

CASE No.
355
NORTHERN DISTRICT

LAND IN SANTA CLARA COUNTY GRANT

JOSE NOREIGA
CLAIMANT

C A S I E - M M S I E F I N D I C A

LAND CASE 355 ND 18 pgs.

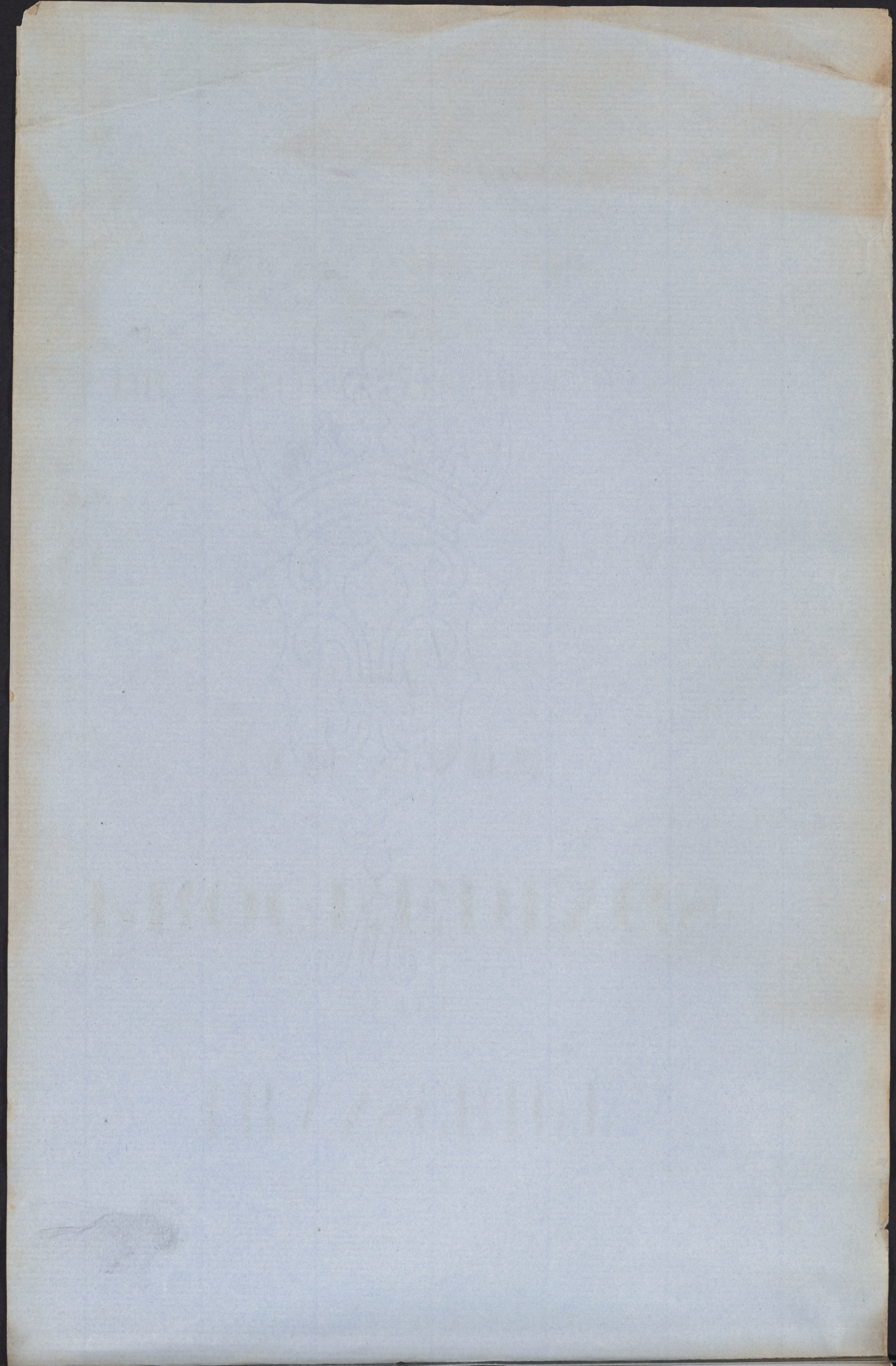
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TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 619

José Noriega

CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Land in Santa Clara County."

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

The Petition of *José Noriega* for the Place named *land in Santa Clara County* was presented, and ordered to be filed and docketed with No. *619* 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 March 26, 1853
In case No. 619. José Noriega for lands at Santa Clara the deposition of Antonio Maria Pico, a witness in behalf of the claimant, taken before Commissioner Hiland Hall was filed.

(vide page *4* of this Transcript)

San Francisco Aug. 13, 1853
In the same case the deposition of Antonio Maria Pico, a witness in behalf of the claimant, taken before Commissioner Alphonso Felix with documents marked No. 1. A. F. annexed thereto, was filed

(vide page *5* of this Transcript)

San Francisco May 9, 1854
Case No. 619, was ordered to be placed at the foot of the 1st class cases in the trial docket.

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San Francisco Aug 4. 1854
Case No 619 was submitted without argument
and taken under advisement

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San Francisco July 3. 1855
In the same case Commissioner S. B. Gamell
declined the opinion of the Board respecting the
same

(vide page 11 of this Transcript),
and the following order was made to wit:
(vide page 13 of this Transcript)

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and commissions assigned to school
board and others in California

3
To the Honble the Board of U. S.
Land Commissioners appointed to settle
private land claims in California.

The petition of Jose Moraga
respectfully represents.

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Petition

That on or about the 5th
day of October 1845 Manuel Castro then acting
as prefect of the Second District of San
Jose by virtue of authority in him vested the
various laws of Mexico then in force the
laws usages and customs of the Country affec-
ting grants of land in California granted unto
your petitioner the piece of land situated in
the County of Santa Clara being four sections
Square of temporal land bounded on the South
by the Potrero of Santa Clara belonging to
Don Diego Torres on the North by lands of
the Abouqueal Marato upon the East by
the River Guadalupe and on the west by as
far as the Mission of Santa Clara and more
particularly described in the papers and
maps relating to said grant of land the
originals of said papers being now in the
possession of your petitioner and ready to be
produced and proved before your Honble Board.

And your petitioner further shews
that he has continued in the occupation of the
said lands from the date of grant cultivating
and living upon the same.

There is no conflicting claim
thereto known to your petitioner. all of which
your petitioner respectfully submits for such
action as the Justice and nature of the claim
may require.

E. O. Crosby
Counsel.

Filed in office Feb. 24, 1853,
(sgd) Geo Fisher Secy

Deposition
of
Antonio Ma
Pico.

San Francisco March 26, 1853.
On this day before Court Heiland Heint
Came Antonio Ma Pico a witness in be-
half of the Claimant Jose Moruga and was
duly sworn. his Evidence being given in Spanish
and interpreted by the Secretary.

The U.S. Associate Law Agent was present.

In answer to Questions by Counsel for the
Claimant the witness testified as follows
My name is Antonio Ma Pico
My age forty five years & I reside in San
Jose.

I know a tract of land granted to
Jose Moruga by the Prefect. about the year
1814 or 1815. I think the quantity was four
sitios of two hundred Varas square each.

It is situated near the Mission
of Santa Clara & was part of the Mission
land. It is on the river Guadalupe op-
posite the Mission - It is bounded by the
river by the land of Forkes & of the Indian
Marcelo & the lands of the Mission -

Jose Moruga had cattle on
the land until the Americans came who
took possession of it & have excluded him
from it -

Antonio Ma Pico.

Sworn & Subscribed
Before me.

Heiland Heald Comr.

Filed in Office March 26, 1853.

(Signed) Geo Fisher Secy

California Land Claims
San Francisco August 1853

5-
Office of the Commissioners of
California Land Claims,
San Francisco Aug 13, 1853.

Deposition
of
Antonio Pico

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This day before Commissioner Alphas
Tuck came Antonio Maria Pico a witness
in behalf of Claimant Jose Borjua Case No
619 and after being duly sworn depose as
follows.

Question by Mr Crosby attorney
for Claimant.

1 Question.

What are your Name age and
place of residence?

Answer -

My Name is Antonio Maria Pico
My age forty three years and I reside at
San Jose in the County of Santa Clara in
the State of California

2^d Question -

Look at the paper here presen-
ted marked "Exhibit No 1" with the initials
"A P" purporting to be a petition from
Jose Borjua for a grant of a lot at
Santa Clara and the decree of the Judge
Manuel Castro through the report of Antonio
Mr Pico Justice of the Peace and a second
decree of said Castro which documents dated
in 1845 are attached to this deposition and
say whether you recognize the signatures of the
above named persons through to be the true
and genuine signatures respectively.

Answer.

I have examined the same and I
recognize their respective signatures as true
and genuine.

3 Question.

Do you know the lot described

6
in the papers above mentioned its location
and occupancy by the Claimants Honig's
Answer.

I do know the lot. It is situated
near to the Mission of Santa Clara, less than
a league distant from it and is a very small
lot situated North of the Mission.

I put him in possession
of the lot, under the decree of the Prefect
Manuel Castro above mentioned soon after
the date of said decree. It was immediately
after -

He enclosed the lot and kept cattle
thereon until the Americans came and took
possession of the land soon after the peace.

Antonio Ma Rio.

Mr Greenhow Assistant
Law Agent was present at
the taking of this deposition
but declined to interrogate
the witness -

The testimony
was given in the Spanish
language Mr Greenhow by consent
of parties acting as Interpreter.

Subscribed & Sworn to
before me at San Francisco
this thirteenth day of August 1853.

Alfred Fitch

Commissary

Filed in Office Aug 13. 1853.

(Signed)

Geo Fisher Secy

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Santa Clara. Obre. 29 de 1845. Sr. Prefecto del 2º Distrito.
Informe el Alcalde de esta José Noriega Ciudadano Mej
deudacion, si las tierras qe - i en sus y vecinos de este pueblo
se solicitan se hallan baldias ante la justificacion de V.S.
Si encuentran alguno reparo respetivamente digo: que
en la concecion y si el petente deseara obtener al
reune las circunstancias para un uso de agricultura para
que se le atiendan con todo lo lo cual concierne de un terreno
de unas q. enca convenientes. Suplico a V.S.
Cuerpo. Se sirva concederme en pro

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Subido nº. A.F.
anuncio de Deposition
of Antonio Maria
Pico taken before
Com. A. Felch.

privar cuatro suertes de terreno de temporal que
se hallan baldias colindando por el sur con el
Pueblo de Santa Clara perteneciente a Don
Diego Forbes por el Norte con el terreno del Yndigeno
Marcelo por el Este con el rio del Guadalupe
y por el Oeste hacia la Mision de Santa Clara.

Por tanto V.S. suplico tome en consideracion
mi pedido de lo que recibire gracia y justicia.
Pueblo de San Jose. Obre. 30 de 1845.
José Noriega.

Sr. Prefecto del 2º Distrito.
Inpuesta el Juzgado de mi cargo de la
presente solicitud debe informar a V.S. que el
terreno que pretende Dn José Noriega se halla des-
ocupado: que no pertenece a particular aunque
municionalmente sea destinado ari los bienes de la
Mision de Santa Clara pero como existen ordenes
superiores para que en este establecimiento se adyud
- iquen salares y tierras de labores no encuentran
el Juzgado convenientemente alguno para que
al intertanto se le concedan las cuatro suertes de
tierras que solicita que no duela este Juzgado cultivar
- ari en pensadamente el Sr. Noriega contribuyendo
ari al fomento de la agricultura.

Lo que lo que informo a V.S. en cumpli-
- miento del Superior decreto que obra en este
expediente.

Pueblo de San José Guadalupe. Obre. 15 de 1845.
Antonio M. Pico.

Acerto este expediente por el que consta que las
cuatro suertes de tierras que pretende el Ciudadano
José Noriega se hallan desocupadas y que
es conforme el informe del Alcalde de este pueblo
no aparece convenientemente para que se le concedan

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8.
con todo lo demas que ver convinio, en uso de la facultad que me confiere la ley de 30 de Mayo de 1837 concedida en propiedad al mismo Sr. Nomega las ygenidas sueltas de tierra de labor equivalente con el Potrero del Sr. Forbes y con el Rio de Guadalupe y sin perjuicio de la propiedad del indigena Muncelo.

Vuestra este expediente al interesado para que si viendole de titulo, tome posesion del terreno que se le ha concedido.

El Jefe del Distrito quedo
seribe así lo decretó mandó y firmó en el Pueblo de San José Guadalupe a 5 de Set. de 1825.

Manl Castro.

Filed in Office. Aug. 13. 1853.

Geo. Fisher. Secy.

9

Senior Prefect of the 2nd District.

Jose Porruaga Mexican Citizen and Neighbor
of this Pueblo before the Equity of Your
Honor respectfully states,

Exhibit B.

Translation
of
Grant.

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That desiring to dedi-
cate myself to the pursuits of agriculture for
which I had a sufficient piece of land I
pray Your Excellency may be good enough
to grant me in property four quarters of tem-
poral land which are now vacant and bounded
on the South by the Potrero (pasture for
Manas) of Santa Clara, belonging to Don
Duje Torres, on the North by the land of the
aboriginal Marcelo, upon the East by the
Riun Guadalupe, and on the West as far as
the Mission of Santa Clara.

Wherefore I beg you to take into
consideration my petition by which I shall
receive grace and Justice -

Pueblo of San Jose October 20, 1845 -

Jose Porruaga.

Marginal Entry

Santa Clara October 21, 1845

Let the Alcalde of this District give informa-
tion of the lands solicited are vacant, if there
is any difficulty in the concession and if the
applicant possesses the requisites to be attended
to and all the other matters he may deem
necessary.

Castro.

Prefect of the 2^o District

The Juggador under my care being charged with
the present petition, should inform Your Excel-
lency that the land which Don Jose Porruaga
solicits is unoccupied, always to the property of our
particular, although the lack of the l^o.

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Prision of Santa Clara have been purchased upon it, but according to the Existing Superior laws of this Establishment in the adjudication of solar and labor lands, this Tribunal finds no objection to granting to the interested party the four suertes of land prayed for, that without doubt this Tribunal will secure the friendship of Senor Noriega thus contributing to the encouragement of Agriculture.

All of which I inform your Excellency in fulfillment of the Superior order which is contained in this Expediente -
Pueblo San Jose of Guadalupe Nov 12, 1845 -
Antonio Ina Gies.

In view of this Expediente by which it appears that the four suertes of land asked for by the citizen Jose Noriega are found vacant and as by the information of the Alcaide of this Pueblo, there appears no objection to the grant every thing else being favorable in virtue of the power conferred upon me by the law of 20th of March 1834 I grant in full property to the Senor Noriega the said four suertes of labor lands bounded by the Potron of San Felix and by the river Guadalupe and without injury to the property of Marcelo the aboriginal.

Return this Expediente to the interested party so that serving for a title he may take possession of the land granted to him.

The Prefect of the District who subscribes this decret orders and confirms in the Pueblo of San Jose Guadalupe 5th of October 1845.

Thome Castro.
Filed in Office July 24, 1853.
(Original) Gov Fisher Secy.

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No 619

Josi Torieya
vs
The United States

For four suelta of land
near the mission of
Santa Clara, and
Santa Clara County

Memorandum of the Board
delivered by Commissioner
S. B. Farnwell

This claim is based upon a
grant which purports to have been
issued by Manuel Castro, prefect
of the Second District

It appears that an expediente
was presented by the present claimant
herein to Castro as Prefect of the 2^d
District and the same referred by him
to Antonio M. Lico who is alleged
in the petition to have been a justice
of the peace, and a favorable report
made by him on the 12th day of March
1845 in pursuance of which the said
Castro issued a grant to the claimant
on the 5th day of October following

The proofs do not show that
Lico, was a justice of the peace, nor
that Castro was prefect, nor do the
proof show that the lands attempted
to be granted constituted a portion
of the common lands of any Pueblo

The powers of the prefect to grant
lands are limited within and confined
to the common lands within the limits
of Pueblos within their respective districts

In order to constitute a grant
valid issued by a prefect, it must
be affirmatively shown that the
person granting was a prefect or
acted as such at the time, and
that the place granted constituted
a part of the common lands of some
Pueblo within his district.

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In the absence of proof to sustain
the above propositions in this case
we are of the opinion that the claim
is not entitled to a confirmation
and a decree will be entered re-
jecting the same

Filed in office July 3 1855

(Signed) Geo Fisher Jcy

No 619

Jace Horiza
vs
The United States

Decree

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

R. Angus Thompson

S. B. Farnell

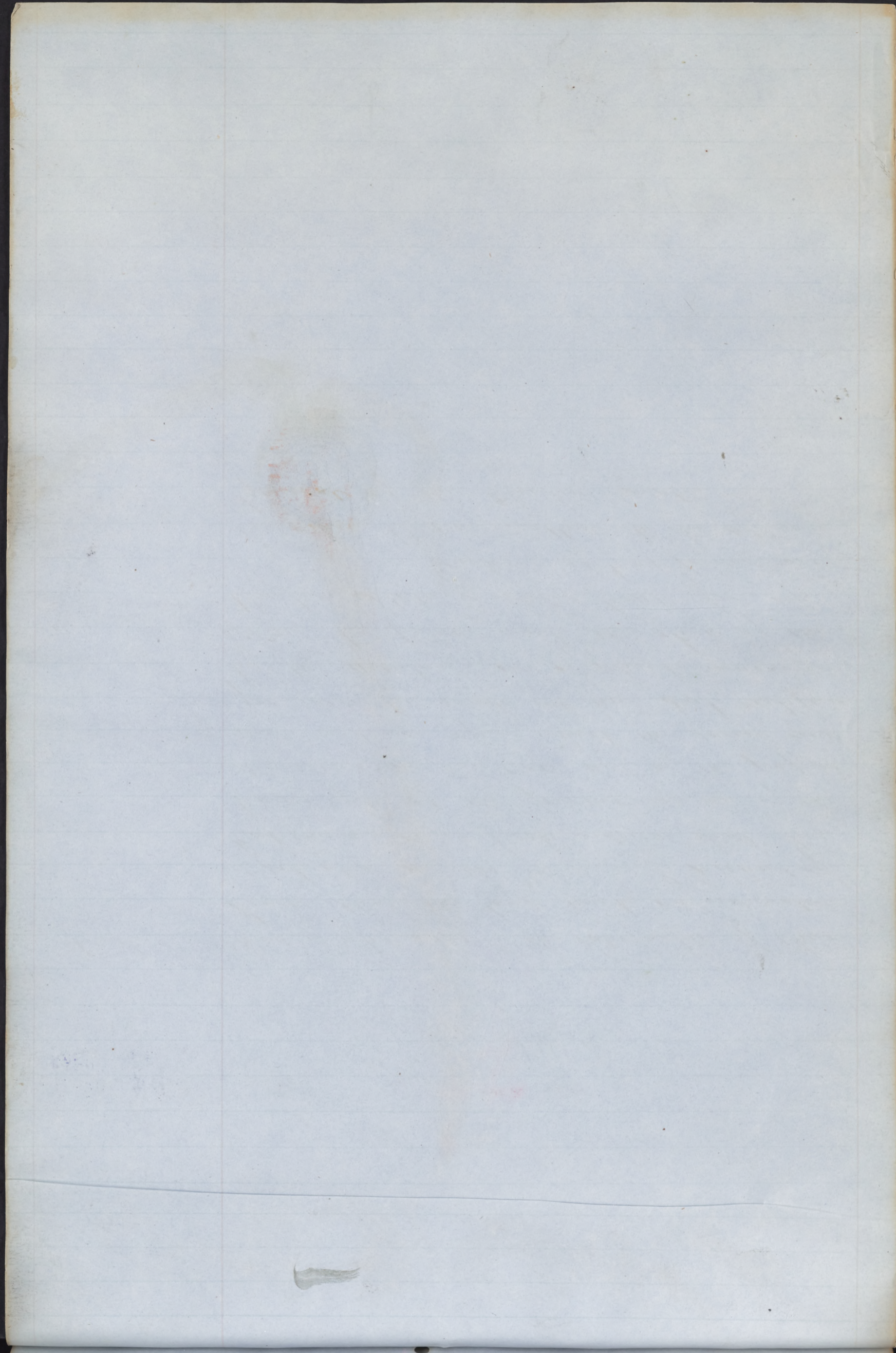
Commissioners

Filed in office July 3 1855
(Signed)

Geo Fisher Jcy

Order

And it appearing to the satisfaction of this Board, that the land hereby adjudicated is situated in the Northern District of California, it is hereby ordered that two transcripts of the proceedings and of the decisions in this case and of the papers and evidence upon which the same are founded be made out and duly certified by the Secretary, one of which transcripts shall be filed with the clerk of the United States District Court for the Northern District of California and the other be transmitted to the Attorney General of the United States.



Office of the Board of Commissioners,

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

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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, *thirteen* pages, numbered from
1 to *13*, both inclusive, to contain a true, correct and full Tran-
script of the Record of the Proceedings and of the Decision of the
Board, of the Documentary Evidence and of the Testimony
of the Witnesses, upon which the same is founded, on file in this
Board, in Case No. *119*, on the Docket of the said Board,

Jose Noriega is
the claimant against the United States, for the place known by
the name of "*San Jose*"
Land in Santa Clara County,

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

Geo. Fisher
Secy.

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U. S. DISTRICT COURT,
Northern District of California.

No. *355* = 355

THE UNITED STATES,

vs.

NID

Jose Noriega

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS.

In Case No. *619*

Filed, December 1 1855

J. A. Munn,
Clk



At a stated Term of the District Court of the United States of America for the Northern District of California, held at the Court Room in the City of San Francisco on Monday the twenty third day of February in the Year of our Lord one thousand eight hundred and fifty seven.

Present:

The Hon Oden Hoffman, Dist Judge.

The United States }
 ads } D.C. 355. i 119 L.C.
Jose Boriegal }

It appearing to the satisfaction of this Court that the Transcript in this case has been filed in this Court more than six months; that the Board of Commissioners to ascertain and settle the private land claims in the State of California, from which this case is appealed to this Court, rejected the claim set up therein by the Claimant, and that the proper notice of intention to appeal has not been filed in this cause within the time limited by law: It is, therefore, on motion of the U.S. Attorney, Ordered that this case be dismissed and struck from the docket of this Court.

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L.C. 619

U. S. Dist Court

The United States

vs

José Noriega

order

Licid Febry 23. 1857.
W. H. Chever,
Deputy.

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

San Francisco, Nov. 21st 1853

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

Sir;

I herewith transmit you, pursuant to the requirements of the Act of Congress, approved August 31st, 1852, a Transcript of the Record of the Proceedings and of the Decision of this Board, of the Documentary Evidence and of the Testimony of the witnesses upon which the same is founded, in Case No. 619 on the Docket of the said Board, wherein

José Noriega is
the Claimant against the United States, for the place known by the name of "*4 Cuertes*."

and request your receipt for the same.

I am, Respectfully,
Your Obedt Servant,

Geo. Fisher
Geo. Fisher