CASE NO.
199

SOUTHERN DISTRICT

PUNTA DEL AÑO NUEVO GRANT

MARIA PICO, ET AL.

CLAIMANT

LAND CASE 199 SD pgs. 38

3165

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 315

Maria Antonia Pico et al. CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Punta del Año Nuevo."

/

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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 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 Maria Antonia Pico et al. for the Place named "Punta del Año Nuevo" was presented, and ordered to be filed and docketed with No. 315 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 22d 1853.

In case No. 315 Maria Antonia Pico et al. for the place named "Punta del Año Nuevo", the deposition of Nicholas A. Den, a witness in behalf of the claimants, taken before Commissioner Irving B. Thornton, with document marked N. D. No. 1 annexed thereto was filed.

(Vide page 8 of this Transcript)

San Francisco February 26 1853.

In the same case the deposition of Jose Bocoff a witness in behalf of the claimants, taken before Commissioner Leland was filed.

(Vide page 9 of this Transcript)

San Francisco March 1st 1853.
In the same case the counsel for the claimants filed the following Motion:
(vide page 28 of this Transcript)

San Francisco September 20 1853.
In the same case the deposition of Andres Pico, a witness in behalf of the claimants taken before Commissioner Thompson Campbell was filed:
(vide page 5 of this Transcript)

San Francisco Sept. 6th 1853.
Case No. 315 called. The counsel read the evidence; argued, submitted and taken under advisement.

*

San Francisco Decemr 13 1853.
In the same case Commissioner Thompson Campbell delivered the opinion of the Board confirming the claim:
(vide page 29 of this Transcript)

*

San Francisco Oct. 25th 1853.
In the same case the Deposition of Rafael Castro a witness in behalf of the claimants taken before Commissioner Apheus Felch was filed (vide page 6 of this Transcript.)

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To the U S Land Commission for the ascertaining and settling of Private Land Claims in California

Petition-

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The Petition of Maria Antonia Rico widow of Simeon Castro deceased Juana Castro Manuel Castro I Manuel Castro II Jose Antonio Maria Antonio Jose Francisco Jose Leandro Juan Bautista the Children & heirs of Simeon Castro respectfully represents to your Honorable Body that on or about the 20 of April 1842 Simeon Castro aforesaid made & presented his Petition in writing to Governor Alvarado, soliciting for himself the grant of a piece of land situate in the present County of Santa Cruz an accurate description of which will be given hereafter, that said Governor referred said Petition to Jose R Estradan then Prefect of the respective district in order to obtain his report on the subject & that said Prefect transmitted the same to the Justice of the Peace of Santa Cruz for the same purpose. That said Justice of the Peace on the 9th of June 1842, Reported that the land petitioned for actually belong to the Ex Mission of Santa Cruz, and was never used by the same being more than ten leagues distant. That said José R Estradan on the 3d of May 1842, reported to said Governor in favor of said Simeon Castro whereupon said Juan B Alvarado by virtue of his authority as Constitutional Governor of California declared the said Simeon Castro the lawful owner of said land petitioned for & directed the proper documents conferring title to be executed. That such was done & a formal grant issued to said Castro of the 27th of May 1842

And your Petitioners further say that all the documents above referred to as Petition References reports & duly certified copy of the original grant & the original map are on file in the Archives of California now in the possession of the Surveyor General of the U S of America for the State of California and that duly certified copies & translations thereof are herewith submitted & prayed to be made a part of this Petition

That the original grant is in the hands of your Petitioners and ready to be submitted whenever required. And your Petitioners further state

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that said tract of land lies in the present county of Santa Cruz & State of California is known by the name Punta del Año Nuevo and described as follows

On the East by the Sierra Grande
On the North by the Rancho of Juan Gonzales
On the West by the ocean & on the South by the ranchos of Doña Ygnacia Buenla containing all together four square leagues more or less

And your petitioners further state that said Gervasio Castro has been in the quiet & peaceable possession of said land from the time of obtaining said grant until his death in the year 1843 & that from that time your petitioners as his children & heirs have been & still are in the quiet possession & enjoyment of the same & are not aware of the existence of any title conflicting or paramount to their own

They therefore claim to be the lawful owners of said land & pray that your Honorable Board will confirm their claim & title thereto and your petitioners in duty bound will ever pray &c

Clark Taylor & Beckle
Attys

Filed in Office Aug 31st 1852
Geo Fisher
Secy

2/395

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Office of Commissioners of Land Claims in California

This day before Com Thompson Campbell Andres Pico a witness in behalf of Cl amants Mr a Antonio Pico et al Case No 315. who after being duly sworn deposes as follows

Deposition of Andres Pico

Questions by Claimants Counsel

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

Ans My name is Andres Pico my age is ninety five years & I reside at Los Angeles

Quest 2. State if you know Simeon Castro owner of the Rancho called Santa Ana Nuevo if so state if he alive he is dead & who are his heirs

Ans I have known him he is dead & that some years ago, I know the heirs they are Romualdo Castro, Manuel Castro 2d Jose Antonio Jose Leonardo, José Francisco Juan Bautista Juan Castro Maria Antonia Castro & the mother name is Maria Antonia Pico The persons named are the children of Simeon Castro

Andres Pico

Sworn & subscribed before me this 2d day of September A D 1853

Thompson Campbell
Comm

Filed in Office Sept 2d 1853
Geo Fisher
Clerk

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Office of the Board of Commissioners &c

Deposition of Rafael Castro

This day before Comr Alpheus Fitch came Rafael Castro a witness in behalf of Mr Antonio Rivera No 315. who after being duly sworn deposed as follows

Questions by Mr Clark Attorney for the Claimant

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Question What is your name age & place of residence?

Answer My name is Rafael Castro my age is fifty years & I reside in the County of Santa Cruz in California

2 Question Do you know the piece of land claimed in this Case called Punta del Año Nuevo if you, State what you know of its occupation & improvements by Simeon Castro

Answer I know the place & have known it since 1842 The land is situated on the Sea Shore in the County of Santa Cruz, Simeon Castro occupied it when I first knew it, he had a house on it at that time & corrals, The house was occupied by his servants & he was there some of the time himself but his principal residence was at Monterey, He built the house on the place in the year 1842 & had a corral there before that, I passed the place many times & every time I passed I saw some of the land under cultivation, In 1842 some of the land was cultivated & had corn beans wheat Melons & potatoes growing on it, He had cattle there at different times some time or four hundred head, I cannot tell how many, The place continued to be occupied as above mentioned until his death, & after his death his family occupied it, I do not know whether they live on it now,

I have seen Simeon Castro going back & forth from Monterey to the place, his sons & his Mayor Domo & servants lived on the place & he went back & forth to it & & was there a part of the time on the place,

Questions by Mr Gunnison Associate Law Agent

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Question Do you know the boundaries of the Rancho above mentioned
Answer I do not. It is said that the Rancho borders on Rodriguez, but I have seen no title papers & no person one possession & do not know about it

Rafael Castro

Subscribed & sworn before me October 25 1853

Alphens Felch
Comr

Filed in Office Oct 25. 1853
Geo Fisher
Clerk

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Deposition of N A Den

San Francisco Jany 22d 1853

On this day before Lemuel Hanly & Thornton came Nicholas A. Den witness in behalf of the claimant in an action petition No 223 was duly sworn his evidence being given in English

The Mr Associate Law Agent was present

Questions by claimant

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

Answer My name is Nicholas A Den my age forty years, my residence Santa Barbara

Look at the document now before you marked Exhibit 1. attached to your deposition purporting to be an original grant from Juan B Alvarado to Don Simeon Castro of the land known as Punta de Quiabuevo. State what you know concerning said document & whether the signatures thereto are genuine

Answer I am well acquainted with the handwriting Juan B Alvarado Manuel Jiménez & Antonio Osio. I have examined the document shown me and am certain that the signatures of those persons whose they are upon said document are their genuine signatures

N. A. Den

Sworn and subscribed before me this 22. of Jany 1853

Hanly J. Thornton
Comr

Serie ACKerwedegen
Robert Greenhow
Asste Law Agent

Filed in Office Jany 22, 1853
Leo Fisher
Clerk

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Deposition of José Bolcoff

San Francisco Feby 26, 1853

On this day before Lemuel Hall came José Bolcoff a witness in behalf of the claimant Maria Antonio Pacheco heir of Don Simeon Castro petition No 315 & was duly sworn his evidence being interpreted by the Surveyor

The U S Associate Law Agent was present

In Answer to questions by counsel for the claimant the witness testified as follows

My name is José Bolcoff my age is 50 yrs my present residence at Santa Cruz this State

I know the Rancho called Punta de Año Nuevo this in the County of Santa Cruz on the Sea Coast It was occupied by Simeon Castro from the year 1840, He built a house on it & lived there and had cattle there, how long I cannot tell how long, I was there two or three years age when the children of the deceased Simeon Castro were living on the place

José Bolcoff

Sworn & subscribed
Before me
Lemuel Hall
Comr

Filed in Office Feby 26, 1853
Sam Fisher
Secy

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I. S. D. K.

Espediente Promovido por el Ciudadano Simeon Castro en solicitud del parage conocido con el nombre de "Punta de Año Nuevo

1841

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2. S. D. K.

Sello tercero Dos Reales
Habilitado provicionalmte. por la Aduana Maritima del puerto de Monterey, ~~en la Ma-~~ ~~-tanzas~~ en el Departamento de las California para los años de mil ochocientos cuatenta y mil ochocientos cuarenta y uno
Alvarado — Antonio Maria Osio

Rehabilitado por la misma para el año de mil ochocientos cuaren-ta y dos.
Alvarado — Antonio Mª Osio.

Expediente

Excmo Sor Gobernador.

Monterey Abl. 11 de 1842 — Pase este expdte. à la prefectura del 1er. distrito pa. q. pida los informes correspondientes sobre la demarcacion de linderos.
Alvarado.

Monterey Abril 12/842. — Informe el Juez de Paz de Sta Cruz con la sencillez posible los limites del terreno q. se pretende en dho expdte. con todo lo demas

Simeon Castro Cno. Mejicano y vecino de este Distrito ante la justificacion de V. E. como mas haya lugar en dho digo que por el documento que acompaño consta plenam.te que en el año de mil ochocientos treinta y nueve solicite pr. el conducto legal el paraje nombrado Punta de Año nuevo que se halla en termino de la ex Mision de Sta. Cruz y que al efecto habiendose corrido los tramites de ley resultaron à mi favor los informes de los jueces respectivos como se espresa llanamente en dha certificacion. Mas se habiendose estraviado el Expediente de la materia y teniendo ocupado el terreno con varios bienes de campo pretendo à la sencia de V. E. y deseando pa-

S. D. K

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q.e crea necesario. Estrada } =darlo como esta propria legalmte adquirida devo solisitar el titulo de propriedad correspondte el, suplico a V. E. se me conceda sin necesidad de nuevos tramites, devendo ser la estencion del mismo terreno, desde los linderos de D. Y. Relario Buelaw p.a el Norte hasta los de el C. Juan Gonzalez que seran cuatro leguas de longitud poco mas ò menos, y de ancho Este à Oeste desde la Tierra hasta la Orilla del Mar una legua segun espresa en el diceño que adjunto.

P.D. à V. E. pido y suplico respectuosamente se digne concederme el titulo de propriedad que solesito. de lo cual recibire gracia y jus=ticia que Dello tercero Dos Reales. Habilitado

4. S. D. R

provisionalmte por la aduana maritima del puerto de Monterey en el departamento de las Californias, para los años de mil ocho cientos cuarenta, y mil ocho cientos cuarenta y cinco

Alvarado Antonio Maria Osio

Revalidado por la misma, para el año de mil ocho cientos cuarenta y dos.

Alvarado Antonio Maria Osio

juro con lo necesario V.e

Monterey Abril 2. de 1842

Simeon Castro

Sor prefecto del primer Distrito

Para yformar á V. S sobre la materia q.e se trata en este espediente con la benosidad posible he tomado un pleno conocimiento por si y de per=sonas de probidad. a cerca del terreno que se pretende y verdaderamente encuentro q.e se halla distante de esta escmision como

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diez leguas sin que este establecimto. tenga
bienes con que ocuparlo ni necesidad de el
y que los linderos de este terreno de la punta
de año nuevo son los mismos que se espresa
en la Solicitud y diseño respectivo; cuya de
demarcacion no comprende propiedad alguna
de particular ni corporacion alguna y portan
=to soy de opinion se le adjudique al interesa
=do si V. S. lo creyere de justicia y á bien. dispone
Juzgado de paz Constitucional de la Ju=
=risdiccion de Sta. Cruz Abril 19 de 1842.

S. S. D. R.

Rafael Castro

Exmo. S. Gobr. de este Departamento.
Con dos todos los tramites necesarios en este
expediente y atendiendo al informe del S.
Juez de Paz de la ex. mision de Sta Cruz
las Pref.a de mi Cargo opina q. puede con=
=cedase al interesado la gracia q. solicita
p.d no obstante este dictamen V. E. Resolvera
con su acostumbrado Acierto lo q. crea mas
de Justicia.

Monterey Mayo 3. de 1842
José R. Estrada

Monterey 27. de Mayo de 1842.

Como pide
Mas

6. G. D. R.

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7. S. D. 12

El ciudadano Josè Castro, Teniente Co=
=ronel de Ejercito y Capitan de la Comp.ª
Presidial de Monterey. Certifico que en
el tiempo que estube desempeñando la prefec
=tura del primer Distrito solicito D. Simeon
Castro el parage de la Punta de Año nuevo
en daño de mil ochocientos treinta y nueve
cuyo espediente se encontraba informado à
favor del Solicitante; y habiendose extra
biado dho Espediente doy el presente a pi
=dimiento del interesado para los fines
que se combengan. Monterey 18 de Enero
de 1842.

Josè Castro

8 S. D. 12.

Vista la peticion con que da principio este
espediente los informes que preceden, con
todo lo demas que se tubo presente y Ver con=
=vino, de conformidad con las Leyes y re=
=glamentos de la materia declaro al Ciu
dadano Simeon Castro dueño en propriedad
del terreno nombrado Punta de Año Nuevo
colindante al Oriente con la Sierra al Po=
=niente con el Mar, al Norte con el Rancho
de Dn. Juan Gonzalez y al Sur con el de Dn.
Maria Buelna. Librese el correspondte.
despacho y tome razon en el libro respectivo
y dirijase este espediente à la Exma Jun
=ta Departamental, El Exmo Sr. Gobernador
asi lo mandó, decretó y firmó de que doy
fè. Juan B. Alvarado Gobernador Constitu=
=cional del Departamto. de las Californs.

9. S. D. 12.

Por cuanto Dn. Castro ha pretendido para
su beneficio personal y el de su familia
el parage conocido con el nombre de

Puntade año Nuevo colindante al Oriente con la Sierra al Nte. con la Mar al Ote con el Rancho de Dn. Juan Gonzales y al Sur con el de Dn. Maria Buelna practicadas previamte. las diligencias y averiguaciones consecuentes segun lo dispuesto por leyes y reglamtos. usando de las facultades que me son conferidas à nombre de la Nacion Mejicana he venido en conceder le el terreno mencionado declarandole la propiedad de el por las presentes letras sugetandose à la aprobacion de la Excma Junta Departamental y à las condiciones siguientes. 1a Podra cercarlo sin perjudicar las traversias caminos y servidumbres lo disfrutará libre y esclusivamte. destinandolo al uso que mas le acomode pero dentro de un año fabricará casa y estará habitada. 2da Solicitará del juez respectivo que le de la posesion juridica en virtud de este Despacho, por el cual se demarcarán los linderos en cuyos limites pondra à mas de las mojoneras algunos arbolles frutales o silvestres de alguna utilidad. 3a El terreno de que se hace mencion es de cuatro sitios de Ganado Mayor segun esplica el diseño que corre agregado al espediente respectivo. El juez que diere la posesion lo hara medir conforme à una Ordenanza quedando el sobrante que resulte à la nacion para los usos convenientes 4a Si contravinieze à estas condiciones perderá su derecho al terreno y será denunciable por otro.

En consecuencia mando que

10. S. D. R

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teniendose por forme y valedero el presente titulo se tome razon de el en el libro que corresponde y se entregue al interesado para su resguardo y demas fines.

11. S. D. R

Dado en Monterey à Veinte y siete de Mayo de mil ocho cientos cuarenta y dos.

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

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

In testimony whereof I have hereunto signed my name Officially, and affixed my private seal (not having a seal of Office) at the City of San Francisco Cal this 15th day of December 1851

Saml. D. King
Surv. Genl. Cal.

Filed in Office August 31st 1852
Geo: Fisher Secy.

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Doc H. T. Nolan
nexd. to the Depo
of A. A. Dos
taken before
Comr. H. Thornton

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Sello primero Seis pesos
Habilitado provisionalmte. por la aduana
maritima de Monterey para los años de
1842 y 1843.
Alvarado Antonio Mria. Osio

Juan B. Alvarado Gobernador Con
stitucional del departamento de
las Californias.

Por cuanto Dn. Simeon Castro ha preten dido
para su beneficio personal y el de su familia
el parage conocido con el nombre de Punta de
año Nuevo, colindante al Oriente con la Sierra
al Poniente con la Mar; al Norte con el Rancho
de Dn. Juan Gonzalez, y al Sur con el de Dña.
Maria Buelna; practicadas previamente las
diligencias y averiguaciones consiguientes segun
lo dispuesto por leyes y reglamentos; usando de
las facultades que me son conferidas à nombre
de la nacion Mejicana, he venido en concederle
el terreno mencionado; declarandole la propie
=dad de el por las presentes letras, sugetandose
à la aprobacion de la Exma Junta Departa
=mental y bajo las condiciones siguientes.
1ª Podra cercarlo sin perjudicar las travesias
caminos y servidumbres. lo disfrutara libre
y esclusivamte. destinandolo al uso ò cultivo
que mas le acomode pero dentro de un año
fabricara casa y estara habitada. 2ª Soli=
=citara del juez respectivo que le dè la pose=
=cion juridica en virtud de este despacho
por el cual se demarcaran los linderos en cuyos
limites pondrà a mas de las mojoneras algunos
arboles frutales ò silvestres de alguna utilidad

3ª El terreno de que se hace donacion es de cuatro sitios de ganado mayor segun espli=ca el diseño que corre agregado en el expedien=te respectivo. El juez que diese la posecion lo hara medir conforme à Ordenanza que=dando el resto para los usos convenientes.

4ª Si contravinese à estas condiciones perderà su derecho al terreno y sera denun=ciable por otro. En consecuencia mando que teniendose por firme y valedero este titulo se tome razon de el en el libro à que corresponde y se entregue al interesado para su resguar=do y demas fines. Dado en Monterey à Veinte y siete de Mayo de mil ocho cientos cuarenta y dos.

Juan B. Alvarado

Manuel Jimeno Srio

Queda tomada razon de este Despacho en el libro de acientos sobre adjudicacion de terrenos Valdios @ fojas 13.

Jimeno

El Exmo Señor Gobernador ha dispuesto se tome razon de esta consecion en la prefec=tura del 1er Distrito.

Jimeno.

Filed in Office June 22nd 1853

Geo: Fisher

Secry:

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Translation of Expediente C

Record of Proceedings

at the instance of the Citizen Simeon Castro soliciting the place known by the name of Punta de Año Nuevo

1841

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Excellent Sir Governor

I Simeon Castro Mexican citizen & resident of this District before Your Excellency as best may accord with law say that it is well fully shown by the annexed document that in the year 1839, I solicited in the legal way the place called Punta de Año Nuevo which is situate on the bordas of the Ex Mission de S.to Cruz & to the effect that legal proceedings having been carried on, the reports of the respective Justices resulted in my favor as is fully shown in said certificate But the Expediente about the matter having been mislaid & I having occupied the same with various country stock after you licence & desiring to carry it as it is my one legally acquired I must solicit the corresponding title deed of property which I pray Your Excellency to grant me, without the necessity of a new proceeding while it ought to be the extent of the same land from the boundaries of D. Ygnacia Buelna to the North unto those of the Citizen Juan Gonzales which will be four leagues of longitude a little more or less & of breadth East to West from the Sierra to the Sea Shore one league as is shown in the adjoined sketch Therefore I ask and pray you respectfully to be pleased to grant me the title of the property I solicit whereby I shall receive favor and Justice swearing to what is necessary &c

Monterey April 2d 1842

Simeon Castro

Monterey April 11th 1842

Let the Expediente pass to the Prefecture of the

1st District that it may receive the corresponding reports upon the demarcation of boundaries

Alvarado

Monterey April 12th 1842

Let the Justice of the Peace of Santa Cruz report with the least possible circumspection the limits of the land which is solicited in this expediente with every thing else that shall be necessary

Estrada

Sir Prefect of the first District

In order to inform you about the matter of which this Expediente treats with the highest possible certainty I have taken a full knowledge for myself of persons of integrity about the land solicited & in truth I find that it is some ten leagues distant from this Ex Mission without this establishment having stock there with to occupy it nor is it necessary for it, & that the bounds are of the tract of land of la Punta de una Vaca are the same which are expressed in the petition & respective sketch the demarcation of which do not comprise foreign property of any particular corporation & therefore I am of opinion that it be adjudged to the interested party. You will however dispose of the matter as you may think proper

Constitutional Justice Court of the Mission of Santa Cruz 19th April 1842

Excellent Sir Governor of this Department All the necessary proceedings having been carried on in this Expediente having attended to the report of the Justice of the Peace of the Ex Mission of Santa Cruz. The Prefecture in my charge is of opinion that there can be granted to the interested party the favor he solicits

Notwithstanding this opinion Y E will resolve with your usual discrimination what you may believe most just Monterey May 3d 1842

Jose R Estrada

(see next page)

I the citizen Jose Castro Lieutenant Colonel of the Army & Captain of the Company stationed at Monterey

Certify that at the time I was acting as the centuse of the prefecture of the first District Don Simeon Castro solicited the Rancho of la Punta de Cruz Nuevo in the year 1839 which Espediente was found to have been reported on in favor of the petitioner & said Espediente having been mislaid I give these presents at request of the interested party for the purposes which may suit him

Monterey 18th June 1842

Jose Castro

Monterey 27th of Nov 1842

Having seen the petition with which this Espediente commences, the preceding reports with every thing else which suggests itself was to the purpose in conformity with the laws & regulations upon the subject, I declare the citizen Simeon Castro owner in his own right of the land called Punta de Cruz Nuevo bordering to the East on the Sierra to the West on the Sea to the North of the Ranchos of Don Juan Gonzales & to the South on that of Dn. Julian Buelna, Let the corresponding document be issued entered in the respective book & direct this espediente to the E. Departmental Assembly. The Excelentissimo Governor thus ordered decreed & signed of which I give testimony

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

Whereas Don Simeon Castro has solicited for his personal benefit & that of his family the location known by the name of Punta de Cruz Nuevo bordering to the East on the Sierra to the West on the Sea to the North on the Ranchos of Don Juan Gonzales & to the South on that of Don Julian Buelna after previously having taken the necessary action and made the necessary investigations

as is required by laws & regulations in exercising the powers vested in me in the name of the Mexican Nation, I have concluded to grant him the mentioned land declaring it his property by the present letters patent, subject to the approbation of the Excellent Departmental Assembly & to the following conditions

1st He may fence it without impeding the crossings roads servitudes, he will enjoy it freely & exclusively appropriating it to the use or culture that best may suit him but within one year he will build a house to be inhabited

2 He will obtain of the respective Judge to give him judicial possession in virtue of this document by whom the boundaries will be marked, on the extremities of which he will put besides the land marks some fruit trees or wild ones of some utility

3d The land mentioned is four square leagues (sitio de ganado mayor) as is explained in the sketch which follows annexed to the respective Expediente, The Judge who shall give the possession will cause it to be measured conformable to ordinance leaving the surplus that may result to the nation for convenient purposes

4 If he should violate these conditions he will lose his right to the land & may be denounced by any other party

Consequently I order that the present title and being held as firm & valid it be entered in the corresponding book & delivered to the interested party for his security and other purposes

Given in Monterey 27th of May 1842

Filed in Office Aug. 31st 1842
Geo Fisher
Secy

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Stipulation

In this case upon the filing of the conveyance from Claimants to Isaac Graham it is consented that the latter be substituted for the former as Claimant in this case

December 8th 1853
Robert Greenhow
Asste Law Agent N&S

Filed in Office Dec 9th 1853
Geo Fisher
Secy

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Conveyance to Isaac Graham

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State of California

This Indenture made and entered into this first day of October in the year one thousand eight hundred & fifty one by & between Maria Antonia Pico widow of the deceased Don Simeon Castro and her children namely Manuel Castro the elder, Manuel Castro the younger, Juan Castro married to Joseph Merritt, Maria Antonia Castro married to Rafael Sanchez, Antonio Castro, Jose Francisco Castro, Leandro Castro and Juan Bautista Castro heirs & legal representatives of the deceased Don Simeon Castro, Joseph Merritt husband of the aforesaid Juana Castro, Rafael Sanchez husband of the aforesaid Maria Antonia Castro all of the State of California of the first part and Isaac Graham of Santa Cruz County & State aforesaid of the second part Witnesseth That for & in consideration of the sum of Eighteen thousand dollars, in hand paid by the party of the second part to the party of the first part the receipt whereof is hereby acknowledged, the party of the first part hath granted bargained & sold & by these presents doth grant bargain & sell unto the said Isaac Graham party of the second part his heirs & assigns all that tract piece or parcel of land lying & being in the County of Santa Cruz State of California known as the Rancho called Punta de Almejas situated in the jurisdiction of Santa Cruz & containing Four Sitios or square leagues of land which was granted to Don Simeon Castro by the Supreme Government of the Department as proven by the original title issued the 27th day of 1842, & bounded as follows, On the East by the Mountains, On the West by the Sea or Pacific Ocean On the North by the Rancho of Don Juan Gonzales & on the South by the Rancho of Don Hilario Bueno the said tract of land containing as aforesaid Four Sitios or square leagues more or less, To have & to hold to the said Isaac Graham party of the second part

his heirs & assigns forever, And the parties of the first part hereby covenant & agree to warrant & defend the said Isaac Graham party of the second part his heirs & assigns in the quiet and peaceable possession of the above described land & premises granted against the claims of each and everyone of the parties of the parties of the first part & the claims of all & every person whomsoever either in law or equity & against any claim of the United States Government.

In Witness whereof the parties of the first part hath hereunto set their hands & affixed their seals, on the day & year first above written

Sealed & Delivered in presence of
Jas C. McLane
A. G. Ramsace
Witnesses to signatures of Manuel Castro only
witnesses to Leandro Castro, signature
Palzina
Wm McQueen
Witness
James T. Gardiner
D. Leitch

Maria Antonia Pico de Castro (Seal)
By her Attorney in fact (Seal)
Manuel Castro (Seal)
Manuel Castro (Seal)
Leandro Castro (Seal)
Jose Antonio Castro (Seal)
Joseph Merritt (Seal)
Rafael Sanchez (Seal)
Juana her × mark Castro (Seal)
Antonia her × mark Castro (Seal)
Jose Francisco × mark Castro (Seal)
Juan Bautista Castro (Seal)
Maria Antonia Francisca Castro × mark (Seal)

State of California
County of San Francisco } ss

On this first day of October A.D. 1851 personally appeared before me a Notary Public duly commissioned & sworn for the above named County Manuel Castro to me known to be the individual described in the within deed as Manuel Castro Senior Trustee &c &c and who acknowledged that he executed the same in the name of his mother Maria Antonia Pico de Castro

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as her true & lawful attorney & for her as well as for himself, that it was his free & voluntary act for the uses & purposes therein mentioned

Witness my hand & seal of office the day & year first above written

A. G. Randall

(Seal)

Notary Public

State of California
County of San Francisco } ss On this first day of October AD 1851 personally appeared before me, a Notary Public duly commissioned & sworn in & for the above named county Jose Antonio Castro to me known to be one of the individuals who executed and who is described in the within deed who acknowledged that he had done the same freely & voluntarily for the uses & purposes therein mentioned

Witness my hand & seal of office San Francisco the day & year first above written

A. G. Randall

(Seal)

Notary Public

State of California County of Monterey ss
On this 1st of October AD 1851 personally appeared before me a Notary Public in & for said County Josiah Bennett, Rafael Sanchez Juan Castro, Antonio Castro José Fran^co Castro Juan Bautista Castro known to me to be the persons described in & who executed the within & foregoing conveyance who each severally acknowledged that they executed the same freely & for the purposes therein mentioned, Also appeared at the same time Maria Antonia Pico de Castro who made the same acknowledgement & said Juana Castro and Antonia Castro being made acquainted with the contents of the foregoing conveyance and examined by me apart from their husbands and without their

being acknowledged that they executed the same freely without fear compulsion or under influence of their husbands or other persons and that they did not wish to retract the execution of said conveyance

D. R. Ashley
Notary Public

State of California }
County of Santa Cruz }

I certify that the foregoing is recorded in the book of Deeds Vol 1 pages 213. 214. & 215. of the records of this office

Peter Tracy
Recorder

State of California }
County of Santa Cruz } ss

On this 4th day of November AD 1853, before me Peter Tracy County Recorder & State personally came Leandro Castro satisfactorily proven to me by the oath of Francisco Arenas a competent and credible witness to be the identical Leandro Castro one of the parties who executed the annexed conveyance and who acknowledged to me that he executed the same freely & voluntarily & for the uses & purposes therein mentioned said conveyance being a conveyance made by Manuel Castro Trustee of Juana Antonia Castro and the heirs of Simeon Castro deceased on the 1st day of October AD 1851

(Seal)

Witness my hand & Private seal the same being no official seal provided at office the day & year first above written

Peter Tracy
Recorder of Santa Cruz County
California

Filed in office Dec 9th 1853 Geo Parker Cty

10915

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315

Motion to Amend Petition

On motion of the attorneys of claimants it is ordered that the Petition be amended by inserting the allegation that the heirs of Junior Lestre mentioned in said Petition have sold the land claimed to Isaac Graham and that the name of said Isaac Graham be substituted as claimant for those of said heirs

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Filed in office August 1st 1853
Leo Fischer
Secy

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11/315

Opinion

Manuel Antonio Pico heir
Castro Manuel Castro &
Manuel Castro & Jose
Antonio, Manuel Antonio
Jose Francisco, Jose Leandro
& Juan Bautista Castro
heirs of Simeon Castro
vs
The United States

Punta del Rio
Nuevo
y Sp Leagues

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The Claimants in this case represent themselves as the heirs of Simeon Castro deceased. The testimony upon which they depend for a confirmation of their claim consists in a grant made by Governor Alvarado bearing date the 27th day of May AD 1842, to Simeon Castro, together with a hand copy of the Espediente taken from the archives now in the United States Surveyor Generals office of this State, All of which are properly proved & authenticated. The Claimants have proved by depositions on file that they are the heirs of the said Simeon Castro the original grantee in this case. They have proved by the deposition of Jose Rolloff that Simeon Castro occupied the place claimed by the petitioners in the year 1840, that he built a house on it & lived in it & that he had cattle there. This further proved by the deposition of Rafael Castro, that in the year 1842 Simeon Castro built a house on said place which was inhabited by his servants, that he was there part of the time but that his principal residence was at Monterey that in the same year 1842 the place was cultivated & that he had corn beans wheat melons & potatoes growing on it. He further states that the place continued to be occupied in the same way until the death of Simeon Castro & after his death it was occupied by his family. There is no proof of any approval by the Departmental Assembly & no proof that any public measurement was ever made

It was objected by the Law Agent that the proof did not show that a house was built within a year from the date of the grant. The testimony of Rafael Castro shows that the house was built in the year 1842 being the same year in which the grant was made. But in addition to this it is shown by the testimony of José Roloff that Simeon Castro had built a house on the place & lived in it as early as the year 1840, two years before he obtained his grant. This I think shows conclusively that a house was on the land before the expiration of a year from the date of the grant. I am of opinion that the object of that condition which requires that a house shall be built within a year from the date of the grant & that it shall be inhabited is fully satisfied by proof that a house was upon the land within that time and that it was inhabited without regard to the fact whether it was constructed before or after the issuing of the grant. In this case however the proof in regard to the building of the house within the prescribed time is amply sufficient. But the inhabitancy of the house by the grantee is a question which the testimony leaves in some doubt. That Simeon Castro actually lived in the house in the year 1840 is clearly proved, but it seems that after he had obtained his grant he occupied it with servants making his own residence principally in Monterey & only residing on the Rancho occasionally. I think the Law intended a residence *Per se*. I have not the least doubt the whole object which the Government had in view in regard to the colonization of the Public lands leads to this result. This however will be understood as applying to those lands which are granted for the exclusive purpose of building & grazing cattle. But when lands are granted for the purpose of cultivation it was not required that they should be actually inhabited by the grantee cultivation in all such cases

satisfied the policy & requirements of the law. In the case before us it does not appear for what purpose the lands were sought by the grantee but from the evidence it does appear that they were devoted to the purpose of agriculture & that too to a very considerable extent from the year in which the grant was made until the death of the grantee, taking then the actual residence of the party before the grant, the hand of enjoyment which the proof shows, followed the grant together with the cultivation which is proved to have been made, I think the parties have shown a substantial compliance with the conditions which the Law had imposed upon their ancestor.

The next question & by far the most difficult which presents itself is the location of the land, according to the conditions of the grant a sobrante is reserved. It was the intention of the granting power to concede four square leagues of land, to be located within certain exterior boundaries and that after such location had been made by the proper authorities, the residue if there should be any should go to the nation & form a part of the Public Domain, then in the absence of all proof of location the land granted never having been severed from the mass of the other Public lands by any other competent Authority passed to the United States unaffected by any vested equitable interest at best such an interest as this Commission are authorized to protect. In cases here before decided it has been held that although a sobrante is provided for if it should appear from an examination of all the testimony in the case that it was the intention to grant by metes & bounds or if it could be gathered from the papers on file that it was understood that the boundaries mentioned did not contain more than the quantity specified in the grant then notwithstanding the sobrante

the party would be entitled to a confirmation of his claim within the limits expressed in her grant, In the case before us the claimant describes the tract of land as he prays in his petition to the Governor in the following words, to wit From the boundaries of San Juan Bautista to the North unto those of the Citizen Juan Gonzales which are be four leagues of longitude a little more or less & of breadth East to West from the Sierra to the Sea shore one league as is shown in the annexed sketch The description contained in the grant corresponds accordingly with the description in the claimants petition as above set forth, The condition annexed to the grant which provides for a subsequent contains a further description of the land together with a specification of the quantity granted, it is as follows, The land mentioned is four square leagues as is explained in the sketch which follows annexed to the Expediente, The boundaries described in the grant are clearly delineated on the map to which reference has been made Taking then the petition of the party which gives not only the boundaries of the land asked for but also the distance between those boundaries & constituting it, and the grant together, I think the Intention to grant by metes & bounds is clearly indicated The question may be asked if such was the understanding why did the government provide for a surplus, To reply to the question it may be said that although the party had represented in his petition that the limits there in described only contained a certain number of leagues, This did not dispense with the requirements of — law which made a measurement of the lands granted indispensable & upon such measurement it should be found that a much larger quantity was embraced within the limits than had been represented it was still in the power of the Governor at any time before the legal title had passed to the party

to restrict the grantee to the quantity asked for in his petition notwithstanding the limits within which the grant had been made, contained a much larger quantity, In all such cases the surplus would go to the nation, In this case no measurement was ever made, and the grant remains as it was at the time it was made with the presumption only that the boundaries as described in the petition & grant contain the three thousand leagues of land We think the facts of this case bring it within the rules heretofore adopted by this Commission The party is therefore entitled to a confirmation of his claim A Decree in conformity with this opinion will be entered

Filed in Office December 13th 1853
Geo Fisher
Secy

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Decree

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Maria Antonia Rico
widow of the late
Simeon Castro deceased
Manuel Castro Senior
Heirs of the late
Simeon Castro
vs
The United States

In this Case on hearing the proofs & allegations it is adjudged by the Commission that the Claim of the said petitioners is valid & it is therefore decreed that the same be confirmed, to the said Maria Antonia Rico widow of the late Simeon Castro deceased Manuel Castro Senior, & to the other heirs at law of the said Simeon Castro deceased, The lands of which confirmation are hereby made are known by the name of Punta de Arena and bounded & described as follows to wit Bordering to the East on the Sea & to the West on the sea to the North on the Rancho of Don Juan Gonzales & to the South on the Rancho of Don Gloria Buenaventura said Rancho being in longitude from North to South four leagues a little more or less & in latitude from East to West one league containing in all four square leagues Reference for further discription to be had to a map which is made part of Document marked (B) and filed in this Case

Alpheus Felch
Thompson Semple
Alex Thompson
Commrs

Filed in office Dec 13, 1853
Geo Fisher
Secy

Office of the Board of Commissioners,

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

I, George Fisher, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing thirty four pages, numbered from 1 to 34, 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. 315 on the Docket of the said Board, wherein Maria Antonia Pico, et al, are the Claimant s against the United States, for the place known by the name of "Punta del Año Nuevo"

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

Geo: Fisher.

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

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No. 199. Dbck

The United States

vs.

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Maria Antonia Rios et al.

"Punta del Aiso Nuevo."

Transcript of the Record
from the
Board of U.S. Land Commissioners
in case No. 315.

Filed February 5th 1855.
J. E. Carr.
Clk.

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No 315

Office of the Attorney General of the United States,

Washington, 30th November 1854.

Maria Antonio Pico et al.
vs.
The United States. } 315.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 18th day of August 1854 the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Cushing

Attorney General.

No. 199.

U. S. District Court

Southern District

The United States

vs.

Mca. Ant.o Pico et al.

Appeal Notice.

Filed Jany 10th 1855.

C. E. Carr,

Clk.