CASE NO.

36

SOUTHERN DISTRICT

BOLSA DEL CHEMISAL GRANT

LEWIS F. BURTON

CLAIMANT

LAND CASE 36 SD PAGES 84

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 312

Luvis T. Burton CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Bolsa del Chemisal."

/

36 SD
PAGE 2

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* thirty first day of August, *Anno Domini One Thousand Eight Hundred and Fifty-*two, *before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following Proceedings were had, to wit;*

The Petition of Lewis T. Burton *for the Place named* "Bolsa del Chemisal" *was presented, and ordered to be filed and docketed with No.* 312 *and is as follows, to wit;*

(Vide page 3 *of this Transcript.)*

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

Los Angeles September 9th 1852.

In case No. 312 Lewis T. Burton for the place named "Bolsa del Chemisal" the deposition of Pablo de la Guerra, a witness in behalf of the claimants taken before Commissioner Harry I. Thornton, was filed;

(Vide page 5 of this Transcript)

San Francisco Jan. 6 1853.

In the same case the deposition of Andres Pico a witness in behalf of the claimant, taken before Commissioner Harry I. Thornton, was filed;

(Vide page 6 of this Transcript)

San Francisco Aug. 26th 1853.

Case No. 312, called; the Counsel for the Claimant read the Evidence, argued, submitted and taken under advisement by the Board.

San Francisco Dec. 6 1853.

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

(Vide page 35 of this Transcript)

3

To the Honorable Commissioners to Settle Private Land claims in California

Petition

36 SD
PAGE 4

The petitioner Luis T Burton respectfully shows that on the 18th day of May AD 1837 Juan B Alvarado Governor of California by virtue of authority in him vested granted to Francisco Zuñiga a tract of land called Bolsa de Chemical situate in the present County of San Luis Obispo with the boundaries described in the petition of the said Zuñiga and set forth in the corresponding map that on the 18th day of May AD 1837 the said grant was approved by the Diputation of California all of which is fully set forth in the Expediente a certified copy of which is submitted herewith marked A with a translation marked B

The petitioner also submits herewith a copy of the original titles certificate of approval issued to said Zuñiga marked C with a translation marked D

And the petitioner further shows that on the 20th day of March AD 1843 the said Francisco Zuñiga sold & conveyed to the petitioner one half of the said tract of land a copy of which conveyance he submits herewith marked E with a translation marked F

That soon after, was the said Zuñiga died in California leaving Rosario Zuñiga Manuela Zuñiga and Maria Dolores Zuñiga wife of Pedro Cordero his heirs & successors

That the aforesaid heirs of the said Zuñiga afterwards sold & conveyed the other undivided half of the said Rancho to the petitioner by deeds of conveyance as follows viz Maria Dolores Zuñiga by her husband Pedro Cordero on the 4th day of September AD 1846 a copy of which conveyance is submitted herewith marked G with a translation marked H Manuela Zuñiga on the 14th day of March AD 1850 a copy of which conveyance is submitted herewith marked I with a translation marked J & Rosario Zuñiga on the 18th day of March AD 1852 a copy of which conveyance is submitted herewith marked K

And the petitioner further shows that the said

land has not been surveyed by the Surveyor General of the United States but that its boundaries have been marked out by the proper authorities with prior actual possession as shown in the Maps & title papers & are well known

That the said Ing assumed duly received the possession & that he & the petitioner and those have been for more than 15 years & the petitioner now is in the quiet peaceable & undisputed possession & occupation of the said tract of land

That he knows of no conflicting claim

That he relies for confirmation of title upon the original papers copies of which are submitted herewith upon the records & minutes in the archives now in the charge of the Surveyor General & upon such other & further proofs as he may be advised are necessary

Wherefore he prays the Commissioners to confirm to him the said tract of land

By his Attys
Hallock Peachy & Billings

Filed in Office Aug 31st 1852
Geo Fisher
Secy

5

Office of California Land Commission

Los Angeles Sept 9th 1852

Deposition of Pablo de la Guerra

On this day before Hany I Thornton one of the Commissioners for ascertaining & settling private land claims in California came Pablo de la Guerra a witness produced in behalf of the claimant Luis I Burton whose petition is No 312 on the Docket of the Board & was duly sworn his evidence being given in English

36 SD
PAGE 6

The Ue S Law Agent attended

1st quest What is your name age & place of residence

Ans My name is Pablo de la Guerra my age is about 32 I reside in Santa Barbara & am a native of California

2 Quest Examine the document marked No 3 and attached to this deposition & say whether you know the signatures

Ans I am acquainted with the signatures of Juan B. Alvarado & Victor Prudon these signatures to this document are genuine & the document is to the best of my belief

Pablo de la Guerra

Sworn to & subscribed before me this 9th of Sept 1852

Hany I Thornton
Comr

Filed in Office Sept 9th 1852
Jno Fisher
Secy

San Francisco Jany 6th 1853

Deposition of Andres Pico

On this day before Comm Hany I Thornton came Andres Pico a witness in behalf of the claimant Luis I Burton petition No 912 & was duly sworn his evidence being interpreted by the Secy

The U S Associate Law agent was present

36 SD
PAGE 7

My name is Andres Pico my age is 42 years I was born in California live in Los Angeles
I know the Rancho called Bolsa de Chamisal in San Luis Obispo county I was there in 1839 it was then occupied by Francisco Inigado with cattle & horses he had a little Tule house & corrals on it I have since passed it frequently & it has been occupied by Inigadat afterwards by Luis I Burton

Andres Pico

U S Law Agent present

Sworn to & subscribed before me this 6th of Jany 1853

Hany I Thornton
Comm

Filed in Office Jany 6th 1853
Jno Fisher
Secy

1. S. D. R

1837

Bolsa del Chamisal concedido á Franc.
Quijada.

N.º 513

2. S. D. R.

Expediente

Promovido p.r Francisco Quijada
en Solicitud del Paraje nombrado

"Bolsa del Chamisal"

1837

8

3. S. D. R.

Sta. Barb.a Mzo yo. 16 de 1887. Informe el. Y. Ayuntamento de este municipio de esta municipalidad el interesado en esta inst.cia obtan todos los requisitos legales por ser atendidos en su solicitud y si el terreno pretende es baldio y si puede ajudarsele en colonizacion conforme á ley y por haber los mismos pretencion p. justo del C.no Canuto Guevara informe asimismo la Y. Corporacion cual de los candidatos tiene mas merito p.a ser preferido. Evacuados estos informes, volver el expediente.-

36 SD
PAGE 9

Sor Gobernador

Franc.o Quigado natural y vecino de Sta Barbara: ante V.E con el debido respeto y como mejor haya lugar expone que hallandose en esta ftha con un contlidad del numero de Ganado Mayor y este estasuprien do demasiado Estrecho por no tener sitio á donde reducirlo, espera de V.E le conceda la posecion del lugar llamado la Bolsa del Chamis al colindante con el sitio de su propio por el Norte con el estero del Ojo flaco por el Este y Sur y con la playa por el Oeste como esplica el diseño acompañando; es de largo tres leguas y de ancho dos y media poco mas ó menos con terrenos de regadillo para agricultura. Por tanto. A. V. E. Suplica le conceda la gracia que solicita deponiendo á su prudente consideracion o como mejor se halla por conviniente en lo que recivirá merced y gracia dispensando esta en papel comun por no haber del sellado que corresponde.

Sta Barbara Abril 1.o de 1887

Ruego del interesado

Franc.o I. Alvarado

4. S. D. R.

Y. Ayuntamento

La Comision a quien V. Sr ha servido confiar para que dictame sobre el expedt.e que forma la solicitud de los C.nos Franc.o Quichada y Canuto Guevara en pretencion del parage nombrado la Bolsa en observancia del decreto del Gob.o de ftha 10 del presente expone, que los interesados obtienen todos los requisitos legales para ser atendidos en sus solicitudes y que el terreno que pretenden se

al Gobierno p.a su resolucion. Alvarado

9

halla Baldio y en estado de adjudicarse en colonisacion conforme à la ley de 18 de agosto de 1824 y del reglamento de Noviembre de 1828. Pues aunque se ha conocido por dela pertenencia de la excision de la Provincia se halla à vez Baldio sin la ocupacion necesaria y por consequente en estado de adjudicarse conforme à la ley es estados los que representen son Ch.nos Mexicanos tienen buena conducta. Solo encuentra la comision que Quixado tiene mas bienes con que poblarlo; Ganado y Caballada mas à Canuto no se le ha conocido ningunos bienes por lo que se le hace Quixado acreedor à ser amparada por la ley y por las consideraciones del Gobierno à quien se presente. Por tanto pase la Comision à la deliberacion de V.S la siguiente proposicion.

Puede el Gobierno adjudicar en propiedad al Ch.no Jesanto Quixada el Paraje nombrado la Bolsa.

Sta Barbara Mayo 11 de 1834

S. G. D. R

Pablo Banegas — Santiago Burke

En Sesion de hoy se aprovo e Y. Juntamento la proposicion del dictamen antecedente acordando buelvase el expediente al Gobno. p.a su resolucion

Sno — Ultra pro

Benito Dias — Diego Olivera

Sta Barbara Mayo 11 de 1834

Vista la peticion con que da principio este expdte. el informe del C. A. de esta municipalidad y todo lo q.e ver convino; de conformidad con lo dispuesto p.r leyes y reglamentos de la materia se declaro al Ciud.no Francisco Quizada dueño en propiedad del terreno conocid. con el nombre de Bolsa del Chamisal, demarcado en el Diseño q.e acompaño a su solicitud, y dentro de los linderos q.e en el se espresen; sugetandose à las condiciones q.e

6. S. D. R.

prevene la ley de 18 de Agosto de 1824 y reglam=to de 25 de Novembre de 1828. Libese el despacho correspondiente; tomese razon del en el libro respectivo y dirijase este expedte. à la Excma Diputacion p.a su debida aprobacion en cuyo caso el interesado a quien se hara saber este decreto, presentara nuevamte. su titulo p.a q.e se le revalide. Asi el Sor D. Juan B. Alvarado Gobernador int.o del Estado y Presidte. de la Excma. Diputacion del mismo lo decretè, mandò y firmè, de que doy fee.

Juan B. Alvarado
Victor Prudon Srio interin

7. S. D. R.

Excmo Sor.

La comision de terrenos Baldios impuesta del expediente promovido por el C. Francisco Lujado, en Solicitud del paraje nombrado Bolsa del Chamisal no encuentra inconve=niente alguno para que se conceda consequen=te à su pretencion. Por lo que la comision ~~qu~~ concluye poniendo à la deliberacion de V. E. las siguientes proposiciones. 1.a Se conseda al C. Francisco Lujada el paraje nom=brado Bolsa del Chamisal por obtener los requisitos que previene la ley de 18 de A=gosto de 1824 y el Art.clo 5.o del reglamento de 21 de noviembre de 1828.

Sta. Barbara 14 de Mayo de 1834

José R. Estrada Franco. Alvarado

8. S. D. R.

Sta Barbara Mayo 18 de 1834
En Sesion de hoy se le dispensaron los tra=mites à la proposicion del dictamen que antecede y fue aprobada por la pluralidad absoluta de votos.

Antonio Buelna Presdte. José Mª Covarrubias
Srio

15

9. S. D. 12.

312-1

Map follows

12

Office of the Surveyor General of the United States for California

I Samuel D. King Surveyor General of the United States for the State of California and as such now having in my Office and under my charge and Control a portion of the Archives of the former Spanish and Mexican Territory or Departments of Upper California do hereby Certify that the annexed preceeding and herein to annexed pages of tracing paper numbered from one to nine inclusive and each of which is verified by my initials (S. D. K) exhibit true and accurate copies of Certain documents now on file and forming part of the said Archives in this Office.

36 SD
PAGE 12

In Testimony whereof I have hereunto signed my name officially and affixed my private Seal (not having a Seal of Office) at the City of San Francisco California this 10th day of February A. D. 1852

Saml. D. King
Survr. Genl. Cal.

11.50 Filed in Office August 31st 1852

Geo: Fisher Secy.

13

Translation of Expediente

36 SD
PAGE 13

Santa Barbara May 10. 1837
Let the Illustrious Ayuntamiento of this municipality report whether the person interested in this petition possesses the legal qualifications for his petition to be attended to whether the land petitioned for is vacant & can be granted in colonization in conformity with the land as the same place has been solicited on the part of Don Camilo Guevara the Illustrious corporation will report which of the two candidates is most deserving of preference these reports being finished it will return the Expediente to the Government for its decision
(signed) Alvarado

To His Excellency the Governor

Francisco Ingada native & vecindent of this port of Santa Barbara before Your Excellency with the due respect as he best may represents that having at this time a great number of cattle which is suffering many losses because he has no place in which to keep them he hopes that Your Excellency will grant him the possession of the place called Bolsa del Chamisal bounded by the place of Nipomo on the north by the Estero del Oso flaco on the east south & the beach on the West as shown by the accompanying map it is three leagues long & two & a half wide a little more or less with inigable lands for agriculture Therefore he prays your Excellency to grant him the favor he solicits leaving it to your prudent consideration or as you may find most convenient in which he will receive favor & grace & swearing this common paper because there is none of the proper stamp

Santa Barbara April 1. 1837
at the request of the party interested
(sgd) Francisco J. Alvarado

Illustrious Ayuntamiento

The committee to which you are pleased to entrust that might report upon it, the expediente formed at the request of citizen Francisco Ingada & Camilo Guevara petitioning for the place named La Bolsa

in obedience to the decree of the government dated the 10 inst upon seats that the persons interested possesses all the legal requisites for the petitions to be attended to, that the land petitioned for is vacant & in a state to be granted in colonization in conformity with the law of Aug 18th 1824 & the regulation of Nov 1828 For though it has been known as belonging to the ex mission of La Purisima it is at this time vacant & without the necessary ocupation & consequently in a condition to be granted agreeably with the laws referred to the persons petitioning are both Mexican Citizens of good conduct the committee only finds that Lugada has more property with which to stock it both cattle & horses but Canto is not known to have any property For which reasons Lugada is entitled to be preferred by the law & by the consideration of the Government to which he petitions The Committee therefore offers for the decision of Your Illustrious Body the following proposition The Government may grant in fee to citizen Francisco Lugada a the place named La Bolsa

Santa Barbara May 11. 1837

(sgd) Pablo Tanegas
(") Santiago Burke

In session of this day the Illustrious Ayuntamiento approved the proposition of the foregoing report resolving that this expediente be returned to the Government for its decision Date as above

(sgd) Diego Olivera
(sgd) Benito Diaz Secretary

Having seen the petition with which this expediente commences the report of the Illustrious Ayuntamiento of this municipality & all that was proper to be seen in conformity with that prescribed by the laws and regulations on the matter Citizen Francisco Lugada is declared owner in fee of the land known by

the name of Bolsa del Chamisal marked on the map which accompanies his petition within the boundaries mentioned in it subject to the conditions prescribed by the law of Aug 18. 1824 & regulation of of Nov 25. 1828 Let the corresponding title be issued let note be made in the proper book & direct this Expediente to the most Excellent Deputation for its due approval in case of which the Intendente who will be informed of this decree will again present his title that it may be revalidated Señor Don Juan B Alvarado Governor ad interim of the State & President of the most Excellent Deputation of the same thus decreed ordered & signed to which I certify

(Sgd) Juan B Alvarado

(Sgd) V. Pruden
Secretary ad interim

Most Excellent Sir

The committee on vacant lands having examined the Expediente moved by citizen Francisco Ingada petitioning for the place named Bolsa del Chamisal finds no objection whatever to its being granted in compliance with his request. For which reasons the committee concludes placing at the deliberation of your Excellency the following propositions

1st There is granted to citizen Francisco Ingada the place named Bolsa del Chamisal as he possesses the qualifications prescribed in the law of August 18. 1824 & art 5 of the regulation of November 21 1828

Santa Barbara May 14 1837

(Sgd) Jose R Estrada

(") Francisco S. Alvarado

Santa Barbara May 15. 1837

In lessoni of this day the proposition of the foregoing was taken into consideration & was approved by an absolute plurality of votes

16

(Sgd) Jose Ma Covarrubias (Sgd) Antonio Bullna
Secretary President

Filed in Office Aug 31st 1852
Geo Fisher
Secy

Doc N: 3 annex to the Dep: of Pablo de la Guerra taken before Com. H. L. Thornton

El ciudadano Juan Bautista Alvarado Go=
=bernador del Estado y Presidente de la ex=
elentisima Diputacion del mismo. Por cuan=
=to el Ciudadano Francisco Lugada ha pre=
=tendido para su benificio personal y el de
su familia el terreno conocido con el nombre
de Bolsa del Chamisal dentro de los linderos
del diseño que acompaño à su Solicitud, prac=
=ticadas previamente las diligencias conser=
=mentes segun lo dispuesto por leyes y reglamen=
=tos de la Materia usando de las facultades
que son conferidas à nombre de la Nacion Me=
=jicana he venido en concederle el terreno men=
=cionado declarandole la propriedad de el
por estas letras presentes entendiendose dicha
concesion con entera conformidad à las leyes
à reserva de la aprobacion, desaprobacion
de la Exma Diputacion y bajo las condiciones
siguientes. 1ª El agraciado ni sus herederos
podran dividir ni enagenar el que se les ad=
=judica imponerle censo vinculo, prenza ni
otro gravamen alguno aunque sea por causa
piadosa, ni pasarlo à manos muertas. 2ª
Podra cercarlo sin perjudicar las travesias
caminos y servidumbres. lo disfutara libre
y esclusivamente dedicandolo al cultivo
y usos que le acomode. 3ª Cuando se le con=
=ceda la propriedad solicitarà del Juez res=
=pectivo en virtud de este despacho por el cual
se demarcaran sus linderos y pondran sus
mohoneras. 4ª El terreno de que se hace
donacion es puramente el que se expresa en la
solicitud del interesado y se demarca en el
diseño; y el Juez que lo posesione pasara avis=

à este Gobierno del numero de sitios que compren-de. En consecuencia mando que sirviendo-le de titulo el presente y teniendose por firme valedero, se tome razon en el libro que correspon-de y se entregue al interesado para su resguar-do y demas fines convinientes.
Dado en la ex. mision de Santa Barbara @ 11 de Mayo de 1837.

Juan B. Alvarado
Victor Prudon
Srio into.

Sta Barbara Mayo 18 de 1837.
En sesion de esta dia aprobó la Excma el dictamen de la Com.n de la misma y à la letra es como sigue. Se concede al C.no Fran-cisco Alvarado, el parage nombrado Bolsa de Chamisal p.a obtener los requisitos que previene la ley de 18 de Ag.to de 1824 y el art.o 5 del Reglam.to de 21 de Noviembre 1828. — Sta Barbara 14 de Mayo de 1837. José Estado Francisco Alvarado. Juan B. Alvarado
Victor Prudon secro int.o

El interesado agregar a tasado un pliego de à seis p. conforme à la ley

V. Prudon

Filed in Office Septbr. 9th 1852.
Geo: Feiher Secy.

19

Translation of Title

Citizen Juan Bautista Alvarado Governor of the State & President of the most Excellent Deputation of the Same

Whereas citizen Francisco Trigueros has for his own personal benefit & that of his family petitioned for the land known by the name of Rosa del Almaden within the bounds shown on the map which accompanied his petition the proper measures having been previously taken as required by laws and regulations on the matter using the faculties which are confered on me in the name of the Mexican Nation I have granted him the aforesaid land declaring to him by these presents the ownership of it and granted being understood to be in entire conformity with the laws and subject to the approbation or disapprobation of the most Excellent Deputation & under the following conditions

1 Neither the grantee nor his heirs can divide or alienate that which is granted to them, subject to any entail pledge mortgage or other incumbrance even for religious purposes or convert it in mortmain

2 He may enclose it without prejudice to the roads cross roads & servitudes & enjoy it fully & exclusively making such use or cultivation of it as he may see fit

3 When the ownership is confirmed to him he shall request the proper Magistrate to give him judicial possession in virtue of this order for which purpose the bounds will be marked out & the bounds placed

4 The land granted in donation is solely that which is described in the petition of the person interested the Magistrate who may put him in possession will report to this government the number of sitios it contains, In consequence I order that serving for title these presents & being held as firm & valid note be taken in the corresponding book & they be delivered to the party interested for his security & other convenient purposes

Given in the Ex mission of Santa Barbara on this eleventh of May 1837

20

(Signed) Juan B Alvarado

(Sgd) Victor Prudon
Secretary ad interim

Santa Barbara May 18th 1837 In session of this day the Most Excellent Deputation approved the report of the committee of the same which literally is as follows, the place named Bolsa del Chamisal is granted to citizen Francisco Tejada the requirements of the law of August 18th 1824 & article 5th of the regulation of November 21. 1828 having been complied with

Santa Barbara May 14th 1837

(Sgd) Jose R Estrada
" Francisco Alvarado

(Signed) Juan B Alvarado

(Sgd) Victor Prudon
Secretary ad interim

The person interested will attach a defaced stamp (of stamped paper) of six dollars as required by law

(Sgd) Victor Prudon

Filed in Office Aug 31st 1852
Jas Fisher
Secy

En el puerto de Sta. Barta. à los cuatro dias del mes de Septiembre del año de mil ocho cientos cuarenta y seis. Yo el ciudadano Pedro Bordero como en lugar de mi esposa Ma. Dolores Quipida, hise la Venta de la tercera parte de la mitad del Sitio que era del finado Franco Quijada, la cual se toco de Herencia à mi Esposa por dicho finado Franco. Quijada. La Venta de esta tercera parte de la mitad de este Sitio, se halla en el Rincon de la Volsa la qe. colinda con el rancho de Nepomo y el Arroyo grande, y el comprador de esto lo es Dn. Luis Burton quien en plata sellada y Bonum me ha dado Cincuenta pesos. Este documento se considera que debia de llebar todas los requisitos y formalidades Juridicos; pero pr. las muchas Ocupaciones qe. tiene el Juzgado me he allado en disposicion de poner este el que pienso sera valedero en todo tiempo pues para el efecto lo firmo ante dos testigos los que sirben de asistencia de lo Espuesto lo firmo ~~a ruego de mi esposa~~ Dn. Luis Burton como comprador quedera Enterado de lo que igualmente se le vende y si acaso el encuentro algun otro ahorequisitos se puede poner bajo de mi firma Y para los fines indicados lo firmo como tengo dicho.

Pedro Bordero

assa
Manuel P. de Leon

assa
Tomas Botella

2.60

State of California
County of Santa Barbara. On this 3rd

day of May A. D. one thousand eight hundred and fifty two personally appeared before me County Clerk in and for the said County. Tomas Boteller satisfactorily proved to me to be the person whose name is subscribed to the foregoing instrument as a Witness thereto, by the oath of Lewis T Burton to me known and the said Tomas Boteller being duly sworn deposed that the person who subscribed the foregoing as a party thereto is the person who executed the same And that he the said Tomas Boteller subscribed his name to the above conveyance as a Witness thereof

In testimony whereof I have hereunto set my hand and seal at Santa Barbara the day and year above written.

Private seal no seal of the Court being required

Chas. E. Huse
County Clerk

1.20
3.80

Translation of conveyance from Pedro Cordero to L Burton

In the Port of Santa Barbara the 4th day of September as 1846 I citizen Pedro Cordero in the place or stead of my wife Maria Dolores Trijada sell one third of one half of the place which belonged to the accused Francisco Trijada which belongs by inheritance to my wife from said deceased Francisco Trijada The sale of this third part of one half of this place is of the land in the Rincon de la Bolsa bounded by the Ranchos of his parents the arroyo Grande the lands of the purchaser of this Don Luis Burton who in cash has paid me fifty dollars

This document has sought to have all the judicial requisites & formalities but as the court is much occupied, I have made this instrument which I think will be valid in all times for that purpose I sign it with two witnesses who serve as assisting witnesses of this act & besides I authorize the said Don Luis Burton as the purchaser in order that he may hold legally what is hereby sold to him that if there be wanting any requisites he may place them under my signature

And in testimony for the purposes indicated I sign

Assisting Witnesses
(sgd) Manuel S de Luzi
(") Tomas Botiller

(sgd) Pedro Cordero (L.S.)

Filed in office August 31st 1852
Geo Fisher
Secy

Francsco Quijada
Luis Burton
Deed. A.D. 1843

En el Puerto de Santa Barbara à los Veinte dias del Mes de Marzo de mil ocho cientos cuarenta y tres, compareció ante mi Joaquin Carillo Juez de Paz propietario del partido y los testigos de mi asistencia con quienes de tuvo por falta de Escribano nacional y publico Francisco Quijada Vecino de este puerto a quien doy fe conosco y dijo. Que se espa por esta publica escritura como siendo dueño del Rancho conocido con el nombre de Bolsa del Chamisal segun titulo que obtiene del Gobierno del departamento dado en Diez y ocho de Mayo de mil ocho cientos treinta y Siete de buen agrado y cierta ciencia otorga en el modo que mas por derecho le es permitido y puede estando cierto de todos sus derechos y de los que en este caso le competen y puedan competer se desiste y renuncia y aparta de cualesquiera derechos y acciones que le competen y puedan competer en la mitad de la tierra que contiene el espresado Rancho de Bolsa del Chamisal sito en el termino de este lugar y linda con tierras de los ranchos de Nipomo Santa Manuela y con el Arroyo grande, y traspase y traspasa à Don Luis Burton vecino de este mismo puerto presente y aceptante y à los suyos la mitad del espresado Rancho; cuyo establecimiento del dominio mayor y directo hace dicho Francisco Quixada al espresado Don Luis Burton y sus sucesores con los pastos y condiciones siguientes; Primeramente compacto y condicion que dicho Burton se obliga a

Rancho de Bolsa del Chamisal

36 SD
PAGE 24

a construir en el espresado rancho un Corral de buen Servicio y de buenas maderas de cuarenta en cuadro; que servirá al uso comun de ambos contrantes y apagar los derechos que importe la posecion juridica del Rancho cuando se diere. Item Compacto y condicion que el cuidado de los bienes que de cualesquiera naturaleza tuvieren los contrantes en el rancho ya espresada sera por cuenta de cada uno pues cada cual debera cuidar los de su apertenencia. Item. Compacto y condicion que ninguno de los contrantes podra introducir bienes agenas o por encargo sin previo consentimiento mutuo en el mencionado Rancho. Ultimamente compacto y condicion como por el convenio hecho traspiere y traspasa. Zuñada en Don Luis Burton y sus sucesores, su derecho à la mitad del terreno de la Bolsa del Chamisal, se obligan ambos contrantes à que en caso de que alguno de ellos quisiera enagenar la parte que le corresponda, lo hara conformecimiento del otro para que este sea preferido à otro comprador, siempre que ofreciere igual cantidad à la que el comprador diere. Con dichos factos y condiciones el referido Francisco Zuñada ha transferido y traspasado la mitad de dicho Rancho al favor De Don Luis Burton, prometiendo no revocar esta escritura en manera alguna, para lo cual renuncia todas las leyes de su favor y el dicho Burton accepta esta concesion de la espresada mitad del rancho con los citados cargos o gravamenes

Ambos partes cada uno por lo que le toca cum
plir, obligan sus personas y bienes habidos
y por haber y dan poder à las justicias y
en particular à las de este Puerto a cuya
juris-diccion se someten para que les a=
=premien. Asi lo otorgaron, siendo testigos
instrumentales Don Guillermo Dana, Don
Ramon Malo y Don Juan Carillo vecinos
de este puerto. Y. Don Luis Burton lo firmo
conmigo y los de asistencia haciendoma
cruz Francisco Lujada por no saber escribir
de que doy fee. + Luis Burton = Joaqn. Ca=
=rillo. De assa Fernando Carillo # De assa
Fernando Pico # Fernando de la Guerra
Joaquin Carillo Juez de paz propietario del
partido de Santa Barbara. Certifico que
las antecedente copia esta sacada fielmente
y legalmente de su Original que obra en
el protocolo del Archivo de este juzgado à que
me refiero.

Santa Barbara Mayo 21 de 1843
Joaqn. Carillo.

State of California
County of Santa Barbara

On this 3rd day of May A. D. one thousand eight hundred and fifty two, before me County Clerk in for said County personally appeared Joaquin Carillo to me known, that the foregoing is his genuine signature and was appended to the foregoing instrument in this official capacity for the uses and purposes therein expressed.

27

In Testimony whereof I have hereunto set my hand and seal — private seal — there being no Official seal yet provided the day and year above written

q. 50

Chas. E. Huse
County Clerk.

36 SD
PAGE 27

Filed in Office Sept 9th 1852

Geo Fisher Secy

Translation of Conveyance from M Injada to L Buton

In the Port of Santa Barbara the 14 day of March 1850 before me Joaquin de la Guerra Juez of First Instance of this Demarcation & before the witnesses of my assistance with whom I act by virtue of my office for want of a Notary Public besides the witnesses of this Instrument below named appeared Lenora Menendez Injada (whom I certify is known to me) & said that for herself & in the name of her first successors & whomsoever of them may have title voice or cause in any manner, the sales & gives in real sale & perpetual alienation with right of inheritance forever to Don Luis Buton & his the hacienda which she has in the Rancho called Rolas de Cienaga & which she inherited from her deceased brother Francisco Injada or El Grande which Rancho lies in the Jurisdiction of San Luis Obispo & bounded on the North by the Rancho of Prancha on the South by Guadalupe Rancho of Genoveva Dominguez & Diego Olivera On the East by Nipomo the property of William & Ann & on the North east by the Arroyo Grande which tract was granted to her by her now deceased brother Francisco Injada & which hereby she declares & warrants she has not sold alienated or pledged, & is now free from tax religious claim entail mortgage or other encumbrance real perpetual temporal & special general tacit or express & as such she sells & transfers it in form & disposition hereinbefore agreed upon for the sum of fifty dollars in good silver coin & the seller acknowledges the receipt of it to her entire satisfaction without reclamation of anything declaring that she has received the fifty dollars in silver previous to the sale & for that object she therefore renounces the exception which might be made on account of its not being counted out in presence as provided by law & title III partida 5 & executes in favor of the purchaser the most sure & efficacious ~~receipt~~ which may convence to his security & that the just price & true value of the hacienda which she sells are fifty dollars in silver that it is not worth more and that there is no one who will give more for it

and if it is or may be worth more the excess be it
more or less she makes in favor of the purchaser &
his heirs & successors grant & gift pure simple
perpetual & irrevocable in health & with judicial
intervention & other legal forms & she renounces land
title & bit & hypothecation Recopil action which
treats of contracts of sale & barter in which there is
lesion of more or less than one half of the just price
& the four years stipulated for asking a rescision or
supplement to its just price which she gives as part
of the same as if they really were so from this time hen
ce forth forever she dispossesses herself desists
from & leaves & takes from her heirs & successors
the dominion property possession title voice reco
urse & what ever other right she may have to the said
part which was given her by her deceased brother Fran
cisco Zuiga in the Ranche of the Bolsa del Chem
isal & she it cedes renounces & transfers with all the
actions real & personal useful mixed direct and
executive to the purchaser & his representatives
in order that he may possess & change alien at
will & dispose of it at his election as a thing his against
by legitimate & just title & she confers on him power
irrevocable with full free & general administration
& constitutes him attorney in fact in his own cause
so that by her authority or judicially he may enter
on & take possession of the said part which she has in
the Ranche of the Bolsa del Chamisal & of it take & hold
the real terrene & possession which by right belongs to
him & in order that it may not be necessary to
take it she asks that there be given an authorized
copy by the present writing with which without any
other act of seizing it will be seen that he has it held
seized & transferred & in the interim she constitutes
herself heister and temporary holder in legal
form & obligates herself that said part which she holds in
the Ranche of the Bolsa del Chamisal shall be certain
secure & effective to the purchaser & no one shall dis
turb him or move suit about his property possession
enjoyment and use nor against it appear any

enjoyment and use for against it appear any

8/312

30

encumbrance if any one should disturb him
said he moved or in embrance appear then as soon
as the seller or his heirs & successors are required acc
ordingly to law they will appear in his defense & prosecu
it at their expense in all the courts & tribunals until
by final decision the purchaser is left in the full
use & quiet & pacific possession & if this cannot be acc
omplished they will give him another equal in value
of the same building place safe & convenient & in
default of this they will restore to him the amount
he has paid, the improvements useful necessary &
voluntary with the reasonable increase of value
& estimation it may in time acquire with all the
costs expenses interest & deteriorations which may
follow & result for all of which hereon & execution is given
in virtue of this writing & the oath of him who possesses
or of whom soever represents him in whom so ever may
shine its and she relieves him from any other thing
& for the observance of all the aforesaid she binds her
person her property which she now has or may have
renounces the laws in her favor & defense with the gen
eral of law in form & confess & make Poron the
Magistrates who of this matter may have jurisdiction
according to law in order to force her to its fulfilment as
by a final sentence of a competent court passed with
the authority of res indicata & consented to & as such he
receives it & she signs it with me & with my assisting
witnesses on common paper there being none
of the corresponding stamp the witnesses of the
instrument being Anastacio Canillo Antonio
Maria (de la) de la Guerra & Jose de Jesus Canillo

Fernando Tugada (rra)

Assisting Witnesses Before me
Pedro C Canillo Joaquin de la Guerra
Guillermo Canillo

Fees $

Filed in Office Aug 31 1852
Lee Fisher Clerk

36 SD
PAGE 30

31

Transaction of Conveyance from F. Injada to L. Burton

In the Port of Santa Barbara the 2 18th day of March ao 1843 appeared before me Joaquin Carrillo regular Justice of the Peace of this Partido & my assisting witnesses with whom I act for want of a Notary Public comes Francisco Injada a resident of this Port whom I certify I know to be & known by this Public writing that being the owner of the Ranche known by the name of Bolsa del Chamisal by title obtained from the Government of the Department given on the 18th day of May 1837 I of sound health & good understanding acting in the manner provided by Law desist from renounce & give up all the rights of what ever kind I have or may have in the one half of the said Rancho de Bolsa del Chamisal situate in the boundaries of that place & bounded by the Ranchos of Nipomo Santa Manuela & the Arroyo Grande & transfer & make over to Don Luis Burton resident of this same Port present & accepting to his the half of the said Rancho which establishment of the dominion greater & direct the said Francisco Injada makes to the said Don Luis Burton & his successors on the following terms & conditions First on the term & condition that said Burton bends himself to construct in said Rancho a house well built of good timber forty varas square which shall serve for the common use of both parties & to pay the expenses of the Judicial of the Rancho may be given Item on the term & condition that the care of the property of whatever kind the contracting parties may have in the aforesaid Rancho shall be on account of each one since each one must take care of those which belong to him. Item on the term and condition that neither of the contracting parties can introduce other property in said ranche without the mutual consent Lastly on the term & condition that as by the agreement made Injada shall transfer and he transfers to Don Luis Burton and to his successors his right to one half of the land of the Bolsa del Chamisal and both contracting parties bind themselves that in case

either of them shall desire to alienate the part which belongs to him he shall do it with the knowledge of the other, may be refused to any other purchaser although on condition that he shall offer to give an equal sum as the other purchaser And with the aforesaid terms & conditions the said Francisco Tejada has transferred & make over the half of the said Rancho in favor of Don Luis Burton promising not to renounce this writing in any manner for which he renounces all the laws in his favor the said Burton with the above mentioned charges but thus both parties each one for the part he is to fulfil binding their persons their property acquired & which may hereafter be acquired & give power to the courts particularly to those of this Port to whose Jurisdiction they submit to compel the fulfilment

Thus they authorize the witnesses to the instrument being Don Guillermo Jones & Don Ramon Malo Divisadero & Don Luis signed it with me & the witnesses of my assistance Francisco Tejada not knowing how to write

+
Luis Burton

Joaquin Carrillo

assisting witnesses
Fernando Sico
Francisco de la Guerra

Joaquin Carrillo Regidor Justice of the Peace of the Partido of Santa Barbara, I certify that the foregoing is a copy faithfully & legally made from the original in the Protocol of the archives of this Juzgado to which reference is made

Joaquin Carrillo

Santa Barbara March 21 1843

Filed in office Aug 31 1852
Geo Fitzhugh
Clerk

33

Deed

This indenture made the eighteenth day of March one thousand eight hundred & fifty two between Nasario Zuijada of the town of Nipomo & county of San Luis Obispo & State of California parties of the first part & Luis I Burton of the city & county of Sta Barbara party of the second part Witnesseth that the said party of the first part for & in consideration of the sum of one hundred dollars to him in hand paid the receipt whereof is hereby acknowledged have bargained & sold & by these presents do bargain sell unto the said party of the second part his heirs & assigns forever one sixth part of the Ranch known as the Rolsa de Chamisal lying in the town of Nipomo & county aforesaid bounded as follows at the North by the Arroyo Grande & South by the Ranch of Nipomo Together with all & singular the rights privileges and appurtenances thereunto belonging, To have & hold the same unto the said party of the second part his heirs and assigns forever

36 SD
PAGE 33

In testimony whereof I have hereunto set my hand & seal this eighteenth day of March in the year one thousand eight hundred & fifty two

Signed sealed & delivered
in presence of us
Wm J Dana
Elliot Libby

his
Narcisi X Zuijada
mark

County of San Luis Obispo

Personally appeared before me the county Clerk of San Luis Obispo Elliot Libby known to me to be the person whose name is subscribed as one of the witnesses to the foregoing deed who being duly sworn states that he was present at the signing of said deed which was duly interpreted to Narcisi Zuijada & that the said Zuijada thereupon acknowledged that he executed the same deed freely & voluntarily for the uses & purposes therein expressed Witness my hand & Private Seal in absence of a public seal of office this 29th day of March AD 1852

34

Francis J. Magnire
County Clerk

The foregoing was received for Record this 29th day of March AD 1852 at 7½ o'clock Am and was recorded same day at 9 o'clock Am in Book L fol 434 of Conveyances

F J Magnire
Recorder

fee $2.25

35

Opinion

Luis J Burton
vs
The United States } Bolsa de Chamisal

36 SD
PAGE 35

The claimant in this case represents in his petition that on the 11th day of May AD 1837 Governor Alvarado granted to one Francisco Tejada the tract of land called Bolsa de Chamisal with the boundaries as described in the petition of the said Tejada; that on the 18th day of May 1837 the said grant was duly approved by the Departmental Assembly & that afterwards the said Tejada to wit: On the 20th day of March AD 1843 the said Francisco Tejada sold & conveyed to the said petitioner one half part of the said tract of land. The petitioner further represents that soon afterwards the said Tejada died leaving Rosario Tejada Manuela Tejada & Maria Dolores Tejada his heirs & successors. The petitioner also represents that the aforesaid heirs have sold & conveyed the other half of said Rancho to the claimant by three certain deeds of conveyance as follows Maria Dolores Tejada by her husband Pedro Cordero on the 4th day of Apr AD 1846 Manuela Tejada on the 14th day of March AD 1850 & Rosario Tejada on the 18th day of March AD 1852. The claimant in proof of the allegations contained in his petition has filed the original grant made to Tejada with satisfactory proof of its genuineness. He has also filed a certified true copy of the expediente taken from the Archives which contains a record of proceedings of approval made by the Departmental Assembly. The original deeds of conveyance purporting to have been made by the heirs of the original grantee are also filed as evidence of the claimants title. In addition to the foregoing documentary evidence it is proved by the deposition of Thomas Rice that he was acquainted with the Rancho called Bolsa de Chamisal that he was there in 1839 and that it was then occupied by Francisco Tejada with cattle horses & a little tule house & corrals & that he had once hoeed it for quantity & that it was owned by Tejada

afterwards by Luis Burton This is all the evidence offered by the claimant in regard to the inhabitancy & cultivation of the land, The first question which presents itself is the validity of the claimants title which involves an investigation of the legality of the Juridical Mensa conveyances by which the claimant claims his title from the original Grantee and first in order is the deed from Francisco Higuera to the petitioner bearing date the 20th of March AD 1843 This deed executed & signed in conformity with the forms & requirements of the Mexican Law then in force conveyed to the said petitioner the one undivided half of the Rancho called Rodeo de Chamisal, This instrument purports to be a copy of the original & is verified by the certificate of the Justice before whom the original deed was executed which certificate is as follows, Joaquin Lemuello Regular Justice of the Peace of the Partido of Santa Barbara, Certify that the foregoing is a copy faithfully & legally made from the original in the Protocol of the Archives of this Juzgado to which reference is made Santa Barbara March 21st 1843 Joaquin Lemuello

In addition to the foregoing certificate the following acknowledgement is appended

State of California }
Santa Barbara } On this the 3d day of May 1852 before the county clerk personally appeared Joaquin Lemuello to me known who declared that the foregoing is his genuine signature & was appended to the foregoing instrument in his official capacity for the uses & purposes therein expressed there being no official seal yet provided the day & year above written

Witness } Charles Hase
Seal } County clerk

This was all the proof offered in regard to the execution of the instrument upon which the petitioner claims title to one half of said Rancho, The First Instruction which presents

itself is whether under the laws of California now in force the instrument is sufficiently proved to admit it to be read in evidence. The 42 Sec of the act entitled an act concerning conveyances [Passed April 16. 1850] makes deeds of conveyance executed in conformity with the laws of the former government to depend for their legality & validity upon the laws in force at the time of their execution & is in the following words, The legality of the execution acknowledgement proof form or record of any conveyance or other instrument heretofore made executed acknowledged proved or recorded shall not be affected by anything contained in this act but shall depend for its validity or legality upon the laws then existing & in force, This provision of the statute law of this State clearly intends to place all deeds of conveyance & other instruments executed in conformity with the laws of the government in existence at the time of the execution upon the same footing with the like instruments executed under the provisions of that act The absolute necessity of some such provision of law must be apparent to all without it all evidences of title received under laws & forms of the former government would have been of no more value in the hands of the holders than so much blank paper, The next inquiry which arises is was the instrument in question executed in conformity with the existing laws in force at the time of its execution In Whites Recopilacion Vol 1 Page 296. 297. the following rules are to be found by which the legality of the instrument in question can be tested First An instrument of writing in every and that is made by the hand of a public escribano or notary of a corporation or concil as sealed with the seal of the King or other authorised persons, Hence arises the two kinds of instruments which produce faith & full proof one public made by the escribano or notary with the solemnities prescribed by law or other authentic which is that sealed by the King bishops prelates & great men of the

Kingdom, Second among public instruments are
second those which are made by escribanos
of Cobeldo (the corporation of a town) for things
relating to them & those which are contained in
public archives & not of private persons copies of which
must come accompanied with the certificate of the
Keeper of the public archives. Third a public instrument
is divided into three classes, the original draft reg
istro or protocol, the original & the copy the registro
is the original draft or writing which is delivered
& remains in the possession of the escribano which
we also call protocol. The deed which is immediately
copied from the protocol is the original which carries
faith in as much as it was authorized by the public
escribano before whom it passed or by him to whom
the protocols of the latter have passed. From the from
what has been said of these axioms results 1st that
every public instrument must be signed by a
public escribano of the appointed member of the towns
2nd That it does not produce faith if devoid of any
solemnity, 3d That the might or authority of a public
instrument is derived from among us of the protocol
because every instrument of writing made without this is
null. The instrument offered in evidence is a copy
taken from the protocol as appears from the certificate
of the Justice by whom the original was made, Justices
of the Peace in California under the Mexican law had
the same power to make instruments of writing with
their assisting witnesses which the law conferred upon
a notary & when so executed were entitled to the same
faith & credit that were given to the notarial acts
authorized by law. The deed now offered in evidence is
the one which was immediately copied from the protocol
& under the law first quoted is the one which is entitled
to faith. The instrument of which this is a copy was
deposited in the archives of the Justice & was never
delivered to the party but was retained by the
Justice in his archives for the security of all
parties & to which reference could at all times
be made if doubts should arise

as to the genuineness of the copy taken from it, The deed does not appear to be devoid of any solemnity which the law required instruments of that character should possess, The whole legality & validity of the instrument is made to hinge upon the certificate of the officer by whom it was made, because the deed, the name of the grantor & the names of the attesting witnesses are all copies of the original & are entitled to have been copied from the protocol by the Justice who made the instrument & who is the keeper of the archives in which the original was deposited, Testing this deed then by the rules of the Mexican law under which it was executed its legality cannot be questioned & under those laws it would have been entitled to full faith & credit without further proof of its execution, The party has taken the precaution to have the acknowledgement of the Justice taken before the county clerk of Santa Barbara county, Proof of the official character of the officer making the instrument & who has possession of the protocol to which reference is made was not required by the Spanish law unless exception should be taken that the instrument produced was not made by the hand of a notary or other authorised officer which would throw the burthen of proof on the party producing the instrument, But if proof of the official character of the Justice was essential to give validity to the deed, the acknowledgement taken by the clerk would not furnish such proof, as the certificate is wholly without authority of law at best, I have not been able to find any such authority in the statutes of this State, From what has been said the following are produced 1st under the Mexican law the instrument produced was entitled to full faith without other proof 2d That under the provisions of the 41 Sec of the conveyance act already referred to (see laws of California 1850. 1853 page 519) the said deed is entitled to be recorded & has all the force as evidence which a deed executed & acknowledged in pursuance of the laws of this State would be entitled to receive 3d That under the provisions of the 29 section of said act said deed is entitled to be read in evidence without

further proof. These minutes make the petitioner the legal assignee of all the interest which Francisco Injada had up to the date of said instrument in the one undivided half of the premises known by the name of Bolsa de Chamisal. The next question which arises in the investigation of the claimant's claim of title is the legality of the several mesne conveyances through which he seeks to deduce title from the original grantee. If the petitioner had laid the proper foundation for the introduction of the several conveyances which he has placed on file in this case, which must be made by the heirs of the original grantee their legality together with the object for which they were introduced would necessarily be proper subjects for the consideration of this commission. The claimant has failed to connect by proof of any kind the persons described as grantees in the conveyances referred to with the title of the original grantee. It is true that the petitioner alleges the death of Francisco Injada and also that the persons described in the said deeds of conveyance are his heirs at law, but this allegation is unsupported by proof of any kind. For aught that appears to this commission Francisco Injada is still living or if he is even dead as alleged what evidence is there that he has no Injada Manuela Injada and Maria Soledad Injada are his heirs or that they are connected with him in any way. No will has been filed, no evidence of any kind has been offered connecting these persons with the original grantee of the land with out such testimony the conveyances are valueless, prove nothing, establish nothing. The main link in the chain by which the petitioner seeks to connect himself with the title of Francisco Injada is wanting, until it is supplied by legal proof of heirship as the persons described in said conveyances the petitioner has no legal right to demand of the United States a relinquishment of their interest in the remaining undivided half of said place called Bolsa de Chamisal. The petitioner's right to confirmation of the

undivided half of said premises depends entirely upon the equities which fastened upon the land previous to the date of the deed made by Francisco Tejada to the petitioner because the first condition of the grant provides that neither the grantee nor his heirs should divide or alienate the land land granted & according to the views of a majority of this Commission heretofore expressed it devolves upon the claimant to show that the grantee before he alienated had complied substantially with all the conditions of the law, at all events the assignee of any government grant with or without the condition against alienation takes the place of the grantee represents his rights whatever they have. The proof in this case does not show such a performance as this commission have repeatedly held in other cases to be necessary before a decree of confirmation could be rendered. The grant bears date the 11th of May 1837 & the proof of occupation only reaches back to the year 1839, the witness states that it was in that year he was at the place he does not state what part of the year but giving his testimony the most favorable construction for the claimant, it does not bring his knowledge of the place by ten or twelve months within the time when the law required a performance of the consideration for which he received the grant. If the party had taken possession of the land & had occupied it within a year from the date of the grant, it certainly was susceptible of proof if on the contrary he had not built the smallest house within that time which the witness testifies he saw on the place in the year 1839 neither him nor his legal representatives would be entitled to confirmation. He sought a large tract of land as he states in his petition to the Governor the tract containing arable lands for agriculture, yet no pretence of cultivation is set up or proved to have been made either by the grantee or his assignee. The very consideration expressed in the deed from Francisco to the petitioner was that he should make valuable improvements on the rancho & that he should hay

pay the expenses of the judicial measurement there is no proof that he ever complied with either of these conditions, By the terms of the grant the original grantee was enjoined to make application to the proper officer for judicial possession of the premises for the express purpose of having the bound aries marked out & the bounds plated The expense of making the judicial survey & of giving judicial possession devolved upon the grantee as the person for whose benefit these acts were performed, This expense was part of the consideration which Beaton agreed to pay Injinda for the land described in his deed, No proof of any application for possession or measurement is given in this case, The grant appears to be by meites & bounds as are expressed on the map filed in the cause & to which reference is made in the grant, The bound ary delineations on the map are exceedingly indefinite & uncertain & without explanatory proof alunde are incapable of being comprehended, the necessity therefore of having the lands measured in the usual way & of having them designated by bounds & land marks is very apparent but in the absence of such designation the map should have been accompanied with such intelligable explanations as would have enabled the Commissioners to trace the bounding lines & by them locate the precise tract granted, The proof in this cause presents a case almost naked of Equities of any kind, The building of a tule house could hardly be considered as a substantial compliance with the law, a substantial building fit for inhabitancy was clearly the intention & policy of the government, There is no direct proof that the grantee resided upon the land, the acts of occupancy seem to consist in having a little tule house & cattle & horses on the place, The claimant was seen on the premises but there is no proof that he ever lived there or made improvements of any description, The only improvement was the tule house

& although the lands are asked for the purpose of agriculture as well as for grazing no cultivation is proved, The improvements could not have been less & considering the quantity of land claimed they are certainly very meagre The grantee united with one half of his ranchos for the very purpose of enabling him to comply with the conditions of his grant a duty therefore devolved upon the claimant to perform his part this he has failed to prove so far as he is concerned the case is barren of all merit we are therefore of opinion that the claim in this case is invalid & not entitled to confirmation

Filed in office Dec 6 1853
Geo Fisher
Cly

Decree

Luis J Burton
vs
The United States

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

Alphens Felch
Thompson & Campbell
Comms

Filed in Office Dec 6. 1853
Geo Fisher
Cly

Office of the Board of Commissioners,

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

I, George Fisher, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing forty three pages, numbered from 1 to 43, 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. 312 on the Docket of the said Board, wherein Lewis T. Burton is the Claimant against the United States, for the place known by the name of "Bolsa del Chamisal"

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
Sec'y.

36

U. S. DISTRICT COURT,

Southern District of Califor

No. 36.

THE UNITED STATES,

36

vs.

Lewis T. Burton appl

For Bolsa del Chemisal

3 leagues in San Luis Obispo Co.

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 302,

Rec 25 Aug. 1854

Filed, 26 Aug 1854

A. S. Taylor

Dp. Clk.

36

No. 312

United States District Court for the Southern District of California.

Lewis T. Burton Appellant vs The United States Appellees	Notice of intention to prosecute the appeal from the decision of the Board of United States Land Commissioners.-

Lewis T. Burton, claimant of the Rancho called "Bolsa del Chamisal", in the County of San Luis Obispo, and Southern District of California, hereby gives notice of his intention to prosecute an appeal from the decision of the Board of Commissioners rendered in his claim for the said land, which was presented to the said Board of Commissioners, and by them rejected. His claim being that which is numbered on the Docket of said Board of Commissioners No. 312, the transcript whereof as filed in this office is numbered No. 36.

Halleck Peachy & Billings
Attorneys for Appellant

No. 36.

United States District Court
Southern District of California.

Levis T. Burton
appellant

vs

The United States,
appellees.

Notice of intention to
prosecute appeals.

36 SD
PAGE 46

Filed Dec 26. 1854.
C. E. Carr
Clk

Hallett & Peachy & Billings
attorneys for appellant

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

Lewis T. Burton, Appellant
vs.
The United States, Appellee } No. 36.

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

Your Petitioner, Lewis T. Burton, by A. F. Winchman his Attorney respectfully represents:

That he presented to the United States Board of Commissioners to ascertain and settle private land claims in the State of California a Petition asking for a confirmation of his claim to a tract of land called the "Bolsa de Chamisal, three leagues by two and a half leagues in extent, situate in the County of San Luis Obispo and in the Southern Judicial District of the State of California: That said claim was numbered 312 on the Calendar of said Board: That said claim was examined in due form by said Board and was by them finally rejected: That a transcript of the proceedings of said Board in the matter of the said claim was filed with the Clerk of this Honorable Court on the 26th day of August. A. D. 1854, and that a notice of Appeal from the said Decision of the said Board was filed with

said Clerk on behalf of your Petitioner on the 26th. day of December A. D. 1854. For a description of the lands of said Bolsa de Chamisal and of the right and title which your Petitioner claims therein, he begs that reference may be made to the said Petition filed with the said Board

Your Petitioner respectfully begs that said decision of said Board may be reversed by this Honorable Court and that your Petitioner's claim to said lands of Bolsa de Chamisal may be confirmed.

Santa Barbara
September 3. 1855

A. F. Hinchman
Attorney for Appellant.

U. S. District Court for
the Southern Dist. of Cala.
Los Angeles County.

Lewis T. Burton
Appellant
vs.
The United States.
Appellee

Appellants Petition

No. 36.

Filed Sept 10th 1855.
J. E. Carr
Clk.

A. F. Hinchman. Santa Barbara
Appellant's Attorney.

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

Lewis T. Burton — Appellant
vs.
The United States — Appellee.

To the Hon. District Court of the United States for the Southern District of California:

Your Petitioner Lewis T. Burton respectfully shews —

That he presented to the United States Board of Commissioners to ascertain and settle private land claims in the State of California a Petition asking a confirmation of his claim to a tract of land called the "Bolsa de Chamisal" three leagues by two and a half leagues in extent, situate in the County of San Luis Obispo and in the Southern Judicial District of the State of California; that said claim was rejected by a decree of said Board: That a transcript of the proceedings of said Board in this case was filed with the Clerk of this Hon.

U. S. District Court. Southern District of California

No 36.

Lewis T. Burton
Appellant
vs
The United States
Appellee

Appellant's Petition for Review.

Filed Oct. 8th 1855.
C. E. Carlett
By D. W. Roberts Dep

A. F. Hinchman
Los Angeles Appellant's Atty
October 6. 1855.

Court on the 26 day of August A.D.
1854 and that a notice of Appeal from
the decree of said Board was filed
with said Clerk on the 26th day of
December A.D. 1854

For a further description of the
said tract of land claimed by your
Petitioner reference is made to the
said Petition filed with the said Board

Your Petitioner begs that said
decree of said Board may be reversed
and that your Petitioners claim to
said lands may be confirmed.

A. F. Hinchman
Appellants Attorney.

Los Angeles
October 6. 1855

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

Hon Isaac S. K. Ogier. Judge

Lewis P. Burton
vs.
The United States

No. 36.
(Transcript No. 312)

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 Lewis P. Burton, in the above entitled cause, says, that he denies, generally, all and singular the allegations in said petition contained. And he further denies the validity of the right, title or claim of the said Lewis P. Burton, to the land claimed in his said petition. Wherefore ~~pet~~ respondent prays that the decision of the United States Land Commissioners rejecting said claim, may be affirmed; and the title of the said claimant & petitioner be decreed to be invalid. With costs & general relief.

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

No. 36.

Lewis P. Burton
vs.
The United States

Answer to petition for review.

Filed Oct 13th 1885.
J. E. Carr
Clk.

36 SD
PAGE 52

P. O'M Mills, Ass.

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

L. T. Burton - Appellant } Ex Bolsa de Chamisal
vs.
The United States - Appellee } No 36

County of Los Angeles: H. W. Hallock being duly sworn says that he was employed as Attorney to present this case to the Board of Land Commissioners; that he filed with the Secretary of said Board a conveyance written in the Spanish language purporting to be a conveyance from Manuela Lugadd to Lewis T. Burton of one sixth of the Rancho "Bolsa de Chamisal"; that deponent has examined the Transcript in this case sent from said Board to the aforesaid District Court and that he verily believes that pages 28. 29 & 30 of said Transcript contain a correct translation of said Deed of conveyance.

H. W. Hallock

Sworn to & subscribed before me this 15th day of October A.D. 1858.
C. E. Carr Clk.
By J. W. Reff Dep

It is hereby stipulated that the translation mentioned in the foregoing affidavit is correct and shall for the ~~for~~ the purpose

of trying this case in said District Court have the force of the original.

P. Ord
Dist Atty U.S.
A. F. Heinchman
Atty for Appellants

Los Angeles
October 15. 1853

No 36
Bolsa de Chamiscal
U.S. Dist. Court. Southern District of California.
Louis T. Burton - Appellant
vs
The United States. Appellee
Stipulation as to Errors in Transcript.

Filed Oct 16th 1853
A. C. Cancelli
By Deputy Clk

36 SD
PAGE 54

Lewis L. Burton. Applt
vs. No 56.
The United States. Appee

Deposition of Anastasio Camillo, a witness on the part of appellant, taken before me Charles E. Carr. U.S. Commissioner for the Southern District of the State of California, at the City of Los Angeles on the 16th day of Oct. 1855. to be read in evidence on the trial of the above cause. Present A. F. Rinchman. Counsel for appellant. P. Ord, U.S. atty. for Appellee. M. A. Biggs. was sworn as Interpreter.

Anastasio Camillo being by me first duly sworn, to questions propounded by Counsel for the Several parties upon his oath, answers as follows:

Ques. What is your name age & place of residence.
Ans. My name is Anastasio Camillo, my age Sixty Seven, my residence Santa Barbara.
Ques. Did you know Francisco Quixada, if so state whether he is alive.
Ans. I did. he is dead.
Ques. What family did Francisco Quixada leave at the time of his death.
Ans. He was never married, and left at the time of his death ~~two~~ one brother Nasario and two Sisters Dolores & Manuela.
Ques. Was this brother, and were these two sisters the legitimate children of the Parents of Francisco Quixada.
Ans. They were.
Ques. Were the parents of Francisco Quixada or either of them living at the time of Francisco Quixada's death
Ans. They were both dead.
Ques. Did he leave any other brothers or sisters than those you have named.
Ans. None that I know of.

Cross examined by the U.S. Atty.

Ques. Do you know Lewis T. Burton, the claimant in this case.

Ans. I do

Ques. Do you know ~~if he was~~ whether he was a native ~~alien~~ ~~citizen~~ of the United States.

Ans. I think he is

Anastº Carrillo

Sworn to & subscribed before me this 16th of Oct A.D. 1855.

C. E. Fan
U.S. Com

No. 36.

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

Lewis T. Barton.
Applt.

vs.

The United States.
Apl'ee.

Deposition of Anastasio Camillo a witness for applt.

Filed Oct 16th 1854.

J. E. Carr
Clk.

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

The President of the United States,

TO

36 SD
PAGE 57 A

P. Ord. U.S. Dist Atty for the South. Dist. of California

Greeting:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against The United States in the District Court of the United States, in and for the Southern District of California, on the Eighth day of October, in the year of our Lord one thousand eight hundred and fifty-five, at the City and County of Los Angeles, in said District, by Lewis T. Burton, praying the Court to review the Decision of the Ad. Land Commissioners respecting his claim to the ~~Ran~~ Land Called "Bolsa del Chemisal" — "the extent of three leagues by two and a half in extent." Situate in the County of San Luis Obispo.

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 28th day of November A. D. 1855.

V. Fan

Clerk.

Marshals cost for serve 6.00

No. 36.

UNITED STATES OF AMERICA,

Southern District of California,

U. S. District Court.

Lewis T. Burton, Appl.

vs.

The United States, Apee.

SUMMONS.

Received Nov 29 1856

Edward Hunter

U. S. MARSHAL.

36 SD

PAGE 58

I served this Summons, together with a certified copy of the Petition, upon P. Ord U.S. Attorney for the Southern Dist of California ~~at his office~~ in Los Angeles

at his office _____ in the Southern District of California, on the 30th day of November A. D. 1856.

Sworn to and subscribed before me,

CLERK.

Edward Hunter

U. S. MARSHAL.

Lewis T Burton applt.
vs.
The United States.
No 56.

Deposition of David Spence a witness for Applt, taken in Open Court Dec. 7th 1855.

D. Spence, being duly sworn deposes and says

Ques. What is your name age and place of residence?
Ans. My name is David Spence, age 57. residence Monterey.
Ques. Do you know the handwriting of Juan B Alvarado, former Governor of California.
Ans. I do.
Ques. Look at the paper here shown you marked "A" J.E.S." and state whether you recognize the signature of Alvarado as genuine.
Ans. To the best of my knowledge and belief it is genuine.
Ques. Do you know the handwriting of Manuel Jimeno, formerly Secretary under Alvarado?
Ans. I do know it.
Ques. Look at the paper shown you and state whether you recognize the signature of Manuel Jimeno thereon as his genuine signature.
Ans. I believe it to be his genuine signature.

D. Spence

No 36.

U S Dist Court
South Dist of Cal.

Lewis T. Preston
applt.

vs.

The United States.

Deposition of L Spence

Filed Dec 7th 1853
C. E. Carr
Clk.

Recorded and returned
before me, Dec 7. 1853.
J. S. Carr
Clk

State of California
County of Santa Barbara }

L. T. Burton

having been duly sworn says that he became a naturalized Mexican citizen in the month of March. A. D 1842, and that letters, witnessing the fact of such naturalization duly signed by Juan B. Alvarado then Governor of California and by Manuel Jimeno then Secretary, were at that time issued to this deponent. Deponent further says that said letters are lost, that deponent has made diligent search for them in those places where he preserves valuable papers, that he has not found them, and that he does not know where they now are, or whether they still exist.

Santa Barbara Dec. 3. 1855

Sworn to and subscribed Lewis T. Burton
before me this 3d day of December A D 1855

Witness my hand and the seal of the County Court on the day and year last above written. George P Fisher
County Clerk

No 36.

U. S. Dist Court
South Dist of Cal.

Lewis T Burton
applt.

vs

The United States.

Appeal by Appellant

Filed Dec 4th 1855
C. E. Carr
Clk.

IN THE DISTRICT COURT OF THE UNITED STATES,

FOR THE SOUTHERN DISTRICT OF CALIFORNIA,

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

Lewis T. Burton

..... APPELLEE, VS. UNITED STATES, APPELLANT.	No. 36. (No. 312. of Transcript.) On Appeal from the United States Land Commission.

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

ORDERED by the Court, that an appeal be granted the United States, to the Supreme Court of the United States, from the judgment of this Court against the said United States in the above entitled cause, rendered on or about the 21st day of December A. D. 1855.

P. Ord
Dist Atty.

No 36

U. S. Dist Court
Southern Dist of California

Lewis T Burton
appellee
vs
The United States
appellants

Notice of Appeal T. C.

Filed March 17th 1856
C. E. Carr Clk
By Dellergan Deptz

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

Lewis T Burton appellee
vs
the United States appellant

Case No 36
Transcript No 312

In pursuance of a letter from the Atty General of the United States hereto annexed giving notice that in the above cause the appeal will not be further prosecuted by the United States. It is hereby stipulated and agreed by and between the parties that the decree of this Court heretofore rendered in this cause may by order of the court be made final

P. O. M. Dist Atty.

Packard & Hinchman
Attys for Claimants

No. 36

Stipulation

Filed 24th Feby 1857

A Lewis Clk

J H Coleman
Dep

36 SD
PAGE 66

California Land Claims.

Attorney General's Office
29 September 1856.

Sir:

In the case of the claim of Lewis F. Burton, rejected by the Commissioners, case no. three hundred and twelve (312), but confirmed on appeal by the District Court, appeal in the Supreme Court will not be prosecuted by the United States.

I am
Respectfully
Cushing

S. Ord Esq.
U. S. Attorney
Los Angeles.

W

36

Louis F. Burton

312

Filed 24th February 1857

C Sims clk

J H Leckman

Dep

36 SD

PAGE 68

Rec Nov 4 1836

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

Louis T. Burton
Appellant

vs

The United States
Appellee

Case No 36
Transcript No 312

Baca de Chamisal

This Cause coming on to be heard on appeal from the final decision of the United States Board of land Commissioners to ascertain and settle the private land claims in California on a transcript of the proceedings and decision of said Board and on the papers and evidence on which said decision was founded, and on additional testimony taken in this Court, and it appearing that said transcript and Notice of appeal have been duly filed according to law and Counsel for the respective parties having been heard,

It is ordered adjudged and decreed that said decision of said Board, rejecting the claim of the appellant be and is hereby reversed, and further, that the claim of said appellant be confirmed to the lands ceded by the Mexican Nation, that land expressed in the petition of the person represented, and as marked on the map accompanying the petition. Provided that if the quantity of land within the boundaries set forth by said petition and map exceed Eleven square Leagues of land then this confirmation is for Eleven square Leagues and no more

The land whereof confirmation is hereby made is known by the name of the "Baca de Chamisal" and is bounded by the place of "Niporos" on the North, by the "Estero del Ojo Place" on the East and South, and by the sea shore on the West, as shown by the map contained in the Expedente, and provided that if the quantity

No 36

Bolsa de Chamizal

U S Dist Court
South Dist California

Lewis A Benton
Appellant

vs

The United States
Appellee

Decree

Filed this 18th March 1858
C Sims Clk
J H Coleman
Dep

36 SD
PAGE 70
Recorded on Page 265

of land set forth in said petition contain a less quantity than eleven square leagues, then confirmation is for said less quantity.

Thos Dunn and Hugh O'Neill
Counsel Thos Hughes
1857

Nov 23 1857

36 SD
PAGE 71

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

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

confirmed to L. T. Burton,

has been surveyed by this office, and that the survey and plat was approved by the U. S. Surveyor General, on the 29 day of January 1861; that I have caused to be published, once a week, for four weeks successively, in two newspapers, to wit: the Santa Barbara Gazette, published in the County of Santa Barbara, State of California, being the newspaper published nearest to where the said Rancho is located, the first publication being on the 14th day of February 1861, and the last, on the 7th day of March, 1861; also, in the Los Angeles Star a newspaper published in the City and County of Los Angeles, State aforesaid, the first publication being on the 23d day of February 1861, and the last on the 16th day of March, 1861, a notice that the said land had been surveyed, and a plat made thereof, and the survey and plat approved by me. And I do further certify, that the said survey and plat were retained in my office during all of said four weeks, and until the expiration thereof, subject to inspection; and I further certify, that no order for the return thereof to the U. S. District Court, has been served upon me.

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 31st day of May, 1861

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

I hereby certify that the above and foregoing is a full, true, and correct copy of the original, as the same appears of record in this office.
Witness my hand and the seal of said office at the City of San Francisco, this 6th August, 1866

L. U. Sam
Ch. Surv. Gen'l

No 36

U.S. Dist Court

South Dist Calif

Lewis T. Burton

vs

The United States

Certif. of Survey

Filed Aug 9. 66

John D. Wheaton

Clk

36 SD

PAGE 72

Index of Transcript No. 36.

Lewis T. Burton for Bolsa de Chamisal

No 36.

Lewis T. Burton
for
Bolsa de Chuniral

Index of Transcripts

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

Por el presente concedo licencia al Sr. Dn. Guillermo Barton Mejicano por naturalizacion, para que pueda hacer la pesca de Nutria en toda la Costa del Departam.to con varias Canoas, tripuladas hasta cuatro hombres cada una, y por el tiempo que le convenga.

P. C. Las autoridades de los puntos donde recalcen las embarcaciones mencionadas no le pondran embarazo alguno en su trafico, y el Juez de Paz de Sta. Barbara de donde deve salir la expedicion, anotará en esta licencia el numero de canoas de que se compone, el dia de la salida y la misma se terminase en dho. punto la pesca a fin de exijir los derechos ha que se ha obligado a pagar el interesado por esta gracia.

Monterey Marzo 12 de 1842.

Juan B. Alvarado

Man.l Jimeno
Srio

Juzgado de Paz de 1.a Instancia

En vista de la antecedente licencia dada al Sor. Dn Luis Burton por el Gbno del Departamento, sale de este Puerto con dos Canoas tripuladas con siete hombres con el objeto de hacer la pesca de Nutrias que ha solicitado.

S.ta Barb.a Junio 1.o de 1842.

Joaq.n Carrillo

Sale en la fecha citada.

Carrillo

Arribaron á este puerto de Sta Barbara el Mes de Nobiembre del presente año á 24 de este mes

Carrillo

Translation of Paper hereto annexed marked A

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

L. S.

By these presents license is given to Luis Burton, a naturalized Mexican, to fish for otter on the whole coast of the Department with several boats, each manned with not more than four men, and for such time as he may choose.

Therefore the authorities at those places where the said boats may touch will offer no hindrance to his business, and the Justice of the Peace at Santa Barbara whence the expedition must start, will note on this license the number of boats of which it is composed, the day of departure, and the fishing expedition must be finished at the same place for the purpose of collecting the taxes which the interested party has bound himself to pay for this favor.

Monterey March 12. 1842

Juan B. Alvarado

Manl Jimeno
Sec.

No 36

Bolza de Chamisac

L. P. Burton Applt.

vs

The United States.

Evidence as to Citizenship

36 SD

PAGE 78

Luis F Burton appellant
vs
The United States. appellees

The claim in this case is based upon a grant from Governor Alvarado to One. Francisco Quintana bearing date 1st of March 1837.

The genuineness of the grant is undisputed & the documentary evidence shows the approval of the Departmental Assembly —

The present claimant derives his title from the Original Grantee through certain mesne conveyances, ~~&c~~ the validity of which are undisputed. ~~if there was recited in the Original Grantee~~, to convey whatever interest ~~the~~ had in the land claimed & more from the grant of Alvarado —

The objection to the claim based upon a much of compliance with the conditions of the grant, is overruled by the decision of the Supreme Court in Fremont's Case —

The only other objection to the validity of the grant is that it is so vague and indefinite, that the precise tract of land intended to be granted can not be ascertained —

The grant describes the land as "Solely that ~~[illegible]~~ expressed in the petition of the person presented and as marked on the map accompanying the petition" — It is evident that there is no sufficient description in the grant itself ~~but~~, but if by the aid of the petition and the map, ~~this deficiency can be supplied. I apprehend that it will sufficient there can be no doubt as to~~

the precise tract intended to be granted can be ascertained, the objection for vagueness and uncertainty can not be maintained. In the Case of Blake v Doherty, 42 Cal Rep. 54 the Supreme Court say, "It is undoubtedly ~~true that~~ essential "to the validity of a grant, that there should "be a thing granted, which must be so "described as to be capable of being dis-"tinguished from other things of the same "kind" — "But it is not necessary that "the grant itself should contain such a "description, as without the aid of ex-"trinsic testimony, to ascertain pre-"cisely what is conveyed"

Therefore if from these documents referred to, this can be ascertained, the ~~validity~~ validity of the grant must be sustained —

It remains therefore to be determined, whether this extrinsic testimony is sufficient for this purpose —

The petition of Lugada describes the land as, Bolsa de Chemisal, bounded on the north by Nipoma on the East and south by the Estero del Oso Flaco & on the West by the Sea Beach — now if there was no map referred to and the existence of the natural objects which are called for in the grant were proven, there could be no doubt as to the identity of the land, but the grant refers to the map, the land granted is thus described in the petition & as it is marked in the map —

It is therefore necessary ~~to~~ that reference should be had to the map in order to locate the land claimed —

The map like almost all the maps upon which grants were made in California is a rude sketch not made from actual survey, but in most instances made by the party asking for the land and representing what he supposed to be the general appearance of the land asked for; in many instances a rough sketch of the topographical outlines of the country —

In this case the map represents a tract of land nearly square in its form, the extreme boundaries of which vary from the description in the petition, but all the calls of the grant are to be found marked upon it, and within the extreme limits of the whole tract shown by the map, is a place called La Bolsa (literally the pocket). the northern boundary of this smaller tract as shown by the map is the boundary line of the place called Nipoma — at its southern corner is the Estero of Oso Flaco, and in its southwestern side is the Pismo beach, and the north east side as shown by the map, is an arroyo or dry gulch. this evidently was the land intended to be granted, and though the calls in the petition do not exactly correspond with the

position of these natural objects as marked on the map, yet from an examination and comparison of the description in the petition and the delineation on the map. the particular tract intended to be acquired can be ascertained, viz. taking the boundary of Mpoma as marked on the map for the northern boundary of the tract in question. and the estero & arroyo of Los Flacos as its eastern boundary. and the beach on the south ~~and south~~. and ~~from a point on the map where the place called Bolsa reaches~~.

All there will then be three ~~three~~ boundary lines, and in order to close the lines. you have the natural boundary a chain of the map of the arroyo de Zenitalle running from the western ~~boundary of the~~ boundary line of Mpoma to the point on the beach where ends what is marked on the map as the Sitio de la Bolsa — You thus have a tract of an oblong triangular form such as the place called Sitio de la Bolsa is described on the map.—

I think there can be no difficulty in a survey locating the tract. The boundaries are all well established natural objects, these objects are all to be found upon the map. and though they do not close the block it is to ascertain from the particular grant granted.

The Plaintiff must therefore be confirmed and a decree will be entered accordingly.

No. 36.

L. F. Pratson
vs
The U. States

(Opinion)

recd Jan 5 '57

Feb 4 '57