

CASE No.  
78

SOUTHERN DISTRICT

SAN FELIPE GRANT

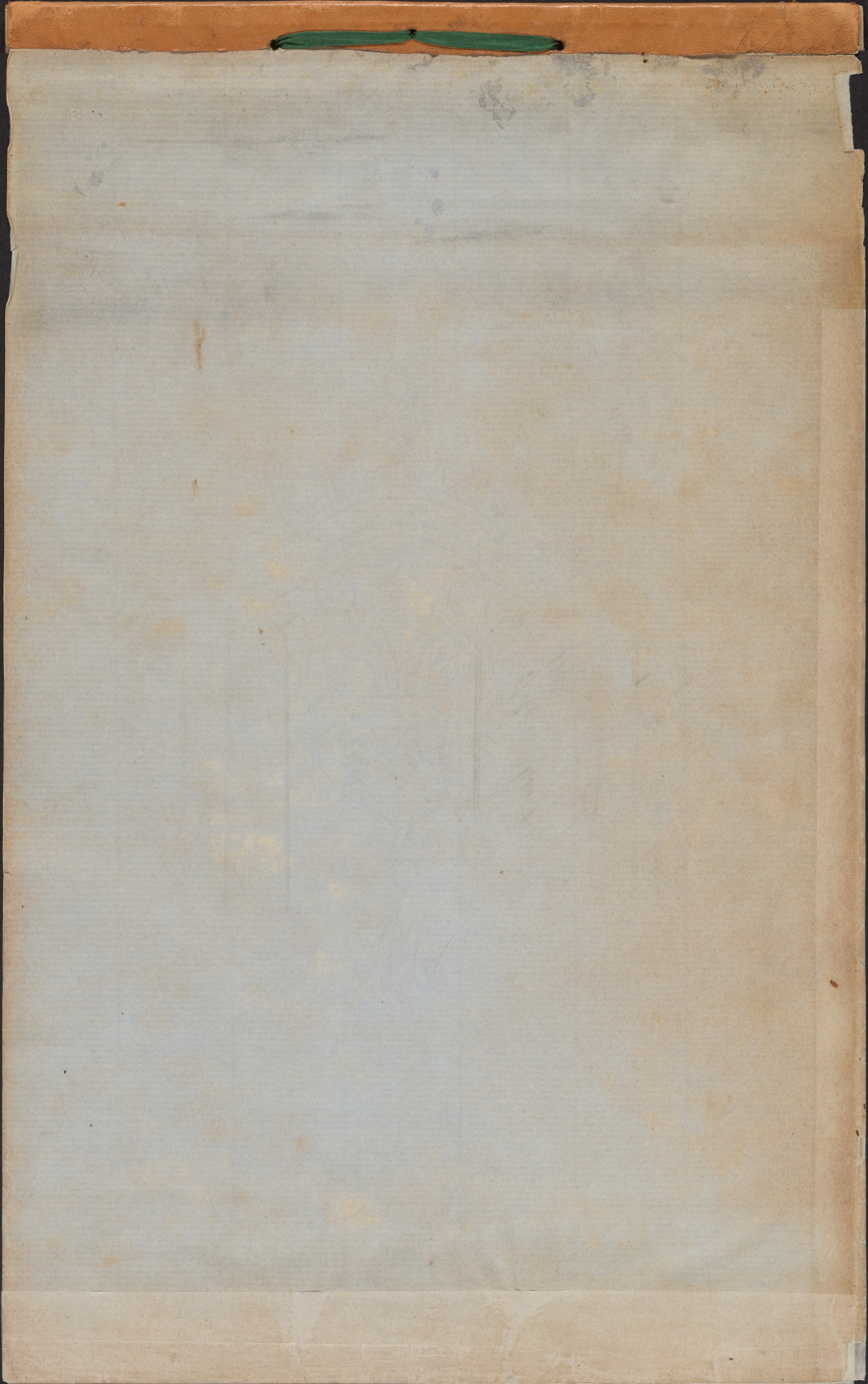
FRANCISCO PEREZ PACHECO  
CLAIMANT

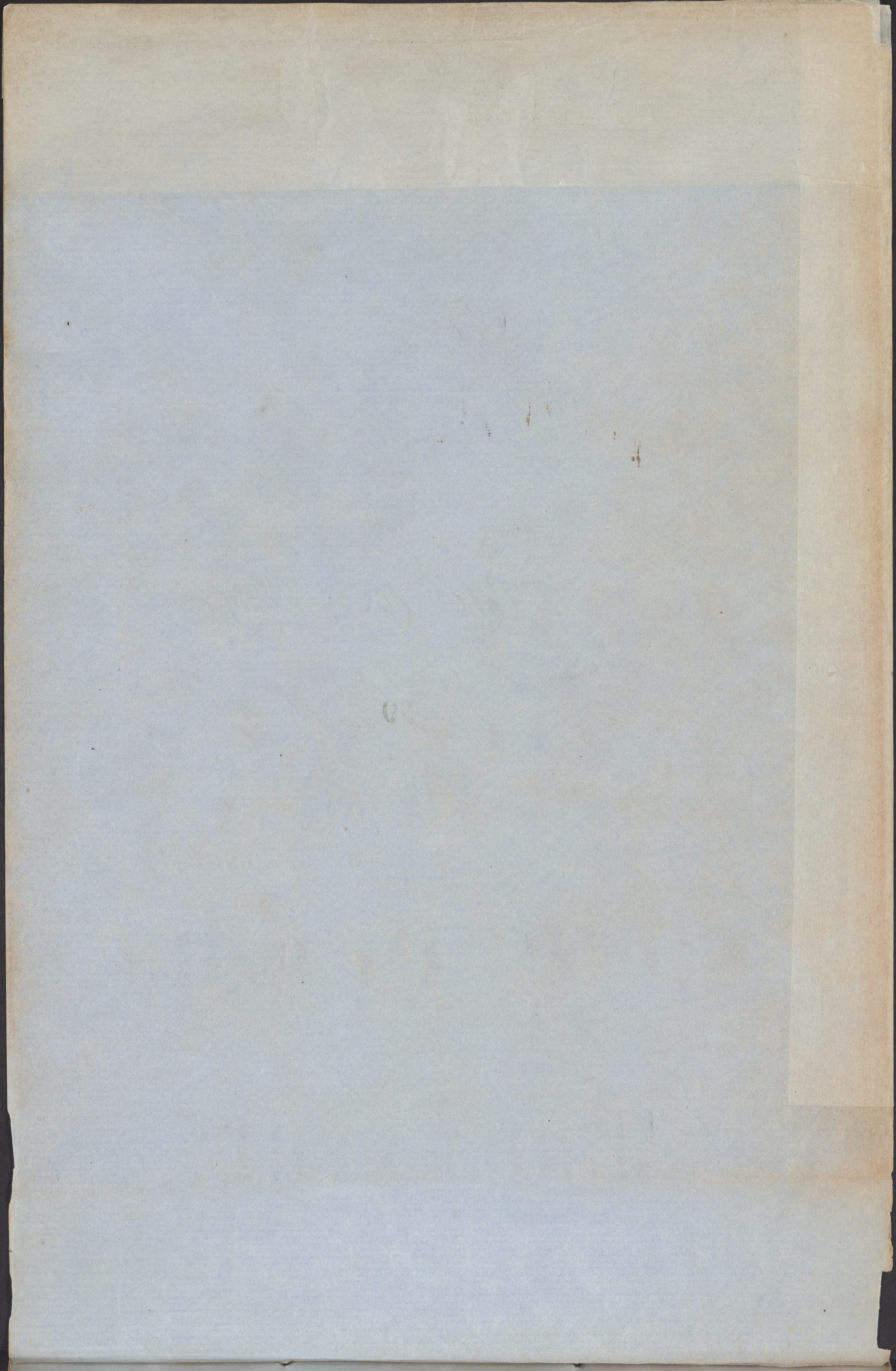
LAND CAS 78 SD page 71

FEB 19 1963

STATE COLLEGE  
BROKEN BOND

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TRANSCRIPT  
OF THE  
PROCEEDINGS

IN CASE

NO. 64

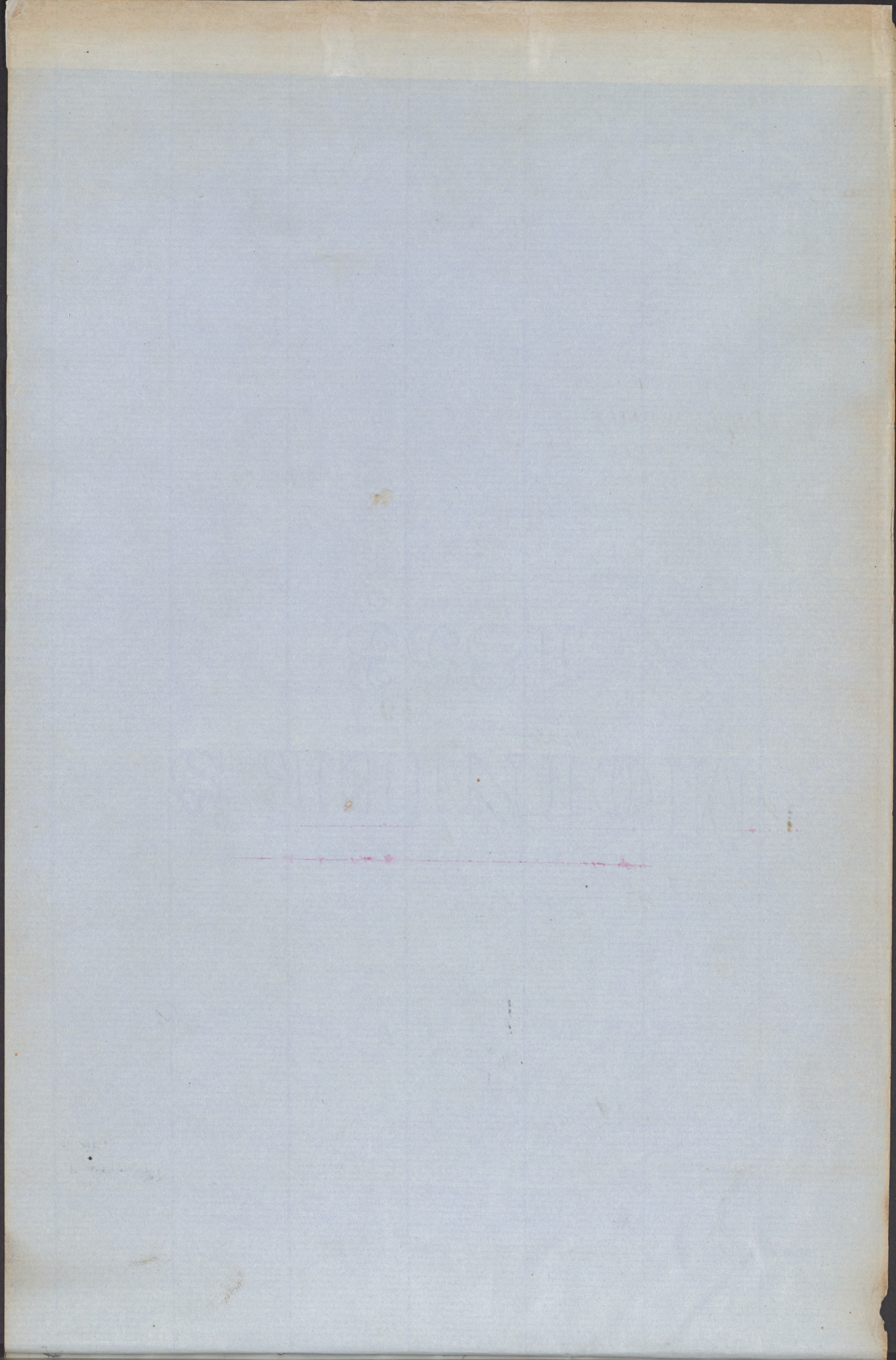
*Francisco, Perez Pacheco* CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

*"San Felipe"*



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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

The Petition of "Francisco Perez Pacheco" \_\_\_\_\_  
\_\_\_\_\_ for the Place named

"Musaymas" \_\_\_\_\_

was presented, and ordered to be filed and docketed with No. 64 and is as follows, to wit;

(Vide pages 3 4 & 5 of this Transcript.)

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

Monday May 3<sup>rd</sup> 1852.

In Case No 64. Francisco Perez Pacheco the Deposition of Massimo de Daboa, a witness in behalf of the Claimant taken before Commissioner Neiland Keall was filed and is in the words and figures as follows, to wit; (Vide pages of this Transcript 5. 6. 7.)

In the same Case the Deposition of Jose Maria Sanchez, a witness in behalf of the Claimant, taken before Commissioner Neiland Keall, was filed, and is in the words and figures as follows to, wit; (Vide pages of this Transcript 7. 8. 9.)

2.

Wednesday June 1<sup>st</sup> 1853.

The following case was set in its order for hearing, No 64. Francisco Perez Pacheco.

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Thursday Dec<sup>r</sup> 23<sup>d</sup> 1852

Case No 64, Francisco Perez Pacheco for the place named "San Felipe" was called, argued and submitted with the evidence: Taken under advisement by the Board

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Wednesday Jan'y 5<sup>th</sup> 1853.

In Case No 64, Francisco Perez Pacheco, for the place named "San Felipe" Commissioner Wiland Hall delivered the opinion of this Board, and the decree of final confirmation.

Ordered, that the opinion and decree of final confirmation of this Board, delivered this day in this case, be recorded on the Journal.

Which opinion and decree are in the words and figures as follow, to wit: (vide pages of this Transcript 16, 17.)

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3. To the Honorable the Commissioners for the  
Settling of Private Land Claims in California

Petition

78 SD

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The petition of Francisco Perez Pacheco, respectfully sheweth, that being a Mexican by birth, and possessed of a large amount of cattle and other stock, and finding that the tract of land granted to him by Governor Figueroa on the 26<sup>th</sup> of November 1833, under the name of "Ausaymas" was not sufficiently extensive to hold and give sufficient pasturage to his cattle, he made and presented his petition on the 1<sup>st</sup> of February 1836 to Jose Gutierrez, then Governor, soliciting for himself the grant of the tract lying North of the lands formerly granted to him under the name of Ausaymas in the present counties of Santa Clara and Tuolumne and comprising about two leagues in length and two in width.

That said Governor Gutierrez on the 5<sup>th</sup> of February 1836, referred the said petition to the respective authorities for a report thereon.

That said authorities reporting favorably thereon, said Gutierrez by virtue of the Authority vested in him as constitutional Governor of California, by a decree dated the 6<sup>th</sup> of February 1836 declared the said Francisco Perez Pacheco to be the owner of the tract of lands petitioned for and directed the proper documents, constituting title to be executed to said Pacheco.

That said title was issued on the 1<sup>st</sup> of April 1836 in accordance with all the formalities of the Law, and delivered to your petitioner.

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That said petition, reference, decree, and a map of the lands together with a duly certified copy of the grant are now on file in the office of the Surveyor General of the United States of America for the State of California, among the Archives of California, and that duly certified copies of said petition, reference and decree together with the map and translations are and form the latter part of the Expediente filed in the office of your honorable Commission with the papers concerning the "Ausaymas" and are prayed to be made a part to this petition. That the original grant is in the possession of your petitioner and ready to be offered in evidence, when even required. But that a duly certified copy of the recorded copy of said grant on records as aforesaid, is herewith submitted and prayed to be made a part to this petition.

That said land is situated in the present counties of Santa Clara and Inyo and is bounded according to the terms of the grant as follows

1. On the North by the foot of the mountains which go to San Luis Gonzaga.
2. On the East by the continuation of the line, which forms the eastern boundary line of the "Ausaymas"
3. On the South by the boundary line which forms the northern boundary of the Ausaymas.
4. On the west by a line running parallel to the line described in No two (2) comprising altogether about six square leagues more or less, or, so as to use the terms of the grant, eight square leagues including the Ausaymas, which said

Pacheco already possesses in full ownership  
 And your petitioner further states,  
 that even since said grant has been  
 made to him, he has been in posses-  
 sion of said land without the interference  
 of any person whomsoever, and has  
 always exercised full, acknowledged and  
 undisputed ownership over the same.

He therefore claims to be the owner  
 of said tract of land and prays that your  
 Honorable Body will confirm his claim  
 and title thereto.

Clark Dayton & Beckh  
 Attorneys for Pts

Filed in Office July 24<sup>th</sup> 1853  
 Asst. Fisher  
 Secy

Deposition  
 of Maximo  
 Taboas

Office of the Board of Com-  
 missioners of California Land Claims  
 San Francisco May 3<sup>rd</sup> 1853

On this day before me Willard Hall  
 one of the Commissioners for ascertaining  
 and settling private Land claims in  
 the State of California came Maximo  
 Taboas a witness produced in behalf  
 of the claimant in three petitions of  
 Francisco Perez Pacheco being numbers  
 63, 64, & 65, on the docket of the Com-  
 missioners & was duly sworn.

6.

His evidence being given in the Spanish language was interpreted by the Secretary, The Law Agent was notified and attended In answer to questions propounded by the Counsel for the petitioner the witness testifies as follows.

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My name is Maximo Laboas, my age is thirty three & my residence is in Monterey, where I have lived for about three years, I have known Francisco Perez Pacheco for three years, I am acquainted with the ranchos of Auzaymas, San Felipe & Bolsa de San Felipe & have known them during the same period.

They are one and the same thing. They have been occupied by Pacheco during the same time with cattle horses & improvements, to the extent of from eight to ten leagues. The stock of cattle & horses had averaged from eight to ten thousand head.

The improvements consist of a large Adobe House valued from fifteen to twenty thousand dollars - pens for cattle & horses large enough to contain two hundred head & also sheep & hog pens & ten or twelve cabins for Indian laborers & land under cultivation sufficient to support the people employed on the rancho.

In answer to questions put by the Law Agent the witness says that from what he has heard others say he thinks the Rancho is from eight to ten leagues from the Sea Coast at the nearest part.

/Signed/ Maximo de Laboas  
Sworn & Subscribed

Before me  
 signed / Hiland Hall  
 Comr.

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I certify the above to be a true and exact copy of the original on file in this office in Case No 13.

Geo. Fisher  
 Secy

Filed in Office May 3<sup>rd</sup> 1852  
 Geo. Fisher  
 Secy

Office of the Board of Commis-  
 sioners of California Land Claims  
 San Francisco May 3<sup>d</sup> 1852

Deposition  
 of Jose Maria  
 Sanchez

On this day before me Hiland Hall one of the Commissioners for ascertaining and settling Private Land Claims in the State of California came Jose Maria Sanchez a witness produced in behalf of the Claimant in three petitions of Francisco Perez Pacheco being numbers 63, 64 & 65 on the Docket of the Commissioners & was duly sworn.

His evidence being given in the Spanish Language was interpreted by the Secretary

The Law Agent was notified and attended. In answer to questions propounded by the Counsel for the petitioner the witness testified as follows. My name is Jose Maria

Ranches, my age is fifty two years & I reside in the town of San Juan Bautista & County of Monterey. I was born in the City of Mexico & came to California in 1826 & have lived here ever since.

I have been acquainted with Francisco Perez Pacheco ever since 1825.

He obtained a grant of San Felipe about the year 1833 & has occupied it ever since.

The Rancho de Ausaymas adjoins San Felipe. Ausaymas has been occupied for the same period - When he obtained the grant he built a house on the land & lived in it himself & I lived with him.

He placed cattle on it the first year to the number of about two hundred & the next year he had twenty five hundred or more. He also had horses there to the number of two hundred the first year. He has continued

to occupy it, the cattle increasing in numbers but to what extent I cannot say. He has raised wheat, barley, corn & vegetables in considerable quantities - supplying servants &

tenants to the number of forty or fifty. He had at the commencement of his possession some eight cabins & some corals, besides the main house - & enclosures for cultivation and additional improvements - have since been made.

I know the rancho Bolsa de San Felipe. It borders upon San Felipe & is a part of it, & it also borders on my lands. It is called Bolsa in consequence of its being nearly enclosed by a swamp, a willow grove & a

ravine, which ravine is called "Sanyon de Teguisquita"  
 The Bolsa belonged to the San Juan Bautista Mission, until it was granted to Pacheco. At that time the family of the Mayo dono of the Mission & some Indians belonging to the Mission were living there, & Pacheco permitted them to continue there, he lending them the land.

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The House that was first built remains on the land yet, Ausaymas & San Felipe are both one & the improvements are on both.

In answer to questions by the Sant Agent the witness says he does not know the distance of the land from the Sea Coast & cannot tell.

(Signed) Jose Maria Sanchez  
 Subscribed & sworn

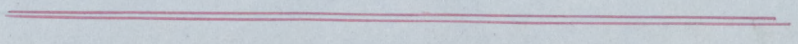
Before me  
 Norland Hall  
 Comr.

I certify the above to be a true and exact copy of the Original on file in this Office in Case No 63.

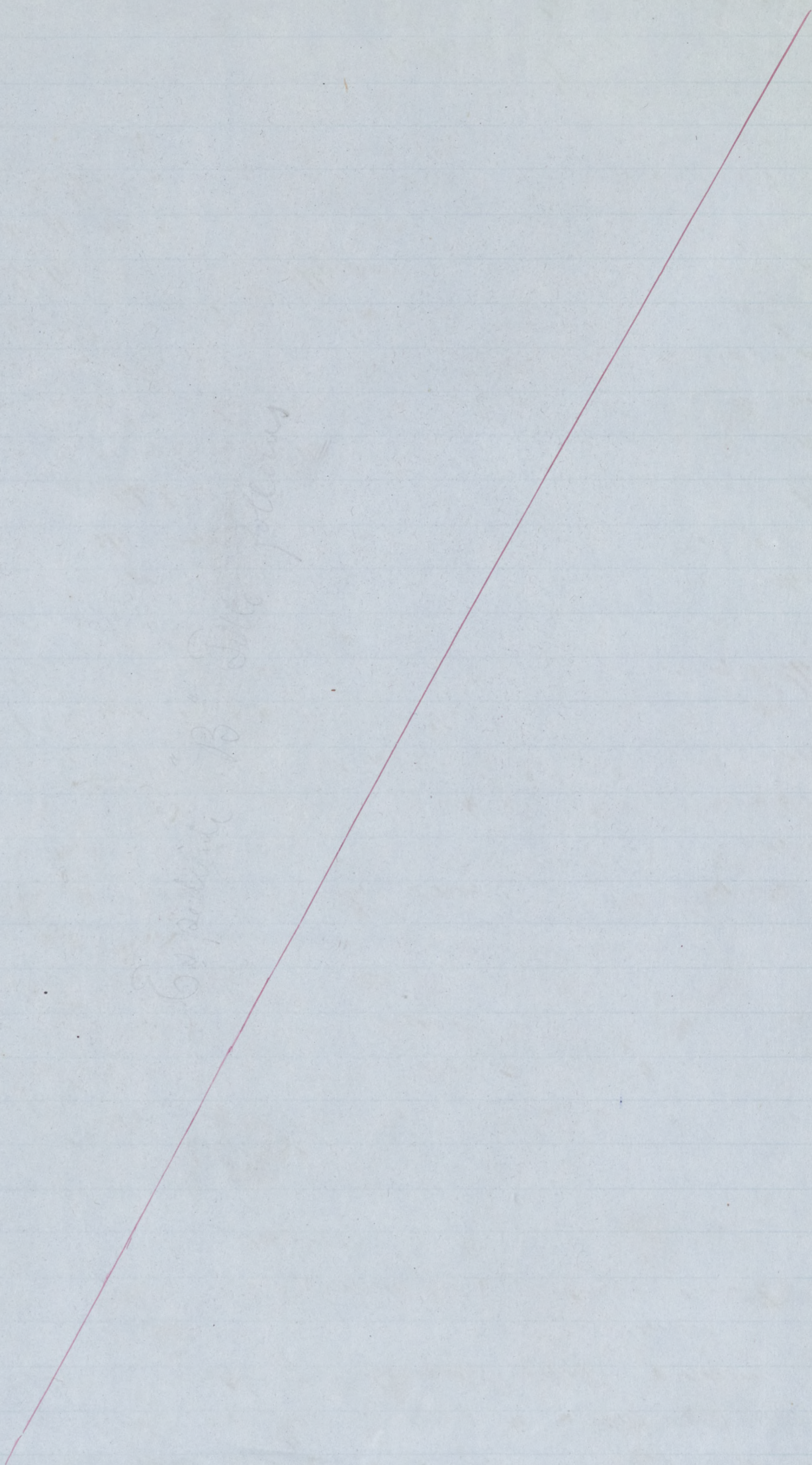
Geo Fisher  
 Secy

Filed in Office May 3<sup>d</sup> 1852

Geo Fisher  
 Secy



Expanding "B" Data follows





+

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Concession  
or  
Title

Delo primero Seis pesos  
Habilitado provisionalmente por la Administracion  
de la Aduana Maritima de Monterrey de la  
alta California para los años de mil ochocientos  
treinta y cuatro y ochocientos treinta y cinco  
Figueras A Ramirez  
Realidad para el bino de 1836 y 1837  
Gutierrez A Ramirez

Nicolas Gutierrez, Teniente Coronel de  
Caballeria permanente, Comandante General  
Inspector y Jefe Superior Politico interino del  
Territorio de la Alta California



Por cuanto el C. Francisco  
Perez de Pacheco, Mexicano por  
nacimiento ha pretendido para su  
beneficio personal y el de su familia la ampliacion  
de terreno de estension de tres leguas al Sitio que ya  
posee en propiedad por ser este escaso y no caberle  
los bienes de su pertenencia en el que obtiene  
conocido con el nombre de Susadinas, cuya estension  
es de dos sitios de ganado mayor segun consta  
por el titulo de el para que se le incluya en el  
presente, previas las averiguaciones y tramites con-  
venientes, he venido en concederle las tres <sup>leguas</sup> leguas  
de ampliacion al Norte que solicita, usando de  
las facultades que me son conferidas a nombre  
de la Nacion Mexicana declarandole la propiedad  
de el por las presentes letras, a reserva de la  
aprobacion de la misma Diputacion en cuanto a  
la ampliacion y bajo las condiciones siguientes

1.ª Que se sometera a las que estableciere el  
reglamento que se ha de formar para la distribucion  
de terrenos baldios y que entre tanto ni el agraciado  
ni sus herederos podran dividir ni enagenar, el que  
se les adjudica, imponer censo, vinculo, fianza,

Dms 20 p.

Hipoteca ni otro gravamen aun que sea por causa piadosa ni pasarlo á manos muertas.

2ª Podrá cercarlo sin perjudicar las traversías, caminos y servidumbres. Lo poseerá libre y exclusivamente destinandolo al uso y cultivo que mas le acomode, pero dentro de un año á lo mas fabricará casa y estará habitada.

3ª Solicitara al Juez respectivo que le dé posesion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondran á mas de las mojoneras algunos arboles frutales ó silvestres de alguna utilidad.

4ª El terreno de que se hace donacion es de ocho sitios de ganado mayor incluidos los "Musaimas" que ya posee en plena propiedad, cuyos linderos son al Norte hasta el pie de la Cuesta que pasa para San Luis Gonzaga, por el Este la linea recta del terreno que posee, por el Sur este mismo terreno y por el Oeste la paralela de la segunda, segun esplica el dibujo que corre en el expediente. El Juez que diere la posesion lo hará medir conforme á ordenanza quedando el sobrante que resulte á la Nacion para los usos convenientes.

5ª Si contraviniere á estas condiciones perderá su derecho al terreno y será denunciabile por otro.

En consecuencia mando que sirviendole de titulo el presente y teniendose por firme y valdero se tome razon de el en el libro que corresponde y se entregue al interesado para su resguardo y demas fines. Dado en Monterrey á primero de Abril de mil ochocientos treinta y seis.

Nicolas Gutierrez

Jefe del Castillo  
Secrete  
y Srio

Queda tomada razon á fojas 101 y Señalado con el n.º 98 del libro que corresponde

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12.

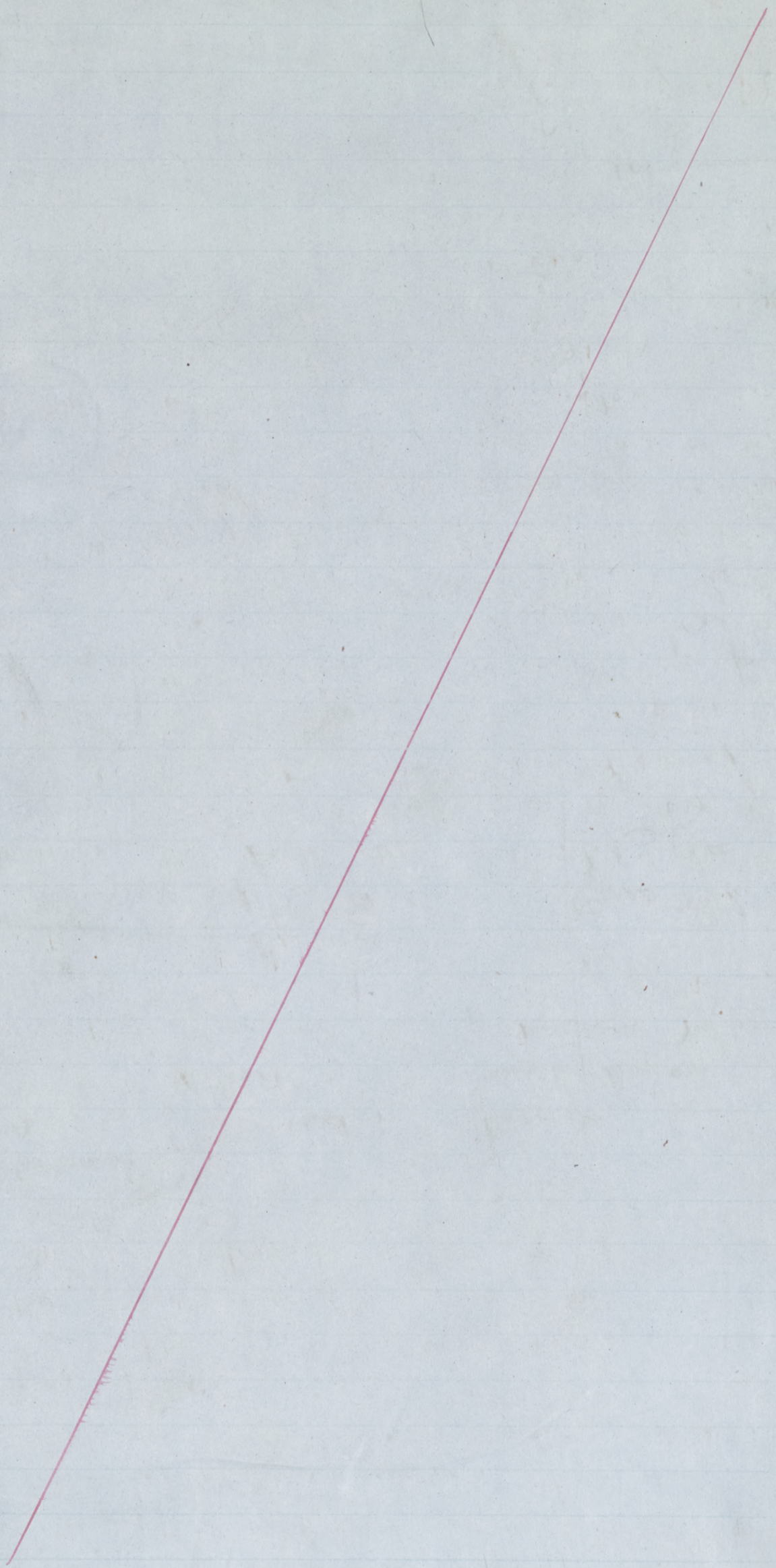
Dños 10 p.<sup>o</sup>

de asuntos de títulos que en el archivo de la  
Secretaría de mi cargo. Monterrey Abril  
1.<sup>o</sup> de 1836

Castillo

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13.

Seal of the First class, six dollars  
Authorized provisionally by the Collector of  
the Maritime Custom House in Monterey upper  
California for the years eighteen hundred  
and thirty four and eighteen hundred and  
thirty five.

C  
Translation  
of Title

78 SD

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(Signed) Diigueroa. (Signed) A. Ramirez  
Made valid for the years 1836 and 1837  
(Signed) Gutierrez, (Signed) A. Ramirez.

Government  
Seal

Nicholas Gutierrez, Lieutenant  
Colonel of Permanent Cavalry, Com-  
mandant General, Inspector and Superior  
Political Chief ad-interim, of the Territory  
of Upper California.

Whereas citizen Francisco Peres Pacheco, a  
Mexican by birth has solicited for his  
personal benefits and that of his family  
an extent of land of <sup>two</sup> leagues in  
addition to the farm whereof he is at  
present the owner, on account of its being  
too small and not holding the cattle be-  
-longing to him. The Rancho he now  
possesses is known by the name of An-  
daymas and contains two square leagues  
(dos sitios de ganado mayor) as appears  
by the title thereof; and after going  
through the necessary steps and proceeding  
I have by virtue of the powers conferred  
upon me, granted unto him by these  
present letters in the name of the Mexican  
Nation, the <sup>two</sup> three additional leagues which  
he asks for towards the N. declaring unto  
him the ownership thereof, subject to  
the approval of the Most Excellent Diputation  
as far as regards the augmentation, and  
under the following conditions.

Fee of 2,00

1st That he shall abide by those which  
may be established, by the regulations

to be formed for the distribution of vacant lands, and that in the mean time, neither the grantee, nor his heirs, shall divide or alienate the land adjudicated to them, impose land rent (censo), entail (vinculo) bond (fianza), mortgage or any other burden although it may be for pious purposes, nor transfer it in mortmain.

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2<sup>d</sup>. He may fence it without prejudice to the crossings roads and servitudes, he shall possess it freely and exclusively putting it to the use and cultivation which may best suit him, but within one year he shall build a house and it must be inhabited.

3<sup>d</sup>. He shall request the respective Magistrate to give him judicial possession in virtue of this patent, and said Magistrate will designate the boundaries, on the limits whereof the grantee shall besides placing the land marks, plant some fruit trees, or wild ones of some utility.

4<sup>th</sup>. The land whereof donation is made consists of eight square leagues (ocho sitios de ganado mayor) including the Ausaymas, which he already possesses in full ownership the boundaries of which are on the N. as far as the foot of the mountain which goes to the Luis Gonzaga; on the E. the straight line of the land which he possesses on the south this same land; and on the West. the Parallel of the second as appears by the plot which accompanies the Expediente. The Magistrate who gives possession shall have it measured according to land, leaving the surplus which may result to the nation for the necessary uses.

5<sup>th</sup>. If he transgress these conditions,

he shall loose his right to the Land and it may be denounced by another.

I consequently Command, that these presents serving him for a Title, be held as firm and valid, and be recorded in the corresponding book - delivering the original to the party interested for his security and further ends. Given in Monterey on the first of April Eighteen Hundred and thirty six.

(Signed) Nicolas Leticuela.

(Signed) Francisco del Castillo Regate,  
Secretary

Decs # 10,

Recorded in the corresponding books, of entries of Titles kept in the Archives of the Secretarys Office under my charge, at folio 101, mark with number 98,

Monterey April 1<sup>st</sup> 1836,

(Signed) Castillo.

I the undersigned do hereby certify the foregoing to be a true and faithful Translation of its original.

Office of State Translator  
Monterey 3<sup>rd</sup> December 1857,

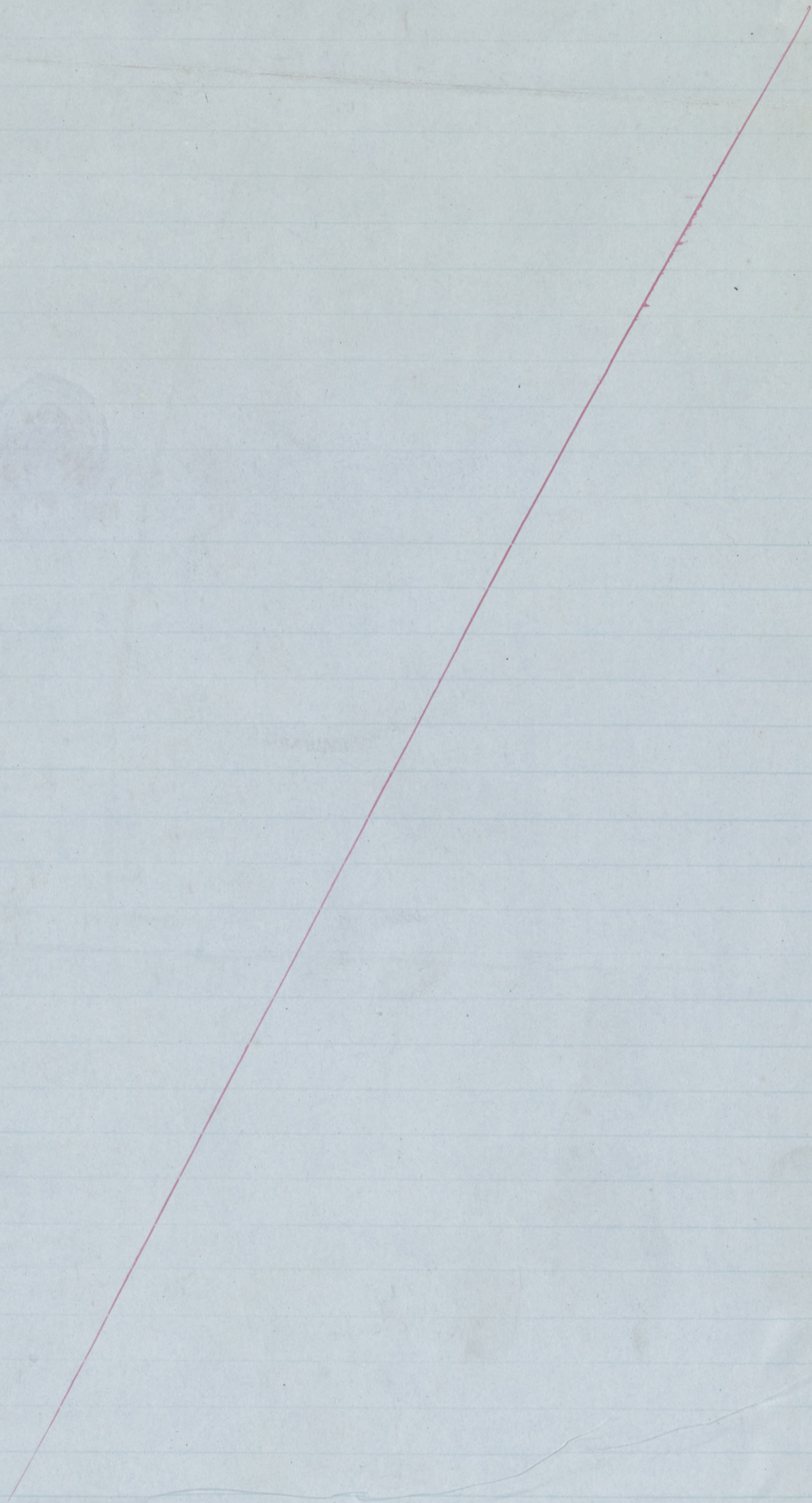
W. E. P. Hartnell

State Translator

P. C.

Filed in Office Feby 24<sup>th</sup> 1852.

Geo. Fisher  
Clk





No 04. Francisco Peres Pacheco, Claimant

Opinion

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Francisco Peres Pacheco asks for the confirmation to him of a tract of land in addition to another tract formally granted him which was called "Ausaymas", the whole containing eight square leagues, of which additional tract in augmentation of the former, he produces a grant to himself from Governor Coutines dated April 1. 1836. There is no evidence that the grant was confirmed by the Territorial Deputation, or that Judicial possession of the additional tract was given to the Claimant: but it is proved that the Claimant has been in the quiet occupation of the land from the date of the grant to the present time.

We have heretofore uniformly held that the want of evidence of the approval of a grant by the Territorial Deputation, & of the giving of Judicial possession did not form valid objections to the confirmation of a claim, & we hold the same in this case for reasons heretofore repeatedly given.

No other objections being made or seen to this claim we enter a decree of final confirmation as follows, Com<sup>r</sup> Thornton concurring in the result.

Decree of Confirmation

This Board on full consideration having come to the conclusion that the claim is valid now proceeds to make and does hereby make the following decree on report of final confirmation. *Viz*. It is decreed that the said claim be confirmed to the extent and quantity granted, being eight square leagues including the land which had been previously granted, which previous grant to an extent of not exceeding

17.

two square leagues has been this day confirmed to the same claimants in Case No 63, on the Docket of this Board.

Provided that the said quantity of eight square leagues (including the same tract before granted) now confirmed to the claimant be contained within the boundaries called for in said grant & map to which the grant refers, and if there be less than that quantity within said bounds, then we confirm to the claimant that less quantity.

Witness our hand this 5<sup>th</sup> of January

1853.

Hiland Hall  
Harry S. Thornton  
Commissioners

Filed in Office Jan 5<sup>th</sup> 1853

Geo. Fisher  
Sec'y

Office of the Board of Commissioners,

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

I, George Wister Secretary to  
Board of Commissioners to ascertain and settle the Private  
Land Claims in the State of California, do hereby certify the  
foregoing — seventeen pages, numbered from  
1 to 17, 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. 64 on the Docket of the said Board,  
wherein Francisco Perez Pacheco

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

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 March  
A. D. 1854, and of the Independence of the  
United States of America the seventy-eighth

Geo. Wister



78

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

No. ~~37~~ 78. Docket

THE UNITED STATES, *applt.*

vs.

*Francisco Perry Pacheco*  
*for San Felipe*  
*vs. S. Land*  
*of S. L. Leagues & Tuolumne Co.*

TRANSCRIPT OF THE RECORD

FROM THE  
BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 64

Rec<sup>d</sup> 18 Sept / 54  
Filed, 19 Sept / 54 1854

*A. S. Taylor*  
*Spty. Clk.*

78

SELLO PRIMERO SEIS PESOS.

Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterrey de la Alta California para los años de mil ochocientos treinta y cuatro y ochocientos treinta y cinco.

Figueroa

Revalidado para el bienio de 1836 y 1837.

A. Ramirez

Gutierrez

A. Ramirez

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SD

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Nicolas Gutierrez Cemente Coronel de Caballeria permanente, Comandante General, Inspector y Jefe Superior Político interino del Territorio de la Alta California.



Por cuanto el Sr. Francisco Perez de Pacheco Mejicano por nacimiento ha pretendido para su beneficio personal y el de su familia la ampliacion de terreno de estension de tres leguas al sitio que ya posee en propiedad por ser este estero y no caberle los bienes de su pertenencia en el que obtiene conocido con el nombre de Acasimas cuya estension es de dos sitios de ganado mayor segun consta por el titulo de el para que se le incluye en el presente, previas las averiguaciones y tramites convenientes, he venido en concederle las tres leguas de ampliacion al Norte que solicita, usando de las facultades que me son conferidas a nombre de la Nacion Mejicana declarandole la propiedad de el por las presentes letras, a reserva de la aprobacion de la Santa Diputacion en cuanto a la ampliacion y bajo las condiciones siguientes. 1.ª Que

Don. 20 p.  
E  
E

se someterá a las que estableciere el  
reglamento que se ha de formar para  
la distribución de terrenos baldíos y  
que entre tanto ni el agraviado ni sus  
herederos podrán dividir ni enagenar  
el que se les adjudica, imponer censo,  
vencido, finca, hipoteca ni otras gra-  
vamenes aunque sea por causa púdica  
ni pasarlo a manos muertas.

2<sup>a</sup> Podrá cercarlo sin perjudicar las  
travesías, caminos y servidumbres, lo pose-  
rá libre y exclusivamente destinado al  
uso y cultivo que mas le convenga para  
dentro de un año a lo mas fabricar  
casa y estera habitada.

3<sup>a</sup> Solicitara al Jefe respectivo que le dé  
posesion jurídica en virtud de este des-  
pacho para el cual se demarcaran los  
linderos en cuyos limites pondrán a mas  
de las magueyas algunos arboles frutales  
o silvestres de alguna utilidad.

4<sup>a</sup> El terreno de que se hace donación es  
de ocho sitios de ganado mayor incluidos los  
Ahuasmas, que ya posee en plena propiedad,  
cuyos linderos son al norte hasta el pie de  
la cuesta que pasa para San Luis Gonza-  
ga, por el Este la línea recta del terreno

D

que posee, por el Sur este mismo terreno  
 y por el Oeste la paralela de la segunda,  
 segun explica el terreno que corre en el es-  
 pediente. El Sur que diese la posesion lo  
 hara medir conforme a ordenanza quedando  
 el sobrante que resulte a la Nacion para  
 los usos convenientes.

5. Si contraviniere a estas condiciones perdera  
 su derecho al terreno y sera denunciado por  
 otros.

En consecuencia mando que Sirviendoles  
 de titulo el presente y teniendose por  
 firma y validez de tomo raron de el en  
 el libro que corresponde y se entregue al  
 interesado para su resguardo y demas fines.  
 Dado en Monterrey a primero de Abril  
 de mil ochocientos treinta y seis.

Nicolás Gonzalez  
 2.<sup>o</sup> del Castillo  
 Secretario  
 Jefe

Queda tomada raron a folios 101 y 102  
 ludo con el N.º 98. del libro que corresponde  
 de asuntos de titulos que en el Archivo de la  
 Secretaria de mi cargo. Monterrey Abril 1.<sup>o</sup>  
 de 1836. - Castillo

Dios. 10. p.º

*[Signature]*

No. 64 7

Francisco Perez Pacheco

Rancho de San Felipe

Grant

"Exhibit B. p. 6."

Filed Oct 18<sup>th</sup> 1835. C.E. San. CLK

Filed in Office Decem 23  
1832 Geo. Fisher

*Geo. Fisher*

Recorded in Record of Evidence  
Vol. 6. page 250 + 251

Geo. Fisher

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B.



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

TO

The President of the United States,

Francisco Perez Pacheco,

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GREETING:

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

*Pacificus Ord, attorney of the United States for the Southern District of California, in behalf of the United States, praying the said court to review, upon the grounds therein set forth, the decision of final Confirmation of the Board of U. S. Land Commissioners to ascertain and settle the private land claims in the State of California, of the claim of Francisco Perez Pacheco for <sup>an</sup> tract of land called San Felipe, in the County of Santa Clara and Suelumne, California, containing six or eight square leagues, presented by you to said Commission on the 24<sup>th</sup> of February, 1852, and by them confirmed on the 5<sup>th</sup> of January 1853.*

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

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

*J. E. Farr.*  
Clerk.

Marshals cost—  
 Copying Summons 300  
 Serving Summons 300  
 Serving petition 300  
 actual traveling  
 expenses 153.00  
 \$167.90

3078  
 R. P. April 2 1888

United States of America,  
 Southern District of California,  
 U. S. DISTRICT COURT.

Francisco Perez Pacheco  
 ad  
 The United States } 64.

SUMMONS.  
 Received February 15<sup>th</sup> 1888  
 Edward Hunter  
 Marshal

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I served this summons along with the proper copy of the petition upon *Francisco Perez Pacheco* by delivering to him personally a true copy of the same in the county of *Monterey* at *the tower of Monterey* in the Southern District of California on the *20<sup>th</sup>* day of *March* A. D. 185 *five*

Sworn to and subscribed before me, this *2<sup>d</sup>* } *Edward Hunter*  
*of April 1888.* } *U S Marshal.*  
*J. E. Jan. Clerk.* }  
*By Jos A. Meyer*  
*Deput*

I, John A. Munroe, Clerk of the  
United States District Court for the Northern District  
of California, do hereby certify that I have received of

George Fisher

Secretary of the Board of Commissioners to ascertain and settle  
the Private Land Claims in the State of California, a docu-  
ment purporting to be a Transcript of Record of the Proceedings  
and of the Decisions of the said Board of the Documentary Evi-  
dence and of the Testimony of the Witnesses upon which the same  
is founded, in Case No. 61 on the Docket of the said  
Board, wherein Francisco Perez Pacheco

the Claimant, against the United States for the  
place known by the name of San Felipe

to be filed in accordance with the provisions  
of the Act of Congress, approved August 31st, 1852, with the  
Clerk of the United States District Court for the District of  
California in which the Land claimed is situated.

In Testimony Whereof, I have herewith set my  
hand and affixed the Seal of the said Court, in the  
City of San Francisco, the thirteenth day of  
March A. D. 1851.

John A. Munroe  
Clerk  
by A. M. Schell  
Jy

~~21611~~  
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Receipt  
of the Clerk of the  
Clerk of the U. S.  
Dist. Court for the  
Northern Dist.  
for  
Trans. W. C.

Filed in Office March  
13<sup>th</sup> 1854

Geo. Fisher  
S  
by

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Registered

Attorney General's Office  
10<sup>th</sup> August 1854.

Francisco Perez Pacheco, claimant }  
vs. } 64.  
The United States.

You will please take notice that an appeal in the above case (a transcript of the proceedings in which was received at this Office on the 27<sup>th</sup> of April 1854), from the decision of the Commissioners to ascertain and settle the private land claims in the State of California, to the District Court of the United States for the Southern District of California, will be prosecuted by the United States.

Clark  
Attorney General.

No 48.

No 78.

*U. S. Dist. Court*

*South. Dist. of Cal.*

*Franco P. Pacheco*  
vs

*The United States*  
for No. 64.

*Notice of Appeal*  
from Atty. Genl. 10 Aug 52

~~1852~~

*Rec<sup>d</sup> 22 Sept. 1854*

*Filed 23 do. 1854*

*A. Taylor*  
*of Cal.*

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"tract of land granted to him by Governor Figueroa  
 "in the 26<sup>th</sup> of November 1833, under the name of  
 "Ansaymas" was not sufficiently extensive to hold  
 "and give sufficient pasturage to his cattle,  
 "he made and presented his petition on the 1<sup>st</sup> of  
 "February 1836 to José Gutierrez, then Governor, so-  
 "liciting for himself the grant of the tract lying  
 "North of the lands formerly granted to him under  
 "the name of Ansaymas in the present counties  
 "of Santa Clara and Trulumbo and comprising  
 "about two leagues in length and two in width.  
 "That said Governor Gutierrez on the 5<sup>th</sup> of February  
 "1836, referred the said petition to the respective  
 "authorities for a report thereon. That said authorities  
 "reporting favorably thereon, said Gutierrez by virtue  
 "of the authority vested in him as constitutional  
 "Governor of California, by a decree dated the 6<sup>th</sup> of  
 "February 1836 declared the said Francisco Perez  
 "Pacheco to be the owner of the tract of land petition-  
 "ed for and directed the proper documents, consti-  
 "tuting title to be executed to said Pacheco. That  
 "said title was issued on the 1<sup>st</sup> of April 1836 in ac-  
 "cordance with all the formalities of the law, and  
 "delivered to your petitioner. That said petition,  
 "reference, decree, and a map of the land together  
 "with a duly certified copy of the grant are now  
 "on file in the Office of the Surveyor General of the  
 "United States of America for the State of California,

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"among the Archives of California, and that duly  
"certified Copies of said petition, reference and  
"decree together with the maps and translations  
"are and form the latter part of the expediente filed  
"in the Office of your Honorable Commission with the  
"papers concerning the "Ansaymas" and are prayed  
"to be made a part <sup>to</sup> of this petition. That the original  
"grant is in the possession of your petitioner and ready  
"to be offered in evidence, whenever required. But  
"that a duly certified Copy of the recorded Copy of  
"said grant on record as aforesaid, is herewith sub-  
"mitted and prayed to be made a part to this  
"petition. That said land is situated in the present  
"Counties of Santa Clara and Toulumne and is  
"bounded according to the terms of the grant as  
"follows 1. On the North by the foot of the mountains  
"which go to San Luis Gonzaga. 2. On the East by  
"the continuation of the line, which forms the east-  
"ern boundary line of the "Ansaymas" 3. On the  
"South by the boundary line which forms the North-  
"ern boundary of the Ansaymas. 4. On the West by  
"a line running parallel to the line described in No  
"two (2) Comprising altogether about six square leagues  
"more or less, & so as to use the terms of the grant,  
"eight square leagues including the Ansaymas,  
"which said Pacheco already possesses in full ownership  
"And your petitioner further states, that ever since  
"said grant has been made to him, he has been

"in possession of said land without the interference  
 "of any person whomsoever, and has always exercised  
 "full, acknowledged and undisputed ownership over  
 "the same. He therefore claims to be the owner of said  
 "tract of land and prays that your Honorable Body  
 "will confirm his claim and title thereto."

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Your petitioner further represents that thereafter,  
 to wit, on the 5<sup>th</sup> day of January AD 1853, the said  
 Commissioners confirmed by final decree the said  
 claim of the said Francisco Perez Pacheco, in the words  
 and figures following, to wit. "This Board on full  
 "consideration having come to the conclusion that the  
 "claim is valid now proceeds to make and does hereby  
 "make the following decree or report of final con-  
 "firmation, viz. It is decreed that the said claim  
 "be confirmed to the extent and quantity granted,  
 "being eight square leagues including the land  
 "which had been previously granted, which previous  
 "grant to an extent of not exceeding two square lea-  
 "gues has been this day confirmed to the same clai-  
 "mants in case No 13, on the Docket of this Board.  
 "Provided that the said quantity of eight square  
 "leagues (including the same tract before granted)  
 "now confirmed to the claimant be contained with-  
 "in the boundaries called for in said grant and  
 "map to which the grant refers, and if there be  
 "less than that quantity within said bounds,  
 "then we confirm to the claimant that less quantity."

"Witness our hands this 5<sup>th</sup> of January 1853."

"Hiland Hall" } Commis-  
"Harry Thornton" } sioners."

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That there after, to wit, on the 19<sup>th</sup> day of September A.D. 1854, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded in said cause, was filed in the Office of the clerk of the District Court of the United States for the Southern District of California, and marked N<sup>o</sup> 64, reference to which it is prayed may be had and made a part of this petition.

That on the 27<sup>th</sup> day of April AD 1854, the Honorable Caleb Cushing Attorney General of the United States received a duly certified duplicate of said transcript of said final decree and proceedings of said Commissioners in said cause, (N<sup>o</sup> 64) and the papers and evidence in which said decree was founded.

That thereafter, to wit, on the 23<sup>d</sup> day of September AD 1854, the said Attorney General of the United States, filed, or caused to be filed, on behalf of the United States, a notice with the said clerk of said District Court for the Southern District of California, that the Appeal in said cause of Francisco Perez Pacheco vs The United States from the decision of the said Commissioners to ascertain and settle the private land claims in the State of California, in the District Court of the United States for the Southern District of California, would be prosecuted

6  
by the United States.

Your petitioner further represents that the said land claimed as aforesaid, is within the Jurisdiction of this Honorable Court.

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And your petitioner further represents and insists that the said decree of said Commissioners is erroneous, and ought to be reviewed, reversed, and set aside, for many errors and imperfections of law and evidence apparent in said certified transcript of said cause now on Appeal from said Commissioners to this Honorable Court.

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

1. That the said Francisco Perez Pacheco shows no valid title to the said land claimed by him as aforesaid. And it is denied that he has any.
2. That the said alleged grant of Governor Gutierrez was made in violation of the 4<sup>th</sup> Article of the Colonization law of Mexico of the 18<sup>th</sup> of August AD 1824, in this, that the land granted, as alleged by Claimant, was and is within ten leagues of the Sea Coast. And there is no evidence by Claimant, that the Supreme General Executive power of Mexico previously approved of the Colonization of the lands of California, within ten leagues of the Sea Coast. And it is denied that such previous consent of said Supreme General Executive power of Mexico in such case was

ever had.

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3. That at the date of the said alleged grant, the said land claimed as aforesaid, was occupied by, and in the possession of the Missions of California, and particularly by the Mission of San Juan Bautista; and could not therefore be colonized.

4. That the said alleged grant has not the conditions required by, and is not made in entire conformity with the law of Mexico of the 18<sup>th</sup> of August AD 1824, and the regulations for the Colonization of the Territories of Mexico of the 21<sup>st</sup> of November AD 1828.

5. That the land alleged to have been granted by Governor Gutierrez of the date of the 1<sup>st</sup> of April AD 1836, is not sufficiently described in said grant, so that it can be identified; that there is no original map shown of the said land; that the said alleged grant is vague and indefinite; and is void for uncertainty.

6. That there is no evidence that the names of Nicolas Gutierrez and Francisco del Castillo Negroete appearing upon the said alleged grant of said date, are their genuine signatures. And it is denied that they are genuine. And the genuineness of the said alleged grant of said Governor Nicolas Gutierrez of said date is also denied.

7. That there is no evidence that the conditions of the said alleged grant were ever performed by said Francisco Perez Pacheco. And it is denied that they were

ever performed by him.

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8. That there is no evidence that the said alleged grant of said land by said Governor Gutierrez, was ever approved by the Territorial Deputation or Departmental Assembly of California. And it is denied that the said grant for said land was ever approved by said Deputation or Assembly.

9. That there is no evidence that the said Francisco Perez Pacheco built a house on the said land claimed, as aforesaid, within a year from the date of said grant, and that it was occupied by him, and that he cultivated the said land. And it is denied that he ever built a house on said land within a year from the date of the said grant, and that it was occupied, and that he cultivated the said land, as required by law, and the conditions of said alleged grant.

10. That there is no evidence that the said Claimant ever solicited of the respective Judge, or received the Juridical possession of the said land, and that it was measured according to law, as required by the conditions of the said alleged grant. And it is denied that said Claimant ever asked for or received Juridical possession of the said land, and that it was measured according to law.

11. That the said final decree of said Commissioners of said claim for eight square leagues, is erroneous and the claim invalid in this. That the claim

of Francisco Perez Pacheco for Ansaymas (No 63.) of the extent of two square leagues, alleged to have been granted by Governor Figueroa on the 26<sup>th</sup> of November AD 1833, and confirmed by said Commissioners by final decree dated the 5<sup>th</sup> of January AD 1833, and the three leagues in addition to the said grant of "Ansaymas," now claimed and alleged to have been granted by said Governor Gutierrez on the 1<sup>st</sup> of April 1836, when united, would make in all but five square leagues of land.

And no proof having been made by said Claimant of the allegations of his said petition, or in support of his said claim filed as aforesaid, no decree ought to have been made or grounded thereon, but the said petition, ought to have been dismissed and said Claim rejected by said Commissioners upon the grounds aforesaid.

Wherefore the said Pacificus Ord Attorney of the United States for the Southern District of California for and in behalf of the United States, by reason of the premises, and the laws and Statutes in such case made and provided, prays that the said Francisco Perez Pacheco, or his Attorney may be served with a copy of this petition, and that this Honorable Court will review the said decision or final decree of Confirmation of said Commissioners to ascertain and settle the private land claims in

the State of California, and decide on the validity of the said claim of said Francisco Perez Pacheco for said land claimed and confirmed as aforesaid, and that the same may be deemed invalid. And all such other Orders, Judgments or decrees as may be just. With Costs, and general relief.

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*F. O. M.*

Attorney of the United States  
for the Southern District of Cal<sup>a</sup>.



78.

N<sup>o</sup> 78.

Francisco Perez Pacheco

Advs.

The United States.

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Petition of parts of MS for  
Review &c.

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Filed Dec 29. 1854.

78 SD C. S. Farr  
clk.

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Office of the Attorney General of the United States,

Washington, 17th January 1855.

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Fulgencio Higuera }  
vs. } 48  
The United States. }

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 28th day of September 1854, the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Cluding

Attorney General.

No 78

U. S. District Court,  
Southern Dist of Cal.

The United States,

vs

Julgencia Arguera,

Appel White.

Filed March 8<sup>th</sup> 1885.

J. E. Farr,  
clerk.

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The United States  
Appellant  
or  
Francisco P. Pacheco  
Appellee

In the United States District  
Court for the Southern Dis-  
trict of California.

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Claim for "San Felipe".

Docket No. 78. Land Commission No. 14.

And now comes the above named  
Appellee, Francisco P. Pacheco, by J. R. Scott, his attorney  
and for answer to the Petition for Review filed  
in this case by the Appellant, says:

That on the 1<sup>st</sup> day of April, A. D.  
1830, Nicolas Gutierrez, then Constitutional and  
acting Governor of Upper California, and interim,  
and duly authorized by law to make such grants,  
did, by his deed of grant of that date duly ex-  
ecuted according to law, grant and convey to  
this appellee, a tract of land known as "San Fe-  
lice" additional to and adjoining the land of  
"Ansaymas", previously granted to, and occupied  
by this Appellee, and containing six square leagues  
a little more or less.

And that afterwards to wit, on  
the 24<sup>th</sup> day of February, A. D. 1852, this Appellee  
filed before the United States Board of Land Com-  
missioners to ascertain and settle the private land  
claims in California, his Petition, setting forth his title  
to said land of San Felipe, and praying for a confir-  
mation thereof to him by the said Board, together  
with certain documentary evidence in support of  
said Petition.

And that afterwards, to wit on the 3<sup>d</sup> day of May, A.D. 1852, he also filed certain depositions of witnesses in support of his claim to said land of Juan Felipe all of which said Petition, documentary evidence, and depositions of witnesses are together with the subsequent proceedings of said Commissioners in the matter are contained in the Transcript of Case No 64 in the Docket of said Commission, now on file in the office of the Clerk of this Court, to all of which this Appellee hereby refers and makes a part of this his answer.

And this Appellee, on the 24<sup>th</sup> day of February, A.D. 1852, also filed before said Commissioners certain other documentary evidence, the same being his petition to the aforesaid Governor Gutierrez for the land in this case, and the reference and decree of said Governor in the matter, all of which documentary evidence is contained in the Transcript of Case No 63 in the Docket of said Commissioners, now on file in the office of the Clerk of this Court, to which this Appellee hereby refers and makes a part of this his answer.

And this Appellee further states, that on the 5<sup>th</sup> day of January, A.D. 1853, the said Commissioners, after hearing the Petition and proofs of this Appellee, by their decree of that date confirmed said land to this Appellee.

Whereby this Appellee avers that he has become seized in fee simple of said land of Juan Felipe, as he avers that he has from the date of the above mentioned grant to the present time, done, performed, and fulfilled, all things and conditions necessary by law for him to do, perform, and fulfil to perfect his title to said land, particularly by an act of the Congress of the United States,

entitled an act to ascertain and settle the private land

enacted by an act of the Congress of the United States,

entitled an act to ascertain and settle the private land claims in the State of California, Approved March 3<sup>d</sup> 1851.

And this Appellee further states that the said lands of Juan Felipe are situate in the present counties of Santa Clara and Duvaline, and within the jurisdiction of this Honorable Court, and for further answer to the Petition for Review filed in this case by the Appellant, this Appellee denies all and singular, each and every allegation therein contained except what is admitted in this his answer, and he denies that there is anything in said Petition contained either in Law or in fact to estop or prevent this Honorable Court from affirming the decree of said Commissioners and confirming to this Appellee his title to the lands in this case.

Therefore this Appellee prays the judgement of this Honorable Court, that the decree of said Commissioners may be affirmed and that his title to the said lands of Juan Felipe may be confirmed, and that he may be dismissed hence with costs and may have such other and further relief as shall be agreeable to Equity and good conscience, and the nature of his case shall require

J R Galt

Attorney for Appellee.

I served this answer on Ford M Dist.  
Atty by delivering to him in person a  
certified copy hereof in the Southern  
District of California this Aug 16<sup>th</sup> 1855 -

Edward Hunter  
U. S. Marshal.

Sworn to and subscribed  
before me, this 16<sup>th</sup> Aug, 1855.  
J. E. Jam.  
Clerk.

Case No 3

The United States  
Attorney

at  
San Diego P. Pacheco  
Attorney -

Answer of Appellee.

The Clerk will please send  
copy on the District Atton-  
ney -

Filed April 11<sup>th</sup> 1855

J. E. Jam.  
Clerk.

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J. R. Beatt  
Att'y for Appellee.

The United States, Applt. } U. S. Dist Court.  
vs } South Dist of Cal.  
Francisco P. Pacheco, Appee } No 48. "San Felipe"

Deposition of Jose Rafael Gonzales

a witness on the part of appellee, taken by consent of parties before Charles E. Carr, U. S. Commissioner, appointed to take testimony in this case, at Monterey, June 19<sup>th</sup> 1855. Present, P. Ord. U. S. Attorney for applt. J. R. Scott, attorney for appellee.

J. L. Ord sworn as Interpreter. Jose Rafael Gonzales being duly sworn deposes and says—

Question 1<sup>st</sup> What is your name, age, place of residence and present occupation?

Ans My name is Jose Rafael Gonzales, my age is 47 & seven years, my residence Monterey, my occupation Ranchero. I have resided in California (Monterey) since the year 1832.

Ques 2 Do you know Francisco Perez Pacheco.

Ans I know him well.

Ques 3<sup>d</sup> Were you ever Alcalde here in Monterey, if so in what year.

Ans I have been Alcalde in Monterey, I dont exactly remember the year but think it was in 1833 or 1834. At the same time I guess was Alcalde, I was also—

Ques 4<sup>th</sup> Are you acquainted with the Ranch of "San Felipe, if so where is



it situated.

Ans. I am well acquainted with it. It is situated the other side of San Juan, about fourteen miles from Monterey, in a northeasterly direction.

Ques. 5<sup>th</sup> State anything you know concerning judicial possession having been given of said Ranch, and by whom and when the same was given and to whom.

Ans. I being constitutional Alcalde I gave judicial possession of said Ranch, to Francisco Perez Pacheco, about the year 1834 or 1835, when I was Alcalde.

Ques. 6. Who assisted you in giving the judicial possession —

Ans. — I do not recollect —

Ques. 7. What do you know of the occupation of the aforesaid Ranch.

Ans. I know that said Ranch was occupied by Francisco Perez Pacheco, at the time I gave him the possession. Pacheco had a house on it for himself, and houses for his servants, he had Cattle and horses and Sheep on it, and cultivated large portions of it and planted all kinds of grain on it. Pacheco has continually occupied said Ranch up to the present time.

Ques. 8<sup>th</sup> Do you know the Ranches of "Holsas de San Felipe" and "Ansaymas"? If so, state what connection they bear to the Ranch of San Felipe, as being all three one and the same Ranch (objected to

by the U.S. Attorney as to form and subject matter)

by the U.S. Attorney as to form and subject matter)  
Ans. I know the Ranchos of Bolson de San Fe-  
lice, and Ansaymas. They are all one and  
the same with San Felipe, (objected to by U.S. Atty.)

Ques 9<sup>th</sup> State the manner of occupation  
of the three Ranches, and state whether or  
not they have been occupied as one Ranch  
and how long <sup>by whom</sup> (objected to by U.S. Attorney)

Ans. They were <sup>always</sup> occupied as one Ranch,  
one part was used by Francisco Perez  
Pacheco - one part was used as sowing  
ground - and the others were occupied  
by his horses and cattle (objected to by U.S. Atty.)  
Ques 10<sup>th</sup> State on which part he  
had his sowing grounds.

Ans. He had his sowing grounds on  
the other side of the creek, where he planted  
corn and beans, and on this side of the  
creek he planted wheat.

Ques 11<sup>th</sup> Can you state the boundaries  
of ~~each~~ any one of these Ranches  
separately - (objected to by U.S. Atty.)

Ans. When I gave possession, I thence  
I gave, from the Sanjon del Siquisquite  
to the middle of the Laguna, from thence  
to a hill that has some oak trees on it,  
thence to the cañada de los Osos, and  
from there to the picacho, and from  
there to a Rancho called San Baquin, and  
from thence to a place called Coral,  
adjoining the Ranches of Santana and  
Santanita (objected to by the U.S. Attorney)  
Cross examined by U.S. Attorney -

Ques - Who was present when you gave  
judicial possession of said Rancho of

of San Felipe, to Francisco Perez Pacheco, about the years 1834 or 1835?

Ans. I do not recollect upon further reflection. I remember - that Don Jose Tiburcio Castro, was present, as administrator of the Mission of San Ina - and also Mariano Macayo Castro - a neighbor of Pacheco - Quintin Ortega a coludante of Pacheco, was also present - Jose Maria Sanchez and Hipolito Mejia, Cruz Perez Cruz Encantes - Rafael Mota - and one Vargas neighbor and servant of the Rancho were also present. These are all I can recollect.

Ques - Did you or not make <sup>to</sup> and deliver to Francisco Perez Pacheco a testimonial of the judicial possession of the said Rancho of San Felipe.

Ans. - I did - I gave <sup>him</sup> a ~~copy~~ <sup>testimonial</sup> of the judicial possession, the original remained in the hands of Monterey, then under the charge of David Spence 1<sup>st</sup> Alcalde and of myself 2<sup>d</sup> Alcalde of said place.

Ques - Under what title, did you give judicial possession to the said Pacheco.

Ans - Under a title from Governor Figueroa, there was no other title but that of Governor Figueroa, that I remember.

Ques - Was Governor Figueroa alive at the time you gave judicial possession of said Rancho.

Ans. I do not recollect whether Governor Figueroa was living at that time.

Ques. At the time you gave

judicial possession of said Rancho

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judicial possession of said Rancho  
had Pacheco a house on the same.

Ans. He had several houses on  
the place -

Ques. did Pacheco live there, <sup>in those houses</sup> at  
the time you gave him  
judicial possession -

Ans. He did -

Ques. What was the name or names  
of the <sup>said</sup> tract of land <sup>of San Felipe</sup> at the time  
you gave judicial possession of  
the same.

Ans. At the time I gave  
the judicial possession it was  
called "San Felipe" or "Ansayeras."

Ques. How far is the said tract  
of land from the sea coast.

Ans. - I think that ~~the~~ it is  
about fourteen leagues -

sworn to and subscribed  
at Monterey this 19<sup>th</sup> day of June,  
1855. before me.

J. E. San.  
U. S. Commr.

José Manuel Gonzalez  
J  
M

No 78.

U.S. Dist Court  
South Dist of Cal.

The United States  
Appth.

vs.

Francisco Perez Pacheco  
Appie.

"San Felipe"

Deposition of  
Jose Rafael Gonzalez.

Filed June 19<sup>th</sup> 1855

J. C. Jones  
Clerk.

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J. P. Pacheco }  
Appellee. }  
vs. } San Felipe  
The United States } No 48.  
Appelr. }

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Abel Stearns a witness on the part of appellee  
was sworn and testified as follows.

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

Ans - My name is Abel Stearns, age 54 years, residence  
Los Angeles

Ques. How long have you resided in California.

Ans. Twenty six years

Ques - State whether you were acquainted with  
Nicolas Gutierrez and Francisco del Castillo  
Regrete, if so, state if you have frequently  
seen them write and are acquainted with their  
handwriting.

Ans. I was acquainted with them both - I have  
frequently seen Gutierrez write, I don't  
know that I ever saw Regrete write - I  
have had documents in my possession purporting  
to be signed by Regrete, but I never saw  
him write.

Ques. - Look upon a document here presented to you  
purporting to be a grant of land made by the  
said Nicolas Gutierrez to Francisco P. Pacheco  
for the place called San Felipe, bearing date  
April 1<sup>st</sup> 1836. And state whether the signa-  
tures of said Gutierrez and Regrete, as here  
they appear in said document are their genuine  
signatures?

Ans. I pronounce the signature of Nicolas Gutierrez  
to be genuine - Regrete I never saw write -  
Gutierrez was Gefe Politico provisional, of Cali-  
fornia in 1836 - I think <sup>Regrete</sup> he was acting  
as Secretary under Gutierrez

at that time

~~Abel Stearns~~

(said document is hereto annexed and marked "Exhibit B. f. & c.")

Abel Stearns

sworn to & subscribed before me this 8th day of Oct. 1855.

J. S. Jan. Clerk

No 48.

U.S. Dist Court South Dist of Cal.

J. P. Pacheco, Appellee, advs.

The United States, Applt.

Deposition of Abel Stearns a witness for Appellee.

True Oct 8th 1855 J. S. Jan. Clerk

H. P. Pacheco, Appellee

adv.

San Felipe. 78.

The United States.

78 SD appls

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Anastasio Canillo, a witness for Appellee, was sworn and testified. Abel Stearns, sworn as Interpreter.

Ques. What is your name and place of residence.

Ans. My name is Anastasio Canillo, my age 67 years - residence Santa Barbara, State whether you are acquainted with Francisco del Castillo Regrete, ipso, whether you have frequently seen him write and are acquainted with his signature?

Ans. - I knew him, I have often seen him write, I know his signature.

Ques. Look upon a document here presented to you, purporting to be a grant for the Ranch of San Felipe, executed by Nicolas Gutierrez to Francisco Perez Pacheco, bearing date April 1<sup>st</sup> 1836, and state whether the signature of said Regrete where it appears on said document is his genuine signature.

Ans. I think it is his signature (said document is annexed to the deposition of Abel Stearns taken this day in this case, and marked "Exhibit B." f.e.f.)  
Anast. Canillo

Sworn to and subscribed  
before me this 8<sup>th</sup> day of  
Oct. A.D. 1855.

J. E. Can.



6  
No 48.

W. S. Dist Court.  
South Dist of Col.

J. P. Barbero.  
appellee.  
vs.  
The United States.  
appell.

Deposition of Anastasio  
Carrillo a witness for appellee.

Filed Oct 8<sup>th</sup> 1855.

J. E. Farr.  
Clerk.

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

The United States, appellant  
vs  
Francisco P. Pacheco, appellee

Claim for  
"San Felipe"  
No 48

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And now on this day of  
A.D. 1855, the parties appear in court, the Ap-  
pellant appearing by P. D. U. United  
States District Attorney for the Southern  
District of California, and the appellee,  
appearing by J. R. Scott his attorney, and <sup>on</sup> by  
~~motion of appellee's attorney~~ ~~consent of parties~~ it is ordered that either  
party may take such further testimony  
as they shall wish in the above entitled  
cause

Case No 78

8

The United States -  
Appellant

vs.

Francisco P. Pacheco  
Appellee.

Leave to take further testimony

Filed Oct 9<sup>th</sup> 1855

C. C. Canaan

By Geo. W. D. D. D.

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"San Felipe"

In the United States District Court, in & for  
the Southern District of California

Francisco P. Pacheco  
Appellee  
vs  
The United States  
Appellant

Case No 48.  
Transcript 64.  
"San Felipe".

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No.	Page	Description
1	3, 4, 5	Petition to Commission
2	5, 6, 7	Deposition of Macsimo Taboas
3	7, 8, 9	do Jose M <sup>ca</sup> Sanchez
4	10, 11, 12	Title by Encierres
5	13, 14, 15	Translation of Title — No 4
6	16.	Opinion
7	16, 17	Decree of Confirmation
8		

Care U<sup>o</sup> 78.  
U. States District Court  
South<sup>h</sup> Dist. of California

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Francisco P. Pacheco  
Appell<sup>ee</sup> ~~ant~~  
ad  
The United States  
Appellant.

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Index of Transcript 64.

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Filed Oct 9<sup>th</sup> 1885

J. E. Farr,  
Clk.

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

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The United States  
Appellant  
vs

Francisco P. Pacheco  
Appellee

Case No 78.

Transcript. 64  
"San Felipe".

It is hereby stipulated between the  
parties that copies certified by the Clerk of  
the above Court of certain documents ap-  
pearing in Transcript No 63, now on file  
in the Office of the Clerk of this Court in  
Case No 79, to wit, a copy of a Petition of  
Francisco Pacheco, with marginal order  
of Gutierrez, and a copy of a Decree of said  
Gutierrez, which appear on pages 40, 41,  
and 42, of said Transcript, may be used  
in evidence in the above Cause No 78.

J R Scott  
Atty for Appellant  
P. M. Diaz  
Appellee

No 48.

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

The United States  
appels.

vs.

Francisco O. Pacheco,  
Appellee.

San Felipe

Deputation.

Filed Oct 9th 1885

J. E. San  
Oak.

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The United States appellants }  
 vs }  
 Francisco Perez Pacheco. appellee. }

The claim in this case is founded upon a grant from Nicholas Gutierrez Political Chief of the Department of Upper California, to the present claimant dated April 1<sup>st</sup> 1836

The documentary evidence in the case consists of the Original grant, a traced copy of the expediente of all the proceedings had upon the grant, from the petition of the appellee to the Governor in to the decree of Concession

A part of the expediente is to be found in the transcript in case no 79. which is a claim for a tract of land of which the present grant the grant in the case at bar is an augmentation. the transcript in that case (no 79) is made a part of the evidence in this case. The petition of the appellee to Gutierrez dated the 1<sup>st</sup> of February 1836. after stating that the tract which he owned was not large enough to support his cattle and stock, says that there is a tract of land on the north of that which he already has named ~~Quasimas San Felipe e Guadalupe~~ and which is unoccupied, that ~~its extent is about two leagues~~ ~~is a little more~~ that its extent is a little more than two leagues in the direction mentioned, (that is in a northerly direction) as far as the foot of the mountains lying towards San Luis Gonzaga - and from east to west it is of the same extent as the tract he already possesses, which tract is described as its southern boundary. this description would call for a tract a little more than two leagues from south to north, and two leagues from east to west as that was the extent of the land he already possessed. - The Concession of Gutierrez dated 5<sup>th</sup> of July 1836 concedes to Padeco the two leagues towards the north ~~of~~ the tract of land already in his possession



The final and formal title or grant from Gutierrez to Appellee dated 1<sup>st</sup> April 1836, states that Pacheco had solicited for an extent of three leagues of land in addition to the farm of which he is at present the owner, it then goes on to state, that the farm which Pacheco already possesses is "called Ausaymas" and that it contains two square leagues (dos sitios de ganada Mayor) as appears by the title thereof, and after going through the necessary steps and proceedings, I have by virtue of the powers conferred upon me granted unto him by these present letters in the name of the Mexican Nation, the three additional leagues to the north (las tres leguas de ampliacion al Norte) which he asks for: —

The fourth condition in the grant describes the land granted including the tract of "Ausaymas" which he already possessed — in the following terms, "The land whereof donation is made consists of eight square leagues (ocho sitios) de ganada Mayor) including the Ausaymas which he already possesses in full ownership, the boundaries of which are on the north as far as the foot of the mountain which goes to San Luis Gonzaga on the east the straight line of the land which he possesses on the south the same land and on the west the parallel of the second as appears by the plot which accompanies the expediente"

"The Magistrate who gives the possession shall leave it incumbered according to law, leaving the surplus which may result to the Nation for the necessary uses.

The plot referred in the description in the grant, is evident by the map which accompanies and forms part of the expediente in Case No 79 (the Ausaymas), for it seems from the evidence that Pacheco when he asked for the augmentation of his first grant handed in that grant to the Government and it and the expediente of the proceedings had on the subject were made a part of the expediente in the case, at present before the Court.

There is some little discrepancy between the petition and decree of concession and the final grant, the first two speak of the land as a little more than two leagues to the north, the final grant is for three leagues in that direction.

The concession was made in February and the final grant in April following, and it may very well have happened that during the interval it had been ascertained that the land conceded contained three leagues and that the Governor made the title to conform to what was ascertained to be the actual extent of the land. It is shown that such was the actual ~~it is shown that~~ but even if this were not so the final grant must control the antecedent proceedings as that is the instrument upon which the is the final act of the Grantor and is given to the grantee to serve him as evidence of his title and is of higher dignity than the concession and can not be controlled by it. The genuineness and authenticity of the formal final title is fully proven, and the claim if confirmed must be confirmed in accordance with it.

It was argued by the District Attorney that the word ocho (eight) in the description of the land in the 4<sup>th</sup> condition of the grant was a mistake and that the quantity of land granted was three square leagues, which with the two included in "Aussaymas tract" would make five leagues in all; I do not think the evidence in the case. The words in the body of the grant are the three leagues to the northward which he solicits. In all the Spanish titles which have come under grants which come have come before me for examination, and I believe it to be the universal custom, that in granting land in California, where quantity is specified, to express that quantity by the term *Sitio*, or *Sitio de Ganada Mayor*, which by which is intended a square league - if it were the intention of the Governor to have only granted three square leagues, it is strange that he should not have used the accustomed phraseology, more especially as we see that he used it in the 4<sup>th</sup> condition, where he says that the land of which donation is made including Aussaymas is "Ocho *Sitios de Ganada Mayor*". It is evident from the testimony in the case that the appellee asked for the land lying along the northern boundary of the tract he named called Aussaymas and extending in a westerly direction to the foot of the mountains, and this is what the Governor intended to grant. For he grants him the land

which he solicits, ~~was the land which, the description in the grant and petition shows to~~ The petition and the grant describe the land by definite notes and bounds the ~~under~~ eight square leagues in the 4<sup>th</sup> condition fixes the quantity within those limits, including the tract of Ansaymas. ~~in~~ and the claimant if entitled to anything is entitled to that quantity within those limits.

There is no proof of an approval of this grant by the departmental assembly, nor of Judicial possession ever having been given, but we have already decided that neither the want of the approval of the departmental Junta, nor the failure to show the judicial possession are sufficient of themselves to invalidate a claim otherwise good. The parol evidence in the case shows occupation of the land by the grantee with care & work ever since the date of the grant. twenty years before the change of government; which of itself would create an equity in the claimant favor so strong that as to entitle him to a confirmation, but the Supreme <sup>Court</sup> have decided, that an incident and present interest runs upon the issuing of the title. which could only be defeated by a denouncement or an abandonment. There is no pretence of either in this case. therefore the Appellee is entitled to a confirmation of his claim to the extent of eight square leagues including the tract of Ansaymas; within the boundaries described in the grant; if such quantity be found therein and a decree will accordingly be entered confirming the decision of the Commissioners.

Case No 48

F. P. Pacheco

Appellee

vs

The United States

Plaintiff

Opinion

Filed Oct 11<sup>th</sup> 1855.

A. E. Carr clerk  
By J. W. Robt dep

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No 78

U. S. District Court  
Southern Dist of Cal<sup>a</sup>

The United States. App<sup>ts</sup>

vs.

Francisco. P. Pacheco. App<sup>tee</sup>

Order of Appeal to the Supreme  
Court on motion of P. Ord U.S.  
atty:

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Filed October 18<sup>th</sup> 1855

O. C. Carr CLK  
By W. B. Ross dep  
(13)

California Land Claims.

Attorney General's Office

15 September 1856.

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Sir:

In the case of the claim of Francisco Perez Pacheco, confirmed to the claimant by the Commissioner, Case no. sixty-four (64), and also confirmed on appeal by the District Court, appeal in the Supreme Court will not be prosecuted by the United States.

I am

Respectfully

Clement

Jacinto Ord Esq.

U. S. Atty for the

Southern Dist. of Cal.

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Francisco Ruiz Pacheco

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Rec'd Oct 21 1836