

http://books.google.com/books?id=yBw2AQAAIAAJ&pg=PA25-IA20&lpg=PA25-IA20&dq=Albert+C.+Rupe&source=bl&ots=WFLhmDbujf&sig=HBWXwWQIEmuslg7q_2DnbrGtXvU&hl=en&sa=X&ei=SKfgUYH2BM6crQHSn4C4Cg&ved=0CEAQ6AEwBA#v=onepage&q=Albert%20C.%20Rupe&f=false

No. 3.

DENVER, C. T., *October* 30, 1872.

WILLIAM H. LESSIG,

Surveyor-General, Colorado Territory:

Your petitioner, Albert C. Rupe, president of the United States Freehold Land and Emigration Company, a corporation created and existing under and by virtue of an act of Congress, would respectfully represent that said company is part owner of a certain Mexican land grant, known as "The Sangre de Cristo grant," which was confirmed to Charles Beaubien by an act of the United States Congress, approved 21st day of June, 1860, chapter 167, entitled "An act to confirm certain land claims in the Territory of New Mexico," which Sangre de Cristo grant is (to follow the descriptive fords in the original grant papers) bounded as follows, to wit:

"Commencing on the east side of the Del Norte River, a mound was erected at one league distance from its junction with the Costilla River; thence following up the Rio Del Norte on the same eastern bank to one league above the junction of the Trinchera River, where another mound was erected; and continuing from west to northeast, following up the current of the Trinchera River to the summit of the mountain, where another mound was established; and following the summit of the mountain to the boundary of the lauds of Miranda and Beaubien, the fourth mound was established; and continuing on the summit of the Sierra Madre and following the boundary of the aforementioned lands to opposite the first mound erected on the Del Norte River, where the fifth and last mound was erected, and from thence in a direct line to the first one erected on the north."

Your petitioner would further represent that the accompanying plat or map shows the exterior boundaries of said Sangre de Cristo grant, which is now divided into two states, designated respectively as "Trinchera estate" and "Costilla estate," the latter of which estates is owned by the said United States Freehold Land and Emigration Company. With the view of having an official plat of said Sangre de Cristo grant made and furnished to said company, and for the further purpose of permanently and definitely establishing the boundaries thereof, so that a patent or approved plat may issue to the owners of said grant, your petitioner would respectfully request that an estimate be made by your office of the cost of the survey thereof, and that as soon thereafter as practicable, upon a deposit of the amount of funds estimated to be necessary, an official survey of said grant be made.

Your petitioner will hold himself in readiness, upon the receipt of notice from your office of the estimated cost of the survey, to deposit the necessary money to defray the expenses thereof.

And your petitioner will ever pray, &c.

ALBERT C. RUPE, *President United State) Freehold Land and Emigration Company.* J
CORPORATE SEAL OF COMPANY ATTACHEES.

SURVEYOR-GENERAL'S OFFICE, COLORADO,

Denver, October —, 1872. SIR: I have the honor herewith to inclose copy of application of Albert C. Rupe, president of the United States Freehold Land Emigration Company, for survey of the Sangre do Cristo grant, confirmed to Charles Beaubien June 21, 1860.

The original claimed grant I estimate to contain about 1,000,000 acres. In view of the fact that the grant was made after the passage of the colonization act of 1824, I desire instructions as to the quantity of land which should properly be surveyed. The claimant desires the *entire* original claimed grant surveyed. Very respectfully, your obedient servant,

W. H. LESSIG, *Surveyor-General of Colorado.*

Hon. WILLIS DRUMMOND,

Commissioner of General Land Office, Washington, D. C.

No. 4.

DEPARTMENT OF THE INTERIOR,

GENERAL LAND OFFICE, *Washington, J). C, November 9, 1872.* SIR: In reply to your letter, dated October —, 1H72, inclosing copy of an application for the survey of the rancho Sangre de Cristo, Charles Beaubien, confirmee (Stats. 12, p. 71), made by Albert C. Rupe, esq., president of the United States Freehold Land and Emigration Company, I inclose herewith, for your information and guidance, a

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copy of the decision, dated 31st December, 1869, of the honorable Secretary of the Interior in the matter of the survey of the Boaubien and Miranda private land claim in New Mexico.

On examination of the papers in the case referred to in your letter, it would seem, in accordance with the decision of the honorable Secretary, herewith inclosed, that the claimants in this case were duly entitled to 22 square leagues of land, but as the survey is primarily under your control this office cannot definitely determine the question until the survey shall have been made and returned with your report in the matter.

Very respectfully,

W. W. CURTIS,
Acting Commissioner.

WILLIAM H. LESSIG, Esq.,

United States Surveyor-General, Colorado, Denver City.

No. 5.

SURVEYOR-GENERAL'S OFFICE,

Denver, December 5, 1872. SIR: I have the honor to submit the following estimate of the expense of survey of the Saugre de Cristo group as follows:

Field-work \$900

Office-work 200

Total 1,100

I make this estimate based on 22 square leagues as being the amount continued bylaw under the act of June 21, 1860, and as per decision of the honorable Secretary of the Interior, dated December 31, 1864.

Very respectfully, your obedient servant,

W. H. LESSIG, *Surveyor-General of Colorado.*

ALBERT C. RUPE, Esq.,

President United States Freehold Land and Emigration Company.

DENVER, COLORADO, *December 5, 1872.* DEAR SIR: I am this day in receipt of your letter bearing even date herewith, in which you decide that under the act of June 21, 1860, the confirmees of the Saugre de Cristo are entitled to but 22 leagues, the estimate of the survey of which you fix at \$1,100.

Acting on behalf of Albert C. Rupe, president of the United States Freehold Land and Emigration Company (to whom your letter containing the foregoing decision is addressed), I desire to appeal from your decision. Referring to the application for the entire grant, filed in your office October 31, 1862, by Albert C. Rupe, we asked for the survey of the whole of the Saugre do Cristo grant as confirmed by act of June 21, 1860. From your decision, allotting to the confirmees of said grant but 22 leagues, based, as is claimed, upon a proper construction of the

act of Congress of June 21, 1860, and the decision of the honorable Secretary of the Interior, dated December 31, 1869, I desire to submit in behalf the following as our points of appeal:

First. Section 12 of the decree of the 18th August, 1824, respecting colonization of the Congress of the United Mexican States, limiting grants to 11 leagues to each of the grantees, has no application in this case. Referring to the act of Congress of June 21, 1860, confirming by number the Saugro de Cristo grant, said grant is therein confirmed, not to the extent of 22 leagues (11 leagues to each of the original grantees), but is confirmed "as recommended for confirmation by the surveyor-general of New Mexico." The question arises, what is the nature and extent of the surveyor-general of New Mexico's recommendation? Does it recommend that 22 leagues be confirmed to the grantees, or does the surveyor-general recommend the confirmation of the entire grant? This is an important inquiry, and necessary to the true construction of the act.

By reference to the surveyor-general's recommendation, we find that he uses the following clear, unambiguous language: "The grant being a positive one, without any subsequent conditions attached, and made by a competent authority, and having been in the possession and occupancy of the grantees and their assigns from the time the grant was made, it is the opinion of this office that the grant is a good and valid one, and that a legal title vests in Charles Beaubien *to the land embraced within the limits contained in the petition.* The grant is therefore approved by this office and transmitted to the proper department, with the recommendation that it be confirmed by the Congress of the United States." As the surveyor-general's recommendation clearly and explicitly includes within its scope all "the land embraced within the limits contained in the petition," the act of Congress confirming the grant according to the recommendation of the surveyor-general confirms it *in toto* without any restrictions or limitations.

Second. That the intention of Congress as to this grant was to confirm it *in toto*, is to be inferred from the fact in section 2 of the act, that in certain cases named Congress did limit the grant named to in one case 5 leagues, and in the other 22 leagues, (11 to each of the grantees), *e. g.*, the grant to Cornelio Vigil and Ceran St. Vrain, commonly known as the "Las Animas grant."

Congress in limiting the Las Animas grant to 22 leagues, it is to be presumed that reference to the fourth section of the decree of 18th August, 1824, declaring that "those territories comprised within 20 leagues of the boundaries of any foreign nation, &c, cannot be colonized without the previous approval of the supreme general executive power." As no such previous approval was secured (the grant bordering directly on a foreign nation, the Arkansas River being the boundary-line between Mexico and the United States at that time), Congress confirmed the Las Animas grant, *ex gratia* a grant until such confirmation was void.

Third. The confirmation of a grant, however defective and informal the preliminary proceedings may have been, is equivalent to creating or making a grant *de novo*.

If it were not even conceded that the grant was not throughout its whole extent perfect and valid prior to its confirmation, the act of Congress perfects and confirms the title.

Fourth. The act of June 21, 1860, section 4, declares that the act of confirmation is to be treated "as a quit-claim or relinquishment on part of the United States." The United States having quit-

claimed its interest, and no adverse Mexican claimant setting up any right, it follows that the grant, "as embraced within the liuiita contained in the petition," is valid, and that the title is vested in the confirmees.

The undersigned attorney of the confirmees would therefore pray an appeal and that a copy of your letter containing the decision aforesaid, together with this paper setting forth the points of our appeal, be transmitted to the Commissioner of the General Land Office at Washington for his action thereon.

H. C. THATCHER,

Attorney for Confirmees.

WILLIAM H. LESSIG, Esq.,

Surveyor-General of Colorado.

SURVEYOR-GENERAL'S OFFICE, COLORADO,

Denver, December 6, 1872.

SIR: I have the honor herewith to transmit copy of my letter to Albert C. Rupe, giving my estimate for survey of the Sagre de Cristo land grant, and a copy of letter of H. C. Thatcher, attorney, appealing the case to your office. Verv respectfnllv, your obedient servant,

W. H. LESSIG, *Surveyor-General of Colorado.*

Hon. WILLIS DRUMMOND,

Commismoner General Land Office, Washington, D. C.

No. 6.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,

Washington, D. C, January 15, 1876. SIR: In the matter of the survey of the Sangre de Cristo grant, Charles Beaubien, confirmee, confirmed by the act of June 21, 1860 (12 Stats., p. 71), you are hereby directed to notify all parties in interest that they will be allowed sixty days from the date of the service thereof within which to examine said survey in your office and file with you any objections thereto which they may deem proper. At the expiration of said sixty days, if no objections are filed to said survey, you will transmit it to this office, but if objections shall have been filed, you will notify all parties in interest that they will be allowed an additional sixty days within which to produce to you evidence tending to show wherein the said survey has been incorrectly made, and wherein it has been located in conformity with the grant as confirmed. This evidence, where it is the testimony of witnesses, must be taken before you, or the clerk of some court of record, after notice to all parties in interest, and an opportunity given for •cross-

examination. It is desired, when practicable, that this evidence be taken before you, but to avoid inconvenience to parties living at a distance from Denver, it is thought proper to permit them to go before some one of the officers above set forth. In all cases, however, in which such evidence is taken by a clerk of any court of record, it must be transmitted, under seal by said officer direct to your office.

When the evidence filed is documentary, you will exercise due care that it be not transmitted to this office until all parties in interest have had an opportunity to inspect the same.

At the expiration of the time above given, or at the expiration of such further time as may be absolutely necessary to enable the parties to procure testimony which could not be procured by due diligence within the time above stated, which said time you are hereby authorized to extend upon a satisfactory showing, you will transmit to this office all the papers filed, together with your opinion thereon.

Among the parties in interest to whom notice should be given in this case are the following:

A. C. Kupe, president, &c, United States Freehold Land and Emigration Company, 42 Exchange Place, New York.

Messrs. Britton, Grey & Drummond, Washington, D. C. • Henry C. Thatcher, esq., Pueblo, Colo.
* ■ Governor Gilpin, Denver, Colo.

Very respectfully, S. S. BURDETT,

Commissioner.

UNITED STATES SURVEYOR-GENERAL,

Denver, Colorado.

No. 7.

UNITED STATES SURVEYOR-GENERAL'S OFFICE, COLORADO,

Denver, Colo., March 11, 1876. SIR: Referring to your letter of the 23d ultimo, I have the honor to transmit you herewith an authenticated transcript of the field-notes of the survey of the Charles Beanbien or Sangre de Cristo grant No. 4, made by Messrs. Oakes and Kellogg under their contract of October 19, 1875, and by express this day a duplicate plat of the said survey, showing the grant, in conformity with your instructions. Very respectfully, your obedient servant,

T. B. SEARIGUT, *Surveyor-General of Colorado.*

Hon. L. K. LIPPINCOTT,

Acting Commissioner of the General Land Office.

No. 8.

UNITED STATES SURVEYOR-GENERAL'S OFFICE, COLORADO,

Denver, Colo., October A, 1576. SIR: Referring to your letter of the 15th of January last, marked D, I have the honor to transmit you herewith all the papers which were filed in this office relating to the survey of the Sangre de Christo grant, Charles Beaubien, confirmee, together with my opinion thereon. •

Very respectfully, your obedient servant,

T. B. SEARIGHT, *Surveyor-General of Colorado.*

Hon. U. J. BAXTER,

Acting Commissioner of the General Land Office, Washington. D. C.

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No. 9.

In the matter of the survey of the Sangre de Christo grant, Charles Bcaubieu, confirmee.

Now comes the United States Freehold Land & Emigrat ion Company by its president, A. C. Rupe (tho said company being under charter from the Congress of the