CASE NO.

23

SOUTHERN DISTRICT

CANADA DE LOS NOGALES GRANT

JOSE MARIA AGUILAR

CLAIMANT

LAND CASE 23 SD PAGES 86

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TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 360

José Maria Aguilar CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Canada de los Nogales"

/

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Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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

The Petition of José Maria Aguilar *for the Place named* Cañada de los Nogales, *was presented, and ordered to be filed and docketed with No.* 360 *and is as follows, to wit;*

(Vide page 5 *of this Transcript.)*

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

Los Angeles Oct 2nd 1852

In case No 360 José Maria Aguilar for the place named Cañada de los Nogales, the deposition of Manuel Requena a witness in behalf of the claimant taken before Com Maxime Heiland Heall with annexed document marked He He No 1. was filed and is in the words and figures as follows to wit

(Vide page 6 of this Transcript)

Los Angeles October 5th 1852

In case No 360 Jose Maria Aguilar for the

place named "Cañada de los Nogales" the deposition of Juan Martinez a witness in behalf of the Claimant taken before Commissioner Heilana Hall was filed and is in the words and figures as follows to wit

(Vide page — 7 — of this Transcript)

Los Angeles October 11th 1852

In case No 360 Jose' Maria Aguilar" for the place called "Cañada de los Nogales" the Counsel for the Claimant moved to place the same on the Trial Docket, Motion taken under advisement

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San Francisco Mar 28th 1853

On Motion of the United States Associate Law Agent it was Ordered that the following Case be placed on the Trial Docket to wit No 360 Jose' Maria Aguilar "Cañada de li Nogales"

San Francisco Mar 28th 1853

case No 360 Maria Aguilar for the place named "Cañada de los Nogales" called, The Counsel for the Claimant Mr Crosby read the Petition and Papers in Evidence The U. S. Asst. Law Agent read and filed his Brief — Submitted and taken under Advisement by the Board

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San Francisco April 11th 1853

In Case No 360 Jose Maria Aguilar for the place named "Cañada de los Nogales, Commissioner Harry I Thornton delivered the Opinion and the Decree of Final Confirmation

Ordered that the said Opinion and Decree of Final Confirmation be Recorded on the Records of this Board

Which Opinion and Decree are as follows to wit

(See page 38 of this Transcript)

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Original

Petition

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To the Hon. the Board of U. S. Land Commissioners appointed to settle private Land Claims in California.

The petition of José M.a Aguila respectfuly showeth:

That on or about the 30th day of August A.D. 1844, Manuel Michel=torena, then Governor of California, in the name of the Mexican Nation granted, in full property unto your petitioner the tract of land and Rancho situate in the present County of Los Angeles known by the name of "Canada de los Nogales" containing one half league of land bounded by the River, by the Rancho of Messrs Verdugos; by the Ridge of Hills and by the Spring of the Arroyo Tradero Road, referance being had to the original papers relating to this claim, copies of which are herewith filed, for a more particular description of said land. That said grant was made by virtue of the colonisation laws of August 18/1824, the Regulation of Nov 21/1828, the various laws of Mexico in force at that time, the usages and customs affecting grants of land in California.

Your petitioner further showeth that on or about the 20 day of September A.D. 1844, your petitioner was put in juridical possession of said land by the proper officer having authority and jurisdiction, referance being had to the papers relating thereto, copies of which are herewith filed and which your petitioner prays may be made a part of this petition.

Your petitioner further shows

that there are no conflicting claims to said lands known to your petitioner and that the same has been surveyed but not by the U.S. Surveyor Genl of California.

The evidence upon which your petitioner relies are the Records in the Office of the U.S. Surveyor General for California original papers copies of which are herewith filed and the testimony of witnesses to be produced before Your Honl Board

Respectfully submitted for such action as the justice and nature of the claim may require.

E.C. Crosby
Of Counsel for Claimant

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Filed in Office Sept. 25th 1852
Geo. Fisher
Sec'y

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Office of the Board of Comrs. of California Land Claims.
Los Angeles Oct 2nd 1852.

Deposition of Manuel Regnena.

On this day before Hiland Hall one of the Commissioners for ascertaining and settling Private Land claims in California, came Manuel Regnena a witness produced in behalf of the claimants Jose Ma. Aguila whose petition is No 360 on the Docket of the Board & was duly sworn. His evidence being given in Spanish was interpreted by the Secretary.

The Land Agent attended

In answer to questions by the Counsel for the claimant the witness testified as follows:

My name is Manuel Regnena. I am fifty one years of age. I reside in the City of Los Angeles where I have resided for the last eighteen years.

I am acquainted with Jose Ma. Aguilar

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I have known him ever since I came to this place. I am acquainted with the hand writing and signatures of Christoval Aguilar, Manuel Requena, Ignacio Coronel Juan Sepulveda, Manuel Michelltorena Manuel Jimeno & Juan Domingues.
A paper now shown me purporting to be a petition of Cristoval Aguilar for judicial possession of the Rancho Canada de las Nogales together with the title papers of such Rancho & a record of the judicial possession, contains the signatures of the said several persons, which signatures I believe to be genuine.
I acted as Alcalde in giving said judicial possession & my signature appears in three places on said paper.
My signatures are genuine and were made at the dates of the papers to which they were affixed. The whole paper is genuine and is what it purports to be.
Said paper is hereto attached & marked No. 1.

Manuel Requena

Sworn & Subscribed
Before me
Hiland Heale Comr.
Filed in Office Oct 2nd 1852
Geo. Fisher
Secy

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Deposition of Juan Martinez

Office of the Board of Commissioners of California Land Claims.
Los Angeles Oct. 4 1852.
On this day before Hiland Heale one of the Commissioners for ascertaining and settling private Land Claims in California came Juan Martinez a witness produced

in behalf of the claimant Jose Ma Aguilar whose petition is No 360 on the Docket of the Board and was duly sworn. His Evidence being given in Spanish, was interpreted by the Secretary.

The U.S. Land Agent was notified & attended

In answer to questions by counsel for the claimants the witness testified as follows.

My name Juan Martinez, my age is thirty two years & I reside at Los Angeles

I am acquainted with Jose Ma Aguilar & I have known him all my life time. Arguilar built a house for the Rancho Canada de las Nogales in the year 1844. I assisted in building the house & was overseer of the place for Aguilar for three years from that time.

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He lived in the house in 1844, and has lived there ever since, occupying the place with cattle & horses, & cultivating a large portion of the land.

Sworn & Subscribed Before me
Hiland Hall, Comr.
Filed in Office Oct 4th 1852

Juan his X mark Martinez

Geo. Fisher
Secy

Office of the Board of Commissrs of California Land Claims.
Los Angeles Oct 4 1852.

Deposition of Jose Ma Abana.

On this day before Hiland Hall one of the Commissioners for ascertaining and settling private Land Claims in California came José Ma Abana, a witness produced

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in behalf of the Claimant Jose Ma Aguilar whose petition is No 360 on the Docket of the Board and was duly sworn, His evidence being given in the Spanish Language was interpreted by the Secretary. The U.S. Land Agent was notified and attended.

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In answer to questions by the Claimant the witness testified as follows:
My name is Jose Maria Abana, my age is thirty six years & I reside in Los Angeles.
I am acquainted with Jose Ma Aguila & have known him ever since I was born. I know the Rancho Canada de los Nogales. It is about a league from this place in a Northerly direction.
The Rancho has been occupied by Aguila even since the year 1844. He had a house on the place in which he lived when I first knew it in 1844. & he has lived there ever since, & has kept horses & cattle to the number of about five hundred head & has cultivated a large portion of the land,

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Sworn & Subscribed Before me
Jose Maria Abana his X mark
Neland Neale Com.
Filed in Office Oct. 4th 1853
Geo. Fisher
Sec

Span Documents following

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Expediente
Exhibit A

Solicitud
de José Mª Aguilar Decano
de la Ciudad de los Angls. por
un terreno de qe. se acompaña el
Diseño.

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Monterey agto 22 de 1844. Ang.l l. Serio. del despacho tomando otros si lo. Sere necesarios al efecto Michelt.a

Sor. Gobernador

José Ma. Aguilar Mejicano por nacimiento y vecino de este lugar hace treinta y nueve años ante la superioridad de V. E. y en la mas bastante forma de Dxo respectivamente dijo. Que en 6. del corriente dirijo un instancia al I. Juntamento de esta ciudad solicitando un Terreno Baldio para cultivarlo y asegurar mis intereses como manifiesta la adjunta en lo que se haya estampado el informe practicado por la comision de terrenos y resolucion que recayo de la autoridad correspondiente motivo por que me dirijo a V. E haciendo igual peticion para que en Virtud de las diligencias practicadas y diseño que tambien acompaño se sirva mandar me de posecion para la propriedad del enunciado terreno y à la vez el titulo respectivo: Por tanto a V. E. suplico que en merito de justicia y en cumplimiento de la ley de colonisacion acceden à mi solicitud; y por ella se me dè gracia. Juro V.

Sirviendose admitir la presente en papel comun por falta del Sellado correspondiente.

Ciudad de los Angeles 20 Julio de 1844.

A Nombre del Sor mi padre Dn. Jose Marulla Cristoval Aguilar.

Señor Gobernador. El I. Juntamiento de la Ciudad de los Angeles y la comision respectiva dan me informe favorable à favor del Sor Aguilar para que se le conceda el terreno que pretende pero yo creo que devera ser baja la condision de sugetarse à los usos de los Angeles.

cuando estos sean señalados. La Supo.
disposicion de V. E. sera lo que mejor con=
=venga. Monterey 23 de Agto. de 1844.
Mem. Simeno. Monterey Agto. 25 de 1844.
Conf.e en un todo con la Opinion y condiciones q.
pone el Srio. del despacho. Michelto.na
Monterey 30 de Agto. de 1844.

Vista de la peticion con que da principio
este espediente los informes que preceden
con todo lo demas que se tubo presente
y Ver Comunio, de Conformidad con las
Leyes y reglamientos de la Materia de=
=claro à D.n Josè M.a Aguilar dueño de
medio sitio de ganado Mayor en la
Cañada q. llaman de los Nogales. Co=
=lindante con el Rio, con el Rancho de
los Dos Verdugos con las lomas y el o.
de agua del Camino del arrastradero:
Libese el correspondte. despacho, tomase
razon en el libro respectivo, y dirijase
este Expdte. à la Asamblea Departamen=
=tal. El E. S. Gobernador asi lo mandó
decretó y firmó.
M. Ilustre Ayuntamto.
Josè M.a Aguilar vecino de esta ciudad
con la mayor sumision y respeto. ante
V. S. hago presente, que queriendo ade=
=lantar en mis bienes de Campo y asegu=
=rar mi mantencion y formento y el de
mi familia. Solicito un terreno com=
=prendido del que solicito Don Josè
Ramuindo Alamis para arriba conocido
con los nombres Cañada y lomerio de
los Nogales aguage del Camino del
arrastradero y por la Vega del rillo media
Legua, pertenecientes à los ejidos de
esta ciudad, para fincar en el casa

hacer Corrales y trabajos en todo lo demas que proporcione el merito del mencionado terreno: Agregando que aunque à la fecha no estan marcados los efidos en el año de 1841. que se me dieron por el Juez de 1.er Inst.cia que lo era en ese tiempo D.n Ignacio Polomanes remataron las medidas por el rumbo Norte en la piedra gorda que es mucho mas adelante de onde yo solicito Suplico à V. S. se sirva conceder me el terreno de que hago mencion para las señas indicadas. pues hace mas de seis años que lo hallo absolutamente Baldio: quedando con la enjeccion de cumplir las condiciones que se le impone al que solicita un sitio señalado en la Comunidad. Por tanto A. V. S. rendidamente suplico que tomando en consideracion lo espuesto se sirva concederme esta gracia que pido jurando lo necesario. Si dignandose admitir esta en papel comun por no haber de Sellado respectivo Ang.cia 6 de Julio de 1844. ruego de D.n Jose Aguilar q.e no saber escribir

Jose M.a Segura

Ang.a Julio 8 de 1844

Dada Cuenta a Y.l Ayuntam.to con la instancia que antecede, se manda pasar à la comision de terrenos valdios no contenido en este el S.r Regidor Don Cristoval Aguilar en cuyo lugar fuè nombrado el S.r Regidor D.n Guillermo W.m Ril. Man.l Requena. Sg.no Coronel

Muy ilustre Ayuntamiento.

En cumplimiento de la superior disposicion anterior para la comision terrenos Baldios hace la ve dura à del que solicita

el S. José Mª Aguilar, á cuyo acto com=
=pareció un hijo del Señor Dr. Julio Verdugo
en virtud de la cita que se espedió re=
=presentando la persona de su citado padre
espuso pertenecerle el terreno que se
denuncia. Se le pidiesen los do=cumentos
que acreditan su propiedad, y contestó
no saber de ellas. Practicadas las dili=
=gencias concernientes á la materia
resulta estar absolutamte. valdio han
algunos años por lo que creo la referida
comision puede concederle al interesado
agregando que dicho terreno dista desta
(Pertenece á los ejidos) Ciudad una legua y cuarta mas o menos y se cree
Angs. Julio 15 de 1844. Felipe Hugo
Guillermo Wolfskill. Angs. Julio 15 de 1844
Dado cuenta al Ilm. Ayuntamto. con
el dictamen que antecede, acordó pas
al Superior Gobiero. del mismo modo que
pasó otra solicitud de igual natura=
leza Raymundo Alanis por no estar se=
=ñalados los ejidos de esta ciudad
pasó á otra superioridad este espediente
sovriendo el anterior informe como el
necesario á favor del Solicitante
Mano. Requena

Sgno. Gorrael.
Mano. Michelto. Prat de Brigada del
Ejercito Mejicano Sob.dor Comman.te
Prat é Inspector del Departmto. de
California.
Por cuanto Dn. José Ma. Aguilar á
pretentido pa. su beneficio personal y
el de su familia el terreno conocido
con el Nombre de Cañada de los
Nogales. Colindante con el Rio con
el Rancho de los Senos. Verdugos.

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con las Lomas, y con el Aguage del Camino del Arrastradero: practicadas previamente las diligencias y averigua=ciones concurrientes segn. lo dispuesto por leyes y reglamentos de la materia usando de las facultades que me son conferidas à nombre de la Nacion Mejicana. he venido en concederle el terreno mencionado: sugetandose à la aprovacion de la Asemblea Departa=mental y à las condiciones siguientes 1a. No podrá venderlo ni enagenarlo ni podrá imponer censo, vinculo ni otro gravamen como tambien no podrá donarlo ni hipote=carlo. Sugetandosé à los ejidos de la ciudad de Los Angls. cuando estos sean medidos. 2a. Podrá cercarlo sin perjudicar las travesias, caminos y servidumbres, lo disfrutará libremente destinandolo al uso ó cultivo que mas le acomode. pero dentro de un año fabricará casa y estará habitada.
3a. El terreno de que se hace donacion es de medio sitio de ganado mayor segun esplica el diseño respectivo. El Juez que dese la posesion hará medir conforme à Ordenanza. quedando el sobrante que resulta à la Nacion por los usos convenientes.
4a. Solicitara del Juez que le dè posesion en virtud de este despacho. Pa. el cual se demarcaran los linderos en cuyos limites pondrá à mas de las mojoneras alg. arboles frutales.
5a. Si contraviene à estas condiciones perderá su derecho al terreno y será denunciable por otro.
En consecuencia mandè que teniendose

por firme y valedero en presente se tome razon en el libro respectivo y se entregue al interesado para su resguardo y demas fines. Monterey 30 de Agto. de 1844.

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

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I, Samuel D. King Surveyor General of the United States for the State of California, and as such, now having in my Office, and under my charge and custody a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California. do hereby Certify that the Eleven preceding and hereunto annexed pages of tracing paper numbered from One to Eleven (inclusive, and each of which is verified by my initials (S. D. K) exhibit true and accurate copies of certain Do= =cuments now on file and forming part of the sa Archives in my Office. In Testimony whereof I have here= =unto signed my name officially and affix my private Seal (not having a Seal of Office) at the City of San Francisco this tenth day of January 1852.

(Signed)
Samd. D. King
Surveyr. Genl. Calfa

Filed in Office Sep: 25th 1852
Geo. Fisher Secry

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Exhibit "B"
Translation
Espediente

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Monterey Aug 22 1844.
Let the Secretary of state make report taking others if he deems them necessary for the purpose. Michelt.

Your Excellency, the Governor.

I, Jose Ma. J. Aguilar, a Mexican by birth and a resident of this place since 39 years ago, before the Superior Authority of Your Excellency and in the most valid form of the Law, do respectfully say:

That on the 16th. inst. I addressed a petition to the Illustrious Municipal Council of this city, soliciting a peice of unoccupied land for the purpose of cultivating it and providing for the security of my property as will appear from the annexed (petition) to which are affixed the report made by the committee on waste lands and the Resolution passed by the competent Authority: for which motive I address Your Excellency making the same petition to the effect that, by virtue of the proceedings accomplished and the design which I likewise subjoin you will be pleased to order that I may receive possession as proprietors of the said premises and at the same time due title Deed of the same.

Wherefore I beseech your Excellency in consideration of justice and in fulfillment of the Colonization Law, to accede to my petition and by virtue thereof to give me the said grant wherein I shall receive favor. I make oath &c.

Deign to accept the present petition upon common paper there being none of of the requisite stamp.

City of Loas Angeles 20th. of July 1844

In the name of my father Mr Leon Jose Maria Aguilar.

Cristoval Aguilar

Most Excellent Sir Governor

The illustrious Municipal Council of the City of Los Angeles and the proper Committee give a favorable report in favor of Mr Aguilar to the effect that the land he claims be granted to him

But I think that it must be under the condition that he subjects himself to the commons of Los Angeles when these may be assigned. The superior determination of Your Excellency will be the most Expediente. Monterey Aug. 23d 1844

P. Manl Jimeno

Monterey Aug. 28 1844.

(Let all be done) conformably in every respect to the opinion and conditions advanced by Mr Secretary of State.

Michelta

Monterey 30. August 1844.

In view of the Petition with which this Minute of Proceedings originates, the foregoing reports and all other things that were brought forward and it was behooving to keep in view, in conformity with the laws and Regulations which effect the matter I declare Don José Ma Aguila the proprietor of one half siting for neat cattle in the Valley called De los Nogales, bounded by the River, the rancho of Messrs Verdugos, the Hills and the spring of the Arrastradero road, let the proper document issue, be entered of record in the appropriate book and let this Minute of Proceedings be forwarded to the Departmental Assembly. His Excellency the Governor has so ordered decreed and subscribed.

Most Illustrious Municipal Council.

I, Jose Ma Aguilar a resident of this

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place, most submissively and respectfully
before your Do represent
That being desirous of increasing my
stock and securing the maintainance and pros=
perity of myself and family. I solicit
a tract bounded by that solicited by Mr
Jose Raimundo Alanis further above, establishe
with the names Canada and Leonera de los
Stogales, by the spring of the Arrastradero road
and by the bank of the river half a league,
belonging to the commons of this city, for the
purpose of building there a house, erecting
corrals and performing all other works
which the capacity of the tract may allow.
Adding that although until the present
date the commons are not marked out,
in the year 1844 they were measured
by the Judge of First Instance who was
at that time Don Ignacio Palomares
and the measurements ended on a North
course at the Piedra Gorda which is far
beyond the limits I solicit. I beseech
Your Honors to grant me the tract which
I mention since for more than six years I
see I see it absolutely unoccupied, I to
remain subject to fulfil the conditions whic
are imposed upon whoever solicits a piece
of land assigned within the commons.
Wherefore. I humbly beseech Your
Honors that, taking in consideration the
aforesaid, you may be pleased to grant me
this favor which I ask making under
oath the requisite verifications &c. Vouchsafe
to admit this on common paper there being
none of the proper stamp
Angeles July 6 1844
At the request of Don José Aguilar, he
not knowing how to write.
José Ma Segura

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Angeles July 8th 1844.

On the foregoing petition being laid before the Illustrious Municipal Council, Ordered that it be referred to the committee on Public Lands, the Honorable member (Regidor) Don Christoval Aguilar not acting thereupon and the Hon. member William Wikil being appointed in his place.

Manuel Requena President
Jgo Coronel Sec.

Most Illustrious Municipal Council

In compliance with the foregoing Superior Resolution, the committee on unoccupied lands repaired to make inspection of the tract solicited by the Citizen José Ma Aguilar at which proceeding appeared a son of Mr Don Julio Verdugo by virtue of the summons served upon him representing the person of his said father and he stated that the tract now denounced belongs to him. On being asked for the papers which might show his title to such property, he answered that he knew nothing about them. Upon instituting the proper proceedings, it appears that the land has been absolutely unoccupied for several years, wherefore the said committee believes that it may be granted to the party in interest: adding that the said tract is one and a half leagues more or less distant from this city and is believed to belong to the commons. Angeles July 15th 1844.

Felipe Lugo Guillermo Wolfskill

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Angeles July 15 1844

Upon laying before the Illustrious Municipal Council the foregoing Report, Ordered that it be forwarded to the Superior

Government in the same way as was forwarded another petition of the same nature, that of Raimundo Alamis. And inasmuch as the commons of this city have not yet been assigned let the foregoing Report answer for the requisite one in favor of the petitioner.

Interlined = de Raymundo Alamis = Ln

Manuel Regnera
President

Jg° Coronel Sec

(Here occurs the Grant)

200 I certify the foregoing to be a true and correct translation from the Authenticated Fac Simile copy of the Original Spanish document on file in the Office of the U.S. Surveyor General which Fac Simile Copy is on file in this Office in Case No 360 Jose Maria Aguilar, for the place named Los Nogales. Geo. Fisher Sur

Filed in Office Sept 25 1852

Geo. Fisher
Secy

Span Doc Exhibit C
follows

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13.

Posesion de la
Cañada de
Los Nogales

Año de 1844

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Doc: "H. H."

No. 1

Sor Alcalde 1º Const.

José Maria Aguilar, Mejicano, y vecino desta Ciudad, ante Vmd. en la forma mas respetuosa me presento, y digo; que en Vista del adjunto titulo que devidamente a comprado por el que el Supmo gobierno me concedio el paraje nombrado la Cañada de los Nogales. Al suplico se sirva darme la posecion judicial del precitado terreno en lo que recevire gracia. juro no ser de malicia y lo necesario Sev-Viendose admitir lo presente en papel comun por falta de sellado. Angl. 19 de Sepre de 1844.

Por mandado del Sor mi padre. José Mª Aguilar
Cristovl Aguilar

Angles Septbre 20 de 1844.

Por presentado y admitido en cuanto ha lugar à derecho: previa citacion de colindante-pasase por mi y testigos de asistencia à la Cañada de los Nogales y dese la posecion que solicita el interesado. Asi yo Manuel Requena alcalde 1º y Juez de 1ª instancia decreté mandè y firmè con los de asistencia segun derecho.

Manuel Requena.
Juan Sepulveda. Dgo Coronel

En la fecha se cito à los colindantes.

Requena. (Sello Cuarto Dos Reales)

Habilitado provisionalmente por la Aduana maritima del puerto de Monterey, en el Departamento de las Californias para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco. Michelorena. Pablo de la Guerra
Por Austo del Admin.
Guillo Ed- Hartwell

Manuel Michelorena General de Brigada del Ejercito Mejicano, Ajudante

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General de la Plana Mayor del mismo, Gobernador, Commandte General y Inspector del Departamento de California Por cuanto D. José Maria Aguilar Mejican pr. nacimiento, ha pretendido para su beneficio personal y el de su familia el terreno conocido con el Nombre de Cañada de los Nogales, bolundante con el Rio, con el Rancho de los Señores Verdugos con las Lomerias, y con el aguaje del camino del arrastradero: practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto pr. leyes, y reglamentos, usando de las facultades que me son conferidas à nombre de la Nacion Mejicana; he venido en concederle el terreno mencionado sugetandose á la aprobacion de la Ex.ma Asemblea Departamental, y à las condiciones siguientes. 1a. No podrá venderlo, ni ganarlo, ni poner censo, vinculo ni otro gravamen alguno, como tambien no donarle, ni hipotecarlo, sugetandose à los egidos de la Ciudad de los Angeles cuando estos sean medidos. 2a. Podrá cercarlo sin perjudicar las travesias, caminos, y servidumbres, lo disfrutará libremente. destinandolo al uso ó Cultivo que mas le acomode, pero dentro de un año fabricará Casa y estará habitada 3a. El terreno de que se hace donacion es de medio sitio de ganado mayor segun esplica el diseño respectivo. El Juez que diere la posesion lo hará medir conforme à Ordenanza quedando el sobrante á la Nacion pr. los usos convenientes. 4a. Solicitará del Juez respectivo, que le dè posesion juridica en Virtud de este despacho. pr. el

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cual se le demararon los linderos, en cuyos limites pondrá las mojoneras correspon= =dientes.

5ª Si contraviniere á estas condiciones perderá su derecho al terreno, y será denunciable por otro. En consecuencia mando que teniendose por firme y valedero este titulo, se tome razon de el en el libro respectivo, y se entregue al interesado para los usos que le convenga. Dado en Monterey á treinta de Agosto de Mil Ocho cientos y cuarenta y cuatro. Manl. Jimeno Mon.l Michel 1.er

Que tomada razon de este despacho en el libro respectivo á fojos 10.

La Ciudad de los Angeles del de= =partamento de las Californias á los veinte dias del mes de Septiembre de Mil ocho cientos cuarenta y cuatro. Atiente á la solicitud que hàra Don José Maria Aguilar para que se le dè posesion de un terreno nombrado la Cañada de los Nogales que le concedio, el Superior Gobierno del Departamento con fecha treinta de Agosto del presente año. pases por mi y testigos de asistencia, y proce= =dase á dar la posesion indicada con arreglo al Titulo que le ha conferido el Gobierno, y segun previene el mismo titulo. Asi yo Man.l Requena Alcalde constitucional y Juez de 1ª instancia decreto, mande y firme con los de asisten= =cia segun derecho. Manuel Requena.

= Ignacio Coronel. = Juan Sepul= =veda. En seguida yo el mismo pase oficio. A los Señores colindantes manifestandoles el objecto á que me dirija á el punto de la Cañada de los

Nogales, pues iba à remedirlos y poner en posecion à Don José María Aguilar de estos Señores Colindantes ninguno manifiesta objeccion alguna y solo Dn. Julio Verdugo tiene presente al Juez que ese terreno es suyo y que le pertenece pero el Juez presente como lo pidéo los titulos de propiedad y no les presentaron se procedi à la posecion respectiva lo que autorisé y firme con los de asistencia segun derecho. Manuel Requena = Ignacio Coronel = Juan Sepulveda.

En la misma fecha y hallandome en la Cañada de los Nogales nombré dos Oficiales Cordeleros que fueron José María Ibarra y José Nuevo Mejicano. à quien habiendoles hecho saber su nombramiento, ofreciendo desempeñar fiel y legalmente su encargo lo que autorisé y firmé para constancia Manuel Requena Ignacio Coronel. y Juan Sepulveda.

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Acto continuo y estando en la misma cañada de los Nogales, con el objeto de verificar las medidas y posecion que corresponda à Don José M. Aguilar precisos todos los requisitos de ley, y estando ante mi los testigos de asistencia y los Oficiales Cordeleros, hize medir un Cordel constante de cincuenta varas el Cual fuè esaminado y reconocido por mi; atando à sus extremos unos palos de Madera, previa observacion y calculo por mi disposicion, se tiró el primer cordel desde unos sauces que esta à la Orilla del rio y tomando el rumbo Norte, se midieron y contaron dos Mil Quinientas Varas que rematarón en las llanuras, donde se mandó poner una mojonera. Desde este lugar y tomando al rumbo. Este se tiró

el segundo Cordel que remato en las loma
y se contaron y medieron dos mil quinien
=tas Varas. y de tambien rematarowen la
citada loma. donde se mandó poner
otra mojonera. De aqui se tiró el tercer
Cordel con direccion al Sur y se medieron
y contaron dos Mil Quinientas varas
que remataron al picicho de una loma
donde se puso otra mojonera. De este lugar
se tiró el Cuarto Cordel con direccion al
poniente y se contaron y medieron dos mil
Quinientas varas que remataron en el
saus donde se comenzó. Concluida este
acto preguntó el presente Juez á la parte
si estaba satisfecho de las medidas
y respondiendo que si. entonces la Au=
=toridad le dió la posecion y señorio
al Sor Don José Maria Aguilar á
Nombre de la Nacion Mejicana para
que hiciese con el terreno lo que conveniese
á su beneficio lo que autorisé y firme
para constancia con mis testigos de
asistencia segun derecho: Manuel Requ
Ignacio Coronel # Juan Sepulveda
Angeles Setiembre 20 de 1844.
Dese testimonio á la parte de los presentes
diligencias para su resguardo y seguridad. Asi yo el Juez que subscribe
decreto, mandé y firmé con los de a=
=sistencia segun dicho. Manuel Requena
Ignacio Coronel # Juan Sepulveda
En la fecha se dio el testimonio respectivo.

Concuerda con su Original
á que me remito de la Cual se sacó fiel
y legalmente habiendose antes corregido
y confrontado con estas cuatro fojas de
papel comun por falta de sellado.
En testimonio de verdad. Man.l Requena
Ig.o Coronel Juan Domingo

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Filed in office
Sept 25th
1852.
Geo. Fisher
Secy

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Translation of Grant &c

Exhibit D

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Mr First Constitutional Alcalde
I, Jose Maria Aguilar, a Mexican and resident of this city, before you in the most respectful form do present myself and say: that in view of the annexed title which I duly subjoin by which the Superior Government has granted me the tract called La Canada de los Nogales. I beseech you to be pleased to give me the juridical possession of the aforementioned land wherein I shall receive favor. I make oath that it is not through malice, adding the other requisite verifications. Be pleased to admit these presents on common paper, there being none of the stamped.

Angeles 19 Sept 1844

By order of my father Mr Jose Ma Aguilar. (Signed) Christina Aguilar

Angeles, Sept 20 1844.

(The foregoing) having been presented and admitted to all legal intents, Ordered that after previous summons to the neighbours, I, with the attesting witnesses do repair to the Canada de los Nogales and give the possession which the party in interest solicits. I Manuel Requena First Alcalde and Judge of first Instance have so ordered, decreed and subscribed with the attesting witnesses according to Law.

Manuel Requena

Attest Jg° Coronel. Attest Juan Sepulveda

On the same date the neighbours were summoned

Requena

Fourth class Stamps two eights of

One Dollar

Issued provissionally by the Maratime Custom of the Port of Monterey in the Department of the Californias for the years one thousand eight hundred and forty four and one thousand eight hundred and forty-five

Micheltorena
{L S}

Pablo de la Guerra
In the absence of the Adm.n
William Ed Hartnell

Manuel Micheltorena, Brigadier General of the Mexican Army, Adjutant General of the Staff of the Sarde, Governor General Commandant Inspector of the Department of the Californias.

Whereas Don José Maria Aguilar a Mexican by birth, has claimed for his personal benefit and that of his family the tract known by the name of Canada de las Rogales bounded by the River, by the Rancho of Mesrs Verdugos by the Ridge of Hills and by the Spring of the Arrastradero Road the requisite preliminary Proceedings and investigations having been accomplished according to the provisions of the Laws and Regulations. In the exercise of the faculties conferred upon me. In the name of the Mexican Nation, I do grant unto him the said tract, subject to the Approbation of the Most Excellent Departmental Assembly and to the following conditions,

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1. He shall not have power to sell, nor alien the same, nor burthen it with rent charge, entail nor any other incumbrance whatever, nor give, nor mortgage the same; and it shall be subject to the commons of the City of Los Angeles when the same are measured.

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2. He may fence it without prejudicing the crossings, roads and servitudes; he may enjoy it freely, devoting it to such use or culture as best may behoove him, but within one year he shall erect a house and it shall be inhabited.

3. The tract hereby granted consists of half of one sitio for neat cattle as explained by the sketch relating thereto. The Judge who may give him the possession shall cause it to be measured according to ordinance the surplus remaining the property of the Nation for the proper uses

4. He shall request the Judge who has jurisdiction to give him juridical possession by virtue of this Deed.

The boundaries shall be marked out by such Judge and in the lines thereof there shall be placed suitable land marks.

5. If he should fail to comply with these conditions, he shall loose his right to the tract and it may be denounced by another.

Wherefore I order that this Title Deed being held as firm and valid be entered of Record in the proper Book and delivered to the part in interest for such uses as may behoove him. Given at Monterey August thirtieth 1844.

Manl Michelta

Manl Jimeno. Secy.

This Deed is noted in the appropriate Book at page 10.

Jimeno

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At the city of Los Angeles of the Department of the Californias, on the twentieth day of the month of September one thousand eight hundred and forty four, in compliance with the petition made by Don Jose Maria Aguilar

to the effect that possession be given to him of a peice of land called La Canada de las Rogales which the Superior Government has granted to him under date of the 30th of August of the present year, Ordered, that I with my attesting witnesses do proceed and give the aforesaid possession in conformity with the title deed which the Government has conferred upon him and according as provided by the same title. I, Manuel Reguena, first constitutional Alcalde and Judge of First Instance have so decreed, ordered and subscribed with the attesting witnesses according to law.=
Attest. Ignacio Coronel Manuel Reguena.
Attest. Juan Sepulveda.

Immediately afterwards I, the said Judge sent notice to the owners of neigh=boring premises, informing them of the object of my visit to the premises of the Canada de las Rogales, viz. that I was going to remeasure the same and put in possession thereof Don José Maria Aguilar. None of said owners offered any objection and Don Julio Verdugo alone represented to the judge that this tract was his own and belongs to him, but the present Judge having asked him for his deeds to the property and the same not being produced, the delivery of possession in question was proceeded with. Certified and subscribed with the attesting witnesses according to Law.
Attest. Ignacio Coronel. Manuel Reguena
Attest. Juan Sepulveda.

On the same date and I being at the Canada de las Rogales. I appointed two official line bearers who were José

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Maria Abarra and Jose the new Mexican who upon being informed of their appointment, accepted the same undertaking to fulfil faithfully and legally their duties. Certified and subscribed by me in testimony thereof. Attest Ignacio Coronel Manuel Reguena. Attest Juan Lepulveda.

In continuance and I being at the Sanre Canada de los Nogales for the purpose of executing the measurement and delivering the possession to which San Jose Ma Aguilar is entitled all the legal requisites having been complied with and I having in my presence the attesting witnesses and the official line bearers, I caused a line to be measured consisting of fifty varas which was examined and verified by the fastening at its extremities wooden poles. After due observation and calculation under my direction, the first line was run from a willow which stands on the bank of the river and taking a north course there were measured and counted two thousand five hundred varas which ended on the plain where a land mark was ordered to be placed. From this point and following an east course the second line was run which ended in the hills and there were counted and measured two thousand five hundred varas which likewise ended in the said hills where another land mark was ordered to be placed. Thence the third line was run in a southerly direction and there were measured and counted two thousand five hundred varas, which ended on the peak of a hill where another land mark was placed. From this point the fourth line was run in a westerly direction and there were counted and measured two thousand five hundred varas, which

ended at the willow where the measurement was begun. This proceeding being concluded the present Judge enquired of the Party whether he was satisfied with the measurement and he answered that he was. Then the Authority gave the possession and domain to Un Don Jose Maria Aguilar in the name of the Mexican Nation for him to do within the tract whatever suited his convenience. Certified and subscribed in testimony whereof by me and my attesting witnesses according to law.

Attest Ignacio Coronel Manuel Regnena
Attest Juan Sepulveda.

Angeles Sept 20' 1844.

Let certificate be issued to the party of the present proceedings for his protection and security. I the undersigned Judge have so decreed ordered and subscribed with the attesting witnesses according to law. Manuel Regnena
Attest Ignacio Coronel. Attest Juan Sepulveda

On the same date the requisite certificate was given = A Flourish =

A true copy of the original to which I refer and from which it was faithfully and legally taken after correction and collation in these four sheets of common paper there being none stamped.

In testimony of truth
Manuel Regnena
Attest Ig.o Coronel Attest Juan Domingas

I hereby certify the foregoing to be a true and correct translation of the Original Spanish Document filed in Case No 360 Jose Ma Aguilar for the place named Canada de las Nogales
Geo. Fisher Sec'y

Filed in Office Sept 25'. 1852
Geo. Fisher Sec'y

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Opinion and Decree

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Jose Mª Aguilars claimant
vs
The United States
No 360. Canada de las Rogales.

U.S. Land Commission for California, San Francisco
Commissioner

Opinion by H. D. Thornton

The claim presented in this case is founded upon a grant made by Michel Torena Governor of California, in virtue of the Decree of the 18th August 1824, and of the ordinance of 21st November 1828, of the Mexican Government. By a regularly authenticated transcript from the Archives of the former Government of the country: by documentary evidence, and the depositions in the case, it satisfactorily appears that the grant was duly made by competent authority on the 30th of August 1844. That judicial possession and measurement was had in the month of September next thereafter, of the premises, in the customary mode: that a house was erected thereon, in which the claimant lived, in the said year of 1844, and from that time to the present it has been occupied and cultivated by the claimant or by persons under him. The only objection urged against the confirmation of the claim is the want of evidence, of the approval of the Departmental Assembly being obtained by the Governor, of this grant. The grant is for the quantity of one half of one sitio, or for one half of a Square league of land. In accordance with the principles laid down for our Government in the 11th Section of the Act of 3d of March 1851: and with decisions previously made by this Board, in the case of Cruz Cervantes No 56 and of others, the claim is held to be valid and we proceed to make the following decree of confirmation. Commissioner Hall concurs in the result.

Henry D. Thornton

Decree

This Board upon full consideration of the various grounds affecting the validity of this claim, having come to the conclusion that the same is valid; therefore now proceeds to make, and does hereby make the following Decree or report of final confirmation, viz: It is Decreed that the said claim be confirmed to the claimant to the extent and quantity of one half of one sitio, or one half of one square league of land, and for no more; being the same land described in the grant and Expediente referred to therein, and of which the claimant has had the possession, in virtue thereof: Provided that the said quantity of land granted and now here confirmed be contained within the boundaries called for in the said grant and map to which the grant refers, and if there be less than the said above named quantity within the said bounds then we confirm to the claimant that less quantity; it being apparant that said quantity exceeds the minimum of two hundred varas as prescribed by the ordinance of 21st November 1828 Witness our hands this day of April 1853. Witness our hands this 11th of April 1853.

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Heland Hall
Harry I. Thornton } Commiss.rs

Filed in Office April 11 1853
Geo. Fisher
Secy

Office of the Board of Commissioners,

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

I, George Fisher Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing thirty nine pages, numbered from 1 to 39, 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. 300 on the Docket of the said Board, wherein

Josi Maria Aguilar is

the Claimant against the United States, for the place known by the name of "Cañada de los Negales"

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

Geo: Fisher.

Office of the Attorney General of the United States,

Washington, 11th September 1854.

José Maria Aguila

vs.

The United States.

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

Cushing

Attorney General.

No 23.

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

The United States

vs

Jose Maria Aguilar.

Notice of Appeal from Atty, Gen.

Filed Nov 7th 1854.

J. E. Carr
Clerk.

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

José Maria Aguilar
vs. } No. 360
The United States

To the Honorable Isaac S K Ogier Judge of the District Court of the United States for the Southern District of California.

The petition of Pacificus Ord (of Monterey County) Attorney of the United States for the Southern District of California, who petitions in this behalf for the United States, and being present here in Court in his proper person, in the name and behalf of the United States, represents as follows.

That heretofore, to wit, on or about the 25th day of September AD 1852, José Maria Aguilar, presented a petition to the Commissioners to ascertain and settle the private land claims in the State of California, claiming one half league of land, in the words and figures following, to wit. "The petition "of Jose Ma. Aguila (Aguilar) respectfully showeth; "That on or about the 30th day of August AD. 1844, "Manuel Michelltorena, then Governor of California, "in the name of the Mexican Nation granted, "in full property unto you petitioner the tract "of land and Rancho situate in the present County, "of Los Angeles known by the name of "Canada "de los Nogales" containing one half league of "land bounded by the River, by the Rancho of Mes.rs "Verdugos, by the ridge of Hills and by the Spring "of the Arrastradero Road, reference being had to

the Original papers relating to this claim, Copies
" of which are herewith filed, for a more particular
" description of said land. That said grant was
" made by virtue of the Colonization laws of Au=
" gust 18' 1824, the regulations of Nov 21' 1828, the
" various laws of Mexico in force at that time,
" the usages and customs affecting grants of land
" in California. Your petitioner further showeth that
" on or about the 28' day of September A.D. 1844, your
" petitioner was put in Juridical possession of
" said land by the proper Officer having authority
" and Jurisdiction, reference being had to the papers
" relating thereto, Copies of which are herewith
" filed and which your petitioner prays may be
" made a part of this petition. Your petitioner
" further shows that there are no conflicting claims
" to said lands known to your petitioner and that
" the same has been surveyed but not by the U.S.
" Surveyor Genl of California. The evidence upon
" which your petitioner relies are the Records in the
" Office of the U.S. Surveyor General for California
" original papers copies of which are herewith
" filed and the testimony of Witnesses to be pro=
" duced before your Honl Board Respectfully sub=
" mitted for such action as the justice and nature
" of the claim may require".

Your petitioner further represents that there=
after, to wit, on the 11th day of April AD 1853, the
said Commissioners, confirmed by final decree the
said Claim of the said Jose Maria Aguilar, in the
words and figures following, to wit, "This Board upon
" full consideration of the various grounds affecting
" the validity of this claim, having come to the

"conclusion that the same is valid; Therefore now
"proceeds to make, and does hereby make the fol-
"lowing decree or report of final confirmation,
"viz; It is decreed that the said claim be confirm-
"ed to the claimant to the extent and quantity of
"one half of one Sitio, or one half of one square league
"of land, and, for no more; being the same land
"described in the grant and expediente referred
"to therein, and of which the claimant has had
"the possession, in virtue thereof; Provided that
"the said quantity of land granted and now
"here confirmed be contained within the bounda-
"ries called for in the said grant and map to
"which the grant refers, and if there be less than
"the said above named quantity within the said
"bounds then we confirm to the claimant that
"less quantity, it being apparent that said
"quantity exceeds the minimum of two hundred
"varas as prescribed by the ordinance of 21st
"November 1828 Witness our hands this 11th ~~day~~ of
"April 1853, (Signed) Heland Hall }
" Harry I Thornton } Commissrs"

That thereafter, to wit, on the 27th day of June AD
1854, a duly certified transcript of the said
decree and proceedings, and the papers and evidence
on which it was founded, in said cause, was filed
in the Office of the Clerk of the District Court of
the United States for the Southern District of
California and marked No. 340, reference to which
it is prayed may be had and made a part of this
petition.

That on the 30th day of June AD 1854 the Honorable
Caleb Cushing Attorney General of the United States,

received a duly certified duplicate of said transcript of said final decree and proceedings, of said Commissioners in said cause (No 360) and the papers and evidence on which said decree was founded.

That thereafter, to wit, on the 7th day of November AD 1854, the said Attorney General of the United States, filed, or caused to be filed, on behalf of the United States, a Notice with the said Clerk of said District Court for the Southern District of California, that the Appeal in said cause of Jose Maria Aguilar vs the United States from the decision of the said Commissioners to ascertain and settle the private land claims in the State of California, in the District Court of the United States for the Southern District of California, would be prosecuted by the United States.

Your petitioner further represents that the said land claimed as aforesaid, is within the Jurisdiction of this Honorable Court.

And your petitioner further represents and insists that the said decree of said Commissioners is erroneous, and ought to be reviewed, reversed and set aside, for many errors and imperfections of law and evidence apparent in said certified transcript of said cause now on Appeal from said Commissioners to this Honorable Court.

And your petitioner further represents that the said claim is invalid, and said decree erroneous, on the following grounds.

1. That the said Jose Maria Aguilar shows no valid title to the said land claimed by him as aforesaid; and it is denied that he has any.

2. That the said land claimed as aforesaid is within

2 That the said land claimed as aforesaid, is within ten leagues of the sea Coast; and was not therefore subject to Colonization or grant, by the said Governor of California, without the previous authority of the Supreme General Executive power.

3 That at the date of said alleged grant, the said land belonged to the Pueblo of Los Angeles, and was within the limits of the Common lands of said Pueblo, and could not be lawfully alienated by Governor Micheltorena in the manner and form as alleged.

4. That the said alleged grant has not the conditions required by, and is not made in entire conformity with the law of the 18th of August AD 1824, and the regulations of the 21st of November AD 1828.

5. That the description of the said land in said alleged grant of Governor Micheltorena is vague indefinite and uncertain.

6. That there is no evidence that the said grant was approved by the Territorial Deputation or Departmental Asembly; and it is denied that it was so approved; and that the said grant is not upon the legal sealed paper.

7. That no definitive title to said Jose Maria Aguilar is shown by him; and it is denied there ever was one.

8. That the alleged Judicial possession could not lawfully have been given, until after the issuance of a definitive grant.

And no proof having been made by said claimant of the allegations of his said petition, or in support of his said claim filed as aforesaid, no decree ought to have been made or grounded thereon, but the said petition, ought to have been dismissed and said claim rejected by said Commissioners upon the grounds aforesaid.

Wherefore the said Pacificus Ord Attorney of the United States for the Southern District of California, for and in behalf of the United States, by reason of the premises, and the laws and Statutes in such case made and provided, prays that the said Jose Maria Aguilar, or his Attorney, may be served with a copy of this petition, and that this Honorable Court will review the said decision or final decree of confirmation of said Commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of said Jose Maria Aguilar, for said land claimed and confirmed as aforesaid, and that the same may be decreed invalid, And all such other orders, Judgments or decrees as may be just, With Costs, and general relief.

P. Ord

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

23.

No. 23.

José Maria Aguilar
Ads.
The United States

Petition of Atty of Ms for
Review &c.

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Filed Dec 21. 1854.
J. E. Carr,
Clk.

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

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

Jose Maria Aguilar

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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 twenty first day of December in the year of our Lord one thousand eight hundred and fifty-four at the City and County of Los Angeles, in said District, by Pacificus Ord, attorney of the United States for the Southern District of California, in behalf of the United States, praying the said Court to review, upon the grounds therein set forth, the decision of final confirmation of the Commissioners to ascertain and settle the private land claims in the State of California, of the claim of José Maria Aguilar, for a tract of land called Cañada de los Nogales, in the County of Los Angeles, California, to the extent of one half of a league, which said claim was presented by your petition to said Commissioners on or about the 25th day of September, A.D. 1852, and by them confirmed on or about the 11th day of April A.D. 1853.

and that you, ~~and each of you,~~ are required to appear at said Court, in said City, within ten days after the service hereof, if served on you within the County of Los Angeles, and within twenty days if served on you in the County of San Diego or San Bernardino, and within forty days if served on you in any other County of said State, exclusive of the day of service, and answer said petition, or that ~~judgment by default will be taken against you, and each of you, and the prayer of the said petitioner will be granted, with costs.~~ the 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 twelfth day of February in the year of our Lord one thousand eight hundred and fifty-five at Los Angeles aforesaid.

C. E. Carr
Clerk.

Marshals cost—
Copying summons $1,20
Serving summons 4,00
Serving petition (copy of) 4,00
5,20

No. 26

Rec'd Feb 15th 1855

United States of America,

Southern District of California,

U. S. District Court.

Jose Maria Aguilar

vs.

The United States.

T.O.

SUMMONS.

Received Feby 14th 1855

Edward Hunter
U.S. Marshal

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I served this summons along with the proper copy of the petition upon Jose Maria Aguilar the defendant by leaving with him personally a copy of the same — duly certified

at Los Angeles in the Southern District of California on the fifteenth day of February A. D. 185 five

Sworn to and subscribed before me, this 15th day Feby 1855. J. E. Carr Clerk.

Edward Hunter
United States Marshal for the Southern District of California

Mc Maria Aguilar
vs.
The United States.

No. 360.

It is stipulated by & between P. Ord Atty of the U States for the Southern District of California, and Lewis Granger, Atty for Plaintiff & Defendant in the above entitled Cause, that the said defendant may have the time extended within which to file his answer, until the first day of March next 1855.

P. Ord Atty for
the U States.

L Granger
Atty for Plff

No 23.

Jose Ma. Aguilar
Ads
The United States

Stipulation

Filed February 17th 1885.

J. E. Carr
Clk.

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

José Maria Aguilar
ads
The United States.

No. 360.

The Respondent, José Maria Aguilar, by Norton & Granger his attorneys, for answer to the Petition of the United States District Attorney for review &c, filed in this cause in the aforesaid Court, states: That the objections therein set forth against the decree of confirmation to this Respondent of the lands of the rancho of "La Cañada de Los Nogales", by the "United States Land Commissioners for ascertaining and settling private land claims in California, as the same appears in the Transcript filed in this cause, ought not to be in any manner regarded by this Court, nor should the prayer of said Petition be allowed. For the Respondent denies both generally and specifically all the allegations contained in the said Petition, and states:

1. That Respondent shows a valid title to the said land which has been so confirmed to him.

2. That he denies that said land is within Ten leagues of the sea-coast; or if it were, that such locality operates against the validity of the said grant of the said land to him.

3. That he also denies that at the date of the said grant the said land belonged to the Pueblo of Los Angeles, or was within the limits of the Common lands of said Pueblo; or that for such reason, or for any other reason appearing in said Petition, the said Governor Micheltorena could not alienate said land in manner & form alleged.

4. That the said grant has all the conditions

required by, and is in strict conformity with, the laws usages and customs of the Mexican republic, and particularly the laws & regulations referred to in said Petition.

5. That the description of said land in said grant of Governor Micheltorena is sufficiently clear, definite, and certain.

6. That if there is no evidence that the said grant was approved by the Territorial Deputation or Departmental Assembly, there is no evidence that said grant was by them disapproved; and Respondent denies that it was so disapproved; but says there is sufficient evidence of its approval by them; and he further states that said grant is written upon proper paper.

7. That Respondent does show such definitive title as is required by law and equity.

8. That Respondent avers that judicial possession could have been given lawfully before the issuance of said definitive grant; and states that he was put in judicial possession of said land according to the laws, usages, and customs of the country.

And the said Respondent having already made sufficient proof before said Commission of the allegations contained in his petition to them for confirmation of his said claim, is now ready to offer such further proof as may be thought necessary, and he prays for judgment, that the said decree of said Commission in his behalf be affirmed, that this appeal be dismissed, and the prayer of the said Petition be disallowed, & that this Respondent be hence dismissed with his costs, and he prays for such other and further relief as may be agreable to equity & good conscience, & the nature of the case may allow.

Norton & Sanger

Attys for Jose Maria Aguilar.

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I served this answer on Dist Attorney of the United States, by leaving with him personally a certified copy of the same at his office in the Southern District of California on March 19th 1855

Edward Hunter
U S Marshal

Marshals Cost
$3,00

Sworn to & subscribed before me this 19th day March 1855.
C. E. Law.

No. 23.

Rosa Maria Aguilar,
ads
The United States.

Answer of Respondent.

Filed Feby 28th 1855.
C. E. Law,
Clk.

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U S District Court
Josi Maria Aguilar
Appellee
ads
The United States
Appellant

No 23.

And now at this day comes the said Appellee by Myron Norton his atty and suggests to the court that no derangement of title is set forth in the answer of Appellee, and moves the court that the said Appellee be permitted to file an amended answer in this case, within ten days, and that a copy thereof be served on the Dist Atty of the United States, ~~when the Dist atty had to days to file an answer to the same~~.

Myron Norton
atty for Appellee.

No 23.

Jose Maria Aguilar.
Appellee.

vs

The United States.
Appellants

Application for further time to answer.

Filed April 9th 1835.
C. E. Lam
Clk.

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

José Maria Aguilar Appellee vs The United States Appellant	No. 360.

The amended answer of the said José Maria Aguilar appellee, by Norton & Granger his attorneys, to the petition of review in this case, by Pacificus Ord, District Attorney of the United States for the Southern District of California in behalf of the United States (by leave of the Court first had and obtained) respectfully shows:

That heretofore, towit, on or about the 25th day of September AD 1852 the said appellee, José Maria Aguilar presented his petition to the Board of Commissioners to ascertain and settle the private land claims in the State of California, claiming the tract of land or Rancho, situate in the present county of Los Angeles, known by the name of "Cañada de los Nogales", containing one half league of land, bounded by the River, by the Rancho of Mesro Verdugos, by the ridge of hills and by the spring of the Arrastradero Road, reference being had for a more particular description of said land, to the

original papers and map, copies of which said papers and map are now contained in the transcript on file in this case and made a part of this answer.

And the said appellee further shows, that, the said tract of land was granted to the said José Maria Aguilar in full property, on or about the 30th day of August A D 1844 by Manuel Michieltorna then Governor of California, in the name of the Mexican Nation, by virtue of authority in him vested, and by virtue of the colonization laws of August 18. 1824, the regulations of Nov. 21. 1828, the various laws of Mexico in force at that time, and the usages and customs affecting grants of land in California.

And the said appellee further shows, that, on or about the 20th day of September A D 1844 the said appellee was put in juridical possession of said tract of land by Manuel Requena First Alcalde and Judge of First Instance of the district of Los Angeles, having full power and authority and jurisdiction to give such possession, as appears by the said Act of Possession, a copy of which is contained in the transcript on file in this case in this court, and made a part of this answer.

And the said appellee further shows, that

a part of this answer —

And the said appellee further shows, that he has complied with all the conditions of the said grant, and conformed to all the requirements of the laws in relation to grants of lands in California — and that he has resided upon the said land with his family from the time said judicial possession was so given him as aforesaid, up to and until the present time, and has cultivated a portion of the same, and occupied and possessed the same with his cattle and horses —

And the said appellee further shows that, on or about the 11th day of April A D 1853, the said Board of Commissioners by final decree confirmed the said grant of the said tract of land to the said Jose Maria Aguilar, and decreed the same to be good and valid —

And the said appellee further answering denies all and singular the allegations and objections of the said district attorney as to the validity of the said grant, and submits and insists that the same is good and valid as well at law as in equity, and that the said decree of the said commissioners ought to be affirmed by this court, and the said petition of the said district attorney dismissed with costs, and the said appellee be decreed to be the owner in fee property of the said tract of land, described as aforesaid —

And the said appellee would ask for such other or further relief in the premises as shall be agreeable to equity and good conscience, and the nature of his case may require.

Norton & Granger
attys for appellee

No. 23.
U.S. District Court
Southern District of
California

Jose Maria Aguilar
Appellee
vs
The United States
Appellants

Appellee's Answer

Norton & Granger
attys for appellee

Filed April 19th 1855.
J. E. Carr
Clerk.

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Return to a Substituted Bond
Mar. 19. May 1853 L. E. Lewis
Clerk

Estimate of Transcript
$ 20

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José Maria Aguilar
Appellee
ads
The United States
Appellant

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

Issue joined April 19. 1855.

And now at this day comes the said Appellee by Myron Norton his attorney, and moves the Court that an order be entered in this case, to take further testimony therein, to be used on the final hearing of this case, under the rules and practice of this Court.

Myron Norton
Atty for appellee

No. 23

U. S. District Court
Southern District
of California

José Maria Aguilar
(No 23.) vs
The United States

Motion to take
testimony —

Myron Norton
Atty for Appellee

Filed June 15th 1855.
J. E. Carr
Clk.

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

Josi Maria Aguilar Appellee	No 23.
vs	"Cañada de los Arogates"
The United States Appellant	

To Jose Maria Aguilar or his attorneys.

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

Los Angeles October 11. 1855

P. M.
U.S. Dist Atty.

No 23.

Jose Maria Aguilar
ads
The United States

Notice of hearing
by U States

Filed Oct 11th 1855.
J. E. Carr
Clk.

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P. O'C. Asatty.

José Maria Aguilar
Appellee
vs
The United States
Appellant

Case No 23.
Transcript No 360.
"Canada de los Nogales"
Index of Transcript

Pages 5 & 6. Petition of claimant to Land Commission

" 6 & 7. Deposition of Manuel Requena.

" 7 & 8. Deposition of Juan Martinez.

" 8 & 9. Deposition of José Maria Ibarra.

" 11 to 18. Expediente containing the report of the Ayuntamiento of the Pueblo of Los Angeles, the concession of the Gov Micheltorena, and the map, and the certificate of the Surveyor General.

20 to 25. Translation of the foregoing Expediente to with the exception of the Grant or concession –

26 to 32. Original act of possession in Spanish containing the Original Grant –

33 to 38. Translation of act of possession & Original Grant –

38 & 39. Opinion of Commissioners & decree of confirmation –

No 23.

U. S. Dist Court

José M Aguilar
Appellee

vs

The United States
Appellants

Index of Transcript

Filed Sept 10th 1857.
J. E. Carr
Clk

Norton & Granger

Examination of Jose Antonio Canillo who being duly sworn, on his oath testifies in answer to questions put by the United States Dist. Atty. on the part of the United States, said examination being conducted in open Court.

Ques 1. What is your name & age.

Ans. My name is Jose Antonio Canillo & I am fifty-nine years old.

Ques 2. How long have you resided in California, & where were you born.

Ans. I have resided in California all my life, having been born in San Francisco, with the exception of occasional visits to Mexico.

Ques 3. How long have you resided in Los Angeles.

Ans. About Thirty five years.

Ques 4th Do you know the boundaries of the Pueblo of Los Angeles, previous to the 27th of September 1838, (objected to by Counsel for Complainant)

Ans. The Boundaries up to the year 1834. I can give some account of or approximating thereto. The boundaries commencing by the River Los Angeles, and running down to a large Alise the boundary of the Rancho of Dominguez called San Pedro, and from thence

and from thence in a direct line to the Salinas or Ocean in a westerly direction, running thence by the Sea to the Rancho of San Vicente or Sepulbedas, and from thence running Easterly by the Mountains to Cahuenga, and from thence to the Head of the Zanja of the Pueblo, the place of beginning.

Ques. 5th. Do you know how long those limits first described by you were known & recognized by the authorities of the City and by the people ~~of~~ of Los Angeles, as the limits of the City of Los Angeles.

Ans. I do not know how long they have been recognized by said City and people, but such were the limits acknowledged by the authorities of the City and the people when I first came here in 1820

Ques 6th. Do you know about what time the Pueblo of Los Angeles was first founded.

Ans. In the year 1781. I know that was the date from the Archives of the Pueblo.

Ques 7th. Do you know the number of the population of Los Angeles in 1820.

Ans. I do not know.

Ques 8th. Were the limits & bounds of the Pueblo Lands, as claimed by the Pueblo and

recognized by the people of the same about the 27th of Sept, 1838. as they were in 1834.

ans. I do not know, I know nothing about the boundaries since 1838.

Cross Examination by L L Brent for Claimant.

ques 1. How many leagues of land are in the limits you have just described.

ans. I do not know.

ques 2. Do you think there are more than thirty.

ans. I do not know.

I Charles E Carr, Clk of the District Court of the United States for the Southern District of California hereby certify the above and foregoing to be a true & correct Copy of the testimony of Jose Antonio Carrillo, taken in Open Court on the trial of the Case of the United States appltt vs Antonio Maria Lugo, appee, on the 13th of Sept 1855.

In witness whereof I have hereunto set my hand and affixed the Seal of said Court, this 9th day of Jany A.D. 1856.

C. E. Carr
Clk.

January 11th 1856.
It is stipulated by and between the parties

Appellant and Appellee, in the case No. 23. Jose Maria Aguillar, Appellee, vs The United States Appellant, that the foregoing copy of a deposition of Jose Antonio Carrillo, taken in case No. 9. on the Docket of the District Court United States for the Southern District of Cal.a wherein Antonio Maria Lugo is Appellee and the United States, Appellant, may be ~~used~~ admitted in evidence for said United States in ~~in~~ ~~said~~ said case of Jose Maria Aguillar vs the United States; and have the same force and effect in proving the ~~boundaries~~ existence and boundaries of the Pueblo of Los Angeles, as if the same had been taken originally in said case No. 23.

P. Phillips US Atty. Benjamin Hall Jr. Asst. Atty.
& Erwin Granger

No. 23.
J. M. Aguillar
Appellee
vs.
The United States, Appl.e

Stipulation of Antonio Carrillo
for Appellant.

Filed day of 1856
J. Lyons
Clk

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Manuel Micheltorena. Brigadier General of the Mexican Army Adjutant General of the staff of the same Governor General and Commandant Inspector of the Department of the Californias

Whereas Don Jose Maria Aguila a Mexican by birth has asked for his personal benefit and that of his family the tract of land called Cañada de los Nogales, bounded by the River, Rancho of Mesa Verdugos, Ridge of Hills, and by the spring near the anastradero Road, the necessary proceedings and investigations having been complied with according to the provisions of the laws and regulations, exercising the faculties conferred upon me, in the name of the Mexican Nation I have granted unto him the said tract, subject to the approbation of the most Excellent Departmental Assembly, and the following conditions

1st He shall neither have power to sell or alienate the same, or burthen it with rent charge, entail or any other incumbrance whatsoever or give or mortgage it, and it shall be subject to the commons of the city of Los Angeles, when measured

2d He may fence it without prejudicing the crossings, roads, and rights of way. He may enjoy it freely, making such use or culture of it as may best suit him, but within one year he shall build a house upon it which shall be inhabited

3.° The tract hereby granted consists of half a square league, as explained by the map relating thereto. The magistrate who may give him possession thereof, shall cause it to be measured according to Ordinance, the surplus remaining the property of the nation for its proper uses.

4 He shall request the magistrate having proper jurisdiction to give him juridical possession by virtue of this grant. said magistrate marking out the boundaries at the limits of which there shall be placed (besides the suitable land marks) some fruit trees.

If he fails to comply with the above conditions he shall lose his right to the said tract of land and it may be denounced by another.

Whereon I order that these presents being held as firm and valid be entered in the proper book and delivered to the interested party for his security & other ends.

Monterey Aug 30th 1844.

No. 23.

U. S. District Court
Southern Dist of California

José Maria Aguilar
Appellee
vs
The United States
Appellee

Translation of Concession

Filed Jany 18th 1856.
J. E. Carr
Clk

Norton & Granger

Jose Maria Aguilar,
Appellee
vs.
The United States,
Appl.
No 23.

Testimony of Jose Antonio Carrillo taken in open Court, on the part of the United States, this 10th day of July A.D. 1856. Wm. G. Dryden was sworn as Interpreter.

Jose Antonio Carrillo being duly sworn, to questions propounded by Counsel for Appellant and Appellee, answers as follows to wit

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

Ans. My name is Jose Antonio Carrillo, my age about 60 years, my residence Los Angeles

Ques. Do you know the Rancho or Place called Cañada de los Nogales, claimed in this case by Jose Maria Aguilar, & if yes, state its locality and distance from the plaza of the Pueblo of Los Angeles.

Ans. Yes, I know it. It is situated

within the limits of the Verdugo Ranch, It is about a league or league & a half from the Plaza of Los Angeles in a North Easterly direction, I think from the Plaza — It is on the North West side of the River.

Ques. Do you or not know whether the said Tract of land or Rancho is within the ancient boundaries of the Common lands of the Pueblo of Los Angeles, as described by you in your deposition taken in case No 9. in this Court wherein Maria Antonio Lugo was appellee & the United States appellant. (Objected to by the Counsel for appellee, and the objection overruled)

Ans. I think it is not. I am certain it is not.

Ques. Do or not the River of Los Angeles above the Toma or water dam out of the ancient boundaries of the Common Lands of the Pueblo of Los Angeles.

Ans. The present water dam is a little above where it used to be, The land above the Dam on the right belongs

to the Verdugos, on the left Los Leones Hills, below the water dam the Common lands of the Pueblo, where I saw the House of Aguilar was the land of the Verdugos.

Ques. Do you know the northern boundary of the Pueblo of Los Angeles

Ans. Yes. It is the mountain from Cahuenga to the Dam.

Cross examined.

Ques. What mountain do you refer to.

Ans. I mean that mountain which begins at San Vicente and comes around in the shape of the letter "C" until it reaches the Toma, and which is intercepted by a gap at Cahuenga.

Ques. Is the Cañada de los Rosales within or without that northern boundary line.

Ans. It is on the North side of the Northern boundary which I have just described

~~Examined by the U. S. Atty.~~

Jose Ant.º Carrillo

Sworn to & subscribed
this 10th day of Jany 1856.
Before me J. E. Carr
CCK

No 33.

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

J. M. Aguilar.
appellee.
ads.
The United States.
Appellant.

Deposition of Jose Antonio Carrillo, a witness for appelt.

Filed Jany 10th 1856.
C. E. Carr,
Clk

IN THE DISTRICT COURT OF THE UNITED STATES,

FOR THE SOUTHERN DISTRICT OF CALIFORNIA,

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

José Maria Aguillar

..... APPELLEE,

VS.

UNITED STATES,
APPELLANT.

No. 23.

(No. 360. of Transcript.)

On Appeal from the United States Land Commission.

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

ORDERED by the Court, that an appeal be granted the United States, to the Supreme Court of the United States, from the judgment of this Court against the said United States in the above entitled cause, rendered on or about the 21st day of January A. D. 1856.

P. Ord
Dist Atty.

No. 23.

U. S. Dist Court
South Dist of California

Jose Y. Aguilar
appellee
vs
The United States
appellants

Notice of appeal J. C.

Filed Mch 4th 1856
C. E. Carr clk
by O. Morgan Depty

United States District Court
Southern District of California

Juan Maria Aguilar
appellee

vs

The United States
appellant

No 23.

This Cause coming on to be heard on an appeal from the decision of the Commissioners to ascertain and settle the private land Claims in the state of California under an act of Congress approved March 3d 1851. Upon the Transcript of the Proceedings and decision. and the papers and evidence on which said decision was founded And it appearing that the said Transcript has been duly filed according to law and Counsel for the respective parties having been heard. It is ordered, adjudged and decreed that the said decision of the Commissioners be and the same is hereby affirmed and it is further adjudged and decreed that the Claim of the above mentioned appellee is good and valid and the same is hereby Confirmed to the extent of one half of one square league of land and no more, within the boundaries described in the grant. and the map Contained in the Expediente. which more fully appear in the act of judicial possession. as follows; Commencing at a willow on the bank of the River; thence Northerly two thousand five hundred varas to a point in the plain where a land mark was placed; thence Easterly two thousand five hundred varas to a point at the hills where a land mark was ordered to be placed: thence Southerly two thousand five hundred varas to the peak of a hill where a land mark was placed; thence Westerly two thousand five hundred varas to the point of beginning.

Isaac S K Ogden
U S Dist Judge

No. 23.

U. S. Dist Court
South Dist of California

Joe Mc Aguilar
appellee

ads

The United States
appellants

Decree

Recd 25th Jan 1859 pge 63

Filed March 13 1856

C. E. Carr
Clk

by O. Morgan
Depty

California Land Claims
Attorney General's Office
29 Sept. 1856.

Sir.

In the case of the claim of José Maria Aguilar, confirmed to the claimant by the Commissioners, case no. three hundred and sixty (360), and also confirmed on appeal by the District Court, appeal in the Supreme Court will not be prosecuted by the United States.

I am
Respectfully
Cushing

Pacificus Ord Esq
U.S. Atty
Los Angeles.

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Maria Aguilar

360

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Nov 4 1837

Hon. S. H. Ogden Judge

December Term 1856

In the Dist Court of the United States within and for the Southern District of California

The United States
Appellant
vs
Jose Maria Aguilar
Appellee

No 25

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

F. Ord
Dist Atty.

Myron Winston
atty for appellee

U S Dist Court
South Dist Cal

No. 23.

The United States
appellant
vs
Jose Maria Aguilar
appellee

Filed July 23, 1857

Stipulation
to vacate order of
appe to Supreme Court

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

The United States
Appellant
vs
Jose Marin Aguilar

No. 23

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

Isaac S. K. Ogier
U S Dist Judge

No 23

The United States, appellants
vs
Jose Maria Aguilar, appellee.

The claim in this case is founded on a grant from Governor Micheltorena to the French claimant, bearing date 30th August 1844. Judicial possession of the premises was given by the proper officer. The conditions of the grant were substantially complied with. The grant is for half a league within the boundaries called for, this quantity was measured off by the officer who gave the possession. The claimant is therefore entitled to a confirmation of his claim according to the grant map and act of judicial possession, and a decree will be entered accordingly.

United States
vs
Joe McAguiar

Opinion

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