

CASE No.

83

SOUTHERN DISTRICT

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LOS ALAMOS GRANT

---

JOSE ANTONIO GUERRA CARRILLO

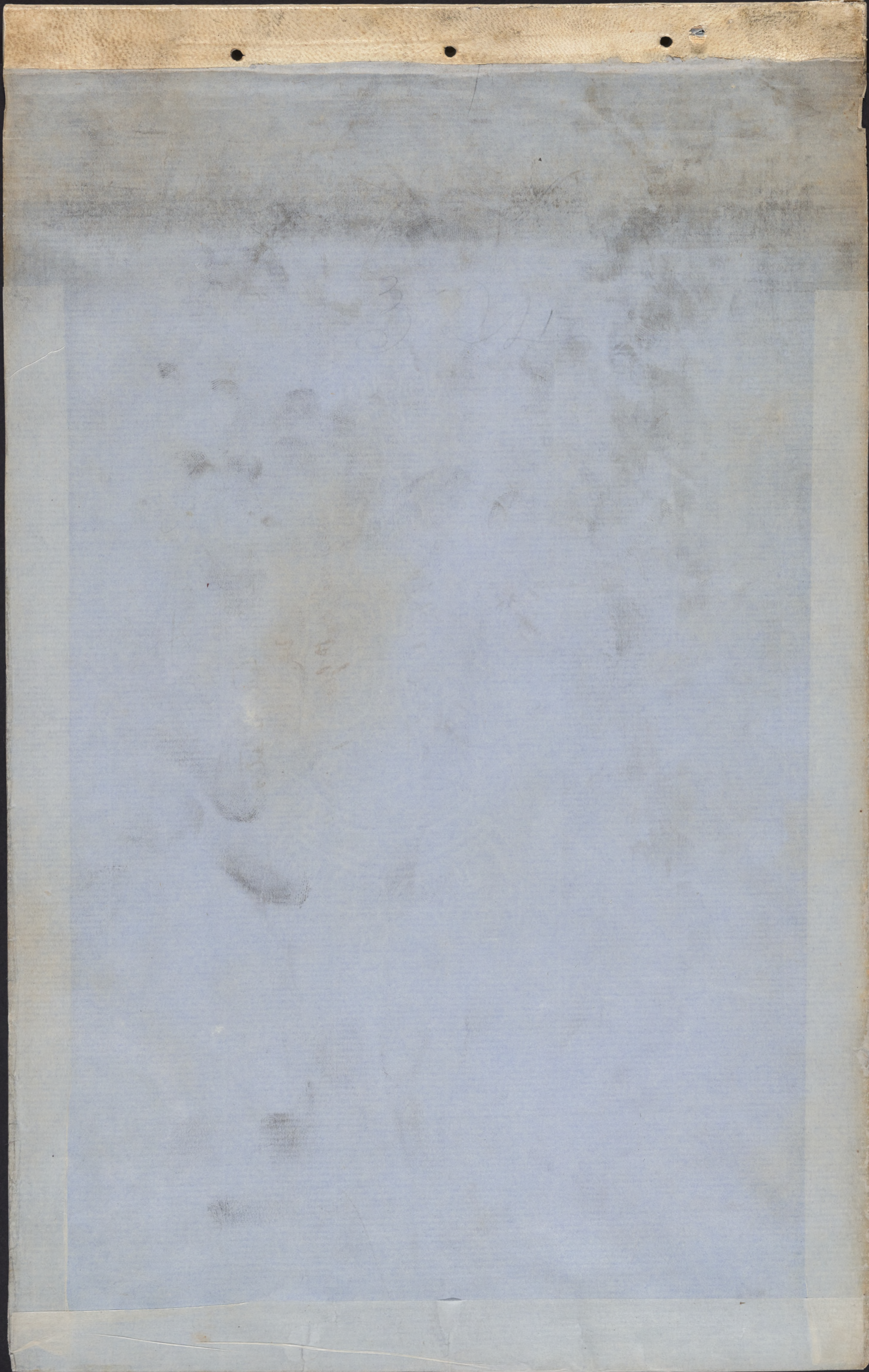
CLAIMANT



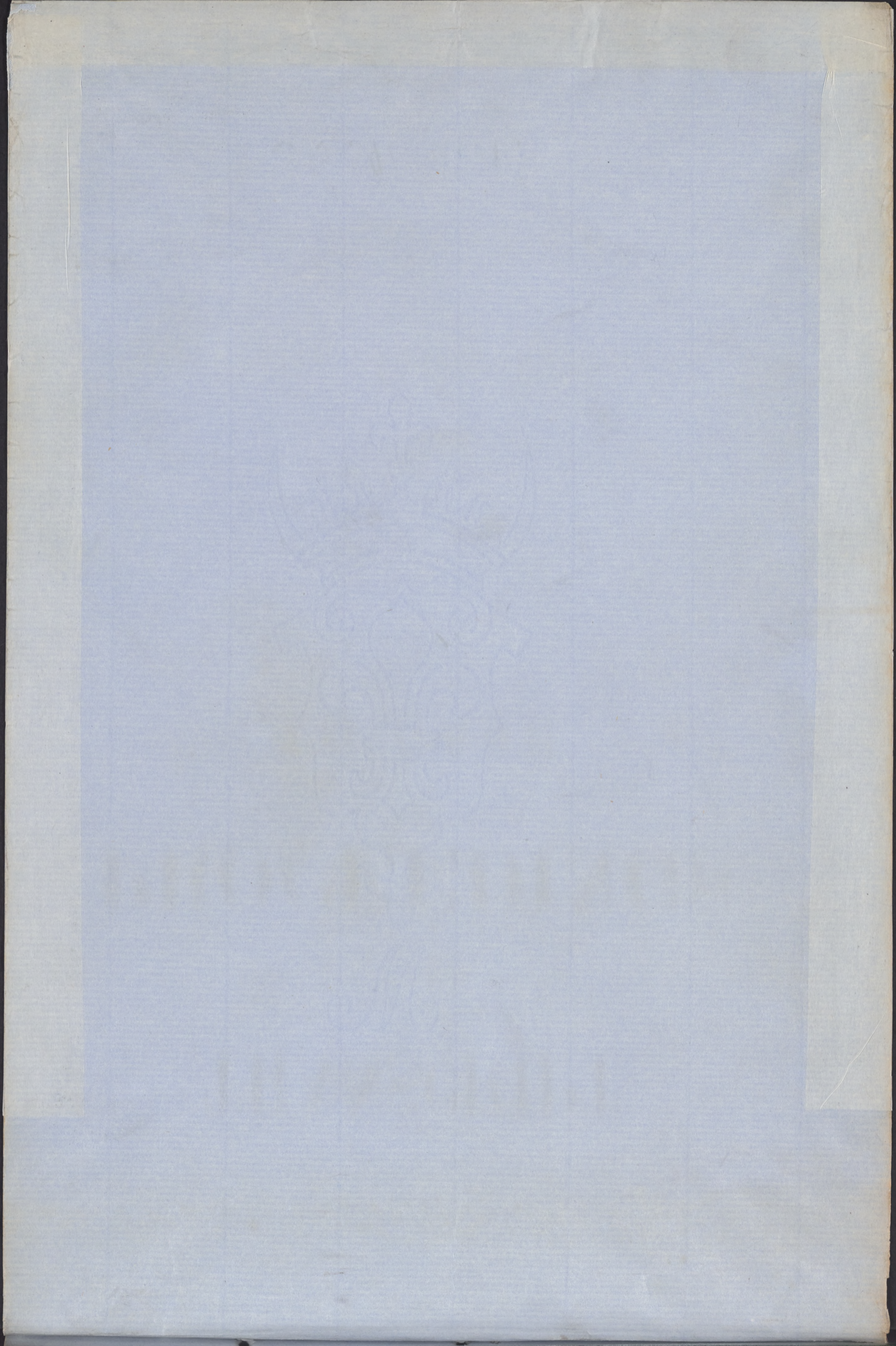
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# TRANSCRIPT

OF THE

# PROCEEDINGS

IN CASE

NO. 324

*Jose Antonio Guerra y Carrillo*

CLAIMANT

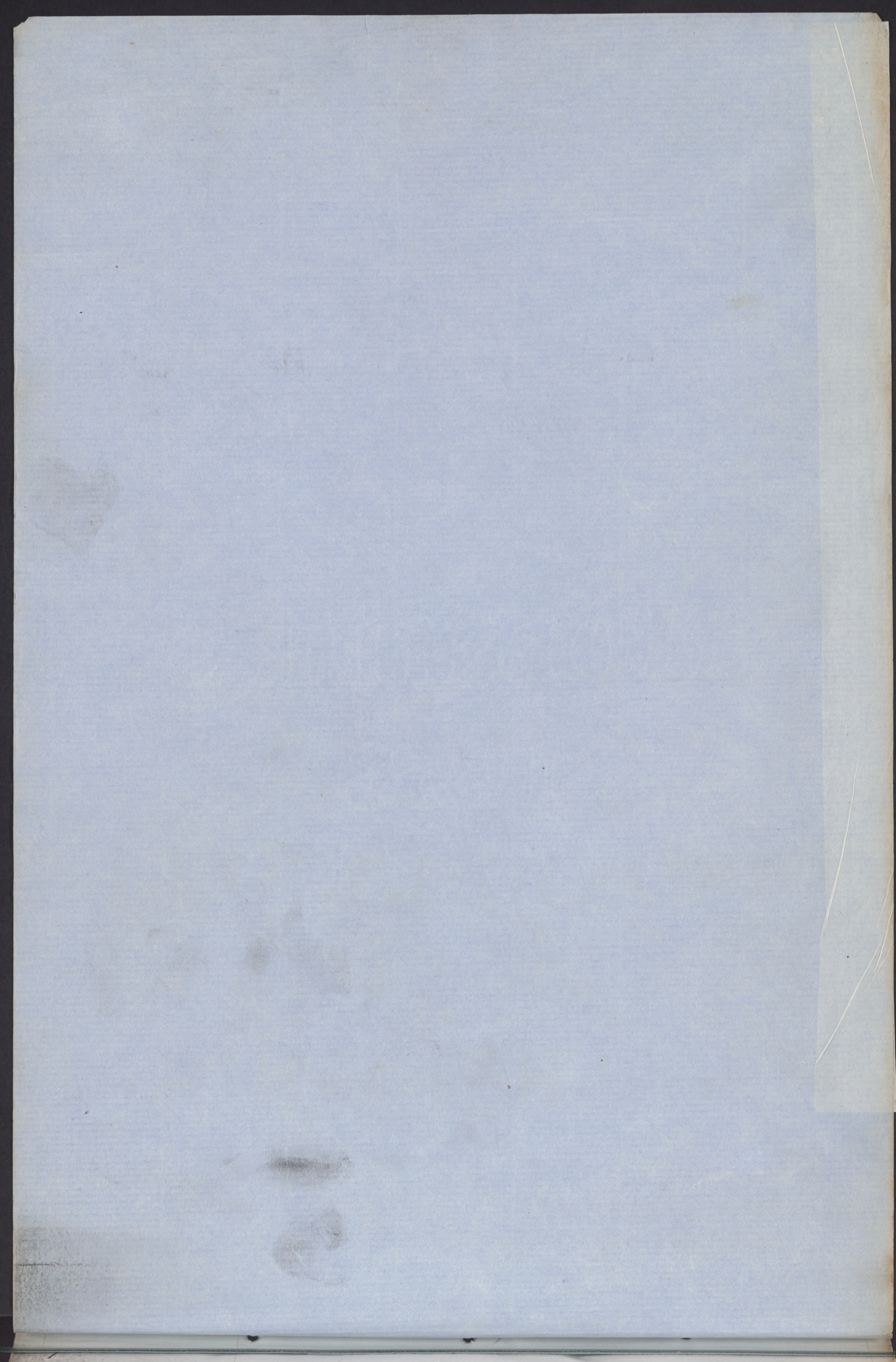
VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

*"Los Alamos".*







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 seventh day of September, 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 Jose Antonia Guerra y Carrillo for the Place named "Los Alamos" was presented, and ordered to be filed and docketed with No. 324 and is as follows, to wit;

(Vide page 3 of this Transcript.)

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

San Francisco January 29<sup>th</sup> 1853.  
In case no. 324 Jose Antonio Guerra y Carrillo for the place named "Los Alamos" the deposition of Wm. E. P. Merrill a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed,

(vide page 4 of this Transcript)

San Francisco Feb. 12<sup>th</sup> 1853  
In the same case the deposition of Jose Maria Arambias a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton with circumstances marked W. E. P. No. 1 annexed thereto, was filed,  
(vide page 4 of this Transcript)



San Francisco Sept. 23<sup>rd</sup> 1853  
Case no. 324 called, Submitted on brief,  
and taken under advisement;

\*

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San Francisco Jan. 17<sup>th</sup> 1854  
In the same case Commissioner R. Aug.  
Thompson delivered the opinion of the  
Board concurring the claim;  
(Vide page 35 of this Transcript.)

\*

San Francisco Jan. 11<sup>th</sup> 1854.  
In the same case the depositions of Jose Maria  
Coranubias and Fernando Pico, witnesses in behalf  
of the claimant, taken before Commissioner R.  
Aug. Thompson were filed;  
(Vide pages 5 & 7 of this Transcript.)



To the Honorable Commissioners to settle private land claims in California.

The petitioner José Antonio de la Guerra y Carrillo, respectfully shows: That on the 9<sup>th</sup> day of March A. D. 1839, Juan B. Alvarado, Governor of California, by virtue of authority in him vested, granted to the petitioner, the tract of land known as Los Alamos in the present county of Santa Barbara, with the boundaries in the grant set forth in the corresponding map. That on the 23<sup>rd</sup> day of May A. D. 1840, the aforesaid grant was duly approved by the Departmental Junta, all of which is shown in the original espediente, a certified copy of which is submitted herewith, marked A. with a translation marked B. That the said land has not been surveyed by the Surveyor General of the United States, but that it has been duly surveyed & the possession of it given by the proper judicial authority, as will be duly proved on the trial, & that moreover its boundaries are fully set forth in the title & corresponding map, & are well known. That he has been for than 14 years, & now is in the quiet, peaceful & undisputed possession & occupation of the said tract of land. That he knows of no conflicting claim. That he relies for confirmation of title upon the original title papers, upon the records in the Government Archives, a certified copy of which is submitted herewith, & upon such other & further proof as he may be advised are necessary.

Wherefore he prays the Commissioners to confirm to him the aforesaid tract of land.

By his Atty.

Kulleck, Peckey & Bellings.

Filed in Office Sept 7<sup>th</sup> 1852.

Geo. Fisher Secy.

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Petition



San Francisco, June 29 1853.

On this day before Comr Harry J. Thomson, came Wm E. P. Hartnell, a witness in behalf of the claimant Jose Antonio de la Guerra y Carrillo, petition No 324 & was duly sworn, his evidence being given in English.

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In answer to questions propounded by the claimant counsel the witness testified as follows.  
Deposition of W. E. P. Hartnell.

My name is W. E. P. Hartnell, my age is 35 years, & I have lived in California 30 years. I know the rancho called Los Alamos, in Santa Barbara County. Jose Antonio de la Guerra built a house on it in 1839 & occupied it with cattle, horses & some grounds. He has continued to occupy it ever since & lives on it now with his family. I never heard of any conflicting claim.

W. E. P. Hartnell.

U. S. Law Agent present.

Sworn to & subscribed before me this 29<sup>th</sup> of June 1853.

Harry J. Thomson.  
Comr.

Filed in Office June 29 1853.

Geo: Fisher. Secy.

Deposition of Jose M. Coramurias.

San Francisco, Feby 12 1853.

On this day before Comr Harry J. Thomson came Jose Maria Coramurias, a witness in behalf of the claimant, Jose Antonio de la Guerra y Carrillo.



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petition No 324, & was duly sworn his evidence being interpreted by the Secretary.

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

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My name is Jose Maria Corambias, my age is 44 years, I reside in Santa Barbara, & have lived in California 19 years. I know the signatures of Juan B. Alvarado, & Manuel Jimeno, their signatures to the papers, marked Exhibit No 1. & attached to this deposition are their genuine signatures. The present claimant has occupied this land to my knowledge since 1839. In 1841, I assisted in giving judgment possession, I was one of the assisting witnesses; Fernando Tico was the Alcalde.

U.S. Law Agent present. Jose M. Corambias.  
Sworn to & subscribed before me  
this 12<sup>th</sup> of February 1853.

Harry J. Thornton.  
Clerk.

Filed in Office Feby 12 1853.

Geo. Fisher,  
Sey.

Case No 324.

United States Land Commission.

San Francisco, Jan'y 11 1854.

Deposition of  
Fernando Tico.

On this day, before Commissioner R. Aug. Thompson, came Fernando Tico, a witness in behalf of claimant, Jose Antonio de la Guerra y Carrillo, case No 324, who, being duly sworn, deposed as follows the evidence being interpreted by the Secretary.

Present Claimant's Atty & U.S. Atty. Law Agent.



Witness states his name is Fernando Tric, his age fifty five years, & his residence Santa Barbara Co, Cal. & in the year 1841 he held the office of Judge of the first instance for that jurisdiction.

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Question by Claimant Atty.

Did you ever in your official capacity as Judge aforesaid give the judicial possession of the Rancho called Las Alamos, if so when, & to whom?

Answer. In the year 1841 I did as Judge aforesaid give the judicial possession of said rancho to Jose Antonio de la Guerra y Camille.

Question by same.

Who were present as witnesses & coadjutors at the giving of such judicial possession.

Answer. The witnesses were Jose Maria Coronubias, Antonio Rodriguez, Juan Pablo Ayuda. The coadjutors (adjoining proprietors) were Miguel Cordero, Jose Antonio Dominguez, both of whom are now dead, Guadalupe Olvera. I do not recollect any others.

Question by same.

What became of the act or record of said judicial possession.

Answer. I do not know what became of it; when I retired from office at the first of the year 1842 I left it in the archive of the office at Santa Barbara.

Question by same.

Describe the boundaries of said rancho as established by said act of possession.

Answer. It began at place known as the junal & ran Easterly along a range of hills called Tomas mustas, until the line intersected the main road from Santa Cruz to the Laguna; thence northerly a straight line to the Arroyo de Santa Maria, where a



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Stake was driven as a land mark. Thence we run about North west a straight line to the road from Todos Santos to the Laguna at a point called Cajon or Tampion de Todos Santos. From this point we run along the road to the point of beginning.

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Question by name.

What are the names of the adjoining Ranches.

Answer. The Ranch of Todos Santos - The Ranch of la Laguna - Sonata - & Santa Maria.

Sworn to & subscribed Fernando Tico.  
before me June 11 '1854.

R. Aug. Thompson.

Filed in Office June 11 '1854.

Geo. Fisher - Secy.

Case No 324.

United States Land Commission.

San Francisco June 11 '1854.

Deposition of  
Jose M Conarrubias

On this day before R. Aug. Thompson, Commissioner came Jose Maria Conarrubias, a witness in behalf of the claimant, Jose Antonio de la Guerra y Camille, case No 324, who, after being duly sworn, deposed as follows, his evidence being interpreted by the Secretary.

Present Claimant's Atty & U. S. Associate  
Law Agent.

Witness states that his name is Jose Maria Conarrubias, his age forty five years & Residence Santa Barbara, & am now Surveyor of the Port & Mayor of the city.

Question by Claimant's Atty.



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Who has charge of the archives & records of the former Mexican authorities in the jurisdiction of Santa Barbara. Answer. The Secretary of the council of the city of Santa Barbara, under charge of the Mayor, has the custody of them.

Question by same:

Have you ever seen the record of the judicial possession of the rancho of Los Alamos.

Answer. I have never seen it, I know that search was made for it in said archives but it could not be found.

Question by same.

Do you know who gave such judicial possession, if so, state it?

Answer. It was given by Fernando Tico, in the month of August 1841 - I was present when it was given.

Jose M<sup>a</sup> Covarrubias.

Sworn to & subscribed before me Jan'y 11<sup>th</sup> 1854.

R. Aug. Thompson.  
Comm.

Filed in Office Jan'y 11<sup>th</sup> 1854.

Geo. Foster.  
Sic'y.



9

1839

1010.16

Expediente promovido por D.<sup>n</sup> José  
Antonio de la Guerra en solicitud del  
paraje nombrado los

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Alamos

132  
~~uno~~



I. D. D. 18

Excmo. Sr. Gov.<sup>no</sup>

Sr.ª Barbara... José Antonio de la Gra y  
 Em. 22 de 1839 } Carillo vecino de esta Munc.  
 Informe al ad. } palida d con el debido respect  
 -m<sup>to</sup> de la Ro. } hace presente q.º deseoso de for-  
 -vencia. } -mar una finca rural q.º con  
 labores y bienes q.º en el manten  
 -dra podra de este modo lograr la subsis-  
 -tencia de su numerosa familia y encuentra  
 p.º este fin un paraje nombrado los Alamos  
 en los terrenos de la Purisima sin ningunos  
 bienes solo ay unos pocos indios q.º subsis-  
 -ten en el y estos se podran mantener con  
 sus bienes sin perjudicarlos en nada. A  
 V. E. suplica se sirva concederle lo del q.º  
 recibira gracia y merced. Despensando  
 q.º esta instancia este en papel comun por  
 no haber del q.º Corresponde.

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 Expediente

I. D. D. 18

Sr.ª Carl. Dis. 21 de 1838.

José A. de la Guerra y Carillo.

Purisima Enero 25 de 1839.

José M.ª Valenzuela Adminis-  
 -trador de este establecimiento. En cumpli-  
 -miento del decreto marginal de V. E. de 22  
 del corriente Informo lo siguiente. El  
 paraje nombrado los Alamos q.º se mencio-  
 -a de alla desocupado por parte de esta es-  
 -tadacion pues se a destinado para se-  
 -ñalar un espacio de terreno a cada indivi-  
 -duo q.º se halla separado de la comuni-  
 -dad con arreglo a la sup.<sup>ra</sup> orden de V. E.  
 / 23 de mayo de 1837 / que a la fha se allan  
 diez familias radicadas. Lo que ponga



11 4. O. D. 14 à la deliberacion de R. E.

Jose Ma. Valenzuela

Monterey y de N. Y. de 1839.

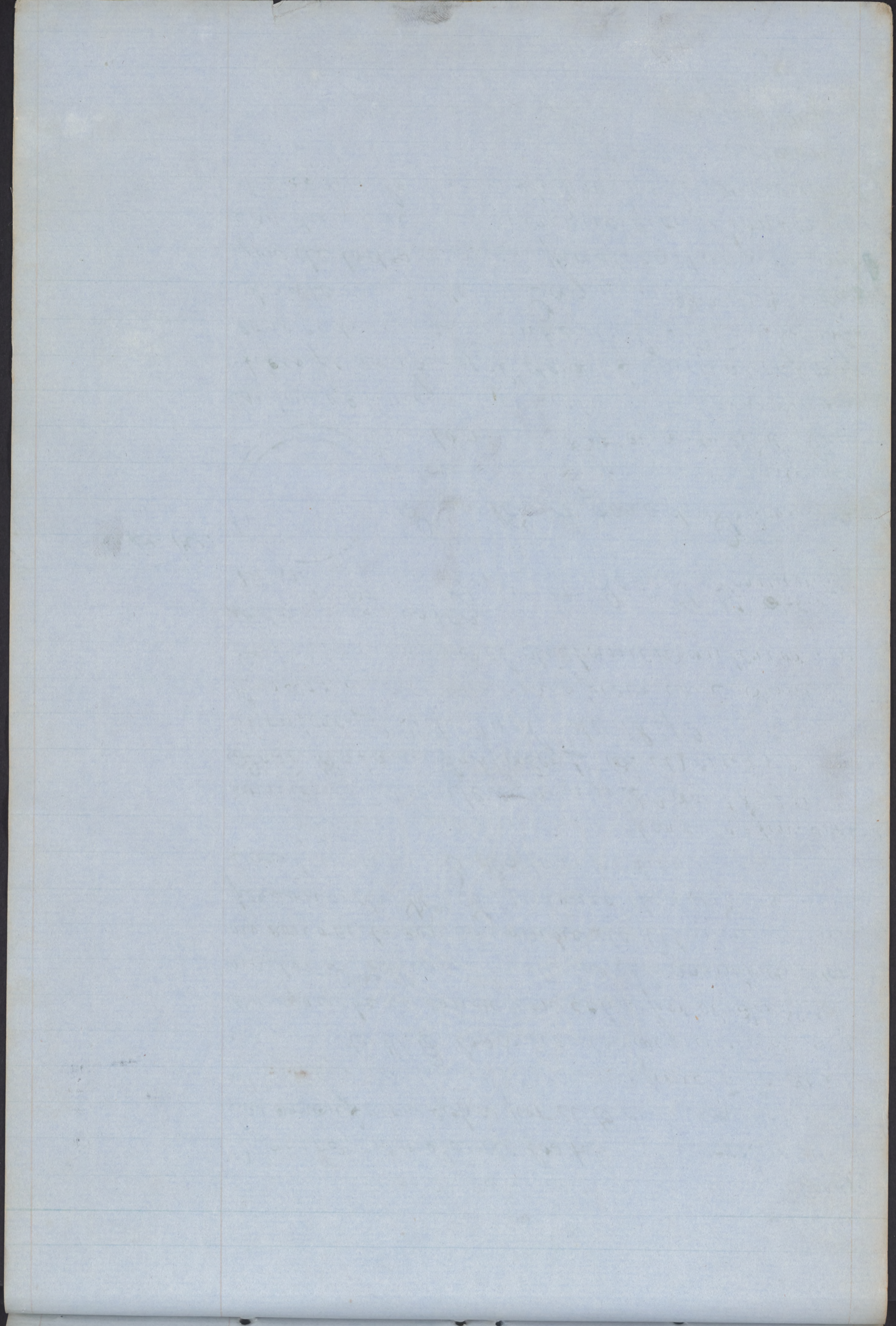
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324-

Vista de la peticion con que da principio este expediente, el informe del administrador de la prisiona, el estado de colonizarse en que se halla el terreno pretendido. con todo lo demas que se tubo presente y ver conbino; de conformidad con las leyes y reglamentos de la materia declaro a Don Jose Antonio de la Guerra y Barillo dueño en propiedad del parage conocido con el nombre de los Alamos colindante con el terreno de la Laguna, con el de Sta. Maria y el cajon de todos Santos hasta el Pinal. librese el correspondiente despacho, tomese razon en el libro respectivo y dirijase este expediente à la Exma. Junta departamental para su aprobacion. El Sr. Don Juan B. Alvarado Gobernador Constitucional del departamento de las Californias. asi lo mando, decreto y firmo de que doy fee

Alvarado.

Here follow  
Map.








12 Y. O. D. N. Excmo. Sr. La comision de agricultura en-  
cargada de dictamen en la Solicitud del Sr.  
Dn. J. Antonio de la Guerra y Carrillo del paraje  
Alamos; en vista de los terminos con los y de  
la consecucion echa por el Excmo. Sr. Gobernador  
Dn. Juan Bautista Alvarado pone a la delibe-  
racion de V. E. los articulos siguientes. Art. 1.  
Se aprueba la consecucion echa por el Sr. Gober-  
nador Dn. Juan Bautista Alvarado del terre-  
no conocido con el nombre de Alamos en la  
persona de Dn. J. Antonio de la Guerra y  
Carrillo. Art. 2. Este expediente volvera  
al Gobierno departamental para los fines con-  
venientes. Monterey Mayo 20 de 1840.  
Jose Rafael Gonzalez # C. Arriello.  
Monterey 22 de Mayo de 1840.

En sesion de este dia aprobo la C. Junta  
Departamental el dictamen anterior en  
todas sus partes.

Man. Jimeno Presd. # Jose L. Hernandez

S. O. D. N.

 Juan B. Alvarado Gobernador  
interino del Departamento de las  
Californias. Por cuanto el C. Jose  
Antonio Noriega ha pretendido para su vene-  
ficio personal y el de su familia, el paraje  
conocido con el nombre de los Alamos colin-  
dante con el de la Laguna, St. Ma. y Bar-  
jon de todos Santos, practicadas previamente  
las diligencias y averiguaciones conseruien-  
tes segun lo dispuesto por las leyes y reglamen-  
tos usando de las facultades que me son  
conferidas a nombre de la Nacion Mexica-  
na he venido en concederle el paraje



q. D. D. H

mencionada, declarandole la propiedad de el por las presentes letras, entendiendose dicha consecucion con entera conformidad a lo dispuesto por las leyes, a reserva de la aprobacion de la Coena Junta Departamental y bajo las condiciones siguientes. 1.<sup>o</sup> Podrá cercarlo sin perjudicar las travesías caminos y servidumbres, caminos y servidumbres: lo disputara, libre y esclusivamente destinandolo al uso o cultivo q. mas le acomode, pero dentro de un año fabricara Casa, y estara habitada. 2.<sup>o</sup> Cuando se le confirme la propiedad solicitara del juez respectivo que le dé la posesion juridica en virtud de este despacho por el cual se demarcaran los linderos a cuyos limites pondrá a mas de las mojones algunos arboles frutales, o silvestres de alguna utilidad. 3.<sup>o</sup> El terreno que se le hace donacion, es de la estension que se expresa en el diceño que corre en el expediente, con sus limites respectivos: el juez que diere la posesion lo hara medir conforme a Ordenanza para señalar los linderos, quedando el sobrante que resulte a la nacion para los usos convenientes. 4.<sup>o</sup> Si contraviniese a estas condiciones perderá su derecho al terreno y será denunciabile por otro. En consecuencia mando que enviendole de titulo el presente y teniendose por firme y valedero, se tome razon de el en el Libro a que corresponde, y se entregue al interesado para su resguardo, y demas fines. Dado en Monterey a nueve de Marzo de mil ochocientos treinta y nueve. Entendiendose



14

el presente, en papel comun por no haber del  
q. corresponde.

Man. Jimeno

Toro del Despacho) Juan B. Alvarado

10. O. D. N Monterey 19 de Mayo de 1840.

Dada cuenta a la C. Junta Departamental  
acordi en sesion de este dia que pase a la  
comision de Agricultura.

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Jose L. Hernandez Toro

En 21 del mismo se devolvió la comision con  
el dictamen q. se acompaña

Hernandez

Monterey 13 de Junio de 1840

En vista de la aprobacion otorgada en 22 de  
Mayo del presente año p. la C. Junta depar-  
tamental, libese testimonio de ella a la par-  
te de D. Jose Antonio de la Guerra y Carillo  
en confirmacion del terreno Alamos que obtu-  
vo en 2 de Mayo del presente año. El Excmo.  
D. D. Juan B. Alvarado Gobernador Con-  
stitucional del departamto de la California  
asi lo previo y firmo

Office of the Surveyor General of the United  
for California. Samuel D. King Surveyor  
General of the United States for the State of  
California, and as such now having in my  
Office and under my charge and custody  
a portion of the Archives of the former Spanish  
and Mexican Territory or Department of  
Upper California, do hereby certify that the  
ten preceding and hereunto annexed pages  
of tracing paper numbered from one to ten  
inclusive and each of which is verified by  
my initials (S. D. K) exhibit true and



and accurate copies of certain documents  
now on file and forming part of the said  
Archives in my Office.

In Testimony whereof I have  
hereunto signed my name officially and  
affixed my private seal (not having a seal  
of Office at the City of San Francisco  
this 12<sup>th</sup> day of December 1851

Saml. D. King  
Surveyor Genl. Calif.

Filed in Office Septbr 4. 1852.

Geo: Fisher Secy.

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Santa Barbara, July 22<sup>nd</sup> 1839.  
 Let the Administr-  
 -trator of La Purissima  
 report.

(Signed) Alvarado.

To His Excellency the Governor  
 José Antonio de la Guerra y Carrillo,  
 resident of this municipality with due  
 respect, representation makes: that being  
 desirous of forming a rural establish-  
 -ment, from which, by the sowing and  
 property, which he will maintain on it,  
 he may in this manner procure the  
 subsistence of his numerous family, he  
 asks for this purpose a place named Los Alamos, on  
 the lands of La Purissima, without any kind of property  
 except a few Indians who live on it, & these may be main-  
 -tained with their property without injuring them in  
 any manner. He prays your Excellency to have the  
 goodness to grant it to him, from which he will receive  
 favor & grace. Excusing that this petition is on common  
 paper, as there is none of the proper kind.

Santa Barbara, December 21<sup>st</sup> 1838.

(Sgd) José de la Guerra y Carrillo.

Purissima, July 25<sup>th</sup> 1839.  
 José María Valenzuela, Administrator of this estab-  
 -lishment, -

In compliance with your Excellency's mar-  
 -ginal decree of the 22<sup>nd</sup> inst, reports as follows:

The place which is mentioned named Los  
 Alamos, is at present unoccupied on the part of this estab-  
 -lishment, but as it has been set apart for the purpose  
 of designating a piece of land to each individual who  
 may be separated from the community in conformity  
 with the superior order of your Excellency of May  
 23<sup>rd</sup> 1837, there are at this time ten families settled  
 there. All which I report for your Excellency's de-  
 -cision. (Signed) José M<sup>o</sup> Valenzuela.



Monterey March 9<sup>th</sup> 1839

Having seen the petition with which this Expediente commences, the report of the Administrator of La Pasiona the state of (petitions for) colonization in which the land petitioned for is at present, with all other things which were represented, & proper to be considered, in conformity with the laws & regulations on the matter, I declare Don Jose Antonio de la Guerra y Carrillo owner in fee of the place known by the name of Los Alamos, bounded by the land of La Laguna, by that of Santa Maria, & the Cajon de Todos Santos, as far as the formal —

Let the corresponding title be issued, let note be made in the respective book, & let this expediente be directed to the Most Excellent Departmental Junta, for its approval. Señor Don Juan B. Alvarado, Constitutional Governor of the Department of the Californias, thus ordered, decreed & signed, to which I certify.

(Signed) Alvarado.

The Committee on Agriculture, charged with reporting on the petition of Señor Don Jose Antonio de la Guerra y Carrillo, for the place Alamos, in view of the steps taken & the grant made by his Excellency the Governor Don Juan Bautista Alvarado, report for the decision of your Honorable body the following articles viz:

Art 1. Approved the grant made by his Excellency the Governor, Don Juan Bautista Alvarado, of the land known by the name of Alamos, to Don Jose Antonio de la Guerra y Carrillo.

Art 2<sup>nd</sup>. This expediente will be returned to the Departmental Government for the convenient purposes.

Monterey May 22<sup>nd</sup> 1840.

(Sgd) S. Arguella.

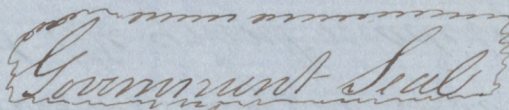
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(Sgd) José Rafael González.  
Montevideo, May 22<sup>nd</sup> 1840.

In session of this day, the Most Excellent Departmental Junta, approved the foregoing report in all its parts.

(Sgd) Manuel Jimeno. President.  
(Sgd) José L. Fernández. Secretary.



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Juan B. Alvarado, Governor, ad interim of the Department of the Californias.

Whence, citizen, José Antonio Noriega, has, for his own personal benefit & that of his family, petitioned for the place known by the name of Los Alamos, bounded by that of the Laguna, Santa Maria, & Cajon de Todos Santos, the proper measures & examinations having previously been made, as required by laws & regulations, among the powers which are conferred on me, in the name of the Mexican Nation I have granted him the aforesaid place, declaring to him the ownership of it by these presents, said grant being understood to be in entire conformity with the provisions of the laws, subject to the approval of the Most Excellent Departmental Junta & the following conditions.

- 1<sup>st</sup> He may enclose it without prejudice to the crossings, roads & servitudes, & enjoy it freely & exclusively, making such use or cultivation of it as may best suit him, but within one he shall build a house & it shall be inhabited
- 2<sup>nd</sup> When the ownership is confirmed to him, he will request the proper Magistrate to give him judicial possession in virtue of this title, by whom the boundaries will be marked out, in the limits of which he will place besides the bounds, some fruit or fount of some utility.



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3<sup>rd</sup> The land of which donation is made him is of the extent shown by the map which goes with the expediente with its respective limits, the magistrate who may give the possession will cause it to be measured in conformity with the ordinance, in order to designate the boundaries leaving the surplus which may result to the Nation for its convenient uses.

4<sup>th</sup> If he contravene these conditions, he will lose his right to the land, & it will be subject to demerment by another party.

In consequence I order that, these presents serving him for a title & being held as firm & valid, note be taken in the corresponding book, & they be delivered to the person interested for his security & other purposes.

Grown in Monterey on the month of March one thousand eight hundred & thirty nine.

(Sgd) Juan B. Alvarado.  
(Sgd) Manuel Jimeno.

Secretary of State.

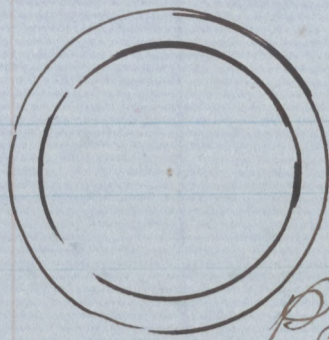
Monterey May 19<sup>th</sup> 1832.  
Reported to the Most Excellent Departmental Junta, received in session of this day, that it be passed to the committee on agriculture. (Sgd) Josi L. Fernandez. Secretary.

On the 20<sup>th</sup> of the same it was returned by the committee with the accompanying report. (Sgd) Fernandez.

Monterey June 13<sup>th</sup> 1840.

In view of the approval given on the 22<sup>nd</sup> of May of the present year by the Most Excellent Departmental Junta, a copy of it be issued to Don Josi Antonio de la Guerra y Carrillo in confirmation of the land Alamos, which he obtained on the record of March of the present year. His Excellency Don Juan B. Alvarado, Constitutional Governor of the Department of the Californias, thus directed & signed. Filed in Office Sept 7/1832. Geo. Fisher Secy





Juan B. Alvarado Gobernador  
interino del Departamento de las  
Californias.

Por cuanto el C. José Antonio de la  
Guerray Carrillo ha pretendido para su bene-  
ficiis personal y el de su familia, el paraje  
conocido con el nombre de los Alamos, colindan-  
do con el de la Laguna, Sta. Maria, y la Jon-  
coarubiá en de todas Santos, practicadas previamente  
las diligencias y averiguaciones concernien-  
tes usando de las facultades que me son con-  
feridas à nombre de la Nacion Mexicana  
he venido en concederle el paraje mencio-  
nado declarandole la propiedad de el por las  
presentes letras entendiendose dicha concesion  
con entera conformidad à lo dispuesto por  
las leyes, à reserva de la aprobacion de la  
Exma Junta Departamental y del Supre-  
mo Gobierno y bajo las condiciones siguien-  
tes. 1ª Podrá cercarlo sin perjudicar las  
travesias, caminos y servidumbres; lo dispu-  
stara libre y exclusivamente destinandolo  
al uso ò cultivo q. mas le acomode, pero  
dentro de un año fabricara casa y estara  
habitada. 2ª Quando se le conforme la  
propiedad solicitara del Juez respectivo  
q. le di la posesion juridica en virtud  
de este despacho por el cual se demarcaran  
los linderos à cuyos limites pondra à mas  
de las mojoneras alg. arboles frutales ò  
silvestres de alguna utilidad. 3ª El ter-  
reno que se le hace donacion es de la es-  
tension q. esplica el diseño q. corre en el  
expediente con sus limites respectivos.



el juez que diere la posesion lo hara medir conforme à Ordenanza para señalar los linderos, quedando el cobante que resulte à la Nacion p.<sup>o</sup> los usos convenientes. 4.<sup>o</sup> Si continuare à estas condiciones perdera su derecho al terreno y sera denunciado por otro. En consecuencia mando que sirviendo de protitulo el presente y teniendo se por firme y valido, se tome razon de el en el Libro à que corresponde y se entregue al interesado para su resguardo y demás fines. Dado en Monterey à Nueve de marzo de mil ochoscientos treinta y nueve. Entendiéndose el presente en papel común p.<sup>o</sup> no haber del of. correspondiente.

Juan B. Alvarado

Manuel Jimeno Secretario del despacho.  
Sello tercero Dos Reales Habilitado provisionalmente por la Aduana Maritima del puerto de Monterey, en el departamento de las Californias, para los años de mil ochoscientos cuarenta, y mil ochoscientos cuarenta y uno.

Alvarado

Antonio M.<sup>a</sup> Osio

Juan B.<sup>to</sup> Alvarado Gobernador Constitucional del Departamento de las Californias.

La Excm.<sup>a</sup> Junta Departamental en sesion del día 22 del presente año, aprobó la concesion que este Gobierno hizo con fecha 9 de Marzo de 839 del terreno conocido con el nombre de Alamos, à D.<sup>o</sup> José Antonio de la Guerra y Carrillo en los terminos siguientes.  
Art. 1.<sup>o</sup> Se aprueba la concesion hecha por el



22.

Por Gobernador D<sup>no</sup> Juan B<sup>ta</sup> Alvarado  
del terreno conocido con el nombre de Alamos  
en la persona de D<sup>no</sup> José Ant<sup>o</sup> de la  
Guerray Carillo. Y para resguardo del inte-  
-resado se extiende el presente en Monterrey  
à treinta de Mayo de mil ochocientos cua-  
-renta.

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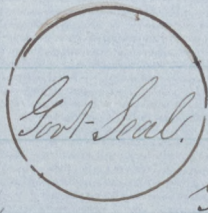
Juan B. Alvarado  
Man<sup>do</sup> Jimeno Secretario del despacho  
Sealed in Office Feby 12<sup>th</sup> 1853  
Geo. Fisher Secy.



1903

1903





Juan B. Alvarado, Governor ad interim of the Department of the Californias.

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Translation of Title & Approval. Being die 16. 1. 54. No. 1. annulled to the dep- osition of José M. Covarrubias

Whereas the citizen José Antonio de la Guerra y Camillo has, for his own personal benefit & that of his family, asked for the place known by the name of Los Alamos, bounded by that of Laguna, Santa Maria, & Bayon de Todos Santos, the proper measures & examinations being previously made as required by laws & regulations, using the powers which are conferred on me, in the name of the Mexican Nation I have granted him the aforesaid place declaring to him the ownership of it by the present letters, said grant being understood to be in entire conformity with the provisions of the laws, subject to the approval of the Most Excellent Departmental Junta & of the Supreme Government & under the following conditions,

1<sup>st</sup> He may enclose it without prejudice to the crossings, roads or servitudes, he will enjoy it fully & exclusively, making such use & cultivation of it as may best suit him, but within one year he shall build a house, & it shall be inhabited.

2<sup>nd</sup> When the ownership is conforming to term, he will request the proper Magistrate to give him judicial possession in virtue of this patent, by whom the boundaries will be marked out, in the limits of which he will place, besides the boards some fruit or forest-trees of some utility.

3<sup>rd</sup> The land of which donation is made him, is of the extent shown by the map which goes in the expediente, with its respective limits; the magistrate who may give the possession will cause it to be measured in order to make out the boundaries, leaving the surplus which may result to the Nation for its convenient uses.

4<sup>th</sup> If he contravene these conditions he will lose his right



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to the land & it will be denunciable by another.

In consequence I order that this present serving herein for a title & being held as form & valid, note be made of it in the proper book, & it be given to the person interested for his security & other purposes.

Given in Monterey on the ninth of March, one thousand eight hundred & thirty nine.

The present is made out on common paper for want of that which corresponds.

(Signed) Manuel Jimeno. (Signed) Juan B. Alvarado.  
Secretary of State.

Stamp Third, Two Reales.

Primarily authorized by the maritime Customs House of the port of Monterey, in the department of the California, for the years one thousand eight hundred & forty one thousand eight hundred & forty one.

(Sgd) Alvarado. (Sgd) Antonio Maria Osio.



Juan B. Alvarado, Constitutional Governor of the Department of the California.

The Most Excellent Departmental Junta, in session of the 22<sup>nd</sup> day of the present year, approved the grant which the Government made under date 9<sup>th</sup> of March 1839 of the land known by the name of Alamos, to Don Jose Antonio de la Guerra y Carrillo, in the following terms.

"Article 1<sup>st</sup> Approved the grant made by His Excellency the Governor Don Juan B. Alvarado, of the land known by the name of Alamos to the person of Don Jose Antonio de la Guerra y Carrillo."

And for the security of the person interested, this present is issued, in Monterey on the thirteenth of May of one thousand eight hundred & forty.

(Signed) Manuel Jimeno. Secretary of State  
(Signed) Juan B. Alvarado.  
Filed in Office Feby 12 '1853. Geo. Foster. Secy.



José Antonio de la Gama y Carrillo.   
 vs   
 The United States.   
 Los Alamos.

The claim of the petitioner is founded on a grant bearing date the 9<sup>th</sup> of March A. D. 1839 which was duly confirmed by the Departamental Assembly Opinion by Comor on the 22<sup>nd</sup> day of May A. D. 1840. The foregoing Thompson Campbell documents are all satisfactorily proved to be genuine. It is proved by the deposition of two witnesses that the petitioner or occupied the place called Los Alamos, ever since the year 1839, at which time the said claimant built a house on the land, in that year, that he had horses, cattle & raising grounds, & that he continued to occupy it ever since. The witness José M. Corambias states in his deposition that in the year 1841 he assisted in giving the judicial possession of said land to the petitioner. This is all the evidence in regard to juridical measurement which is to be found in the case. The party has shown a sufficient compliance with the conditions of his grant to entitle to a decree of confirmation, if the land is susceptible of being located & identified. The Governor in his first concession describes the land granted, as the place known by the name of Los Alamos, bounded by the land of La Laguna, by that of Santa Maria, & the Cajon de Todos Santos, as far as the serial. The description given in the grant does not vary in any essential particular from the concession. The 3<sup>d</sup> condition of the grant refers to the land granted in the following terms. "The land of which donation is made here is, of the extent shown by the map, which goes with the expediente, with the respective limits." The condition then provides for a sobrante, but it is difficult to understand how there could be a sobrante, when the whole extent within the limits described

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in the grant & those designated on the map is granted, & when the quantity is not specified. By reference to the map it will be seen that the ranchos, referred to in the grant as boundaries are the plainly represented, & laid down. The map in this case is made part of the grant, & with the aid which it affords the land may be located, & bounded without much difficulty. The grant in this case is clearly one of limits & bounds without regard to quantity, & indeed we have no means of ascertaining the exact quantity which the limits, as designated on the map contain. A decree of confirmation, describing the boundaries will be accordingly entered.

Filed in Office July 17<sup>th</sup> 1854.

Geo. Fisher  
Secy.

José Antonio Guero y Carrillo.  
vs  
The United States.

Decree of  
Confirmation.

In this case on hearing the proofs & allegations it is adjudged by the Commission that the claim of the said petitioner is valid, & it is therefore decreed that the same be confirmed. The lands of which confirmation are hereby made are known by the name of Los Alamos, & are the same now occupied by the said petitioner & are bounded & described as follows, to wit: on the North by the rancho Cajon de Todos Santos, on the East by the rancho Santa Maria, on the South by that of Laguna & on the West by a line drawn from the "punta" in a



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Northerly direction to the rancho first named. Reference for further description to be had to the map which is a part of document marked A. & which is filed as evidence in the cause, & also to the translation of the original grant.

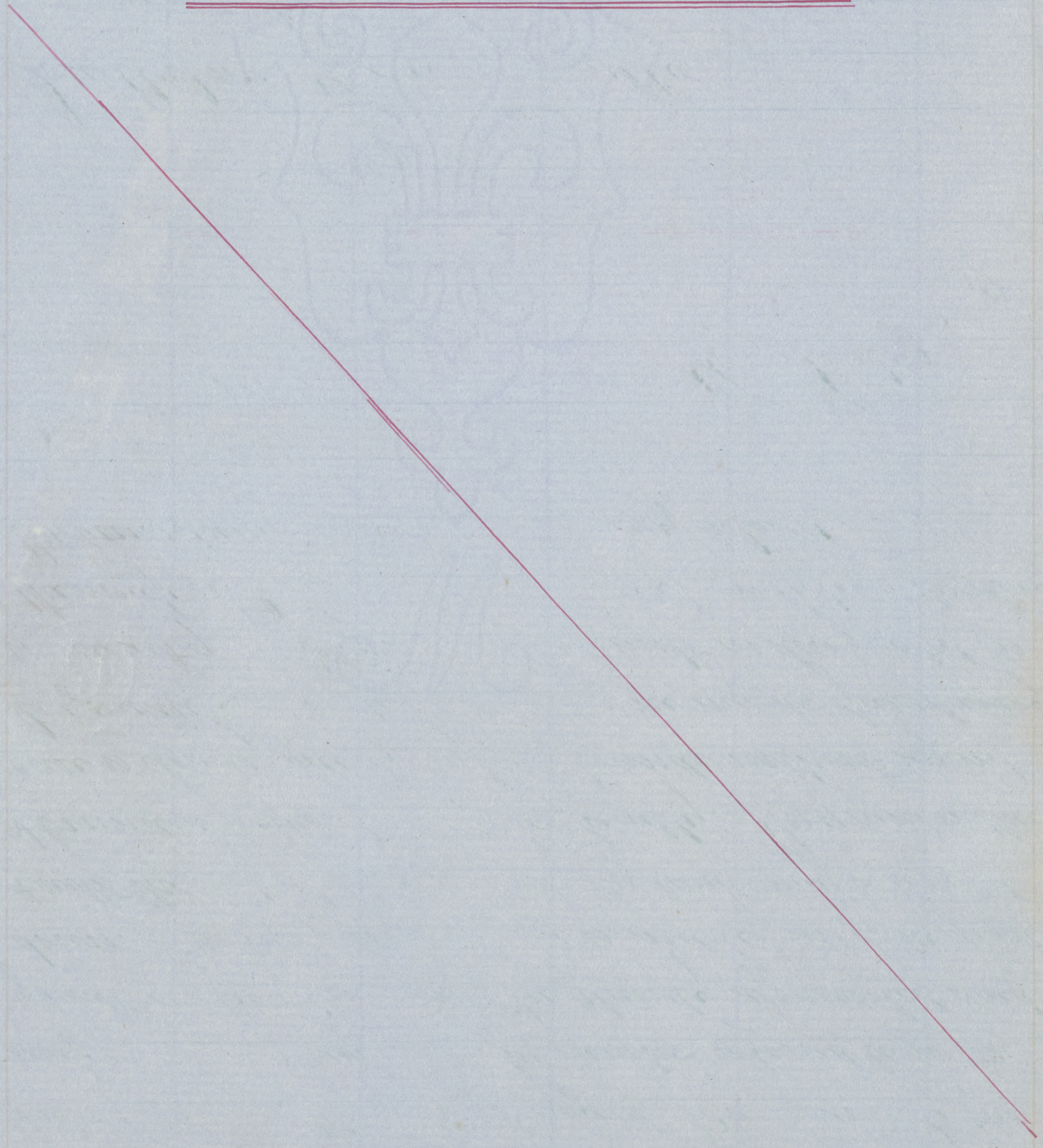
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PAGE 28

Alphus Felch.  
Thompson Campbell.  
W. Aug. Thompson. 3 Commissioners

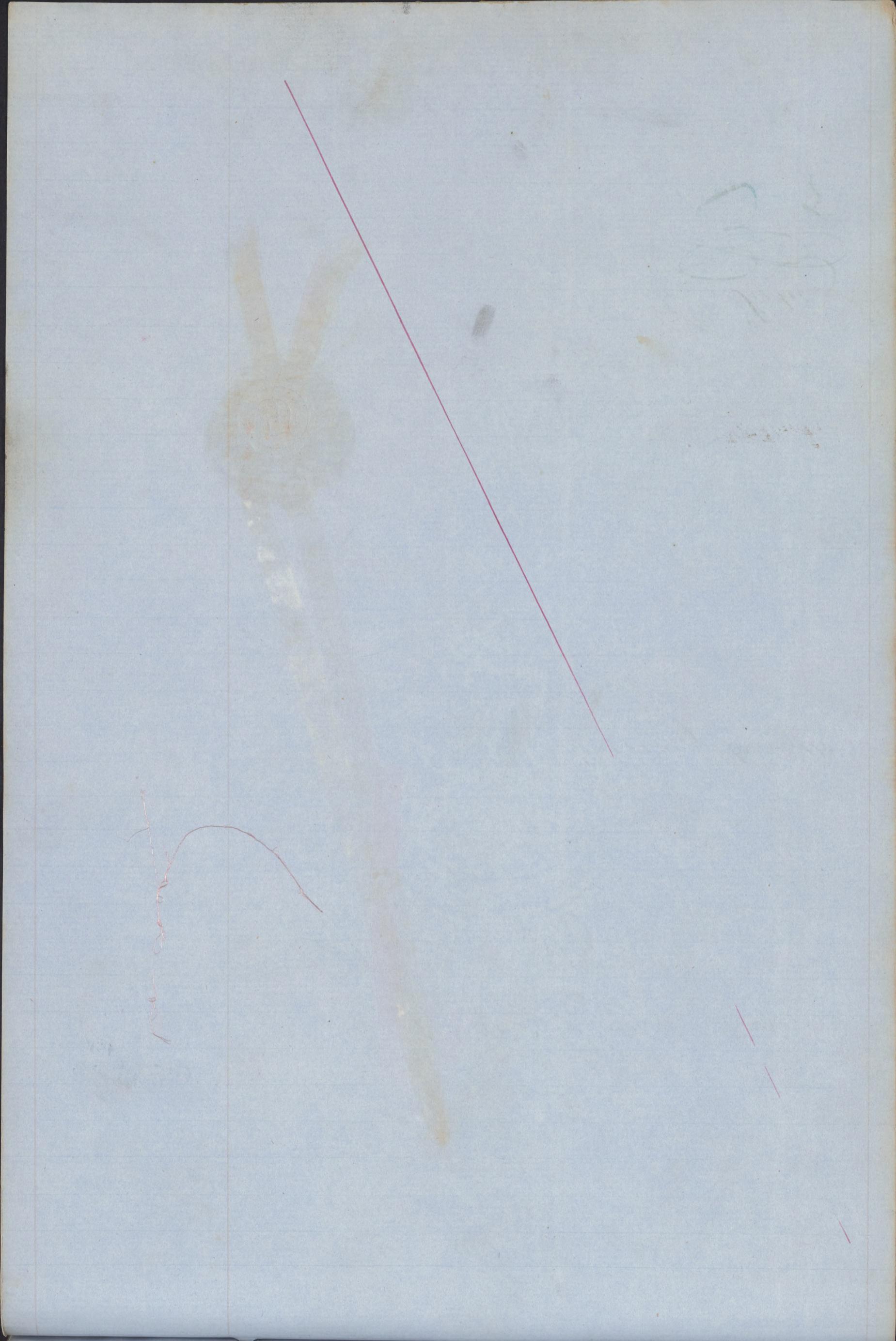
Filed in Office Jan'y 17 1854.

Geo. Foster.  
Secy.

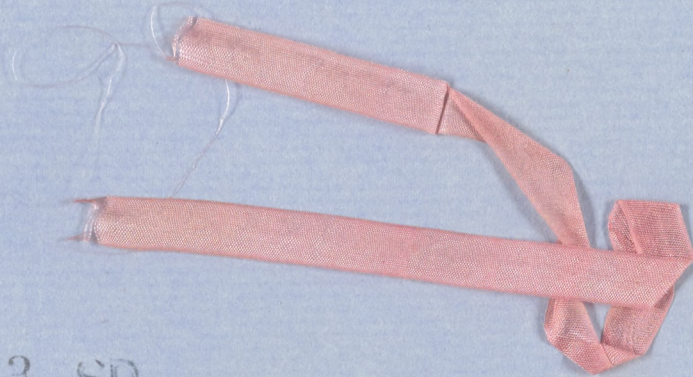
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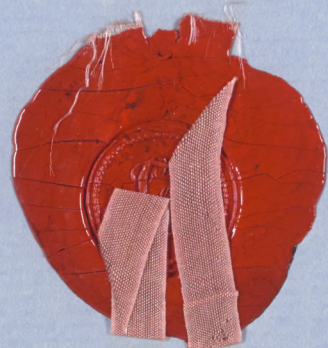


Office of the Board of Commissioners,

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

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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 *Twenty seven* pages, numbered from  
1 to *27*, 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. *334* on the Docket of the said Board,  
wherein *Jose Antonio Guerra y Carrillo*  
*are*  
the Claimant *o* against the United States, for the place known by  
the name of *Los Alamos*



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*

*Geo. Fisher*  
*Geo. Fisher*



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

No. 83. *Docket*

THE UNITED STATES,

vs.  
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*Jose Antonio Guerra  
y Carrillo  
"Los Alamos!"*

TRANSCRIPT OF THE RECORD  
FROM THE  
BOARD OF U. S. LAND COMMISSIONERS,  
In Case No. *324*

Filed, *September 20th* 1854.

*W. A. Carter  
Clerk*

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*AT 334*



83.

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Office of the Attorney General of the United States,  
Washington, 30th November 1854.

José Antonio Guerra y Carrillo }  
vs. } 324  
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 30th day of August 1854 the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Cushing

Attorney General.

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N<sup>o</sup>. 83.

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U. S. District Court.

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Southern District

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The United States

vs.

José Ant. Guerra y Carrillo

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Appeal Notice.

Filed Jan'y 10<sup>th</sup> 1858.

J. S. Farr.  
clerk.

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IN THE DISTRICT COURT OF THE UNITED STATES,

FOR THE SOUTHERN DISTRICT OF CALIFORNIA,

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

*Don Antonio Guzman Sanillo*

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APPELLEE,

VS.

UNITED STATES,

APPELLANT.

No. 83.

(No. 324 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

of *January* A. D. 1856.

*P. Ord*  
*Dis. Atty.*

*7* day







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

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José Antonio Guerra  
of Carrillo,  
adv.  
The United States } N<sup>o</sup> 93. (Transcript A 524.)

To the Honorable Isaac S. H. Ogier, Judge of  
the District Court of the United States for  
the Southern District of California.

The petitioner of Pacificus Ord, (of Los Angeles  
County) Attorney of the United States for the  
Southern District of California, who petitions  
in this behalf for the United States; and  
being present here in Court in his proper  
person, in the name and behalf the United  
States, represents as follows.

The heretofore, to wit, on or about the <sup>7<sup>th</sup></sup>  
day of September A. D. 1852 José Antonio  
Guerra presented a petition to the Com-  
missioners to ascertain and settle the private  
land claims in the State of California,  
claiming the tract of land called, Los  
Alamos in the County of Santa Barbara  
in the words and figures following, viz.  
" To the Honorable Commissioners to settle



" private land claims in California.

" The petitioner José Antonio de La Guerra  
 " of Carrillo, respectfully shows: That on  
 " the 9<sup>th</sup> day of March A.D. 1839, Juan B.  
 " Alvarado, Governor of California, by virtue  
 " of authority in him vested, granted to the  
 " petitioner, the tract of land known as  
 " Los Alamos in the present County of  
 " Santa Barbara, with the boundaries in  
 " the grant & set forth in the corresponding  
 " map. That on the 22<sup>d</sup> day of May A.D.  
 " 1840, the aforesaid grant was duly app-  
 " roved by the Departmental Junta, all  
 " of which is shown in the original  
 " expediente, a certified copy of which  
 " is submitted herewith, marked A with  
 " a translation marked B. That the said  
 " land has not been surveyed by the  
 " Surveyor General of the  
 " United States, but that it has been duly  
 " surveyed & the possession of it given  
 " by the proper judicial authority, as will  
 " be duly proved on the trial, and  
 " that moreover its boundaries are fully  
 " set forth in the title and corresponding  
 " map, & are well known. That he has  
 " been for - than 14 years, & now is in

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" the quiet, peaceful, and undisputed posses-  
" sion & occupation of said tract of land.

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" That he knows of no conflicting claim.  
" That he relies for Confirmation of title  
" upon the original title papers, upon the  
" records in the Government Archives, a  
" certified Copy of which is submitted here  
" with, & upon such other & further proof  
" as he may be advised are necessary.

" Wherefore he prays the Commissioners to  
" confirm to him the aforesaid tract of  
" land."

Your petitioner further represents that  
" thereafter, to wit, on the 17<sup>th</sup> day of Jan-  
" uary A.D. 1854, the said Commissioners  
" confirmed, by final decree, the said  
" claim of the said Jose Antonio de la  
" Guerra y Carrillo, in the words and  
" figures following, to wit,

" In this case on hearing the proofs and  
" allegations it is adjudged by the Commis-  
" sioners that the claim of the said petitioner  
" is valid, & it is therefore decreed that the  
" same be confirmed. The lands of which  
" Confirmation is hereby made are known  
" by the name of Los Alamos, & are the  
" same now occupied by the said petitioner  
" & are bounded & described as follows,



" to wit, on the North by the Rancho Cajon  
 " de Todos Santos, on the East by the  
 " Rancho Santa Maria, on the south by that  
 " of Laguna & on the West by a line drawn  
 " from the 'pinal' in a Northerly direction  
 " to the Rancho first named. Reference for  
 " further description to be had to the map  
 " which is a part of document marked A,  
 " & which is filed as evidence in the cause,  
 " and also to the translation of the original  
 " grant.

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- " Alpheus Felch }  
 " Thompson Campbell }  
 " R. Aug Thompson }  
 " Commissioner."

That thereafter, to wit, on the 20<sup>th</sup> day  
 of September A.D. 1854 a duly certified  
 transcript of the said decree, and pro-  
 ceedings, and the papers and evidence on  
 which it was founded in said Cause,  
 was filed in the office of the District  
 Court of the United States for the South-  
 ern district of California and marked  
 N<sup>o</sup> 83. [Transcript N<sup>o</sup> 324]; reference to which  
 it is prayed may be had and made  
 a part of this petition.

That on the 30<sup>th</sup> day of August A.D. 1854,



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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 (No 324) and the papers and evidence on which it was founded.

That thereafter, to wit, on the 10<sup>th</sup> day of January A.D. 1855. 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 Jose Antonio Guerra of Carrillo, vs. the United States, from the said 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 by the United States. Your petitioner further represents that the said land claimed as aforesaid is within the jurisdiction of this Honorable Court.

And your petitioner further represents, and insists that the said decree of said Commissioners is erroneous, and ought



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to be reviewed, reversed and set aside, for many errors and imperfections of law, and evidence, as 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.

I. and the said Attorney denies all and singular each & every allegation in the said petition of said Claimant to said Commissioners of said date. And he further denies that any grant for said land was ever made as alleged in said petition. And he denies further that the said Claimant has shown any or sufficient evidence of the validity of the said Claim.

II. That the said alleged grant of Juan B. Abrarado was made in violation of the 4<sup>th</sup> article of the Colonization law of Mexico of the 10<sup>th</sup> of August A.D. 1824, in this; that the land granted, as alleged by Claimant, was and is within ten leagues of the Sea Coast; and there is



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no evidence shown by Claimant, that the Supreme General Executive power of Mexico, previously approved of the Colonization of the public lands in Upper California, lying 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.

III. 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 the Territory of Upper California; and it was held and occupied, particularly, by the Mission of La Purissima; and could not therefore be colonized.

IV. That the said alleged grant has not the Conditions required by, and is not made in entire Conformity with the laws of Mexico of the 10<sup>th</sup> day of August A.D. 1824, and the regulations for the Colonization of the Territories of Mexico of the 21<sup>st</sup> of November A.D. 1828.

V. That the said alleged grant and map of said land of said Governor Alvarado, of the date of the 9<sup>th</sup> of March 1839, contains no sufficient description



of the locality, extent, or boundaries of the said land, so that it could be identified, and surveyed. And the said alleged grant is void for uncertainty.

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VI. That the said Claimant shows no definitive grant for said land.

VII. There there is no sufficient evidence that the Claimant performed the Conditions of the said alleged grant. And it is denied that he performed the said Conditions, and that he built a house upon the said tract of land, and occupied it within one year from the date of the said alleged grant; and that he cultivated the said tract of land.

VIII. That it appears by the evidence in the record from the Archives in the possession of the United States Surveyor General for California, introduced by said Claimant, that the alleged approbation of the Departmental Junta, of California, was of a grant of the land of Alamos, which he the said Claimant obtained on the 2<sup>nd</sup> of March 1840.

And said Claimant has shown no such grant of such date. And it is denied that the said alleged grants



of said Juan B. Alvarado, for the tract of land called Los Alamos, of the date of the 9<sup>th</sup> of March 1839. was ever <sup>actually</sup> approved by the Departmental Assembly Junta, as alleged. And it is further denied that said alleged grant of the said date of the 9<sup>th</sup> of March 1839, was ever approved by the Supreme Government of Mexico.

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IX. That, if the said Claimant ever received juridical possession of the said land as alleged, it is not shown by what right, title or grant the said possession was given. And it is denied that the said Claimant ever received the lawful possession of said land, claimed by him in virtue of the said alleged grant of the 9<sup>th</sup> of March 1839.

X. That if the said Claimant received juridical possession of the said land, in 1841, as alleged, he has failed to produce the original, or a duly certified copy of the act of possession of the same made by the proper Judge; and which should be in his possession, or under his control.

XI. That there is no sufficient evidence that the minutes or records of the said alleged juridical possession of said



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land, in virtue of said grant of 9<sup>th</sup> March 1839, was ever made, and recorded in the proper book. (protocol) in the office of the Judge of the 1<sup>st</sup> Instance of the Jurisdiction of Santa Barbara in the years 1841 or 1842, or subsequently. And it is denied that a minute or record was made in the office of said Judge of 1<sup>st</sup> Instance of the acts of juridical possession of ~~land~~ the said land, <sup>pretended to have been</sup> given by Fernando Fico, to said Claimant, in virtue of the alleged grant, of the said date of the 9<sup>th</sup> March 1839.

XII. That the pretended acts of juridical possession and survey of said land by said Fernando Fico, made in the year 1841, were not made according to the said alleged grant of the 9<sup>th</sup> of March 1839, and the map referred to therein; nor according to the ordinance, or law. That the locality and extent of the land or its divisions in varas, or leagues, are not shown. And the said pretended acts of juridical possession and survey of said land are vague, indefinite, and void for uncertainty. And no <sup>sufficient</sup> proof having been made by said Claimant of the allegations of



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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.

And the said Claimant having no valid right or title, derived from the Spanish, or Mexican Government, to the said land claimed by him, as aforesaid, the lawful right or title, in and to the said land, was acquired by, and it now belongs to the said United States, by virtue of the treaty of peace, friendship, limits, and settlement, with the Republic of Mexico, dated at the City of Guadalupe Hidalgo, February 2<sup>nd</sup> A.D. 1848,

Therefore 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 in pursuance of the act of Congress entitled "An act to ascertain, and settle the private land claims in the state of California", approved March 3<sup>rd</sup> A.D. 1851, and the laws and Statutes in such case made and provided, prays



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that the said Josi Antonio Guerra of Carrillo may be served with a copy of this petition; and that this Honourable 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 Josi Antonio Guerra of Carrillo, for said Land Claimed and Confirmed as aforesaid; and that the same may be decreed invalid.

And all such other orders, Judgments, or decrees, as may be just, with Costs, and general relief

J. Ord

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



No 83

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

Jose Antonio Guerra  
of Barillo  
ad  
The United States

Petition of U States  
for Review

Filed Aug 13 1855

C. E. Farr.  
clk

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P. D. G. Dist Atty



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

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The United States, appellants  
vs.  
J. A. de la Guerra y Carrillo, appellee. } Transcript No 324.

José Antonio de la Guerra y Carrillo, appellee,  
appears by his attorneys, and for answer to the  
petition of the United States filed herein, says:

That his title to the land called "Los Alamos"  
as set forth and described in his petition to  
the Board of Commissioners, and in the  
documentary and other evidence filed in  
this case, is a good and valid title;  
that the land claimed is situate in the  
southern district of California; that said  
tract of land was granted to him by Juan B.  
Alvarado on the 9<sup>th</sup> day of March A.D. 1839,  
that he then immediately went into the  
possession of said land, built a house on  
it, occupied it with horses & cattle, and  
has ever since lived on it with his family,  
cultivating a small part of the land and  
using the rest as a stock farm; that the  
said grant or concession was approved by  
by the departmental junta on the 22<sup>d</sup> day  
of May A.D. 1840, and a definite title  
issued by said Alvarado to appellee in  
due form on the 9<sup>th</sup> day of March A.D. 1839,  
~~with~~ a certificate of approval dated May  
30<sup>th</sup> A.D. 1840, making said title complete.  
And appellee further says that the juridical  
possession of said land was duly given in  
the year 1841.

Wherefore he prays this Honorable



court to affirm the decision of the  
Board of Commissioners, and to decree  
his title to be valid.

Hallam Busby & Pinnings  
Attys for Appellees



Marshall east Toronto

\$3.00

No 83

The united States  
of Merchants

vs.

J. F. de la Presnere, ex parte  
appellee.

Sumner of appellee

Edward, Huntie  
W. J. Marshall

Directed that Answer on P. Ord. N. D. Atty, by delivering  
to him a copy of the same at his office this  
Dec 5<sup>th</sup> 1855

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

D. B. Low etc  
By Mr. Sumner

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Richard Peabody & B. B. King  
Attys for Appellee



No 83

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

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The United States, appellants  
vs.  
Jose Antonio de la Guerra y Carrillo  
appellee

} Transcript No 324.

On motion of H. W. Wallace of counsel  
for appellee,  
ordered, that additional testimony  
may be taken by either party in the  
above entitled cause.



No 83

The United States  
appellants  
vs.  
J. A. de la Guerra y Carrillo  
appellee

---

motion to take  
additional testimony

Filed Oct 14th 1885.  
J. E. Carr.  
clerk.

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PAGE 51

Halliburton Beachy & Billings  
Attys for appellee.



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

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The United States, appellants	} Transcript No 324
vs.	
Jose Antonio de la Guerra y Carrillo appellee	

Jose Antonio de la Guerra y Carrillo being duly sworn deposes & says: That in the year 1841, or about that time, Fernando Tico the duly appointed Magistrate of the jurisdiction of Santa Barbara, surveyed and gave the judicial possession to this deponent of the land or Rancho called "Los Alamos" situate in the then jurisdiction and now county of Santa Barbara, that the Record or Expediente of Proceedings of such survey and judicial possession was to the best of deponents knowledge and belief deposited in the Archives of Santa Barbara; that since the filing of his petition in this case before the Board of Land Commissioners he has made diligent search for said Record and cannot find it, that he knows not where it is and cannot produce it to this court, but verily believes it has been lost as it cannot now be found in said archives; that deponent never had in his possession any certified copy of said record and cannot prove its contents except by the oral evidence of said Magistrate or his assisting trustees.

Sworn to & subscribed  
before me this 20<sup>th</sup> of Oct  
A.D. 1855.

*Diego Carrillo*  
J. Carrillo  
A.D. Comore



No 83

The United States

vs.

Jose Antonio de la Guerra y Carrillo

---

Affidavit of Claimant

Filed Oct<sup>r</sup> 22<sup>nd</sup> 1858

C. C. Case Clerk

By J. W. Ross Dep<sup>y</sup>

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The U.S. appellants vs. J. A. de la Guerra y Curillo, appellee.

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Transcript, No 324. contains

I Petition to Commissioners p 3.

II Deposition of W. E. P. Hartwell p 4.

proves that grantee built a house on this land in 1839 and occupied it with cattle, horses and sowings, and has continued so to occupy it ever since.

III Deposition of J. M. Conarrubias p 5.

proves signatures to grant and Approval, and the continuous acceptance of this land by grantee ever since date of grant; also proves the Juridical Paper given in 1841

IV 2<sup>d</sup> Deposition of J. M. Conarrubias pp 7 & 8.

As Mayor he has legal charge of the Archives of Santa Barbara, search made in these archives for Record of Juridical Paper in this case, and it cannot be found, witness has never seen it in archives.

V Deposition of F. Lico. pp 5 to 7.

As Alcalde of Santa Barbara he gave to grantee the Juridical Paper of this land in 1841, and describes the boundaries designated. The Record of this Juridical Paper was left by him in Alcalde's office the beginning of 1842.

VI Expediente from office of Surveyor Genl. pp 9 to 15.

VII Translation of Expediente pp 16 to 19.

This Expediente contains petition, map, with proceedings thereon, the decree of Conception dated March 9<sup>th</sup> 1839, and the Approval dated May 22<sup>d</sup> 1840, and full copy of title.

VIII Grant dated March 9<sup>th</sup> 1839 and certificate



- of Approval, dated May 30<sup>th</sup> 1840. p/p 20 to 23.  
 IX. Translation of Grant & Certificate of Approval p/p 23 & 24  
 X. Opinion of Commissioners p/p 25 & 26.  
 XI. Decree of Confirmation p/p 26 & 27.

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Proceedings in U.S. Dist. Court

1 <sup>st</sup>	Transcript filed		Sept 20 <sup>th</sup> 1854
2 <sup>d</sup>	Notice of appeal	filed	Jan'y 10 <sup>th</sup> 1855
3 <sup>d</sup>	Petition for Review	"	Aug 13. 1855
4 <sup>th</sup>	Answer	"	Oct 12 <sup>th</sup> 1855
5 <sup>th</sup>	Aff't of Claimant	"	Oct 22 <sup>d</sup> 1855

Remarks. The genuineness of the title papers in this case is proved by several testimony and corroborated by the expediente. The title is a complete and perfect one, and the evidence shows the performance of all the conditions subsequent. In 1841 the judicial possession was given and the boundaries established, and the loss of that Record is proved by the Aff't of Claimant & the deposition of Conarrubias, the Custodian of the Archives of Santa Barbara. The giving of the possession & the boundaries are proved by the Alcalde Jico, & by Conarrubias one of the witnesses. The loss of the Record is unimportant, as the grant is one for a specific tract of land without reference to quantity. The grant is for the land known as "Los Alamos" with the boundaries described in the title and represented on the map filed in the Expediente. The judicial possession, as sworn to by the Alcalde, corresponded with these lines.



But even if ~~no~~ juridical possession were proved, ~~that~~ without extraneous testimony, the identification of the land by the grant and map is abundantly sufficient to enable the Surveyor General to locate it without any difficulty.

Even if this were not a perfect legal title the equities of the case would entitle the claim to confirmation.

Judge Campbell - in delivering the opinion of the Board seems to have overlooked the deposition of Fernando Lico, the Alcalde, who gave the Invidious Possession - He states that he commenced at "the pinel" mentioned in the concession and how all the lines were run - which correspond with the lines laid down on the map - even to the points of compass. After stating how the land was thus surveyed, he says further that the land was bounded by the Ranches - which are mentioned in the concession and grant.



No 3.

The United States, Appellants  
vs.  
J. A. de la Guerra y Carrillo, appellee

Index of case

Filed Dec 31<sup>st</sup> 1855.

J. E. Carr.  
Att.

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Attest: Reaching & Billings  
Attys for appellee



United States District Court,  
Southern District of California

Juan Nuñez de la Guerra y Ferriz  
appellee

December Term 1855

ad  
The United States  
appellants

vs  
No. 83.  
Transcript from Land  
Commissioners No 324

This Cause coming on to be heard  
on an appeal from the decision of the Commission to  
ascertain & settle the private Land Claims in the State of  
California, under an act of Congress approved March 3, 1851  
upon the Transcript of the <sup>proceedings and</sup> decision, and the papers and evidence  
upon which said decision was founded, and it appearing that  
said Transcript has been filed according to law, and counsel for  
the respective parties having been heard, it is ordered, adjudged  
and decreed that the decision of the Commissioners be and the same  
is hereby affirmed, and it is further adjudged and decreed that the  
claim of the above named appellee is good and valid, and the same is  
hereby confirmed to him to the extent of Eleven square leagues of land  
within the boundaries described in the grant and map, to which the  
grant refers, as follows to wit, the tract of Salazar, the tract of Santa  
Maria, the finca de Todos Santos & the Pine wood. Provided that should  
the quantity of land within said boundaries be less than Eleven  
leagues, then Confirmation of said less quantity is hereby made  
final

Wm S. D. B. V. G.



No 83

U.S. Dist Court  
South West of Cal<sup>o</sup>

In ant<sup>o</sup> Del Guinay Savilla  
appellee

vs.

The United States  
appellant

Recru

Filed March 7<sup>th</sup> 1836

C. C. Case  
Clerk

by Morgan

Recd July 30<sup>th</sup> 1837

pg 8546

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California Land Claims.

Attorney General's Office

29 September 1856.

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Sir,

Of the case of the claim of José Art. de la Guerra y Carrillo, confirmed to the claimant by the Commissioner, case no. three hundred and twenty-four (324), 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

Cushing

Pacificus Ord Esq.

U. S. Attorney

Los Angeles,



83.

de Antonio de la Guerra  
de Carrillo

324

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Nov 4 1836



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

Am. Case S. W. Gu. Judge

December Term 1850

The United States  
Appellants

J. A. de la Guerra y Carrillo  
Appellee

Wicket No 83

Transcript from the Board of Land Commissioners No 324

In pursuance of a letter from the Attorney General  
of the United States, herewith annexed giving notice  
that in the above cause the appeal in the Supreme  
Court will not be prosecuted by the United States,  
it is hereby stipulated and agreed by and between  
the parties that the order granting an appeal to the  
Supreme Court heretofore made in the above cause  
be vacated, and that the decree of the Court  
heretofore rendered in this cause may by order  
of the Court be made final.

P. Ord. Div. Atty.  
Haskell French & Billing,  
Atty of Appellee.



U. S. District Court  
South District Cal.  
No. 83

The United States  
Appellant  
vs  
J. B. Delaney & Carillo  
Appellee.

Stipulation  
to vacate order of  
Appeal to Supreme Court

Filed this 5th February  
1837  
C. H. W. C. C.  
J. S. Woodman  
Dep.



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

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Honorable S. H. Ogden Judge

December Term 1858

The United States

Appellants

J. A. de la Guerra of Carrizillo  
Appellee

Book 83

Transcript from the Board of Land Commissioners No 324

The Attorney General of the United States having given notice that the Appeal to the Supreme Court from the decision of this Court in the above entitled Cause will not be prosecuted by the United States, and a stipulation having been entered into by the United States District Attorney and the Attorneys of the Claimant that the order granting an appeal to the Supreme Court heretofore made in this Cause be vacated, and that the decree of this Court heretofore rendered in this Cause may by order of the Court be made final in this;

Order, adjudged and decreed, that the order granting an Appeal to the Supreme Court heretofore made in this Cause be and the same is hereby vacated, and that the Claimant have leave to proceed under the decree of this Court heretofore rendered in this Cause as under a final decree

S. H. Ogden  
U. S. District Judge



U. S. Dist Court  
South Dist Cal.

No 83

The United States  
Appellants

<sup>vs</sup>  
J. A. delo G. of Corralles  
Appellee

Order  
vacating appeal

Filed Feb 3<sup>rd</sup> 1854

James  
Clerk



In the United States District Court for the  
Southern District of California  
December Term 1856

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José Antonio de la Guerra  
of Canillo

appellee

No 83

vs

The United States

appellants

Now on this day come the parties  
appeared by their respective attorneys, the  
appellee by P. Ord U. S. Dist. Atty. and the  
appellant by H. K. Peachy & Billings Esq. his attorney

Whereupon the attorney of appellee reads  
and files a stipulation of the parties, and a  
letter of the U. S. Atty General stating that an  
appeal will not be prosecuted by the United States  
in said cause, and moves the Court to dismiss  
the appeal heretofore taken in this cause, and that  
said appellee have leave to proceed under the  
decree of the land Commissioner, in his favor  
which motion being heard and fully under-  
stood

It is therefore ordered that said appeal be  
dismissed, and said appellee have leave to pro-  
ceed under the decree of the land Commissioner  
heretofore entered in his favor as a final decree

Isaac S. K. Alton

U. S. Dist. Judge



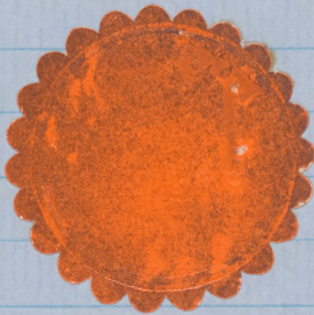
United States America  
South<sup>n</sup>. Dist of California 3<sup>rd</sup>

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J. C. Smith Clerk of the  
United States District Court for the Southern  
District of California, hereby Certify the fol-  
-lowing to be a full, true and correct Copy of  
the original as the same appears of record  
in my office

In witness whereof I have set  
my hand and affix the Seal  
of said Court this 18th May  
A.D. 1858



J. C. Smith Clerk  
J. A. Coleman  
Deputy



No. 83

U. S. District Court  
South<sup>th</sup> Dist of Califa,

Juan A. de la S. y Canillo

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The United States

Order

A Certificate Copy

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for Motion



United States District Court, Southern  
District of California  
December Term 1855

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Jose Antonio de la Guerra  
of Carrillo

appellee

vs

The United States

appellants

No 83

Transcript from  
Land Commission

No 324

This Cause coming on to be heard on an appeal from the decision of the Commissioners to ascertain and settle the private land claims in the State of California under an act of Congress approved March 3<sup>d</sup>, 1851 upon the Transcript of the proceedings and decision and the papers and evidence upon which said decision was founded, and it appearing that said Transcript has been filed according to law, and Counsel for the respective parties having been heard

It is Ordained, adjudged and decreed that the decision of the Commissioners be and the same is hereby affirmed, and it is further adjudged and decreed that the claim of the above named appellee is good and valid, and the same is hereby confirmed to him to the extent of Eleven Squaw leagues of land within the boundaries described in the grant and map and papers to which the grant refers, as follows, to wit; the tract of La Laguna the tract of



Santa Maria, the Cajon de Todos Santos &  
the Pine wood. Provided that should the quan-  
-tity of land within said boundaries be less  
than Eleven leagues, then Confirmation of said  
ten grants is hereby made

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Isaac S. R. Ogden  
U.S. Dist Judge

United States America  
South. Dist of California

I C Sims Clerk of  
the United State District Court for the  
Southern District of California hereby  
Certify the foregoing to be a full true and  
correct Copy of the Original as the same  
appears of record in my office

In witness whereof I have  
set my hand and affix  
the Seal of said Court this  
1<sup>st</sup> day of May A.D. 1858

C. Sims Clerk  
J. McArthur  
Clerk





No 83

U.S. District Court  
Southern Dist of Califa

Jose A. de la S. y Caguillo

vs

The United States

Deer

A Certified Copy

for Motion PAGE 83 SD 71



The United States, appellants  
vs  
Jose Antonio de la Guerra, y Baillo, appellee

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The claim in this case is founded on a grant from Governor Alvarado to the present claimant bearing date 9<sup>th</sup> of March 1839, and confirmed by the Departmental Assembly on the 22<sup>nd</sup> of May A.D. 1840 —

The evidence shows that the claimant occupied the land in 1839, and has been in occupation of it ever since —

The Grant is for the place called Las Alamos, without any particular quantity being specified and it refers to the map for a description of the premises, petition of the claimant to the Governor and the decree of concession give the boundaries of the land with <sup>an</sup> considerable degree of clearness and precision, these boundaries as called for in the concession all agree with the boundaries as shown by the map. — It is also in evidence that judicial possession of the land



# Must show when he returned from office he left among  
the archives of the office

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was given by the proper officer  
The best and proper evidence of the  
possession would have been the  
production of the official record of  
the act of possession in a certified  
copy of the record. But the evidence  
the officer who gave the possession shows  
that he deposited the record in the  
archives of his office without giving  
a copy to the grantee. The evidence  
of Carrautias who was an auditing  
partner is to the effect that he assisted  
in giving the possession, and that he  
was afterwards in charge of the records  
of the clerical office of Santa Barbara.  
~~The act of possession should have been  
found and that he made search~~  
He also states that he was the Mayor of  
Santa Barbara, and the Clerk of the  
City Council under control of the  
Mayor had charge of the archives  
and records of the Mexican authority  
and that search was made for the  
Act of judicial possession in this  
case and that it could not be found.  
The affidavit of the claimant is  
also on file and is to the effect  
that the judicial possession of the



promises was given him by Tico  
Alcalde of Santa Barbara; that the  
record of the act of possession was  
deposited in the archives of the Alcalde  
office, that he has never had pos-  
session of it, nor ever received a  
copy of it, and that he does not  
know where it is, and believes it to  
be lost — This I think is a suffi-  
cient ground; upon which to base  
the introduction of secondary evidence  
— The best secondary in a case of  
this kind is the testimony of the Offi-  
cer who gave the possession and  
the assenting witnesses, which has  
been introduced, and which shows  
that the possession was given in  
accordance with the rules in the  
grant and the boundaries marked  
upon the map.

The grant itself and the map to-  
gether with the judicial process  
as given by the said evidence, are quite  
sufficient to identify the land granted  
The Claimant is therefore entitled to  
a confirmation of his claim in ac-  
cordance with the boundaries marked  
upon the map and as explained by



Medical possession, and a ~~large~~  
pile entered accordingly

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