CASE NO.

34

SOUTHERN DISTRICT

SAN LUCAS GRANT

JAMES MCKINLEY

CLAIMANT

LAND CASE 34 SD PAGES 54

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 530

James McKinley CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"San Lucas."

/

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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 eighth day of Jany, *Anno Domini One Thousand Eight Hundred and Fifty=*three, *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 James McKinley *for the Place named* "San Lucas"

was presented, and ordered to be filed and docketed with No. 530 *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 January 29th 1853.

In case No. 530 James McKinley for the place named "San Lucas" the deposition of Francisco Arce, a witness in behalf of the claimant, taken before Commissioner Helena Hale was filed:

(Vide page 5 of this Transcript)

In the same case the deposition of Wm. E. P. Hartnell, a witness in behalf of the claimant taken before Commissioner Henry I. Thornton with documents marked B & E, annexed thereto was filed:

(Vide page 4 of this Transcript)

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San Francisco Aug. 22d 1853.

In the same case the deposition of William S. Johnson, a witness in behalf of the claimant taken before Commissioner Alpheus Felch, was filed!

(Vide page 5 of the Transcript)

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San Francisco Sept. 15th 1853

Case No. 530 called; submitted on briefs on both sides and taken under advisement by the Board.

San Francisco Decemr 13 1853.

In the same case Commissioner Thompson Campbell delivered the opinion of the Board rejecting the claim!

(Vide page 25 of the Transcript)

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

Petition.

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Your petitioner James McKinlay a resident of the City & County of Monterey in the State of California would respectfully make known to your honorable board that he claims a certain tract of land situate in the aforesaid County of Monterey & State of California, & known by the name of the Ranchos of San Lucas, & consisting of about two square leagues or ochos de ganado mayor, & that he claims the same in fee by virtue of a grant made unto Raphael Estrada under the authority of the Mexican Government by John B. Alvarado, Constitutional Governor of the Californias, bearing date the ninth of May A. D. (1842) eighteen hundred & forty two, being bounded by the Rancho of Mariano Soberanes, by San Benito Rancho, by the Sierra of San Antonio & by the low hills which divide the Rancho of San Lorenzo; which said grantee Raphael Estrada did transfer in due form by a deed bearing date the fourteenth of December 1850 unto your petitioner all his right, title & interest in & to said land & appurtenances. And your petitioner herewith presents to your Hon'l Board true & accurate copies of the original grant & transfer (originals in the possession of your petitioner) together with an accurate translation into English of original grant which translation is marked D. The copy of original grant is marked B. & the copy of transfer in English is marked C. And your petitioner would further represent to your honorable board that said land has occupied & stocked with cattle that a house & corrals have been built thereon in compliance with what is prescribed in the title and that should your honorable board so desire further proof of title may be made. And your petitioner prays your honorable board to take into consideration this his claim to the aforesaid land, decree his title to be valid & confirm unto him the same and your petitioner as in duty bound will

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ever pray —

Jas McKinlay.

Monterey Oct 10th 1852.

Filed in Office Jany 28' 1853.

Geo: Fisher. Secy.

Deposition of Wm E. P. Hartnell.

San Francisco Jany 29' 1853.

On this day before Comr Harry S. Thornton came Wm E. P. Hartnell a witness in behalf of the claimant James McKinlay - petition No 5-30 - & was duly sworn his evidence being given English.

Deposition of W. E. P. Hartnell in claim No 5-30.

Witness states his age is 55 years, his place of residence at Monterey - that he is acquainted with the signatures of Gov Juan B. Alvarado, Manuel Jorino. Estrada, & José Maria Castañares - & that their signatures written in & upon the document now here shown him & marked B. & filed with the petition of James McKinlay in claim No 5-30. in the Office of the Secretary of this Board are their true & genuine signatures -.

W. E. P. Hartnell.

W. S. Law Agent present.

Sworn to & subscribed before me this 29th of Jany 1853.

Harry S. Thornton. Comr &c

Filed in Office Jany 29' 1853.

Geo: Fisher. Secy.

San Francisco, Jany 29/1853.

On this day before Comr Hiland Hall, came Francisco Arce a witness produced in behalf of the claimant James McKinlay, petition No 530 & was duly sworn, his evidence being interpreted by the Secretary. The U. S. Associate Law Agent was present.

Deposition of Francisco Arce in claim No 530.

Deposition of Francisco Arce.

Witness states that his age is years, his residence at Santa Clara, that he knows the grant of land made to Rafael Estrada by the Mexican Government, called San Lucas, & situated in the County of Monterey that he knows that said Estrada had a house on it, & was occupying it in the years 1842 & 43. & that James McKinlay the present claimant of said land, is in the possession of the same.

Sworn & acknowledged
R. Frenkow

Francisco Arce.

U. S. Law Agent.

Sworn & Subscribed
Before me

Hiland Hall. Comr

Filed in Office Jany 29/1853.
Geo: Fisher. Secy.

Deposition of Wm S. Johnson.

Office of the Commissioners of
Land Claims in California.
San Francisco.

This day before Commissioner Alpheus Felch, came William S. Johnson a witness in behalf of claimant James McKinlay case No 530 & after being duly sworn deposed as follows.

Questions by Mr McKee Attorney for the claimant.

1 Question. What are your name, age & place of residence.

Answer. My name is William S. Johnson, my age about thirty years — & I reside at San Francisco in the State of California.

2. Look on the paper now here presented to you marked C. purporting to be a transfer of certain property known as the Rancho de San Lucas by Rafael Estrada & his wife to James McKinlay dated December 14th A.D. 1850 with a certificate of the acknowledgment of the same taken before William S. Johnson, Recorder of Monterey County, which paper is filed in this case, & say whether it be the same which on that day was executed & acknowledged before you as County Recorder of said Monterey County.

Answer. I have looked on the paper. It is the same which was then executed & acknowledged.

3. Question. Are the signatures thereto the genuine signatures of Rafael Estrada & Concepcion his wife.

Answer. They are —

(Mr Howard, Law Agent was present & objections to the competency of this testimony, & the same was taken subject to his objections. He declined propounding any interrogatories to the witness.)

Subscribed & sworn W. S. Johnson.
before me at San Francisco
this 22 day of August A.D.
1853.

Alpheus Felch.
Commissioner.

Filed in Office Aug 22 1853.
Geo: Fisher.
Secy.

Espediente promovido por el Ciudadano
Rafael Estrada en pretencion del
terreno llamado
San Lucas

387

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2

Sello Tercero dos Reales
Habilitado provicionalmente por la Aduana marítima del puerto de Monterey en el Departamento de las California, para los años de mil ocho cientos cuarenta y mil ocho cientos cuarenta y uno.
Ximeno — Antonio María Osio

Adª marit.ª de Monty

E

Espediente

Monty 1n.º 23/842

Informe el Admor del Establec.to de San Ant.º todo lo q.e crea combeniente, respecto al punto q.e pretende el Solicitante
Estrada

Sor Prefecto del 1.er Distrito

El Ciudadano Rafael Estrada ante V.S. por el ocurso que halla lugar y en toda forma me presento con el devido respeto y digo: Que necesitando un terreno en donde poder dedicarme al interesante ramo de la agricul=tura, para buscar por este medio la subsistencia mia, me pongo al amparo de las leyes de Colonisacion pretendiendo el parage llamado San Lucas del cual devidamente acompaño el diseño correspond.te. Este terreno aunque ha pertenecido a la Mision de S. Antonio á la fha se halla baldio y en estado de adjudicarse. Por tanto

A V.S. Suplico rendidamente se sirba acceder a mi pretencion de lo que recivire gracia y merced. Puro Mgo

Monterey 18 de Sbre de 1844
Rafael Estrada

23º

Juan B. Alvarado, Gobernador Constitucional del Departam.to de las Californias

530 -

Por cuanto D. Rafael Estrada ha pretendido para su beneficio personal el terreno conocido con el nombre de San Lucas colindante con el rancho de D. Mariano Soberanes, con el de San Benito, con la Sierra de San Antonio y las Lomas bajas que dividen el terreno de San Lorenzo: practicadas previam.te las diligencias y averiguaciones consecuientes segun lo dispuesto por leyes y reglamentos, usando de las facultades que me son conferidas a nombre de la Nacion Mejicana, he venido en concederle el terreno mencionado, declarandole la propiedad de el por las presentes letras sugetandose a la aprovacion de la Excma Junta Departamental y a las condiciones siguientes.

1.a Podrá cercarlo sin perjudicar las travecias caminos y servidumbres, y sin impedir el cultivo que hagan los indigenas Longino y Antonio y lo disfrutará libre y exclusivamente destinandolo al uso o cultivo que mas le acomode, pero dentro de un año fabricará casa y estará habitada.

2.a Solicitará del Juez respectivo que le de posesion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondrá ámas de las mojoneras algunos arboles frutales o silvestres de alguna utilidad.

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3.a El terreno de que se hace mencion es de dos sitios de ganado mayor segun esplica el diseño que corre en el espediente. El Juez que diere la posesion lo hara medir conforme a ordenanza quedando el sobrante que resulte á la Nacion para los usos convenientes.

4.a Si contraviniere a 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 que corresponde, y se entregue al interesado para su resguardo y demas fines. Dado en Monterey a nueve de Mayo de mil ocho cientos cuarenta y dos.

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Sello 1.o Seis pesos

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Habilitado provisionalmente por la Aduana maritima de Monterrey para los años de 1839 y 1840

Alvarado — Antonio Mª Osio

Valga para el año de 1842

Antonio Mª Osio

Adª marit.ª de Monty

Juan B. Alvarado, Gobernador Constitucional del Departamento de las Californias

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Por cuanto D. Rafael Estrada ha pretendido para su beneficio personal el Parage conocido con el nombre de San Lucas, colindante con el rancho de D. Mariano Sobranes, con el de San Benito, con las Serranias de San Antonio, y con las Lomerias bajas que dividen el sitio de San Lorenzo; practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos, usando de las facultades que me son conferidas a nombre de la Nacion Mejicana, he tenido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras, sujetandose á la aprobacion de la Exma Junta Departamental y bajo las condiciones siguientes.

1ª Podra cercarlo sin perjudicar las trabecias, caminos y servidumbres: lo disfrutara libre y esclusiva= 7 =mente destinandolo al uso o cultivo que mas le acomode pero dentro de un año fabricará casa y estará habitada.

2ª El Juez que diere la posecion lo hará medir conforme a ordenanza quedando el sobrante que resulte a la Nacion para los usos conve= =nientes.

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Office of Surveyor General of the United States for California

I John C. Hays, Surveyor General of the United States for the State of California, and as such, now having in my charge and in my

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custody a portion of the archives of the former Spanish and Mexican Territory or Department of Upper California, by virtue of the powers vested in me by law, do hereby certify that the seven preceding and hereunto annexed pages of tracing paper, numbered from one to seven inclusive, exhibit a true and accurate copy of an Expediente or document now on file and forming a part of the said archives in this office.

In testimony whereof I have hereunto signed my name officially and caused my seal of office to be affixed at the City of San Francisco this 18th day of August 1853

John C Hays
Surv Genl Cal

Filed in office Aug. 26. 1853
Geo: Fisher
Sec.

Record of Proceedings instituted by the Citizen Rafael Estrada soliciting the land called San Lucas.

1844

Seal Third, Two Reales.

Provisionally authorized by the Maritime Custom House of the Port of Monterey, in the Department of the California for the years 1840 & 1841.

(Signed) Jimeno. (Sgd) Antonio Maria Osio.

Translation of E. — —

(Seal)

Sir Prefect of the 1st District

I Citizen Rafael Estrada, by reason of all the premises thereto belonging & in conformity to law present myself before your honor with the due respect & say: that needing a tract of land whereupon I can devote myself to the interesting branch of agriculture, by which means I can seek a livelihood, I place myself under the protection of the laws of Colonization in soliciting the place called San Lucas, the corresponding plot of which I duly answer - This land though it has belonged to the Ex-Mission of S. Antonio at this date it is vacant & open to settlement. Wherefore I humbly beseech your honor will please accede to my petition, whereby I will receive grace & favor. I swear etc.

Monterey 18th December 1841

(Signed) Rafael Estrada.

Monterey Jany 28 1842.

Let the Administrator of the establishment of San Antonio report all that he may deem proper in relation to the place the petitioner solicits.

(Signed) Estrada.

Juan B. Alvarado, Constitutional Governor of the Department of the California.

Whereas Don Rafael Estrada has solicited for his personal benefit the land known by the name of San Lucas, bounded by the Ranche of Don Mariano Soberanes, by that of San Benito, by the Sierra range of mountains of San Antonio & the low hills which divide the land from San Lorenzo; the steps and

investigations, in virtue of the power vested in me, in the name of the Mexican Nation, I have determined to concede to him the mentioned land, declaring in him the ownership thereof by these presents, he subjecting himself to the approbation of the Most Excellent Departmental Junta & under the following conditions.

1st He may enclose it without interfering with the crossings, roads & servitudes, & without impeding the cultivation of the Indians themselves & he may enjoy it freely & exclusively, destining it to the use or culture which may best suit him, but within one year he shall build a house, & it shall be inhabited.

2d He shall solicit of the proper Magistrate to give him judicial possession in virtue of this decree, by which Magistrate shall be marked out the boundaries within which he shall place besides the landmarks, fruit trees or forest trees of some utility.

3d The land of which mention is made is of two (sitios de ganado mayor) square leagues as shown by the (diseño) plot annexed to the Expediente. The Magistrate who will give the possession, shall cause it to be measured in conformity to the ordinance, the (Sobrante) surplus which may result, remaining to the Nation for its convenient use.

4th If he contravene these conditions he shall lose his right to the land, & it shall be denounceable by another.

Therefore I order that the title being held as firmly valid, registry be made of it in the corresponding book, & it be delivered to the interested party for his security & other ends.

Given in Monterey 9th of May 1842.

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

Good for the year 1842.
(Seal) Antonio Maria Osio.

Juan B. Alvarado Constitutional Governor of the Department of the Californias.

Whereas Don Rafael Estrada has solicited for his personal benefit the place known by the name of San Lucas, bounded by the Ranche of Dn Mariano Soberanes, by that of San Benito, by the ridge of mountains of San Antonio & by the low hills which divide the place from San Lorenzo; the steps & investigations respecting the same having been previously taken & made as required by the laws & regulations, in virtue of the power vested in me, in the name of the Mexican Nation, I have determined to concede to him the mentioned land, declaring in him the ownership thereof, by these presents, he subjecting himself to the approbation of the Most Excellent Departmental Junta & under the following conditions.

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1st. He may enclose it without interfering with the Passages, roads & servitudes, he shall enjoy it freely & exclusively, devoting it to the use or culture that may best suit him, but within one year he shall build a house & it shall be inhabited.

2d. The Judge who will give the possession shall cause it to be surveyed in conformity to ordenance, (the aforesaid) surplus that may result, remaining to the Nation for its convenient uses.

Filed in Office Aug 26 1853. Geo: Fisher Secy

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Sello 1º Seis pesos
Habilitado provisionalmte por la Aduana marítima de Monterey para los años de 1842 y 1843
Alvarado Antonio Mª Osio

Adª marit.ª de Mont.y

Grant

Juan B. Alvarado Gober=
=nador Constitucional del Depar=
=tamento de las Californias

Por cuanto D. Rafael Estrada ha pre=
=tendido para su beneficio personal el terreno conocido con el nombre de San Lucas, colindante con el rancho de D. Mariano Soberanes, con el de San Benito, con la Sierra de San Antonio y las Lomas bajas que dividen el terreno de San Lorenzo: practicadas previa=
=mente las diligencias y averiguaciones consecuientes segun lo dispuesto por leyes y reglamentos, usando de las facultades que me son conferidas a nombre de la Nacion Mejicana he tenido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras, sugetandose á la aprovacion de la Excma Junta Departamental y a las condiciones siguientes.

1ª Podrá cercarlo sin perjudicar las trabesias, caminos y servidumbres y sin impedir el cultivo que hagan los indigenas Longino y Martin: lo dis=
=frutará libre y esclusivamente destinandolo al uso o cultivo que mas le acomode, pero dentro de un año fabricará casa y estará habitada.

2ª Solicitará del Juez respectivo que le de posecion jurídica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondrá á mas de las mojoneras algunos arboles frutales o silvestres de alguna utilidad.

3ª El terreno de que se hace donacion es de dos sitios de ganado mayor segun explica el diseño que corre en el espediente respectivo. Al hacer que dicte la posecion lo hará medir conforme á ordenanza, quedando el sobrante que resulte á la Nacion para

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los usos convenientes.

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

En consecuencia mando que teniendose por firme y baledero el presente titulo, se tome razon de el en el libro a que corresponde, y se entregue al interesado para su resguardo y demas fines. Dado en Monterey a nueve de Mayo de mil ocho cientos cuarenta y dos

Juan B. Alvarado

Manl. Jimeno

Srio

Queda tomada razon de este despacho en el libro de acientos sobre adjudicacion de terrenos baldios a foja 12.

Jimeno

El Exmo Señor Gobernador ha dispuesto se tome razon de esta concesion en la Prefectura del 1er distrito

Jimeno

Tome razon
Estrada

Queda tomada razon de este superior titulo en la foja 7 buelta del cuaderno respectivo q.e obra en esta Sria de mi cargo

Monterey Julio 28 de 1842

José Maria Castañares Srio int.

Received for Record 14th Decem 1850 at 4 P.M.
Recorded in "Deeds of Grants C" page 41

Wm. S. Johnson
Recorder of Monty County

Filed in office Jany 28. 1853

Geo: Fisher Sec

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Ana.d to the depo: of Wm. L. P. Hartnell taken before Com.r H. S. Thornton Jany 29. 1853

Geo: Fisher
Secy

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D.
Translation.

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Stamp First. Six Dollars.

Provided provisionally by the Maritime Custom House of Monterey for the years eighteen hundred & forty two & forty three.

(Signed) Alvarado. (Signed) Antº. Mª. Osio.

John B. Alvarado, Constitutional Governor of the Department of the California.

In as much as Rafahael Estrada has brought for his own personal benefit the land known by the name of San Lucas, bounded by the Rancho of Mariano Soberanes, by that of San Benito, by the Sierra of San Antonio, & by the low hills which divide the land of San Lorenzo, the necessary steps & information concerning the same having been previously gone through, according to what is laid down in the laws & regulations, making use of the powers conferred upon me, in the name of the Mexican Nation I have granted unto him the before mentioned land, by these presents declare it to be his property, subject to the approbation of the Honorable Departmental Assembly & to the following conditions, viz:

First. He may fence it in, without prejudice to the highways, byways, & servitudes, & without impeding the Indians from cultivating (viz Lorenzo & Martin) he may make free & exclusive enjoyment of it, using it either for cultivation, or in whatever way may best suit him, but within one year he shall build a house on it, & have it inhabited.

Secondly. He shall request the respective Judge to give him jurisdicial possession in virtue of this Despatch, by whom shall be designated the boundaries, at the limits of which shall be placed, besides the land marks some fruit-trees or other trees of some utility.

Thirdly. The land of which donation is made is two sitios of ganado mayor, according to the diagram which is annexed to the Expediente. The Judge who may give possession will have it measured according to ordinance the surplus remaining to remain to the Nation for its own uses.

Fourthly. Should he contravene these conditions he will lose his right to the land & it will be denounceable by another.

Consequently I order that the present title being taken for a firm & valid one, be noted on the respective books and delivered to the interested party for his safety & otherwise. Given at Monterey on the ninth of May W. D. eighteen hundred & forty two.

(Signed) Juan B. Alvarado.

(Signed) Manl Jimeno.
Secretary.

This Dispatch is noted on the Book of Assents from the adjudication of vacant lands at page (12) twelve.
(Signed) Jimeno.

His Excellency the Governor has ordered that this concession be entered on record in the Prefecture of the 1st District
(Signed) Jimeno.

Let a note be made of it — (Signed) Estrada.

Entered on the respective book at page (17) seventeen (Quebra) a note of this superior title.
(Signed) José Mª Castañares
Secretary ad interim —

Monterey 28th July 1842.

Filed in Office Jany 28 1853.
Geo. Fisher. Secy

This Indenture made & entered into at the City of Monterey A.D. one thousand eight hundred & fifty between Rafael Estrada & Concepcion Malarin de Estrada his wife of the first part & James McKinlay of the second part all of Monterey aforesaid. Witnesseth, that the said parties of the first part for & in consideration of the sum of Four thousand & five hundred dollars, good & lawful money to them in hand by the said James McKinlay, at or before the sealing & delivery hereof, the receipt whereof is hereby confessed & acknowledged have & each of them hath granted, bargained, sold, released, quit-claim & transferred & by these presents do & each of them doth grant, bargain, sell, release, quit claim & transfer unto the said James McKinlay, his heirs & assigns forever, all the estate, right, title, interest, dower & right of dower, claim & demand whatsoever of them the said parties hereto of the first part either in law or in equity, in possession or expectancy, of, in & to all that Rancho or tract of land known as the Rancho de San Lucas, situate on the Monterey River in the County of Monterey & State aforesaid & bounded on the North by the Rancho of Don Mariano Soberanes, on the East by the range of mountains known as "Lomas de San Antonio" on the South by the Rancho de San Benito, & on the West by the low hills dividing the said Rancho de San Lucas from San Lorenzo; the same containing according to the original grant thereof "dos sitios de ganado mayor" Together with all houses, out houses, corrales, ways, waters, water courses, rights, privileges, immunities, improvements & appurtenances of any kind or description whatever to the said Rancho belonging or in anywise appertaining. And the rents, issues, & profits thereof or any part thereof. To have & to hold the said Rancho de San Lucas with the appurtenances hereinbefore described, unto the said James McKinlay his heirs & assigns forever, to the only use & absolute use & behoof, of him his heirs & assigns forever. And they the said parties of the first for themselves their heirs, executors and

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Transfer.

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administrators do hereby covenant & agree to & with the said James McKinlay his heirs & assigns, that the said Rancho de San Lucas so before described was lawfully granted to the said Rafael Estrada on the 9th day of May 1842 by Don Juan B. Alvarado the then Governor of the Californias, that they have full right & lawful authority under such grant to sell & transfer the same & that they have not, nor have either of them made, done, committed or suffered any act or deed whatsoever whereby or by means whereof the said Rancho de San Lucas, or any part thereof now or at any time hereafter can or may be impeached charged, or encumbered in any way, form or manner whatever. In testimony whereof the said parties of the first part have hereunto set their hands and affixed their seals, the day & year first aforesaid.

Signed, sealed and delivered in the presence of
(Signed) José Abrego. (Signed) D. Spence.

(Signed) Rafael Estrada
(Signed) Concepcion Malarin.

State of California
County of Monterey } On this 14th day of December A.D. 1853 before me Recorder in & for the County aforesaid personally came Rafael Estrada & Concepcion his wife to me to be the same persons described in & who as grantors thereof, executed the foregoing conveyance & they severally acknowledged that they had executed the same for the uses & purposes therein expressed, and the said Concepcion having had the contents thereof explained to her, was by me examined separate from & out of the hearing of her said husband, when she declared that she had executed the same freely and voluntarily & without being under the fear or undue influence of her husband & did not desire to retract the execution thereof. Given under my hand & official seal the day & year last aforesaid.

(Signed) Wm. S. Johnson
Recorder of Monterey Co

Filed in Office Jany 28 1853. Geo. Fisher. Secy.

Filed in Office June 28 1853 Geo. Parker Secy.

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This Indenture made & entered into at the city of Monterey, A. D. one thousand eight hundred & fifty between Rafael Estrada & Concepcion Malarin de Estrada his wife of the first part & James McKinlay of the second part all of Monterey aforesaid, Witnesseth that the said parties of the first part, for & in consideration of the sum of Four thousand & five hundred dollars, good & lawful money to them in hand paid by the said James McKinlay, at or before the sealing & delivery hereof, the receipt whereof is hereby confessed & acknowledged have & each of them hath granted, bargained, sold, released, quit-claim & transferred & by these presents do & each of them doth grant, bargain, sell, release, quit-claim & transfer unto the said James McKinlay his heirs & assigns forever, all the estate, right, title, interest, dower & right of dower, claim & demand whatsoever of them the said parties of the first part either in law or in equity, in possession or in expectancy of in & to all that Rancho or tract of land known as the Rancho de San Lucas, situate on the Monterey River in the County of Monterey & State aforesaid & bounded on the North by the Rancho of Don Mariano Soberanes on the East by the range of mountains known as Cumas de San Antonio on the South by the Rancho de San Benito, & on the West by the low hills dividing the said Rancho de San Lucas from San Lorenzo, the same containing according to the original grant thereof dos sitios de ganado mayor together with all houses, out houses, corrals, ways, waters, water courses, rights, privileges, immunities improvements & appurtenances of any kind or description whatever to the said Rancho belonging or in anywise appertaining — And the rents, issues & profits thereof or of any part thereof, To have & to hold the said Rancho de San Lucas with the appurtenances hereinbefore described, unto the said James McKinlay his heirs & assigns forever to the only sole & absolute use & behoof of him his heirs & assigns forever, And they the said parties of the first part for themselves their heirs, executors & administrators do hereby covenant & agree to & with the said James McKinlay his heirs & assigns that the said Rancho de San Lucas so before described was lawfully granted to the said Rafael Estrada on the ninth day of May 1842 by Don

Transfer.

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Juan B. Alvarado the then Governor of the California, that they have full right & lawful authority under such grant to sell & transfer the same & that they have not nor have either of them made, done, committed or suffered any act or deed whatsoever whereby or by means whereof the said Rancho de San Lucas, or any part thereof, now or at any time hereafter can or may be impeached, charged or incumbered in any way, form or manner whatever. In testimony whereof the said parties of the first part have hereunto set their hands & affixed their seals, the day & year first aforesaid.

Signed, sealed & delivered in the presence of — Rafael Estrada. Concepcion Malarin.
Jose Abrego. D. Spence.

State of California. County of Monterey. } On this 14th day of December A.D. 1850 before me Recorder in & for the County aforesaid personally came Rafael Estrada & Concepcion his wife to me known to be the same persons described in & who as the Grantors thereof, executed the foregoing conveyance & they severally acknowledged that they executed the same for the uses & purposes therein expressed. And the said Concepcion having had the contents thereof explained to her, was by me examined separate from & out of the hearing of her said husband when she declared she had executed the same freely & voluntarily, & without being under the fear or undue influence of her said husband & did not desire to retract the execution thereof.
Given under my hand & official seal the day & year last aforesaid.

Wm. T. Johnson
Recorder of Monterey Co.

Recorder's Office, Monterey County, Cal.

Dated 14th Decr 1850. Transfer. Don Rafael Estrada & Wife to Mr James McKinlay — Conveyance of Rancho de San Lucas. — Received for Record 14th Dec 1850 at 4 P.M. Recorded in Conveyances A. page 193. Johnson & Co. Conveyances &c. Wm. T. Johnson. Recorder of Monterey Co.
Filed in Office Jany 28 1853. Geo: Fisher. Secy.

James McKinlay vs The United States. } "Rancho San Lucas" 2 Square Leagues.

Opinion by Comr Thompson Campbell.

The claimant in this case represents in his petition that, he claims a certain tract of land situated in the County of Monterey, known by the name of San Lucas, consisting of about two square leagues & that he claims the same by virtue of a grant made by Governor Alvarado to one Rafael Estrada, which grant bears date the 9th day of May A. D. 1842. And the said petitioner further represents that on the 14th day of December A. D. 1850 the said Estrada by his deed duly executed, transferred to him all his right & title in & to said tract of land. In proof of the foregoing allegations the said petitioner has placed on file as evidence, the said original grant, the genuineness of which is satisfactorily proved. He has also placed on file the said deed of conveyance from the original grantee to himself, properly proved & authenticated. The claimant has proved by the deposition of Francisco Arce that Rafael Estrada had a house on the place called San Lucas & that the said Estrada was occupying it in the years 1842 & 1843 & that the present claimant occupied it at the date of said deposition. There is no proof of approval having been made by the departmental Assembly & no proof that any juridical measurement was ever made, during the existence of the Mexican government in this Country. The material question in this case is in regard to the identity & location of the land granted. Estrada the original grantee describes the land solicited by him in his petition, as the place called San Lucas, with the corresponding plot annexed. The grant describes the land as that known by the name of San Lucas, bounded by the Rancho of Mariano Soberanes, by that of S. Cant Benito, by the Sierra of San Antonio & by the low hills which divide the land San Lorenzo. The 3d condition annexed to the grant contains the following description to wit:- The land of which donation is made is two square leagues, according to the map which is annexed to the expediente. The Judge who

may give possession will have it measured according to ordinance, the surplus resulting to remain to the Nation for its own use. It will be observed that the party in this case, asked for the land called San Lucas of which land he presented a corresponding map. No quantity is here specified but the Governor in making the grant specified the quantity as two square leagues & required the party to have the same measured within the presented limits, leaving the surplus over the two leagues to the Nation. This measurement a duty which devolved upon the party, was never made, & no separation of the particular two leagues granted from the other public lands embraced within the same limits was ever effected. The map is referred to in the condition for the purpose of showing the limits within which the two leagues were to be located. — Although the map delineates very clearly the exterior boundaries it afforded no information as to the quantity embraced within those boundaries, neither is there any proof on file in the case in regard to the quantity which said boundaries embrace. The Governor did not see fit to grant all the land within the limits as laid down on the map, but designated the precise quantity, this made a measurement indispensable & without it there was no segregation of the two leagues from the other public lands. Without further inquiry in regard to the performance of conditions we are of opinion that the claim of the petitioner is not valid, & the same is therefore rejected.

Filed in Office Dec 13th 1853.
Geo: Fisher. Secy.

Decree

James McKinlay
vs
The United States.

In this case on hearing the proofs & allegations it is adjudged by the Commission

that the said claim of the petitioner is not valid &

25

that the said claim of the petitioner is not valid & his application for a confirmation thereof is therefor denied.

Alpheus Felch.
Thompson Campbell.
R. Aug. Thompson. } Commissioners.

Filed in Office Decr 13th 1853.
Geo: Fisher Secy.

5070. 502/3 -

34 SD
PAGE 26

34 SD
PAGE 27

Office of the Board of Commissioners,

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

I, George Fisher, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing Twenty five pages, numbered from 1 to 25, 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. 530 on the Docket of the said Board, wherein James McKinley is the Claimant against the United States, for the place known by the name of "San Lucas."

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 Second day of August A. D. 1854, and of the Independence of the United States of America the seventy-ninth.

Geo. Fisher.

34

U. S. DIS ICT COU

Southern District of Ca

No. 34. Docke

THE UNITED STATES,

34 vs.

James. M Kinley appe
For San Lucas
2 Leagues Monterey Co.

TRAN PT OF THE R CORD

FROM THE

BOARD S. LAND COMMISSIONERS,

No. 530

Rec 25. 1854

Filed, 26 1854

A.S. Taylor
Dp. Clk

34

No. 530

34.

United States District Court
Southern Dist. of California

Sir,

You will please take Notice that it is my intention to prosecute an Appeal before the United States District Court for the Southern District of California from the decision of "the United States Board of Land Commissioners to ascertain and settle private Land Claims in the State of California"; in the case No. 530 on the docket of the aforesaid Commissioners; being for the Rancho called San Lucas in the County of Monterey and within the jurisdiction of this Honorable Court: the Transcript of the aforesaid Commissioners proceedings in the above case, being now on file in the Office of the Court at Los Angeles, since on or about the 26 th day of August 1854.

Dated at Monterey the fourteenth day of December A.D. 1854.

James McKinlay

Claimant for said Rancho

To the Clerk of the United States District Court, Southern District of California at Los Angeles.

No 34.

U. S. Dist. Court

South. Dist. of Cal.

Notice of Appeal in No. 530 of S. McKinley in San Lucas in Monterey County.

Rec'd at Monterey Dec 14/54
E. J. Lyons
Dep. Clk.

Filed Dec 19th 1854.
J. E. Carr.
Clk

34 SD
PAGE 29

No.

James McShirley
Appellant
vs.
The United States
Appellee

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

Hon Isaac S. K. Ogier, Judge of said Court.

The said Appellant James McShirley, by attorney moves the said Court that leave be granted to take further testimony in this case, now on appeal from the U.S. Board of Land Commissioners to ascertain & settle private land claims in the State of California; said case being no 530. on the docket of the said Commission, & being for the tract of land known as "San Lucas"

D. T. Gregory
Attorney for Appellant

No 34

Filed April 23d 1855.

J. E. Jan,
Clk.

SD
PAGE 31

No.

James McKinlay
Appellant
vs.
The United States
Appellee

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

Claim for Sow Lands.

34 SD
PAGE 32

The said appellant by his attorney D.S. Gregory, & the said appellee by Atty P. Ord Esq. ~~&~~ District Atty for the Southern District of California & on motion of the said appellant — It is ordered, by the Court, that either party may take such further testimony in the above entitled cause as he may think proper —

No. 34

U. S. Dist. Court
Southern Dist.
California

James McKinlay
appellant
vs
The United States

Motion to take
further testimony

Filed June 13th 1857
J. E. Carr
Clk.

UNITED STATES OF AMERICA, } SS.
Southern District of California,

The President of the United States,

TO

P. N. M. Dist Atty

34 SD
PAGE 34

Greeting:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against you in the District Court of the United States, in and for the Southern District of California, on the 7th, day of January, in the year of our Lord one thousand eight hundred and fifty-six, at the City and County of Los Angeles, in said District, by

James McKinlay praying the Court to review the decision of the Land Commissioners rejecting his claim to a tract of land called San Lucas"

and that 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 the Petitioner will apply to the Court for the relief demanded therein.

In Witness whereof, I have hereunto set my hand, and affixed the Seal of said Court, at the City of Los Angeles, this 7th day of January A. D. 1856.

P. E. Gan
Clerk.

No. 34

UNITED STATES OF AMERICA,

Southern District of California,

U. S. District Court.

Sam R Shelby

vs

Wm H Clark

SUMMONS.

Received January 9th 1856

Edward Hunter

U. S. Marshal.

34 SD

PAGE 35

McGoodman

Deputy

I served this Summons, together with a certified copy of the Petition, upon P. Ord U. S. Atty by delivering to him a true Copy of the same

at Los Angeles in the Southern District of California, on the 8th day of January A. D. 1856.

Sworn to and subscribed before me,

Clerk.

Edward Hunter

U. S. Marshal.

by McGoodman

Deputy.

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

Hon Isaac S. K. Ogier Judge.

James McKinley, appellant
vs.
The United States, Appellee

No. 34.
(Docs. No. 530)

The answer of Pacificus Ord, Attorney of the United States for the Southern District of California, for and in behalf of the United States, to the petition ~~for review~~ of James McKinley, for a review of the decision of the Commissioners to ascertain and settle the private land claims in the State of California, rejecting his claim to the tract of land and Rancho called "San Lucas", in the County of Monterey, says: That he denies all and singular each and every allegation in said petition contained. And further this respondent denies generally the validity of the alleged title of said petitioner to the said land claimed by him.

And the said respondent prays that this Hon.d Court will affirm the decision of the said Commissioners in said cause, and decree the said alleged title to be invalid.

And for general relief

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

I have served this Answer upon B S Gregory Atty for Appellt by delivering to him personaly a true Copy of the same at Los Angeles Jany 10th 1856.

Edward Hunter
U S Marshal
per M L Goodman
Deputy

Answer filed 3.

No 34.
U. S. Dist Court
South Dist of Cal.

James Robinson
appelt.
vs.
The Auditor State
office.

Ans of Atty.

Filed Jany 9th 1856.
J. C. Jones
Clk

34 SD
PAGE 37

James McKinley, Appl.
vs.
The United States, Appee, } No 34.

Deposition of José de Jesus Pico, a witness on the part of Appellants in the above entitled cause, taken before Chas. E. Carr US Commissioner, to be used in evidence in said cause. Present P. M. Wm. U.S. Atty, & D. S. Gregory Counsel for Appl. José de Jesus Pico being duly sworn, answers to questions propounded by Counsel for the Second parties, as follows.

1st Question.

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

Ans. My name is José Jesus Pico. age fifty years and resider in San Luis Obispo County California?

2nd Ques.

State whether or not you know the Rancho called "San Luisa", claimed by James McKinley? If you in what County is it situate, how long have you known it?

Ans. I do know said Tract of Land. It is situate in Monterey County,

2 I have known it from since about the year 1842. or 1843. to the present time. I do not remember the precise time when I first knew it ~~until~~ but it was before Michel-torrena came to this Country, & Rafael Echandia then had the said Ranch.

3rd Ques. Look upon the map now exhibited to you, being on page eighth of the Transcript in this case & say whether or not it is generally a correct representation of said tract of land?

Ans. It is generally correct.

4th Question. What part of said map represents the North.

Ans. The side marked San Lorenzo.

5th What is the San Lorenzo?

It is a ranch. I dont know by whom owned?

6th Question. State whether or not the San Lorenzo Ranch is a well known locality in that vicinity.

Ans. It is a well known locality.

7th. What is the distance from the Rancho San Lorenzo, to the Cerro de San Antonio

It is about four leagues.

8th Ques. What is the distance from the Rancho of San Benito, to the

Rancho of Mariano Soberanes?
Ans. It is scarcely a league.

9th Question –

State whether or not these several places, the Rancho San Benito, the Cerros de San Antonio & the Rancho of Mariano Soberanes are well known and easily found objects.

Ans – I think they are well known for many years; ~~and~~ they have been established for a long time –

10th Ques. What is the distance from the River Monterey on the said Rancho, to the Mountain or Cerros de San Antonio –

Ans. It is about a league, or ~~and~~ a leagues & a half –

11th – State whether or not you know the boundaries of the Rancho San Lucas – If yes, please say what they are –

Objected to by the Dist. Attorney.

12. I believe the is the Rancho of San Benito, towards the West; the Rancho of San Lorenzo, towards the South the Cerros of San Antonio towards the South & the Rancho of Mariano Soberanes towards the East – the north drawn across the north Exposure, the dividing line, I think between the San Lucas, Rancho, & the Rancho San

Benito, owned by Barrow —

13a. What is the general width of the low hills on the side of the San Lucas, towards the San Lorenzo River?

Ans. They are about six leagues wide. The hills commence about a mile from the River.

Cross examined by U.S. Dist Atty.

1 ques. What is your occupation?

Ans. Ranchero.

2 ques. Does any body live on the Rancho of San Lucas now?

Ans. I do not know.

3 ques. What are your means of knowing the boundaries of the San Lucas Rancho?

Ans. ~~Other My means of knowledge~~ Because at the time that ~~Rafael Estrada~~ Mariano Soberanes asked for the land adjacent, I was Administrator of the Mission of San Antonio, & ~~reported to~~ made a report to the Governor in relation to that vacant land. That there was a surplus of land after the grant to Soberanes, between the Soberanes Rancho & the San ~~Benito~~ Benito Rancho. That this vacant land was asked for & afterwards granted. I have seen the original petition of Estrada asking for this land, when it was referred to me for a report thereon, Gov. Alvarado. Afterwards I saw the title for the land by Gov. Alvarado.

Ques. 4. Was any person or persons lived upon or occupied the Rancho of San Lucas, since the year 1846?

Ans. I do not know.

Ques 5. When were you last on the place?

Ans. About two years ago.

Ques 6. Was it or not vacant and unoccupied at that time. (Objected to by Atty for claimant)

Ans. I think it was occupied at that time by the owner, because I saw some indians ~~with~~ living there cultivating small patches.

J. de Jesus Pico

Sworn to & subscribed
this 21st day of January 1856.
Before me.

J. E. Ames
US Comr

No 34.

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

James McKinley
Apl't.

vs

The United States.
Apl'ee.

Deposition of José de Jesus Pico, a witness for Apl't.

Filed Jany 21. 1856.
J. E. Carr
Clk.

James M. Kinkay, appellant } No 34. "San Lucas"

The United States, appellee } United States District Court for the Southern District of California. December Term A.D. 1855.

This cause coming on to be heard at a regular term of the said Court, on an appeal from the final decision of the Commissioners to ascertain and settle private land claims in California under an act of Congress, approved March 3rd A.D. 1851. on the transcript of the proceedings and decision, and of the papers and evidence upon which said decision was made, and also upon further testimony heard in the said Cause, and it appearing that the said transcript has been duly filed, and notice of appeal given according to law, and Counsel for the respective parties having been

heard.

It is therefore ordered adjudged and decreed by the Court that the said decision of the said Commissioner be and the same is hereby reversed, annulled and set aside. And it is further ordered, adjudged and decreed by the Court, that the claim of the said James McKinney for the tract of land called "San Lucas," it being the same described in the grant and map, copies of which are on file in this case, and of which the original grantee and those claiming under him ~~under whom he claims~~ are proven to be possessed is a good and valid claim ~~in law~~ and that the same be, & is hereby confirmed to the extent of two (2.) Square leagues and no more; within the boundaries of ~~which~~ said tract of land ~~confirmed as aforesaid are more particularly shown and~~ described in the said grant and map. Provided the said quantity of two Square leagues is contained within the

said boundaries or exterior limits of the said grant; and if there be lap thereon the said gravelly within the said boundaries, then the claim of the said appellant to the said lap gravelly is hereby confirmed and deemed to be void.

Isaac S K Ogden
U S District Judge

No 34

U. S. Dist. Court
Smth. Dist. of Califor

James M'Kinley
appellant

vs.

The United States
appellees

Decree

Filed Jany 21st 1856
O. Elan Clk
By Dellegan Depty

Recorded in Page 184

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

James McKinlay Appellant vs. The United States. Appellee	Docket No. (Transcript) No. 530.

Hon. I. S. K. Ogier, Judge of the said Court—

The petition of the said James McKinlay a resident of the County of Monterey and State aforesaid respectfully represents to the Court, that heretofore, to wit, on the 28th day of January A.D. 1853. he presented, to the Commissioners to ascertain and settle private land claims in the State of California, when sitting as a Board, a petition claiming a certain tract of land, known as and called Rancho "San Lucas" situate in the said County of Monterey, which said petition is referred to for a full description of the land claimed, a copy of which appears in the transcript hereafter referred to— That heretofore, to wit, on or about the 13th day of December A.D. 1854. the said Board of Commissioners, rejected, by final decision, the claim of your petitioner, and adjudged his title to the said land to be invalid— That heretofore, to wit, on or about the 26th day of August— A.D. 1854 a duly certified transcript of the proceedings and decision of the said Commissioners in said case and the papers and evidence on which the said decision was based, was filed in the office

of the Clerk of the said Court, and marked No 530: reference to which is made, and it is asked by said petitioner that he have leave to refer thereto as often as may be necessary. The said appellant further shews, that on or about the 19th day of December A.D. 1854. he filed with the Clerk of the said Court, a notice that an appeal from the said decision of the said Commissioners to the said United States District Court, by him the said M Kinlay would be prosecuted. And your petitioner further shews, that the said tract of land claimed as aforesaid is within the jurisdiction of this Court — And he further shews and expressly avers, that his title to the said tract of land is a good and valid title; that the said decision of the Board of Commissioners is erroneous, and should be reversed, reversed and set aside for the many errors of law, apparent therein, as appears by said transcript.

Wherefore the said appellant prays that the said decision of the said Board of Land Commissioners may be reversed by this Court, and that the same may be reversed, set aside, vacated and annulled; and that this Hon Court may decree his title to the said tract of land as above described, may be confirmed, and deemed to be a good and valid title, and that he may have such further orders and decrees as may be just and equitable, and that he recover his costs in this behalf expended.

D. S. Gregory
Appellants Attorney.

No. 34.

U.S. Dist Court.
Southern Dist. California

James McKinley
Appellant
vs
The United States
Appellee.

Petition for review

Filed [redacted] Jany 7th 1856

C. E. Pom
Clk

D. S. Gregory, Atty.

IN THE DISTRICT COURT OF THE UNITED STATES,

FOR THE SOUTHERN DISTRICT OF CALIFORNIA,

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

James McKinley

APPELLEE,	No. 34.
VS.	(No. 530 of Transcript.)
UNITED STATES, APPELLANT.	On Appeal from the United States Land Commission.

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

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

P. Ord
Dist Atty.

No. 34.

U. S. Dist Court
South Dist of California

John C. Kirby appellee
ads
The United States
appellants

Notice of Appeal S. C.
Filed Mch 4th 1856
C. E. Carr Clk
By A. C. Magan Depy

California Land Claims
Attorney General's Office
4 October, 1855

Sir:

In the case of the claim of James McWilley case No. five hundred and thirty (530), of Commissioner's docket, confirmed by the District Court, appeal will not be ~~taken~~ prosecuted by the United States.

I am Respectfully
[illegible]

P. Ord Esq
U. S. Attorney

34

James McKinley

530

Filed 24th February 1857

C Swiss Clk

J H Coleman

Dep

34 SD

PAGE 54

Rec'd Nov 4 1856

Duplicate of Transcript Case #34 SD.
Not case or page numbered.

D.D.N.
8/6/41

Transcript
of the
Proceedings

34
20

in Case ..... No 530

James McKinley ..... Claimant

vs.

The United States ..... Defendant

For the place named

"San Lucas"

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 eighth day of January Anno Domini One Thousand Eight hundred and fifty three 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 James McKinley for the place named "San Lucas" was presented and ordered to be filed and docketed with No 530 and is as follows, to wit;

(Vide Page 3 of this Transcript)

Upon which the following subsequent proceedings were had to wit

San Francisco Jan 29th 1853

In Case No 530 James McKinley for the place named "San Lucas" the deposition of Francisco Arce a witness in behalf of the claimant, taken before Commissioner Leland Hall was filed

(Vide page 5 of this Transcript)

In the same case the deposition of Wm E. P. Hartnell a witness in behalf of the claimant taken before Commissioner Harry I. Thornton with Document marked B & C annexed thereto was filed

(Vide page 4 of this Transcript)

San Francisco Aug 22 1853

In the said Case the deposition of William J. Johnson a witness in behalf of the claimant taken before Commissioner Alpheus Felch was filed

(Vide page 5 of this Transcript)

San Francisco Sept 15th 1853

Case No 534 called submitted on briefs on both sides, and taken under advisement by the Board

San Francisco Dec 13th 1853

In the same Case Commissioner Thompson pamphlet delivered the opinion of the Board respecting the claim.

(Vide page 23 of this Transcript)

3.

34 20

To the Hon. U. S. Board of Land Commissioners for the ascertaining & settling of private land claims in the State of California.

Your Petitioner James McKinley a resident of the City & County of Monterey in the State of California would respectfully make known to your Hon. Board that he claims a certain tract of land situate in the aforesaid County of Monterey & State of California & known by the name of the Rancho of San Lucas and consisting of about two square leagues or sitios de ganado mayor & that he claims the same in fee by virtue of a grant made unto Rafael Estrada under the authority of the Mexican Government by John B. Alvarado Constitutional Governor of the Californias bearing date the ninth of May AD (1842) Eighteen hundred and forty two. being bounded by the Rancho of Marianos Soberanes by San Benito Rancho, by the Sierra of San Antonio & by the low hills which divide the Rancho of San Lorenzo, which said grantee Rafael Estrada did transfer in due form by a deed bearing date the fourteenth of December 1850 unto your Petitioner all his right title and interest in and to said land and appurtenances. And your Petitioner herewith presents to your Hon. Board true and accurate copies of the original grant and transfer (originals in the possession of your Petitioner) together with an accurate translation into English of original grant, which translation is marked D. The copy of original grant is marked B. & the copy of Transfer in English is marked C.

And your Petitioner would further represent to your Hon. Board that said land has occupied & stocked with cattle, that a house and Corrals have been built thereon in compliance with what is prescribed in the title, and that should your Hon. Board so desire, further proof of title may be made. And your Petitioner prays your Hon. Board to take into consideration this his claim to the aforesaid land, decree his title to be valid, and confirm unto him the same, and your Petitioner as in duty bound will

4

overpay.

James McKinley

Monterey Cal 10th 1852

Filed in Office Jany 28th 1853

Geo. Fisher

Secy.

San Francisco Jany 29th 1853

Deposition of Wm. E. P. Hartnell

In this day before Commissioner Harry I. Thornton came Wm. E. P. Hartnell a witness in behalf of the claimant James McKinley petition No 530, and was duly sworn his evidence being given English

Deposition of W. E. P. Hartnell in claim No 530.

Witness states his age is 55 years. his place of residence at Monterey, that he is acquainted with the signatures of Gov. Juan B. Alvarado. Manuel Jimeno Estrado & Don Maria Castanares & that these signatures written in and upon the document now here shown him, & marked B and filed with the petition of James McKinley in claim No 530 in the office of the Secretary of this Board are their true and genuine signatures.

W. E. P. Hartnell

U. S. Law Agent present

Sworn to and subscribed before me this 29th of Jany 1853.

Harry I. Thornton Com rc

Filed in Office Jany 29th 1853

Geo Fisher Secy.

San Francisco Jan 29th 1853

Deposition of Francisco Arce

On this day before Com. Leland Stall came Franco. Arce a witness produced in behalf of the claimant James McKinley petition No 530 & was duly sworn. his evidence being interpreted by the Secretary The U. S. Associate Law Agent was present.

Deposition of Francisco Arce in claim No 530

Witness states that his age is years his residence at Santa Clara. that he knows the grant of land made to Rafael Estrada by the Mexican Government, called San Lucas & situated in the County of Monterey that he knows that said Estrada had a house on it & was occupying it in the years 1842 & 43 & that James McKinley the present claimant of said land is in the possession of the same

Service acknowledged

R. Greenhow
U. S. Law agent

Francisco Arce

Sworn & Subscribed
Before me

Leland Stall Com.

Filed in Office Jan 29th 1853
Geo Fisher
Secy.

Deposition of Wm. J. Johnson

Office of the Commissioners of Land claims in California. San Francisco

This day before Commissioner Alpheus Felch came came William J. Johnson a witness in behalf of claimant James McKinley case No 530 & after being duly sworn deposed as follows.

Questions by Mr McKee atty for the claimant

1st Question. What are your name, age & place of residence

Answer. My name is William G. Johnson my age about thirty years. & I reside at San Francisco in the State of California.

2. Look on the paper now here presented to you marked C. purporting to be a transfer of certain property known as the Rancho de San Lucas by Rafael Estrada & his wife to James McKinley dated December 14th A.D. 1850 with a certificate of the acknowledgement of the same taken before Wm. G. Johnson. Recorder of Monterey County which paper is filed in this case, & say whether it be the same which on that day was executed and acknowledged before you as County Recorder of said Monterey County.

Answer. I have looked on the paper. It is the same which was thus executed & acknowledged

3d question. Are the signatures thereto the genuine signatures of Rafael Estrada & Concepcion his wife.

Answer. They are

Mr. Howard Law Agent was present & objected to the competency of this testimony & the same was taken subject to his objections. He declined propounding any interrogatories to the witness

W. G. Johnson

Subscribed & sworn before me at San Francisco this 22 day of August A.D. 1853

Alpheus Felch
Commissioner

Filed in Office Aug 22d 1853
Geo. Fisher
Secy.

7

Expediente promovido por el Ciudadano Rafael Estrada en pretension del Terreno llamado "San Lucas"

384.

8

Sello Tercero dos Reales
Habilitado provisionalmente por la Aduana Marítima del puerto de Monterey en el Departamento de las California para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

Ximeno — Antonio María Osio

Adª Marítima de Mont.y

Señor Prefecto del 1er Distrito

El Ciudadano Rafael Estrada ante V.S. por el oficio que halla lugar y en toda forma me presento con el debido respeto y digo;

Que necesitando un terreno en donde poder dedicarme al interesante ramo de la agricultura para buscar por este medio la subsistencia mia, me pongo al amparo de las leyes de Colonizacion pretendiendo el parage llamado San Lucas del cual debidamente acompaño el diseño correspondiente. Este terreno aun que ha pertenecido á la Exª Mission de S. Antonio á la fha se halla baldio y en estado de agradicarse Portanto

A. V.S. suplico rendidamente se sirva acceder á mi peticion de lo que recibiré gracia y merced. Juro &c

Monterey 18 de Xbre de 1841

Rafael Estrada

E

Monterey Enero 23/842
Informe el Admor. del Establecimiento de San Antonio todo lo que crea conveniente respecto al punto que pretende el Solicitante Estrada

Juan B. Alvarado. Gobernador Constitucional del Departto. de las California.

Por cuanto D. Rafael Estrada ha pretendido para su beneficio personal el terreno conocido con el nombre de San Lucas, colindante con el Rancho de D. Mariano Soberanes, con el de San Vicente, con la Sierra de San Antonio, y las lomas bajas que dividen el terreno de San Lorenzo, practicadas previamente las diligencias y averiguaciones consecuientes segun lo dispuesto por leyes y reglamentos, usando de las facultades que me son confiadas á nombre de la Nacion Mejicana. He venido en concederle el terreno mencionado, declarandole la propiedad de el por las presentes letras, sugetandose á la aprovacion de la Excma Junta Departamental y á las condiciones siguientes.

1ª Podra cercarlo sin perjudicar las travesias caminos y servidumbres, y sin impedir el cultivo que hagan los indigenos Longino y Martin, y lo disfrutará libre y exclusivamente destinandolo al uso ó cultivo que mas le acomode, pero dentro de un año fabricará casa y estará habitada

2ª Solicitara del Juez respectivo que le de posesion judicial en virtud de este despacho por el cual se demarcarán los linderos, en cuyos límites podrá á mas de las mojoneras algunos arboles frutales ó silvestres de alguna utilidad.

3ª El terreno de que se hace mencion es de dos sitios de ganado mayor segun explica el diseño que corre en el expediente

El Juez que dicte la posesion lo hará medir conforme á ordenanza quedando el sobrante que resulte á la Nacion para los usos convenientes

4ª Si contravinera á estas condiciones perderá su derecho de 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 que corresponde y se entregue al interesado para su resguardo y demas fines.

10

Dado en Monterey á nueve de mayo de mil ocho cientos cuarenta y dos.

Sello 1º Seis pesos

Habilitado provisionalmente por la Aduana Marítima de Monterey para los años de 1839 y 1840.

Alvarado. Antonio Mª Ortiz

Valga para el año de 1842

Antonio Mª Ortiz

(Adn. Maritº de Mont.y)

Juan B. Alvarado Gobernador constitucional del Departamento de las California

Por cuanto Dn Rafael Estrada ha pretendido para su beneficio personal el parage conocido con el nombre de San Lucas colindante con el Rancho de D. Mariano Soberanes con el de San Benito con las serranias de Sn Antonio y con las lomerias bajas que dividen el sitio de San Lorenzo, practicadas previamente las diligencias y averiguaciones convenientes segun lo dispuesto por leyes y reglamentos, usando de las facultades que me son conferidas á nombre de la Nacion Mejicana. He venido en concederle el terreno mencionado, declarandole la propiedad de el por las presentes letras, sugetandose á la aprobacion de la Exma Junta Departamental y bajo las condiciones siguientes.

1ª Podra cercarlo sin perjuicio las travesias caminos y servidumbres, lo disfrutará libre y exclusivamente, destinando al uso ó cultivo que mas le acomode, pero dentro de un año fabricará casa y estará habitada

2ª El perj que diere la posicion lo hará medir conforme á ordenanza quedando el sobrante que resulte á la Nacion para los usos convenientes

11.

Office of the 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 now having in my charge and in my custody a portion of the archives of the former Spanish and Mexican Territory or Department of Upper California, by virtue of the powers vested in me by law, do hereby certify that the seven preceding and hereunto annexed pages of tracing paper numbered from one to seven inclusive, exhibit a true and accurate copy of an Expediente or document now on file and forming a part of the said Archives in this office

In testimony whereof I have hereunto signed my name officially and caused my seal of office to be affixed at the City of San Francisco this 18th day of August 1853.

John C. Hayes
Sur. Gen. Calª.

Filed in Office Aug 24th 1853
Geo Fisher
Recr.

12

Translation of E.

Record of Proceedings instituted by the Citizen Rafael Estrada soliciting the land called "San Lucas"

384

Seal Third. Two Reales

Provisionally authorised by the Maritime Custom House of the Port of Monterey in the Department of the Californias for the years 1840 & 1841

(Signed) Jimeno (Signed) Antonio Mª Osio.

Seal

Sir Prefect of the 1st District

I, Citizen Rafael Estrada by reason of all the premises thereto belonging & in conformity to law present myself before your honor with the due respect and say that needing a tract of land where upon I can devote myself to the interesting branch of agriculture, by which means I can seek a livelihood. I place myself under the protection of the laws of Colonization in soliciting the place called San Lucas. the corresponding plot of which I duly accompany

This land although it has belonged to the Ex Mission of San Antonio at this date it is vacant and open to settlement.

Wherefore I humbly beseech you Sir, will please accede to my petition, whereby I will receive grace and favor. I swear etc.

Monterey 18 December 1841. (Sig.) Rafael Estrada

Monterey Aug 23d 1842. Let the Adm.r of the establishment of S. Antonio report all that he may deem proper in relation to the place the petitioner solicits.

(Signed) Estrada

Juan B. Alvarado Constitutional Governor of the Departement of the Californias.

Whereas Don Rafael Estrada has solicited for his personal benefit the land known by the name of San Lucas bounded by the Rancho of Don Mariano Soberanes by that of San Benito, by the (Sierra) range of mountains of San Antonio & the low hills which divide the land

from San Lorenzo, the steps and investigations in virtue of the power vested in me in the name of the Mexican Nation. I have determined to concede to him the mentioned land, declaring in him the ownership thereof by these presents. He subject himself to the approbation of the most Excellent Departmental Junta and under the following conditions

1st He may enclose it without interfering with the cropping roads and servitudes, & without impeding the cultivation of the Indians themselves, & he may enjoy it freely and exclusively, destining it to the use or culture which may best suit him, but within one year he shall build a house & shall be inhabited.

2d He shall solicit of the proper Magistrate to give him Juridical Possession in virtue of this decree, by which Magistrate shall be marked out the boundaries within which he shall place besides the land marks, fruit trees, or forest trees of some utility.

3d The land of which mention is made, is of two (sitios de ganado mayor) leagues as shown by the (diseño) plot annexed to the Expediente. The Magistrate who will give the possession shall cause it to be measured in conformity to the ordinance, the (sobrante) surplus which may result, remaining to the Nation for its convenient uses.

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

Therefore I order that the title being held as firm and valid registry be made of it in the copying book and it be delivered to the interested party for his security and other ends

Given in Monterey 9th of May 1842.

Seal First Six Dollars
Provisionally authorised by the Maritime Custom House of Monterey for the years 1839 & 1840.

Alvarado. Antonio Maria Osio

Good for the year 1842

Seal

Antonio Maria Osio

Juan B. Alvarado. Constitutional Governor of the Department of the Californias.

Whereas Don Rafael Estrada has solicited for his personal benefit the place known by the name of San Lucas, bounded by the Rancho of Don Mariano Soberanes by that of San Benito, by the ridge of mountains of San Antonio & by the low hills which divide the place from San Lorenzo, the steps and investigations respecting the same, having been previously taken & made as required by the laws & regulations in virtue of the power vested in me in the name of the Mexican Nation, I have determined to concede to him the mentioned land, declaring in him the ownership thereof, by these presents he subjecting himself to the approbation of the Most Excellent Departmental Junta, and under the following conditions.

1st. He may enclose it without interfering with the cropping roads and servitudes, he shall enjoy it fully and exclusively destining it to the use or culture that may best suit him, but within one year, he shall build a house & it shall be inhabited

2d. The Judge who will give the possession, shall cause it to be surveyed in conformity to ordinance (the sobrante) surplus that may result, remaining to the Nation for its convenient uses.

Filed in Office Aug 26th 1853.

G. Fisher
Sec.y

Sello 1.º Seis pesos
Habilitado provisionalmente por la Aduana Marítima de Monterey para los años de 1842 y 1843.
Alvarado Antonio María Osio

Grant.

Adua. Mont.ª de Monterey

Juan B. Alvarado Gobernador Constitucional del Departamento de las Californias

Por cuanto D. Rafael Estrada ha pretendido para su beneficio personal el terreno conocido con el nombre de San Lucas, colindante con el Rancho de D. Mariano Soberanes, con el de San Benito, con la Piña de J. Antonio y las Lomas bajas que dividen el terreno de San Lorenzo practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto y reglamentos, usando de las facultades que me son conferidas á nombre de la Nacion Mejicana, he venido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras, sugetandose á la aprobacion de la Exma Junta Departamental y á las condiciones siguientes.

1.ª Podrá cercarlo sin perjudicar las travesias caminos y servidumbres, y sin impedir el cultivo que hagan los indigenas Longino y Martin; lo disfrutará libre y esclusivamente destinandolo al uso ó cultivo que mas le acomode. Pero dentro de un año fabricará casa y estará habitada.

2.ª Solicitará del Juez respectivo que le de posesion jurídica en virtud de este despacho por el cual se demarcarán los linderos en cuyos limites pondrá á mas de las mojoneras algunos arboles frutales o silvestres de alguna utilidad.

3.ª El terreno de que se hace donacion es de dos sitios de ganado mayor segun esplica el diseño que corre en el espediente respectivo. El Juez que diere la posesion lo hará medir conforme á ordenanza, quedando el sobrante que resulte á la Nacion para =

los usos convenientes.

4.º Si contraviniere á estas condiciones perderá su derecho al terreno y será denunciable por otro.

En consecuencia mando que teniéndose por firme y valedero el presente título, se tome razon de él en el libro á que corresponde, y se entregue al interesado para su resguardo y demas fines. Dado en Monterey á nueve de Mayo de mil ocho cientos cuarenta y dos

Manl Jimeno Srio. Juan B Alvarado

Queda tomada razon de este despacho en el libro de acientos sobre adjudicacion de terrenos baldios á foja 12.

Jimeno

El Exmo Sor Gobernador ha dispuesto se tome razon de esta concesion en la Prefectura del 1er Distrito

Jimeno

Tomese razon

Estrada

Queda tomada razon de este Supr. título en la foja 7 vuelta del Cuaderno respectivo q obra en esta Secria de mi cargo

Monterey Julio 28 de 1842 Jose Maria Castañares

Srio interno

Received for Record 14th Decemr 1850 at 4 P.M.
Recorded in Deeds of Grants C. page 41

Wm Johnson
Recorder of Monterey Co.

Filed in Office Jany 28th 1853

Geo Fisher
Secy

Annexed to the deposition of Wm E R Hartnell taken before Comr H. J. Thornton Jany 29th 1853

Geo Fisher, Secy

17

Stamp Print for Dollar

Provided provisionally by the Maritime Custom House of Monterey for the year Eighteen hundred & forty two & forty three

(Signed) Alvarado (Signed) Antonio Maria Ozio

John B Alvarado Constitutional Governor of the Department of the Californias.

Inasmuch as Rafael Estrado has besought for his own personal benefit, the land known by the name of San Lucas, bounded by the Rancho of Mariano Soberanes, by that of San Benito by the Sierra of San Antonio & by the two hills which divide the lands of San Lorenzo the necessary steps and information concerning the same, having been previously gone through, according to what is laid down in the laws and regulations, making use of the powers conferred upon me in the name of the Mexican Nation. I have granted unto him the before mentioned land by these presents declare it to be his property subject to the approbation of the Hon. Departmental Assembly & to the following conditions, viz.

1st. He may fence it without prejudice to the highways, byeways & servitudes & without impeding the Indians from cultivating (viz) Lorenzo & Martin, he may make free and exclusive enjoyment of it using it either for culture, or in whatever way may best suit him, but within one year he shall build a house on it & have it inhabited

2d. He shall request the respective Judge to give him Judicial possession in virtue of this dispatch, by whom shall be designated the boundaries, at the limits of which shall be placed besides the land marks some fruit trees or other trees of some utility,

3d The land of which donation is made is two sitios of ganado mayor, according to the Diagram which is annexed to the Expediente. The Judge who may give possession will have it measured according to ordinance, the surplus resulting to remain to the Nation for its own uses

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

Consequently I order that the present title being taken for a firm and valid one, be noted in the respective book, and delivered to the interested party, for his safety and other ends. Given at Monterey on the ninth of July AD Eighteen hundred and forty two.

signed Manuel Jimeno Sno signed Juan B. Alvarado

This dispatch is noted on the Book of Accientos from the adjudication of vacant lands at page (12) twelve

(signed) Jimeno

His Excellency the Governor has ordered that this concession be entered on record in the Prefecture of the 1st District.

(signed) Jimeno

Let a note be made of it (signed) Estrada

Entered on the respective book at page (7) seven (vuelta) a note of this superior title.

(signed) Jose Mª Castanares
Secy Ad interim

Monterey 25th July 1842

Filed in Office Jany 25th 1853.

Geo Fisher
Secy

19

Transfer

This indenture Made and Entered into at the City of Monterey A.D. One Thousand Eight hundred and fifty between Rafael Estrada and Francisca Malaquia de Estrada his wife of the first part, and James McKinley, of the second part all of Monterey aforesaid, Witnesseth; that the said Parties of the first part for and in Consideration of the sum of Four Thousand and Five hundred Dollars, good and lawful money to them in hand by the said James McKinley at or before the sealing and delivery hereof the receipt whereof is hereby Confessed and acknowledged have, and each of them hath granted, bargained, sold, released, quitclaimed and transferred & by these presents do & each of them doth grant, bargain, sell, release quitclaim and transfer unto the said James McKinley his heirs and assigns forever all the estate, right, title, interest, dower, and right of dower claim and demand whatsoever of them the said Parties hereto of the first part either in law or in Equity, in possession or expectancy of in and to all that Rancho or tract of land known as the Rancho de San Lucas situate on the Monterey River in the County of Monterey & State aforesaid and bounded on the North by the Rancho of Don Mariano Soberanes, on the East by the range of mountains known as "Sierras de San Antonio" on the South by the Rancho de San Benito and on the West by the low hills dividing the said Rancho de San Lucas from San Lorenzo; the same containing according to the original grant thereof "dos Leguas de ganado Mayor" Together with all houses out houses, Corrals, ways, waters, water courses, rights, privileges, immunities improvements & appurtenances of any kind or description whatever to the said Rancho belonging or in any wise appertaining. And the rents issues & profits thereof or any part thereof. To have and to hold the said Rancho de San Lucas with the appurtenances hereinbefore described, unto the said James McKinley his heirs and assigns forever, to the only sole and absolute use & behoof of him his heirs and assigns forever. And they the said parties of the first part for themselves their heirs, executors, and =

administrators do hereby covenant and agree to & with the said James McKinley his heirs and assigns, that the said Rancho de San Lucas so before described was lawfully granted to the said Rafael Estrada on the 9th day of May 1842 by Don Juan B. Alvarado the then Governor of the California, that they have full right and lawful authority under such grant to sell and transfer the same, and that they have not, nor have either of them made, done, committed or suffered any act ordered whatsoever whereby or by means whereof the said Rancho de San Lucas, or any part thereof now or at any time hereafter, can or may be impeached charged or encumbered in any way form or manner whatsoever.

Witnessing whereof the said parties of the first part have hereunto set their hands and affixed their seals, the day and year first aforesaid

Signed sealed and delivered
in the presence of
(Signed) Jos Abrego
" D. Spence

(Signed) Rafael Estrada
" Concepcion Malarin

State of California
County of Monterey } On this 11th day of December AD 1850 before me, Recorder in and for the County aforesaid personally came Rafael Estrada & Concepcion his wife, to me to be the same persons described in & who as grantors thereof executed the foregoing conveyance, and they severally acknowledged that they had executed the same for the uses and purposes therein expressed, And the said Concepcion having had the contents thereof explained to her, was by me examined seperate from, and out of the hearing of her said husband, when she declared that she had executed the same freely and voluntarily, without the being under the fear or undue influence of her said husband, and did not desire to retract the execution thereof.

Given under my hand and official seal the day and year last aforesaid

(Signed) Wm Johnson
Recorder of Monterey County

Filed in Office Jan 28th 1853
Geo Fisher
Sec pro.

Transfer

This Indenture made and entered into the City of Monterey A.D. One thousand eight hundred and fifty between Rafael Estrada and Concepcion Malarin de Estrada his wife, of the first part and James McKinley of the second part, all of Monterey aforesaid, Witnesseth that the said parties of the first part, for and in consideration of the sum of Four thousand and five hundred Dollars, good and lawful money to them in hand paid by the said James McKinley, at or before the sealing and delivery hereof, the receipt whereof is hereby confessed and acknowledged have, and each of them hath granted, bargained, sold, released, quitclaimed & transferred & by these presents do, and each of them doth grant, bargain, sell, release, quit claim and transfer unto the said James McKinley his heirs and assigns forever, All the estate, right, title, interest, dower & right of dower, claim and demand whatsoever of them the said Parties of the first part either in law or equity in possession or expectancy of in and to all that Rancho or tract of land known as the Rancho of San Lucas situate on the Monterey River in the County of Monterey & State aforesaid & bounded on the North by the Rancho of Don Mariano Soberanes, on the East by the range of mountains known as Sierras de San Antonio, on the South by the Rancho de San Benito & on the west by the low hills dividing the said Rancho de San Lucas from San Lorenzo, the same containing according to the original grant thereof dos sitios de ganado mayor. Together with all the houses out houses, corrales, ways, waters, water courses, rights, privileges, immunities, improvements & appurtenances of any kind or description whatsoever to the said Rancho belonging or in anywise appertaining, and the rents issues & profits thereof or of any part thereof. — To have and to hold the said Rancho de San Lucas with the appurtenances hereinbefore described unto the said James McKinley his heirs and assigns forever to the only sole & absolute use & behoof of him his heirs and assigns forever.

And they the said parties of the first part for themselves their heirs executors & administrators do hereby covenant and agree to & with the said James McKinley his heirs and assigns that the said Rancho de San Lucas as before described was lawfully granted to the said Rafael Estrada on the ninth day of May 1842 by Don Juan B. Alvarado the then Governor of the California, that they have full right & lawful

authority under such grant to sell and transfer the same & that they have not, nor have either of them made done committed or suffered any act or deed whatsoever whereby or by means whereof the said Rancho de San Lucas or any part thereof now or at any time hereafter can or may be impeached, charged or incumbered in any way, form or manner whatever. In testimony whereof the said parties of the first part have hereunto set their hands and affixed their seals the day & year first aforesaid.

Rafael Estrada

Concepcion Malarin

Sig.d Sealed & delivered in the presence of
Don Hugo D. Spence

State of California
County of Monterey } On this 14th day of December A.D. 1850 before me Recorder in and for the County aforesaid personally came Rafael Estrada & Concepcion his wife to me known to be the same persons described in & who as the Grantors thereof executed the foregoing conveyance & they severally acknowledged that they executed the same for the uses and purposes therein expressed. And the said Concepcion having had the contents thereof explained to her was by me examined seperate from & out of the hearing of her said husband when she declared she had executed the same freely and voluntarily & without being under the fear or undue influence of her said husband & did not desire to retract the execution thereof.

Given under my hand & official seal the day & year last aforesaid

Recorder's Office
Monterey Co
California

Wm. J. Johnson
Recorder of Monterey Co.

Dated 14th Decr. 1850 "C." Transfer Don Rafael Estrada and wife to Mr James McKinley. Conveyance of Rancho de San Lucas. Rec'd for Record 14th December 1850 at 4 P.M. Recorded in Conveyances A. Page 193.

Johnson & Co. Conveyancers } Wm. J. Johnson Recorder of Monterey Co.

Filed in Office Jan'y 28th 1853

Geo Fisher
Sec'y.

James McKinley
vs
The United States

Rancho San Lucas
2 Square leagues

The claimant in this case represents in his petition that he claims a certain tract of land situated in the County of Monterey known by the name of San Lucas consisting of about two square leagues & that he claims the same by virtue of a grant made by Governor Alvarado to one Rafael Estrada which grant bears date the 9th day of May AD 1842, and the said petitioner further represents that on the 14th day of December AD 1850 the said Estrada by his deed duly executed — transferred to him all his right and title in and to said tract of land. In proof the foregoing allegations the said petitioner has placed on file as evidence the said original grant the genuineness of which is satisfactorily proved. He has also placed on file the said deed of conveyance from the original grantee to himself properly proved & authenticated. The claimant has proved by the deposition of Francisco Arce that Rafael Estrada had a house on the place called San Lucas & that the said Estrada was occupying it in the years 1842 & 1843 & that the present claimant occupied it at the date of said deposition. There is no proof of approval having been made by the Departmental Assembly & no proof that any judicial measurement was ever made, during the existence of the Mexican Government in this Country. The material question in this case is in regard to the identity and location of the land granted. Estrada the original grantee describes the land solicited by him in his petition as the place called San Lucas within the corresponding plot annexed. The grant describes the land as that known by the name of San Lucas bounded by the Rancho of Marianos Soberanes by that of San Benito by the Sierra of San Antonio & by the low hills which divide the land San Lorenzo. The 3d condition annexed to the grant contains the following description to wit. The land of which donation is made is two square leagues according to the Map which is annexed to the expediente The Judge who may give possession will have it measured according to ordenance. the surplus resulting to remain to the Nation for its own uses. It will be observed that the party in this case asked for the land called San Lucas of which land he presented a corresponding map. No quantity is here specified but the —

Governor in making the grant specified the quantity as two square leagues & required the party to have the same measured within the prescribed limits, leaving the surplus over the two leagues to the Nation. This measurement, a duty which devolved upon the party was never made & no seperation of the particular two leagues granted, from the other public lands embraced within the same limits was ever effected.

The map is referred to in the condition for the purpose of showing the limits within which the two leagues were to be located.

Although the map delineates very clearly the exterior boundaries it afforded no information as to the quantity embraced within those boundaries neither is there any proof on file in the case in regard to the quantity which said boundaries embrace. The Governor did not see fit to grant all the land within the limits as laid down on the map but designated the precise quantity. this made a measurement indispensable & without it there was no segregation of the two leagues from the other public lands. Without further inquiry in regard to the performance of conditions, we are of opinion that the claim of the petitioner is not valid, & the same is therefore rejected.

Filed in Office Dec 13th 1853

Geo Fisher

Secy.

25.

James McKinley
vs
The United States

Decree

In this case on hearing the proofs & allegations it is adjudged by the Commission that the said claim of the petitioner is not valid & his application for a confirmation thereof is therefore denied.

Alpheus Felch
Thompson Campbell
R. Aug. Thompson
Commrs.

Filed in Office Decr. 13th 1853

Geo. Fisher
Secy.

Office of the Board of Commissioners
To ascertain & settle the Private Land Claims
in the State of California

I, George Fisher, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing Twenty five pages, numbered from 1 to 25 pages, numbered from 1 to 25, 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 530 on the Docket of the said Board wherein James McKinley is the Claimant against the United States for the place known by the name of "San Lucas"

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 Second day of August A.D. 1854, and of the Independence of the United States of America the Seventy Ninth

Geo. Fisher
Secy.

United States District Court
Southern District of California

Sir

You will please take notice that it is my intention to prosecute an Appeal before the United States District Court for the Southern District of California from the decision of the United States Board of Land Commissioners to ascertain and settle private land claims in the State of California in the Case No 530 on the docket of the aforesaid Commissioners, being for the Rancho called San Lucas in the County of Monterey and within the jurisdiction of this Hon. Court. the Transcript of the aforesaid Commissioners proceedings in the above case, being now on file in the Office of the Court at Los Angeles since on or about the 25th day of August 1854.

Dated at Monterey the 14th day of December AD 1854.

James McKinlay
claimant for said Rancho

To/

The Clerk of the United States District Court
Southern District of California at Los Angeles

Filed Dec 19th 1854
C. E. Carr
Clk

James McKinley
appellant

vs

The United States
appellee

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

Hon Isaac S. K. Ogier Judge of said Court.

The said appellant James McKinley by atty. moves the said Court that leave be granted to take further testimony in this case now on appeal from the U. S. Board of Land Commissioners to ascertain and settle private land claims in the State of California. said cause being No 530 on the docket of the said Commission & being for the tract of land known as "San Lucas"

(Sig.) D. J. Gregory
attorney for appellant

Filed april 23d 1855
E. E. Carr
Clk

James McKinlay, appellant	In the United States District Court for the Southern District of California
vs	
The United States, appellee	"Claim for San Lucas"

The said appellant by his Attorney D. J. Gregory & the said appellee by Atty. F. Ord, Esq. District Atty for the Southern District of California and on motion of the said appellant. It is ordered by the Court that either party may take such further testimony in the above entitled cause as he may think proper

Filed June 13th 1855

(Sig.) C. E. Carr,
Clk.

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

James Mc Kinlay appellant	Docket No
vs	
The United States appellee	(Transcript) No 530.

Hon Isaac S. K. Ogier Judge of the said Court.

The petition of the said James Mc Kinlay a resident of the County of Monterey and State aforesaid respectfully represents to the Court that heretofore, to wit, on the 25th day of January AD 1853. he presented to the petitioners to ascertain and settle private land claims in the State of California when sitting as a Board, a petition claiming a certain tract of land known as & called Rancho "San Lucas" situated in the said County of Monterey which said petition is referred to for a full description of the land claimed a copy of which appears in the Transcript hereafter referred to;

That heretofore, to wit, on or about the 13th day of December AD, 1854 the said Board of Commissioners rejected by final decision the claim of your petitioner, and adjudged his title to the said land to be invalid.

That heretofore, to wit, on or about the 26th day of August AD 1854 a duly certified Transcript of the proceedings and decision of the said Commissioners, in said cause, and the papers and evidence on which the said decision was based, was filed in the Office of the Clerk of the said Court and marked No 530. reference to which is made, and it is asked by said petitioner that he have leave to refer thereto as often as may be necessary.

The said appellant further shews that on or about the 19th day of December AD 1854 he filed with the Clerk

of the said Court a notice that an appeal from the said decision of the said Commissioners to the said United States District Court, by him the said McKinlay would be prosecuted.

And your Petitioner further shews, that the said tract of land claimed as aforesaid is within the jurisdiction of this Court. — And he further shews and expressly avers, that his title to the said tract of land, is a good and valid title, that the said decision of the Board of Commissioners is erroneous, and should be reviewed, reversed and set aside for the many errors of law apparent therein as appears by said transcript.

Wherefore the said Appellant prays that the said decision of the said Board of Land Commissioners, may be reviewed by this Court, and that the same may be reversed set aside, vacated and annulled, And that this Hon. Court may decree his title to the said tract of land so above described may be confirmed, and decreed to be a good and valid title, And that may have such further orders and decrees as may be just and equitable. And that he recover his costs in this behalf expended.

(signed) D. J. Gregory
Appellants Attorney

Filed Jany 7th 1854
(signed) C. E. Carr
Clk

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

Hon. Isaac S. K. Ogier, Judge —

James McKinlay
appellant

vs

The United States
appellee

No 34.

(Transcript No 530)

Answer of U.S. Atty

The answer of Jacinto Ord, Attorney of the United States for the Southern District of California, for and in behalf of the United States, to the petition of James McKinlay, for a review of the decision of the Commissioners to ascertain and settle the private land claims in the State of California, respecting his claim to the tract of land and Rancho called "San Lucas" in the County of Monterey, says; That he denies all and singular each and every allegation in said petition contained. And further this Respondent denies generally the validity of the alleged title of said petitioner to the said land claimed by him.

And the said respondent prays, that this Hon'ble Court will affirm the decision of the said Commissioners in said cause, and deem the said alleged title to be invalid.

And for general relief.

(signed) J. Ord
Atty of the United States for the
Southern District of California

Filed Jany 9th 1856
(signed) E. E. Carr
Clk.

James McKinlay appl.
vs
The United States appe.

No. 34.

Deposition of José Jesus Pico, a witness on the part of appellant in the above entitled cause, taken before Chas. E. Carr U. S. Commissioner to be used in evidence in said cause. Present L. Ord U. S. Atty. & D. J. Gregory Counsel for appl. José de Jesus Pico being duly sworn, answers to questions propounded by Counsel for the several parties as follows.

1st Question. What is your name, age & place of residence

Answer My name is José Jesus Pico age fifty years and resides in San Luis Obispo County, California.

2d Question. State whether or not you know the Rancho called "San Lucas" If you, in what County is it situated, & how long have you known it?

Answer. I do know said tract of land. It is situated in Monterey County & I have known it from since about the year 1842 or 1843 to the present time. — I do not remember the precise time when I first knew it, but it was before Micheltorena came to the Country & Rafael Estrada then had the said Rancho

3d Question. Look upon the map now exhibited to you, being on page Eighth of the Transcript in this case & say whether or not it is generally a correct representation of said tract of land.

Answer. It is generally correct.

4th Question What part of said Map represents the North.

Answer. The side marked San Lorenzo

5th What is the San Lorenzo

It is a Rancho. I don't know by whom owned

6th Question State whether or not the San Lorenzo Ranch is a well known locality in that vicinity

Answer It is a well known locality.

7th What is the distance from the Rancho San Lorenzo to the Sierra de San Antonio.

It is about four leagues

8th Question. What is the distance from the Rancho of San Benito to the Rancho of Marianos Soberanes?

Answer It is scarcely a league

9th question State whether or not these several places, the Rancho San Benito, the Sierras de San Antonio & the Rancho of Marianos Soberanes, are well known & easily found objects.

Answer. I think they are well known for many years; they have been established for a long time.

10th Question What is the distance from the River Monterey on the said Rancho, to the mountains or Sierras de S. Antonio

Ans. It is about a league or a league and a half

11th " State whether or not you know the boundaries of the Rancho San Lucas. If you, please say what they are (objected to by the Dist. Atty.)

12 I believe it is the Rancho of San Benito bounds the West. the Rancho of San Lorenzo towards the North. the Sierras of San Antonio towards the South, & the Rancho of Marianos Soberanes towards the East. The mark drawn across the map represents the dividing line. I think between the San Lucas Ranch & the Rancho San Benito, owned by Watson.

13th What is the general width of the low hills on the side of the San Lucas, towards the San Lorenzo Ranch

Ans. They are about six leagues wide. The Hills commence about a mile from the River.

Cross Examined by U.S. Dist. Atty.

1st Question What is your occupation?

Ans. Ranchero

2d Question Does anybody live on the Rancho of San Lucas now

Ans. I do not know.

3d Question What are your means of knowing the boundaries of the San Lucas Rancho?

Ans. Because at the time that Marianos Soberanes asked for the land adjacent. I was administrator of the Mission of San Antonio. I made a report to the Governor in relation to the vacant land, That there was a surplus of land after the grant to Soberanes between the Soberanes Rancho and the San Benito Rancho. That this vacant land was asked for and afterwards granted. I have seen the original petition of Estrada asking for this land when it was referred to me for a report thereon by Gov. Alvarado afterwards I saw the title for the land by Gov. Alvarado

Ques. 4. Has any person or persons lived upon or occupied the Rancho of San Lucas since the year 1846?

Answer I do not know.

Question 5. When were you last on the place

Answer About two years ago.

Question 6. Was it or not vacant and unoccupied at that time.

(objected to by Atty. for claimant)

Answer. I think it was occupied at that time by the owner because I saw some Indians living there cultivating small patches.

(signed) J. de Jesus Pico

Sworn to & subscribed this 21st day of Jany 1856 before me

(signed) F. E. Lane
U.S. Comr.

Filed Jany 21st 1856
(signed) F. E. Lane
Clk.

United States District Court for the Southern District of California — December Term A.D. 1855.

James McKinlay appellant	No. 34.
vs	
The United States appellee	"San Lucas"

This cause coming on to be heard at a regular term of the said Court, on an appeal from the final decision of the Commissioners to ascertain and settle private land claims in California under an act of Congress approved March 3d 1851 on the transcript of the Proceedings and decision and of the papers and evidence upon which said decision was made and also upon further testimony heard in the said cause, and it appearing that the said Transcript has been duly ~~executed~~ filed, and notice of appeal given according to law, and counsel for the respective parties having been heard — It is therefore ordered, adjudged and decreed by the Court that the said decision of the said Commissioners be and the same is hereby reversed annulled and set aside. And it is further ordered adjudged and decreed by the Court, that the claim of the said James McKinlay for the tract of land called San Lucas, it being the same described in the grant and map, copies of which are on file in this case, and of which the original grantee and those claiming under him are proven to be possessed, is a good and valid claim, & that the same be & is hereby confirmed to the extent of two (2) square leagues and no more within the boundaries of said tract of land described in the said grant & map. Provided the said quantity of two square leagues is contained within the said boundaries or exterior limits of the said grant, and if there be less than the said quantity within the said boundaries, then the claim of the said appellant to the said less quantity is hereby confirmed and decreed to be valid

signed Isaac S. K. Ogier
U. S. Dist. Judge

Filed Jany 21st 1856
J. E. Carr Clk
By Dellinger Dep

In the District Court of the United States for the Southern District of California
Los Angeles December Term 1855.

James McKinley
appellant

vs

The United States
appellees

No 314
(No 530 of Transcript)
On appeal from the U.S. Land Commission

On motion of S. 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 judgement of this Court against the said United States in the above entitled cause rendered on or about the 21st day of Jany AD 1856

S. Ord
Dist Atty

Filed March 3rd 1856
Origd
J. E. Carr
Clk
By Dellagar
Depty

United States District Court
Southern District of California
Clerks Office Los Angeles

I, Charles E. Carr Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing pages, numbered from 1 to both inclusive contain a full true and correct copy of Transcript in Case No. filed in my office wherein James McKinlay is the appellant and the United States are the appellees for "San Lucas"

In testimony whereof I have hereunto set my hand and affixed the Seal of said Court at the City of Los Angeles California, this day of A.D. 1856.

United States District Court
Southern District of California
Clerks Office Los Angeles

Be it remembered that on the day of
A.D. 185 in the District Court of the
United States for the Southern District of California the
following proceedings were had to wit, a duly certified —
Transcript of the Record of the proceedings and decision
of the U.S. Board of Land Commissioners to ascertain & settle
the private Land Claims in the State of California, and of the
Documentary Evidence and testimony of Witnesses upon which
said decision was founded in the case wherein James
McKinlay is the claimant against the United States
for the place called "San Lucas", was received and filed
and docketed with No on the Docket of said Court
and is in the words and figures following, to wit;

(Vide page 1)

Upon which the following subsequent proceedings were had
in their Chronological order, to wit;