

CASE No.
228

SOUTHERN DISTRICT

LOS ENCINITOS GRANT

ANDRES YBARRA

CLAIMANT

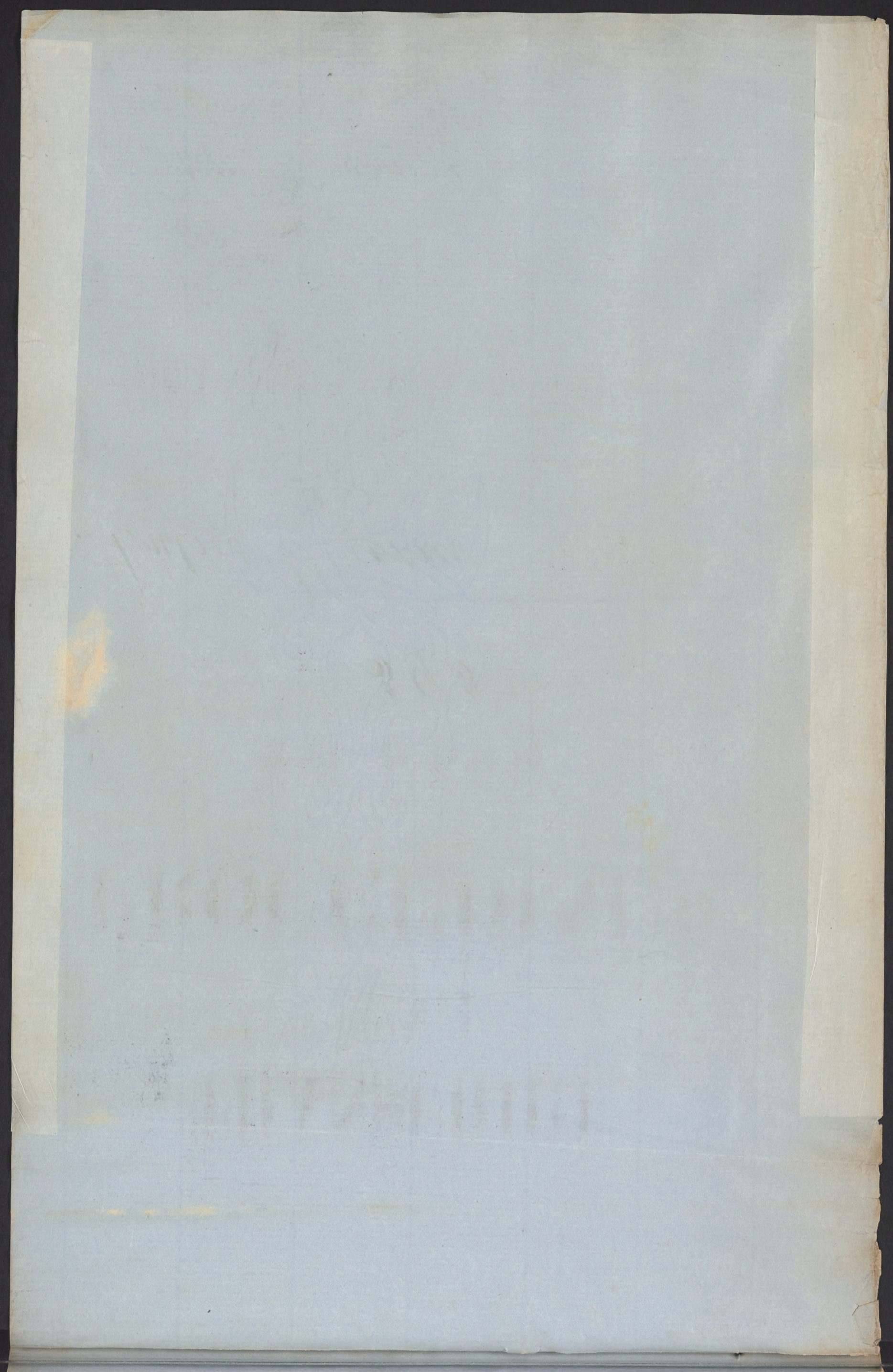
MAR 14 1963

U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C.
MAY 14 1963

395

Handwritten text, possibly a name or title, in cursive script.

Handwritten text, possibly a list or notes, in cursive script.



TRANSCRIPT

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PAGE 1

OF THE

PROCEEDINGS

IN CASE

NO. *395*

Andres Ybarra

CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Los Enceritos"

1888

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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 sixteenth day of October, 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;

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The Petition of Andres Barra

for the Place named
"Los Encenitos."

was presented, and ordered to be filed and docketed with No. 395 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;

Sos Angeles November 10th 1852.
In Case no. 395, Andres Barra for the place named "Los Encenitos", the deposition of S. Arguella, a witness in behalf of the claimant, taken before Commissioner Neilan Hall, with documents marked N. N. nos. 1 & 2, and translations thereof marked C & E, annexed thereto, was filed:

(Vide page 4 of this Transcript)

San Francisco September 19th 1853.
Case no. 395 was called, and, on motion of the counsel for the claimant, was ordered to the foot of the Docket.

San Francisco July 21st 1854
In the same case the deposition of Santiago Arguella, a witness in behalf of the claimant, taken before Commissioner G. S. Burrie, was filed:

(Vide page 5 of this Transcript.)

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San Francisco September 12th 1854.
Case no. 395, on motion of the Counsel for the
claimant, with the consent of the U. S. Law Agent,
was ordered to the foot of the 2^d, class cases on the
Trial Docket.

San Francisco October 14th 1854.
Case no. 395 was submitted on briefs and taken
under advisement by the Board.

San Francisco October 31st 1854.
In the same case Commissioner Alpheus Felch
delivered the opinion of the Board confirming
the claim:

(Vide page 29 of this Transcript.)
and the following order was made, to wit:

(Vide page 32 of this Transcript.)

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5.

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To the Board of Commissioners
 for ascertaining and settling Private
 Land Claims in the State of California,
 Your Petitioner Andres Ylana
 of the County of San Diego in the State of
 California respectfully represents to Your
 Honorable Board that he claims a certain
 tract of land called Las Encomitas contain-
 ing one hundred square situated in the County
 and State aforesaid that he claims the
 same in fee by virtue of a grant made by him
 under the authority of the Mexican Govern-
 ment by Don P. Alvarado Governor of the
 Department of the Californias bearing date
 the third day of July A.D. 1842 -

Petition

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Your Petitioner further
 shows that he was placed in Judicial
 possession of said land on the twenty second
 day of July in the same year and the bound-
 aries thereof designated and defined and
 that he has been in the peaceful possession
 thereof ever since and that he knows of
 no conflicting or interfering claim.

Your Petitioner presents here-
 with a copy of the original grant of said
 land in the Spanish language together with
 a translation of the same together with a
 map of the land and will make such
 other and further proof as may be required
 by the Board.

Your Petitioner prays Your
 Honorable Board to decree his claim
 to said tract of land to be valid and confirm
 the same -

Sathurundig Carr
 Atty for Petitioner

Filed in Office Oct. 11, 1853
 (Signed) Geo. Fisher Secy.

Las Angeles Nov. 11. 1852

Deposition
of
Saguillo

On this day before Comr H. Keall came
S. Saguillo a witness in behalf of the
Claimant Amos Kearns petition No 395
and was duly sworn his Evidence being in-
terpreted by the Secretary.

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The W. S. Associate Law Agent presents.

In answer to Enquiries by Counsel for
the Claimant the witness testified as follows.

My name is Santiago Saguillo. My age
is sixty years, & I reside at San Diego.

A paper is now shown me pur-
porting to be a grant to Amos Kearns dated
13th of July 1842.

I am acquainted with the
signatures of Juan B. Alvarado Manuel
Gomino & Jose R. Saguillo. Their several
signatures appearing on said paper I believe
to be genuine. Said paper is hereto exam-
ined & marked H. Ke. No 1.

A paper is now shown
me purporting to be dated 22^d of July 1842
I am acquainted with the hand writing of
Jose Anto. Gonzora. The whole of said
paper is in the hand writing of said Gonzora
who was a Justice of the peace at the date of
said paper. It is hereto examined & marked
H. Ke. No 2.

I am acquainted with the
Rancho Las Encinitas. It has been oc-
cupied by Amos Kearns ever since the
year 1834 or 1844.

He has a house there in

which he has lived since that time & is
cultivating ground & keeping stock on the
land.

S. Cronello.

Sworn & Subscribed

Before me

William Heald Comm.

Filed in Office Nov 11th 1852.

(Signed)

Geo. Fisher Secy.

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Office of the Commissioner
G. Thompson, Bailiff at
Los Angeles California.

Deposition
of
Santiago
Arguello.

I Before me G. Thompson Bailiff Commis
sioned duly qualified for the taking of Testimony
to be used before the Board of Commissioners
to ascertain and settle the private land claims
in the State of California personally appeared
Santiago Arguello a witness in behalf of
Anaxias Thoma Claimant for the land
named Rancho Cucuyitus hereford on
the docket of said Board with No 345 who
upon oath declared and said as follows.

Questions asked by Counsel for
Claimant -

Question No 1.

What is your name age and place
of residence? -

Answer.

My name is Santiago Arguello I
am sixty three years old and reside Eighteen
miles south of San Diego.

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Question No 2.

Are you acquainted with the Rancho of Encarnitas in San Diego County if you state all you know about its boundaries and occupation by Andres Ylana?.

Answer.

I know the Rancho, the first line north from the house of Ylana are some notable wells from which waters come down the Cañada Pataguitas which is the northern boundary, the second or southern boundary are also some rocks where there is standing water which is the Ravine known by the name of San Aljo, the western boundary is the mouth of the Lake San Aljo, the eastern line is the lake of Pataguitas, formed by the Ravine of the same name which forms a square embracing a run of 1000 but they measured but one half which is embraced in the above boundaries. Jose Ma Orasco Alcalde of San Diego measured the land, I attending as Prefect of the second district, this possession judicial was given during the year 1842 or 1843 when Micheltrena was Governor, since the year 1840 or 1841 it has been occupied by the claimant who lived there with his family in an Adobe house which consisted of a hall and two rooms crops, sown and a number of animals on the Rancho together with a garden and orchard. I know that Ylana is now in possession of said Rancho and has been in continued possession since 1840 or 1841. I have visited the Rancho frequently since that time -

J. Arguello.

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Swoon to and Subscribed
Upon me this 5th day of
July 1854.
G. Thompson Burrell,
Comm

I hereby certify that G. E. Thom Esq
was present at the time that the foregoing tes-
timony was taken acting for on behalf of and
by the authority of J. H. McKim Esq U. S
Law Agent -

Los Angeles July 5, 1854.

G. Thompson Burrell
Comm.

Filed in Office July 21, 1854.
(Signed) Geo. D. Shu Day.

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3.9

(1524)

Año de 1845.

may 19

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Espeoiente promovido por el C.^{no} Andres Barra
ampliacion al que posee y en solicitud de
medio fitis que se falta al que tiene concedido.

N.^o 541.

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Exmo. Sr. Gobernador.

Angeles Octubre 22. Anches Ybarra vecino del partido de San Diego ante V.E. con el debido

Pase la presente respeto compareseo y digo: que al instancia al señor haberse hecho por las autoridades Sub. Prefecto del par un reconocimiento de los terrenos de - tiolo de San Diego San- Dieguito y el que actualmente para que tomando posesion llamo los Encinitos se los informes que me encuentro que segun la concecion en necesarios emita el mi favor se hizo por el Superior suyo haciendo que el Gobierno Departamental me faltaba interesado agregue para su completo alguna parte el diseño del terreno de terreno hacia el Sur de la que que pretende para hasta la fecha Curaseso pues no me que con vista de ha puesto en posesion de ella. todo resolver lo que En esta virtud A.V.E. ruego encare fuere justo. -ciamente que se digno dar me

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Pico. el completo de dha concecion para San Diego. q. ^{bre} 29. 1845. la parte del oriente y a mas se me Informe el Alcalde ad. Judique en propiedad lo restante ^{3 SDH} de este lugar si el de terreno que resultare sobre al mismo terreno que solicita el rumbo que se halla completamente interesado es Valdivo baldio y a mas de ser coto se compone y si pertenece a propiade de nos pocos transitorios por la misma - colad particular, en comunidad. De este no resulta perj. - cluido, vuelva el dper nicio a ninguna persona y a mi me - iente a esta subprefectura beneficia N.E. en raror de que para lo de mas que p. mis bienes estan ya acostumbrados - viene el Superior ducta a presentar en estos terrenos por lo que antecede para lo cual espero no ser desairado de la cual hara que el tolegenerosidad de V.E. Juro se. y sup. - estante presente el dper lico se me dispense el papel por de terreno que actualmto haber de sellarlo respectivo. ocupa.

Angeles. Octubre 22 de 1845.

No se firmar.

Arguella

Sr. Prefecto.

En atencion al Superior decreto de N. de 19 del pasado el terreno que solicita el C. tuobres Ybarra para ampliacion del que posee esta Valdivo que corresponde a propiedad particular, es lo que puerdo informar

Conforme a justicia

San Diego Obe. 1º de 1845.

J. B. Arguella

Exmo. Sr.

Exmo. Señor

otento al superior decreto marginal de V. E. en 22 de
8bre y mandado practicar el informe respectivo del
terreno que solicita el interesado en ampliacion del
que posee resulta que es baldio y no corresponde a
propiedad particular. Por lo que respecta a lo que hace
presente en cuanto al que le falta para el completo
de un sitio que tiene concedido en el paraje de los
Encinales, como que fue en aquel tiempo la autoridad
que aun presente se practico la medicion de este sitio
resulta que el plano que se presente al Gob.^{no} la falta
de medio sitio que comprueba, aunque no expresa
su total el acto que se celebró con fecha 5 de Mayo de
1843. y que se dio al interesado una copia certificada
para su resguardo. En vista de lo espuesto y resultando
que el pedido es contiguo al sitio que ocupa parece
que no resulta obstaculo a que se le anada, al que si
fuere de la aprobacion de V. E. acceder a la ampliacion
que solicita el interesado.

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5-SDH San Diego. Diciembre. 10.^{ta} de 1845.

L. Arguells.

Angeles. Enero 23. de 1846.

Vista la solicitud con que al principio este respecto
ente el informe del S. Prefecto de S^{ta} Diego, con la
deudas que se tuvo presente y ver con vino de confo
rmiidad con la ley de 18 de Agosto de 1832 y
reglamento de 21 de Noviembre de 1838, declaro al
Ciudadano Andres Ybarra, dueño de todo el terreno
baldio que resulte entre los linderos del terreno
que posee y los de el rancho de Lorenzo Soto. —
dibese les el titulo correspondiente y reserve el superi
-ente. Pio Pico, Gobernador de las Californias asi
lo mandó, decretó y firmó.

Pio Pico.

J. M. Covarrubias.

Su...

6-SDH Pio Pico, vocal decano de la Asamblea Departamental
y Gobernador provisional de las Californias.

Por cuanto el Ciudadano Andres Ybarra ha
pretendido para su beneficio personal y el de su
familia el sobrante de tierra, que resulta entre los
linderos del terreno que posee, nombrado Encinitas
y los del rancho de Lorenzo Soto: practicadas previa
-mente las averiguaciones concernientes, usando de
las facultades que me son conferidas a nombre de la

de la nación Mexicana, he venido por decreto de
de este día en conceder la dicha tierra, declarando
la propiedad de ella por las presentes letras, de con-
formidad con la ^{ley} 18 de agosto de 1845, y el reglamento
de 21 de Noviembre de 1848 a reserva de la aprobación
de la Junta. Atendida Departamental y bajo las
condiciones siguientes.

1^a Podrá cercar la sin perjudicar las tran-
-seas, caminos y servidumbres, lo disputará libre y
-esclusivamente, destinándolo al uso que mas le acomode
pues se le concedió en ampliación del terreno que posee.

2^a Solicitara del Juez respectivo la de poses-
-ion Judicial en virtud de este despacho por el cual
se demarcaran los linderos con las mojuelas necesarias.

3^a El terreno de que se le hace donacion es
el que demuestra el diseño que obra en el expediente
y el que se encuentra baldío entre los linderos de la
parte Este del paraje de los Encinitos y linderos Oeste
del rancho de Lorenzo Soto. El Juez que lo posea lo
hará medir conforme á ordenanza y dará avisó al
Gobierno Departamental del número de sitios de
cuanto mayor que contenga.

En consecuencia mandó que teniendo
el presente título por firme y válido se tomara
de él en el libro a que corresponde y se entregue
al interesado para su resguardo y demás fines
Dado en la ciudad de los Angeles en papel
común por no haber del sellado á veinte tres de
Enero de mil ochocientos cuarenta y seis.

Don. Pablo Noriega.

Angeles. Enero 21 de 1846.

Muy Señor. mío.

10 5 27

There follows a map or plan...

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Office " 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 custody a portion of the former Spanish and Mexican Territory or Department of Upper California under and by virtue of the second section of the act of Congress providing for the survey of the public lands in California and for other purposes: do hereby certify that the ten preceding and hereunto attached pages of tracing paper numbered from 1 to 10 inclusive and each of which is verified by my initials (S.D.K.) exhibit a true and accurate copy of a document on file and forming part of the said archives in this office.

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In testimony Whereof I have hereunto signed my name officially and affixed my private seal in lieu of the seal of office which has not been received at the City of San Francisco Cal. this 7th day of July. 1853.

maps 20

Samuel D King.
Surveyor General. Caly.^a

Filed in Office. Oct. 17. 1854.

Geo. Fisher.
Secy.

LYCE

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Year 1845.

Record of Proceedings.

instituted by Citizen Andres

Ybarra for an augmentation to that

which he owns and praying a half

square league which is wanting to that
which has been granted to him.

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Nº 541.

uuuuu.

Most Excellent Senior Governor.

Translation
of
Español

I Andres Ybarra a resident of
the Partido of San Diego appear before Your
Excellency with due respect and state that
upon an Examination having been made by
the Authorities of the lands of San Diego
and that which at present passes called
Las Encinitas it was ascertained that accor-
ding to the grant which was made in my favor
by the Superior Departmental Government
there was lacking to complete the same a portion
of land towards the South the want of which
I have suffered until the present time because
I have not been put in possession thereof -

Wherefore I pray Your Excellency
will be pleased to allow me the Callance of
the said grant on the part of the East and
moreover to adjudge to me the ownership
of the Callance of the land which may result
as a surplus in the said Auction which is
entirely unoccupied (balda) and besides being

small it is composed of hills and in consequence of this incumbrance tillage travelled over.

No damage will result thereby to any person and your Excellency will confer upon me a benefit because my stock is already accustomed to pasture upon these lands, therefore I hope not to be disgraced by the generosity of your Excellency -

I enclose and beg to be pardoned the paper because there is none of the proper seal.

August October 21st 1854.

(I do not know how to sign it)

(The following is the Marginal Decree upon the foregoing)

August October 22nd 1855.

Let this petition be referred to the Senior Sub Prefect of the Partido of San Diego in order that after obtaining such reports as he may deem necessary he may omit his own causing the interested party to attend the plot of the land which he petitions for so as in view of the whole to determine what may be just.

(signed)
Pico,

agreed.

San Diego November 24th 1855

The second Alcalde of this place will report whether the land which the interested party solicits is vacant or whether it belongs to the property of any individual and having complied herewith he will return the Expediente to this Prefecture for the rest that the foregoing superior decree requires for which purpose he will require the petitioner to present the title to the land

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which bear present occupants.

(Signed)

Aguello,

Señor Sub Prefect,

In attention to your Superior Decree of the 29th ult. The land which citizen Andrés ~~Alonso~~ solicits in augmentation of that which he possesses is vacant and does not belong to the property of any individual. This is what according to justice I can report.

San Diego December 1st 1845.

(Signed)

Jose R. Aguello.

Most Excellent Señor,

In attention to the Superior marginal Decree of Your Excellency of the 22^a of October and having been ordered to make the proper report relative to the land which the interested party solicits in augmentation of that which he possesses it results that it is vacant and does not belong to the property of any individual with respect to what he represents relative to that which he seeks to enclose the square league which has been granted to him at the place of Las Encinitas as at that time I was the Officer in whose presence the measurement of this site was made it resulted that by the plot which was presented to the Government it fell short half a square league which is corroborated by the act which was celebrated on the fifth day of March one thousand eight hundred and forty three although it does not express the total and that a certified copy thereof was given to the interested party for his clarity.

In view of the foregoing

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and it appearing that the land petitioned for is contiguous to the Soto which he at present occupies. No obstacle seems to be presented to the granting to him the addition to that which he has if Your Excellency should deem proper to accede to the supposition which the inter-ested party solicits -

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San Diego December 13th 1845
(Signed)

S. Arguello,

Angus January 2^d 1846.

Hearing and reading the Petition with which this Expediente begins the Report of the Prefect of San Diego with every thing else necessary to be seen and examined in conformity with the Law of the 21st of August one thousand eight hundred and twenty four and the regulation of the twenty first of November one thousand eight hundred and twenty eight I declare Citizen Andres Ybarra to be the owner of all the public land which may result between the Comandaris of the land which he possesses and those of the Rancho of Lorenzo Soto

Let the corresponding title be delivered to him and this Expediente be closed I Pio Pico Governor of the Californias thus Comanded in Council and Signed &c.

(Signed) Pio Pico.

(Signed) José María Cosme
Secy.

Pio Pico member of the Departmental assembly and Provisional Governor of the Californias -
Whereas Citizen Andres Ybarra

for his Personal benefit and that of his family
 has petitioned for the said land which
 may rest between the boundaries of the land
 which he possesses called "Encinitas" and
 those of the Rancho of Lorenzo Soto the in-
 vestigations relative thereto having been previously
 made in the exercise of the powers which are
 conferred on me in the name of the Mexican
 Nation by a decree of this day I have conclu-
 ded to grant to him the said land hereby decla-
 ring unto him the ownership thereof in conform-
 ity with the law of the 15th of August one
 thousand eight hundred and twenty four and
 the Regulations of the twenty first of November
 one thousand eight hundred and twenty eight
 subject to the approval of the Most Excellent
 Departmental Assembly and under the following
 conditions -

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1st - He may Enclave it without obstructing the
 Crossings roads and Limitations he shall enjoy it
 freely and exclusively devoting it to the use
 most suitable to him since it is granted to
 him in augmentation of the land which he
 possesses.

2^d - He shall request the proper Justice to
 give him the judicial possession by virtue
 of this patent by whom the boundaries shall
 be designated by the necessary land marks -

3^d - The land hereby granted is delimited on
 the West which forms a part of the Espediente
 and that which is found to be vacant between
 the boundaries of the Eastern side of the place
 of the "Encinitas" and the Western boundaries of
 the Rancho of Lorenzo Soto.

The Justice who may put
 him in possession thereof will cause it to be measured
 according to the ordinance and shall give notice

to the Departmental Government of the number of square leagues which it contains -

Therefore I order that the present title being held as firm and valid, an entry be made thereof in the Book to which it corresponds and that this be delivered to the interested party for his security and other purposes -

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Given at the City of Los Angeles on common paper because there is no stamp on the twenty third day of January one thousand eight hundred and forty six -

[Signature]

uuuu

I George Fisher Secretary to the U. S. Land Commission to ascertain and settle private land claims in the State of California hereby certify the foregoing to be a true and correct translation of a Spanish document in Case No 395 wherein Andres Abana is the Claimant vs The United States for the place named "Las Encinitas" now on file in this office -

In testimony whereof I have hereunto signed my hand Office of the Secretary of the above named Commission at the City of San Francisco Cal this 14th day of October AD 1854.

Geo Fisher Secy.

Filed in Office Oct 14, 1854.

(signed)

Geo Fisher Secy.

Sello 1° Seis pesos.

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

Alvarado. Antonio Maria Osio.
Valga para el año de 1840.
Antonio Maria Osio.

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

Por cuanto el ciudadano Anselmo Ybana ha pretendido para su beneficio personal y el de su familia un sitio de ganado mayor entre la Cañada de San Alejo y los Encinitos, colindante con el terreno del ciudadano Juan Merria y el Ciu^o Maria Marron practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por las leyes y reglamentos, usando de las facultades que me son conferidas a nombre de la Nacion Mexicana he venido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras sujetandose a la aprobacion de la Junta Departamental y bajo las condiciones siguientes.

Doc. N. N.
No. 1 am^o?
to the Depo.
of S. Ar-
guello.

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1° Podria tenerlo sin perjudicar las traversias Caminos y servidumbres, lo disfrutara libre y escluyente destinandolo al uso o cultivo que mas le acomode. pero dentro de un año fabricara casa y estara habitada.

2° Solicitara del Juez respectivo que le otorgue posesion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites, podra o mas de las motoneras, algunos arboles frutales o arvostres de alguna utilidad.

3° El terreno de que se hace mencion es de un sitio de ganado Mayor pero mas o menos segun explica el diseno que corre en el Especifico. El Juez que otorgue la posesion lo hara medir conforme a ordenanza quedandole el sobrante que resulte a la nacion para los usos convenientes.

4° Si contraveniere a estas condiciones perdera su derecho al terreno y sera denunciado por otro.

En consecuencia mande que teniendo presente lo firmado y valedero este titulo, se tome raron de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines. Dado en Monterrey a trece de Julio de mil ochocientos Cuarenta y dos.

Juan B. Alvarado. Manuel Jimeno. Seco.

Queda tomada razon de este despacho en el libro de asuntos sobre adjudicacion de terrenos baldios a fojas 11.

El Excmo. Sr. Gobernador ha dispuesto se tome razon de esta consecion en la Prefectura del Segundo distrito.
Simons.

Queda tomada razon de este titulo en el libro de asuntos llevado en la Secretaria de esta Prefectura del 4º Distrito a fojas 1.

Angeles Julio 19. de 1852.
Jose R. Arguello. Srto.

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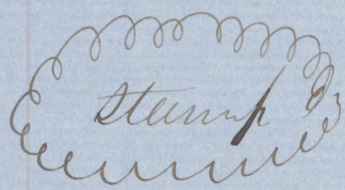
Filed in office. Nov. 10th 1852.

Geo. Fisher
Secy.

Seal 1st Six Dollars.

Provisionally furnished by the Maritime Custom House of Monterey for the years 1834 and 1840.

Alvarado Antonio M. Osio.
It may avail for the year 1842.
Antonio M. Osio.



"6"

Transmittal of Grant.

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Juan B. Alvarado Constitutional Governor of the Californias -

Inasmuch as the Citizen Andres Ybana has solicited for his personal benefit and that of his family one "sitio de ganado Mayor" between the Canada of San Felipe and the Encinitas, bounded by the land of the Citizen Juan Maria Osuna and the Citizen Juan Maria Marron having previously complied with the obligations and made the investigations required by the laws and regulations concerning them using the forms assigned upon me in the name of the Mexican Nation I have concluded to grant him the land mentioned declaring it his property by these presents subject to the approval of the Executive Departamental Junta and under the following conditions -

- 1st - He may enclose it without prejudice to cross roads and servitudes enjoying it freely and exclusively using or cultivating it in the manner most agreeable to himself but within the space of one year he shall build a house upon it and have it inhabited -
- 2^d - He shall solicit the respective Judge to give him judicial possession in virtue of this patent by whom shall be marked the landmarks on whose limits shall be placed at the proper points for land marks he shall build a house

Some fruit or forest trees of some utility.
34. The land of which Montin has been made is of one "título de ganada mayor" as explained by the plot or design which is annexed to the respective Expediente.

The Judge who shall give the possession, shall have it measured, conformably to the ordinance, providing for the remainder which reverts to the Nation for its common uses.

4th - If he violates these Conditions he shall lose his right to the land which may be alienated by another -

In consequence I order that this title being had firm and valid be recorded in the respective book and delivered to the interested party for his security and further purposes.

Given at Montin the third of July one thousand eight hundred and forty two.
Juan Palmarado.

Maur Amiro -
Secty.

This decree is registered in the book of Entries of adjudication of vacant lands at page 111.

Amiro

Here Excellency of the Governor has directed that this concession be registered in the Prefecture of the Second District -

Amiro -

This title is registered in the Book of Entries in the Office of this Prefecture of the Second District at page 41.

August July 14, 1842.

José R Arguilla Secty.

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Filed in Office
Oct. 14, 1852.
(Sgd)
Geo Fisher
Secy.

S.º Diego. Julio 22. de 1842.

Hallandose concluydas estas diligencias de este espedi-
ente pertenecientes al rancho de los Encenitos dese le tes-
timonio al ciudadano Andres y Barres y tenerse a los á
ellas para su seguridad y usos que le convenyan.

El ciudadano José Antonio Gongora, Juez de
paz así lo proveyó, mandó y firmó con los testigos
de assa. Segun dno. Doy fee.

José Antonio Gongora.
Bonifacio Lopez.
José Maria Alvarado.

Razon. A los 22 dias del mes de Julio de 1842.
Queda librado al interesado el testimonio
que se refiere en el auto anterior y para constancia
lo rubrique.

Doc. N.º N.
no. 2 aux.
to de depo.
of S. Argu-
do

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Filed in Office. Nov. 10th 1852.

Geo. Fisher.
Sery.

27

San Diego July 25^o 1842.

1.6
C.

Being concluded the process of this Expediente pertaining to the Rancho "de las Encinitas" let a copy be given to the citizen Andres Ylleana the person interested in it for his security and proper uses.

Translation
of
Act of
Possession

The citizen Jose Antonio Gougora Judge of the Peace has so decreed commanded and signed with the witnesses of Assistance according to Law of which I give faith -

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Jose Anto Gougora
Bonifacio Lopez
Jose Ma Alvarado.

Entry -
On the 25^o day of the Month of July 1842 The copy which is referred to in the above act has been delivered to the interested party for his protection, which I attest.

Filed in Office Oct 16, 1852.

(signed) Geo Bishop
Secy

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Andres Ybarra

vs
The United States

} For the place
} called Las Encinitas
} in San Diego
} County containing
} one square league of
} land.

In his petition the Claimant alleges that the land claimed being one square league was granted to him by Governor Juan B. Alvarado on the 3rd day of July 1812 and that judicial possession was given to him and the coventerios designated and defined on the second day of July in the same year.

The grant duly proved is given in evidence - A document is also presented which appears to be a copy of the concluding sentence of a testimonial of judicial possession dated July 22 1812. If such was the true character of the instrument its mutilated condition renders it of no avail for the purposes for which it was designed.

It contains no statement of the act done by the Alcalde in measuring the land and no description of the premises designated. It affords no aid therefore to the Claimant in establishing a segregation of the premises claimed.

The testimony in the case however shows that judicial possession of the place was given to the grantee and the witnesses who as Jefe de familia attended to the official act gives a description of the coventerios of the Rancho which were designated as far as stands the testimony at the time. The land included within the designated limits is stated as one square league the quantity granted.

The return states after

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Opinion by
Comm.
Pach.

specifying the boundaries of the Square Leases that they measured but are half of the same.

We find some difficulty in understanding fully the reason for or character of this limitation; but as the boundaries appear to be well defined the premises being located according to the grant and embracing only the quantity granted, and as no substantial reason appears why the grantee should be deprived of any portion of it, we are of opinion that the segregation of the land is sufficient and the entire lease embraced within the limits described must be regarded as assigned to him under the grant.

The proof shows that the claimant has lived with his family on the place and has cultivated and improved the land during the last fourteen years. It has been his homestead ever since 1840.

The claim is adjudged valid and a decree will be entered accordingly.

Consigned,

Filed in Office Oct 31, 1857.

Witness

Wm. Fisher
Secy.

Amans Yeara

The United States

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

Recd.

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The land of which confirmation is hereby made is situated in San Diego County and is known by the name of Las Encinitas and the same on which said petitioner resides and is bounded and described as follows to wit -

The first line North of the house of said Yeara is some hot water rocks from which rocks issues down the Canada Batiquitas which is the Northern boundary, the second or Southern boundary is some rocks where there is standing water which is the Ravine known by the name of of San Diego, the western corner is the Mouth of the Lake San Diego the Eastern line is the lake of Batiquitas formed by the Ravine of the same name which forms a square the same containing one square league of land a little more or less.

Alphus Pulek

R. Aug. Simpson

S. B. Fenwick

Commissioners

Filed in Office Oct 31. 1854.

(signed) Geo. Fisher Sices

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PAGE 23

and it appearing to the satisfaction of
 this Board that the same being a copy
 of a letter written in the Southern
 District of Cal. is hereby ordered that
 the transcripts of the proceedings and
 of the decision in this case and of
 the papers and records upon which the
 same are founded be made out
 and duly certified by the Secy and of
 the transcripts shall be filed
 with the Clerk of the District Court
 District Court for the Southern District
 of Cal. and the other be transmitted
 to the City and County of the U. S.

Office of the Board of Commissioners,

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

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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 two* pages, numbered from
1 to *32*, both inclusive, to contain a true, correct and full Tran-
script 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. *395* on the Docket of the said Board,
herein *Andres Mbarra is*

the Claimant against the United States, for the place known by
name of "*Los Enceritos*"

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 fifth day of *May*
A. D. *1853*, and of the Independence of the
United States of America the seventy=*ninth*.

G. Fisher
Geo. Fisher

U. S. DISTRICT COURT,

Santhum District of California.

No. 228.

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THE UNITED STATES,

vs.

Andres Barrera

"Los Encenitos."

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 395.

Filed, June 6th

1855.

*C. E. Van
Calk*

228

No. 395

aa



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Office of the Attorney General of the United States,

Washington, June 13th 1855.

395. Los Encuentos.

Andres Ybarra, Claimant.

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 9th day of April 1855 the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Very Respectfully,

Amos

Attorney General.

No. 228,

W. S. District Court,
Southern Dist of Cal.

United States

vs

Anares Ybarra,

Notice of Appeal
in Case no. 395.

Filed July 21 1855
C. E. Kern
Clerk
By A. A. Clark
Deputy

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C. S.

In the District Court of the United States
for the Southern District of California
Hon Isaac S. T. Ogier Judge.

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Andres Ybarra.

N. 228.

ads.

(Manuscript N. 395)

The United States

The petitioner of Pacificus Old, Attorney of
The United States for the Southern District
of California, for and in behalf of the
United States, respectfully represents;

That on or about the 16th day of October AD
1852, Andres Ybarra, petitioned the United
States Land Commissioners for the State of
California, claiming a certain tract of
land called Las Encinitas, containing
one square league, situated in San Diego
County, California. That on or about the
31st day of October AD. 1854, the said
Commissioners confirmed the said claim.

That thereafter, to wit, on or about the
9th day of April AD. 1855, the Hon^{ble}
Caleb Cushing, Attorney General of the
United States, received a duly certified
transcript of the proceedings, ^{papers,} and decision,
with the evidence, of the said Commissioners
in said cause. That thereafter, to wit:
on or about the 6th day of June AD. 1855.

The said Commissions filed, or caused to be filed with the Clerk of this Hon^{ble} Court, a duly certified transcript of their proceedings, with the evidence, ^{papers,} and Decision in said Cause. That thereafter, to-wit: on or about 21st day of July A.D. 1835,

The said Attorney General filed, or caused to be filed, ^{with the said Clerk of said Court} a Notice of the intention of the United States to prosecute the appeal in said Cause.

Your petitioner denies, generally, ^{all the allegations of said petition} and ^{he denies further that} the validity of the right, title, or claim of the said Andres Gbarra, to the ^{said} land claimed as aforesaid.

And your petitioner says that the land claimed as aforesaid, is situated in the Southern District of California, and within the jurisdiction of this Hon^{ble} Court. Wherefore, petitioner prays that the said Andres Gbarra, or his Attorney, may be served with a copy of this petition; and that, after due proceedings had, the said ~~claim, right or title of said Andres Gbarra, may be deemed to be invalid~~ and ~~the said decision of the said Commissions~~ ^{may} be reviewed, reversed, and set aside; and that the said claim, right, or title of said Andres Gbarra,

To said land, may be deemed to be
invited. With Costs and general
Relief.

J. Ord

Attorney of the United
States for the Southern District
of California

N^o 228.

Andres Garra
vs.

The United States.

Petition for Review -
of writs.

Filed Oct 17th 1855

C. & Can. cert
by Geo. W. P. Ord

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J. Ord atty ad.

No 228.

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

Andres Ybarra,
 as
The United States.

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The respondent for answer to the petition
filed in this cause answers and says, It is true that the land
mentioned in said petition and in said transcript of the pro-
ceedings before the said Board of Commissioners lies within
said Southern District of California and within the juris-
diction of this Court.

But this respondent denies that his title
to the said land is invalid, and avers that his title is valid,
and prays that the decision of the said Board be affirmed
and his title be decreed to be valid

Thos W. Sutherland Atty
for respondent Andres Ybarra
By E. D. Crosby of counsel

It is hereby stipulated on the part of the respondent Andrew
Ybarra that this cause be submitted ^{at any time hereafter} upon the papers without
argument on his part.

Angels Oct. 11. 1855.

Thos W. Sutherland Atty
for Ybarra by E. D. Crosby of counsel

Due Service of the Petition in this cause is hereby acknowledged
Angels Oct 12. 1855.

Thos W Sutherland Atty for
claimant - by E. O. Crosby of Counsel

No. 228.

Ms District Court
Laurens Dist of South Carolina

Anders Ybarra

vs

The United States.

Answer

Filed Oct 12 1855.

W. Sutherland
By E. O. Crosby Atty

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Thos W Sutherland
E. O. Crosby Atty for
claimant

In the U States District Court for the
Southern District of California,

Special Term Sept 1853.

Los Angeles

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Andres Garra, app^{ee} } N^o 228.
vs. }

The United States, app^t } (Manuscript N^o 395.)

On motion of P Ord Attorney of the
United States for the Southern District
of California, it is 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 United States
in the above entitled cause, rendered
on or about the 16th day of October
A D 1853.

P. Ord
W. D. Mitchell

228.

U.S. Dist. Court
Southth Dist. of Calth

The United States vs.

vs.

Andrus Ybama, App^l. vs.

Order of appeal filed to
Supreme Court on motion
of P^{ro} Sec^y U. S. atty^s

Filed October 18th 1855

O. E. Can^{cl}

By J. W. Rind^g

228 50

California Land Claims.

Attorney General's Office

15 September 1851

Sir,

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In the case of the claim of Andres Barra, confirmed to the claimant by the Commissioners, case no. three hundred and ninety-five, (395), and also confirmed on appeal by the District Court, appeal in the Supreme Court will not be prosecuted by the United States.

I am

Respectfully

Clausing

Jacifius Ord Esq.

U. S. Atty for the

Southern Dist. of California

vv 228

Andry Gharro

393

Sept. 15. 1836.

Frid 24th February 1857

C. Suis ckt
J. M. Coleman
Dep

Recd Oct. 21. 1836.

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The United States appellants }
vs }
Andres Yana. appellee }

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The claim in this case is founded upon a grant from Governor Alvarado to the present claimant dated the 3^d day of July 1842.

The genuineness and authenticity of the grant is fully proven. — The grant describes the land by ~~more~~ certain ~~exterior~~ boundaries and is for one square league within those boundaries, there seems to have been judicial possession given but only the few last lines of the act are offered in evidence, if it was intended to prove the segregation by this mutilated document, it must fail, as there is no boundary of description contained in it, this is attempted to be supplied by the oral evidence of Aguello who was present at the time and who says he was ~~at the~~ attended at the time of giving the judicial possession and testifies to the boundaries as then given, but that they only measured one half of the tract he gives no reason why this was done. unless I do not think that much is to be derived from his testimony even if it were admissible, but it is not necessary in this case to rely upon that testimony, the grant itself well defines the boundaries and calls for the quantity of one square league within those boundaries, which is sufficient to bring the case within the rule in the Freeman case in 17th Hen., The claimant is therefore entitled to a confirmation of his claim and a decree will be entered accordingly.

No. 228

Andrus Ybana

to

Wm. M. Stule