.D.

Rancho El Cajon

The United States
Appellants
vs
Thomas M. Sutherland
Guardian of Victoria Miguel
Isabel and Helena Pedrorena
Children and heirs of Miguel de Pedrorena
& Maria Antonia Estudillo de Pedrorena deceased

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Now on Motion of Levi Chase Esq of Counsel for the claimants who presents the Mandate of the Supreme Court of the United States in this case, confirming the decree of the District Court for the Southern District of California entered herein on the twenty eighth day of September A.D. 1855, in favor of said claimants - And it appearing that the said Mandate was filed herein on the sixth day of August A.D 1858. And Walter Van Dyke Esq the United States Attorney appearing and consenting to this Order, It is Ordered by the Court that the said claimants and their assignees have leave, And leave is hereby granted to them to proceed under said decree of September 28th 1855 as under final decree

This Order to be entered and take effect as of the date of the filing of the aforesaid Mandate on the 6th day of August 1858

Ogden Hoffman
Dist Judge

No. 114. S. D.
U.S. District Court
Dist of California

The United States
-vs-
Thomas M. Sutherland
et al.

Order that Claimants proceed under decree of Apl 28th 1857 as under final decree

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Filed December 21st A.D. 1875.
Geo. H. Bostwick Clerk
By H. H. Hammond
Deputy Clerk

UNITED STATES OF AMERICA, SS.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Honorable the Judge of the District Court of the United States, for the Southern District of California

greeting:

Whereas, lately, in the District Court of the United States, for the Southern District of California before you, in a cause, between The United States, appellants, and Thomas U. Sutherland, Guardian of Victoria, Isabel, Miguel, and Helena, minor children & heirs of Miguel de Pedroreno and Maria Antonio Estudillo de Pedroreno, deceased, appellee, the decree of the said District Court was in the following words, viz:—

"It is ordered, adjudged and decreed that the decision of said Commissioners be and the same is hereby affirmed; and it is further ordered, adjudged and decreed, that the claim of appellees is a good and valid claim, and that the same is hereby confirmed unto the tract of land known as "El Cajon", for a description of the boundaries of which reference will be had to the map and grant, copies of which are of file in the record of this Court."—

as by the inspection of the transcript of the record _____

_____ of the said District

Court, which was brought into the Supreme Court of the United States, by virtue of an appeal

agreeably to the act of Congress, _____

_____ in such case made and provided, fully and at large appears.

And whereas, in the present term of December, in the year of our Lord one thousand eight hundred and fifty six the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and was argued by counsel: On consideration whereof, it is now here ordered, adjudged and decreed by this Court that the decree of the said District Court in this cause be and the same is hereby affirmed. — Mar. 5th

You, therefore, are hereby commanded that such further _____ proceedings be had in said cause, _____ as according to right and justice, and the laws of the United States, ought to be had, the said appeal notwithstanding: Witness the Honorable Roger B. Taney Chief Justice of said Supreme Court, the first Monday of December in the year of our Lord one thousand eight hundred and fifty six. —

COSTS

Clerk, ... $

Attorney, ... $

$

~~Taxed by~~

Wm. Thos. Carroll

Clerk of the Supreme Court of the United States.

No. 114

No. 78, December Term, 1856.

MANDATE

SUPREME COURT UNITED STATES.

M. Slater vs Sutherland, Guardian

Filed the 6th day of April 1858

Wm. Thos. Carroll

Clk