

CASE No.

116

SOUTHERN DISTRICT

SAN PASCUAL GRANT

MARIA MERCED LUGO DE FOSTER, ET AL

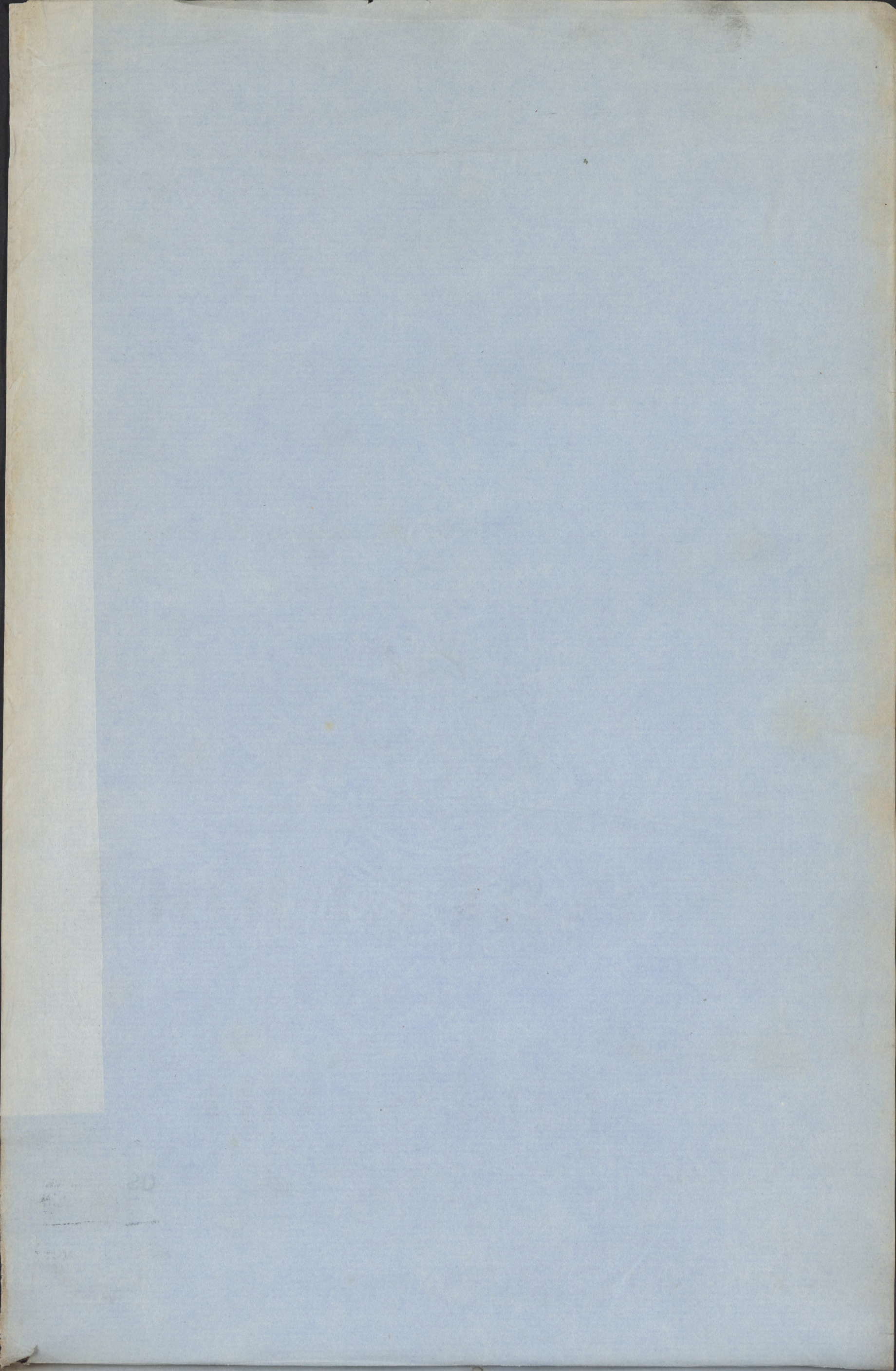
CLAIMANT

PERMANENT
BLOWER BOND
LAND CASE 116 SD 39 pgs.

27 1963

272

Southern Districts



TRANSCRIPT
OF THE
PROCEEDINGS

IN CASE

NO. 272

Maria Mercedes Lopez de Foster, et al,

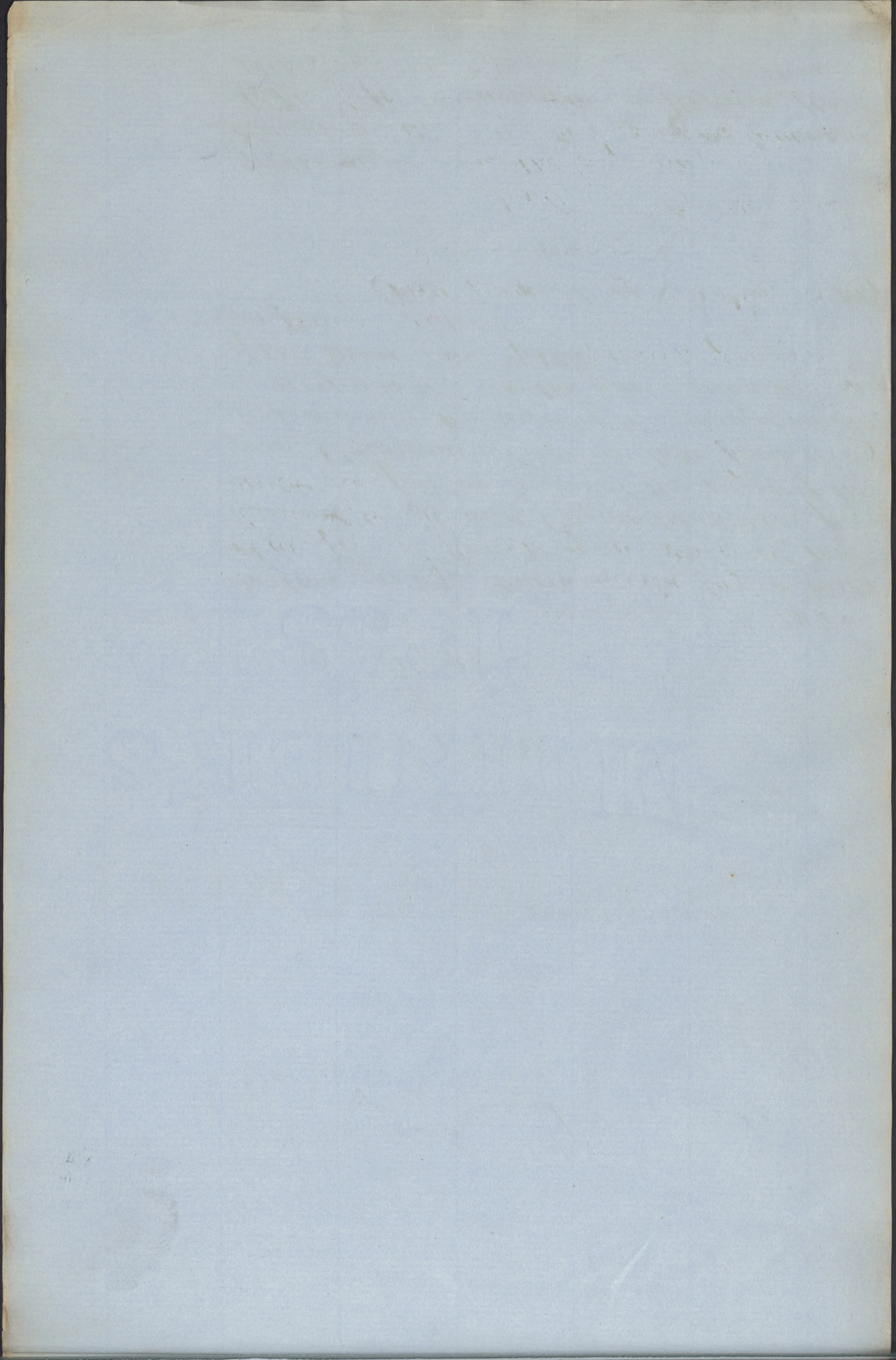
CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"San Pascual"



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

116 SD

PAGE 2

Be it Remembered, that on this *fourteenth day of June*, 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 *Maria Mercedes Sugo de Foster, et al.* for the Place named "*San Pascual*," was presented, and ordered to be filed and docketed with No. *272* 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 Sept. 24 '1852.
In Case No. *272*, *Maria Mercedes Sugo de Foster et al.*; for the Rancho of *San Pascual*, the Counsel for *Mmanuel Garfias*, contestant, presented his petition to contest the right of the said Claimants; Ordered to be filed and recorded and the right of contesting granted in accordance with the additional regulation of the Board of Feb. 9, 1852; which petition is as follows, to wit;

(Vide page *24* of this Transcript.)

Los Angeles Oct. 16' 1852.
In the same Case the deposition of *Abel Stearns*, a witness in behalf of the Claimant taken before Commissioner *Nicolas Hall* with document marked *H. H. No. 1852*

2

there was filed;

(Vide page 7 of this Transcript)

In the same case the deposition of José Antonio Carrillo, a witness in behalf of the claimant, taken before Commissioner Melana Hall was filed;

(Vide page 9 of this Transcript.)

In the same case the deposition of José Carmen Sugo, a witness in behalf of the claimant, taken before Commissioner Melana Hall was filed;

(Vide page 5 of this Transcript)

San Francisco Aug. 26 '1853.
Case no. 272, called; Submitted on briefs
and taken under advisement,

San Francisco Feb. 14 '1854.
In the same case Commissioner R. Aug.
Thompson delivered the opinion of the
Board rejecting the claim;

(Vide page 20 of this Transcript)

3

To the Honorable Commissioners to Little Platte
Land Claims in California

Petition

116 SD
PAGE 4

The Petitioners, Maria Inceda Luque de Foster,
widow and Maria Antonia Ruiz, only child of the
late Jose Ruiz married, respectfully shew
That on the 7th day of Sept A D 1840, Juan B
Alvarado Governor of California, by virtue of an
authority in him vested granted to the said Jose Ruiz
in company with one Eugenio Sepulveda the tract
of land called San Pascual, situate in the
present county of Los Angeles, containing three
square leagues of land, within the boundaries set
forth in the grant, all of which is shown by the original
Cepedante, a certified copy of which is submitted
hereunto marked A with a translation in marked B,
That soon shortly after the date of the aforesaid grant
the said Ruiz and Sepulveda received in due form
the judicial possession of the land aforesaid
That in the month of September A D 1841 the said
Jose Ruiz died in California, leaving the petitioners
his sole heirs,

That the said Ruiz survives to his death, & the petition-
ers since his death, have occupied and possessed
the land aforesaid with stock a house and other
improvements,

That the said tract has not been surveyed by the
Surveyor General, but that its boundaries are
well known & fully described in the title papers;
That they seek for confirmation of title upon the
original papers copies of which are submitted herewith
& upon such other and further proofs as they may
be advised or necessary

Wherefore they pray the Comm-
issioners to confirm to them the remainder half of the
aforesaid tract of land called San Pascual"

4

My dear Mr. Atter
Hallam Reach & Billing

Filed in Office June 14th 1857

Geo Fisher
Secy

116 SD
PAGE 5

5

Office of the U.S. Land Commission
Los Angeles Oct 16th 1852

Dep. of Jose de
C. Lugo

116 SD
PAGE 6

On this day before Hiland Hall one of the commis-
sioners for ascertaining and settling private land claims
in California, came Jose de C. Lugo a witness from
- cid in behalf of the claimants Maria Merced Lugo
de Foster whose petition is No 272 on the docket of
the Commission and was duly sworn his evidence
being given in Spanish was interrupted by the
Secretary

The U.S. Associate Law Agents & contestants were
notified and attended

In answer to questions of the counsel for the claimants
the witness testified as follows

My name Jose de Guzman Lugo, my age is forty
years and I reside in Los Angeles and am a
native of California

I was acquainted with Jose Ruiz and Enrique Sepul-
veda in their lifetime Ruiz and both dead, Sepul-
veda died at Monterey but I do not recollect the
time, Ruiz died in this city in the beginning of June
1841. Ruiz died before the death of Sepulveda, Ruiz
left a widow whose name was Maria de la
Merced Lugo, The daughter's name was Maria
Victoria Ruiz who is now about fourteen
or fifteen years, Ruiz at the time of his death
left a stock of cattle and horses on the rancho
called San Pascual, They remained there some
of five months when they were taken to the Rancho
of Antonio Maria Lugo the father of the widow of
Ruiz, and by his direction they were taken away
because the owner not being there, they were exposed
- into the loss or destroyed and some had been

6

Killed, Cruz had lived on the land with his family
time I do not know how long - I frequently saw him
there in passing - Cruz came to this city in conse-
quence of sickness and to be cured, I saw him here
about three months before his death and
found him sick, I was sick in the same room
with him,

116 SD
PAGE 7

In answer to questions of the contesting claimants
(the claimant objecting) the witness says that
immediately after the death of her husband, the
widow of Cruz lived in her father's family, I
do not know whether she returned to the ranch
to him after wards or not, I not residing with her
Jose de C. Lopez

Sworn and subscribed before me
Richard Hall
Clerk

Filed in Office Oct 16th 1857
Geo Fisher
Secy

7

Office of the U. S. Land Commission

Los Angeles Oct 16th 1852

On this day before Heland Hall one of the Com-
missioners for ascertaining and settling private
Abel Stearns Land claims in California, came Abel
Stearns a witness sworn in behalf of the
claimants, James Francis Lynde Foster et
al whose petition is No 272 on the docket of the
Commission and was duly sworn, his evidence
being given in English

116 SD
PAGE 8

The U. S. Associate Land Agent & the contestants
were notified and attended

In answer to enquiries of the claimants the witness
testified as follows

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

I am acquainted with the hand writing and
signatures of James B. Alvord & James Francis
Lynde now shown me and reported to be a
grant made to Dr Enrique Sepulveda & Dr Jose
Pray by James B. Alvord dated 24th of Sept 1840
and marked No 184 and him to be correct, I have
examined the same and believe the signatures
of the said Alvord & James Lynde appearing on
said paper to be true and genuine signatures

That on the land described in "in" the title paper
before mentioned, it is situated in the county of
Los Angeles about six or seven miles in a northern
direction from this place I was on the place
in the year 1840 or 1841, Sepulveda and Pray lived

with a small house on the land which we occu-
- pied. They had stocks on the place Sepulveda
I recollect had a pretty good stock of horses & mules
and a small stock of cattle. They I think had
stock there. The occupation of Ruiz continued
until he died which was I think in 1841
Sepulveda I think occupied until his death
which I believe was in 1843, though he might
have been ordered off in consequence of another
grant of the land to Manuel Guefias Ruiz left a
widow and I think one child at the time of his
death, I cannot say whether she occupied it after
his death or not, I am inclined to think she did
not reside or keep stock there long -

The Council for the Claimants objects to any qu-
- estions of the contesting claimants,
In answer to questions by the Council of Manuel
Guefias contesting claimant the witness testified
as follows
I cannot tell the number of years Sepulveda
was on the land, I think he was there some time be-
fore the grant to him, Ruiz I think must have
been there about two years. I cannot tell the
time with more certainty than I have done
that Sepulveda ceased to occupy -
Since Sepulveda and Ruiz ceased to occupy,
the land has I believe been occupied by Manuel
Guefias or those employed by him. Guefias I
believe has possession of the land at the present
time

Abel Stearns

Sworn and Subscribed Before me
Helena Hall

Taken in Office Oct 16 1857
Geo. Fisher Esq

Office of the U S Land Commission

Los Angeles Oct 16th 1852

9
On this day before me Heiland Hall one of the Comm-
-issioners for ascertaining and settling Private Land
Depos of José Antonio Canillo a witness produced in behalf of the Claim an Estremia
- Mercedes Lego de Foster whose Petition is No 272 on
the Docket of the Board and was duly sworn, His
evidence being given in Spanish was interpreted by
the Secretary

The U S Associate Land Agent & the contestants
were notified and attended

In answer to questions by the Council for the Claim-
-ant the witness testified as follows

My name is José Antonio Canillo my age is fifty
seven & I reside in Los Angeles & am a native of
California

I am acquainted with the land described in a paper
purporting to be a grant from Juan B. Alvarado
to Enrique Sepulveda & José Ruiz, dated 24th of
September 1840, It is situated in this country near
the mission of San Gabriel, Whom the grantees
made to Sepulveda and Ruiz & that they immediately
began to occupy the land with cattle & horses
and they had a house on it, they afterwards aban-
-doned it, Both Sepulveda & Ruiz are dead,
but do not recollect the time of the death of either
Sepulveda died with the small pox at Monterey
in the time an epidemic prevailed there Ruiz died
in this city in my presence I think about the
year 1842, Ruiz left a widow and daughter The
name of the widow is Maria ^{de la} Mercedes I do not know
the name of the daughter, she may be Fontana or

10
fifteen years old, The widow is married to Stephen
C. Foster, Her Father's name was Antonio Maria Lopez
Perez had no stock on the land when he died, but
he had a house there which house stood there two
years ago,

116 SD
PAGE 11

In answer to questions by the committee for the com-
-ting claimant (I objected to by the committee for the
claimants) the witness testified as follows

I do not know how long the land had been
abandoned before the death of Perez, Manuel
Garcia is now in possession of the land I do
not know how long he has been in possession

Jose Antonio Canillo

Sworn & Subscribed

Before me

Hiliana Hall

Clerk

Filed in Office October 16th 1857

Geo. Fisher

Sery

Año de 1840

116 SD

PAGE 12

Expediente promovido por los
C. C. Enrique Sepulveda y José Pérez
en solicitud del paraje titulado

S. Pascual

N.º 211.

2. S. D. 12

Here follows map

20

S. D. D. R. Sr. Prefecto del 2.º Distrito

Ang. Ab. 10 de 1840 } Sr. Cnd. José Pérez y
Pase esta inst.ª al Sr. } Enrique Sepulveda ante
Admór de la misión } U. S. como mas haya lugar
de D.ª Gabriel, para } en derecho nos presenta
q.ª.ª su parte informamos esponiendo que a
sobre su contenido y } virtud de hallarse ya
aleque lo q.ª.ª le conven } por mas de cuatro años
ga. } valdi y sin trabajo agri
col alguno el medio

272

116 SD
PAGE 13

Lapua }
Marcos Botella Sr. } sitio en el Rincon de
D.ª Pascual concedido por el Gobierno de
California al finado D.ª Juan Marini
y no teniendo los herederos bienes algunos
con que cubrir dichos terrenos, lo denuncia
mos conforme a la ley y a la falta de re
quisitor estipulado por el mismo Gobier
no en la concecion y de lo que no hubo pose
cion. Conforme a esto y habiendo mas ter
renos desocupado y que el repetido Gobierno
deja como Valdi perteneciente a la nacion
Suplicamos ademas la estencion de dos
y medio sitios que inclusive al denuncia
do hacer el de tres q.ª.ª pretendemos y q.ª.ª
manifiesta el diseño q.ª.ª devidamente a
compañamos para poner en el muchos bienes
cuyo numero es mayor q.ª.ª el requerido.ª.
Cria los y obtener el derecho de propiedad
Por tanto. U. S. suplicamos nos sea
adjudicado el terreno y estencion que
solicitamos para asegurar la manten
cion de nuestras familias. Esperando
se sirva U. S. alcanzarnos esta gracia
del Gobierno Superior del departamento
a lo q.ª.ª protestamos lo necesario y rogamos
se sirva admitir esta en papel comun

L. S. D. R.

por falta del sellado necesario.

Angeles y Abril 10 de 1840

José Pérez H. Enrique Sepulveda +
Amo de S. Gab. y 11 de Abril de 1840

El terreno q. se solicita p. la presente in-
stancia es el mismo q. p. decreto del Gob.
de Calif. al cargo del finado gral de Bri-
gada D. José Vergueroa esta reconocido
como sobrante venido à beneficio de la
Nacion, y tal vez este será el motivo q. la
Mision de Sr. Gabriel no lo ha ocupado

hecho mencion de el es lo unico que
puede informar esta Adm. cumpliendo
con el decreto del Sr. Prefecto del Distit
q. corre al margen

Juan Bandini

J. S. D. 12 Angeles Abril 13 de 1840

Pase este expediente al Sr. Juez 2.
de Paz de esta ciudad para q. informe
sobre el contenido de la solicitud con
especcion de si los herederos del finado
Juan Marinis tienen ocupado el paraje
llamado Rincon de Sr. Pascual, y si
tienen bienes con q. cubrirlo.

Capia Narciso Botella ^{srto.}

Sr. Prefecto int. En cumplimi-
ento del Superior decreto que antecede
paso à informar @ U. S. habiendo me
impuesto de la solicitud hice las inves-
tigaciones necesarias y resulto que el
terreno que pretenden los interesados efecti-
vamente se halla baldio y estos individuos
tienen el numero de bienes suficientes para
poderlo ocupar pues los herederos del finado
Juan Marini à mas de no tener ocupa-
do el paraje llamado Rincon de San Pas.

116 SD
PAGE 14

14

-cuál con ninguna clase de finca ni al
6. S. D. 12 quina otra clase de intereses carecen absolu-
-tamente de bienes para cubrirlo por cuyo
motivo el S. D. determinará lo que crea pro-
pto. Angeles Abril 15 de 1840

Lucas B. Leandry

116 SD
PAGE 15

Como Vir Gobernador
La Prefectura de este 2.º Distrito impuesta
de los informes q. anteceden creí que no hay
obstáculo ninguno en q. se les admita a los
solicitantes la denuncia q. en virtud de forma
hacen del paraje nombrado Rincon de Don
Pascual tanto p. no haber cumplido con los
requisitos prevenidos en el Título expedido
por el Gob. en tanto p. que no tienen bienes
de ninguna clase p. cubrirlo los herederos
del finado Juan Marinero ni haberlo poseído
è igualmente es de accederse al aumento
de terrenos q. piden y consta en el diseño
adjunto si así fuere del sup. agrado de U. E.

Ang. Mayo 2 de 1840

Fernando Tapia # Narciso Botella S. D.

7. S. D. 12 Monterrey 24 de Obr. de 1840 A. S. D.

Por cuanto Enrique Sepulveda y Don
Jose Perez han hecho denuncia del paraje
nombrado Don Pascual con la Estension
de dos y medio sitios de ganado mayor para
ocuparlo para sus beneficios personales y el
de sus familias siendo los limites la Cheria
de san Gabriel, el Arroyo seco y las Lomerias
inmediatas al Toblan; practicadas previ-
amte. las diligencias y averiguaciones con-
cernientes segun lo dispuesto por leyes y
reglamentos he venido en concederles pro-
visionalmt. dicho paraje observado la
condicion de q. no impidan la tra-

15

...ve ciao, caminos y servidumbres y se sugieren
al arreglo de los terrenos que el establecim^{to}.
de San Gabriel debe reconocer para
legal. El Sr. D^{no} Juan B. Alvarado Gob^{no} con
stitucional del Departamento de las Califor
nias asi lo mando, decreto, y firmo.

116 SD
PAGE 16

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

I. Samuel D. King
Surveyor General of the United States for
the State of California and as such now
having in my Office and under my charge
and control a portion of the Archives of the
former Spanish and Mexican Territory,
or Department of Upper California. do here
by certify that the seven preceding and hereunto
annexed pages of tracing paper numbered
from One to seven inclusive and each of
which is verified by my initials (S. D. K.)
exhibit true and accurate copies of certain
documents on file and forming part of the
said Archives in this 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 Fran
cisco Cal. the 11th day of June 1852.

Saml. D. King
Survey. Genl. Cal.

Filed in Office June 14th 1852

Geo. Fisher Secy.

Senor Prefect of the 2nd District

Mexico April 19th 1840 Me. The petitioners José Puy and Enrique
 Let this petition pass & publish, before of our honor in
 to the Administration the manner most favorable in law
 Translation of the Mission of San Juan & Repuense, that the basis
 of Expediente Sabido that in on the league of land in the Mission
 part of the Mission de San Pascual, granted by the Go-
 v. report upon its errement of California to the
 contents, and allege deceased Don Juan Manier
 such things as he may have been vacant for more
 than four years, and without any
 agricultural labor, and the lands
 not having any property with which
 to cover said land; we demand
 in conformity with the law, &
 for the want of requests stipulated
 by the Government itself in the
 grant, and of the which there was
 no possession

Translation of the Mission of San Juan & Repuense, that the basis of Expediente Sabido that in on the league of land in the Mission part of the Mission de San Pascual, granted by the Go-

116 SD
PAGE 17

(Sgd) J. Puy
 (Sgd) Manuel Botello
 Quintana

Equally with this and the being
 other lands unoccupied & which
 the general Government left
 as vacant, pertaining to the Na-
 tion, we request in addition
 an extent of two and a half leagues

which include that demanded, make
 the three, which we ask for more which we
 shown on the map which we only terms will
 in order to place on it many cattle the number
 of which is greater than that required for stocking it
 and obtaining the right of ownership,

wherefore we pray Your Honor to obtain that the
 land and extent we ask for may be granted
 to us in order to insure the maintenance of
 our families; Hoping that your Honor will be
 pleased to obtain this favor from the Superior
 Government of the Department, to which end

17

we protest whatever may be necessary and pray that
you will be pleased to admit this on common paper
for want of the necessary stamped

Mexico April 10th 1840

(Sgd) Jose Ruiz
(Sgd) Enrique Sepulveda X

116 SD
PAGE 18

Administration of San Gabriel

April 11th 1840

The land which is solicited in the present petition
is the same which by a decree of the Government
of California under the deceased General of Brigade
Don Jose Figueroa, is recognized as surplus vacant
lands for the benefit of the nation, and this per-
haps is the reason why the Mission of San
Gabriel has never occupied it nor made men-
tion of it. This is all that this Administration can
report in compliance with the Magnific decree
of His Honor the Pacific

Sgd Juan Bausine

Mexico April 13th 1840

Let this Expediente pass to His Honor the 2d
Justice of the Peace of this City to report upon the
contents of the Petition, expressing whether the
lands of the deceased Juan Munnis are in the
occupation of the Real called Union de San
Rasual & whether they have cattle with which
to cover it

(Sgd) Javier

(Sgd) Francisco Botello

Secretary

Senior Paper via interns

In compliance with the foregoing Superior Order
I have the honor to inform Your Honor, that leaving

examined the Petition. I made the necessary investigations & it results that the land which the parties intruded a petition for is actually vacant. And these mountaineers have a sufficient number of cattle to be able to occupy it, for the same of the de ca Juan manner, not only do not occupy the place called Rincon de San Pascual with any building or any other kind of property, but are absolutely without cattle with which to stock it, wherefore Your Honor will report that which you think just.

Mexico April 15th 1840
(Sgd) Juan B. Lemus

To His Excellency the Governor
The Prefecture of this 2nd District having examined the foregoing reports believes that there is no objection to admitting the mountaineers which the petitioners make in one form of the place named Rincon de San Pascual both because the laws of the de ca Juan manner have not complied with the conditions required in the Title issued by the Government, and because they have no kind of property with which to stock it, neither have they had possession of it, & the addition of land which they ask for and which is shown on the annexed map should be granted, if it should be by your Excellency Superior Pleasure.

Mexico May 2d 1840
(Sgd) Tiburcio Tapia.
(Sgd) Marcos Botello
Secretary

19

Montevideo Sept 24th 1840

116 SD
PAGE 20

Whereas, Enrique Espinosa and Don Jose Pruz have denominated the place named San Pascual with the extent of two and a half square leagues, in order to occupy it for their own personal benefit and that of their families the limits being the Sierra of San Gabriel, the Arroyo Los Andes the hills near the Botas; the papers and assumptions being previously made as required by laws and regulations, I have provisionally granted them the said place, observing the following conditions

They shall not hinder the crossing roads & routes, and shall be subject to the management of lands which the establishment of San Gabriel shall recognize as its finca legal

Senor Don Juan B. Monada, Constituted Governor of the Department of the Llanos as thus ordered decree and signed

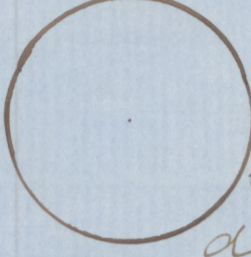
20

116 SD
PAGE 21

Sello Tercero Dos Reales: Habilitado pro-
visionalmt. por la Aduana Maritima
del Puerto de Monterey en el departamen-
to de las Californias, para los años de mil
ocho cientos y cuarenta y unil ocho cientos
cuarenta y uno.

Alvarado

Antonio M. Osio

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

Por cuanto Dⁿ Enrique Sepulveda y Dⁿ
Jose Perez han hecho denuncia del paraje nom-
brado San Pascual con la Estension de dos
sitios y medio de ganado Mayor para ocupa-
lo para sus beneficios personales y el de sus
familias siendo los limites la Sierra de San
Gabriel, el Arroyo seco y las Lomerias inme-
diatas al Roblar: practicadas previamt.
las diligencias y averiguaciones concerni-
entes segun lo dispuesto por leyes y reglamt.
he venido en concederles provisionalmt.
elto paraje, observando la condicion si-
guiente. No impidira las travesias ca-
minis y servidumbres y se sujetaran al
arreglo de los terrenos que el Establiemto
de San Gabriel debe ser conocido para su
fundo legal. En consecuencia mando
que el presente documento se entregue a los
interesados para sus resguardo y demas fi-
nes. Dado en Monterey a veinte y cuatro de
Septiembre de mil ocho cientos cuarenta.

Juan B. Alvarado.

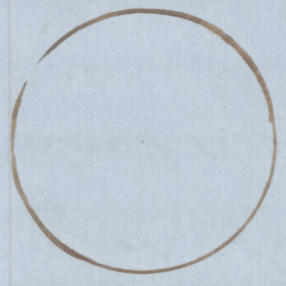
Man^t. Jimeno Srto

Queda tomada razon de esta concesion provi-
sional en el libro respectivo a fojas 300 Va
Jimeno

21

116 SD
PAGE 22

Oello Tercero Dos Reales. Habilitado provi-
sionalmente por la Aduana maritima del
puerto de Monterey en el Departamento
de las Californias, para los años de mil ochocientos
cuarenta y mil ochocientos cuarenta y uno
Alvarado Antonio Maria Osio



Sealed in Office Oct 16th 1852
Geo. Fisher Deery

11/2/72

Stamp Para Dos Reales

Transcription of
Title

Provisionally authorized by the Maritime
Department of the Port of Montevideo in the
Department of the Real for years one
thousand eight hundred and forty and one
thousand eight hundred and forty one
(Signa) Moradas (Signa) Antonio Maria Cue

116 SD
PAGE 23



Man B Moradas Constitutional Governor
of the Department of the Real for years

Whereas Don Enrique Lepurcan & Don Joé Puy
have assumed the place named San Pascual
with the extent of two and a half square leagues
for the purpose of occupying it for their own personal
benefit and that of their families, the boundaries
being the Sierra of San Gabriel the Arroyo Lero
and the hills next to the Roblar the proper measures
and examinations being previously made as requi-
red by laws and regulations, I have provisionally
granted them the aforesaid place observing the
following condition

They will not impede the crossing roads and
limitadas, and will subject themselves to the dem-
arcation of the lands which the establishment
of San Gabriel should recognize as its municipal
lands (fundo legal)

In consequence I order that the present
documents be delivered to the persons entrusted
for their security and other purposes

Given in Montevideo on the 24th of September
one thousand eight hundred and forty

(Signa) Man B Moradas
(Signa) Manuel Jimenez
Secretary

23

Note has been made of this Provisional grant
in the proper book on folio 3^d over
(Lga) Imman

116 SD

PAGE 24

Fidea in Effici Oct 18th 1857

Geo Fisher

Surg

To the Honorable

The Board of Commissioners for the
 adjudication of California Land Claims

Petition for

Intervention of
 Manuel Jimfas

116 SD
 PAGE 25

The Petitioner Manuel Jimfas, Resident of the County
 of Los Angeles, State of California, sheweth, That
 he therefore, to wit on the 14th day of Nov. A. D. 1852
 Maria Lucia Lopez Foster et alias filed the
 petition No 272 before your Hon. Board pray-
 ing for the adjudication to them of the ranches of
 San Pascual lying in the County and State aforesaid;
 The petition of the said Lopez et alias claims
 that said ranch was granted to them under Empire
 Republican in the year 1840 by Governor Juan
 B. Alvarado by a Provisional grant, Your said
 petitioner Manuel Jimfas, claims adversely the
 said ranch by grant of Don Manuel Michel Tornera
 on the 28th of Nov. A. D. 1843, which was a grant in
 fee simple of said ranch together with one and
 a half additional leagues of grazing land
 said ranch is bounded on the South by the range
 of hills along which the road from San Gabriel
 to San Fernando as was known as the old Mis-
 sion road; on the East by the ranch of San Antonio
 on the north by the Mountain and on the West
 by the high bluff on the Western side of the range
 said lying in the County and State aforesaid
 and grant of Governor Manuel Michel Tornera
 was made to your petitioner upon communication
 of the said Provisional grant made to the said
 Lopez et alias by Governor Alvarado, Your petitioner
 has filed his petition No 345 before your Hon.
 Board praying for a confirmation of his
 claim to said ranch; and now prays to
 appear and contest the claim set up by the
 said Lopez et alias, to said ranch whenever
 said claim shall be called up for hearing

25

dated at Los Angeles Sept 24th AD 1852

Scott & Granger

Atty for Petitioner

116 SD

PAGE 26

Filed in Office Sept 24th 1852

Geo Fisher

Clery

Opinion

Case No 272

Manuel Merced Supe de Foster et al

vs

The United States } Claim for one half of the
Rancho called San Pascual in
the County of Los Angeles

116 SD

PAGE 27

This is a claim of the Merced and only claim of Jose Ruiz deceased for one and a half leagues of land in the County of Los Angeles being one half of the Rancho known as San Pascual. The Petition sets out that Governor Alvarado on the 24th day of September 1840 granted to the said Jose Ruiz in company with one Enrique Sepulveda the said tract of land containing three leagues within the boundaries set forth in the grant. That immediately after the date of said grant, immediate possession of the land aforesaid was given to said grantees. That said Ruiz died in Sept 1841 leaving petitioner his sole heir. That said Ruiz previous to his death and the Petitioners since have occupied and possessed said land with stock a house & other improvements. A petition from Manuel Garfias, praying for permission to intervene & contest the rights of the claimants upon the ground that a grant of the same land had been made to him by Governor Micheltoune on the 28th of Nov: 1843, upon annunciation of the Royal order grant made to the said Ruiz and Sepulveda by Governor Alvarado in 1840 is found among the papers in the case. Although the order of the Court allowing intervention

of this character practice long since & decided
 a question might nevertheless miss as to how
 far the Court would take judicial cognizance
 of official documents or records which are
 on file in other cases, before them, but which
 are not put in evidence in the one under consi-
 deration, so far as I have been able to look
 into the authorities on this point they tend to
 the conclusion that a Court in the examination
 of a case cannot consider a fact which is within their
 own knowledge but which is not proved by the
 testimony, This rule would seem to apply with
 equal force to official documents & records
 unless the authority on this last point are
 very full and explicit, I however do not con-
 sider it necessary to decide the question with
 leave, The testimony presented without going
 out of the record in the case is sufficient to show
 that the present claimants are not entitled
 to a confirmation of the claim, The following
 is a translation of the document upon which
 it purports to be founded, from B. Moreno
 Constitution of the Governor of the Department of
 the Californias,

Whereas Don Enrique Sepulveda & Don Jose
 Pany have demanded the Placer called San
 Pascual, with the extent of two & a half
 square leagues for the purpose of occupying
 it for their own personal benefit and that of
 their families, the townships being the
 Sierra of San Gabriel, the Arroyo Seco near
 the hills next to the Roblar, the proper measures
 and examinations being previously made
 as required by the laws and regulations I have
 provisionally granted them the aforesaid Placer

observing the following conditions, They will
 not impede the crossing of roads & structures
 and will support themselves to the American
 - Trans of the lands which the establishment
 of San Gabrie should recognize as its Muni-
 - cipal Lands

116 SD

PAGE 29

In consequence I order that the present document
 be delivered to the persons interested for their
 security and other purposes, Given in Mex-
 -ico the 24th of September 1840

(Signed) Juan B. Alvarado

(Signed) Manuel Jimenez
 Secretary

The above document cannot be called a grant
 or title in the legal acceptation of the term or as
 contemplated by the Mexican Colonization Laws
 and would therefore confer on the grantee no
 right of property in the land itself, It is clearly
 a mere grant of a provisional right of occupation
 which might or might not have been perfected
 into a complete title according to future con-
 -genies and circumstances, Whether a grant
 of this description would furnish a foundation
 for such an equitable right as this Court
 would be bound to respect and satisfy it is not
 necessary here to enquire such a right would
 only result from a full compliance with the
 terms and conditions of the grant by such an
 occupation or cultivation as was required by the
 Mexican Laws and the equity thus created must
 have been continuous and subsisting at the
 time the jurisdiction of Mexico ceased and that
 of the United States commenced, The evidence in
 the case presents no such state of facts, but on
 the contrary it proves directly the reverse, it appears

That the ancestor of the claimants lost possession upon the land built a house and had some cattle on it, That after remaining on it one or two years in the language of the witness he abandoned it and went to Los Angeles where he shortly after died in 1841 or 1842 That after his death his widow removed the few remaining cattle and that neither of the claimants have had possession of or occupied the land since under the Mexican Law a mere provisional or inchoate grant like (the) the one now under consideration might be forfeited by a total abandonment of the premises by the grantee.

This abundantly proven by the history of the present claim, The record showing that the ancestor of the present claimants acquired his rights to the land by abandoning that of another, The evidence in the lease also shows that after he had abandoned it, it was again granted by Governor Manuel Micheltorena to Manuel Gempias who has continued to possess and occupy it ever since.

This would only be done according to the law and usage of the country after a decree of forfeiture heard upon a proceeding in the name of the present claimants,

From the evidence presented in the lease without any reference to the facts stated in the petition for intervention or proven in the contesting case to which it refers we can see no grounds either in Law or equity which would entitle the Petitioners to a confirmation of their claim.

It is therefore rejected

Filed in Office July 14th 1854

Geo. Fisher Clerk

Deane

Case No 272
 Heirs of Jose Cruz
 of
 The United States } Part of San Pascual

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

Alphus Fitch

Thompson Comptroller

Mary Thompson
 Commissionary

Filed in Office March 14th 1854
 Geo Fisher
 Secretary

And in appearing to the Satisfaction
of this Board; that the Land hereby
adjudicated is situated in the Southern
District of California it is hereby

Ordered: that two Transcripts of
the proceedings and of the Decisions in
this Case and of the papers and Evidence
upon which the same are founded,
be made out, and duly certified by the
Secretary, one of which Transcripts
shall be filed with the Clerk of the
United States District Court for the
Southern District of California, and
the others be transmitted to the Attorney
General of the United States,

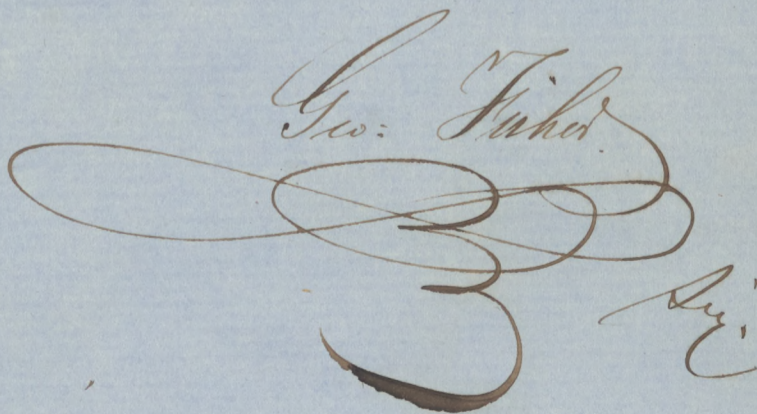
Office of the Board of Commissioners,

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

I, *George Fisher*, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing *thirty* pages, numbered from 1 to *30*, 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. 272 on the Docket of the said Board, wherein *Maria Abnera Luz de Foster, et al*, are the Claimant, against the United States, for the place known by the name of "*San Pascual*"

In Testimony Whereof, I hereunto set my hand and affix my private Seal (not having a Seal of Office) at San Francisco, California, this *thirtieth* day of October A. D. 1854, and of the Independence of the United States of America the seventy-ninth.

Geo. Fisher



116

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

No. 116. *Docket*

THE UNITED STATES

vs.

Maria Merced G. Fos
et al
For San Jacinto.

TRANSCRIPT OF THE RECORD

FROM THE
BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 272.

Filed, *November 8th* 1854,

J. S. Farr.
Clerk.

116

116 272



1165D

Office of the Attorney General of the United States,

Washington, 17th January 1855.

116 SD

PAGE 34

Heirs of José Pérez }
 vs. } 272.
 The United States. }

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

Clarking

Attorney General.

No. ~~24~~ ¹¹⁶ SD.

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

The United States,

vs.

Heirs of José Perez,

appeal White

Filed March 5th 1855.

G. C. Carr,
clk.

116 SD
PAGE 35

United States District Court for the
Southern District of California.

116 SD
PAGE 36

Heirs of Jose' Perez, }
Appellants, } Notice of intention to prosecute the
vs. } appeal from the decision of the
The United States, } Board of U.S. Land Commissioners
Appellees. }

The above named appellants claimants of part
of the land known as "San Pascual" situated in the
County of Los Angeles, Southern District of California
hereby give notice of their intention to prosecute an appeal
from the decision of the Board of Commissioners rendered
in their claim for the said land which was presented
to the said Board of Commissioners and by them rejected.
Their claim being that which is numbered on the docket
of said Board of Commissioners No 272. the Transcript
whereof as filed in this Office is numbered No 116.

Sallick Peachy & Billings,
Attorneys for Appellants.

No 116.

U. S. Dist Court,
Southern Dist of California

Heirs of Jose Perez,
Appellants,

vs

The United States,
Appellees.

Appeal Notice.

Filed March 16th 1855.

J. E. Carr,
Clerk.

116SD
PAGE 37

United States District Court
Southern District California

(Maria Mercedes Luzo de Foster
et al appellants)

No 116 DC

The United States
Appellee

San Pascual
No 272 Land Commission

116 SD
PAGE 38

To Halleck Peckham & Billings
Attys for Appellants
Gentlemen

You will take
notice that on the 7th of December inst
a motion was filed in said Court on
behalf of the appellee to dismiss
the above entitled cause from the
docket for want of prosecution,
and that by order of the Court
the same will be heard on Thursday
20th of January 1859

J. P. Mitchell

U. S. Dist. Ct.

U. S. Dist. Office
Dec 15th 1858

San Francisco December 30th 1858.

We withdrew from this case some three
years ago, Stephen C. Foster of Los
Angeles being substituted in our place
as attys for claimants.

Halleck Peckham & Billings

United States marshals office
Northern District of Cal^{ca}

I hereby certify that I served a copy of this
writ personally upon Halluck, Peachy & Billings
attorneys ^{at their office} in the City of San Francisco Dec.
30th 1858

San Francisco Dec 30th 1858

P. L. Solomon
U. S. Marshal
By John H. Williams
Deputy

Nov 11/6

W. J. Hatcher Esq.
New Haven Conn. (Albany)

Mr. Howard Esq. at Fort Verde

at Appleton

The United States
apples

Notice of Abolition to slavery

Two copies of Copy
admitted this day
by U.S. Marshal,
N. D. of California
Decr 1858

Will be kept 26. 1858
by J. J. Jones Esq.
for W. J. Hatcher Esq.

116 SD

PAGE 39