

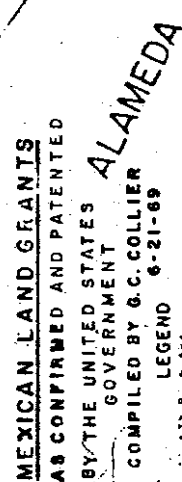
MEXICAN LAND GRANTS
IN
CONTRA COSTA
COUNTY

by
GEORGE C. COLLIER

MEXICAN LAND CASES
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George C. Collier

COUNTRY

50 - 51



COMPILED BY
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Preface

In this short book I have attempted, by using the Mexican Land Cases of Contra Costa County, to illustrate the almost impossible situation the Mexican land owners of California,, New Mexico and Arizona were faced with in trying to prove their ownership of the land which had been granted to them by the Spanish and Mexican governments before the American acquisition of the Mexican territory above the present-day boundary between Mexico and the United States.

For more than two generations, the people of this territory had free use of their lands and were at peace with their neighbors. After the war between the United States and Mexico ended, the Anglo-Americans entered the territories which Mexico ceded to the United States and told the Mexicans they must use a legal system and a language foreign to them to prove they owned the land they had grown up on and had always known as their own.

Being a conquered people, they were forced to comply or surrender their homes without a struggle. Faced with these alternatives, they chose to comply; but at a great disadvantage.

Confronted with a language few of them could understand, and by a legal system and business methods none of them understood, the Mexicans of California were prime victims for the clever land-grabbers, Anglo-American settlers and dishonest lawyers. The land tax, which was as much of a mystery to them as the legal system, added to their troubles.

Perhaps the United States government could have found a more equitable way to have settled the land grant problems in the ceded territories, but the pressures, both political and economic, forced a quick answer. The Act of March 3, 1851, was the result.

This work is the culmination of about fourteen years of research among county, state and federal archives, libraries, legal documents and history books, treatises on land laws, the works of other writers and special reports. It is unnecessary to list the written

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sources used, at this time, as the appropriate works are listed after each chapter. I must, however, recognize some of the people who have helped to make this work possible.

Mr. Robert Becker, Mr. John Barr Tompkins and the staff of the Bancroft Library at the University of California, Berkeley, showed much patience in guiding me to books, microfilm documents and maps from which I drew much of the material used. Mr. Becker spent much time in reviewing my work and showing me how it might be improved.

Mr. George H. Chapman, County Recorder for San Joaquin County, generously supplied me with maps and documents concerning Rancho El Pescadero.

Mr. Gil Phelps, editor of the Contra Costa Gazette at Martinez, allowed me free and unlimited access to the old copies of the paper which concerned the period covered by this book.

The staff of the Clerk-Recorder's Office, Contra Costa County, at Martinez, provided me with documents which were invaluable.

The list would not be complete without mention of the title companies which have offices and staffs in Contra Costa County. Each of them provided me with copied of deeds, patents and other documents.

Without the kind help and coöperation of these people, my job would have been much more difficult.

George C. Collier

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Introduction

Between 1769 and 1823 a chain of twenty-one missions had been established along the coast of California between San Diego and Sonoma. They occupied or controlled most of the desirable lands along the coast and in the coast range. The missions, theoretically, were to hold the land in trust for the Indians and were supposed to use it for the benefit of the Indians.

Before the last of the twenty-one missions had been completed, the lands they controlled had increased to such an extent that, in some cases, the recognized boundaries of one coincided with those of the next. Each mission came to resemble the feudal states of medieval Europe. The mission and its necessary out-buildings were the center of activities wherein lived a few hundred to two thousand dependent Indians who worked for food, clothing, and shelter at tasks assigned to them.¹

These feudal estates were usually controlled by one or more padres of the Franciscan order, a Roman Catholic mendicant order founded by St. Francis of Assisi about 1209, and as few as three soldiers to provide protection from Indian raids.

As the mission fathers were the only ones in California to practice agriculture except, perhaps, for house gardens in or near presidios and pueblos, they soon became the prime source of wealth and dominated the territory. There were many times during the Spanish and Mexican periods, the soldiers and settlers were forced to depend solely upon the missions for food and clothing when the supply ships from Mexico failed to arrive.

The Spanish plan for missions in California, as in other parts of Spain's American empire, was that they be temporary in character. Their contemplated life was to be for ten years; for within that time, it was supposed the Indian would be sufficiently trained in the arts of civilization to assume the position of citizens. The missions were to become pueblos, and the mission churches were to become parish churches. The plan did not work in California as it had in other parts of the empire. The isolated position of the colony, perhaps, gave the California missionary the opportunity for —

independent action he would not have enjoyed in Sinaloa, Sonora or Chihuahua, and he soon assumed an attitude of ownership of the land which he, in later years, was reluctant to surrender.

The land grant system in California began with the first systematic land grants at the pueblo of San José de Guadalupe, the first Spanish pueblo established in Alta California.

Under orders from Governor Felipe de Neve, Lieutenant José Joaquin Moraga left the presidio of San Francisco in November, 1776, with nine soldiers and five settlers, with their families, who had come to California with Juan Bautista de Anza in 1775, to establish a settlement near San Francisco Bay. In his report to Viceroy Antonio María Bucareli y Ursúa, Neve wrote, "I resolved to withdraw nine soldiers from the company of this presidio (Monterey) and that of San Francisco, to which I added two recruits as settlers, which with the three already on hand completed the number of fourteen residents, which with their families ^{comprised} the number of sixty-six individuals, with which I founded the pueblo of San José de Galvez on the 29th day of November last (1776) near the head of the River Guadalupe".² The colonists built houses, dug an irrigation ditch and erected a dam and named the settlement San José de Guadalupe. The following year, again under the orders of Governor Neve, Moraga gave each colonist formal possession of a house lot and a tract of land sufficient to his needs.³ This was done under an ordinance from King Philip II, of Spain, which had been adopted as a part of the Laws of the Indies in 1590.⁴

Concerning the establishment of the pueblo, Hubert Howe Bancroft wrote, "As early as 1778, the governor complained that the lands (of San José) were nearer those of the mission (Santa Clara) than he had intended. At this early date also, the governor notes the influence of the friars as adverse to public progress. Before founding San José, he had considered the prospects of obtaining supplies from the mission. The missionaries well knew that such was the prospect; but on general principles, they were opposed to all establishments in the country save their own."

The first Spanish colonial law concerning private ownership of land which was to affect California, was that of 1773. On August

17, of that year, Viceroy Bucareli, "with the desire to establish population more speedily in the new establishments", granted to Captain Fernando Rivéra y Moncada the power to distribute lands to private ownership.⁵ Under this authority, Manuel Butron, a soldier of the Monterey Company, solicited Captain Rivéra for a one hundred and forty vara parcel near Mission San Carlos Borremo in Carmel Valley. He was given possession, but it appears it was soon abandoned.⁶

In 1779, Governor Neve wrote a set of regulations for the governing of the province of California. The regulations were approved by royal order on October 24, 1781. The first eighteen articles dealt primarily with the colonization of the province and the distribution of public lands. The land grant system was introduced into California under these regulations in 1784, during the second administration of Pedro Fages. Because of a lack of responsible petitioners, or because of the preëmption of most of the desirable lands by the missions, the Spanish governors who succeeded Fages added fewer than twenty grants to an initial three concessions.⁷

To supplement previous colonial laws, the Cortes or legislative body of Spain, adopted a decree January 4, 1813, which was "demanded for the welfare of the pueblos, and the improvement of agriculture and industry". The first eighteen sections clarified the previous colonial acts. This was the last of the Spanish laws to affect the New World except for Cuba. Revolution had erupted in all of Spain's American colonies.

After Mexico won its independence from Spain by revolution (1810-1821), Colonel Agustín de Iturbide, who had established himself at the head of the Mexican government as "Emperor Agustín I", presented to the congress a colonization law which was passed by the "Junta Nacional Instituyente". It was referred to the imperial council of state and became law in January, 1823.⁸ The law was written to expedite the settling of Texas, but a few grants are supposed to have been granted under this act in California; the San Pablo grant to Francisco Castro probably came under this act. The law was nullified March 29, 1823, when Iturbide abdicated his powers and the Republic of Mexico was established.

Following the collapse of Iturbide's power, the Mexican government, in an effort to encourage settlement of the northern provinces, including California, passed the liberal colonization act of 1824. Article 3 of this act provided for the rapid execution of the act; article 8 declared that Mexican citizens were to be preferred in the distribution of land; articles 4 and 12 set certain limits for concessions. Among these limits was a provision which forbade territorial governors to make grants of land within ten leagues (approximately thirty miles) of the sea coast without previous approval of the supreme government. The territorial deputation of California petitioned the central government in 1840, asking that the law be extended so as to include lands lying within these limits, and that the grants already made within these limits be confirmed. The petition was ^{apparently} ignored, along with the provision, as California governors continued to grant lands within these limits, and these grants were later recognized by the United States.

The colonial act of 1824, was supplemented by the act of November 21, 1828, which clarified the former act and liberalized some sections of it. Even under such favorable legislation as this act represented, few grants were made in Alta California until after the secularization of the missions had begun. This was, perhaps, because one section of the act specified that where there were missions, the land which they occupied or claimed could not be colonized.

Although actual secularization of California missions did not seriously begin until 1834, the demand for it had long been growing. As early as 1813, the Cortes of Spain had shown impatience at the long drawn-out existence of the missions in America, and had passed a decree providing for at least partial secularization for those missions which had been established for ten years or more.⁹

Governor José María Enchiandia (1825-1831) presented a plan for the secularization of California missions in 1826. The movement reached its climax when the Mexican government passed the secularization act of 1833. Governor José Figueroa began enforcing the act in 1834, and Governor Manuel Micheltoresa (1842-1845) saw to its final execution.

In regards to this secularization act, Robert Glass Cleland points out that, "Ostensibly, the secularization act was designed to

benefit/ the Indians and make them self-sustaining. Actually, it led to the rapid disintegration of mission-controlled communities, scattered the partially civilized neophytes like sheep without a shepherd, ushered in a half-century's tragic aftermath of wretchedness and poverty, brought about the virtual extinction of the mission system in the province, and by throwing open the millions of acres to private denouncement, revolutionized the departmental land system and made the rancho the dominant economic and social institution of California".¹⁰

By 1846, there were more than five hundred ranchos in the province. All but a couple of dozen or so originated during the Mexican period, and were carved out of land once controlled by the missions. Seventeen of these ranchos were located wholly or partially within the present boundaries of Contra Costa County.

Land grants were accelerated to some extent by the colonization act of 1828. This act provided that anyone desiring a concession of land should present a request in the form of a petition to the governor of the territory stating his name, age, country and vocation, the quantity desired and, as nearly as possible, the description of the land. The petition was usually, but not always, accompanied by a crude map called the "diseño". The governor was then to direct the prefect or local political officer to examine the land requested and report whether it could be granted without injury to another person or to the public. The official's report was written upon, or attached to the petition, and returned to the governor. On the conditions of the report, the petition was granted or denied. The original petition and report, together with a copy of the grant, were so attached as to form a single document called the "expediente" and forwarded to the territorial deputation or the departmental assembly for approval. On approval, the expediente was filed in the archives and the petitioner received the original of the grant which constituted the title to the land.

To validate the grant, the grantee was required to occupy the land in person, or through a representative; erect a house suitable to his needs; move livestock onto the land; build corrals and fences without blocking access roads and trails which were used

before his occupancy. Non-Compliance with these terms jeopardized the grantee's title and made the grant liable to denouncement by a third person. When this happened, the title was transferred to the denouncing party. Invalidation, when it occurred, did not automatically return the land to the public domain. Once granted, the land lost its identity as public land and was transferred as private land.

Concessions of land in California by the Mexican government were of three kinds. By exact boundaries; for quantity within out-boundaries; and by locally accepted name. The first is self-explanatory. In the second case, the petitioner described a general broad area, within generally recognized geographical limits, and presented a *diseño* showing geographical landmarks within which was situated the quantity of land petitioned for. The third type concerned specific areas which were known locally and publicly by particular names. One such example was "El Valle de San José" which was finally granted to John Warner and became known as "Warner's Ranch" situated in the mountains east of San Diego.

The land grant system in California, as well as in other parts of the American west, was disrupted by the outbreak of war between the United States and Mexico in 1846.

Shortly after the American army invaded California, the United States Congress declared that land grants made after July, 1846, would not be recognized by the United States as legal. Governor Pio Pico, in spite of this declaration, distributed concessions at a rate unprecedented during the administrations of any preceding governor. Many of these grants were later found to have been pre-dated.

The Mexican War was ended by the Treaty of Guadalupe Hidalgo. The treaty, as first written, contained in Article X a provision which would have validated all legitimate Spanish and Mexican land grants in territories ceded to the United States by Mexico by the treaty. This article was deleted by the congress of the United States, and other changes were made which perhaps worked to the disadvantage of the grantees. The senate inserted a new Article IX which was adapted from Article III of the Louisiana Treaty.

Changes were also made in articles XI, XII, and XVIII, but none of the changes, perhaps, had the political and economic repercussions on the Mexican land owners as the deletion of Article X.

The government of the United States, by suppressing Article IX of the Treaty of Guadalupe Hidalgo, and substituting Article III of the Louisiana Treaty, did not intend to diminish in any way what was agreed upon by Article IX in favor of the inhabitants of the territories ceded by Mexico. In consequence, all of the privileges and guarantees, civil, political and religious, covered by the deleted Article IX were protected. By suppressing Article X of the treaty, the United States government did not, in any way, intend to annul the grants of land made by Spain or Mexico,¹¹ but placed the burden of proof of ownership and legal title upon the grantees. This act by the United States was to cause years of trouble for the claimants of Spanish and Mexican land grants, and to the eventual loss of lands and homes for many of the Mexican families in those territories.

In conformity with the articles of the Treaty of Guadalupe Hidalgo, William Carey Jones was sent to California as a confidential agent of the United States government to examine the land grant records. His duties were to classify all grants or claims derived from Spanish and Mexican authorities, and to list those originating during the war with Mexico. Jones began his investigations at Monterey in September, 1849, and continued them through San Francisco, San José, Los Angeles, San Diego and Mexico City. He completed his report at Washington, D.C. on April 10, 1850.¹²

In his book, "Land in California", W.W. Robinson wrote: "Remarkable in scope and detail, as well as being a model of clarity and direct writing, the Jones Report is a landmark in the history of land titles in California". Paul W. Gates, in his work on "Adjudication of Spanish-Mexican Land Grants in California", accused Jones of confusing archival evidence with hearsay and other non-official sources. As one compares the Jones Report with that of Henry W. Halleck, the reports of the United States Land Commission and of the United States District Courts in California, one cannot help but feel that Gates' criticisms are unjustified.

Soon after California was admitted into the Union, Senator William McKendree Gwin of California introduced a bill into congress in opposition to Senators Thomas Hart Benton of Missouri, and John C. Fremont of California relative to the land problem in California. Benton's measure sought to maintain the status quo of the Spanish-Mexican land grants and left to the United States District Attorney the final decision on all doubtful claims. Fremont's bill proposed to create a board of land commissioners to determine the validity of all existing grants, and allow the claimants the right of appeal from the decision of the board to the federal courts.

Gwin, on the other hand, showed more consideration for his constituency which was quite strongly squatter-oriented. The Anglo-Americans entering California after the war in search of land and gold, felt strongly they should be permitted to take up lands in the new territory as others had done in the new territories opened to settlement in the Mississippi Valley. They felt that the Mexican land owner was controlling more land than he needed, and many of the settlers squatted on the ranchos and maintained their positions by force of arms. Gwin's bill was adopted and passed by congress as "The Act of March 3, 1851", under the title "An Act to ascertain and settle the Private Land Claims in the State of California". This act opened one of the most notorious land-grabbing periods in the history of the nation, in spite of the work of the land commission appointed by the president under the first article of this act, and the work of the United States District Courts.

Under this act, persons claiming title under Spanish and Mexican authority were required to present their claims and proofs to the commission within two years. The commission was a judicial body with jurisdiction to confirm or reject claims, subject to the right of appeal to the United States District Courts and, from these courts to the United States Supreme Court.

Following a decree of confirmation of a grant, the land was surveyed under the direction of the office of the United States Surveyor General for California, and a map of the survey was prepared. Thereafter, upon proof presented to the United States General Land Office of the confirmation and approval of the survey,

letters of patent, commonly referred to as the "patent", were issued by that office over the signature of the president of the United States to the patentee.

Confirmation of a grant under the Act of March 3, 1851, did not determine the rights or claims of third parties. These adverse claims of third parties were to be decided by local courts. The failure of proceedings under the Act to satisfy titles, though confirmed, was remedied by the Act of June 14, 1860. This Act not only reduced delay, but by bringing the interested parties before the court, did away with disputes arising from independently made, and sometimes overlapping government surveys. Furthermore, it gave assurance that the title of the patentee, and of his successors would be free from claims of third persons. The absence of such procedure earlier had resulted in litigations over conflicting claims, and even over conflicting patents.¹³

The patent, issued upon confirmation of a claim, conveyed all interest of the United States in the land, and was not subject to attack. Under the Act of March 3, 1851, it could not be directly attacked by the United States, or those claiming under it, after six years from the issuance of the patent.¹⁴ The decree of confirmation was conclusive, both as to validity of the grant, regardless of defects in the original Spanish or Mexican grant, and to the boundaries of the land.

It is important to note, however, that title, as confirmed and patented, did not vest title in the patentee. Confirmation referred back to and took effect as of the date upon which the claim was filed with the Board of Land Commissioners. Thus, as in the case of most land claims in California, if the claimant had mortgaged, sold, bargained, or in any way had encumbered his interests in the land prior to the date of patent, the title reverted to the interest or interests of the third interested party or parties.

The Board of Land Commissioners, as appointed by President Millard Fillmore, was composed of Harry I. Thornton, James Wilson, and Hiland Hall. President Franklin Pierce appointed Alpheus Felch, Thompson Campbell and E.A. Thompson in March, 1853. Campbell resigned and was succeeded by S. B. Farwell the following year.

The Board began its work in San Francisco in January, 1852, but its first decision was not given until August. Its last session was held in 1858.

Judge Ogden Hoffman presided over the United States District Court for the Northern District of California before which many of the appeals from the decisions of the Board of Land Commissioners were heard. He had one of the most brilliant legal minds of the period. This is illustrated conclusively in the many written decisions which he passed down. He was born in New York City October 16, 1822, and began the study of law at Harvard at the age of nineteen. He practiced law for a time in New York before coming to California. He reached San Francisco in May, 1850, and shortly thereafter, was appointed to a judgeship. President Fillmore appointed him judge of the U.S. District Court in March, 1851. He died at San Francisco in August, 1891.¹⁵

The number of land cases determined by the Board of Land Commissioners varies somewhat, depending upon the reporter and the means of classification. Judge Hoffman listed 813 cases. William M. Morrow, in his "Spanish and Mexican Private Land Claims", (1923), broke them down into 604 finally confirmed, 190 finally rejected, and 19 withdrawn. Jacob N. Bowman gives total number of cases in California, as determined by the Board, the court of appeal, the U.S. Congress and the U.S. Supreme Court as 848. Hubert Howe Bancroft listed 813 claims presented; 591 as finally confirmed; 203 rejected; 264 finally settled by the Board; 450 by the District Court; and 99 by the Supreme Court by 1862.

The account which follows is a general survey of each of the Mexican land grants within or partially within the boundaries of Contra Costa County, California, from the date of concession to the date of the patent. In some degree, it points to some of the problems the grantees were faced with in their attempts to prove ownership of land legally granted to them by the Spanish and Mexican governments.

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Chapter One
Rancho San Pablo

Francisco María Castro was born in the State of Sinaloa, Mexico in 1775. He came to San Francisco before 1800, in which year he became alcalde. He served 13 years in the army as an artilleryman and gained the rank of corporal before he retired. He died in 1831, leaving a widow, Gabriela Berryesa; seven sons - Alvino, Antonio, Gabriel Vicente, Jesus María, Joaquin Isidro, Juan José and Victor; and four daughters - María de Jesus, María Gregoria, who married José Ramon Estrada (both died before 1852 without issue), Francisco who married Joaquin Moraga (co-grantee of Rancho Laguna de los Palos Colrados) and died before 1852 leaving five children: Francisca María, José, María de los Angeles, Luisa María de Briones, and Guadalupe who married Vicente Martinez; and Martina who married Juan Bautista Alvarado, governor of California from December 7, 1836 to December 31, 1842.¹

Francisco took possession of a large tract of land in 1814, which was described as being situated on the eastern shore of San Francisco Bay and was known by the name "Los Cuchigunes". The home he built with the help of the Indians was described as a "walled house", having a stone fence. He planted a garden with many fruit trees and a vineyard, built a mill and sowed wheat, corn and beans. He was reported to have had six hundred cattle and five hundred horses. He petitioned Governor Pablo Vicente de Sola for a concession to the land in 1817, but learned that it was claimed by the padres at Mission San Francisco de Assís (Dolores) as a grazing ground. He had to wait until the padres relinquished their claim.

Francisco renewed his request in 1823 by presenting a petition to Governor Antonio Luis Argüello for a tract of land three square leagues in extent, "situated on the coast of Mission San José, parallel with the port of San Francisco adjoining the property of sergeant Luis Peralta, up to the line of the ridge of mountains to the place called 'Los Cuchigunes' at the margin of a deep creek that there springs; at something like five hundred varas the house is built, distant three leagues from the residence of Peralta, known as the hill of San Antonio, and up the ravine to El Pinole

at the north".² Governor Argüello issued the concession April 15, 1823, and it was consented to by the territorial deputation.

Francisco died before the title issued and, on June 12, 1834, Joaquin Isidro Castro renewed the petition made by Francisco before his death. Governor José Figueroa recognized the grant and ordered a formal title to be issued to Joaquin Isidro.

One year later, June 23, 1835, Joaquin presented a petition to Governor Figueroa, "that I have already solicited from your excellency the possession of Rancho San Pablo which we, the heirs of my deceased father actually occupy, as I have already stated in my first petition. Through an inadvertance, I have neglected to ask for the extent of land included in the plan (diseño) annexed thereto and have said that we only claim the three square leagues that we formally occupied that are too small for the number of cattle grazing on the same, which number we are exerting ourselves to increase. I solicit you in the name of the other heirs, and as their attorney in fact, that said petition be understood to include for the three leagues which we occupied, the augmentation of the land described in the aforesaid plan".³ Governor Figueroa presented the petition to the territorial deputation, and Francisco del Castillo Negrete, secretary of that body, returned a favorable report, and on August 14, 1835, Figueroa issued title to four square leagues to the heirs of Francisco María Castro.

The will left by Francisco Castro divided the rancho among the members of his family. His wife, Gabriela, received an undivided one-half of the rancho, and the remainder was to be divided equally among his eleven children. The children of Francisca and Joaquin Moraga inherited their mother's interest, and when Guadalupe died, her two children, Francisca and Merced, inherited her share. Alvino, María de Jesus and María died, and their shares were inherited by their mother, Gabriela.⁴

At the insistence of Gabriela, an effort was made to divide the rancho in 1850. Juan B. Alvarado drew up a proposition for partition, but had included Rancho El Sobrante which had been granted to Juan José and Victor Castro. The two brothers objected to the inclusion of their separate property and the partition failed.⁵

On August 12, 1851, Gabriela conveyed her undivided interests (14/22) in Rancho San Pablo to Martina.⁶ She died December 18, 1851, of "senile dementia". The other children of Francisco Castro claimed the deed was not sealed when it was signed, and was, therefore void. Martina and Juan B. Alvarado were later accused of acquiring the deed from Gabriela by convincing her that it was necessary to concentrate the property under fewer ownerships in order to procure confirmation of title from the United States Board of Land Commissioners, and that upon confirmation and a boundary settlement, they would renounce in her favor, and that of the other heirs. Other charges of fraud were brought against the Alvarados which were later sustained by testimony.

The deed from Gabriela to Martina, though dated August 4, 1851, was proven to have been made August 12, 1851, and on the same day, Martina gave Juan B. Espejo power of attorney, authorizing him, among other things, to make contracts with lawyers. Under this authority, Martina, through Espejo, contracted with Eugene Musson, on August 16, 1851, to defend her against adverse claims of her brothers to the rancho. For this service, Musson was to receive an undivided 1/10 interest in Rancho San Pablo.

Musson is said to have influenced Joaquin Castro to petition the Probate Court of Contra Costa County, on November 24, 1851, for probate of the will of Francisco Maria Castro. The following day, Joaquin was appointed special administrator of the estate. On January 14, 1852, Musson entered into a contract with Joaquin to act as his counsel in the administration of the estate, and in obtaining confirmation of title from the Board of Land Commissioners for which he was to receive another one-tenth undivided interest in the rancho.⁷

The probate of the will was contested by the heirs and the case was taken on appeal to the Supreme Court of the State of California.⁸ Before a decision could be rendered by the Court, J. B. Alvarado proposed a compromise, and an agreement was drawn up. Pending negotiations on the agreement, the Supreme Court announced its decision, and the agreement was voided.

Joaquin Isidro Castro's petition to the Board of Land Commissioners, asking for confirmation of title to the rancho in the name of the heirs of Francisco Maria Castro, was filed October 9, 1852. The

expediente and the will of Francisco Castro were introduced as evidence. The Board issued a decree of confirmation April 17, 1855, to five square leagues. An appeal from the final decision of the Board was taken to the United States District Court for the Northern District of California, a clerical error was discovered in the decree, but an agreement was reached among the principals in the case and a corrected copy of the decree, certified by the United States Surveyor General for California was substituted.

Judge Ogden Hoffman, in his written decision of February 24, 1858, wrote: "it is by the court hereby ordained, adjudged and decreed that the said decision be and the same is hereby decreed that the said decision be and the same is hereby affirmed, and it is likewise further ordered, adjudged and decreed that the claim of the said appellee is a good and valid claim and the same is hereby confirmed to the extent of four square leagues, a little over.

The land of which confirmation is hereby given...contains four square leagues, and a little over, and is bounded as follows, to wit: On the south by the serrito (sic) of San Antonio; on the north by the Cañada del Pinole; on the southwest by a high hill (Lomas Alta); and on the west by the Bay of San Pablo. Reference for more certainty being had to the maps in the case referred to in the depositions on file".⁹

The Attorney General of the United States gave notice that the appeal in this case would not be prosecuted to the Supreme Court, and on March 10, 1858, the District Court gave the heirs of Francisco Maria Castro "leave to proceed...as under final decree".

An agreement was drawn up on July 14, 1856, between John M. Saunders, H.P. Hepburn and Eugene Masson on one side, and Juan B. and Martina Alvarado, together with the heirs of Francisco Castro and all who professed rights and interests (real or fancied) in San Pablo Rancho, as the other parties. This agreement was allegedly made "in order to settle all disputes concerning said rancho and make amicable partition of the same". The heirs, and others who claimed interest in the rancho were to pay Saunders, Hepburn and Musson two thousand dollars as costs of litigation assessed by the agreement.

Fifty acres, including their house and gardens, were to be secured to the Alvarados. One tenth of the rancho was to be divided into three equal parts to be distributed to Sauders, Hepburn and Musson, for which they were to denounce all other rights, title or interest in the remainder. The remainder was then to be divided in proportions according to claimed interests among the heirs and the claimants in interest.

On October 10, 1859, Joaquin Isidro Castro published a notice, "Caution to all purchasers of land. The undersigned heirs and devisees of Francisco Maria Castro, the original grantee of the Rancho de los Cuchigunes (San Pablo) in the counties of Contra Costa and Alameda hereby caution all who wish to purchase land in said rancho, not to buy from anyone who claims under the so-called "Partition Deed" of the Rancho San Pablo recorded at Martinez, Book of Records Volume 6, pages 1 to 10, as the said deed is fraudulent, null and void, and will not convey any legal title to purchaser". The "Partition Deed" referred to in the notice was set aside by the Supreme Court of the State of California in 1886.¹⁰

A survey of the rancho was ordered by the District Court. It was executed by Nicholas Gray, United States Deputy Surveyor. Judge Ogden Hoffman ruled the survey was made contrary to the original grant of April 15, 1823, and set it aside as erroneous, and ordered a survey made in accordance with the order given by the Court April 17, 1855. A new survey, dated May 5, 1863, and approved by E.F. Beale, United States Surveyor General for California was introduced into court August 17, 1864. The survey was approved by Judge Hoffman who, on the same day, issued a final decree of confirmation for 17,938.59 acres to Joaquin Isidro Castro, Administrator of the estate of Francisco Maria Castro.

Judge Hoffman's decision was taken on appeal to the United States Circuit Court. That court affirmed the decision and the proceedings in the case "The United States vs Joaquin Castro" became final. Ulysses S. Grant, President of the United States, signed the patent giving title to Rancho San Pablo to the heirs of Francisco Maria Castro on January 31, 1873.¹¹

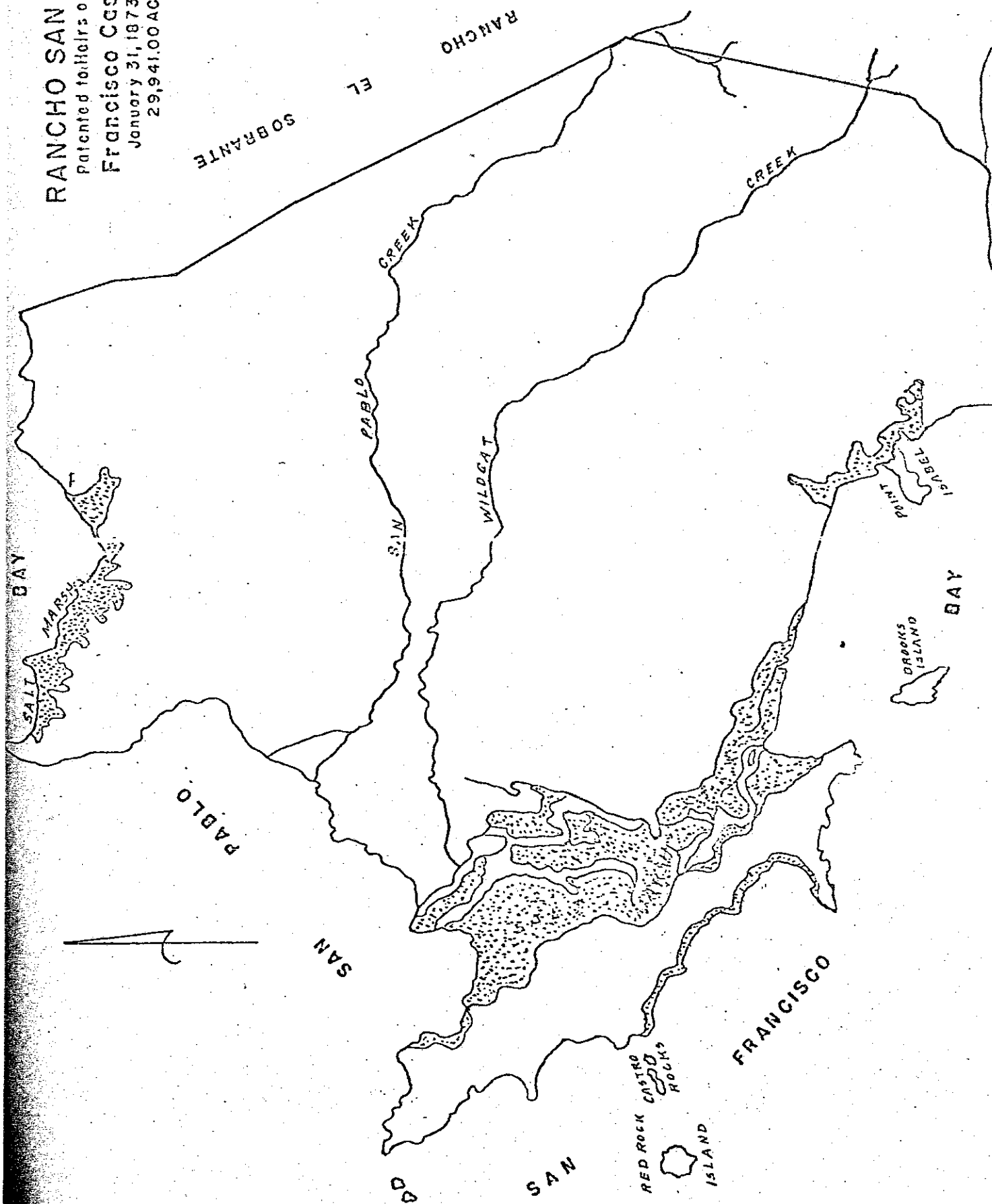
RANCHO SAN PABLO

Patented to heirs of

Francisco Castro

January 31, 1873

29,941.00 AC.



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Chapter Two
Rancho El Pinole

Ignacio Martinez was born in Mexico City in 1774. He came to California about 1790, and entered the army as a cadet in the Santa Barbara Company. He was commissioned a second lieutenant in the San Diego Company in 1806, and served much of his time there as paymaster. In 1817, Martinez was recommended for promotion to lieutenant of the Santa Barbara Company, but an error made at Madrid or Mexico City, resulted in a commission for the San Francisco Company. As comandante at San Francisco, 1822-1827, and again from 1828-1832, he participated in a number of expeditions against the Indians. He served as attorney in some criminal cases, and as a member of the town council in 1824 and 1827. Martinez retired with full pay in 1831, credited with forty-one years of service.¹

In her petition before the United States Board of Land Commissioners, his widow, Maria Antonia Martinez, stated that in the year 1823, while still in the service, Ignacio Martinez acquired Rancho El Pinole. He moved his family to the rancho from San José, where he served as a councilman on 1834 and 1835.

Bruno Valencia, mayordomo of the rancho for Martinez, later testified that he had been hired by Martinez on May 8, 1828, and that the family had been living on the rancho seven or eight years then.

In consideration of his military service, Governor Antonio Luis Argüello gave Ignacio title to a tract of land situated in Contra Costa known as Pinole y Cañada del Hambre in 1829. The grant papers had been lost, and on recommendation of the Committee on Colonization and Vacant Lands, and under the direction of the Departmental Assembly, Martinez applied to Governor Juan Bautista Alvarado for a grant of the same land. In this second petition, in addition to the three square leagues originally granted, he added a request for an additional square league because of the increase of his cattle. "Although this may appear considerable, the greater part is not fit for pasture, being composed of rocky hills and swamps. The better part is on the side of the 'siscar' and the Cañada del Hambre".²

On June 1, 1842, after all proceedings had been finished, Martinez received from Alvarado a grant to the land applied for, having for

its limits, "the mouth of the Cañada del Pinole, thence easterly with the same to the corral of Galindo; thence to a point on the Cañada del Hambre and along it to the Straits of Carquinez and terminating at the mouth of the Cañada del Pinole on the Bay of San Francisco."

On the same day, José Ramon Estrada, the prefect at San Francisco, received a communication from the Secretary of State addressed to the justices of the peace of Contra Costa and San José, directing that Teodora Soto be informed that her petition for, and her pretensions to the Cañada de Hambre were inadmissible, because the land belonged to Martinez.³

Martinez occupied and cultivated a large portion of the land, set out a vineyard and a pear orchard. He built a wooden house which was later replaced by an adobe house in Pinole Valley about two and a half miles from the bay. He built two others near by soon after for his sons José and Vicente, and their families. Vestiges of the foundations of these adobes may yet be found beneath the bushes and weeds which have overgrown them. Vicente later built an adobe home near the present town of Martinez. It became a part of the John Muir Historical Monument at Martinez in 1964.

Ignacio Martinez died in 1848, and was survived by his wife, Martina Arellanes, his daughters Encarnacion, Susana, Francisca, Rafaela, María Antonia, Dolores and Luisa, and his sons José and Vicente.

Susana married William M. Smith; María Antonia married William Antonio Richardson, an English sailor from the whaler Orion, who left the ship at San Francisco in 1822, and was allowed to remain in California by Governor Pablo Vicente Sola on condition he teach navigation and carpentry. Rafaela married Doctor Samuel J. Tennant, who became the first county physician for Contra Costa County in 1854. Vicente married Guadalupe, a daughter of Joaquin Moraga.⁴

In 1849, Colonel William M. Smith, acting as the agent for the Martinez family, engaged Thomas A. Brown to survey and lay out a one hundred and twenty acre townsite on the west bank of the

Arroyo del Hambre, fronting on the Straits of Carquinez. The lots were quickly sold, and the town of Martinez began to develop.⁵

A petition was filed with the United States Board of Land Commissioners July 8, 1852, in the names of María Antonia Martinez de Richardson, Juana Martinez de Altemirano, Susana Martinez de Smith, Rafaela Martinez de Tennent, María Concepcion Martinez, Dolores Martinez de Higuera, Francesca Martinez de Berreyesa, José Castro, Patficio Castro, Luis Castro, Victor Castro, Isabella Castro and manuela Castro asking for confirmation of title to Rancho El Pinole, containing four square leagues.⁶

After hearing the proofs and allegations in this case, the Board of Land Commissioners, on October 24, 1854, adjudged the claim valid and endorsed the decree of confirmation. As the United States Attorney did not press the appeal, a survey was ordered, executed and returned to the United States Surveyor General for California. James Tennent objected to the survey on October 24, 1859, and a new survey was ordered on March 15, 1860.

The claimants objected to the second survey, arguing that it excluded a part of the land petitioned for and confirmed by the Board of Land Commissioners; it tended to substitute quantity for quality without reference to boundaries designated, or metes and bounds as called for in the decree of confirmation; the survey did not conform to the map attached to the expediente; conferred land which did not conform to or follow landmarks referred to in the decree of confirmation; it excluded lands within the boundaries described by W.A. Richardson; the survey did not follow natural boundaries described in the decree of confirmation and it excluded the tract of land known as Cañada de Hambre.⁷

The case was referred to the United States District Court for the Northern District of California. Judge Ogden Hoffman, in his written opinion declared that the decree of confirmation described the boundaries precisely as given in the grant. No quantity was specified, but reference, for greater certainty, was made to the map, the expediente and the deposition of W.A. Richardson. Judge

Hoffman wrote, "It is contended that the grant is by metes and bounds and all the land within the exterior limits should be surveyed to the claimants. But this claim seems wholly inadmissible".⁸

At this point, Judge Hoffman made it quite clear that the Spanish words "poco mas o menos" were to be construed as meaning a small fraction, not acres or square leagues, and had no place in a system of survey like the American. He then continued, "The quantity embraced within the exterior limits of El Pinole is about seven (square) leagues, nearly twice the quantity mentioned in the grant. It is plain then that neither the previous ruling of this court, nor the decision of the Supreme Court would authorize the confirmation of this claim for a greater quantity than four leagues."

He expressed the contention that to permit a tract of land of nearly double the extent solicited for to be taken from the public domain as wholly inadmissible, and pointed out to the claimants that the decree of confirmation was not restricted to any specific quantity, but in the opinion of the Board of Land Commissioners, the deposition of W.A. Richardson showed there were no more than four leagues in the grant.

Judge Hoffman recommended the survey be accepted and the grant confirmed to the extent of four leagues. An appeal was referred to the United Supreme Court, and on September 29, 1866, the appeal was dismissed, and the decision of the United States District Court, concerning the survey became final.

The patent was signed by President Andrew Johnson on August 22, 1868, for a tract of land embracing 7,760.64 acres.⁹

RANCHO EL PINOLE

Patented to

Maria Antonia Martinez

da Richardson

August 22, 1888

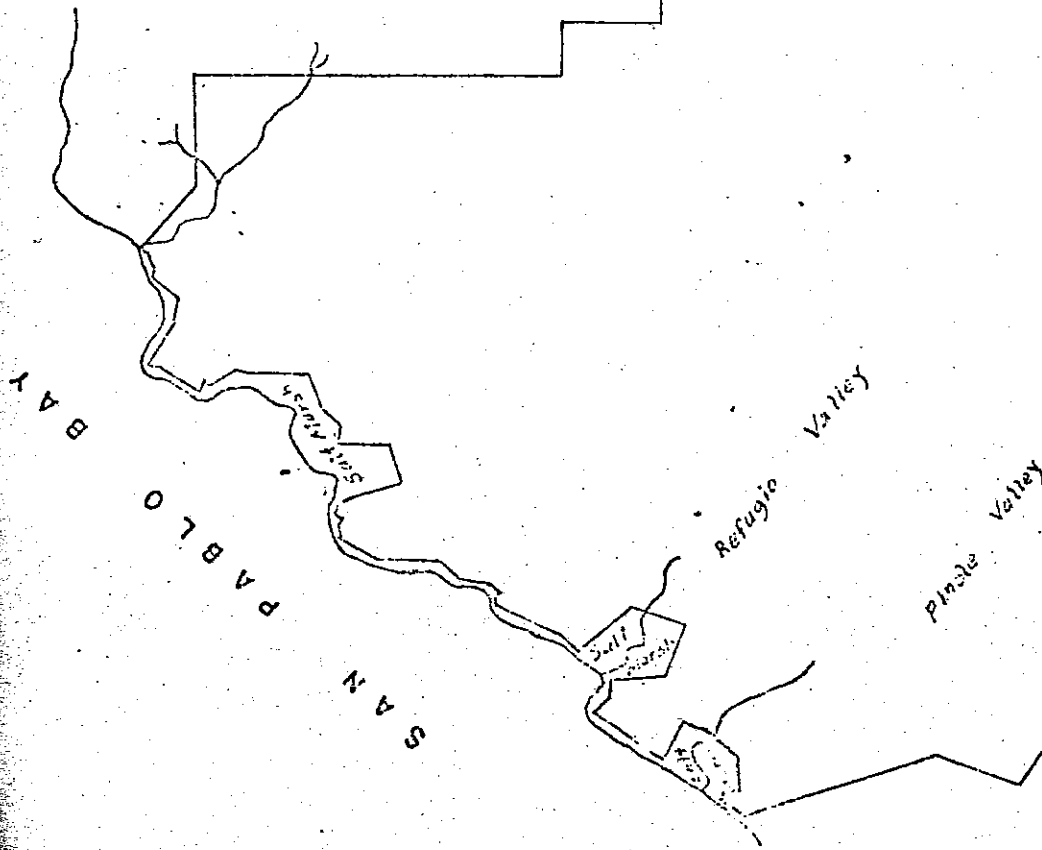
3,750,640.

Rancho Canada
del Hombre
y las Bolsas

STRAITS OF CARQUINEZ

PUBLIC
LAND

Rancho de la Canada del Pinal



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Chapter Three Rancho Las Juntas

William F. Welch came to California in 1821, aboard the sailing ship "Lady Blackwood". While the ship was at anchor in Bodega Bay, Welch and another sailor jumped ship and made their way to San Francisco by launch. From there, Welch went to Los Angeles, where he spent two years, then moved to San José. He became a Mexican citizen, and while serving in the San Francisco militia, married María Antonia Galindo and established a home in San José.¹

In 1828, Welch petitioned for a tract of land near Mt. Diablo called "La Laguna de los Bolbones". Salvio Pacheco, then alcalde of San José, discovered that the land Welch had petitioned for was a portion of a tract known as "Monte del Diablo", for which he (Pacheco) had petitioned. Pacheco entered a protest with the governor of California and renewed his request for a concession to the land.

The governor's answer was clear and to the point; "The Englishman, William Willis...presented himself before this government, asking for the concession to a place called Laguna de los Bolbones. Inasmuch as there are, in the pueblo of San José de Guadalupe, lands sufficient on which the petitioner can maintain his flocks and herds, in accordance with the late Bando (Colonization Act of 1828) published in relation to the matter, the place petitioned for cannot be granted". Upon this refusal, Welch approached Captain Luis Antonio Argüello, ex-governor of California and then commander at the presidio of San Francisco, who gave him permission to occupy La Laguna de los Bolbones with his cattle. When Governor Enchiandia learned of Welch's occupancy, he reprimanded Argüello for exceeding his authority and immediately ordered Lieutenant Ignacio Martinez to vacate the land and fine Welch fifty dollars.² Whereupon Welch moved his cattle to Rancho El Pinole under an agreement with Martinez.

In need of pasture for his cattle, Welch finally located a tract of land situated between Monte del Diablo and El Pinole which was unclaimed. On request, he was allowed to occupy the land

and he moved his cattle there in 1832, and called the tract "Las Juntas". He petitioned Governor José Figueroa for a concession to the place and built an adobe house and a corral about a mile north of the junction of the two creek known today as Las Trampas and Walnut Creek.

Welch continued his residence in San José, but sent a majordomo to live on the land to watch over his cattle. Raiding Indians forced the majordomo to abandon the rancho. The house and corral were destroyed, and the cattle scattered.³ Due to illness at this time, Welch did not press for the concession until 1844. When he again presented a petition, Governor Manuel Micheltorena gave Welch title to three square leagues of the place called "Las Juntas" on February 21, 1844.⁴

It is uncertain when Welch died, but it was sometime between the date of acquisition and 1850. His widow and children moved to the rancho shortly after his death, and in 1850, Thomas A. Brown was engaged to survey an additional townsite on the eastern bank of the Arroyo del Hambre opposite the Town of Martinez as established in 1849 by Ignacio Martinez. The same year, 1850, Contra Costa County was established by an act of the State Legislature, and the Town of Martinez became the county seat.

When the family of William Welch asked the Probate Court of Contra Costa County to act on the estate of the deceased, Joseph Swanson was appointed executor. Acting in that capacity, he filed a petition with the United States Board of Land Commissioners on March 23, 1852, asking for confirmation of title to the rancho. After hearing the proofs and allegations, the Board declared the claim valid and confirmed the grant. An appeal was filed by the U.S. Attorney with the U.S. District Court for the Northern District of California, but on November 3, 1854, the U.S. Attorney gave notice the appeal would not be prosecuted. On the same day, the Court dismissed the appeal, and declared the action of the Board final, and ordered a survey executed and returned to the Court.

The survey was objected to by the claimants, and on May 20, 1862, Judge Ogden Hoffman, in expressing his legal opinion concerning the conflicting boundaries of Las Juntas, El Pinole

and Cañada del Hambre y las Bolsas, wrote that objections to the surveys of these three ranchos had been filed on the part of El Pinole and Las Juntas. It was contended that Rancho Cañada del Hambre y las Bolsas has been so located as to embrace a considerable area which is entirely within the exterior limits of the Pinole and Las Juntas Ranchos, without regards to the rights of selection of the claimants of the two ranchos.

In determining the location of the three leagues of Las Juntas Rancho, Hoffman said it would first be necessary to ascertain what the exterior limits of the tract granted were, and secondly, how far the right of selection of the particular location of the quantity of land is modified or controlled by the alleged grant to Soto of the Cañada del Hambre y las Bolsas.

Due to the vagueness of the exterior limits of Mexican grants, as represented by the diseño presented by the petitioner to the Committee on Colonization and Vacant Lands, the U.S. Board of Land Commissioners gave the claimants of the confirmed grant the right to select the location of the quantity (square leagues) stipulated in the grant, within the exterior boundaries as represented by the natural landmarks referred to in the diseño.

The expediente, in the case of Las Juntas, showed that on June 9, 1843, Welch petitioned for the place called Las Juntas upon which he had resided two years. The document annexed to the petition, and an order of the alcalde dated October 20, 1832, conceded the land as a loan, subject to the approval of the governor.⁵

On February 9, 1844, Welch presented a petition in which, after referring to his unsuccessful efforts to obtain Monte del Diablo, he stated that in 1832, he obtained a loan from the alcalde of the place called Las Juntas, which was located to the west of the lands of Juana Sanchez and of Monte del Diablo. By this petition, he solicited for a tract of land which he described as "bounded on the north by Arroyo del Hambre; east by the Arroyo de las Nueces; and south by the lands of Moraga". Welch had also described the tract as extending north and south three leagues, and from east to west one-half to three-fourths of a league.

On the same day, (February 9, 1844), the alcalde of San José certified that the western part of Las Juntas had been occupied by Welch for thirteen years or more, and that it belonged to no one else. The alcalde's description is as confusing as Welch's; he described its limits as the Arroyo del Hambre on the north, the Arroyo de las Nueces forming a boundary on the east, and also dividing it from the lands of Lorenzo Pacheco on the south, and bounded by the lands of Moraga on the west. The governor gave his decree of concession on February 21, 1844, and ordered the land measured. The grant was issued on the same day.

The decree of concession continued to confuse, it was for two leagues, and described the land as bounded on the east by the Arroyo de las Nueces and the lands of Juana Sanchez; south by the Nueces and the lands of Lorenzo Pacheco; west by the same arroyo (perhaps confusing it with Reliez Creek) and the lands of Moraga, and on the north by the Arroyo del Hambre and the lands of Ignacio Martinez.⁶

Judge Hoffman observed, "It might seem that there can be no difficulty in ascertaining a tract of land of which all the boundaries are known arroyos. On referring to the diseño we find the Arroyo de las Nueces represented as rising in the sierras to the west. After following it in a southerly direction for a considerable distance, it makes an abrupt bend and, joined by two tributary streams, it runs in a direction nearly north into the Straits of Carquinez. These straits are not, by name, laid down on the map, but the creek is represented as falling into what are described as 'esteros'. A Topographic map exhibited in the cause shows the creek at or near the point where the diseño represents it as falling into or becoming an estero, and is a salt marsh through which it pursues a somewhat sinuous course to the straits. The Arroyo del Hambre is also upon the map, but is represented as flowing from west to east, nearly at right angles to the course of the other streams, and falling into the esteros at a short distance from the mouth of the Nueces. The tract delineated thus, assumes nearly the shape of an inverted triangle. The Nueces, coming around its lower extremity, had been described as forming two legs of the triangle, while the del Hambre, flowing from

west to east, forms its base. It is found, however, that the draftsman of the diseño, though laying down the courses of the streams on the east and west, has fully mistaken that of del Hambre. The latter stream rises in the hills on the west, not far from Reliez Creek and, flowing in a course nearly north, falls into the Straits of Carquinez at a considerable distance to the west of the mouth of the Nueces..

The del Hambre, therefore, cannot serve as a northern boundary. If admitted as a boundary at all, it will form a portion of the western boundary. The northern boundary being the Straits of Carquinez".

Judge Hoffman argued that the northern boundary of Rancho Las Juntas, as described in the decree of confirmation, not being found in nature, other means had to be employed to determine that boundary.⁷

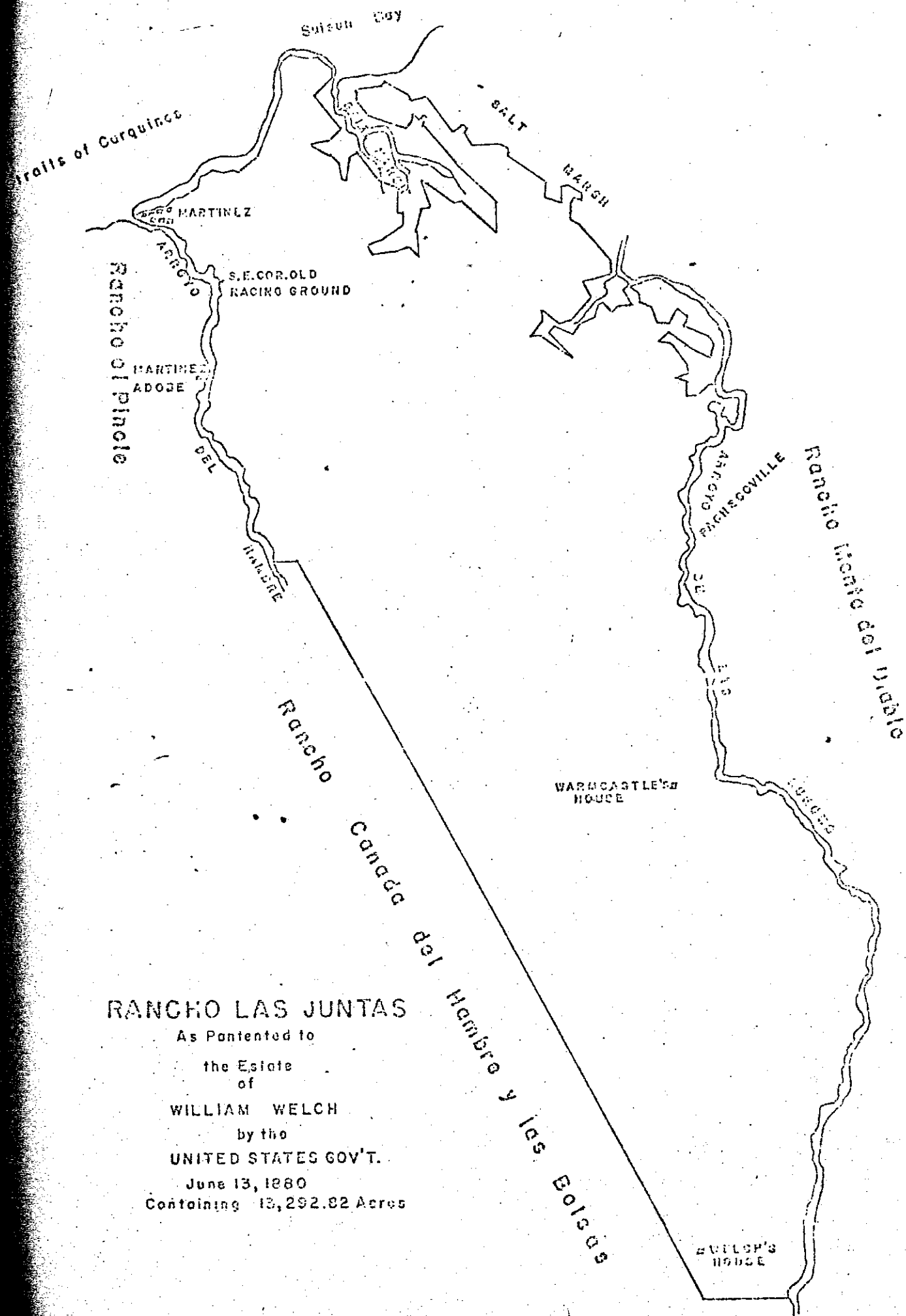
The Arroyo del Hambre, described by all witnesses as being publicly known by that name since 1808, derived its name from a troop of Spanish soldiers who, after losing a band of cattle-stealing Indians in the foothills of Mount Diablo, found their supplies running low and camped near the mouth of a stream at the Straits of Carquinez. Not being able to find food in the vicinity, they named the place "Arroyo del Hambre" (Valley of Hunger).. Making their way upstream, they met a band of Indians who fed them a gruel or mush made from acorn flour which they called "pinole". The place where this meeting occurred, the Spaniards called "El Pinole".⁸

The rancho was surveyed in 1850, by a surveyor engaged by the claimants, and the exact quantity of three leagues was so located as to extend from the junction of Las Trampas Creek with Walnut Creek to the Straits of Carquinez. It included all the land between Reliez Creek and Arroyo del Hambre (Alhambra Creek) on the west, and Arroyo de las Nueces, or Walnut Creek, on the east. This survey was recognized and adopted in the decree of the Probate Court of Contra Costa County by which the lands of William Welch were divided among his heirs.⁹

By 1862, nearly all of the lands included within this survey had been sold by Welch's heirs, and the buyers had made extensive improvements, particularly within and near the town of Martinez. Another survey had been made by order of the United States District Court in 1861, which had excluded the Town of Martinez from Rancho Las Juntas, and had included it within the boundaries of Rancho Cañada del Hambre as claimed by Teodora Soto. Judge Hoffman, conceding that the objections to the 1861 survey were valid, recommended the survey be rejected and the boundaries of Rancho Las Juntas be surveyed to more nearly coincide with the survey of 1850.

On the 15th day of September, 1864, the U.S. District Court decreed the survey of 1861 erroneous and ordered a survey made to conform to Judge Hoffman's recommendations. An appeal was considered then dismissed. The survey was executed as ordered, and finally authenticated by the U. S. Surveyor General for California.

The patent issued over the signature of President Ulysses S. Grant, July 22, 1870, gave to Joseph Swanson, as administrator of the estate of William Welch, in trust for the heirs of William Welch, the Rancho Las Juntas, containing 13,292.82 acres.¹⁰



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Chapter Four
Rancho Cañada del Hambre
y
Las Bolsas

Perhaps the most puzzling of the Mexican land grant case to come to the attention of the United States Board of Land Commissioners was that of Cañada del Hambre y las Bolsas, finally confirmed to Teodora Soto.

On June 1, 1842, Ignacio Martinez received title, from Governor Juan Bautista Alvarado, to four square leagues of land known as Pinole y Cañada de Hambre. The grant was described as "beginning at the mouth of the Cañada del Pinole; thence easterly with the same to the corral of Galindo; thence to a point on the Arroyo del Hambre; thence along it to the Straits of Carquinez and terminating at the mouth of the Cañada del Pinole".¹

Less than two years later, February 20, 1844, Governor Manuel Micheltorena gave William Welch title to a tract of land consisting of two leagues, "bounded on the north by the Arroyo de Hambre; east by the Arroyo de las Nueces; and south by the lands of Moraga".²

Guadalupe Barcenar, a retired veteran from the San Francisco Company, moved his family onto a place called "Cañada del Hambre", in 1836, and built a small wooden house and a corral. He fenced a large field for the cultivation of corn and vegetables, and stocked the land with horses and cattle. Soon afterwards, he asked for and received a provisional grant to the land.³ Not long afterwards he lodged a complaint with Governor Juan B. Alvarado, "Your petitioner knows of but two conflicting claims set up to a portion of this tract made subsequent to the grant to your petitioner; one called the grant of Ignacio Martinez of Pinole, purporting to convey four leagues; the other called the grant to William Welch purporting to claim three leagues.

The holders of the first seek to deprive your petitioner of that portion of the land south of the arroyo or creek which runs nearly through the center of petitioner's tract, and those of the other, the portion north of it".⁴

Shortly after this complaint, a fire swept the area and destroyed the grass, the house and all of the improvements. Barcenar moved his family to a place called Boca de la Cañada del Pinole where he met with an accident which resulted in his death.⁵ His widow, Teodora Soto later married Desiderio Briones, a son of the grantee of Rancho Boca de la Cañada del Pinole, and returned to Rancho Cañada del Hambre y las Bolsas in June, 1846. They built a large adobe house, and moved their cattle to the ranch.

Joseph Swanson, administrator of the estate of William Welch, under an order of restitution issued by the Contra Costa County Court, evicted Teodora and Desiderio Briones from their home in 1851. Swanson claimed the land they had settled upon as a portion of Rancho Las Juntas. Teodora and her family continued to live on the land in a hut built of hides and poles.⁶

In accord with the provisions of the Act of March 3, 1851, Teodora Soto de Briones filed an expediente from the Office of the U.S. Surveyor General for California, with the United States Board of Land Commissioners on April 29, 1852. During the proceedings of that body, Commissioner R.A. Thompson pointed out, "No grant, in accordance with the above (Alvarado) decree is filed in the case, but evidence was introduced to show that such a grant was duly issued by the governor. The principal witness to prove that fact is Mariano G. Vallejo, who swears that Alvarado granted the land claimed, to the extent of three leagues, to the present petitioner, and her papers were handed him for safe keeping, and were in his possession for some years; that they were afterwards misplaced. He thinks they were taken to be used in some suit. That about the year 1850, he and Captain (John B.) Frisbee looked for them and they could not be found. That in June, 1850, when Major (Stephen) Cooper wished to secure a preëmption in the vicinity of this land, he requested the witness (Vallejo) to have Teodora Soto's grant translated in order that he might ascertain the boundaries. Witness (Vallejo) took the grant to Frederick J. Ruger at Sonoma, then public translator, and procured a correct translation of said grant."⁷

Vallejo had testified that he had placed the grant, with the translation, in an iron safe in Frisbee's office. When questioned, Captain Frisbee testified, "I think I received it from General Vallejo or said claimant, am not positive which of them. The original paper was sent to Sonoma. My best recollection now is that I gave it to General Vallejo or some one of our clerks at Benicia where I was residing. The paper, as I suppose, was returned to me with the translation which is on file in this case with...the deposition of General Vallejo... But I do not now remember, positively, to have seen the original after it was sent to Sonoma... The paper, if returned to me...was tied up in a handkerchief and was then thrown into an iron safe, either by me or some one of the clerks in my office, and sometime after that, the said claimant applied to me for her papers.... On opening said handkerchief, I found this translation, and no other paper".

Concluding his opinion, Commissioner Thompson recommended that, "So much of the land known at the date of the grant as Cañada del Hambre as shall remain overplus from the Ranchos Pinole and that of Mr. Welch (Las Juntas), not to exceed three square leagues, after the latter have been duly located and surveyed by the proper officer...be confirmed by the Board of Land Commissioners to Teodora Soto".

The decree of confirmation was signed by Commissioners R. Augustus Thompson and S.B. Farwell on May 15, 1855. Two years later, April 16, 1857, the decision was taken on appeal to the United States District Court for the Northern District of California.

There was so much confusion among the claimants of the three ranchos, El Pinole, Las Juntas and Cañada del Hambre, that Judge Hoffman found it necessary to review the testimony and expedientes filed in each case. In his review of the case of del Hambre, he wrote that José Castro, military governor of California in 1839, testified that he had granted the lands to Barcenar provisionally, and the papers should be among the papers of the prefecture. José Ramon Estrada, the prefect at the time, certified

that the papers were not in his office.

Writing further, Hoffman, referring to the translation of Soto's deed, pointed out that it was supposed the translator had mistaken the date. He further pointed out that, no petition or document whatever, relating to such a grant, is found in the archive; none is believed to exist...; Teodora's petition, asking for a concession of the Cañada del Hambre negates the idea that she already had an unconditional grant for those lands; the governor, if he made the grant, must be supposed to have granted the sobrante of two ranches for neither of which a title had been issued, and this without any evidence that the limits of those two ranchos contained a sobrante of three leagues; the subsequent grants of Pinole and Las Juntas omit all mention of the alleged grant of Cañada del Hambre.⁸

On the basis of this reasoning, Judge Hoffman wrote that for these and other reasons which may be aduced, he thought it proved, without a doubt, that no grant could have issued before June 2, 1842. The grant which was translated must have been a forgery. General Vallejo and Captain Frisbee were the only witnesses who testified to having seen it. He further pointed out that if a grant to Cañada del Hambre had issued, it had not been produced, nor had any evidence been taken to prove its existence.

Again Judge Hoffman referred to the communication received by José Ramon Estrada from the Secretary of State on June 1, 1842. "On the day of which the title for Pinole issued, a communication was released to the justice of the peace for Contra Costa by Estrada, the prefect (at San Francisco)... that a title had been issued to (Ignacio) Martinez for El Pinole...and ordering the justices of the peace for San José, Contra Costa and San Francisco...to make it known to the neighborhood, and particulary to Teodora Soto,...that the petition she made for Cañada del Hambre is not admissable, because it pertains to Pinole".⁹

In the meantime, the claimant of Las Juntas had a survey of the rancho made in 1850, which had been used by the Probate Court of Contra Costa County, in order to divide the land among the heirs of William Welch.¹⁰ Another survey had been made in 1861, which put the town of Martinez within Rancho del Hambre. This survey had been rejected and an acceptable survey was finally made and adopted by the District Court for the Northern District of California.

The survey of El Pinole made in 1861, was objected to by the claimants because, for one reason, it excluded Cañada del Hambre. Judge Hoffman, in considering that case, decreed that was as it should be, and ruled that Teodora Soto should receive that which was left over after the boundaries of El Pinole and Las Juntas had been surveyed, thus confirming the final decree of the Board of Land Commissioners.

The United States District Court, on April 16, 1866, ordered a survey of del Hambre made by the office of the Surveyor General for California. A certified copy of the survey was filed with the District Court May 10, 1866. Exceptions to the survey were registered by Horace W. Carpentier, Edson Adams, Felix Brisac, John B. Frisbee and others. Testimony was heard by the District Court and Judge Hoffman overruled the exceptions and certified the survey as valid, and marked it approved July 25, 1866.

The title to Rancho Cañada del Hambre y las Bolsas was confirmed to Teodora Soto in two parts;¹¹ the northern part, bounded by the Straits of Carquinez on the north, and on the west, south and east by Rancho el Pinole contains 7,185.47 acres. The southern portion bounded northerly and easterly by Rancho Las Juntas, southerly by Rancho Arroyo de las Nueces y Bolbones (San Miguel) and Rancho San Ramon, and on the west by Rancho Boca de la Cañada del Pinole, contains 6,164.48 acres, making an aggregate acreage of 13,349.95 acres.

The patent to Teodora Soto was signed by President Andrew Johnson on December 31, 1866.¹²

In the meantime, squatters had preëmoted portions of the rancho, and Teodora had lost most of what remained to her

through debts, taxes and attorney's fees.

The puzzling feature of this case is, why Teodora's claim, as presented to the Board of Land Commissioners, containing so many discrepancies, and with so many important documents missing, enough so that her claim was held suspect, was ever confirmed by the Board; and why Judge Hoffman, in the face of his own findings, agreed with the Board and confirmed her claim!

RANCHO CANADA DEL HAMBRE
Y LAS BOLSAS

Southern Portion

Confirmed to

Teodora Soto

December 31, 1866

6,164.40 Acres

Rancho
el
Pinoles

Alhambra

Rancho
Los
Juntas

Rancho Boca de la Canada del Pinoles

Arroyo
de las
Nueces y las
Bolsas
(Rancho San Miguel)

Rancho
San Ramon
(Carpentier & Pacheco)

Creek

Walnut

RANCHO CANADA DEL HAMBRE

Y LAS EOLSAS

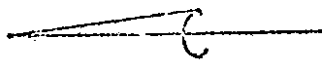
Northern Portion
Confirmed to

Teodora Sofo
December 31, 1966
7,105.47 Acres

Carquinez

Straits

BENICIA



ROAD

FRANKLIN

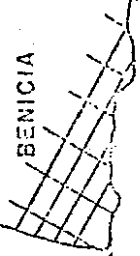
CANYON

RANCHO

EL

PINOLE

MARTINEZ



30

References

1. Land Case 205ND, Bancroft Library, University of California, Berkeley.
2. Land Case 87ND, Bancroft Library, University of California, Berkeley.
3. Land Case 308ND, Bancroft Library, University of California, Berkeley.
4. Ibid.
5. Ibid.
6. G.W. Hendy and J.N. Bowman place the Soto Adobe on the southwest corner of Court Street and Susana Street in Martinez. See Spanish and Mexican Adobes and other buildings in the San Francisco Bay Counties 1776 to about 1850, 1950.
7. Op. cit., 3.
8. Judge Hoffman's written opinion concerning Ranchos Las Juntas, El Pinole and Cañada del Hambre y las Bolsas, Contra Costa Gazette, June 7, 1862.
9. See Rancho El Pinole.
10. See Rancho Las Juntas.
11. Volume 1 Patents, page 80. Office of County Recorder, Martinez, Contra Costa County,.
12. Ibid.

Chapter Five
Rancho
Arroyo de las Nueces
y
Bolbones

Juana Sanchez de Pacheco, Widow of Miguel Pacheco,¹ on May 13, 1834, petitioned the Mexican government for a concession to a tract of land known as "Arroyo de las Nueces y Bolbones". Her petition was referred to the local authorities, and on their favorable report, Governor José Figueroa, by a decree dated July 11, 1834, gave her title to the land "included between the Arroyo de las Nueces y la sierra de los Golgones, bounded by the said places and by the Ranchos San Ramon, Las Juntas and Monte de Diablo".² The decree of title was reviewed by the Committee on Colonization and Vacant Lands. It was approved by that body July 15, 1834, and by the Territorial Deputation on July 22, the same year. Governor Figueroa issued title to Juana Sanchez de Pacheco July 31, 1834, for two square leagues, more or less.³

Juana Sanchez established her family in a house built on the rancho, stocked the land with cattle and horses, and had cultivated a portion of it about twenty years before submitting her claim of title to the United States Board of Land Commissioners asking for confirmation of her title. The original title papers were not presented with her petition, but Henry W. Halleck⁴ explained to the Board that in August, 1849, Juana Sanchez had applied to him, as government secretary for California, for a copy of the expediente, as her copy had been lost. A copy of the expediente, including her title, was located in the archives of the United States Surveyor General for California, and presented to the Board.

Juana Sanchez de Pacheco died September 6, 1853, leaving a will by which the land and property was divided among her children and grandchildren. The will appointed her son-in-law, Joaquin Isidro Castro, and Francis Lightstone executors. Subsequent actions by the Board of Land Commissioners were, thereafter, carried on in the names of Rosa Pacheco, Encarnacion

Pacheco, Francisco Pacheco, Juan Soto and Petra Pacheco, his wife, Antonio Pacheco, Miguel Pacheco and María Ygnacio Pacheco, minors represented by their guardian Sebastián Peralta, David Bowen, a minor represented by his guardian Joaquin Isidro Castro, Juan Peralta, Francisco Garcia and María Antonia Peralta, his wife, and Francis Lighthouse, executor of the will of Juana Pacheco.⁵

The Board issued its decision April 11, 1853. "This Board, on full consideration, having come to its decision that the claim is valid," now decrees "that the said claim be confirmed to the extent and quantity of two square leagues...that the said quantity be contained within the boundaries called for in said grant..." This decision was taken on appeal to the United States District Court for the Northern District of California. on June 3, 1854.

After reviewing the evidence presented, Judge Ogden Hoffman wrote in 1856, "When the land was granted by specific boundaries which were represented to the grantor to contain a certain quantity, and it was ascertained that the quantity was the same as represented, he proceeded to grant all the land within these boundaries and referred to the map which clearly indicated the quantity. It will be assumed that the intention was to grant all the land included within the boundaries, though in a subsequent condition of the grant, the quantity was erroneously stated."

The Board confirmed the title to the land to the extent of two leagues, and the claimants assert that they are entitled to a confirmation of the tract granted by metes and bounds irrespective of quantity".

He pointed out in his opinion that the validity of title was not questioned; the question to be answered was as to quantity. The alcalde of Monterey had taken depositions of witnesses who testified the land was two and a half leagues long and two leagues broad. Upon receiving these reports, the governor gave a concession to Juana Pacheco of all the land as described in the grant and by the diseño.

The fourth condition of the grant was, "The land of which mention was made is two square leagues, a little more or less as shown by the map which goes with the expediente".

Judge Hoffman further pointed out that, "It was contended on the part of the United States that by this condition, the quantity of land is limited to two square leagues... It is urged on the part of the claimants that the original order of concession, the resolution of approval, and the description of the land and the grant itself, clearly show the intention to grant the land as delineated on the diseño and described in the grant". Following this reasoning, Judge Hoffman expressed the thought, "If the fourth condition be construed to limit the quantity, it is repugnant to the rest of the grant, inconsistent with the previous concession and resolution of approval and probably introduced by mistake". He continued to argue that the governor, the Committee on Colonization and Vacant Lands, and the Territorial Deputation intended to grant all the lands within the described boundaries. "In this case, the mention of two leagues as the extent of the granted lands is perhaps owing to the fact that the clerk who had drafted the document forgot that a tract two leagues broad by two long, contains four and not two square leagues...we think it clear that in this case, all the land within the boundaries was intended to be granted..."

He then declared that title should be confirmed to the extent and quantity included within the exterior boundaries specified, that the claim should be confined to the tract as described in the grant and delineated upon the map.⁶ This decision was appealed to the United States Supreme Court by the U.S. District Attorney.

Associate Justice, John Catron of that court delivered the opinion: "The land of which mention is made is two leagues, more or less...The Board of Land Commissioners held that this condition must govern as to quantity, and decreed two square leagues."

In the District Court the decree was reversed, and the land as above described, and as it was represented on the plan (diseño) was decreed to the claimants, regardless of any quantity.

In ascertaining the quantity intended to be given, we think neither the general description nor the call for two square leagues, found in the conditions of the grant, can be relied on, as they are inconsistent, and plainly contradict each other. To find the true quantity intended to be granted, we are compelled to rely on other title papers and proofs.

The map shows, when taken in connection with the evidence of witnesses, that the body of land petitioned for was something more than two leagues long and about two leagues wide. To this effect, the evidence is conclusive, the grant was intended to give Madam Pacheco a rancho of at least two leagues on each side, making four leagues. We hold that it was intended, in this case, to grant four leagues in one tract.

The decree of the District Court is, therefore, confirmed, and the cause remanded to that court to be further proceeded in according to this opinion".⁷

Judge Hoffman, in accordance with the opinion of the Supreme Court, confirmed title to Rancho Arroyo de las Nueces y Bolbones to Rosa Pacheco and the heirs of Juana Sanchez de Pacheco on October 6, 1860, to the extent of four square leagues, "provided said quantity of four leagues to be contained within the said boundaries, and if there be less than said quantity of four leagues of land within said boundaries, then there is so confirmed to said devisees such quantity".

During the proceedings before the Board and the courts, much of the lands were lost to the claimants through tax sales and unpaid mortgages. Encarnacion Pacheco mortgaged all of her rights, title and interests in the rancho for \$1,891.63, as she was unable to pay the principal and the interest, the Seventh District Court of Contra Costa County ordered the sheriff to forelose on June 4, 1856.⁸ Rosa Pacheco lost her right, title and interest in the rancho in the same manner on September 15, 1859.⁹

On concluding his decision, Judge Hoffman ordered the United States Surveyor General for California to have a survey executed. The survey was approved December 19, 1860, and was objected to

by Golder Fields, William Caldwell, John Baker and J.B. Elwell, owners of portions of the rancho. They alleged, on January 10, 1861, that it did not conform to the original grant, nor to the decree of confirmation; the southern line of the survey was so located as to exclude the whole of the same, and a large portion of other lands claimed and confirmed; and the survey included a large portion of public lands which were not included in the grant, nor in the decree of confirmation.¹⁰

Another survey was ordered. It was submitted on January 22, 1861, and was also objected to. On May 15, 1862, Judge Hoffman annulled the survey and had a third one made, issuing special instructions for its execution. Before the third survey could be made, Horace W. Carpentier, representing the claimants, objected to the special instructions, and Judge Hoffman rescinded the special instructions but issued amended instructions on December 5, 1862. The survey was duly executed and approved by the Surveyor General for California on January 17, 1863, and Judge Hoffman approved it three days later.

President Andrew Johnson signed the patent April 18, 1866, confirming title to Rosa Pacheco and the heirs and devisees of Juana Sanchez Pacheco for 17,782.48 acres of land in Contra Costa County, California.¹¹

ARROYO de las NUECES

y

BOLBONES

As patented to
the heirs of

JUANA SANCHEZ de PACHECO
by the

U.S. GOVERNMENT November 1, 1867
Containing 17,782.40 Acres

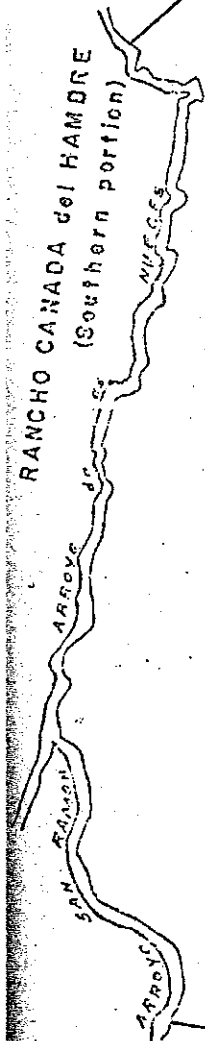
RANCHO MONTE del DIAZLO

PUBLIC

LAND

RANCHO CANADA del HAMORE
(Southern portion)

RANCHO SAN RAMON



References

1. Juan Salvio Pacheco, Miguel's father came to California with Juan Bautista de Anza, 1775-1776.
2. Land Case 46ND, Bancroft Library, University of California, Berkeley.
3. Ibid.
4. Ibid. For information concerning Henry W. Halleck, see Bancroft, Hubert Howe, California Pioneer Register, 1542-1848. Regional Publishing Co., Baltimore, 1964.
5. Ibid. Frank Lightstone, 1848, German soap maker and chandler; original name Franz Lichtenstein, came from Oregon in the McMahon party and settled at San José in 1846. H.H. Bancroft, Pioneer Register.
6. Ibid. Case No. 1598, U.S. vs Pacheco et al. Hoffman Land Case 150, Dist. Ct., Northern Dist., Cal., June Term, 1856.
7. Ibid., Supreme Court of the U.S., No. 123, Dec. term, 1856.
8. Book 1 Judgements, page 212. Office of County Clerk, Martinez, contra Costa County, California.
9. Ibid., page 358.
10. Op. cit. 2.
11. Volume 3 Patents, page 62, Office County Recorder, Martinez.

Chapter Six
Monte del Diablo

In the year 1808, a company of Spanish soldiers from the presidio of San Francisco were in pursuit of a band of troublesome Indians in the vicinity of the present town of Concord. About sunset, the Indians entered a thicket of trees near the foot of Mount Diablo. Not wishing to attack in the gloom, the soldiers made camp to wait for dawn. During the night, the soldiers observed lights moving through the grove. A search at dawn revealed that the Indians had disappeared. The superstitious soldiers attributed the lights and disappearance to the devil and called the place "Monte del Diablo", or "Grove of the Devil". Anglo-American settlers, confusing the Spanish "monte" for the Italian word for mountain, supposed the name to be that of the mountain named by the Spaniards "Sierra del Bolbones", and transferred the name to the mountain.

Salvio Pacheco, a soldier of the Monterey company from about 1810, a corporal of the San Francisco company from 1820 to 1824, and alcalde of San José de Guadalupe in 1828, petitioned Governor José María Enchiandia for a concession to Monte del Diablo in April, 1827. Receiving no answer, he petitioned again in June, the same year, and again in June, 1828.

Still receiving no answer, Pacheco, later in 1828, again applied, "To his honor, the Political Supreme Chief: The citizen, Salvio Pacheco, constitutional alcalde of San José de Guadalupe in this territory, before your Honor's integrity in justice would state, that having presented myself in due form, through several memorials in the month of April and June in the year past, soliciting of your Honor the unoccupied place called Monte del Diablo in the jurisdiction of San Francisco, my petition was never occupied. Again on the 10th of June of the present year, I repeat my request, believing that the numerous occupations had not permitted your Honor to decide anything in regard to my petition and that you might

naturally have forgotten it through affairs with which you were engaged of greater importance, thus causing this silence.

But in the month of August last, I determined to repeat my claim fearing that my former petitions might have been mislaid. On this, your Honor decreed that the ayuntamiento of said pueblo (San José) should make their report, which was fulfilled at once. In my two previous petitions, I asked for a grant in fee of said place; but in the two next ones (sic), I only asked it as a loan, by reason of the urgency of the case, and the fact that I could not find a place where I could securely keep my stock which amounted to more than 850 heads of horned cattle, a flock of sheep and three droves of 30 mares each".¹

In the meantime, Pacheco discovered that William Welch had petitioned for a portion of Monte del diablo called Laguna de los Bolbones. His complaint to the governor concerning this, and his report on Welch, was included in his petition of 1828.

"On the 2nd of September, last past, there appeared in the pueblo (San José) where I reside, a stranger named Julian Willis (William Welch) with a herd of about 500 head with the intention of going forward. I, as District Judge, and as my duty required, asked him where he was going with his stock, and where was his pass for them, to which he answered me that he had no pass at all for he got the stock from the Rancho of Corralitos, known by the name of Amesti, and that he was taking them to the Valley of Pinole, a place belonging to Don Ignacio Martinez".²

Believing that William Welch and Martinez had an agreement, Pacheco allowed Welch to continue. He discovered later that the stock was bound for La Laguna de los Bolbones, a portion of Monte del Diablo. When questioned concerning the deception, Welch said that Martinez, as comandante at San Francisco, suggested the deception and showed Pacheco a petition asking for the land called "Chpecanes" by the Indians, and by the Spaniards, Monte del Diablo.

Disturbed by this news, Pacheco went to San Diego to present his case to the governor. He accused Welch of being in California illegally, and asked the governor to remove him from the land he, Pacheco, had asked for. On September 9, 1829, Salvio Pacheco gave notice that even though Welch occupied the land, he claimed it. Governor Echiandia ordered Welch off the land, and later, Welch occupied Rancho Las Juntas.

Governor Enchiandia was replaced by Manuel Victoria, who was driven from California by revolt, and was succeeded by Pio Pico, who served as interim governor for twenty days. He, in turn, was replaced by José Figueroa in 1833.³ During this period, it appears all petitions for land were ignored due to the unsettled political affairs of the territory.

Pacheco petitioned Governor Figueroa, or perhaps reminded him of the previous petitions he had made. In any event, on July 26, 1834, Governor Figueroa wrote, "Whereas Don Salvio Pacheco, a Mexican by birth, has applied for his own benefit and that of his family, for the parcel of land known by the name of Monte del Diablo bounded by Las Juntas, El Pinole and the mountain range on the opposite sides, and as he has complied with the requirements of the laws and regulations in the matter, now by virtue of the authority in me vested, and in conformance and agreement with the Excellent Territorial Deputation on the 19th day of June last past, approving the concession of said land of Monte del Diablo, made on the 10th of said month to the above mentioned Salvio Pacheco, I have thought it proper, in the name of the Mexican Nation, to grant him the said parcel of land, declaring the same to be his property by this patent...".⁴

Salvio Pacheco moved his family to Monte del Diablo in 1846, and chose a site on a small hill for a family home. The house, a two-storied adobe, was built by the Miranda brothers from Sonora Mexico, with Indian labor.⁵

A petition was filed before the United States Board of Land Commissioners by Salvio Pacheco on February 27, 1852. Commissioners Hiland Hall and Harry I. Thornton issued a statement on January 5, 1853. "The claimant asks for a confirmation to him

of a tract of land called Monte del Diablo containing four square leagues, more or less, for which he shows from Governor Figueroa to himself a grant dated July 26, 1834, with previous approval by the Territorial Deputation. The giving of judicial possession is not shown, but the claimant is proved to have been in quiet occupation of the land from within a year of the grant to the present time.

There is no doubt that the title papers are genuine; and the only questions made in the case are; first, whether the want of judicial possession voids the grant; and secondly, to what quantity of land the claimant is entitled".

In regards to these questions, Hiland Hall wrote, "We hold ...that the want of judicial possession does not form a valid objection to the confirmation of the claim; and that in ordinary grants of land...where a certain number of leagues is mentioned ...the grantee is entitled only to the specified number of leagues mentioned... We therefore confirm the claim to the extent of not more than four square leagues".⁶

The decision of the Board was appealed to the United States District Court for the Northern District of California, but the U.S. Attorney General gave notice that the appeal would not be prosecuted. Judge Ogden Hoffman wrote in his statement, "No additional testimony has been taken in this court, nor has any reason for refusing the decree of the Board and rejecting the claim been suggested to us on the part of the appellants. The only objections that could have been raised is the one of judicial possession and the fact that the land is within the ten littoral leagues (of the seacoast) have already been repeatedly been overruled. A decree confirming the claim must, therefore, be entered".⁷ On November 24, 1856, Judge Hoffman gave permission to procede as under final decree.

A survey, ordered by the District Court, was authenticated March 19, 1858, by the United States Surveyor General for California. It encompassed 17,921.54 acres, and the patent was signed by President James Buchanan on March 19, 1859.⁸

RANCHO MONTE DEL DIABLO

Confirmed to
Salvio Pacheco
March 12, 1959
17,921.54 Acres

PUBLIC

LAND

LAND

PUBLIC

ARROYO de las NUECES
y
GOLDONES

Marsh

Salt

RANCHO LAS JUNTAS

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3. Hitell, Theodore H., History of California, Pacific Press, San Francisco, 1888.
Bancroft, Hubert Howe, History of California, reprint Wallace Hebbard, Santa Barbara.
4. Op. cit., 1.
5. Leonora Fink and others, Don Juan Salvio Pacheco and Rancho Monte del Diablo, Contra Costa Gazette, September 18, 1958.
6. Op. cit., 1.
7. Ogden Hoffman, Report on land cases determined in the United States District Court for the Northern District of California.
8. Volume 1 Patents, page 5, Office of County Recorder, Martinez, Contra Costa County.

Chapter Seven Rancho Acalanes

The smallest of the Mexican land grants in Contra Costa County to be confirmed by the United States Board of Land Commissioners was Rancho Acalanes. The name was probably derived from "Alkan", the name of a Coastanoan Indian tribe which occupied the area. The name is said to have changed to Acalanes by the Spaniards.¹

Candelario Valencia, a soldier of the San Francisco company was a grandson of José Manuel Valencia who came to California from Sonora, Mexico, with Captain Juan Bautista de Anza's colonizing expedition in 1775-1776.² Candelario married Paula Sanchez, a daughter of José Antonio Sanchez, the grantee of the Buri-Buri grant in San Francisco. Six children resulted from the union; Eustaquio, José Ramon, María, Lucía, Tomás and Josefa.

With the purpose of providing for his family, Candelario submitted a petition to Governor José Figueroa, asking for a concession to a place called Acalanes. The governor issued a decree of concession on August 1, 1834. "Whereas citizen Candelario Valencia has petitioned for his benefit and that of his family, the tract known by the name of Acalanes, bounded by the Ranchos of San Pablo, San Antonio and El Pinole, in the exercise of the faculties which are conferred upon me, and in conformity with the record of the most Excellent Territorial Deputation of the nineteenth of July past, approving the concession of the said tract of the Acalanes, made in a decree of the 30th of July last, to the said citizen Candelario Valencia, in the name of the Mexican Nation, I have come to deliver it his property by these present letters, subject to the following conditions;

1st. He shall submit himself to those which shall be established by the regulation which is to be formed for the distribution of vacant lands - and that meanwhile, neither the donee nor his heirs shall divide nor transfer that which is granted him; not impose any annuity, entail (pledge), hypothecation of charge, although for pious object, nor

transfer it in mortmain.

2nd. He may enclose it without prejudice to the crossings, roads and easements, enjoy it freely and exclusively, appropriating it to the use or cultivation which may best suit him, but within a year at the most he shall build a house, and it shall be occupied.

3rd. He shall ask for the proper judge, that he may give him judicial possession in virtue of this dispatch, by which shall be demarked the boundaries, in the borders of which he shall put beside the landmarks some fruit or useful forest trees.

4th. The tract of which mention is made is one league in length by three quarters of a league in width, according as is explained in the map which is in the expediente. The judge who shall give him possession shall cause it to be measured conformably to ordinance: the overplus remaining to the uses of the nation.

5th. If he should contravene these conditions he shall lose his right to the land, and it shall be denounced by another".³

Valencia complied with the conditions and built a house and corrals and moved livestock onto the land. His life there on Rancho Acalanes appears to have been quite peaceful except for a minor quarrel with his neighbors to the south, Joaquin Moraga and Juan Bernal.

One prominent landmark mentioned in the concession to Moraga and Bernal was a spring near the common boundary of the two ranchos. Valencia, perhaps feeling that the spring was on his land, made certain improvements for the benefit of his livestock. Moraga resented Valencia's trespass and a quarrel developed but it was settled by an adjustment of the boundary line so each could benefit from the spring.

Valencia transferred title to Rancho Acalanes to William A. Liedesdorff on September 2, 1847. Liedesdorff came to San Francisco in 1841. During the next seven years he built the City Hotel on the plaza, a large warehouse and a cottage.

He was appointed American vice-consul in 1845, and during the following year, aided John C. Fremont and the Bear Flag rebels. He was appointed to a committee of three in 1847, which supervised the construction of the first Anglo-American public school in California.⁴ A little over two months after he acquired Rancho Acalanes, he sold it Elam Brown.

Elam Brown arrived in California October 10, 1846, at the head of a train of sixteen wagons and fourteen families from Platte County Missouri. His first summer in the territory was spent sawing lumber in the San Antonio Redwoods in the Oakland hills. He bought Rancho Acalanes from Liedesdorff November 10, 1847, and moved his family there the following year.

His first house was a rude shelter, but he later built a more substantial one from lumber cut in the redwoods on a site two miles from the original townsite of Lafayette. Due to the failure of water, he moved his house twice. In 1849, in order to avoid the long trip to San José to get his wheat and barley ground, Brown purchased a horse-powered flour mill at Benicia and moved it to a site near his home. The mill was replaced by a grist mill in 1853.⁵

Shortly after acquiring the rancho, Elam Brown sold about 300 acres of it to his son-in-law, Nathaniel Jones, the first sheriff of Contra Costa County. Jones built a house and planted an orchard and some locust trees around the house and along the drive. For this reason, he called his place "Locust Farm".⁶

Elam Brown was appointed alcalde for Contra Costa in 1849, and late that year he went to Monterey as a delegate to the Constitutional Convention. He appointed Samuel J. Tennant of Rancho El Pinole to serve as alcalde in his absence.⁷

To protect his investment in Rancho Acalanes, Elam Brown presented a petition to the Board of Land Commissioners on February 2, 1853, through the law firm of Jones, Thompkins and Strode, asking confirmation of his claim. "To the hon., the Commissioners to ascertain and settle land claims in California: Elam Brown, a citizen of said state, gives notice that he claims a piece of land in the County of Contra Costa called the Rancho

of Acalanes, bounded by the Ranchos of San Pablo, San Antonio and Pinole, and more particularly described as lying between the creek called Arroyo Galindo and the creek called Arroyo Grande (San Pablo Creek) as shown on the original map thereof filed with the record or expediente of the case in the archives of the former government of California...said tract is about one league square, more or less...".⁸

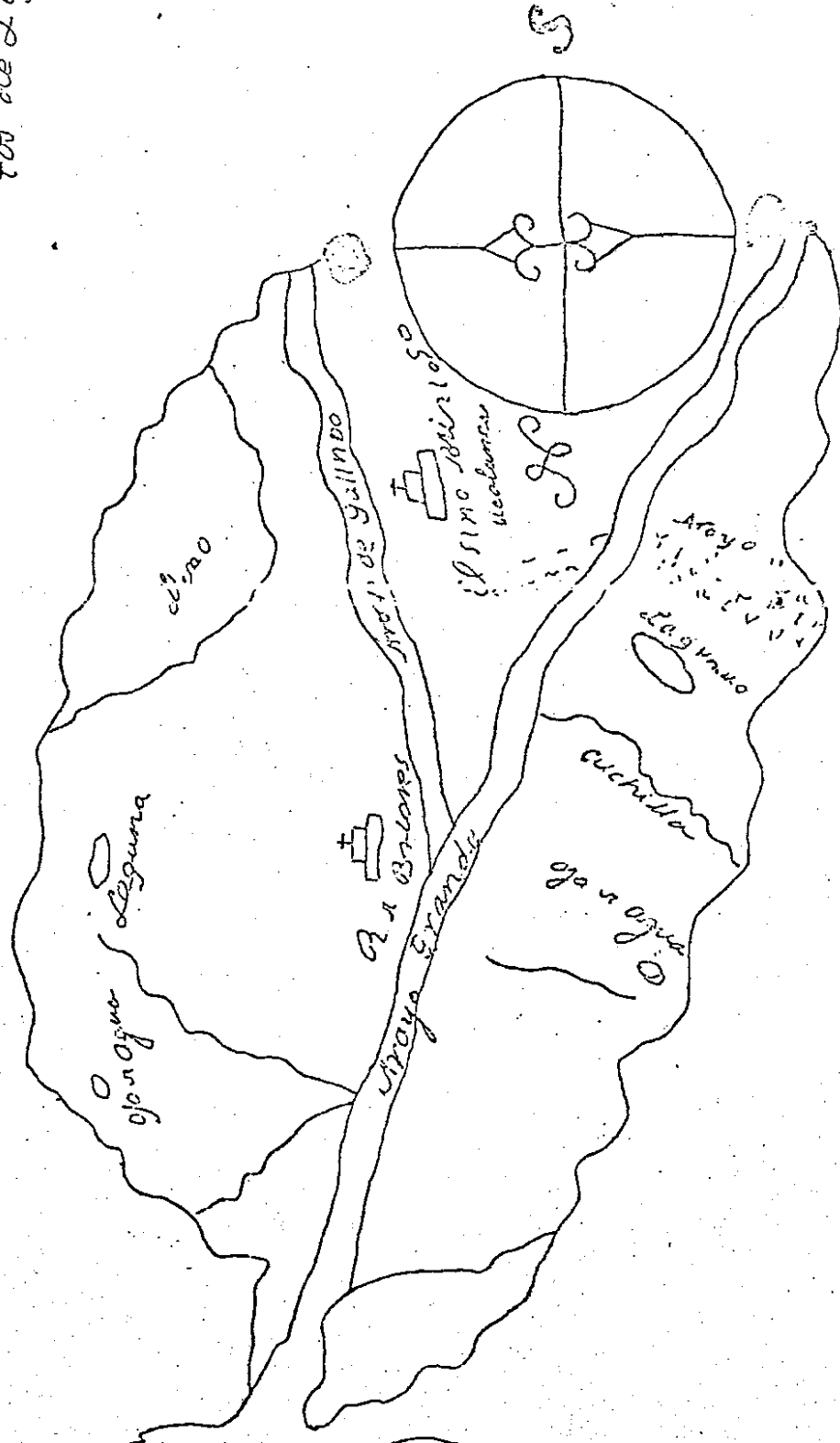
There appears to have been little question as to the validity of Brown's claim. One question which might have been raised and wasn't was, the legality of Valencia's transfer of title to Liedesdorff on the basis of the first condition imposed by the grant; and also under the Spanish and Mexican law such transfers required the permission of the granting authority. No such permission appears to have been asked, and none given.

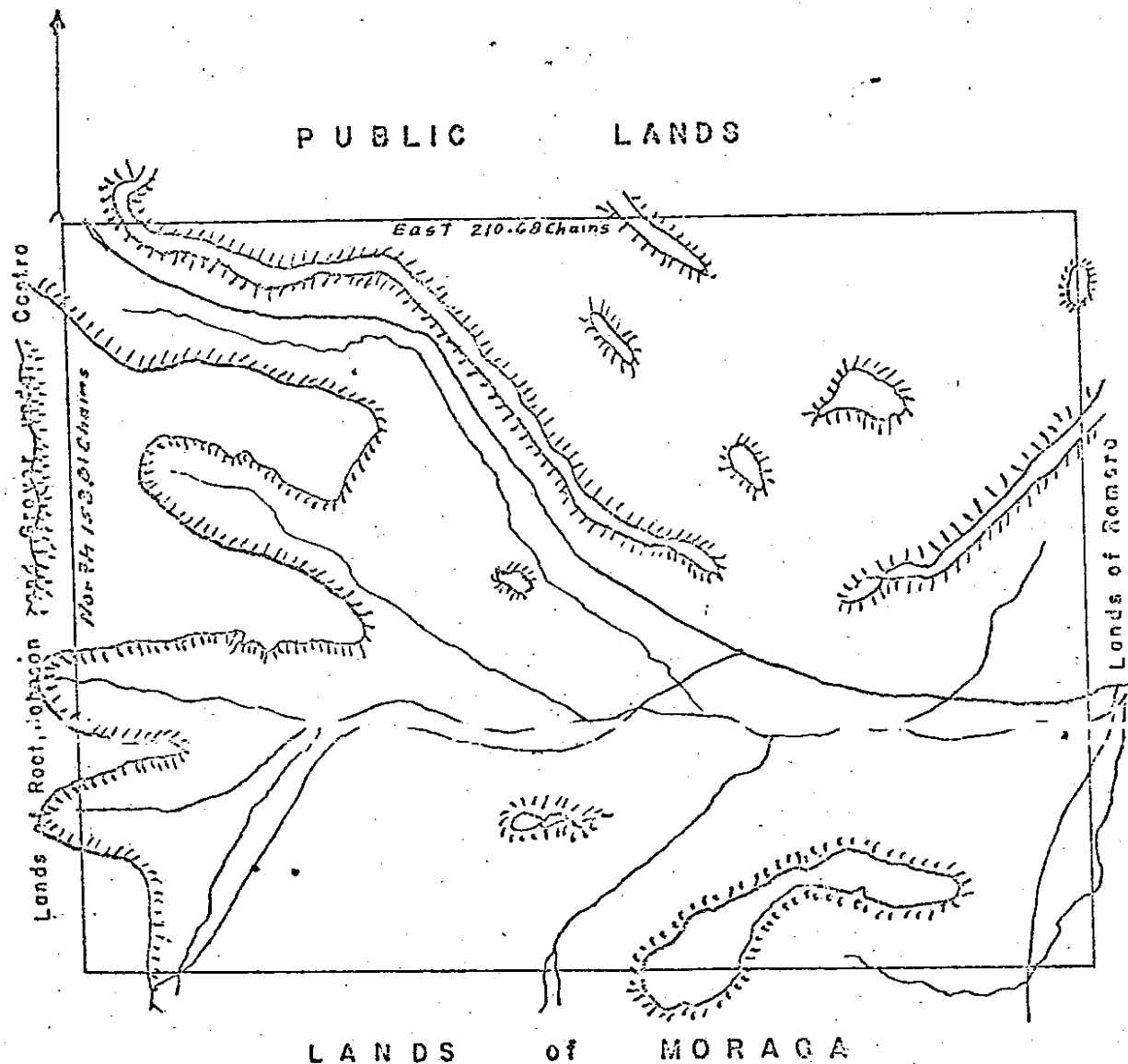
The Board of Land Commissioners confirmed Elam Brown's title to Rancho Acalanes; "It is decreed that the said claim be confirmed to the extent of one league in length by three quarters of a league in width, being the same land described in the grant."

The decision of the Board confirming Brown's claim was taken on appeal to the United States District Court for the Northern District of California, but the appeal was dismissed by that court November 26, 1856. On the same day, a survey was ordered by the court. The survey was authenticated by the United States Surveyor General for California on April 16, 1857.

A notice of application for patent taken before the District Court, Seventh Judicial District, was posted on the door of the court house at Martinez for ten days to allow time for the registration of objections to the survey. As no objections were registered, the court decreed that Elam Brown should receive a patent to Rancho Acalanes encompassing 3,328.92 acres. The patent was signed by President James Buchanan May 18, 1858.⁹

El sitio q. se solicita, llamado
 Acalanes, q. se halla entre el Arroyo
 de Galinde, y Arroyo Grande, tendrá
 de LATITUD, a Sur de Norte, una legua,
 poco mas o menos, y de Longitud,
 a Oriente, a Occidente, segun el
 Cuadro, poco mas o menos, tres cuar-
 tos de Legua.





MAP
of the
ACALANES RANCHO

FINALLY CONFIRMED TO
ELAM BROWN
CONTAINING 3328.92 ACRES

Surveyed under the direction of the U.S. Surv. Gen.
BY

ANDREW J. COFFEE Dep'ty. Surv.
January 1857

References

1. Hoover, Mildred Brooke; Historic Spots in California, Stanford University Press, Stanford, 1958.
2. Bancroft, Hubert Howe, History of California, reprint, Wallace Hebbard, Santa Barbara, 1966, vol. II, pg 732.
3. Land Case 31ND, Bancroft Library, University of California, Berkeley.
4. O'Brien, Robert, This is San Francisco, McGraw-Hill Book Co., New York, 1948. Pgs. 61 and 62.
5. Contra Costa Gazette, Centennial Edition, May 29, 1959.
6. Ibid.
7. Alcalde's Records. Office of the County Recorder, Martinez, Contra Costa County.
8. Op. cit., 3.
9. Volume 7. Patents, pg. 2. Office County Recorder, Martinez, Contra Costa County.

Chapter Eight
Rancho El Sobrante

Juan José Castro and his brother Victor petitioned Governor Juan Bautista Alvarado for a tract of land on April 1, 1841, which was described as being "on the immediate limits of San Antonio, San Pablo, the farm of Valencia and the farm of Moraga, which is the overplus of the ranchos aforesaid", in order that they might be settled upon their own land for the benefit of themselves and their families.

At the time of their application, the government of California was indebted to Victor Castro for a large sum of money for services rendered from 1835, as a sub-lieutenant, then as a captain of militia cavalry; he had furnished provisions, horses and necessities to the Mexican troops serving in California under the requisition of General Mariano Guadalupe Vallejo, as Commanding General. He had also provided quarters for troops, and boats with which to ferry them across the bay.¹ Victor had presented a demand for the payment of the money due him to Governor Alvarado. Being unable to meet the demand for payment, Alvarado agreed to grant Victor the concession he and his brother had asked, provided the debt be considered paid. The grant was issued April 23, 1841, and obligated them to "present themselves anew, accompanied by a map of the land, so soon as the boundaries of the neighboring land owners shall be regulated". The Departmental Assembly did not approve the grant because of the uncertain conditions of the boundaries.²

Soon after the Castros received the grant, they erected corrals and buildings necessary for a cattle ranch. They lived near the settlement of San Pablo, but visited the rancho periodically, and remained in uncontested possession of the land until after the Treaty of Guadalupe Hidalgo had been signed. Shortly after that event, Trespassers squatted on portions of the rancho, taking forcible possession of many of the Castro cattle and the land.³

The Castros, as many of the Mexican landowners, had no knowledge of the English language, nor of the legal or business practices of the Anglo Americans. This lack left them more or less at the mercy of the squatters, and their complaints to the Anglo courts did little good against the squatters and the rustlers. The boundaries of the rancho had not been determined, and could not be until the United States courts had settled the claims and surveyed and patented the boundaries of the adjacent ranchos. Therefore, the two Castros could not determine exactly the full extent of their lands, nor determine whether the lands squatted upon were theirs.

Discouraged by the failure of their attempts to enforce their rights through legal procedures, they turned to Ramon De Zaldo, an intimate friend and advisor to Victor. Ramon De Zaldo was a well-educated Spaniard, with a good knowledge of Anglo laws and customs, and was keeper of the Spanish and Mexican archives in California. His associate, John B. Frisbee, had come to California with his regiment during the war with Mexico. He had become acquainted with Mariano G. Vallejo and had married his daughter, Fannie. Frisbee and De Zaldo allegedly persuaded the Castros that they, being ignorant of the language and the ways of the people who had preempted their lands, would be unable to gain the removal of the squatters, or to come to an agreeable settlement with them. Therefore, the brothers should allow them, Frisbee and De Zaldo, to manage the rancho. They claimed the castros agreed to allow them to act as their agents, to sell what remained to the Castros. Out of the proceeds, the Castros were to receive \$40,000, and on receipt of that sum, De Zaldo and Frisbee were to receive those portions of the rancho remaining as a fee for their services.

Juan José Castro and Victor Castro were allegedly persuaded by Frisbee and De Zaldo to execute an agreement, dated November 23, 1853, to sell them the rancho for \$100,000. Victor later reported that neither Frisbee nor De Zaldo had paid any part of the sum agreed upon, nor had they made any attempt to remove squatters from the rancho, and since the agreement, other squatters had moved on to the rancho. Victor also reported that on

or about April 1, 1857, Ramon De Zaldo and John B. Frisbee entered into a conspiracy with Horace W. Carpentier and Edson Adams to defraud the Castros of their interests and property, and to cloud and encumber their title.⁴ Carpentier had, apparently with full knowledge of the Castro's rights, obtained from Frisbee and De Zaldo a deed for one square league of the rancho which later became known as the "Ward and Smith League". On the same day, April 13, 1857, he had received an undivided one-fourth of one-half interest in the rancho, and an interest equal to one-eighth of one square league.⁵ Carpentier received another square league on June 1, 1857. The Castros received no payment of any kind as a result of these property transfers.⁶ As attorney for Edson Adams, Carpentier continuing the fraud, received a deed from Frisbee and De Zaldo which conveyed to Adams all of Victor Castro's rights, title and interest in and to Rancho El Sobrante, for which he paid nothing.⁷

Prior to these actions, Juan and Victor Castro had, on March 9, 1852, filed a petition with the Board of Land Commissioners as claimants to Rancho El Sobrante. This was followed by an amended petition dated May 26, 1853. The Board issued its decision on July 3, 1855, "In this case, on hearing the proofs and allegations, it is adjudged by the commissioners that the claim of the said petitioners is valid, and it is, therefore, decreed that the same be, and is hereby confirmed".⁸

The land to which the decree of confirmation referred was described as being situated in Contra Costa and Alameda Counties, being the surplus or sobrante which on April 23, 1841, the date of the original consession, existed between the ranchos San Antonio, San Pablo, El Pinole, Acalanes, Laguna de los Palos Colorados and Boca de la Cañada del Pinole. To avoid confusion, and to make the description more certain, the commissioners referred to the original expediente and grant.

Upon a stipulation agreed to by W.H. Sharp, the U.S. Attorney, and Horace W. Carpentier on March 27, 1863, the U.S. District Court for the Northern District of California ordered the decree of confirmation amended by inserting after the word 'between',

the word 'or within the exterior boundaries of-' so as to make it read 'lying between or within the exterior boundaries of the Rancho-',⁹ thus, apparently changing the meaning so as to benefit Carpentier and others. By a subsequent order of the District Court, the order of March 27, 1863, was stricken from the record. Judge Hoffman declared that he had had no power or jurisdiction to have given the order.

While the Board of Land Commissioners was considering the decision, Edward R. Carpentier, Horace's brother, entered a claim for 44,000 acres lying between the lands claimed by the heirs of Francisco Castro, the Peraltas and the lands claimed by the heirs of Estudilla. He based his claim on the Royal decrees of Spain, the Laws of the Indies, The Plan of Iguala, the Mexican Colonization Laws of 1824 and 1828, and on all the laws, usages and customs of the Spanish and Mexican nations. The Board denied his claim.

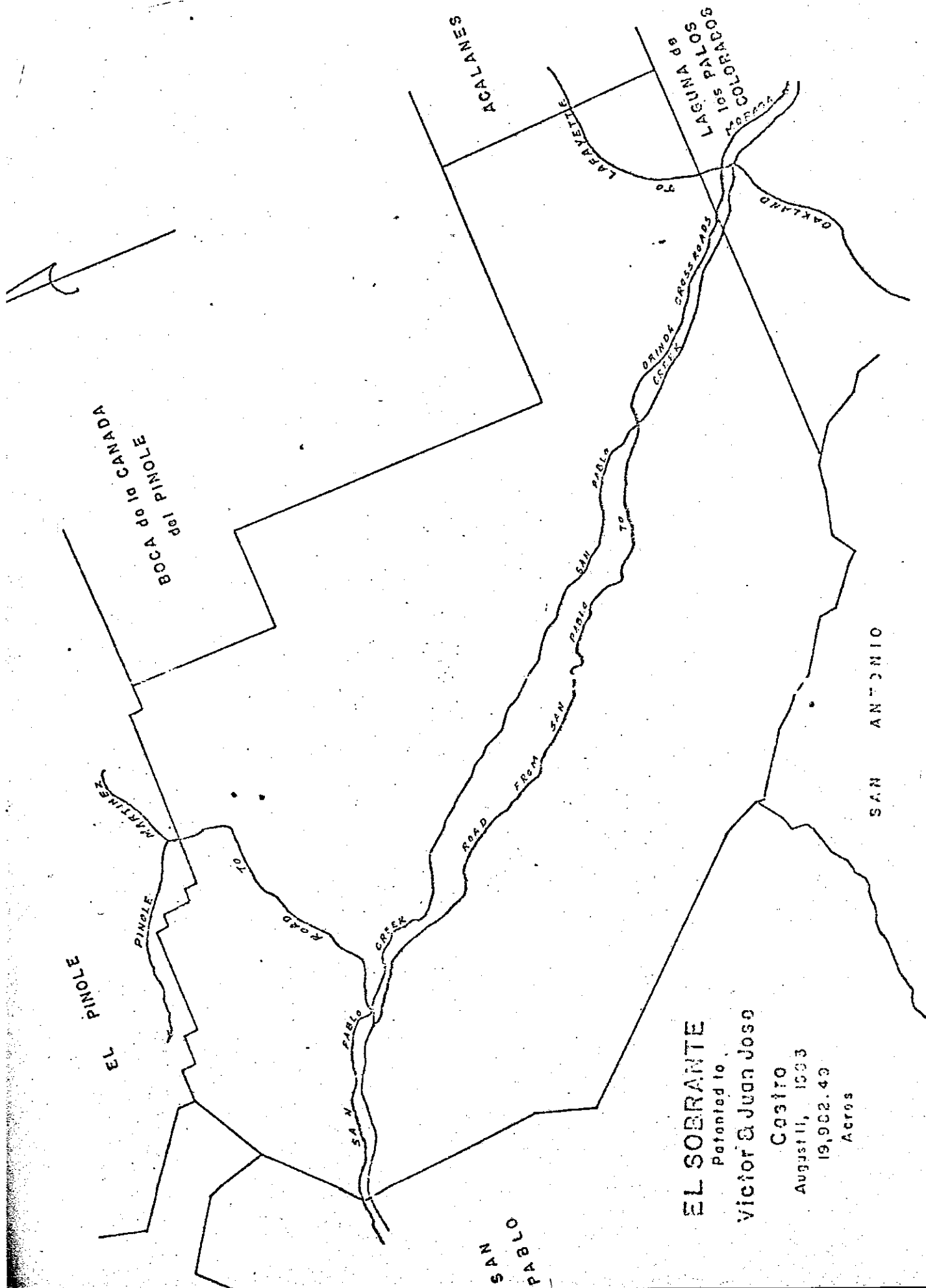
A map was presented in 1876, by William F. Boardman, United States Deputy Surveyor, showing the ranchos San Pablo, El Pinole, Boca de la Cañada del Pinole, Acalanes, Laguna de los Palos Colorados and San Antonio, and the sobrante resulting from the surveys. The map was authenticated and ratified by the Court February 12, 1867. Upon receipt of Boardman's map, a survey of the Castro grant was ordered by Judge Ogden Hoffman to fix the boundaries of the land confirmed to the brothers, Juan and Victor Castro.

The survey was made by William Minto, Deputy U.S. Surveyor, in August, 1878, and was published for the first time September 6, 1878. It showed a tract of land bounded north by Rancho El Pinole, east by Boca de la Cañada de Pinole and Acalanes, south by Laguna de los Palos Colorados and west and southwest by Rancho San Pablo. In compliance with the condition of the grant given by Governor Alvarado in 1841, requiring them to "present themselves anew, accompanied by a map of the lands so soon as the boundaries of the neighboring land owners shall be regulated", Juan and Victor Castro filed a report and a petition before the Court, accompanied by the Boardman map, and asked for a final survey of the land granted and confirmed, and a patent be issued to them.¹⁰

The Castros objected to the Minto Survey, alleging that it was illegally made before the boundaries of the Moraga claim had been finally determined; that the claimants made no application for the survey; and that it was made without their knowledge, and without notice to them. The owners of Boca de la Cañada del Pinole objected on the grounds that the survey was not made in conformity with the statutes governing surveys of lands claimed in California, and the claimants had made no application or requested it.

In answer to these objections, the Commissioner of the General Land Office reported that the record showed that the survey of the Moraga grant was made in 1875, and finally confirmed August 9, 1878, seventeen days before the survey of Rancho El Sobrante was reported, and that there was no legal requirements upon the Surveyor General to give notice of his purpose to survey a private land claim. After a discussion of his report, Commissioner J.A. Williamson, supported by Theodore Wagner, U.S. Surveyor General for California, reported the Minto survey as legally valid, and on July 3, 1883, W.H. Brown, the U.S. Surveyor General, signed the survey and declared it to be the final and official survey of Rancho El Sobrante. The patent, signed by President Chester A. Arthur, August 11, 1883, gave Juan and Victor Castro title to a rancho of 19,982.49 acres.¹¹

Subsequent litigations over the next twenty-seven years resulted in a partition of the rancho which left the Castro heirs with about 781.52 acres.



EL SOBRANTE

Patented to

Victor & Juan Jose

Castro

August 11, 1903

19,902.43

Acres

References

1. Land Case 403ND, Bancroft Library, University of California, Berkeley.
2. Ibid.
3. Transcript in appeal, Edson Adams vs Emily B. Hopkins, July 31, 1883. Superior Court Records, Contra Costa County.
4. Ibid.
5. Volume 5 Deeds, page 425. Office of County Recorder, Martinez, Contra Costa County.
6. Volume 6 Deeds, page 136.
7. Op. cit., 3.
8. Op. cit., 1.
9. Ibid.
10. Ibid.
11. Volume 3 Patent, page 420, Office County Recorder, Martinez, Contra Costa County.

Chapter Nine
Rancho Boca de la Cañada
del Pinole

Felipe Briones, regidor of San José in 1820, and elector at San Francisco in 1835, entered the place called Boca de la Cañada del Pinole in 1829, where he built an adobe house and other necessary structures and cultivated a portion of the land. While trying to recover some stolen horses from Indians, Briones was killed on Mt. Diablo, near the present town of Clayton on January 6, 1840. He was survived by Manuela Valencia, his wife, and his children, Desiderio, Ramon, Isidora, Casimiro, Felipa, María Antonio, Angela, Encarnacion, Marcelino, Vicente and Carmen.¹

Two years after the death of Briones, his widow petitioned Governor Juan Bautista Alvarado for a grant to the land upon which Felipe had established his family. Alvarado conceded, and issued a grant for a tract of land described as being bound by the rancho of Ignacio Martinez, by that of Julian Gill,² and by that of Candelaria Valencia. All of the procedures and investigations were reported to have been completed according to the laws and regulations of 1824 and 1828. The grant was issued on June 1, 1842, subject to the approval of the Departmental Assembly, and the usual conditions required to gain judicial possession through the proper official. The requirements concerning improvements and occupation had been fulfilled at the time Felipe built the house and cultivated the ground.³

Manuela Valencia filed a petition with the Board of Land Commissioners on December 13, 1852, asking the commissioners to confirm her title to Rancho Boca de la Cañada del Pinole. The commissioners declared that, in their opinion, the evidence presented by Manuela Valencia did not prove judicial possession, approval of the Departmental Assembly, or that the land had been measured and marked out for her. They questioned the sufficiency of the description to enable a survey, even one made under Spanish or Mexican methods. Therefore, the Board felt compelled to reject the claim.⁴ The decision of the Board was appealed

December 7, 1854, by Manuela's attorneys, George C. Bates, Edwin A. Lawrence and S.C. Hastings. Judge Ogden Hoffman, of the United States District Court for the Northern District of California, reversed the decision of the Board on November 26, 1855, and confirmed title to the grant to the extent of three square leagues. Hoffman's decision was appealed to the United States Supreme Court on February 20, 1860, and Hoffman's decision was affirmed.⁵

Pursuant to an order issued by Judge Hoffman on December 15, 1860, the United States Surveyor General for California returned an official survey to the District Court, and on January 5, 1861, Edson Adams, Horace W. Carpentier, John B. Frisbee and Felix Brisac, claiming title to the sobrante granted to Juan José and Victor Castro, objected to the survey. They claimed that it included portions of the Castro Sobrante, Rancho Acalanes, the Moraga rancho, Rancho El Pinole, Rancho San Pablo and Rancho San Antonio. As the future boundaries of Rancho El Sobrante were dependent upon the ultimate boundaries of the adjacent ranchos, they asked that final consideration of the Valencia case be postponed until after the boundaries of the other ranchos had been determined. The claimants of Rancho El Pinole also objected to the survey on the charge it embrace portions of that rancho.⁶

Shortly afterwards, on April 25, 1861, Elias Blum, claiming a one-sixth undivided interest in Rancho Boca de la Cañada del Pinole by virtue of a deed executed by María Valencia Briones on March 20, 1860, to Elias Blum, Simon Blum and Thomas A. Brown, filed a complaint against J.R. Robertson, Gabriel Tarwater, John Smith, Thomas Coleman, Jacob W. Ellis, George Webster, Jeremiah McCarthy, Antonio Neidt, August Harding, Christian Homerech, Jeremiah Russ, E. Huber, Gill Baneras and Gregonio Ochoa in the District Court of Contra Costa County. The defendants were accused of forcibly entering and ejecting Elias Blum from his home on the rancho, and unlawfully taking possession.⁷ Robertson denied the charges, claiming that William B. Agard was the owner of an undivided three-tenths of the rancho. Agard's claim was based on an alleged deed from Manuels Valencia to Edwin A. Lawrence,

George C. Bates and S.C. Hastings for an undivided one-half interest in the rancho. Robertson claimed to be an agent for Agard and, as such, he had taken possession of the premises occupied by Elias Blum. In answer to Robertson, Elias Blum referred to the alleged deed of March 20, 1860.

William B. Agard had allegedly purchased an undivided one-tenth interest in the rancho from George C. Bates on May 30, 1856, another tenth from E.A. Lawrence on August 1, 1856, and a one-tenth interest from S.C. Hastings on January 30, 1857. The Judge of the District Court for Contra Costa County, S.F. Reynolds, ruled in favor of Elias Blum on July 14, 1862. J.R. Robertson objected to the decision and filed an appeal September 7, 1862. The appeal was rejected the same day. It was carried to the Supreme Court of California, and the case was returned to the Fourth District Court for a new trial. The decision was again in favor of Blum, and on December 14, 1865, John McEwen, the sheriff of Contra Costa County put Blum in possession of the land under dispute.⁸

Two years later, on January 29, 1867, Simon and Elias Blum entered a complaint in the District Court, Fifteenth District, against Ramon Briones and his wife, Luisa Moraga. The Blums, alleged they had loaned Briones \$505.00 at two and a half per cent interest per month, and \$1,331.37 at two per cent interest per month, and that both loans were in default. The court ruled in favor of the Blums and ordered the county sheriff to issue them a deed for the land occupied by Ramon Briones and his wife. Ramon refused to surrender the land on the grounds that there was no official survey of the rancho, and as the boundaries of the rancho had not been established, they were uncertain where the land was located within the rancho. Therefore, their interests could not be described by metes and bounds. Nonetheless, Judge S.H. Dwinelle, on July 19, 1867, ordered the county sheriff to eject the Briones and put the Blums in possession of the land.⁹

The United States District Court for the Northern District of California by a decree on December 24, 1868, set aside the survey

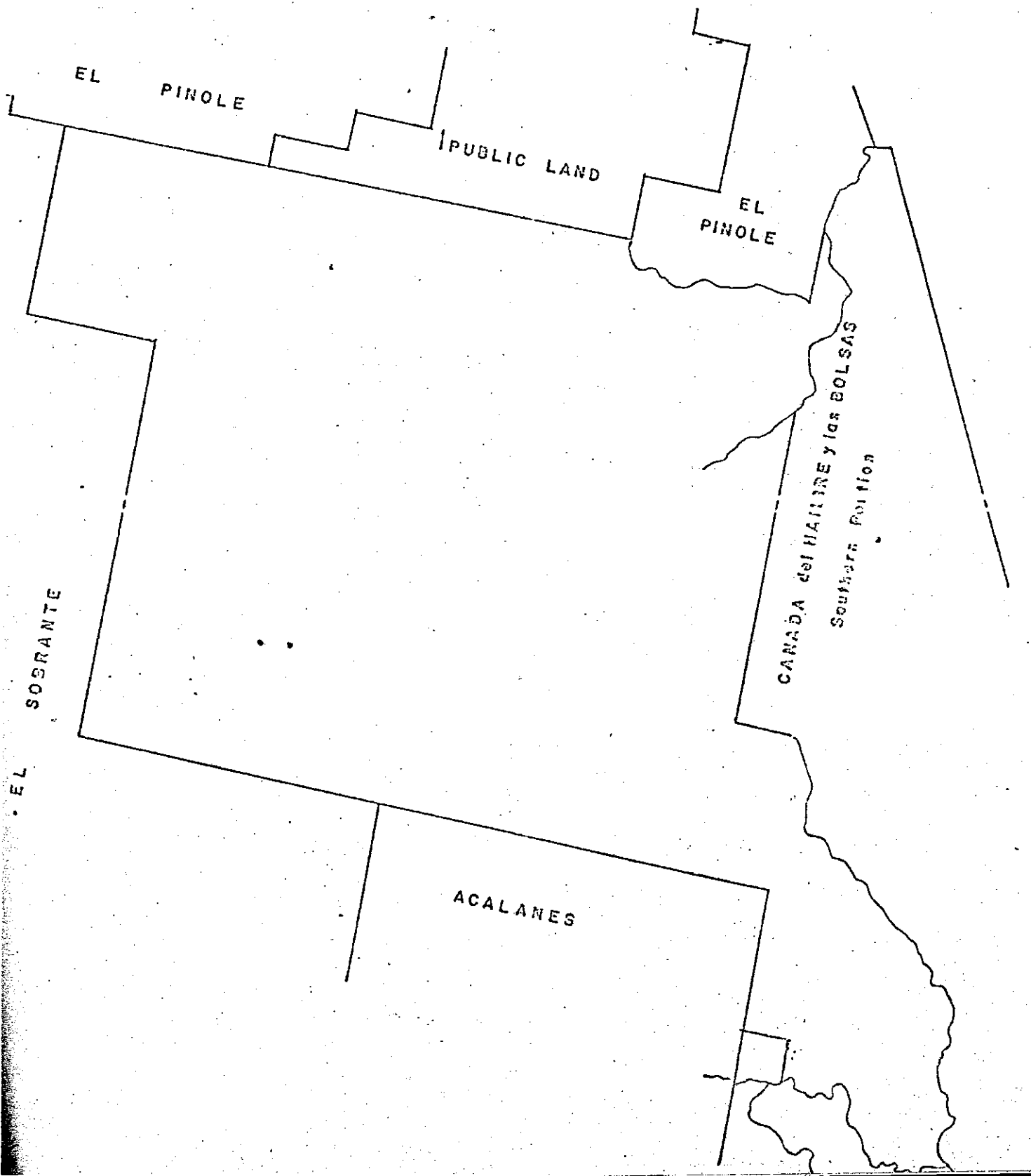
BOCA de la CANADA del PINOLE

Patented to

Maria Manuela Valencia

November 30, 1878

13,316.26 Acres



of Rancho Boca de la Cañada del Pinole which had been made in 1860, and returned it to the U.S. Surveyor General for California for correction and modification. The corrected survey, embracing 13, 316.26 acres, was authenticated by the Surveyor General December 28, 1868, and was approved by Judge Ogden Hoffman January 4, 1869. President Rutherford B. Hayes signed the patent November 30, 1878.¹⁰

References

1. Bancroft, Hubert Howe, History of California, Reprint, Wallace Hebbard, Santa Barbara, Vol. iv, pg 76ff.
Vallejo, Doc., Ms., IX:20.
2. This is a confusion on Julian Willis (William Welch).
See Rancho Las Juntas.
3. Volume 3 Patents, pg. 211. Office County Recorder,
Martinez, Contra Costa County.
4. Land Case 138ND. Bancroft Library, University of
California, Berkeley.
5. Ibid.
6. Ibid.
7. Book of Judgements, Volume 3, Office of County Clerk,
Contra Costa County.
8. Ibid.
9. Ibid.
10. Op.cit., 3.

Chapter Ten
Rancho San Ramon
(Carpentier and Pacheco)

The watersheds of the San Ramon and Tassajara Creeks form two narrow valleys beginning at Walnut Creek on the north and extending south through Contra Costa and Alameda Counties to Dublin. These valleys are known, for the most parts as Rancho San Ramon. The northern portion had previously been called "Arroyo del Injerto" (Creek or Valley of the Graft), because of the unusual natural graft of a willow tree onto an oak which had been found near San Ramon Creek.¹

In 1832, Bartolo (Bartolome) Pacheco and Mariano Castro petitioned the Mexican government for a concession to a tract of land south and eastward from the rancho of Luis Peralta. Pacheco was a soldier in the San Francisco company, and Castro had been alcalde at San José in 1827 and in 1830. The tract they had petitioned for was found to be claimed by the padres of Mission San José, and the request was denied. They later learned of a tract which had been abandoned by the mission which was more suitable to their needs. They filed a petition asking that the land called San Ramon be loaned to them with the condition that if the concession was denied, the land should revert to public domain. The ayuntamiento did not concur, and the request was denied.

The petitioners renewed their request for land in 1835, and Governor José Figueroa issued a decree on May 5, 1835; "Whereas Bartolo Pacheco and Mariano Castro have solicited, for their special benefit and that of their families, the tract of land known by the name of San Ramon, contiguous to the Rancho of San Antonio and the places called El Hambre and Monte del Diablo. In virtue of the authority vested in me, I have, in the name of the Mexican Nation, by decree of the 5th inst., granted to them the ownership thereof by these presents".²

The Committee on Colonization and Vacant Lands, to whom the decree was referred, recommended approval by the Territorial Deputation. Approval was granted May 19, 1835, and forwarded to Governor Figueroa, with written evidence of the approval, to be

issued to Bartolome Pacheco and Mariano Castro in token of confirmation of the grant. A formal declaration announcing Pacheco and Castro as owners in fee of the lands included between the Arroyo las Juntas (Nueces?) and San Ramon, bounded by the ranchos of José Anador and Luis Peralta and Monte del Diablo,³ was issued June 15, 1835. The declaration was followed by the usual requirements that the grantees must occupy the land within one year, stock it with cattle and cultivate it, among others.

Both grantees built adobe homes and fulfilled the other conditions, and the land remained in their possession until Bartolome died in 1839. He left his title and interests to his son Lorenzo, and Mariano Castro conveyed his interests in the rancho to Domingo Peralta in 1843, with the approval of Governor Juan Bautista Alvarado. Lorenzo Pacheco died in 1846, and left his interests to his widow, Rafaela Soto de Pacheco, and to his children, Nicolas, Lorenzo, Inez and Manuela.⁴

Apparently the Peraltas and the Pachecos lived in relative peace until California became one of the United States, and Contra Costa County was formed. From that time, they were bothered by tax sales and squatters. A certificate of tax sale, dated November 11, 1851, and another, a year later, testify to this, and John E. Jones occupied a house near the present site of Alamo, apparently without the formality of permission or of a deed, in 1851. The following year, David Glass started a trading post near by, and a school was established by Richard Webster.

Two petitions, one in the name of Rafaela Soto de Pacheco, and the other in the name of Domingo Peralta, were presented to the United States Board of Land Commissioners on April 13m 1852. Pacheco's claim was rejected on November 22, 1853; no reason is found to be recorded. Peralta's claim to an undivided one-half of the rancho was confirmed March 2, 1857. The decree of confirmation described the boundaries of the land confirmed, referring to the diseño, but put no limit on quantity. The decision of the Board was appealed by the U.S. District Attorney January 5, 1858, but the court was advised later, by the U.S. Attorney General, that the appeal would not be prosecuted. The appeal was rejected and the appeal became final. Rafaela's claim was finally confirmed without opposition February 8, 1858.

Following the decree of confirmation, the court ordered a survey which was executed and forwarded to the United States Surveyor General for California. The settlers on the rancho, the numbers of which had, by this time, increased considerably, objected to the survey, claiming it included more than the two square leagues called for in the expediente. The U.S. District Attorney was able to prove it encompassed nearly four square leagues. As a result, the decree of confirmation was annulled December 3, 1859, and an amended decree was entered in the Peralta case. A motion to amend the Pacheco case was overruled. Pacheco objected to the amended decree and contended that, "by a just interpretation, the grant was for a tract within fixed boundaries, and not for a certain quantity". He claimed also that the decree of the court, and the dismissal of the appeal should be regarded as final, and the U.S. District Court should be deprived of all authority to amend the decree.⁵

William D. Lowe, under the appointment of the U.S. Attorney General to represent the United States, and Horace W. Carpentier, representing Peralta, arrived at an agreement which was presented to the District Court. By this agreement, Domingo Peralta was to be restricted to only two square leagues, with the right of selection within the greater boundaries of the grant, provided it be in a compact mass or tract. On the same day the agreement was presented to the court, Carpentier requested that the Peralta petition be amended by the substitution of his (Carpentier's) name in the place of Peralta's. This request was based on a deed dated September 1, 1855, by which Carpentier allegedly had acquired Peralta's interests in the rancho through a sheriff's sale resulting from a judgement against Peralta issued by the District Court, Third Judicial District, Alameda County.⁶

The U.S. District Court accepted the agreement and the request for amendment, and ordered a survey executed according to the agreement. The order was appealed November 28, 1863. While the appeal was pending, the Contra Costa Gazette published a report on the proceedings dated June 18, 1864.

"The San Ramon Land Grant Bill, in the U.S. Senate, April 30, 1864: Provides that any and all persons claiming, whether pre-emptors or settlers, or whether under any grant or title, any of the lands included within the exterior boundaries of a certain grant for the Rancho San Ramon, made to Bartolo Pacheco and Mariano Castro by Governor José Figueroa, governor of Upper California on or about the tenth of June, 1835, and which claim of two leagues has been confirmed by the District Court of the United States in separate portions, one in the name of Horace W. Carpentier, and the other in the name of Rafaela Soto de Pacheco, and others, by a decree of the Court made on or about the fourth of June, 1862, shall have the right in all courts to contest the correctness of the survey of the land within the exterior boundaries of those lands, notwithstanding any official or approved survey thereof now made or hereafter to be made under a decree of confirmation, and notwithstanding any stipulation or consent given by the District Attorney of the United States authorizing such locations.

In case it should be found that the United States have title to any of the lands within the exterior boundaries which have been settled upon and improved by any person in good faith, under a bona fide title, such occupant, and each settler upon the land so situated, is to be entitled to enter and receive a patent for 160 acres of land, including his improvements thereon, upon payment at the proper land office of the government price of \$1.25 an acre, and proving that he was one of the actual and bona fide settlers on the land, and had made his improvements thereon".

In a debate between Senator Johnson and Senator Harding, Senator Johnson said there seemed to be an effort to reverse the decision of the Supreme Court of the United States; that the decision of that court is a decision only confirming the validity of the grant; it does not give the grantee any specific portions of the lands included within the exterior boundaries.

It was considered ^{necessary} under the Act of (March 3) 1851, and the Act of 1862, that the decision go back to the District Court, and that the survey should be made by the Surveyor General. As the

law stood originally, before the Act of 1862 was passed, there was no method by which a person claiming interest in having a survey correctly made could interfere at all. The Act of 1862 provided that any person who may have had, or could show the court that he had an interest in the survey of the grant, had the right to contest any survey that had been made if he thought it operated prejudicially to his interest.

Johnson pointed out that the settlers in California could not distinguish what lands had been granted, or their boundaries. Settlers would take possession of all lands which, in fact, were not in actual possession of someone else. That situation produced a conflict between the settlers and the grantees, and it was with the view to settle these disputes as rapidly as justice required, that the Act of 1862 was passed.

In answer to Senator Johnson, Senator Harding pointed out that the claimants of the grant brought suit in the United States District Court. The claim was for two leagues which had been marked out and the boundaries fixed as determined by the court, and the court issued a decree of confirmation to the land within those boundaries. An appeal was taken to the U.S. Supreme Court, and the U.S. Attorney General, on condition the claimants abandoned their appeal, agreed that they could exercise a right of location within the external boundaries of the grant which they claimed. The claimants had a survey made within the conditions of the agreement, but as Harding pointed out, it was "something like eleven miles in length, I think, running around all points of the hills and taking all the arable lands that could be worked in by taking the two leagues and extending them out into all sorts of shapes and forms".

The persons contesting the grant and the survey were settlers on the lands which they supposed to be public lands. It was opined that they had no rights to the lands except as preëmtors, but Senator Harding suggested, "They cannot preëmt until the land is surveyed and brought into the market, and the land cannot be surveyed and brought into the market, as I understand it, until the Mexican grant is disposed of".

The purpose of Senate Bill No. 371, which was under debate, was to settle the boundaries of the claim and give the right of preëmption to the settlers. In describing the grant, Senator Harding continued, "It is a hilly or mountainous district lying east of the City of San Francisco across the bay. The larger portions of this country is mountainous or hilly land. The smaller part is valley land. In many instances, the valley land is found in every small nook made by the ravines that run down from the mountains at their termination."

The grantees in this case were determined by the U.S. Courts to be entitled to two leagues of land. The next question involved was, where the two leagues of land should be located.

As shown above, the grantees took full advantage of the agreement and the resulting survey was in a form which was not only inconsistent with all ideas of public survey, but it included the lands of everyone living within miles of where the boundaries of a reasonable survey should have been located. It appears that wherever they found a valuable and improved property, they had the survey run so as to include it".

Horace W. Carpentier later admitted he had attempted to appropriate the entire valley by this survey.

The U.S. District Court ordered the survey returned to the U.S. Surveyor General for California for correction so as to locate the land confirmed in a reasonable compact form. A corrected survey was executed and returned to the court.⁷

Judge Ogden Hoffman, concerning the survey said, "Under the law laid down by the U.S. Supreme Court, I am compelled to pronounce any survey made in conformity with the decree of confirmation to be correct. As this survey is admitted to be in conformity with the decree of confirmation, it must, therefore be declared to be correct".⁸

The survey was authenticated by the Surveyor General for California on June 26, 1865, and on April 7, 1866, President Andrew Johnson signed the patent which confirmed title to the northern portion of Rancho San Ramon, lying within the San Ramon Creek watershed, and containing 8,917.36 acres, in the names of Horace W. Carpentier and Rafaela Soto de Pacheco, in two undivided interests.⁹

RANCHO
CANADA del RAMBE
Y las BOLSAS

RANCHO SAN RAMON

PATENTED TO
Horace W. Corpentier
by the
UNITED STATES GOV'T.
June 26, 1865
Containing 8,917.36 Ac.

RANCHO ARROYO de las NUECES
Y los BOLBONES

□ TICE
□ HOUSE

□ WOLF'S STORE
IN ALAMO

□ UNION
ACADEMY

□ PARSONAGE

□ WHITE HOTEL
IN DAVILLE

ROMERO

PUBLIC

PUBLIC

LAND

LAND

S O B R A N T E

RANCHO SAN RAMON
(Leo Norris)

References

1. Fink, Leonora Galindo; The Rancho San Ramon of Bartolome Pacheco and Mariano Castro, unpublished monogram, Contra Costa County library, Pleasant Hill.
2. Land case 322ND; Bancroft Library, University of California, Berkeley.
3. Ibid.
4. Ibid.
5. Ibid.
6. Volume 4 Deeds, pgs. 353 and 375. Office of County Recorder, Martinez.
7. Volume 1 Patents, pg.35. Office of County Recorder, Martinez.
8. Ibid.
9. Ibid.

Chapter Eleven
 Rancho San Ramon
 (José María Amador)

José María Amador was born at San Francisco on December 18, 1794, the son of Pedro Amador and María Noriega. Pedro Amador came to California with the first Spanish expedition in 1769. José served in the San Francisco company from about 1810 to 1827. During that period, he accompanied Captain Luis Argüello on his campaign into the northern reaches of the Sacramento Valley, and was with Gabriel Moraga on expeditions to Bodega Bay and to Fort Ross. After his discharge from the army in 1827, he became mayor-domo at Mission San José. He spent some time at the mines in the area now known as Amador County. His first wife was a daughter of Francisco Alviso; his second was Josefa Ortega, whom he married in 1828.¹

By 1833, José Amador had submitted two petitions to the Mexican government for a tract of land known as 'Las Juntas (not to be confused with William Welch's Las Juntas to the north), but without success. He renewed his application on April 15, 1833; "To the Comandante General: Citizen José María Amador, with all due respect, before you appears by means of this writing, representing that having made an application for a place named 'Las Juntas' to the gentlemen, your predecessors, up to this date he has received no decision for neither of the two applications made by him already. Said place is twelve leagues, a little more or less, distant north from the Mission of San José toward the north..." In this same document, he referred to a place called "San Ramon", which was only seven leagues from the mission, and which would serve his needs better.

In answer to Amador's request, Governor José Figueroa wrote on April 24, 1833, "In conformity with the laws on the subject (Colonization laws), let the ayuntamiento of the port (?) of San José (de) Guadalupe report whether the party has the provided requisites to attend in his application; whether the land he solicits is included within the 20 limiting leagues, or in the 10 littoral ones mentioned in the law of 18 of August, 1824..."²

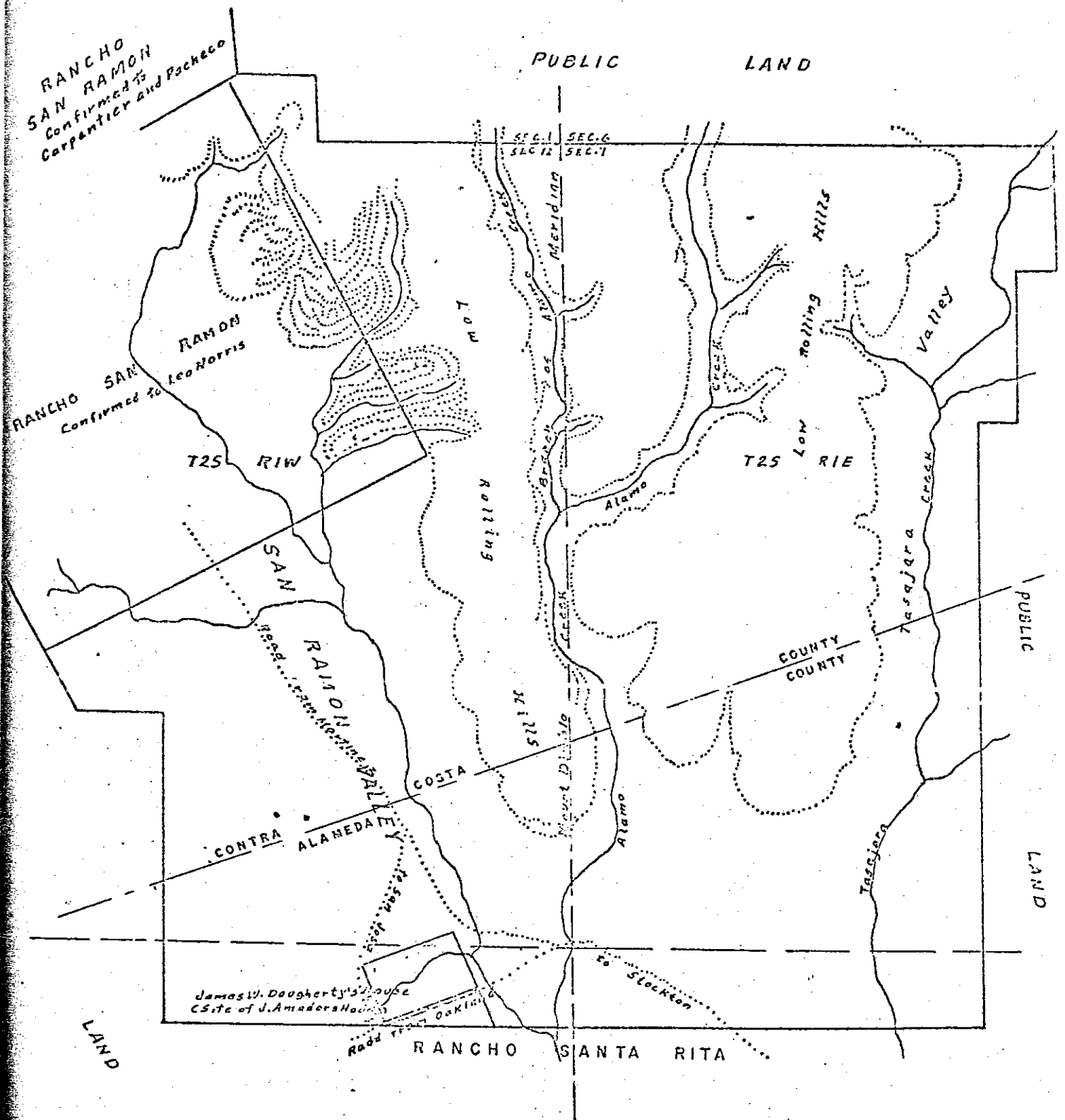
The ayuntamiento returned a favorable report, and on January 22, 1843, Governor Figueroa issued a decree, "In accordance with the provisions of the laws and regulations on the subject, José María Amador is declared owner in fee of the place known by the name of San Ramon, bounded by the river and mouth of the valley of the same name from north to south, and from east to west by the lateral mountains".³ This decree was forwarded to the padre at Mission San José, José María de Jesus Gonzales, who reported in August, 1834, that the mission had renounced claim to the land, and that it was open to occupation. Eight days later, Governor Figueroa issued title to Amador for a tract of land containing four square leagues and eighteen hundred varas. Amador entered the land, built an adobe house near the southwest corner of the grant not far from the present site of the town of Dublin, stocked the land with horses and cattle, and prepared a portion for cultivation.

Seventeen years later, on September 1, 1851, Amador agreed to sell to Leo Norris, William Lynch and William Norris a tract of land three thousand varas wide within the exterior boundaries of the grant, for which the three signed an agreement to pay Amador three thousand dollars.⁴ Amador gave Leo Norris a certified deed on October 25, 1851, in conformity with this agreement.⁵

José María Amador filed a petition with the United States Board of Land Commissioners on March 23, 1853, asking confirmation of his claim. A little more than one year later, on August 1, 1854, the Board confirmed his claim to a tract of land bounded on the north by the Arroyo San Ramon, on the south by the lands of Mission San José, and on the east and west by the mountains enclosing the valley of San Ramon.⁶ The decision of the Board was appealed to the United States District Court for the Northern District of California by the United States Attorney and, on January 14, 1856, Judge Ogden Hoffman decreed the claim valid. In his statement concerning the validity of Amador's claim, Judge Hoffman wrote, "And whereass it further appearing...that the Attorney General of the United States, having given notice that no appeal to the Supreme Court of the United States would be prosecuted in this case, the District Court, at a stated term, on the 10th day of

February, 1857, ordered, adjudged and decreed that the claimant have leave to proceed under the decree of this court, heretofore rendered in his favor, as under final decree". Judge Hoffman then ordered a survey to be made by the Office of the United States Surveyor General for California. The survey was authenticated by the U.S. Surveyor General on November 19, 1860, and forwarded to the District Court January 21, 1861. It was objected to by Juan and Agustín Bernal, Antonio Suñol, Samuel B. Martinez, Michael Murray, Jeremiah Fallon, J.F. Williams and the United States District Attorney. Amador's attorney reached an agreement with the U.S. District Attorney, Juan and Agustín Bernal. Antonio Suñol and Samuel B. Martinez, and the survey was approved by the District Court. The exceptions entered by Michael Murray, Jeremiah Fallon and J.F. Williams were overruled.⁷

The U.S. Surveyor General for California, J.W. Mandeville, declared José María Amador owner of 16,516.95 acres of Rancho San Ramon upon the approval of the U.S. District Court and upon his recommendation, the patent, confirming Amador's title was signed by President Abraham Lincoln on March 18, 1865, scarcely a month before he was assassinated.⁸



RANCHO SAN RAMON
 As patented to
Jose Maria Amador
 by the
UNITED STATES GOV'T.
 March 18, 1865
 Containing 16,516.95 Ac.

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References

1. Bancroft, Hubert Howe, History of California, reprint, Wallace Hebbard, Santa Barbara, 1966. Vol. II, Pioneer register, pg. 585 footnotes.
2. Land Case 144ND, Bancroft Library, University of California, Berkeley.
3. Ibid.
4. Volume 1 Deeds, page 401. Office of County Recorder, Martinez.
5. Ibid. page 558.
6. Op. cit., 2.
7. Op. cit., 2.
8. Volume 3 Patents, pg. 575. Office of County Recorder, Martinez.

Chapter Twelve
Rancho San Ramon
(Leo Norris)

Leo Norris, a native of Kentucky, came overland to California with his family in 1846. They lived at San José until sometime in 1850, when he moved his family to San Ramon Valley.¹ He had acquired a portion of José María Amador's Rancho San Ramon through an agreement signed September 1, 1851, and a deed dated October 25, 1851. Norris defaulted in some of the conditions of the agreement and Amador brought suit against him, but Amador agreed to dismiss the suit when, on February 19, 1852, Norris agreed to pay Amador \$6,000 and relinquish the oxen, cows, horses and equipment which were delivered to him under the contract for the purchase of a portion of Rancho San Ramon. Norris also agreed to relinquish all the rancho which Amador presumably deeded to him by the 1851 deed, except for one square league which was to be surveyed out of the northwest portion of the rancho, and was to include the improvements which were made by Norris.²

Norris filed a petition with the United States Board of Land Commissioners on September 20, 1852, through his lawyer, asking confirmation of title to the land. As his lawyer had filed the petition in the name of George Norris, Leo filed a request with the Board asking that the petition be corrected.³ His claim was confirmed August 1, 1854, and the Board's decision was appealed to the United States District Court for the Northern District of California. Judge Ogden Hoffman of that court affirmed the decree, but modified the boundary description to read, "Commencing at the northwest corner of said Rancho San Ramon as surveyed and marked out by Warren Brown, County Surveyor for Contra Costa County, on the 2nd, 3rd, and 4th days of July, 1850, and running thence in a southerly direction a distance of one Spanish league, provided it does not come to the line surveyed and sold to Russell, and if it is less than a league to Russell's north line, then to a point parallel to the most northerly point of Russell's line; and run thence in an easterly direction one Spanish league; thence in a northerly direction to the northern line of said Rancho San Ramon; thence on said northern line to the place of beginning,

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so as to measure and contain one square Spanish league as nearly in a square form as practicable".⁴

The survey was executed and presented to the United States Surveyor General for California, who approved it on April 1, 1861. It was published in the Alameda County Gazette on April 20, 1861, and in the San Francisco Herald April 17, 1861, to allow objections to the survey to be registered. No objections were filed, and as no further proceedings were necessary, the United States District Court approved the survey. The patent was signed by President Chester A. Arthur on July 2, 1882, and gave Leo Norris title to 4,450.94 acres of land in Rancho San Ramon.⁵

RANCHO SAN RAMON

As patented to

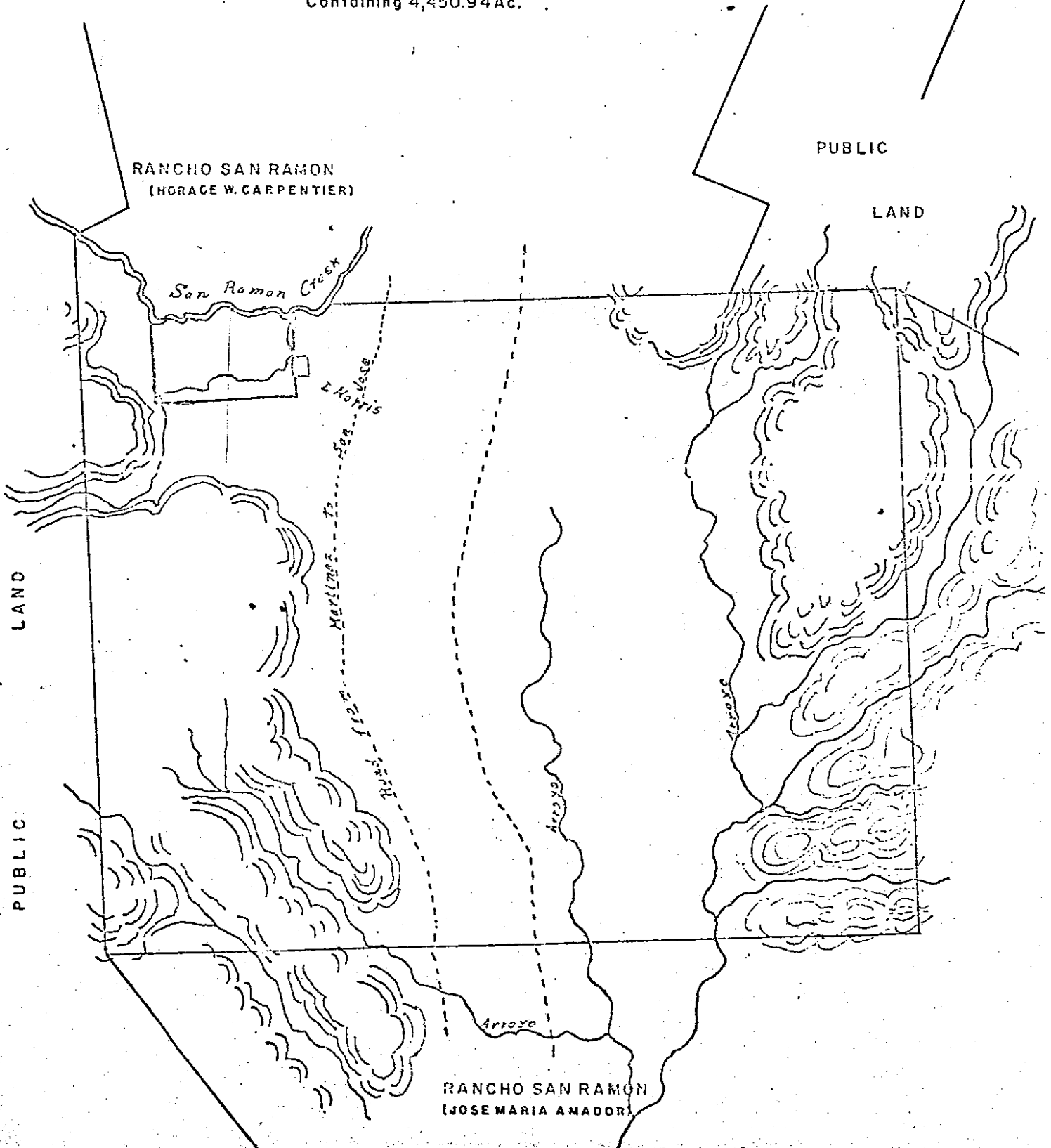
Leo Norris

by the

UNITED STATES GOV'T.

July 3, 1892

Containing 4,450.94 Ac.



References

1. Bancroft, Hubert Howe, History of California, reprint, Wallace Hebbard, Santa Barbara, 1969. Vol. IV, Pioneer Register.
2. Volume 1 Deeds, page 401. Office of County Recorder, Martinez.
3. Volume 1 Deeds, page 558. Office of County Recorder, Martinez.
4. Land Case 287ND, Bancroft Library, University of California, Berkeley.
5. Volume 3 Patents, page 353. Office of County Recorder, Martinez.

Chapter Thirteen
Laguna de los Palos
Colorados

José Joaquin de la Trinidad Moraga was a soldier in the San Francisco Company in 1819, and later served at Monterey and at San José with his cousin, Juan Bernal. Both were grandsons of colonists and soldiers who came to California in 1775, with Captain Juan Bautista de Anza. Anza's lieutenant, José Joaquin Moraga founded the presidio at San Francisco in 1776, and during the same year, he selected the site for Mission San Francisco de Asís (Mission Dolores). The following year, he founded Mission Santa Clara and the pueblo of San José de Guadalupe.

José Joaquin's son, Gabriel Moraga, entered the army at the age of sixteen. Through service and "brilliant action" against troublesome Indians, he gained his lieutenancy. He helped to establish the aborted colony, Villa de Branciforte, near the mission at Santa Cruz, and became its first magistrate; he served in the same capacity at San José, and led or took part, in forty-six exploratory or punitive expeditions, some of which resulted in his naming many of the rivers flowing out of the Sierra Nevadas.

Juan Bernal served with the San Francisco company between 1820 and 1830, in the San Francisco militia in 1837, and at San José in 1841.

The two cousins, Joaquin Moraga and Juan Bernal, petitioned Governor José Castro for a tract of land on which to settle their families on August 20, 1835; "The citizens Joaquin Moraga and Juan Bernal, residents of the pueblo of San José, before your honor, as best they may, in law, appear and represent that they, having addressed to your predecessors the petition for the place named Laguna de los Palos Colorados in the jurisdiction of San Francisco....I wish this present would be made valid to me so as to prosecute the petition for the mentioned land..."² The application was referred to the Territorial Deputation by the governor, and was approved by that body October 18, the same year. Governor Juan Bautista Alvarado issued fee title to them August 10, 1841.³

The cousins occupied the land in 1836, and built a wooden house in which both families were reported to have lived until more permanent adobe homes could be built. They built a corral, fenced a portion of the land for cultivation and stocked the land with cattle and horses.

Other than a minor quarrel with their neighbor, Candelario Valencia, to the north, the two families lived on the land peacefully until about 1848, when squatters began to gather in the rewood groves in the upper San Leandro Cañon and on the eastern slopes of the Oakland hills to develop sawmills. By 1850, William H. Taylor and James Owen had built a saw mill near the present site of Cañon School, which they later sold to William H. Smith and John C. Slade. Taylor's mill was built on land outside the boundaries claimed by Moraga and Bernal, but Hiram Thorne and William Hamilton, disregarding the Moraga-Bernal claim, occupied a 320 acre tract within the boundaries in 1853, and erected a saw mill and began cutting timber.⁵ After an unsuccessful effort to remove them, Joaquin, Francisco and José Moraga agreed to sell what later became the "Redwood Tract" to Elam Brown, who, in the meantime, had acquired Rancho Acalanes. The rewood groves were nearly destroyed by the fall of 1856.

Under the provisions of the Act of March 3, 1851, Joaquin Moraga filed a petition with the Board of Land Commissioners, asking that the title given him and Juan Bernal by Governor Juan Bautista Alvarado be confirmed. The petition was filed February 15, 1853, but was returned to him for revision as he had filed in his name only. The Board required him to include the names of Juan Bernal's widow and children. The petition was returned to the Board January 17, 1854, and the claim was confirmed January 23, 1855.

The decision of the Board was taken on appeal to the United States District Court for the Northern District of California on August 1, 1855, and on January 26, 1857, the U.S. Attorney General gave notice the appeal would not be prosecuted. Judge Ogden Hoffman signed the final decree of confirmation April 8, 1858, but while the appeal was being considered by the U.S. District Court,

Horace W. Carpentier entered a claim against the rancho for an undivided one-half interest. He claimed that the Moragas and the Bernal had no money with which to pay his fees for defending their case before the court, and had agreed to give him the undivided one-half interest. The court concurred and added his name to the list of claimants. To enforce his claim, Isaac Yokum, an alleged agent for Carpentier, moved a band of men onto the rancho and built barricades near the Moraga home. A gun fight ensued during which several dead and wounded were reported. The Yokum forces withdrew, but continued to harass the family.⁶

Horace W. Carpentier came to California in 1848, and established himself as an attorney in San Francisco. He and two partners, Edson Adams and Andrew J. Moon (sometimes spelled Mhoon), in complete disregard for the rights of the Peralta family, crossed the bay and squatted on Luis Peralta's Rancho San Antonio in 1850, and began the town of Oakland. From that time, Carpentier began to build a reputation as a land-grabber and a shyster. The stories of his shady deals, and the reputation he developed in northern California, are too numerous to be set out here. It was said that Gil Moraga, from whom Carpentier took large tracts of land in San Ramon Valley, allegedly under mortgage foreclosures, should have shot him. His nefarious operations were not confined to Contra Costa County. His influences were felt in other counties from Sacramento to Monterey, and as far east as the mountain counties of Placer, Sonora and Amador. The team of Carpentier, Adams, Moon, Frisbee, Brisac and De Zalido apparently stole more land from Mexican claimants than any other combination of men in California at the time.

Before the decree of confirmation was signed, the Moragas and the Bernal found it necessary to dispose of portions of the rancho in order to meet debts and to pay taxes. Many of the debts resulted from loans and, on occasion, the county sheriff found it necessary to call Joaquin Moraga and the widow Bernal to task for delinquent taxes.

Joaquin Moraga died on June 22, 1855. He left a will, and his son José was appointed administrator of the estate August 10, 1855.

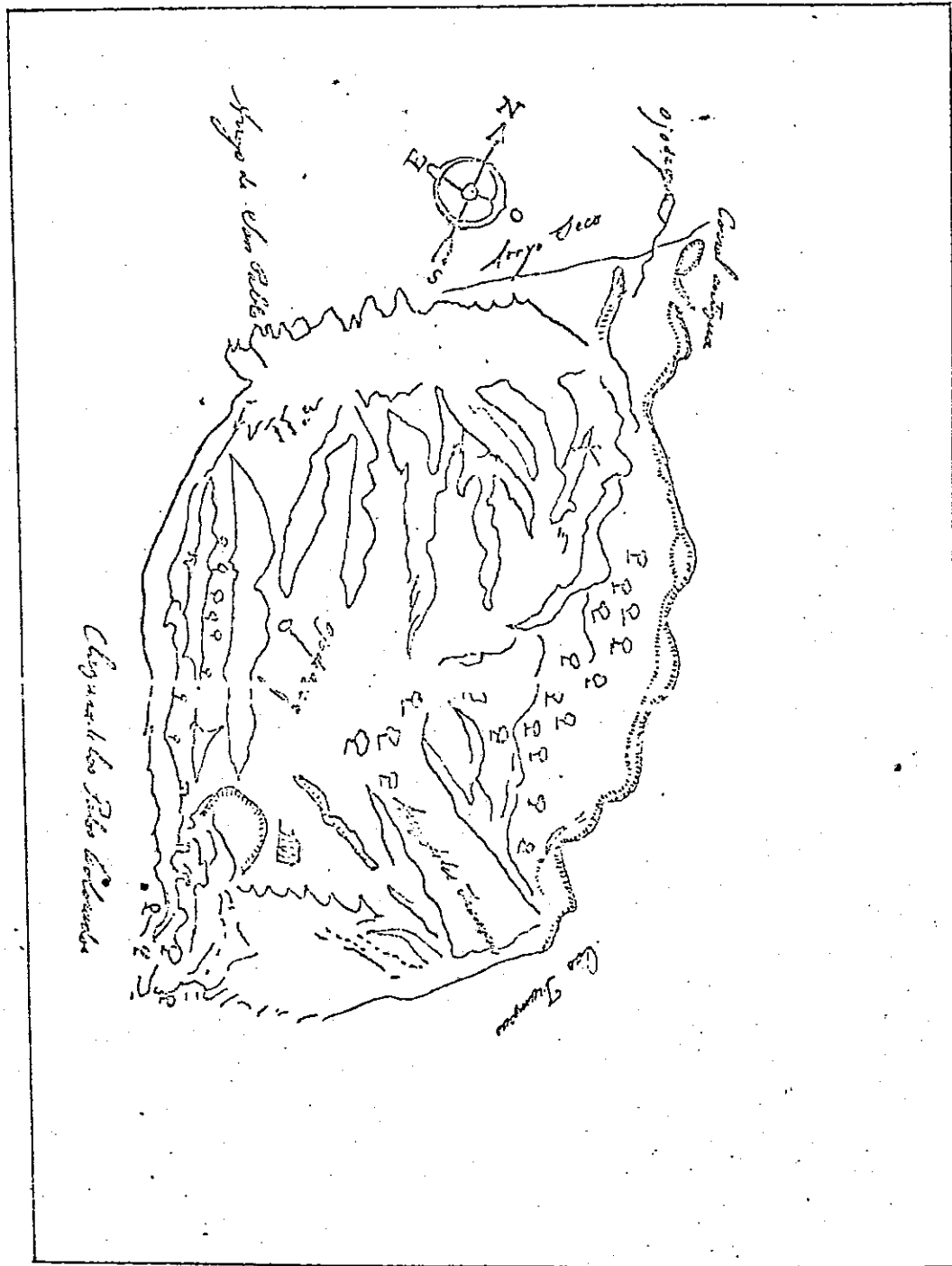
When José died, December 2, 1862, M.R. Barber was appointed administrator, and in 1881, José's son, José Joaquin, complained to the Probate Court of Contra Costa County concerning Barber's Administration. Barber resigned, and the Probate Court appointed E.W. Hiller to that office.

A survey of the rancho to be executed by the Office of the U.S. Surveyor General for California, was ordered by Judge Ogden Hoffman on August 29, 1859. The survey was approved by the Surveyor General November 19, 1860. It was contested by José Moraga, James Magee, John P. Courtney, Louis Mason, Horace W. Carpentier, Samuel P. Tennant, Lucy R. Jones, William B. Agard, Edson Adams, John B. Frisbee and Felix Brisac.⁷

Among the several objections to the survey, it was argued that in 1844, by judicial decree of Governor Manuel Micheltorena, the dividing line between Rancho Acalanes and the Moraga grant included a spring near "corral antigua", and that about 2,000 acres of the most valuable portion of the rancho lying south of the line fixed by Governor Micheltorena had been excluded; that the eastern boundary of the rancho was the "Cuchillo de las Trampas", but that about 1,500 acres of valuable land lying west of this landmark had been excluded; that a tract of "utterly worthless" land not within the original boundaries of the grant had been included in the survey; that the survey had been made, and the land located, contrary to the wishes and against the interests of all the owners in common of the rancho; and that the rancho, as surveyed, is worth less than one half of what it would be if located according to the decree of Governor Micheltorena.⁸

Horace W. Carpentier, Edson Adams, John B. Frisbee and Felix Brisac, alleged owners of Rancho El Sobrante, objected to the survey on the grounds that 3,500 to 4,000 acres on the northerly and easterly sides were excluded, and approximately the same amount on the westerly and southerly side, which rightfully belonged to Rancho El Sobrante, was included in the Moraga survey.⁹

The survey was rejected by the District Court. This decision was appealed; the survey was again rejected and, on December 4, 1874, a new survey was ordered. The final survey was made by



DISEÑO of RANCHO LAGUNA de los
PALOS COLORADOS

William F. Boardman, Deputy United States Surveyor, in 1875, and was approved by H.G. Rollins, United States Surveyor General for California, on April 21, 1876. The patent was signed by President Rutherford B. Hayes on August 10, 1878, for a tract of land containing 13,316.00 acres.¹⁰

References

1. Bolton, Herbert Eugene, Font's Complete Diary of the Second Anza Expedition, University of California Press, Berkeley, 1930.
Bancroft, Hubert Howe, History of California, reprint Wallace Hebbard, Santa Barbara, 1963.
2. Land Case 403ND, Bancroft Library, University of California, Berkeley.
3. Ibid.
4. Ibid.
5. School Lands Warrants Nos. 23 and 24. Office of the County Recorder, Martinez.
6. Contra Costa Gazette, July 8, 1871.
7. Op. cit., 2.
8. Ibid.
9. Ibid.
10. Volume 3, Patents, page 516. Office of County Recorder, Martinez.

Chapter Fourteen
Rancho Los Meganos

José Noriega came to California aboard the ship "Natalie" in 1834. The following year he was made depositario (treasurer) at the Pueblo of San José de Guadalupe and received a grant to a place in Contra Costa called Los Megano (the sand dunes). In 1839, he became co-owner of Rancho Las Positas with Robert Livermore, and in 1841, he and José Zenon Fernandez were granted Rancho Quito near the present site of Saratoga in Santa Clara County.¹

When Noriega submitted his petition for Los Meganos, he described the boundaries as "with the Indians of Los Tulares on the east, then in a straight line, including the oak grove, as far as the Tulare; thence north, including the creek of the Poblani which runs through said grove, as far as a sandy hill situated on the point of a chamisal (thicket), bearing northeast; thence running south along the hills situated on the west as far as the mountain called Sierra de Bolbones; thence passing a little beyond the gap where crosses the path from the creek toward the sandy hills there to be seen, leaving on the inside a little hill called las Cuebas (the caves); thence in a straight line between south and east until it meets a line indicated in the beginning of the delineation of the place. The same comprising four leagues from north to south, and three from east to west".² Governor José Castro granted the concession to José Noriega October 13, 1835. The Territorial Deputation confirmed the grant two days later, and on December 2, 1835, Governor Castro issued the title: "Whereas José Noriega, for the personal benefit of himself and his family, has made application for the tract of land known by the name of 'Los Meganos', the appropriate proceedings and proofs having been previously taken in accordance with what is provided by the laws and regulations, in use of the powers conferred upon me...and in the name of the Mexican Nation, I have come to grant him the tract of land mentioned, declaring him the owner thereof ...by the present letter".³ This statement was followed by a list of the usual conditions of concession.

Noriega occupied the land with his wife, Manuela Fernandez, until about March 27, 1842, when they sold the rancho to John Marsh who had come to California early in January of 1836.⁴ John Marsh moved to the rancho soon after purchase and, with the help of some local Indians, built a rude adobe house. It was described as a crude affair of sun-baked mud walls and a thatched roof, with four rooms and an attic. Before coming to California, John Marsh had spent some time around the Great Lakes and in the upper Mississippi Valley where he married a girl whose mother was said to be an Indian, and her father, a French-Canadian fur trader. A son, Charles, resulted from this union. After becoming settled on Rancho Los Meganos, John Marsh met and married Abbie Tuck for whom he built the "historic Stone House". Abbie died before she could occupy the house, leaving John with a daughter, Alice.

John Marsh's petition for confirmation of title was filed May 3, 1853, with the United States Board of Land Commissioners. He reported that he could not produce the title deed because it, along with other papers, had been stolen by a band of marauders who had stolen some horses and robbed his house while he was absent. Copies of the papers were found in the archives.

An initiatory survey of Los Megano was made under special instructions from the Office of the U.S. Surveyor General for California. The survey embraced twelve square leagues, or 52,083.157 acres and was certified December 10, 1853. It was rejected by the Board, along with Marsh's claim to title, on March 14, 1855. The decision was appealed to the United States District Court for the Northern District of California the following month.

While the case was pending, John Marsh was killed near the southern outskirts of Martinez by three Mexican vaqueros, José Antonio Olivas, Felipe Moreno and Juan Garcia. Olivas was captured, tried and convicted. He escaped from jail and eluded capture for ten years. He was recaptured in Santa Barbara in September, 1866. Moreno was captured in Sacramento about the same time. Garcia was never captured and was thought to have escaped to Mexico.⁷

After Marsh's death, all proceedings regarding the Rancho Los Meganos were carried on by the court in the name of "Alice Marsh, a minor".

Charles P. Marsh and James Marsh, his cousin, petitioned the Probate Court of Contra Costa County, on October 7, 1856, for the authority to administer the estate of John Marsh. James Marsh and Seth M. Swain were appointed administrators nineteen days later. They filed a final account and report June 29, 1858, and resigned. Less than a month later, F.M. Warmcastle and Oliver C. Coffin were officially appointed administrators. A year later, the papers issued to Warmcastle were revoked and Oliver C. Coffin was appointed Alice Marsh's guardian, and so remained until she came of age in 1870.⁸

The Marsh Claim to Rancho Los Meganos reached the United States District Court in 1859, and after lengthy consideration, Judge Hoffman pointed out that had the survey been extended to embrace the entire tract as claimed by John Marsh, the land would have been found to be about fifteen square leagues in extent. A survey according to the description contained in the petition would, according to Commissioner Felch, embrace between twenty and twenty-five leagues. Judge Hoffman's decision was founded upon the fourth condition of the expediente, which gave the extent of the grant as a little over three square leagues, reserving the sobrante for the use of the nation.⁹

The usual survey was ordered by the court and executed by Eben H. Dyer, United States Deputy Surveyor, and authenticated by the United States Surveyor General for California December 14, 1866. As there were no objections to the survey registered, it was declared final, and the court declared Alice F. Marsh the rightful owner of Rancho Los Meganos which embraced 13,316.00 acres. The patent was signed by President Andrew Johnson on August 19, 1867.¹⁰

References

1. Hoover, Mildred Brooke, Historic Spots in California, Stanford University Press, Stanford, 1958. Page 234.
2. Land Case 107ND, Bancroft Library, University of California, Berkeley.
3. Ibid.
4. Volume 2 Deeds, page 8. Office of County Recorder, Martinez.
5. Op. cit., 1.
6. Op. cit., 2.
7. Hulaniski, F.J., The History of Contra Costa County, California, Elms Publishing Co., Berkeley, 1917.
8. Book 2 Minutes of Probate Court, page 44. Office of the County Clerk, Martinez.
9. Reports of Land Cases Determined in the U.S. District Court for the Northern District of California, June Term 1853 to June Term 1858, Inclusive, Judge Ogden Hoffmann District Judge, Numa Hubert, 1862.
10. Volume 1 Patents, page 371. Office of County Recorder, Martinez.

Chapter Fifteen
Rancho Los Medanos

Sometime in the year 1836, two brothers, José Antonio and José Miguel Mesa entered an area of sand hills along the Carquinez Straits, near the junction of the San Joaquin and the Sacramento Rivers, with rising grass-covered hills to the south. Here they are said to have built a rude shelter to live in. Little else is known of the two brothers but that in 1839, they asked for a concession to the land, and Governor Juan Bautista Alvarado issued title to three square leagues on November 26, 1839. Some years later, José Antonio entered into an agreement concerning the land with Colonel Stevenson, for their mutual benefit.

Colonel Jonathan D. Stevenson came to California in 1847, as commanding officer of the First Regiment, New York Volunteers, as part of the United States Army of occupation.¹ Late in 1848, he and one hundred men of his regiment, after being mustered out of the army, formed a mining company and went to the mine along the Mokelumne River.²

When he returned to San Francisco early in 1849, Stevenson and Doctor William Parker bought a portion of Rancho Los Medanos from José Antonio Mesa. The document by which Stevenson and Parker acquired the land is somewhat unusual: "I, José Antonio Mesa, of the rancho de Mejanos of Alta California, situated at the junction of the rivers Sacramento and San Joaquin; for the sum of five hundred pesos, to me paid by Jonathan D. Stevenson of the city of San Francisco of Alta California...and by these services he will defend me in the possession of my said rancho...and by these presents I give all my right, title and interest that I have in a piece of land situated near where the rivers of Sacramento and San Joaquin and the Bay of Sosoon (sic) join, which they call 'el Embarcadero'; said land consists of two thousand square varas, more or less..." This document was certified March 31, 1849, by Elam Brown, Alcalde of Contra Costa District.³

Stevenson and Parker had great plans for the land. They envisioned a sea port which would rival New York. The name they gave the boat landing at Rancho Los Medanos, "New York of the Pacific", reflected their dream. It appears that Colonel Stevenson interested William Tecumseh Sherman (the future Civil War general) in his dream. In his "Early Recollections of California", Sherman reported that he had contracted with Stevenson to lay out the newly projected city.⁴

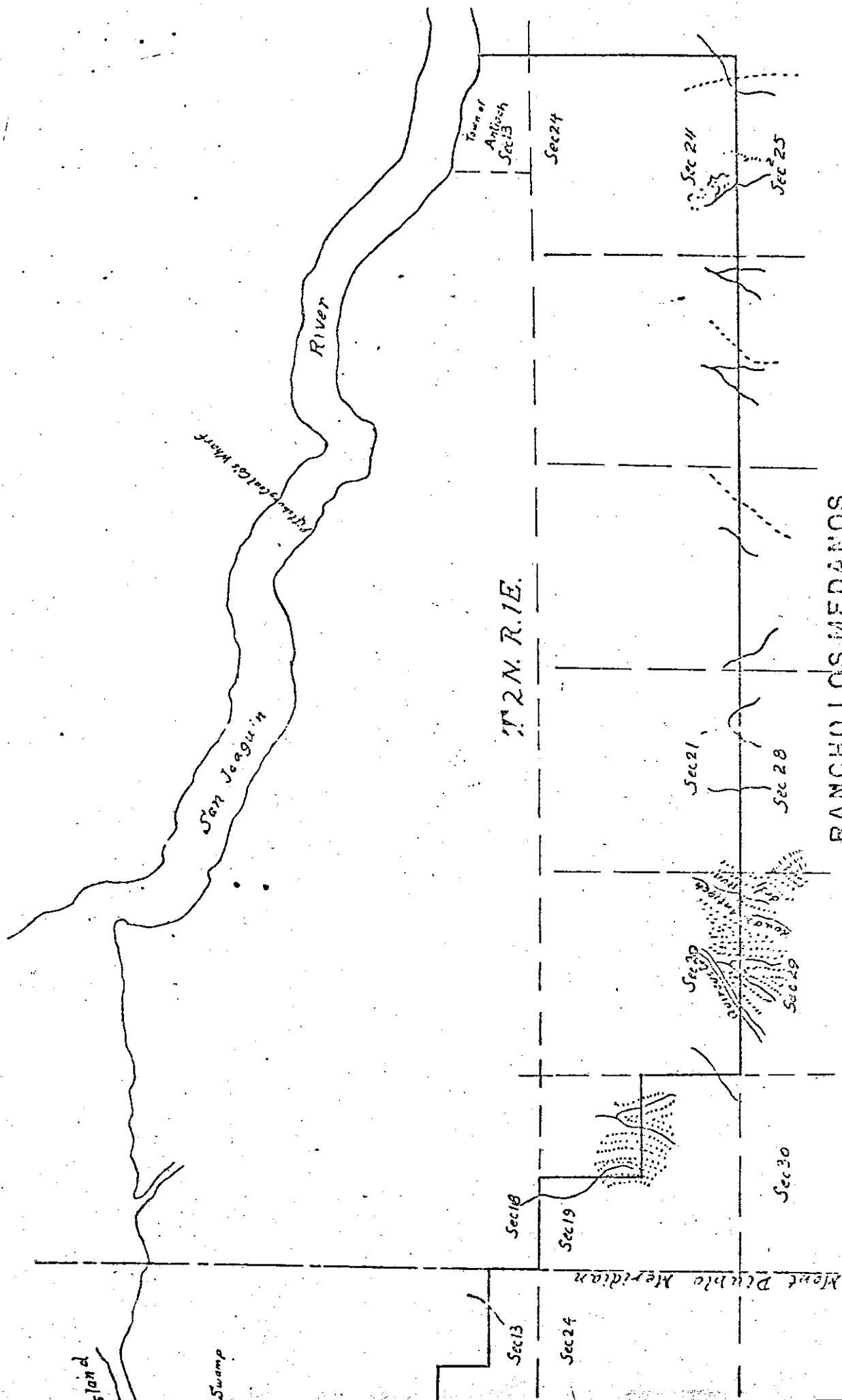
Shortly after Stevenson and Parker acquired José Antonio Mesa's portion of the rancho, William Wiggin Smith, his brother, Joseph H., and their families arrived in San Francisco from New England, July 5, 1849. About four days later, the Smith brothers contracted with Stevenson and Parker to supervise the construction of homes at New York of the Pacific for fourteen dollars a day. The two families arrived at the rancho July 11, and immediately began to build a home. When completed, it was eighteen feet wide and forty feet long. Subsequently, twenty more feet were added to the south end, and a tent 20x50 feet was tacked onto the west side. They christened it the New York House.⁵

While engaged in the construction of other homes on the site chosen by Stevenson and Parker, the Smiths occupied and began to cultivate two quarter sections of land several miles east of Stevenson's "city". The wharf W.W. Smith constructed on the waterfront of the land he occupied became known as Smith's Landing. The name was changed to Antioch in 1872, at his suggestion.⁶

Gold seekers making their way from San Francisco to the gold fields, found New York of the Pacific and Smith's Landing convenient over-night stopping places and sources of supplies, as a result, both settlements thrived. Then, in 1850, drought and cholera struck the rancho. Many families moved to better farming areas, or left to escape the epidemic. New York of the Pacific, later to be called Pittsburg Landing, became almost a ghost town. To add to the problems, the gold fever subsided, and disappointed gold seekers returned from the mines to seek land. They brought with them the fever of squatterism, and Stevenson and the Smiths were faced with another problem.⁷

A petition was filed with the Board of Land Commissioners by Jonathan Stevenson, Michael, Murray, James Welch and Ellen Fallon on February 24, 1853, as claimants of Rancho Los Medanos, asking confirmation of their respective titles. With little objection, their titles were confirmed June 19, 1855. The United States Attorney immediately filed an appeal with the United States District Court for the Northern District of California. The expediente was produced from the archives of the United States Surveyor General for California which showed that Governor Juan B. Alvarado had granted to José Antonio and José Miguel Mesa a tract of land known by the name of Medanos on November 26, 1839. All of the conditions of the grant had been met, and the departmental Assembly confirmed the grant about six months later. The court reported that although the delineation of the diseño appeared crude and inexact, the title described the boundaries with some precision. In that document, the land was described as bounded on the south by Noriega, on the north by that of Salvio Pacheco, on the east by the San Joaquin River, and on the west by small hills, embracing two square leagues, more or less.

Judge Hoffman argued that some of the witnesses appeared to suppose that the land embraced by these boundaries would include a tract of far greater extent than that mentioned in the grant. But it appeared clear to the court that the witnesses confused the small hills with the range known as the Contra Costa Hills which are some distance away, and which would, if taken as the western boundary, include a tract of land of great extent and would also take in one or more of the intervening ranchos. Judge Ogden Hoffman expressed the conclusion that under the evidence and proofs offered by the claimants, Johnathan D. Stevenson, Micheal Murray, James Welch and Ellen Fallon were entitled to confirmation of their respective titles and a decree to that effect must be entered,⁹ under the condition that the rancho be subdivided so as to give Stevenson title to the western half of the rancho, and the eastern half was to be confirmed to and divided among the others.



T. 2 N. R. 1 E.

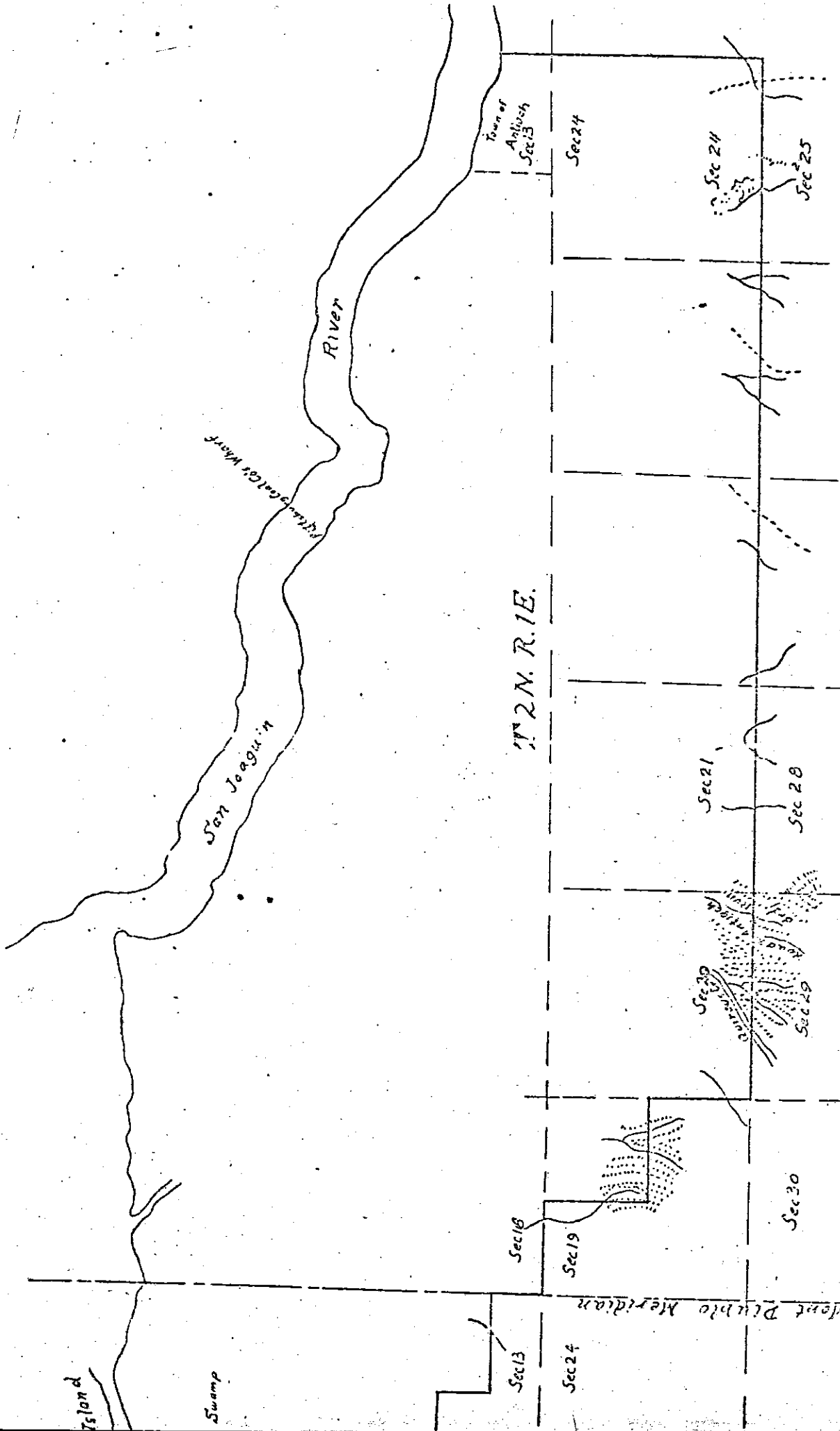
RANCHO LOS MEDANOS

Confirmed to
Jonathan D. Stevenson
October 8, 1872
6,318.63 Acres

Judge Hoffman's decision was appealed to the United States Supreme Court by the U.S. Attorney, but the U.S. Attorney General gave notice the appeal would not be prosecuted. The appeal was vacated, and the District Court issued a final decree of confirmation and ordered a survey. The survey was executed by J.T. Stratton, Deputy U.S. Surveyor, in April, 1856, and was approved by Willis Drummond, U.S. Surveyor General for California, shortly thereafter. Settlers on the rancho objected to the survey but were overruled, and the survey which embraced 8,858.83 acres was approved by Judge Hoffman November 23, 1869. His decision was appealed to the U.S. Circuit Court, on September 23, 1871, and was affirmed by that court. The patent was signed by President Ulysses S. Grant October 8, 1872.¹⁰

References

1. Hoover, Mildred Brooke, Historic Spots in California, Stanford University Press, Stanford, 1958. Page 237.
2. Ibid, Page 69
3. Alcalde's Records. Office County Recorder. Martinez.
4. Hulaniski, F.J., The History of Contra Costa County, Elms Publishing Co., Inc., Berkeley, 1917.
5. Ibid.
6. Journal of William Wiggin Smith, unpublished. William Tornheim, Antioch, California.
7. Ibid.
8. Ibid.
9. Volume 1 Patents, page 375. Office of County Recorder, Martinez.
10. Ibid. See also Land Case 291ND, Bancroft Library, University of California, Berkeley.



T²N. R. 1E.

RANCHO LOS MEDANOS

Confirmed to
Jonathan D. Stevenson
October 8, 1872
8,318.83 Acres

Chapter Sixteen

Rancho
Cañada de los Vaqueros

Francisco Alviso, Antonio Higuera and Manuel Miranda, three retired Mexican soldiers, submitted a petition to the Mexican government of California on May 11, 1841, asking for a concession to a tract of land described as bounded on the north by the Julepenas occupied by Mr. Juan Marsh, on the east by the Cañada de Buenas Aires, on the south by Las Positas, and on the west by the lands of Dolores Pacheco. The expediente was favorably reported but was subsequently lost and the concession was not given. A new petition was submitted February 15, 1844, and was referred to the magistrate at San José. Four days later, that officer reported that in his judgement, to avoid any question, the grant should be subject to the measurements of the lands of the adjacent owners. The grant was confirmed by Governor Manuel Micheltorena July 24, 1844.¹

Shortly before he died on September 17, 1846, Antonio Higuera ceded his title and interest in Rancho Cañada de los Vaqueros to Francisco Alviso. In October the same year, Miranda deeded his title to Alviso, then, on April 24, 1847, Alviso sold the rancho to Robert Livermore and José Noriega, but was allowed to graze his cattle there.²

Born in London, England, in 1799, Robert Livermore came to California in 1820, as a sailor aboard a merchant ship. After leaving the ship at Monterey, Livermore found a job on a rancho near the pueblo of San José owned by Juan Alvirez. There, he met José Noriega. He later moved to a ranch near the present site of Warm Springs where he met and married Josefa Higuera, a widow with one young daughter. His next move was to Suñol Valley where he built an adobe house and began to raise cattle. José Noriega joined Livermore at Suñol Valley and, together, they petitioned for and were granted Rancho Las Positas in north central Amador Valley, near Pleasanton.

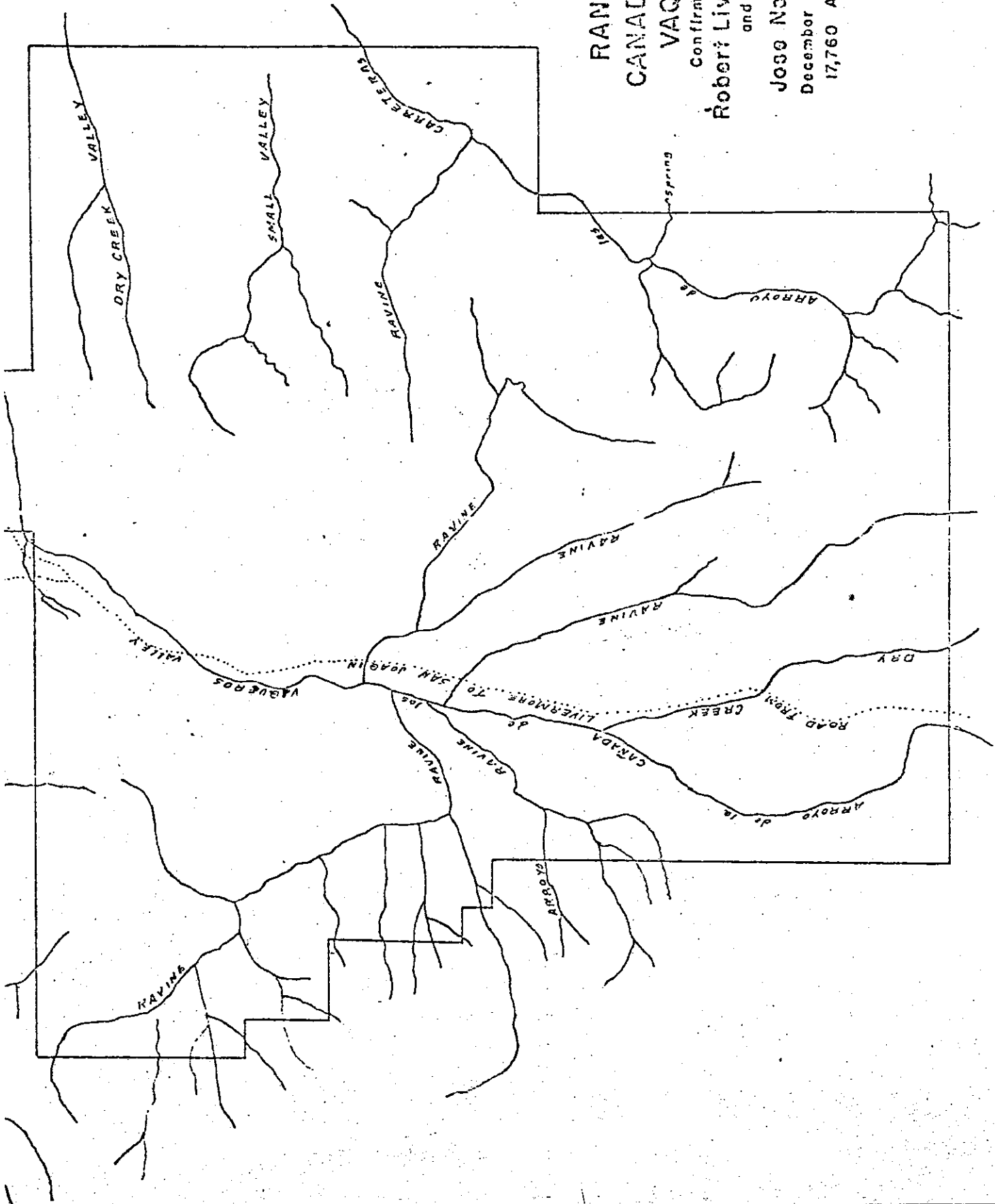
Robert Livermore presented a petition before the Board of Land Commissioners February 27, 1852, asking them to confirm

his title to Rancho Cañada de los Vaqueros. As the petition had been filed in the name of Robert Livermore only, it was returned to be amended by adding the name of José Noriega. While the Board was considering his petition, Livermore and his wife deeded their interests in the rancho to Noriega and his wife, Miranda Fernandez, for the Noriega interests in Rancho Las Positas.³

The Board issued a decree of confirmation September 11, 1855, on the sobrante, or overplus, of Ranchos Los Meganos (John Marsh), Los Pescaderos (Antonio María Pico), and Los Positos (Robert Livermore), after the lines of those ranchos had been established, limiting the quantity to four square leagues located within the exterior boundaries of the grant.⁴ The decree was taken on appeal to the United States District Court for the Northern District of California, and Judge Ogden Hoffman of that court confirmed the decree December 28, 1857, and ordered a survey. The survey was executed by E.H. Dyer, U.S. Deputy Surveyor, and was submitted to and authenticated by E.F. Beale, U.S. Surveyor General for California, February 4, 1862. No objections to the survey were registered and the patent was signed by President Benjamin Harrison, which gave Robert Livermore and José Noriega title to 17,760.00 acres.⁵

References

1. Land Case 386ND. Bancroft Library, University of California, Berkeley.
2. Ibid.
3. Volume 3 Deeds, page 138. Office of County Recorder, Martinez.
4. Op. cit., 1.
5. Volume 4 Patents, page 124. Office of County Recorder, Martinez.



Confirmed to
Robert Livermore
and

Josef Noriega

December 1961

17,760 Acres

Chapter Seventeen
Rancho El Pescadero

Antonio María Pico, son of José Dolores Pico and Gertrudis Amézquita, was born at Monterey in 1808. At the age of 25, he became mayordomo of Mission San José in 1833; alcalde at the pueblo of San José in 1835; and lieutenant of militia in 1837 when he was sent to Fort Ross on official business. While enroute, he was arrested and accused of attempting to incite revolt among the militia at San José and at San Francisco. He took part in the revolt against Governor Manuel Micheltorena in 1844 and 1845, and his sympathies toward the United States during the War with Mexico earned him the displeasure of many of the California Mexicans. President Abraham Lincoln appointed him register of the United States Land Office at Los Angeles in 1861. He resigned the following year. Pico died in 1869 survived by his wife, Pilar Bernal, three sons and three daughters.

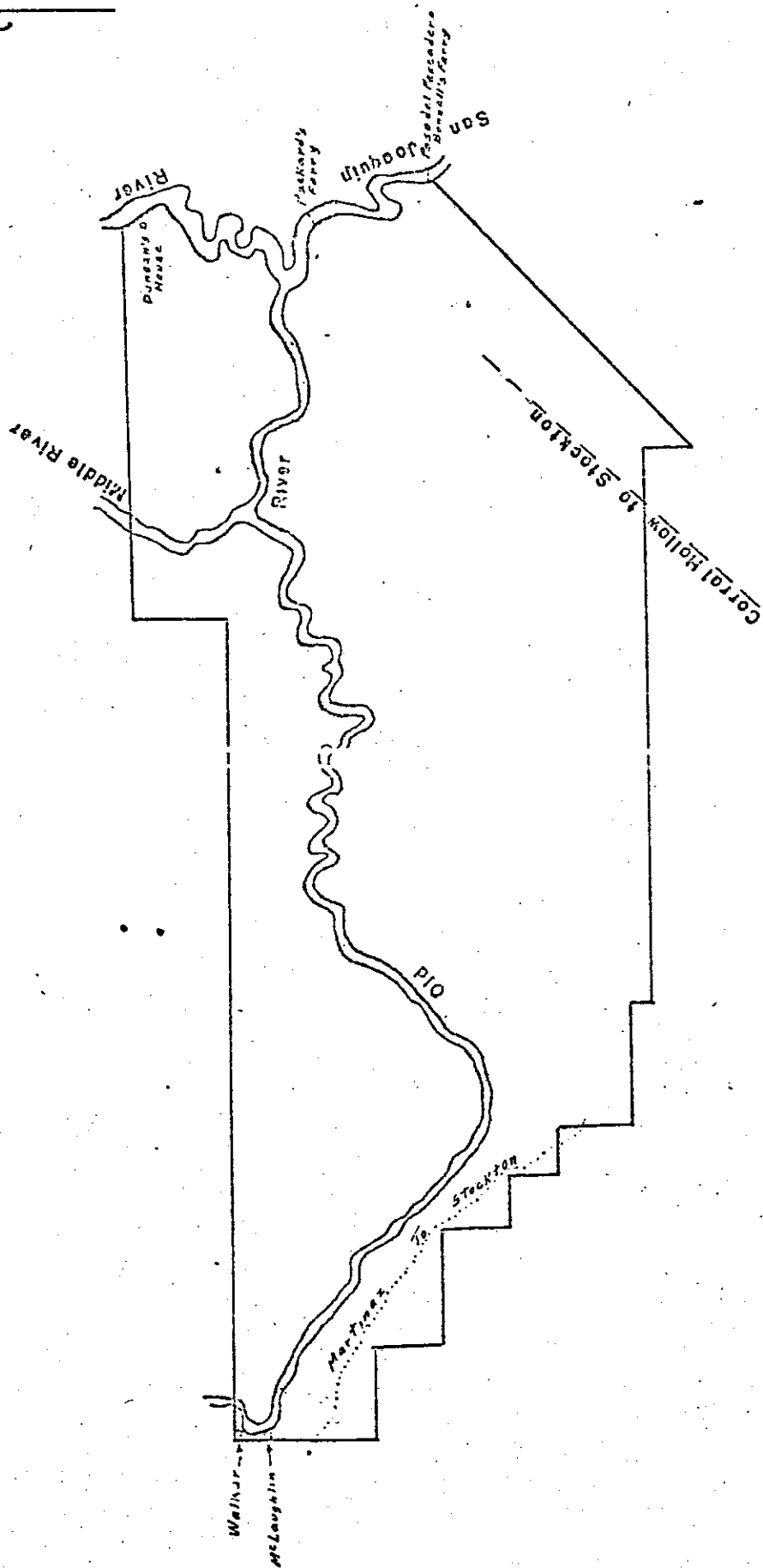
Antonio María Pico submitted a request to Governor Manuel Micheltorena on October 4, 1843, for title to a place called El Pescadero, situated in the neighborhood of the San Joaquin River, adjoining the lands of "Don Juan Sutter", "Don Guillermo Gulnac", "Don Juan Marsh", and "Don José Noriega". He further described it as vacant land, without a claimant and containing eight square leagues.² Three days later, Manuel Jimeno, secretary of the Territorial Deputation, under the directions of Governor Micheltorena, referred the petition to the prefect at Monterey with instructions to examine the land and transmit his report to the "person charged with the administration of justice in the District of Sacramento". That official was to return his report to the office of the secretary at Monterey. All reports were favorable, and the governor issued a decree of concession on November 28, 1843, subject to the approval of the Departmental Assembly and to the usual conditions for judicial possession.

Antonio María and María del Pilar Bernal, his wife, sold an undivided one-half interest in Rancho El Pescadero to Henry Norris Naglee for \$2,500 on April 25, 1849.

Henry Norris Naglee, a native of Pennsylvania, came to California as Captain of Company D, New York Volunteers, during the War with Mexico. He was a graduate of West Point and a lieutenant in the 5th U.S. Infantry. After he was mustered out of the army, he became a banker in San Francisco. He served during the Civil War as a lieutenant-colonel in the regular army, and as a brigadier general of volunteers. He returned to California after the war and settled at San José.³

Pico and Naglee filed a petition before the United States Board of Land Commissioners June 10, 1852, asking for the confirmation of their title to Rancho El Pescadero. In spite of the favorable testimony by Luis Argüello, Antonio Suñol and others, and the proven authenticity of the documents presented, the Board declared, on November 8, 1853, that there was no evidence that Antonio María Pico ever complied with any of the requisites of the Mexican colonization laws or the conditions of the grant, nor had he offered any legally acceptable excuse for not doing so, and they rejected the petition.⁴ The decision of the Board was taken on appeal to the United States District Court for the Northern District of California where, on February 20, 1860, Judge Ogden Hoffman reversed the decision of the Board. He pointed out that the only reason given by the Board for rejection was Pico's failure to occupy the rancho. Suñol had testified to an outbreak of hostilities among the Indians as Pico's reason for not stocking the land with cattle and building a home. These hostilities continued until 1849.⁵ In the face of such testimony by Suñol and others, Judge Hoffman pointed out that the delay arose from obstacles which may be regarded as unsurmountable, and more than likely unavoidable. No idea of abandonment could be construed, and, as the title had not been forfeited and returned to the public domain, it remained vested in Pico at the time the government passed to the United States. The United States was, therefore, bound in good faith to uphold the title and to protect it. Judge Hoffman passed down a decree of confirmation in June, 1856.⁶

The decree was appealed to the U.S. Supreme Court, and on February 20, 1860, that court reversed the decision of the Board,



RANCHO EL PESCADERO

CONFIRMED TO

Antonio Maria Pico & H.M. Naglee

JULY 190

35,546.39Ac.

confirmed Judge Hoffman's decision and confirmed to Antonio María Pico and Henry Norris Naglee title to eight square leagues to be measured within the exterior boundaries of the grant. Nearly a year later, Judge Hoffman ordered a survey made which was approved by E.F. Beale, U.S. Surveyor General for California, on September 25, 1861, but as it was shown that it included portions of the public domain, it was objected to. The United States Attorney and the attorneys for the claimants agreed that through an exchange of deeds, the survey could be adjusted without court action. Under this agreement, 3,594.39 acres were divided among twelve claimants other than Pico and Naglee. The corrected survey was accepted by Judge Hoffman and he confirmed title by final decree on April 9, 1862. President Abraham Lincoln signed a patent on March 10, 1865, which called for an area of 35, 546.39 acres to be confirmed to Antonio María Pico and Henry Norris Naglee.⁷ About twenty of those acres lie within the present boundaries of Contra Costa County.

References

1. Bancroft, History of California, reprint, Wallace Hebbard, Santa Barbara, 1969.
2. Land Case 170ND, Bancroft Library, University of California, Berkeley.
3. Op. cit., 1.
4. Op. cit., 2.
5. Ibid.
6. Ibid.
7. Volume 1 Patents, page 126. Office County Recorder, Stockton, San Joaquin County, California.

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Chapter Eighteen
The Romero Sobrante

The Romero brothers, Innocencio, José and Mariano, submitted a petition to Governor Manuel Micheltorena on January 18, 1844, asking for a title to five square leagues of land situated between Rancho San Ramon on the east and Ranchos Laguna de los Palos Colorados and San Antonio on the west: "The citizens, Innocencio, José and Mariano Romero, natives of this department, before the righteous equity of your Excellency, with and according to law, state: that last year we forwarded to your Excellency a petition soliciting a tract which is unoccupied in the neighborhood of the rancho of Don J. Moraga, Lorenzo Pacheco and William Welch, and as said petition has been mislaid, we present ourselves anew..."¹ On the same day, Micheltorena wrote a marginal decree directing the Secretary of State to take the necessary steps to comply with the request. Manuel Jimeno, Secretary of State, asked the alcalde of San José to report on the land and ask Welch, Moraga and Pacheco to express opinions concerning the grant to the Romero brothers.

The alcalde, Antonio María Pico, reported on February 1, 1844, that the three adjacent land owners were not prejudicial towards the brothers, but that Francisco Soto had claimed the tract six or seven years before; but in the meantime he had not complied with the conditions of the grant, and his rights were in question. Pico suggested the brothers should be given the tract.

On receipt of Pico's report, Micheltorena ordered the sobrante to be measured in the presence of the neighbors. Pico ordered Moraga, Pacheco and Welch to appear and be present when he executed the order, but they did not appear. Pico issued another order which was also ignored. The Romeros then presented another petition to the governor stating that they had appeared before Pico to obtain a survey of the land, and that because the owners of the adjacent ranchos were not present, they asked the governor to grant them the land provisionally. Manuel Jimeno, on receipt of this petition suggested that the land be surveyed with the

least possible delay and, on completion of the survey, the Romero brothers and Francisco Soto should present themselves in order to settle the claim on the land. Francisco Arce, head clerk of the office of the Secretary of State, reported that in May or June, 1844, Soto and the Romeros appeared before Governor Micheltorena. Soto accepted a grant of land near the present site of San Leandro in exchange for his claim on the lands petitioned for by the Romeros, whereupon, the governor issued title for the sobrante to the brothers. Arce further testified that he had handed the papers to Innocencio Romero, and José A. Chavis, Secretary to the Ayuntamiento at Monterey, testified later that after Romero had received the papers, he, Chavis, read them and found them in due form.²

When the Romeros presented their petition before the United States Board of Land Commissioners for confirmation of their title on February 28, 1853, they were able to produce the expediente and several deeds by which they had sold portions of the rancho, but they could not produce the title papers. They explained that shortly after they had received the papers, the title papers had been used in a court case as evidence in a dispute between Domingo Peralta and the Romeros. Consequently, Commissioner S.B. Farwell reported the claim invalid, and it was rejected April 15, 1855. Farwell's decision was appealed before the United States District Court for the Northern District of California a year later.

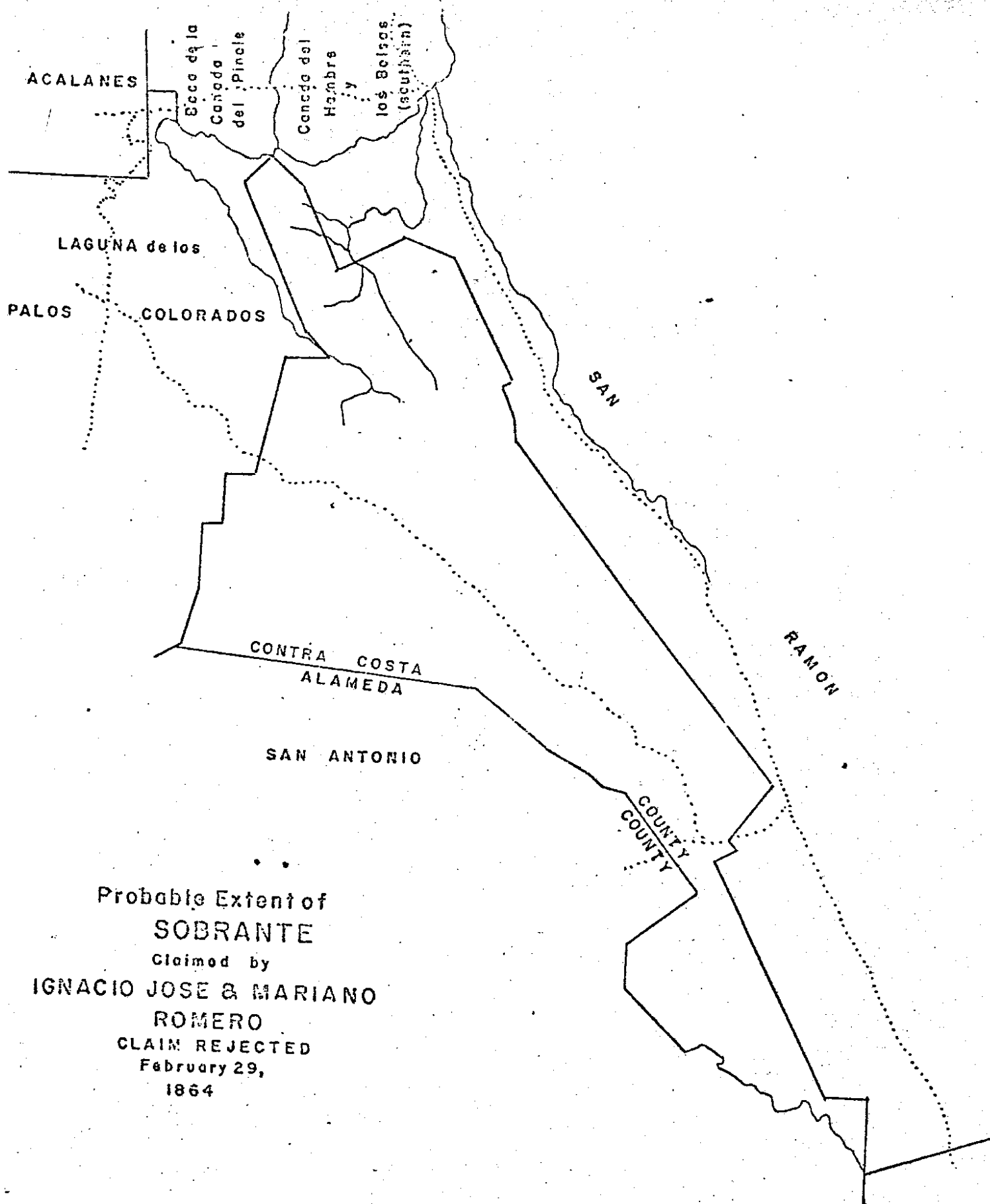
Testifying before the court, Innocencio Romero reported having given the papers to his lawyer, George B. Tingley, to introduce as evidence in a court case. Tingley testified that in 1850, a suit was pending before the District Court of Santa Clara County, at San José, between Domingo Peralta and Innocencio Romero and the title papers had been used as evidence. The last he saw of them they were in the hands of a lawyer by the name of Fred H. Sanford. Tingley said, "From my knowledge of the character and business mode of Sanford, I think he was partly demented, and no papers were safe in his hands."³

Elam Brown, José Jesus Policarpio Mesa, José María Amador and Antonio María Pico all testified on the behalf of the Romero brothers, and all testified as to the authenticity of the documents submitted as evidence before the Board and to the court. They corroborated the Romero claim on the basis of occupation and cultivation, yet, Judge M. Hall McAllister, Circuit Judge of the U. S. District Court, affirmed the decision of the Board and denied the claim.

Edward A. Lawrence wrote, on May 8, 1860, that the claim was rejected in the U.S. District Court on the ground that Mr. Tingley "must have been mistaken in regard to seeing the grant- admitting that if his testimony were true, the claim must be confirmed; (his being the only testimony we have taken in regard to the existence of the grant in the first trial). But on the second examination, after the court's opinion, Mr. Tingley says that he was not and could not be mistaken; that the examination of Mexican titles was his principal business at the time...and recollected perfectly the contents of the grant." Lawrence also wrote that Judge Edmund Randolph, County Judge at San José, testified that there was a full and absolute title in the Romeros.

Charles B. Strode said in his testimony that Sanford had gone home to Georgia in 1852 or 1853, and died there; that he had told witnesses that he had taken the Romero grant after the trial at San José, because Romero (Innocencio ?) owed him \$800 for fees previously incurred; that the claimants did not know where it was and that as he (Strode) was practicing before the Board of Land Commissioners, he might get a fee of \$4,000 from the claimants for procuring the papers. Strode further reported that he had examined the papers and found a complete title to the Romero Rancho. It was soon after Strode's conversation with Sanford that Sanford was to have left for Georgia.⁴

The decision of the District Court was appealed to the U.S. Supreme Court November 11, 1861. That Court affirmed the decision of the Board of Land Commissioners and of the District Court, and on February 29, 1864, the Romero claim was officially rejected and the case closed.



Probable Extent of
SOBRANTE

Claimed by

IGNACIO JOSE & MARIANO
ROMERO

CLAIM REJECTED

February 29,
1864

References

1. Land Case 304ND. Bancroft Library, University of California, Berkeley.
2. E.A. Lawrence's reply to Edmund Randolph's opinion. F868,C76,P2. Bancroft Library, University of California, Berkeley.
3. Op. cit., 2.
4. Ibid.

Chapter Nineteen

The Mexican Land Grant
Problem in California

Perhaps the greatest problem the United States government inherited as a result of the Mexican War and the Treaty of Guadalupe Hidalgo was the determination of title to more than 800 Mexican land claims in California, and more than 1,000 in the Territory of New Mexico. In regards to these claims, Hubert Howe Bancroft wrote, "the proper policy of the United States was, or should have been, clear enough. Commissioners and surveyors should have been promptly sent in to examine titles, take testimony of possessory rights and define boundaries, that patents might be issued - all at government expense".

If this policy had been followed, many fraudulent claims would possibly have been patented. As it was, even with the careful procedures of the United States Board of Land Commissioners in California, the Court of Public Land Claims in the Territory of New Mexico, the U.S. District Courts, the U.S. Circuit Courts and the United States Supreme Court, a number of possibly fraudulent claims were honored and several legal claims denied. The Soto claim for the Rancho Cañada del Hambre y las Bolsas, which Judge Ogden Hoffman questioned, yet confirmed, and the Romero claim which, with all of its authenticated documents, was denied by Judge M. Hall McAllister, are two cases in point.

Some of the historians who might have questioned the manner in which the Mexican land claims were handled, appear to lay much of the blame on the Treaty of Guadalupe Hidalgo as it was ratified by the Congress of the United States. They point in particular to the deletion of Section X, expressing the opinion that the section should have been retained and the Mexican titles recognized outright; but with the congressional deletion of Section X and the defeat of Senator Benton's bill, Congress had to find another solution to the problem. The Act of March 3, 1851, as presented by Senator Gwin, had its faults, but there were political and social pressures (Slavery and the Gold Rush), which no political figure of the time could have ignored, which

worked to the destruction of the economic base upon which the Mexican ranchero culture depended.

It is difficult at this late date to speculate on the probable outcome of whatever other method of settlement might have been applied; but we do know, from the reports of Jones and Halleck, that due to the confused state of the Mexican archives in California, even under ideal laws, the work of rapid and equitable settlement of the Mexican land claims would have been tremendous. Add to this the attitude of the Anglo-American toward the Mexican immediately after the war, and their desire for cheap land, plus the situation in California which was quite favorable for the propagation of "squatterism", it is not surprising that the attitudes of the United States Congress and the State Legislature, as expressed by the preëmption law of March 3, 1853, favored the squatter and the land-grabber over the Mexican claimant.

The problem of "squatterism" was not as great in the Territory of New Mexico as it was in California, because of the lack of good soil to draw farmers, and the rich mineral discoveries were to come later, but the problem was not helped by the shifting of the treaty line by the Gadsden Purchase three years later. Fraud was constantly being uncovered, but on a small scale until, in 1882, when James Addison Reaves laid claim to twelve million acres through central Arizona and into New Mexico, a strip 75 miles wide by 225 miles long, reaching from just west of Phoenix, Arizona to Silver City, New Mexico. He came very close to making it work.

The powers conferred by Congress on the Board of Land Commissioners and the United States District Courts in California were limited and well defined. Concerning any particular claim, those powers of the Board ceased the moment their decision was handed down. There was no such thing as a review by the Board of its decision. Such review was the function of the U.S. District Courts and the U.S. Supreme Court. These bodies were primarily concerned with the validity of the titles. Any boundary disputes, resulting from separate surveys which had been accepted by the courts, were strictly within the province of the County District

or Superior Court, and had to be settled within that jurisdiction.

Whatever happened to the Mexican land claims after they left the jurisdiction of the United States Courts, could not be blamed on those courts or the Board of Land Commissioners. By whatever method the United States government may have used to settle these claims, it is more than probable that the end result would have been the same.

The Mexican's ignorance of Anglo-American legal and business methods, and the English language, coupled with their love for gambling and fiestas, was as much to blame for their ultimate ruin as were taxes, debts, land speculators and unscrupulous lawyers.

George C. Collier
Albany, California
Revised May 5, 1974,
and March 2, 1976.