CASE NO.

396

SOUTHERN DISTRICT

JURISTAC GRANT

ANTONIO AND FAUSTINO GERMAN

CLAIMANT

396 SD
PAGE 1

# Transcript.

in

Case No. 62.

Juristac

Antonio and Faustino German

vs.

The United States.

396 SD
PAGE 2

Office of the Board of Commissioners to ascertain and Settle the private Land Claims in the State of California.

Be it remembered that on this Saturday February 21st 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 Antonio and Faustino Serman docketed No. 62. and is as follows Viz:

No 62 Antonio and Faustino Serman, Claimants
Vs,
The United States, Defendant

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Saturday February 21st 1852
Before the Honorable The Commissioners of the United States to ascertain and Settle Private Lands Claims in the State of California.

Antonio Serman and Faustino Serman Citizens of said State, give notice that they

396 SD
PAGE 3

claim, by virtue of a grant from the Mexican Nation, a tract of lands in Santa Clara County, in Said State, known by the name, Juristac or La Brea

Said lands was granted to Claimants, on the 22nd day of October, 1835, by Don Jose Castro, Govenor or Gefe Politico and interim of California, in pursuance of his powers to make grants of lands in the name and on behalf of the Mexican Nation, and in accordance with the consent, and approbation of the Territorial Deputation of California, previously given thereto by an act of Said body on the 27th of Septtmber 1835.

Said grant was duly registered in the Archives and the fees and duties thereon duly paid.

On the 29th of October, 1835, the Claimants applied, according to the directions contained in their said Grant, to the proper magistrate, to wit, the Constitutional Alcalde of Monterey for a juridical delivery to them of said lands; which act was accordingly performed by said Alcalde on the 29th day of said month.

The proper Record was made of said act of juridical delivery, and the claimants duly paid the duties and fees thereon.

The quantity contained in said tract is unknown, the same never having been surveyed.

The boundaries are, on the east the line known as the line of the Rancho of the Castro's or Rancho de las Animas; on the South by the riven Pajero; on the West by the River Pajero, the agua Caliente or Hot Springs, and the Creek of the Pescadero; on the North by the Sierra; all which boundaries are well known and are set out in the official map or plan of the same accompanying the before

mentioned documents;

3 Said land was occupied according to law and is and has been continuously held and occupied by said claimants in quiet possession.

A copy of said Grant, and a copy of the record of said Act of juridical delivery, with a copy of said map or plan, are herewith presented (marked A) and the originals are ready to be produced and proved as shall be required.

396 SD
PAGE 4

There is no conflicting grant to said land or any part thereof in the knowledge of the Claimants.

The Claimants respectfully ask for a speedy examination and order of confirmation of their said Claim.

Jones Dimpkins & Wrode
Attys for Claimants

Filed in Office February 21st 1852
Geo Fisher
Secy

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

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Friday Feby 27th 1852

In Case No 62 Antonio and Faustino Guirnan, the Deposition of David L. Spence, a Witness in behalf of the Claimants taken before Commissioner Hiland Hall, was filed and is in the words and figures as follows to wit:

Office of the Board of Commis-
sioners

of California Land Claims, San Francisco
Feby 26th 1852.

396 SD
PAGE 5

On this day before Hiland Hall One of the Commissioners for ascertaining and settling private Land Claims in the State of California, Came David S. Spence a Witness produced in behalf of Antonio and Faustino Cesman Claimants in the case of their petition numbered 62 on the Docket of the Commissioners, and after being duly sworn, testified as follows. The Land Agent being notified and present.

Question by Mr Jones Counsel for the Claimants.

1st Question. What is your name, age, and residence?

Answer. My name is David S. Spence, my age is fifty three, and I reside in Monterey and have resided there for twenty eight years past.

Q. Are you acquainted with the hand writing of Jose Castro, Francis del Castillo Negrete and Jose Raphael Gonzales, and if so look upon the title papers of the Claimant marked A, with the initials H, H, & say if the Signatures of said persons appeaind upon said papers are genuine?

Answer. I have often seen each of them write and am well acquainted with their hand writing. Their Signatures on said papers are genuine. These several persons held the several offices which the title papers describe them as holding, at the dates of said papers.

Q. Do you or not know the Rancho la Brea mentioned in said title papers

Answer. I am acquainted with the Rancho

and have known the presant Claimants to have been living there thirteen or fourteen years ago; Each of the brothers had a house in which they lived and both had improvements. It is situated on the road between San Juan and San Jose. I Knew they were put in judicial possession in 1835. I was Alcalde at the time in Monterey and the said Gonzales was Second Alcalde.

396 SD
PAGE 6

Question by the Law Agent

1. What are your means of knowing that the persons before named held the official stations refered to?

Answer. Having been first Alcalde of Monterey at the time, where they all resided I had much business with them.

2.- During what length of time have you known the Claimants to live on said Rancho?

Answer. It is now thirteen or fourteen years since I first saw them on the place - I believe each of them have lived there in seperate houses ever since I have not seen them on the place since, not having been there

3. What was the nature of the improvements on the place which you have before mentioned?

Answer. They had their houses corrals & some lands cultivated.

4. What was your means of knowing that judicial possession was given,

and were you present when such pos-
6 session was given.
Answer. I was not present. But being
first Alcalde, the second Alcalde who
gave the possession, informed me he had done
so, & a record was made of the same in
the first Alcaldes Office.

396 SD
PAGE 7

Sworn and subscribed L.D.S. Spence
before me.
Hiland Hall
Commissioner

Filed in Office Feby 27th 1852
Geo Fisher
Secy

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In the same case the Deposition of S.M.
Meses a witness in behalf of the Claimants,
Taken before Commissioner Hiland Hall,
was filed and is in the words and figures
as follows to wit:

Office of the Board of Commiss-
ioners of California Land Claims.
San Francisco Feby 26. 1852.

On this day before Hiland Hall one of
the Commissioners for ascertaining and settling
private Land Claims in the State of California
came S.M. Meses a witness produced in be-
half of Antonio and Faustina Coleman
Claimants in the case of their petition
being No 62. on the Docket of the Board,
& after being duly sworn testified as follows,
the Land Agent having been notified was
present.

Question by Mr Jones. Counsel for the
Claimants.

What is your name, age, and residence?

7

Answer. My name is S. M. Meses, my age is twenty five years and I reside in San. Francisco.

396 SD
PAGE 8

Do you Know A & P Seaman the Claimants, and where they live.?
Answer. I Know them. They live at their Rancho on the main road between Saw Jose & Saw Juan.
What do you Know of their possession and improvements on said Rancho?
Answer. They have seperate houses, in which the brothers with their several families live - I was there in May and in July last year. I saw Cattle there and lands under cultivation - I slept in one of the houses when I was there in July - The houses were Adobe houses, one of them pretty old, the others not so old - I cannot tell the quantity of lands I saw under cultivation - it was I think less than twenty acres.

Question by the Land Agent.
To what extent did the Cattle range on the tracts claimed.
Answer. I was only at the house and did not notice particularly - I cannot tell the number of the Cattle - I arrived at the house in the evening and left early in the morning, & did not take particular notice of the Cattle, in regard to their numbers or marks.

S. M. Meses

Sworn and Subscribed
before me.
Herland Hall. Com.r

Office Feby 27th 1852.

Filed in
Geo Fisher, Secy

396 SD
PAGE 9

Friday March 5th 1852

In Case No 62 Antonio & Faustino Guirnan the Deposition of Jose Rafael Gonzales, a witness in behalf of the Claimants taken before Commissioner Harry I. Thornton, was filed and is in the words and figures as follows to wit:

California Land Commission
San Francisco March 5th 1852

At Chambers

Before me Harry I. Thornton one of the Board of Commissioners to ascertain and settle private Land Claims in the State of California came Jose Rafael Gonzales, a witness summoned to testify on behalf of the Claimants Antonio & Faustino Guirnan whose petition is No 62 on the Docket. The Land Agent of the United States being present on due notice and the said witness having been by me first duly Sworn testified as follows, viz:

Interrogatories Propounded by Claimants Counsel.

Ques 1. What is your name, age and residence

Ans. My name is Jose Rafael Gonzales, I am Sixty Seven years old & reside in the City of San Jose Guadalupe.

Ques 2. What office if any did you fill in the year 1835.

Ans. I was Alcalde in that year in Monterey.

Ques 3. Was it any part of your business as such Alcalde to give juridical possession to proprietors of Land.

Ans. It was.

396 SD
PAGE 10

9

Ques. 4. State whether you recollect giving possession of a tract of land to Antonio & Faustino Serman.

Ans. I do remember well.

Ques 5. Did you or not make an official report of the same, and did you or not write an official account of your proceedings on the occasion referred to.

Ans. I did make an official report of the same to the Ayuntamiento of Monterey of which I was a member, and I did write an official account of the proceedings as above stated.

Ques 6. Did you deliver an official account to the parties interested?

Ans. I did.

Ques 7. Is the paper here shown you or any part of it that official account. Are your signatures to the same where they occur therein your genuine signatures. Did you make them at the time that said paper on its face purports, and is said paper the original or a copy which is on file in the office of this Commission referred to in the petition of Antonio & Faustino Serman (No 62 on the Docket of said Commission) as Exhibit "A".

Ans. That part of the paper shown me here, from folio 2 to 7 reverse concluding with my signature contains the aforesaid document. My signatures throughout

396 SD
PAGE 11

are genuine. I did make them at the
10 time the said paper purports on its face
and the said paper is the original of a
copy now on file in the office of the Com-
mission referred to in the petition of Antonio
& Faustino Guirnan No 62 on the Docket of
said Commission as Exhibit "A" which I have
compared with the original.

Ques 8. Do you know José Tiburcio Castro,
Inocente Garcia, Antonio Ramirez, Jose
Maria Silva & Cosme Pena.

Ans. I know them all.

Ques 9. Do you know whether the
Signatures of those persons where they
occur in the paper described in ques-
tion seven are genuine & if so how do you
know it.

Ans. I do know they are genuine,
because they signed it in my presence
as Alcalde at the time the papers were
made out.

Ques. 10. Do you know whether the
fees enumerated on the last page of said
paper were paid!

Ans. They were paid by the parties
interested Antonio & Faustino Guirnan.

(Cross Interrogatories by W. S. Law
Agent) continued!

Ques 1. State where the persons
reside named in interogatory 8.

396 SD
PAGE 12

Ans.

11 Jose Tiburcio Castro is dead - Inocente Garcia resides in San Louis Obispo - Antonio Ramirez in Mazatlan. Jose Maria Silva & Cosme Pena are dead.

Jose Rafael Gonzales

Sworn to and subscribed before me this 8th of March 1852.

Henry D Thornton
Comr

Filed in Office March 8th 1852
Geo Fisher
Secy

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Saturday May 15th 1852

In Case No 62 Antonio & Faustina German the Counsel for the Claimant filed a Supplemental Petition with Exhibits A. B. & C. and is as follows Viz; (Vide pages of this Transcript 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61

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Tuesday May 18th 1852

The following Cases were set for hearing and transfered to the trial Docket Viz:

No 62 Antonio & Faustina German
" 24 J. B. R. Cooper

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Tuesday June 1st 1852

The following Cases were set in their order for hearing to Wit: No 62 Antonio & Faustina German
" 24 J. B. R. Cooper

396 SD
PAGE 13

12

Wednesday Sept.r 8th 1852

In Case No 62 Antonio & Faustino Cserwan, for the place called "Tunistac", the Deposition of Ygnacio del Valle, a witness in behalf of the Claimants, Taken before Commissioner Harry I. Thornton, was filed, and is as follows, to wit: (Vide pages of this Transcript 62. 63.

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Monday Sept.r 13th. 1852

In Case No 62 Antonio & Faustino Cserwan for the place called "Tunistac", alias "Brea", was called.- The Counsel for the Claimants, Mr Strode, read the petitions and Evidence. Argument opened by Mr Jones, one of the Claimants Counsel. Answered by the U.S. Land Agent, and closed by the Claimants; Taken under advisement by the Board.

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Friday Sept.r 17th. 1852

In Case No 62, Antonio & Faustino Cserwan, for the place called "Tunistac" alias "Brea", the Secretary filed the Translation of Exhibit No 1. annexed to the Deposition of H. W. Halleck, Taken before the Commissioners sitting as a Board, Sept.r 13th. 1852, which is as follows, to wit: (Vide pages of this Transcript 64. 65. 66. 67. 68. 69. 70. 71. 72 73. 74 75. 76. 77. 78. ~~79 80. 81 82 83.~~

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Friday Sept.r 24th. 1852

In Case No 62, Antonio & Faustino

396 SD
PAGE 14

13

German, for the place named "Juristac" alias "La Brea", Commissioner Harry I. Thornton delivered the Opinion of the Board, declaring the Claim Valid: the entering of the Decree of final Confirmation being reserved for a future day.

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Monday Sept. 29th 1852.

In Cases No 61, Cruz Cervantes, for the place named "San Joaquin", alias "Rosa Morada", and No 62, Antonio and Dansling German, the Counsel for the Claimants, Mr Jones, moved the Board for leave to withdraw the Original papers in the above Cases; Certified Copies of the same, heretofore filed, with the Petitions, to remain on file in the Office.
Which motion was taken under advisement.

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Monday Decr 13th 1852.

In Case No 62, Antonio & Dansling German for the place named "Juristac", the Counsel for the Claimants filed the following motion, to wit:

The Claimants, by their Counsel, move, that there be prepared two Certified Transcripts of the proceedings of the Board, in the above mentioned Case, and of the decision therein, rendered on the

September last, and of the papers and evidence on which the same are founded, and one of said Transcripts be filed with the Clerk of the proper District Court, and the other transmitted to the Attorney General of the United States according to law.

8th

(Signed) Lowes Dompkins & Strode
Attorneys for Claimants

Filed in Office Decr 13th 1852
Geo Fisher
Secy

396 SD
PAGE 15

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Tuesday Decr 14th 1852.
In Case No 62. Antonio & Faustino Cerman, for the place named "Quistac", the motion filed on yesturday, by the Counsel for the Claimant, was over-ruled, and the order therein prayed for denied.

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Saturday Decr 18th 1852.
In Case No 62. Antonio & Faustino Cerman, for the place named "Quistac", Commissioner Hiland Hall delivered his opinion.

In the Same Case, Commissioner Harry I. Thornton delivered the Decree of Final Confirmation of this Board.

Ordered, That the Opinion of this Board, delivered by Commissioner Harry I. Thornton, on the 24th of September, 1852; the Opinion of Commr Hiland Hall, delivered this day, and the Decree of Final Confirmation of this Board, also delivered this day, in this Case, be recorded on the Journal.

Which Opinions and decree are in the words and figures as follow, to wit:

15

Commission for ascertaining and
settling private Land Claims
in the State of California.
Session at Los Angeles.

Antonio & Faustino Cesman, Claimants,
Vs
The United States.
No 62. Rancho of "Guistac", alias
"Brea". Opinion of the Board,
by Harry I Thornton.

396 SD
PAGE 16

The claim in this case presented to this Board, as appears from the Archives of the Former Government, duly authenticated, originated with a petition, addressed to Figueroa, who was the Political Chief at the time, on the 28th of April 1833.

The petition was for a tract, or parcel of land, by the name of "Guistac", near La Brea, describing it by no very specific limits, and praying for no determinate quantity. Upon information taken by the Governor, as appears by his Decree of the 21st of November 1833 it appeared that the place was at the time of the presentation of the petition, and then, in the occupation of the Mission of San Juan Bautista; that it was in part at least, held by the Claimants upon loan, at the will of the Revd Padre of said Mission; and that although the petitioners had as such tenants at will, built houses on it, lived there, and cultivated the same, yet that it was so possessed and occupied by the Mission, as not to be grantable by him. This obstacle he directed to be made

known to the said applicants, so that they might address a petition for some other place which was vacant. Afterwards, on the 3d of June 1835. another petition was addressed to Figueroa by the Claimants, for a place called the Rancho de la Brea, which it seems is identical with that before petitioned for, as Iruistac near La Brea. This last petition is accompanied with a diseno, or map, and describes the boundaries of the land sought, with more particularity, than before, but solicits no specified quantity of ground.

396 SD
PAGE 17

After full information being obtained by the reports of those to whom the referred for the same, the Governor by his decree of the 27th of August 1835. ordered the Expediente to be passed to the most Excellent Deputation, who on the 15th of September 1835 adopt the proposition, "that the land solicited by the petitioners the Germans may be conceded to them". Then on the 22d of October 1835 a concession is made by Jose Castro, he having become the Political Chief in the mean time, declaring the Germans owners in property of the tract of land known by the name of Iruistac. Of the same date is the complete patent, or conveyance of the fee by said Castro, which is proved by the deposition of a Witness on file, to have been duly executed by him.

In this grant there is a recital of the boundaries, "which are from East to West those of the Citizens Castros, and the Arroyo of the Rescaderos". And in the condition numbered four in the same, it is declared, "The tract

396 SD
PAGE 18

of land of which mention is made, is of one Sitio de ganado Mayor, (one Square League) as the map (or diseno) explains which is annexed to the "Expediente"; and further, "The Magistrate who shall give possession shall cause it to be measured according to Ordinance, the overplus (Sobrante) which shall result, remaining to the nation, for its convenient uses." Juridical possession was afterwards given to the parties on the 29th of October 1835, and a measurement made, as was the custom, professing to be in accordance with the grant. A detailed account of this Official Act of possession and measurement, is introduced and proved before us.

All the objections urged against the validity of this claim, except one, have been heretofore considered and over-ruled by this Board, in the case of Cruz Cervantes, No 56, the opinion in which case is on file with the Secretary.

The objection to which I refer as not hitherto decided upon, is, that the land granted in this case was excluded from grants, by the 17th Article of the Ordinance of the 21st of November 1828, which declares, "That in those Territories where there are Missions, the lands occupied by them shall not be Colonized at present &c", The point raised in the argument was, that by the just construction of the said Article, such of the public domain, as was then, at the date of its promulgation, in the occupancy of the Missions, was reserved from alienation by the Political Chief.

Even if that proposition were assented to by this Board, there is no proof in

the case, that at the date of the Ordinance, such was the condition of the land now in Controversy. That it was so occupied, is deduced by the Law Agents, as a presumption from the fact proved, that it was in that predicament in the year 1833.

We do not think such a presumption can legally arise. It is true that things which are continuous, will within reasonable limits, according to their nature, be presumed to continue to exist, being once established, until the contrary is proved. But there is no presumption arising from their existance at any given time, that they did so exist at any anterior period, unless it grow out of their nature; and we do not consider that the fact of occupancy in the year 1833, is of such a nature, as to authorise the presumption, that it existed in 1828.

In accordance with the principles of decision prescribed for our Government in the 11th Section of the Act of the 3d of March 1851, We have come to the Conclusion unanimously, that the Claim presented is valid.

Having decided for the reasons above disclosed in favor of the validity of the Claim in accordance with the grant finally issued to the Claimants, it may be due to the Case, and at all events more satisfactory to the party in this cause, to assign the reasons why we declare the Claim valid according to the grant, without regarding the Metes and bounds, further than as descriptive of the locus in quo the land granted lies.

396 SD
PAGE 19

396 SD
PAGE 20

The Claimants Counsel have contended that, notwithstanding the grant declares that only one Square League is granted, yet as the minute entry, or Concession by the Governor, declares the ownership to the Claimants of the land as solicited; and as the previous proceedings without warning any definite quantity, describe the land sought, as a tract by prescribed bounds, that the Claimants ought not to be restricted to the quantity of one League named in the grant, but are now entitled to have a decree of the validity of their claim, to the extent of the metes and bounds, of their map, and petition, as recognized in the minute of concession.

In deciding upon the validity of a claim, in every case of a grant, or Concession made in virtue of the decree of the Mexican Congress of the 18th of August 1824, and of the Ordinance of the 21st of November 1828, as this was, we must necessarily have regard to its quantity. It is our province and duty, to construe the grant, and in doing this, as the quantity which may be granted to any one person, is limited, the maximum being eleven Leagues, and the minimum two hundred Varas, we would be acting in disregard of the express provisions of that Decree, and Ordinance, if we declare a claim Valid, without ascertaining, and settling that it is within the lawful limits as to quantity. In this case, it is urged by the Counsel for the Claimants, that we should disregard altogether the quantity, which is specified in the final grant, and consider the case, as if no quantity were mentioned in it. To this view of the matter we are not prepared

to accede. In a case where there is no
20 mention made of any quantity, but the grant
is clearly by metes, and bounds, it would
still be our duty to consider quantity, and
only declare the claim valid, on the ground
that the intention of the grantor was to
grant the quantity allowed by Law to be
granted, if within the boundaries men-
tioned, and no more, no matter how much
more there might be within them.
There is a discretion vested in the Political
Chief, as to the amount or quantity, which
he may grant in any given instance; which
discretion ranges between the maximum, and
minimum, of the Decree, and Ordinance; and
which is regulated, by considerations affecting
the nature, or character of the land, and
of the person applying for it.
Where the grant is thus made by metes
and bounds we should, ut res magis va-
leat quam pereat, construe it in such
manner, as that the grant may prevail,
and yet the law not be violated.
Hence the validity, necessarily involves,
as an inherent and essential ingredient,
the quantity, of a Claim made under
the Mexican Decree of 1824, and Ordinance
of 1828. Not that we must in
every case declare, how many precise lea-
gues the claim contains, but that it
shall contain, no more than the Law
allows. But the claim now under
consideration is not of the last mentioned
character. The presumption, by
which we would sustain such a claim
to the extent of the land, is not to be
indulged, where in his grant the Governor
specifies the exact quantity, tho' it were
wholly omitted in the petition, and

even in his concession, preliminary to his final grant. It is competent to him to fix the quantity within the prescribed limits, and his power is not exhausted, until his grant passes to the applicant.

21

The quantity, when named by the applicant in his petition, as supposed to be contained in the accompanying map, or diseno was never ascertained, do in a regular plat of survey, and is known, and generally expressed to be meanly conjectural.

396 SD
PAGE 22

The concession of the land as asked, is of course equally so; but it may be fixed by the grant. The Governor is not estopped by such concession. In the case in hand, the intention is manifested, because the concession, is of even date with the grant; the latter being an extention into full title, of the former, which was a mere minute entry of the complete conveyance.- In the result Commissioner Hall concurs.

Harry I. Thornton

No 62. Antonio & Faustino Germain, Claimants,

I agree that the Opinion of Commissioner Thornton, heretofore given in this Case, furnishes sufficient reasons for the confirmation of the claim, though I do not concur in a portion of them.

Wm Hiland Hall
Commissioner

Antº & Faustº Germain, Claimants,
Vs
The United States,

No 62.

This Board upon full

396 SD
PAGE 23

consideration of the various grounds affecting the validity of the said Claim, having come to the conclusion that the same is valid, we therefore now proceeds to make, and does hereby make the following decree or report of final confirmation, Viz: It is ordered that the said claim be confirmed to the extent and quantity of one square league, or sitio de ganado mayor, and for no more, being the same land described in the grant, and of which possession by the claimants was duly proved;

Provided that the said quantity of land granted and now here confirmed be contained within the boundaries called for in the said grant, and map to which the grant refers: and if there be less than the said above named quantity of one square league, within the said bounds, then we confirm to them the said less quantity; it being apparant that said quantity exceeds two hundred varas, which is the minimum prescribed in the ordinance of 21st Nov$^{r}$ 1828. Given under our hands Dec$^{r}$ 18th 1852.

Hiland Hall
Harry I. Thornton
Comm$^{rs}$.

23

Supplemental Petition

396 SD
PAGE 24

Before the Honorable the Commission to ascertain and settle Private Land Claims in California

The Supplemental and amended Petition of Antonio Serrano and Faustino Serrano respectfully shows:

That they obtained an incipient right to the land described and claimed in their previous petition, in the month of July A.D. 1832, by a licensed occupation of the same, and by living upon, improving and cultivating it; that afterward, to wit, in April 1833, they petitioned for a grant of the same, in due form of law: and again renewed their said petition in June, 1835;

That upon their said two petitions the Political Chief of California made all necessary and proper investigations according to Law, and referred the same on the 27th day of August 1835 to the Territorial Deputation of California; that said Territorial deputation, on the 28th day of September 1835, gave their consent to the conceding of the said solicited land to said Claimants;

That on the 22d day of October, 1835, the said Political Chief made his decree of concession of said land to said Claimants pursuant to their Petition, and to said consent given by said Territorial Deputation.

Whereupon, your said petitioners allege that their said grant became definitively

valid and binding and vested in them a title in absolute ownership.

24 The papers and records showing all the before recited proceedings exist in the originals in the archives of the former Governments of California, and a certified copy of the same, with a translation, are herewith filed, and made a part of this petition.

396 SD
PAGE 25

By their Attorneys
Jones Dimpkins & Strode.

Filed in Office May 15th 1852
Geo Pisher
Secy

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Exhibit A

Jurisdiccion de
Monterrey

Año de
1833.

Espediente

Sobre el terreno nombrado Juristac,

solicitado por los Ciudadanos

Antonio y Faustino

German.

143

396 SD
PAGE 26

25

Sello Tercero [Place of the original Seal] Dos Reales

Para los años de seis y ochocientos mil ochocientos veinte y veinte y siete.

[Place of the Seal for the years 1828 + 1829]

[Place of the Seal for the years 1830 + 1831]

[Place of the Seal for the years 1832 + 1833]

Sor. Comandte. Grāl. y Gefe Sup.or Politco. de la Alta Califa.

Los Vecinos Siguientes

Antonio German y Faustino German, abecinados en el Parage nombrado Suristac sercа de la Orea, y fin del lindero de la Mision, y el Rancho de las Animas; ante V.S. como mejor haya lugar en derecho, es= =ponemos: q.e habiendo solicitado el parage nombrado Guadalupe, q.e se halla en el camino de la Mision de la Soledad á Montrey por estar valdio, y no pertenecer ni á la Mision, ni á otro particular, á los Srīs. D. Jose Mā de Echandia y D. Manl. Victoria, p.a fomentar lo con nuestros bienes, y hacer nuestras casas, y labores, no se nos concedio aquella peticion, y mirando los Estravios q.e sufrian ntros. dhos. bienes, por no tener en donde ponerlos, suplicamos al R. P. F. Felipe Arroyo de la Cuesta Ministro de la Mision de S. Juan Bauta. nos permitiera hacer un Coralito, y Casa en el dha. Parage de Juristac para de este modo mantener ntros. repetidos vienes

Monterey Mayo 2 de 1833.

Informen los Padres Ministros de la Mision de San Juan Bautista.

Figueroa

El Sitio de Suristac q.e se pretende en esta Instancia es uno de los mejores parages que tiene esta Mision y en cuyo destino hay

396 SD
PAGE 27

28

Sello Tercero [Place of the original Seal] Dos Reales.

Para los anos de seis y ochocientos mil ochocientos veinte y veinte y siete.

[Place of the Seal for the years 1828 & 1829.]

[Place of the Seal for the years 1830 & 1831]

[Place of the Seal for the years 1832 & 1833]

En Sesion de este dia se dió cuenta con esta solicitud al. Y. Ayuntamiento de esta Capital, y se acordó pasase á la Comision de colonizacion y terenos Valdios. Monterrey Junio 8 de 1833.

Jose Maria Maldonado

Secrio

Sor. Gefe Superior Politico

El Y. Ayuntam.to de esta Capital, con el objeto de dar á. V.S. el informe q.e se sirve pedir en su Superior Decreto de 3 del pp.do pasó la presente solicitud á la Comision permanente de colonizacion quien en Sesion de hoy presentó el dictamen q.e se mandó agregar á este expediente y como su contenido, es lo q.e en el particular debe informar, se aprovó unicamente la proposicion en q.e concluye y lo reproduce en todas sus partes, devolviendolo á V.S. en cumplimiento de lo acordado. Monterrey 6 de Julio de 1833.

Jose Maria Maldonado

Marcelino Escobar Secrio

396 SD
PAGE 28

V.º T.º Muy Sp.t

El infrascrito Padre, y Ministro de la Misión de S.n Juan Bautista teniendo de Mayord.mo de ella á Antonio German casado con Maria de la Luz Peña, viendo q.e ha pedido con instancia el Sitio de Guadalupe en compañia de su Hermano Faustino German p.a poner el ganado mayor q.e tienen y hacer sus siembres, y q.e no han podido conseguirlo ni con el Señor D.n Jose M.a Echandia, ni con el S.or D.r Manuel Victoria Comandte. de este Territorio de la Alta California, movido de compacion le prestè el sitio de Suristac q.e confina con el Rancho de las Animas hasta nueva orden p.a q.e interinamente custodie sus bienes allí mismo. Por lo q.e suplico al Señor Alcalde Interino no le estorbe hacer su corralito y casa en q.e viva á su tiempo. Los Padres Ministros mis sucesores ó quien pueda mandar en el mencionado Suristac, donde se establecera el Vecino arriba nombrado Antonio German, son Arbitros p.a q.e continue viviendo en el repetido Sitio, ó para q.e se salga de allí y deje su Ranchito prestado en la forma dicha, y por dho. motivo.

Nada tengo q.e añadir, ni quitar: lo q.e firmo p.a q.e conste á quien en derecho corresponda. Mision de S.n Juan Bautista y Julio 14 de 1832.

Fr. Felipe Arroyo

Señor Mayord.mo Antonio German. 1.e D. Sa sabe esto mi t.e Compañero Dr. Juan Moreno: lo q.e sirvira á Vmd. de gobierno. Vale

Y. A.

La Comicion nombrada de Colonizacion de terrenos Baldios á visto la solicitud de los C.C. Antonio y Faustino German, igualmente

396 SD
PAGE 29

un rancho de Bor=
=regas perteneciente
á á Esta, p.r cuya
causa no se puede
conceder lo q.e se
pretende. El Sor
Comand.te Gen.l
sobre todo, dis=
=pondrá lo q.e tenga
á bien.

Mision de S. Juan
Bau.ta Mayo 31. de
1833.

Fr. Jose Anto. de
Anzar

Monterey Junio 3
de 1833.

De conformidad
con las leyes de la
materia informe
el Ayuntamiento
de esta Capital
si los interesados
en esta instancia
obtienen los requisitos
prevenidos para ser
atendidos en su
solicitud si el terreno
q.e pretenden está
comprendido en
las 20 leguas limi=
=trofes ó diez literales
q.e expresa la Ley
de 18 de Agosto de
1824, si ha perte=
=necido ó pertenece
á propiedad par=

con seguridad. El referido
P. Minitro, movido de compacion
y caridad, nos consedió aquella
peticion por via de prestamo,
y hasta nueba determinacion,
como lo demuestra el documento
ó certificacion, q.e nos dio
Interinam.te p.a nuestro gobierno
y q.e debidam.te acompañamos
Alli donde queda dho. Inme=
=diatamente pusimos el Corral
y una casa compuesta de
tres piesas, é hisimos nuestras
labores, p.a mantenernos en
mion de siete hijos q.e tiene
el primero.

Actualm.te tenemos en dho
paraje 170 reses, 30 Caballos
mansos 24 Bueies, 2 Manadas
con 25 Yeguas de vientre cada
una y dies correspondientes
Burros mecos, y entre las dos
se cuentan, entre Potros y Potrancas
23 cabezas. Tenemos sembrado
á mas 15 fanegas de Trigo, 6
Almudes de Mais, 6 dhos. de Gar=
=banzo, 2 fanegs. de Frijol y 2
Almudes de haba una huertita
de Verduras q.e es lo que hasta
ahora hemos podido construir
todo bien sercado, y bajo el
cuidado posible. Por todo lo
dho. y mirando q.e este sitio no
lo ocupa p.r haberlo pres=
=tado la Mision de S. Juan
Bau.ta a quien pertenece, Supli=
=camos (si lo haya por justo) se
sirba darnos la legitima pose=
=cion con permiso de los R.s P.s
Ministros ó sin el, atendiendo

396 SD
PAGE 30

á lo mucho q. hemos trabajado p.ª cultivar las tierras y hacer las labores q. llevamos espresado, dejando á la consideracion de V.S. los gastos que hemos sufrido, p.ª lograr tener un comodo alojamiento y prestado p.ª nuestras familias seguridad de nuestros bienes, pagando por supuesto los Jornales q. hemos considerado justos, a todos los Individuos q. han trabajado, de manera q. por lo mismo á la fha. nos hallamos temerosos, nos espelan de allí los Padres muebos, y en el estado mas miserable q. se puede calcular, ~~xx xx xx xx xx xx~~, p.r q. lo poco que teniamos, lo hemos imbertido en los debidos pagos de los trabajadores. Esperamos pues q. valiendose V.S. de su autoridad, y trayendo á la memoria los serbisios q. hambos tenemos contraidos como todos los pretend.s á Ranchos, en la carrera de las Armas, y los pasos y Estravios, q. hemos sufrido, y los gastos q. hemos padesido p.ª poder mantener las familias q. tenemos hara V.S. cuanto esté de su parte para lograr el fin nuestros anelos. Por tanto A.V.S. Suplicamos tenga en consideracion esta nuestra Instancia con cuya gracia quedaremos eternam.te reconocidos.

Puerto de Monty 25 de Abril 1833.

Antonio German ×

Faustino German ×

=ticular, Corporacion ó Pueblo ó se conoce por valdio, si la calidad del Terreno es de regadio, temporal ó de abrevadero con todo lo demas q. sea conveniente á ilustrar la materia. El Sor. Gefe Superior Politico de este Territorio asi lo mandó decretó y firmó de q. doy fé.

Figueroa

A.V. Lamorano

Serio.

el Superior auto del Sr. Gefe Politico y reflec-
-ionando q. los Interesados son C. C. Mexicanos
q. el terreno q. pretenden no esta comprendido
30 en las 20 legoas limitrofes y si en las 10 literales
- q. pertenece á la Mision de Sn Juan Bautista
- q. el dicho terreno es de temporal y abrebadero
- y por tanto presente á la deliberacion de esta
S. Corporacion la siguiente proposicion.

396 SD
PAGE 31

1º Puede concederseles á los C. C. Antonio y Faustino German, el terreno Nombrado Puristá siempre q. los Interesados acrediten no haber menesterla Mision el dicho Sitio.

Monterrey 2 de Julio de 1833.

Jose Avila  Jose Antonio Romero

Monterrey Noviembre 21 de 1833.

Siendo perteneciente á la Mision de San Juan Bautista el Sitio nombrado Puristae y teniendolo ocupado con los ganados de ella como informa el R. P. Ministro de la misma y como el prestamo de dicho terreno fue provisionalmente hecho á los interesados por el R. P. Fr. Felipe Arroyo, no está en las facultades de este govierno disponer de aquel terreno. En consecuencia no há lugar á la solicitud: hagaseles saver á las partes para que soliciten algun otro baldio en que sean pue-
-dan ser atendidos, y á la Mision para que le sirva de govierno archivandose este espediente.

El Sor. Gefe Superior Politico del Territorio Grāl. de Brigada D. Jose Figueroa asi lo mandó decretó y firmo de que doy fé.

Jose. Figueroa

Agustin V. Zamorano

Srio.

396 SD
PAGE 32

En 9 de Deciembre de 1833 habiendo comparecido en esta Secretaria los interesados se les hizo saver el decreto q. antecede del Sr. Gefe Superior Politico de este Territorio é impuesto de el dijeron: que lo oyen y q. el terreno q. solicitan efectivamente pertenece una parte a la Mision de S. Juan Bautista y otra está valdia; q. si es posible q. aquella tenga voluntad el Pe. Ministro de la espresada q. se les conceda quedaran agradecidos y si no q. se les conceda la otra p. tener la circunstancia q. llevan espuesta en donde tienen su casa y sus bienes semovientes, y para la devida constancia lo firmó haciendolo los interesados con una cruz p. no saver firmar.

Agustin D. Zamorano

+ x

Monterrey 14 de Dec. de 1833.

Notifiqueseles, q. representen por escrita.

Figueroa

En el mismo dia se les notificó á los interesados el decreto q. antecede, y p.a la devida constancia lo signaron con una Cruz y la firme.

A. D. Zamorano

x x

Sor. Gefe Politico

Los Ciudadanos Antonio y Faustino German naturales de este Territorio y vecinos de la jurisdiccion de esta Capital con el debido respeto ante la superioridad de V.S. desimos que desde el año de 1830 nos fue concedido en clase de prestado el Sitio nombrado la Brea, en el cual á nuestra

Monterrey 1.° de Julio de 1835

Agregense los antecedentes que existen en el

costa y con nuestro trabajo personal hemos lecan=
=tado casa, construido corrales
y hecho todas las mejoras que
se existen en dicho sitio
para el cultivo de tierras y
cria de ganados, pues contamos
con mas de trescientos cabezas
de ganado bacuno, tres
manadas de Yeguas y mas
de treinta caballos mansos.

En dicho año gobernaba
este Territorio el Sr. D. Manuel
Victoria á quien hicimos pre=
=sentes los meritos y servicios de
nuestro difunto Padre que fue
soldado veinte años en la
compañia de Santa Barbara
y fundador de aquel Presidio
dejando considerables alcances,
y los nuestros que fueron Antonio
once años y Faustino diez en
la misma compañia, sin
haber persibido ni la mitad
del sueldo en todo ese tiempo,
asi causo el derecho que nos
asistia para que el mencionado
sitio á nos confiriera en propiedad,
y al efecto presentamos un escrito
que dicho Sr. Victoria nos
devolvió ofreciendonos que á
su vuelta de San Diego, á
donde lo llamaban los asuntos
de la revolucion que acababa
de entablar en aquel punto,
proveeria como pedianmos; lo
que no llegó a tener efecto por=
=que es bien sabido el mal
esito que tuvó aquella espedicion
que privo al repetido Sr. Victoria
de su vuelta á este Presidio.

32

archivo y den
cuenta Pa. resolver

Figueroa

Monterey 10 de
Julio de 1835.

Pase este
espediente al Adm.
de S. Juan
Bautista Pa. q.
informe lo que se
le ofrezca.

Figueroa

396 SD
PAGE 33

396 SD
PAGE 34

En vista de este presentamos á V. el año pasado otro escrito solicitando lo que teníamos pedido, y lo repetimos ahora recordandole á V.S. para que se sirva disponer segun sus facultades se nos declare la propiedad del mencionado rancho de la Brea á cuyo efecto acompañamos el plano de él, con arreglo á lo prevenido en la ley de la materia por el que se deja ver los terminos en que demarcamos el sitio, q.s. son los siguientes.

Tirando una linea recta de legua y media paralela al arroyo de la Poza, que pasa por el frente de la casa del rancho de los Castros, de sur á norte desde la orilla del arroyo del pajaro, hasta las lomas de la cañada honda: desde este punto otra de oriente a poniente formando un angulo recto hasta tocar con el arroyo del pescador; seguia toda la orilla de este hasta su confluencia con el del Pajaro, de norte á sur, y desde aqui continuar por toda la margen de este arroyo, de poniente á oriente hasta llegar al punto de donde se partió que como se vé es de un montecito. En cuyos terminos y cumpliendo por nuestra parte con todos los requisitos prevenidos en las leyes de la materia. A.V.S. suplicamos se digne acceder á nuestra solicitud por ser conforme á justicia. Monterrey 3 de Junio de 1835.

Por no saber firmar D. Antonio German y á su ruego.

Manl. de Alba

Ruego del Interesado Faustino German
Jose Anto. Garcia

Sn. Juan Bauta. 20 de Julio de 1835.

El terreno q.e se solicita puede concederse

sin perjuicio de esta Poblacion sujetando á los interesados, un cuarto de legua del arroyo del Pajaro al camino real para la Brea.

Jose Figueroa Castro

34

Monterey Julio 24 de 1835.

396 SD
PAGE 35

Pase al Alcalde de esta capital hante quien las partes Antonio y Faustino German produsira una informacion de tres testigos idoneos q.e seran interogados sobre los puntos siguientes. 1º Si el solicitante es Mex.no Mejicano p.r nacimiento, si es casado y tiene hijos si es buena conducta. 2º Si el terreno q.e pretende pertenese á la propiedad de algun particular Mision Pueblo ó corporacion; si es de regadio temporal ó abrevadero y q.e estension tendra 3º si tiene vienes de campo con q.e poblarlo ó posibilidad de adquirirlos. Evacuadas estas diligencias buelba el espediente p.a su resolucion. El S.r D.n Jose Figueroa General de Brigada Comandante G.eral Inspector y Gefe S. Politico asi lo mandó decreto y firmo de q.e doy fé.

Jose Figueroa.

Sorio
Ar.o del Castillo
Negrete

Cordeles de posecion de los Germanes.

Suponiendo que solo de midieron.

| | |
|---|---|
| 140 | De Ancho — 140 |
| 140 | De largo — 140 |
| 130 | 280 |
| 410 | 50 Vs. Cordel — 50 |
| 50 | |
| 20500 - 15,000 | 14000 - 15000 |
| 00500 4. | |

396 SD
PAGE 36

35

Monterrey 29 de Julio de 1835.

Dro. 4 Ps. Notifiquese a los interesados en esta, presentan los testigos que se han de examinar sobre los puntos que comprehende el interrogatorio q. se demuestra en el superior decreto de 24 del corriente q. antecede, y echo reciva se la informacion y concluidas devuelvase el espediente al S. Gefe Superior Politico para q. surta los efectos q. haya lugar en derecho. Asi yo el Alcalde 1º de esta Capital lo decreté mandé y firmé con los de asistencia.

J. M.

David Spence

De asª
José Maria
Maldonado

De asª
Jorge Allen

En el Puerto de Monterrey á los seis dias del mes de Agosto de mil ocho cientos treinta y cinco, se les notificó á los interesados el auto que antecede y entendidos dijeron que lo oyen, y que presentan para q. se examinen los testigos los Ciudadanos Trinidad Espinosa, Francisco Soto y Gabriel de la Torre y no firmaron por que dijeron no saber: lo hice yo con los testigos de asª

M. Spence

De asª
José Maria
Maldonado

De asª
Jorge Allen

En la fha. presente el C. Trinidad Espinosa testigo presentado pr. los CC. Antº y Faustino German, le recivi juramto q. hizo en

Faustino German, le recibí juramto q. hizo en

37

forma de derecho por el cual ofrecio decir verdad en lo q. supiese y fuere preguntado, y siendolo por su nombre, estado, edad, patria y religion, dijo: llamarse como dicho es; que es casado, de cuarenta y un años. natural de esta Capital y C. A. R.

396 SD
PAGE 37

Preguntado.- Por el tenor de la primera pregunta dijo: que los solicitantes son Mejicanos por nacimiento, que ambos son casados y solo Antonio tiene hijo, y q. tienen buena conducta, y responde

A lo segundo: Que el terreno q. pretenden no pertenece á ningun particular Mision, Corporacion ni Pueblo, y q. segun ha oido decir se reconoce por valdio: que es de temporal: y q. su estencion sera poco mas ó menos de una y media leguas de largo y otro tanto de ancho, y responde.

A lo tercero: Que tienen vienes de campo capaces para poblarlo y q. lo dicho es la verdad á cargo del juramto q. tiene hecho en el q. se afirmó y verificó leida q. le fué esta su declaracion y lo firmó conmigo y á y los de as.a

Lo testado no vale= lo entre renglones vale=

Ysr David Spence Trinidad Espinosa

De asr
Jose Ma. Maldonado

De asr
Jorge Allen

Incontinente, presente el C. Francisco Soto previo el juramento q. hizo en forma de derecho por el cual ofrecio decir verdad en lo q. supiese y fuere preguntado, y siendolo por su nombre, estado, edad, patria y religion, dijo: llamarse como queda dicho: q. es casado, de veinte y seis años, su patria el Pueblo de S. José de Guadalupe y C. A. R.

396 SD
PAGE 38

Preguntado. Por el mismo orden q.e el testigo antecedente dijo:

A lo primero. Que los solicitantes son Mejicanos por nacimiento - son casados y q.e solo Antonio tiene hijo, que ambos son de buena conducta, y responde.

A lo segundo: Que el terreno q.e pretenden no save q.e pertenezca a ningun particular: q.e lo unico q.e save de este asunto es q.e antes de ahora lo ha visto ocupado con borregas de la Mision de S. Juan Bt.a pero q.e ignora si al presente la pertenecia: Que es de temporal, y q.e tendrá de estencion mas de una legua, y responde

A lo tercero: Que les conoce los suficientes vienes de campo p.a poblarlo, y q.e lo dicho es la verdad á cargo del juramento q.e tiene hecho en el q.e se afirmo y ratifico leida q.e le fué esta su declaracion y lo firmó conmigo y los de as.a

q.e F.r David Spence Fran.co Soto

De as.a
José Maria
Maldonado

De as.a
Jorge Allen

Inmediamente, presente el C. Gabriel de la Torre le recibí juramento en forma de derecho por el cual ofreció decir verdad en cuanto supiera y fuera preguntado y siendolo por su nombre, estado, edad, patria y religion dijo: se llama como dicho está: Que es casado, de edad de veinte y seis años, su patria esta Capital, y C. A. R.

Preguntado - bajo el interrogatorio q.e lo han sido los anteriores testigos dijo:

39

396 SD
PAGE 39

A lo primero: Que los q. solicitan son Mejicanos por nacimiento que son casados- que Antonio tiene hijos y no Faustino; y q. ambos son de de buena conducta; y resp.

A lo segundo: Que el terreno q. pretenden save no pertenece á ninguna particulars, Mision ni Pueblo: que es de temporal; y q. su estencion será como de una y media leguas de largo, y una de ancho pr. tener muchos lomerias y responde

A lo tercero- Que les conoce mas de cuatrocientos reses y como trescientas cabezas de caballos: que lo dho. es la verdad a cargo del juramento q. tiene hecho en el q. se afirmó y satifsió leida q. le fué esta su declaracion y la firmó conmigo y los de as.a

Fs. David Spence Gabriel de la Torre

De as.a
Jose Maria
Maldonado

De as.a
Jorge Allen

En la fha. Concluida la informacion q. se pide, se devuelve el espediente al Sr. Gefe Sup.r Politico, en cumplimiento de lo mandado en el antecedente auto y lo anoto fa. constancia.

Rl.

Monterey Agto. 7 de 1835.

Por el termino de quince dias corrase traslado de este espediente al representante de la testamentaria del finado Mariano Castro fa. q. en su vista promueba lo q. convenga al derecho de los poderdantes. El Sr. Dn. Jose Figueroa Genral de Brigada Comandante Genral y Gefe S. Politico. de la Alta California asi lo

396 SD
PAGE 40

mandó decretó y firmó de q.e doy fe.

José Figueroa

Ger.s
Fr.co del Castillo
Negrete

Se corrió traslado de este espediente al representante de la testamentaria de Mariano Castro hoi ocho de Agosto de 1835.

Castillo

Sello tercero dos reales
Habilitado provicionalmente por la administra=cion de la Aduana Marítima de Monterey de la Alta California para los años de mil ocho=cientos treinta y cuatro y mil ochocientos treinta y cinco.

Figueroa

A. Ramirez

Sor. Gefe Superior Político.

El Ciudadano Carlos Castro apoderado de D.a Josefa Romero Viuda del finado Ciudadano Mariano Castro ante la notoria justificacion de S.S como mejor el derecho le permita comparece y dice: Que habiendo recivido en traslado para que prommeba lo que convenga á su poderdante, en el espediente suscitado por los Ciudadanos Faustino y Antonio German en solicitud del paraje de Suisitac, ve á primera vista que el diseño que corre en el citado espediente, aunque lo creo inesacto que abraza una porcion de terreno que corresponde del sitio que ha muchos años tiene concedido y poseido su poderdante; pero que para que los

396 SD
PAGE 41

espresados Germanes logren de beneficio y de la gracia que solicitan pueden ocupar y concederseles desde el Alizo (que no esta marcado en citado diseño y si lo esta en el espediente de su poderdante) hasta el peseadero en liñea recta al Oeste acia el Sur cuanto Vs. crea combiniente, haciendo aquella liñea lindero divisorio entre los terenos de su poderdante y los Germanes. con lo espuesto cree el que representa que su poderdante se desprende de una buena porcion de terreno, y que los Germanes quedan agraciados con ésta donacion

Por tanto,

A.S. Suplico se sirva proveer como solicita, por ser asi de justicia, jurando no proceder de malicia y lo necesario. &c

Monterey Agosto 20 de 1835.

Carlos Castro

Monterey Agosto 27 de 835.

Desè cuenta à la Escma Diputacion

Figueroa

Monterey Sepbre 3 de 1835.

Dada cuenta se mandò pasar à la Comision de terrenos baldios.

Castro

Excmo Sr.

La Comicion de terrenos baldios impuesta del espediente q.e se mando practicar p.r la solicitud que hacen los Ciudadanos Antonio y Faustino German del terreno de Suristachi cree la Comicion no aber embarazo p.a concederles el

396 SD
PAGE 42

terreno q.e solicitan devirtiendose respetar el
informe del mayordomo de S. Juan Bautista
4 D como la defensa q.e hace el Ciud.o Carlos
Castro de una parte de dho. terreno y la seccion
de la otra como apoderado de la testamentaria
del finado Mariano Castro, en tales terminos
se respeta la Ley de 18 de Ag.to de 1824 y el
reglam.to de 21 de Nov.e de 1828. Ofrece
p.r lo dispuesto a la deliberacion de V. E.
la siguiente proposicion.

Puede concedersele a los Sres Faustino
y Antonio Germain el terreno q.e solicitan
sugetandose a la Ley de 18 de Ag.to de 1824
y al reglam.to de 21 de Nov.e de 1828.

Monty 17 de Sptbre. de 1835.

Galvez Pacheco

Monterey Sept.re 25 de 1835.

En Seccion de este dia se aprovó
la proposicion del dictamen antecedente.

Castro

Juan B. Alvarez
D.S.

Sello Tercero Dos Reales

Castro Angel Ramirez

Monterey Obre. de 1835.

Vista la peticion con q.e da principio este
espediente el informe de la autoridad
municipal de esta capital la esposicion de
testigos el informe del apoderado de Da.
Josefa Romero Vda. Carlos Castro i el acuerdo
de la E. Diputacion de 17 de Obre. de este
año. practicadas previamente las diligencias
Dros. 12 ps. i averiguaciones conducentes con todo lo demas
q.e se tuvo presente i ver combino de conformidad
p.r lo dispuesto p.r leyes i reglamentos de la materia

se declaran á los C. C. Antonio é Faustino German dueños en propiedad del terreno conocido con el nombre de Suristac. Líbrese el Despacho correspondiente é tomese razon de él en el libro q. corresponde. El S. D. Jose Castro primer vocal de la E. Diputacion é Gefe Politico interino de la Alta California asi lo mandó decretó y firmó de q. doi fé.

396 SD
PAGE 43

Jose Castro

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

I Samuel D. King Surveyor General of the United States for the State of California and as such now having in my Office and under my charge and control a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California, do hereby certify that the twenty five preceding and hereunto attached Pages of traeing paper numbered from one to twenty five inclusive and each of which is verified by my initials (S. D. K.) exhibit true and accurate Copies of certain documents on file and forming part of the said Archives in this 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 20th day of April 1852.

S. D. K.

Sam'l D. King
Surv. Gen'l Cal.

Filed in Office May 15th 1852.

Geo: Fisher Secy

44

B

Translation
of
A

396 SD
PAGE 44

Third Seal. Seal Two Reals
For the years 1826 & 1827.

Seal for the year 1828 & 1829.

Do for the years 1830 & 1831.

Do for 1832 & 1833.

Monterey May 2nd 1833. Let the Fathers Ministers of the Mission of San Juan Bautista report—

Figueroa

The place Juristac which is sought in this petition, is one of the best tracts of land the Mission has where there is a Rancho of Sheep belonging to the same, by which reason what is sought can not be granted. The Senior Commanding General however will determine what he thinks proper. Mission of S. Juan Bautista 31st May 1833. Fry José Antº de Arroyo.

Senior Commandg: Genl & Supr. Polit. Chief of Upper Calif.a

The undersigned inhabitants Antonio Germain & Faustino Germain, brothers, residing in the place called Juristac near La Brea and the limit of the Boundary of the Mission and the Rancho of las Animas: before Your Honor, in form of law state;— that having sought to obtain from Don Jose Mª de Echeandia and Don Manl Victoria the place called Guadalupe lying on the road from the Mission de la Soledad to Monty, it being vacant, and belonging neither to the Mission, nor to any private individual; for the purpose of improving it with our stock, our houses and farms, we were not granted that petition; & considering the hopes our said property suffered from not having where to place it, we begged the Rev.d F. Fry Felipe Arroyo de la Cuesta, Minister of the Mission of S. Juan Bautª, to permit us to build a small corral and a house on the said place Juristac to maintain in this way our said property with safety. The said F. Minister moved by compassion and charity, granted us that petition

396 SD
PAGE 45

by the way of a loan, & until a new determination, as shown by the Document or Certificate, which he gave us ad interim, for our guidance, and which we duly annex hereto. There, at the place mentioned we immediately put a corral and a house of three rooms, and made our farms to maintain ourselves together with seven Children which the former has.

Monterey June 3rd 1833.

In conformity with the laws on the matter let the Counsel of this Capital report whether the parties interested in this petition have the provided requisites for being attended to, in their application; whether the tract of land they seek to obtain is comprehended in the 20 limitary leagues or the 10 littoral ones mentioned in the laws of the 18th of August 1824; whether it has been or is pertinent to the property of any individual,

We have actually in the said place 170 Head of Cattle, 30 tame horses, 24 Oxen, 2 lots of 25 each of brood mares, with their corresponding tame jacks; among them are reckoned 23 heads of Colts and Foals. We have sowed besides 15 fanegas of Wheat, 6 almudes of Indian Corn, 6 cuerdas of beans, 2 fanegas of snap beans, & 2 almudes of English dwarf beans, and a vegetable garden: which is what we have been able to do to Jan, all well fenced in and under the best care. From the before stated, and considering that this place is not occupied by the Mission of S. Juan Bautª, to which it is appurtinant, since they have loaned it to us, we pray, (if you should find it just) that you will be pleased to grant legal possession with the permission of the Revd Fathers Ministers on without it; considering how much work we have done in cultivating the lands and opening the fields as above mentioned, leaving to your consideration the expenses we have borne in order to secure a commodious lodging for our families and Safety of our property

396 SD
PAGE 46

corporation., or settlement; or is known as Vacant; whether the qual. -ity of the land is ingable, farming (temporal) or pas. -ture & all other matters that may tend to illus. -trate the subject. The Superior Political Chief of this Territory thus ordered de. -creed and signed which I Testify.

Figueroa

A.V. Zamorano

Secretary.

paying of course all the laborers what we considered just; so that at this date we finds ourselves fear. -ful that the next Priest may ex. -pell us from there and in the most miserable state that can be imagined for what little we had, we have invested in the payments due to the laborers. So we hope that availing your Honor of your Authority, & taking into consideration the services both of us have rendered as all who ask for Ranchos in the career of Arms and the Labors and loses we have endured, and the expenses we have incurred; you will do to the utmost of your power to obtain the ends of our ardent desire. Therefore we pray you will take into consideration this our pray. -er for which favor we shall remain forever grateful.

Port of Monterey 25th April 1833.

Antonio German + Faustino German +

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(Sealed paper)

Seal for the Years 1838 & 1839

At the Session of this day account was given of this application to the Mt. Excell. Council of this Capitol, and it was ordered to be refered to the Commission on Colonization and Vacant lands.

Monterey 8th June 1833.

do for the years 1830 & 1831

Jose Maria Maldonado

Secretary

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396 SD
PAGE 47

do
For the years
1832 & 1833.

Senor Superior Political Chief

The Council of this Capital with the purpose of giving to Your Honor the report, you have been pleased to ask in your superior decree of the 3rd. last past refered the presant application to the permanent Committee on Colonization, who at the session of to day presented the report which was ordered to be attached to this record, and as its Contents are what should be reported in the particular, the proposition with which it concludes was justly approved, & reproduced in evry respect, returning it to Your Honor in Compliance with the order.

Monterey 6th. July 1833.

Marcelino Escobar.

Jose Maria Meldonado
Secy

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By. L. M. & H.

The undersigned Father and Minister of the Mission of S.n Juan Bautista having as Mayordomo thereof Antonio Serman, married to Maria de la Luz Pena, seeing that he has earnestly asked the place Guadalupe in company with his brother Faustino Serman, to place there the Cattle they have and to make their farms, & that they could not obtain it either from Don Jose M.a Echeandia nor from Don Manuel Victoria, Commanders of this Territory of Upper California; moved by Compassion I loaned to him the place Juristac, which borders with the Rancho of las Animas, until a new order, or that he might in the mean time Keep their property therein;

Therefore I beg Senor Alcalde, for the present time, not to prevent him from building

396 SD
PAGE 48

his small corral, and dwelling House -
The Fathers Ministers, my successors or who
may have control over the said Juristac
where the above named inhabitants, Antonio
Cerwan will settle, will determine whether
he shall continue to live in said place,
or quit it, I left the small Rancho loaned
in the way mentioned; by which reason -
I have nothing to add, or take away, &
I sign this for Testimony to whom it
may lawfully concern.

Mission of S. Iwan Bautista 1/4.
Fray Felipe Arroyo

July 1832,

Señor Mayor-domo Antonio Cerwan -

(NB) P.S. My 1st Companion Fray Iwan
Moreno knows this already; which will serve
for your guidance -

Vale

---

Mt. How Council

The Committee on Colonization, & Vacant lands -
has seen the application of the Citizens Antonio &
Faustino Cerwan, & likewise the Superior decree
of the Political Chief: & reflecting that the par-
ties interested are mexican Citizens, & the tract
of lands they seek to obtain, is not comprehen-
ded in the 20 limitary leagues, but in the
10 littoral ones that it is pertinent to the Mis
sion of S. Iwan Bautista; and that said tract
of land is farming and pasture lands; pre-
sents therefore for the deliberation of this Mt.
How Corporation the following proposition: -

1st That the place called Juristac may
be conceded to the Citizens Antonio and Faustino
Cerwan, provided they show that the Mission
has no occasion for the said place - Monterey
2nd July 1833. - José Avila, José Antonio Romero.

396 SD
PAGE 43

Monterey 21st November 1833.—

The place called Juistac being pertinent to the Mission of San Juan Bautista, and it having it occupied with the Cattle thereof as the Revd Fr. Minister of the same reports, and as the loan of the said lands was provisionally made to the parties interested by the Revd F. Fray Felipe Arroyo, it is not in the power of this Government to dispose of that land; in Consequence, they shall withdraw their petition, let it be made known to the parties, that they may solicit some other vacant place, so that they may be attended to; & to the Mission for its guidance, archieving this expediente. The Superior Political Chief of the Territory, Brigadier Genl Don Jose Figueroa thus ordered, decreed, and signed, which I testify.

José Figueroa

Agustin V. Zamorano
Secretary.

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The parties interested having on the 9th December 1833 (1833) appeared in this Secretary's Office the foregoing decree of the Senor Superior Political Chief of this Territory was made known to them; and being informed about it, they said, that they hear it; and that the tract they solicit is really pertinent, but in part to the Mission of S. Juan Bautista, and the other part is vacant; that if it be possible that the R. Minister of the said (Mission) shall be willing that there be granted to them that part, they will be obliged; and if not that the other part may be conceded to them under the circumstances above stated. Where they have their house and cattle: and for due proof I signed this, and the parties interested doing it by (marking) a cross as they cannot sign. Agustin V. Zamorano + +

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Monterey 14th December 1833.

50 Let it be notified to them to represent it by writing.

Figueroa

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The foregoing decree was on the same day notified to the parties interested, and for due proof they marked it with a cross and signed.

A Vallejo + +

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396 SD
PAGE 50

Senor Political Chief

We the citizens Antonio and Faustino German natives of this Territory, and neighbors under the jurisdiction of this Capital with due respect before you say that, from the year 1830 the place called la Brea was conceded to us in the way of a loan, wherein at our expense and by our personal labor we have erected a house, built cattle yards, and made all the improvements existing in the said place for the culture of the lands, and breeding of cattle, as we receive more than three hundred heads of neat cattle, three droves of mares, and more than thirty tame horses,

In the said Year Don Manuel Victoria was the Governor of this Territory; to whom we represented the merits, and services of our late father, who was a Soldier in the Company of Santa Barbara for twenty years, and founder of that Garrison, leaving considerable arrears due him; and we were in the same service, Antonio for eleven years and Faustino ten years in the same company.-

Monterey 1st July 1835. Let the preceding (documents) existing in the archieve be attached hereto and be reported on for resolution.

Figueroa.

Monterey 10th July 1835. Let this Expediente be referred to the admon: of Senor Juan Bautista, that he may report what occurs to him.

Figueroa.

396 SD
PAGE 51

without having received one half of our pay during all of that time as well as the right which assisted us in having the said place conferred to us in ownership; and for the purpose we presented a writing which said Leon Victoria returned to us offering, that, on his return from San Diego, where the affairs of the Revolution, which had just broke out in that garrison, called him, he would grant as we prayed; which came to have no effect, as the bad exit of that expedition, which prevented said Don Victoria from returning to this Guarison, is well known.

In view whereof we presented to Your Honor in the last year another writing, soliciting what we had asked, and we repeat it now, reminding Your Honor thereof; that you may be pleased to determine according to your powers, and declare to us the ownership of the said Rancho of La Brea; to which purpose we annex hereto a map thereof in accordance with the provisions of the laws on the matter; by which the boundaries with which we demark the location can be seen, and which are the following.

Drawing a right-line of a league and a half, parallel to the Arroyo de la Rosa, which passes in front of the house of the Rancho of the Castros from South to North from the margin of the Arroyo del pajaros to the hills of La Cañada Honda, from this point another line from East to West forming a right angle till it touches the Arroyo del pescadero; following the margin of this Arroyo until its junction with that of the pajaro from North to South, and from thence continuing along the whole margin of this arroyo from the West to the East till reaching the point of Starting and where as it is seen, there is

396 SD
PAGE 52

a little thicket. Whereupon and complying on
our part with the requisites provided by the
52 laws on the matter we pray you will please
to grant our petition, it being according
to justice.

Monterey 3rd June 1835. — Don Antonio Ger-
-man can not sign and at his request
Manl de Alba

At the request of the party interested Faustino
German. José Antº Garciola.

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San Juan Bautª. 20th June 1835

The tract which is solicited can be conceded
without injury to this village, subjecting to
the parties interested a quarter of a league from
the Arroyo del pajaro to the main road —
towards la Brea.

Jose Dibuecio Castro —

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Monterey 24th July 1835 —

Let it be passed to the Alcalde of this Cap-
-ital before whom the parties Antonio and Faustino
German shall produce an information by three
fit witnesses, who shall be interrogated to the
following points; 1st Whether the solicitant
is a Mexican Citizen by birth, whether
he is married and has children, whether
he is of goods conduct — 2nd whether the
tract, he seeks to obtain, belongs to the
property of any private individual, Mission,
Town, or Corporation; whether it is irrigable
farming or pasture lands; and what extent it
has. — 3rd whether he has any stock
to settle it with, or any possibility of acquir-
-ing it. — After this let the Expediente be returned
for resolution. — Don Jose Figueroa Brig-
-adier General, Commanding General Inspector,
and Supr Politl Chief thus ordered decreed and

signed it — which I testify
Jose Figueroa. Fco de Castillo
Negrette Secy

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Cordeles (measurments) of possession of Guerrero

140
140
130
410
50
20500 (5000
00500 4.

supposing that they measured
only of length 140
of width 140
280
50
14000
5000
3.

396 SD
PAGE 53

The Map comes in here

(Sealed paper)

Fees 4 Dollrs

Monterey 29th July 1835 —
Let the parties interested herein be notified to produce the Witness who are to be examined on the points contained in the interrogatories mentioned in the foregoing Superior decree of the 24th instant: after — which let the information be taken; and thereupon let the Expediente be returned to the Senor Superior Political Chief for it proper effect in Law. Thus I the 1st Alcalde of this Capitol decreed, ordered, and signed it with the assisting witnesses.

David Spence Jorge Allen.
Jose Maria Meldonado Assisting Witness.
Assisting Witness

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At the port of Monterey on the sixth day of the month of August one thousand eight hundred and thirty five the foregoing process was notified to the parties interested;

54

and being understood they said that they hear it: and that they produce to be examined the witness, citizens, Trinidad Espinoza ~ Francisco Soto, and Gabriel de la Torre: they did not sign it, as they said they did not know how: I did so and the witness of assistance ~

M. Spence

396 SD
PAGE 54

José María Maldonado
Assistant

Jorge Allen
Assistant ~

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On this date the citizen Trinidad Espinoza a witness produced by the Citizens Antº and Faustino Serrano being present. I took his oath ~ which he made in form of law, thereby he offered to tell truth of what he may know and may be asked, and being asked his name, estate, age, country, and religion, he said, his name is as above stated: that he is married, forty one years old, native of this Capital, and R. A. C. Being asked, according to the tenor of the first question he said; that the solicitants are Mexicans by birth: that both of them are married; and Antonio only has children, and they are of good conduct; and answers ~

The Second: That the tract they seek to obtain, belongs to no private individual, Mission, Corporation, or town, and that ~ according to what he has heard say, it is known as vacant; that it is farming land; and that its extent may be more or less a league and a half long, and the like wide; and answers: ~

The Third: That they have stock capable of settling it and that the statement is true under the charge of the oath he had made: wherein he affirmed and ratified,

S'S.

this Deposition being read as it was to him; and signed it with myself and the Assistants

Dav. Spence  Trinidad Espinoza
Jose Maria Maldonado  Jorge Allen
Assistant  Assist.

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396 SD
PAGE 55

Immediately, the Citizen Francisco Soto being present made oath in form of law. whereby he offered to tell the truth of what he may know, and be asked; and being asked his name, estate, age, country, and religeon, he said; his name is as above stated; that he is maried, twenty six years old, his country the Town of S. Jose de Guadalupe, and R. A. C.

Being asked in the like manner as the preceding witness he said,

To the First: That the solicitants are Mexican by birth; they are maried, and that Antonio only has children; that both of them are of good Conduct; and answers:—

To the Second: That he does not know, the tract they seek to obtain to belong to any private individual; that what he only knows about this matter, is that before now he has seen it occupied with sheep of the Mission of S. Juan Bautista, but that he is not aware that it belongs to it at present; that it is farming land and that it may have an extention of upwards of a league; and answers;

To the third: That he knows (they have) stock enough to settle it: and that the Statement is true under the charge of the oath he made, which he affirmed and ratified: being read, as it was to him, this his deposition; and signed it with myself and the Assistants.

Dav Spence. Franco Soto
Jose Maria Maldonado Assist. Jorge Allen Assist.

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396 SD
PAGE 56

56

Immediately, the citizen Gabriel de la Torre being present, I took his oath in form of law, whereby he offered to tell the truth as far as he knows, & is asked; and being asked his name, estate, age, country, and religion he said; His name is as stated, that he is married, of the age of twenty six years; his Country this capital, and R. A. C.

Being asked - under the interrogatory which was put to the proceding witnesses he said;
To the first: That the Solicitants are Mexicans by birth; that they are married; that Antonio has children, but not Fausting; and that both of them are of good Conduct and answers;
To the Second: That he knows the tract they seek to obtain, to belong to no private individual Mission or Town; that it is farming lands and that its size may be of a league and a half long by one broad, having many groups of hills; and answers;
To the third: That he knows (as theirs) more than Four hundred head of Cattle, and about three hundred horses; that the Statement is true under the charge of the oath he has made under which he affirmed and ratified, read as it was to him, this his deposition and he signed it with myself, and the assistants -

Dav. Spence, Gabriel de la Torre
José Maria Maldonado, Jorge Allen
Assist.t Assist.t

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On the date, the required information having been concluded, the Expediente is returned to the Senior Supr. Political Chief in Compliance with the order in the foregoing process - and I note it for proof,

R -

57

396 SD
PAGE 57

Monterey 7th August 1835.

Let a transcript of this Expediente be passed for the term of a fortnight to the representant of the administrationships of the late Mariano Castro that he may in view thereof do what may be convenient to the rights of his constituents Don José Figueroa Brigadier General, and Supn Political Chief of upper California thus ordered, decreed and signed it - which I testify.

José Figueroa.

Fco del Castillo Negrette
Secty

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A transcript of this expediente was passed to the representant of the administrationships of Mariano Castro this day the 8th of August 1835. —

Castillo

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(Sealed paper)

Senor Superior Political Chief.

The Citizen Carlos Castro, Attorney of Da Josefa Romero, widow of the late Citizen Mariano Castro before Your Honor notorious justice in form of law appears and says; that having received a transcript that he may do what may be convenient to his Constituent in the expediente got up by the Citizens Fausting and Antonio Serrano on application for the place Juristac, he sees at a glance that the Sketch which is annexed to said expediente - although he believe, it is not exact, that it embraces a portion of land belonging to the place, which many years ago his constituents have had conceded and possessed; but in order that the said Serranos may enjoy the benefit and favor they solicit: they may

396 SD
PAGE 58

58

occupy, and it may be conceded to them from the diviso (which is not marked in said sketch, but it is in the expediente of this constituent) to the "pescadero" in a straight line to the west towards the South as far as Your Honor deems it convenient, making that line the devisory boundary between the lands of my constituent, and those of Geemanes

By this - he who represents, believes that his constituent gives up a good portion of lands - and that Gemanes will be favored with this donation - Therefore I pray you will please to grant it as so. Recited, so it being of justice swearing it not to be malicious, and what necessary &c

Monterey 20th August 1835

Carlos Castro

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Monterey 24th August 835

Let it be reported to Mt. Excelt. Deputation

Figueroa

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Monterey 3rd September 1835

On its being reported it was ordered to be refered to the Committee on vacant lands

Castro

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Mt. Excellent Sir

The Committee on Vacant lands being informed about the Expediente, which was ordered to form, through the application, that the Citizens Antonio and Faustino Guerwan make for the tract of Guistachi the committee believes there is no obstacle to conceding to them the tract they solicit; and the report of the Mayor domo of S. Juan Bautista ought to be respected

396 SD
PAGE 59

as well as the defence the Citizen Carlos Castro makes for one part of said land, and grant of another part as the Attorney of the Administration-ship of the late Mariano Castro; and on such terms the laws of 18th of August 1824, & the Regulation of 21st of Novr 1828 are respected. They offer for the deliberation of S.E. the following proposition.

That the tract, the Citizens Faustino and Antonio Serrano solicit, may be conceded to them — subjecting themselves to the laws of 18th of August 1824 and the Regulation of 21st of Novr 1828

Monterey, Septr 17th 1835. Salvio Pacheco

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Monterey, Septr 25th 1835. At the Sesion of this day the proposition of the foregoing Opinion is approved

Castro. Juan B. Alvarado, D. S.

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(Sealed paper)

Monterey 22nd Octr 1835

In view of the petition wherewith this expediente begins, the report of the municipal authority of this capital, the Statement of the Witnesses, the report of the Attorney of Dn Josefa Romero, Citizen Carlos Castro, and the resolution of the Mt Excellt Deputation of the 17th Septr of this year, having been previously performed the proper inquiries and investigations with all other matter which was represented and ought to be considered in conformity with the provision of the laws and regulations on the matter the citizens Antonio and Faustino Serrano are declared owners in property of the tract of land known by the name of Juristac. Let the proper Patent be issued, and be entered in the proper book, Don Jose Castro First Member of the Mt Excellt Deputation & Political Chief ad interim of Upper California thus ordered decreed and signed — which I testify. Jose Castro.

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I certify the foregoing to be

a true and correct Translation from the Original on file in this Office in Case No 62.

Geo Fisher
Secy

60

Filed in Office May 15th 1852.

Geo Fisher
Secy

396 SD
PAGE 60

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Eschibit C.

Se dió segunda lectura y se pusieron en discusion los dictamenes segtos de la Comision de terrenos baldios sobre el Terreno Suristac solicitado por los dos hermanos Faustino y Antonio German - se aprova la ultima proposicion del dictamen que dice= Puede concederseles á los Cs Faustino y Antonio German el terreno que solicitan sujetando=se a la ley de 18 de Agto de 1824 y al reglamto de 21 de Novre de 1828.

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 a portion of the Archives of the former Spanish and Mexican Territory a department of Upper California, do hereby certify that the above and foregoing writing is a true copy from a portion of the Journal of the proceedings of the Territorial Deputation for the 25th day of September 1835. signed by Juan B. Alvarado, Depy Secret which is on file and forms part of the said Archives in this 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 14th day of May 1852

Seal

Wm D. King
Surv Gen Cal

396 SD
PAGE 61

Translation

Was read a second time, and put in discussion, the report of the Committee of vacant lands, on the tract Suisun, solicited by the brothers Gaustins and Antonio Aserman.

Was approved the last proposition of the report, which says: May be conceded to the Citizens Gaustins and Antonio Aserman, the tract which they solicit, conforming to the law of 18th August, 1824 and to the regulation of 21st November 1828.

Certified by the Surveyor General to be an extract from the proceedings of the Territorial Deputation, 25th Sept 1828.

E.L.
R.P.

I certify the Foregoing to be a true and correct Translation from the annexed a Fac Simile of the Original on file in this Office in Case No 62.

Geo Fisher
Secy

Filed in Office May 15th 1852
Geo Fisher
Secy

396 SD
PAGE 62

Office of the Board of Land
Commissioners for California.

62

Los Angeles Sept. 8th 1852.

On this day before Henry W Thornton one of the Commissioners for ascertaining and settling Private Land Claims in California, came Ygnacio del Valle, a witness produced in behalf of the Claimants Antonio & Faustino German No 62, on the Commissioners Docket. His Evidence was taken in the Spanish language and interpreted by the Secretary. The U.S. Law Agent present.

Questions by Counsel for Claimants

Ques. 1. What is your name, age, and place of residence?

Ans. My name is Ygnacio del Valle, age is forty four years, and I reside in the City of Los Angeles.

Ques 2nd. State whether you are acquainted with the Rancho of "Jurisitac" or La Brea north of the Mission of San Juan Bautista; and if so, how long you have known it, by whom it has been occupied?

Ans. I know the said Rancho, and have known it since the year 1834, and in travelling by it at various times since that time.

I have seen it occupied by Faustino and Antonio German, who lived in two defferant houses on the said land, and who had ground enclosed and cultivated. They had cattle also on the place, but the exact quantity I do not know.

I have seen them also to occupy it

396 SD
PAGE 63

until the month of Novr 1849. the last time when I passed by the Ranchq.

Cross Examination by the U.S. Land Agents.

Ques 1. Does the said Ranchq lie in the ten Littoral Leagues?

Answer. I believe some portion of the land to be within the ten Littoral Leagues.

Ques 2nd. Do you Know whether this Ranchq has ever been claimed by another person?

Answer. I do not Know.

Ygnacio del Valle.

Sworn to and subscribed before me this 8th of Sep. tember 1852.

Harry I. Thornton
Comr &c

Filed in Office 8th September 1852
Geo Fisher
Secy

64

396 SD
PAGE 84

In Case No 62. Antonio and Faustino German for the place called "Juristac" alias "Brea" the Counsel for the Claimants introduced, H. W. Hallack, a witness in behalf of the Claimants who being duly Sworn, before the Commissioners sitting as a Board, declared and saith as follows to wit:

I am acquainted with the hand writing and signatures of Jose Castro and Jose Rafael Gonzales. I have often seen them write, and sign their names; I believe that their signatures on a papers, purporting to be the original Espediente to the Rancho of Brea in favor of the Germans and now before me marked Exhibit No 1, and filed in this case are the true and genuine signatures of the said Jose Castro, and Jose Rafael Gonzales; and further deponant saith not.

H. W. Hallack

Sworn to and subscribed
before the Board this
13th Sept. 1852.

Hiland Hall
Comr

Filed in Office Sept. 13th 1852.

Geo Fisher
Secy

Exchibit
No. 1.

396 SD
PAGE 65

# Espediente de los Srēs. Germanes

## Rancho de la Brea.

Sello primero seis pesos.

Habilitado provicionalmente por la Adminis=
=tracion de la Aduana Maritima de Monterey
de la Alta California para los años de mil
ochocientos treinta y cuatro y ochocientos treinta
y cinco.

Figueroa A. Ramirez

Jose Castro primer vocal de la E. Diputacion
Territorial; Gefe Politico interino del Territorio
de la Alta California.

L. S.

Por cuanto los C.C. Anto y Faustino
German Mejicanos pr. nacimiento
han pretendido pa su beneficio personal
á el de sus familias el terreno conocido con
el nombre de Turistac cuyos terrenos son de
O a P los de los C. C. Castros é Arroyo del
Pescadero- practicadas previamente las
diligencias é averiguaciones consernientes
segun lo dispuesto pr. leyes é reglamentos.
usando de las facultades qe. me son conferidas
é de conformidad con el acuerdo de la E.
Diputacion del dia diés é siete de Setiembre
de este año. aprovado la concesion del citado
terreno Turistac a los espresados Anto y Faustino
German á nombre de la Nacion Mejicana he
venido en conferirlos el mencionado terreno decla=
=rando la propiedad de el pr. las presentes
letras y sujeto á las condiciones siguientes.

1a Que se sometera á las qe. establesca el
reglamento qe. se ha de formar pa la distribucion

reclamante q.e se ha de formar p.a la distribucion

de terrenos baldios, é q. entre tanto ni los agraciados ni sus herederos podran dividir ni enajenar el q. se les adjudica imponer censo vincular fianza hipoteca ni otro gravamen aunque p.r causa piadosa ni pasarlo á manos muertas.

66

2.a Podra cercarlo sin perjudicar las travesias caminos y servidumbres: lo disfrutaran libre é exclusivamente destinandolo al uso ó cultivo q. mas le acomode; p.o dentro de un año á lo mas fabricara casa é estara abitada.

396 SD
PAGE 66

3.a Solicitaran del Juez respectivo q. les de la posesion juridica en virtud de este Despacho p.r el cual se deslindaran los linderos, en cuyos limites pondran á mas de las mojoneras, algunos arboles frutales ó silvestres de alguna utilidad.

4.a El terreno de q. se hace mencion es de sitio de ganado mayor segun esplica el diseño q. corre en el espediente. El Juez q. dirije la posesion lo hara medir conforme á ordenanza, quedando el sobrante q. resulte á la Nacion p.a los usos combinientes.

5.a Si contravinieren á estas condiciones perdera su derecho al terreno é sera denunciable p.r otro.

Drōs. 20 p.s

En consecuencia mando q. teniendose p.r firme é baledero este titulo se tome razon de el en el libro q. corresponde é se entregue al interesado p.a su resguardo é demas fines. Dado en Monterei á veinte é dos de Octobre de mil ochocientos treinta é cinco.

Jose Castro

Señō.
F.co del Castillo
Negrete

Queda tomada razon en el libro de asientos

07

Dñs. 10 ps.

a fojas ochenta é senalado con el N.º Setenta é ochó que obra en la Secretaria a mi cargo.

Monterrei 23 de Obre. de 1835.

Castillo

Sello tercero dos reales.

396 SD
PAGE 67

Habilitado provicionalmente por la Administration de la Aduana Maritima de Monterey de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Castro Angel Ramirez

Sor. Alcalde Constit.l de es Puerto.

Faustino y Antonio German Ciudadanos Mejicanos dicen; Que habiendo obtenido la concecion propia del terreno conocido con el nombre de Jurisitac; ocurren ante V.S. para que se sirva darle la posecion juridica conforme esta prevenido en el articulo = 3.º del titulo de dicho terreno que se les espidio en 22 de Octubre de 1835: que devidamente acompaño, é igualmente la conformacion respectiva para que todo obre los efectos correspondientes.

P. F. A. V. S. suplicamos se sirve ponerlos en la posecion que solicitamos de lo que recivirenos merced y justicia jurando no ser de malicia y lo necesario &.

Monterey Octub.e 27 de 1835.

Faustino German + Anton.º German +

Monterey Oct.e 28 de 1835.

Por presentado y admitido, procedase a dar la posecion q.e se solicita, a cuyo efecto

a dar la posesion q.e se solicita, a cuyo efecto

se señala el dia de mañana veinte y nueve, citese á los Colindantes p.a dicho dia, y nombrese previamente Medidores y Contadores

69 á quienes se les hará saber p.r su aceptacion y juramento. Asi yo el Ciudadano Alcalde José Rafael Gonzales lo decreté firmé y mandé con los de mi asistencia.

396 SD
PAGE 68

Jose Rafael Gonzales

De asist.a
Jose Fabricio Castro

de asist.a
Gerocente Garcia

En la misma fecha presentes los Ciudadanos Faustino y Antonio German se les notificó el auto q.e antecede y entendidos dijeron lo oyen; y q.e se dan por citados no firman do por no saberlo hacer, y lo hise yo con los de mi asist.a

Gonzales

D. A.
Jose Fabricio Castro

D. A.
Gerocente Garcia

En la misma fecha se libraron las boletas de comparendo en cumplimiento de lo mandado en el antecedente auto p.r la citacion de los Colindantes, y p.a constancia lo anotó y rubrico.

En el rancho nombrado la Brea a los veinte y nueve dias del mes de Octubre de mil ocho cientos treinta y cinco debajo del Aliso q.e divide los linderos de los Sr.s Castros, y de los Sr.s Germanes; yo, el Alcalde Segundo Constitucional de la Capital del Territorio, notifiqué á los Colindantes, Josq.n, Agustin, y Jose Castro, Hermanos, y á D.n Carlos Castro apoderado de la

Viuda del finado Mariano Castro del auto anti=
=rior, y entendido lo firmó conmigo y los de
asistencia el espresado apoderado, no haciendo=
=lo los poderdantes por no saber.

De asistencia — Jose Rafael Gonzales

Jose Fiburcio Castro

D. A.

Gvo. Garcia

Carlos Castro

396 SD
PAGE 69

En continuante en el mismo rancho, dia
mes y año, yo, el referido Alcalde en cum=
=plim.to del auto de veinte y dos del presente
Oct.e de mil ochocientos treinta y cinco — presentes
los Ciudadans. Colindtes p.a la medicion señal=
=amt.o de linderos, y posesion judicial —
nombré por medidores á los Ciudadanos
Francisco Hernandez y á Manuel Garcia,
y p.a Contador al Ciudadano Ant.o
Ramirez quienes previa la aceptacion y
juram.to procederán al desempeño de su encargo
Asi yo, el nominado Alcalde lo decreté y
firmé con los de mi asistencia.

Jose Rafael Gonzales

D. A.

Jose Fiburcio Castro

D. A.

Gvo.te Garcia

En la misma fecha y en el espresado
rancho se les notificó su nombram.to á los
Ciudadanos Francisco Hernandez, Manuel
Garcia, y Ant.o Ramirez y dijeron q.e aceptaban
y aceptaron dicho encargo y juraron por
Dios y la Señal de la Sta. Cruz de cumplir
fiel y legalm.te á todo su leal saber y enten=
=der sin fraude contra persona alguna, y no
firmaron por no saber los dos primeros, y
solo lo hizo Ant.o Ramirez conmigo y los de
asist.a

396 SD
PAGE 70

De la Encina hasta el Alamo q.e esta en direccion del Aliso y todo el rincon es lo vendido q.e expresa en los papeles del interesado.

Testigos.
Juan Gilroy
Jose Quintin Ortega
Hilario Ortiz
Nicasemus Gilroy

José Rafael Gonzalez

D. A.
José Fibureio Castro

D. A.
Ynocente Garcia

Antonio Ramirez

Ynconticente yo el referido Alcalde mande trair á mi presencia el cordel con que sean de medir las tierras y que los medidores lo midieran de cincuenta v.s y ý en presencia de los Colindantes lo tomaron dichos medidores, y con una vara de medir usual Mexicana teniendola en la mano midieron cincuenta v.s para aser la referida medicion, ý lo firme con los de mi asistencia.

Gonzales

D. A.
José Fibureio Castro

D. A.
Ynocente Garcia

En el mismo parage dia mes hi año siendo las dies de la mañana yo el presente Alcalde mandé á los medidores nombrados se pongan para las medidas que es an de aser á los S.S. Termanes, y comensando á medir desde el ensino grande que esta en la oriya del arroyo que esta al poniente, ý tomando la direcion al oriente medio á medio, del mencionado aliso asta la sierra que se aya en el Peseadero y se midieron siento y cuarenta cordeles, y desde el mismo punto asta el arroyo del Pajaro asi a la parte Sur oeste siento cuarenta cordeles, y desde a mismo por el lindero de la agua caliente

396 SD
PAGE 71

asta salir al lugar de donde se salio, midi=
=endo por toda la orilla del Rio del
Pajaro, dejando un cuarto de legua asi
amedado por toda la espresada orilla, asi
siento treinta Cordeles y en cuya constancia
lo firmo con los de asistencia.

Jose Rafael Gonzales.

D. A.
Jose Fabricio Castro

D. A.
Inocente Garcia

En el rancho de la Brea en los veinte
y nueve dias del mes de Oct.e de mil
ochocientos treinta y cinco yo el Alcalde
Constitucional de segunda nominacion,
en la Municipalidad de Monterey,
despues de practicadas las Medidas
del mencionado rancho conforme se
demarcan en la antecedente medicion
presentes los colindantes Ciudad.s Joaq.n
Ag.r y José Castro Hermanos; y el apoderado
de estos, y de la viuda q.e lo es, D.na Carlos
Castro que fueron conformes con los mas
q.e ver convino, mandé entrar en posecion
del terreno conocido por rancho de la
Brea a los referidos Ciudad.s Antonio
y Faustino German Hermanos, bajo las
medidas citadas y formalidades acos=
=tumbradas en casos semejantes lo que
verifice' arrancando Hierbas, tirando
piños de tierras, y haciendo demostracion
como dueños del terreno q.e se les ha dado
en pacifica poecion, y propiedad cuya
validacion la autorizo y firmo con los
espresados Colind.tes ó, a su nombre el
apoderado, y los testigos de asistencia por
no saberlo hacer los Castros al tiempo de
pedir la firma del apoderado; dijo que no
lo hacia.

Jose Rafael Gonzales

D. A.
Jose Fiburcio Castro

D. A.
Inocente Garcia

73

Monterrey Obre 10 de 1835.

Tomese razon en el libro de posesiones y devuelvase original este espediente al interesado p.a q.e se sirva de titulo. Asi yo el Alcalde 2.o lo determiné mandó, y firmo con los de asist.a

Jose Rafael Gonzalez

D. A.
Jose Ma. Silva

D. A.
Juan Madariaga

396 SD
PAGE 72

En la misma fecha se tomó razon en la foja dos frente y vuelta del libro respectivo y se debolvio el espediente con siete fojas utiles en cumplimiento del anterior auto. Y p.a constancia lo anoto y rubrico.

Punto continuo, pase este espediente al Sr. Asesor para que segun arancel se sirva tasar los trabajos de este espediente y marcha asta el punto de la posecion onde hai cuinse leguas, siendo cuatro las andadas en la posesion dicha, asi yo el Segundo Alcalde lo decreto firmé y mande á presencia de los de asistencia

Jose Rafael Gonzalez

D. A.

D. A.

Por Alc.e 2.o Comitl.

Los Dros. causados en la practica de las diligencias q.e anteceden, importan treinta y seis p.s dos reales segun aparece de la sig.te Cuenta=

74

396 SD
PAGE 73

Por la presentacion con recaudos y su proveido . 1.0
Dos notificaciones . . . . . 0.6
Dos notas . . . . . 1.0
Nombram.to aceptacion y juram.to de Peritos . 1.0
Diligencia de reconocer y medir un Cordel . 1.0
Medidas y posesion . . . . . 3.0
Dos autos interlocutorios . . . . . 2.0
Pr. 34 leguas que se anduvieron . . 25.0
Lo escrito . . . . . 1.0
Suma 36.2

Drōs. de Asesoria 5 ps. Monterrey Obre. 29 de 1835.
Cosme Peña.

Filed in Office Sept. 13, 1853.
Geo: Fisher
Secy.

First Stamp Six Dollars



Translation of Exhibit No 1.

Provisionally legalized by the Collecton of the Maratime Custom House of Monterey of the Upper California for the years of one Thousand eight Hundred and thirty four, and eight hundred and thirty five.

396 SD
PAGE 74

(Signed) Figueroa. (Signed) A Ramirez

Jose Castro, first member of the E. Territorial Deputation and Political Chief ad interim of the Territory of Alta California

Whereas the Citizens, Antonio & Faustino German, mexicans by birth, have pretended for their personal benefit, and that of their families, the tract of land known by the name of "Quistac," the boundaries of which are, from East to West those of the Citizens Castro's, and the "Arroyo of the Pescadero" the suitable proceedings and investigations having been previously practised according to the Disposition of the Laws and regulations, in the exercise of the Authorities which are conferred on me, and in conformity with the resolution of the E. Deputation of the 18th of September of this year, approving the concession of said land Quistac to the Said Antº and Faustino German, in the name of the Mexican Nation. I have come to confer on them the said tract of land declaring to them the ownership of it by these present letters, and subject to the following conditions:

1st. That they shall submit to those (conditions) which the regulation, which is to be formed for the distribution of vacant lands shall establish, and that meanwhile neither

396 SD
PAGE 75

the grantee nor their heirs, shall be able to divide nor alienate, that which is adjudicated to them, nor impose annuity, entail, pledge, hypothecation, or other burthen although for pious cause, nor pass it in mortmain.

2nd. They may enclose it without prejudice to the crosings, roads & easements; shall enjoy it freely and exclusively, destining it to the use or cultivation which best suits them; but within one year at the most shall build a house, and it shall be inhabited

3rd. They shall solicit from the respective Magistrate that he gives them the juridical possession in virtue of this dispatch, by which the boundaries shall be marked out, in the limits of which they shall put besides the land marks some fruit, or useful forest trees.

4th. The tract of land of which mention is made is of one sitio de ganado mayor, (one square league) according as explains the plat (Diseño) which is annexed to the Expediente. The Magistrate who shall give the possession shall cause it to be measured conformably to ordinance, the overplus which shall result remaining to the Nation for its convenient uses.

5th. If he should contravene these conditions, he shall loose his right to the land and it shall be denounceable by another. In consequence I orden that this title being held firm and valid a register of it be taken in the proper book, and it be delivered to the interested party for his security, and other ends.

Given in Monterey, 22nd Oct 1835.

José Castro

Secretary, Fco del C. Negrete

Entered in the Register book at pages 80, and marked with the number 78, which is in the Secretary's office in my charge
Monterey 23rd " Oct 1835
Castillo

Fees $10

77

396 SD
PAGE 76

Phird Stamp. Three Reales.

Provisionally legalized by the Collecton of the Maratime Custom House of Monterey of the upper California, for the years One Thousand eight hundred and thirty four, and One Thousand eight hundred and thirty five.
/Signed/ Castro. /Signed/ Angel Ramirez

Senon Constitutional Alcalde of this Port. Faustino and Antonio German Mexican Citizens. Say: that having obtained the proper concession of the tract of land known by the name of Imistac: they appear before Your Honor, in order that you may be pleased to give them the juridical possession according to the provision in the 3rd " Article of the title to said tract of land which was issued to them the 22nd " October 1835, which is duly accompanied, and also the respective confirmation, in order that they all may cause the suitable effects.

Wherefore we petition that you will be pleased to put us in the possession which we solicit, by which we shall receive favor and justice, swearing that we do not act in malice, & what may be necessary &c.
Monterey 24th " October, 1835.
Faustino German X
Antonio German X

396 SD
PAGE 77

Monterey Oct 28th. 1835.

78 Being presented and admitted let the possession which is solicited be given to which effect the day of tomorrow, the 29th. is designated, Let the adjoining neighbors (Colindantes) be summoned for the said day, and let the measurers and tallymen be previously appointed who shall be notified of the same for their acceptance and the taking of the oath; thus I the Citizen Jose Rafael Gonzales decreed, signed and ordered, with those of my assistance.

/Signed/ Jose Rafael Gonzales

Assisting Witness Assisting Witness
Jose Tiburcio Castro, Inocente Garcia

On the same day being present the Citizens Faustino and Antonio German, they were notified of the proceeding decree, and understanding it say they hear it, and hold themselves cited, not signed on account of not knowing how. and I did so with those of my assistance.

/Signed/ Gonzales

Ap: Witness Ap: Witness
Jose Tiburcio Castro, Inocente Garcia

On the same date the Summons were issued in fulfillment of what is ordered in the preceding decree for the citation of the adjoining neighbors, and in proof I make entry of it and sign it with my Rubrol

In the Rancho called La Brea.
On this 29th day of October 1835, under the Alno Tree (Aliso) which divides the Boundaries

of the Señors Castros and those of the Señors Germans. I the Second Constitutional
79 Alcalde of the Capital of the Territory, notified the neighbors Joaquin Augustin and Jose Castro Brothers, and Don Carlos Castro the Attorney of the Widows of the deceased Mariano Castro of the Anterior decree, and hearing it, the said Attorney signed it with me, and those of my assistance, not doing it the constituent (Poderdantes) not Knowing How!

396 SD
PAGE 78

/Signed/ Jose Rafael Gonzales
Afs: Witness
Afs: Witness Inocente Garcia
Jose Dibuncio Castro, Carlos Castro,

Immediately in the same Rancho on the same day, month and year, I the said Alcalde, in fulfillment, of the decree of the 22nd of the present Oct 1835, being present the Citizens adjoining neighbors, for the measurment, designation of boundaries, and judicial possession, named for measurers the Citizens Francisco Hernandez and Don Manuel Larios, and for Valleymen the Citizen Antº Ramirez, who, with previous acceptance and taking the oath will proceed to the discharge of their labor.

Thus I the said Alcalde decreed and signed, with those of my assistance

/Signed/ Jose Rafael Gonzales
Afs: Witness
Afs: Witness Inocente Garcia
Jose Dibuncio Castro,

On the same date and in the said Rancho Citizens Francisco Hernandez Manuel Larios, and Antonio Ramirez were notified of their appointments, and they said that

396 SD
PAGE 73

they accepted and accept the said charge, and they swore by God and the Sign of the Holy Cross to fulfil faithfully and legally with all their loyal knowledge and understanding, without fraud against any person; the two first not signing, not knowing how, and Antonio Ramirez alone did so with me and those of assistance.

/Signed/ Jose Rafael Gonzales
Afs: Witness

Assis: Witnesses Inocente Garcia
Jose Ybuncio Castro Antonio Ramirez

Immediately I the said Alcalde ordered to be brought to my presance, the cord with which are to be measured the lands, and which the measurers should measure of fifty varas, and in the presance of said adjoining neighbors said measurers took it and with a usual measuring Mexican Vara holding it in the hand, they measured fifty Varas to make the said measurement. And I signed it with those of my assistance

/Signed/ Gonzales
Afs: Witness

Afs: Witnesses Inocente Garcia
Jose Ybuncio Castro.

From the Oak to the Cotton Wood (or Sycamore) which is the direction of the Elm tree and all the point (Rincon) is that which is sold which is expressed in the papers of the party interested. /Signed/ Juan Gilroy

Witnesses
Jose Quintin Arriega. Hilari Ortig. Nicandemus Gilroy.

In the same place, on the same day, month and year, being ten O'clock in the morning I the presant Alcalde ordered the measurers appointed that they should put themselves in rediness for the measurements they were to make

for the Citizens Grants and commence

81

396 SD
PAGE 80

for the Citizens Germans and commencing to measure from the large oak which is in the margin of the Creek which is at the west and taking the direction to the East, in the midst (medio a medio) from the said Elm-tree (alias) to the Mountains (Sierra) which is in the Desecadero, and they measured one hundred and forty cords, and from the same point to the "Arroyo del pajaro" towards the South-Western part, one hundred and forty cords, and from thence by the boundary of the hot spring until coming to the place whence it started, measuring along the whole margin of the River Pajaro leaving aside a quarter of a league along the whole said margin, there are one hundred and thirty cords.

In testimony of which I sign with those of assistance.

/Signed/ Jose Rafael Gonzales

Aft; Witness
Jose Iburcio Castro

Aft; Witness
Inocente Garcia

In the Rancho of La Brea on the 29th day of Oct 1833. I the constitutional Alcalde of the second nomination, in the municipality of Monterey, after the measurment of the said Rancho having been executed agreeably to the description in the foregoing measurment, present the adjoining neighbors, Joaquin Agustin, and Agustin Castro, brothers, and the Attorney of them and of the widows, who is Don Carlos Castro, who were satisfied with all that was suitable to be noticed. I caused the said Citizens Antonio and Faustino Serman, brothers, to enter into the possession of

396 SD
PAGE 81

the tract known as the Rancho de la Brea, under the said measurements, and the customary formalities in like cases, which he verified tearing up roots, throwing clods of earth, and making demonstration as owners of the tract of land which has been given to them in peaceful possession and ownership, validity of which I authorise and sign with the said adjoining neighbors, or in their name the Attorney, and the assisting Witnesses, the Castro's not knowing how at the time of asking, the signature of the Attorney he said he did not do it.

/Signed/ Jose Rafael Gonzales.

Aft: Witness
Inocente Garcia

Aft: Witnesses
Jose Piburcio Castro.

Monterey Novr 10th 1835.

Let it be registered in the Book of possessions and let this original Espediente be returned to the interested party, to serve him as title.

Thus I the second alcalde determined, ordered and signed with those of assistance.

/Signed/ Jose Rafael Gonzales

Aft: Witness
Jose Ma Silva

Aft: Witness
Juan Madariaga

On the same date a Registry was taken in the second folio front and reverse of the respective book, and the expediente was returned with seven written leaves (fojas utiles) in fulfillment of the Anterior decree. And in proof. I note it and sign it with a Serawl.

G.

In continuation let this Expediente be

referred to the Señor Assesson, in order that according to Tariff, he will be pleased to Tax the Labors of this Expediente and the Milage to the Lands to which there are five Leagues, the travelling on the said land being four Leagues.

Thus I the Ricond Alcalde decreed, Signed and ordered, in presance of those of Assistance.

José Rafael Gonzales.

396 SD
PAGE 82

Señor Secd. Coristitucional Alcalde

The fees caused by the execution of the acts which proceede, amount to thirty two dollars, two reales, as appears by the following account.

| | |
|---|---|
| For the presentation with Taxes & decrees | $ 1. |
| Two ratifications | 0,6 |
| Two entrees | 1, |
| Appointment and acceptance of & administering oaths to the experts | 1, |
| Act of recognizance & measurment of Lands | 1, |
| Measurment & possession | 3, |
| Two interlocutory Decrees | 2, |
| For 34 Leagues which were travelled | 25. 4 |
| The writing | 1, |
| | 36, 2 |
| Assessors fees | 5, |

Monterey 29th Novr. 1835. Cosmi Peña

Filed in Office Septr. 17th 1852
Geo Fisher
Secy

396 SD
PAGE 23

George Fisher Secretary of the Board Commissioners to ascertain and settle the Private Land Claims in the State of California do hereby certify the foregoing 83 pages numbered from 1 to 83 both inclusive to contain a true, correct and full Transcript from the Journal of Proceedings of said Board, of the Original Depositions of Witnesses, and of the Documentary evidence on file in this Office in Case No 62, Antonio and Dausting German Claimants against the United States for the place called "Turistac"

In Testimony whereof I hereunto set hand and affix my private Seal, not having a Seal of Office at San Francisco California this 30th day of December A.D. 1853 and of the Independance of the United States of America the Seventy Seventh.

Geo: Fisher.

Secy.

85

396

U. S. DIS

Southern

No. 396

THE UNITE

vs

Antonio + Fau

396 Jurisd

TRANSCRIPT OF

FROM

BOARD OF U. S. LA

In Case No.

Filed, January

396

396 SD
PAGE 84

Pueblo de Sn. Juan Bta. Septiembre veinte y dos de mil ochocientos cuarenta y seis.

Comparecieron ante mi Juan Guilroy Alcalde interino por el tiempo en q. se allaba sin arreglo de Gobierno, doy fe y digo adjunto con dos testigos de asistencia, y falta de Escribano q. Dn. Antnio German con sus cuatro Hijos q. son sus Exederos, pone y dice q. se a bendido á Dn. Jose Ma. Sanchez un pedaso de su citio q. es nombrado del Potrero dho pedaso es desde una Encina prieta q. está en el Sanjon nombrado del Tequesquite, y paso de enmedio q. colinda con el Sausal redondo y con el Rancho de dho compraador; de la Encina al Alamo q. es en dirección del Aliso q. es el lindero de los Señores Castros y Germanes y q. es todo el rincon y esto consta por los testigos y firmas de dhos. Exederos y en papeles de su propiedad

Testigos

Juan Gilroy

Jose Quintin Ortega

Ant. German +

Luis German +

Hilario Ortiz

Jose de los Santos German +

Nicodemos Gilroy

Juan German +

No. ~~265~~
396

Juan Galvez

To

Jose Maria Sanchez

Filed 3/4 Oclk P.M.
7th September 1850
J. T. Richardson
Recorder S.C.C.

Recorded in Book
of Deeds D Page
33. J. T. Richardson
Recorder S.C.

Filed Sept 8/50
John D Wheeler
Clk

396 SD
PAGE 85

Fee 3 00

Attorney Genral's Office
17th March 1854.

396 SD
PAGE 86

Antonio and Faustino German. claimants,

vs.

The United States.

You will please take notice that an appeal in the above case, from the decision of the Commissioners to ascertain and settle the private land claims in the State of California, to the District Court of the United States for the Northern District of California, will be prosecuted by the United States.

Caleb Cushing
Attorney General
of the U.S.

No 396

U. S. District Court

The United States

vs

Antonio & Faustino German

Notice of Appeal

Filed April 15, 1854
G Scheel &c

Filed Jany 11, 1861
G L Muy Clk
by Jno C Whitridge

396 SD
PAGE 87

396 SD
PAGE 88

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

The United States, appellant
vs.
Antonio and Faustino German.

Antonio and Faustino German, move the court that the appeal herein be dismissed for the following reasons:

I. That said appeal has not been properly brought or perfected, in this:

1. That it is in contravention of law, and particularly of the act of Congress of 3 March 1851, entitled "an act to ascertain and settle the private land claims in the state of California", and of the rights of said Antonio and Faustino growing out of said act, and the proceedings had thereunder.

2. That in particulars not altered, nor proposed to be altered by any subsequent act of Congress, said appeal has not been brought nor perfected according to, and the proceedings herein are not in conformity with, the said act of 3 March, 1851.

3. That this appeal is in derogation of the rights of said Antonio and Faustino secured to them by the treaty of Guadalupe

Hidalgo, and in derogation of rights guaranteed to them by the constitution of the United States.

396 SD
PAGE 89

4. That by operation of law, and the provisions of said act of 1851, the decision of the commissioners from which this pretended appeal assumes to be taken has become final, and is not open to any review or appeal.

5. That by the provisions of said act of 1851, and the proceedings had thereunder, said Antonio and Faustino are released and the United States debarred from any action in the premises other than in accordance with said act.

II. That this court has not, & cannot take jurisdiction of this appeal, for the reasons before stated, and because:

1. It has not been prosecuted, brought or perfected by due process; and the ~~parties~~ appellants (so called) have not been cited, or otherwise legally notified.

2. That the facts necessary to give jurisdiction, are not averred, and are not apparent on the record.

3. That there is no record in the case of which this court can take cognizance.

396 SD
PAGE 90

4. That there are no pleadings or testimony in the case on which this court can render judgment unless by consent, and such consent is not given but is hereby released.

5. That the record does not show, nor does it otherwise appear, that the provisions of any act of Congress have been pursued in the bringing of the appeal.

6. That this court has no appellate jurisdiction under the constitution and laws, and cannot have appellate jurisdiction from any tribunal constituted by act of Congress otherwise than according to sections 1 and 2 of article 3 of the constitution, unless by consent, and

such consent is not given, but is refused in this case.

IIIII. That the time within which this appeal could be prosecuted has elapsed.

396 SD
PAGE 91

Wherefore they pray that this appeal be dismissed, and protest against any other proceeding of this court otherwise herein.

By their attorneys
Jones & Stroud,
Survivors of Jones, Tompkins & Stroud.

No. 9.

No 396

U. S. District Court.

The United States, applts.
vs.
Antonio German et al.

Motion to dismiss.

Filed Sept 28. 1854
Jno. A. Monroe
[illegible]

Filed Jany 11. 1861
G. L. Mix clk
pr [illegible] Dep

Jones & Strode.

396 SD

PAGE 92

396 SD
PAGE 93

U. S. District Court.

No. 9. The United States

vs.

Antonio & Faustino German.

S. W. Inge, Esqre

U. S. Dist. Atty.

Please take notice that in the above cause the claimants desire that you will file the petition required therein by the rules of this court, forthwith.

By their attorneys,

Jones & Strode,

Survivors of Jones, Tompkins & Strode.

No 9

N. J. District Court.

~~No 396~~

No 9. The U. States

A. V. J. German.

---

Notice to file Petition.

Filed June 19, 1855.

by W. H. Chaves

Deputy

Service admitted

19 June, 1855.

J. B. Dyer

U.S. Dist Atty

By John A. Godfrey

396 SD

PAGE 94

Filed Jan. 11, 1867.

J. L. Smith Clk

by John A. Hinchman Dep

396 SD
PAGE 95

To the Honorable District Court of the United States in and for the Northern District of California.

The United States
Appellants
vs
Ant. Faustin Serrano
No. 9.

The Petition of the United States by their Attorney represents: that this cause is an application for a review of the decision of the Board of Commissioners whereby the claim of the said Appellee was confirmed as appears by reference to the records in the Case.

That a transcript of the said Records was filed in this Court on the day of : that a notice of appeal was filed on the day of and that the land claimed lies in the said District.

That the said claim is invalid.

Wherefore appellants pray that the said decision of the Board be reversed and that this Court decree the said title to be invalid.. Respectfully &c,

A. Hassett
Asst. U.S. Atty

No 396
U.S. Dist Court

No. 9.

The U.S.
vs
A. F. Germain

Petition

Filed June 20, 1855,
by Chevers
Deputy.
Filed Jany, 11, 1861
G. L. Mix Clk
by Edward Whaley Dy

396 SD
PAGE 96

U. S. District Court for the Northern District of California.

The United States, Appellants } No. 9.

396 SD
PAGE 97

vs.

Antonio & Faustino German

The answer of Antonio & Faustino German to the petition herein filed on the part of the United States, avers, that their said claim is valid, & they therefore pray that the decision of the Board of Commissioners therein be affirmed.

And said respondents for further answer say, that this appeal ought not to be entertained because it has not been duly prosecuted, for that it was not prosecuted at the term of this Court next after the institution of the appeal; & they pray that this Court may so adjudge, & this appeal be dismissed.

By their attorneys

Jones & Shoobridge

Survivors of Jones, Tompkins & Shoobridge.

No 9

U. S. District Court.

No 396

No 9.

The United States

vs.

A. V. L. Germain.

Answer.

Filed June 25th 1853-

Jno A Monroe

Clk.

Filed Jany 11. 1861

G L Smith Clk

By John O Wheeler Dy

396 SD

Jones PAGE 98

396 SD
PAGE 99

At a Stated Term of the District Court of the United States of America, for the Northern District of California, held at the Court House in the City of San Francisco, on Saturday the Seventh day of July in the year of our Lord one thousand eight hundred and fifty-five

Present: Hon. M. A. McAllister, Circuit Judge, and The Honorable OGDEN HOFFMAN, Jr., District Judge.

---

The United States,
—vs—
A. & G. German,

No. 9

---

In this case, on application of the U. S. Dist. Atty made in Open Court, it is ordered by the Court that an appeal in behalf of the United States from the final decision of this Court rendered in said case, at the present term, be, and the same is hereby granted, and that a certified transcript of the pleadings, evidence, depositions & proceedings in said cause, be sent to the Supreme Court of the United States without delay.

No 9

United States District Court, Northern District of California.

No 396

The United States

—vs.—

A. & F. German,

Order granting Appeal &c —

Filed July 7th Seventh 1855

J. A. Monroe, Clerk.

By W. H. Chevers Deputy.

Filed Jany. 11. 1861

J. [illegible] Clk

By John [illegible] Dep

396 SD

PAGE 100

396 SD
PAGE 101

At a Stated Term of the District Court of the UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the City of San Francisco, on Wednesday the 29th day of April in the year of our Lord one thousand eight hundred and fifty-Seven.

Present:

*The Honorable* OGDEN HOFFMAN, *District Judge.*

The United States
vs
Antonio and Faustino
German.

Case — No. 9.
Transcript No. 62.

The Attorney General of the United States having given notice that no appeal to the Supreme Court of the United States will be prosecuted in this case, and a stipulation having been entered into by the District Attorney for vacating the order granting an appeal to the Supreme Court of the United States, and for leave to the claimants to proceed under the decree of this Court heretofore rendered in his favor:

On motion of the District Attorney it is ordered, adjudged and decreed, that the order granting an appeal in this case to the Supreme Court of the United States, be and the same is hereby vacated, and the claimants have leave to proceed under the decree of this Court heretofore rendered in their favor, as on final decree.

Ogden Hoffman
U. S. Dist Judge

No 9.

United States District Court, Northern District of California.

No 391

The United States

vs.

Antonio German & Faustino German

Case — No 9
Transcript — No 62

order.

Filed April 29. 1857
John. A. Monroe,
Clerk.
by W. H. Chevers,
Deputy.

Filed Jany 11. 1861
J. W. Mitchell Clk
by John D. Bakey Dep.

396 SD
PAGE 102

396 SD
PAGE 103

California Land Claims
Attorney Generals Office
October, 1856,

Sir:

In the case of the claim of Antonio and Faustino German, confirmed to the claimants by the Commissioners, case no. Sixty-two, (62), appeal will not be prosecuted by the United States.

I am
Respectfully
Yours

Wm. Blanding Esq
U.S. Attorney
San Francisco.

396 SD
PAGE 104

In the District Court of the United States
Northern District of California.

The United States
vs
Antonio & Faustino
German

Case — No. 9
Transcript — No. 42.

In pursuance of a notice from the Attorney General of the United States, hereunto annexed, it is hereby stipulated and agreed that an order be entered of record in this case, vacating the order of appeal heretofore granted, and that the claimants have leave to proceed under the decree of this Court heretofore rendered in his favor, as on final decree.

Wm Blanding
Dist Atty

Sargent & Chaves
Vendees of the Claimants

No. 9.

United States

No. 396

District Court.

The United States

vs

Antonio German

& Faustino German.

Case — No 9

Transcript — No. 62

Stipulation.

Filed April 29. 1857.

W. H. Chevers,

Deputy.

Filed Jany. 11, 1861

G. J. [illegible] Clk

p John S. Wheeler Dep

396 SD

PAGE 105

396 SD
PAGE 106

No. 9. December Term. 1853.

The United States
vs
Antonio & Faustino Germain. } "Cristac."

1854

January 7 Filed transcript from U. S. Land Com. in case No. 62.
March 17 Furnished transcript to U. S. Atty.
April 15 Filed notice of appeal from Atty Genl.
Sept. 28 " Motion to dismiss.
1855.
June 19 " Notice to file Petition. "Service admitted."
" 20 " Petition of U. S.
" 25 " Answer.
July 7 " Decree of confirmation.
" 1857 " " Order granting appeal.
April 29 " Stipulation and order vacating appeal.
1860
Nov: 14 " Notice of motion and Certificate of U. S. Sur: Genl.
" " " Order to transmit transcript of record to Clk. Sou: Dist.

I, William A. Chever, clerk of the District Court of the U. S. for the S. D. of Cal. do hereby certify the foregoing to be a full, true, and correct exemplification of the record in the above cause.

Witness my hand, and the seal of said Court this 4th January, 1861.

W. A. Chever
Clerk.

No 396

U S Dist Court

South'n Dist of Cal

A German et al

v

United States

Exemplification

Filed Jany. 11, 1861

G L Mix Clk

pr John S Wheeler Dy

396 SD
PAGE 107

396 SD
PAGE 108

U. S. Dist. Court
Nor. District

The United States
vs
Antonio y Faustino German
} Duristac No. 9

San Francisco
Nov. 1st. 1860

To
Calhoun Benham Esq
U.S. Dist. atty:

Please take notice that on Sunday, the 4th Nov. 1860, at the opening of Court, or as soon thereafter as the same can be heard, a motion will be made to said Court to transfer the original transcript in the above entitled cause, to the Southern District Court of the U. S. for Cal. for the reason that the said "Duristac" Rancho lies wholly in said District, and South of the 37th parallel of North Latitude.

This motion is based on the annexed Certificate of the U.S. Surveyor General for Cal. and the transcript in this case.

B. F. Ankeny
Atty for Carlisle & Sargent
Successors in interest to Granties

396 SD
PAGE 109

Due service of this notice admitted

Calhoun Benham
U.S. Atty
N. D. C.

Endorsed
Filed November 14: 1860
D. P. Stevens,
Clerk

---

U.S. Sur. Gens. Office
San Francisco, October 30: 1860

I certify that the land contained within the Survey of the Rancho "Buristac", confirmed to A. and F. German by the U.S. District Court for the

Northern District of California lies wholly South of the Thirty Seventh parallel of North Latitude, as appears by the General Map of Public Surveys on file in this office

396 SD
PAGE 110

In Witness Whereof I have hereunto signed my name, and caused the seal of said office to be affixed at the City of San Francisco, this 30th day of October A.D. 1860

S. & L.

J. F. Mandeville
U.S. Surveyor General
Cala.

Endorsed
Filed November 14th 1860
W. H. Chevers
Clerk

396 SD
PAGE 111

At a Stated Term of the District Court of the United States of America, for the Northern District of California, held at the Court Room, in the City of San Francisco, on Wednesday the 14th. day of November, in the Year of our Lord One Thousand, Eight Hundred and Sixty-

Present:

The Honorable Ozden Hoffman
District Judge

The United States
vs
A. and F. German
} No. 9; L.C. 62
"Juristac"

And now come R. S. Carlisle and James Sargent, Successors in interest of the claimants herein, by their attorney B. F. Aukeny, and move the Court upon the answered notice and certificate, for an order directing the Clerk of this Court

to transmit to the Clerk of the

396 SD
PAGE 112

to transmit to the Clerk of the District Court of the United States for the Southern District of Cala. the transcript heretofore filed in this Court, from the late Board of Land Commissioners, of the proceedings before said Board in case No. 62, on the Docket of said Board: Whereupon, it appearing to the Court that the land finally confirmed herein lies in the said Southern District. It is ordered, that the Clerk of this Court transmit the said transcript, together with a certified copy of this order and annexed notice and certificate, to the Clerk of the said Southern District Court without delay

Ogden Hoffman
Dist. Judge

Endorsed -

Filed November 14. 1860
D. P. St. Clevers
Clerk

396 SD
PAGE 113

I, William H. Chevers,
Clerk of the District Court
of the United States for the
Northern District of California,
do hereby certify that the fore=
going are true, full and correct
copies of their respective originals -
said originals being now on file
and remaining of record in my
said office.

In testimony whereof
I have hereunto set
my hand and affixed
the Seal of said Dist.
Court this 14. day
of January A.D. 1861.

W. H. Chevers
Clerk

No 396

U. S. Dist Court

South'n Dist of Cal'a

Antonio Germanetal

vs

United States

(Copy)

Notice of motion & Certif.

of U. S. Surv Gen'l.

Filed Jany 11, 1861

G. W. Morse Clk

by John D Whelan Dep

396 SD
PAGE 114

# Clerk's Office, U. S. District Court,

## NORTHERN DISTRICT OF CALIFORNIA.

396 SD
PAGE 115

San Francisco, June 4th 1861.

Sir,

Inclosed herewith I transmit the transcript of the Record in the case of the U. S. vs. L. & F. German, together with all the papers in said cause, as required by the order of Court, and also certified exemplification of Record. Please send me your official Receipt for said transcript and papers.

Very Respectfully
Your Obt. Servt.
W. A. Shreve,
Clerk.

C. Sims, Esq.,
Clerk U. S. Dist. Court.
Los Angeles,
Cal.

No 396

Letter from Clerk
Northern District

Dec Jan'y 11, 1861
Ans.d

396 SD
PAGE 116

United States of America }
State of California }

U.S. Southern Dist
Cont. No 396

Antonio & Faustino Serrano
vs Appellants
The United States
Appellees

"Inmates"

396 SD
PAGE 117

To

U.S. Dist atty for North
ern Dist Cal—

Please take Notice that the Depositions
of John Gilroy, Rafel Gonzales, Teodemes
Gilroy, Manuel Sarria & Jose Quentin Ortega
will be taken before U.S. Commissioner
W.H. Chevers ~~Williams~~ at his office in the
building occupied by U.S. & Circuit
Court of said Post Office in San
Francisco on Wednesday the 14th inst
at 10 A.M. to continue until finish
from day to day
Feb 9th 1861

B.F. Conkling
atty for Serrano &
Sargent & Carlisle

B.F. Conkling

on oath says he sent a copy of
this Notice to C. Benham on 11th Feb 1861, in
San Francisco Cal
Dist and Southern
11th Feb 1861
W. H. Chevers U.S. Com.—

B.F. Conkling

396.

U. S. Dist Court
So. District

The United States
vs
A. J. F. German

Notice to take
depositions.

Filed February 21. 1861
G. L. Stein
Clk

396 SD
PAGE 118

# Office of the Surveyor General

Of the United States, for California.

396 SD
PAGE 119

*I,* **J. W. MANDEVILLE,** *Surveyor General of the United States for the State of California, by virtue of the power vested in me by law,* **Do Hereby Certify,** *that the annexed Sketch ~~preceding and hereunto annexed page, numbered from one to inclusive,~~ exhibits a true, full, and correct ~~copy of~~ delineation of the General course of the Pajaro River, and of the Pescadero Creek, and also of the boundary lines of the Rancho "Los Aromitas y Agua Caliente" as returned in the Surveyor's file in this Office.*

EXAMINED AND FOUND CORRECT.
Chief Clerk.

**In Testimony Whereof,** *I have hereunto signed my name officially, and caused my Seal of Office to be affixed, at the City of San Francisco, this 15th day of February 1861*

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

396 SD
62 B1

U. S. Dist. Court
Southern District

The United States
vs
A & F. German

Exhibit Parker
No 1.

Filed February 26th 1861
G. L. Nix
Clerk

396 SD
PAGE 120

# In the District Court of the United States

FOR THE ~~NORTHERN~~ Southern DISTRICT OF CALIFORNIA.

396 SD
PAGE 121

The United States,

v.

Antonio y Faustino Germain

IN LAND CASES.

Dist. Court No. 396

Land Com. No. 62

BE IT REMEMBERED, that on this 15. day of Feby A.D., 1861, at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, personally appeared Nicodemus Gilroy a witness produced in behalf of Bergant Narbisse Claimants in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: his evidence being interpreted by Ramon de Zalvo a sworn interpreter.

PRESENT: B. F. Ogilsby - for Claimants
W. S. Benham Atty. for US -

QUESTIONS IN BEHALF OF THE Claimants -

Question 1st,

What is your name, age, residence & occupation.

Ans Nicodemus Gilroy, 38 Years - Santa Clara County - Rancher

396 SD
PAGE 122

2. Do Yu know the locality of the Ranchos of La Boca and Las Animas Ranchos - If so or how are you acquainted with the same have Yu known them?

Ans. I know them - I have known them ever since I was 12 or 13 years of age

3 Did Yu ever assist in herding cattle and rodeoing them on the La Boca Rancho - If so, when and to what extent?

Ans. I have several times helped to herd the cattle, in order to separate the cattle that belonged to my father - both before and after Judicial possession was given of said Rancho -

4 Who were the owners of the cattle running thereon, and where did the cattle range - If as far as any Streams name them.

Ans

396 SD
PAGE 123

Ans The Cattle belonged Chiefly to the Germans - Also they were intermixed with those of the adjoining neighbors - They ranged to the Cañada Honda - to the Pescadero, and up to the edge of the Mountains - And also to the Agua Verdinda -

5 Did the Germans have rodeos on their Rancho, and if so where were they located ?

Ans. They had - They used to have Rodeos at the Cañada Honda - & also on a little table land where Mr. Carlisle now lives -

6 How do You know these facts -

Ans Because I was present at the Rodeos, in order to select my own Cattle -

7 Were the Germans the recognized owners of the lands over which You have just stated the Cattle ran, and where they rodeoed

Ans. In the upper part of the Agua Dulce Canon, as my knowledge does know, and it was - but the lower

part was deputed to be theirs -
As to where the Rodeo was
Given it was theirs -

8 Were You present at the
Giving of Judicial Posession
Ifso, when was it - & who
Gave it, and who were pre =
sent?

396 SD
PAGE 124

Ans. I was present only at the drawing
of one line - from South to North
West - Don Rafael Gonzales -
Gave the Posession -
My father, John
Gilroy, Faustin Guzman - Carlos
Castro, Manuel Sainos, "Good
looking Castro" - I dont remember
his Christian name - Antonio
el Guzman, ~~brother~~ a son of Antonio
Guzman of same name - José
Castro - And others, whose names
I dont remember, were present
at the Giving of Judicial pos
Posession -
The Posession was Given
in 1835, I think, as I was
13 Years of age - at the time -

9 Do You know the Course by
Compass, of the line You saw?

Ans. I dont know much about
the Compass, but I saw the

#10 How did the line, You speak of, run, describe it?

Ans. They ran from the big oak at the San Jon de Jesus quite up to the Aliso, then in the direction of a stone without reaching it, as there a dispute took place, which dispute had commenced at the Aliso, with Carlos Castro, who wanted not stay longer, and went away. The rest of them went to the stone where I left.

396 SD
PAGE 125

11 # From that Stone, can you see the oak tree, at the commencement, and also the timber beyond the Pescadero?

Ans. You can see the tree & the timber both.

12 # Describe the view of the ~~Rancho~~ Land as You have it from that rock. Give the land marks?

Ans. From that rock I could see the Rancho of the Germans. I could see the Pescadero and a portion of the San Jon which leads into the Pajaro below the tree

13 When you and those named before, were present at said rock or stone, what else was done by the Alcalde, if any thing, to give possession of the Rancho?

396 SD
PAGE 126

Ans. The Alcalde came down, some thing like 100 Varas, and the Germans consulted to have the stone put there; which was done by Antonio Germans con-

14 Did the parties present consent to that rock being on the boundary line of said Rancho?

Ans. They did.

15 Before you left had the Alcalde pointed to any tree as the boundary of the Rancho?

Ans. They did set a compass, and pointed out towards the ridge to a cluster of trees of red-wood. And more definitely to a bent tree that looked like a horse, and which tree has fallen. And that is all I saw, for I left.

16 Have you lately been to that rock. If so, when and who were present at that time?

rock. Lopez, Crane and others

were present at that time?

Ans. I was there on Saturday last in company with Mr. Sargent, Mr Barker, Manuel Labios, Faustino Germany & others whose names I do not name. Crane was there I now recollect.

396 SD
PAGE 127

17 ~~10~~ Was there a compass set at said Rock on Saturday last to ascertain the direction of the tree of which you speak from said rock, if so, who set the compass, and did you look through it, and did it point to the place where the tree stood, which you say, has fallen?

Ans. A compass was set by Barker, on Saturday last, at that rock. I looked through it, and it pointed to the spot where the tree formerly stood.

18 You have heretofore stated that Carlos Castro, after a dispute arising, left before you got to said Rock, Was that dispute con=sidered by the Alcalde, and did he then determine where the line should run to the point where he, Castro left?

Ans. It was determined by the Alcalde

and following the line pointed by the compass, which my father carried, we went to the Lomita, or little hill, where the dispute re-commenced, and where it was finally settled, and the stone placed.

396 SD
PAGE 128

19 Did Carlos Castro raise any objections to the line you run after you struck the hills?

Ans. At the Aliso he disputed, and then left, as I have said before.

20. Is this Rock of which you speak, the same which you were at on Saturday last, that was fixed as a boundary mark at the time of giving judicial possession, and what boundary of said Rancho, was it?

Ans. It is the same Rock, and it is the boundary between the Las Animas, and the La Brea.

Examination of Witness
Continued to Feby 16. 1861
at 10 Oclock.

Feb 16 1861

Feby 16: 1861.

Examination of Witness resumed --

396 SD
PAGE 129

Cross Exd by U. States.

Counsel for the U. States objects to the whole of the foregoing testimony whenever it relates to the Judicial possession - so far as it conflicts with with the record of the Judicial possession now in the archives, a copy of which, with the translation is filed in this case, which translation however, is erroneous in its description of the lines measured & should read thus -

"Commencing to measure from a large live oak, which is upon the bank of the Arroyo which runs to the West (East) and taking the direction to the East (West) in a line with the Aliso (Sycamore) until reaching the Sierra, which is on the Pescadero. There were measured 140 cordels - and from this point as far as the Arroyo Pajaro, on the part of the

South West 140 cordels, and from
this point by the boundary of
the Agua Caliente, arriving at
the point where the measure-
ment was commenced. And mea-
suring all along the bank of the
River Pajaro, leaving a quarter
of a League on one side along
the said bank 130 Cordels"

396 SD
PAGE 130

Making a tract of three
sides, two of which 140 Cordels
long, and the third 130 cordels
each Cordel being 50 Varas.

21

In State Why were present at the time Juridical Posession was Given, when the Measurements were made - did You See any of those, who were engaged in making them, Go to the Pescadero Creek.

396 SD
PAGE 131

Ans. I have said I only saw one line run - I did only Go to the Stone - and then left.

Re - direct

22

Did You run the line of the Pajaro River or Pescadero, or was Judicial Posession ~~before~~ Given as You have the ~~the~~ State?

Ans. Posession was Given as I have State. I did not run any of the lines than from the big Oak to the Alisos from there to the Stone & rock.

Nicodemos Gil
by

Deposition closed.

Subscribed & sworn
to before me this
16. day of Feby
A.D. 1885
W. A. Shepard.
U.S. Com.

396 SD
PAGE 132

No. 396.

UNITED STATES DISTRICT COURT

~~Northern~~ Southern District of California.

IN LAND CASES.

THE UNITED STATES,

*v.*

A. & F. German,

DEPOSITION OF

Nic. Gilroy,

*on part of* Claimants,

Filed February 26th 1861

G. L. Ives

*Clerk.*

396 SD

PAGE 1224

# In the District Court of the United States

FOR THE ~~NORTHERN~~ Southern DISTRICT OF CALIFORNIA.

396 SD
PAGE 133

**The United States,**

*v.*

Antonio y Faustino Germain

IN LAND CASES.

*Dist. Court No.* 396

*Land Com. No.* 62

BE IT REMEMBERED, that on this 16th day of July A.D., 1861, at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, personally appeared B. B. Baker a witness produced in behalf of ~~Claimant~~ Claimants in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: ~~his evidence being interpreted by a sworn interpreter~~.

PRESENT: B. F. Ashley - for Claimants Contestants
W. S. Atty C. Benham - for U.S.

QUESTIONS IN BEHALF OF THE Claimants - Contestants

Question 1st,

What is your name, age residence & occupation?

Ans. B. B. Baker - 27 years

Surveyor - Lives in Monterey -

2. Have you lately been upon the Northern boundary of the Quinstae or La Brea Rancho - ~~lately~~ if so, when, and who was present with you?

396 SD
PAGE 134

Ans. I have - On the 9th inst I was there - in company with Nicodemus Gilroy, Manuel Larios - Faustin German, George W. Crane & others -

3 Was there pointed out to you a rock, at that time purporting to be on said line? by any one - If so, by whom, & where is said rock situated?

Ans. There was pointed out to me a red sand Granite rock, purporting to be on the line of Juridical Possession - It was pointed out to me by Manuel Larios - Faustin German and Nicodemus Gilroy - It is situated on ~~the~~ a high hill - commanding a very

extensive view of the Country -

extensive view of the country -

4 Did you, or not, set your compass at said rock? if so, did you point it to the West-ward, and if so, for what purpose?

Ans. I did set it at the rock - for the and pointed it to the Westward - for the purpose of ascertaining the true course from said rock to a red wood tree, on a high ridge - West of the Precadero -

5 What course did you ascertain said tree to be from said rock?

Ans, 1 South 88¾° West - Variation 15°. 30'. -

6 When said Compass was set, did any person or persons look through the same, besides your self - If so, whom, and for what purpose did they look through?

Ans. They did - Augustin German - Nicodemus Estrey & Manuel Larios adjusted the instrument themselves, pointing to the said tree, without my knowledge of the true - after which I read the bearing as indicated

by the instrument - and found it to be as above mentioned -

7 Did you also from said rock, take the bearing of an Alisa or Sycamore tree - if so - State what direction it is from said rock, where it ~~is located~~ stands and the distance from said rock to said tree, if you measured the same?

396 SD
PAGE 136

Ans. Said take the bearing from said rocks to a black oak tree, situated on the ~~Arroyo~~ creek that they call San Juan de Dequenzenite, and found it to be South 72° East - (Variation 15°.30' E.)

The Sycamore tree, as spoken of could not be seen from said rocks - and I was compelled to run a random line from said rocks to said oak tree to ascertain the bearing of said Sycamore tree from said rocks - and finding the distance to be from said rocks to said Sycamore tree after measuring - 125 chains - & the Course South 72° East - (Same variation) The Sycamore tree is East of the Stage road that leads from San Juan to San Jose, abnt 4 chains 50 links. Said tree is abnt 20 inches in diameter -

The black oak tree above

The black oak tree, above
mentioned, and as above situated,
was pointed out to me by
Thaustin Lerman. Incidents
Gilroy and Manuel Lanios,
as being one of the land
marks or boundaries of the
Las Animas & La Brea Ranches.

396 SD
PAGE 137

8 Look upon Map Marked
Exhibit Parker No 1. attached
to this deposition. & State if there
is thereon a line representing
the two courses above mentioned
by you. and if so describe the same

Ans There is. ~~This~~ The line is marked
with black. and shaded with
green forming a portion of the
Northern boundary of the Pu-
eblo Rancho, and West of the
Road to San Jose, as marked
on said Map. And on said
line are marked the courses and
distance above mentioned. The
courses being taken from a
point marked on the Map. "Rock
Mound on a high hill."

9 The courses referred to are from
the said rock mound on high
hill to a "oed mound tree on high
mountain", West of the Escadero.
And to "Lone Sycamore Tree No 6"
East of "Road to San Jose".

396 SD
PAGE 138

9. Who marked on said map the lines of which you speak and also the objects thereon mentioned by you in your last answer?

Ans. I marked it. And marked also said map. Canada Alamo. and mark representing road to San José. I also put the shading in Green upon said map. Otherwise, the map is as I found it.

Cross Ex. by U. States

10 For what purpose did you make the measurement and take the courses referred to?

Ans. To ascertain the distance between the "rock mound on high hill" and the Adobe or "line to connect the J. No 6". Said points being points as per juridical inspection. The object was to ascertain the Northern line of the Sanitario or La Brea Rancho.

As pointed out to me by the

As pointed out to me by the Surveyor above named - as given by Judicial Possession -

11 Did you have with you at the time a copy of the Act of Judicial Possession?

396 SD
PAGE 133

Ans. I did - that is there was a copy there - and I took these points from the representation of the Witnesses above named -

12 Starting from the black oak tree - on Exhibit Parker No 1 - attached to this deposition - and running Westerly in a line with the line Surveyor ran - 140 Cordels or 7000 Varas - Mark on said Exhibit the termination of such line -

Ans - It will terminate, approximately, at the point marked "rock mound on high hill" -

13 What is the character of the Country from that rock to the head waters of the Pescadero?

Ans. Mountainous & broken

14. Starting from said rock mound

Southerly direction towards the Pajaro, & measuring a line of the same length, where will that terminate?

Ans. It would terminate at a Point marked on said map by the "7000 Varas". in a due South line from said rock

396 SD
PAGE 140

Counsel for Claimants objects to the last question and answer, as incompetent, irrelevant and contradictory of the rules of Judicial proceedings

14 State the distance, using a League as the unit of measurement, from the Point marked "7000 Varas" to the Pajaro River?

Ans. 16 About one sixth of a League

State the character of the country from said rock South, to the Pajaro River?

Ans. It is mountainous from the rock named to the point marked "7000 Varas" - the residue is valley -

396 SD
PAGE 141

17 Then by actual measurement upon the ground. it not being level the point marked "7000 Varas" must terminate farther North than laid down on the Exhibit. and have more than one sixth of a league between that point and the Pajaro River, must not.

Ans. It must. owing to the precipitate rise of the mountain, make a difference of 80 links to the mile between the actual measurement and an air line. and the point marked "7000 Varas must be distant from the Pajaro. about 4 or 5 Chains over one sixth of a League.

18 From the termination of the line marked "7000 Varas" in a straight line to the point of beginning, what must be the distance?

Ans. About 340 Chains. About 7,800 Varas.

19 State approximately, the area within the three lines just described. that is. from the black Oak tree in a line with the

Also to the rock - thence
South to the Point marked
"3000 Varas", as modified by
the Chapter of the Ground,
and thence to the Point of
beginning?

396 SD
PAGE 142

Ans - About 4,800 Varas, a little more than a League
Less than 3 a League -

20

State whether the tract just
described, containing a little
over a league, ought not be
such tract as is described in the
Act of Juridical measurements -
as follows - *

Commencing to
measure from a large live oak
which is upon the bank of
the Arroyo towards the East and
taking a direction to the West
in a line with the Sycamore
until reaching the Sierra which
is on the Escadero, there were
measured 140 Cordels - And
from this Point as far as
the Arroyo Pajaro, on a part
of the South West, 140 Cordels -
And from this point by the
boundary of the Agua Caliente
(Rancho) leaving a quarter of
a league along the bank of the
Pajaro 120 Cordels to the place
of beginning -

Bearing in mind

that the Grant was for one

that the Grant was for one League, and that the Character of the ground from the rock before mentioned, to the head waters of the Pescadero, is of a mountainous Character, & in other words, is the Commencement of what is Called the Sierra on the Pescadero?

(Counsel for Claimants objects, on the Ground that it is hypothetical, Ambiguous, leading, irrelevant and incompetent - and it Contradicts the need of Judicial possession & also, that it seeks the opinion of Witness of records and locality instead of eliciting facts)

Ans.

Assuming the three Points marked on the Exhibit, as surmised by Question, "rock mound on hill" "two Varas" and the "black oak tree" to be correct - I should think that named the land - saying nothing about the Sierra referred to in Question -

(Same objection to Answer as to Question)

Re - direct -

21 What is the character of the land between the Aliso tree and the rock aforesaid?

Ans. It is nearly all mountainous & broken

22 Look upon Exhibit Baker No 1, & point out, if you can, by any mark thereon, the point or place where the rolling or mountainous country commences?

396 SD
PAGE 144

Ans. The rolling land commences about 10 chains from the tree - and runs through the Ranch in nearly the direction of the road.

23 Does the tract of land, ~~lying~~ within the boundary described in your Cross Examination, touch the Pescadero Creek or the lines of the Rancho Agua Caliente?

Ans. I do not think it touches either

24 What distance is it from the rock on the line towards the red wood tree to the Pescadero Creek, as marked on the map?

Ans. About 300 chains

25

396 SD
PAGE 145

25 What is the distance from the point marked "7000 Varas" on Exhibit 1 Parker No 1, to the Pescadero Creek and Agua Calcinte Rancho

Ans. About 12 chains to the Pescadero creek - the nearest point - and about 65 chains to ~~the nearest point of~~ a stake on the Agua Calcinte Rancho - South 60° West -

26 Striking a direct line from the junction of the Pescadero Creek and Pajaro River to a point on the West bank of the Pajaro River - opposite to mark reference Evans house, on Exhibit - mentioned the line, ending at "7000 Varas" mentioned in your cross examination, running due South from the rock, to such line ?

Ans. ~~Of course~~ I should not - by a quarter of a mile -

Cross Ex: resumed -

27 In Question 23 - You are asked whether certain lines run to the Pescadero Creek: In measuring a tract of 4800 or 5000 acres

396 SD
PAGE 146

at which the Point marked the "black oak tree" is the Arbitrary Starting Point, diverging on one hand along the River Pajaro, and on the other Sky line through the Alisos to the rock. Which quantity cannot be impossible to reach the Pescadero River anywhere.

(Same objection as to question 20)

Ans. I think not.

J. J. Gardner

Subscribed & Sworn to before me this 20th day of Feby A.D. 1874

W. H. Chesebro
U.S. Comm.

No. 396.

UNITED STATES DISTRICT COURT

~~Northern~~ Southern District of California.

IN LAND CASES.

*THE UNITED STATES,*

*v.*

A. F. German,

DEPOSITION OF

B. B. Barker,

*on part of* Claimants.

*Filed* February 26th 186 /

G. L. Nuj

*Clerk.*

396 SD
PAGE 147

# In the District Court of the United States

FOR THE ~~NORTHERN~~ Southern DISTRICT OF CALIFORNIA.

396 SD
PAGE 148

**The United States,**

v.

Antonio y Faustino German

IN LAND CASES.

*Dist. Court No.* 396

*Land Com. No.* 62

BE IT REMEMBERED, that on this 15. day of Feby A. D., 1861, at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, personally appeared Faustino German a witness produced in behalf of Sargent & Carbisa Claimants in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: his evidence being interpreted by Ramon de Saldo a sworn interpreter.

PRESENT: Claimants Carbisa - For US. B. F. Ackley for Sargent W. S. Atty - Benham

QUESTIONS IN BEHALF OF THE Claimants

Question 1st,

What is your name, age residence & occupation?

Ans. Faustino German - 46 years

San Juan Bautista - Rancho -

2. Do You know the locality of the Umitas or La Brea Rancho and the Las Animas Rancho - If so where are they, and, if you know, to whom were they granted -

396 SD
PAGE 149

Ans. I know them & know their locality - ~~they are~~ I think they are in the County of Santa Clara - La Brea was granted to Jaus - tins by Antonio German - and Las Animas was granted to one of the Castros - Mariano Castro

3 Have You lived upon the Umitas or La Brea Rancho, if so, when did You com - mence living there and who lives with You?

Ans I have - I cant remember when I first went there - My brother Antonio and Manuel Larios have lived with me there -

4 How long was it before

4

How long was it before the Grant was made to you and your brother?

Ans. We were there 3 years before the Grant issued to us.

5

396 SD
PAGE 150

Did you and your brother have cattle ranging upon that Rancho before the Grant. If so how long before and where did they range?

Ans. We had. They ranged there and extended in their range to the Agua Hediondo - and the Cañada Honda, and to the Pescadero.

6

How long did your cattle range upon the land there thereafter?

Ans. Ever since I went on the Rancho until I sold it.

7

Did you have Rodeos on your Rancho, if so how many and where were they located?

Ans. We had many Rodeos, and their locality was, one on the Cañada Honda - another near to the old San Juan, at place

called the East Road, and sometimes we gave it near our house -

8 Were Your cattle running upon said Ranchos as above stated at the time You Returned for said land?

396 SD
PAGE 151

Ans They were -

9 Were You present at the giving of Judicial Possession of said Rancho, If so, when did it take place, by whom was it given and who were present?

Ans. I was present - It took place in 1835, I believe - Don Rafael Gonzales gave it - Don Fabricio Castro, Carlos Castro, Manuel Larios, Others of the Castros - Joaquin, Felipe - Augustin - Antonio Romero, Inocente Garcia, John Gilroy. Meriderus Gilroy - & Others whose names I don't remember, were present

10 In what Capacity was Carlos Castro there?

Ans. He was the Attorney of the Indian

Mariano
Jose Castro - Jesus -

Ans. He was the Attorney of the Widow

of ~~Josefa~~ Mariano Castro, ~~or~~ Josefa -

11 Who were the other Castros above named, and in what capacity were they there?

Ans. They were the sons of Mariano Castro who came there with the Attorney, Carlos Castro, as Colindantes - to witness the measurement -

396 SD
PAGE 152

12 Where did they commence the measurement of said land - name the land marks

Ans. At the big oak that is at the San Jon called the Tequesquite It is near the Pajaro - ~~on the~~ The tree is North of the Pajaro -

13 Which way did they run from that point?

Ans. From there we ran to the Cienega, from there to the Aliso - from the Aliso to a stone that is on a hill (loma) and from there the Alcalde Don Rafael Gonzales said to us "Gentlemen, are you satisfied with the land embraced in the lines that runs to the tree &c (pointing it out) at the Pescadero"

adding - "You will recognise that as your boundary, and ~~from there by the Arroyo Cienega, following the margin~~ from there following the top of the ridge, to the place where the Pescadero Creek enters into the Pajaro River"

396 SD
PAGE 153

At that spot a dispute arose whether some few Indians who were there settled, should be or not be disturbed - and we acquiesced in the proposition of the Alcalde that a quarter of a league from the margin of the River Pajaro should the ~~[illegible]~~ left, for ~~and~~ ~~for~~ the benefit of those Indians -

And from there the Judge pointed out the land to us, regulating the number of Cordels to the place of beginning - It was not actually measured -

14 Is the Cienega, between the Oak and Aliso, on the line or is it on one side or the other of a straight line and which?

Ans. A straight line would pass through the Cienega -

15 -

15-

Did all the persons present as Colindantes at the giving of Juridical posession, assent to the boundaries of said Rancho, as given by the Alcalde, as above Stated?

396 SD
PAGE 154

Ans I Was objected to by Carlos Castro - The rest of them consented -

16

Can you describe the piece of land left for the Indians, by giving natural boundaries in whole or in part? If you can give them?

Ans. I can - The line runs from the mouth of the Pescadero to an Oak tree, marked, near and with of the Pajaro River - and to the West end of Mr Cranes house - I mean to say that the land embraced in these lines was what was left for the Indians - and that was what was called "a quarter of a league"

17

Did you and your brother, at the time of giving Judicial posession aforesaid, Again said lands, so left to the Indians, as belonging

to the Rancho, and if so what did the Alcalde say in reference thereto?

Ans. He did - And, as I stated before - we had a dispute about it - and that it was finally left for the Indians - For we said - "these old Indians will soon die" -

396 SD
PAGE 155

18 At whose request was this land left for those Indians?

Ans. At the request of Liburcio Castro - who, whilst being assistant Alcalde to the Alcalde, was likewise the Administrator of the Mission of San Juan -

19 Did the Indians die, and did you not occupy the land afterwards - in what manner & how long?

Ans - The Indians did not stay more one year - And we then occupied the land until we sold it -

20 - Did any of the family of Antonio Geronimo occupy said piece of land so left - If so, when and how long?

Ans. For several years, I myself know her many, the sons of my brother, José and Anotber, occupied and cultivated said tract of land -

21 Was the right of yourself & brother to said piece of land ever disputed, after the Indians left the same?

Ans. There was only one Hermenegildo Vasquez, who attempted to settle there - I remonstrated to the Administrator of San Juan, who ordered them away, and he left - The administrator was Silvercio Castro -

22. From the rock or stone at which the Alcalde pointed out the tree from the Tecalero, can said tree be seen and can you also see the oak at which you commenced giving Judicial Deposition?

Ans. The tree cannot now be seen because it has fallen down - I can see the oak at which we commenced -

396 SD
PAGE 156

396 SD
PAGE 157

23.

Q. Is there any timber, or other land marks, which you can see from said rock or stone, by which you can describe the place where said tree stood - and could you point to the same?

Ans. There are some few red-wood trees, almost in the same direction - And without great difficulty I could point out the place - There is a little opening surrounded by those red wood trees - The trees are on the top of the mountain on the West side of the Escadero.

24 Q. Have you lately been at said rock from which said Alcalde limited out said tree?
Q. 2o - When, and who was present with you?

Ans. I was there lately - Last Saturday the 9th February - Manuel Larios - Mr Sargent & Mr Parker - Mr. Crane - Mr Demmy Gilroy & others, were there with me -

25 Q. Was there a compass set at said rock to ascertain

the direction of said tree -

396 SD
PAGE 158

the direction of said cedar tree West of the Pescadero. At that time — If so, by whom was it set. and did You look thereby it to see if it pointed to the place where said tree was Pointed out by the Alcalde?

Ans. I dont know what they call it, but I saw Mr Parker place an instrument. And I looked thereby it. And it pointed out where the tree was.

26 What is the distance from where You ordered Your Cattle in the Cañada Honda to the Pescadero

Ans. I cannot say exactly, but that it may be a half a league.

27 In going from the creek aforesaid to the Red-wood tree, pointed out West of the Pescadero, what Stream or Streams named You crop?

Ans. I first crop, the Arroyo Hedionda. next to that little Creek, and finally the Arroyo del Pescadero.

28 Standing at the junction of the

Pescadero and the Medinda-
and looking up stream,
which of these Creeks comes
in upon your right and
which upon your left?

Ans. The Pescadero must be on the
396 SD left and the Medinda on
PAGE 159 the right—

29 How far below, or down the
Pescadero, from said red-wood
tree is it to the junction of
these two Creeks?

Ans. As I have at A quarter of a
league, more or less—

30 In coming the line from
said red wood tree to, and
along the Pajaro River, did
any portion of it join the
Agua Caliente Rancho?

Ans. It did—

31 What portion of the line?

Ans. In coming down from the
top of the Mountain (Cuchilla)
from the red wood tree, before
reaching the Pajaro, we reached
the Agua Caliente— And there
the Alcalde said, "on one side
of this line it is Anzars land—

the Alcalde Land, on the East

of this line it is Anzars land - and on the other Yours" (the Germans)

32. Did Yourself or brother Antonio live and make improvements upon said Rancho - If so, how long, and what was the Character of the improvements?

Ans. We did live on the Rancho with our families - prior to the Concepion - And we built there on Houses, Corrals, and planted Orchards - & resided there until we lost our titles -

33 Is your brother Antonio living or dead - If dead - when did he die?

Ans - He is dead - He died some ten years ago -

34 Did any of the family of Antonio, Yr brother - ever live in the Cañada Honda - at the Cienega - If so which of them - and what improvements had they there -

Ans. Antonio Lorenzo, one of his sons, lived there -

And there he had his house, cattle Corral &c -

25. At the time of giving Judicial Respein of said Rancho, did said Alcalde have your title papers before him - And where did he get them?

396 SD
PAGE 161

Ans. He had. We had given it to him -

26 Was the line, as given by the Alcalde from the oak by the rock and to the red wood tree before mentioned, ever disputed - as the line of said Rancho, after Judicial Possession was given?

Ans. It has not -

Examination Continued to Feby 16 - 1861 - at 10 Oclk Am.

Feby 16, 1861 -

Examination resumed -

Wolfe Dr. by U. States

Counsel for U.S. objects

396 SD
PAGE 162

Counsel for U.S. objects to the whole of the foregoing testimony whenever it relates to the Judicial Reposicion - so far as it relates conflicts with the record of the Judicial Reposicion now in the Archives, a copy of which, with the translation is filed in this case - Which translation, however is erroneous in its description of the lines measured & should read thus -

"Commencing to measure from a large live oak which is situated on the bank of the Arroyo which is towards the West - (East) and taking the direction to the East - (West) in a line with the Alisos (Sycamore) until reaching the Sierra which is on the Pescadero, there were measured 140 Cordels and from this point as far as the Arroyo Pejaro - on a part of the South West, 140 Cordels - and from this point by the boundary of the Gena Caliente (Rancho) arriving at the point where the measurement was commenced, and measuring all along the

bank of the River Pajaro -
leaving a quarter of a league
on one side along said bank -
130 Cordels -"

Making a tract
of three sides - two of which
are 140 Cordels long, and
the third 130 Cordels - Each
Cordel being 50 Varas -

396 SD
PAGE 163

Question
37 - Do you have stated that you
were at the giving of Juridical Possession of the Juristac Rancho - And that you started from the big oak passing by the Olivo to the hill on which there was a stone, State in what direction you went from that place?

Ans. We went back from that spot
to the house - At that place
28 we stopped leaving it - we were questioned by the Alcalde if we were satisfied with the line that we ran in the direction of the ridge of the Pescadero -

The house was
on the side of the road running
from the Aliso towards San Juan -

38 Did you go to the Pescadero
at all?

Ans He did not

39 Did you go any nearer to the Precadero than the rock, of which you have spoken?

396 SD
PAGE 164

Ans. Not any nearer than about 100 Yards from the rock.

40 Did you go where the Indians lived, near the Agua Caliente Rancho?

Ans. We had before been near the margin of the Tajauo River while the Indians were with the Alcalde and the Comisionado of the Mission of San Juan.

41. What quantity did you understand was contained in the Juridical Posesion or Measurement?

Ans. I knew that we had petitioned for a vacant tract of land, that it was granted to us. pointed out to us, and in my estimation it might have been one league, more or less.

42 Was not the quantity in the

Grant to yourself & brother, Antonio like one league more or less?

Ans. It was.

~~44~~ 43 Was not the Ranch house & settlement of yourself & brother on the San José road between the Alisos and the Pajaro - and not far from the Oak tree where the measurement commenced?

396 SD
PAGE 165

Ans. It was between the Alisos and the Pajaro - nearer to the Alisos than to the Pajaro - It was about 1/2 of 1/4 of a league from the Oak tree -

~~44~~ And the Juridical possession was intended to include the house, was it not?

Ans. It was -

Re-direct -

~~45~~ Is the line mentioned by you in your answer to Question 3 of cross Examination the same line of which you spoke in answer to

Question 13 - direct Examination -

Question 13. Direct Examination -
And do you refer in your
answer to 37th Interrogatory
for what transpired at that
time -

Ans. It is the same.

46 ~~XX~~

396 SD
PAGE 166

Did the Vacant land for
which you petitioned mentioned
41 ~~37~~ in your Answer to Cross Question
run as far as the Pescadero
Creek, and the Pajaro River.

Ans. Yes sir. for we petitioned for
the Vacant land and always
recognized that as our own.

Ques. and Answer objected
to as being the title papers
will show what was Re-
quested for, and the Judicial
Proceedings - what was mea-
sured within those limits)

his
J Austino ✕ Germaw
mark

Deposition closed.

Subscribed & sworn
to before me this
16th July A.D. 1851

W. H. Glover
U.S. Comm.

U.S. DISTRICT OF CALIFORNIA COMMISSIONER

No. 396.

UNITED STATES DISTRICT COURT

~~Northern~~ Southern District of California.

IN LAND CASES.

THE UNITED STATES,

*v.*

A. & F. German,

DEPOSITION OF

Faustino German

*on part of* Claimants,

Filed February 26th 1861

G. L. Wig

*Clerk.*

396 SD

PAGE 167

# In the District Court of the United States

FOR THE ~~NORTHERN~~ Southern DISTRICT OF CALIFORNIA.

396 SD
PAGE 168

**The United States,**

v.

Antonio y Faustino German

IN LAND CASES.

*Dist. Court No.* ~~[illegible]~~ 396

*Land Com. No.* ~~[illegible]~~ 112

Be it Remembered, that on this 14th day of Feby A.D., 1861, at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States pursuant to the Acts of Congress in that behalf, personally appeared Manuel Lanios a witness produced in behalf of ~~[illegible] Sargent & Carlisle~~ Claimants in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: his evidence being interpreted by Thomas Jewett a sworn interpreter.

Present: B. F. Jenkins for Claimants ~~[illegible]~~
C. Benham U. S. Atty for U. S. ~~[illegible]~~
~~[illegible]~~

QUESTIONS IN BEHALF OF THE ~~Sargent & Carlisle~~ Claimants

Question 1st.

What is your name, age residence and occupation?

Ans. Manuel Lanios. 63 years of age San Juan Bautista — Formerly

Ranchero?

2 - Do you know the Las Animas or La Brea or Jimitae Ranchos - If so how long have you known them?

396 SD
PAGE 163

Ans. I do - I have known them over 50 years - ~~before~~ that is, the land which is covered by these Grants -

3 When were they granted?

Ans. The Ranch of Las Animas was granted sometime in 1805 or 1806 -

4 When was the La Brea granted -

Ans In 1835 -

5 Did you ever live upon the land now known as the Jimitae or La Brea Rancho? or the limits fixed for the Germans?

Ans.

Ans. I -

Ans 6 I have.

When did You live there and under what circumstances.

396 SD
PAGE 170

Ans. I lived there in 1833 & '34. I was to be one of the owners. with the two Germans. brothers.

7

Do You know the extent of said Rancho. as claimed by them at that time. and did You have any conversation with them as to the Exterior boundaries of the Rancho. If so, to what boundaries did they claim?

(objected to as not competent to prove boundaries shown by the Grant and diseño)

Ans 8 I Knew the boundaries of the Rancho. I never had any conversation as to the Exterior boundaries.

Did Antonio & Faustin German have cattle upon said land

Q. So, & how did they range?

Ans. They had - They ranged in the whole extent of the Rancho

Q. 396 SD PAGE 171 Did they range Alisos for as the Pescadero Creek?

Ans. They did -

10 Were you present when Judicial possession of said Rancho was given? - Q. If so, state when it was, and who were present?

Ans. I was - It was in 1835 There were present John Gilroy - Micodemus Gilroy, his son - Judge Rafael Gonzales - and his Secretary, I dont know his name exactly, but believe it was Antonio Ramirez - Carlos Castro, and three or four of his nephews. Castros - They were the sons of Mariano Castro - the owner of Las Animas -

A great many were present whose names I do not remember -

11 Is Mariano Castro dead - If so

When did he die

When did he die

Ans Yes. He died before Possession was Given to the Germans - about 3 Years -

12 In what capacity did Carlos Castro & the other Castros appear there at that time?

396 SD
PAGE 172

Ans. Carlos Castro was the Agent of the owners of the Rancho - the other Castros were the heirs of Marcano Castro - They were authorized as Colindantes -

13 At what point of said Rancho did You commence giving the Judicial Possession - and where did You run the lines?

Ans. By whom was Judicial Possession Given - by what officer? And to whom was it given?

Ans. By Don Rafael Gonzales - It was Given to the Germans - before mentioned -

14 How was Possession Given?

Ans. ~~I was directed by Carlos~~ Point as far as the division

396 SD
PAGE 173

of the two Ranchos Commencing from the San Jose del Tequisquite where there is a black oak near the Pajaro River - from there to the Ciénega - to an Alisa, while near the Road which leads from San Juan to San José - This boy is in the line of these two Ranchos - and is between the Ciénega and the Road - from there to the hills, (Lomas) In these lomas there is a rock - From that rock I did not see any more monuments made -

15 From this rock could you see said black oak tree - and also the trees West of the Pescadero Creek?

Ans. I could see the black oak tree & the trees West of the Pescadero.

16 What kind of a view of the Rancho did you have from that point?

Ans. I could see nearly all of the natural objects on the Rancho -

17 Could you, from that point, see the Course of the Pescadero and Pajaro Rivers?

Ans. Joined the Piscadero and
part of the Pajaro River -

18 What transpired among the
parties present at said Rock,
on the day of Giving Judicial
Possession?

396 SD
PAGE 174

Ans. There was a dispute, but after-
wards it was settled - This was
at that time - It was on account
of the measurements - The
Germans ~~after words~~ on that day agreed to
run the line towards the Sierra
where these trees, beyond the Piscadero,
are situated - to

19 Was there a Particular tree
pointed out at that time to which
the line from said rock was to run
by this Agreement - If so, state
where it was located?

Ans By tree which is situated on
the crest of the Sierra - This
Sierra is beyond the Piscadero
from the Rock -

20 Did this line, as described by you,
from the oak tree to the tree
last described, form one of the
boundaries of said Rancho as
given by Judicial Possession -

If so, what boundary?

Ans. It did form the boundary of the two Ranchos - Las Cienigas and La Brea or Juanitas -

21 Have You lately been to said Rock, if so, how latterly, and who was with You?

396 SD
PAGE 175

Ans I have been there lately - It will be ~~7~~ days to morrow - There were 3 Gentlemen with me - The Surveyor & others - Baker, the Surveyor, Mr Crane - Mr Sargent - Faustina German, Nicodemus Elroy - were with me, at that time -

22 Did You show the rock and the tree beyond the Pescadero to B. B. Baker, the Surveyor? and was this the same rock of which You have spoken heretofore?

Ans. I did show them it to him - They are the same rock & tree -

23 State if the Germans ordered their Cattle on said Rancho - and if so upon what portion of it?

Ans. They did - One of them near to the house - the other in the Cañada

Honda -

Honda -

24 Was there a Cienega in the Cañada Honda - If so, how near the same was that rodeo -

396 SD
PAGE 176

Ans. There is - The rodeo was held near it -

25 How near was this rodeo to the Pescadero Creek?

Ans. About a mile -

26 How long did the Germans rodeo their Cattle there?

Ans. I cant say - Many years -

27 Were their cattle habitually running upon that Rancho, as well as upon other portions of the Rancho and did the Germans claim their land to run to the Pescadero - And was their claim so regarded by others?

A

Ans. They were - I believe the Germans claimed as far as the Pescadero - but I cant know that it was regarded by other persons as their land -

28 Did you ever hear their claim or right to said Rancho, running

to the Pescadero - questioned or disputed by others?

Ans I have -

29 What have you heard about it?

396 SD

PAGE 177

Ans. I heard that Manuel Gimeno ~~Gorman~~ claimed ~~that~~ from the Pescadero West to the top of the Sierra, where the tree, before spoken of, is

30 Did you ever hear of any other claim to the said Rancho?

Ans I never did.

31 You have stated that the line from the black oak by the rock to the Pescadero, forms the boundary between the two Ranchos - Now, what were the other boundaries of the Juristac or Las Pocas Rancho, as shown or designated by the Alcalde, when judicial possession was given, as before stated by you?

Ans. The Pajaro River South - thence from the Cuchilla, where the trees are, - ~~The line of the Pescadero~~ And the top of the Cuchilla along on the West side of the

Pescadero Creek to the tree a=

Pescadero Creek to the two a=
fores aid Chimneys Barker
the Surveyor - The other line
is the one described before - -

396 SD
PAGE 178

Examination of Witness adjourned to 9 o'clock AM on the 15th Feby - 1861

February 15.

Examination resumed

32 From what Period to that period did the Cattle of the Germans run upon the land as described by you Yesterday?

Ans From 1833 till the Americans took possession of the Country afterwards I never went there -

33 Running a direct line from the Rock above mentioned, on the line between the Ranches to the top on the Crest of the ridge West of the Pescadero, named you Cross any Streams? if so, Name them, and which named you cross first?

Ans You crossed over the arms of the Pescadero Creek.

34 Is there an arroyo or creek which you crossed also cross called Hedionda?

396 SD
PAGE 179

Ans Going on that line I crossed no necessary to cross it -

35 Which crossed you reach first in going from the rock to the tree - the Hedionda or the Arms of the Pescadero

Ans. Hedionda -

36 Do you know the origin of the names of the Creek, Hedionda and Pescadero -

Ans When the Cayucos established themselves there they had an Indian boy, who used to go to the Pescadero to fish, and from this it derived its name - The Hedionda was so called from the fact of being Stinking water -

37 Standing at the junction of the Hedionda and Pescadero Creeks, looking up Stream, which is

the right and which the left.

the right and which the left.

Ans. Redinda must be on the right and Pescadero on the left.

38. At the time Judicial Possession was given of this Rancho, the record of it was made, using this language "leaving a quarter of a league thro on one side along the whole of the said Margin there is measured 130 Cordels," do you know where that land so called "a quarter of a league", is situated? If you can discribe its locality by land marks, do so?

~~Ans. I do. It is on the Margin of the Pajaro River. It commences at the mouth of the Canada where the Pescadero empties into the Pajaro River.~~

Ans. I do. It is on the margin of the Pajaro River. Bounded by a line from the mouth of the Pescadero, in a direct line to the Pajaro opposite to Cranes house.

396 SD
PAGE 180

Examination Continued to
16 Feby. 1861 -

396 SD
PAGE 181

Feby 16. 1861 - Examination
resumed -

Cross Exam^n. by U States -

Counsel for U.S. objects to the whole of the foregoing testimony, whenever it relates to the Judicial Possession, so far as it conflicts with the record of the Judicial Possession now in the Archives, a copy of which, with the translation is filed in this case, which translation, however, is erroneous and the description of the lines measured thereby read thus -

"Commencing to measure from a large live oak which is upon the bank of the arroyo which is towards the West (East) & taking the direction to the East (West) on a line with the Alisos (Sycamore) until reaching the Sierra which is on the Piscadero, there were measured 140 Cordels, ~~of~~ ~~this~~

and from this Point as far as

and from this point as far as the Arroyo Pajaro, on the East of the South West 140 cordels, and from this point by the boundary of the Agua Caliente, arriving at the point where the measurements was commenced measuring all along the bank of the river Pajaro, ~~bearing~~ leaving a quarter of a league on one side along the said bank, 130 cordels".

396 SD
PAGE 182

Making a track of three sides, two of which 140 Cordels long and the third 130 cordels, each cordel being 50 Varas.

Question 39

Do say that you were present at the Giving of Juridical Posession and that from the rock you saw no further measurements made - After leaving that rock did you go to the Pescadero Creek?

Ans. 40

I did not -

Did any of the persons engaged in Giving Juridical Possession go to the Pescadero Creek?

while the lines were measured -

Ans - No -

396 SD
PAGE 183

Re-direct

41 Do you mean that Jn = dicial Reception was given from the Rock, as stated by you in your direct-examination, and that the parties did not actually go to those lines which you represented in your direct examination?

Ans. Said not see any one go from the ridge rock to the ridge of the Mountain - The reception was given as I have heretofore stated -

42. Did you go along the margin of the Pajang River - in going said reception -

Ans No - his
Manuel Larios
mark

Deposition closed

Sworn to and subscribed

Sworn to, and subscribed
this 16th February, 1861. before me,
N. H. Chevers,
U. S. Com.—

396 SD
PAGE 184

No. 396.

UNITED STATES DISTRICT COURT

~~Northern~~ Southern District of California.

IN LAND CASES.

*THE UNITED STATES,*

*v.*

A. & F. German.

DEPOSITION OF

Manuel Larios.

*on part of* Claimants.

*Filed* Feby 26th 186/

G. L. Mix

*Clerk.*

396 SD
PAGE 185

# In the District Court of the United States

FOR THE ~~NORTHERN~~ Southern DISTRICT OF CALIFORNIA.

396 SD
PAGE 186

**The United States,**

*v.*

Antonio y Faustino German

IN LAND CASES.

*Dist. Court No.* 396

*Land Com. No.* 62

BE IT REMEMBERED, that on this 15. day of Feby A.D., 1861, at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, personally appeared John Gilroy a witness produced in behalf of Claimants x Petitioners in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: ~~his evidence being interpreted by a sworn interpreter.~~

PRESENT: B. F. Ashley - for Sargent Carlile - & Benham, U.S. Atty for U.S.

QUESTIONS IN BEHALF OF THE Claimants,

Question 1st,

What is your name, age residence & occupation -

Ans John Gilroy - 67 years - Santa Clara County - in

396 SD
PAGE 187

Ald Gilroy - Farmer -

2 Are you acquainted with the locality of the Juristac or La Brea and Las Animas Ranchos - If so, how long have you known them - And, if you know, to whom were they Granted

Ans I know the Ranches Juristac and Las Animas - I have known them ever since I came to California in 1814 - Juristac was granted to Antonio and Faustino German, in 1834 or 1833 - by Figueroa - and Las Animas I have heard it was Granted to Josefa Romero, Wife of Mariano Castro

3 In what county are they?

Ans. Santa Clara

4 Were you present at the giving of Judicial possession of the Juristac or La Brea

Rancho - [illegible] State [illegible]

Rancho - if so State whereby
whom & when such grant given -

Ans. I was present at the time of
giving Possession - Don Rafael
Gonzales, being Alcalde of that
Jurisdiction) - came to give the
Possession by order of the
Governor at Monterey and ordered
me to be on the Stand to see
if it was right - I came there
& found him on the La Brea -

3- Who was present -

Ans- Rafael Gonzales, Carlos Castro -
the Agent of the Indian Castro -
Antonio and Justin German -
Manuel Larios - Nicodemus
Gilroy - Joaquin Castro - Son
of the Indian - and many others
whose names I dont recollect -

6 Where did they Commence
with the measurement, and
to where did the line run?

Ans They Commenced at a black
Oak tree on the San Jon de
Pozas quite, now called the Pa=
jaro - thence running to a
Cienega (swamp) & thence to
a Sycamore tree - thence up a
hill where some stones were -

Thence about 100 or 200 Yards to another Stone - and thence to a red wood tree Standing on the Santa Cruz Mountains as it was called at that time -

7 At the last Stone, what did the Alcalde de Branciforte Give you possession of the Rancho?

396 SD
PAGE 189

And As I carried the Compass he told me to take the bearings to the red wood tree on the Mountain - West of the Pescadero -

I took the bearing - and the parties present admitted that to be the North West boundary of the Salsipuedes -

8 Can you from the last-mentioned rock see the oak tree and the red wood tree mentioned by you?

Ans. I can see the red wood tree and I believe the oak -

9 State if that rock is elevated - so as to give a view of the Rancho from that point and what view do you get of the Rancho from that point?

Ans. That rock is on the top of a mountain, and you can see a good deal of the Ranch but not all - You can see the mountain when the red wood tree is, and along it down the Pescadero creek -

396 SD
PAGE 190

10 What direction by compass, is it from the last mentioned rock to said red wood tree?

Ans. I dont recollect - but I think it is Westerly - with Perhaps a point or two Northward -

11 In going from said rock to said red wood tree and you cross any streams or arroyos - If so name them in the order in which you reach them?

Ans. You will first the Agua Hedionda first - Then the Pescadero --

12 State, if you know, how those streams derived their names?

Ans. The Agua Hedionda derives

its name from a Stinking Spring - And the Pescadero - the Castros, Land an Indian gave it that name in 1814 - being a Place where we used to Catch Salmon -

13. Standing at the first below the junction of the two Streams - looking upstream - Stream, which comes be on the right and which upon the left -

396 SD
PAGE 191

Ans. The Pescadero comes be on the left - and the Hedinda on the right -

14 Look upon Map marked Exhibit Barker No. 1 - and attached to the deposition of B. B. Barker, in this case, above the Stream thereon marked "Pescadero Creek", follow said Creek up until you reach the two principal forks, and State if those forks represent the head of Pescadero Creek, and the Agua Hedionda, or Hedionda Creek - & State which is the Pescadero and which the Hedionda ?

Ans. Those forks do represent the

head of the Pescadero and Hed=

head of the Pescadero and Ne=
dinda Creeks - The one more
to the West is the Pescadero -
and the other, making a sharp
bend to the East, is the Needinda.

15 Did all the Parties present at said
396 SD Judicial position, Agree to the
PAGE 192 line run, as before stated by you?

Ans. Carlos Castro at first disputed it -
but at last consented to the line -
and we all consented -

16 What was the ground of dispute
on the part of Carlos Castro -
State it if you know?

Ans It was that Carlos Castro said
the line did not
run at the Alisos tree, from the
Oak - but ran farther South -
where the boundary of the Mission
of San Juan Bautista formerly
was -

17 Was the Mission boundary been
ascertained before that - if so,
where did it go to?

Ans. In the year 1808 the Mission
boundary was Given by Lieutenant
Estudillo, ~~as beginning~~ Beyond at the
Church of San Juan Bautista and
~~San~~ to the Alisos tree aforesaid. And

It was proved before Genl Figueroa by Juan Alvires, Felipe Vazquez - José Antonio Mesa & Simeon Castro - this is the boundary you will find on record -

18 On what boundary of the Mission was the said Aliso tree

396 SD
PAGE 193

Ans. It was on the ~~East~~ Northern boundary -

Cross Ex. by U. States

Counsel for U.S. objects to the whole of the foregoing testimony whenever it relates to the Judicial Possession so far as it conflicts with the record of the Judicial Possession now in the Archives, a copy of which, with the translation is filed in this case - which translation, however, is erroneous in its description of the lines measured - & should read thus -

" Commencing to measure from a large live Oak which is upon the bank of the Arroyo which is towards the ~~West~~ (East) -

396 SD
PAGE 194

And Taking the direction to the East (west) in a line with the Alizo (Sycamore) untill reaching the Sierra which is on the Pescadero, there were measured 140 Cordels, and from this point as far as the Arroyo Pajaro, on the part of the South West 140 Cordels. And from this point by the boundary of the Agua Calainte arriving at the Point where the Measurement was commenced, and measuring alulong the bank of the River Pajaro. being a quarter of a League on one side along the said bank, 130 Cordels "

Making a tract of three sides, two of which 140 Cordels long, and the third 130 cordels each Cordel being 50 Varas.

Deposition Closed. John Gilroy

Subscribed & Sworn to before me this 16. day of July 1861.

W. H. Chevers
U. S. Comm'r.

No. 396.

UNITED STATES DISTRICT COURT

~~Northern~~ Southern District of California.

IN LAND CASES.

THE UNITED STATES,

*v.*

A. & F. German,

DEPOSITION OF

John Gilroy,

*on part of* Claimants,

*Filed* February 26th 1861

G. L. Mey

*Clerk.*

396 SD
PAGE 195

396 SD
PAGE 196

In the U.S. District Court for the Southern Dist of Calif'a

Trans'pt No 62
Docket " 396

Antonio & Faustino German, Appellants
vs. "Imatia"
The United States Appellee

It is hereby Stipulated that the Depositions of Rafel Gonzales, John Gilroy, Nicholas Gilroy, Manuel Larios, Faustin German, & R.R. Bench may be taken on the part & behalf of Appellants before any United States Commissioner in San Francisco, upon giving three days Notice thereof to the United States District Attorney for the Southern District of Calyornia of the time & place & before whom said depositions are to be taken, and said Depositions so taken shall be used as evidence in said Cause Subject to all legal objections save and except the Manner of taking the same.

B.F. Ansley
Atty for Appellants
J.P. Blanchard
U.S. Dist Atty
Southern Dist of Cal

No 396

D. R. [illegible]
[illegible]

[illegible]
[illegible]

Antonio & Faustino Germain
Appellant

vs.

The United States
Appellees

Desputation

Filed February 26th 1861
G. L. Nix
Clerk

396 SD
PAGE 197

396 SD
PAGE 198

Office of the Board of Commissioners
to ascertain and settle the Private
Land Claims in the State of
California.
San Francisco Dec^r 30th 1853.

John A Monroe Esq
Clerk of the United States
District Court for the Northern
District of California

Sir

I herewith transmit you pursuant to the requirements of the Act of Congress approved August 31st 1852 a Transcript of the Record of the Proceedings and of the Decision of this Board of the Documentary Evidence and of the Testimony of the Witnesses upon which the same are founded in the case No 62 on the Docket of the said Board wherein "Antonio and Faustino Gorman" the Claimant against the United States for the place known by the name of "Juristac or La Brea" and request your receipt for the same. I am Respectfully
Your Obt Servt

Geo. Fisher
Atty

No 396

U. S. Dist Court
South Dist of Cala

Act to Govern Stat
in
United States

Letter from Lt Com.

Filed Jany 11, 1861
G. L. Mayo Clk
by Thos Whittlesey

No 9

396 SD
PAGE 199

396 SD
PAGE 200

District Court of the
United States, for the Northern
District of California. — —

The United States } No. 9.
vs } Decree
Antonio German and } Stated Term
Faustino German } July 7th 1855

Appeal from the final de=
cision of the Commissioners to ascertain
& Settle Private Land Claims in California.

This cause came on to be heard
before this Court, at a Stated Term, on
an appeal from the final decision of
the Commissioners to ascertain & Settle
the Private Land Claims in the State
of California, under the Act of Congress
approved 3d March, 1851, upon the tran=
script of the proceedings and decision,
and the papers and evidence on which
said decision was founded, and Counsel
for appellant and Appellee having ap=
peared, it is ordered, adjudged and

decreed, the final decision of the said Commissioners be and the same is hereby affirmed, and it is hereby further ordered, adjudged and decreed that the claim of the Appellees, the said Antonio German and Faustino German, be and the same is hereby confirmed to them, to the extent and quantity of one Square League, or Sitio ganado mayor, and for no more, being the same land described in the Grant, and of which possession by the said Appellees was duly proved: Provided that the said quantity of land now hereby confirmed to them be contained within the boundaries called for in said Grant and Maps, referred to therein, and if there be less than the said named quantity of one Square League within the said boundary, then such less quantity is hereby adjudged, decreed and confirmed to the said Appellees.

396 SD
PAGE 201

W. Hall McAllister
Circuit Judge
Ogden Hoffman Jr

U.S. Dist. Judge

I, William A. Chevers, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify the foregoing to be a full, true and correct copy of the original decree in this case - which original is on pages 214 and 215 of the Book of Decrees of said Court.

396 SD
PAGE 202

In testimony whereof I have hereunto set my hand and affixed the seal of said Dist. Court, this 4th day of January A.D. 1860.

W. A. Chevers
Clerk

No 396

U. S. Dist Court
South Dist of Calif

Autom Germanchal
vs
United States

(Copy) Decree entered
in North Dist.

Filed Jany 11. 1861
G. Hoyt Clk
By John O Wheeler Dep

396 SD
PAGE 203

To the Honorable District Court of the United States in and for the Southern District of California -

396 SD
PAGE 204

The United States
Appellants
vs.
Antonio German and
Faustin German

No 396 -

The petition of the United States by their Attorney represents; that this cause is on application for a review of the decission of the Board of Commissioners whereby the claim of the said appellee was confirmed, as appears by reference to the records in the case -

That a transcript of the said records was filed the United States District Court for the Northern District of California, by Mistake on the 7th day of January 1854 And that an order was made by the Judge of said Northern District on the 14th day of November 1860 sending the original transcript to the clerk of this Court and that the Same were transmitted and filed

in this Court on the 11th day of
January 1861 That a notice of appeal
was also filed in said Northern District
on the 15th day of April A.D. 1854
and that the whole of the land claimed
lies in the said Southern District
That the said claim is invalid -
Wherefore Appellants pray that the
said decision of the Board be
reversed, And that this Court decree
the said title to be invalid -

Respectfully &c
J. H. C. Whiting U. S.
District Attorney for
the Southern District of California

396 SD
PAGE 205

No. 396

U. S. Dist Court
South[n] Dist Cal[a]

The United States
vs
Antonio & Faustino Germain

Petition for Review

Filed April 11, 1862
John O. Wheeler
Clk

396 SD
PAGE 206

United States of America
Southern District of Cal^a } ss

The President of the United States
To
Antonio German and Faustino German
Greeting—

396 SD
PAGE 207

Take Notice that a petition a copy of which is herewith served upon you, has been filed against the United States in the District Court of the United States in and for the Southern District of California, on the 11th day of April A.D. 1862 at the town and County of Monterey in said District by B. D. Whiting Esq U. S. Dist attty for the South^n District of Cal^a praying the Court to review the decision of the U. S. Land Commissioners confirming your claim to a tract of land called "Jurisdac" and that you are required to appear at said Court in said City, within ten days after the service hereof is served on you within the County of Los angeles and within twenty days if served on you in the County of San Diego or San Bernardino and within forty days if served on you in any other County of said State Exclusive of the day of service. and answer said petition on the petitioner will apply to the Court for the relief demanded therein

In Witness Whereof I have hereunto set my hand & affixed the seal of said Court at the town of Monterey Cal^a this 11th April A.D. 1862

John W Wheeler Clk

Received April 11th 1862

H D Barrows U. S. Marshal

By Jacob B. Leese Deputy

396 SD
PAGE 208

I served this Summons together with a certified Copy of the petition upon B. F. Ashenny Esq atty for Antonio & Faustin German by delivering to him personally a true Copy of the same at Monterey Cala in the Southern District of California on the 11th day of April A D 1862

Sworn & subscribed before me this 11th day of April 1862

John D Whelan Clk

H D Barrows U. S. Marshal

Jacob B. Leese Deputy

| | | |
|---|---|---|
| Fees Service | 2. | 00 |
| Travel | | 12 |
| Copy 4 ff | | .40 |
| | $ | 2.52 |

No 396

U. S. District Court
South'n Dist Cal'a

The United States

vs

Antonia L Faustina
Germain

vs

Summons

Filed on return this
11th day of April A.D 1862
John D Hoole
Clerk

396 SD
PAGE 209

United States District Court
for the Northern Dist. of Cal.

396 SD
PAGE 210

The United States
Appellants
v.s.
Antonio & Faustino German
Appellees

No 396

"Innestac" or "La Brea"

Now comes said appellees by their attorneys, and for answer to the Petition herein filed on the part of the United States, aver that their claim to said Rancho of "Inni=stac" or "La Brea" is valid, and show by the transcript and evidence taken herein that said appellees are entitled to a confirmation of said Rancho to the boundaries as shown by a plat or survey thereof filed in this case on the 26th day of February A.D. 1861 which is made a part of this answer.

Wherefore appellees pray that said Rancho be confirmed to the boundaries given in said plat or survey & the[m] declared to be valid.

B. F. Ankeny &
Isaac Hartman
atys for Appellees

U.S. Dist Court
Southern Dist

The United States
Appellants
vs.
A. & F. German
Appellees

Answer

Filed. April 11. 1862
John Dobeler
Clerk

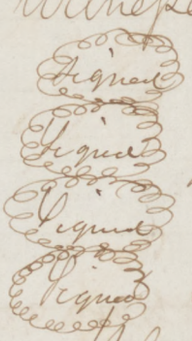
396 SD
PAGE 211

B. F. Anthony &
Isaac Heartman
Atty for Appellees

Translation

From the oak to the Elm Tree which is in direction of the Sycamore Tree and all that "Rincon" bend Corner, or cove, is that which is told and expressed in the Papers of the Paty interested.

Witnesses



John Gilroy
Jose Quintin Ortega
Hilario Ortiz
Nicodemus Gilroy

In the same place on the same day, month and year being ten o'clock in the morning the present Alcalde ordered that Measurers appointed that they should put themselves in readiness for the measurement they were to make for the Citizens "Geomans". And commencing to measure from the large oak which is on the Western margen of the Creek - and taking an easterly direction from the middle or centre of said Sycamore to the Mountains that are at the Pescadero, and the measurement was one hundred and forty "Cordels". And from this same point South West to the arroyo

396 SD
PAGE 212

396 SD
PAGE 213

& the arroyo del Payaro = one hundred and forty "cordels" - And from thence, - following the boundary of the "Agua Caliente" to the place of beginning = running along ("mediendo") the Bank of the River Payaro leaving out a quarter of a League along the whole of the ~~South~~ Bank = there are one hundred and thirty "cordels."

In testimony I Sign this with my assisting Witnesses

Signed

José Rafael Gonsales

As Witness

Signed

José Tiburcio Castro

as Witness

Signed

Inocente García

No 396

U. S. Dist Court

South Dist Cala

The United States

vs

Aut to Germain et al

Exhibit J. A. W. No 1.

Annexed to Deposition

of Wm E Lovett, taken

on part of Claimts.

Filed April 15/62

John D Schuler Clk

396 SD

PAGE 214

396 SD
PAGE 215

United States of America
Southern District of California

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

The United States } Dist Court No. 396
vs }
Antonio Germanchal } Land Case No 62

Be it remembered, that on this 15th day of April AD 1862, at the town of Monterey in the District aforesaid, before me John Wheeler Clerk of the U.S. Dist Court South Dist Calif & ex Officio U.S. Commissioner duly authorized to take acknowledgements, and also to take depositions of Witnesses in Civil Cases pending in the Courts of the United States pursuant to the acts of Congress in that behalf. Personally appeared William E Lovett, a Witness produced in behalf of the Claimants Antonio Germanchal in the above entitled Cause now pending in said Court under the acts of Congress to ascertain and settle the private land Claims in the State of California who being duly sworn, testified as follows, —

Present B. F. Ashenny Esq and Isaac Hartman Esq for Claimants, and B. Whiting U.S. District Atty on behalf of the United States

Questions in behalf of the Claimants

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

Ans, William E Lovett, 38 Years of age, and I reside in San Juan Monterey Co & occupation Lawyer

396 SD
PAGE 216

Quest, Do you read write & speak the Spanish language, & if so can you translate & interpret with facility that language into English

Ans I Can

Qus, State how long you have resided in a Spanish Country and how long you have been acquainted with the Spanish language

Ans, I have resided 9 Years in Mexico. and have been acquainted with the Spanish language 21 Years

Quest, Have you read the marginal note. on Page 191. of the Transcript of the Land Commission in this Case, Commencing "De la Quinta" also that portion of the act of Judicial possession on same page, Commencing. "en el mismo parage" and signed on page 192 of said Transcript by Jose Rafael Gonzales. and by the assistances

Jose Tiburcio Castro and Ynnocente Garcia
And if so ~~the~~ if you have made a correct
translation of the same

396 SD
PAGE 217

Ans I have, and which said translation I now here present, marked T. O. W. No. 1. and attached to this Deposition.—

I have taken considerable care in making this translation and have consulted with those better acquainted with acts of Juridical possession than any others. one of whom was David Spence who has been very familiar with such proceedings. And I am satisfied, from such Consultation & from my own knowledge of the Spanish language that it is a very correct translation,

Jos. Hamm.
Questions by U. S. Dist Atty

Quest, What do you mean, by Consultations with David Spence & others

Ans I first took a pencil Copy of the Spanish document, which I have translated, and then translated it here into English, and then Consulted with Mr Spence, before Copying it into the form in which said translation now appears, and he agreed with

me.

Ques. At whose request did you make the translation

Ans. At the request of Claimants Attorneys. This translation was made the 15th April AD 1862

William E. Lovett

Sworn to & subscribed before me
this 15th day of April AD 1862

John O Wheeler
Clk, U.S. Dist Court, South'n Dist Calif

No 396
U. S. Dist Court
South'n Dist Calif

The United States
vs
Auto Germain et al 6

Deposition of
William E. Lovett
Witness on part of Claimant

Filed April 15, 1862
John O Wheeler
Clk

396 SD
PAGE 218

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

396 SD
PAGE 219

Antonio Germanetal
vs
The United States

No 396

Be it remembered that on this 14th day of April A.D. 1862. at Monterey in the District aforesaid before me John B. Wheeler Clerk of the U.S. Dist Court South Dist Cal. and ex Officio Commissioner of the U. States duly authorized to take depositions in Civil Causes depending in the Courts of the United States pursuant to the act of Congress in that behalf, personally appeared Jacob P. Leese a witness produced in behalf of Antonio Germanetal, Claimants in the above entitled cause now pending in said Court under the Acts of Congress to ascertain and settle Private Land Claims in the State of California who being duly sworn testified as follows. This evidence being given in English

Present S.W. Inskeep on part of Claimants and R.C. Whiting U.S. Dist Atty representing the United States

Questions in behalf of the Claimants

Quest 1st. What is Your name age & place of resi-
-dence

Ans. Jacob P Leese. 52 years old & reside
in Monterey Calo.

396 SD
PAGE 220

Quest. Were you acquainted with Don Carlos
Formerly Primer Vocal of the Departmental Assembly
in the years 1835 & 1836

Ans I was

Quest. State if said Carlos is living or dead
and what you know Concerning his death by
Reputation or otherwise

Ans I believe he is dead. He was mas-
-sacred in Lower California, I think, in the
Spring of 1859

Quest. Were you acquainted with Francisco
del Castillo Negrete. the Secretary of Don Carlos
at the Departmental Assembly

Ans. I knew the said Negrete. he was the Sec-
-retary of Figueroa ~~at~~ the time of the death of
the latter — I cannot say whether Negrete
was Secretary of Carlos or the Departmental
Assembly or not

I never knew of but the one person in California by this name.

Quest, State about what time Francisco del Castillo Negrete left California & where he has since resided.

396 SD
PAGE 221

Ans I think he left California in the fall of 1836, and has resided since that time in Guadalajara, Mexico.

Quest State if you know of his being in California since that time, & if so, when, and for what purpose he was there.

Ans, I saw Negrete in the City of San Francisco in the winter of 58 & 59. He then told me that he was acting as Comandante of the Northern frontiers of Lower California & in consequence of a Revolution breaking out there he came to San Francisco for the the better convenience of communicating with the Mexican Government

(Objection to "Statements of Negrete to witness" by U. S. Dist Atty)

Ques Where did you reside in the year 1852

Ans In Monterey, Cala

Quest, If Negrete had been in California within

the Year 1852 Would you from your knowledge of the Man & his Whereabouts have been likely to ~~know~~ have known that fact

(Question objected to by U. S. Dist Atty)

396 SD
PAGE 222

Ans. He might have been here & I not have known it, as I had no particular business with him,

Ques Were you familiar with the proceedings before the Land Commission in the Year 1852 and were you frequently there during that Year.

Ans. I was frequently there during that Year,

(The above Quest & Ans. objected to by U. S. Atty)

Quest.

Quest. Did you while there, at any time during that Year see or hear of Negrete's being there

Ans I did not

(Quest & Ans Objected to by U.S. Atty) as irrelevant

Quest. Did you know of Negrete being in the State of California from 1836. to 1858, and did you reside in California during that period

Ans. I did not know of his being here during that period – My presence has been in California during the same period

Cross Examination by U. S. Dist Atty

Question 1st Have you any positive knowledge as to where Negrete did reside from the Year 1836 to 1852

Ans I have no positive knowledge, nothing more than the fact that Negrete told me himself

396 SD
PAGE 223

Ques When did you last see him

Ans I think I was in the Spring of 1859 in San Francisco

J. P. Leese

Sworn to & subscribed before me this 14th day of April A.D. 1862.

John D. Nehuler
Clerk U.S. Dist Court U.S. Dist Calif
by Deputy U.S. Comr

No. 396

U. S. Dist Court
South Dist Calif

Antonio Germanetal
vs
The United States

Deposition of
Jacob Leese

Filed April 17. 62
John D. Hoeden Clk

396 SD
PAGE 224

In the District Court for the Southern District of California.

Antonio Germanchal

vs

The United States

No 396

396 SD
PAGE 225

Be it Remembered that on this 14th day of April A.D. 1862 at Monterey in the District aforesaid before me John D. Wheeler Clerk of the United States District Court for the Southern District of California and Ex Officio Commissioner for the United States, duly Authorized to take depositions in Civil Causes depending in the Courts of the United States pursuant to the acts of Congress in that behalf, personally appeared David Spence a witness produced in behalf of Antonio Germanchal Claimants in the above entitled Cause now pending in said Court under the acts of Congress to ascertain and settle private land Claims in the State of California who being duly sworn testified as follows. his evidence being given in English

Present J. J. Ashenny & Isaac Hartman on part of Claimants and R. C. Whiting Esq U. S. Atty on part of the United States

Questions on part of Claimant.

Quest 1st Whats your name age and place of residence

Ans I David Spence Reside in Monterey and
396 SD 63 years of age
PAGE 226

Quest Was you Deposition taken in San Francisco in the Case of Faustina Antonio Serrano vs The United States. if so When and before whom

Ans I have no distinct recollection of it having given so many in San Francisco. but I have seen the Manuscript in said Case. and the Deposition there appearing. purporting to have been given by me. I have no doubt was so given. as I would now give such a one.

Quest How long have you known Francisco del Castillo Negrete. and did you know him well

Ans. I have known him I think from the best of my recollection from the Year 1834. I was well acquainted with him

Quest Did he leave California. if so. When & where did he go

Ans. I think that Gen Chico left California in 1836. and that Genl Negrete went with

him to Mexico

Ques. Do you know of his having returned to California. if so. how frequently, and when,

Ans. I know that he did return to California I was in my house on his way - as he said to Gen Vran[illegible]. the 2 each time I do not recollect. - I do not recollect of his having been here more than once

396 SD
PAGE 227

Ques. Was that return before or after you ~~no~~ gave the deposition referred to, in the Transcript

Ans I do not recollect

Quest. What is Your best recollection on this subject

Ans. I do not recollect. - I did however receive a letter from him dated I think in Mazatlan Mexico. (or in Loreto California) which I answered in 1850 this was before he returned to the Country.

The Negrete I refer to was the Secretary of State in California

I know of but one Francisco del Castillo Negrete in California

Ques. Was said Negrete ever recorded in this State since his departure in 1836

Ans. I do not know, nor do I know how long Negrete remained here when he came back

Ques. From your acquaintance with Negrete if he had become a resident of this State since 1836, would you have been likely to have known it (objected to by U.S. Atty)

396 SD
PAGE 228

Ans. He might have been living for sometime in San Francisco, and still I not know of it, neither do I know of his being a permanent resident here

Cross Examination by U.S. atty

Ques. Do you know of your own knowledge where his residence has been since 1836,

Ans. I understood so - All I know positively about it is that I received a letter from him dated either at Mazatlan or Lower California I do not distinctly recollect which,

Sworn to & subscribed
before me this 14th day
of April A.D. 1862

John D. Hoeber
Clerk U.S. Dist Court South Dist Calif
& ex Offic U.S. Com'r

L. Janvier

No 296

U. S. Dist Court
South Dist Ala

Auto Germain et al

vs

The United States

Deposition of
David Spence

Filed April 17, 1862
John D Schuessler Clk

396 SD
PAGE 229

396 SD
PAGE 230

This Indenture made the Thirteenth day of February in the year One thousand Eight hundred and Fifty Six Between Faustino German and Maria Antonia Garcia his wife both of the County of Santa Clara State of California parties of the first part and Jacob L. Sargent, Roswell C Sargent and Bradley V. Sargent parties of the second part. Witnesseth, that the said parties of the first part for and in consideration of the sum of Four thousand Dollars lawful money of the United States of America to them in hand paid by the said parties of the second part at or before the ensealing and delivery of these presents the receipt whereof is hereby acknowledged have remised, released, and quit claimed and by these presents do remise release and quit claim, unto the said parties of the second part and their heirs and assigns forever All the right title and interest of the said parties of the first part in the following described property or tract of land situated in said County of Santa Clara and State of California beginning at a Sycamore tree on a little

thicket on the margin of the "arollo del Pajaro" running westwardly parallel to the arolla de la Posa in front of house on the Rancho de los Carros" (Los Animas Ranch) to the hills of the Cañada Honda" one League and a half running thence Southerly at right angles with the east line until it touches the arollo del Pescadero thence it follows running in South easterly direction the margin of last said arollo until its junction with the Pajaro River or arroyo thence along the margin of said arroyo del Pajaro to the place of beginning being the same tract of land confirmed by the board of the United States land commissioners to the Brothers Antonio and Faustino German on the 18th day of December 1852. (being case No 62) and known as the rancho "Juristac" or "La Brea" Together with all and singular the tenements hereditaments and appurtenances thereunto belong or in any wise appertaining, and the reversion and reversions remainder and remainders rents issues and profits thereof And also all the estate right title, interest property possession claim and

396 SD
PAGE 231

demand whatsoever as well in law as in equity of the said parties of the first part of in or to the above described premises, and every part and parcel thereof with the appurtenances. To Have and to hold all and singular the above mentioned and described premises together with the appurtenances unto the said parties of the second part their heirs and assigns forever. In witness Whereof the said parties of the first part have hereunto set their hands and seals the day and year first above written.

396 SD
PAGE 232

Sealed and delivered in the Presence of I. Alexander Yoell.

Faustino German his + mark (Seal)
Maria Antonia Garcia her + mark (Seal)

State of California } ss
County of Santa Clara }

On this thirteenth day of February A.D. 1856 before me I Alexander Yoell a Notary Public duly appointed and commissioned ~~under~~ under the great seal of the State of California authorized by law to take acknowledgements dwelling in the City of San Jose County aforesaid, came Faustino German and Maria Antonia Garcia his wife by the oath of Andrew J Yates. The having been by me first duly sworn

thereto) proven to me to be the individuals described in and who executed the within Instrument and acknowledged that they executed the same for the purposes therein mentioned of their own free act and deed and the said Maria wife of the said Faustino German to me known to be the person described in and whose name is signed to said instrument having been by me first made duly acquainted with the contents of said instrument on an examination apart from & without the hearing of her said husband declared that she executed the same free from fear, restraint, undue influence or compulsion of her said husband & that she did not wish to retract the execution thereof. In witness Whereof I have hereunto set my hand and affixed my official seal the day and year above written

(Seal) J. Alexander Yell Notary Public

Filed for record at request of S.L. R.C. & B.V. Sargent at 9 O'clock A.M. February 14th A.D. 1856. S.A. Clark Recorder. Recorded in Book K of deeds Records of Santa Clara Co. Cal. on pages 139 & 140 S.A. Clark Recorder

396 SD
PAGE 233

396 SD
PAGE 234

State of California }
County of Monterey } ss On this Seventh day
of March A D 1859 before me Joseph R.
Reed a Notary Public in and for the
County of Monterey as aforesaid perso-
ally appeared Faustino German and
Maria Antonia Garcia de German
wife of the said Faustino German
personally known to me to be the in-
dividuals described in and who exec-
uted the instrument annexed and
they acknowledged to me that they ex-
ecuted the same freely and voluntarily
for the uses and purposes therein menti-
oned as their free act and deed and
the said Maria Antonia Garcia
wife of the said Faustino German
being by me first made acquainted
with the contents of the said annexed
instrument on an examination
~~&/& ~~ separate and apart from and with-
out the hearing of her husband ack-
nowledged to me that she executed
the same freely and voluntarily without
free & compulsion from
undue influence ~~of~~ of her husband for
the uses and purposes therein mentio-
ned and that she did not nor does
not wish to retract the ~~execution~~ the

6

Same In witnp whereof I have hereunto set my hand and affixed my Notarial Seal the day and year first above written Seal Jos R Beals Notary Public. Filed for record at Request of P.C. Minor at 9 O'clock A M March 11th 1859. Austin M Thompson Recorder By J F Grant Deputy.

396 SD
PAGE 235

State of California } Recorders Office
County of Santa Clara } San Jose April 22d 1862. I hereby certify that the above and foregoing on page 1, 2, 3, 4, 5 & 6 is a full and correct copy of an Instrument now of Record in this Office in Book "M" of Deeds pages 216 & 217, Records of Santa Clara County. In witnp whereof I have hereunto set my hand and affixed my official Seal this the day and year first above written

L. C. Bartlik Recorder
By W. G. Leavenworth. Dep'ty

NW 396

U. S. Dist Court
South Dist Dak

A. German et al
vs
The United States

Copy of Deed from
F. German et ux to Sar-
geant & others

Filed April 28/62
John O Schuler Clk

Deed

F. German & wife
To
J. L. Sargent et al

Certified Copy

Filed April 28/62
John O Schuler
Clk

396 SD
PAGE 236

$4.10

396 SD
PAGE 237

This Indenture, made the twentieth day of April in the year of our Lord one thousand eight hundred and fifty five Between Antonio German and Maria de la Luz Peña his Wife, of Santa Clara County in the State of California, party of the first part, and Robert S. Carlisle of the same County & State, party of the second part, Witnesseth, That the said party of the first part, for and in consideration of the sum of Six thousand five hundred dollars lawful money of the United States of America, to them in hand paid, by the said party of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold, aliened, remised, released, conveyed and confirmed, and by these presents Do grant, bargain, sell, alien, remise, release, convey and confirm, unto the said party of the second part and to his heirs and assigns forever, All the right, title and interest of the said party of the first part in the following described real Estate, situate in

the said County & State to wit; Beginning at a Sycamore tree in a little thicket on the Margin of the arroll del Pajaro, running thence Westwardly, parallel to the arroll de la Poza, in front of the house on the Rancho de los Cattos (same as Rancho de los animas) to the hills of the Cañada Honda, one league & a half; running thence Southwardly, at right angles with the last line till it touches the arroll del Pescadero; thence it follows, running in a South Eastly direction, the Margin of the arroll until its junction with that of the Pajaro, and thence, along the margin of the said arroll del Pajaro till it reaches the place of beginning, being the same tract of land, confirmed by the Board of the United States Land Commissioners to the Brothers Antonio and Faustino German on the 18th December 1852 (being case 62) and known as the Rancho "Juristac" or "La Brea". Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the reversion and reversions, remainder and

396 SD
PAGE 238

396 SD
PAGE 239

remainders, rents, issues and profits thereof; And also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in or to the above described premises, and every part and parcel thereof, with the appurtenances. To Have and to Hold, all and singular the above mentioned and described premises, together with the appurtenances, unto the said party of the second part, his heirs and assigns forever. And the said Antonio German & Maria de la Luz Peña, his wife, and their heirs, the said premises, in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against the said party of the first part, & heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same, shall and will Warrant and by these presents forever Defend. In witness whereof, the said party of the first part, have hereunto set their hand and seal the day and year first above written.

Antonio X his mark German (Seal)

Maria de la Luz her X mark Peña (Seal)
Signed sealed and delivered in the presence
of W.L. Angney & Julius Martin.
State of California } ss. On this twenty-sixth
County of Santa Clara } day of April
A.D. One thousand eight hundred and
fifty five before me, D. Jackson, a Justice
of the Peace in and for said County, per-
sonally appeared Antonio German
and Maria de la Luz Peña, his wife
known to me to be the individuals des-
cribed in and who executed the fore-
going instrument, and acknowledged
that they executed the same freely
and voluntarily for the uses and
purposes therein mentioned, the
said Maria de la Luz Peña being of
full age and by me examined sepa-
rate and apart from her said husband,
acknowledged that she executed the
same freely and voluntarily and without
any compulsion or undue influence
of her said husband and that she
does not wish to retract the execution
of the same, after being made acq-
uainted with the contents thereof.
In Witness whereof, I have hereunto set
my hand in the County aforesaid,

396 SD
PAGE 240

the day and year first above written.

Filed for record
(at request of R S Carlisle)
at 9 ¾ o' clock A.M. April 24th A.D. 1855.

D Jackson
Justice of the Peace

S. A. Clark
Recorder
By F. Lewis
Deputy

396 SD
PAGE 241

State of California } Recorders Office
County of Santa Clara } San Jose April 22nd 1862

I hereby certify that the above and foregoing on pages 1, 2, 3 & 4 is a full true and correct copy of an Instrument now of Record in this office in Book "C" of deeds pages 503 & 504 Records of Santa Clara County.

In Witness Whereof I have hereunto set my hand and affixed my official seal this the day and year first above written.

L. C. Bostick Recorder
By M. Leavenworth Deputy

No 396

U. S. Dist Court
South Dist Cala

Ant° German et al

vs

The United States

Copy of Deed from
German to Carlisle

Filed April 28th 1862
John D Wheeler
Clerk

Deed

Antonio German & wife

To

Robt S. Carlisle

Certified Copy

$3.10

306 SD
PAGE 242

District of United States for the Southern District of California -
Sargeant & Carlisle substituted for A. Germain et. al
Appellees

396 SD
PAGE 243

vs.

The United States
Appellant -

In this case there was a decree in favor of the appellees by the Board of Land Commissioners ~~in favor of the appellees.~~ This decree was affirmed in the District Court of the Northern District by Judges McAllister & Hoffman but it subsequently appearing that the land was in the Southern District it now comes here for adjudication on the appeal by the United States. The claimants have not appealed or filed any petition for that purpose or given any notice from which may be inferred any dissatisfaction on their part with the decrees ordered by the Board of Land Commissioners. On the part of the United States no objection has been urged as to the decision of the Board of Land Commissioners except as to locality which will be noticed hereafter. On the hearing of this case the attorney for

396 SD
PAGE 244

the United States proposed to abandon the appeal and have a decree entered conforming the decision of the Board of Land Commissioners but this was resisted by the Counsel for the appellees on the ground that as an appeal had been taken by the United States the whole case was open and they desired a decree for more land than was given by the Board of Commissioners. To afford time for examination of this question as well as the merits of the case were discussed. When this question I decide that when a judgment or decree is entered against a party and he takes no exception to it in any of the forms provided in such cases it is too late after years have elapsed as in this case to make any objection to it. The United States by their lawfully constituted attorney may abandon an appeal at any time & the fact that an appeal has been taken by the United States does not open the whole matter so as to permit the claimant to avail himself of the same objections he might have made if he had appealed. If the claimant is dissatisfied with the decree he must appeal in the mode &

396 SD
PAGE 245

within the time prescribed by law and that his adversary is also dissatisfied and appeals does not ~~of course~~ open the case to him. If no appeal is made ~~by him~~ or expected by the claimant as to him the decree is final. If on the appeal of the United States the decree is reversed then the claimant might be heard as to what should be the terms of the new decree or judgment. The decree of the Board of Land Commissioners in this case is confirmed the appeal on behalf of the United States not being sustained. As however this cause has been argued upon the merits and there are several cases presenting the same question as to the extent and location of grants it may be as well to express the opinion I have formed as to these matters in this case as any other. The grant in this case describes the land as "the tract of land of land known by the name of "Kinstac" the boundaries of which are from east to west those of the citizens Castro's and the arroyo of the Pescadero". These boundaries are of course indefinite and uncertain. The tract known by the name of Kinstac and the other named ~~the~~ places will locate generally

396 SD
PAGE 246

the bluce of the land but will leave the particular boundarigs uncertain as to extent and quantity. The same remark may be made as to most of these grants they designate the locality but for obvious reasons do not give certain and determinate land marks. They describe natural objects as a Mountain or Sierra a Stream perhaps and other natural objects which distinctly point out the locality. The fourth condition annexed to the grant in this case as in Many others designates the quantity of land intended to be granted. It is as follows. "The tract of land ~~to be granted~~ of which Mention is made is of one square league according as explained the plat which is annexed to the expediente The Magistrate who shall give Posession shall cause it to be measured conformably to ordinance, the overplus which shall result remaining to the nation for its convenient uses". This condition which in substance is in most of the grants or testuts as they are called is said to be a formula of no great significance and does not control the natural objects named in the grant. I entertain a different opinion and deem this restriction one which

necessarily resulted from the state and
condition of the country and the difficulty
of fixing lines with any accuracy.
There were not township lines or sections.
There were not any surveys and though
natural objects were named they did
not give such specific boundaries that
the given quantity intended to be
granted could be certainly located.
The only sensible course to be adopted
under such circumstances was to
designate the locality and within
that to give the petitioner the quantity
intended to be granted. Common
Law lawyers discussing these matters
urge what is undeniable under
a different system that natural
objects control course & distance and
all within the given boundaries
hold notwithstanding the granting
power has determined the
quantity. This in an old country with
plain and determinate boundaries
may be & perhaps is a sound rule but as
applicable to these Mexican grants is
simply absurd. As often happens a
mountain is one boundary but whether
you take the base the middle or the

to will make a great difference in the quantity of the land. The controlling element under such circumstances is quantity and the usual condition defining the quantity so far from being a mere form was one of necessity in the absence of surveys and definite boundaries. There may be cases which are susceptible of definite & fixed boundaries but they are rare and will constitute exceptions rather than rules. In this case there was a possession given but it is unnecessary to refer to it as both sides raised it does not ~~amount to any~~ aid in solving the difficulty. I concur in the opinion of the late Commissioner Morton & have merely suggested these views in addition to his well reasoned opinion in this case. A decree will entered confirming the decision of the Board of Commissioners.

Fletcher M. Haight

No. 396

U. S. Dist Court

South Dist Cala

Sargent & Carlisle

sub for

A German steel

v.

The United States

Filed Sept 13 1862

396 SD

PAGE 249

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

Regular June Term A.D. 1862

June 13th A.D. 1862

396 SD
PAGE 250

Jacob L. Sargent,
Roswell C. Sargent
Bradley F. Sargent
and Robert S. Carlisle
Substituted for
Antonio + Faustino Lerman
Appellees

No. 396

"Surveyor"

vs.

The United States
Appellant

This Cause coming on to be heard on appeal from the final decision of the United States Board of Land Commissioners to ascertain and settle the private land Claims in the State of California, on a Transcript of the proceedings and decision of said Board, and on the papers and evidence on which said decision was founded; And it appearing that said Transcript and notice of appeal have been duly filed according to law, and Counsel for the respective parties having been heard, It is Ordered adjudged and decreed, that said decree and decision of the said Commissioners confirming the validity of the title be and is hereby affirmed.

396 SD
PAGE 251

And it is hereby further ordered adjudged and decreed that the claim of the appellees. the said Jacob L. Sargent, Romel C Sargent, Bradley T. Sargent and Robert S. Carlisle be and the same is hereby confirmed to them, to the extent and quantity of One Square league, and for no more, being the same land described in the Grant, and of which Possession by the said appellees was duly proved,

Provided that the said quantity of land now hereby confirmed to them be contained within the boundaries called for in said Grant, and map referred to therein, And if there be less than the said named quantity of One Square league within the said boundaries, then such less quantity is hereby adjudged decreed and confirmed to the said appellees

Thus done and signed in open Court this 13th. day of June A.D 1862 at Monterey

Thos. M. Dwight

U. S. Dist. Judge South Dist. Cala

No 396
U. S. Dist Court
South Dist Dak

Sargent v Carlisle
substituted for
a Germain et al
v
The United States

Decree

Filed June 13. 1862
John V Wheeler
Clk

Recorded. Decrees "A"
page

396 SD
PAGE 252

In the United States District Court
for the Southern District of California. June Term A.D. 1862.

396 SD
PAGE 253

James P. Sargent,
& others (Sebastian
Tied in place of Fran-
cis & Antonio Germon
Original Claimants)
Appellees
v
The United States
Appellants

No 396.
Claim for
land known as
"Jurisdoe".

Refugia Sanchez, Candelaria San-
chez, Guadeupe Sanchez & Gregorio San-
chez, the Children and heirs at Law of
Jose Maria Sanchez, deceased, by Alon-
zo D. Gregory, move the Court that their
names be substituted in the stead in this
case, in place of the said Germon &
Germon, with the said Sargent and
others, & file herewith in support of said
motion a deed from Antonio Germon one
of the original claimants, to Jose Maria
Sanchez, the ancestors of these petitioners.
& pray that the hearing of this motion
may be postponed for such reasonable

time as may be necessary for them to prepare proper affidavits in support of this motion.

D. T. Gregory
atty for said heirs of Sanchez.

No. 396

Sargent et al
Substituted for
Gresim & Gervanin
appellees
vs
The United States
appellants.

Motion for substitution of Sanchez heirs.

Filed Sept 8. 1862
John S Wheeler Clk

396 SD
PAGE 254

D. T. Gregory atty.

396 SD
PAGE 255

Know all men by these presents, that we Simpson Grover and David Jacks of the County of Monterey and State of California are held & firmly bound unto William Thomas Carrol Clerk of the Supreme Court of the United States in the full and just sum of Two Hundred Dollars, current money of the United States to be paid to the said William Thomas Carrol, his heirs, executors, administrators or assigns jointly and severally by these presents. Sealed with our seals and dated this 10th day of December in the year of our Lord, one thousand eight hundred and sixty two.

Whereas lately in the District Court of the United States for the Southern District of California in a suit pending in said Court between The United States Appellants and Antonio and Faustino German Appellees a decree was rendered against said Appellees and the said Appellees having taken an appeal from said decree to the Supreme Court of the United States, and filed a transcript of the record of said Court in said cause in the office of the Clerk of the Supreme Court of the United States to reverse the decree in the aforesaid suit.

Now the condition of the above obligation is such, that if the said obligors shall well and truly pay or cause to be paid to the said William Thomas Carrol, his heirs, executors, administrators or assigns, all such fees as shall

accrue to him the said William Thomas Carrol, clerk as aforesaid and charged to the said Appellees Antonio and Faustino German in the prosecution of said suit then the above obligation is to be void, otherwise to remain in full force and virtue.

Sealed & delivered in presence of
John O Wheeler

Simpson Conover
David Jacks

396 SD
PAGE 256

United States of America
South'n Dist of California } ss.

Simpson Conover and David Jacks being duly sworn depose and say each for himself and not for the other that he is worth the sum of Two Hundred dollars over and above all his just debts in property not exempt from Execution

Subscribed & sworn before me this 1st day of June 1862
John O Wheeler
Clerk U.S. Dist Court Dist Calif

David Jacks
Simpson Conover

~~Sworn & subscribed before me this 1st day of June 1862~~
~~John O Wheeler~~
~~Clerk U.S. Dist Court Dist Calif~~

Sworn & subscribed before me this 10th day of December AD 1862
John O Wheeler
Clk U.S. Dist Court Dist Calif

Approved this 10th day of December
AD 1862 Fletcher M. Haight

396 SD
PAGE 256A

U.S. Dist Judge S. Dist Cal

The United States

Vs

Antonio & Faustino Serrano

Fond for costs to the
Clerk of Supreme Court

Filed Dec 10, 1862

John D Whelan
Clk

396 SD
PAGE 257

United States District Court
for California. Regular April
Term A.D. 1867. June 10th 1867

396 SD
PAGE 258

Jacob L Sargent
Roswell G. Sargent
Bradley F. Sargent and
Robert J Carlisle
substituted for
Antonio and Faustino
German, Claimants

vs

The United States.

No 396

"Juristae"

In this cause, on this day,
on motion of J.B. Harmon,
Attorney for the above named
Claimants, Delas Lake, United
States District Attorney for Califor-
nia, appearing in open Court
on the hearing of said motion,
it is ordered that an appeal
to the Supreme Court of the United
States be allowed on behalf of
said Claimants J L Sargent, R.G

Largent. B. V Largent and Robert
S. Carlisle, substituted for Antonio
and Faustino German, from
the final decree rendered herein
on the thirteenth day of June
AD 1862 by the United States
District Court for the Southern
District of California.

396 SD
PAGE 253

And it is further ordered that
said claimants file a bond, or undertaking
such appeal with two sureties,
conditioned according to Law, in the
sum of five Hundred Dollars,
& be approved by the Clerk of this
Court or the Judge thereof.

Ogden Hoffman
Dist Judge

Service of a true copy of the foregoing
order of Appeal acknowledged this 10th
day of June 1867.

DelosLake
U.S. Atty

Sargents et al
substituted for
Antonio & Faustino
German Claimants

v

The United States

---

Order of Appeal

Filed & ent. this 10th June
1867

Geo. Ashburnham
Clk
by Spencer
D.C.

396 SD
PAGE 260

396 SD
PAGE 261

United States of America } ss

To the United States. greeting:

You are hereby cited and admonished to appear at a Supreme Court of the United States to be holden at Washington, on the first Monday in December next, pursuant to an order made by the United States District Court for California on the day of June A. D. 1867 allowing an appeal to the Supreme Court of the United States on behalf of claimants in the suit wherein Jacob L Sargent, Roswell B. Sargent, Bradley Sargent and Robert S. Carlisle, substituted for Antonio and Faustino Serrano are claimants and appellants and the United States is defendant & appellee, to show cause, if any there be, why the decree mentioned in said order of appeal should not be corrected and speedy justice done to

the parties in that behalf.

Witness the Honorable Salmon P. Chase Chief Justice of the Supreme Court of the United States, this tenth day of June A D 1867

396 SC
PAGE 252

Jdlew Hoffman
Dist Judge

Service of a true copy of the foregoing Citation acknowledged this 10th day of June A D 1867.

Delos Lake
U.S. Atty

Sargents et al
Substituted for
Antonio & Faustino
German & Claimants
v.
The United States

Citation ——

Filed June 10 1869
Jos. Cushman
Clk
by S. Neely D.C.

396 SD
PAGE 263

396 SD
PAGE 264

United States District Court for California.

Jacob L. Sargent.
Roxwell C. Sargent.
Bradley V. Sargent.
Francisca Carlisle,
Executrix of the estate
of Robert S. Carlisle
deceased, substituted
for Antonio German
and Faustin German.

Claimants and Appellees.

v.

The United States. Appellants.

No 396

"Juristic"

In this case J. B. Harmon, Attorney for claimants, presenting and filing the mandate of the Supreme Court of the United States, dismissing the appeal heretofore granted and taken to said Supreme Court on the part of claimants, from the decree of the late United States district Court for the Southern district of California, made and entered June 13th A.D. 1862 and remanding the same to this Court.

396 SD
PAGE 265

Now Therefore, on motion of J. B. Harmon, attorney for said claimants, it is ordered that the order of this court heretofore made granting said appeal, be, and the same is hereby vacated, and that claimants have leave to proceed under said decree of June 13th A.D. 1862 as under a final decree.

August 12th 1868

Ogden Hoffman
Dist Judge

No. 396

In the District Court.

Sargent, et al. substituted for German et al.

vs.

The United States.

~~Entered~~ E

Filed the 12 day of Aug 1869

Geo. E. Whitney Clk

J. Sweeney DC

HARMON & ESTEE,
Attorneys for
Claimants

396 SD

PAGE 266

San Francisco, California.

UNITED STATES OF AMERICA, ss.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Honorable the Judges of the District Court of the United States, for the _____ District of California _____

396 SD
PAGE 257

GREETING:

Whereas lately, in the District Court of the United States for the Southern District of California, ~~before you~~, in a cause between The United States, appellants, and Jacob L. Sargent, Roswell C. Sargent, Bradley V. Sargent, and Robert S. Carlisle, substituted for Antonio and Faustino Estrada, appellees, wherein the decree of the said District Court entered on the thirteenth day of June, A.D. 1862, is in the following words, viz:

"It is ordered, adjudged, and decreed that that said decree and decision of the said commissioners, confirming the validity of the title, be and the same is hereby affirmed; and it is hereby further ordered, adjudged, and decreed that the claim of the appellees; the said Jacob L. Sargent, Roswell C. Sargent, Bradley V. Sargent, and Robert S. Carlisle, be, and the same is hereby confirmed to them to the extent and quantity of one square league, and for no more, being the same land described in the grant, and of which possession by the said appellees was duly proved; provided, that the said quantity of land, now hereby confirmed to them be contained within the boundaries called for in said grant and map referred to therein; and if there be less than the said named quantity of one square league within the said boundaries, then such less quantity is hereby adjudged, decreed, and confirmed to the said appellees."

396 SD
PAGE 268

as by the inspection of the transcript of the record _____
_____ of the said District
Court, which was brought into the Supreme Court of the United States by virtue of an appeal
agreeably to the Act of Congress, _____
_____ in such case made and provided, fully and at large appears

And whereas, in the present term of December in the year of our Lord one thousand eight hundred and Sixty-six, the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and ~~was argued by counsel.~~ ~~On consideration whereof,~~ on the motion of Mr. Attorney General Stanbery of counsel for the appellees, to dismiss this appeal, because the said transcript of the record was not filed during the term next succeeding the appeal. On consideration whereof, it is the opinion of this court that the motion should be granted, on the ground that the appeal had not been prosecuted in the manner directed, and within the time limited by the act of Congress for filing the transcript in this court during the next succeeding term as aforesaid, it is therefore now here ordered, and decreed by this court that this appeal be and the same is hereby dismissed. 28 Jany.

396 SD
PAGE 269

*You, therefore, are hereby commanded that such* ________________ *proceedings be had in said cause,* ________________________________________________

*as, according to right and justice, and the laws of the United States, ought to be had, the said* appeal *notwithstanding:*

*Witness the Honorable* Salmon P. Chase *, Chief Justice of said Supreme Court, the* first *Monday of* December *, in the year of our Lord one thousand eight hundred and* sixty-six.

COSTS OF—
*Clerk* . . . . $ ~~~~
*Attorney* . . $ ~~~~
$ ~~~~

~~Taxed by~~ D. W. Middleton

*Clerk of the Supreme Court of the United States.*

No. 181, December Term, 1866.

MANDATE
SUPREME COURT UNITED STATES

Armand v. U. States.

Filed Aug 12 1867
[illegible]
Clerk

PAGE 270
396 SD

396 SD
PAGE 271

United States of America
South[n] Dist[t] Cala } ss

The President of the United States
To
David Spence & Rafael Sanchez. Greeting

You are hereby Commanded. that all business and
Excuses being laid aside You be and appear in Your
proper person before John D Wheeler Clerk of U. S. Dist
Court for the South[n] Dist[t] Cala & Ex Officio Commissioner
of the U. S. for the Dist[t] of Cala at his office in
Monterey Cal. at 10. O, clock a[m] this day, then &
there to testify in a certain Cause now pending
in the Dist[t] Court of the U. S. for the South[n] Dist[t] of
Cal wherein Nat[l] Commercial are Claimants
& the U. States, on part of Claimants
And hereof fail not under the Penalty
of Five Hundred Dollars
Witness my hand and the Seal
of the U. S. Dist[t] Court aforesaid hereunto
affixed this the 16[th] day of April
A D 1862

John D Wheeler Clerk
& Ex Offic U. S. Com[r]

A true Copy
H L Burnes U. S. Marshal
Deputy

No 396

A. Remandat

v.

United States

Subpoena

Copy

396 SD
PAGE 272

396 SD
PAGE 273

Gilroy Feb 9th 1861

Dear Sir

I have a Stipulation signed by J. R. Citchell U.S. District Attorney for the Southern District of California allowing me to take Depositions in the Case of Antonio & Faustino Germans Appellants vs. The United States, Appellee No 396 on the Southern District. ~~before~~ any Commissioner in San Francisco, of the following witnesses Rafel Gonzales. John Gilroy. Nicodemus Gilroy. Manuel Larrio & Jose Dionte Ortega. ~~to be used on~~ the part of Germans. Herein I enclose you copy of Notice.

Antonio & Faustino Germans } U.S. Southern Dist
vs. Appellants } Court for Cal
The United States } No 396.
Appellee } "Inmates."

To U.S. Dist Atty N. District

Please take notice that the Depositions of John Gilroy, Rafel Gonzales, Nicodemus Gilroy, Manuel Larrio & Jose Dionten Ortega will be taken before U.S. Commissioner

(over)

Williams at his office in the building occupied by U.S. Dist & Circuit Courts opposite Post office in San Francisco, on Wednesday the 14th inst at 10 o'clock A.M. to continue until finished from day to day.

Feb 9th 1861

B. F. Ansteny
Atty for
Germans &
Sargent & Casserly

356 SD
273-A