

CASE NO.

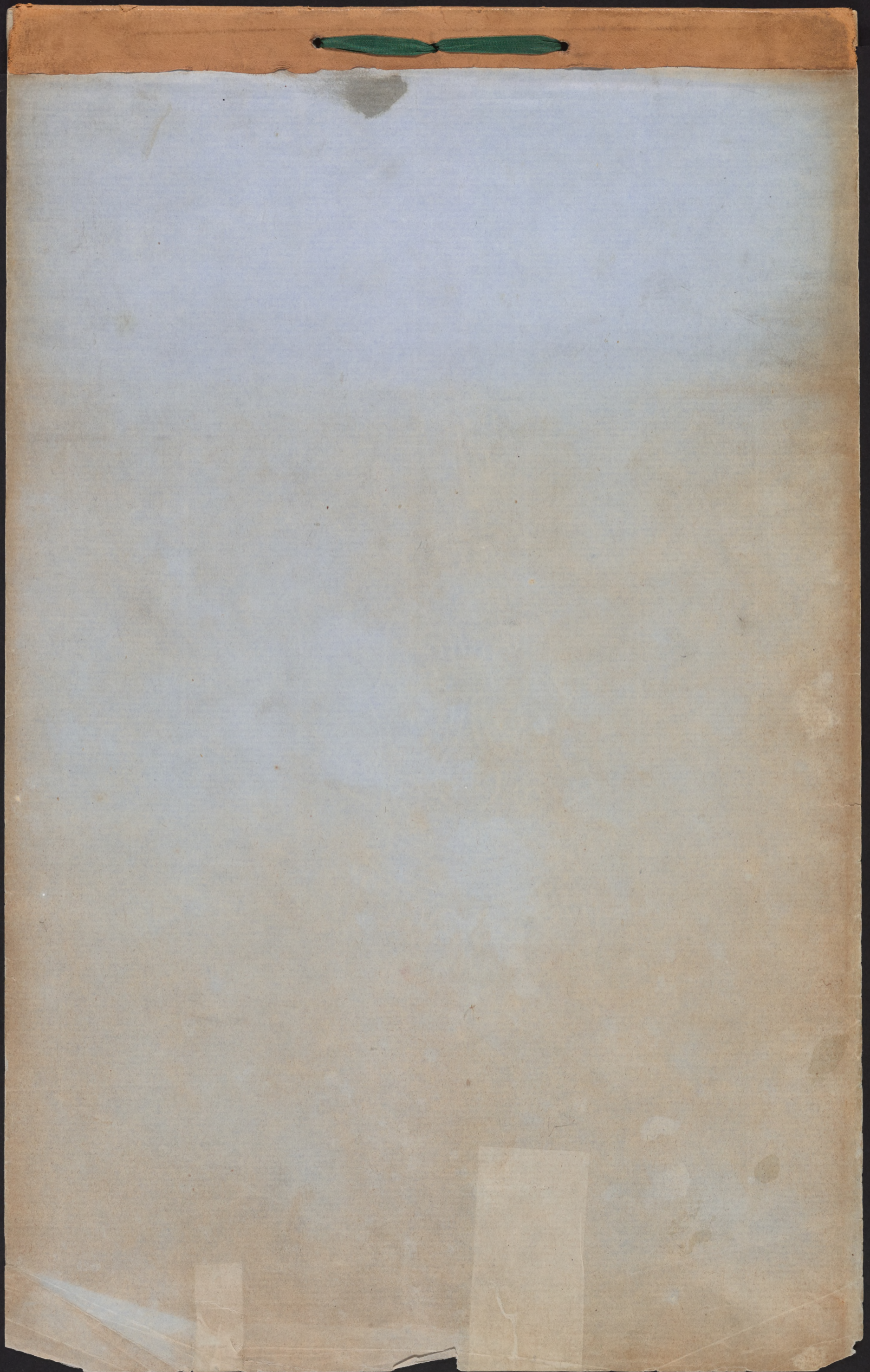
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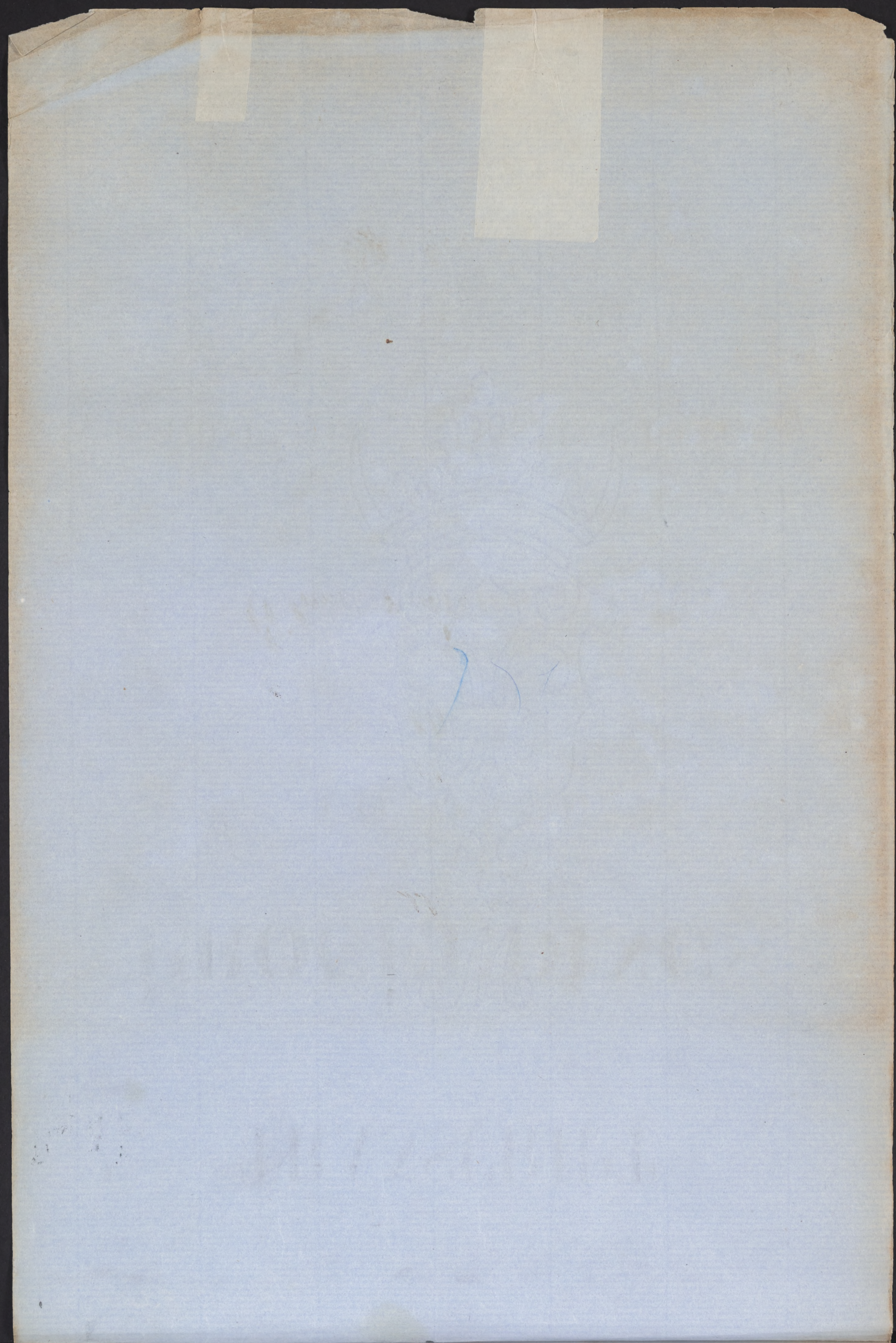
NORTHERN DISTRICT

ALCALANES GRANT

ELAM BROWN

CLAIMANT





TRANSCRIPT

CASE 31 ND

PAGE 1

OF THE

PROCEEDINGS

IN CASE

NO. 14

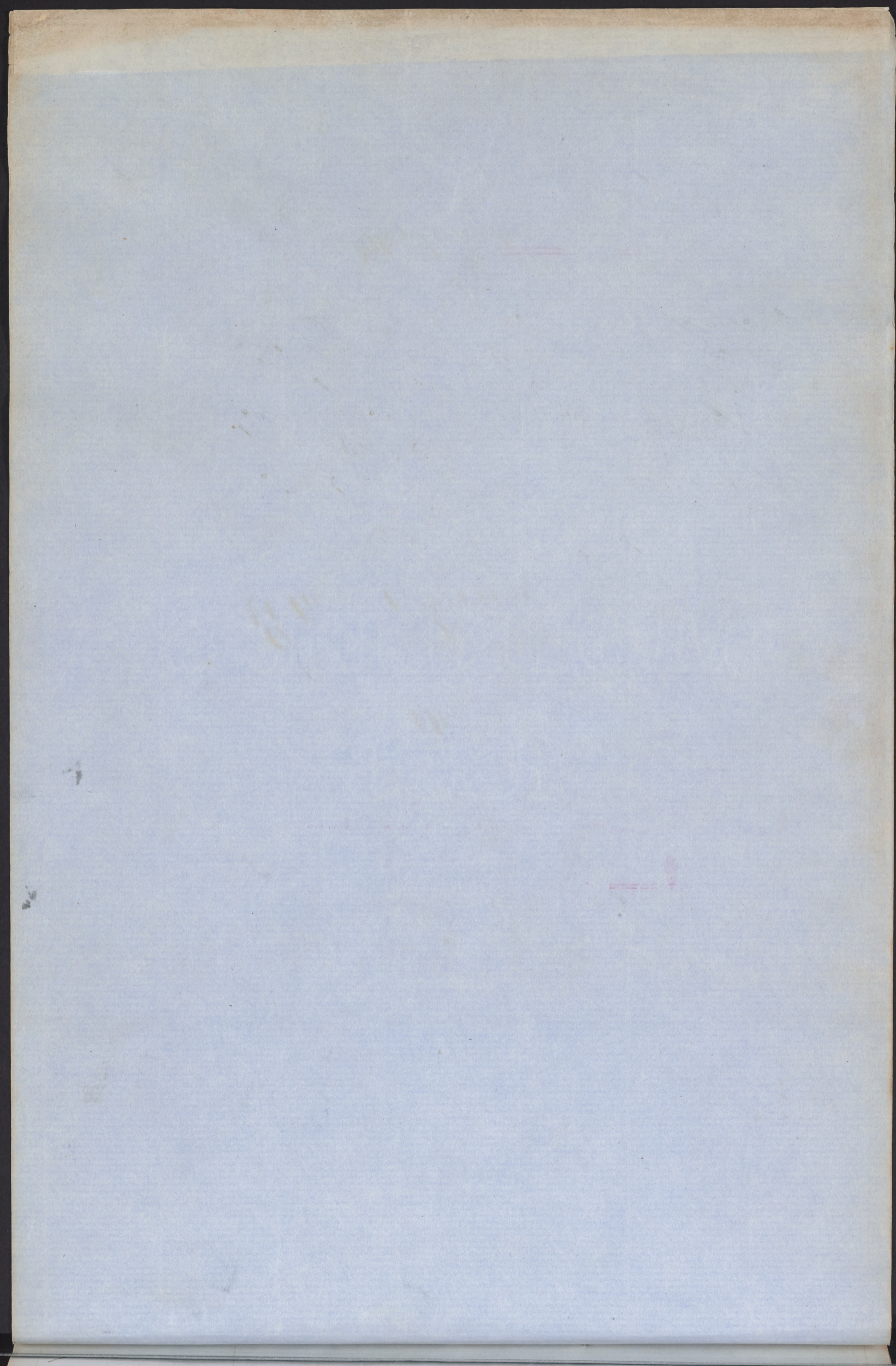
Clam Brown CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Nealands"



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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Be it Remembered, that on this second day of February, 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 Elam Brown _____
_____ for the Place named
Acacanes.

was presented, and ordered to be filed and docketed with No. 14 and is as follows, to wit;

(Vide page 5 of this Transcript.)

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

Sept. 11th 1852

In Case No. 14 Elam Brown, for the place called "Acacanes" the Deposition of Agustín Aliso, a witness in behalf of the Claimant, taken before Commissioner James Wilson, was filed and is in the words and figures as follows to wit: (Vide pages of this Transcript 7.)

Sept. 27th 1852

In Case No. 14 the Counsel for the Claimant moved that the following case be placed on the Trial Docket to wit

No. 14 Elam Brown Rancho of Acacanes

Feb. 1st 1853

In Case No. 14, Elam Brown, for the place named "Acabanes" the Deposition of Manuel Jimeno, a witness in behalf of the Claimant, taken before Commissioner Hiland Hall, with Document marked H. H. No. 1, annexed thereto, was filed, and is in the words and figures as follows, to wit: (Vide pages of this Transcript.)

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Feb. 8th 1853

In Case No. 14, Elam Brown for the place named "Acabanes" the Counsel for the Claimant filed the following agreement to wit: (Vide pages of this Transcript.)

Feb. 8th 1853

Case No. 14, Elam Brown for the place named "Acabanes" Called: The Counsel for the Claimant, Mr. Jones, read the Petition and the papers in Evidence; the Associate Law Agent of the United States filed his Brief Case submitted, and taken under advisement by the Board.

Feb. 14th 1853

In Case No. 14, Elam Brown, for the place named "Acabanes" Commissioner Hiland Hall delivered the opinion and the Decree of

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Final Confirmation of this Board

Ordered that the Opinion and Decree of Final Confirmation of this Board, delivered this day, in this case be recorded on the Journal
Which opinion and Decree are in the words and figures as follows
to wit / Vide pages of this Transcript

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To the Hon. the Commission to ascertain and settle Private Land claims in California:

Petition

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Elam Brown, a citizen of said State gives notice that he claims a piece of land situated in the County of Contra Costa, called the Rancho of "Acalanes", bounded by the ranchos of San Pablo, San Antonio, and the Pinole, and more particularly described as lying between the creek called the Arroyo de Gallindo and the creek called the Arroyo Grande as shown in the original map thereof filed with the record or expediente of the case in the archives of the former Government of California, and a certified copy of which is herewith presented; said tract is supposed to contain about one league square more or less. And said claimant further shows that said land was granted to Canclario Valencia, by Don Jose' Figueroa, Governor of California, and thereby authorized to grant lands, on the 1st day Aug, A. D. 1834 with the previous Consent and approbation of the Territorial Deputation of California; that on the 2^d day of September A. D. 1847. said Canclario Valencia conveyed said lands to William A. Leidersdoff, who on the 10th day of November of said year conveyed the same to your petitioner. And your petitioner herewith files a copy of said original grant, and a translation thereof, according to the rule prescribed. And the documentary testimony on which your petitioner relies is the original of said grant, and the papers and testimonials in relation thereto existing in the before mentioned archives, and the original of said messe conveyance,

James Tappan & Strode
Attorneys.

Filed in office February 2^d 1852

Geo. Fisher

Sec.

Office of the California Land
Commission.

Los Angeles Sept. 11th 1852.

Deposition of
Augustin Alviso

Witness Augustin Alviso in case No 14, Elam
Brown, his evidence was interrupted by the Secretary.

This Deposition taken at the request of the
Petitioners in case No. 14.

The Law Agent of the U. States was present
by R. Greenhow Esq. by consent & did object.

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August^o Alviso a witness offered by Elam Brown who
claims the Rancho Acalanes - being duly sworn
deposes and says: That he is not interested in the
case in any manner whatever - I know the Rancho
of Acalanes in the Contra Costa and have known
it for about seventy years at which time it was
occupied by Francisco Valencia, the father of
Candelario Valencia, who lived on it and had
a stock of Cattle on it - After the father Fran-
cisco Valencia left the Rancho, Candelario oc-
cupied it - They had a house and corral on it.

Sept. 11th 1852 } Augustin ^{his} Alviso
Subscribed & Sworn to } mark
before me -
James Wilson }
Comm^r. }

Filed in office Sept. 11th 1852

Geo. Fisher

Sec.

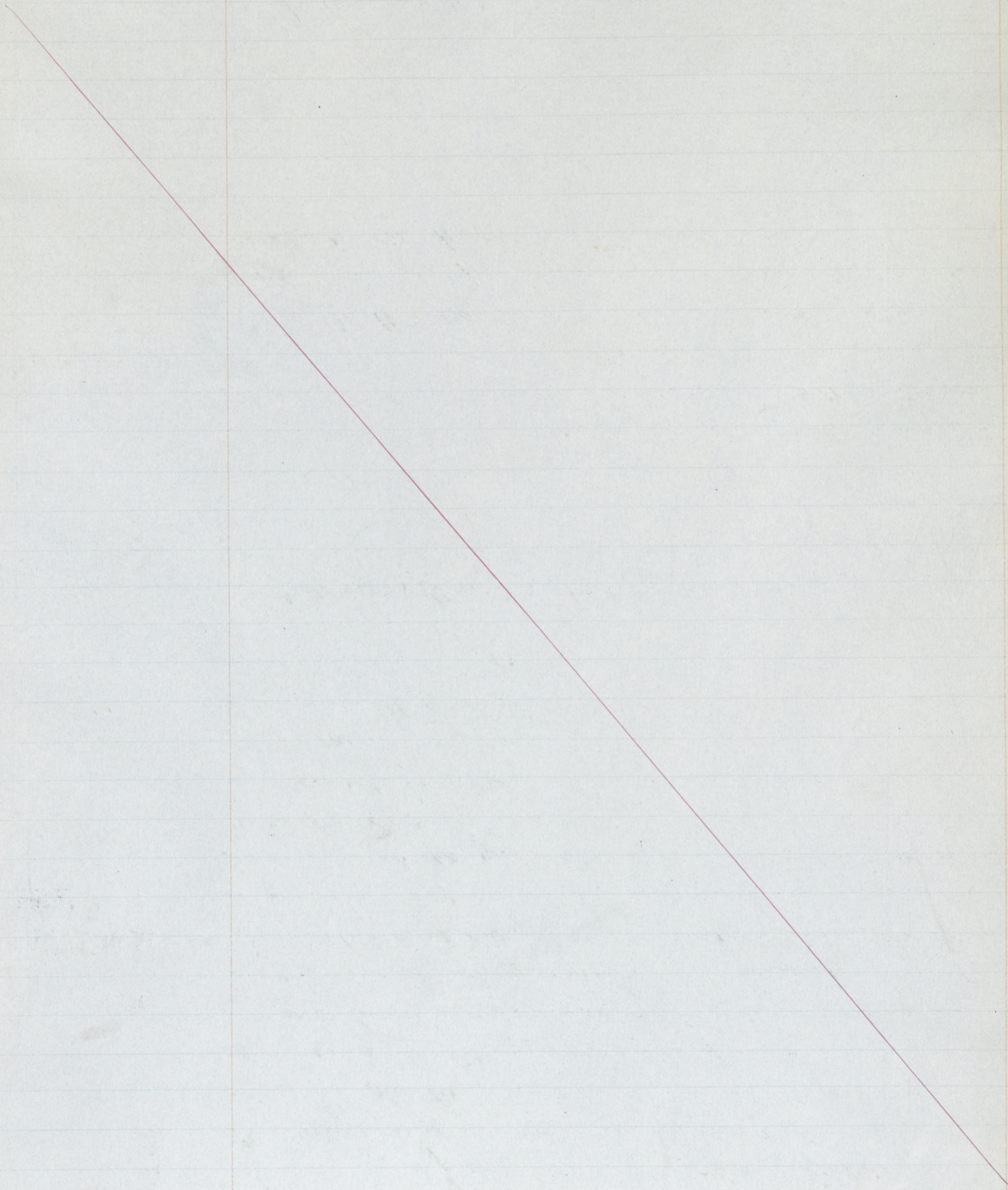
San Francisco February 1, 1853

Deposition of
Manuel Jimeno

On this day before Comm^r. Meland Hall, came
Manuel Jimeno, a witness in behalf of the claim-
ant Elam Brown - petition No. 14 - and was
duly sworn - his evidence being interrupted by the
Secretary - The associate Law Agent was present.

In answer to inquiries by counsel for the

Handwritten text, possibly a title or header, mostly illegible due to fading.



9

Claimant the witness testified as follows:

My name is Manuel Jimeno, my age is forty nine years & I reside at Monterey.

I was Secretary of the Department of the California for several years - I am acquainted with the hand writing and signatures of Jose' Figueroa & Augustin V. Lamoreaux, and believe their signatures appearing a grant now shown me, purporting to be a grant to Candelario Valencia, to be genuine. My own signature appears on said paper & I believe the document to be genuine. Said paper is hereto attached and marked M. M. No. 1

Subscribed Manuel Jimeno
before me

Island Hall

Comm^r

Filed in office Feb. 1st 1853.

Geo. Fisher

Sec.

Commission on Land Claims
in California. Elean Brown
No. 14.

Agreement

In this case it is agreed that the nense conveyances are properly executed and convey the estate to the present claimant.

8th February 1853.

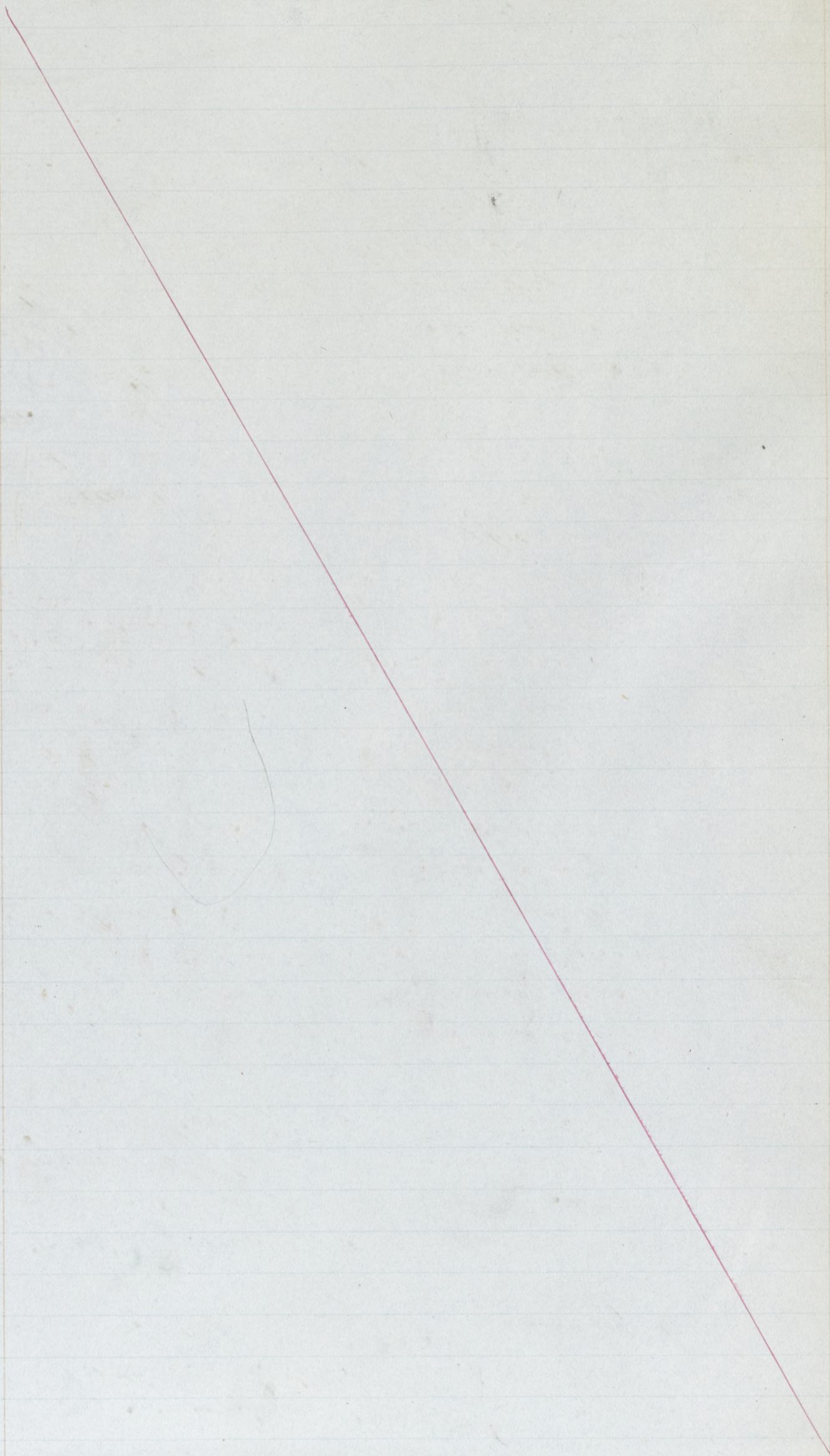
R. Greenhow

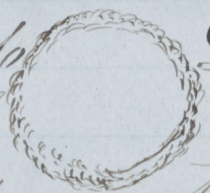
Ap. Law Agent
Jones for claimant.

Filed in office Feb. 8th 1853.

Geo Fisher

Secy.



Sello Segundo  Doce Reales
Para los años de mil ochocientos treinta y
dos y ochocientos treinta y tres

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José Figueroa General de Brigada del ejército Mexicano, Comandante General Inspector y Jefe Superior Político del territorio de la Alta California.

Por cuanto el ciudadano Candilario Valencia mejicano por nacimiento ha pretendido para su beneficio personal y el de su familia el Terreno Conocido con el nombre de los Acabanos, Colindante con los ranchos de San Pablo, San Antonio y el Pindo; practicadas previamente las diligencias y averiguaciones convenientes segun lo dispuesto por las leyes y reglamentos: usando de las facultades que me son conferidas y de conformidad con el acuerdo de la Excelentísima Diputación Territorial del día diez y nueve de julio proximo pasado aprobando la Consecucion del expresado Terreno de los Acabanos hecha en decreto de treinta de junio ultimo al referido Ciudadano Candilario Valencia; a nombre de la nacion Mexicana he venido en declararle la propiedad de el por las presentes letras, sugeto a las Condiciones siguientes

1^a = Que se someterá a las que estableciere el Reglamento que se ha de formar para la distribucion de Terrenos baldios y que entretanto ni el agraciado ni sus herederos podrán dividir ni enagenar el que se le adjudica: imponer censo, vinculo, fianza, hipoteca ni otro gravamen aunque sea por causa piadosa ni pasarlo a manos muertas.

2^a = Podrá sercarlo sin perjudicar las travesias, Caminos y servidumbres: lo disfrutará libre y exclusivamente destinandolo al uso o cultivo que mas le acomode; pero dentro de un año a lo mas fabricará casa y estará habitada.

Grant.

3^a = Solicitara' del Juez respectivo que le de posesion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondra, a mas de las muchomas algunos arboles frutales o silvestres de alguna utilidad

4^a = El Terreno de que se hace mencion es de una legua de longitud por tres cuartos de legua de latitud segun explica el disenio que corre en el expediente. El Juez que diere la posesion lo hara' medir conforme a' ordenanza; quedando el sobrante que resulte a' la Nacion para los usos convenientes.

5^a = Si Contraviniere a' estas Condiciones perdera' su derecho al Terreno y sera' denunciabile por otro.

En consecuencia mando que teniendose por firme y valido este Titulo se tome razon de el en el Libro a' que corresponde y se entregue al interesado para su resguardo y demas fines. Dado en Monterrey a' primero de Agosto de mil ochocientos treinta y Cuatro.

José Figueroa

Agustin V. Zamorano
Srio.

Linda tomada razon de este titulo sobre adjudicacion de terrenos a' fojas Cuarenta y ocho numero Cuarenta y seis q. obra en la Secretaria de mi Cargo. En Monterrey a' cinco de Agosto de mil ochocientos treinta y Cuatro

Zamorano

En el Combenio que en esta fecha han celebrado los Ciudadanos Joaquin Moraga y Candidario Valencia, ante el E. S. Gobernador General Dn. Manuel Michelt'a segun consta de la Acta que al efecto se formo' y de la que se les dio testimonio a' las partes se han

Sugestado a lo siguiente. Que desde la vertiente de un Ojo de Agua Contando trecientas varas para el Poniente con direccion al nacimiento del Arroyo de San Pablo, Comenzara el lindero del Sr. Valencia, para su terreno y el del Sr. Moraga para el sullo, dejándosele cien varas en Cuadro de terreno al primero dentro del que le corresponde al segundo, para el fin de Cultivarlo, y a mas se formara una Presa en el expresado ojo de agua para que la igual cantidad de ella haga uno y otro el uso que les Convienga.

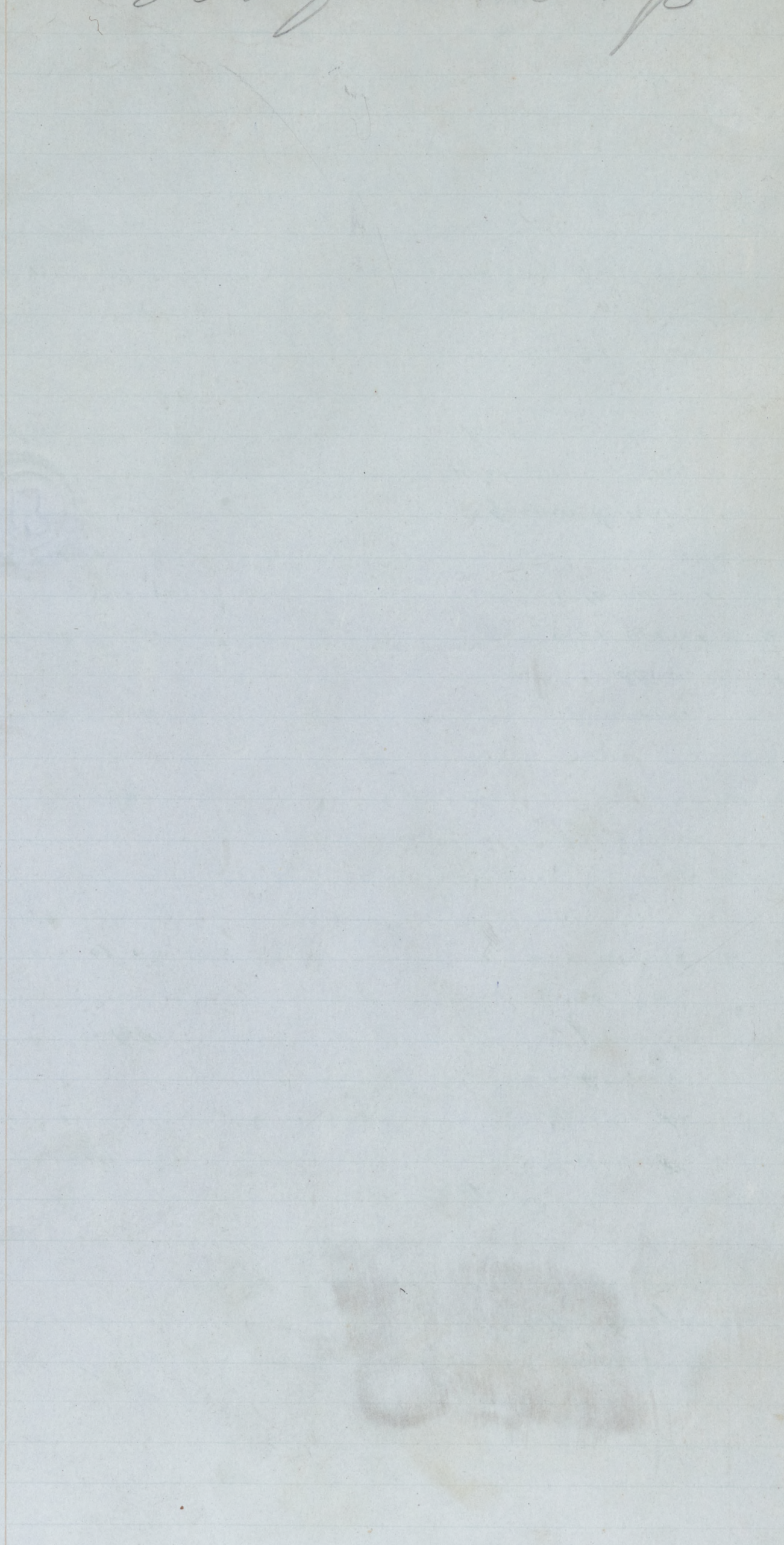
Mand. Jimeno
Suio

B
Michelt.

Filed in office Feby. 1 1853
Geo. Fisher
Secy.

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Here follows the map



Second Seal: Twelve Reals: For the year eighteen hundred and thirty two and thirty three.

C
Translation of B
N. 1.

José Figueroa, Brigadier General of the Mexican Army, Commandant General, Inspector and Political Chief of the Territory of Upper California.

Whereas citizen Benclario Valencia has petitioned for his benefit and that of his family the tract known by the name of Acalanes, bordering with the Ranchos of San Pablo, San Antonio, and the Pindo previously using the proper precautions, and investigations according to the provisions of the laws and regulations; in the exercise of the faculties which are conferred upon me, and in conformity with the record of the most Excellent Territorial Deputation of the Nineteenth of July last past, approving the acquisition of the said tract of the Acalanes, made in a decree of the 30th June last to the said citizen Benclario Valencia in the name of the Mexican Nation, I have come to declare it his property by these present letters, subject to the following conditions:

1. He shall submit to those which shall be established by the Regulations which is to be formed for the distribution of vacant lands - and that meanwhile neither the donee nor his heirs shall divide nor transfer that which is granted to him; nor impose any annuity, entail, (pledge) hypothecation or other charge, although for a pious object, nor transfer it in mortmain.

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

3. He shall ask from the proper judge, that he may give him judicial possession in virtue of this dispatch, by which shall be demarcated the boundaries, in the borders of which he shall put

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Map 2

beside the landmarks some fruit or useful forest trees.

4 The tract of which mention is made is one league in length, by three quarters of a league in width, according as is explained in the map, which is with the expedients. The judge who shall give firm-proportion shall cause it to be measured conformably to ordinance: the overplus remaining to the uses of the Nation

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

Wherefore, I order that this title being held for firm and valid, account shall be taken of it in the proper book, and this be delivered to him for his security and other ends. Given in Monterey 1st Aug, 1834

Josi Figueroa.

Account is taken of this title in the book on the adjudication of land titles at page 48 number 46 which exists in the Secretary's office under my charge.

Monterey 5 August 1834

Lamorano

Filed in office 2^d February 1852.

Geo. Fisher
Secy.

Opinion.

Elam Brown asks for a confirmation to him of his claim to a tract of land one league in length by three quarters of a league in width, called, "Acaldas" and situated in Contra Costa County, in support of which he produces a grant from Governor Figueroa to Candelario Valencia dated Aug. 1. 1834, and proper mensuraciones from said Valencia to himself - The grant which purports to have been made with the previous approval of the Territorial Deputation is proved by parol testimony to be genuine, & its genuineness, as well as the prior approval of the said deputation, is also shown by the Archives of the former government now in the office of the United States Surveyor General for California - The original grantee appears to have occupied the land from the time of the grant, having a house and corral on it, and such occupancy by him, and those claiming under him appears to have continued to the present time.

The evidence brings the claim within the principle of numerous cases already favorably decided by this Board, and we accordingly confirm the claim, Commissioner Thornton concurring in the result.

Wm. Hall.

No 14. Elam Brown Claimant.

Decree of
Confirmation

This Board on full consideration having come to the conclusion that this claim is valid make the following decree of final confirmation viz:

It is decreed that the said claim be confirmed to the extent of one league in length by three quarters of a league in width, being the same land described in the grant, and of which the possession was proved to have been long enjoyed; provided that the said quantity of land granted and now here confirmed to the claimant, be contained within the boundaries called for in the said Grant and map to

which the grant refers; and if there be less than the
 said quantity within the said bounds, then we confirm
 to the claimant that less quantity. Given under
 our hands this 14th day of February 1853.

Island Hall

Mary J. Thornton } Commis^{rs}

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Filed in office February 14th 1853
 Geo. Fisher
 Secy.

Office of the Board of Commissioners,

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

I, *Geo. 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 *Twenty Pages* — pages, numbered from
to *20*, 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, in Case No. *M* on the Docket of the said Board,
wherein *Eliza Brown* is

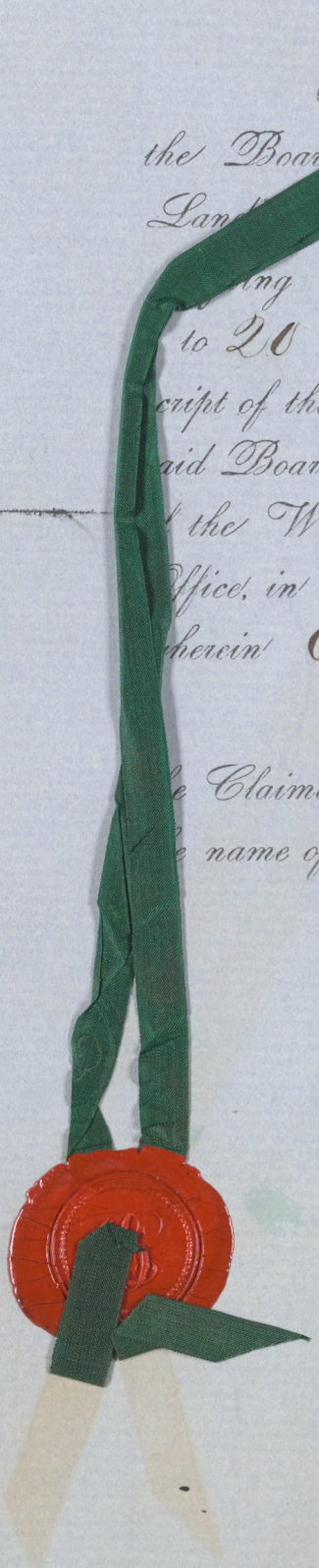
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the Claimant against the United States, for the place known by
the name of *Sealans*

In Testimony Whereof, I hereunto set my hand
and affix my private Seal (not having a Seal
of Office) at San Francisco, California, this
— *eight* — day of *May*
A. D. 185*4*, and of the Independence of the
United States of America the seventy-*eight*

Geo. Fisher.

Geo. Fisher
Sey



31

Y D

Aclaris

31

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Attorney General's Office.

19th August 1852.

Clara Brown, claimant

vs.

The United States.

No. 243-

No. 14.

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You will please take notice that an appeal in the above case (a transcript of the proceedings in which was received in this office on the 29th of May 1852), from the decision of the Commissioners to ascertain and settle the private land claims in the State of California, to the District Court of the United States for the Northern District of California, will be prosecuted by the United States.

Perkins

Attorney General.

U. States

W. S. Dist. Court
S. D. of California
No. 31

The United States
vs Appellants
Clam Brown
Appellee

Notice of Appeal in
Case No. 14 -

Filed Sept. 20. 1834
J. W. A. [unclear]
Clerk

CASE 31 ND

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U. S. District Court Northern Dist. Cal.

N^o 31. The United States) Appeal from the
vs.) U. S. Land Commission
Elihu Brown.)

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Sir,
Please to take notice that you are
desired to file a petition in the above
cause within five days from this notice.

Jones & Stode

Attorneys of Jones, Tompkins & Stode,

atty's.

S. W. Inge, Esq.

U. S. Dist. Ct.

U. S. Dist. Court.

N^o. 31. The U. States
vs.
Elam Brown.

Notice to file Petition.
Filed June 19, 1855.
by Charles
Deputy,
Service admitted.

19 June, 1855.

J. W. Dyer
U. S. Dist. Atty
per John A. Godfrey

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No 31

U.S. Dist Court

The U.S. of America

vs

Claw Brown

Petition of U.S.

No 31.

Filed June 20. 1855.

by Cheves,
Deputy

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United States District Court for the Northern
District of California.

N^o 31.

The United States, appellants)
Versus)
Elam Brown.)

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The answer of Elam Brown to
the petition herein, respectfully shews:
that the claim of said Brown is valid,
It is prayed this Court do to adjudge, and
to confirm the same. My his attorneys,
Jones & Stode,
Survivors of Jones, Tompkins & Stode.

N^o 31.

U. S. Dist. Court.

The United States)
vs.
Claw Brown.)

Answers.

Filed June 28, 1855.

J. Church
Deputy.

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Jones, for appellee.

California Land Claims

Attorney General's Office

5 October 1856,

CASE 31 ND

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Sir:

In the case of the claim of *Clam Brown*, confirmed to the claimant by the Commission, case no. fourteen (14), appeal will not be prosecuted by the United States.

I am
Respectfully

Cluding

Wm. H. Wainwright Esq.
U. S. Attorney
San Francisco

In the District Court of the United States.
Northern District of California.

The United States
vs
Elam Brown.

Case No. 31

Transcript No. 14.

In pursuance of a notice from the Attorney General of the United States, herewith annexed, it is hereby stipulated and agreed that the appeal heretofore taken in this case from the decision of the United States Land Commission to ascertain and settle private land claims in California, be dismissed, and the notice of intention to prosecute said appeal, filed in this court by the Attorney General of the United States, be withdrawn, and that the claimant have leave to proceed under the decree of the said Land Commission in his favor as under Final Decree.

Nov 26. 1856.

Wm Blanding

U.S. Dist Atty

Elam Brown

No. 31
United States
District Court

The United States
vs.
Clam Brown.

Case No. 31
Transcript No. 14

Stipulation.

Filed Nov. 26, 1856,
W. H. Cheney,
Deputy Clerk,

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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 *Wednesday* the *twenty sixth* day of *November* in the year of our Lord one thousand eight hundred and fifty-*five*.

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Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States
vs.
Elam Brown

Case No. 31

Transcript No. 14

The Attorney General of the United States having given notice that no appeal will be further prosecuted in this case, and a stipulation having been entered into by the United States District Attorney for the dismissal of the appeal from the decision of the Board of United States Land Commission heretofore rendered in his favor, on motion of the District Attorney, it is ordered, adjudged and decreed, that the appeal pending in this court be dismissed and that the claimant have leave to proceed under the decree of the Land Commission heretofore rendered in his favor, as a final decree.

Ogden Hoffman
D. J. West Judge

No. 31

United States District Court, Northern
District of California.

The United States

vs.

Clam Brown.

*Case No. 31
Transcript No. 14*

order.

Filed, *November 26,* 1856

J. A. Monroe,

CLERK.

J. M. H. Cheves

DEPUTY.

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Office of the Board of Commissioners,

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

San Francisco, May 8 1854

John 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. 14 on the Docket of the said Board, wherein

Clam. Brown

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

and request your receipt for the same.

I am, Respectfully,

Your Obedt Servant,

Geo. Fisher

N^o 31. Elan Brown, appellee & claimant.

This claim is founded on a grant to Candelario Valencia, by Figueroa, Governor, 1 Aug. 1834, with the previous approbation of the Deputacion.

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The occupation of the land by the grantee & his father ~~is shown~~ for 17 years prior to 1852, is shown by the testimony of Aloisa, (p. 7.)

The genuineness of the papers by testimony of Jimeno, p. 7, 8.

The mesne conveyances are agreed to be sufficient; but will also be exhibited Spoud. (agreement, p. 9.)

Grant, page 17. recites the prior approbation of Depⁿ.

The commission affirmed the claim, pages 19, 20.

The land is in the county of Contra Costa.
Extent 7 leagues $\frac{3}{4}$.

James
for claimant.

N^o 31.

Clara Brown,
Amst.
Saffelle.

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Mem. of the case,
Jones, for Saffelle.