

CASE NO.  
187

NORTHERN DISTRICT

---

A LOT OF LAND IN SONOMA GRANT

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JOSE SANTOS BERREYESA

CLAIMANT



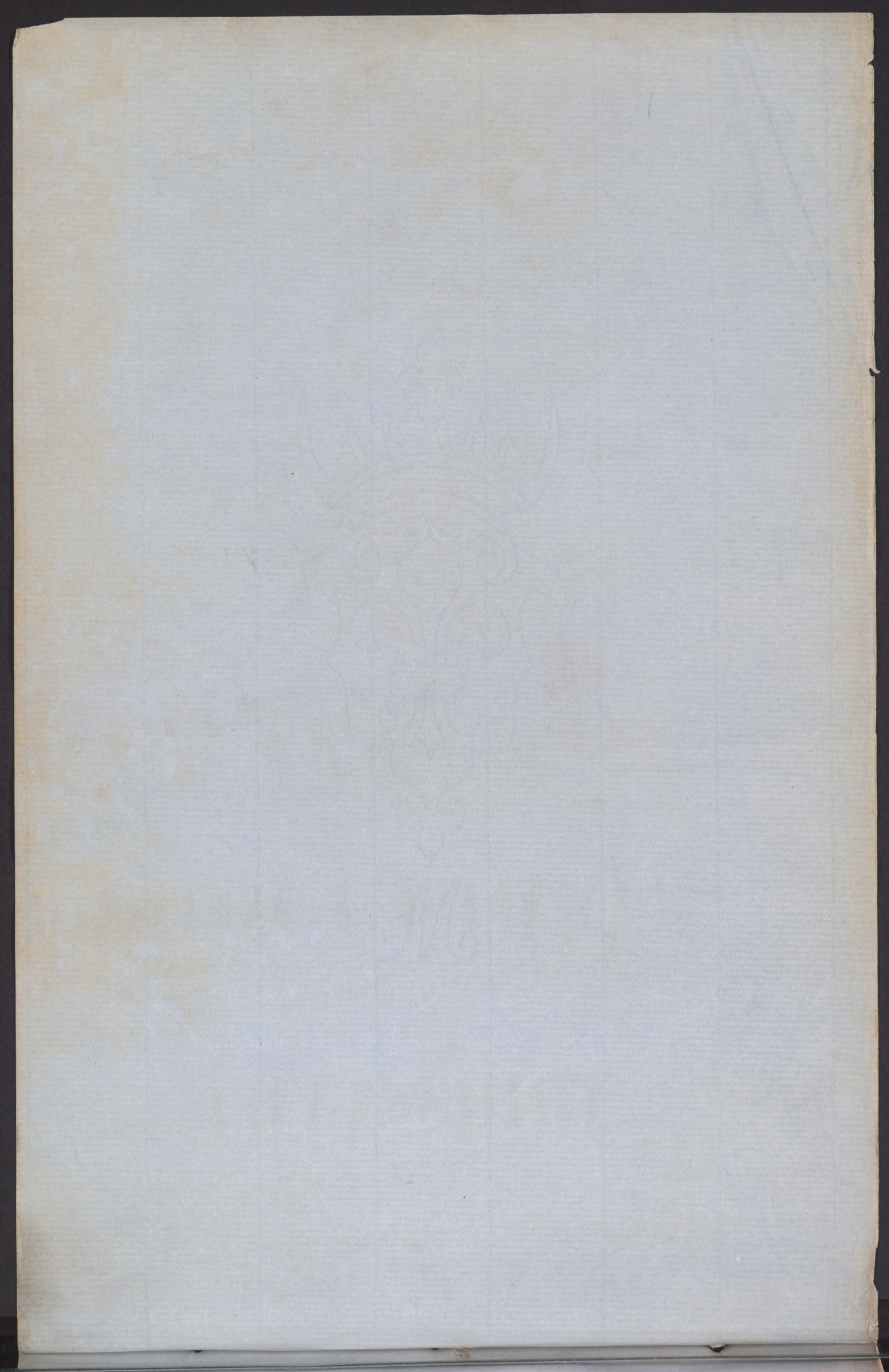
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PLANOVER BOND  
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806







# TRANSCRIPT

OF THE

# PROCEEDINGS

IN CASE

NO. 806

*José Santos Berreyesa* CLAIMANT

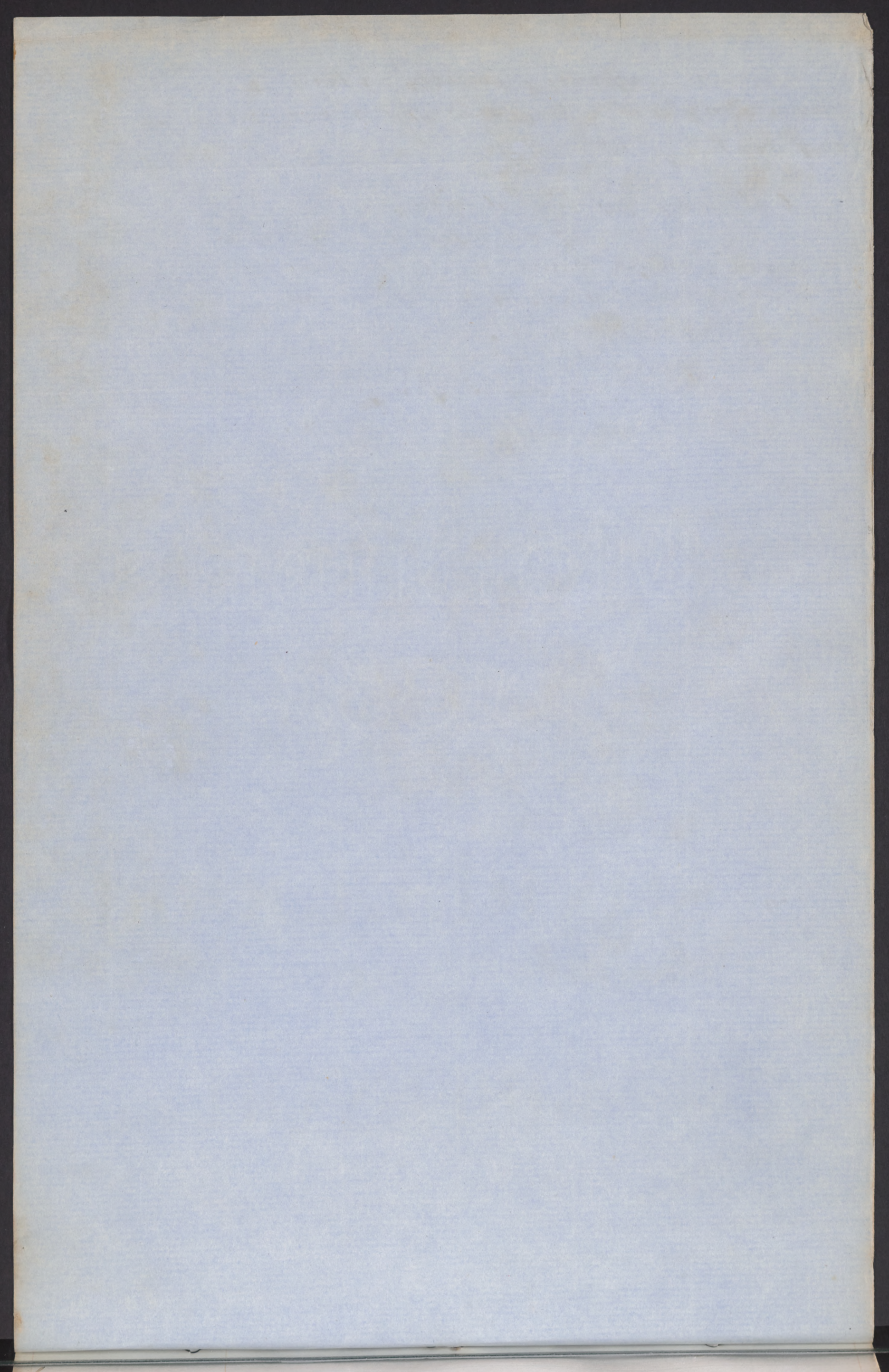
VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"A Lot of Land in Sonoma." "







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

The Petition of Jose Santos Beryesa,  
for the Place named

"A Lot of Land in Sonoma",  
was presented, and ordered to be filed and docketed with No. 806 and  
is as follows, to wit;

(Vide page 3 of this Transcript.)

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

San Francisco Aug 27' 1853.  
In case no. 806, Jose S. Beryesa for a lot in Sonoma,  
the deposition of Martin E. Cook, a witness in  
behalf of the claimant, taken before Commis-  
sioner Thompson Campbell, with document  
marked (A) Thompson Campbell, annexed thereto,  
was filed:

(Vide page 4 of this Transcript.)

San Francisco October 28<sup>th</sup> 1853.  
In the same case the deposition of Julio Carrillo, a  
witness in behalf of the claimant, taken before Commis-  
sioner Alphens Felch, was filed:

(Vide page 5 of this Transcript.)

San Francisco November 29' 1853.  
In the same case the deposition of Jose de la Rosa, a witness  
in behalf of the claimant, taken before Commissioner



Alphem Felch was filed:  
 (Vide page 9 of this Transcript.)

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San Francisco June 13<sup>th</sup> 1854.  
 Case no. 506, on motion, was ordered to the foot  
 of the First class Cases on the Trial Docket.

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San Francisco, July 14<sup>th</sup> 1854.  
 In the same case the deposition of Jacob P. Seese,  
 a witness in behalf of the claimant, taken before  
 Commissioner Peter Sott, was filed:

(Vide page 11 of this Transcript.)

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San Francisco August 14<sup>th</sup> 1854.  
 Case no. 506 was submitted on briefs.

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San Francisco, October 14<sup>th</sup> 1854.  
 In the same case Commissioner S. B. Farwell delivered  
 the opinion of the Board rejecting the claim:  
 (Vide page 17 of this Transcript.)  
 and the following order was made, to wit:  
 (Vide page 19 of this Transcript.)

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To the Honorable the U.S. Commis-  
sioners to ascertain and settle the private  
land claims in California -

Petition

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The petition of José Santos  
Banyua a resident of the County of Contra  
Costa and a citizen of the United States  
respectfully shews to your Honorable Board  
that on the 31st day of May 18th August  
Capitán Manuel Justice of the Place of the  
Puerto of Sonoma upon the petition of the  
said Banyua previously preferred made  
to the said Banyua in writing and in the manner  
required by law a grant of a lot of land  
of two thousand varas wide by three thousand  
varas long lying at the East of Sonoma and  
being situated bounded and described as in  
the said grant is particularly set forth.

Your petitioner says that by  
the terms of said grant the profits of the  
said land was vested in him and that he  
is equitably entitled to the confirmation  
thereof by the Government of the United States  
he having fully performed all the conditions  
by him under said grant to be done and  
performed -

Your petitioner prays that the  
copy of said grant and the translation of the  
same into English may be taken as a part  
of this petition -

Wherefore Your petitioner prays  
your Honorable Board to confirm the  
said title and to direct that a patent be is-  
sued to him accordingly by the proper  
authority and Your petitioner &c.

Brown, Pratt & Traef  
for Petitioner

Filed in Office March 3, 1853. (2d) Geo. B. Shaw Secy.



Office of Commissioners of  
Land Claims in California  
San Francisco -

Deposition  
of  
Martin C  
Cook.

This day before Benjamin Thompson  
Caussett Commr Martin C Cook a witness in  
Case of Claimant Case I Simpson No  
806 who after being duly sworn depose as  
follows.

What is your name age and place of  
residence?

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My name is Martin C Cook, my age twenty  
nine years and I reside in Sonoma of this  
State -

Are you acquainted with the Signature  
of Saagim Capello and if so state your  
means of such knowledge.

I know Saagim for three or four years  
I have seen him write often -

Is the paper now shown to you and  
marked (A) his genuine Signature -

I believe it his Signature -

Martin C Cook,  
Associate Law Agent present -

Sworn to & Subscribed before  
me this 24<sup>th</sup> day of August AD 1853  
Benjamin Thompson Caussett Commr.  
Filed in Office Aug. 27. 1853.  
C. J. Fishwick Secy.



Office of the Board  
of Commissioners &c. &c.Deposition  
of  
Julio Carrillo

This day before Com. Alpheus Titch  
Came Julio Carrillo a witness in behalf of  
Claimant Jose S. Pempusa No 846 who  
after being duly sworn deposed as follows -

Question by Mr Tracy attorney for the  
Claimant  
1 Question -

What are your name age and  
place of residence? -

Answer -

My name is Julio Carrillo my  
age is twenty eight years and I reside at  
Sonoma in California -

2 Question -

Look on the paper now presented  
to you purporting to be a grant of land  
by Joaquin Carrillo to Jose Santos  
Pempusa marked Exhibit "A" annexed to  
the deposition of Martin C Cook heretofore  
filed in this case and state whether you  
know the persons whose names are subscribed  
thereto as witnesses and if so whether they are  
now living or not? -

Answer -

I have examined said paper.  
I know the persons whose signatures are  
appended as witnesses. These are Martin Gallegos  
& Gasario Pempusa. They are both dead.

3d Question -

Do you know Joaquin Carrillo  
and are you acquainted with his hand writing -

Answer -

I know him, I know his hand  
writing. I have seen him write and sign



his name frequently.

4 Question - Look in the paper presented to you being the same mentioned in the second interrogatory and state whether the signature appearing therein as his, is the true and genuine signature of said Joaquin Canillo?

Answer - I have examined it, it is his true and genuine signature. The signature on the back of said paper is also his signature -

5 Question - Do you know a lot of ground at the East of Sonoma formerly occupied as a vineyard & claimed by Josi Benjesa?

Answer - I know the lot.

6 Question - Was you acquainted with that lot in the month of March 1846?

Answer - I was.

7 Question - In what condition was the lot at that time in regard to any remnants of the vineyard and of the fence?

Answer - There were there the ruins of a fence - a brush fence which was then visible about two hundred varas in front by three hundred in depth. There were likewise some stumps of grape vines here and there on the lot?

8 Question - Do you know of Josi Benjesa doing any work or in regard to the lot, or of his building a house on it after the thirtieth of March 1846? if you state all you know



about it?

Answer.

I saw him lay the foundation of a house and said that and saw him raise the walls about two feet and a half above the ground. They were of stone and he intended to build an adobe house on this wall.

9 Question.

At what time did you see him doing this work?

Answer.

In the month of August 1846 -

10 Question.

Was that work suspended? if so for what cause?

Answer.

He commenced gathering the timber and preparing to make the adobes before the time and I saw nothing of it afterwards. The house was never finished. The Revolution of the Bear Flag came and nothing further was done with it.

11 Question.

Do you know what became of said Benjara in that situation and in the war following it?

Answer.

He was taken prisoner at Sycama and when I arrived at Sacramento I was also made prisoner and there I understood that Fremont was in the Revolution.

12 Question.

What became of Benjara after he escaped from prison?

Answer.

Known at that time. He went to his Rancho known at that time by the name of Malacamas.



13. Question - Was Ponzosa permitted to return to Sonoma during the war?  
Answer.

I do not know.

14. Question - Do you know whether the father of said Ponzosa was killed near Sonoma by the Americans in Fremont's time?  
Answer.

He was killed at San Rafael during Fremont's time, about a mile and a half from the Mission of San Rafael.

15. Question - Do you know whether the house and improvements of said Jose Ponzosa in the Rancho of Mallacomas were destroyed by the Americans during this time?  
Answer.

I did not see it, but I understood that they were -

16. Question - Does anyone live on the lot just above mentioned at Sonoma at this time? if yes, who?  
Answer.

William Roggs lives on it at this time. He went on to occupy it two or three years ago. I am not certain of the time.

17. Question - Do you know whether or not he holds adversely to said Ponzosa?  
Answer -

I do not know -

Julio Carrillo.



This Deposition was given in the Spanish  
 Language. Mr Fisher Secretary of the Board  
 acting as Interpreter. The Counsel Associate  
 Law Agent was present but declined asking  
 the witness any questions on the ground that  
 the Case as presented in the petition and in the  
 alleged title does not fall within the Jurisdic-  
 tion of the Board of Commissioners agreeably  
 to the fourteenth Section of the Law of March 8<sup>o</sup>  
 1851 Creating the Board and defining its powers  
 and duties -

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Subscribed and Sworn  
 to before me this 28<sup>th</sup> day of  
 October AD 1858.  
 Alpheus Fish.

Filed in Office Oct 28. 1858.  
 (Signed) Geo Fisher  
 Secy

Office of the Board of U.S.  
 Land Commissioners &c &c.

San Francisco Nov. 24. 1858.

This day before Comr Alpheus Fish  
 Comr "Caso de la Rosa" a witness in  
 behalf of Claimant Jose Santos Ramirez  
 Petition No 8116 and being duly sworn his  
 Evidence being in Spanish was interpreted by  
 the Secretary and appears as follows.

Deposition  
 of  
 Jose de la  
 Rosa.

Questions by Mr Williams Attorney for  
 Claimant  
 1 Question -  
 What are your Name age and place



of Usadimco?

Answer.

My name is Jose de la Rosa, my age, sixty two years and I reside at Sonoma in California.

2 Question -

Do you know whether or not Joaquin Cardillo who made the grant in this case, who acting notoriously as Justice of the Peace in the Pueblo of Sonoma on the 3<sup>rd</sup> March 1846?

Answer.

I know that he was so acting at that time. I delivered the Staff of authority to him as my successor in said Office on the 5<sup>th</sup> day of February 1846.

Jose de la Rosa,

Chas Green how Associate Law Agent was present at the taking of this Deposition but propounded no questions to the witness -

Subscribed and Sworn to before me this 24<sup>th</sup> day of November 1853.

Asphus Welch  
Curryson.

Filed in Office Nov 24, 1853.

(Signed) Geo Fisher  
Secy. 2



United States of America  
State of California 3 ss.

San Francisco July 14, 1857.

Deposition  
of  
J. P. Luce

This day personally came before Peter  
Lott Commissioner for taking testimony  
to be used before the Board of W. S. Land  
Commissioners in said State, Jacob P  
Luce a witness on behalf of the Claimant  
Jose Antonio Benfesa in Case No 846 on  
the docket of said Board.

Said witness being duly sworn  
deposed as follows.

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The W. S. Associate Law Agent present.

Questions by Claimants Counsel -  
1st Question -

What is your name age and  
residence?

Answer -  
My name is Jacob P  
Luce my age 45 years my residence  
Montez California -  
2d Question -

Do you know the lot which  
was granted to Jose A Benfesa in  
Sonoma by Joaquin Carillo?

Answer -  
I do I lived in Sonoma  
and was well acquainted there.  
3d Question -

What Office did you hold  
in Sonoma if any and when?

Answer -  
I was first Alcalde during  
the year 1844 and till June 1845 -



4th Question -

Did you ever as such Alcalde  
grant lands?

Answer,

I did.

5th Question.

Was Saaguin Carrillo in any  
office there of you what and when?

Answer.

He was Justice of the Peace in  
Sonoma in 1846?

6th Question.

Had he lawful authority as  
such Justice of the Peace to grant lands?

Answer -

He had the power to grant lots. He  
derived the authority from the Government &  
cannot now say exactly how but I know that  
they had such power and exercised them

J. P. Leese.

Subscribed and sworn to  
before me this 14th day of  
July AD 1854.

Peto Lost Compendio  
for taking testimony &c.

Filed in Office July 14, 1854.

(Signed)

Geo. Fisher

Secy. }



1.13  
Joaquin Carrillo Ines de Par 2º Propietario del pueblo de Sonoma.

Por cuanto José Santos Berreyesa ciudadano Mexicana por nacimiento a pretendido para su beneficio personal el solar que se aya al este de este pueblo ocupado con una viña que se aya abondada totalmente para fabricar cata de y al mismo tiempo cultivar la espesada viña; practicadas previamente las averiguaciones convenientes segun los bandos y reglamentos de la materia è benido en aconsejle el solar mencionado y bajo las condiciones siguientes.

1º Dentro de un año fabricara casa o por lo menos cubo sercado todo el solar que comprende la referida viña.

2º El solar de que se hace mención es el que actualmente ocupa la espesada viña y es de 200 varas de ancho y 300 de largo por cuya consecucion a pagado los derechos establecidos à la Municipalidad. Tomandose rason en el libro que corresponde y entregado el presente documento al interesado para su resguardo y seguridad de esta consecucion.

Dado en Sonoma. a 30 de Mayo de 1845.

asa. Joaquin Carrillo    asa. José M<sup>te</sup> Gallegos.  
Narciso Berellega.

Queda tomada rason en el libro que corresponde a foys. cinco. fecha ut supra.

Joaquin Carrillo.

Filed in office. Aug. 27. 1853.

Geo. Fisher.  
Secy.



*[Faint, illegible handwriting covering the majority of the page]*

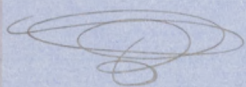
*[Faint handwriting at the bottom edge of the page]*



Joaquín Carillo Second Justice  
of the Peace proper of the Pueblo of  
Sonoma.

Remetation.

Exhibit "A"  
annexed to  
definition of  
Martin O  
Cook.



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Miguel José Santos Pomfusa  
a Mexican Citizen by birth has solicited  
for his personal benefit a lot (Solar) situa  
ted to the East of the said Pueblo and  
occupied with a vineyard which is entirely  
abandoned for the purpose of building a  
house therein and at the same time to cut to  
tear the said vineyard.

The investigations relative  
thereto having been had according to the  
Proclamations and Regulations upon the subject  
I have concluded to grant to him the said  
lot and under the following conditions -

First - Within one year he shall build  
a house or at least the whole lot (Solar)  
comprehended in the said vineyard shall be  
enclosed.

Second. The lot referred to is that which  
the said vineyard actually occupies and  
it is 2411 varas wide by 3111 varas long, for  
which grant he has paid the established  
fee to the Municipality, note being taken  
thereof in the proper book and the present  
document delivered to the interested party  
for its safe keeping and the security of this  
grant.

Given at Sonoma on the 31<sup>th</sup> of  
March 1841.

(Signed)  
Joaquín Carillo -



Asist Mtk -

(signed)

Jesus Ma Gallegos.

(signed)

Marcos Bonetisa.

Entry is made here in the Inspector's  
book Page 5 on the date aforesaid.

(signed)

Jaime Carrillo.

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I George Fisher Secretary to the U.S  
Land Commission to ascertain, and state  
private land claims in the State of Califor-  
nia hereby certify the foregoing to be a true  
and correct translation of a Spanish  
document in Case No 846 wherein Jose S  
Barrera is the Claimant as The United  
States for a Lot in the town of Sonoma  
now on file in this Office -

In testimony whereof I have  
hereunto signed my name  
Office of the Secretary of the  
above named Commission  
at the City of San Francisco  
Cal. this 2d day of October  
AD 1854.

(signed)

Geo Fisher  
Secy.

Filed in Office Aug 24. 1853

(signed)

Geo Fisher

Secy. }



José Santos Simfesa  
 as  
 The United States vs Claim for  
 a Lot in the  
 Town of Simfesa.

Opinion  
 by  
 Commr.

Small

The petitioner in this case asks a confirmation of a grant issued to him on the 30th day of March 18th by José Camilo a Justice of the Peace of said Pueblo for a lot represented as lying on the East of said Town and is two hundred varas wide and three hundred varas long.

The above description is all that is given to enable the Commission to determine the boundaries or locality of the lot intended to be granted.

Jacobo J. Lasso testifies that he knows the lot but gives no description of it more satisfactory than that given in the grant.

The conditions of the grant are that the grantee build a house on the lot or at least have the same fenced within one year from the date of the grant.

The testimony goes to show that the grantee in the year 18th raised the foundation of a house on the lot about two feet high and then abandoned it for the time an account of the ensuing rainy season sitting in, and was afterwards taken prisoner in the Bear Flag war and after being released from imprisonment instead of returning to the lot and continuing completing his improvements he went onto another place owned by him and as far as we are informed has never returned to the place since.

The description of the lot intended to be conveyed as set forth in the



grant is Entirely too vague and indefinite to enable this Board to limit its locality or in any way to fix its boundaries, Neither is there any proof of performance of the Conditions of the grant.

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It is therefore the opinion of the Board that the claim is invalid and should be rejected, and a decree will be entered accordingly -

Respectfully,

Filed in Office Oct 14. 1854.

(Signed) Geo Fisher Secy.

No 846

Jose Santos Romoza,  
of the United States

Recd

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

Alpheus Tick  
R. Aug Thompson  
S. W. Purwell  
Commissioners

Filed in Office Oct 14. 1854.

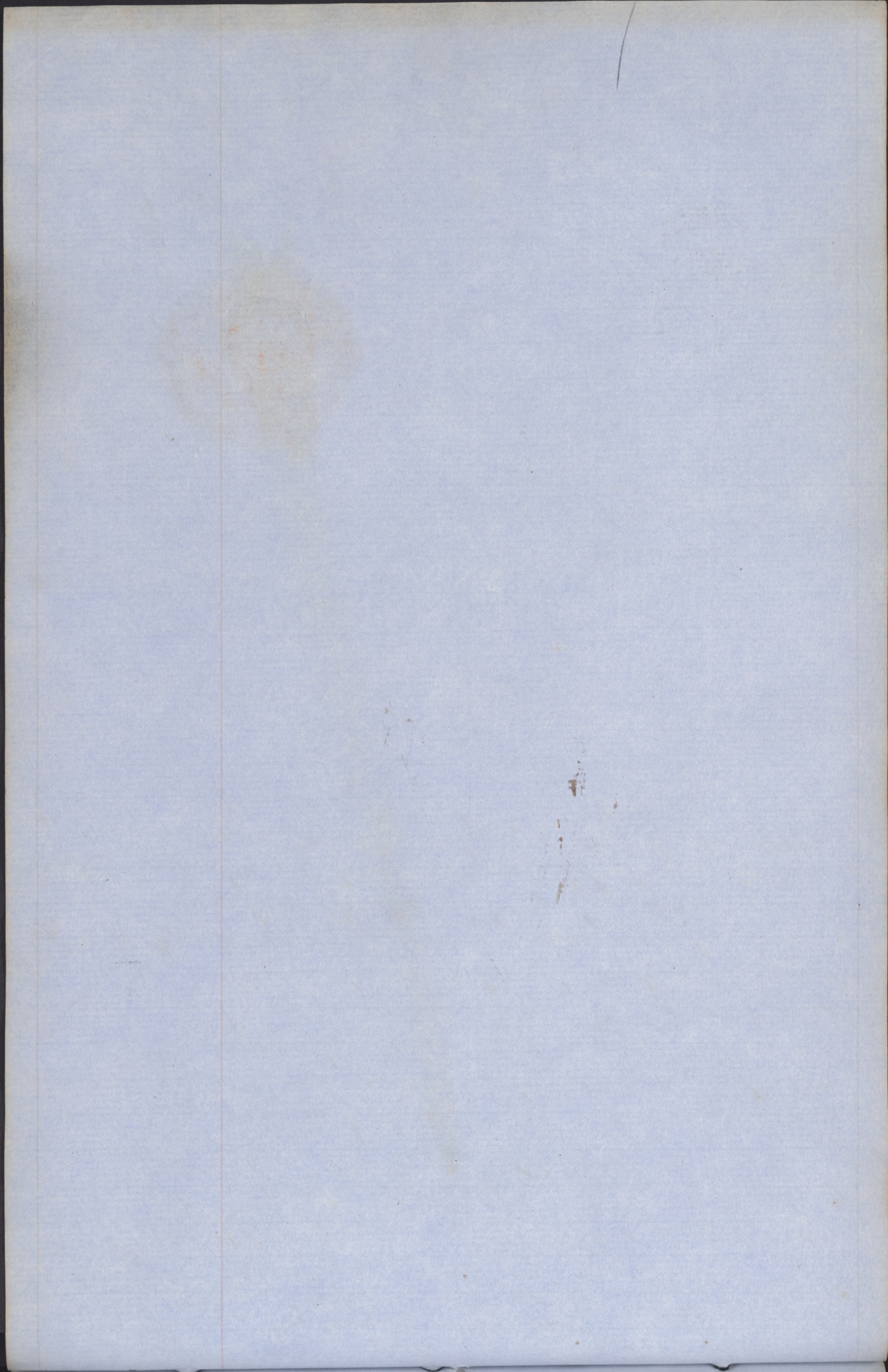
(Signed) Geo Fisher Secy



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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 decision 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 Judicial District of California, and the other be transmitted to the Attorney General of the United States.







Office of the Board of Commissioners,

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

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*J. 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 *Nineteen* — pages, numbered from  
1 to *19*, both inclusive, to contain a true, correct and full Tran-  
script of the Record of the Proceedings and of the Decision of the  
said Board, of the Documentary Evidence and of the Testimony  
of the Witnesses, upon which the same is founded, on file in this  
Office, in Case No. *806* on the Docket of the said Board,  
wherein *José Santos Berreyesa* is —

the Claimant against the United States, for the place known by  
the name of "A lot of land in Summa".

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

*J. G. Fisher*  
*J. G. Fisher*  
Sey





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

No. *187* — **187**

THE UNITED STATES,

vs. *NID*

*José Santos Burreyusa.*

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. *846*

Filed, *April 3<sup>d</sup>* 185*5*.

*J. A. Moore,*  
Clerk,

*118848*