

CASE No.

80

SOUTHERN DISTRICT

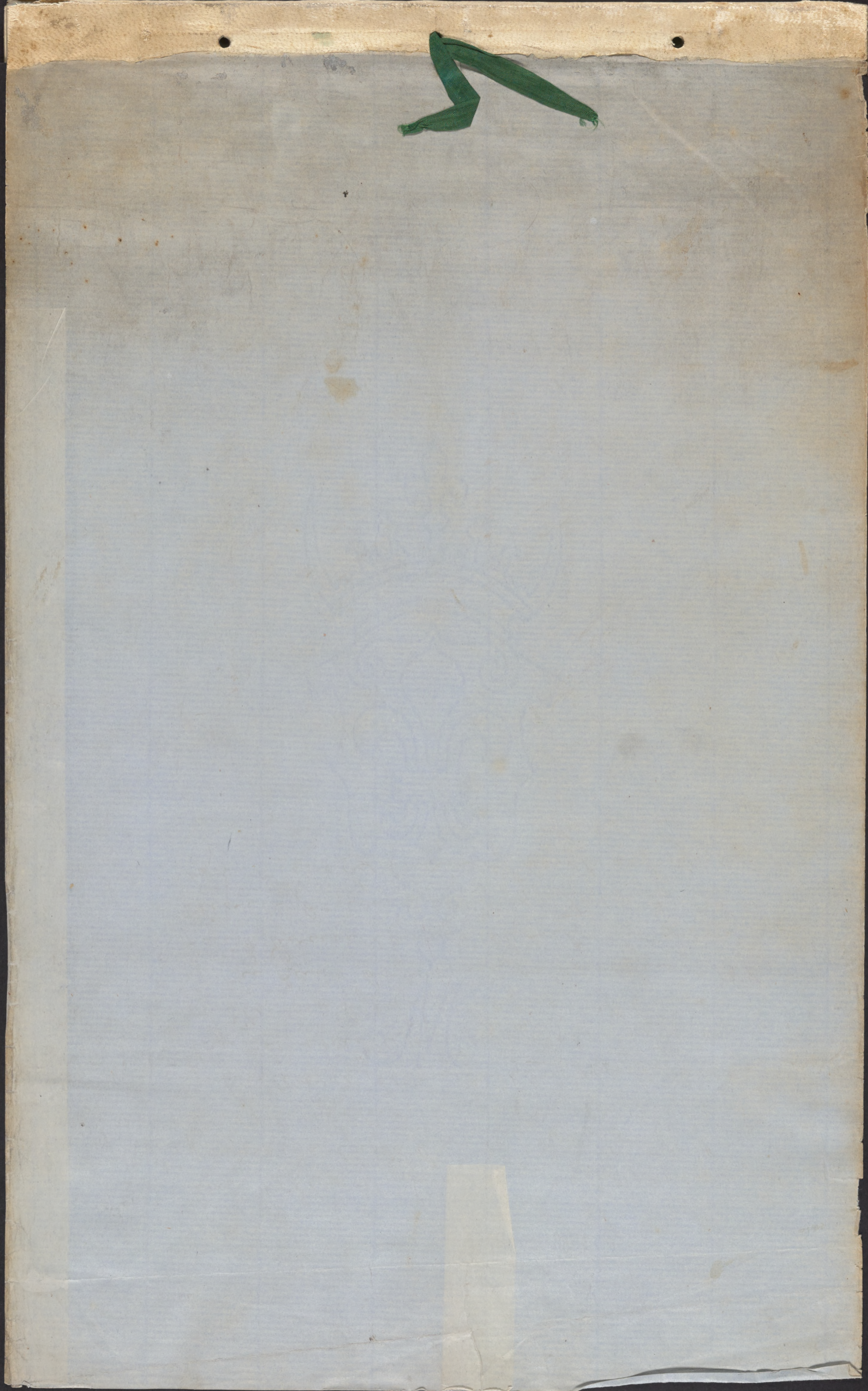
SAN JACINTO VIEJO GRANT

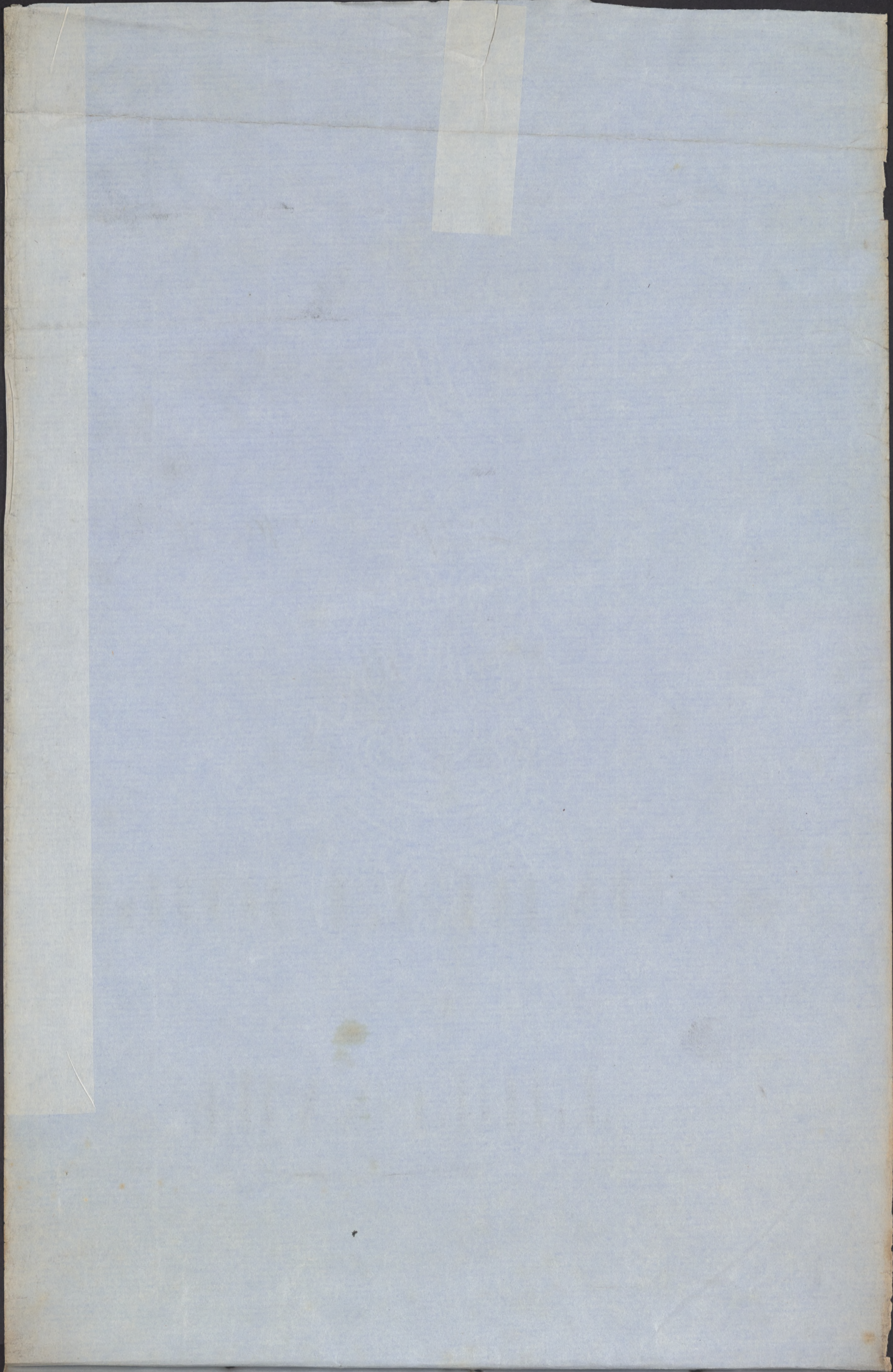
JOSE ANTONIA AGUIRRE

CLAIMANT

FEB 19 1963

U.S.A.
25% COTTON FIBRE
FLOWER BOND
Forming





TRANSCRIPT
OF THE
PROCEEDINGS

IN CASE

NO. *No.*

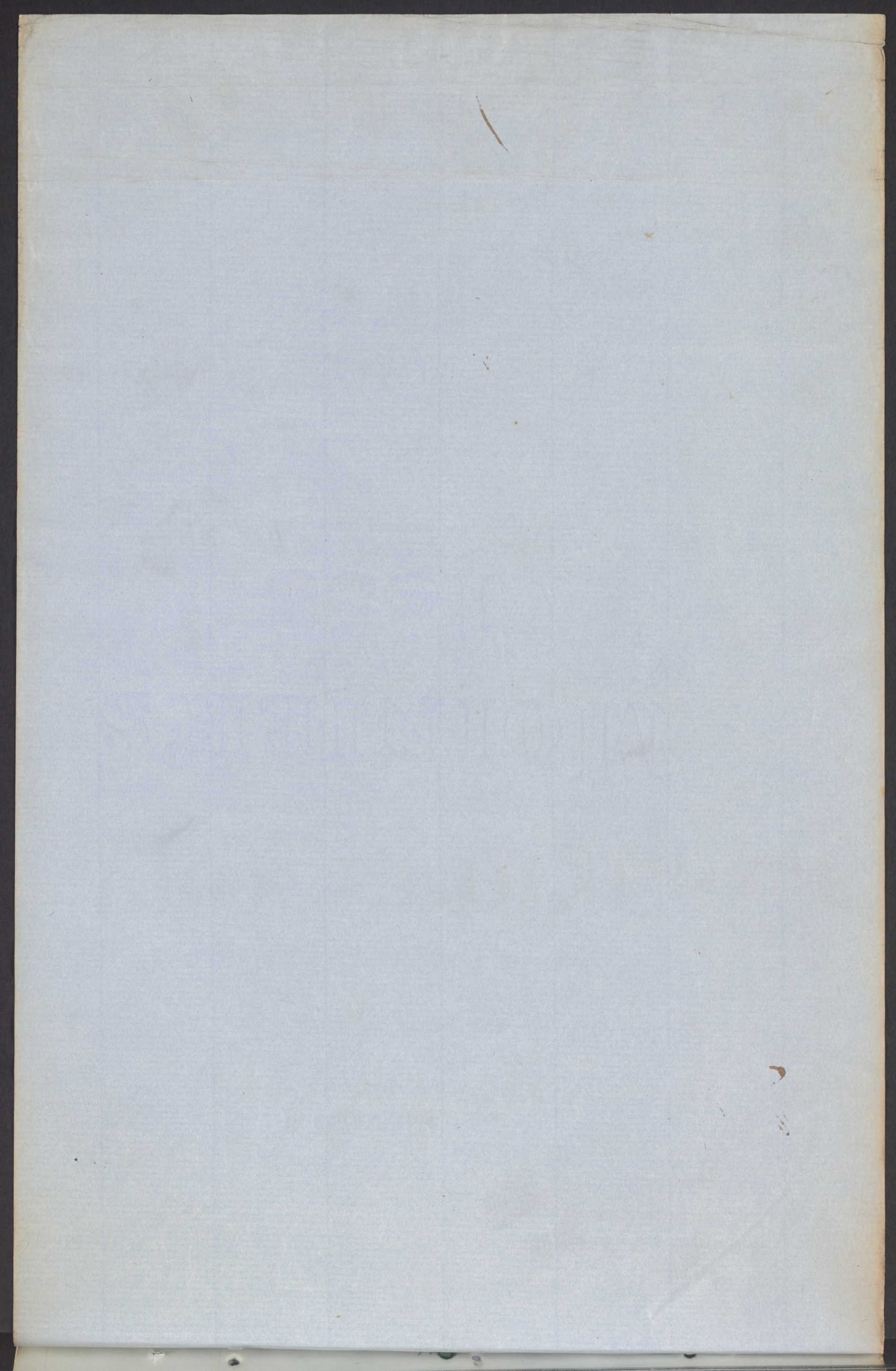
Jose Antonia Aguirre CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

San, Jacinto Viejo



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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PAGE 2

Be it Remembered, that on this twenty third day of March, 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 José Antonio Aguerre
for the Place named

was presented, and ordered to be filed and docketed with No. 114 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;

Los Angeles October 14th 1852

In case no. 116 José Antonio Aguerre in right of his wife for the surplus lands of the place named San Jacinto Viejo, the deposition of Santiago Argüello, a witness in behalf of the claimant, taken before Commissioner William Hall with documents marked W. H. nos. 1 & 2 annexed thereto, was filed:

(Vide page 5 of this Transcript)

Los Angeles November 15th 1852.

In the same case the deposition of Donaciodel Valle, a witness in behalf of the claimant, taken before Commissioner William Hall was filed;

(Vide page 7 of this Transcript)

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San Francisco September 16th 1853
Case no. 110 Called; The Counsel for the Plaintiff
and read the Evidence; Argued, Submitted,
and taken under advisement.

80 SD

PAGE 3

San Francisco January 17th 1854
In the same case Commissioner Stephen
Fitch received the opinion of the Board
respecting the claim;
(See page 27 of this Transcript)

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Petition

80 SD

PAGE 4

To the Honorable the U S Commissioners
to ascertain vacant Public Lands in the
State of California

The Petition of Jose Antonio
Aguirre, a resident of the county of San Diego
in the State of California respectfully represents
that his wife Mariquita Rosario Estrada de
Aguirre is the grantee and present owner and
occupant of the "Sobrante" of the Rancho of San
Jacinto Negro of Huero to the extent of five Sefas
de Guacaan Mayor or more or less, situated in
the county of San Diego in said State, bounded
as follows, viz. on the North by the Rancho
Yurusa and Bernardino on the South by
the Rancho of Temucua, on the West by the Rancho
of Anapina and on the East by the Rancho
of Terconia,

Yose Petitioner further represents that the said
"Sobrante" of the Rancho of San Jacinto as aforesaid
was granted to his said wife (whom he represents
in this application) by Pio Pico Governor of Cali-
fornia, by a decree dated Mexico May 9th 1846
in conformity with the Law of Mexico 18th 1824
and the Regulations of Nov 2^{da} 1828, and by a
second Decree dated Mexico the 19th 1846 subject
to the approval of the Departmental Assembly
that on the 28th of May 1846, the said grant
was approved by the Commission on vacant Lands
and that subsequently on the 3rd of June 1846
the Departmental Assembly approved both
said grants, all of which will more fully appear
by reference to a certified copy of his Es Petitione
by the U S Surveyor General of California which
is filed here with. Yose Petitioner further represents
that the said grantee has complied with all the

A

requirements of said Law ^{and more is} and Regulations
That she has ever since remained in possession
of said Property, and is not aware of the existence
of any conflicting claim all of which he is per-
mitted to prove on the trial of this cause
Wherefore Petitioner prays your Honorable Board
for confirmation of his wife's Title to the Land
as aforesaid

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PAGE 5

And as in duty &c &c
Sutherland & Carr
Attys for Petitioner

Filed in Office March 23rd 1857
Geo Fisher
Clerk

S

Deposition of
Santiago Aguero

Los Angeles October 14, 1852

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PAGE 6

On this day before me Heland Hall one of the Commissioners for ascertaining and settling Private Land claims in California personally appeared Santiago Aguero a witness produced in behalf of Dona Rosario E. Aguirre wife of Jose Antonio Aguirre the claimant of the Rancho of San Jacinto Nuevo of Mexico which is No 116 on the Book of said Commissioners who being duly sworn testified as follows

The Associate Law Agent was notified & attended

Question 1st What is your name age and place of Residence?

Answer My name is Santiago Aguero I am sixty years of age and reside near the Boundary line between the State of California and Lower California in Mexico, the Rancho of San Juan upon which I reside being divided by said Line

Question 2nd Do you know the hand writing and signatures of Pio Pico and Jose Mathias Moreno?

Answer I do very well

Question 3rd Look at the Document marked A B C D and now show you and filed here with as a part of this deposition purporting to be a grant of the Rancho of San Jacinto Nuevo of Mexico and say whether the signatures of Pio Pico as Governor and Jose Mathias Moreno as Secretary are in their proper hand writing and

genuine?

Answer. They are both genuine signatures I have been associated with both Gentlemen in Public affairs and know them very well

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PAGE 7

Question Fourth Look at the document now shown you purporting to be an act of approval of the Departmental Assembly of California Resolved No 2487 and filed here with a copy of this deposition and say whether the signatures of Pio Pio and Jose Matthias Merens are genuine

Answer The document and signatures are both genuine

J. Arquillo

I sworn and Subscribed
Before me
Alcanda Hacer
Comar

Filed in Office October 14th 1852
Gen Fisher
Sury

3/11/60

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Deposition
of Ygnacio
del Valle

80 SD
PAGE 8

Los Angeles Nov 13th 1852
On this day before Leon Heland Hall came
Ygnacio del Valle a witness in behalf of the
defendant Jose Antonio Aguirre, Petition
No 116, and was duly sworn his evidence being
interrupted by the Court

The M S Associate Leon Aguirre was present

In answer to questions by counsel for the plain-
tiff the witness testified as follows

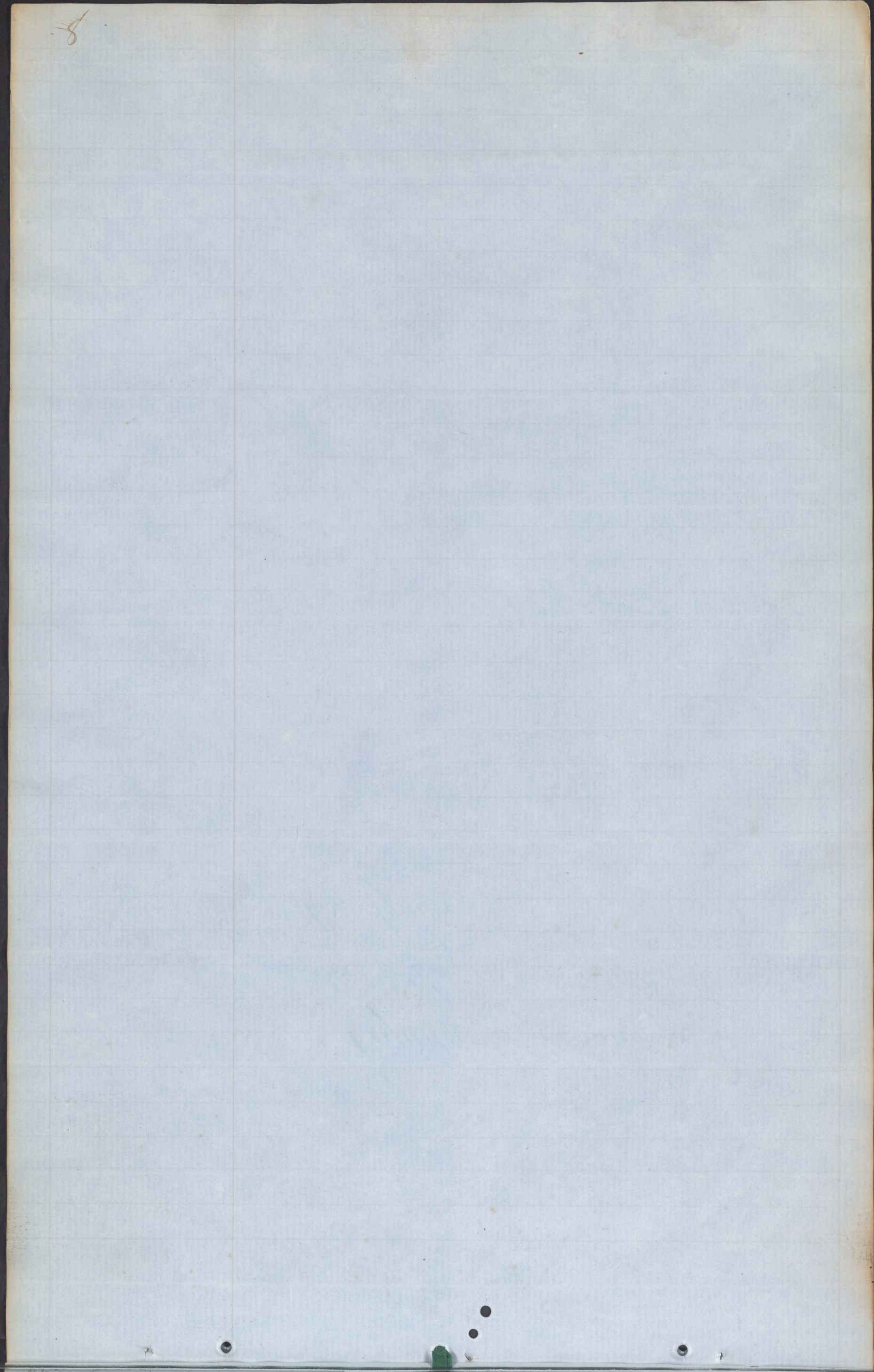
My name
is Ygnacio del Valle my age is forty four
years and I reside in Los Angeles

I know the Rancho de San Jacinto being a
Nuevo, situated in the County of San Diego,
The first Rancho known as Jacinto belonged
I think to Jose Antonio Aguirre and Jose Antonio
Estadillo near the other rancho to the wife of
Aguirre, who was a daughter of Estadillo,
In the year 1844 Aguirre received from my
rancho nine hundred head of cattle which he
knew on the said Rancho, In 1847 I was
upon this Rancho and brought away from
thousand head of cattle on account of the want
of Pasture,

There is no cultivation as the land is unfit
for it, From that time the land was occupied
from the hostility of the Indians until the present
year when it is occupied

Ygnacio del Valle
Sworn and subscribed before me
Heland Hall Nov 15 }
1852 Geo Fisher Day } Leon

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Handwritten notes and markings at the bottom edge of the page, including a green mark and some illegible characters.

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1846

80 SD
PAGE 9

Expediente promovido por la
Señora Doña Maria del Rosario Estudillo
de Aguirre, en pretension de un terreno
en los Ranchos de San Jacinto viejo
y nuevo

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Don Subprefecto del partido de S. Diego

S. Diego Feb. 19 / 1846.

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PAGE 10

B
Expediente

Por presentada y admitida la presente instancia en cuanto á lugar a derecho, elevase al Conocim^{to} del Superior Gobno Departamental con el informe respectivo Argüello

Don Ant^o. Aguirre, casado con doña M^a. del Rosario Estudillo, a nombre de esta y como para propiedad q^e exclusivamente le pertenezca; ante V. hace presente q^e habiendo quedado un sobrante en la concesion hecha del rancho de S. Jacinto; y masitando la expresada Sra de dho resto p^a establecer en el bienes raices y semovientes, pretende por el conducto de V. de Sirva elevar la presente al Sr. Gob^o a fin de obtener el terreno mencionado y cuya estension es como de cinco

leguas poco mas o menos, dentro de los limites del conocido rancho de S. Jacinto, cuyo diseno geral esta en la Sria de Gob^o y manifiesta en su atencion total, ser colindantes los ranchos Durupa y S^o Bernardino acial N., Tomacula por el Sur, Huapia por el Oeste y S^o Geronio al Este; por lo que previos los informes q^e V. estime convenientes.

3 S. D. K. N. pido y Suplico a nombre y propiedad de la expresada Sra eleve la presente al Sup^o Gob^o esperando q^e S. E. acceda a esta Solicitud; jurando no ser de malicia y lo necesario & a, permitirme el uso del papel comun p^a falta del Sellado en el lugar.

S. Diego 19 de Febr de 1846.

Don Antonio Aguirre

Como Señor

El terreno q^e solicita D. Don A. Aguirre a nombre de su esposa es lo restante q^e a quedado valdío de los terrenos de S. Jacinto viejo y nuevo, y q^e colinda con los terrenos expresados en la Solicitud, y demuestra la copia del diseno q^e tengo a la vista, del original q^e existe en el Gobierno, por lo q^e no apareciendo ser propiedad ajena la parte q^e se pretende, y a mas

4 S.D.K.

la Conformidad que han manifestado los agraciados D. Jose Ant. Estudillo y D. Miguel de Pedrona, aparece q. no resulta obstaculo a esta Concesion: Sin embargo de lo espuesto V. E. con mejor acierto resolvera lo q. fuere de Su Superior agrado.

San Diego Febrero 19 de 1846
S. Arguillo

80 SD
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Angeles Mayo 9 de 1846

Vista la Solicitud con que da principio este expediente, el informe del Sub prefecto de San Diego, con lo demas que se tubo presente y ver Comvino; de Conformidad con la ley de 18 de Agosto de 1824 y reglamento de 21 de Noviembre de 1828, declaro a D. Maria del Rosario Estudillo de Aguirre, dueña en propiedad del terreno Sobrante en San Jacinto Viejo y Nuevo conforme demuestra el deseno general que obra en lo ante dichos. Librase a la agraciada el titulo respectivo y removese el expediente para someterlo a la aprobacion de la Enia Asamblea. Pio Pico, Gobernador Constitucional de este Departamento de Californias au lo mando, decreto y firmo, de que doy fe.

Pio Pico
Don Matias Moreno
Srio

6 S.D.K.

Pio Pico, Gobernador Constitucional del Departamento de Californias.

Precuanto Don Jose Antonio Aguirre a nombre de su esposa D. Maria del Rosario Estudillo, ha pretendido para su beneficio personal y el de su familia el terreno Sobrante que resulta en el Rancho de San Jacinto Viejo y Nuevo, practicadas previamente las averiguaciones Conservientes, usando de las facultades que me son conferidas a nombre de la Nacion Mexicana, he venido por decreto de este dia en Concederle a Doña Maria del Rosario Estudillo de Aguirre el espuesto terreno, declarandole la propiedad de el por las presentes Letras de Conformidad con la ley de 18 de Agosto de 1824 y Reglamento de 21 de Noviembre de 1828, a reserva de la aprobacion

de la Exma. Asamblea Departamental y bajo las Condiciones siguientes.

1^a Podrá cercarlo sin perjudicar las traversías, caminos y Servidumbres; lo disfrutará libre y exclusivamente pero lo tendrá ocupado con Casa habitada y bienes Semovientes a fin de evitar el derribo.

2^a Solicitara del Cruz respectivo le de la posesion juridica en virtud de este despacho, por el cual se demarcaran los linderos con las mojeras necesarias.

3^a El terreno de que se hace donacion es el que resulta sobrante en los Ranchos de San Jacinto Viejo y nuevo, como lo demuestra el diseño gral de ambos Ranchos que obra en sus expedientes. El Cruz que dice la posesion lo hará medir conforme a ordenanza, impidiendo las mediciones desde los linderos de Don Juan Estudillo y de Don Miguel de Pedrona y dara aviso a este Gobierno del numero de Sitios de ganado mayor que contiene.

J.S.D.K.

En consecuencia mando que teniendose el presente título por firme y Valido, se tome razon de el en el libro a que corresponde y se entregue a la interesada para su resguardo y demas fines. Dado en la Ciudad de los Angeles en este papeo comun por no haber sellado a las 9 dias del mes de Mayo de mil ochocientos Cuarenta y Seis

Pro Peco = Sr. Matias Moreno Srio

Angelas Mayo 8 de 1846

Dada cuenta en sesion de hoy con este expediente a la E. Asamblea Departamental, se mando pasar a la Comision de terrenos Valdios

Aguistin Herrera S.

J.S.D.K.

Señores La Comision de terrenos Valdios a examinado el presente Exped. promovido por D. Juan N. Aguirre a nombre de su esposa D^a Rosaria Estudillo, relativo al parage sobrante de S. Jacinto Nuevo y viejo q^o se fue Concedido con arreglo a las leyes de la materia por el sup^o Gov. Departam^l, en este concepto pone

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la liberacion de N. C. la proposicion siguiente
Se aprueba la concesion hecha a D. Rosario
Estudillo de Aguirre del terreno q. resulta sobrante en
los Ranchos de S. Jacinto Viejo y nuevo jurisdiccion
de S. Diego segun titulo librado con fecha 2 de Mayo
del presente año, y con arreglo a la ley de 18 de Agosto de
1824 y al art. 5.º del reglamto. de 21 de gbre
de 1828.

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Sal de Comisiones en la Ciudad de los
Angeles Mayo 28 de 1846.
S. Argüello

Angeles Junio 3 de 1846

En sesion de este dia aprobo' la Exma
Asamblea Departamental la proposicion del dictamen
anterior

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

I Samuel D. King, Surveyor General
of the United States for the State of California,
and as such, now having in my office, and under
my charge and control, a portion of the archives
of the former Spanish and Mexican Territory
or Department of Upper California, do hereby certify
that the eight preceding and herunto annexed pages
of tracing paper numbered from one to eight inclusive
and each of which is verified by my initials / S. D. K.,
exhibit true and accurate copies of certain documents
on file forming part of the said archives in this office.
In testimony whereof I have herunto
signed my name, officially, and affixed my
Private Seal / not having a seal of office / at the
City of San Francisco, Cal, this eighth day of March
A. D. 1852.

Saml King
Surv Genl. Cal.

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Filed in office March 23^d 1852
Gov: Fisher
Sec

80 SD
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4/116

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1846

To "Esperanza" Presented by the Señora Doña
Transcription of Maria del Rosario Estudillo de Aguayo, Soliciting
Expediente a tract in the Ranchos of Olana and San Jacinto

80 SD
PAGE 15

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Señor Jefe Superior of the District of
San Diego

San Diego July 17th I Jose Antonio Aguayo Member
1846, Let the present Doña Maria del Rosario Estudillo
Petition be presented in her name and for the property
and admitted so far which exclusively belongs to
as it is in conformity with previous reports before you
with the laws Let Honor also say that there
it be submitted to having remained a surplus
the cognizance of (Sobranite) in the concession
the Super Depar made of the Rancho of S. Jacinto
traces, Go to with me the said Señora Aguayo
the respective reporting the said Permanent Land
Requello to establish thereupon real
and personal property rights that by means
of your Honor, if it should be please, these presents
might reach his Excellency the Señor Governor
in order to obtain the mentioned land the
extent of which is about five leagues more or
less within the limits of the known Rancho
of San Jacinto, the general plan of which is in
the office of the Secretary of State and shows in its
total extent that it is bounded thus, North
by the Ranchos Misipa and San Bernardino,
South by Temacala, West by Mapiá and East
by Gorgonio,

Your Honor will also cause previous in-
formations to be taken, I beg to ask of you

Honor in the name and in behalf of the Property
of the above mentioned General to see that these
presents reach the Superior Government, hoping
that your Excellency will accede to this demand
swearing that it is not made in haste but
necessary & so that you will permit the use
of common paper for want of that which is sealed
in its place

San Diego 19th of January 1846
Jose Antonio Aguirre

Most Excellent Sir

The land petitioned for by D. Jose A. Aguirre
in the name of his wife is that remaining
vacant from the lands of the C. C. and San
San Jacinto and which is bounded by the lands
mentioned in the petition and the copy of the
Plan which I have under my eyes, proves to be
concord with the original which exists in the Gover-
nment, inasmuch as it does not appear to be
strange property that which is claimed as
part of the lands and never to have been the same
claimed by the inhabitants D. Jose Antonio Estre-
-llo and D. Manuel de Piedra Blanca, it seems to
me that there can result no obstacle to this con-
-cession, notwithstanding that which is requir-
-ed that your Excellency with more prudence
will resolve upon that which becomes its
superior will

San Diego February 19th 1846
J. Aguillo

Angels May 9th 1846

Having seen the petition with which commences
this expediente, the report of the Sub-Prefect
of San Diego with the see that has been

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PAGE 17

reported manifesting the whole in conformity
 with the Laws of the 18th of May 1824 and
 Regulation of the 21st of November 1828, I
 receive to Doña Mariana de Rosario Estudillo
 de Aguirre the Property in fee of the land rem-
 -aining in ella una Nueva San Jacinto conform-
 -ably as shows the general map which agrees
 with all the antecedents, Let the respective
 Title be deliver to the Claimant and let this
 Expediente be removed to submitt it to the app-
 -robation of the most Excellent Assembly
 Pii Pici Governor Constitutional of this Depar-
 -tment of the California thus ordered decreed and
 signed that which I certify to

Pii Pici
 Jose Antonio Moreno
 Secy

Copia

Pii Pici Governor Constitutional of the
 Department of the California
 Inasmuch as Don Jose Antonio Aguirre in
 the name of his wife Doña Mariana de Rosario
 Estudillo, has solicited for her personal
 benefit and that of her family the overplus
 land, resulting from the rancho of Una and New
 San Jacinto concerning which the investigations
 being previously made, using the powers conferred
 upon me in the name of the Mexican Nation,
 I have decreed this day, that it be conceded to her
 Doña Mariana de Rosario Estudillo de Aguirre the
 mentioned land, declaring to her the property
 of the same in fee by these present dispatches
 in conformity with the Law of the 18th of May;
 1824 and Regulation of the 21st of November
 1828 referring it to the approbation of the

Most Excellent Departmental Assembly and under the following conditions
 1^a The may enclose it without impairing the crossings roads and servitudes the may enjoy it fully and exclusively but she must occupy it with an inhabited house & movable property so as to avoid its denouement

80 SD

PAGE 18

2 The shall solicit the Respective Judge to give her the judicial possession in virtue of this decree thereby establishing the boundaries with the necessary Land Marks

3^a The Land of which donation is made other is that which remains as surplus in the Rancho of Old and New San Jacinto as well appears by the general map of both Ranchos and their correspondences with their Espectantes,

The Magistrate who shall give the possession shall have it surveyed conformably to the boundary commencing the Survey from the boundary of Don Jose Antonio Estudillo and of Don Niquin de Peasoreca and he will advise the Government of the number of Acres de quincan (Mayor) & quincan Terques it contains

In consequence then of order that considering the present title as firm and valid note be made of it in the corresponding Book when it be delivered to the interested Person for her own security and other purposes

Given in the City of Los Angeles on this common Paper on the 4th day of the month of May 1846

(Signed) Ben Pico

(Signed) Jose Martin Moreno
 Secy

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6/1/6

Angels May 8th 1846

Report of this Expediente having been made to the most Excellent Departmental Assembly in its session of today I ordered it to be referred to the Commission on vacant Lands

Agustin Alonzo

80 SD
PAGE 19

Senior

The Commission on vacant Lands have examined the Present Expediente Presented by D. Jose A. Aguirre in the name of his wife Do Rosari Estrella in relation to the tract remaining as overplus (sobrante) from the ranch of San Jacinto which was conceded to him in conformity with the laws on the subject passed by the Superior Departmental Government on this favorable subject I submit the following proposition to the deliberation of your Honorable Board

The concession made to Do Rosari Estrella de Aguirre of the tract which remains as overplus (sobrante) from the ranches of Uca and San Juan Jacinto in the jurisdiction of San Diego, according to submitted title, is approved on this 20 of May of the present year in conformity with the Law of the 18th of August 1824 and of the 5th Article of the Regulation of November 21st 1828

Attest of the Commission in the city of Los Angeles May 28th 1846

(Signed) J. Aguirre

August 30 1846
In the Session of this day the most Excellent
Departmental Assembly approves the
proposition of the foregoing decree

80 SD
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Filed in Office November 3rd 1852
Geo Fisher
Secy

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Don Pico, Gobernador Constitucional del Departamento de California

Gobierno del Depto de California

80 SD PAGE 21

Document, announced to the deposition of Santiago Aguillo

Por cuanto Don Jose Antonio Aguirre a nombre de su esposa Doña Ellaria del Rosario Estudillo ha pretendido para su beneficio personal y el de su familia el terreno sobrante que resulta en el rancho de San Jacinto Viejo y nuevo; practicadas previamente las averiguaciones concernientes, usando de las facultades que son conferidas a nombre de la Nacion Mexicana he venido por decreto de este dia en concederle a Doña Maria del Rosario Estudillo de Aguirre el expresado terreno declarandole la propiedad de el por las presentes letras de conformidad con la Ley de 18 de Agosto de 1824 y reglamento de 21 de Noviembre de 1828 a reserva de la aprobacion de la Eama Asamblea departamental y bajo las condiciones siguientes.

1a. Podrá cercarlo sin perjudicar las travesias, caminos y servidumbres; lo disfrutará libre y exclusivamente, pero lo tendrá ocupado con casa habitada y bienes semovientes a fin de evitar el denunció.

2a. Solicitara del Puar respectivo le de la posesion juridica en virtud de este despacho por el cual se demarcaran los linderos con las mojeras necesarias.

3a. El terreno de que se hace donacion es el que resulta sobrante en los ranchos de San Jacinto Viejo y Nuevo, como lo demuestra el diseño general de ambos ranchos que obra en esta expediente. El Puar que tiene la posesion lo hará medir conforme a ordenanza impidiendo las mediciones de los linderos de Don Jose Antonio Estudillo, y de Don Eliguel de Pedronera, y dará aviso a este Gobierno del numero de Sitios de ganado mayor que contiene.

En consecuencia mando que teniendo el presente título por firme y valedero, se tome rason de el en el libro a que corresponde y se entregue a la interesada para su resguardo y demas fines.

Dado en la Ciudad de los Angeles en este papel comun por no haber sellado, a los nueve dias

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del mes de Mayo de mil ochocientos cuarenta y seis.

Pro Rocio

Juan Matias Moreno
Sr

80 SD
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Queda tomada razon de este Superior despacho en
el libro respectivo

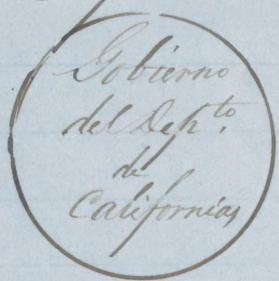
Moreno

Filed in office Oct. 17th 1852

Geo: Arthur

See

22
D. Pico, Gobernador Constitucional del Departamento de las Californias.



La Srta. Asamblea Departamental en sesion del dia tres de Junio ha tenido ha bien decretar lo siguiente:

11 Se aprueba la conacion hecha

Document; 11 a Doña Rosario Vitudillo de Aquirre del terreno que
H. H. n. 2 11 resulta sobrante en los Ranchos de San Jacinto vigoy
annexed to the 11 mudo jurisdiccion de San Diego segun titulo librado
deposition of 11 con fecha 2 de Mayo del presente año con arreglo á
Santiago Aguiñada 11 la ley de 18 de Agosto de 1824 y al art. 5.º del regla-
11 - miento de 21 de Noviembre de 1828. 11

Y para resguardo de la parte de Doña Rosario Vitudillo de Aquirre lo pago así saber, Dado en la Ciudad de Los Angeles en este papel Común por falta de sellado á San de Junio de mil ocho cientos Cuarenta y seis.

D. Pico

Don Matias Moreno

Srio Int.º

Filed in office Oct. 14th 1852
Geo. Fisher
Sec

23

7/11/6

214

Opinion

Jose Antonio Aguirre }
 In right of his wife } For the Governor of the
 of } Rancho of San Jacinto
 The United States } Bujo y Surco in San
 } Diego County containing
 } five square leagues of land

80 SD
PAGE 24

This Petition although filed by her husband is in fact an application for a confirmation in favor of Maria del Rosario Estrella de Aguirre who is represented to be the grantee and who claims the property in her own right. The Petition sets out fully that the right of the wife, under the representative character of the husband in presenting the claim, and must be regarded as the Petition of the former presented by the husband acting as her attorney in fact.

In Proof of her right to the land an original grant is given in evidence duly proved, made to her by Governor Pio Pico bearing date May 9th 1846 and a certificate of the approval of the Departmental Assembly which is dated June 6th 1846. A copy of the expediente is filed in the case. The same grant is described in the title papers as the surplus (Gobranco) resulting from the Rancho of Old and New San Jacinto and reference for it is made to the general map of both Ranchos attached to their respectivas Invidual possessions and the establishment of her boundaries are required by the conditions of the grant of the grantee, the survey to be commenced from the boundaries of Don Jose Antonio Estrella and of Don Manuel Pedrona and the number of square leagues contained in the premises is required to be returned by the Officer

making the measurement to the Government
The grant is also required as a condition of her
title to occupy the premises with an inhabited
house and movable property so as to avoid its
denouncement, No proof of such occupancy is given

If this lease were to be annu-
-ated on the papers and proofs given in evidence
in it by the claimant no difficulty could arise
in deciding it, There is nothing to show what land
is claimed, The number of acres or leagues
is not specified and no boundaries or monuments
are given and no map is presented, nor is there
any other testimony to show what in fact is the
land claimed by her, Nor is it shown in the
proofs that she has ever occupied or claimed
under the grant any specified portion of land
with defined limits or boundaries,

The premises conveyed to her
are represented as being a portion of a larger
tract of land out of which the previous grants
of the lands known as the Old and New San
Jacinto are first to be satisfied and the rem-
-ander to belong to her, and in her grant the
maps which constitute a part of the records
in the record are to obtain these grants are
referred to for a more definite description of the
premises,

These maps and the proceedings in
the other cases are most obviously necessary
parts of the proofs in this case, but none of them
are presented in it, we are left on the evidence
introduced by the claimant with no description
of the location, extent, boundaries or monuments
of the large tract out of which the two grants of
Old and New San Jacinto are to be satisfied

8/116

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80 SD
PAGE 26

area within which the grant of the present claimant is to be located by appropriating the over plus lands, There is presented, then, neither a description of the specified portion of the land claimed by the petitioner, nor of the larger tract within the limits of which it is to be cut.

As however reference is made in the grant here presented, to the two prior grants made in the documents connected with the same and indispensable to a correct understanding of this lease, I have examined the papers filed with the Commission by the Claimant under the two grants above mentioned,

The first that of San Jacinto, more properly called Old San Jacinto was granted to Jose Antonio Estanillo on the 21st November 1842, (Case No 113.) This is a grant of the land known by the name of San Jacinto according to the limits shown in the Map accompanying the Expediente, It is a grant of eight leagues of land which is to be located within the limits prescribed on the Map, by judicial measurement the surplus to remain the property of the Nation. This map is indefinite and inaccurate in its character, but it is shown by the proper documentary evidence thereof that judicial possession was given under the grant on the 26th March 1843, for the purpose of assigning the proper quantity of land to the grantee and establishing its boundaries and land marks.

The second grant that of New San Jacinto (Case No 263) was made to Manuel de Padilla on July 14th 1846, By the documents filed in that lease, it appears that the land covered by this grant was also the surplus or Sobrante of the prior grant of Old San Jacinto and covered all the land described

in the grant to Estrella nor included within
 the eight leagues which were granted to him,
 when the application for the grant to Pedrona
 was made the principal Survey under the grant
 to Estrella had been made and his portion
 of the land was by it defined and segregated
 and we must presume that the object of the
 Law had been accomplished by placing
 the monuments which were designated to be
 set on the land the line and angles specified
 in the record testimony of the measure were
 which was required to be filed among the Public
 Archives, at the time of the grant to Pedrona
 then, the Sobrante of the grant to Estrella had been
 ascertained and the application of Pedrona
 was for that land as a specific quantity of
 the National Domain already segregated,
 and he solicited it as a grant of land by metes
 and bounds, and presented a map as a part
 of his petition for the purpose of showing
 and defining the limits of the premises,
 The Commission have already adjudicated
 this claim and have rejected it on the ground
 of indefiniteness of the description and want of
 bounded areas, neither the written description
 contained in the documents nor the map appor-
 -ting the means of measuring and surveying
 the premises.

I recur to the grant which is the
 basis of the claim now under consideration
 It is a grant of the surplus land (Sobrante)
 of the Rancho of Old and New San Jacinto
 The question of Sobrante in connection with
 the grant of Old San Jacinto was put to rest
 by the principal measurement of the land
 under the grant in March 1843 by which

9/16

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80 SD
PAGE 28

the lands were segregated and defined and the surplus restored to the disposition of the Government, In the lands thus segregated the right of Estancia became perfect and exclusive and nothing remained therein which the Government could grant, The present claimant shows no interest in this portion of the Paises mentioned,

The grant to Peasosca, of a valid grant for any thing covers all the land which resulted as a Sobrante from the Measurement made Estancia's grant, This we have already seen is a grant by metes and bounds referring to a map for a description containing no provision for a Sobrante and specifying no number of square leagues for quantity but embracing all the land & claim of the judicial Measurement made the grant to Estancia

Under any aspect of this lease I am unable to perceive how the claimant can secure a confirmation, Her grant covers the surplus of the two grants above mentioned while it is certain that there could be no such surplus by any possibility,

But it may be asked whether since the claim of Peasosca under his grant has been rejected by this Commission and the land claimed under it has been virtually declared to be Public Land her claim to it as the Sobrante of the San Jacinto does not become valid and entitle her to a confirmation,

There are fatal difficulties in the way of this result in the want of proof of the description and bounded area of the Paises if no other was presented, The testimony filed in her own case gives no description either by

document or by oral proof of the land and she presents no map of the Premises, If we regard the maps which are referred to in my grant and which are filed in the two other cases before mentioned as evidence in this no aid is advanced, She would if the claim of said Personna being out of the very claim run by the land which he claim and and her proofs to sustain her right, so far as the map and documentary evidence was concerned would be the same on which he relied But this testimony has been already decided in his case to be insufficient to identify and designate the land claimed,

The same rule would apply to it when presented on her behalf and for the same reason that his petition was denied by the commission his must also be Rejected

Rejected

Filed in Office Jan 17th 1834
Gen Fisher
Sery

30

80 SD

PAGE 30

Deere

Jose Antonio Aquino
In right of his wife
of
The United States

In this case on hearing
the proofs and allegations it is adjudged by the
Commission that the said claim of the Petitioner
is not valid and the application for a confir-
-mation thereof is therefore denied

Alphus Fitch
Thompson Comptroller
N. W. Thompson
Commissioner

Filed in Office Jan 17th 1834



Office of the Board of Commissioners,

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

I, *George Fisher* Secretary to
the Board of Commissioners to ascertain and settle the Private
Land Claims in the State of California, do hereby certify the
foregoing *thirty one* pages, numbered from
1 to *31*, 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. *116* on the Docket of the said Board,
herein

Josi Antonia Aguerre is
Claimant against the United States, for the place known by
the name of *San Jacinto Viejo*

In Testimony Whereof, I hereunto set my hand
and affix my private Seal (not having a Seal
of Office) at San Francisco, California, this
Twelfth day of September
A. D. 1851, and of the Independence of the
United States of America the seventy-ninth

G. Fisher.





80
U. S. DISTRICT COURT,
Southern District of California.

No. 80. *Docket*

THE UNITED STATES,

Don Antonio Aguero
Sobremate of
Don Jacinto Viejo

TRANSCRIPT OF THE RECORD
THE
BOARD OF U. S. COMMISSIONERS,
In Case *116*

Filed, *September 20th 1854*
W. H. Carter
Clk.

80

No. 116

80 SD
PAGE 32

In the matter of the application of
 Jose Antonio Aguirre in right of
 his wife Maria del Rosario Estevillo
 de Aguirre for confirmation of the
 title to the Rancho of Sobrante
 of San Jacinto Viejo y Nuevo in the
 County of San Diego and State
 of California

José Antonio Aguirre
 in right of his wife
 Maria del Rosario de Aguirre

N^o. 116.

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

Sir

Please take notice that
 the claimants in the above entitled
 cause appeals from the whole of
 the decision of the Board of Commis-
 sioners for ascertaining and
 settling private land claims in
 the State of California, ^{his opinion to} respecting the
 title to the Rancho of Sobrante of
 San Jacinto Viejo y Nuevo in the
 County of San Diego and State of
 California. said decision having been rendered by
 said Board on the 17th of January 1854.

Respectfully
 Thos W. Sherman
 atty for claimants

To Charles Elmore Esq
 Clerk of the U S District
 Court for the Southern
 District of California

Dec 13/54

80. No 80.

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

No 116.

Jos Antonio Aguirre
in right of his wife

vs

The United States

Notice of appeal

Wm W. Fisher (lms)
Atty for Court

Filed Dec 13th 1854.

C. E. [unclear]
clerk

80 SD

PAGE 33

Rosaria Estudillo de Aguirre
 by her Husband Jose
 Antonio Aguirre, Appellant

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

80 SD

PAGE 34

vs
 United States

N^o 80 on the docket of said court.

Appeal from the final decision
 of the Board of Commissioners the
 undersigned settled Public Land claims
 in the State of California taken on the
 20th September 1854 by the said
 Board having filed with the Clerk of
 the said court a certified copy of a transcript
 of their proceedings & decision, of the
 papers & evidence upon which the
 same are founded, in the case
 being N^o 116 on the docket of
 said Board —

Notice is hereby given that Rosaria
 Estudillo de Aguirre by her husband
 Jose Antonio Aguirre, Appellant
 in the above entitled cause, a
 claimant before the said Board
 in a claim for a tract of land
 situated in the said Southern Dis-

tribunal called the "Sobranía de
San Lorenzo Viejo y Nuevo"
file before the said Board on the
23rd March 1852, being N^o 116
on the docket of said Board,
will prosecute the appeal herein
from the final decision of the
said Board entered on the 17th
January 1854 against & adverse
to said Claimant & Appellant
Isaac de la Cruz
Att'y for Appellant

80 SD

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^{No 80}
U. S. Dist Court
Southern Dist of Cal.

March 6/55

No 80

Aguirre, Appellant

vs

United States -

Notice of intention to
prosecute Appeal

Filed March 6th 1855

J. E. Cave.
clerk.

80 SD
PAGE 36

J. E. Cave
att. for App't

N^o 80

Rosario de Aguirre
Claimant Jose
Antonio Aguirre
Per Huasteca
Appellant
United States

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

80 SD

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Petition in Review -
To the Hon Isaac S. K. Ogier
District Judge of the United States,
within & for the Southern District
of California -
The petition of ^{Maria de} Rosario Este-
rillo de Aguirre & of Jose Antonio
Aguirre her husband, both
residents of said State, respectfully
sheweth that on the 9th
May 1846 Pio Pico Constitutional ^{Governor}
of the Californias by virtue of authority
in him vested by Law made executed
order to the said Maria de
Rosario a grant in fee of a
tract of land ^{situated in the said Southern District} known as the
"Sobranza of the Rancho of San
Jacinto Viejo y nuevo" bounded
by the on the northward by Jurupa
& San Bernardino, on the south
by Temecula, on the west by ^{the} Jurupa

80 SD
PAGE 38

and on the East by San Geronimo -
Some petitioners further represent
that said tract of Land is more
particularly described in a certain
map of record in the archives
of the Government referred to ^{and}
apart of said grant. To be
adduced in the said forest.

Some petitioners further represent;
that afterwards to wit on the 3rd
June 1846 the said Grant became
definitely noted by the appropria-
tion of the Departmental ^{of}
the

Some petitioners further represent
that the said Province of
Yucatan has fully complied
with all the conditions of
the said grant except the one
concerning the judicial survey
of the premises which she was
prevented from obtaining by
the action of the Mexican
Government in declaring war
against the United States, &
they further represent that
said judicial survey was

80 SL
PAGE 39

was not necessary as the limits & extent of said grant & premises had been accurately fixed & designated by actual survey & admeasurement as appeared by the map forming a part of the grant as aforesaid -

Tom petitioners further represent that since the date of the grant the said Maria de Rosaria has been & now is in peaceable possession of the aforesaid premises.

Tom petitioners further shew that on the 23rd March 1852 the said Maria de Rosaria presented her petition claiming the premises granted by the Land Commission, which appointment in pursuance of an Act of Congress entitled an Act to ascertain & settle the private Land Claims ^{in and under} of the former "approved March 3rd 1851" while sitting as a Board together with the members in support thereof & that afterwards to wit on the 17th Jan 1854 the said Board decided on the validity of the said claim & rejected it.

80 SD
PAGE 40

That afterwards to wit on the 20th
September 1854 an appeal was
taken from the final decree of
the said court respecting
the said claim by their putting
it into the Clerk of this
Court for a certified transcript
of their proceedings and final decision
of the papers & evidence upon which
the same ^{are} founded & that afterwards
to wit on the 5th March 1855 a notice
of the intention of their petitioners
to prosecute the said appeal was
put into the said Clerk -

And your petitioners hereby
make special reference to the
said certified transcript &
pray that the same may
be made a part of this petition
And your petitioners further aver
that the claim of said Maria
de Rozario is void by Law
& should be forgiven, & that
the final decree of the said court
respecting the said claim is
wrong -

Wherefore petitioners pray
that Your Honor may reverse said

80 SD
PAGE 41

and first decree & decide upon
the validity of the claim of
the said Maria de Rosaria
& declare the same to be valid
& approve it & for such, put in
a general way as the nature
of this case may require
or Law or Equity grant
And as in Duty bound

Francisco P...
Atty for P...

July 10/55.

United States
District Court for
the Southern District
of California
N^o 80

Maria de Rosaria
de Aguirre et al
appellants
vs
United States

Petition for
Review

Filed March 10th 1855.

80 SD C.E. Carr.
PAGE 42 CLK.

Jd Brewster
att'y for Depts

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

TO

The President of the United States,

Pacificus Ord., Attorney of the United States
for the Southern District of California.

80 SD

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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~~ ^{the United States} in the District Court of the United States, in and for the Southern District of California, on the *ten th* day of *March* in the year of our Lord one thousand eight hundred and fifty-five at the City and County of Los Angeles, in said District, by *Mania de Rosario de Aquino, claimant and her Husband, Jose Antonio Aquino*, praying the said Court to review, upon the grounds therein set forth, the decision of the U.S. Land Commissioners to ascertain and settle the private land claims in the State of California, of their claim to a certain tract of land called the "Sobrante" of the Rancho of "San Jacinto Viejo y Nuevo" in said District, which said claim was presented to said Commissioners on the 23^d of March 1852, and by them rejected on the 14th of June 1854, ~~and~~

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. *Plfswise apply 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 *fourteenth* day of *March* in the year of our Lord one thousand eight hundred and fifty-five at Los Angeles aforesaid.



J. E. Farr,
Clerk.

Marbals cost
 Copying Summons 150
 Serving " 300
 Giving return 300

 750

Sub. 1705

Ret. 15th March
 No 80.

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

Maria de Rosaia de Aguiar,
 et al, Appellants,

VS.

The United States.

SUMMONS.
 Return March 15th 1855
 Edward Hunter
 U. S. Marshal

80 SD
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I served this summons along with the proper copy of the petition upon *Jacques Ord*
Attorney of the United States for the Southern
District of California, in the county of
Los Angeles

at *his office* in the Southern District of California on
 the *15th* day of *March* A. D. 185*five*

Sworn to and subscribed before me, *this 15th*
March 1855. }
J. E. Jones, Clerk.

Edward Hunter
 U. S. Marshal.

IN THE DISTRICT COURT OF THE UNITED STATES,

FOR THE SOUTHERN DISTRICT OF CALIFORNIA,

Los Angeles,.....December Term, 1855.

J. A. Aguirre & Wife,

80 SD
PAGE 44A APPELLEE^s

VS.

UNITED STATES,
APPELLANT.

No. *80,*

(No. *116.* of Transcript.)

On Appeal from the United States Land Commission.

On motion of P. ORD, Attorney of the United States for the Southern District of California, it is hereby

ORDERED by the Court, that an appeal be granted the United States, to the Supreme Court of the United States, from the judgment of this Court against the said United States in the above entitled cause, rendered on or about the 24th day of December A. D. 1855.

P. Ord
Dist. Atty.

Book 7/56

No. 89

W. S. Rufford
Santho Duba California

Jos Aquino Wife
Appellees

vs
The United States
Appellants

Notice of Appeal, &c.

Filed March 1st 1880
C. E. Spear Clerk
by O. M. Ryan Deputy

In the District Court of the United States,
for the Southern District of California,
Los Angeles, Los Angeles County,

N^o. 80.

Rosario de Aguirre, Claimant, (N^o. 116 of Transcript)
& José Antonio Aguirre, her
Husband, Answer of the United

States, to the petition
of Appellants, praying
the Court to review
the decision of the
U. States Land Commissioners.

vs.
The United States.

The answer of Pacificus Ord, Attorney of
the United States for the Southern District
of California, in behalf of the United States,
to the petition of Maria de Rosario Estudillo
de Aguirre, and of José Antonio Aguirre,
her husband, both residents of said State,
(filed March 10th 1855)
alleging that on the 23rd March 1852, the
said Maria de Rosario, presented her
petition to the Land Commissioners, appointed
in pursuance of an act of Congress entitled,
"An act to ascertain and settle the private
"Land Claims in the State of California",
approved March 3rd 1851, while sitting as
a Board, claiming a tract of land, situated
in the said Southern District, and known
as the Sobrante of the Ranchos of "San

80 SD
PAGE 46

"Santiago Viejo y Nuevo," bounded on the North-
 ward by Sanrafa and San Bernardino, on
 the South by Temecula Temecula, on the
 West by Guapa, and on the East by San
 Geronimo, and more particularly described
 in a certain Map of Record in the Archives
 of the Government, referred to and made
 a part of the grant, to be adduced in Court;
 and that afterwards, to wit, on the 28th
~~of September 1854~~ 17th June 1854, the said
 Board decided on the validity of the said
 Claim, and rejected it; and praying ~~the~~
~~Board~~ ^{your Honor} ~~to~~ ^{to} review said final
 decree and to decide upon the validity
 of the Claim of the said Maria de Rosario,
 and declare the same to be valid, and
 approve it; & for general relief.

80 SD
 PAGE 47

And the said Attorney, answering said
 petition, in behalf of the United States,
 denies generally, all and singular, each
 and every allegation in the said petition
 contained; and he denies specially: -
 "That on the 9th May 1846, Pio Pico, Con-
 =stitutional Governor of the Californias,
 "by virtue of authority in him vested by
 "law, made executed and delivered to
 "the said Maria de Rosario a grant in
 "fee of a tract of land situated in the"

"Said Southern District, and known as
 "the Sobrante of the Ranchos of "San
 " "Santo Viejo y Nuevo", - bounded on the
 "Northward by Jarupa and San Bernardino;
 "on the South by Temecula; on the West
 "by Guapa; and on the East by San Geronimo.
 "That said tract of land is more par-
 "ticularly described in a certain Map
 "of record in the Archives of the Govern-
 "ment referred to and made a part
 "of said grant to be adduced in the Court.
 "That afterwards, to wit, on the 3rd June
 "1846, the said grant became definitively
 "valid, by the approbation of the Depart-
 "mental Assembly. That the said Rosaria
 "de Squire has fully complied with -
 "all the conditions of her said grant, -
 "except the one concerning the judicial
 "survey of the premises, which she was
 "prevented from obtaining by the action
 "of the Mexican Government in declaring
 "War against the United States. That
 "said judicial survey was not necessary,
 "as the limits and extent of said granted
 "premises had been accurately fixed &
 "designated by actual survey & admeasurement
 "as appeared by the Map forming
 "a part of the grant as aforesaid. That"

4.
"Since the date of the grant, the said
"Maria de Rosaria, has been and now
"is in peaceable possession of the granted
"premises. That ~~on~~ the claim of said
"Maria de Rosario is valid by law,
" & should be confirmed, & that the
"final decree of the Commission rejecting
"the said claim is erroneous", - as
"alleged in said petition.

And the said Attorney of the
United States, in pursuance of the
provisions of the said act of Congress
approved the 3rd of March 1831, herein
fully sets forth the grounds on which
the said claim is invalid. - To wit: -

1. That the said alleged grant of
Pie Pie, dated the 9th of May 1846, was
made in violation of the 4th Article of
the Colonization Law of Mexico, of the
18th 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 shown
by said claimant, that the Supreme
general executive power of Mexico, pre-
viously approved of the Colonization of
the public lands in Upper California,
lying within ten leagues of the Sea

Coast. And it is denied that the previous consent of said Supreme general Executive power of Mexico, in such case, was ever had.

80 SD
PAGE 50

II. That at the date of the said alleged grant, the said land was occupied by, and in the possession of the Missions of Upper California; and particularly by the Missions of San Gabriel, San Juan Capistrano, and San Luis Rey, and could not therefore be colonized.

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

IV. That the said alleged grant of land by Pio Pico, dated the 9th of May 1846. To Maria del Rosario Estudillo de Aguirre, does not contain any description of the locality, extent, and boundaries of the land claimed, by which it can be identified and surveyed. That the documents and maps referred to in the said alleged grant are not shown by the

said claimant. That the said alleged documents and maps are ^{an} essential part of said alleged grant. And the said alleged grant is vague and indefinite, and void for uncertainty.

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PAGE 51

V. That the said alleged grant of said date, is not executed upon the lawful ^{never approved by the Departmental Assembly of Cal; and the Supreme Government of Mexico,} stamped paper. That said alleged grant was,

VI. That the document, shown by said claimant, purporting to be the testimonial of the approbation of the Departmental Assembly of said alleged grant, dated June 6th 1846, is not executed upon the lawful stamped paper.

VII. That the said claimant shows no definitively valid grant or title for the land claimed by her. And it is denied that she ever received a definitively valid grant or title for the said land.

VIII. That there is no evidence that the said claimant ever performed the conditions of the said alleged grant, and the requirements of the law. And it is denied that she ever performed the conditions of the said alleged grant, and the requirements of the law.

IX. That there is no evidence that the

said Claimant ever received, or applied to the lawful authorities for, the judicial possession of the land, alleged to have been granted her as aforesaid.

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And it is denied that ^{she} ever received, or applied to the lawful authorities for the judicial possession of the land, alleged to have been granted her by said Pio Pio.

X. That there is no evidence that the said Claimant, ever occupied the said land with an inhabited house, and movable property, within one year from the date of the said alleged grant; and that she cultivated the said land; as required by the Conditions of the said alleged grant, and the law. And it is denied that she ever improved, occupied, and cultivated the said land, as required by the Conditions of the said alleged grant, and the law.

XI. That the said Claimant fails to show in her said petition the extent or quantity of the land claimed, or the County wherein the same is located ^{and claim} situated. And the said petition is vague and indefinite.

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PAGE 53

Wherefore, the premises considered, the said Attorney, respondent in behalf of the United States, prays that the said claimant may be served with copies of this answer; and that after due proceedings, this Honorable Court will decide the said claim of said petitioners for said tract of land, to be invalid; and to decree costs against them. And general relief.

J. Ord (of Monterey County)
Attorney of the United States
for the Southern District of
California.

I send this answer on J. L. Brent
attorney for appellants at Los Angeles by
Leaving with him two certified
copies of the same this march 28 1855

Edward Hunt
U. S. Marshal

Sworn to & subscribed before me
this 28th day of March 1855

J. C. Lane
Clerk.

No 80.

United States Dist Court
Southern Dist of California

Maria de Rosaria de Aguirre
et al. Appellants,

vs.

The United States,
Appellees.

Answer of Appellees.

This March 28th 1855

J. C. Lane
Clerk.

Merchants Cost
for answer \$3.00
two copies of 6.00

Sub 2/50

80 SD

PAGE 54

Louí Antonia Aquino
- Maria his wife
vs

United States

N^o 80 = U. S.

Dist. Court for
the Southern Dist.
of Louisiana

80 SD

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and now come Plaintiff's
motion the Court for an
order to take further evidence
in the above entitled cause -

Harriet M. New
att for Plffs

ap 9. 1853.

^{No 80}
U. S. Dist. Court

J. A. Aquino
& Roxana his wife

vs
United States

Application for
order to take further
testimony -

Filed April 9th 1853.

J. S. Jan.
clk.

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

J. A. Aguirre & Wife } N.º 80.

vs.

(Docket N.º 116)

The United States.

vs. J. A. Aguirre & Wife
or their Attorneys.

Take notice that the above entitled cause will be brought to a hearing by the United States, on the 19th day of October AD 1833; or as soon thereafter as the same can be heard by the Court.

Los Angeles,

October 11th 1833.

T. O. M.

U. S. Dist. Att.

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002 11/55

N^o 80.

J. A. Aguirre & Wife
vs.

The United States

Return of hearing by
notary

Filed Oct 11th 1855

J. E. Jones
Notary

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J. A. Aguirre

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

Jose Antonio Aguirre
Appellant

Case No. 80.

The United States
Appellees.

Transcript No. 116.
"Sobrante de San Jacinto
Nuevo y Viejo".

Translation of Testimonial of Approval of De-
partmental Assembly, see Transcript page 22.
"H. H. N^o 2"

Pio Pico, Constitutional Governor of the De-
partment of the Californias.

Government of
the Department of
the Californias.

The Most Excellent Depart-
mental Assembly, in session of the
third day of June, has seen fit to
decree the following:

"The concession is approved,
" made to Doña Rosario Estudillo de Aguirre of the
" tract of land which remains as surplus in the
" Ranchos of San Jacinto Viejo y Nuevo, jurisdic-
" tion of San Diego, according to the title issued
" with date 2nd of May of the present year, in con-
" formity with the Law of 18th of August, 1824, and
" Article 5th of the Regulation of 21st November,
" 1828."

And for the security of the
party Doña Rosario Estudillo de Aguirre, I so cer-
tify -

Given at the City of Los An-
geles, on this common paper for want of stamp.

ed, on the sixth of June, one thousand eight hundred and forty six.

Lio Lico.

Jose Matias Novero
Secretary ad interim.

U. States Dist. Court, Southern
District of California.

Jose Antonio Aguirre
Appellant,

vs.

The United States
Appellees.

Translation of Testimo-
nial of Appraiser.

Made Dec 20th 1855

J. E. Fair,
Clerk

80 SD

PAGE 60

(page 1.)

Title Page

Year 1846.

Jurisdiction of the District of San Diego.

80. 50

PAGE 61

Expediente advanced by the Señor Don Miguel de Pedrorena, petitioning for the tract of San Jacinto Nuevo.

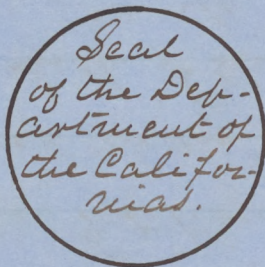
495.

(page 2.)

Petition by

Order of ref-

erence.



Angeles, December 27, 1845.

Forward to the Sub-Prefect of San Diego, to the end, that hearing the part of Don José Estudillo, he may advise minutely concerning the contents of this Petition Pico.

Pico.

Most Excellent Señor Governor

I, Miguel de Pedrorena, trader, and established in this Department for several years, before Your Excellency with due respect present myself, and say,

That satisfied as I am, and it shall be proved, if necessary, that in the Rancho of San Jacinto there remains land in surplus to that which was adjudged to Don José Estudillo, inasmuch as it contains a greater number of square leagues than those which the Superior Government granted to him;

I pray Your Excellency, that, taking into consideration the need which I have of a tract of land whereon to be able to place certain proper

(page 3.)

80 SD
PAGE 62

ty in live stock which I have acquired in considerable numbers, and which is exposed to loss for want of room in which to multiply, you will see fit to grant me in fee, in conformity to the Law of 18th of August, 1824, all that remains in surplus of the aforesaid Rancho of San Jacinto, according to and as the map shows, which I duly present herewith, in all its parts, including the Potrero; in the full ^{understanding} knowledge that no prejudice to any third party results therefrom; and upon me Your Excellency will confer a favor, which I shall acknowledge, and which will also be to the advantage of the Department itself, which stands in such need of having its lands occupied by proprietors who will always seek to be useful to the Government.

I also pray Your Excellency, that, if it shall happen as from your generosity I am led to expect, and if my Petition shall be accepted to, the title may be issued under the name of San Jacinto Nuevo, in all of which I shall receive favor; I make oath, etc.; Excusing the use of common paper, for want of stamped, of which there is none.

Angeles, December 26th 1845.

Miguel de Pedrovena

(page 4.)

Report of Sub-Prefect.

Most Excellent Sir,

In obedience to the Superior marginal Decree of Your Excellency, of the 27th of December last, entered upon the

foregoing Petition, in which Petition the surplus which results in the measurements of the tract of San Jacinto, is prayed for; I will explain,

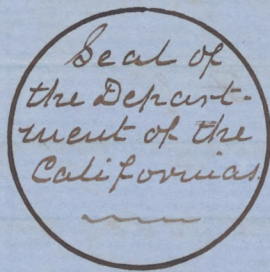
That, Don José A. Estudillo being present, as owner of the aforesaid tract, and having been made acquainted with the present Petition, he answers, that he has no objection to make, the land being surplus of that which he holds granted to him, therefore it follows that he does not place himself in opposition to no obstacle presents itself to the concession of this tract, including the Póvereo of San Jacinto, it being vacant land, and which also, that stock will fill. In this view it follows, that the land petitioned for is vacant, and this Petition can be acceded to, nevertheless Your Excellency can with greater prudence resolve what may be of your Superior pleasure.

San Diego, January 2nd 1846.

J. Argüello,

(page 5.)

Decree of
Grant.



Angeles, January 14th 1846.

Having been seen the Petition with which this Expediente commences, the Report of the Prefect of San Diego, with the rest which was borne in mind, and which it was proper to keep in view, in conformity with the Law of the 18th of August, 1824, and the Regulation of the 21st of November

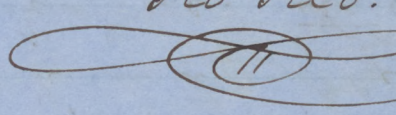
1828, I declare Don Miguel Pedrovena owner in fee of the tract of land called San Jacinto el Nuevo y Potrero de San Jacinto, according as the map shows, which is a part of this Expediente.

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PAGE 64

Let the proper title issue to the Grantee, and let the Expediente be retained in order to submit it to the approbation of the Excellent Assembly.

I, Pio Pico, Provisional Governor of the Californias, so ordered, decreed, and signed, which I attest,

Pio Pico.

 José María Covarrubias
Secy.

(page 6.)

Map.

A Map of the Potrero of San Jacinto.

(page 7.)

Map.

A Map of the Rancho of San Jacinto, including the land of José A. Estudillo, and the new, which Miguel Pedrovena solicits, the Potrero of the same name being added - Signed by Gaspar O'Farrell, Surveyor.

(page 8.)

Title.

Pio Pico, Senior Member of the Departmental Assembly and Provisional Governor of the Californias.

Inasmuch as Don Miguel de Pedrovena has applied, for his personal benefit and that of his family, for the tract of land

called San Jacinto Nuevo, including the Potrero of the same name, the proper investigations having first been made, using the powers which are conferred upon me in the name of the Mexican Nation, I have come, by Decree of this day, to grant him the aforesaid lands and Potrero, declaring to him the ownership thereof, by these presents, in conformity with the Law of the 18th of August, 1824, and the Regulation of the 21st of November, 1828, subject to the approval of the Most Excellent Departmental Assembly, and under the following conditions;

1st

He may enclose it, without prejudice to the cross-roads, highways, and rights of way; he may enjoy it freely and exclusively, but he shall hold it in occupation with an inhabited house and stock, to the end of avoiding denouncement.

2nd

He shall petition the proper Judge to give him the judicial possession by virtue of this instrument, by whom the boundaries shall be marked out with the necessary land-marks.

3^d

The tract of which donation is made, including the Potrero of San Jacinto, is that which the Map which forms a part of the Expediente shows. The Judge giving possession shall cause it to be measured, according to ordinance, commencing the measurements from the boundaries of Don José Antonio Estudillo, and shall inform this Government of the number of square leagues which it contains.

(page 9.)

(page 10.)

Therefore, I order that the present Title being held *pro firm* and valid, Record thereof be made in the Book to which it belongs, and that it be delivered to the interested party for his security and the other ends.

Given in the City of Los Angeles, on this common paper, there being none of the stamped, on the fourteenth of January, One thousand eight hundred and forty six.

Note of Record.

(Record) made of this Superior Despatch in the proper Book.

Reference to Committee.

Angeles, May 8th 1846.

In session of today, this Expediente having been presented to the Excellent Departmental Assembly, it was ordered to be passed to the Committee on Vacant lands

Pio Pico Pres.^t Agustin Rivera Sec.^y

(page 11.)

Report of Committee.

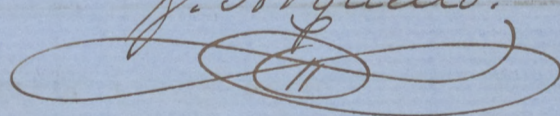
Sir,

The Committee on Vacant Lands charged with the examination of the present Expediente advanced by Don Miguel de Pedrorena, of the tract of land known by the name of San Jacinto Nuevo, including its Potreros

in the jurisdiction of San Diego, which was granted him by the Superior Departmental Government for his benefit and that of his family, conformably to the laws of the matter; in this opinion presents to the deliberation of Your Excellency the following proposition.

The Grant is approved, made to Don Miguel Pedronera, married to a Mexican woman, of the tract known by the name of San Jacinto Nuevo, including its Potreros, to the extent of what the Map shows, which is annexed to the Expediente; according to the Title issued of date of January 14th of the present year, provided the same does not exceed the maximum prescribed by Law, according to the Law of 18th August, 1824, and Article 5, of the Regulation of 21st November, 1828.

Committee Room, in the City of
Los Angeles, July 4th 1846.

J. Argüello.


Dec 26/55

Case No. ~~80~~ 80.
U. States Dist. Court. South
Dist. of California.

Maria del Rosario de Aguirre
Thomas W. Sutherland, Guardian

Appellant,

vs.

The United States

Appellee.

Translation
of traced Copy of Expediente.

Filed Dec 20th 1855.

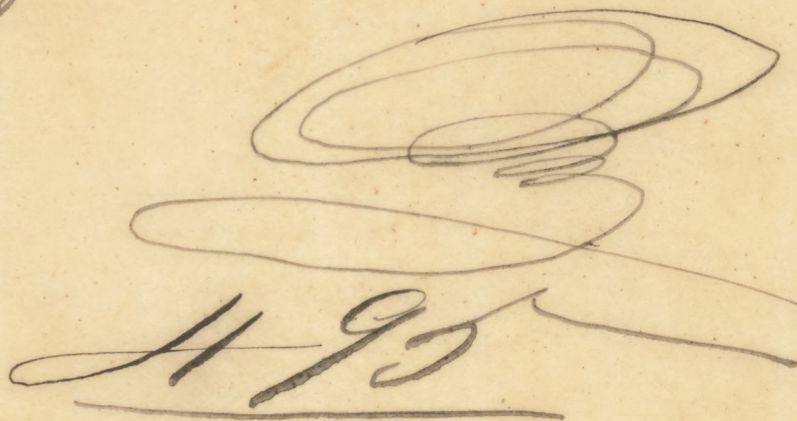
J. E. Fox
Clerk.

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PAGE 88

Ano 1846.

Jurisdiccion al Partido de S. Diego

Expediente promovido p.^a el Sr. D. N.
Miguel de Pedronera en solicitud del pa-
saje a S. Jacinto nuevo.



1195

(L)



Excmo Señor Gobernador

Angelus Dium
- on 27. de 1845.

Miguel de Pedrorena, comer-
 ciante y establecido en este Departa-
 mento, ha presentado ante V. E.
 un Sub-Proyecto con el dibujo respectivo como paricio
 al Sr. Diego y digo que satisfecho como lo
 es en qualquiera parte y sera probado si se
 viene la parte rancho de San Jacinto resultas
 de la Junta terreno sobrante al que le fue
 adjudicado al Sr. Don Jo-
 se Estudillo, adjudicando al Sr. Don Jo-
 se Estudillo, para com-
 pletar el mismo - por ende mayor numero de
 sitios de los que el Superior
 Gobierno le concedio luego
 en A. C. que tomando en consideracion
 la necesidad que tengo de un
 parage en donde poder ingre-
 sar algunos bienes de caudal
 que he adquirido en trabajos
 y estan expuestos a
 perderse por falta de lu-
 gar en donde se multipli-

P. J. [Signature]

que, que se digna considerar en
propiedad conforme a la ley del
18 de Agosto de 1824, todo lo
que resulta sobrante del referido
San Jacinto, segun y como man-
ifesta en todas sus partes
incluyendo el protome el diamo
que debidamente acompaño,
en la inteligencia que de ello
no resulta perjuicio de tercero,
a mi me hará V. E. un benefi-
cio que reconozca y q. sea
tambien en provecho del mis-
mo Departamento q. nunca
tanto de q. sus tierras sean
ocupadas por propietarios q.
siempre procuran ser utiles
al Gobierno. Suplico a V. E.
igualmente q. si sueldos
segun espere de su generosidad
q. se acuerde a mi solicitud
se a extendido el titulo bajo
la denominacion de San Jacinto
nuevo en todo lo q. recibire
gracia. Juro q. dispensando el
uso del papel comun por fal-
ta de el sellado q. no lo hay.

Angela Diciembre 26 del
1846.

Miguel de Pedrona

Exmo. Señor

40

Atento al Superior Decreto marginal
de V. E. de 27 de Diciembre ultimo puesto en
la antecedente solicitud y en la q. se piden
el sobrante q. Resulta en las mediciones
del paraje de S. Jacinto espaldas: que
presenta D. José A. Estudillo como dueño
del paraje mencionado y hecho cargo de la
presente solicitud, Responde q. nada tiene
q. objetar siendo terreno sobrante del
q. tiene concedido; p. lo q. resulta no pre-
sentarse inconveniente a la concecion de
este paraje, con inclusion del potrero
de S. Jacinto p. su terreno valdío q.
ocupar también a aquellos rines. En
este concepto Resulta q. el terreno soli-
citado es valdío y puede accederse a
esta solicitud; in embargo de lo expuesto
V. E. con mejor acierto Resolvió lo
q. fuere de su Superior agrado.

J. Diego Enciso 2. de 1846.

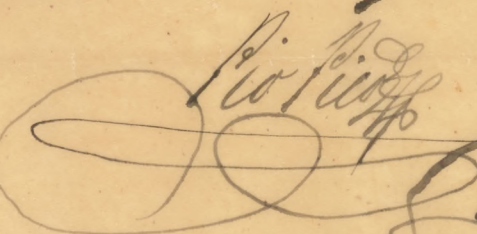
J. Arriola
P. tal



5.

Angel Torres 14 de 1846.

Lista la solicitud con que á
 principios de este expediente, el infor-
 -me al Prefecto de San Diego con
 lo demas que se tubo presente y
 ver coninos; de conformidad con
 la ley de 24 de Agosto 18 de Agosto
 -to de 1824. y reglamento de 21.
 de Noviembre de 1828; declaro
 a Don Miguel de Pedrona
 dueño en propiedad del terreno
 nombrado San Jacinto el Nuevo y
 Potrero de San Jacinto, confor-
 -me demuestra el mismo que
 obra en este expediente. Libre
 -se al agraciado el título res-
 -petivo y reservo el expediente
 para someterlo á la aprobacion
 de la C. Asambleada. Pido
 Pido Gobernador provisional de las
 Californias así lo mandé, decreté
 y firmé en que looy fe.


 Don M. Covarrubias
 Prio.

8.

Pio Pico, vocal decano de la Asamblea De-
partamental y Gobernador provisional de
las Californias.

Por cuanto Don Miguel del
Petrovina ha pretendido para su beneficio
personal y el de su familia el terreno
~~terreno~~ nombrado San Jacinto Nuevo con
inclusión del ~~terreno~~ Potreros del mis-
mo (del mismo) nombre; practicadas pre-
viamente las averiguaciones convenientes,
usando de las facultades que me son con-
feridas a nombre de la Nación Me-
xicana, he venido por decreto a de-
clarar en concederle el expresado terreno y
Potreros,
deklarandole la propiedad de él por
las presentes letras, de conformidad con
la ley de 18. del Agosto de 1824 y
reglamento de 21. del Noviembre de
1828, a su vez a la aprobación de la
Cama Asamblea Departamental y

9.

Bajo las condiciones siguientes
1ª Podrá cercarlo sin perjudicar
las travesías, caminos y Servidumbres,
lo afrontará libre y exclusivamente,
pero lo tendrá cercado con casa pa-
-bitada y bienes servientes a fin de
evitar el demerco.

2ª Solicitará al juez superior
de la posesión judicial en virtud
del este despacho, por el cual se
demarkaran los linderos con las me-
-suras necesarias.

3ª El terreno al que se le hace
donación ^{en inclusión del potrero de Sr. Jacinto}
es el que demuestra el asiento que
corre en el expediente. El juez que
diere la posesión lo hará medir con-
-forme a ordenanza, ^{impugnando las me-}
-duras de los linderos de Sr. José
Antonio Estudillo, y dará aviso a este

Gobierno del numero de sitios de
 ganado mayor que contiene.
 En consecuencia mando que teni-
 endose el presente titulo por firme
 y valido, se tome razon de el en
 el libro á que corresponde y se
 entregue al interesado para su
 guarda y de mas fines. Dado en
 la Ciudad de los Angeles, en esta
 fecha comun por no haber del
 sellado, a' Ocho de la tarde
 mil ochocientos, noventa y Ocho.
 Dada Tomada de una Superior
 despacho en el libro respectivo.

Angeles Mayo 8 del 1846.
 Dado cuenta en virtud de hoy
 con este expediente á la C. A. D.
 se mandó pasar á los comisionados
 terminados baldios.
 Pío Pío
 Justo Obregón

Señor.

La Comision Intercomunal Valdivia encargada de examinar el presente expediente promovido por D. Miguel Pedronna el paraje conocido con el nombre de S. Quinto nuevo con inclusion de su potrero en la jurisdiccion de S. Diego q. fue concedido por el Sup. Gov. Departam. en su beneficio y el de su familia, con arreglo a las leyes de la materia, en este concepto pone a la deliberacion de S. E. la propuesta siguiente.

Se aprueba la concesion hecha a D. Miguel Pedronna, conocido con Mexicana el paraje conocido con el nombre S. Quinto nuevo, con inclusion de su potrero, en atencion de lo q. señala el dueño q. como agregado al lote de cantidad librado con fecha 14 de Mayo de 1848 ^{del maximo señalado por la ley} en el presente ano, y conformidad con la ley de 18 de Mayo de 1824. y art. 5.º del reglamento de 21 de Mayo de 1828.

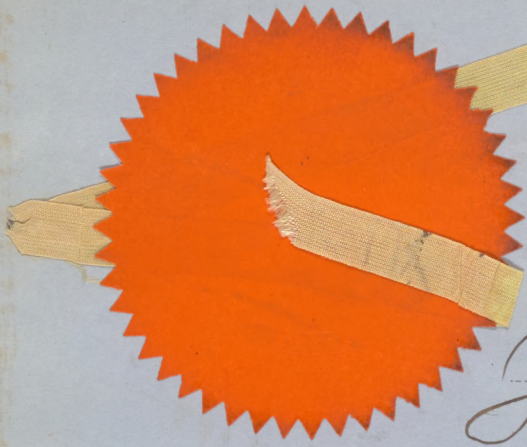
Saluda en la Ciudad de Valdivia a los 14 dias del mes de Julio de 1848

J. Rosillo

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

I, JOHN C. HAYS, Surveyor General of the United States for the State of California, and as such, having in my office and in my charge and custody a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California, by virtue of the power vested in me by law, Do hereby Certify, that the *Exon* preceding, and hereunto annexed pages of tracing paper numbered from one to *Exon* inclusive, exhibit a true and accurate copy of a certain *doe.* *numm* now on file, and forming part of the said Archives in this office

In Testimony Whereof, I have hereunto signed my name officially and caused my Seal of Office to be affixed, at the City of San Francisco, this *nineteenth* day of *October* 1855



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

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

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

No 80. SD.
116 Bk

J. A. Aquino & wife
appls

The United States.

Filed Dec 20th 1935

J. E. Jones
clerk

80 SD
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In the United States District Court, in and
for the Southern District of California.

Maria del Rosario de Aguirre) Case No. 80.
Appellant

By)
The United States, Appellees.) "Sobrante de San Jacinto"
"Piezo y Nuevo"

This cause coming on to be heard
on appeal from the final decision of the
United States Board of Land Commis-
sioners to ascertain and settle the private land
claims in the State of California, under an
Act of Congress, approved March 3^d 1851, on
a Transcript of the proceedings and decision
of said Board, and of the papers and evi-
dence upon which said decision was found-
ed; and it appearing to the Court that the
said Transcript has been duly filed, accor-
ding to law, and counsel for the respec-
tive parties having been heard;

It is ordered, adjudged, and decreed,
that the said decision of said Board be,
and the same hereby is, reversed; and it is
further adjudged and decreed that the
claim of the above named Appellant is
good and valid, and that the same be
confirmed to her as follows, to wit:

The lands hereby confirmed are
the "Sobrante" or surplus, remaining with-
in the boundaries of the tract of land
called San Jacinto as the same are

represented and described in the Map
of said tract contained in the Expedien-
te of Miguel Pedrorena filed in this case
and referred to in the grant, over and
above certain lands granted to José
Antonio Estudillo and certain other lands
granted to Miguel Pedrorena, within
the aforesaid boundaries; to the extent
of Eleven square leagues of land; and
if the said sobrante or surplus within
said boundaries should be less than
Eleven square leagues, then confirma-
tion is hereby made of such less quantity

James H. Ogden
U. S. Dist Judge

Lane No 80
U. S. Dist Court, Southern
Dist California

Maria del Rosario Aguirre
Appellant

vs
The U. States
Appellees.

Decree

Filed
February 14th - 1857.
J. E. Jam
clerk

Recorded on Page 199

UNITED STATES OF AMERICA, ss.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

80 SD
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To the Honorable the Judges of the District Court
of the United States, for the Southern District
of California

Greeting:

Whereas, lately, in the District Court of the United States, for the Southern District
of California before you, in a cause

between Maria Del Rosario de Aguirre, wife of Jose Antonio Aguirre,
appellant and The United States, Appellee, the decree
of the said District Court was in the following words,
viz:

"This cause coming on to be heard on appeal from
the final decision of the United States board of land
Commissioners to ascertain and settle the private land
claims in the State of California, under an act of Congress
approved March 3^d 1851, on a transcript of the proceedings
and decision of said board, and of the papers & evidence
upon which said decision was founded, and it appearing
to the Court that the said transcript has been duly filed
according to law and counsel for the respective parties
having been heard.

It is ordered, adjudged, and decreed, that the said
decision of said Board be, and the same hereby is reversed,
and it is further adjudged and decreed that the claim
of the above named appellant is good and valid, and
that the same be confirmed to her as follows, to wit:

The lands hereby confirmed are the "sobrante" or surplus
remaining within the boundaries of the tract of land called
San Jacinto as the same are represented and described
in the map of said tract contained in the expediente
of Miguel Pedrona filed in this case and referred

to in the grant, over and above certain lands granted to Jose Antonio Estudillo, and certain other lands to Miguel Pedrona, within the aforesaid boundaries to the extent of eleven square leagues of land, and if the said sobrante, or surplus, within said boundaries should be less than eleven square leagues, then confirmation is hereby made of such less quantity."

80 SD

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as by the inspection of the transcript of the record

_____ of the said District
Court, which was brought into the Supreme Court of the United States, by virtue of an appeal

agreeably to the act of Congress,

_____ in such case made and provided, fully and at large appears.

And whereas, in the present term of *December*, in the year of our Lord one thousand eight hundred and *sixty three* the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and was argued by counsel: **On consideration whereof,** *it is now here ordered,* adjudged and decreed by this Court that the decree of the said District Court in this cause be and the same is hereby affirmed. *15th Feb.*

80 SD
PAGE 84

You, therefore, are hereby commanded that such further proceedings be had in said cause,

as according to right and justice, and the laws of the United States ought to be had, the said appeal notwithstanding:

Witness the Honorable Roger B. Taney Chief Justice of said Supreme Court, the first Monday of December in the year of our Lord one thousand eight hundred and sixty three

COSTS OF
Clerk \$
Attorney... \$
\$

Tax

W. M. Middleton

Clerk of the Supreme Court of the United States.

No 194 December Term, 1863

MANDATE

SUPREME COURT UNITED STATES.

U. States vs. Aguirre

No 80

W. S. Markham
Sent for Bar Entry

Filed Aug 11 1864

John D. Wheeler
Clk

622 19

In the United States District Court, For
the Southern District of California.

José Antonio Aguirre

80 SD

Appellant,

PAGE 86

vs.

The United States.

Appellee.

Case No 80.

Transcript 116.

"Contrato de San Jacinto."

No	Page	Petition
1.	3.4.	Petition
2.	5.6.	Deposition of Santiago Arguello.
3.	7.	Deposition of Ignacio Del Valle
4.	10.	Petition of José Ant ^o Aguirre, on behalf of his wife M ^{te} del Rosario Estuñillo, to Sub-Prefect of S. Diego, with marginal note of Approval.
5.	10. 11.	Certificate of Sub-Prefect to Governor
6.	11.	Decree of Grant by Gov ^r Lico.
7.	11. 12.	Title
8.	12.	Referred by Assembly to Committee on Vacant Lands.
9.	12. 13.	Report of Committee, approving Grant.
10.	13.	Approval of Assembly.
11.	13.	Certificate of Surveyor General.
12.	15. 16.	Translation of Petition No 4.
13.	16.	do Certificate " 5.
14.	16. 17.	do Decree. " 6.
15.	17. 18.	do Title. " 7.
16.	19.	do Order of reference " 8.
17.	19.	do Report " 9.
18.	20.	do Approved " 10.
19.	21. 22.	Title, & original. } same as No 7. "H.H. # 1."
20.	22.	Approval, & do. } "H.H. # 2"
21.	24 @ 29.	Opinion
22.	30.	Decree of Rejection.

Copies from Archives.

Case No. 80.
In the U. S. Dist. Court for
the South-Dist. of California.

Jose Ant^o Aguirre
Appellant.

The United States
Appellee.

Index of Transcript.
