

CASE No.

37

SOUTHERN DISTRICT

SAN MIGUELITO GRANT

MUGUEL ABILA

CLAIMANT

Land Case 37 SD

ALSO AVAILABLE ON MICROFILM

HOWARD
PERMITS, INC.

215

TRANSCRIPT
OF THE
PROCEEDINGS

IN CASE

NO. 213

Miguel Avila

CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"San Miguelito"

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 *sixth day of May*, Anno Domini One Thousand Eight Hundred and Fifty-*Two*, before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following Proceedings were had, to wit;

The Petition of *Miguel Abila* for the Place named "*San Miguelito*" was presented, and ordered to be filed and docketed with No. *215* 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 May 8th 1852
In case no. *215*, Miguel Abila, the deposition of Rafael Valla, a witness in behalf of the claimant, taken before Commissioner Henry J. Thornton, was filed;

(Vide page *6* of this Transcript.)

San Francisco Jan 22nd 1853.
In the same case the deposition of Nicholas A. Den, a witness in behalf of the claimant, taken before Commissioner Thornton with documents marked W. J. S. nos 1 & 2, annexed thereto, was filed;

(Vide page *4* of this Transcript.)

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San Francisco Sept. 5th 1853.

Case no. 215, Cullen; The Counsel for the claimant read the Evidence - in proof, submitted and taken under advisement by the Board.

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San Francisco Dec. 6th 1853

In the same case Commissioner Alphon Felch delivered the Opinion of the Board confirming the Claim;

(Vide page 4th of this Transcript)

To the U.S. Land Commission for the ascertaining and settling of private land claims in California.

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Petition.

The petition of Miguel Abila, a resident of the County of San Luis Obispo & State of California respectfully sheweth, that on the 1st of March A. D. 1839 he made & presented his petition in writing to Governor Alvarado, soliciting for himself the grant of a tract of land, known as Rancho de San Miguelito, a description of which will be given hereafter. That said Governor referred the subject to the Prefect of the first district, who on the 20th of March 1839 reported in favor of your petitioner. That thereupon to wit on the 8th of April 1839 said Governor by a decree issued on that day, declared your petitioner the lawful owner of such land, & directed the proper documents, constituting title to be executed. That on the 19th of May said decree was presented to the Departmental Assembly at Monterey for confirmation, & that the same in accordance with the report made thereon by the Committee on Agriculture, approved & confirmed the same. That on the 10th of May 1842 a formal grant issued to your petitioner. That he obtained the juridical possession of said land by the respective authority on the 24th of May 1842. And your petitioner further saith, that the petition, reference, report, decree & a duly certified copy of the grant & of the original maps of that land are on file in the Archives of California, now in the possession of the Surveyor General of the U.S. of America for the State of California, & that duly certified copies & translations of the same are herewith submitted & prayed to be made a part of this petition. That the original grant, map, & the documents of juridical possession are in the hands of your petitioner & ready to be offered in evidence whenever required. And your petitioner further saith, that said land is situate in the present County of San Luis Obispo, is known under the name of Rancho de San Miguelito, & is bounded as follows: on the East by the Rancho of Don Jose Ortega, on the west by the low hills of the Portonule, in the neighborhood of the Penascos, on the North by the

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lands of the Establishment of San Louis Obispo, at a distance of one league & a half from the principal building therein, & leaving an open space of five hundred varas in breadth between the sea shore & the whole length of said Rancho, containing two square leagues of land. And your petitioner further saith that he has been in the quiet & undisturbed possession & ownership of said land since he obtained the grant thereof, & that he is not aware of the existence of any title conflicting with or paramount to his own. He therefore claims to be the lawful owner of said land & prays, that your Honorable body in consideration of the premises, will confirm & validate his claim & title thereto.

Clarke, Taylor & Beckh.
Attys.

Filed in Office May 6th 1832.

Geo. Fisher. Secy

San Francisco July 22nd 1833.

Deposition of came Nicholas A. Den a witness in behalf of the Nicholas A. Den claimant Miguel Abila, petition No 213, & was duly sworn - his evidence being given in English.

The U. S. Associate Suro Agent was present.

Questions by Claimant.

Quest 1st. What is your name, age & place of residence?
Answer. My name is Nicholas A. Den, my age is forty years, residence Santa Barbara.

Quest 2^d. Look at the document now shown you, written in Spanish & purporting to be an original grant of the land known as San Miguelito from Juan B. Alvarado to Miguel Abila, with the records of

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judicial possession attached thereto, marked Exhibit 1, now attached to your deposition, a translation of which marked Exhibit 1, is on file in said cause. State what you know concerning said document, whether you are acquainted with the signatures thereto attached & whether they are genuine.

Answer. I have examined the document above exhibited marked Number 1, filed with this deposition. I have no doubt of its genuineness, I am well acquainted with the handwriting of Juan B. Alvarado, José Ortega & Micheltonna, having often seen them write & state that their signatures when they occur upon said document No 1. are their genuine signatures. I know J. Mariano Bonilla & had written correspondence with him, his signature when it occurs upon said Exhibit 1, I believe to be genuine.

Quest 3^d. Look at the document now shown you, marked Exhibit 2. & attached to your deposition. State whether you know the signature thereto to be genuine.

Answer. I am well acquainted with the handwriting of Manuel Jimine, the body, as well as the signature of said document I believe to be in the hand writing of said Jimine. the signature I know to be genuine.
N. A. Den.

Sworn to & subscribed before me this 22nd of July 1853.

Harry J. Thornton. Comr. &c.
Sonia acknowledged
Robt Greenhow.

As to Law Agent.

Filed in Office July 22^d. 1853.
Geo. Fisher. Secy.

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Office of the Commissioners of Private Land Claims in California.

San Francisco May 8th 1852.

On this day before me Henry J. Thornton one of the Commissioners for ascertaining & settling private land claims in the state of California, came Rafael Villa a witness produced in behalf of the Claimant Miguel Abila whose petition is No 213 on the docket of said Commissioners, & after being duly sworn, testified as follows. The United States Law Book was duly notified & attended.

Deposition of Rafael Villa.

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Questions by Claimant's Counsel.

Quest 1. What is your name, age & place of residence?

Ans. My name is Rafael Villa, my age forty four year, my place of residence is my Rancho called San Germino in the County of San Luis Obispo.

Quest 2. How long have you lived at your present place of residence.

Ans. About thirteen years.

Quest 3. Do you know the Rancho San Miguelito claimed by Abila. If so, how long have you known it, & where is it situated.

Ans. I do know it, & have known it for about thirteen years, it is situated between two & three leagues from the town San Luis Obispo in a southerly direction.

Quest 4. Do you know by what it is bounded?

Ans. It borders on the North on the lands of Victor Semores, on the "Conal" de Piedras, on the South on the Rancho called (Pecho) & on the sea coast.

Quest 5. For what distance does it border on the sea coast.

Ans. About one thousand varas.

Quest 6. Do you know when Abila first took possession of the Rancho, when he began to make improvements, & what those improvements were?

Ans. I do not know when he took possession of it, but I recollect when he made the first improvements, which was about thirteen years ago, they consisted in an Adobe house, two cattle pens, one near the house, the other at the sea beach. fences.

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Quest 7. About what distance was the Adobe house from the Mission Church, & also from the shore of the port.
Ans. About two leagues from the Church & about one thousand varas from the shore of the port.

Quest 8. State whether the house has been occupied ever since it was built, & if so by whom.

Ans. It has been occupied ever since it was built by himself & he still occupies it.

Quest 9. In what way has he occupied & used the Rancho since he built the house.

Ans. By having a stock of cattle about two hundred head, some horses, & mares, & sheep on it, by cultivating the ground, & raising wheat, corn, & vegetables.

Quest 10. What improvements has Abila made at the beach or near the same, & when were they made & how have they been occupied.

Ans. He had no other improvements than the cattle pen already stated, & a little house built of sticks & covered with bushes & raw hide, which was used as a shelter for those who went to milk the cows, & in which they sometimes cooked & slept.

Cross Interrogatories propounded by the U. S. Survey Agent.

Cross Inter 1st. To what extent any of the land was cultivated.

Ans. The wheat field was about one hundred varas wide by three hundred varas in depth & the corn field was one hundred varas by about two hundred varas.

Cross Inter 2^d. When were the cattle pen & house built near the sea shore?

Ans. About twelve years ago.
Rafail + Villa.
mark.

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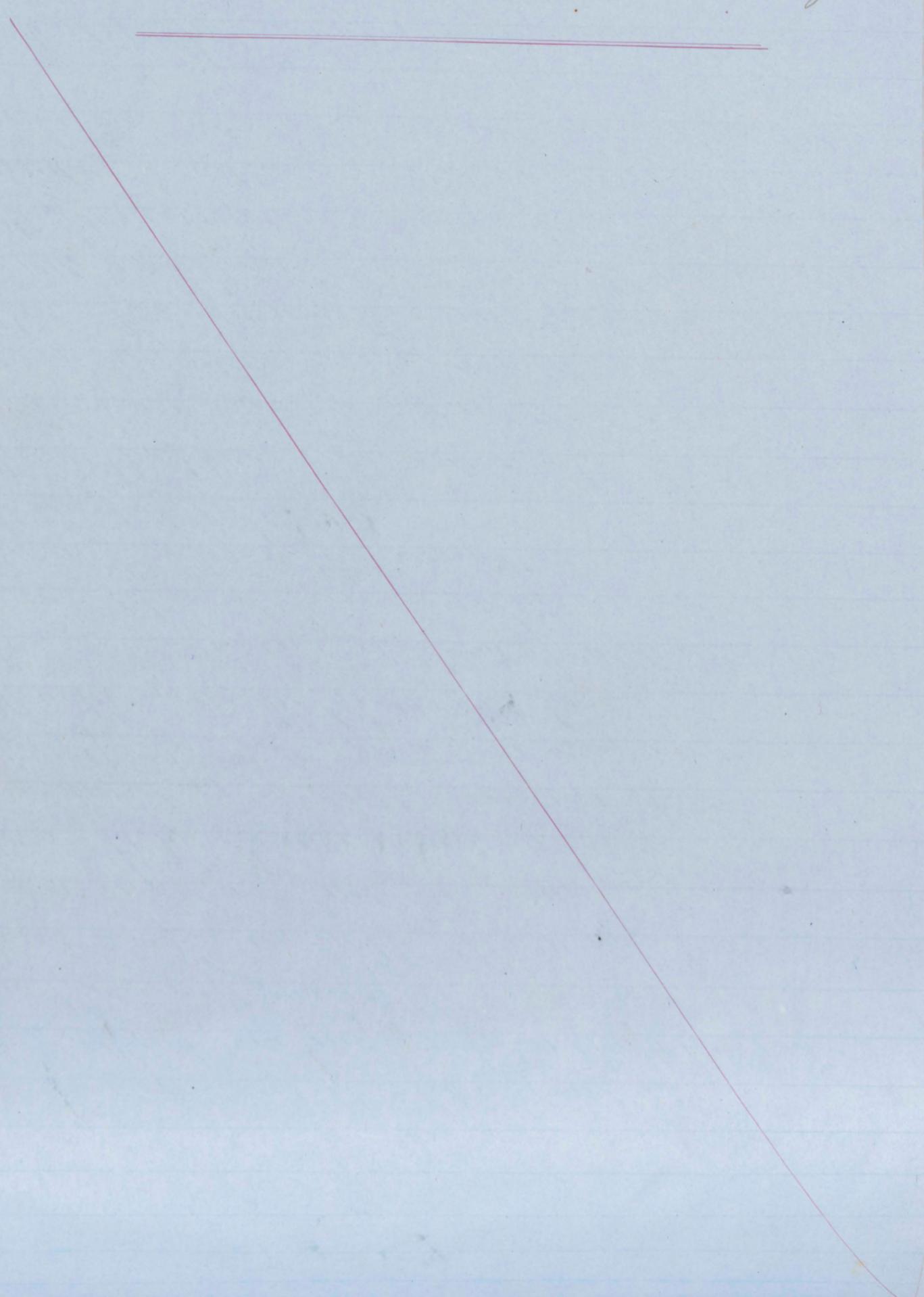
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The United States Law Agent duly notified
& sworn-interrogated the witness,
Dunn to & subscribed before me
this 8th of May 1852.

Harry J. Thornton.
Comr. &c.

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Filed in Office May 8th 1852.
Geo. Fisher. Secy.



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1. D. N.

1839

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Expediente promovido por el Sr.
Miguel Abila en pretension
del terreno llamado

S. Miguelito.

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2. L. D. N.

Excmo. Sr. Gov.^oMontevideo 9 de
Marzo de 183937 SD
PAGE 11Informe
del Sr. Prefecto
del Primer Dis-
trito, sobre esta
solicitud.

Alovarado.

El Ciudadano Miguel Abila, vecino de este Puerto, ante V.E. hace presente q. hallandose roscado de una crecida familia q. sostener y encontrandose atrojado p.^a facilitar la subsistencia q. le es muy necesario, recurro á V.E. á q. se digné concederme el Sitio llamado San Miguelito, q. se halla, en las inmediaciones, de la Ex-Mision de S. Luis Obispo segun lo demuestra el diseño q. debilmente acompaño p.^a poner un corto numero de Ganado y Caballada, y cultivar algunas tierra q. el dicho terreno ofrece.

P. P. A V.E. humildemente suplico tenga en consideracion todo lo q. llevo expuesto y acceda á esta mi solicitud, de q. recibire gracia

Montevideo 1.^o de Marzo de 1839

Miguel Abila.

3. L. D. N.

San Juan de Castro Marzo 20 de 1839

El parage de S. Miguelito que solicita la parte interesada está en estado de adjudicacion por hallarse baldio; y aunque se reconoce como propiedad de S. Luis Obispo, este Establecim.^{to} no lo necesita ni puede ocuparlo, mandando terrenos que tiene mas inmediatos á su Puerto se ven sin bienes y sin labranzas.

En consecuencia, y en obsequio de la justicia y beneficencia del Departamento, informe que el terreno que solicita la parte de D^o. Miguel Abila, es adjudicable.

José Castro.

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Manterey 8 de Abril de 1839.

Vista la peticion con que dá principio este Expediente, el informe del Señor Prefecto del primer Distrito, y todo lo que por convino; de conformidad con lo dispuesto por las leyes y reglamentos de la materia, se declara á D^o. Miguel Abila dueño en propiedad del terreno conocido con el nombre de S^o. Miguelito, que comprende desde el punto que diste legua y media, de la Misión de S^o. Luis hasta llegar al Puerto, dejando quinientas varas así á él p^a los usos que el Gobierno determine, y con la precisa condicion que no impidiera, ni á los Establecimientos de las Misiones, ni á ningun habitante de los Ranchos el libre trafico del comercio, que en todo tiempo puecan hacer, con los Buques que fondearen en el Puerto, sin impedir á estos el uso de las pauturas, y todo lo demas que sea conaciente á proteger el Comercio del Puerto, y bajo las condiciones que en el titulo se expresan, siendo sus linderos por la parte de la Misión desde el punto donde se mide legua y media, á la casa principal, como se tiene ya expresado hasta el punto, que se señala de las quinientas varas ya expresadas arreglandose en todo lo demas al diseño que corre en este Expediente, donde se ve que sus linderos por el O^o. seran hasta donde concluyen los de D. José Ortega, y por el Poniente con el portisuelo inmediato á los peñascos, sujetandose á lo prevenido en la Ley de 18 de Agosto de 1824, y el Reglam^{to}. de 25

H. L. M.

5 L.M.

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de Nov. de 1828, librese el Despacho correspondiente, tomese razon en el Libro respectivo, nuevose este Expediente para conocimiento de la Exma Junta Departamental para su debida aprobacion. Asi el Sr. D. Juan B. Alvarado Gobernador del Departamento de las Californias lo decretó, mandó y firmó de que doy fé.

Alvarado.

Monterrey 17 de Mayo de 1848.

Dada cuenta á la E. Junta Departamental, acordó en sesion de este dia que pase á la Comision de Agricultura.

José B. Fernandes

Srio.

En veinte y dos del mismo lo devolvió la Comision con el dictamen que se acompaña.

Fernandes.

Monterrey 13 de Junio de 1848.

En vista de la aprobacion otorgada en veinte y dos del mes proximo pasado por la E. Junta Departamental, librese testimonio de ella á la parte de D. Miguel Avila en confirmacion del terreno S. Miguelito que obtuvo Juan B. Alvarado Gobernador interino del Departamento de las Californias.

Por cuanto el Sr. Miguel Avila ha pretendido para su beneficio personal y el de su familia, una parte del rancho conocido con el nombre de Sr. Miguelito, distante legua y media de la base principal de la Misión de S. Luis Obispo, dejando quinientas varas por la parte del Puerto, para los usos que el Gobierno determinare, practicadas previamente las dili-

6 L.M.

gencias y averiguaciones concernientes segun lo dispuesto por las leyes y reglamentos, usando de las facultades que me son conferidas; a nombre de la Nacion Mexicana he venido en conce desde la parte del parage mencionado, declarandole la propiedad de el por los presentes letras, entendiendo dicha concesion con entera conformidad a lo dispuesto por las leyes a reserva de la aprobacion de la Exma Junta Departamental, del Supremo Gobierno, y bajo las condiciones siguientes.

- 1.^a Podrá cercarse sin perjudicar las travesias caminos ni servidumbres, no impedirá ni a los Establecimientos de las Misiones, ni a ningun particular de los Ranchos, el libre trafico del Comercio que en todo tiempo pueda hacer con los Buques que fundaren en el Puerto y sin impedir a estos ni el uso de las pasturas y todo lo demas que sea conducente a proteger el Comercio de dicho Puerto.
- 2.^a Dejara libre quinientas varas a la orilla de la Mar, para los usos que el Gobierno determine y lo demas lo disfrutará esclusivamente para si, destinandole al uso o cultivo que mas le convenga, pero dentro de un año fabricará casa y estará habitada.
- 3.^a Quando se le confirme la propiedad solicitará del juez respectivo que le dé posesion juridica en virtud de este Despacho, por el cual se demarcaran los linderos a cuyos limites pondrá o mas de las cañoneras algunos arboles frutales, o silvestres de alguna utilidad.
4. El terreno que se le hace dona es el que consta en dicho auto que corre agregado al Expediente p.^o deviendo censurar los linderos desde el parage donde mide rectamente una y media legua de la casa principal de la Misión al punto que se señale de las quinientas varas de que habla el articulo segundo; dentro

~~del tomar y especificar el diseño respectivo el juez que diere la posesion lo hará medir conforme a ordenanza para señalar sus linderos quedando el sobrante que resulte a la nacin para los usos convenientes.~~

~~5.^a Si contraviniera a estas condiciones perderá su derecho al terreno, y será denunciado por otro.~~

~~En consecuencia mando que sirviendole de título el presente, y teniendo por firme y valedero, se torne ragon de él en el Libro a que corresponde y se entregue al interesado para su resguardo y demas fines. Dado en Monterrey a diez de Abril de mil ochocientos treinta y nueve. Estenaiendose en papel comun por no haber del sellado que corresponde~~

~~Mont. Jimenez~~

9 L. N.

= en ocho de Abril de 1839. El Sr. D. Juan B. Alvarado Gobernador Constitucional del Departamento de las Californias así lo provino y firmó de que doi fé.

Alvarado.

Se reformo este título en los terminos que se ven, por el que se acompaña testimonio en este Expediente como igualm^{te} el diseño respectivo.

10 L. N.

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

Por cuanto el Ciudadano Miguel Abila ha pretendido para su beneficio personal y el de su familia el paraje conocido con el nombre de San Miguelito co-

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liradante al Oeste con el Rancho de D^{no} Jose Ortega al
 P. con las Lomerías y el Portezuelo cerca á los puñascos inmediatos
 al mar, al N. con el terreno de San Luis Obispo distante legua
 y media de la casa principal del Establecim^{to} dejando libre por
 la parte del Puerto quinientas varas para los usos que el Gobi-
 erno determine practicadas previamente las diligencias y a-
 veriguaciones convenientes segun lo dispuesto por leyes y reglam^{tos}
 usando de las facultades que me son conferidas á nombre de la Nacion
 Mexicana he tenido en concederle el terreno mencionado declarandole
 la propiedad de él por las presentes letras sujetandose á la aprobacion
 de la Ex^{ta} Junta Departamental y á las condiciones siguientes.

11 D. N. O.

1^a Podrá sercarlo sin perjudicar las travosias caminos y serro-
 dumbres con impedira ni á los establecim^{tos} de las misiones ni
 á ningun particular de los Ranchos el libre trafico del Comercio que
 en todo tiempo puedan hacer con los Buques que fondecen en el Puerto,
 y ni estorbará el uso de las pasturas y todo lo demas que sea condu-
 cente á proteger el comercio de dicho puerto.

2^a Dejara quinientas varas á la orilla de la Mar para los usos
 que el G^{no} determine y lo demas lo disfrutará esclusivam^{te} para
 sí destinandole al uso ó cultivo que mas le acomode pero dentro de
 un año fabricará casa y estará habitada.

3^a Solicitará del Juez respectivo que le dé posesion juridica en
 virtud de este Despacho por el cual se demarcarán los linderos en
 cuyos limites pondrá á mas de las mojoneras algunos arboles fru-
 tales ó silvestres de alguna utilidad.

12 D. N. O.

4^a El terreno de que se hace mención es de dos sitios de ganado
 mayor segun esplica el diseno que corre agregado en el Expediente
 respectivo. El Juez que diere la posesion lo hará medir conforme
 á ordenanza quedando el sobrante que resulte á la Nacion para
 los usos convenientes.

5^a Si contraviniere á estas condiciones perdere su derecho al
 terreno y será denunciado por otro.

En consecuencia mando que teniendose por firme y
 valido el presente título se tome razon de él en Libro á que cor-

responde y se entregue al interesado para su resguardo y de
mas fines. Dado en Monterrey á diez de Mayo de mil ochocientos
cuarenta y dos.

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13 L.D.N.

Excmo. Sr.

La Comisión de Agricultura encargada de dictaminar en
el Expediente que jira el Ciudad. Miguel Avila en el que solicita
el terreno conocido con el nombre de San Miguelito en vista de
lo actuado y la concesion hecha por el Excmo. Sr. Gobernador D.
Juan Bautista Alvarado la Comisión pone á la deliberacion
de V.E. los artículos siguientes.

Art. 1.º Se aprueba la concesion hecha del terreno San Mi-
guelito en la persona del Ciudad. Miguel Avila.

Art. 2.º Que se devuelva este Exped. al Excmo. Sr.
Gober. para el uso que sea conveniente.

José Rafael Gonzalez.

D. Argüello.

14 L.D.N.

Monterrey 22 de Mayo de 1842.

En sesion de este dia aprobó la Excmo. Junta De-
partamental los dos artículos con que concluye el dictamen
anterior.

Man. J. J. J.

José M. Fernandez
Dño.

None follow the map

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

I, Samuel D. King Surveyor General of the United States for the State of California and as such now having in my office and under my charge and control a portion of the Archives of the former Spanish and Mexican Territory or department of Upper California do hereby certify that the sixteen preceding and hereto annexed pages of tracing paper numbered from one to sixteen inclusive and each of which is verified by my initials (S.D.K.) exhibit true and accurate copies of certain documents on file and forming part of the said Archives in this Office.

In testimony whereof I have hereto signed my name, officially, and affixed my private seal, (not having a seal of Office,) at the City of San Francisco, Cal. this 4th day of May 1852.

Sam. D. King,
Sur. Gen. Cal.

S. D. King
E. L. S. G.
Well

[Handwritten flourish]

Filed in Office May 6th 1852.

(Signed) Geo. Fisher
Secy.

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Record of Proceedings at the instance of the Citizen Miguel Abila, soliciting the land called San Miguelito.

Excellent Sir Governor.

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Translation of Expediente "C"

I, the citizen Miguel Abila, a neighbor of this port, represent to your Excy, that finding myself surrounded by an increased family to sustain, & finding myself engaged in facilitating their subsistence, which is so very necessary, I apply to your Excy that you may be pleased to grant me the site called San Miguelito, which is situated in the environs of the Ex-mission of San Luis Obispo, as appears by the sketch I duly annex, in order to place a small number of cattle & horses & cultivate some ground which said land contains.

Therefore I humbly pray your Excy to take in consideration all that I have represented & to accede to my solicitation, whereby I shall receive favor.

Monterey, 1st of March 1839.

Miguel Abila.

In the Margin

Monterey, 9th March 1839.

Let the Prefect of the 1st District report on this petition.

Upradg.

San Juan de Castro March 20th 1839.

The location of San Miguelito which the interested party solicits is subject to be granted, because it is vacant land, & although it is recognized as property belonging to San Luis Obispo, yet this establishment does not want it, nor can it occupy it, when you may see other lands it has nearer to its centre, without any cattle, or cultivation.

In consequence, & in obedience to justice & beneficence for the Department, I report that the land, which the party Don Miguel Abila solicits is grantable.

José Castro.

Monterey April 8th 1839.

Having seen the petition with which

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This expediente commences, the report of the Prefect of the 1st District, & all that was convenient to examine in conformity with the requirements of the latest regulations upon the matter. Don Miguel Añeta declared owner in fee of the land known by the name of San Miguelito, which extends from a point distant 1 1/2 leagues from the Missions of San Luis to the port, leaving 500 varas next the latter for the purpose the government may determine & with the precise condition not to impede neither as to the establishment of the Missions nor as to any inhabitant of the Rancho the commercial traffic, which at every time may be carried on with the ships that may anchor in the port, without impeding them in the use of the pastures & everything else that may be conducive to the commerce of the port, & under the conditions that may be expressed in the title - deed: its boundaries being on the side of the Mission from the point where may be measured one league & a half from the principal house as is already said, to the point where may be indicated by the 500 varas already mentioned, referring for all the rest to the sketch annexed to this expediente, & subjecting himself to the provisions in the Law of 18th Augt 1824 & the regulation of 25th of Nov. 1828. Let the corresponding title be issued, enter it in the respective book, and when is run that its boundaries towards the East - be settled to the Excellent Departmental Assembly for its due José Ortega and, for the approbation. Thus Don José to the gap adjoining Juan V. Alvarado, Governor of the high rocks (portizuelo) of the Department of both Calimé diable a los penacos) - if you are decreed, ordered and signed, which I certify.

Alvarado.

Montevideo 19th May 1840.

After having submitted this expediente to the Excellent Departmental Assembly, in session

of to-day it was decided to be referred to the Committee on Agriculture.

Jose L. Fernandez, Secretary.

On the 22nd of the same month the committee returned it with the accompanying opinion.

Fernandez.

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Monterey June 13th 1840

In view of the approbation issued on the 22nd of last month by the Departmental Assembly, let testimony of it be delivered to the party Don Miguel Abila in confirmation of the land S. Miguelito which he obtained.

On the eight day of April 1839, Don Juan B. Alvarado Constitutional Governor of the Department of both Californias thus provided & signed which I certify.

Alvarado.

This title has been reformad in the terms which are to be seen by that which is annexed to this expediente in evidence, as also by the respective sketch.

Juan B. Alvarado, Constitutional Governor of the Department of both Californias.

Whereas the citizen Miguel Abila has solicited for his personal benefit & that of his family the location known by the name of San Miguelito, bordering on the West on the Rancho de Don Jose Ortega, to the West on the highlands, & the opening (portezuelo) near the Pinasco adjoining to the sea, to the North on the land of San Luis Obispo, distant one league & a half from the principal house of the establishment, leaving free at the side of the plot 500 varas for the purpose which the Government may determine, after having previously taken the necessary action & made the necessary investigations according to the requirements of the laws & regulations, in exercise of the powers vested in me in the name of the Mexican Nation, I have concluded to grant him the mentioned land, declaring it to be his property by the present letters patent, subject to the approbation of the Excellent Departmental Assembly

to the following conditions.

1st He may fence it without prejudice to the crossings roads & similitudes, & without impediment to the establishments of the Missions, to any body in particular of the Rancho as to the free commercial traffic that at any time may be carried on with the ships that may anchor in the port, nor shall he hinder the use of the pastures & anything else that may be conducive to protect the commerce of said port.

2^d He shall leave 50 varas at the sea shore for the purposes the Government may determine, & the rest he will enjoy exclusively for himself, appropriating it to the use or culture that may best suit him, but within one year he shall build a house & shall be inhabited.

3. He shall solicit of the respective Judge to give him judicial possession in virtue of this title by whom the boundaries are to be fixed at the extremities of which he will put besides the land marks some fruit trees or wild ones of some usefulness.

4. The land granted is two square leagues (sitio de ganado mayor) according to what shows the sketch adjoined to the respective expediente. The Judge who shall give the possession will cause it measured conformable to ordinance, leaving the surplus that may result to the nation for Government purposes.

5th If he should violate these conditions he will lose his right to the land & it may be denounced by any other party.

In consequence I order that the present title being held as firm & valid be entered in the corresponding book & delivered to the interested party for his security & other purposes.

Given in Montevideo 10th of May 1842.

Most Excellent Sir,

The Committee on Agriculture charged to give an opinion on the Record of Proceedings at the instance of Citizen Miguel Uchala in which he

submit the land known by the name of San Miguelito,
in view of the enactments & the concession made by the
Most Excellent the Governor Don Juan Bautista Alvarado
the Committee forward to your Excy's deliberation
the following articles.

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1st They approve of the concession made of the land San
Miguelito to the person of Citizen Miguel Abila.

2nd Let this record of proceedings be returned to the
Governor for convenient purposes.

José Rafael Gonzalez. S. Arguello.

Monterey May 22nd 1840.

In the session of to-day the Excellent Departmental
Assembly approved of the Articles with which the
aforesaid opinion concludes.

Manuel Benigno. José L. Fernandez.
President. Secretary.

Grant dated 10th May 1842.

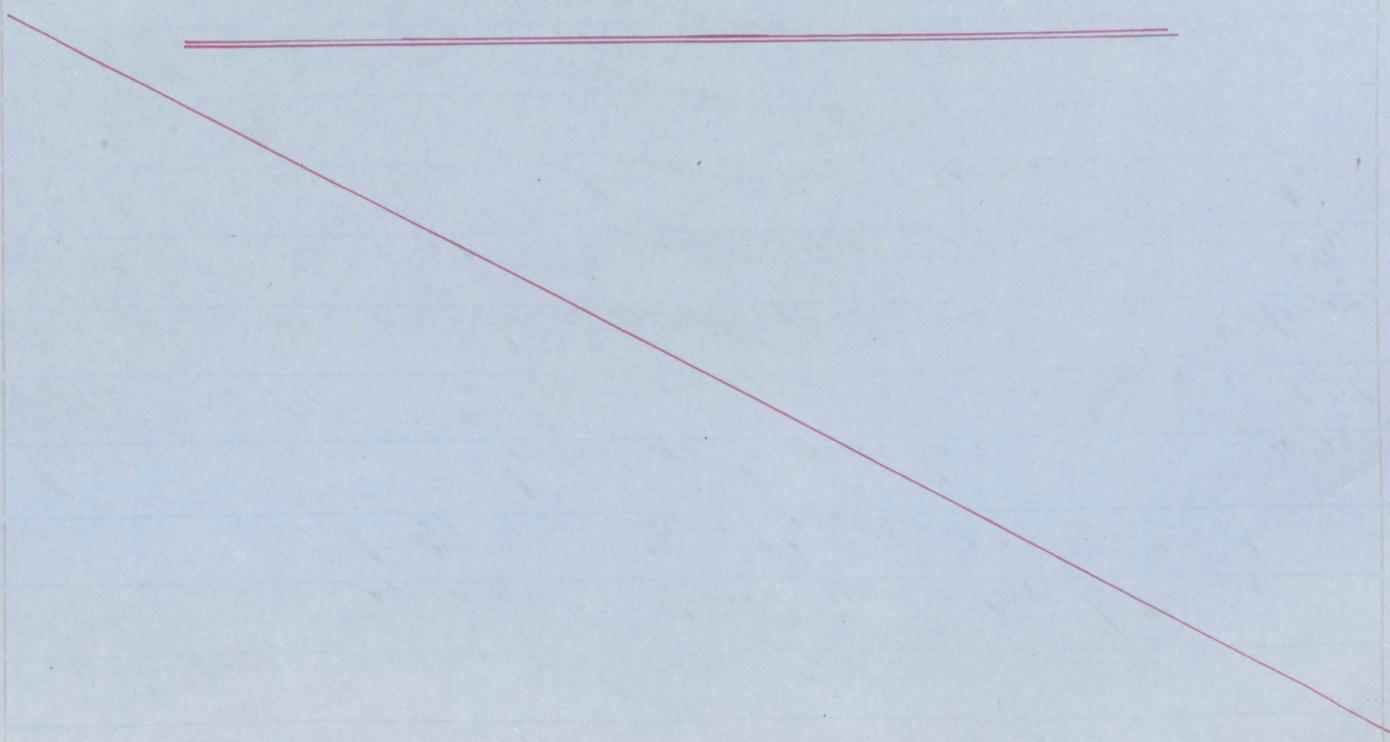
Approval dated 22nd May 1840. (it may refer to the
grant dated April 10th 1839.)

E.L.
R.P.

Filed in Office May 20th 1852.

Geo. Fisher.
Secy

177.



Sello Cuarto *En un* Una Cuartilla.
Para los años de *1842 y 1843* mil ochocientos cua-
renta y mil ochocientos cuarenta y uno.

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Revalidado para los años de 1842 y 1843.
Ararado. *Antonio Maria Osio.*

Demarcacion de S. Luis Obispo en jurisdiccion de Monte-

rey.

Año de 1842.

Expediente formado en la posesion juridica
q. se dio a D. Miguel Arila del terreno de

S. Miguelito.

[Large decorative flourish]
[Signature]

Sello primero seis pesos.

Habilitado provisionalmente por la Aduana Marítima de Monterey para los años de 1842 y 1843.

Amarado,

Antonio M.^a Osio.

G. B. M.
G. B. M.

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

Por cuanto el Ciudadano Miguel Abila ha pretendido para su beneficio personal y el de su familia el paraje conocido con el nombre de San Miguelito, colindante al O. con el Rancho de D.^{no} José Ortega, al P. con las Lomeras y el Portuqueto serca de los penascos inmediatos al mar, al N. con el terreno de San Luis Obispo, distante legua y media de la Casa principal del Establecim.^{to} dejando libre por la parte del Puerto quinientas varas para los usos que el Gobierno determine: practicadas previamente las diligencias y averiguaciones concernientes, segun lo dispuesto por leyes y reglamentos, usando de las facultades que me son conferidas a nombre de la Nacion Mexicana he venido en concederle el terreno mencionado declarandole la propiedad de él por las presentes letras, sujetandose a la aprobacion ó desaprobacion de la Exma. Junta Departamental y a las condiciones siguientes.

1.^a Para sercarlo sin perjudicar las travesias, caminos y servidumbres, no impedirá ni a los Establecim.^{tos} de las Misiones, ni a ningun particular de los Ranchos el libre trafico del Comercio que en todo tiempo puedan hacer, con los Buques que fondearen en el Puerto y ni estorbará el uso de las pasturas y tras lo demas que sea conducente a proteger el comercio de dicho Puerto.

2.^a Dejará quinientas varas a la orilla de la mar para los usos que el Gobierno determine, y lo demas lo disfrutará exclusivamente para sí destinandole al uso ó cultivo que mas

le acomode; pero dentro de un año fabricará casa y estará habitada.

3^a. Solicitará del juez respectivo que le de posesión jurídica en virtud de este Despacho por el cual se demarcarán los linderos en cuyos límites pondrá á mas de las mojones algunos arboles frutales ó silvestres de alguna utilidad.

4^a. El terreno de que se hace mención es de dos sitios de ganado mayor segun esplica el diccionario que corre agregado en el Expediente respectivo. El juez que diere la posesión lo hará mediar conforme á Orduanza quedando el sobrante que resulte á la Nación para los usos convenientes.

5^a. Si contraviniere á estas condiciones perderá su derecho al terreno y sera denunciado por otro.

En consecuencia mando que teniendo por firme y ^{el prese-} validos ~~este~~ título se tome razon de él en el Libro respectivo y se entregue al interesado para su resguardo y demas fines. Dado en Montevideo á diez de mayo de mil ochocientos cuarenta y dos.

Juan B. Alvarez.

Man. Jimeno.

Queda tomada razon de este Despacho en el Libro de acientos sobre adjudicacion de terrenos validos á foja 12.^a vuelta.

Jimeno.

El Excmo. Sr. Gobernador ha dispuesto se tome razon de esta concesion en la Prefectura del 1.^o distrito

Jimeno.

Tomese razon.

Estrada.

Queda tomada razon de este Sup.^o Título en el cuaderno respectivo de esta Secretaria á fojas 6 frente.

Srio int.^o - Jose M.^a Castañares.

San Juez de Paz.

S. Luis Obispo Mayo

20 de 1842.

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De conformidad con lo pido, para el Lunes inmediato 23 del presente, previa citación de los colindantes se le dará al interesado la posesión que solicita

Bonilla,

Miguel Avila natural de este Departamento ante V. como me por proceda digo: que en virtud del título y día más que devidamente acompañado se sirva darme la posesión jurídica del terreno que se me ha concedido y consiguiente á ello señalar día para efectuar este acto. P. T. A. V. suplico se sirva proveer como pido que en ello recibiré gracia y justicia que juro &c.

San Miguelito 20 de Mayo de 1842.

Miguel Avila,

En la Ex-cesion de S. Luis Obispo el día 23 de Mayo del año de 1842 yo el Juez de Paz de esta Demarcacion acompañado de los de mi asistencia con objeto de la posesion jurídica del terreno de S. Miguelito á D. Miguel Avila y p.^a proceder á el señalam.^{to} de linderos hizo medir un cordel de cincuenta varas castellanas, y medida q.^d fué fielm.^{te} atando en sus extremos dos estacas p.^a comenzar las medidas de dho. terreno, segun condicion espresa, del título de cesion, procedi á la medida de una legua y media en línea recta de la fabrica principal de este Establecim.^{to} á el mencionado terreno de S. Miguelito y al efecto midió ciento y cincuenta cordeles desde la referida fabrica principal rumbo al S. O. hto. la entrada á la Cañada de S. Miguelito, cello punto se señaló con unos peñascos q.^d se hayan á ambos costados del camino á una misma línea, quedando los mencionados peñascos p.^a linderos á este punto con las tierras

q. quedau á este establecim^{to} y concluida q. fue esta me-
dida lo asenté p^a su constancia p^r diligencia q. firmé
con los de asistencia.

J. Mar.^{no} Bonilla,

de asst^a

F. M. Cooper,

de asst^a

Vicente Bonilla

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A continuacion en el mismo dia, mes y año,
yo el juez de Paz de esta Demarcacion de S. Luis Obis^{po} acom-
pañado de los de mi asistencia, pase al Rancho de S.
Miguelito, en el punto y casa de habitacion de D. Miguel
Abila reunidos con el, D. Jose Ortega como coludantes y
otros Señores q. concurren p^a comenzar las medidas
del terreno y señalamiento de terminos y linderos, por
falta de un perito Agrimensor, nombre de los concu-
rentes dos medidores cordeleros q. lo fueron D. Juan de
Dios Butron y D. José Antonio Villa, cullos individuos ha-
biendo aceptado el nombramiento ofrecieron desempeñar
fielm^{te} su encargo bajo el juram^{to} q. se les tomo y pres-
taron asentando este p^r diligencia q. firme con los de mi
asistencia y los dos individuos nombrados q. p^r no saber
firmar hicieron una Cruz.

J. Mar.^{no} Bonilla,

de asist^a

F. M. Cooper

de asist^a

Vicente Bonilla,

Juan de Dios Butron, +
José Antonio Villa, +

En seguida en el mismo parage, día,
mes y año, yo el juez de Paz de la Demarcacion de S.
Luis Obis^{po} con los de asistencia y demas concurren^{tes} y acite-
dos, teniendo presente el título de conceision del terreno de D.

Miguel Avila y el día eno p^o el q^o se demarcan sus li-
 mitos no habiendo oposicion y siendo conformes los colin-
 dantes, pasamos á el Arroyo del Encino midiendo p^o
 merom^o diez cordales ó quinientas varas p^o la parte del
 Puerto, de la Playa al centro del terreno por condicion
 expresa en el título, y en seguida desde el mencionado
 Arroyo del Encino (lindero con D. Jose Ortega) se comenzó
 á medir y tirando el cordal en direccion al E. p^o la Lome-
 ria y Cañada q. divide el terreno de D. Jose Ortega, hta llegar
 á la Cañada donde pasa el camino de S. Luis á la Puris-
 sima en el Punto llamado Chispufat, se midieron cien
 cordales y se señaló como termino y lindero dho punto
 poniendo en el una Cruz; de allí se tiró el cordal al N.
 p^o el mismo camino de la Purisima á S. Luis y se mi-
 dieron ciento y treinta cordales hta la salida al llano de S.
 Luis en el paso del Arroyo señalando este punto como
 termino en el lindero con las tierras del establecimiento: se
 siguió midiendo de allí p^o toda la orilla del llano y lomas me-
 nores, rumbo al N. O. y se midieron ochenta y tres cordales,
 hta los peñascos q. se hayan á ambos lados de la Cañada
 y camino q. va de S. Luis p^o S. Miguelito y el Puerto,
 culla punto ya estaba señalado p^o lindero y division
 de la legua y media de tierra q. queda á la Ex. Mision, y
 en el umbral de las espaldas señaladas se puso una cruz
 se siguió la medida p^o la Cañada y caminos de S. Migueli-
 to, rumbo al S. O. y en la mayor parte al O. E. por la lo-
 meria y falda de la Sierra y se midieron doscientos
 y treinta cordales, hta el Arroyo y Cañada llamado el
 Pecho, señalando aquel punto p^o lindero, desde el cual se
 midieron p^o el mismo arroyo y Cañada al S. hta la Pla-
 ya setenta cordales; se continuaron las medidas p^o la costa al
 S. E. hta llegar al Arroyo del Encino (lindero con D. Jose Ortega)
 en culla punto se comenzaron las medidas y hta allí fueron
 medidos ciento y noventa y siete cordales, con lo cual fueron

concluidas las medidas, y habiéndose señalado los
 terminos y linderos del terreno, p.^a q. D. Miguel Avila
 manifestase ser el dueño y Sr. propietario del dho. ~~de~~
 manda q. hiciere alguna demostracion de haber adquirido
 el dominio útil y directo, y al efecto como Señor y dueño
 absoluto, poseedor y propietario del referido terreno de D.
 Miguelito, cabó la tierra arrancó yerbas y tiró piedras
 en presencia mia y demas concurrentes con lo q. se conclu-
 yo el acto q. firmó con los de asistencia y D. José Ortega y
 los medidores q. p.^a no saber firmar hicieron una cruz.
 J. Mar.^{no} Bonilla.

de assist.^a

F. M. Cooper

de assist.^a

Vicente Bonilla.

Juan de Dios Butron. +
José Antonio Villa. +

José Ortega

S. Luis Obp.^a Mayo 23 de 842.

Devolvanse estas diligencias originales
 al interesado p.^a testimonio de adquisicion de propiedad
 y el uso q. le combenga.

Bonilla.

S. Luis Obp.^a Mayo 24 de 842.

Atendido el auto antecedente con esta fha se de-
 volvió á D. Miguel Avila este Expediente en 9 fojas
 útiles y le asente p.^a diligencia q. rubrique

Rubric.

S. Luis Obp.^a Mayo 24 de 842.

Queda tomada razon de estas diligencias en el li-
 bro correspond.^{te} á fs. 4, 5, 6, y 7.

Bonilla.

Sello Tercero Dos Reales.

Habilitado provisionalmente por la Aduana Marítima del Puerto de Monterey, en el Departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

Timeno.

Antonio Maria Cisio.

E. S. J. Juan B. Alvarado Gobernador Constitucional del Departamento de las Californias.

La E. Junta Departamental en acuerdo del día 22 de Mayo del año pp.^o aprobó el dictamen de la Comisión de Agricultura que conoció en el Expediente instruido sobre el terreno S. Miguelito adjudicado á D. Miguel Avila; cuyo artículo con que concluye dice así:

"Se aprueba el terreno conocido con el nombre de S. Miguelito adjudicado por el E. S. Gobernador D. Juan B. Alvarado en 8 de Abril de 1839 á la parte del C. Miguel Avila."

Y en confirmación del decreto referido de 13 de Junio del año pp.^o se libra el presente al esposoado C. Miguel Avila para su resguardo y demás fines. Monterey 19 de Agosto de 1841.

Alvarado.

Sello Cuarto Dos Reales.

Habilitado provisionalmente por la Aduana Marítima del Puerto de Monterey, en el Departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

Michelsona.

Pablo de la Guerra.

Excmo Sr Gobernador.

G.S.

Monterrey Ab. 29
de 1844.

Uniforme el
Sr Srío Tomando
stros si los cree ne-
cesarios.

Micketta

Miguel Avila Ciudad. Mexicano
y vecino de San Luis Obispo, ante
la justificación de V.E. con el debido
respeto y como mejor proceda digo: —
que habiendo adquirido en propiedad el
terreno nombrado Sr. Miguelito en
terminos de la expresada jurisdic-
cion, en estension de dos sitios de
ganado mayor, solicite la posesion
juridica, y se me dio esta con ane-
glo al titulo y asiento respectivos, por el
Sr Juez de Paz y encargado del men-
cionado punto D. Mariano Bonilla;
con la cual sin embargo de que resul-
taron algunos sobrantes dentro de los

linderos que demarcaba el titulo, quedé conforme co-
mo tambien mis colindantes segun consta del Expedi-
diente conservante, en cuyas mediciones se pusieron
las mojones correspondientes, y en efecto he estado po-
seyendo dho terreno libre y pacificamente, pero com-
prehendiendo algunas tierras de labor y abrevaderos
muy interesantes, hay personas que tienen intencion
de exigir que nuevamente se me mida el terreno; mas
siendo susceptible que en caso que asi se verifique re-
sulte alguna diferencia leve o levisima, por no estar
exactamente medido como por un perito agrimensor he
de merecer de V.E. que á fin de que las mojones ya
fijadas no tengan alteracion en ningun tiempo ni
se me siga perjuicio alguno me haga la gracia
de concederme cualquiera parte de terreno que á mas
de los dos sitios ya indicados pueda haber dentro
de los mismos limites demarcados en dicha pose-

cion. Esto supuesto á V.E. suplico por parecerme
de justicia que juro 2ª

Monterrey Abril 14 de 1844.

Miguel Avila.

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Señor Gobernador.

El interesado teme que cuando se le reforme su posesion resulte algun sobrante de su terreno que tal vez otra persona quedará denunciarse y como hasta hoy, no hay otra solicitud sobre el particular, mas que la presente, por lo que entiendo que se debe conciliar al Sr. Avila como dueño de todo lo que se le ha medido, y señalado en la posesion. La Superior disposicion de V.E. será la mas acertada.

Monterrey Abril 30 de 1844.

Manuel Jimeno.

Monterrey Abril 30 de 1844.

Conf.

Micho.

Sello Cuarto En una Cuartilla,
Para los años de 1842 y 1843. Mil ochocientos cuarenta y mil ochocientos cuarenta y uno.
Revalidado para los años de 1842 y 1843.

Albarado.

Antonio M. Cillo.

Sello Tercero Dos Reales.

Habilitado provisionalmente por la Aduana Maritima del Puerto de Monterrey, en el Departamento de las Californias, para los años de mil ochocientos cua-

venta y mil ochocientos ochenta y uno.

Reimend.

Antonio Maria Osio

Rehabilitado por la misma para el año de mil ochocientos
Cuarenta y dos.
Alvarado.

Antonio Maria Osio

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El que suscribe Secretario del Gobierno del Departa-
mento, certifica: que el dicho que se muestra a la
quella es fielmente sacado del original que existe en
la Sra de mi cargo agregado al Expediente pertencien-
te a D^o Miguel Abila.

Monterrey Mayo 10^o de 1842.

Manuel Jimeno.

Filed in Office Jan'y 22^d 1853
(Signed) Geo. Fisher
Scrip.

[Large decorative flourish]

None follows the mark

Demarcation of S. Luis Obispo in the Jurisdiction of Monterey year 1842.

Record of Proceedings taken in the judicial possession that was given to Miguel Arila of the land of S. Miguelito.

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(Seal)

Juan B. Alvarado, Constitutional Governor of the Department of both Californias.

Judicial Possession - Translation. Exhibit 1.

Whereas the Citizen Miguel Arila has solicited for his personal benefit & that of his family the location known by the name of San Miguelito bordering to the East on the Rancho of D^{no} José Ortega to the west on the highlands & the opening near to the ridge of rocks immediate to the sea, to the North on the land of San Luis Obispo distant one league & a half from the principal house of the establishment leaving free at the side of the port 300 varas for the use which the Government may determine, after having previously taken the necessary action & made the necessary investigations according to the requirements of the laws & regulations, in exercise of the powers vested in me in the name of the Mexican Nation I have concluded to grant him the mentioned land declaring it his property by the present letters patent subject to the approbation or disapprobation of the Excellent Departmental Assembly & to the following conditions.

1st He may fence it without prejudicing the crossings, roads & conduits, he shall not hinder neither the establishments of the Missions nor any body in particular of the Ranchos the free commercial traffic that at every time may be carried on with the ships anchoring in the port, nor to hinder the use of the pastures & everything else that may be conducive to protect the commerce of said port.

2. He shall leave 300 varas at the sea shore for the use which the government may determine, & the rest he will enjoy exclusively for himself, appropriating it to the use or culture that best may

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quit him, but within one year he shall build a house to be inhabited.

3. He shall solicit of the respective judge to give him judicial possession in virtue of this document by whom the boundaries will be marked on the extremities of which he shall put besides the landmarks some fruit trees or wild ones of some usefulness.

4. The mentioned land is two square leagues (sitios de ganado mayor) according to what is shown by the sketch accompanying the respective expedient. The Judge who shall give the possession shall cause it measured conformable to ordinance, leaving the surplus that may result to the Nation for common purposes.

5. If he should violate these conditions he shall lose his right to the land & may be demanded by any other party.

Consequently I order that the present title deed being held as firm & valid, it be entered in the respective book & delivered to the interested party for his security & other purposes. Given in Monterey the 10th of May 1842.

Juan B. Alvarado. M. Jimeno. Secretary.

This document is entered in the book of records of adjudication of vacant lands the record of our fol. 12.

Jimeno.

The Excellent Governor has ordered an entry of this concession to be made in the prefecture of the 1st District.

Jimeno.

Let it be entered.

Estrada.

Entry is made of this sup title in the respective memorandum book of this Secretary's office on fol. 11.

Monterey May 12th 1842. (Sign above)
Jose Maria Castaneras. The

undesignated Secretary of the Departmental Government certifies, that the sketch exhibited on the reverse is faithfully drawn from the original that remains in the Secretary office in my charge, annexed to the expediente appertaining to San Miguel Borla. Monterey May 13th 1842.

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Man Jimeno.

Honorable Justice of the Peace.

I Miguel Arta native of this department before your Honor as best may tend to the purpose, say! That in virtue of the litle deed & sketch duly annexed, you will please to give me the juridical possession of the land granted to me, & in consequence appoint a day for effecting this act. Therefore I pray you to be pleased to provide for what I ask, whereby I shall receive favor & justice. I swear &c.

San Miguelito 20th May 1842.

Miguel Arta.

In the Margin.

San Luis Obispo May 20th 1842.

Agreeably to request on Monday next the 23rd instant after a previous citation of the bordering land owners will the possession solicited be given to the interested party.

Borilla.

In the Ex. Mission of San Luis Obispo on the 23rd day of May A. D. 1842, I, the Justice of the Peace of this jurisdiction accompanied by the attesting witnesses, for the purpose of the juridical possession of the land of San Miguelito to Miguel Arta & in order to precede the designment of the boundaries, I caused to be measured a line of 30 Castellian varas, which was done faithfully tying in their extremities two stakes, to commence the measurement of said land, according to the conditions expressed in the litle deed, I proceeded to the measurement of one league & a half in a straight line from the principal building of this Establishment to the mentioned land of San Miguelito, & to this effect I measured 150 lines from the aforesaid principal building in a course to South east on to the entrance

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of the Canada de San Miguelito which point is design-
-nated by some rocks at both sides of the road in
one same line, leaving the said rocks for boundaries
at this point, of the grounds that remain to this estat-
-lishment & this measurement being concluded &
-settled, in order to testify the action signed with
the attesting witnesses.

J. Marr Bonilla.
assistants F. M. Cooper. Vicente Bonilla.

In confirmation, on the same day, month & year
I the Justice of the Peace of this jurisdiction of San
Luis Obispo in company with my assistants, pro-
-ceeded to the Rancho of San Miguelito at which
point & in the dwelling house of Don Miguel Arta
being joined by him, Don Jose Ortega as bordering
land owner & other gentlemen met in order to com-
-mence the measurement of the land & the assign-
-ment of borders & boundaries for want of a skillful
surveyor, I nominated from the company two
measurers, namely Don Juan de Dios Butron &
Don Jose Antonio Villa who were sepe men, which
individuals having accepted the nomination offered
themselves to fulfil the charge faithfully under
the oath which they took & made, in discharging
this duty I signed with my assistants & the two
appointed measurers, who, not knowing how to
sign, made a cross.

J. Marr Bonilla
assist F. M. Cooper. Vicente Bonilla.
Juan de Dios Butron X
Jose Antonio Villa X.

Then after in the same place, on the same day,
month & year, I the Justice of the Peace of the
jurisdiction of San Luis Obispo, with the attesting
witnesses & others already cited, present, having
present the title of concession of the land of D.
Miguel Arta & the sketch by which its limits are

marked, not having any opposition, & the bordering land owners, consenting, we proceeded to the Arroyo del encino measuring first ten lines or 500 varas at the side of the port from the beach towards the edge of the land, conditionally expressed in the title deed & then after from the said Arroyo del encino (boundary of Don José Ortega) they commenced to measure & stretching the line in an Easterly direction for by the highland & Cañada which divide the lands of Don José Ortega, until arriving at the Cañada where passes the road of San Luis to the Purisima in the point called el Puyat, they measured 84 lines & marked it as border & boundary, putting up a cross in said point; from thence they stretched the line to the North by the same road of the Purisima to San Luis & they measured 130 lines unto the outlet to the plain of S. Luis, in the passage of the creek, making this point as a limit in the boundary of the grounds of the establishment; thereafter they measured from thence along the whole bank of the plain & smaller highland in North West, & they measured 83 lines unto the rocks there are at both sides of the Cañada & road that goes to S. Luis by S. Miguelito & the port, which point was marked already for boundaries & divisions of one league & a half of ground which remains to the Commissions, & on it besides the said marks they put a cross; thereafter the measurement was followed by the Cañada & road of San Miguelito in a course towards the South west & for the greater part to the West at the highland & West of the Sierra & they measured 230 lines unto the creek & Cañada called el Pecho making that point for boundary; from which they measured along the said creek & Cañada to the South unto the ^{Bay} 70 lines; they continuing the measurement at the coast to South East until arriving at the Arroyo del encino (boundary of José Ortega), at which point they commenced

The measurement & to thence were measured 19 flosis with which the mensuration was concluded, & having marked the borders & boundaries of the lands, in order that Don Miguel Arila might prove to be owner & proprietary master of the same, I ordered he should make some demonstrations of having acquired appropriate & direct let dominion, and accordingly, as master & absolute owner, possessor & proprietor of the aforesaid land of San Miguelito, he took up earth, pulled up grass & threw stones in presence of me & the other by-standers, with which the act was concluded, I with the assisting witnesses & Don José Ortega & the measurers signing, the latter making a cross, not knowing to write.

I Mariano Bonilla.
assistants: F. M. Cooper. Vicente Bonilla.

José Ortega.
Juan de Dios Butron +
José Antonio Villa +

San Luis Obispo May 23^o, 1842.

Let this original act be transmitted to the interested party, in testimony of the acquisition of ownership & the purposes that may suit him.

Bonilla.
San Luis Obispo May 24th 1842.

In attendance to the foregoing decree, on this day was this expediente transmitted to Don Miguel Arila for his use & to testify the action I subjoin my flourish.

(Flourish)

San Luis Obispo May 24th 1842.

Due entry is made of these acts in the corresponding book on fols. 4. 5. 6. & 7.

Bonilla.

(Seal)

Juan B. Alvarado Constitutional Governor of both Californias.

The Excellent Departmental Assembly in sitting of the 22^o day of May last year, approved of the opinion of the Committee on Agriculture, which is

acknowledged in the expediente made on the land San Miguelito adjudged to Don Anila; the concluding article of which runs thus:

" It appears of the land known by the name of San Miguelito adjudged by the E. Governor Don Juan B. Alvarado on the 8th of April 1839 to the party the citizen Miguel Anila.

And in confirmation of the aforesaid decree of 13th of June last year, these presents are issued to the said citizen Miguel Anila for his security & other purposes.

Mexico 19th Aug. 1841.

Alvarado.

Seal

Excellent Sir, Governor.

I, Miguel Anila a Mexican & neighbor of San Luis Obispo, before your justice, with due respect & as best may tend to the purpose, say, that having acquired the ownership of the land called San Miguelito on the borders of the said jurisdiction, containing two square leagues in extent, I solicited the judicial possession, & it was measured in accordance with the title deed & respective sketch, by the Honorable Justice of the Peace & officer of the said part Don Mariano Bonilla, by which nevertheless there resulted some surpluses within the boundaries assigned in the title deed. I obtained accordingly as all my bordering land owners according to what is shown by the respective expediente, in which measurement they put the corresponding land marks, & in fact I have been possessing said land freely & peacefully, but comprising some cultivated grounds & watering places, very interesting, there are persons who have the intention to demand that the land be measured over again, but being aware that, if so accomplished there will result some slight or very trifling difference because not being exactly measured, as by a skilful surveyor, I desire from your part that in order that the land marks already fixed at no time may undergo alteration nor involve any prejudice, to enjoy the favor to be granted whatever part of land, besides

se me mida el terreno

37 SD
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the two sites already included, I may hold within
the same limits marked in said possession.
I pray you for this favor as justly owing to me &
swear.

Monterey April 14th 1844.

Miguel Obila.

In the Margin.

Monterey April 29th 1844.

Let the P^t Secretary report, after taking other infor-
mation, if he believes such necessary.

Micheltorona.

Sir Governor.

The interested party fears that when his
possession is corrected there may result some surplus
of land, & that perhaps some other person will demand
the same & as up to this day there is no other soli-
tation for the land in question but the preceding one,
I understand that Mr Obila ought to be considered
as owner of all what is measured to him & signatized
in the possession. Your Excellency's determination
will however be the best.

Manil Amiano.

Monterey April 30th 1844.

Approved.

Micheltorona.

Filed in Office Sept 22^d, 1852.

Geo. Fisher.

Secy.

42 Miguel Alva. vs. The United States. 3 For the place called *Miguelito*, in San Luis Obispo County, containing two square leagues of land.

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Opinion by Comr on the 1st day of March 1839. & after information obtained from Alphons Felch.

The claimant has filed in the case a traced copy of the Expediente from the Archives which shows the application for the land made by the claimant on the 1st day of March 1839. & after information obtained from Alphons Felch. an order of concession dated April 8th 1839, a certificate of the Approval of the Departmental Assembly on the 22nd June 1840 is also made a part of the Expediente. The original grant signed by Governor Alvarado dated May 10th 1842 is also given in evidence duly proved & the record of the acts of judicial possession which was given to the claimant on the twenty third day of the same month. The grant contains the condition that the grantee should build a house on the place within a year. The deposition of Rafael Villa shows the performance of this condition by building an adobe house as early as about 1839 which has been occupied by him ever since, & that he has cultivated the ground & used the place for grazing purposes during the whole of that time. There seems to have been a breach of none of the conditions of the grant. The grant contains a condition that the grantee shall do nothing to prevent the anchoring of ships in the port or the full liberty of ingress & egress for the purposes of commerce & traffic, & that he shall leave free five hundred varas along the sea-shore for such purposes as the government might direct. This condition seems to me, to be intended to secure an easement in the land for commercial purposes, rather than an absolute exclusion of the grantee from all interest in the premises immediately bordering on the shore, & I am inclined to the opinion that, in the change of tenure which the confirmation under the American system of land titles implies, the claimant should hold the entire

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PAGE 44

promises free from the condition. It is one of the advantages of titles under our laws that they are simple & free from the many onerous conditions which are common under almost every other government. We are relieved however in this case from any embarrassment on the subject by the subsequent application of the party & a grant to him of the land covered by the reservation. This grant is presented by the present claimant in case No 216 in which the validity of the grant is duly authenticated & thus the right of the claimant to the entire property to the sea shore is substantiated. Judicial possession of the premises was given & the line run to be defined with accuracy.

Claim Confirmed.

Filed in Office Dec 6 '1853.

Geo: Fisher. Secy.

Miguel Arla. vs The United States.

Decree of Confirmation.

In this case on hearing the proofs & allegations it is adjudged by the Commission that the said claim of the petitioner is valid & it is therefore hereby decreed that the same be confirmed. The land of which confirmation is hereby made is situated in the county of San Luis Obispo is known by the name of the Rancho San Miguelito & is the same on which said claimant resides & is described & bounded as follows, to wit: Beginning on the sea coast at the mouth of the Arroyo del Encino thence running in an easterly direction by the highlands & Canada which divide the land of Don Jose Ortega until arriving at the

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

I, *George Fisher* Secretary to
the Board of Commissioners to ascertain and settle the Private
Land Claims in the State of California, do hereby certify the
following *forty four* pages, numbered from
1 *44*, both inclusive, to contain a true, correct and full Tran-
script of the Record of the Proceedings and of the Decision of the
said Board, of the Documentary Evidence and of the Testimony
of the Witnesses, upon which the same is founded, on file in this
Office, Case No. *215* on the Docket of the said Board,
wherein *Miguel Avila, et al,* are

the Claimant against the United States, for the place known by
the name of "*San Miguelito*."

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 second day of *August*
1854, and of the Independence of the
United States of America the seventy=*ninth*.

Geo. Fisher



37

Recd 25 Aug. 1854
Filed, 26 Aug. 1854
A. S. Taylor
Sp. Clk.

TRANSCRIPT OF THE RECORD
FROM THE
BOARD OF U. S. LAND COMMISSIONERS,
In Case No. 915

2 dg. Deputies
Wm. H. White
on Behalf of Office Co
Wm. H. White
28.

FILED STATE

87 N. 25.

On appeal from the Board of U. S. Land-Commissioners.
Case No. 37. - } In the Southern District.

37 SD
PAGE 47

Sir,

Please to take notice,
that the claimant in the above case
will prosecute the appeal therein. —

San Francisco
Dec. 8th 1854.

Yours respectfully,
Campbell, Taylor & Beckh
Attys for Claimant

To the Clerk of the
U. S. District Court,
Southern District of California.

U. S. District Court
Southern District
of California. -

Case No. 37. -

Notice of
Appeal from the
Board of U. S.
Land-Commissioners.

Filed Dec 12. 1834.

C. E. Case
Clerk.

On appeal from the Board of U. S. Land Commissioners,
Case No. 37. } In the Southern District.

Sir:

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Please to take notice
that the claimant in the above case
will prosecute the appeal therein.

San Fco
Dec. 8th, 1854,

Yours respectfully,
Campbell, Taylor & Beckh
atty. for claimant

To the Clerk of
the U. S. District Court,
Southern District of California.

U. S. District Court
Southern District of
California. —
37

Case No. 37. —
20

Notice of appeal
from the Board of
U. S. Land Commis-
sioners. —

Filed Dec. 13. 1854.

J. E. Farr.
clerk.

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Office of the Attorney General of the United States,

Washington, 30th November 1854.

Miguel Abila }
vs. } 215.
The United States. }

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 18th day of August 1854 the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Cushing

Attorney General.

No. 37.

U. S. District Court.

Southern District.

The United States

vs.

Miguel Abila.

Appel Notice.

Filed Jan'y 10^m 1855.

C. E. Farr.
clerk.

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Office of the Attorney General of the United States,

Washington, 30th November 1854.

Miguel Abila

vs.

The United States.

215.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 18th day of August 1854 the appeal in the district court of the United States for the Southern — district of California will be prosecuted by the United States.

Cushing

Attorney General.

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p. 51
copy 2

37.

Duplicate

213.

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United States of America, }
Southern District of California. } SS.

TO

The President of the United States,

Miguel Abilla.

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GREETING :

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against you, and each of you, in the District Court of the United States, in and for the Southern District of California, on the *thirteenth* day of *August* in the year of our Lord one thousand eight hundred and fifty-*five* at the City and County of Los Angeles, in said District, by

Pacificus Ord, Attorney of the United States for the Southern District of California, on behalf of the United States praying the said Court to review, upon the grounds therein set forth, the decision of final Confirmation of the Board of U.S. Land Commissioners to ascertain and settle the private land claim in the State of California, to the Claim of ~~José de Jesús~~ Miguel Abilla for a tract of land called San Miguelito in the County of San Luis Obispo California, two square leagues of land more or less - & presented by you to said Commissioners on or about the 11th day of May A.D. 1852, and by them confirmed on the 11th day of December A.D. 1853.

and that you, and each of you, are required to appear at said Court, in said City, within ten days after the service hereof, if served on you within the County of Los Angeles, and within twenty days if served on you in the County of San Diego or San Bernardino, and within forty days if served on you in any other County of said State, exclusive of the day of service, and answer said petition, or that judgment by default will be taken against you, and each of you, and the prayer of the said petitioner will be granted, with costs. *The Plaintiff will apply to the Court for the relief demanded therein.*

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the Seal of the said Court, this *Tenth* day of *September* in the year of our Lord one thousand eight hundred and fifty-*five* at Los Angeles aforesaid.

C. E. Jan.
Clerk.



Marshal Post-
 Copying summons .60
 Serving summons \$3.00
 " Petition \$3.00
 Charge on each
 300 miles \$4.00
 \$6.00

No. 37

United States of America,
 Southern District of California,
 U. S. District Court.

Miguel Abilla

ad #

The United States

SUMMONS.

Received Sept 12th 1855
 Edward Hunter
 U. S. Marshal

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I served this summons along with the proper copy of the petition upon

Miguel Abilla

at his residence in San Luis
 the twentieth day of Nov

in the Southern District of California or
 A. D. 1855

E. Hunter

(Clk.)

U. S. Marshal

Per J. A. Murray
 Sept 12

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

Los Angeles County, State of California.

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Miguel Abila

ads.

The United States

No. 37 (Transcript No. 215)

To the Honorable Isaac S. H. Ogier, Judge of the
District Court of the United States for the Southern
District of California.

The petition of Pacificus Ord (of Los Angeles County)
Attorney of the United States for the Southern District
of California, who petitions in this behalf for the
United States; and being present here in Court in his
proper person, in the name and behalf of the U-
nited States, represents as follows.

That heretofore, to wit, on or about the 6th day of May
A.D. 1853. Miguel Abila presented a petition to the Com-
-missioners to ascertain and settle the private land
claims in the State of California, claiming the tract
of land called San Miguelito in the County of San
Luis Obispo in the words and figures following, viz.

"The Petition of Miguel Abila, a resident of the
"County of San Luis Obispo & State of California
"respectfully sheweth, that on the 1st of March
"A. D. 1839 he made & presented his petition in

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PAGE 56

"writing to Governor Alvarado, soliciting for him-
 "self the grant of a tract of land, known as Rancho
 "de San Miguelito, a description of which will be gi-
 "ven hereafter. That said Governor referred the
 "subject to the Prefect of the first district, who on
 "the 20th of March 1839 reported in favor of your
 "petitioner. That thereupon to wit on the 8th of
 "April 1839 said Governor by a decree issued on that
 "day, declared your petitioner the lawful owner of
 "such land, & directed the proper documents, con-
 "stituting title to be executed. That on the 19th of
 "May said decree was presented to the Departmen-
 "tal Assembly at Monterey for confirmation, &
 "that the same in accordance with the report
 "made thereon by the Committee on Agriculture, approved &
 "confirmed the same. That on the 10th of May
 "1842 a formal grant issued to your petitioner.
 "That he obtained the judicial possession of said
 "land by the respective authority on the 24th of May
 "1842. And your petitioner further saith, that
 "the petition, response, report, decree & a duly cer-
 "tified copy of the grant & of the original map
 "of that land are ~~now~~ on file in the Archives
 "of California, now in the possession of the
 "Surveyor General of the U. S. of America for the
 "State of California, & that duly certified copies
 "translations of the same are herewith sub-

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"mitted & prayed to be made a part of this pe-
"tition. That the original grant, map, & the
"documents of juridical possession are in the
"hands of your petitioner & ready to be offered in
"evidence whenever required. And your peti-
"tioner further saith, that said land is situ-
"ate in the present County of San Luis Obispo,
"is known under the name of Rancho de San
"Aguelito & is bounded as follows:

"on the East by the Rancho of Don José Ortega,
"on the West by the low hills & the Portisuelo, in
"the neighbourhood of the Penascos, on the North
"by the lands of the Establishment of San Luis
"Obispo, at a distance of one league & a half from
"the principal building thereof, & leaving an open
"space of five hundred varas in breadth between
"the sea shore & the whole length of said Rancho,
"containing two square leagues of land.

"And your petitioner further saith that he has
"been in the quiet & undisputed possession & ow-
"nership of said land since he obtained the grant
"thereof, & that he is not aware of the existence of
"any title conflicting with or paramount to his
"own." He therefore claims to be the lawful ac-
"tural owner of said land & prays, that your honorable
"body in consideration of the premises, will
"confirm & validate his claim & title thereto."

Your petition^{er} further represents that thereafter, to wit on the ~~15~~^{6th} day of December A.D. 1853, the said Commissioners confirmed, by final decree, the said claim of the said Miguel Abila, in the words, and figures following, to wit.

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" In this case on hearing the proofs & allegations
" it is adjudged by the Commission that the
" said claim of the petitioner is valid & it is there-
" fore hereby decreed that the same be confirmed.
" The land of which confirmation is hereby made is
" situated in the county of San Luis Obispo is
" known by the name of the Rancho San Miguelito
" & is the same on which said claimant resides &
" is described & bounded as follows, to wit: Be-
" ginning on the Sea Coast at the mouth of the
" Arroyo del Encino thence running in an east-
" wardly direction by the highlands & Cañada
" which divide the land of Don Jose Ortega un-
" til arriving at the Cañada which passes the
" road of San Luis to the Purissima five thou-
" sand varas to a cross placed as a boundary at
" the point called Artfingat, thence running to
" ^{the} north along the same road of the Purissima to
" San Luis six thousand five hundred varas to
" the outlet to the plains of San Luis in the passage
" of the creek & in the boundary of the Establishment
" of the Exc-Mission of San Luis Obispo, thence

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"along the margin of the plain & smaller high-
 "lands in a North West direction four thousand
 "one hundred and fifty varas to the roads lea-
 "ding from San Luis to San Miguelito & the
 "Post at a place designated by some rocks at
 "both sides of the road in the same line at the
 "entrance of the Cañada de San Miguelito, in the
 "line of the lands of said Mission & distant one
 "and a half league in a straight line from the
 "principal building of said establishment;
 "thence by the Cañada & road of San Miguelito
 "in a course towards the Southwest & for the great-
 "er part to the West at the highlands & skirt of
 "the Sierra eleven thousand five hundred varas
 "to the Creek & Cañada called El Pecho: thence
 "along the said creek & Cañada towards the South
 "three thousand five hundred varas - & thence
 "in a South eastwardly direction along the sea
 "shore until arriving at the mouth of the arroyo
 "del Encino (boundary of José Ortega) the place of
 "beginning, being nine thousand eight hun-
 "dred & fifty varas - The said premises con-
 "taining two square leagues of land more or
 "less - reference for a more particular descrip^{tion}
 "thereof, to be had to the record of juridical
 "survey thereof & the map attached thereto which
 "are on file in this case."

"Alpheus Felch" }
 "Thompson Campbell" }
 "R. Aug. Thompson" } Commissioners

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"Filed in Office Dec. 6th 1853.

"Geo. Fisher Secy"

That thereafter, to wit, on the 26th day August A.D. 1854 a duly certified transcript of the said decree, and proceedings, and the papers and evidence on which it was founded in said cause, was filed in the office of the Clerk of the District Court of the United States for the Southern District of California and marked No. 37 (transcript No. 215) reference to which it is prayed may be had and made a part of this petition.

That on the 18th day of August A.D. 1854 the Honorable Caleb Cushing Attorney General of the United States received a duly certified duplicate of said transcript of said final decree and proceedings of said Commissioners in said cause (No. 215) and the papers and evidence on which said decree was founded.

That thereafter, to wit, on the 10th day of January A.D. 1855, the said Attorney General of the United States, filed or caused to be filed, on behalf of the United States, a notice with the said Clerk of the United States, a notice with the said Clerk of said District Court for the Southern District of California, that the appeal in said cause

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of Miguel Abila, vs. the United States, from the decision of the said Commissioners to ascertain and settle the private land claims in the state of California, in the District Court of the United States for the Southern District of California, would be prosecuted by the United States. Your petitioner further represents that the said land claimed as aforesaid is within the jurisdiction of this Honorable Court. And your petitioner further represents, and insists that the said decree of said Commissioners is erroneous, and ought to be reviewed, reversed, and set aside, for many errors and imperfections of law and evidence apparent in said certified transcript of said cause, now in Appeal from said Commissioners to this Honorable Court.

And your petitioner further represents that the said claim is invalid, and the said decree erroneous, on the following grounds.

I. And the said Attorney denies all and singular each and every allegation in the said petition of said Claimant, to said Commissioners of said date. And he further denies that any grant for said land was ever made as alleged in said petition. And he denies further that the said Claimant has shown any, or sufficient evidence of the validity of

the said claim.

II. That the said alleged grant of Governor Alvarado was made in violation of the 4th Article of the Colonization law of Mexico of the 18th of August A.D. 1824, in this; that the land granted, as alleged by claimant, was and is within ten leagues of the Sea Coast; and there is no evidence shown by claimant that the Supreme General Executive power of Mexico, previously approved of the colonization of the public lands in Upper California, lying within ten leagues of the Sea Coast. And it is denied that such previous consent of said Supreme General Executive power of Mexico in such case was ever had.

III. That at the date of the said alleged grant, the said land claimed as aforesaid, was occupied by, and in the possession of the Missions of the Territory of Upper California; and it was held and occupied particularly, by the Mission of San Luis Obispo; and could not therefore be colonized.

IV. That the said alleged grant has not the conditions required by, and is not made in entire conformity with the laws of Mexico of the 18th day of August A.D. 1824, and the regulations for the Colonization of the Territories of Mexico of the 21st November A.D. 1828.

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V. That the said alleged grant of said Governor Alvarado, of the date of the 10th of May 1842, is vague and indefinite in the description of the land.

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PAGE 63

VI. That there is no proof of the genuineness of the signatures of Manuel Lermeno, or Estrada, to said alleged grant of Governor Alvarado. That there is no proof of the signature of Miguel Abila to a petition purporting to be his, to the Justice of the Peace of San Luis Obispo, dated 20th May 1842. That there is no sufficient proof of the signatures of J Mariano Bonilla, to a document purporting to be an act of judicial survey and possession of the land claimed by said Abila. That there is no proof of the signature of Miguel Abila to a petition purporting to be his, to Governor Micheltonera, dated April 14th 1844.

VII. That the said alleged grant of Governor Alvarado of said date, is made subject to the approval of the Departmental Junta; and no approval of said alleged grant is shown by said Claimant. And it is denied that said alleged grant was ever approved by said Junta, or Departmental Assembly of California; or by the Supreme government of Mexico.

VIII. That the said alleged ^{acts of} judicial survey and possession by said Bonilla, Justice of the Peace, of the date of about the 23rd May 1842 were not made according to the said alleged grant of said Governor ~~Alvarado~~ ^{Alvarado}, and the map referred to therein;

nor according to the ordinance, or law. That it includes more and other land than that mentioned in said alleged grant. And it is vague and indefinite.

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IX. That there is no evidence that J. Mariano Bonilla was a justice of the Peace of San Luis Obispo, with lawful authority to perform said judicial acts of survey and possession of said land, on or about the 23rd of May 1842. And it is denied that he was a justice of the Peace of San Luis Obispo, at the date of said ^{alleged} acts of survey and possession.

X. That the certified copy of the map belonging to the original expediente, made by Manuel Ferrero, and referred to in his certificate dated May 13th, 1842, is not shown, by Claimant, or its absence accounted for. That the said claimant shows two maps, purporting to be of the place alleged to have been granted, by said Governor Alvarado, which are unlike. And there is no evidence showing which, if either, of the said maps, is the one referred to in said alleged grant of said Governor Alvarado of said date, and according to which said alleged grant purports to have been made.

And no ^{sufficient} proof having been made by said claimant of the allegations of his said petition, or in support of his said claim, filed as aforesaid,

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no decree ought to have been made, or grounded thereon; but the said petition ought to have been dismissed, and said claim rejected by said Commissioners, upon the grounds aforesaid. And the said Claimant having no valid right or title, derived from the Spanish or Mexican Government, to the said land claimed by him, as aforesaid, the lawful right or title in and to the said land, was acquired by, and it now belongs to the said United States, by virtue of the treaty, of peace, friendship, limits, and settlement, with the Republic of Mexico, dated at the City of Guadalupe Hidalgo February 2nd A.D. 1848. Wherefore the said Pacificus Ord, Attorney of the United States for the Southern District of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the act of Congress entitled "An act to ascertain, and settle the private land claims in the state of California" Approved March 3rd A.D. 1851, and the laws and Statutes in such case made and provided, prays that the said Miguel Abila may be served with a copy of this petition; and that this Honorable Court will review the said decision, or final decree of confirmation, of said Commissioners, to ascertain and settle the private land claims in the state of California, and decide on the validity of the

said claim of said Miguel Abila, for said land claimed and confirmed as aforesaid; and that the same may be decreed invalid. And all such other orders, judgements, or decrees, as may be just. with costs, and general relief.

F. Ord

Attorney of the United States
for the Southern District of
California.

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No 37

U. S. Dist Court
S. Dist of Cal^a

Miguel Abillea
vs

The United States

Petition of M. Abillea
for Review

Filed August 13th 1855

J. E. San.
Clerk

37 SD

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J. P. Ordway
Att'y

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

Miguel Avila }
Appellee } Case No. 38.
Add. }
The United States } Transcript
Appellant }

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And now comes the above named
appellee by Myron Norton and Agustin Oberra
his attorneys and for answer to the petition
for review filed in this cause by the appellant
says:

That his title to the land claimed
by him in this case is good and valid.

Wherefore he prays the judgment
of this Honorable Court, that the decision
of the United States Board of Land
Commissioners in this case may be affirmed
and his title to the land claimed therein
may be decreed to be valid, and for his costs
in this behalf expended and for such
other or further and general relief as may
be agreeable to Equity and good con-
science and the nature of his case may
require.

Myron Norton &
Agustin Oberra
Attys for appellee

Marchal's Cont

Serving Answer § 3.

Cause No. 37
United States District Court,
Southern District of California

Miguel Avila
Appella
v. d. s.

The United States
Appellant.

Answer

Filed Dec 24th 1888

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J. E. Carr
Clerk

I have served this Answer on P. Per
W. J. City by delivering to him personally
a true copy of the same at Los Angeles California

W. J. Marshall
Frank E. Johnson
Agent

Señal del Gob. Departamental de California,
Cuando se dió á V. el segundo título de San-
Miguelito con objeto de aclarar los límites no se tubo
presente que la Junta Departamental ya tenía apro-
vada la Concesion que de este terreno se le había he-
cho á V. y Como el Gob. ha tenido en Consideracion
la representacion que V. hace en 20 del Corriente se me
ha ordenado por el Exmo. Sr. Gobernador deya á V. que
la parte de la Concesion de su título qha 10 de Mayo
de este año de sujetarse á la aprobacion de la Junta
Departam^l no puede tener efecto por que ya la misma
Junta Departam^l tiene aprobada desde el año de
1840 la Concesion del expresado terreno que se hizo
el año de 1839 @ favor de V.

Yo digo @ V. para su resguardo y Como resulta-
do á su representacion

Dios y Libertad Monterey Julio 29 de 1842

M. L. Jimenez

Al Ciudadano Miguel Arla de Luis Obispo

I Charles Chan Clerk of the District
Court of the United States for the Southern District
of California hereby certify the above foregoing to be a true
copy of a document as it appears on page 141 of
Transcript No. 38. on file in my office

In testimony whereof I have hereunto set my
hand & affixed the seal of said Court at Los
Angeles this 18th day of January A.D. 1856

C. E. Chan
Clerk

Secretary Office Departmental Government of
California

When the second Title of San Miguelito was given to you with the object of making clear its lines it did not appear that the Departmental Junta had approved of the Conception of the Land, which had been made to you and as the Government had had in consideration the representation made by you on the 20th inst. I am ordered by the Governor to say to you, that that portion of the Conception of your title dated 10th May the present year, subjecting it to the approbation of the Departmental Junta is of no effect because the Departmental Junta in the year 1840 approved the Conception of the said Land which in the year 1839 was conceded in your favor. I say this to you for your security and as the result of your representation
God and Liberty

Montevideo July 29. 1842
Signed / Manuel Jimenez

Don Miguel Alcala
Don Luis Obispo

No 37.

US Dist Court
South Dist of Cal.

Michael Abela
app^{ee}
vs.

The United States
app^{lt}.

Copy of Document
in Transcript No 38 -

Filed Aug 18 1886

J. E. Jan.
Clerk

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IN THE DISTRICT COURT OF THE UNITED STATES,

FOR THE SOUTHERN DISTRICT OF CALIFORNIA,

Los Angeles,.....December Term, 1855.

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Miguel Abilla

APPELLEE,

VS.

UNITED STATES,

APPELLANT.

No. 37.

(No. 215 of Transcript.)

On Appeal from the United States Land Commission.

On motion of P. ORD, Attorney of the United States for the Southern District of California, it is hereby

ORDERED by the Court, that an appeal be granted the United States, to the Supreme Court of the United States, from the judgment of this Court against the said United States in the above entitled cause, rendered on or about the 25th day of January — A. D. 1856.

P. Ord
Dist. atty.

No. 3rd.

U.S. District Court
South Dist of California

Miguel Abila

Appellee

vs

The United States

Appellants

Office of Appeal S.C.

Filed March 27th, 1856

C. E. Canbeck

by C. Morgan Depy

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

December Term A. D. 1855.

City of Los Angeles.

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Miguel Abila, appellee vs. N. Esp. "San Miguelito"
vs. advs. The United States appellants

This Cause coming on to be heard on an appeal from the final decision of the Commission to ascertain and settle the Private Land Claims in the State of California, under an Act of Congress approved March 3^d 1851. on a Transcript of the proceedings and decision, and of the papers and evidence on which said decision was founded, and it appearing that said Transcript has been duly filed according to law, said Cause for the respective parties having been heard; It is ordered, adjudged, and decreed that the claim of the said Miguel Abila to the Rancho called San Miguelito situated in the County of San Luis Obispo, is a good and valid claim, and the same is hereby confirmed to the extent of the boundaries described in the Grant, Record of Judicial Opinion and map, the same being as follows. — Commencing at the point at the arroyo del Encino, thence running in an easterly direction by the high lands and Cañada which divide the land of Don Jose Ortega until arriving at the Cañada which passes the road from San Luis to San Luis Obispo, Five Thousand varas, to a Cross placed on a boundary at the point called Arroyo. Thence running to the North along the same road of the San Luis Obispo, Five Thousand Five Hundred varas to the outlet of the plain of San Luis in the passage of the creek, and in the boundary of the Establishment of the Mission of San Luis Obispo, thence along the margin of the plain and smaller highlands in a Northwest direction Four Thousand, one Hundred and fifty varas to the road leading from San Luis to San Miguelito and the point at a place designated by some rocks at both sides of the road, in the same line at the entrance of the Cañada of San Miguelito in the line of the lands of said Mission and distant one & a half leagues in a straight line from the principal building of said Mission, thence by the Cañada and road of San Miguelito in a course towards the southwest and for the greater part to the West, along the highlands and skirt of the Sierra, Eleven Thousand five hundred varas, to the creek and Cañada called "El Chico." thence along the said creek,

No. 37.

U. S. Dist Court
South Dist. Cal.

Miguel Abila ^{appellee}
vs
The United States ^{appellant}

Deceit

Rec'd 28th Nov 1856, per 6849

Filed Jan'y 12th 1856.

J. E. Carr
Clerk

Received Feb 19th 1857

and records towards the grant. The amount of the hundred acres, and the
in the grant being decided along the line to the mouth of the Arroyo. All
the same place of beginning. The amount of the hundred acres, and the
for a more particular description thereof to be had to the grant, a copy of
said deed being annexed thereto, which are after
in the case.

~~Wm. S. Carr~~
W. S. Carr

California Land Claims.

Attorney General's Office

29 September 1856

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Sir:

In the case of the claim of Miguel Arila, confirmed to the claimant by the Com-missioners, case no. two hundred and fifteen (215), and also confirmed on appeal by the Dis-trict Court, appeal in the Supreme Court will not be prosecuted by the United States.

I am

Respectfully

Yours truly

Pacificus Ord Esq.

U.S. Atty for the

Southern Dist: of Cal.

Myron Weston
atty for appellee

W 37. (38?)

Miguel Abila

215

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Nov 4 1856

Handwritten text on the left edge of the page, partially obscured by a blue strip. Visible words include "Judge", "No. 2", "Court", and "San Antonio".

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Nov 4/1

Hon J. M. Ogden Judge

December Term 1856

U. S. Dist Court
Southern Dist.
California

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The United States
Appellant

^{vs}
Miguel Abila
Appellee

In pursuance of a letter from the
Attorney General of the United States herewith
annexed giving notice that in the above cause the
appeal in the Supreme Court will not be prosecuted
by the United States, It is hereby stipulated and
agreed by and between the Parties that the order
granting an appeal to the Supreme Court heretofore
made in the above cause be vacated and that the
decree of the Court heretofore rendered in this cause
may by order of the Court be made final

F. Ord

Dist. Ct.

Wm. Weston
atty for appellee

U S Dist Court
Sout. Dist Cal

No. 37

The United States
appellant
vs
Miguel Abela
appellee

Filed July 23^d 1859
C. J. S.
clerk

Stipulation
to vacate order
of appeal to Supreme Court

U. S. Surveyor General's Office,
San Francisco, Cal.

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February 28th 1866,
I hereby certify that
Mr. E. B. Holmes, is entitled
to receive the amount deposited
in the U. S. District Court for
the Southern District of California
for the survey of the Rancho
"San Miguelita" confirmed to
M^r. Abila, viz \$335.00. Legal
tender notes, he having filed in
this office the necessary papers.

In witness my hand and
the seal of said office,
this 28th day of
February, 1866.

L. C. Johnson

U. S. Sur. Genl.

John O. Wheeler
Clerk U. S. Dist. Court
Monterey Cal

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Pay to the order of
Wells Fargo & Co. -

E. H. [Signature]

No 34

Certif + order for
Money

Filed March 16/66
John Whelan

In the District Court of the United States for
the Southern District of California
Hon. James S. K. Ogden Judge.

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The United States
vs
Miguel Abila
Appellant No. 747

The attorney General of the United States having given notice that the appeal to the Supreme Court from the decision of this Court in the above entitled case will not be prosecuted by the United States, and a stipulation having been entered into by the United States District Attorney and the attorney of the Claimant that the order granting an appeal to the Supreme Court heretofore made in this cause be vacated and that the decree of this Court heretofore rendered in this cause may by order of the Court be made final. It is ordered adjudged and decreed that the order granting an appeal to the Supreme Court heretofore made in this cause be and the same is hereby vacated and that the Claimant have leave to proceed under the decree of this Court heretofore rendered in this cause as under a final decree.

James S. K. Ogden
U. S. District Judge

No 37

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The United States, appellant }
 vs }
 Miguel Atala, appellee }

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The claim in this case is founded upon a grant from Governor Barada to the present claimant bearing date May 18th 1842. The original is offered in evidence. ~~Its~~ ^{Its} genuineness and authenticity fully proved. ^{The} ^{recognition of the} approval of the departmental junta, is also in evidence, as well as the testimony of judicial possession — there can be no difficulty in ascertaining the land granted as the map offered in evidence and referred to in the grant is very distinct and clear. The judicial possession included since later more than was granted but was made pretty much in accordance with the description in the grant & map. The grant reserved 500 varas along the sea shore included in the extent limits shown by the map, the judicial possession also reserved this strip along the shore. The claimant is proved to have occupied the land as he had it was granted he is therefore entitled to a confirmation of his claim & a return will be returned accordingly.

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

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Miguel Avila } Case No. 37
Appellee }
vs } Transcript No. 215.
The United States }
Appellant } San Miguelito
Index of Transcript

Pages 3. to 4.

Petition of Claimant to the Land Commission

4. to 5.

Deposition of Nicholas A. Don

6. to 8.

Deposition of Rafael Villa.

9. to 16.

Expediente in Spanish for the tract of
Land called San Miguelito.

10. Petition of Miguel Avila to Gov.
Avarado dated, March 1st. 1839.
And order referring the petition to
the Prefect of the 1st District,
(Castro) for report, dated March
9th 1839.

Pages

10. to 11. Report of the Prefect of the first District dated March 20th 1839.

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11. to 12. Decree of concession of the tract of land called San Miguelito by Gov. Alvarado dated April 8th 1839.

12. Part of the proceeding of the Departmental Junta dated May 19th and June 13th 1840.

12. to 14. The first grant in favor of Miguel Avila for the place called San Miguelito signed by Manuel Jimeno as Secretary, dated April 10th 1839. (This document is crossed as cancelled)

14. Decree by Gov. Alvarado, dated April 8th 1839.

14. Note. This grant was reformed in the terms noted; and also the map

14. to 16. Second grant by Gov. Alvarado in favor of Miguel Avila for the same place called San

Pages

Miguelito dated May 10th 1842

Between the pages 15. & 16

A map with the note in Spanish
"No pass" (did not pass)

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16 Report of the committee of the
Assembly and approbation of the
Departmental Assembly, dated
May 22^d 1840. (The report has
no date)

17 Certificate of the Surveyor General
dated May 11th 1852.

Pages 18 to 22

Translation of Expediente

18 Petition of Miguel Avila to Gov.
Avarado for the tract of land called
San Miguelito, dated March 1st
1839. and decree referring the
petition to the Prefect of 1st
District for report, dated March
9th 1839.

18 Report of the Prefect dated March
20th 1839.

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18 & 19. Decree of concession by Governor Avarado in favor of Miguel Avila for the tract of land called San Miguelito dated April 8th 1839.

19 & 20 The expediente is submitted to the committee of the Assembly dated May 19th 1840.

20. Note by the Secretary of the Assembly returning the report of the committee, dated May 22^d (1840)

20 Order by Gov. Avarado to give certified copy to Miguel Avila of the approval of the Assembly, dated June 13th 1840.

20. Note This grant has been reformed in the terms seen.

20 to 21. Second grant by Gov. Avarado for the tract of land called San Miguelito, dated May 10th 1842.

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21 to 22. Report of the committee of Assembly without date.

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22 Approval by the Assembly dated May 22^d 1840.

Pages 23 to 29.

Proceedings in Spanish of the judicial possession given by Mariano Bonilla Justice of the Peace of the tract of land called San Miguelito.

24 to 25. Original grant in Spanish by Gov. Alvarado for the tract of land called San Miguelito dated May 10th 1842.

24

25. Record of the grant in the Secretary's office, and in the Prefect's office (without dates)

26. Petition of Miguel Avila to the Justice of the Peace for the possession of San Miguelito, dated May 20th 1842. And decree of the Justice of the Peace in conformity dated May 20th 1842.

- 26 The first act of the Justice of the Peace, measuring a league and a half from the Mission of San Luis Obispo to San Miguelito in conformity with the grant, dated May 23^d 1842.
- 27 Order for the Justice of the Peace to call of owners of land bordering on San Miguelito and also to appoint cord-bearers, dated May 23^d 1842
- 27 to 29. Act. of Judicial possession dated May 23^d 1842.
29. Order of the Justice of the Peace for delivery of the proceedings to the party interested, dated May 23^d 1842. and a note of having delivered the proceedings to the party, dated May 24th 1842.
30. Copy of original approval signed by Gov. Alvarado dated Aug. 19th 1841

Pages 31 to 33.

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Expediente in Spanish for
confirmation of the judicial
possession.

31 to 32. Petition of Miguel Avila to the
Governor Micheltorena for ~~the~~ Govern-
ment to confirm the judicial pos-
session in the proper terms
and ^{with} the same boundaries that
the Justice of the Peace fixed,
dated April 14th 1844
And decree referring to the
Secretary for report, dated
April 29th 1844.

32 Report of the Secretary in favor of
the petitioner Miguel Avila dated
April 30th 1844. And ap-
proval of said report by Gov.
Micheltorena dated April 30th 1844.

33 Certificate of the Secretary that the
map is a copy of the original that
is annexed in the expediente
dated May 13th 1844.

Between the pages 33 & 34

A map without date, with the
initials (S. S. D. R.)

Pages 34 to 39

Translation of Judicial Possession

34 & 35. Original grant by Gov. Alvarado dated May 10.th 1842

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Certificate of Record of the grant in the Secretary's office, and ^{also} in the Prefect's office, the first without date & the second dated May 12th 1842

35 & 36. Certificate of the Secretary of the Departmental Government that the sketch exhibited in the next page is faithfully drawn from the original, that remains in the Secretary's office annexed to the expediente dated May 13.th 1842

36 Petition of Miguel Avila to the Justice of the Peace for the possession of San Miguelito dated May 20.th 1842, and the decree of the Justice of the Peace in conformity, dated May 20.th 1842.

36 & 37. The first act of the Justice of the Peace measuring a

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League and a half from the mission of San Luis Obispo to San Miguelito in conformity with the grant dated May 23^d 1842

37 Order of the Justice of the Peace to call the owners of land bordering and also to appoint cord-bearers dated May 23^d 1842.

37. to 39. Act of Judicial possession of the tract of land called San Miguelito dated May 23^d 1842.

39. Order for the said Justice of the Peace that the proceedings of the judicial possession be transmitted to the interested party, dated May 23^d 1842 And a note in which appears that the proceedings were transmitted to the party, dated May 24th 1842.

40. Certificate copy of the original approval of the Departmental Assembly signed by Gov. Alvarado,

dated Aug. 19th 1844.

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Translation of the other expediente for confirmation of the judicial possession.

40. to 41. Petition of Miguel Soila to the Gov. Micheltoona for ~~that~~ the Government to confirm the judicial possession ⁱⁿ the proper terms and ^{with} the same boundaries that the Justice of the Peace fixed, dated April 14th 1844. And decree referring to the Secretary for report, dated April 29th 1844.

41. Report of the Secretary in favor of the petitioner Miguel Soila (without date) and approval of the said report by Governor Micheltoona dated April 30th 1844.

Pages 42 to 43.

43 to 44

Opinion of ~~Commissioners~~ Commissioners
Decree of Commissioners

No 37

U.S. Dist. Court
S. Dist. of Cal.

Miguel Sola
Appellee

ad,
The United States
appellant

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No. 1.

California State Telegraph Company.

The Public are requested to report, by letter, to the Superintendent, at San Francisco, any cause of dissatisfaction.

TERMS AND CONDITIONS ON WHICH MESSAGES ARE RECEIVED, TRANSMITTED, AND DELIVERED.

The public are notified that, in order to guard against neglect or mistakes, every message of importance ought to be repeated back, for which service fifty per cent. in addition to the regular tariff will be charged. In case of delay, neglect or mistakes on its own lines, or by its own employees, this Company will refund the amount paid for sending the message, and in no other case will the Company be in any way liable; and in no case will this Company be responsible for interruptions in the working of its telegraphs; nor will it, in any case whatsoever, be responsible for dispatches sent beyond its own lines, or received from other lines, or for any mistake, fault, omission or misconduct of any other Company or person.

THE FOLLOWING MESSAGE IS TRANSMITTED AND DELIVERED SUBJECT TO THE FOREGOING CONDITIONS, AND NOT OTHERWISE.

~~JAS. GAMBLE~~ Superintendent.

H. W. CARPENTIER, President.

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San Francisco March 14 1866

To Wells, Fargo & Co

M.

Monterey

Accept three hundred and seventeen Dollars full payment Collection Holmes and Wheeler

Wells, Fargo & Co

Vertical handwritten notes:
Mar 14 1866
Wells Fargo & Co
Monterey
J. H. Wheeler