

CASE No.

294

NORTHERN DISTRICT

LAGUNA SECA GRANT

JUAN ALVAREZ

CLAIMANT:

NOV 21 1962

AUG 26 1985

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SER COLLEGE
БРОЛЕВ ВОНД
Борислав



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TRANSCRIPT
OF THE
PROCEEDINGS

IN CASE

NO. *718*

Juan Alvarez CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Bayama Boca"

FOR THE YEAR 1871

THE UNITED STATES DEPARTMENT

OF THE INTERIOR

LAND OFFICE

REPORT

OF THE

LAND OFFICE

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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Be it Remembered, that on this second day of March, Anno Domini One Thousand Eight Hundred and Fifty-three, before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following Proceedings were had, to wit;

The Petition of Juan Alvarez
for the Place named
"Laguna Seca,"
was presented, and ordered to be filed and docketed with No. 713 and is as follows, to wit;

(Vide page 3 of this Transcript.)

Upon which Petition the following subsequent Proceedings were had in their chronological order, to wit;

San Francisco April 11' 1854.
Case no. 713, Juan Alvarez et al, for the place named "Laguna Seca," was submitted on briefs and taken under advisement,

San Francisco April 18' 1854.
Case no. 713, submitted on briefs on the 11th, on motion of the Counsel for the Claimants, Mr. Wount, was ordered to be reinstated on the Trial Docket in the position in which it stood on the day of submission.

San Francisco, January 2' 1855.
Case no. 713, was ordered to be placed at the foot of the 4th class cases on the Trial Docket,

San Francisco January 16' 1855
Case no. 713 was submitted under the Rule of 21' of March 1854,

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San Francisco, March 20 1855.

In the same case Commissioner S. B. Farwell delivered the Opinion of the Board respecting the claim:

(Vide page 15 of this Transcript.)

And the following order was made, to wit:

(Vide page 16 of this Transcript.)

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To the Honorable the Board of Com-



Petition

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To the Honorable the Board of Commissioners to ascertain and settle private land claims in the State of California

Your Petitioners Juan Alvarez and D. P. Ashley and Jesse Smith Citizens of California respectfully show unto Your Honorable Board, that they are the owners of a tract of land in the township of San Jose County of Santa Clara and State aforesaid. Known as the Rancho of the Laguna Seca, and comprising four Spanish leagues of land. That their title thereto is derived from Juan Alvarez deceased, the father of your Petitioner of the same name to whom the same was granted for his personal benefit and that of his family on the 23<sup>d</sup> day of July in the year A. D. 1834 by Jose Figueroa then the Governor of California

That your Petitioner Juan Alvarez is the lawful issue and sole heir of the said grantee, and that both his mother and his said father are now deceased and without other issue or person whomsoever entitled to have and enjoy their said estate, and that he has conveyed one half part thereof to the said D. P. Ashley and Jesse Smith.

And your petitioners further show that the conveyments of their title to the said land with a specification of the legal steps taken in acquiring and perfecting the same together with certified copies of the original papers and correct translations

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translations thereof are not yet annexed  
to this petition in account of the pressure  
of business at this time before your Hon-  
orable Board. But your Petitioners  
aver that they do exist and pray that  
they may be hereafter annexed thereto as  
soon as the leisure of the Secretary of  
Your Honorable Board, and of the Surveyor  
General of the United States in whose Office  
the original papers are on file, will permit  
certified copies of the said title papers of  
your Petitioners to be made out

That Exhibit A hereto attached  
is a copy of the title from your petitioner  
Juan Alvarez to your Petitioners D. P.  
Ashley and Jesse Smith which was  
duly recorded in the Office of the Recorder  
of the County of Santa Clara in Book  
E. of Deeds at pages 433 and 434

B. Is a copy of the Power of Attorney  
by said Alvarez and Smith to your petitioner  
D. P. Ashley to demand and secure their  
rights in the premises which irrevocable  
and is duly recorded in the Office of  
the Recorder of the County of Santa Clara  
in Book "E" of Deeds at pages 434 & 435

And your Petitioners further show  
that on the 6<sup>th</sup> day of December, 1836  
the said tract of land was surveyed and  
measured and the boundaries thereof fixed  
and the full judicial possession thereof  
delivered to the said Juan Alvarez  
deceased the father of your Petitioner  
Alvarez

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Alvarez formally, and by the proper Officers  
thereunto appointed, and in accordance with  
the laws and customs of the Country then and  
there in force.

And that the said Juan Alvarez  
deceased. the father of your said Petitioner of  
the same name did erect a house and plant  
an Orchard and a vineyard and erect other  
improvements upon the said tract of land  
and did continue to occupy and cultivate  
the same for the period of several years, to  
wit from the fall of the year 1834 to within  
less than eight months of the time when the  
United States took possession and asserted  
its dominion over this territory to wit) the  
25<sup>th</sup> of November in the year 1845, where the  
said land was forcibly, unjustly and illegally  
 wrested from the said grantee against his con-  
-sent and he was driven therefrom by oppression  
and illegal proceedings instigated by one  
Jose Antonio Aguirre claiming to be his  
creditor, and without any sale whatever of the  
said tract of land and without the sanction  
of law or justice the said Aguirre (or his  
Attorney one Gaspar Arena) was put in forcible  
violent and illegal possession of the said  
land, and your petitioners are informed  
and believe that a claim is now set up  
to the said land by the heirs of one  
Fisher deceased, whose descendants now  
occupy one part of the same but your  
petitioner avers and is ready and offers  
to establish as may be lawfully required  
of him that he alone and they who have  
title and hold and claim under him are  
the owners of the said land, and that  
neither

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neither the said Fisher nor his heirs nor any of them have any lawful right thereto whatsoever

And your Petitioners further shew unto your Honorable Board that the said grant to his land was made under the authority of and in accordance with the laws, usages and customs of the Government of Mexico then in force over this territory, that the limits thereof are well defined and that no interfering claim exists thereto except that heretofore alluded to by the heirs of the said Fisher and that the nature thereof is a claim based upon a certain oppressive and illegal possession investigated and acquired by a creditor or a person claiming to be a creditor of the said Juan Alvarez deceased who acquired possession of a part of said land by force and without ever having the fee thereof or any title therein, and that your petitioner is in the possession of the said land, and that he and his said ancestor have been in the only lawful and just possession thereof for nearly twenty years, and that his said ancestor never at any time sold or parted with his title therein, and that the same was never sold under any judicial process against him, and that the fee thereof remains and now is firm and valid in your Petitioners

Wherefore Your Petitioners pray that their title thereto be confirmed &c

(Signed) O. P. Ashley  
Attorney for Petitioners

W. A. Shaw  
of Counsel.

Filed in Office March 2<sup>d</sup> 1853  
(Signed) Geo. Fisher  
Secy

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Exhibits

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This Indenture made this nineteenth day of February A.D. 1853, Between Juan Alvino of Gilroy Township in the County Santa Clara and State of California the only son and heir of Juan Alvino formerly of the Pueblo of San Jose in said County and now deceased - the party of the first part and Jesse Smith of San Juan in the County of Monterey and D. P. Ashley of the City of Monterey of the second part. Witnesseth that said party of the first part for and in consideration of legal services, expenses expended and One thousand dollars to him in hand paid by said parties of the second part before the unsealing and delivery of these presents, the receipt of which is hereby acknowledged has sold and quit claimed, and by these presents does promise release quit claim sell and convey unto said parties of the second part and to their heirs and assigns forever all the just and full undivided One half of <sup>all</sup> that tract piece or parcel of land situate lying and being in the aforesaid County of Santa Clara about twelve miles to the Southward of the City of San Jose well known as the Rancho "El Refugio" or "La Laguna Seca" and more recently as "Fishers Ranch" and being the same land which is now sought to be confirmed unto the heirs of the late Fisher deceased before the Board of Commissioners to ascertain and settle private land claims in the State of California and said Rancho comprising and containing Four Spanish leagues that is Eighteen Thousand acres a little more

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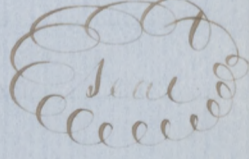
more or less of land the same being the land  
where said party of the first part is entitled  
to have and recover in virtue of the Grant  
thereof duly made unto his said father  
by and under authority of the laws of the  
Mexican Nation

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Together with all and singular the ten-  
ements and hereditaments thereto belonging  
and the reversions, remainders, rents issues  
and profits thereof, and also all the estate  
right, title interest claim for rents issues  
and profits, and demand, whatsoever  
as well in law as in equity of the said  
party of the first part of or to the  
above described premises and every part  
and parcel thereof with the appurtenances

To have and To hold all and sin-  
gular the above mentioned and described prem-  
ises with the appurtenances and all claims  
and demands unto said parties of the second  
part their heirs and assigns in absolute fee  
simple forever

Done at Gilroy in Santa Clara  
County this nineteenth day of February 1853.

(Signed)  
Juan Alvarez 

Witness to the signature  
and sealed and delivered  
in presence of  
John Gilroy  
Nicodemus Gilroy

State of California  
County of Santa Clara  
On this Twenty first

day of February 1853

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Twenty First day of February A. 1853  
before me a Justice of the Peace in and for  
said County personally appeared Isaac Alving  
to me known to be the person described  
in and who executed the foregoing conveyance  
and the same being to him read and ex-  
plained he acknowledged that he executed  
the same freely and voluntarily and for  
the uses and purposes therein mentioned

(Signed) Albert Warthen  
Justice of the Peace  
of Pulroy Township

Endorsed = Isaac Alving to Jesse Smith  
and D. F. Ashley - Recorded in Book  
E. of Deeds pages 433 434 - J. M. Murphy  
- Recorder by S. W. Stoughton Deputy

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From all men by their presents, that we know



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Know all men by these presents, that we Juan  
Alvarez and Jesse Smith do hereby irrevocably  
and firmly make and appoint W. F. Ashley  
of the City of Monterey, our true and lawful  
Agent and Attorney in fact, and the said  
Ashley is fully authorized and empowered  
- to take possession of manage control, pros-  
- ecute and defend all our right title and  
interest in and to the Rancho situated about  
twelve miles Southward of the City of San  
Jose and being in the County of Santa Clara  
State of California and known as the Rancho  
"El Refugio" and is also otherwise called La  
Laguna Seca - said Rancho consisting of  
Four Spanish leagues of land and containing  
Eighteen Hundred acres, more or less, and  
being the same Rancho sometimes called Fishers  
Rancho, Said Ashley is empowered to pre-  
- sent for confirmation before the Board of  
Commissioners for the Settlement of Private  
Land claims in the State of California, the  
title to said Rancho, and for this purpose  
said Ashley is empowered to engage the  
necessary legal counsel as well as for any  
other purpose contemplated by this Instrument  
And said Ashley is authorized to prosecute  
and defend our rights in and to said Rancho  
in any and all courts whatsoever, and said  
Ashley is fully by us empowered to do and  
perform whatsoever may be useful or necessary  
in exercising the powers herein to him granted  
We hereby ratifying and confirming whatsoever  
our said agent and Attorney in fact Ashley  
may lawfully do in the premises the also if  
he deem proper being empowered to act  
as our Attorney at Law in all the matters  
and

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and concerns referred to in this Instrument and this Instrument is made in consideration of Five Hundred dollars to us paid by said Ashley and the receipt of said sum is hereby fully admitted and acknowledged

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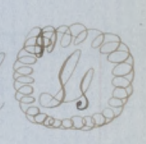
Done at Gilroy Santa Clara County this twenty first day of February A.D. 1853

(Signed)

Signed sealed and delivered in presence of Who are also Witnesses to the signatures.

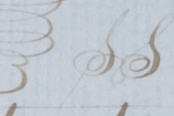
Juan Alvirez 

(Signed)

Jesse <sup>his</sup> + Smith  (mark)

(Signed) John Gilroy

(Signed) Nicodemus Gilroy

State of California County of Santa Clara 

On this twenty first day of February A.D. 1853 before me a Justice of the Peace in and for said County Personally appeared Juan Alvirez and Jesse Smith to me personally known to be the persons described in and who executed the foregoing Power of Attorney and the same being to them read and explained they each severally acknowledged that they executed the same freely and voluntarily and for the uses and purposes therein mentioned

(Signed)

Albert Warthen Justice of Peace Of Gilroy Township

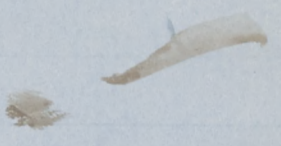
Endorsed. Smith and Alvirez = Power of Attorney to D. P. Ashley = Recorded in

of Attorney to D. K. Ashley = recorded in  
13  
in Book E of Deeds pages 434. 435 =  
J. M. Murphy Recorder = By S. O. Haughton  
= Deputy.

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Filed in Office March 2<sup>d</sup> 1853  
(Signed) Geo. Fisher  
Secy

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... of ... the ...

Opinion of Board

Juan Alvarez et al  
vs  
The United States

For four leagues of land in Santa Elena County called Laguna Seca.

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The petitioners Juan Alvarez and others claim as the only heirs of Juan Alvarez deceased, and state in their petition that a grant was issued to the said Juan Alvarez Sen. deceased by Don Juan Figueroa, but have failed to offer any proof whatever that any grant was ever issued to the said Alvarez.

The claim is entirely without merit and a decree adverse to the claim will be entered.

(Rejected)

Filed in Office March 20th. 1855

Recorded in Record of Decisions Vol 2 page 5708

Geo. Fisher Secy

Decree

Juan Alvarez et al  
vs  
The United States

In this case on hearing the proofs and allegations it is adjudged by the Commission that the claim of the petitioners is not valid and it is therefore decreed that his application for a confirmation thereof be denied.

Alpheus Welch  
R. H. Thompson  
W. B. Farewell

Commissioners

Filed in Office March 20. 1855

Recorded in Record of Decisions Vol 2 page 5708

Geo. Fisher Secy

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And it appearing to the satisfaction of the Board that the same hereby adjudged is. It is ordered in the Northern District of California it is hereby ordered that two copies of the proceedings and decision in this case, and of the papers and evidence upon which the same are founded be made, well and clearly certified by the Secretary, one of which transcripts shall be filed with the Clerk of the United States District Court for the Northern District of California and the other be transmitted to the Attorney General of the United States.



Office of the Board of Commissioners,

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

*George Fisher* Secretary to  
the Board of Commissioners to ascertain and settle the Private  
Land Claims in the State of California, do hereby certify the  
foregoing *Sixteen* pages, numbered from  
1 to 16, both inclusive, to contain a true, correct and full Tran-  
script of the Record of the Proceedings and of the Decision of the  
Board, of the Documentary Evidence and of the Testimony  
of the Witnesses, upon which the same is founded, on file in this  
Office, in Case No. 713 on the Docket of the said Board,  
herein

*Juan Alvarez* is

Claimant against the United States, for the place known by  
name of "*Laguna Seca*"

In Testimony Whereof, I hereunto set my hand  
and affix my private Seal (not having a Seal  
of Office.) at San Francisco, California, this  
*Twenty first* day of August  
A. D. 1855, and of the Independence of the  
United States of America the *seventy-eighth*

*Geo. Fisher.*  
*Geo. Fisher*



**U. S. DISTRICT COURT,**

*Northern* District of California.

No. 294- **294**

THE UNITED STATES,

vs.

**ND**

*Juan Alvarez*

**TRANSCRIPT OF THE RECORD**

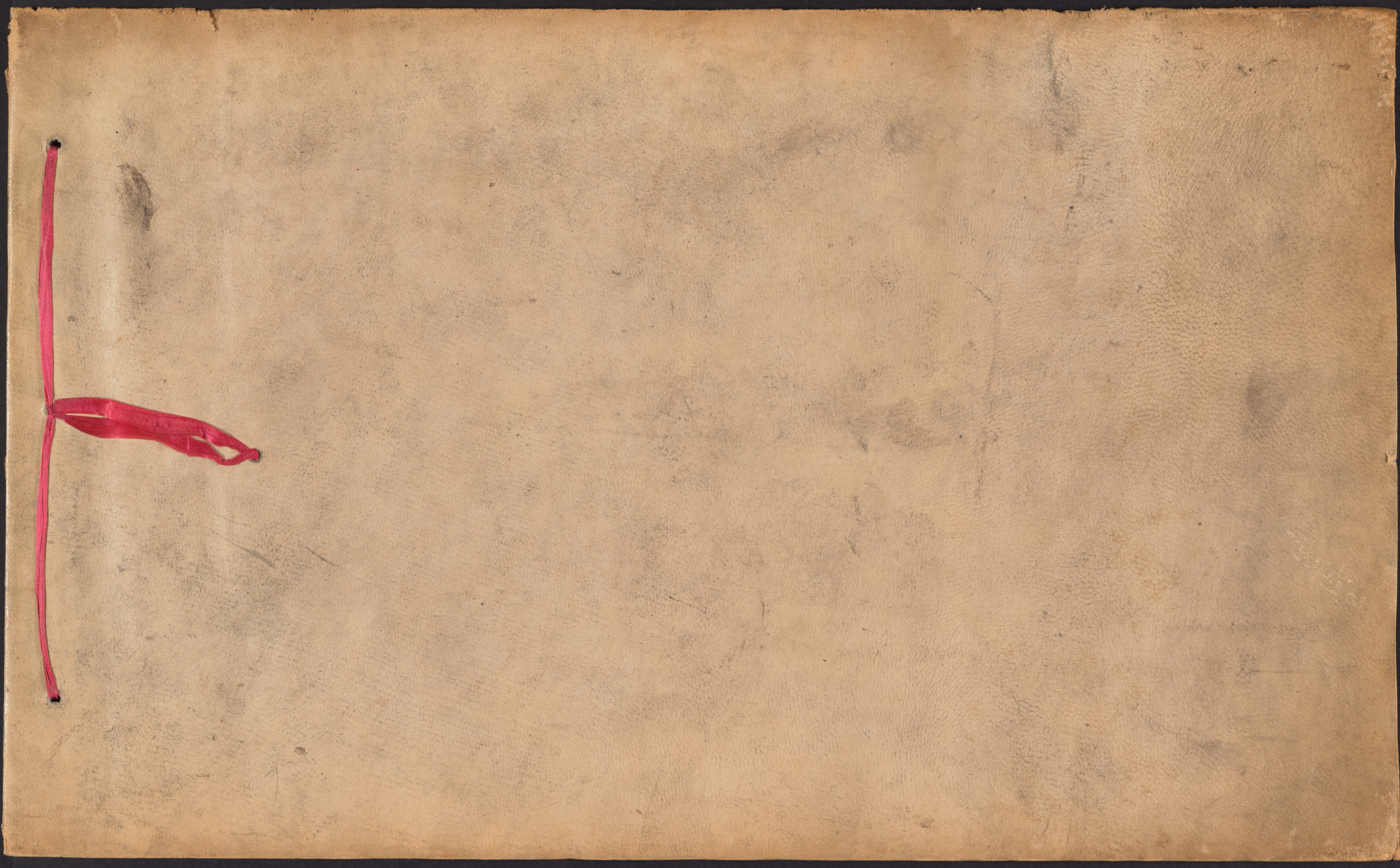
FROM THE  
BOARD OF U. S. LAND COMMISSIONERS.

In Case No. **713**

Filed, *October 1* 1855

*J. A. Moore,*  
Clerk





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Office of the Board of Commissioners,  
To ascertain and settle the Private Land Claims in the State of California.

San Francisco, August 21<sup>st</sup> 1855.

J. D. Monroe Esq.  
Clerk of the U. S. District Court for the  
Northern District of California.

Sir;

I herewith transmit you, pursuant  
to the requirements of the Act of Congress, approved August 31st,  
1852, a Transcript of the Record of the Proceedings and of the  
Decision of this Board, of the Documentary Evidence and of  
the Testimony of the witnesses upon which the same is founded,  
in Case No. 713 on the Docket of the said Board, wherein

Juan Alvarez is

the Claimant against the United States, for the place known  
by the name of "Laguna Seca"

and request your receipt for the same.

I am, Respectfully,

Your Obedt Servant,

Geo. Fisher  
G. Fisher