

CASE NO.

137

NORTHERN DISTRICT

EL PESCADERO GRANT

HIRAM GRIMES, ET AL.

CLAIMANT

LAND CASE 137 ND

106 pages.

OCT 25 1962

Permanized

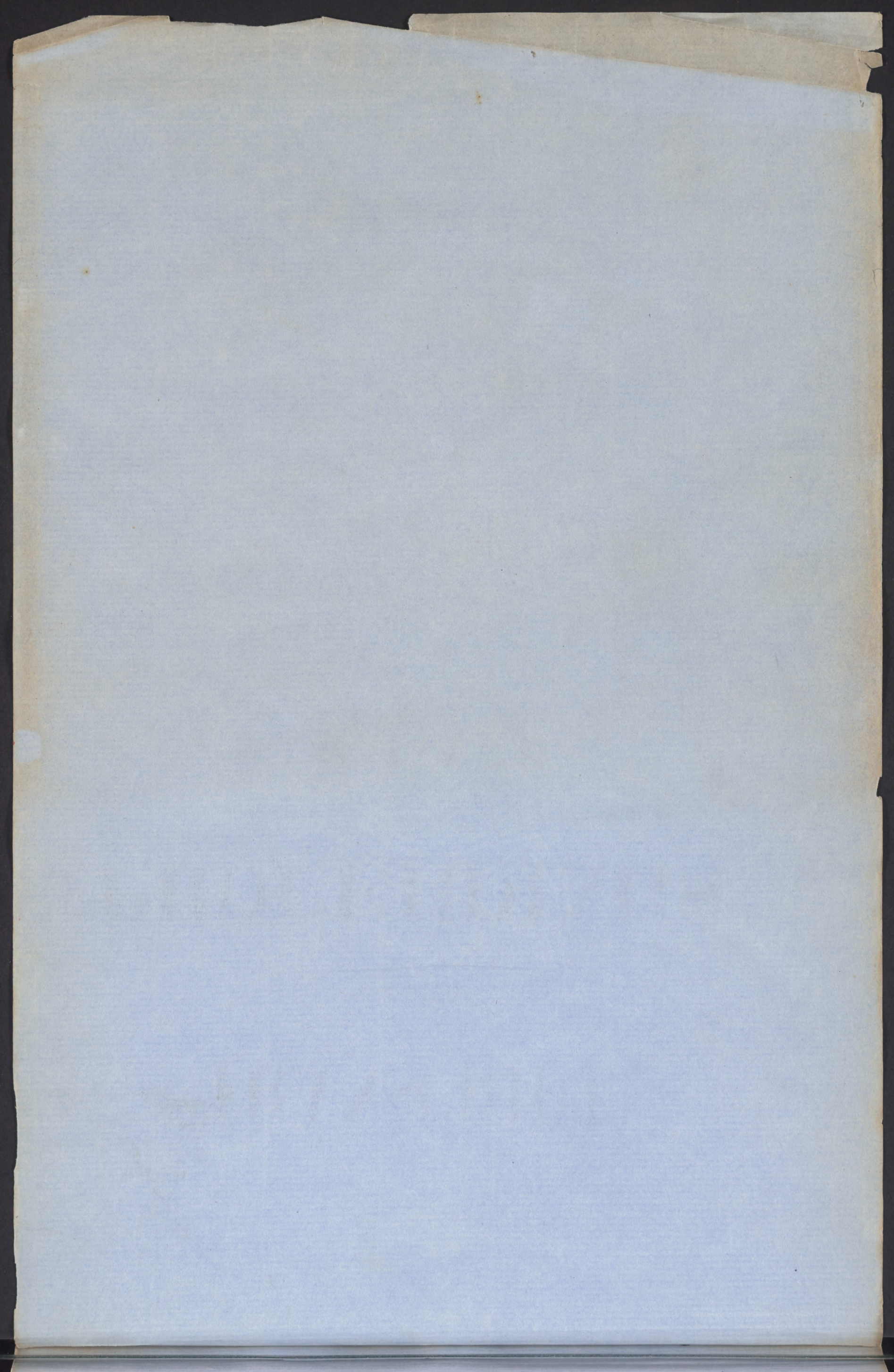
PLOVER BOND

75% COTTON FIBER

U.S.A.

293

Northon District



137 ND
PAGE 1

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 293

Hiram Grimes, et al,

CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"El Pescador."

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

Be it Remembered, that on this *twenty second day of July*, Anno Domini One Thousand Eight Hundred and Fifty-*Five*, 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 *Hiram Grimes, et al,*
for the Place named
"El Pescadero,"

was presented, and ordered to be filed and docketed with No. 293 and is as follows, to wit;

(Vide page 4 of this Transcript.)

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

San Francisco Aug. 14' 1852.
In case no. 293, Hiram Grimes et al, for the place named "El Pescadero," on motion of the Counsel for the claimants the following Order was made, to wit;

(Vide page 37 of this Transcript.)

San Francisco Jan. 29' 1853.
In the same case the deposition of Francisco Arce, a witness in behalf of the claimants taken before Commissioner Miranda Hall with document marked A. annexed thereto was filed;

(Vide page 6 of this Transcript.)

San Francisco Feb. 29, 1853.

In the same case the deposition of Charles White a witness in behalf of the claimants, taken before Commissioner Harry J. Thomson was filed:

(Vide page 7 of this Transcript.)

137 ND
PAGE 3

San Francisco Feb. 19, 1853.

In the same case the deposition of James Stokes, a witness in behalf of the claimants taken before Commissioner Melina Hall was filed:

(Vide page 9 of this Transcript.)

San Francisco Mar. 29, 1853.

In the same case the deposition of J. S. Dimore a witness in behalf of the claimants, taken before Commissioner Harry J. Thomson was filed:

(Vide page 10 of this Transcript.)

San Francisco Aug. 23, 1853.

In the same case the deposition of John M. Murphy, a witness in behalf of the claimants, taken before Commissioner H. Aug. Thompson was filed:

(Vide page 11 of this Transcript.)

San Francisco Sept. 2, 1853.

In the same case the deposition of Jose Romero, a witness in behalf of the claimants, taken before Commissioner Thompson Campbell was filed:

(Vide page 13 of this Transcript.)

3

San Francisco Sept. 12th 1853.

In the same case the deposition of P. N. McKay a witness in behalf of the claimants, taken before Commissioner Alpheus Felch was filed:

(Vide page 15 of this Transcript.)

137 ND
PAGE 4

San Francisco Oct. 3rd 1853.

Case No. 293 was submitted on briefs on both sides and taken under advisement by the Board.

San Francisco Feb. 14th 1854.

In the same case Commissioner Alpheus Felch denounced the opinion of the Board rejecting the claim:

(Vide page 39 of this Transcript.)

Faint, illegible handwriting at the top of the page, possibly bleed-through from the reverse side.

Handwritten notes in the lower half of the page, including a date "OCT. 10. 1890" and other illegible text.

4

To the Board of Commissioners for ascer-
taining and settling Private Land Claims
in the State of California.

137 ND
PAGE 5

Petition

Your Petitioners Heriam Crines and
Francis W. Crines of the City of Boston
State of Massachusetts and William H.
McKee of the City of Monterey State of
California. Respectfully represent to
Your Honorable Board, that they claim
a certain tract of land on the westerly
side of the San Joaquin River and along
its borders. Called "El Pascadero" contain-
ing about eight leagues of land "Acho
sitios de ganado mayor" Situated in
near the County of San Joaquin in
said State of California; that they
claim the same in fee by virtue of a
grant made to Belentin Higuera
and Rafael Peliz under the authority
of the Mexican Government by Manuel
Michelena, Governor, Commandant
General and Inspector of the Department
of the Californias. bearing date the twenty
eighth day of November A.D. 1843,
Your Petitioners further rep-
resent that the said Grantee Rafael
Peliz on the 24th day of February A.D.
1848 transferred all his right title
and interest in and to the said tract
of land (his interest therein being
an undivided half part) to Francisco
Cecena, who thereafter on the
2nd day of March A.D. 1848 transfer-
red all his right title and interest
in and to the said tract of land to

5
Elizabeth Caley Crimes the wife of the
said Hiram Crimes, and the mother
of the said Francis W. Crimes,

137 ND
PAGE 6

And your petitioners would further
represent that the said Elizabeth Caley
Crimes died intestate on or about the
fifth day of March A. D. 1852, leaving
as heirs at law - her husband the
said Hiram Crimes, and an only child
the said Francis W. Crimes.

And your petitioners would further
represent that the other said grantee
Belentín Heiguera on the 15th day of
March A. D. 1849, transferred all his
right title and interest in and to
the said tract of land (his interest
therein being an undivided half
part) ^{your said} ~~affore~~ petitioners,

And lastly your petitioners would
represent that the original grantees
took actual possession of the said
tract of land, to wit in the said year
A. D. 1843. had cattle and stock
thereon, and built houses and
corrals; and that the said grantees
and those claiming under them
have been in the peaceable possession
of the said tract of land ever since;
and that they have no knowledge of
any interfering claim.

Your petitioners present herewith
a copy of the original grant in the
Spanish Language together with
a translation of the same, and make

2

6

further proof of title if required by the Board.

And your petitioners pray your Honorable Board to take into consideration their claim to said tract of land, and decree their title to be valid and confirm the same.

And your petitioners will ever pray.

A. C. Whitecomb
Counsel for Claimants

San Francisco
July 22nd 1852

Filed in Office July 22nd 1852
Wm. Fisher
Sec

Deposition
of Francisco
Arce.

San Francisco Jan 29th 1853.
On this day before Court Heiland
Neall came Francisco Arce a witness in
behalf of the Claimants - Hiram Krimes
et al. Petition No. 293 and was duly
sworn, his evidence being given in
Spanish and interpreted by the Secy

The U.S. Associate Land Agent
was present.

Deposition of Francisco Arce in claim
No. 293 witness states that his age
is years, his place of residence at
Santa Clara - that in 1843 he was
a clerk in the office of the Gov. of
California, and recollects that a grant
of eight leagues of land called the

7

Pascadero was made by Valentín Neiguerá and Rafael Deliy in the month of November of that year - that the title to the same was written by him, and is now among the archives in the Surveyor General's office that he has this day seen it, and examined it, the signatures of Governor Michelena & Manuel Jimenez, written thereon are their true and genuine signatures - & that the paper now here shown me, marked "A" & filed with the petition of Heirán Goines et al, in this claim is a true copy of said title with the addition of the certificates of W. H. Kellogg & of S. L. King U.S. Surveyor General

137 ND
PAGE 8

Service acknowledged

R. Greenhow
U.S. Land Agent

Sworn & subscribed

Before me
Neiland Hall Comr.

Filed in Office Lang 29th 1853

Chas. Fisher
Sec

Deposition of
Charles White

Saw Francisco July 2nd 1853.
On this day before Comr. Henry D. Thornton I came Charles White a witness in behalf of the claimants petition N^o 293. and Heirán Goines et al, and was duly sworn, his evidence being given in English.

P

The U.S. Associate Loan Agent was present.

Questions by Clement.

137 ND
PAGE 9

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

Ans^r. My name is Charles White, my age about thirty four, and my residence in San Jose.

Quest. 2nd Look upon the document now here shown to you marked Exhibit No. 1 and filed with this deposition and state whether the signatures of Rafael Felix and Francisco Cecena and the witnesses to said document where they occur in and upon the said exhibited document are genuine.

Ans^r. I was the officer before whom the document was executed, and state that the signatures were made by the parties before me as my certificate thereon will show & are genuine.

Question 2. Look upon the document now here shown to you marked Exhibit No. 2, and filed with this deposition and state whether you know the signatures of any, and of what persons whose names appear thereon, & whether those signatures are genuine.

Ans^r. I have examined the document and am acquainted with the hand writing of James Stokes, Antonio M. Pico, and H. H. Linnick, Irish Alcalde, having often seen them write, and say that their signatures where they occur in

9

and upon said document - are genuine.

Chas White,

Sworn to & subscribed
before me this 2nd of July
1853.

Henry D. Thornton Com^r

Filed in Office July 2nd 1853.

Geo. Fisher
Sec

137 ND
PAGE 10

Deposition of
James Stokes

San Francisco July 19th 1853
On this day before Com^r Heiland
Heall, came James Stokes a witness
in behalf of the Claimant Hiram
Crimes et al. petition No. 293, and was
duly sworn his evidence being given
in English.

The U.S. Associate Land Agent was present.

(Clerical Omission
Supplied)

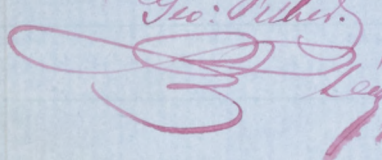
In answer to enquiries by counsel for
the claimant the witness testified as
follows.

For a copy of the
Exhibit "H. H. No. 1"
annexed to this Depo-
sition, vide the re-
verse of Page 24.

My name is James Stokes, my
age is forty five years and I
reside in the County of Monterey.

(marked page 24 1/2)
of this transcript

A paper is now shown me pur-
porting to be a Deed of transfer from
Valentin Reigueras to Mr. H. McKee dated
March 10th 1849 and is hereto attached and
marked H. H. No. 1.

Geo. Fisher


My name is signed to said Instruments

10

as a witness. I was present and saw
Balentin Heignera affix his signature to
said instrument Antonio M. Pico was
also present at the same time & signed
the instrument as a witness.

137 ND
PAGE 11

I am acquainted with the hand writing
of H. H. Dimich who was then acting
as Alcalde, & his signature to the acknowl-
-edgement of said instrument I believe
to be genuine. I saw the money paid
by said McKee to said Heignera as the
consideration for the transfer.

James Stokes
sworn & subscribed

Before me
Herland Hall Comr.

Filed in Office July 19th 1833

Geo. Fisher Sec

Deposition
of Jacob S.
Dimon.

San Francisco, March 29, 1833
On this day before Comr. H. J. Thornton
came Jacob S. Dimon, a witness on
behalf of the Claimant Heriam Grimes
et al. petition No. 293 and was duly
sworn, his evidence being given in
English.

Questions by Claimant

Quest 1st What is your name, age
and place of residence.

Answer. My name is Jacob S. Dimon
my age twenty five years, and my residence
San Francisco.

Quest. Are you acquainted with the claimants in this case and if yes, state what you know of their relation to Mrs Elizabeth C. Grimes described in the petition of the Claimants

Ans. I am acquainted with two of the Claimants. Heiram Grimes, and his son Francis W Grimes. Hiram Grimes was the husband of the said Elizabeth C. Grimes, and Francis W Grimes is her only son and child. Mrs Elizabeth C. Grimes died on her way to this state about the 5th of March 1852.

Jacob S. Simon

W. S. Land Agent present
sworn to & subscribed

Before me this 29th of March
1853.

Henry S. Thornton Com. &c.

Filed in Office March 29/1853

Geo. Fisher
Sec

Office of the Commissioners of Land
Claims in California.

San Francisco

This day before Commissioner Robt. A. Thompson. Came John M. Murphy a witness in behalf of Claimants Hiram Grimes et al. No. 293 and after being duly sworn deposed as follows,

Deposition of
J. M. Murphy

12

Mount A. Co. Whitcomb, attorney for claimant
The U.S. Land Agent having been
duly notified.

Question by Claimant's Attorney.

What is your name, age, and place
of residence.

Ans. My name is John M. Murphy
My age 28. My residence San Jose
Santa Clara County California

Question by same. Do you know the
tract of land called "Rancho del Pes-
cadero" claimed by the claimants in this
case? if so state what you know con-
cerning the occupation thereof.

Ans. I know the Rancho.

It is situated on the west or south
west bank of the San Joaquin River,
adjoining Bousell's Ferry to the west.

I was there in the Spring or Summer
of 1846. I then saw on the Rancho
two of the sons of Rafael Deliz one of
the original grantees in this case.
I also saw some cattle and some
horses.

Ques by same.

Do you know Rafael Deliz
Francisco Cecena, Asull, O'Connor -
Carlos White, Robert J. Ridley and Elizabeth
C. Grimes if so, state whether the signatures
of Rafael Deliz and Francisco Cecena on
the Document now shown you and marked
"C" and with the initials R.H. were
executed in your presence, and if you

then signed your name, as an attesting witness thereto.

Ans. I know them all, the signatures mentioned in the question were executed in my presence, and I there signed my name as a witness. I also know the hand writing of Carlos White and Robert P. Ridley, having often seen them write, and I know their signatures in said document to be genuine.

I also know that Carlos White was first Alcalde of the Pueblo of San Jose when the document referred to was executed.

And further this deponent saith not
J. M. Murphy,
Sworn to & subscribed

Before me this 18th
day of August 1853,

R. Aug Thompson Com^r

Filed in Office Aug 23rd 1853,

Geo. Fisher Sec

Deposition of
Jose Romero

Office of Commissioners of Land
Claims in California

This day before Com^r Thompson
Campbell came Jose Romero a witness
in behalf of Claimants. Hiram Czymes
et al. N^o 293 who after being duly
sworn deposed as follows.

What is your name, age, and place
of Residence.

14
My name is Jose Romero. I am fifty three years of age, and I reside near the Mission of San Jose.

Do you know the land on the San Joaquin called the Pascadero Rancho, and if so state when you was first there, and who occupied it at that time, and what were the improvements then made, and the extent of the cultivation?

I have known the place ever since I was a boy. Before it was a Rancho, I have been there several times since then, that in 1843 I assisted Valentin Heigueras, then the owner of the said land, to build a Corral. There was a little house or hut on the land, in which Heigueras lived with some men in his employ. Heigueras had about two hundred head of horses, and some work oxen. There was no cultivation; I was there about fifteen or sixteen days assisting Heigueras.

Questions by Land Agent.

In what month of the year 1843, did you assist Heigueras in making the Corral?

In the month of September 1843 I assisted him.

What was the size of the house and when was it built?

It was not a house, it was a kind of a hut made with sticks, and thatched with grass, a mere temporary shelter.

B

Do you know when it was built?

I don't know when it was built when I was there it was already built. They could not build houses in those days on account of the Indians, they were troublesome times.

Jose ^{this} X ^{mark} Romero

137 ND
PAGE 16

sworn to & subscribed before me this 2nd day of September A.D. 1853.

Thompson Campbell Com^r

Filed in Office Sept 2nd 1853

Geo. Fishers Sec

Office of Commissioners of California
min Land Claims.

Deposition
of P. N. McKay

This day before Com^r Alpheus Felch came J. P. N. McKay a witness in behalf of Claimants Heiram Grimes et al, No. 293, who after being duly sworn deposed as follows.

Question by Mr. Whitcomb Attorney for the Claimants.

Question. What are your name, age, and place of residence?

Answer. My name is P. N. McKay, my age is about 30 years and I reside in the City of San Francisco in the State of California

2 Question, Do you know the Pasadero Rancho (so called), on the San Joaquin River claimed in this case by William H. McKee, Heiram Grimes and Francis W. Grimes? If yes; what do you know of its occupation and cultivation?

Answer, I know that Rancho. I was first on it in April or May A.D. 1850. McKee was there there and had laid out a city on the Rancho, called San Joaquin City. There were then six frames buildings there, and some fifteen or twenty persons living there there were also horses & cattle ^{there}. I suppose between fifty and one hundred head of cattle. There were also some mules.

There was a small patch of land cultivated in a garden. Mr McKee was at that time running the steamer "Unit" between that place and San Francisco.

He purchased the steamer to run between those places.

Some of the buildings belonged to McKee others belonged to persons who bought lots of him. The steamer must have cost from ten to fifteen thousand dollars. I was at the place between two and three weeks at the time above mentioned.

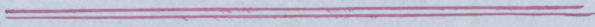
Pat. W. McKay

Mr Howard the Land Agent was present at the taking of this deposition but propounded no questions to the witness. Subscribed and sworn to before me at San Francisco this twelfth day of September A.D. 1853.

17

Alphens Felch
Commissioner

Filed in Office Sept. 12th 1883.
Geo. Fisher
Sec



137 ND
PAGE 18

John Lane Adams

[Faint, illegible handwriting]

18

101 D. N.

1844

18

1.º. D. 12.

1844.

Expediente

Promovido por los Ciudadanos Ba-
lentin Higuera y Rafael Meliz en
pretencion del terreno nombrado el

Pescadero.

371

137 ND
PAGE 19

19

J. O. D. R.

Sello Tercero un Peso. Habilitado pro-
visoriamente por la Aduana mariti-
ma del puerto de Monterey, en el de-
partamento de las Californias, para
el año de mil ochocientos cuarenta
y tres.

137 ND
PAGE 20

Micheltoena . Manuel Castañera
Coemio Dor.

Balentin Higuera, y Rafael fe-
lis; Quid. mexicanos y vecinos.
Monterey Dor. de este departamto. ambos
10 de 1843. } leasados con mexicanos y
Inf. el Dor. } con diez y seis hijos de fami-
del despacho } lia. Ante U. E. D. con el respeto
tomandolos qf. } debido; hasen presente tener
al efecto nece- } mil trescientas cabezas
sitaran } de Ganados Mayor; ciento
Micheltoena } cion cuenta Lanar y tres cien-
tas de Cabayar. y no tener una proprie-
dad para dar Quereencia a estos bienes.
Duplicamos a U. E. D. se digno conoe-
dernos en Propriedad ocho sitios de
Ganado mayor en el Rio de San Joaquin
frontera asi al Norte del Punto de
San Jose, como lo demuestra el diceño
qf. humildmt. acompaño. Por tanto
a. U. E. D. Duplicamos encarecidamte.
se digno hasernos este beneficio en consi-
deracion a nuestras crecidas familias
de lo que recibiremos merced y gracia
Juramos no ser de Malicia. Se.

Balentin Higuera # Rafael Felix
San Jose Agosto de 1843.

J. O. D. R.

Cumpliendo con lo que previene el anterior
superior decreto, pase este expediente
al R. P. ministro de San Jose para

se envia informar sobre su contenido y
concluido que sea buelva à esta Oña:
para cumplir con lo que previene el pre-
dicho Superior decreto.

fha ut supra. Man. L. Jimeno.

Mision de O. S. José 23 de Nov. de 1843

Al presente no ocupa esta Mision el
terreno solicitado y ereo no es propiedad
de alguno: mas se debe advertir, que el
legitimamente Pescadero ha sido y es
un lugar los Indigenes, asi Cristianos
como Gentiles acurren à el con el objeto
de auxiliarse p.^a su manutencion, por lo q.
soy de parecer q.^e siempre qe se les qua-
rentice este auxilio pueden ocupar
los interesados: asi es mi parecer, salvo
meliori; *fha ut supra.*

De. Miguel Muro.

4. O. O. 12 Monterey Feb. 12 de 1844.

Espece al decreto estampado en la pta:
en la instancia se pidió sobre concederle
y à los duplicantes en comp.^a el terreno
mencionado oportunita entre aquel q.
esto segun convengan en una conferencia
ante este Gob. civil al efecto q.^e p. a. 2.^a
p. la Oña.

Michel.

Here follows
map

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 custody a portion of the
Archives of the former Spanish and
Mexican Territory or Department of
upper California do hereby certify that
the five preceeding and herein to an-
nexed pages of tracing paper, numbered
from one to five inclusive and each of which
is verified by my initials (S. D. K) esc-
hibit true and accurate copies of certain
documents now on file and forming part
of the said Archives in my Office.

In testimony whereof I have
hereunto signed my name Officially
and affixed my private seal (not
having a Seal of Office) at the City
of San Francisco this fifteenth day of
August 1857.

Saml. D. King
Survey: Genl. Cal.

Filed in Office may 3rd 1853

Geo. Geisher Secy

1844

Translation
of ExpedienteExpediente

Carried out by Citizens Valentin Higuera
and Rafael Delis on application for
the Tract of Land Called Pescadero

137 ND
PAGE 23

371

Third Seal One Dollar

Provisionally qualified by the Maritime
Custom House of the Port of Monterey in
the Department of the Californias, for
the year one thousand eight hundred and
forty three.

(Signed) Micheltreras.

(Signed) Manuel Castanosa

Seal

Most Excellent Sirs

Monterey Nov^r 10th
1843.

Loch Mr Secretary of
despatch report
taking such steps
as he may deem
necessary for
the purpose
Signed Micheltreras

Valentin Higuera and Rafael
Delis, Mexican Citizens and
residents of this department,
both married to Mexican
women and with sixteen
children, before Y. C.
with due respect repre-
sent that they have one thou-
sand and three hundred
head of black cattle, one

hundred and fifty sheep, and three hundred horses; and have no land for rearing this stock; We pray Y. E. will deign to grant us in ownership eight leagues of land (sitios de ganado mayor) on the River San Joaquin, fronting towards the north of the point of San Jose; as shown by the design, which we humbly annex hereto.

Wherefore we earnestly pray Y. E. will deign to do us this benefit in consideration of our numerous families; whereby we shall receive favors. We swear it is not malicious. &c

(Signed) Valentin Yguera

(Signed) Rafael Deliz

San Jose August 4th 1843

Complying with what is ordered by the foregoing superior decree, let this Expediente be referred to the R. P. Ministers of San Jose that he be pleased to report on the contents thereof; and after having done so let it be returned to the Secretaries office in order to comply with what is provided by the aforesaid superior decree.

Date as above

(Signed) Manuel Jimenez

Mission of S. J. Nov: 2 3rd 1843.

At present this Mission does not occupy the tract of land under application; and I believe it is not private property; but I have to observe that the place legitimately called "Pascadero" was and is

24
whithers both the christian and unconverted
aborigines resort to aid themselves for
their maintainance; therefore I am of
opinion that always that this aid is
guaranteed to them, the parties may occupy
it. This is my opinion but leaving
the better one.

137 ND
PAGE 25

(Signed) Don Miguel Muro

Monterey Febry 12th 1844,
Look it the done according to the
Decree of this date entered on the Petition
of Pico as to granting him and the
petitioners jointly the above mentioned
land, or by halves between the former
and the latter, as they may agree in
an interview had before this Government
after being cited by the secretary for
that purpose.

(Signed) Michelmena

I certify the foregoing to be a true and
correct translation from the fac simile
copy of the Expediente on file in the
Office of the Surveyor General of the
United States for California; which
fac similar copy is on file in
this office in Case No. 293. Heriam
Crimes et al, for the place named el
Pasadero.

Geo. Fisher Sec

Filed in Office May 21st 1853

Geo. Fisher
Sec.

This Indenture made and concluded this fifteenth day of March in the year of our Lord one thousand Eight hundred and forty nine; Between Valentin Heiguera of Pueblo de San Jose in the District of San Jose, Northern Department of Upper California of the one part and William H. McKee of Monterey of Upper California of the other part Witnesseth that the said Valentin Heiguera, for and in consideration of the sum of Two Thousand Dollars well and truly paid at or before the enacting and delivery hereof, the receipt whereof is hereby acknowledged, has granted, bargained, sold, transferred and conveyed, and by these presents does grant, bargain, sell, transfer and convey unto the said William H. McKee, heirs or assigns forever, all his right title and interests in and to all that certain tract of land situated and being in the valley of the San Joaquin as aforesaid, and extending along the San Joaquin River from the Pass of the Pascaden upwards, the whole length of the original grant from Gov^r Michelmorena to Valentin Heiguera and Rafael Felix, (say four leagues more or less) and being of sufficient width from the river towards the hills of Buenos Ayres to constitute four leagues or ditios; being the possession which Valentin Heiguera and Rafael Felix have voluntarily agreed between themselves, should pertain to Valentin Heiguera, the remainder being the part belonging to Rafael Felix.

To Have and To Hold all and singular the above, bounded and described lot of ground as aforesaid, together with all the rights, profits, privileges and appurtenances whatsoever, thereunto belonging as fully as the same was held and possessed by the said Valentin Heiguera and family as aforesaid unto the said William H. McKee his heirs and assigns to the only proper use benefit and behoof of the said William H. McKee his heirs and assigns forever,

In witness whereof the said Valentin Heiguera has hereunto set his hand and seal the day and date above mentioned. Signed sealed & delivered in presence of

Valentin Heiguera (Seal)

H. H. Linnick

James Stokes, Antonio M^a Pico,

District of San Jose, Is.

On this 15 day of March A.D. 1849, before me personally came Valentin Heiguera to me known to be the person described in & who executed the above deed and duly acknowledged that he executed the same for the purposes therein mentioned

H. H. Linnick, 1st Dea

Exhibit No 2. to the depts of Charles. White taken in case No 293.

1. S. D. M. ...

25

1. S. D. R. Dello primero ocho Pesos. Habilitado provisionalmente por la Aduana marítima del marítima del puerto de Monterey, de el Departamento de las Californias, para el año de mil ochocientos cuarenta y tres.

137 ND
PAGE 27

Doc. A. Anst. Micheltoena. Manuel Castañares
to the Depo. of Trans. Acc. taken before Com. H. H. Hall Mayor del mismo, Gobernador Coman-
dante General e Inspector de la Plata-
mento de las Californias. Por cuanto los ciudadanos Valentín Higuera y Rafael Teeliz han pretendido para sus beneficios personales y el de sus familias el paraje conocido con el nombre de Pescadero, colindante con el Rio, con Buynos Ayres al paso del Pescadero y los limites que se señalen al tiempo de la posesion por la parte del Valle: 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 concederles el terreno mencionado declarandoles la propiedad de el por las presentes letras sujetandose a la aprobacion de la Camara Asamblea Departamental y bajo las condiciones siguientes. 1ª No podrán venderlo ni enajenarlo imponerle censo, vinculo fianza hipoteca, ni otro gravamen, aunque sea por causa piedadosa, ni pasarlo a manos muertas. 2ª No impedirán el cultivo.

pesca y demas beneficios que han disfrutado los Indigenas de San José y à las que se hallan establecidas en otro parage. 3^a Podrán cercarlo sin perjudicar las travesías, caminos, y servidumbres; lo disputará libre y exclusivamente destinandolo al uso ò cultivo que mas les acomode, pero dentro de un año fabricarán casa y estará habitada 4^a El terreno de que se les hace donación es de ocho sitios de ganado mayor poco menos segun explica el diseño respectivo. El Juez que diere la posesion lo hará medir conforme à Ordenanzas que dando J. L. D. el sobrante que resulte à la nación para los usos convenientes. 5^a Solicitarán del juez respectivo que les diere la posesion jurídica en virtud de este despacho p. el cual se demarcarán los linderos en cuyos limites pondrán à mas de las mojeras algunos arboles frutales ò silvestres de alguna utilidad. 6^a Si contravinieren à estas condiciones perderán en derecho al terreno y será denunciabile por oho. En consecuencia mando que sirviendoles de titulo el presente y teniendose por firme y valdero se tome razon de el en el Libro respectivo y se entregue à los interesados para su resguardo y demas fines. Dado monterey à veinte y ocho de Noviembre de mil ochocientos cuarenta y tres.

Manl. Michel Torero.

Manl. Jimeno Senio.

J. L. D. B. Queda tomada razon de este despacho en el Libro respectivo. à f. 3.

Jimeno.

27

I certify that this document was deposited among the Government Archives at Monterey California by D^r W. M^r. Kee this 11th day of May A. D. 1849.

M. W. Halleck

Capt & Secy of State

Filed in Office Survey 29. 1853.

Geo. Fisher Secy.

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 custody a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California do hereby certify that the four preceding and hereto annexed pages of tracing paper numbered from one to four inclusive and each of which is verified by my initials (S. D. K.) exhibit true and accurate copies of certain documents now on file and forming part of the said Archives in my Office.

In Testimony whereof I have hereunto signed my name officially and affixed my private seal (not having a Seal of Office) at the City of San Francisco this fifteenth day of August 1851.

Saml. D. King
Survey Genl. Cal.

Taledin Office Lamy 29th 1853.

Geo. Fisher Deery.

137 ND
PAGE 30

Cello Primero Ocho Pesos.

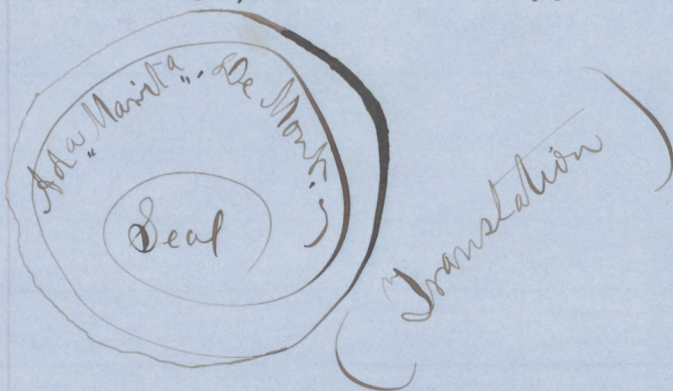
&c

Translation
of Original Grant.
N.

Micheltorena

Mannel Castanares

137 ND
PAGE 31



Mannel Micheltorena General of Brigade
of the Mexican Army, Adjutant General of
the Plena Mayor of the same, Governor,
Commandant General and Inspectors of
the Department of the Californias.

Whereas the Citizens Balentin Higuera
and Rafael Deliz have petitioned for their
personal benefit and that of their families
for the tract of land known by name of
Pasadero, bounded by the River, by
Buenos Ayres to the pass of the Pasadero,
and the limits which are set at the
time of the possession on the side of the
Valley; the preliminaries and ^{proper} investigations
having been gone through with in obedience
to the laws and regulations, Exercising the
powers upon me conferred, in the name
of the Mexican Nation I have just granted
to them, the above mentioned land declaring
it to be their property by these present letters,
submitting it to the approval of the Hon-
orable Departmental Assembly, and under
the following conditions.
1st They shall not sell it, alienate it,

impose rent, tax or charge upon it, nor pledge it, nor put any other burden upon it, even though for a pious use, nor tie it up in mortmain.

2nd. They shall not obstruct the cultivation, fishing and others benefits enjoyed upon it by the Indians of San Jose, and those which are established in any other place.

3^d. They may Enclase it without prejudice to the Cross-roads, Roads and rights of way: they shall enjoy it freely and exclusively: destining it to the use and cultivation which is most advantageous to them, but within one year they shall build a house and it shall be inhabited.

4th. The land which is hereby granted consists of eight sitios (or a little less) for large cattle; according as the corresponding plan explains - The judge who gives the possession shall have it measured conformably to the ordinance: destining the surplus remaining to the Station for its proper uses.

5th. They shall solicit of the proper judge to give them judicial possession in virtue of this Grant, by whom the boundaries shall be marked out in the limits of which beside the usual land marks they shall plant some fruit on forest trees of some utility.

6th If they shall contravene these conditions they shall forfeit their right to the land, and it shall be denounceable by another.

137 ND
PAGE 33

Wherefore I order that these presents serving them for a title, and being of themselves firm and valid. Record thereof be taken in the proper Books, and that they be delivered to the parties interested, for their security and other purposes.

Given in Monterey on the Twenty Eighth day of November one thousand Eight hundred and forty three.

(signed) Manuel Jimeno
Saxid
(sgd.) Manuel Michelt^a

Due Record of this Grant has been taken in the proper Books at p^o 3^o.
(sgd.) Jimeno

Filed in Office July 22nd 1853
Geo. Fishers Sec

Span Doc follows

[Faint, illegible handwriting, likely bleed-through from the reverse side of the page.]

"C"
Transfer from
Rafael Veliz
to

V. Cecena and from
him to E. G. Grijmes

137 ND
PAGE 34

Exhibit no. 1
to the deposition
of Charles White
taken in no. 293

Conste por el presente, como yo Rafael
Veliz à nombre de mis hijos, herederos
y sucesores, he vendido à D. Francisco
Cecena el Derecho que tengo à cuatro sitios
de ganado Mayor que se hazan en el
Pescadero, Rio San Joaquin, colindando
con D. Antonio Maria Pico y cerca del
terreno del señor Mariano Hernandez
culla Titulo por ser de Ocho sitios y per-
tenece los ocho cuatro al Señor Valentin
Higuera queda en poder de este Señor
con la nota que se le pondrá de que el
derecho que tengo en los cuatro sitios men-
cionados pertenece esclusivamente al referi-
do Señor Cecena por haverlo vendido
en la cantidad de ciento ochenta pe-
sos (\$180) que tengo recibidos a mi en
terá satisfaccion por culla causa desde
ahora en adelante me desapodero del
dominio Titulo, voz, recurso, y cuales
quiera otro derecho, que ya à mis herede-
ros puedamos tener al terreno mencion-
ado hasmitiendolo todo en el comprador,
por siempre jamas quien como dueño
proprio lo podrá vender, enagenar o usar
de el como mejor se convenza. Y para la
seguridad de balidacion y firmeza firmo
el presente Documento ante los testigos
que subscriben à nombre de toda mi fami-
lia y con su plena consentimiento el
cual será presentado al Señor Alcalde
para su autenticacion. — de 1848
Pueblo de San José Guadalupe Febr. 24
Como testigos Rafael Veliz
Gullo O Connor. marca

John W. Murphy

Este certifico que el Sr. Rafael Tecluz
ha confesado este documento ser el hijo
con su voluntad y lo firmo ante mi
este 24 de Febrero de 1848.

Carlos White 10 Alcalde
de San José.

Digo yo el infrascrito que por este Docu-
mento ha pasado todo el Derecho que por
el igual que antecede y el título a que se
refiere tengo a cuatro sitios de ganado
mayor en el Valle orilla del Rio San
Joaquin en la persona de D^a. Elizabeth
Calef Grimes por haberlo vendido en la
cantidad de nuevecientos pesos \$900
que tengo recibidos a mi entera satisfac-
cion; por eulla causa a nombre de mi
esposa, hijos, herederos, y yo me cores hago
esta venta y con su pleno consentimiento
para eullo fin y el de su Validacion
y firmeza, renuncio todo derecho y ley
que pueda darme alguno al terreno
mencionado titulo, voz, recurso y enales
quiera otro, ha suitiendolo en la persona
de la nominada senora y formando en
presencia de el señor Alcalde ante dos
testigos que se hayaron presentes en
Pueblo de San José Nro. 24 de 1848
Entre renglones la palabra = Alcalde = Calle.

Francisco Cereña

Testigo

Testigo

Roberto G. Riddle. Carlos White 1^o Alcalde
John W. Murphy } Pueblo San José }

"C"
 Translation of
 Transfer.
 "C"

137 ND
 PAGE 36

Know all men by this present that I Rafael Deliz, in the name of my children, heirs and successors, have sold to Don Francisco Cecena my right and title to four (sitios de ganado Mayor) square leagues of land, situate in the Pescadero, River San Joaquin, bordering with that of Don Antonio Maria Pico & near the land of Señor Mariano Hernandez, which title being for eight (Ocho sitios) square leagues & the other four belonging to the Señor Balentin, Hejnera, I shall remain in the possession of this Señor, with the provision that there shall appear thereupon that my right to the four mentioned square leagues, shall belong exclusively to the referred to Señor Cecena, my having sold to him in the sum of one hundred and eighty dollars (180) which I have received to my entire satisfaction; in consideration of which from this moment hereafter, I dispossess myself of the ownership, title, pretence, recourse & whatsoever other right I or my children we may have to the said land, transferring it all unto the purchaser for ever and ever, who, as his own can sell, alienate or use it, as best may suit him.

And for all security, validity and good faith, before the subscribing witnesses, in the name of all my family, and with their entire consent,

I sign this present document which shall
be presented to the Hon Alcade for
his legalising the same
Pueblo of San José Guadalupe
July 24th 1848.

^{his}
Rafael x Deliz
mark

Witness

(Signed) Guill^{no} C. Connor

Witness

(Sgd) John M. Murphy.

This certifies that the Senor
Rafael Deliz has acknowledged this
document to have been done with his
free good will & he signed it before me
this 24th of July 1848.

(Signed) Carlos White
P^{ro} Alcade Pueblo of
San José

I, the undersigned do declare by these
presents, that I transfer all the
right, which by the preceding document
& title referred to, I hold to four square
leagues of land in the valley & on the banks
of the river San Joaquin, unto the
person of Do^{ña} Elizabeth Calif Crines,
having sold to her, in the sum of
nine hundred dollars (\$900) which
I have received to my entire satisfac-
tion; in consideration of which, in
the name of my wife, children heirs

and Successors, I make this sale and with the entire consent of the former; for which purpose, its validity and good faith, I renounce all right and law (which might give me one to the said land), title pretence recourse & whatsoever other right, transferring it all unto the person of the aforementioned Señora & signing in presence of the Señor Alcalde before two witnesses who were present.
Pueblo of San José March 2^d 1848.

Between intimation the word "Alcalde" is valid.

(Signed) Francisco Ceena
(Signed) Carlos White
Alcalde Pueblo of

Witness
(Sgd) Roberto P. Riddle San José

Witness
(Sgd) John M. Murphy

"Translation"

Office of the Board of W.S.
Land Commissioners for California
San Francisco March 15th 1853

I, hereby certify the foregoing to be a true & correct "Translation" of the Spanish Original Document, filed in Case No. 293 of the Docket of this Board.

Geo. Fisher Sec

Filed in Office March 15th 1853.

Geo. Fisher Sec

37

Order of
Survey137 ND
PAGE 39

For the purpose of determining with precision and certainty the limits and boundaries of the land claimed by Heriam Crimes &c in their petition N^o. 293, pending before the Commissioners, it is on motion of Counsel for claimants ordered, that an Initiatory survey under the superintendence of the United States Surveyor General of California be made of the land known by the name of "Pescadero Rancho" situate in the western borders of the San Joaquin Rivers and to the South of the Old Pescadero Pass or crossing, containing eight square leagues, adjoining the rivers and Buena Vista and thence to the Pescadero Pass, the boundaries in the valley being defined by the act of possession as represented in the plan accompanying the respective Expediente locating the said quantity of eight square leagues according to the claim of said H. Crimes etc., and having reference to the plan annexed to the said Expediente, but in such manner as to confine said location within the said limits, and to include in the survey to be made the said quantity.

But this order is not in any manner to determine as against the United States, either the question of title, the construction of the grant, the location boundaries or extent of the land to which the claimants may be entitled.

Filed in Office August 14 1852.
Geo. Fisher Sec

U.S. Land Commission to ascertain and settle the Private Land Claims in the State of California.

Notice of Review in the District Court

Hiram Grimes et al Claimants for "El Pasadero" vs The United States Case No. 293,

137 ND PAGE 40

Notice is hereby given that the claimants in the above entitled cause intend to file a petition to the United States District Court for the Northern District of California to review the proceeding and decision in the above case of the United States Commissioners to ascertain and settle the Private Land Claims in the State of California.

San Francisco California April 11th A.D. 1854.

A. C. Whitcomb Counsel for Claimants

Filed in Office April 11th 1854 Geo. Fisher Sec

Hiram Grimes et, al,
 vs
 The United States

Opinion by
 Commissioners
 Alphens Delch

For the Place called Pascedero in San Joaquin County, containing eight square leagues of land.

137 ND
 PAGE 41

The Petitioners, Hiram Grimes, Francis W. Grimes and William H. McKee claim under a grant made by Governor Micheltorena to Balentin Heigera and Rafael Peliz bearing date November 28 '1843.

The Claimant McKee derives his title in the premises from said Heigera by deed, which is in proof, dated March 15th 1849. In support of the title of Hiram and Francis W. Grimes to the premises they have given in evidence a deed from said Rafael Peliz to Francisco Cecena dated February 24 '1848, and a deed from the latter to Elizabeth C. Grimes, dated March 25th 1848.

The Deposition of Jacob S. Simon shows that Elizabeth C. Grimes died on about the 5th of March 1852, leaving Hiram Grimes her husband and Francis W. Grimes her son and only child, her heirs.

By the Provisions of the Statute of California then in force they became on her death, the owners of her estate in the premises. The original grant is not presented, but a copy from the Archives

of a grant which the claimants allege was delivered to the grantee and afterwards filed in the Archives. By one of the present claimants is filed in the case objection is made to the sufficiency of the evidence given in the case to prove the grant and its delivery to the grantee without expressing any opinion on this subject.

I shall examine the merits of the case on the assumption of its existence as a genuine document in the hands of the grantee.

No approval of the Departmental Assembly is shown and no judicial possession was obtained by the grantee.

No approval of the Departmental Assembly is shown and no judicial possession was obtained by the grantee.

In their petition to the Governor for the grant of the land, the grantees represent that they have thirteen head of black cattle, one hundred and fifty sheep, and three hundred horses, and have no land for rearing their stock, and therefore they solicit the grant.

By the conditions of the grant they were permitted to devote the premises to such use and cultivation as was most advantageous to them, but they were required within one year to build a house which should be inhabited.

This condition having for its object the settlement of the country and the promotion of grazing and agriculture, was never complied with.

The testimony of Jose Romero

44
constitutes the principal evidence on the subject. He states that he was on the place in 1843 and assisted Valentin Heiguera, then the owner of the said land, to build a corral; there was a little house or hut on the land in which Heiguera lived with some men in his employ. Heiguera had about two hundred head of horses and some work oxen -

There was no cultivation. I was there about fifteen or sixteen days assisting Heiguera.

In answer to questions by the Land Agent the witness says that it was in the month of September in 1843, that he was there; and in reply to a question relative to the size of the house, he says that it was not a house, it was a kind of a hut made with sticks and thatched with grass - a mere temporary shelter.

This evidence relates to a time before the grant was issued and while the land belonged to the National domain.

The next testimony is that of John M. Murphy who saw the place in the Spring or Summer of 1846, and saw on it two of the sons of Felix, and some cattle and some horses. And by the deposition of P. M. McKay it is proved that in May 1850 there were six framed buildings there and some fifteen or

Twenty persons residing there,
They had there horses, cattle and mules
and a small patch of land cultivated
in a garden.

137 ND
PAGE 44

This is the substance of all the
testimony on the subject.

The existence of the Temporary
Hut which was on the place in
September 1843 in the absence of
any cultivation of the land or further
evidence of a permanent establishment:
would scarcely be considered a compliance
with the condition of the grant if
proved to have existed there after
the grant was made.

But the evidence does not show that
even this remained on the occupancy
was continued after the making of
the grant.

From the time it was issued
November 28th 1843, until the Spring
or Summer of 1846, a period of some
two and a half years, we have no
evidence that the place was occupied
on any building or cultivation or cattle
upon it, and the witness who saw
it at that time, does not state
that there was then any house upon
it or any permanent occupancy of
the premises.

It is not until 1850 that it appears
by the proofs to have been the residence
of any family. This is clearly
a failure to comply with the con-
dition of the grant, which required
the party in good faith within

one year to erect a house on the premises which should be occupied and thus advance the tide of population into the interior of the country and promote its settlement.

This condition the Claimants have failed to show was complied with, and subsequent improvements after the country had passed under another jurisdiction and property had acquired an increased value could not entitle the grantees to the land, and the purchases from them stand in no better condition.

The terms of the grant required judicial possession of the premises to be obtained, without which I do not see how the boundaries and location could be established. There is not enough in the papers and proofs on that subject in my opinion to enable us to describe and locate the land, if no other objection existed to a confirmation.

Rejected.

Heriam Grimes et al.

vs

The United States

Decree

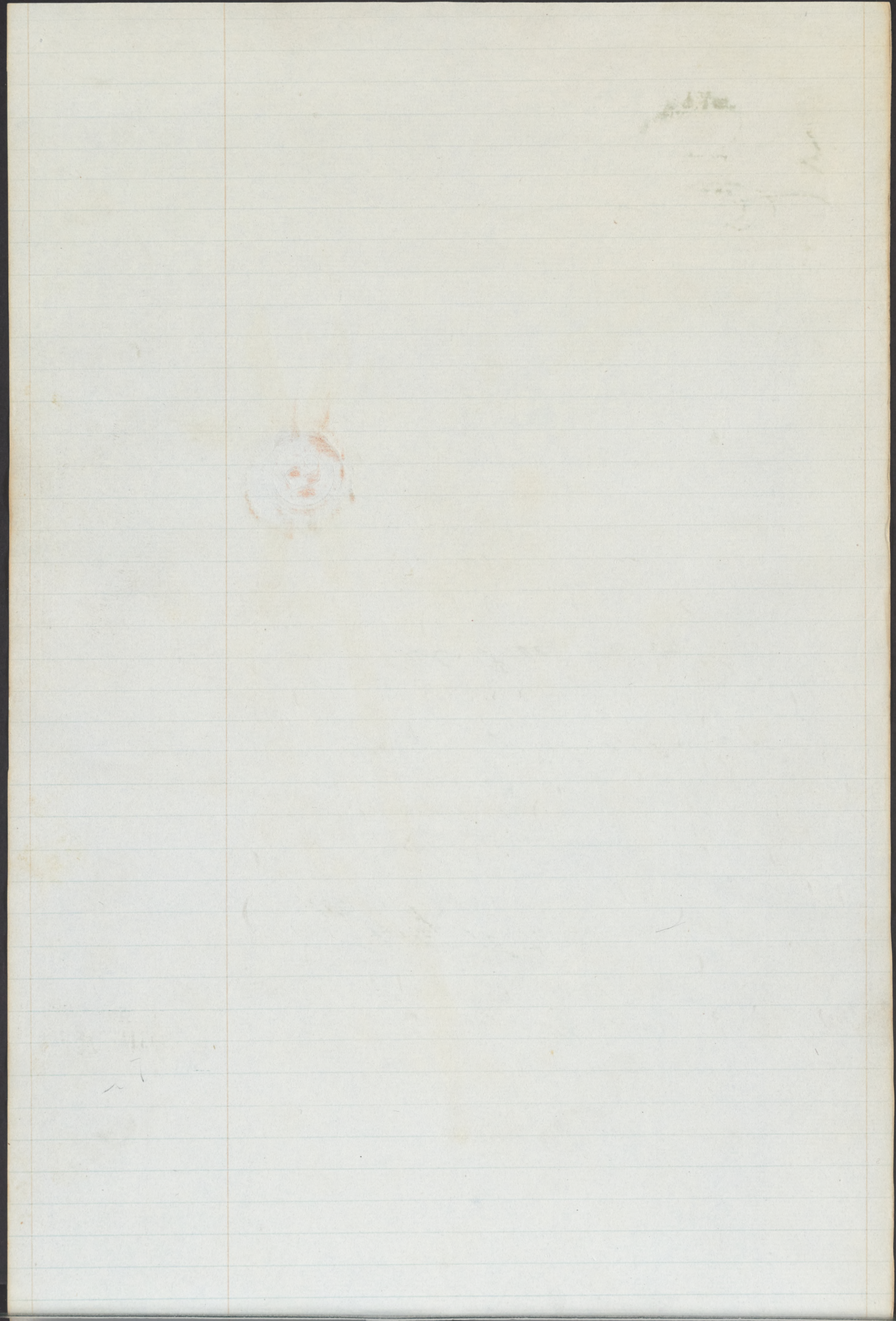
In this case on hearing the proofs and allegations it is adjudged by the Commission that the said claim of the Commission is not valid, and their

Filed in Office application for a confirmation thereof is therefore denied.

July 14th 1854
Geo. W. Fisher
Secy

Alphens Felch
Thompson Campbell
R. Aug Thompson
Commissioners

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.

137 ND
PAGE 47

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 foregoing *forty three* — pages, numbered from 1 to *43*, both inclusive, to contain a true, correct and full Transcript 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. *293* on the Docket of the said Board, wherein *Hiram Grimes, et al*, are

the Claimants against the United States, for the place known by the name of "*El Pescadero*."



In Testimony Whereof, I hereunto set my hand and affix my private Seal (not having a Seal of Office) at San Francisco, California, this *thirteenth* day of October A. D. 1854, and of the Independence of the United States of America the seventy=*ninth*.

G. Fisher

A large, ornate signature flourish in dark ink, consisting of several loops and a long, sweeping tail.

137 ND

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

No. *137*

THE UNITED STATES,

vs.

Yoram Primus. et al

TRANSCRIPT OF THE RECORD

FROM THE
BOARD OF U. S. LAND COMMISSIONERS,

In Case No. *293*

Filed, November 25 1854

Geo A. Moore
clerk

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

137 ND
PAGE 48

William Grimes } Claimants for Rancho del Pescadero -
Francis W. Grimes } on appeal from the U.S. Land Commission
and } for California - Case No: 293 on its doc-
John H. McKee } -ket. —
vs
The United States

Notice is hereby given that the
above-named claimants intend to prosecute
the appeal taken in the above-entitled cause
from the decision of the Board of United States
Land Commissioners for ascertaining & settling
private land claims in the State of California:
the said cause being number two hundred and
ninety-three (293) on the Docket of the said Board
of United States Land Commissioners, and number
One hundred and thirty-seven (137) on the Docket
of the District Court of the United States for the
Northern District of California, in which Dis-
trict Court a transcript of the proceedings &
decision of said Commissioners, and of the papers
& evidence on which the same are founded, was
filed on the second day of November A.D. 1834

San Francisco }
April 3rd 1835 }

A. A. Whitcomb
Counsel for claimants
and appellants

District Court of the U.S. for the
Northern District of California:

No 137 —

Hiram Grimes et al

vs

The United States:

Notice of appeal

Said April 30, 1855,
by W. D. Chevers,
Deputy.

137 ND
PAGE 49

A. A. Whitcomb
Counsel for Claimants.

District Court of the United States for the Northern
District of California

137 ND
PAGE 50

Wiram Grimes
Francis W. Grimes
William H. McKee
as
The United States

Claimants for Rancho Del Pescadero on
appeal from the U.S. Land Commission
for California, Case No. 293 on its docket

To the
Honorable Ogden Hoffman J.
Judge of the said U.S. District Court for the Northern
District of California.

Your petitioners Wiram Grimes,
Francis W. Grimes, and William H. McKee respectfully
represent that on the 22^d. day of July A.D. 1852, they
duly filed their petition in the Office of the Secretary
"to the Board of Commissioners for ascertaining and
settling Private Land claims in the State of California",
the same being case number 293 on the Docket of
said Commissioners, setting forth that they claimed
a certain Tract of land on the Westerly side of
the San Joaquin River, and along its border called
"El Pescadero", containing eight leagues of land "ochos
sitios de ganado mayor" situated in or near the County
of San Joaquin, State of California, and that they
claimed the same in fee, by virtue of a Grant made
to Valentín Higuera and Rafael Felix under the
authority of the Mexican Government by Manuel
Micheltorena, Governor, Commandant General and In-
specter of the Department of the Californias, bearing
date the 28th day of November A.D. 1843; and that
the said Grantee Rafael Felix, on the 24th day of
February A.D. 1848, transferred all his right, title and
interest (the same being an undivided half part) of, in,

and to the said Tract of land to Francisco, Cecena, who thereafter, to wit: on the 27th day of March A.D. 1848 transferred all his right, title and interest, of in and to the said Tract of land to Elizabeth Calif Grimes, (the deceased wife of your said petitioner, Hiram Grimes and the deceased mother of your said petitioner Francis W. Grimes) and that the said Elizabeth C. Grimes died intestate on or about the 5th day of March A.D. 1852 leaving as heirs at law, her said husband the said Hiram Grimes, and an only child, the said Francis W. Grimes; and that the other said Grantee, Balentin Higuera, on or about the 15th day of March 1849, transferred all his right, title, and interest (the same being the other undivided half part) of in and to the said Tract of land to William H. McKee, the other of your said petitioners; and that the original Grantees took actual possession of the said Tract of land, in the year 1843, built houses and corrals, and had cattle and stocks, thereon, and that the said Grantees and those claiming under them, had been in the peaceable possession of the said Tract of land ever since, and that they had no knowledge of any interfering claims. And upon such statements of facts in said petition, together with such documentary and oral testimony and evidence as should be produced in said cause, your said petitioners and said Board of Commissioners, to confirm said claim and decree the same to be valid.

And your petitioners would further represent that in support of said claim they produced from time to time, and in conformity with the law and the regulations of the said Board of Commissioners, testimony and evidence, both oral and documentary; that said cause was on or about

the 3^d day of October A.D. 1853, duly submitted to said Board of Commissioners for adjudication and that thereafter, to wit: on the 14th day of February A.D. 1854, the said Commissioners delivered their opinion and decision in writing rejecting said claim.

137 ND
PAGE 52

And your petitioners would further represent that they were, and are, dissatisfied with said opinion and decision of said Commissioners, and that within sixty days after such decision was made, to wit: on the 11th day of April 1854 they moved said Board to enter on the Journal or record of proceedings of the Commissioners a notice of the intention of your petitioners to file a petition to the United States District Court for the Northern District of California (in which said Northern District of California, the said Tract of land called "El Pescadero" is situated), to review the proceedings and decision of said Commissioners in said case. That said Commissioners declined and refused to enter said notice upon said Journal or Record, alleging that the Congress of the United States had provided that appeals from the decision of said Commissioners should be made in a different manner; but the said Commissioners pretending to act under and by virtue of another law of Congress, proceeded to order a Transcript of said proceedings and decision, and of the papers and evidence on which the same are founded to be filed with the clerk of the said United States District Court for the Northern District of California.

And your petitioners would further represent that the statements in said petition to said Board of Commissioners as the same are set forth in the first part of this petition are true, and they pray that the same may be made and taken as part of this petition, as setting forth fully according to

the law in such cases made and provided, the nature of the petitioners' claim, and the names of the original and present claimants and a derangement of the claimants title, as fully and completely as though the same were herein again written.

Wherefore your petitioners pray your Honorable Court, upon the pleadings and evidence in this case, and upon such further evidence as may be taken by order of the Court, or received into this case, to review the proceedings and decision of the said Commissioners in this case and to confirm this claim and declare the same to be valid.

San Francisco }
April 20th 1855 }

A. A. Whitecomb
Counsel for claimants
Petitioners & appellants

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

No. 137

Horam Grimes et al.

vs
The United States

Petition for Review

Filed May 1st, 1855,
S. W. H. Clemens,
atty

137 ND
PAGE 53

A. A. Whitecomb
Counsel for claimants & Petitioners

UNITED STATES DISTRICT COURT,
Northern District of California.

Hicam Gimnes & als
vs San Francisco, July 10th 1855
United States

137 ND
PAGE 54

ON this day, before *Julia A. Monroe* a
Commissioner of the United States for the Northern District of California, duly
authorized to administer oaths, &c., &c., came *Thomas C.*
Evenshed — a witness produced on behalf of the
Claimant

in Case No. 137, being an appeal from the Board of Commissioners to ascer-
tain and settle the Private Land Claims in the State of California, in Case
No. 293 on the Docket of the said Board of Commissioners, and was duly
sworn and testified as follows — his evidence being interpreted by—

a sworn interpreter

PRESENT: *A. C. Whitcomb* counsel
for Claimants - & *A. Glassell*
Asst. U.S. Dist. Atty for the United
States -

QUESTION BY

I have in my possession now
a paper forming part of the
Government Archives now in
the Office of the Surveyor General
of the United States for the State of
California, purporting to be the
original title paper of a grant
of *Balentin Higuera*, and *Ra-*
phael Felix at a place on the
San Joaquin River near the
pass of the *Pescadora River*
and the document making
part of the Transcript in this
case and on pages 25, 26 and
a part of 27 in said Transcript
is a true and correct copy

of said original title paper now in his hands as the custodian of the ~~the~~ said Government Archives, said document being dated November 28 1843 and signed by Manuel Michaeletore and Manuel Jimeno Secretary. and I refuse to deliver up to the claimants or their Counsel said original title paper, but now exhibits it before this Commission, for the purpose of identifying said copy in said Manuscript as a correct copy.

Sworn to before me
this 10th July 1855
J. W. H. H. H.
U.S. Com'gr.

H. W. Halleck duly sworn says I was Secretary of State for California in May 1849. In that month Doctor Mc Kee one of the claimants in this case delivered to me to deposit in the Archives of my office the original title paper now before me and which is copied in the Manuscript from the Land Commission on pages 25. 26 and part of 27. and thereupon I put the certificate on which now appears on the same. The docu-

-ment being the same alluded
to in the ^{above} testimony of Mr. Evershed
as the original title paper -
I am to before me H. W. Halluk

this 10th July 1855-

Juan M. Muro

M. S. Councillor

Balentin, Higueras being duly
sworn - and his testimony in-
terpreted by Thomas C. Evershed J.
a sworn interpreter -

says. I am one of the original
grantees named in the original
document, ^{above} testified to, by H. W. Halluk
and Thomas C. Evershed and
of which the document on
pages 25 26 and ^{part of} 27 in the
Transcript alluded to is a
correct copy. The said original
title paper was delivered to me
by Gov. Manuel Micheltonena
on the 28th day of November
1843 the day it bears date - and
it was ^{then} signed by Michael Linares
and Manuel Linares in my
presence - I was in possession
at the time I petitioned for the
land and soon after I built a
house and a corral - and had
cattle and horses thereon - and
took them away through fear

of the Indians sometimes in 49
(Forty nine) - Being asked to look
on the sketch or map in the
expediente witness says the land
granted to me extended from
Buenos Ayres and the pass of
the Passadero towards the Arroyo
de la Puerta as laid down on
said map, that being called the
sides of the valley. I sold my
interest in the land in the year
1849 to Dr. Wm H. Mc Kee of Mon-
terey - one of the claimants in
this case and at the time I
gave him a deed for the same
gave him also the original
title paper above testified to
as being now in the Government
Archives - The said original title
paper was in my possession
from November 1843 when it
was delivered to me up to the
time I sold the land to Dr Mc-
Kee - I have no interest in the
land now. The original title
paper I saw written by Francisco
Arce.

Seen to before me Valentín Riquelme
this 10th July 1854
J. A. Howard U.S. Comr.

3 No 137-

U. S. Dist. Court.

Miriam Whims, et al.

- vs -

The United States

Deposition of --

J. L. Overshield,
H. W. Halleck, and
Balentin Dignera,

Filed July 10. 1855.

by Chivers,

Deputy Clk.

137 ND
PAGE 58

In the District Court of the
United States - for the Northern
District of California

137 ND
PAGE 59

The United States
Appellus
vs
Hiram Grimes & Co. } No. 137.

The United States by their attorney
deny the validity of the title set
out in the petition of the said
Appellants; And pray that the
decision of the Board of Commissioners
be affirmed, and that the said
title be decreed to be invalid.

C. Russell
actg. as Dist. Atty.

4 Nov. 137

U.S. Dist. Court

The United States
v

H. Gibbs et al

Answer

Filed Oct 17, 1855.
J. Cheever
Deputy.

137 ND
PAGE 60

J. Russell

District Court of the United States for the Northern
District of California - sitting as a Court of
Appeal in Land Cases. —

137 ND

PAGE 61

Hiram Grimes et al - appellants } Case No. 137
vs } on the Docket of this
The United States - appellees } Court. —

Upon the suggestion of Counsel for Appellants that a copy of one of the mesne conveyances (the original of which was on file in this suit while before the U. S. Land Commission) has been omitted in the transcript of the above case filed in this Court, it is hereby ordered, by consent of the District Attorney of the above District in open Court, that said transcript be returned by the Clerk of this Court to the Secretary of the said Land Commission to be completed. —

San Francisco Cal.
December 3rd 1855 = }

No 137

U. S. Dist. Court,

Hiram Grimes, et al,

- vs -

The United States,

Order to return Transcript
to Secty of Land Comm &c.

Filed Dec: 3d. 1855,
by Chevers,
Deputy,

Know all men by these Presents, That I Valentin Figueroa of the County of Santa Clara, California, for and in consideration of the sum of Ten Dollars to me in hand paid by William H. McKee of the County of Monterey, State aforesaid, Have released, quit claimed and confirmed and by these Presents do release quit claim and confirm unto the said McKee, all my right title and interest in and to all that certain tract, piece or parcel of land situate in or near the present County of San Joaquin, State aforesaid, and being the same land granted on the 28th day of November A.D. 1843 by Manuel Micheltorena, Governor &c. of the Californias, to Rafael Felix and myself: the same being bounded on the Easterly side by the San Joaquin River, on the Northerly side by a line running from the pass of the Pescadero towards the Buenos Ayres Cañon, and on the Southerly side by the Rancho granted on the 20th day of January A.D. 1844, by the the said Micheltorena to Mariano and Pedro Hernandez; for a further description of the land hereby conveyed, reference is here made to the Archives of the former Government of Upper California now in possession of the Surveyor General of the United States for the State of California: Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining: To have and to hold the same unto the said William H. McKee, his heirs and assigns forever:

In Witness Whereof I have hereunto set my hand and Seal at San Francisco this thirtieth day of January, one thousand eight hundred and fifty five. —

Signed Sealed & Delivered
in the presence of
Samuel P. Milby

Valentin Figueroa

State of California }
County of San Francisco } ss

On this twentieth day of January one thousand eight hundred and fifty-six personally appeared before me a Notary Public in and for said County, Valentin Figueroa, to me personally known to be the person described in and who execu-

...ted the within and foregoing conveyance, and acknowledged the ~~with~~
to me that he executed the same freely and voluntarily and for
the uses and purposes therein mentioned.

Witness my hand and Official Seal this
29th day of January A.D. 1856.



C. Blundell
Notary



No 107

Salentin Regina
to
William A. McKee

Deed

Filed Feb 4, 1856
by C. Blundell
Notary

137 ND
PAGE 64

Dated January 30th 1856

Exhibit A

G.P. &

Wm. Chesnut Street

Mr. Whitecomb
\$ 10.

1842

(1)

Expediente promovido por los Cc.
Mariano y Pedro Hernandez
en solicitud del paraje que se expresa

137 ND
PAGE 65

Numero

341

(2)

SELLO CUARTO DOS REALES.

Habilitado provisionalmente por la Aduana marítima del puerto de Monterey, en el Departamento de las Californias, para el año de mil ochocientos cuarenta y tres.

Micheltorena

Manuel Castañares

137 ND
PAGE 66

Exmo Sr Gobernador



Mariano y Pedro Hernandez hermanos y vecinos del Pueblo de San José Guadalupe, ante V. E. con el debido respeto y como en las haya lugar en derecho hace presente, que necesos de continuar fomentando los pequeños bienes que poseemos y no teniendo un terreno propio y adecuado del Despacho al efecto, solicitamos de la generosidad de tomando los V. E. se digne concedernos en propiedad un terreno que se haya inmediato al Rio de San Joaquin, comenzando las medidas desde donde llegan las del Ciudadano Valentin Higuera, para arriba rumbo Sur en estension de cinco sitios de ganado mayor, segun explicará el

Commo

Monterey
Nov 4 3 de
1843.


137 ND
PAGE 67

Diceno que a su debido tiempo presen-
tare' P. E.

A. V. E. Suplicamos ^{te} rendidam
acceda a nuestras peticiones de que le
viviremos eternam ^{te} reconocido.

Monterey Noviembre 30. de 1845.

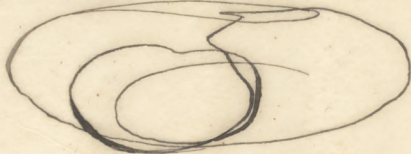
Mariano Hernandez



Pedro Hernandez

dispone el Excmo Sr Gob^{or} infame el Sr
Sub-Prefecto del partido de Yⁿ sobre el con-
tenido de la p^{re}sentada instancia, y vuelva p^a dar
el que corresponde a esta S^{ra}. fha at Supra.

Man^o Jimeno



P. M.

Ho de S^{ra} José Dbre 27 de 1843

En cumplimiento del Superior Decreto
q^o antecede debo decir: q^o el terreno
de que se hace mencion es baldio pues
no pertenece á particular ni corpora-
cion alguna, es cuanto esta sub-pre-
fectura puede informar, con lo q^o
creo dar cumplimiento á Dho Decreto.

Suñol

Como Sr. Gobernador

Los vecinos Mariano, y Pedro Hernandez, son
hombres de bien, y Cargados de familia, y
el terreno que pretenden esta baldio, y en
estado de que V. E. se digne Considerarlos
si asi lo tubiere por Combeniente

Monterey 10 de En^o de 1844

Monterey Enero 10 de Juan Jimeno

1844.
Presente en diseño p^a
poder decetar Michelt

Monterey

57
Enero 10 de 1844

137 ND
PAGE 69

Legales. Espaldas y Artillo con las condiciones
de

Michels

Monterey 18 de En^o de 1844

Vista la peticion con que da' participio este ex-
diente los informes que preceden con todo lo demas
que se tubo presente y sea combino de con-
formidad con las leyes y reglam^{tos} de la ma-
teria declaro dueño a los Ciudadanos Maxiano
y Pedro Hernandez dueños de tres sitios de
ganado mayor entre el Rio de San Joaquin
la Sierra del Pueblo y los linderos del terri-
no de Dⁿ Valentin Guerra Librese el corres-
pond^{te} despacho tomes razon en el libro respectivo
y dirijan este expediente a la Exma Asamblea De-
partamental pa su aprobacion. El E^{mo}
Sr Gob^{or} Int^o Dⁿ Manuel Micheltoena asi lo
mando decreto y firmo.

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

137 ND
PAGE 70

I, JOHN C. HAYS, Surveyor General of the United States for the State of California, and as such, having in my office and in my charge and custody a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California, by virtue of the power vested in me by law, Do hereby Certify, that the six — preceding, and hereto annexed pages of tracing paper numbered from one to six — inclusive, exhibit a true and accurate copy of a document entitled "1843 Expediente promovido por los C. de Maximino y Pedro Hernandez en solicitud del pasaje que se solicita" now on file and forming part of the said Archives in this Office



In Testimony Whereof, I have hereto signed my name officially and caused my Seal of Office to be affixed, at the City of San Francisco, this Seventeenth day of May — 1855

John C. Hays U. S. Surveyor General for California.

Extract from the 2nd Section of the Act of Congress "providing for the Survey of Public Lands in California, and for other purposes." Approved, March 3d, 1853.

"The Secretary of the Interior is hereby authorized to cause an official Seal to be prepared for the Office of the said Surveyor General, [California] and any copy or extract from the plats, field notes and other records and documents on file in his office, when attested as such by the said Seal and the signature of the Surveyor General, shall, in all judicial matters, have the same force and effect as the original."

United States District Court
Northern District of California

The United States, appellees
vs 3 Appeal to
Hiram Grimes et al Appellants

137 ND
PAGE 71

San Francisco, January 29th 1856

On this day before Geo. Pin. Johnston, a Commissioner of the United States for the Districts of California duly authorized to administer oaths he he came Pedro Hernandez and B. Higuera, witnesses produced on behalf of Claimant & Appellants in Case No. 137, being an appeal from the Board of Commissioners to ascertain and settle Private Land Claims in the State of California, in Case No. 293, on the Docket of the said Board of Commissioners, and were duly sworn and testified as follows - their evidence, being interpreted by E. C. Palmer a sworn interpreter -

Present: U. S. District Attorney on behalf of the United States appellees and A. C. Whitcomb Esq on behalf of Appellants and Claimants
Questions, by A. C. Whitcomb Esq Atty for Claimants.
"What is your name, age, and place of residence?"

"My name is Pedro Hernandez, I am thirty five or thirty six years of age, and live in the County of Santa Clara." "Do you know the "Pescadero Ranch" claimed in this case?" "I do." "Where is it situated, and what are its boundaries?" "It is situated on the San Joaquin River on the westerly side of that River; the Arroyo de la Puerta is the southern boundary of the Pescadero Ranch, and the northern boundary of the land granted to my brother and me; - towards the rising of the sun it is bounded by the San Joaquin River, - towards the north, it is bounded by a line running from the Pass of the Pescadero, towards the "Buenos Ayres Cañada." "How far to the south did Valentín Higuera, & Raphael Felix occupy the land?" "They occupied it along the San Joaquin River up to the Arroyo de la Puerta, as marked in the ~~design~~ "diseño" in the transcript from the Land Commission - they had a corral and home on the bank of the ^{San Joaquin} ~~Stanislaus~~ River ~~just~~ about opposite the mouth of the Stanislaus River a little above." "Look at Exhibit A marked "G.P.D" now offered to be attached to this deposition, and state whether the Arroyo de la Puerta as laid down on the diseño is the correct boundary-line between the Pescadero

self and your brother?" "It is the correct boundary-

Rancho, and the Rancho, granted to your-
self and your brother?" "It is the correct bound-
ary line, between the two Ranchos: - the River
San Joaquin as laid down on the said desic-
ño changing place with the "Serranias": -
this was understood, to be, ^{the} case by all the
people living in that section of country, -

137 ND

PAGE 73

Sworn to & subscribed }
before me this 29th } Pedro ^{this mark} Hernandez.
A.D. 1856 }
}

January

Geo. Pen. Johnston
U.S. Commissioner

Balantine Higuera, being duly sworn de-
poses and says - as follows - his testimony being
interpreted by E. C. Palmer a sworn Interpreter.

Questions by Pa. C. Whitcomb atty for claimants

"Are you one of the grantees in the Pescadero
Rancho claimed in this case?" "I am one of
the grantees to whom the grant of that
Rancho was made: - the ranch of Hernan-
dez Brothers was on the side of the valley
or to the south & adjoined mines. -

Sworn to & subscribed }
} Balantine Higuera

U. S. Dist Court 6
Northern Dist of Cal as

No. 137 ND

293 Bk.
The U. S. of Americas
vs Case No. 137. Dist Ct
Hiram Grimes et al

Depositions (with exhibit)
of Pedro Hernandez &
B. Higuera witnesses
produced on behalf of
claimants appellants.

Lud. Schryt, 1856,
& Charles
Deputy.

137 ND
PAGE 74

before me this 29th
day of January A. D. 1856
Geo. W. Brown, Justice of the Peace
U. S. Commissioner

" Expediente instituted by Citizens Mariano and Pedro Hernandez in solicitation of the place described herein Number 341-

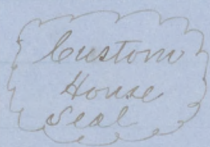
137 ND
PAGE 75

Seal Fourth Two Reales

Provisionally authorized by the maritime Custom House of Monterey in the Department of the Californias for the year One thousand Eight hundred and forty-three.

Micheltoena

Manuel Castanares



Most Excellent Su Governor

Mariano and Pedro

Hernandez residents of the Pueblo of San Jose Guadalupe appear before your Excellency with due respect and in the best form of Law represent That desiring of increasing the small property which they possess, and not having a suitable and adequate tract of land for that purpose, they pray Your Excellency in the exercise of your generosity, be pleased to grant to them the ownership of a certain tract situated on the San Joaquin River, the boundaries commencing from the termination of those of Citizen Valentin Siguera up the stream South to the extent of five square Leagues as described in the diseño which in due time they will present. Therefore they humbly pray Your Excellency to grant their petition whereby you will merit their everlasting acknowledgments

Monterey November 30, 1843.

(Signed) Mariano Hernandez

(Signed) Pedro Hernandez

Marginal decree

Monterey Nov. 30, 1843.

The Sec. of State will report taking the necessary steps.

(Signed) Micheltoena

His Excellency the Governor directs that the Hon. Prefect of the

Partido of San report upon the contents of the
preceding petition, and return the same to this office for
its report.

Date as above (Signed) Manuel Jimeno

Pueblo of San Jose Dec. 27. 1843

In obedience to the foregoing Superior decree I ought
to state that the said tract of land is vacant and does not
belong to any individual or corporation whatever. This is
all this Sube Prefect can report, wherewith I deem the said
decree complied with (Signed) Señol

To His Excellency the Governor

Citizens Mariano and Pedro Hernan-
dez are honest men and have large families, and the
land they petition for is vacant, and in a state to be granted
if your Excellency deem proper to do so.

Monterey June 10. 1844 (signed) Manuel Jimeno

Monterey Jan'y 10 1844

Let the deseno be presented in order to be enabled to decree

(Signed) Michelt^a

Monterey Jan'y 10. 1844.

Let the title issue with the legal
conditions. (Signed) Michelt^a

Monterey Jan'y 18. 1844

In view of the petition at the head
of this Expediente, the preceding reports with every thing
else that was considered necessary to be examined in
conformity with the laws and regulations on the subject
I declare citizens Mariano and Pedro Hernandez to be
the owners of three square leagues of land between the
San Joaquin River and the Sierra del Pueblo, and the

boundaries of the land of Don Valentin Figueroa.

boundaries of the land of Don Valentín Figueroa.
Let the corresponding title issue, entry be made thereof
in the respective Book and let this Expediente be for-
warded to the most Excellent Departmental Assembly
for its approval. His Excellency Don Manuel Michelena
thus ordered decreed and signed it.

(Here follows Diseno)

I hereby certify the foregoing to be a true and correct
translation of Expediente "A.P.L. to deposition of Pedro Her-
nandez" January 17. 1855, in case No 509. Samuel G. Reed
et al vs the United States, now on file in this office

Witness my official signature this 20th March 1855
Geo. Fisher Sec'y

(Copy Decree in above mentioned Case No. 509.)

Samuel Reed et al }
The United States }

In this case on hearing the proof and
allegations it is adjudged by the Commission that the claim of the
said Petitioners is valid, and it is therefore decreed that the same be con-
firmed. The land of which confirmation is made, is situated in the coun-
ty of San Joaquin and is known by the name of Rancho del Puerto, and
is bounded as follows: On the East by the River of San Joaquin,
on the West by the Sierra, on the South by the Arroyo de Horestumba,
and on the North by the Arroyo de la Puerta and the boundary of Don
Valentín Figueroa, to contain three square leagues, a little more or less;
for a more particular description reference to be had to the original Grant,
and map contained in the Expediente, except that the positions of the riv-
er and mountain are to be reversed on the map so as to locate the lands
on the West side of the River instead of the East as therein represented.

(Signed)

R. Aug. Thompson }
S. B. Farwell } Commrs

I, George Fisher, Secretary to the Board of U.S. Land Commissioners, to ascertain and settle the Private Land Claims in the State of California Do hereby certify the foregoing to be a full true and correct copy of the "Decree of Confirmation" as entered by this Board in Case No. 509 in the Docket of said Board Samuel G. Reid et al Claimants and that the same is among the Archives of said Board and in my care and custody as such Secretary.

Witness my hand at the Secretary's Office of said Board in the City of San Francisco, this 6th day of February A.D. 1856.

Geo. Fisher Secy.

(Translation of Grant made to M. & P. Hernandez referred to in the foregoing Decree and Expediente.)

"Seal first Eight dollars &c."

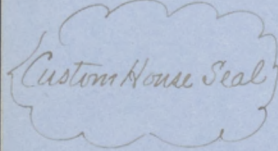
Mmanuel Micheltoena General of Brigade of the Mexican Army, Adjutant General of the plaza mayor of the same, Governor, Commandante General and Inspector of the Department of the Californias.

Whereas the Citizens Mariano and Pedro Hernandez, have selected for their own personal benefit and that of their families three leagues of Land (tres sitios de ganado mayor) between the River San Joaquin the mountain of the Pueblo and as far as where it reaches the boundary of the lands of Don Valentine Niguera; despatches and investigations concerning it being first made as is directed by the Laws and regulations, exercising the authorities which are conferred on me in the name of the Mexican Nation, I have concluded to grant to them the land mentioned declaring to them the proprietorship of it by these presents, subjecting them to the approval of the most Excellent Departmental Assembly under the following conditions

First- They shall not be able to sell it, to alienate it, impose upon it annuity, bond, pledge, mortgage, or any other incumbrance.

Second- They shall have power to enclose it

without prejudicing the cross-ways, roads and rights of



without prejudicing the cross-ways, roads, and rights of way, they shall enjoy it freely and exclusively devoting it to the use or cultivation which best suits it, but within one year shall build a house and it shall be inhabited.

Third - When the proprietorship shall be confirmed to them they shall desire the respective Judge that he give them judicial possession by virtue of this grant by which they shall make out the boundaries in whose limits there shall be placed besides the land marks, some fruit trees or forest trees of some utility.

Fourth - The land of which donation has been made to them is of three leagues (tres sitios de ganado mayor) more or less the Judge who may give them possession shall make it extend conformably to the Ordinance which gives the surplus which remains to the nation for convenient uses.

Fifth - If they shall contravene these conditions they shall lose their right to the land and it shall be denounceable by another.

Wherefore these presents & commands shall serve for title to them, and to be kept firm and valid, that they be copied in the proper Book, and be delivered to those interested for their own safety and other uses.

Given at Monterey on the twentieth of January one thousand eight hundred and forty four.

Manuel Micheltorena

Manuel Jimeno Secy.

Records has been taken in Jimeno,

the proper Book

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

Hiram Grimes et al

vs
The United States

No. 137

This hereby agreed that the foregoing copy of decree, translation of "Exhibit,

A. G. P. attached to Deposition of Pedro Hernandez
in the above entitled cause, and Translation
affiant to Mariano + Pedro Hernandez referred to in
said Exhibit, may be filed and used as evidence
herein without further proof.

San Francisco }
March 3rd 1856 }

T. C. Whitcomb
Counsel for Claimants
Alcassell.
Asst. U. S. Dist. Atty

United States -
District Court for the
Northern District of California

No. 137.

Mariano Gomez et al

vs

The United States -

Translation of Exhibit A &c.

March 3rd

and March 5, 1856

By Thomas
Whitcomb

Case No. 137.

District Court of the United States in and for
the Southern District of California

137 ND

PAGE 81

Hiram Grimes } Appellants & Claimants for "Rancho del
Francis W. Grimes & } Pescadero" on appeal from the Board of
William H. McKee } U.S. Land Commissioners for California.

^{vs}
The United States

To the
Honorable

District ^{Court} of the United States in and for the Southern
District of California

The Petition of the said
Hiram Grimes, Francis W. Grimes & William H.
McKee, claimants, petitioners and appellants repre-
sents to this Honorable Court that this proceeding is
an application by the said appellants for a
review of the decision of the said Board rejecting
the claim of the said claimants against the
United States, for a certain Tract of land in or near
the County of San Joaquin - State of California, and
on the Westerly side of the San Joaquin River and
along its border, called "El Pescadero" - containing
eight square leagues of land and bounded on the
Easterly side by the said San Joaquin River, on the
Southernly side by the "Arroyo de la Puerta" and the
Rancho of Mariano and Pedro Hernandez, on the
Northernly side by a line running from the Pass
of the Pescadero towards the Buenos Ayres Canada,
and on the Westerly side by a line running par-
allel with said River and so far distant therefrom

in a Westerly direction as to include the said quantity of Eight ^{square} leagues, + as will more fully appear by a reference to the map making a part of the Expediente in this case: the said claim being under a Grant-bearing date November 28th A. D. 1843- from Manuel Micheltoena, Governor &c. of the Californias, to Balentin Higuera and Rafael Felix, to all of whose rights and interests in said tract of land your petitioners and claimants have duly succeeded: for a more particular account whereof, and for a deraignment of the said Claimants title, a special reference is here made to the petition of the said Claimants filed before the said Board of U. S. Land Commissioners and appearing in the Transcript in this cause.

And your petitioners would represent that the said Board of Land Commissioners on the 14th day of February A. D. 1854 delivered their opinion and decision rejecting the said claim: and that, thereafter wards, to wit: on the 2^d day of November A. D. 1854 a Transcript of the proceedings &c. before the said Board of Commissioners was filed according to law with the Clerk of the District Court of the United States in and for the Northern District of California in which said Northern District the said land is situated: and that within six months thereafter, to wit: on the 30th day of April A. D. 1855 the said Claimants and petitioners filed, according to law, a notice with the Clerk aforesaid of their intention to prosecute the appeal taken in this case by the filing of the said Transcript

And finally, your petitioners would represent that their claim to the said lands mentioned in their petition to the said Board of Commissioners, and in this petition set forth and described, is a good and valid one and ought to be confirmed.

Wherefore your petitioners pray that the

Wherefore your petitioners pray that the said decision herein of the said Board of Commissioners may be wholly reversed and annulled, and that this Honorable Court may decree the title of your petitioners to the said Land to be a good and valid one and confirm the same.

137 ND
PAGE 83

San Francisco }
February 4th 1835 }

A. C. Whitecomb
Counsel for claimants & appellants

It is hereby agreed that the foregoing Petition may be filed "nunc pro tunc" and stand in the place of the "Petition for Review" filed herein on the 1st of May 1835: — and that the answer now in this case filed on the 17th of October 1835 may stand and remain as the answer to the foregoing Petition. —

San Francisco }
March 3rd 1835 }

A. C. Whitecomb
Counsel for claimants & appellants
A. Seassell
Asst. U.S. Dist. Atty.

United States &
District Court for the
Northern District of California

No. 137.

Hiram Grimes et al

vs

The United States

Petition

Filed March 3, 1856,

By Charles
Deputy

137 ND

PAGE 84

A. C. Whitcomb
Counsel for claimants & appellants

At a stated Term of the District Court of the United States in and for the Northern District of California held at the City of San Francisco in and for said District on the Eleventh day of April A.D. 1856
Present Hon Ogden Hoffman Jr Judge

Hiram Grimes
Francis W. Grimes &
J^m H. McKee } Appellants & Claimants for
Rancho del Pescadero

The United States } No 137.
Appellees } An appeal from the U.S. Land Commission
for California.

This cause ^{having come} came on to be heard at the ^{of this Court} above stated term, on appeal by the said Grimes and others, Claimants, from the final decision of the Board of United States Land Commissioners "to ascertain and settle the private land claim in the State of California" under the Act of Congress of March 3, 1851, upon the Transcript of the proceedings, decision, and the papers and evidence, on which said decision was founded, and upon the further evidence filed, and testimony taken, in this Court, by order of the Court, and Counsel for both parties having appeared in Court and submitted the same.

It is hereby ordered, adjudged and decreed that the decision and decree of the said Board of Land Commissioners made in this case, be in all things reversed and annulled;

And it is hereby further ordered, adjudged and decreed that the claim of the said Appellants and Claimants, is a good and valid one, and the same is hereby confirmed to the extent of Eight square Leagues - ocho sitios de ganado mayor - and no more.

The land of which confirmation is here made, is situated in or near the County of San Joaquin, and on the Western Bank of the San Joaquin River, between the "Paso del Pescadero" and the "Arroyo de la Pueta",

as laid down on the Map making a part of the Expediente in this case, and referred to in the Original Grant, and is known by the name of "Pescadero," bounded on the Easterly side by the said San Joaquin River, on the lower or Northerly side by a line running from the said "Paso del Pescadero" to the "Buenos Ayres" Banada, on the upper or Southerly side by the said "Arroyo de la Puerta", and on the Westerly side by a line connecting said Northerly and Southerly boundaries at points therein so far distant from said River in a Westerly direction, as to include the said quantity of Eight square leagues and no more; provided the said quantity be contained by such a line to be run within the limits of the said Map, on that side towards the hills, and if not, then such less quantity is hereby confirmed as may be contained by such a connecting line within said limits: Reference being had to the Map or diseño referred to in the Original Grant, and making a part of the Expediente in the case: - it being apparent to the Court that there is within said limits more than two hundred varassquas the minimum allowed to be granted by the Regulations of the Mexican Congress of 1828, concerning Colonization.

The proportions in which the said land is confirmed to the said Claimants are as follows: - to the said Hiram Grimes, one undivided fourth part, to the said Francis W. Lynins, one undivided fourth part, and to the said William H. McKee, one undivided half part.

Agdus Hoffman
U. S. Dist Judge

Endorsed
Filed April 11. 1856.

J. M. a. Minor, Clerk

J. W. Chouy

90
137

No 137.

U. S. Dist. Court,
The United States,

- vs -

Airam Grimes,
et al.

Decree.

Filed April 11, 1856,
W. H. Cheever,
Deputy Clerk

137. ND
PAGE 87

At a *Special* Term of the District Court of the
United States of America, for the Northern District of California,
held at the *Court House* in the City of SAN FRANCISCO,
on *Monday* the *18th* day of
August in the year of our Lord one thousand
eight hundred and fifty-*six*.

137 ND
PAGE 88

Present:

The Honorable OGDEN HOFFMAN, JR., District Judge.

The United States,
as Appels,
vs. *Airam Grimes*,
Appellee,

No. 137

In this case on the
application of the
United States Attorney
made in open Court

It is ordered by the Court that an appeal in
behalf of the United States from the final decision
of this Court rendered in said cause at the
December Term, 1855, be, and the same is hereby
granted, and that a certified transcript of the
pleadings, evidence, depositions, and proceedings
in the said cause be sent to the Supreme Court
of the United States without delay.

11 No 137

United States District Court, Northern

District of California.

The United States,

—vs.—

Arian Grimes.

Order granting appeal.

Filed August 11, 1856.

John A. Curran,
Clerk.

J. H. Cherry,
Deputy.

137 ND

PAGE

89

NORTHERN DISTRICT OF CALIFORNIA.

UNITED STATES DISTRICT COURT.

The United States,

Land Case No. 137

137 ND

PAGE 90

vs.

CLERK'S FEES.

Asian Grimes,

1854

Nov 2	Filed Transcript from Land Com: \$	" 20
	" Notice of Appeal,	" 20
	" Petition for review,	" 20
	" Deposition of Corshed, Haddock & Agüera,	" 60
	" Answer,	" 20
	" Entered order to return Transcript &c,	1 10
	" Deed & two Depositions,	" 60
	" Petition & Stipulation,	" 40
	" Translation of Exhibit &c,	" 20
	" Entered Decree of confirmation,	1 10
	" & " order granting appeal,	1 10
	" Costs,	" 20
	Making Transcript on appeal to	
	U. S. Supreme Court, 250 fol at 20c 50 00	
	2 Maps attached to same at \$5. each,	10 00
	Books &c,	6 00
		<u>\$ 72 10</u>

United States District Court
Northern District of California.

No. 137

William G. Gymbel,

vs.

Antonia Stokes,

Clerk's Fees, \$ 22.10,

Filed Sept. 5. 1886,

137 ND
PAGE 91

TAXED AT Security No. 10 DOLLARS.

John A. Monroe, CLERK.

J. M. H. Cherry, Deputy,

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 *22d* day of *December* in the year of our Lord one thousand eight hundred and fifty-*six*.

137 ND
PAGE 92

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States

v

Hiram Grimes et al

Case No. 137

Transcript 293

The attorney General of the United States having given notice that no appeal to the Supreme Court of the United States will be prosecuted in this case and a stipulation having been entered into by the District Attorney for vacating the order granting an appeal to the Supreme Court of the United States, and for leave to the claimants to proceed under the decree of this Court heretofore rendered in their favor: on motion of the United States District Attorney it is Ordered adjudged and decreed that the order granting an appeal in this case to the Supreme Court of the United States, be and the same is hereby vacated and the claimants have leave to proceed under the decree of this Court heretofore rendered in their favor as on final decree.

Ogden Hoffman
U. S. Dist. Judge

No. 137

United States District Court, Northern
District of California.

The United States

vs.

Hiram Grimes et al

*Case No: 137
Transcript 293*

order

Filed *Dec: 22,* 1856

John A. Moore,

CLERK.

S. M. St. Charles,

DEPUTY.

137 ND

PAGE 93

California Land Claims.

Attorney General's Office

28 October 1856.

137 ND
PAGE 94

Sir:

In the case of the claim of Hiram
Grimes Et al: rejected by the Commissioner,
Case no. two hundred and ninety-three (293),
but confirmed on appeal by the District Court,
appeal will not be prosecuted by the United
States.

I am

Respectfully

Cushing

Wm Blanding Esq

N. S. Attorney

San Francisco.

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

137 ND
PAGE 95
The United States
v
Hiram Gaines et al

Case No 137

Transcript 293.

In pursuance of a notice
from the Attorney General of the United States,
hereunto annexed, it is hereby stipulated and
agreed that an order be entered of record in
this case, vacating the order of appeal heretofore
granted, and that the claimants have leave
to proceed under the decree of this court her-
etofore rendered in his favor as on Final Decree.

Wm Blanding
Dist Atty
R. C. Whitcomb
Counsel for claimants

^{No 137}
United States
District Court

The United States

v

Hiram Grimes et al

Case No 137

Transcript 293

Stipulation

Filed Dec: 22, 1856,
W. H. Chivers,
Deputy Clerk.

United States District Court for the
Northern District of California

Hiram Grimes et al
Claimants & Appellants }
vs
The United States }

No. 137.

137 ND
PAGE 97

Index

to Pleadings, Depositions &c filed in this Court

Notice of Intention to prosecute Appeal

Petition for Review filed May 1st 1855
Superseded (see Stipulation at end of Petition) by

Petition filed March 3. 1856

Answer to Petition (see same Stipulation)

Depositions of Coversed, Halleck & Niguera (prove
Execution, delivery &c of the Grant)

Deposition of Hernandez (Niguera) with "Exhibit
A G.P.G." attached thereto - establishes location & boundaries:

Translation of "Exhibit A &c" - being a Translation
of said Exhibit, and of the original Grant to the
Hernandez Bros - with a copy of the decree of the
Commission in the case of that Grant, all
made evidence in the case (see Stipulation at the end).

Deed of Confirmation (Niguera to W. Kee)

United States
District Court
Northern District of California

No. 137

Winnifred E. At
Carnant & Appellants

^{vs.}
The United States

Index to Pleadings &c.

137 ND
PAGE 98

circumstance that the grant is found among the archives and not produce in the possession of the party is by these witnesses satisfactorily explained.

137 ND
PAGE 100

with regard to the performance of the conditions it appears that the original grantees had before obtaining the grant but subsequently to the present date of their application to the Governor for the land built a corral upon it and placed there about 200 head of horses and some work oxen - He ^{they} ^{also} ^{requiring} built a sort of rude hut in which to shelter himself and he would and the witness Romero testifies that he was on the Rancho about 15 or 16 days assisting Higuera.

The further improvement of the land seems in some degree to have been prevented by the Indians. and in 1849 the grant was sold out to Mr. Bee, under whom the appellants claim and who appears to have laid out a city on the Rancho - there were at that time in 1850 several buildings on the site of the intended city & Mr. Bee seems to have expended considerable money

3
of money on ^{his} the purchase -

137 ND
PAGE 101
It is also stated in the deposition of Hernandez whose ~~was~~ rancho adjoined that of Figueroa & Silva (the grantees in this case) that the latter occupied the land along the ^{San} Joaquin river up to the Arroyo de la Puerta, and had upon it a corral and a house on the banks of the San Joaquin about opposite the Stanislas River - The witness however assigns no date at which the corral & house were erected -

Higuera ^{one of} the original grantees who swears that he no longer has any interest in the case testifies that ^{some after obtaining the grant} he built a corral and house on the land & had cattle and horses thereon but took them away in '49 thro' fear of the Indians -

Under all the testimony of the case we think there is nothing to show that the performance of the conditions has been unreasonably delayed or that the claimants grantees had abandoned their grant. Hence we section therefore of non performance

Grimes et al

of conditions must under
the ^{principles} ~~rules~~ land down in the U.S
to them out to be overruled -

137 ND
PAGE 102

with regard to the location
of the grant there seems to
be no difficulty - In the
title the land is described
as the tract known as by the
name of "Pescadero" and "bound
ed by the river by Buenos
Ayres to the part of Pescadero and
the limits which shall be set
at the time of the possession, on
the side of the valley - In the
4th condition the land is de-
clared to consist of 8 leagues
or a little less as the correspon-
ding map explains - In re-
ference to the map the bounda-
ries of the tract are appear
to be delineated with tolerable
accuracy but the testimony
in the case leaves no room
for doubt that its limits are
well known and capable
of being precisely ascertained
The grant it will be per-
ceived ~~indicates~~ ^{mentions} two bound-
aries the river (San Joaquin)
and Buenos Ayres to the Port
of the Pescadero - The Arroyo
de la Puerta seems also in-
cluded

cated as the southerly bound-
 ary of the map, but all
 doubt on this subject is re-
 moved ~~not only~~ by the evidence
 not only of the ~~boundaries~~
 and others who testify as to
 the extent and boundaries of
 what was known as the
 Rescadero Rancho, but by the
 production of the Expediente
 for the Hernandez Rancho
 which lies immediately to
 the south of ^{the} tract now claim-
 ed - In the decrto which
 accompanies that expediente
 the Arroyo de la Puerta is dis-
 tinctly marked as the ~~line~~
 or boundary of the two ranches
 the arroyo forming in fact
 the northern boundary of
 the Hernandez, & the southern
 boundary of the Rescadero
 ranches - The boundaries seem
 thus to have been fixed or
 recognized by the highest au-
 thority the Governor himself
 almost contemporaneously
 with the grant for the Her-
 nandez concession was made
 but a few days after the
 grant under consideration

The above are all the objections

6

to the validity of the grant
which are noticed in the o-
pinion of the Commissioners.
And none other have been
suggested to this Court.

The Expediente in this
Case is defective for the
decrees of Concession is not
contained in it - Whatever
suspicions this fact might
~~therefore~~ give rise to are
dispelled by the proofs which
have been submitted of the
execution and delivery of
the formal title to the grant
ees, and the almost contemporaneous
poraneous grant to Mariano
and Pedro Hernandez in which
the Governor mentions the
land of "Don Valentin Sigüera"
as one of the boundaries of
the tract granted to them.

The Mesue conveyances
seem to be regular and
a decree of confirmation
now must therefore be entered.

137

The U. S.

By

Hiram James

Attorney of the

of ~~10~~th 1856

dismissed by

His Honor

Judge ³ Hoffman

U. S. Dist. Judge

14

137 ND

PAGE 105

137

Office of the Board of Commissioners,

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

137 ND

PAGE 106

San Francisco,

1854

John A. Murrel, 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. 293 on the Docket of the said Board, wherein
Hiram Goines et al,

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

and request your receipt for the same.

I am, Respectfully,

Your Obedt Servant,

Geo. Fisher.
