

CASE No.

92

SOUTHERN DISTRICT

SAN DIEGUITO GRANT

JULIANA LOPEZ AZUNA

CLAIMANT

LAND CASE 92 SD

45 pgs.

FEB 22 1963

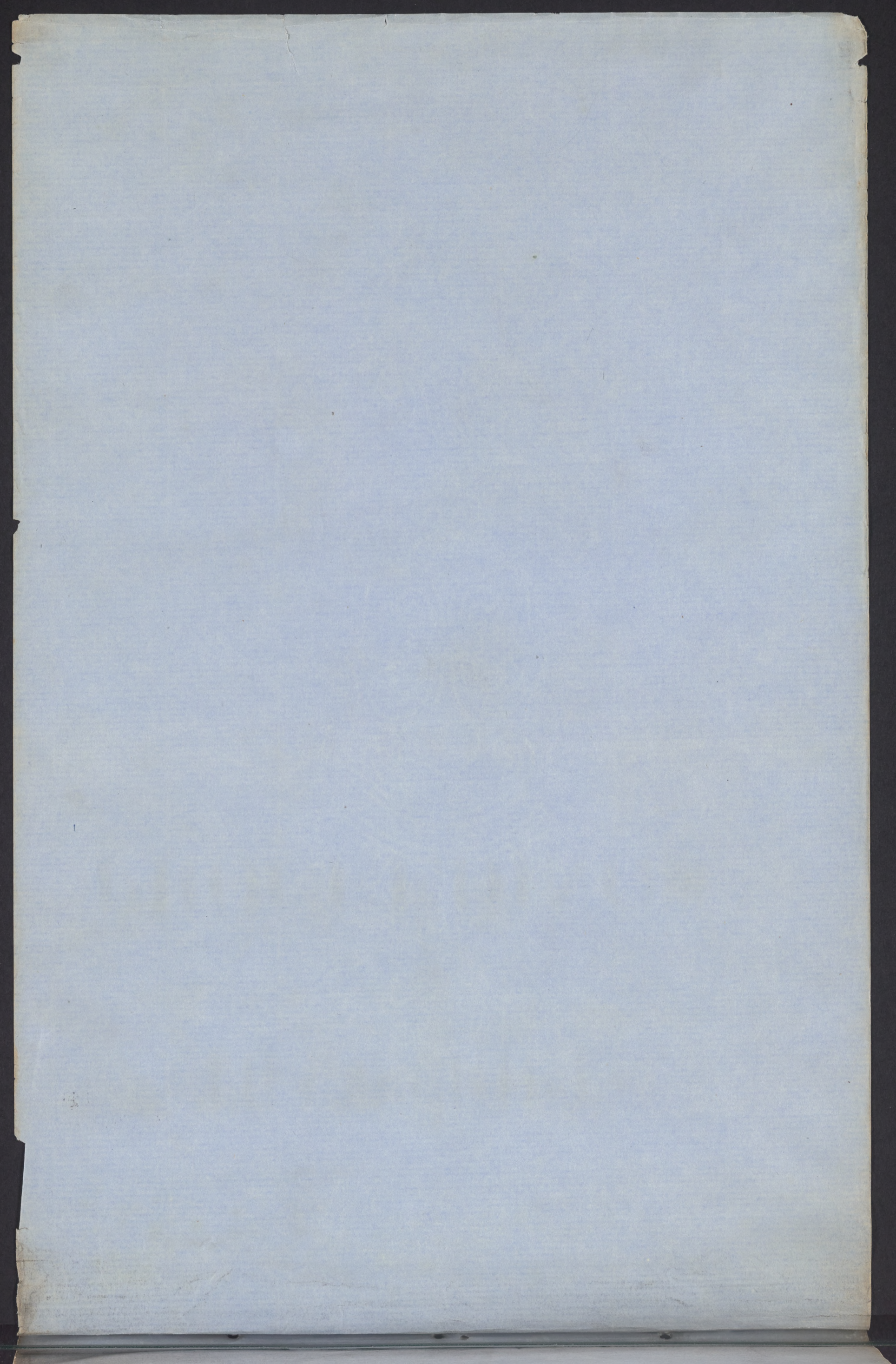
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L.S.H.

1848



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TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 441

Juliana Lopez Osuna CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"San Diego" etc.

441
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 first day of November, 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 Juliana Lopez Osuna,
for the Place named

"San Diego"

was presented, and ordered to be filed and docketed with No. 441 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 November 5th 1852.
In case no. 441 Juliana Lopez Osuna for the place named "San Juan" alias "Cajon de Sta Ana", the deposition of Abel Stearns a witness in behalf of the claimant, taken before Commissioner H. Hall with documents marked Nos. 1, 2, 3 & 4 and translations thereof marked B & D, annexed thereto, was filed;

(Vide page 5 of this Transcript)

In the same case the deposition of Santiago Arguello a witness in behalf of the claimant, taken before Commissioner H. Hall was filed;

(Vide page 7 of this Transcript)

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San Francisco Aug. 19th 1853.

Case No. 441 Julian Lopez Osuna for the place named "San Diego" called; The counsel for the claimant read the evidence, argued, submitted and taken under ad-
judgment.

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In the same case the counsel for the claimant made the following motion, to wit:

(Vide page 8th of this Transcript)

Whereupon it is ordered, that the petition be amended by inserting the amendments prayed for.

San Francisco Jan. 24th 1854

In the same case Commissioner R. Aug. Thompson delivered the opinion of the Board respecting the claim;

(Vide page 20 of this Transcript)

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To the Hon. the Board of U.S. Land Commissioners
appointed to settle private land claims in California.

The petition of Doña Juliana Lopez
Cerna, widow of Juan M^o Cerna deceased respectfully
sheweth:

Petition

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That in or about the years A.D. 1840 or
1841, Juan B. Alvarado, then Governor of California,
in the name of the Mexican Nation by virtue of the
laws in force at that time, the customs & usages of
the country affecting grants of land in California,
granted in full propriety unto the said Juan M^o
Cerna the tract of land & rancho known by the
name of San Diego, containing one league
of land (sitio de ganado mayor) the same being
delineated on the map, a copy of which is herewith
filed as part of this petition. That the original
papers relating to this grant have been lost or mislaid
& cannot be found, but your petitioner believes a rec-
ord thereof exists in the Archives now in the cus-
tody of the U.S. Surveyor Genl for California, &
as soon as a copy of said papers can be obtained,
your petitioner prays leave to file the same in this
cause as part of this petition.

And your petitioner further sheweth that
on or about the 11th day of August A.D. 1845 Pio
Pico, then Governor of California in the name of
the Mexican Nation by virtue of the laws in force
at that time the customs & usages of the country
affecting grants of land in California, granted
in full propriety unto the said Juan M^o Cerna
a tract of land in addition to the tract of San
Diego which belonged to him as hereinbefore
set forth & between the boundaries of the same &
the rancho of Andres Bara which said tract of
land last granted as an addition contains one
league of land (sitio de ganado mayor) & is more

particularly described in the original papers now
in the hands of your petitioner, ready to be produced
& proved; that copies of the same are herewith filed
as part of this petition.

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And your petitioner further sheweth that
on or about the 24th day of September 1845, the
said grant of one league of land in addition to San
Diego was confirmed by the Departmental
Assembly of California, & original & official certifi-
cate of such confirmation is now in the hands
of your petitioner ready to be produced & proved.
A copy of the same is herewith filed as part of this
petition.

And your petitioner further sheweth that
on or about the year 1850, the said Juan M. Con-
na died intestate leaving your petitioner his
lawful wife & eight children to wit, Juli, Ramon,
Leandro - Juan Maria, Hilario - & Felipa -
Luzgarda & Leonor all of whom are now living.

And your petitioner further sheweth that
said Juan M. Conna took possession of said tract
of land & rancho of San Diego about the ^{date} of his
said first grant to the same, to wit, about the year
1840 or 1841 & of the addition thereto on or about
the date of the said grant to the same, & continued
in the peaceable & quiet possession & occupancy
thereof until his death & from that time to the
present his said family as last above described
have been & now are in the peaceable & quiet occupation
of said tracts of land as aforesaid.

There is no conflicting claims to said lands
known to your petitioner.

The said lands have not been surveyed by
the U. S. Surveyor Genl for California.

The evidence upon which your petitioner

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relates in this case are the records of these grants, papers, & maps, in the office & custody of the U. S. Surveyor General for California, original papers & maps and copies of papers & maps in the possession of your petitioner, relating to said tracts of land & the testimony of witnesses to be produced before your Honor's Board.

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Your petitioner therefore prays in view of the foregoing facts set forth in this petition that your Honor's Board will confirm the title of said tracts of land to your petitioner & the said eight lawful children herebefore named of said Juan M^o Corona & your petitioner in such manner & proportion as they may be entitled by the laws of distribution & descent, the said children being considered parties to this petition for the purposes of such confirmation.

Respectfully submitted for such action as the justice & nature of the claims may require.

E. C. Crosby,
Attorney for Claimant.

Filed in Office Nov 1st 1852.

Geo. Fisher,
S. C. J.

Deposition of
Abel Stearnes.

Los Angeles Nov 5th 1852
On this day before Court Hall, came Abel Stearnes a witness in behalf of the claimant Juliana Lopez Corona, petition No 441, & was duly sworn, his evidence being given in English. The U. S. Associate Law Agent was present. In answer to questions by counsel for the claimant

the witness testified as follows.

My name is Abel Stearns, my age is fifty four & I reside in Los Angeles & have lived in California over twenty three years.

I am acquainted with the hand writing & signatures of Pío Pico, José M. Covarrubias & Santiago Arguella.

A paper is now shown me purporting to be a grant to Juan M. Corona dated 11th August 1845. The signatures of said Covarrubias & Pico on said paper, I believe to be genuine. It is here annexed & marked H. H. No. 1.

A paper is also shown me purporting to be a testimonial of the approval of the Departmental Assembly of said grant dated 24th of September 1845. The signatures of said Pico & Covarrubias on said paper I believe to be genuine. It is here annexed & marked H. H. No. 2.

A paper is now shown me purporting to be a certificate of the Prefector dated April - 1848. The signature of said S. Arguella on said paper I believe to be genuine. It is here annexed & marked H. H. No. 3.

A map is also shown me on which is a certificate signed S. Arguella dated 24 Jan'y 1850. Said signature of said Arguella I believe to be genuine. Said paper is here annexed & marked H. H. No. 4.

I should think the map represented the land called San Diegoquito & mentioned in the title papers before described. - I have frequently been on the land. It had been occupied by Juan M. Corona from the year 1831 up to the time of his death in

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1851. He had a house on the land in which he lived or had agents or servants. The land has been considerably cultivated & has been used also for the keeping of stock. It is situated in the county of San Diego, about seven leagues from San Diego in a Northwesterly direction. The house is about a league & a half from the sea coast.

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Abel Stearns.

Sworn & subscribed

Before me

Richard Hill, Commr.

Filed in Office Nov 5th 1852.

Geo. Fisher, Secy.

Deposition of
S. Arguello.

Los Angeles Nov 5th 1852

On this day before Commr Hill came Santiago Arguello, a witness in behalf of the claimant Juliana Lopez Oruna, petition No 441, & was duly sworn his evidence being interpreted by the Secretary.

The U. S. Associate Law Agent was present.

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

My name is Santiago Arguello, my age is sixty years & I reside on my rancho near San Diego. A map is now shown me with my certificate upon it, being a paper annexed to the deposition of Abel Stearns in this case, & marked H. H. No 4. It is a map of a tract of land called San Diego, granted to the late Juan M Oruna by Juan B. Alvarado, as Governor, I think about the year 1840. About the year 1827 or 1828, while I was Military Commandant at San Diego, Don E. Choaneda wrote me permission for said Oruna

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to occupy the land & he did occupy it until it was granted by Alvarado as before stated. Oruna continued to occupy the land until his decease about the year 1850, since which time it has been occupied by his widow & children. The name of the widow is Juliana Lopez. He left eight children at his decease which are named Julio, Ramon, Leandro, Juan Maria, Melani & Felipe Segando & Leonora. He had a house on the land before the grant by Alvarado & he lived in it a portion of the time & it was inhabited until the time of his death & to this time. He cultivated the land to a considerable extent, & had some stock on it.

J. Arguello.

Sworn & subscribed
Before me.

Notary Public
Filed in Office Nov 5th 1852.

Geo. Fisher Secy

U.S. Land Commission, Claim No 441.
Motion to Doña Juliana Lopez Oruna for tract of land called
amend Petition San Diego

It is moved by claimant's counsel that the petition filed in the above entitled cause be amended as follows - by inserting after the word deceased in the fifth line the words "in her own behalf & that of her children & heirs of her deceased husband namely Julio, Ramon, Leandro, Juan Maria, Melani, Felipe, Segando & Leonora Oruna according to their respective rights & interests in the claim & grant."

Aug 19 1853. E. O. Crosby, of Counsel.
Filed in Office Aug 19 1853. Geo. Fisher Secy.

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Pío Pico Gobernador Interior del Departamento de las Californias.

Por cuanto Sr. Juan Ma. Osuna ha pretendido para su beneficio personal y el de su familia un sitio de ganado mayor en ampliación del terreno de San Diego que le pertenece y entre los linderos de este y el rancho de Andres Barra; practicadas previamente las averiguaciones convenientes segun lo dispuesto por leyes y reglamentos, usando de las facultades que me son conferidas, a nombre de la Nacion Mexicana, he venido en decreto de este dia en concederle el expresado sitio de ganado mayor, declarandole en propiedad de el por las presentes letras entendiendose dicha concesion de entera conformidad con las leyes a reserva de la aprobacion de la Excmo. Asamblea y bajo las condiciones siguientes.

1.ª Podrá cercar el terreno que se le adjudica sin perjudicar los caminos, trasvías y servidumbres; lo disfrutará libre y exclusivamente destinandole al uso y cultivo que mas le acomode.

2.ª Solicitara del Juez respectivo lo de la posesion juridica en virtud de este Despacho, por el cual se demarcarán los linderos con las mejoras necesarias.

3.ª El terreno de que se hace donacion es de un sitio de ganado mayor y está entre los linderos de San Diego y rancho de Andres Barra segun expresa el diseño que obra en el expediente. El Juez que diere la posesion lo hará medir y completará

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si hay suficiente tierra valdía sin perjudicar
los linderos de ninguno de los colindantes.

En consecuencia mando que teniendo
el presente título por firme y valdiero se
tome razon de él en el libro respectivo
y se entregue al interesado para su
resguardo y demás fines. Dado en la
Ciudad de los Angeles, en papel común
por no haber del sellado, a once del
Mes de Agosto de mil ochocientos cuarenta y
cinco.

Pío Pío.
José María Covarrubias
Trío.

Queda tomada razon de este Superior
Despacho en el libro respectivo
Angeles fecha ut supra
Covarrubias

El Excmo. Sr. Gobernador dispone
se tome razon de este título en la
Sub. Prefectura de Sr. Diego.
Covarrubias

Sr. Diego Febrero 9 de 1846
Queda tomada razon de este
Despacho a fs. 2 y vta del libro respectivo
Aguelo.

Filed in Office Nov. 5th 1852
Geo. Fisher
Clerk.

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Pro Vice Governor administration of the Department of the Californias

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Exhibit B
Translation
Grant

Whereas Don Juan M. Corona has claimed for his personal benefit & that of his family, one range (sitio) for neat-cattle in addition to the tract of San Diego which belongs to him & between the boundaries of the same & the rancho of Francisco Andres Barra, the investigations in that behalf having first been made according to the tenor of annexed to the laws & regulations. In the exercise of the powers deposited of Me conferred upon me, in the name of the Mexican Nation of Nov 5th 1852. doct No. to him the aforesaid range for neat-cattle declar- No. No 1. —

- 1. He may fence the land now granted to him without prejudicing the highways, cross roads & rights of way: he shall enjoy it freely & exclusively, devoting it to such use, or cultivation as best may suit him.
- 2. He shall select the competent Magistrate to give him the judicial possession by virtue of this patent. Such Judge shall mark out the boundaries with the necessary land markers.
- 3. The tract hereby granted consists of one range (sitio) for neat-cattle & lies between the boundaries of San Diego & the rancho of Andres Barra according as shown by the design, filed with the Minutes of preliminary proceedings. The Magistrate who gives the possession shall cause it to be measured & the full quantity to be made up if there be waste land enough without any prejudice to the neighbors.

Wherefore I order that the present title being held as firm & valid, be entered of record in the proper book & delivered to the party interested for his protection & other purposes. Given at the city of Los Angeles on common paper there being none stamped on the 11th day of August one thousand eight hundred & forty five.

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Pro Prio.
Jose M. Covarrubias. Sec -

This superior patent is entered of record in the proper book.

Angeles same date as above.
Covarrubias.

His Excellency the Governor orders that this title be entered of record in the Sub Prefecture of San Diego.

Covarrubias.

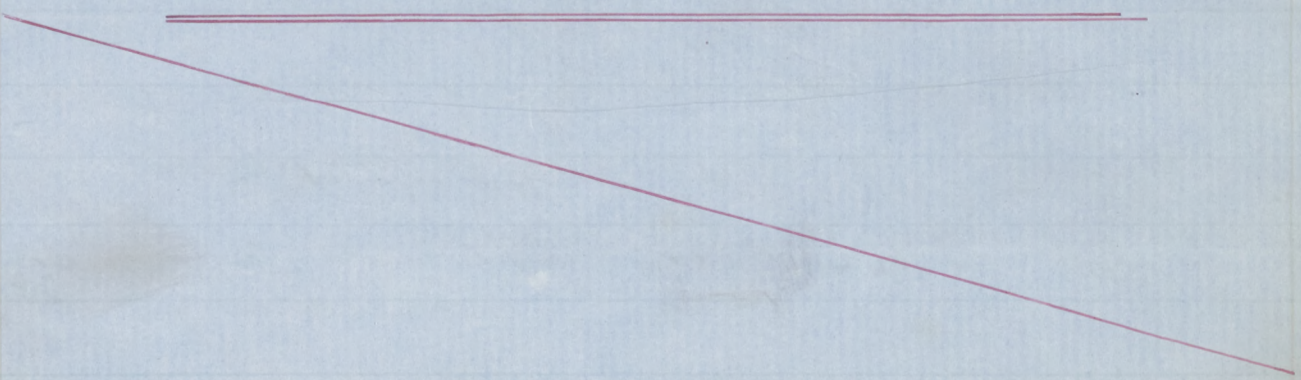
San Diego February 9, 1846.

This patent is entered of record p 2^{da} of the proper book.

Arguella.

Filed in Office Nov 1st 1852.

Geo: Fisher.
Secy.



441
1861 Doc H H. ex. 2 of Abel Stearns
amended copy

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Pio Pico Gobernador interino del
Departamento de las Californias.

La Exma. Asamblea Departamental
en sesion de hoy ha acordado lo siguiente.

"Le aprueba la concesion hecha por
el Superior Gobierno Departamental al
Ciudadano Juan Osuna de un sitio de
ganado mayor en ampliacion del terreno
de San Dieguito que actualmente posee
de conformidad con la ley de 18 de Agosto
de 1824, y art. 5.º del reglamento de 21 de
Noviembre de 1828."

Y para resguardo de la parte del
Ciudadano Juan Osuna, lo hago asi
saber. Dado en la Ciudad de los
Angeles a 24 de Setiembre de 1845, en este
papel comun por falta del Sello que
corresponde.

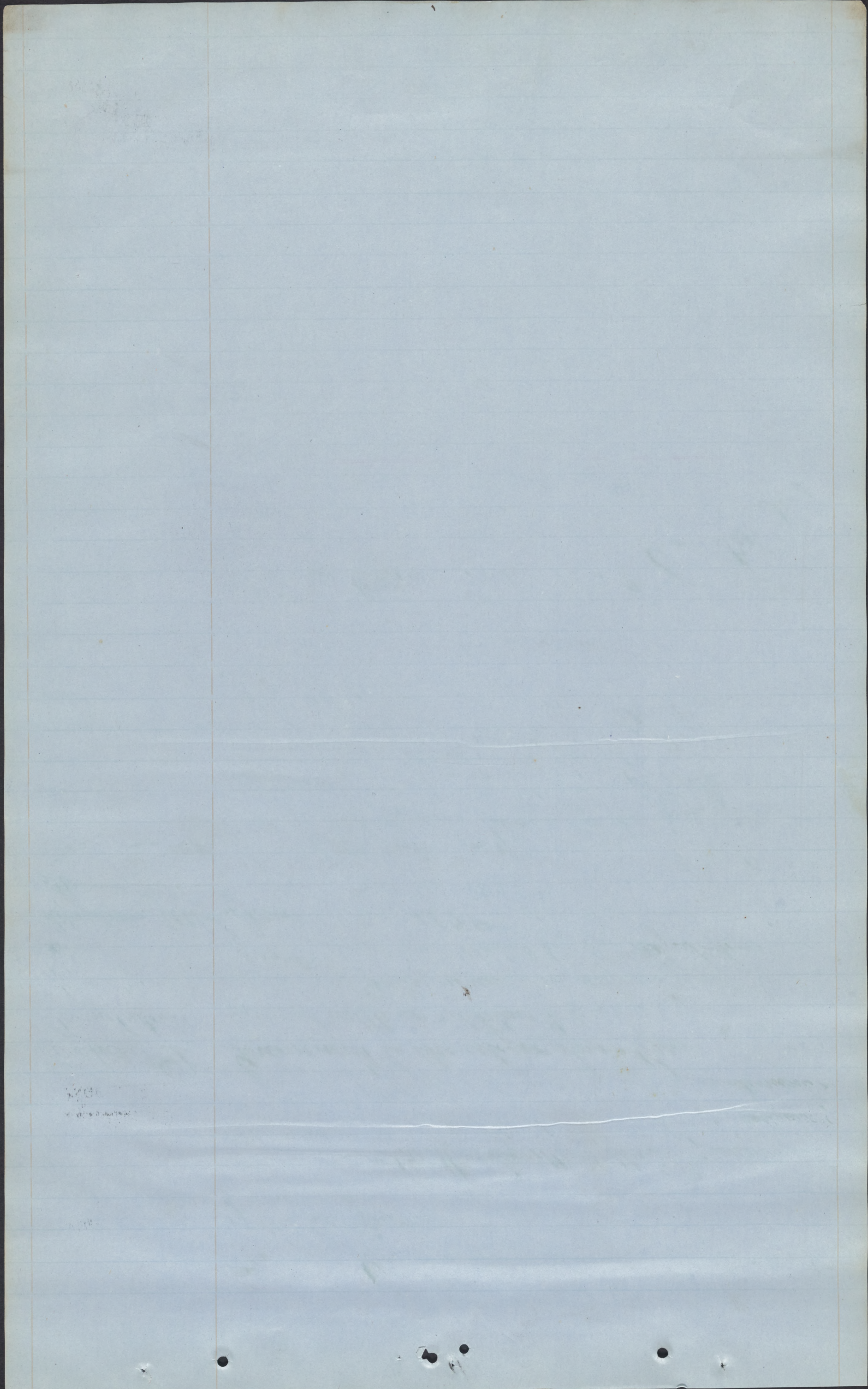
Pio Pico.

José M. Borarrubias
Escr.

Filed in Office Nov. 5th 1852.

Geo. Fisher
Secy.

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P. Pico, Governor ad interim of the Department of the California.

The Most Excellent the Departmental Assembly in session of to-day has resolved the following.

Approved the grant made by the Superior Government to the citizen Juan Cruma of one range for neat cattle in addition to the tract of San Diego which he actually possesses in conformity with the law of 18th August 1824 & Art 5 of the Regulation of November 21, 1828.

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Exhibit D.
Translation.
appon-dep. assy.
annexed to the
deposition of Abel
Stearns of Nov 5th

1852. doct. No 2.

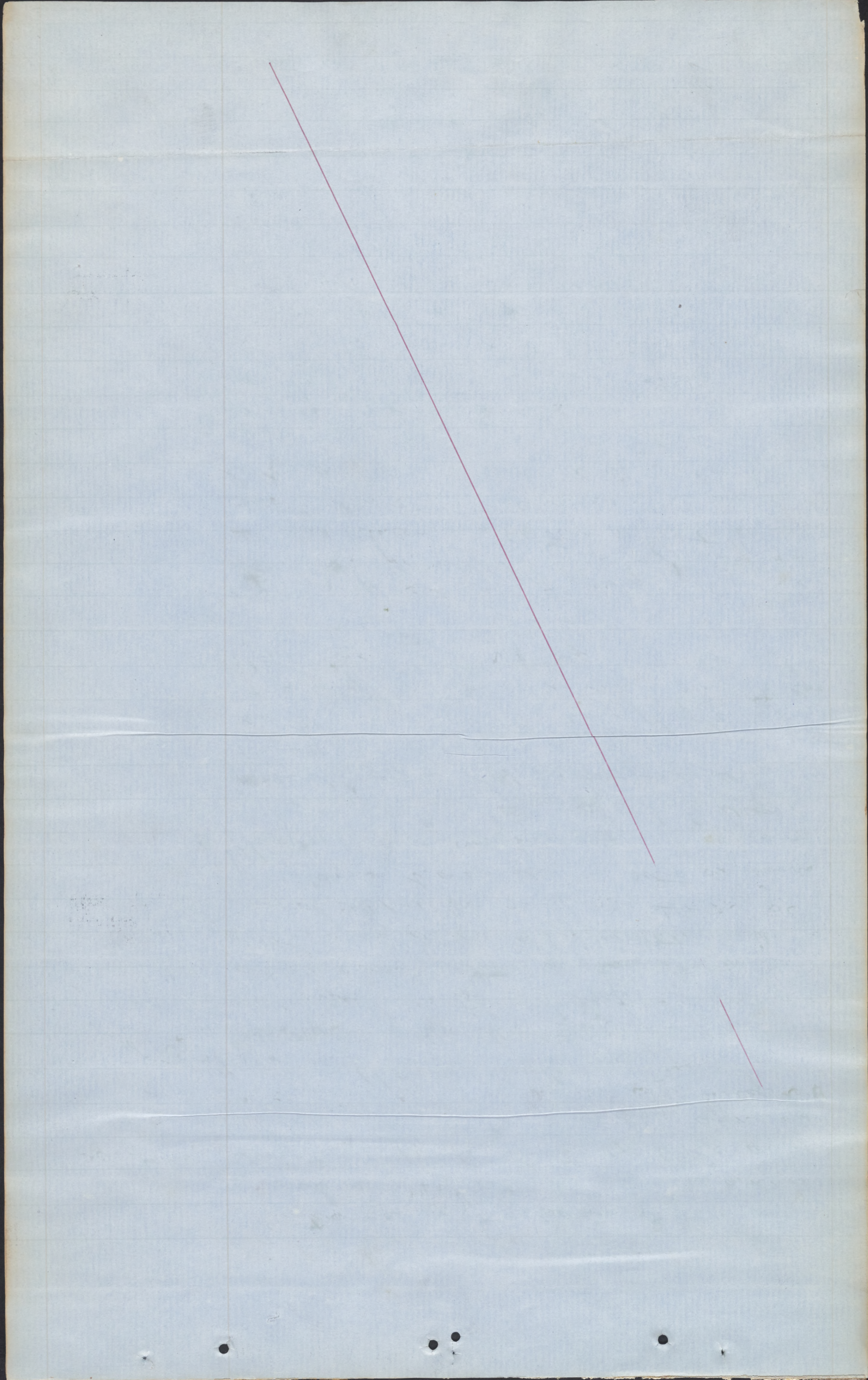
And for the protection of the citizen Juan Cruma I do so make known. Given at the city of Los Angeles on the 24th of September 1845 in this common paper for want of the proper stamps.

P. Pico.
Jose M. Covarrubias.

Secretary.

Filed in Office Nov 1st 1852.

Geo. Fisher,
Soc'y.



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Doc. 14. 14.

N.º 3.

annexed to
the deposition
of Abel Stearns
taken before
Commr. Wallace

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Certifica el q.º suscribe, q.º por el mes de
Abril de 1843, estando desempeñando la
Procurtura del 2.º Dist. en la Ciudad
de los Angeles; p.º terminar las diferencias
q.º tenían entre si los vecinos de S. Diego C. B.
Juan M.º Osuna, y Andres Ybarra, sobre
cuestion de terrenos. Dispuso la autoridad
superior, pasase el Proyecto en persona
a remedir los sitios de Ensenitas concedido
a Ybarra, y el de S. Dieguito a Osuna
cuyas concesiones segun sus titulos q.º
presentaron heran de un sitio de ganado
mayor a cada uno, en vista de lo cual
mande al Juez de Paz del S. Diego,
procediese a las mediciones del de
S. Diego, procediese a las mediciones del
de San Dieguito, con los tintos
q.º en este caso se requirieren, presentes los
dos interesados, y tomados los rumbos
por un mantero q.º me acompañe a este
efecto, se comenzo aquella operacion,
tomando por vara la boca de la Cañada
de las sauces rumbo Sur, rematando al
Oeste las cinco mil varas en el paraje de
la Calera, y cuadrando al N. en los chopales
o manglos negros y asi al Este al camino
real q.º pasa por S. Alejo, y presentados el
resultados con el mapa o Diseño q.º le-
bante el mantero, a la autoridad Superior
y abenidos en todo las partes, dispuso
se les extendiese una acta q.º les sirviese de
credencial y por la conformidad en
q.º habian quedado, y a consecuencia
de q.º no entrarian en ningun litio,
pues quedaba dignido en q.º el arroyo
de S. Alejo serviria en lo susrito de
lindero a ambos sitios; asi se verifico
y entregue a cada parte una acta de un

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misimo tenor firmada por mi y mi Secretario
aquella vez, con lo que se dio p. concluido
este asunto. Y havindome hecho presente
el Cind: Juan M. Wana, haberselle
perdido la sobre dha. acta y a su
pedimiento se estiendo la presente por los
Auses p. le combengan, en S. Diego a
vinte y cuatro del Enero del mil
ochocientos cincuenta.

J. Aguillo.

Filed in Office Nov. 3th 1852.
Geo: Fisher
Seery

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The undersigned hereby certifies that during the month of April 1843 while he was discharged the duties of Prefect of the 2^d District in the city of Los Angeles, in order to put an end to the controversy then existing between citizens Juan M^o Ocaña & Andres Ubarra residents of San Diego, about a question of lands, the Translation of Sup^r Authority directed the Prefect to go personally, & Document No. 10. measure the tracts of the Encomiendas granted to Juan M. No 3. amended of the San Diego to Ocaña; which concessions to the deposition according to their letter, which they produced, were of Abel Stearns one sitio de ganado mayor, to each. - In view of what taken before Com^o I ordered the Justice of the Peace of San Diego to proceed to the measurement of the tract of San Diego, with the witnesses required in such cases, both the parties being present; the census having been taken by a practical man, who attended me for this purpose, the operation began; & taking for the starting point the mouth of the Canada de los Salinas, direction South at five thousand varas Westward the measure ended at the place called la Calera, thence forming an angle towards the North to the Nopales or Mangles Negros, & again towards the East to the main road leading to San Alejo. And the result thereof together with the map or diagram, got up by the practical man, having been presented to the superior authority & the parties being entirely conforming, the said Sup^r Authority directed that a record of the proceedings thereof should be made, which might serve to them as a voucher as to their having a good tract, & to the end that they should not enter into a law suit regarding the same. For it was decided that the Arroyo de San Alejo, should for the future serve as a boundary to both the tracts. Thus it was done, & a record of the same taken signed by me & my then Secretary was given to each of the parties. Whereupon this subject was considered to have been determined -

And citizen Juan M^o Ormaiztegui represented to me, that the said record had been lost; I grant at his request the present certificate for the purpose that may best answer him - at San Diego the 24th of January 1850.

Signed / S. Arguella:

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I hereby certify that the foregoing is a true and correct translation of a Spanish document in the within mentioned case now on file in this office.

Office of the U.S. Land Commission
St. San Francisco this 23rd of January
1854.

Geo: Fisher
Secy.

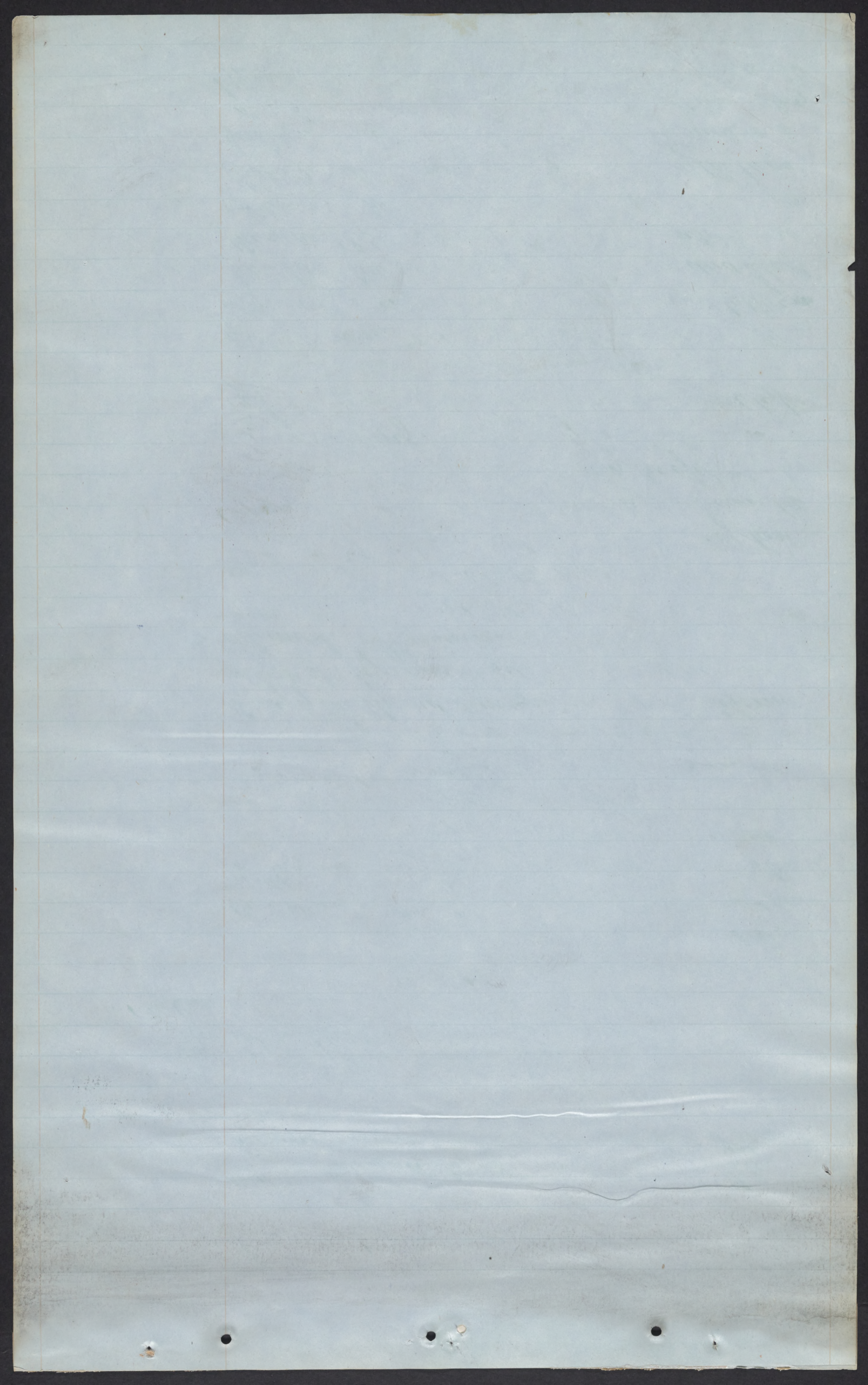
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1906

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Doc. H. H.
No. 4.
annexed to
the Dep.
of Abes
Stearns.

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Filed in Office Nov. 5th 1852.
Geo. Fisher
Secy.



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Case No 441.

Doña Juliana Lopez Conna Widow & Julia -
Ramon, & their children heirs of Juan M^o Conna.
dec'd.

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vs

San Diego.

Opinion of the The United States.)
Board by Comr.
Thompson.

The petition in this case sets out that
in or about the year 1840 or 1841 Juan B. Alvarado
then Governor of California granted to the said Juan
M^o Conna the tract of land & ranches known by the
name of San Diego, containing one league of
land. That the original papers relating to this grant
have been lost, or mislaid, that petitioner believes a
record thereof exists in the Archives now in the cus-
tody of the United Surveyor Genl for California
which she begs leave to file as soon as copies can be
obtained. It is further stated that on or about the
11th of August 1845, Pio Pico then Governor of
California granted to the said Juan M^o Conna
a tract of land in addition to the tract of San
Diego which belonged to him, & between the
boundaries of the same & the ranches of Andres Bar-
ra containing one league of land which said
last mentioned grant was duly confirmed by the
Departmental Assembly on or about the 24th
of September 1845 - & a certificate of such
approval & confirmation duly delivered to the gran-
tee - that the said Juan M^o Conna died about
the year 1850 leaving the petitioner who is his
widow & eight children whose names are given,
that the said Conna took possession of the land
first granted at or about the date of the said first
grant, & of the addition thereto about the date of
the same grant, & that he & his family have continued

in the peaceable & quiet possession of said lands to the present time - & she therefore prays that said lands may be confirmed to her & the right lawful children of the said Ouma before named, who she prays may be considered parties to said petition for the purpose of said confirmations.

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These are facts & circumstances presented by the record in this case which would go far to raise a presumption in favor of its validity, if the proper testimony, which is evidently in existence had been brought forward to sustain it. But in the condition in which it is presented for adjudication it is impossible for this board to confer it consistently with the principles which are laid down for its government by the act of Congress creating it. The original grant for one square league called San Diego, has as stated in the petition been lost, but no foundation is laid for the introduction of secondary evidence, or proof of its contents, nor is any such evidence introduced. The only testimony on this point is contained in the deposition of Santiago Arguella, in which, when speaking of a map which had been filed in the case with a certificate of the witness appended dated Jan. 24 1850 he says "it is a map of a tract of land called San Diego, granted to the late Juan M. Conna by Juan B. Alvarado, as Governor, I think about the year 1840." This is the only evidence of such a grant ever having been made except the reference which is made to it, in the grant for the additional square league made by Gov. Pio Pico, dated August 11 1843 - & the certificate of the approval of the same dated 24th of September 1845. The petition sets out that it is believed that a record of the original papers in relation to said grant

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exists in the archives now in the custody of the United States Surveyor General for California, & prays for leave to file copies of the same as soon as they can be made out. No such copies however have been filed - but upon an examination of the archives in the office of the U. S. Surveyor General a voluminous record was found showing that a grant of the land called San Diego was made to Juan M. Orma by Gov Gutierrez in 1835 but no evidence whatever that such a grant was made by Gov Alvarado in 1840 or at any other time - There is consequently testimony before the board that any such grant as that upon which the claim proposes to be founded was not made, or if made there is no proof of its contents or of anything else by which the land granted could be identified. Two papers are filed in the case, the one purporting to be a map of the place called San Diego to which is appended a certificate signed S. Arguella to the effect that it conforms to the original which served for the measurement of a league of land in the place of San Diego - dated Jan 24 1850 - The other a certificate of the same person of the same date setting forth that in the month of April 1843 while he was acting as Prefect of the 2^d district in the city of Los Angeles in order to put an end to the controversy then existing between citizens Juan M. Orma & Andres Barra, a survey & measurement of the tracts of Ensenitas, granted to Barra, & of the San Diego to Orma, was made by his direction together with a map or division of the same - Said certificate also sets out the boundaries, & states that a copy of the record of said proceedings were given to each of the parties &c - Neither of these papers can be considered as legal evidence in the case. They are clearly not official

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documents, as they were not executed by the officer under whose authority the acts which they describe were done, until several years after he had ceased to exercise his official functions, & long after the Mexican Government under whose authority he professes to have acted, had ceased to exist in this country. They are not made under oath & are entitled to no more weight or authority than the simple declaration of any other individual. The only manner in which the claimants could have availed themselves of the facts which they conclude would have been to have embodied them in the deposition of Santiago Arguella. His testimony taken in the case makes no reference whatever to the second named certificate & only speaks of the maps & a map of the tract of land called San Diego. Nothing is said as to the date by which the boundaries described were ascertained, nothing of the original of which it purports to be a copy, nothing in fact which can count either the one or the other with this case as legal testimony.

The absence then of any evidence of the execution of the grant or of its contents - The total failure to show by any competent testimony the location or identification of the land claimed in the first grant is conclusive on that branch of the case. In relation to the second grant for the additional league made by Gov Pio Pico, in 1845 - there is no evidence whatever except the original grant sheet & the certificate of the approval of the Departmental Assembly, the due execution of which is fully proven. But here the proof stops; no testimony is adduced to show that the grantee or those claiming under him ever were in possession of or occupied the land granted

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nor is there any evidence unconnected with the former grant by which the land could be located or identified - & we have already seen that in relation to the latter the claimants have entirely failed by any competent testimony to establish its boundaries & fix its location.

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PAGE 25

From a careful examination of the whole case as presented we can see no legal or equitable grounds which would entitle the claimants to a confirmation. The claim is therefore rejected.

Filed in Office July 24 '1854
Geo. Fisher
Secy.

Case No 441.

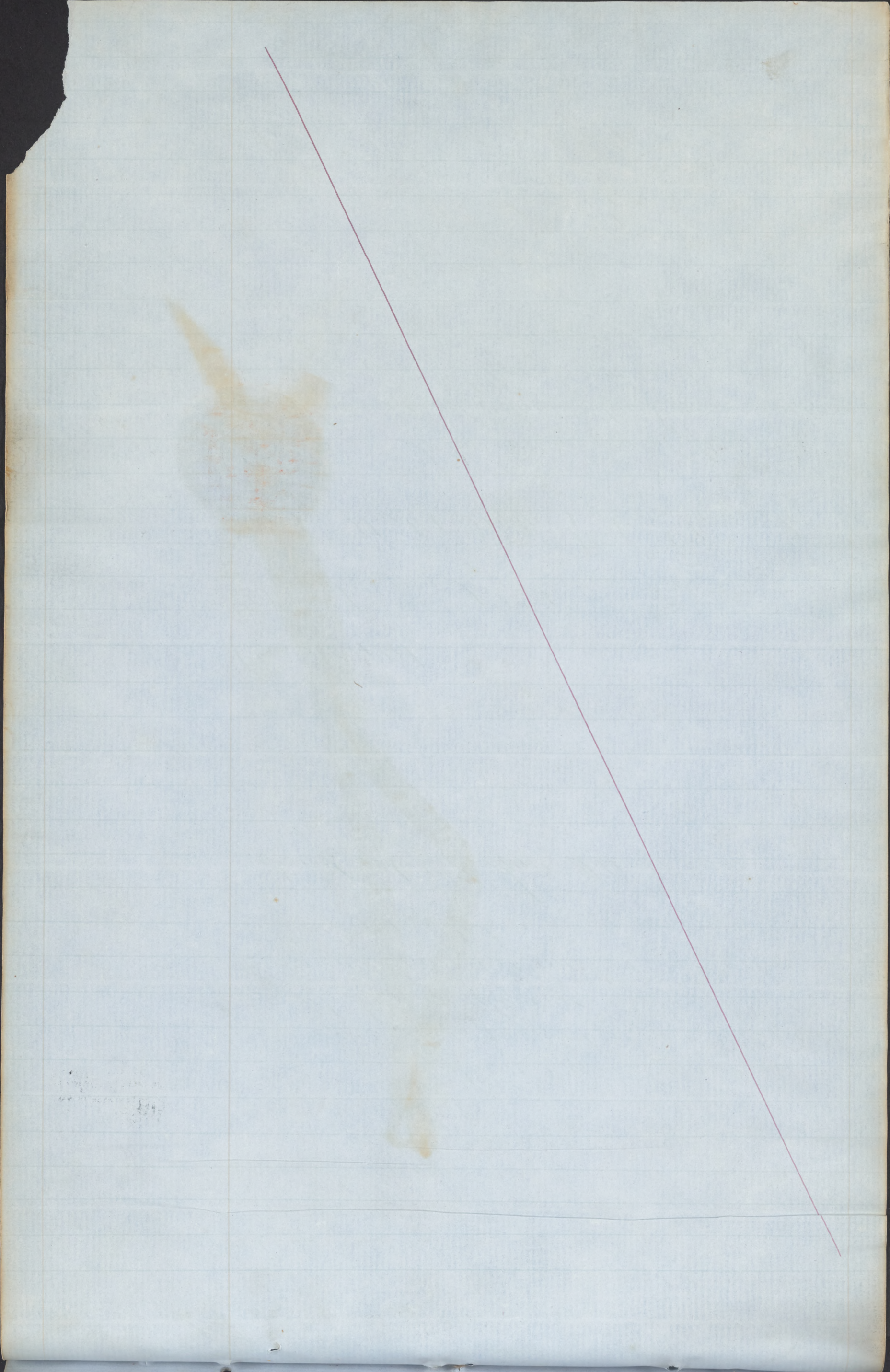
Doña Juliana Lopez Osuna et al,
vs
The United States } San Diego

In this case on hearing the proofs & allegations it is adjudged by the Commission that the claim of the petitioner is not valid; & it is therefore denied that his application for a confirmation thereof be denied.

Alpheus Felch,
Thompson Campbell,
W. Aug. Thompson.

Filed in Office July 24 '1854
Geo. Fisher,
Secy.

6 folios



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 four* — pages, numbered from 1 to *24*, both inclusive, to contain a true, correct and full Transcript of the Record of the Proceedings and of the Decision of the said Board, of the Documentary Evidence and of the Testimony of the Witnesses, upon which the same is founded, on file in this Office, in Case No. *441* on the Docket of the said Board, wherein *Juliana Lopez Osuna* is —

the Claimant against the United States, for the place known by the name of *"San Diego"*

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. 18*54*, 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. 92, *Docket*

THE UNITED STATES,

vs.

Puliana Lopez, Asma
"San Diego."

TRANSCRIPT OF THE RECORD

FROM THE
BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 441

Filed, *September 20th* 1854

W.A. Crister

Clk

92 SD

No 441

Clerks Office of the District Court
of the United States for the Southern
District of California.

92 SD

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Whereas the Commissioners constituted for the purpose of ascertaining and settling private land-claims in the state of California by the act of congress of the U. S. of America, approved on the 3^d of March 1851, entitled "An act to ascertain and settle the private land-claims in the State of California", did on the twenty fourth day of January eighteen hundred fifty four, by their decision of that date decide against the claim presented by the undersigned to the said Commissioners, which claim is for land lying in the said Southern District, and is Number four hundred forty one (441) on the docket of claims before said board - and the said claimant being desirous that the said District Court should review the said decision, - Now hereby files this notice in the said Clerks office of her intention to prosecute an appeal, as is provided by the 12th Section of an act entitled "An act making appropriations for the civil and diplomatic expenses of the government for the year ending the

30th of June 1853, and for other purposes,
which said act was approved on the 31st of
August 1852.

Juliana Lopez Osuna

by E. O. Crosby

of Counsel,

92 SD

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To the Clerk of the U. S.
District Court of the Southern
District of California.
23^d of February 1854.

~~72~~ N^o 92.
U. S. District Court
Southern District

Juliana Lopez Osuna
Appellant,

vs
The United States
Appellee.

Notice of Appeal.

No. 7.

Filed 28 feby 54
Chas. S. Taylor
Clerk

92 SD
PAGE 29

X 11.

E. O. Crosby
of Council.

In the matter of the application of
Juliana Lopez Osuna for confirmation
of the title to the Rancho of San
Dieguito in the county of San Diego
and state of California in

Juliana Lopez Osuna

vs
The United States

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

Sir

Please take notice that the
claimants in this case appeal
from the whole of the decision of the
Board of Commissioners for ascertain-
ing and settling private land claims
in the state of California, respecting
~~the claim to~~
the title to the Rancho of San Dieguito
in the county of San Diego aforesaid
said decision having been rendered
by said Board on the 24th day of
January A.D. 1854

Wm. W. Fothergill
atty for claimant

To Charles E. Barr Esq
Clerk of the U.S. Dist Court
for the Southern District
of California

N^o 92.

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

Julianna Lopez & O'Connell

vs
The United States

Notice of appeal

Filed Dec 13. 1854.

J. E. Carr.
clerk.

J. W. [unclear]
atty for clerk

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

Heirs of J. Ma Osuna

vs.

Appellants

Docket No. 92

The United States

Appellee

Transcript No. 441

"San Dieguito"

92 SD

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Your petitioners, the Heirs of Juan Ma Osuna respectfully shows unto this Honorable Court that on the 5th day of November A.D. 1852, ^{they} he filed before the Board of Commissioners ~~his~~ ^{their} petition praying for confirmation of title to the land called "San Dieguito", situate in the present County of San Diego, and in the Southern District of California, which petition is hereby specially referred to for a description of the land claimed and the title of the claimant, and that on the 24th day of January 1854 the said Board of Commissioners decided upon the validity of said claim and rejected it.

And your petitioners further shows that a Transcript of the proceedings and evidence in the aforementioned claim before the said Board of Commissioners was filed in the office of the Clerk of the United States District Court for the Southern District of California on the 20th day of December September A.D. 1854 and that a notice of claimants intention to prosecute the appeal from the decision of said Board of Commissioners was duly filed in the office of said Clerk of said Court on the 15th day of December A.D.

1854-

And your petitioners prays this

3 3 3 3

Honorable Court to review the decision of said Board
of Commissioners, and, on the hearing of this Cause
to reverse said decision and to confirm his title
to the aforesaid lands, and that a copy of this
petition be served on the United States District
Attorney for the Southern District of California.

Myron Norton
Atty for Appellant

92 SD

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No. 92

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

The Heirs of Juan Ma Orona
appellants

vs

The United States
appellee

Petition for Review

Filed 5th Dec 1850
C. S. M.

~~Filed Feb 24 1851~~

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Meyron Norton Atty for Appellts.

UNITED STATES OF AMERICA, }
Southern District of California, } SS.

The President of the United States,

TO

P. Ora W. S. Momy

92 SD

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Greeting :

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against *the United States* in the District Court of the United States, in and for the Southern District of California, on the *5th* day of *December* in the year of our Lord one thousand eight hundred and fifty-*six*, at the City and County of Los Angeles, in said District, by

The Heirs of Juan M. Osuna
~~*Juan M. Osuna*~~ praying said Court to *revoke* the decision of the United States Land Commissioners of the 24th day of January 1854 *rejecting* his claim to the lands called

"San Diego"
Situate in the County of San Diego

and that *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 the Petitioner will apply to the Court for the relief demanded therein.

In Witness whereof, I have hereunto set my hand, and affixed the Seal of said Court, at the City of Los Angeles, this *13th* day of *December* A. D. 185*6*



C. J. Lewis CLERK.
J. James Holman
Deputy

Marshals Cost

Copying Simons 60

Wrong name 3

Petition 3
\$ 6.00

J. U. G. 2.

UNITED STATES OF AMERICA,

Southern District of California,

U. S. District Court.

The heirs of Juan M. de la Cruz
vs
The Ventura State

Filed this 15th Dec. 1856
P. B. Clerk
J. M. Newman
Dep

SUMMONS.

Received Dec 13th 1856

92 SD
Edward Hunter

U. S. MARSHAL.

J. M. Goodman
Depty

I served this Summons, together with a certified copy of the Petition, upon P. B. vs
U. S. Atty by delivering to him personally a true
Copy of the same

at Los Angeles
the 15th

in the Southern District of California, on

day of December A. D. 1856.

Sworn to and subscribed before me, this
15th December A. D. 1856

Clerk
J. M. Newman
Dep

Edward Hunter
U. S. MARSHAL.
J. M. Goodman
Depty

In the District Court of the United States
for the Southern District of California
Hon. J. S. K. Ogier Judge
Heirs of J. Ma Osuna.

Appellant,

N^o 92.

Trans. N^o 441.

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As
The United States

The answer of T. Ord United States Attorney
for the Southern District of California, for and
in behalf of the United States, to the petition
for review in said Cause - Says

That he denies all and singular each
and every allegation in said petition
contained. And further he denies
generally the validity of the alleged
title of the Claimants and petitioners,
And he prays that the Court will
affirm the decision of the Board of
Land Commissioners; and decree
the alleged title or titles to be invalid
And general relief.

T. Ord

Atty of the United States for the
Southern District of California.

I have served this answer upon Myron
Norton Attorney for Appellants by delivering
to him a true Copy of this answer at the
City of Los Angeles December 16th 1856

Edward Hunter
U.S. Atty.

J. W. P. Goodman
Depty.

Sworn to and Subscribed
before me this 17th December
A.D. 1856
J. J. Waldman
Depy

No 92

W. G. W. Com.

Wms of the State
Appell

vs

The Central Club

Answer

Filed Dec 16th 1856

Edwin
Chas

92 SD

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D. W. A.
W. A. A.

United States District Court for the
Southern District of California.

December Term AD 1857

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Juliano Lopez Luna et al }
Appellants } Landrights
vs } to 92
The United States }
Appellee }

This Cause coming on to be heard on
appeal from the decision of the Board of
Land Commissioners, appointed to settle
private Land Claims in California, under
an Act of Congress, approved March 3^d 1857
upon the Transcript of proceedings, and
decision of said Board, and the papers
and Evidence, upon which said decision
was founded, all of which have been filed
in this Court, and upon the pleadings filed
in this Cause.

And Counsel for the respective
parties having been heard.

It is ordered, adjudged, and decreed,
that the decision of said Board, respecting
said Claim, ^{and} ~~the~~ Title, to the lands
described in said Transcript filed in
this Cause,

be, and the same is hereby
reversed, and set aside, and that the
Title of the above named Appellants, is
good and valid.

The Lands of which Confirmation

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PAGE 40

is hereby made to the said Appellants, is known by the name of "San Diego", and situated in the County of San Diego, State of California, and consisting of two adjoining tracts of land, the first, granted to Juan Maria & Ana, now deceased, and husband of the said Juliana Lopez & Ana, ^{by Juan B. Alvarado, then Governor of California in the year 1840 or 1841} and known by the name of "San Diego", containing one square league of land, together with an addition to said tract of land, consisting of one range (Sitio) for neat cattle whistles, between the boundaries of "San Diego", and the Rancho of Andres Ybarra, according as shown, by the design (diseño) filed with the minutes of preliminary proceedings, and on file in the papers of this case.

The quantity of land, hereby confirmed, being two square leagues of land, ^{and no more;} provided that quantity be contained within ^{the} said boundaries. But if a less quantity be contained within said boundaries, then Confirmation is hereby made to such less quantity. And for a further description of the said land reference is hereby made to the grant and evidence contained in the Transcript on file in this case.

Luna & Ogden
U.S. Dist. Judge

BYCE

20

N^o. 92.

Julius Loring Allen
- was claimed

Deem

↓ Filed March 4th 1854
Signed
CWR

Recorded on Page 252

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UNITED STATES OF AMERICA, ss.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

92 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:

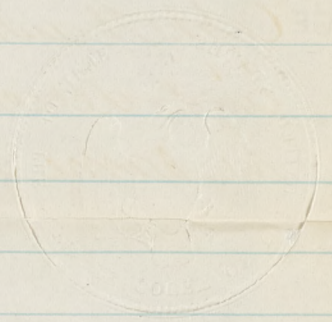
Whereas, lately, in the District Court of the United States, for the Southern District
of California before you, in a cause
between Dona Juliana Lopez Osuna, widow, and Julio Ramon
etal, children and heirs of Juan Ma Osuna, dec^d,
appellants, and The United States, appellees,
(No. 92, for "San Dieguito") wherein the decree was
rendered in favor of the said appellants.

UNITED STATES OF AMERICA

THE TERRITORY OF THE UNITED STATES OF AMERICA

92 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~~ *on the motion of* of Mr Attorney General Bates of Counsel for the Appellants. It is now here ordered adjudged and decreed by this Court that this cause be and the same is hereby dismissed. 24 March

92 SD

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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... \$

\$

Forward by

Leoniadator

Clerk of the Supreme Court of the United States.

No. 285 December Term, 1863.

MANDATE

SUPREME COURT UNITED STATES.

U. States vs. Sumner

Filed Oct 31st 1863

Geo. C. Whiting

clerk

G. S. - name

will