

CASE No.

144

SOUTHERN DISTRICT

VALLE DE SAN JOSE GRANT

SILVESTRE DE LA PORTILLA

CLAIMANT



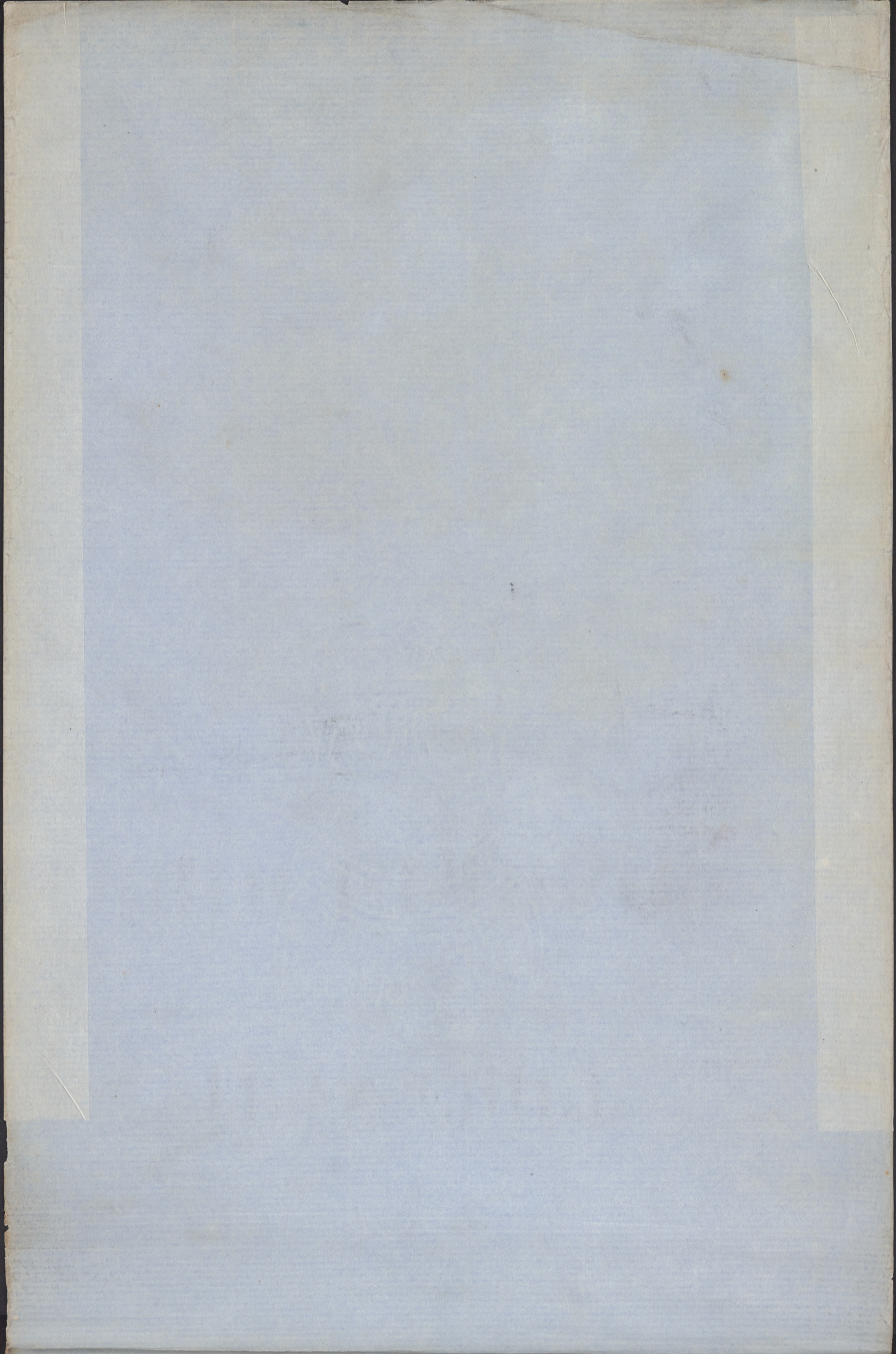
LAND CASE 144 SD pgs. 154

MAR 4 1963



157  
Southern Railway







# TRANSCRIPT

144 SD  
PAGE 1

OF THE

# PROCEEDINGS

IN CASE

NO. 469

*Silvestre de la Postilla* CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

*"Valle de San José."*



WILSON



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 Eighth day of November, 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;

144 SD  
PAGE 2

The Petition of Silvestre de la Portilla,  
for the Place named  
"Valle de San José",  
was presented, and ordered to be filed and docketed with No. 469 and is as follows, to wit;

(Vide page 3 of this Transcript.)

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

San Francisco, Nov. 10, 1852.  
In the same case, the deposition of S. Argüello, a witness in behalf of the claimant, taken before Commissioner, Holland Hall, with Document, marked H H N<sup>o</sup> 1, and a translation thereof marked C, annexed thereto, was filed, and is in the words and figures as follows, to wit.

(Vide page 3 of this Transcript.)

San Francisco, Feb. 21, 1854.  
In the same case, Commissioner Alpheus Felch delivered the opinion of the Board rejecting the claim -  
(Vide page 45 of this Transcript.)



2

1

San Francisco October 8, 1858.  
N<sup>o</sup> 469, Silvestre de la Portilla,  
for the "Valle de San Jose", was  
submitted on briefs on both sides  
and taken under advisement by  
the Board —

---

144 SD  
PAGE 3

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 42 of this Transcript.)

---



3. Petition  
A

To the Board of Commissioners for ascertaining and settling private Land Claims in the State of California  
Your Petitioner Silvestre de la Portilla of the County of Los Angeles in the State of California respectfully represents to your honorable body that he claims a certain tract of land called the Valle de San Jose containing four square leagues more or less situated in the County of San Diego in said State of California that he claims the same in fee by virtue of a grant made to him under the authority of the Mexican Government by Nicolas Gutierrez Governor of the territory of Alta California bearing date the 16<sup>th</sup> of April 1836

Your petitioner further represents that judicial possession of said tract of land was given to him on the first day of August 1836 and the boundaries thereof designated and defined and that he has been in the peaceful possession thereof ever since and that he has no knowledge of any interfering claim Your Petitioner presents herewith the original grant of <sup>said</sup> land and the judicial possession in the Spanish language together with a translation of the same and will make further proof of title if required Your Petitioner prays your honorable Board to take into consideration his claim to said tract of land and decree his title to be valid and confirm the same

And your Petitioner will forever pray

N. Hubert

Filed in Office Nov 8<sup>th</sup> 1852 Atty for Petitioner  
Geo Fisher Esq

Recorded in Record of Petitions Vol 1 pages 428

Geo Fisher

Deposition of  
S Arguello

Los Angeles Nov 10<sup>th</sup> 52  
On this day before Leonie Heidana Keale came Santiago Arguello a witness in behalf of the defendant Silvestre de la Portilla petitioner No 469 and was duly sworn his evidence being interpreted by the Secretary The U.S. Associate Law Agent was present



In answer to inquiries by Counsel for the Claimant the  
 Witness testifies as follows

My name is Santiago Arguello My age is sixty years  
 & I reside at San Diego - A paper is now shown me  
 purporting to be a grant to Silvestre de la Potilla dated  
 16<sup>th</sup> of April 1836 I am acquainted with the signatures  
 of Nicolas Gutierrez, Francisco del Castillo Negrote  
 & Basilio Morino. The signatures of the said person  
 on said paper I believe to be genuine. My own genui-  
 -ne signature is also on said paper said paper is hereto  
 annexed & marked He He No 1 - I know the Rancho  
 called Valle de San Jose It is in the County of San  
 Diego It was occupied by the Silvestre de la Potilla  
 from 1834 or 1835 until 1836 or 1837 He had a  
 house on it in which he lived had horses & cattle the  
 Cultivated the land - Joaquin Ortega occupied it after-  
 -wards for two or three years - Afterwards it was occup-  
 -ied by Juan he has occupied it to the  
 present time

Santiago Arguello  
 Sworn & Subscribed Before me  
 Heilana Keale Com<sup>r</sup>

Recorded in Ex A Vol 2 p 263

Filed in Office Nov 10<sup>th</sup> 1852

Geo Fisher

Sey

144 SD  
 PAGE 5

5700

1852



5  
Expediente  
7

Jurisdicción  
de  
D<sup>n</sup> Diego

Año de  
7  
1834

144 SD  
PAGE 6

Expediente

Sobre el parage nombrado  
Valle de S. José solicitado  
por

D<sup>n</sup> Silvestre de la Portilla

155

3



Sello Cercero Place of a Stamp in the original Dos Reales  
 Para los años de mil ochocientos veinte y seis y ochocientos veinte y siete

144 SD  
 PAGE 7

Place of a Stamp in the original for the years 1828-1829, 1830 & 1831

Place of a Stamp in the original for the years 1828-1829, 1830 & 1831

Habilitado provisionalmente por la Receptoría de Meabala del Pto de S. Diego p<sup>o</sup> los años de 1833 y 1834  
 Trouello S. E. Arguello

Por Gral de Brigada y Jefe Sup<sup>o</sup> Político del Territorio

Pueblo de los Angeles Marzo 5 de 1834  
 De conformidad con las leyes de la marina informo al comandante Militar de San Diego, si el interesado en esta instancia obtiene los requisitos prevenida para ser atendidos en su solicitud si el terreno que pretende está

El Ciudadano Silvestre de la Portilla con el debido respecto q<sup>o</sup> debe, ante V.S. comparece y dice: es natural de la Villa del Fuerte, del Estado de Sonora y radicado hace cinco años en el Puerto de S. Diego del mando de V.S.; y hallándose en el día con algunos bienes de campo y no tener paraje en donde ponerlos en seguridad para lograr los aumentos de sus progresos espero de la bondad de V.S. se sirva concederle el sitio llamado el Valle de San José que queda a la parte del Este camino del Rio Colorado y dista de la ciudad de S. Diego como veinte y dos leguas



comprendido en las veinte leguas limitrofes y diez leguas totales que espresa la ley de 18 de Agosto del 1824; si es de regadío temporal o abrevadero, si pertenece a propiedad particular, corporacion o Pueblo con todo lo demas que sea concerniente a ilustrar la materia, haciendo que el interesado le presente el diseño del sitio que solicita que se agregará a este expediente — Evacuado todo esto pasará el expediente a los RR PP. Ministros de las Illusiones de San Diego y San Luis Rey para que informen lo que les ocurra. El Cor

D. José Figuerola genl de Brigada de los Estados Unidos Mexicanos Comand<sup>te</sup> gl y Jefe Superior Politico del Territorio de la Alta California asi lo mandó decreto y firmó de que doy fe

José Figuerola — Por auso del Sr. Srto  
Bernardo Navarrete — El

y de la de S. Luis Rey de veinte a veinte y una, sin perjudicar ha otros paraje que siempre ha sido valido, y unas dho sitio conserva un arroyo y varios aguajes permanentes, el valle es algo espavoso; y por tanto A. V. S. suplica rendidamente — (3) tenga la bondad de concederle en propiedad el espresado sitio del Valle de S. José, para cubierto por lo pronto con quatrocientas cabezas de ganado mayor, dos manadas de Leguas manzas, y algun ganado menor de pelo y unas laborar sus tierras, para su subsistencia, de lo que recibirá gracia y merced  
Puerto de S. Diego  
20 de Setiembre de 1834  
Silvestre de la Portilla

144 SD  
PAGE 8



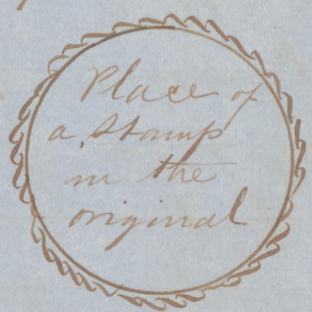
(4)

interesado en esta instancia tiene los requisitos necesarios p<sup>a</sup> ser atendido en su solicitud. El parage que pretende, no está comprendido en las veinte leguas linderas ni en las diez litorales, es parte de regadio temporal y abrevadero, es el camino p<sup>a</sup> donde trafican los de la Sonora, será útil allí ese establecimiento p<sup>a</sup> el auxilio de estos, pues está interno al Este como veinte y quatro leguas de este presidio, distante de la Illion de S. Diego como veinte y dos, y de la de San Luis como veinte, y aunque en algun tiempo la de S. Diego a tenido alli buques, p<sup>a</sup> su larga distancia a tenido que sacarlos, o no han estado bien auxiliados p<sup>a</sup> el perjuicio de la gentilidad, que es p<sup>a</sup> aquella parte bastante en numero, p<sup>a</sup> lo que soy de parecer, que establecido alli este sitio y huscando de buena politica y armonia con ellos, se haran mas tratables y civilizados; por lo q<sup>e</sup> en vista de lo espues — — — — — (5)

144 SD  
PAGE 9

[ Sello Tercero

Para los años de mil  
y seis y ochocientos



Los Reales

ochocientos veinte  
veinte y siete

Place of  
a stamp in  
the original  
for the years  
1828 & 1829  
& 1830 & 1831

Habilitado provisionalmente p<sup>a</sup> la  
Receptoria de alcabalas del P<sup>to</sup> de S.  
Diego p<sup>a</sup> los años de 1833 y 1834  
Arouello J. E. Arquiello ]

Place of  
a stamp in  
the original  
for the years  
1828 & 1829  
& 1830 & 1831

— to V. S. decuntará lo q<sup>e</sup> fuere de  
su Superior agrado —  
San Diego Abril 8 de 1834  
Santiago Arquiello



9

Libro-

144 SD  
PAGE 10

Mision de San Diego Abril 9 de 1834 -  
Certifico yo Sr. Fernando Martin, actual mi-  
nistro de la Mision de San Diego como el paraje  
que solicita el Ciudadano Silvestre de la Portilla  
no hay embarazo para q<sup>l</sup> lo posea, por parte de  
esta Mision de San Diego, con tal que se le conceda  
tambien parte de lo que se reconoce por parte  
de la Mision de San Luis Rey - y pa<sup>l</sup> q<sup>l</sup> conste  
en donde conbenga lo firmo -

Sr. Fernando Martin

Mision de San Luis Rey Abril 13 de 1834  
Se puede conceder al solicitante Dn Sil-  
vestre de la Portilla el paraje de San Isid<sup>l</sup> parte  
de el sin perjuicio de esta Mision -

D. Vicente Pasqual Silva

Mor -

Here follows a sketch or map } (5)  
(marked)

(7)

San Diego Junio 10 de 1834 -

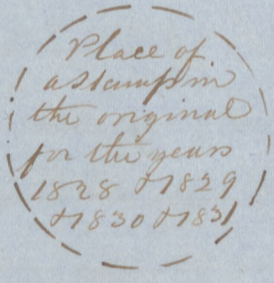
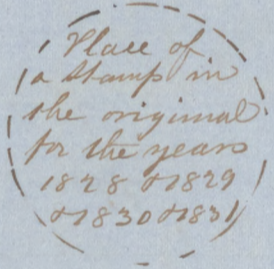
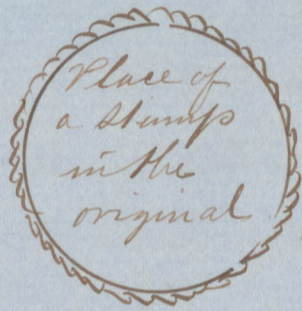
Pase este expediente al Comandante Militar  
de San Diego ante quien la parte de D. Silvestre  
de la Portilla producirá una informacion de tres  
testigos idoneos que serán interrogados sobre los  
puntos siguientes - 1<sup>o</sup> si el solicitante es ciuda-  
dano Mexicano por nacimiento, si es casado y  
tiene hijos, si es de buena conducta, 2<sup>o</sup> si el  
terreno q<sup>l</sup> pretende pertenece a la propiedad de  
algun particular, Mision, Pueblo, o Corporacion;  
si es de regadio temporal o abrevadero y que



144 SD  
PAGE 11

estencion tendrá - 3º si tiene bienes con que poblarlo ó posibilidad de adquirirlos. Evacuadas estas diligencias buelva este expediente para su resolucion - El Sr. D. José Figueron general de Brigada Comandante general Inspector y Jefe Superior Politico del Territorio de la Alta California asi lo mandó decreto y firmó de que doy fé -  
 José Figueron  
 Agustin V. Zamorano  
 bro.

En = (8)  
 Lello Tercero (9)  
 Para los años de mil ochocientos veinte y seis y ochocientos veinte y siete



Heabilitado provisionalmente por la Receptoría de Alcabalas N.º del P.º de S. Diego - p.º los años de 1834 y 1835 -  
 Trouello P. E. Arguiello ]

- el Presidio de S. Diego á nueve dias del mes de Julio del año de mil ochocientos treinta y cuatro. El comandante militar encargado de los negocios civiles de esta jurisdiccion, en cumplimiento del superior decto: que antecede del Sr. Comandante Genral y Jefe Sup.º Politico de este Territorio, de 10 de Junio p.º p.º y habiendo presentado el interesado hoy dia de la fha los testigos p.º la informacion q.º en el se prebiene fueron citados á el efecto - y p.º que consta lo firmé con los testigos = (10)



de asistencia segun derecho, de q<sup>e</sup> doy fé -

Arouello

De esta

José Gy.<sup>o</sup> Ortega

Fran.<sup>co</sup> Carrillo

En el mismo dia mes y año expresados ante el Comandante Militar comparecio el Ciudadano Juan Luna - quien fué -

Preguntado si conoce a Silvestro de la Portilla si es Ciudadano Mexicano p.<sup>o</sup> nacimiento, si es casado y tiene hijos y si es de buena conducta, si el Arriero del Valle de S. José pertenece a la propiedad de algun particular, Mision, Pueblo, o Corporacion, si es de regadio temporal o abrevadero, y que estension tendrá, si tiene bienes de campo con que poblarlo, o posibilidad de adquirirlos -

Responde que conoce a Silvestro de la Portilla

(\*)

(11)

hace el tiempo de cinco años p.<sup>o</sup> Ciudadano mejicano p.<sup>o</sup> nacimiento, y lo conoce p.<sup>o</sup> soltero y no casado, que es de buena conducta: que sabe que el parage del Valle está cerca de la Instancia de S<sup>ta</sup> Isabel, pero q.<sup>o</sup> no sabe a donde correspondrá en la actualidad, que es de regadio temporal y abrevadero, que tendrá de estension poco mas o menos como dos y medio leguas de ancho y largo. - Que tiene bienes de campo p.<sup>o</sup> poblarlo y posibilidad p.<sup>o</sup> adquirirlos: y p.<sup>o</sup> q.<sup>o</sup> conste lo firmó el Comandante Militar con los testigos de asistencia de que doy fé -

Arouello



De assa  
Dn.º Gno. de Ortega

De assa  
Dn.º Ruiz

Inmediatamente ante el Comandante

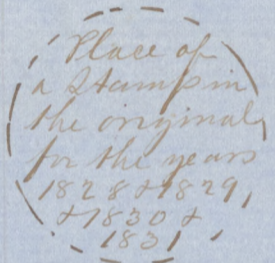
(12)

144 SD  
PAGE 13

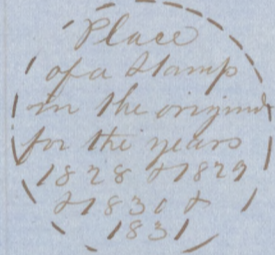
[ Sello Tercero  
Para los años de mil  
seis y ochocientos



Dos Reales  
ochocientos <sup>veinte</sup> y  
veinte y siete



Habilitado provisionalmente p.º la  
Receptoría Nacionales del Pto de S.  
Diego p.º los años de 1834 y 1835  
Arriello J. E. Arquiello ]

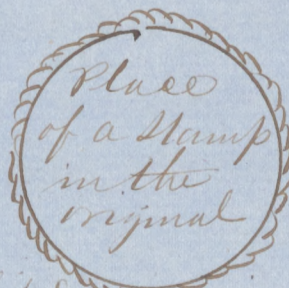


= militar comparecio el Ciudadano  
Juan Mr. Manon que fue preguntado  
si conoce a Silvestre de la Portilla p.º Ciudadano  
Mejicano p.º nacimiento, si es casado y tiene hijos,  
y si es de buena conducta - si el terreno del Valle  
de San José pertenece a la Propiedad de algun  
particular, pueblo, union, ó Corporacion alguna -  
si es de regadio temporal, y abrevadero, y que  
extincion tendra - si tiene bienes de campo p.º  
poblarlo ó posibilidad p.º adquirirlos -

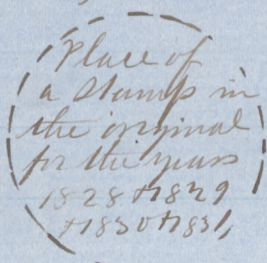
Responde que conoce a Silvestre de la Portilla  
p.º Cuid.º Mejicano p.º nacimiento - - -

(13)

[ Sello Tercero  
Para los años de mil  
seis y ochocientos



Dos Reales  
ochocientos veinte y  
veinte y siete



Habilitado provisionalmente p.º la Receptoría  
de Alcabalas Nacionales del Pto de S. Diego  
p.º los años de 1834 + 1835 -  
Arriello J. E. Arquiello



= que es soltero, y de buena conducta. Que sabe que el parage del Valle de San José pertenece a la Mision de San Diego, q<sup>ue</sup> es de regadio temporal y abrevadero, que tendrá de estension como ocho leguas de largo y cinco de ancho, segun lo ha visto aunque no lo á reconocido. Que tiene el interesado bienes de campo p<sup>ara</sup> poblarlo y posibilidad p<sup>ara</sup> adquirirlos y p<sup>ara</sup> q<sup>ue</sup> conste lo firmó el Comandante militar con los testigos de asistencia de que doy fé -

144 SD  
PAGE 14

Arriuello

De Arzon

José Ygn<sup>acio</sup> de Ortega.

De Arzon

San<sup>to</sup> Luis

En --

(14)

= el mismo dia mes y año ante el referido Comandante Militar comparecio el Ciudadano Julio Berra quien fue: -

Preguntado: si conoce a Silvestre de la Portilla p<sup>ara</sup> Ciudadano Mexicano p<sup>ara</sup> nacimiento, si es casado con hijos y si es de buena conducta - si el parage del Valle de San José pertenece a la propiedad de algun particular, Pueblo, Mision, o corporacion alguna, si es de regadio temporal y abrevadero, y que estension tendrá. - si el interesado tiene bienes de campo p<sup>ara</sup> poblarlo, ó posibilidad p<sup>ara</sup> adquirirlos -

Responde: que conoce a Silvestre de la Portilla p<sup>ara</sup> Ciudadano Mexicano p<sup>ara</sup> nacimiento, soltero y es de buena conducta - Que sabe que el Valle de San José pertenecia antes a la Mision de San Diego, que es de regadio tem -

En --

(15)

= poral y abrevadero, q<sup>ue</sup> tendrá de estension poco mas ó menos como tres leguas, y lo mismo de ancho,



144 SD  
PAGE 15

Que sabe tiene bienes de campo p<sup>a</sup> poblarlo, y po-  
sibilidad p<sup>a</sup> adquirirlos; y p<sup>a</sup> q<sup>e</sup> conste lo  
firmó el comandante militar con los testigos  
de asistencia de que doy fe  
Arrouello

De usua  
José Ygn<sup>o</sup> de Ortega

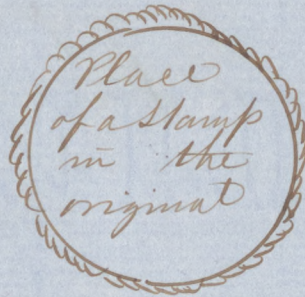
De usua  
Juan<sup>o</sup> Nuis

Montevideo Julio 30 de 1834

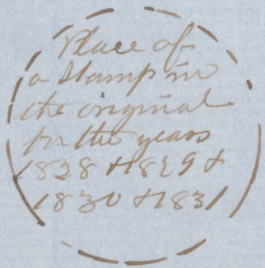
Vista la peticion con que da principio  
este expediente el informe del comandante  
militar del Puerto de San Diego y los de los  
Padres Ministros de las Misiones de San Diego  
y San Luis Rey las exposiciones de testigo con  
todo lo demas que se tubo presente y ver

15

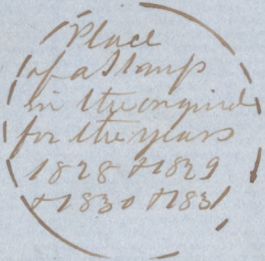
[ Sello Tercero  
Para los años de mil  
seis y ochocientos



Dos Reales  
ochocientos veinte y  
veinte y siete



Heabilitado provisionalmente p<sup>a</sup> la  
Receptoría de Alcab. Nacionales del  
Pto de S. Diego p<sup>a</sup> los años de 1834  
1835



Arrouello ]

= convido de conformidad con las leyes  
y Reglamento de la Materia, se declara al  
Ciudadano Selvestres de la Portilla dueño en pro-  
piedad del terreno conocido con el nombre del  
Valle de San José colindante con las Misiones de  
San Diego y San Luis Rey; y sujeto a las



condiciones q<sup>l</sup> se estipularen - dirigase este expediente a' la Exma Diputacion p<sup>a</sup> su aprobacion - El Sr Don Jose Figueron General de Brigada, Comandante general Inspector y jefe Superior Politico del Territorio de la Alta California asi lo mando, decreto y firmo, de que doy fe -

Jose Figueron

Agustin V. Zamorano

144 SD  
PAGE 16

Monteney Julio 30 de 1834

En sesion de este dia acordó la E. Diputacion pase este Expediente a' las comisiones de colonizacion y terrenos baldios -

Figueron

Jose Maria Maldonado

Exmo Sr

17

Las Comisiones unidas de colonizacion y terrenos baldios Impuestas del Expediente q<sup>l</sup> se mandó practicar p<sup>a</sup> pretension q<sup>l</sup> el Ciudadano Silvestre de la Portillo hizo del Paraje nombrado valle de San José, y penetrada la Comision p<sup>a</sup> el conocimiento q<sup>l</sup> tiene del expresado terreno q<sup>l</sup> se halla todo ello ocupado con bunes y labores de las Misiones de San Diego y San Luis Rey y q<sup>l</sup> p<sup>a</sup> lo mismo estas Guano a perjudicar si se le concede al solicitante dicho Valle y ademas q<sup>l</sup> no hay una terminante oposicion de los otros respectivos a favor de Portillo p<sup>a</sup> lo q<sup>l</sup> cree la Comision q<sup>l</sup> solo han tratado otros Intros de obsequios respectos: Es de opinion q<sup>l</sup> no se adjudique p<sup>a</sup> haber el terreno mencionado hasta que pierda p<sup>a</sup> su naturaleza: En vista de lo expuesto la



Comision presenta a' la deliveracion de esta  
Exma Diputacion la proposicion siguiente ~

Se reserva el curso del Expediente del  
Ciu<sup>do</sup> Silvestre de la Portilla promovido en so-  
licitud del Valle de San Jose hasta que se veri-  
fique la secularizacion de las Misiones de  
la Alta California ~

144 SD  
PAGE 17

Monterey Julio 31 de 1834  
Jose J. Ortega      Carlo Anto Carrillo  
Jose A. Estudillo

Monterey Julio 31 de 1834  
Dada cuenta a' la Ex. Diputacion en sesion  
de este dia con el dictamen antecedente, aprobo  
la unica proposicion en q.<sup>o</sup> concluye q.<sup>e</sup> dice  
Se reserva el curso del expediente del  
Ciu<sup>do</sup> \_\_\_\_\_ (18)  
Silvestre de la Portilla promovido en solicitud  
del Valle de S. Jose hasta que se verifique  
la secularizacion de Misiones en la Alta  
California ~

Y en su consecuencia se devuelve  
el expediente al S. Jefe Sup.<sup>o</sup> Politico p.<sup>o</sup>  
lo fin q.<sup>e</sup> estime conveniente.

Monterey Julio 31 de 1834

Jose Figueroa

~~Jose Maria Maldonado~~

Año ~

Monterey Agosto 1.<sup>o</sup> de 1834

Hagase saber al Ciu<sup>do</sup> Silvestre de  
la Portilla el acuerdo de la Exma Diputa-  
cion Territorial del dia 31 de Julio ultimo,  
referente a' la solicitud del Terreno del Valle



17

San José y reserve el expediente para su  
debido tiempo. El Sr. D. José Figueron General  
de Brigada Comandante genl. Inspector y  
Jefe Sup.<sup>o</sup> Político del Territorio de la Alta  
California así lo mandó decreto y firmó  
de que doy fe  
José Figueron

Agustín V. Zamorano  
Tr.

144 SD  
PAGE 18

(19)

Sello Cuarto de Oficio

Habilitado provisionalmente por la Adminis-  
tracion de la Aduana Maritima de Concep-  
cion de la Alta California p<sup>a</sup> los años de  
mil ochocientos treinta y cuatro y mil ocho-  
cientos treinta y cinco

Figueron

A Ramirez

Sr Comand.<sup>te</sup> Gral Jefe Sup.<sup>o</sup>  
Político de la Alta Calif<sup>a</sup>

Minterey  
Nov. 5 de  
1834  
De se cuenta  
con los ante-  
cedentes p.<sup>o</sup>  
resolver lo  
conveniente

El Ciudadano Silvestro de la  
Portilla vecino del Presidio de San  
Diego del mando de V.S. con el  
debido respeto que el derecho le  
permite así presente: que en  
vista de hallarse en el dia con  
quinientas cabezas de ganado  
mayor, quatro manadas de  
Heguas, dosientos caballos y  
como noventa bestias mulares  
recogidas; y no teniendo parage  
en donde tener este numero  
de buees para su seguridad



144 SD  
PAGE 19

y logro de ellos, y con motivo ha haberse de-  
tenido mi solicitud que tengo echo del sitio  
llamado el Valle de San José, y el hallarme  
con todo este numero de bienes recogidos, sin  
saber a donde ponerlos, me hallo = - - -  
en = - - - - - (20)

La suma necesidad de meterlos en dicho parage  
p<sup>o</sup> no perderlos, creido de q<sup>o</sup> no abra ningun  
obstaculo p<sup>o</sup> q<sup>o</sup> no se me concediera; pero  
ahora por el oficio de V.S. veo que el ex-  
pediente queda pendiente hasta la resolu-  
cion de las Aduanas: por lo que suplico  
a V.S. se me conceda sigan los referidos bienes  
en dicho parage hasta ver si se me concede  
en propiedad para no perderlos; de lo q<sup>o</sup>  
recitare gracia y merced -

S. Diego 19 de Octbre de 836  
Silvestro de la Portilla

(21)

Sello Cuarto de oficio

Habilitado provisionalmente por la Administra-  
cion de la Aduana Maritima de Monterey de  
la Alta California para los años de mil ochocientos  
treinta y cuatro y mil ochocientos treinta y  
cinco -

Figueron

A Ramirez

(22)

Sello Tercero Dos Reales

Habilitado provisionalmente por la Adminis-  
tracion de la Aduana Maritima de Monterey  
de la Alta California para los años de mil  
ochocientos treinta y seis y mil ochocientos



treinta y siete  
Gutiérrez

A Ramirez

Montevideo Abril 10 de 1835

Vista la peticion con que da principio este expediente el informe del Comandante Militar de Sr. Diego i el de los P.P. M. M. de Sr. Diego i San Luis Rey la exposicion de testigos con todo lo demas que se tubo presente i ver convido, i estando persuadido de q. las misiones nunca lo han necesitado p. cuya causa se halla baldio, de conformidad con las leyes i reglamentos de la materia se declara al Cud. Silvestre de la Portilla dueño en propiedad del terreno conocido con el nombre del Valle de Sr. José a reserva de la aprobacion de la Exma. Diputacion. El Señor Don Nicolas Gutierrez Teniente Coronel Comandante General i Inspector i Jefe Politico interino

(23)  
asi lo mandó decretó y firmó de q. doi fe  
Nicolas Gutierrez  
Sr. del Castillo Negrette  
Sr. ~

En 31 de Mayo pasó a la Comision de  
terrenos ~ Alatornado

Exmo. Sr.

La Comision de terrenos baldios impuesta del expediente q. se mandó practicar a peticion del Cud. Silvestre de la Portilla del Parage nombrado J. José no encontrando

144 SD

PAGE 20

Drs 12 p.



en el objecion alguna q hacer siendo en todo  
conforme al artº 5 del regla = - - -

[ Sello Tercero. Ds Reales (24)

144 SD  
PAGE 21

He habilitado provisionalmente por la adminis-  
tracion de la Aduana Maritima de Mon-  
terey de la Alta California, para los años de  
mil ochocientos treinta y seis y mil ocho-  
cientos treinta y siete -

[ Gutierrez A Ramirez ]  
- miento de 21 de Ato de 1828 y a la  
ley de 18 de Ato de 824 opece a la  
deliberacion de D. E. la proposicion siguiente  
Se aprueba la concesion hecha al  
Cinco Silvestre de la Portilla del Paraje nom-  
brado P. José concedido en 10 de Abril de 830  
Monterey 11 de Junio de 1830  
Jose Antº de la Gra y Carrillo  
Jose Joaquin Gomez

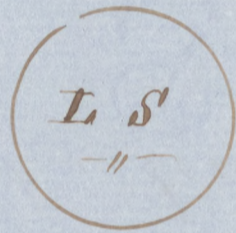
Monterey Julio 4º de 1830  
En sesion de este dia volvio a la co- - (25)  
- mision p.ª su reforma -  
Alcaldonado  
Brio.

Office of Surveyor General of the  
United States for California  
I, John C. Hayes, 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 five preceding and herunto annexed pages of tracing paper, numbered from one to Twenty five inclusive, exhibit a true and accurate copy of a certain document now on file and forming part of the said Archives in this office —

144 SD  
PAGE 22



In Testimony whereof I have herunto signed my name officially and caused my seal of office to be affixed, at the City of San Francisco, this seventh day of October A.D. 1853 —

(Signed) John C. Hays  
U.S. Surveyor General  
for California

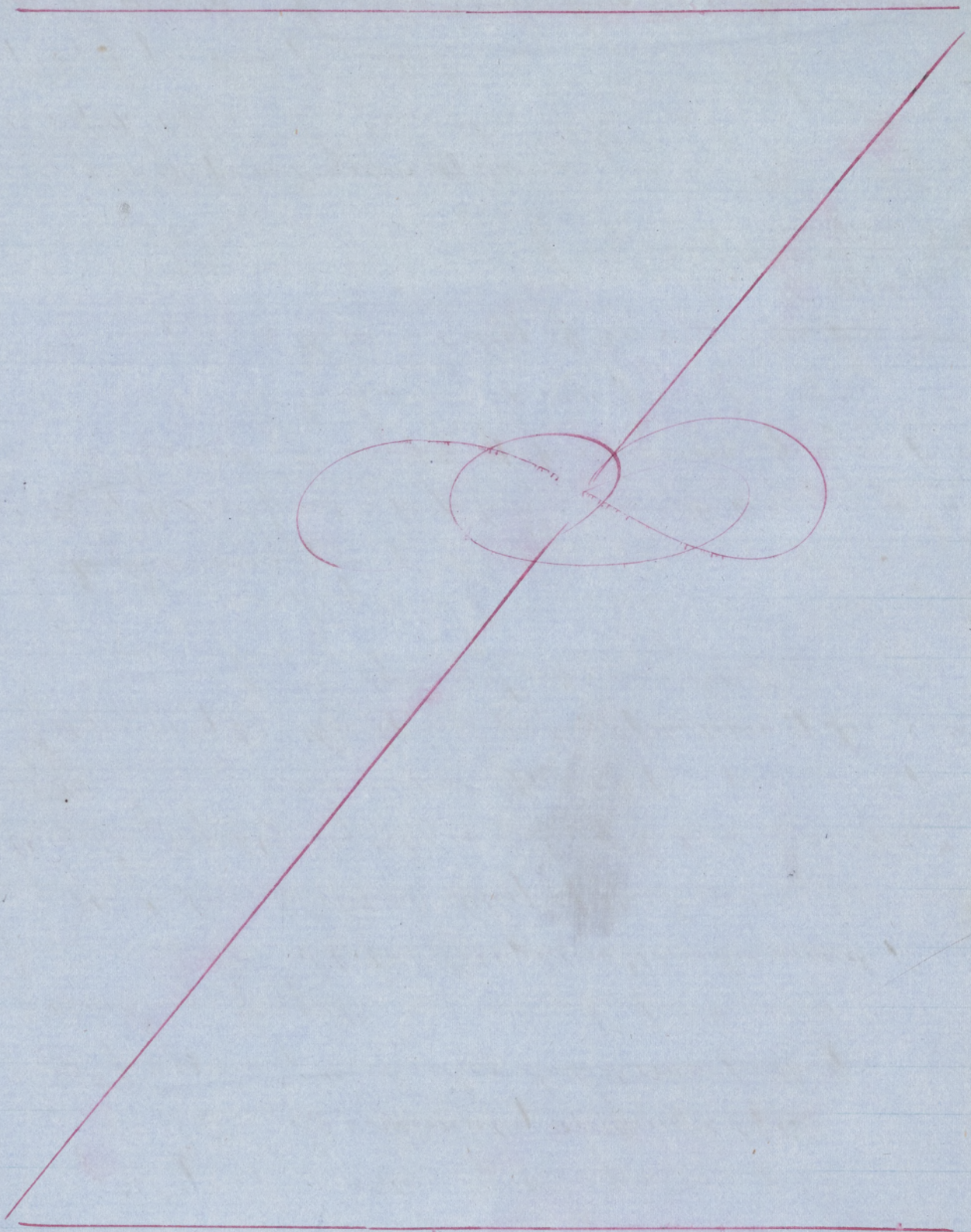
Extract from the 2<sup>nd</sup> section of the Act of Congress "providing for the survey of Public Lands in California and for other purposes" <sup>approved August 3<sup>rd</sup> 1853.</sup>  
"The Secretary of the Interior is hereby authorized to cause an official seal to be prepared for the office 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



effects as the original.?"

144 SD  
PAGE 23

Filed in office February 13th 1854  
Geo. Fisher  
Secy



144 SD  
PAGE 23



Translation of Third Seal  
Espediente

Place Two Reals  
for a Seal in the  
Original

For the years Eighteen Hundred and twenty six and twenty seven  
Provisionally Authorized by the Delegata  
Exercise Officer of the Port of San Diego for the years 1833  
& 1834 Arquello S. E. Arquello

To the Brigadier General and Superior  
Pueblo de los Potatoes Relief of the Territory

Angelos March 6 The Citizen Silvestre de la Portilla with  
1834 and respect appears before you and says

Agreeably to that he is a Native of the town of Tuxtepec in  
the laws relative the State of Sonora and established since  
to the subject, the five years in the Port of San Diego under  
Military Government your jurisdiction having certain Cattle with  
-dant of the Port of - out a place to put them in security to rear  
San Diego will the benefits of them increase he hopes from  
report whether the your kindness that you will grant him  
petitioner possesses the place called el Valle de San Jose leaving  
the necessary qual on the Eastern side the road of the Rio Colorado  
ifications to be distant about twenty two leagues from the  
head in the from Mission of San Diego and twenty or twenty  
-ies of the land one from that of San Luis Rey without  
prayer for is with prejudice to other lands which have always  
-in the twenty remained vacant and beside said land con  
border leagues and tains a stream and various watering places  
the ten littoral The valley is rather spacious therefore he  
ones referred to in humbly prays that you may have the kind  
the law of August - nip to grant to him the aprovechamiento Valle de  
18<sup>th</sup> 1834 if it is San Jose to place therein four hundred head  
(de ganado) one of mixed Cattle, two droves of tame Maes  
-gable (temporal) besides a few sheep and to cultivate the land  
-anable (alrabadu whereby he will receive favor and benefit  
ro) watered if it fulfills Port of San Diego February  
is private property 20<sup>th</sup> 1834

Corporation or

Silvestre de la Portilla

144 SD  
PAGE 24



144 SD  
PAGE 25

Public land toge The Petitioner herein proposes the necessary  
 -then with all the qualifications to obtain what he prays for  
 may be necessary The land which he solicits is not within the  
 to throw light twenty border leagues nor within the ten  
 on the subject literal ones is in part irrigable, unable  
 claiming that ana watered land it is on the road by  
 the party present which the Sonoranians I rades his establish  
 a sketch which -ment then will be useful for their protection  
 he shall annex It is in the Interior towards the Coast, at  
 to these procedi twenty four leagues from this Presidio dis  
 -ngs (expediente) -tant about twenty leagues from the Mission  
 All of this being of San Diego and twenty from that of  
 accomplished San Luis Rey ana although at a certain  
 these proceedings time the Mission of San Diego had  
 (Expediente) shall then on certain property it was compelled  
 be handed to the to withdraw them an account of the great  
 riverina farther distance to it & because they were not well  
 Ministers of the attenda to an account of the damage made  
 Mission of San by the Indians which in that part <sup>of the country</sup> are rather  
 Diego an San numerous according to appearances the  
 Luis Rey in establishing of that place and practi eing  
 Order that they qva policy and harmony, the Indians may  
 may report an become more manageable and civilized  
 the subject which in view of the foregoing you may desire  
 appertains to whatever may be your superior will  
 them

San Diego April 8<sup>th</sup> 1834

Santiago Arguello

Don Jose Figue  
 roa Brigadier  
 General of the  
 United States of  
 Mexico, Commanda  
 ndant General  
 and Political and  
 Superior Chief  
 of the Territory  
 of Upper Califor

Thira Seal

For the years  
and twenty six

Place for a  
 seal in the  
 Original

Place for a  
 seal in the  
 Original

Place for  
 a seal in the  
 Original  
 Provicinal autoriza by  
 the delegated Officer of the  
 port of Monterey for the  
 years 1833 & 1834

Arguello S. E. Arguello

5400  
20



25

via thus ordena Mission of San Diego April 3<sup>d</sup> 1833 I  
 decernit and signa Fernando Martin residing and acting  
 In witness whereof Minista of the Mission of San Diego certify  
 Jose Figueroa that there is no difficulty for the Citizen  
 In the absence of Silvestre de la Portilla to possess the land  
 the Secretary he prays for so far as it concerns this  
 Bernardo Navar Mission of San Diego I provide that the  
 sito part recognized as belonging to the Mission  
 of San Luis Rey be also granted to him In testimony  
 whereof I have affixed my signature  
 Fernando Martin

144 SD  
 PAGE 25 A

Mission of San Luis Rey April 13. 1834  
 Part of the land of San Jose may be granted to the petitioner  
 Don Silvestre de la Portilla without prejudice to this  
 Mission  
 Vicente Pascal Oliva  
 (He enclose comes the sketch)

Monterey June 10<sup>th</sup> 1834  
 Let this Expediente be sent to the  
 Military Commandant of San Diego to whom the party  
 Don Silvestre de la Portilla shall produce the testimony  
 of three proper witnesses who will be interrogated on the  
 following points 1<sup>o</sup> If the Petitioner is a Citizen Mexican  
 by birth if he is married and has children, if he is of a  
 good character 2<sup>o</sup> If the land prayed for is the property  
 of any individual, Mission town or corporation if it is  
 irrigable, watered or arable land and the size of it 3<sup>o</sup> If he  
 has property to put on it or whether there is any possibility  
 for him to acquire any These formalities being performed  
 let these proceedings (expediente) be returned for their ex-  
 ecution Jose Figueroa, Brigadier General Command-  
 ant General, Inspector Superior and political Chief of the  
 Territory of Upper California thus has ordena decernit  
 and signa In witness whereof

Jose Figueroa  
 Augustin V Zamorano



Third Seal

Place for  
a seal in the  
original

Two Reals

For the years Eighteen Hundred and twenty six and  
Eighteen hundred and twenty seven

Place for a  
seal in the  
Original

I personally authorized by the Deputado  
excise Officer of the Port of San Diego for  
the years 1834 & 1835

144 SD  
PAGE 26

Arquillo J. L. Arquillo

President of San Diego on the ninth day of July 1834  
The Military Commandant having charge of the Civil duties  
of this jurisdiction in accordance with the Superior fore  
going decree of the General Commandant Superior and  
Political Chief of this Territory of the tenth of June last  
past and the petitioner having this day presented the  
witnesses subpoenaed for the investigation required by  
said decree in witness whereof I have affixed my signature  
together with the assisting witnesses

Witnesses Arquillo

José Ignacio Ortega

Francisco Ponce

On the same day month and year above expressed before  
the Military Commandant appeared the Citizen Juan  
Acuña whom being interrogated as to whether he knew  
Silvestre de la Portilla whether he was a native born  
Mexican Citizen whether he was married and had children  
whether he had a good character whether the land of Valle  
de San José belonged to any particular individual Mission  
or corporation whether said land is irrigable, watered or  
arable, what size it was whether he had any cattle to  
put on it or whether he could acquire any - Answered that  
he knew Silvestre de la Portilla since five years as  
being a native born Mexican Citizen that he is a bachel-  
or and enjoys a good character that he knows that the  
land of the Valley is near the extension of San Isabel  
but does not know the exact locality; that it is irrigable







is irrigable, waters a or anable land whether he knew the size of it, if the petitioner had any cattle to put on it or whether he could acquire any Answered: That he knew Silvestre de la Portilla to be a Native born Mexican Citizen that he enjoys a good reputation that he knows that Valle de San Jose once belonged to the Mission of San Diego that the land is irrigable waters and anable that its size is about three leagues more or less in width and breadth that he knows that said Silvestre de la Portilla has cattle to put on it and can acquire some In witness whereof the Military Commandant affixed his signature with the assisting witnesses

Arquillo

Jose Ignacio Ortega  
Jose Rucy

Monterey July 30<sup>th</sup> 1834

In Consideration of the Petition beginning this Expediente the report of the Military Commandant of the Port of San Diego those of the Reverend fathers Ministers of the Missions of San Diego and San Luis Rey the testimony of witnesses and the other formalities required by law and regulations the Citizen Silvestre de la Portilla is declared the owner of the land known by the name of Valle de San Jose bounded by the Missions of San Jose and San Luis Rey subject to the conditions which will be stipulated Let these proceedings (Expediente) be directed to the Reputation for its approval Don Jose Figueroa Brigadier General General Commandant Inspector and Political Superior Chief of the Territory of Upper California thus has ordered and signed In witness whereof

Jose Figueroa  
Agustin V Zamorano

Monterey July 30<sup>th</sup> 1834

In the Session of this day the Territorial Reputation



29

acervo that these proceedings (Expediente) be referred  
to the Commission for Colonization and Vacant Lands

Igueroa

Jose Maria Maldonado

Secretary

The United Commission for Colonization and Vacant Lands  
having examined the proceedings (expediente) to be executed  
in relation to the Valle de San Jose prayed for by Silvestre  
de la Portilla and the said Commission aware of the facts  
in relation to said land that it is all occupied with the  
property of the Mission of San Diego and San Luis Rey and  
their agricultural improvements which would go to destruc-  
-tion if the said Valley was granted to the petitioner and  
besides there not being a conclusive report on the part of  
the respective Ministers in favor of said Portilla hence the  
Commission believe that said Ministers reported only through  
obsequiousness therefore they are of opinion that said land  
be not granted but only when the Missions will be secular-  
-ized and be preferred on account of their natural useful-  
-ness wherefore the Commission presents to the examina-  
-tion of the Deputation the following propositions

That the execution of the proceedings (Expediente) of the Citizen  
Silvestre de la Portilla instituted for the grant of the Valle  
de San Jose be delayed until the secularization of the Missions  
of Upper California be verified.

Monterey 31<sup>st</sup> July 1834

Carlos Ant<sup>o</sup> Carrillo

Jose J. Ortega

Jose A. Estudillo

Monterey July 31<sup>st</sup> 1834

On the Session of this day the above  
order was submitted to the Deputation which approved the  
only proposition which is in the following words:

That the execution of the proceedings (Expediente) of the Citizen  
Silvestre de la Portilla instituted for the grant of the Valle  
of San Jose be delayed until the secularization of the Missions

144 SD

PAGE 29



30

of Upper California be verified. Wherefore the Expediente is returned to the Superior and Political Chief for the determination which he will think proper.

Jose Figueroa

Jose Maria Madonaco Secretary

Monterey August 1<sup>st</sup> 1834

Let the Citizen Silvestre de la

Portilla be notified of the decree of the Territorial Deputation of the 31<sup>st</sup> July last; in reference to his prayer for the grant of the land of the Valle of San Jose and let the Expediente be reserved until due time. Don Jose Figueroa Brigadier General Commandant General and Political and Superior Chief of the Territory of Alta California thus has ordered and signed in faith whereof

Agustin V Zamorano Secretary Jose Figueroa

I with Seal of Office

Provisionally authorized by the Administration of the Maritime Custom house of Monterey of Upper California for the years Eighteen hundred and twenty four and twenty five.   
Figueroa A Ramirez

Monterey Nov 6<sup>th</sup> 1834 To the General Commandant

Let report be made on the Political and Superior Chief of within that proper <sup>steps</sup> taken Upper California

(Figueroa's Honor) The Citizen Silvestre de la Portilla resident of the Pioneros of San

Diego under your orders with due respect as required by law represent; that finding himself this day with four hundred head of neat Cattle four dozens of Mares two hundred horses and about ninety choice Mules and having no place to keep that number of Cattle in security and derive any benefit therefrom and on account of the delay of the prayer

I made for the grant of the place called the Valle de San Jose and finding myself with that number of choice Cattle without any place to put them I find myself in the great necessity of putting them on said place so as not to lose them & believe there would be no difficulty

144 SD  
PAGE 30



31

in attaining the grant thereof But now by your order I see that the Expediente remains unexecuted until the Secularization of the Mission wherefore I pray you to allow me to water the aforsaid Cattle on said land so as not to lose them until it be ascertained whether it can be granted to me wherefore I shall receive favor and beneficence

San Diego Oct-19<sup>th</sup> 1834  
Silvestre de la Portilla

144 SD  
PAGE 31

Mina Sae Sus Reales

Provisionally authorized by the Administration of the Maritime Custom House of Monterey Upper California for the years Eighteen hundred and thirty six and thirty seven  
Gutierrez O Ramirez

Monterey April 16<sup>th</sup> 1836

In view of the Petition authorizing these proceedings (Expediente) the Report of the Military Commandant of San Diego and that of the fathers Ministers of San Diego and San Luis Rey the testimony of the witnesses and all the other necessary proceedings and being convinced that the Missions will never require the land prayed for, for which reason it will remain vacant, agreeably to the laws and regulations on the matter, the Citizen Silvestre de la Portilla is declared the owner of the land known by the name of the Valle de San Jose subject to the approval of the Territorial Deputation Don Nicolas Gutierrez

J<sup>co</sup> de Castille Negrette Secretary

On the 31<sup>st</sup> of May the foregoing was submitted to the Commission on Lands Maldonado Secretary

To his Excellency

The Committee on vacant lands having examined the proceedings (Expediente) to whom was referred the Petition of the Citizen Silvestre de la Portilla praying for the land called the Valle de San Jose being no objection to make it being altogether in conformity with the Art 5<sup>th</sup> of the Regulations of the 21<sup>st</sup> of November 1828 and the law



32

of the 18<sup>th</sup> August 1834 we offer to your Consideration the following proposition

That the grant made to the Citizen Silvestre de la Portilla on the 16<sup>th</sup> of April 1836 of the land called San Jose be approved

Monterey June 17<sup>th</sup> 1836

Jose Luis B de la Guerra y Leanillo

Jose Joaquin Gomez.

Monterey July 1<sup>st</sup> 1836

In the Session of this day returned to the Commission to be by them returned  
Maldonado

Secretary

Filed in Office Feb. 13 1854

Geo Fisher

Secy

144 SD  
PAGE 32

144 20



Document

Sello Primero Seis Pesos.

"H. H. N<sup>o</sup> 1" Habilitado provisionalmente por la Adminis-  
 am<sup>o</sup> to the (Tracion de la Aduana Maritima de El Estero de  
 Deposition of de la Alta California para los años de mil  
 P. Argüello ochocientos treinta y cuatro y ochocientos treinta  
 y cinco.

Figueroa

A Ramirez

Revalidado para el finis de 1835 y 1837

Gutierrez

A Ramirez

144

SD  
33

PAGE

Nicolas Gutierrez Teniente Coronel de Caba-  
 lleria permanente, Comandante General, Ins-  
 pector y Jefe Politico interino del Territorio  
 de la Alta California -



Por cuanto el C<sup>o</sup> Silvestre de la  
 Portilla Mexicano por nacimiento  
 ha pretendido para su beneficio  
 personal y el de su familia el  
 terreno conocido con el nombre de Sr. José practi-  
 cadas previamente las diligencias y averiguaciones  
 segun lo dispuesto por las leyes y reglamentos  
 de la materia, usando de las facultades que me  
 son conferidas, en decreto de este dia y á nombre  
 de la Nacion Mexicana he venido en concederle  
 el mencionado terreno declarandole la propiedad  
 de él por las presentes letras á reserva de la  
 aprobacion de la Exma Diputacion y bajo  
 las condiciones siguientes -

1<sup>a</sup> Que se someterá a las que estable-  
 ciere el reglamento que se ha de formar para  
 la distribucion de terrenos baldios y que

Dns 20 p<sup>o</sup>



144 SD  
PAGE 34

entretanto ni el agraciado ni sus herederos podrán dividir ni enagenar el que se le adjudica, imponer censo, vinculo, fianza, hipoteca ni otro gravamen aunque sea por causa piadosa ni pasarlo a manos muertas ~

2<sup>a</sup> Podrá cercarlo sin perjudicar las travesías caminos y servidumbres; lo disfrutará libre y exclusivamente destinandolo al uso y cultivo que mas le acomode, pero dentro de un año a lo mas fabricará casa y estará habitada ~

3<sup>a</sup> Solicitará del Juez respectivo, que le dé la posesion juridica en virtud de este despacho por el cual se demarcarán los linderos en cuyos limites pondrá a unos de las mojoneras algunos arboles frutales o setos vestros de alguna utilidad ~

4<sup>a</sup> El terreno de que se hace donacion es de cuatro sitios de ganado mayor en el Valle de San José segun explica el diccionario que corre en el expediente ~ El Juez que diere la posesion lo hará medir conforme a ordenanza quedando el sobrante que resulte a la Nacion para los usos convenientes ~

5<sup>a</sup> Si contraviniere a estas condiciones perderá su derecho al terreno y será denunciable por otro ~

En consecuencia mando que sirvriendole de titulo el presente y teniendose por firme y valido se tome razon de él



en el libro que corresponde y se entregue al interesado para su resguardo y demas fines.  
 Dado en Monterrey a diez y seis Abril de mil ochocientos treinta y seis.

Nicolas Gutierrez  
 Sr. del Castillo }  
 Negrete Sr. }  
 }  
 }  
 }

Queda tomada razon a fojas 118 y señalada con el N.º 104 del libro que corresponde y obra en el Archivo de la Secretaria de mi cargo.

Drs 10 p.

144 SD  
 PAGE 35

Monterrey Abril diez y seis de mil ochocientos treinta y seis.  
 Castillo

Santiago Arguello Cap.º retirado y Alcalde Const.º de la Municipalidad de San Diego.

Certifico en toda forma q.º habiundo presentado el Cap.º D. Pablo de la Portilla como apoderado de su hermano D. Silvestre, el título q.º antecede, proseedi en arreglo al Art.º 3.º a darle la posesion juridica y conforme al Art.º 4.º y habiundose practicado lo prevenido en otros dos Art.ºs con asistencia de las personas q.º la ellision de S. Diego y S. Luis Rey pusieron de su parte, y concluidas las medidas q.º se previenen de la posesion a nombre de la Nacion Mexicana y a presencia de los concurrentes en aquel paraje al citado Capitan D. Pablo de la Portilla, con arreglo a lo q.º se previene en estos casos: siendo advertencia que mil cuatrocientos cincuenta varas q.º le tocaban la parte del Corral las sedio a

Drs  
 15 p.



pedimto del Adm<sup>te</sup> de S. Diego, quedando  
 hto donde se extendia esta medida. La  
 Canada Matafuan, y de consiq<sup>to</sup> queda  
 dentro del citio p<sup>r</sup> no haberse aumentado  
 en las otras medidas q<sup>e</sup> le corresponden  
 las mil cuatrocientas cincuenta varas ya  
 citadas; y p<sup>r</sup> la debida constancia estiendo  
 la presente en S. Ine del Valle a primero  
 de Ago<sup>to</sup> de mil ochientos treinta y seis, fir-  
 mando con susq<sup>e</sup> los testigos de asistencia  
 q<sup>e</sup> dan fe segun derecho a falta de escribanos  
 Publicos en el lugar.

J. Aronello

Asa  
 Rosario Moreno

Asa  
 Valle de San Jose  
 Original grant  
 & judicial  
 Inscriptions  
 (B)

Filed in office November 8<sup>th</sup> 1852  
 Geo. Fisher  
 Secy

144 SD  
 PAGE 36

NOV 13 1852



37

Translation of  
Original Grant  
C

First Seal two Reales

Legalized provisionally by the Maritime Custom house  
of Monterey in the Upper California for the years 1834  
& 1835 Figueroa Ramirez  
Valia for the years 1836 & 1837  
Ramirez Gutierrez

Nicolas

Nicolas Gutierrez Lieutenant Colonel of the regular  
Cavalry General Commandant Inspector & Political  
Chief pro tem of the Territory of California

In as much as the Citizen Silvestre de la Portilla Mex  
ican by birth has prayed for his personal benefit & that  
of his family for the land known as San Jose the  
formalities having been previously performed according  
to the disposition & regulations regulating the matter &  
using the faculties which are conferred to me as per  
acord dated this day and in the name of the Mexican  
Nation I have granted to him the land above mentioned  
declaring it his property in virtue of these presents  
subject to the approbation of the Departmental Assembly  
& under the following conditions

1<sup>st</sup> That he will submit himself to what may be established  
in the regulations which are to be adopted for the granting  
of vacant lands, In the mean while neither the grantee  
nor his heirs shall divide nor alienate the land granted  
nor rent, give in security Mortgage nor otherwise en  
cumber the same although it be for religious purposes  
nor place it under Mortmain

2<sup>d</sup> He may enclose the said land without injuring the  
roads and Servitudes He may Cultivate it freely and  
exclusively applying it to the use which to him shall  
appear best but within a year at most he shall build  
a house & shall occupy it

3<sup>rd</sup> He shall solicit from the proper Judge that judicial pipe-  
sion be given him in virtue of this Order for which purpose  
the boundaries shall be laid off besides the boundary stakes

144 SD  
PAGE 37



fruit or other useful trees shall be made

4<sup>th</sup> The land hereby granted is of four square leagues of pasture land (ganado Mayor) in the Valley of San Jose according to the design which accompanies the grant

The judge who will give the possession shall have it measured according to the regulations the surplus land to remain to the Nation for its use

5<sup>th</sup> In case of contravention to these conditions he shall lose the right to the land which may be granted to others

Therefore I Order that this being his title and being held as firm and valid entry thereof be made in the proper book and it be handed to the interested party for his protection & other ends

Given in Monterey the 16<sup>th</sup> of April 1836  
 Nicolas Gutierrez      Francisco del Castillo Secretary

Entry being has been made on page 108 and number 104 in the proper book in the Archives of the Office under my Charge  
 Monterey 16<sup>th</sup> of April 1836 Castillo

Santiago Arqueles Captain Ord of Justice and Constitutional Alcalde of the Municipality of San Diego Certify in due form that Captain Don Pablo de la Portilla as agent of his brother Don Silvestre having presented the above title proceeded according to the 3<sup>d</sup> article to give him judicial possession according to the 4<sup>th</sup> article having observed the provisions of the aforesaid two articles with the assistance of the persons whom the Mission of San Diego and San Luis Rey sent on their behalf and the measuring being terminated I gave the possession in the name of the Mexican Nation and in presence of the parties present to the aforesaid Don Pablo de la Portilla according to what is customary in such cases Notice being given that 1450 Varas which were his on the side of the Carizos he transferred them to the administrator of San Diego on his demand terminating at the date called Matapay the place where this measurement extended and consequently which date is within the



39

ceded land it not having been increased on the other lines  
to give him the 1450 Varas referred to which appertains  
to him according to the same Measurement

And in evidence hereof I grant the present in San Jose de  
Valle the 1<sup>st</sup> of August 1836 signing with me the assisting  
witnesses who certify hereto according to law for want  
of a public Notary in the place

Witness

Santiago Aguillo

Rosario Morona

Filed in Office Nov 8<sup>th</sup> 1852  
Geo Fisher

Seif

144 SD  
PAGE 39

144 SD  
PAGE 39



1929  
1929



40

Opinion of  
the Board

Silvestre de la Portilla vs  
The United States

For the place called the Valle  
de San Jose in San Diego  
County containing four  
square leagues of land

The petitioner claims title under a grant which he has given in evidence duly authenticated made to him by Nicolas Gutierrez Political Chief of California on the 16<sup>th</sup> day of April 1836. It appears by the Expediente a true and copy of which is filed in the case that a Decree of Concession was made by Figueroa on the 30<sup>th</sup> day of July 1834 which the Territorial Deputation refused to approve on the ground that the premises were occupied by the Missions of San Diego and San Luis Rey. The subject was postponed by the resolution of the Deputation "until the secularization of the Mission of Upper California be verified". This is recorded in the Expediente by the Decree of Concession made by Gutierrez and bearing date April 16<sup>th</sup> 1836 the day of the date of the grant which is produced in evidence. This Concession it appears by the record was referred to the Territorial Deputation a favourable report was made by a Committee of that body but it was recommended "to be referred" and nothing further appears on the subject. The testimony shows that the petitioner occupied and lived on the premises from 1834 or 1835 until 1836 or 1837 whether any part of this time was in fact after the grant was obtained is left in doubt. The place was afterwards occupied by Joaquin Ortega and subsequently by Juan Warner but whether they claimed under the Petitioner or by another title adverse to him is not shown. It is at least doubtful whether this proof does not show defects in the petitioner's claim to an equitable title which must defeat his application. Another insuperable objection to a confirmation however under an examination of this question unnecessary. In his petition for the Concession the Applicant solicited a grant of the place called the Valle de San Jose without giving the boundaries

144 SD  
PAGE 40



as the quantity of land. In the course of the investigation preliminary to the grant one witness swore that the Valley was eight leagues long by five in width and one witness stated that the premises were three leagues wide by the same in breadth. The grant describes the land granted as that known as San Jose and the description in the condition of the grant restricts it to four square leagues of pasture land in the Valley of San Jose according to the design which accompanies the grant. The map attached to the Expediente gives no definite limits to the land granted. Judicial possession was required to be attained by the grantee. The surplus land to remain the property of the Nation. It is evident from these documents that the Valley of San Jose contains a much larger tract of land than was conceded to the petitioner that he was entitled under his grant to four square leagues only of the land that the quantity conceded was to be located in the Valley that the act of a judicial officer was required to make the location that until this was done the grantee's title attached to no specified portion of the public domain and without it no part of the land was separated from the national territory and no portion defined by metes and bounds so as to entitle the grantee to a confirmation of it. There is a testimonial of judicial possession filed in the case purporting to have been made by Santiago Argueta as Alcalde but it gives no measurement or description of the land. He certifies that he put the grantee into possession of the premises but does not designate in any manner the land of which he gave possession. He states that notice was given that a small piece of the premises 1450 Varas in extent was transferred by the grantee to the administrator of the Mission but there is nothing in his description of it which aids in defining the limits or segregating any portion of the land from the national domain in satisfaction of the inceptive grant to the petitioner and the case falls within the rule so often laid



42

down by the Supreme Court of the United States that no Confirmation can be had when there is no definite limits to land conceded and no segregation of it from the National Domain

The Claim must therefore be rejected

Rejected

Filed in Office July 21<sup>st</sup> 1854

Decree

Silvestre de la Portilla

vs

The United States

144 SD  
PAGE 42

In this case on hearing the proof and allegations it is adjudged by the Commission that the said claim of the petitioner is not valid and his application for a Confirmation thereof is therefore denied

Alpheus Fitch

Thompson Leavitt

R Aug Thompson

Filed in Office Feb 21 1854

Geo Fisher

Aug

And in compliance 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 true copies of the Proceedings and of the decision in this case and of the papers and evidence upon which the same are founded be made and only 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



VOE

163 20



Office of the Board of Commissioners,

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

144 SD  
PAGE 43

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 two* pages, numbered from 1 to *42*, 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. *469* on the Docket of the said Board, wherein *Silvestre de la Portilla* is

the Claimant against the United States, for the place known by the name of *Valle de San José*

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*  
*Geo. Fisher*





**144**  
U. S. DISTRICT COURT,  
*Southern* District of California.

No. 144.

THE UNITED STATES

**144**  
vs.

*Silvestre de la Portilla,*

*"Valle de San José"*

TRANSCRIPT OF THE RECORD  
FROM THE  
BOARD OF U. S. LAND COMMISSIONERS,  
In Case No. 469.

Filed, *November 8th* 1854.

*J. E. San,*  
*Clerk,*

**144**

6977 1/2 N





United States District Court for the Southern  
District of California.

Silvestre de la Portilla	}	Notice of intention
Appellant		
vs	}	to prosecute the
The United States		
Appellee		
		appeal from the decision of the board of Land Commissioners.

Silvestre de la Portilla claimant of the  
land known as the Rancho of the valle of San  
Josi in the County of San Diego and the Southern  
District of California hereby give notice of his intention  
to prosecute his appeal from the decision of the board of  
land Commissioners rendered in his claim for the said  
land which was presented before the said board of  
Commissioners and by them rejected, Their claims being  
that which is numbered 921 the transcript whereof  
is filed in this office

A Huber  
Attorney for Petitioner



No 144.

United States District  
Court for the Southern  
District of California

Silvestre de la Portilla  
Appellant

vs  
The United States  
Appellee

Notice to prosecute  
the appeal from the decision  
of the U.S. Land Commission

No 469.

Filed Feb 5<sup>th</sup> 1855.

144 SD  
PAGE 45

J. E. Carr  
CLK.

W. Hubert  
Attorney for Plaintiff



United States District Court for the Southern  
District of California

144 SD  
PAGE 46

Silvestre de la Portilla }  
vs Appellant } Petition of the appellant  
The United States } praying the Court to  
Appellee } reverse the decision of the  
United States land commission.

Your petitioner Silvestre de la Portilla respectfully shew unto this honorable court that on his petition to the proper Mexican authorities. Nicolas Gutierrez Governor of upper California on or about the 16<sup>th</sup> of April A. D. 1836 did grant unto him a certain tract of land a Rancho of four leagues square in upper California County of San Diego called el valle de San Jové Judicial possession whereof was given him on the first of August 1836.

That your petitioner has improved cultivated and stocked with cattle said Rancho and used them according to law.

That said Rancho or tract of land is situated in the Southern District of California.

Your petitioner further shew that on the 8<sup>th</sup> day of November A. D. 1852 he presented his claim for the said four leagues of land before the United States land commission appointed under the act of Congress passed on the 3<sup>d</sup> of March 1851 entitled an act to ascertain and settle the private land claims in the state of California when sitting as a board and prayed the said board to confirm his title, That on the 21<sup>st</sup> day of February A. D. 1854 the said board of Commissioners decided upon the validity of your petitioners claim and rejected it.

Your petitioner pray that a transcript of the record of the board of Commissioners on the claim presented to them as aforesaid and of the documentary evidence



and testimony of the witnesses on which it was formed which is filed with the clerk of this court as directed by the 12<sup>th</sup> section of the act of Congress passed on the 31<sup>st</sup> of August 1852 entitled an act making appropriations for the civil and diplomatic expenses of the government for the year ending the 30<sup>th</sup> of June 1853 and for other purposes, may be considered as part of this petition

Wherefore your petitioner appealing from said decision of the board of Commissioners present this petition to the honorable the district court in which the land is situated and he prays this honorable court to review the said decision of the said board of Commissioners and to decide upon the validity of his claim.

A. Hubert

Attorney for Petitioner



No 144

United States District  
Court for the Southern  
District of California

Sibresche de la Portilla  
vs Appellant

The United States  
Appellee

Petition on appeal  
from the United States  
Land Commission

No 469.

Filed Feb. 5<sup>th</sup> 1855

144 SD  
PAGE 48

J. E. Lewis  
CLK.

A. Hubert

Attorney for Petitioner



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

TO

The President of the United States,

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

144 SD

PAGE 49

GREETING :

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against you, and each of you, in the District Court of the United States, in and for the Southern District of California, on the *Fifth* day of *February* in the year of our Lord one thousand eight hundred and fifty-five at the City and County of Los Angeles, in said District, by *Silvestre de la Borkilla, by his Attorney N. Herbert,* praying the said Court to review, upon the grounds therein set forth, the decision of the U.S. Commissioners to ascertain and settle the private land claims in the State of California, respecting his claim to a tract of land called *El Valle de San José,* in the County of San Diego, State of California, to the extent of four leagues square, which claim was presented by him to said Commissioners on or about the *8th* day of November, A.D. 1852, and by them rejected on the *21st* day of February, A.D. 1854

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

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

*J. E. Jarvis*  
Clerk.



144

Marshals cost

Copying Summons	1.50
Printing	3.00
" Pitman	3.00
	<hr/>
	6.50

United States of America,  
 Southern District of California,  
 U. S. DISTRICT COURT.

Silvestre de la Parolla  
Appellant

vs.

469  
 The United States.  
 Appellee

**SUMMONS.**  
 Return February 21-1855

Edward Hunter  
 U. S. Marshal

144 SD

PAGE 50

I served this summons along with the proper copy of the petition upon Pacificus Ord  
 Attorney for the United States by leaving  
 with him personally a true copy of  
 the same, in the County of Los Angeles

at his office \_\_\_\_\_ in the Southern District of California on  
 the twenty-seventh day of February A. D. 185 five

Sworn to and subscribed before me, this 28th  
 day of Feb'y, 1855. }  
 J. C. Farr. Clerk. }

Edward Hunter  
 Marshal.



1.

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

144 SD  
PAGE 51

Silvestre de la Portilla } (N<sup>o</sup> 469 of Transcript)  
Appellant } Answer to the petition of the  
                  } Appellant praying the  
vs. } Court to review the decision  
The United States } of the United States Land  
                  } Commission.

The answer of Pacificus Ord, Attorney  
of the United States for the Southern District  
of California, in behalf of the United  
States, to the petition of Silvestre de la  
Portilla (filed February 5<sup>th</sup> 1855.) claiming  
a certain tract of land or Rancho of four  
leagues square in Upper California, County  
of San Diego, called "Valle de San Jose";  
and alleging that on the 8<sup>th</sup> day of  
November A.D. 1852, he presented his claim  
for the said four leagues of land before  
the United States Land Commission, ap-  
pointed under the act of Congress passed  
on the 3<sup>rd</sup> of March 1851, entitled "an  
act to ascertain and settle the private  
land claims in the State of California",  
when sitting as a board, and prayed  
the said board to confirm his title. That



on the 21<sup>st</sup> day of February AD 1854, the<sup>2</sup>  
said board of Commissioners decided  
upon the validity of his claim, and  
rejected it; and praying this Honorable  
Court to review the said decision of the  
said Board of Commissioners, and to  
decide upon the validity of his claim.

And the said Attorney, answering  
said petition, in behalf of the United  
States, denies generally, all and singular,  
such and every allegation in the said  
petition contained; - and denies specially;  
- "That on his petition to the proper Mexi-  
- can authorities, Nicolas Gutierrez, Governor  
"of California, on or about the 16<sup>th</sup> of April  
"AD. 1836, did grant unto him a certain  
"tract of land or Rancho of four leagues  
"square in Upper California, County of San  
"Diego, called el Valle de San Jose, judicial  
"property whereof was given him on the  
"first of August 1836. That your petitioner  
"has improved, cultivated, and stocked  
"with cattle said Rancho, and resided  
"thereon according to law," as alleged in  
said petition.

And the said Attorney of the  
United States, in pursuance of the pro-  
visions of the said Act of Congress of



the 3<sup>rd</sup> of March 1837, herein fully sets forth the grounds on which the said claim is invalid - To wit: -

144 SD  
PAGE 53

I. That the said alleged grant of Nicolas Gutierrez, dated on or about the 16<sup>th</sup> of April A.D. 1836, was made in violation of the 4<sup>th</sup> Article of the Colonization law of Mexico, of the 18<sup>th</sup> of August A.D. 1824, in this: - That the land granted, as alleged by Claimant, was and is within ten leagues of the Sea Coast, and there is no evidence shown by said Claimant that the Supreme General Executive power of Mexico, previously approved of the Colonization of the public lands in Upper California, lying within ten leagues of the Sea Coast, and it is denied that the previous Consent of said Supreme general Executive power of Mexico, in such case, was ever had.

II. That at the date of the said alleged grant, the said land was occupied by the Missions of the Territory of Upper California; and particularly by the Missions of San Diego and San Luis Rey, with valuable improvements thereon.



111. That the said alleged grant has<sup>4,</sup>  
not the conditions required by, and is not  
made in entire conformity with the said  
Law of Mexico, of the 18<sup>th</sup> of August A.D.  
1824, and the regulations for the Coloniza-  
-tion of the Territories of Mexico, of the  
21<sup>st</sup> of November 1828.

IV. That the said claimant had not  
at the time of the presentation of his claim  
to the said Commissions, nor has he now,  
any right, title or interest in the said  
land alleged to have been granted to him,  
as aforesaid. That if he ever had any  
grant for, and any right, title, or interest  
in said land, he transferred or alienated  
the same to one José Joaquin Ortega, in  
or about the year A.D. 1838. And the  
said claimant, by so alienating said land,  
violated the conditions of the said alleged  
grant, which prohibited the alienation of  
said land; and he, therefore, lost his  
right to the said land, if he ever had any.

V. That the said alleged grant of  
Nicolas Gutiérrez, to said claimant, dated  
the 16<sup>th</sup> of April 1836, contains no description  
of the locality, extent, and boundaries of  
the land, by which it can be identified,  
and surveyed; and the Map referred



to therein, does not show the extent or the boundaries of the land: And the said grant is vague, indefinite, and void for uncertainty.

144 SD  
PAGE 55

VI. That there is no evidence that the said alleged grant of Nicolas Gutierrez was ever approved by the Territorial Deputation, or Departmental Assembly of California, or the Supreme Government of Mexico. And it is denied that it was ever approved by said Deputation or Assembly, or said Supreme Government.

VII. That the said claimant shows no definitively valid grant or title for said land. And it is denied that he ever received a definitively valid grant or title for said land.

VIII. That there is no sufficient evidence that the said claimant ever received, or solicited the beneficial judicial possession of the said land. That the document shown by the claimant purporting to be a Certificate of the judicial possession of the said land, by Santiago Arguello, to Pablo de la Portilla, Agent of said Claimant, dated August 1<sup>st</sup> 1836, is not made according to the said alleged grant, and the Map referred to therein, nor the ordinance, or law.



That it does not show the locality, extent,<sup>6.</sup>  
or boundaries of the said land. That it  
is not signed by two assisting Witnesses.  
That it is not upon stamped paper. And  
it is vague, indefinite and void. And  
the said land, claimed as aforesaid,  
never was lawfully segregated from the  
public lands of Mexico.

IX. That there is no evidence that the  
said Santiago Arguello was Constitutional  
Alcalde of the Municipality of San Diego,  
on the 1<sup>st</sup> of August 1836, and that he  
had, at said date, lawful authority to  
give the judicial possession of said land.  
And it is denied that the said Arguello  
was Constitutional Alcalde of the said place  
at said date, and that he then had lawful  
authority to give the judicial possession  
of the said land to the said Pablo de la  
Partilla, alleged the pretended Agent of the  
said Claimant.

X. That there is no evidence that the  
said Claimant performed the Conditions  
of the said alleged grant, and the re-  
quirements of the law. And it is denied  
that he performed the Conditions of the  
said alleged grant, and the requirements  
of the law.



XI. That there is no evidence that the said Claimant built a house upon the said land within one year from the date of the said alleged grant, and that it was inhabited; And that he cultivated the said land; And that he placed upon said land four hundred head of Cattle, & horses, and Sheep. And it is denied, that he built a house upon the said land within one year from the date of the said alleged grant, and that it was inhabited; and that he cultivated the said land, and placed upon it four hundred head of Cattle, besides horses and Sheep.

XII. That the said Claimant fails to show in his said petition to said Board of Commissioners, or in his said petition to this Honorable Court, the Metes and bounds of the said land, alleged to have been granted, and claimed, as aforesaid. And said petitions are vague and indefinite.

Wherefore, the premises considered, the said Attorney, Respondent in behalf of the United States, prays that the said Claimant may be served with a Copy of this answer; and that after



due proceedings, this Honorable Court<sup>8.</sup>  
will decide the said claim of said  
petitioner for said tract of land, to  
be invalid, and to decree costs against  
him. And general relief.

F. Oddy (of Monterey County)

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

144 SD

PAGE 58



I read this answer on J.R. Scott  
atty for Sylvester de la Portilla  
at the city of Los Angeles this  
December 7<sup>th</sup> 1855

Swore to & subscribed  
before me Dec 10 55.

Wm  
Cook

Edward Hunt  
U.S. Marshal  
By N.S. Goodman  
Deputy

W.C. Campbury  
Notary Pub.

No 144.

United States District Court,  
Southern District of California

Sylvester de la Portilla,  
Appellant.

vs

The United States  
Appellee.

Answer of U.S. Atty.

Filed March 3<sup>rd</sup> 1855.

G.E. Carr  
Clerk.

144 SD  
PAGE 58



Office of the Attorney General of the United States,

Washington, 17<sup>th</sup> January 1855.

Silvestre de la Portilla

vs.

The United States.

} 469,

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 28<sup>th</sup> 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.

*Attest*

Attorney General.



N<sup>o</sup> 144.

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

The United States,

vs.

Silvestre de la Portilla.

Appeal notice.

Filed March 8<sup>th</sup> 1855.

J. E. Carr.  
Clerk.



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

The United States } Case No 1444  
Appellee }  
          ad }  
Silvestre de la Portella } Claim for Rancho of  
Appellant } "Valle de San José"

And now on this day of  
A.D. 1855 the parties appear in  
Court, the appellant appearing by P. Ord,  
United States District Attorney for the South-  
ern District of California, and the Appellee  
by J. R. Scott his Attorney, and by consent  
of parties it is ordered that either party  
may take such further testimony as they  
shall wish in the above named cause.



Case No 144

The United States  
Appellant<sup>ee</sup>

vs

Silvestre de la Portilla  
Appellee

Leave to take further testimony

Filed April 9<sup>th</sup> 1885

J. S. [unclear]  
clerk

144 SD  
PAGE 63

"Jalle de San José"



The President of the United States,

To Jose Joaquin Ortega, &

Santiago Argüello. — Greeting:

We command you, that all and singular business and excuses being laid aside, you and each of you appear and attend before the Judge of the District Court of the United States of America, for the Southern District of California, at a Special Term of said Court, to be held at the Court House in the City of Los Angeles, in and for the said Southern District of California, on the tenth day of September next at ten o'clock A.M. to testify and give evidence in a certain cause pending in the said Court, and then and there to be tried between Sylvestre de la Portilla, appellant, and The United States, appellees. And this you, or any of you, are not to omit, under the penalty upon you, and every of you, of Two Hundred and Fifty Dollars.

Witness the Hon. Isaac S. H. Ogden,  
Judge of the District Court of  
of the United States for the Southern  
District of California, at  
the City of Los Angeles, this Thirtieth  
day of August, A.D. 1855.

J. E. Farr,  
Clerk.





I served this subpoena on Santiago Arzueta  
by delivering to him a true copy of the same  
in the county of San Diego this Sept. 2 1887

case No 144 Sylvestre de la Portilla

vs } Appellants  
The U. S. } Appellees

Edward H. Hunt  
U. S. Marshal

No 144.  
U. S. District Court  
Southern District of Cal.

Sylvestre de la Portilla  
Appellant.

The United States  
Appellees.

Subpoena.

José Joaquin Ortega &  
Santiago Arzueta.

Original

Witness on the part of  
appellants

Served Sept 1<sup>st</sup> 1887

PAGE 144 SD  
65 Edward H. Hunt  
U. S. Marshal



Sylvestre de la Portilla

No 1144.

144 SD

The United States.

Valle de San Jose.

PAGE 66

Deposition of Santiago Arguello, a witness on the part of the United States, taken before me Charles C. Carr, U. S. Commissioner for the Southern District of California, on the 26<sup>th</sup> of September, A. D. 1855. Present P. Ord, Atty for the United States, J. R. Scott, Atty for Claimant, Wm. G. Dryden was sworn as Interpreter. Santiago Arguello, being sworn, to questions of Counsel for the several parties, answers as follows:

1. Ques. What is your name age and place of residence?

Ans. My name is Santiago Arguello, my age is 63 years - my residence in lower California three miles beyond the line -

2<sup>d</sup> Ques. Do you know Sylvestre de la Portilla the Claimant in this Case, if yes, when, and where, and how long have you known him.

Ans. - Yes I know him, I knew him in San Diego, when he came there from Sonora, but can't remember the time - I think that he arrived in San Diego whilst Echeandia was Governor.

3<sup>d</sup> Ques. - How long did he remain in San Diego or neighborhood, how long did he remain there and when did he go away.

Ans. He remained in San Diego from the time of his arrival there until the year 1836, when he left for Sonora.

4<sup>th</sup> Ques. When did he return from Sonora







it a year more or less after the possession was  
of said Rancho, Portilla left ~~about the~~ <sup>the Rancho</sup>  
for Sonora on business about the middle  
of the year 1836, leaving as his attorney <sup>in fact</sup>  
~~his brother~~ (apoderado) his brother Pablo  
de la Portilla. On account of the absence  
of Don Silvestre there were some claims  
against <sup>him</sup> in consequence of which his  
brother had to sell the Rancho, which  
was bought by Joaquin Ortega. Joaquin  
Ortega held it by purchase for about  
three years. And Ortega gave it to the  
Mission of San Diego, that the Mission might  
give him the Cañada of the Vallera,  
and the water source or Spring of water,  
called Santa Teresa. The Valle de San  
Jose by this change became the property  
of the Mission of San Diego, which held  
it for about three years, when Don Juan  
Warner petitioned the Governor for it, and the  
Mission reported favorably, because <sup>as</sup> it was  
was the property of the Mission. I know  
that the Mission was offered five hun-  
dred fanegas of wheat, to give up  
its rights to Don Juan Warner, and  
under that representation of the Mission  
to the Government, Don Juan Warner  
received a title from the Governor.  
I know that after the concession from  
the Government to Warner he held it with  
horses, cattle and a house, particularly  
upon that part called Buena Vista, which  
occupation has continued up to the present  
time.



7 ques. - How do you know that Joaquin Ortega purchased the said Rancho from the said attorney in fact (apoderado) of Silvestre de la Portilla, and state whether the said sale was made and generally all you know about the mode and manner of the sale?

ans. - I know because I was Alcalde and Judge of 1<sup>st</sup> Instance in San Diego at that time, and even before Portilla left various claims had been presented against him, and that even Silvestre himself indicated to the Alcalde that he was owing debts in California, and that whilst Portilla was communicating this to him, that as he was owing these debts in California he left his brother <sup>with</sup> full and complete power of Attorney, and property to pay his debts with. And having so left him, he did actually go to Louisa, as Silvestre had been acting here as a merchant. I know that the creditors of Silvestre presented themselves to his brother, who paid them with the <sup>proceeds</sup> ~~Rancho~~ from the sale of the Rancho. I know that the Rancho was sold in 1837, the sale was made before the authorities of San Diego José Antonio Estudillo being Alcalde at that time (answer objected to by counsel for claimant)

8 ques. Do you where the Aguas Calientes are, if you state its locality?

ans. - I do. It is on the border toward where the San Jose crosses at the mountain.



ans. — I do. It is on the border toward  
where the San Jose closes at the mountain.

Cross examine by Counsel for Claimant,

144 SD 70  
PAGE 10  
ques. — State anything you know concerning  
judicial possession having been given  
to Portilla — if so, state when it was  
given and who gave it?

ans. I was Alcalde in ~~1844~~ 1836, in  
San Diego, and gave the judicial possession  
to Portilla of said Ranch.

ques. State the boundaries of the land of which  
you gave possession.

ans. — East on the road that goes to Agua  
Caliente, a <sup>ravine</sup> valley was the line, the name  
of which I don't remember. On the  
west side the Cañon where the valley  
closes, and I think a road that goes  
to Pala, on the north a place called  
Los Alamos, also where the valley closes  
at the foot of the Mountain. On the  
south side, an oak before you arrive  
at the land occupied by the Indians  
of the Carrizita. I speak of these  
points as standing in the centre of  
the valley of San Jose.

ques. Who was living upon the Ranch at the  
time you gave judicial possession to Portilla.

ans. — Portilla himself.

ques. How long had he been living there before  
the possession?

ans. I do not know, but when I went there  
to give the possession, I found a house  
and a Corral there <sup>already made</sup> built by Portilla.

ques. — State at the time you gave the judicial



possession to Portilla, how much land had he in cultivation, how much stock he had on the land, and state all you know about its situation.

144 SD HI  
PAGE 71  
Ans. I saw wheat fields there, I can't tell how many acres, I saw cattle and horses, but don't know how many, but I saw corrals there capable of containing a large number.

Ques. State whether or not this ranch was occupied in the same manner by Portilla until he left, and by his brother after he had left and how long.

Ans. It was Don Silvestre occupied in the same manner until he left for Sonora taking with ~~him~~ <sup>him some</sup> horses, and after he left his brother continued to occupy it in the same manner.

Ques. What kind of house did Portilla have on the Ranch.

Ans. It was an adobe house, and other little buildings of poles.

Ques. At the time you gave judicial possession state whether or not you measured the Ranch.

Ans. I did.

Ques. State whether or not you delivered to Portilla the usual documents of admeasurement and possession.

Ans. I did.

Ques. State how much land was contained within the boundaries you measured.

Ans. ~~Four~~ I think four *litios* - whatever the title calls for I measured.



Ans. ~~From~~ I think four lots — whatever

the title calls for I measured.

144  
PAGE  
SD  
12

ques. State whether or not the house which you speak of as having been occupied by Juan Warner is within the boundaries of which you gave judicial possession to Portilla.

ans. — I do not know for I did not see it, but I know that Portilla's land covered a part of Buena Vista.

ques. When you state that Alveste said he had left his brother a power of attorney did he state that this power was in writing or verbal.

ans. Portilla made it verbally before me as Alcalde.

ques. Did you enter it of record at the time.

ans. I do not remember.

ques. Were you present at the time ~~and~~ the sale was made by the brother of Alveste to Ortega.

ans. I was not.

ques. State whether or not when Portilla left for Sonora, it was his intention of returning again to California, and if so what was the reason that he did not sooner return.

ans. It was his intention to return, when he left, I think he took horses in order to sell them and pay what he owed here in California, but I do not know why he did not return —

ques. State whether or not copies of the papers giving judicial possession to



Portilla were archived in the Office of the Alcalde at San Diego at the time of giving such possession.

ans. — I delivered them to Portilla, and think they were not archived, but upon reflection think a copy must have been recorded, because the Alcalde went to show the boundary line when Ortega purchased from the brother of Portilla.

144 SD  
PAGE 73

qur. State what has become of the Archives, of ~~the~~ the year 1836, ~~whether~~ they belonging to the Alcalde's Office in San Diego, whether they are still there, or lost or destroyed.

ans. — I know that they are lost, & I have searched for documents frequently and could not find them, the answer always being that they were lost.

qur. When were you Alcalde Ass in San Diego —

ans. In the year 1836.  
Re-examination resumed.

qur. Do you know anything about judicial possession of this land having been given to Joaquin Ortega, If yes, State all you know about it. (objected to by Counsel for Claimant)

ans. — All I know is that when Ortega bought the Alcalde went to show him the boundaries. (All questions by Claimant in relation to the boundaries objected to by U.S. Atty.)

Re-examined.

qur. Were the boundaries which you have here explained the same that were given in the Expediente of the judicial possession

given to Portilla. (objected to by U.S. Atty)



The Expediente of the judicial possession  
given to Portilla. (objected to by U.S. Atty)  
ans. They are or ought to be the same.

144 SD  
PAGE 74

S. A. Arriola

Sworn to and subscribed  
before me, this 26<sup>th</sup> day  
of September, A.D. 1855.

J. C. Farr.  
U.S. Comr.

PAGE

SD



No 144.

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

Silvestre de la Portilla  
applt.

— vs. —

The United States.  
Appellees.

Deponition of Santiago  
Arpello, witness for appellees.

Filed Sept 26<sup>th</sup> 1835.

J. C. Jan.  
clerk.



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

Silvestre de la Portella

vs.

Appellants

N. 144.

The United States

Appellee

(Transcript N. 469)

Special September Term  
1835, Los Angeles.

To Silvestre de la Portella, or his Attorneys

Please take notice that the above entitled  
cause will be brought to a hearing by the  
appellee, on Tuesday the 2<sup>nd</sup> of October A.D.  
1835; or as soon thereafter as the cause can  
be heard.

J. Ord

Attorney of the United States



N<sup>o</sup>. 144.

Silvestre de la Portella  
vs Appellant

The United States  
vs

Notice of hearing  
by the States.

Filed Sept 26<sup>th</sup> 1835

C. C. Carr clk

By Whit. Roper

144 SD  
PAGE 77

T. Ord. U.S.



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

Silvestre de la Portilla } N. 144.  
vs. } Transcript N. 469.  
The United States

To,  
Silvestre de la Portilla  
or his Attorney,

I take notice that the above entitled  
cause will be brought to hearing  
by the United States, on Friday the  
19<sup>th</sup> day of October A.D. 1855, or as  
soon thereafter as the same can  
be heard by the Court.

Los Angeles

October 11<sup>th</sup> 1855. P. Ord  
W. S. Dicke,



N. 144.

Silvestri della Postilla

vs.

The United States

---

Order of hearing  
by W. H. Bates.

Filed Oct 11<sup>th</sup> 1855.

144 SD

J. S. Farr.  
clerk.

PAGE 79

Ord usatur.



Silvestre de la Portilla,

Applt.

vs.

No 144.

The United States,

App'ee

Deposition of Francisco Ruiz, a witness  
on the part of Appellant in the  
above entitled cause, taken Feb'y 11<sup>th</sup>  
1856. Before Charles E. Cook U.S. Comm.  
for the South Dist of California.

Present J. R. Scott, Atty for Applt.  
P. W. U.S. Atty for the United States, Wm  
G. Doyle was sworn as interpreter,

Francisco Ruiz being duly sworn, answers  
to questions propounded to him as  
follows

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

Ans. My name is Francisco Ruiz, my age  
between 47 & 48 years, my residence  
Los Angeles.

Ques. Do you know Silvestre de la  
Portilla jro. how long have  
you known him.

Ans. I know him, have known  
him since 1827 or 1828

Ques. Do you know the Ranch <sup>a place</sup>



called Valle de San Jose,  
if so, how long have you known  
it and where is it situated.

Ans. I know of place of that name  
have known it since 1834 or 1835,  
and is situated in the County  
of San Diego.

144 SD

PAGE 81

Ques. Describe the place called  
Valle de San Jose, its situation  
& boundaries, (objected to by  
the heirs)

Ans. I know the place well,  
but I was not there when  
the judicial possession was  
given.

Ques. State any well known <sup>& prominent</sup> points  
~~that~~ if there are any upon any  
side of the place called Valle  
de San Jose.

Ans. There are prominent points,  
I was then on case in charge  
of the Ranch in the life time  
of the deceased Don Pablo, brother  
of Alvarado de la Portilla, I was  
in charge then of all the property  
on the Ranch. One point I  
know is going towards Santa Isabel  
and before you arrive at

the Carrizito, there is one of the



the Carrizito, there is one of the  
boundaries, a green valley, (subjected  
to by the heat.)

Ques. On what side of the <sup>place called</sup> Valle de  
San Jose is this point.

Ans. On the ~~west~~ <sup>south</sup> side - a well known  
place because it is the high road.

~~Ques.~~ From this place in a straight  
direction towards the Rancharia  
called Matajuar - this is to the  
East of San Jose on the road  
to San Felipe. - From there  
there is a valley called Buena  
Vista where there has been some  
diggings. From this latter place  
crossing some low hills ~~to the~~  
below the Warm Springs, and  
where there was formerly a lake,  
this is also a well known point  
because it is below the Warm Springs,  
and forms a lake - it is on the  
north side of <sup>the</sup> place called  
Valle de San Jose. - From this  
place I know another point  
where there are some cotton trees  
on the bank of the River which  
I think comes from the Warm  
Springs and runs into the River

144 SD  
PAGE 82



that goes to Pala ~~to~~, this is on the  
westerly side.

144 SD  
PAGE 83  
Ques. State the nature of the Hills, if  
there be any, that surround  
the place called San Jose,  
whether they are high or low  
hills, and what they are called  
in the different places where  
they surround the place

Ans. ~~Where~~ Within the Rancho there  
are small hills, and around  
the same is a high mountain,  
On one side towards Santa Isabel  
to the south of San Jose, the moun-  
tain is called <sup>Sierra of</sup> Santa Isabel,  
around where the Agua Caliente  
is the mountain is that of Agua  
Caliente, it is, I think, north of San  
Jose. On the side where  
you <sup>go</sup> into the Ravine to Pala,  
the mountain is called the  
Mountain of Pala - it is  
west of San Jose, there are  
but four gaps to come out  
of the Falls de San Jose - there  
is another place east of  
San Jose, where the mountains  
are called the mountains of



San Felipe - it is when the road goes to San Felipe and Sonora.

Ques.

144 SD  
PAGE 84

How far is it from the Sierra de Santa Isabel to the Sierra of Agua Caliente.

Ans.

I think between seven or eight leagues.

Ques.

What is the distance from the Sierra de Pala to the Sierra de San Felipe.

Ans.

Between eight & nine leagues.

Ques.

What State any ranchos that adjoin this place called San José on either side. (Objected to by U.S. Atty)

Ans.

I know that the Rancho of Agua Caliente on the north adjoins San José, and I also think that Santa Isabel on the south adjoins it. I don't know of any other Rancho but these two close to San José.

Ques.

How far from and in what direction does this place called Salto de San José lie from the mission of San ~~Antonio~~ Luis Rey.

Ans.

About fifteen leagues ~~in~~ and ~~east~~ <sup>the</sup> direction a little north of east



ques.

State anything you know of the occupation of the Rancho of Valle de San Jose, by Silvestre de la Portilla.

Ans.

Silvestre de la Portilla occupied it with a great number of stock, also land under cultivation, upon one occasion when I was there I saw fifty fanegas of wheat sown, and I do not remember how much barley. He had a large adobe house on the place & had three corals. He had nine hundred head of cattle which were placed in my charge. It was Don Pablo the Brother of Silvestre that delivered ~~the~~ <sup>it</sup> to me, whilst Don Silvestre went to Sonora - whilst Don Pablo was in charge of the place, he was called to Monterey, and placed me in charge. I have been there many times on the place whilst Don Silvestre occupied it. I lived there with my family. I think Silvestre was living on the Rancho between 1831 & 1833 - or at least two years

before he went to Sonora



before he went to Sonora.

144 SD  
PAGE 86

Ques. Are the points you have mentioned as surrounding the Valle del San Jose well known points and are they now known by the same names.

Ans. I think the points still retain the same names. They are all well known.

Cross examined by the Usatz.

Ques. How long did you live on the Rancho after you had been employed by Don Pablo Portilla.

Ans. About one month more or less until Don Pablo returned from the north.

Ques. In what year was this.

Ans. I do not remember.

Ques. Did you ever live there after this time.

Ans. I never did after that.

Ques. How was your source did you obtain your information about the places localities & boundaries you have before spoken of & described.

Ans. From the deceased Don Pablo who designated these places to me.



as the places boundaries of  
of the Ranch. I never had  
any other source of information  
but ~~what~~ <sup>that</sup> I have already stated.

144 SD  
PAGE 87  
Ques. Do you or not ~~State~~ know  
at what time Silvestre de  
la Portilla returned from  
honora.

Ans. He returned in the year of the  
discovery of the places in California

Ques. Do you know how long Pablo  
Portilla lived on the Ranch  
after his return from Monterey.

Ans. I do not know.

Ques. When were you last on this  
Ranch.

Ans. The last time I was there was  
when Don Pablo went to Monterey  
and I was left in charge of  
the Ranch.

Ques. Do you know who now lives  
on the Ranch.

Ans. I do not know.

Examination in Chief resumed.

Ques. State whether or not the different  
points you have named as  
surrounding the place called  
San Jose, <sup>were</sup> ~~are~~ not well known

by the ~~the~~ names you have given



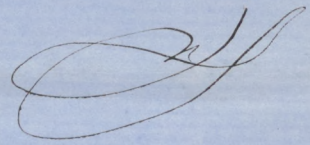
by ~~these~~ names you have given  
them and called by those names  
generally by the community,  
They were by all those acquainted  
with the Valley of San José,  
Re Cross Ex. by usally—

ans.  
144 SD  
PAGE 88

Ques. In what year was it that  
Don Pablo went to Monterey—  
ans. I dont remember— either Chico  
or Figueroa was Governor of  
California at that time.

J. M. CO. J. M. S.

Sworn to & subscribed  
this 11<sup>th</sup> day of Feb'y/1856.  
Before me J. E. Carr,  
U.S. Comr.





No 144.

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

Investe de la Tortilla  
appt.

vs.

The United States,  
apples

Deposition of Francisco  
Ruiz

Filed Feb 11<sup>th</sup> 1876

144 SD  
PAGE 89

B. E. James  
clerk



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

Silvestre de la Portilla App<sup>t</sup> } Case 7° 144.

27  
The United States - Appellees } Valle de San Jose  
State of California }  
County of Los Angeles } ss.

Silvestre de la Portilla, being du-  
ly sworn says that the papers pertaining to the  
Judicial Possession of the Rancho called the Valle  
de San Jose are lost and that after diligent  
search he is unable to find the same. That said  
papers were left in the possession of his brother  
Pablo de la Portilla when affiant left Cali-  
fornia for Sonora about the year 1836, that  
his said brother died somewhere in the upper  
part of this State about the year 1854, that  
affiant received of his said brother the  
title papers to said Rancho when he returned  
to California from Sonora about the year  
1849 and that his brother then informed him  
that those were all the papers pertaining  
to said Rancho then in his possession, and  
affiant has never heard of or had any know-  
edge of said papers since, that he has made  
diligent search for said documents relating  
to Judicial possession, and verily believes that  
they are lost so that he cannot produce  
them here in Court.

Sworn to & Subscribed before me } Silvestre de la <sup>hi</sup> Portilla  
the 9<sup>th</sup> day of July 1856 } mark  
C. E. Law Clerk  
by O. J. Morgan Deputy



Case No. 144  
U.S. Dist Court South  
Dist of California

Severin de la Torre  
App't

vs

The U.S. States  
App'l

Affidavit of Claimant

Filed Feb 12<sup>th</sup> 1856.

J. S. Sanborn  
clerk

144 SD

PAGE 91

A. Scott



Silvestre de la Portilla  
appellant

vs

United States  
appellee

U. S. Surv. Genl. Office  
San Francisco, California

January 30<sup>th</sup> 1855

144 SD

PAGE 92

R. C. Hopkins being duly sworn, deposes and says, that he is a clerk in the Office of the Surveyor General of the United States, for the State of California; that his particular location is in the Department of the "Archives" of said Office; that in accordance with the request of J. R. Scott, he has examined the papers on file in said Archives, relative to the grant of a certain piece of land, called "Valle de San José" to Silvestre de la Portilla; petitioned for by said Portilla on the 20<sup>th</sup> day of February 1834, and that after diligent search, he has been unable to find among said papers any evidence of Judicial possession having ever been given to the said Silvestre de la Portilla of the place called "Valle de San José"

Sworn to before me this  
30<sup>th</sup> day of Jan'y. A. D. 1855

R. C. Hopkins

J. A. Monroe

U. S. Commisr.



Case No 144  
U.S. Dist Court South  
Dist of Cal<sup>a</sup>

---

Silvestre de la Portilla  
Appellant

<sup>vs.</sup>  
The United States.  
Appellee.

---

Affidavit of R. C.  
Hopkins

---

Filed July 12<sup>th</sup> 1856.

C. S. Canby  
Clerk



In the United States District Court Southern  
District of California.

Silvestre de la Portilla  
Appellant

Case 144

The United States  
Appellee

Valle de San Jose.

State of California }  
Los Angeles County } ss.

William C. Fowell

being duly sworn, deposes and says,  
that he is a Resident and practising lawyer  
in the City and County of San Diego, California,  
and has so been for most of the time for  
almost six years last past, and that during  
all that time he has been familiar with all  
the Record Books and Papers of the County and  
District Clerks' and Recorder's Offices, of San  
Diego County, and that none of the Spanish Ar-  
chives relating to proceedings had in Califor-  
nia pertaining to Real Estate from the year  
1835 to the year 1846 exist in said Office ac-  
cording to the best Knowledge and belief of  
Applicant, as Applicant says that he has frequently  
made search and enquiries for such documents  
but could never find any, and has always  
been informed that they were lost.

W. C. Fowell

sworn to & subscribed  
before me this 12<sup>th</sup> day  
of Feb'y 1856.

J. E. Carr  
Clerk.



Case 144

U.S. Dist Court South  
Dist of Cal

Silverton de la Portilla

Annexed

vs

The U. States

Annexed

Affidavit of W. Ferrell

144 SD  
PAGE 95

Filed Feb 13<sup>th</sup> 1856.

C. E. Carr,  
Clerk.

J. R. Scott.



head of page 18

Señor Prefecto del Segundo Distrito

M. 144 SD  
PAGE 96

José Joaquín Ortega Mexicano por nacimiento y vecino de esta municipalidad como maskaya lugar en derribo Ant. D. S. ha presente que teniendo un número de ganado vacuno y caballas capiar de producirse fomentarse el sosten de su ejercida familia y no teniendo un sitio en donde ponerlo pide el Llano de Pamo perteneciente a la Misión de San Diego y distante de ella como 9 leguas, el que se halla baldío como siempre lo ha estado, dicho sitio es temporal y no de regadío como se verá en el diseño que acompaño el que consta de cuatro sitios de ganado mayor. Por tanto A. D. S. Suplico se sirva admitir esto en papel común por falta del sellado correspondiente en este lugar, protestando de no ser de malicia y lo necesario

Puerto de San Diego Junio 18 de 1842  
José Joaquín Ortega

Prefectura del }  
Segundo Distrito }

San Juan Julio 5/ 1842 De conformidad con las leyes y reglamentos de la materia informe el Jefe de Paz de San Diego si el paraje del Llano de Pamo corresponde a alguna



2  
Corporacion Comunitaria o particular, si esta  
valida, si el pretendiente tiene bienes p<sup>o</sup> cubri-  
lo y demas requisitos p<sup>o</sup> ser atendido, si esta  
comprendido en las 10 leguas litorales o 20  
limitrofes con todo lo demas que le parezca  
conveniente a ilustrar la materia y evacuar  
este informe pase el expediente al S. Ministro  
de la Mision de San Diego para que pro-  
ceda - [14 S. D. R.] el suyo en cuanto  
a aquella Comunit. y vuelva el expediente  
a esta Prefectura p<sup>o</sup> los usos q<sup>o</sup> se esten en  
convento. - Argüello

19  
El Llano de Pamo pertenece a esta Mis-  
ion de San Diego, es verdad que en la actu-  
alidad esta valida, pero algun dia se cubri-  
ra y para yo no gravar mi conciencia advi-  
dos puntos 1.<sup>o</sup> que no se entre el interesado  
ni una vara a la Cañada de la Ballena  
para el rumbo de Sta. Ysabel 2.<sup>o</sup> Punto  
que el interesado cede el sitio que actual-  
mente ocupa llamado a San Jose a bene-  
ficio de la Mision. Con estas dos condiciones  
se le puede conceder, y si no convienen  
ellos el interesado yo tampoco puedo ceder  
a que le conceda, lo cuanto puedo informar  
y decir. Mision de San Diego Julio 7 de 1842  
J. Vicente Pasqual Oliva  
[15 S. D. R.]



San Diego Agt. 7 de 1842

En cuanto el parage del Llano de Pamo es un parage valdío que nunca se ha ocupado ni cuando tenía bienes la Misión de San Diego que es a donde pertenece dho parage; el solicitante tiene bienes con que cubrirlo, el mencionado parage dista de la dha Misión como doce leguas, es cuanto puedo informar

L. Ant. Gongora

Exmo Sr.

Mandados practicar los informes de estilo a consecuencia de la solicitud del dueño de San Diego Dñ Loaguin Ortega, del Llano de Pamo se advierte que el P. Ministro de aquella misión [16. S. D. H.] informe que pertenece a ella aquel parage y demás condiciones q. asienta, esta Prefectura no puede conibir que derecho pueda esta Misión tener a un parage distante como doce leguas y que aun en tiempo que la Misión tenía bienes no lo ocupaba, antes que le queda desde la Ballena hasta Sta. Ysabel el espacio de ocho leguas q. podrá ocupar como dice alg. un día. El Valle de San José q. actualmente ocupa el interesado dista de la Misión veinte y dos leguas y no se p. q. ~~Camina~~ ~~se~~ ~~considera~~ una Misión sin ninguno



os bienes entenderse a tanto terreno solo p: q  
cruda el camino p: Sta Ysabel p: este llano de  
Pamo, y como a tres leguas de distancia con el  
Norte de Sta Ysabel queda el Valle de San Jose

Hago esta pua de aquellos sitios p: co-  
noimiento de V.E. p: el que de ellos tengo, y  
con el fin de que como el interesado es mi her-  
mano politico V.E. en vista de este informe  
y el del Iner de Par de San Diego se servira  
resolver lo que fuere de su superior agrado

Angeles Agst.º 12 de 1842

J. Arguillo

line 18 pag 20

12

Emo Sor

Jose Joaquin Ortega vecino  
de San Diego en este Departamento ante la jus-  
tificacion de V.E. haga presente que el Espe-  
diente a que me refer en mi instancia de  
18 del corriente le he conseguido y lo acompaño  
a V.E. p: q: impunto de todo lo que en el se ha  
practicado se servira V.E. ver que no hay in-  
conveniente alguno p: q: se me expida el  
titulo del terreno nombrado Pamo, gracia  
que espero recibir de la bondad de V.E. Jurasmos  
no ser de malicia y lo necesario etc

Monterey Nbre 23. de 1843

Jose Joaquin Ortega

Monterey Nov. 22 de 1843

En virtud a lo q: alega nuevamente el inter-

esado, informe en vista de todo si S. S.



esado, informe en vista de todo el S. Sr.  
S. Sr. del despacho sobre las condiciones mo-  
do y circunstancias con que pueda ó no accederse  
Michell

144 SD  
PAGE 100

Como Sr. Gobernador

13  
Por todo lo practicado en  
este expediente resulta que el terreno de Pamó  
esta baldío y se le puede conceder a Don José  
Joaquín Ortega pero bajo las condiciones  
de no pasar de la Cañada de la Ballena, y  
que el parage que ocupaba nombrado San  
José lo deje a beneficio de la Misión de  
San Diego como así lo pide el R. P. Ministro  
Oliva; Mas V. E. dispondara sobre el  
particular otra providencia que le pareciere  
conveniente

Monterey 22 de Abo. de 1843

Man. Jimeno

Monterey Abo 22 de 1843

Espidase el título con las con-  
dicionas q. pide el Padre Ministro y espina  
el S. Sr. devolviendos el dho terreno y poses  
y cede a la Misión espresandolo en el por  
escrito y firmado

Michell [4 S. D. R.]

Cumpliendo con lo dispuesto por el Sr. Gob.  
hago presente q. a pesar de no tener en mi  
poder ningun document por el que se me



6

halla concedido el terreno de San José  
pero por el derecho que tengo a el tanto  
por la cesion que hizo a mi favor Don  
Pablo de la Portilla como por el tiempo  
de seis años que ocupó dicho terreno haga  
por la presente una expresa manifestacion  
de ceder a favor de la Merion de San Diego  
o del Gobierno el derecho q: tengo en el terreno  
mencionado sin tener en lo sucesivo derecho  
a el en razon de haberseme dado por tal  
motivo el parage de Pamo. Y p.<sup>a</sup> la  
debida constancia entiendo la presente en  
Monterey a 23. de Nov<sup>bre</sup> de 1843

Jose Joaquin Ortega

Orosi

El terreno de Pamo que pretendo en  
union de Don Eduardo Estor y suplico al  
Gob.<sup>no</sup> q: asi se entienda en mi petition p.<sup>a</sup> q:  
al estendarse el titulo sea a favor de los  
dos Monterey Nov<sup>bre</sup> 23 de 1843

Jose Joaquin Ortega

Sir Prefect of the Second District

Jose Joaquin Ortega mention by  
birth and resident of this town in the most  
appropriate and legal form appears before you  
and represents that having a number of cattle  
and horses sufficient for breeding for the support

of his large family and having no other means



of his large family and having no place on which to place them solicits the Plain of Pamo belonging to the Mission of San Diego and distant from it about 9 leagues. It is found vacant as it ever has been. said tract of land is not irrigatable as can be seen by the accompanying Map it contains four square leagues

Wherefore I solicit that Sr. Excmo. Sr. D. be pleased to receive this on unsealed paper as there is none of the proper stamp - protesting that it is not from malice but that is requisite

Post of San Diego June 18. 1842

José Joaquín Ortega

Office of the Prefect  
of the second District

San Juan July 3. 1842

In accordance with the laws and regulations on the subject the Justice of the Peace of San Diego will report if the land of the Plains of Pamo appertain to any one or to any corporation or community; if it is vacant; if the petitioner has property with which to occupy it and all other requisites, that he may be attended to; if it is within the 10 titoral or 20 with whatever more he may consider important to elucidate the subject; which report being affixed he will transmit their documents to the



8

to the Ministers of the Mission of San Diego  
[14 S. D. R.]  
that he make his report respecting that Community  
and return these documents to this office for  
their respective use

Asquiella

The Plain of Pamo belongs to this Mission  
of San Diego; it is true that at this present  
time it is vacant but ~~at~~ on some day  
it may be occupied and not to afflict my  
conscience I advise to two points 1<sup>st</sup> that  
the applicant shall not enter into the valley  
of the Ballena, <sup>in the direction of Santa Isabel</sup> one yard 2<sup>d</sup> point That  
the applicant ~~can~~ transfers the tract of land  
that he now occupies, called San Jose to the  
Mission for its benefit Upon <sup>two</sup> conditions  
the grant may be made and if the applicant  
does not comply with them neither can I advise  
that it shall be granted to him. This is all  
that I can report and say

Mission of San Diego July 7. 1842  
F. Vicente Pasquel Oliva

[15 S. D. R.]

San Diego Augt. 7 1842

Respecting the tract of land Plain of  
Pamo it is a vacant tract which has never  
been occupied not even when the Mission of  
San Diego when it belongs had property  
with which to occupy it The applicant has

properties with which to occupy it. The said



property with which to occupy it. The said  
Tract is twelve leagues or thereabouts from  
the Mission This is all that I can report  
I Ant: Gongora

Camo Tor

144 SD  
PAGE 104

Ordered to procure the legal  
reports concerning the Plain of Camo in con-  
sequence of the petition of the resident of San  
Diego Don Joaquin Ortega, it is to be observed  
that the J. Menester of that Mission, reports  
that ~~it belongs~~ the Tract belongs to it and  
other conditions which he officies. This ~~Offi~~  
Prefectese cannot conceive what right this  
Mission can have in a Tract twelve leagues,  
or thereabouts and whikeven in times when  
the Mission had property it did not occupy,  
moreover from the Ballena to Santa Isabel a  
distance of eight leagues remains to it, which  
it can occupy as said, some day. The  
Valley of San Jose now occupied by the petition-  
er is distant from the Mission twenty two  
leagues and I do not know how it can be  
considered that a Mission without any property  
should extend itself over so much land  
simply because the road to Santa Isabel crosses  
this Plain of Camo and that about three  
leagues to the north of Santa Isabel is the Valley  
of San Jose. I make this reflection concerning



10

these Tracts of land for the information of  
Your Excellency from whom I know and for  
the purpose, as the applicant is my brother-in-law  
Your Excellency in view of this report and that  
of the Justice of the Peace of San Diego you  
may be pleased to act as shall be in conformity  
to your superior disposition

Angeles Agto 12 1842

S. Argüello

144 SD  
PAGE 105

E. mo. Son

Jose Joaquin Ortega resident  
of San Diego in this Department before the  
wisdom of Your Excellency, represents, that  
the documents to which I referred in my com-  
munication of the 18<sup>th</sup> Inst. I have obtained  
and remit them to you for the purpose that  
informed of all that in them has been done  
Your Excellency may be pleased to see that there  
is no obstacle why the title for the land named  
Pamo should not be issued to me, favour  
which I expect to receive from the kindness  
of Your Excellency. protesting that which is  
requested that it is not from malice

Monterey Nov. 23 1843

Jose Joaquin Ortega

Monterey Nov. 22. 1843

In ~~and~~ virtue of whom the peti-

tioner now alleges the...



tioner newly alleges the Secretary of Affairs will report, taking under consideration the whole subject, upon the conditions, form and circumstances with which he may be able or not to assent  
Micheltt.

Excellent Sr Governor

From all that has been done agreeable to these documents it appears that the name of Pamo is vacant and that it may be granted to D. Jose Joaquin Ortega but under the conditions not to pass the Canada of the Balena, and that the Tract that he occupied called San Jose he quits for the benefit of the Mission of San Diego as asked by the R. F. Minister Oliva. However, Your Excellency can make any ~~any~~ other disposition of the matter which you may consider proper.

Monterey Nov 22. 1843

Mont. Simens

Monterey Nov. 22. 1843

Issue the title with the conditions asked by the Father Minister and indicated by the Secretary returning the said land which he is in possession and ceding to the Mission stating it in writing and signed  
Micheltt.

Complying with the orders of his [U.S.A.] Excellency the



144 SD  
PAGE 107

2

the Governor I declare that although I have not in my power any document by which it may appear that the lands of San Jose have been ceded to me but by the right which I have to it, as much by the transfer, <sup>cession</sup> (sale) which D. Pablo de la Portilla made to me as for the period of six years which I have occupied said land. I make by these presents an express manifestation to cede in favor of the Mission of San Diego or of the government the right which I have in the before mentioned lands, without having in the future any right to it, for the reason that there has been given to me for these considerations the Port of Pamo And for the faithful observance this is made in Monterey Nov. 23. 1843

Jose Joaquin Ortega

Another clause

The land of Pamo which I am solicitous for is for myself and D. Eduardo Estor and I request that the Executive will so understand ~~it that~~ my petition that when the title is issued it may be for both of us

Monterey Nov 23. 1843

Jose Joaquin Ortega

J. C. Sims Clerk of the United States District Court for the Southern

Foot of page 107



District of California do hereby  
certify that the foregoing from page one,  
to the twenty first line on page sixth all  
inclusive, is a true correct and full  
copy of original documents, transcribed  
from pages twelve and thirteen, and from  
pages eighteen, nineteen, <sup>and</sup> to the eighteenth  
line on page twenty (in the Spanish Language)  
of transcript No. 195, <sup>of this Court</sup> from the "United States  
Board of Land Commissioners to ascertain  
and settle the private land claims in the  
State of California", in the case wherein  
Jose Joaquin Ortega et al, are Appellants  
vs. the United States, Appellees, now on  
file in my office; and that from line  
twenty two, page six onward is a true  
and correct translation from Spanish  
into English of the aforesaid documents

In witness whereof I have  
hereunto set my hand and  
affixed the seal of said District  
23. day of December 1856

C. Sims Clerk  
J. James W. Coleman  
Dep.



No. 144

Testimony taken  
from Transcript  
No. 195 of the Court  
to be used in case  
No. 144

Filed this 24<sup>th</sup> day of  
December A.D. 1850  
C. J. [unclear]  
[unclear]

144 SD  
PAGE 109



31  
Translation of  
Especiente

F 144 SD  
PAGE 110

To the very Reverend Father Vicente Oliva  
For the purpose of soliciting the property in  
that tract of land (en propiedad de Paraje) known by  
the name of Valley of San Jose previously occupied by  
the Mission under your care I request that you will  
please state, if at this time the Mission of San Jose has  
in occupation said land and if not from what time  
has the same been abandoned - San Diego August  
5<sup>th</sup> 1844 Juan L. Warner -

The Valley of San Jose may be given to the  
applicant who solicits it as the Mission of San  
Diego to which it belongs hath not sufficient property  
(tierras) with which to cultivate and cover it (cubrirlo)  
and it is not much needed for the Mission. San  
Diego Mission August 8<sup>th</sup> 1844 Father Vicente  
Oliva

To the first Judge (Jefe Primer) of San Diego  
For the purpose of soliciting the property in (en propiedad)  
that tract of land "paraje" known by the name of valley  
of San Jose previously occupied by the Mission of  
San Diego I request that you will inform touching  
the following subjects, If at the present time it  
is in an abandoned state, the time which it has  
been so abandoned. If it has been so abandoned be  
cause of the many thefts committed by the wild Indians.  
If at this date the Mission of San Diego has the  
means to cover the same (cubrirlo) The distance



2

From the Mission of San Diego to the said lands  
(paraje) You will be pleased to receive this on  
common paper in fault of the required San Diego  
August 5. 1844 L. J. Warner

144 SD

PAGE 111

In view of the information asked of this Court  
by the applicant we find at this present time the  
said San José del Valle vacant "valdío" and that  
for two years more or less abandoned, without in-  
terests (biener) of any kind, neither is it occupied  
by cultivating grain fields by the Mission of San  
Diego, but said tract (paraje) at the present date  
belongs to said Mission and as the request of  
the applicant in San Diego August 6. 1844  
Juan Maria Marron First Court (Jurado 1.º)  
of the Port of San Diego

32

To his Excellency

Juan José Warner resident of and  
married in this Department with Anita Gale -  
head of a family, before you in the broadest  
manner according to rights before you and say  
that since the year 1833 I have been a resident  
of the City of the Angels - father of Children born  
in this Department - that being in <sup>need</sup> ~~want~~ of a  
tract of land (un paraje) on which to place a  
considerable number of neat cattle (ganado  
mayor y menor) belonging to the Children of your  
petitioner by his said wife. I request you to have

the goodness to grant (conceder) to my said child



144 SD  
PAGE 112

the goodness to grant (conceder) to my said children as their ~~children~~ property, the tract of land (paraje) known by the name of Valley of San Jose which is found to be vacant (vadio), situated to the east of the town of San Diego and distant from said town about twenty leagues surrounded by the mountains with an entrance at the East from San Felipe at the North from Semucula at the West from Pala and at the South from Santa Isabel, obliging myself to make an exact Map (deseno) of said tract of land (paraje) for the use of the Executive and Legislature. And I anticipate that there will be no inconvenience in granting the same (concederle) and issuing the corresponding title if your Excellency should consider my children creditors to the gift which I solicit for the which with due submission I request that you consider it advisable to decree favorably, for which I shall remain a debtor protesting that I have not taken this step with malice. Monterey August <sup>the</sup> 30<sup>th</sup> 1844. Juan Jose Warner

Monterey August 30<sup>th</sup> 1844

The Secretary of state will give information, after having taken all that he may deem necessary. Michel<sup>a</sup>.

To the Governor It appears that the land applied for may be granted (se conceda) without injury



4

as shown from information given by R. P. F.  
(Reverend Father Friar) Vicente Oliva and the  
Judge of San Diego Mr Juan Marron. The  
applicant is naturalised and is a person of good  
habits for which if your Excellency should not  
otherwise determine, you might accede to his re-  
quest Monterey Sept. 3, 1844 Manuel Limeno

144 SD

PAGE 113

33

Decha ut Supra

Let the title be made out expressing  
that he is obliged to deliver the Map (diseño)  
within four months from this date without  
being performed and noted on the same title  
if the time should transpire the title will be  
Null and void signing this document (Espediente)  
with this knowledge and understanding Michel<sup>to</sup>

Complying with the foregoing superior decree I affix my  
signature same date and place Juan S. Warner

The applicant having complied with the  
superior decree he remains obliged to deliver the  
Map (diseño) within the time specified. In the  
mean time the applicant may occupy the land,  
and he will deliver from the person in charge of  
the Mission of San Luis Rey a document in which  
shall appear the valuation of the improvements  
which shall be paid as shall be provided for  
by the Executive Monterey Sept 6, 1844 Manuel Limeno

Monterey Nov. 27, 1844



Monterey Nov. 27. 1844

In view of the petition with  
which this document (Espediente) commences the  
information which precedes, I declare Don Juan  
Warner owner of the lands applied for by him

144 SD

PAGE 114

RECEIVED  
NOV 27 1844



Citizen Manuel Mechettiorena Brigadier General of the Mexican Army Adjutant of the general Staff and Inspector of the Californias, Whereas Don Juan Jose Warner a naturalized Mexican ~~Citizen~~ has made application for his personal benefit and that of his family for the land known by the name of Valle de San Jose bounded on the East with the entrance from San Felipe and the mountain - On the West by the mountain and the ravine (cañada) of Ahuango - and the mountain on the North - The limits on the South being the Carrisal and the mountains. The initiatory steps and proceedings prescribed by law and the regulations having been complied with I have determined by virtue of the powers with which I am invested to grant to him in the name of the Mexican Nation (concederle) the described land declaring by this title (as presentar letras) the property to be his, subject to the approval of the Legislature of the Department and with the following conditions

34  
1<sup>ra</sup> He shall not sell, dispose, hypothecate, impose tribute or innumbrance nor donate it

2<sup>a</sup> He may inclose the same but not to the prejudice of roads and servitades. He shall enjoy the free and exclusive use of the same, using it for the purpose or cultivation which will be most agreeable to him, but within one year he shall construct a house and it shall be inhabited

3<sup>a</sup> By virtue of this title (despacho) he will request the proper Officer to give him judicial possession and



8

by it the lines shall be established at the terminations of which besides the monuments he shall plant some fruit or forest trees of service

4<sup>th</sup>

The land of which donation is made is of the extent of six square leagues (*sitios de ganado mayor*) a little more or less agreeable to the description by the respective map (*diseño*). The Officer who may give possession will cause it to be measured in conformity to ordinance the remainder which may result continuing with the government (*Nacion*) for its conveniences

5<sup>th</sup>

If he should fail (*contraviniese*) in these conditions he will lose his right to the land and it will be subject to denuncement (*denunciable*) by another person. In consequence I order that this serving him for a title be held firm and valid and that notice of it be taken in the respective Book and that it be delivered to the person in interest (*interesado*) for his security and other purposes. Given in Monterey November twenty eighth 1844 Manuel Micheltorina

Manuel Jimenez Secretary

Note is made of this grant (*concesion*) on folio twelfth and onward in the respective book

Jimenez

To his Excellency the Governor

Juan J. Warner native of the U.S. of America naturalized and resident in this Department in the broadest manner consistent with right appear before you and say

That by virtue of a Title made by the Executive



35

That by virtue of a Title made by the Executive granting to me (concediendome) ~~the~~ propiedad in property the valley of San Jose with the approval of the Legislature I transmit herewith the Title. Map and authorized copy of the ~~great~~ Documents (Expediente), that you may please submit it to the Assembly to be approved in case they find no obstacle, observing that it has not been possible to present the document of valuation of the improvement belonging to the Mission of San Luis Rey from the person in charge of said Mission, and if the government should not provide a better mode, that an Appraiser be appointed by the government and one by each of the interested parties to make the valuation.

I make the necessary protests se Your Excellency will receive this on common paper for want of the requisite Angeles May 12 1845. J. Warner  
Angeles May 14. 1845 Having taken into consideration this, and the documents with which the applicant has accompanied it, let it pass to the Committee on vacant lands (terrenos baldios) Pio Pio President Agustín Olvera Secretary -

Sir. The Committee on vacant lands having examined with all possible probability the document (Expediente), made in consequence of the petition of Mr. Juan S. Warner on the 30th of August of the year last past touching the tract of land (Paraje), known by the name of Valley of San Jose



which was granted to him (le fue concedida) by  
 a title legally executed by the Executive of the  
 Department on the 28<sup>th</sup> of November of the last year  
 as cited, and resulting from examination that the  
 said grant (concession) in favor of Mr Juan I  
 Warner was made in full and perfect (total) ac-  
 cordanee with the requirements of the laws upon this  
 subject and that it only remains that the gran-  
 tee complies with the provision made by the Executive  
 before extending the title to present from the person  
 in charge of the Mission of San Luis Rey a document  
 of the valuation of the improvement existing on said  
 tract of land (paraje) which amount he shall  
 pay as might be provided for by the same Executive

144 SD  
 PAGE 118

Your Committee therefore presents for the consid-  
 eration of the Assembly the following Resolution

The Grant (Concession), made in favor of Mr Juan  
 I Warner of the tract of land (paraje) named Valle  
 de San Jose adjudicated in property by the Execu-  
 tive of this Department by (by) Title legally made  
 out on the 28<sup>th</sup> of November last in conformity  
 with the provisions of the law of August 18<sup>th</sup> 1824 and  
 Article 5<sup>th</sup> of the Regulations of 1802. "1828 is ap-  
 proved. The Governor being pleased to take those steps  
 which he believes may conduce to the verification of  
 the valuation of the property existing on said tract  
 of land as well as to the payment of the amount -

36

Chamber of sessions in the City of Angeles May  
 17<sup>th</sup> 1845 Ignacio del Valle - Narciso Botella

Angeles May 21<sup>st</sup> 1845



Angeles May 21<sup>st</sup> 1845

In the session of this day the (the) Resolution in the preceding report was consumed in (Aprovo) ordering that the Document (Espediente) be returned to the Government for that purpose (fines consecuencias) Pio Pico President - Augustin Olvera - Secretary

144 SD  
PAGE 119

Filed in Office Dec. 6. 1853

Geo. Fisher Secy

67  
Decree

J. J. Warner

vs  
The United States

In this case on hearing the proofs and allegations it is adjudged by the Commission that the claim of the said Petitioner is valid and it is therefore decreed that the same be confirmed

The land of which confirmation is hereby made is situated in San Diego County and known by the name of the Valle de San Jose and is described and bounded as follows to wit: Bounded on the East with the entrance from San Felipe and the Mountain and the ravine (Cañada) of Ahuanga, On the North by the Mountains and on the South by the Carrisal and the Mountains. Reference for more particular description to be had to the grant made to the said Warner and the Map therein referred to which are on file

144 SD  
PAGE 119



in this case The lands hereby confirmed are intended to be confined to the Valley and do not extend beyond the foot of the Mountains referred to in the above description and containing six square leagues of land a little more or less

144 SD  
PAGE 120

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

Commissioners

Filed in Office Oct 10 1854

Geo. Fisher Secy

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

S. I. Warner Appellee  
vs  
The United States Appellant

Case No. 218 San Lorenzo del Valle

This Cause coming on to be heard on appeal from the final decision of the United States Board of Land Commissioners to ascertain and settle the private land claims in the State of California under an act of Congress approved March 3<sup>d</sup> 1851 on the Transcript of the proceedings and decision of said Board and of the papers and evidence upon which said decision was founded, and it appearing to the Court that the said Transcript and Notice of appeal have



been duly filed according to law, and counsel  
 for the respective parties having been heard. It  
 is ordered adjudged and decreed that the said  
 decision of the said Commissioners be affirmed  
 and it is further adjudged and decreed that the  
 claims of the above named Appellee to the land  
 described in the grant is a good and valid claim  
 and it is ~~ordered~~ <sup>further ordered</sup> adjudged and decreed that the  
 same be and is hereby confirmed. The land of  
 which confirmation is hereby made is situated  
 in the County of San Diego and known as the "Val-  
 ley of San Jose" and is described and bounded  
 in the original ~~map~~ grant and map to which  
 it refers copies of which grant and map are  
 on file with the papers in this case as follows  
 to wit: On the East by the Entrance from San  
 Felipe and the Mountains, On the West by the  
 Mountains and defile of Aguanga. On the  
 North by the Mountains, the Southern limits  
 being the Carrisal and Mountains to the extent  
 of six square leagues provided said quantity  
 of six square leagues be contained within  
 the boundaries but if there be a less quantity  
 than six square leagues then the claim of Ap-  
 pellee to such less quantity is hereby confirmed.

Isaac R. Ogier

U.S. Dist. Judge

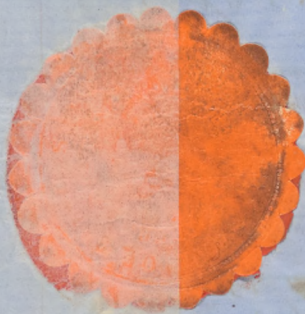
Filed Feb'y 13, 1856

C. E. Carr Clerk



J. C. Sims Clerk of the United States District  
Court for the Southern District of California  
do hereby certify that the foregoing from page  
one to line ten on page twelve all inclusive  
is a true, correct and full copy of original  
documents transcribed from pages 31. to 36  
inclusive of Transcript No 218 from the  
"United States Board of Land Commissioners  
to ascertain and settle the private Land  
claims in the State of California" in the  
Case wherein the United States are Appellant  
vs. J. L. Warner Appellee now on file in  
my office and that from line eleven  
page twelve onward is a true and correct  
copy of the original decree of this Court  
in the above mentioned case now on file  
in my office

144 SD  
PAGE 122



In Witness Whereof I  
have hereunto set my hand  
and affixed the seal of  
said Court this 20th  
day of December 1854  
J. C. Sims  
Clerk



No 144

Translation of  
Exposition in  
Case 218

Situated 24<sup>th</sup> day of  
December, A. D. 1856  
C. J. J. J.  
Clerk

144 SD  
PAGE 123

To be given to the Dea  
with the paper  
chap



Deposition of Pio Pico taken before  
C. Sims United States Commissioner  
for the District of California at the United  
States Court House in the City of Los Angeles  
on Friday the 19<sup>th</sup> day of December A.D. 1856  
at 3 o'clock P.M. by consent and agree-  
ment of parties to be used as testimony <sup>in</sup>  
behalf of the United States in a certain  
cause now pending in the U.S. District  
Court for the Southern District of Cal-  
ifornia being case No. 144 on Docket  
of said Court, wherein Sylvestre de la  
Portilla is Appellant and Claimant and  
the United States Appellee present Volney  
E Howard for Pacificus Ord U.S. Attorney  
and L. R. Scott Esq, Attorney on behalf  
of the Claimant and appellant

144 SD

PAGE 124



Pro Pico being duly sworn says

Just

Are you acquainted <sup>with</sup> Don Sylvester  
Portilla?

Ans

I do

Just

How long and when did you know  
him?

Ans

I do <sup>not</sup> recollect the year but I have  
known him ever since he arrived  
in this country. I have known him  
in San Diego - here - and in Sonora  
in the years 1846 & 47 - I think  
he moved to Sonora in the year  
A.D. 1836 and returned in 1848

Just

Do you know a tract of land  
called San Jose del Valle and if  
you state what you know as to  
what persons have occupied it?

Ans

I do - I know it occu-  
pied with horses & cattle, ~~belonging to~~  
branded with a brand that he knew  
~~was~~ the Brand of Don Pablo de la  
Portillo, the Brother of Sylvester  
Portillo, in the year 1833 - afterwards  
I saw it occupied with cattle and  
horses having the same brand, but  
belonging to Don Joaquin Ortega



And afterwards I understood that  
it was occupied by J. S. Warner  
It was occupied by Jose  
Lopez Estiza in 1837 or 38. I  
do not remember what time J. S.  
Warner occupied it -

144 SD  
PAGE 126

Just When was Sylvester residing when  
you saw him in Sonora?

Ans I do not know. I saw  
him in Mexico, having come from  
some other place - he had his  
Residence in the department of  
Sonora -

Just Do you know anything  
about Sylvester Portillo claiming  
this Land at the time you saw  
him <sup>in</sup> Sonora  
(Depicted by Dr. Seate atty for  
appellant)

Ans I do not -

Just Do you think Portillo was aware  
of the Lands State any conver-  
sation that you had with him at  
that time in relation to this claim to  
the Land referred to

(Depicted by Dr. Seate)  
Ans He had a conversation with me

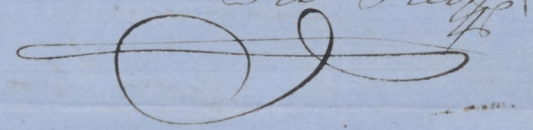
and I told him that I was



in which I asked him the question  
Why he had not returned to California  
and he replied, that there had  
occurred <sup>to him</sup> some very unfortunate  
~~and a number of his domestic~~  
~~loss~~. That in consequence of these  
unfortunate events and the  
sale of ~~the~~ the Ranch by his Brother  
to Don Jose Ortega for which he had  
not ~~not~~ motion to return to California

Quest When you know after  
the return of Ignacia Portillo, did  
he first set up any claim to the  
Ranch of San Jose del Valle  
(Object by Dr Scott)

Ans I heard that he was claiming it  
but do not recollect when, It ap-  
pears to me that it must have been  
in the years 1853 or 54

Pio Pigg  


Given and Subs<sup>d</sup> before  
me this 19<sup>th</sup> day of December  
A.D. 1854  
J. M. Commissioner



State of California }  
County of Los Angeles }

144 SD  
PAGE 128

J. C. Sims United States  
Commissioner for the District of California  
do hereby certify that the foregoing deposition  
of Pio Pio was taken before me in ac-  
cordance with the request and agreement of  
said Attorneys at the United States Court  
House in the City of Los Angeles State of  
California. That the said Pio Pio was  
by me duly sworn according to law as a  
witness in said cause in the Caption of  
this deposition mentioned, and after  
being so sworn, his testimony was by me  
reduced to writing in his presence, and  
that of the said Attorneys and after having  
been by me carefully read to him and  
by him corrected as he desired was by  
him signed in my presence



In Witness Whereof I  
have hereunto set my  
hand and seal (there being  
no official seal) this  
19<sup>th</sup> day of Dec 1856  
J. C. Sims  
U. S. Commissioner



No 144

Deposition of  
Geo. Pico

Filed this 24 day of  
December A.D. 1850

Geo  
Pico

144 SD  
PAGE 128

cha 2  
7



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

Silvestre de la Portilla } Case 144  
Appellant }  
vs } Valle de San Jose  
The United States } Transcript 409  
Appellee }

This cause coming on to be heard on ap-  
peal from the final decision of the United  
States Board of Land Commissioners to as-  
certain and settle the private land claims  
in the State of California, <sup>under an Act of Congress</sup> approved March  
3d 1851, upon a transcript of the Proceedings  
and Decision of said Board and of the  
Papers and Evidence upon which said  
Decision was founded, and ~~it appearing~~  
upon additional evidence filed in this  
Court; and it appearing to the Court that  
said Transcript and the Notice of Appeal  
have been duly filed, according to law, and  
counsel for the respective parties having  
been heard,

It is ordered adjudged and decreed,  
that the Decision of said Board of Land  
Commissioners be, and the same hereby is,  
in all things reversed,

And it is further adjudged and  
decreed that the claim of the Appel-  
lant, to the lands herein claimed, called  
Valle de San Jose and situate in the coun-  
ty of San Diego, is good and valid; and  
the same are hereby confirmed to him



to the extent of four (4) square leagues  
and no more, within the boundaries  
called for in the grant and represent  
in the Map in the Expediente filed in the  
case, to which the Grant refers, Reference  
for explanation of said Map being had  
to the parcel evidence filed in the Court.

Provided that should the quantity  
of land within said boundaries be  
up than four (4) square leagues there  
Confirmation is hereby made of such  
up quantity

*Francisco Ojeda*  
*U.S. District Judge*

*Case No 144*

*Silvestre de la Portilla*

*App't*

*vs*

*The United States*

*App'ee*

*Deemed*

*Filed July 23<sup>rd</sup> 1857*

*Wm. J. ...*  
*Chm*

*Record on Page 234*

**144 SD**  
PAGE 131



THE PRESIDENT OF THE UNITED STATES OF AMERICA,

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

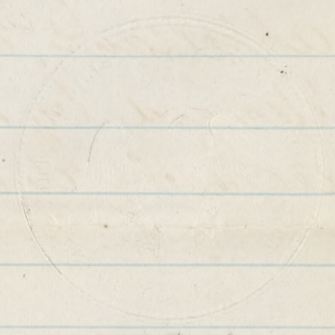


Greeting:

Whereas, lately, in the District Court of the United States, for the Southern District  
of California before you, in a cause  
between Silvestre de la Portilla, Appellant and The  
United States, appellees, (No. 144, for "San José del Valle")  
wherein the decree was rendered in favor of the said  
Appellant.



UNITED STATES OF AMERICA



1882  
SEP 20

144 SD  
PAGE 133

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



And whereas, in the present term of *December*, in the year of our Lord one thousand eight hundred and *sixty three* 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,~~ *on the motion of Mr Attorney General Bates and of Counsel for the appellants, it is now here considered, ordered and decreed by this Court that this cause be and the same is hereby dismissed.* 19 Feb.

144 SD

PAGE 134

GE  
SIL



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 *sixty three*

COSTS OF  
Clerk..... \$  
Attorney... \$

\$

Taxed by *L. W. Middleton*

Clerk of the Supreme Court of the United States.

No. *144* December Term, 1863.

MANDATE

SUPREME COURT UNITED STATES.

*U. States vs. ...*

*No. 144*

*Filed Aug 11 1864*

*John ...*

144 SD  
PAGE 135



**U. S.**  
**Surveyor-General's Office,**  
**CALIFORNIA.**

144 SD  
PAGE 136

Post Office Box No. 2260.

NO. 610 COMMERCIAL STREET.

San Francisco, March 30, 1879

Smithard Hoffman, Esq.,  
Clerk U. S. Dist. Court,  
City.

Sir,

The accompanying two hundred dollars  
is to be deposited with you under Act  
act of 1864. on account of office work on  
survey of the Rancho Yacuda San Jose  
Portia, Confirmer, and San Jose, all Valle,  
Warner, Confirmer, - \$100. in each case.

Respectfully,  
J. A. Robinson  
Chief Clerk.



218 + 144 S. D.

U.S. District Court  
Dist of Cal

The United States  
vs  
Silvestre de la Portilla

The United States  
vs  
J. J. Warner

144 SD

PAGE 137

Communication from U.S.  
Surveyor General, accom-  
panying deposits +

Filed Mch 3rd 1879  
Soutard et Offman Clerk  
Prof H. Grimwood  
Deputy Clerk  
Recd Mch 3/79



144 SD  
PAGE 138

**U.S.**  
**Surveyor-General's Office,**  
**CALIFORNIA.**



Post Office Box No. 2260.

No. 610 COMMERCIAL STREET.

San Francisco, Mar. 20. 1879

I hereby certify that the plat of survey and description notes in the case of the Rancho Valle de San Jose were transmitted to Washington for patent, under the provisions of the Act of July 1, 1864, Feb'y. 20<sup>th</sup> 1879; and that the expenses of this office in preparing said plat and description notes were sufficient to fully cover the amount of the deposit made in the U. S. District Court for the District of Calia, under the provisions of Sec 6 of said Act, March 3, 1879.

Am't. of Deposit too.

*Theo Wagner*  
U. S. Sur. Gen'l  
for Calia



144 S.D. 174

U.S. District Court  
Dist of Cal

The United States

Silvestre de La Portilla

Claimant for Valle de  
San Jose

Certificate from U.S. Surveyor  
General that Plat & Survey  
have been forwarded  
to Comm. Land Land Office

144 SD

PAGE 139

Filed March 31st 1879  
Southard Hoffman Clerk  
P. D. Greenwood  
Deputy Clerk

U.S. District Court  
District of California

In the Matter  
of the Payment of the  
U.S. Surveyor General  
for Survey of the  
Rancho Valle de San  
Jose



E  
Agreement

The Reverend Father Fray Vincent Oliva as  
apostolical Minister of the Mission of San Diego  
and the Citizen Joaquin Ortega of the post  
of the same name and proprietor of the Rancho  
of San Jose have reciprocally agreed before  
the present witnesses who also sign this doc-  
ument, as follows

The Rev<sup>d</sup> Father Fray  
Vincent cedes in favor of Sr. Ortega four  
Square leagues comprised between the  
Aguajito entrance of the plain of Pano  
to the hill of the Salvia drawing from this  
point a straight line to the Rancherie of  
Comajal leaving for the whole of the  
Canada of the Bellene for the benefit of  
the Mission, and the above named Ortega  
in retribution cedes to the above named  
Mission of San Diego the Valley of  
San Jose to put the same to the use most  
to said convenient to said Mission and in  
testimony whereof and for the purpose of giv-  
ing to this document due force, the  
Contracting parties and witnesses sign  
the same in San Diego the twentieth  
day of May One thousand eight hundred  
and forty three

Comodoro  
Julio Reina  
Juan M<sup>o</sup> Manon

Joaquin Ortega  
Fray Vincent Puigal Oliva



Filed in office Sept 10<sup>th</sup> 1852

Geo Fisher

Secy

State of California  
County of Los Angeles

J. C. Sims clerk  
of the United States District Court for the  
Southern District of California, hereby certify  
the foregoing to be a full true and correct  
copy of an "Agreement marked E" in the  
Manuscript N<sup>o</sup> 195 on Docket of said Court, and  
on file in my office

In witness whereof I hereunto  
set my hand and affix the  
Seal of said Court this 18<sup>th</sup>  
Day of December A D 1850

J. C. Sims Clerk  
J. James H. Coleman  
Secy





~~No. 1444~~  
No. 1444

United States Dist Court  
for Southern Dist California

The United States  
vs  
Joaquin Ojeda et al  
"Valued Bond"

"Agreement E"

Certified Copy of Agreement  
E

144 SD

PAGE 142

Sept 13 - 90



Sylvestre de la Portilla }  
 is } For the place called Valle  
 The United States } de San Jose —

The claimant in this case is based upon a Grant from Nicholas Gutierrez Political Chief of Upper California, to Sylvestre de la Portilla, the present claimant, bearing date April 16<sup>th</sup> 1836. — Certified Copy of the grant taken from the Archives in the Surveyor General's office has ~~been~~ <sup>been</sup> ~~officially~~ constitutes a part of the record. —

There are also a number of other papers, documents in the record all duly authenticated, but to which it will not be necessary to refer in deciding the case. It appears from the record that Portilla first petitioned Figueroa the then Governor of California, for the same land in 1833, that Figueroa took all the preliminary steps and finally conceded the land to Portilla and referred the proceedings to the Dep<sup>t</sup>. Assembly for their approval that body after an examination of the whole proceedings and upon further enquiry refused to ~~approve~~ the grant upon the ground that the land asked for belonged to the Missions — upon their refusal all further proceedings were stopped by Figueroa until the Missions should be secularized — which was subsequently done. —

In 1836. Gutierrez the Political made a decree conceding the land called Valle de San Jose to Portilla, and referred the whole proceedings to the Dep<sup>t</sup>. Junta, no final action seems to have been taken by that body in the premises, at least there is no evidence any such final action in the record. — The committee on public lands reported favorably to the claimant but the assembly referred them back to them to reform it, in what particular or for what reason the evidence does not show — but this is of no importance in the consideration



of the case in as much as it has been decided frequently by this Court and also by the Supreme Court that the approval of the Sep. Junta was not absolutely necessary, to rent a title in the ~~class~~ Grantie, where.

The ~~case~~ ~~is~~ ~~in~~ ~~fact~~ on the 16<sup>th</sup> of April 1886, after all the proceedings were hold J. Gutierrez made the formal grant to Portilla

The evidence shows that Portilla went upon the land built a house on it and occupied with cattle horses and sheep as late as 1837.

The first question which arises in the cases of any monument is as to the vagueness of the grant, the land is described in the body of the title as the ~~title~~ ~~of~~ ~~San~~ ~~Jose~~, and the 4<sup>th</sup> Condition limits the claimant to four square leagues in the valley of San Jose. This is then the grant of a place by name or rather it is the grant of certain quantity of land within the boundaries of ~~the~~ ~~valley~~ ~~of~~ ~~San~~ ~~Jose~~ and ~~there~~ ~~is~~ ~~no~~ ~~restriction~~ ~~in~~ ~~regard~~ ~~to~~ ~~the~~ ~~fact~~ ~~that~~ ~~the~~ ~~same~~ ~~reason~~ ~~which~~ ~~a~~ ~~place~~ ~~known~~ ~~by~~ ~~a~~ ~~certain~~ ~~name~~ ~~which~~ ~~amounts~~ ~~to~~ ~~the~~ ~~same~~ ~~thing~~ - if there then was at the time of the grant a place known by the name of ~~Marcelle~~ ~~de~~ ~~San~~ ~~Jose~~ in the vicinity - described in the proceeds, having certain fixed and known boundaries ~~and~~ the grant can not be void indefinitely and the only question does the evidence then seek to be the case.



1834

Petition of Portilla to Figueroa, date 24 Feb  
asking for the place called Valle de San Jose  
lying on the eastern side the road of the Rio  
Colorado, about twenty two leagues from the  
Mission of San Diego, and twenty or twenty one  
from that of San Luis Rey.

Marginal Decree of Figueroa referring the petition to the Military  
Commandante at San Diego & referring the same  
to accompany the proceedings with a sketch of the  
land - Report of Commandante (Aguello) favorable  
Report of the Padre of the Mission <sup>of San Diego</sup> also favorable -  
Report of the Padre of San Luis Rey, that part of the  
land asked for might be granted -

2<sup>d</sup> decree of Figueroa referring the proceeds  
again to the Commandante, for certain information -  
Report of Aguello - in which one witness describes  
the land as being three leagues in width -

Decree of Figueroa enclosing the land by the  
name of valley of San Jose, and describing it as  
bounded by the missions of San Jose and San Luis  
Rey, and referring it to the next Assembly.

Decree of Assembly referring the matter to the Commission  
for Colonization of vacant lands.

Report of the Commission, on vacant lands

Decree of the Assembly referring the same until  
the missions should be secularized -

Petition of Portilla for permission to water his  
Cattle upon the land asked for, until the matter  
could finally be decided -

Decree of Gutierrez dated April 16<sup>th</sup> 1836 granting the  
land asked for to Portilla by the name of Valle de  
San Jose - subject to the approval of the Dep. Junta -

Decree referring to assembly - Reference to Committee on  
public lands, their report, again referred to the Dep. Junta  
three reports -

Formal title by Gutierrez. -

Immediat possession by Aguillo to P Portilla  
agent of claimant -



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

Silvestre de la Portilla

Appellant

vs

The United States,

Appellee.

Case No 144.

Transcript. 469.

"Valle de San José."

No.	Page.	Description
1.	3.	Petition to Commission
2.	3.4.	Deposition of S. Arguello
3.	6.7.	Petition of Claimant to Sol. Chief, with marginal order of reference to Commandante at San Diego and Padres.
4.	8.	Answer of Commandante
5.	9.	Answers of Padres.
6.		Map
7.	9.10	Order to Commandante to investigate certain points
8.	10 @ 14.	Report of Commandante
9.	14.15.	Decree of Grant by José Figueroa, Sol. Chf.
10.	15.	Order of Reference by Territorial Deputation to Committee on Colonization & Vacant Lands.
11.	15.16.	Report of Committee recommending postponement.
12.	16.	Approval of Report by Deputation.
13.	16.17.	Order to inform Portilla of decision of Dep <sup>ty</sup>
14.	17.18.	Petition of Portilla to Sol. Chief, with marginal order.
15.	19.	Decree of Grant by Gutierrez, Sol. Chf.
16.	19.	Reference to Committee on Lands.
17.	19.20	Report of Committee in approval.
18.	20	Sent back to Comtee by Dep <sup>ty</sup> , for amendment.

Copies from Archives -



No	Page		
19	20, 21.	Certificate of Juror Gen <sup>l</sup> to foregoing copies.	
20	23, 24	Translation of Petition and Order.	N <sup>o</sup> 3
21	24.	"	Answer of Com <sup>tee</sup> 4
22	25	"	Answers of Cadres. 5.
23	25.	"	Order to Com <sup>tee</sup> 7.
24	26, 27, 28	"	Report of do. 8.
25	28	"	Decree of Grant 9
26	28, 29	"	Reference to Com <sup>tee</sup> 10.
27	29	"	Report of Com <sup>tee</sup> 11
28	29, 30	"	Approval of Report 12
29	30	"	Order 13.
30	30, 31	"	Petition & Order 14
31	31.	"	Decree of Grant 15.
32	31.	"	Reference to Committee 16
33	31, 32	"	Report of Committee 17
34	32.	"	Order of Return to do. 18
35	33, 34, 35	H.H.J. Grant by Gouverneur	
36.	35, 36	{ N <sup>o</sup> 1 } Proceedings of Jud. Possession	
37	37, 38	Translation of Grant,	N <sup>o</sup> 35-
38	38, 39	"	" Judicial Possession 36.
39	40, 41, 42	Opinion.	
40	42	Decree of Rejection	
41.	42	Order to file transcripts	



Case. 144.

U. States Dist. Court, South  
Dist. of California

J. Schwab & la Portella

Appellant

by  
The United States  
Appellee.

Judt of Transcript.

144 SD  
PAGE 148





This is a claim by Sylvestre  
Portellia for the land known  
as Valli de San Jose.

It appears from the evidence in  
the case, that it was  
granted to him in the year 1835.  
That, after some slight occupation,  
he abandoned the land, and  
in 1836, removed from California  
to the State or Department of Sonora  
and never returned to California  
until about the year, 1852. That  
in the mean time, the land was  
during this period occupied  
by Warner under an adverse  
title, without asserting any  
title or claim to the property until  
some time in 1852, or 1853.



in Valle de San José y Aguas Calientes  
It appears:

1. Grant for the Northern part of the lands by Gov. Juan B. Alvarado to José Antonio Pico, on the 8<sup>th</sup> June 1840, and by him transferred to Claimant Warner.
2. Grant by Gov. Micheltorena to Warner, dated 28<sup>th</sup> November 1844, embracing the whole tract, approved by the Departmental assembly May 21, 1845. It appears by the reports, that, the land was abandoned and vacant in August 1844. (Rec p. 31)

The approval of the Assembly declares that, the title was legally made out and issued (Rec 35)

This grant was confirmed to Warner by the Commission and also by this court

as will be seen by reference to record in Case No 218.

Warner has occupied the lands from the date of his grant up to the present time except for a short period, when he was driven away by the Indians



It is submitted that under these circumstances, Portillo must be held to have abandoned the lands, and that, it was subject to regrant.

It is in substance, decided in *Arment* against the United States, that lands may be abandoned without office found. The Court say: "Upon this view of the subject, we proceed to inquire whether there has been any unreasonable delay, or want of effort, on the part of Alvarado, to fulfill the conditions? For if this was the case, it might justly be presumed, as in the *La*, and *Florida* cases, that the party had abandoned his claim before the Mexican power ceased to exist, and was now endeavoring to resume it from the enhanced value under the Government of the United States" 17 How: 561



The law has been established in La. for nearly 40 years, that, where the Spanish authorities have granted the same lands twice, and the younger grantee has taken possession and performed the conditions of inhabitation and cultivation, he is entitled to hold the lands, and this was held in contests between the first and second grantees, and in cases where no denoucement had been made in favor of the younger grantee. Bossier v. Metayer & Martin 678 (1818) Gensanlier v. Brashear & Martin N.S. 33, Baker v. Thomas 2 La. Rep. 634, Bossard v. Gensanlier 12 Polinier 1, Indge Caton in U.S. v. Reading 18 Am. 13.

As the Governor making the junior title had power to declare the first grant void on the grounds of abandonment, and proceeded to make the subsequent grant, the presumption is that he did so, and the title is ordered that all the previous steps required by law, were regularly had.

Winter v. Crommelin 18<sup>th</sup> Am. 87,  
U.S. Bank v. Vothies 10 Petess.



It has been repeatedly held in Texas, that, when the grantee left the country and abandoned his land that, if he did not occupy it, no office found or notice to the first grantee was necessary, but that the Governor might proceed to grant on an ordinary inquiry or certificate that the land was vacant. Holliman vs Pebles, 1 Texas Reports

Jones vs Garza 5 Texas Reports: The last case was one of re-grant, without any notice to the former grantee Baron de Bastrop, who had returned from Texas to Louisiana. The same principle has repeatedly been affirmed by the Supreme Court of that State in cases of abandonment by a removal from the country. Neither the Spanish or Mexican law provided for constructive notice by publication, if the first grantee was absent from the country by removal. Indeed,



the principle is well settled  
both in Louisiana and Texas and  
the authority of those cases appears  
to be recognized by the Supreme  
Court of the United States.

The person in whose Government  
to grant had formerly granted  
but which the grantee did not  
occupy can not admit of doubt.  
The main inducement to grant  
was the settlement and  
improvement of the country, and  
when the grantee abandoned  
it was held to have reverted  
to the government, without  
official founder.

The adverse possession of Warner  
had been long enough under the  
Spanish law to bar the claim  
of Portilla before his return  
from Sonora, especially  
under the grant to Pico,  
which was conveyed  
to Warner.



